DEPARTMENT OF INTERIOR

OFFICE OF THE ASSISTANT SECRETARY - INDIAN AFFAIRS

LAND INTO TRUST IN ALASKA

PROPOSED RULE - 25 CFR 151

TESTIMONY

GOVERNMENT-TO-GOVERNMENT CONSULTATION

Taken at:

The Dena'ina Center

Anchorage, Alaska

June 9, 2014
KEVIN WASHBURN: Welcome, everybody, to our tribal consultation on land into trust in Alaska.

This is a prop I used this morning, so if you saw this already -- Alaska is the last frontier for land into trust.

We are anxious to hear your feedback on the Rule. We've got a short PowerPoint presentation. We mostly want to hear from you, but we've got sort of a short PowerPoint presentation just to show you what we're doing with the land-in-the-trust Rule.

I'm joined up here by Jody Cummings from the solicitor's office, Deputy Assistant Secretary Larry Roberts and BIA Director Mike Black. Mike's sort of been -- I mean, this is all the BIA that takes the land into trust, so Mike's in charge of that -- and Liz Appel who runs all of our regulatory initiatives at the BIA. The most valuable person in our entire office right there.

So we're happy to be here, and we'll tell you about the proposal. So, here's the overview:

We may acquire land in trust for individual Indians and Indian tribes in the Continental U.S. and Alaska. We've got clear authority to do that. Our regulations, though, include an Alaska Exception. And the Alaska Exception basically says these regulations do not
cover the acquisition of land in trust status in the State of Alaska, except for Metlakatla, in essence.

So the proposed Rule would delete the Alaska Exception so that we would have authority to go ahead and take land into trust in Alaska or have the -- we've got the legal authority. It would give us the authority under our regulations.

So here's a rough history of the -- a very rough and very abbreviated history of sort of this issue:

1867, the U.S. acquires Alaska from Russia; 1891, Congress establishes a reservation for Metlakatla, who by the way were originally Canadians, not Alaskans; 1906, the Alaska Native Allotment Act was passed, which was later repealed; and 1926, the Alaska Native Townsite Act, which was also repealed as part of ANCSA; and 1934, we got the Indian Reorganization Act. And the Indian Reorganization Act is the Indian "New Deal."

This was the New Deal era, and Congress said: We are going to allow -- we're stopping the allotment period, and we're going to start reacquiring land for Indian tribes in the Lower 48. It allowed land into trust for all but Alaska. In 1936, though, Congress extended the Indian Reorganization Act to include Alaska and authorizes creation of reservations in Alaska. And in 1959, Alaska becomes a state.
Larry and I were walking around yesterday and saw a great T-shirt, "Alaska: Pissing off Texas since 1959." We got a kick out of that.

(Chuckles.)

1971, ANCSA is passed. Obviously, ANCSA is a different model for American Indian policy than what we have in the Lower 48 designed to settle all land claims by Alaska Natives. And it revoked all but one of the existing Alaska Native reserves, but it did not revoke that Section 5 authority that we talked about. So that authority that gives us authority to take land into trust in Alaska, that was not revoked when ANCSA was passed.

In the mid-1970s, the Native Village of Venetie applied to take land in its former reserve into trust. That reserve had been revoked by ANCSA and conveyed to the village corporations.

In 1978, a solicitor opinion determined that Congress meant for ANCSA to permanently remove all Native lands in Alaska from trust status. In other words, we had a solicitor opinion in 1978 that actually said we don't have authority to take land into trust in Alaska.

In 1980, our regs -- our 151 regs, which are our land-into-trust regs, were enacted; and they included the Alaska Exception.

So in 1995 and 1999, we were reviewing our
151 regs. I say "we." I wasn't there at the time; but
the Department was reviewing its 151 regs, its
land-into-trust regs, and invited comment on whether the
Alaska Exception should be continued. And in 2001,
Solicitor John Leshy rescinded the 1978 solicitor opinion.
And also in 2001, the Department published
a final Rule amending 25 CFR 151, but we maintained the
Alaska Exception in that Rule.

There was an election in there. And after
the election in November of 2001, the Department withdrew
that new 151 Rule. And I guess I don't need to be
secretive about this, the Clinton Administration -- it was
under the Clinton Administration that that old solicitor's
opinion that said we didn't have authority, that was
removed.

And so one of the last acts of the Clinton
Administration was to say that the Department does have
authority to take land into trust in Alaska in a legal
opinion. And it published new 151 regs, new
land-into-trust regs; but those regs were withdrawn in the
George W. Bush Administration, early in that
administration.

So, in 2007, four Alaska Native tribes and
an individual challenged the Alaska Exception in district
court. And that litigation took a while, but last year --
that was brought by Heather Kendall Miller and others. The U.S. District Court for D.C. said that ANCSA left intact the Secretary's authority to take land into trust throughout Alaska. And there is an appeal pending on that case. So that decision is not yet final, but that's basically the history.

So the proposed Rule is very simple. We would just delete this Alaska Exception, the part of our Rule that says we don't take land into trust for Alaska. We have ongoing authority under the Indian Reorganization Act Section 5, under that 1936 amendment that I mentioned earlier, to take land into trust in Alaska; and neither ANCSA nor FLPMA, the Federal Land Policy Management Act, provide context for this -- they provide some context. In other words, we're not going to ignore ANCSA or FLPMA; but they do not revoke Section 5.

So the Alaska Exception was basically based on a solicitor opinion that, as I said, was revoked as one of the last acts in the Clinton Administration.

And we believe that deleting the Alaska Exception is consistent with law and consistent with the Obama Administration's strong intention to restore tribal homelands. We have been taking land into trust in the Lower 48 as often as we can legally do so because we think restoring homelands to tribes is a very important effort.
So the question is whether we should extend that same type approach to Alaska.

The proposed Rule would delete the Alaska Exception. We have other support for this recommendation.
The Indian Law & Order Commission suggested that this was a good idea. The Secretarial Commission on Indian Trust Administration that was set up by Secretary Ken Salazar and worked for a couple of years to come up with recommendations, they also recommended this action.

And, of course, we had the litigation that I mentioned brought by Heather Kendall Miller of the Native American Rights Fund for several parties in Alaska.

We believe that the Rule will give more power to Alaska Native governments to give them more ability to exercise self-governance and self-determination. And we believe in Native governments providing for their people. And we want to -- the proposed Rule would give them more ability to do that, to make them more self-sufficient and hopefully improve the quality of life for communities in Alaska.

The Secretary -- if we apply section -- the regs -- 151 regs to Alaska, the Secretary has discretion to consider each application. We're not a rubber stamp. We have to look at each application to see if it meets the terms of taking it into trust. So, we will make a
decision on a case-by-case basis. Not necessarily every
application for land into trust will be accepted. It will
be carefully reviewed by the region.

Bruce Loudermilk, the Regional Director, is
in the room.

Bruce, you want to wave?

And it will be his office that will make --
that would make those kinds of decisions. In preparation,
in case this rule is adopted, he has started training his
realty staff so that they will know what to do when they
get these applications. And they've actually had some
pending applications, thanks especially to Tlingit Haida,
for several years now. If we go final with this Rule,
they will -- would presumably begin processing these
applications as soon as it's legal to do so once we have a
final Rule and we aren't stopped by a court or something
like that.

One of the questions we have for you is
whether this Rule should apply differently in Alaska than
it applies in the Lower 48. Alaska is unique. You've got
different challenges. You've got different concerns. You
have different facts on the ground. And so one of the
things that we want to do is figure out how should the 151
regs apply here in Alaska, if they should apply any
differently than they apply in the Lower 48. And, if so,
what would those changes be?

All right. This thing kind of goes on and on.

(Laughter.)

And so let me just say -- I guess this is probably pretty close to the end, but basically these are the steps that we go through when we take land into trust:

A tribe or an individual Indian, potentially, submits an application to take land into trust. The BIA notifies the State or local government with regulatory jurisdiction over that land so they have a chance to weigh in to be fair to them, to get their viewpoints. The State and local government submits comments, if any.

The BIA provides the applicant -- the Native village or the individual, the tribe, an opportunity to comment on the -- what the local village -- the local government said. And the BIA then considers those comments against the criteria. And there are different criteria for on-reservation and off-reservation. And we have an extensive Fee-to-Trust Handbook that sort of guides this process and has some additional information.

Here's sort of the due date. Our comments on the proposed Rule are due by June 30th of 2014. That's
coming up relatively quick. We would prefer that you use
e-mail to submit comments to us. And the e-mail address
is on the screen, consultation@bia.gov.

And the next step for us is we will review
all those comments we get in, positive comments, negative
comments, specific comments about how you want us to run
this. And we will then presumably publish a Final Rule in
the Federal Register that takes account of those comments.

And the Final Rule will become effective 30
days after publication with the caveat that we are still
in litigation about some of these matters because of the
Akiachak @ decision that said that we have authority is on
appeal. And so there is litigation that's pending and
that could be relevant. And we will do as we're
instructed under the law if a Court requires otherwise.
But this is basically the process we would ordinarily
file.

Okay.

I'm not going to go through all this. I
think I've been talking too long.

So, this -- Liz, I forgot some things.

This is closed to the press. This is a
government-to-government consultation between the United
States and Indian tribes. So we would ask any members of
the press to respect that government-to-government
consultation and not report this meeting.

      What else do I need to say, Liz?

      Speak into the microphone, great.

      And identify themselves.

      And I'm sorry. I'm Kevin Washburn,

Assistant Secretary for Indian Affairs. I've been talking
all day long. If you haven't heard me yet, you're lucky.

So I think that that's probably a good
place to stop. And really, again, this is about listening
to you. This is about hearing from tribal leaders and
other interested members of the public and Alaska Natives.
And we want to hear from you and hear your viewpoints.

      I would ask you to step to the mic if you
want to make a comment because we are recording this.

      There will be a transcript of this session later. And
once you do that, please -- if do you step to the mic,
please identify yourself for the record. And let's go
ahead and begin.

      Yes, sir, please step to the mic. And Gary
beat you to it.

      GARY HARRISON: Hello. Traditional Chief
Gary Harrison from Chickaloon Village. And I believe that
the land should be put into trust for many reasons for --
when it comes to tribal governments.

      As most people know, most of the tribal
governments basically just provide services to our peoples. We don't tax them. Yet we are being taxed by the governments that are in our area, and they are not providing us with any taxes themselves for us -- for our own government. So for us, it is a big problem not only to pay these taxes to the third-party-interfering governor -- government, but --

(Laughter.)

GARY HARRISON: -- well, Stalin, whatever, you know. And, also, I need to correct you on your -- United States did not buy Alaska. What they bought was trading rights. So that's one of the first things I got to tell you, yeah, is they didn't buy Alaska; they bought trading rights.

And what happened was the United States assumed everything else. And I looked that word up in the dictionary, and it means without law. So that's basically what has happened is you guys have assumed jurisdiction without law. Because under the United Nations charter, you were supposed to consult with the original inhabitants in 1959, that was not done. So, you still have never stolen our lands from us properly.

(Laughter.)

GARY HARRISON: And as a matter of fact, when they said that it wiped out all trust lands, it did
not wipe out all trust lands because my father left us a Native allotment which is trust property. And when you start talking about special provisions in Alaska, special restrictions, no, I don't think there should be special restrictions in Alaska. I mean why should we be treated with any less than anyone else? Why should we have special restrictions? I don't see any reason for special restrictions.

However, you may say the State of Alaska would see special restrictions and things like that; and they probably want us to pay their taxes, too. And right now with our lands, we're in the Mat-Su Borough, and the Mat-Su Borough is the one who is -- wants us to pay them taxes. And basically to me, No. 1, when you've never stolen our land properly, now you want us to be slaves and pay these governments to enslave us in our own lands. That's the way I feel about what's going on when you start talking about taxes and how I feel about land being in the trust. The only thing that that does is it allows us not to pay taxes to the third-party interferers, these carpetbaggers that come in here and call themselves the State of Alaska and their minions.

And I think also that land should also be put into trust from individuals, as well. I don't see any reason why any of these things should have stopped in the
past. And I know that you still do put individual lands
into trust because, as you said before, there is a big
backlog from when they passed the Land Claims Act. People
still have applications pending. And I know that because
at one point in time I was like the president of our
corporation. And we had to talk to people about the
different pieces of land that were in our area where we
selected lands.

So, I know that you still did that; and I
know that the only ones that you were talking about were
the ones that were already pending. You weren't accepting
any new applications from individuals either. So I think
that it should be under both and I don't think we should
have special restrictions. If anything, we should have
special things giving us more freedom and more liberty.

Thank you.

    (Applause.)

KEVIN WASHBURN: Thank you.

JACK SCHAEFER: Are you going to respond?

KEVIN WASHBURN: No. I mean, we just want
to hear from you; and so I'm grateful for all the
comments. We might respond if we think there's something
that needs to be corrected or something, but I don't think
we're really generally going to -- I mean, I think you
just -- we're wanting to hear from you. So, I'll stand up
if I want to respond; and we'll go that route. Please proceed. Thank you.

JACK SCHAEPER: My name is Jack Schaefer. I am the President of the Native Village of Point Hope. We had petitioned to put 100,000 acres of our land into trust in 1989 and we weren't given any information in that regard other than a letter indicating there was a need for additional information. There was no explanation in regards to that at all. And so we spent many years in.

A. State of limbo, not knowing.
And there were no technical assistance, and we are a very poor tribe. We weren't able to secure any type of funding until 1992, and it was bare bones. We had help in order to get BIA funding. So, we had absolutely nothing. There was no Internet. The library was a long ways away. No law library. But we also had three times the amount of land pending to be put into trust in 1948. We got 136,000 acres under ANCSA. And we applied for 382,000 acres in 1948, and that's not counting our reindeer grazing lands.

So there are valid existing rights as Chief Gary had said; and those need to be honored, those that did not say yes to Alaska Native Claims Settlement Act, which was not a judicial act. And one concern that I have, if you completely ignore everything that's said, is...
the title insurance requirement. This was our land from
the beginning. Why are you asking for that? Was it
illegally stolen from us at some time? Is that why you're
asking about this title insurance thing?

We don't have a clear understanding of what
that was. And this is before you had your thing or
whatever you're doing now. And so we've been in a state
of limbo for a very long time. We had our desires for
economic and other purposes back then, before you did your
accusations in regards to casinos and accusations of
organized crimes in regards to bettering our communities
through putting lands into trust.

And it tumbled down to us. You know, I
find it very difficult to speak on, you know, what has
taken place; but we have predated all of this stuff. We
weren't aware of any of this arbitrary discrimination in
regards to petition and Federal laws that apparently had
an effect on us, as we are tribes like any other. Thank
you.

KEVIN WASHBURN: Thank you.

(Applause.)

LISA LANG: Hello, my name is Lisa Lang.
I'm the Chairwoman for Haida Corporation. Kevin Washburn,
Assistant Secretary of Interior Affairs (speaking Native
language).
I want to thank you, Kevin Washburn, for conducting the tribal consultation session in Alaska and including the Alaska Native corporations. Today I'm honoring your invitation to provide testimony as a representative of nearly 800 Haida Corporation shareholders.

My English name is Lisa Lang. And I am the chair -- the current chair for Haida Corporation. I'm Haida and I'm Tsimshian. I come from Hydaburg, Alaska, and we follow our mothers. Therefore, I'm a woman of the Raven/Double-Fin Killer Whale Clan.

I'm an enrolled member of the Hydaburg Cooperative Association or the tribe, which was the very first IRA organized in Alaska in 1936. It is the tribe and not the corporation who is our federally recognized tribal entity.

Haida Corporation is not and would never presume to be representative of our tribe. The voice I convey today is that in my role as a chairwoman for Haida Corporation.

There are three major points that I would like to have in my testimony and a little discussion. My first point is our strong support for the proposed Rule deleting the Alaska Exception from 25 CFR Section 1511 -- 151.1 -- beg your pardon -- because the Secretary's
authority to acquire trust lands in Alaska is already clear.

My second point is trust land are vital to Native self-determination which includes the right to a tribal land base in which tribes can begin to force the State of Alaska to recognize our tribal authority.

My third point is that the trust lands are vital to adequately address long overdue crises in rural Alaska.

Excuse me.

Point No. 1, supporting the removal of the Alaska Exception. In 1971, Congress enacted the Alaska Native Claims Settlement Act. Haida Corporation is one of over 200 small Alaska Native corporations geographically located within 13 separate regions. The Act revoked many of our Alaska Native tribal rights; but it did not, however, revoke the Secretary's authority under Section 5 of the Indian Reorganization Act or IRA, which is to take Alaska land into trust.

Section 5 of the IRA is the generic authority and discretion by which the Secretary does take land into trust and which Congress expressly extended to Alaska in 1936.

As the Court recognized in Akiachak, the Secretary has the authority, under Section 5 of the IRA,
to place our lands into trust. The proposed Rule, which we strongly support, would afford our tribes the same opportunity to petition for trust acquisitions that has so long been denied.

In addition to supporting the Alaska Exception, we also support the Secretary's ability to develop a final Rule which truly reflects today's complicated Native Land issues in Alaska. This would require a more comprehensive look at part 151 to ensure our tribes receive the same benefits as our tribal counterparts outside of Alaska and the same legal clarity and strength of the actual purpose for implementing today's proposed Rule.

Point No. 2, trust lands are vital to Alaska Native self-determination. My second point is Alaska Native self-determination will not be reached until our tribes have the ability to solidify a land base to protect our homelands from additional loss and allow more effective local control.

The village corporations in every village were forced under ANCSA, specifically Section 14(c), to transfer lands to the state municipalities for their identified municipal use. This transfer included thousands and thousands of acres of our land conveyed through a long and complicated process which benefited the
State of Alaska. The point is it was done.

It is crucial to see the big picture to understand and to voice our opinions on this very important issue for both our regional and village corporations to support our tribes' efforts towards self Native -- Native self-determination.

In Alaska, we have always been branded the exception to the rule for reasons we clearly see are unfounded in law; and they're certainly out of alignment with the desires of our tribal communities. The corporation was designed to fail and intended to fail. They were created to clear access to statewide -- to our tribal natural resources and to displace the power of our tribes.

We are tribal people and our land holdings are currently held by our Native corporations. We want to be tribal people who work together with our village corporations to create a safer, healthier, economically viable community based on collaboration to finally reach the dreams our grandparents had for us.

In my testimony, I must add the State of Alaska will fight us. And we, as both tribal members and the current landowners, must begin to fight back. If we never achieve one other important goal in our lives, I ask that we all work together as Alaska Native regional
corporations, as Alaska Native village corporation people. And we support the Interior's move to adopt this proposed Rule deleting the Alaska Exception from 25 CFR Section 151.1 and commence processing applications to take land into trust for Alaska Natives.

I would also ask consideration for the intent of the proposed Rule when implemented to include the courtesy to expedite applications for our tribes who have so long been denied the right to even stand in the same line as our brothers and our sisters in the Lower 48.

Okay. My third point, trust lands are vital for rural tribal community to access -- to address our crisis. My last point is the importance of trust lands so Alaska Native rural communities can adequately address the current crisis in safety and economic issues.

In its road map for making Native America safer, the Indian Law & Order Commission, a bipartisan commission, recommended that Congress begin taking affirmative steps to expand the Alaska Native land base through trust-land acquisition. Those who live in our Alaska Native rural communities understand the value of this report. It is time to take a deliberate stand in voicing and informing those who can no longer deny the negative impacts which our tribes and our tribal members in Alaska are forced to face on a daily basis due to the
Our issues are complicated, and they require clear and concise information because the State of Alaska will continue to depend on utilizing their immense resources to fight any victories our tribes in Alaska, make. A new paradigm is finally coming to Alaska and I strongly support positive input from the 13 regional corporations and the over 200 Alaska Native village corporations to support the tribes' legal and moral right to the ongoing Native American sovereignty momentum which could result from the adoption of these proposed rules. The State of Alaska must face the fact that tribes exist, and we are finally beginning to demand recognition.

In conclusion, I have made my three points. I strongly support and urge the Secretary to complete and publish the Final Rule on trust acquisition in Alaska. I ask for the regional and village corporations to support the heart of our tribes which is self-determination and self-governance.

I want to thank you again for your consideration of the Alaska Native village corporation view.

I also want to say hello to Kevin. He's a UNM alum.

Hello, Kevin.
Thank you very much.

(Applause.)

KEVIN WASHBURN: And, Mike, before you start, our good friends at NCAI, who are hosting us here, have offered us a larger room. And I think people are hot, and I think they are crowded. And it will take us 15 minutes to do the transition because we need to get the court reporter set up there, but I think that that's probably the right thing to do.

I'm getting nods from the back of the room. So let's move to the other room. Fifteen-minute break. Will you all keep track of where you were --

A SPEAKER: General assembly room, the first floor.

(Break.)

KEVIN WASHBURN: I want to apologize to everybody. We have now changed rooms. I want to apologize. We weren't expecting this many people to attend. We're really glad to have such broad interest in this, so we're really glad that you're here. We also want to thank you for your flexibility.

Let me add a couple of things because we want to hear from as many people as we can, but we also don't want to hold people hostage all night long. We will be having two other consultations, one of them on
Wednesday, June 18, from 2:00 to 4:00 p.m. Eastern Time
which would be 10:00 a.m. to noon -- is that right? --
Alaska time. And that's by teleconference. That's on
June 18th. And I've got handouts, several of these left,
if anyone wants to have that information --

And, also, we will be having one, an
in-person consultation in Washington, D.C. on Thursday,
June 26, 2014, from 2:00 to 4:00 p.m. at the Omni Shoreham
Hotel. And that will be at the same time as the RES D.C.
Conference. So some of you might be in town for that.

So you can also, of course, submit written
comments. And we would, you know, love to have you submit
written comments, as I said before, to
consultation@bia.gov.

I'm going to ask you for two other things.
One, speakers, we love to hear from you. We've got a lot
of people that want to be heard from, though; so I ask you
to keep your comments relatively short, if you can,
preferably under five minutes.

And voices carry in this room a little bit.
We've moved to a bigger room; but if you're going to have
sidebar conversations, if you would step outside the hall,
we'd be very grateful just so the speakers aren't
distracted by it. We want to get their best work. So
thank you so much; and, again, thanks for being flexible.
Mr. Williams, please proceed.

MIKE WILLIAMS: Assistant Secretary Washburn, thank you for holding today's consultation on the Secretary of the Interior's Proposed Rule regarding trust acquisitions in Alaska.

My name is Mike Williams. I am a Yupiak from the small village of Akiak on the Lower Kuskokwim River in Western Alaska. Right below me is Akiachak, and it's named Little Akiak.

I grew up in a traditional subsistence household. I was taught by my father, mother, grandmother and grandfather. Together with my wife, Maggie, I have lived and worked in Akiak raising my children.

I currently work as a wellness counselor for my village while also serving several positions such as secretary/treasurer for the Akiak Native community, the chief of Alaska Inter-Tribal Council, a consortium amongst federally recognized tribes. I'm a board member of the Institute of Tribal Governments at Portland State University, a board member of Rural Community Action Program and as an Alternate NCAI Regional Vice President for Alaska.

Just five points and I'll try to keep them short. And I have a written comment.

Trust lands are vital to Native
self-determination. Trust lands help tribes solidify a land base, protect homelands from loss and allow more effective local control. Tribal governments are in the best position to protect and serve their communities. Alaska tribes need to expand land base to exercise their right to self-government.

The proposed Rule would provide Alaska Natives with the land base they need to promote village-level economic development and provide desperately needed public safety services to their communities. The State of Alaska refuses to recognize tribal authority in any circumstances in the absence of a land base. It is time to end this line of argument through forming of trust-land status.

Three, trust lands are vital to address the public safety crisis in rural Alaska. Alaska Native communities are facing a public safety crisis of enormous magnitude. As the Indian Law & Order Commission found in rural communities, domestic violence rate is up to ten times higher than the rest of the country had been reported.

More than 95 percent of crimes committed in rural Alaska can be attributed to alcohol. The rate of death from alcohol abuse is over 16 times greater than that of an urban non-Native population. We need the tools
to help stop this crisis. Trust lands won't solve every
problem, but they will increase our ability to combat the
public safety crisis in our villages.

A change is needed, and tribal governments
are in the best position to make that change; but first
they need the land base and the jurisdiction to do so.

Lastly, the Secretary's authority to
acquire trust lands in Alaska is clear. As the court
recognized in Akiachak, the Secretary has the authority
under Section 5 of the IRA to place our lands into trust.

The proposed Rule would afford us the same
opportunity to petition for trust acquisitions that has
long been enjoyed by our counterparts in the Lower 48.
And in that -- when we do that, we need to swiftly survey
those lands. And we just really feel that it has to be
done very quickly, and the action needs to be taken now.

Thank you.

(Applause.)

TROY EID: Good evening, Assistant
Secretary Washburn and staff. Great to see you. My name
is Troy Eid. I served as the Chairman of the Indian Law
and Order Commission from its inception until its sunset
in January of this year.

Very briefly I wanted to just recognize
Chapter 2 of our road map for reforming these very
important issues, addressing this issue directly as you pointed out in the proposed Rule. And what I want to stress here is to pass the very moderate proposal that you have.

With all due respect to my good friend, Tom Fredericks, this is not a good legal conclusion that he drew in 1978. And I think that's been recognized over and over. And so nine of us came together, some of which are Republican. I served in the last Presidential Administration. I'm a lifelong Republican and a Native person.

I'm from Colorado. I was the chair of this Commission. And I just want to point out that all nine of us, Republicans, Democrats, different walks of life, we all felt the law was clear; and we felt the imperative for doing this was clear. And that's the most important thing.

The public safety crisis here is absolutely unacceptable; and it flows from the fact that there's no recognition consistently from the State of Alaska for the territorial integrity of these Alaska Native nations. And this will help to do that. It won't do everything, but it's a step forward.

The more territorial integrity that can be recognized and can be applied, the more intragovernmental
agreements can be entered into, the more police forces can be stood up by tribes themselves, the more tribal court decisions can adjudicate disputes both civil and criminal within those territories.

This is a precondition. And I would just simply say -- you know, we noted in our report, among other things, the opt-out of Alaska of many laws of general application including the Tribal Law and Order Act, but also the Violence Against Women Act Amendments in 2013. We called that unconscionable. That was our term, "unconscionable."

But how did it ever start? Why was it even thought? That's because if you look at the rationale at the time that was advanced for the opt-out, it was, "Well, Alaska Native Nations have no land base. They have no ability to be able to implement power."

And you know where you have domestic violence rates that are 12 times the reported national average, it's not acceptable. So if that's a problem that is seen, that the lack of land base is recognized as a need for an opt-out, why not address the land-base issue, the territorial-integrity issue, however you can? This is one way to do it. And then try to make sure that those nations have the territorial integrity to make their own laws and be governed by them, which is really all we're
asking about.

It's a very modest concept. It's a very modest rule. It's consistent with the law that came before it going all the way back to the New Deal. And it actually -- even before that in the concept -- in the Hoover Administration in the Marion Reports. And this is not a radical concept. What is radical is what happens in the interim in the most recent history, and that's what needs to be changed.

And this will help to restore the sovereignty within the public safety that everyone here deserves and rightly deserves as American citizens.

And so I thank you for your time. And I'm authorized by all nine of the former commissioners to say that we strongly support the proposed Rule. Thank you.

(Appplause.)

KARL COOK: I'm Karl Cook from Metlakatla, Alaska. I say that because there's a lot of us on the island that are -- like my grandmother is from British Columbia on my mother's side; but my father's side, my grandmother's from Ninilchik. And there's a lot of us people who reside with us that are members of the Metlakatla Indian Tribe that are from Nome and Bethel and Fairbanks and Sitka, Ketchikan.

There's people here from Hydaburg and
Craig, and they joined the community; and they join our tribe that way. And so we're multiple tribes on the island, but we're the Metlakatla Indian Community. We've had, of course -- as you would suspect, we've had several council meetings about this issue; and we thought we should prepare a response. And we have to -- after our community's conclusion, we had a lawyer draw up a small paper. I'll read about our position.

As the only federally recognized tribe in Alaska who chose not to participate in Alaska Native Claims Settlement Act, the Metlakatla Indian Community deeply appreciates the importance of its Reservation and related support of the United States Bureau of Indian Affairs to the community's ability to provide a safe, prosperous and permanent home for its members, providing Metlakatla a permanent home where its members could be safe and secure in their persons and pursuits was the core, a Federal purpose in establishing the reserve.

The United States, in fulfilling its trust responsibility to the community, has been a critical partner in helping the community to achieve this purpose.

Well, the decision to abstain from ANCSA proved difficult. The community's deliberative process yielded clarity on this important point, that the potential benefits flowing from ANCSA were incomparable to
the benefits of maintaining the community's sovereign space, including the Federal trust responsibilities and services.

    Hence, our lawyer, owes us.

    (Laughter.)

    The community deeply understands the BIA's rationale for proposed removal of the so-called Alaska Exception, which it has explained would strengthen Alaskan tribal communities by empowering tribal governments to provide for their people. The community wholeheartedly agrees and supports Alaska Native tribes' land-into-trust applications that would result in safer tribal communities or that would preserve a culturally significant site.

    However, we are concerned by the potential dilution, you know, unless -- and it's critical that we receive the continued trust services. And more particularly, if it's just carte blanche. If everybody here gets it, you know, that would be troublesome for us.

    We need jobs; our fisheries need help; our rights need protection; and our town needs infrastructure improvements. We cannot do these things without the continuing assistance of the Federal government.

    Accordingly, the community urges the Secretary, as part of her consideration of the criteria set forth in 25 CFR 151.10, which requires the Secretary
to assess whether the BIA is equipped to discharge the
additional duties associated with any trust acquisition,
to consider the equity of any related lessening of the
trust services provided to our community. Thank you.

(Applause.)

COLE SCHAEFFER: Good evening (speaking
Native language). My name is Cole Schaeffer. I'm the
housing director at the Native Village of Kotzebue. On
behalf of the tribe, I'd like to thank our guests here in
Alaska for having this hearing to hear directly from our
own people.

In listening to the previous speakers, I
think we support much of what they've said. And looking
back at some of the discussions we've had here at this
conference, these laws that excluded Alaska were designed
at a time when termination was the policy. And that is no
longer the policy of the United States.

The policy is self-determination. And we
need strong tribes. When we have strong tribes, we have
strong communities. And when we have strong tribes, we
have a strong America. We're the original Americans.
We're the original Alaskans. And to do that, we need land
into trust. That is a basis of who we are as people.

The land that we have, it's a basis of our
economy. And we have, as the previous speaker said, many
economic needs in our -- especially in rural Alaska, in
tribal Alaska. And we have many public safety needs.

So I want to encourage you to look at this
policy from a policy of -- no longer of termination, but
one of self -- no longer of termination, but
self-determination. And encourage you in this time to
make the right decisions from where our people and
communities are today.

(Speaking Native language.)

(Applause.)

LISA JAEGER: Good evening. First of all,
just really appreciate that you're holding this
consultation here and proposing to do away with the
Alaskan Exception for taking land into trust.

My name is Lisa Jaeger. I'm a Tribal
Government Specialist for Tanana Chiefs Conference,
speaking on behalf of the conference. And then several of
our tribes will also be speaking.

I've had this position since 1979. So long
history of, you know, being with the tribes through so
many battles of trying to fight for recognition, fight for
jurisdiction. Every single step seems to take litigation
along the way. So we know that this is just the beginning
of steps of probably more litigation and fight to come.

But in our region, the Tanana Chiefs'
Region, we have -- we're pushing up to about 2-and-a-half million acres in tribal-fee-land status. Our tribes have been very busy, especially during the '80s and '90s, of trying to get land into tribal ownership. Of course, there's some big transfers. The Venetie is 1.8 million acres from corporations. Fort Yukon, Tetlin and Birch Creek also made large corporation transfers; but there's been smaller corporation transfers of cemeteries and things like that, lots underneath tribal offices and smaller more important pieces of land.

But we also have a lot of Alaska Native townsites, and we have ten of those where cities never formed. The tribal governments got the lots that were not occupied at that time, so there's quite a bit of land there.

We've also have transfers from a lot of our cities over to the tribes. We've gotten land that way. We've had, for example, transfers in lieu of 14(c)(3), like our tribal allotment sits on 1,000 acres of fee land gotten that way. We've gotten land through BIA schools closed and sites there, missions and all kinds of different ways. So we're not just looking at corporations; we're looking at other types.

So I think the main thing is that Alaska tribes need the option of taking their land in trust.
They may not all want to do that. They're going to look at this on a case-by-case basis, but the important thing is that they have the option to do this; and this would be that big first step.

We also need -- in the Kutchery legislation, we need a clean fix and not get this nice proposal and then end up with a piece of legislation with an Alaska Exception to it. You know, that would defeat it. So that's step 2 of this the way that we see it.

So, we strongly support your proposal and would love to help any way we can. And our tribes just appreciate you being here and listening to us.

(Appause.)

RANDY MAYO: Good evening, Assistant Secretary Washburn and staff. On behalf of the Stevens Village Tribal Government and First Chief Harold Simon -- I'll back up a little bit -- my name is Randy Mayo, Second Chief Stevens Village Tribal Government located north of Fairbanks on the Yukon River about 30 miles upstream from the Trans-Alaska Oil Pipeline, which runs across, you know, about 100 miles of our traditional territories; so I'll come back to that in a minute.

But you know that obviously the tribal government of Stevens Village, it's incumbent upon us to support land into trust, which there should have never
been an Alaska Exception in the first place.

You know, this has been a long time in coming for the Stevens Village Tribe as we had petitioned the Secretary to put our two-million acres of traditional lands into trust back in the 1930s, right after we were chartered as an IRA. And thereafter we made many attempts to petition. Unbeknownst to us, there was other forces, economic forces, that were at play at the national level, you know, not wanting to see that because it would hinder their economic development if they had to deal with tribal governments and the Federal government as a trustee.

So, you know, the Stevens Village Tribe had -- back in the late '60s had sued in Federal court over the construction of the Trans-Alaska Oil Pipeline because it came right up to our southern boundary of our traditional territories and titled -- aboriginal title and claim had never been addressed or it was never settled.

You know that the outcome of that injunction -- it held up the construction for one year; but the outcome was what we weren't wishing for, which was the Alaska Native Claims Settlement Act, which is detrimental and goes against the principles of tribal governance, sovereignty and, you know, having jurisdiction over a land base. That -- that was the very first initiative by the tribal government was to -- in a
self-determined move was to create our own well-being and
prosperity on our terms, not something imposed, you know,
like through the Alaska Native Claims Settlement Act.

But I also -- you know, I had been serving
in this capacity going on 20 years as tribal government
president or vice president and half of that time as a
village corporation president or board member, which I'm
currently a board member.

Back in the early '90s, you know, well
after Land Claims was passed, that was still the desire.

The trust-lands issue that -- that the
tribe initiated as secretarial election and the secretary
at that time in the early '90s, we amended our
constitution on jurisdiction and territories to include
the traditional lands which, you know, is made up of Fish
and Wildlife Service, BLM and State lands. So, is that --
the secretary approved that in our 1990 amendment.

And shortly thereafter that -- the tribe
and village corporation had created the traditional land
needs plan, you know, with the intention that the tribal
government is the entity to represent the tribe in its,
you know, initiatives to keep our homelands intact.

So, in closing, the Stevens Village Tribal
Government fully supports doing away with the Alaskan
Exception. And, you know, we also don't believe there
should be any uniqueness or any special provisions extended to Alaska.

You know, in my mind, I think -- you mentioned earlier that that uniqueness -- I don't -- you know, I think that uniqueness comes from Alaska Native Claims Settlement Act which, you know, was not a self-determined Indian legislation, but went against our main intention of juris -- territorial jurisdiction. So, thank you.

(Appause.)

IAN ERLICH: Good evening, Mr. Assistant Secretary and staff. I am Ian Erlich. I'm President of Maniilaq Association. Maniilaq Association is a tribal organization constituting 12 federally recognized tribes in Northwest Alaska. And tonight I acknowledge many of our tribal leaders who are here in the audience.

Maniilaq Association strongly supports the Department's approach in the proposed Rule and its proper interpretation of the land-in-trust authorities found in the Indian Reorganization Act.

The proposed Rule is long overdue. The last time that the land-into-trust regulations were promulgated substantially impacting the tribal rights in Alaska, the so-called Alaska Exception was inserted in that Rule with no notice or opportunity to comment. We
noted in particular this Final Rule was implemented with no tribal consultation.

Since that time, the Department of Interior has treated this Alaska Exception as a de facto bar of the Department's authority under the Indian Reorganization Act to take lands into the trust in Alaska for the tribes.

The Rule is overdue for many reasons. In the Lower 48, as you know, Indian tribes commonly utilize land-into-trust processes to reconsolidate the ancestral homelands, create unique opportunities for Federal tribal housing programs, protect sensitive environmental areas and sacred cultural properties, and otherwise expand tribal jurisdiction consistent with established principles of self-determination and self-governance.

The Department itself acknowledges among the compelling reasons for the proposed rule that there are substantial benefits to expanding tribal jurisdiction in Alaska, and the Rule would allow tribes to submit land-into-trust applications while maintaining the Department's substantial discretion in the processing of those applications.

We note that the support of the Indian Law & Order Commission as well as your own Commission on Indian Trust Administration and Reform; and we're very encouraged by those reports, as well.
In conclusion, Maniilaq Association has participated in self-governance programs with the United States since self-governance's inception. And we have seen the strong record of and countless positive outcomes resulting from greater implementation of tribal objectives and initiatives at the local level.

We support our federally recognized tribes in a big way. And we strongly support the finalization and implementation of the proposed Rule allowing Alaska tribes to apply for the placement of land into trust consistent with the Indian Reorganization Act and Federal Indian Law. Thank you very much.

(Appplause.)

WILL MICKLIN: I just gave Kevin a copy of my 24-page speech. Good evening, welcome to Alaska. My name is Will Micklin. I'm First Vice President of the Central Council of Tlingit Haida Indian Tribes of Alaska. And I'm here standing in for Richard Peterson, who is our newly elected president since April of this year. And Richard succeeded Edward K. Thomas, who was President at Central Council for the past 30 years.

And I need to thank Richard for carrying on the tradition that -- Ed Thomas for initiating with Central Council this effort for fee-to-trust acquisitions in Alaska. And it's good to see you here and all of us
here. I'm impressed with this important decision.

Central Council is a federally recognized Indian tribe in Southeast Alaska and it's ancestral home to our 29,000 tribal members. Our general office headquarters is located in the heart of what is -- what has always been called the Juneau Indian Village.

Thank you for the opportunity to provide formal consultation input on the basis of the government-to-government relationship between our tribe and the United States. On behalf of our tribe, I wish to convey my heartfelt gratitude to you, Kevin, to Secretary Sally Jewell, and the Obama Administration, as a whole, for taking action on May 1st, 2014, to remove the so-called Alaska Exception from the fee-to-trust regulations in 25 CFR 151.1.

Your decision is responsive to our tribes' long-standing request. We gladly welcome it, and we ask they implement immediately or as immediately as possible. We've talked about this. As your May 1st, 2014 notice indicated, accepting land in trust helps secure tribal homelands; and it advances economic development, promotes the health and welfare of the tribal communities and protects our culture and traditional ways of life.

There are several key issues that I wish to highlight tonight from the written testimony that we will
submit electronically in addition to paper.

There was never any statutory authority for the regulatory sentence in 25 CFR 151.1 that said "except in Alaska." That's what the court in the Akiachak case said last September. That unauthorized sentence "except in Alaska" was unfair. It created two classes of Indian tribes, one class in the Lower 48 and another class of Indian tribe with fewer Federal rights in Alaska.

That violated the expressed statutory intention of the U.S. Congress clearly stated in Title 25 Section 476 (g), that the Secretary, through regulations, is prohibited from diminishing the privileges and immunities of one Indian tribe relative to the privileges and immunities of another Indian tribe.

The effect of this unauthorized sentence has been devastating and in recent decades has directly led to the loss of thousands of previously protected Indian parcels in Alaska as well as the loss of millions of dollars in Federal Indian funding that would otherwise have come to Alaska. This senseless loss of land and loss of funding is unacceptable. I ask that you stop giving this unlawful regulation any effect.

Four-and-one-half years ago we submitted two fee-to-trust applications. We again, today, urge you to finalize and approve them. These parcels were held for
many decades by succeeding generations of individuals.

Individual members of our tribes are subject to the
Federal law and Indian land protections of illegal
restriction against alienation and taxation.

The parcels both are located within the
historical and cultural area long known as the Juneau
Indian Village where Tlingit tribal members have resided
since time immemorial. Both parcels are surrounded by
land held in restricted status for individual tribal
members. Both parcels are located in the parking lot of
the office headquarters of our tribe. No change in use is
contemplated. Both parcels have been long used as
overflow parking space for our tribe's office.

Even today, every day that goes by without
your taking immediate action to approve these applications
is a day in which you, as the Secretary's designee, are in
violation of the statutory mandate, the Title 25 Section
476 (g) to treat Indian tribes in Alaska like you treat
Indian tribes with pending fee-to-trust applications in
the Lower 48.

We ask that you reach your decision @ as
expeditiously as possible to end the diminishment of our
privileges and immunities relative to other tribes.

Tribal trust land now exists in Alaska today without
devastating effects warned of by some opponents. Creating
more tribal land will not create a cataclysm.

I want to address one issue. Part 151 involves voluntary land transfers. An Indian tribe cannot obtain from an involuntary seller land that it seeks to place in trust. Some opponents have mistakenly concluded that the Secretary's authority to accept land in trust is the same as eminent domain authority. This could not be further from the truth.

Land is accepted into trust by the United States under 25 CFR 151 only when an Indian tribe has clear title to the land. Nothing in 25 CFR 151 would require an ANCSA corporation or any other landowner to convey land to an Indian tribe so that the tribe could transfer the legal title to the United States to be held in trust for the tribal beneficiary without that party's consent.

Likewise, there's been some confusion about the ability of the Secretary and Department 51 to accept in trust surface or subsurface estates. In Oklahoma and other parts of Indian country, so-called split estates are routinely part of fee-to-trust transactions. It is a basic truth that an Indian tribe can only place in trust what it owns. Adjoining interest, including surface or subsurface estates, are treated the same way that rights-of-way, easements and other burdens attached to an
In the end, Alaska presents fewer complications for fee-to-trust acquisitions than do many other state jurisdictions. First, there is no Alaska property tax implication because the State of Alaska does not tax tribal government land in Alaska whether held in fee simple or held in trust. Second, as to Appeal 83280, the State of Alaska has concurrent civil and criminal jurisdiction on trust and restricted lands. Montana, Wyoming and other states are co-existing in tribal government jurisdiction on their trust land without calamitous result.

Again, thank you for this opportunity. And before I hand it -- I -- just -- you asked the question about what additional provision could be afforded Alaska tribes that would be helpful in the fee-to-trust process. The one I would cite -- and this is because of what you've heard in testimony up to this point -- that we -- the State of Alaska, has an appeal pending. We expect further obstruction from the State of Alaska. The State of California, in a true blue Democratic state, the attorney general is sending out letter after letter objecting to fee-to-trust applications.

I would say the best additional benefit that you could provide to us would be related to the
patch-and-fix -- patch-and-patch, as we've called it. And in that administrative remedy, if you could provide the same test for the merit of an appeal prevailing with regard to you staying the application process and moving ahead with it.

Do it in accordance with what the IBI Regulation is, and that's simply the test of whether that -- there's a merit -- sufficient merit in the appeal to cause you to suspend the application; and, if not, then move ahead with that application. That is extremely important to us because we have many pending applications as you've heard. We have great need. And moving that process ahead would be, I think, in our mutual interest both with the -- our Federal partners, as well as tribes.

So with that one recommendation, I just want to thank you for coming to Anchorage, coming to Alaska, and conducting this tribal consultation. And we are grateful for your leadership in removing the so-called Alaska Exception from the fee-to-trust regulations in 25 CFR 151.1.

And the last thing I just want to thank other tribal leaders from the Lower 48, Chairman Elaine Fink from the North Fork, and Randy King from the New York Nation is behind us. So we're very thankful for their support for their Alaskan brothers and sisters.
(Applause.)

KEVIN WASHBURN: And let me just underscore, if there is misinformation that this is some sort of eminent domain provision, it is not. We would accept land into trust that's been obtained in arm's-length transactions by tribes is typically how this works.

They, the tribes, purchase the land or obtain the land in a voluntary exchange; and then they apply to have it taken into trust. This isn't the Federal government reaching in and forcibly taking land from anyone. This is all voluntary. So if there is that misinformation out there, I wanted to address it. So thank you for letting me know about that. Thank you.

NORMAN ADAMS: Thank you, Assistant Secretary Kevin Washburn. My name is Norman Adams. And I'm speaking here today on behalf of the Nag Gijon Native Allotment in Yakutat, Alaska.

There's a little bit of history on this particular Native allotment. My grandmother had filed for it in 1970. And it took us over 30 years to get this Native allotment because it happened to be sitting on a world-class wilderness area in Yakutat, Alaska. And when she did make her selections, she selected parallel to this world class fishing stream that harvests two-million
pounds of salmon out of it and has a very intensive sport
fishing activity.

So needless to say, they were opposed to
the Native Allotment at every level, including the State
and Federal. But thanks to Alaska Legal Services and
Tlingit Haida and Yakutat Tlingit Tribe, we were
successful in securing the Native Allotment. But we ended
up with almost five -- about a mile of riverfront with --
it was nine fishing holes; seven of them are on the Native
Allotment.

And I'm here to ask for your support in
approving the Section 25 -- CFR 25 on the proposed
amendment. We would like to see this Native Allotment go
into trust. So I thank you for coming up, and I hope you
take our requests seriously. (Speaking Native language.)

(Applause.)

P.J. SIMON: Thank you, Mr. Kevin Washburn, Assistant Secretary. Welcome to Alaska. You probably
have been here before everybody else was saying. My name
is P.J. Simon. I'm the Second Chief of Allakaket.

And we support the land into trust and
that's pretty much the extent that we know about it.
We're a small tribe, which is a bunch of high school
graduates sitting around the table, worried about our bow.

We lack running water in, like, 4300
villages in this state. In education, our education gets no funding. So you all -- you guys at the Department of Interior are entrusted to look after us and put in a good word for us when you can.

So it's when all the small tribes in Alaska, yet, do not have basic needs. And it's almost 2015; pretty soon it will be 2020. And yet we lack -- high rates of domestic violence against our Alaska Native women, sexual assault in tribal courts.

We're trying to get -- the State doesn't recognize us; you know that. And as Alaska Natives, we bring in three-to-five billion dollars to the State economy every year from his, BIA and Federal Impact Aid. And so we're a big part of Alaskan economy.

We want to be recognized, and we want all these amenities. So as a Native leader coming from the Village of Allakaket, I just wanted to express my concern for my tribal members.

So one thing I say on education, I tell the kids at school and I'll tell you is: The words of an uneducated population only has value to those that seek to exploit them. So we don't want to be exploited anymore by the system. We want the Department of Interior and Kevin Washburn and everybody else to look after us.

I read the Web site and it says you guys
are entrusted to look after us. So I want to kindly
remind you from Allakaket Tribe and all the small
villages, that there are a lot of problems in Alaska and
all over Indian country.

Thank you for your time.

(Applause.)

IRENE DUNDAS: Thank you, and thank you for
coming to Alaska. My name is Irene Dundas. I am the
Tribal President for Ketchikan Indian Community.
Ketchikan is at the very far most of Southeast Alaska.
Our tribal membership consists of 5,858 tribal members,
which also are Tlingit, Haida and Tsimshian.

I can't say that I know a lot about the
land in trust. Ketchikan is, I think, very unique. We
have no Native corporation for Ketchikan, the city; but
Saxman has a Native corporation, Cape Fox Corporation.
And I think that there is a lot of confusion between what
the land in trust is. I think just understanding what the
responsibilities are of the Native corporations and then
the tribes. And I think there needs to be more of an
outreach to the corporations to help them understand what
the impacts of this is or if it's not going to impact them
at all.

There seems to be a lack of information to
the Native corporations. NCAI has consisted of tribes,
tribal governments. And a lot of us here are, you know, representatives of our tribes. And there is not a lot of Native corporations in representation here.

I'm fortunate to be a board of director for our Native corporation. And so I do know that there has been a lack of information about the land in trust. So, I hope that there is an outreach to the corporations and to the tribes so that we can connect and hopefully that we can meet on the same page and understand how each one of us can communicate with each other.

So thank you. (Speaking in Native language.)

(Applause.)

RANDY NOKA: Good evening, ladies and gentlemen. Randy Noka, Ambassador and Tribal Councilman for the Narragansett Tribe. And forgive my back, ladies and gentlemen. I'm also the Vice President of the United South & Eastern Tribes and Area Vice President of this area for the National Congress of American Indians.

And I want to stop -- I'll try to be brief, as I'm finding it very enlightening to hear from my brothers and sisters up here, not only about this proposal, but in general, you know. I've had the opportunity to come here several times. It's a beautiful state; but more so, it's a beautiful people.
My brothers, sisters, I appreciate the opportunity to listen to you and have you share some of the concerns on this issue. And other things that you've shared, I've had the opportunity to hear down through the years. Some of the hardships that we've shared about life up here, what you've gone through as people that we maybe haven't realized in a number of years in the Lower 48 as we keep hearing, but it's so true. It's so real.

And when we come up here, Mike Williams and others that I've had the opportunity to listen to, it's heart-wrenching to hear some of the stories, the realities of life up here. So I did want to say this, Mr. Secretary, I welcome this opportunity that the solicitors on the team, the administration has seen here; it's long overdue.

I did hear a lady a few minutes back, she mentioned the Kutchery fix. And I can say this about the Rule and proposal: None of the organizations I'm on board with are taking positions yet. But I can say with no uncertainty, without reservation, that they supported the Kutchery fix; that means no Alaska carve-out.

That means everyone is treated the same, that everyone has the same opportunity to have land taken into trust by the United States Government as any tribe, be it the Lower 48 or Alaskan nations up here. Everyone
has the same opportunity with a Kutchery fix. And that's what those organizations are supporting.

And so I think it's fair to say and make an assumption that those same organizations would support this move, that Alaska shouldn't be carved out, that everyone should have the same opportunity, that we're all -- with no second-class citizenry, with no Native American person, no Native Alaska person -- we're all the same. We deserve better from the United States Government than we have been getting.

We certainly haven't gotten much from State governments except for heartache, headache and getting thrown into jail and other things like that. So as the previous speaker to me, I think he said we're respectable to the responsibilities that you gentlemen have, the entrusted -- the obligations you have.

Our people deserve better. Our people have long deserved better. Our people have compromised, been compromised too much for far too long. And together, we can make a difference; but I do -- I do ask this of you gentlemen: As this moves forward and whatever happens with it -- and I hope it's to the benefit of our people up here that they get a chance to speak on it if they want to move forward with it, fine; if they don't, that's an individual right and a right of the nations, of their
leaders.

But still a Kutchery fix would arguably eliminate the Rule, the proposal that you're speaking of here. It would eliminate the need for it. We would all have that opportunity. I just wanted to mention that, if nothing else, but, again, ladies and gentlemen, brothers and sisters up here, it's an honor to stand here with you. It's an honor to have this opportunity to speak together on an issue that is near and dear to all of us.

Our land. Our people. It's not just land into trust; it's everything that is encompassed under that, the sovereign protection. We're looking out for our women. We're looking out for our children. We're looking out for our well-being. It's all part of it. It's all part of being respected as a government and a people. We deserve better. I wish you luck with this endeavor.

Thank you.

(Applause.)

JOHNNY CURTIS: Mr. Assistant Secretary, my name is Johnny Curtis.

You know, when I think about Alaska Native tribes recently a young man asked me: You're the chief; how come we don't have any land? It's a good question. To me, it's like we're floating on the cloud. The tribes in Alaska are all floating on the tribe. You don't own
the land you stand on. You don't own the subsurface
rights. You don't own nothing; they do.

Why do they do -- why do they want to do
it? It's a long story. And I went into detail about what
happened, what -- I just feel that we are still floating.
I was born track finding in a tent years ago. When I was
born, we took approximately 50 percent, maybe 75 percent
of my food off the land.

In my father's day, probably took 90
percent of fish and animals. My children, they probably
take maybe 40 percent or 30 percent of their food from the
land. And today, we'll be lucky if they take 20. They
come from a small village of 600 tribal members. A
hundred twenty-five of them live there in my village
year-round. The other 600, 550, 400 live in the urban
areas because they don't have any jobs.

You know, when the statehood came about, I
was ten years old. My father, he had a small contract
with the State of Alaska to survey Minto Flats. He came
over and said: Look outside. He said: The surveyor
doing their jobs and taking their pictures.

And I asked my dad: What are they doing,
Dad?

He sat down. They're taking pictures. He
said: Someday they're taking pictures of lands and what
they own. Someday you're going to be sharing this land with all walks of life.

And today -- last couple years ago, I was making my own Native Allotment. Bless his soul, my father turned it over to me.

I went up on a hill, the same hill that we climbed. And I said: See the moose going by, and I count about 40 bulls. And then 35 years before that, 40 years before that, there weren't any bulls there.

And he said: You're going to have to share this land with all walks of life.

And I'm here. I thought about that, counted. Do we have to share our land in Minto Flats with over 100,000 other people, Fort Wainwright, Eielson, City of Fairbanks? And it all came back to me. I now understand. He said: That's progress. He said: That's what you call progress. You're gonna have to give up something if you want progress.

Another thing he said, he said, You're going to have to explain this to your child. He said your children. At one time we had over half a million acres. Judge Wickersham, my grandfather, Chief Thomas, was part of that, Chief Charlie. They owned the whole of Minto Flats. They said it in a way we had no recordings in 1917. And a few years later, our -- bless his soul,
Senator Stevens was working for the Department of Interior. We could adopt a 64-square miles, one block; but it was never on paper.

Then the land claims came about. We received again our papers on our checkerboards. And that land isn't even ours; it's the tribe's. So we are, Mr. Secretary, a tribal land floating on a cloud, waiting to hit bottom.

You know, it's strange, all the suggestions that's been done to us -- the land claims came about -- you know, when I was growing up in high school there was seven cool guys that I hung out with. We all palled around, played ball, did whatever teenagers did in high school. And, you know, this transition between boarding school and our community is tough. It's really hard on men like me, my age. I have some of my classmates here.

Out of seven guys, I'm the only one left out of those seven guys. They all died of alcohol-related deaths because the transition between saying you're a man and owning something. We didn't have any land. It was a hard-fought thing. When I think about it, these guys could have been anything they wanted to be. They were way smarter than me, but that loss of land and identity was tough on all of us.

Consequently, a lot of us recovered from...
alcohol because of that transition, the Alaska Native unity. Ask anyone in this crowd. People in their villages and their towns suffered. We still are.

I believe, Mr. Assistant Secretary, this is a step in the right direction, to try to amend these injustices that have happened to us. I know we have a lot of hurdles to go, a lot of loopholes like Alaska Native people always have to do, always have to jump hoops, do cartwheels just to show who we are. It's kind of sad.

And I hope we change history, because what's happening to Alaska Natives -- in the history books. We were sold out.

I think we had an ultimatum, either take it or don't get nothing. What if we didn't take it? What would have happened?

I thank you for your time, Mr. Secretary. I hope you're enjoying what this group is trying to say, but I believe it's -- I'm speaking from my heart. Thank you.

(Applause.)

KEVIN WASHBURN: -- hi, George. Give me just a minute. We are going to be asked to leave this hall at 8:30. I apologize to everyone. They have to get it prepared for tomorrow morning, for the program tomorrow morning. And so, again, I apologize.

I would like to go right up until 8:30,
though. I would ask -- mainly that we won't get to every
one of the speakers unless those of you in front speak
very quickly. So I would ask you in deference to the
people behind you, make it as tight as you can. Thank you
so much.

GEORGE OLEMAUN: (Speaking Native
language). George Olemaun. I'm President of the Inupiat
Community of the Arctic Slope and council member of the
Native Village of Quyanaqpak. In regards to what you
stated, I just want to state then that we need your help.
We need the trust in our land that we, our ancestors
fought for and claimed, but it came out that we have
reserves on reserves in the North Slope as you might know,
but I would recommend or ask you to claim it back.

It's a -- total acreage is 94,796 square
miles, and that's including the land and sea. And that's
the whole -- if the earth got wrapped the North Slope, and
that's who we are. And that's the area that our ancestors
fought with wars, with others, within the Interior and won
the war; and we still own it, but it takes the Interior
and BIA which they did -- the BIA did a settlement or a
claim on Prudhoe Bay; and they were forced to do it, but
they did it anyway. So, it is -- it does work; it just
takes people like you, people with knowledge and power to
state that, yes, you are right; this is your land. Thank
you.

(Applause.)

A SPEAKER: I'm short. I've got to bring it down to my size.

When I first got into politics, I had a seven-year-old boy walk up to me after he'd listened to me for a while; and he looked at me, and he said: You better take care of my land until I get big enough to take care of it. That is what one of the little boys had told me.

Start off with when the vote came for the Statehood Act in Alaska, every person 19 years and older voted a unanimous "no" against statehood in the north, in the area George Olemaun just mentioned.

When ANCSA came in '71, every person 19 years and older voted no, a unanimous "no." When President Harding creating NPRA, National Petroleum Reserve No. 4, he promised Barrow when the United States was done with National Petroleum Reserve No. 4, they would give it back to us in Barrow. That never happened.

And when that continues and when you look at it, 1980 -- in the beginning of the '80s, the Federal Government, Congress passed the Arctic Policy. In their definition, they explained their northerly and westerly boundaries were five miles north of Porcupine, Yukon and Kuskokwim River. In 1982, when ANCSA came when Prudhoe
Bay started as a tribe, we have never received a single penny.

And when you look at it from that perspective, somebody stole my land. How else can you look at it?

(Applause.)

NANCY JAMES: Thank you for coming to Alaska to have the hearing here. I'm First Chief of Fort Yukon Gwichyaa Zhee Gwich'in Tribal Government, one of the largest in the Doyon and TCC Region. On behalf of my tribe, I'd like to say that we support land into trust.

Land is really dear to our heart. So you know what is the big issue? It helps us to govern ourselves and to work in the land in economic development to help our people develop and have a say in governing themselves and setting up their own rules. And one of the things that's really dear to our heart right now is the hunting and fishing issue.

And this year we're told that we can't -- we can't fish for King Salmon. And I know my people really don't know what to do. It's something that they depend on. And all these regulations is coming about; and that's really affecting all our land and our issues, anything we do in our tribe, one of the biggest tribes in the Doyon Region. We are affected in every decision that
we make, but self-determination is the key in the tribe.
And I'd like to say that we support it. Thank you.

(Applause.)

SARAH JAMES: My name is Sarah James. I'm from Arctic Village, Alaska; that's where I live, but I grew up off the land with my parents. They never got any kind of job that brings money; so, that's how I grew up. And they made everything that we use out in the land.

And we -- my father and his dad and the Indian way, we have to explain where we come from and who we came from to help us to be strong. My father, on his side is Birch Creek, James and Agnes. And on my mother's side is Reverend Albert E. Tripp and Sarah Tripp. And I got both of my grandmas' names, so I'm really very honored to have their names. And all the time they said talk your language, so I'm going to have to talk in my language.

(Speaking Native language.)

I said: We came a long ways and we made it to today. It wasn't easy. We did it for our children. The opposition did everything to get rid of us, bring the blanket everywhere else. And they say we came from the land bridge; and we say no, which they say no, because God put us where we are today, and -- to take care of that part of the world.

And I think we did good. And we're -- we
didn't come from anywhere. We're not going anywhere.

We're here to stay regardless how much the change you put upon us. We're still here, so we're going to have to deal with that land issue.

We have to go for that land trust back to the tribe. And it's our sovereign rights. My dad and my mom raised me to be sovereign with what all we used from the land. Never waste, never -- never to be greedy and all that was introduced to us.

And when I first got into the western, it was really hard for me, even hard for me today. I see a lot of waste and greed. And those are corporation, and we're not that kind of people. We're here to take care of the land and to keep our nation healthy and keep the animal healthy. That's our way of life.

And all this that's happening for -- I don't know. A lot earlier I said I'm as old as NCAI. I am 70 years old. And we can't -- you know, it's a long coming for land trust, land that we could put into land trust. And we need to restore that -- that back to our children because, you know, sometime it's even hard to tell them: Stand up, you have this right.

And I was like that at one time because I thought I'll depend on government. That was -- that's how I was taught. I taught myself, and I said: We don't have
to depend on that government; we can do it ourself. We
had a good government; we had good land; and we had clean
water, air, fish and life. And our Elders never die; we
just took care of them.

And so I think we really need to get back
in control, and this is the way -- one way we can get into
control. And this is also a human rights, too, because we
all swim there. I mean, we're not going anywhere; and
we're here to stay. So it's going to stay as human
rights. Thank you.

(Applause.)

KEVIN WASHBURN: Thank you. Jerry, it's
after 8:30.

Everybody in line is a friend. It's Jerry,
Elaine, Robert, Sam, Rick. If each of you -- we'd love to
have your comments. I admire each one of you. Can you
speak -- can you give me one minute each? Okay. One
minute each.

JERRY ISAAC: Yes. Thank you for the
reception.

(Laughter.)

JERRY ISAAC: Senator Washburn and your
staff, thank you for having this hearing. My name is
Jerry Isaac. I'm representing the Native Village of
Tanacross. I do support the land in trust. For too many
years, the Alaska Natives were treated differently and as second-class citizens. We do hope that the trust lands -- that the tribes will have -- will be exercising authority over what would help to eliminate some of the socioeconomic political problems that we suffer. So with that, thank you.

(Applause.)

ELAINE FINK: Good evening. My name is Elaine Fink. I'm a tribal shareholder from North Fork Rancheria, which is the exact center of California. Our tribe is one of the largest tribes in California. And I got ahold of my tribal council because I thought to make this statement here in the great state of Alaska this evening is so appropriate and so awesome and overwhelming for us.

So I'd like to make the statement that we do support the proposed Rule. We support our brothers and sisters here in Alaska to give land into trust. And we've also had Doreen Reese come up. And she said to let Alaska people know that we could also offer technical -- because we have a consortium for the fee to trust in California, technical advice and help, also. So thank you very much. And I hope that was my minute.

(Applause.)

ROBERT KEITH: My name is Robert Keith. I
was first elected to our tribal council in 1993. And then
a few years later, I was elected by the fellow tribes in
our region to be the first chair in '96; in both positions
I do support this rule allowing Alaska tribes to take land
in the trust.

But before that, in 1989, I wasn't able to
get up in front of people and speak; and I barely got
elected to our village corporation. And we are a 19(b)
corporation, so we have a shade of Indian country, but
doesn't really mean much.

A couple of years ago, my son beat me out
on getting re-elected. So I'm kind of proud of that in a
way.

I think that my comment would be, you know,
we've had a lot of stuff that would be contrary to the
principle of KISS, which is keep it simple. And Alaska
has -- is really -- has gotten really tangled up in all
this stuff that is coming from the Federal Government
since ANCSA and the State and City governments and the
state fighting us on the tribal side.

I think we've really grown up in the last
30, 40 years politically. And I really appreciate the
opportunity to speak here and really support this
decision.

One thing in regards to the lady from
Ketchikan. I understand that there are some regional corporations that might not be so supportive, and there are some that are. And I understand that recently AFN took a position in support of this decision, but it wouldn't be good on all sides of the table that we really need to make this happen.

And I think we need to keep our rhetoric kind of calm, but I too would request that DOI facilitate a more educational process in the future up here. I think that would be really great if we could get our village corporations and regional corporations and our tribes together. Because that really -- there's been an undertone of misunderstanding and tension between those groups.

Thank you.

(Applause.)

RICK HARRISON: Thank you, Kevin, for this opportunity. My name is Rick Harrison. I'm a Vice Chairman on the Village Official Council. As you and Mike already know, because I've talked to you several times about this issue, I'm in support of all federally recognized tribes and Alaska Native individuals developed with land into trust.

Also -- and I say "all tribes," or all federally recognized tribes because our tribe, in
particular -- I can't speak for all of them -- don't want to see the village -- or the regional corporations be allowed to be done.

I'm hoping that tribes and regional corporations can use this as a vehicle to work together and protect some of their lands. As I have also discussed with you, the definition of village corporation in ANCSA says that those resources are entrusted to those corporations on behalf of the tribe. So in my mind, that means the tribe actually owns those resources.

And so with that said, I think tribes should be allowed to put any land in their trust and not exclude any ANCSA lands if they are turned over to tribes or bought by tribes or whatever the case may be.

Lastly, I'd like to say I hope that you and Mike give Bruce Loudermilk and the Alaska Regional Office the resources and staff that it's going to take for all these applications and plans to be processed efficiently.

Thank you.

KEVIN WASHBURN: Thank you.

(Applause.)

KEVIN WASHBURN: They're going to be running three shifts at the Regional Director's Office, I think, in the realty office.

SAM THOMAS: Good evening, Mr. Washburn and
staff and distinguished tribal leaders. My name is Sam
Thomas. I'm the tribal council member for the Craig
Tribal Association. I appreciate the opportunity to come
before you to speak on the Proposed Rule 25 CR 151,
bringing land into trust in the State of Alaska.

And also in relationship to this, I'd like
to thank you on behalf of the tribe that I work for to
assist you in application for other tribal programs within
the region.

Lisa Lang pretty much took away my speech,
so I'm going to cut it short.

KEVIN WASHBURN: That was a very good
speech.

SAM THOMAS: With that, I'd just like to
highlight a few things. Typically I would give up the
opportunity to cut down to one minute when you're in front
of a mic, but I will for the sake of time. But under
Section 5, there's an amendment of Section 5 pretty well
spelled out, just exercise that. And when the Federal
comment period for proposed Rule is ended, let's not sit
on it and weigh these comments out. Let's keep the
momentum going forward and get into the Final Rule. The
Final Rule is where the meats and bones is because the
preamble is going to identify everything that was said
here with other consultation meetings within the
consultation process.

    What it comes down to when you talked about
the State of Alaska and appeal process, it's a sovereignty
issue. The State of Alaska's Constitution doesn't
acknowledge tribal sovereignty. Until that's changed,
it's going to continue to see the State fight us on these
types of issues. And I don't think that we should beat
around the bush in moving us forward to the Final Rule. I
think it's really pretty well spelled out and the
regulations and the proposed Rule.

    And this segues into the claim in our
rights to strengthening our governance is the thing for
NCAI. I think that it's something important that we need
to keep the amendment at point. Get it to the Final Rule.
We'll see some things on -- the red lights come on and
whatnot.

    That being said, I just want to thank you,
again, for the opportunity to speak in front of you.
Looking forward to seeing the Final Rule. Thanks.

    (Applause.)

    KEVIN WASHBURN: I want to thank everybody
who came here to be heard, and we really appreciate your
input. We will consider it very carefully. It was very
positive input, and I want to thank you for that. And
please exit the room quickly so they can get it cleared
out. And, again, thank you for coming.

(Meeting adjourned at 8:45.)