EAGLE SUMMIT III
DENVER, COLORADO
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GOVERNMENT-TO-GOVERNMENT CONSULTATIONS

This hearing was held at Rocky Mountain Arsenal National Wildlife Refuge, 6550 Gateway Road, Commerce City, Colorado 80022, on March 20, 2014, at 2:55 p.m., before Doreen Girdeen, Registered Merit Reporter and Notary Public within Colorado.
APPEARANCES

Noreen Walsh
Steve Olberholtzer
Matt Hogan
Clint Riley
Adam Chavez
Albino Lujan
Bernard Chavez
Darrell Shay
Daryl Candelaria
Delbert Sanchez
Jess C. Gutierrez
Lee Juan Tyler
Mark Roundstone
Robyn Spain
Terry G. Knight
Winfield Russell
William Voelker
Wilfred Ferris
Gerald Rowland
Yolynda Begay
Adam Chavez, Pueblo of San Felipe
Albino Lujan, Taos Pueblo
Bernard Chavez, Pueblo of San Felipe
Darrell Shay, Shoshone Bannock Tribe
Daryl Candelaria, Pueblo of San Felipe
Delbert Sanchez, Pueblo of San Felipe
Jess C. Gutierrez, Santa Clara Pueblo
Lee Juan Tyler, Shoshone-Bannock Tribes
Mark Roundstone, Northern Cheyenne Tribe
Robyn Spain, Northern Cheyenne Tribe
Terry G. Knight, Ute Mountain Ute Tribe
Winfield Russell, Northern Cheyenne Tribe
William Voelker, Comanche
Wilfred Ferris, Eastern Shoshone
Gerald Rowland, Northern Cheyenne
Raymond Lasley, Osage Nation
PROCEEDINGS

MS. BEGAY: The person who is going to appear to do the consultation. She is from the Fish and Wildlife.

And we actually have four subsets you will be consulting with today.

Noreen.

MS. WALSH: Thank you very much, Yolynda.

And I just want to start with a few notes of thanks this afternoon. First, I really wanted to thank Mr. Rick William -- if you're still in the room. I appreciated his humor -- the humor of his stories this afternoon at lunchtime.

And then I also really wanted to thank Mr. Alvin Windy Boy. There he is. I really appreciated your comments. Alvin, you've got me thinking about -- through your stories and the history you've shared with us, you've got me thinking about division; the word "division" and what divides us or maybe what can unite us. And you also got me thinking about the word "consultation" and what does that word that we throw around really mean.

And then this gentleman --

SPEAKER: (Indiscernible)

MS. WALSH: I'm not sure that's the gentleman that I'm referring to, but somebody made a comment about do we mean -- it was you -- do we all mean the same thing when we
talk about a "consultation"? When we use that word, do we mean the same thing? So that really got me thinking at lunchtime.

And then I really want to thank the Native American Fish and Wildlife Society and Fred Matt and the whole Society for providing such a delicious lunch for us. I ate too much, I confess. And now, there's a new pot of coffee brewing for anybody else who might need that this afternoon.

So, over the last hour, I think we had a chance to break bread together, which I think is always a good thing to do, and a chance to laugh a little bit together, which I always think is helpful. Now, we've done both of those things. I hope it's a good time to actually start our formal government-to-government consultation.

Through the whole conversation this morning, I heard, very clearly, about how everything that the U.S. Fish and Wildlife Service does relative to eagles impacts you at the very core of your being because of the special significance that eagles have to you and to the Creator and the relationship between that. So we know that when we are contemplating changes in our policies or regulations that that has a significance to you, and that's why we're here today.

We also heard about respect. We heard from -- I
think it was Mr. Rick Williams during his stories, who talked about consulting with respect. And that's our intention here today is to have respect with you in this consultation. And part of that is not rushing.

And so you-all may have noticed we are way behind our schedule. What I'd like to do is ask if -- we are not going to be able to get through all of the issues that we had on our list for consultation today, and they're all important issues because they're all changes that the Service is contemplating making. They're not changes we have already made; they're changes we are contemplating that we need your input about. And so if we can't get through all of those in the next couple of hours, we, the Service leadership, will come back tomorrow morning and continue this consultation for a couple of hours with you then.

So I'd ask you to think about that and maybe we can check in near the end of our time together today and see if we need to do that; see if we need to continue tomorrow while you're all here. So I make that offer because you-all have shown us respect to come here, where we are, in Denver, to have this conversation with us. And I don't want to conclude the consultation prematurely. So thank you very much.

And just as we get started, I want to reintroduce the folks that I have with me to consult with you today.
So, again, at the end of the table is my deputy regional
director. So he's second in command over this region of the
Fish and Wildlife Service, Matt Hogan.

Next to him is Clint Riley. Clint is over our
Migratory Birds program, which means he is our technical
expert on eagles. So as we go into this consultation today,
Clint will lead us through these issues that we're proposing
or contemplating changing and give you some background on
those. And then we want to hear your reaction.

And, lastly, Steve Olberholtzer, who will join us
again in a minute. You-all heard from him quite a bit this
morning and you know that he is our special agent in charge
of law enforcement. The four of us are here today to listen
to you. Thank you.

Yolynda, I'll give it back to you.

Ms. BEGAY: All right. I want to thank you all
for -- for helping us this time. And like said, you know,
we're all willing to come back tomorrow morning to finish up
the pieces that we do need to talk about.

There are six items that we do have. They are the
management of depredating eagles, golden eagle
rehabilitation, allowing captive propagation of golden
eagles, policy on eagle carcass disposition, revising the
2009 eagle take regulations, and then the Chokecherry-Sierra
Madre wind project permit application. Those are some of

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the things that we have on the table. And we know that all
of those are important to the topic that we have here today,
which is why we offered to come back tomorrow.

What I want to do is -- because you all have
heard, you know, Noreen, also Steve, Clint and Matt, where
they are coming from, I think it would only be right for you
to tell us where you're coming from, your name, your title,
and what tribe you're coming from. So that way, we know
who's at the table and we can see -- and they also know
who's here on the table with them.

MR. RUSSELL: My name is Winfield Russell. I'm a
vice president of the Northern Cheyenne Tribe. And I have
three people with me from our tribe -- from the program and
are involved in this program that we talk about eagles. So
I'll have them introduce themselves.

MR. ROUNSTONE: I'm Mark Roundstone. I'm the
acting director for the Northern Cheyenne Natural Resource.

MS. SPAIN: Hi. My name is Robyn Spain. I'm the
assistant to Mark Roundstone, the Natural Resource director.

MR. ROWLAND: Hello. My name is Gerald Rowland,
Northern Cheyenne.

MR. LUJAN: Good afternoon. My name is -- my
taxpayer's name is Albino Lujan. And I'm from Taos, New
Mexico; Taos Pueblo. I hold the office of war chief
lieutenant of my tribe.
MR. OLDMAN: Good afternoon. My name is Ron Oldman. Also, that's my given name; my government name, I guess. My Arapaho name is (indiscernible), which is very difficult to translate. But I'm the co-chair of the Northern Arapahoe Tribe.

THE REPORTER: Could you spell that?

MR. OLDMAN: No, I can't.

MR. LASLEY: My name is Raymond Lasley. I'm representing the Osage Nation. I am the -- one of the senior executive advisors for the Osage Nation. And on behalf of Chief Big Horse and the rest of the -- the assistant principal chief, Terry Moore, and the Osage Nation Congress, we just want to extend our appreciation for having this consultation here. Thank you.

MR. TYLER: Good afternoon again. My name is Lee Juan Tyler. I'm from the Shoshone Tribe for all Idaho. And my treaty was reached in the 1860s when it was ratified. We had about 12 treaties for different bands and groups. We had another ratified treaty in Montana as well, River Forks area, and to this day, we have treaty rights to go hunting. And so that is very awesome for my past leaders. So -- so this is not really a true consultation because I'm only one councilman here. But I'll do my best.

And I know -- what I was going to say earlier was the trade people -- and that was mentioned earlier -- that
it's really, you know -- that's really with the humblest respect; no racial -- racial thoughts. And that's not going to amend things. That has to be educated in all areas, not just this. But in every type of situation that -- that comes to our people. And that's -- that's where it's wrong right now.

I had my nephew almost killed -- boom, boom -- shot twice in the head back here during Thanksgiving by a Pocatello city officer that chased him to the reservation and tried to kill him. And he's still in the court. But he survived through prayer.

And he had his box with his sun dance whistles in the back and his feathers, and then that protected him and through prayer. And he told me a story how he came up and his body and that he came back alive. He (indiscernible). He's -- he's okay now, but he lost his voice.

But, see, some of that, that's going on, the racial is still going. That has to end. And we're going to have a true -- get something really established. It's not going to work if we had our own people sitting in this room -- not you guys -- but it might be somebody in here that we can't -- we've got to be careful; we can't trust. That's difficult. And that's going to have to change if this is going to work. And right now, it's not going to work if we don't get the right people involved in these key-area jobs.
that's going to come meet with our people. Thank you.

MR. SHAY SHOWBAN: Darrell Shay Showban. I'm in charge of the language and cultural preservation for our tribe. And, you know, I'm kind of the technical assistant to my councilman. So I do have -- I have been a former councilman and I have been around dealing with the federal government.

I don't like to deal with the state governments because, in my opinion, they're -- they're inferior to the status of, you know, treaty tribes. And, you know, I just kind of -- a long, long time dealing with, I guess, this bureaucratic-type stuff. That's why some of my -- I don't know if you call it animosity -- but some of my concerns about how these things develop, just like -- just like this whole thing.

You know, the very first thing is, the Fish and Wildlife Services is contemplating these changes. Why? You know, why are they contemplating these changes? Why haven't they consulted with us Indian tribes even before contemplating these changes? Why aren't you taking some of our concerns to contemplate these changes? These changes that we're seeing that are listed in here, they didn't come from us. And that's why I think that's really important that you listen to us on what changes we would like to see, if there's any.
And the concern -- I think you had a pretty good introduction to, I guess, this spirituality part of what we're talking about, because this particular topic is really related in that area. It's -- there's no way that you could separate it out. We're not going to give it up.

MR. KNIGHT: Good afternoon. My name is Terry Knight. I'm a member of the Ute Mountain Ute Tribe. Currently, my -- my work -- and I work in the Tribal Historical Preservation office. But I'm a former tribal chairman and tribal councilman, signatory Ute Mountain Ute Tribe spiritual leader. And I'm on the Wildlife Commission, and almost everything else that affected our people. I've been there, done that; sent this, signed that.

And I'm also -- I guess I could say that I'm the ranking tribal spiritual person for all the Ute people within the sun dance and bird dance, any Native American tribe with ceremony, whatever have you. And I came from a long line of medicine people where I had seen them do miracle things in just a few hours.

So I'm aware of the use -- and Mr. Crow Dog said the communication that the individuals have with the animals and the birds. My late father was one of those people that used this golden eagle quite a bit. So I watched; I listened to him. And I wanted to see again and just see how far this summit regarding the eagles has progressed.
And in the line of consultation -- I'm more familiar with Section 106 -- but through that, these last few years would have been going head to head and having to educate different federal agencies as to what consultation is -- what we think it is; what it should be.

And we -- we tell them that consultation is a two-way street. And a consultation is not you imagine you're right up here, your thoughts, your -- what you want to talk to us about, and then say, Yes; we consulted with them. No; it's two ways.

So -- and the most important thing is that I was not aware that this was going to be a government-to-government consultation. Otherwise, I would have had a few more of my tribal people -- maybe the chairman, vice chairman, secretary or treasurer, whomever. But I came up because I represent some of those factions in the tribe.

So there's one thing that I remember when one of our tribal leaders, several years back, told the lady who was doing a report -- facilitated a meeting like this. He said, I hope you're not taking this as a consultation in a sense of -- of -- that a government-to-government consultation, because I'm the only one here for my tribe. And you're here, but you are not the supervisor. We want to know -- we want to talk to your supervisor, your director,
the state director, whoever it is, and me, as a councilman. I want to talk directly to them. These are just staff people. They're the ones that's going to write it and work it. But to have effective consultation, it has to be government-to-government; your boss, your regional director, whomever it is, and me. Then we have that effective government-to-government consultation within the line of respect. That way, as you can say, that person said the person that's responsible for this, and I am the person that is responsible for my people. So from there on, we take it down to our people.

So I've been there at the very top. And I understood what they were saying. But now I'm a staff person. And being the staff people, I don't necessarily have to be nice. I can say whatever I want. Of course, I'm not -- I don't have to play this what I call game. You know, well, this is the government and this is this; hello, how do you do? I don't have to do that anymore. I can be direct, straightforward. And that's what I do.

So, therefore, what I say, that has to be said and let -- let the -- as what they say -- chips fall where they may. And, hopefully, things will get done. If we don't say that, you think sometimes we're too nice. You know, we're just too nice. And I don't have to be nice anymore. So I'm the one that throws things out. See, try this. This is
what we think. So I just want to let you know that.

And I thank all the tribal leaders and the staff people. And we're going to take this back and say, This is what we're talking about. And they'll say, What? I'll say, Consultation -- a regular form of consultation. And I'll say, That's what she said. And then they'll say, Well, wasn't the appropriate information sent to my office? Why wasn't this consultation -- this information sent? How did she get ahold of -- how about these other people? How about German Newton and German Morgan; how about them people? And I'll say, I'm not the one that makes up the list.

So I just want to let you know. Thank you.

MR. GUTIERREZ: Good afternoon. My name is Jesse Gutierrez. I'm from Santa Clara Pueblo from New Mexico. So I just came to represent Santa Clara tribal council member. And I have some of the same concerns from some of the individuals, you know, with the consultation and the government-to-government, because in the way I -- the way we think is this should be them talking with our governor and tribal council at our home, you know, and kind of consulting with each other.

So that's something that I know -- at the beginning of the meeting, you said that it's hard with all the many different tribes that we have and that everyone's unique, but, at the same time, there has to be some kind of
meeting between -- somewhere, some communication. So maybe we can talk more, before a lot of these laws or changes come into effect. Because, there's too many times it's after the fact. You know, after the fact, the tribes get a -- they let us know, We're changing this; what do you think about it; we already changed this; what do you think about it? And we feel that it should be done before we can get to those processes.

So thank you. And I probably have more questions later.

MR. VOELKER: William Voelker, founder of record for Comanche Nation Eagle program. And it's an honor to be here with everybody.

MR. FERRIS: Wilfred Ferris from the Eastern Shoshone Tribe, THPO officer. And, also, our councilman, Darwin St. Clair, Jr., is supposed to be here also. And, also, I share the same treaty with Showban over here; 1863 and 1868.

And I wanted to be here. And, also, I kind of have the same feelings that councilman and representatives for -- on behalf of the government-to-government relationship. I, too, also have to take information back to my leaders and explain to them that this is what went on. And the list has to be forwarded to them -- to the right individuals. So when that time comes for the
government-to-government that will be taking place.

           MR. GOOGLE: Good afternoon. My name is Dean Google. I represent the Northern Arapaho Business Council in Wyoming.

           Mr. McElroy: My name is Ron McElroy. I'm from the Northern Arapaho Business Council.

           Mr. Sanchez: Hello. My name is Delbert Sanchez, lieutenant governor for Pueblo San Felipe.

           Mr. Candelaria: Good afternoon everybody. My name is Daryl Candelaria, tribal administrator for the Pueblo San Felipe in New Mexico.

           Mr. Chavez: Good afternoon. Bernard Chavez. I'm from Pueblo San Felipe, fiscale.

           Mr. Chavez: Good afternoon. I'm Adam Chavez, Pueblo official of the Pueblo San Felipe.

           Ms. Begay: All right. I also wanted to introduce myself. My name is Yolynda Begay. I'm actually coming here -- or not from -- I am not from Fish and Wildlife. I am actually just the facilitator. I'm just here to make sure that this meeting goes by smoothly and we stick to the times.

           So I'm not from Fish and Wildlife. I'm here as sort of the person that's going to move the conversation along. I do apologize for rushing everybody off, trying to get you to follow some ground rules, but we have a lot to
talk about. So I'm trying to move this forward and trying
to get us to stay on the task.

And without further ado, what we're going to do is
going to turn this over to Clint Riley.

Did we get everybody in the room? I want to make
sure that we get everybody introduced.

SPEAKER: I have a question on the consultation
topics. Who was it that selected those?

MS. BEGAY: This was a list that was generated
from -- I think they are decisions that are not -- have not
been made yet. These are the things that they have -- that
are sort of bubbling to the surface. No decisions have been
made on any of these consultation topics. They're here to
purely solicit your input, for you to provide comments on,
for you to provide them some feedback.

There's one thing that I did forget to do.

Clint, I'm so sorry.

We do have a lot of items to talk about. In the
event that we do not come back tomorrow morning or if you're
unavailable, what I want to do is to take at least five
minutes of your time and you tell me on that list what is
your priority -- your first, your second, your third and
your fourth priority.

I'm asking the tribal leadership because we want
to talk about those items. What is your number 1, number 2,
1 number 3, and number 4? And based on your response, we're  
2 going to go straight to that topic, just based on how folks  
3 feel about these topics that we have here. We have six  
4 items. I have them all listed on there. They're also on  
5 your agenda. And you tell me what is your number 1, number  
6 2, number 3, and number 4.  
7 What I want you to do is -- we have this dry-erase  
8 board up here. We have a couple of markers available as  
9 well. Over here, out onto the side, if this is your number  
10 1, you're going to put a 1 here. If this is your number 2,  
11 you're going to put a 2 here. And I want you to write your  
12 responses out onto the side. And I'm going to go ahead and  
13 ask our tribal leaders to come up here first. And this is  
14 going to -- shouldn't take no less than five minutes. This  
15 will help us center on what it is that's important for  
16 you-all.  
17 So if I could have the leadership please come up  
18 here and tell us what's important for you. Definitely come  
19 up. I'm going to go ahead and allow Matt, Clint and Steve  
20 to introduce themselves as well.  
21 MR. OLBERHOLZER: Hello again. Steve  
22 Olberholtzer, U.S. Fish and Wildlife Service special agent  
23 in charge of our law enforcement division.  
24 MR. RILEY: Clint Riley, U.S. Fish and Wildlife  
25 Service, assistant regional director for Migratory Birds.
MR. HOGAN: Matt Hogan, deputy regional director for Fish and Wildlife Service in the Mountain-Prairie region.

MS. BEGAY: What we have up there, your number 1 is revising 2009 eagle take regulation. And that's where we will begin. Thank you for that. I appreciate it.

MR. VOELKER: From marking that system, it looks like we're not going to get to captive breeding, it looks like, today. I wanted to make a correction. On the handout everybody got, the captive propagation of golden eagles, the last line is incorrect.

We are the only Native American -- so, actually, we are the only facility in the nation currently authorized to breed golden eagles. We've been breeding golden eagles since the '70s. But it says, Primitive propagate eagles under a scientific research permit. The authority in this case is under Native Religious Use. And it's important for everybody to know that because we fought long and hard.

We've bred almost 500 native eagles in captivity since 1970. In the old days, they were all under special-use permits. But we fought hard for over a decade to get captive breeding under Native Religious Use because it's sacred work. The work that we do in bringing new eagle life forward is done in a very holy fashion. So I just want to make that correction. Thank you.
MR. CLINT: Thanks, Bill. That was our error in what we understood that permit to be.

Before we get started, I do have a couple of introductory things, because they do come up as questions. The question was, where these topics came from. The first five of these are topics that nationally -- in discussion across all regions in the national office -- felt like these topics affecting eagles could be a potential interest to tribes, and we wanted to have the opportunity to reach out and to have consultation on these topics. We can find an opportunity to do so.

The sixth topic regarding the Chokecherry-Sierra Madre wind project is something that is just in Region 6 but affects the tribes outside of our regional boundaries. And we wanted the opportunity to try to reach out to as many people as possible.

So we certainly heard many of the comments, the frustrations with what can constitute effective consultation. We very much appreciate people's interest and letting us be here.

One of the things that as we move forward we would like to hear about what -- when there are opportunities -- is, how to better communicate interest to consultation. We did send communications to tribal chairmen that were within our region or within the boundaries of the
Chokecherry-Sierra Madre BCRs. We tried to reach out in various ways in all these topics with information both in written letters as well as in e-mails. Are we getting to the right people? Are we doing the IDL and our -- our Native American brigades on all posts, as you know, has been trying to reach out.

So to the extent that it still results in some uncertainties or confusion about whether the right people are getting the message or whether information in advance is -- is the appropriate information, that, certainly, feedback is important to us. And that's where the -- these topics came from.

All of these are under discussion internally. They -- that's how they came up is within the Fish and Wildlife Service's base. And we'll talk with each one as we get them, what sort of internal conversations led to this as a potential topic. But that's why we thought -- before we want to go any farther, we wanted to try to reach out in a consultation, because for all of these -- what Yolynda was saying is this is happening before decision. Actually, before that. This is before we even made proposals.

Most of the ones that are dealing with regulations, there's one policy that's a slightly different process. But for us to do anything, we will eventually have to make a proposal to the public. We have not made a
proposals to the public on any of these yet. So we are
wanting to talk to you before we would even develop
something that we would propose to the general public.

The permitting action is the last one on that wind
project. That one, the public certainly knows about because
we've tried to begin a need for process. However, we have
not even received a permit application on that one. So we
are wanting to talk to you through some opportunity for
consultation even before we have in hand an application from
the company in question.

So I know it's always hard to start as early as --
as we might wish. But, in this case, at least for these six
topics, we are raising them with you before we've even
developed proposals and before any proposals would have been
obviously shared with anyone else in the public. And we
hope your input will allow us to -- to put together a
proposal and may be more appropriate if we decide to propose
anything.

Oh, and then the last thing I want to make sure
about -- we did have written handouts that say more than
what is going to be on the slides for each of these topics,
again with the intention of trying to provide enough --
enough background information for you to feel somewhat
informed and what sort of feedback you may want to provide.

Did everyone get a copy of -- that copied pack of
With that said, let's move forward to the topic about the take regulations. What I'm going to be trying to do on behalf of the Fish and Wildlife Service and on behalf of Noreen, our regional director, is provide a baseline, a background information, that will allow us to have a common understanding of what the potential topic is, what the potential kind of proposal might be for you to be able to share what your thoughts and perspective will be. For most of those, I'm just going to provide one quick slide and more information, as necessary, to follow.

This topic is -- so one -- I actually wanted to give a little bit more information to make sure people do have a basic background that is a similar baseline for a conversation.

So I'll try to do it quickly, but bear with me.

This morning I mentioned, in 2009 we created some new regulations for new types of permits, and it evolved over the Bald Eagle Protection Act. And it was largely in response to the fact that the bald eagle was being delisted and realizing we didn't have permits and permits to what could be accomplished per the Endangered Species Act.

In these permits, the two primary permits that were created, standard take permits would allow for take of an eagle in a single instance; a one-time take. We know
it's going to happen or can predict what would be happening.

A programmatic permit would be an instance where there could be take into the future that would be recurring over time.

Potentially, a way to think about that difference would be if a bridge construction project that was going to be built one time and it was going to take an eagle, that's a one-time take.

If there is a wind farm going in over a number of years, there may be recurring take in that sort of instance and that would be one way to think of a potential difference in those two different types of permits.

Many of you probably were aware that the programmatic permits, while they were originally created as five-year permits, it could be renewed. In -- December 2013's amendment to these regulations changed it so that the applicants could apply for those permits to be up to 30 years. They would have to review -- we would have the opportunity to review those each five years. For them to continue, they would be issued, potentially, up to 30 years, given those five-year reviews.

These -- either case, the take permit, to be awarded, they have to be consistent with the goal of stabilizing or increasing breeding populations. That was a phrase that was created anew in the regulations to define what the standard would be. One way to think about that
would be there's supposed to be no net loss, generally, to
the eagle population.

They would have to be a part of an otherwise
lawful activity. If building a bridge is otherwise meaning
all the rest of the permits had and is something you can do,
everything else has to be okay. But if you think you may be
killing an eagle when that happens or otherwise taking an
eagle if it's not legal, then you could apply for this
permit.

To qualify for the permit, you have to avoid and
minimize the take to a maximum extent -- maximum-extent
practical goal. And especially for the programmatic
permits, you have to have an eagle conservation plan in
place about how that would be accomplished. Those criteria
are part of what I think you would like to hear more about
and we'll talk about here in a second.

So the -- when these regulations were first
created, we did receive some tribal input on those.
Concerns about how these affect tribes; how they affect the
fact that eagles are a sacred entity; the concerns about to
whom these permits might be issued, under what
circumstances, how we would be engaging with the tribes and
updating our policies, and just in -- generally, how we
implement the regulations.

We do still have records of that input, certainly.
And, in fact, I would say that much of those concerns are part of -- only part of what leads us to this stage, which is the Fish and Wildlife Service's feeling that we need to reconsider those 2009 regulations, examine them to see whether there should be changes made to those regulations to better achieve the original intent behind those regulations.

That being said, if you were a tribe that provided input originally or were not, you're encouraged to share your input in this forum, whether it's something you had said before or not. And there will be other opportunities in various forms as -- if these potential changes were able to move forward.

So let me run through some of the kind of things we anticipate thinking about in terms of changes. First is the underlying language and terminology. And I mentioned there's a difference between standard one-time take permits and programmatic permits that are ongoing. Are those different standards? What do we have to do to achieve them?

One of the things that's been raised is should there even be any differences there. How would we define those permits?

The second topic that's being considered is mitigation. If -- if a permit said that you have to compensate for a take through mitigation, when do you need to provide that mitigation and under what circumstances and
what type of mitigation should be allowed?

The preservation standard that I quoted a minute ago was created as part of these regs, consistent with a goal of increasing breeding populations. Is that the reg standard for us to be using to determine when it would be appropriate to issue a take permit?

The population had managed to object us. And by that I mean, within a region, within a bird conservation area, how do we decide what our goal is for a stable -- stable eagle population of either species? Is it that as long as those species appears to be stable across the continent, we're doing okay? Or if it appears to be stable within state boundaries, is that okay?

How should we be thinking about our objectives of the -- of a -- for the management of these species?

As we've mentioned this morning, our agency's goal and mission is dealing with the birds and this -- their long-lasting stability. How should we be defining that as we move forward?

The geography's consultation. The -- for the topic of the permit; that's the six bullets that we have listed for the Chokecherry-Sierra Madre. We look towards tribes that will then -- what we call bird conservation regions or reasonable approximation that eagles that would be flying within their -- within this potential wind farm
might also be flying within your tribal boundaries. That's one way we could do that. That was not established. One of the things that could be established if we were to revise these regs is to more clearly define when -- when there's a specific permit being issued, when and how we should engage with which tribes.

And that is standard. One of the frustrations we've run into is we've tried to start implementing these regulations is companies that wish to apply for a permit would come in, and maybe they've done some surveys for eagles or maybe they haven't or they've done some surveys, but we don't think they're very effective surveys. At what point can we require them to do something for us to feel more confident when we represent to the public whether or not it's appropriate to issue that take permit?

And a number of the other issues. I've visited a list to try to prompt some of the thinking that's been going on in our offices, but I don't want this meeting to be as restricted with these issues. Also, just trying to be transparent as much as possible about if we were to move forward with potential changes once our listing of some of the topics that we're most interested that we would have.

MR. TYLER: Can I have a comment?

MR. RILEY: Sure.

MR. TYLER: Lee Juan Tyler, Shoshone Tribe. On
that issue, the habitat is the key. And that was mentioned as the -- in the sacred water areas. That area is where we're at in Salvation Idaho. And for about 280 days straight last year, their rivers -- they start from Wyoming, some of them, like Snake River, some of the headwaters start in all different areas -- they call them east or west where the the start of Rockies are running by it.

But there's like 17 super fun sites in our area. A lot of eagles there. There's the riparian areas where their habitat is. And then that area of the Snake River to American Falls Reservoir, and I think that Terry knows where that's at, like Creek Way, some sun dance (indiscernible). There were 3- to 5,000 waterfalls there in the area of a site that they were dumping into there in 1949 about 3- to 5,000 waterfalls, day and night. And how did that happen? The thing did not belong to us and, like, nobody ever came and stayed there. Not to bring an issue -- not to bring this up, but I don't know. It seems like it goes up every year.

And I think that's where the key is. You guys need to work with the federal agencies, like the EPA, because where we're at, money will control that because they give money, probably somehow under the table, right here. They give money to somebody, like corruption, like in a pass. That's the genius.
Well, if that's happening still -- because right now, they're in charge. They're in the driver's seat. And the power company, they have their big hydropower. And they have three dams over there. They destroy the cameron's -- destroy the cameron's and it's really sad. And this area was 65 miles long. The dam reservoir, it's all pollution. It's the sewer system. Every day is warmer; everybody is dumping there, everything. And there's other species that can't survive. The eagles go there. And the others, you know, they go there. They eat on the predators, so they eat on some of this. This is a chain reaction. It's going to lead to something that's going to cause, you know, West Nile virus. Somebody going to panic -- an epidemic, oh, oh. That's where you're going to find that.

Stop these things before they happen. And we need somebody to hold those guys accountable because right now, they are running crazy because of this short-term profit. And that's happening with this -- sound like, with this Chokecherry, Keystone and everything, hydro-fracking over here. And it goes on and on. But that's one of the keys. The EPA, I think, is not -- not as powerful as they should be, allowing other companies, industries there take over because of that money.

MR. RILEY: Thank you. I think, for certain comments we're going to be looking for, I do need a little
bit more background information where everyone could share as much of that. Maybe, specifically on that, what I would to say, that's an example or a part of the challenge that led to want to create something like these permits. Our recognition in our general responsibility of wanting to take steps to conserve eagles. Eagles are being affected and even killed. A classic sort of "bureaurat-eze" governmental way of thinking, you know, for what that's worth, frequently is if you can issue the permit to something, you can control the standards of that permit and start trying to affect what they are doing in ways to limit the impacts.

For those sorts of impacts, should these permits be created in such a way that we would be trying to address these permits or those sorts of actions and -- and manage those? That's part of the kind of question you were asking.

MR. KNIGHT: I have a concern. It's a jurisdictional issue where I come from. It's really Cortez -- north of Cortez, about a quarter of a mile. There's a -- like a -- what I would call a block, maybe a section. I think it's County Road M and whatever the alphabet is before that. But on a good winter day, I could drive through there -- on an average day, I could see twelve eagles sitting in there, all kinds.

And this guy -- I guess the land was up for sale -- guy came in, bought it, put in his cattle, put in a
big house, a pond, and cut down most of those old trees. And now I can drive by there and I'm lucky if I see three, maybe two. I know where there's one. He doesn't live in that man's land -- on the other side.

And it all goes -- their habitat, it is destroyed. And even on a better day, you could come all the way -- almost a block away from Main Street; there's a swimming pool there -- and you could see bald eagles, golden eagles sitting there. And now that all this development has occurred, they don't come around.

So I was just wondering -- I know you are a federal agency -- just who and what are you looking to regulate? And if I say -- if I point out prime eagle habitat during the winter and it's not federal land and it's private land and it's up for sale and they would destroy the habitat, like it happened before, what could you do about it?

You know -- and then, similarly, development over there on the southwest corner of the state of Colorado in the reservation, they put in a pig farm. And one year, before that farm was still up, me and one of my nephews went up and looked around. And just for that small area, we counted 32 eagles, all kinds. And they were feeding on prairie dogs. But now you can see maybe three or four.

But during the wintertime, you know, you see
dozens of them because they're eating off the birds. But that's the only time they're there. But other times they're out, you know, doing -- you know, hunting to provide for themselves and their little eaglets. But we were a party to that; destroying their habitat and their food source.

But the other part, who -- who -- who is it that -- if there's -- it's a prime eagle habitat, it's -- especially during wintertime, who is it that can say, no, we can't; you can't -- as a private citizen, you're not going to buy it and you're not going to destroy this habitat?

It just seemed like in everything else, you have federal government, their authority, and then state, private, whatever companies who wanted to develop for whatever areas, they have a -- they have a free hand to do whatever they want. Like we're talking about this -- this -- this electrical energy.

And so where are all this work and all this concern, and excuse me, just say, Well, we want -- we want your recommendation. We want to help you. We want to know what we can do about this, this management. But yet, today, right now, some of those eagles -- our sacred birds -- are dying because of all this progress.

So where do you stand? And we're saying, you know, you're not supposed to do that. You're saying that's against the law and some guy over here wants to get eagle
feathers, whatever it takes. You know, a long time to get some from here. So he goes out there. He sees one, whether it's on a reservation, off reservation, and he'll -- not going to say kill it -- he'll harvest it. Somebody sees him and he has to go to court and is threatened with jail time because he needed that for his sacred ceremony.

Now, where do all of this fit in? You know, because sometimes they come to me -- and my nephews and my grandsons and they say, Here, Uncle; here, Grandpa, here. They came in -- I don't know if I'm going to get in trouble for this -- but where is our attorney? But they say, Here, I found this over there. Or so-and-so, you know, got this bird, and we don't know what to do with this, so I'm going to give it to you; you might need it or somebody might need it. So I say, Oh, thank you, and I put it away.

And even non-Indians. They say, Oh, here. There was a bird over there by my road, my driveway; you better come get it real quick. It's somebody that I don't even know. You better come real quick because the sheriff or somebody sees it, they're going to report it and it's going to be gone. You're not going to be able to use it. So I dash up there real quick, get my plastic bag, throw it in the back seat, and off I go.

So I guess I'd broken the law, huh?

But, anyway -- not the first time in that sense.
But, so where -- where does you stand and how can you say, Well, this is development, multi-billion-dollar development. We got this. We're going to -- we need electrical energy? And we're saying we're faced with the same thing in the New Mexico part of our reservation in mining and solar-panel energy. And we're going -- they're going to put power lines. And that's the other thing that's like, you know, kill a lot of birds -- power lines. And I'm saying, Well, we could have -- we could have looked at it. We could have looked at the habitat. What are we going to lose and what are we going to gain by this, if most of the electrical energy is going to go to California or Arizona or what? What about me? You know, what do I get out of it? And you're going to destroy all this livestock habitat and, you know, the birds and whatever else that lived there. You're going to destroy their habitat, then what?

Well, we need -- we need the money. We need the cash. I said, Well, that's a heck of a trade-off, because, like I said, it just so happens that some of us might want to rain test it. That's why I've got to go home this evening and going to check on the animals and say, that's when winter rain -- that's what I learned to walk and ride a horse. My grandmother was taking care of me when I said that. Your kid is too close to home. You're too close to home. So I'm -- I can go along with you so far, but you
have to give me assurances that these things are going to be taken care of.

So just, you know, comment on what a -- how --
what is your reaction to that?

MR. RILEY: You raised several really important topics there. Thank you. One of them that's important for us to know in terms of what we can and can't do with the regulations is that the law prohibits the take of eagles' eggs in their nests. And to the extent that it impacts on habitat, we can make a very clear definitive connection and say, Hey, what you did with that habitat meant you've killed an eagle; we can say that's illegal. If we can't, the law does not protect the habitat just as habitat. And that's important to know that -- the limits of what we can do.

What we are looking to do -- part of, I think, some of the other important points you were raising are affecting where we can focus on eagle conservation.

And Steve, in his presentation this morning, spent some time discussing the fact that, you know, while he is -- as head of our law enforcement section in the region, he can't say something is okay. It's technically illegal. The priorities and where we spend our time pursuing prosecutions are largely for energy development. The prosecutions are pursued against energy companies with their power lines, against wind power companies. That can take a long time to
build those cases and to bring those cases and to bring them successfully.

We have -- as long and as slowly as that process can be, it's even longer and slower to permit. And we have not yet issued a permit at all for any power companies to have a programmatic permit, because they haven't yet met the standards that we feel like are appropriate. Part of what we're asking for is your continued input as we continue to figure out how to implement these regulations out with what the standards would be.

MR. SHOWBAN SHAY: Darrell Showban Shay. I'd like to make a comment on that -- on that last -- referring to that bullet there, Establishing required data standards to adequately assess risk to eagles. I think what you've been hearing all morning is you can't -- you can't assess the risks to eagles without considering the human connection. I mean, they are a part of us, and I don't know if you got that message.

And I think you don't go far enough in how you can look at the -- the whole picture. Because, like -- like for EPA and some of the other federal agencies, they ask you to do risk assessments on a certain kind of either a contamination or development on a human impact. Okay. When you do that and if you're talking about the eagles, there's going to be human impacts. We've told you that. They are a
part of us; we are a part of them. And when you assess the risks to the eagles, it doesn't seem like it takes that into consideration.

I know I've been involved in a couple of risk assessments on contamination. And I think my councilman, Lee Juan Tyler, mentioned we're in a -- we're in a superfund site. Okay. We've done some risk assessments on the impacts of that contamination to the human -- the people living around that area, not only -- not only tribal members, but people that live close by and, you know, up and down that whole general area. And there's a high incidence of cancer, different things that are cropping up. But we're saying the same thing with the eagles. Something is wrong with the eagles. So how does that connection -- how is that connection made to the human impact? And we're telling you, they're a part of us.

So I think -- I don't know if you addressed that, but I got this Power Point that I was given by Fish and Wildlife folks that -- I think it was last year's discussions -- but they talk about tribal traditional ecological knowledge. And I think if you took that and incorporated it into assessing risks and incorporating it into part of a data standard that goes into the equation, I think you would be -- you would actually -- I know you would satisfy me on -- on being able to assess that risk with the
human impact. Because if you're just assessing the risk to
the eagles, you're not going far enough. Because if
anything happens to the eagles, then it's an impact on us.
I mean, right now, you're giving some deference to
falconers. I mean, at least that was part of the earlier
discussion. Falconers have some say into what goes on.
They actually, you know -- according to some of the rules
that were in the Power Point is that falconers are allowed
to take, you know, after the -- after the eagles have been
rehabilitated.

And then now there's mitigation. Mitigation, to
me, is another -- another yes-means-no word. Because, you
know, we're talking about all these prohibitive (sic)
activities on eagles, taken eagles, you know, impacting in
somehow. But mitigation will allow you to do that. It's a
trade-off.

And I don't like the word "mitigation". But it's
in there and I guess some folks like -- like the word, but I
don't like it because all it is a -- is a trade-off. You
don't like what you're -- what this person is doing --
activity; it could impact the eagles. But you're going to
trade it off by saying, Okay, in order to mitigate, you can
do this to minimize that damage. And I don't think that's
right. Either you've got to -- you've got to treat him in
the sacred manner that we're telling you or else you
MR. RILEY: Thank you. Thanks. The mitigation point; well, that's exactly what we need to be hearing and understanding. Again, you covered a lot of ground, and I want to make sure that we're all in the same page.

So, working backwards, it is absolutely a case. The way the current regulations and law are structured would be that if they otherwise meet standards for the permit, which is that they're conducting a lawful activity, they've put in sort of best management practices or they swore or demonstrated they're trying to avoid and minimize the take as much as they can practically do it. Then the remaining take can be permitted, but they have to mitigate for it. And as you said, that does mean you've got a chance to take the eagle.

It's mitigation in a different sense than what EPA might frequently mean. It's not simply doing something good for eagles. You have to come up with something that we believe, scientifically, can be demonstrated is going to save an eagle's life that would not otherwise been saved. But the current structure does allow for takes as long it's mitigated golden eagles. What I'm hearing from you is that's just terribly inappropriate. And we do need to capture that.

Traditional ecological knowledge is on the handout
that we have. It's something we wanted to learn more about; how we can incorporate that into our understanding both to gather biological knowledge but, also, certainly, to gather the cultural understanding or the meaning of this.

And I must say your -- your interpretation of that bullet is much more nuance and interesting than what we intended when we wrote that bullet. I think that's also what we're looking for hearing, to think about when we say "risk to eagles", thinking about that also in a sense of the impact to the humans and the Native American tribes that take -- when we wrote the bullet, it was meaning something much more pedestrian than that. It was simply, if someone said, We wanted to put up some wind turbines, to what extent can we predict that an eagle is going to get killed there or not? If no eagle is going to get killed there, we shouldn't be worried about it.

If this is a flight path that eagles migrate regularly, we should be very, very worried what sort of data standards can we require to better understand the likelihood an eagle might happen to get killed. That's a -- that's a much simpler meaning of risk than what you were alluding to.

And I appreciate your -- your expansive reading for us to consider.

There is a little bit more information I'd like to get to, and then what I would intend to do is to hand this
over to Yolynda and let this be conversation and presentation.

There was another portion of the 2009 rules that allowed for take of eagles' nests that hadn't been allowed previously for similar reasons. There's information in the handout that talks about when and what are -- what circumstances eagle nests could allow somebody to remove a nest.

To just hit some of the -- some of the things that have come up in our own internal discussions, we'd like to consider one. And is, simply, the definition of "nest". What's an active nest versus an inactive nest? The current regulations talk about sometimes you can take an inactive nest, but you wouldn't be able to take an active. Can you define that better?

The question of mitigation comes up again in a situation for a safety emergency. For example -- in what we think is appropriate to allow someone to remove an eagle's nest because there's an -- there's a danger being presented; it's going to cause an electrocution or something like that. Is that a situation where we should require mitigation or not if it's a safety emergency? That's something that we're thinking about again and look for input.

Protection of a wildlife. An inactive eagle's nest, if there's something about impacts to wildlife that
may be occurring, is that a reason that we might look at removing an eagle's nest, if it's inactive?

Right now, the requirement says that you have to demonstrate that there's suitable nesting habitat somewhere else in the vicinity. There are parts of the country where -- especially for bald eagles, for example -- that might be an impossible thing to demonstrate; the habitat has been saturated in that particular locality. Well, should we still say that's a requirement and look out farther, or is that requirement not appropriate in that sort of circumstance?

And then, finally, right now, there's a requirement if the eggs are nestlings, if you are allowed to remove the nest, it needs to be transferred to a real good rehabilitation facility. Is that something that should always be a requirement or is that something that is case by case? Maybe we make the requirement of a given permit.

Again, that's a -- a quick picture of a number of the issues that as we've tried to figure out how to implement these regulations that have come up in our minds, that we might consider proposing some sort of an amendment to the regulations. We haven't made any of these proposals yet. Whether any of those or anything else that you're thinking of would seem appropriate as an amendment, we're looking for your input.
Then to finish here for -- for what I'd like to make sure is in front of all of you, on this whole concept of revising this regulation, the Fish and Wildlife Service has just recently decided we're going to be holding some scoping sessions. Denver would be one of those locations, DC, probably Minnesota, Albuquerque and Sacramento. There's other locations. None of those dates have been selected or anything finalized, but highlight that to you. Certainly, you will be welcome to participate in any of those public meetings.

There is at least a possibility -- and this is something else that could be accepted -- but that we would be trying -- in some or all of those -- to have affiliated chance for some discussion with tribes, separate from the general public -- general public meetings. That may or may not turn out feasible if there's a ground school of desire that may help that occur, if that seems like that would be appropriate.

And there may be -- through the public legal process as well as comments on any take regulation as well as -- if the -- if the tone or tenor on what the changes may turn out to be very different than -- for example, what I represented here, we may be looking for other opportunities for tribal input.

The time line, however, that has been discussed
would be greatly accelerated, at least in terms of how quickly the federal government quickly moves. And that would be to try to generate some sort of a proposal by this summer and try to finalize whatever changes we might need to by the end of this calendar year. That's the time line that's being discussed.

We can have a -- well, frankly, it's sort of an external Fish and Wildlife Service, too. But we understand if we are to -- people -- people take this rule seriously enough and people have concerns from all different angles -- industry has concerns, tribes have concerns, and we have concerns as we try to implement it. If we can make changes, the sooner the better. But we'd also like to smarten up those changes.

That's -- along with the front and back handout you have is my attempt to at least paint the picture of what the potential issues are. And I'm going to hand this over to Yolynda. I'd like to hear from you and certainly respond to comments or questions as that's appropriate.

MR. TYLER: You guys are talking about the tribal ecological knowledge. Here in the environmental agency, the protecting environmental office and the regions all put together a national tribal caucus to add wisdom, tribal ecological knowledge and wisdom, because everybody can have knowledge, but the -- that one gentleman here was speaking,
that's wisdom, and Terry and I and others and everybody in this room. So that needs to be added to that as well. So just to throw that in there before we go too far.

MS. BEGAY: Thank you.

MR. ROUNDSTONE: I just had a question. I think I, like, know the answer, but I'd like it to be spoken by the federal government. With the legal take permit that I read in this literature here that's been in existence since 1940, they made some -- they added golden eagles in '62.

How many eagle take permits have been given to individual tribes and tribal members to date?

MR. RILEY: In the last 15 years or so -- let me find it. As far as Native American take permits, there have been -- let's see -- this goes back to just 2001, and there have been nine applications for permits. Now, one of those applications is the -- the Hopi permit that many of you are referring to and familiar with, which has an annual permit that to re-apply for that goes back a number of years. So it's eight others in addition to that that have been permits. And in each one of those, at least, take was authorized. I don't know if anybody else is -- Janelle -- I should check -- do you know if any of those applications were denied in any of those?

SPEAKER: Not to my knowledge, no.

MR. RILEY: To our knowledge, those are -- those
nine applications were authorized. And we don't know of any
that were denied.

MR. ROUNDSTONE: So with that said, how many
eagles do you allow to corporate organizations to take
before it's a problem? I heard you say -- one of you say up
there that it was 232 eagles taken in two years and you're
only allowing nine eagles since 1962.

MR. RILEY: We didn't allow them to take those 232
eagles. We prosecuted them as illegal acts.

MR. ROUNDSTONE: But what I'm saying is that if
corporate America asks for these permits for take, how many
are you going to allow them to take before it becomes a
mitigation issue or before you start having them having to pay?

And the other thing is, you know -- and this
really irks me -- is if a Native American individual takes
eagles, they -- and then you prosecute him, goes through
that prosecution and decides to take another, then you're
going to send him to prison for over two eagles or three
eagles. Now, corporate or energy development, energy
developers, take 232 eagles and the very next year, they
take 200 because of your mitigation attempts, is that right?
Is anybody in that corporate system going to jail like us
natives? I don't think so.

And I think the bottom line here that we're
talking about is a way of life and a religion -- if you want
to put that religion stamp on there -- versus money. You
know, in all the time that I have ever seen in the white
world, money always wins.

So I think that, you know, you guys are going on
the right trail in this consultation. But I also think
that, you know, there's a lot more awareness, you know.
There's only 20 of us sitting up here, and you say there's
570 tribes or so. And I think you guys need to consult with
at least half of them. Thank you.

MR. RILEY: The way the regulations are set up
right now, we do attempt to calculate how many eagles could
be authorized, whether it's a company or a Native American
or otherwise, before we would require mitigation. With bald
eagles, that's a region-by-region number that's done with
folks in our office who talks to (indiscernible) who read
the charts more or are working it through.

And there's a number of bald eagles for each
region. We have not reached that number since the
regulations are created in any of those regions. So that
the limit has not been because of that calculation, whether
it's for Native Americans or anyone else.

For golden eagles, the people who do that
statistical work, they found out based on that data -- feel
like we should not be authorizing any golden eagles unless
it's mitigated and that, often, in either cases, we should not authorize take unless someone can demonstrate they have put together a plan that has minimized what would it take to the maximum extent practical. So far, nobody has achieved that standard and achieved a permit. And those are specific things. You raised much deeper issues than that, I realize. But to make sure folks sort of understand how we -- how we regulate to this point and how we've been attempting to implement them.

MR. OLDMAN: Ron Oldman for the Northern Arapaho Tribe. The Northern Arapaho Tribe did apply for a permit -- for an eagle take permit on the reservoir reservation. And I mean no disrespect to the Eastern Shoshone Tribe. We both share their Wind River reservation. But the Arapaho Tribe -- the Northern Arapaho Tribe was denied a permit for an eagle take permit on religious and ceremonial purposes. However, we've been given -- we've been offered -- the Northern Arapaho Tribe has not accepted yet, to my knowledge -- that we've been offered a permit to take two eagles off the reservation in the state of Wyoming. However, that would break a state law. So we were put in a catch-22 situation.

And, you know, I feel that -- that we -- we are -- we are being denied our First Amended -- Amendment rights of freedom of religion in respect to taking these eagles,
which we use in our sun dance. And I will not speak any
more beyond that. And this -- you know, they've made a
mockery of -- in regard to our First Amendment rights.

But I guess I would like to take it a step further
in how energy companies can be having a -- have priority of
receiving up to 65 permits in the state of Wyoming in the
Sierra-Madre energy purposes and we're being denied access
to practice our religious rights.

And I'd like to know what assurances that the
Northern Arapaho Tribe has that are high -- higher
priority -- are higher priority to taking of these eagles to
practice our religious ceremonies will be implemented. And
how will the department balance and implement the stated
priorities as to issuing these permits? Two tribes, as
compared to energy companies, wind farms, and how -- how do
-- how did the forest service add that -- I guess, the
government -- a way of the protection of religious freedoms
and the practices against the non-religious takes by wind
farms?

Is there any way that -- I guess I'm going to need
-- I'm going to read this question because I'm kind of
getting lost here. Will any tribes be empowered to block
permits by wind farms on religious grounds? If so, which
tribes? Those which take the eagles for religious purposes
or those which do not? And how -- how are the affected
tribes determined in relation to geographic purposes for the reason of consultation?

MR. RILEY: Again, a number of issues you raised there. Each -- each of them is very important. The things are -- I'm supposed to say, before anything else, we are not intentionally trying to burn anybody out of here. Apparently, the air conditioning is out of fritz. They're trying to get it fixed.

In terms of priorities and your concern that we would be issuing as many as 60 permits to a company in Wyoming, as you know, we certainly have not issued those permits yet. We don't have the application yet. That -- that application will be considered when we receive it.

But --

MR. OLDMAN: Can I interject right here? Sorry for the interruption -- I don't need that -- but you've offered it to them, right?

MR. RILEY: No, no. Not at all.

MR. OLDMAN: So the statements in the media that came up last fall were wrong?

MR. RILEY: Oh, you should know well enough not to believe what you read in the media. There were a number of things written in the media that were phrased incorrectly. No. Not only have we not offered, we have not received an application.
What we said we would do is -- is review their application. We do meet with them and have been meeting with them to advise them of ways that would take a limit to their take so that their application might be permittable.

And that would be our hope if this were to go forward as a project, that they would take steps to the extent we can identify any steps to limit the amount of takes, whether it would be less than 60 eagles, for example. But we have not offered any permits. It would be illegal for us to do so until we have a permit.

When we do have a permit application in hand, the reg -- the same regulations we're talking about did establish a priority order that said we are not allowed to issue a programmatic permit if it would impair our ability to issue permits to a higher priority. Of that -- of those higher priorities, the first is for safety emergencies. But the second is for Native American religious take.

So at some point today or tomorrow morning, perhaps, we'll be talking about the Chokecherry-Sierra Madre project. The -- one of the reasons we need to be talking with you about that is because under the regs, if -- if we were to believe that by issuing a permit for that wind project as a programmatic permit that the act of issuing a permit would prevent our ability to issue permits for Native or religious permits, we shouldn't issue it. We haven't
gotten to that step yet.

As far as the permit offerance for the take of two bald eagles for the Northern Arapaho Tribe, just acknowledge that, yes, we -- we have -- well, in our department, we've issued the permit as available to take two eagles off of the reservation somewhere in Wyoming. We had worked with the State of Wyoming to confirm that that would be legal. It's not a violation of state law. There was a concern about that, certainly. And our decision in issuing a permit with those restrictions was based on consultation that we had on the reservation with -- with both of the tribes.

But whether we had that balance right or wrong, as you know, is now subject to litigation. And consequently, it'd be inappropriate for me to do anything more than acknowledge those facts. But, yes, to acknowledge those facts and -- and recognize that the tribe has -- has -- has, as formally as can be done by filing a lawsuit, demonstrated that you're not convinced that we corrected a balance to those interests.

MR. KNIGHT: I'm going to have to leave here in a couple of minutes, but I'm just sitting here thinking in -- in other situation language, a phrase that the energy companies have to deal with is called historical districts, traditional cultural properties, culturally-sensitive areas. And I work a lot with archeologists and this -- they say,
Well, this is that kind of an area because we have a spotted owl nest in there and -- and whatever kind of rocky mountain or (indiscernible) cactus and we have that here and we have this here, so, therefore, whatever development has to occur should go around it. And we have sacred sites. We have -- what do you call -- ruins. They are thousands of years old, so we have to avoid it.

So what is it that we can say, as tribes, when the Fish and Wildlife say, these eagle-nesting areas would be traditional cultural properties, culturally-sensitive areas because they are essential to our religion, our lives, our belief? Why couldn't we declare those -- those kind of areas historical districts? And so when an energy company comes in, say, I want to lay a pipeline or whatever they're going to say, then we have people to stand up and say, No, that has been declared that kind of an area, off limits. We have the support of the Fish and Wildlife and other people, other tribes, together -- not just one tribe, together. Because we've done that with the -- with the water supply project with our neighbors from the south of Pueblo, the Navahos, the Inca Apache, the two Ute tribes. And we have one nesting area that it's off limits. And I can't remember what they call it, all these different names -- whatever abbreviation. And that area is off limits to everybody.

And the Bureau of Reclamation, they paid one man a
lot of money to watch it -- sit there and watch it, make sure nobody stole some feathers or one up there did this and did that. And there's some of the areas within that -- that -- that's an area for -- for -- what do they call it -- oka (phonetic)? And it's right in that area and nobody touches that site. Of course, it's way up on that cliff, but if we could -- we could use our -- our people that we work with, our attorneys and the staff people -- and I'm sure that the Fish and Wildlife have those -- incorporate those concepts into these areas that we're talking about.

Like I said, that one section, on a good day, on a really good day, I could see 16 or 17 eagles sitting around. But now, no. If someone was there and said, This is a traditional cultural property due to this tribe and other tribes, and this is the significance of that bird, and we'd have to give some of our information, that's where it's touchy. What do you use that eagle for? How do you use; why? They want to know why. And that's really sensitive because, you know -- and this is that -- that's something that is ours; that our medicine people use. We can't tell them that. Besides, they won't understand it. They will sure print that and make a good story out of it.

But if we use these concepts that have already been developed in these contexts of energy development to hold back all these -- like you're saying, just these
windmills, whatever, that's killing eagles, you know, there's -- somewhere, somehow, there was, within a migration period of the tribes that were there -- and there were sacred sites, burial grounds -- they could have said, No; you can't use this site. This is a sacred site. This is a historical property. It's a historical district. And you're going to have to go through all kinds of paperwork. And the bottom line is, I'm going to have to sign off on it. If I don't sign off on it, too bad, because I'm not going to sign on it. And we've done that. So I've become the bad guy.

But, anyway, the tribal government understands this and they support it. So if we could -- just a word, and an idea; think about it, chew on it, sleep to it. How can you incorporate those concepts into what we're talking about here? Because that's what the energy companies have dealt with. And that's what holds them some back and say, Oh, well, we, the company, do this because this so-and-so and this and so on.

And one of the major players, the archeologists and tribal officers and others, the -- the medicine people and elders and whomever, and they all get together and say, No; we don't want that anyway because this is a traditional cultural property, this is this -- should be declared a historical site, which means no development, no this, no
that, because of the habitat and they're hunting grounds and
they're nesting grounds. And we say those two-legged wind
people are our brothers. So let's say, Let's take care of
our brothers. We don't want these people there. They can
go around. They can go somewhere else, you know, to do this
energy development.

And we use this concept and put it together,
because energy companies already have that in their head.
They have attorneys that have worked with it. And, so far,
it's working. It's holding them back. So something that
you can think about. So I just want to leave that with you.

Thankful that I came. Like I said, I have to go
back and I've got some ceremonies pending. And I will think
about you-all and think about what we're doing. And, we,
cooperatively, it can be done. All you have to say, Us;
we're going to do this. Us; we can do this. But if you
stand by me, don't turn your back. Stay with me. Stay with
me because this is a good cause.

And so I'm -- I'm not sticking my neck out. When
I go home, I tell my nephews and my nieces and my grandson,
this is what I said and this is what we're going to do
regarding that. And they'll say, Oh, okay. Okay, Uncle.
All right. We'll go with you. So just -- that's it. Thank
you.

MR. RILEY: As you're leaving, I just want to make
sure we thank you for your time and your comments. 

Certainly, as you go home, when you think about it, if there are additional thoughts, feel free to contact us, send us comments or anything, and we'll talk about that with everyone else. I want to make sure you know that.

Also, before I can let you go -- and say this to the rest -- but some of the ideas you were just sharing are -- we're thinking about trying to think of something similar, I guess, is the way to say that. So, thank you.

But to share that with everyone, it's just -- obviously, it's hard to challenge in some ways for eagles than some because it's not just a spot on the ground where there might have been a cultural artifact, but the darn things just keep flying around. And how you draw lines on maps to tell an energy company not to develop there, it's more of a challenge.

However, with Chokecherry-Sierra Madre as an example, this version of that conversation is exactly some of the conversation we have been trying to explore. Can you say, around an eagle's nest becomes an area you shouldn't put wind turbines? Do we have authority under these regs to require that? Would citing the impacts, the risk to humans and impacts to Native American cultural and religious needs be one of the reasons that would allow us to say that? And I think it's a useful comment for us to take into
MR. VOELKER: The 2012 permit for eagle take for the Northern Arapaho, that was specifically bald eagles, correct? Was the tribe and maybe the tribal members -- can -- were they required to show historical activities that required the need for taking bald eagles today?

MR. RILEY: Under the regulations, yes, that is what a tribe needs to demonstrate -- is that there is a traditional cultural religious purpose to needing to take the eagle as an eagle from a wild nest as opposed to used parts or something else. We have to meet that standard in issuing a permit.

I would also say, in practice, that we would not prefer to be particularly picky about investigating someone's demonstration of that standard if we can avoid that, because that's certainly not what Fish and Wildlife Services' expertise is in -- in understanding Native American traditions and cultural group. We would prefer to defer to that.

And Steve Olberholtzer is reserving your discussions about asking for certification by tribes about an individual's need. And he speaks well here to -- we would like to be able to refer to tribes somehow to accomplish that, but it is a requirement under the reg.

MR. LASLEY: Raymond Lasley, Osage Nation. I have
a letter from the State of Oklahoma's Historic Preservation
office. And one of the things that they're saying -- if you
don't mind, I would like to read this into the record. It
is the opinion from the -- from this entity that the
assumption should be that the federal action permit issuance
of an incidental take permit makes a wind farm undertaking
subject to Section 106.

If that were true, before the Fish and Wildlife
would issue a permit, whether it's a programmatic or an
incidental take permit for a particular area, Section 106
review would be required through a regulation. Now, you
could do that.

And as a gentleman was saying earlier, in order --
when we do a Section 106 review, we would identify those
cultural resources in that -- in that field. And in -- I'm
going to use the Osage in this particular case because we're
dealing with it now -- there wasn't an adequate 106 review
performed by the wind company. That is in question right
now. There was a -- the methods they used were questioned.
It's been under question now by the State Historic
Preservation office as well as the Tribal Historic
Preservation office as well.

So those things, if -- have lent us to another
situation and that, in order to get a voluntary permit --
and these are all voluntary; there's nothing mandatory about
these permit requirements -- that will be another issue that I'd like to see us address, whether to actually put some teeth into the permitting process. We're not seeing that now.

And one of the things that Fish and Wildlife recommends to industry is siting. Siting is critical. Do not put wind farms in a migration corridor. Do not put wind farms in an area that's rich in cultural resources. And it's a recommendation that the corporations -- these corporate entities begin consultation with the affected tribes.

Now, if none of those have been met -- none of those criteria has been met, then it would be -- it would seem to me that before Fish and Wildlife would issue a permit, whether it's an incidental or programmatic permit, that these situations would need to be resolved.

One, making sure that it's a -- it's a proper site. You don't want to build in a migration corridor. Two, cultural resources aren't affected. Three, you consult with the -- with the affected tribe.

Now, that is not being -- Fish and Wildlife is not doing that now. And it's not good for folks at the regional office. We're getting the -- this situation is in Washington, D.C., and that's where we're directing our -- a lot of our fight is with the Department of Interior in
Washington, D.C., And we're trying to get meetings with the Secretary of Washington, D.C., and others, you know, and trying to get these standards raised instead of lowered.

And this 30-year permit is ridiculous. And, I mean, we must have missed that consultation on that one to go from a five-year to a 30-year permit. I mean, that's a -- that's a long time. I'll be dead and gone in 30 years, in all likelihood, and these things will still be chopping up eagles year after year after year.

And, you know, five-year review, that's too -- too long as well. If you're to do a 30-year permit, then a five-year review is way too long. I mean, two years, 232 eagles -- I mean, is not -- that's not feasible.

I've got some other things, but, you know, we -- we use best management practices, you know, and we use that buzz word -- buzz words. And we're not seeing it. We're not seeing it with this industry. This industry is being given to pass by this Administration. Well, now, not the folks here; just the Administration. And that's what we're seeing most of the situation, and we're -- our struggle is with the Administration.

Data; I mean, that's another thing. We're not getting -- we're not getting reliable data. And there's too many variables to get that type of reliable data. If an eagle or another raptor -- and we're seeing -- there will be
raptors as well. I mean, we're just not talking about eagles. We're talking about hawks, we're talking about owls, we're talking about the different types of migratory birds that will be going through there.

In our period of case, we're holding onto one of the last vestiges of tall grass prairie. I mean, our Osage reservation is the southern edge of the front hills. And the front hills is only found in Oklahoma and parts of Kansas. So we're trying to hang onto that as best we can.

And you go back to the poor siting. And before Fish and Wildlife issues a permit, all these variables should be considered. And here again I understand, is a voluntary permit, but I would like to see us address it a little more solidly or put something -- a permitting process in there that is actually -- carries some weight.

Thank you.

MR. RILEY: I'm not going to summarize all of that because we do have a court reporter capturing it in. And those are excellent comments for us in consideration as we move forward. And, clearly, you and your tribe have been very involved in many of these issues.

And the only three things I wanted to point out for use of everyone here, one is referring to this as a voluntary permit. For folks who have not been exposed to this issue, what Ray is referring to is the fact that lack
of a permit is not in itself a violation of the law; killing
the eagle is a violation of the law.

If a wind company fails to or decides not to apply
for a permit but he's lucky enough that an eagle doesn't
happen to go through and gets sliced and dies, they're not
in violation of the law. And, in that sense, it is
absolutely technically accurate to say it's voluntary for a
company to decide that they want to apply and obtain a
permit so that they would be legal if an eagle were killed.
Their decision not to apply for a permit is not a violation;
killing an eagle is, of course, a violation. That's just to
explain for those of you who haven't been exposed to this
issue.

The one -- one other thing I was going to mention
is you referred to the incidental take permit in Wyoming.
I'm assuming the Endangered Species Act. That's the
technical term for that kind of a permit entity and say --
the reason to reiterate that is to say that that's also, I
think, an appropriate way to demonstrate some of the
challenges that we are looking at -- when and how, with a
programmatic permit under the Eagle Act, should it be
considered under the same standards of issuing an incident
of a take permit under the Endangered Species Act; when is
it similar, when is it not similar. We haven't issued one
yet. Including, in your main point, when and how 106 is
required, the issuing of that permit. And that is certainly under discussion and whether that should be a case-by-case decision; whether that should be a general decision. All these permits should be the same as incidental permits and of the NSA. That, essentially, is an ongoing discussion or comments and are valuable to have.

And the third thing I was going to say is, Hey, I grew up in the foothills of Kansas. I'm with you on this.

MS. BEGAY: All right. We're going to take a ten-minute break and allow you guys to get up and walk around, get out of this room for a little bit and get some water, coffee. And we'll come back.

MR. TYLER: I just wanted to add; are you familiar with Sho-Ban Tribes permit as well and with the consultation? And they showed up and they made me aware of the map. And we -- we asked to -- if the eagles die on the reservation, no matter how, you know, that they'll be -- they will be asked -- to have come to us, us tribes, so we can utilize them for our own use and et cetera. And so when that happens -- no answer yet. You know, this is being submitted as a resolution form, and then where did it go? To someone and said, yeah, yeah. And then that was even over there, with our council, our own council submitted it and asked people there. And the U.S. Fish and Wildlife Services said, Hey. So we're still waiting for an answer.
It's been years, so...

So sometimes, you know, it gets the --

disrespectful. That's why we need to get those answers and
at least say "yes" or "no". But, at least, you know, that's
how, for the reservations, for all of our people. If it
dies, it belongs to us. And if it's been there and lived
there, then it's part of us. And I want to share that.

There's laws and acts that have been implemented,
but it's where you live -- 30 seconds? Okay. And
instigated and developed way back prior to even the
consultation process. It's 1879 law. That's old. That
needs to be amended. It has been, here and there, a little
bit. But, still -- but not tribes' input.

And all these other laws, Clean Water Act, all
this Clean Air Act; it goes on and on. It's the only one
part behind for us. But now is the time to get this
implemented; really do it right. So that's what we want to
do; make sure it's going right from here. You can do it
with four, five or six, whatever. Thank you.

MR. MCELROY: Thank you. I appreciate that. We
-- the Arapaho members are going to leave here shortly. We
appreciate -- we appreciate you guys' interest. However, we
do know that you don't make the policy. We understand that.
We appreciate the chance to come over and get to speak our
piece. We hope that you would get the notice out from this
consulting session as soon as possible. You do have our 
contact information because we did receive an invite from 
you.

And I would also like to say that in regard to the 
Sierra Madre permit, whatever, you know, we -- I've been an 
Arapaho business council for a while. And -- well, for just 
a little over a year -- ten months left in my term -- but I 
have not yet seen a formal consultation letter to the 
tribes. It may have come. I haven't seen it personally.

But please, keep us in your thoughts, so when you 
want to get out and actually have some consultation 
regarding this Chokecherry-Sierra Madre permit -- because 
that is part of the Arapaho ancestral homeland, as is this 
area, all the way up to the Absolokas (phonetic) down to the 
Black Hills and along with the Lakotas and the Northern 
Cheyenne also. Thank you.

MS. BEGAY: We're going to take a quick break.

MR. TYLER: We don't need a break.

MS. BEGAY: If you have something very, very 
short, then we can do something about that. I have a 
feeling that we have a need for a break here from everybody 
around the room.

MR. FERRIS: Thank you. Wilfred Ferris from 
Eastern Shoshone reservation office. I want to elaborate on 
the ruling on which Mr. Oldman was speaking about. The
Eastern Shoshone and the Bannock Tribe had a treaty in 1863 and 1868 on the forfeiture. And, personally, the Wind River is what you call it.

In -- two years ago, 2012, we had a court ruling over Cheyenne that took place over the eagles, and it was the -- the Northern Arapaho to have their permit proposed to get the eagles off the reservation. And their permit hasn't been filed at that time. I was present at that -- over at the court. And we have two tribes living in the reservation -- the Eastern Shoshone and the Northern Arapaho. And what we do is we said, No, we don't want no illegal taking of eagles from the reservation.

And so that's the way we stood. And I don't know how -- like a -- we've been in disagreement because the Shoshones, we've been there over 3,000 years. That's our ancestral homeland, 3,000 to 6,000 years. And that area up there, that's how we took care of our area up there. And the Arapaho, they came there about 130 years ago.

And so what I'm saying is, that's how we base our -- we don't want illegal taking from the reservation of the eagles. And in the past, too, we had to set up -- we had to set up a game code the same way. And we had this to protect our species. So that's what we did.

And so right now, to me, the way I understand it, it just falls -- falls between the Arapaho and the U.S. Fish
and Wildlife Service for their permit. And I think it was for two -- two -- two bald eagles. But that's the way -- that's the way I understood it.

I kind of feel bad because my chairman is not here. Our councilman was here earlier, but he left. And they're all aware of all this ruling. And so I came down as part of my office to be able to sit in this eagle -- eagle summit.

But right now, we're trying to establish some way that we can be able to develop a program working with -- trying to work with the Comanches. And that's what we're trying to do, establish something so that -- are -- we're not going to -- we want our eagles to be able to prosper. Because right now, we have really low eagles right now. So we don't tell them. We don't tell where they're at. And we used to have quite a bit. There are different species, but now we have just various -- very limited.

And also, I worked with the Fish and Wildlife office in the Lander office. And I'm waiting for some information from them for the effects why the eagle population has gone down. But, based on that, we're trying to work with the Comanches. And they have their -- the way they set up their sanctuary aviary/repositories. But we're trying to set up something like that. So that way, we're not illegally taking them. And then, also, we can teach our
younger generation to be able to -- be able get items from
the eagles without killing them.

Like I told you earlier, how Grandpa used to do
it; how they used to trap them. You don't see that anymore.
That is being lost. And it's a -- it's a pretty touchy
subject because like what Mr. Ron Oldman, councilman, he
didn't have no disrespect to us Eastern Shoshones and the
same, vice versa. Because, that ruling, we stand by our
treaty. And once you have your treaty, that's -- that's the
contract with the government. We -- we -- we signed that
with the government. So we rely on the government to stand
up on their end. That's what we do. So that's how we have
the government-to-government consultation, government
relationship.

So even though they put on there, we had to go to
court in the '30s. And it was trespassing; not 50/50
homeland. Only for trespassing. And when you research that
more, you'll find out what that trespassing means. That's
why, we stand on our treaty 1863 and 1868. Sho-Ban has the
same treaty. So that's what I wanted to clarify.

And, like I say, I want to apologize because my
chairman, he had other -- something came up, so he had to
take off and he couldn't attend this meeting. But he was
supposed to be here. So I am the next in line. My other
councilman, he was here earlier, but he left, too. So I had
to step up and then also answer Mr. Oldman's -- council
Oldman's suggestions earlier.

I don't -- in order -- in order to be able to get this thing, like, situated, the other alternative was to be able to set up a program where we're able to have those types of species and then also to be able to utilize them. But not killing them. Killing them and take them and use them to help people. That's -- that's where I'm -- I don't understand that. Because once that person is able to do that, that -- that species is gone. And they're trying to bring that back to be able to help that person that is sick. How are you going to do that? Whereas you use and utilize those items in the correct way to help that person or those people.

It's hard to explain. But like this man right here, he was talking about that. That man who walked in here, he was talking about that. Only those people -- only those people that take care of those things, they'll tell you that, too.

So that's what I wanted to -- it's kind of hard -- it's kind of hard to explain it. But, like I said, I don't want to offend them, but this is our right. And I hold that treaty. That's my treaty. So I have to stand and stand up for my treaty, even though my councilmen aren't here. But that's my treaty between the government and my people.
My inherited right; like they say -- that's what the man said right here, inherited right. How could a person go to your home and -- and take something that he'll have a document saying that he's entitled to that?

Like I said, we've been there anywhere from 3,000 to 6,000 years. I'm sorry, but they've only been there for 130 years. And that's, you know, that's -- history will prove it; historical sites, prehistoric sites will prove that. So I just want to say that.

MS. BEGAY: All ready. Thank you. Since we have some folks that really want to go until 5:00 p.m., we're going to continue. I haven't heard from any of Pueblo -- Pueblo of San Felipe and also Santa Clara, I want to give them an opportunity as well.

MR. GUTIERREZ: Good afternoon. Just a few comments, you know. I guess, you know -- I guess, just one concern, kind of stepping away from the subject a little bit, is -- is, maybe you guys should schedule this for, like, two days, you know, because this gentleman -- we have a lot of things to say. And she hits 5:00. We only got to one of your topics up there. Maybe next time -- in the future, maybe do it for maybe two or three days, you know, because we all have a lot of issues. These gentlemen have a lot of issues and they have a lot of things to say, you know. So maybe in the future, you can think about doing
those things also.

But just a few comments, you know, on this -- on the -- I guess, the -- when we read this, the one concern we had was that 30-year permit thing, you know. And I guess the thing is, if those companies or whoever -- and I guess you kind of explained a little bit that they'll have to be reviewed every five years. If -- if you give one of those permits to somebody and, you know, the eagles, they kill someone or they fight someone, who's going to -- are they going to give it to the repository? How is that going to be handled?

MR. RILEY: First, yes. We have heard -- I take that as a comment that concerns about the 30-year permit, and we certainly have that on the record. That's a fairly recent decision, but we will certainly report that as a concern.

The eagles that are taken, as long as they are within the permit and there's no reason for a law enforcement investigation or something like that, would be going to the repository. The only exception might be if there's a concern about the way they're operating in the facilities; the fact that they are killing an eagle is in excess of what was permitted, was not in compliance with the permits, something like that, there might be a need -- the law enforcement investigation might be an example where it
1 wouldn't immediately go to a repository if it was evidence.

2 But, otherwise, the general rule is if there's an eagle carcass, will go to the repository.

3 MR. CANDELARIA: My name is Daryl Candelaria. I'm the tribal administrator for Pueblo San Felipe. This is a very great discussion that's going on here. And what I would like to mention is, hopefully, all this information gets sent to the regional offices. We're not a part of the mountain region here. We're a part of the southwest there in New Mexico.

4 And I see this time and again, and I believe your respective tribes also see this as when we go to Washington to meet with the leaders there, you know, the heads of the department, the Interior Department or what have you, it seems to me that the word there is very different from the local level. You know, there, they say, Okay, we'll do this and we'll do that. But when we come down to the local level, you know, there's so many obstacles that's put in front of us.

5 You know, one of the gentlemen mentioned this morning, where I would say -- and I was thinking they're sitting -- I was hoping somebody mentions this -- but we're among the most heavily-regulated population within the country. You know, why is it that we have to have permits to practice our religion? And, you know, I saw a great
comment recently -- and I don't want to put any specific
religion down -- but I think it was the -- one of the Plains
leaders in the past said "holy water". All holy -- our
water is holy. You know, it's not just because of the
church that it's holy, you know. It's everything. Every
drop of water is holy, wherever it is.

But I guess the reason why I say this is, you
know, when -- before we came up here, in my position, I
opened up and read all the correspondence. It says that
come in for our -- at the tribal office from the federal
government to state government.

And we recently got a letter from the U.S. Forest
Service telling us that, you know, they've put together
again some documentation for us to follow in order to
collect herbs and foliage in the nearby forest to practice
our religion. You know, why is it that I have to have a CIB
card to collect what we need in the forest whereas
non-natives, they just get a little permit to go get a
Christmas tree? You know, what's -- where is the, I guess,
justice in that?

You know, but, again, coming on behalf of our
leadership and the rest of Pueblo, we didn't realize that
this is going to be a government-to-government consultation.
There are religious leaders at Pueblo, you know, that would
speak on more -- on what we're discussing here. And again,
I just want to thank all the tribal leaders for the comments here.

Just one last thing about these utility corporations. And I see that this is more of a wider -- you know, with a lot of the wind turbines going up. We do have a significant amount of wind turbines going up in east central New Mexico. And right now, we're dealing with a major corporation out of Houston who is wanting to put -- get a new right-of-way through our reservation. These corporations have never worked with tribes before. And then it's like a whole total, you know, education process for them to come up from Houston, from their corporate offices. And they come through our tribal offices, and they're like, Oh, wow, culture shock, you know.

And I think it's about time that we stand up for what we believe in. You know, I did mention to the personnel when they came to our last right-of-way meeting is whatever right-of-way that was negotiated back in the early -- in the -- the turn of the 20th century when the electricity lines were going up, we weren't at the table. My -- my leaders were not at the table. Times are different now. We're at the table. This is how we value our land, and we have the right to do that.

You know, we inherited what happened in the past. Our children will inherit what we do today. And so it's
very imperative that we all stick to what our beliefs -- our
core beliefs that we all believe in. The eagle is at the
center of this. And I want to thank all of you. Thank you.

     MS. BEGAY: All right. Thank you. What I want to
do is take -- right over here.

     MR. LUJAN: Many powerful words have been spoken
today and this afternoon. The elder guy who was standing
here, he gave us an extensive -- we must stand up
altogether. We need summits like this on our people here.
We're all relation. And somebody mentioned about congress.
We need to get together; perhaps march together. I don't
know how, but we need to group together.

     More of these summits need to be taking place in
the New Mexico area and all throughout the states where we
can empower ourselves and strengthen our minds. There are a
lot of tribes from the Pueblos here throughout the United
States. We have medicine men and women; they need to be
here also. So you can understand, really, our core of our
beliefs in reference to eagles and feathers.

     I was told when cell phone came in, that this is a
very important technical thing. But, a long time ago, the
eagle feathers were wireless. We can communicate. When one
goes to the other side of the ocean to fight for our
country, we have ways of saving people, pray to them, eagle
feather, for the well-being of our boys and the young
warriors and the young women who are out there. We have communication with feathers to communicate with our Creator or Maker. Also, the moon, the sun, our feathers.

I don't go deep into detail, but you must understand our ways. How, when the light comes up in the morning, you're a part of our prayers. So all this comes down to -- to gather ourselves together as one relation so we can address this in congress and do it the right way.

Thank you.

MS. BEGAY: Thank you for your words.
What I want to do is -- at this point, we've only gone through one topic that we have up there on the list. We do have Northern Cheyenne's vice president who is willing to come back tomorrow. And we also have the folks from San Felipe who are willing to come back tomorrow as well.

What I wanted to do is ask the rest of you: Would you be willing to come back tomorrow morning to continue this discussion that we've been having? I'm getting a nod from council; I'm getting a nod from Osage.

Lee Juan?

MR. TYLER: Yeah. What time are we going to go through the -- after the --

MS. BEGAY: I'm sure we could pull a few strings because you could -- we also have tour group that are signed up for the tour as well.
MR. TYLER: I would like to call this the listening session. It's no proper consultation whatsoever. So it's another listening session. And I agree; I will be here tomorrow to listen and learn from each other. You know, there's a lot of issues going on. And there's a lot of tribes that do have minerals, and then they're probably restricted due to the fact that they're like the fiduciary and responsibility of the government. The trust. And some of them have to go get the minerals and get the -- so they can survive.

And that's what I said; it's unfortunate. And, you know, we should be -- us tribes, you know, put against each other to a great respect for each other and how -- how it -- it came about.

And not -- not to offend you guys, but the Euro-Americans, like, they brought all this to us. They brought all this tension, reservation, and Mother Earth and how it's divided up from the Europeans. There's no states. Mother Earth is Mother Earth now. And the gentleman that shared that -- Crow Dog.

Just be careful. So I want to say that.

MS. BEGAY: Let me go back to that initial question of who's willing to come back.

MR. LASLEY: There's a little bit I want to address to everybody here about Mr. Crow Dog. The reason
why we have consultations today or listening sessions today
was directly the result of that gentleman's work. He was
the spiritual leader to the American Indian Movement in 1973
during -- at Wounded Knee takeover. He was at the -- at the
very heart of negotiating terms with the United States
government or the -- or the ending of the occupation. That
-- those -- those negotiations went on for -- it seemed like
a very long time. I don't know; months. The whole time I
was there, they were negotiating. He and several others,
they put their lives on the line. People died as a result
of that occupation.

And I just wanted everyone to know how critical it
is for those tribal leaders to come to these types of
listening sessions and to impart their wisdom on the rest of
us. It -- it is involvement.

The other leaders that were there -- Russell
Means, Dennis Banks, Stan Holder, Carter Camp; it goes on
and on -- but -- but they were -- they were the ones that
taught us -- taught me about tribal sovereignty. They
taught me about tribal self-determination.

In 1975, two years after the Wounded Knee
occupation, the congress enacted the Indian Education and
Self-determination Act, signed by President Nixon. That was
a direct result of the occupation of Wounded Knee and the
work that Mr. Crow Dog did. I just want to let everybody
know about that. Most everybody knows that anyway, but --

Thank you.

MR. VOELKER: I won't be able to join you tomorrow. Unfortunately, I'm going to be on a plane in the morning. It's nesting season back home, and I got eagles relying on me to be there.

The imprint birds will go through nesting.

Actually, there's some disappointment with our friends here because I planned to bring one of our third-generation captive produced golden eagles with us today because we -- the one thing that's been consistent now about all three eagle summits is we hear -- and no offense, but a gentleman here made a comment -- all those captive eagles behind bars are prisoners. They're like, they don't have as much medicine.

Well, we're breeding eagles that I worked with their grandparents back in the 70s. We're bringing this new eagle life forward in a way that while we're trying to decide through the Service whether propagation of eagles is going to be allowed in a bigger way, right now, we're the only ones charged with that sacred duty. And we're honored by that. We take that responsibility very seriously.

But you probably wondered, what's this Comanche doing up here in this country? Well, we have a history here, too, where there's two rivers that come together. Our
response -- that are dear and sacred to us. And we left the high country in the north. We broke away from our Sheepeater background and came gradually under the southern Plains. So we have a stake here today. It's good to be here, always, and with our ties here.

But, I'm here mainly -- and, like in the old days, a person was called upon. If you were up in this country or a country of another tribe, you had to show that you had the wherewithal, a reason to be there.

So my -- my warrior story for you-all is that I stand here as the first Native American to ever hold permits from the U.S. Fish and Wildlife Service for the care and breeding of bald and golden eagles. I'm the only Native American who has bred both species and the only person in this country to have bred both species by artificial insemination.

Now, that sounds like a term that really puts off some of the elders and holy people until they understand, by living with the eagles, bringing a fourth generation of eagles that imprint to you; they choose to be with you. These are birds that get the opportunity to fly free.

There's nothing like having an eagle to spec in the sky and bringing out our ho-hots (phonetic) on it or our eagle-bone whistle and calling to that bird and that bird dives out of the air and lands on your glove. I just can't
tell you what it's like. But that's one of the great joys in my life.

But that young adult we were going to bring, we are -- we are going to be producing fourth generation in captivity. It's never been done; never been done in this country. But it's something that everybody needs to take pride in because it's done in the sacred format of our special sensitive spiritual ways with these birds that comes forward with us.

So -- so the Arapaho/Shoshone situation that we're sensitively dancing around, it was a bittersweet day at home. We fought for years to get a special authority for captive propagation under Native religious use. It was a big step forward. That's the reason I made that correction on that form. Produced the first golden eagle produced under a religious use permit. And in 2010 and 2012, we hatched the first bald eagle under that authority. But it happened to be the same day that the news release came out that the Northern Arapaho were given the authority to kill. It was hard, you know; one Indian country, they're happy they got a legal authority to kill, and back home, we're hatching this egg and caring for it in our hands.

So you don't know where to stand sometimes because you don't want to talk about anybody else's ways. But we went up to one river. We took bald eagle feathers many
times and distributed them to the spiritual leaders as they were identified to us and showing them that there's another way to -- maybe we can help in this regard. We've even saved 148 different federally-recognized tribes from molted feathers from those eagles that we care for at home. And so there are other ways. And I just want to open your minds to think in that regard; good ways, ethical, absolutely legal.

Oh, the reason that eagle is not with me today -- our federal permits allow us to take eagles anywhere in this country, but you have to have a corresponding state authority. It was too short a time and Colorado didn't issue a permit. So we didn't break that rule. And we, you know, let that the bird stay home. But, hopefully, the next eagle summit, we can arrange well enough in advance and be able to share the living bird. Because that was the thing alarming for we Numunuu, the Comanche. We were watching our people losing our connect with the living. And, you know, everybody's talking about eagle carcasses, eagle feathers and eagle this and that. But it's knowing intimately that medicine work.

Talk about endangered species. That's what's endangered in Indian country. Yes, we still have doctors and we still have medicine people. Many, many different tribes come to us. They take feathers from these living eagles. The eagles give up the feather by molting each
year. We've had numerous Indian doctors come to us and say,
This feather from an eagle that we know is living and
breathing there at Sia, it had so much more meaning to the
people helping. We've had people show up healed from the --
you know, the near-death as it was -- the way it was told to
us. They come to see that living eagle whose feather helped
them at a time of need.

So there are other ways. And in -- in closing, I
guess, what I would like to say is there's means within the
permitting process with U.S. Fish and Wildlife Service to
anything we want to do, that we require to do in our
historical authentic ways. And it's working with the
Service.

I can stand here and say we have seven authorities
that exist with us that don't exist with any other tribes.
Captive breeding is just one of them. For 40 years, I
fought for a non-eagle repository permit. 40 years it took
to finally get that made into a permittal -- and it was in a
pilot period for two years -- and now it's going permanent.
So it takes persistence.

And I just want to leave with you this one last
thought. And that, we live by the motto today and our
mantra at home is that an eagle should no longer have to
forfeit its life to benefit culture. So think -- think of
these medicine birds that way.
MS. BEGAY: I'm going to go ahead and turn the time over to Clint and then also to Noreen to provide us with a few closing comments. They also have a couple of things that they want to share with the group in terms of -- I want to call them "action items" or "commitments"; things that they're willing to do on their part, based on the discussions that we've had throughout the day. I want to go and turn it over to Clint.

MR. RILEY: First and foremost, thank you for your time, for your sharing today, for your patience as we work through these topics; the realization that, once again, you had a federal agency that misjudged how much time you might need for effective discussion. And then I hope all of you are willing and able to come back tomorrow and can continue the conversation.

To summarize today, starting at the end, for this topic, as I said, this is a high-priority action on behalf of the Fish and Wildlife Service to review these regulations that were created in 2009. We intend to have something available to the public as a proposal this summer. As we move through this process, I hope you and other tribes stay engaged. And I appreciate your comments today on that and look forward to comments on other topics tomorrow.

On some of the discussions from this morning, we want to think about some of the potential action items. Two
of them that we discussed as a group this morning -- if you want me to try to cover those briefly -- one is simply the recognition that from our perspective -- and we are interpreting from your perspective -- these conversations are valued. This is the third eagle summit. We are looking through a glass darkly sometimes to see the -- see the light and then grow in understanding. But we think we're moving in that direction, and we would have an intention of hosting another eagle summit in the future, presumably, in the next year, and potentially making this just a -- someone else was talking about consistency and developing that relationship -- turning this into something that is a regular part of our relationship, I think, would be meaningful to us as we work towards that.

The other thing that we were hearing about your -- from this morning is a concern of the cultural sensitivity of -- certainly, our own staff and our agents, still, but even more so, the people who aren't a part of the Fish and Wildlife Service, representatives of the federal government, and their need to understand that things that we may say here about our intention and our interpretations should be the way that the others do when you're crossing a border when you have something with you that you legally have the right to have and people's understanding of that and aware of that.
And at least one other action item that we were taking from this morning is whether we can develop some sort of a proposal to the Department of Justice; for example, a paper of how we can reach out to some other of our sister agencies and share -- to the extent that we have gained an understanding of your concerns -- share that in a way that may affect how -- how your relationship with other law enforcement agencies and other agencies may move forward. That's clearly beyond our control of this table in so many ways, but it's a step that we're going to do that and is important enough that we should try to pursue something.

Is there a better way to summarize that?

MR. OLBERHOLTZER. I think you hit it. What I was going to say and thinking is, working with Scott and the tribal representative and to put together some type of information product that we can share with other agencies and the other law enforcement divisions in how to deal with the Native Americans who are possessing feathers.

MS. WALSH: Ladies and gentlemen, I do want to make some closing comments, but we're not closing yet. So I'm going to keep my remarks brief right now because I have listened today and I have learned a lot. But we're coming back tomorrow. And I'm not done with my learning. So tomorrow, when we close, I'll share some thoughts with you about what we heard from you, what it meant to us and what
we can do about it.

Today, for tonight, I will just say thank you to each and every one of you for what you've shared with us. We are listening to you. We value the time that you've spent with us. We want to come back tomorrow. We'll be here from 9:00 until 11:00 to try to tackle the rest of the subjects that we didn't get to today. It's my hope that every one of you can come back and be a part of that.

And then even after tomorrow, that will not be the last time that we talk with you or discuss these issues. It will just be another beginning. So thank you very much.

MR. TYLER: Even those insects out there, the air we breathe, they're all sacred. So you can understand it's difficult. It's hard, you know, to explain to everybody, you know. We try to educate everyone and that they have enough interest that still comes about. You know, the story, you know, we're better than you; we're supreme, that still happens. That happens in Idaho a lot. We're a racial state. It's really sad. There's Republicans and there are Tea Party, and then we can't get nothing done. You know, we try to get things up for them; it don't happen.

We need to change that around. And it starts with the young children; starts in the elementary. They're way smarter than we are now. Not going straight to college and learn about Indians, from the experts. You've got to -- I
think you've got to -- to a certain extent -- not
everything -- just to a certain extent that we can share so
much. And that will be a -- that that's where we go from,
move forward, step forward. And I think these can be
accomplished better -- and respect. I wish everyone was
like you guys. I think America will be a real beautiful
place. And we walk out this door and we're going to maybe
feel that.

There used to be no Indians allowed in our places.
You know -- and my uncle, we just buried him two weeks ago.
He joined in for all -- there was very few -- he went to
teach in Korea. He came back in Idaho to go have a meal
with her. And we don't serve Indians in here. So he was
pissed off. And when the Ames came to us, knocking on my
door, you want to come join us? I said, Yeah. I was only
14. But, you know, that was after Wounded Knee that he was
talking about. There was so much suicide going on. But
there's so much each tribe could share. And then we can't,
you know, just share so much. Nobody knows about our
to people. Just very few. There was a Bear Massacre in 1863,
400 of our people were massacred. And there was a manic
massacre over here in Green River, Wyoming, 120 miles east
of Ogden where Salt Lake -- the Gila River, in 1825, 400
bandits were wiped out. There were different bands, not
just, you know, the Comanche relatives and East Shoshone.
We were all part of these areas, both sides of the Rockies. So we could share with the Arapahos and all the other tribes, the Cheyennes. And we know that every tribe in our reservation, they share our Indian health service.

I have a son-in-law. He's a Northern Arapaho, and I have a little grandson and he's a Northern Arapaho. So you know, we have to respect everybody. And, you know, it's hard to get involved with all these fights going on. And especially the North Dakota, they've got the great boom going on. They're rich here -- got oil. There's tribes like that, that, you know, have to have that. So it's unfortunate. So I think there's so much we've got to learn from here. The Navajo Nation, they're the largest.

But still, you know, there's so much. There's big giant eagles in Siberia. It's like Yellowstone National Park, 700 miles long. Those golden eagles are way bigger than our eagles here. So the continent was at one time together.

MS. WALSH: Thank you for that, Lee Juan. And I want to make one more comment. I really appreciate what you said and I like to look for what we do have in common. I know that we don't share everything -- everybody together in this room, but I like to look at what we do have in common and build on that.

And so when you point to those pictures on the
wall and talk about how they are sacred and talk about how it's our duty to protect and share for those things, I can tell you that those of us in the Fish and Wildlife Service, that's why we're here in the Fish and Wildlife Service because we share that perspective. So I'm confident we can build on what we have in common and go forward. Thank you.

MS. BEGAY: All right. Before we break for the day, the way that I was taught was that before you leave and after you have shared a lot of words; you have a lot of good minds that have come together; they talk about a lot of different issues; they talk about a lot of different things -- when there's a lot of words that had happened, you always have to pray about it, pray that words get heard and, you know, we do the best that we can as we walk out the door. So I ask Lujan, he's the lieutenant WarChief, to help us out with the closing prayer. So I'm going to turn it over to Lujan.

(Prayers were said.)

WHEREUPON, the within proceedings were concluded at the approximate hour of 5:10 p.m. on the 20th day of March, 2014.

*   *   *   *   *   *   *

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REPORTER'S CERTIFICATE

STATE OF COLORADO   )
 ) ss.
CITY AND COUNTY OF DENVER )

I, DOREEN GIRDEEN, Registered Merit Reporter and Notary Public, State of Colorado, do hereby certify that the said HEARING was taken in machine shorthand by me at the time and place aforesaid and was thereafter reduced to typewritten form, consisting of 94 pages herein; that the foregoing is a true transcript of the questions asked, statements given, and proceedings had. I further certify that I am not employed by, related to, nor of counsel for any of the parties herein, nor otherwise interested in the outcome of this hearing.

IN WITNESS WHEREOF, I have affixed my signature and seal this 27th day of March, 2014.

My commission expires March 16, 2015.

Doreen Girdeen
Registered Merit Reporter
Transcript of the Testimony of

EAGLE SUMMIT, III
March 21, 2014

Wendy McCaffrey C.L.R.

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EAGLE SUMMIT III
DENVER, COLORADO
MARCH 21, 2014
GOVERNMENT-TO-GOVERNMENT CONSULTATIONS

This hearing was held at Rocky Mountain Arsenal National Wildlife Refuge, 6550 Gateway Road, Commerce City, Colorado 80022, on March 21, 2014, at 9:10 a.m., before Wendy McCaffrey, Professional Court Reporter and Notary Public within Colorado.
APPEARANCES

Mr. Clint Riley
Ms. Noreen Walsh
Mr. Steve Oberholtzer
Mr. Mark Roundstone
Mr. Darrel Shay
Mr. Ricardo Ortiz
Mr. Raymond Lasley
Mr. Lee Juan Tyler
Mr. Conrad Fisher
Mr. Wes Martel
Ms. Jannell Suazo
Mr. Kelly Hogan
Mr. Jesse Gutierrez
Mr. Albino Lujan
Mr. Winfield Russell
And others in attendance who did not speak during the conference
Mark Roundstone, Northern Cheyenne Tribe
Darrell Shay, Shoshone-Bannock Tribe
Ricardo Ortiz, Pueblo of San Felipe
Raymond Lasley, Osage Nation
Lee Juan Tyler, Shoshone-Bannock Tribes
Conrad Fisher, Northern Cheyenne Tribe
Wes Martel, Eastern Shoshone
Jess C. Gutierrez, Santa Clara Pueblo
Albino Lujan, Taos Pueblo
Winfield Russell, Northern Cheyenne Tribe
MR. ROUNDSTONE: I'd like to say good morning, everyone. Hope your day is good. My name is Mark Roundstone. I represent the Northern Cheyenne Tribe.

I work as the acting director for the national program. More so, more important, I'm very active in traditions. I sit on one of our societies that we have created many hundreds of years ago.

Again, I want to greet each and every one of you this morning. A gentleman sang a song yesterday to start us off. We liked that. I'll do the same.

I'd like to think about all the natives that are all the nations' brothers coming into town, traveling today and throughout the weekend for the Denver March Powwow. I've been to the Powwow most of my life. Powwow is a form of healing.

Our elders and ones that are invalid sit there and watch the dancers. In a few minutes, they're out there dancing. In a few minutes, they feel really happy and good. It's a form of healing.

The song I'm going to sing is a -- the Cheyennes, we call it Journey Song. A couple of hundred years ago, a hundred years ago, 50 years ago, we sang it to our warriors when they were leaving.
It's kind of a blessing song.

Today, we sing it for a different kind of warrior, modern, some that are going into the military. I call it a different kind of warrior, because today, a new battle is being fought in places like here. We have to arm ourselves differently, with a degree, with knowledge, common sense.

All of us among here sitting here are warriors, because we're here in protection of our people. And our people are those that cannot speak for themselves, but the eagles are our brothers. They're people with wings. They're made up of the same material that we're made of, mostly water.

(Singing.)

(Prayer.)

MR. RILEY: We have some name tags. And those are the -- pass them back around so we know -- these aren't my names.

MS. WALSH: Good morning, everybody. Thank you so much for coming down today. Thank you, Mr. Roundstone, for the prayer this morning. It's a very wonderful way for us to start the second part of our meeting.

We're looking forward to talking with you about the topics that we didn't get to present.
yesterday and hear your input of those. We have until 11:00 today. We will have to close the meeting at 11:00. So I want to make the best use of our time this morning.

And I'm going to turn it over to Clint, who you know from yesterday, to start off with the next topic that we didn't get to discuss. And we'll move right into those things. Thank you.

MR. OBERHOLTZER: If anybody wanted a repository tour -- I know there were some people that did, instead of participating in the formal government consultation -- Tom Tidwell, the gentleman back there in the green shirt, is going to be heading out on the repository tours right now.

We'll also offer one for anyone who wants one after we're done with the consultation.

UNKNOWN SPEAKER: Is there a refuge tour later also?

MR. OBERHOLTZER: There is one. There is a refuge tour for whoever wants one of those after the repository tour.

MR. RILEY: Good morning. One -- another point that I was asked to announce, we had some applications for repository pieces, and I guess we ran out yesterday. So if you were wanting to pick one of
As we get started today, we're -- we're going to try to get to everything. So I'm just going to go back and start at the -- what we had at the top of the list in the order, and we'll try to get to everything.

The bullet that had been listed first dealt with depredating eagles. Does everyone still have some of the handouts we had yesterday that summarized each of these issues?

Again, we'll have a slide up here that is an overview, but there's a little bit more information that was in writing, including in that information -- and if anyone doesn't have that, we've got some extra copies right over here.

So, again, what I'll try to do is give a, hopefully, briefer and more concise summary on most of these issues. These are each -- they're not simple issues. They're meaningful issues. But they can be summarized more quickly, in terms of why it is we're bringing them to you and asking for input.

In terms of management of depredating eagles, they're -- they're currently in regulation, coming from the statute. The Bald and Golden Eagle Protection Act is the ability to issue permits to remove an eagle if
it is depredating on livestock or wildlife.

There's some human health and safety, and there's some more potentially complicated issues. But for purposes of this, in the handout, it describes what I verbally described yesterday as three criteria that we have to say we agree with before we can issue that permit, that removing the eagle would not impact the wild population status, that there really is depredation going on of a serious nature.

And there was a question about that yesterday in the discussion about the challenge of knowing that. And the third being that we don't believe there's another way that we can address that depredation.

In practice, then, that third criteria means that, when we look at these permits, we generally start with a permit that would allow someone only to haze the eagles to scare them off their livestock.

If that's not working and there still is a problem, then we would change that permit to allow them -- to allow the eagle to be trapped and moved away from that location in hope they would not come back to the livestock.

Those two both take -- require take permits, because disturbing the eagle or trapping and moving it is something that would impact the eagles, such that it
meets the legal definition of "take." But it's only if
those two forms of permit don't work that we would
issue a permit that allows someone to remove an eagle
from the wild.

This is of a special interest to falconers,
because that's, essentially, the only way that
falconers can acquire golden eagles for use in
falconry. The law says that they can use golden eagles
in falconry, but compared to other types of raptors
that they can use for falconry, this is the only way
they can get a golden eagle.

And some of you may have been exposed to some
of the falconers, and they have great frustrations.
They feel like the law has told them this is something
they can do, but it's difficult to acquire the eagle.
In practice, we also issued very, very few of these
permits in the past.

With that background, some of the things
that, internally, we've been considering as potential
amendments to this regulation -- they don't have to be
the only things we talk about, but we want to make
sure, before we move forward on anything like this,
that we get some input.

One is that, in practice, we currently issue
the permits to USDA Fish and Wildlife Services. That's
the government agency that generally deals with depredating wildlife. And so we've issued a permit to them.

We're considering changing those regulations so that it would be more likely or more common that we would issue a permit to a landowner or to the livestock producer, or in some cases may issue a permit to a state agency, who would be using the permit if it was because the golden eagles were hurting some other wildlife population.

The second potential topic is to change the permit so that it clearly -- or change the regulation so it clearly says you can never take the eagle lethally. There would be no -- you could never kill the eagle to address depredation.

And we haven't issued permits that would allow that in recent past. But the regulations will allow that if necessary. We could rewrite the regulations to say that we would never do that. The most we can do is we do remove it from the wild, where it would still be alive or with the falconer.

Because the third thing we're considering is establishing a priority order and say in the regulation who we should check with first if an eagle were to be removed from the wild because it was depredating, of
the various potential people who could possess an
eagle, is there a priority order that we would check
with right there?

And, obviously, in doing that, the second
question would be, what would that priority be? And
within that consideration would be whether Native
Americans would want that eagle or an aviary would use
that eagle, compared to some other potential places
that that eagle could go to. So those are topics that
we have under consideration.

Once again, there's been no proposal. We
would have to make a proposal publicly for the entire
world to see before we could move forward on this. And
we'd receive public comments at that point.

So this discussion is before even developing
that proposal for the rest of the world to comment on.
And we'd be interested in what comments you have.

MR. SHAY: Good morning. My name is Darrell
Shay. I guess -- I guess my question is, Why the
change? Why the change to -- other than the U.S. --
USDA at (inaudible), and then including the -- I guess,
the falconers, who -- who exactly are falconers?

What status do they hold? And why are they
given special consideration, when it seems like, you
know, for almost all of yesterday, we were testifying,
you know, that unique relationship that we have with
this bird, you know, and how sacred it is to us?

Have they testified and told you how sacred
it is to them? Because, in my opinion -- and I don't
know anything about falconry -- but I -- but it sounds
to me like it's a sport. And, basically, it's for
commercialization, because why else would you do it,
you know? You have guns to kill things, okay?

And if they're -- if they're too much of a
nuisance, you have other ways of getting rid of them,
getting rid of whatever it is that's predatory. So
why do you -- why -- I can't understand why falconers
have such a special status, and I'd like to have you
guys shed some light on why they're even being
considered.

MR. RILEY: Thank you. Thanks. That's an
appropriate question. If you're not familiar with
falconries, the specific answer to that is because
Congress told us they had a special provision in 1972
they added to the Bald and Golden Eagle Protection Act
that falconry -- that golden eagles can be used for
falconry and that the way that they can acquire them is
if an eagle would otherwise have been taken from the
wild for depredation purposes.

So that's in the law that Congress passed.
What I can share, from my understanding of falconry, I think we regulate it as a form of hunting, is the Fish and Wildlife Service's relationship with it, using a hawk and eagle, the falcon to take rabbits or to take ducks.

It's -- it's another means of hunting. And so our official legal connection to it is that way. The -- those who practice falconry, I think they may describe themselves as having testified to us about the culture importance of that going back hundreds and hundreds of years.

I don't think I'm misstating the way that they approach it when they come to us and describe what they do as something that has a universal history and cultural importance going back hundreds of years. And so they, at times, I think, would say they get frustrated that we merely treat them as just, Hey, it's a form of hunting.

But that is the way our regulations are set up, both the purpose for acquiring falcons, or, in this case, acquiring golden eagles, and how they're allowed to see them is that they have to go through a pretty involved certification process, demonstrating their ability to keep and manage and maintain the birds that are used for hunting purposes.
And as long as they meet those certifications, the law allows them to hold those birds. Golden eagles have special restrictions that are involved with the Eagle Protection Act, compared to other birds that they acquire for that purpose.

I'm not a falconer. So I'm shedding the way a nonfalconer has understood what they have told me.

MR. SHAY: Could you -- could you cite the numbers? Because, in the handout, it talks about an average of six golden eagles were taken annually prior to 2009. How many -- six times what? How many years?

MR. RILEY: That went back less than 10 years. That number comes from the end of 2009, when we were creating the regulations we were discussing yesterday. We had to do a national environmental assessment about what the impact on golden eagles might be if we were to allow new forms of take.

And in doing that, we reviewed all the other forms of take that had been existing for golden eagles. So that went back in the range of 10 years. And of all the things we looked at, one of them was falconry. And that's where that number came from, was that nationally, there were about six eagles removed from the wild annually.

Going back farther than that, I don't know
that it would have been dramatically different. The last few years, there have been no eagles removed for depredation permits; so, consequently, no eagles provided to falconers, because we've been working on how best to determine that a criteria for a depredation permit is met. And that's in our discussion.

MR. ORTIZ: I have a question here on how much of a restriction is applied to them, as well as it applies to Native Americans. If we look at it, we are entitled as much as they are.

Way back, if you're talking about a hundred years ago, Native Americans were not really seen in their eyes -- that was something that was -- were -- and still is -- of importance to us Native Americans. And not only for the Native Americans, but it's also -- and it's really sad to say that you -- we have to explain ourselves for the reason and the uses of that. And it is really sad that we should.

But if it's going take us to this point to do that, it is one of most importance of all to Native Americans, not only Native Americans, but through the prayers that's been done as a whole nation, if you look at it that way. It's for everybody that we use those for.

So it's really sad that the Congress doesn't
even visualize the issues of those sorts for Native Americans. And it's now making it so hard for us to obtain and not be able to carry on our culture. And that's one of the saddest issues.

And then, again, going back, as we sit along here as Native Americans, we should not being -- sit here and explain ourselves to, really, open up any culture stuff that we should. That respect should be given to the Native Americans.

And I feel that, you know, the Congressional delegation should visualize that. We respect them, because they are the bodies that make the rules and whatever for the whole nation. But then, in return, that's all we ask for, as Native Americans, to respect our culture, to respect us as human beings.

And there are needs that we have that, right now, it is hard, that we have to jump through hurdles and hoops just to obtain what is so special to us. And that's one thing that, you know, how many of that restrictions does the falconers have, as well as it applies to us Native Americans, in obtaining this?

MR. RILEY: Thank you. Before we leave that, we are trying to get everybody's comments. And I don't know your name to tell the court reporter.

MR. ORTIZ: Okay. I'm sorry. Good morning,
everybody. I just get so intense when you hear stuff like this. So, I'm sorry. My name is Ricardo Ortiz, and I represent the Pueblo of San Felipe and under -- my title is a (inaudible) specialist.

MS. WALSH: Clint, I have a question before we move on. Does the law -- the actual statute restrict the distribution of those depredation eagles that are taken from the wild to the falconers, or is it broader than that?

MR. RILEY: Perfect. And that was part of what I wanted to clarify as well. Right now, Native Americans are also recognized under the same law that, we can authorize, if -- and there's -- that's its own discussion, of course, is demonstration that it is consistent with historical and cultural need, but we can offer Native Americans to take eagles.

Falconers cannot take eagles for -- just because they're falconers. The only way they can acquire eagles is if we have decided there's an eagle that needs to be removed from the wild because it's depredating on livestock or wildlife.

And so falconers have a special recognition by Congress, but it is a lower recognition than Native Americans, because they -- they don't get an eagle just because they're falconers. They can only get an eagle
if that eagle is going to be removed from the wild anyway.

Going to Noreen's point, the law doesn't specify that, when an eagle is going to be removed because it's been depredating on livestock or wildlife, that it has to go to falconers. We have generally behaved that way, because there is no other way for falconers to otherwise request an eagle.

But the law doesn't require that that's where the eagle would go. And so one of the -- one of the potential proposals we might make is, when we have determined that an eagle needs to be removed because it's depredating on livestock or wildlife, to whom should that eagle go? In practice, that eagle has gone to falconers.

That's the only way falconers can ever get it. We could clarify, through regulation, exactly how we make the decision about who should receive that bird. And that's one of the things we're considering.

MR. LASLEY: Good morning. Raymond Lasley, Osage Nation. Regarding the -- the eagles that is being removed from the wild because of depredation, could we get provisions included in the regulation that would -- once an eagle is removed from the wild, we have a lot of Native American aviaries now.
I would like to see that included in the regulation, that, in lieu of a qualified or master falconer, that the Native American aviary would be included on that list and would take top priority regarding a depredator or an eagle that is removed from the wild because of depredation. Thank you.

MR. RILEY: Thank you. That's exactly the kind of input we are curious about. I might ask one follow-up, maybe specifically to you or for anyone else.

Do you mean specifically to say that a Native American aviary would receive it, potentially as a higher priority than an individual Native American or use of an eagle for religious purposes? So a live eagle might go directly to an aviary, because an aviary can use a live eagle? Is that what you are saying?

MR. LASLEY: Yes. That's -- that's exactly what I was -- the direction we're going in, we're seeing more and more Native American aviaries every year.

And if we could get those eagles in those aviaries, in some cases, like William, (inaudible) and what they're doing with the Comanche, they're actually breeding eagles there. So if you take an eagle out of the wild, at least you could be using them for
propagation purposes. Thank you.

MR. RILEY: Other comments on some of these proposals?

MR. SHAY: Darrel Shay, again, from Sho-Ban.

The other question was kind of -- was tied into my previous question on the falconers, was determining the depredation, the -- it seems to me like, you know, the cards are stacked against the eagle.

And no one -- what I know about eagles, you know, they're generally -- they'll find something that's dead, and then they'll -- you know, and then they'll eat it, as far as livestock goes. And, you know, and who's to say that -- we don't know what they do.

Maybe they do kill them. Who determines that? You know, and it just seems like -- it just seems like that's unclear. You know? You've got -- somebody complained about the eagle, so it becomes a depredation issue, and then it -- and then it falls into that.

And I don't know. I -- I think they should capture them and then figure out what to do with them and release them back to the wild. They should never go back to the -- to the falconers, just because, you know, they can -- they're determined to be -- have been
in depredation.

So -- and then, like the gentleman over here said, if there's Native American aviaries, they should go to them first before anything else, because, again, I'm going to go back to the falconers.

Who are they, and how much money do they have? What -- are they sport clubs? From what I heard, they have -- they wield a lot of political influence with congressmen. You just said that. You know, Congress, you know, included them in the act.

You know, Congress has a hard time including us in the act, you know, and I have to find that out. And to be comfortable with this issue, is, how do they get that political influence? Is it just sports clubs?

You know, do they have -- I'm pretty sure it's probably only rich people. So if it is, then they probably have lots of money.

MR. RILEY: Okay. Thank you. And I appreciate -- some of the comments you made, I know you shared yesterday morning. But I realize that was before we were on the record and before we had a court reporter, so I'd like to have those on the record.

I know you have concerns about who determines this depredation. So thank you for sharing those. What -- again, I'm not a falconer. Falconers do have
their own associations. Steve mentioned -- and it's worth clarifying, if we haven't.

They are licensed as individuals that have to meet their own certifications and tests and the capabilities of caring for eagles before they would be qualified. And it's in the range of -- right now the range of 30 or so certified master falconers across the country.

As for what influence they have, I -- I hesitate to speak for that. That's in the eye of the beholder. And I doubt that any class or group believes they have the influence they deserve. And that's -- they would probably say the same thing, and outsiders may not agree.

MR. JUAN TYLER: Good morning. I'm Lee Juan Tyler from the Sho-Ban tribes. I have some information. I guess I don't know who's in charge. You guys, huh?

We have information for people and et cetera. Then, you guys could -- we have a Web site as well. And my question is, I know I -- there's a lot of different ways our -- and, you know, we talked about yesterday and today as well.

And -- but just -- the eagle, who gets to own one? I mean, like, if we found one, a wounded one, you
You know, there's a lot of people out there that don't care about the eagle. And when I was working in Boise, Idaho, (inaudible) in this area where our original homelands were, I had an opportunity (inaudible.) There was a dam.

That was a beautiful place over there. And the water level was so low, eagles came in and moved and started tearing up the pool trout. And then, (inaudible) oh, oh, man, we've got to kill those eagles. They're killing all them -- you know, they're taking out, you know, all the pool trout.

I heard them say that, when we were in a meeting like this, coordination with others and other agencies. And -- so we was watching out for them. Burial grounds, burial sacred sites, and all that in that area.

And so what we were -- we were removed from there in 1870-71 in an unratified treaty during the Civil War. And that was a -- but, anyway, that was a lot of history there. But when I seen all those eagles, man, they were on both sides of the river. The river was also small, but it was real deep.

But it was, like, a creek, a little crick,
and eagles are on both sides, and they're fishing. We fish for salmon back in (inaudible, mumbling.) They were, like, fast.

Oh, I wished we had a camera back then, 2004. And then, every day, it seems, 30 to -- 20 to 30, both sides. And, oh, it was awesome. So I had a great blessing. I went down there for feathers, and what I seen was, oh, a bald eagle came out, pulled out a trout, like that.

And a golden eagle game out of the air, poof, knocked it out of that bald eagle. Man, that was an awesome sight. So the golden eagle's more powerful than a bald eagle. That's how -- we have names for them as well in our languages.

Bald eagle, he's more of a fisherman type. But still, they mate for -- they mate for life, you know, a bald eagle will. They're picky. Like the women, they go choose somebody when they want to choose them. That's how they are.

They're picky. (Inaudible, mumbling.) They'll see if that bald eagle -- they'll drop it, and that bald eagle will come down and catches it. And so that's interested a little bit. See? It goes higher and do it again.

And finally, he says, Hey, this is their --
this is the man. This is the right choice. Soulmate.

So they -- that's how they are, eagles are. They're awesome. Still, you know, I seen them, there are stories about them being raised.

So that's how -- we talked about stuff like that yesterday. But I think the tribes should be in charge of a lot of the handling, and they should be working in areas where you're at, and -- not take your jobs right away, but we trained and worked those areas as Native people throughout these areas.

And so to handle them -- and so we don't have to be re-educating over and over again. And that seems like that's happening too much. A real great person like yourselves comes in, and they say, Oh, eagle lovers, get them the hell out of there. (Inaudible.)

Because that's how it is. Whenever somebody comes over that helps us, you know, non-Indians -- that president Kennedy and his brother Robert came to our reservation, they seen how impoverished we live, with no running water and electricity and all this.

And I grew up like that. And I was five years old. (Inaudible.) Next thing you know, we had commodity homes. Oh, I see. Hey, let's build homes for these people. So that's what happened.

And then, look, both of them, they got
assassinated because they were helping a minority. So that's what happens. And this is -- this is a crazy country, violent. Americans are violent. And that's how I see it.

But, you know, so I'm going off track. But I think that the Native people should be trained to go out and protect and do their own studies on handling these things, and train our people starting out now, the youth, so that we can educate them.

And we should be in key positions, where you guys are sitting, somewhere along the future -- in the near future. So we'd like to have those -- what do you call them? Repositories? Like, our reservation. (Inaudible, mumbling.)

So that might be fine for that as well. I think it should be there -- this location -- location is an area, right there is where the Oregon Trail went through our country. They destroyed and tore up our country -- and some other history.

But still, the eagle is a big issue. So I think I forgot what I was going to say. Sorry about that. But I was going to just say that, you know, they're raised in the wild.

If I find one out there wounded or something, and I take it home, I'm not going to tell nobody. If I
don't, what's going to happen? Am I going to get in trouble? I shouldn't be, right? I want to raise it. It's my pet now, for my annual whatever. I'm going to raise it. So what do you do then?

MS. WALSH: I'm going to let Clint answer your second question. But I'm going to get a little off track myself and just say, you've mentioned about Native Americans being in positions within the Fish and Wildlife Service or positions of handling eagles.

And so, we haven't talked about this, and we probably don't have time today, but I want you to know that the U.S. Fish and Wildlife Service is always actively recruiting Native Americans into our positions.

And if that's something that you would want to talk about with us, or your high school kids, your tribal colleges, how we can establish a stronger relationship to work to bring those people into positions within the U.S. Fish and Wildlife Service, I want to talk to you.

So you all -- or most of you have my card from yesterday. And we won't have time to talk much about that today, but I want to put the invitation out there. Please call me so we can talk more about how we can do better.
Now, I'm going to give you the hard question.

MR. OBERHOLTZER: And I know we had a few people show up after we started. Just to kind of let everyone know, we have until 11:00, when Noreen has to leave, and we still have a few topics we'd definitely like to get comments from everyone on.

So we'll try and keep moving on this. As far as what would happen, what I can tell you is the law. I mean, Native Americans, right now, absent a permit, or anyone else, for that matter, may not legally collect an eagle. That includes a dead carcass or a live one.

If a circumstance like that arises, where you have a wounded eagle, and you have someone who has the skills to be a rehabber in the tribe, I'd encourage you to get in touch with the permit office and go through the rehabilitation process to lawfully acquire that eagle. If -- and I can also tell you some of our statistics.

We keep stats on what entities we get eagles from by state and number. We get the vast majority of our eagles sent to the repository by our law enforcement agency. The numbers that come in from tribes, nationally, they're probably in the double digits, out of 2,500-plus eagles that come in.
So I just wanted to let you know that tribes are not one of the main sources for eagles we get at the repository. It's really law enforcement officers throughout the country.

MR. FISHER: Conrad Fisher, Northern Cheyenne Tribal Historic Preservation Officer. I was invited by my boss, vice-president Winfield S. Russell, this morning.

We do have a template for having -- carrying eagle feathers on the Northern Cheyenne reservation. My question is more in a legal sense. And I understand the federal law and the intent that goes with -- with that. We all have to be under -- under rules and regs.

We have to answer to somebody. Part of it is a moral issue; others are ethical issues. There's legal issues involved in this whole endeavor.

However, my question is, since the introduction of the wolves into the Yellow -- greater Yellowstone area, now they have been controlled by federal law. And then, at one point, they were decontrolled. They were left up to the states.

So it seems like, in those cases where federal law has -- has -- in terms of not controlling the wolf population anymore, how can that -- is that a legislative decision? Because, I think, when we're
1 talking about eagle feathers, it seems like there's no
2 hope for tribes to even -- you just mentioned federal
3 law is federal law.
4 Is there a possibility of some type of a tool
5 that can make the federal law flexible, in terms of
6 Indian tribes participating in the possession of eagle
7 feathers? I know you mentioned falconry and special
8 interest groups.
9 In the case of the wolves, you know, in ag
10 states, the farmers and the ranchers really have a lot
11 of -- a lot of control of that. So there is politics
12 involved in these issues, particularly if the
13 legislatures in that state are farmers and agricultural
14 people.
15 So how -- my question, maybe, is more of a
16 comment. How can we access or how can we make those
17 federal laws less stringent so that tribes have an
18 opportunity to have access to these feathers in one way
19 or the other?
20 Does that sound like a question or more of a
21 comment?
22 MR. RILEY: Okay. I think there are some
23 important things there that you're raising, certainly.
24 One, you probably are familiar with it, but in case
25 others aren't, the difference between the wolf being
removed from the endangered species list and bald and
golden eagles is the Endangered Species Act didn't name
the specific species that would be under federal
management.

It developed the criteria for whether a
species is endangered or threatened. When we
determined that wolves are not endangered or
threatened, then we would -- the law doesn't give us
authority over them anymore, once we've reached that
determination.

That's different from the Bald and Golden
Eagle Protection Act that Congress passed, which said,
regardless of the status of bald and golden eagles,
whether they're doing very well biologically, whether
they may be threatened with extinction or not, those
two species were considered by Congress to be
sufficiently important to the American public that
federal law would protect those species until that
federal law is changed by Congress.

How federal law protects the species, though,
I think, goes to the deeper part of your comment, that,
within that -- those protections, there may be ways for
us to meet the purpose of that law in that --
recognizes the special interest Native Americans have
with those species and do that more effectively,
potentially engage with tribes in new ways.

We've mentioned the eagle aviaries that now exist with some tribes is potentially an example of the kind of thing that takes time, takes work to meet the federal certifications to do that but is something that's been developed that allows tribes to have a special authority and a special relationship with the eagles in the aviaries that others do not, to pilot non-eagle repositories that have been developed that under (inaudible) treaty, a similar story could be told.

And so until Congress were to change the law, bald and golden eagles will be under federal jurisdiction, because Congress believes they are that important to the American public.

What it means and how we behave to meet the requirement that they are protected by the federal law, there may be flexibility in these sorts of conversations that are a chance to explore those.

Is that responding to your question? Steve may have more.

MR. OBERHOLTZER: We have three main, I guess, areas where we feel that we give members of federally-recognized tribes great access to the feathers they need. The first one would be the
National Eagle Repository, where we fill roughly 4,500 orders a year coming from Native Americans, free of charge, of course.

The second would be, we and DOJ have formed a policy allowing Native Americans to collect naturally molting or fallen feathers, including the eagle feathers that they find. And the third would be, we have very -- in my opinion, very clear and flexible policy that allows Native Americans to possess, use, carry, and gift with other Native Americans lawfully acquired feathers.

So where the line is drawn by the DOJ and the Department of the Interior is collection of carcasses. And there's two reasons -- or two main reasons for that. The first is our law enforcement agents have to be able to preserve that carcass as evidence to figure out what's killing eagles, whether it's electrocution or shooting or poison or whatever it is, so we can address those threats.

So we need to be able to get our hands on those carcasses to address the threats to eagles. And the second would be more of a public safety or health issue. We have a big problem, especially in the western U.S., with eagles getting poisoned.

And some of the poisons that are used to
intentionally try and kill wolves or coyotes or other predators, they also kill eagles. And if you don't know how to handle them, you can get into a lot of trouble. And, in fact, some of the poisons that are used are pretty fatal to humans too.

So there's health reasons. There's investigative reasons. And, in my mind, that was probably why the line was drawn at can't collect carcasses. But up to carcasses, we have policy allowing that flexibility so you can collect.

MR. FISHER: I appreciate your comment on that. I probably would disagree with your -- with your assessment. You know, as natives, I don't think we wanted -- if they had -- if it had been an accidental electrocution, it wasn't the eagle's fault.

You know, it was transmission lines that was probably in the name of energy or oil development or some other -- some other source, or if it was one of those huge windmills, you know, that seems to be one of the causes for deaths of birds. Nevertheless, I think your comment is well taken.

However, I think, as Native Americans, when we're talking about this -- such as this, the eagle feathers, it seems like there's always some other activity in the -- in the Dakotas, the Balkan oil
They're just -- I mean, it's -- it's, you know, energy development is omnipresent. And it's spreading throughout the -- there's adverse effects to cultural sites. And so it seems like our First Amendment rights to be able to pray are being outweighed by the right to drill for energy resources. And there's something wrong with that picture. That's getting beside the point. I don't want to dwell. But one last question about the legality of this.

In the treaties for the treaty tribes, if, in fact, it says that you will be able to hunt and fish and do all these things, should that not be part of their ceremonial right, to be able to accept these types of ceremonial birds? I mean, it is a treaty, after all.

MR. OBERHOLTZER: Thank you. And I won't be able to give you a specific comment on the treaty with your particular tribe, but I can give you a general comment, absolutely.

Treaty rights are -- that is the contract between U.S. Government and your particular tribe. With the case of eagles and the Bald and Golden Eagle Protection Act, there are some case laws that more
accurately guide us in whether or not the Bald and
Golden Eagle Protection Act applies on tribal lands or
doesn't.

One of the cases that comes to mind is
U.S. versus Dion that, I think, guides us that it does
apply on tribal lands. That is why we have the
structure for application for an Indian religious-take
permit and some of the other permitting processes we
have, is that Congress did tell us, and the U.S.
Supreme Court told us, that it does apply and that we
need to figure out ways to accommodate religious
freedoms on tribal lands too, but that eagles are
protected, regardless of where they're found.

MR. FISHER: Thank you.


Back home, we've got some ceremonies that require the
use of feathers from a live eagle. How is that
handled?

MR. RILEY: How is it handled, in terms of
how you can acquire the feathers?

MR. MARTEL: Yeah.

MR. RILEY: Well, eagle aviaries is one
source now. The -- some of the discussions we had
about naturally molting feathers, as in the discussion
that Steve had yesterday about the ability, separate
from carcasses of eagles, that if those are found,
those can be acquired and held and exchanged among --

MR. MARTEL: (Inaudible.)

MR. RILEY: Not the carcasses, no. The feathers. If you're asking about the feathers, or if you're asking about --

MR. MARTEL: I'm talking a live eagle, not from a carcass.

MR. RILEY: Right. So that's -- okay.

MS. WALSH: So Clint was saying that one way that you could obtain a feather from a live eagle is if you find one that has -- (inaudible.)

THE REPORTER: I can't hear you.

MS. WALSH: Clint was saying that if -- that one way that you could obtain a feather from a live eagle is if you find one that has molted.

MR. MARTEL: You're completely missing my point. It's got to be taken from a live eagle.

MS. WALSH: You have to physically take it?

MR. RILEY: Yeah. An aviary would be the best source, currently. Oh.

(Conferring.)

MR. MARTEL: So there's a catch and release?

MR. OBERHOLTZER: Well, "take" is --

MR. RILEY: Take -- yeah. Catching an eagle
MR. OBERHOLTZER: And, theoretically, that process, for even a religious-take permit, could include not just the lethal take, but it could include an eagle, taking a feather, or -- so -- and then releasing that bird too.

So that might be one way to accommodate what you're trying to accomplish. Once again, it is a permitting process.

MR. MARTEL: I need a little plastic card, though, right?

MR. OBERHOLTZER: You'd need a permit for that one.

MR. RILEY: I'm sensing we're not asking or providing more discussion on the regulations as they relate to depredation right now. If that's the case, I was going to at least move on to one of the other potential regulatory changes that may be under consideration. Is everyone comfortable with that?

Well, rather than waiting for something that's in front of you, my next sheet that everyone should have will be titled "golden eagle rehabilitation."

While she's looking for that slide,
currently, under the regulations as they're written right now, someone who has a -- is certified, has a license to be a rehabilitator and would have a golden eagle or a bald eagle that -- you know, it would be a golden eagle, in this case -- that is rehabilitated and could be released, current law would allow them -- does not require them to -- but would allow them to transfer that golden eagle to a falconer.

As far as we know, that has never occurred since this provision was created, but the current regulations would allow that. That was a change relatively recently that wasn't intended to be specific to golden eagles.

It was intended to address all raptors and all raptor rehabilitators with the intention of being that, if a falconer might otherwise be taking any other raptor or -- raptor -- hawk, falcon for falconry purposes, if they could acquire that bird from a rehabilitator instead of taking it from the wild, that's one less bird taken from the wild.

So, less than 10 years ago, those regulations were changed to allow rehabilitators to transfer a releasable bird that's healthy enough to go back to the wild, instead of releasing it to the wild, they could transfer it to a falconer.
When we wrote that, we weren't specific about any species, so it includes golden eagles. One thing under consideration, potentially, would be for us to go back in that regulation and specify that rehabilitators could transfer other species of raptors to falconers, but they could not transfer a golden eagle to falconers.

They would have to release the golden eagle to the wild if it were healthy enough to be released. That's the simple proposal being kicked around internally as it would relate to eagles.

Some of the thought process behind that would be that, compared to other -- other species of raptors that falconry uses, since falconers can't simply take a golden eagle from the wild anyway, as we were discussing, they can only take one if it was otherwise going to be taken for depredation reasons, that we're not accomplishing the intended purpose with golden eagles by, instead of them taking a golden eagle from the wild, they're taking one from a rehabilitator.

As I said, I don't think that's ever been done anyway. What I have been told is that most falconers are not excited about getting a bird from the -- a rehabilitator. They would rather have one that's -- that they found that is still demonstrating
their capability of hunting.

That's just what I've been told. That's the summary of the relatively simple issue here, and we would be curious if we were to propose that change.

MR. SHAY: Darrel Shay from the Sho-Ban. Again, I would like to know, who is a licensed raptor rehabilitator? And who are they licensed by, either a state, federal, or who? God, or who?

The reason for my question is, they seem to wield a lot of influence in this issue.

MR. RILEY: I might ask -- Jannell Suazo is -- and we haven't introduced her yesterday or today. I apologize. She spoke once yesterday. She is chief of our permitting office in our Denver Regional Office.

And it's her office that would generally be in charge of licenses and certifications for many of the things we're talking about, in terms of receiving the applications and reviewing them.

Did you hear that question, Jannell? The question was, for rehabilitators, the process for someone to be a licensed rehabilitator, what -- who does that licensing and what those requirements are.

MS. SUAZO: That is the respective regional office of this region. It would come to my office.

And there is an application form for that as well. And
the process is -- the big part of that process is facilities, making sure that there's adequate facilities for the type of species that individuals want to rehab.

As an example, waterbirds needing the right facilities, as far as water; raptors needing the right size of cages too. So the short answer is, apply to your permit office in your region, and, you know, give them a call, and they can help walk people through that process.

But it is an application process as well. Does that answer the question that you had?

MR. SHAY: I was just trying to find out who licenses people.

MS. SUAZO: It is Fish and Wildlife Services. It is the permit offices, and a lot of the states do require state falconry permit as well, which would be applied through state game and fish.

MR. SHAY: So, like, the university?

(Inaudible.)

MS. SUAZO: The comment was, Is it a university office? Are you talking about Fish and Wildlife Service?

MR. SHAY: No, a rehabilitator. (Inaudible.)

MS. SUAZO: They -- they do have to have
background knowledge and experience in handling birds, caring for birds. They have to have a licensed vet. And a lot of them have volunteers. They have staff that help with the facilities, with the birds' triage. That better answer your question?

MR. SHAY: Pretty much.

MS. SUAZO: Okay.

MR. JUAN TYLER: We'd like to have Indians and hire some tribes to work as falconers as well.

MR. RILEY: And to be clear, rehabilitators aren't falconers. Rehabilitators may work with falconers at times, but it's a separate process. But rehabilitators do require a permit license from the federal government through the Fish and Wildlife Service.

At times, states may have additional requirements. Generally, rehabilitators are people doing it in their volunteer time, because they want to have birds that, when they're struck by the road, they think they can get them healthy and get them released again. But they can't do that unless they get permission from us, because you can't hold a migratory bird unless you have permission.

And so it's a process for getting that permission as a rehabilitator. Is that -- I'm not sure
we're fully understanding your question.

MR. SHAY: I was just trying to find out who

they were.

MR. RILEY: Okay. Are there other comments?

MS. SUAZO: The other thing I was going to

add is, it can be any individual that is qualified,

with training, that has the appropriate facilities. A

lot of nonprofit entities. So reservations and

individuals on reservations, Native Americans, can

qualify as easy as anybody else, as far as answering

the who.

It's anybody who has the experience, who has

the facilities, the knowledge, the background, and has

the interest and the desire to do this. If there's any

interest at all, contact our office.

MR. GUTIERREZ: I'm Jesse Gutierrez. I

guess, just a comment, you know, just for the record,

you know. I guess, to me, this is more like a

listening session, just for the record, because

government's a government. And consultation, kind of,

should be with our governor and our tribal counsel and

presenting and talking with them.

But, you know, just a question I have is on

the -- where it says "distribution" -- "unsuitable for
distribution," and you'll give the parts for
researchers and for science.

You know, who's going to be the person to consider the part of the eagle unsuitable? Because, you know, we use a lot -- almost everything from the eagle. And then you're saying "unsuitable for distribution" to Native Americans, you know, how do you know it's unsuitable?

That's just a question I have.

MR. RILEY: Thank you. And, boy, that's the danger of me deciding I could go ahead and summarize this issue before we had the slide up there.

I forgot there was a total second half of one of the things that we talked about within the Fish and Wildlife Service, separate from whether a releasable eagle could be transferred to a falconer, and that is whether or not the eagle parts could be given to research.

That hasn't been determined. I think what we would take from your comment is to say we would need to know through that -- think through that issue before we would move forward on that proposal to know exactly how we would make that determination. It hasn't been specified to this point.

MR. JUAN TYLER: That's if they're contaminated by diseases or poisoned by somebody.
(Inaudible) -- to be distributed to Native American tribes, then, so you guys do a thorough investigation, a forensic study, and analyze that?

And then, after you find that, say, Hey, we know who did it. Do they get a slap on the wrist, or are they going to be held accountable and fined and all that? Like the sheep ranchers that have those little baby lambs, and they blame it on eagles, when actually they died of stillbirth or something.

After birth, they're out there, and the little lamb was dead because something happened to that lamb, or maybe that lamb is in an unknown situation, and then the eagle comes along and starts feeding, and then he gets the blame, or she gets the blame, then -- and then, an innocent person, eagle, is then taken.

And by these people that don't have -- you know, just jump to conclusions real quick, judge you right off the bat. It happens on Law and Order. Do you watch that all the time? Yeah.

But who's going to research these things and make sure that they are unsuitable? How are you going to determine that? An innocent person might be able to (inaudible) gifts, find a way of the Indian way of practice to take away that disease, that poison.

There's a lot. You can't just judge them.
These falconers seem like they have more power. You know, under our treaty tribes, I think we need to establish our own as Native people here in this room to establish a board across the nation, all the Indian tribes, and then get something similar, and call it something else, beside these things, falconry and all that.

Call it something, and then we'll have control. That has to happen within -- ASAP, within five years, less. We need some kind of plan.

So we had a resolution from our tribes that, whenever there's an eagle -- there was seven eagles found dead on our reservation a year ago, because they were poisoned by -- what was that called, Darrel? Some kind of man. He called yesterday -- he named it yesterday.

What happened to those eagles? Where did they go? He says, Don't touch them. It's going to contaminate -- it's going to spread to your skin, and you're going to catch a disease. It could affect you humans and kill you. It's like West Nile Virus.

But -- so what happened to those seven eagles that were found up there on our reservation? And there were other -- other eagles found that were taken. They should be returned back. We've got -- we've got a
resolution that says whenever an eagle is found on our land, Indian land, reservation, those eagles go and come back to us.

If they're suitable to, they come back to us.

Where did they go? Eagle parts go elsewhere. Next thing you know, they got one from a different part of the country, different parts of the Indian lands, or in the United States, goes to repositories, and somebody finally gets one of them.

(Inaudible) -- you've got one from this state, this area, this area, here's your feathers, and you know, all that time. Is that really real? You know, they're probably at the Denver March Powwow dancing. They're probably putting them on little kids.

You know, they've got fake feathers nowadays too. Sorry to change the subject.

MR. FISHER: Again, this is -- has to do with the policy and procedures and the legality. I'm just reading some of the material that was handed out.

So falconers seem to have a very powerful influence in this whole -- or this whole possession of eagles, whether for recreation or others, just looking at the management of depredation -- depredating eagles and then the golden eagle rehab.

My question is, has the Fish, Wildlife, and
Parks consulted with the tribes on the current or existing policies, 50-CFR-22.23, on the direct or indirect effects of the depredation of eagles on livestock or other animals? Because we're really focused, again, on agriculture here.

It seems like, if you have a federal law that protects eagles, and all of a sudden they're preying on sheep, cows, whatever ag folks raise, then the eagle becomes a liability. Then they're expendable, according to whoever made these policies.

What about the rights of Native Americans? Shouldn't there have been consultation with Native Americans because of their affiliation with this very special animal, rather than all of a sudden Fish, Wildlife, and Parks considering these proposed -- these proposals for depredation permits?

There's something, again, wrong with that picture. And I'm looking at this hindsight, 20/20. However, I guess, being new -- and I have to apologize, because these may be some questions that have been asked already.

But as far as policymaking is concerned, can you give me a clear picture of why that is the case? Why do agriculturalists and falconers have such an influence on the policies of Fish, Wildlife, and Parks,
rather than tribes? And have they been consulted on these issues previously? And shouldn't that be the appropriate way to address this?

MR. RILEY: So Congress, when they -- when Congress passed the Bald and Golden Eagle Protection Act, and they said, You can't harm eagles, they put in some exceptions.

They said Native Americans have reason to take eagles and can receive a permit. They said that if eagles are depredating on livestock, they can be removed, or for safety emergencies, you can -- you can take an eagle. They said if an eagle is being removed because of depredation, falconers can have it.

So those broad statements were made by Congress in the law. The regulations are attempts to figure out how to make those laws work. I -- this sounds like an unfair out, but I don't know what consultation occurred or didn't occur when the regulations were established as they exist right now.

I don't know how well we've done with consultation in the past. What we're wanting to do right now is, because there may be an opportunity for us to change those regulations, we're wanting to make sure we're as transparent as possible about some of the kinds of things we may be considering in trying to
change them.

But this is an opportunity for any part of those regulations, as they're written now, as our attempt to implement the Congressional law. The -- we're open to whatever other comments or suggestions you would have about that.

The side boards that Fish and Wildlife Service operates within Congress did say, among the legal exceptions to the prohibition on take of eagles includes, for example, if they're impacting livestock or wildlife and can be removed for depredation purposes.

MR. FISHER: So are those regs statutory? Is that regulation statutory?

MR. RILEY: No. The regulations are not statutory. The regulations are created through public comment and an adoption process as a means of explaining and implementing the statutes.

MR. FISHER: So there's no teeth? There's no teeth to it?

MR. RILEY: No, they are the teeth people. People -- they have either criminal or civil implications, depending on the regulations. They have the teeth of federal law. They have the teeth of federal law by Congress. But they're not by Congress.
1 They're (inaudible.)
2           MR. FISHER: And therein lies the problem.
3 Thank you.
4           MS. WALSH: Clint, I wanted to ask you a
5 question, again. I always like to understand what's in
6 the statute, what's in the regulations that implement
7 the statute. And then, what is agency policy? Because
8 that tells me how difficult or how easy it is to make a
9 change.
10 It's a lot harder to change a federal statute
11 than it is to change a policy. So I think I heard you
12 say earlier that the statute, Bald and Golden Eagle
13 Protection Act, allows for eagles that are depredating
14 to be taken from the wild and given to falconers but
15 not only to falconers.
16 The law does not specify that they can only
17 go to falconers. Is that accurate?
18           MR. RILEY: Yes. It's because it's stated in
19 two different places. The law says eagles can be taken
20 for depredation purposes. It doesn't say where the
21 eagles go.
22 It says eagles can be held by falconers, but
23 the only place they can get them is if it was a
24 depredating eagle. So the -- it doesn't say that they
25 couldn't have gone anyplace else.
MS. WALSH: And do the implementing regulations restrict that distribution to falconers?
MR. RILEY: They don't. The current regulations are pretty silent on that.
MS. WALSH: So what I'm hearing around the table is a great interest in eagles that are taken from the wild not only going to falconers.
And what I'm hearing from my technical expert is that that doesn't require a change in the statute or the regulations, but it might require change in our internal policies and practices. So that's a message I will take back, that we want to explore that.
Another important point, I think, to share with you is that falconers are pretty active and pretty sophisticated in working with Congress. And so we will need your help in making your voice known about changes that you would like us to make as we move forward exploring that with you.
MR. FISHER: It's got to be statutory.
MR. MARTEL: I must be missing something here. Why do -- what's the importance of falconers having eagles?
MR. RILEY: Congress said that they could have eagles.
MR. MARTEL: Why?
MR. RILEY: You know, if you could explain everything Congress did, we wouldn't have had a furlough last fall.

MR. MARTEL: Why do falconers want eagles? I'm not worried about Congress. Why would falconers want eagles?

MR. RILEY: I'm going to cheat. Is this okay, Kelly? We have someone in the room who is a falconer.

And rather than me -- this is -- please, just as no one of you would say you're speaking for every other tribe, and I can't speak for every other Fish and Wildlife employee in my personal beliefs, Kelly can't speak for all falconers.

But clearly, there's enough curiosity about falconry and why people are interested in falconry and why golden eagles would be attractive. I'm going to ask an actual falconer to speak to that.

MR. HOGAN: All right. Well, let me clarify. I'm actually a licensed eagle falconer as well.

MR. JUAN TYLER: What's his name again?

MR. HOGAN: Kelly Hogan. Sorry. One thing Clint said earlier which needs -- I'm sorry -- which needs to be clarified, he was talking about hundreds of years.
Falconry is about 3,000 years old. One thing you have to remember about golden eagles is they're probably the most widespread eagle species out there. Excuse me a second.

MR. JUAN TYLER: Well, there's some in Siberia, huge ones.

MR. HOGAN: Exactly. Eagles have been hunted in Mongolia for a thousand years before Christ. And the connection falconers have with eagles comes from that long association with eagles.

It's not a sport; it's a way of life. I won't call it a religion. I'll call it a connection, and that's the important part for falconers.

MR. MARTEL: I still don't get it. If you're falconers, why do you need eagles? I don't get it.

MR. HOGAN: Well, we use a lot of birds in falconry, and very few eagles are actually flown in falconry. They've been trapped in two states, South Dakota and Wyoming.

MR. MARTEL: What do you do with them?

MR. HOGAN: Hunt.

MR. MARTEL: You hunt them?

MR. HOGAN: We don't kill the eagles. No.

It's only a hunting sport. And, typically, what happens in classical falconry is, you'll catch the bird
in the fall and release it in the spring, because birds are very expensive to feed, and that's one thing that aviary owners should understand.

Not all eagles that you capture you can just throw in a cage and breed. It's going to take you five to six years to get them old enough to breed, and they've got to be fed that whole time. Typically, falconers will release them, under classic falconry.

MR. MARTEL: So you take these eagles so your falcons hunt them?

MR. HOGAN: The eagles hunt, like, rabbits. In Europe, they're hunting, like, Sitka deer. They even use them to hunt wolves. It's a pretty incredible sport. It's a connection. You know, like a lot of people have connections with eagles, falconers have that same connection.

MR. MARTEL: I was just wondering, what in the hell?

MR. RILEY: I just realized, maybe there was a fundamental disconnect. And when we said falconers can take eagles, they're not taking eagles to kill them.

What they're doing is taking an eagle and removing an eagle from the wild. It's called taken from the wild. But what they're doing with the eagle
is managing it, feeding it, caring for it so that they
can take the eagle out, and the eagle will hunt for
rabbits or hunt for other species as a means for the
falconer to hunt for rabbits.

They -- the eagle, as a great hunter that it
is, can hunt for things that other raptor species can't
hunt for as effectively.

MR. OBERHOLTZER: I'll let you talk here in
just a second, Kelly. And I think the gentleman here
had a great point about this becoming a mixture of
discussion and consultation, and we really want to
solicit comments from tribes.

So if anyone is giving a comment on behalf of
their tribe, please, we'd like to get your input into
whatever the topic is we're talking about. Make sure
it's clear for us and the court reporter that you are
giving that comment on behalf of the tribe.

MR. ORTIZ: I have one issue here on the
comment part. I guess it's more or less, you know,
representing one tribe, we need to really be clarified
and understand all the issues that's being talked
about.

This is going to carry back on to that
administration, as well as the council, for them to
then make that, you know, decision on what needs to be
brought to you, again, as -- well, as the Congressional
delegations.

The other question I have is, has there been
any studies done on the population of both golden
eagles and bald eagles within the United States?

MR. RILEY: Sorry. I was waiting for the
microphone to be turned off so we wouldn't have the
feedback. Yes. Thank you. We want to have this
conversation to be as effective as possible.

And I apologize that it took until this point
in the conversation to realize some of you may not be
familiar with falconry and thought it meant that you
were hunting that eagle itself or killing the eagle.
It's the opposite.

As far as studies of population of eagles,
there are surveys done of various shapes, forms. We're
trying to accelerate part of that. One of the
discussions yesterday that we talked about is lack of
data as we make our decisions to make sure we are
familiar with how many eagles there are, where they
are, local differences, certainly.

As was noted, we are going to run out of
time. We have other things that we would love to know
your feedback on. And the feedback on this one has
certainly been instructive.
Are there other comments specific on the regulations as they relate to rehabilitators and what rehabilitators can do with the eagles and the -- okay.

MR. LUJAN: Good morning. My name is Albino Lujan, from Taos Pueblo, New Mexico. And I think Noreen is going back -- take this back to Congress.

Yesterday and today, I hear about Congress making laws to protect the eagles and all that and how to obtain feathers to us natives. And yet they give out permits to poison the eagles and tell them how to catch the eagles for protecting their livestock.

So it seems I can't quite understand the picture here. The Congress passed laws to protect the eagles, and yet they give out permits for poison. And that's killing the eagles. I don't understand that.

So take that back with you. Thank you.

MR. RILEY: Okay. Thank you. As a comment -- as a comment from your tribe, the previous -- one of the previous proposals we had would be that permits would not be allowed for poisoning eagles or for otherwise lethally taking eagles.

And so that's one of the things you would support, is changing it so that -- we haven't issued any in recent past to allow anyone to poison an eagle if it was depredating. But you're supporting that...
MR. LASLEY: Thank you. Raymond Lasley, Osage Nation. You know, it hasn't been that long that tribes have been at the table for consultation.

It used to be -- and some of you remember -- that any consultation that we used to have, it would be a phone call. And that would be satisfying the federal requirement for that consultation with tribes.

It hasn't been that long ago, just the past few years. Now, the tribes are really starting to assert their right to that meaningful consultation. When I say meaningful, that is on a government-to-government relation that we have, either through treaty or by the -- our inherent sovereignty.

So, I mean, we -- we have been a long time away from the table. Now we are at the table. Now is our time to make our voices heard regarding these critical issues on the -- not only eagles, but it goes across the board with everything.

It's just fortunate that we have some good listeners with Fish and Wildlife that are here today. We're still woefully underfunded with the grants that we have, the Fish and Wildlife grants. I mean, they're -- we are the original stewards of this country, of the wildlife, of all wildlife here.
It was the Native people that were the original stewards. And we have not been given that -- that note, or we have not been recognized as the stewards, the original stewards. Now we're there. Now we're saying, We want to be a part of this.

We want to be a part of any change in regulation regarding eagles or any other wildlife. We want more aviaries. We want more grants available for the development of our natural resources departments. We need these things in order to make it happen.

And that's kind of my complaint, is that, you know, the -- there's always a very limited amount of federal dollars that are out there for tribes, and we have to compete against one another. These are all competitive grants that we have to do.

And we have submitted our grants for an aviary, and we have been -- we haven't been awarded any, and other tribes have. And I'm not going get into any of that.

But what I'm saying is that Fish and Wildlife, listen to what we're saying, provide some more funding for tribes to become rehabilitators, for tribes to develop our aviaries, to provide the tribes an opportunity to have repositories.

Now, they're doing that in Oklahoma now. We
have the aviaries that are there. They're providing
eagle feathers for their tribal members and non-tribal
members, as long as they're Native American, mind you.
And I myself have been given an eagle feather from one
of the tribal aviaries in Oklahoma, and it was out of
respect.

I was the -- an elder there, and so I don't
need to go into that. But things are changing, and
we're seeing change, and it's because we have decided
to take the -- be proactive with our approach with this
and to say, It's time.

Fish and Wildlife, Department of Interior,
start paying attention to the Native Americans and our
struggle to keep what we have and to be stewards of
fish and wildlife. Thank you.

MR. JUAN TYLER: (Inaudible.) So please pay
attention. No, I'm joking. But, anyway, you know,
this is pretty serious, this falconry stuff. They came
to our tribe a week ago -- or how many days ago,
Darrel? Monday.

It was, like, a surprise attack. What the
hell? You know, no consultation. So they should be
null and void, because there was no consultation going
on, as you can see in this room. That's the -- what
happens a lot of times.
As a treaty tribe, our treaties are way before the states existed. And all of a sudden, we find out about a rule. We had to learn about it. They were attacking our treaty lands and our unoccupied lands, these federal lands where we hunt, fish, and gather, et cetera.

That's our right for all this land and everything, so you could have that for a permanent home. And you have to be re-educated, everybody. And then, there was the Federal Lands Facilitation of Transaction Act -- Transfer Act. And that was a real bad one. We didn't even know about it.

We heard that everybody was -- you know, BLM, Forest Service was selling our lands. And then, all of a sudden, even the state was getting 10 percent. We had to find out about it. And what the heck? They're selling our treaty lands without consulting us.

And so this is another surprise. And then the hydro-fracking. That wasn't even -- nobody was consulted. Next thing you know, it's destroyed the ground water. They're allowed to be exempt from polluting the Clean Water Act.

All these things are -- but Congress said, Oh, they're okay, even though there's these laws. It's like the gentleman said over here, you protect them,
and now you're giving permits to kill them. Same thing.

You got all these laws and acts -- Clean Water Acts that was implemented to protect -- so our falconers, you know, can -- they got bottled water, because -- no offense to that back there. But that's where we're at now. That elder said that yesterday.

So this is life. Our future is at stake. How are we going to do this? You know, we're here, and the last of, maybe, our generation. And as our language is still. I grew up with no English. English is my second language as well.

So now, my little daughter, she's learning -- you know, she's learning words, but she's going to be growing up and saying, What the heck? What did these guys do, you know?

1969, Neil Armstrong went to the moon and had a picture. Sent it. Look how beautiful this jewel is from the moon, this beautiful jewel, Earth. And then, 20 years later -- or 30 years later, 1996, that picture, and the next picture, then, and then the future, 1996.

Wow. You can even -- when comparing to each other, Mother Earth was all polluted. And it was, Oh, man, if we don't do something -- if man doesn't do
something now, we're going to destroy our own nesting place. That was his words.

That's how that is, an eagle, as our nest. That's how we are too. We learned from these animals way before 300 or 3,000 years. 300,000 years, from time memorial and way back, before.

We found out from one of our ancestors, there's a big aquifer in Idaho -- (inaudible) -- Lake Superior, a thousand springs that comes out. They found a -- (inaudible) -- there in Idaho, 12,750 years old. Artifacts still determine that she lived that natural life of harmony, because we don't want the earth destroyed.

So that is a pretty sad situation. So I would like to just take a little -- time is short. I wrote something here. What did I write?

And I was talking to my friend here. Maybe us tribes need to get together and build our own aviary and pitch in, you know, because, no offense, you know, our trustee -- fiduciary trustee won't help us and won't consult with us like they're supposed to under that treaty.

They signed a peace treaty and smoked a pipe. To tell the truth, man, it's not happening. So that's why all this -- everything's going off balance, because
they want -- (inaudible) -- the wisdom. And that needs
to change, or we're not going to make it further.

You know, we have veterans in here that
fought for this country. It's very disrespectful for
not being told about this falconry stuff. It's null
and void. It shouldn't be on the table. Congress
needs to be impeached.

MR. FISHER: Conrad Fisher, Northern Cheyenne
Tribe. I appreciate all the folks being here today. I
think listening sessions are always great and glad we
have your ear.

I wanted to just go back to your comment
before I forget. The regulations versus the statutory
language, I think, is very important. I think when
that gentleman from -- I think it's Osage talked about
consultation, we need to have that -- those types of
sessions where we're talking about statutory language.

We're not talking about just regulations.
When we're talking about regulations, those things can
be changed. Policies can be changed. Those are
internal policies that Fish, Wildlife, and Parks has.
And they can determine how they want to address this
issue.

Today, they're here not as a statutory entity
but rather as a policy entity, where they're going to
listen to us, and they're going to make some changes in there. Are they substantive changes? Probably not. They're probably policy changes that next year could change.

So we're not -- and no offense to you folks here -- but we're not talking to the right people. We need to talk to our legislators. We need to talk to our Congressional representatives. We need to have statutory changes made in this effort.

Otherwise, we're going to be barking up the -- we're still going to be talking about this 10 years from now. We're still going to be going up against falconry -- falconers. We're still going to be talking about how they can be part of this competition for eagles.

My own personal thought is that there shouldn't be falconers regarding eagles, personally. No offense to you (to Kelly Hogan.) But I heard you say that this is a way of life. Probably more in a recreational sense.

I don't think "way of life" has the same meaning as we do as Native people. This is who we are. Birds are -- have been part of us. We depend on them for survival. I don't think falconers can say that. I mean, you do this part-time. We do this full-time.
So there is a vast difference. And I -- we can debate on that forever. But that's my own personal feeling, coming from the Northern Cheyenne people. And fiduciary folks that are supposed to be taking up for us, the Bureau of Indian Affairs -- and no offense to them, but if you look at their record of responsibility, it hasn't been very -- very good. They're the only entity I know that can violate tribal rights and still have that fiduciary status to continue to do that.

If you were to look at lawyers, and they did that, they would be barred. Yet we never -- that's -- that doesn't seem to be an option, because they have that fiduciary responsibility for us. So I don't understand that, either.

Rehabilitators, do they have standards? If they do, are they veterinarians? Can we have a copy of what makes -- what allows them to be able to take those birds and rehab them?

Because we hold such a high standard for those animals, they should -- we should -- they should have high standards to be able to care for these animals, rather than just somebody saying, Well, you could handle that; you could be a rehabilitator.

We need to have that. We need ensure that
they're being well taken care of. It sounds like anybody could be a rehabilitator. But we don't know exactly, and they should be guided under certain laws.

If they're not doing their -- taking care of them, then they should be felons for not taking care of them. That's how high we have for this -- for this animal, the eagle.

One last thing. Again, I think, when we're talking about changes, let's -- you folks listening to the tribes, these things should be addressed in a regulatory manner, where there is statutory, substantive law involved.

I just -- over the years, I just can't see listening to us and nothing happening. It's like the executive orders. That's all they were. They look good on the outside. No teeth. Those can be rescinded in one -- one hearing. There's nothing there that guarantees that they're going to be on the books forever.

And that's what we need as tribes. We need to assert, as this gentleman said, our sovereign -- inherent sovereignty. And that means we've got to be involved politically. And, again, no offense, but I just don't have the faith, even though your intent is good.
You're here to listen to us and take it -- take whatever we give back to you. But there's no guarantee anything's going to change, unless there's teeth behind those laws. Thank you.

MS. WALSH: Thank you. Can you tell me, again, your name? I'm sorry.

MR. FISHER: Conrad Fisher, Northern Cheyenne Tribe.

MS. WALSH: Thank you for your comments, Mr. Fisher. And I wanted to say just two things briefly in response.

One is, we can provide you a copy -- all of you a copy of the standards that we use when we decide whether or not to issue a permit for a rehabilitation facility. So we can make sure to get that to you.

The other thing I wanted to say is, some of the potential changes that we were discussing yesterday and today are changes in regulation. Others would be just changes in our policy or practices. So we are discussing both of those things.

And of the things we put on the agenda, none of those are changes in the statute. Although I certainly respect that you may think some of the statutes need to change, the things that we asked to discuss with you either are regulation or policy
changes. I just wanted make that clear.

And then, Mr. Tyler, I wanted to say I respect that it seems disrespectful, but we are putting these things in front of you today so that we can get your reaction.

So you are hearing about it today before we have proposed any changes, and we want to hear from you whether those are good ideas or whether you have other ideas.

MR. JUAN TYLER: You're not in charge to make a decision and make the change, and we appreciate that. You don't have the authority to make the change. Congress will. Are you going to influence them to make that change?

MS. WALSH: So, only Congress can change the statute. At the agency level, the U.S. Fish and Wildlife Service, we can change regulations. That involves a public process and public comment, but we change regulations at the agency level.

So I wanted to do a time check. We must close at 11:00, I'm sorry to say. I have commitments that I wasn't able to change when we decided to extend our meeting until today. I have to leave at 11:00.

So we will not have time to get through the rest of the topics that we had. And I do want to take
just a minute at the end to reflect back to you the kinds of things that I heard from you over the last two days.

So let me just -- recognizing that I must leave at 11:00, let me ask if there are any additional comments that want to be made. Jesse.

MR. GUTIERREZ: Good afternoon. Jesse Gutierrez, on behalf of the Santa Clara Pueblo.

Just a few comments. You know, I guess, in a way, you guys like are messengers, and it's always a shoot the messenger, you know. And it's like a double-edged sword. I understand, for you, because you get it from the tribes, and then you get it from your higher-ups also.

You know, so I understand that position you're in, you know. But at the same time, I think you need to hear what we're saying, also, and then try to push on our end to your higher-ups, also. On our end, we still need to go to Congress and everybody else up the chain, you know, as tribes, you know.

And the other concern, you know, is, like I mentioned before, you know, I would like an opportunity to take this information back to my tribe and have my governor and council review these things and maybe bring you guys back comments in a forum or something to
that effect, you know.

That way, it comes in a proper way, you know.

And also, I would like to set up some kind of meeting, you know.

I know we're from the southwest, you know, but, you know, things that happen here with the repository affect us from New Mexico, you know, because, you know, like the gentleman said yesterday, you know, we can't kill eagles there, because we'll be thrown in the penitentiary for so many years, you know.

So we have to apply for these things, you know. That's just one comment. And one other comment, also, is that, you know, it's -- this animal is sacred to us and all of us, you know. We use it in cultural, traditional, our things that we pray to, the things we pray to, you know.

And I know each person -- each tribe has their things that they pray to, just like us. We have many things that we pray to, you know. And it's just -- it's just sad that we have to go through all this to get something that is so sacred to us, you know.

And that's the only thing that we have a hard time at times getting ahold of, you know, like the gentleman said yesterday, all these animals are all
sacred to us, and a lot of them, we can get for
ourselves, you know.

And it's just something that's bothersome,
that we can't get the eagles as easily for our
traditional ways that -- that we can with the other
animals, you know. But, you know, that's just a
comment I'd like to make.

MS. WALSH: Do we have one more?

MR. SHAY: Darrel Shay, from the Sho-Ban Tribe in Idaho. I'm in Region 1.

First of all, I'd just like to make it understood that, because nobody has really talked for the eagle, I think that's what you're hearing. Most of us are talking for the eagle, because they don't have no way of communicating to us what they feel, you know, how they feel about it.

And we feel like we have that special connection. So I'd just like to share that with you. I want to acknowledge your effort to get to us to address these issues.

It doesn't seem like, you know, it's really taken the way that you guys wanted it to, especially around the consultation issue.

It just seems like, you know, most of us that have been involved in the tribe governments, we know

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what that is, and this didn't seem to appear to be it. You know, it's more like a listening session. That's why we even started calling it that.

And, you know, the rules that have been developed, they impact us, you know. And it just seems like the rules are -- to us, they're set in place, as far as, I guess, how they -- how they relate to us, you know. They prohibit us from doing this and that.

We can't even, you know, take a dead eagle that we find, you know, if we -- you know, we get in trouble over it, and the list goes on. But it just seems like the impact to us is a lot greater than it is to anybody else.

I mean, you've got the rehabilitators. You've got the falconers, you know. And, you know, you can -- you can take the carcasses for scientific research. And, you know, you can come up with exceptions to these rules.

And the one thing that stands pretty clear, though, is the enforcement. We know about that. We know that we'd get prosecuted, no question, if we have obtained an eagle feather, you know, I guess, not according to the rules. Okay?

If it was, you know, handed down as a special gift, whether if you're enrolled or not enrolled, you
I know. We don't have no questions about the enforcement side. But the way I look at it, and I don't know if -- I don't think I'm alone in this -- is that the way the rules are written are pretty clear.

But they're being exempted, and when you start exempting those rules, then it just becomes a mockery of the rules. And I don't think that's what -- that's what they were set out to be.

I mean, you know, when special interests come in and trump Native Americans that have a real unique relationship to this bird, I know we have some of those kinds of issues; that's -- we can clearly identify with those issues.

Back home, we have an issue with the rock climbers. The rock climbers want to climb these pristine rock walls. They drive big bolts in them, and then they go up and down. But in that process, they desecrate a lot of our archeological sites or our sacred sites.

And they do it -- they do it in the name of, I have that right. I'm an American. I have, you know, constitutional rights to do some of these things. And besides that, it's fun, and we spend a lot of money. It bolsters the economics around that given area.

So everybody thinks, Oh, it's okay. But to
us, it's not. And this kind of -- this issue is really, really the same, because we view -- we view the eagle in the same way we view our sacred sites.

All of these things are interrelated in our belief system. And I think that's what -- that's what you're hearing. At least, that's what I heard. Maybe I'm not sitting over there, and I didn't -- maybe what I heard is different from what you guys are hearing.

But, hopefully, we got this message across. And I think this is just the opening of this discussion, I believe. You know, we need -- we need to keep talking if we want to get somewhere, because, like some of those folks here said, you know, we're not -- we're not the Indian of 10 years ago. We're not the Indian of 20 years ago.

You're seeing us have a little bit more influence in what's going on, you know? And we kind of have studied the behavior of the federal bureaucracy, and we kind of know what to do with them and what not to do, when to use them and when not to use them.

And I think it boils down to that question of sovereignty. You know, who makes our decisions for us? Well, we do, nowadays. And I think it's going to get more stronger. Thank you.

MS. WALSH: Thank you, Mr. Shay. I want to
take just a minute or two to try to reflect back to all
of you what I think I heard from you over the last two
days.

And I'm under no illusions that I can capture
everything that I heard from you, but I think there are
some things that stood out to me that I would want you
to know and that I heard from you and some actions that
we will take, based on those things that we heard.

So I heard a lot over both days, and I
learned a lot from every one of you that spoke to us.
I heard a lot of questions from you. I heard things
like, Why does the Fish and Wildlife Service control
these articles that are very sacred to us?

Why is a permit necessary to exercise our
religion? I heard, Why are we burdened by rules, and
it seems like others are not burdened by the same
rules?

And I heard you say, These are not our ways.
This -- our practices are part of who we are, part of
how we were created, and these are not your ways. I
heard you say that. And, please excuse me, I took some
notes so that I wouldn't miss important points, and
that's what I'm looking at here as I talk to you.

As I heard those things from you, as I
listened to you, particularly yesterday morning, I
asked myself, How would I feel if I thought my own faith/tradition was being regulated, if I was questioned by law enforcement officers who didn't seem to understand or be sensitive to my belief and my faith?

I would not feel good. I get that. So I heard from you yesterday, through all of your words, through your faces, and through the applause that you had for each other when many of you stood up and spoke, I heard that this is a wound, and this is a very hurtful situation to you.

I can't fix everything, but my desire is to do what's under our control, relative to eagles and eagle conservation and eagle permitting, to make the situation better within the confines of the law that Congress has given us.

And our motivation, those of that us you see here today representing the U.S. Fish and Wildlife Service, our motivation is, really, to preserve your rights, to exercise your spiritual practices involving feathers and eagles, and to regulate others who don't have those same rights.

I think Steve explained very well a couple of times that other people don't have the same rights. We have to have a way to distinguish those people from
Native Americans. So I think there is room for a lot of further discussion about how we can better do that.

And Clint mentioned at the end of the day yesterday, that one of the things we will commit to doing is to take action to try and help sensitize law enforcement officers from other agencies outside of the U.S. Fish and Wildlife Service to your practices, to your religious beliefs, to how important eagle feathers and eagles are to you in a spiritual context.

So we will work on that, and we will work with the Department of Justice to share that information and try to educate the law enforcement officers that you may come in contact with that are not part of our agency.

We heard a lot today regarding eagles that are taken from the wild due to depredation. Falconers are mentioned in the federal statute as potential recipients but not as the only recipients of those falcons that may be taken from the wild.

So I heard your request that you want access to those eagles. I heard that you would like an opportunity to also have access to eagles taken from the wild due to depredation. That's something that we'll want to continue working on with you.

I heard yesterday that you all are asking us
to help you protect eagles and eagle habitat from other factors, from development that threatens their breeding habitat and their wintering habitat.

So we do that. We do that under that same statute, the Bald and Golden Eagle Protection Act. We work to protect eagle habitat from developers and others, at least according to the law and the regulations.

But one interesting thing I heard yesterday from Mr. Terry Knight was whether we've fully explored the potential of those designations, like historic cultural sites or historic -- sites of historic significance that are actually eagle -- important eagle habitat areas; can they be designated under the NHPA as another tool to help protect them?

I don't know, but that's something that we can explore. Regarding the whole process of consultation, I heard you say we should ask you what you want to consult on; we'll give you a list of what we want to consult on. I got that message.

I heard you say that your tribal elders, your council, your medicine people should be part of a consultation on these topics we've been talking about these last two days. And I heard many people say that real consultation means that we have to come to you
where you live with your council.

This is a hard one. I think those first two, we can address much better, and we can work on that. But us coming to all of you where you live is very, very difficult. And I know this is not a welcome message.

It is very difficult for us to get to all the federally-recognized tribes. I have constraints in terms of the number of staff we have, the number of tribes within our region, the funding levels that we have for travel.

I don't say that by way of excuse. But I think it's important that you know that the ideal for us would be to come to each of you personally to consult on every issue, and that may not be possible for us. We have to work together to find a way to do meaningful consultation when I can't be at every place within the region.

So a couple of other things that we want to commit to, based on what we heard from you over these two days, a lot of requests for yesterday for, Where do all the eagles come from? What states do they come from to the repository?

Steve had that information available yesterday, but we will also have it on our Web site.
And I think you all got a copy of this card, which shows our Web site. If you didn't, please pick one up before you go. We'll make sure those statistics are available there.

We had the good fortune to have some tribes, the Pueblos, here from a part of the country that is not part of my region of the U.S. Fish and Wildlife Service. From the southwest region of the U.S. Fish and Wildlife Service headquarters in Albuquerque, we had at least two -- two Pueblos here.

So I will commit, first of all, to communicating with my counterpart in Albuquerque, the regional director, Benjamin Tuttle, out of Albuquerque, to let him know what we talked about these last two days.

We will share the notes and the transcript from these meetings with Benjamin Tuttle so he knows what was discussed. And then, I will ask him to work with you directly to continue some of these conversations.

Not that we don't want to keep talking with you; we do. But there may be some things that you may want to work on him -- work on with him directly.

And then, lastly, I would like us to have another Eagle Summit, if that is something that is --
will continue to be of interest to you. And you guys have to give me feedback as to whether it is. And I will say, if we do that, I'd like to do it in a different way. I would like to see if any of you would volunteer to work with us to construct and organize and plan a session that would be most meaningful to you. So that's an offer I put on the table.

You don't have to answer me now, but it's feedback I would very much appreciate having from you about what we might do together in the future.

I am very sorry that we're at 11:00 and that I can't stay any longer. But I just want to say a sincere thank you for all of you that not only were here yesterday but were willing to come back today and share your thoughts with us.

It has been very beneficial for me. So thank you. Okay. I'm going it turn over to Clint for just one closing comment, and then I understand we have a closing prayer.

UNKNOWN SPEAKER: I'd just like to ask a quick question. How many in the room would like to see another Eagle Summit?

MR. FISHER: And I'd like to add on, to everybody, if you have any funding available -- because
that's a critical issue when it comes to participation -- if there is funding, if you could find some funding in your coffers, I think it would really be nice. I think you'd have a lot more participation.

MR. ROUNDSTONE: And just for your information, these programs, the historical preservation tribal programs, they're probably the lowest-funded organization within the tribal organizations. Those are traditional people. Take that into consideration for your next one.

MR. MARTEL: Noreen, I'd like to thank you for your comments there, because, quite frankly, yesterday and this morning, I kind of felt like I was being used, and I don't like feeling like that. You know?

And the guys do the -- like yesterday morning, well, this is not a consultation. I don't know what we were doing yesterday, just having a BS session or a confab, or what that was. But, you know, and then it just, like, Well, we had our consultation yesterday afternoon with the tribes, well, this is what we are going to do.

And what you said you were going to do makes me feel a little better. Thank you.

MR. RILEY: The only part I wanted to follow
up was to say we do both want input in general, and we
want to achieve the expectations for consultation.

And our attempts yesterday in distinguishing
was part of our understanding of consultation is that
it would be people who are authorized to speak on
behalf of the tribe and government to government. And
that's why all of our outreach was inviting the
afternoon to meet for that purpose.

And -- but we also know that there's -- the
opportunity for any discussion is always healthy. And
so we're looking for ways to both to have open
discussions, as well as signal when we would document
this as somebody speaking officially as a
government-to-government relationship.

And we'll keep working on trying to do that.
Since we didn't get to all of the discussions that we
wanted your thoughts on, I hope people have material.

Absolutely any -- any communication you could
provide to us, written or otherwise, about thoughts on
any of these proposals, some of them may not even move
forward to proposals, but we would be disappointed to
move towards proposals publicly without having heard
from you if you have thoughts to share in advance of
that, in fact, or thoughts.

And so the things we didn't get to, I hope we
may have an opportunity to talk more, if not
immediately. And then, as you go home and you have
additional thoughts to share, we'll look forward to
hearing those.

And Ivy Allen is -- and thank you for all of
her work on bringing us together the last couple of
days. She's the most efficient way to connect with our
office, and if she can't answer questions on these or
any other issues, she certainly brings others of us
into the discussion.

And we look forward to hearing from you, as
well as looking forward to reaching out to you again.

To close, I understand Scott did ask,
Mr. Lujan, would you be willing to close again today?

MR. LUJAN: (Closing prayer.)
And I would like to thank you for the
hospitality you showed to us.

WHEREUPON, the within proceedings were
concluded at the approximate hour of 11:16 a.m. on the
21st day of March, 2014.

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REPORTER’S CERTIFICATE

STATE OF COLORADO )

) ss.

CITY AND COUNTY OF DENVER )

I, WENDY McCAFFREY, Professional Court Reporter and Notary Public, State of Colorado, do hereby certify that the said Eagle Summit III proceeding was taken in machine shorthand by me at the time and place aforesaid and was thereafter reduced to typewritten form, consisting of 87 pages herein; that the foregoing is a true transcript of the proceedings had. I further certify that I am not employed by, related to, nor of counsel for any of the parties herein, nor otherwise interested in the outcome of this proceeding.

IN WITNESS WHEREOF, I have affixed my signature and seal this ___ day of ____________, 2014.


__________________________________________
Wendy McCaffrey
Professional Court Reporter