APPEARANCES:

Larry Roberts, Deputy Assistant Secretary - Indian Affairs

Kaitlyn Chinn, Office of the Solicitor, Division of Indian Affairs

Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action - Indian Affairs

Amanda Begay, Office of Regulatory Affairs & Collaborative Action - Indian Affairs

Jennifer L. Beatty, Grand River Bands of Ottawa Indians

George F. Lewis, Grand River Bands of Ottawa Indians

Patsy A. Beatty, Grand River Bands of Ottawa Indians

Gerald Gould, Swan Creek Black River Confederated Ojibwa Tribes of Michigan

Harold Gould, Swan Creek Black River Confederated Ojibwa Tribes of Michigan

James A. Keedy, Michigan Indian Legal Services

Larry Romanelli, Little River Band of Ottawa Indians

Eric Cox, Ma-Chis Lower Creek Indian Tribe

John Dunnagan, Miami Nation of Indians of Indiana

Clayton Pendergrass, Sr., Miami Nation of Indians of Indiana

Deb Peterson, Ma-Chis Lower Creek Indian Tribe

Fred Peterson, Ma-Chis Lower Creek Indian Tribe

Augustine Kiogima, Burt Lake Band of Ottawa and Chippewa Indians

Sarah Shenoskey-Holmes, Burt Lake Band of Ottawa and Chippewa Indians

Josh Shenoskey, Little Traverse Bay Bands of Odawa Indians

Mary Parkey Slocum, Burt Lake Band of Ottawa and Chippewa Indians

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APPEARANCES (CONTINUED):

Isabel Scollon, Burt Lake Band of Ottawa and Chippewa Indians
Lula Rood, Burt Lake Band of Ottawa and Chippewa Indians
Frances Compo, Grand River Bands of Ottawa Indians
Ron Yob, Grand River Bands of Ottawa Indians
John M. Causley, Jr., Mackinac Bands of Chippewa & Ottawa Indians
Terry Gouza, Mackinac Bands of Chippewa & Ottawa Indians
Frank Ettawageshik, United Tribes of Michigan
Dexter McNamara, Little Traverse Bay Bands of Odawa Indians
Elmer Knox, Grand River Bands of Ottawa Indians
Richard Sterk, Mackinac Bands of Chippewa & Ottawa Indians
Brian Buchanan, Miami Nation of Indians of Indiana
Nitimigaabow Champagne, Grand River Anishinaabeg Community
Lorraine Ceplina, Grand River Anishinaabeg Community
Amanda Pete, Grand River Anishinaabeg Community
Stephanie Pecoc, Grand River Anishinaabeg Community
Henry L. Negake, Grand River Bands of Ottawa Indians
Martin Reinhardt, Sault Ste. Marie Tribe of Chippewa Indians
Scott "Ossokeh Ninii" Wyzlic, Grand River Bands of Ottawa Indians
Lisa Wyzlic, Grand River Bands of Ottawa Indians
Nola Parkey, Burt Lake Band of Ottawa and Chippewa Indians
Don Parkey, Burt Lake Band of Ottawa and Chippewa Indians
APPEARANCES (CONTINUED):

Reena Parkey King, Burt Lake Band of Ottawa and Chippewa Indians

Ken Parkey, Sr., Burt Lake Band of Ottawa and Chippewa Indians

Roy Parkey, Jr., Burt Lake Band of Ottawa and Chippewa Indians

Bruce R. Hamlin, Burt Lake Band of Ottawa and Chippewa Indians

Larraine Parkey Ostwald, Burt Lake Band of Ottawa and Chippewa Indians

Loretta Parkey, Burt Lake Band of Ottawa and Chippewa Indians

Phillip Cantu, Grand River Bands of Ottawa Indians

REPORTED BY: Kristine K. Grigsby, RPR, Certified Shorthand Reporter, #4834
(231) 625-0095
kristinegrigsby70@gmail.com

RIVERTOWN REPORTING (231) 625-0095
MR. MCNAMARA: Good morning. My name is Dexter McNamara. I'm the tribal chairman of Little Traverse Bay Bands of Odawa Indians, and I just want to welcome you all here to our reservation and our beautiful hotel. I hope your stay was great and your travels were safe getting here, of course, and -- and on the way back.

I just want to recognize the Department of the Interior. If you got on the Internet, like I did the other night, it was really funny because it said it is a department of everything, and I'm telling you, these people do a lot of work for the Department of the Interior and I really appreciate all of the work they do. But I have another appointment real quick like, and I just want to welcome you here and have a good class, whatever you -- seminar, whatever, and thank you very much for coming.

MR. ROBERTS: Thank you.

MR. MCNAMARA: Thanks, Larry, very much.

MR. ROBERTS: Yep. Thank you. Okay. Good morning, everyone. My name is Larry Roberts. I'm principal deputy assistant secretary for Indian
Affairs at the Department of the Interior. I want to thank the Little Traverse Bay Bands for having us here today for this tribal consultation and public meeting.

Before we get started and before we start with our introductions with our team here, I'm going to ask Frank Ettawageshik to say a few comments, if you would, please, just -- the chair -- he's the co-chair with the NCAI Task Force on Federal Acknowledgement, and so we've been coordinating with NCAI as part of our -- our role out of this and so we put the -- made the discussion draft available to the public. We had a meeting with NCAI and I'm going to ask him to say a few words. Thank you.

MR. ETTAWAGESHIK: Thanks, Larry. Good morning, everyone. This day has been a -- has certainly been a long time in coming. We've -- we've been working on -- on trying to make this federal recognition process a more fair process for -- for many, many years. When Little Traverse was in the process of -- was working through it, we felt that the -- that the regulations as they were written, as they were being enforced, we didn't feel comfortable with the way they were, and we wish that there were some changes.

We actually had a public hearing that was
before the House, that at the -- at this time it was back in '92, I believe, where we talked about the fact that the regs were not being utilized in the way that they had been written, and this was organized through the Confederated Historic Tribes of Michigan. We worked on this back at that time.

We've been talking now I think as I -- I attended a meeting when I was the chair here at Little Traverse a number of years ago in Fort Lauderdale, one of the NCAI meetings, and when I was there, they -- I walked in and sat in the back row, thought I'd just hang out a little bit and see what's going on at this meeting, and it was the Federal Recognition Task Force. And before I left that meeting, I'd been elected as the co-chair. I've been the co-chair ever since. And so I just dropped in to say hi and instead I ended up in a position and I'm still there.

As a federally recognized tribal member, I was the co-chair, and the other co-chair is a co-chair from one of the nonfederally recognized tribes. This task force meets at all of the NCAI meetings. We have a -- we have a pre-meeting meeting. Some of you here in this room have attended those meetings, but it's open to -- to every tribe that is seeking -- either is currently federally recognized or is in the process in
some manner or -- or other. And we have -- we discussed -- the purpose was to be informed for the discussion on how the changes -- how we thought this -- the process needs to be -- needs to be redone. And in that length of time, I've testified before the Senate Select and the Senate Committee, the senate -- both the Senate Select Committee and the Senate Committee on Indian Affairs over the years on this process, most recently on the -- the issues related to -- to this -- the problems that tribes are having with the federal recognition process. And so with all of that, the last several Assistant Secretaries of the Interior have been eager and interested in trying to find a way to change the regs but have been unable to get anything to the point where we're going to -- we're -- to get anything finalized enough for -- for discussion on them. There have been a few -- a few meetings. There have been several efforts to make drafts. There have been some drafts circulated by different people, but nothing actually got done until -- until Assistant Secretary Washburn came in along with Deputy Assistant Secretary Roberts, and we met with them at NCAI, actually before they had business cards, so -- and trying to make sure that we were high on their agenda, and we were ensured
that this process and the revision of this process
would be -- would be high on the agenda, and they have
followed through on that.

They even gave us a deadline when they were
going to be done with the draft regs and they -- they
made the deadline, which was -- I thought it would be
great, but the fact that they made the deadline was
really impressive. And so it's been -- we're really
pleased that there's been so much effort put into --
into these proposed changes in the regs and that
these -- there is this series of consultations and
meetings that will be collecting data.

I also was very, very impressed that they have
a court reporter here to be recording and to pay
attention to these. I've attended an awful lot of
these meetings where we do a lot of talking and
everybody's sitting up there listening, but I don't
even see nobody taking notes, and so it's really --
it's going to -- it's really important, I think, to
see the -- and you're to be applauded for the
attention you've paid to this issue and to actual --
getting justice for all the tribes that have been in
this process for so long and have had such a great
burden before them.

As we've said, the application of the regs, if
you didn't know better, maybe you don't know better, 
every time somebody would get through this process, 
it's almost like the federal system said, "Oops, we 
didn't see that coming," and they'd draw the line and 
make it tougher. And so each time, things seem to 
have gotten tougher and tougher and tougher, and the 
amount of required data is getting bigger and bigger 
and bigger and the cost is so huge.

So these revisions will help address all of 
those issues and we're real pleased for that. And 
then speaking as the co-chair of the Federal 
Recognition Task Force of the National Congress of 
American Indians, I want to thank you for all of your 
efforts, and I hope things go well today. We'll be 
here through the day and I -- I'm glad that you're 
here and I hope you get a chance to enjoy this 
beautiful northern Michigan weather here.

MR. ROBERTS: Thank you. So I think what 
we'll do is introduce ourselves and then we have a 
smaller group, I'd like to just go around the room and 
have everybody introduce themselves. For purposes of 
the court reporter, I don't think we need to capture 
everyone's name. We'll just get it while we're 
speaking and that will save you some time in terms of 
names and spellings. But we do have a court reporter
in the room so that all of your comments will be made part of the record. We'll bring transcripts up on our Web site as they come in so that -- we're having a series of public meetings and consultations, so that if you want to see what was said at the public meeting and the consultation in California, for example, that transcript will be available online for everyone to read.

So with that, my name is Larry Roberts. I'm a member of the Oneida Nation of Wisconsin and started as the -- with the Department of the Interior in September of last year.

MS. CHINN: My name is Katie Chinn. I'm a citizen of the Wyandotte Nation of Oklahoma. I work in the department in the Office of the Solicitor, Division of Indian Affairs.

MS. APPEL: Good morning, everyone. My name's Liz Appel. I'm with the Office of Regulatory Affairs & Collaborative Action, and we report to the Assistant Secretary for Indian Affairs.

MR. GOUZA: Good morning. I'm Terry Gouza from the Mackinac Bands of Chippewa & Ottawa Indians.

MR. STERK: Dick Sterk, Mackinac Bands.

MR. CAUSLEY: John Causley, Jr., Mackinac Band. Also chairman.
MR. BUCHANAN: Brian Buchanan, the principal chief for the Miami Nation of Indians of Indiana.

MR. PENDERGRASS: Clayton Pendergrass. I'm the spiritual leader for Miami Nation of Indians of Indiana.

MR. DUNNAGAN: John Dunnagan, vice chief of Miami Nations of Indians of Indiana.

MR. YOB: Ron Yob from -- the tribal chairman of Grand River Bands of Ottawa Indians.

MR. KEEDY: Jim Keedy, Michigan Indian Legal Services.


MS. PETE: Amanda Pete, Grand River.

MS. PICOC: Stephanie Picoc, Grand River Band of Anishinaabeg Community.

MS. CEPLINA: Lorraine Ceplina, Grand River Band of Anishinaabeg.

MR. CHAMPAGNE: Nitumigaabow Champagne. We're representing Grand River Band of Anishinaabeg Community in Wisconsin.

MR. COX: Ma-Chis Creek, Lower, Alabama.

MR. ROMANELLI: Larry Romanelli, Ogema for the Little River Band of Ottawa Indians.

MR. ETTAWAGESHIK: Frank Ettawageshik. I'm
executive director with the United Tribes of Michigan and the co-chair of the Federal Recognition Task Force for NCAI.

MR. JERRY GOULD: Jerry Gould, Swan Creek Black River.

MR. HAROLD GOULD: Harold Gould, Swan Creek Black River.

MR. KNOX: Elmer Knox, Grand River Band of Ottawa Indians.


MR. LEWIS: George Lewis, tribal council member.

MS. PATSY BEATTY: Patsy Beatty, treasurer, Grand River Band of Ottawa Indians.

MR. ROBERTS: Okay. So what we've -- as probably all of you know, the morning session has been designated as a tribal consultation with federally recognized tribes. That's pursuant to the executive order that President Obama has issued for the department to consult with federally recognized tribes.

What we have done in both Oregon and California, we had situations where federally recognized tribes were in attendance and leaders of
nonfederally recognized tribes came to the morning session, and what we did is we just asked if there were any objections from the federally recognized tribes to having leadership from the nonfederally recognized tribes to be part of this tribal consultation, so -- and -- and if there are objections, I would -- I would hope that everyone who is not leadership from a federally recognized tribe would just respect that because we're doing -- we're essentially complying with the executive order and we do have an afternoon session and so we . . .

MR. ROMANELLI: Yes. As a leader of a federally recognized tribe, I have no objections.

MR. ROBERTS: Okay.

THE COURT REPORTER: I'm sorry. Your name, please?

MR. ROMANELLI: I'm Larry Romanelli from Little River Band of Ottawa Indians, and I'm just responding that I have no objections to those nonfederally recognized tribes being in attendance and speaking at the morning session.

MR. ROBERTS: Okay. Does anyone have any objections?

(Hand raised.)

MR. ROBERTS: You have a question. Okay.
MR. YOB: The question is if we speak now, do we speak in the afternoon also or . . .

MR. ROBERTS: We will -- we will keep the afternoon session open and we will have the afternoon session, so what has happened at other consultations is some members of the public or members of nonfederally recognized tribes have -- have attended at one o'clock, and so we will have both sessions, and the afternoon session is open to the public and so -- so it -- are there -- are there any objections at all to moving forward?

MR. YOB: So should we reserve our comments for that session or for -- or during --

MR. ROBERTS: I think if there are no objections, you could -- you could make your comments at either this morning or the afternoon. I would just ask that we -- since this is a consultation with federally recognized tribes, that they be allowed an opportunity to provide their comments first. Okay. Is everyone all right?

(No response.)

MR. ROBERTS: Okay. What we're going to do is -- and -- and just for logistical purposes, we'll have a PowerPoint that we'll go through for about 20 minutes, and the PowerPoint is the same in both
sessions, this morning and this afternoon, but it's to provide an overview of the regulations themselves. So you should have it in your -- in your materials. And are there -- are there any comments that leadership would like to make before we get started?

(No response.)

MR. ROBERTS: Okay. So just by way of -- of general background, we have -- as you all know, there are a number of ways in which a tribe can become federally recognized, through the Judicial Branch by court order, congressionally by legislation and then administratively. And one of the processes administratively is the Part 83 process that was promulgated in 1978.

UNIDENTIFIED SPEAKER: Larry, Hi.

MR. ROBERTS: Yes, sir.

UNIDENTIFIED SPEAKER: I have a question. And this is regarding the multi ways in which a tribe can be recognized. And the first one that you mentioned was judicially?

MR. ROBERTS: Right.

UNIDENTIFIED SPEAKER: Can you tell me -- give me an example what tribe is being federally recognized judicially?

MR. ROBERTS: Sure. I'll ask my trusty
solicitor for that.

MS. CHINN: Do you want to repeat the question asked?

MR. ROBERTS: The question was an example of a tribe that has been recognized through the judicial branch.

MS. CHINN: I don't know any off the top of my head, but there are instances where tribes who are litigating with us, that they haven't been terminated, and sometimes in litigation we can resolve that.

MR. ROBERTS: So it's something that we can -- we can ask about. I know that there have been a number of cases where in California (inaudible) tribes and that litigation where tribes had sued the department essentially saying that we did not terminate them, and we entered into a settlement with those tribes and the Court affirmed that settlement, confirmed the settlement as part of a court order, so . . .

UNIDENTIFIED SPEAKER: Because I'm not aware that any judicial court federally can recognize a tribe.

MR. ROBERTS: Okay. Well, for the -- maybe what we'll do is -- is note your -- your comment for the record that you're not aware of any court order
that's recognized a tribe and we'll respond to that as part of the rulemaking process when we go forward.

UNIDENTIFIED SPEAKER: The only exception might be, as the solicitor mentioned, is that had there been --

THE COURT REPORTER: I'm sorry. I can't hear him.

UNIDENTIFIED SPEAKER: That during the 1950s that a tribe had been terminated and then perhaps could they appeal through the court that it -- they might reinstate them through the judicial process, but that's the only one I'm aware of. Otherwise they're either going to be recognized legislatively by a bill or through the administrative process, what they -- whatever they call it.

MR. ROBERTS: Okay. Well, I know that federal legislation has also noted that tribes can be recognized through the judicial branch as well, so (inaudible) so the amendments to promulgate the (inaudible) for Congress to essentially state that. But we will -- we will have an answer in the -- in the preambles to our proposed rule on that. We just -- this is just a general overview of how tribes get recognized.

So prior to 1978, the department made these
determinations on a case-by-case basis for a group seeking federal acknowledgment. And then in 1978, we promulgated the Part 83 regulations to establish a uniform process. Those regulations were amended in 1994, primarily to add a section on previous unambiguous federal acknowledgment. And then the department has issued guidance to the public, petitioners and the OFA staff in 2000, 2005 and 2008. And so since the Part 83 process has been in place since 1978, 17 tribes have been recognized through that process. The other 549 tribes have not been recognized through the Part 83 process.

So why are we circulating the discussion draft today and why are we looking at improving the regulations? We've heard from a number of folks in Congress, from NCAI and others that the process is broken, concerns that it takes too long, that it's expensive, that it's unduly burdensome, that the criteria that we're utilizing is too subjective, that we should be using more objective criteria with clear benchmarks and that overall there are concerns about the transparency of the process.

So when Assistant Secretary Washburn and I started with the department last fall, this was -- actually had been a process in the works to look at
how to improve the regulations for some time. So in
2009, when Secretary Salazar joined the Department of
the Interior, he testified before the Senate Committee
on Indian Affairs and committed to -- to looking at
the process and looking at how the process could be
improved.

Later that year, in November of 2009, the
department again testified before the Senate Committee
on Indian affairs, and in that hearing the department
committed to looking at how to eliminate unnecessary
steps, taking a hard look at the actual standards
themselves, committing to clear standards. And at
that time, in 2009, the department said that they
thought they could get a proposed rule out in one year
and apply the rule a year after that.

So in 2010, there was a team of folks within
the department looking at the regulations, looking at
the national improvements.

In 2012, the department again testified before
the Senate Committee on Indian Affairs, and at that
hearing the department was asked why they were not
meeting the -- the time lines that they had testified
to in 2009. And at that 2012 hearing, the department
identified sort of guiding principles or goals that
they were trying to achieve in terms of improving the
process and -- and those goals are laid out right there.

In 2013, when the assistant secretary and I joined the department earlier this spring, we testified before the House Subcommittee on Indian Affairs. And at that hearing, we laid out that we had convened an internal workgroup comprised of the Office of Regulatory Affairs, the solicitor's office and folks within the assistant secretary's office to develop options on how to improve the process. And at that hearing, we testified in terms of the goal of putting out a discussion draft and how we were going to move forward with the process at that time.

And so essentially we circulated a discussion draft prior to any sort of proposed rulemaking to get maximum input from all of you, from federally recognized tribes and the public, before going on with any sort of proposed rulemaking because what we want are comments back from everyone on how to improve the process and what parts of the process should be changed.

So some of the major changes, and we'll -- we'll talk about these in more detail, but some of the improvements that we've had is eliminating certain steps in the process, adding expedited negative
determinations and favorable determinations, attempting to clarify some of the criteria, providing for automatic final determination in some circumstances and asking the public in terms of who should -- who should be the final decision maker on these -- on these petitions and then also eliminate IBIA review.

So one of the first things we looked at in terms of improving the process was suggesting that we eliminate the letter of intent. The -- the letter of intent, while it serves a -- a function in terms of order, one of the petitions to be considered, the letter of intent itself is -- is just that, a simple letter. We may not get the petition for some time after that, and so the -- the discussion draft suggests starting the process when we actually get a petition from the petitioner.

The discussion draft also sets forth the framework for expedited negative findings and expedited favorable findings. And so what the discussion draft sets forth is that when the department would receive a petition, it would be immediately reviewed to see whether the petition satisfy criteria (e), descent from historical tribe, criteria (f), that the members are principally of
persons who are not members of an already federally
recognized tribe, and (g), that the Congress has not
basically forbidden a government-to-government
relationship.

And so if a petitioner were not able to
satisfy those three criteria at the outset, there
would be an expedited negative determination within
six months of active consideration.

If the petitioner were to satisfy those three
criteria at the outset, then we have a -- a section
that would provide for an expedited favorable
determination.

If -- so if the petitioner asserted that they
were eligible from these two criteria, it would -- it
would move forward on an expedited favorable track,
and that would be the criteria that the petitioner has
maintained since 1934 a reservation recognized by the
state and has continued to hold that reservation since
1934 or if the United States has held land for the
group at any time since 1934.

And so those are the two criteria that are in
the discussion draft. If there are other criteria
that should be considered as part of an expedited
favorable finding or any criteria that, for whatever
reason, these criteria are not appropriate for an
expedited favorable finding, we need comments from folks and feedback in terms of what we should be looking at.

Again, this would work in the -- in the same manner as expedited negative is that if one of these two criteria were met, then that discussion would be made within six months of beginning active consideration.

And if -- if the petitioner either doesn't assert that they satisfy these two criteria or the two -- these two criteria aren't met, that would proceed under the -- the full evaluation.

So in terms of adjustments of the criteria, the discussion draft suggests that the leading criteria (a), which is external observation of -- or observation of a group from an external entity, I think that the general thought there is that if a petitioner satisfies all of the other criteria, that just because someone wasn't -- a non-Indian entity was not there from 1900 to the present, that that doesn't mean that the group isn't a tribe.

In terms of the other criteria, criteria (b), we've changed the date to 1934 to reflect the change in federal policy from allotment and assimilation to tribal self-determination and promotion of tribal
self-determination for the enactment of the Indian
Reorganization Act. We have left criterion (e) as it
is, except that we've allowed an opportunity for
expert testimony, historians' and anthropologists'
conclusions to support descent from an historic tribe.

And then you'll see in the discussion draft
itself there are a number of different placeholders,
where we're asking for feedback on what percentage
should be for a particular criteria. And we have --
we purposefully haven't put a number in for those
because we want feedback from the public as to what
those numbers should be.

The discussion draft also provides for --
allows for withdrawal of a -- of a petition. So if a
petitioner, for whatever reason, decides that they
want to withdraw, they could -- they could do so
before a proposed finding is published.

And then if the petitioner withdraws before a
proposed finding is published, then it would cease
consideration.

But if the petition were resubmitted, it would
go to essentially the end of the line, so we -- as
many of you already know, we operate on generally a
first-in/first-out basis and there are a lot of
petitioners that are -- there's a handful of
petitioners in active right now that are actively being considered and then there are a number of petitioners that are ready and waiting to be considered.

And then the discussion draft also provides for an automatic final determination. If the proposed finding is favorable and there is no arguments or evidence in opposition to that favorable finding from either a federally recognized tribe within the state or the state, local governments where the petitioner's office is located, if there are no objections in opposition to that proposed favorable finding, it would just automatically go final, and that's something that -- for example, I know early on in the federal acknowledgment process, there were a number of petitioners who were -- received a proposed favorable finding and there were no comments in opposition and so that proposed favorable was just adopted as a final determination.

So one of the areas that we're seeking input from the public on is who should issue the final determination. Currently, both the preparers, the drafts which are approved and issued by the assistant secretary, both the proposed finding and the final determination, the discussion draft puts out a
slightly different approach so that essentially
after -- it wouldn't change anything with the -- with
the proposed finding, but once the proposed finding is
issued, then the question becomes should it stay with
the assistant secretary for the final determination or
should it go to the Office of Hearings & Appeals. And
the Office of Hearings & Appeals is an independent
office within the Department of the Interior, and that
is staffed by administrative law judges, and it would
then essentially -- the discussion draft actually
should then transition to the Office of Hearings &
Appeals for essentially any comments in response to
the proposed finding and then sending out an order
where there may be an opportunity for a hearing. And
then the Office of Hearings & Appeals would issue the
final determination.

And so we're simply asking for comment upon
whether that process -- who's the appropriate decision
maker as part of these petitioners? Is it the
assistant secretary or would it be better to have it
with the Office of Hearings & Appeals?

One of the other revisions we've added to the
process is that we're -- it's in the discussion draft, is suggesting deleting review from the Interior Board
of Indian Appeals. That's a -- that's a section
within the Office of Hearings & Appeals that
reviews -- generally reviews decisions made by
regional directors.

As far as we know within the department, this
is -- federal recognition decisions are the only
decisions that are reviewed by the Interior Board of
Indian Appeals, and those decisions are made by the
assistant secretary. The assistant secretary's
decisions are final for the department.

And so what this would provide essentially is
anyone who wants to challenge the final determination
would just go directly to federal court rather than
going through the Interior Board of Indian Appeals.

We've gotten a lot of questions in terms of
petitioners already in the process in terms of what --
what rules will apply to petitioners if the
regulations are changed. And so the discussion draft
sets forth an option for them to go forward, but this
is something that we would like feedback on as well.
So the discussion draft has it whereas anyone who
hasn't reached active consideration as of the
effective date of the new version of the regs, they
would be -- fall under the new version.

Anyone who's under active consideration would
have a choice of whether to go under the new version
of the regs, whatever those would be, or -- or continue under the existing version.

And then this -- this discussion draft also provides a narrow opportunity for if the petitioner has been denied through the federal acknowledgment process, they can re-petition if they prove -- either the assistant secretary or the Office of Hearings & Appeals, whoever that decision maker is, if they prove by a preponderance of the evidence that the change from the previous version to the new version of the regs would warrant reversal upon determination that had already been issued.

We're seeking comment on -- on all parts of the Part 83 process and, more specifically, we're looking for any comments on the definitions, which definitions should be revised, how should they be revised, if any. Should we -- should the department put together a standard form of what a petition should look like that could be used as guidance for petitioners themselves? It wouldn't be a mandatory form. That's something that petitioners could look at and utilize as guidance as they're putting together their -- their petitions.

Again, as I mentioned earlier, we're looking at any input on objective criteria so that -- you
know, what percentage should comprise a distinct community? What percentage of marriages should be between group members? Some sort of objective criteria for community and for political authority so that both the petitioner and the public know that if they meet a certain threshold, that that specific criteria is satisfied. And this is just asking the questions for criteria (c) and (e) as well.

We're also asking for comment on page limits. So throughout the discussion draft you'll see that there are, again, a couple of Xs in terms of should we be imposing page limits on any petition. Not necessarily the underlying source documents, not the primary documents, but the petition itself. Should there be a page limitation? Should there be a page limitation on proposed findings? Should there be a page limitation in terms of response to comments and comments on the proposed finding? And, if so, if we have page limits, what should they be?

And so this is obviously just a discussion draft. We're asking that comments be received by August 16th. And so as the process moves forward, what we'll be doing is after August 16th, we'll look at the transcripts. We'll look at all of the written comments we've received. We'll look at those
internally and -- and move forward with a proposed rule based on all of the comments we've received. Once we've got a proposed rule, then essentially this process will start all over again. We will have tribal consultations, public meetings and have a comment period yet again. So we've already had some -- heard some people say, "Well, August 16th is -- is too short a time and we're not going to have a chance to submit our comments," and I just want everyone to be aware that this is sort of an initial step even before the normal rulemaking process, and there's additional opportunities for comment once we've got a proposed rule.

And so with that, I will open it up to the floor. If folks could please use the microphone so everyone can hear you. Please state your first and last name so that the court reporter can get that on the record. And thank you for attending this morning.

MR. ETTAWAGESHIK: Hi. This is Frank Ettawageshik. I'm -- I wanted some clarification on the Office of Hearings & Appeals. One of the concerns that many of us have is the -- the -- the staff that currently is -- is -- is in the -- is in the Office of Federal Acknowledgment. There have been a lot of -- a lot of tribes feel that they have had some negative --
negative relationships with these folks, and this is very long-term career staff people that are in these positions. And when asked what we could do about that, we -- we have -- what we usually hear is we have to wait until they retire or until they die, and we have -- what I'm wondering about is if we change this -- the Office of Hearings & Appeals, how is -- how is the staff selected from this office? And how often is it changed? Who -- you know, I want to be sure that if we -- if we are looking to this -- looking to another office, at least, if that -- if there's -- and we don't run into a similar problem there. If the opponents of federally recognized, this process, get people instituted somehow in these official positions, would we run into the same kind of issue with that? So my question is, is that what is the -- how is this -- how is this office selected? How does it operate? Because I'm unfamiliar with that office, so . . .

MR. ROBERTS: Okay. Thank you for the question. I should -- I forgot to mention at the onset that the -- as part of our internal discussions, the Office of Federal Acknowledgment was -- was also involved in pulling together the options that were ultimately selected for the discussion draft, and so
I'm going to give sort of a very broad -- my general understanding of the Office of Hearings & Appeals, and I think Liz works quite a bit with them. Liz, if you want -- have anything to add, or, Katie, please do so.

But my understanding is that the Office of Hearings & Appeals is completely sort of independent from the department, and so they are administrative law judges that are -- are selected just through their credentials in terms of -- of being an ALJ. I don't know that they have any specialized expertise in Indian affairs itself. But it's different so that Office of Hearings & Appeals has a number of different branches.

One of the branches is the Interior Board of Indian Appeals, and that's -- that's where your petitions, if you're -- if you're going to -- if they're going to be appealed would normally go to and they have some expertise. This is -- when we're talking about the Office of Hearings & Appeals is a -- is a different section that is staffed by neutral administrative law judges that routinely hear hearings and hold -- and hear evidence on -- on certain matters. And so they may not have a background in Indian affairs, but they're -- they're -- they handle lots of hearings for the department itself and are
independent. So, Liz, I don't know if you have anything to add.

MS. APPEL: I think that's generally right.

MR. ROBERTS: Okay.

MS. APPEL: Uh-huh.

MR. HAROLD GOULD: My name is Harold Gould.

Would -- would -- this administrative law group would be also handling your final determination if there was any objections to -- it talks about the possibility of going into the court system, handling -- handling any objections to your recognition process. Would that be the -- the judges that would be hearing that or -- or was this going just to the general court?

MR. ROBERTS: So the discussion draft, as it looks right now, it would -- once the proposed finding is issued, if -- if the public thinks that the Office of Hearings & Appeals is a good idea and the department thinks that, what -- what would happen, then, is that the petition process would essentially transfer over to the Office of Hearings & Appeals once a proposed finding is issued, and then it would be up to the Office of Hearings & Appeals to handle if there are, let's say, comments objecting to the proposed finding.

There might be an opportunity -- it would be
up to the Office of Hearings & Appeals to hold -- they
could hold a hearing that would allow for
cross-examination of various folks to get additional
evidence and then that -- that administrative law
judge would then look at all of the information
received in response to the proposed finding, and
maybe that's a hearing, and then the administrative
law judge would make a final determination for the
department.

MR. HAROLD GOULD: Would there also be -- an
appeal process be --

MR. ROBERTS: Yes. And so once -- so that
would be the final decision for the department. And
then what would happen is if someone was -- still
wanted to challenge whatever decision that was, they
would then file litigation in federal court.

MR. HAROLD GOULD: So all this time, then, if
a person goes through the process, is accepted by the
process, then object, if it goes into the court
system, then that could drag on for another ten years
through appeals?

MR. ROBERTS: Yes. That's -- that's the way
our process generally works, whether it's federal
acknowledgment or any decision that the department
makes, we're always subject to suit in federal court.
MR. ETTAWAGESHIK: I have another on -- my question is definitions on the standard form. One of the issues that -- that so many of the comments have been in problems with the regs is that they -- they really don't deal with regional differences and the -- something that's really dangerous is once you have a form and something called a standard form, unless it's really specific, that that is only a guideline and that they're a -- you know, it -- it's -- we run the risk of having the standard form -- anything that doesn't fit on the form somehow not being considered, and I know that there -- there are so many different issues regionally that differ from one petitioner to another, that -- the idea of the standard form is probably not a bad idea, but I'm really concerned that when it be presented that it clearly not become the only form and that there be room for dealing with regional differences. Maybe there's a -- maybe there's a -- something on the standard form that addresses regional differences, for instance, so -- but that would be a comment on that standard form.

MR. ROBERTS: Thank you.

MR. CHAMPAGNE: Good morning. Nitumigaabow (inaudible). Champagne is the last name. I guess, you know, we're sitting here. We traveled from
Wisconsin this morning and we got here quite early, three or four o'clock in the morning, and so I apologize if I seem a little groggy. But I guess, you know, when we look at this, this is really good news for our community. Our community is Grand River Band of Anishinaabeg Community of Wisconsin. And so while a lot of us have been not federally recognized, you know, my grandfather always used to say, you know, "We're Grand River. We're Grand River." And I see some of my brothers here from probably lower parts of the state from Grand River. Also Mr. Romanelli representing the other Grand River Band. And you kind of look at anything, well, how does it all play in? The government made the agreements, the treaties with our people throughout the entire history. And, you know, when they came in, the last treaty being 1855, they never established a reservation. It never existed. And so, you know, our families who used to live here in northern Michigan, they ended up moving. And that was by government policies that we move. They offered financial incentives and relocated, and we kind of took our journey and we ended up in Wisconsin. And so we settled there in our own distinct Indian community.

But these new regulations in 1934 helps a lot
for our people because we knew we were always Odawa
people. We've always considered ourself to be
Anishinaabeg, but we've never seen any of the same
benefits. When we needed services, tribes like Lac du
Flambeau and Watersmeet, they were nice enough to help
us out and help our people. But if you don't
understand the -- the meaning when you're not
recognized, what does that mean for your people?

So a lot of our people were part of the
Northern Michigan Ottawa Association. My grandmother
here, she was part of that. And when we got
recognized, they were going through the reaffirmation
process. Not all of our communities got recognized.
Little Traverse Bay Band, Little River Band, a few
others, but we did. And so our members, while we
could enroll in multiple different bands, it's not a
relationship of our community. That's not who we are.

The BIA has had dealings with our community
since then, whether it's the Urban Indian Relocation
Program, when they moved us to urban centers, when
they did their allotments, those all happened there in
Wisconsin. Distinct. The feds came in. It wasn't
until 1999 that they removed us from our land, where
my grandmother's father sat and our people lived. But
they said you can still maintain it and use it for
whatever purposes you want.

So when I look at these regulations, the 1934, we -- we meet all those requirements, passed IRA. We petitioned for the Indian Reorganization Act and it didn't go through. But when I look here and it says, "Its members do not maintain a bilateral political relationship with the acknowledged tribe," what does that mean? I think I know what the government means. It means you can't be recognized. Your members can't belong to anywhere else. That's a hard thing for a person, an Indian person. That means if your members choose not to be part of anywhere else, even though that's not their community, they can't get services through Indian Health Services. They can't receive education services. They can't go through BIE school. They're denied everything.

And we understand it's part of a unique political relationship. Our community has had that with the Bureau of Indian Affairs. The agent used to come down all the time. And when I look at that, that's an area that I oppose, because I think you may be eligible for multiple bands, and I know a lot of people from Grand River down here could enroll in other bands, too, but that's not their community. That's not where their grandparents were. That's not
what they identify as home. And it's not what the
government made agreements with us as. And so when I
look at that, I have concern over that.

I also look at some of the definitions that
you're asking for us to comment on. What percentage
should comprise a distinct community? What percentage
should reside in a geographic area? What percentage
of marriages should be between group members? What
percentage should maintain distinct cultural patterns?
I see one of those that are more from an Indian
perspective. Who we are as Indian. That's what I
took that last question to mean. It's our community
who identifies what our cultural patterns are, what
our ceremonies are.

When I look at the rest, it looks like more
barriers for bands to overcome. Because to be able to
say the geographic region, we know now American Indian
population, there's more in the urban center than in
rural, according to the last census.

We also then don't take into account the
Indian Urban Relocation Act, government policies that
moved us from our rural areas to assimilate us in.
All these government policies were established for
assimilation or extermination. I used to always
believe it was to have that American melting pot.
An elder told me -- I gave a presentation once, and he said, "You know what?" He goes, "You almost had it right. You did all the different government policies towards our people, whether it's boarding schools" -- my grandma went to boarding school. "Whether it's removal. Whether it's urban --

Indian Urban Relocation Act." He goes, "But you messed up on one. The government only had one policy and that was the extermination of our people." And I think that's what we're talking about here.

We have to jump through so many hoops for a chance to be able to be recognized by a government who doesn't want us to be recognized. And I think when we look at that, we need to realize why -- what are -- what is the purpose of those barriers?

Because if the government made relationships with the Indian community, that's the unique political body. The rest of it is filler. And I think the -- I agree with where you mentioned, has the government identified reservation, why it's held land.

In our community we can say yes, the government has held the land for our community. Those are unique government relationships. The rest is filler, and I would hope that those barriers would go.

Miigwetch.
MR. CAUSLEY: My name is John Causley. I am chairman of the Mackinac Band, which is a nonfederally recognized tribe at this time. First of all, I'd like to say miigwetch to the tribal representatives that are here today of recognized tribes. You allow us to speak.

We've been in existence and are trying to receive federal acknowledgment since 1973. We've run into some very technical issues in our -- our quest to become federally recognized. One is, which is the biggest right now, we cannot receive technical assistance because we -- our organization is trying to receive federal acknowledgment, because there's more than one group involved, has taken over some of what we started out, so they went into the same name, Mackinac Band, but they formed their own government, per se, their own council.

And when I did the letter of intent in 1998, I was the petitioner of 186. Now we've got three groups out there that say we're 186. But we weren't allowed to say nothing legally to try to support our issues or somebody make a decision to say that we are 186. And we're running into that issue now with people coming in and doing this and taking over some of our control from different councils representing themselves as
Mackinac Band to receive grants and things like that.

My question, I guess, basically: Is there some way we could legally -- that BIA or the government make a decision on is our story true or their story true to show that we are 186? They've used our logo. They've used our identity to slow processes down.

One of the processes that we were going to do in 2002 and that was get legal services and technical assistance from the Michigan Indian Legal Service and Jim Keedy, but because we're -- now that more than one group's involved and there is discussion of battling going on because of it, we don't get those services and we're really running into an issue with that. But we're looking for some guidance on how we're going to be able to solve that issue.

MR. ROBERTS: I would -- I think all -- in all fairness, we will have a talk during our break and get more information on your specific situation. I'm not up to speed on that, but I'd like to get more information about it. And, you know, in terms of what I would ask in terms of comments on the discussion draft, you've -- you know, you're living through this situation right now. How can we -- how can we address that so that it doesn't happen in the future?
MR. CAUSLEY: Miigwetch.

MR. BUCHANAN: My name is Chief Brian Buchanan, chief for the Miami Nation of Indiana. In 1854 the tribe was recognized. Forty years later it was illegally taken by an opinion by General Willis Van Devanter of the BIA. And from that point on, we have been unacknowledged at this -- at that situation.

The tribe has been through all the petition processes. We have been through the appeals process. It has been admitted that what they've done to us was wrong. As individuals, we are all recognized. We've all received paychecks from the federal government. And I'll tell you that right now seeing something like this has -- has brightened our -- we've been through every avenue other than the congressional. And without state support, as we all know the politics, that will go nowhere in Congress.

And I have a question specifically is some of this automatic final determination, if you have some type of a wall that comes up against the tribe that's from state or local government, how much bearing -- how does the -- how does the department -- or the appeals -- how do they address that? What do they -- is there -- is there another opinion that will be taken into consideration what happened to us in 1897?
How -- I guess how critical is it that the state and local governments -- because right now the local governments, we have every major city in the state of Indiana that has entered into a proclamation with the tribe on a government-to-government relationship, including the city of Indianapolis.

Two-thirds of the state of the towns and cities and county seats have done also the same, but when it comes to statewide, we always run up against a brick wall. And -- and how important is that to BIA and -- and how do they determine this? Is this going to be another -- you know, another option or opportunity for them to make an opinion?

MR. ROBERTS: Yeah. So the -- the discussion draft, and that's what we're seeking comment upon in terms of, you know, how do we improve the discussion draft, right? These are just ideas that were put out there to generate comments. And so right now the discussion draft essentially provides if you don't -- if you don't have anyone, either a state or local government objecting, affirmatively objecting or questioning the proposed finding, then it will go automatic final. So it's not written in a way where state and local governments have to affirmatively support. They have to object. But as it's written
now, if a state would object, then it would go through the normal process of after a proposed finding, we'd look at the objections, we'd look at the responses from the petitioner and then we would make a final determination based on the evidence that was part of the objection.

MR. BUCHANAN: And the reason why I ask that question is in our appeal, it was admitted that what was done to us was -- was wrong. The statute of limitations was a hundred years ago, so it is what it is. Is that going to take the same type of note when we would go into this? I mean, who knows?

MR. ROBERTS: Yeah. I -- I don't know. And, you know, in fairness, it's a discussion draft. The discussion draft could change radically based on the comments that we receive and internally how we're looking at it in terms of -- so this is an opportunity for everyone to say, you know, we think that these criteria should be changed. Like the earlier comment was basically saying, I think, you know, for criteria (b), community, these -- we should be using a large majority of these because they're not reflective of the history of the United States Indian policy.

What we need is comments in terms of what the objective criteria should be and how the process
should -- should move forward in those situations. So we're sort of starting on, for lack of a better word, sort of a blank slate, but we're trying to get comments in and then we'll move forward.

MR. BUCHANAN: All the criteria that we were denied under this petition process was tribal abandonment. And during those periods of World War I and II, when we weren't having meetings every month or -- you know, when (inaudible) is in a reservation, which we didn't. Our men were over fighting for our country and so it wasn't sufficient. It doesn't mean it wasn't there. It just wasn't -- in their behalf, in their eyes, it wasn't good enough for them, so that's why I was asking.

I want to say on behalf of the Miami Nation as written, those issues have been addressed and we fully support this and we thank you.

MR. COX: Aho. My name is Eric Cox. Ma-Chis Creek from Alabama, Lower Creek. I was called to come up and make a presence. I didn't know if I could come here, so I do thank the federally recognized tribes that have allowed me to be here. I'll tell you a little bit about myself. I'm a retired Marine with 26 years, plus-years service. What I do now is I go into five prisons and I work with the natives there. So
that's kind of why I snuck in here so I can give some
information to the brothers that are there. I work
with them and all their ceremonies there.

I come to you today to thank you for your
service in the interior, each one of you. That's a
tough job. I don't know of the total details in
regards to our fight back in 1970 till today. But
this is what I say: I come to you in a humble way and
ask you for a hand up, not a handout. I ask you to
help us to clear away the injustice to our ancestors
and help us to give these blessings to our great,
great grandchildren that I'll never see. I'd like to
be looked upon as one of the ancestors who done the
right thing.

MR. YOB: Hello. I was going to speak this
afternoon, but I guess I should. Maybe anyone that's
here, though, I'll say it again. Okay. First, we
want to thank you for the opportunity to present the
views of the Grand River Bands of Ottawa Indians --
Ron Yob with the Grand River Bands of Ottawa Indians,
by the way -- on this first draft of what we hope will
be new regulations to govern the process by which
Indian groups are recognized.

We believe the concepts outlined in the draft
are long overdue and we applaud the determination of
the bureau to -- in their efforts to bring fairness and certainty to this recognition process.

By way of background, our tribe, the Grand River Bands of Ottawa Indians, have been in this process since 1994, when our tribal leaders agreed to seek federal reaffirmation of our status.

We filed our original documented petition in 2000, which was composed of 21 Bankers Boxes of papers, three copies of every document. We received a technical assistance letter in 2005 and provided the additional information to the BIA. Shortly thereafter, we filed our final additions to the document in 2006. We were the -- we were actually the first tribe to submit our entire final petition in digital form, which after -- it cost us a bunch of bucks to do that, and after we filed it, the bureau changed the format, so it didn't matter what we did because they changed the format on us, you know. But, anyway, that's something else.

We were placed on ready-for-active list in March of 2007, and we're still there six years later. We've been on the ready list since 2003.

And then at the beginning of last year, another group kind of jumped us, just by some crazy thing, you know. We were kind of sitting there
waiting and waiting and all of a sudden a tribe from nowhere jumps us, you know.

We know you're sadly overworked, but we believe we had the right to expect to be placed on the active list before now. There's still no definite date when our petition will begin that two-year process. The two-year process is subject to long delays with many extensions permitted by both the tribe and the OFA.

It will be at least two years before the draft regulations will become final and our concern is how our petition will be treated in the meantime. Will OFA continue to process existing petitions under the existing rules? We believe we meet all the current mandatory criteria, even the -- even if the draft regulations were finalized as they're written now. If they were finalized like that, our task would have been much easier, so we -- we were grateful for that. We spent 20 years doing something, but we'll still take (inaudible) if we can take it.

Grand River is a treaty tribe. Many of our members trace our ancestry to the signers of the 1855 treaty, amongst other treaties. In 2006, which was 150 years to the date, we actually brought the original document to Grand Rapids where it was --
where it was signed along the river. It was about 150 years to the date in the exact place where -- where the sig -- the signing was. It happens my great-great-great-great-grandfather -- four great-grandfathers was one of the signatories for that treaty. And if we look at that, that's four great-grandfathers, a grandfather, my mother and me, which makes me the seventh generation of that signatory, you know, and I -- I really feel that some of the things that were in that signatory -- in that treaty were -- were written for our generation now, you know.

One of the things this fellow mentioned here was -- was the -- the guy from Indianapolis, about how -- about meeting and -- and breaking up and stuff. If you look in Article 5 of our treaty, it talks about how -- that the government will not -- will not bring our tribe back together except maybe in small groups when -- when needed, you know. Look up Article 5 sometime and interpret that, you know, of the 1855 treaty.

Several provisions deserve some special mention, especially the use of the year 1934 as the new proposed date from which cohesive self-governing tribe must present certain evidence. We also like the
expedited review provisions. For legitimate tribes like us, it would speed the process up so the staff can spend their time on the more troublesome tribes, you know.

We do have some questions about the process during this transition period and hopefully they can be made clearer. Under proposed Section 83.3(g), if Grand River is not yet on the active list when the proposed regulations are finalized, we would be required to proceed under the new regulations. The regulations do not make it clear that we will maintain our position in the list of tribes that -- in the order that were taken. You know, it took us a long time. We're, I believe, number three on the ready list now and I'd hate to get stuck in the big general pool with everybody again after spending 20 years to get where we're at, you know.

We also need to reco -- we also recommend revisions to clarify the process and order of processing petitions that are under the mandated criteria or the expedited review or even under the rules governing the previous federal acknowledgment. We are unsure how these will be handled and in what order. We are confident that Grand River will succeed in each of these categories and would like to have the
assistance of the department and the regulations to
know which option is best.

We -- we can't -- like we just got a letter to
make a suggestion by the end of this month if we want
to have our petition suspended or go by the new rules,
but we don't even know the new rules yet, so how can
we make a statement that we want to -- we can't -- you
know, it's like do you want to play in this ball game
here, but we're not going to tell you the rules until
after you start playing, you know. I mean, so that's
what's kind of, you know . . .

MR. ROBERTS: Yeah. I -- I appreciate those
comments. I -- a couple of things. One is we don't
know how long this process is -- is going to take.
All right? So generally speaking, just the rulemaking
process in general, it usually takes about two years
from start to finish. That's just -- that's just a
ballpark general. That's not specific to Part 83.
This could take a shorter period of time. It could
take a longer period of time. It really depends on
the number of comments we get and just internally how
-- how quickly we can look at those comments and
decide how to move forward.

And so the -- the letter that you mentioned
earlier about asking -- we sent the letter to those
petitioners that are either under active consideration
or ready and waiting to be considered. And the idea,
the concept of that letter was just to say to those
petitioners in those two categories, hey, if you want
us to suspend your petition right now -- well, hey,
we're going through this rulemaking process. It could
impact your petition once it gets filed. If you want
to suspend, that's up to you. Please let us know
essentially as soon as possible.

And so I think that the date that was in those
letters is -- is going to pass this week essentially.
But what we've been telling petitioners who've made
the very fair point that you've made, which is, "Hey,
how can you ask us to suspend something when you're
not telling us what the new rules are going to be?", so that date isn't like a -- a date where you're not
going to be able to suspend later on if you want to do
so because of the regulations. It was more a way of
the department saying, look, if, for whatever
reason -- we're going through this process. For
whatever reason, if you want to suspend while we're
going through this process, let us know as soon as
possible because there may be other petitioners that
will continue to work on that; they don't want to
suspend while we're going through this rulemaking
And so it was really a way for us internally to allocate resources in case -- the last thing we wanted was a petitioner coming to us somewhere down the road and saying, hey, you didn't tell us about this rulemaking process and we would have wanted to suspend our application while you're going through that. It was more of here's what we're doing. Please let us know at your earliest convenience if you want to suspend. And so if you don't want to suspend, that's -- that's completely up to the petitioner, and we're going to keep moving forward, the Office of Federal Acknowledgment, and so -- but that won't preclude you from, let's say, a year from now if you're not under active consideration, let's say, and you want to suspend or if you're in active consideration, depending on how the department deals with that, you'll still have that opportunity, so . . .

MR. YOB: Can I continue?

MR. ROBERTS: Uh-huh.

MR. YOB: Okay. We also believe that some words and phrases that are used throughout the current regulations and the proposed regulations are too subjective, leaving the interpretation to the whim of
the reviewer. We hope that they address some of these
either by elimination or definition. For -- for
example, reasonable likelihood, sufficient, strong
influence, significant, minimal, preponderance,
substantial and the like. We understand that the
people in the field of humanities are not necessarily
legally trained and perhaps additional guidance might
be given to them of some sort.

And that -- just finally -- I'll shut up here
in a second.

MR. ROBERTS: Yeah. That's fine.

MR. YOB: At the current rate of making final
determinations, we think this could last us for
another hundred years and that if that was to happen
our -- it would be hard for our tribe to survive as a
distinct cultural and political entity unless we start
beginning to soon receive like educational things.

Like, for instance, in Michigan here there's a
Michigan Indian Tuition Waiver, you know, and they cut
off the nonfederally recognized tribes. Dale Kildee,
our -- our former congressman here, he -- I asked him
about that and he -- he was visibly upset. And his
first comment was that we wrote that tuition waiver
for Indians, not tribes, you know. And so what they
did was they cut out -- you know, at one point we were
the same -- same as everybody else and that was before -- when that waiver was written, there wasn't federally recognized tribes in Michigan. Maybe Sault Ste. Marie, but the other tribes weren't -- were not at that point at the stage yet, you know, but it kind of cut our -- it's -- it's making our tribe go extinct, you know, so -- is basically what it's doing.

Along with preservation assistance, health care, housing benefits, it's causing us to lose members because, of course, we -- our own members, the adults are staying with us, but their -- their children are going -- signing with the federally recognized tribes because they can get tuition paid for -- for higher education, you know, so it's taken our membership down. It's caused -- the -- the length of this process is causing us to -- causing tension between our tribes, you know. They're trying to invade our territories. You know, they're trying to leave their own territories to come in our areas, which we -- which we -- like I told you, I've got -- I'm a seventh generation right where I'm from and -- and people are trying to come in from outside to take over, you know. I mean, it's -- it's really ridiculous for us, you know, when you see it from the inside like that.
We're unable to participate in any discussions, for instance, treaty rights, fishing issues, things like that. We're totally blocked out of those things.

If you were to follow the evolution of tribes from precontact to -- to European contact to United States government to treaties, you'd find that our people in Michigan all follow the same path, the same evolution, and we were all one group of people, you know. And then once recognition came, it -- it just -- our evolution stopped and everybody else went up.

I mean, I can still remember going to some of these tribes and they still had little offices about the size of that little corner there and the people lived in dirt floors and tar paper shacks, you know, and our people aren't much further than that right now. You know what I mean? Everybody else started evolving with the federal assistance and ours just is deteriorating, you know. It -- we were -- we were -- and I've said this several times. If we were like an exotic butterfly or a snail darter or some exotic animal, you know, there'd be all these tree-hugger people that would be trying to preserve us, you know, because they see that we've got a generation of people
that are leaving.

There's an effort in Grand Rapids right now to put sturgeon back in the river. And one thing the biologists from Little River commented about is the sturgeon are better -- they found that the sturgeon have a higher and higher survival rate if they're from the actual gene pool that come from that river and not from another state or another part of the country.

It's the same with our people, you know. We've -- we've lived there, our people are buried there, you know. Even though we can't do repatriation, we do it anyway. You know what I mean? You know, because if someone brings your remains back, you're going to take care of them, you know.

You know, it -- it just seems sad to me that a process that is (inaudible) and several times, but (inaudible) is broken, you know. And I've never heard anybody compliment the process, you know.

And I've been a hunter my whole life, you know, and if I see something that was broken and wasn't doing well, I would probably put it out of its misery, you know. And -- and this is probably what I know you guys are trying to do and I want to thank you for your efforts to, you know, make this more of a right thing, you know. Miigwetch.
MR. ROBERTS: Thank you. We have heard other people say that. We shouldn't have a process that takes generations to get an answer.

MR. CHAMPAGNE: I'll just thank you, Miigwetch, because those are the same things our grandparents said. We're both Grand River. We call ourself Anishinaabeg. There's no difference. All the bands in Michigan are Anishinaabeg. We're the same people. But when the government came, they made these separate treaties and broke us up in each individual little community.

You know, we hear your struggle because we -- that's why I pointed out that section before. It's the same issue. For us to be able to get anything, whether it's health care or education, whether it's stop being arrested for invoking our treaty rights, it has to go to federal recognition. You know, none of these bands were recognized for a long time. '94 was when Little River and Little Traverse all started to come about through legislation. And so when I hear your words, it resonates because our poor community is still -- you know, my grandmother grew up with no running water, no electricity, tar paper shack. Our families live like that and that's okay because we're strong within.
When I went around to our elders this year and I met with them all back home in Wisconsin, they said, "You know, we just want our community to be home. Wouldn't it be great for that land to be given back to us that they -- that they're holding for us? Wouldn't it be great for our community to be vibrant again?"

You know, those are the words I heard from my elders. And that's why when I read through this, we had a new sense of hope because there's a hope that our community will be recognized for who we are.

You know, when we moved to Wisconsin, it was by government policy, and we are one of the signatories on the 1855 treaty. We're Grand River people also. It doesn't mean we're identical, same community. Our relatives knew each other. You know, we know each other, but we're not the same. And the process -- I used to hear my grandpa always tell me, "Oh. Wait till that Indian money comes." He used to always laugh. And because -- they laugh because they knew they would be passed on. They knew they wouldn't be walking in this world anymore because they said that's what they were told, "Wait until your Indian money comes. We're all going to be very rich."

That day has come and gone and we still live in squabble. The United States government doesn't
really care. They only care when there's an issue, then they come and intervene in our community. Otherwise they leave us alone. And when I look at that, you know, going back even from the (inaudible) with Northern Ott -- with Northern Michigan Ottawa Association, we participate in that. They came over to Wisconsin. They met. My grandmother hosted it. Because they recognized that was a distinct Indian community also, different from the ones here, that they were their relatives but were separate. And so when I look at that, that doesn't -- the federal government doesn't understand that. They want to lump you all into one single category and that's not how it works because we have had our meetings, our own political bodies and we continue on that.

And it's hard to stress such a great importance to understand that your community is vibrant. When they came around and they did allotments, they gave us -- we were one of the few areas in Wisconsin that actually had an allotment that was not affiliated with the tribe. That's unique to our area and they still hold that land. It's a federal forest or whatever they have. And I look at that and I think how many more generations.

My Uncle (inaudible) said, "You go ahead and
you go over and talk to those people." He can't be here today. He's too old. He's -- he's not in good health. And he said, "You go talk to those people and bring back." And he kind of laughs and he goes, "Maybe there might be a hope, huh, that we could -- that could go through? I'll be long dead, though."

And I laughed and I said, "I probably will be, too."

So even an old man knows that the system's geared against our communities, and it's not whether or not one has a right or the other one doesn't have a right. It's whether or not that we had government-to-government relationships with the United States and going off of that. And, you know, and I worry because, I'll put the elephant in the room, there's some federally recognized bands who don't want to see us recognized. They'll pay their lobbyist to lobby against it. That's not the Anishinaabeg way. That's -- we're supposed to be looking after each other and never harm another. But because of the days of casinos or what have you, that's all that's on people's mind. That's not what's on our mind. We're poor now, we'll be poor after, and we'll -- you know, we can accept that. But we're rich with our family and our heritage and our traditions. Miigwetch.
MR. ETTAWAGESHIK: Frank Ettawageshik again. I was -- have some questions about comments on the -- on the percentages, for instance, and the percentage of marriages should be between group members. One of the things that happens with -- with many of our -- our tribes is that we're relatively small compared to very large, you know, multiple thousands of members, say, you know, 20,000, 60,000, these larger groups. And when you have the smaller tribes, well, we find we're related to everybody, and so we often have a very difficult time finding a mate that's with -- that's part of our own -- in our own tribal community, so we generally go just outside that.

And so I think when you look at percentages between group members, you have to take into consideration that -- that culturally we may be politically independent, but we're not necessarily culturally independent. We're part of large cultures. And with the boarding schools and other things that have happened, we've -- we've actually formed many strong pair bonds between -- between members of our -- our citizens and citizens in other -- of other tribal nations. So I think that if you look at that and you're thinking of percentages of marriages, you have to take into consideration marriages with other
Indians, with other citizens of other tribes, and not count that against a group, because actually, you know, that's part of our tradition.

In the old days we used to go on rave parties to get our wives in other places. It was -- it was part of the system, you know, and we -- but in these days, those rave things are called going to college or -- or other things of this sort where we send our young people out with each other in organizations. So I think that that's got to be considered. So just a percentage saying this percentage of -- of people are marrying from within this petitioning group, that's -- it's a dangerous thing to do that. You need to certainly look at that in a broader sense.

So the -- and cultural patterns be clarified. That's -- that's also a very difficult thing. Here at Little Traverse, we have -- you know, we successfully made it through legislation back in 1994, as has been mentioned previous -- by one of the previous speakers, but it -- in -- you know, in our case, we have -- we have some of our tribal citizens that have been -- they have been Christian and Catholic since the 1600s, their families consistently all the way through have been that. So what is a traditional culture? There's items that are -- it's going to be really difficult to
define this.

The other thing that is difficult to define in this case is that any living culture evolves and changes over time, so you can't find a fixed point and say, how do we measure against that? Are we -- are we cultural because we're somehow less than this point, say, a 100 years ago, if -- you know, if we use that as a way of determining what -- what true culture is. So the cultural -- it's going to be really difficult to do that, and I don't really know how to approach that other than to -- to be aware that -- that we evolve.

I know that, you know, my friend Charlie Hill once did a little thing that was very informative on this. I want to borrow it from him for -- for this. I told him a couple months ago that I do this every now and then. But he says, "You know that they call the Indian the vanishing American." He said, "You know, I got up this morning and I said -- I looked in the mirror," and he said, "I felt pretty good, you know." And he said, "But I got to thinking, when -- when was the last time that you ever saw a pilgrim?"

The idea being, of course, that people don't expect the descendents of pilgrims to walk around looking like pilgrims like we think of. But, yet,
somehow people think the descendents of our -- of our ancestors of that same time period, that we somehow look less than that. We're less of an Indian. Or if we dress differently or if our occupation has changed or if -- all these different things. You know, we, as a living people, have evolved with times. And I think that that's something that has to be looked at in here.

So any -- any definition, it's really dangerous to try to pin a particular definition of culture down and then measure people against that as a part of the criteria. So I would -- I want -- I just wanted to comment on that, that I think there are some issues with that, and if that's going to be done, that it be done in -- in a way that will encompass the evolution of the living cultures that our tribes are.

The next comment I have is on the question on page limits. The -- I guess what I'm -- I'd like to hear the -- the rationale for the idea of proposing page limits. I think from a tribal point of view, you know, our -- I know Grand Traverse Band, when they submitted their petition, it was about this thick (indicating). I think a single box of Bankers Boxes of documents. And then the Shinnecock, when they were going through, told me they had 160,000 documents and
it took a whole truck to haul them there. And the
regulations hadn't changed, only the way they were
looked at. And I know that this attempt is an attempt
to -- to try to streamline that process, and we
certainly appreciate it, but I'd like to know what the
thought of the -- the limit of petition -- or the
limit of page numbers are, because for those people
who are petitioning, it's their only shot and they've
got to really make it work, and so that's why I think
that they -- as people have been less and less
successful, they've been more and more wanting to make
sure that they didn't run into problems and trying to
provide more documentation. In some cases, that
documentation has been asked for by the department,
and in other cases it's -- it's just being done out of
a sense of self-preservation on the part of the
petitioner. So I'd just like to hear a little
discussion about that -- why the -- the proposal for
limiting the pages is.

MR. ROBERTS: Okay. So the -- the page limits
itself, what we put out there, it wouldn't apply to
the underlying source documents. So a petitioner has
100,000 pages of source documents that they want to
provide to the department, the -- the rule doesn't
preclude that at all.
What we're proposing in terms of page limits is should there be a page limit on the petition describing what the petitioner -- how -- how that petitioner satisfies all the different criteria? Maybe there shouldn't be a page limit on a petition. Should there be a page limit on proposed findings so that it's more readable for the petitioner and for the public in terms of, you know, everyone can more easily go through an 80-page document than a thousand-page document, and so should the department propose page limits on ourselves? And, you know, maybe it's just a -- a side effect of having a legal background, but, you know, typically when attorneys file briefs they have a page limit, otherwise the pages would go on forever, right?

And so -- so it's just a question in terms of would that be useful to the process, and I think maybe there are certain parts of the process that deserve page limits and other parts of the process that shouldn't be limited by pages, so it's something that we then kick around internally and want to get public feedback on it.

MR. ROMANELLI: Hi. Larry Romanelli, Little River Band of Ottawa Indians, Ogema. I just wanted to say it appears that I'm the only leader of a federally
recognized tribe of Michigan in attendance right at
the moment, and I just want to say that I -- I did
welcome the communication with all nonfederally
recognized tribes and people that are going through
federal recognition because I believe they have the
right to speak and I believe I want to listen to this.
I want to say that I appreciate the years of
work that have been going on with this -- this issue
because I think it's very important to all of the
people in the room here and to the Indian nations. I
also want to say that I appreciate the -- this
consultation. It appears that at least locally within
Michigan the tribes are having an issue with state
consultation, what they call consultation, which seems
to happen after the fact sometimes, so I do appreciate
this and that you're going around and gathering as
much information as possible. Miigwetch.

MR. YOB: Ron Yob, Grand River. I want to
comment on something Frank brought up about the
culture -- the percentage of cultural patterns and the
marriage as well. In our teachings we were taught to
marry outside of the clan, for one thing, so that's
not (inaudible) amongst your tribe. Even though
you -- for instance, I -- I could -- I could be in
Saginaw Chippewa, I could be in Little Traverse, I
could be in Little River, but why would I go, you
know, 200 miles away from my home to be in a tribe,
you know, for one thing? Our culture itself holds
that you marry outside the clan because -- like what
this statement does, it almost promotes inbreeding,
you know. You know, stay in your community and that
ain't going to happen, you know. Our people don't --
don't live that way, you know.

The -- and the other thing is -- and -- and I
don't know. I can't speak for any other Indian
community, but there's probably a very high percentage
of natives in our community that aren't married but
they've been living together for 20, 30, 40 years and
they just -- they might get married in a traditional
sense, but they don't -- because of the mistrust in
any kind of government issues, whether they be local
or federal or whatever, they're not going to --
they're not going to sign these documents, you know.
They just -- they're -- I grew up a little different
than some of these people because I'm a little older
than some, but we were taught not -- not to get
involved with those things and don't -- you know,
because then all of a sudden you're part of their
system and then you're part of their regulations and
then so are -- in our -- in our community, there's --
I don't want to give a percentage because I don't know how I'd base it, but there's a high, high percentage of spouses that are happily married and have kids and went -- you know, they're (inaudible) generations and they ain't never gotten married, you know, so they're -- so you're going to -- that issue might be tweaked somehow, you know. I don't know how.

MR. ROBERTS: So -- so both of the comments raise the challenge that we have basically with these regulations, which is -- what I'm hearing from folks is that some of the objective or could be objective criteria probably aren't appropriate objective criteria, right? But if we just take those and put those aside, what do we replace them with because otherwise they're -- they're subjective then, right?

I mean, we've heard from groups that we want more objective to be in the process, not -- not more subject -- not -- not -- you don't want the criteria to be subjective, right, and so I -- I understand what you're saying about, you know, tribes are evolving and, you know, some of these criteria probably don't reflect modern life, right? So what should the criteria be and how -- how can we make them objective so that every petitioner, when they're going through the process, they know that they either have
or haven't satisfied with the criteria? So I thank you for your comments and any comments in terms of what we should be using for objective criteria is -- is greatly appreciated.

MR. YOB: Got tough, tough decisions to make. One of the things we do within our own tribe, though, is our enrollment and membership denotes where their nativeness comes from and then -- and so we separate it to a certain point that they have to track through our -- the -- for instance, the -- and this is -- I'm being fictitious here. But suppose a native in our community could be one-eighth Grand River, for instance. You know, they're descendents in Grand River or whatever. And then the other seven-eighths could be Little Traverse, Sag Chipp, you know, Grand Traverse, but the whole constitutes a hundred percent Indian blood, so by them living in our community they -- they want to become members of where they live, you know, even though -- even though the highest percentage could be other ways. You know, we don't ask them for marriage licenses or anything, we just ask them for their -- for their certification of who they descend from, you know.

MR. ROBERTS: Yeah.

MR. YOB: Thank you.
MR. ETTAWAGESHIK: And I'm not -- on the issue of cultural, I guess it wasn't saying -- I wasn't saying that we need to remove that as a criteria. What I'm saying is we need to be careful how it's applied and that -- that -- you know, the cultural practices should be looked at, but that if they're not the same today as they were a hundred years ago, it doesn't mean that they don't exist basically is what I'm -- what I'm saying. You know, in the case of naming ceremony, for instance, (inaudible) naming ceremony that I know of. I've been to -- I've been to so many naming ceremonies and I don't know that I've ever been to any two that are done exactly the same. They're a little bit different. Even the same person does them a little bit differently from time to time.

And so if you're trying to set a standard, here's what it is and anything less than this, anything different than this is somehow less true I think is -- it's one of the -- one of the issues that we have often when being looked at by the -- by social scientists who study us as opposed to those of us who live -- with whom are living our culture, and there are -- you know, we've all run into this where I've been in ceremonies where a visitor will stand up and say, "Well, aren't you supposed to do it like this?"
"Well, wait a second," you know. "We're doing this. Watch what we're doing and see how we do it. Don't try and tell us how somebody in a book did it 25 years ago."

And we actually have people who do that to us. And so, you know, that's part of our -- our concern about this -- about this process is that often we feel that the -- the recognition process has been staffed by people often who are holding us to some sort of criteria that is different than -- than -- than who we -- than -- than -- it's sort of an unrealistic idealized standard, and we're concerned about that. Because as everybody knows, a living culture constantly is -- is evolving and that's what we think that we are. So that was my concern about that cultural standard and just that it not be at a fixed -- a fixed point in time, but it -- but then I think the idea that there be, you know, a showing of continuity and spiritual practices and continuity of social interactions and feasts and other types of interactions in the community, I think those are really important that show that the existence of -- of a tribal -- a tribal entity.

MR. KNOX: My name is Elmer Knox, Grand River Bands, council member. I think you've classified
tribes and bands together, and they're not, as you've seen here. Three different Grand River Bands have different opinions. My thing is, we were not a tribe. The Ottawas were not a tribe. Treaty of 1836, in order to get this treaty signed, they banded them all together and they said you all speak the same language, you're Ottawas. I have one friend whose father was born Chippewa and died Ottawa because of this. So there's a lot to it. You have to take these as bands and not as tribes; on -- on the Ottawas, at least. Because if you look at the treaties, it's very plain right there. It's always plural, Grand River Bands of Ottawa Indians. Thank you.

MR. CHAMPAGNE: I think what that gentleman is saying is a hundred percent correct. When we look at -- you know, that goes to the other comment about the marriages, and our bands are very small versus like a nation, Ho-Chunk Nation or Navajo Nation. We're comprised of a couple thousand members, you know, versus 30,000 members like tribes out West, and each individual community has their own way of handling their business. And each one of our communities sent a signatory and, you know -- and that's one of the things that we relied off each other, we traded together. But when we start looking
and wanting to put percentages and define to a percentage, I get leery of that because that's usually a tool, mechanism to weed out and, you know, to say what percentage resides in a geographic area.

So our whole community is located in northern Wisconsin. But with the Indian Urban Relocation Act, some went to Cleveland, a lot went to Milwaukee, so we have a major population in Milwaukee which holds political meetings in conjoint with us. We're all the same people and we all are on the same page, but we have two now different communities, not by design but through government policy, and so we're hesitant of that.

And then if you trace back to the treaties, our home communities would be along the Grand River, you know. And so whether -- my grandmother's mother was born in -- in -- right in Manistique and, you know, but that was over a hundred years ago and our community has since existed in Wisconsin, also by government policy, though.

You know, these policies were designed to split us up. And maybe it was designed for good purposes, maybe it was for economic reasons. I'm not sure. I wasn't there. But what I do know is that I know where we came from, what we consider home.
When you say intermarry, we don't marry inside our own clan. But with a thousand members, like someone else mentioned, it's a limited people. A lot of people intermarry. We're surrounded by two other bands, two tribes, Ojibwe, which are also Anishinaabeg Band. Not much different. You know intermarrying occurs there, and so we intermarry as a form of survival, you know, as you would. And I think when the government wants to put a percentage and to say, oh, you're only one-quarter Grand River and you're really -- maybe my dad's white, so you're half-white and -- and it goes on. And I think it's what you identify and your community identifies, you know, as being part of that community. And when I look at our community, we know we're vibrant, we know we exist, we know we belong and we know our children belong. See one of our young youth here right now. And our daughter, she wanted to know what's going on. She unfortunately had to work. But they come because they want to know what to carry on, and that shows you right there a community. Your children are participating. They know what the vision of their community is. They want to see it happen also.

Miigwetch.

MS. BEATTY: Hello. I'm Jennifer Beatty. I
am a tribal council member of the Grand River Bands of Ottawas in Grand Rapids.

I just -- I appreciate the process that is getting revised because I am now 40, but I'm probably one of -- I'm one of the two youngest members on our tribal council and I just -- from personal history, I -- my mom joined the tribal council in '94, and they filed a petition and she's been on that tribal council, and I hear from her despair in her voice because she's afraid this process of recognition isn't going to come before she passes on because she heard the same stories and I've heard the same stories from my grandmother, who was part of Northern Michigan Ottawa Association and went to those meetings in Sault Ste. Marie to find out the stuff that was going on in the Indian community.

Those communities do exist and we're still trying to maintain them, but I agree with them that we have to be careful how we reference those things because, even in my generation -- myself as an example, I'm not married, but I do have a son who is very in touch with his culture, participates in the powwows, understands the ceremonies and the beliefs. But I can see other kids that have more blood quantum that receive benefits from other tribes and have no
understanding of their cultural relevance, so there has to be a lot of leeway in there. But I appreciate that it's getting simplified, that they've added the expedited part in the petition, and I just hope it helps the other tribes out. Thank you.

MS. COMPO: Hello. My name is Fran Compo, and I'm a member of the Grand River Bands of Ottawa Indians. I'm actually a grandmother. I have a new grandchild that was born on the 4th of July making that my 17th grandchild. And one of the things that's happened within my own family is I am half Little Traverse Bay Band of Odawa Indians. Frank is my cousin. I could belong to this tribe and -- but my parents -- I was born and raised in Grand Rapids, Michigan, and I don't know why, but my parents raised me to be Grand River Bands of Ottawa Indians. I raised my children to be Grand River Band of Ottawa Indians. And when my daughter was attending college, she come to me and she says, "Mom, I just found out that if I joined grandma's tribe, Little Traverse Bay Band, they will help me with my college education and I won't have to be so far in debt with all these government loans I'm having to get. They'll help me pay for my books." And she did that. So now she is living in -- up here in Petoskey, has joined Little
Traverse Bay Band and she is now having children that are Little Traverse Bay Band children. So our tribe is slowly, slowly, with probably one of the largest tribes in lower Michigan at one time, is slowly -- slowly our members are having to join other tribes that they can just for the benefits that our tribe can't provide them. Even though we do what we can as a tribal council, it's very limited resources out there for us.

And I can remember my parents, when I was little, taking me to all the NMOA meetings, the Northern Michigan Ottawa Association meetings around the state, and my grandparents would be there, and everybody would be going to the Indian meeting. And I liked to go because I was just a kid and I got to go outside and see all my cousins and play and see people, kids that I hadn't seen in a long time, and I never realized how important those meetings were, why those people were getting together and what they were fighting for.

But as I got older, I started -- you know, and especially when my daughter's coming to me and saying, "You know, we're not having any of these benefits. What's going on?" Well, I've maintained Grand River Band of Ottawa Indians. I still live there. I intend
to die there. But my grandchildren, most of them
are -- have now become Little Traverse Bay Band of
Odawa Indians because of the benefits they can
receive. I also have a few Pokagon Potawatomi
members, but -- but otherwise the majority of my
grandchildren are turning to the federally recognized
tribe because of the benefits they can receive.

And I think back to my dad when he was alive,
and he was glad that I had started down this route for
recognition, but he didn't believe it would ever
happen and he did die. And I'm afraid that the same
thing's going to happen to me; I'm going to die before
I see this tribe recognized. But I do appreciate that
you are trying to make it a simpler process and I wish
you well. Thank you.

UNIDENTIFIED SPEAKER: Aho.

MR. ETTAWAGESHIK: This is Frank Ettawageshik.
And I -- I've acknowledged the comments of my -- my
cousin and are -- we are in this -- around the state,
we're all related to each other from -- from band to
band and tribe to tribe, and so many of us could be
members of several different tribes.

In fact, during the hearing for our
legislation for Little Traverse and Little River back
in -- I think it was in '9 -- '93, one of the --
Congressman Campbell at the time indicated that he had constituents who were full-blood Indians but didn't have enough blood quantum to be a member of any one tribe, but they were full-blood Indians, and that because of all this interrelationship and everything, that that's -- that's the kind of problems that -- that many of us have had because of relocation or because of the boarding school process or because of just the fact that we have difficulty in marrying our own cousins and so we often go to other tribes and so our descendents end up having pretty mixed blood quantums. And so, anyway, I just wanted to acknowledge that.

And then as a specific comment, very much I'm in favor of the date 1934 being used. And I think that that's a -- that's a significant step in this process, is to -- is to use that new date as the -- as the basis.

However, one of the things I'm concerned about is to make sure that that's fully documented in the preamble. It's fully documented why that date was chosen. And the reason is, is because I think in this room you'll find that everybody's -- everybody's speaking in favor and likes the fact that they're wanting to fix the process and make sure that the
process works better, but there are many people around the country who would like to see the process be even harder and more difficult and would not want to see something changed. In fact, there have been articles out in the newspapers out East that with these new changes there'll be a flood of new casinos happening throughout New England, and it will really make a mess of things, and so, you know, they're not in favor of these proposed changes.

And I think that this -- one of the criteria that this may get -- may get attacked is the picking of that date, 1934, so I think it's really important to fully document that and to explain that -- that in the -- in these -- in these regs so that the -- to help make this less able to be attacked.

MR. ROBERTS: I think what we'll do is -- we'll take a ten-minute break for folks. One of the things that I've heard about throughout a number of different speakers this morning is that, you know, one of the -- one of the criteria that's existing that we haven't proposed to change at all is criteria (f), which is membership principally of persons who are not members of another acknowledged tribe, and so I think it's helpful to have the comments that we've had today, but I think it's also helpful for you to submit
written comments as part of our commentary on what that criteria should be or how it should be adjusted at all.

So with that, let's take a ten-minute break. We'll come back at about 11:10. Thanks.

(A recess was taken from 11:02 a.m. to 11:20 a.m.)

MR. ROBERTS: Okay. We're going to go ahead and get started again. If there are any additional comments for folks before -- before the lunch break, I'm happy to take additional comments or questions and then we'll -- we'll break for lunch and reconvene at one o'clock, so we'll just turn the floor over to all of you.

MR. HAROLD GOULD: Hello. Good morning. Harold Gould, Swan Creek Black River. I was concerned on your definition of geographic areas and if -- you know, if this will stay consistent from east to west, a geographic area, because, you know, a lot of times in Washington, at the bureau, that they seem to think that -- they understand that the automobile is going to (inaudible) and the telephone and things like that, which will greatly expand our geographic area and they seem to think we should (inaudible) communities. I think, you know, that we're not Amish, so, you know,
we do drive autos, and our geographic area has expanded. Do they take that into consideration? Is there a difference between out West where the geographic areas are much larger and back East where they're smaller? I'm kind of confused at what, exactly, is the size of a geographic area.

MR. ROBERTS: Yeah. I -- I don't -- I don't know off the top of my head how that's treated and, you know, it's something that I'm willing to take a look at in terms of whether -- what you're saying, whether it should be looked at regionally, whether it should be looked at just in terms of modern day technology, that sort of thing, so . . .

MR. KNOX: Elmer Knox, Grand River. On this geographical part, my wife and I are amateur genealogists. And up until 1941, when the war started, you could find your natives gathered in one spot. After 1941, all the industry was opening up, fellows going off to war, everything changed, so . . .

MR. ROBERTS: So -- so one question to consider, then, is based on -- on that comment, should the criteria change based on time periods that we're looking at? It's just a question for the group.

MR. KNOX: Yeah. You'd have to base it on the time period now. Because, actually, from the tribe, I
live 100 miles and I have to drive 100 miles to meetings. But I was the only one -- our family was the only family in Ann Arbor, Michigan at the time. My mother was an interpreter for U of M because of the depression area. The natives coming down were mostly on welfare and a lot of them couldn't speak English, so my mother was an interpreter for them. That's how I got my cultural background, because every time when family came in and explained things to me, I had to learn our traditions that way.

MR. ETTAWAGESHIK: This is Frank Ettawageshik. Another thing to consider is that with the modern roads and with cars that get good gas mileage and, you know, that we don't think as much of traveling further distances. But another thing to consider when looking at community is the fact that so many of us are -- the -- we're connected through the Internet, through cyberspace, through Facebook pages and through web sites, online language courses and cultural courses and all sorts of different things that -- you know, as just an example, that -- that I will say for Little Traverse as a federally recognized tribe. Through our records department and our education records, we have resources online that our tribal citizens utilize wherever they live in the world, and we have some
tribal citizens in Germany. We have a significant
group of citizens that live in California. And then
in all of the major urban cities as people talk about
(inaudible) relocation.

And in many cases, people have a very strong
tie to the community through either driving back for
feasts and -- and events or for a connection through
the Internet. And so perhaps another way of looking
at the -- not just geographic location, but, you know,
activity might be looking at -- at the use of modern
technology in terms of communication.

For instance, many tribal councils have --
either have or consider putting tribal council
meetings live stream on the Web so that people will be
able to participate in the political process without
having to be right in a small geographic area, so
this -- we want to look at that idea of geographic
location not just in terms of -- look at in terms of
modern technology as well. Thanks.

MR. ROBERTS: Are there any -- this is a
question for the group. Are there any federally
recognized tribes or nonfederally recognized tribes
that define their membership by geographical
proximity?

MR. HAROLD GOULD: I'm aware that -- I'm a
member of the Saginaw Chippewa tribe also, and they have three geographic areas and three districts and that's how they identify their membership is through screening out different distinct areas. One is called a large group, which covers all -- virtually the world, and -- and then they have a small satellite reservation, Saganing, and then there's District 1, which is the residential reservation or the historic reservation around Mt. Pleasant and this is all basic -- that -- all services are provided according to the -- to their geographic area, too. You know, the people in District 1, the Mt. Pleasant reservation receives more services than the large group or even District 2, which is Saganing.

MR. ETTAWAGESHIK: I don't know of any that -- that -- at least not in the Midwest that define membership by geography, but they often define political -- you know, for instance, just down the road, Grand Traverse Band, you have to live within their service area in order to vote, but anybody could be a member from the -- you know, anywhere you live. But in order to vote, you have to be within their service area.

MR. ROBERTS: Do you have to live within the service area or do you just have to vote within the
service area?

MR. ETTAWAGESHIK: You have to live within the service area. Some other places that you -- anybody's welcome to come to general council meetings wherever they live and participate, but they have to actually physically be there to participate, but -- so I -- the only thing that I know is that there's some people that limit the political activity through geography, but I don't know of any that limit the -- limit citizenship by geography.

MR. ROBERTS: Okay. I want to give everybody an opportunity to -- if they have comments now, otherwise we'll break a little bit early for lunch. If there's anybody that wants to make a comment, otherwise we'll -- we'll break and reconvene at one o'clock.

MR. YOB: Just can I -- can I make my statement of public record --

MR. ROBERTS: Sure.

(Mr. Yob handing document to Mr. Roberts.)

MR. ROBERTS: You can have this for your transcript. (Handing document to court reporter.)

MR. BUCHANAN: This kind of goes along with the geographical/regional discussion, and forgive me if I ask a silly question here, but I'm trying to
understand, what importance is it that the state has
the right to have such a valued opinion on a protest
or rebuttal against a recognized tribe's petition or
resubmittal for this -- for this process? Isn't this
relationship between the tribe and the federal
government, and the states really don't have any -- I
don't understand that.

MR. ROBERTS: Sure. So in terms of our -- our
normal process, you know, any -- any state, local
government or individual can participate. It's an
open process. And we're not changing that at all in
terms of opportunities to participate. I think with
that expedited favorable, I think the thought was
looking to see whether any other governmental entity
objected. And if so, then it would go through the
normal process. So I hear what you're saying, why
should the state have that. That's something we'll
take a look at, but that's what our discussion draft
(inaudible) was, you know, other governmental entities
nearby, including other tribes.

MR. BUCHANAN: Yeah. It's just very, very
visual, you know, our own unique situation that the
state has been one -- one of the deciding powers that
continue to keep us down at the level that they have
in the past 150 years. Thank you.
MR. ROBERTS: Thank you. Okay. We'll see you all back at one o'clock.

(A lunch recess was taken from 11:34 a.m. to 1:04 p.m.)

* * *

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MR. ROBERTS: Good afternoon, everyone. We're going to -- we're going to go ahead and get started. I just -- there are a lot of people here this afternoon who were here this morning. Thank you for traveling to attend this -- this meeting today on the Part 83 regulations and the discussion draft.

My name is Larry Roberts. I'm the Deputy Assistant Secretary for Indian Affairs. I'm a member of the Oneida Nation of Wisconsin and, unfortunately, I just learned about a few minutes ago that my flight this evening has been canceled at seven o'clock and so I'm actually going to have to leave and catch an earlier flight out of Traverse City at 3:30. I think it takes roughly about an hour and a half to get down there, so I'm actually going to have to leave in a few minutes here, but Liz Appel, our head of the Office or Regulatory Affairs, is going to go through the PowerPoint. The PowerPoint is the same PowerPoint that we showed you this morning.

For those of you that weren't here this morning, we have a court reporter in the room that's going to be taking down everything that you say for
comments for the record so we have that as part of our process moving forward. We're going to put all of the transcripts up on the Internet so the folks can see what's -- what comments are being made as part of these consultations and public meetings. And then if you have any prepared statements that you want to provide for the record, as well, please give them to Liz or the transcriptionist and then once we have those, those will also be put up on the Web site.

And so, again, I apologize for not being able to be here this afternoon. I do have to be back in D.C. tomorrow for something else, and so I'm going to catch this earlier flight, but I'm going to turn it over to Liz Appel. Before I do that, I'm going to have Katie Chinn from the solicitor's office introduce herself.

MS. CHINN: Hi. My name is Katie Chinn. I'm a citizen of the Wyandotte Nation of Oklahoma. I work for the department in the solicitor's office in the Division of Indian Affairs.

(Mr. Larry Roberts exited the meeting room at 1:07 p.m.)

MS. APPEL: Okay. Good afternoon, everyone. My name, again, is Liz Appel. I work for the Office of Regulatory Affairs & Collaborative Action and we
report to the Assistant Secretary of Indian Affairs.

I hope that on your way in that you had the opportunity to sign in and you should have gotten a copy of the presentation that we'll run through and also a copy of the discussion draft, which includes red lines of the changes that are under consideration now. So all the black text is what is the current rule and all the red text and the strikeouts are the draft changes that we're considering. And we also have some notes in there that -- that will explain that text has been moved or something like that.

So I will go through the presentation as -- as Deputy Assistant Secretary Roberts mentioned. This is the same presentation that was given this morning. So for those of you who were here this morning, I apologize. It may be a little less interesting for you, but bear with me.

So there are three main ways that -- really three ways, period, that a tribe can be federally recognized. The first is judicially through a federal court decision, or Congress can pass a law recognizing the tribe, and the final way is administratively, and that is through recognition by the Assistant Secretary for Indian Affairs. That's what we're discussing here, which is the -- the regulations at 25 CFR Part
83, which set out the process for that administrative recognition.

So just as some background, before 1978, there were no regulations saying how the assistant secretary acknowledges tribes. And in that time, the assistant secretary would review requests to be acknowledged on an ad hoc basis and groups would just petition. There was no standard way that they would petition or time period or process for reviewing.

And then in 1978, the interior -- Department of the Interior promulgated regulations that established a uniform standard for how the assistant secretary would review those petitions.

In 1994, revisions to those regulations were published, but those revisions primarily left the criteria unchanged. The main -- the main change in those revisions was that it added the process for previous unambiguous federal acknowledgment.

And then in 2000, 2005 and 2008, guidance documents were published in the Federal Register that further explained how the rules would be implemented.

So since -- since the regulations have been in place in 1978, 17 groups have been recognized, federally acknowledged under the Part 83 process. So of the 566 federally recognized tribes, 17 of those
have gone through and been acknowledged through the Part 83 process.

So we are looking at revising these regulations because there have been many criticisms that the process is broken. We've heard from Congress, from petitioners who have successfully gone through, unsuccessfully gone through the process, many others that the process is too long, too burdensome, it's expensive, it's unpredictable in how the criteria are going to be interpreted by the Office of Federal Acknowledgment.

MR. GERALD GOULD: Lisa.

MS. APPEL: Liz.


THE COURT REPORTER: Could I have his name, please?

MR. GERALD GOULD: Jerry Gould.

THE COURT REPORTER: I'm sorry. I can't hear you.

MR. GERALD GOULD: I can hear me. You said since 1978, 17 tribes have been recognized.

MS. APPEL: Right.

MR. GERALD GOULD: How many since 2001?

MS. APPEL: I will have to look that up for you. I know that we have that and I may even have it
in my materials somewhere here, so I'll try to find that and get back to you.

MR. GERALD GOULD: And just one point, regarding the need for revisions and regarding the -- the discussions, when I look at this (indicating), I didn't see anything that addressed expenses that theoretically (inaudible) this revised edition for federal acknowledgment, maybe less, but they don't address additional funding or funding sources.

MS. APPEL: That's a very good comment and maybe we can get into that a little bit more after the presentation because that -- that you're correct. The rule doesn't directly address -- address funding. We did have in mind the -- the burden that comes with producing all the documentation and the expenses that that entails and hiring experts and -- so in -- in making some of the changes that this discussion draft includes, we have that in mind, for example, that -- which we'll -- we'll talk about how for criteria (b) and (c) we've cut the date back to 1934 for -- for when you have to show community and political influence/authority back to rather than way back to the period of first sustained contact with non-Indians.

MR. GERALD GOULD: That really wouldn't make a
lot of difference because most tribes do have a history; treaties, annuities, just different kinds of things that document those (inaudible) recognized. They're actually looking for a reaffirmation (inaudible).

MS. APPEL: Uh-huh. I -- I welcome your comment, and if you have ideas on how we can reduce the burden and the expenses on petitioners, I would love to hear them. Or ideas for funding, for example.

MR. GERALD GOULD: Well, those are things that, you know, should be incorporated in this. Thank you.

MS. APPEL: Thank you. So another criticism of the process besides it being expensive is the unpredictability and results and that the process isn't transparent and what -- and as we were discussing, what proof is sufficient. So how much documentation do you need? How much proof do you need?

So this discussion draft that you have with you today, the origins date back to 2009 when Secretary Salazar testified before the Senate Committee on Indian Affairs and committed to taking a look at the process and ways to improve it.

And in 2010, the assistant secretary, Office
of the Solicitor and Office of Federal Acknowledgment 
got together and started working on potential changes. 

In 2012, another representative of the 
assistant secretary's office again testified about the 
efforts to revise this regulation and he identified 
certain guiding principles for the revisions and those 
are the -- what are the goals of the discussion draft, 
which are listed here: Transparency, timeliness, 
efficiency, flexibility, integrity. 

And in 2013, the Assistant Secretary Washburn 
promised the release of the discussion draft and 
convened an internal working group that were 
representatives of the Office of Federal 
Acknowledgment, the Office of the Assistant Secretary, 
Solicitor and Regulatory Affairs on this work group 
and that they -- they developed these draft changes 
that are before you today. 

So an overview of the changes -- we'll go into 
each of these in a little more detail, but the changes 
try to eliminate unnecessary -- an unnecessary step in 
the process, add some expedited tracks for getting 
positive/negative determinations, clarifying some of 
the criteria, allowing petitioners to withdraw after 
the consideration -- active consideration begins, 
providing for automatic final determination under
certain circumstances, examining who issues the final
determination.

And we have a question in there, you'll see,
that we'll discuss later as to who the proper party is
for making the final determination. And it eliminates
IBIA review. And you'll also see in the draft that
there are placeholders for input, so you'll see double
Xs and that's because we want to get input on what
those numbers should be, if -- if there should be
numbers there at all.

So the first major change is eliminating the
letter of intent. Currently the -- the federal
acknowledgment process begins when a petitioner files
a letter of intent that states their intent to go
through this process, but we propose that the process
instead would begin upon filing the documented
petition. So the letters of intent that have already
been filed would still be kept on file as far as what
date they were submitted, so if it ever comes down to
a question of timing as to whose petition should be
addressed next, then your place in line would be
retained.

The expedited reviews include an expedited
negative review and an expedited positive review or
favorable review.
The expedited negative review would take a look at -- so the first thing that would be examined is whether the petitioner meets criteria (e), which is descent from historical Indian tribe; criteria (f), which is membership of the petitioning group is composed principally of persons who are not already members of another federally recognized tribe; and criteria (g), which is that Congress hasn't forbidden or terminated the federal relationship.

And if the petitioner fails any of those three criteria, then it would be an expedited negative finding within six months of beginning active consideration.

If the petitioner meets all of those criteria, then they would either proceed to a full evaluation or an expedited favorable review.

An expedited favorable review happens if the petitioner asserts that they meet either of these two criteria, otherwise the -- the -- it would go straight to the full evaluation. So the two expedited favorable review criteria are: First, if the petitioner maintained since 1934 a reservation that's recognized by the state and the petitioner continues to hold that reservation, or if the United States has held land for the group at any time since 1934.
If the petitioner meets either of those criteria, then they get to go through the expedited favorable track. And within six months of beginning active consideration, they would get a proposed finding acknowledging them -- them as a tribe.

And if the petitioner were to fail the criteria, then OFA would just go to the normal full evaluation.

So changes to the criteria include deleting criterion (a). This is the criterion that -- that requires a showing that external groups have identified the petitioner as an Indian group. And this criterion has been deleted in the draft basically because if there's no -- it -- whether an outside group calls you Indian or not doesn't measure whether you're an Indian group.

And in criteria (b) and criteria (c), the analysis of whether you're a community or there's political influence and authority is measured only back to 1934. And the reason 1934 was chosen as the start date is because that's the date that there was a significant shift in federal policy toward Indian tribes. It was the end of the allotment era and the beginning of self-determination and that -- when the Indian Reorganization Act, IRA, was passed.
In criterion (e), the only change that's included in the discussion draft is that it now allows historians' and anthropologists' conclusions as evidence of descent from an Indian tribe.

And as I mentioned, there are -- in the criteria, there are placeholders for other -- other criteria numbers for percentages. And the reason for that is because we're trying to gear the draft to be -- well, gear the rules to be as objective -- included as objective criteria as possible so that you could see by looking through the criteria, yes, we need these. And to remove this objective, well, maybe we do, maybe we don't. So we're looking for input on what those numbers should be.

Other changes include allowing petitioners to withdraw the petition at any time before a proposed finding is published. So currently there's -- once active consideration begins, a petitioner can't withdraw because the idea is that resources are being devoted to that -- to reviewing that petition, but the draft would allow the petitioner to withdraw. The catch is if you resubmit, then the petition's placed at the bottom of the numbered register, so you'd lose your place in line.

Another change in the draft is there is -- you
can get an automatic final determination if the proposed finding is positive and there's no opposition or timely arguments or evidence submitted by a federally acknowledged tribe that's located in the same state or by the state or local government where the petitioner's office is located. So as long as there's no -- no opposition, arguments, evidence filed during that time period, then it's automatically a positive final determination.

Currently under the current rules, OFA prepares -- the Office of Federal Acknowledgment prepares and the Assistant Secretary for Indian Affairs issues both a proposed finding and final determination. The discussion draft, we're looking at changing that and we're looking for input on who should be issuing that final determination.

So if we have a proposed finding issued by OFA and AS-IA, then should we have OFA? So we have AS-IA or OFA, who's the Offices of Hearings & Appeals, and that's -- and another body in the Department of the Interior but whose separate from Indian Affairs and they're an administrative court basically. So are they instead an appropriate party to be issuing the final determination? So would they be the party who should decide whether to grant extensions of
deadlines? Should they hold a hearing and have the petitioner and anyone opposing providing evidence that they review as an objective third party? So that's something that we're really interested in getting people's comments on is who -- who should be making that -- that final determination.

And another big change in the rule is that we deleted the -- and this is just draft, but we've deleted the review up to the Interior Board of Indian Appeals, IBIA. So now if someone were to challenge the final determination, instead of going through the IBIA review process, they would file directly in federal court. And the reason we cut out that process in the discussion draft is because we've heard a lot of -- a lot of comments that the IBIA review process takes a long time and is slow, and it's also something to think about in terms of who is issuing the -- the final determination, if it -- the Office of Hearings & Appeals is issuing the final determination, maybe it does make sense to go, then, directly to federal court.

So if the discussion draft is proposed and finalized, the discussion draft has in there provisions for what would happen to petitioners who are already in the process. And this discussion
draft, we have a long way to go before any rule gets finalized. Once we -- once we take in comments as part of these consultations and meetings, we're going to review all the comments, make updates and changes to the rule and then we'll have to publish a proposed rule in the Federal Register.

Once we publish a proposed rule, there's another public comment period, which will be 30, 60, 90 days long, and we don't know how long yet, but we'll go through another series of public meetings and collection gathering and then publish a final rule. And then even at that point, there's usually a 30 to 60 delay before it becomes effective. So we're looking at roughly two years before we have a final rule that will be in effect. So this is really looking ahead down the road, but we do want comments on at that point, when there are new rules in place, what should happen to the petitions that are already in progress in the process.

So what the discussion draft proposes is that anyone who hasn't received -- been -- made it to active consideration under the Part 83 process when the new rules are in place, that they would be subject to the new rules. And anyone who is under active consideration, they can choose to either go under the
new rules or the old rules. Did I say that right or
did I get it backward?

MS. CHINN: Once you're under active
consideration, then you have a choice.

MS. APPEL: Right. Once you're under active
consideration, you have a choice. I started
second-guessing what came out of my mouth.

So the other -- other sort of similar issue is
that petitioners who have already gone through the
Part 83 process but have been denied acknowledgment,
under the discussion draft, they could re-petition
under Part 83 if they show by a preponderance of the
evidence that a change -- that the new rules they
would have been acknowledged basically versus the old
rules.

So we're seeking comments specifically on some
items. I mentioned a few before, but we would like
some comments on whether any of the definitions should
be revised. And, if so, how? Would it be helpful to
have a standard form for petitions? Right now there's
no standard form. But would that be helpful?
Would -- should it be optional if it's made available?
Should it be required?

In criterion (b), community, what percentage
should we require as compromising a distinct
community, if one is -- if a percentage is appropriate at all? What percentage should reside in geographic area? What percentage of marriages should be required between group members? And these are all with the idea of making the criteria more objective.

And, again, we have in criterion (c), should there be evidence of a bilateral relationship? In criterion (e), what percentage of the group's membership should descend from a historical Indian tribe? And are there other objective standards that we could use?

And then finally, the final specific thing that we're seeking comment on in addition to all other comments, is what page limits, if any, should we have for the petition and proposed finding, and other documents?

The idea behind this is that when the Part 83 process first started, the petitions and the amount of paperwork generated was not as voluminous as it is in the more recent years. So with the page limits, we're looking at -- for the petition, there wouldn't be a page limit. We're not looking at putting a page limit on the evidence that you would produce or back up. But for the petition, summary itself, would a page limit be appropriate?
And for the proposed finding, likewise, would the goal of the proposed finding need something that's a little more readable than maybe the past few ones have been?

Comments on the draft rule we're looking for by August 16th. And you can submit them by e-mail or mail. As I mentioned, our next steps are to review the comments and make changes and then propose a rule in the Federal Register, so this certainly isn't your last opportunity to comment on the rules, but we are interested in your comments as often and -- you know, as you want to make them, can make them.

So at this point, I'll open it up for statements and questions and comments, and Katie and I will do our best to answer them for you.

MR. ETTAWAGESHIK: I wondered if we could have introductions around the room so we know who's here.

MS. APPEL: Sure. That sounds great. Do you want to just --

MS. BEGAY: I'll start here. Would you like to start?

MS. APPEL: Would everyone like to make introductions? If you're not comfortable, feel free just to pass --

MR. KNOX: Elmer Knox, Grand River Band of
Ottawa Indians.

MR. REINHARDT: Could we have a standard form for that?

MR. LEWIS: George Lewis, Grand River Bands.

MR. CANTU: Phillip Cantu, Grand River Band.


MS. PATSY BEATTY: Patsy Beatty, Grand River Band, tribal council.

MS. PETERSON: Deb Peterson, Ma-Chis Creek, Alabama.

MR. PETERSON: Fred Peterson, Ma-Chis Creek, Alabama.

MR. COX: Eric Cox, Ma-Chis Creek, Alabama.

MS. COMPO: Fran Campo, Grand River Bands of Ottawa Indians.

MR. KEEDY: Jim Keedy, Michigan Indian Legal Services.

MR. YOB: Ron Yob, Grand River Bands of Ottawa Indians.

MS. PETE: Amanda Pete, Grand River Anishinaabeg.

MS. PECOC: Stephanie Pecoc, Grand River Anishinaabeg.

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MS. CEPLINA: Lorraine Ceplina from Grand River.

MS. CHAMPAGNE: Nitumigaabow, representing Grand River Band Anishinaabeg Community from Wisconsin.


MS. WYZLIC: Lisa Wyzlic, Grand River Band of Ottawa Indians.


MR. WYZLIC: Scott Wyzlic, Grand River Band of Ottawa Indians.

MS. KING: Reena King, Burt Lake Band.


MS. SCOLLON: Isabel Scollon, Burt Lake Band.

MS. NOLA PARKEY: Nola Parkey, Burt Lake Band.

MR. DON PARKEY: Don Parkey, Burt Lake Band, tribal council.

MR. KIOGIMA: Augustine Kiogima, Burt Lake Band, tribal council.

MS. HOLMES: Sarah Holmes, Burt Lake Band,
tribal council.

MS. SLOCUM:  Mary Slocum, Burt Lake Band.

MR. KEN PARKEY:  Ken Parkey, Burt Lake Band,

tribal council.

MS. LORETTA PARKEY:  Loretta Parkey, Burt Lake
Band.

MR. HAROLD GOULD:  Harold Gould, Swan Creek
Black River Band.

MR. JERRY GOULD:  Jerry Gould, Swan Creek
Black River.

MR. ETTAWAGESHIK:  Frank Ettawageshik.  I was
the former chair at Little Traverse, and I'm the
co-chair of Federal Recognition Task Force for the
National Congress of American Indians.

MR. HAMLIN:  I'm Bruce Hamlin.  I'm tribal
chairman at Burt Lake Band, tribal council.

MR. ROY PARKEY:  Roy Parkey, Burt Lake Band,

tribal council.

MS. CHINN:  Thank you for your introductions.

MR. REINHARDT:  Can you guys introduce

yourselves again, too?

MS. CHINN:  Sure.  I'm Katie Chinn.  I work in

the solicitor's office in the Division of Indian
Affairs.

MS. APPEL:  I'm Liz Appel.  I'm with the
Office of Regulatory Affairs & Collaborative Action
under the Assistant Secretary for Indian Affairs.

MS. BEGAY: I'm Amanda Begay. I'm in the same
office as Liz with regulatory affairs.

MS. CHINN: So at this point, we'll just go
ahead and open up the floor for comments or questions.

MR. REINHARDT: Is this young lady just taking
notes and no name and . . .

MS. APPEL: This is our fabulous court
reporter.

THE COURT REPORTER: Kristine Grigsby.

MR. REINHARDT: Thank you.

MS. APPEL: And that reminds me, if you can --
if you're making a comment, if you wouldn't mind
stating your name and affiliation for the record.

MR. COX: May name is Eric Cox, Ma-Chis Creek
from Alabama. I have a question in regards to -- to
83.10(g). It says here, "U.S. has held land for the
group at any point since 1934."

What I want to point out, too, is that up to
until 1920, it was legal to kill an Indian in Alabama.
Some of that mindset is still down there. And there's
no land given to us, because back in 1934 they also
point out there are no Indians east of the
Mississippi, so it kind of puts us in a tough spot to
fight for that recognition.

My question is, we are state recognized, how much weight will that carry in the process for federal recognition?

MS. CHINN: So currently our expedited favorable criteria doesn't include state recognition. It includes if you have -- if the state holds a reservation for you since 1934. But we're here to take comments on how we should change those, so . . .

MR. COX: Right. We have -- we have land down there and we're fighting for getting some attention on that down there, but we've had no luck yet.

MS. CHINN: Okay.

MR. COX: Thank you.

MR. REINHARDT: Martin Reinhardt, Sault Ste. Marie Tribe of Chippewa Indians. And this question is in regard to the bilateral relationships previously established.

If we have tribes, here in Michigan or otherwise, that have already established a bilateral relationship; hence, federal recognition through treaty or otherwise with the federal U.S. government, how much does that weigh in currently into the equation?

And I guess, you know, it seems that William
Canby, a federal judge, he made an opinion about that, and he suggested that the Supreme Court should -- and I say should -- look on that favorably because federal recognition hasn't always been through acknowledgment, it's been through treaty and otherwise. And so we have -- we have tribes like that here in the state of Michigan, and I'm sure in other states they do as well. Thank you.

MS. CHINN: So under the current regulations and under the proposed draft, when you can prove previous federal acknowledgment, which is what you're saying, through treaties or something like that, it shifts what you have to establish under the criteria so that you only have to prove existence back to that point of acknowledgment. So the regulations do take that into account.

MR. REINHARDT: Okay. Thank you.

MS. APPEL: I still want to clarify. One of the slides, it mentioned bilateral political relationship for criterion (c), the political influence or authority. And that is we're seeking comment on whether there should need to be a showing of a bilateral relationship between the tribal members and the tribal governments. Because I think right now it's not reflected in criterion (c), but that may have
been a consideration in some of the past acknowledgment decisions. So if it is going to be a consideration, should it be? If it should be, we think it should probably be made explicit in the draft, so that's why we have that flag there.

MR. REINHARDT: I just want to add a little piece to that, then.

MS. APPEL: Uh-huh.

MR. REINHARDT: Because you're -- you're pointing out that there's individual rights and then there's tribal rights. And in the case of Menominee, you know, the U.S. Supreme Court has already determined that individual rights carry on regardless of tribal rights. But that also played into the re-recognition of Menominee, individual rights that carried on as part of their treaty rights. So will that also, then -- should that also -- I guess in my opinion it should -- be considered as part of that continuous bilateral relationship if individual tribal citizens have continued to see themselves as exercising treaty rights? Thank you.

MS. CHINN: So right now bilateral means the tribal government sees itself as the political entity and its members interact with it, like it's the political leadership. So it's basically leaders who
are recognized by the people. But that's -- that's a
great comment about individual rights. Thank you.

MR. ETTAWAGESHIK: Hi. Frank Ettawageshik.
You know, at the task force, one of the things that we
talk about is the -- the idea that so many of the
petitioning groups are sort of conditioned to think by
the process, that they're somehow not a tribe until
the United States decides that they are. And, of
course, the criteria actually are measuring whether or
not we are tribes and we're active as tribes, and yet
none of the -- we have none of the tools to do the
things that we're being measured as to whether we're
doing or not. So the idea that -- that -- the concept
is that tribes are inherent sovereigns and that our
sovereignty, when we're doing this process -- on the
one hand, there's this recognition process that the
United -- that the United States is going through to
decide. But effectively it's a mutual decision on
whether they grant diplomatic relations with us, but
two sovereigns, the tribal nation and the United
States. It's a two-way street. And this process has
been one that is pretty condescending, it's extremely
expensive and all of the communications and other
things that are -- that are gone through from the
federal government and then the other people that
react to it are ones that make it very difficult for us to meet the criteria.

So, for instance, they want to know do we exercise authority over our tribal citizens, and in such a way, such as through judiciary, and yet no one will acknowledge the fact that we have the right to have a judiciary prior to the federal government deciding that we're federally recognized. And so we have to find ways to exercise that judicial authority in ways that we can do that.

Some tribes have been very creative in doing that and finding ways to do that, but it's almost like the criteria I'm looking at is to see are you a tribe, and yet none of the tools that tribes would have to use are available to us through the federal government.

And so the -- you know, if we're going to form an organization, we end up having to form a nonprofit corporation and then sometimes that's -- that's held against us because we're a corporation, we're not a tribe when we do things like that. And yet we have to have a fiduciary entity in order to get grants, even the grants that are out there to help us through the administrative process, to help us through this -- this process. So we're sort of in a catch-22. And I
think it's really important for, you know, those folks -- and I want to applaud the staff here and the assistant secretary and deputy assistant secretary for their work on this, because we've been asking for changes for years and these proposed changes go a long ways down that road to deal with a lot of these issues.

But the fundamental problem behind them all still is the idea that they're trying to measure whether the tribe is acting as a sovereign or not and yet we still have that problem of being able to do so. And so I don't know how that's addressed in here, but I felt it was important to bring that issue up and talk about it because so many of our -- of our tribal nations that have come -- and I'm referring to the state recognized and the nonfederally recognized nations that come to the NCAI Task Force on Federal Recognition and share their stories with each other about the problems that they're having. So many of those problems emanate from being measured by the yardstick that's to measure a tribe by the very entity that is denying that -- that proof, the ability to take the actions that are then being measured.

And so there's a -- there's a real problem there that's -- that needs to somehow be -- we need to
be aware of it. I don't have a specific place in these regs that would be good to address that, but it's just -- it needs to be part of the discussion as we're going through this. Thank you.

MS. APPEL: Thank you. And if there's some way that we can alter the criteria to -- to account for that, but if you have ideas on that, we welcome those.

MR. REINHARDT: Well, I guess, you know, we're talking -- Bill Mendoza in the Office of Indian Education for the White House Initiative, you know, in that house, they're talking about capacity building for tribal education departments. And what Frank is talking about with other aspects of tribal government, you know, why is it that the entire range of perspectives on our tribes and their capacities can't follow suit? Why can't there be a capacity building component in the regulations to account for the fact that it was the United States and other foreign governments that pulled the rug out from under our tribes in the first place to take away that capacity so that now we need that capacity back in order to establish the kind of governments we need to interface with the United States and other governments?

MS. CHINN: Did you say that was education?
MR. REINHARDT: Yep.

MS. CHINN: Okay.

MR. REINHARDT: Yeah. The White House Initiative on American Indian Education. Thank you.

MR. HAMLIN: On behalf of the Burt Lake council, thank you all for coming and the efforts you're making towards the process. And thank you, Frank, for your comments. Those are very good points. As a tribal member has asked me to ask about your meeting this morning with the federally recognized tribes, we'd like to know would those comments be available on the Federal Register or can we hear what was talked about then, because we'd like to know just everything that was discussed and . . .

MS. APPEL: Sure. We'll be making transcripts of those sessions available on our Web site at bia -- www.bia.gov. And we plan on -- on getting a link directly to Part 83, this revision process, so that we'll have all the documents in one place. But you should see a link directly on that Web site hopefully in the next week or two.

Now, as far as when the transcripts are put up there, it depends on how fast the court reporters can turn them around, and I think that -- that usually takes about two weeks or more, so -- so this
session -- this session, the transcript should be available in about two weeks.

MR. REINHARDT: I apologize for keep opening my mouth, but if anyone else has anything to say, please do.

(Laughter.)

MS. CHINN: What's your name one more time?

MR. REINHARDT: Martin Reinhardt. Regarding state historic or state recognition, the federal government itself empowers states to interact with tribes today. We witness that through these compacts in gaming. We witness that through inland consent decrees. We witness that through the STEP, State Tribal Education Partnerships. We can see that the federal government has, as far back in Michigan, the 1934 Comstock Agreement with -- the U.S. Congress turned over the Mt. Pleasant Indian Boarding School to the State of Michigan in exchange for the State of Michigan taking on certain responsibilities for the health and welfare of American Indian people within the state of Michigan. We can see that the federal government has this habit. And the state continues to interact with tribes.

Now, those things should be accounted for in the new regulations. It should have been accounted
for all along. The federal government has empowered
the State of Michigan to act as a federal agency, in
fact, in dealing with the tribal people. Yet, at the
same time, the federal government says, oh, we --
we're not going to look at state recognition or state
historic status as part of the acknowledgment process.
It doesn't seem fair when -- you know,
one -- on one hand, the federal government can say,
yeah, we're going to rely on the state to interact
with you people, and then, on the other hand, we're
not going to count that as far as there's interaction.

So just to point that out, that does need to
be accounted for. It's not fair that it's not
accounted for. And, you know, if we were to look at
this from a -- a deconstruction of the federal
relationship with American Indian tribes here in the
state of Michigan at least, we would see that the
federal government has interacted with us through the
state.

MS. CHINN: So in the current regulations,
interaction with the state would -- would constitute
evidence for the first three criteria, especially the
first one, which is identification by an outside
entity. Under the draft regulations, the -- having a
state reservation makes you eligible for an expedited
favorable, so maybe it's arguable that that is, you
know, more significant.

So do you have any recommendations for how we
could better take into account state interaction?

MR. REINHARDT: Maybe change reservation to,
you know, these state -- or maybe change reservation
to jurisdiction. You know, because I think if you
look at it, tribes -- our -- our jurisdiction over our
tribal citizens doesn't stop at the reservation
border. You know, we don't get to the reservation
border and all of a sudden you say, hey, I'm not
worried about my tribal citizens anymore. That
continues across borders, especially when we're
dealing with treaty rights.

MS. CHINN: Uh-huh.

MR. REINHARDT: You know, we've never given up
our right to educate our people the way we want to,
whether they're on the reservation or off the
reservation or if in China. I mean, we still have
sovereignty over that.

MS. CHINN: Uh-huh.

MR. REINHARDT: They still exercise treaty
rights within our treaty territories. You know, we
still provide health care. We still provide a wide
range of services that really come to emanate from our
sovereignty. And so I think if we think about it
maybe in terms of legal/political jurisdiction versus
hard reservation borders -- because, you know, when
we're talking about reservation as people, that did
happen on -- you know, if -- if we never had a
reservation or if the reservation hasn't been taken
away, that's very unfair in the process.


MR. ETTAWAGESHIK: This is Frank Ettawageshik
again. One of the things that we need to be aware of
in this process also is the -- in many cases the
federal government has been obligated by treaty and
by -- by its own rules and -- and regulations to take
actions for on behalf of our -- our tribal citizens,
and this is true for those who are federally
recognized and also it's true for the -- many of the
citizens of these -- of the nonfederally recognized
tribes, many of them petitioners. And the mere fact
that the federal government neglected its duty and
didn't take actions should not be held against the
people themselves, you know, and it often is. Say,
well, where's your signs of federal interaction and
you'll see, well, there are none. Well, that's often
held against us and that shouldn't be, because there
are -- the federal government has been under an
obligation to meet -- to do certain things, in education, for instance, and in other arenas and -- and so when the federal government does not take its actions, that should not be held against the tribes, and so there's -- I don't know, once again, the specific location that this -- that this pertains to, but I know that -- that I've heard many stories over the years from people that have had these kind of issues. And under the current regs we've heard the story from one of the -- the councilman from the Shinnecock who talk about the department that told them they didn't need to bother going through the process, it wasn't -- they had to -- it was described as a tunnel on a train. They can see the tribe being this train at the end of the tunnel. Ten years later it comes out, and they say, well, we want to be sure that you were the same train that came out that went in, and so we want you to figure -- to poke holes in the top of that tunnel so we can see. And the particular question that we need to ask about was one that they said we don't think -- we don't think we should have to do that, and the -- the office told them they -- they had to do.

So they spent a million dollars and did it. And after the years that they spent doing it, they
were then told, you know, you were right, you didn't have to do that. And it's that kind of story that's out there, and that kind of -- of attitude on the part of the federal government, but really incredibly costly and -- and burdensome on the petitioners that these things are trying to resolve. And so we're hoping that -- that we won't have any situations like those again under this system, under these new regs.

And I know that there are other ones that -- I had a personal experience of taking -- of wanting to -- asking us for proof that we were holding political action, so we brought a picture of a meeting where people were voting at the meeting, and we -- we brought it. They didn't care about the fact that they were voting. They said, well, all right, I see you're voting. Now we want to know what the ladies in the back were talking about that were standing by the food. They wanted a whole story about what kind of things were they talking about.

MR. CHAMPAIGN: Food sovereignty.

MR. ETTAWAGESHIK: Right. And so it was like it was a new criteria. So as I described once before, the system has treated the petitioners -- every time someone gets through and someone will -- and they say oops, and if there was a discovery that they'd done
something wrong, somebody got through, they made this
tougher, so it's gotten tougher and tougher and
tougher each successful petition that has come
through. And so, you know, today, we want to try to
stop that -- stop all those problems that are coming
from the regs getting more and more detailed in terms
of the interpretation of them and it becoming more and
more burdensome. And so we're hoping that things can
go back to -- and I know that one of the comments that
you asked for comment on was page limits. Should
there be page limits? And I think that it's a good
idea to have -- to have some page limits with some
criteria to it, that means some way of thinking about
it, because as long as the page limits are on the
written -- on the petition, but not on the -- the
documentation that you could provide to help support
that, I think that that's an important part of that
page limits.

And I also -- and I made this comment earlier
in the first session, but I wanted to follow up on it
here, and that's the -- your question about
percentages and -- it's on Page 8 of the -- of the
handout, and it's the second box on that page, about
what percentage of marriages should be between group
members. And I just wanted to point out that as -- in
Michigan here, the -- our tribes generally are -- are fairly small compared to some of the other places around the country and we're all related. In fact, many of us are related across from tribe to tribe. And when we go to get married, we need to often go outside of our tribe to marry from another tribe, just because we've got to be away from all of our cousins, and even that doesn't work sometimes.

So the point is, is that many of us have a mixture of many different bands from Michigan that are individually recognized or petitioners. And, you know, my wife, for instance, could be a -- could be enrolled in five different Michigan tribes. She has the criteria to do that. She's in Little Traverse. But the point is, is that I think you've got to look at this really carefully and make sure that -- that -- that it not just be amongst the group members of the petitioner, but also be with other Indians.

The boarding school process was designed to take the Indian out of the Indian, but they put a whole bunch of Indian boys and girls together and we did what Indian boys and girls do all the time, we got together. And we now have kin relationships from one end of the country to the other with member -- blood quantum from many different tribes mixed together.
And so while the boarding school was successful in one way in terms of stripping away a lot of our culture, on the other hand it's the Pan-Indian Movement led us together. That is really strong because of our relationships with each other. And so I think that you have to really be aware of that when you're doing -- there's a question about -- about group members and the percentages. Thanks.

MR. HAMLIN: Bruce Hamlin, Burt Lake Band again. Going back to your pointing out a few things in relation to 1934, and I understand your reasons for doing so; however, a significant portion of our argument for Burt Lake, or at least a couple major points in our case predate 1934. I do note that you have, throughout these proposed regulations, used the term "case-by-case scenario." We would like some assurance that those arguments of ours that predate 1934 will be applied to our case.

MS. APPEL: Yes. Under the discussion draft, evidence relating to time periods before 1934 would still be accepted and considered. It's just that officially we wouldn't require anything before 1934.

MR. HAMLIN: Okay. Thank you.

MS. APPEL: Thank you.

MR. YOB: Ron Yob, Grand River Band. I don't
really (inaudible) the stuff we talked about this morning, but to answer his question, there are three tribes since 2000 that have been recognized.

   MR. GERALD GOULD: Which ones?
   MR. YOB: I know it's the . . .
   MS. APPEL: Shinnecock --
   MR. YOB: Shinnecock was the last one. Mashpee and -- there's one other one. Shinnecock, Mashpee. I'd have to go back. I'd have to --
   MR. GERALD GOULD: Thank you.
   MR. YOB: And back to your -- the question about -- this morning about percentages again. When -- when -- through the Freedom of Information Act, we got Grand Traverse's petition, which -- which we commented earlier was about that thick, you know (indicating). It's like if -- like if you went through in 1980, the home run fence was 200 feet away and now it's about 400 feet.

   But, anyway, when Grand Traverse went through, if you look at their demographics, there were more Grand Traverse tribal members in Kent County, which is where Grand Rapids is, than there were in Leelanau County, where the tribe is. So there were more members in our county than there were in their own homeland, you know.
Also I wanted to -- on your first thing, we commented about the ways to get recognized. Now, I can't remember where I read it, but it seems like there was presidential action, too. So -- so you didn't -- you might need to include that on there. I can't give you an example, but -- but anyway . . .

And then I just want to re-emphasize, and I did it this morning, but that -- that our tribe is in active consideration, you know. It took us 20 years to get it there. We'd hate to get stuck in the pool with everybody else after all these years of our efforts, you know.

Probably the last thing is I really don't mind the extent of your scrutiny because there's a lot of people around Grand Rapids that just think they can become a tribe. You know, if you didn't have -- if you didn't have some kind of regulations, then you're going to -- you're going to have about 10,000 applicants instead of the ones you have, you know.

That's it for now.

MS. APPEL: Thank you.

MR. NEGAKE: My name is Henry Negake. I'm from the Grand River Bands of Ottawa Indians. The question that I have doesn't have to do so much as what this meeting is all about, but in the interests
of expediting federal recognition procedures, I'm -- I once spoke to somebody in Washington who said the reason it took so long to get federally recognized is because the office wasn't really funded properly, that there was a dire lack of people to accurately do the work. I have a question. Is there any possibility in the future that this office being just a little bit better funded so the process could be expedited a little?

MS. CHINN: Under this draft, that's not explicitly provided for, but your comments are -- are helpful on that. Unfortunately, money's a little tough right now, but it's a good comment, so thank you.

MR. REINHARDT: So Martin Reinhardt again. Regarding the tribes that have established bilateral relationships with the United States, is it possible to have some kind of a preference where they're moved up in the process versus the tribes that are not able to establish that they're a bilateral relationship?

MS. CHINN: That's a great idea. That's not called for in this draft, but it's a good comment.

MR. REINHARDT: Okay. And I guess, then, the other comments I have are related to what Frank was saying about percentages and identity. Though tribal
identity, whether that's individual tribal citizenship
identity or whether that's how we define our
community, that should all be tribal determined. And
percentages -- if a tribe -- if we as a tribe say it
should be a percentage, well, then should it be. But
it shouldn't be the federal government saying what the
percentage should be. That's the tribal prerogative.
And that should be on there. If the tribe says so,
then it is so.

MR. CHAMPAGNE: Boozhoo. I spoke about this
earlier in the morning session. When we look at
specifically 83.7 of the rules (f), it says, "The
membership of the petitioning group is composed
principally of persons who are not members of any
acknowledged North American Indian tribe." And then
it gives the exceptions. And I kind of spoke to it.
But number (2) under that -- under the revision, "Its
members do not maintain a bilateral political
relationship with the acknowledged tribe," we kind of
had a discussion this morning that entailed that, that
talked about the struggles we have, because our
community in Wisconsin, I can enroll in three
different bands, federally recognized bands. What
does it mean to be an Indian? Well, our community is
vibrant no matter if we're federally recognized or
not. But with that federally recognition, it allows our children to go to BIE schools. It allows us to access Indian Health Services. So while that's not our whole community, some tribes are nice enough to give us without being federally recognized, but most of the policies and funding are tightened. We notice that they -- they need to have that card. And so when we have that, it makes it very difficult for our -- when our communities are struggling, you know. A lot of our communities are in tar paper shacks, trailer houses, substandard housing, low income. Any help with our communities is greatly appreciated, and it doesn't mean that we would want to have dual citizenship in a community that's not of our own. But until the time that our tribe, our community is to be recognized, we need to be able to survive. We need to be able to access those -- those services that the government provides the Indian people. Something as simple as hunting and fishing rights so we're not arrested when we go netting or spearing. You know, those are things that have long -- you know, our people have to deal with.

I think about my grandma, her dad mentioned a story. He said about a time when he went out as -- going out and hunting and they brought him in and they
said, you know, oh, he was poaching. Well, we were just feeding our family, which was 17 or so kids. And the judge said, "You know what, Joe Pete, your people have been here a long time before us. You can hunt and feed your family as however you see fit."

But not all of the judges are like that. So they'll fine us, throw us in jail, take our catch, you know, and so I have a real issue with that number (2) because we're not trying to say that we're belonging to another community. But without being identified as being Indian, we also don't have the same services to our communities. Miigwetch.

MS. CHINN: Thank you.

MR. ETAWAGESHIK: You know, one of the -- some of this brings up to mind this -- people to discuss things, is that the long delay in this process has the effect of -- of creating nonrecognizable entities out of recognizable tribes. When we start, we clearly meet all the criteria. But over the 30, 40, 50 years it takes to go through the process, we -- we don't have the tools to keep our communities together in the way that we should. And what happens is, is that it -- the delay becomes a self-fulfilling prophecy for denial just because of the long delay, and so it create -- it's a real struggle. It's hard
enough for a federally recognized tribe to maintain all of the different things it needs to maintain a culture and language. For a nonfederally recognized tribe, it is very difficult, and without access to the tools and the economic structure that's necessary and so, you know, this -- this is just another definition of the problem, but I think it's -- it's part of the -- you know, we need to -- somebody was speaking about capacity building. I forget who it was.

MR. REINHARDT: (Raising hand.)

MR. ETTAWAGESHIK: Okay. Speaking about capacity building. Marty, I should have known. But, you know, in helping tribes maintain the -- the cultural components and helping tribes maintain the -- the different status that would then make them meet the criteria is -- is important.

And as an example, in the Indian Arts and Crafts Act, a specific provision in Indian Arts and Crafts Act made it federally recognized tribal citizens, state recognized tribal citizens, and those citizens who are artists are those who aren't enrolled members of either of those two state or federal tribes but are recognized by state or federal tribes are all recognized as Indian artists. And so there's already a provision. And that requirement there is that if a
tribe takes an action and says, all right, somebody from Burt Lake, for instance, that's not federally recognized, but we know them as basketmakers, if one of the federal tribes in the state would say we acknowledge them as an Indian artist, then they -- they would be acknowledged as an Indian artist and -- under the federal law that exists right now.

And so there's -- there's an example of federal law right now that exists that deals with the question of what does it take to be Indian. In this case, what does it take to be an Indian artist? And I think that there are some -- maybe some -- this process could be informed a bit by the way that law was written and by the way that -- that that law is enforced.

Now, there are a lot of problems having a tribe recognize somebody as an Indian artist, so I know that that's a problem. But this is a way still that is one way that's been dealt with in federal law already and through several regulations and revisions to that law and enforcement.

You know, I wrote the State of Michigan comments for the Indian Arts and Crafts Enforcement Act of 2000, and in that I used Burt Lake as one example. You can have a full-blood member of Burt
Lake who is not an Indian artist and could be prosecuted for up to a fine of $250,000.00 for selling their work as an Indian artist, and yet they're full blooded all the way down through their history. And then you take someone who's a member of another tribe -- and I'll say Sault Ste. Marie in this case. Not to pick on them particularly, but because they are federally recognized but don't have a minimum blood quantum in their criteria. And you can take someone who has very low blood quantum and yet they're an Indian artist.

And so the federal law had a problem and it's -- it is an issue because if you try to prosecute a full-blooded Indian who is not -- but not an enrolled citizen for making a basket and calling it Indian art, that's going to be a really tough battle in the -- in the courts. It's going to be a tough battle in the public opinion.

And so the whole question comes down to this whole thing of the definition of an Indian. And I'm really -- but I think that that -- the way it was dealt with in the Indian Arts and Crafts Act might be a way to help think about what we could do to help the tribe do some capacity building and help open a door.

There are a number of federal programs that
are open to state recognized tribes today, and many of
the successful petitioners are the people who are --
who have active tribal programs and centers are from
state recognized tribes that have been recognized
through state law and have -- are taking advantage of
the Office of Justice Programs, the Department of
Labor programs. Pretty much every agency except the
Bureau of Indian Affairs and Indian Health Service
have programs for funding nonfederally recognized
Indians that are state recognized and urban Indians.

And so I think that we need to try to figure
out how to make this process work better with all of
those others. Thank you.

MR. WYZLIK: Scott Wyzlic with Grand River
Bands of Ottawa Indians. To the percentages of 83.7
part (b), maintain distinct cultural patterns and
reside in specific geo -- geographic area. The
definition of a geographic area, as Chairman Yob had
pointed out, would have been Kent County.

I reside in (speaking in unknown language)
Mackinaw City. I hunt and fish. I gather medicines,
edibles. I exercise treaty rights that were explicit
that have been paid for over and over by our
ancestors. But because I don't live in Kent County, I
don't live in the city, I'm not considered in the
geographic area, and yet I'm in treaty territory. If I get caught by DNR or any other agency,
I'm going to go to jail for exercising treaty rights. Which, regardless of federal recognition, Judge Canby
with the Ninth Circuit has denoted that a tribe does
not need to be federally recognized to exercise their
treaty rights. That has never gone, as far as I know,
to court, so --

MR. REINHARDT: Menominee did.

MR. WYZLIC: Menominee did?

MR. REINHARDT: Uh-huh.

MR. WYZLIC: But the geographic area needs to
be defined because we were not -- we were removed from
our homeland. The boarding schools spread our people
out and yet many of my family -- much of our family
still lives in the area, in the counties surrounding
Kent County, but not in Kent County. How is it going
to be addressed, because this is just a
generalization? Geographic area, it's ambiguous. And
I guess my question is: How is that going to be
addressed? How is it going to be defined? Is it
going to be defined by treaty territory or the county
that the petitioning tribal organization resides from?
Miigwetch.

MS. CHINN: So currently the regulations in
the draft don't define geographic area. But from our
conversation today, it sounds like that maybe that's
the necessary element to the new draft.

I do want to take this opportunity to point
out that the -- the types of evidence listed under 1,
on Page 8, they're just suggested types of evidence
that you can put forward to establish community.
They're not requirements in and of themselves. But it
does sound like from today's conversation, maybe
these -- these types of evidence for community are not
as good as they could be, so maybe we have some
updating to do.

MR. REINHARDT: Again, Martin Reinhardt. I
just want to emphasize that the definition of our
community should be tribally defined. It should not
be something that's coming down from the federal
government. And it should be historical. We should
have historical evidence. We should have shared
community definition. You know, if we recognize as
Anishinaabeg, Ojibwe, Odawa, Bodéwadmi as a Three
Fires group, that we are and have been since time
immemorial in this Turtle Island and then we've had
significant migrations, and that through those
migrations we've reestablished traditional homelands
and we, amongst ourselves, say this is our homeland,
that should be good enough for the bureau. That should be good enough for the external governments to recognize that we recognize ourselves as being from here and that we have a shared identity.

And if we look at these geographic areas and they comply with the history and the shared identity between different tribal groups, that should be good enough. It emanates from the people, then, not from the bureau of acknowledgment or Bureau of Indian Affairs. It needs to come from us.

MS. CHINN: So if -- if there were any comments that you guys could put forward about how we could take, you know, internal viewpoints about community, how we could take that more -- when we're looking at community, when we're determining whether a group is a community, how could we better consider your own internal feelings about being a community?

MR. YOB: Ron Yob again from Grand River Bands. Just to go on his point, and we discussed this at another meeting before, but it's like if you remember the large family -- say your last name is Smith, right? Just because you move out of state, do you have to change your name? You're no longer a member of that family? I mean, you're kind of saying you're not. You know, you're still going to be part
of that family. And I think people are still part of our family whether they're -- like Frank brought up this morning, we have members in China, you know. I mean, they're still part of their family. I mean, just because they move away doesn't mean you're -- you're not, you know. It's -- that's like really simple.

MR. CHAMPAGNE: I agree with what both these gentlemen said. You know, my grandma pointed out right before you mentioned, we're Indian for all the negative government policies, whether it's boarding school, whether it was removal of our children. She mentioned that a large number of our children were adopted out to white homes and part of that does affect, you know, our -- where our people live.

We also look at, you know, your government policies of urban relocation, moving us to different centers. We have a large population located in Milwaukee, and so when you would look at our home community in northern Wisconsin, you'd say, well, we have half your population in Milwaukee. How is that possible? Well, it was a government policy that moved them there. We now have more American Indian people living in urban center, most of those were relocation centers, than we do living on a reservation or rural
community. Nationwide that is.

When I also look at -- I hear define geographic for Anishinaabeg people. You know, our creation story puts us out on the ocean and migrating here. We span through the Great Lakes regions out into Minnesota, even in -- all through Canada. And so to say -- I hear one point, the 1855 treaty, we ceded this much land and this is where it occurred. Well, I guess we don't fall within that treaty area. We're just a little bit south of that. Is that still not Anishinaabeg territory? The only ones who were there before were Menominee. You know, Oneida, Stockbridge, those were all transplants from the East Coast. That's all Anishinaabeg territory. We made that circle around that lake. And, you know, when we look at that, it does define -- you know, I agree with this gentleman, your community defines where your geographic region is, where your people hunt and gather and where you practice your ways. And I guess, you know, that's -- that's an issue. And when we look at -- to the percentages, you know, you see the 50 and then crossed out and you're asking for a consultation. What does that mean? I think that's up to the community to set those standards in their own community.
You know, if you really want true tribal consultation, I think that's what most bands would want. Because while 50 percent may work to a western band that live in the geographic region, that may not work so well in the Great Lakes area. And, you know, we have smaller populations. We call ourselves bands. It's just a group in our families. When we signed our treaty, we signed as bands. We didn't sign as a nation or a tribe or Three Fires. We signed as individual communities. And they just now are trying to put us all together. And some of our relatives got reaffirmed, other ones did not. Well, a lot of us, we -- we here in the group, how many of us are Grand River? We're probably extended relatives and our relatives knew each other. But we come from different communities, we have different political relationships, different ways to handle how we do practices in our community, and I guess that's something the government kind of lacks because it's easier just to say, oh, you're all just one person versus saying, oh, yes, you're each individual. Miigwetch.

MS. WYZLIC: I'm Lisa Wyzlic, Grand River Bands of Ottawa Indians and also the Association on American Indian Affairs. In regards to what these
gentlemen were saying about -- about geographic location and, you know, percentages and things like that. Our board of directors recently changed our policy on our scholarship program. We used to go by a quarter of Indian blood for federally recognized tribes. And nonrecognized tribes, if it -- you know, if they were quarter Indian, they were -- you know, that's preferred. We did take that into consideration on an individual basis, and we did have to provide other documentation. But they decided that, you know, tribes have the ability to recognize their own people. And so you have a 92-year-old national nonprofit organization who has been active in Indian policy since 1922 who is changing their policy.

And the discussion that was in the room had to do with the fact that the quarter Indian blood was established -- it's put upon us. That's not something that we decided for ourselves, it was put upon us, and we just followed suit.

And so our board, which is a diverse board from across the country, made up of many tribal leaders with expertise in many areas, has decided to change that policy and let the tribes decide for themselves who their people are and recognize their own people for who they are.
A couple other housekeeping questions and other questions I have. Even when these comments are -- are submitted and looked at, when do you anticipate the proposed rule to be -- to be published so those comments can be made? And how do you access the Federal Register or how will that be announced so people can, you know, go to that Web site or get a copy of that Federal Register to -- to make those?

I was also looking at the -- the criteria in regards to being recognized by outside entities. Here in the state of Michigan, the other tribes recognize the nonrecognized tribes as tribal entities and always have. As has been said, many of us are related and eligible for many different tribes. Not only are we both recognized by other tribes, but we are also recognized by other entities within the state. Grand River has state recognition. But other entities as -- as far as like tribal -- or as far as like city councils and city governments and nonprofit groups, Daughters of the American Revolution, there are -- there are a number of other entities that recognize the nonrecognized tribes as Indian peoples. And I'm sure that's the case in many other states. Many -- you know, some other states, you know, there are -- the tribes have been split, so there are, you know,
those cases as well, but, you know, they recognize the
other people as -- as Indian people.

So I think that may be -- need to be looked at
a little bit closer as far as being recognized by
other groups. Sorry. I have notes written.

In regard to a land base, you had kind of
talked about reservation land, and some of -- some
tribes don't have reservation land. They have
allotted land. Again, historical policies and
government policies created those types of situations.

As I said, I work for AAIA and I live actually in
Virginia. And I do drive home to participate in
powwows and tribal meetings and anything that I
possibly can. I don't make them all. You know, it's
a 15-hour drive. But I do make those efforts to do
that. I do make efforts to stay connected to my tribe
even though I do live outside the geographical area.

I've been fortunate to be able to attend several of
the Senate Committee hearings, one of the roundtables
and a couple of the House Committee meetings. Most
recently I attended the March 19th House meeting where
Assistant Secretary Washburn and Assistant -- Deputy
Assistant Secretary Roberts testified.

I know at the -- one of the roundtables they
were talking about taking into consideration
regional -- regional things that would have affected someone's recognition or the -- that process they were going through. For instance, in the south because some of those tribes had their records burnt in the courthouses during the Civil War, they were talking about different regions of the country, you know, have specific things that affected the tribes and taking -- taking those things into consideration regionally. So I just wondered if those things are going to play into that.

The other thing that, you know, with the nonrecognized tribes and with blood quantum issues is I -- my understanding is that Canadian students who are at least half Indian blood are actually eligible for BIA scholarships. And students who are state recognized, no matter what their blood quantum, are not recognized for any of those scholarships. Non -- students from nonrecognized tribes have difficulty obtaining funding through any -- you know, any kind of, you know, scholarship opportunities because they're not available to them.

Most recently, the Michigan Indian Tuition Waiver has been removed from state recognized tribes, you know, although there are tribal citizens from other states who are federally recognized can come to
our state and take advantage of the tuition waiver.

Thank you.

MR. KNOX: And that is a treaty issue.

MS. WYZLIC: That is a treaty issue, yes.

MS. APPEL: Thank you. You have a number of really good questions and comments. To start with the procedural questions, we're hoping to get a rule published as proposed in the Federal Register by early 2014. And to access the Federal Register, if you Google "Federal Register," you'll be able to get a link to the Federal Register. Another way to get access is through www.regulations.gov, and that has a search engine where you could search for Part 83, 25 CFR 83, federal acknowledgment. Or, you know, if you type in the exact title procedures for establishing that an American Indian group exists as an Indian tribe, that would pull it up. I think they're still working on some kinks in that system, but if you play around with it a little bit, it should pull up.

We'll also, I'm sure, be posting everything on our web site, which, again, is www.bia.gov. And we will likely have a press release when the proposed rule is published.

MS. CHINN: And we also have gotten some comments requesting that we send letters to
petitioners next time we do something big like the proposed rule and so we're taking a look at that, we're seeing if that's a possibility.

MS. APPEL: So some of your -- your questions, one that I noted, is whether regional differences will be considered, and that's something we're looking for comments on, is how we can work that into the rule. If regional differences are appropriate in how the criteria are applied or should different criteria be applied depending on what region it is, we were -- we're definitely interested in hearing ideas for that.

MS. CHINN: It's difficult to make the process more objective so that everybody is on the same page about, you know, percentages and things likes that, but also be flexible with regional differences. So if you have any suggestions for us on how to do that, it would be much appreciated.

You -- you asked a good question about our proposed deletion of criteria (a), which is recognition by outside entities of, you know, tribal existence. The way that we see it is what would have counted as evidence under criteria (a) can be put forward to criteria (b) and (c), political autonomy and community. So if an outside entity is recognizing you as an Indian community, that -- that can count as
evidence of community. It's just no longer, under this draft, a separate mandatory criteria.

Under the draft for an expedited favorable proposed finding, the second way to get there is land being held for the group at any point in time since 1934. And you brought up that some -- some tribes have allotment land, not group land, and we've heard that comment before, so we'll be taking that into account.

MS. APPEL: Are there any -- you also mentioned about the issue with the scholarships going to one-half Indian blood and -- I think -- I think that's a statutory issue, if I remember, that there's a statute about setting a certain blood quantum for any -- that it's interpreted as -- I think. I hope I'm not speaking out of school here, but I think it's interpreted as one-half of the blood of a federally recognized tribe, so -- which is what I think you were getting at.

MR. REINHARDT: That's based on (inaudible) status.

MS. APPEL: Okay.

MS. CHINN: So if you have specific comments on that, we encourage you to submit them in writing because we can't answer them right now.
MR. REINHARDT: Okay. I just wanted to add a little bit based upon the idea of treaty relationships being preferred in the acknowledgment process. Who does the federal government treat with or deal with today for the treaty rights and treaty relationships that are still outstanding?

MS. CHINN: I'm not sure I understand your question.

MR. REINHARDT: It's a loaded question. They deal with the tribes that sign the treaties. And if they are not recognizing the tribes that sign the treaties as the ones who can deal with those treaties, then who do they deal with? It behooves the federal government to recognize that the entities that they sign these treaties with are still in existence so that way they can deal with these treaty -- things of interest to treaties.

For instance, in the state of Michigan, there's this thing called State of Michigan that, you know, we tend to forget that treaty rights go both ways. There would be no state of Michigan were it not for those treaties, you know, this very land, and that there's a number of other things that were exchanged, but, you know, Indians aren't the only ones that invoke treaty rights. U.S. citizens invoke treaty
rights every day when they walk on these soils and
fish in the lakes and cut the wood and eat our fish,
so, you know, this is an ongoing relationship. It's
not something that happened 200 years ago and that's
it. Treaty relationships are still enforced. They
are the supreme law of the land. Treaty rights are up
there with the U.S. Constitution. We don't want to
forget that, and so that's why they have to be
preferred in this process, otherwise what happens to
the entities, the bilateral relationship that still
exists?

There's also Aboriginal rights and those are
those rights that tribes retain from our ancestors
since before treaty making, before colonization that
we've never given up in treaty or otherwise, and
that's something that we retain. And unless the
tribes and the federal government have sat down and
treated over those things, we still maintain those.
And those are not necessarily chronologically listed
out anywhere, they're not necessarily accounted for on
paper, but we still exercise them the way we always
have.

MS. CHINN: So when you say preferred, are you
saying that tribes that are exercising the treaty
rights should have an expedited finding?
MR. REINHARDT: Tribes who have treaty rights that are enforceable should, in fact, be preferred in this process.

MS. CHINN: Okay.

MR. ETTAWAGESHIK: Along those lines, what was just said -- this is Frank Ettawageshik again. They -- when they we were in negotiations on the -- the consent decree for the U.S. versus Michigan Indian Hunting and Fishing Rights, several times during the very extended, very long and involved negotiations on that consent decree, which were successful, we had to stop and remind the State of Michigan that their -- they weren't giving us anything, that we were exercising retained rights that were inherent and that we had them prior to this, and that the state was -- the state was exercising hunting and fishing rights that they got from us. So rather than them giving us something, we gave them something, as Marty pointed out.

But we had to stop about every six weeks in the negotiation and remind the state again that this was the case, and so they should stop that mindset of what they were going to give us, but rather what this was about is how they were going to live with what we already have. They had to figure that out. And then
how we were going to coexist on the other issues. But this is true on the hunting and fishing rights.

But when there's a treaty, one of the inherent things that's in a treaty, a treaty is between sovereigns. And you don't (inaudible). The United States did not make a treaty with the Farm Bureau. Okay? Treaties are made between sovereigns. And one of the things that's inherent in that treaty is the acknowledgment of the sovereignty of both parties by the other party. And so it's a two-way street.

And that's -- as you pointed out, Article 6 in the U.S. Constitution says that treaties are the supreme law of the land and stand right beside the Constitution.

So one of the underlying problems of the issues that we've had for years, and as Ryan spoke earlier here about -- about a friendly judge saying well, we know who you are and you've got treaty rights so we're not going to throw this case out. You know, I remember Dan Bailey, the chairperson at Little River during our hearings, bringing a copy of the treaty that his -- his grandfather used to take to court. Whenever one of their tribal citizens had gotten arrested, he'd take this copy of the treaty there and tell the judge, "You have no right to be prosecuting
This is before federal recognition. This is years ago. And his job was to take this copy of the treaty to the Court and defend citizens who were -- who were exercising their treaty rights. So, you know, but we -- we've tried to formalize that through these relationships now, this federal recognition relationship. But, nevertheless, I just wanted to reemphasize the importance of a treaty relationship and why that has a different -- why that -- why that should play a very strong role in these -- in the process for federal recognition. Thanks.

MR. YOB: Ron Yob again. Just to go -- add to the treaty rights. I know they talked about, you know, it's preferred preference to those tribes -- treaty tribes, but also you should add to that is tribes that got land settlements. Because -- because of treaties we did get land settlements. And then just as recent as 2007, we had a land payment from an 1836 treaty, so it took 170 years to get the payment, but they did acknowledge us 170 years later.

UNIDENTIFIED SPEAKER: 171.

MR. YOB: 171. Miigwetch.

MR. REINHARDT: I guess I would just say, too, you know, for the folks that are dealing with this,
state historical, state recognized, you know, those
testimonies of people who have gotten those tickets
from the DNR, who have gotten their shotguns and
fishing poles confiscated, all of that should be
submitted, all of that should be considered evidence,
because those are stories that don't necessarily come
up in political papers or legal papers on a collective
level. But on an individual level, every time they do
that and sit down and say, you know, "Why should I
have to buy a state license, damn it? This is my
treaty right." That should be accounted for, you
know. And those are the things that this kind of
overlooks. You never get those real hard-core
feelings from the families, you know, when we're
sitting around wondering why our relative is sitting
in jail for exercising our treaty rights. You know,
you just -- you may not get to see that on a form, but
that's what matters to us, you know. It's -- it's our
sovereignty and those things -- those kind of
individual testimonies about our individual rights as
Indian people because they were part of our tribes,
there needs to be room in the process for that
evidence to be considered as well.

MR. CANTU: Phillip Cantu, Grand River Band.
I'm just commenting on the need for revisions for how
long it takes. Being unrecognized, we want to be a tribe that flourishes, not diminishes. Each step we take forward, we take a step backward. An elder dies, someone else joins another tribe. So in that respect, that still doesn't stop us from pursuing the federal recognition. Thank you.

MR. YOB: I just want to -- Ron Yob. I just want to comment, when Lisa asked about, you know, how they notice it and how we find this stuff up, just -- just to let you know, this morning's session, Grand River outnumbered. And right now, Grand River outnumbers everybody. But Grand River has never been formally noticed of a proceeding. I don't know how you guys circulated it, but (inaudible) sent me e-mails, our Washington people sent me an e-mail, but the government itself had never told us this meeting was happening, so, I mean, just to show you how things are going. If we wouldn't have had these people, you know, from various locations to see that, we probably wouldn't have been here, but you can see that just what little notice we got, we -- we're here.

MS. APPEL: If you have recommendations on ways we can better reach out --

MR. YOB: Well, you know, if you just go on your list of tribes and look on the ready list,
we're -- we're right there. I mean, it would seem like if you're going to Michigan, you see a Michigan tribe, you're going to make it a point, but -- especially to get ahold of them and acknowledge that they're -- they're here.

MS. CHINN: Would you see a letter as -- as doing that, a letter to petitioners?

UNIDENTIFIED SPEAKER: Yes.

MR. YOB: Yeah.

MS. CHINN: Okay.

MR. YOB: If I wouldn't have had tribal members that -- that had seen that or our Washington lawyer, we would have -- actually it wasn't even our lawyer, it was another lawyer that's consumed by -- with our cause, you know, that e-mailed me about it, you know, but otherwise we would have never -- we would have never known. You can see that our people came. You know, this is -- you've got to figure when you get one people here, they represent 50 people, you know, so our whole tribe is concerned.

MS. CHINN: We're happy that you made it.

MR. REINHARDT: And when you send those letters, could that be used as evidence of federal recognition?

(Laughter.)
MR. WYZLIC: Scott Wyzlic, Grand River Bands.

There are -- to my understanding, there are three -- three identifying qualifiers for being Indian. I am Indian. He is Indian (indicating). I have this card from the BIA that says I'm Indian. And what Frank was mentioning earlier about the arts and crafts, I am -- I make copper bowls. I cannot sell them as native made. I cannot sell them as an Indian-made item. And it goes back to the treaty issues. I was fortunate insofar as -- fortunate. I'm a disabled veteran. I served in the United States Navy. I went to college with my rights that I earned through the military. Chairman Yob signed my papers for the tuition waiver. I could have used that. I chose to use my military benefits instead. I have cousins who have had to join the military now because they no longer qualify for a treaty right that was handed over to the State of Michigan from the federal government. Yet as a treaty right, we are told now that it's affirmative action. And it's eroding at the corners of our sovereignty. And the longer that we wait on the ready list, the longer -- it's been, what, 20 . . .

MR. YOB: Well, our intent letters came from '94.

MR. WYZLIC: '94. So how long does this
process have to take? We've known that it's been broken for over 20 years. So now the BIA is just acknowledging that, hey, there might be a problem here. But the problem is, we have no economy here anymore in Michigan. Our kids and our grandchildren are having to leave the state to go find work. And yet these rules say that we have to be a distinct community. We have to stay in the geographic area. You go into downtown Grand Rapids and count the number of buildings that are vacant, even though there is a revitalization going on in the downtown areas of Muskegon and Grand Rapids. Small businesses aren't making it. Our large corporations are leaving the state. Our people don't have a place to go get a good job and to stay active in their community.

We just came from a language camp, language and culture camp down in Manistee. We got in at 8:30 last night. We've been up for a sunrise ceremony before six o'clock every morning. We've been going to bed at midnight, one o'clock. We knew that this was going on today, so we are here. But what does it take for us as Indian people, as Anishinaabeg, to prove our Indianness and that we're still here and that we still recognize our tribal councils regardless if they are reaffirmed by the federal government or not? Our
grandfathers signed treaties. Our great-grandfathers signed treaties.

As a matter of fact, the United States would not exist, because in order to sign a treaty, it means that you exist as a federal -- as a -- as an entity that has a sovereign right to sign that treaty. Britain never would have recognized the United States government had it not been for the treaties they entered into with our tribes. So I guess I'm wondering why this 20-year time span goes by and I lost, you know, my mother, recently my aunt. My uncle just turned 92. My grandmother will be 93 in October. Do they have to die not having what was inherently theirs? They weren't born United States citizens. That right was given to them in 1924. How many treaty rights have to be taken away from our sovereignty until we no longer exist? That's the premise of this CFR 25 Part 83. This tells us this is what we have to do to be considered Indian (indicating). We jump through the hoops.

Chairman Yob has put together cases of paperwork and hand-delivered them to the bureau in D.C. and yet we still wait because there's not enough people to go through it or we have to go through it at such a pace. These years erode at what this piece of
paper tells us we have to have. How is the BIA taking
into consideration our needs? Not just our comments,
but actually physically hands-on working with our
tribes and our tribal leaders and sitting down and
saying, okay, we know there's a problem here, but
here's our fix, live with it. Why does not the BIA
say, Chairman Yob, the chairman from Burt Lake, Black
River Swan Creek, Mackinac Band, these unrecognized
tribes -- I'm sorry I'm using Michigan tribes because
those are the ones I know -- "We would like to have
you, invite you to Washington," as they did with our
grandfathers, to sit down and say, "This is the
problem, we need to fix this," and then jointly coming
up with a decision. Not just, "What are your
comments? Okay. We'll take them into consideration,"
and then go back and then give us some more paper that
says these are the rules that you have to live by.
Miigwetch.

MS. APPEL: Thank you. So these meetings
are -- are an attempt at having that discourse and
getting ideas. Normally the rulemaking process would
begin with the proposed rule publication, but we're
taking a step back and we're having these meetings
across the country to try to get at the front end, you
know, your ideas on how to fix -- fix the problems
that -- that are -- the length of time that it takes
to get through the process, among the other issues.
If you have other ideas for how we can pull together
and work these out, you know . . .

MR. WYZLIC: I just offered one. Bring our
leaders to D.C. Sit down as a group and say we have
problems. How do we fix this? Not just I have a
comment from here, comment from there. Actually
literally sit in a room and physically discuss amongst
leaders and come up with this is how the process
works.

I was told that when I make a decision, my
decision affects seven generations. So when I speak,
I accept the responsibilities for my actions. But if
I'm discussing and making decisions for everyone, such
as our leaders are, they take into consideration is it
good for our people now? Is it good for the next
generation? Is it good for seven generations? If it
does not meet that criteria, it's not good for us now.

MS. CHINN: We think --

MR. WYZLIC: There's a difference of thought
between cultures, between the races. Our people have
always taken into consideration the future, not just
what happens today.

MS. CHINN: We appreciate --
MR. WYZLIC: So that would be the idea. Get together with the leaders, make the decisions, make the rules.

MS. CHINN: Okay. We appreciate your comment, and we had talked about working more closely with NCAI going forward. They have a task force. Do you -- do you view that as a good step?

MR. WYZLIC: Yes, it is.

MS. CHINN: Okay. Well, thank you.

MR. GERALD GOULD: Jerry Gould, Swan Creek Black River. I'd say that's a beginning. But, again, we have to speak to the people who are directly involved. We want their input first. We spoke about this earlier, about what the gentleman said just a few minutes ago. You want to talk to the people who are directly involved and will have a (inaudible), and we want to talk to them first. We talked about what it would mean to go to D.C. or whether you have groups come to different areas in the United States, get their input on the problems that these nonfederally recognized groups are having, and -- regarding funding.

I want to ask just a quick show of hands, just a quick show of hands, is there any group here in their recognition effort that has too much money?
MR. GERALD GOULD: Just -- no, no. Don't be shaking Ray's hand. Any group here that has too much money?

(No hands raised.)

MR. GERALD GOULD: Is there any group here -- another show of hands by any group in their recognition effort that could use more funding for research, your recognition effort, anybody here that could use more funding?

(Hands raised.)

MR. GERALD GOULD: So you're all getting enough? Maybe some? That itself is an obstacle that those people in D.C. too many times don't realize because these are the people that are coming to grips every day, every day (inaudible) Indian (inaudible), getting their telephone bill paid, buying a printer, because those people in D.C. won't provide the paper and have no comprehension about the problems that the Indian groups are having here. That should have been the first step in the problem-solving process, is either having them come to D.C. or coming out to them. Ultimately the problem is they won't find a problem. That would be the first step is finding out. Who would you ask? Well, the gentleman mentioned you have
the list. You have the list. You have a list of
every tribe. And I wouldn't eliminate that letter of
intent. That's a bad mistake. Because for those
tribes, with all that documentation prepared before
they've even filed, would take them years. That's too
long. Like he said, people -- people die. So the
first effort should have been made, and I don't know
how you can correct it, because you still don't
understand the problems that these tribes, federally
recognized or not, are having, and they need your
help. And this afterthought, this gathering of
comments, isn't -- isn't going to be that helpful.
Miigwetch.

MS. CHINN: So in our draft we do focus a lot
on trying to limit the administrative burden. That's
the point of changing the time frame to begin at 1934.
But am I hearing you say that we should look into
actually getting funding for petitioners?

MR. GERALD GOULD: Yes, you should. You have
to active -- actively help these groups, these tribes
seeking -- you have to take a preactive role. They
come together, they file a letter of intent, some of
them are in different stages of providing
documentation, and you need to take a preactive role
in helping, otherwise some of them, it's taking so
much time because they're scraping money together to get grants, or beg, squeeze or steal the money to -- to do the research because they need by the criteria from OFA. And OFA should be here. They're not today. That in itself diminishes the process. If they need the money, it takes so long just to get it because they need the professional expertise that the government wants with anthropologists, genealogists, historians just because it sounds good coming from them what we already know.

MS. NOLA PARKEY: Nola Parkey, Burt Lake Band. One of the problems that I have on Page 8 here, you have criteria down, and you're asking what percentage of this, what percentage of that. Burt Lake Band area is -- would be in Cheboygan County. Cheboygan County's probably one of the poorest counties in the state. It can't possibly support the people that need to work in that county. Therefore, the people go other places. They go to Lansing. They go to Detroit. We still come back and -- and take part. We still come back and -- and go to the meetings. It doesn't mean we're not part of the community. It just means we're trying to support our family. Burt Lake Band has been at this now for how long? Somebody tell me.
UNIDENTIFIED SPEAKER: Since '79.

MS. NOLA PARKEY: '79? 1979. That's a long time we've been trying to be recognized. We have done everything and then some. The amount of paperwork that they have on Burt Lake Band is unbelievable. We had a reservation, but they burned it out. The State of Michigan said they were going to give us 400 acres to try to replace that land. They -- they put it through, they voted on it, they okayed it, they just never gave it to us. So here we are. You know, you want to put -- you want to take out rules on one hand, but then you want to put other rules back in place.

To -- to say -- to put down here percentages of how much of your community lives here in this area, they can't live in this -- it's Michigan. That's how Michigan is. It's a seasonal place. They close down Mackinaw City in the winter. No one works in Mackinaw City in the winter. It's -- it's that way for -- for much of the northern part of the state. So you can't really -- you can't really ask people if you want to be a member of this tribe, you have to live in this area, because that doesn't work in Michigan. But that also is why everybody has a car or two or three and we're not afraid to drive three or four or five or six
hours, whatever it takes, to go to the things that we need to be involved in. It's part of our culture, it's who we are, it's what we do.

So I -- as far as adding percentages and telling a tribe how many -- how much percentages of whatever have -- you know, in order for them to be considered a member of your tribe, I think you have to leave it to the tribe. It -- it says right here in -- at Page Number 1, it -- it talks about what it means to be a community. And on Page Number 2, it actually gives the definition of a member of an Indian tribe, and it says it's the tribe's job to say who is a member and who isn't a member. I think it's as easy as that. Don't add percentages. Don't tell them jump through this hoop and that hoop, because I have to tell everybody, we've been at this since 1979. It doesn't work. You send it in. You send what they want. They deny you. They say, well, you didn't do this. You do that. You send it in. They pick out something else. And it just doesn't work.

So I would say the best thing you could do is, as far as -- as membership goes, speed it up. Don't put it through so many people's hands, because for some reason everybody that touches it feels they have to have an opinion about it, and let the tribes decide.
who their members are and who they are. Thank you.

MS. CHINN: I do want to reiterate that the kinds of evidence listed under (1) and (2) on Page 8 are just different suggested ways for showing community. So I think we're hearing that geographic area doesn't work in Michigan definitely. But if something does work, if you know of something that does show community here in Michigan, please put it forward.

MR. YOB: Ron Yob, Grand River. Just wanted to add one more comment on funding. In our area, we're -- we're full of people from all different tribes. And this morning we talked about tribes and a couple of their service areas. So us as a tribe, when we try to get funding to address the social needs of the people, the dysfunctional things, education, substance abuse people, mental health, housing, you know, I could go on and on, but when we applied to funders in our area, more than -- we put off and we get a response back that we're bias towards a special group of people and we can't fund you. So -- so by us trying to help Indians and our own tribal members or the members that live in our community, we're being denied because they're saying we have to -- we have to use a grant that's open to the whole general public,
and so that really hurts our funding efforts, too, because it -- you know, we're constantly being denied towards that way because they say we're too bias towards a specific group of people, so that -- you know, you have to take that into account, too. I'm -- I'm just kind of adding to what these guys are saying here.

MS. CHINN: Thank you.

MS. WYZLIC: Lisa Wyzlic, Grand River Bands of Ottawa Indians. Just to add to that, you know, a couple of years ago, I attended a Native American philanthropy conference and they were indicating at that point that if you go to an outside funder, a foundation or something like that, corporate America, the amount of giving is like -- I don't know. It was like .02 percent of their philanthropic giving is to Native American communities, you know, so the -- even the -- you know, the opportunity to get that is so slim, if it even exists -- and like I said -- like he was saying, you know, some of the grants that, you know, you might apply to, you have to be, you know -- you know, they say you can't be biased on sex, race, you know, et cetera, et cetera, et cetera. You know, they give the whole list. So that is -- you know, it is very true.
I did have a couple more questions and comments. I go to the NCAI Federal Acknowledgment Task Force meetings most often, but at least once or twice a year, and they have three a year, so I get an opportunity to see people from nonrecognized tribes from different regions of the country, and I think that there's -- there's a lot of frustration, and I think there's a consensus that they see OFA as changing the rules to suit their needs and constantly changing them, and so there's a really great mistrust. In addition to the historical mistrust of the government, there's a current mistrust of the government, you know, that, you know, even if -- you know, even if you do something, oh, it's going to change next week anyway, so, you know -- I mean, it's just a real frustration for people all across the country.

You have five consultations listed on your list. Are there going to be more consultations? I mean, I applaud our brothers and sisters that came from Alabama.

UNIDENTIFIED SPEAKER: We live here.

MS. WYZLIC: Okay. But you're -- but you're here representing your people.

UNIDENTIFIED SPEAKER: We go back and forth
just like you guys do.

MS. WYZLIC: Right. But you're here representing your tribe, you know. I mean, as people have to -- you know, and you have five listed here. Are there plans to have other initial consultations in other areas of the country? And what is -- I guess help me understand the review process. Once our petition gets there, is there a -- is there like a person that is responsible or is there a team that's responsible? I mean, obviously I know it takes years and you get up to your point where you're being reviewed, but what actually takes place in that office, you know? You know, because is there two people reviewing our petition? Are all 11 people reviewing our petitions? And am I correct that there's still only 11 in that office?

MS. APPEL: So with regard to your first question, first, about whether we'll be holding additional consultation sessions, we will be holding additional consultation sessions after a proposed rule is published. Currently the plan is to take the comments from these five and any five sessions and any written comments that we receive by August 16th, review them and, based on them, make changes to the draft, then publish the proposed rule, then do another
series of tribal consultations and public meetings across the country. And I think the idea is we'll probably hit different areas than we hit this first time around. But if you have suggestions on what areas, what geographic areas we should hit, let us know.

MS. WYZLIC: But written comments will be accepted from anyone at that time as well?

MS. APPEL: Yes. Yes. Yeah. Usually -- well, I'm not sure exactly yet what the time period will be for submitting comments at that point, but, again, if you have comments on that.

MR. WYZLIC: Just a real quick addendum to that. The letter that is posted on BIA's Web site announcing this, --

MS. APPEL: Uh-uh.

MR. WYZLIC: -- it says from nine to noon, and it had it listed over at the casino, and it didn't say anything about nine to noon only for tribal leaders, and it had no mention of this public event.

MS. APPEL: So this has -- this has been --

MR. WYZLIC: Addendum.

MS. APPEL: Yes. You're absolutely right. This has been a learning experience for us because usually when we do rulemakings, we send out a tribal
leader letter to federally recognized tribes and so that's the process we followed in this case. And the federally -- the consultations that we hold under the executive order is with representatives of the federally recognized tribes, those were held in the morning from nine to twelve. And since those letters were to the -- the federally recognized tribes, we didn't even mention the afternoon sessions, I guess, but we had the press release and we published in the Federal Register descriptions of both of those sessions, but I -- I think it's clear that we need to do a better job of outreach the next time around.

(Ms. Appel and Ms. Chinn conferring out of the hearing of the court reporter.)

MS. APPEL: Oh. And then you had a question about the petition process.

MS. CHINN: Uh-huh. And then also you brought up the fact that it kind of feels like OFA may be interpreting regulations, right, for -- let's see. How did you say it? Changing the rules.

MS. WYZLIC: I just kind of -- I just kind of get the -- when I go, I get the feeling from everybody else, oh, they just change the rules to suit their needs, you know, whatever --

MS. CHINN: Part of what we're trying to do
here is make everything more objective so everybody is on the same page about how the revisions will be interpreted. So it's tough because being objective, we have less wiggle room and so we're trying to find that balance right now. But that's why we proposed the percentages, so things would be more objective and there would be less interpretation of the rules.

And then real quick, in the -- in the petitioning process, there is a point when you receive a team, an OFA team, and it's a -- I think a historian, a genealogist and an anthropologist, and you are contacted with the name -- the names of your team members and everything, and that's when you come under active consideration, so -- and I can walk you through the petitioning process if you want me to.

Basically you -- you give your letter of intent when you submit your documented petition and you go through a technical assistance review. Yeah. So okay. Did you have a question over there?

MR. REINHARDT: I -- Martin Reinhardt. The funds that could be available to help tribes in the process, just to weed out those petitioners that haven't met a certain threshold with those who have, it's my opinion that that threshold should be to have a clearly established bilateral relationship. And
that would make a lot of sense because the federal
government has already established that relationship
at some time in this tribe's history. If they can
clearly show that that has been met and they can show
a need -- you know, if they're a multimillion dollar
organization that has money in their coffers, they
don't really need that. But if they can show a need
and they can clearly show that they have a previously
established bilateral relationship with the federal
government, that should be a threshold, the criteria
used to then say, you know what, they should be
eligible to apply for a fund, a capacity building fund
to help this organization overcome the obstacles
that's in its way to get this paperwork done and in
and get it moving along in the process so that the
only thing they're waiting on then is for the agency
to get back with them. Because that's enough.

Now, on top of that, because funding's always
the issue, well, okay, so we all agree, you know, this
would be a great fund to have. Let's say we all agree
on the threshold and the criteria of the need-based.
Well, where does the funding come from? I think if we
leave that open for multiple mechanisms for funding,
whether that's direct agency funding, just re-channel
currently appropriate funds for the agency to be
streamlined into this, it would clear up a lot of the problems I think that you're having. Just re-funnel the funds. Re-think the funds in how they're being used at the agency level.

I think an appropriation, asking for more appropriations, you know, that would make sense. But also leaving it open for donations. And I'm not in any way saying that this is a tribal responsibility to fund this, but I do know that there are tribes out there and other benevolent organizations and individuals who would love to throw some money into this process if there was a fund for this.

You know, maybe even Johnny Depp, now that he wants to buy the Badlands, maybe he'll throw some money in.

UNIDENTIFIED SPEAKER: I've already got a call in to Johnny.

UNIDENTIFIED SPEAKER: Have to name something after him.

MR. ETTAWAGESHIK: As to the question what happens prior to that team and going on active consideration to the petitions, I personally have witnessed petitions sitting in their boxes in the hallways unopened for extended period of times, and I know that to be true from personal observation on at
least two instances, but from incidental stories of other people who have discovered that they were being asked questions that were answered in what they had already sent them, and yet they're being asked questions. You know, "We need you to answer this." And yet they already sent the answer to this. It was clear that no one had read what had already been sent. So part of that is because of lack of staff, because of the length of time it takes, and also the volume of material.

The other thing about -- you know, talk about funding a bit. It's gotten to the point where this is such an expensive process, that pretty much the only people where we have a source of funds are from potential casino backers. And we haven't said that word yet in this room, you know, but this -- you know, casino, gaming has really complicated the whole recognition process. And it's complicated it because for many tribes, they -- they choose to do gaming once they're federally recognized, that they have the right to do so. But because of that, we have a lot of casino backers who go out and actually shop tribes trying to find someone who will -- they want to own a casino in a certain area, they'll shop around and they think they find some descendents in this area, and
then they'll start backing them trying to hope that
they will eventually get a casino.

And so because of those things, there's this
huge amount of money that gets involved, and it's the
only source for a lot of people to get the kind of
money that's allowed to produce a 100,000-document
research. And so if there's some way to help stop
that -- and -- and when Little Traverse went through,
and we went through with legislation in 1994, we did
not get any money from a casino backer. We did not
talk to any of them prior to federal recognition. And
we told everybody in the process, including in
Congress, that if we did gaming that was going to be
something later. It was a decision we'd deal with
when the time came. In the meantime, we were working
on a social justice issue.

And at the time, we were lucky because the
Administration for Native Americans had status
clarification grants, so we applied for status
clarification grants, and we were able to fund our
office to the tune of a hundred to 140,000 a year with
status clarification grants from the Administration
for Native Americans. And this allowed to us have a
loan officer and to do (inaudible) some history and
some research. And, of course, this was many years
ago. But what it did is it allowed us to have an
office.

Well, under the Bush administration -- I
suppose I shouldn't be naming names in this matter for
you folks that are in the feds. You can ignore that
if you want, but they stopped doing those consent
clarification grants because everyone doing them was
just to -- they're just suing us, so why should we
fund them?

So what happened is, is they stopped those --
those grants. However, I did hear from the ANA that
they were in the process of considering having some
grants that -- I'm not sure if they're going to call
them the same thing, but they might be able to help
with this, so that's one possible existing route of
funding that would merely require additional
appropriation, too, rather than reauthorizing the
program, which is -- you know, it's always a difficult
thing, but to -- to get a program authorized, but --
but there is an existing -- the Administration for
Native Americans that already has an administrative
history of issuing grants to help -- to help
petitioners, and so I think that would be one source
perhaps, Marty, for the -- the funding.

And I know that there's already some desire to
do that primarily because of the criticism that's being leveled by -- the only source for the money that we have is from gaming concerns, and so we really need to try to find a way that these new regs are looked at, these revisions that would simplify the process. Maybe now is a perfect time to also try to work with the ANA to -- to try to reestablish that program for a capacity building to deal with the -- the issues for petitioners. So thanks.

MS. APPEL: Thank you.

MR. REINHARDT: This is when you guys say, yeah, we're going to fund it.

(Laughter.)

MR. KNOX: Elmer Knox from Grand River Ottawa. In all our conversations we've changed titles, we've changed names, we've changed any way we can put this up there, but I haven't seen too much put up on the emphasis of the time, put a timetable on it.

Something like a ladder, and you finish the first criterion, you go on to the second. But when you reach the top, you all have been approved. What else do you have to approve? I think -- I think your Bureau of Acknowledgment is just slow in interpreting these things and that is where your trouble lies.
MS. CHINN: Are you suggesting creating shorter time frames for each step?

MR. KNOX: Either shorter time frame for each step or have to face that step before you go on to the next, so it doesn't have the funding to go on to the next because of research, so it should be held at the first step. You get to that second step, then they can go on to the third.

MS. WYZLIC: Lisa Wyzlic again. I just had a couple of quick questions. On Page 5, it says specific numbers (see placeholders) for more objective criteria. I'm sorry. I came in a little bit late. Can you just clarify that?

And then also could you clarify -- now, are these -- are these notes from this meeting in the meeting this morning, are those going to be available before August 16th so the tribal leaders and organizations can take a look at those to help them make their written comments or no?

MS. APPEL: So the -- we're going to make the transcripts of each session available as soon as the transcripts are ready. We're going to post them on the Web site, but it usually takes I think about two weeks for the court reporters to get the -- get it transcribed, so this session may be, you know, right
before the August 16th deadline. But, again, as soon
as we get it, we'll post it.

And then your other question was about Page 5?
Can you say it again?

MS. CHINN: Was it Page --

MS. WYZLIC: It was Page 5 in the -- in the
second box. It was last -- last bullet. Specific
numbers.

MS. APPEL: Yes. So in the -- in the
discussion draft, we have various places where you'll
see double Xs, and those are places that we've just
used the Xs as placeholders because we want input on
what -- what numbers are appropriate in there.

MS. WYZLIC: Okay.

MS. CHINN: If any.

MS. APPEL: If any.

MS. WYZLIC: Right. Yeah. I -- I came in a
few minutes late, so thank you for the clarification.

MS. COMPO: I just wanted to follow -- my name
is Fran Compo with Grand River Bands, and I just
wanted to kind of follow up with what Elmer was
saying. We submitted our petition and we submitted
all our documentation. We hand-delivered 21 boxes
because we didn't dare send them through the mail. We
wanted to make sure they reached the place that was
going to review our petition. And then the next thing
we find out is we get -- we get a response back
telling us, okay, now you have to clarify all these --
you know, they started to look at our -- our material,
but now we had to go through and clarify it again, and
so we sent in more material. And then we were told,
okay, now you guys have to put everything digitally.
And so we had to take all those records and digitize
them, and it seems like even though it's not in the
written process of the regulations and the -- we still
had to do it. And at that time, we assume -- I guess
we assumed, or it was implied, that if we digitized
everything, the Bureau of Indian Affairs would be able
to go through it more quickly and we'd become
recognized quicker, but here we are still waiting and
not recognized. And so it's like, okay, now what
other hoops are we going to have to jump through?

I couldn't tell you how many times the
regulations have changed on us and we've had to do
more. And it's like how many times is this going to
happen before we actually get to the part where you
say yes, you are a tribe?

MS. CHINN: So under the current regulations
and the draft, also, the time frames that OFA works
under, they start once you hit active consideration,
but there aren't really time frames before that. Am I hearing you say that it would be better to have time frames before that, too?

MS. COMPO: I think so.

MS. CHINN: Okay.

MR. YOB: As long as we're taking comments, I'm going to give one more. When we went to Washington probably, oh, a year ago anyway, it was in 2012, we talked to Lee Fleming, and I asked him -- I asked him a question. I says, "You know, I notice on your list there, we've been on this ready list for so long, but no one ever comes up below us," you know. Because there's like a couple hundred tribes below us, right? And his comment back to me is because none of those other tribes sent anything in, you know, and it's like if you open the flood gates, it's going to -- I'm going back to reemphasizing we don't want to lose our place because we've been spending a lot of time answering -- anytime they correspond with us, we correspond back. And now we're going to get caught with all these tribes that haven't been doing anything for the last 10, 12 years and then all of a sudden they can come in and we're in a pool of 300 tribes after we spent so many times playing the games by the rules that -- that he gave us, you know. But that was
his comment, was that -- that -- and if you look on there, look at -- look at that list. There is no other tribes that have -- that have done anything. They haven't done anything to move to the ready list, you know.

MS. CHINN: Right.

MR. YOB: And so -- so I just don't want to get caught up in a bunch of people that all of a sudden we're going to open the door wide open and everybody can come through right now and then we're going to get lost in a great big shuffle again, you know.

MR. REINHARDT: Unless they automatically give every one of us federal recognition.

UNIDENTIFIED SPEAKER: No. Then we'd still be on the ready list.

(Laughter.)

MS. CHINN: So from OFA's Web site right now, it says that there are three on the ready list, four waiting for proposed findings and one waiting for a final determination. And this isn't the first time that we've heard that comment about maintaining priority under these new regulations, so we hear you.

MR. YOB: Miigwetch. Miigwetch.

MR. REINHARDT: Just a real quick question.
Are you the team that was at the previous meetings or were there others sitting in your chairs?

MS. CHINN: Just the two of us and Larry.

MS. APPEL: And Larry Roberts.

MS. CHINN: Uh-huh.

MR. REINHARDT: Can you guys -- I don't know if you did earlier, but can you tell us what are some of the comments you got back from the previous meetings? Were they similar comments?

MS. CHINN: Similar -- I mean, they -- since each one is held in a different region, they -- they definitely reflect regional, you know, histories. California talked a lot about, you know, the specific history of California and -- but we are hearing some similar comments across, such as that one, maintaining priority.

MR. REINHARDT: Heard any other gems, like, you know, things that we're talking about here, ideas that are going to be helpful, capacity building funds or stuff like that --

MS. CHINN: That's the first time we've heard that. I think that's a great idea. I wish -- I wish I could point out gems, but I think I'd have to look back at my notes.

MR. ETTAWAGESHIK: I can answer some of that.
I've gotten some reports from people who attended and there have been some comments against the new regs because there are some tribes in some areas of the country that actually want it to be difficult. They think that all of the tribes that should be recognized already are and, therefore, the more difficult it is, the better. And I've heard this from several different people. They may not have said it in exactly those same words, but there are -- there are places where there are people who maintain that.

And back -- you know, there are -- there are entities that have fought hard to stop any state recognition at all and so that there are -- there's a lot of differing views when -- when -- and I'm going back to personal experience again, and this was many years ago, but they -- at Little Traverse we -- we wanted to get resolutions of support from various entities, and we had tried to get a resolution of support from the Dakota-Lakota-Nakota folks in the Plains, and we were turned down. The National Tribal Chairmen's Association passed a resolution opposing the recognition of many of the tribes. And so they said, no, we won't give you a resolution.

And we had Vine Deloria come here to Petoskey to speak at a conference that we put together with the
Michigan Indian Legal Services, Jim Keedy helped us put it together, that we had here, and Vine, when he heard our case -- and he came to talk with us about constitutions and sovereignty. When he heard our case, he agreed to testify and then he -- he, in his research, had found a treaty that he said was the first written treaty between -- between tribes. Not -- not the first Wampum Treaty, but the first one written in English, and that it was between the Anishinaabeg and the Dakota-Lakota-Nakota, and it was a mutual self-help. It's a Peace and Friendship treaty. And so he took that treaty and he went to the traditional leaders, not to the elected leaders, the traditional leaders at the Dakota-Lakota-Nakota and presented them with this treaty and said, "If we expect the United States to live up to its treaties, we have to live up to ours." And he successfully got them to pass a resolution supporting Little Traverse and Little River, and that resolution is part of the congressional record now, part of the record on our legislation, and so we were able to get that from -- you know, from other people.

So I thought I'd pass that -- that story on, that -- you know, that there are a lot of -- there's a lot of reasons. And the principal reason that they
did it was not so much anti Indian as anti cutting up
their budget into smaller and smaller pieces. They
wanted every federal recognition to be included in the
appropriation. Make it even tougher to get one if
there had to be a new appropriation with every tribe.
And so we faced that at that time.

And there are other -- there are other places
around the country where different tribes have been in
conflict with each other over the years and have --
and still carry that conflict into this arena. So I
can tell you that I know that there's some of that
that's happened in different places and that, you
know, it's still -- well, I guess the -- the
interesting ones are coming up, that are yet to
happen, so we expect there will be a lot of input at
some of the other ones. But I work as the co-chair
for the Federal Recognition Task Force. We have
members of the task force that are attending different
hearings at different places and we're comparing
those, and -- and so we're coordinating our efforts so
we don't -- all of our comments at any time one -- at
any one of the hearings so these guys can have an
opportunity to hear everything, so . . .

MR. REINHARDT: Frank, you said that some of
that angst from the current tribes may be due to
appropriations. How much of the angst is due to
casino saturation? Do you think there's a great
deal --

MR. ETTAWAGESHIK: Oh, there's -- there's
clearly -- there's clearly concern about -- with --
about competition from a casino, from any proposed
casino that might come along. That's -- that's
to focus on -- on the issues of social justice and
treaty rights. And, you know, economic development is
something that comes along with the exercise of those
things. But if you focus on casino and have that be
the firm thing and everything else sort of being --
you know, and that be the tail wagging the dog, you
get into trouble and it plays right into the hands of
all the critics of the process to do that, and so
if -- if -- I think it's so important that we have
this -- we have these changes and that we -- we try to
focus on the social justice issues and staying away
from those other ones that are so controversial. And
that makes it really hard when the major source for
funding for most of the tribes is a casino backer, who
is hoping that the tribe will eventually be able to
have a casino.

MR. REINHARDT: There -- there was a -- I
don't know (inaudible). But, anyway, there's a --
there's a tribal -- there's a tribal consortium in the
San Francisco Bay area in California, that they made a
compact with the state of California that the tribe
that currently had their gaming would be able to share
their gaming revenue with the other tribes if they
were allowed to expand their gaming operation, so the
other tribes that were federally recognized or not
currently federally recognized was able to receive
assistance from the federally recognized tribe that
had gaming if the nonfederally -- or the nongaming
tribes agreed not to open casinos, so they had this
consortium of tribes.

And that -- you know, that model might be able
to work for tribal communities that are currently not
recognized, seeking recognition, that they could work
something out with the tribes. Of course, then it all
comes down to the leadership, but . . .

MR. ETTAWAGESHIK: And -- and one of -- one of
the issues that comes from that is that there are many
federally recognized tribes that are not eager to hear
someone saying that they're going to give up their
right to gaming, because they're accepting limits on
their sovereignty, even if they choose not to do it
later, if they did it in the process.
And, for instance, we'd never want to see that be part of the federal recognition administrative process, but it's often a part of the legislative process. And what happens is that there are tribes -- and I was -- I was -- as a leader, I didn't really like it if someone was going to go give that up because if -- if they set the example that they're willing to give it up, then everybody's going to give it up. The issues that we're dealing with right here in this room and in this process end up being reflected in the issues and all of the federal tribes end up giving the federal government on, and, you know, we've -- we've won the issues we've brought up in this whole process.

And one of the friends from the task force who spoke on this element over the years is that as we're treated, that's the way the federal tribes are likely to be treated and then our (inaudible). And all of a sudden all of the federally recognized tribes are being invited to the haves and have-nots as to whether they had (inaudible) jurisdiction in 1934 and whether or not they had a land trust based on that (inaudible). And so all of a sudden they started being divided into two groups.

Well, that same kind of issue is what we feel
like we've had for years. So these are all things I
was talking to Marty about as to this -- the full --
to the full assembly here is that this is -- these are
issues that we need to -- we need to pay attention to.
And so like I said, I would never advocate and
certainly do not that -- that any limits on
sovereignty be part of this process, such as an
anti-gaming provision. Thanks.

MS. CHINN: A couple of comments that we've
seen throughout the consultations in public meetings
that we've had so far, the way their regional
differences have manifested themselves is just like
what you guys were talking about, the community, the
listed -- you know, suggested evidence to prove
community and also with our two expedited favorable
criteria. And so if you have ideas for -- for how
these regulations can better reflect your region,
please submit comments and ideas to us. We have a
couple more minutes. Any other comments?

MR. ETTAWAGESHIK: In the absence of no other
comment, I'll (inaudible). One of the things that --
there are states where it's (inaudible) illegal to be
an Indian. You either are black or you're white. And
it's -- one of the specific regional issues is in
those states. It's almost impossible to produce the
genealogical record that is required from birth certificates for the recognition process. It's hard to prove that you exist today when it's been illegal to exist for several decades, and so it's not just -- it was mentioned earlier that sometimes the records have been burned during the Civil War, other times they just burned up when the church burned. Some are in the community. There's other places where the records were destroyed by -- by overt conscious governmental entity action that said you will not be an Indian and so you can't exist. And so in those states, there needs to be some other acceptable evidence for the proof of -- of identity.

MS. CHINN: So in a draft, we proposed historians' and anthropologists' opinions and things like that as evidence for descent. Do you have any other suggestions? We're certainly interested in other ideas for how to show descent.

MR. ETTAWAGESHIK: Well, I think part of that is that weight -- just historians and anthropologists implies advanced degrees, college degrees, advanced degrees and that you're looking for some method of accreditation of those people who make those decisions. And in doing so, you often are missing the tribal historian and the tribal culture bearers who
are passing the -- the stories of our people on and
that these are -- we need to have weight given to
these individuals so that as -- as culture bearers,
they need to carry an equal weight with the historians
and the anthropologists, because -- you know, my
daughter has a degree in anthropology. I mean, I'm
not -- I understand that it's important to get
degrees. It's important for us to send our kids to
school. But what's important for them is to still be
Indian when they're done and not just to have switched
their mind over to the non-Indian mindset through the
education process.

So we have to somehow get the education
without losing our Indianness, and that's a difficult
task sometimes. So we have -- what we have to -- if
we don't fight for our traditions to be acknowledged
and our culture bearers and our -- our tribal
historians to be acknowledged as part of this process,
then we put our hands totally in the hands of -- of
other people who have studied -- might have a degree
from the University of South Wales or something, but
they have a degree, but is their degree -- but do they
know anything about the tribes and what kind of -- you
know, do they know anything about the people that
they're working with?
MS. CHINN: Uh-huh.

MR. ETTAWAGESHIK: And I think that these are very important -- important points. So I would say this is one specific regional issue that needs to be dealt with, and that's -- I would say that we need to turn it -- make sure that -- that the tribal record-keepers, the historians, the oral history of the tribe take on a very important -- important role in that.

MS. CHINN: Thank you.

MR. REINHARDT: I just want to back up what Frank said. Northern Michigan University where, I work, we've talked about the idea of eminence credentialing and really recognizing that if the tribal entity itself sees someone as an expert in an area, like language or history or culture, then who are we as a university to not recognize that this -- you know, this community recognizes their own? And I think the State of Michigan has -- you know, just passed recent legislation for language speakers, you know, recognizing that there are Ashininaabemowin language speakers, teachers, who are qualified to teach in our public schools. This is the trend, you know, eminence credentialing, recognizing the cultural expertise.
MS. WYZLIC: Lisa Wyzlic again. It's not a pleasant part of our history, but is -- are any of the boarding school records being used for purposes of submission in our petitions? I guess I'm asking the tribal leaders in regards to that.

UNIDENTIFIED SPEAKER: Are there really any records left? Weren't they all destroyed?

MS. WYZLIC: I don't know.

MS. CHINN: My understanding is that evidence of boarding school can be used for showing community. It -- I don't think that it represents past federal acknowledgment at this point. It's not seen as representing that because it doesn't necessarily show the existence of a current political entity, but if you think that it should be given more weight, that's a great comment.

MS. WYZLIC: Just asking the -- I mean, you know, my grandmother is, as my brother said, is almost 93 and she's never -- we didn't have to do that. You just -- you just were. You know, she was in a boarding school, so . . .

MR. REINHARDT: Just -- just to add to Lisa's, you know, the boarding schools are one of the mechanisms that was used to pull the rug out from under these tribes. That is "the" one, if any one, is
the most disruptive one, scattered our people about, took them away from their language and cultural traditions. And now we're expected to somehow, you know, we need to pull them back, you know, which we're trying to -- revitalization efforts, but, you know, there has to be some recognition, fancy word, anyway, about that, you know, and its influence on this process.

MR. ETTAWAGESHIK: And while there's a -- while boarding school attendance may not prove that there's a current political entity, could be proved, it certainly shows they didn't haul off white kids to these schools. They only took Indians. Okay? And so the thing is, is that it shows that -- that these were acknowledged Indians at the time that they would have gone to the school. And so it clearly establishes the fact that -- you know, in my case, my dad was a -- went to a school in Carlisle. He was born in 1896. He went to school at Carlisle before he was a citizen of the United States. And they wouldn't get citizenship until he was -- till he was discharged from the Army after World War I and -- and then it was the Citizenship Act that followed that.

Someone mentioned here earlier that they had relatives that were -- that were not -- that were born
before they were -- when they were not citizens of the United States. You know, if they weren't citizens of the United States, where were they citizens? Okay? Because everybody's a citizen somewhere. And so what happens is, is if they're citizens, that's some -- that's proof of being Indian if you could -- if you weren't a citizen before the Citizenship Act. Well, I think the same thing as attending boarding school. Then that ought to be evidence, that that ought to become part of this -- this evidence. And then the standard for evidence -- this is another issue that we haven't mentioned yet today. It should have been -- right now it's sort of beyond a reasonable doubt. I mean, it's probably easier -- someone told me it's easier to get somebody executed with the death penalty than it is to get a tribe recognized in terms of the costs, in terms of the time that -- you know, there's this -- and there's this huge amount -- the preponderance of the evidence is that -- you know what I mean, it's -- the criteria that's being used is beyond a reasonable doubt, and it's -- and it's on our part as if we're the criminal. The tribe, it's on our part, we're being asked for this. And, instead, the government -- we ought to come forth and say here we are. The government
should -- it should be the government's responsibility to say -- to prove that we aren't, that they have -- the proof should be there rather than us having to spend all the time and effort to prove that we are. And so the -- the shoe should be on the other foot and the -- the expense ought to be on the other foot and the criteria to do it ought to be clearly listed, what did and what doesn't constitute a tribe so that rather than -- you know, it would make the process a lot more fair if they did that so that the level of evidence shouldn't be beyond a reasonable doubt. Preponderance at the very least. We ought -- we ought to have this different standard, so . . .

MS. CHINN: Good. Because we did -- the draft did change the burden and it is preponderance of the evidence, so . . .

MR. ETTAWAGESHIK: Well, very good. Then I'm -- then I'm supportive of that.

MR. REINHARDT: So you're saying that the federal government has to disprove that we weren't a tribe? I'm just kidding.

MS. WYZLIC: Lisa Wyzlic again. This is just for the tribal leaders in -- in this room. If you are not a member of NCAI, I would encourage you to actually at least look at their web site and consider
being members. Frank is co-chair, along with Pastor John Norwood, and they do an excellent job of representing the nonrecognized tribes to the folks in NCAI and, in turn, to the government of the United States. It's also, from what I've seen, a great support system for the nonrecognized tribes to, you know, talk with each other and be supportive of each other.

Not everybody can come to every single meeting because nobody's got that kind of money. I happen to be fortunate that I get to go to these meetings through my work, through my job. But take a look at some of the other Web sites for the nonrecognized tribes, take a look at what other folks are doing, how they're exercising their sovereignty. I think Larry, getting on his high horse and, you know, always -- always pushing everybody in the room to exercise their sovereign rights even as nonrecognized tribes. But, you know, exercise those rights, take a look at what other folks are doing and, like I said, at least take a look at NCAI's Web site. You know, our organization is working on federal acknowledgment as well and -- so take a look at our Web site and, you know -- you know, there are newsletters out there that provide information about, you know, what's going on and we
should at least be aware of all the issues that are going on in Indian country with federally recognized tribes for when we do get recognized. And I'm being positive and saying "when we do," so that we're -- so that we're ready to jump on those horses when we have to.

MR. ETTAWAGESHIK: I'll just follow up on what Lisa has said, that the -- the Federal Recognition Task Force is always a pre-meeting. And for those of you that can't afford registration for NCAI, it happens before the NCAI meeting really officially starts, so you don't need to be registered for a conference in order to come to our task force meetings. You would have the expense of getting there, but the meeting is usually from one to five in the afternoon of the day of the pre-meetings, before, and it's open to any nonfederally recognized or federally recognized tribe. And a number of state recognized are members of NCAI, but a lot of people are not.

And as an example, the issues that we're discussing at this meeting today were raised first in meetings with the assistant secretary and the deputy assistant secretary when they came to our task force meeting. And then when they announced this in the
spring, they did it at our task force meeting, they actually brought a copy of this and talked to us there, and so people got the -- the idea -- they got the idea of what was going to be coming down to make -- that they were going to be doing these hearings. So we don't speak for everybody. We do our best to work for everybody, but not everybody can afford to be there, and so we're working on solving the problems that the issue raises, but we're not working on any one individual case for any one tribe. And so the task force is nonfunded. We're volunteers. And anybody who comes is a member of the task force. And so I know that -- that -- I know Ron came here when we were out in California, Sacramento, and the chair of Burt Lake has attended a couple of the meetings. I've seen some of the others from here there, and it's -- it's always open to anybody, so I just thought I'd pass that on. When I say it's not about working, with the task force, it doesn't mean that we're controlling anything, it just means we're doing our very best to try to move this issue along and we're there to work -- we're there to work for this issue, to make this issue better for everybody, and to try to get social justice for everybody.

Thanks.
UNIDENTIFIED SPEAKER: Because of my occupation, working on trying to (inaudible), so I'm forced to live in Fort Lauderdale, Florida, which is a long ways to come here. And one of the things that I noticed living out of state, particularly in Florida, was the amount of attention that the United States government gives to people who come here from foreign countries, particularly those south of the border, Cuba, Dominica, all those countries down there. They give so much attention to those people about the immigration issue. The immigration issue has always raised my hair. It -- it just -- what I mean is that the United States government is giving so much attention to everybody else and precious little to us, particularly in the Grand River Bands.

I remember a case where the newspaper (audible) government was doing because there was a young man from another country who applied for and gained his citizenship in the United States in four months. We -- we at the Grand River Bands have been trying to get our treaty rights established and correct past mistakes on the part of the United States government for years and years. I can only say I hope you, as being representatives of the Bureau of Indian Affairs, takes our request to the Great White Father
in Washington and gives -- gives us just a little bit 
of what we think is our dues in the matter -- matter 
of federal recognition.

MS. CHINN: Thank you.

MS. APPEL: Thank you. So I think we're 
just -- we're a little past four. Do we have any 
closing comments before we wrap up?

(No response.)

MS. APPEL: Okay. With that, I will close the 
public comment session and thank you, everyone, for 
your time today and your -- your excellent comments.
Thank you.

(The proceedings concluded at 4:04 p.m.)
I, Kristine K. Grigsby, a Notary Public in and for the above county and state, do hereby certify that the foregoing 212-page proceeding was taken before me at the time and place hereinbefore set forth; that the foregoing was duly recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not interested in the event of this action.

KRISTINE K. GRIGSBY, CSR-4834, RPR
Notary Public, Cheboygan County, Michigan
(Acting in Emmet County)
My Commission Expires: April 23, 2017