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**Report on the 1<sup>st</sup>**

**2005 ITMA LISTENING CONFERENCE**

**APRIL 5-6, 2005**

**BLACKFEET TRIBE OF MONTANA**  
**Blackfeet Community College**  
**Browning, Montana**

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### CONFERENCE PRESENTERS

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**MARY ZUNI**, ITMA Executive Director  
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**JOHN BERRY**, “To-Be” Trust Reform Initiatives  
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**LORETTA COURTOREILLE**, Individual Landowner  
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**DAY TWO – APRIL 6, 2005**

**Conference Presenters**

**ROBERT BURNS  
ALEX GLADSTONE  
ANNA BULLSHOE  
HAROLD SCHILDT  
FLOYD HEAVY RUNNER  
ALVIN CRAWFORD  
JAMES ST. GODDARD  
KLANE KING  
EMORIE DAVIS-BIRD  
NEVA RUNNING WOLF  
WILLIAM TALKS ABOUT  
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NORA RUNNING WOLF  
HOWARD CLOUD CHIEF  
LEONARD IRON PIPE  
CLARENCE MANY GUNS  
RUBY WHITEGRASS  
ERNEST MORESEAU**

# **LISTENING CONFERENCE SUMMARY REPORT**

**June 8, 2004**

## **Opening Introductions and Ceremonies**

**BETTY COOPER**, ITMA Board Delegate and Blackfeet Tribal Council member, graciously welcomed participants to the Listening Conference and Blackfeet Country. Her hope was that the individual testimony and the panels would try to find some common ground. Especially important was a working document as the end result of this listening conference that not only the U.S. Government can use, the Bureau, everyone, but especially the Blackfeet people.

Ms. Cooper called on the Crazy Dog Society for opening ceremony and stated she had asked them in a proper and good way to assist. “We want to show to the camera, to everyone that we have our language, we have our ceremonies, we have our culture.”

## **CRAZY DOG SOCIETY OPENING CEREMONY**

**CHAIRMAN WILLIAM ALLEN TALKS ABOUT**, thanked the Crazy Dogs to have prayer for the visitors, kids, and elders. He noted that the Blackfeet television station will run the tape of the conference in the evening and the next day which is important for the people who couldn't make it to the conference. He stated he thought the conference, which was to listen to each other, was very important, also to the government. He noted that letting the government know the Blackfeet issues will then allow the discussion of how to “straighten out” the problems and how the tribes and the government can work together. He emphasized the slowness of the government both for the tribe and the individuals who for example want to develop the land or sell their land. He remembered a reform meeting three years ago and an elder from another reservation said, “we need one-stop shopping”.

**TOM BLACK WEASEL**, fluent speaker of Blackfeet language, called everyone in the room to introduce themselves and he introduced them in Blackfeet.

**CHIEF JIM GRAY**, Chairperson for ITMA and Chief of Osage Tribe reviewed the effort by both the government and the tribes and the individuals to try to find a new way of doing business together and the role ITMA has contributed and helped monitor. ITMA and other Indian organizations that deal with leasing, water rights, livestock, agriculture related, timber have come together in recent months to draft a bill to try to fix the broken trust system and put an end to litigation. ITMA has stepped forward to try to facilitate the process of allowing tribes to come up with new ideas, discuss old ideas, and look at the situation we're in right now. He asked people to talk about issues or experiences they've had getting a lease approved, an appraisal done or a probate done. Out of this dialogue, people's ideas might be allowed to be a part of policy. In order for real trust reform to take place, we need to have the beneficiaries speak.

**MARY ZUNI**, Director of ITMA, recognized staff that were there and thanked OST staff for attending. She explained that ITMA had conducted seven Listening Conferences in 2004 from which ITMA developed a booklet for each session. The booklets are available for everyone and

one will be developed for Blackfeet. She requested questionnaires be filled out and returned to ITMA.

**MARCELLA GILES**, ITMA Consultant and Liaison to OST, explained the purpose of monthly meetings with OST which was to have a clear channel of on-going communication. She gave a brief review of the tour of the new facility, the operation of the call center at OST and the focus on sharing and looking for solutions.

**BETTY COOPER , LITTLE MAN HEAVY RUNNER, and MR. PROVIS** were cultural speakers. Ms. Cooper reviewed the Treaties from which the Blackfeet Reservation was formed. returned seeking their culture, trying to find the names of their mother or grandparents. Mr. Heavy Runner talked about his view of the international status of the tribe and the cultural heritage as a world culture. He is offended that people did not make an accommodation for people who speak the Blackfeet language and now the Blackfeet people do not really understand the depth of the talk about the IIM accounts, the trust funds, and they are surprised. Mr. Provis is a member of the Brave Dog Society and the Horn Society. He explained the Blackfeet culture and his work with youth. Mr. Heavy Runner reminded the people that the tribe has orphans and young people and others who have IIM accounts but they know nothing about trust funds.

**MARY ZUNI**, explained the process for the panels and recognized Mr. Tom Picarelli and Ron Lester from MMS.

**CHIEF GRAY**, introduced Ross Swimmer, Special Trustee, noting that he comes to the position of Special Trustee with an enormous amount of expertise and qualifications.

**ROSS SWIMMER**, noted how beautiful Blackfeet Country is and was glad to be back. He reviewed the history of allotment and the policy that came out of allotment. As he related, after allotment in 1887, Indians could not lease their land until the 1910 General Leasing Act was passed. When lease moneys came in the government set up trust accounts to hold the money for the Indians and tribes. Over 85 BIA agencies evolved back then to manage the property and the money. 25 years later, studies showed that allotment had not worked well for Indians and the restrictions and trust status were continued. Tribes dealt with the local agencies and the records were held there.

In 1994, as a result of a study by Congress called “Misplaced Trust”, the Indian Trust Reform Act was passed to remedy problems laid out in the report. A statement of account that shows the source, type, and status of funds is to be provided to every beneficiary. The Act structured the position of Special Trustee to oversee all of the Interior activities for the Indian trust. The Office of Trust Funds Management (OTFM) was moved from the BIA to be under the Special Trustee and by 2000, a new trust accounting system was created and fully converted replacing the former antiquated accounting system.

OST accounts for the cash from all leases, the minerals, the forestry, any revenue that comes in to the trust, deposits it in the Treasury, invests it for the benefit of the beneficiaries or pays out to the beneficiary.

The Office of Historical Trust Accounting (OHTA) is funded through OST and is responsible for accounting required by the *Cobell* lawsuit. The Indian Land Consolidation Act is funded through OST. OST is providing money to BIA to clean up records making sure people do not have multiple accounts, that realty records match ownership, that the financial records are accurate. OST also provides money to BIA for probate and to do information technology.

Mr. Swimmer particularly noted the work is joint work with Interior's trust systems, BIA, Minerals Management Service, Bureau of Land Management, and the Office of Hearings and Appeals. Mr. Swimmer stated that all entities work hand –in-glove.

OST is in an implementation stage of the “to-be” or fiduciary trust. A big part is information technology (IT) systems. There are over 20,000 accounts with less than a dollar. Interior often leases land that will only bring a penny for an individual because there are so many owners of the tract. Trust officers are available to work with individuals to manage their own trust lands, know where the money is, where the land is, when money is coming in, where the probate is, to get status reports, and answer questions.

**CHAIRMAN JOHN BERREY**, after being introduced by Chief Gray introduced Karole Overberg and President Small. He worked with Chief Swimmer since 2001 BITAM. He interviewed thousands of individual Indians and employees of the government. They created a map of probates, leasing, appraisals and title search. They found systems that had not changed in 40 or 50 years and forms that went back to 1930. There is a new process called beneficiary relationship development management to enhance the communication between the allottee, tribe, and Interior. There is a call center in Albuquerque. They'll answer a lot of questions which will give the natural resource people, the realty people, the agency more time to do work like compliance enforcement and collections on your leases. They are developing alternative methods of contacting the government.

Another component of trust reform is financial operations. He wants a statement to show how much land is owned, what is taking place on that land, whether there's rights-of-way or leases, or what the value of the property may be. This will help with writing wills and family estate planning. He talked about a lockbox where payments will go and checks to accounts will be faster. They also signed an Office of Indian Adjudication dedicated to probating Indian probates. Title conveyances and surveys are being worked on. Most exciting is the title system. Darryl LaCounte has led the way in TAAMS conversion. It is already here in Billings.

Question from audience: How reliable is your data?

John Berrey answer: It is not 100 percent.

Question from audience: What percent would it be?

John Berrey: I'd be afraid to say. The problem is, we've never put all of that historical data into the system yet, and until we review it and have examiners look at it, we're never going to be able to answer that question.

Mr. Berrey stated he had the goal of going forward.

**KAROLE OVERBERG**, has worked with John for about three years. He is working on the leasing component of TAAMS. This component is going to be like almost live, where you go on the internet and pull up information, you can get the information on the status of your land, what leases you have. They will be implementing that next year. Collecting payments through a lock box will be easier to track a payment. They are trying to speed up the appraisal process. They've standardized that process and set up some new tracking in there. We are going to improve the whole process.

Question: Will that impact leases that are outmoded, some people paying .50 cents a lease as opposed to other people paying a dollar and a half a lease as opposed to another individual paying \$3.50 per lease on the same piece of land?

**JOHN BERREY**, stated that they are re-writing the leasing, those things are being standardized. But, there has to be flexibility to account for tribal laws and ordinances for a particular reservation.

**CHIEF GRAY**, suggested further question occur during break and open mike session.

Question: I don't think we should shortcut any presenters.

**JOHN BERREY**, stated that Karole, Geri, and I will be here to talk. He wanted people to know they were working on policies and procedures and internal controls. He also want to talk about the American Indian Probate Reform Act. It appears people need to write wills. They need to know what the land looks like and how much money is held in trust. The law goes into effect 365 days after certification. If the law is certified in April, '05, the law will be in place in April, '06.

**DIRECTOR BEARTUSK**, thanked Betty Cooper to invite the Rocky Mountain Regional Office. He introduced Darryl LaCounte, Deputy Regional Director and Cliff Hall, Deputy Superintendent for Trusts. He attempted to fill in the big picture scene as described by Ross Swimmer and John Berrey. Everything that applies to trust reform is a part of the Rocky Mountain Region. The reservations are large and fractionated. For example, the Turtle Mountain Tribe in eastern Montana owns 160 acres with over a thousand owners. This region need a modern system capable of handling large volumes of data. Another example is when 1 Northern Cheyenne passed away, in one fell swoop with his passing the land went from one-over-one ownership to over 300 owners.

A mandate to the BIA created a separation of trust and non-trust duties. The new Deputy Regional Director is on the trust side and the new Deputy Superintendent is on the trust side. Also, the Director will work closely with the Regional trust officer, Bob Upton, and the local trust officer, Lisa Bullshoe.

A simple way to break this down is that everything elated to money, to income earned off of trust resources is handled by OST.

Everything to do with management, protection, conservation of those lands stays with the Bureau of Indian Affairs. Forestry, fires, weed problems, and roads stay with the BIA.

National leadership in the BIA at the Assistant Secretary of Indian Affairs position is vacant. Jim Cason is acting. Pat Ragsdale is the new Director of Indian Affairs. The bureau is under funded, somewhere between 70 and 80 percent of where they should be before 2007. Before the national BIA budget hearings this region got input from every tribe and the list of priorities was education, tribal courts, law enforcement, economic development, and housing. There was not a trust program there in the priorities. The bureau was asked to budget down 2% for TPA and 2% for the regional budget.

**LISA BULLSHOE**, announced that at the beginning of the year 800 members were listed on the “WHEREABOUTS UNKNOWN” list and they got it down to over 300 members. She passed out lists and asked that anyone who sees someone they know on the list should call her.

**MARY ZUNI**, reviewed the sign up sheet and asked the individuals to come up and speak. She asked the individuals to present for about 10 minutes or so, in order for all to participate.

**LORI NEW BREAST**, asked about the status of two gift deeds in her family, three and six years old. She had how consolidation worked and how it would apply to one tract of land in her family with 45 heirs. She also asked if there would be support for will writing or estate planning. Her comment on the five tribal priorities cited by Mr. Beartusk was when it comes to family relationships who is going to resolve a 10-acre tract with 50 members on it? The people would rather work on a violence prevention grant.

**AL REEVIS**, understood the conference was for Blackfeet only but knows other Indians would have come. He found discrepancies in leasing practices as the same problem on reservations in South Dakota. In his work with the Original Allotment Heirs Association, he noted that Donna Erwin helped them a couple of years ago, took testimony, but there was no resolution or investigation. The Bureau began to bill lessees under a owners use law that prevented running outside cattle on Indian land. He believes allottees cannot allow tribal councils to 638 individually owned lands. The association is fighting hand-picked allocation committees. He stated that the BIA, Darryl LaCounte, gave landowners the information that nobody can put your land under CRP, only landowner. Nobody can run outside cattle on your land without your consent, because that’s subleasing.

**LORETTA CORDILEON (through Mary Zuni)** is in the process of developing a will and would like for someone to speak with about the fractionation issue.

**SUSAN WEBER**, stated her first question was how to correct a probate issue. A second issue is how to recover land illegally sold. The third question is how to fix the use of trust land for business purposes? She requested further discussion with John Berrey on historical records such as when land was lost to grocery bills and her belief that there was collusion at that time. She completed real estate appraiser courses but has the question of how we value Indian land. She gave several examples. She noted that the Blackfeet reservation has 70 to 80 percent unemployment annually. Unemployment goes down in the summer to 30 or 40 percent because of firefighting and seasonal work.

Ms. Weber asked about inequities of past land transfers where her grandmother traded 320 trust acres with a spring fed lake for a one-half lot in the town of Browning. She asked if Indians must relinquish their land to receive Medicaid or other supplemental health care.

**ROSS SWIMMER**, stated BIA could speak to management of the land issues and he would speak to spending down your assets to qualify for Medicaid or Medicare when they count your income from trust lands as part of your resources in some cases. Some states have agreed to exclude trust property but people should contact the trust officer in their region or agency and ask for assistance.

Mr. Swimmer mentioned the American Indian Probate Reform Act (AIPRA) which only applies to trust land or trust money. Non-trust property has to be probated through a separate probate. The Act authorizes the Department to provide services to people to help with wills and estate planning. Several groups such as the Indian Land Working Group, the California Indian Legal Services, various state legal services are being contacted to see if they can provide some services and what the costs would be. The Special Trustee or the BIA is looking at funding some of the costs and are trying to survey to find out what organizations are out there that could help in this regard, because you really need to have an attorney with one of these organizations that can help interpret this new law.

A key provision of AIPRA is if you don't have a will, and you have less than a 5 percent interest in a piece of land, that land can only go to a single heir. It will go to your eldest child, your eldest grandchild, or your eldest great-grandchild, unless you have a will. The new law allows a landowner to consolidate land interest while living

OST is working getting the appraisal program to be a little more efficient. OST will do mineral appraisals for sales, not for leasing. OST is trying to hire contractors, a certified appraiser.

**ROSS DENNY**, stated that gift deeds have been grouped together with land sales and other land transactions. Gift deeds have a lower priority than a transaction that involves some cash or some money up front. Mr. Denny apologized but did not ask to be excused for the lack of getting them out timely. Elders are put first. Gift deeds require certified Tsars. One TSAR can take two or three days to complete. Mr. Denny stated that the Blackfeet Agency is so far behind on Tsars that the agency puts together a list of priorities and elders go to the top.

In response to the question about a gift deed that wasn't discussed at the probate hearing, it should have been discussed. The ALL can hear outside testimony. There's a provision to ask for a rehearing. The request can be presented to the ALL through Mr. Denny's office who can reopen the case.

**CLIFF HALL**, noted that fractionation is starting to hinder what individual members are trying to do with their land. If there are anywhere from 30 to 300 landowners, it adds to the dilemma and the timeliness in getting those things accomplished.

The issue of half a lot for a 320 acre parcel should be discussed confidentially to protect landowner's rights to privacy. The fiduciary trust model gives the trust officer and deputy superintendent latitude to deal with individuals, hand in hand.

**DARRYL LACOUNTE**, spoke to consolidation first. It can be done at any time with the approval of gift deeds or land sales. Some provisions of the new law will make some people happy and won't make others very happy at all. The partitionment section is a mandatory sale where any one of the owners can offer fair market value and buy out their co-owners.

The law allows easier gifting. The backlog was being reduced when a court decision that BIA systems were not secure enough caused the system to be shut down. Nine months of work was lost. One year there were 1200 request for title status reports. Out of that the agency received 300 deed back. Mr. LaCounte proposed that a commitment be made at the time the request is made and the individual signs a deed when the title is produce and guarantees a conveyance will occur.

The Department has said that employees are not legally trained or legally qualified to assist in estate planning. Mr. LaCounte said that he thought although employees are not legally trained , they were better than nothing. The employees have read the law and understand the spirit of consolidation.

**LORI NEW BREAST**, was concerned a handwritten will was not the type of will the required by the new law, a legally recognized, duly processed will, which involves a lot of money for an individual with no resources.

**DARRYL LACOUNTE**, stated its going to put some burden on some folks to know the law, but the spirit of consolidation is right.

**ROSS SWIMMER**, wanted to add a will is a will. A person can still write a will and have a couple of witnesses. The will is approved at the time of probate. If the will isn't any good, it will be at the ALL. But a will written out in someone's hand can be admitted in probate by the ALL or it could be typed out, have witnesses and a notary and everything. It's what is in the will that is critical.

A question Mr. Swimmer had for Mr. LaCounte was : How do you put a well on fractionated land?

**DARRYL LACOUNTE**, responded "the conventional way. You pull in a truck..."  
Fractionation does create a whole lot of hardship for individuals.

As to land illegally sold, this a very difficult, touchy subject across the country and he referred Ms. Weber to the superintendent. In an era known as the forced fee-back era, there were laws passed by Congress that allowed transactions like that to occur. It's something that would not happen today.

**CYNTHIA KIPP**, purchased 160 acres of trust property 30 years ago. It was surveyed into 4/40's and placed a house on 40 acres through the Blackfeet Indian Housing Authority. The other half of the 320 parcel is owned in fee but heirs are of Indian descent, not enrolled. Her question is whether she can hold her ½ in trust with the other owner holding title in fee patent.

**DONALD LITTLE DOG**, asked when an outside person buys 20 acres into a 320 acre parcel and the other interest owners what to fight the outsider or try to get the 20 acres back, nothing happens. Why not? Also, on leasing if a lessee has not paid rent and is using the land for nothing, there is a trespass occurring. That is happening now, but no remedy.

Another issue is notice for probate to heirs of inherited land so the land does not automatically go into fee. If you go to the Bureau and ask for a landowner's lease report, the Bureau will not give it to you because it may be in a lawsuit.

**MARGARET BELL**, receives inherited interests from 160 acres and receives lease money. The lease checks are small, but every once in a while she receives \$200. Transactions for farm leases are tracked to an allotment account number.

But there are 36 entries from grazing. They are all under **non-definable** entries. For example, from account 201s80169 there is no where they put the allotment numbers on. So year after year, landowners are trying to determine where the amounts came from. There are thousands of landowners that haven't the slightest idea whether their leases have been paid because you can't post these amounts. You have to have a definable entry with an allotment number with type of money coming in, farm, oil and gas, or range.

**EDWARD NORTH PIEGAN (Back Country Man or North Man)**, wants a solution to his wife's property.

**DARRYL LACOUNTE**, understood that Ms. Kipp's question involved a 320 acre parcel. He answered her question as to the heirs of the 160 non-trust owners who are of Indian descent. However, they will not inherit the property in trust, they will own an undivided fee interest.

If Ms. Kipp wants her land in fee she places a request with the superintendent. If Ms. Kipp wants to stop fractionation, the new law is taking a shot at consolidation. He encouraged her to work with the BIA.

**CLIFF HALL**, responded to some specific history for the wife of Mr. Little Dog. He also stated that sometimes the landowners find that part of an allotment is in one unit and the other is in another range unit and some allotments have not been paid in the past. The BIA usually goes after that money and tries to get it back to the landowners. The BIA will assess them, penalties and fees.

If there is a trespass fee, the BIA uses different ways to stop trespass. The OST will provide the transaction history on the income that has come in over the last six years on a landowner's lease report. The rule is that an account will build up to \$15 before a check is generated to the landowner. In a range unit there may be 10 allotments. The money coming in would be

identified by allotment on another computer but would be deposited to an account for Range 1 and dispersed by an allottee's percentage share but only identified as grazing fee. He apologized for the confusing situation

(Proceedings were adjourned at 5 o'clock p.m.)

## DAY 2 – APRIL 6

**AL REEVIS**, why the local BIA is still allowed to lease Blackfeet lands out illegally and sublease the lands by putting them into CRPs without landowner consent. He stated he lost nine checks and asked for help but the records were stored elsewhere.

**TOM BLACK WEASEL**, stated he had a land trade application filed with the BIA since 1992 and now it is bouncing back and forth between the area office and the Blackfeet Agency. The appraisals can't be done. Five years ago piecemeal appraisals started coming in. This is very frustrating and after 13 years he believed something should be done.

**PATRICK AFTER BUFFALO**, stated he once had oil before the tribal council kicked out the oil companies.

**DOUG MALATARE**, stated that he was victim of circumstances, going on 60 years of age, and only sees poverty. He gave the following statistics: 1 ½ million acres of federal reserve down to a surface estate of 380, 917 acres; allotted trust 652, 456 acres; fee, 564, 339 acres; mineral estate, approximately 637,748 acres; allotted mineral estate, 477,548 acres; fee mineral 410, 416.

**ROSS SWIMMER**, related that a team from the audit review group came to Blackfeet to talk to people. An effort was made to find actual evidence, but found a brick wall. They found signed deeds but could not prove if it is right or wrong. Because of the use of their native language they tried to find they fully understood the transaction.

We can go back and find the records of most transactions. With the new systems, Mr. Swimmer believes that it is going to make a difference, faster and more accurate.

**KEITH BEARTUSK**, stated that he and Ross Denny were being named as a co-conspirator. He stated that they were not privy to any of the visits but did state that when allegations are brought forward, it's going to have to be based on real solid documentation.

**DARYL LACOUNTE**, stated the BIA appreciates Mr. Reeves and his requests.

**LEON VIELLE**, cited the U.S. Constitution and international policies. He reminded everyone that the reservation has 70% unemployment and almost everybody is on general assistance.

**CRAIG IRON PIPE (Painted Horse Rider)**, gave the history of trying to get his land consolidated. He got a land appraisal from the City of Cut Bank. The BIA kicked it back 3 times and finally approved it. He was happy to consolidate his land, an undivided interest. An appraisal is good for 18 months and one day after 18 months the BIA called and said to wait, they left out a section. He was told to reapply. He was required to get it appraised again. The BIA rejected the original appraiser and gave him a list of appraisers they would accept. It took the BIA 5 years to the appraisal through the BIA. By that time the application had expired and the application redone. It was redone and needed signatures and the BIA employee passed away.

Mr. Iron Pipe's land is in a lease of undivided interests and he leases the those interests. The IIM system forces him to borrow money to pay himself until a check arrives.

**THELMA RIDES AT THE DOOR (Woman Steal Same Horse Three Times)** stated that she had made a loan that was to be paid back from her lease money. She went to get a new loan and the BIA told her money had not come in to pay off the loan.

**GLEND A GILHAM**, wanted to know something more indepth about direct deposits for her lease money. She also gave a history of the Hutterites, local neighbors of the Blackfeet who come to the reservation to buy land. She encouraged members to not sell their land.

Her father died recently and she will inherit a "bunch more fractionalized, little pieces of land." She asked for more help at probate.

**DARRYL LACOUNTE**, spoke to Mr. Iron Pipe's issues and was concerned that the BIA was not consistent in billing owners interest as a part of owners use when owner leased the parcel. Also we need lessees who care about the land and do what it is they do. Weeds, erosion, trespass, are issues the BIA deals with. As to stewardship, the BIA ensures that the property is used in the best manner and not damaging.

**KEITH BEARTUSK**, explained that the BIA has limited staff, limited resources, and a whole lot of workload. It is unfortunate and there should be a better response. If law enforcement has a murder it will take precedence over a trespass. BIA,however, must take issues as they come in. You cannot take a new issue and put it right at the top of the pile.

Mr. Beartusk urges Ms. Rides at the Door to come to him with more specifics. He suggested that Ms. Gilham talk to Jay St. Goddaard about the issue with the Hutterites and remember individual rights. Individuals have the right to sell their allotment to the highest bidder. Indian Land Consolidation funds may help for the tribe to be the highest bidder.

**CLIFF HALL**, recognized Leon as a Blackfeet firefighter and encouraged the council to hire them as they are the best in the nation. He told Mr. Iron Pipe he appreciated his tenacity. He told Ms. Gilham he would talk with the Federal Credit Union. He also told her to pull the family together and the family can lease to whoever they want.