

USDA Report Out on Tribal Consultation on Barriers to Access: Farming, Ranching, and Conservation

2024 BARRIERS TO ACCESS TRIBAL CONSULTATION AND LISTENING SESSION
REPORT OUT

U.S. Department of Agriculture (USDA)
Farming, Ranching, and Conservation: Barriers to Access
April 24, 2024
Virtual Meeting

Mission Areas: Farm Production and Conservation (FPAC), Marketing and Regulatory Programs (MRP), and Rural Development (RD)

Agencies: Farm Service Agency (FSA), Natural Resource Conservation Service (NRCS), Risk Management Agency (RMA), Animal Plant Health Inspection Service (APHIS), and Rural Development (RD)

Consulting Officials:

- Gloria Montaño-Greene, Deputy Under Secretary, Farm Production and Conservation (FPAC)
- Louis Aspey, Associate Chief, Natural Resources Conservation Service (NRCS)
- Astor Boozer, Regional Conservationist, NRCS
- Marcia Bunger, Administrator, Risk Management Agency (RMA)
- Zach Ducheneaux, Administrator, Farm Service Agency (FSA)

Facilitator: Heather Dawn Thompson, Director, Office of Tribal Relations (OTR)

I. Opening Prayer, Welcome, and Opening Remarks

II. Nation to Nation Consultation (Tribal government officials)

A. Co-Location of FSA/NRCS/RD Offices on Reservations

- Tribal leaders emphasized the need for foresters to develop and perform conservation plans for climate smart practices, noting that the closest forester is four hours away. Regarding disaster assistance programs, Blackfeet noted drought conditions that increase harassment from predators, like bears and wolves, and the abnormal number of dry cattle.
 - NRCS is building capacity to increase technical assistance to tribes for projects on Tribal lands. The agency will soon advertise for their own Director of Tribal Relations who will focus on coordinating between regional and state conservationists and tribes to increase the level of access and utilization of NRCS programs.
 - USDA's Livestock Indemnity Program, administered by FSA, continues to seek flexibilities to serve producers within disaster assistance authorities, particularly to issues regarding predation and unbred females.
- Tribal leaders expressed concerns about virtual versus in-person field offices, stating that Indian Country is not ready because broadband is not widely available for remote access; in-person relationships are vital to building trust. The Tribe also noted that amendments to the NRCS handbook are a good start, but the agency also needs to look at how conservation practice standards are

written. They noted that some NRCS standards go against the Bureau of Indian Affairs' (BIA) grazing Code of Federal Regulations (CFR), which means that NRCS' grazing practices cannot be used by Tribal producers due to conflicts between Tribal ordinances and NRCS program rules.

- NRCS acknowledged the need for more staff and service centers and noted that broadband is an issue for agency field offices as well. The agency informed Tribal leaders that NRCS is hiring more staff.
- NRCS confirmed that conservation practices standards are being revised to include more indigenous traditional ecological knowledge (ITEK). The agency acknowledged that there is more to do to meet Tribal needs and they are making progress, including adapting to traditional grazing practices and other ITEK.
- Tribal leaders noted that while virtual connections are possible, it can still be difficult for Tribal nations that do not have necessary supplies or equipment. The Tribe recognizes the number of virtual participants in the current consultation that could contribute without incurring travel expenses, but this does not meet in-person needs and requires a platform that works effectively.

B. Coordination with Bureau of Indian Affairs

- Tribal Leaders spoke to RD about beginning farmers and ranchers who are prohibited from building homes on family ranchers. The tribal nation mentioned that this was due to a lack of permissions to build on lands designated as solely agriculture lands and there is no lending mechanism for home ownership. The tribe proclaimed a need for a stop-gap measure that would allow homes to be built on ranch land. They also mentioned that there are lending problems regarding allotment and land ownership. Finally, the commenters emphasized that Tribes need legislative changes to help Indian Country deal with dumping of horses in Indian Country, which is contributing to overgrazing, damaged rangeland, and the prevention of conservation and restoration efforts
 - NRCS said that it is working on technical assistance to Tribal lands. Currently, the agency has 160 staff across the country to work on tribal lands or related issues, but the Agency acknowledges that number is not enough and plans to increase staffing.
- Tribal Leaders highlighted the transition from BIA to USDA's leadership and support over the last four decades and noted that Indian Country needs to have a clear understanding of the roles of BIA versus USDA. They also noted that through their agricultural leasing rules and trust responsibilities, BIA needs to simplify their ability to approve USDA conservation practices. The Tribe requested the use of Global Positioning Survey (GPS) technology rather than legal surveys to gather data in a more efficient, less expensive way (GPS surveys can be sub-meter accurate on locations depending on the quality of equipment used to gather the data).
 - USDA informed Tribal leaders that it is in the process of renewing a Memorandum of Understanding with BIA. USDA recognized the need to make sure it is working and to get deliverables. USDA committed to reviewing the emergency conservation program.

USDA Report Out on Tribal Consultation on Barriers to Access: Farming, Ranching, and Conservation

- Tribal leaders followed up on previous comments about 638 authority and that this authority was supposed to provide rent for spaces that the agency occupies.
 - USDA clarified that 638 contracting authority applies to DOI rather than USDA, but USDA is working with BIA to explore partnership opportunities, particularly with RD.
- A Tribal proxy shared their concern with FSA requiring a BIA signature for the zero-interest signature line in the Conservation Reserve Program (CRP-1 contract), stating that BIA is refusing to sign contracts under any circumstance. The Tribe explained that people who want to sign up for contracts on 1:1 allotments cannot participate due to BIA barriers. They also noted that allotted and fractionated lands face federal oversight challenges, which appear to have differing experience from state to state.
 - USDA reiterated the desire to make the USDA-BIA Memorandum of Understanding (MOU) more capable of measuring progress and will make sure this point is addressed. USDA committed to controlling what it can to meet producers where they are, but clarified that it cannot extend controls to BIA. Also, FSA will work to make sure that its programs are getting to Tribes and accommodate producer needs under statutory authority when able. USDA acknowledged its responsibility in filling the gaps between USDA and BIA.
 - USDA acknowledged the challenges that listing BIA as the landowner creates in programs across the Department. USDA noted that this issue was also previously addressed by the U.S. Forest Service because naming BIA as the owner categorized Indian trust lands as federal lands and revoked eligibility for Tribal trust lands. USDA fixed this issue to make trust lands eligible for use as base property and program participation. USDA committed to continue similar work to fix issues in other areas.

C. Unmet Budget Needs

- Tribal leaders shared concerns that the Livestock Indemnity Program is too restrictive in validation and too low in payment.
 - FSA agreed to continue to look at how disaster programs can better serve Tribal nations.
- Tribal leaders expressed a need for technical assistance network because there are not enough NRCS staff in their area. The Tribe mentioned the possibility and need for USDA to contract with a third-party vendor system to provide technical assistance. The Tribe also referenced a 2008 Farm Bill provision that removed the requirement for Tribes to provide space for USDA. The Tribe asked why USDA does not fund these offices. Regarding alternative funding arrangements (AFAs), the Tribe noted the length of time it took to get those from law to implementation and emphasized the need for more outreach to inform others of these opportunities. They also stated that AFAs are not coming to fruition in conservation stewardship.
 - OTR highlighted investments in the Intertribal Agriculture Council (IAC) for this purpose. This does ask a great deal of IAC, but this is one way that USDA is working to address the need for technical assistance services across Indian Country. USDA also informed the

- Tribe of a pilot concept that uses OTR funds to place technical assistance providers directly in Tribal governments. OTR is funding three Agriculture Ambassadors in three Tribal nations.
- Across USDA, agencies are considering long-term solutions to increase offices and expertise in Indian Country. OTR is collaborating with FSA to evaluate staff hiring to ensure required knowledge and skill sets about Indian Country producers and Tribal land tenure.
 - OTR acknowledged office funding as an unmet need and informed Tribes that the Farm Bill passed mandate with no funding to USDA to supply office spaces. The agency committed to putting this on the “unmet needs” list.
 - NRCS agreed that AFAs need to be marketed widely and NRCS needs trained staff that can talk to Tribes regarding these opportunities. NRCS confirmed that these conversations are happening, but there is still more to do. The agency informed Tribes of three AFAs currently underway and said these can serve as a template for others. NRCS informed Tribal leaders of the Regional Conservation Partnership Program which offers \$100 million as a Tribal set-aside AFA and is open through July 2, 2024.
- Tribal leaders expressed concerns over how unaffordable crop insurance is for Indian Country and emphasized how training, outreach, and more adjusters would not address the root cause. The Tribe said that crop insurance needs to be more affordable because without that, Indian Country does not have a safety net. The Tribe referenced the FSA Livestock Forage Program (LFP), which they feel needs to mirror Emergency Assistance for Livestock, Honey Bees, and Farm-raised Fish (ELAP) for cost share. The Tribe noted that the Noninsured Disaster Assistance Program (NAP) loss calculations underrepresent actual losses. Regarding the Emergency Conservation Program (ECP), the Tribe highlighted a need for reform stating that ECP is not a true emergency program because the process requires a lengthy amount of time to get practice on the ground.
 - RMA explained that congressional recommendations look at increasing subsidies for higher and lower levels of coverage or even make low levels of coverage available at no-cost. USDA encourages Tribal leaders to engage in conversations with adjusters to understand rates and options and noted that RMA determines and reviews those rates which, in some areas, are very affordable. RMA’s Livestock Revenue Program (LRP) program may also offer additional options.
 - USDA informed Tribal leaders that LFP is strictly prescribed in statute and cannot deviate from the law without reducing its size, but ELAP provides more discretion. Through the NAP working group, FSA is looking at solutions. FSA staff need to better understand the use of ITEK and how it can be incorporated in the NAP program.
 - USDA responded to comments about ECP by informing Tribal leaders that FSA is seeking procedures that would streamline the process to have Tribal Historic Preservation Officers (THPOs) more involved in the completion and acceptance of ECP projects. The agency is working

to coordinate efforts with the BIA and this topic will be included in conversations when renewing the BIA-USDA MOU.

- A Tribal proxy reinforced comments on AFAs and encouraged them to be included in the Farm Bill with support from appropriations.

D. Other

- Tribal leaders informed USDA about requests for information on lien holders for cull cows related to purchases of hamburger from the Blackfeet Nation. The Tribe is concerned about lienholder requirements on sales paperwork and clarified that although the Food Distribution Program on Indian Reservations (FDPIR) program has been in place for several months, this is the first time that lienholders have been required on sales paperwork. They do not feel this is the responsibility of the Tribes to get signatures from lienholders to verify legal ability to sell cattle products. The Tribe requested that USDA feedback because this was not a raised issue when the grant was awarded and there is still a need of 8-10 cows per month through July 2024.
 - USDA informed Tribal leaders that a guidance/policy is coming to the field. They further clarified that the Tribe should not be doing a lien search.

III. Listening Session (Open to Indian Country speakers)

A. Co-Location of FSA/NRCS/RD Offices on Reservations

- A commenter stated that the [*Indigenous Stewardship Methods and NRCS Conservation Practices Guidebook*](#) suggested that more NRCS staff become trained on the guidebook, as Tribes often need to educate NRCS on NRCS' internal materials. This should not be the responsibility of Tribes and takes away resources from Tribes. The commenter also encouraged further updates and engagement with Tribes, noting that Tribes need NRCS field staff out in the field to see positive results from Tribal practices and to teach them why Tribes are working so hard to restore ITEK.
 - NRCS stated that it plans to update the Guidebook and provide training on ITEK in conservation planning. NRCS also noted that the Indigenous Stewardship Methods (ISM) working group has been working hard to incorporate ITEK and Tribal management strategies into practices, scenarios, and payment schedules. USDA informed Tribal leaders about the Indigenous Stewardship Methods Evaluation ([*CEMA 222*](#)) in which USDA is working to include ITEK in prescribed grazing practices, and the interim planting practice.
 - NRCS informed attendees of the bison collaboration working group and its work with federal, state, tribal, and university experts on disseminating information on bison. The agency also noted the interim conservation practice standard on culturally significant plantings for soil health. USDA is working with Tribal advisory councils to incorporate and promote ITEK in business streams as well but wants to do more.

B. Coordination with Bureau of Indian Affairs

- FSA was asked whether it is involved with BIA's proposed changes to agricultural leasing.
 - FSA informed attendees that it is very engaged and provided substantive comments on early draft language. FSA clarified that the feedback was informed by work in Indian Country and input from Tribes. The agency included a comment on land valuation and informed Tribal leaders and public attendees that the BIA tries to secure

USDA Report Out on Tribal Consultation on Barriers to Access: Farming, Ranching, and Conservation

- the highest bid on the lands, which it acknowledged can come at a detriment to the land. USDA recognized that leases would help to disincentivize clearcutting of land.
- A Tribal representative asked USDA if it has worked with BIA to help make the Tribal enrollment processes more straightforward, particularly with 10-year lease programs. They also questioned whether Tribal producers could sign up in middle of a ten-year BIA lease for a Climate Smart Commodity project. They wanted to ensure that Native producers could implement practices more efficiently to address conservation in Indian Country and called for a way to expedite agency reviews.
 - USDA clarified that these programs are held by NRCS and FSA administers the funding, but they have not yet worked with BIA. FPAC committed to follow up on whatever specific issues producers are encountering and how USDA can assist.
 - A commenter underscored the issue with feral horses on Tribal lands and noted the major impact on Pueblo communities in the New Mexico where horses are often abandoned on Tribal lands. This representative provided an example of how their own community has tried addressing the issue, such as corralling, but are not seeing results and need support effectively managing Tribal rangelands.
 - FPAC committed to working with federal partners on this topic.

C. Unmet Budget Needs

- A commenter emphasized a budget need for Native youth in farming and ranching stating a need for support, knowledge, and capabilities to apply for loans.
 - FSA replied that the agency is putting responses into beginning farmer and rancher support and is looking at program barriers. FSA will work to educate its staff on working with youth and beginning farmers and ranchers from Indian country to support the need for the next generation agriculture producers.
- A Tribal member expressed concerns about cover crops, a lack of crop insurance coverage, and barriers to insurance for producers who plant cover crops. They noted that USDA insured crop coverage puts barriers on producers who want to plant cover crops and/or food crops on land and requested that USDA address this barrier to allow for grazing cover crop planting and food crops.

IV. Tribal Caucus Report-Out

- Caucus partners expressed gratitude and excitement for USDA partnerships for native producers and understood the frustrations of producers with the BIA. They noted a need for the USDA to put conservation practices on the ground and to look at alternative conservation ideas for buffalo.

V. Closing Remarks

- FPAC expressed gratitude for the dialogue and recognized that although the USDA has come a long way, there is more to do. FPAC agreed to consolidate notes from the day and use them to inform USDA partners of these issues and bring forth resolutions.