



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

**FORUM ON UNDERSERVED COMMUNITIES AND
the Regulation Process**

**Panel 4: Learning from Past and Present Efforts to
Engage with Underserved Communities**

November 16, 2021

TRANSCRIPT
(Not Reviewed for Errors)

Panelists

Andrea Delgado, Government Affairs Director, United Farm Workers Foundation

Zach Ducheneaux, Administrator, Farm Service Agency, U.S. Department of Agriculture

Remington Gregg, Counsel for Civil Justice & Consumer Rights, Public Citizen

Charles Lee, Senior Policy Advisor, Environmental Protection Agency Office of Environmental Justice

Gerald Wagner, Director of Blackfeet Environmental Program; Executive Committee Chair, Environmental Protection Agency National Tribal

Moderator

Anna Williams Shavers, Cline Williams Professor of Citizenship Law and Associate Dean for Diversity & Inclusion, University of Nebraska College of Law

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Transcription of Video

Panel 4

Video Runtime: 1:00:37

1 (Beginning of Audio Recording.)

2 MR. THOMSON: All right. Good
3 afternoon, everyone. I'm Mark Thomson, the
4 deputy research director here at the
5 Administrative Conference of the United
6 States, and I want to welcome you to the
7 fourth of sixth panels in ACUS's ongoing
8 forum on underserved communities and the
9 regulatory process.

10 Today's panel focuses on federal
11 agency's past and ongoing efforts to engage
12 with underserved communities in regulatory
13 policy making process. We have a fantastic
14 collection of speakers to address that topic
15 starting with Professor Anna Shavers who will
16 be moderating today's panel.

17 Professor Shavers is a public member
18 here at ACUS and Cline Williams Professor of
19 Citizenship Law at the University of
20 Nebraska, College of Law, where she is also
21 Associate Dean for Diversity & Inclusion.
22 Among other fields, Professor Shavers teaches
23 about immigration law, gender race and class
24 in the law, and administrative law.

25 So with that by way of introduction, I

1 will turn it over to Professor Shavers.

2 THE MODERATOR: Thank you so much,
3 Mark. And I want to thank ACUS for creating
4 this forum, and I also thank you for inviting
5 me and allowing me to participate. As you
6 said I think this is going to be really great
7 and exciting discussion between these
8 panelists, and I'm looking forward to it.

9 What I will do is start out by
10 introducing each person right before they
11 give their remarks or short remarks, and then
12 introduce what I think will be a robust
13 discussion between the panelists.

14 Later we will have time for some
15 question and answers, so I would like to
16 invite the audience if you have questions to
17 use the Q&A link at the bottom of your screen
18 to put the questions.

19 So just by way of introduction before
20 I introduce our speakers, many of the
21 audience I think have already participated in
22 some of the forums, you know, that some of
23 the questions that have been posed with
24 respect to the Executive Order 13985 is with
25 respect to how do you go about identifying

1 who should be the underserved populations,
2 whether or not the executive order perhaps
3 has been too broad in its discussion or
4 description of the various groups, whether or
5 not there are barriers with respect to
6 various groups of really actually
7 participating, and what does that mean.

8 The other word I would like to
9 introduce into this discussion as well as
10 focusing on equity is when we talk about
11 participation, it's focusing on the idea of
12 inclusiveness. It's something I spend a lot
13 of time talking about with respect to what
14 that really means; it's linked with the word
15 equity. And as I said, this panel will be
16 very intriguing I think because we have
17 government representatives as well as
18 representatives from various organizations.

19 So I would like for you to join me in
20 welcoming Andrea Delgado, first of all.
21 Andrea is the Government Affairs Director of
22 the United Farm Workers Foundation where she
23 leads national efforts to win immigration
24 reform from farmworkers and eliminate the
25 racist and historical exclusions that leave

1 farmworkers less protected than workers in
2 other sectors.

3 For over a decade Andrea has committed
4 herself to the meaningful engagement,
5 convening, and leadership of underrepresented
6 communities, convening with respect to
7 federal policy making with a record of
8 finding common ground and securing bipartisan
9 support to resolve contentious agricultural,
10 environmental, labor, and immigration issues.

11 Her work has resulted in the enactment
12 of legislation to protect children, workers
13 and communities and consumers from toxic
14 waste, chemicals, pesticides, and to support
15 farmworkers during the recent COVID-19
16 pandemic.

17 For her success in furthering public
18 interest policies in an increasingly divisive
19 political environment, the DC based
20 publication, The Hill, has recognized her
21 among the top lobbyists of 2018.

22 One of her other accomplishments that
23 many of you may be aware of is that she
24 cofounded GreenLatinos, a national nonprofit
25 that convenes diverse leaders to addressing

1 environmental national resources and
2 conservation issues.

3 So Andrea, welcome and we look forward
4 to your comments.

5 MS. DELGADO: Anna, thank you so much
6 for that gracious introduction, and thank you
7 all for the invitation to be with you today.

8 As Anna shared, I'm Andrea Delgado, and I
9 serve as Government Affairs Director of
10 United Farm Workers Foundation. It's a
11 sister organization of the United Farm
12 Workers Union, a membership org that serves
13 farmworkers and immigrants in some
14 litigations leading out of cultural areas.

15 And at a personal level, I'm
16 originally from Ecuador. I'm also a
17 naturalized U.S. citizen who fights so that
18 farmworkers are able to live without the fear
19 of deportation, and to reunite with loved
20 ones they haven't seen in years. That's
21 something that I'm hopeful we're able to win
22 before the end of this year.

23 For context, I'm also the proud
24 daughter and granddaughter of public
25 servants, individuals that taught me that the

1 rules and justice are not always one and the
2 same and where that gaps exists advocacy can
3 play a powerful role in bridging the
4 distance. These are words that inspired me
5 to become the public interest advocate that I
6 am today and it shapes how I approach my work
7 in the nonprofit sector and interactions with
8 government.

9 It's also my understanding that candor
10 is welcome and for the purposes of this
11 discussion I'm going to focus on areas of
12 improvement and best practices.

13 The range of problems that we face as
14 a nation demand engagement from a broad range
15 of stakeholders. And I'm talking about
16 diversifying people and organizations that
17 government is accustomed to interacting with.

18 And to this end, it's important for
19 federal agencies to institutionalize
20 meaningful engagement with impacted
21 communities and community-based
22 organizations, or CBOs. This means
23 developing trust with community leaders who
24 can help agencies engage in socially and
25 culturally appropriate outreach and to be

1 concrete.

2 And as someone that has been on the
3 receiving end of agency demands to
4 participate in any given event that they're
5 planning to hold, I never cease to be amazed
6 at how regularly the agencies don't consult
7 with the stakeholders they claim they want to
8 hear from. If you hear about a stakeholder,
9 you take time to listen to learn. And what
10 is not helpful is charging ahead and
11 expecting others to simply show up without
12 knowing what needs must be met in order to
13 facilitate their meaningful participation.

14 In practice, this means asking basic
15 questions like does the day and time work for
16 them, is the location accessible be it
17 virtual or physical, do organizations have
18 enough advanced notice to ensure that
19 participants are in a place where they have
20 access to a reliable broadband as is the case
21 of many in low income and rural communities,
22 including the ones that we represent. What
23 are the predominant languages of the
24 communities we seek to engage, and have you
25 secured interpreters for the event.

1 These are questions that help folks
2 step back and consider how the traditional
3 process of seeking input in regulatory
4 administrative proceedings can in itself be
5 fundamentally limiting.

6 And for folks in the receiving end of
7 the outreach it demonstrates an interest in
8 reducing barriers to participation and starts
9 laying the groundwork for trust in our
10 relationship. At the end of the day trust
11 can only earned through actions, not words or
12 intentions.

13 And on the topic of language access,
14 because this is so critical to the community
15 that we serve, you know, we represent
16 farmworkers who are predominantly Hispanic or
17 Latino or indigenous ancestry, about 80
18 percent of them, and they hail from a variety
19 of countries across Latin America, mostly
20 from Mexico, there are some from the
21 Caribbean as well, and failure to account for
22 language access can be such a fundamental
23 barrier to engaging with underserved
24 communities.

25 For context, about 1 in 10 working age

1 adults in the United States are limited
2 English proficient. That's 90 million
3 people. And we're talking about U.S. born
4 individuals, naturalized U.S. citizens, as
5 well as legal permanent residents, because
6 only a third of the LEP population is
7 undocumented. Only a third of the LEP
8 population is undocumented.

9 So let's just sit with that as we're
10 thinking about who we think of as Americans
11 and who is the public that we serve, are we
12 going to let language get in the way of
13 engaging with underserved populations or are
14 we simply expecting the organizations that
15 serve these communities to bear the burden of
16 language accommodations so that agencies
17 don't have to think about it.

18 I'd like to believe that everyone that
19 tuned in today is ready to roll up their
20 sleeve and to leverage their agency resources
21 and discretion to operationalize the concept
22 of engagement with underserved populations,
23 including LEP communities.

24 And in terms of best practices, in
25 addition to engaging with stakeholders via

1 formal processes when agency leadership and
2 personnel step outside of their government
3 building and make the effort to go to the
4 communities that they seek input from, the
5 act of being present, of listening and
6 convening in a place where individuals feel
7 safe not only demonstrates concern and
8 respect for the stories that are about to be
9 shared, it also enables authentic
10 conversations and has the potential to
11 humanize democracy.

12 I will close by saying that it's also
13 tremendously helpful for stakeholders to see
14 themselves reflected among the public
15 servants and the career staff. And this is
16 both career staff and appointees alike. It's
17 so critical. Individuals whose perspectives
18 at experience coming from or working with
19 diverse communities can facilitate the trust
20 building and inform how government approaches
21 the public it serves.

22 I look forward to learning from my
23 fellow panelists and to hearing from your
24 questions as well. Thank you, Anna.

25 THE MODERATOR: Thank you, Andrea. So

1 now we're going to turn to Zach Ducheneaux
2 who comes to us with a wealth of experience
3 and different kinds of viewpoints perhaps
4 because in February '21 he was appointed
5 Administrator for USDA's Farm Service Agency,
6 and he will provide leadership and direction
7 on agricultural policy, administering credit
8 and loan programs, and managing conservation
9 commodity disaster, and farm marketing
10 programs to a national network of officers.

11 But prior to this appointment he had a
12 lot of experience in terms of things as
13 serving as the Executive Director of the IAC,
14 the Intertribal Agricultural Council, the
15 largest, longest-standing Native American
16 agricultural organization in the United
17 States.

18 Since the 1990s he's held several
19 positions in the IAC working with all federal
20 recognized tribes and their 80,000 Native
21 American producers. He's also served as
22 Cheyenne River Sioux Tribal Council
23 Representative.

24 He's spent his career educating people
25 about the critical role of thoughtful act

1 finance, improved food systems, value added
2 agriculture and foreign export to respond to
3 the enduring economic and social challenges
4 facing Native Americans and reservations.

5 He also serves on the board of
6 directors for Project Health, a nonprofit
7 founded by his family to benefit his local
8 community.

9 Will you help me welcome Zach and
10 welcome his comments?

11 MR. DUCHENEAUX: Thank you, Anna, and
12 thank you to the ACUS for having us here to
13 share some perspectives. And I think I'll
14 start with Project Health. Our three
15 founding principles for our nonprofit are
16 awareness, empathy, and presentation. And
17 I'll touch on each of those as I talk about
18 what my approach has been that's helped me
19 get here.

20 Reaching out to these underserved
21 communities from a leadership perspective to
22 me means you have to be willing to have the
23 uncomfortable conversation around what
24 happened, why were these communities
25 underserved.

1 And in our case with the Farm Service
2 Agency, formerly the Farmers Home
3 Administration, within the United States
4 Department of Agriculture there was racism.
5 There was systemic injustice that was
6 designed to promote the ag practices of the
7 prevailing societies. And we have to be
8 willing to acknowledge that the system that
9 we still continue to operate within doesn't
10 serve a lot of people.

11 And that -- you know, I've given a few
12 talks to our staff and some of them were
13 overtly hostile to my approach to this, but I
14 told them if the shoe doesn't fit don't wear
15 it. I'm not talking about you, but the
16 system does have some things that we need to
17 move and in order to do that we have to first
18 be aware.

19 The next step in that is to empathize.
20 Ideally, we have conversations like this
21 where it's people of color or people who
22 represents these marginalized communities
23 that are leading the conversation, we're
24 seeing that more and more with the Biden-
25 Harris administration, it's neat to see a

1 Teams call with all diverse faces
2 represented.
3 But short of that you have to have
4 empathy for the reality of whoever you're
5 dealing with. You have to try to be able to
6 think about what it's like to be inside their
7 reality because regardless of what we are
8 trying to do as a federal agency, their
9 perception is their reality. So we have to
10 make sure that we have a shared vision for
11 what that perception should be. And the last
12 part of that is we need to make sure that
13 we're adjusting our presentation to them so
14 that we get to that desired outcome of
15 diversity, equity, and inclusion that the
16 administration is really championing.

17 I look forward to the conversation
18 that we get to have and hearing the
19 perspective of the others on the panel here,
20 and hope we get to have some good dialogue
21 around the question and answer session. But
22 I'm going to stop there, Anna, and turn it
23 back to you. Thank you very much for having
24 us.

25 THE MODERATOR: Thank you. Thanks for

1 those comments.

2 And now we're going to turn to
3 Remington -- excuse me just a minute --
4 Remington A. Gregg who is the Counsel for
5 Civil Justice & Consumer Rights with Public
6 Citizen, which is a nonprofit consumer
7 advocacy organization.

8 He leads the fight there to protect
9 individuals from corporate abuses, working on
10 a portfolio that includes promoting a fair
11 and accessible justice system, consumer
12 rights, and product safety. He is an expert
13 in areas of civil rights, civil justice, and
14 forced arbitration.

15 Previously Remington served as an
16 attorney at the Human Rights Campaign, HRC,
17 the nation's largest lesbian, gay, bisexual,
18 and transgender LGBT organization,
19 principally counseling the organization on
20 issues related to hate crimes, criminal and
21 racial justice, profiling, education,
22 domestic violence, military and veterans,
23 immigration and foreign affairs.

24 There he was a principal author of a
25 groundbreaking report exposing religious

1 schools that sought exemptions from civil
2 rights law to discriminate against LGBT
3 students. The report became the basis for a
4 California law requiring private colleges and
5 universities to disclose policies that
6 discriminate on the basis of sexual
7 orientation or gender identity.

8 Prior to joining HRC, he was Associate
9 Counsel and Adviser for Open Government in
10 the White House Office of Science &
11 Technology Policy. There he co-wrote the
12 nation's first U.S. Open Government National
13 Action Plan. Welcome, Remington, and we look
14 forward to your comments.

15 MR. GREGG: Thank you, Professor. And
16 geez, I didn't know you were going to read
17 that full bio but a pleasure to be here and
18 to speak just for a few minutes before we
19 open up the discussion. So as Professor
20 Shavers said I come to this both as advocate
21 outside of government pushing the government
22 to do more as well as having worked inside
23 the government where in fact I was a
24 government member of ACUS so I'm glad to be
25 back here with the ACUS family.

1 I just want to touch on three -- three
2 quick points before we get into the
3 conversation, things that I have both learned
4 and think are important as we're talking
5 about ensuring that we meet the expectations
6 of underserved communities and ensure that
7 their voices are included in policy making.

8 The first is kind of a back to basics
9 question. Who -- how do we define
10 underserved? What does underserved mean? It
11 doesn't always mean the same thing. So for
12 example if we're talking, you know, a lot of
13 times underserved would mean black and brown
14 people, maybe LGBTQ people, rural
15 communities. When we're talking about the
16 USDA maybe rural isn't an underserved
17 community as a whole, maybe we have to dig
18 deeper to say what's an underserved community
19 within the rural community. So that -- that
20 requires some sort of analysis from the jump.

21 Second is about the question of agency
22 action or inaction. A lot of times that is
23 based on leadership. Is the leadership
24 determined to ensure that every person has a
25 seat at the table. Do they -- is there a

1 top-down approach to that. I think the
2 Biden-Harris administration said racial
3 equity is going to be a hallmark, a
4 centerpiece of the administration, and there
5 are a lot of ways in which they are doing
6 that.

7 Not always doing it, not always
8 getting it right, but everyone gets it right
9 all the time but that's part of my job is
10 to -- is to help show -- show the way so to
11 speak if we think that they aren't getting it
12 right or could do more.

13 And then the third piece is about
14 outreach and engagement. There are some --
15 some things that we have to think about when
16 we're talking about engagement. Who are we
17 engaging, are we doing it well, are we using
18 the tools and the technology that are in
19 place in order to meet with people, and as
20 Andrea was saying, are we -- are we using all
21 the tools that we have in our disposal or are
22 we just doing something that's surface level
23 just to say hey we ticked off a box, you
24 know. Are you just using the Federal
25 Register notice and then, you know, clasping

1 your hand and saying we -- we engaged in
2 outreach.

3 And then of course feedback, which I
4 think is very important. Are you going out
5 and talking to people and then coming back
6 and saying here is what we learned and here
7 is how we're going to incorporate this into
8 our policy making.

9 So there's a lot there that I just
10 kind of spouted out and -- but I do want to
11 make sure that we have plenty of time for
12 discussion and I'm happy to dig deeper into
13 all of this, as well as give examples of
14 agencies that are doing it well. Thanks for
15 your time.

16 THE MODERATOR: Thanks so much,
17 Remington. And now I'd like to turn our
18 attention to Charles Lee. I think -- I'm
19 really looking forward to his comments also
20 because he like, for example, Remington has
21 had experience both within the government as
22 well as a long term career in working with
23 underserved populations. He currently is a
24 Senior Policy Adviser at EPA's Office of
25 Environmental Justice.

1 But his focus on these kinds of
2 entities for underserved populations actually
3 began back in the early 1980s when a lot of
4 people would say he was going into really
5 uncharted territory regarding environmental
6 justice.

7 Worked at various organizations
8 including the United Church of Christ's
9 Commission for Racial Justice and looked at
10 various reports and studies, for example,
11 that were done by the GAO which ultimately
12 led to a publication called the Special
13 Project for Toxic Injustice of the Commission
14 for Racial Justice, "Toxic Wastes and Race"
15 in the United States.

16 So he's been involved in this for I
17 guess decades. Probably he and I have been
18 thinking about these issues maybe longer than
19 some of the other panelists here, but I think
20 I will just turn it over to him and just
21 think about maybe give us some comments about
22 what you've learned over the years and the
23 perspective of this executive order that we
24 just have issued.

25 MR. LEE: Thank you, Anna, and thank

1 you to ACUS for inviting me to this panel and
2 to this discussion. I really look forward
3 to, you know, exchanging ideas.

4 And I would like to start with I guess
5 a vision and a point underneath that vision,
6 and that has to do with -- and this is very
7 much in line with, you know, all the thinking
8 that's gone into -- all the thinking that's
9 gone into how to carry out the Executive
10 Order 13984 on racial equity and serving
11 underserved communities.

12 And, you know, that has to do with one
13 of the long term performance goals which are
14 measures within the current proposed EPA
15 strategic plan calls for every program in the
16 EPA to be responsible for building the
17 capacity of communities to be able to engage
18 with -- with EPA and government and other
19 government agencies.

20 And so what that's predicated on is
21 the idea it's not the responsibility of
22 communities to communicate, you know, to
23 communicate "properly" with government
24 agencies but it is the responsibility of
25 government agencies to make sure they have

1 the resources and the capacity to do that.

2 And so -- you know, and I think that

3 goes a lot into -- into, you know, what I

4 just wanted to, you know, highlight in terms

5 of some of the things we learned about, you

6 know, how to best do this. I think, you

7 know, I always look at when we talk about

8 public participation or community engagement,

9 particularly in the regulatory processes,

10 that, you know, the international

11 association, the public association has this

12 spectrum of public engagement that goes from

13 starting with engaging -- I'm sorry --

14 informing to engaging and consulting and

15 collaborating and then ultimately empowering

16 communities to engage or empowering public to

17 engage with -- in public participation.

18 And, you know, and that is something

19 that -- so this takes all different kinds of

20 forms, but at the heart of that I think --

21 and this is what is reflected in the point I

22 made about the goal or performance goals, is

23 that, you know, you can't do this without

24 making sure that there's proper -- proper

25 capacity to do this properly.

1 And so I think, you know, some of the
2 things that we have to do build on are, you
3 know, in the EPA in the Superfund program one
4 of the I think most important things in it is
5 the community involvement plans, but one of
6 the things at the heart of that is grants for
7 technical assistance grants for essentially
8 paying for experts who work with community --
9 who work for communities to go through all
10 the technical documents and help them shape
11 what they want to say in terms of the cleanup
12 levels and remediation plans.

13 You know, on the other hand we've
14 learned over the years that -- and this is
15 particularly with respect to the Clean Air
16 Act in terms of like experiencing and
17 engaging communities, working with
18 communities, even having them help plan
19 workshops and public engagement sessions
20 around different aspects of the Clean Air
21 Act, and particularly, you know, specific
22 rules.

23 I don't think that -- I think that
24 that was perhaps thought of as a pretty novel
25 way of doing this because it was done with so

1 much interaction in terms of helping to make
2 sure that there was ability to inform the
3 process in a way that is reflective of what
4 communities want and will make a difference.

5 The thing at the heart of all this is
6 the fact that we need to make sure that when
7 we do public engagement and involve people in
8 the regulatory process, which is an
9 inherently complex and technical process,
10 that we are taking appropriate steps to build
11 a capacity of communities, particularly
12 underserved communities, to participate in a
13 way that really speaks to their concerns,
14 their aspirations, and reflects their
15 comments.

16 THE MODERATOR: Thank you, Charles.
17 Thanks for those comments. Now for our final
18 panelist before we launch into a discussion
19 amongst us I want to introduce to you Gerald
20 Wagner. Gerald is Director of the Blackfeet
21 Environmental Program, and Executive
22 Committee Chair at EPA's National Tribal
23 Caucus.

24 The tribal caucus is a body
25 responsible for identifying and addressing

1 with EPA tribal environmental issues that are
2 national in scope, cross-agency, or cross-
3 media in the nature they may be emerging,
4 which is a focus of course of this executive
5 order.

6 In his vast work that he's done with
7 respect to tribal organizations, he's focused
8 a lot of these environmental kinds of issues
9 and focused on how we can bring barriers
10 groups, including the government, to
11 transcend the boundaries of particular tribal
12 groups. His work has transcended the
13 boundaries of the Blackfeet nation. He's
14 represented 28 tribes in leadership roles
15 within the Region 8 Tribal Caucus and the
16 National Tribal Caucus. So we look forward
17 to his comments, and welcome, Gerald. You're
18 still muted, Gerald.

19 MR. WAGNER: I thought you guys were
20 in control of that.

21 THE MODERATOR: Okay.

22 MR. WAGNER: Control. Control.
23 That's a big problem out there when it comes
24 to working with federal agencies in
25 underserved rural communities is that they

1 control issue and (inaudible) control hat off
2 once they step inside of our worlds.

3 One thing that came to light is that
4 early on in my career I've been at this job
5 now for 29-plus years is that in the
6 beginning it was more of a top-down to you
7 attitude where they're going, you know, I'm
8 the savior, I'm here to help you, and just
9 starting off with that type of conversation
10 puts us back, you know, 50, 100 years.

11 We're not there anymore. This is the
12 21st Century. We have knowledge, we have
13 education, and we have experience. If you
14 can't talk to me at an even level, then you
15 need to leave the room.

16 Don't come in and tell us what's good
17 for us. We know what's good for us, and you
18 need to engage with us along them levels.
19 Let us tell you what is good for us, what we
20 feel our needs are, and how -- what is the
21 best way to come in and work with us.

22 We believe in not a memo, not saying I
23 sent them an email, I had a phone
24 conversation, we believe in sit-down, face-
25 to-face consultation. So I can see you, you

1 can see me and we can really understand each
2 other's feelings as we discuss issues and
3 problems that are out there facing
4 underserved communities.

5 The other part that I heard said
6 earlier is let us come to the table, learn
7 from us. We have much to offer, and we are
8 the impacted communities. You know, people
9 of color, low income, rural, indigenous
10 populations, we are the impacted populations.
11 We want to be at the table deciding how
12 things go. We want to be a part of the
13 solution. We have valuable lessons, valuable
14 experiences, valuable knowledge of what is
15 the best way to proceed with us. What's
16 going to work for us will not work if you go
17 50 miles 100 miles across the nation and work
18 for them. You have to know what works for
19 us.

20 And in the work that I've been doing
21 over the amount of time that I've been doing
22 it is just, you know, some of the highlights
23 that I said, you know, we are here we are
24 valuable, you know. And although you have
25 come in and you hold some power, you hold

1 some control, and you definitely came in
2 holding the purse strings, is that we need
3 for you to drop all them pretenses and come
4 in here serious and sit down with us and
5 learn what is best for us, what policies will
6 work for us.

7 We -- I mean -- well, I say we as in I
8 sit as the chair now of the National Tribal
9 Environmental Caucus but there's 20 of us
10 that come from across the nation to sit at
11 this table. We are the ones that put out
12 there and hopefully can impact some policy as
13 it's put out there within the Environmental
14 Protection Agency, and let that flow across
15 to the Housing & Urban Development,
16 Department of Defense, Department of Ag, all
17 the federal -- Education, I mean Health &
18 Human.

19 I mean, it just goes on as you deal
20 with the underserved, underprivileged, rural
21 communities that there's a way that you can
22 go about getting there, finding out what the
23 issue is and deciding together the next steps
24 forward, and that's been a big part of some
25 of the work I've been doing over the past 28

1 years.

2 And, you know, actually there's no
3 other way to say it than that, you know.
4 Bring me to the table, let me have a voice.
5 Let me help you design that next training,
6 that next workshop, you know. So then that
7 puts us ahead of the game. Don't design it
8 and put me in a workgroup table that's racist
9 from the beginning because, yes, I'm going to
10 stand up and let you know that from the get-
11 go.

12 So that's kind of some of the message
13 I wanted to put out there. I wanted to say
14 that so much valuable value and traditional
15 ecological knowledge when it comes to the
16 environment, you know, it just goes without
17 saying that -- I was asked a question, well,
18 we're kind of getting out of bounds, the
19 world needs helps environmentally, what are
20 we supposed to do, I'm saying listen to our
21 elders.

22 We've been trying to tell you for the
23 last 500 years yes things are out of kilter;
24 we need to get back into the cycle on the
25 circle and let's work in harmony with each

1 other. That's how we'll get back to where we
2 need to be. Thank you.

3 THE MODERATOR: Thank you, Gerald.
4 What I'd like to do now is first give the
5 panelists an opportunity maybe to respond to
6 something some of the other panelists have
7 said, if anyone has any comments or questions
8 for the other panelists. If you don't have
9 questions I do, but does anyone have a
10 comment or question regarding what other
11 panelists have said?

12 Well, let me just jump in by asking
13 this. So we've talked about the different
14 roles that people that are in underserved
15 communities and people that represent
16 underserved communities take in this approach
17 to being more participatory, and I'm just
18 curious about some of you have served
19 different roles in that respect, roles within
20 the government but also roles outside of the
21 government.

22 And I'd just like to hear what some of
23 you think, maybe -- especially maybe Charles
24 and Zach. So what works best? Andrea talked
25 about maybe we could come up with some best

1 practices.

2 Is it best to have people that have a
3 lot of experience with underserved
4 communities in the government trying to make
5 sure that we have this participation or
6 government representatives coming outside of
7 their roles to work with underserved
8 communities? Any thoughts on that?

9 MR. DUCHENEAUX: Yeah, I do.

10 MR. LEE: Go ahead, Zach.

11 MR. DUCHENEAUX: Okay. One of the
12 things that we're really trying to drive
13 home, and it's valuable that I come from that
14 nonprofit sector because it is a hard
15 (inaudible) existence trying to lead a
16 nonprofit organization to fulfill a mission
17 that the government frankly hasn't cared
18 about in a lot of cases.

19 We want to partner with those entities
20 through cooperative agreements because we
21 know that we've got ways to go to rebuild the
22 trust that we have squandered, and we can
23 borrow and leverage the trust of those
24 community-based organizations through
25 cooperative agreements to help serve as that

1 intermediary and give them a voice and help
2 them give their constituents a voice.

3 I think that's a valuable tool we have
4 because we have to recognize that it's, you
5 know, it seems a pretty lofty thing to be the
6 Executive Director of the Intertribal
7 Agriculture Council. There were times in the
8 past where we didn't know where we were
9 paying staff from in coming weeks. We've got
10 to resource those folks that are out there
11 doing the work that we don't have the reach
12 or the knowledge frankly in some cases to get
13 out into.

14 THE MODERATOR: Thanks, Zach.
15 Charles, you had some comments?

16 MR. LEE: So my comment is that you
17 need to do both. I think that, you know, one
18 of the really important -- I think there's an
19 opportunity to do so now in a much bigger way
20 than ever before is to bring in people from
21 communities with community experience into
22 the government.

23 I think that, you know, that
24 automatically changes, you know, a lot of the
25 ways that people in government see

1 themselves. You know, these are people --
2 these are people that everyone else could
3 learn from and, you know, changes the way the
4 mindset, you know, particularly the -- not
5 only -- I just, you know, I'll put it
6 straight bluntly -- you know, the biases
7 against, you know, the value of community
8 knowledge. So I think on the inside.

9 And then on the other side, you know,
10 we -- government officials need to go out to
11 communities, be part of communities. And,
12 you know, and not assume that they have all
13 the answers before. You know, in the
14 environmental justice world and throughout,
15 you know, the history of however many
16 decades, you know, a lot of the ways that
17 these issues has been treated has been kind
18 of like check the box, you know.

19 You know, not really doing community
20 engagement and participation you're actually
21 going there to get a rubber stamp and that
22 you've done, you know, something that was
23 kind of procedurally called for. But, you
24 know, what does it mean to go there, go out
25 to communities to understand communities and

1 to really respect what's being said and
2 understand the substantive issues that are
3 being raised and bring them into the kind
4 of -- into the decision making process.

5 I think -- you know, I think that that
6 is where, you know, a lot of the work and a
7 lot of progress needs to be made as far as
8 making sure that we're not just talking to
9 people and we're not just doing public
10 participation but we're actually bringing the
11 content of that public participation into the
12 way we're considering issues and then making
13 decisions.

14 THE MODERATOR: Thank you. So Andrea,
15 you did mention perhaps we could come up with
16 some best practices. And so maybe sort of
17 focusing on the things that the other
18 panelists have said, I don't know, maybe it's
19 too early, is it too early for you to suggest
20 some best practices of getting the
21 underserved populations more involved,
22 particularly in focus on what the president
23 has said in this new executive order?

24 MS. DELGADO: Sure. And I'll speak to
25 some of the things that both panelists have

1 also mentioned, I know there's a question in
2 the chat as well that I want to address.

3 THE MODERATOR: Okay.

4 MS. DELGADO: And so what Zach
5 mentioned is so important, the building the
6 capacity of organizations that serve
7 underserved communities, it's just so
8 critical, cannot be underscored enough.

9 And on the question of engagement, I
10 think it's worth asking whether the folks in
11 your public engagement department have a
12 diverse list of stakeholders, and one that is
13 reflective of the most impacted. Not just
14 the organizations that you're accustomed to
15 hearing from, the traditional stakeholders.
16 It's worth, you know, challenging our notion
17 of who we regard as key stakeholders, asking
18 ourselves the extent to which public policy
19 is being shaped by those who have the access,
20 the privilege and the proximity to regularly
21 engage in the regulatory process.

22 So not just assuming like a status quo
23 that you have these, you know, preexisting
24 relationships of folks that can just pick up
25 the phone, that know your email, that are in

1 D.C., just -- there's just like those
2 fundamental ways in which those who have that
3 access are disproportionately being in
4 contact with decision makers.

5 To the question about whether the
6 community engagement officers are important,
7 yes. They're important. However, they along
8 cannot be the water carriers. The
9 responsibility for them of community
10 engagement cannot fall solely upon them. It
11 must really be engrained in agency culture,
12 and that goes from leadership and beyond
13 because if you're just expecting your
14 community engagement offices to do that work
15 then you're clearly not prioritizing the
16 stakeholder engagement and serving
17 underserved communities enough.

18 THE MODERATOR: Remington, do you have
19 some comments you'd like to add regarding
20 maybe some of what Andrea said regarding
21 focusing on who the stakeholders are and how
22 you get them more involved in the process?

23 MR. GREGG: Yes. I mean, as Andrea
24 was saying that, you know, it cannot be
25 simply the community engagement office has

1 the entire relationship, they should
2 definitely be the ones that are facilitating
3 the relationships and ensuring that the
4 people who should be in the room are in the
5 room but the people who actually -- the
6 community engagement folks aren't actually
7 writing the rules, they're not the ones who
8 take in the information and understand it and
9 write a regulation that will be promulgated
10 to impact those communities.

11 So it has to be the policymakers as
12 well in the room who are talking to these
13 stakeholders, who have the contact
14 information to these stakeholders so if they
15 have follow-up questions they can answer
16 them.

17 And what I was saying earlier about
18 feedback loop, one of the question -- there
19 was a question that was -- that was in the
20 chat of how the (inaudible) community is
21 getting involved and make sure they're not
22 being exploited. And I think one way to do
23 that is ensuring that you're taking what they
24 say into consideration and including it into
25 the policymaking, not just saying cool we got

1 you, we're hearing from you and so we heard
2 from you.

3 And one way to do that is through the
4 feedback loop, is to say once you have taken
5 in all of this information, once you have
6 spoken to the communities, you've engaged
7 with them hopefully several times, that you
8 go back and you say we took your advice to
9 heart and it's included in the reg this way
10 or that way, or it's not because this is --
11 this isn't feasible.

12 And sometimes it's not, and you don't
13 always -- you know, people on the outside
14 don't always know why they cannot -- the
15 government can or cannot do something. And
16 I'm not talking about deliberative stuff,
17 just -- just frankly issues and advice that
18 if it's not taken isn't simply just thrown on
19 the wayside but is -- you know, but there's
20 an explanation on why this isn't a part of it
21 because, you know, as Gerald was saying
22 people on the ground are the ones who really
23 have an experience with this.

24 So the one way to not exploit people
25 is to build relationships, not just a one-off

1 but build relationships, not just with the
2 community engagement folks but with the
3 policy folks, and then to take that
4 information and to incorporate it into the
5 policymaking.

6 And when you do -- when you don't for
7 whatever reason, have an explanation for it.
8 Go back to the communities, tell them why so
9 that they realize that they're actually
10 being -- they're being used for their
11 information, for their knowledge and not
12 just -- not just -- it's not just a one way
13 street.

14 THE MODERATOR: Thank you. So I know
15 a couple of you have mentioned this idea
16 whether or not agencies just sort of check of
17 a box, you know, okay I went to that
18 community and I talked to somebody or I had
19 somebody come in from that community and I
20 had a conversation.

21 So how do we guard against it? I find
22 that when people are dealing with underserved
23 communities, minorities, they often have
24 their own little set of boxes but the boxes
25 don't reflect really what they should be

1 focusing on with these underserved
2 communities. So how do we address that, do
3 we draft, you know, what they need to be
4 checking off or how do we make sure they're
5 not just checking off their standard boxes
6 about touching bases with us?

7 Gerald, it looks like you want to say
8 something? I'm going to see if I can control
9 your --

10 MR. WAGNER: Got it.

11 THE MODERATOR: Okay. Okay. All
12 right.

13 MR. WAGNER: And this seems to be a
14 statement that comes off in a lot of our
15 conversations is, you know, are we just a box
16 that gets checked and then they get to move
17 on and then we are out of sight out of mind.

18 The flipside of that is once the
19 policymakers, the ones on the outside looking
20 in take that mode, it's up to us within our
21 own communities to say, no, I'm going to go
22 back, I'm going to request that you come
23 here, and like I said earlier, sit down and
24 let's do some face-to-face.

25 I want to know that you understand

1 what we are saying and that when you go back
2 it's not a box that you're going to be able
3 to check, that you're actually going to have
4 to sit down, write up some summary notes of
5 what you learned from us, and we want to see
6 that sent back to us so we know that you
7 understand the message that we're trying to
8 give you.

9 THE MODERATOR: Remington?

10 MR. GREGG: I would add one thing.
11 Just to -- you know, I think that there is --
12 there are times when there's checking off of
13 a box which happens a lot and so I don't want
14 this to be -- this comment to be
15 misconstrued. But I think there are some
16 people within government that get concerned
17 when they are told or when the lawyers tell
18 them, you know, there's something called the
19 Federal Advisory Committee Act, which, well,
20 ACUS is a FACAs, and it does hamper the
21 ability sometimes of agencies to go back to
22 stakeholders and to talk to them at a
23 continual basis without creating a whole kind
24 of committee system.

25 And so what then government folks will

1 do is say, okay, I'm going to speak to them
2 once and then I will go back to them so I
3 won't violate FACA, and then I'll just go to
4 another -- I'll go to another stakeholder.
5 But that doesn't always do it because you
6 don't get meaningful dialogue.

7 So there are ways to get around FACA,
8 and the reason why I'm saying this is because
9 I don't want government folks to use FACA as
10 a reason for not meaningfully engaging with
11 folks.

12 THE MODERATOR: Well, you know, maybe,
13 Andrea, this sort of focuses on you too
14 because you've been heavily involved in
15 trying to get different kind of legislation
16 that addresses some of these issues. Is it
17 enough to leave it to the agencies, the
18 president issues this executive order and so
19 we expected the agencies are going to comply?
20 Is this an area that needs more legislation?

21 We talked for example about there's
22 going to be a provision for grants to do
23 certain things. So how do we measure whether
24 those grants are going to the underserved
25 groups, is it -- should that be legislated or

1 left to the agencies? Any thoughts on that?

2 MS. DELGADO: Yes. That is a
3 (inaudible) question because I do -- I do
4 believe and I have hope in the willingness
5 and the discretion of public servants to rise
6 to the challenge and executive orders play a
7 role in enabling public servants and
8 leaderships within those agencies to do more.
9 At the same time if that -- we'll have to see
10 what's produced from all of these -- from all
11 of these executive orders.

12 Wearing my hat and as folks know I
13 also serve in the White House Environmental
14 Justice Advisory Council, for instance, and
15 what we're looking at as part of Justice40
16 and the accountability component of it is
17 ensuring that agency resources are in fact
18 being directed to address the concerns that
19 disproportionately impact Environmental
20 Justice communities.

21 So this -- that addresses
22 Environmental Justice specifically and I
23 recognize that, you know, that involves so
24 many other social and economic factors, race,
25 ethnicity, income, proximity to harm or a

1 range of toxic environmental exposure, so
2 accountability would be ideal for sure.

3 We know there are some of those
4 accountability measures in the underlying
5 Build Back Better bill which we're hoping to
6 pass before the end of this year, hopefully
7 this week. So it's -- it's a both/and.
8 Executive order -- there's plenty of
9 executive orders that enable, and even before
10 the Biden administration came to be.

11 There's executive orders on
12 Environmental Justice, there's executive
13 orders on addressing the impacts on
14 (inaudible) populations, on addressing
15 impacts on children, and limited English
16 proficiency population. So there's been an
17 ongoing -- ongoing efforts by multiple
18 administrations to enable public servants to
19 step up, and I believe that public servants
20 can. So I'd say it goes both ways.

21 I've also been involved in efforts to
22 establish legislation that enables agencies
23 to do more. For instance, most recently in
24 ensuring that the Department of Agriculture
25 has more discretion to provide economic

1 support to farmland workers like farmworkers
2 and processing workers. That took
3 legislative action.

4 So where there is that gap, and I feel
5 like -- and I sort of said this at the
6 beginning, where there is a gap in the
7 discretion, and perhaps that's where really,
8 you know, legislation comes into play, not
9 necessarily to force the hand but to truly
10 enable public servants to do more when it
11 comes to meeting the needs of underserved
12 communities.

13 But the work is ongoing because as
14 I've mentioned, a lot of the communities that
15 we represent are dealing with a history and a
16 present that is the heaviness, the legacy of
17 racism. In the agricultural sector, you
18 know, farmworkers were deliberately excluded
19 in the 1930s from very basic labor
20 protections that workers in every other
21 industry sector enjoy. The right to overtime
22 pay, in some cases the right to minimum -- a
23 minimum wage, for instance, the right to have
24 housing --

25 THE MODERATOR: Housing that they

1 could get at these locations.

2 MS. DELAGADO: -- the right -- the
3 protected right to organize in the workplace.
4 I mean, it's no mistake that it's such a
5 small segment of the agricultural sector is
6 actually organized because there were
7 deliberate efforts to exclude the ability of
8 these workers to be able to strengthen their
9 voice in the workplace and be organized and
10 be represented by a union.

11 So there's so much history that needs
12 to be acknowledged by the public servants,
13 and, you know, this gets to some of the
14 things that Gerald and Zach and others
15 mentioned like when you're going into
16 communities acknowledging, you know, reading
17 up, doing a little bit of research about what
18 have been some of the historical struggles,
19 barriers, and institutional, legal and
20 otherwise, that have fundamentally limited
21 the ability of communities to have a level
22 playing field when it comes to others.

23 So it's -- it's so loaded, you know,
24 when it comes to underserved, and there's so
25 many different communities that fold into

1 this. There's geographic isolation,
2 linguistic isolation, cultural and social
3 isolation, and limitation in social and
4 economic resources to effectively engage with
5 government. That's what some community-based
6 organizations are trying to bridge.

7 There are representatives that as you
8 know already others have mentioned can help
9 bridge that gap and facilitate communications
10 with government, but at the end of the day,
11 you know, we're facilitators, we're
12 intermediaries, and it's important for
13 government to be meeting with our members and
14 coming to face with the folks that are
15 directly impacted by the policies that they
16 have influence over.

17 THE MODERATOR: So there are a couple
18 of questions that I want to try to get to
19 before we end that are in the Q&A. I just
20 want to maybe sort of plant the seed, and as
21 you're thinking about when I gave you these
22 questions, is that one of the things that
23 particularly maybe with Zach's involvement,
24 we were talking the stakeholders, and I know
25 with regard to the Farm Agency often it was -

1 - the position was taken well we do a great
2 job of having stakeholders involved because
3 the people we have are farm agents, they're
4 from the community, they know the people in
5 the community, and so we don't know what
6 you're complaining about because we've always
7 focused on who lives in that community in
8 terms of what we're going to get done.

9 So I don't know if you have a response
10 to that, Zach, but in thinking about the
11 agency one of the questions that's been posed
12 is, can any of you think of an agency that
13 you would hold up as a good example of
14 getting community more involved and listening
15 to the community-driven incentives as they
16 pose it without watering down progressive
17 ideas and not just saying, you know, well
18 we've done it like this for years and years?

19 MR. DUCHENEAUX: Yeah. So HUD did a
20 really good job back in the 90s and 2000s
21 engaging with Indian countries to analyze
22 home ownership. They created a 100 percent
23 guaranteed loan for lenders to go out and
24 lend in Indian country on (inaudible) land.

25 But once business became aware of

1 that, that flexibility or that proximity that
2 Andrea talked about came into play, and now
3 most of the HUD Section 184 loans happen on
4 non-Indian land. Still Indians doing it but
5 it's on non-Indian lands, so it's kind of
6 been obfuscated or bastardized into something
7 that it wasn't intended to be because
8 business saw opportunity, and they were able
9 to leverage that proximity.

10 So as we continue in our work from the
11 federal perspective we have to be thinking
12 about funding those organizations to bring us
13 quality stories because they don't have the
14 resource to have the quantity of time with us
15 that the National Corn Growers or the
16 National Wheat Growers have. They have
17 snapping town. Intertribal Ag Council
18 haven't had snapping town.

19 So that would really be particular
20 about the stories we would elevate, and
21 meticulous almost to the point of bringing a
22 proper legal case and not just elevating
23 every last case that had some tie into racist
24 or discriminatory practices. That's how we
25 leveraged our reputation to the level that I

1 get to do this job. So I mean it's -- that's
2 what I -- you know, that's my thoughts on
3 that. Thanks, Anna.

4 THE MODERATOR: Any other thoughts on
5 agencies that maybe -- Gerald, do you have a
6 comment?

7 MR. WAGNER: Yeah. I was going to
8 throw a little pat on the back to the EPA
9 because of them being one of the first
10 agencies to come out with the 1984
11 environmental policies for tribes, and
12 that -- I find that a good thing, but again
13 we're always a little bit hand strapped by
14 whatever administration that we're going
15 through, so it ebbs and it wanes and
16 whatever, but it's there. It's something
17 that is written, something that has been
18 reaffirmed with every administration.

19 I had the opportunity to be sitting as
20 the chair of this administration with Michael
21 Weaver, I was back in D.C. at the end of
22 September as EPA Administrator came in and
23 sat down and reaffirmed the 1984 Indian
24 Environmental Policy.

25 But again like I said, it depends on

1 the administration that you're under and it
2 could be a great thing or it can be a great
3 thing out there that nobody wants to move on.
4 But again, it's like we have to be the
5 champions of that and remind the agencies of
6 their obligations, and we're going to hold
7 them to the fire.

8 THE MODERATOR: So -- yes, Remington.

9 MR. GREGG: I will just say quickly
10 that Gerald is right, it depends on
11 administrations. During the Obama
12 administration the Department of Justice, for
13 example, was very good with meaningful
14 dialogue with LGBTQ organizations. It
15 doesn't mean they did everything we wanted,
16 it doesn't mean that they got it right all
17 the time, a lot of times they didn't, but
18 when you talk about meaningful dialogue
19 that's the first step, talking, understanding
20 our position, telling us their position,
21 constant communication and trying to get it
22 right.

23 THE MODERATOR: Thank you. We're
24 about out of time, I want to thank you for
25 your comments. You can see we could probably

1 go on and on but we just don't have the time.

2 So thanks everybody for participating.

3 I do want to remind you that this is

4 the fourth in a series of six, and so our

5 next discussion will be held November 22nd at

6 noon. And that panel will focus on Learning

7 from State and Local Agencies' Efforts to

8 Engage with Underserved Communities, and

9 maybe what the federal government could learn

10 from that. Again, that's November 22nd,

11 Monday at noon Eastern Time. And thanks

12 everyone again for your participation, this

13 has been a great conversation. Thank you.

14 Bye everybody.

15 (End of Audio Recording.)

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I, Wendy Sawyer, do hereby certify that I was authorized to and transcribed the foregoing recorded proceedings and that the transcript is a true record, to the best of my ability.

DATED this 14th day of January, 2022.

WENDY SAWYER, CDLT