

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

**Kim Alire-Epley:** (*inaudible*) . . . and so what I'd like to do though this time cause we're a smaller full group, I'd like to ask that we keep our small group discussions to no more than 5. So 4 to 5 people and maybe ask these two tables here, the center table to sort of switch sides to get a little bit of a mix and maybe you guys can switch around a little bit. You know when we put down these name tags, that didn't mean you had to sit there. You can actually pick up the name tag and move across the room to some other place. I know we're creatures of habit and we just find our place and there were are, that's home. But you really can, you can do that. What we're going to do. This is really the piece that we were going to do yesterday evening. The flip side of the question of about what federal officials need to know. The question was, what are tribal responsibilities for assisting federal officials in risk-based work. You know what do the Feds needs from the tribes in order to do an executive job. And this is really an opportunity for some frank discussion and maybe even some pushback in your small groups. So I know it's been very congenial and very friendly and I don't want to discourage that but you know, if you find that there's some issues that you need to sort of give a little push back on, feel free to do that. We want to really get again the whole scope of recommendations and suggestions and ideas. And the way we're going to do this again is ask you to sit in small groups and have your conversations and then we'll bring you some cards and have you capture those. If you'll notice yesterday we had clustered the work of yesterday morning into 8 different arenas. I should have probably left that up. And we'll do the same thing with this data and we'll leave it up on the wall. And as you come along, if you see different intense. We notice that some times some

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

of the data on the cards was rather vague. So I'd really like nice good succinct, you know 5 or 6 word statements. If you need to explain what you mean, put a sentence on the back of the card or give us a little more explanation. You know a one word response like respect could mean a whole universe. And so give us a little bit about what you mean behind the phrase, if you don't think that the phrase itself will capture what was intended. So I'd like to ask you to help us out there in terms of a little more information. And again, we'll be transcribing the discussion that we have afterwards, so we'll have that conversation as well. We noticed that the cards that we got really represented only about half of the conversation that we had. And so we're going to try to make sure that we're looking at the information and capturing all of that in the conversation. Because it looked like there were some very intriguing conversations that happened in the small group that we didn't get a chance to discuss in the larger group. So we'll have a chance to do that this time. So about the same amount of time, about 30 minutes. I'll be bringing you cards in about 15 minutes so you can start translating your discussion onto cards and let's see if we can just very smoothly transits into small groups of 4 or 5. And if you want to move around the room, feel free to do that. So let's just pick up your stuff and your name tent. It is helpful if you pick up your name tent cause then I don't identify you as someone else when we're having the discussion.

Oh yes, we do want a federal person or a tribal person at least in each group. Let's see if we can't be sitting with somebody we haven't been sitting with before. Anybody need a tribal person or a federal person to round out your group? I've got a flip chart over here and I've got one for the back hall. Remember that there are lots of conversations

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

we can have. The conversation we're intending to have this morning is what are tribal responsibilities for assisting federal officials in risk-based work. What do the Feds need from the tribes. And federal folks, this is your chance to ask. Put it out there. What do you need? It might not be available but let's have a conversation.

*(discussion)*

**Kim Aire-Epley:** We want to bring this conversation back to the large group and I'm going to suggest that you sort of spread the cards out in front of you so that you can remember your discussions, so that you can see all the data, so the team can see all the information. And if you'll stay with your team, then you can see the data. You need to stay with your team. Yeah, you need to stay with your team. It's not fair to just give them your ideas and then let them, let them offer them up here. Not to point to anybody specific, Al.

Okay. The question is what are tribal responsibilities for assisting federal officials in risk-based work? What do the Feds need from the tribes? Um, and the conversations were lively as I walked around and listened to the small groups. I want to ask, just remind us that we are trying to record this and so if you can say your names and speak close to one of those microphones, it'll be very helpful for us. And so just taking a look at the data cards that you've got there, what was the conversation . . . what was the one point around which you had the most discussion? What was one point around which you had the most discussion? And maybe everybody around the table weighed in on it or just go ahead and speak to the mike.

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

**Scott Fields:** Our group discussed the difference in the concept of time.

**Kim Aire-Epley:** Say a little more.

**Scott Fields:** Well the differences in the concept of time is the Feds have limitations or deadlines that they need to meet and the tribes, it takes them a little bit longer because of the various obligations they see in their religious spiritual cycles that they must follow and there's not always that same concept of time. Deadlines will come and usually a consensus or decision has yet to be reached by the tribe because of their other obligations to their world and the Feds need to understand that deadlines that they impose do not necessarily follow the same concept in Indian country.

**Kim Aire-Epley:** In those kinds of situations, what did you suggest was the tribal responsibility to that situation?

**Scott Fields:** To inform the Feds that that whole idea of deadlines really doesn't apply in our world. That when we do come to a consensus, it may take longer than what you're imposing on us.

**Kim Aire-Epley:** Okay, other conversations around that topic? Well what's another one? Go ahead, Al.

**Al Young:** But there has to be a clear understanding that the time limits imposed on some of our activities means then if we don't get your response, we may still have to proceed. And that's unfortunate for us and it's unfortunate for you, but the reality is

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

when the political arm tells us that a document is going to have to be out late because of a court issue, we may not have time to go back and negotiate. We may have to go ahead and proceed. We're trying to meet a compliance agreement so this is a big concern to us because we want the tribal input but if the legal arrangement that we're faced with on compliance does not allow us to have that, give you enough time, we still have to proceed.

**Scott Fields:** I think we could look at that at the same issue as the space shuttle can't be launched because of some problem, then it'll have to wait and so will the decision making from the Fed side will have to wait because the tribe's not ready. We'll just call it, our shuttle's not ready.

**Al Young:** I think that's appropriate. I really do Scott. But I think you have to have your tribal government go to our government, government to government and say, we can't make this deadline. We insist that you wait for our input and then I think we've got a legal basis for stopping it. But if you send us anyone, you know, somebody who doesn't have tribal authority, and it isn't in writing, I suspect we won't pay any attention to it.

**Scott Fields:** Well then it comes back to the situation that we don't have up front communication.

**Al Young:** Agreed, agreed.

**Kim Aire-Epley:** Can you speak close to the mike?

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

**UF:** What I was trying to get at yesterday and that is all of the issues that you've brought up regarding this new direction that you want to take it's really important, but I think that we need to consider how is that process of considering cultural needs and individual tribal needs, how that's going to be incorporated into, or how it's going to address the existing legal structure and enforcement procedures, compliance actions that are in place now, and that it's the framework that's available now for enforcing environmental actions, obviously from this discussion doesn't always mesh well with tribal processes or tribal needs and I think that that's an issue that really needs to be addressed. If this is what's available to us now and the framework we have to work with, how are we going to put these new issues . . . how are these issues and concerns going to be put into this existing framework. Cause I don't think we can change it and that's just how environmental work is done. Management's done. It's already . . . that legal framework's in place, so it's like how do we work within that framework for now, or how do you make changes into it so that your needs are better addressed. I'm not sure if I'm making myself any clearer on this but it's just something I haven't heard discussed. This is what the tribes, this is what the Feds needs, but how are you going to bring,

**Scott Fields:** There's always a plus and a minus side to things. And I think that the Feds can be a little bit more flexible in that. They too need to realize that when they want to say to the minus or to the plus of this number, so they can also make those allowances in timeframes. As it goes with negotiations and anything else in this world.

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

**UF:** Can they? I'm asking this question because I don't know. I'm not familiar enough. I don't work in the regulatory side. I just know that I have to work with a regulatory agency.

**Scott Fields:** I don't believe that the lawyer's going to say, oh, I got to stop working on this. They're certainly going to keep on working because the money's there for them.

**Kim Aire-Epley:** Jonas Grant has a comment.

**Jonas Grant:** To respond to some of the questions Alan had. The government to government relationship needs to be understood that our tribal government is there and our reservations are established. And we as people that occupy that land see that people that trespass on there mostly are the Feds because they don't understand their sovereignty. One thing that we need to understand is we had this with the EPA. They enforced their regulations on parts of the reservation. We told them they couldn't come on without getting permission from our tribal government. And from that point on we've had good relationship with them. They've always contacted our tribal council and got that permission and then we've always had someone go out with them to look at the problems that were on the reservation. This is one of the key things that needs to happen on all reservations, that the government to government relationship and that the federal government recognizes our sovereignty. It doesn't matter what department of the Feds they work with, but they need to look at that and say, okay, you do have that here. This is part of your reservation. And we appreciate it and we respect you for it. This is all that sometimes we ask for, the respect from the Feds.

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

**Al Young:** That's my point too Jonas Grant, in terms of the issue of timing is that if we recognize that there is a short time deadline and the tribes cannot meet it, we ought to be talking at a government to government level and that resolves the issue. It's when we don't talk at that level is when we have our problems.

**Jonas Grant:** In a case with the EPA they've given us a letter, introductory letter, and then they come to the reservation within a month's time and they set down and go over the protocols and what they want to do on the reservation. And then the tribal government gives them permission to do that. And I don't think that's too much of a way to ask you to do that for the tribes.

**UM:** Quite often, we talked about establishing communication between the Feds and the tribes as well, and quite often, we felt that when the federal agency goes in to discuss issues with the tribe, first we're going in blind, and we don't necessarily understand the tribal protocols and we need to be instructed on what those are and understand what the tribal organization is and whether that tribe has enough people to have a well ingrained infrastructure to deal with restoration and cleanup activities.

**Kim Aire-Epley:** There was another comment here.

**Jed Peynetsa:** Jed Peynetsa with Zuni. What we talked about was we mentioned contacting the right people which would be the governor or the president or chairman and the tribal council and ask for the protocol that they need to follow, the dos and the don'ts on the reservation and then maybe have somebody from the tribe escort the

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

Feds out to where what needs to be done and I think this would be like what Jonas said, government to government relationship is to contact the governor's office and the tribal council and inform them of the Fed's visit and this way you know, there will be no questions asked.

**UM:** Tied into all this the DOE up in Richland, our feeling on this is that yes, we do need this information from the tribes and we do need to have this communication and it's been very valuable for us to invest the time, the staff time and the taxpayer dollars in making a relationship. So I believe all this that we've talked about today, the onus really is on the federal agency to initiate the conversation when we're talking about your shuttle not being launched or not being ready. That first of all it's a federal agency's job to inform the right people at the tribe about the decision or the comments or concerns they need from the tribe on that specific document or action and then the federal agency needs to follow up with that and find out if they're going to get a response. Then it becomes the tribe's responsibility to either ask for a formal delay or give comments back. But the point that I really want to make is it's on the federal agency and a lot of federal agencies feel like they don't have the staff time, they don't have the dollars, but recently we've had a new manager up at Richland and one of the first things he asked to do was go out and travel to each of the reservations that we work with and meet with the tribes. And on one of our trips out there, I asked him what his feelings were about doing this and he said that he felt that the day that he took from his schedule to go and meet with the tribes would pay many dividends on the back end on having a relationship where he would know people in the senior tribal government where he'd be able to call

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

them and if a document needed to come out and we needed comments from the tribes and things weren't happening, he would be able to call a senior official and ask if there was anything else the federal government should do and he just felt that it was time well invested and it has been. So the point that I want to make is that for federal agencies who think that sending a letter is good enough and maybe a phone call, you really need to invest the time and even though it costs money and staff time, upfront time is so much more valuable on the backend that you just save millions of dollars in our case on documents getting out on time.

**Bill Griffith:** Bill Griffith with CRESP. I would also point out that although we're talking about government to government contact we're really, when we're talking about the Feds we're usually talking about what is a relatively lower level official contacting the highest level of government in the tribes in terms of the tribal council or the governor. And there should be some, maybe some more humility in that contact and realizing that they really play a very different role in the federal government than the group that they're contacting. And that although there may be these constraints they feel as to time and courts and all of this that we change those processes in the United States and that there is the possibility that those could be changed. Now that federal official can't do that themselves, but they have to realize that they're calling upon another government to follow these schedules.

**Kim Alire-Epley:** What were some of the other points, some of the other pieces of this conversation that you had in your small groups?

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

**UM:** There was the issue of the expectations that the tribe sometimes places on the Feds, also in reverse, the expectations that's placed on their tribes. We alluded to the fact that we're really not dealing government to government because I certainly didn't hear Bill Clinton call my governor. You know that would be head to head right there and like you stated, it's the lower end officials that are making all this expectations on the tribes as well.

**Kim Aire-Epley:** Others.

**UM:** I'll start it but I hope the others will kick in. We had some discussion about developing relationships with tribal infrastructure or tribal organizations. I started out by saying I wanted partners, I wanted people that I could work with as a federal employee and it seems to me that developing capacity within the tribes, not necessarily the technical capacity to do the work that the federal government is required to do, but the capacity to direct it and to set priorities and to interact and understand what that work is an essential part of that partnership.

**Kim Aire-Epley:** Any other conversations in that line?

**UM:** Yeah, sort of in response to what Scott was mentioning there. And quite often I've experienced a tendency for escalation for lack of a better term, identifying who the appropriate government official is to work directly with the tribe. Whether it should be the president of the United States or a congressman or a senator or the highest individual in my local agency. And I guess what I try to look for or what I need is an

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

understanding that I can't bring Bill Clinton to the table and I can't bring my senator to the table. I can bring my commander there and I hope that that is an individual that the tribe will hopefully look at as representing the government as his level. But quite often, unfortunately if our past history has not been favorable, since Alaska has such a small community, they have a direct phone link to their senators and congressmen and that tends to have negative repercussions on us and that does not bode well for building government to government relations.

**UM:** As he alluded to, yes, it is the past trust that has been shattered and therefore it's a problem.

**Richard Pacheco:** Richard Pacheco with the All Indian Pueblo Council, POEP. In real government to government discussions and communications, a lot of these discussions are done ambassador to ambassador. And this is the type of system that I think would really work here to really have government to government relationship and that is to have a system where there is a conduit between a government agency or government agencies and the tribe and this would add continuity, consistency, and it would certainly be a clearinghouse for proper protocol and so on. And maybe that's not totally feasible. I believe that certainly consortiums like AIPC and POEP maybe fill in a little bit of that gap and so on and I understand that a lot of tribes maybe don't have resources like this to work through. But establishing that type of communication I think would go a long ways.

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

**Kim Alire-Epley:** Other comments along those lines or another piece of this conversation that you want to share with the larger group? Well let me ask this question, I mean listen to this and also in your small groups, and sort of really bring this question home. What are you going to do differently the next time you're in this situation? What are some of the things that you're beginning to think about in terms of your future situations between federal and tribal. Whatever side of the equation you're on. What do you see as something that makes sense, doable, will enhance the situation?

**Michele Fox:** Michele Fox, Fort Belknap Indian Community. Some of the things that we talked about were the tribes need to sort out their own objectives and come to the table with them before negotiations. Because a lot of times there's a lot of fighting the day before, what exactly we want to do. And one of our solutions I guess would be to develop 5 year strategic plans, in my case it would be an environmental plan so that we have those objectives outlined and we're able to come to the table with a document to hand to whomever we're dealing with at that time.

**Kim Alire-Epley:** Others.

**Jonas Grant:** Jonas Grant again. In our Region 8 we're working with environmental programs and that. Here in January we sat down with the federal government's agencies that we deal directly with and we put on the table for them to come to and sit down and listen to some of the tribal issues that we have with the Bureau, with all the Bureaus. And an understanding that we had was that we'd come up with a MOU with

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

all the federal agencies that work with us and so far we have I think like 8. I might be wrong on the numbers, but I think there was 8 federal agencies that signed up on that along with the tribes to come in and do the work and without any problem and to make sure that understand was there. We're having a steering committee right now as I speak that I was going to be going to today, but I'm here instead of that. But anyway that leads up to next year. A committee that's going to oversee that is what I'm a part of. And we'll be able to see what problems are coming up from there and how we're going to be able to make sure that they're steered in the right direction.

**Kim Alire-Epley:** Thank you, Jonas.

**UM:** I think that we need to understand that when we speak with the BIA or the Department of the Interior that's about the level of where things go, that have been noted for allusive feelings of tribal funds. So you know it's no wonder that things don't go through.

**Alan Hancock:** My name's Alan Hancock and one again I work for EPA in Region 7 and you know, this workshop for me has really been a good thing. And trying to maybe address the issue of about what I'm going to do differently, I'm a staff level person and you know, in my little mind, I like to believe that's where the rubber meets the road. And I look at this as an opportunity. I mean I think the absence of guidance and historically prescribed processes for incorporating culture and spiritual issues and these types of things right now that we're really at an advantage you know because of that lack of guidance out there, et cetera. And so as a staff level person, I think that I, at this point,

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

have quite a bit of opportunity to be creative at trying to help define what that process is going to be in the future for incorporating cultural and spiritual issues. You know as an individual, I intend to take advantage of that. I mean I intend to push the walls of the system when I go back and to learn how to incorporate those cultural and spiritual issues and to make attempts to address those concerns for people. You know I don't think there's a better time than right now to try to define what the future's going to be in either risk assessment or however you want to coin it or characterize it in the future for addressing those issues. But I think that right now we really have a great opportunity to try to define that process. And I encourage everybody, you know, to go back there and be creative and to take advantage of that existing flexibility and to make some attempts to incorporate some of these issues into your processes. And that's what I intend to do different. I mean I'm going to see what the system can bear.

**Kim Alire-Epley:** Well I suggest that we're going to have some more conversation along this line in and through the presentations that we're going to hear today. I do want to give you a little bit of, you noticed we did shift the agenda and I do want to . . . We are going to take a break now. We're taking our 9:45 break, but I want to say that we're coming back to hear from Stuart Harris. How many of you have ever met or heard Stuart Harris? For those of you who haven't heard or had the opportunity to hear a presentation by Stuart, rest assured, it will be lively and there will be much discussion created on the other side of that presentation as well as some of the other presentations that we have, "Barefoot Epidemiology." It's an intriguing title. We've got a number of great presentations today. I would like to ask you to try and limit this to 10 minutes

**IIIRM Risk Workshop**  
**3/16/2000**  
**8:30 a.m.**  
**Facilitated Discussion**

because Stuart is coming via telephone technology and so we've got the phone call scheduled and that's set so we'd like to have everybody in their seats in the room at 10. I want to thank you for your participation and if you can bring forward those cards, grab your coffee and sugar fix. Talk about risk.

*END OF DISCUSSION*