

BIS-BIA-5588699
Review of the draft Sacred Sites Best Practices Guide
August 31, 2023
2:00 PM - 5:00 PM (ET)

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(Captions provided by a live Captioner.)

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1:52 PM (ET)

CAPTIONER: Standing by. Testing

OLIVER WHALEY: Good morning, everyone. Thank you for joining everybody. Today is the Sacred Sites best practice consultation. We will allow everyone to get connected and signed in before starting here. Again, thank you for your patience. We started a few minutes late, but we wanted to give as many people the opportunity to join today's session before we got started as possible. All right it looks like everybody has been joined into the session. If you could take a moment at this time to add your title and affiliation with your name in Zoom that would be appreciated.

To click on this, go to the participant list, find your name, right-click, choose "rename." I can hear you. If you don't mind muting your audio for now, that would be appreciated. As a reminder this is a Government-to-government consultation, and this consultation is closed to the press. If you are a member of the press, we ask that you disconnect at this time. Additionally, this session will be recorded, and transcripts will be created. So if you do not consent to be recorded, please also disconnect at this time.

>>: Recording in progress.

OLIVER WHALEY: After we get through the initial presentation of today's session, we will open up the floor for comments. If you want to make a favorable comment at that time please do so by raising your virtual hand and you can do this by going to the reactions button and selecting the "raise hand" function and we will call on individuals to speak in the order of hands raised.

That will not be a chat option today. We do welcome your verbal comments. And then when you are called to provide a verbal comment, provide your name, title, travel affiliation, that would be appreciated as well. And for any of those that might be joining by the toll-free number, please use star 9 to raise your virtual hand and star 6 and mute yourself. Additionally, we have closed captioning services available.

To access that go to the bottom of the screen and click on the up arrow next to the closed caption button and choose "show subtitle." And I will put a streaming link into the

chat where you can access those services from. Today we have Kathryn Isom-Clause it was the Assistant Secretary here at Indian Affairs, and we also have Scott Aikin and Tom Garcia who are both special assistance for the White House Council on Native American Affairs, and we have numerous others from Indian Affairs, others from the White House Counsel and other agencies such as USDA. At this time I will turn the floor over to the Deputy Assistant Secretary. Thank you for joining us today.

KATHRYN ISOM-CLAUSE: Thank you, Oliver. Good afternoon and good morning, everyone. My name is Kathryn Isom-Clause and I serve as the Deputy Assistant Secretary for policy and economic development in Indian Affairs at the Department of the Interior. I want to thank you all for joining us for this interagency consultation on further efforts the Federal Government can take to protect Tribal and Native Hawaiian Sacred Sites.

And to start us off in a good way I want to begin by acknowledging Governor Herrera to start us off. Following that we will turn to Senior Policy Advisor for Native American affairs at the White House Domestic Policy Council, Elizabeth Reese. Governor Herrera, please go ahead. Thank you.

GOVERNOR HERRERA: Can everybody hear me?

KATHRYN ISOM-CLAUSE: Yes. Now we can.

GOVERNOR HERRERA: Okay. It is an honor to speak before you today and give an opening blessing. You know we always need to remind ourselves in opening speeches you know from the beginning through the journey to our direction that we are headed. We all take something positive out of the meeting and we do things in a respectful way, in a respectful manner, and we honor and respect everybody's opinion and questions.

I want to put it out there right away that I have very limited time, but out of respect for Amber and the Lieutenant Governor, and kind of just filling in, I have another meeting, but I will do the invocation for you guys. Like I said, it is an honor and privilege to be able to speak in this capacity. So with that, I'll go ahead and start.

(Speaking in the language of the Cochiti people)

Thank you, everybody.

KATHRYN ISOM-CLAUSE: Thank you so much governor. I appreciate you being here with us, and I understand your schedule is very busy. Again, thank you. Now we will turn it over to Senior Policy Advisor for Native American Affairs, Elizabeth Reese.

ELIZABETH REESE: –

KATHRYN ISOM-CLAUSE: Liz, it looks like you are muted.

ELIZABETH REESE: Okay. There we go. Thank you. So thank you so much for that beautiful blessing and opening the proceedings today. For those of you who don't know me, my name is Elizabeth Reese, and I am a citizen of the Pueblo and honor to serve as a Senior Policy Advisor for native affairs at the White House Domestic Policy Council.

The Biden-Harris Administration is committed to preserving Tribal Sacred Sites, and I am proud to share just a few of the strides we have made over the past couple of years,

and what brings us to today's conversation. And the vital next steps that we need to take to protect Tribal Sacred Sites. We are incredibly proud of the work we've done so far in the Biden-Harris Administration and all that we have accomplished to protect and preserve lands and waters that are vital to Tribal Nations and partner with Tribal Nations in the management of these lands. First, the national monument designation protects 506,814 acres, which contains sacred spaces for spiritual uses including Spirit Mountain, which is central to the creation story admitted Tribal Nations. And just recently the national money it protects nearly a million acres surrounding the Grand Canyon and thousands of sacred and cultural sites for many tribes in the southwest. Importantly both of these monuments will be managed in collaboration with the Tribal Nations who consider these lands precious and vital to their ways of life. Much of our current work on Tribal Sacred Sites across the administration builds out of the foundation laid by President Clinton's effective Executive Order 13077 on Sacred Sites.

That Executive Order included broad statements on the United States government policy to ensure access to Tribal Sacred Sites and required all executive agencies that are tasked with the responsibility to manage Federal land to ensure native religious practitioners have access to ceremonial sites and the integrity and the company jolly were applicable remains.

However, the Biden-Harris Administration recognized that more work is needed so that we can institutionalize these broader increments across Federal agencies. That is part of why we sign the new historic Executive Order 140962 our nation's commitment to environment of justice for all. In that order signed April of this year President Biden recognize that addressing Tribal concerns and respecting Tribal values like the needs to protect Sacred Sites is an important part of our administration's whole of government commitment to advancing environmental justice.

Especially relevant to today's consultation, EO 14096 reinstates the Federal commitment under EO 140772 ceremonial use of Sacred Sites and to avoid adversely affecting the integrity of the sites.

The new Executive Order also instructs agencies to collaborate with Tribal Nations to collect, maintain, analyze information on the consumption patterns of fish, wildlife, and plants that are related to their subsistence and cultural practices. And now finally a part of what brings us here today on November 2, '18, Executive Agency's signed a memorandum of understanding regarding interagency coordination for the protection of indigenous Sacred Sites.

This MOU coordinated largely to the White House Council on Native American Affairs lead to agencies coming together to draft a best practices guide for Federal agencies on predicting and providing this for indigenous and Sacred Sites and that brings us here to talk about it today. While these economists should be celebrated the Biden-Harris demonstration is eager and dedicated to expanding on our work for the past couple of years.

We are eager to hear from you about what more we can do and where we can improve our efforts. Our trust and treaty responsibilities to Tribal Nations can only be fulfilled by consistent communication and collaboration with Tribal Nations. Our nation-to-nation relationship is just that: A relationship. And I'm honored to participate in that

relationship with you all today. Thank you for all of your commitment to this work and to this relationship. I will now turn things over to my Pueblo sister Deputy Assistant Secretary for policy and economic development at Indian Affairs, Kathryn Isom-Clause.

KATHRYN ISOM-CLAUSE: Thank you, Elizabeth. It is always good to hear from another Pueblo woman at the White House. So great to hear from you, and great to hear about President Biden's commitment to pledging to Sacred Sites and Tribal sovereignty in general. Thank you for sharing that with us. Today continues a threat of interagency consultations facilitated by the White House Council on Native American Affairs. One of the Council's primary functions is to bring Federal departments and agencies to the table to meet with Tribal leaders and that includes Tribal consultation. The Biden-Harris Administration work on Climate Change Tribal Homelands and Treaties Committee within the – WHCNAA - I will say the acronym, and I apologize for the acronym and so many that we have in the government. It is composed of over a dozen Federal agencies and departments.

Part of the committee's work is to promote the protection and access to Sacred Sites and awareness and understanding across the Federal Government. This work has included eight Federal departments and agencies signing the memorandum of understanding regarding interagency coordination and collaboration for the protection of indigenous Sacred Sites, which was announced November 2021 which brings us here today. And we have representatives and leadership from all the signatories present today including of course Interior, Agriculture, Energy and Transportation, EPA, Advisory Council On Historic Press and, White House Counsel On Our Middle Authority, and the Tennessee Authority.

This will help support protection and access to Sacred Sites, and I will draw our focus to the best practices guide itself, and the intent and content of the Guide. By signing on to the Sacred Sites MOU the eight agencies affirm their commitment to improving protection and accessibility of Tribal and Native Hawaiian Sacred Sites on Federal lands. The Guide developed pursuant to the MOU with input from Tribal and Native Hawaiian leaders identifies best practices such as consultation, in stewardship, supporting Tribal and Native Hawaiian capacity, access, protection, confidentiality, training, and public outreach.

As mentioned, an important component of the Guide will be developing and has public outreach to imprint an understanding of and respect for the value and importance of maintaining historic properties that are significant to the traditional, cultural, and religious practices of tribes and native Hawaiians.

This further strengthens Federal Tribal relationships across agencies by building trust and facilitating cooperation between agencies, tribes, and Native Hawaiians. I want to acknowledge the support of the Biden-Harris administration, Secretary Holland, and the entire White House Council on Native American Affairs for this effort to embed a deep understanding and respect for Sacred Sites within and across the executive branch.

We recall the many conversations we've had with leaders here and other Tribal and Native Hawaiian leaders about the need for bold action by the Administration On Sacred Sites and all of us here today recognize the importance of taking every opportunity to work with Federal agencies to do more to protect these agencies.

We also acknowledge your support for building on the commitment we have made with the Tribal Treaty Rights MOU, which was signed by 17 Federal agencies, the Tribal Homeland Joint Secretarial Order, which was signed by three Federal agencies and the Indigenous Knowledge Guidance for Federal Agencies announced last November.

We want to continue to hear from you Tribal and Native Hawaiian leaders about what actions we can take, and we want to take those actions. With the leadership we have now is the time for boldness. Now is the time to swing big, and with your guidance and recommendations, that is what we intend to do. As I mentioned earlier, the Sacred Sites MOU and related efforts are led by the Council on Climate Change, counseling Tribal committee. The Department of Interior, Agriculture, and EPA are on the committee. On this call with us representing the Sacred Sites MOU leadership we have USDA Deputy Chief of Staff state, private, Tribal four, Jaelith Hall-Rivera. Tasha Caldwell, and Tribal specialist Amber Carrillo. Many other leaders and senior officials are here representing the other signatories of the Sacred Sites MOU.

And just before I turn it over to Deputy Chief of Staff Hall-Rivera. Today is close to the press and if you have any press questions go to ios.doi.gov. And as a reminder this is a Government-to-government consultation and Tribal and Native Hawaiian leader comments are prioritized and saw it first. Written comments can be submitted to whcnaa@bia.gov, and we can put that in the chat to help people remember that address by September 29th of 2023. I would like to turn it over to Deputy Jaelith Hall-Rivera.

JAE LITH HALL-RIVERA: Okay, thank you very much. Apologies. Making sure that you can hear me?

AMBER CARRILLO: Jaelith, speak up a little bit.

JAE LITH HALL-RIVERA: I switch my audio advice. Is that better? I always have a bit of a challenge with zoom. Thank you very much for including me in today's consultation. Again, I am Jaelith Hall-Rivera and the Deputy Chief of Staff for state, Tribal, and forestry and the Washington office for the Forest Service and the Forest Service is grateful for the conversation today around the White House Council on Native American Affairs Sacred Sites best practices guide. By way of the recently published USDA Forest Service Tribal Relations Action Plan, the Council's how to team up Forest Service contributors and editors to the best practices guide.

One of them being today's consultation moderator, our esteemed colleague, Ms. Amber Carrillo. Per that action plan the nationwide team that the Forest Service has stood up is dedicated to dialogues such as we are having today as well as addressing Sacred Sites issues where they are occurring on the land.

In addition to the Sacred Sites work that we engage in today the US Forest Service is proud to be supporting a supporting partner and a cooperating agency on the White House counsel's other important initiatives that include Tribal Treaty Rights, the Tribal homelands initiative and Climate Change. The protection of and respect for Tribal Treaty Rights is unequivocal as the U.S. Constitution clearly positioned treaties to be the supreme law of the land.

The Tribal Treaty Rights and reserved rights MOU affirms that the Federal Government has a commitment to enhancing interagency coordination and collaboration to protect Tribal rights and fully implement treaty obligations. Treaties affirm resource sovereignty, self-determination, and their right to economy. Treaties ensure the protection of indigenous lifeways, as well as access to natural and cultural resources. And in importantly and as we reiterated in the White House counsel sacred site best practices guide, treaties are not grants of rights to tribes, but grants of rights from tribes to the United States and a reservation of those rights not granted, reserved.

The White House counsel of triple – Tribal rights is done, and that transcript is now available on the website. The White House counsel Tribal homelands initiative couple he strengthens the role of Tribal communities and Federal land management by way of Joint Secretary order for the responsibility of the stewardship of Federal lands and waters. Interior and Agriculture have codified policy to facilitate agreements with tribes and collaborate with the land and waters. Since 2021 and the cosigning of the Joint Secretarial Order we are happy to report that the pace and scale of these agreements have increased exponentially and the nation-to-nation in stewardship is seen and experienced in the land and now like never before.

Federal lands and waters contain cultural and natural resources of tremendous significance, value, and even identity to Indian Tribes and their citizens. Including but not limited to Sacred Sites, ancestral archaeological sites, burial sites, wildlife, sources of food and medicine. No, matter the land-use or agency action, whether recreation, range, fire and fuels, timber, or energy production and mineral extraction, these values will be prioritized and will be balanced.

Tribal values are Forest Service values. Judged against time immemorial, the Forest Service concedes that we are a relative newcomer to North American land management. Accordingly we are committed to promoting Tribal capacity and incorporating Tribal expertise and indigenous knowledge into Federal resources management.

We are humbled by the generations and generations that have come before us in the land and we look to their contemporaries for the knowledge to help guide us as we aim to meet the needs of present and future generations of Americans. Through forums on removing barriers for more effective climate planning, the electric national vehicle for Tribal Nations, Tribal and indigenous climate speaker series and other conversations specific to cultural resources on climate planning a response, the White House Council on Native American Affairs continues to lead and Climate Change and the respectful dissemination of indigenous knowledge toward a better American future.

The recurrent theme of appropriating indigenous knowledge and Federal actions and decisions is critical. That common thread is paramount if we are to be successful in adapting to Climate Change on the ongoing wildfire crisis as tribes have long been the front lines of climate readiness.

The ecological record and oral histories combine tell us of the Pueblo Peoples great migration of the four corners region of the Southwest to settlements among the northern Rio Grande River where the sovereign people now call home. We know too that the great migration was a result of decade-long droughts and the need for land to support

and sustain the vast and complex populations of prehistoric American Southwest. Theirs is one of the many similar and experienced histories of indigenous adaptation to the earth's demands upon human populations.

Indeed Indigenous peoples worldwide and the ancestral first stewards of North America are no strangers to Climate Change. And from these lived experience is on the land; we are learning a great deal. And we are applying indigenous knowledge in realtime even right now on active fires in the American West for resource of buyers, fire line archaeologist, Tribal fire crews, Tribal liaisons, and management teams, as well as in the many planning efforts ongoing nationwide. We are listening humbly as Federal land managers, and it is in that ethic that we are listening today. Now I would like to introduce my colleague Tasha Caldwell he was an Assistant Director in the Forest Service Tribal relations. Tosha, over to you.

GOVERNOR HERRERA: Thank you Jaelith. One of the things I want to do is to greet you the way I was raised to do that.

What I just told you was my native language, and I said hello to all my relatives. And my name is One Star Woman, and my name is Tasha Caldwell, and I serve as one of the Assistant Directors in the Office of Tribal Relations and my core area is in external engagement for the Office of Tribal Relations. I am and enrolled member of the Indian tribe, and I am here to deliver remarks on behalf of the Director of the Forest Service Office of Tribal Relations.

We in the Forest Service Office of Tribal Relations are pleased to be a part of the White House counsel on the Council of Native American Affairs for the interagency draft entitled best practices draft for Federal agencies regarding Tribal and Native Hawaiian Sacred Sites. To our Tribal leaders and guessed an audience I would like to extend my gratitude to all for your guidance and recommendation, not only today, but over the years we have sought to bring about the greatest protections possible to the sacred spaces and places held in reference by our people and our ancestors.

The 2021 MOU regarding interagency coordination and collaboration for the protection of indigenous Sacred Sites was signed on by the Federal agencies, eight of them. These agencies are guided by the input of Tribal Nations, and Native Hawaiians in this endeavor and are taking a forward-thinking approach seeking ways to collaborate with Indian Tribes and Native Hawaiian organizations to ensure solid stewardship for their lands and developing and implementing actions to improve the protection of and access of Native Hawaiian Sacred Sites. The participating agencies commit to work together and consult with Indian Tribes and Native Hawaiian organizations and collaborate with the same to include Tribal and Native Hawaiian spiritual and Tribal leaders were appropriate.

The working group comprised of the eight Federal agencies at led by the White House Council on Native American Affairs and currently the working group meets monthly and works collaboratively to implement the MOU provisions. This working group is established as a subgroup of agency attorneys to facilitate interagency coordination on legal issues relating to Sacred Sites and the working group is responsible for creation of an initial report to the Executive Director of the White House Council on Native American Affairs within 180 days of the execution of the MOU and this report will

identify the existing practices of the participating agencies, and those that they have taken to implement the original version of this MOU signed in 2012 and also an analysis of which area should be revisited for further action to implement the MOU and conduct the legislative review and recommendations for improved sacred site protection.

So to recap, two listening sessions have been held Tribal leaders, and these were held in 2022 and 2023, respectively. Input from the sessions have been used to help draft the Draft Best Practices Guide, listening sessions emphasize that the original MOU signed in 2012 is not a tool prescribed by any administration, but a result of the request of tribes and came from within the agencies to advance an awareness of and uniform considerations for Sacred Sites.

Signatories must provide an annual report to the White House Council on Native American Affairs' Director on how we implement the MOU, coronation and consultation on the MOU and signatories to the image you clarify that Sacred Sites include the Native Hawaiian community, something that was not a part of the Executive Order. This calls for more trouble agency interagency agreements and USDA and DUI have prioritized this and the MOU specifically recognizes the United Nations declaration on the race of indigenous people and this link to the treaty rights.

In our next steps we will use the feedback we received from this consultation to finalize a guide to be presented at the Tribal Nation summit. On behalf of Reed Robinson and the Office of Tribal Relations, we would like to extend a special thank you to our friend and colleague Laura Maul who serves as an advisor to the office of Indian affairs. She has been a steadfast site at the interagency working group and her skill has made tremendous strides in fulfilling what has been envisioned by Tribal Nations founded in the MOU. In my native language I say many thanks and I will turn this one back over to my colleague Kathryn. Back to you, Kathryn.

KATHRYN ISOM-CLAUSE: Thank you, Tosha. I want to echo the huge thanks to Laura Maul for the credible work she is done leading the legal working group under the Sacred Sites MOU.

All right thank you to Deputy Chief of Staff Hall-Rivera as they were very helpful for setting the stage and acknowledging the work that is come before and all we have heard from the Tribal leaders and Native Hawaiian leaders. On that note the 2012 and later the 2016 version of the Sacred Sites MOU started by the Obama Administration created a foothold so we could have the conversation today on the current version. We want to keep reaching heights and new levels of long-lasting and enduring success in the protection and access to Tribal and Native Hawaiian Sacred Sites. This consultation seeks feedback from Tribal and Native Hawaiian leaders on what more we can do, and we are looking for specifics if you can offer them, anything that is very detail that is helping to us in this work. To help guide the conversation and to not limit your remarks, we have some questions to start us off in the discussion.

Three quick questions. The first one is, which parts of the Draft Best Practices Guide could be strengthened and how could they be strengthened? And the second question is what has been done well and what could be improved upon by Federal agencies relative to Sacred Sites access and protection? And third, are there any case studies or success stories from tribes or Native Hawaiian organizations that you can share and

can be used in the final version of the Guide to help show other agencies how to do things well?

So to start off the dialogue portion and thank you for your patience and listening to us, and particularly me speak a lot here, and I will speak a lot less and just listen from here on out.

So I will ask the USDA Forest Service Amber Carrillo to help moderate with me, and we will seek Tribal Native Hawaiian leader comments and to raise – and to ask a question or make a comment please raise your virtual hand. And if you are joined as for my phone number, please hit star 9 to raise your virtual hand and star 6 to unmute yourself when called.

Looking for hands.

AMBER CARRILLO: Kathryn, I see Justin from the Navajo Nation.

Maybe he didn't hear me. But before I turn it over to him, Kathryn, is it okay if I do an introduction?

KATHRYN ISOM-CLAUSE: Of course. Sorry.

AMBER CARRILLO: That is okay. Perfectly fine. I don't want people to wonder who that is. My name is Amber Carrillo, and I am from the Pueblo Laguna in New Mexico, and I may Tribal relations specialist with the US Forest Service, and it is my distinct honor and privilege to be here with you today, and I will be assisting Kathryn as we move forth in this conversation. I welcome you, and I thank you for your patience. And I want to give a special thanks to Governor Herrera for his beautiful convocation, invocation, pardon me, it is always touching and inspiring to hear the words of our leadership and certainly, Texas in the mind frame of this discussion on Sacred Sites. Thank you all once again. Thank you for having me here today. And with that, it was Mr. Ahasteen that I saw with the raised hand.

GUEST: My name is Justin Ahasteen, and I am the Executive Director for the Navajo Nation Washington office to provide remarks. On behalf of the president of the Navajo Nation, I am white, my paternal grandfather was White. And my maternal grandmother was Hopi. Thank you for allowing us to provide comments today, and I look forward to the discussion, as well as other Tribal leaders on the call.

So as many of you may be aware, the Navajo Nation is one of the largest tribes in the country and provide services to over 400,000 enrolled members, roughly half still reside on our reservation, which includes about 27,000 square miles of land across 11 counties in Arizona, New Mexico, Utah. The Navajo Reservation and his surroundings are home to many sites sacred to our people and we look forward to discussing how this administration can better protect those Sacred Sites and Sacred Sites for all. We will also be providing additional details in our written comments to our Federal partners.

In terms of the first question, some of the comments for concerns are in section 1A of the Guide. So the Navajo Nation does appreciate the administration for acknowledging the value of indigenous knowledge. The Guide itself states that it is imperative that indigenous knowledge about Sacred Sites be respected equally as other sciences are incorporated into the Federal decision-making process.

To further strengthen that we would recommend it is also imperative that agencies explain how exactly they are going to incorporate indigenous knowledge into the decision-making and why they did not. So offering that feedback because we run into this issue all the time where we provide the Federal Government recommendation, but we don't know where those recommendations go, and if they are even considered in the Federal policy making process.

So to get information on how that recommendation is going to be utilized, and if it is not utilized, just explaining why it wasn't. So we agree that Federal agencies should involve tribes and National historic organizations as early as possible and planning for these projects, but we believe adding a more definitive deadline would be better to protect our interest. Therefore, we recommend amending this imperative to state Federal agencies should involve tribes and show as early as possible in the planning stages of the project and no later than 30 days after the planning has begun.

As far as we know from previous practices in the area as well as other areas Federal agencies, not only nullify and invite all potentially affected tribes to participate in matters pertaining to them therefore we recommend the Guide offer more details to help Federal agencies should notify and invite all potentially affected tribes and to consult when contemplating a policy or action that could affect a sacred site or sites.

For example, the Guide advises Federal agencies on the different ways that they should reach out to tribes such as a direct contact with tribes, Tribal historic offices utilizing the BIA Regional Directors to submit the notices of proposed projects to all tribes within the projects' BIA region and notifying all tribes within the state of the proposed project. Furthermore we recommend an up-to-date database to create where notices of proposed projects could list tribes. Some additional concerns are in section 4A of the Guide. While we agree EO 13175 requires tribes to be notified before agencies take any action or regulation that has Tribal implications and practices, some agencies have wintered this requirement meaningless by consulting with tribes only after regulations have been drafted.

Given the timeline of the radiation process this leads agencies to have very little or any weight for input with the tribes. The Guide should incur agencies to begin consulting with tribes before incurring this. We run into this issue were sometimes we see the consultation although it was meant to be meaningful was actually not conducted in a diplomatic matter and tribes, especially smaller tribes don't always get a way to actually provide feedback because we are bogged down by so many consultations taking place at the same time.

For example, between the months of August and September there are over 20 written comments that are due. So the Navajo Nation is struggling to provide comments on all of these then I am guaranteeing you smaller tribes that don't have the capacity are struggling to get their voices heard.

We talk about promoting meaningful consultation we have to give ourselves appropriate timeline, and we have to make sure the Federal agencies are not just throwing a bunch of regulations at us expecting us to just check the box and say we think it is important when it is really not the case.

So we are hoping that will be addressed and despite expanded consultation under the administration more is needed to ensure that consultation is meaningful and reoccurring earlier in the decision-making process. And the president has always said that this must be consistent even if it is not convenient for the Federal Government, and we really hope our Federal partners take that to heart when drafting a lot of these regulations in the future and keeping us apprised early and beforehand and making sure the consultation itself is meaningful.

In terms of the second question, the protection of Sacred Sites under the involvement of tribes in the management of land are important and complex issues. Historically the relationship between the Federal Government and Native American tribes is marked by a complicated history including forced removal of tribes from ancestral land, violation of treaties, and the destruction and desecration of Sacred Sites.

In recent years there has been growing recognition of the need to strengthen these tribes and places. The Federal Government plays a significant role in management through agencies such as the National Park Service, Bureau of Land Management, US Forest Service. While the agencies have policies and guidelines in place to protect cultural and Sacred Sites, often fall short of providing tribes with a meaningful role in decision-making and management.

To improve the protection of Sacred Sites and enhance Tribal involvement the Federal Government can take several steps. First and foremost, it is crucial to recognize Tribal sovereignty and the inherent right of tribes to their ancestral land and Sacred Sites. This recognition should be extended beyond a mere advisory role and should involve collaboration and in management.

One way to achieve this is by revisiting cooperative agreements and partnership that is between the tribes and Federal agencies. These agreements must outline share responsibilities, involvement in the decision-making processes and has to contain practices that respect and integrate traditional Tribal knowledge and cultural values. By involving tribes in the day-to-day management of the lands the Federal Government can benefit from the expertise and ensure that the decisions regarding sacred lands are made with the full knowledge and consent of the affected tribes.

Furthermore the Federal Government can work to strengthen existing legislation and policies that protect Sacred Sites. This includes the National Historic Preservation Act, the Native American Grave Protection and Repatriation Act and the American religious freedom act. Laws can further be refined and expanded to provide clear guidelines for the protection of Sacred Sites and emphasize Tribal involvement in their management roles beyond advisory or consultative roles.

In addition to the legal policy changes, increased funding and resources should be allocated to support the protection and preservation of Sacred Sites. This includes providing financial support for tribes for maintenance and restoration efforts and essential that we recognize the burden of protecting the sites should not fully fallen tribes but also be a shared responsibility with the Federal Government and vice versa.

We appreciate the White House Council on Native American Affairs' efforts of this administration to ensure that our Sacred Sites are protected, and we applaud the efforts

that lead to in stewardship, agreements between tribes, including the Navajo Nation and other Federal agencies, but again, the cooperative agreements need to ensure that tribes have more of a management role than just an advisory role. We encourage the agency to sign these and show tribes what are best suited for protection of the Sacred Sites and every site is different, and we will have different needs and tribes are in the best position to know what those needs are, and to make sure that those needs are met.

We also encourage agencies to not make consultation and one-off events. Information changes rapidly and tribes should be consulted throughout each regulatory process. In terms of the third question that is a little more about a detailed approach that we will consider providing that information within our written comments, but overall, again, I just want to thank the White House Council on Native American Affairs, as well as the – our other Federal partners for allowing us to provide comments today, and we look forward to continuing to build the Government-to-government relationship. Thank you.

KATHRYN ISOM-CLAUSE: Thank you. That was a very detailed and specific comment and very helpful, and we really appreciate it. So if you would like to make a comment or have any questions please raise your hand at this time. I do not see any hands, but Amber, if you are, feel free to call and someone.

AMBER CARRILLO: Thank you, Kathryn. I am not seeing any either.

So I know that there are just amazing participants here, and I am sure they have questions. Actually, I do see a person with the last name Kamalii.

GUEST: My name is Naunanikinau Kamalii of the Ohana, and I am testifying today in that capacity, Ohana, meaning a family. Also in my professional capacity I have engaged in consultation and the development of consultation with Native Hawaiians probably for over 30 years.

I would like to thank the Office of a Hawaiian Relations for the good work that they are doing but also the White House and also our Tribal brothers and sisters for both communis into this all-important discussion regarding Sacred Sites and how to address those matters, which in our world are important. To speak of it is challenging because many of those things are not to be spoken up. We are here to speak to Federal regulation of what is sacred for our people. And in and of itself, I always want to pause because the paramount responsibility lies with us, and that we engage with the state and Federal Government because of our circumstance of colonization or occupation of our land.

Irrespective of these Federal regulations and not to disrespect them, I am very grateful for the work that this counsel has done to put this guideline together. Initially guidelines coming out of the Advisory Council of historic preservation for Hawaiians is also very helpful for us who are fighting to protect and respect the culture, practices that we have the sacred responsibility which we inherit. English doesn't quite cut it. Sorry if I stumbled in my words. But I think you know what I'm saying.

I am going to be very specific because there is an area, and I've raised this with the office so I will continue to raise it here with this counsel is that our lands, 25% are still occupied by the Department of Defense. And there is an instruction, which addresses

consultation with Native Hawaiians. Let me see if I can refer to it. Department of Defense instruction number 4710.03. Initially adopted in 2011 through our statewide consultation and then it changed on August 31, 2018.

I raise that because when we are engaging in these issues, we are in one framework with the Department of Defense and then another framework with the White House and the civil agencies. So it would behoove the DOD or the agency somehow in Hawaii to understand what is going on.

For example, we have Mauna Kea. There is the Department of Transportation but then as you go down the Mauna Kea there is the Department of Defense, which is engaging in live fire practices.

So if we work to respect the land, the sacred mountain, half of it is we are dealing with development in that regard in a conservation area and the other part of it, we are asking the DoD not to bomb it.

So maybe uniquely to this discussion is for the White House to take a look at that instruction.

I was part of drafting, not drafting, but early on working with the Deputy Secretary's office and it was broadly drafted as to when to consult. It does include Sacred Sites.

It does include any action that may affect a property or place of traditional religious and cultural importance to an NHO for subsistence or practices for which the DoD has an obligation to consult pursuant to 4321-4370f of title 42, United States Code.

There is an obligation to consult with a framework that you are building with the White House and collaboratively enter agency-wide it does not bring them in.

So I feel that they don't have the training, the understanding to address this important issue. And they could benefit from all of the as all of you who have worked so closely with us to develop the various laws such as the Stop Act, which we just consulted with recently. And I feel that they could fit on that.

I raise that because in my capacity as Ohana, there are 1400 remains to be buried on the military base and we are dealing with one liaison who has been wrestling with change of command repeatedly. But you can imagine what that task has been. And it has gone on for three generations. At least 40 years of my life and my mother and my father prior to me. And they are still in boxes in a bunker. That is an example.

So what is not included in this, I am not sure how that can be addressed because it involves the Secretary to Secretary and maybe a presidential discussion. But it is one area that I would like to raise in this consultation.

Other than that, just to note that yes, we are informally described in what is called now a new collective construct of the Native Hawaiian community, and we have wrestled with that however in this area, this is the responsibility for the sacred land or object, or funerary objects may rest with the lineal descendent and not the NHO. I'm not sure how to work that through but NHO are constructs of the native White people in the absence of a government. Government-to-government relating. In this area in particular it is very important that the lineal defendant who has the sacred responsibility are not second in this discussion or disregarded.

And that is just in raising consultation. I am not sure. I looked of the language many times. If it should be included or how it would be included. Is a footnote, and it is only particular perhaps to Native Hawaiians. I cannot imagine all the subtleties of the several hundred Tribal Nations, including those who choose not to be recognized.

So I thank you for that. I also thank you for your comment, from the Navajo Nation, I echo all of those concerns and comments. Well said. Thank you so much. I appreciate that. As well as to note the effect of Climate Change, thank you to the government representative who spoke to Climate Change. We have recent headlines of Lahaina being burned, but we also know how colonization, appropriation of water and resources, and reorganization of that community, which was once a water-thriving community now leads us to what our tragedy we are working with is.

So I think you to the White House for this effort. It is needed. It is a continuing effort to. And I look forward to continuing consultation. Thank you so much.

KATHRYN ISOM-CLAUSE: Thank you so much for your eloquent remarks. I really appreciate all of the thoughts and the significance coming into this, and what people are bringing into this consultation and looking forward to following up as we can.

So I think next up is Martina Dawley. I'm going to ask you to unmute, and if you could please introduce yourself.

GUEST: Good afternoon. My name is Martina Dawley. And I am the Tribal historic officer for the Hualapai tribe.

For too along our Sacred Sites have been desecrated. The Federal Government must uphold its true responsibly by ensuring Federal lands are using ways to protect our Sacred Sites and do not further harm them. The Hualapai tribe has experienced this firsthand, that this is not always so.

We appreciate the White House's focus on protecting Tribal Nations' Sacred Sites, and we appreciate those who put pen to paper to draft real guidance to ensure it happens. It is clear you value Tribal Nations' voices in this discussion. We heard that your traditional knowledge – we heard that our traditional knowledge must be valued in Federal decision-making. And you heard that we must be allowed a seat at the table through in stewardship and other arrangements. You heard that the sensitive information we share with you must be protected. You heard that our access to our sacred places must be enabled, and you heard that you must do more to protect our sacred places from vandalism and other harms. We see these principles in your draft guide. We will be following up with a written comment or we will be following up with written comments. But today I would like to provide brief remarks for some important ways we think the Guide can be improved. First, we request amendments to increase agency by an. Federal department should be required to sign into the Guide, and they should be required to demonstrate to the White House how they have updated their internal regulations and guide to limit its best practices.

We also ask that this Guide mandate certain concrete actions including that Tribal Nations be included as NEPA cooperating agencies or the entire scope of EIS review.

We also request that the Guide acknowledged early on, not only the Government-to-government relationship but also the solemn trust responsibility owed by the Federal

Government to Tribal nation's Native people. This duty extends to protect our sacred places. With regard to the Guide's discussion of treaties, we ask that the Guide be updated to acknowledge that treaties grant Tribal Nations certain rights in exchange for lands and resources seized by Tribal Nations often through coercion.

We also ask that the Guide recognize that many sources of Tribal nation's' rights including treaties, as well as inherent sovereignty and rights recognized through statute, Executive Orders, and other mechanisms.

The definition of a sacred site should not depend on whether or not the Federal Government has been informed of his existence. The definition of a sacred site should also not depend on its current religious or ceremonial use. Some locations may be sacred or require preservation for other regions such as they are housing medicinal plants. Separately a Tribal Nation may have been removed too far away from a sacred site to continue regular use of that site. But it is – it's very existence may nonetheless be necessary for that revelation.

So to be clear, an entire sacred landscape can be one interconnected sacred site.

We also asked that Federal agencies be made to look more in apprehensively potential impacts of their actions rather than just down at their feet. Sometimes a Tribal Nation is brought into consultation only after the Federal agency has determined an area potential effect and has done so very narrowly. It is imperative Federal agencies listen when we tell them about the interconnected effects and how they will harm sacred places.

The Guide should spell out the steps each agency should take to protect sensitive information from disclosure. This includes notified the Tribal Nation right away consulting with Tribal Nation on the applicability of each potential FOIA exemption using those exemptions to their fullness application possible and keeping the Tribal Nation apprised when information is ultimately released. A Federal official should also never share sensitive information even within the Federal Government without first consulting with the Tribal nation.

A Tribal Nation statement that a place has cultural significance should be afforded great weight without the need for the Tribal Nation to double more sensitive information. Tribal in stewardship of Federal lands has many benefits including the possibility of educating the public about Tribal Nations and Native people through programming for National Parks, and other lands open to the public; however, absence from the conversation is the concept that is often appropriate to return ownership of sacred places to Tribal Nations themselves.

We ask that this important point be added to the Guide. All Tribal Nations in stewardship of Federal lands, sharing of traditional knowledge, assistance and training Federal officials are services that require compensation, especially because Tribal Nations are already seriously lacking resources to do important cultural work. Through colonization great harms have already been done to our lands. And it should not be expected that the Tribal Nations will now help rectify these harms without appropriate compensation. Therefore, that is my closing and I think you for your time and your important work.

AMBER CARRILLO: Thank you, and we truly appreciate your comments and think the Hualapai tribe for having your representation here today. At this time I would like to invite, pardon me, I would like to ask Mr. Peter Silva to join us. And Mr. Silva, would you be so kind to introduce yourself, and a possible to come on camera? That would be great. Thank you.

GUEST: Good afternoon. I am trying to get on camera at this point. Hopefully, I will be able to.

I think I got it. Can you hear me? Great. My name is Peter Running Dear Silva. I'm with the Shinnecock nation. I am with a couple of different positions relating to historical site preservation, grave protection, field culturing monitoring consultant working with the tribe here. I hope that my comments are not considered taken us into deep into the weeds but rather consider them getting deeper and closer to our ancestors.

We have an exciting situation happening here, and I don't know if it is the same situation happening elsewhere. Recently over the last couple of years we were able to capture some of our historic gravesites, significant gravesites with the capture of a piece of that grave site, we sent in ground penetrating radar to determine if all of the remains have been destroyed or if there were several still there. I had hoped for a small handful as a result of the development of the land that was returned to us. And I was taken back when ground penetrating radar in that small unit that we were able to get returned had over 10,000 remains that were identified, individual burial sites.

The good news in that is that we have continued to work forward with the assistance of Tribal leaders, individuals that are looking at assisting the tribes, families that have come forward, and said we want to return the sacred lands back to the Indigenous people that these lands, these burial lands were taken from. We have worked to a point where we are about to capture more of these lands. The reason I raise my hand and speak to you is that we have a barrier in place, and I don't know if regulations can remove the barriers. If it is currently identified and can be removed or something new to consider. Here's the issue.

We have lands, our Tribal lands, historic burial lands, individuals who want to return these lands back to us. We have private investors that say if we have individuals that want to return the land, we will put up the money to purchase those lands. And those lands can then be accepted into a nonprofit organization with ultimately following under a Federal trust protection.

The problem is although that is working, the problem is the Federal Government. We were just advised that, or I was just advised yesterday that there are either no funds or authority to accept lands. I don't want to believe that we are the only tribe in this situation. I want to believe there are good hearted people that have the opportunity to contribute lands back to the tribes and a part of the return of our sacred lands is the Federal Government. Is there a process and procedures or you can get back to me later with specific information? I think this is an issue that is facing us today that may be facing other tribes and hopefully will be facing other tribes in the not-too-distant future. Thank you for the opportunity to present the concern.

AMBER CARRILLO: Thank you for sharing that, Mr. Silva. Kathryn?

KATHRYN ISOM-CLAUSE: Okay. I see the hand up. Okay. My turn. I am so sorry. The name is a little bit cut off of my screen. But I see Hopi Vice Chairman – apologies for not seen all of your name. Okay. Vice Chairman Andrews.

GUEST: Here I am. Good afternoon. First, I want to say kudos to all of the Pueblo women working in DC for all of the Indigenous people I heard all of the comments there regarding the Pueblo women there and to Kathryn, Ms. Andrews asked me to send you her best regards to you, and your family. So that is cleared up.

I want to say good afternoon, everyone. My name is Greg Enders, and I have the honor of serving as vice chairman for our Hopi people. I am from the great village, all the villages are great, but each person says that all the time.

So I represent the village of Shungopavi. I am with the Bear Clan.

Thank you to Governor Herrera for the prayer and the segue into this whole meeting. Very thoughtful prayer. As you were praying, I was praying as well. I will be signing off here in a minute as soon as I make my comments. I will be going to another meeting where I'm also serving as the co-Chair on this commission. And so that meeting I believe is going on now.

Is started at - it is 12:15 here now.

So I just want to make several comments. And I agree with everyone that has spoken ahead of me on everything.

So I believe the Hopi specifically, you know we have always dealt with agencies. And I believe that goes across the board for all of the indigenous people here. But definitely a seat at the table. We are going through that now as we are going through a lot of these Grand Canyon, which was just now signed by resident Biden and also for Bears Ears.

Working through collaborative management and having tribes sit there and being a part of this is very, very eye-opening. We are having to teach our way of life to agencies to make them understand where we stand and why we are there as protection to these areas.

So I look at your memorandum of understanding for protection with indigenous sites. However, we have situations as we are going through in a site visit there in New Mexico some of our brothers and sisters of other Pueblo tribes, but we could not get into the area. We know those are Pueblo sites. So several Pueblo tribes were there to visit the sites, but we could not get past an area because it was in another reservation, which was the Navajo reservation which we had to get permission and pay fees to get to those locations.

So that barrier is definitely still there. And it is with natives. I think at some time we need to recognize ourselves and needing to cross into these areas or native homelands as far as Pueblos. But I want to bring that about. Bring about the sensitivity of what was just mentioned as far as keeping our culture on what we share with the Tribal government. It is sensitive information that requires permission of the tribes. And each tribe, which I've learned through sitting at the table with agencies, each tribe is different. We are all Tribal Nations, but each tribe is specific to the tribe and each tribe has areas that they keep to themselves, and it is proprietary, and we respect that.

And that should be respected among nations as well, among Tribal Nations. We have done in the past is cultural sensitivity training to these agencies. And I believe that is also necessary to hold such trainings for agencies that we are trying to sit across the table and talk with and work things out. That is necessary at times, which we felt that, and we did that as far as its Hopi, and we had our cultural sensitivity training to that. Where we have to talk on a surface level in certain areas and not disclose locations, and these all have names. I think that is to recognize.

But all in all, what I've read through the memorandum of understanding with the indigenous sites, it reads well and still to this day we still need to teach agencies somewhat of our way of life, and what we say this. I know we have repatriation see here on Hopi, which I will be going to another one, of bringing back our ceremonial objects. That is something that we are having to do at the cultural preservation office here, which highly supports that, and our cultural resource advisory Council is very supportive of this.

I just wanted to say a little bit of that on the Hopi side but thank you to you all and thank you for allowing me to speak and always an honor and hopefully one of these days we can all meet in-person and then talk across the table in this manner. That way we get a feeling of each other, or we can see each other in person so we can talk a little bit more. But I want to say thank you, and to everyone who talked ahead of my time or ahead of me in, and also to the agencies there.

KATHRYN ISOM-CLAUSE: Thank you Vice Chairman. I don't want to take Amber spots alternate back over to Amber.

AMBER CARRILLO: Thank you, Kathryn. And thank you, Vice Chairman Andrews. We certainly appreciate the comments and the robust conversation that you are offering today. We truly appreciate the Hopi nation being here. At this time I would like to invite Mr. Adam Duran to join us. And Mr. Duran, please introduce yourself. Thank you.

GUEST: I am sorry. I don't have any video capabilities in my office. If I do turn my video on, it will disrupt my Wi-Fi signal. You would not be able to see who I am. But I want to thank you guys for allowing me to speak. I concerns are in how tribes can work collaboratively with government agencies in regard to our sacred site as well.

We do have some issues where we have had state agencies come in and work on projects and remove culturally sensitive items from our Pueblo. In regards to this we had to go in, and we had to actually raise our voice to the state and demand they return our sacred items.

For the past 100 or so years, the introduction of the archaeology in the region was really disruptive to Sacred Sites. I find it a task that we have to go out and look for the remains of our people that have been removed from our lands unlawfully and unethically. Our concern is how will these agencies be able to help tribes in these efforts? We do need assistance and the tribes aren't always capable of dishing out the funding available to perform these types of services.

There are very small amounts of funding available for tribes in historic per offices. And we want to request that these offices be taken into high regard, and we can find more request for funding available to our tribes so we can perform these types of services.

Because in our culture we believe our people should all be together. They shouldn't be removed. We don't play with gravesites. We don't play with the dead. We don't go to these areas unless we are allowed to, unless we are allowed to ceremonially train to be able to perform these types of services. We need help. We need help to bring our people back. And I feel that when we can bring our people back together, it will complete who we are. It helps us in that regard.

We ask that you continue to look for source funding for tribes to help with repatriation. Is very important to us. And I know it is not highly discussed. And I would like to thank the gentleman from Hopi for his words. And I hope this is the last time that we hear about repatriation, this discussion. That is all I have. Thank you for letting me speak.

AMBER CARRILLO: Mr. Duran, thank you for that. Can you remind me who you represent today and your title?

GUEST: I am the Tribal War Chief or the Pojoaque.

AMBER CARRILLO: Thank you so much for joining us today. We are glad to have you.

KATHRYN ISOM-CLAUSE: We've also recorded your comment in the chat too which can be expanded upon here. Thank you for that.

We don't see any hands in the queue right now. If anyone would like to speak, please raise your hand. These comments have been incredibly valuable, and we so appreciate them. I see Betty Aleck. Please go ahead.

GUEST:

KATHRYN ISOM-CLAUSE: There is always technology issues. Okay, it looks like you are off of mute now. Please go ahead.

GUEST: I think I am muted.

KATHRYN ISOM-CLAUSE: Now we can hear you.

GUEST: You can? Okay. My name is Betty Aleck. I am from the tribe in Nevada. I would like to talk about consultation and working with Federal agencies like the BLM. The BLM does have an inner agency agreement for memorandum of understanding or agreement in which we are supposed to share information. They share information with us, and we share information with them. But we did enter an inner agency agreement with the BLM a couple of years ago regarding traditional cultural property called Black Rock Playa. Both the tribe and the nation recognize that as a TPC. What was supposed to happen and what we understood is we were supposed to be included in meetings, updated information from the BLM. Once they obtain that information and do a good exchange. But in that time we receive nothing.

And at that time Black Rock Playa was a proposed site for a geothermal plant. A couple of months ago Ormat pulled out their application from that site. And the tribe did breathe a sigh of relief because that was gone. However, as far as these agreements, like I said, we received nothing, nothing in the hydrology report. I did get archaeological reports but is there any kind of penalty or any kind of procedure that the BLM, or a way

of punishing them for not following through with anything? And that is the problem I have with the Federal agencies.

A lot of times we will get consultation with you. We will be there. We will provide you this, that, and the other, but they don't. And another thing with the BLM is that they do a pre-application process prior to the environmental study that allows them to proceed. And I would like to see that done away with. Because the business is under the understanding that they are approved in the beginning. This was the preapplication, and they are preapproved. It happens a lot in the West.

And Nevada has been hit hard by lithium, geothermal plants, solar, and I the body administration once those two proceed, but frankly, a lot of them are on sacred lands, on archaeological sites. Currently there is a battle between our neighboring tribes with the BLM and a lithium company. Because the BLM allowed construction of the plant to proceed where a massacre took place.

So will this help? Will what you guys are doing help us, and the BLM, BLR, and other Federal agencies? Or is this just another place where the agency can check off "I did consultation, I contacted these tribes "check, check. And nothing happens. And we were lucky that that happened with Black Playa. I know that is harsh.

But I would like to see changes and I would like to see penalties that the Federal agencies would incur when they don't follow through. That will get them on the ball as far as I'm concerned.

KATHRYN ISOM-CLAUSE: Thank you Ms. Aleck. I was trying to see if we have any BLM colleagues. I am not sure if we do have them today, but I will, certainly share your comments with them.

And again, we appreciate all the specific and detailed ideas that people are sharing with us. And I certainly want to emphasize that this is meant to be a document that isn't course. We want to work with it, with the Sacred Sites MOU, the Sacred Sites guide. This is not meant to be an exercise in checking boxes, as you mentioned. So thank you for bringing that up.

AMBER CARRILLO: There is a hand raised, Kathryn, and I can call on them if you would like.

KATHRYN ISOM-CLAUSE: Go ahead.

AMBER CARRILLO: I see Stacy Laravie.

GUEST: I just wanted to say hello. My name is Stacy Laravie. I am a Ponca member and a representative and a decolonization specialist, and I appreciate many of these comments. I have been on many calls this week, and we can say they are not connected, but they are connected. And unfortunately, through colonization, the way things have been put into process, everything is broken down into categories with all these different Federal agencies and departments. But the truth of the fact is that these are all connected, everything is connected. One failing of one agency is a failing of another. And I have said this numerous times this past week I feel, and I have been on a call with many of you throughout the week. And I agree with the statement about cultural trainings when it comes to cultural awareness and sensitivities and such. I do –

again I'm going to say this needs to happen internally. We are on many different consultation calls, and I'm a former THPO for my tribe and so consultation, it is like breathing right now. That is something that is very, very – it is an everyday thing.

But my point is we can come on all these calls. We are hoping that this in somewhere as we draft, as we are allowed to speak, is a Tribal nation, and I agree with the last person who spoke that her concerns are is this going to go somewhere.

And it happens internally. There needs to be cultural awareness, cultural sensitivity, cultural safety trainings, whatever the words that are used for that. It happens internally because everything is connected, and every single Federal agency needs to have these trains put in place but not just the trainings. I don't know the hiring process for boots on the ground people or even people at the top. Some are put in place by political representatives or what have you.

But regardless, there needs to be a training all across-the-board that is the same for every agency that is mandatory. There needs to be, with annual reviews upon the staff, upon the people put in place in office, the executive teams, whatever that may be, there needs to be also reviews done on them, annual reviews, and specific questions need to be asked. And tribes need to be allowed to see how people are put in place with these agencies. There needs to be – I hate to say it – a consultation. And I feel yes, there is a lot of consultations, but in order for things to change, we have to keep knocking at the brick wall that is in front of us because it is happening internally.

That is the only way, or one of the ways, the big ways that we are going to de-colonize the way things are. So it needs to be across the board. It starts internally with the people who are on this call and up the chain of command, throughout the whole Federal Government system. And there needs to be set in place benchmark reviews. There needs to be reporting that they have to do. Tribal Nations should get a seat at the table on what the interview process, questions that are asked such as what is "sovereignty" to you? What does that mean? What does "consultation" mean? And to see if what is being said in place is actually being put through fruition and is actually successful.

And that way no one can say that I didn't know. Oh, I didn't know. I didn't know that I wasn't allowed to do that when I visited that Tribal nation. I didn't know I wasn't allowed to go to this place. And so those things need to be looked at as well as for sacred places, you know, a place, what is that really? It is not just one central location when we look at these sacred places. Because all of the earth is sacred, including water. We have places on the water for ceremony and even in the water for ceremony. And you know that is something I would like to see eventually that is considered to be a sacred place on the books. It is protected, the rights of water. But yeah, these are just all things I keep trying to reiterate, and if anyone wants to reach out, ill free. I am with NAFPO. I appreciate all the hard work, and everybody being put in place. Thank you.

KATHRYN ISOM-CLAUSE: Thank you Ms. Laravie on behalf of NAFPO. Again, these comments are all very specific and detailed and actionable. We really appreciate the thought that has gone into it. A lot of the ideas that we are hearing are things we have been talking about after hearing the same comments from previous listening sessions or things we have heard from Tribal leaders regularly in our day-to-day jobs. Hearing

these echoed helps to make the kind of changes that we seek to with this work. Thank you. And I see a hand up from John Loving.

GUEST: Hey, there good afternoon. Can you hear me?

KATHRYN ISOM-CLAUSE: Yes, we can.

GUEST: Okay, great. Pay everybody first, thank you for having this. Second, I'm John Loving at the law firm of Kilpatrick Townsend. I work in Snoqualmie Washington. They have a sacred site, the Snoqualmie Falls. It has been a nonstop battle protecting that sacred site. And I really appreciate you guys putting this together and the effort you are undergoing. I can say in my experience of working with the tribe to protect the site for 12 years now, DOI, USDA have been great Federal partners and trustees but once we get out of there into other departments and agencies, it gets very, very difficult.

So what I would like to throw out there for your thoughts on this is how can we get – you know we want to give this teeth. I heard that earlier. How can we give this teeth outside of the departments and agencies with the Federal Government says that don't work with tribes?

For example, Burke is one. I know they ramped things up a little bit under demonstration, but folks over there don't understand the impacts on Sacred Sites and understand the trust responsibility like staff at DOI. How can we, if there is a relicensing for example, how can we ensure that the sacred site that it affects, in this case the Snoqualmie Falls is taken into consideration, and we mitigate any desecration to that sacred site? They don't have any processes for this. We have worked with them, but if we are doing an overall Federal Government thing, that is one thing I would look at.

Another example, the Falls now there are helicopter tours that come right over and interrupt Tribal ceremonies, Tribal religious ceremonies, and the Tribal members practicing their culture. The helicopters have – they can do it whenever, however, they want. We have worked with the FAA. They have no clue what their responsibilities as a Federal entity to the tribe, to treaties. They have no understanding of Sacred Sites there. It has been a very long, years' long process. The DOI N regional office has been good on that. I should say that out loud. But how can we get the teeth that will make folks comply with this who don't necessarily work on a day-to-day basis or understand Tribal issues? That is one thing I would like to throw out there. I have got some ideas, and I'm happy to push some things along. But I know the tribe wanted to be here, and they had some conflicts today. So they asked me to be here, listen in, mention that. Thank you.

KATHRYN ISOM-CLAUSE: Thank you Mr. Loving. You mentioned you had ideas. If you want to send the ideas along, we certainly hear you, and we have many agency colleagues and other agencies are well-positioned to hear this as well. So that will be part of the thinking that we do and follow up.

I will just wait while we are waiting for hands. I'm taking a ton of notes am I –, and I my colleagues are too. Great information today. Thank you. Sorry. We have sticky mute button's here today.

AMBER CARRILLO: Thank you yes. We have a caller, and I would like to invite the person on the phone to please join us and introduce yourself please

GUEST: Hello. I am a staff member, had a little trouble unmuting myself there.

I just wanted to comment on I think part of the training that is in the MOU, and as Stacy kind of noted from NAFPO, how I've experienced where they seem to be able to roadblock sacred site access and that sort of thing, and I think comes down to like treaty rights, Executive Orders, and we have meetings with agencies, and I can even have the backup of counsel in certain situations and at the same time, individuals that are placed in positions that are working directly on-site have the ability to kind of not provide the adequate access that is a prerequisite for tribes.

So I really like the concept, and I've been thinking about how do we execute something like this? Is it going into creating separate agreements for access, memorandums of understanding, those sort of things, which might be good in some places? But at the same time, it is a lot of work put back on the tribes to do that when we feel like the access is already laid out for it, and it all comes down to different individuals.

So I like the concept of putting some of this back on the agencies and some of the review process and making sure individuals that do work with tribes on a daily, weekly, monthly basis, that they are getting the appropriate training that if there is some kind of follow-up, something with the reviews, yearly reviews, I think I would go a long way as well. A lot of times they are just able to – I have experienced that they have been able to work in some autonomy being just at the sites. So any type of specific trainings for that and follow-up, I think that would be great. That is all I wanted you to know.

Thanks.

KATHRYN ISOM-CLAUSE: I am so sorry, but the last commenter, we missed your name for the record. Would you mind repeating your name one more time?

GUEST: Michael Sobotta with the Nez Perce tribe.

KATHRYN ISOM-CLAUSE: Thank you. And next up we have Peter Silva.

Mr. Silva, did you have another comment?

GUEST: Can you hear me?

KATHRYN ISOM-CLAUSE: Now we can hear you.

GUEST: Okay. I'm sorry. I had one very quick comment again. And I am again Peter Silva for Shinnecock. I was looking at the lack of communication or misunderstanding with tribes for local Federal service office. A suggestion I have to address that is in power the regional office of these individual agencies whose branch offices are providing services, have them reviewed annually by the environment, environment of justice office of the region. If there are issues regarding Native American and the protection of Native American rights, that is probably related to something going on as far as the land is concerned. It would be very, very easy to identify the environmental injustice that is taking place and that environmental protection officer can indeed address those specifics with the local branch manager or local group that is providing services to those tribes. That would allow the early identification of problems and resolution of problems or effects that person's performance review or potentially assignment.

Of course a part of that would be that the regional environmental protection officer would have to have conversations on regular basis with each tribe to make sure that individual is well informed as to whether or not the agency and that individual offices providing the type of services that is respected by all parties. Thank you for the opportunity to comment.

KATHRYN ISOM-CLAUSE: Thank you, sir.

AMBER CARRILLO: Miss Kamalii, would you like to speak, again?

GUEST: Yes, thank you very much. I would like the chance to speak if other Tribal representatives have not spoken because I am speaking again.

But it appears we are circling around. I am going to raise an issue that is unique to Native Hawaiians because we enter into the space having a trust relationship with the Federal Government.

And that trust relationship extends to the state. That being unique, that does not occur within the Tribal environment.

As the trust relationship extends to the state, the question, the big broad question, to what extent is the Federal Government involving the state which extends that trust responsibility over lands, which are not Federal lands, which are state lands, as to Sacred Sites? So it would be helping the state to work with the Federal Government so that there is consistency in application of what the White House and what the Federal agencies are now doing in consultation with Native Hawaiians.

Do we have specific state laws, Burial Council, and I am raising something that perhaps we are facing more and more where these Federal policies, like it applies only to Federal lands, but we have a unique relationship with the Federal Government.

So I am putting that forth to the front lines of this consultation to consider and that is particularly when they are reaching, the state reaches it responsibility either under the State act, which you know there was a balance there when the state became a state that it holds its trust responsibilities.

So as publishing grows and our sacred areas are more greatly impacted, we are already experiencing some of the inconsistent application of the principles that you are speaking of relative to the rights of Native Hawaiians that people recognize. It is a tension we have had for a wild. But I'm putting it out to the White House and to the other agencies because we have this unique relationship with the Federal Government, which looks to the state to uphold its trust responsibility in certain areas. And I would think in this area particularly that state officials, not just the ACHP and the local office here, but all the agencies that deal with us in areas of Department of Land and Natural Resources, for example that there continue to be a relationship, working or collaborative relationship with our state under our trust relationship. That is just a comment there. It is a complex situation. But being that this is a consultation, I am putting that out there. Thank you very much for the opportunity to comment.

AMBER CARRILLO: Thank you, again, Ms. Kamalii. I do appreciate everything you're sharing today, and I wouldn't worry about going around to comment, again, because everything you are offering is extremely valuable, and we do appreciate it.

KATHRYN ISOM-CLAUSE: Wendy Teeter, has he your hand is raised at looks like you are unmuted. Go ahead.

GUEST: I have staff that are on it. Hi! I am Wendy Teeter enemy cultural resource archaeologists for the Santa Ynez Band of Chumash Indians. And I appreciate everything, and what people have been providing so far in terms of comments. And I just want to raise one issue that, I think, hasn't been addressed so far and that is while these are great guidelines and they are super helpful, what we are often seen is

A) There are a lot of nongovernmental entities, NGOs that are doing collaborative partnerships with these Federal agencies and are not being held accountable for following through with the law. So the tribe is often finding out about them after some determination has been sorted in terms of potential areas of effect or what kind of curation or avoidance or whether or not there will be any kind of protocols or mitigation measures put into place without any consultation. And in other situations, we are only finding about it when we get a call from a cultural resource management agency for a monitor. So it is way too little, way too late.

And, again, we are not seen those Federal agencies take accountability of that. They just say oh, we did not know about it. It was outside of our department. So lots of excuses but not a lot of fixes.

And also sort of piggybacking off of the previous comments about the idea of other agencies including the state and including easement for like land lines, like power, electric, telephone, whatever the easements are, they will often do work, again, without feeling like they need to consult with the tribe, nor the Federal agency. We are requesting that they do so, so we are having to push our way through tentatively again after some situations have been occurring. If that could be addressed as well; I love the idea of having these agencies do buy-in, but I think it would extend to anyone working on those lands at all. Thank you.

KATHRYN ISOM-CLAUSE: Thank you so much Ms. Teeter. I don't see any hands raised. As Amber said, if folks have listened and found something else they want to add to previous comments, we can go for multiple rounds if anyone else would like to speak again.

It looks like we have this number, it looks like it was Michael from Nez Perce.

GUEST: Yes. This is Michael Sobotta from Nez Perce tribe. I know people have touched on this, but again, for me the implementation of this MOU, and some of the things that we are talking about, I think it is great that the Biden Administration has done this, and they have a lot of great initiatives, but at the same time, it is really going to come down to funding mechanisms and where that funding is coming from. Like the unfunded memorandum of understanding.

And to execute the things that are great things that are within the MOU, where's the money going to come from? How is that when to be executed? A lot of times with Sacred Sites, there are multiple tribes associated with it, in stewardship, in management, that sort of thing. I think it is a great opportunity for tribes, but a lot of times they are understaffed and not part of our particular scope of work at this time, though sort of things. So in the end, I want to know, like where is the funding going to

be coming from and how to get the appropriate people within the tribes? It is extremely important.

KATHRYN ISOM-CLAUSE: Thank you for adding that comment.

So while we are looking for more hands, I received a question of the chat asking if a recording of this session will be available to participants. I know a transcript will be available. I'm not sure about a recording. I will invite any of my colleagues to give a more precise answer on that.

Okay. It looks like it may just be the transcript that is made available.

And we will note that the transcript from the consultation last week on the Tribal Treaty Rights MOU is already available online. That is a pretty quick turnaround, so they probably expect that as well for this.

So we have just under one hour more reserve for this time so we are happy to be here as long as it takes to hear all of these really exceptional comments and anything else that you would like to share with us. But also we won't keep everyone if we want to end early. That is also fine. And if anyone is unable to raise their hand or comment in this way or just prefers to, you can put comments in the chat as well. Thanks, Tom. We have the transcript for the Tribal Treaty Rights consultation in the chat right now. Actually, I see we do have a couple of hands up. Okay, let's go to comments. I missed, which order the hands went up in.

So I will go through the first one I see, which is Ms. Aleck.

GUEST: Can you hear me?

KATHRYN ISOM-CLAUSE: Yes, we can.

GUEST: Okay. This is Betty Aleck again. I am with the Paiute Tribe.

I want to say when I spoke earlier about the Federal Government, mainly the BLM, we deal a lot with the BLM out west and the Bureau of Reclamation that there were Sacred Sites in which they have been earmarked for lithium mines or geothermal mines. In one instance there is a fraud that is on the endangered list, and this involves a geothermal plant. Another is a native plant that is also as geothermal.

I mentioned earlier there is a massacre site, and it involves a lithium plant and with ours it was a cultural property and that was a geothermal plant we know and understand that green energy is sought by the Biden Administration, but in many of these incidents, they have led to lawsuits where the tribe had to work at – I'm not talking about my tribe, but I'm talking about other tribes.

But they have to go into a lawsuit and that cost money. And early on in all of these situations, the tribe was saying wait, hold on. That is a massacre site. Wait, hold on. That is a frog that is on the endangered species and a plant that could go extinct as well. And with us, we are sane hold on that is a traditional cultural property. But, again, that organization or that agency continues on. And it leads to a lawsuit, and it leads to filing in District Court, Ninth Circuit Court. I don't know if anybody's going to the Supreme Court, but it costs money.

And again, how do you get people to listen? Because you are talking about getting people to listen. But in all of these cases, the tribes had to go to court. And with the frog, that is under review now. And with the massacre site, the Indian colony is seeking to get the massacre site listed as a traditional cultural district of which the BLM does agree it should be a district.

But again, those should have been handled a long time ago. Before construction, before test wells and a lot of those things began. And my thing is why weren't they handled? My thing is: Is there going to be penalties? Who is held accountable when that whole thing fails, consultation with a lot of tribes, mainly the BLM agencies, it just fails all the way around, and it is very sad.

Anyway that is my point. I would just like to see some sort of a way for these agencies to be held accountable.

KATHRYN ISOM-CLAUSE: Thank you for your comments. Definitely one of the themes we have heard today is accountability to agencies.

AMBER CARRILLO: Kathryn, pardon me, I know we have had prior Jasmine Courville Brown who was with her hand raise. And so I would like to still call on you, Jasmine if you would still like to comment. I see your hand. Jasmine, please join us.

GUEST: Thank you. I am Jasmine Courville Brown, and I'm in region eight and the Salish and Kootenai Tribes.. And I want to share that I sit on a Tribal program Council, which is a group of tribes such as yourself, and they also submitted comments on the treaty rights, Sacred Sites, consultation guidance, and I was wondering if you guys want me to share that with you. I can email it out. You can add to it or maybe take some ideas from it. It captures a lot of what was already talked about. But I think it might be helpful as well.

I just wanted to mention that.

AMBER CARRILLO: I think those comments are entirely welcome. But I would defer to Kathryn. Kathryn, would you agree?

KATHRYN ISOM-CLAUSE: I would agree. I'm looking for the email address to put it in the chat here. So we can submit it to whcnaa@bia.gov, that will become the official record for this consultation. Thank you.

GUEST: Thank you.

KATHRYN ISOM-CLAUSE: Great. I see another hand up from Taylor Aalvik. I apologize if I've mispronounced that. Go ahead. Taylor Aalvik, it looks like you are unmuted, but I am not hearing anything.

GUEST: Hello. Can you hear me now?

KATHRYN ISOM-CLAUSE: Yes, now we can hear you.

GUEST: I apologize for that technical problem there.

So I work for the Cowlitz Indian Tribe, and I'm a natural resource manager, and I was asked to sit here on behalf of the president. I haven't delved too deeply into this MOU, but I will take another look at it. We have a conference mid-September, this next

month. Is there going to be a representative coming out to our conference coming up here in a couple of weeks to speak in this regard? That is just a question I have out there. And anybody answer that?

KATHRYN ISOM-CLAUSE: I don't know if we have anyone planning to speak on this specifically at the conference. We don't have the information in front of us right now, but it is very possible that folks from our agencies will be there, and we can certainly work with you as the conference organizer.

GUEST: I just mentioned there is a lot of Northwest tribes and Sacred Sites are very important to them, and they are probably not on this call today. And I wanted to make sure that you are aware there is a conference coming up. I think it is September 17th through 20th – and this is just before the due date of your comments. And it may be wise to try to send somebody out. It is in the Grand Mound Washington, the Chehalis Tribe. I will bring this information to them. It would be great to have a representative for all the Northwest tribes to kind of hear what is going on here.

KATHRYN ISOM-CLAUSE: Great. Thank you. Thank you for flagging that. And our colleagues from the Advisory Council historic preservation updated that. They have been asked to present by the chairman, and they do plan to attend virtually. So I'm sure they can include some of this in their remarks.

GUEST: Got you. All right. Thank you.

KATHRYN ISOM-CLAUSE: Again, we are not seeing any hands up at the moment. We are happy to give folks a few minutes if they would like to raise their hand or add comments in the chat.

All right. So, again, we certainly don't want to cut anyone off if you would like to make a comment. Please raise your hand while speaking. If you would like to make a comment, you can put it in the meeting chat. But we want to be respectful of everyone's time also not keep folks on longer than we need to.

So I would like to thank everyone for participating today. We have received such excellent comments. It is really going to strengthen our work both in the best practices guide, but our broader work as we work tribes and I think working through these issues with colleagues and Federal agencies. I cannot thank you, again, for putting the time and thought for the comments today and even for engaging with us in being present here. So again, a reminder that written comments are due by September 29, 2023, to whcnaa.bia.gov. And with that we won't keep you any longer. Again, thank you, and we really appreciate everyone being here.

AMBER CARRILLO: Thank you, everyone. It has been an honor.

4:23 PM (ET)