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UNITED STATES DEPARTMENT OF AGRICULTURE  
NATURAL RESOURCES CONSERVATION SERVICE  
LISTENING SESSION

In re: )  
Conservation Security Program )  
Proposed Rule. )  
)

Tempe, Arizona  
Tuesday, January 13, 2004  
1:00 p.m.

REPORTED BY: JUDY LOVE-HOSLER, Arizona CSR No. 50540

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1 P R O C E E D I N G S

2 MR. SOMERVILLE: Ladies and Gentlemen,  
3 we appreciate the opportunity to open this public  
4 listening session sponsored by the US Department of  
5 Agriculture, the Natural Resources Conservation Service,  
6 and also, the Farm Service Agency.

7 We do appreciate your attendance. We do  
8 expect others to wander in, and so we will maybe  
9 backtrack a little if we get a large group, but we do  
10 want to start.

11 This session is scheduled as an effort  
12 to implement the Food Security and Rural Investment Act  
13 of 2002. That's the act that Congress approved, and  
14 it's commonly known as the 2002 Farm Bill.

15 The conservation provisions of the farm  
16 bill have many various rules. Today, we are here to  
17 talk specifically and listen to your comments and  
18 opinions on a new program that's being proposed.

19 The rules have been published, titled  
20 the Conservation Security Program, and that's the  
21 purpose of this meeting, to listen to the public as  
22 those rules have been printed in the Federal Register  
23 January 2.

24 Those of you who are here will have an  
25 opportunity later in this program to comment publicly.

1 I believe there's also in the room a place you can  
2 deposit written comments if you would like, and that's  
3 over in the back of the room, Shirley Gillum. Shirley  
4 is the one in charge of that area. Wave, Shirley.

5 So if you would rather not speak and  
6 just leave your comments, that's very acceptable.

7 We appreciate the opportunity to listen.  
8 I've got some officials here from USDA who we need to  
9 hear from, and I will introduce them at this time.

10 The microphones are set up, as you can  
11 see, and there will be a roving mike for the public  
12 session later.

13 So with that, I'd like to again welcome  
14 you, and we appreciate your attendance here and your  
15 interest in USDA programs.

16 I want to introduce these folks here at  
17 the head table and let's figure out who these people  
18 are.

19 The person to my immediate left is  
20 Katherine Gugulis. Kathy is the Deputy Chief for  
21 Strategic Planning and Accountability, and if I didn't  
22 get that correct, she's going to correct that in a  
23 minute. She's close to our chief, headquartered in  
24 Washington, and here to represent the chief and to  
25 represent the programs that we are proposing in these

1 published rules.

2 Rick Van Klaveren is next to Kathy.  
3 He's the regional conservationist for the West, the  
4 western states and the high plains states, and Rick will  
5 also speak to us, and he has some direct words from the  
6 chief, Chief Bruce Knight, and we would appreciate those  
7 words.

8 Then, Carole Jett on the end is the staff  
9 person, Associate Deputy Chief for Programs. Carole is a  
10 key person in our operation who has made many of these  
11 Farm Bill programs work in terms of moving the rules  
12 through the process and getting the programs  
13 implemented. So Carole, we really appreciate you being  
14 here today and we'll also get to hear a few words from  
15 Carole.

16 David McKay on her right, is one of the  
17 top staff people and probably knows these rules as well  
18 as anyone, and had quite a bit to do with the developing  
19 of the technical aspects of the Conservation Security  
20 Program.

21 We are fortunate to have David because  
22 his roots are in the Southwest. He has lots of  
23 experience here and will be actually later in the  
24 program making a presentation about the Conservation  
25 Security Program.

1                   So with that, I want to introduce some  
2 staff people.

3                   Jon Hall, who is in the back, is  
4 responsible for all the local arrangements here, and  
5 Jon has got a staff here of people that have helped put  
6 this together. Jon, we appreciate your help on this.

7                   With that, I'm going to ask Rick Van  
8 Klaveren to come and say a few words, and then, we'll  
9 ask Kathy, if you would, to speak to us, then, Carole,  
10 and then, following Carole's comments, we are going to  
11 turn the time over to Dave McKay. I believe, there's a  
12 Power Point presentation where we'll get into some of  
13 the proposed rules on Conservation Security Program.

14                   Rick?

15                   MR. VAN KLAVEREN: Mike, thank you so  
16 much, and this is Mike Somerville, incidentally, is the  
17 conservationist here in the State of Arizona, and we  
18 appreciate Mike for all of his efforts in this listening  
19 session as well, and I would also like to welcome  
20 everybody this afternoon to this listening session on  
21 the CSP.

22                   The CSP is one of the more exciting  
23 provisions of the 2002 Farm Bill, and this public input  
24 is very important to the particular success of this  
25 program.

1           The proposed rules for the Conservation  
2 Security Program appeared in the January 2nd edition of  
3 the Federal Register with a 60-day period for public  
4 comment.

5           Today's listening session is one of ten  
6 sessions announced in the Federal Register to be held  
7 for public comments, which will end on March 2nd.

8           These ten sessions, and plus there's a  
9 couple of informal sessions held by the NRCS offices  
10 around the country, will give all interested parties the  
11 chance to comment on the proposed rule.

12           Michael alluded to it a little bit, that  
13 we really do want these comments. If you think of  
14 something that we don't think of today, please feel free  
15 to write a letter suggesting these comments if it's  
16 tomorrow or the next day or any time up to March 2nd or  
17 e-mail them to us.

18           Now, this proposed rule -- and that is  
19 all it is right now -- is proposed. NRCS will study  
20 every comment and come up with a final rule that  
21 incorporates all the best ideas and comments from these  
22 informal sessions around the country.

23           To me, there are many reasons to be  
24 excited by the Conservation Security Program. First,  
25 it's a new approach. It will recognize conservation

1 achievements on working farms and ranch lands by  
2 identifying and rewarding farmers and ranchers who meet  
3 high standards of conservation and environmental  
4 management on their operations.

5 This is really an exciting piece to me.  
6 I think we have never had this opportunity to work with  
7 farmers and ranchers before in relation to conservation.

8 Second, it's a unique approach. No  
9 other federal conservation program rewards agricultural  
10 producers for their overall conservation effort.

11 Third, it will help the producers  
12 maintain existing conservation stewardship programs and  
13 make additional environmental gains by implementing  
14 additional conservation measures.

15 CSP will also motivate producers to be  
16 better stewards, by recognizing producers who practice  
17 good stewardship and provide the environmental benefits  
18 that society truly expects.

19 The Conservation Security Program  
20 provides strong incentives for producers to improve  
21 their stewardship sufficiently and fully participate in  
22 the program.

23 Anne Veneman made a very short statement  
24 about the CSP, and in that statement, she really  
25 summarized it very well when she said CSP will reward

1 the best and motivate the rest, and I don't think you  
2 can make that statement any clearer and in less words  
3 than what she did in that comment.

4 The conservation benefit gained through  
5 the Conservation Security Program will improve the  
6 conditions of these resources on our farms and our  
7 ranches and enhance natural resources for the public as  
8 a whole.

9 Again, Mike, thank you for this  
10 opportunity to say a couple of words, and I'm truly  
11 excited for the opportunity to be here. We truly want  
12 to hear what you have to say about this program. So  
13 thank you.

14 MS. GUGULIS: Well, good afternoon, all.  
15 It's really great to be out here in the West. I came  
16 out a few years ago and toured around with Mike and when  
17 I had the opportunity to come out to you and listen to  
18 you about this new exiting program, I thought it would  
19 be great to volunteer for Arizona. So here I am.

20 As Rick has already told you, this is a  
21 different program for NRCS. It does reward the best.  
22 It is a different focus than just trying to fix  
23 conservation programs.

24 It is taking a really different approach  
25 to those folks who are the best stewards. Let's try to

1 recognize them through some financial payments rather  
2 than just always be helping out the folks that maybe  
3 have some problems. So it turns it around and it's  
4 really going to reward good stewards.

5           So I think this is very exciting. There  
6 are lots of details to work out. You do have a proposed  
7 rule and we are asking for your comments. We had an  
8 opportunity today to hear from some other folks, who  
9 Dave and Carole helped put together some of the details,  
10 and we will share those with you, and get the  
11 opportunity to exchange ideas and discuss these.

12           There are some interesting funding  
13 challenges. The first year, it is a capped entitlement  
14 program. It's \$41 million, but right now, Congress has  
15 got it capped at \$3.77 billion over ten years.

16           So it sounds like an awful lot of money,  
17 but you would be surprised how fast we can spend it, and  
18 thinking about ways to do that and make the best  
19 environmental investment that we can and get the most  
20 out of this program is going to be a challenge for us.  
21 So those are some things that definitely need your  
22 comments.

23           We do see this program as exciting. We  
24 get to leave the generations that are coming ahead with  
25 a conservation legacy with the implementation of the

1 CSP. So again, we are at the very beginning of an  
2 exciting new time.

3 I also want to recognize that we have  
4 two other state conservationists here, Rosendo Trevino  
5 from New Mexico, and Livia Marques from Nevada. So it  
6 is good to hear from some of you who may be outside the  
7 state.

8 With that, I'll turn it back to you,  
9 Mike.

10 MR. SOMERVILLE: Very good. Thank you,  
11 Kathy and Carole.

12 MS. JETT: Hi. My name is Carole Jett.  
13 I just wanted to talk with you very quickly. The packet  
14 that you might have gotten when you came in, if you  
15 didn't pick one up, we'd ask you to go ahead and get one  
16 if you'd like.

17 It's called "Natural Resource  
18 Conservation Service Listening Session." It is a  
19 one-page document, and basically, it tries to describe  
20 what a listening session is about.

21 During the rule making process, it is  
22 very rigorous and there are severe constraints on those  
23 of us that are rule makers.

24 The process is extremely confidential.  
25 And so there is very little that leaks out during the

1 rule making process until the rule is actually published  
2 for review for the Federal Register and that was -- you  
3 know, it came out on January 2nd.

4           So the listening session idea is about  
5 us listening to you. It's not a debate. We are not  
6 here to defend the proposals that we have, but we are  
7 here to provide you with technical answers if you have a  
8 specific technical question.

9           We want to get your ideas particularly  
10 on any concerns you might have or on new ideas that you  
11 might have that would be better than the ones we came up  
12 with in our sequestered rule making process, and that is  
13 really what we are looking for.

14           There is also a comment sheet. You do  
15 not have to use this format. It is one that we were  
16 asked by some of the folks to provide so that if there  
17 is -- to point out specific places in the regulation  
18 where we've asked for comment.

19           You can comment on a napkin. You can  
20 send it on e-mail. You can use, you know, a variety of  
21 ways to get the comments in, and we want to get those  
22 from you in any form that you chose to get them to us,  
23 and on any of the pieces of the rule.

24           In terms of the regulation, you  
25 hopefully picked up a Federal Register notice. You

1 might be here because you have heard about the CSP  
2 program and you're trying to get more information. It  
3 might be even the first time you've actually seen a  
4 Federal regulation.

5           If you go from the back, go to page 214.  
6 Actually, the regulation begins on page 214. It says  
7 part 146, Conservation Security Program. That's  
8 actually where the regulation section begins. So that's  
9 really the key part of the rule.

10           The part before that, starting on page  
11 196 where it starts out by saying discussion of the  
12 Conservation Security Program, between page 196 and 214,  
13 it attempts to describe the process that we went through  
14 in making the regulation up, and there are certain  
15 things where we try to describe the thought process that  
16 we used, the types of things we considered, and some  
17 alternatives to what is actually in the regulation.

18           So then the part before that, the first  
19 sections are what we call analyses, regulatory analyses.  
20 So we've got the regulatory analysis, the discussion of  
21 the rule. We call that the preamble, and then, the  
22 regulation itself. So it sometimes can get confusing if  
23 you're not familiar with regulations, where exactly is  
24 the actual thing we're going to implement and that would  
25 be the actual regulation line which is at the end.

1                   So I wanted to point that out. If you  
2 haven't had a chance to read the rule, you can comment  
3 all the way up to March 2nd.

4                   This is our first listening session, and  
5 so, please feel free to let us know today what your  
6 thoughts are or your ideas, and then, feel free to  
7 comment as many times as you care to until the comment  
8 period is over.

9                   With that, I'm going to go ahead and  
10 turn it over to David McKay, who is going to walk  
11 through a technical presentation of the rule for your  
12 use.

13                   MR. MCKAY: I'm going to get out here in  
14 front so I make a little bit better target than sitting  
15 behind the table up there.

16                   I want to give you a pretty decent  
17 overview of the CSP, go through some of the areas that  
18 are really, you know, functional to the program, but  
19 areas also that could be an area that you may want to  
20 offer some comments and maybe explain some of those  
21 areas to give you an idea of what we were thinking when  
22 we crafted the proposed rule to give you some of the  
23 parameters that we had to work within as we were going  
24 through the rule development.

25                   Everybody says that the CSP offers us a

1 new day and a new way to provide conservation. It is  
2 very much a program that looks at historic conservation  
3 and begins to reward producers for that work and effort  
4 that has gone into producing a conservation farm.

5 All the other programs that we have are  
6 either retirement programs such as WRP, CRP, that sort  
7 of thing, or remedial like EQIP or WHIP where I have a  
8 problem, put in a structure or something, fix it and go  
9 on.

10 But CSP is looking past. That the  
11 person that typically goes into CSP also has the  
12 structural measurements applied and they are at the  
13 point where they are making some decision to really  
14 enhance and improve the environment.

15 We want to recognize those  
16 conservationists that are really the prime example of  
17 conservation stewardship, and really provide incentives  
18 within the program for other people to achieve that same  
19 level of conservation.

20 We will start the process by saying what  
21 we call the bench mark of a person's agricultural  
22 operation. We will look at similar concerns as soil  
23 organic matter, nutrients, pesticides and get an idea  
24 through assessment tools where a person is within their  
25 conservation program.

1                   This identifies whether or not they've  
2 met the minimum requirements to get into the program.  
3 It also identifies areas where they could maybe adopt  
4 new activities or practices or they have done a good job  
5 or are willing to do a better job. We could offer some  
6 incentives through enhancement things.

7                   When we get into these enhancement areas  
8 where we are really looking at achieving something above  
9 those minimum standards, we are really looking at  
10 improving our environment overall.

11                   Of course, the biggest challenge that we  
12 have faced with the program, when the 2002 Farm Bill  
13 came out, CSP came out as an entirely new program, no  
14 funding limits as well, very few constraints on what  
15 needed to be in a contract for a person to participate.

16                   Looking at a program like that, we did  
17 some mock sign-ups about a year ago with about 60  
18 producers that came in through the door. They weren't  
19 pre-selected or anything, just using the requirements in  
20 the statute, and 59 out of 60 producers were eligible  
21 for the program and over half were in Tier II and many  
22 could move within a year to Tier III and nearly all were  
23 at the cap of the contract cap. So we were looking at  
24 just a tremendous program in scope.

25                   So we needed to begin to put in some

1 parameters and look at things that would provide some  
2 environmental benefit not only to the producer, but to  
3 society as a whole.

4           Then, Congress came along in 2003 and  
5 decided we are going to maintain an entitlement program  
6 but we are going to cap it at \$3.77 billion. That  
7 offered new challenges to us who were writing the rule  
8 and because now we, by statute, and by entitlement, if a  
9 producer meets the minimum requirements, they get paid,  
10 and if a lot of people meet those requirements, then we  
11 have to stay within that cap. We are limited to stay  
12 within that.

13           So what happens, if many, many people  
14 get in and are eligible for payment, they may be  
15 eligible for a \$14,000 payment, but then, we would look  
16 at prorating for those people that are in there.

17           So we needed to build some flexibility  
18 in the program to manage that population of  
19 participants, and also, manage the expectations that  
20 people had from the program.

21           The CSP as we know it went through about  
22 eight or ten iterations before it was actually passed  
23 into law. So there is a lot of expectations among the  
24 general public that all I need to do is a practice or  
25 two and I'm going to get something for that, and that is

1 really not true and it wasn't true as the statute was  
2 passed.

3           The second part of that is that people  
4 say, well, it's an entitlement. That means I get paid.  
5 Well, you've got to meet some requirements for that and  
6 we are looking at the requirements that it would take to  
7 manage the number of participants that could get in.

8           In sequence, as far as how we are going  
9 to look at the types of requirements for a person to get  
10 into the program by the proposed rules, all of this is  
11 open to comment. So if you have an area that you don't  
12 really agree with. We need to know that. If it is an  
13 area you do agree with, we need to know that as well,  
14 and if you have other ideas, we are open to that as  
15 well.

16           Eligibility requirements. By statute,  
17 most of these are within the statute itself. We require  
18 that it be privately owned land or tribal land. By  
19 statute, that leaves out state lands and federal lands,  
20 even long-term lease. It is privately owned or tribal  
21 land. That is the requirement.

22           We have added the priority watershed.  
23 I'll get into that later, but we are requiring that the  
24 majority of the agricultural operation be within the  
25 watershed. It has to be in compliance with the wetland

1 provisions of the 1996 Farm Bill as amended in '96.

2           They must have an active interest in  
3 operation. That comes from the agricultural producers.  
4 That again is within the statute itself. I'll go into  
5 that in a little more detail later.

6           We have added that we wanted that  
7 producer or that participant to show control of the land  
8 for the life of the contract. This keeps people from  
9 just jumping in here and jumping out. We would like to  
10 see that they have some history behind the place that  
11 they are farming, some reason to expect that they will  
12 be there for the duration of the contract.

13           The next is that they need to share in  
14 the risk of the operation and be entitled to share in  
15 the operation. That cuts out cash rent landlords. The  
16 last is it must meet specific requirements for the tier.

17           The screening process, we will go  
18 through land eligibility, producer eligibility, all the  
19 way to the contract selection, and how we propose the  
20 rules to make this a functional program.

21           In terms of land eligibility, by  
22 statute, the eligibility might be vinelands, cropland,  
23 pasture, range land. It is really targeted toward CRP,  
24 WRP, and those requirement-type programs are not  
25 eligible for payments under CSP.

1                   Also, if you've broken out any lands in  
2 anticipation of getting a cropland base program in the  
3 years 1996-2002, that land will not be eligible for  
4 payment in this program as well. Forest land is not  
5 considered as an eligible land use either.

6                   Under producer eligibility, by statute,  
7 that producer means an owner, operator, landlord,  
8 tenant, or sharecropper that shares in the risk of  
9 producing the crop, and is entitled to a share in the  
10 production of the crop or livestock being produced on  
11 that unit.

12                   There again, by definition, if you're a  
13 landlord that just says, okay, I'm going to lease it to  
14 you for \$7 an acre, send my money to Florida and I'll  
15 cash the check when I get it, that person doesn't really  
16 share in the risk. They're going to get their money  
17 whether the producer does well or not.

18                   In terms of a tenant where the landlord  
19 shares in the risk of what the producer makes, then this  
20 person then would be eligible to sign up as a  
21 participant.

22                   Another significant definition, in the  
23 statute, the term agricultural operation is mentioned  
24 about 13 or 14 times, but never defined.

25                   The agricultural operation is very

1 significant in terms of determining what tier that  
2 you're in and the extent of the conservation treatment.  
3 So it really impacts the amount of payment that person  
4 can receive. That agricultural operation then, the  
5 definition becomes very, very important.

6                   There is also -- you know, many times,  
7 the producer is looking for a way to reconstitute their  
8 unit to make it more -- they split their places up so  
9 maybe they can get three, four, or five different  
10 contracts. So in terms of defining an agricultural  
11 operation, we need to look at the entire conservation  
12 management unit.

13                   So the way that we've proposed to define  
14 agricultural operation is that it would include all  
15 agricultural land and other land. It is important to  
16 see that other lands are in there. Farmstead, feedlots  
17 and things like that that are integral to the  
18 agricultural operation and are used in the day-to-day  
19 business and will also be a part of that.

20                   The producer needs to be able to treat  
21 that other land as part of the operation with the same  
22 degree of intensity as they are treating the  
23 agricultural land, particularly for Tier II or III. If  
24 I give someone a large payment because they are doing  
25 very well on the cropland, but they have runoff from the

1 feedlot, that doesn't meet the terms of the program. So  
2 the other operations in that unit would also be  
3 coordinated.

4           It is either contiguous or  
5 noncontiguous. In other words, you may have several  
6 parcels of land within one county or two counties or  
7 whatever, but it is under one person who is making the  
8 decisions on when to plant, when to harvest, when to  
9 sell the cattle, move the cattle, that sort of thing.

10           It all becomes part of a comprehensive  
11 or cohesive management unit, and that participant must  
12 be in active personal management. They need to be the  
13 one making the decisions.

14           So it's very important. In terms of the  
15 program, they are focusing on the person that is  
16 actually making the conservation management decisions,  
17 and if you go back to kind of thinking of the philosophy  
18 of the program to reward the best producers, the  
19 structures is usually, it is that day-to-day management  
20 where you are really gaining in terms of agricultural or  
21 in terms of environmental benefit.

22           If I'm not managing my crop residues,  
23 that is an annual kind of thing. There is no structure  
24 involved there, but I make that decision on whether or  
25 not to gain some environmental benefit or not.

1                   If I look at grazing lands and I graze  
2 them down to the ground or I make the choice to go into  
3 a prescribed grazing system, that is kind of an annual  
4 thing. I can get out of that just as easily as I got  
5 into it, but it is important to realize that is an  
6 annual ongoing thing, and that kind of conservation  
7 effort is what we are focusing on in terms of that  
8 active personal management.

9                   Next is priority watershed. I'm certain  
10 there is questions involved in that, on what exactly  
11 that means.

12                   If you think about it, go back to the  
13 dollar sign in limiting the amount of participation, one  
14 way to do that is to look at the watersheds and color  
15 code them in terms of their potential to improve or to  
16 be improved. Let's look at watersheds that may have  
17 potential to improve water quality, soil quality, maybe  
18 grazing condition.

19                   Prioritize those watersheds in terms of  
20 how much of an improvement they could make, and then,  
21 select the best producers within those watersheds to  
22 show that actually, conservation is working in a  
23 particular area and other people can achieve it; this  
24 person is doing the job. That way, we are rewarding the  
25 best performers within these watersheds that show the

1 greatest potential. That is really key to the way we  
2 are going to prioritize the watershed.

3                   So we look at using an eight-digit  
4 hydrologic unit, prioritizing watersheds based on good  
5 science. We are looking at data from our national  
6 resources inventory along with other data that may  
7 indicate vulnerability of surface and ground water, soil  
8 quality degradation and improvement in the condition of  
9 grazing land. That kind of thing.

10                   Keep in mind we are seeking comment on  
11 this particular issue, and a lot of people are saying  
12 that is an entitlement, it should be nationwide to take  
13 care of all the watersheds. There are 2,101 of those  
14 eight-digit hydrologic units, and in each, you'll have  
15 several thousand potential participants.

16                   Just dealing with technical assistance  
17 in the program, we are limited to 15 percent of the  
18 expended funds during the year. We have to balance out  
19 between our financial assistance in terms of contracts  
20 and the technical assistance in terms of getting people  
21 in there and servicing the contracts.

22                   It's very significant whenever you look  
23 at the amount of population, the potential population  
24 for this program. There is like 1.8 million potential  
25 participants for CSP.

1                   If we are to do a good job and close the  
2 side boards down to where there is 500,000 that could  
3 get in and they went through the bench mark inventories  
4 and rushed to the office and sat down with one of our  
5 planners for an hour and 20 minutes, that would cost 143  
6 million in terms of technical assistance, to give you an  
7 idea of what we are talking about here in terms of  
8 technical assistance and the amounts and how far this  
9 kind of money goes.

10                   So it is very important that we have a  
11 way to manage that participant population, and if in  
12 Congress next year, they open it wide up and we can  
13 expand the number of watersheds. If they close it down,  
14 we can close it down.

15                   So this gives us a very good way to  
16 scientifically prioritize the watershed and be flexible  
17 enough in terms of the population that we will be able  
18 to serve with the funds that are provided to us.

19                   The next thing in this is the treatment  
20 requirements.

21                   All producers minimally will at least  
22 meet soil and water quality resource concerns for all  
23 three tiers, and for Tier I, that would be part of an  
24 operating unit.

25                   For Tier II, we want them to agree to

1 one additional concern, and for Tier III, it would be  
2 all the other concerns in addition to soil and water  
3 quality.

4 We will look at the way that they manage  
5 the nutrients, the practices and things that are out  
6 there, all of these different activities and can either  
7 be used as a part of the minimum requirements, or we may  
8 be able, if you want to focus on certain activities, we  
9 can take them into an enhancement here.

10 Next is an enrollment category. This is  
11 another area that may be a little bit confusing to those  
12 of you who have just kind of gotten into reading through  
13 these rules.

14 The enrollment category idea actually  
15 came to us from the Veterans' Administration. They have  
16 a capped entitlement on the veterans insurance. All  
17 veterans are entitled to that insurance, but they don't  
18 have the money to pay all of them.

19 So they categorize and prioritize  
20 according to the population that they have that is  
21 eligible for that insurance. They fund the first  
22 category until it's completely funded, and they move to  
23 the next one and they move to the next one and move to  
24 the next one until the funds are exhausted. That is the  
25 way that that works.

1                   So there is precedence for managing a  
2 capped entitlement through using enrollment caps, and we  
3 adopted that because we have the same concern.

4                   So now, how do we look at and categorize  
5 people in these loan categories?

6                   What we are looking at is using that  
7 person's historical conservation efforts if they have  
8 applied, plus their willingness to adopt a greater level  
9 of conservation. So that is one aspect of that.

10                  The application then that we receive  
11 would be placed in the highest possible category, and  
12 then, when the funds come out, then we would go through  
13 those categories one category at a time until we've  
14 exhausted the money.

15                  Entitlement categories would be like  
16 soil conditioning index. Let's say that static  
17 condition is zero. If we have positive that is good,  
18 negative is bad. Let's say you would have to adopt  
19 activities that would move you from a .2 to a .3 in the  
20 soil conditioning index.

21                  Water quality practices and systems,  
22 what kinds of things are you doing, and the grazing land  
23 condition, we are looking at installing particular  
24 grading practices that would carry us through a positive  
25 ecological index.

1                   At-risk species, for example, we could  
2 use those as a possible enrollment category, and we  
3 could subcategorize even these areas in terms of limited  
4 resource producing in tiers, so they are in a funded  
5 category that they would get funded.

6                   Then we go through the contract  
7 selection process. The contract itself would show a  
8 schedule of activities that will be carried out during  
9 the contract period. Any kind of practice maintenance  
10 that would be included in that contract, any new  
11 practices that the individual would adopt, and, of  
12 course, the payment schedule for those practices.

13                   Now, keep in mind for a Tier I, Tier II  
14 and Tier III, Tier I, the minimum requirement by the  
15 proposed rule would be to meet water quality and soil  
16 quality criteria.

17                   For Tier II, soil and water quality  
18 criteria plus one additional concern, and tier III is  
19 all the concerns in the entire agricultural operation.  
20 We need to keep that in mind.

21                   There may be other requirements added.  
22 We are going to maintain some of that flexibility during  
23 our sign-up.

24                   Underneath that, we would have payment  
25 components that are particular to the cap within that

1 particular tier, and also, to the types of activities  
2 that a person is supplying.

3           The first comment would be a base  
4 component based on the number of acres that they are  
5 enrolling in CSP. You're going to get that payment if  
6 you were in a category where I met minimum requirements,  
7 I'm not going to do anything else. I don't really have  
8 any practices to maintain. Then you're payment would be  
9 the base payment and that's it.

10           In addition to that base payment, there  
11 is three other types of payments that can be added to  
12 your conservation security contract. One is the  
13 maintenance of existing practices. Two would be the  
14 adoption of new practices. Let's say that you wanted to  
15 put in a waterway or something like that. We could do  
16 that and cost-share that under the program.

17           The third would be the enhancement  
18 component. Look at the proposed rule on each payment  
19 category. There is really some significant changes for  
20 some significant proposals in terms of the computation  
21 of the base payment.

22           By statute, we have a national rental  
23 rate average, they annual rental rate for that land  
24 year, 2001, or we can use a regional equitable rate.  
25 That is based on 2001 rental rates. So we chose to

1 construct a regionally equitable rate. We use a rental  
2 factor that reduces the influence of that base payment.  
3 That rental factor is also up for comment, and you need  
4 to look at that.

5           The other thing is that the statute  
6 allows for practice maintenance to be up to 75 percent  
7 of the cost of maintaining the practice, and also, for  
8 new practices that are adopted, up to 75 percent except  
9 for beginning farmers to go up to 90.

10           In terms of competition with other  
11 programs and really, to address the area of enhancement,  
12 we've chosen to look at the reduction of those  
13 cost-shares. So take a look at that very closely in the  
14 proposed rule.

15           The enhancement component is also a very  
16 critical part of the entire contract. If we use that  
17 rental factor reduction, we really reduce the influence  
18 of the base payment.

19           We look at the maintenance payment as  
20 being very small, and then, as people began to apply  
21 more and more intensive management activities and other  
22 types of enhancement activities, you can kind of see the  
23 payments begin to go up in relation to the types of  
24 environmental benefit that we're achieving.

25           So if you look at these three little

1 sales, if you will, it would be possible to be in Tier I  
2 and get a higher payment than you would in Tier II  
3 depending on the amount of activity that is being  
4 applied on that particular part of the operation unit.

5 The enhancement components really focus  
6 on the extra environment benefit, and we are really  
7 making that a key part of this entire program.

8 In terms of, for example, base payments  
9 and maintenance payments, they are taxable income. The  
10 enhancement payment is conservational practice, the  
11 adoption of a new practice where we're paying for that  
12 and that is conservation oriented, that is not taxable.

13 So in terms of how these payments are  
14 distributed, we are choosing to put more influence into  
15 that area where people are really applying the  
16 conservation.

17 The types of enhancements that are  
18 listed within the statute are -- the first one would be  
19 to apply treatment in excess of the minimum requirements  
20 for the tier. Remember, the minimum tiers, meeting ATL,  
21 meeting the water and soil quality concerns for like a  
22 Tier I, et cetera.

23 The second is working on a priority  
24 local concern. For example, in the northwest, the  
25 salmon areas, that may be a concern. We could look at

1 applying enhancement payments for the treatment of that  
2 particular concern.

3 Farm demonstrations and pilots, this is  
4 kind of an interesting thing as far as I'm concerned.  
5 We have never been able to really, you know, recognize  
6 the benefit, and also, some of the costs associated with  
7 that farmer to farmer interaction.

8 So if you're doing a really good job of  
9 conservation and you may agree to do a farm  
10 demonstration where you get the neighbors over to look  
11 at stuff or you may use innovative conservation  
12 practices in a particular area, we can pay incentive  
13 payments or enhancement payments for that.

14 Another area in terms of cooperating  
15 with other producers within the watershed or other  
16 targeted areas, you need to have at least 75 percent of  
17 the participants within that defined area to participate  
18 in that particular resource concern before there would  
19 be an enhancement payment.

20 Last is in the area of monitoring and  
21 assessment of conservation practices. We have data on a  
22 lot of conservation practices, but it is very spotty at  
23 best, and in many cases, it doesn't exist in areas where  
24 we would really like to see some of this monitoring take  
25 place.

1                   We could actually provide a payment to  
2 producers to monitor water quality on their site or to  
3 assess the impact of certain conservation practices that  
4 are being applied out there and use that information  
5 more to further the program.

6                   Conservation tillage, for example, is a  
7 good practice. Well, prove it. In terms of monitoring,  
8 that would help us to do that, be able to say we have  
9 local information in your area that proves this  
10 particular practice is beneficial or not.

11                   So the ability to begin to pay people to  
12 monitor and assess some of the impacts of these  
13 conservation practices is very important.

14                   These are some examples of enhancement.  
15 It would be like installing a riparian buffer, improving  
16 the water quality in a particular area, providing shade  
17 and cool surface water temperatures, that sort of thing.

18                   Other examples would be field trials,  
19 cover crops, mulches, any kind of land management to  
20 improve soil quality. There would be a reason for  
21 demonstrating that.

22                   Others would be assessment and  
23 evaluation of water quality testing or putting in  
24 monitoring wells, that sort of thing.

25                   The application for the program, if you

1 go through that particular function in the proposed  
2 rule, the secretary would announce the sign-up period.  
3 The secretary will also announce the locations of the  
4 priority watersheds. That means if you're not in there,  
5 you don't need to go through all of this to see whether  
6 or not you're eligible.

7                   You then as a participant would  
8 determine whether or not you're in that priority  
9 watershed or whether or not you meet those minimum  
10 requirements.

11                   You would complete an inventory or an  
12 assessment of your soil and water quality and other  
13 resource concerns, and then, once you've addressed and  
14 met or you feel you've met those minimum tier  
15 requirements, then NRCS would make sure that the  
16 eligibility criteria has been met.

17                   We would conduct a follow-up interview  
18 and look at that information that you've come up with to  
19 determine whether or not you're in the program, place  
20 your application in the highest tier category possible,  
21 and then, select successful applicants down through the  
22 different enrollment categories.

23                   Then at that point, then we have a  
24 contract. So we would go and develop a conservation  
25 security plan and that could be done by NRCS on a

1 technical service provider.

2 We are seeking comments like has already  
3 been brought up. We have a 60-day period. That ends on  
4 March 2nd. Comments are sent to me through email or to  
5 the conservation operations, NRCS in Washington D.C.  
6 That still comes to me. Those comments will go into  
7 helping us develop the final rule. Okay.

8 MR. SOMERVILLE: David, thank you very  
9 much. I appreciate that. As you can see, this is an  
10 out-of-the-box kind of proposal.

11 How does it apply in our region of the  
12 country? We'd like to hear what you think regarding  
13 this rather quick overview, and I know the rules haven't  
14 been out that long, and so you may not have had a chance  
15 to study the details, but we do want to hear from you,  
16 and so my job right now is to kind of set the ground  
17 rules on how we want to proceed here.

18 You're seeing Cy Sokoll arrange these  
19 microphones. If you chose to speak, you can come to the  
20 microphone there, or Cy also has a roving mike, and if  
21 you just stand at your seat, he would be glad to bring  
22 that mike to you, if you would prefer not to walk to the  
23 center.

24 We do want your verbal comments. If you  
25 didn't sign up to speak, that's okay. You can sign up.

1 Shirley Gillum is out of the room right now, but Janice  
2 Hahn back there, if you would like to speak, I would  
3 appreciate it if you would walk back there and sign up  
4 with Janice just so we don't overlook anyone.

5 This particular session, because the  
6 room isn't full of people, we are not at risk for  
7 overlooking someone. We can hear everyone in the time  
8 we have set up here, but it is important that we get  
9 your name and who you represent.

10 I do have three people who have signed  
11 up to speak, and we are going to begin with those three  
12 people, and then, if others of you would like to sign  
13 up, feel free and I'll get those names and we can hear  
14 from you also.

15 I do want to thank David and the rest of  
16 the experts up here for being here today, and helping us  
17 introduce this new program.

18 With that, the first speaker -- well, I  
19 forgot one of the ground rules. You have five minutes,  
20 by the way. Now, since we don't have a room full of  
21 people, that five minutes, we are not going to throw you  
22 out of here if you go over it a little bit. So don't be  
23 worried.

24 But anticipating that, we have Shirleen  
25 Omega up here, who will show you the five-minute greeting

1 sign, and then, at two minutes, she'll show you this  
2 other green screen, and just to let you know, again, we  
3 are not trying to hassle you about how much time you  
4 have, but at the end of five minutes, you'll see this  
5 red screen come up and we would like you to wrap it up  
6 sometime after that.

7 Don't get too concerned if you don't  
8 hold tight to that rule, but if we had a room full of  
9 people, it would be critical so that everyone gets a  
10 chance.

11 Feel free to go back and sign up with  
12 Janice if you would like to speak because this gives us  
13 a lot of early initial thinking about the program and  
14 the rules, and it's really helpful to us to get some  
15 early indication of where our customers and our partners  
16 are in terms of viewing this new rule and this new  
17 program.

18 So the first speaker will be a  
19 representative from the Defenders of Wildlife, and his  
20 name is Scotty Johnson. He lives here in Arizona, and  
21 Scotty, welcome. Thank you.

22 MR. JOHNSON: First off, I wanted to  
23 thank everybody on the panel for coming and to Mike and  
24 for everybody making this listening session possible.

25 One thing I wanted to say was even

1    though the rules have been out for several months, we  
2    only recently learned about the listening sessions. I  
3    think I got the letter about last week. It didn't give  
4    us a lot of time to prepare comments and so forth, and  
5    in the comments that we did prepare, I've noticed that  
6    you already answered some questions.

7                    So rather than submit those to you and  
8    bore everybody with reading through them, I'll just  
9    raise a couple of concerns and issues and we will be  
10   sure to get your comments before the closing period.

11                   I did want to say that this program, the  
12   Conservation Security Program is actually quite dear to  
13   my heart, and speaking of hearts, my heart goes out to  
14   the NRCS in this particular instance because you guys  
15   have a very difficult job.

16                   You're taking an entitlement program  
17   that has been very captive in a difficult budget and  
18   attempting to find out how to funnel that money towards  
19   the most direct and important uses which is a difficult  
20   process.

21                   It's dear to my heart because I remember  
22   being at the national campaign for sustainable  
23   agricultururer about four years ago when the CSP was  
24   young, and we heard of the national campaign for  
25   sustainable agriculture. Tom Harkin came and spoke to

1 the group and that became the Conservation Security  
2 Program.

3 That very same coalition is upset now  
4 because of the fact that they feel that this program is  
5 not being moved to the directions that it should be  
6 moved, towards sustainable agriculture.

7 I'm sure you will be getting comments  
8 about that in general in terms of how this can be moved  
9 as this is more analyzed. I can't answer those  
10 questions. I'm just sort of raising that for others.

11 But the question I would raise is, you  
12 know, looking at it in terms of the priorities, and I  
13 haven't had time to really filter through those in  
14 detail. So I apologize for any sort of hard work that  
15 you've already done to move this, to make this a program  
16 that moves toward sustainable agriculture and  
17 restorative agriculture. I apologize in advance for any  
18 efforts you have already made in that direction.

19 My suggestion or comment would be in  
20 terms of the proposed rules is to look at this from the  
21 historical perspective of the genesis of this program.  
22 It came out of Tom Harkins' work concerning sustainable  
23 agriculture, small family farms trying to find out how  
24 to live in balance and harmony with the land, kind of  
25 moving away from the industrialized agricultural model

1 in a way that supports family farms and supports them in  
2 terms of with balanced resources that both provide them  
3 ability to raise crops and produce and support and take  
4 care of the land for future generations. So this  
5 particular focus I think is real important.

6 On the priority watersheds, I have a  
7 question in terms of how those will be identified. With  
8 regard to the threatened at-risk endangered species or  
9 at-risk species, certainly from the Defenders of  
10 Wildlife perspective, we would encourage this.

11 We see in the landscape planning level  
12 all the time confrontations because there wasn't the  
13 ability for the resources coming into the private land  
14 owner to avoid confrontation with endangered species.  
15 So we see this as a big plus.

16 Then, just -- well, I think that may do  
17 it in terms of what I'm just going to kind of raise in  
18 terms of off-the-cuff, but, yeah, I'll just stop there  
19 and thank you all.

20 Just, again, I would emphasize directing  
21 this toward the genesis historically of this program  
22 which is towards more sustainable agriculture.

23 MR. SOMERVILLE: Thank you, Scotty.  
24 Appreciate that.

25 I would make a comment that I overlooked

1 as I listened to the one question you had there about  
2 priority watersheds. We are really not going to be able  
3 to respond and answer questions. We are recording that  
4 question and it's important to us to get it down and we  
5 will get back to you, but if we get started in a  
6 dialogue here, it would be real difficult, but thanks  
7 for the question, and it is a valid one and one that we  
8 will keep working to communicate. Thanks so much.

9 Our next speaker will be Sal Palazzolo  
10 from the Arizona Game and Fish. He's a transplant from  
11 Nebraska. He is now from Arizona and we are really glad  
12 to have him out there.

13 MR. PALAZZOLO: Six months so far.  
14 First of all, thanks for the opportunity to comment on  
15 the program. I guess basically, I have two comments.  
16 We have two comments regarding the program. Both of  
17 them as you'll see as we go through this, are going to  
18 be focused heavily on flexibility, maintaining  
19 flexibility of this program for the individual states.

20 I guess the first comment I had relates  
21 to -- and if you need specifics -- it relates to a  
22 comment that is on page 201 of the proposed rule. It  
23 states that CSP in relation -- under the heading of CSP  
24 in relationship to other NRCS programs.

25 Basically, in the rule making, it is

1 stated that -- or in the proposed rule, it is stated  
2 that CSP is being viewed as a potential integrator of  
3 all the other conservation programs within the 2002 Farm  
4 Bill, and, again, while we agree that the Farm Bill  
5 provides tremendous environmental and conservation  
6 programs, there are specific water quality and  
7 conservation needs that are not being able to be  
8 addressed through the -- in the arid Southwest  
9 specifically is what I'm commenting on under the current  
10 2002 program.

11           If the committee wishes, I can go into  
12 some specific examples to kind of outline that, but I  
13 guess it is our wish that the states have some ability  
14 to input on these practices so that we can specify them  
15 and get them to the specific environment needs that this  
16 state has.

17           The arid Southwest, New Mexico, Arizona,  
18 Nevada, we have a lot of different environmental and  
19 agricultural issues than the central great plains.

20           So, again, we'd ask that this program  
21 remain flexible so that each state can design innovative  
22 practices that are not currently available through other  
23 farm programs to specifically answer issues.

24           The second comment relates to page 198.  
25 No. 5, the structure payment is under the header

1 "Structure Payments To Ensure That Environmental  
2 Benefits Will Be Achieved."

3           Again, this basically -- the gist of  
4 that section talks about the rental rates and how they  
5 will be determined, and under the heading, it talks that  
6 it will mostly be related to US Department of  
7 Agriculture rental rates.

8           Again, historically in my experience,  
9 these payments were based on dry land rental rates, and,  
10 again, if this process is acceptable in states that  
11 either supplemental irrigation isn't a necessity of life  
12 or the fact that states with dry land rental rates and  
13 irrigated rental rates are close, again, Arizona and the  
14 arid Southwest is a unique state. We can't produce  
15 anything without irrigation.

16           So, again, there is a huge discrepancy  
17 within the rental rates between dry land, which I'm  
18 going to need some correction if I'm wrong. I don't  
19 think we have an acre of dry land agriculture in the  
20 state. There may be some hiding somewhere, and  
21 agricultural land that is under irrigation.

22           So again, it would be our hope that we  
23 have the flexibility to address the specific needs of  
24 the southwest because I think this is going to directly  
25 impact producer participation in this program.

1                   We look at the State of Arizona, if you  
2 look at CSP, the program, we only have one single  
3 contract in the state. I think a lot of that relates  
4 directly to the fact that our rental rates are based on  
5 dry land rates, and it's so much lower than what they  
6 are getting for the rental rates that are out there  
7 because of the irrigation, the necessity.

8                   Those are my two comments, and if there  
9 is any questions, I would be happy to answer them, and  
10 if not, I appreciate the opportunity.

11                   MR. SOMERVILLE: Thank you, Sal.  
12 Appreciate that.

13                   Our next speaker, in fact, the next two  
14 speakers -- that way, you will be ready to get up  
15 here -- our next speaker will be Macario Herrera, who is  
16 the Executive Director for the Arizona Association of  
17 Conservation District. Following Macario, we will hear  
18 from Josh Avey, who is also from the Arizona Department  
19 of Game and Fish.

20                   MR. HERRERA: Thank you. I want to  
21 thank you also for coming to Arizona and listening to  
22 the comments that we have on this program, and we know  
23 that the task that you have is not an easy one.

24                   I have a few comments that I wanted to  
25 present with regard to some of the different things that

1 have gone into the rules, and the first is a concern  
2 related to the watershed limitation.

3           We understand the intent of reducing the  
4 administrative burden of having so many contracts and  
5 applications that you would have to address, and we  
6 certainly don't want to put the NRCS into a technical  
7 assistance bind. We've worked very hard to keep that  
8 from happening.

9           I just want to reflect on some of the  
10 language you have and some of the thinking that went  
11 into the rules making here.

12           One of the things that is stated here is  
13 it says a system of selected watershed enrollment  
14 categories can make the program ultimately available in  
15 all states.

16           I guess our concern is not the same as  
17 saying that the program will be made available in all  
18 states.

19           Maybe some type of a median we can  
20 suggest that could be made would be to allow the state  
21 technical committees of each state to designate a high  
22 priority watershed and ensure that funding is  
23 distributed more equally across the country.

24           One of the other concerns that we have  
25 about that is in terms of the NRCS designating these

1 high priority watersheds, we really believe that our  
2 programs are based on a model of local leadership  
3 working with your agency to provide the support that's  
4 needed, and we would really like to see that local and  
5 state governments can have some role in influencing that  
6 process.

7                   On the base payments, we would agree  
8 that there are concerns about those being lowered. I  
9 know that the Farm Bill, CSP language said that the  
10 secretary should not provide a rate lower than the  
11 national average rental rate. So we're not sure if  
12 there is a conflict there or not.

13                   Some of the other concerns that we have  
14 are related to -- that I really want to relate more in  
15 the form of questions are on the cap limitations that  
16 you mentioned, and I guess the first question that I'd  
17 like to present, I have to provide maybe a little  
18 background on, but I guess it is our understanding that  
19 these rules will govern the program through September  
20 30th of 2004.

21                   That is based on \$41 million in national  
22 funding and that is because there is currently limits in  
23 this year's funding, but we know there is the Omnibus  
24 Bill for 2004 that will be considered by Congress  
25 shortly, and the House language on that is proposing

1 that those limits be removed.

2           So I guess the question would be, if  
3 those limits are removed, what is the agency going to do  
4 to revamp the program or revise the rules to deal with  
5 the whole new situation that occurs if Congress does  
6 remove those limitations?

7           The second question that we have is in  
8 relation to how producers will be qualified based on the  
9 bench mark inventory.

10           I think the bench mark inventory is  
11 fairly well explained in the rules. They mention that  
12 the NRCS will determine whether or not the producer  
13 qualifies, but we would certainly like to have further  
14 explanation on the process the NRCS would go through to  
15 make those determinations.

16           And then, I guess further explanation  
17 would also be important on the mechanics on how the  
18 enhancement payments would be developed and approved.  
19 There is mention of the state conservationists and the  
20 state technical committee being involved in this  
21 enhancement payment process, but it has to be done with  
22 the concurrence of the chief. So if we could have some  
23 examples of how this whole process would unfold and how  
24 that would evolve, that would be very helpful. Thank  
25 you.

1 MR. AVEY: I'll jump in here. Mike is  
2 familiar with how we've become associated with this  
3 proposal and it is a thrill for the Fish and Game  
4 Department to be involved with this, and we thank all of  
5 you for being here, and Mike specifically for getting  
6 this going, as well as your team.

7 I wanted to elaborate just a little  
8 further on what Sal had already presented from our  
9 department in that we would like to see this as an  
10 opportunity to step back.

11 The CSP is a new and incredible  
12 opportunity for our state. We see it as that  
13 opportunity, and we would like to propose from a more  
14 objective view.

15 If we had, depending on the watershed  
16 and being associated with the restrictions and  
17 irrigation and how all this program is being developed  
18 right now, currently, if we had a smaller ranch or farm  
19 in Iowa in a prioritized watershed, it would qualify  
20 under the CSP, and in comparison, depending on the  
21 watershed that was associated with Arizona, we would  
22 have the jeopardy of not being able to enroll our larger  
23 ranches, our larger producers, and we would like to see  
24 that as an opportunity to maybe broaden the scope of the  
25 CSP.

1 I know that is kind of a broad swinging  
2 request, but at the same time, the -- for an example, we  
3 have the International Association of Fish and Wildlife  
4 agency that awarded a ranch in Arizona as the private  
5 land steward of the year, and depending on the watershed  
6 that was selected under the CSP, or that ranch might not  
7 qualify for this program which, as it has been stated,  
8 is supposed to reward the best.

9 So just to take a step back from our  
10 standpoint, I thought it was a neat opportunity to  
11 present that and see if there is any way to associate  
12 these watersheds with not only a valuable watershed  
13 within the state, but also, to address the multiple  
14 watersheds that we have within our state and maybe even  
15 areas that could be tributaries to these watersheds or  
16 somehow associated to the broader landscape issues that  
17 we have in the arid Southwest.

18 That's all I had to say. I just wanted  
19 to make sure that we got that example out there. So  
20 thank you.

21 MR. SOMERVILLE: Josh, thank you, and  
22 Macario, thank you for those comments.

23 Our next speaker, and unless, some of  
24 the rest of you go sign up back there, this may be our  
25 last speaker. So if you're wondering whether your

1 comments are valid or your thoughts are valid, let me  
2 reassure you that they are, and we would like to hear  
3 them. So if you haven't had a chance to sign up and you  
4 do want to speak, feel free to do that.

5 Our last speaker that I have is Harrison  
6 Talgo, and Harrison is a past chairman of the San Carlos  
7 Apache Tribe and currently an executive with the tribe  
8 and probably has other titles here that I'm not up to  
9 speed on, but thank you for speaking to us today.

10 MR. TALGO: Thank you, Mike. Like Mike  
11 said, my name is Harrison Talgo, Sr. I'm the General  
12 Manager, representing the San Carlos Apache Tribe on  
13 behalf of the our Chairwoman Catherine Kitchen.

14 San Carlos is an Apache reservation  
15 located from here about two-and-a-half hours' drive.  
16 Throughout the United States, it's known as Indian  
17 country or Indian nation.

18 Our homeland, which is foundation, was  
19 set in place for us through our ancestors and your  
20 forefathers' strengths: Two million acres of a  
21 beautiful land, and based on where I am from, every  
22 tribal member is responsible for that land, especially  
23 for us as management personnel.

24 Our primary job is to position the San  
25 Carlos Apache Tribe as a government responsible for

1 management of all lands and resources on our  
2 reservation, us as native Apache people, homeland  
3 reservation holds the keys to strengthening and  
4 empowering our communities, and that the United States  
5 government holds its trust responsibility to Indian  
6 countries.

7                   With USDA intent that CSP will recognize  
8 those farmers and ranchers, the land stewards, past,  
9 present and future who have met the highest standards of  
10 conservation and environmental management still  
11 continues.

12                   However, that has been sort of  
13 implemented when a strong force like Mike Somerville  
14 have recognized executive order and took force with  
15 that, and now, we are moving ahead. I know all the  
16 Indian country is still behind 60 to a hundred years.

17                   San Carlos Apache still maintains its  
18 identity, cultural and traditional ways. This belief  
19 has been expressed many times in many years.

20                   Today, with a diverse body of people  
21 concerned about the future of our Apache homeland where  
22 our rights to land have been ignored or destroyed with  
23 the creation of US and CSP, the San Carlos Apache tribe  
24 supports the tasking, funding and implements ways to  
25 manage our lands. CSP can be a important tool to us as

1 San Carlos Apache that strives to the highest standards  
2 of conservation and environmental management.

3 Like I said, we are behind, and Millie,  
4 who served at an executive level under the state  
5 advisory group up here, so this is a plus for us, too,  
6 so we would like to support and we will have a formal  
7 position paper from our tribe in the future. Thank you.

8 MR. SOMERVILLE: Harrison, thank you  
9 very much.

10 I would enjoy hearing from others, but  
11 we also know we will receive lots of comments, and for  
12 that, we appreciate it.

13 I want to ask David or Carole, were there  
14 any questions in those comments that you would have an  
15 interest in responding to? I know we are breaking some  
16 of our own ground rules here, but because as we are  
17 waiting to see if others want to speak, was there  
18 anything there that you thought you would solve very  
19 quickly?

20 MS. JETT: Well, I don't know about  
21 solve, but maybe clarify.

22 One of the questions was about the  
23 Omnibus Bill. As I mentioned earlier, a couple of us  
24 have talked about the original language of the  
25 Conservation Security Program has been adjusted twice

1 since the law passed, and it may be adjusted yet again  
2 if, in fact, the Omnibus Bill clears the Senate and is  
3 signed by the President. So we can't predict whether or  
4 not that will happen.

5 I was around for the 1996 Farm Bill. In  
6 the 1995 Farm Bill, which was attached to an omnibus  
7 spending bill that President Clinton vetoed, and the  
8 Chairman of the House Agricultural Committee had to pass  
9 a bill to extend the Farm Bill one year so we could  
10 extend the farm programs until the Farm Bill was able to  
11 be resurrected after the beginning of the next session.

12 We have to operate under current law.  
13 The Department was under tremendous pressure to get the  
14 rule out, and every time that the language changed  
15 because of the nature of the funding changes that were  
16 made, we had to redraft the rules and make a lot of  
17 different assumptions.

18 So we went ahead. We got the rule out  
19 and we have a note in the rule that if, in fact, we need  
20 to, we may come out with a supplement to the rule if any  
21 changes are made to the statute before the end of the  
22 comment period.

23 So I just wanted to clarify, when you  
24 hear people in this room or in other rooms talking about  
25 predicting what may happen, those predictions may, in

1 fact, come true, but we have to operate right now under  
2 the law that we have.

3                   So that's what will happen. I think the  
4 conservation district leadership was asking about what  
5 might we do. So we will have to see what happens and  
6 when it happens.

7                   In terms of the states having the  
8 flexibility to do the types of things that they need to  
9 do, we believe that is very important, and we have  
10 created the opportunities within the enhancement payment  
11 to basically encompass new ideas beyond the quality  
12 criteria for the standards that we have within the NRCS  
13 technical guides.

14                   So I would really ask you to take a look  
15 at those sections of the rule, particularly in the  
16 preamble where we make an attempt to explain what we are  
17 really to have in gaining additional environmental  
18 performance above and beyond the quality criteria.

19                   And remember, that the people that come  
20 into the Conservation Security Program also have a level  
21 of conservation out there, and we are looking at ways to  
22 get even more conservation, particularly in the areas of  
23 wildlife habitat, soil quality, and water quality.

24                   There was a question about the rental  
25 rates. The rental rates that the statute refers to

1 actually are national statistical rates and not  
2 conservation reserve program rental rates.

3           So I believe there may be some wording  
4 in the rule or in the preamble that explains what we are  
5 looking at and they have both irrigated and nonirrigated  
6 rental rates that we are using as the basis for things  
7 that we are looking at on the technical side. So that  
8 is just a clarification on your concern on that.

9           I just want to say I really appreciate  
10 these comments. I already heard a lot of really good  
11 ideas, things that we can begin to think about early on,  
12 and we will be considering all the comments as they come  
13 in, along with the transcripts from all the listening  
14 sessions.

15           You can see we've got a reporter that's  
16 taking down every word that you say for us so that we do  
17 take it seriously and really appreciate the comments,  
18 both ones we get orally today and the ones you send in  
19 in writing.

20           MR. SOMERVILLE: David, anything you  
21 need to add?

22           MR. MCKAY: Yeah. I believe there was  
23 one question concerning the priority watersheds and at  
24 risk, Scotty. Is that right?

25           The way it is at this point for the

1 priority watersheds, we are looking at vulnerability of  
2 surface and ground water quality, the potential for  
3 degradation of soil quality and the potential for  
4 improvement of grazing conditions. That would be the  
5 basic selection criteria for the prioritization of the  
6 watersheds.

7                   The at-risk species is -- actually, we  
8 are looking at that in terms of enrollment categories,  
9 those individuals who within those priority watersheds  
10 would adopt activities to mitigate some of those  
11 concerns or to maybe enhance the habitat for at-risk  
12 species. That type of concern would be considered  
13 within an enrollment category by the current proposal.

14                   MR. SOMERVILLE: Thank you.

15                   This is one of ten of these listening  
16 sessions. Am I right? Ten? Ten listening sessions.  
17 In fact, there is another one going on today, and then,  
18 throughout the country, eight other sessions that will  
19 be held.

20                   So we are taking this very seriously.  
21 Federal rules and federal programs being applied  
22 universally in agriculture we all know is difficult.  
23 What I have been impressed with the folks that write the  
24 rules within NRCS is that they always work to see that  
25 we have the authority out here at the state level to

1 apply special conditions and that's -- I appreciate  
2 that, Carole, and for your staff in Washington, Kathy and  
3 Rick. That's a big help to us out here.

4           It looks like we talked long enough that  
5 someone was inspired. Leonard Selestewa from Hopi  
6 Nation, and he chairs the Hopi Soil and Water  
7 Conservation District of the Hopi Nation. Welcome.

8           MR. SELESTEWA: Good afternoon. I  
9 haven't read this very difficult rule, but I would just  
10 like to have the panel understand the difficulties of  
11 the rules as it applies to Indian lands.

12           There is so much that I guess you could  
13 call us the little people like to be involved in as part  
14 of this new program, but I was just wondering if there  
15 is a limit to who we're rewarding, I guess. If we are  
16 rewarding the best, you know, encouraging the rest, then  
17 I would just emphasize that we encourage you to reward  
18 those farmers that have maintained the land.

19           I come from an agricultural village. We  
20 are one of the 12 villages that irrigates, but you can  
21 look at the farming group and there are long-standing  
22 individuals who carry on the work of raising crops  
23 year-to-year and taking good care of the land and all  
24 that.

25           But sometimes, rules don't apply to

1 rewarding the little people. I would just like for the  
2 panel to hear out Indian concerns as it relates to the  
3 culture. No, I haven't seen a federal rule yet that  
4 encourages preservation of culture and heritage, and  
5 along those lines, I guess I would really like you to  
6 seriously consider what is going to be heard from the  
7 Indian nations.

8 I know this is probably one of many  
9 listening sessions yet to be held. I know that I'm  
10 going to take my information back to my tribe. I do  
11 know that we live within a watershed and we are  
12 desperately trying to preserve our grass range lands  
13 simply because we are in a serious drought cycle also in  
14 the Southwest.

15 So I think this is something that my  
16 Hopi tribe and some of the neighbor tribes could  
17 utilize, but I guess -- I just would like you guys to  
18 think about complications that may arise from awarding  
19 contracts, I guess, as it relates to Indian land.

20 I guess that is about all I have to say  
21 for now. Thank you.

22 MR. SOMERVILLE: Leonard, thank you very  
23 much. We appreciate that.

24 MS. JETT: Mike, I have a comment.  
25 Thank you, sir, very much. We want to do that. I

1 wanted to key off on a point that you're making about  
2 the drought.

3                   We do have a small part of the preamble  
4 where we ask the question about areas that have been  
5 impacted by drought or other events -- hurricanes, fire,  
6 flood, where, in fact, it may not appear to the casual  
7 observer that, in fact, that land has been protected by  
8 an historic steward.

9                   So we are asking for particular comments  
10 on what kind of records might we need -- maybe photos or  
11 something like that -- to show what the land looked like  
12 before that event in order to not just have the casual  
13 observer say well, what's going on here, you're paying  
14 this individual for an historic stewardship, but they  
15 have had this event.

16                   So those of you that are suffering from  
17 some of the drought or some other events like that, we  
18 are trying make sure that we can fit in those historic  
19 stewards in a way where because of natural events, they  
20 have been -- they may appear to be precluded based on  
21 where they are right now.

22                   MR. SOMERVILLE: Thank you, Carole. That  
23 helped very much.

24                   Any other inspiration that any of you  
25 have?

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We sincerely appreciate the quality of the comments that were made here. They are quite significant. We may be few in number today, but very pointed, very high quality concerns and issues there. That means as much as volume in my opinion.

So thanks for coming today, and unless there's a burning concern that someone has here, I'm going to declare this listening session adjourned. Thank you very much for being here.

(Hearing adjourned at 2:40 p.m.)

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C E R T I F I C A T E

I, Judy E. Love-Hosler, do hereby  
certify that the foregoing statement is a complete and  
accurate transcription of the stenographic record made  
by me thereof, and that such record was reduced to print  
by me, and that the foregoing 60 printed pages of said  
transcript contain a full, true and correct transcript  
of my stenographic notes taken by me as aforesaid, all  
to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way  
related to any of the parties hereto, nor am I in any  
way interested in the outcome hereof.

DATED this 14th day of January, 2004, at  
Tempe, Arizona.

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Judy E. Love-Hosler  
Arizona Certified  
Court Reporter #50540

\* \* \*