

Lake 17 EA Scoping Meeting Fort Belknap Tribal Council Chambers 2019-03-14 @ 10am

Andy: I'm pretty excited, especially seeing all you folks here today in our chambers, makes me feel pretty good, so we'll just go ahead and start with introductions.

Crystal: Could I get a moment to see if JoAnne and Wold are here (on the phone); Joanne are you here (Yes), Wold (Yes), Dan (Dan's not going to be on the call); Patrick (No response); Ok, thank you.

Andy: Let's just start Adina and we'll work our way around

Adina Wing – Recording Clerk

Dennis Longknife –

Phillip Shortman -

Pete Fox – Secretary Treasure

Andy Werk Jr. – President of the Fort Belknap Indian Community

Jeff Stiffarm – Gros Vente Member at Large

Lynn Cliff Jr. – Mountain Nakota Representative

Rob Vesinit – NRCS Engineering Tech

Dave Varney – SCC for the Area

Steve Becker – State Conservation Engineer for NRCS out of Bozeman

Crystal Fox – Fort Belknap Water Resources

Harvey King – Tribal Member

Donna Stiffarm – Chief Administrative Officer for Tribe

Harold Mane – Fort Belknap Fish & Wildlife director

Paul Semanski – State Design Engineer NRCS

Bruce Beecher – NECI Engineer

Wally Gladstone – NECI

Laura Shipley – NECI Environmental Scientist

Emily Petersen – DOWL Environmental Manager

Jeff Combs – Biologist with NRCS out of Bozeman

Paul Mckay – Tribal Land Department

Mike Mckenzie – Water Project Manager for Aaniiih Nakoda College

Victor Don – Water Project Technician

Bo Blackwold – Water Quality Technician at Aaniiih Nakoda College

Leon Lasalle – NRCS out of Havre and Local Area

Gene Onacko – BIA Safety Dams Officer in Billings

Wes Cochran – Tribal Transportation Specialist

Dylan Hickey – U.S. Army Corps of Engineers Regulatory Project manager out of Helena

Jeremy Walker – Fort Belknap Environmental Office

JoAnne Curry – Water Attorney for Fort Belknap Indian Tribe

Wold Meskina – Tribal Water Engineer

John Healy – Transportation Director; Tribal Champion for Lake 17 Project

Jay Springer – NECI Lake 17 Project Manager

Gerald "Manny" Healy

Alissa Snow – Public Relations Officer

Andy: Very good

Jeff Stiffarm: Opening Prayer

Andy: Introduction on the phone; all right well go ahead and get started and just I'll turn it over to you John and Jay

John: Thanks Andrew; Good morning members of the Tribal Council and all of you participants my name is John Healy, Transportation Director for Fort Belknap. I was honored to be named the Tribal Champion on this project and by that I had to arm wrestle Jay. No, the council named me tribal champion to kind of nudge this project along we had tried this project several years ago, Andy was on the council back then, fortunately through Andy's efforts and Mr. Becker's efforts we get a second shot at this project so I'd like to thank NRCS for that. With that, a lot of the preliminary work had been done as far as the design several years ago NRCS put a substantial amount of money in to that design so I want to thank them. With that we have a second chance at this project and I know it's vital to the members of the community out there and so we want to keep this project going and so we had scheduled these meetings in coordination with NECI. So we have a public meeting scheduled for this evening out in Hays, we'll have chili and frybread out there so hopefully that will draw some participation out there with the public. I'll just go ahead and turn it over to Jay, Jay's the project manager on this.

Jay: Thanks John, thanks Tribal Council members, and Andy, thank you for everybody that's here participating, my name is Jay Springer and I'm with Northern Engineering and Consulting, and I'm the project manager on this. And I'll go over what we're going to get into in just a moment, but first I'm going to turn it over to Mr. Steve Becker with the NRCS he had a few items he wants to touch on.

Steve: Yeah, I just wanted to take a couple minutes and just I guess introduce the project a little bit and give you a chronology of what's transpired over the last 8 years to get us to where we are. And I hope this won't take long but it might give everyone a little bit of background so that what Jay has to offer as far as his investigation up to this point might make any more sense out of it, I guess. In July of 2017 the Fort Belknap Indian Community and Tribal Council requested NRCS funding to initiate a planning study and an environmental assessment of the Lake 17 reservoir and the Little Suction Creek diversion. And the purpose was to improve public recreation, fish and wildlife, and agricultural management benefits out there. Construction of the lake 17 reservoir was originally authorized under a BIA program for irrigation in 1937/1938. Infrastructure for irrigation was never fully developed or sustained and over the years the reservoir has been repurposed predominately for stock water, fishing and wildlife, and recreation. In recent years the reservoir and diversion have fallen into an intermittent state of disrepair, and when the dam fails the 700-acre reservoir will revert to range land with some intermittent stream flows to Duck Creek. In 2011 the Tribal Council and Terry Buck, who was the former NRCS DC, tried to secure some farm bill funds under a program called EQUIP to repair the dam and diversion. At the time the engineer's estimate was 1.6 million and the community could not allocate \$650,000 in matching funds for the project and so the contract under the farm bill was canceled. In 2017 congress appropriated funding to NRCS through the National Watershed Program and the council was informed

that this watershed program might be more appropriate in securing funds for Lake 17 so they applied for Phase 1 planning funds. In October 2018 NRCS received those planning funds from Washington and we contracted with NECI to develop an environmental-to plan an environmental assessment which includes feasible alternatives and an opportunity to weigh the environmental and socioeconomic impacts of those alternatives. Back in 2011 when we were prepared the plan drawings to rehab the dam and diversion, we were pretty much singular minded back then, we were just simply going to repair what was there. And I think the approach now under this watershed money, or this watershed program which provides more funding, the idea is to take one step back and bring the community along with us to do a good job at an environmental assessment. Lay out several alternatives and weigh the consequences of those alternatives so that when we reproach this, we're bringing everyone else along on board and it's not just the NRCS or the council, it's actually the community, the greater community would have a say in which alternatives you pursue. So NECI has until October of 2019 to work with the Council to develop a preferred alternative in consultation with the community and to complete an environmental assessment. When the study is complete the Council can apply for construction funding through the national watershed program and I think Andy probably has the latest information on where are sitting with that construction funding. I'm sure you can answer that. I will mention that this is a planning partnership between the Fort Belknap Indian Community Council, the NRCS, NECI, and to a greater extent the Bureau of Indian Affairs who basically has jurisdictional control over this system. Once again, the partnership was initiated by the Council in July of 2017, NECI has council support in investigation alternatives and hosting these public meetings, NECI continues to need some land access to collect field data and get some background information so they can present the best set of alternatives to the community, they continue to need cooperation with tribal departments to obtain background information like utility locations, water records, grazing leases, identifications of areas of cultural and historic significance, and so I appreciate all of that it sounds like things are going well. As John mentioned we have a scoping meeting scheduled for the general public this afternoon, well this evening at 6 o'clock at the Kills At Night Rec Center in Hays, and NECI will be presenting their preliminary finding and laying out some potential alternatives to start generating some ideas and that's it. I just kind of wanted to lay that out so I'll turn it back over to you Jay.

Jay: Thank you Steve. I guess would you just go to the next slide. It's like magic. So

Andy: Jay, do you mind? I'll just try to expand a little Steve, before it slips my mind. One of the things that I wanted to mention also is back in 2011 that time frame when we were working on it before and the concern about a funding shortfall and looking at what type of in-kind contributions we could have but one of the things I specifically wanted to mention was that we did a WRP project and just north of Lake 17 you know there are some chain lakes out there, prairie potholes out there, so we were looking at it from a perspective of restoring the whole system down there not just Lake 17. So, working with Terry Buck at the time and Steve you know some of the staff we entered into a WRP project on some property that was just north of Lake 17. Initially there was tribal land there and there was a couple of different families that had some land there the Gray Family and the Adams Family at the time. We couldn't get Adams Family to completely commit but the Grey Family did. They all signed on I think it was very appealing to them because of the 30-year easement with an upfront payment that's what was appealing to them and to the Tribal Council at the time. So to help with the funding shortfall...so the council entered into that project in collaboration with the Gray family and they even threw in a EQUIP

fencing project also, the family did. They fenced it all off, it's still fenced off to this day, but the income off of that for the easement or the lease was well in my opinion significant for the tribe, because it was almost \$100,000 so by resolution the council at the time obligated the money to help fund the Lake 17 project and that's still a standing resolution here today.

Steve: That money went to manufacture some specialized pipe for the project, that still resides on the

Andy: Oh, that's right and we still have that. Thank you for mention that Steve, that's the part of it that I forgot about because that material is still sitting down in the yard down here, in good shape. Just a point of note for that. Oh, and the other thing before it slips my mind sorry, we'll I'll wait.

Introductions: Gerald "Manny" Healy

Andy: I want to introduce Alissa Snow she is our public relations officer here she does a little bit of policy also, but I asked her to sit in because you know public scoping. I asked Alissa too to re-report on the social media page about the meeting tonight.

Jay: Ok, well first of all I'd like to thank the people that have helped on this. Alissa you were instrumental in getting that information out, all the people, Geno Onacko provided us with a ton of information, background information on the design, the NRCS gave us on the original design and how they determined that and all the entities from the Tribe and federal agencies, thank you for coming and thank you for the information, I hope we get some input that's what this is about. So our contract is with the NRCS but really it's for the Fort Belknap Indian Community because what the scope of this project really is, isn't not just looking at, they have a great set of plans, I look at a lot of plans in my career I've been at this for 30 years and that's a good set of plans they have for the rehab of the diversion and the rehabilitation of the dam and there is nothing wrong with that, but what we're assigned to do is look at the watershed as a whole and see is that the very best use of that Lake 17 watershed? And so we've developed some alternatives to verify is that the best use. One of the things, who's the gentleman that asked how did Lake 17 get its name? Is there a prize? Well you tell me if this is correct it's the CCC Indian Project Dam #17 is what it was originally labeled. So getting back to the agenda, so we have some maps printed around and I would just like to point out our team again; there's Bruce Beecher right there and Emily Peterson and Laura and they're instrumental, because getting back to what I originally started with looking at those plans and I'm an engineer I like those plans and my mind thinks in what's the volumes, what's this plan look like, and will it hold this capacity. What I don't have the best grasp of and a lot of times that determines what the best use of the watershed is, is what does that look like for the waterfowl what does that look like for recreational uses, what does that look like for wetlands, what's that look like for grazing and to establish those, and those are the things that I don't, I can put numbers and formulas too, but these folks here make it make sense you know, if you listen to me you'd go what the heck was that, because I have a lot of data and a lot of information, but until we tell you guys what each acre foot means for you as a user and we put a real value on that to what each person has, it doesn't really mean anything it's just a volume of water right, but they're assigning what's this going to look like and they really help shape that, so thank goodness they're there or you guys would be bored to death with what I had. So, the project location and watershed area we have a map right there and I know this isn't set up super good for that but if you can see that Lake 17 watershed project boundary

map that's right over in this corner. One is it's divided into two sections, one is for the Suction Creek watershed which is roughly 47 acres the other one is roughly 19 acres with is the Lake 17 drainage itself...square miles, what did I say? Acres? Square miles. We're on the project background, we've looked at that the current design facts, the existing conditions, purpose and needs, previous investigations, primary alternatives we have four of them we'll get to that, environmental investigations, the final product, and our outreach, and I definitely hope we have a really really a discussion that is really involved because what you guys think and what to do is going to help shape this thing in regard to these alternatives. So, there's that map, that's a little better and so everybody can see it rather than looking at that picture, this is the Suction Creek water boundary and like I said that's 47 square miles roughly, 19 square miles for this and that's this is the whole boundary that we are looking at, what's the best use of that watershed. Here's our project background what we went through like I said is there's a really good set of plans that the NRCS did back in 2010 when this was going to be a go and so there's nothing wrong with that set of plans we just want to determine is that what you want to do with that watershed, for that price. It was constructed in the 1930's, Ms. Crystal Fox was nice enough to find a picture just today she was talking about it and it looks like it was in '37/'38, you guys have a copy of that picture she handed out, that's at the Lake 17 site, that's of course before there was water there or those guys would be in like swimsuits. That's when it was getting built and they built that probably with horses, she said there was horses, and I don't know if you guys are familiar with the term fresnos but they're a little quarter foot or quarter yard you know they work just like scrapers do now but it's just a lot less volume and they compacted it with the weight of the horse walking on it typically. Built by the CCC Indian division, system has become a cultural and historic resource, the dam was damaged during a storm event on September 25, '86 and they have a pretty good report on that and it looks like a you know the perfect storm of events happened I don't mean storm like storm, but just several things happened and they were able to repair that, current state of disrepair with multiple breach events and inadequate repairs. And I don't know, everybody is familiar with that site, everybody's been out to lake 17 I'm assuming? So, ok, the repairs needed to rehabilitate dam is new principal spillway conduit, and a concrete riser, a rock plunge pool down below, and one foot lift on the dam for overtop protection, we're not trying to raise the capacity, we're just trying to protect it from going over the roadway and forcing it to go over the emergency spillway, there is a main spillway and an emergency spillway. Lake 17 Dam design facts, it's created from a curved earthen embankment, we'll just skip through this pretty fast, these are all, if you want to look at these more we can come back and touch on these at any time. The dam at the failure elevation is 23.1 and 750 feet. I'm just trying to give you some, the average valley floor is 3005 so if you look at that you've got about 18 feet of relief in there 18 feet of capacity. The flow capacity of 50 cfs when the pool level is at the crest of the auxiliary spillway, when the pool level rises to the top of the embankment the principal spillway capacity increases to 106 so that's just how much it's running out you know it varies with how much water is in there what the depth of that water is. The auxiliary spillway is a vegetated open channel. There's a picture of it right there, that was from, I went out there that was October 20th of 2018 and that's what it's looking like right now, the water, I'm standing on the water side I mean that's, it's a long way down to the water as you guys know. Existing conditions prompting concern. So there, that's the breach at the little suction diversion, this is the pipe outlet at Lake 17 that's where they would put that plunge pool and rehab that, those are some of the existing conditions because this is going to start headcutting past this pipe right and the dam will breach so something has to be done with that if you want to keep that dam.

Our purpose and statement of need is to develop an economically and environmentally sound plan to best use the resources of Lake 17 watershed. We left it pretty open because that's really what that's we're tasked with is what is the best use of that and we'll get into the alternatives here shortly. There is a picture of the looking northward, that is at Lake 17, this is the flow through the breach so on Little Suction Creek.

Previous investigations reports and surveys, there's a lot of information out there already on this because it was designed, you know they had done their due diligence on the design end, one thing we're doing is doing a more stringent due diligence on the environmental and socioeconomic aspects of it. So, there was 2017 Watershed and Flood Prevention Operation Proposal Guidance and we have all these documents so we don't have them right with us we have files so if anybody if you want to contact us we supply these to anybody. 2014 Clean Water Act 404 Application, 2014 Bureau of Indian Affairs Historic Preservation Office Findings and Report, and they've been super helpful, unfortunately they couldn't be here today they had a schedule conflict, Melissa Passes and Joetta Plumbage, and so they couldn't be here they'd sent an email but we said we'd send them all the information the notes and everything from this, but they've been super helpful. 2012 NRCS Lake 17 Dam Plan and Little Suction Creek Diversion Drawings, Breach Summary Report, 2010 NRCS Biological Assessment, the 1987 Downstream Hazard Assessment by Bureau of Reclamation, the '67 Water Resource Survey that was done by Blaine County in conjunction with the State Water Commission, State Water Board, I'm not remember it now offhand, but there's a lot of good information in that. 1965 Geology and Hydrology Survey by the BIA of that drainage area. Yeah, I'm glad you're asking me a question because I was just going to say anybody can jump in.

Dennis: Also, in 2000 to 2007 while I was a wetland specialist I did some surveys out at lake 17 also and they housed at the environmental office in their repository. Plants, the wildlife, and soil surveys.

Jay: Thanks, that's good to know. Where did you say those were housed at?

Dennis: The Environmental Office.

Jay: So, here we have a slide on, these need to be refined, we had some discussion, the NRCS folks got into town last night and we looked at it and I'm going to refine these numbers so don't go by this, we actually had a handout, but I didn't want to put out a document for everybody to confuse them, these numbers have already changed I was working on some things this morning, but what we really wanted to do, the gist comes of it, if we want to irrigate, if we want to add some more cattle to that, if we want to have some other uses, can we even sustain it, is that even doable with a general runoff. And so we have a little program to generate ok if we had this many cattle, if we had you know cow-calf pairs, if we did this much irrigation with regular evapotranspiration losses, with regular seepage losses, with regular conveyance losses, what could we expect. And so we looked at, we looked at a 2-year period, that's generally the period the NRCS likes to look at and it makes sense over a 2-year period and I'm going to say this data too it's empirical and it's based on our best guess of what a 2-year moisture cycle would look like you know. It's done from studies and done from everything else, but it's the best we can produce of what this is going to look like and over a 2-year period by year 2 we're at 3,874.2 acre-feet the volume of that is 4038. This number has already changed like I said I was working, it's just in the slide, but what I wanted to present to you was we're looking to see is this even sustainable because if

we can't sustain it then it's not worth doing right so we got to make sure that we're getting the flow and the volume that's required to do any of the things that we want to do.

So here we get into our preliminary alternatives. Alternative 1 is No Action— the dam will breach, downstream channel will headcut the reservoir and so it reverts back into a prairie pothole. And we have some old plats done in 1914 and I don't know if you guys are familiar with GLO plats, but those surveyors did a spectacular job, and I'm a surveyor as well and those guys, we have the plats they drew and the little prairie potholes that are out there now they have them on their plat so we can get a pretty good idea of what that looked like they even have some contours in there that match reasonably up with the contours you know if you look at a topo map now, so what we're thinking is this was a real shallow prairie pothole, what did...where did Mr. Combs go?

Emily: He was here, he must have stepped out.

Jay: He had a good description of that, what would you call it where it's real shallow and has water maybe just like a month of the year and he had a term for it when we were talking last night.

Paul: Wet meadow or something

Jay: Yeah, he had some...I called it a thing that I get stuck in when I'm driving across the prairie when you think it's dry and there's a bog you know there's still it's mucky in there but you see your cows walking around, I grew up on a farm and ranch and so, that's what I expect it looks like and if you look at the topography right in that region it's pretty flat and that would make sense and they really have Duck Creek the way it flowed at that time probably pretty accurately established in there.

Alternative 2 is the decommission dam and diversion; Dam decommissioned, and footprint restored to a natural prairie pothole. Diversion decommissioned and footprint restored to a natural intermittent stream channel. So that would be number two, and we'll get into more depth on these.

Alternative 3 is rehabilitate dam and decommission diversion. So dam rehabilitation follows NRCS plans. Diversion decommissioned and footprint restored to a natural intermittent stream channel. So that would just be basically letting the Lake 17 basin that's shown up there collect that water as it did naturally before, before the diversion was constructed.

And alternative 4 rehabilitate dam & diversion; the dam rehabilitation following NRCS plans, diversion rehabilitation following NRCS plans. So, they have that set of plans out and we would reestablish everything according to what that plan originally was. So that's our task is to look at those four alternatives and come up with some costs and benefits and environmental concerns of how each one of those would look.

So alternative number one no action, the bonus part is that the total construction cost is zero, that's what we're doing right now as Gene is always good to point out and so we have lot of practice over the last 10 years of doing that. The annual O&M cost is zero, the annual net economic benefit for irrigation based on DNRC thirty dollar per acre foot is zero and annual net economic benefit for stock water based on a dollar gain per calf is \$650, so not much. How we derived that dollar gain is I looked, Bruce and I did some research on there, and what we looked at was based on the average gain if you have a water supply and what the average price is between the calves at the Billings Livestock Commission we just went by their numbers, if they were at the low end of the like B grade and the high end of the B grade, we didn't compare them if they were in really good shape or really poor shape just the ends of the

grades and there was about ten cents of difference and there was about ten pounds of difference depending on how far they had to go so basically you're looking at about a dollar gain per calf. So if there was 650 cow-calf pairs that's where the 650 dollars came from. The Lake 17 storage volume is 351 acres feet and that is right from the NRCS original studies, I think that would really really vary. Potential water available for irrigation based on 19.99 inches of water recommended for alfalfa and we got that off of several studies is zero acres. If anybody doesn't agree with some of these numbers, like I mean you guys that know irrigation, you guys that know that, if you see something that especially for this particular area we trying to look, we looked at North Central Montana studies and stuff but if something doesn't seem right for what you guys use we'll make note of that and verify that. Potential water available for livestock based on NRCS 25 gallons per day for cow-calf pairs and that equals 12,534 cow-calf pairs. That looks like a lot, but what we did was figure out what the water could do, and then we backed it off by what the actual grazing acreage could do in a certain radius, in a given radius and that backed it off to 650. Now that's if we're able to sustain that 351 acre feet right, and I don't think that is a sustainable, if we did away with everything, that's that alternative number one once it headcut and went down I don't think we would have that because eventually that would headcut enough where I don't think we'd have that type of volume. So one thing we didn't put on there was the acreage is based on 25 acres per cow-calf pair and that matched up to what was on their, Bruce found that in a document I believe right, and then I knew that's what I said before because that's what my dad always went by, we had cows up north of Havre and so that's the same figure he would always state, he said that's on a good year. Wildlife habitat rated overall poor to fair, vegetated, and we have this behind for those that can see over there we have these spreadsheets that have all the alternatives and how they're rated. I can take notes as you guys, once we go through these you can make the comments and I'm going to just jot things down, Bruce is taking notes as well, and I think we're, is this being recorded too? So, and as I'm talking along here any one of you that wants to jump in on something if you want to add something to it or correct something, if I'm going down a wrong way or if I've got something misconstrued please jump in. The recreation potential let me see, the vegetated wetland habitat is 123 acres we were we're going to look at that this is pulled right off the NRCS study I think we want to relook at that and verify that right and make sure that's correct. Open water habitat 54 acres, shoreline distance is 4.3 miles, and potential to adversely affect 817 acres of habitat for ten species of concern and I don't know what all those species are, but these guys are a lot sharper than me and they can tell you what that is. Recreation potential rated poor, migratory species critical habitat bird watching is poor, wildlife corridors hunting is poor, maximum ponding depth fishing is 3.5 feet that's based on if it was if we were able to sustain that 371 acre feet. So that's still on alternative one, where we, the do nothing. Now we'll get into the stuff on alternative two. Well let's go back I'll open it up on alternative one does anybody have any questions on what we're doing there or what we're talking about. Ok, I'm either boring you to death or we've answered everything.

Dennis: I got a question, did any of your alternatives address adding a buffer zone in there? A buffer zone around Lake 17 to improve the habitat for migratory waterfowl or aquatic species.

Jay: So, what do you mean by, I'm going to direct that to you guys.

Laura: Like fencing off around the perimeter of the lake to create the

Dennis: Because as it is now like you said it's poor condition mainly because there is no buffer zone around it either

Laura: And those ratings are it's the same thing as what you see on the big poster over there but it's more relative to the other options so if we restored the dam there would be more habitat so that would get a better rating versus if do nothing, so that poor rating may not mean that all the conditions are per say poor out there but it doesn't meet the purpose and need of the project.

Jay: So, let me ask this because I don't know, what's the buffer zone. Tell me what that means, I don't

Dennis: It's just a vegetated area between the water and upland area.

Jay: So, it's a manmade buffer do you seed it or what do

Dennis: you can plant it or seed it, yeah

Laura: So, you would typically fence it off, and you could do prescribed grazing you know like flash graze it or something like that but you're going to try to keep the vegetation you know in good condition because that's going to serve as filtration you know for the water and it's also going to serve as habitat on the water's edge in that critical zone there.

Jay: Ok, So, and how far, what kind of zone, how far off do you usually go?

Laura: I don't know if you've got standards

Jay: And I'm not trying to put you on the spot, I just I don't know this stuff

Dennis: 100 to 300 feet or something like that. Just enough to provide nesting and forage cover for wildlife species, I don't know if you want to fence the whole area off because I don't know if you guys want access for cattle and grazing.

Wes: Why would you fence it off anyway?

Dennis: They want to fence it off

Wes: What's the purpose of fencing it off, that's the only water in a 40 mile radius, where are the cows going to go to drink, save your money.

Jeremy: It's not all about cows.

Jay: Well and that's why were having this so we can open up these avenues of discussion that's perfect.

Dennis: Fence off a section of it for wildlife.

Crystal: I have a question, so like all these other alternative uses is subsistence included in that, food subsistence, cultural foods

Harvey: Traditional plants

Jay: Oh traditional and cultural

Crystal: And subsistence for food for people

Jay: For people?

Crystal: Yeah, for people, our people traditionally used to go catch the fowlers, the young ducks you know and dig for some water roots and plants, I don't know I called it subsistence

Jay: Where would I put that under on this chart?

Laura: I would think that would be a cultural benefit, but it would also fall under

Emily: Traditional, cultural values

Crystal: I think that you know trying to justify it that's a good thing to look for.

Jay: Ok, that's cool, yeah, I would have never thought of that.

Harvey: Let's put a drone; but it's so isolated that's the other part because Mr. John Capture who's spent a lot of time in this room, he said you know he lived at the foothills of the mountains of the Little Rockies and he'd drive all the way down there in his tractor and he'd irrigate his hay, he said but it got the cost was too great because even from my house it's a long ways.

Jay: Yeah it is out there.

Harvey: Nothing else is close, maybe that's a factor we can weigh into this picture is distance.

Jay: Ok, you mean as a plus? Well for sure if you want to get out and not have anybody bug you that's a good place to go.

Harvey: And some like leopard frogs

Jay: Is that one of the one's you guys looked at?

Harvey: The Northern Leopard Frog

Laura: The Northern Leopard frog, I think it's rated as critical but it's not endangered

Harvey: I mean let's not rule nothing out is what I'm saying you know, the craziest idea might be the one that works.

Jay: Yeah, No, fair enough, that's exactly why we're here you're right. So is that, anybody else got any questions, I don't want, I don't have a time frame, I want everybody to feel comfortable asking whatever they need to ask.

Andy: Yeah, yeah, that's the intention too, thank you Jay, of this meeting so don't hold back you know just try to get to everybody's concerns if you have them or questions/comments that's the intention of this meeting so

Jay: And even if you are not a person that likes to, thank you Andy, not a person that likes to speak out, like I'm one of those guys, I ask dumb questions all the time I'll ask what a buffer zone is, because if I don't know, but if you don't like to do that please put it on a comment or something too so we have that because those are what we want to look at

D. Stiffarm: I have a question, I don't know where the lake is I've never been. One of the things we're always concerned here is about economic development. So, I'm wondering is there any opportunity to use the lake for some kind of recreational thing that the Tribe can operating, fishing, boating those kind of things.

Jay: I think Fishing was, fisheries has been looked at right, that's in one of the alternatives? As far as can the Tribe operate it I don't

D. Stiffarm: Yeah, fisheries or fishing, we're talking about two different things, fisheries and fishing like fishing as a sport, is that one of the alternatives that you've addressed?

Jay: Yeah, It's in there yes, it's been

D. Stiffarm: Ok. Boating? Is it deep enough for boating?

Laura: It would be deep enough for boating we've looked at it the limiting factor on that would be the depth of the water

D. Stiffarm: Yeah, that's what I was wondering.

Jay: And the size of the boat.

D. Stiffarm: Row boats.

Harvey: You know there is a big industry in birding, bird watching, but then you'd have to have all your ducks in a row so to speak. Wes is taking people out there back and forth.

Jay: So you can see more ducks at one time. Ok, well I think we did have bird watching under wildlife, I think that was something that was discussed at least.

Andy: Burrowing Owl what about that one? Burrowing Owl that's the one right Steve?

Jay: What's the one, there's one, the Piping Plover?

Andy: Burrowing Owl is the one that put us over the top last time right Steve, they're still out there too in that area, there's Burrowing Owls out there. Mike knows.

Jay: That put you over the top as far as because you provided habitat?

Andy: No they had some...NRCS has some kind of...burrowing owl is a species of special concern.

Jay: Is a Piping Plover a kill deer? I don't want to get side tracked either, is it's not a Kill Deer?

Laura: It looks a lot like a Kill Deer to me, but it's not a Kill Deer.

Emily: It's not a Kill Deer, it's a plover, it's a threatened species.

Harold: I've got a comment wasn't there at one time wasn't there kind of an island in the middle of that lake?

Jay: Well you'll see some pictures that show that, and it just depends on the...

Harold: Depth of the water?

Jay: Correct

Harold: I don't know if there'd be is a way to improve that but that would be a good alternative to a buffer zone, I think.

Jay: So, Ok to have an area where they can go and nest or habitat. Yeah, in some of these pictures you'll see coming up I think they're in there, it actually that becomes, island becomes a little peninsula sticking out there when it's low enough.

Dennis: That could possibly be a proposed alternative added to it like Jiggs pointed out having islands out in the middle of that would take away from putting a fence around Lake 17 for the cattle and that would serve them and then we'd have the lake what was it buffer zone on those islands to bring in the migratory waterfowl, increase recreation potential, just my idea though.

Jay: Sure, no those are good, those are things we can look at and evaluate, I know I've seen that done on other lakes, I don't know if it works everywhere, I don't know enough about that stuff, but fortunately

there's people here that do. Let's see any more on alternative one. Because you guys are kind of covering all of them, we'll stay to our agenda a little bit.

Steve: Just to add to that conversation, I think we've estimated about 12 miles of perimeter fence you know because the idea of fencing off a buffer has come up before and we've figured about 12 miles of fence around the pool with breaks in it for cattle gaps for drinking.

Jay: I did see that on the plans, and I forgot, that's a good point.

Andy: I remember that Steve, because remember there was some kind of gravel or something for cattle to go down and water, I remember that.

Steve: I mean it's a detriment in that the cattle can't drink everywhere, but then there was also concern a few years ago that as the lake level moves up and down, cattle get caught in the mud.

Andy: That's what happened this last year, we had some operators that allocate out there that were having trouble out there with that.

Steve: So the question was what's better, having unlimited access around the entire perimeter or having good quality access in a few locations?

Leon: Andy, thank you, I'd like to make a comment on that I know a couple years ago, and Steve brings up that they did the, they measured out how many feet of fence it was going to take to go around there. One of the things I've worked a lot of years here on the reservation on helping guys with their stock water and we did a lot of surveying out there at Lake 17 and the water quality of Lake 17 about mid-July on, not very good. This would be an opportunity for the Tribe possibly to say yeah the buffer is a good idea, but could we develop some alternative stock water that is more dependable and higher quality in order to enhance the habitat of Lake 17, so I think as an alternative Jay some wells, some stock water, some good clean dependable water that drought proofs the area

Jay: To supplement the Lake 17?

Leon: Yeah, absolutely so, I think the buffer idea is a great idea, but the--you still the idea of brining up there isn't any good stock water for miles around there and actually Lake 17 in itself is not good stock water except early in the season.

Jay: Do you got some, I'm glad you said that Leon, because one of the items we were discussing is water quality tests on there. Do you guys have some of that?

Leon: I don't think we ever tested it but just the odor and the smell you know we know like you say cattle get caught in the mud not all of them get out of there. The quality is not great, they will you know they'll survive, but there's actually tests done that you guys might think about, cows that drink out of good clean water where there calves have come in weighing 50lbs heavier than cows that were drinking out of mucked up reservoirs all summer long, so you want to talk about some economic benefit.

Jay: Yeah, we were talking about that, but I didn't have anything to substantiate that.

Leon: There are studies out there that will substantiate that.

Jay: I know it's true from just being around cows. Thanks Leon.

Dennis: And because of the shallowness of that lake too it raises the temperature in that water to where it probably wouldn't sustain fish anyway, and then the poor quality of the soils highly alkaline I think. I wish there was a way we could improve the production of that whole area around Lake 17, the grass and stuff because it looks pretty poor in shape to me, I'd like to see something done to improve range conditions, maybe reseeding or.

Jay: Well we'll keep moving on, I'm not trying to cut anybody off I just, we've got to stay on task too. So alternative number two is decommission the dam and diversion. So where that varies a little bit from alternative one, we just do nothing on alternative one, alternative two is some restorative type construction. And so the total construction cost of that is \$340,817, the annual operation and maintenance cost is zero, the annual net economic benefit for irrigation based on DNRC thirty dollar per cattle, per acre feet excuse me is zero. The annual net income benefit for stock water based on a dollar gain per calf is 650 and that's still based on that same storage. Lake 17 storage volume is 351 acre-feet the same thing as alternative one. The potential water available for irrigation based on 19.99 of water required for alfalfa is zero acres. The potential water available for livestock at you know at those same rates is 650, so and that's once again if we can sustain this 351. Ok, so the wildlife habitat rated overall poor to fair, the vegetated wetland habitat is 123 acres, which once again we're going to look at those numbers just to make sure, those are from the original report done by the NRCS, we just want to make sure everything is right with what we do and what they have so we give you guys the best decision making, the best information for decision making, the most informed decision making. And so, the shoreline distance is 4.3 miles, the potential to adversely affect 817 acres of habitat for 10 species of concern. Recreational potential rated poor, migratory species critical habitat bird watching is poor, hunting is poor, the fishing is 3.5 feet so probably not a whole lot of really good fishing there. Moving forward, so then we get to alternative, so there is not a lot of difference other than the cost of we would go down to the breach and fix that there'd just be some restoration type work on that. Alternative one and alternative two don't have a lot of difference between them and you can see by what they support, other than some initial construction cost. Alternative #3 is rehabilitate the dam and decommission the diversion so what that would entail is we you know we take the diversion out and restore it just like alternative two, but the dam would be restored and all the things that need to be done there. The total annual construction cost of that is 1.24 million, the annual O&M budget cost is 13,373 that's the one percent of dam construction costs, that's just how we came up with that, plus \$15 O&M costs per acre of irrigation. Annual net economic benefit for irrigation based on DNRC \$30 per acre-foot 4,424, so wouldn't even quite cover the O&M costs. Net economic benefit for stock water based on a dollar gain per calf is 650. 934 acre feet is what the storage would be, potential water available for irrigation based on those same values is 147 acres, so it went up from zero to 147. Potential water available for livestock based on NRCS 25 gallons, those same parameters, is 650 cow-calf pairs.

Pete: I've got a question on that one, in years of extreme drought and drought does occur in our country, how much have you factored evaporation in your storage?

Jay: We do have that, and it's based on 42 inches of evaporation. What you'd have in addition, it's not so much the evaporation, but then as that starts to go down as you're drying that out, each time if you do have some small rainstorm event that's going to try to recharge some of that, that's going to all be taken, you're not going to get any net volume out of that, is what starts to happen. We did consider an extreme drought we didn't look at one extreme or the other, we tried to see what based on the best evidence we had of what a normal hydraulic cycle is, is that sustainable. If we have something like the '90s where we have an extreme drought, I don't know what happens to it then, we didn't look at that but it's probably not very good. Anybody want to add anything to that, the hydrology folks add anything to that. But I don't know how you'd evaluate it at that extreme drought, I know we do have it, hopefully we would have enough, it wouldn't be so long lasting that we'd have enough storage that we could still have some of the uses you know.

Harvey: That's a good half-empty kind of question, half full half empty

Jay: Yeah, yep, so where were we at, I went all through all those right so moving on. The wildlife habitat rated overall fair to good, vegetated wetland is 72 acres that's come that's actually down that was something that Laura said caused her a little red flag so that's why we need to make sure we're getting the right numbers, but there's 72 acre and that once again is off the NRCS data and I'm not trying to throw them under the bus we just want to make sure how they came up with the stuff and how we're determining it's correct and thank goodness these gals are here because I don't know how to do that but they do. So open water habitat is 279 acres, shoreline distance is 9.1 miles so that's went up extensively if you had the comparison side by side if anybody can see that, I think, I don't know if we have a slide with the whole sheet, but we can walk around and please open up afterwards and can mill around and take a look at that for those who want to and get into more discussion, but that increases. Potential to adversely affect 643 acres of habitat for 10 species of concern. Recreational potential rated fair to good, migratory species critical habitat bird watching that bumps up to fair from poor, wildlife corridors the hunting fair, fishing jumps up to 6 feet from 3.5 so at least we're getting to where some species could be in there right, so the other one was just you're probably not going to have any fish for sure.

And then here's alternative four where we go with the original plan.

Harold: I have a question on your previous slide the total acres of irrigable land below that dam was what?

Jay: It was 147 acres that we came up with.

Harold: This deal that's put out here says maximum irrigable acres is 1600 acres.

Jay: That would be, that's with this other alternative and if we did

Harold: Oh ok, after this was done?

Jay: Yeah, yep

Harold: The reason I was asking is why is the purpose of alternative three was to be used for basically recreation, instead of used for irrigation

Jay: Yeah, you wouldn't get a whole lot of, I mean the irrigation isn't be substantial you're right. If you had some irrigation that you could do close and get some alfalfa, everything is based on alfalfa is the crop we used, but if you had something reasonably close to that yeah you could possibly get...

Harold: In the present there is only 280 acres that can be irrigated on there or possibly?

Jay: I think it was zero, back in that 1967 study that I said was done they showed 457 acres that were irrigated at one point, but that had been abandoned, but they had the spots designated and we totaled those and there was a total of 457 acres that had been irrigated and that was done in '67.

Harold: So did that just run from 17 to where it runs into Little People's Creek or does that..?

Jay: Yeah that was down further down Duck Creek, it wasn't at Little People's Creek it was, well we have a map coming up of potential irrigation sites, the 1650 is probably is if everything was theoretically full and irrigated in a super-efficient manner. That's probably...

Harold: That's what my question was, how far down from the diversion dam how far down, would it go further down than Little People's Creek?

Jay: It would go down further, you'll see that on this map.

Harold: Is that Morrison & Maierle's report?

Jay: What's that?

Harold: The '67 report

Jay: No that was done by the, well I don't know if they hired an engineering firm to do it, but I believe that it was done, I don't know who did it, but it was done in conjunction with that so I don't know.

Bruce: The report you're talking about that it's not the Morrison and Maierle one, we contacted them to try to get it and I believe Laura you said they laughed at you, it was done in 1974 and they just don't have that information apparently readily available.

Laura: Right, whatever we could find on the internet was pretty much. But we did review that report that you're talking about.

Jay: So, I didn't mean to cut you off, but we will see a map on it.

Alternative four with everything restored you know the diversion rehabilitated and the dam rehabilitated, the vegetated wetland habitat is 254 acres, open water habitat is 740 acres, shoreline distance is 20 miles, recreational potential rated good, migratory species is good, wildlife corridors the hunting is good, now we're at a depth of 12 feet, you know so there's potential for several different species at that depth, I can't tell you exactly, I'm not that isn't my specialty but I know that it's a lot better than 3.5

So the environmental investigation required looking through these is, the wetland determination CWA 404 jurisdictional determination and 410 EPA regulations, and that's what Laura and Emily that's a big part of their endeavor they've been doing a lot of other stuff but that's a big part of the wetland determination, the THPO consultation, the threatened and endangered species, economics, socioeconomics, and income. What develops out of all of this eventually is this benefit cost analysis this benefit cost ratio. Recreation uses, improve and conserve public recreations and public fish and wildlife, land access permission and land ownership for improvements, irrigation uses, water rights, applicability to water compact, and agricultural water management, and cumulative impacts. This might be a good time, is JoAnne still on?

Andy: JoAnne?

JoAnne: Yes, yes I'm here.

Jay: So, can you give me a summary of what we discussed the other day, you know how you told me how, what, how the compact is related to this project as part of the diversion at Little Suction Creek.

JoAnne: Sure, and I guess Wold is back on now, he's having trouble with the line. Wold are you there?

Wold: Yes.

JoAnne: You're asking what the source of the water right is?

Jay: Yeah, just you know how we were discussing how does it pertain, what ramifications does that diversion and how does that go with the compact, you know as you were explaining it to me. If I could understand it after you explained it to me everybody can understand it, because I've got the mentality of a 7th grader.

JoAnne: Wold, do you want to go ahead and explain that?

Wold: Yes, I can do that. First of all, there are two water supplies that we are dealing with. One is the local water supply from Duck Creek and for that amount, for that water that is connected into the lake from Duck Creek the Tribe has all the water supply in there it's their water right they can do what they want. They can use it for irrigation, for non-irrigation use, for recreation, wildlife and what have you. The second most important thing is the question we are dealing with is the Suction Creek. The Suction Creek is of course in a different drainage basin and that drainage basin which we refer to as EJ that drains into the Missouri River the Tribe has the Tribes have a water right of 1,290 acre feet of water. So,

as you can see that water can be diverted across river basins into the 40I which is the People's Creek and that is where Lake 17 is located. So you have a maximum of 1290 acre feet in addition to the amount of water that is derived in the watershed of that basin. The water right there is 1935 water right and it is the Tribes have the right to divert water, that they have the right to divert from January 1 to December 31st. The water right that we are talking about from Suction Creek comes from Section 9 Township 36 North Range 22 East. The water right can be used for anything and once the water right you know outside of the reservation is under State jurisdiction outside of the reservation, and once it gets into the reservation it is a Tribal water and a Tribal water right. So, the purpose of that water right is for anything it can be used for irrigation it can be used for anything they want. As you know the dam was built in the 1930s to serve for irrigation purpose, but as far as the water rights now signed in the compact as we have negotiated it, the Tribes can use the water for anything they want. Does that answer your question?

Jay: I think so, I'll let folks ask anything, I'm going to, well can everybody here him. Ok. Well what he's saying basically a big deal in water rights is if you go from one basin to another and being that the diversion the Suction Creek diversion is actually off the reservation that 1,290 acre feet if you heard him talk about that number that can be diverted that's the amount that can be diverted from off the reservation to be and that's that 40EJ water right into the 40I and so that it can be used in that watershed so you have that bonus. And the nice thing is most water rights run for irrigation run in the water year from like April to October and this one is year-round is one of the things he said, the other thing is it's considered whatever beneficial use, correct me if I'm wrong here this is the one I always struggle with because I'm use to the beneficial use, but whatever you guys deem a beneficial use it doesn't have to match like the State of Montana beneficial uses.

Wold: Exactly, exactly for us, you know beneficial use you don't have to use it, you don't want to waste water, but at the same time with that water right in the reserve water right that does not really conform into you know the classification of State water rights meaning that water rights even though it comes from the state water right we have negotiated that this water right will be like a reserve water right meaning that it doesn't matter if a tribe doesn't use it for 7 or 8 years because with the state water right as you know that water right would be lost, but as far as the Tribes are concerned particularly this water right they will never lose it, it will not be relinquished. So when we say beneficial use because we don't use it all the Tribes don't use it at all it doesn't matter whether they conform with the state beneficial use so they can use it or not use it, they can use more water, they can use less water, so once you have that water right it is the same for whatever they want. It is not like a state water right that has to conform to a beneficial use, it has to conform to the amount of consumptive use that they are allowed to use. So for example you have 1.6 acre feet per acre or something for consumptive use, it doesn't have that much it can be higher, it can be lower, because they can use it for irrigation, they can use it for livestock, they can use it for other things as a beneficial use.

Jay: Ok, thank you Wold. Did everybody here that? What he's basically saying, usually you have about a 7-year time frame to have a beneficial use you don't have this stipulation, I don't know is the term, would this be a federal water right as opposed to a state water right?

Wold: Are you asking? You know we are talking about the Suction Creek portion only. That is a state water right but once it diverted into Lake 17 and is released for use down stream it is no longer a state water right it is a reserve water right, it is a reserve water right.

JoAnne: Which is federal.

Jay: So one thing I was going to ask you too for the purpose for our task at hand is we would need an opinion from you guys declaring that so because we need to know for sure we have the water that's stated in the compact and you guys have assured us of that but for our purposes I would like it in some sort of written format so we can apply it to our documents. Is that something that we could get?

Wold: Yeah, I think you know we get along very well with the state and we work with in collaboration with them and we came up with our criteria and then they agreed upon it and you can always check in to the state and ask how it is. Because you know that 1290 acre feet is a state water right of 1935 priority date, but once it gets into the lake and starts to used by the Tribe then it is in fact going to be administered by the Tribe no more by the state.

Jay: Basically, if I get the gist of this you're saying it's the 1935 priority date, once it hits, and correct me if I'm wrong here Wold, once it gets into basin 40I which is the jurisdiction of the Tribe, then it's their jurisdiction they have administration, prior to that, Ok, I was going to say for clarification, prior to that it's still a water right by the Fort Belknap Indian Community but the administration portion is by the state of Montana, correct?

Wold: Yes, outside the reservation though yes.

Jay: Ok, so if we could get some clarification and I'll talk to you more about that what we need, I just wanted somebody that's substantiated in this stuff with a lot more knowledge than me explaining how that worked. And so that we can be you know, because a lot of this we need to know right that we have that water before this will even work, so that's a huge thing. And Steve did you have anything to add to that?

Steve: Well, yeah, I understand there is a 1,290-acre foot diversion water right from the 40I basin into the 40EJ from 40EJ into 40I. So Wold do you know where the Little Suction Creek diversion is?

Wold: I don't remember exactly where it is right now, but...

Steve: Did he say he does?

Jay: Yea, he said I don't know remember exactly where it is but he knows where...

Steve: So my other question is, is this the only diversion or are we sharing this 1290 acre feet with other diversions?

Wold: I didn't hear you.

Jay: Is that only, that 1290 acre feet I mean that diversion on Little Suction Creek is that the only diversion or is there a share of the 1290?

Wold: Yeah, I don't remember exactly where the place where the diversion is, but if you were to go into the agreement of the compact agreement on page four on the top part of the page it will tell you where the diversion is going to be it can be diverted from any point by any means on Tribal tract or fee land in the Section 9 Township 26 North Range 22 East and you can read it there if you want. I hope one time we are going to meet with you because we have other questions we'd like to ask you for some other time.

Jay: Ok, well we probably need to have that discussion, I mean sometimes it's pretty hard to hear you Wold and so I think we can have a get together with some of the agencies involved and ferret out what we need from you folks.

Steve: Yeah I think the only other question I have is if the water if basin transfer is limited to 1,290-acre feet what are the legal alternatives for measuring that discharge and who would be responsible for verifying?

Jay: Yeah, like we talked about, did you hear that Wold?

Wold: How would we verify that amount of water that gets diverted the 1290 acre feet? I mean I think something needs to be worked out with the state.

Jay: Ok, because yeah, and on your plans we were just talking about this yesterday we didn't see any type of gauging thing you know.

Wold: Yeah, you're right there is no gauging there anymore. I think as part of this project, I'm asking of NRCS, I think we should have a get together to get a gauging station there. Get a USGS gauging station.

Jay: You're saying that should be part of our plan is for rehabbing that diversion, get a gauging in?

Wold: Exactly, that's what I'm saying, without that I tell you your project is not really complete.

Steve: Yeah, the other question that needs to be asked, this water compact where are we in the process, does Congress still need to ratify it, is it subject to change?

Wold: The compact has been approved by both the State administration and the Tribe in 2001. So as far as the state and the Tribe are concerned it is done with. I mean the Tribes have that water right this is not going to change, but we are undergoing now to make it you know to have an Act through the federal government process through Congress, but I think you need to take it as final and binding what you have right now. I don't think that is going to alter in any way much.

Jay: So let me reiterate that because you don't speak the same Norwegian I do, is that, you're saying it's approved by the State and ratified by the Tribe and that you're looking for an Act in Congress, that's the next step to get it approved.

Wold: Yes, exactly and JoAnne can reiterate that.

Jay: Ok.

JoAnne: Yeah, after congressional approval then it will go to a Tribal membership vote.

Wold: It seems to me for your purpose of what you are doing I don't think this is going to change I mean I would continue to do it.

Steve: So, one other questions, how was the 1,290-acre feet derived?

Wold: Oh, historically this is what was agreed upon this was before I was born. In 1976, so we grandfathered it, I mean the Tribe.

Jay: That's the same answer he gave; At least you're consistent because that's the same answer I remember you telling me when I asked.

Wold: I think the BIA might have some records on one a very very old record and hopefully the NRCS may be able to find that information. In fact I mean this is I think one of the very few that we haven't calculated to determine the Tribe's water right, every other water right that the Tribe's have has been calculated, but this one because it was already there so we just accepted it in and I don't think we can divert more than 1,290 acre feet given the hydrology of there.

Andy: Thank you Wold.

Leon: Just getting back to his question you know, a lot of people get confused about the terminology of the compact and the water settlement agreement. There is already a compact in effect with the state, the water settlement agreement is what's being proposed to congress and the water settlement agreement has a lot more in it for stuff that the Tribe has in addition to settling the water right.

Andy: Yeah, thank you Leon.

Jay: Yeah that's a good point.

Crystal: As far as like...

Andy: Hold on a second Crystal.

Harvey: I got a question and I don't know if I missed his explanation for the water but, I've got two questions, on the whole picture of this when it's done is there enough water on these drainages to fill it

because it would seem to me that historically you know the way it was where it was built and not be improved is that they had to divert water there from Little Peoples Creek through that system there and I'm wondering if that plays into this somewhere and you know diverting water to Skinner Lake and then over to Lake 17 you know and it just it would seem to me like you know with all of this stuff and the drainages there, there isn't enough water to fill it to what it used to be you know because they had to divert water into it.

Jay: Without the diversion there did you say, or with it there?

Harvey: With the present diversion the way it is the way it was built they had to divert water in there from Little People's Creek that's why there's a big extensive canal with all those flumes and stuff that went through right at the Canyon there you remember that flume there and there are some other flumes. And with all of this stuff being said now you know I'm wondering if that if it's not going to fill it to capacity I guess or what might be needed for irrigation and these other purposes for recreation what has to be in there.

Jay: Well that's what we're trying to establish you remember that talk about the sustainability and those numbers still need to be verified, I'll put it that way, we'll sit down and talk about that. That's the first I knew that other waters had been diverted in there, were you aware of that Steve?

Steve: No, I guess I don't completely understand the question, but it sounds like the diversion of 1,290-acre feet to Lake 17 that there may be some outstanding water rights downstream of Lake 17 that require pass through you know we couldn't just shut it off and where would those water rights be filed if they are on People's Creek.

Jay: But I thought you were saying some had been diverted back into Lake 17 or was I misunderstanding you?

Harvey: From Little People's Creek, yeah. It went from Little People's Creek from the mouth of the canyon where it started it irrigated the system throughout Lower Hays there and then it went a flume was built a canal system was built over to this other one they call Skinner Lake and then it was diverted into Lake 17, is the way I understood it I don't know unless I'm misunderstanding how that process worked, but that's the way it was always explained to me.

Steve: I didn't see any other ingress into Lake 17 other than the diversion at Little Suction Creek.

Jay: I haven't either, but I mean we'll look into that I got a note on there. What we have come up with what the NRCS has done in their previous calculations and what we've come up with is yeah, that it will fill up, but we'll sure take a look at that because if there is an additional flow in there that we, I'm not sure where it would come from because I don't remember seeing it on anything but

Crystal: If you go along Highway 66 going from here to Hays you get down toward Old Hays look up on the hills and you'll see all those flumes going through there and it goes all the way up into Hays.

Harvey: But see I'm not sure where it went from Skinner Lake, but my understanding was it went from it was just a little thing between system and Lake 17 and Skinner Lake from there somehow it went into Lake 17.

Crystal: You know, Wold did a lot of work on our historical irrigation so that might be something you want to talk with Wold about. Well Wold, I was telling them about that they need to talk to you about the historical irrigation and the possible you know going from the mouth of the canyon all the way down to there's flumes down all the way from the mouth of the canyon to Hays and to Old Hays and was those flumes with that water was that emptied into Lake 17 as well?

Wold: Yeah, that is one of the reasons I want to meet with our friends, the engineers because what I'd like to see important for the Tribe, the Tribe should have the possibility or accessibility to use the lake for multiple uses. Like for example recreation, wildlife, and other things and then irrigation. So having you know having recreation you won't want to irrigate it very much the lake, this will reduce the irrigation amount so what is the maximum amount of land that it can irrigate and still keep the lake you know fully for recreational uses those are the kinds of things that I want you know to spend some time you know with our friends and that's the reason you need you know to discuss this.

Andy: Ok, I'm sorry for stepping out for a second, but Steve the planning and engineering work that was done many years ago looking at the basin where for Suction Creek right the hydrology there that was assessed by engineering by NRCS right? The water in that I don't want to get too far off here from official basins you know, just you know for that water flows into the diversion that was assessed by NRCS; just the hydrology of it sorry I thought it was; how much water?

Steve: In what way Andy?; Yeah, we had some, we have some approximations of what we think would be the runoff from 47 square miles from Little Suction Creek and how much would kind of make it over to Lake 17, but you know right now it's set up to take it all and what I've been hearing from Wold is saying we're going to be restricted down the road to 1,290-acre feet.

Andy: Yeah because you know obviously what we're talking about here when it was built in the CCC days there wasn't any gauge out there regulating the water or what the reserve water right was and what exactly it was supposed to be diverted, but we'll just have to re-ground on that and see.

Steve: In the last 80 years it doesn't sound like the state of Montana has filed any type claim or grievance on that full flow diversion for the last 80 years so.

Andy: And then, I just want to Jiggs I just want to because there is that water that drainage that comes to Suction Creek in this diversion towards Lake 17, that same water that you're talking about it doesn't go over into that drainage. That water you know like you're saying with the Little People's Creek that comes out of Mission Canyon right, one of the STIP they called them Southern Tributary Irrigation Projects there are 8 in the mountains, well there's the Little People's Creek one that comes out of Mission Canyon and there was a diversion right at the mouth of the Mission Canyon flume that runs across or under the road and it goes into an irrigation ditch and that irrigation unit runs from there from the mouth of the Mission Canyon and it flows all the way down where he's talking about into Hays and

makes its way down to closer to Old Hays and it crosses the highway and it runs back into a ditch and it was I don't know the engineering term but it was forced you know because the water was pushing it across and then there's a flume there Jiggs where you're talking about there's an old flume there and that runs into Skinner's Lake and Skinner's Lake eventually well that is in Range Unit 56 and then that water makes its way further west down into Duck Creek into that Duck Creek Unit. And I think that's to differentiate, Jiggs because I don't think, that actual water doesn't flow into Lake 17 and I'm right about that.

Steve: I believe so.

Jay: Because that would be downstream; We have some maps and I can't remember if the slides are on it of the existing out of that '67 study, they have some pretty good maps.

Andy: I just want to clarify, Jiggs is that what you're talking about that water doesn't flow in Lake 17, it flows into Duck Creek, which is right close to Lake 17

Harvey: Well the way it was always explained to me was that it went in to help fill 17, I don't know.

Andy: I think the only water is coming out of that drainage that runs into the diversion and goes into Lake 17

Mr. King: Well I was wrong then.

Jay: You were misinformed.

Andy: It's a good discussion though.

Harvey: Maybe I'm wrong about some more stuff. Are we getting into a water, getting into the water compact discussion here?

Andy: No, we're not getting into, that's what I wanted to say we're not getting into a water settlement meeting here, it is a Lake 17 meeting you know. But just a point that this project itself is you know one of the Southern Tributary Irrigation Projects historically and something that is identified in our water settlement. Well keep moving on Jay.

Jay: Ok, yeah we were just discussing that. So here's the schedule and workflow. October 2018 through April 2019 the preliminary investigations, we've done a lot of that work. I know some of the wetlands studies and stuff they've done some preliminary of that, but they can't do it now of course with the snow and ice on there right, that's going to have to wait until that comes on comes off, but they can complete that. So they did initial environmental evaluation, initial alternative identification, conceptual layout so that's those four alternatives and the preliminary screening so you know what would work what and there was some other alternatives I believe that we you know, ideas were kicked around, options and so got it down to these 4. April 2019 to June 2019 we'll prepare the Draft-EA which some of that's already been done. Environmental investigations and consultations, economic analysis which

we've already started on, dam/detention structure plan improvements and alternatives, which ever one we select there, you know the plans are done so that's a fairly straight forward part/task. And flood conveyance planned improvements/alternatives, there is a pretty extensive flood study done, I don't know that we have a whole lot of money to do the improvements, but we can look at that and select preferred alternative and that's by June. June 2019 through August 2019 is prepare the Final-EA based on that selection, incorporate the comments and get our record of decision. So we have a good start on it, there's plenty of work to do, but this scoping meeting is going to definitely determine more of what goes into the next steps.

Dylan: Jay, can I interrupt you for a second. And again I'm Dylan Hickey with the Corps and I'm here from the regulatory perspective of section 404 of the Clean Water Act and just looking at this schedule and workflow and Steve or Jeff maybe you can chime in on this, am I correct that there is no wetland delineation report for this site yet?

Laura: Correct.

Jay: Yes, there's not a completed one.

Dylan: And so I'm concerned about your ability to do an environmental assessment without a delineation of the aquatic resources on site. That's not you know, that's kind of out of order, you wouldn't really be able to assess the impacts of your alternatives without actually knowing what you have located on site first.

Jay: Well, and that's part of the, that's why it's in that, they'll complete that and then that will be part of that Draft-EA.

Emily: So the intent is to go out this Spring during the growing season to actually go out and map those wetlands with a delineation so that will be included as part of the Draft-EA once we get to that. So right now we kind of have a general idea of where the wetlands are so we can make some preliminary assessments, but certainly we're going to have to go ground truth that make sure what's out there is correct.

Dylan: And then for the alternatives analysis and maybe I'm not grasping or haven't understood something correctly, this might be a question better directed at the Tribal Council itself, what is the purpose of this project? Because you can't really have an alternatives analysis until the purpose of the project has been identified and it sounds like the purpose is still being discussed and finalized with what exactly the Community wants out of this project.

Jay: Well I would say the purpose is to determine the best course of action for that watershed, I mean, I guess I'm not following your question.

Dylan: So you know every action has to have a purpose before you do an alternatives analysis to see what's reasonable and can be accomplished. A purpose has not been decided upon yet so alternatives can't be drafted until you know what the purpose is. The purpose to increase recreation value, is the

purpose for wildlife restoration, is the purpose you know whatever the Tribe is looking to get out of that project, until we know what the purpose of the project is it won't be able to meet the NEPA alternatives analysis, the 404-B1 guidelines without having that purpose and then once we take that purpose you look at it and say what are the alternatives that can meet this purpose?

Jay: Ok, so let me ask this, it can't be a number of purposes?

Dylan: It can be a number of purposes, but it, the actual...

Emily: So Jay what we need to define is what the purpose of this project is in terms of are we building this lake for agriculture, are we building this lake for recreation are we, you know we have to kind of have a defined purpose that we can base our alternatives off of and we chose the alternative that meets that purpose and is economically feasibility if that makes sense.

D. Stiffarm: Isn't that what this meeting is to do?

Emily: And that's what this meeting is about in a way, we're coming up with the intent and what we're wanting to do with this lake.

Dylan: I'm just a little worried going through this slideshow and as we go through our four alternatives the need that they would satisfy would not necessarily line up with all the possible purposes that are out there and so until that you know that is not the limit of the alternatives that are going to be considered when we look at this project, of course assuming if there is a section 404 component to it because the no action has no regulatory hook.

D. Stiffarm: So are you telling us we ought to decide on a purpose first? And then...so we've gotten ahead of ourselves right?

Dylan: Yes, exactly; And then we'll look at the alternatives; I think a little bit.

Steve: So if I was to say Dylan that the purpose of this study is to enhance the recreation, fish and wildlife, and agricultural management benefits of the Lake 17 watershed does that sound like a purpose you know adequately defined?

Dylan: It could be, it could be.

Steve: Because the basin right now already enjoys multiple purposes.

Dylan: Yes, and obviously we're not limiting it to just one single purpose.

Steve: So I think the Tribe wants to preserve existing purposes and try to enhance those.

Dylan: And then I would want to know what exactly wants to be enhanced and what wants to be preserved so that we can look and see is pumping water an option for irrigation or is bringing in water for stock.

Steve: And I think that's where we're at today in terms of conserving and improving those three benefits: fish and wildlife, recreation, and agricultural management, which includes stock water and irrigation. That's where we're at and I think these community meetings are trying to kind of flesh out and weight those purposes. If they go out and do a water quality test and it's too high in salinity, irrigation is out, and so then they're kind of left to pick and Leon brought up a pretty good point it's suspect for stock water development. So they're quickly kind of coming down to what NRCS had as the original purpose for rehab in 2011 which was fish and wildlife benefits. To conserve and enhance the fish and wildlife benefits in that watershed. So we are kind of fleshing out a multipurpose structure here you know, but I hear where you're at. With regard to the wetlands I share that concern, there are some wetlands at the diversion point, there's wetlands all along the diversion at different grades, and then all around the Lake 17 perimeter. I think what's an important delineation is a lot of those are artificial.

Dylan: And again that's where NRCS and Corps don't see eye to eye because we don't have an artificial wetland designation. And so they're all it's either a wetland or not a wetland, it could be a non-jurisdictional waterway, which I want to bring up. I believe Lake 17 and its adjacent wetlands are jurisdictional under section 404 of the Clean Water Act, that's just from a preliminary review online. It is possible that it is a non-jurisdictional waterway in which case there would be no section 404 permitting authority, no need to get a permit from the Corps. If that's something when you do your report and as you guys look farther into this if that's something that you think is reasonable and seems to be backed up by field investigations I will recommend submitting an approved jurisdictional determination so that we can legally lock down what are the limits of the Corps' jurisdiction in regards to this project.

Jay: I know initially you know they had applied for a 404 Permit in 2010. What would what constitutes non-jurisdiction?

Dylan: That is a very fine point. It's probably beyond the scope of this entire meeting it's there is a terminology called significant nexus, there's interstate waters, there's direct connections to traditional navigable waters. The Milk River which it appears this waterbody flows into eventually, if it does in fact flow into the Milk River then it would be a jurisdictional waters of the US under the current regulations.

Jay: I just assumed it was.

Dylan: And that's typically what people do and most waters are jurisdiction but it's not 100% clear and so I just wanted to bring that up and make everyone aware that there's a possibility that it's not. You don't ask us to review the jurisdictionality of the waterway, we are going to do our review process assuming everything is jurisdictional.

Emily: Well isn't the new guidelines for Clean Water Act aren't they getting rid of the significant nexus?

Dylan: There is a proposed waters of the US rule that would change to how we defined waters of the US which is what's regulated under section 404 of the Clean Water Act, those are not regulations that are in

use at the moment and I don't want to speculate whether or not they ever will come into use or the timeline on that, we are processing applications under current regulations that we have.

Jay: Ok, thank you.

Dennis: I'd like to add something under the Army Corps of Engineers definition of a jurisdictional wetland I think Lake 17 would fall under that even though it scores low because of the vegetation component and I just thought I'd add that.

Steve: Just along those lines just to play out a scenario so that we can do a better job of anticipating the approach to the Corps permitting, if there is a 3.5-mile line of say a kind of a type 1 wetland complex between the diversion and Lake 17 that was created by the construction of the diversion and the Community and BIA agree that the diversion should be removed, those wetlands are going to disappear, they were basically artificially created, would those have to be mitigated?

Dylan: Now as part of the, when you say the diversion has to be removed are you talking about the diversion and the dam is this alternative...?

Steve: Just the diversion, the dam, let's just say the dam stayed, the lake stayed, but this chain or series of wetlands complex created by the diversion 3.5 miles away, if the community chooses to decommission the diversion those wetlands would dry up, would those have to be mitigated?

Dylan: If they were jurisdictional, they would, yes.

Steve: Even though they were the result of a structure?

Jay: That's a good question, but it wouldn't be the whole 3.5 miles either because that's part of that whole

Gene: Here's a question, the dam was originally built for irrigation purposes. From the diversion to the dam that's a feeder canal. So doesn't the Corps give us a waiver if there's any wetlands created along a leaky feeder canal?

Dylan: Sometimes when that irrigation ditch or feeder canal is just being relocated we don't require a mitigation because it's assumed those wetlands will reestablish along the new canal or irrigation ditch.

Gene: Ok, let me rephrase that, wetlands created by an irrigation structure canal are not jurisdictional.

Dylan: That is incorrect, that could be correct, but just because it's artificially created doesn't not have any impact on the jurisdictionality or if mitigation is required.

Dennis: I also want to point out that we have an aquatic resource protection ordinance for the Tribe, I helped write it and within that mitigation activity I think we got it at 3:1. If you impact one you got to develop a new one in the preferably in the same watershed and same type habitat.

Dylan: And if mitigation was required, we'd have to keep it within the same 8-digit huck, it would likely we would want to coordinate with the aquatic land protection ordinance and permitting and any mitigation that the Tribe has to try and fulfil both requirements with the same site that would be up to the Tribe and that would be a separate project. I don't know if there's any federal funding associated with that Steve, that would pay for that mitigation or if that gets USDA and Tribal trust responsibilities.

Jay: So if we reestablish/rehab that do we get wetland credits?

Dylan: It could, it could. That's a different path and there's specific components that have to be part of that mitigation site, it gets more complicated.

Jay: Yes.

Crystal: Oh, I was going to kind of talk on the same deal as Gene with the Corps of Engineers. I thought that there were some exemptions with these historical projects because we are exempt from a lot of things the Corps of Engineers require. It seems like when you are involved with the Corps of Engineers you know they want to have all this say, but when it comes to fixing or something oh they're not responsible you know. So you know so I guess asking you I would like to see what our expectations are and I would like to see if I needed help fixing one of my dams you know what is available to me? Oh, I thought you were with the Corps.

Dylan: Oh, no, I am with the Corps of Engineers, yes, and so I will answer the effect, two questions, two different questions. So there are exemptions under the Clean Water Act there's different categories: maintenance of existing currently serviced structures is one of them, irrigation stock ponds, irrigation ditches, farm roads, forestry roads, there are six exemptions, I'd be more than happy to provide those to the Tribal Council, to Jay, NRCS if they want to see them. Looking through what is being proposed especially with the rehabilitation of the dam, the new structures, I don't believe any of those exemptions apply for what is being discussed here. If the Tribe wants to try and alter their plans to fit within those exemptions, certainly could with the maintenance exemption that's possible, it's probably the only one that is potentially possible to utilize on a project like this, but there is no wiggle room there those are set by Congress they tell us exactly what needs to happen. Now, I work for the regulatory office so we don't actually build any structures we don't do any dam safety, any restoration any repair work, we only administer section 404 of the Clean Water Act and section 10 of the Rivers and Harbor's Act. As far as any potential assistance that the Corps might provide for structural maintenance or dam maintenance or anything like that, all I can do is direct you towards our headquarters office. There is a section of the Corps that does work like that, I don't know what their rules, regulations, how they decide what exactly they will assist with and what they won't.

Crystal: Ok, thank you. And I have another comment too, so we make our water claims for the several beneficial uses which is present and future irrigation on storage, I mean can't we use all of those to justify that? How come we have to have, I don't know my understanding is that we have to figure out what the beneficial use is going to be. Well with our water how we claimed it is we claimed all of these

for the beneficial use how we see fit. We didn't really have to you know but once it comes in we have all these justifications that this water is ours.

Jay: I understand, it's not about getting the water, it's about how we're going to spend the money to get the water or to be paying for the water. You see what I mean, it's not, we have to put assign values to each benefit so therefore we can get a cost benefit analysis to see if it's worth to see if we can get funded.

Crystal: And we can't use all those beneficial uses?

Jay: Well but we have to break them out, I understand what you're saying, but we can't say 1290 acres is going to irrigation, 1290 acres is going to livestock, 1290 acres is going to; I don't think that would be an acceptable way to do that. Maybe I'm wrong, I'm not going to say that I don't know enough about that, you know because I know just from what Wold said that you don't have to determine but I don't know that you can say each the whole lump sum can be used in volume for everything. Does that answer your question?

Crystal: Yeah, I see what you're saying. I don't know, I just thought that we would have...

Jay: I didn't know you were still there, I'm sorry.

Steve: Yeah, I just kind of like to bring this around back to your slide because I think that's important in term of the timeline.

Andy: Hold on Wold.

Wold: I don't know, if we use it for irrigation use there would be consumptive use, but if we use it for recreation there would not be any consumptive use you know very difficult to consume at all. And are you saying why don't we use all our water rights? Well, it's stored in Lake 17 and released from Lake 17 to you know the downstream and so you can use it for anything you want I mean whether it's for irrigation or free flow or recreation, or water right or for stock water I mean anything you want you have all these kinds of luxuries. Is that good enough?

Jay: I'm going to be real honest, I hardly understood any of that. Yeah, we will, I will get back, just because of the speakerphone and everything I'm having a hard time understanding you, Wold.

Wold: Ok, well I'm using you know my telephone isn't working I don't know the main telephone line so I'm using iPhone so I'm sure it's difficult to hear me.

Jay: Ok, thank you.

Steve: Yeah, I just kind of wanted to say that without having a lot of NEPA background you know I think the Council's interest in this project all along was to maximize fish and wildlife, recreation, and agricultural management benefits of the Lake 17 complex. I think that's always been the primary

objective. What we're asking NECI to do by the end of I would say the end of May for sure maybe could stretch it to the first week of June, is to somehow qualitatively present to the Council the consequences of these alternatives to achieve that goal and there's roughly 4. We're trying ferret out some variance from the community on those, but by the end of May the Council needs to pass a resolution as to which alternative is preferred. At that point that's kind of where the Corps comes in at that point a decision on where the community wants to take that complex, that's where the permitting comes in, right now it's kind of hard to know, it really is and so I think Dylan is here just to sort of carve out our attention for that, that permitting may play a role in some of these alternatives, but until the Council passes a resolution to choose a preferred alternative based on a good assessment of the consequences of all the different alternatives. And that's the part that is kind of missing in the flow there I don't think we want to proceed into a Draft-EA without official Council action on that preferred alternative. You know otherwise what would happen Jay is that basically you decided or NECI decided, we don't want to go down that route we want to make sure that that decision is clearly made by the Council and we also have to have some assurances that it's obviously part of the NEPA EA, is we really have to flesh out the environmental, economic, and social consequences of those four alternatives and get it into a form that everyone can kind of digest whether that written narrative, charts, whatever, but it's got to kind of get into a report form where they can kind of move through them and make a good decision on it for the community. I'm just kind of throwing that out there because I think that has to fit somewhere around the last week of May, because if you're asking them to make that decision in July, that's going to give you about 3 months to pull an awful lot together on that preferred alternative and I don't know if you'd be able to do it.

Jay: No, I understand and we've talked about that. And we didn't list that. And I'm glad you brought it up because that's valuable to list. I think it's implicit in there I don't think we would move forward without any without the Council action and without keeping them informed, but that needs to be in there.

Steve: Yeah, and I think you know President Werk and the rest of the council members kind of need to have that on their radar when we're expecting them to make that decision and so they might want to check in along the way and see how you're doing on developing out those consequences or those alternatives and making sure that there is enough information on each one to make a good decision. You know because what I don't want, wouldn't want to happen is last week of May or first week of June they come in here and they look through the alternatives and they're like there's just not enough here we don't see a financial comparison, we don't see water quality built into it, we don't think the hydrology is you know consequential enough to actually say well this will turn into so many acre feet of surface area of this and so much of that. So I'm just saying I think we've got to put in on their radar when you anticipate them making that call.

Jay: Ok, that's a good valid point. In the interest of time and hunger for people we're moving on. So environmental, oops I went backwards. Watershed project Plan-EA and final product, alternative analysis, it's just what we were talking about. Economic considerations, understand and quantify benefits to ensure feasibility, alternatives selected on basis of technical, environmental, social and economic factors. Summarize in EA and FONSI, so and in that would be a timeframe where we're getting this material to the council and to everybody involved to make good informed decisions.

Phillip: How are you going to quantify the benefits because this is all conjecture based on whatever. Variables, I mean you've got different variables, the only thing I've seen is your cattle, your cow-calf profit. How are you going to assess the economic benefits to the whole tribe?

Jay: Well some of those are a little bit nebulous, there is studies, thank goodness we got people a lot sharper than me. There's you know irrigation for the crop you know we're saying alfalfa.

Phillip: 145 acres is not much.

Jay: No it's not, and then there's flood protection which we can evaluate that on an economic basis. The cattle like you said, the livestock. The things that gets hard to put and actual number to at least for me is what is the economic value of somebody to be able and go out and hunt some ducks out there or to go fishing or to do that. I know that these guys have a handle on some of that and I'm not just throwing that on them but I don't have; that's a very good question, because I just actually asked Laura that the other day, how do you put a value on that? So, you know some of it you can figure out what's the opportunity cost of if you had to go somewhere else to do that versus right here. I don't have a great answer for you.

Phillip: That's ok.

Andy: JoAnne? Hi JoAnne this is Andy, the work that Jason Bass is doing with that economic analysis will that include, how broad is that, will that include Lake 17 I guess as one of the sites?

JoAnne: He's looking at historical damages right? He's looking at specifically the historical damages under the current guidance? What would that include, Wold are you still there? I'm sure that the historical damages does that include some of that.

Andy: Ok, I was just asking.

Jay: Ok, so the public and interagency outreach, potentially interested parties: the residents of course, the local governments, the Tribal governments, elected officials, local, state and federal regulatory agencies so that's why this gathering is here, other interested groups, the media. Potential outreach methods of course is these meetings, the comment cards. Did everybody get a comment card and did everybody sign the sign-in sheet before we wrap this up. Interviews, which I've got a couple names of people to interview now, flyers which we've put out some of those, direct mailings and emails, we've done some emails I don't believe we've done any direct mailings, media which thanks to Alissa Snow for your help on that and it was on the radio as well right?

Alissa: Yes

Jay: So we've had some media outlets, and the notice of intent, notice of available, and other publications, so we've taken care of those thing to meet the requirements. Now we're open up for

discussion. There's a picture looking at Lake 17 from the outlet structure, that's in October, October 20th, 2018.

Dennis: I've got a few interesting facts on this area from my past work. April and May we usually get about over 50 species of waterfowl that visit Lake 17, they nest and breed there or they just stop over and head out but we identified over 50 species of waterfowl are there. Also the nearby creek, Suction Creek, we've got several species of fish that are highly specialized, I don't think they're called fish, they're minnows. You know the thing in State of Montana we got 13 species of prairie minnows that inhabit not only Fort Belknap but the other prairies, but I think we got several of those species that live in Suction Creek.

Jay: So are those considered then like feeder type fish for waterfowl or other?

Dennis: Possibly some of them yeah. And we got a lot of the aquatic organisms that are in those prairie potholes, in those intermittent streams in the area are the main diet for these migrating waterfowl.

Jay: Ok, thank you, or I didn't mean, were you, did you have some more?

Dennis: Oh, just one more thing, I think in 2006 the US Fish and Wildlife service did a nesting colonial bird survey at Lake 17 too; I think it was 2004 to 2006 one of those years.

Jay: What year?; Migratory Waterfowl; Ok thanks.

Andy: Go ahead Steve.

Steve: Yeah I just kind of wanted to invite Jeff Combs to, I have a feeling I put my foot in my mouth with this EA, because I don't know much about it. I know the EA involves, Jeff and I talked about it, you know a good discussion of the consequences of these alternatives and a preferred alternative needs to be selected and we need to reserve enough time to act on that preferred alternative, but Jeff do you have anything to share with regard to that or I mean how you think it should go, I don't mean to put you on the spot.

Jeff: No, that's ok. You know there's been a lot of great discussion today about the benefits of the lake. You know I agree with Dylan you know our purpose statement at the moment is a bit vague and kind of general and we need to refine that a bit so that when we are selecting the alternatives and how we'll go about evaluating how they'll meet our purpose help folks like Dylan when they're looking at our EA process.

Jay: So can I interject, can we have a statement for each alternative then, is that Kosher?

Jeff: No, that's not any part of the NEPA process. So you know that's something that we're going to have to perhaps have a meeting soon Steve with our folks to flesh out and just get back on track on what the NEPA process is. There's been a lot of wonderful discussion today about the benefits of the lake, you know whether it's wildlife, whether it's livestock or whether or not that's even viable, irrigation and

whatnot, but we're really looking at the alternatives on how we'll go about if we choose to restore the lake to its former self, that's really what we're looking at. All the other stuff is the benefits that we'll get from it, so then we'll go into evaluating our short, long term, cumulative effects of those alternatives that we're considering on the resources and that's just not of Lake 17 in that watershed but it's also of Little Suction Creek when we divert that water and that water is no longer going downstream. So again that's just my thoughts from what I've been hearing today and realizing you know we do need to refine where we're headed to get this done Steve.

Gene: The way I look at it I mean we got a couple of different subassemblies here going on and we're getting in the process of tightening up the bolts and it's good to know what the Corps is going to be looking for in the Final-EA but by no means what everything being presented today is going to be in the final and so we're still kind of nebulous in several areas so I don't take that as a bad thing. Because if you weren't here today you know and then when we got all our stuff done and tightened up all our subassemblies and you know tightened all those screws and we gave you the final product you wouldn't have known what was going on today and like I said it's good to know what the Corps is going to be looking for but I don't think we should be all getting all afraid or antsy like oh my gosh you know because we're still in the process is all I kind of wanted to say.

Jay: Thanks Gene. Hey I have a question for you, so in that if you say we're restoring the lake as it was that's based on because it's always had that diversion and it's always been at that same elevation basically so then and it was for irrigation correct, so then all the other benefits just came along with that irrigation, is that what we're truly looking at I mean is that so would that be the analysis is we're looking at restoring it to that for the irrigation if that's what it was constructed for, I'd just like I'm, right now I'm kind of in a nebulous cloud.

Gene: Well that's what tonight's meeting and this meeting here today we're just figuring out you know what's important to the folks here at Fort Belknap. And that's why I said we'll just start tightening up the screws as we go. We'll find out more with the public input tonight.

Jeff: Exactly.

Paul: Can you speak a little bit to any differences between like rehab and the repair compared to like establishment of new infrastructure from zero. Because a lot of it, I mean the diversion is there, it's just got a big hole in it. So I mean I think maybe you could just talk about that a little bit, maybe there is no distinction.

Dylan: There is a distinction and you know again I talked briefly about the maintenance exemption that could be utilized potentially if it was to be put back in it's original contours, shape, character it's kind of a way of bypassing the whole NEPA process

Paul: And that's not why I'm asking, I'm not trying to find a loophole I'm just wondering .

Jay: So we can't call it a big maintenance project?

Dylan: You know it's not a loophole; I mean you guys could do it as a maintenance project, you can't do some of you proposed as a maintenance. I mean it's a viable alternative that I think merits some discussion. And then the environmental assessment would consider what the aquatic resources and other resources are at present value and then based on the proposed action what those impacts whether beneficial or deleterious will be. You know if you raise the water elevation depth you might have better fishing habitat, but man you just flooded out 400 acres of emergent wetlands you know there's very few things that are proving 100% good or 100% bad, there's always a tradeoff and it just has to be considered going through this NEPA process. If we can frame, if the reservation could frame the perspective at looking at this project from the beginning realizing those guardrails, for lack of a better word, it could help prevent any unexpected delays once a lot of money, time, effort have been put into the project because if you do go through the NEPA process only the least environmentally damageable practical alternative can be permitted. So when you're finding that alternative it really goes back to project purpose and that's why I really want to focus on project purpose, I don't want to say that any plans should change or purposes should be altered because of the Corps regulatory program it just needs to be well defined and considered throughout the entire process to make sure that there's no surprises.

Jay: Thank you.

Jeff: Thanks Dylan, I appreciate your thoughts on that.

Crystal: I have another thing to say, I'm not the water person but what would be important to me is the preservation of it comes in because our members built that and it was very prideful to them that they build that and what we have here on our reservation is agriculture, so I guess irrigation to raise hay for the cattle and all that stuff, I think that's important, it's very important to our water storage for those purposes. I think it's important to keep it what it was historically. Anyway, I don't see why you know, I'm still having a hard time wrapping my head around, we could have all those areas come into play but if we have to define something I think that and then everything else will, we can't stop the birds from coming you know, we can't stop recreation from coming look at Fresno, Fresno was built for irrigation but their biggest thing after that is recreation.

Jay: I thought it was built for flood control?

Crystal: I thought it was built for irrigation storage, that was what I know on the history of it, and just being like for instance I went for a haircut, I get a razor cut, and she said what do you do and I told her what I do and she oh I hate those farmers you know they take all the water and pretty soon we can't get our boat on the there and she's got this razor pointed every which way you know and I thought be quite because I didn't want my throat slit. But I think that I grew up with people the older people who actually worked on that project and it meant everything to them.

Jay: Thanks, nope I think that's it for this, Mr. Healy?

John: Andrew?

Andy: From earlier when I said I would wait, I did go out last month and meet USDA with NRCS. It was short notice we already had a prior meeting there over hemp; Kevin Farmer was not there, but he called in and Matt Lauer wasn't able to, the chief, wasn't able to make the meeting, I can't remember the lady's name that's in my notes but she works directly for the chief, that sat in on the meeting. So my intention of going and meeting with them was to talk with them about the cost share in accordance with the National Watershed Program Manual, so I specifically talked to them about you know which I think they were familiar with Kevin was familiar already about the cost share and just the perspective from the Fort Belknap Indian Community here on the history on the Lake 17 and you know some of the work that was done in the past and to see if there was any kind of justifications that we could make or changes for flood protection, especially concerning the cost share because currently we I know we are still in this phase of it but we are talking about is a 75/25 percent split and I think Kevin's initial response was you know from agricultural irrigation purposes not for flood protection, because obviously trying to get it funded at 100%. I did mention you know we'd been looking at the watershed or Highway 66 being downstream from Lake 17 and residents below Lake 17 but we did have a good discussion about bumping it up to 90% and I felt really good about that because they offered that if I can recollect right and we'll follow up formally here. But that's great news as far as getting it bumped up to the 90% and 10%. I mentioned earlier the WRP and the materials with that, that will help, I know before we were looking at in-kind material to keep costs down and help with the shortfall and the funding. We had somewhat of a discussion about that like I said I'll need to follow up with them formally, but that was good news and one of the things I wanted to mention today I know we mentioned it at prior meeting, I know there was some other staff here earlier and going to the meeting tonight I'll probably raise it again because it was something that was out of the community concerning the Snake Butte rock that was being proposed initially for riprap for this project. The only initial intention of that and even the test runs that were done by the Bureau when we were looking at the Bureau constructing the project was for in-kind purposes, because we were running into funding shortfalls, that is off the table, I'll make that very clear I always bring that up Steve at every meeting we have, because that was a real concern by different departments even within the tribe, community members and organizations that because of Snake Butte being a traditional site a cultural site that they didn't want any rock taken from there. So this project moves forward that's not going to be on the table. The good news about meeting with USDA they treated us very well and I was very satisfied. I'm glad you came today Dylan, because it made me think back about the history on this and my involvement in it even from the beginning. I grew up out in that area and I use to run cattle in range unit 56 which is the what is it 11 right, Lake 17 is in Range Unit 11 range so the range unit is just east of well it borders range unit 11 and range unit 56. I grew up out there I'm from Hays, I grew up out there and had my own cattle out there along with my family, besides that I grew up going to Lake 17. Lake 17 I think I can say and hopefully you'll be here this tonight in Hays has high value for the people that live out in that area. Lake 17 has always been an area where the community goes out there for cultural or recreational or traditional or agricultural purposes. Wildlife, that's always been a site that people go to because of the waterfowl that migrate out to Lake 17. So you know I'm trying to think about the discussion today and the benefits and the purpose because that's something I'll regroup on because I've been involved with this project from the start. Initially I think I can say too that it was for maintenance purposes too because of funding shortfalls or not having access to funding and obviously you know this is the first time I've seen this, this is great, I hope everybody got a chance to look at it you know when it was built and the diversion dam because of you know it

exceeding it's lifespan out there, the Council at the time and staff had concerns and there was concerns from our agricultural produces too. When Lake 17 was built the reservation was still very young and you can see that by this document and this picture here today. So when the reservation was established it was a different way of life and the government wanted the people to be farmers and ranchers and so as far as purpose, that was the original intention of the project also because it revolved around agriculture and irrigation and it was the new way of life of the people there and you can see they did everything manually and built it by hand out there and horses even no supervision and camped out there during the week to build it so it is a great story and; Anybody that knows me knows that I can go on and on and on and they're probably getting hangry so that's a good place I'll try to wrap it up.

But you know so overtime you know like I said that complex or that project out there you know probably because of lack of maintenance the diversion eventually blew you know, we had some events that made it worse with flooding specifically in 2011 and '13 so there was this idea because the tribe with its limited resources was trying to do maintenance and there's a record of that here and we worked with Terry Buck at the time who was the district conservationist, she suggested well why don't we try to do an EQUIP project and it was broke out into two contracts and at the time we didn't do a Plan-EA or a public scoping meeting and we talked about well maybe we should of and I'm glad we're doing this now, we just wanted it fixed because it was having a significant impact on all the good benefits that had come from Lake 17 at the time, initially it was for irrigation purposes, but the council and the community was concerned about the waterfowl or concerned about the operators that run cattle out there and even still on this reservation because of lack of economic development here most of the small businesses from the private sector on the reservation revolve around agriculture still. So just mentioning that I think that by fixing this and with the original intention there are going to be so many good benefits whether it's economically, or for recreational purposes, or wildlife purposes, or agricultural irrigation purposes, so purpose. So we'll move forward on that and taking things into consideration as far as deciding on alternatives and the Council always stresses here that we have community engagement and transparent about the things that we do. So it was a good meeting today and I'm excited about moving forward, but I just wanted to talk about purpose too I've been involved with this project from the start and it's a good story.

Jay: Thanks Andy.

Andy: Do you have anything else?

Jay: No, Thanks everybody.

John: 6 o'clock at Hays, chili and frybread.