In The Matter Of:

Tribal Council Listening Session

October 11, 2016

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TRIBAL COUNCIL LISTENING SESSION

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October 11, 2016
6:07 p.m.

REPORTED BY:
DANIELLE C. GRIFFIN, RPR
Court Reporter

PREPARED FOR:
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TRIBAL COUNCIL LISTENING SESSION was taken on October 11, 2016, commencing at 6:07 p.m. at the Phoenix Convention Center 100 North Third Street, Room 301 C/D, Phoenix, Arizona, before DANIELLE C. GRIFFIN, a Certified Reporter in the State of New Mexico.

BOARD MEMBERS APPEARING:

Mr. Sam Hirsch
Environmental Resources Division
Department of Justice

Mr. Tracy Toulou
Director
Office of Tribal Justice

Mr. Mike Black
Director
Indian Affairs

Mr. Kenneth Martin
Deputy Assistant Secretary
Tribal Government Affairs

Ms. Leslie Wheelock
Director
Office of Tribal Relations
Department of Agriculture

Mr. Chris Deschene
Director
Office of Indian Energy at DOE

Ms. Heidi Frechette
Deputy Assistant Secretary
Native American Programs
Department of HUD

Ms. Tracy Goodluck
Senior Associate Director
Governmental Affairs
White House
BOARD MEMBERS APPEARING:

Mr. Larry Crook
Principal Deputy Assistant Secretary
Army for Civil Works

Mr. Chip Smith
Assistant
Environment, Travel, and Regulatory Affairs

Mr. Jody Cummings
Deputy solicitor
Indian Affairs
Department of the Interior

Mr. Joseph Sarcinella
Senior Advisor
Native American affairs
Office of the secretary of defense
PROCEEDINGS

MR. LAWRENCE ROBERTS: Good evening, everyone. Thank you for attending the listening session this evening. My name is Larry Roberts. I'm at the Indian Affairs at the Department of Interior. Thank you all for attending this session.

I'm going to ask Chairman Forsman to start with the blessing before we start this session.

MR. LEONARD FORSMAN: Good evening, and thank you for this humbling opportunity to open up this session. I give way to thank the host Gila Salt River and the other tribes in the Valley and great hosts and enjoyed ourselves here immensely. I'm very proud of your leadership and young people that has been demonstrated so well this week, so my hands up to you.

So if you could stand, please do so and pray your own way.

(Prayer by Chairman Leonard Forsman.)

Thank you.

MR. LAWRENCE ROBERTS: So what we're going to -- open a couple of introductory remarks from the President Cladoosby from NCAI before we get started with a -- the listening session this evening.

MR. BRIAN CLADOOSBY: Thank you, Larry.
Now, sitting up here, don't get any ideas that I'm your trustee. I think it's very important that our trustees know -- see our elected leaders in the crowd. So if we have our elected leaders stand up so that our trustees can see you. And please remain standing because these elected leaders here represent their own sovereign nations.

Their goal is, number one, to continually protect their homeland, where many of them have lost many, many acres over the years since they signed their treaties.

Their goal is to make sure they have a place for their children and their grandchildren. For their elders, a place for them to live peacefully, a place where their homeland is safe and secure.

These leaders here have been sworn in to do a job. A job that our Creator chose them to do, and their people chose them to do. And it's not a job that they take lightly. And they come here at this listening session to be heard.

And so you, tribal leaders, I just wanted your trustees to have an opportunity to see you, to see who you are, and I just pray that as you address them tonight, you do so in a good way with a good heart. But with passion to let them know the things that have
happened to you and your people over the years. You need to tell your story.

One of my greatest role models in life, Billy Frank, Jr., I still miss that guy today, awesome man. He always told us, "Tell your story. Tell your story. Tell your story. Never get tired of telling your story no matter how many times you say it. Say it over and over and over again." He says, "Because every four years or eight years, you're usually telling your story over again."

So please be seated, and I thank you for being here.

And, once again, I need to make it very clear that this is not a consultation. This is not a consultation. This is a listening session for tribal leaders. I want to make that very clear. This is your time to be able to speak to our trustees up here.

Are there any press in the room?

Stand up, please.

(Press stand.)

I need to do this in a good way. This is an opportunity for tribal leaders, and I know you have many questions to ask, but we respectfully ask that you yield the time to our tribal leaders. Thank you for being here.

As you know, this listening session is an
opportunity for them to hear about your issues dealing
with consultation, and it's amazing that we've had this
relationship with the Federal Government for -- some of us
2-, 3-, 4-, 500 years, and they're still trying to figure
out how to deal with us.

But it's opportunities like this, moving
forward. Because this consultation, I believe, is a
living, breathing document. I will profess, and they will
profess that it is not perfect. I don't know if we could
ever have a perfect consultation process, but we're going
to try to do the best we can. And so this is an
opportunity for our trustees to hear from you to frame the
upcoming consultation schedule that they have set up
around the country.

And I pray that those of you, you leaders,
attend those consultation sessions. Bring them ideas.
Don't come to this meeting just waiting for a trustee,
once again, to say, "Here, this is what we have for you.
Read it and take it and sign it."

This is an opportunity for you as leaders,
and I would pit the infrastructure you tribes have created
against any government in the United States, bar none.
The team that you have assembled in your homelands, it
would rival any local, county, state, and Federal
Government in the nation.
And this is the 21st century. And this is what our elders dreamed of for us, your elders, the foundation they laid. Never forget the sacrifices they made. Never forget the struggles that they endured to make sure that you have a seat at the table.

And so we want to focus on improving consultation for future infrastructure projects. And I know DAPL is first and foremost on many of our minds. But you know what? Every one of you tribal leaders probably had a DAPL issue that has occurred in your homelands in the last 50 to 100 years. I could sit up here and give you examples of the projects that the Corps did in my homeland without consulting with me, without asking my forefathers what they thought of the project.

I know all of you out here have those stories from Alaska and Florida to California to New York to Standing Rock. But we want to focus on, not just this one project, but the projects that could potentially go forward. We want to learn. We want to learn from this lesson.

This is a textbook case that our trustees need to learn from. If you do not learn from your mistakes, you're bound to repeat them.

And I want to just raise of hands here on how many here are appointed at this table. Raise your
hands.

How many appointed?

The rest of you are career, good. You outnumber the appointed. That's a good thing. Because once these appointed are gone, the careers are still going to be here. And we want them to hear how we want the process to be fixed. We want them to hear how we want this consultation process to go forward, not how we've been dealt with in the last 200 years where we were given that, and we had to take it. So thank you for being here.

I'm going to turn it back over to our Assistant Secretary now who maybe add a little bit more and lay out a little bit more about the format on how he wants and they want to hear from you.

I'm not sure if -- we're not, you know, going to spend time having everybody making an opening statement, are we -- or --

I'll let Larry determine how he wants to handle his team. But I think at the end of the day, they just want to hear from tribal leaders, tribal leaders.

So thank you. God bless you. And once again, speak from the heart. Let them know from the heart. Thank you. God bless you.

MR. LAWRENCE ROBERTS: Thank you, President Cladoosby.
So we have a full team of agencies here with us today for the listening session. We have, obviously, the Department of Interior, the Department of Justice, Army, and other agencies. And we're going to have just very brief introductions in a few minutes.

But I want to just emphasize a couple of points:

One is: This session here today, I mean, this is spurred by the actions at Standing Rock. It's spurred by tribal leadership raising their voices about Standing Rock and DAPL. And this session has grown out of that. And this session is about how can we improve processes moving forward.

And we've circulated a framing paper today. I ask you all to take close look at that in the remaining weeks before the first consultation sessions started. Because what we're doing with this listening session is we want to hear from you all about the scope of the consultations moving forward, what needs to be covered; but we also want to hear about whether the issues that we've raised in the framing paper, whether -- what the adjustments we need to make.

And so -- also we want to hear from tribal leadership in terms of areas where it may be -- may have worked right in the past, where consultations has worked
right. And I feel like as the Department of Interior, and other agencies here, we do a relatively good job of consultations on regulations, like our leasing regulations, our right-of-way regulations. I'm not sure that the Federal Government does as good a job on particular projects -- or particular projects that have an impact on a handful of tribes, or one tribe.

And so really examples of where you have worked with the Federal Government, where that has been successful will be helpful to us because we need to take those best practices moving forward and elevate those.

So one example, which is in the framing paper, which we're eager to hear about from tribes is the Desert Renewable Energy Conservation Plan. It is a plan that impacts southern California, specifically the signing of the renewable energy projects.

And let me just share a little bit about that consultation. It wasn't a one time consultation with tribes in California, and it wasn't just limited to the Federal Government. So as I understand the plan, it involved the State of California. It involved multiple federal agencies. It involved over 50 tribes. And it was a consultation that continued over years to get to a point where a plan was issued that was respectful of places that were important to tribes in terms of how we wanted
renewable energy to move forward.

So we are very interested in hearing your input on areas where things have worked well so that we can take that and expand it -- those best practices nationally.

In terms of just sort of mechanics of the listening session today, this is for tribal leaders. We want to hear from tribal leaders. And when you come up to the microphones to provide us input, please introduce yourself. Everything is being transcribed. We have a court reporter right here at the front.

Please introduce yourself, what tribe you're with. Please -- she may ask you to spell your last name or your first name or the tribe that you're with. Please help her out because that transcript will be part of the permanent record here in terms of us moving forward.

So I want to close by saying thank you for being here on a Tuesday evening of what is certainly a busy week for all of you here at NCAI.

And I want to give a -- just a very short introduction of the federal team here so everyone knows who's here listening to you all today. And we'll start with my left here.

MR. SAM HIRSCH: Thank you, Larry. My name is Sam Hirsch. I'm from the Department of Justice, and I
work at the Environment and Natural Resources Division.
And I just want to say it's a great honor to be here with you this evening. I see a lot of friends out in the audience and, you know, tribal leaders, I think probably universally, feel that this is a conversation that is long overdue.

If you took an aerial photograph of your part of the United States, there would be all sorts of infrastructure that you would see today that wasn't there seven generations ago. And some of that's great, some of that's not so great. But what we know is definitely not great is that very little of it was put there after any kind of meaningful input from the tribes. And I think that this is a great step forward tonight in terms of talking about how to fix that long-standing problem of lack of meaningful time and tribal input. So thank you all for taking the time this evening to be with us.

The Justice Department is not an infrastructure permitting agency. We don't grant permits for infrastructure projects, so we can't make decisions with infrastructure projects. My division, the Environmental Division, comes into play at the back end where we are required to defend federal agencies who do that kind of work when it's in litigation.

Tonight we're just going to be listening,
and I'm going to be furiously taking notes. And we're going to be refining the subjected agenda for the upcoming series of tribal consultations based on what we hear from tribal leaders tonight so we really appreciate your input. Thank you.

MR. TRACY TOULOU: Thank you for being here tonight. It's late, and I'm sure many of you have better things to do, but we really appreciate you taking the time to help us out here.

I'm Tracy Toulou. I am the Director of the Office of Tribal Justice, and have been the Director for about 15 years now, so I know a lot of you.

One of the things my office is responsible for is consultation in the department, and not only liaison in the tribes, but with other agencies. We do a fair amount of consultation in the department. But frankly, it's relatively easy because we're usually focused on one thing, you know, something like the Bottle legislation.

I think, you know, with this infrastructure projects, what I've seen is it's complicated. There's a lot of agencies. There's a lot of tribes. There's a lot of other outside entities like states. And, you know, smart as we think we are up here, we're not that smart. There's a lot of smart people out in the audience. And
every time I sit in a consultation, I learn something.

So we look forward to hearing what you have
to say and particularly in how we can structure these next
six consultation sessions to make them meaningful for you.

So thank you in advance for your time and
your thoughts.

MR. MIKE BLACK: Good evening, everybody.

There we go. Good evening, everybody. I'm Mike Black,
the Director for the Bureau of Indian Affairs, and it's a
pleasure to be here with you, and I do look forward to
hearing from all your comments. Thank you.

MR. KENNETH MARTIN: Good evening, everyone.

My name is Kenneth Martin. I am the Deputy Assistant
Secretary for Tribal Government Affairs at the
U.S. Department of Transportation. Like everyone else,
thank you for giving us your time tonight. We're looking
forward to hearing what you have to say.

MS. LESLIE WHEELOCK: Good evening,
everybody. I'm Leslie Wheelock, the Director of the
Office of Tribal Relations at the Department of
Agriculture. The Department of Agriculture has three
primary agencies that disturb our lands, so to speak, and
we are inviting those agencies and representatives to join
us at every consultation. The work that they do includes
infrastructure, it includes our agriculture programs, and
our conservation programs. Thank you.

MR. CHRIS DESCHENE:  (Native language spoken.) Good evening. My name is Chris Deschene. I'm a member of the Navajo Nation. I'm also the Director for the Office of Indian Energy at DOE. And our mission is to maximize the development of energy solutions for the benefit of tribes throughout the United States. Thank you for having us.

MS. HEIDI FRECHETTE:  Good evening. My name is Heidi Frechette. I'm the Deputy Assistant Secretary for Native American Programs at the Department of Housing and Urban Development. I'm one of the career staff that the President pointed out.

I look forward to hearing from you on infrastructure concerns, particularly, since HUD has two major programs that fund infrastructure in Indian Country, which is the Indian Community Development Block Grant, and the Title VI under NAHASDA, so thank you.

MS. TRACY GOODLUCK:  Good evening. My name is Tracy Canard Goodluck, and I am the Senior Associate Director for the Governmental Affairs at the White House.

I really quickly want to say thank you to all the tribal leaders -- to everyone in the room -- thank you for being here. This is a very important listening session to attend, and I really want to thank the tribal
leadership for being here. Your voices are very important for us to listen to tribal consultation. And building upon the nation-to-nation relationships are extremely important to this administration, and we are here to listen and learn. I will -- because this is primarily an agency process, I will be deferring comments to the agencies as appropriate.

Thank you, again, for being here this evening.

MR. LARRY CROOK: Hi, I'm Larry Crook. I'm the Principal Deputy Assistant Secretary of the Army for Civil Works. The Deputy to Jo-Ellen Darcy and with the office of the Pentagon that oversees the policy for the Army Corps of Engineers.

The Army is -- it's an honor for the Army to cohost both this listening session and the coming consultations. And we very much look forward to hearing ways we can do better, both at the Army Corps and across infrastructure permitting agencies across the Government.

MR. CHIP SMITH: Hello. My name is Chip Smith. I'm the Assistant for the Environment, Travel, and Regulatory Affairs. I work for the office of the Assistant Secretary of the Army for Civil Works. My Principal Deputy is right here, Larry Crook. I'm so glad he's here. I'm glad you are all here.
One of the civil servants that will continue
as part of transition, and we'll try to keep the ball
rolling. Whatever we learn in these consultation
sessions, those of us who are civil servants are committed
to continue to work on these important issues in the next
administration, whoever it is. Thank you.

MR. JODY CUMMINGS: Good evening. My name
is Jody Cummings. I'm the Deputy Solicitor for Indian
Affairs at the Department of the Interior.

Thank you, tribal leaders, for being here
tonight. I look forward to hearing from you.

MR. JOSEPH SARCINELLA: Good evening. My
name is Joe Sarcinella. I'm the Senior Advisor for Native
American Affairs to the office of the Secretary of
Defense. I'm just very humbled and honored to be here
tonight to listen to everybody. Thank you.

MR. LAWRENCE ROBERTS: All right. So that's
our team. And I think as part of this session this
evening, it's going to be somewhat similar to the session
earlier this week on Indian water settlements. So we're
really interested in tribal comments. We're going to hold
our feedback in terms of what we've heard until the end of
the session.

So I'm going to open it up to tribal
leadership.
PRESENTATIONS

MR. VERNON MILLER: Good evening. My name is Vernon Miller, and I am Chairman of the Omaha Tribe of Nebraska.

I'm here to talk about in 2011, we had a flood that was administered by the Army Department of Engineers which flooded my reservation, causing the loss of 14 homes and 187 jobs, which caused our casino to shut down. And there were several things that happened throughout that process when the Army Corps of Engineers allowed the Missouri River to flood, and I wanted to talk about some of those items to help improve the consultation process in the future for any future items infrastructure-wise and projects.

Throughout that process, you know, the consultation, or lack thereof, was limited to a letter to the tribe sharing that the Army Corps will flood the Missouri River. The tribal liaison was based out of Montana, and our tribe was the closest tribal community to the Omaha District Office. And you would think that being so close, we would have more in-person meetings, more communication to really talk about that process of how it was going to affect our community.

There was also no capacity there either.
During the flood, or right where the flood was about to happen, there was no support from the Army Corp of Engineers and in helping us with our levies to try to maintain as much of our land as possible throughout that process.

And so my concern in terms of the future consultation is that we really need to evaluate. We did prepare a report on the lack of consultation that happened throughout that process, and all the shortcomings of the Department of the Army Corps of Engineers. And I will be forwarding that in written testimony upon completion of today.

What I really wanted to -- I mean, I'm not here to talk about the pipeline, but I want to make sure that you're aware of that, you know, there was no consultation in 2011. We did submit that report back then just to really help the Army Corps of Engineers on any future projects of infrastructure. And some say that we followed that fear because we're here today now to have another listening session on how to provide that consultation.

And so on behalf of my tribe, I just really wanted to also encourage that we maintain person-to-person, government-to-government consultations. I mean, yeah, the teleconferences is one mechanism but, to
me, that's not meaningful at all. And I know one of the consultations that's listed as a telephone conversation, we really need to evaluate the locations also. You know, my tribe, like I said, is only an hour from Omaha. But my tribe has to go to Rapid City -- it's an 8-hour drive -- to provide our testimony during that actual consultation. So we'll evaluate the locations.

So the decisions that Army Corps of Engineers makes are extremely impact -- have huge impacts on communities and so the person-to-person, government-to-government conversations need to happen. And I would just encourage the Department of the Army Corp of Engineers to really learn from the mistakes of my tribe in 2011, and other tribes along the Missouri River on how we can improve that process in the future.

Thank you.

MR. MARK FOX: All right. Good evening. Members of our fellow government representatives, I appreciate it very much, of course, all the tribal leadership that is gathered here as well as other guests. I have a number of things, primarily three things, really to talk about on behalf of our tribe.

I am Mark Fox. I am the chairman of the Mandan, Hidatsa and Arikara Nation, also known as the Three Affiliated Tribes located in western North Dakota,
along the Missouri River, and very proud of who we represent. And here as well, Councilman Hall is getting ready to make comments in the other line, and I have Councilman Spotted Bear here as well, too. I want to acknowledge them.

But there are a number of comments that I want to make, and I also want to say, you know, as much as we're -- you're going to hear tonight and much of the criticism and complaints about what the Federal Government does or does not do properly, I will be the first to acknowledge that there are situations and things that the Federal Government does do in a good way and -- and we've seen the results and some of that this past year.

I've been Chairman for nearly two years, and so we've had some good, positive things. So I'm not here to say that everything the government does has been bad. We've had some good, solid support in the number of areas. And I want to say thank you for that.

But I also want to -- now that we've got that part over, get to the other parts that do concern us. And -- and I'm wearing tonight a medallion, one of my medallions -- and it's a Marine Corps medallion. A Marine Corps with the eagles and the anchor in the middle of it. And I keep thinking about my experiences of me serving in the Marine Corps. Very proud veteran of that.
And I was part of the fleet marine force deployed overseas. And I had First Sergeant in the Marine Corp, a tall fellow, older, of course, and the thing about him is whenever he wanted to make a point or make -- excuse my language -- make damn sure you remember things to keep your butt out of the sling, he would repeat everything three times. And if you didn't catch it after three times, then you made a bad mistake. And I'm going to say the same thing to ours tonight.

The three things that -- the word I want to say tonight is: Sovereignty, sovereignty, sovereignty. And, you know, that's got a whole different meaning for many people, but I know what it means to our tribe, our nation, and so I'm going to try to elaborate on that quickly here. And I know it could turn into a long night.

We have our one primary issue, and I've had a chance to even before this meeting and throughout this conference and previously, but we had -- I brought it up today at the noon break right before briefly, with a general doing a presentation, and I've talked to some staff here.

Land transfer. Indian Mineral Restoration Act -- for Federal Indian Mineral Restoration Act, 1984, said after flooding and causing one of the worst devastations to our reservation in the 1950s, early 1950s,
part of the fixed loan program, great havoc that was created to our tribal nation by flooding of our areas. And it destroyed our economy, and it disrupted our social structure and caused such a great havoc that we're contending with to this day.

But in that act it says: "When land is no longer necessary for the purposes of the debt, then that land is to be returned or, in effect, transferred to the Interior Department to use -- to be used for their purposes of the tribe."

It doesn't say anywhere in there in my reading of it, "Subject to concerns raised by a Governor." "Subject to concerns raised by recreational enthusiasts, non-tribal, who take advantages of a certain corporate leasing in the past -- what they had claimed to have rights on within our boundaries." The law does not say anything to that affect. It just says, "You will transfer it back."

And, in fact, we've had representatives of the Corps at meetings with the State, and we're trying to be cordial. That said, in Indian Country, this has happened before, and we've never allowed a laundry list of those who are opposing it to come in and play. We simply did the work and transferred. But yet, we have that occurring today, delay after delay, whether it's a
governor, or a senator that represents our good state, that says, "Don't transfer this until you address our issues."

And I know what the ploy is. The ploy is delay. The ploy is don't transfer that acreage, roll the dice on what's going to happen on that November election. And then after they think they're going to win on it, then they'll send a quick message over and hold everything up now. We've got a whole new game in town.

And now, we've been given the assurance on that, that we're still going to continue to do it. But quite frankly, without waiting for it for decades, not a couple years, for decades ever since they flooded us in the 1950s, we've been waiting to regain our land usage. And so we're very much concerned that that process is going to be deliberately delayed, stagnated, and then we're taking a heck of a risk come election night.

And so we're asking you, within your power, the Corp of Engineers, get that transferred over to the Department of Interior. A fellow, fellow agency can make determinations about compliance with that law. It's not going into our lands. We all know trust land is not really owned by us. It's owned by the United States Government, titled the United States Government held in trust to our people.
And so what is the big concern or worry? --
get it transferred over. And then the Interior can sit
down and say, "Okay, here's how it's going to work.
Pursuant to an agreement between the two of you, nothing
else is supposed to come into play"; yet, it has.

We're hoping for the best of a response on
that in the short amount of time, and we're going to keep
pushing on this administration to do their job. It's been
decades, and our elders are waiting at home.

On the other item, number two, Standing
Rock. I left -- my friend over there getting ready to
make some comments -- we all sit on the Missouri River.
We might be differently positioned. We all know that
Three Affiliated Tribes has been in a situation of oil and
gas development. We've done some good positive things
with that, more negative than positive to date what we had
to contend with; but nevertheless, there is problems there
for what we do there.

So our position as a tribe might be slightly
different from others who may be against not --
non-renewable development, who may be against pipeline,
who may be against oil and gas development. Our tribe has
the official position, does not take that position to be
against -- carte blanche, against everything that is oil
and industry related. But I'll tell you what we do
support, and that's why we've been down there providing
services.

I estimate that we're getting close -- if
you put everything together, we're getting close to a
$100,000 in support to our brother nation, Standing Rock.
We're getting close to the amount of money that our tribe
has spent to help them.

And there's one primary reason for that.
One primary reason: Because a fellow nation said, "We
don't want a pipeline to cross or to impact our lands."

And if that's the position, that's a
sovereignty issue. That is something that they say, "We
don't want that impacting our lands." And so we stand
firmly behind them and any other tribal nation that says
the same thing. We will stand behind them.

My position has always been to DAPL
themselves in trying to reach out to get my help. And I
say, "No, no, you've got to talk to them yourselves." Not
only "no," but excuse my language, "Hell, no."

If that nation doesn't want you to cross, go
around. Go somewhere else. There are other routes to
markets you can go to, if that's their position.

The bottom line is sovereignty. The
sovereignty of the tribe saying, "We do not want to be
impacted by this particular line, by a crude line coming
across. We don't want to be impacted." So we stand
150 percent behind them.

Now, that leads me to the final. Ourselves.
Ourselves have been impacted. You don't hear that much
about it in Indian Country. We're all -- we're in federal
court.

We have a -- a -- a pipeline company. Myths
represent the truth. Boldface lies to our council as we
considered contemplating the possibility of whether or not
a pipeline should be authorized to cross Lake Sakakawea
within our the boundaries, the Missouri River, the same
Missouri River that DAPL and Standing Rock are at issue
with. And while we were -- we were -- in two votes, we
voted, "no," not to allow that. Two votes.

And then for the previous year I told them,
"You don't cross that river unless we authorize you to.
That is our right. No pipelines."

So what? To our great surprise, this was in
June, and all of a sudden it's the end of July, and we
started getting the reports. In fact, on August 1,
confirmed reports that a company was, in fact, drilling
because that very company had -- it was drilling
underneath the lake.

So what did I do? We had a council meeting
on August 3rd, and within five days, we issued out --
through my office, a cease and desist order. Cease and desist all activity. You have no authority to be doing that.

A short time later -- it didn't take very long -- there we found ourselves, my name -- myself as a named plaintiff, and our chief of our law enforcement, who served the papers on them, was the second individual named, find ourselves in federal court, and we're bound through the district court.

And now, we've found ourselves in the situation where a judge believes, obviously, we had a bad decision, and now we're appealing that to Eighth Circuit, and a judge that says otherwise, he doesn't believe that we have sovereign right.

I sat on the stand myself to explain what sovereignty means, what trust means, what federal approval means, what that requires in consultation. All these things, in one ear, out the other, as far as I am concerned with that judge, and now we're appealing that.

It's a really dangerous precedent. Because what that company is saying is we don't have to -- even though we own the minerals underneath where that pipe is crossing, we have Indian -- remember, we have -- any of you remember? The Indian Minerals Restoration Act, 1984? Everything in the lake area was given back to us, those
minerals alone.

And we always assert, and will continue to assert, we own the minerals below the riverbed too. We have owned them since the beginning of time. And so we've taken that position, you have to have our approval, but that's not the only thing that we're talking about.

There's a dangerous precedent here because, now, what this company is saying is, "We don't have to have tribal approval to cross the Missouri River within those the boundaries; we just have to have the Federal Government, and here's our permit. Here's our permit from the Corps. Here's our authorization from Interior."

But they cannot show you, and neither can the Federal Government, any resolution from our tribes in support of either of those, not once, not by your Government. And so there's a very dangerous precedent.

If this continues on and we get on to the Eighth Circuit and end up in front of the Supreme Court itself, if we have to go far, at the end of the day, it says, "You don't have to have tribal approval to cross that river within the boundaries of the river within the Fort Berthold Indian Reservation," then it's just a matter of time. It's such a bad precedent.

You have -- you have pipelines coming in within our boundaries saying, "We don't need their
approval; we just cross." And that's the great concern that we've had. Not only do we have mineral interest, but I will revert back there -- there's so many case laws, and so many precedents that -- in building that dam, we -- we had to sign the document, putting that bridge across, we had to sign a document, but an oil company can come in and get a document from the same agencies who made sure we had to have signed documents throughout our history.

The last thing I'm going to say. We have -- we are an IRA Tribe, but not everybody in here is that, but we are, the Indian Reorganization Act. I told that judge, "You need to take a look at that."

That was something that was brought to our people. That was a federal law that said, "Here is an IRA document. You need to reorgan--" we're here helping you reorganize. And here's what your constitution and your bylaws are going to look like. And we want you to approve this and we want you to sign on it, and you're going to be good governments from here forward, modernized governments, and we're going to have that federal endorsement of you doing that. You'll to be able to get federal funding. You'll to be able to do," et cetera, et cetera.

And so our people with great opposition and great sadness and despair -- you see the pictures of our
chairman at the time crying at the time that they had to sign that. When from the Garrison Dam to the IRA to the Garrison Dam, crying from what was going on when they flooded us, and created this huge lake. You see him crying.

But that document -- that document was sent back up to D.C. and was approved by the Federal Government saying that's a valid document. But if you read that document, it says in that document that all lands within the Fort Berthold Indian Reservation will be subject to the jurisdiction of the Three Affiliated Tribes, all lands. It didn't say, well, not fee lands. It didn't say, pipeline companies who want to drill underneath the lake. It didn't say, oil industry, who have interest.

It says, "All lands are subject to our jurisdiction."

And that's where we set our foot down on when we were -- they were trying to attempt to come across in the first place. You cannot cross unless we approve that. You understand. And that's the position that we took. And now, it's going to cost us great time, great money. I know we have a new policy. That's good.

I wish this discussion had happened last year or even six months ago. That might have been enough to put the brakes on to say, "Okay, hold on. Unless you
get tribal approval, oil company, pipeline company, you cannot cross."

We are not going to approve of what you permitted and requested a permit for, or we didn't have that in place. And now it's going to cost us great time and effort and money to try to defend ourselves and say, "You don't cross that river unless the tribe approves of it."

And that's where we've been at, and that's a great concern that we've got. And I know that we're going to, hopefully, at the end of the day and with this administration, and with God -- God's blessing somehow, in same way, somehow that what happens in November that we get an administration that understands what we're -- we're crying about, what we're screaming about: "Sovereignty, sovereignty, sovereignty," and gets it and puts things into place so that nobody just comes on and does what they please, economic interest or otherwise.

And that's our -- our -- our hope, that's our belief. And I appreciate you giving me a few moments of your time tonight. Thank you.

MR. JOSEPH GARCIA: My turn. Okay. Well, first of all, my name is Joe Garcia. I'm head councilman at Ohkay Owingeh, a small pueblo out up in northern New Mexico.
The first thing that I wanted to say is that there are so many rules and regs, there are policies, there are statutes, there are processes, there are operation protocols in place. And so if I relate all these things that are already in place and relate it to what's happening at Standing Rock, you can see that the system has a large failure. And so if you start at whatever time this project started, it should have gone through the entire process. And somewhere along the way, it must have failed because it got to this point in 2016.

So before we go off and have kind of a half cock and start doing more laws or providing more protocols and all that kind of stuff, we've really got to consider what went wrong with that particular case. Where did the system fail us, and why did it fail us? And unless you do that, we're going to just put more -- we're just going to compromise ourselves, because we're just going to even complicate the process a bit more, and so let's not do that.

Let's find out where it went wrong, and why it went wrong. Maybe the policies and protocols and all of that are okay already, but maybe it's a human failure that caused us to get to where we are. And so if we can assess, not only the Standing Rock situation, but any other projects that have gone through this same kind of
effort, we can provide a database of where the failure
rates are and identify them, and that's what the root
causes are, then maybe we need to step back and say,
"Oh, these were failures because we didn't do this, or we
didn't do that." And before we go crazy and start
proposing all kinds of other rules and regs, we need to
start there.

So I'm proposing that the -- all of the
entities get together, and we look at where the systems --
where the current laws are, and then related to what
actually went wrong with -- with the Standing Rock issue;
but all of the other issues where something went wrong.
And so we'll probably find that it was human error and
maybe political errors or something like that, but I
propose that we do that.

And then I wanted to relay to everybody else
here that currently the FAST Act is in place. The
FAST Act is about transportation. And transportation
includes highways, dirt-ways, waterways, airways,
airports, and things like that. It's infrastructure.

And so we're in the process of doing the NEG
REG, negotiated rulemaking, and there's been some
references to -- well, let's use what's already in place
at BIA or somewhere else. And it's kind of scary now
because if we refer to something that's already in place
and it doesn't work, then we're causing another error to take place.

And so please provide input to the NEG REG Committee. And the website is on the Federal Highway website. And I'm serving as one of the co-chairs through the NEG REG team. So that's what I have to offer. Thank you.

MR. AARON PAYMENT: (Native language spoken.) I'm Aaron Payment. I'm the Chairperson of the Sault Sainte Marie Tribe of Chippewa Indians. We are a federally recognized tribe within the Treaty of 1836, with a surface area comprised of the eastern half of the upper peninsula of Michigan. The Treaty of 1836, of course, cleared the way for Michigan to become a state in 1837.

I also serve as the Chair of the Chippewa Ottawa Resource Authority, which is a five-tribe resource authority over the 1836 Treaty. And also with us tonight we have Little Traverse Bay Band Members, Grand Traverse Band Members, Bay Mills Members, and Little River Members, all of which are a party to the treaty and manage the resource.

The Sault Sainte Marie Tribe is part of the Anishinabe people. We have a court affirmed retained rights to fish within the water of the Great Lakes in Michigan, Huron, and hunt fish and gather foods, and
medicines on public lands within the treaty city
territory. We share these rights with our four other
tribes that I just mentioned; however, these rights are
under threat. To exercise the treaty right to fish, there
have to be fish in the waters, and the fish have to be
safe to eat. Our fisheries are threatened by crude oil
pipelines that run under the Great Lakes waters and the
straits of Mackinaw.

There are the Enbridge pipelines, Line 5 of
the Lakehead System, and the same system that broke under
line 6B in 2010 and caused the biggest inland oil spill in
U.S. history spilling a million gallons of tar sands crude
in the Kalamazoo River. The Huron Band of Potawatomi
council members are here also with us. And it was a
disaster.

Line 5 carries a million gallons of oil
every hour underneath the Mackinaw Bridge. Line 5 was
installed in 1953 with a 50-year life design.

Enbridge now says it's safe to operate
indefinitely. We know -- we all know that no
infrastructure will operate indefinitely. The straits are
such valuable waters and delicate ecosystem that we know
that no one would be about to place such a pipeline in
today. In fact, the state's attorney general has
acknowledged that.
But with this one grandfathered in, it never had to meet the environmental standards because U.S. Environmental Law began in the 1970s. This was installed in 1953. This location is too vulnerable to allow a new pipeline to be built with the state of our steel, welds, and supports, then no pipeline is acceptable at this location, least of all, an aging pipeline, and an aging, faulty system, already 25 percent beyond it's designed life.

This pipeline is an accident waiting to happen. The State of Michigan, the beneficiary of our treaty is allowing the continued operation of an imminent threat of our core affirmed treaty rights. The Governor is doing nothing. This is the same Governor who presided over Michigan and the Flint water crisis.

The attorney general has stated that the pipeline days are numbered, but he won't tell us that number. The state government is behaving as if a pump and pray is a way to protect the Great Lakes. We know better, and we need to do better. There are anchors, and the attorney general had stated -- has recognized this in a filing, that our supposed to be installed every 75 feet.

In 2014 I think as a result of tribal leaders in environmental groups asking questions, the State of Michigan didn't know where the permit was. They
had to find the permit, the original easement and permit, and they were supposed to install the anchors.

In 2014 they acknowledged that 20 percent of the anchors were not installed. Now think of this: The 5 miles between the Upper Peninsula and Lower Peninsula, and it's not completely anchored the whole way.

And so for the Army Corps, I've got a message for you, because we have in front of the Army Corps the request to continue the easement. And our original response, we have a very good relationship with the Army Corps of Engineers in Michigan, very good relationship. But on this issue, we got a preliminary response back that basically said, "There's nothing we can do."

Thank God for Standing Rock because that's changed everybody's perspective. Where it was business as usual and approving pipelines, they've taken a step back, and they're waiting to find out what the answer is going to be at the federal level. So I'm grateful for the leadership at Standing Rock and the President for putting a stop to this.

A huge issue is that there's little or no federal law governing this pipeline. Line 5 was installed prior to any environmental or safety regulations and has been grandfathered. So there is no need for triggering
action, no approval, no to help to make this pipeline meet current safety rules. This is a problem. Of the half million miles of pipeline in this country, half of it predates these laws. Half of the pipelines in America predates our current environmental laws and protections. Aging pipelines with substandard welds, oil, steel, old coating technology, or non-existent coating, and decades of corrosion are not subject to environmental or safety rules. This is appalling.

The U.S. government does not have the right to give away our court affirmed treaty rights to those who threaten them with environmental disaster. We did not negotiate away these rights, so you do not have the right to threaten them by allowing a poorly regulated industry. You do not have the right to give them away to a state that does not have any requirements to consult either.

Recently, the State of Michigan and EPA settled with Enbridge over its pollution over the Kalamazoo River with the system spill, Line 6. That spill happened for 17 hours. Enbridge believed that it was a false alarm. And so what did they do? They pumped additional pressure through the line. A million gallons of oil, a billion dollars in costs, and a 100 years before that river will be back to it's pre-spill state. That is unacceptable.
There is zero tolerance -- zero tribal consultation on the settlement. Only half -- only after the fact did the Government communicate about this after the tribes concerned with Line 5 made this an issue.

It is essential that the environmental law must be made to apply retroactively to projects that threaten treaty resources. It is essential that federal policy on consultation and coordination with native tribes incorporate the United Nations definition of free, prior, and informed consent. It is essential that NEPA requirements be brought to bear on every federal action, including revisions to pipeline integrity, management, and safety plans under FISMA. But it is essential that NEPA requirements be modified to include specific analysis of climate impacts for the proposed actions.

If these things are done, it will go a long way toward the goal to better ensure meaningful tribal input and to infrastructure related reviews and decisions, and will far better protect our tribal lands and resources and our treaty rights.

Finally, we need regulatory change. We need a regulatory change that takes into consideration and requires treaty -- treaty rights and retains rates review. We also need a full environmental.

Now, NEPA -- let me talk about that for a
second. And I appreciate the Chairman who went second tonight. So we have to follow NEPA. When we get federal dollars from the Federal Government to implement infrastructural development, we have to follow NEPA and we have to follow it exactly how the Federal Government interprets it.

We followed NEPA in one of our projects under homeland security grant. We followed it. We had all the letters from the federal agency, and we had to pay back a $100,000 after the fact, because somebody interpreted after the fact that we didn't follow it.

Why do tribes have to follow that standard and the oil industry doesn't have to seemingly follow any standard? So we need stronger regulations in order to improve that.

And then, finally, a sacred sites review. On of the issues for the Huron Band of Potawatomi when the spill happened, is there was a change in a river, to create a river, basically. So one of their submerged sacred sites was endangered by this oil spill, and it came really close to affecting their sacred areas. That's unacceptable.

So I also want to echo what Joe Garcia said, the fast track -- so we appreciate the fact that President Obama -- and if you saw my thing yesterday or if
you saw at the White House Tribal Leaders thing, Obama is one of my heros. He's the best president that we've ever had. There's no dispute for me. I appreciate everything that he's done.

He created the executive order that created consultation, advisories, listening sessions. And for all the tribal leaders listening, that's not a guarantee. It depends on who's president on whether or not that executive order will continue.

So I have the greatest regard for President Obama. And when we created the Recovery Act funding to build infrastructure to get us out of this slump in the economy, a lot of money came to Indian Country, so we appreciate that. But one of the things that happened was to get the money to the projects to get shovel in the ground, the fast track was created. It doesn't include any reference to tribes or treaty rights.

Now, this President created that process, and this President can fix that process. He can include that in the language before it's too late.

Now, let me tell you one final thing: As an elected tribal leader, the way this works is, it's all about what have you done for me lately. Okay? You can do all kinds of wonderful things for your people. But the final thing when they ask you for it and you can't give it
to them, then they're voting for the other guy. Okay?

So Obama is not running for reelection, and
for all the wonderful things, he doesn't want this on his
legacy. He's got the opportunity to correct the fast
track and to put those steps, those reviews -- treaty
rights reviews, full environmental, sacred sites into the
regulatory process before it's too late so that he has
that as his legacy that, not only did he stop this
pipeline temporarily, but he put some meat behind it and
stopped and protect our rights going forward. (Native
language spoken.)

MR. LEONARD FORSMAN: Hello. Leonard
Forsman, Chairman of the Suquamish tribe up in Seattle.
Honored to be here and council members, anybody who's in
the audience as well, and my wife is here too, so I'm
really nervous. I think that was funny.

I'm here on one issue. There's a lot of
people here that are going to bring up probably everything
else that I was probably going to say, so I'll stick to
the one.

The Army Corps of Engineers Annexation and
Repeal, these are the National Historic Preservation Act
Regulations. Saturday will be the 15th anniversary of the
National Historic Preservation Act, if you did not know,
and so this is somewhat relevant.
For decades the Advisory Council of the Historic Preservation has repeatedly expressed its view that the U.S. Army Corp of Engineers application of Appendix C of proposed project does not fulfill the agency's responsibility under the National Historic Preservation Act, and is not in compliance with Section 106 of the act.

The National Preservation Act provides a much more expansive recognition and has played a major role in protecting indigenous cultural beliefs, customs and practices. And they are not only problematic, particularly for tribes, but they usually conflict with and are not in compliance with the National Historic Preservation Act, and the ACHP regulations and provide less protection of historic properties and traditional cultural properties and are invalid.

The Corps' application of Appendix C is the root cause of the current dispute associated with DAPL. Appendix C, therefore, is less protective of the historic properties and the traditional cultural properties; but at the same time, provides more protection of economic interests. And we are concerned about the narrowing of the scope of the project, the course that has been engaging in through Appendix C, by just going with permit area and avoiding indirect effects. And Appendix C
significantly narrows the definition of adverse effects, so we want that changed.

Appendix C does not require tribal consultation. It only says that we may be consulted as part the district engineers of investigations. And we really believe that this Appendix C is an unauthorized delegation of rulemaking authority, and the federal courts have enjoined the Corps -- have enjoined the Corps for using on Appendix C. Appendix C is inconsistent with the ACHP's regulation.

Congress did not explicitly or implicitly delegate regulatory authority to the Corps to promulgate its own 106 regulations; and the federal agency does not have independent legislative power.

So we -- for the above reasons, we would like the administration to strongly consider repealing the Army Corps' Appendix C in order to demonstrate the proper respect for our traditional ways, our sacred places, and our archeological sites in our ancestor homelands. Thank you.

MS. STELLA KAY: Good evening. My name is Stella Kay, and I'm the Tribal Vice Chair of the Little Traverse Bay Bands of Odawa Indians.

Now, I'm going to repeat a lot of stuff that Aaron Payment brought up and stole my thunder, but it's
important, so I want you to hear it.

In the 1836 Treaty, the Little Traverse Bay Bands of Odawa Indians, along with other Ottawa and Chippewa tribes, ceded more than 26 million acres of this aboriginal territory to the United States that became Northwestern Michigan in 1837. Included in this, was nearly 14 million acres of land and 12 million acres of the Great Lakes.

The tribes only made this vast cession of their homeland based on the promise contained in Article 13 of the 1837 Treaty that the tribes would have the permanent right to hunt, fish, and gather throughout the ceded territory, especially commercial and subsistence fishing in the ceded waters of Lake Michigan, Huron, and Superior. The Great Lakes Fishing Treaty right lies at the heart of the tribes culture, the straits of Mackinaw, that connect Lakes Huron and Michigan to Michigan's Upper and Lower Peninsula are the center of our tribe's treaty fishing.

A 62-year-old pipeline owned by a Canadian company, Enbridge, known as Line 5, passes under the straits of Michigan -- or the straits of Mackinaw. An oil spill on the straits would destroy our sacred treaty right, and it would be impossible to clean up all -- at all during the winter months when the straights are frozen
The United States has a trust responsibility to protect our treaty fishing rights. And in 1973 filed suit in the federal court in the case known as United States v. Michigan, to carry out this trust responsibility to uphold the treaty fishing right. To carry out this trust responsibility, the United States must take action to remove Line 5 from the strait of Mackinaw as the catastrophic consequences of the spill outweigh any other possible concern.

In addition to the implication of our treaty rights, containing 20 percent -- containing 20 percent of the world's freshwater, which all passes through the straits of Mackinaw, the Great Lakes are the country's most valuable resource, that's 20 percent of the world's freshwater source.

Whether possible under current law or new laws are necessary, oil must be routed around the Great Lakes. Transportation of oil under them by pipeline, or on top of them by boat, creates much too great a danger of irreversible, horrific consequences to this unique and priceless resource and to our tribe's treaty fishing rights.

My mother was a proud Odawa women. She believed she was a -- she was a water walker. And she
believed in the fight for our freshwater. So my tribe stands with Standing Rock. We must do what we can to protect our water, because water is life.

MR. DAVE BROWNEAGLE: (Native language spoken.) Can you spell that? My name is Dave Browneagle. I'm the Vice Chair of the Spokane Tribe.

First off, I'd like to thank all of you that are sitting up there. And that was one of the things that I'm going to address. And also for all the words that were shared with the Standing Rock people.

You know, the beautiful thing -- and you find some beauty in everything -- what's happening at the Standing Rock Sioux Tribe and the oil pipeline, it's bringing us together. It's bringing us to this point. And it could have been done so much sooner. It could have been done way back when.

But because of a lot of things that were mentioned, a lot of things that were shortcomings, a lot of things that weren't adhered to, or the treaties, or the promises that were made that weren't kept, you know, now we're here. And it's a -- it's a sad time, but there's always hope.

I'm not here to blame. I'm not here to, you know, do some name calling or anything. What I'm here to do is I'm going to offer a little solution, and I think it
might help the future generations. And I'm talking about my children, and my grandchildren, and great grandchildren. And they can talk about what happened here today and say, you know, our people stood up, and just as our ancestors in the past stood up, and they got killed. They got butchered. They got hung, but they stood up.

And in so doing, we get to stand here today. We get to have this moment peacefully and discuss our issues, our shared issues, because it is a shared issue. It's not us against you and you against us. It's a shared issue.

I've got to also let you know I'm a retired educator by trade, so I've got my notes right here. And some of you know these words, but I -- I'm going to say them anyway, because I think we need to understand what it exactly means -- at least the way I think it means. Okay.

Consult. And I've heard that quite a bit today. Consult really is just seeking advice or information from someone who is an expert in a particular field. So when you call upon the native leaders in this room to speak to you, we're the experts in our country. We're the experts in our home. We're the experts for our people. And sometimes that's dismissed because, what does an Indian know? We know a lot. Okay?

Consultation is a meeting when the expert or
professional is called upon in order to seek advice. So when we are asked to come to a consultation, actually what we're doing -- and I've seen this in the past, I've taken part in some of these, and we're going back 30 or 40 years. And it's kind of like you all sitting up there, and you have the recorder and all this and you get your name and everything. And then we say our piece, and then we leave. Or I should say, if you come to your reservation, we say our piece and then you leave.

I remember there was one federal judge came with a recorder. She was sitting off to the side, and she was sitting there in her robe, and we were giving our consultation. And I got up -- this is like 30 years ago -- "You know, you've already made your decision of what you're going to do. You're just going through the process because that's what your book says you have to do. You have to listen to the Indian people. You have to listen to the Spokane Tribe, but it's already done."

I said, "So why are you even doing this? Why don't you just send a recorder, and we'll tell them what we have to say?"

Trust and the trustee, the trust responsibility. It's a firm belief in the reliability, truth, ability, or strength of someone or something, such as word, government, or leader. All the leaders that are
represented here, they were voted by their people because they trust us to speak for them. You are appointed, or if it's your career, you're up there because that's what you wish to do. There should be some trust, trust within yourselves to do what you said you would do when you took that job or when you were appointed.

And in Indian Country, the way I look at it, "consult" usually means, What do you think? So I'll stand up and thank you for not giving us five minutes, because I've been in those too where you get five minutes to speak. And -- and I've got to share this: This one gentlemen from this one reservation in Washington, beautiful elder, and I considered him a true elder, he got up and after he got done introducing himself in the language and his family and who he's representing, and then he translated in English and the light went off and they said, "Thank you, your five minutes are up." And he was there as a consultant for his tribe -- or represent his tribe.

So for me, a sovereign nation -- and I think you heard that time and time again. We're a sovereign nation. The United States Government's a sovereign nation. And at one time we were considered sovereign, and you made treaties with our people, and you listened to the people. And you know why?
Because you had a small number on the East Coast, and you were dealing with a large number of native people. So your ancestors, to save yourself, was to make a treaty. You stay on that side of the river, and we'll stay on this side of the river. You don't brother us, we won't brother you. It worked. But as the numbers shifted, the treaties were broken. And in a sense the sovereignty, power of the sovereign nation -- the sovereign nation, it's broken.

So my purpose is, let's look at it, how can we fix it? You know, we sit as a -- I believe we should be sitting at a table as equals, sovereign to sovereign. You are representing the United States Government, we're representing our respective tribes. It should be mutually respected, because there is a dominance in power, and I believe very strongly the power of words.

I'll just give you one example: If you call me a minority and I accept that term, then I'll act like a minority. I am not a minority. I will not act like a minority. So when we get the sovereign nations at the table, they're representing a history. They're representing generation upon generation upon generation. And we're still here.

So what I would like to recommended is when we have this consultation, meaning you consult with us, we
consult with you, our government consults, your government consults, and we come to a consensus. We consent that this is what we are going to do together. This is what we agree upon because you listen to our experts. We listen to your experts. We talked about it, and we have a consensus that this is what we're going to do.

I think in the past after the power shift change, we come and tell you and maybe it's a courtesy thing, and these are the experts, but I don't think we're being listened to anymore. And so I thank you tonight because I feel that this might be a step to change that.

So the change in the mindset, I believe that has to take place. And I also believe -- and I hate to say this because it might give you some ideas. No, just kidding. But every time we go to court and it reaches the Supreme Court, there's a good chance statistically, we lose more than we win. And every time we lose, we lose a little bit more of our sovereignty. And if that's the intent, then it's working.

I'm just going to ask, let's change that intent and let's work together because our children and our grandchildren and our great grandchildren, and our great-great-grandchildren, they're going to be having these conversations, and hopefully, it's going to be a lot better than what we're doing now, because we are going to
be making those changes. Thank you.

MS. JENNIFER MCCLEOD: (Native language spoken.) Good evening. My name is Jennifer McCleod. I am a tribal councilwoman for the Sault Sainte Marie Tribe of Chippewa Indians, and I'm also a certified teacher who spent many years in the classroom.

What I came up here to tell you is a story. You asked if there are stories, and I'm going tell you a story about our children. I taught K-12, and from Kindergarten to the 12th grade, I was always teaching our children about what it's going to be like for them when they go out into the dominant world because it's different. It's different than the world that they know. And I had to prepare them for that so that when we had to get up in front of a microphone, they could do it.

When they had to understand why is the government saying this? What does that mean? They could be ready for that. When they had to go out and get their first job, I taught them the skills for that because it's the different. And what I want to say to you is to understand that we are different. Understand that our values, our sensibilities, our priorities, and everything that is about who we are is markedly different than the society that I prepare our children to go into and to thrive in.
If any of you were going to be sent on the other side of the world to another nation of people who had a different language, you would be prepared for that. You would take the time, and you would learn about them. You would understand what they would find offensive. You would find what's important to them. If there was a prescribed dress for women, you bet that you would know about that.

You would take the time to understand about the people that you're going to be across the table from so that you could relate more and understand more, so that you could come to that consensus understanding that we're all looking for. That's what the consultations -- that's our big hope for those consultations is that we will come to an understanding. We're not all going to get exactly what we want, but we can work together to get to that point where everybody's okay.

That's how our tribes existed. We always worked until everybody was okay. There were no losers. I urge you to look at that. I urge you to take the time and understand about the people who are going to be sitting across the table from you. But don't make a mistake in thinking that every one of these nations here, that we are alike. We are not the same.

Yes, we're native people, but we may be as
different from each other as the Swedes are from the
Italians. We have different language. We have different
culture. We have different ceremonies. And you need to
understand that because it affects those decisions that
are going to be made.

I know I teach the children how the dominant
society sees water. And I explain to them that they don't
see that as a woman. They don't see that as a life giver.
They're seeing it as something that can be used to make
life better, and they can travel down it, and we can do
all these attributes that are used for water because
that's how that society sees it. But my children don't
see it that way. Learn about that. That will help make
your job easier, and it will help peace to come, and it
will help us to make progress for all of our people.

So that's the story that I want to tell you.

We may be speaking English, but don't make the mistake
that we aren't different. Because what's in our heart,
what's in our culture, what's in our ceremonies, what's in
our way of life is valuable.

And I heard one of the gentlemen say earlier
one of the tribal leaders say, "Reference our knowledge."

We have vast knowledge that we have been
sharing since the point of first contact. And as I was
growing up, I would hear science come up with this big
newspaper article of what they just discovered. And I would listen to my grandparents laugh, because we've known that for a long time. But it takes science, and it takes those methodologies that to validate what we've already known.

We can share with you what we know about this Mother Earth, about living together, about coexisting, because we've been doing it pretty darn good since the point of first contact. It wasn't always to our benefit, but we're still here despite everything.

So take that time, consider that if you were going to another nation that was visibly to your eye another nation, what would you need to know about them, and translate that to us. It will help us all. (Native language spoken.)

MR. CHRIS DEVERS: Good evening. My name is Chris Devers. I'm the Vice Chairman to the Pauma Band of Luiseno Indians in Southern California.

And we come here tonight to talk about how we can improve the consultation process. And as I sat here and looked at the material and what some of the other Tribal Leaders have said is you want to start this process off in a good way.

And my question to all of you up there is: Why is there not a consultation scheduled for the
California tribes?

There are a 109 tribes in the state of California, and I cannot believe that between the 13 of you up there that don't know that there's tribes in California. So to me, that starts the whole process off on a bad foot.

As a California tribe, we are expected to go to all these other different areas to consult with you. You should be coming out to California and consult with our California tribes. And it may not be just once because we refer to ourselves as Northern California, Central California, and Southern California, because we know the status and the situation of our sisters tribes throughout the states, the ones that can travel and can't -- have a difficult time to travel.

So above everything else that has been said here, you know, I would expect something from whoever you communicate with to respond to NCAI with an explanation of why the Pacific region was left off of this consultation process. And what is it going to take to put us on it? And I don't want to -- shouldn't have to hear is, "We don't have the time. We don't have the money. We don't have the interest in including California."

My question is short and sweet, but I think it deserves a response at some point in time for those of
you that are up there in the front stage. Thank you.

MR. WILFRID CLEVELAND: (Native language spoken.) Good evening. My name is Wilfrid Cleveland, spelled W-i-l-f-r-i-d C-l-e-v-e-l-a-n-d. I'm from the Ho-Chunk Nation in Wisconsin. I am the President of the Ho-Chunk Nation.

I'd like to say a word of thanks to the Standing Rock Sioux for making this happen here, this gathering here this evening. I'd like to say a word of thanks to NCAI for hosting this listening session this evening, and I'd like to thank each one of you for taking the time to come here this evening and listen to us. And, hopefully, that you would absorb some of the things that are being said here this evening, because there is a lot that you are going to be talked to about.

And it just so happens in the Ho-Chunk Nation, we have a clan system in our ways. And we had the upper clans, the birds, thunder-beings, and we also have the ground clans, those that walk on Mother Earth.

And I am from the bear clan. And the bear clan is the protector, the protector of the nation and the protector of Mother Earth. And it's the way that the Great Spirit made it that I am the President of the Ho-Chunk Nation and that I am here addressing you people about Mother Earth and what has taken place with her at
this time in our lives.

And we as Ho-Chunk people and other
indigenous people here on the creation, we all have our
ceremonies, and we are all in harmony with the creation
and the spirits that are upon the creation, the trees, the
insects, everything that you see. And that's where --
that's where our life comes from.

And then we have the water. The water we
use in our ceremonies, the waters that the Creator of the
Great Spirit made sacred -- made pure for us to use
because we need it for survival just like everyone else.
And this is why we are here addressing these kinds of
things because our concern, the way that our elders --
they were concerned about us as we were children, as we
were grandchildren growing up.

And it's now, today it's our turn, our
responsibility to be watching out for our children, for
our grandchildren and the future generations. We want
them to enjoy all of the creation that we enjoy, that our
elders made sure that we enjoy.

And for that reason, we stand here and speak
to you about why we need all these -- all these pieces
that are being placed on us like in the state of Wisconsin
where we are, where we live.

We are -- we are -- we are stewards -- we
are stewards of Mother Earth. And as part of that and this is our responsibility to make sure that Mother Earth is taken care of, and through that -- and then -- there's corporations. These corporations, they don't want to understand us. They don't really care to hear about us and how we are with the creation because that's not their interest. Their interest is money.

And a question that I have and been thinking about it, is why -- why is this corporation -- why do they want to build these pipelines coming from Canada? Why do they want them to come into our lands? Why is that?

And then, I don't think that even the United States, I don't think they even maybe -- maybe their government, maybe they're bought. I don't know. But they seem to make it sure easy for these corporations to come over here and do all these things to Mother Earth without a care about us. And our lands -- and our lands in Wisconsin we have -- we have sacred sites that we -- that we concern ourselves with.

We have mounds. It just so happens that this past winter, and when the temperature was, like, 23 below 0, we had a march on a capital in Madison and protecting -- protecting our sacred sites. And other nations came over there and supported us. And we staved off the government from passing a bill that would make it
easy for these corporations to infringe on our sacred sites.

And it continues. And now with what's happening in -- at the Standing Rock Sioux Reservation and what's happened around by them, about their sacred sites, they don't -- they don't really care about those kinds of things. No different if someone wanted to come over to someone's cemetery and start plowing them up. How would those folks feel if that happened? I don't think they would care too much for that idea, but that's the way that it is for us. And so we tried our best to -- to use our ceremonies in a good way and ask the great spirit to help us so that we can continue on being a good stewards of Mother Earth.

And the Government, they make it easy for this -- for this corporation to come over here on our lands and disturb -- disturb our -- our sacred sites, disturb our mounds, and for what? These pipelines, there's a pipeline that was built in 1953 in the state of Wisconsin, and it runs from the city of Superior all the way down to the central border of Illinois and Wisconsin. And just recently, we heard that there was going to be -- there was going to be another pipeline run adjacent to that pipeline. And why?

They're making a larger one, a larger one
than -- because we all know. We all know and they know
that these pipelines are going to -- are going to leak at
some time, because they're not -- they're not made
forever.

And it's going to happen. And what's going
to happen to Mother Earth if that happens? What's going
to happen to our waters? And who's going to -- who's it
going to affect? Not those corporations. It's going to
affect us. It's going to affect the citizens of the state
of Wisconsin, or wherever these pipelines are. There
ain't just only one or two pipelines that are coming
from -- from Canada into the United States. There's many
of them coming. They are there. They've been there.

And so we are standing here saying these
kinds of words to you and making -- understand who we are.
Why we're concerned about desecrating Mother Earth the way
that these big corporations are doing, and the way that
they want to do. It's been happening.

And then we have this global warming.
What's causing that? It's all of this desecration to
Mother Earth. We know that. We know that maybe something
for them hard to believe that. Maybe they think it's
something else that's causing it.

But no, that's not what it is. It's
everything that happens to Mother Earth. And it's her
only way -- her only way of battling these things that happen. I mean, like, you look around you, and you listen to the news that's happening. It's all -- it's all because of these kinds of greedy corporations that are desecrating Mother Earth. And that is why we are here talking to you, make you understand, make you feel what we do because it's going to affect your people. It's going to affect everyone, because water is -- water, at some point if this continues, it's not going to be pure. It's not going to be sacred.

So we come over here -- and even in our -- within our government, within Ho-Chink Nation government, we are making preparations for this. When our -- when our general council meeting -- we just had a general council meeting a few days ago, and we did a Right of Nature, a resolution that our government is going to be supporting the nature around us, the environment around us, and we're going to do our best to keep it so that our children, our grandchildren can continue on and enjoy what we enjoy.

So I'd like to say these kinds of things about who we are and why we are here, and why we are talking about Mother Earth or why we are talking about the water, and why -- why is this happening to Mother Earth.

And you have the ability -- you have the ability to change all this for the future generations, for
all these tomorrows that are going to be here because it could be devastating at some point for our children, our grandchildren. We're not going to feel the effects of it, but this is what we think about our elders thought about us, we think about our future. (Native language spoken.)

MS. CAROL EVANS: (Native language spoken.)

Good evening. My (unintelligible) name is (unintelligible) given to me by my late grandmother, Cecilia (unintelligible) from the Coeur d'Alene Tribe. My English name is Carol Evans, and I am the Chairwomen of the Spokane Tribe of Indians. I come here today with our Vice Chair David Browneagle who spoke before me.

First of all, I would like to thank all of the tribal leaders in the room today. Thank you. Thank you for sharing your stories. Thank you for sharing your hearts. Thank you for standing up for our environment.

Also, I would like to thank the Standing Rock Sioux for their -- their courageous efforts to protect -- to protect the water, the sacred water, it is sacred to all of us, and we are so thankful to that.

Our tribe, like many other tribes, support the Standing Rock Sioux. We passed a resolution. Our Vice Chair went back there. Tribes in our areas, the Cowlitz Tribe, the Kalispel Tribe, and the Spokane tribe, come together to send wood back for them so that they can
light their campfires. So we continue to support our brothers.

We also supported our Lummi brothers and sisters in their efforts at Cherry Point. It's -- it's so very important that we continue to support one another, to come together and to fight for what -- what is really ours. It is really -- was ours. We gave it up. We gave up a lot. So I thank you, all of you tribal leaders, for sharing your hearts in this session today -- in this listening session.

Also, I'd like to thank you federal employees, whether your appointed or lifetime employees, thank you for coming here. I know it sounds like -- if sometimes we're mad at you, I don't think that's the case. I think we speak from the heart. And because our ancestors came from a place and an understanding of having a true attachment to the environment, to the land, and to the air, to the water, to the animals, to the fish, and to the birds, that is why when -- when these big corporations, or when these outside entities come and they do harm to these things, it does -- it angers us in our heart. So try to understand that -- that I just ask that you listen. Listen with your two ears. You got two ears. So listen real hard. And if you listen hard enough, you'll feel it in your heart. Because when you can listen
and feel it in your heart, you're truly listening to us.

If you do that when you talk about consultation, you may -- we may come to a point where we agree -- we agree on things -- on what we're going to do and how we're going to proceed with these projects we're talking about.

I'd like to share a story with our tribe involving consultation and a lack of consultation. This happened a long time ago. My tribe is -- we're known -- my ancestors were known as salmon people, river people. We are inland from the ocean, but the salmon made it all the way up to the Spokane Falls in our historical homelands. And so we were salmon people. We survived off the salmon.

Since time immemorial, our people survived on the salmon. And all of our culture -- our cultural practices and traditions revolved around the salmon. Our salmon chiefs would -- would welcome other tribes, and other non-Indians to come and share in the bountiful salmon runs.

Well, when Grand Coulee Dam was built -- when it was built, it took away the salmon for my people. We've not had salmon for -- for three generations. And my tribe was not consulted; rather, we were told. The people that lived along the river, "Pack up, leave your homes,
take your children because you're going to be flooded."
So many, many families lost their home, and
our tribe was not consulted. And to this day, we've not
been properly compensated for those losses. So for me and
my people, that is an example of where consultation did
not occur. So I encourage that as we go forward that we
consider consultation.

Another example from my people: We have a
SuperFund Site on our reservation. It's a uranium mine.
And there's huge pits that have -- have harmed our land.
And when we first talked about reclamation of those pits,
the right process wasn't discussed. And our people,
actually, grassroots organizations come together to try to
demand that the right thing be done as the remedy.

And I think for the most part, we've started
the remedy. And because of those people coming and the
Government finally listening to us, it's a SuperFund site
that we were trying to clean up. But it's important that
we do the right thing in these cases.

So I think when we talk about solutions when
you consult, when you come to us, a lot of the tribal
leaders before me, they told you what you need to do:
Recognize us as sovereign nations for we are sovereign
nations.

As my -- as the Vice Chairman of the Spokane
Tribe said before, at one time, you did -- you did ask for our consent. You asked to come on our lands. You asked for permission. But as time has gone on, that -- that is no more, but you need to bring that back.

You need to -- when you're looking at infrastructure projects, you need to give us information. You need to give us free prior information. It needs to come before you decide what you're going to do with these infrastructure projects. We need to get that information, and it needs to be complete information. It needs to be the whole thing, not half truths or half of the information. It needs to be all of the information. We need to be able to -- to look at the information and let our experts tell us what that's going to do to us, what's that's going to do to our children, and their children, and their children.

And then we can give -- we can consult, both of us, our experts can tell your experts what it's going to do to our people, what it's going to do to your children and grandchildren. And we truly need to do that. And until you listen and you listen hard enough with your heart included, then you will come and you will listen.

Because like some of the tribal leaders said before me, we are a people connected to our land, and if we do not pay attention to this global warming, to this
climate change, there's going to be a point where you're going to need us because we are connected. We know how to heal things. We never took more -- took more than we needed. We always knew when we put something to the limit and that was just something we were born with, something we were taught with.

So I just ask that you, you federal leaders as you look at your consultation policies, you consider FPIC, you consider free, prior, and informed; and then you give us this, and you consider that we give you permission or that we consent with you to allow you to do these projects. I think it's important.

And it's -- it's not only important for us in our lands, our historical homelands and all of the land in this country, but it's important for you too. And so please do listen to us. It is important. And I thank you. I thank you for listening to me tonight and to all of the leaders. (Native language spoken.) That's all I have to say.

MS. KATHRYN HALLAWEll: Good evening. My name is Kathryn Hallawell, and I'm a tribal council member for the Sault Sainte Marie Tribe of Chippewa Indians. You've already heard from our Chairman Aaron Payment, and my fellow general council member Jen McCleod, and as well as our cousin tribes in Great Lakes region who are also
party to the same treaty that we are, the 1836 Treaty.

And I appreciate their good words, in fact, I think anything I might have to say right now has already been said at some point, but I hope you'd give me a moment to emphasize some of the same notions for you to listen to and take back with you.

I do represent my tribe and my people and especially those who call northern shores of Lake Huron and Lake Michigan home since before pre-contact. And I'd also like to say that I am the granddaughter of -- one of my ancestral grandfather was a signatory to the 1836 Tribe Treaty. And he went to Washington. And it was a large ceding of almost all of Michigan, as you can picture it, at least the upper two-thirds, and only a very small portion was left as reservation land for us to live on for as long as the grass grows and the water flows.

Unfortunately, before they even returned from Washington, D.C., to Michigan, Congress had amended that treaty to say for maybe just five years. So we truly are a tribe who exercises and recognizes that all of our -- all of our treaty protected rights and harvesting are on ceded lands. And our ability to bring back a reservation has been one piece of land base at a time through the trust -- the trust process.

So it really -- and fishing was so
important, and there we are in the Great Lakes, we've been there since before contact. So just to give you -- just to give you an idea of how important it is to us that the Great Lakes waters are protected and the lands as well.

And as I mentioned, Navi people, we recognize the role of women that they play in protecting the waters, because water is life as you heard tonight, and the water is sacred. And because water is life and sacred, as grandmothers, we stand. We represent as (Native language spoken) for the Great Lakes and the Great Lakes water sheds.

I want to thank all of those concerned with making this opportunity today available. All of the federal agents that are here and are listening to us -- we appreciate that -- as well as NCAI who has helped facilitate this opportunity. And I also want to thank those who have supported the elected leadership, our own people, to bring us here so that we can speak and relay those concerns to you because we speak for the entire people. And especially water walkers, and all the grandparents because they link hands with those grandparents in the past and in the present and into the future. That is our role as grandparents and water walkers and protecting what we have now for our future.

Before us today is a conversation about
pipeline infrastructure reform. And I would just like to frame this, if you will, in bookends. We've got new construction pipelines, such as the Dakota Access Pipeline that prompts us all to be here today; as well as, you've heard, old decrepit pipelines that have been in place since before there were some of the provisions that are available today.

The common denominator is water and protecting waters. So we hope that when you leave here you keep that concept. And it's not just new pipeline construction, but what's already there in the ground and how can we protect ourselves from the spills.

As you've already heard, Michigan experienced one -- down the Kalamazoo River, experienced -- I think it was the worst oil spill in the continental United States.

And I was hoping I could be here today expressing -- I was hoping I would be here today to be able to share a good story about a settlement for an oil spill like that. But unfortunately, we're really saddened about the recent EPA and Enbridge consent decree that came forth and was published, I think, on July 20th of this year because we had no -- we were not consulted. We were not notified. And I can guarantee you as a tribal representative to EPA's National Tribal Operations Caucus,
I have had face-to-face conversations every time I can about the concerns that we had with Line 5. It was a complete and utter surprise to us to see that Line 5 had been embedded in that settlement.

So it's really with a sad heart that I stand here today, because I was hoping to be able to talk about exciting things like, for instance, the VW settlement and what a great opportunity that was for tribes to come to the table to have a voice and help a settlement develop and a framework to include tribes in the future. And then one month later, we have a settlement that we have to -- have to deal with now.

Our concern about that settlement was we didn't know that Line 5 was going to be part of it. Just no notification. And it kind of defeats our purpose to request or pursue a larger environmental assessment. And instead, they'll only have to do environmental assessment on the toe of the tiger, and then look at the consent decree and say, "Hey, we're just complying. We're complying with the consent decree. We'll put these Band-Aids on and everything will be good." But it won't be good.

Those pipelines as you've heard expressed today, they're encrusted with barnacles. And I don't mean to get off topic, but on some of you may or may not know
that we have a National Defense Act before at the Senate right now for fiscal year 2017, and there's a -- there's what they call the Senator Rubio amendment in that. And it's going to give -- it's an amendment that will allow ships that come into the Great Lakes -- it's making a -- what do you call it, a cut around? -- an exemption, so that they don't have to comply with the Clean Water Act.

That's how invasive species get into our precious waters is in the ballast water of ships. And if that passes through Congress here as part of the defense bill, what is all this about then? How did we protect ourselves? So that's a -- I just -- we're almost in a place of distress because we know those Great Lakes are under dire, dire distress right now.

So I know you can't necessarily do anything about that if it comes out of the Congress, but it gives you an idea of how the permitting processes can really then be hard for them and to just work against us.

But just to end, just to say one more thing and that's about -- let's see. I think that -- as our tribe, we support this notion of -- let's see, what's it called? See, I lost my place in my notes, so you have to give me a moment to dig through. But we were talking today earlier about this -- this Executive Order 1364. That's a fast track for the permitting process and the
projects. Who knew? You know, it just -- the whole process --

We haven't heard from Army Corps of Engineer on anything to do with Enbridge. We haven't heard from FINSA. And, obviously, we didn't hear from EPA when they went ahead and did the consent decrees. There's no language in any of that about the adverse impact on tribes to our food that grows on water, to our fishing rights, and as our chairman said, that pipe sits right above spawning beds, even a small spill would erupt and harm those.

You don't have spawning beds, you don't have a fishing right anymore. No consent in any place there. So this idea of getting in early that prior informed consent, we need to be at that table. And so if there could be an amendment to that 1364 so that we can get in there, particularly for those that are -- we get the project a special attention from the inner agencies, a covered projects, we want to be there before they get designated as covered projects so that we can put that forth. And I'll just leave it at that.

I'm looking forward for us to be able to meet in November. We hope to bring forward some ideas on economic policies and fiscal policies, and some things that when we see oil and global policies and dollars, you
know, national security is one thing but, you know, when we see our exports, our fossil fuels are being exported to a world market, that's a concern for us. And we think we should at least be invited in to have a seat at that table, too, and when the new administration is making monetary policies. So thank you.

MR. ROBERT TAKEN ALIVE: (Native language spoken.) Good evening to all of you. I'm coming to you from the Standing Rock Indian Reservation in the North and South Dakotas.

What's been given to you by -- the reason why we stand is because of the youth. She gave you a card that you could reach me for any questions that you may have. And that's why we come. That's why we stand together with the other tribal nations across the U.S., across Mother Earth.

We stand because of our children and our grandchildren. We do this in respect to our elders, the ones that didn't get to speak, the ones that had to accept.

So with that being said, I want to address a few of the topics that (native language spoken) or our leader, Dave Archambault, II, asked me to address and that we had a discussion and full council with.

But first and foremost, is that we
discussed -- we discussed this issue with the Dakota Access Pipeline in November of 2014. We expressed our concerns then that we didn't want this project.

Before that, 2007, we didn't want no pipelines in our ancestral homelands. When we went and you brought the 1851 Treaty to us, Aboriginal Homelands, it was called to our ancestors, and my -- my grandfather on both sides, my grandfather Sitting Bull and my grandfather (unintelligible) didn't touch pen to paper for those treaties. But we were placed on aboriginal homeland, and that's where that pipeline is on our aboriginal homeland.

And, again, you brought 1868 Treaty to us. This one was for war to stop -- to have peace. And, again, my grandfathers didn't touch pen to paper. We say this because we represent, not only our tribal nation, but other tribal nations represent a long lineage of leadership that goes back -- dates back before the U.S. Government, before 200 and -- I don't know how many years now, but we were given this responsibility to address these issues amongst ourselves as tribal nations and when the Federal Government was established to address these issues also.

And I stated earlier, it was never done in a good way previous, but there was always coming to terms to
warfare. But in this situation that's going on in our aboriginal homeland and the support that we got by many of those flags behind you, if not all of them, we as a tribal nation are very humbled. And we carry a large responsibility, and we say that with a great respect to the Federal Government, which is yourselves.

We do that because of our -- what was given to us or want to give it to our children and their children and their children. This isn't -- and I share this because I know Chairman Archambault, this isn't about money. This is about peace and prayer. And in that prayer, in that peace is our water. It stands as a soul, as you do for your relatives, that's our relative also.

With that being said, consultation must be meaningful and involving high officials. Decision makers must be at the table to hear tribal leadership. Companies should not be allowed to undertake or perform Section 106 review. They should be performed by the federal agency or a neutral entity.

Nationwide Permit 12 was used in reviewing the Dakota Access pipeline. That permit was supposed to be for projects with minimal environmental effects. But it was applied more broadly, including to major oil pipelines. Allowing projects to come under Nationwide Permit 12 minimizes the focus on the importance of
reviewing tribal interests, and consultations applicable
of the treaty rights. Our focus is the river walk, sacred
places, and our future using our sovereign rights, unity,
and prayer.

Another point I wanted to make this evening:
About the Nationwide Permit is up for renewal soon and
should be reevaluated. It's applicability to oil
pipelines should not be prohibited -- or should be
prohibited -- excuse me. Individual permits and full NEPA
reviews should be required for crude oil pipelines.

Standing Rock cannot be left behind. DAPL
must be addressed regardless of the future changes to the
federal review process. There is a need for earlier
notification to the tribe before routes are determined,
similar to the current FCC cell tower process. Federal
agencies should do landscape-level management planning
with tribes.

The BLM currently and used to poach on
public lands because it seeks to identify important
ecological values, patterns of the environment change, and
the coordination of the estate holders. The evaluations
for this for the Army Corps would be special area
management plans, which are authorized in the Water
Resources Development Act currently before Congress.

And last, unity brought us here. We stand
strong when we stand together. Standing Rock stands with
each of you tribal nations in our fight to protect our
sacred places. Over 320 tribes supporting our effort have
come together. This humbles us.

As a Standing Rock Sioux Tribal Council, I
am one of 17. But each of us knows that we're standing --
that we're at a place that our ancestors were not, and we
know what we're -- what we're standing at, but each one of
us stand together on the council, and each one of the
tribal nations that came with their leadership, came in
support. We had a meal together. We had prayers
together. That bonds us as one tribal nation.

So 320 tribes coming together as one tribal
nation, I hope that this body here that I'm giving the
listening session to understands that -- that it's not
just the Standing Rock Sioux Tribe, but it's the tribal
nations in your nation that came together.

So with that, I thank you for listening.
(Native language spoken.) Thank you, and have a good
evening.

MR. NORMAN HONANIE: (Native language
spoken.) My name is Norman Honanie. I am currently the
chairman of the Hopi Energy and Water Team. I come from
the nation, the tribe of the Hopi, who is in the northern
part of this state that is called Arizona. I sit here
and echo everybody what have been talked about already.

Standing Rock, I bow to you guys. (Native language spoken.) Thank you. You have made an impasse. But you have also now opened the grandest door that you could also. So now we're here to talk to you. We're not leveraging. Let's make it very clear (unintelligible). We're not leveraging. It must be understood that as you guys sit up there, you face determination, but is it really determination that you face? Think about that.

Here are some points that the Hopi tribe needs to address:

How can the federal agencies better ensure meaningful tribal input into infrastructure related reviews and decisions protecting tribal lands, resources, and treaty rights within the existing statutory framework? I want to hold that first. My tribe doesn't have a treaty, we've never had a treaty; yet, we exist and survive. I want that to be on the record.

In this context, the (unintelligible) case before the Ninth Circuit Court of Appeals was directly on point regarding the question for the answer in that decision in relationship to the (Native language spoken) and DOI solicitor perpetrated to represent the Hopi Tribe in a technical working group without ever directly consulting with the Hopi Tribe.
The talking points should be, despite the tribal callings statement that it was going to remain neutral until the session of the relationship of the LCR, which stands for Little Colorado River litigation, to be continued operating -- operation of the NGS, which is the Navajo Generating Station. It is incumbent that the DOI at least consult directly with the tribe to determine whether the assessment had be made and what the tribe's position was going to be before perpetuating to speak for the tribe.

As the tribe has contended in Hopi Tribe versus the U.S., the consultation requirement of the federal regulations is not satisfied by having an agency solicitor consult on the tribe's behalf without ever having consulted directly with the tribe.

There's more. Another issue raised in infrastructure and consulting issue in the land condemnation issue arises from the ranchers acquisition pursuant to the 1996 Settlement Act.

Despite the land settlement act being a federal land settlement between the Hopi Tribe and the Navajo Tribe, the Federal Government required that the State of Arizona consent to the land condemnation once the land is acquired, and the tribe seeks to have the Federal Government take it into trust.
It has now been 20 years, and the State and the -- and the State of Arizona has refused to cooperate in the land condemnation. Either the land -- either the land settlement should be amended to limit the consent requirement, or a shorter period of time should be set up for the State of Arizona to set forth specifically -- specific objections to the condemnation. And if unable to do so within times that should be deemed to have consent to the land condemnation in a reasonable acquisition cost for the land should be set by the federal in consultation with the Hopi Tribe.

Snowbowl is also an infrastructure issue where there has been refusal to consent with the Hopi Tribe or listen to the reasonable input of the tribe. The San Francisco Peaks are a Vatican of the Hopi Tribe and all parts of it are sacred. The Hopi Tribe should not be required to live in its cathedral in order to protect it from desecration.

As one of the judge stated in his three-judge panel decision in the Ninth Circuit Court citing reclaimed water, it's noble is equivalent to using really clean wastewater and the holy water from a Christian church. It does not -- it does not just taint the font, it taints the whole church.

Snowbowl's use of reclaimed water to make
snow taints the entirety of the most sacred sanctuary of the Hopi Tribe since time immemorial, the San Francisco Peaks. Those peaks have long, long been visited by the Hopi.

Another infrastructure is looking at into Black Mesa. How Peabody was going to give (unintelligible) to the Hopi Tribe. It was obtained from the benefit money with cooperation in the consultant with the Federal Government to convince APS to extend a 69k power line directly from Tuba City to Tuba -- from Tuba City -- from Tuba City down 264 to King's Canyon transmission line. The Hopi Tribe could get power to Red Mesa and/or all Mesa for it, well fill, while the Navajo communities and in coal mining canyon (unintelligible) and maybe get to it if it went back far enough, could receive reliable power as well.

I brought up LCR, or Little Colorado River.

The talking point is that the U.S. government proposal landlocked the Hopi Tribe in a doughnut hole inside the Navajo Reservation. When the 1934 reservation was created, thereby, separating the Hopi Tribe from the Little Colorado River. 43 U.S.C. A Section 150, was enacted in 1919, it states: "No public lands of the United States shall be withdrawn by the executive order, proclamation or otherwise as for any other Indian
Reservation except by an act of Congress."

The 1934 reservation was created by executive order despite that prohibition. The Federal Government without consultation with the Hopi Tribe intentionally deprived -- deprived the Hopi Tribe of any access to any surface water features depriving the Hopi Tribe of water necessities for health and well-being of the Hopi Tribe and its members.

Hopi Arsenic Mitigation Project. It is basically the same talking points as LCR. The Federal Government says Hopi has built a water utility to remove arsenic from drinking water, but the federal courts have said that the U.S. Government does not have to pay for it, because arsenic is naturally occurring. The Federal Government allowed Peabody to deplete the end natural for end cause, a concentration and accumulation of arsenic.

The Federal Government also deprived the Hopi Tribe from any alternative water sources when it created the 1934 Navajo Reservation separating the Hopi Tribe from the LCR and land locking the Hopi Reservation. Even if arsenic is natural occurring, the tribe would have to take in an alternative source of water, but for the intentional actions of the United States -- United States Federal Government taking no consultation with the Hopi Tribe.
As you can see, I have an opportunity, and I have taken this opportunity. And I'm grateful that you guys are sitting out there listening. But it's also saddening that we have to do this. Why can't we just sit down and look at -- everybody has echoed water. We're no different. But I want you to understand I have an opportunity, and so do you.

So what are we going to do with this opportunity? That is the question I pose to you. I hope every one of you realizes that the Hopi Tribe will never move from its land. If we have to import water from somewhere, we will, but we're not moving. We've been here before all of you. The Spaniards came through us, and we're still here, and we will be here forever.

I liked what one of the gentlemen said prior to this. He said that, if there comes a time to talk, let us do that, but let's not assure ourselves that we will live in judgment. Let us look. Let us learn.

But I want to thank you for this time, and I want to thank the NCAI for allowing me to talk to you. We are not a member of this, but I am very grateful I have this opportunity.

Thank you for your time, and you guys all have a safe trip, all of you that have come from all parts of the world, go back and hug your children, drink your
water, and support yourselves. (Native language spoken.)

Thank you.

MR. KEN HALL: Good evening. Ken Hall, Executive Secretary for the Three Affiliated Tribes in North Dakota home of the Mandan, Hidatsa, and Arikara people. I just want to introduce -- acknowledge my wife Cara (phonetic).

Cara, if you could wave or something. And then also my daughter, Faith Hall, in front of me here. Faith is a 12-year-old, and she's a 7th grader. She had an opportunity to meet President Barack Obama and the First Lady when they visited the Standing Rock Indian Reservation.

And as you well know that when the President and the First Lady visited Standing Rock, they were moved by the youth and very, very motivated to do so, and from that became the Generation Indigenous Movement.

And I want to read an article. It's the -- if we can fully implement the union declaration of the rights of indigenous peoples across the all federal agencies.

President Barack Obama endorsed this document back in 2010. And if that would have happened back then, we wouldn't be having this conversation. I introduced my wife Cara, her uncle Dr. Wilton Littlechild
devoted his life on this document with indigenous people around the world -- indigenous rights experts around the world, which took 25 years to draft.

And in particular, Article 32, where it says: Indigenous peoples have the right to determine and develop priorities and strategies for the development or the use of their lands or territories or other resources, State shall consult and cooperate in good faith with the indigenous peoples. Concerns for their own representative institutions in order to obtain their free and informed consent prior to the approval of any project effecting their lands or territories or other resources.

Particularly, in connection with the development, utilization or exploitation of mineral, water, or other resources.

State shall provide effective mechanisms for just and fair redress for any such activities. Appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

That's just Article 32 of United States Declaration of Rights of Indigenous Peoples. So this president fully endorsed that back in 2010, but it was the Federal Government that failed it. They forgot to implement it across the board. We wouldn't be having this
conversation if that happened.

And I'm going to speak a little bit about my
great grandfather, Chief Drags Wolf was the last chief of
the Hidatsa people. He couldn't speak English. He had an
interpreter. And when they tried to flood our lands like
Chairman Fox mentioned earlier, what he told the Army
Corps in his native tongue was, "You'll never take me away
from these lands alive."

And when they had meetings, the last meeting
he went to, he went with his war bond and war paint on,
and told the Corps exactly what I shared with you.

The Corps' response was, "Take it or leave
it." That was their response. So that tells me it's an
attitude that the Federal Government has with our
sovereign people and with our sovereign nations. You talk
about trust responsibility, you talk about moral
obligation, then you have to follow through with those
words.

And I had an opportunity to address the
industry a few weeks ago in North Dakota. And everything
that the leaders talked about today, about being
sovereign, we have inherent rights through our treaties,
but they failed to recognize that. They failed to
acknowledge that we have rights as indigenous peoples.

"Indigenous" means land. We are people of
the land. And when those chiefs could not speak English and telling the Federal Government that, "You cannot take me away from these lands alive," that's powerful. That's who we are as people. We never can skirt away from that as indigenous people, or people of the land.

It was during the Franklin D. Roosevelt administration when Chief Drags Wolf received the peace medal. So under his watch they did not flood our lands until he passed away.

And then the 1944 Flood Control Act came. And we had the most devastation of any tribe down the street, 155,000-plus acres of rich bottom land. 80 percent of our people lived near the river. We had no diabetes. The unemployment rate was below 6 percent. We were self-sufficient. We were economically sovereign.

Fast forward to today, and you heard our Chairman earlier, in the spirit of partnership and mutual respect, if we're partners in any agreements, then we have to start with respect. We have to respect each other's sovereign rights. We have to respect each other's government in a true government-to-government relationship. It's been one sided for 150 years. It's time to come back to our side and hear our story and fight for us as partners in this relationship.

The Chairman wanted me to tell you that when
the Dakota Access bulldozed over the sacred sites and burial grounds, those could be our ancestors as well, because the Mandan, Hidatsa, and Arikara roamed those lands as well. So our cultural preservation office is involved in that -- those findings as well.

And I just talked to my brother Robert Taken Alive, and their family adopted me into their tribe. He confirmed that there was sacred sites and some -- and some burial sites, and those could be our ancestors. So our cultural preservation office is involved as well.

So we're trying to find answers. We're trying to find solutions. How much more as a people -- how much more injustices do we have to endure as a people? We're resilient. We're resilient people, and we know that. We're still here. But how much more do we have to endure before we get it right?

My daughter is here. A gentleman that was part the North Dakota Industrial Commission says that the decisions we make today will have an impact on our grandchildren's grandchildren, which is five generations. And as you well know, as indigenous people, we try to think seven generations. So the decisions we make are going to impact several generations, so let's get it right. Let's get it right for their sake and their generations to come.
Thank you for listening to me. And we hope there's some great dialogue, and we hope that there's reform, and we hope there's meaningful consultation at the front end and not the back end.

A famous world leader, Margaret Thatcher, told President Regan, "This is not consultation. It's notification."

So let's get it right. Let's do the right thing. Thank you very much.

MR. JASON SCHLENDER: (Native language spoken.) Good evening, everyone. My name is Jason Schlender. I'm a council member to the Lac Courte Oreilles Band of -- Lac Courte Oreilles Band of Ojibwe. I represent my constituents that were Lac Courte Oreilles. I represent my family back home and also my extended family and relatives that are part of different bands, part of different tribes.

So I wanted to just to, first of all, thank everyone for all of their good words especially our relatives at the Sioux, (Native language spoken) as we call it in Ojibwe or (Native language spoken). It's good to hear our language here as well as many other languages here tonight.

So I want to tell you a story -- real quick story because it's getting kind of late and suppertime has
already passed for me so I don't like -- like to skip many
meals in my lifetime, so I'll make it short.

But I want to tell you story about a
consultation gone bad. A long time ago in our community
where I'm from -- so a consultation gone bad -- I'll just
hold the mic. But anyway, what happened a long time ago
La Courte Oreilles was, there was a power company there
NSP, or Xcel as it's known now. They created the dam
there in our communities, which is now called the Winter
Creed Dam, a Chippewa Flowage. In our -- in our -- and
the result was many of our families were displaced, a lot
of people -- some people died. But one of the main things
that happened is it destroyed our wild rice crop,
"Manoomin" as it's called.

Until this day, it's been almost 100 years,
we haven't been able to regain that. Manoomin in our
story as Ojibwe people, as an Anishinabe people, is one of
the most sacred foods that we have. It's part of our
creation story. It's part of our migration story. And so
what happened is -- once again, you know, a consultation
after the fact, as many people have mentioned, the tribes
were brought in after the fact that all these business
deals that have taken place.

And so when you think about that, we think
about the restoration of our wild rice crop, what can be
done about that, because what has happened as a result of
that has destroyed, you know -- you know, the -- a source
of dietary nutrition for our people. As a result, it's
planted by disease and unhealthy lifestyles.

So when -- so looking at all of you up
there, some of you are members of different tribes, so
it's your responsibility now to help -- help the
Government become more culturally competent of the effects
of some of these consultations; whether they're -- and how
they can take place in a more respectful way as the
gentleman just said as before I did.

But as I think about that, as I think about
the consultation process, I think about -- I think about
it in a historical way. A long time ago when -- when
tribes, and whether it was the Spanish, or if it was the
French, or the British, or the Americans, there was also
an exchange of gifts that took place. In our language we
call it (native language spoken), gifts or bundles that we
give -- that we would give away in exchange, you know,
of -- exchange of gifts symbolic of the respect that we
have for one another.

And so when you think about that, you know,
when I think about changing consultation and the whole
process of it, flipping it over, because what I would --
what I would propose is that -- and it may take a long
time if it happens at all, is that it should be a 
ceremonial event.

You shouldn't sit up on the stage like that. 
You should come down and sit with everyone else that's 
here. We should take these tables out of here, and not be 
in a single line like this. That's not how we sit -- how 
indigenous people from this part of the world, we don't 
sit in lines like that. We sit in a circle.

So take all these chairs out of here, lay 
some buffalo robes down, some blankets, put our pipes down 
there, our drums, and let's have a smoke. Let's have a 
smoke and sit down there and sing for a little while, and 
let's dance and let's eat and let's talk about some of 
these decisions that have -- that need to be made for the 
benefit of yourselves as the Federal Government, but also 
for the benefit of the tribes here as well.

Because ultimately, our sovereign government 
lies with the (Native language spoken), you know. That's 
who we are accountable to. Because ultimately, that's -- 
you know, that's one of the things we recognize. We 
always acknowledge our children, our elders, ourselves, 
our people in our peer groups.

But every time -- every time you hear us 
talk, especially in our language, we always acknowledge 
(Native language spoken) those ones in the ground, those
ones in the sky. That's what we have to do, and that's what we should -- maybe that's what we should do -- that's what's absent here is that there's no ceremony. I don't see a pipe sitting around here. I don't hear anybody -- I don't smell any medicines being burned or smudge going around, so there's an absence there of culture. We can get up and talk in our language for a while, that's good.

And so as ambassadors for us to -- you know, you have your responsibility to do -- to act on our behalves, think about that for a little bit. Be the envy -- be the envy of your institutions, because there's a lot of seats up there that are empty from some other people that are just sitting in Washington, D.C., or traveling across the nation doing -- they're doing their work, but not sitting here.

And so be the envy -- be the envy of your institutions and remember that, because that's something that -- let's change how it's done. Let's make a remarkable, profound change. Because I think that would -- that would resonate with all of us here if we could just take all day -- if it takes days to consult, because you don't do a consultation in two hours, so -- and we sit there and we have a moment to acknowledge our Creator, and the Creator of all things, and everything that's part of our creation and everything that is, we
should -- let's try to do that.

I say (native language spoken) to the relatives at Standing Rock. I say (native language spoken) to all of our -- all of our people standing up; whether that's -- whether it's the pipeline, whether it's the Dakota Access Pipeline, or if it's the pipelines that goes through Wisconsin, you know, where I'm from. Because if you look at if -- if you look at the grid, it's kind of, you know, the tentacles of pipelines go across the -- you know, across this nation, so everyone's voice needs to be heard.

So the -- so the final thing that I just want to say to all -- to everyone here and for the record, (native language spoken.) What that kind of just generally means is water is sacred. If we listen to the water, in the water's instructions for our lifeline, because that's essentially where we come from. So (native language spoken) to all of you for your time. (Native language spoken.)


A few solutions: One, special area management plan for cultural sites and places of significance; two, maybe an endangered cultures act; or three, maybe an endangered peoples act.
Not something that we can take responsibility for and nor can any of you take personal responsibility for that solution request by us, by me, but the United States Government can. The United States Government can through policy -- federal policy, boarding schools, termination policies.

The past speaker talked about partnership. This all happened through a partnership after the largest land real estate transaction took place in partnership. Yeah, it's called treaties, but you guys hear that all the time: Treaty, sovereignty, treaty, sovereignty, but it's not viewed as what it really was. It is a partnership. In our realities, everyone here is a survivor near extinction, most of us, not because of our own actions.

This is following treaties. This is up through the '50s and '60s and '70s, all my aunts and uncles went to boarding schools 500 miles away from our homeland, from our reservation. So just a thought.

And we entered into a treaty in 1855, the Point Elliot Treaty. And I think there's 20-plus treaties that were entered into in Washington state allowing the state of Washington to become a state in 1871. We held title to every square inch of land, and it was through these treaties that this was made possible, a partnership with the tribes.
But one example, look it -- we're talking about DAPL. We're here because of DAPL, and EA not even an EIS. Taking your partner, your partner attacked by dogs, women and children attacked by dogs because they're trying to protect an area that is sacred to them, water that is sacred to them. And as a partner, what have you done?

Well, we did an EA, and don't think that EIS was necessary. Yeah, we consulted with them a little bit but, hey, it's jobs. Well, look at the jobs that have been provided over the last couple of hundred years through this land transaction, this real estate deal. Look at the suffering these people go through. The Standing Rock people, they are suffering today. They will not sleep, many of them, will not sleep tonight.

We just went through a five-year battle at Cherry Point adjacent to our reservation on top of one of our archeological sites, and the Army Corps is very familiar. And it's taxing. It's tiring. It's harmful. These mitigation measures that are put in place, 106 has no teeth. That's why it may be an endangered peoples act or an endangered cultures act. Because this if there's an endangered species where you propose a project, that could kill a project. But if there's graves and sacred places to Native Americans, oh,
let's just put 8 feet of fill over the top of it and
protect it. That's our reality. That's what we have to
deal with.

So moving forward, none of you can take, you
know, any responsibility for history, but history is what
it is and the United States fails to teach true history.
The genocide, the denied North America holocaust, but
today we can move forward. Tomorrow and future
generations from this experience, this horrific nightmare
that many tribes are going through like Standing Rock, we
can move forward, and we can create new policy and process
as partners and treat each other like partners, not this
paternalistic BS, and these Indians are in the way. No,
we're partners.

And I think -- we know it's time to start
treating us as partners, and respecting and understanding
that these treaties were important to create the states in
the United States. So why not treat us with the respect
or treat our ancestors and the people in the future
generations with that respect.

So as we move forward, that is just a
suggestion, maybe it's a potential solution. And I second
what Chairman Forsman suggested to you guys about
Appendix C. We too are in agreement.

We want to -- I want to personally thank you
guys for being here. Hopefully, you didn't think you were going to be at dinner at 8:30, but safe travels home.

(Native language spoken.)

MR. AARON WILLIAM OTTO: My name is Aaron William Otto. I'm (Native language spoken) from little Traverse Bay Bands of Odawa Indians, and I come from the land of (native language spoken).

I come before you on the shoulders of my ancestors. I am turtle clan, so forgive me, sometimes it takes me a while to get to my point. I -- you are here to hear solutions, how can we fix these issues. The biggest answer that I have to that is when you come to us to consult, you have to do it before the decision is made. You come to us, and you tell us what you're going to do and then you say, "What do you think of that?"

Well, we'll tell you but, you know, we're not being heard. We're being listened to.

My -- I'm the legislative leader for the Little Traverse Bay Bands. And you heard some of my fellow tribal people here and sister nations speak as well on Line 5. I'm not going to go too much detail into that.

But what I do want to talk about is the Great Lakes Tribes. We -- to be consulted, need to be on equal footing as the governors of the states in their ability to talk about the -- and make decisions on the
Great Lakes. We're not consulted on anything that goes on in the Great Lakes. We need that. You know, the Governors of the states don't have our best interests at heart, and that's what we hear when we try and talk to people about the Great Lakes.

Well, the Governor of Michigan, he'll -- you know, that's what he's there for. Well, he doesn't represent my people. I represent my people. We can make those decisions on our own. We don't have to have him do it.

As well as, we need avenues to be heard. I'm not sure what that solution is. But to have one or two people who come in front of us and say, "Okay, we'll write down what you say and put it in a file and put it away." We need to be able to have discussions and not just with, you know, the staffers. We need to be able to have discussion with the decision makers, you know, to -- to have us have 15 minutes with a staff member, that does no good for us.

If a Senator comes to a decision maker, do you say, "Oh, well, here, just talk to my secretary. We'll give it to them."

That doesn't work. We are leaders of people too and we need to have that access.

I know there was more that I wanted to say,
but I'm getting emotional now, so I think I will stop. And I will say thank you for allowing us to have this time with you. And I want to thank everybody else here and everybody that has spoke before me for all of their words and wisdom. And I hope that it leaves from here and gets to the right people. Thank you.

MR. PETER CLARK: Good evening. My name is Peter Clark. I'm with the International Leonard Peltier Defense Committee. My work on behalf of Leonard Peltier has put me in touch with indigenous peoples from around the world and communities here in the United States.

MR. LAWRENCE ROBERTS: Sir, with all due respect, we do -- I'm going to ask you to -- to hold your comment in respect for tribal leaders as part of this consultation.

MR. PETER CLARK: Yes, sir.

MR. LAWRENCE ROBERTS: Thank you.

MR. TAYLOR AALVIK: Good evening. I've been here for quite a while now. These are important words, and I think they need to be heard.

My name is Taylor Aalvik. I'm an executive councilman for the Cowlitz Indian Tribe. Our homelands are located in the lower Columbia River that borders Washington, Oregon. I also oversee the Natural Resources Department for our tribe.
You know, one of the major duties that my department works on is trying to restore an environment within our own lands that is already in disrepair, already been torn up, already been -- dirt's been turned over with levies and industrial development for over a 100 years.

And so I have a department that's built around, you know, trying to fix -- or pick up the pieces and do what we can. You know, what I do for my people to bring back our first foods, our culture, and our way of life. Bring back to as much as we can to what it was. You know, and I enjoy -- you know, it gives you a good feeling because we do a lot of restoration projects for salmon and steelhead and smelt in the lower Columbia. All that are listed, most all of them are listed under Endangered Species Act.

One of the problems about what I do, I'm also in charge of trying to defend our resources as well. Just this past year I've been inundated with numerous environmental impact statements associated with major developments along the lower Columbia River, so they're not stopping.

So on the one hand, we have systems from the Government to try to restore what is, you know, already damaged, and so we're trying to recover endangered species in our area along the lower Columbia River. There's the
traditional foods that, you know, that mean a lot to all the tribes in the entire Columbia basin, even Canada and the first nations.

So -- and in regards to consultation, sure, you know, we try to do our best, but our tribe in our department is getting peppered, getting peppered with all these draft permits, all these draft processes. We were physically unable, physically unable to catch up to them all unless there are resources that are being provided to us to be a better consult.

Not only that, but we have draft permits, documents and draft NEPA documents out there. And when we get them, I'm reading a bunch of garbage half the time. They don't have a clue what they're talking about. That doesn't make me feel good wanting to consult. When they show up, I'm just going to tell them, you know, you've got a bunch of garbage and you guys just wrote up in regards to potential impacts.

And what I believe what it is, is a bias. It's a bias in regards to the Corps and the industrial developers who want to put in their -- their major coal terminal, or their major oil terminal, or major methanol terminal in the lower Columbia River.

You know, you have to understand -- you know, sure, it's one thing to consult, but when I'm
getting fired at by balls and wads of paper, piles of them
and then you say, "Well, how are you going to do a better
job of consulting?"

And not only that, they intermix all these
permits applications via e-mail, staff to staff, who are
getting inundated, inundated, literally inundated, unable
to catch up to all of them. To all the permits. There's
a lot of permits. Draft permitting that's going on,
either negotiating with SEPA processes -- or NEPA
processes that we have to try to deal with.

Then we have Section 106, permitting
processes, and, man, there's just a pile of them. So if
you want help in addressing the issue of trying to better
consult, we need more resources so we can get more staff
on board. Not only that, but there needs to be better
priority system to where -- you know, the Corps or some
other federal agency, you know, knows when to actually
pick up the phone and call somebody to try to get a
response from the tribes. Because intermixing some
important permits, draft permits, with probably, you know,
just basic permits and just -- just spit wad, you know,
all that stuff at us is very challenging.

Sometimes you guys don't get a response and
then you say that, "Well, I guess they have no issues."

That's because we haven't got to it. And
then in the meantime, we're just getting steamrolled over.
So I think there needs to be more funds in regards to our
ability to consult meaningfully.

You know, one idea is -- maybe the tribes,
you know, for the consultation that we do have with the
Federal Government record your time, send a bill back to
them because it costs money. But not only that, it causes
heartache because I'm not doing what I like to do, is try
to fix things that's been damaged and have to try to
defend a future of probably stacking a whole pile of coal
on top of a restoration project.

That's about all I got to say.

MR. STEVEN LEWIS: (Native language spoken.)
Good evening. My name is Steven Lewis, and I'm the
Governor of the Gila River Indian Community, the land that
you're at and you're convening on tonight. And so I'd
like to formally welcome you to the land of the Akimel
O'odham and the Pee-Posh peoples here.

Now, as the Akimel O'odham, meaning "we were
the people of the river," our story was, was that we were
separated from our river. Over a 100 years ago our river
was taken away from us our (Native language spoken) or
water. There was no consultation. There was no type of
formal arrangements or due process when our water was
taken away from us over a 100 years ago when our people
were pushed to the point of extinction.

Without water we weren't able to grow our crops, to irrigate our fields. Our people died here on this land. And we fought for our water, our elders, those that are past leaders that aren't here with us today. And in 2004, the Arizona Water Settlement Act, we regained our water rights.

My father, Rod Lewis, was key to that. He had sacrificed and he had dedicated and devoted his whole legal career. He was one of the first Native attorneys to be admitted to the Bar here in Arizona. He was the first Native attorney to argue a case before the U.S. Supreme Court in 1980, Central Machinery versus Arizona, one of the civil tax cases in Indian law. And he was the first Native American to win that case for Indian Country and for the Gila River Indian Community.

Now, I'm saying that because he was there and he was waiting, but it got too late for him. So my mother is here, (unintelligible) Lewis, who was a childrens' court judge and a VAWA, Violence Against Women Advocate, for the Gila River Indian Community. My sister, my niece and nephew, and my son who are here as well. And so they represent the next generation. The generations that we're talking about today -- those youth.

We could hear -- and I think one of our
deejays from -- from Gila River was providing the music in
the next room. But it was those youth that were there
celebrating, celebrating their life, celebrating the
dedication to the struggle that goes on today.

    Whether it's Standing Rock -- we have our
Standing Rock here a few miles away, and I'll talk to you
about that right now in the context of consultation and
how consultation has failed the Gila River Indian
Community, has failed us today, has failed us tonight, has
failed us this moment.

    So consultation can fail for a number of
reasons. In the worst case, an agency may simply
disregard their consultation obligations. Other times,
consultation is viewed as a check-the-box exercise, an
empty process for the sake of process. And sometimes
agencies are not even aware that their actions will have
tribal implications or raise concerns because their
projects are happening off tribal lands, or they don't
take the time to fully inform us about these projects so
we can identify their potential impacts. That's the
story. Story after story of what tribal leaders have been
saying tonight.

    And I think part of this, and when we
started talking about standing up for Standing Rock, it
was hard standing there for a while, standing for Standing
Rock. But when we talk about -- and specifically, when meaningful consultation does not happen, regardless of the reason, the results can be devastating like what's happening with the Dakota Access Pipeline.

Now, unfortunately, like the Standing Rock Tribe, my tribe is experiencing the same devastation that has resulted from an empty check-the-box process where a federal agency did not listen to or consider our concerns. That federal agency, Mr. Ken Martin, was the federal Department of Transportation.

In 2015, the Federal Highway Administration and the Arizona Department of Transportation approved a major freeway that would cut directly through Ma Ha Tawk (native language spoken), our sacred South Mountain, just a few miles from here south of Phoenix, one of our most sacred, cultural, and natural resources.

South Mountain is prominently featured in our oral tradition. So the devastating effects of this highway will forever alter the landscape and our views of South Mountain, isolate our community members, our elders, and our youth from culturally significant locations and resources, destroyed sites, sacred sites on or around South Mountain that serve as traditional cultural properties that are federally protected, and destroy or interfere with our sacred trails, shrines, and
archeological sites that have cultural significance to my people.

And I'd like to recognize our THPO Department here, and Barnaby Lewis and his staff. Thank you for being here. Thank you for staying here all night.

Mr. Barnaby Lewis, he is one of the leaders and one of the acknowledged experts within the THPO community. So I thank him so much for his knowledge of our (native language spoken), which is our way of life. That's something that I rely on as a tribal leader.

That's something that our Tribal Leaders we rely on it. We rely on the strength of our TIPO office.

So from the very beginning of this freeway project, our Tribal Leaders and members spoke out in opposition to this project. Those first -- those first voices of opposition, just like at Standing Rock, just like at Rosebud, just like at Gila River, were the youth, those young activists. They were the ones that gave voice to what this movement has become. The save South Mountain "no" on the 202 freeway movement that we have here today in Arizona.

So even though there were consultations, these consultations were not meaningful. Far from it. The federal agencies did not listen to or actually consider our concerns. Instead, they went ahead and
approved a project and impact that will destroy our
cultural resources and traditional cultural properties in
ways that cannot be reversed.

So like the Standing Rock tribe, we were
left with only one option, which was to file a lawsuit to
protect our culture to protect our very way of life. We
should not have to resort to the courts in order for our
voices to be heard. Our resources can be and must be
spent to help our own people and not to fund a lawsuit
that would never have been necessary if meaningful
consultation occurred before the agencies approved this
massive multi-billion dollar freeway project, which will
only save the Phoenix commuters six minutes in commute
time.

From my experience with successful and
unsuccessful consultations, here are some of my thoughts
and recommendations for approving consultation:

The first, tribal nations and federal
agencies must establish relationships and open lines of
communication. Agencies should know the types of projects
and geographic areas that are going to concern tribes or
impact their cultural resources, and who to contact in the
tribe before a permit or application is even submitted.
We were able to accomplish this, though, with the U.S.
Fish and Wildlife Service through a statement of
relationship.

Federal agencies should explore how agreements between specific agencies and individual tribal nations that address specific tribal interests, protocol for consultation, and information sharing can be achieved.

Federal agencies must ensure that whatever mandates or procedures that result from this infrastructure consultation, focus on, and can be implemented by local federal agency offices.

While consultation must allow for Tribal Leaders to meet with senior agency officials in Washington, D.C., it is the local federal agency's staff that will mostly be interacting with tribal nations and would be to the first to realize when a project may impact the tribal nation in any -- in any real way.

So while senior agency officials need to recognize the importance of consultation, it is equally important, or even more important, for specific procedures to be in place at the local level.

Federal agency staff typically do not inherently understand the interests and needs of specific tribal nations. There needs to be training in place to educate the staff, especially at the local agency level on both when consultation is necessary and how to consult.

For consultation to be meaningful, it is
critical that it happens early in the decision making process as we've all heard tonight. One of the biggest complaints that we as tribal nations have, is that consultations happen too late. A current example of this is the Indian Health Service publishing several proposed rules, recently proposing a complete realignment of the agency without first consulting with tribes. Consultations on those decisions have just started, but they should have started about the decisions were made.

Agencies need to follow their consultation policies. Of course, President Obama directed federal agencies to develop consultation policies, and that's a good thing. Many agency -- many agencies did this and consulted with tribal nations in the development of those policies.

In some cases the agency has a good a policy, but fails to actually follow it, or the agency staff are not properly trained about the consultation policy itself.

What's the point in having a consultation policy if you're not going to follow it?

So in closing, those are my recommendations. I want to thank -- again, thank you for giving me this time to speak on behalf of the Akimel O'odham and the Pee-Posh people of the Gila River Indian Community. But I
think also -- I think also before -- and I'm going to throw this out there -- before -- before the administration changes, I think we need an immediate convening at the White House to protect and to put in place some strict standards that will set the guide for the next administration in regards to preserving that consultation and government-to-government relationship between the Federal Government and the first nations of this United States of America. (Native language spoken.)

Thank you.

MR. LAWRENCE ROBERTS: Thank you, Governor Lewis. I don't think these microphones are on up here. I just want to say a couple of quick words and that is, one, I know that it's been a long session here. I really appreciate all of the tribal leadership's input, but I know that tribal leadership and Chairman Bainbridge has been waiting for quite sometime. So we will -- we will, obviously, have this session extend for everybody who's been waiting in line, and then we will be bringing it to a close for this evening.

So thank you, and thank you for your patience. I'm sorry that Tribal Leaders have had to wait so long to make their comments here tonight. And I am looking forward to a lot of engagement across the consultations as we go forward and across the country, so
thank you.

MR. ASA WASHINES: I thought you were going
to cut me off there for a second. (Native language
spoken.)

Good evening, my relatives. My name is
Asa Washines, and I came from the Yakama Nation to Tribal
Council, currently, also part of the Executive Committee
as well. I appreciate the patience. I'll try to make my
remarks quick. I think my ribs are showing, so I missed
my dinner reservations at 8:30, but that's fine.

You know, and I think tonight is a good
reflection of our patience that we have. It's kind of one
of the things that we endure as people. If we had to
stand for another three hours, I think we would.

And so, you know, the Yakama Nation has a
long history before the Treaty of 1855. You know, we
lived along the Columbia River like a lot of the other
tribes, and because of that relationship, you know, we're
known as a river people. Even though our reservation is
located north of the Columbia River between Oregon and
Washington.

But we -- because of our course, or treaty
signers, that allowed us custom access to our traditional
lands, which is pretty vast, you know, we also traded --
and because of the uniqueness of the Yakama Nation, like
other tribes -- because of the river system, we had vast trading networks that went beyond Washington state in the northwest. We traveled to the plains.

Recently, you know, we found some artifacts, some cultural artifacts, turquoise, and then so that kind of definitively shows our vast networks. And so we consider it our usual custom and from coast to coast. Before there was horses, you know, we send runners to go trade, knowing that they would be gone for two years, three years, five years.

And so with that, because of our unique treaty that we have, moving forward into modern day, we have a long history of litigation. And because of our treaty and, you know, us willing to fight, you know, we have significant court cases that we have won because of litigation and, you know, so that includes more recently Bradford Island, the cleanup in Bradford Island along the Columbia, a SuperFund Site down in Portland. And also more recently, you know, with Handford coming up, you know, all that's within our UNA. And, you know, we don't like to fight, but when we do, we win when it comes to these resources.

And a lot of these resources go back to, you know, a decision to proceed with infrastructure projects that shouldn't be there. And so I'm saying this because
currently, you know, recently, and also there's been a lot of proposed terminals, oil terminals, natural gas terminals along the Columbia River. And there's one more left of these proposed, and that's the Millennium Bulk Terminal in Longview -- I think it's in Longview, Vancouver area, you know, and we feel confident enough that -- that what's being proposed it will get denied based on treaty rights.

But to expand on that, I really wish that there should -- you know, consideration and how we do consultation, we need to expand the EIS from point to point, from start to finish of wherever these proposals are being put in place. And so the end point in this case, would be down the Columbia River. But originally EIS needs to consider the starting point and everything in between, and so because, you know, where it touches the resource it effects the Yakama Nation.

And then, the second point I'd like to make is, you know, treaty and cultural resources as trust assets. I think for us, you know, it's called the TCPs, you know, those type of resources are significant because we hold them dear to us as the Yakamas. We would consider it a trust assets as well just because it's so important to us and who we are and how we live.

And so, you know, even more recently there
was a derailment this past spring along Columbian Mosier.

There was 97 rail cars transporting the fossil fuels along
the Columbia River. Fortunately, only -- I think, 11
crashed. But it's because of these projects and other
projects that, you know, we've been fighting. You know,
it could cause -- has the potential to cause, you know,
unintended consequences. It could cause irreversible
damage, you know. And so it's these things -- why we're
here. It's these things -- I think why we all speak for
those who cannot speak for themselves.

And so I say that, you know, as a form to
move us along, move the dialogue along, you know, as we
consult in this process.

I do understand that there's one being
proposed in Seattle, but for the Yakama Nation, you know,
consult the nation only happens at Yakama. (Native
language spoken) and so, like, tonight, this is the
listening session.

If we do arrive in Seattle for that next
one, we would consider it a listening session because of
our treaty that we have -- and, you know, our dispute
resolution is with the President, and so -- but I do
appreciate you guys here tonight. It is a long night but,
you know, there is hope, I believe.

You guys are here making the effort to make
change, but in no way is it as equal to what's been done already. And so with that being said, you know, I appreciate it. I appreciate all of you guys that are still here, right, the bunch of nerds. Thank you. Night.

MR. WOODY WIDMARK: Good evening. My name is Woody Widmark. I'm the Vice Chair of Sitka Tribe of Alaska. The Sitka Tribe is located in the Tongass National Forrest in southeast Alaska. We have a little over 4,000 tribal citizens enrolled with the tribe.

Thank you for being here. I was watching all of the other Tribal Leaders and citizens throughout this assembly, and I was kind of pondering -- and you kind of remind me of us. When I say "us," I mean the tribal council, because in our meetings, we would have -- in our agenda we would have tribal citizens to be heard. So I feel like a tribal citizen. I'm not saying you're a tribe, but it reminds me how patient you were, you are, in having tribal citizens come in at our council meetings once a month, and their concerns, and what are you going to do about it? What are we going to do about it?

So it kind of puts things into perspective a little bit, and just -- just trying to be a holistic approach, so I'm not saying you're a tribe, but it -- it kind of reminds me -- because I sit up there, but I listen to the tribal citizens -- because you see a lot of tribes
speaking out and showing their concerns to you, and I'm hoping that your words -- or your actions are louder than you know, your words. Speak louder than your words.

Listening. A lot of people don't listen. I'm not saying you don't, but a lot of people like to talk. So, for me, I don't like to talk either, but I like to listen, so I do a lot of listening back home to the tribal citizens. So right now, I'm speaking on behalf of the tribal citizens. The last couple of days or so -- it seems like the last couple of days -- that we've been challenged. So my challenge, I guess, I took the challenge of talking to you.

So the other thing that -- that another tribal leader talking about was having a site visit up California. Over 100 tribes. Well, in the state of Alaska we have over 200, and I don't see a site visit there either. But I know that the NCI president is going to the AFN next week. So I'm hoping some kind of dialogue or message to the tribes up there are going to get here too.

I know we have Seattle, but my goodness, the tribes going through Seattle? Okay, we have a teleconference.

So it is pretty spendy. I mean, we have a lot of Alaska delegation here -- to come down here, and we
had the president of NCI -- a lot of sacrifices to our Alaska delegation that came down here just to be here.

So I also heard that the BAI provider conference was canceled, and now I heard it's back on again. And so these are avenues -- and I'm bringing it up to you is, you know, to dialogue or listen to the other tribes. So I wanted to jump on the bandwagon, at least, the California tribes, there is no site visit, but I can. Over 200 -- over 230 federally recognized tribes in Alaska. That's a lot. So I had to put a plug in that one as well too.

Speaking about our tribal council meetings, we would invite the Forest Service. We have the Department of Interior. We have the National Park there. We would invite the people there to our council meetings. So there is dialogue. I know we can't get this at NSA a lot because, you know, time is short, and -- and they'll cut us off. We may get three minutes, now it's two minutes, now it's one, now it's -- maybe it's a nod up or down here because we're running -- running out of time.

So just to share that for dialogue or partnerships that I've heard for the past here, it's a work in progress. It's hard work. It has to do with the tribe too. We have to work -- we have to work on that relationship. And I'm hoping you -- you work with us.
And it's a very difficult -- I can use the -- the -- what's the word -- well, it's kind of like a marriage, if you will, so we're going to have some good times, and we're going to have some bad times, but we need to work it out.

So I'm trying to keep this as simple. We do it, you're doing it, it's work. So it can happen. I've heard we have successes. Yes, we do. Do we agree all the time? No, but we agree to disagree. So it's work. I don't care if it's somebody's new, or he or she there is, like, the full-time employee or appointed, whatever, it's education. We work.

So we try to build on that partnership a lot. So I'm hoping that, yes, they're within the agencies, yes, their people will work. But like I've heard other Tribal Leaders saying, "They're just staff. They're just here for one or two years." But the people who are making the decisions are up in Anchorage, you know, like, for back home, or they're somewhere else in Seattle or D.C. They need to hear us.

So what I've been hearing that we need to partner or collaborate. And those -- basically, when I heard "collaboration" that was a Forest Service term back home. Tribes, say, for example, Sitka tribes didn't use the word collaboration. I first heard that, so I put that
on the Forest Service to say, "Let's work. Let's do it.
Consultation."

The other thing -- I mean, I -- a couple
more things. I know. And each tribe is unique so what
I've heard from all the Tribal Leaders, and I put some
bullet points down.

Self-determination. Okay. I've heard
sovereignty, but I've heard other tribal leaders,
"Exercise that sovereignty, exercise that sovereignty."
Sure, sovereignty, but, Tribes, if you don't exercise that
sovereignty, you're not going to go anywhere.

Self-governance. That's what tribes want to
do. They just want to do what's best for their people.

And I've heard a lot with consultation.
I've been there, done that, been 20-years plus as the
Chairman for back home and work on consultation.

Implementation. We might have policy, but
implement it. And I've heard other tribes say, "We don't
implement, it's not going anywhere. Why do the work --
why do all this work if we're not going to implement?"

And the tribe, for example, okay, and I
guess getting right down to it is -- it was a bold step
for our tribe.

Oh, before I get down to that, the President
of NCIA mentioned about Billy Frank. I've been privileged and honored to be with Billy, you know, on a couple boards, board meetings. He came up to Sitka during the EPA Tribal Leaders Summit or Sitka. Sitka Tribe hosted it, and Billy told me, "Woody, we need enemies. Woody, we need enemies." And I -- wow. Because we don't have enemies, we fight among each other. Okay?

I'm not saying you're our enemies. We want to be partners, and I think that's important. Billy is right. That's his story to me, and I've hung on to that a long time.

And that leads me to -- I wanted to share with you and other tribes that are still here, that the Sitka Tribe has its own consultation policy. We know you have a policy, okay, tribes should have their own policy. This checks and balances. We're frustrated with some things, and you can hear the frustration here.

But this tribe took the initiative to look outside this box, to pass a consultation policy for Sitka Tribe of Alaska, and it basically says what the frustrations of all the tribal leaders have said here, said all day.

So I'd be glad to share with you other tribes, but I wanted to let you know that Sitka Tribe, for all the things that are going, has its own consultation
policy. So thank you for listening.

MR. BRIAN BAINBRIDGE: (Native language spoken.) My name is Brian Bainbridge. I'm the Chairman of the Red Cliff Band of Lake Superior Chippewa, at the most northern tip of Wisconsin on the south shores of Lake Superior.

You probably already know why -- why I'm here to talk because there's been a lot of talk about water and the Great Lakes. I won't go through the laundry list that, you know, I had written down earlier today as we were talking about what do we need to bring up because a lot of things have been said already. And, you know, this web of pipelines that are so degraded that there's -- it's a time bomb, ticking time bomb. And as we talk about consultation, you know, we're very dependent on the natural resources, as you heard tonight. We're connected to the land and water.

My ancestors are -- lived on the water all their lives, and it's important. A lot of things have happened way before my lifetime, and there's a lot of things that have happened within my lifetime. You know, we've had degradation of our sacred sites.

On Madeline Island, an island of Lake Superior, where there was a marina that was proposed. And this happened within my lifetime. I wasn't there, but my
relatives were there. They were watching backhoes scoop and dump our ancestors off where they were buried.

So that's why it's important for consultation before permits are issued. I have signed so many letters of opposition, my pens are running out of ink in the office. My voice gets hoarse because I've waited in many lines for many hours to give testimony on behalf of our -- our many nations, my relatives, because it's important.

You know, it runs through my veins. It runs through my heart and soul to make sure that -- that we're protected. You know, we have over 7 million acres, just so I can put it into perspective for everybody. Over 7 million acres of freshwater in Lake Superior that the Red Cliff Band uses for commercial and subsistence fishery. That's not including the area of Minnesota where we battled the Army Corps, the Department of Defense for the area where they used munitions. They used it as a munitions as a dump.

And now I had to send a letter a little over a month ago asking for a formal consultation because the finger keeps getting pointed back at the tribes of whose responsibility it is to clean it up.

We will not fund you on these efforts. You know, to me, that's significant. I will not have a
consultation over Skype, over the telephone, it must be in person. This is important. You know, it's -- we can go on and on and on as we have, but I think it's important, and everything has to be echoed.

And it's important for me to come and talk on behalf of the Lake because our water runs through the bodies of my ancestors and the people of our great nation today, and the Lake Superior Ojibwa. So, you know, I -- and I'll leave it at that. But, you know, it's -- you know, as our -- as our members are laying on railroad tracks because they're bringing acid on -- by railroad for mines or standing in front of bulldozers because there's another proposed mine right above a reservation within spitting distance of mine. You can't let that happen. We won't let it happen.

As we heard tonight of -- of the Chiefs saying, "This won't ever happen, and my life will be there before it happens. I'll lay my life on the line."

And we've done that. Believe it or not, there's been people in the background with machine guns hired by big corporations because we stood in the way. And we almost have to wage war before we can get the help. You know, it saddens me that, you know, we have to see and hear of women and children getting bit by dogs to protect their land, this day and age.
So I come here with our Vice Chairman, Nathan Gordon, you know, we're two -- two young people who have seen a lot. And we're here to protect and make sure our voices are heard and make sure the voices of all Indian people are heard. It's important.

So I'll say (native language spoken) again for opportunity, and that goes for Assistant Secretary Roberts for staying up late with everybody else acknowledging this -- that usually, we get in line, and they pull the mic away before we can get up here but (Native language spoken).

MR. SHANNON WHEELER: (Native language spoken.) My name is Shannon Wheeler. I'm a -- with the Nez Perce Tribe, a newly elected member to the council. Prior to that, since 1990, I've been in my own business, my own enterprises. So I kind of understand the enterprise side and what the departments are dealing with, not only from our side, but the private industry side that you guys get a lot of pressure from to want to do the DAPL, and where the President says that we don't want to be "Over the barrel," so to say on foreign oil. So there's a lot of pressure that you guys are facing.

But, we too, face a lot of pressure from our people because we live here, you know, we're going to die here. So our people that -- that -- we're understanding
and that we're protecting their water and their rights. Their cultural areas are very important to us. And I'd just like to say that I'm glad that you guys are here to -- to open your ears to us and to look back at some of the things that have -- that have transpired and to learn from that.

What we're looking at as a tribe is that you want to take all of our traditional cultural property. I'm talking about all of our sites, not just one site, but all combined into a traditional cultural property, and we want to give that to you guys.

We've already prepared in our ceded lands, which cover Montana, Idaho, Oregon, and Washington. A lot of our UNA areas, all of our UNA areas are in those states. So we want to give those to you guys to say, "Here, this is where we have our sacred sites at. This is where we have our gathering. This is where we fish. This is where we hunt. It's your trust responsibility to take care of that."

So we want to give that to you guys. That's your information that you guys can -- before that's -- that's first. That's first. You guys can look at that and say, "Okay. Before we -- consultation goes, they've already given us this." So we want to put that in place with you guys. So that's one of the -- I guess, proactive
ways that we'd like to communicate with you guys and put that out there.

There's a lot of things that we do on the reservation now. We were against the megaloads. That's the -- going through Idaho, going through our tribal lands.

There's the -- there's mining in Idaho that we opposed. The Yakama, Mr. Washines, mentioned the Superfund site in Portland. And, you know, we're a part of the Columbia River Tribes, so we definitely like to take good looks -- long looks at those, because fish is in our diet.

So just basically keeping it brief. I know some of us have tee times in the morning, you know, so we'd all like to make those. But we -- as a Nez Perce Tribe would oppose any federal lands within our ceded areas to be turned over to state control. We definitely don't want to see any of that.

And just kind of in closing that, you know, a quote from one of our great chiefs, this medallion I'm wearing is Chief Joseph. Is it does not take many words to speak the truth, and I'd like to leave it at that for this evening. (Native language spoken.)

MR. MARK PARRISH: Good morning, or at least it feels that way. My name is Mark Parrish, and I'm the
Tribal Council Secretary for the Pokagon Band of
Potawatomi Indians. Our homelands are southwest Michigan
and northern Indiana, and in -- yes, there really is a
tribe that's federally recognized within the state of
Indiana. You know, I think that's -- a lot of times,
that's overlooked.

But I agree and my, you know, fellow
Pokagons agree and share the same views that have been
provided here tonight. But I'd kind of like to take a
step back, you know, in terms of talking about
consultation and so forth.

I think we -- in society, I think we
complicate things unnecessarily. I don't see why
consultation from the Federal Government side seems to be
so difficult with us, because you do have a process with
all the other nations, you know, within the -- on earth
here.

And I don't -- I'm guessing that when you go
and, let's say, talk with Canada and, you know, in
reference to the Great Lakes Water Quality Agreement
there, I think there was some meaningful dialogue and
meaningful input that you accepted by the Canadian
government.

I don't think that the U.S. government sat
there and shrugged their shoulders and walked way. We
don't care. Well, that wouldn't happen, so why is it happening here? You have a process in place. So I don't think, you know -- I think it's imminent. You already have it. All you need is the will.

And so now we're talking about, you know, the possibility of having to codify what it -- what it will take to actually consult and what meaningful consultation is. But let's be careful that we don't make another set of laws that will end up to be broken. We're better than that, all of us are.

So in terms of consultation, I really -- I really don't see the big deal. You know, how would you like to be approached? We're probably no different than you when you -- when you take a step back.

And another thing I'd like to share with you is that a lot of tribes, we have different capacities. We have different capacities in terms of, you know, our economic strengths and in our abilities to -- to work and respond to a lot of these consultations and so forth.

In our tribe we're still growing, but we don't have experts that are solely dedicated to one specific discipline that could address that in its entirety.

When I was on tribal staff in the Environmental Department, I literally did everything. I
was a surveyor. I was a chemist. I was a physicist. I was a bug guy, you know. And to be able to synthesize all this information that comes our way, it takes an awful lot of time for us to really get our head around it to be able to fully understand it.

Sometimes that whole -- that whole consultation comment period, from my standpoint, isn't adequate, simply because we don't have the full staff that the U.S. Government has and can afford. So I'd like you -- you know, to take that into consideration too when we're talking. It's not that we're slow. We're not slow. We're taking our time so we can get it, hopefully, correct.

So I hope that, you know, gives you a little bit of -- a little bit of information to consider on what we're up against when -- when we're under a consultation and so forth.

And one other thing here: In terms of the Enbridge, Line 5, that goes under the straits of Mackinaw -- I know Chairman Payment had described its -- its construction practices and some of the shortcomings of it. But some of the, you know, photos that I've seen of the pipeline that it is -- that it is today, that when it was originally laid down, it also had -- it was also supported actually by a gravel berm. And there's quite a
bit of area -- there's a number of areas in there where
that gravel berm doesn't exist anymore, and there's no
supports for quite a distance. And on top of that,
there's a lot of zebra muscle growth on there, that's
really weighing that down. So you have old pipeline
that's not supported and has excess weight that it wasn't
designed for.

So we have a problem, a big problem. And we
look to you to do the right thing, not just for Enbridge,
Line 5, but all these pipelines and anything that would
take -- anything that we -- we get involved in.

I don't think technology is going to be the
answer. It won't. I think the way that it will be the
answer is, we will eventually get ourselves to Mars. And
the reason we will go to Mars is because we can't live
here. So it's absurd.

So that's just my walk away of looking at
things, I guess, but I think there's some truth in it.
And I really thank you for being here and listening, and I
hope you have safe travels. (Native language spoken.)

MR. PAUL CUERO: (Native language spoken.)
My name is Paul Cuero, and I come from the Campo
Reservation. And I just have a couple of things to say.

You know, there's two things that -- two
words that have not ever changed, but a lot of people try
to manipulate them as much as they can and that's "right" and "wrong."

Today, you know, some of these things that you've heard from a lot of our people getting up here and speaking, sometimes some of you people don't know our story.

So there's two books that I recommended that you read. American Holocaust: The Conquest of the New World, which is a new book. And the other one is, Murder State: California's Native American Genocide. And if you read some of the things that our people have been through and you see the emotion that has been here, if you read these two books, you will understand where we're coming from. And all we can do is give you the tools and to show you where we're coming from.

I don't think this is the place to sit here and draw it all out, but that's what the consultation is for. But to give you this information ahead of time, to read it, to read these books and then to come down and sit with us, then you will see a whole different story. Hopefully, it comes from here then. You'll understand when we connect from here, our heart, then we'll have great understanding. It's not here. And that's what a lot of people think. It's not all the -- it comes from here, and it's implemented from here (indicating).
So that's what I ask -- that's what I bring to you. Please read these two books. And some of you that are going to be leaving with the administration, save those books for the next ones that come in, and give it to them and ask them to read it, because that's how we're going to get these things -- where you kind of understand where we're coming from, when you understand our history. Read it at your own time.

But when you come to sit down with us, like I said, then, hopefully, we connect, our hearts will connect, and you'll understand where we're coming from. Because, if anything, what these corporations that are doing to the American citizens like the Government did to us, let me tell you, that's what's happening -- we're like that canary in the coal mine. And that people better start waking up, because these corporations are just doing whatever. They don't care if it destroys lives, environment. And it's up to the other people to wake up the majority.

We've been through it, and we have -- we're still here. And that's the only message that I, hopefully -- that you take and read those two books, get a little bit of understanding of who we are and what we've been through, and hopefully, we can connect. Thank you.

MS. FATIMA DAMES: Good evening. First, I'd
just like to recognize all the elders that are here this evening. We are so appreciative that you are still here in the late hours. And second, I'd like to thank all the government officials that are present at the tables here tonight.

My name is it Fatima Dames. I am the Vice Chairwomen for the Mashantucket Pequot Tribal Nation. And I stand before you today to present five solutions, hopefully without (unintelligible), because my stilettos are tired, and I've been standing on my feet all day.

But I stand before you today to present five solutions with the belief that you will consider these recommendations as you contemplate next steps with regard to revising consultation -- the consultation process as it relates to all agency actions regarding infrastructure decisions.

The first suggested recommendation is that tribes must be involved and consulted during the pre-licensing phase to ensure that cultural and religious sites are properly identified and not disturbed by applicants. All mechanisms are protected, such as, confidentiality of information regarding sensitive cultural resources. Also reduce in the process in order to mitigate any damage done to these sites.

Second, when identifying historic properties
and addressing environmental injustice in Indian Country, the first right should be given to tribes so that the identification process is conducted in a culturally relevant manner that is directed by culture itself.

All federal agencies must make a reasonable and good faith effort to identify historic properties, including consulting with tribes directly to identify and assess adverse effects through historic properties.

Also, federal agencies must not delegate their responsibility to engage in consultations with tribal governments to protect components, their legal team, or consultants. Consultations should occur directly between tribes and federal agencies regarding concerns about historic properties of religions and cultural significance that may be affected by their decision.

Federal agencies must consult directly with tribes to request information that they may possess about the presence of historic properties in the area of potential effects of any undertaking.

And, finally, existing language in federal statutes must be clarified to ensure that agencies are held accountable when they do not appear to mandated TROPO laws. This language must be followed by all federal agencies, including those with independent status, such
as, the federal energy retro commission to follow these mandates.

And I truly appreciate your patience and your presence here tonight. I wish everybody a safe travels and good night.

MR. EARL EVANS: Good evening. I'll try to be brief as I can. I promise I won't keep you longer than an hour and a half.

My name is Earl Evans. I'm a Tribal Councilman for the Haliwa-Saponi Indian Tribe in North Carolina. Again, as we want to say that I appreciate your time and consideration, and thank you for being here and thank you for the opportunity to speak and for taking the leadership to put together the framing paper. It's a good document.

I've been trying to take notes at the same time as put some thoughts together, so I haven't had very much time to go through it in a lot of details to give it some more thoughts, so it might all seem a little bit jumbled, or scattered. It's because they are. So I'll go ahead and apologize for that in advance.

But I also want to apologize that as tribes a lot of us don't have your own laws in place regarding these things. And I think that in terms of some additional guidance as to what could make this process
easier, I think it would behoove us as tribes to develop our own laws on what we expect the consultation to be like with external governmental entities from other nations, such as the United States, as well as developing our own permitting processes for private companies and other entities that want to come into aboriginal territories or our own trust lands, et cetera, in order to do their own projects.

And I think that for tribes who do develop their own laws on these things, it would behoove the Federal Government, and also probably take some of the burden off of you in some ways, to assist with enforcement.

Just to give you an example, the Uniform Law Commission oftentimes, as many of you know, the laws for state governments that they hope these other states will adopt so that -- some state laws that have things that are similar, and it's not very much effort on the part attorneys to kind of understand things that are going from state to state with regard to certain laws.

Well, then some of those laws, for example, one of them that comes to mind is -- okay, in North Carolina, where I'm from, for example, there's a domestic violence law that's a uniform law that the state adopted. And in that uniform law it recognizes tribal court orders
or domestic violence protection orders and requires the
state to enforce those.

So I think that the Federal Government could
have gone in through various agencies could take certain
initiatives to enforce permitting laws that tribes put
into place for projects that come into their areas
relating to environmental concerns or historic property
concerns, et cetera.

One of the -- one of the other questions
that -- one of the things that Mr. Roberts mentioned was
he wanted to know what the scope of the consultation as it
should be going forward.

Well, one of the things that I think we all
agree to is, the DAPL project needs to come to a halt. If
I'm not mistaken -- and I apologize, if I am -- it's my
understanding that the National Historic Preservation Act
gave the Advisory Council on Historic Preservation gave
the authority to promulgate rules and regulations that
government implementation of Section 106. And they
agencies that wish to substitute their own procedures for
the AC-- ACHP's regulations must first seek to receive
approval from the Advisory Council on Historic
Preservation, because the ACHP is the only agency with
congressional authority to issue regulations implementing
Section 106.
And so as we said here earlier, there's Appendix C to 32 and Part 325 that the Army Corp utilizes that's never been approved by the Advisory Council on Historic Preservation or which the Advisory Council has repeatedly expressed its view that this Appendix C is not in compliance with Section 106, and that for the Army Corps to follow this Appendix C, does not fulfill the Army Corps' responsibilities under Section 106.

And, you know, final -- again, into the final following on that. It's also my understanding that supposedly the Army Corps decided to issue permits on this DAPL project even though the Advisory Council on Historic Preservation objected, which has contributed to the controversy.

So if my understanding of all of this is correct and this is what's resulting in these costly project delays as well as the expense of litigation, then it kind of seems like to me, the Standing Rock should team up with energy transfer that apply to the permits and sue the Federal Government, or allow it -- for the Army Corps to illegally issue permits under regulations that if this is correct, that Congress has not authorized on the Corps promulgated. So I think that conversation may need to occur. I mean, I think that's something that should be considered.
Also, the Infrastructure Steering Committee, it was created by 831-13604. I think if we take a look at that since it was the framework for the FAST Act, that it may be looking at a similar executive order for tribes before President Obama leaves. Something that puts in some consideration for tribes, the same way it does for state and local governments, might also be considered as well as -- if I understand this correctly, there's some money that's received by state and local governments to mitigate some of their -- some of the things that go on as a part of that. And if that's the case, the tribe should be part of that too.

Let's see -- some issues raised in the framing paper, what adjustments need to be made. UN DRIP, it was mentioned earlier by Mr. Hall very briefly from Three Affiliated Tribes. I definitely agree that UN DRIP should be dealt with, but also understand that UN DRIP deals with indigenous peoples, not just federally recognized tribes. This is not just a federally recognized tribe issue. There other tribes that are not on the federally recognized tribe list that assume responsibilities under federal law. Such as, for example, taking the role of the federal agencies and completing environmental review processes, for example.

So if you limit solving this problem in
consultation with federally recognized tribes only and you
don't consider the potential negative implications you
could be placing on other tribes that have other types of
relationships with the Federal Government, you could also
create loopholes that allow other serious, unintended
consequences that harm other indigenous peoples.

Also, under the issues raised in the
(unintelligible) and what adjustments may need to be made.
I think probably the Advisory Council on the Historic
Preservation should be here. Someone from there should be
represented at the table. I don't think in the
introductions I heard anyone mention that it was from
there, and perhaps the NAGPRA Review Committee and some
other folks along of those lines if you could think of
those.

Also, one of the things that was mentioned
in a presentation today is that the President and the
Secretary of the Interior have the authority to regulate
matters on Indian lands and from 25 U.S.C. 2 under such
regulations, the President may prescribe. So that may
allow for the discussions of potential regulations that
you may be able to do to address this issue going forward,
as well.

In terms of -- from tribal leadership,
what -- what has worked in the past, what hasn't, examples
of where tribes and the federal government and best
practices that can be elevated.

One of the processes that I've had the
opportunity to participate in and I think worked
particularly well is the Negotiating Rule Making Process
with the U.S. Department of Housing and Urban Development.
So I think having a conversation with the Deputy Assistant
Secretary that's there about how that process works may
lead to some discussions that could be potentially
helpful.

And also, I think that when the
consultations take place, even though you weren't around
to see and understand around the country and it's limited
to certain locals, I think that during -- that during
those circumstances, if there are other entities that I
may not have mentioned such as the NAGPRA Review Committee
that are similar, that I may not have thought about that
you know of, I think it would potentially be wise to
include them in those consultations as well, especially if
they may have particular expertise that they can lend and
help me to craft some type of solution to the issues.

Again, thank you so much for your time. I
hope I've been helpful in some kind of way. And I would
like to continue to be involved and participate in any
mailing list or list serves or whatever you send out to
tribes to participate in this process. Thank you so much.

MR. LAWRENCE ROBERTS: All right. It looks like we have the final comment tonight. Go ahead.

MR. DAVID GREENDEER: (Native language spoken). David Greendeer is my name. I'm a legislator for Ho-Chunk Nation in Wisconsin. I'm also a member of the deer clan, and I just wanted to say thank you for everyone that was here this evening.

It's customary to, as a deer clan member, to be one of the last -- one of the first into battle, and also one of the last out to protect our people. So I sat here to try to wait and follow custom on behalf of all of the Navajo Nations that are here today.

Firstly, I guess, I want to promise you something that I'm going to try not to repeat anything that you've heard. And I just want to tell you a little bit about my background and where I'm coming from when I make the remarks that I do.

I hold an MS, MBA, VS as well. I also was a former executive administrator for the Ho-Chunk Nation.

We have 12 state departments. If you were to liken me to something within, I guess, the federal system, I would be like a senator. I represent 2,000 constituents. I'm also one of the very first individuals to ever, I guess, be named to the Milken Institutes over
in London in the Global Arch.

And the reason I'm telling you this is, when I went to different countries, the countries regarded the Ho-Chunk Nation as a sovereign entity in a totally different way than what I've seen here in the United States.

I have also served as -- I served on ICEIWG, the Indian Country Energy Infrastructure Work Group, and I also have experience working with the NEG REG group. So I've been involved in, you know, multiple consultations. As an executive administrator, I've also had, I guess, the luxury of being part of the team for Badger Nations Plant Transfer for 1560 acres and also just numerous projects, everything that's been stemming through Minnesota, Saint Louis, Illinois, regions on various projects when it was water, infrastructure, natural resources types of things. And so I've actually had oversight over a lot of this. And I wanted to just bring you a real simple message.

I've been a trainer also for the -- I guess, different federal agencies. And I've just noticed something that is almost the most -- we'll call it the obvious answer to help with what you asked early on is: How can we improve this process? How can we educate ourselves? And how can tribes help, you know, in terms of
doing this?

   In a recent training of federal department,
I realized that most of your federal employees do not have
a cultural competency requirement. And the requirements
that are in place, even if they've been in their jobs for
some time, don't have refreshers. And when you lose the
basic aspects of being able to communicate within your own
agencies, you cannot communicate to tribes.

   At the same time, our Ho-Chunk Nation goes
through an election cycle that support -- every four
years, we have a president's rule -- well, not rule,
but -- for replace -- I forget. It's getting late -- you
know, through another election cycle and every two years,
we have different legislators coming in.

   Most of your federal agencies contact our
president's offices or elected leaders' offices, and you
don't realize that we actually have 12 different
departments. And it's just like me trying to contact one
person, and then you're contacting the wrong people all
the time. So we're always running behind the curve.

   One of the things that I would hope that you
do in the consultation process is first identify who to
communicate with. I think that's the most important
thing. And then, to establish a formal communication and
up the game plan. And then, on top of it have a cultural
competency piece that's actually developed for those individuals who are going to reach out to actually communicate with each one of these -- with the actual -- each travel department, and actually evaluate that person and find out do they know, the phone number? Do they have a contact? Do they realize that the election cycle for our tribe may be at the end of the fiscal year?

My fiscal year is, like, in July but, like Potawatomi that was here earlier, theirs is actually -- it runs in a whole different cycle. It doesn't follow the federal cycle, which actually impacts each one of your federal programs and grants.

And if you don't understand that, you might have, like, a cross of these agencies where you're -- where you have -- you might be right next door to one of your sister agencies, and another person talking to that person that you need to talk to. But you just didn't know it the whole time and you basically, have lost two or three weeks of, I guess, communications, right? So that's just one piece.

On a totally different note, I'll go over some suggestions. We have lots of great examples of -- we'll call it places where we've been successful in working with federal governments to multiple consultation numbers, but at the same time, lots of lessons learned.
As a result of lessons learned, the Ho-Chunk Nation, whether we knew it or not has been able to evolve, and most recently, adopted -- or looking to adopt into our constitution the rights of nature.

We have one of the most developed judicial systems in all of the Indian trade and consistently have been, you know, passing laws, creating new regulations, creating new rules diversifying from Section 16 to Section 17 and actually bringing on both entities.

These types of things are being done so we can develop our corporate prowess, but at the same time, learn how to work with the agencies and communicate on a more efficient and a higher level.

These -- just in summary, are just a few of the things that our nation has been doing, but there's lots of nations that have been doing this. There's a handful of nations that are very strategic. And the -- in closing, the -- there's one thing that we see that's going to be coming down the pipeline, and it's actually has to do with the sand mining, industrial sand mining in Wisconsin.

In a recent consultation of the EPA, there was a notice that went out, and this was last year, and I just happened to be in D.C., and I was actually invited to go and I show up. And I'm one of the six people that
represented all of the tribes. And they asked me -- so they sat everybody in front of us -- they said, "Hey, what are the issues?"

And I -- looking to them, and well, I said, you -- PPM2.5 came to mind right away, air quality standards, you know, right now, they're only measuring for PM10. I started telling them about the issue of the sand mine and what was going on and, you know, everybody looked flabbergasted. It was amazing to see that after a while people broke me aside and said, "Well, come talk to us. We'll tell you who to go talk to. We'll show you the way."

And it was nice to actually have almost a person, you know, the people to come out and just tell you that. But my question, as a tribal leader, is the role of NCAI and that's -- that -- well, at the BIA level, at the Department of Interior level, who is my person that will lead me through? Because there's -- I don't see anyone really unifying our communications.

And with so many tribes, you know, you're only dealing with -- we'll say the states, right, from that perspective, but when you have 560 nations, who's actually responsible for coordinating all of that communication and trying to do it in an efficient and effective manner and timely, which is the key thing,
timely.

Because, technically, a consultation period -- I was looking at your schedule, how efficient is a consultation period if you've already lost half the Tribal Leaders. There's -- there's just -- by the time you get everything going -- we have a saying back at home:

There's only about six meetings that you will to be able to be effective at with our finance committees or on legislature, because it takes that long to make it through our committees because we run everything with a cycle and it's every two weeks to make decisions. Not everybody makes decisions on a daily basis. So you know as well as I do government runs really slowly.

But those are my questions. I would hope that, you know, perhaps out of this NCI has a role with this. I hope that the Department of Interior has a role with this. And I hope, again, there are some sort of key requirements for competency to be able to evaluate that and evaluate your staff. And then also for the tribes at the same time to use whatever that is, those models that you create. And maybe we can do our own self-evaluation as well as because we're just as responsible, too.

But I want to thank you for your time. Have a great evening. Thank you, everyone.
MR. LAWRENCE ROBERTS: So I want to close the session just by saying thank you to tribal leaders for sharing your time, for sharing your hearts, your stories, your suggestions, and your commitment to engaging, continuing to engage in this nation-to-nation dialogue.

I've heard a lot of things at this session with consultations about engaging early, that it needs to be a continuing dialogue that leads to consensus, that we need resources to accomplish the work, but we also need a workforce that is properly trained as well to engage in these consultations. And that the consultations ultimately lead to the protection of lands, waters, sacred sites for future generations.

So I want to just turn it over to any of the other fellow panelists here to see if they have any closing comments.


All right. So thank you all for sharing your time with us tonight, and we look forward to your full engagement in these consultations as we move forward.

Thank you.

(Listening session concluded at 10:18 p.m.)
STATE OF ARIZONA   
COUNTY OF MARICOPA  

BE IT KNOWN that the foregoing proceedings were taken before me; that the witness before testifying was duly sworn by me to testify to the whole truth; that the foregoing pages are a full, true, and accurate record of the proceedings, all done to the best of my skill and ability; that the proceedings were taken down by me in shorthand and thereafter reduced to print under my direction.

I VERIFY that I am in no way related to any of the parties hereto, nor am I in any way interested in the outcome hereof.

[ ] Review and signature was requested.
[ ] Review and signature was waived.
[X] Review and signature not required.

Dated at Phoenix, Arizona, this 15th day of October, 2016.

______________________________
DANIELLE C. GRIFFIN, RPR
Court Reporter

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(9) everyone's - fix

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