

1 NAHASDA REAUTHORIZATION ACT OF 2008:

2 NEGOTIATED RULEMAKING MEETING

3 Scottsdale, Arizona

4 March 10, 2010

5 8:14 a.m.

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23 Reported by:

24 DEBORA MITCHELL

25 Arizona CCR No. 50768

NAHASDA REAUTHORIZATION ACT OF 2008:

NEGOTIATED RULEMAKING MEETING, taken on March 10, 2010,
commencing at 8:14 a.m. at DOUBLETREE PARADISE VALLEY
RESORT, 5401 North Scottsdale Road, Conference Center,
Scottsdale, Arizona, before Debora Mitchell, an Arizona
Certified Reporter, in and for the County of Maricopa,
State of Arizona.

COMMITTEE MEMBERS PRESENT:

Steven Angasan

King Salmon Tribe

Carol Gore, President/CEO

Cook Inlet Housing Authority

Blake Kazama, President

Tlingit-Haida Regional Housing Authority

Marty Shurovloff, Executive Director

Kodiak Island Housing Authority

Retha Herne, Executive Director

Akwesasne Housing Authority

Ray DePerry, Housing Director

Red Cliff Chippewa Housing Authority

Robert Durant, Executive Director

White Earth Reservation Housing Authority

1 Leon Jacobs
Lumbee Tribe of North Carolina

2 Susan Wicker, Executive Housing Director
3 Poarch Band of Creek Indians
4 Jason Adams, Executive Director
Salish Kootenai Housing Authority

5 Lafe Haugen, Executive Director
6 Northern Cheyenne Tribal Housing Authority
7 Rebecca Phelps, Development Specialist
Turtle Mountain Housing Authority

8 S. Jack Sawyers
9 Paiute Indian Tribe of Utah
10 Marguarite Becenti, Member, Board of Commissioners
Umatilla Reservation Housing Authority

11 Henry Cagey, Chairman
12 Lummi Nation
13 Larry Coyle, Executive Director
Cowlitz Indian Tribal Housing

14 Karin Foster, Legal Counsel
15 Yakama Nation Housing Authority
16 Marvin Jones, Manager, Housing Oversight
Cherokee Nation

17 Thomas McGeisey, Executive Director
18 Seminole Nation Housing Authority

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1 Shawna Pickup, Housing Director/Secretary
Eastern Shawnee Tribe of Oklahoma

2 Russell Sossamon, Executive Director

3 Choctaw Nation Housing Authority

4 Ervin Keeswood, Member

Navajo Housing Authority Board of Commissioners

5 Judith Marasco, Executive Director

6 Yurok Indian Housing Authority

7 Alvin Moyle, Chairman, Fallon Business Counsel,
Fallon Paiute-Shoshone Tribe

8 Darlene Tooley, Executive Director

9 Northern Circle Indian Housing Authority

10 Sandra B. Henriquez

Assistant Secretary for Public and Indian Housing

11 Rodger J. Boyd

12 Deputy Assistant Secretary for Native American Programs

1 THE FACILITATOR: Okay. Are we ready to go?

2 MS. MARASCO: Before we get on to Section (c),
3 I'd like to go back to V, and at the second line, take
4 out "his," for all the young ladies at the table.

5 THE FACILITATOR: I'm sorry, Judith. I didn't
6 catch that.

7 MS. MARASCO: On our draft worksheet that they
8 gave us, it still says his/her. But I think on the
9 screen it says --

10 THE FACILITATOR: Oh.

11 MS. MARASCO: It didn't get changed in this
12 draft document that we have. Thank you.

13 THE FACILITATOR: Who else needs a copy of the
14 new draft?

15 MALE SPEAKER: (Indiscernible -- speaker not
16 using microphone.)

17 FEMALE SPEAKER: On Section VII, (a)(7), the
18 one we added, it seems like it needs to say "to assure
19 the regulatory," because all of these are things we're
20 going to do. And that last one is just -- we need to
21 add something in the front of it to -- I suggest that
22 we put "to register for future consideration regulatory
23 proposal identified."

24 THE FACILITATOR: Okay. For future
25 consideration to be registered?

1 FEMALE SPEAKER: Well, everything starts with
2 "to," like you're going to do something. That's all.

3 THE FACILITATOR: So what language do you want
4 there?

5 FEMALE SPEAKER: To register for future
6 consideration --

7 THE FACILITATOR: To register for future
8 consideration --

9 FEMALE SPEAKER: And then take it off above.

10 THE FACILITATOR: And then remove shall be
11 registered?

12 FEMALE SPEAKER: Yes.

13 THE FACILITATOR: Is everybody okay with that?
14 Okay. Lower case on regulatory. Thank you. Any other
15 corrections?

16 Okay. Can we go forward to (c)? Any comments
17 on (c)?

18 Yes, Karin?

19 MS. FOSTER: Karin Foster, Yakama Nation
20 Housing Authority. I would like to suggest that on the
21 fourth line beginning with the third word "with" --
22 wait a minute. I'm sorry.

23 The second line after "rule," that whole
24 section that reads, "at the conclusion of either the
25 expedited phase of the negotiations described in

1 Section 7VII(2) of this charter, or the final phase,
2 comma," I think that needs to come out, as it reflects
3 the comments that were made earlier on about not having
4 an expedited phase report prepared separately.

5 And then along with that, on the fourth line,
6 the words "with respect to agreements reached in that
7 phase" would also come out.

8 THE FACILITATOR: Okay. So any reference to
9 the two phases?

10 MS. FOSTER: I just think that would've been
11 clearer and match what we've done already.

12 THE FACILITATOR: Does everybody understand
13 what Ms. Foster is suggesting, any reference to the
14 two-phase submission be taken out here?

15 Let's have a look.

16 MS. FOSTER: (Indiscernible -- speaker not
17 using microphone.)

18 THE FACILITATOR: At the conclusion of the
19 expedited phase and all the way through to -- take it
20 out all the way to where, Karin, the final phase?

21 MS. FOSTER: Yes. It would be all of the way
22 to the final phase, including the comma.

23 THE FACILITATOR: Take out the final phase as
24 well.

25 MS. FOSTER: Right there, yes.

1 THE FACILITATOR: Take that out. And then the
2 end --

3 MS. FOSTER: At the next would be -- yes.
4 That's it.

5 THE FACILITATOR: You've got it. Okay. Any
6 objection to that change?

7 MS. FOSTER: Well, actually, right after
8 "shall," that comma should come out also, so that it
9 reads, "the committee shall transmit to HUD," without a
10 comma.

11 THE FACILITATOR: Okay. The comma comes out.
12 Okay. Take a look. Is that okay with everybody?
13 Okay. So we have consensus on this part. Any
14 objections? Good. It passes.

15 Moving on to Section VIII, meetings. Let's
16 take a look at this. The number of -- I will read this
17 for the sake -- can the audience read that okay?

18 "The number of committee meetings
19 shall be no more than six. Meetings
20 shall be scheduled no less frequently
21 than monthly if feasible. To expedite
22 the work of the committee, at least
23 one meeting shall be held in
24 Washington, D.C.; Denver, Colorado;
25 and Seattle, Washington. The date,

1 time, place, purpose, and the proposed
2 agenda for of each negotiated
3 rulemaking committee meeting shall be
4 published in the Federal Register at
5 least 15 calendar days prior to each
6 meeting. The Federal Register notice
7 shall also include a statement whether
8 all or part of the meeting is open to
9 the public."

10 Yes, Leon?

11 MR. JACOBS: I would like to recommend that we
12 have one of the meetings on a reservation, because a
13 lot of tribes now have facilities that would
14 accommodate such a meeting.

15 THE FACILITATOR: Any comment on that?

16 MS. HENRIQUEZ: The only comment is that we
17 don't have to have a meeting in Washington DC if that
18 helps with the schedule.

19 MALE SPEAKER: Thank you. Been there; done
20 that.

21 MALE SPEAKER: Well, we could go to Hollywood,
22 Florida. We could go to Connecticut, Mohican or in the
23 Midwest, outside of the Minneapolis. Where else, guys?

24 MALE SPEAKER: Albuquerque.

25 MALE SPEAKER: Albuquerque, California, lots of

1 opportunities. No one said Alaska.

2 FEMALE SPEAKER: We haven't jumped in yet, but
3 just wait.

4 THE FACILITATOR: Would you like to maybe --
5 Rodger, do you have a comment on that?

6 MR. BOYD: Well, one thing I would ask you to
7 keep in mind is just the financing of everything. I
8 think -- I respect the fact that we should go to a
9 reservation. I would also request that maybe we
10 look at those reservations that may be close to
11 transportation systems like airports, so that -- and as
12 all of you know, what we're doing is we're financing
13 the transportation and lodging. But it's really
14 difficult for us to justify rental cars.

15 And so some of you may have found that out in
16 that process, so I would encourage you, as we look at
17 other places around the country, if we could get them
18 close to an airport, the better. Thank you.

19 THE FACILITATOR: I think I heard in the
20 discussion with Nelrod also that they are locating
21 Indian-owned hotels in some of the cities that we are
22 meeting in next. Is that correct?

23 MALE SPEAKER: That is correct.

24 THE FACILITATOR: That is correct. Later we
25 will get in a discussion of where we're going to meet,

1 but I think you said you've found Indian-owned hotels
2 in Denver, Chicago, Seattle, Phoenix, and Oklahoma. So
3 that is something also to consider.

4 Why don't we put this on a footnote that we
5 will look into this. We'll do a little research and
6 have some discussion maybe on the side about what
7 reservations might be appropriate or be acceptable or
8 could work out for that. We have good suggestions
9 going on.

10 Okay. So you want us to knock out
11 Washington DC from this list here?

12 MS. HENRIQUEZ: It can stay on, but I'm just
13 saying we can knock it off to the extent that it makes
14 it easier for us to go someplace else, to be on a
15 reservation, to do -- I don't think there are any
16 Indian-owned hotels in Washington DC.

17 Oh, there is one. Rodger tells me there is
18 one. Whatever the pleasure of the committee is.

19 THE FACILITATOR: Do you want to leave it there
20 or take it off? It doesn't matter. What does the
21 committee -- we can leave it. I mean, taking it off
22 doesn't mean that it excludes it. It just means it
23 doesn't have to be there.

24 Jason?

25 MR. ADAMS: My question is the number of

1 meetings; are we set with six? That means we meet
2 every month until September?

3 MR. BOYD: Well, I think we talked about
4 expediting the process the other day. And Marvin was
5 very helpful on that.

6 Thank you, Marvin.

7 But if we could finish it in five meetings,
8 that would be great. But if we have to go six, I think
9 that we have a budget that would allow us to do that.

10 THE FACILITATOR: Yes.

11 MS. FOSTER: I'd like to follow up on Jason's
12 comment. I notice in the earlier protocol, the
13 statement was it would be no less than five. We're
14 limiting ourselves to six. I'm not suggesting I want
15 more than six. We should be able to conclude that
16 within the six. But are we limiting ourselves if we
17 say straight out that there are no more? I'm not sure
18 I see the necessity of having that in there.

19 MALE SPEAKER: Another comment, and I think it
20 was raised yesterday about, you know, we have the time
21 and the expense to come here, like for this meeting.
22 We have all of the time and expense, and we're meeting
23 for two days.

24 And so I think -- I don't know if you want to
25 have a minimum of three or four or five days. But I

1 just think it makes more sense if we're going to be
2 away from home and coming here to do work that we spend
3 at least four days, or three at a minimum, four max,
4 whatever, but make maximum use of our time and the
5 travel to get here.

6 THE FACILITATOR: Do you want to put a proposal
7 for it on there and then see what the group feels? Do
8 other people have comments on this?

9 MR. SAWYERS: No, but I think we ought to
10 settle that now so that we have an idea. And I would
11 like to propose that we meet at least four days on the
12 weeks that we do meet.

13 THE FACILITATOR: How do other committee
14 members feel about that?

15 Sandra?

16 MS. HENRIQUEZ: I will certainly try to reserve
17 the time. For me it will turn on not only the schedule
18 and length of time, but what the committee decides in
19 terms of alternates. I'm just not -- I want to be
20 here. I am just not sure I can always stay the full
21 four.

22 THE FACILITATOR: Okay. We will be talking
23 about alternates as well. I'd like to get a little
24 sense of the group about three- or four-day meetings.

25 MR. SAWYERS: Let's try four and see how it

1 works.

2 THE FACILITATOR: How many people would be
3 willing to look at four days? Can I see a show of
4 hands? Okay. And how many feel like they are going to
5 have a problem with that? Would any of you have a
6 problem with that?

7 Karin?

8 MS. FOSTER: Four days would be more difficult
9 for me. I would certainly be in favor of three days at
10 a minimum, but four days would be more difficult for
11 me.

12 THE FACILITATOR: Are you raising your hand?

13 FEMALE SPEAKER: (Indiscernible -- speaker not
14 using microphone.)

15 MALE SPEAKER: Yeah. Four days is a problem.
16 But I think if you plan it ahead of time, I think four
17 days would work. Again, it depends on how well we work
18 together as a committee. Again, it really depends on
19 how well the work begins and flows. I really don't
20 know how the group works together as well, and it takes
21 some time to work together.

22 And if it does start coming together pretty
23 quickly, I think we may not need four days. We may
24 just kind of cruise through this and get to the hard
25 stuff and either do it right away -- or get the easy

1 stuff done right away and jump to the hard issues, like
2 Jason said. Four days out of my schedule is pretty
3 tough. I've got other issues I deal with every day.

4 THE FACILITATOR: Any other comments on four
5 days?

6 Rodger?

7 MR. BOYD: I've just been informed that we
8 budgeted up to three-day meetings and two days of
9 travel. So it is really five days right there if you
10 take into consideration the travel. So our budget
11 constraints limits us at least within our contract
12 with -- up to three-day meetings and two days of
13 travel.

14 THE FACILITATOR: Jason?

15 MR. ADAMS: I guess I'm fine with that as long
16 as we have the travel days on the end, and we have
17 three days if we need to work into the evenings on
18 those three days. If folks can commit to that, I'm
19 perfectly fine with that.

20 I just think that, in looking at the tasks
21 before us, there's a lot of work. But I want to make
22 sure that we can get through that work, because it's
23 going to be a lot of subcommittees and work there that
24 we're going to peel off and go do work and invite a lot
25 more people to come to the table that can help us.

1 I know there's a lot of tribes out there that
2 have experts in these particular areas that want to
3 come and sit in the subcommittees and help us and get
4 this work done. So I just want to make sure we give
5 them time to do that work.

6 THE FACILITATOR: Susan?

7 MS. WICKER: Does anybody have objections to
8 traveling on Sundays and starting work Monday, Tuesday,
9 and Wednesday and travel on Thursday? That way we
10 could be in our office at least one day a week.

11 THE FACILITATOR: Any -- yes.

12 MALE SPEAKER: I've got a recommendation for
13 Sandra. One of the things that we've been asking the
14 administration to consider is technology. Is there any
15 chance that once we break up into groups and start
16 splitting up the work that there's a reason why the
17 committees can't continue working pre- face-to-face
18 meetings and doing it through technology?

19 You know, I've got a proposal here to look at
20 that would allow the committees to do face-to-face over
21 the Internet. You'll see each other right on the
22 screen, and see whether or not that would eliminate
23 some excess travel and time on this and get the
24 committees to do their work while we're at home at our
25 desk and just let the committee work right online.

1 THE FACILITATOR: Thank you. We will make a
2 note of that working between meetings via technology to
3 speed up our work and to give us a more --

4 MALE SPEAKER: Yeah. I've sat in a few
5 meetings where you can actually see right on the
6 screen, and the work is right there online. You can do
7 the work right at your desk. I'd like to see if that's
8 maybe a way we can expedite some of the things that
9 Jason has been talking about and getting it
10 streamlined.

11 THE FACILITATOR: Well, we do have the
12 technology for that. I think as we start seeing how
13 the work gets organized, we will try to maximize that
14 opportunity to see how we can do that so that you don't
15 have to spend the time doing the stuff here, but you
16 can do stuff and come more prepared to the meetings.
17 That's a good suggestion.

18 I want to get back to Susan's comment. She
19 thought also that in terms of the concerns of tribal
20 members being away from their business so much, whether
21 there would be willingness on the committee's part to
22 travel on a Sunday, to be here to meet Monday, Tuesday,
23 Wednesday so you have more time to do your tribal
24 business.

25 Can we just take -- would anybody have an

1 objection to traveling on a Sunday?

2 Yes, Lafe?

3 MR. HAUGEN: You know, Jan, I wouldn't be in
4 favor of traveling on a Saturday or Sunday,
5 particularly in the summer. Those are the two days
6 that I do get to enjoy. I just think that Monday is a
7 good travel day, Tuesday, Wednesday, and Thursday
8 meeting, and go home on Friday. To come in on a
9 Monday, meet for three good days, Tuesday, Wednesday,
10 and Thursday and leave on a Friday is appropriate, I
11 think.

12 THE FACILITATOR: Yes?

13 MS. MARASCO: I'll echo that sentiment. I will
14 give up work before I give up my grandkids.

15 THE FACILITATOR: All right. I guess we don't
16 have consensus on that.

17 Yes, Blake?

18 MR. KAZAMA: I guess just a point of order.
19 We're going over the charter, and these things that we
20 are discussing are not specific to the nature of our
21 discussions. We will be talking about that in the
22 protocol.

23 Maybe we should not be so specific here and
24 save that conversation for the protocol. This is just
25 talking about when to get the notices out and how many

1 we want. That is all we should be talking about here.

2 Thank you.

3 THE FACILITATOR: Can we hold that until the
4 discussion of the protocol, and we will continue with
5 discussion of the charter and get the charter out of
6 the way.

7 So what's the latest on the charter? Will
8 everybody take a look at that.

9 THE FACILITATOR: Karin, did you have proposed
10 language that you wanted to change?

11 MS. FOSTER: Well, this is my first experience
12 with the committee. There's many people here who have
13 done this already once or twice before. Is there a
14 possibility that six meetings is not going to be
15 enough? Is there a possibility of that? If there is,
16 then I think we should not restrict us in our charter.

17 THE FACILITATOR: Yes, Carol?

18 MS. GORE: I think I heard yesterday that our
19 goal is to promulgate rules by October 14th. It seems
20 to me that we ought to have some sort of tether with
21 this committee between us and HUD to get it done. And
22 if we don't limit the number of meetings, there's a
23 chance that we defer it.

24 I personally have a goal that we will meet that
25 deadline. If it makes more sense, maybe we just target

1 the goal and not number the meetings. I mean, there is
2 some other ways to get there, but we do have budget
3 considerations. I think we can get it done. I think
4 this is the hardest part. Thank you.

5 THE FACILITATOR: Any other comments?

6 MS. HENRIQUEZ: The only thing that I can
7 comment on is that the language says to extract the
8 work of the committee, at least one meeting shall be
9 held, and it names three locations, which means we
10 could do more locations up to no more than six.

11 So if I read that correctly, it means that if
12 we're going to do them, if we're going to list them
13 there, then we've got to meet in at least those three
14 places. So Washington can stay on and add two others,
15 or however you want to do that. But just to be
16 flexible, since this is in the charter, it means we
17 have to abide by having three meetings in those
18 locations if they are listed there. That is the way I
19 understand it.

20 THE FACILITATOR: Okay. Is everybody okay with
21 that?

22 Yes, Jack.

23 MR. SAWYERS: Just the six meetings. We've
24 found that in the other negotiations, that if you set a
25 goal, and you're set for six meetings, we get the work

1 done. It just happens that way.

2 THE FACILITATOR: Yes.

3 MR. SAWYERS: And I think that's what Karin
4 said, and I just wanted to tell you that we have had
5 that experience twice. And we weren't ready for the
6 last two meetings, but we got it all done, because we
7 made it happen.

8 And you may adjust your schedule. You know,
9 that last meeting may be two weeks. It happened
10 before. So we met for five days, and we took one day
11 off, and then we took four days the next week. We've
12 done that before, and I don't think it's going to
13 happen here, but I'm saying that you can adjust that
14 meeting. But I think we need to discipline -- it works
15 out that way. We need that much time. And so I think
16 we need to limit it to six.

17 THE FACILITATOR: Deadlines are good.

18 MR. SAWYERS: I think so.

19 THE FACILITATOR: Blake?

20 MR. KAZAMA: Again, I'm not even sure why we
21 have to put locations on here. I'd just strike that.
22 I mean, what's wrong with meeting at the same place all
23 the time to expedite costs and so forth and location?
24 I mean, all I am saying is it's a distraction when
25 we're talking about locations and things here in the

1 charter. Maybe it's best reserved in the protocol, is
2 all I'm saying.

3 THE FACILITATOR: Do you have a proposal,
4 Blake? (Indiscernible -- speaker not using
5 microphone.)

6 MR. KAZAMA: Yes. I would say strike the
7 locations because it is guesswork. We are not sure at
8 this point. I guess I'm trying to roll here.

9 THE FACILITATOR: Thank you. You are helping
10 us.

11 Blake has a proposal to strike the last
12 sentence, to strike the naming of the cities. Any
13 comments on that? Any problem with that?

14 Steve?

15 MR. ANGASAN: I was going to ask kind of the
16 same thing, like why would it expedite the work, where
17 you are? I mean, you could have it in Barrow, and
18 everything would get done, because you can't go
19 outside.

20 THE FACILITATOR: All right. Thank you. Let's
21 settle that then. Okay. There's a proposal to strike
22 the last sentence in the naming of the cities and just
23 let the tribe -- all in favor? Any objection? Okay.
24 Strike that.

25 Moving on to B. Any comment on B?

1 Blake?

2 MR. KAZAMA: I guess it's just the concern for
3 HUD, whether or not they can meet the time line here,
4 15 day federal notice. Is there a procedural thing
5 that you go through that you have to register federal
6 notices? I am not certain about that.

7 MS. HENRIQUEZ: The timing is fine for us.
8 Thank you.

9 THE FACILITATOR: Any other comments on B? All
10 in favor of B?

11 MS. HENRIQUEZ: Question. I'm sorry. The last
12 sentence talks about the federal notice also saying
13 whether or not all or part of the meeting is open to
14 the public. They are all open to the public; the
15 entire meeting is open to the public. So when we go
16 into caucuses, that's when it's not. There's the
17 closed part.

18 So I would like us to strike -- the Register
19 will include a statement that -- you can either strike
20 the whole thing or at least just say that it's open to
21 the public.

22 THE FACILITATOR: The committee meetings are
23 open to the public? How would that read, Sandy?

24 MS. HENRIQUEZ: The Federal Register notice
25 will also include a statement that the meeting is open

1 to the public.

2 THE FACILITATOR: That the meeting is open to
3 the public. Okay.

4 The Federal Register notice will include a
5 statement that the meeting is open to the public.

6 MS. HENRIQUEZ: That's fine.

7 FEMALE SPEAKER: Do you want it up there?

8 THE FACILITATOR: Yes, please. The Federal
9 Register notice will also include a statement that the
10 meeting is open to the public. Okay.

11 MS. HENRIQUEZ: Thank you.

12 THE FACILITATOR: Everybody in agreement with
13 this? Any objection? Okay.

14 IX. Compensation for Services:

15 "a) HUD has determined that the
16 participation of 24 -- 25 -- tribal
17 committee members is necessary to
18 assure adequate representation of
19 tribal interests.

20 b) Members of the Committee shall
21 receive no pay, allowance or benefits
22 by reason of their service on the
23 Committees. In accordance with the
24 requirements of the Act and the
25 Negotiated Rulemaking Act, 5 U.S.C.

1 568(c), while away from their place of
2 residence or business and in
3 performance of services for the
4 Committee, Committee members may be
5 authorized to be reimbursed for travel
6 expenses, including per diem in lieu
7 of subsistence, in the same manner as
8 persons employed intermittently in
9 Federal Government service if:

10 (1) such member certifies a lack
11 of adequate financial resources to
12 participate in the Committee; and

13 (2) HUD determines that such
14 member's participation in the
15 Committees is necessary to assure an
16 adequate representation of the
17 member's interest."

18 Any comments? With the correction of 25, any
19 comments? Any objections? Good. Okay.

20 Moving on, financial and support service.

21 "HUD shall provide travel costs,
22 technical support, copies of public
23 comments and logistical support
24 services for the activities of the
25 Committee."

1 Any comments? Okay. Any objections?

2 Okay. That passes.

3 Number 11, statutory authority:

4 "This Negotiated Rulemaking
5 Committee is established pursuant to
6 Public Law 104-330, Public Law 101-
7 648, Public Law 107-292 and Public Law
8 110-411."

9 Okay? No problem? Are we okay with that
10 everybody? No objection? Great.

11 We've got a charter.

12 (Applause.)

13 THE FACILITATOR: All right. Moving on, we're
14 going to move on to protocol. So please get out your
15 protocols.

16 MR. ADAMS: Jan? This is Jason. I just have a
17 question. I thought we agreed that we would approve
18 section by section, but then there would be one final
19 approval. I mean, it might be a futile step, but just
20 for the record, we all approve it. I think we need to
21 do that.

22 THE FACILITATOR: Okay. That's a tricky
23 question. I will tell you why, Jason. Because as we
24 went through this -- we had this discussion a little
25 earlier. I think Carol had a concern that if I approve

1 this one provision, do we get a chance to approve the
2 whole thing at the end.

3 Well, I said, it goes point by point, and if
4 there's any contradictions that come up in any
5 subsequent sections, then we have to go back and change
6 the first section that we did approve.

7 So as we go through the whole thing -- this is
8 just my experience. I'm sharing my experience on this.
9 The committee has to adopt what they want to adopt.
10 But my experiences have been if you go through it piece
11 by piece, and you put everything in place as you go
12 through it, then by the time you get to the end,
13 everything is in place.

14 And if you then take a vote on everything --
15 you know, I've never done it that way, because what
16 happens is then one person objects, and at that point
17 they say no, I don't approve of the charter, and
18 they're holding everybody hostage to all of the work
19 they've been doing up to that point.

20 But if you take care of things point by point,
21 by the time you get to the end, then, of course, you
22 have approved the whole thing. That's why I'm saying
23 that -- that could also -- when we get to the protocol,
24 there are longer things that could also come back to
25 bite you.

1 MR. ADAMS: I raised the point simply for the
2 fact that I understood that's what we were going to do
3 is approve -- one final approval for the whole document
4 at the end. That's what I understood. Now, if I am
5 wrong, that's fine.

6 MALE SPEAKER: Approval of all of approvals.

7 THE FACILITATOR: Approval of all the
8 approvals, right.

9 The suggestion was made that we could have the
10 support folks do a draft, take out all of the red, put
11 in the language, look it over at that point, and see if
12 there's any problems. So you will have a chance to
13 look at the completed draft finished at the end. But
14 normally, we wouldn't approve the whole document.

15 What's the past experience you've had with
16 this?

17 MR. SAWYERS: That has happened to us before.
18 I think we ought to decide right now. This would be a
19 good time to decide how we're going to do that. I
20 agree with you, because people are prone to agree with
21 something they are not sure of because they know
22 they've got one more vote.

23 So I think I agree with you that we should do
24 it section by section, and then look at the final
25 draft, but not have another vote unless there is

1 something that came up that we didn't have a chance to
2 look at.

3 THE FACILITATOR: Right.

4 MR. SAWYERS: It's happened to us before, and
5 it takes a lot of time and energy and a lot of hard
6 feelings. So I would like to continue the way you are
7 saying it, that we do it a section at a time. Once
8 it's approved, it's approved, and we don't go back to
9 it.

10 THE FACILITATOR: That way you can document and
11 make your progress.

12 So everybody in favor of doing it this way, can
13 you please indicate with your thumbs. Any objection to
14 continuing with that? It's really the best way to do
15 it, believe me, from my own experience.

16 I need to make a comment. The court reporter
17 has no idea who is speaking. I know we did start off
18 the meeting because she wasn't here yet by naming who
19 we are. But if you want that caught in your
20 transcript, then you need to speak clearly into your
21 microphone, and before you speak, you need to say who
22 you are.

23 Let me ask the committee. We have three
24 documents with protocols on it, 1997, 2003, and 2010
25 proposals on NAIHC. Do you want to continue to work

1 that way and go off the proposal of NAIHC? Okay. We
2 will use that as our working document and raise issues
3 one by one as they come up,

4 Yes, Jack.

5 MR. SAWYERS: We all have backup with lawyers
6 and so on, and sometimes we would like them to talk,
7 and sometimes we wouldn't. But it has been our policy,
8 or at least there were procedures in the past, if a
9 member wants someone in the audience to make comments,
10 that we give them the time. And I would like to do
11 that now while we're going through this whole process.

12 THE FACILITATOR: Does any committee member
13 have a problem with letting -- allowing -- inviting one
14 of your folks to make comments if you feel like they
15 can say it better than you if you need that kind of
16 assistance? Okay.

17 MR. HAUGEN: Lafe Haugen, Northern Cheyenne. I
18 agree with Jack, because in the future -- it's the
19 first time I agree with you, Jack. But in future
20 meetings, our tribal representatives will be here, so I
21 would like to reserve the right for them to come up,
22 the president and vice president, to come up and make
23 comments if they so choose.

24 THE FACILITATOR: Let me also welcome
25 Alvin Moyle.

1 MR. MOYLE: Good morning, ladies and gentlemen.

2 I'm sorry to be late. It's the first time I've come to

3 one of these meeting and ended up being late.

4 According to the material I had, it said 9:00. Is that

5 clock right in my room or what?

6 THE FACILITATOR: It's such an enthusiastic

7 committee, they wanted to start an hour early. I'm

8 sorry no one mentioned it to you.

9 MR. MOYLE: All right. Well, getting back to

10 the question the gentleman asked, I do have a

11 representative that came with me, or actually I came

12 with her. One or the other. Anyway, she is -- if

13 there's anything that I feel that she can contribute, I

14 am going to ask that she be allowed to donate or

15 contribute to the discussion. I want to thank you.

16 I'm Alvin Moyle, the tribal chairman of the Fallon

17 Paiute-Shoshone Tribe in Fallon, Nevada. Thank you.

18 THE FACILITATOR: Welcome, Alvin.

19 Any other issues that we need to settle at this

20 point? Okay. Let's begin.

21 We're looking at the 2010

22 NAIHC's proposed protocol, and it

23 starts with a preamble. Or should we

24 look at the beginning, the title

25 first. Let's look at the title first

1 here at the top of the page:

2 "Department of Housing and Urban
3 Development Tribal Representatives,
4 Native American Housing Assistance and
5 Self-Determination Negotiated
6 Rulemaking Committee on Rulemaking
7 Changes Related to Amendments to the
8 Native American Housing Assistance and
9 Self-Determination Act ('Nahasda')
10 Between 1998 and 2008."

11 Do we need to fix that?

12 MS. FOSTER: I've been nominated from this
13 corner to recommend that we delete everything after
14 "committee" which would include "on rulemaking
15 changes," et cetera, all the way through to 2008, in
16 order to be consistent with the charter.

17 THE FACILITATOR: Again, please, Karin.
18 Eliminate everything after --

19 MS. FOSTER: As is on the board, to be
20 consistent with the name of the committee as we have
21 decided in the charter.

22 THE FACILITATOR: Okay. Is everybody okay with
23 that? Any objections? Okay.

24 Please take that out.

25 So reading down further to the preamble. The

1 preamble states:

2 "The Native American Housing
3 Assistance & Self-Determination
4 Negotiated Rulemaking Committee on
5 Rulemaking Changes Related to
6 Amendments to NAHASDA Between 1998 and
7 2008 has been established pursuant to
8 Public Law 104-330, Public Law 101-
9 648, Public Law 107-292 and Public Law
10 110-411, and is further detailed in a
11 Committee Charter approved by HUD. The
12 Committee is charged with rulemaking
13 related to implementation of all
14 statutory amendments to NAHASDA
15 between and including 1998 and 2008
16 ('Statutory Amendments')."

17 Yes?

18 MR. KAZAMA: Can we simply use the purpose in
19 the charter but replace the words "this charter" and
20 put in "these protocols established"? It lines it up
21 then with the charter.

22 THE FACILITATOR: Does anybody have an
23 objection to Blake's proposal?

24 MS. FOSTER: What was the proposal exactly in
25 terms of the language? I didn't understand. This is

1 Karin Foster, Yakama. I didn't understand it in terms
2 of the language. Can we see the language?

3 MR. KAZAMA: I am recommending replacing the
4 language there, the preamble language and inserting the
5 charter language. But instead of -- in the beginning
6 it says "this charter." Eliminate "this charter" and
7 put "this protocol" and use the rest of the charter
8 language.

9 THE FACILITATOR: Okay. So we are using the
10 purpose?

11 MR. KAZAMA: Correct. We would put it in
12 place.

13 THE FACILITATOR: Blake is proposing to put
14 into the preamble the purpose that's stated in the
15 charter substituting the word charter for preamble --
16 for protocol.

17 MR. KAZAMA: These protocols.

18 THE FACILITATOR: Any comments? Can we look at
19 the language for the protocol again.

20 MR. KAZAMA: On the last paragraph there, does
21 that need to be struck to between and including 1998
22 and 2008, strike that. Put a period right behind
23 NAHASDA. Is that all going out? Okay. Are we ready
24 for the next section?

25 THE FACILITATOR: I got distracted; say it

1 again.

2 MALE SPEAKER: Are we ready for the next
3 section? I have some comments.

4 THE FACILITATOR: I think we are trying to see
5 if we have an agreement that the purpose of the charter
6 can be used in the preamble. Does the protocol -- the
7 protocol doesn't establish the committee, though,
8 right?

9 MALE SPEAKER: The charter does. It's like the
10 bylaws.

11 THE FACILITATOR: Right.

12 MR. KAZAMA: It's like your bylaws. I was just
13 trying to make it simple.

14 THE FACILITATOR: Yeah. I am saying -- I
15 shouldn't be getting involved with the content here,
16 but it seems like the purpose of the charter says the
17 charter establishes the committee. But I don't believe
18 the protocol establishes the committee. So you have to
19 change that a little bit.

20 MALE SPEAKER: (Indiscernible -- speaker not
21 using microphone.)

22 THE FACILITATOR: Yeah. I think so.

23 MALE SPEAKER: (Indiscernible -- speaker not
24 using microphone.)

25 THE FACILITATOR: Okay. So we can change it

1 this way to say -- take the purpose of the charter and
2 say these protocols establish rules for the committee.
3 And then put it in there. Would that work?

4 So instead of saying the protocol establishes
5 the committee, the protocol establishes the rule or
6 protocol for the committee. Rules? Rules for a
7 committee?

8 MALE SPEAKER: Just one point of clarification.
9 There is a conflict in who established the committee or
10 what established the committee. We state in various
11 places that the committee is established pursuant to
12 public law, not the charter. The committee established
13 the charter. The committee establishes the protocol.
14 But the committee itself was established pursuant to
15 public law. So to say that the charter establishes the
16 committee is inconsistent with the fact.

17 THE FACILITATOR: Let's stay on the protocol
18 for the time being. If we need to go back and change
19 that, we will. But thank you for raising that.

20 So the proposed protocol, this protocol
21 establishes rules for a committee pursuant to public
22 law and negotiates changes to the regulations governing
23 the implementation of the Native American Housing
24 Assistance and Self-Determination Act as amended except
25 at subpart b of 25 CFR, Part 100 Negotiated Rulemaking

1 Committee and said regulations, et cetera. You want
2 that put in there as well, that last sentence?

3 MALE SPEAKER: Yes. I don't want to lose that.
4 Others may differ.

5 THE FACILITATOR: Comments, please? We have
6 the proposed language up on the board.

7 Help us out here. Karin?

8 MS. FOSTER: So is the proposal then that we
9 replace the entire paragraph under preamble on this
10 2010 draft with that highlighted paragraph? Is that
11 what the proposal is?

12 FEMALE SPEAKER: Yeah.

13 MS. FOSTER: I guess my alternate proposal
14 would be to drop off the last sentence of the preamble
15 paragraph that we have now and leave it to reference
16 the law and the public law and the committee charter.
17 Just for simplicity, but...

18 THE FACILITATOR: Any comment on that?

19 Susan and Darlene agree with Karin, but they're
20 not saying it into the microphone.

21 MS. WICKER: Susan Wicker from Poarch Creek. I
22 agree with Karin's proposal.

23 FEMALE SPEAKER: (Indiscernible -- speaker not
24 using microphone.)

25 THE FACILITATOR: Any other comments, please?

1 We have two proposals up here.

2 MR. ADAMS: This is Jason Adams. I agree to
3 the extent that I like the beginning of the original
4 language. The proposed language has that statement in
5 there again about the formula, which I just don't think
6 that is necessary language.

7 THE FACILITATOR: Any other comments?

8 Do you have your microphone on?

9 MS. MARASCO: Yeah, but I didn't raise my hand.

10 MS. FOSTER: Would it be possible to strike out
11 the language that represents my proposal, which would
12 be to strike out the last sentence so that it is
13 understood that that is what I am proposing?

14 THE FACILITATOR: The last sentence under the
15 preamble? Okay. So we are comparing these two
16 proposals here.

17 How many of you would like to leave the
18 preamble the way that Karin proposed it with the last
19 sentence struck? How many feel that would work for
20 you?

21 Anybody that would have an objection to that
22 preamble as Karin has proposed it? Okay.

23 Then we will adopt the first one, the preamble.

24 No. 1, number of meetings, phasing of
25 negotiated rulemaking. Yes?

1 MR. CAGEY: Henry Cagey. I would recommend to
2 the committee that we strike that whole number of
3 meetings and phasing, just strike it. And just use the
4 2003 charter and go right to participation. We agreed
5 in the charter that we would do a single report. We
6 agreed that we'd eliminate the meetings, and it's just
7 a lot cleaner if you kind of take that out and go right
8 to participation.

9 THE FACILITATOR: Okay. So you would like to
10 stick with the 2003 language on the participation part
11 of it, Henry?

12 MR. CAGEY: Yes. It's almost the same
13 language. It should be a no-brainer.

14 THE FACILITATOR: So Henry's suggestion is to
15 use the 2003 language under participation.

16 MR. CAGEY: I'm saying eliminate that one
17 section, Jan. Take one out and strike the whole number
18 of meetings and phasing (indiscernible -- speaker not
19 using microphone.) That gets us right into weeks, and
20 I don't want to do that. Take that whole paragraph out
21 and make participation No. 1.

22 THE FACILITATOR: I see what you're saying.
23 Okay.

24 MR. CAGEY: That's my recommendation to the
25 committee.

1 THE FACILITATOR: Yes, Jack?

2 MR. SAWYERS: The other people in the audience
3 don't have the 2003. Could you put it up on the screen
4 for them, please?

5 THE FACILITATOR: Any comments on Henry's
6 proposal?

7 MR. ADAMS: This is Jason. I just want to
8 clarify that we're striking one out of the 2010,
9 correct, and making -- and so the 2003 doesn't need to
10 be brought in.

11 THE FACILITATOR: Is that your language, Henry?
12 Strike out No. 1 and just begin where it says
13 participation.

14 Is everybody understanding Henry's proposal?
15 Any objection to striking that out and beginning the
16 protocol with participation? Okay.

17 I'm not sure if I got everybody's attention.
18 We are ready to vote on this. Henry's proposal was we
19 eliminate from the 2010 proposal the entire No. 1 that
20 is titled "number of meetings" and instead start with
21 "participation" as No. 1. All in favor? Any
22 opposition? Okay. Done.

23 I'm sorry.

24 MR. KAZAMA: I don't want to lose the concept
25 of dealing with the (indiscernible -- speaker not using

1 microphone.)

2 THE FACILITATOR: Can you articulate that,
3 Blake.

4 MR. KAZAMA: I think there was purpose in terms
5 of dividing the Phase 1 issues and the Phase 2 issues.
6 I agree wholeheartedly with not submitting it
7 separately if it can't be jointly submitted, but I
8 don't want to lose the concept (indiscernible --
9 speaker not using microphone.)

10 THE FACILITATOR: I think the way that it was
11 proposed is to try to put all the easy stuff into one
12 little bucket and have like a subcommittee work on
13 that. We don't really need that in the protocol, I
14 wouldn't think. I think that's just the way you
15 organize the work, and I think you've all agreed you're
16 going to do it that way. So I don't think you can
17 trade protocol like that.

18 FEMALE SPEAKER: (Indiscernible -- speaker not
19 using microphone.)

20 THE FACILITATOR: Yes, so you don't forget it.
21 So would that deal with all of your objections?
22 We have consensus on that.

23 THE FACILITATOR: Let's look at participation
24 (a), attendance at meetings:

25 "a. Attendance at Meetings.

1 Committee Members are expected to
2 attend every day of each Committee
3 meeting. In the event a Committee
4 Member fails to attend any two days of
5 a Committee meeting session for two
6 such sessions, HUD will remove the
7 member from the Committee and
8 designate a replacement member from
9 the same Region as the removed Member.
10 A Committee Member may be accompanied
11 by such other individuals as the
12 Member believes appropriate. However,
13 only Committee Members may sit at the
14 Committee table, and participation by
15 non-Committee members is limited by
16 Article 3(i) of these Protocols."

17 I'll read the whole thing.

18 "b. Alternates are not permitted.
19 Participation on the Committee is a
20 personal privilege that cannot be
21 delegated or assigned.

22 "c. Constituents' Interests.
23 Committee Members are expected to
24 represent the concerns and interests
25 of their constituents.

1 "d. Public Participation. Subject
2 to Article 3(i) of these Protocols,
3 comments from the public will be taken
4 only during the designated opportunity
5 for public comment provided in Article
6 3(c) of these Protocols."

7 By the way and for the public, we do have a
8 public participation scheduled for later, towards the
9 end of the day, so write down you good thoughts.

10 "e. Effect of Failure to
11 Participate. If a Committee Member is
12 not physically present when the
13 Committee is lawfully in session and a
14 vote on a matter is taken, whether
15 because of non-attendance at the
16 meeting, delayed return from a caucus
17 or recess, or any other reason
18 whatsoever, he or she shall be
19 conclusively presumed to have
20 consented to the matter being voted
21 upon, and that Member shall not be
22 allowed to request reconsideration or
23 reopening of the matter."

24 MR. ADAMS: Jan, if I could. Jason Adams. I
25 would suggest, at least for the next couple of

1 sections, since they are so lengthy and far-reaching,
2 that we approve them per letter section small (a),
3 small (b).

4 THE FACILITATOR: Thank you. Any comment on
5 section (a), attendance at meetings?

6 MR. CAGEY: Henry Cagey. Again, is the NAIHC
7 saying if you miss two days you're out? Is that what
8 they are saying?

9 MR. ADAMS: If I could, Jan. Nobody is saying
10 that but this committee. This is a proposal put to the
11 committee. We can accept that or change it. It's just
12 a proposal. It's not anybody saying this but
13 ourselves.

14 MR. HAUGEN: Lafe Haugen here. I'm looking at
15 the participation for 2003 -- excuse me, 1997. There's
16 quite a difference between the proposed from NAIHC and
17 that one there. I think I am in agreement that the
18 participation (a), attendance at meetings in the 1997
19 protocol would fit in this situation. That would be my
20 recommendation.

21 I do agree with Mr. Cagey here that we start to
22 limit ourselves. With tribal leaders at this table and
23 the busy-ness they have or they are part of, I think
24 it's impossible.

25 THE FACILITATOR: So you are proposing 1997 or

1 the 2003? I wasn't sure.

2 MALE SPEAKER: I think it's 1997.

3 MR. JONES: Marvin Jones, Cherokee Nation.

4 Does the NAIHC version in here, does that include HUD?

5 THE FACILITATOR: It includes committee
6 members.

7 MS. HENRIQUEZ: Yes. I think it should. I was
8 going to chime in, but I thought I would wait.

9 MS. MARASCO: Judith Marasco, Yurok Housing. I
10 think a lot of our reluctance for the (a) section under
11 attendance is going to be -- is based on the fact that
12 this document does not permit alternates. I think it
13 would alleviate some of our fears if we dealt with the
14 alternate issue first, because even though we might not
15 be able to make every session, if we know that we can
16 have an alternate, then we can agree to that language.

17 THE FACILITATOR: Okay. I think that's a good
18 idea. Can we deal with the alternate section first?
19 And then we will know how to strictly make that (a)
20 section.

21 Yes, Blake?

22 MR. KAZAMA: I have an alternate language for
23 the alternate section.

24 "A committee member may, with the
25 consent of the chair, designate an

1 alternate by proxy if the alternate has
2 attended previous consecutive committee
3 meetings."

4 And the reason for that is because what we
5 really disliked in the past was, because we were on a
6 consensus, to have an alternate who didn't know the
7 subject matter come to table and say, I can't vote on
8 this because I am new at the table.

9 We would like someone with some history who
10 understands what we have been talking about it. And
11 whether they are in the audience sitting,
12 understanding, but we just don't want somebody cold
13 coming up to the table as an alternate and not know
14 where we're at. That's why this language.

15 THE FACILITATOR: Darlene?

16 MS. TOOLEY: I have a request from Region 9 to
17 caucus and talk about the alternate issue and bring
18 forth some proposed language.

19 THE FACILITATOR: Henry?

20 MR. CAGEY: Again, it's really a committee
21 decision on do we want alternates, yes or no. If we do
22 want alternates, because the National Housing wants no
23 alternates, period. That's in the charter that is
24 being proposed for 2010.

25 So, again, it's really a committee decision; do

1 we want alternates are not? I turn to the National
2 Housing rationale why they put that in there that
3 way. I would ask their opinion why that is written
4 that way.

5 MS. WICKER: There's been a call for a tribal
6 caucus, and I don't think that should be debated. I
7 think we should go immediately into caucus as in the
8 past.

9 MALE SPEAKER: That would help you with our
10 caucus, to know why that is in there that way.

11 THE FACILITATOR: Yes, Darlene?

12 MS. TOOLEY: Darlene Tooley. If I recall from
13 the conference calls when the NAIHC draft was
14 developed, there was a strong opinion among those
15 people on the phone that the committee members should
16 be the only people and should be required to
17 participate in each session or not be represented
18 because of this issue that we are incapable of
19 transmitting the information that an alternate would
20 need to have to sit at the table.

21 I don't believe we are incapable of doing that.
22 And I don't agree with the NAIHC version at this point.
23 I can ask for a tribal caucus. Thank you.

24 MALE SPEAKER: I think we should go into
25 caucus.

1 THE FACILITATOR: Okay. That is fine. Any
2 comments before we do?

3 MR. SAWYERS: If a Region asks for a caucus,
4 doesn't it have to be approved by the body? One Region
5 just can't say we want a caucus and it happens. I
6 don't agree that one Region can say, we'd like a
7 caucus, and everybody stops all the work and goes into
8 caucus if we don't feel we need to. I think that has
9 to be approved by the committee. If they want to go
10 caucus, they can, but they're just going to lose the
11 vote on whatever we are working on.

12 THE FACILITATOR: Since we haven't approved any
13 protocol yet, we could have an open field here.

14 MR. SAWYERS: I suggest we take a recess for
15 15 minutes.

16 MS. FOSTER: I agree.

17 THE FACILITATOR: Let's take a recess for
18 15 minutes.

19 (Recess from 9:22 a.m. until 9:41 a.m.)

20 THE FACILITATOR: Okay. Is everybody back? If
21 there is a desire to do so, would any of the Regions
22 like to give a report on their meeting?

23 Ray, can you start with that.

24 MR. DePERRY: Sure, I'll start. Ray DePerry,
25 from the Chicago Region, Eastern and Woodland area. On

1 the question of whether or not the committee should
2 allow alternatives, our caucus, the individuals who
3 gathered, spoke about an issue that has come up a lot
4 yesterday. And that is, the tribal government, the
5 tribal leadership that sent us here, we cannot now
6 ignore them as we ponder the question of alternatives,
7 because that is not for us to do.

8 Speaking as an elected official on a government
9 board, I would be totally remiss if word had come back
10 to me and found that individuals sitting at a table
11 made a decision that the government did not have a hand
12 in with respect to its representative, it's
13 alternatives, it substitutions, whatever.

14 The Chicago Region, the Woodland Eastern
15 Region, accepts life as it has. The tribal governments
16 have spoken. Every one of us who sits at this table is
17 sitting here because on file in our regional HUD
18 offices are letters from our tribal governments
19 supporting us, and our resolutions are on file, which
20 are supporting us. And there's no mention by them with
21 regards to alternates.

22 And I don't believe this committee has been
23 given that kind of an authority whereby HUD or some
24 kind of implied decision that they can skirt issues
25 that are best left to the tribal governments. So we

1 would be opposed to alternates. Thank you.

2 THE FACILITATOR: Any other reports?

3 Darlene?

4 MS. TOOLEY: I'm Darlene Tooley. You know, I
5 too was appointed by a number of tribes from the area,
6 and we have had discussions locally about the fact that
7 alternates are acceptable. And we have locally a
8 process by which the alternate will be chosen.

9 So what I would like to propose is that we look
10 at the designated alternative language from the 2003
11 protocol as a beginning to discuss the issue of
12 alternates.

13 THE FACILITATOR: Any other regional reports?

14 Karin?

15 MS. FOSTER: Karin Foster from the Pacific
16 Northwest Yakama Nation Housing Authority. In my
17 Region, most of our Region, with the exception of one,
18 prefers an alternative where alternates are allowed but
19 the Region selects one person to serve as the alternate
20 for anyone who happens to be absent.

21 There was concern expressed, however, that I
22 think closely mirrors Mr. DePerry's comment that the
23 tribes we were nominated by sent us here, and we have a
24 responsibility to the tribes to either internally allow
25 tribally an alternate to be selected by the persons who

1 sent us here or, you know, no alternate. But there was
2 a majority of our Region who would like to select one
3 alternate per region.

4 THE FACILITATOR: Any other reports?

5 MR. ADAMS: From our region we talked about
6 this issue and our concern, and it sounds like it is
7 very similar to what Karin just proposed in their
8 region, is that our Region would designate a person
9 that would sit in for us if anyone from our regional
10 area happened to have to be gone. That person, then,
11 would attend the meetings and be knowledgeable, because
12 that is the concern that is being raised, is that.

13 And I wanted to address the issue before we
14 broke. Mr. Cagey asked what was the rationale behind
15 this, and Darlene gave some of the rationale. But I
16 remember on the conference calls too, that the idea
17 was -- and it kind of falls in line with Mr. DePerry --
18 that we signed up for this. Our tribes designated us
19 to be here. Therefore, we should commit to be here.

20 That's, in theory, a great premise. But such
21 is the situation that happened to my friend, Marty.
22 You can't predict weather problems. And so what
23 happens in those situations?

24 I mean, he had every intention of being here.
25 I'm sure Alvin Moyle had every intention to be here

1 yesterday. I don't know the situation with him. We
2 have good intentions to be here. We plan to be here,
3 and then something happens that prevents us.

4 So we have to have an opportunity for that, I
5 think. And I think, along with Karin, our Region
6 talked that through.

7 One last point. As far as on the issue of the
8 NAIHC proposal, the legislative committee proposal that
9 we worked off of, as we move forward through this, I'd
10 like to propose that some of the committee members, the
11 drafting committee members from the legislative
12 committee, some of the attorneys that worked on that,
13 be given the opportunity to speak on those issues
14 instead of just me. So I will be turning that over to
15 some of those folks to speak when we have the specific
16 areas to talk about. Thank you.

17 THE FACILITATOR: Okay.

18 MR. SOSSAMON: Thank you. You know, it is true
19 that I was authorized by my tribal government to be a
20 member on this committee with full authorization to
21 represent the tribal group. That was granted to me
22 based on the fact that they trust me. And that means
23 they trust my judgment. They also know me.

24 And they know, as important as this is, there
25 are things in this life more important. And there may

1 be times I make a deliberate decision to focus my
2 attention on something that is more important, my
3 family or another member at home.

4 Should I be faced with that decision and make
5 it, I believe I have the authority delegated from them
6 to assign someone to fulfill my obligation here for me.
7 Okay?

8 Now, out of respect for the workflow for this
9 group, it's incumbent upon me to bring them up to speed
10 so that they do not hinder this group, out of respect
11 for this group. So I am operating on a basis, and
12 assuming that everybody does, of personal integrity in
13 my actions and honor in my behavior.

14 So I think we should operate from that basis
15 and just make it simple that we can designate an
16 alternate and require that they submit certification of
17 that designation and move forward. Thank you.

18 THE FACILITATOR: Darlene?

19 MS. TOOLEY: Darlene Tooley. Thank you, Rusty.

20 THE FACILITATOR: Any new perspectives,
21 additional comments?

22 MR. KEESWOOD: Good morning. Ervin Keeswood
23 with the Navajo Nation. I would like to ask all at the
24 table here to recognize as indicated that there is a
25 lot of work out there for each one of us. And

1 definitely we can't all be here all of the time, as
2 personally, I'm called away this morning on a
3 tribal-related issue, so I am coming in late. I have
4 the advantage that our nation is real close by, and
5 that they can do that to me at present. But for
6 instance, if we come to someone else's area, that may
7 happen. So it is equally important that we take care
8 of those business matters also.

9 I also would like to entertain the thought that
10 those regions that do not want to participate, let it
11 be. But those of us that want to participate in having
12 alternates, then let us have alternates. That way
13 everyone is satisfied equally.

14 So I would ask that we move on that. I know
15 that Region 9 fully supports that, that we have an
16 alternate. Thank you.

17 THE FACILITATOR: Yes, Jason?

18 MR. ADAMS: Rusty, I appreciate what you had to
19 say and your comments on the issue. What I am asking
20 is do you have language that we can put in the
21 proposal? I like the idea of what you brought forward.
22 It's just now can we encapsulate that into language so
23 that we can all read it and agree to it.

24 MR. SOSSAMON: Yes, Jason. I believe the 2003
25 designated alternate language is what I would

1 recommend.

2 THE FACILITATOR: You're looking at the 2003
3 protocol?

4 MR. SOSSAMON: Yes, sir.

5 THE FACILITATOR: Designated alternates, that
6 is 1(b).

7 "In the absence of a committee
8 member, the alternate shall have the
9 same rights, responsibilities, duties,
10 and functions as a committee member
11 during committee and workgroup
12 participation. Each committee member
13 has the discretion to decide who will
14 best represent them in their absence.
15 A committee member unable to attend
16 any session shall so inform the
17 committee co-chair in writing with an
18 original signature as to who they have
19 selected to represent them and will
20 specify the term."

21 Any comment on the proposal?

22 Yes, Henry.

23 MR. CAGEY: We've been through this a couple of
24 times in different negotiating sessions. Again, one of
25 the things we recommended in the first committee was

1 approval of the alternates at this table, meaning that
2 if you do have alternates, then the committee would
3 approve the alternates here that you are designating,
4 because it does create disruption and that learning
5 curve that you have with new people coming in, new
6 people going out, you know.

7 So I don't know if it's a committee decision or
8 not. We went through this. I'm just letting the
9 committee know that we went through this before with
10 alternates. And it is time consuming if you're not
11 consistent with your meetings. And, again, if we're
12 going to do two meetings and you're out, HUD will name
13 somebody else.

14 But, again, the rules are very simple. If you miss
15 two meetings, you are gone, and HUD will name somebody
16 else. And if your alternate shows up five times out of
17 five times, is that fair to the rest of the committee?
18 I don't think so. So again, my concern is the
19 consistency.

20 THE FACILITATOR: So there are several
21 concerns. One is consistency. One is the right of
22 each government, each tribe, to designate who they want
23 and whether each tribe approves to have an alternate or
24 not have an alternate. It seems like there are several
25 things going on here.

1 I'm going to try to keep this thing focused,
2 but, Sandra, do you want to make a comment?

3 MS. HENRIQUEZ: Not so much with the designated
4 language. And I want to see how that proposes, but
5 when we come back to (a), attendance at meetings, I
6 would like to talk more about removal and how that
7 happens and when that happens and by whom.

8 THE FACILITATOR: Henry's comment on this
9 language was whether the committee should consider
10 committee approval of any alternates.

11 Was that your point, Henry?

12 MR. CAGEY: Yes.

13 MR. HAUGEN: Lafe Haugen. I agree with --

14 THE FACILITATOR: I'm sorry if I don't pick you
15 right away, but your voice comes from a speaker, so I
16 can't find you sometimes. Pardon me.

17 MR. HAUGEN: I agree with Rusty's
18 recommendation. And I do believe that it is our
19 right as an individual. It is hard to name an
20 individual from home. I don't know if an individual
21 can come to these meetings like I can. But I do agree
22 with Mr. Sossamon's recommendations.

23 THE FACILITATOR: Rusty?

24 MR. SOSSAMON: I appreciate the concerns. I
25 have dealt with the frustration of alternates that were

1 not prepared and slowed down the work progress. That's
2 why I don't take designation of an alternate lightly,
3 because when I talk about integrity and honor, it is
4 mine that is the question. Thank you.

5 MS. MARASCO: I also appreciate the comments,
6 but I don't believe that the committee did not approve
7 the committee members that are here now. So I don't
8 understand why we would have the ability to approve the
9 alternates. We were actually appointed by our tribes,
10 and I believe that the same process should hold for
11 alternates.

12 However, I do understand consistency in the
13 workgroup. And I think that the tribes that do choose
14 to appoint alternates should be encouraged to have
15 their alternates attend as many meetings as possible so
16 that they kind of stay up on the work product. But I
17 think it is our rights to choose alternates and not the
18 committee's.

19 THE FACILITATOR: Any other comments? So can
20 we look at -- are we ready to seek consensus on (b)?
21 Let's take a look at that again. Any comments on (b)?

22 MR. ADAMS: There is a typo there I believe on
23 that last line. There is a strange little H in there.
24 I'm not sure where that is coming from. That last line
25 on (b) there has an H floating in the middle there.

1 THE FACILITATOR: Yes, Blake?

2 MR. KAZAMAN: I don't know if this is germane
3 to what we're talking about, but will there be
4 compensation for an alternate in terms of travel
5 expenses here? Some of the tribes are small, and
6 people sitting around this table, while HUD pays for
7 them, I can't see the tribe then having to come up with
8 their own cash to bring an alternate if they can't
9 come. I know it could be a logistical nightmare, but I
10 have to ask.

11 MS. HENRIQUEZ: It is a bit of a logistical
12 nightmare. However, as it is laid out right now, HUD
13 sponsors the costs of committee members. If an
14 alternate is coming in your stead, we would recognize
15 and pay for that person's travel and expenses to come
16 in.

17 So whoever is going to sit at the table for the
18 session is the person who gets paid for. If an
19 alternate comes to be a member of the public to keep
20 current, we would not support those costs. Does that
21 work?

22 Can I just ask, one of the issues, which would
23 be helpful to us in order to facilitate this process
24 move more quickly or moved more smoothly, is if we did
25 in advance know who the alternate was so we could get

1 them into the system and be able to do all of the
2 travel, et cetera, for that individual.

3 THE FACILITATOR: Thank you. Ray?

4 MR. DePERRY: Yes. In reference to that
5 particular section, maybe it is my old lawyering that
6 is coming to surface here, which I swear to God I put
7 away a long time ago. I can't help but believe that we
8 are in the proverbial cart-before-the-horse thing here.
9 We're talking about designated alternates, and we
10 haven't even decided whether we're going to have
11 alternates are not.

12 THE FACILITATOR: I think that's the main part
13 of this discussion.

14 MR. DePERRY: How can we begin to approve some
15 language that lays out the alternate position when, in
16 fact, this body has not purely decided to have them?

17 MR. SAWYERS: I'm no lawyer, but I thought
18 that's what we were talking about.

19 THE FACILITATOR: I think that is what we're
20 talking about.

21 Russell?

22 MR. SOSSAMON: For clarification, I will state
23 that my recommendation is that we have alternates and
24 this be the language that describes the protocol for
25 alternates.

1 MR. DePERRY: (Indiscernible -- speaker not
2 using microphone) Out of respect for tribal
3 governments, I could not. I could not, small tribe or
4 big tribe. Our governments have spoken. And too many
5 times we ourselves attempt end runs around our own
6 government. And I cannot be a party to what I think
7 is an attempt here to chip away at some of that
8 government power, the government authority that our
9 tribal governments have. And that's what I see
10 emerging here.

11 THE FACILITATOR: So you oppose the designation
12 of alternates, and you see that chipping away or
13 reducing the governance?

14 Do you have an alternate idea?

15 MR. CAGEY: That was my point earlier before we
16 caucused is that you've got the 2010 national
17 recommendation, which is no alternates. Then you've
18 got the 1997 and 2003 language that says alternates.
19 So, again, the people that participated in drafting
20 these protocols from the National Housing Council
21 recommended to the committee that we have no
22 alternates.

23 I think that is what Ray is saying, and I tend
24 to agree that do we want alternates or not if our
25 Housing Council is serious about participating and

1 that's the language they recommended. So, again, I
2 think one area feels that way, and I'm leaning that way
3 myself.

4 MR. HAUGEN: I agree with Rusty. I do respect
5 my good friend Ray DePerry's view on this. I do. But
6 fortunately for me, my alternate is probably going to
7 be my chairman or my vice-chairmen, fortunately for me.
8 But I do agree with what Rusty said. And I think it is
9 time to take this to a vote.

10 THE FACILITATOR: Okay. Jack?

11 MR. SAWYERS: Let me suggest an alternative.
12 And that is that the tribe approves the alternate. If
13 you have an alternate and the tribe approves that, that
14 would certainly answer your problem, and it would also
15 answer yours. I think that is a good compromise. I
16 guess I do, because I said it.

17 THE FACILITATOR: Let me get this straight.
18 Are you saying that it's a tribal decision, that an
19 alternate can participate?

20 MR. SAWYERS: I would say we would have
21 alternates, but it would be a tribal decision. They
22 would have to approve any alternate that we have. That
23 would answer Ray's -- perhaps Ray, and also the other,
24 Rusty's. And I think that is fair.

25 THE FACILITATOR: I see. I'm hearing a little

1 bit of a quandary. I will tell you why. Because each
2 of you represents tribes and tribal governments as well
3 as your own housing authorities. We have to somehow
4 find a way to respect each tribe, each decision about
5 whether they want alternates or not without imposing
6 one tribe's decision over another tribe. We have to
7 find some kind of language that allows that.

8 MS. HENRIQUEZ: Two points of clarification,
9 because I am trying to think of language that also is
10 applicable to HUD as a committee member. So I want to
11 appreciate the ability, hopefully, to have a designate.
12 As much as I want to be here as much as possible, it
13 may not always be possible.

14 And so I'm trying to give parallel processes by
15 which I might designate in advance a delegate. I just
16 want to make sure the language is broad enough that
17 allows HUD to do the same thing as you're asking of
18 yourselves.

19 The second point of clarification is we still
20 need the language about informing committee co-chairs
21 about who that representative person will be. It is
22 the cart before the horse a little bit, but we need to
23 be mindful that we've got to figure out what that is as
24 well.

25 THE FACILITATOR: Rodger?

1 MR. BOYD: As an additional point, certainly I
2 have no problem with a tribal body approving their
3 alternate. All I ask is that a process be put in place
4 within your respective governments to help this happen
5 very quickly, because in some cases, you may have to
6 wait until the tribal council meets to approve an
7 alternate. It may turn out that that is like two days
8 before a meeting. And then they get caught up in the
9 whole process of getting a ticket and what have you.

10 So I just want to say that, if we go that way,
11 keep that in mind. Maybe there's a process in your
12 respective communities and with your respective
13 governments that we can make that happen on a quicker
14 basis to accommodate the committee.

15 MS. MARASCO: So I would like to propose some
16 language after designated alternates, "may be selected
17 by tribal governments or HUD in the absence of a
18 committee member," something of that nature.

19 THE FACILITATOR: Jason?

20 MR. ADAMS: Jan, I guess you made a point just
21 a minute ago, and I really appreciated when Ray raised
22 his objection. You said -- and you asked him if he had
23 an alternate proposal. I hope that we can continue in
24 that manner, because when someone objects, from
25 previous committees, we have always encouraged that.

1 It's just not a flat no. It is what is the objection
2 to?

3 That is my question still, is what is Ray
4 objecting to? Is he objecting to simply this language
5 proposal and going back to the NAIHC language committee
6 proposal? Or is there language in here that we can
7 renegotiate to satisfy his objection?

8 THE FACILITATOR: Yes, and I think as we try to
9 think of this language, we need to think of some
10 language that gives full respect to each of the tribes
11 and each of the governments. It doesn't impose a
12 solution on them, but allows each and respects each
13 government's individual solution for their decisions
14 about alternatives to this.

15 Ray, help us out here.

16 MR. DePERRY: My reply to Jason's comments
17 would be that, on one hand, I believe the NAIHC's
18 position to not have any alternatives would be too
19 extreme. I do believe that there is some room for the
20 consideration of alternates. Obviously, the question
21 is under what kind of parameters.

22 And since my comments have been more along the
23 lines of our tribal governments, then I would have to
24 suggest that perhaps language needs to be drafted in
25 there that the tribal governments need to be asked of

1 their opinions and thoughts on the issue of the
2 alternates.

3 Now, I know that when the call went out that
4 eventually got us out here at this table, that the
5 system is in place to solicit that advice from the
6 tribal governments; it is evident by all of us sitting
7 here. I do not wish to belabor it, some of these
8 points, any more than anybody else, because I too want
9 to accomplish our goal by October 18 -- or 14.

10 But if we need to, out of respect for tribal
11 governments and the sovereignty of those tribes, then
12 perhaps the system -- meaning HUD, ONAP offices, the
13 system, NAIHC, the system -- has to solicit from those
14 tribes their opinions and thoughts on whether they
15 should have alternates or not.

16 MS. FOSTER: I'd like to propose a suggested
17 language. In the second sentence, "each committee
18 member has the discretion to decide who will best
19 represent them in their absence," I would like to
20 propose language after the word absence that reads,
21 "subject to the approval of the tribe or tribal entity
22 that nominated that member."

23 THE FACILITATOR: Any comments on her proposed
24 changes?

25 Russell?

1 MR. SOSSAMON: A couple of comments. I will
2 address hers. But, you know, as far as the assumption
3 that designating an alternate is an attempt to go
4 around the tribal government, I can only speak for my
5 tribal government, that I'm accountable to the tribal
6 government. And should that be my motive, it's my
7 tribal government's responsibility to hold me
8 accountable. My tribal government's responsible, no
9 other tribal government. Okay?

10 And in regard to Karin's language, I appreciate
11 the intent of the language. But what does it mean?
12 Are you going to tell my government how they can
13 authorize an alternate when I believe they have already
14 done that, and they believe they have?

15 If we are going to respect the decisions of
16 tribal governments, I believe when they decided to
17 nominate me to be on this committee, they gave me the
18 full authority to act on their behalf on this
19 committee. And that is why, again, I am accountable to
20 them. That's where my authority comes from. Not from
21 me, and not from my position in the tribe, but from the
22 tribal government.

23 THE FACILITATOR: Lafe?

24 MR. HAUGEN: Speaking for Alaska, we have
25 229 tribes. Think of the logistics of going back to

1 get approval from 229 tribes. Maybe we should consider
2 it in terms of regional. We have six regions. We can
3 come up with plans. It may be different. I don't
4 know.

5 But I support the concept of alternates,
6 because I can see, like in Marty's case and others,
7 coming from Alaska, we have weather conditions. Some
8 of us leave two days early just to be sure to get here
9 because we never know.

10 But this is important to us, and I feel like we
11 do represent the 229 tribes. I just can't see going
12 back and getting permission from all of them.

13 MR. HAUGEN: I just wanted to reiterate that
14 this is only a recommendation from NAIHC. And believe
15 it or not, they don't represent all of us. We
16 represent ourselves individually and our tribes for the
17 same common purpose. That's how we come together.

18 But looking at the stuff that comes with
19 that, wasn't that approved and didn't we run by that in
20 the last Neg-Reg meeting? What was the big issue?

21 THE FACILITATOR: Darlene?

22 MS. TOOLEY: You know, I think the proposed
23 language that we have is flexible enough for us to go
24 by whatever process we need to do at home to be sure
25 that the person that we designated as an alternate, if

1 we choose to do so, is accepted by those people who put
2 us there.

3 I don't think we need to be any more
4 restrictive. I too am accountable to a lot of tribes.
5 And I just -- I think we have a way to deal with it in
6 this protocol. And we have what we have to do at home
7 to make it real. And I would suggest that this allows
8 us to do whatever it takes at home to be assured our
9 alternate is acceptable to the people that sent us
10 there. Thank you.

11 MS. FOSTER: I would like to withdraw my
12 proposed language and call for consensus on the 2003
13 language that we see on the screen.

14 THE FACILITATOR: Marvin, do you want to make a
15 comment?

16 MR. JONES: I just wanted to make maybe a
17 bigger point that we might ought to be mindful of the,
18 I think, somewhat delicate balance that HUD took to
19 balance the various interests in the area and the size
20 of the tribes represented. And I just think we need to
21 be seeing that picture.

22 MS. TOOLEY: I just would like to say perhaps
23 if we just strike co-chairs and say the committee at
24 this point, because we haven't even established whether
25 or not we're going to have co-chairs. And if we do

1 that in the future, we might have to go back and
2 correct this little paragraph. That's all.

3 THE FACILITATOR: Okay. Yes, Carol.

4 MS. GORE: Darlene, may I clarify? Does that
5 mean that the committee then has the opportunity to
6 reject?

7 MS. TOOLEY: That's who we're notifying.

8 MS. GORE: That's who we're notifying is the
9 entire committee?

10 MS. TOOLEY: At this point we don't have
11 co-chairs.

12 MS. GORE: May I ask instead, yesterday, Jan,
13 you asked us to come back and revisit the language.
14 May I ask if that would work better? Thank you.

15 THE FACILITATOR: So we will vote on this
16 leaving the language as it is, realizing if we
17 decide -- later on if you all decide not to have
18 co-chairs, we can remove that language from it.

19 So yes, Karin?

20 MS. FOSTER: With the understanding that that
21 particular issue is the only issue we'll revisit,
22 whether to list co-chairs or not to list co-chairs is
23 the only issue we'll revisit.

24 FEMALE SPEAKER: I agree. Thank you.

25 THE FACILITATOR: What is the committee's

1 pleasure on this? Is there agreement on this to leave
2 this paragraph in on designated alternates?

3 Any objections? Three objections. Yes?

4 MR. MOYLE: I had a question with the bottom
5 sentence on (b), a committee member unable to attend
6 any session shall inform the committee co-chairs in
7 writing with an original signature, and it states
8 further, as to whom they have selected to represent
9 them and will specify the term.

10 On the top portion of that paragraph, or on the
11 bullet, it says one thing, and on the bottom it kind of
12 takes you back and leaves a question again.

13 THE FACILITATOR: I'm sorry, Alvin, you said
14 you think there's a contradiction between the last
15 sentence and the first sentence?

16 MR. MOYLE: It's a little bit there when you're
17 looking at it as to whom they have selected. I think
18 that's already been done prior to that.

19 THE FACILITATOR: The last sentence, the way I
20 read it, (i) means a committee member unable to attend
21 any session will inform the committee in writing with a
22 signature, but also say how long their term is to
23 replace them.

24 Is that your understanding? I don't think its
25 term. The term means the length of how long you will

1 represent the original committee member. Am I reading
2 that correctly?

3 MR. MOYLE: To me it's a little unclear when it
4 says as to who they have selected. I do believe that a
5 decision -- listening to all of the statements that
6 have been made, the decision has been made prior to
7 this --

8 THE FACILITATOR: I see what you are saying.

9 MR. MOYLE: -- of who the alternate would be.

10 THE FACILITATOR: Jack, can you help out with
11 that?

12 MR. SAWYERS: Apparently the motion did not
13 pass. We are here. We all represent a Region and a
14 tribe. Our tribe sent us. Ray's tribe is different
15 than mine perhaps. Mine is more like Rusty's.

16 When I was nominated, they had full trust in
17 me. We've been around for about 20 years or longer.
18 And they trust my decision. But I still think if I
19 have an alternate, I would have to go back to that
20 tribe and have that approved, because not only was I
21 selected, but my tribe was selected. They are
22 involved.

23 But that is a personal matter. And I don't
24 think the committee should tell Ray how he runs his
25 region or his tribe, and I don't think that anyone else

1 should tell me how I run mine.

2 I'm just saying it's a personal thing. We have
3 to have respect for each other and how we are set up.
4 I just think that there isn't a necessity for
5 alternates, because that's a pretty -- you know, if we
6 have the next six months, there's a lot of things that
7 could happen. We really need to do business.

8 So consequently, if your tribe says you need to
9 have permission, that's great. If your tribe says that
10 you're a better judge than they are, or they don't want
11 to be involved, and they have their person and they
12 trust them, that's up to them.

13 But what I'm saying is I think we can get
14 alternates and still be able to deal with these tribes
15 individually.

16 THE FACILITATOR: I want to go back to the
17 three folks that voted against -- or couldn't agree
18 with the statement.

19 Susan, you were one of them. I want to ask the
20 reason for the disagreement and your suggestions,
21 knowing the feeling of the house here, any suggestions
22 you might have or language you would put in to help us
23 get past this.

24 MS. WICKER: Susan Wicker from Poarch Creek. I
25 objected to the proposed language due to the fact that

1 it is too broad. First of all, we need to decide if
2 we're going to have alternates and then move forward to
3 how they're going to be selected.

4 To be selected, as far as our Region is
5 concerned, there was a call that went out, as Ray
6 stated. And our tribal leaders in our Region put forth
7 a number of names that were selected through the
8 process.

9 I for one, if we're going to decide to have
10 alternates, then I would prefer to go back to the 1997
11 charter that states designated alternates, that says
12 that you would go back to the tribal leaders in that
13 geographic area for your alternates. And I think that
14 we worked with that, and I think we could come up with
15 some proposed language that would suit everybody.

16 Ray? I'd like to turn it over to Ray.

17 THE FACILITATOR: Okay.

18 MR. DePERRY: I think Susan is taking us on the
19 path which I think we're -- at least what I'm trying to
20 say here. If we can, for discussion purposes, accept
21 the fact that all the tribes have spoken with regards
22 to support for individuals by way of motions or
23 resolutions and, thus, 25 of us sit here.

24 If we can accept the fact that more names have
25 been submitted than just us 25, names that have gone

1 through the vetting process, so to speak, where
2 councils have set resolutions, or chairs have sent
3 letters of support.

4 If those are in fact on file in the regional
5 offices from which we come, okay, then perhaps the fact
6 that they have spoken, and the fact that those
7 individuals have cleared, then I would submit then that
8 we have a pool of potential alternates who could be
9 selected from their Region in the event that someone
10 can't make it because of the weather, as opposed to
11 picking Joe Blow off the street and saying, Joe, you've
12 got to get down to Phoenix.

13 Then I think the integrity of the councils'
14 decision stands, because they have submitted names, and
15 not all of the names have been chosen.

16 THE FACILITATOR: So are you more in agreement
17 with Susan then that the 1997 protocols on designated
18 alternates would be more acceptable?

19 MS. WICKER: Yes, I'm in agreement with that,
20 because the names have already been submitted. They
21 have already been in the HUD office and approved,
22 whatever the correct term would be.

23 THE FACILITATOR: (Indiscernible -- speaker not
24 using microphone.)

25 FEMALE SPEAKER: I just know that when it comes

1 to considering my tribe, they did put me here. They
2 placed me here. There was no language as far as
3 alternates prior to this. So I was in opposition to
4 the alternates based on the fact that I would not want
5 to consider an alternate by myself without considering
6 my council. So that's why I went against that.

7 THE FACILITATOR: Steven?

8 MR. ANGASAN: I would suggest that you just
9 insert each "committee member may designate an
10 alternate." And that way, the committee's members who
11 do not want to have an alternate don't need to have an
12 alternate. And then the guys -- or the people and gals
13 who want an alternate can designate one and then just
14 put language in there that will say that, at the
15 discretion of their nominating tribe, the alternate
16 will be named.

17 THE FACILITATOR: Thank you.

18 Darlene?

19 MS. TOOLEY: In the interests of representing
20 the thoughts of my constituents in Region 9, I am going
21 to let you know that at least one of the audience
22 participates just handed me a note. They would like us
23 to consider a number of nominations have been made but
24 not selected. Any alternates considered should revert
25 back to the nominations list. Those nominations have

1 tribal support. This was submitted by Zuni.

2 And I think that goes along with Ray's point.
3 I'm not absolutely sure that this is necessary because,
4 again, I believe that we have to do this process if
5 we're going to choose alternates according to what is
6 acceptable to the tribes that appointed us, but that is
7 certainly something that is out there for
8 consideration. Thank you.

9 THE FACILITATOR: Russell?

10 MR. SOSSAMON: I am assuming that we have
11 reached near an agreement that we are going to have --
12 that alternates are going to be allowed, from what I
13 have heard.

14 So to go back and answer that question first,
15 then work on the method in which it is recognized, can
16 we do that? And so maybe I want to call for a
17 question, do we agree that this committee will allow
18 for alternates?

19 THE FACILITATOR: I think a yes or no on that
20 (indiscernible -- speaker not using microphone.)

21 MR. SOSSAMON: What I heard earlier was, first
22 let's decide whether we're going to have an alternate
23 and then talk about how they are going to be selected.
24 And now to link the two up and say, well, we can't
25 decide if we have one until we know how they're going

1 to be selected goes back to what we were trying to do
2 before that we were told that was not the right
3 sequence. So I am confused on that. It will work out
4 either way. It doesn't matter to me.

5 THE FACILITATOR: We can pose the question
6 thusly. We can say, given the right circumstances
7 under which they would be allowed, is everybody in
8 principle agreeable to having alternates? Can we say
9 it that way?

10 MR. ADAMS: Jan, if I could, I just want to
11 state that it seems like, with all due respect to the
12 different opinions, that Rusty is right as far as we
13 need to answer that question. I tried to raise that
14 earlier as far as what's the objection.

15 I'm not quite sure, because it sounds like now
16 we have some agreement that alternates are going to be
17 allowed. So I would like to know that is the case and
18 then move from there.

19 What I don't understand is somebody's
20 hesitation at this table for how my tribe determines
21 who replaces me if I'm gone, whether they leave that up
22 to me or whether I take it back to them on my own. How
23 does that affect the rest of the committee? Because
24 that is, in essence, my decision.

25 The other point I wanted to make is that this

1 idea of going back to a pool of folks, our Region
2 doesn't have a pool of folks. Our Region had four
3 people submit, and those four people are on this
4 committee, if I understand correctly. When we had a
5 meeting, and we talked this through, there were four of
6 us, and all four of us got on. And I believe that's
7 the case. I don't know of anybody else in our Region
8 that applied. That idea in our area does not hold
9 water.

10 The other weakness to that idea is that my
11 tribe didn't endorse that person whoever that
12 additional person or persons might be from our Region.
13 It comes back to the fact that my tribe put me here.
14 And if I have to have a designate or alternate sit in
15 the seat for me, be it for whatever reason, then I have
16 to account back to them for that decision.

17 I have to go back to them and say, I can't make
18 this meeting. And I would hope that we would have the
19 respect of our tribal leadership to inform them that I
20 can't make this meeting. I have designated so-and-so.
21 And if they are in disagreement with that, they would
22 let me know to the extent of removing me from this
23 committee, because the seat is theirs.

24 THE FACILITATOR: Let me pose that question.

25 MR. DePERRY: Jan, in all due respect to my

1 distinguished colleague, Jason, I take a different
2 view. My tribe did not put me here. If we think our
3 tribes put us here, we are misleading ourselves. My
4 tribe nominated me. My tribe nominated me. My tribe
5 supported my nomination. When the call went out, my
6 tribe and other tribes in our Region submitted names.
7 I was fortunate to have been chosen by my Region. I am
8 fortunate to have been chosen by HUD, by the selecting
9 process.

10 But if I cannot serve, or I cannot make the
11 meeting, I can't pick Joe Blow off the street and tell
12 him to go to a task force meeting, to a rulemaking
13 meeting. I can't do that for someone from my tribe.
14 That is why a few minutes ago as for discussion
15 purposes, and yes, for discussion purposes everything
16 is on the table. And when that happens, nothing makes
17 sense, because everything is on the table.

18 And I believe that there perhaps should be some
19 alternates. But it comes down to the question of what
20 is the method? What is the method?

21 And I've heard from Darlene, and I've heard
22 from Susan that, given the fact that there is a pool --
23 and HUD may have to shed some light on this -- but many
24 were called, but few were chosen, and if that's the
25 list we have to work with, so be it.

1 But I do not represent my tribe sitting here.
2 I am from my tribe. I represent a geographical -- a
3 Region.

4 THE FACILITATOR: It sounds like we do have a
5 consensus that alternates are acceptable. But we have
6 to define how they could be accepted.

7 MR. ADAMS: Again, Jan, with all due respect,
8 Ray, I guess I still have a problem of how my tribe
9 would then seat somebody else in this position should
10 affect you. If you go back, and for whatever reason
11 can't make a meeting, and you determine in your best
12 interests how you want to send somebody in your place,
13 why does that matter to me?

14 I think Steven was on point. Steven was
15 using the KISS method. Very short verbiage allows
16 alternates, and leave it up to the designated
17 representative on how the alternate sits here. So
18 be it.

19 THE FACILITATOR: There are differing opinions
20 about alternates, having them or not having them, and
21 also how they should come forward and be selected. But
22 I think, again, we are putting something in here of
23 prescribing something for different tribes that I don't
24 think anybody wants.

25 So we need to come up with some kind of

1 language that reflects that in some way, has respect
2 for the different tribal entities or governments, also
3 ensures that we have some continuity of people that
4 come to this meeting and that respect the process.

5 So let's go back to this language here and see
6 if those of you who disagree with this language or
7 voted against it, can you insert anything into this
8 that would allay your concerns, that would incorporate
9 your concerns.

10 MS. FOSTER: Karin Foster. I think the
11 provision we were actually voting on before was from
12 the 2003 protocols, not the 1997 that is up on the
13 screen. So I would ask that we go back to the 2003
14 protocols and work from that language.

15 THE FACILITATOR: Yes, Russell?

16 MR. SOSSAMON: When it talks about the rights
17 and responsibilities of members, we do have
18 responsibilities. I believe we were selected as
19 representatives of our tribe that reflect a
20 cross-section from our Region. Not that represents
21 our Region, because I cannot represent any other tribes
22 that did not nominate me, but the interests of my
23 tribe, and the composition and nature of my tribe
24 reflects other tribes in the region. I believe that
25 was the basis of the selection.

1 Now, one of our responsibilities and
2 obligations is to act in good faith. Now, I don't
3 know -- I have never seen any way to regulate in
4 writing or legislate, or basically even make visible,
5 faith. Faith is just what it is. It's faith. And
6 that is what I am committed to is to act in good faith.

7 And if I select someone that my tribal
8 government has authorized me, by whatever means, to
9 select as an alternate, then I would ask that this
10 committee accept that in good faith. Thank you.

11 THE FACILITATOR: I don't want to cut off
12 discussion. I do want to -- I think we've shared our
13 concerns with each other around the table to some
14 extent. We know what they are.

15 I would like to focus now on some words and see
16 if you can, knowing what we know about what those
17 concerns are, knowing what we know about Ray's concerns
18 and Susan's and Jason's and Russell's and everybody
19 else's here, can anybody think of some good language,
20 some good verbiage, that can reflect all that and make
21 everybody comfortable with our language about
22 alternates. Ray?

23 MR. DePERRY: No, I can't. In the spirit of
24 good faith, in the spirit of good faith, I am going to
25 call for a caucus. I'm going to go back into my

1 caucus. My representatives from my caucus now have
2 heard debate, have heard discussion, have heard some
3 dialogue. I'm going to ask that we go into our -- at
4 least I want to go into my caucus. A break is probably
5 welcomed anyway, and perhaps something will emerge from
6 that. But that is what I think needs to be done.

7 THE FACILITATOR: Lafe?

8 MR. HAUGEN: One question. This question I
9 guess would be directed toward HUD. 2012 is coming up
10 pretty fast. Hopefully we don't work our way into 2012
11 with this committee. But is there a possibility that
12 HUD, in the next Federal Register, can state language
13 that talks about an alternate at that time? And maybe
14 if HUD has a budget, they can pay for the person that
15 was selected and an alternate so we don't ever run into
16 this again.

17 It's my opinion that 2003 worked fine, but I
18 wasn't here. Here we are some years later. We've
19 spent an hour on this thing. So it's just a
20 recommendation and maybe something for HUD to think
21 about.

22 MR. BOYD: I think before you break for caucus,
23 I'd just like to remind everybody to keep in mind that
24 each one of you represents a geographically diverse
25 community, small, medium, and large. So what we were

1 trying to do to maintain that continuity is to have
2 those of you that have been designated to sit at the
3 table within the committee to have an alternate if that
4 is the will of the committee to represent, to maintain
5 that balance in the committee of representation.

6 So that if you're from a small, medium, or
7 large, and you are going to select a delegate, we would
8 hope that that selection would help maintain that
9 balance, because I think that was the wish of many,
10 many tribal members in the past, especially when we
11 went into the 2003 selection of committee members, so
12 just as a reminder.

13 THE FACILITATOR: Any last comment before
14 taking a break?

15 MALE SPEAKER: Before we take a break, I
16 request that we don't rehash what we have already
17 talked about after the break, meaning that everybody is
18 in agreement at this point that we have alternates. So
19 we should leave that. We are going to have alternates.
20 It's just the process of selecting alternates is what
21 we're going to talk about if we need to.

22 It sounds as though one region wants to talk
23 about that some more in detail. But in other regions,
24 we may not need to talk about it. Something has
25 already been decided. So I would ask that, before we

1 go to the break, that we all make that final decision
2 we're going to have alternates, period.

3 THE FACILITATOR: I hope that we can come back
4 with some concrete discussions about how to do that.
5 So we're going to kind of walk and chew gum at the same
6 time. We'll take a break, and you guys take a caucus.
7 Why don't we get back here by 11:00. Does that give
8 you enough time?

9 (Recess from 10:43 a.m. until 11:18 a.m.)

10 THE FACILITATOR: We gave you some extra time.
11 We hope that you have come back with some good
12 solutions to this issue of alternates.

13 As we left the room, we were looking at
14 Section (b) here, designated alternates. We have three
15 folks who had objections to that. Let me ask you first
16 if there has been any reconsideration or what do you
17 think on that, Ray?

18 MR. DePERRY: Yes, we have. And being very
19 open and frank, I apologize to the group if our
20 interpretation on the words and phrases has been
21 somewhat debilitating in our process here. But I know
22 that we are all striving for the greater good. And if
23 we stalled the process, again, we apologize for that.

24 I am grateful for having been allowed to take
25 the time for the caucus when we have asked for such.

1 The individuals from our group, the Eastern and
2 Woodland tribes, with Chicago being our regional
3 office, went back in session and discussed some of the
4 discussions that took place and some of the issues that
5 have been placed on the table.

6 And I would like for you to know that -- and
7 please understand that I do not in any way doubt your
8 sincerity to the tribal governments that you serve.
9 Whether you sat in as a tribal council member ever, or
10 if your profession has been in serving the government,
11 I do not doubt your sincerity to the principles of
12 sovereignty and governance that are so dear to us in
13 our homes. And I don't know if that is showing more of
14 me the last two days regarding my elected role, or if I
15 should be more of an executive director for housing
16 authorities.

17 But it's important that whatever hats we are
18 wearing, that foremost is the principle of our
19 sovereignty. And our leaders have been placed in the
20 position of awesome responsibility. And we who serve
21 them need to keep them informed on all decisions and to
22 get their blessings before we go out and do some
23 things.

24 That is why, perhaps, our Region has been vocal
25 with respect to this particular issue of alternates,

1 because we could not see how such a mechanism has been
2 blessed by the leadership.

3 Having said that, our Region has come to the
4 consensus that they are pleased with the language that
5 I see there -- that we see there in Part (b), the
6 designated alternates.

7 They are pleased with that language principally
8 because of that second paragraph, which states that
9 each committee member has the discretion to decide who
10 will best represent them in their absence. The
11 operative word for us in that particular sentence is
12 "discretion."

13 I think the fact that the word is there
14 protects any of us who feel has permanently -- as
15 perhaps I do with regards to tribal government, and
16 they will be known. They will be informed as to who
17 our alternates will be in hopes of their blessing and
18 letters or resolutions, whichever Rodger or Sandra may
19 need in order for my representative to be sitting here
20 equally amongst all of you.

21 So the fact that that term is there, and that
22 phrase is there, our group is comfortable with that as
23 drafted. And I think we feel comfortable with it as a
24 guiding principle.

25 THE FACILITATOR: Thank you, Ray. It sounds

1 like you had a very productive meeting.

2 MR. DePERRY: Yes.

3 THE FACILITATOR: Okay. So let me call the
4 question, then, on designated alternates. All those in
5 favor? Any objection? Thank you.

6 We will move on.

7 (Applause.)

8 MALE SPEAKER: Since I heard clapping, I may
9 not want to not speak. With a caveat on 6(b) in terms
10 of -- we are talking principally on good faith, due
11 diligence. Some of us in the past Neg-Regs have had
12 concern that people were just coming in, a person off
13 the street sitting and not understanding and stifling
14 the entire process by saying, I am new, and I don't
15 know what you guys are talking about. I'm going to
16 vote against this until I find out. That frustrated
17 people.

18 And so 6(b) was language that helped that
19 along, that if you were an alternate that you come to
20 the table, or people educate you when you come to the
21 table so you can vote appropriately, and depending on
22 how your Region wants to vote and so forth. I just
23 wanted to emphasize that.

24 We would like to see 6(b) also. And maybe even
25 a parentheses after committee that says alternates,

1 committee, alternate member, diligence, just to
2 emphasize the fact that people should do their homework
3 before they get here.

4 THE FACILITATOR: I'm sure we will get to
5 Section 6 before the end of the day. I'm confident
6 that we will. So will you raise that at that point to
7 make sure we are dealing with that concern? Okay.
8 Great.

9 Let's move to the next section, constituents'
10 interests. We are still working off of 2010, aren't
11 we?

12 "Constituents' Interests: Committee members
13 are expected to represent the concerns and interests of
14 their constituents."

15 Any comments?

16 MS. MARASCO: One of the things that I heard at
17 the caucus was some of the tribes that don't have a
18 seat at the table are concerned that they are not
19 receiving fair representation. And I think as a
20 committee member, I think we need to remember as a
21 whole that we are here to represent all tribes and all
22 nations and that, again, the ripple effect this
23 committee has on all Native American people across the
24 nation. And I think that we need to keep that in our
25 forefront as our mission to deal with things fairly for

1 everyone concerned.

2 THE FACILITATOR: Do you have a change you'd
3 like to make?

4 MS. MARASCO: I really don't know how you
5 define constituents. I guess that is my question is
6 constituents. Rusty's tribe for him; or is
7 constituents all Native Americans across the nation?
8 How do you describe constituents? They are different
9 for different people.

10 And for this body at this table and the people
11 in the audience, I want them to know, I am here for the
12 good of everybody. That is what I pledged when my
13 tribe nominated me. And that's what I wrote in my
14 letter to HUD, and that is how I will sit at this
15 table.

16 THE FACILITATOR: Duly noted.

17 Yes, Henry?

18 MR. CAGEY: The history of this thing, why it's
19 in here is that at our first rulemaking session, we had
20 a lot of individuals show up in the public comments, so
21 there was a lot of people representing themselves. And
22 so, again, this kind of goes back to the beginning of
23 negotiated rulemaking where we had folks coming in, and
24 they weren't from the tribe. They were just there as
25 individuals. So, again, this is the history of this

1 section.

2 THE FACILITATOR: Thank you for the
3 clarification, and that broadens the concept of
4 constituents.

5 Yes, Carol?

6 MS. GORE: I would like to offer an idea.
7 Replace constituent with Region. We have been selected
8 by our Region. So I offer a suggestion that we replace
9 constituent with Region. Thank you.

10 MS. MARASCO: I don't think Region is broad
11 enough. I just think it has to be for the good of all
12 Native American people. I think this is probably the
13 most important issue that we have talked about today.

14 THE FACILITATOR: So you would just leave it
15 with constituent? Would that be okay?

16 MS. MARASCO: If you define constituents as all
17 Native Americans, yeah.

18 THE FACILITATOR: Darlene?

19 MS. TOOLEY: I am confused. Have we moved to
20 (c)? I thought we were going to deal with alternates
21 and then go back to (a), attendance at meetings. I
22 could be wrong.

23 THE FACILITATOR: You're right. We were all
24 anxious to move on. You're right. We have not
25 approved (a) yet, so we'll go back. We decided to jump

1 to alternates, because people felt that would have an
2 impact on the attendance at meetings. I'm sorry.
3 Please look at attendance at meetings, (a).

4 MR. JONES: Can I ask some legal counsel to
5 address this question, if there's a way that they came
6 up with that idea, what they maybe did.

7 MR. MODERATOR: We now have alternates, right?

8 MALE SPEAKER: (Indiscernible -- speaker not
9 using microphone.)

10 THE FACILITATOR: You need to speak into a
11 microphone. We'll get you one. Here you go.

12 MR. TILLINGHAST: I am John Tillinghast,
13 T-I-L-L-I-N-G-H-A-S-T, and I am an attorney with the
14 (indiscernible) Regional Housing Authority. I was on
15 the drafting committee that put the NAIHC proposal
16 together.

17 The reason for inserting (a) was one, to go
18 back to that everybody at the table was required to
19 sign the promise that all the committee members would
20 actively participate in the process. And in prior
21 negotiated rulemaking, we had committee members who did
22 not, in our committees' view, actively participate.
23 They were here only irregularly.

24 And we thought we needed to come up with a
25 fairly objective, clear definition of how many absences

1 a committee member was going to be allowed, rather than
2 just say, well, if you miss too many, HUD may remove
3 you; that if you go over the line, HUD will remove you.
4 So you've got the ground rules set really clearly.

5 Now, the ground rules that are in here are
6 just suggestions. It might be three meetings; it
7 might be two meetings. Some people might think one
8 meeting. We tried to make arrangements for
9 emergencies. We did think it advisable to have
10 objective standards for what active service meant while
11 serving on a committee.

12 I guess unless people have questions they want
13 to ask me, I'll turn the microphone back over.

14 THE FACILITATOR: So the main thing is if you
15 came here from the old one, you knew that -- you said
16 HUD will remove versus HUD may remove if someone is
17 absent a certain number of days?

18 MR. TILLINGHAST: Well, and I think we
19 shortened the session.

20 THE FACILITATOR: And you shortened it from
21 three days to two days?

22 MR. TILLINGHAST: To two days, yeah.

23 MR. MODERATOR: So in 2003, if you compare
24 that --

25 MR. TILLINGHAST: Well, it's two days of any

1 two sessions, not just two days. So you can miss one
2 session entirely. You can have an emergency in the
3 family, and you can miss all three days. But if you
4 miss two days, it would be two-thirds of the meetings,
5 and you do that twice, then you would be removed.

6 FEMALE SPEAKER: So I have a question. This
7 was drafted with the thought that there would not be
8 designated alternates. So how does that language -- or
9 shouldn't that language now be changed to reflect that,
10 or the intention is to still have that standard of
11 participation.

12 MR. TILLINGHAST: My feeling -- and other
13 members of the drafting committee may differ -- is that
14 there would be no need for change in this language,
15 that if a regular member missed two-thirds of two
16 meetings, it doesn't matter that their seat was filled
17 by an alternate. They still have violated, as defined
18 in this section, their duty of active participation,
19 which is a personal duty.

20 THE FACILITATOR: Any comments?

21 MR. ANGASAN: Why is it so strict?

22 MR. CAGEY: Is it my turn?

23 THE FACILITATOR: Yes.

24 MR. CAGEY: I disagree with Alaska on this
25 issue. Again, I don't know why we're being so hard on

1 ourselves. You know, this doesn't make sense, and why
2 the drafting committee is being so hard on the
3 participants. I would rather recommend that we go back
4 to the 2003 protocols on that on the attendance, three
5 meetings and you're gone.

6 But I don't know why we're being so hard on
7 ourselves. We have to be flexible. We have to be
8 flexible in a way that we need to kind of support one
9 another on participating. Again, this doesn't make
10 sense to me. I don't know why we are choosing to be so
11 hard on ourselves in this fashion.

12 MR. TILLINGHAST: An observation, this is not
13 Alaska's proposal. I happen to be an attorney from
14 Alaska --

15 MR. CAGEY: You were the drafting committee?

16 MR. TILLINGHAST: No, I was a member of the
17 drafting committee along with others that were not from
18 Alaska. I was the only member of the drafting
19 committee from Alaska. The drafting committee itself
20 met several times.

21 The legislative committee, which was composed
22 of people from every region in the country, had
23 somewhere between six and eight conference calls
24 chaired by Jason at which there were numerous changes
25 to these recommended by people from all over the

1 country. You can trivialize the product by saying it's
2 an Alaska product or a Louisiana product, but it was a
3 national product.

4 MR. CAGEY: I will withdraw my comment on the
5 Alaska area. But, again, the drafting committee should
6 not be so hard on us. Again, we have to be flexible
7 when we're doing these things and be able to stay
8 together, because this whole thing is about the tribes
9 staying together and working together and doing things
10 together.

11 So my point is that the drafting committee, I
12 think, is wrong. I think there are going to be
13 exceptions, no matter what we do. No matter what we
14 say, there are going to be exceptions during the
15 process. One person can't make it for one reason or
16 another. And I don't want to see us being too
17 restrictive on this language. I don't know if you're
18 defending it or just trying to define it, but I really
19 disagree with it, and I recommend that the committee go
20 with the 2003 language and try to stay flexible.

21 THE FACILITATOR: All right. Russell, and then
22 Judy.

23 MR. SOSSAMON: I agree with Mr. Cagey that the
24 2003 language is appropriate.

25 THE FACILITATOR: Judith?

1 MS. MARASCO: I just wanted to make it clear
2 that we decided on alternates, and not only did we
3 decide on alternates, but we vested them with the same
4 rights and responsibilities as committee members. So
5 that seems to me to lead into the fact that, if I'm not
6 here, my alternate is here, and my seat is covered.

7 So I could see a penalty if myself or my
8 alternate did not participate. But this language
9 speaks to not having alternates. And now that we've
10 cleared that hurdle, I don't see the committee member
11 being punished for not being able to be here if their
12 alternate is here and is up to speed on the issues.

13 I like the 2003 language, but I don't
14 understand the last sentence, "A committee member may
15 be accompanied by such other individuals as a member
16 believes appropriate." To me, that holds no validity.
17 It's either myself or an alternate. That is what we
18 decided. And there shouldn't be any penalty as to
19 who's sitting in this seat if that has been decided.

20 THE FACILITATOR: Karin?

21 MS. FOSTER: I also agree with Henry Cagey. I
22 believe the 2003 draft language is preferable to the
23 2010.

24 I just want to say something quickly about the
25 2010 draft. I know a lot of work went into this. And

1 a lot of attorneys participated in that. And I'm sure
2 the people were trying to really grapple with the
3 issues, you know, and address those issues the way
4 attorneys do and I do.

5 But I think what the document serves as for us,
6 for me, is something that highlights maybe what the
7 issues are and what people have thought about in
8 relation to the earlier protocol, but not necessarily a
9 document that represents some sort of status, some sort
10 of negotiated document. It just helps us to see what
11 people's thoughts were. But I would agree that the
12 2003 works better. I don't know about the last
13 sentence.

14 THE FACILITATOR: Lafe?

15 MR. HAUGEN: I do agree with the 2003. Maybe
16 we should just quit with the first sentence.

17 THE FACILITATOR: Get rid of the last sentence?

18 MR. HAUGEN: Well, get rid of everything after
19 the first sentence. Committee members for each party
20 must make a good-faith effort to attend full
21 negotiating sessions. And I'm not an attorney, but I
22 did play one on TV.

23 MALE SPEAKER: If we use the 2003, I recommend
24 that we change party to regions.

25 THE FACILITATOR: I'm sorry, change what?

1 MALE SPEAKER: We change committee members for
2 each region rather than party.

3 THE FACILITATOR: Oh, I see. Of course we have
4 to figure out some way to involve HUD in this also. I
5 believe that's why we put in party.

6 MS. FOSTER: Darlene is suggesting it, but I'll
7 say it here in the mic. Can we just take out the words
8 "for each party" and leave it at "committee members
9 must make."

10 THE FACILITATOR: Okay. So it has been
11 suggested that we take out the highlighted area here.
12 Did you also want to take off the last sentence? Can
13 we remove the last sentence or at least highlight it,
14 and then we can see if the committee would like to go
15 with this one. This one goes back to the three
16 consecutive full negotiating sessions. It incorporates
17 designated alternates, and it does not say that HUD
18 will. It says HUD may remove the member from the
19 committee and designate a replacement member.

20 MS. HENRIQUEZ: I want to raise that sentence
21 about HUD may remove a member. I don't think it is
22 HUD's role to remove a member from this committee.
23 You're asking a member to remove another member. And
24 while HUD places responsibility on both being a member
25 of the committee, we also staff the committee.

1 So I would propose that the language read that
2 the committee may remove a member from the committee.
3 And if that is then how you as the committee would ask
4 HUD as staff of the committee to operate, then that's
5 what we would do. But I don't think the decision
6 should rest with us.

7 THE FACILITATOR: Let's try that. Can you
8 insert "the committee" for "HUD."

9 MR. ADAMS: I agree with the principle as far
10 as removing HUD and putting the committee in there.
11 But as I read on, it states that "a designated
12 replacement." I don't know if this committee then
13 would have the responsibility. I don't agree that the
14 committee would have the responsibility to designate
15 the replacement. That responsibility would go back to
16 HUD.

17 MS. HENRIQUEZ: Good point. If I might, then,
18 the committee may ask HUD, may direct HUD, to remove
19 the member from the committee and ask HUD to designate
20 a replacement member? Does that language work better?

21 THE FACILITATOR: The committee may ask HUD to
22 remove a member from the committee and ask HUD to
23 designate a replacement. Take a look at that.

24 Are you ready to vote on this? All in favor so
25 indicate? Any objections? Very good. We have

1 attendance at meetings and designated alternates.

2 Now let's get back to constituents' interests.

3 "Committee members or their alternates are expected to
4 represent the concerns and interests of their
5 constituents." There's been one comment by Judith that
6 constituents, in her mind, means all tribal nations,
7 and Native people.

8 There was a comment from Carol that said
9 "constituents" might want to be replaced by "regions."
10 And there was also a thought to leave the language
11 alone and let people interpret that the way they want.

12 MS. MARASCO: That's okay.

13 THE FACILITATOR: Would that be all right,
14 Carol? Are you content to leave the language the way
15 it is on constituents' interests?

16 MS. GORE: (Indiscernible -- speaker not using
17 microphone) Judith made several suggestions. I'm fine
18 with those as well.

19 THE FACILITATOR: So are we all in favor of
20 this? Any objection to leaving the language in (c)?
21 Good.

22 Let's move on to public participation.
23 provided in Article 2(c) of these Protocols.

24 I'm sorry. We need 2003.

25 "Subject to Article 3(i) of these

1 Protocols, comments from the public
2 will be taken only during the
3 designated opportunity for public
4 comment provided in Article 3(c) of
5 these protocols."

6 3(c) is open meetings. And it basically says

7 that:

8 "Committee meetings will be
9 announced in the Federal Register
10 prior to the meeting and will be open
11 to the public. Members of the public
12 and persons other than Committee
13 Members will be given opportunities to
14 make comments, raise questions or
15 submit materials for the record during
16 the public comment period established
17 by this paragraph. Such comment must
18 be concise and limited to not more
19 than five (5) minutes per speaker per
20 comment period. One 60-minute public
21 comment period will be provided at the
22 end of each Committee session day. The
23 Chair shall give priority to
24 recognized tribal leaders and may
25 extend that leader's time to speak,

1 provided that: (1) no tribal leader's
2 presentation may exceed 10 minutes;
3 and (2) no more than one leader from
4 any one tribe may be recognized during
5 the public comment on any one session
6 day."

7 Let's see a backup of that quote.

8 Yes, Darlene?

9 MS. TOOLEY: (Indiscernible -- speaker not
10 using microphone.) Sorry. Public participation also
11 references Article 3(i), which further defines the time
12 limits and things like that. So maybe we should look
13 at the 2003 language for public participation.

14 THE FACILITATOR: Jack?

15 MR. SAWYERS: In (d), public participation, in
16 the past we have been able to -- for instance if your
17 chairman or someone from your tribe wants to comment, a
18 committee member can recognize them and have them
19 comment. This does not provide for that unless -- on
20 (d). It might later on. But I really think we
21 shouldn't just limit the public for a certain time. I
22 think if they have something pertinent, we should be
23 able to recognize them.

24 MR. ADAMS: I believe that is allowed in the
25 first subject of Article 3(i). 3(i) is that area that

1 would allow you to yield your time to a member of the
2 public.

3 Just a clarification, Jan, we are making
4 reference to 3(i) and 3(c). Those would become 2,
5 correct?

6 THE FACILITATOR: You are right.

7 MALE SPEAKER: Just as background information
8 for people who are new at this negotiated rulemaking,
9 where do all of these time frames come from? We should
10 probably explain some of that, because what happened
11 was we were discussing items, and we found ourselves
12 not doing the job. And suddenly we were asked by HUD
13 to speed things up.

14 I was involved in some of the co-chair aspects
15 of it. And we were caught in a time frame where we
16 were supposed to complete the job. We had run out of
17 time, and so we came back and we instituted these kinds
18 of time elements to help the process along.

19 And so that's where the time frames come from.
20 It's just to help the process. It wasn't meant to
21 stifle anyone. It's just that we were running out of
22 time to get the job done. So that's why we got this.

23 THE FACILITATOR: If I can ask for some of the
24 people who were involved in these previous
25 negotiations, how did it work? How do these time

1 frames and time elements work? Did that help the
2 process? Did it make things move along in a productive
3 way? What were the results of that?

4 Jason?

5 MR. ADAMS: From my perspective, I thought it
6 worked fairly well. I think it accomplished the goal,
7 because we could easily get bogged down in minutia and
8 not stay on task.

9 I noticed earlier yesterday there was just a
10 blip on the screen, and it appeared that HUD has
11 already instituted a shot clock. And they kind of
12 showed it to us for just a couple of seconds yesterday.
13 There was a physical clock in the room at the last
14 meeting that counted down when you had the floor and
15 how much time you had, and somebody was keeping track
16 of that, how much time you could yield. It was a
17 cumbersome process, but it accomplished the goal.

18 THE FACILITATOR: Anybody else that was
19 involved in previous negotiation with the clock?

20 MS. TOOLEY: I support what Jason just said. I
21 will admit that when the process was first proposed,
22 there was a lot of anxiety amongst the committee
23 members and a concern for the time limits, that we
24 might not have adequate time.

25 But I think everybody that wanted to speak got

1 to speak. They had plenty of time to speak. And
2 because it worked so well -- and the committee members
3 also shared time with one another. So it helped us
4 develop relationships to help issues get solved. So
5 there was a lot of sharing that happened at the table.
6 I thought it was a very good process. Thank you.

7 THE FACILITATOR: Any other comments?

8 Marvin?

9 MR. JONES: My only concern was that we from
10 Oklahoma weren't allowed a little bit more time.

11 (Laughter.)

12 THE FACILITATOR: It gave advantage to people
13 who speak faster.

14 Larry?

15 MR. COYLE: The only problem we had was Marvin
16 speeding his speech up a little bit, and finally he did
17 at the last. We probably accomplished more the last
18 day of that session than we had the whole session
19 before.

20 THE FACILITATOR: Yes, Darlene?

21 MS. TOOLEY: I think the clock idea was well
22 instituted at the very end of the session, for the last
23 one. But to get there I think you have to have an
24 opportunity to be heard and for your constituents to be
25 heard. And I think we don't want to be too

1 restrictive, because at the end when we were doing the
2 clock stuff, we had -- we debated everything. It was
3 out there. So it was a matter of choosing what words
4 we were actually going to put on paper. So my concern
5 is that we don't limit ourselves to that opportunity to
6 figure out what the options or what the work product
7 could be just by minutes.

8 THE FACILITATOR: Thank you.

9 Henry?

10 MR. CAGEY: Again, I appreciate the drafting
11 committee. I don't know if we're talking about minutes
12 or ground rules. One of the things -- what I don't
13 see, Jan, is ground rules. And in this draft that you
14 see, the 2010 draft, there's a lot of ground rules in
15 here. It shouldn't be part of the protocols.

16 Some of these things are simple ground rules
17 where each person has a chance to speak, and we're
18 respectful, and turn your cell phones off and blah,
19 blah, blah.

20 But there's no ground rules. And some of these
21 are built right into the charter. Again, the time
22 issue is a ground rule. Just stay with it. What are
23 we talking about, time clocks, or -- I'm not even sure
24 what the hell we're talking about anymore.

25 THE FACILITATOR: There is that danger, and

1 often the protocol and ground rules overlap each other.

2 There's sort of a gray area there.

3 MS. FOSTER: I have a question. Are we now on
4 public participation, Section (d)? Or have we leapt
5 over into a later section of the protocol? I think
6 maybe when we started generally talking about our
7 feelings about minutes, we sort of left the public
8 participation section. I'd like to try to bring us
9 back there if possible.

10 THE FACILITATOR: He led us astray a little bit
11 there. Based on whether we're looking at 2003 or 2010
12 (indiscernible -- speaker not using microphone.)

13 MS. FOSTER: I do have a substantive comment on
14 the public participation section. It sounds like the
15 2010 version is setting up a designated opportunity for
16 public comment, which is the last 60 minutes of every
17 day. And that is kind of a substantive issue that I'd
18 like us to be able to discuss. Do we want to limit
19 public comment to just 60 minutes at the end of the day
20 or whether the public can comment throughout the
21 process?

22 THE FACILITATOR: Yes, Russell?

23 MR. SOSSSMON: I agree with what Karin's
24 concern is. I feel like we have jumped from
25 participation down into (c), the meetings. Just to

1 understand what we are approving of here in (d) is
2 participation. If we're going to make that referral to
3 another section, I think everyone agrees that there
4 should be public -- an opportunity for the public to
5 participate.

6 And then when you look at those rules for
7 public participation, I agree with the intent of the
8 time limitations. However, especially where it talks
9 about tribal leaders no more than ten minutes, I don't
10 know. I think just at the very end, it should have an
11 additional provision in there, unless the committee
12 agrees to modify this.

13 We still have our limits. That's the limit.
14 But if this committee decides that there is a tribal
15 leader there speaking, and they want to listen to
16 12 minutes of what he has to say, then I think that,
17 like I said, we should have the ability to say, hey,
18 this person is making sense. We need to listen to
19 this, not, sorry, your ten minutes is up.

20 So I agree with let's have limits, but then
21 let's build in a mechanism where we have, as a group,
22 the authority to extend that.

23 MR. ADAMS: Jan, if I could reply?

24 Rusty, if you remember, I think that's what
25 Carol was touching on. We did have those opportunities

1 in the last session when we had situations where people
2 were bumping up against their time limit. And I never
3 remember a situation where somebody was cut off,
4 because somebody would always yield more time to them.

5 I'm just concerned that we don't lose the
6 concept of limiting time, but we can work around it.
7 There's ways to work around it respectfully, and we've
8 done that in the past. We have proved that.

9 MR. SOSSAMON: Right. That's why I'm
10 suggesting that we have that. I'm saying write that
11 down so we all understand it. These are our rules and
12 our parameters. But in the event that this group
13 decides we want to extend that, we all understand that
14 the committee action as a whole can do that. And that
15 gives us the flexibility but keeps the rules in place.

16 THE FACILITATOR: Okay. So, Russell, your
17 proposal is to add to Section 3(c) -- and we will
18 change all of the numbers and stuff like that as we go
19 through it -- to something like, "unless the committee
20 agrees to extend the time," or something like that?

21 MR. SOSSAMON: Yes.

22 Okay. Jack?

23 MR. SAWYERS: I have an opposite point of view.
24 I think that we should look at our -- not put it in the
25 protocol necessarily, but look at our time frame and

1 then make that decision as a group rather restrict
2 ourselves upfront. In other words, I agree with the
3 time limit, and it worked out very well. But it worked
4 out best when we were under pressure and we needed to
5 use the process.

6 I think the first part of our meetings need to
7 go a little longer. We need to express ourselves and
8 get more ideas. As time goes on, we can change that.
9 And so I kind of don't like the idea of time limits to
10 start with. I like the idea of being able to do that a
11 little later on. So I don't like to see it in the
12 protocol. I'd like to see it later, that we have an
13 understanding that we can do that later if we choose.

14 THE FACILITATOR: Right now we're talking about
15 public comment and public participation.

16 MR. SAWYERS: I kind of put the two together.
17 Rusty was talking about letting somebody talk for ten
18 minutes. That has never really been a problem. I
19 don't remember of any times we've ever -- I've been
20 bored a few times, but I'm not sure that it's ever been
21 a problem with the process.

22 I think if you recognize someone, a tribal
23 chairman or someone from the audience that I recognize,
24 I think that we owe them some respect, and I don't
25 think we should say -- give them a time limit either.

1 I think we can do that later on if we need to. But I
2 don't think we need to make that decision now.

3 THE FACILITATOR: All of the testimony that was
4 given here supporting time limits would not be related
5 to the public talks. It was more of your internal
6 discussions. And I think Jack was saying, even
7 regarding internal discussions, maybe we should have
8 the option to apply it when we think we need it.

9 MR. SAWYERS: Not in the protocol.

10 THE FACILITATOR: But not in the protocol.
11 Okay?

12 MR. ADAMS: I guess the concern I have, and it
13 goes back to experiences, if we don't address this now,
14 at what point do we stop the process when we are
15 dealing with issues that we are here to deal with, not
16 protocol, but we're going through the business that we
17 are called here today, and we want to then go back and
18 change the protocol?

19 My concern is that that won't happen. Because
20 we will have these discussions like -- this is the
21 time. What I'm saying is this is the time to iron out
22 the process and allow for -- if we're going to put time
23 limits on our discussions, put those time limits in
24 place. If we're not going to put them in place, then
25 we ride out the process based on that decision.

1 I do think that the protocols are the place to
2 lay the ground rules on how we play the game from once
3 we start the game. This is the place where we lay out
4 the ground rules, and we all understand how the process
5 is going to go. I just think from experience that's
6 what we have to.

7 THE FACILITATOR: Are you referring both to the
8 public as well as to the committee?

9 MR. ADAMS: Correct, as proposed.

10 THE FACILITATOR: Judith?

11 MS. MARASCO: The topic of discussion is public
12 participation, and it references 3(i) and 3(c). I
13 think if we can agree that public participation is
14 something that we want to have, then the wordsmithing
15 should go on with Item (i) and Item 3(c) and not in the
16 area of (g), public participation. And there's nobody
17 more than I that would like to keep Jack from talking
18 over there, but it's not going to happen at this table.
19 We'll never come to consensus if we cut off the
20 communications.

21 But if we can just agree that public
22 participation is needed in this process and wanted,
23 then we can wordsmith the issues that everybody has
24 concerns over when we get to those items.

25 THE FACILITATOR: I think -- Darlene?

1 MS. TOOLEY: How can we agree to reference (i)
2 or (c) if we don't know what (i) or (c) mean? I would
3 propose that we go to what is now called 3(c) and look
4 at that. I would propose that we leave the first two
5 sentences of the existing paragraph there. Take off
6 everything else, and include a sentence to the effect
7 that the committee may establish time limits as
8 appropriate during the course of the committee
9 meetings. That's my proposal.

10 THE FACILITATOR: Steven?

11 MR. ANGASAN: I'm trying to figure out why you
12 would do these kind of rules. Why would you limit only
13 one leader, one tribe? Why would they only have ten
14 minutes? I'm just trying to figure out why. Why are
15 we doing this?

16 We've all been involved with the public at
17 meetings at some point. And it just seems like there
18 should be different -- like a different set of rules
19 for public testimony on this hand, formal testimony.
20 And then you could have all of these strict rules, and
21 other meetings could have nonformal speaking, and not
22 have everything lumped into all of these strict rules.
23 I'm trying to figure out why you would do it. Why
24 would we do this?

25 THE FACILITATOR: So, Steven, you would not

1 feel the necessity to have time limits on public
2 participation?

3 MR. ANGASAN: Well, from the last go-around, we
4 might be overreacting to those hotly contested meetings
5 that we had. I don't know. It just seems too strict
6 to limit testimony to one speaker per tribe. I can't
7 figure out why you'd do that. A lot of tribes have
8 more than one good speaker.

9 THE FACILITATOR: Russell?

10 MR. SOSSAMON: To address Steven's concern,
11 first, I agree. I think No. 2 should be stricken from
12 that language. Second, my assumption is the reason
13 that these time limits exist in the first place is not
14 to limit public participation. Instead, the real goal
15 of these time limitations is to manage the time that
16 this committee is convened as a body.

17 Because I assume that during this public
18 speaking time, they will be addressing this committee.
19 And, therefore, we are going to remain convened. We
20 will not adjourn until the public has had time to
21 address comments to this committee. I mean, we're not
22 going to adjourn and they're going to stand in here for
23 60 minutes and speak to no one.

24 So we have to manage the time that we are
25 convened. After we adjourn, we will probably go into

1 workgroups that evening. But that is also why I
2 suggest that we do have these time limits, so that we
3 can manage our time.

4 But I also would like to see that language in
5 there, because I don't think anybody here would be
6 unwilling to sit here and listen to public comments or
7 listen to tribal leaders make public comments however
8 long it took, but have some framework, some idea of
9 what we're looking at so that we can manage our time, I
10 think is really what the intent is. Thank you.

11 THE FACILITATOR: Lafe?

12 MR. HAUGEN: First of all, I agree with Rusty.
13 One of the thoughts I had was under 2(d), public
14 participation. Let's remove the article 3(i) and
15 article 3(c) and just put, "public participation will
16 be taken only during designated opportunity for public
17 comment," period. And then deal with the rest of the
18 subject matter as it comes up in the meeting aspect of
19 it. Is that okay?

20 THE FACILITATOR: Okay?

21 MR. SAWYERS: I want to turn some time over to
22 Jim Waglander.

23 MR. WAGLANDER: For those committee members who
24 have been involved with either the first Neg-Reg
25 process or the last Neg-Reg process, I would encourage

1 you to remember that this was never a problem. Public
2 participation was easily incorporated during the course
3 of your deliberations. You didn't have a designated
4 time period for public comment. You allowed your
5 members of the committee at any time to reasonably
6 recognize somebody who was not on the committee,
7 whether it was an expert, a support staff person, or an
8 individual who just wanted to have a say, who did not
9 have a seat on the board, on this committee. It worked
10 very well. It was not a problem.

11 I would encourage you to think of just
12 continuing that practice. To designate a separate time
13 for public comment alters the dynamics of that.

14 There are many lessons to learn from the past
15 negotiated rulemaking. But you're fixing something
16 that doesn't need to be fixed. It worked very well.
17 It could say under 2(d) just use the language that
18 says, "subject to 3(b) of the protocols, comments from
19 the public are encouraged."

20 And then under 3(i), relabel it noncommittee
21 members, and just have it read, "a committee member may
22 recognize staff or a member of the public to speak for
23 a reasonable period of time."

24 It worked very well. If you designate a time
25 at the end, I can pretty much assure you that nobody

1 will say much at the end. They want to be involved
2 with your deliberation. To designate time at the end
3 is going to go unused. It certainly has been
4 mentioned, as the need arises to make adjustments, the
5 committee would have the ability to make those changes.

6 So that is a suggestion that we would offer.
7 That participation from everybody is needed. From our
8 perspective, we represent 12 housing programs. Three
9 of those are involved with committee members.

10 I wonder what it would be like -- and there are
11 some lawyers here, and there's some tribal people here,
12 who don't have a seat at the table. And they need --
13 like you've allowed in the past, they need the ability
14 to participate.

15 And in the past, that participation has never
16 been troublesome. I think we have attended all of the
17 sessions. We never saw anybody disrupt the proceedings
18 by being given an opportunity to make a statement on a
19 particular issue while it was happening. Thank you.

20 MR. SAWYERS: It's still my turn. There is a
21 need for a time limit.

22 MS. TOOLEY: I just ask that the committee
23 think of the public component in two parts. One, there
24 is the tribal leaders that we all want to hear from.
25 And I think this committee has always been respectful

1 of that and really requested their participation.

2 The second bucket, if you will, is the
3 technical advisors, the attorneys. I can let that hang
4 for a minute, the attorneys, and our staffs. And I
5 think the intent of the protocols is to encourage the
6 committee members' participation. We do represent our
7 tribes, and to encourage them to come to the table to
8 be fully engaged.

9 So I'm encouraging the committee to think about
10 the public part as being at least two different
11 perspectives. We all have great respect for our tribal
12 leaders, but we also need to ask our technical advisors
13 and our staff to meet the same commitments that we as
14 committee member have agreed to meet, whatever they
15 might be at the end of the day. Thank you.

16 THE FACILITATOR: Okay. Henry?

17 MR. CAGEY: (Indiscernible -- speaker not using
18 microphone) I recommend as we go through this exercise
19 of getting our protocols done, at the end of the day,
20 that is all they are. That's all they are. And to
21 tell you the truth, I don't even remember signing the
22 protocols in 1997.

23 So at the end of the day, if the work that we
24 did, the work that needs to get done, is really the
25 most important part of what we're doing, these

1 protocols, that's all they are. They are nothing more
2 than that. And, again, how we work together and how we
3 do things together is more important than what is on
4 the paper.

5 This work that we're doing is more critical
6 than deciding what words we're going to use to define
7 how we're going to work together. Again, the protocols
8 are going to be the last thing we are thinking about
9 when we're looking at the preamble at the end of the
10 day and the rules. So, again, don't make it too
11 complicated. Don't make these things too complicated
12 and bogged down. We are going to tie our hands too
13 tightly.

14 Again, I appreciate it, Sandra, and I'll be
15 back at the next meeting. And Rodger and tribal
16 members, I thank you, but I have to go. Thank you.

17 MS. HENRIQUEZ: Thank you, Henry. Safe travel.

18 MR. HAUGEN: I do appreciate Jim's comments.
19 If we could put that in a proposal so that we could see
20 it, maybe we could call that the friendly Jack
21 amendment. Anyhow, are we going to break soon?

22 THE FACILITATOR: We're going to break in just
23 a minute.

24 MR. HAUGEN: And maybe Jim can put that in a
25 proposal.

1 THE FACILITATOR: I think that's a good
2 suggestion. Why don't we do that, and that will be the
3 first order of business after lunch.

4 Can we come back by 1:30? Does that give you
5 enough time?

6 (Recess from 12:14 p.m. to 1:41 p.m.)

7 THE FACILITATOR: I have to say that as hard as
8 we're trying to facilitate this committee, we are not
9 perfect. We do make some mistakes. And we hope that
10 you bring them to our attention quickly.

11 One of the things that I overlooked as we were
12 rushing right before lunch was that there had been a
13 proposal on the floor that we did not act on or look
14 at. So I want to correct that right now. It was
15 something that Darlene had put forward.

16 Can we see Darlene's proposal?

17 And, Darlene, can you explain it, please.

18 MS. TOOLEY: Thank you. What I had said was,
19 since we were dealing with participation, (d), public
20 participation, and it references to other sections in
21 the draft that we're looking at, I had proposed under
22 (c), open meetings, that we leave the first two
23 sentences in, and take out everything else that was
24 there, but insert a sentence that had said the
25 committee reserves the right to establish time lines as

1 necessary and appropriate during the course of the
2 meetings.

3 That's it, and it didn't get recorded. And I
4 hope I brought it to Jan's attention in a not too
5 confrontational manner. He is very gracious about
6 acknowledging that. Thank you, Jan.

7 THE FACILITATOR: My apologies, Darlene. I
8 appreciate your being patient with me. We are not
9 perfect. Like I said, we're all going to have to show
10 compassion towards each other, especially toward the
11 facilitators. I try my best. Okay.

12 Can we look at this now and get some comments.

13 Blake, do you want to make a comment?

14 MR. KAZAMA: So we skipped (d), do (c), and
15 then go back to the (d)?

16 MS. TOOLEY: If we don't know what the
17 references are going to say, then I find it difficult
18 to adopt the language in (d). And that's the only
19 point I was trying to make, Blake. If we can just fix
20 those two sections that I've referenced, we will have,
21 in effect, killed three birds with one stone.

22 THE FACILITATOR: Yes? Any comment on
23 Darlene's proposal?

24 MS. MARASCO: I think it is logical. If we
25 don't know what we are referencing, why put the

1 reference in, and I think it would move us past that
2 point. So I would agree with Darlene. If we just take
3 out the references, they don't add to the conversation.
4 They might clarify it, but I don't think they need to
5 be there.

6 MR. ADAMS: Did you ask for approval on this?
7 Is that where we are headed?

8 THE FACILITATOR: First comment, and then
9 approval.

10 Any further comment? Okay. Those in favor of
11 approving this? Do we have a consensus? Any
12 objection?

13 Carol?

14 MS. GORE: I think the evidence in the past two
15 days of how we can conduct business without a time line
16 is pretty apparent. We're talking about the public
17 component, and I really think we ought to fully discuss
18 having some parameters, even if you went back to 2003.
19 We considered some time limitations of five minutes. I
20 don't feel like we've thoroughly vetted that. I'm
21 sorry.

22 THE FACILITATOR: Darlene?

23 MS. TOOLEY: I would like to say that in the
24 next session that is referenced, which is 3(i), which
25 would become 2(i), that's where it talks about the time

1 limits, we're just talking about open meetings.

2 THE FACILITATOR: There's another area here in
3 Section (i) where time limits will be addressed.

4 MS. GORE: I suppose the confusion for me is
5 2010 clearly described open meetings as tribal leaders,
6 in which case I would agree with you. This says -- let
7 me look over my shoulder. It also says public and
8 persons other than committee members, which seems to
9 also include those that are under (i), so maybe you
10 could strike that and other noncommittee persons. I
11 think the intent here is for tribal members and leaders
12 to have the freedom to talk during public sessions.
13 And then that would remove my conflict.

14 THE FACILITATOR: Jason?

15 MR. ADAMS: As the saying goes, upon further
16 review, I do have a comment on this as it was changed.
17 I guess maybe this is just something we overlooked.
18 But as this ends now, the second-to-last paragraph ends
19 that members of the public and persons other than the
20 committee members will be given opportunities to make
21 comments, raise questions, or submit materials for the
22 record during the public comment period established by
23 this paragraph. That establishment of that time is
24 later in that paragraph, which has been eliminated.

25 THE FACILITATOR: So do you want to strike the

1 part that references the public comment period? Is
2 that what you're suggesting here?

3 MR. ADAMS: Again, upon further review, I think
4 the idea here is that we establish that opportunity for
5 the public to have the time to speak, maybe not limit
6 them on when, but maybe have it on the agenda
7 somewhere. If we don't have that in here, then where
8 do we have that established?

9 THE FACILITATOR: I'm open to suggestions.

10 MR. CAGEY: I just suggest we make a simple
11 statement that the meetings are open to the public.
12 Then over here under your time limitations, we could
13 address noncommittee members.

14 FEMALE SPEAKER: I agree with that.

15 MR. ADAMS: I agree with you to the extent that
16 one of the things that this paragraph did do is give
17 the public an identified time on the agenda when there
18 is an open forum. We eliminated that, and I don't
19 think that was the purpose, was it, Darlene?

20 MS. TOOLEY: (Indiscernible -- speaker not
21 using microphone.)

22 MR. MODERATOR: Okay. So --

23 MR. CAGEY: Can I respond to that?

24 I understand, but I believe the intent of this
25 noncommittee member where we can recognize people

1 accomplishes that. Because I believe -- I know myself
2 and many other committee members expressed that we
3 want -- we welcome public input, because it gives us
4 perspective and allows us to recognize who we feel like
5 has some information to contribute to assist this group
6 in reaching a good decision.

7 So I think it would serve, and, like I said, I
8 agree with Jim Waglander. Let's not have them wait
9 until the end of the day. When we need their comments
10 is when we're trying to come to an agreement and to
11 find a solution. So that the timing should be then,
12 that they have an opportunity to input. That's my
13 intent.

14 MR. ADAMS: Maybe the solution for this then is
15 to end the sentence "at materials for the record,"
16 period.

17 THE FACILITATOR: Okay. So delete "during the
18 public comment period established by this paragraph."
19 On the yellow, delete during the public comment period.
20 Okay? Does everybody agree with that? Can everybody
21 live with this now the way it is? Any objections?
22 Okay. Good.

23 So we've taken care of that, moving on. We
24 will take up (c) and (i) later.

25 FEMALE SPEAKER: (Indiscernible -- speaker not

1 using microphone.)

2 THE FACILITATOR: Can we get through it?

3 MR. MARASCO: Just go to (d), Jan. I think if
4 we go back up to -- where is that, Darlene?

5 MS. TOOLEY: (d).

6 MR. MARASCO: (d) -- if we go back up to (d),
7 so under public participation, the protocols, comments
8 from the public will be taken during a designated
9 opportunity for public comment as provided by these
10 protocols.

11 Or you could just start it with, comments from
12 the public will be taken only during the designated
13 opportunity for public comment provided by these
14 protocols. And that takes out the references.

15 THE FACILITATOR: Say it one more time.

16 MR. MARASCO: Comments from the public will be
17 taken only during the designated opportunity for public
18 comment provided in these protocols, or as provided in
19 these protocols.

20 THE FACILITATOR: Is that consistent with what
21 we just agreed to? Okay.

22 MR. MARASCO: There should be "as" in front of
23 "provided."

24 MR. FACILITATOR: I see. So is that going to
25 give the public two bites at the apple?

1 MR. MARASCO: What do you mean, two bites at
2 the apple?

3 THE FACILITATOR: I think we just agreed that
4 during the course that the public will be invited
5 during the meeting as well, if appropriate.

6 MS. MARASCO: Well, we haven't got to cutting
7 up the apple yet, so you can't say that.

8 FEMALE SPEAKER: This Section (e) just deals
9 with participation. When we get to the next section on
10 meetings, then we will deal with that.

11 MR. MARASCO: And they are hungry, so they get
12 two bites.

13 THE FACILITATOR: Jack?

14 MR. SAWYERS: I thought we eliminated the time
15 period where we just say that comments from the public
16 are encouraged, instead of going through that whole
17 thing. And then we will talk about the process. But
18 are we trying to eliminate that hour, that 60 minutes
19 at the end? Are we going to have comments as we go?
20 You're putting it back in.

21 MR. MARASCO: No, we're not.

22 MR. SAWYERS: Appropriate time is --

23 MR. MARASCO: We didn't put it back in, Jack.
24 We haven't gotten to it yet. What we're doing is
25 eliminating the references to 3(i) and 3(c). That's

1 all we did, because we don't know that that's going to
2 be the reference numbers. When we deal with
3 limitations, we will deal with 3(i). Well, it would be
4 2(i), but that's where all that stuff goes. Trust me,
5 Jack.

6 MS. FOSTER: Can I make a suggestion that might
7 respond to Jack's concern, which I also share. Perhaps
8 we should just have it read, comments from the public
9 will be taken as provided in these protocols, and not
10 refer to a designated period at all, since we don't
11 know if we're going to have a designated time.

12 MR. MARASCO: That works for me.

13 MR. FACILITATOR: Good. So take out during the
14 designated opportunity.

15 MR. MARASCO: One for Jack.

16 MR. FACILITATOR: Comments from the public will
17 be taken as provided in these protocols, and take out
18 for public comment.

19 MS. FOSTER: Yes, that was the recommendation.

20 THE FACILITATOR: Is everybody okay with the
21 recommendation? Any opposition?

22 THE FACILITATOR: Fine. Moving on.

23 Effect of failure to participate:

24 "If a Committee Member is not
25 physically present when the Committee

1 is lawfully in session and a vote on a
2 matter is taken, whether because of
3 non-attendance at the meeting, delayed
4 return from a caucus or recess, or any
5 other reason whatsoever, he or she
6 shall be conclusively presumed to have
7 consented to the matter being voted
8 upon, and that Member shall not be
9 allowed to request reconsideration or
10 reopening of the matter."

11 Any comments on this section? Is everybody up
12 for an agreement? Any dissension? It passes?

13 MS. FOSTER: I have an objection, a hesitation
14 anyway. I guess I can agree that the members should
15 not be allowed to request reconsideration or reopening,
16 but I don't know that I agree that he or she shall be
17 conclusively presumed to have consented.

18 I mean, there might be situations when we can't
19 be here. I don't know about conclusive presumption to
20 consent. I'm not sure I'm comfortable with that.
21 Maybe somebody can explain to me why it should be in
22 there.

23 THE FACILITATOR: Russell?

24 MR. SOSSAMON: Can we have a presumption not in
25 opposition? Because if you don't participate, you

1 can't oppose it, just like you can't consent to it.

2 MS. FOSTER: I guess I'm not sure why there
3 needs to be a presumption at all. Basically, the
4 member can't raise it again, but I don't know that I
5 think we need to say that it is conclusively presumed
6 that you agree or disagree. You just weren't there,
7 and you don't have an opportunity to participate.

8 MR. ADAMS: I think the idea behind that
9 language is because -- and again I'm going to say it,
10 but we haven't got there yet -- is that we operate on a
11 consensus basis. Everybody agrees before we move on on
12 an issue. If you are not here to agree, you are
13 assumed to agree.

14 MR. SOSSAMON: There's another presumption that
15 we're going to operate on consensus. I think we
16 should. But when we define that, perhaps we say
17 consensus of those present when the vote is taken. And
18 then we don't have to make any presumption about
19 someone who is absent during that vote.

20 THE FACILITATOR: You could take the clause
21 about presumption out and say that members will not be
22 allowed reconsideration.

23 MS. FOSTER: Can I also suggest -- does there
24 need to be some sort of a reference to the alternate
25 there, since this was drafted before the alternates

1 were going to be accepted? Should it say if a
2 committee and/or his alternate? Or is that just
3 understood that that encompasses the alternate?

4 THE FACILITATOR: I think the alternate has
5 rights.

6 MS. FOSTER: And so the alternate is acting in
7 place of the committee member? I just wanted to make
8 sure. Yeah. Okay.

9 THE FACILITATOR: Any suggestions for this?

10 MR. MARASCO: So if we eliminated from "he or
11 she shall be conclusively presumed to have consented to
12 the matter being voted upon," and just leave it at "or
13 any other reason whatsoever, that member shall not be
14 allowed to request reconsideration or reopening of the
15 matter."

16 THE FACILITATOR: Would you type that out,
17 please.

18 Yes, Russell?

19 MR. SOSSAMON: I think what we're trying to
20 accomplish is if someone chooses to be absent for
21 whatever reason and a vote is taken, that vote is
22 final. We will address revisiting something later.
23 Okay? So just to be clear, if you are absent when a
24 vote is taken, you missed the vote, and it doesn't have
25 any effect on the outcome of the vote.

1 MR. MARASCO: That's true.

2 MR. SOSSAMON: Is that what we're trying to
3 accomplish?

4 MR. MARASCO: Yes. That's what it says.

5 MR. SOSSAMON: Say that as simple as we can.

6 THE FACILITATOR: Marguarite?

7 MS. BECENTI: I have a question. If these go
8 on and they're (indiscernible -- speaker not using
9 microphone) and the Region is still in a recess or
10 caucus, and a vote has been made, and you have four
11 members that don't come back to the table, will it be
12 recorded that they are still out? Like if your
13 Region -- if these are public meetings and someone from
14 Washington, Oregon, whatever (indiscernible -- speaker
15 not using microphone) somebody from that Region said
16 no, we didn't want that, is it going to be recorded if
17 they aren't?

18 THE FACILITATOR: We have minutes. Up to this
19 point, we haven't taken a headcount of who voted on
20 these things. I think the understanding would be that
21 if everybody had caucused, and we said we were going to
22 reconvene at 1:00, and one Region didn't come back at
23 1:00, and they missed out on the vote, I don't know if
24 we have, as yet, a way to record what everybody who
25 voted on it, what they voted.

1 MR. SOSSAMON: That is my understanding that
2 that is exactly what would happen. If a caucus wanted
3 to extend the time, we have to be mindful of when we
4 need to come back, and ask someone on the committee, or
5 sit here and request extended time. We don't want to
6 limit the time the caucus needs, but at the same time,
7 we can't allow a caucus to stop the work of the group.
8 Is that being reasonable?

9 MS. BECENTI: Yes, but (indiscernible --
10 speaker not using microphone.)

11 MR. SOSSAMON: That's how I would propose it.

12 THE FACILITATOR: So Judith had a proposal --
13 let's see.

14 MR. MARASCO: Right after "whatsoever" delete
15 clear down to "that member."

16 THE FACILITATOR: Okay. I think that's what we
17 have here.

18 MR. MARASCO: From whatsoever.

19 THE FACILITATOR: It's there.

20 MR. MARASCO: Oh, okay. You have already done
21 it.

22 THE FACILITATOR: How are you with that
23 wording? Okay. Take a vote? All in favor? Any
24 dissension? Questions?

25 MS. FOSTER: I think the question is whether or

1 not, then, is that vote valid, and does the language
2 say that, is the only question we have on this side.
3 And is there an amendment needed to make that clear?

4 THE FACILITATOR: Is it clear enough, or do you
5 need another amendment to say the vote is valid? It
6 doesn't say it's invalid. If there is a quorum
7 present, and people vote, then it's a valid vote. If
8 the committee is lawfully in session, that means they
9 have to have a quorum, so then it would be a valid
10 vote. Yes?

11 MR. CAGEY: Can I defer to my attorney?

12 MR. TILLINGHAST: I want to show you the
13 language. The purpose of the amendment to the
14 amendment is to make sure that the missing member, when
15 he or she wanders back in, doesn't have grounds to say,
16 wait a minute. You took a vote without me being here.
17 That's invalid for one reason or another.

18 You would just say, the vote may be valid in
19 the member's absence, and that member shall not be
20 allowed to request reconsideration or reopening of the
21 matter.

22 FEMALE SPEAKER: Do you want to see it up
23 there?

24 MR. MARASCO: Yes, please.

25 THE FACILITATOR: If that comes after

1 whatsoever, the vote shall be held in that member's
2 absence?

3 MR. TILLINGHAST: May be validly held.

4 MR. FACILITATOR: May be validly held in that
5 member's absence.

6 MR. CAGEY: I guess we are having a sidebar
7 discussion, I guess. The fear that if we have -- and
8 I'm just tossing this out -- is if we have, say, five
9 people that were here, and the chair says let's get
10 going, and we want to vote on this next issue that we
11 held off before lunch, is that a valid vote? You don't
12 really have the numbers. So anyone that comes in, we
13 say, you know what? We took a vote on it, and we
14 passed it. I don't know. I'm just tossing up a
15 hypothetical.

16 THE FACILITATOR: Before I respond, I just want
17 to point out, if the committee isn't lawfully in
18 session, you can't take a vote if you don't have a
19 quorum.

20 MR. CAGEY: Yeah, that's the point.

21 MS. MARASCO: That's not true. At the last
22 session, we declared a quorum at the beginning of each
23 meeting, and every vote after that was valid.

24 THE FACILITATOR: Whether there was enough
25 people in the room or not?

1 MS. MARASCO: Once the quorum was established,
2 it was their responsibility to get to the table.

3 THE FACILITATOR: Oh, really.

4 MR. MARASCO: So chew fast so you can get back
5 to the table.

6 MS. HENRIQUEZ: I'm not an attorney, so let me
7 make sure that this clear in my head. I'm looking at
8 the proposed language No. 2. The fourth line that
9 starts "whatsoever, the vote may be validly held in
10 that member's absence." And I'm stuck on the wording,
11 because any vote that is taken where there is a quorum,
12 and the session starts with a quorum, any vote taken in
13 the course of that valid meeting is a valid vote, as I
14 understand it.

15 So it's not that the vote may be validly held,
16 it's that the vote is valid. So I would go back to the
17 yellow proposed language and just add a sentence that
18 says something like votes -- such votes will be
19 considered -- or are considered valid. I don't quite
20 know -- so help me. Some people have to wordsmith this
21 for me. I am just trying to figure out the difference
22 between validly held and a valid vote.

23 THE FACILITATOR: Russell?

24 MR. SOSSAMON: I'm going to attempt to help
25 with some language. "Votes taken by members present

1 during a lawful session of the committee are valid."

2 MS. HENRIQUEZ: It works for me.

3 FEMALE SPEAKER: Just an add-on to that --

4 MR. SOSSAMON: Get rid of all of that. This is
5 confusing. Yeah, replace this with a simple statement,
6 "Votes taken by members present during lawful sessions
7 of the committee are valid."

8 MS. HENRIQUEZ: Are you asking for that to
9 be added to the back end of one, or is that the
10 effective --

11 MR. SOSSAMON: No. I'm proposing that this
12 language substitute for all of that other language.

13 MS. HENRIQUEZ: Oh.

14 MR. SOSSAMON: It has the same effect.

15 MS. HENRIQUEZ: I have to think about that.

16 MR. SOSSAMON: It has the same effect. Votes
17 taken by members present during a lawful session of the
18 committee are valid.

19 MS. WICKER: Can we just add the last part of
20 that sentence --

21 MR. SOSSAMON: About being gone and
22 reconsideration and all of that? Well, if you're not
23 present, if you're gone, then we'll deal with
24 reconsideration of issues in another area. Okay.

25 MS. WICKER: As long as we revisit it in

1 another area.

2 MR. SOSSAMON: Well, yeah. Reconsideration
3 will be revisited in another area. And a valid -- a
4 lawful session is one in which a quorum has been
5 established, and we're not at recess.

6 MS. WICKER: Will that cover the title of that
7 paragraph, effect of failure to participate? Will that
8 cover that?

9 MR. SOSSAMON: Yes. I think it will, because
10 you're either present, or you are not.

11 THE FACILITATOR: That is under the clause,
12 effect of failure to participate.

13 MALE SPEAKER: I agree with Rusty but I think
14 you really need that under Section 4, decision-making.
15 (b), about voting. You find it over in the other
16 section.

17 MR. SOSSAMON: Voting?

18 MALE SPEAKER: Right.

19 MR. SOSSAMON: Right. Well, that speaks to --
20 my interpretation is that speaks to if a member is
21 present. This pretty much means you are required to
22 participate and indicate yes or no on a vote. Is that
23 how you interpret this?

24 MALE SPEAKER: Yeah. I think my concern here
25 is this is the effects of not participating, and we

1 have to address that if we are going to use the same
2 title.

3 MR. SOSSAMON: Right. So I suggest we change
4 the title also to say the effect of failure to be
5 present during the session, because really that's what
6 it is. We're talking about people who are not present
7 during the session. Well, the effect is, votes taken
8 by members present during lawful sessions of the
9 committee are valid. That's the effect of it, not
10 being present. Does that make sense?

11 THE FACILITATOR: Steve, do you want to
12 comment?

13 MR. ANGASAN: I would just say what that
14 gentleman said there. This discusses voting under
15 4(b). And then under reconsideration, may not be
16 reconsidered by the committee. And there is an appeal
17 process right above it. I'm just pointing out the same
18 thing that he was pointing out.

19 MR. JACOBS: Yeah. I just want to mention that
20 this whole section is on participation. Failure to
21 participate means that your vote doesn't count, or you
22 won't be able to come back and ask for reconsideration
23 about a vote that has already been taken because of
24 your failure to participate, right?

25 THE FACILITATOR: Yes.

1 MR. KAZAMA: Because of Leon's statement, I
2 would like to add on what Rusty stated to the proposed
3 number one in the second sentence. The beginning part
4 of that sort of describes people who are not here. But
5 Rusty doesn't state that. He does state the obvious,
6 that if you're here, your vote counts. If you're not,
7 it doesn't. But he just sort of describes it better at
8 the beginning of that.

9 MR. SOSSAMON: That's why I suggested we change
10 the title as well to, "Effect of failure to be present
11 during lawful session."

12 THE FACILITATOR: What about Blake's
13 suggestion? Is that right, we need to add your
14 sentence at the bottom? It spells it out a little bit
15 more.

16 MR. SOSSAMON: Well, okay. Then if we can, you
17 can reconsider with consent of the group later on.
18 You've got a conflict with that number one statement.
19 Because under those circumstances, not even if this
20 group agrees to reconsider something can you reconsider
21 it, according to that language.

22 FEMALE SPEAKER: (Indiscernible -- speaker not
23 using microphone.)

24 MR. SOSSAMON: Okay. Yeah. If a vote is taken
25 when someone is out of the room, and you know what,

1 later on we think let's go back and look at this again,
2 we can't do it because somebody was out of the room.
3 That's what that says.

4 FEMALE SPEAKER: I think it's just people that
5 were out of the room can't bring it back up for
6 reconsideration just because they were out of the room.
7 If someone is in the room, if we have a section that
8 talks about that, we should be able to bring it back
9 up, right?

10 MR. SOSSAMON: It's up to the group. That's
11 what I'm saying.

12 FEMALE SPEAKER: We're not there yet.

13 MR. SOSSAMON: I know. So why are we trying to
14 deal with that anyway?

15 MS. FOSTER: Not to confuse things further, but
16 can I make an alternate proposal? "The effects of
17 failure to attend," period. "The absence of a member
18 during a lawful session of a meeting shall not
19 invalidate the vote." That is simple. It's simple,
20 like Rusty's proposal was sort of, you know.

21 MALE SPEAKER: Can you put it up there?

22 MS. FOSTER: Would you like me to read that
23 again?

24 THE FACILITATOR: Can you read it again.

25 Can you type that up, please.

1 MS. FOSTER: The proposal is the heading would
2 be effects -- effects, I guess -- "Effect of failure to
3 attend," period. The language would be the absence --
4 I will wait a minute. Okay. "The absence of a
5 committee member during a lawful session of a meeting
6 shall not invalidate the vote."

7 THE FACILITATOR: One more time.

8 MS. FOSTER: "The absence of a committee member
9 during a lawful session of a meeting shall not
10 invalidate the vote."

11 MALE SPEAKER: Karin, can you speak in the
12 young man's speed here?

13 MS. FOSTER: I'm sorry?

14 MALE SPEAKER: Take it down to Marvin's speed.

15 MS. FOSTER: Okay. Did you get that? I like
16 the pink, but you can't read it.

17 MALE SPEAKER: Just a question. Are you just
18 striking, then, the reconsideration aspect and dealing
19 with it later?

20 MS. FOSTER: I will leave that for you to build
21 upon.

22 THE FACILITATOR: Yes?

23 MS. FOSTER: I think that's important, because
24 as we support this, the language that is proposed in
25 the draft, the 2010, would be somewhat in conflict or

1 at least unclear. So we have to deal with that when we
2 get to the reconsideration section. I just want to
3 make sure that we hold out that discussion. If we
4 support this, it has got to be consistent, and right
5 now, it will not be.

6 MR. KAZAMA: Can we put reconsideration
7 (indiscernible -- speaker not using microphone.)

8 THE FACILITATOR: Okay. Does everybody
9 agree with this now the way it stands? Let's see a
10 thumbs-up.

11 MALE SPEAKER: I do have one question.

12 THE FACILITATOR: (Indiscernible -- speaker not
13 using microphone.) It is renamed, "The Effect of
14 failure to attend." And it reads, "The absence of a
15 committee member during a lawful session of a meeting
16 shall not invalidate the vote." Does that cover it?

17 THE FACILITATOR: Yes, Sandy?

18 MS. HENRIQUEZ: Just for consideration. Here
19 reconsideration is tied to one not being physically
20 present at the time a vote is taken. In the
21 reconsideration section, under the next section, which
22 will be the new 3(e), reconsideration has only two
23 things. So are you suggesting that we will have a
24 third reason why something -- I'm a little confused.
25 I'm sorry.

1 I'm just trying to make sure we are not trying
2 to jam a whole lot of stuff into one when your failure
3 here to vote is because of your not being in the room
4 as the session is actually voting, and the one on this
5 new reconsideration, the upcoming section, is because
6 there wasn't a consensus reached. And those are two
7 very different reasons. I'm not sure if the committee
8 is saying they want reconsideration if you are not in
9 the room to have equal weight as reconsideration when
10 there is not consensus produced.

11 THE FACILITATOR: Okay. Russell?

12 MR. SOSSAMON: My interpretation of the
13 reconsideration is that, without consent from the
14 committee, under no circumstance will we reconsider
15 something once the vote has been taken, with two
16 exceptions. And those two exceptions are listed here
17 under the reconsideration. So this merely says if you
18 are not here, and a vote is taken, and it's a lawful
19 session, then it's valid.

20 Now, that doesn't mean you can't ask for
21 reconsideration, but it's up to this group. And more
22 than likely, they are going to say no. The only
23 exception to this group having the authority to say yes
24 or no are listed under reconsideration. 1 and 2 under
25 reconsideration are exceptions to the rule that only

1 this committee will consent to reconsider something.

2 So there's three ways that an issue can be
3 reconsidered. One, the committee can agree to
4 reconsider it and then Exception 1 and Exception 2.
5 But other than that, there's no other way to reconsider
6 it is the way I interpret the reconsideration.

7 THE FACILITATOR: Leon?

8 MR. JACOBS: I have a concern about the word
9 "attend." Everybody out here is attending the meeting,
10 but they are not participating. And this whole section
11 is on participation. So I think we need to go back to
12 the original purpose. You know, if one of the
13 committee members just happens not to be present when a
14 vote is taken, hey, you are going ahead with the
15 business at hand, and if they come back into the
16 meeting and want to participate and be reconsidered,
17 hey, I'm sorry. You had your chance. So I think I
18 have a problem with the word "attend." I am sorry.

19 THE FACILITATOR: You're proposing to put the
20 word participate back in?

21 MR. JACOBS: That's my recommendation.

22 THE FACILITATOR: Just that word, right?

23 MR. JACOBS: I think we don't need to go back
24 to either the green or the yellow.

25 MR. ADAMS: Jan, if I could, I was going to

1 raise this very issue with the word attend. My
2 proposal was going to be to change that. The title
3 would be effect of failure to be present, because
4 someone could say I was in attendance at that meeting.
5 I just had a cell phone call and was outside the room.
6 They weren't present at the table. I think I'm saying
7 the same thing Leon is, but I would propose that we
8 scratch attendance and say "to be present."

9 MR. FACILITATOR: Sticking with the same one
10 that we've basically approved, this failure to attend?

11 MR. ADAMS: Yeah, Karin's proposal, No. 4, with
12 a statement that says failure -- effect of failure to
13 be present.

14 MS. FOSTER: That's fine with me.

15 THE FACILITATOR: Effect of failure to be
16 present.

17 MR. ADAMS: To be present, yes.

18 MR. FACILITATOR: Leon, does that do it for
19 you?

20 MR. JACOBS: Well, I still prefer the
21 participation, but I understand what you are saying,
22 Jason. Either one is fine.

23 MR. HAUGEN: It talks about it again in voting
24 under decision-making, (b), so do we scratch the whole
25 thing and refer to voting? It's got to say the same

1 thing in essence, because it almost talks about the
2 same thing.

3 MR. JACOBS: Actually, we have voted on this
4 twice, didn't we?

5 MR. FACILITATOR: Yeah, Judith?

6 MS. MARASCO: I have an issue with present. I
7 can be present but not at the table. Effect of failure
8 to be present for the vote -- for a vote.

9 THE FACILITATOR: Okay. So Judith wants to be
10 more specific, "effect of failure to be present for a
11 vote."

12 FEMALE SPEAKER: (Indiscernible -- speaker not
13 using microphone.)

14 MS. MARASCO: No. I like the last one. I just
15 know what I have to be present for. Yeah. The absence
16 of a committee member during a lawful session of a
17 meeting shall not invalidate the vote. So effect of
18 failure to be present for a vote.

19 THE FACILITATOR: I don't think we can improve
20 on that.

21 MR. MARASCO: I'm proud.

22 MR. FACILITATOR: All in favor? Any
23 dissension? Thank you. That was really a group
24 effort.

25 Okay. Meetings. Reading from the 2010

1 version, quorum:

2 "A quorum of the full Committee
3 shall consist of two-thirds of the
4 Members of the Committee who are
5 present during a call of the roll
6 taken on opening day at the start of a
7 negotiated rulemaking committee
8 meeting. Once a quorum is initially
9 established, the Committee may take
10 action during the remainder of that
11 meeting, including action on
12 succeeding days, as long as the
13 Committee is lawfully in session
14 pursuant to these Protocols, and
15 whether or not a quorum is present."

16 Okay. Let's take it piece by piece. Any
17 comment? Do we want to vote on it? All in favor? All
18 opposed? Okay.

19 "Structure. The negotiations will
20 be conducted consistent with the
21 Committee Charter and the Negotiated
22 Rulemaking Act of 1990 ('NRA') as
23 adapted to the unique relationship
24 between the Government of the United
25 States and the governments of Indian

1 tribes."

2 Any comment? Capitalize "governments?"

3 FEMALE SPEAKER: Yes, capitalize the Indians.

4 THE FACILITATOR: How about tribes?

5 MR. MARASCO: Yep.

6 MR. FACILITATOR: Capitalize governments and
7 capitalize tribes.

8 MALE SPEAKER: Just to clarify, you said
9 adopted, and this says adapted.

10 THE FACILITATOR: I am sorry. It's that
11 California accent. Okay. All in favor? Okay. Any
12 opposition?

13 Open meetings. Committee meetings will be
14 announced --

15 MR. MARASCO: Don't go back there.

16 MR. FACILITATOR: I'm sorry. Where am I going?
17 Did we do that already? So we are on minutes. Okay.

18 "Minutes. The Committee shall
19 observe the requirements of the
20 Charter regarding minutes, records
21 and documents. In addition, draft
22 minutes will be prepared and
23 distributed to Committee Members by
24 the representatives of the Department
25 of Housing and Urban Development

1 ('HUD') ten (10) calendar days prior
2 to the next meeting. HUD will
3 maintain a record of all minutes and
4 will distribute approved minutes to
5 Committee Members and Tribes."

6 Any comment? Is that time frame okay? Any
7 comments?

8 MS. HENRIQUEZ: We were just trying to debate
9 whether it is ten calendar days after the session or
10 prior to the next. This says prior to the next. It's
11 fine. As long as you don't schedule something quite
12 back-to-back, we'll be quite fine. Thank you.

13 THE FACILITATOR: Okay. All in favor? Any
14 opposition? Okay. Moving on. Thank you.

15 "Agenda. Draft meeting agendas
16 will be developed by the Principal
17 Federal Government Officer ('PFO') and
18 Regional Representatives for approval
19 by the Committee. A draft agenda for
20 each meeting shall be distributed to
21 all Members such that receipt by the
22 Member will be had not later than 10
23 calendar days in advance of such
24 meeting."

25 Any comment? Okay. Take a vote, any

1 opposition?

2 Question, Russell?

3 MR. SOSSAMON: Who is the regional
4 representatives? Us from our regions? I'm a
5 representative from my Region. So is she, and so is
6 he.

7 MS. TOOLEY: I think it is referring to the
8 regional representatives that were chosen at our
9 caucuses yesterday. Except I understand that Oklahoma
10 didn't select somebody, so I don't know what you guys
11 do.

12 MR. SOSSAMON: This is the first point in here
13 where I'm seeing it may -- that the committee requires
14 us to choose somebody. Is that what we are saying? I
15 don't know. That's why I'm asking.

16 MS. TOOLEY: I think that in the past, it was
17 very cumbersome for an agenda to be developed by all of
18 the committee members. And so while our regional
19 representatives had formal duties, one of those duties
20 was to work with the HUD folks to develop the agenda
21 for the next session. That's all.

22 THE FACILITATOR: Russell?

23 MR. SOSSAMON: I think if we just say after
24 PFO, and if we could say "and a representative from
25 each Region." Instead of regional representative, a

1 representative from each Region.

2 THE FACILITATOR: Does anybody have a problem
3 with that?

4 Marvin.

5 MR. JONES: I'm going to have a problem
6 wherever regional representatives are identified as
7 having a real duty. I think that's the role of the
8 committee, and I would just as soon see language that
9 says whether or not they participate in drafting. I
10 don't even think we need to word it there. I think it
11 just should say that the committee shall approve all
12 agendas.

13 THE FACILITATOR: Any comment on that?

14 MS. TOOLEY: Somebody has to develop the
15 proposed agenda. And so I think the reason it was like
16 this in here is just so there was some tribal
17 participation in the development of the agenda, and it
18 wasn't a product that just came from HUD. I think that
19 was the intent. I don't know if this is the best
20 mechanism, but that was the reason.

21 THE FACILITATOR: Jack?

22 MR. SAWYERS: I don't think there's anyplace
23 that says we have co-chairs or regional reps. You
24 can't refer to them unless we put them together. And I
25 don't disagree that we can do that, I'm just not seeing

1 anyplace where we have authorized regional reps. We
2 did that among ourselves, I think, but we haven't done
3 it officially.

4 THE FACILITATOR: Yes, Judith?

5 MS. MARASCO: I think that just one regional
6 representative would work for me. And then the regions
7 who have selected someone know that that is the person
8 that's going to be involved. And the regions who
9 decided to take that on as a cumulative responsibility
10 could appoint somebody to take that on, and then have
11 the committee approve the agenda as a whole.

12 Would that solve the problem, Marvin?

13 MR. JONES: Who the committee decides and what
14 form, I think we can decide later. And if we decide,
15 and it happens to coincide with if in fact there are
16 regional representatives, two pages from now when we
17 get to that point or not, I think that the committee
18 needs to decide that, or the committee needs to
19 develop an agenda sometime later today for the next
20 meeting.

21 Why can't we do that instead of shifting off
22 the duty and responsibility to some other, even if it's
23 a subgroup of us in this particular case? So, again, I
24 would like to have the wording simple, saying that the
25 committee approves each agenda.

1 THE FACILITATOR: Jack?

2 MR. SAWYERS: It didn't notice, but No. 8 talks
3 about regional reps and co-chairs. Why don't we bring
4 that forward? There's no -- I guess there's a reason
5 it's back there. I don't know what it would be, but
6 why don't we bring that forward and talk about that
7 first and then go back to this.

8 THE FACILITATOR: The agenda should not be that
9 complicated. I think this question has been raised
10 about really a concern about establishing a regional
11 representative rather than saying how the agenda will
12 be developed. It's attached, you know.

13 MR. SOSSAMON: Maybe if we change the language
14 from regional -- really I'm thinking it's -- it doesn't
15 specify a number of regional representatives. So it
16 really didn't conflict with -- what?

17 MALE SPEAKER: (Indiscernible -- speaker not
18 using microphone.)

19 MR. SOSSAMON: Where does it say six? Where?
20 We haven't got to that yet, have we?

21 MALE SPEAKER: (Indiscernible -- simultaneous
22 conversation, not using microphones.)

23 MR. SOSSAMON: I mean, everybody here is a
24 representative from the Region.

25 THE FACILITATOR: Yeah, Carol?

MS. GORE: I agree with Jack. I think we should address 8(a), and I would really ask Rusty and his group to look at the last sentence of 8(a), which clearly says, "meetings of the regional representative shall be open to the committee."

So it is not exclusively the six, if that's what the committee considers. It's really open to everyone. I just ask that we take a look at that. But I think we need to solve that before we can -- because it's sprinkled throughout the document, and 8 is at the very end. We'll never get past it if we don't address it. Thank you.

THE FACILITATOR: There's a proposal made that we skip to Section 8, co-chairs and regional and HUD representative. You know how I hate skipping around, because I forget things. But any comment on that or would there be any objection for us to jump down to addressing the co-chairs, regional, and HUD representatives? Would that be all right? No objection being heard, that's take a look at that, No. 8.

"Regional Representatives and Co-Chairs. Six (6) regional representatives, one each from the Eastern/Woodlands, Northern Plains,

1 Southern Plains, Southwest, Northwest
2 and Alaska Regions shall be selected,
3 respectively, by Committee Members
4 from each such region. The role of the
5 regional representatives includes
6 developing draft agendas with the PFO
7 and facilitator, chairing Workgroup
8 discussions, working to resolve any
9 impasses that may arise, reviewing
10 meeting summaries, assisting in the
11 location and circulation of the
12 background materials and materials
13 the Committee develops, and other
14 functions the Committee requests. The
15 Regional Representatives will
16 represent positions of the full
17 Committee and serve at the will of
18 the Committee Members from the region
19 that the Regional Representatives
20 represent. The Regional
21 Representatives shall designate two
22 tribal co-chairs to chair Committee
23 meetings. The Regional Representatives
24 and/or other representatives of the
25 Committee may be authorized by the

1 Committee to negotiate Tribal
2 positions with the PFO and shall
3 report the results of any negotiations
4 to the full Committee for further
5 action and/or ratification. Meetings
6 of the Regional Representatives shall
7 be open to the Committee."

8 I will stop right there. There's plenty to
9 talk about. Jack?

10 MR. SAWYERS: I'm turning some time over to
11 Jim Waglander.

12 MR. WAGLANDER: A suggested partial revision of
13 Section 8 would -- and the placement of this would be
14 left for the committee to decide. It would be entitled
15 appointment of co-chairs:

16 The PFO, or in her absence, her
17 designee who is a member of the
18 committee, and a tribal member of the
19 committee elected by tribal members of
20 the committee shall be co-chairs of
21 the committee. Co-chairs are entitled
22 to vote on any matter. A chair may
23 also debate any matter, but to do so
24 must temporarily assign the chair to
25 another co-chair or member while the

1 debate is occurring.

2 It doesn't address the other responsibilities
3 and authorities of the co-chair. That you would need
4 to resolve as well, now. And it doesn't yet address
5 the issue of the regional reps. This would just say
6 there would be co-chairs, one from HUD, one from the
7 tribe. And it would explain how they are appointed.

8 MR. FACILITATOR: Anything up there about role?

9 MR. WAGLANDER: No duties, no roles. And I can
10 read it one more time or I can just -- by the way, you
11 have to authorize them to type it up.

12 THE FACILITATOR: Yes. I did. That's the only
13 power that I have in the room. Would you like to see
14 it in writing? Okay.

15 Can you type this up, please.

16 Darlene?

17 MS. TOOLEY: Could we make a co-chair with
18 this proposed language, and we would have another
19 Section (b) that is the regional reps, which is a
20 totally separate little section.

21 THE FACILITATOR: Let's do one thing at a time.
22 Let's do co-chairs first. This will be (a), co-chair.

23 MR. SOSSAMON: This language that Jim is
24 proposing would be that, right?

25 THE FACILITATOR: Right. For the time being,

1 we'll put that out and then (indiscernible -- speaker
2 not using microphone.)

3 Yes, Larry?

4 MR. COYLE: This is addressed in our 2003 as
5 co-chairs and regional HUD representatives. And that
6 pretty well -- we were satisfied with it, the
7 enrollment, in the last session. So I don't see why we
8 couldn't just pull that out and use that.

9 THE FACILITATOR: Larry is referring to
10 Section 8(a) in the 2003 protocol, while we're waiting
11 for them to type up Jim's. It is certified by
12 Russell Sossamon. I don't know who the other one is.

13 MR. ADAMS: Larry, I believe that's the same
14 language that's up on the board.

15 MR. COYLE: Just about, except it holds the
16 representative out.

17 MR. KAZAMA: I also want to point out there is
18 a Section 4(c) that has chair and description of chair
19 in the section on decision-making.

20 THE FACILITATOR: Are you looking at 2010 or
21 2003?

22 MR. KAZAMA: 2010.

23 MR. FACILITATOR: The 2010 version?

24 MR. SAWYERS: This would be the substitute for
25 that.

1 THE FACILITATOR: So 4(c) --

2 MR. SAWYERS: This would be a substitute for
3 4(c).

4 FEMALE SPEAKER: No. I thought we were on
5 Section 8, which is co-chairs and regional and HUD
6 representatives. And what you all proposed to jump to,
7 decision-making under 4(c). So confusion again; what
8 section are we on?

9 THE FACILITATOR: I think you are right. 4(c)
10 is under decision-making. It shows the rights of the
11 chair and what their roles are. But then that
12 definitely describes their role within the committee.

13 FEMALE SPEAKER: (Indiscernible -- speaker not
14 using microphone.)

15 THE FACILITATOR: Yes. We are on Section 8.

16 MR. SAWYERS: We have to describe the co-chair
17 before we can get to decision-making. And actually,
18 they kind of coincide. I think we jumped back a little
19 ways. But we almost had to do that to discuss 8(a).
20 That was why.

21 THE FACILITATOR: We are looking at 8 right
22 now?

23 MR. SAWYERS: First, we need to look at 4(c)
24 first.

25 THE FACILITATOR: 4(c) doesn't describe the

1 co-chair. It just says what the rights are. I don't
2 think we need to discuss that.

3 MR. SAWYERS: That doesn't establish the chair.

4 THE FACILITATOR: We have to talk about the
5 role of the chair. At this point the only thing that
6 is before us is how they are selected.

7 MR. ADAMS: This is Jason Adams over here.
8 Maybe the solution to this is that when we get to --
9 maybe we go there now under decision-making and just
10 take out (c), because that is not in the 2003
11 protocols.

12 And then insert this language that we had
13 originally proposed here as (a), and that covers the
14 voting of the chair and how that is all handled so that
15 it is in the protocols. I think that is the point here
16 is how the chair is to have a vote and has to separate
17 himself from voting.

18 THE FACILITATOR: Let me understand one thing
19 at a time. We started off with how the chair is
20 appointed. Let's stay on that for the time being. And
21 then later we can talk about -- you know.

22 MR. ADAMS: What I'm saying, Jan, is this
23 proposal talks about voting in there. It clarifies
24 that issue. What I'm saying is we drop 4(c). Just
25 eliminate it, because it muddies the water.

1 MR. SAWYERS: (Indiscernible -- speaker not
2 using microphone.)

3 THE FACILITATOR: Let's clarify once again. We
4 are dealing with how the co-chairs get appointed.
5 That's it right now. And how they vote on things, we
6 can decide that later.

7 Let's go back to 8, please. 8(a), co-chairs
8 and regional and HUD representatives. Good.

9 MR. ADAMS: Jan, my poor little buddy in the
10 corner is about to do jumping jacks. I think you
11 better acknowledge him.

12 MALE SPEAKER: (Indiscernible -- speaker not
13 using microphone.)

14 MR. JONES: Marvin Jones, Cherokee Nation.
15 Before we get too far in this discussion, I want to
16 give Jim some legal advice. I'm just teasing.

17 But what I am looking at, and I think if it's
18 not germane to this point, it will soon be, so cut me
19 off, and I'll say it pretty soon if it's not germane
20 right now.

21 But I'm looking at the United States Code, the
22 Negotiated Rulemaking Act, Title V, Part 1, Chapter 5.
23 And I will read. And this isn't the whole thing of my
24 real point. But one sentence, and I'm asking for HUD
25 and the attorneys to see if this is germane to this

1 topic.

2 One part it says, "A person designated to
3 represent the agency in substantive issues may not
4 serve as facilitator or otherwise chair the committee."

5 MS. HENRIQUEZ: Thank you.

6 (Laughter.)

7 MS. HENRIQUEZ: But in all seriousness, this is
8 a point we were talking about, whether or not HUD
9 should be in a co-chair role. I would respectfully
10 suggest that we should not.

11 THE FACILITATOR: Next point?

12 MR. JONES: And I haven't found yet where a
13 tribal person can either.

14 MS. HENRIQUEZ: But you got me off -- that's
15 okay.

16 MR. JONES: The other important point I think
17 that I want to make at this point will be that,
18 according to this section as I read it, if we have an
19 official facilitator, then once that person is
20 assigned, they chair the meetings, according to this
21 law. And they are -- which means that the co-chairs,
22 if we decide to create co-chairs, wouldn't be chairing
23 the meeting.

24 So I would like an attorney response, a HUD
25 response to that. Again, I can read it if we want.

1 Okay. Let me cite the -- the citation would be the
2 same law. We're talking Section 566. And it looks
3 like (c) is selecting the facilitator. I won't read
4 that.

5 But (d), duties of facilitator. A facilitator
6 approved or selected by a negotiated rulemaking
7 committee shall, number one, chair the meetings of the
8 committee in an impartial manner.

9 THE FACILITATOR: You are bringing up a legal
10 issue that we have successfully sidestepped in all
11 previous negotiations that I've been in, Marvin.

12 MR. JONES: I didn't have a lot to do last
13 night.

14 (Laughter.)

15 MR. FACILITATOR: Let's take some comments on
16 Marvin's point, and then I would like to have a word
17 discussing some perceptions and actual practices on
18 co-chairs and their responsibilities, what they have
19 done in the past.

20 MR. SOSSAMON: In responding to what Marvin
21 said, has this committee selected a facilitator? Or
22 did HUD hire you to be here?

23 THE FACILITATOR: We are still auditioning.

24 MR. SOSSAMON: Okay. But this committee hasn't
25 selected one. And even if HUD hires you to facilitate,

1 you are working for HUD.

2 MR. FACILITATOR: Until the committee approves
3 us.

4 MR. SOSSAMON: And actions taking place -- we
5 don't even know if we're going to take action yet.

6 THE FACILITATOR: You have to take a vote. At
7 some point, the committee has to take a vote to hire us
8 or hire someone else. It has to be done, because we
9 serve at the pleasure of the committee. So that has to
10 be done at some point.

11 MR. SOSSAMON: Okay.

12 MR. FACILITATOR: We were just hired as a
13 practical thing, kind of, to get things going.

14 MR. JONES: Marvin Jones, Cherokee Nation. In
15 response to the comment, that's why I was careful to
16 say we don't have an official facilitator at this
17 point, meaning the official part. But if we do have an
18 official facilitator, then I think that that -- if my
19 reading is correct, then that role then goes to the
20 facilitator. We can always have -- we may not even
21 call them a facilitator.

22 THE FACILITATOR: Jason?

23 MR. ADAMS: Marvin kind of tipped his hand this
24 morning and showed me what was going to happen here
25 sometime today. But it's pretty much a lot of

1 information that really affects a lot of this work.

2 And so what I would propose is that we take a break for
3 a few minutes -- I think we have been at this for an
4 hour and a half -- and let the attorneys and let HUD's
5 attorneys kind of digest what was just unveiled and see
6 how we move forward from here. Just a suggestion.

7 THE FACILITATOR: Any other comments at this
8 point? Before you take a break, I want to say
9 something about the role of the facilitator and
10 co-chair. This is my own opinion from past experience.

11 Obviously, the main role of the facilitator is
12 to assist the committee to do their work. I think in
13 the past with both the self-governance and with
14 self-determination, there were co-chairs. To some
15 extent, I thought they were sort of like something that
16 happened because of tribal precedence or coverage,
17 putting several folks out there to assist things along.
18 And we worked closely with them.

19 But in the past, we didn't really define the
20 duties of the co-chair or facilitator so exactly. We
21 developed co-chairs that were very good at facilitating
22 meetings -- not facilitate, but chairing meetings. And
23 everybody expected them to do a good job. They were
24 not considered to be impartial.

25 And so our role in that case was more to assist

1 them in the facilitation process. And in other types
2 of meetings, they (indiscernible -- speaker not using
3 microphone) so I think as you think about how you want
4 to solve this problem, don't box yourselves in.

5 Let's take a 15-minute break then, and then
6 talk about that.

7 (Recess from 2:59 p.m. to 3:24 p.m.)

8 THE FACILITATOR: There are some logistical
9 considerations in front of us right now. It's 3:20.
10 We have a couple of logistical items that we have to
11 do. One is to set our next meeting, so we have to make
12 time for that before you leave.

13 The other is, if we hold to what the agenda
14 says, we would be stopping at 6:00 for one hour of
15 public comment. And I don't know what you want to do
16 with that. Do you want to continue working? Do you
17 want to give a shorter time for public comment? Do we
18 want to find out how much public comment we have?

19 If we give it the full one hour, we'd have to
20 stop at 5:00. I wanted to hear your considerations on
21 that. We do have to stop at 6:00 today, because we're
22 going to lose our AV equipment and all that kind of
23 stuff. And some people have the plane flights to
24 catch.

25 We will definitely stop at 6:00. How we use

1 that time between now and 6:00, I think you need to
2 think about. Any suggestions? We will stop for about
3 ten minutes to figure out times and dates, but other
4 than that?

5 Rusty?

6 MR. SOSSAMON: Well, if the 6:00 cutoff is
7 firm, I think we approved an agenda that allowed one
8 hour for public comments, and the public, I think, may
9 have planned on that. So I think we owe that time to
10 be made available for them.

11 THE FACILITATOR: Okay. That's fine. We will
12 stick with that. We will get all of your business done
13 before 5:00 that we have to do.

14 During our somewhat-extended break, I think
15 there was a lot of discussion back and forth about the
16 co-chairs. Can anyone who was part of that discussion
17 tell me what the status of that is at this point?

18 Can you do that, Jim?

19 MR. WAGLANDER: If I might. There seems to be
20 agreement on a basic principle, and that is, that no
21 member of the committee and no co-chair can facilitate
22 the meetings, that there needs to be the outside -- an
23 outside facilitator to conduct that debate and those
24 discussions.

25 It does not preclude -- and in fact you may

1 very well decide that there be a chair of the committee
2 or co-chairs of the committee. But unlike what
3 happened in the last Neg-Reg session, co-chairs cannot,
4 in the absence of the facilitator, facilitate a
5 meeting.

6 And so HUD is currently drafting up the
7 provision. Marvin and anyone else on the committee and
8 any of the attorneys, the Assistant Secretary, will
9 look at that language. As soon as it is agreed without
10 dissent, or significant dissent, it will be put on the
11 screen. And when you have a pause, and you have
12 completed the work that you begin now, then it will be
13 brought back onto the table.

14 But you can never be assured that there will be
15 agreement, but there appears to be a conceptual
16 agreement on this provision.

17 THE FACILITATOR: Is that a good and accurate
18 description? Any questions?

19 Judith?

20 MS. MARASCO: While we're waiting for that, can
21 we set the schedule for the next meeting?

22 THE FACILITATOR: While we're waiting for that
23 to happen?

24 MS. MARASCO: While we're waiting for that to
25 happen.

1 THE FACILITATOR: Actually, there are two
2 pieces of business. One is scheduling the next
3 meeting. And the other thing is I think before we
4 leave, in fairness to myself and Erin, we should leave
5 the room, and you should decide whether you want to
6 continue with us as facilitators. If so, then we're
7 going to have to set our calendars with your calendars.

8 Okay. Can we see the dates that we had that
9 I've given them.

10 MALE SPEAKER: Tell us again what we are doing
11 here. We've got some work to do still, and we've got
12 some time. We're not going to address the rest of the
13 stuff here?

14 THE FACILITATOR: We are. I think we just --
15 we have to do it sometime. We might as well do it now.
16 It will break up the flow of our work later on.

17 Yes, Marvin?

18 MR. JONES: I think there are some other
19 provisions, whenever we want to get to those, that we
20 don't have to solve this other thing first. But
21 everyone -- whether we want to do those after we do
22 this schedule, and we are still drafting the other
23 provisions, I think there's various other provisions we
24 can go back to if we need to.

25 THE FACILITATOR: I didn't mean we're going to

1 quit. I just want to get this out of the way. We have
2 to know when we're going to meet.

3 So take a look at the board here. These are
4 dates when the Assistant Secretary is present and the
5 facilitators can be present -- can be available.

6 There's a little bit of wiggle room on some of these
7 dates. But look at these and see if they work for you.

8 The first meeting would have to be within the
9 next three weeks starting March 30 through April 1, or
10 it could also be March 29 through March 31. The reason
11 that we can't have meetings later on in April, is --
12 well, you can, but I can't be there for them.

13 The other dates are May 11 through 13; July 20
14 through 24 -- I think that should be June. What
15 happened to June? Check the dates I gave you. It
16 should be May, June, and July.

17 MS. HENRIQUEZ: There's one proposed June 15
18 through 17?

19 MR. ADAMS: Is there a June date?

20 THE FACILITATOR: June 15, 16, and 17. That's
21 the proposed date. There we go. (Indiscernible --
22 speaker not using microphone.)

23 MR. DePERRY: Over here, Ray DePerry. Jan,
24 have those dates that are up there, are we to presume
25 that, for example, the travel date is March 29th? And

1 our work days are the 30th and 31st, April 1st, and
2 departure on the 2nd?

3 THE FACILITATOR: Yes.

4 FEMALE SPEAKER: Three work days.

5 MS. MARASCO: Do you have anything else
6 available in July?

7 MS. FOSTER: I'm with Judith on that. I'm
8 going to be out of the country on those dates.

9 THE FACILITATOR: I will ask the Assistant
10 Secretary first.

11 (The committee discussed potential meeting
12 dates from 3:33 p.m. until 3:44 p.m.)

13 THE FACILITATOR: I think we've got our dates.
14 That's the quickest I've ever gotten dates for a
15 Neg-Reg.

16 MR. ADAMS: Jan, are we going to propose some
17 sites? Or are we just going to leave that up to --
18 what?

19 THE FACILITATOR: Where are we going to have
20 them? Thank you.

21 MR. ADAMS: I propose Hawaii.

22 MS. BECENTI: The week of May 11th, I think I
23 pointed out that we have a Regional Housing Association
24 meeting, and that it's possible that three members of
25 our Region wouldn't be here. So was there any other

1 proposed dates for May?

2 THE FACILITATOR: Were there any other dates in
3 May that you guys had? Who can't make it on May 4th
4 through the 6th?

5 MS. HENRIQUEZ: (Indiscernible -- speaker not
6 using microphone.)

7 THE FACILITATOR: So if we had it in
8 Scottsdale, you could be here? You have a speech in
9 Scottsdale the week of May 4th?

10 MS. HENRIQUEZ: (Indiscernible -- speaker not
11 using microphone.)

12 THE FACILITATOR: So let me ask again. Who is
13 available May 4th through 6th in Scottsdale? I'm
14 sorry, who's not available. How important is Rodger?

15 (Laughter.)

16 MS. HENRIQUEZ: Once again, I'd like to state
17 that he's very important.

18 MALE SPEAKER: Jan, didn't we say that if there
19 was less than five absent?

20 THE FACILITATOR: Yeah.

21 MALE SPEAKER: I mean, the dates look good.
22 And me and Jason, we have to give consideration to our
23 Regional Housing Association meeting, but we're going
24 to work around them. You have to. The dates that are
25 there, we get the Assistant Secretary and the Deputy

1 Assistant. We need to have these. Otherwise, we're
2 going to be here for another couple of hours.

3 THE FACILITATOR: Right. We've spent a lot of
4 time on this. We will stick with these.

5 MS. MARASCO: March 30 through April 1; May 11
6 through 13; then June 8 through 10; and July 20 through
7 22; August 17 through 19.

8 MS. HENRIQUEZ: We were just talking. If the
9 next meeting is March 30 to April 1, and we've been
10 talking about appropriate notice, 15 days in advance in
11 the Federal Register, well, I can sort of tell the
12 Federal Register and say we're all on notice. We would
13 have to publish on Monday, and we'd have to reserve
14 space, and it just won't happen that timely.

15 So I don't want to necessarily say that we
16 should break the rule, but that's what we would do in
17 order to get -- we wouldn't have the full publication
18 and the full notice period. I just want to make you
19 aware of that moving forward for this first meeting.

20 THE FACILITATOR: Well, we've had co-chairs
21 facilitate meetings before too.

22 MS. MARASCO: We will still be on protocol,
23 Sandra.

24 THE FACILITATOR: So this is three weeks down
25 the road. And location? Yes?

1 MR. ADAMS: I have one comment in regards to
2 the number. I guess I wasn't -- I'm asking a question.
3 Are we counting this meeting as meeting number one in
4 the six meetings for the agenda?

5 THE FACILITATOR: I believe so.

6 Isn't that true?

7 MALE SPEAKER: Yes.

8 MR. ADAMS: That gives us essentially five
9 meetings to get our work done.

10 THE FACILITATOR: Exactly.

11 MR. ADAMS: I didn't realize that.

12 MS. MARASCO: So do you want to schedule a
13 meeting in September?

14 MR. ADAMS: That's what I thought would happen,
15 is that there would be six meetings that would be then
16 just on the business. Yesterday and today were short,
17 and we haven't even gotten through the protocols yet.

18 MR. BOYD: But when we did this meeting, it was
19 part of our budget process.

20 MR. ADAMS: So you budgeted for six?

21 MR. BOYD: We budgeted for six.

22 THE FACILITATOR: This is the first meeting,
23 yesterday and today.

24 MR. KAZAMA: I guess as a follow-up to Jason's
25 statement, we should also reserve one of the meetings

1 to review the public comments and things. So would
2 that be the meeting in August? If so, we might not
3 want to make it that quick. We might want to push it
4 back a little bit to September or something.

5 So that also means we only have four meetings
6 to get the job done after this. And I will tell you
7 also, if we deal with the subject matters at hand in
8 terms of the amendments, we're not going to do it, not
9 the way we are going in terms of the amount of time we
10 have to allocate for the task at hand.

11 There's a lot on the table given this time
12 frame unless we have long meetings, longer days, longer
13 weeks, that kind of thing. I just want to give you
14 guys a heads-up when you consider dates.

15 THE FACILITATOR: Thank you. Can we keep these
16 dates for the time being and see how progress goes? If
17 we need to schedule a meeting, we can do that at the
18 next meeting.

19 Darlene?

20 MS. TOOLEY: I thought what Blake was saying
21 was to not do the March 30 through April 1, and move
22 that one to September? Or no?

23 MR. KAZAMA: No. Actually at the end, after
24 the preamble is drafted, and we have public comment, we
25 should meet again to review the public comment. That

1 in itself is another meeting, is my assumption. That's
2 what happened last time. That's a whole meeting in
3 itself.

4 THE FACILITATOR: You're suggesting we may have
5 to move the August meeting out to September?

6 MR. KAZAMA: That's correct.

7 MS. MARASCO: I would rather see an additional
8 meeting scheduled rather than pushing that August
9 meeting down. I agree with Blake. I think we need to
10 review the public comments, and I think HUD needs to
11 look in the cookie jar and find us the money for one
12 more meeting.

13 I know you have money stashed, Sandra.

14 MS. HENRIQUEZ: (Indiscernible -- simultaneous
15 conversation.)

16 MS. MARASCO: We have faith in you.

17 THE FACILITATOR: Can we adopt these dates for
18 the time being? If we need to adjust them, let's
19 adjust them at our next meeting. I don't want to spend
20 any more time on it today.

21 Yes, Marguarite?

22 MS. BECENTI: Can I suggest that maybe we move
23 the March meeting back a bit and include the September
24 date? I mean, exclude March and add the September
25 meeting.

1 THE FACILITATOR: Skip the March meeting and
2 move it to September instead? Then if you want to add
3 an extra meeting, it's tight funds in their slush fund.
4 I understand what you're saying.

5 Jack, then Larry.

6 MR. SAWYERS: I suggest we go with what we have
7 right now. The longer you look at it, everybody is
8 going to start looking at their calendars and find out
9 they can't make these meetings. So let's do it before
10 they look into it. I suggest we do it now.

11 THE FACILITATOR: Marguarite, don't worry. We
12 will find a way to get it done. There's always a way
13 to get it done.

14 MR. COYLE: Is there a problem with the
15 Federal Register on this first one?

16 MS. HENRIQUEZ: As I understand it. Let me ask
17 the question and get clarification.

18 MR. ADAMS: Jan, are we going to throw out
19 locations?

20 THE FACILITATOR: For the next meeting?

21 MR. ADAMS: At least for the next meeting,
22 yeah.

23 THE FACILITATOR: Do you guys like Phoenix? Do
24 you want to come back to Phoenix?

25 MR. ADAMS: Another thing we can do here is

1 maybe handle this by e-mail. That is something that we
2 don't have to decide today. But set the next meeting
3 and location and then have everybody e-mail in some
4 possible locations, and whoever is in charge of
5 selecting sites can go to bid and look for sites and
6 see what's available.

7 THE FACILITATOR: They have done that. There's
8 a list of places where we know have Indian hotels, and
9 we can get the dates.

10 So for the next meeting, the places where the
11 folks at Nelrod have found -- and maybe you can also
12 send in your suggestions for places -- but the places
13 they had thought would be easy to get to would be
14 Denver, Chicago, Seattle, Phoenix, or Oklahoma City.

15 Yes, Rodger?

16 MR. BOYD: We're going to run into a logistics
17 problem. Our contractor has to go out and secure the
18 location, and this can't be done in a matter of a
19 couple of weeks. The more time we give them to locate
20 a place in a city -- and I think we were talking about
21 a city that could be fairly centrally located and easy
22 to get to.

23 So we're talking about maybe coming back here,
24 going to Denver, possibly Seattle. So I don't think we
25 are looking at Chicago, New York, Florida. If we start

1 bouncing around like this, it's going to create a huge
2 logistic problem for all of us.

3 MR. JONES: I just want to make sure that if
4 we're having this meeting on March 30 that we can get
5 all of the information in, the reimbursement stuff for
6 this meeting in enough time, because it was stated
7 earlier that we had to have that in before we could
8 make arrangements for the next meeting. I just want to
9 make sure that is sufficient time.

10 THE FACILITATOR: Logistically for folks
11 (indiscernible -- speaker not using microphone) having
12 it here, the next meeting, would be very conducive to
13 them getting us all situated. If we can agree on that
14 and then move on to the second and third. They are on
15 a tight turnaround here getting us a facility.

16 MR. JONES: My comment was specifically to the
17 HUD people, if we can do that.

18 THE FACILITATOR: Can the travel reimbursement
19 be done in time?

20 MALE SPEAKER: Yes. I just need to have the
21 expense reports in. They could be in process. I just
22 need to be in receipt of them.

23 What would actually help me probably even more
24 is for the alternates for the first meeting, if you
25 guys could identify who those folks would be and let me

1 know, because I effectively have to do what I did for
2 you all, get all of your personal information. And of
3 course the goal is to, you know, be able to provide
4 full reimbursement. So particularly for the first
5 meeting, that is rather important.

6 THE FACILITATOR: So it looks like it's about
7 you guys getting your expenses into the travel
8 department so that they can get you input.

9 MR. COYLE: I recommend that we have the next
10 meeting here.

11 THE FACILITATOR: If we have the next meeting
12 in Scottsdale, is everybody okay with that?
13 Objections? Okay. Let's have the next meeting here,
14 because we will have everything all set. After that,
15 we can have other places you want to meet.

16 MS. HENRIQUEZ: The question was about the
17 turnaround time and posting the notice in the
18 Federal Register. Now that we have decided on the
19 location and the date, it will still take us -- it will
20 still be a couple of days later than the full 15-day
21 notification we are supposed to have.

22 That violates the charter we just approved.
23 And I don't think we've got language that lets us do
24 that, but I would be willing to entertain a motion if
25 somebody could agree that we can do that.

1 Oh, we haven't approved the charter yet?

2 THE FACILITATOR: No.

3 MS. HENRIQUEZ: Oh. We didn't take that vote.

4 Never mind. So I guess I'll tell you affirmatively
5 that in order to make this work, we will be short on
6 the notification period in posting in the Federal
7 Register. So people should just be aware of that.

8 THE FACILITATOR: We are aware of it. Okay.
9 Is that okay?

10 Marvin?

11 MR. JONES: It's fine with me. As the HUD
12 attorney said earlier, there's no punishment involved
13 if you violate the law.

14 (Laughter.)

15 MS. HENRIQUEZ: Who said that? Who said that?

16 THE FACILITATOR: Okay. Any other logistical
17 questions?

18 Yes, Russell?

19 MR. SOSSAMON: If we could name the cities that
20 are easiest to get to again, please.

21 MR. BOYD: Sure. I think we were looking at
22 Denver. We did mention Seattle. I think we took
23 Washington off of the mandatory list. We also looked
24 at Chicago and possibly Oklahoma City.

25 Oh, you thought I said Anchorage? No, I said

1 Oklahoma City.

2 MS. HENRIQUEZ: Is Anchorage in July sort of
3 like April in Paris? Is that what that is?

4 MR. BOYD: Except for the state bird, which is,
5 by the way, the mosquito, for those of you who haven't
6 been there.

7 MR. ANGASAN: I'll be able to make that July
8 meeting if you have it in Kingston.

9 MALE SPEAKER: (Indiscernible -- speaker not
10 using microphone.)

11 MR. BOYD: I would never dismiss Anchorage.

12 MALE SPEAKER: They wouldn't let you. Is that
13 a possibility or not?

14 MR. BOYD: Probably not.

15 MALE SPEAKER: Rodger, what about Florida? If
16 this goes on until January, we would probably consider
17 Florida.

18 MS. HENRIQUEZ: Rodger, that could be an
19 incentive.

20 THE FACILITATOR: Would it be -- can we talk
21 really quickly and maybe get a quick agreement just for
22 the sake of the organizers for the second meeting
23 place, and then figure out the rest of them after that?
24 The one in March and April is here. Can we talk really
25 quickly about the one in May? Denver has been

1 suggested. Anyone have a problem with Denver for the
2 meeting in May?

3 MALE SPEAKER: I thought Rodger mentioned
4 San Diego. I could've been hearing things.

5 MR. ADAMS: We have Oklahoma City on the list.
6 I really hope we don't end up in Oklahoma in July or
7 August.

8 THE FACILITATOR: Those aren't must-haves. We
9 don't have to go to any of them.

10 MR. ADAMS: I'm just saying if we're going to
11 look at Oklahoma City, we might want to look at that in
12 May before it gets too miserable.

13 MS. MARASCO: I'd like to see Albuquerque as a
14 possibility.

15 THE FACILITATOR: Pardon me?

16 MS. MARASCO: I would like to see Albuquerque
17 as a possibility.

18 THE FACILITATOR: You'd like to see
19 Albuquerque? Is that what you said?

20 MR. ADAMS: That's hard to get to.

21 THE FACILITATOR: Rodger, can we do
22 Albuquerque?

23 MALE SPEAKER: I would have to defer to the
24 contractor to see if we can get Albuquerque, but
25 Albuquerque would be fine, I would think.

1 THE FACILITATOR: Is Valencia around?

2 FEMALE SPEAKER: What is the question?

3 MR. BOYD: Whether Albuquerque is a
4 possibility.

5 FEMALE SPEAKER: (Indiscernible -- speaker not
6 using microphone.)

7 THE FACILITATOR: Can we leave it, and we will
8 try for Albuquerque as a first choice for the May
9 meeting if that works out. If it doesn't work out, as
10 the backup, can we say Denver? Would that work? And
11 then Oklahoma City at the latest by June?

12 We don't have to go there, Jason.

13 MR. KEESWOOD: I was just told that in June or
14 July, Albuquerque would have a new facility built. I
15 guess a new Hard Rock is coming to Albuquerque. That
16 would be in June and July if you want to stay at the
17 Hard Rock in Albuquerque.

18 THE FACILITATOR: Ervin is pointing to
19 Albuquerque in June or July.

20 FEMALE SPEAKER: So are you suggesting that we
21 wait to do Albuquerque? Yes, he is. Because there's
22 some new fancy-schmancy facility that's going to be
23 available in June or July.

24 MR. SOSSAMON: So are we considering
25 Albuquerque (indiscernible -- speaker not using

1 microphone.)

2 THE FACILITATOR: That's what was on the table.

3 But he was suggesting going to Albuquerque later.

4 MR. SOSSAMON: (Indiscernible -- speaker not
5 using microphone.) Let's decide that at our next
6 meeting. When we come back here in three weeks, we
7 will decide where the rest of them are, Albuquerque or
8 Denver.

9 THE FACILITATOR: We're just trying to get the
10 next two.

11 MR. SOSSAMON: At the end of this month, we'll
12 decide.

13 THE FACILITATOR: Ervin has suggested not doing
14 Albuquerque in May, but doing Denver, and make
15 Albuquerque June or July. Does anyone have a problem
16 with that?

17 MR. ADAMS: What about the Twin Cities,
18 Minneapolis. It's pretty central.

19 MR. BOYD: I think we have three meetings ready
20 to go. I don't think we have to decide today on all of
21 the locations. The contractor already has some places
22 in mind.

23 So what I suggest is that we can move along
24 with this process. I think we have decided on at least
25 three places now. I think we are in good shape with

1 that. I think we better get back to our work.

2 THE FACILITATOR: Fine. Let's move ahead.

3 Thank you.

4 So let's get back to Item 8, our co-chairs. I
5 think we have decided -- the committee might want to
6 split up the two (indiscernible -- speaker not using
7 microphone.) Do we have any proposals for co-chairs
8 yet? Are you still working on that?

9 Yes, Marvin?

10 MR. JONES: What did we decide for June? Or
11 was it decided?

12 THE FACILITATOR: We moved on. Hold that
13 thought.

14 MALE SPEAKER: (Indiscernible -- speaker not
15 using microphone.)

16 THE FACILITATOR: Yes, Marvin?

17 MR. JONES: I suggest we just go ahead and
18 proceed with where we were at, caucus maybe. And go
19 back to 3(f), (g), (h), on down like that. They can
20 continue working on those other issues. And that would
21 work, whichever the next issue was that we skipped.
22 Can we do that?

23 THE FACILITATOR: Okay. I think we left off of
24 this and went to co-chairs. Are we on the agendas?

25 MS. MARASCO: Yes.

1 THE FACILITATOR: Okay. Did we okay the
2 agenda?

3 MS. MARASCO: No.

4 THE FACILITATOR: Are we okay with (e), the
5 agenda? And, Marvin, you're the one that -- you're
6 the guy.

7 MR. JONES: That's what got us into the other
8 discussion. That's why I said go down to (f), caucus.

9 THE FACILITATOR: Okay. We'll hold off on
10 agenda until we clarify the co-chair issue.

11 Are there any debates left on regional
12 representatives, on the issue of regional
13 representatives?

14 MR. ADAMS: Jan, can we please move on to (f),
15 caucus?

16 THE FACILITATOR: Okay. Caucus:

17 "Caucuses may be called by a
18 Region, by HUD, or by the Tribes as a
19 whole. Regional caucuses may be
20 called only by the Regional
21 Representative for that Region. A
22 tribal caucus may be called by
23 consensus of the tribal Committee
24 members. A region or HUD may call a
25 caucus only once each day, and any

1 regional or HUD caucus may not exceed
2 15 minutes in length. Regional
3 Representatives shall determine who
4 may attend Regional Caucuses. Each
5 Region may establish its own caucus
6 procedures."

7 Any comments?

8 MR. SOSSAMON: It looks like we're going to
9 have to decide whether we're going to have regional
10 representatives or not. I know this Region is the only
11 one that didn't select one. I don't have a problem
12 with it. I don't think it takes anything away from a
13 committee member. I think basically what it does is it
14 gets somebody from Region to serve the rest of the
15 members from that Region. Would you agree that lets
16 us designate a regional representative to do these
17 things?

18 THE FACILITATOR: Yes, Marvin?

19 MR. JONES: I suggest that we not have any
20 regional caucus meetings for Oklahoma in our Region.
21 We don't need them. In other words, I'm fine with the
22 language as is.

23 THE FACILITATOR: Okay. So the caucus
24 language, everybody's okay with that? Any objections?

25 Okay. Russell?

1 MR. SOSSAMON: How about the agenda language?

2 Is it okay too?

3 MR. JONES: No.

4 THE FACILITATOR: We can come back to that one.

5 Time limitations for interruptions:

6 "Whenever the Committee process is

7 interrupted, whether for a caucus,

8 recess, lunch break, or any other

9 reason, the Chair shall announce the

10 exact length of the interruption, and

11 the time when Committee business will

12 resume. The Chair shall, without

13 exception, reconvene the Committee at

14 the exact time stated. Any Committee

15 member who is not physically present

16 at the designated time of reconvening

17 is subject to Article 2(e) of these

18 Protocols with respect to any action

19 taken in his or her absence."

20 And that's the article on absence. Any

21 comment?

22 MR. COYLE: We should replace "the chair" with

23 "facilitator" or hold it off until we get final to make

24 it plain for everybody.

25 THE FACILITATOR: Yes. Any suggestions?

1 Yes, Jason?

2 MR. ADAMS: I suggest we leave this language as
3 is, because whether it's you or a co-chair, there's
4 going to be a chair. We can all agree to that, right?
5 We're going to have a chair. It's just who that's
6 going to be. Whether it's you or somebody else
7 functioning in that role, there's going to be a chair.
8 There has to be.

9 THE FACILITATOR: A generic chair, a small c.

10 MR. JONES: I agree with Jason again.

11 THE FACILITATOR: Shall we put the chair in
12 small or just leave it large?

13 MR. ADAMS: It doesn't matter.

14 THE FACILITATOR: Why should I make problems
15 there? Okay. Put a 1 in place of the 2 in the
16 article, because it's Article 1 of the protocols. Is
17 that correct?

18 MR. ADAMS: Correct, yes.

19 THE FACILITATOR: So corrected. Do we have
20 consensus on this article? Any objection? Okay. It
21 passes.

22 Time limitations on debate:

23 "Debate on any Phase 1" -- oh, we
24 have to change that -- "Debate on any
25 Phase 1 rule is limited to 20 minutes,

1 and no Committee member may speak for
2 more than two minutes on that matter.

3 Debate on any Phase 2 matter is
4 limited to 2 hours, and no Committee
5 member may speak for more than 10
6 minutes on that matter. Time may be
7 yielded from one Committee member to
8 another. Time not expended on a
9 matter shall be banked, and shall be
10 available for the entire Committee for
11 additional debate on subsequent
12 matters until exhausted. The
13 facilitator appointed under Article 7
14 shall be authorized and directed to
15 enforce the time limitations
16 established by this Article."

17 We need to do a little work on this.

18 Any comments? Marguarite?

19 MS. BECENTI: We took out any wording on
20 phrases from the beginning. Can we reword that somehow
21 where it takes it out of this section?

22 THE FACILITATOR: Can you speak up a little
23 louder? I can't hear you.

24 MS. BECENTI: In the beginning, right after the
25 preamble, we had taken out any wording -- we took out

1 that whole section that regarded phases.

2 THE FACILITATOR: Right.

3 MS. BECENTI: So can we fix it to where it
4 takes it out of here too?

5 THE FACILITATOR: Right. To be consistent, we
6 have to take out any reference to Phase 1 and Phase 2.
7 Can somebody smart do that?

8 Yes, Blake?

9 MR. KAZAMA: For conversation, Jan, can we just
10 say a limit of two hours for each issue, just so we
11 don't spend two days on one issue, just to toss some
12 sort of limitation out there for us to have in back of
13 your mind, two hours.

14 THE FACILITATOR: No more than two hours on a
15 single issue? Any comments on that?

16 And drop the rest of it, Blake? So time
17 limitations --

18 Yes, Jason?

19 MR. ADAMS: Maybe I can offer a suggestion
20 here. I think the way we can accomplish that is to
21 remove sentence number one. Sentence number two -- or
22 the beginning would now be, "Debate on any matter is
23 limited to two hours." And then the rest of the
24 sentence would get eliminated. The next sentence is
25 eliminated. And the next sentence is gone. And then

1 leave the last sentence.

2 THE FACILITATOR: I like that. So then it will
3 read, "Debate on any matter is limited to two hours.
4 The facilitator appointed under Article 7 shall be
5 authorized and directed to enforce the time limitations
6 established by this article."

7 Is everybody okay with that? Okay. Thumbs-up?
8 Any objection? Good.

9 Time Limitation for Non-Committee Members:

10 "It is the intent of these
11 Protocols that Committee Members
12 themselves, and not their agents or
13 representatives, debate the matters
14 that come before the Committee.
15 Nonetheless, the Committee recognizes
16 that, in exceptional situations, a
17 Committee member may need to rely on
18 an expert in the area being debated.
19 Accordingly, a Committee member may
20 yield the following portion of his or
21 her time on a matter to a non-
22 Committee member: the entire 2
23 minutes" -- Okay. Here we go -- "2
24 minutes on a Phase 1 matter, and five
25 of the Committee member's 10 minutes

1 on a Phase 2 matter. A non-Committee
2 member may not accumulate additional
3 speaking time on a matter by acquiring
4 time from multiple Committee members
5 on that matter."

6 Okay. We need some suggestions here.

7 Jason?

8 MR. ADAMS: I think Judith has it.

9 MS. MARASCO: In the past what we have been
10 able to do is recognize -- a lot of them recognized
11 their attorneys. But I would like to be able to
12 recognize anyone who was in the audience. I think if
13 a committee member recognizes somebody, they should
14 have the ability to come to the public microphone and
15 speak.

16 And I don't think it should just be the staff
17 or the attorneys. I think it should be broader than
18 that. And if we're going to have non-committee members
19 speak, it should be the tribal people that are
20 attending the meetings.

21 So I think it should be more so than if
22 somebody comes to me from the audience and requests to
23 be recognized, I should have that ability to do that,
24 to allow them to come to the microphone.

25 THE FACILITATOR: Okay. Would somebody like to

1 comment on Judith's concern here?

2 Darlene?

3 MS. TOOLEY: I agree with Judith. I just think
4 that we probably do need to talk about some time frame.

5 MS. MARASCO: That's okay. I'm not opposed to
6 time frames. I'm just saying I want it to be broader
7 than the attorneys in the room.

8 THE FACILITATOR: Is there anything you can
9 see, Judith, that limits you from doing that in this?

10 MS. MARASCO: Well, it doesn't say -- it says,
11 not their agents or representatives, debate the matters
12 which come before the meeting. Nonetheless, a
13 committee recognizes that in exceptional situations --
14 and I'm not sure if that has to be exceptional -- a
15 committee member may need to rely on an expert in an
16 area being debated.

17 Well, to me that indicates that they are
18 looking at the attorneys. Just that language says we
19 have to qualify the person speaking.

20 THE FACILITATOR: I see. You're objecting to
21 the term expert?

22 MS. MARASCO: Yes. So if you're going to
23 qualify us all as experts, I guess I'm okay with that.

24 THE FACILITATOR: Karin?

25 MS. FOSTER: I will make a language proposal, a

1 language change proposal, to little number (i). On the
2 fourth line, delete the language, comma, in exceptional
3 situations, end comma, and then continue with a
4 committee member may, then delete, need to rely on an
5 expert in the area being debated, and then, wish to
6 have a non-committee member speak to an issue, period.

7 I have a little more, but I don't want to go
8 faster than the transcriber over there is getting it.
9 Shall I go on and then repeat it?

10 THE FACILITATOR: She says keep reading.

11 MS. FOSTER: Okay. Then after, accordingly a
12 committee member may yield, I propose striking, the
13 following portion of his or her time on a matter to a
14 non-committee member, colon, the entire two minutes on
15 a Phase 1 matter and, okay, so I take out that section
16 so that it reads, "accordingly, a committee member may
17 yield five of the committee member's ten minutes on a
18 matter."

19 MS. MARASCO: We don't have the ten minutes.

20 MS. FOSTER: Okay. Well, then, do something
21 with it. I don't have a proposal on that. I will
22 leave that for somebody else to follow up on. Just
23 take out that whole section on the five minute, ten
24 minute.

25 Okay. Then I guess the proposal would be to

1 end with that second sentence and take out the third
2 sentence and the fourth sentence. Okay.

3 THE FACILITATOR: Can we see what looks like
4 that?

5 "It is the intent of these protocols that
6 committee members themselves, not their agents or
7 representatives, debate matters that come before the
8 committee. Nevertheless, a committee recognizes that a
9 committee member may wish to have a non-committee
10 member speak to that issue."

11 MS. FOSTER: I think there needs to be a little
12 more there. I'll leave that to another member.

13 MR. ADAMS: Committee member --

14 THE FACILITATOR: If you're not going to put a
15 time limitation in there, you need to change the title.

16 MR. ADAMS: Jan, this is titled, time
17 limitation for non-committee members. We put a time
18 limit on debate in the previous section. I think, at
19 least in my mind, it's carrying on that same debate.
20 We are limiting the non-committee member's
21 participation in the same debate, so however we can
22 clear that up. We are still limited to the two hours
23 per issue.

24 THE FACILITATOR: Yeah. Some suggestions on
25 how to do that?

1 Russell?

2 MR. SOSSAMON: I'd suggest that the time
3 limitation for non-committee members -- go ahead and
4 work with this language. "It is the intent of these
5 protocols that committee members themselves, and not
6 their agents or representatives, debate the matters
7 that come before the committee. Nonetheless," and
8 after nonetheless, I would recommend you strike
9 everything down to the word "a" where it appears after
10 accordingly. So you're striking the committee, the
11 next full line through the word accordingly on the
12 third line.

13 "Nonetheless, a committee member may yield --
14 and then strike the following portion of his or her
15 time and insert "five minutes on a matter to a
16 non-committee member," and strike the rest of it.

17 THE FACILITATOR: How does that sound?

18 MS. MARASCO: That's okay with me.

19 THE FACILITATOR: Say that again slowly, Rusty,
20 so our scribe gets that.

21 MR. SOSSAMON: Okay. Go down to the third line
22 and begin with the word "the," followed by committee,
23 and strike those words, the full next line, and the
24 line after that through accordingly. Okay? So it
25 reads, "nonetheless, a committee member may yield" --

1 and after yield, strike "the following portion of his
2 or her time." And insert --

3 THE FACILITATOR: Hold on. Our folks haven't
4 got that yet.

5 MR. SOSSAMON: Up to five minutes. Let's say
6 that. It doesn't have to be five minutes. "Up to five
7 minutes on a matter to a non-committee member." And
8 then just eliminate all the rest of it.

9 THE FACILITATOR: Do you have that?
10 Do you have a question, Ervin?

11 MR. KEESWOOD: (Indiscernible -- speaker not
12 using microphone) there's a two-hour time frame to
13 debate. With what you're adding, the language here, it
14 sounds as though we would add an additional five
15 minutes for every individual outside of the group here,
16 unless you are including that in the total two hours on
17 a subject matter, which then makes it even a much
18 shorter time for debate for the committee. That's what
19 you're doing. Am I right?

20 MR. SOSSAMON: Yes. I am assuming that the
21 two-hour time limit on an issue stands. We have this
22 ability to recognize someone if we think it's really
23 important. But we've got to again use discretion,
24 because we really have a responsibility to the rest of
25 the members.

1 So I think I am not opposed to recognizing
2 someone. We might want to recognize a tribal leader
3 that is here on a certain issue. But there needs to be
4 a time limit, but that is part of the two hours. We
5 all have to be mindful that that's going to be five
6 minutes out of the 120 that we have on an issue. So we
7 really need to use that ability with discretion. And I
8 think we are all capable of exercising due discretion.

9 THE FACILITATOR: Judith?

10 MS. MARASCO: I am not opposed to this
11 statement. But if I were to read this not being as
12 stubborn as I am, I would think that I would have a
13 time limit as a committee member to speak on an issue.
14 What you're saying here is that I may yield up to
15 five minutes on a matter to a non-committee member.
16 Five minutes of what?

17 I mean, if we are debating an issue over a
18 two-hour time frame, how much of that is mine to yield?
19 I think it's the word yield that is problematic for me.
20 What am I yielding? Because I may speak on the issue,
21 and I still might want to recognize somebody from the
22 audience that might want to speak on the issue. So if
23 I am yielding, that says to me that I'm giving up my
24 right to speak. Is that what you're saying?

25 MR. SOSSAMON: No. My interpretation of it

1 would be that actually, you are yielding the
2 committee's time out of that two hours. That's why we
3 need to know that we have a responsibility to the
4 committee members not to do this injudiciously, that if
5 we think it will benefit the committee, then we yield
6 five minutes.

7 And we all have the same ability, but with it
8 comes the same responsibility. And I think it's just a
9 mechanism. And, again, if the committee thinks that is
10 being misused, you always have the authority to come
11 back and change it.

12 THE FACILITATOR: Are you okay with that,
13 Judith? Does that make sense?

14 MS. MARASCO: Yeah. I can work in that
15 framework. I just wanted to get it clear in my mind.
16 Just because I might want to recognize somebody does
17 not mean I might want to yield my ability to speak.

18 THE FACILITATOR: So the five minute represents
19 the entire two hours of debate time on a particular
20 issue. Is that clear to everybody?

21 Okay. Karin?

22 MS. FOSTER: Would it be understood that
23 there is only one yield per issue? I mean, you
24 wouldn't be able to yield five minutes on a matter to a
25 non-committee member -- to several non-committee

1 members? Does every committee member get one yield?

2 THE FACILITATOR: Good question.

3 MS. TOOLEY: If you take the 120 minutes we
4 have allotted, and divide it by 27, that means
5 everybody only has 4.4 minutes. So you have to
6 negotiate with someone to get part of their minutes for
7 your yield.

8 THE FACILITATOR: Good point.

9 Russell?

10 MR. SOSSAMON: That's a good point, and I would
11 agree to that, that each committee member can only
12 yield once during a two-hour period. And let's drop
13 the time limit to four minutes so that in effect we
14 are -- we can only use a portion of the committee's
15 time, a proportional portion for yield. Is that
16 reasonable?

17 THE FACILITATOR: Does everybody like that
18 concept?

19 You don't like it, Jason?

20 MR. ADAMS: Not necessarily, but I don't have
21 anything to replace it with.

22 MS. TOOLEY: I'm with you, Jason.

23 MALE SPEAKER: I think it makes sense to limit
24 ourselves, and that language indicates that the
25 individual, four minutes of committee member's, each

1 member has the right to yield a portion or all of those
2 minutes to tribal leaders or whoever else wants to
3 speak on the matter. You can use that language, and I
4 think we are fine. We're still real close to two hours
5 on a subject matter.

6 MR. ADAMS: I guess the problem I have is that
7 we haven't -- in the time limitation section, which we
8 have approved, we didn't appropriate that 120 minutes
9 equally. So now to try to yield that time equally, we
10 haven't done that. I mean, I'm just saying the problem
11 I have with that proposal.

12 THE FACILITATOR: I think you guys shouldn't
13 just prepare for the very worst-case scenario here.
14 Give yourself a little credit. Everybody is not going
15 to take 25 people from the audience and give them five
16 minutes. I mean, you're going to pick someone that you
17 think will really help move the conversation along.

18 And also, in a two-hour debate, everybody may
19 not speak. They may be thinking that other people are
20 saying what's on their mind. So I don't think you have
21 to be quite so mechanical about this.

22 MALE SPEAKER: Jan, apparently you haven't been
23 around Indians enough. But have you ever heard the
24 word grandstand?

25 THE FACILITATOR: I believe that in the past

1 committees that I have worked with, the committee
2 really has -- once they get rolling, they really have
3 the capacity and the talent to police themselves and
4 keep themselves in line. I am not worried about that
5 kind of thing. If you want to make it four or five,
6 it's up to you guys.

7 Russell?

8 MR. SOSSAMON: Yeah. And, Jason, we have
9 agreed to two hours per. And it does not limit a
10 committee member's time to debate the issues during
11 that two hours. But it limits proportionally the time
12 they have to recognize someone that's not on this
13 committee in an equal amount.

14 But yes, if everybody did, it would eat up the
15 two hours, but I don't think we will. It's just a
16 mechanism that if there is important perspective out
17 there that the committee needs to hear, it's a
18 mechanism to allow it. And, again, I agree. I'm not
19 going to abuse it. And if we see it being abused, the
20 committee has the authority to say, hey, we're not
21 going to do this anymore.

22 MR. ADAMS: I'm not disagreeing with you at
23 all. I'm just saying it's not the cleanest method. I
24 don't have anything to replace it. The last thing I'll
25 say is that, in my experience, this has not been a

1 problem.

2 MR. SOSSAMON: Can we add the language that
3 specifies that instead of up to five minutes, up to
4 four minutes?

5 MS. MARASCO: Let's be fair, 4 -- 4.4.

6 MR. SOSSAMON: Yeah. One time per issue.

7 THE FACILITATOR: May yield up to four minutes,
8 one time per issue on a matter to a non-committee
9 member. It's kind of the same. It's kind of repeating
10 yourself. Strike "on a matter" and just make it per
11 issue? Would that work?

12 MS. FOSTER: We used matter earlier on when
13 talking about limiting matters to two hours. So it
14 would be consistent to say per matter.

15 THE FACILITATOR: Okay. One time per matter.
16 Does that work for everybody? Thumbs-up? Any
17 objections? Good. Let's go on.

18 See, we're taking care of you guys out there.

19 MR. KEESWOOD: Since there is consensus on
20 this, I would assume that we go back to the committee
21 itself as it debates issues. We put a time frame, a
22 two-hour time frame, and breaking it down to four
23 minutes each for those that wish to participate,
24 nonmembers.

25 But we probably need to do that in (h) also,

1 where it actually breaks down the participation of the
2 committee so that -- someone said grandstand -- that
3 one of us won't grandstand or filibuster a good portion
4 of the two hours in a committee meeting setting. So we
5 have to put time frames on ourselves also.

6 (Indiscernible -- speaker not using microphone.)

7 THE FACILITATOR: Any comment on Ervin's
8 concern?

9 Judith?

10 MS. MARASCO: I don't know if that's necessary.
11 Some issues are more important to us than other issues.
12 It may be that we sit silent on some issues, and some
13 issues we feel so strong about that we need enough time
14 to understand Marvin.

15 So I don't know if that limit is as important
16 as coming up with the right decision. And sometimes I
17 think we need to talk through the issues enough so that
18 we have to come to an understanding of the other
19 person's thought process, basically.

20 And I am one that doesn't always understand
21 what a person is telling me unless I have an
22 opportunity to listen over and over a couple of times.
23 I might not necessarily understand what they say to me
24 the first time, but the longer I participate in the
25 discussion with them, I might gain a larger

1 understanding. So I don't know if that time limit
2 would serve us well in arriving at a good decision.

3 THE FACILITATOR: Any other thoughts on this
4 matter?

5 Russell?

6 MR. SOSSAMON: I appreciate the concern. But I
7 think we just talked about their concern in the one
8 just before, the non-committee members, where we talked
9 about a time limitation on debate. We decided we would
10 limit the time that could be spent on an issue. And I
11 think everyone agreed let's not really limit it on the
12 member within that.

13 I think it will come down to a matter of common
14 courtesy to one another not to monopolize the time,
15 because we know it's limited on a matter. There again,
16 I think whoever is running the committee, the
17 facilitator, whoever that is recognizing the order of
18 people, they can make sure that everyone has an
19 opportunity to speak before they come back to someone
20 else.

21 THE FACILITATOR: Let me make a comment on that
22 one. I would say that if it looks like -- to try to
23 cover Ervin's concerns here -- if it looks like time is
24 being wasted, or if we start getting too many
25 complaints, and the committee members are saying, can

1 you shut up somebody, because they are just talking so
2 much, and they're slowing us down and taking us off
3 track, then I think the committee -- we can make
4 suggestions to the committee about time clocks and
5 times of speaking and that kind of thing.

6 And the committee will have absolute freedom at
7 any point to suggest some ways to facilitate the thing
8 in a different way that would make it more effective.

9 I think we should cross that bridge when we get to it.

10 If we get to a point where things are bogging down too
11 much, and we are not making progress, and people are
12 getting frustrated, and we need a time clock because
13 people are repeating themselves and talking too long
14 and that kind of thing, I think we can always introduce
15 that at any time.

16 It is just a procedural kind of how to get
17 business done kind of thing. So maybe rather than
18 spending time on that now, we can just give ourselves
19 permission to do that.

20 Yes, Marty?

21 MR. SHURAVLOFF: I was going to say, we have
22 already covered this issue. I would hate to have to
23 keep going back after we've covered one and accepted
24 it. I would like to see us move on to the next issue.

25 THE FACILITATOR: Okay. Ervin, are you okay

1 with that?

2 Okay. Let's move ahead. We are on decision-
3 making.

4 "Consensus. All decisions of the
5 Committee shall be made by Consensus.
6 Subject to Article 6(b) of these
7 Protocols, Consensus means unanimous
8 agreement as shown by an absence of
9 expressed objection by any Committee
10 Member present at the Committee
11 meeting with regard to a particular
12 issue. Workgroups may report to the
13 Committee both: (1) decisions reached
14 by consensus; and (2) decisions
15 reached by majority vote, as long as a
16 summary of any significant dissenting
17 position, as determined by the
18 Regional Representative, is included
19 in the report."

20 Marvin?

21 MR. JONES: I don't have an objection to the
22 provision as long as it takes out "as determined by the
23 regional representative."

24 THE FACILITATOR: Okay. Other comments? Does
25 anybody have an objection to taking out as determined

1 by the regional representative?

2 Okay. Let's take it out. As determined by the
3 regional representative as included in the report
4 should be struck.

5 MS. HENRIQUEZ: Can I ask for a clarification?
6 So, Marvin, by striking that language, does that mean
7 that there could be four or five dissenting reports on
8 an issue? Is that the intent?

9 MR. JONES: I think I would accept the wording
10 "as determined by the committee." My real objection is
11 having it being determined by regional representatives
12 rather than the committee as a whole.

13 THE FACILITATOR: When you're talking about
14 committee, you're talking about subcommittee, right?
15 The work committee? As determined by the workgroup?

16 MR. JONES: I'm talking about the committee.

17 THE FACILITATOR: The large committee?

18 MR. JONES: Right. The only committee at this
19 point.

20 THE FACILITATOR: Jason?

21 MR. ADAMS: Jan, I don't know if it was
22 intentional, but you've eliminated "is included in the
23 report." That language needs to stay.

24 THE FACILITATOR: Let's keep that in there.
25 I'm sorry. Please put back in at the end of the

1 consensus "is included in the report."

2 MR. ADAMS: The sentence would read, "as long
3 as a summary of any significant dissenting position is
4 included in the report."

5 THE FACILITATOR: We are still working on this
6 one.

7 Yes, Marvin?

8 MR. JONES: As I read the whole sentence of
9 what I said about only the committee doesn't make sense
10 now because of the workgroup. But I still -- in answer
11 to the question, that would allow more than one
12 dissenting position by virtue of eliminating that
13 wording, I think.

14 I think that even as the wording is in there,
15 it allows -- perhaps allows more than one dissenting
16 position too if the regional representative -- there
17 could be several dissenting positions, I think.

18 THE FACILITATOR: Yeah. I don't see -- how
19 does the committee feel about that? Do you feel like
20 that language is sufficient and includes both -- it
21 would include or could include multiple summaries of
22 dissenting positions?

23 Yes, Russell?

24 MR. SOSSAMON: Yes. I have a suggested
25 amendment to this. It starts off, all decisions of the

1 committee shall be made by consensus. Okay. So then
2 if all decisions are made by consensus, how can you
3 have a majority decision? So are we going to have more
4 than one kind of decision? Or are we going to have
5 consensus decisions?

6 I suggest number two should read, "positions
7 agreed to by a majority of committee members and
8 dissenting positions be included in the report."

9 MS. MARASCO: Jan, I think the confusion here
10 is that we're talking about two different things.
11 We're talking about all decisions of the committee
12 shall be made by consensus. I don't think Article 6(b)
13 is what we should be referring to.

14 Consensus means unanimous agreement as shown by
15 the absence of expression of objection by any committee
16 member present at the committee meeting with regard to
17 a particular issue.

18 Now, the second portion of this is speaking to
19 workgroups. And I think it needs to be separated from
20 the first part into its own paragraph. Workgroups may
21 report to the committee both, one, decisions reached by
22 consensus; and, two, decisions reached by majority vote
23 as long as the summary of any significant dissenting
24 positions included in the report.

25 I think as a committee member, that is an

1 important aspect of what we're doing, because at the
2 last committee, you can't -- as one committee member,
3 you can't sit on all of the workgroup committees that
4 you would like to.

5 And what we got back from workgroups, we
6 assumed was accepted by the group. And we found out
7 later that there were lots of things that happened in
8 those workgroups that we weren't aware of. So I think
9 if you have a workgroup working on an issue, and you
10 have two or three dissenting opinions, we as a full
11 committee should be looking at why there's some
12 disparity there in what's being brought to the table.

13 So I think that from the workgroup needs to be
14 separated down. I like the fact that we would be able
15 to look at everybody's thoughts.

16 THE FACILITATOR: Okay. Leon?

17 MR. JACOBS: Is it possible, then, that we
18 could move the workgroup decision-making down to (f)
19 under workgroup?

20 MS. MARASCO: Most definitely. Thank you.

21 THE FACILITATOR: Okay. First of all, is
22 everybody okay with that? Do you think that's a good
23 idea to move that reference to the workgroup down to
24 (f), workgroup?

25 MS. FOSTER: Would we be coming back to it when

1 we get down there, or should I make my comment? I'm
2 not sure who determines what is a significant
3 dissenting position. Then I guess I would take out
4 significant.

5 THE FACILITATOR: Let's first move it down to
6 (f) and look at what we have left. So now what we have
7 left under consensus is:

8 "All decisions of the committee
9 shall be made by consensus subject to
10 Article 6(b) of the protocols.
11 Consensus means unanimous agreement as
12 shown by absence of expressed
13 objection by any committee member
14 present at the committee meeting with
15 regard to a particular issue."

16 Do we need to add anything to that? All in
17 favor? Any objection? Okay.

18 Why don't we move through the whole section,
19 and we'll get down to where we can talk about
20 workgroups. Voting:

21 "No Committee member may abstain
22 on a vote. Unless a Committee Member
23 expressly signals his or her
24 opposition to a proposal, that
25 Committee Member shall be conclusively

1 presumed to have consented to the
2 matter being voted upon, and that
3 Member shall not be allowed to request
4 reconsideration or reopening of the
5 matter. Every Committee vote is
6 subject to the good faith requirements
7 of Article 6(a) of these Protocols."

8 Comments?

9 Yes, Blake?

10 MR. KAZAMA: I am not sure where to put this.

11 We had a discussion about it that if you had
12 opposition, you would offer an alternative.

13 THE FACILITATOR: I saw that under good faith.

14 MR. KAZAMA: It's under that?

15 MR. ADAMS: It's under good faith, yes.

16 THE FACILITATOR: That is a basic hard-and-fast
17 rule of consensus building. If you disagree with
18 anything, just like the last go-around we had, you're
19 obligated to explain why you disagree.

20 You're also obligated to try to come up with a
21 counterproposal that tries to incorporate everybody's
22 concerns and push the thing forward. Nobody can just
23 say no and sit there and block it. That's everybody's
24 responsibility. Okay.

25 And it mentions that, Blake, in the good faith

1 article, the last sentence. Any comments? Okay.

2 Yes, Erving?

3 MR. KEESWOOD: This may take us back to what
4 Russell brought up earlier under (a) when he reminded
5 us of the first sentence of speaking to a consensus and
6 consensus building. How do you apply voting to
7 consensus building? When you go to voting, as you
8 know, it creates two different roads to vote on, on a
9 particular matter. You either have full consensus, or
10 you vote on the matter.

11 So now we have two different ways to deal with
12 the subject matter. So it's one or the other, I would
13 assume.

14 THE FACILITATOR: Do you think the voting is
15 the wrong term to use there?

16 MR. KEESWOOD: If it's consensus building,
17 you're not voting at all. It should be consensus.
18 Everybody is agreeing.

19 THE FACILITATOR: We could call it a consensus
20 call. Any suggestions for how to fix it?

21 Yes, Jason?

22 MR. ADAMS: I just want to clarify. Are you
23 talking about the voting situation that Rusty talked
24 about earlier? Or in reference to the workgroups?
25 There were times as I remember, and I think you pointed

1 it out, in the workgroups, we had majority vote on
2 issues, because that's how the workgroups got some work
3 done.

4 MS. MARASCO: I think he is just objecting to
5 the word voting here. What he's asking for is this to
6 say consensus call. No committee member may abstain
7 from a consensus call.

8 THE FACILITATOR: Is that what you're saying,
9 Ervin?

10 MR. KEESWOOD: Yes.

11 THE FACILITATOR: It's just terminology.

12 MR. SOSSAMON: I think the reason we did this
13 is because when there is a call for a consensus, and a
14 vote should be taken, and if there is an indication of
15 no consensus under good faith, and someone offers an
16 alternative, but it's not acceptable to another member
17 either, and you truly cannot reach consensus, I think
18 it's important as a matter of record to know that we
19 did not reach consensus on this issue. This is how
20 many people supported this position, and this is the
21 dissenting positions in the committee.

22 Because there may be an instance where we have
23 nonconsensus items on a matter that we are considering.
24 I don't know that there will be, but it's possible.
25 And I think that's why you want to -- when you call for

1 consensus, and that's our goal, but I still think a
2 vote is important in case we can't reach consensus, and
3 there really is good faith disagreement.

4 THE FACILITATOR: If you want to be politically
5 correct, you could say consensus call, and then
6 substitute vote for call in that consensus call in (b).
7 But I agree. Sometimes it's a close call. So you have
8 a majority, a strong majority agreeing to something and
9 a vocal minority not agreeing to something. And it is
10 good to record that, because those are the things on
11 coordination that do get submitted to the Secretary,
12 and the Secretary can read and see what they decided on
13 and which way to go forward.

14 Rusty?

15 MR. SOSSAMON: A distinction is, in previous
16 meetings, a call for consensus ended the debate and you
17 voted right then, if I remember correctly. So a call
18 for consensus is not the same as the vote. The vote is
19 how you determine if you officially have consensus.

20 THE FACILITATOR: Yeah. Okay. A little bit
21 wordy, I think.

22 MR. SOSSAMON: But they are important things.
23 And it takes however many words it takes to make this
24 distinction. Is that what we're going to do, or is
25 that not what we're going to do?

1 THE FACILITATOR: I'm looking for suggestions
2 here.

3 Jack?

4 MR. SAWYERS: Sometimes we assume consensus
5 when we only have one person who doesn't consent. So
6 consequently, there is no consensus. However, we may
7 never get past that unless we have a vote so that we
8 can say there was one dissenting vote, not who it is,
9 but there was one dissenting vote.

10 That makes a lot of difference when you take
11 that and give that to the Secretary. Because they may
12 say we didn't have consensus on it. This happens quite
13 a bit. But we only have one dissenter, or we had two
14 dissenters. And then that gives credence to that. I
15 think that's what the vote would be. If it is close
16 especially, and if we have a vote on that, just to get
17 the number of folks who were for it and against it.

18 THE FACILITATOR: I don't think there's any
19 disagreement in the actions that will be taken.
20 There's just disagreement about how to label what we're
21 doing.

22 MR. SOSSAMON: Well, for example, when we were
23 trying to decide on the dates, we had people identify
24 who agreed to the dates and who didn't. We wanted
25 consensus on those dates, but it was important to know

1 that some people didn't agree to those dates and why.

2 That is just as important as deciding on those dates if
3 we don't have consensus on a manner.

4 THE FACILITATOR: I don't know if I would call
5 that voting. It's a show of hands of who is available.

6 MR. SOSSAMON: That's voting where I come from.

7 THE FACILITATOR: We have run out of time. Let
8 me ask about this matter. It's time for us to allow
9 folks who are onlookers who have been here to have a
10 chance to speak to us.

11 Also, I don't know how important it is to you
12 guys, but do you want us to step out of the room so you
13 can make a decision about whether to hire us or not?

14 MS. HENRIQUEZ: I'm sorry. We never got to it.
15 I think we skipped over it, or I missed it. Section,
16 what is it now -- No. 3(e), which will be 2(e), which
17 is the agenda. And it says:

18 "Draft meeting agendas will be
19 developed by the Principal Federal
20 Government Officer and the Regional
21 Representatives" -- and we modified
22 that to be a regional representative
23 from each region -- "for approval by
24 the Committee. A draft agenda for
25 each meeting shall be distributed to

1 all Members such that receipt by the
2 Member will be had not later than 10
3 calendar days in advance of such
4 meeting."

5 I just don't have a record of whether we
6 approved that language or not. I think we skipped over
7 it. And the reason I raise it now is because we've got
8 March 30th sitting out there. But we have not agreed
9 to this language. I would just like some direction, if
10 not to discuss this language now and settle it out, at
11 least some temporary guidance about how you would like
12 us to proceed to fulfill this.

13 THE FACILITATOR: Russell, do you have an idea?

14 MR. SOSSAMON: If we can just substitute for
15 regional representatives, interested committee members.

16 THE FACILITATOR: And just say committee
17 members?

18 MR. SOSSAMON: Uh-huh. And if your Region
19 wants to select somebody among yourselves, and that's
20 the interested member, there you go.

21 MR. JONES: I oppose it. No, I don't. That's
22 okay. That's fine.

23 MS. HENRIQUEZ: So let me just say this so that
24 I understand. So we will develop a draft agenda, and
25 we will send it, therefore, to every member of the

1 committee. And then you all may decide amongst
2 yourselves who might be the regional person to give us
3 feedback? Is that what I'm hearing?

4 THE FACILITATOR: I think the wording was
5 interested committee members, right?

6 MS. HENRIQUEZ: I'm saying to all
7 (indiscernible -- simultaneous conversation.)

8 MR. SOSSAMON: Let me define interested. Any
9 committee members who volunteer to work on the drafting
10 of the agenda. Any committee member who volunteers to
11 work on drafting this agenda with HUD.

12 THE FACILITATOR: Okay. So those regions that
13 want to designate one person to do it can do it. And
14 those regions that don't, they don't have to.

15 MR. SOSSAMON: Right.

16 MR. JONES: Can we just right now figure out
17 who's interested? That way you'll have something to
18 work with.

19 THE FACILITATOR: How about the language? Can
20 we approve this language here?

21 MS. HENRIQUEZ: Could I recommend that we not
22 approve the language, because we haven't got all the
23 protocols. I just wanted to get this out where we had
24 time to work on it.

25 THE FACILITATOR: I see.

1 Blake.

2 MR. KAZAMA: Also may I recommend that when we
3 do develop the draft agenda, that it be put on HUD's
4 website or something so that people in the audience who
5 -- they can understand what's going on in coming
6 meetings and maybe can start making arrangements to
7 start doing that. So if that could be done.

8 MR. ADAMS: Jan, I just want to let you know,
9 from our Region, that representative is me. You asked
10 who the folks to work with you on this are.

11 THE FACILITATOR: Okay. And Blake is the other
12 one? Ray is one. Ervin.

13 MR. JONES: I don't want to be.

14 MS. HENRIQUEZ: I already started writing your
15 name down.

16 THE FACILITATOR: Did we miss any other people
17 who are interested in participating in the agenda
18 building? Anybody else?

19 Okay, you've got your list there, Sandra.

20 MS. HENRIQUEZ: Thank you. Can I just make
21 sure I've got everybody? Jason, Blake, Shawna, Karin,
22 Ray, and Ervin? Is that right? Do I have everybody?
23 Okay. Thank you very much.

24 THE FACILITATOR: So before we turn it over to
25 the audience, can I ask you again, do you want us to

1 leave the room, and do you want to make a decision on
2 hiring us or not, the committee? I don't know if I
3 should facilitate this or not. We're interested
4 parties. I think typically what we do is we've
5 auditioned for you for two days. And you need to
6 decide if you want to keep us or not. We should step
7 out of the room, and you guys make a decision.

8 (The facilitators left the room.)

9 MR. ADAMS: Rodger, are the note-taker people
10 with them, or are they with you?

11 MR. BOYD: No, it's a different contract.

12 MR. ADAMS: Different contract. Okay.

13 MR. BOYD: So I assume since we brought these
14 folks on board, I can ask the question. And I guess
15 give me a thumbs up? Discussion?

16 MR. JONES: I certainly would support them. I
17 do want to make the note that this other discussion we
18 were having potentially could play into that, but with
19 the HUD legal opinion and the opinion of some other
20 attorneys here who think that, that we can continue
21 despite what I think is the plain language of the law,
22 as well as some other attorneys who agree with me -- I
23 paid them a dollar each to get their opinion -- but I
24 think with that said, we'll come back to the issue, as
25 long as everyone in here doesn't look at this language

1 and say wait a second, the plain language of this says
2 that if we have an official facilitator, then they must
3 chair the meetings, and that's not really what we want,
4 you know, kind of thing. But that said, I think we
5 should hire them.

6 MS. TOOLEY: I have a question, Rodger. Do you
7 hire these federal mediation service or individuals
8 from the service specifically? Because I know in other
9 instances, if a facilitator from the mediation service
10 wasn't available, they sent a different person who
11 facilitated the meeting. I just want to know how it
12 works.

13 MR. BOYD: That's a good question. The team
14 that you see is the team that we are going to have.
15 Jan will be the lead facilitator, and the other lady
16 will be his support, so they sort of team up. Does
17 that answer your question?

18 FEMALE SPEAKER: I'm going to say this. I
19 think that we need to be just really sure that we keep
20 ourselves on track, because I think we are experiencing
21 a facilitator who hasn't done that as effectively as
22 other facilitators in other situations such as this
23 that I have had experience with.

24 MS. MARASCO: I'd like to add, you know, we've
25 seen facilitators at every one of these meetings. That

1 first go-around, the group we had the first go-around,
2 they didn't know which cheek they were sitting on, to
3 tell you the truth. They got better through the
4 process. And I think that he is going to get better
5 through the process.

6 FEMALE SPEAKER: I'm not objecting at all. I'm
7 happy to have them.

8 MS. MARASCO: I'm just saying there's not any
9 out there that's going to do -- who could walk into
10 this and deal with it? Let's get real.

11 MR. SAWYERS: Call for consensus?

12 MR. KAZAMA: It's difficult to make a decision
13 when there's no comparison. I mean, they come in, and
14 they have been facilitating. Given what we've done
15 today, it hasn't been -- I don't know if there's any
16 fault to be blamed, but we didn't do anything that we
17 set out to do on the agenda. We fell short in
18 different areas. I don't know if that's a facilitator
19 problem, or our problem, or just the process maybe, or
20 that we probably over-stacked the agenda.

21 But it's difficult to make a decision on good
22 or bad. Did they score pass or no pass? What do we
23 compare it with? So if we're happy with them -- yeah,
24 I'm happy with them. They're friendly enough, but is
25 that a facilitator?

1 MS. HENRIQUEZ: Can I ask a question? What
2 would be your tolerance level for someone who came in
3 much -- with a firmer hand and said, "Let's move this
4 along, come on, come on, come on. We've got 15 more
5 minutes to get this settled, and let's put this to
6 rest"? I just want to know, because you can get
7 facilitators to do that. I think this was as much all
8 of us sort of feeling each other out. I just want to
9 know what your appetite is for having someone being
10 that strict.

11 MR. KAZAMA: I would say this is a rough group.
12 I've been watching the clock, and we have never come
13 back on time for any of our breaks, even our lunches,
14 breakfasts. When we start, it's been late. So we do
15 need some sort of control here. Or else we've just
16 got to assume that we're going into the late hours of
17 the night because we aren't able to come back to our
18 seats.

19 And I guess all I am saying is that is what
20 we're dealing with here. That is us. If we choose to
21 do that, if we want to spend the time on sidebar
22 discussions throughout the day, that's us. But we have
23 not been very diligent on our breaks and lunches and
24 all of that.

25 MS. MARASCO: I have one positive thing to say

1 about this facilitator. He seems to be fair in his
2 recognition of anybody who wants to participate. I
3 have worked with facilitators several times with this
4 committee that don't choose to do that. That's one
5 thing that I do appreciate about this gentleman is that
6 he does recognize the people that hold up their hands.

7 MR. SAWYERS: And he knows which cheek he's
8 sitting on.

9 MR. KAZAMA: I want to say, there's a reason
10 why Carol is sitting here, and I'm here sitting today.
11 She was never recognized yesterday. So I thought -- I
12 approached him, and I said, I am the rep from Alaska.
13 I have people raising their hands and not being
14 addressed. And so we thought to help expedite it, I
15 would put her here so he could see her better. She's
16 from a small tribe -- I thought I'd throw that in.

17 (Laughter.)

18 MR. KAZAMA: So it wasn't totally correct. We
19 had some issues, and he addressed it, and it did -- it
20 was much better today.

21 MR. BOYD: Russell?

22 MR. SOSSAMON: As far as having somebody who is
23 more disciplined, I think that it's reasonable to start
24 on time and stop on time, regardless of how we choose
25 to manage our time, okay, and perhaps to say we have

1 this much more time left, time remaining.

2 We'll understand what they're saying. But I
3 think it's -- would be kind of offensive to cut a
4 tribal member off when they are visiting, because
5 they're trying to formulate thoughts, to say you're
6 just going to have to cut off. I don't think I would
7 appreciate that, and many people wouldn't.

8 But as far as having more discipline on start
9 and stop and time limits and reminders of time
10 remaining, I think everybody would appreciate that.

11 MR. BOYD: Jason.

12 MR. ADAMS: I agree with Blake. I think we
13 need to control ourselves more. If we want to get
14 these things done, we need to come back when we say we
15 are. If not, starting at the time frame that was given
16 to us. Just get with it. Give the facilitator at
17 least that. Come back at 1:00, start at 1:00.

18 MR. ANGASAN: I think we should give them a
19 formal job description, work on, you know, define his
20 duties and responsibilities, what is expected. We need
21 to do some planning and give them a job description.
22 We all need to know our job description when we go to
23 work somewhere. I think it would help if we get a list
24 of duties and what is expected.

25 MR. ADAMS: Rodger, was that not done?

1 MR. BOYD: That was absolutely done. They know
2 exactly what they are supposed to do.

3 MR. ADAMS: The one area I was concerned about,
4 and it goes back to the last Neg-Reg, when we had
5 somebody that was facilitating that was very
6 knowledgeable of the issue. That facilitator knew the
7 formula, and she knew the impacts and the hydraulics of
8 the formula. So she added a lot as far as facilitating
9 because she had that knowledge.

10 We haven't gotten into the issues as far as the
11 amendments in the NAHASDA regs. So I'm hoping that
12 that won't become an issue with this facilitator,
13 because I understand he doesn't have the background in
14 knowing the statute.

15 MR. JONES: I think -- what time is it, about
16 5:20? We have an hour, and we're going to finish by
17 6:00, so we're not exercising self-discipline right
18 now.

19 MR. BOYD: I think there was a call for a vote.

20 MS. MARASCO: I say give them a shot.

21 MR. BOYD: Thank you very much.

22 (The facilitators returned to the room.)

23 THE FACILITATOR: Thank you very much. So now
24 we are officially at your service, to order around as
25 you wish and be at your beck and call.

1 MR. ADAMS: You have to buy dinner, though.

2 THE FACILITATOR: Thank you very much. It's
3 always an honor.

4 Welcome, everybody. We really appreciate your
5 being here and sharing your time. I know some of you
6 have traveled a long ways to be here. This is an open
7 mic session. And you've been here for two days
8 listening to the proceedings and observed.

9 Those of you who might wish to say a few words
10 or comment on what you've seen happen here or give us
11 some advice to the committee, I'd ask anybody to come
12 forward, and I think the microphone is working. This
13 microphone is on. So can I invite anybody to come
14 forward? Please introduce yourselves and say where you
15 are from.

16 MR. WILLIE: Good afternoon, members of the
17 committee, Assistant Secretary, Deputy Assistant
18 Secretary. I thank you for this time. My name is
19 Mellor Willie, Executive Director of the National
20 American Indian Housing Council.

21 And I just wanted to take some time to let
22 you know that the Housing Council is here, and we
23 are available to the staff as needed. Erna Reese
24 (phonetic) is here. She is one of the people that is
25 going to be assigned to the Neg-Reg and following up.

1 We'll post all of the information and give a
2 rundown on our website as soon as Neg-Reg meetings are
3 completed and get the information out to our membership
4 as quickly as possible, and to be helpful and useful in
5 that way.

6 So feel free to give me any advice you have as
7 far as getting information out. We will take some of
8 the meeting times and dates and that information and
9 make it available to our membership. For us it's just
10 to be available for our membership so that that
11 information is available to them on the Neg-Reg
12 process. Any information that you would like to get
13 out to them is available through us, so we make
14 ourselves available. I just wanted to take that time
15 to introduce myself. Thank you.

16 MS. MARASCO: I have a comment. You will make
17 information available on the website (indiscernible --
18 speaker not using microphone.)

19 MR. WILLIE: We can make it available on our
20 website. Our website is available to all of the
21 public. Thank you.

22 THE FACILITATOR: Thank you. Anybody else care
23 to step forward and share your thoughts?

24 MR. MEYER: Bart Meyer, Executive Director of
25 the Baranof Island Housing Authority in Alaska. I

1 would just like to comment. First off, thank you very
2 much, all of you, for serving on the committee and
3 doing this project for us. I recognize it's a lot of
4 work and a lot of discussion amongst yourselves.

5 To the extent that you provided the mission to
6 us so that we can be knowledgeable as we go through the
7 day, and I appreciated the notice coming out earlier
8 this afternoon with the idea that maybe we would get to
9 it. That would be really helpful, getting the agendas
10 out as early as possible so that we can make decisions
11 on attendance and schedules as early as possible so we
12 can make decisions.

13 Summertimes are tough for us and we have to
14 have a lot of lead time up north on our schedules. But
15 during the day, too, information that you are going to
16 be deliberating on, it would be helpful if it's
17 available as handouts or on the table to the extent you
18 can.

19 We definitely have the ability to meet with
20 committee members throughout the day. So we have the
21 ability to get our thoughts conveyed. But it helps if
22 we have the information that you are discussing as
23 well. Thank you very much.

24 THE FACILITATOR: Thank you. Regarding getting
25 the materials ahead of time, HUD has told me that the

1 prohibitive cost of all that printing of all the
2 materials that we had prevented them from printing
3 every piece of everything on hard copy, but that
4 everything was available on a disk. So if anybody
5 didn't get a CD disk, that has all of the material on
6 it.

7 MR. HEISTERKAMP: Committee members, David
8 Heisterkamp, from White Leonard Heisterkamp (phonetic)
9 representing some of the committee members and some
10 others. I thought it would be helpful follow-up of the
11 discussion the committee was having at the end of the
12 day, because one of the things that the committee has
13 not gotten to yet is how much it's going to negotiate,
14 how many issues exactly it will get to.

15 And based on how some of the previous Neg-Regs
16 have gone, and now that we know you have meetings
17 scheduled, and we know what that is, I thought I'd give
18 you some figures, food for thought. This is stuff
19 we've been figuring out as soon as you set up the
20 meetings.

21 You've got five meetings planned, three
22 workdays each. Let's be optimistic and assume you can
23 put in a ten-hour day from 8:00 to 6:00 every day.
24 That gives you somewhere in the neighborhood of about
25 150 hours of work time.

1 Now, if you stick to that two hours per issue
2 just debating, that gives you the ability to debate
3 about 75 issues. And a couple of things, not nearly
4 all of these issues are going to take you two hours to
5 work on. But you're not going to be able to spend all
6 of your time debating. There's going to be
7 administrative work. There's going to be committee
8 work. There's going to be other things going on.

9 And so one of the things that I would hope the
10 folks I am working with and the other committee members
11 would start to consider as we head back to the next
12 meeting in a couple of weeks is being able to wrap up
13 the protocols and being cognizant of the schedule
14 you've set for yourself, which is an ambitious
15 schedule.

16 This is kind of how the last Neg-Reg wound up.
17 You had to divide the whole number of hours you were
18 given into the number of tasks. Depending on whether
19 you look at the PIH notice that HUD has published or
20 whether you look at the matrix that the tribes have
21 prepared, you've got somewhere between 50 and 90 issues
22 that are involved in the amendments, just the
23 amendments, not the side issues that the committee
24 talked about, not other issues that you might run into
25 and you anticipate running into.

1 So if you're going to deal with 75 of those on
2 two hours each, probably less than that, I very much
3 encourage the committee to think about how it wants to
4 set up its actual agenda. It appears from the charter
5 and the protocols that will eventually be adopted early
6 at the next meeting, that the next task would be to sit
7 down and decide what the agenda for negotiations is
8 going to be so that you can figure out how best to use
9 the 150 hours you've got left to work on this.

10 So I know you guys can do it. I've seen you do
11 it before.

12 THE FACILITATOR: Thanks for the vote of
13 confidence.

14 Can I invite somebody else to come forward to
15 share comments.

16 MR. MARINO: Over the next three hours, I would
17 like to speak to the committee.

18 (Laughter.)

19 MR. MARINO: I'm Dan Marino. I'm the chair of
20 the Board of Commissioners for Baranof Island Housing
21 Authority in Sitka, Alaska. There's a couple of three
22 things that traditionally I would say. (Native American
23 language phrase.) Please forgive me if anything I say
24 can be construed as offensive to anybody. That is not
25 my intent.

1 I live my life with the balance of my
2 traditional world and the Western world and using the
3 guiding principles of my culture in the decision-making
4 process. And those of us who are indigenous people
5 here, we look at it as how would our grandparents deal
6 with this.

7 Because the things that we do, we didn't choose
8 to be here. Our ancestors and the Lord was the ones
9 that put us here. So we need to, as we get to a
10 contentious area, step back and say, how would our
11 elders deal with this?

12 In order to provide the housing assistance for
13 the small, medium, and large, as one program, eliminate
14 your personal perspective and look at it from that
15 perspective, and it becomes easier to deal with,
16 because when you make it about yourself, it never turns
17 out right. I just wanted to stress that.

18 You should have your protocols up on the wall
19 at every meeting. How are we going to conduct our
20 business? And it's like using the Constitution of
21 every tribe in the United States to improve the quality
22 of life for those constituents. That is the charge.
23 And so I just wanted to lead with that.

24 I had a little bit of heartburn with the
25 facilitator. I really think there should be a defined

1 role. I take exception to somebody that would be
2 actively engaged. That's almost like adding another
3 committee member when you have individuals that work in
4 the area of housing and that have taken an oath of
5 office in that area, but to allow another individual to
6 provide guidance, now, I take exception to that.

7 And it's not to say that that is what is going
8 on. But I really feel that there should be clear
9 parameters of that role and responsibility. It should
10 be simple. When you start reaching an impasse, step
11 forward and say hey, you guys are bogging down. We
12 need to move forward. There isn't much more of a
13 responsibility than that, keeping the group on task.

14 And the other thing is that, not just myself,
15 but there's probably a number of others that couldn't
16 get into the hotel. If you look at how many people are
17 here, block out that many rooms. I have put together
18 big conferences, and we blocked out a number of rooms
19 up to this point in time, and then after that when you
20 don't fill them, you turn them back to the hotel.

21 That way, individuals that come from different
22 regions -- and some people will be coming from
23 different parts of the United States to speak to you
24 and provide recommendations on how to move forward on
25 issues that are impacting them and neighboring tribes.

1 So allow that for those individuals that are coming, to
2 stay in the conference of the workgroup hotel. Thank
3 you.

4 THE FACILITATOR: Thank you.

5 MS. CHIMEE: Good afternoon. Before I proceed
6 to speak, I would like to request permission from high-
7 ranking tribal officials here, Chairmen. I am Shelly
8 Chimee (phonetic) head councilman from Zuni. But
9 because of where I stand, I am asking permission if I
10 can speak. Okay. I'm asking that because back at home
11 that is the protocol we have, in that when there is an
12 official higher than you, then you ask for that.

13 (Native American language statement.) I stated
14 to all of you thank you very much for giving me this
15 opportunity. As I look before all of you, you've got a
16 big task in front of you. For the couple of days that
17 I have been with you and sitting in the audience and
18 listening, I want to commend all of you for the work
19 you have done thus far.

20 I know you guys made it fun. I know there's
21 times when you guys got frustrated, but I commend you,
22 and I want to let you know from the Pueblo of Zuni that
23 you have our support to continue with this process.

24 And, Mr. Keeswood, I'm looking forward to
25 working with you. Because the Pueblo of Zuni, the Zuni

1 Tribe, made a public statement and provided an official
2 document to HUD about consultation, we are making a
3 commitment to be sitting in the audience.

4 And I have been making my contacts back at home
5 with my other fellow tribal leaders, and we will
6 certainly pass it on to my governor that myself or a
7 couple of other council members will accompany our ED
8 to most of the things that will be set out.

9 Only because many times, as tribal leaders, we
10 do ask for consultation, but we don't do it. We don't
11 take the time to make time to be there. And you know
12 as council members, we do have control of our agendas.
13 We do have that control. And I only say that because
14 at home, it is between the governor and myself that
15 have that authority over when we can -- we can block
16 out those days and make sure that someone is here.

17 But with that, I also want to let you know that
18 I have also been busy trying to send information back
19 out to other tribal leaders that I have worked with in
20 other areas, not just in New Mexico, but those that are
21 not here, to let them know. I gave them the websites
22 where to go to find the information to begin educating
23 themselves on what this process is about.

24 Because if we -- as tribal leaders, I think we
25 all know the executive order that has been revitalized

1 by the Obama administration. And each agency has been
2 tasked to lay out and begin working with tribes on
3 consultation. Likewise, this is one example. I think
4 HUD is going to be the first one to really have that
5 government to government.

6 But it is really dependent on us as tribal
7 leaders to take that opportunity and really make use of
8 it and be able to participate in where we are going
9 when we are provided the chance to do that. So I just
10 want to lay that out for all of you.

11 And we have talked a lot at length as well
12 about the issue of the alternates. As a reminder, and
13 not just to our Region, but to all of you that -- we
14 all look to all of you to represent all of the tribes
15 in the United States, every one. And we cannot move
16 forward collectively if we are not going to be there to
17 support each other.

18 I think too many times we have maybe
19 established those invisible boundaries to say oh, this
20 is my Region and these are the only tribes that I
21 represent. But it is not so. Anywhere you go, I think
22 that is pretty much what, as Native People, we all look
23 to each other, and we acknowledge each other as
24 brothers and sisters.

25 Likewise, I ask that of you too and we will be

1 there to provide that support to you. And each tribal
2 leader, whether we're sitting in the audience or at the
3 table, it is our responsibility to make sure that we
4 educate those who we work with, our colleagues, to
5 help them and encourage them to be a part of this
6 process.

7 And I think it's really important, because we
8 have the opportunity to make the changes that are going
9 to affect our community members, maybe not now, but in
10 five or ten years down the road. We always talk about
11 having impacts or providing support to future
12 generations. Well, now is the time, and this is where
13 it starts.

14 And I want to let you know that, Mr. Keeswood,
15 I'm looking forward to working with you, and I will
16 make sure that I let my Council know that they provide
17 the same support that I'm going to give you. And I
18 will be open to working with any other member that is
19 serving on this committee, and we will do our best to
20 be there for you and certainly pray for all of you that
21 you will be given the wisdom and the guidance to get
22 through this process. As much as five for six months
23 may be short, I'll keep you all in prayer. Thank you
24 very much.

25 (Applause.)

1 MR. BIKAY: I've got a write-up, so I'm going
2 to make it real short and simple. My name is
3 Joe Bikay (phonetic.) I am Maricopa (indiscernible.)

4 First of all, I am a professional on the
5 board of directors for Salt River. I live on Gila
6 River. I'm the senior representative for the tribe. I
7 represent them as an Arizona Indian Council on Aging to
8 ITCA, which is the Inter-Tribal Council of Arizona
9 representing our 22 tribes.

10 First of all, number one, I am going to say
11 this very quick, concise, and effective, I hope. I am
12 a product of the world of Motorola, Incorporated. I
13 was there 25 years, a senior designer, leader. But I'd
14 like to offer this, not as criticism, but as a tool,
15 information to be shared.

16 As far as a facilitator, a facilitator or
17 moderator is very close. I've done a little bit of
18 that. You've done a pretty good job. I don't know
19 your background. I wouldn't really put them in the
20 category of liaison type of style, and certainly not
21 autocratic, but if we can find a median there where you
22 can come and address the issues in a timely manner in
23 your agenda.

24 I don't know that there was an agenda set up.
25 When I had my meetings, okay, boys and girls, here we

1 are. This is the agenda; these are the topics; here
2 are my desires. You work, and you have the tools. You
3 are the experts. This is what we're going to do. We
4 have so much time for this. You can extend it. You
5 know that.

6 You guys are the experts, and you're speaking
7 for our people. And in doing this, I hear
8 conversations here at the committee talking about HUD.
9 We're talking about government to government. I am a
10 traditionalist for the most part. Let's not forget our
11 people at home. You people call them the little
12 people, but the little people, do you know what they do
13 to big wheels? They have the power.

14 I think it needs to come to the people, to the
15 tribe, to the Region and then address these matters and
16 have it done. I'm very thankful that you came amongst
17 (indiscernible.) I'm very happy and hope to meet with
18 you soon.

19 Again, I think we just need to be concise,
20 quick, and effective. And I think one of the things we
21 are running into, and it's always a problem, is the
22 power to communicate. We need to focus on that and
23 stay focused. Thank you for your time.

24 MR. KRISTOVICH: Good afternoon.

25 Brook Kristovich, the Housing Director with the

1 Umatilla Reservation Housing Authority. Also the chair
2 of the Northwest Indian Housing Association. And some
3 of you have known this, but I'm also on the traditional
4 council of our native village of (indiscernible) up in
5 Alaska. So I serve in a lot of different capacities.

6 And one thing that I tell people that I am
7 close to and boards that I have served on because I
8 have served with a few of you on the AMRON (phonetic)
9 board for a number years, is a couple of things. And I
10 tell it to my staff also.

11 When we are sitting around this table, as was
12 said so eloquently already, you don't represent just
13 who you are, the position you have, that region or the
14 tribe that you come from or the housing authority. And
15 the question was asked, even in our caucus today as we
16 were talking about the delegation and the alternates
17 and that, a question of myself, well, how do you handle
18 it being that I am originally from Alaska? I've been
19 in the Northwest since 1994.

20 Some of you go to the national meeting, and you
21 see me present the resolutions for Region 6. We seem
22 to have a lot, so I stand in front of the microphone a
23 lot. As I'm going to the mic, a lot of times, Alaska
24 will say, Brook, remember where you come from. But I
25 also say I know who I am working for too. And just in

1 joking, but the goal that I always try to have and I
2 relate to my staff back in the office is, it is not us.
3 It is who we serve, and not to forget that. It's not
4 just the Umatilla, it's not just Region 6, the
5 Northwest.

6 When you sit around the table, although you
7 have been appointed and nominated by your tribe and
8 chosen by HUD, you are making decisions for all of us
9 and to remember that. Don't look at just what is in
10 the best interests of the people that I am representing
11 from where I am employed right now or the tribe I
12 belong to. But remember the bigger picture. It's all
13 of us out here that are counting on you.

14 And I have to laugh at myself, because when the
15 nominations were coming forward, and we talked about it
16 in Region 6 at our association meeting, people would
17 come to me and say, are you interested, and I would say
18 no. I have heard of what you have done the last couple
19 of times. Why would I want to do that? And then I
20 come to Umatilla, and my chairman says, I would like
21 you to be here. So here I am with you.

22 But the idea is not to forget. And I really
23 appreciate what Blake was saying earlier about the time
24 clock, the respect that we should have for each other
25 and coming back, starting on time, that type of thing.

1 What you're really doing is disrespecting yourselves.
2 By doing that, you don't get all of the business done
3 for the rest of us. Because you have a very big agenda
4 to accomplish in the next few months. That's the
5 thing.

6 So I appreciate the opportunity and want to
7 thank each one of you for taking the time and for my
8 chairmen, Marguarite, to say, Brook, you're going to be
9 here. I would like you to be here. But I said, well,
10 we'll talk to the rest of the board about that. This
11 is a big time commitment. I've seen your calendar and
12 laid out your schedule.

13 You have the support of the Northwest and for
14 myself anyway if I can help you. I do appreciate,
15 though, all that you are committed to doing and for HUD
16 being so patient for the last couple of days just
17 watching us, watching you go through some of the
18 issues, which is my first time sitting in.

19 It was interesting just to see how much they
20 went back and forth with each other. You really wonder
21 how it's going to be when you get really into the meat
22 of everything in the negotiating part. But we should
23 be working together.

24 And it seemed like all of the little details up
25 there, maybe it was really important. But it was like

1 you were working across the table from each other
2 instead of with each other to try to really get some of
3 that going. But maybe it is that important. I have
4 not been part of negotiation before at this level. But
5 it is -- it had to be so clear so that you across the
6 table would understand the rules of how we want to do
7 it, just working within ourselves.

8 And I was sitting back here during so much of
9 it saying it seems like we are working against each
10 other. And you hear about that, and HUD is over here
11 patiently watching you all work out so much of the
12 detail. It's like you're not quite working together.

13 So I hope that in the process, we work even
14 closer together to get some of this moving and that it
15 would move along a lot quicker.

16 So I'm rambling now, so thank you for your time
17 again, and I appreciate all that you're doing for all
18 of us. Thank you.

19 MS. BENNETT: (Native American language
20 statement.) And what I just said was my name is
21 (indiscernible) in the Tlingit language. We all say
22 Tlingit-Haida, but it's Tlingit-Haida (pronouncing.)

23 First of all, I want to thank the Assistant
24 Secretary. Thank you for taking this time for us.
25 And, Rodger, I want to thank you also.

1 You know, my name is Ella Bennett in English,
2 and I come from Alaska, Juneau, Alaska. We have over
3 20,000 Tlignit people enrolled. And Blake Kazama, we
4 have adopted him into our tribe, because he has worked
5 for the interests of our people for so many years and
6 sacrificed a lot of his time.

7 And I want to acknowledge each one around the
8 table and thank you. I know you're going to do a good
9 job. And it was difficult for us to sit here and not
10 be able to get up to a microphone and say how we felt.
11 I know a lot of us shared that with each other, you
12 know.

13 But, you know, I want to thank you for the
14 4.4 minutes you are going to allow us, because this is
15 important to our people. I know the word of God says
16 that we are to speak up for those who cannot speak for
17 themselves. And just looking around this room, we
18 represent thousands of Native Americans.

19 And I'm proud of you. And I am glad that you
20 were willing to take the time to do all of these
21 meetings and the work that is cut up in I don't
22 remember how many hours. I didn't write it down.

23 But it's an honor for me just to be here to
24 listen to this. And I think it's educational for some
25 of us, because we have never gone to a negotiated

1 rulemaking. But thank God that the government allowed
2 us to have our input, you know, and to make these
3 regulations work for the Native American people.

4 There's words in Tlingit that (Native American
5 language phrase) that means to be strong, for you to
6 work together. And I just -- I have to say, I don't
7 know -- I cannot speak fluently, but I understand what
8 our language is, and we were taught as young people to
9 listen, you know, because most of our teachers were
10 non-Native, so we were taught to listen and not to
11 speak.

12 It wasn't until later in life that we were able
13 to speak up. So I know there are a lot of people here
14 in the audience. How often do we get to speak to
15 people from Washington DC, and they're listening to us,
16 right? I do want to thank you. And I appreciate each
17 one that is here at the tables.

18 And always remember that a house divided does
19 not stand. And I know you'll reach consensus on most
20 of your items. Thank you once again. I appreciate
21 you. God bless you.

22 (Applause.)

23 MR. WHORL: You know, it's really hard for a
24 Tlingit to pass up an opportunity for an open
25 microphone. (Native American statement.) My name is

1 Ricardo Whorl (phonetic.) I am Vice President of the
2 Tlingit-Haida Regional Housing Authority. I also want
3 to acknowledge and thank Madame Assistant Secretary for
4 being here, and also thank and commend the committee
5 members. I can see that you have your work cut out for
6 you. It's a difficult task with this many Indians
7 coming to an agreement.

8 I know next week Blake and I are going back,
9 and we are hosting a region-wide housing symposium.
10 And the folks, the tribal members at that meeting, we
11 are going to be talking about, can I build a ramp for
12 an elder using NAHASDA money? Can we set GPA limits
13 for our students if they are receiving student housing
14 vouchers? These are the ground-level operational
15 issues that our tribes and our tribal members are
16 dealing with.

17 And I just ask that you keep that in mind when
18 you're going through your deliberations and calling for
19 caucuses, because that is what it's coming down to.
20 And I hope that you will be diligent and wise in this
21 opportunity, because, you know, think about how many
22 instances there are with negotiated rulemaking,
23 government-to-government negotiations with your tribes.

24 And I hope we will be able to set the example
25 that negotiated rulemaking with tribes is a good thing,

1 it's a smart thing, and it's effective. We have a ways
2 to go there, but I think we can do it with this
3 committee, and I hope you guys will be committed to
4 that.

5 Lastly, I just want to also hope that we will
6 get the opportunity to follow up with what Rusty was
7 trying to get to with his presentation in regards to
8 having the opportunity for the Assistant Secretary to
9 hear success stories with regards to Indian housing and
10 NAHASDA.

11 I have to say it gets a little frustrating
12 having to report to our tribes, and a lot of it is what
13 we can't do with NAHASDA. It gets frustrating when we
14 have these monitorings by ONAP. We went through one
15 about two years ago. I know it's a bureaucratic
16 machine, and they have a job to do.

17 But it was frustrating for me that the whole
18 purpose of the monitoring was did we cross our T's?
19 Dig we dot our I's? It wasn't about what did the
20 sentence say? What did you guys do? What did you guys
21 accomplish? So I just wanted to share that and thank
22 you again.

23 MALE SPEAKER: Yah-ta-hey (phonetic.) I'm sure
24 every one of you undertand that. John Wayne did say
25 it. You all understood it. In the last two days, I

1 learned that some of you are related, have Navajo blood
2 in you, or you know some Navajos. That's why I know
3 that you understood what I said.

4 But I have also worked for the Navajo Nation.
5 The government Navajo Nation, not the housing
6 authority. I also am an elected official from one of
7 these small communities on Navajo as the chapter
8 president. That's where I'm going to be talking from.
9 And this is not to say that anything I say is not the
10 best -- wouldn't be on behalf of the Navajo Nation.

11 But in the last two days, I think I learned
12 that there is a lot of work ahead of us. And one
13 of the things that I think we really need to focus on
14 is our housing needs. Yesterday we talked about
15 big tribes, medium tribes, small tribes. But
16 proportionately, I think percentage-wise, there is a
17 need out there. And bigger tribes have the --
18 percentage-wise it's about the same. More housing
19 needs, but in terms of percentages, its proportionate,
20 I think.

21 So you as a group, as a committee, you have
22 that task to make things easier for our needy people,
23 people that are needing homes out there. Right now
24 it's so difficult to get a home out there because of
25 the economy, because of the situation that the Indian

1 tribes are in.

2 A lot of it is based on a mortgage. You have
3 to have a job. Where's the jobs on Indian
4 reservations? And we need to serve the needy of the
5 neediest as well as certain specialized groups as well.
6 We have veterans. We have disabled people. We have
7 different kinds of housing needs out there. And
8 through your deliberation, through your negotiation, I
9 request that you be open-minded and think of those
10 people out there.

11 And just a few times, I kind of listened,
12 talking about deadlines, talking about time lines,
13 which I guess is good. We are so educated in the
14 Western society that we are putting stuff on ourselves.

15 But as Indian people, we have a circle of life.
16 When we miss something, it comes back around to address
17 it again. But we tend to think on a lateral basis.
18 And that's where I think we should be open-minded and
19 start addressing some of these issues. Time lines are
20 good, but sometimes they are not resolved in the small
21 time allocated.

22 Also, the other thing is, of course, there's
23 always issues on environmental. As Native people, we
24 always say that we are the first environmentalists.
25 And we still are. But we tend to get all of these

1 environmental regulations put into other regulations.
2 This creates a big problem in the Indian Country in any
3 kind of development. And so that's one area that I
4 kind of felt that maybe we should be looking at.

5 The other one is other organizations, BIA, for
6 example, and other organizations where some of the laws
7 and policies are not consistent, which also creates a
8 problem. They have housing programs as well. How can
9 we partner? With the economy as it is today, we need
10 to start partnering with other organizations as well,
11 other agencies.

12 And lastly, I just want to thank Rodger and the
13 Secretary for being here with us today. I think this
14 is a good working group. You have a big job ahead of
15 you. But let's remember the people that actually need
16 the homes out there. I want to say thank you.

17 THE FACILITATOR: Last chance.

18 Before we invite Mark Charlie from Bethel,
19 Alaska, to give our benediction, are there any final
20 comments that anybody on the committee would like to
21 make?

22 MR. KAZAMA: Yes. I simply want to say that I
23 have been involved in public and Indian housing, and it
24 is a real honor for us to have the Assistant Secretary
25 for Public and Indian Housing here joining us.

1 (Applause.)

2 MR. KAZAMA: This lady -- you have the largest
3 housing authorities in the country wanting your time.
4 We are talking about Seattle, San Francisco, the big
5 cities, New York, and here she is joining us for even
6 two days. So I am really honored, and I want to thank
7 you again for coming

8 MR. ADAMS: Madame Assistant Secretary, I want
9 to follow up on those comments of Blake's also, and
10 other comments, and thank you for being here with us.
11 I want to specifically thank you for your willingness
12 to participate in this project and product and work
13 here with an attitude of progress and working things
14 together. That has been a breath of fresh air
15 yesterday and today, and I look forward to the future
16 meeting with the attitude that I have seen you have in
17 these meetings so far. I just want to thank you for
18 that.

19 MR. JONES: And I want to echo that, Assistant
20 Secretary. And you don't know how much it means for us
21 to be able to open up the discussion of these issues
22 like you have. Because there are a lot of those issues
23 out there that some of the people who have talked here
24 have spoken of and are hindrances to what we are doing.
25 And it just means so much to be able to openly discuss

1 those issues. And I know we just are thrilled with
2 that. Thank you.

3 MR. DePERRY: I can't say it enough, you know,
4 what the people at this table are saying, Madame
5 Assistant Secretary. It's an honor to be in your
6 presence. I am glad that you are here. We had a visit
7 last November. I knew from the first time I met you
8 where your heart was, and it's with the people.

9 So again, as Blake noted, you were unsure at
10 that time because you hadn't been around many Native
11 Americans. It's the perfect setting. Be careful what
12 you wish for, I guess.

13 But I am sure by October, you will know all of
14 us on a first-name basis, and you'll know the goods and
15 the bads of us, I guess. But thank you, and thank you
16 for bringing your great staff and Rodger and all the
17 administrators. I just can't say it enough. I look
18 forward to working with you. Thank you.

19 THE FACILITATOR: Alvin?

20 MR. MOYLE: I wanted to more or less give you
21 some of what happened to me yesterday, because I know I
22 was supposed to be here. And first of all, I want to
23 thank you, Assistant Secretary, for being here.

24 I'm Alvin Moyle, tribal chairman of the Fallon
25 Paiute-Shoshone tribe. But the reason I was still in

1 Nevada yesterday was, I'm also the president of the
2 Indian Health Board of Nevada. There are some very
3 serious problems in the health care delivery system.
4 And that was the principal reason we were meeting with
5 the area director.

6 But getting back to housing, that is what we
7 are supposed to be talking about. It's very important
8 to our people that housing is there. There is a real
9 need, and it's not only needed in Nevada; it's needed
10 all over the United States and Alaska. But I just want
11 to give you some of what -- well, you've heard from up
12 north. You have heard from Montana and so on. And I
13 wanted to let you know that Nevada also very much
14 appreciates what you're doing in that arena you work
15 in. And I'd just like to express to you that we are
16 very grateful for what the federal government is doing
17 in regards to housing.

18 I am sitting on a committee now, I think, that
19 is a huge job. And I really appreciate the fact that
20 I'm going to be a part of this -- I'm going to call it
21 this vehicle -- that between housing and between health
22 and education, if we put all of them together, and
23 we've got young kids that have to grow up to have
24 something, and this is what our goal is. Thank you.

25 THE FACILITATOR: Leon?

1 MR. JACOBS: I would also like to thank the
2 Secretary for being here. And not only did you send
3 your staff, but you brought them with you. And I think
4 that is great that you did that.

5 I have been around for a long time in Indian
6 housing. And I remember when we first opened the
7 Chicago office back in 1980. There was a need estimate
8 then that we needed 90,000 houses in Indian Country to
9 meet the current need. And I still hear that same
10 number around even though many years have passed.

11 So we are growing in Indian Country, which is
12 good. But those needs still linger, and it's nice to
13 have you here along with your staff representing HUD.
14 Thank you.

15 MS. HENRIQUEZ: You all have been so generous
16 and so kind. Thank you very much. There was a comment
17 from the audience, from the public, that we need to be
18 a little bit more cohesive. I think of these past
19 couple of days as doing the dance.

20 So you go to a dance, and sometimes men are on
21 one side of the room and women are on the other. And
22 music plays, and people tentatively sort of ask each
23 other to dance. And who's going to lead? What style
24 of dance? And you just have to figure all of that out.
25 And that is what I see was happening these past couple

1 of days.

2 And that's a good thing. So I don't see it as
3 a disconnect. I don't see it as people not having
4 their act together. It's the dance, and we all have to
5 do it. And we all have to figure out how to get on the
6 same beat and rhythm and work it out. And sometimes if
7 you were to dance with me, I don't always follow very
8 well. I try to lead, and it's always wrong. But at
9 some point, it all comes together.

10 I want to personally thank all of you, more
11 than professionally thank you, which I also want to do
12 as well. You have been fabulous, inviting, welcoming,
13 comforting, affirming, just wonderful, and I want to
14 thank you for that.

15 I want to thank both the tribal leaders who are
16 here on the committee, and those of you who have been
17 with us these past couple of days as well. I want to
18 thank tribal leaders who are both from federal- and
19 state-recognized tribes for your work, your dedication,
20 your leadership, and for your blessings and your
21 guidance to see us through this process.

22 I want to thank, of course, the ONAP staff.
23 They are truly fabulous, led by Rodger Boyd, and I
24 continue to learn from them and will continue to learn
25 from all of you as well. And I also want to thank

1 Judd Jones, who is one of my special assistants who is
2 on this journey as we learn more and more together.

3 As I said, this has been really remarkable for
4 me. So I come, and I am learning and learning more
5 stuff. And I sat here, and I thought, you all must be
6 reading my mind, a number of you, because I would sit
7 here ready to say something, and one of you actually
8 said it, and probably said it much more eloquently than
9 I could have said it, and for that, I am truly
10 grateful.

11 The dynamic of the group, watching the
12 interactions, watching your work that is being done,
13 whether it has been slow-paced or not, for me it does
14 not matter, as we are moving in the right direction,
15 and I think that is what is important, remembering why
16 we're here, who we represent.

17 We may not always get there at the same time.
18 I think sometimes we are on parallel tracks. Some of
19 us may be leading and going a little faster. Then they
20 slow down and others catch up and go ahead. But the
21 end point is where we all know we want to be, should
22 be, and will be. And that is enough for us to keep the
23 momentum going.

24 It's like doing the dance. We will figure it
25 out and be able to take it on the road and be absolute

1 showstoppers at the end of this all. So the
2 thoughtfulness and the work and your dedication that
3 has led up to this, that has been in this room and in
4 this hotel for the past two days, I know it's going to
5 carry us through successive sessions as we take this
6 work and move forward.

7 I look forward to those sessions. I'm prepared
8 to spend as much time as I possibly can with all of
9 you. And until we meet next time on March 30, please
10 have safe travels. It has been, again, my honor to do
11 this with all of you. Thank you.

12 (Applause.)

13 THE FACILITATOR: Thank you, Sandra.

14 We began this process with a prayer, and
15 we're honored to have from Bethel, Alaska,
16 Brother Mark Charlie.

17 (Closing prayer was conducted. Conclusion
18 of meeting at 6:17 p.m.)

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25

1 STATE OF ARIZONA)
) ss.

2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing transcript
5 was taken before me, Debora Mitchell, a Certified Court
6 Reporter, in and for the County of Maricopa, State of
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8 by me using the Voice Writing method and translated
9 into text via speech recognition under my direction;
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11 true, and accurate transcript of all proceedings, all
12 done to the best of my ability.

13 I FURTHER CERTIFY that I am in no way
14 related to any of the parties hereto, nor am I in any
15 way interested in the outcome hereof.

16 DATED at Phoenix, Arizona, this 19th day
17 of March, 2010.

18
19
20
21 _____
22 Debora Mitchell

23 AZ Certified Reporter No. 50768
24
25