PUBLIC MEETING

FEDERAL ACKNOWLEDGEMENT OF INDIAN TRIBES

PROPOSED RULE - 25 CFR 83

Tuesday, July 22, 2014

Reported by: Amy E. Perry, CSR License No. 11880
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Tuesday, the 22nd day of July, 2014, commencing
at the hour of 8:32 a.m., thereof, at Cache Creek Resort,
14455 California 16, Brooks, California, before me, Amy E.
Perry, a Certified Shorthand Reporter, in and for the State
of California, a public meeting was held.

MR. BEETSO: I just wanted to welcome everybody.
My name is Derrick Beetso, I'm a counselor to Assistant
Secretary Washburn. Assistant Secretary sends his regards,
he wishes he was able to be here but he was unable to
attend so I'm here representing that office.

Welcome to Sacramento, to Cache Creek, we're in
the land of the Yocha Dehe Wintun Nation, so I want to
thank them for hosting us this morning. And you know, it's
any time we do things in any country, it's always
appropriate to start out with a prayer.

So we ask Mr. Delbert Davis, he's a traveled
elder from the Wuksachi Tribe. So we wanted him to come up
and give a brief opening prayer before we begin this
morning. So if you guys would all stand.

(Opening prayer by Mr. Davis.)

MR. BEETSO: Thank you, sir. Just to let you
guys know, welcome again. Thank you for taking your time
out of your morning to come here. I know it's Tuesday
morning so a lot of you guys are taking a day off of work
so we appreciate that. And this is part of the process for
federal rule making, so just to let you guys know this is a very important process.

There's a proposed rule out there and this is our opportunity to hear from the public on what your response is to proposed rules. Just to let you know, we have a transcriber over here in the corner and she's going to be transcribing all the statements made today, typing it down. So please when you do speak, make sure you're clear and concise with what you're saying and we have a large audience here, we have over 50 people here and we expected a large audience, so just a little bit of ground rules.

We want to keep comments to two minutes and I'll be watching time so I'll let you know when the two minutes, when you're approaching two minutes. Keep comments to two minutes. We want to make sure everybody has an opportunity to speak, then once everybody has had an opportunity to speak, then we'll have a second round of comments. So we'll open it up to folks that want to say a second comment or add to a comment that somebody mentioned earlier, so you'll have an opportunity to do that.

I wanted to start by introducing the Federal team here because we have a lot of Federal folks here, just so you guys can put a name to a face.

My name is Derrick Beetso, like I said earlier, I'm Counselor to Assistant Secretary. To my right I have
Kaitlyn Klass, she's an Attorney Advisor within the Office of the Solicitor. So she's an attorney within the Department of the Interior. And then we have Liz Appel, she's the Director of Regulatory Affairs within the Office of Assistant Secretary, Human Affairs.

Out front we have Regina Gilbert, she's a Regulatory Specialist within the Office of Regulatory Affairs. And then we have two folks from the Pacific Region that are here, we have Viola Brooks and we have Harley Long.

So just to let you know, I'm from the Navajo Nation, Katie's from Hawaiian Nation. Ms. Gilbert is from the Hopi Nation. Viola is from Hoopa Valley and Harley is from Round Valley. Just so you guys can put a name to the face and see where we're all from.

As we talked about time and the opportunity for everybody to have equal opportunity to speak, the court reporter, just so you know, will have an opportunity for breaks, and that will be done in a consensus. So if it seems everybody's tired and don't have any comments to add, then we'll go ahead and take ten or something and come back to the room.

So just as a welcome, thank you again and I'm going to turn it over to Liz Appel over here and Liz Appel is going to give a little bit of background on why we're
here today, the process we're going through here today and
she's going to run through the 83 Proposed Rule. And after
that point we'll open it up for comments. Okay.

MS. APPEL: Good morning everyone, thank you.

Wow, this is loud. So as Derrick said, I'm going to run
through the presentation and you should have a copy of that
in your packet. The packets you picked up at the front
desk from Regina also include a copy of the Proposed Rule
and a comparison chart showing a comparison of the current
rule as it exists and then the proposed changes.

And then it also includes a frequently asked
question sheet and a summary of comments that we received
on the discussion draft released last year and what our
responses are to those comments.

And then lastly as another separate Proposed Rule
which I'll discuss in the presentation, but that's an
Office of Hearings and Appeals Rule. So to get started
with the presentation, I'm just going to give a little bit
of background about how we develop the Proposed Rule and
then give an overview of what the Proposed Rule contains.

So as background in general, there are three ways
that the federal government can recognize a tribe:
Judicially; congressionally, through Congress, obviously;
and administratively which is what we're discussing today.
And so that is through a determination by the Assistant
Secretary for Indian Affairs.

And before 1978 when a tribe would petition for recognition, it was a very ad-hoc process so there was no established procedure for doing that. The assistant secretary would just look at each individual case and determine whether to recognize the tribe.

And in 1978 the Department of the Interior established uniform procedures for tribes to petition for recognition. Those regulations have been in place since 1978. They were updated in 1994. During those 1994 updates the criteria were unchanged but there was a procedure added for previous federal recognition and other minor tweaks made.

And then in 2000, 2005 and 2008 the Department published guidance documents updating how they would interpret various provisions of the regulations.

So of the 566 tribes that have been federally recognized, only 17 of those have been recognized through this Part 83 regulatory process, and approximately 30 have been denied through that process.

So the need for revisions over the years, we've heard from many from tribes who have gone through the process, from tribes petitioning, from people in Congress that process is broken, that it takes too long, it's burdensome. Tribes have spent millions if not billions of
dollars trying to get through the process. It's unpredictable and not transparent.

And in 2009, Secretary Salazar testified before the Senate Committee of Indian Affairs and committed to examining ways to fix the broken process. And in 2012 -- 2010, excuse me, he pulled together an internal working group within the Department of the Interior to take a look at ways that the process could be improved.

And that working group included representatives from the Assistant Secretary of Indian Affairs, the Office of the Solicitor and the Office of Federal Acknowledgment. And in 2012 the Assistant Secretary for Indian Affairs had a representative who again testified before the Senate Committee on Indian Affairs and said that the internal working group had identified certain guiding principles for revisions to the regulations but had not yet drafted revisions.

And so in 2013 when -- well I guess in the fall of 2012 the Assistant Secretary, Kevin Washburn, came on board and he and the Deputy Assistant Secretary, Larry Roberts, decided they were going to make this a priority to tackle. And so they again convened an internal working group again with representatives from those offices, and that working group developed a discussion draft of changes.

So in June of last year the assistant secretary
released that discussion draft for public input and the
goals of that discussion draft were the same as the goals
that the assistant secretary had identified back in 2012
for transparency, timeliness, efficiency, flexibility and
integrity.

So in July and August of last year we, the
Department, held various public meetings and tribal
consultations throughout the country to get input on this
discussion draft which was really a strongman for input for
discussion. And as a result of that, the Department
received over 350 unique comment submissions and that
represented over 2,000 commenters or signatories to the
letter and there were also form letters.

So the Department again pulled together the
internal working group and read through each and every one
of those comments and discussed how to develop a proposed
rule.

So the Proposed Rule, it looks a lot different
from the discussion draft because it's been written in
plain language according to plain language requirements,
it's question-and-answer format. So and on top of that, of
course, we tried to address comments as much as possible.
And so once we had a consensus draft within the
Department, we then submitted that to the Office of
Management and Budget for their review under an executive
order. And after that review we published in the Federal
Register on May 29.

So comments on the Proposed Rule are due
August 1st, and this is one of several public meetings that
we're having throughout the country for your input. We, as
Derrick said, we have this meeting transcribed so your
comments made today will be considered along with the
written comments that we receive.

The Proposed Rule contents, they're really, they
are revisions to the process, revisions and clarifications
to the criteria, and then primarily just clarifications to
previous federal acknowledgment and burden of proof.

And then there is an allowance in the Proposed
Rule for limited re-petitioning and the Proposed Rule also
includes some additional notice requirements and
furtherance of our transparency goal.

The first change to the process that we made is
to eliminate the Letter of Intent. So currently under the
process, someone who's interested in petitioning can submit
a Letter of Intent to the Department saying that they at
some point intend to provide evidence that they meet the
criteria.

And we found that that extra step, while that
doesn't trigger any Departmental review at that point, it's
been causing confusion because petitioners think once they
submitted a Letter of Intent, that it's now, the ball's in the Department's court, whereas the Department's just waiting for additional information from the petitioner.

So the Proposed Rule would eliminate that step and the process would begin with submission of a documented petition. And that's how the federal government usually starts its processes when it receives a complete application when it starts review.

The second big change to the process is that we are, while petitioners still have to meet all seven criteria, generally the Department now reviews all those criteria at once. This would instead create a phased review where the Department would first look at Criterion E, which is descent from historical Indian tribe.

And if the petitioner does not descend from an Indian tribe, then at that point they would receive a negative proposed finding and the Department would not look at the rest of the criteria.

If they do descend, then the Department would next review Criteria A, which I'll discuss; and Criteria D, which is governing document; F, which is membership; and G, which is congressional termination.

So assuming if any of those aren't met, then again, the petitioner could receive a negative proposed finding at that point. But if they meet those criteria
then the Department would move on to Phase II where the Department looks at community and political influence and authority criteria. And the reason for that being pushed to a later phase is that those are intensive, they're generally more intensive review and time-consuming reviews.

Currently under the process, the Office of Federal Acknowledgment prepares a proposed finding which goes to the assistant secretary, and the assistant secretary actually issues the proposed finding.

Under the Proposed Rule, the Office of Federal Acknowledgment would be issuing the proposed finding and if the proposed finding is positive and there are no negative comments received during the comment period, then that positive proposed finding would automatically become final.

So in terms of efficiency, there's no objection, then it would be automatically final. If the proposed finding is negative, the Proposed Rule would allow the petitioner to elect to have a hearing before an Office of Hearings and Appeals judge. And then that Office of Hearings and Appeals judge would make a recommended decision to the Assistant Secretary for Indian Affairs.

So the Assistant Secretary for Indian Affairs in any case is going to be the one issuing the final determination, but that addition of a hearing gives the petitioner the opportunity to present its case to an
independent third party. And third parties can -- well, an
independent neutral judge. And then third parties who may
be interested in the decision can intervene under the
Office of Hearings and Appeals rules if they meet the
requirements for intervention. So as I said, the assistant
secretary issues the final determination.

Another change that we're making is at that point
under the Proposed Rule, the assistant secretary's final
determination would be final for the Department.

So currently there is the opportunity for some
limited review. There are narrow grounds on which someone
can appeal the assistant secretary's decision to the IBIA,
the Interior Board of Indian Appeals. The Proposed Rule
would eliminate that IBIA re-consideration and instead, as
I said, the final determination would be final for the
Department. So if anyone wanted to challenge that final
determination they would need to file in Federal District
Court.

With regard to the hearing on if there's a
negative proposed finding and the petitioner elects to have
a hearing before the Office of Hearings and Appeals, the
Office of Hearings and Appeals, OHA, has issued a separate
rule that's basically a civil procedure-type rule that
explains how those hearing procedures would happen.

And they have identified two questions that they
would like input on: One, who should preside over the hearing and issue the recommended decision; so should it be an administrative law judge who is generally the most independent of the judges, an administrative judge which is someone who reports to the director of OHA; or an attorney designated by the OHA director and they report ultimately to the OHA director but they may not have as much experience conducting hearings.

And the other question OHA had was should the basis for the OHA judge's recommended decision encompass just the hearing records or should it encompass all the information that was presented as part of the petition and during the comment process.

Other revisions to the process include allowing the petitioner to withdraw the petition at any time before the proposed finding is published. At that time OHA will cease consideration, and the catch is if a petitioner withdraws when they re-submit, they may not regain that place in the priority line.

And the Department is also going to be posting under the Proposed Rule, would also be posting on the internet those portions of the petition, proposed findings, reports, comments, etc., that are releasable under Federal Law, so anything that's not covered by the Privacy Act and would be releasable under a Freedom of Information Act
request anyway.

So changes to the criteria, the first, well first of all, there are currently seven criteria of which the petitioner must meet all seven criteria. We're not changing that. Under the Proposed Rule there are still seven criteria, all of which are mandatory.

But the first criterion there is a change to, currently Criterion A requires that external parties identify the petitioner as Indian. So there must be third parties that have written about the petitioner as being an Indian group. And generally they've been, those external identifications have been required for every ten years since 1900.

We are getting rid of that criterion, we're still allowing that evidence to be submitted in support of the other criteria. So in support of Criteria B, community; or C, political influence authority, if you have documentation that others have written about you identifying the petitioner as an Indian group, you can submit that.

But it's been deleted as an independent criterion for a couple reasons: First of all, because we haven't had any petitioners to date fail solely on that Criterion A; and second, if a petitioner were to meet all the other criteria, they show community, they show political influence authority, they descend from an Indian tribe, are
they really less of an Indian tribe because a third party hasn't written about them, and we didn't think so.

So the new Criterion A instead requires the petitioner to provide a narrative with evidence of their existence as a tribe before 1900. So that is basically in recognition that the Department is not creating new tribes, it's not recognizing tribes that just sprouted into existence in recent times. We're recognizing existing Indian tribes.

So this next criterion, Criteria B, for Criteria B, community; and Criteria C, political influence and authority, we are beginning our analysis of the criteria at 1934. Currently the analysis begins at the time of first sustained contact or 1789, whichever is later, and we are shortening that to 1934.

And the reason for that is because 1934 was when the Indian Reorganization Act was passed. And that represents watershed shift in the federal government's relationship with tribes. It was ending the period of allotment and assimilation and beginning the period of tribal recognition and tribal self-determination and self-governments.

So 1934 is an important date for that reason. And the other, excuse me, the other reason for the 1934 date is that we found that of all the petitioners to date,
none have met the criteria for community and political authority from 1934 to the present but failed the criteria from 1934, well for first sustained contact of 1789 to 1934. So it's our way of trying to take advantage of administrative efficiency while reducing the burden on both the petitioners and the government.

Another change to Criteria B, community, is that in trying to make the criteria more objective we've established a percentage of 30 percent for showing the distinct community at each time period. And that 30 percent also comes from the Indian Reorganization Act which requires -- which required 30 percent of its membership to pass constitutions.

And for both community and political influence and authority criteria, we've also established that or the Proposed Rule would also establish that if a petitioner has maintained a state reservation since 1934 or if the U.S. has held land for the petitioner at any point since 1934, then that petitioner would meet the criteria for community and political influence and authority.

And this comes from when the Department looked at petitions on an ad-hoc basis. It really looked closely at the collective ownership and Indian land, and that was a strong indicator of tribal community and political influence and authority.
The Proposed Rule would also define without substantial interruption to the less than 20 years. So as a general matter these criteria should be -- there should be evidence of these criteria for periods at least shorter than 20 years.

So without substantial -- this gets a little confusing -- but without substantial interruption means less than 20 years. So substantial interruption would be more than 20 years. So Criterion E, descent, also in furtherance of the goal of having more objective criteria, the Proposed Rule would establish that 80 percent must descend from the tribe that existed in historical times which we're defining as being pre-1900.

And this also incorporates what has been the practice over the years, 80 percent has been practice what the Department looks at. And that doesn't mean that 20 percent of the members are not Indian or not descended from a historical tribe, it means basically that 80 percent has to have the documentation in place and that also allows for adopted in and that kind of situation.

The Proposed Rule would also establish descent to be traced from a roll prepared by the Department or at direction of Congress and at any point otherwise, then the Department is going to look at whatever the most recent evidence before 1900 was to determine to trace descent
In Criterion F we made a small change in response to comments we received on the discussion draft that some petitioners have been in the process for so long that there are members who were eligible for membership in federally-recognized tribes by necessity ended up enrolling in those other tribes because they needed services, healthcare services, for example.

And so the Proposed Rule would add that if a petitioner had filed a Letter of Intent by 2010 and then joined a federally-recognized tribe, that would not count against the membership as far as the petitioner having its open membership.

And then Criterion G, currently the petitioner must show that or proven negative that it has not been terminated by Congress or Congress has not forbidden a federal relationship with it. And the Proposed Rule would switch that and put the owness on the federal government to determine whether Congress has terminated the petitioner.

For previous federal acknowledgement, the current rule we found is a little unclear, so we've tried to in the Proposed Rule spell out exactly how it's currently implemented. We're not proposing any change to how that's currently implemented but we are looking for a comment if you have any on that.
And then on the burden of proof, again, we're not changing the burden of proof, it's still reasonable likelihood. But we are clarifying what reasonable likelihood is based on what the Supreme Court has said since the last update to the regulations.

Then as I mentioned, the Proposed Rule would allow for re-petitioning in some circumstances. So if a tribe has been denied recognition, it may be petition under narrow circumstances. And basically those circumstances are if the petitioner has been denied and third parties have litigated about the decision and ultimately the petitioner was denied recognition, the petitioner must first obtain the consent of those third parties before seeking to re-petition.

And the reason for that is that where parties have litigated and equities have been established, those third parties would need to agree to disrupting those equities. So if those third parties consent or if there wasn't -- there weren't third parties involved with the litigation, at that point then the petitioner would need to present to an OHA judge again either that a change in the regulations warrant redesign, consideration of the petition or that when the petition was reviewed by the Department, that the Department had misapplied that burden of proof, that reasonably likelihood of burden of proof. And the OHA
judge would determine whether that petitioner can restart
the process for Part 83.

And OHA's separate rule also includes how those
procedures, how it would handle those procedures just to
determine whether to -- whether the group can re-petition.
So as I said, the Proposed Rule adds some new notice of the
petition. So we're retaining the provisions that had the
Department acknowledging receipt of the petition and
publishing receipt and then the Federal Register, but we're
adding that the Department will post the petitioner's
narrative and other releasable information on the
Department website.

The Department will continue to notify the
Governor and the Attorney General in the state, but it will
also notify any federally-recognized tribe within the state
or within a 25-mile radius of the petitioner so that would
get -- so a federally-recognized tribe right across the
state board would get notice. And then we'll continue to
notify any other federally-recognized tribe or petitioner
that has relationship of the petitioner.

And then as far as notice to the petitioner and
informed parties, and anyone can become an informed party
by requesting to be kept in the loop on a specific
petition, OFA will notify the petitioner and informed
parties when it begins review of the petition, when it
issues the proposed finding, and that proposed finding will also be published in the Federal Register on the website.

And the assistant secretary, if the assistant secretary grants any time extensions, we'll notify the petitioner and informed parties and will notify them when he or she begins review of the petition and when the final determination is issued.

So comments on the Proposed Rule are due August 1st. Comments on the Office of Hearings and Appeals Rule are due August 18th. We prefer to receive comments by email if that's easiest. If not, the Proposed Rule has other ways that you can submit your comments.

As far as next steps, we are going to collect the comments, review the transcripts and the written comments as a working group, go through and discuss what changes need to be made to the Proposed Rule, and then that will also, when we have a draft final rule, that will again go through the Office of Management and Budget for review and then we will publish a final rule in the Federal Register and that final rule will become effective 30 days after publication.

So I think now we're going to open it up. We want to hear -- we're here today not just to share with you an overview but we want to hear your thoughts on how we can make the Proposed Rule better, any changes that you all
1 would like to suggest. So as Derrick said, we have quite a
2 crowd here which we're happy about.
3
4 But if you could try to limit your comments until
5 we -- until everybody has a chance to speak and we have a
6 microphone up here if you don't mind coming up and standing
7 or if you prefer to sit, as we all have, I apologize, feel
8 free to take the microphone and sit down.
9
10 If you can though, when you make your comment, if
11 you would introduce yourself and your affiliation so that
12 our court reporter can accurately capture who made the
13 comment, that would be much appreciated. So thank you all.
14
15 MR. BEETSO: Maybe I can walk the mic around if
16 you raise your hand if you have a comment, I can bring it
17 to you.
18
19 PUBLIC COMMENTER: Hello. Marilyn Delgato with
20 the Nor Rel Muk Wintu Nation, Tribal Chair. And we're
21 located in Trinity County, California. That's been our
22 average in the lands forever. I want to thank the Bureau
23 of Indian Affairs for making these needed changes.
24
25 Nor Rel Muk submitted their Letter of Intent in
26 1984 and their petition in 1988. So it's been a long time.
27 We've gone back and forth with deficiencies, with the whole
28 thing now, and it's very costly and time consuming, but I
29 have a couple questions or need clarification on a couple
30 of the sections in the Proposed Rule.
And one is at Section 83.11, I think it's good but it talks about if the United States has held [unintelligible] petitioner or collective ancestors of the petitioner at any point in time from 1934 to the present, I want to know if that includes individual Indian land allotment or land that the tribes are stewards of, that they have notification, they will get transferred to them once upon receipt of recognition.

And I'll send in my letter, too, also. On 83.12 where it talks about treaty tribes, I want to know if that also includes unratified treaties because many of us are in California, are unratified -- do have unratified treaties. On 83.21 (4) I'd like to know if the residential address means the physical address as it always has?

You know, in remote areas we still don't have residential addresses but we do have the physical description of placement, which is what we've used in the past. So I wanted to know if the travel membership list will be kept confidential from the FOIA request or posting on the OFA internet, which I would assume it would because it's going to maintain the address and everything else and information.

And then at 83.22 (b) (2) on the 25-mile radius from any federally-recognized tribe, I wanted to know if that's actual road miles or if that's as the crow flies.
because in remote areas where we are at, it's mountainous, so 25 miles as the crow flies can be completely different than road miles.

And then at 83.23 (b), will those who are already in the system now be reviewed first to maintain our number and line? Thank you. And again, I want to thank you for your changes.

MR. BEETSO: Thank you. I think those are very helpful. Just to clarify, we're also seeking comments so if you have proposals, I know you asked a lot of questions for different sections in there but if you have proposals and viewpoints on there, it's good to let those be heard, too.

I guess I'll turn to Liz. And just a reminder, since we have a lot of people, we're trying to keep opening comments to two minutes or less. Okay.

PUBLIC COMMENTER: Okay. Well then my one proposal would be if it goes to the OHA for changes, then you should look at everything that they submitted in the petition and not just what's on record.

MR. BEETSO: Thank you. Liz.

MS. APPEL: So the one answer I think I can give you on the spot is in section 83.11. The U.S. needs to have held land for the group, so for the tribe so I don't think individual allotments would qualify. But that
question and the other questions, we may not have answers
to all of the questions. Some of them may be things that
we haven't considered yet.

So those are great questions though because
basically what your comment is, is that we need to clarify
in the rule what those answers are. So thank you.

MR. BBETSO: This gentleman here.

MS. APPEL: And Katie can answer some of the
other.

MS. KLASS: For previous federal acknowledgement,
our previous regulations in the current Proposed Rule talk
about treaty relations which would include interactions
over treaties, not necessarily ratified treaties. And also
FOIA, there's a FOIA extension for personally identifiable
information, so addresses, names, that can be redacted.

MR. BBETSO: Would fall under the --

UNIDENTIFIED COMMENTER: Did she clarify what she
said? It wasn't clear. So you're saying the unratiﬁed
treaties would qualify?

MS. KLASS: Yeah, under the current regulations
treaty relations which is, you know, interacting over
creating a treaty qualiﬁes.

PUBLIC COMMENTER: So the 18 unratiﬁed treaties
would qualify? Thanks. This would fall under development
of 2013 discussion draft especially ﬂexibility account for
the unique histories of tribal communities. And also the
criterion for political inference and authority analysis of
criteria from 1934 to present, and that little section
there. This will take about two-and-a-half minutes to
present.

I'm Elias Castillo and what I'm going to do is
give you a brief overview of what happened to California's
Indians. I think this is brand new information that is
critical to your understanding of what happened to the
California Indians. And so I'm Elias Castillo, the author
of a forthcoming book titled, A Cross of Thorns: The
Enslavement of California's Indians by the Spanish
Missions. I'm a former journalist, a three-time Pulitzer
Prize Nominee and winner of 13 journalism awards.

MR. BEETSO: Sir, we're trying to keep the
comments brief.

PUBLIC COMMENTER: Yes. Like I said, this is
brand new information that I have uncovered and it is
critical to the understanding of what happened to the
California Indian. And I'm sure you don't even know about
it, but it will be. So that's why I'm under the unique
situation there.

Says, "I'm here to provide a condensed history of
the tragedy that California's Indians have suffered for
more than 200 years and has affected their claims for
federal recognition by your bureau. The savage horrors that they have endured, starting with Franciscan friars and then white settlers who advocated killing them all is a shocking experience that can only be described as absolute evil.

In order to understand the dark history that befell these Native Americans, we must go back to the beginning when Catholic Franciscan Friars, led by Father Junipero Serra, first set foot on California soil in 1769 in what we know now as San Diego.

That was a start of an unbelievable reign of terror that for too long has been twisted and sugarcoated by California State officials and others in an effort to hide a terrible dark secret that was inflicted on the Indians of this state.

Across this land, Serra and his friars are described as gentle priests who worked in harmony with the Indians and loved them like their own children. Tragically they also treated grown men and women like children, punishing them with unfettered ferocity. Children, once they reach the age of ten were considered adults and could be and were whipped or placed in irons for any violation of the stringent mission rules set by Serra.

Yet Serra and his Franciscans are praised undeservedly for founding the missions that supposedly led
to the development of California. Nothing could be further from the truth. In fact, one California historian, Carey McWilliams, described the Franciscans' treatment of the Indians in these words, "With the best theological intention in the world, the Franciscan padres eliminated the Indians with the effectiveness of Nazis operating concentration camps." He wrote that statement in his book, Southern California Country: An Island on the Land, published in 1946.

Across California and even in the rotunda of this nation's capitol, dozens of statues of Serra have been erected depicting him as the protector of Indians and the founder of this state, schools and streets named after him in many California cities.

MR. BEETSO: Okay. Just to clarify, if you have a written statement, we're collecting written comments until August 1st. Right now I think we really want to hear comments on the proposed rules. So sorry to cut you off but you are at your two-minute mark. We're trying to keep to two minutes or less. I see you have that in written form, so we'll be happy to --

PUBLIC COMMENTER: Why don't you take that.

MR. BEETSO: A formal submission is in the rule.

PUBLIC COMMENTER: My name's Gary [unintelligible] of Winnemem Wintu Tribe. Our tribal
leader will be here later, I'm sure she'll make some
comments. So a couple brief ones. We had a pre-meeting
yesterday with some of the tribes and they have put
together a letter which we subscribed to some of the things
they said but weren't able to sign onto it because we
weren't here.

And we suggest that the previous federal
acknowledgement first, 83.12 be the first thing considered
and not somewhere later on in the process, that would
[unintelligible] the process and move on to the others.
83.37, federally-recognized tribe within 25 miles wide.
The class system that has been set up between
federally recognized and unacknowledged tribes has led to
discrimination, poverty, lack of services and all that and
to continue to set up that precedent to have a recognized
tribe possibly deny your existence because it might
infringe upon their economic base even though we were
legitimately a tribe in the area, is kind of untoward
towards us.

Under the section that my sister there from Nor
Rel Muk under 83.12, what's criteria previously federal
acknowledgement, we would like to submit that you include a
subsection taken from the Advisory Council on California
Union Policy, final reports and recommendations to Congress
of the United States pursuant to Public Law 102416.
In other words, it was an act of Congress that you include a definition of a California Indian because of the extraordinary history of the California Indians. The definition is on page 19 of that executive summary. The California Indians shall include any member of federally-recognized California Indian tribes.

You need to submit an Indian who is presiding in California in June 1852 but only if such descendant is a member of an Indian community. I don't have to read through all of this but I will get down to the main parts.

Any California Indian who's listed on the result rolls of California Indians prepared in 1933, 1955 and 1972 for the distribution of the United States Court of Claims, Union Claims Commissions, any California Indian who's listed on the plans for distribution of assets, California [unintelligible] under the act of August 1958, [unintelligible] and like those included.

We have a question on the government document. Our understanding of the past is that you have to have a constitution with elected officials such as a chairman, vice chairman, secretary, etc., which totally goes against Native traditions or the historical tribal structures of chief advisory councils, women's councils, men's councils, elder's councils.

Does a governmental document denoting historical
tribe, traditional tribal structure as far as governments 
satisfy via the document? And the last thing I would like 
to put is that I would, in the law or in the regulations, I 
would like a comment put in there, something such as this.

A designation as a federally-recognized tribe 
should not supercede or supplant the rights and privileges 
and protections afforded by states to state-recognized 
tribes nor should the term federally-recognized tribe be 
wholly relied upon by states when enacting laws, rules and 
regulations affecting tribes within their state where they 
are recognized by the state and between Indian tribes of 
the state, whether federally recognized or not. Thank you.

MS. APPEL: Thank you.

PUBLIC COMMENTER: Two minutes is not enough time 
but I'm going to give it a shot. I'm Lorraine Escobar. 
I'm a certified genealogist with the specialty in Native 
American lineages. I've been working with a lot of these 
California tribes. There is two major objections. One's 
the Proposed Rule in E.

I mean, I totally understand trying to make the 
process more efficient and fast-tracking E is a good idea, 
but you got to do it right. Okay? And my concerns are 
working with California tribes. I know that there were 
11,000 applications in 1928 in response to the California 
Indian Jurisdictional Act. And I can tell you in Orange
County alone, half of the people who applied were not Indian. And we found this out through the process of doing the Juaninos petitioning, and OFA returned that verdict, and it was a public point of information.

But the point is if you don't go behind 1900, you can't disprove what the BIA keeps trying to push forward as evidence. The BIA keeps delivering certificates of degree of Indian blood based on that 1928 data. And when they do that they empower frauds to take over and usurp the rights of those who are really Indians.

Now, I've been working in California genealogy long enough to know if someone's an Indian I can find the evidence. You don't have to limit it to 1900, I can find it. If they're not Indian I can find that, too. And OFA knows this. OFA established that precedence. So to limit it to 1900 or just to the roll, you could do a real disservice to the California Indians if you don't go back far enough.

And secondly, on the point of getting E right, OHA may be great, maybe I'll submit some recommendations to them but OFA, you got to make sure the job is done right. OFA made mistakes. They made mistakes. We didn't find out until we were often in the appeal process that they even admitted to a single mistake we gave them.

Now I put the question on the table, are these
guys credentialed? I think there's only one certified
genealogist on that staff, Dr. -- early historian, Lee
Flemming is not a genealogist. And they made mistakes and
we didn't find out about that until we're in appeal.

I mean, that's a hard time to find out about it.
Where is the openness? Where is the transparency there?
Why were things happening behind closed doors? Why didn't
they look at all the mistakes they made? Had they done
that, the passing would have exceeded 80 percent for that
tribe.

But things are happening behind closed doors and
it's not right. If you take out the technical assistance
meeting part of the process and replace it with OHA, then
not only increases the cost of litigation but how do we
know that those judges know what they're doing? We need
something else besides OHA's -- I think if you just had a
subcommittee of two or three genealogists, they could do
the job, they could write it up, they could hand it to OFA
to hand it to the tribe, tell them what's wrong with their
petition.

Take OFA out of it. Make it objective. Make it
credible. Make it believable. Make it reliable. And
none of these surprises at the last minute, otherwise looks
like something crooked is going on behind closed doors. If
you want that transparency, you got to work at that a
little harder. I have more ideas in the paper I submitted.

MS. APPEL: Thank you.

PUBLIC COMMENTER: My name is James Semien. I'm an independent researcher and my family belongs to a community in Louisiana and they descend from the Chitimacha Historical Tribe. The reason I'm here is because of the criteria. I feel I degree with the lady here from Orange County that the genealogist within the OFA doesn't have a clear understanding.

And part of the issues here, is the timeliness is equal to the staff count? There's not enough staff to actually do the research and understand it. I was in touch with Regina Delmars to kind of work back the genealogy in the Chitimacha. So when I contacted OFA, the information is lost in the database with old disks or whatever it may be.

My research has already proven lesser and incorrect in their Louisiana tribal information and what was published in the 1800s, 1890s and 1910. So part of that and then getting to my tribe, I have a problem with 83.11 (a) requiring a narrative of petitioners existent as a tribe.

In Louisiana, particular tribes, you know, there's already a stigma in how people are identified with Louisiana. And currently you have four or five tribes in
the process who have problems identifying themselves as well as the public.

And then by starting a tribe, you've already eliminated those people versus community. I think, you know, if you put tribe on it, they give you the right to turn down that tribe who's petitioning just based on that criteria.

So I agree with the gentleman up here where he said that you need to have a specific definition of a Louisiana tribe or a California tribe because it's different from California to Louisiana. I wasn't able to make the Marksville meeting at the beginning of the month but I hope that my comments are heard.

Also, the last point here, Phase 1, review of the criteria, state reservation since 1934, you're kind of eliminating historical assistance. My community's been in assistance for 220 years and descends from the historical Chitimacha Tribe which is 15 miles down the road. They were there pre-treaty in 1777. If you change the criteria where you're starting at 1900, you've basically erased all the previous history and you're starting at 1900 from existence as a tribe.

The community's been there from existence and same with a lot of the people here in tribes, we've been here for 200-plus years and they're still here. My
communities lived on the same property for 220 years and they still live there today. There's a highway that goes through the property, has separated the community in two sides. But they're still in existence.

So I think 83.11 (a), it breaks down and eliminates, you know, the tribe versus community. Not everybody is identified as a tribe because of certain stigmatisms in the local parish. So I think that needs to be clarified or broken down.

MS. APPEL: Thank you. If you have suggestions, you mentioned possibly having a specific definition for Louisiana tribe or California tribe, those regions, if you have suggestions for language please feel free to submit those because we're very interested in getting that input.

PUBLIC COMMENTER: Just one last thing I want to state. For the Letter of Intent, I don't think there's confusion. What it does is it puts those tribes on notice with the Bureau. It doesn't mean that you're going to start the process but at least the Bureau knows you're going to exist.

A lot of these tribes are tucked away in rural areas just like our community, and they're not socializing with everyday society, they're tucked away on their own land, living there, farming it, doing whatever they do. And at least with the Letter of Intent, it puts you on the
radar, doesn't mean it starts the process but at least the
Bureau will know about you that you do exist because my
community, they don't know, nobody knows they exist.

I went to the federal tribe down the road and
told them we were going to file a Letter of Intent. They
were shocked. But I have historical documents that proves,
like I said, from the early days. And you know, the
treaty, that should have some major significance in this
process. Thank you.

MS. APPEL: Thank you.

PUBLIC COMMENTER: Good morning. My name is
Florence Dick, D-i-c-k. I'm from Fresno County, member of
the Dunlap Menomena Indians. And this morning we're going
to send a letter from our attorney, Jenny Kim, on behalf of
our tribe. But I had wanted like a clarification on this
Criterion B that says met if state reservation maintained
since 1934 or U.S. held land at any point since 1934.

Our tribe has approximately between four and five
hundred acres of trust land and free land. Now that free
land at one time was trust land, but it was turned for
various reasons. And a lot of it was lost too prior to
that. But right now we probably have between four and five
hundred acres of actual land that we own and we live on.
And we don't pay taxes and we get tax exemptions.

But I would like a clarification on that whether
that entails public domain and trust land because for those
of us that own public domain land, right now we're part of
this Cobell case. And one of these days they are going to
issue a little check to us on part of that. But I can't
see why that, I mean we are -- when we want to do something
on our property, our Indian property, we have to get --
we're supposed to get permission from the Bureau of Indian
Affairs.

I would like clarification on that because they
told us you can't expand your graveyard unless you get
permission from us. You can't put a tree unless you get
permission from us. You just can't do stuff, you know, so
we are under the government, we are like a government ward.

And something else, one of the good things about
now California is unique, I'm not going to say we're
special but we are unique in the realm of the United
States. And when I was born and my sister and brother were
born, I'm sure some of these other folks in here, because
I'm going to be 70, when we went to the county hospital the
federal government only charged us 30 or 40 bucks, charged
my mother 30 or 40 bucks to be born. And they cut the
Indian Health Service off to California.

Then they reopened it but in the Indian Health
Service, under Indian Health Service in California and this
gentleman eluded to it that there is a rule in there where
if you are an ancestor back to 1852, you can get health services. Therefore, we are covered in that instance which is good. And most of us have access to a health plan because we are rural.

Anyway, that's it. Thank you. And thank you for coming. I want to thank the administration, thank the Bureau of Indian Affairs for making it possible for us rural Indians to have access to hands-on without taking a three or four-day trip back to Washington, D.C. to talk to a solicitor.

MR. BEETSO: Thank you.

PUBLIC COMMENTER: My name is Del Davis, I'm Wuksachi Tribe, and the lady spoke before you, she was on the board when I was the director of Central Valley Indian Health so we went through this process and with her sister sitting next to her, they were also on the board.

But what I'd like to see with the revisions that you presented today, I'm seeing a lot of positive things out of them. Again, there's a note in my mind, I need some more clarification from yourself, from Elizabeth when she asked you some of the questions.

And one of them I elude to is the portion about the federal land held under trust, our allotments. You got to understand under the allotment act, the allotment act was a mandatory compulsory act, [unintelligible] references
in his books. So we were forced compulsory to put allotment land because they wanted to mainstream us to assimilate into mainstream society as, quote, modern civilized society.

So it's not those are individual allotments, those are compulsory allotments through the allotment act on tribal lands where a public domain land was able, those that are on tribal land as well as there are allotment lands on tribal lands. Our allotment lands are on tribal lands. They're on individual names because that is what the government dictated to us, not what we chose.

So that portion needs to be clarified with the understanding, individual allotment lands, they are not individual, those are individual tribal allotment lands. The key word is tribal.

MS. APPEL: Thank you.

PUBLIC COMMENTER: And the other point I'd like to make quickly is that these rules and changes, they would be applied both the spirit and the letter as they're written. Those are two differences. The spirit is understanding, you know, that it's been directly in the right way and the letter of the laws is we can't do any more of this because it says this, you know.

You got to apply both the spirit and the letter of the regulation. You know, you don't separate it. And
if there's any solid or ambiguous parts of the regulation, that should be made to the tribe in question. In simple terms, like in baseball, hey, tie goes to the runner, it should go to the tribe and not you against the tribe if there are solid and ambiguous parts to that regulation tried to be applied.

It should go to the benefit of the tribe and they have questioned that and they have yet to know that tribe. And overall, I appreciate the Board and Derrick, and also I'm honored that you asked me to be here today to do this blessing.

All of you have a big job before you. There are many good questions but we, myself, as an elder of our tribe, I see these regulations and revisions. They're a positive change. They're still work. They're always work.

MS. APPEL: Thank you.

MR. BEETSIO: Is there anybody else who would like to make a comment? Right here, this gentleman.

PUBLIC COMMENTER: Thank you and good morning. My name is Valentin Lopez and I'm the chairman of the Amah Mutsun Tribal Band. Yesterday a number of the unrecognized tribes got together for a meeting and we all agreed to the following points I'm going to make and we signed a letter to that in support.

The other side, historical tribes collectively
make the recommendations that the proposed federal
acknowledgment regulations be implemented immediately. The
proposed regulations should be interpreted in the spirit of
the regulations as well as the letter of the law.

If any required criteria are slighted or
ambiguous, then said decision should afford difference to
the tribes in question. There are several points to be
noted.

Part 83.8, previous recognition should be
considered at the beginning rather than at the tail end of
the petitioning process, thereby allowing the assistant
secretary and OFA staff the opportunity to formulate the
expeditious consideration for the tribe's status
clarification.

The 1982 -- to 1928 to '32, 1948 to '55, and 1968
to '71 California BIA enrollments should be considered as
evidence under Criteria 83.7 (b), (C) and (e). Any and all
federal actions not mentioned in the proposed regulations
regarding members of the tribal community should be
acceptable as evidence under Criteria 83.7 (b) and (c).

Also, evidence needs to be carefully evaluated
and weighted by all OFA staff and by the assistant
secretary in a reasonable likelihood of the facts. We
expect that the existing OFA staff embrace the new
regulations in the spirit in which they are intended,
respectfully submitted.

MS. APPEL: Thank you.

MR. BEETSO: Thank you. Yes, sir.

PUBLIC COMMENTER: My name is Bob Robinson, an historic officer [unintelligible] community in the Western Mojave and Tahachape and Twin Valley area. Other response with the allotment issue. In our area, we recently were taken as part of the San Sebastian Reservation at the Tejon Ranch. And when that was taken away, the ranchers had developed ranches in the homeland area and they wanted the Indians back for labor basically.

And they petitioned the government to issue allotments in those areas and scattered out so that people would be available for labor. And in lieu of a reservation we have documentation of the correspondence back and forth for that. And in that instance we were issued 66 allotments, 168-acre allotments for our area.

And after World War II and [unintelligible] came, the BIA was also complaisant in taking those reservations or those allotments away from the people and giving them to the ranchers and most of them were sold for less than $100. And I think that, you know, that issue about individual allotments really should have some flexibility because in California they were used as a tool really against the Indians and in more than one way.
MR. BEETSO: Thank you.

PUBLIC COMMENTER: Good morning, my name is Dirk Charley, I'm a tribal council member at large for Dunlop Band of Mono Indians. And I would like to thank officials for hosting this meeting and giving us all the opportunity to be heard and to make comments.

One of the key things that I wanted to say on behalf of those that are not here, either they passed away or they couldn't make this trip, but the whole process has just been exhausting. And it's been -- it's a relief to see that Administration of Indian Affairs recognizes that to deal with some of these barriers and hurdles.

There's a lot of people that I learned from in regards to dealing with this in all of the meetings and all of the regulatory process we had to make. And these leaders and these people, these warriors, a lot of veterans in Indian country, a lot of them are passing away or they're in poor health.

So people like us representing our people here, we're going to do our best and we're going to do our best as a people. I heard a lot of good feedback, I heard a lot of good comments that my people, the leaders that make up our council, we concur with. And again, we hope that this all comes out in a good way, and we're able to achieve the benefits of a federally-recognized tribe talking about
housing, health, education.

   It's not about gaming. It never was. It's the
principle of the thing, how can you not be federally
recognized when we are living on tribal lands? How did we
get the land? Those are the types of things I just wanted
to say. I will always strive for and I'll have a lot of
people with me and we're just continuing to educate the
youth until we get justice.

   MR. BBETSO: Thank you. Do we have anybody else
who would like to make a statement? Yes, sir.

   PUBLIC COMMENTER: Hello, my name is Raymond
Patton. I'm Wintu of Hayfork. I have a comment in
question about community. I would like to request that
ancestors be expanded to include collateral ancestors or
relatives that descend from a common ancestor.

   It's common in our tribe that there might have
been four sisters that have land that's held in trust. And
that's, of course, if this law does apply to individual
allotments. It's my recommendation is the Indian allotment
land should count because you're required to be a member of
a federally-recognized tribe to get the allotment land to
start with. So it should include individual allotments.

   But direct ancestors is too narrow because you
could have one great-grandmother that dies from
tuberculosis before 1893. 1893 is when our tribe received
allotment lands but she could have had sisters that were alive in 1893 and got allotment land and only those descendents would qualify the way ancestors are listed because it's just direct ancestors.

So once again, I would request it be expanded to collateral ancestors or relatives that descend from a comment ancestor. And that becomes more important because of the definition Thomas entity [sic], which I don't think is fair and I think the words "exclusion from any other political entity" should be eliminated because that creates a situation where really no tribe qualifies or no country even in the United States does not qualify because under the definition of Thomas entity is where your political leader had control to the exclusion of any other political and government entity, which does not even apply to the United States.

The federal government has represented us from the states and it has states that have their own government and their own entities you would think, but they don't meet that definition, because there's still political influence from the federal government on states and vice-versa.

The states still exist and they have representatives that are part of the Senate, part of the House of Representatives. And that would also apply to other countries. The United States still recognizes China
or Russia as a country in a separate sovereign nation but they don't meet that definition.

So I would request any rules for community would be reciprocal where it would apply to the United States and the United States itself would still apply for other countries that the United States deals with. And that comes into play a lot more because of modern technology knowledge and changes that occur.

Under community one of the rules is that you hunt together. Well back in 1770, people in the United States that were American citizens, or 1777, they mostly hunted and had gardens, now they have grocery stores, so they've changed.

For the Native Americans, we have had a lot of changes. One time there were no horses, then there were horses, then there were cars. And a lot of the rules for community that don't seem to fit now are just because of modern technology.

But I would say if the Indians are required to be still hunting together, then that should be requirement for the United States Government which obviously does not apply, and especially then with the changes that the United States Government made by taking away the hunting lands making the hunting season so short where it's only a few weeks during the year, you can't have a collective hunting
throughout the year.

And so there's a whole list that I can put in writing of problems with community that don't apply in our affairs that really is just modern technology. The [unintelligible] case said that if you have previous recognition it should not be taken away [unintelligible]. Then there's a Wyoming case that says well you can't fade away.

Under the definition of fading away, the United States Government has faded away in all the counties they deal with. When we first had treaties with the United States Government, women could not vote, African-Americans could not vote and they weren't people, they were slaves, but the government changed.

Now there's an African-American president. I think that's fine and that should be allowed but your government should be allowed to change with modern technology. But by the definitions that are fading away, the United States Government faded away, they have an African-American president. They didn't even have African-American citizens when they first signed their treaties with our tribe.

I'd like to suggest that you keep the Letter of Intent. There are lots of ways that this has value. One is that you're able to get grants for research that could
be important to proving the requirements for federal recognition. And most people that will provide a grant will not provide that unless you have the Letter of Intent.

There are also other laws that you have to either be federally recognized or have the right to be federally recognized, and having the Letter of Intent in let's you qualify for different organizations and different laws.

I'd like to suggest that we could go to an appeal and there's an administrative law judge that everything be considered, not just the hearing record but everything that's submitted. I think that's essential to making the final decision.

And I have a question about previous federal recognition because early on in the presentation it was said that it is required that you prove seven things and I would say that's true, but that's an exception. Currently under the law, if you prove previous federal recognition you only have to prove that you're currently a community and that you currently have political influence over the members.

So I would like some clarification. Is that still going to be the law after the new regulation because that was not clear to me how that's going to be changed? I did see that some things are going to be deleted regarding previous federal recognition but it did not specify what's
going to be deleted or changed.

MS. KLASS: Under the Proposed Rule you need to prove community at present and then political authority autonomy going back to previous federal acknowledgment, but a little tweak. The language is very specific. If you can't meet that tweak, political autonomy requirement, then you prove community and political autonomy both back to previous federal acknowledgement.

It's a little confusing. If you have recommendations for making it more clear, please submit them.

MR. BEETSO: Yes, sir.

PUBLIC COMMENTER: Good morning, my name is Cesar Caballero, I chairman for the Miwok tribe in El Dorado County. By the confusion regarding the list that gets put out nowadays, because I have a federal documentation where the names of the reservations, names of the tribes are delineated in item for California, all 117 tribes, all of them, every single of them is in these records.

Our tribe has been fairly recognized since the 1900s, during every item of requisition, the requirements that are being proposed, every single item our tribe is -- it fits in the picture. It fits right in.

It's confusing to see the new federal register list being absolutely new names that have been changed not
matching the federal list that exists in various Senate
resolutions in collaboration with Congress.

Congress specifically gave orders, they said, you
know, the California Indians are the Indians that we've
been recording throughout history. Everybody, there's roll
numbers issued to all these people, tribal affiliations
issued to all these people. And suddenly the names changed
and all of a sudden absolute -- a new group of persons
claim, oh, we're this new name change, we're all sitting on
your reservation because we were landlocked or we weren't
given proper access, but there was never no question of
identity.

Every single citizen of my tribe has a certified
roll number, the CRN's. Everybody has federal
identification. The only identification that's recognized
in the State of California, at social security offices,
Department of Motor Vehicles, United States borders,
everywhere, this is the only federal ID that's recognized
throughout California.

Having said that, it's unfathomable, like a
gentleman was saying, you know, he said if we're on federal
land, if we have federal ID, how are we being told you're
not recognized? It's extremely baffling for the name
changes where there's no due diligence in the name change,
there no publications for the name change and all of a
sudden somebody with a brand new name says we voted
ourselves your name. And in many cases these individuals
have no CRN's, they have no certified roll numbers and they
took over your reservation.

I believe, you know, it's very important for some
proper due diligence to check proper CRN's, federal roll
numbers, not, you know, we can't -- I mean everything is,
you know, 117 tribes, we got me Miwok, we got Maidu, we got
Wintun, we got but Yurok, we got Crescent City. In my case
it's Miwok.

In Miwok reservations we have our federal Miwok
ID. But now these new lists are out that do not match the
historic list we have in our federal recognition. We have
been recognized since the 1900s to now. We're part of the
IRA. We all have federal identifications. We all need a
proper due process and not allow corporations to take over
our reservations and tell us, oh, your roll number, your
federal Miwok ID means nothing. And by the way, we don't
have one but we're the ones that got the power so we're
going to go ahead and take over.

So that's what's been happening a lot. And it
really needs proper due diligence. We need some proper
policing regarding that matter so that corporations do not
take over. Very appreciative that the Bureau of Indian
Affairs is here in California listening to us allowing us
to all speak. The gentleman that spoke before me, very
intelligent stuff he had to say.

I have this list available for the Bureau of
Indian Affairs officials for you guys to compare the 117
tribes that are here in California to compare against which
the current list of names of which you have today. Even
when our tribe and our people, when we changed our name
they used to call us Digger Indians.

There was a publication that went through the
newspaper and there was a proper due process of that name
change. When the Digger Indians requested not to be calls
Diggers anymore, it became Miwoks. And it was that Digger
term was, you know, degrading for the Miwok people.

Anyhow, I request due diligence for proper
federal identification and I'd like to offer the list that
I have from the Senate Resolution through Congress where
Congress explicitly says the California Indians list is not
to be remade.

We've already got the list, that's the list we
need to go by. Last time there was roll numbers taken it
was 1968, all of our ancestors and all our federal roll
numbers. And thank you very much for letting me speak.

MR. BEETS: Thank you. And this gentleman here.

PUBLIC COMMENTER: My name is Alan Leventhal, I'm
a tribal ethnohistorian for the Muwekma Ione Tribe. I
worked with the ACCIP from its inception from the legislation in 1992 to the end when the reports were submitted to Congress 1997, 1998.

I worked with Muwekma Tribe since 1980. They submitted their Letter of Intent in 1989. They requested under the revised regulations in 1994 a determination of previous unambiguous federal recognition. In 1995 the Bureau, the OFA [unintelligible] requested of Muwekma's researchers in the tribe to turn over the universe of BIA policies to the Interior Department before they would look at any California Indian petition.

Joe Sulk, who was the chairman of ACCIP, wrote a letter and said, Does this say that the OFA is not prepared to deal with any California Indian petitions? The response was basically that they want to work collaboratively and they would draft a report, George Roff, who's the anthropologist on the acknowledgement of California tribes from 1887 to 1934.

In 1995 we handed them 100 pages of documentation from Record Group 75, the Roseburg Files, and they wanted more. In that was the Dorrington Report of 1927 plus some other evidence that Dorrington was under investigation. The response from OFA was that the acknowledgment paper would be submitted back to ACCIP for the benefit of California Indian Tribes to help them get through the
recognition process. We turned in all our documentation in March of 1996.

On May 24, 1996 the Muwekma Tribe received a determination of previous unambiguous federal recognition. The tribe then asked Interior, if we have previous unambiguous federal recognition, we would like to be treated equally with two other tribes, California Tribes, Ione Miwok and Lower Lake Koi to be reaffirmed.

Interior said that the assistant secretary does not have the authority to do that and they don't have to accept those as precedence. So the Muwekma kept on asking and they all said the other question, if a previous unambiguous federal recognition, how are we legally terminated?

1994 out of HR 4188 which was a technical corrections bill that corrected the [unintelligible] restored [unintelligible]. The third part of that said that the assistant, the Secretary of the Interior nor any of the other agents do not have the authority to terminate a tribe or withdraw services from a tribe.

Under the court they said to the federal court that they would determine how the tribe lost its federal recognition and it would be in the final determination. It was never stated in court nor in the final determination how the tribe lost its federal recognition. It speaks to
someone of Sam's Tribe in 1995 of the Margaret Green Case.

The important thing here is that when we went through technical assistance in 2001, we were told that to terminate everything that we want to be considered and argued, we grew concerned that because the tribe had previous recognition, we hadn't demonstrated it was a tribe at present.

In the final determination OFA said we would not look at anything after 1985 to the present or 1927 or earlier because we've given that to the tribe and then we rescinded the previous recognition.

So the question is, is confidence within OFA -- sorry for being longwinded -- but confidence in OFA in being objective, in being neutral, and the important thing here is that they said to court that they gave the tribe a thorough review of the petition, but yet in the final determination they emit that they did not look at anything that we submitted for the final determination from 1985 to the present, 1927 or earlier.

This becomes a critical threshold in dealing with confidence through objectivity from this particular group of scholars and specialists and this has been one of the concerns that no doubt many tribes who have gone through the process have. And this is something that needs to be really carefully considered. Thank you.
MR. BEETSO: Thank you. This gentleman here and then come back to you.

PUBLIC COMMENTER: Good morning. My name is Fernando Mendoza. I'm from the Deputy Administrator for the City of Commerce and I'm here representing my collected officials.

With regard to the substance of the policy changes that you're proposing for new rules on recognition I have with me here a resolution of opposition passed unanimously by our City Council last week. I would ask it be entered into the record of these proceedings as our resolution speaks for itself regarding your proposed policy changes.

The city leadership has instructed me to talk about a different aspect of what you are doing that they are very concerned about. We believe there are real problems with the plans for public consultations and the deadline for the submissions for comments. The consultations are too few, the deadlines too short and your plans for both need to be changed.

When the City of Commerce first learned of the public hearings and comment period on the Proposed Rule, there were two important things that puzzled us and we just couldn't figure out. The first thing we couldn't figure out was why the BIA did not schedule a public comment
session in Southern California.

    We can guess that you wanted to avoid an
environment where you knew there was widespread opposition
to your plans. But that was only speculation on our part.
But we do find it curious that you did not come to Southern
California. Los Angeles County is the populous in the
United States, Orange, Riverside, San Diego and San
Bernadino Counties are all in the top 12 most populous
counties in the nation as well, more would propose new
rules, impact more people, communities and
federally-recognized Indian tribes than in Southern
California.

    Southern California has perhaps the greatest
concentration of tribal petitioners and stinta [sic] groups
that stand to directly benefit from the lower standard for
the recognition they're proposing. Yet for some reason you
chose not to come to our area and instead held this forum
in a place that is difficult for Southern Californians to
get to and in the middle of the workweek.

    We're disappointed you chose today's session far
away from the communities and tribes in Los Angeles and San
Diego areas. Travel here required either an expensive
plane ticket or 500-mile drive for anybody in Southern
California who wanted to attend. There are many persons in
our city government that would have liked to have come and
express their opinions on your proposal but we lack the resources necessary to do so.

In addition to the monetary cost involved, there is also a significant investment of time to get here, attend the session and return home. If this session had been held in the Los Angeles area, there is a good chance that my city officials would have been able to participate in this forum. The time and distance involved in getting here eliminates that possibility.

It simply makes no sense to us why you would choose a location that is difficult to get to for these important forums and schedule the meeting times during business hours in the middle of the workweek.

The second thing that didn't make much sense to us is why the timeline for public hearings and comments is so short. The changes you have proposed to the federal recognition process in this rule are the most significant the process itself established decades ago.

No one disputes that if enacted they will represent a major departure from previous policies in a number of areas. Recognition of any group as a sovereign Indian tribal government is serious business. Sovereignty involves important governmental power such as taxation, law enforcement, receipts of federal funds and availability to have land taken into trust by the federal government.
Any changes in the process demands a highest level of care for examination and public scrutiny. Rather than a schedule that reflects the gravity of what you have proposed, you have instead presented us with an extremely compact schedule that provides a little over two months' time period that also included two major holidays for the public to analyze and evaluate your proposals.

The proposal itself is highly technical in nature and many [unintelligible] can only be understood by individuals with a high level of knowledge and expertise in the subject matter. To ask a municipal or tribal government or anyone else for that matter to identify an individual capable of evaluating the merits of the roll, enter into a contract with them, investment time, to carefully analyze all the nuances and impacts of what you are proposing and then prepare constructive comments in a span of a little more than two months is totally unrealistic.

Your abbreviated time frame essentially serves to prevent anymore than a cursory review of the proposal, one that is likely to [unintelligible] ramifications. This calls into question whether you are truly interested in the input for municipalities and tribes or whether you see this process as boxes that be checked on the road to predetermined outcomes.
One could be forgiven for thinking that handful of public consultation to have scheduled in a very short time frame are merely a window dressing for a forgone conclusion. If that is the case -- I'm almost done -- then you may see the short comment period as a blessing, review it as a problem and one that must be addressed.

Fortunately, we're not alone in recognizing the inadequacy of the consultation and comment period you have constructed for this rule. It is our understanding that our own Senator, Dianne Feinstein, urged the BIA to extend the comment period and to provide additional consultation opportunities.

We are very grateful that Senator Feinstein is interested in increasing the opportunities for public input into this process. When such a highly-respected senator on Capitol Hill tells BIA your current framework for public comment and consultation is inadequate, it should be a clear indication that you need to reconsider your current plan.

The changes that are proposed in the new rule are far too serious for the limited amount of time and opportunity [unintelligible] and the public to analyze and comment on them. You need to put an end to the rush to judgment in what appears to be happening in this process. Major policy changes at any level of government should not
be done at a race against the clock.

I strongly urge you to change your current

course, extend the public comment period by at least six

months and greatly increase a number of recently diversity

of public hearings and consultation on your proposal.

Thank you for your time and consideration.

MR. BEETSO: Thank you.

MS. APPEL: Thank you for your comment. I would

like to point out that this process of looking at these

regulations and considering revisions to the federal

acknowledgement process has been a multi-year effort and we

did release a discussion draft which is something that we,
you know, usually don't do in advance of publishing a

Proposed Rule in the Federal Register.

And that discussion draft we released back in

June of last year and we held five public meetings

throughout the country last summer, we held five tribal

consultations throughout the country last summer. And this

Proposed Rule, we're hosting six public meetings across the

country and six tribal consultations likewise.

We did on the discussion draft have one of our

public meetings and tribal consultations in the Southern

California area in Santa Ynez. So our effort for the

Proposed Rule, we thought we would try to hit the northern

part of the state.
But all that said, we have received several requests for an extension of the comment period and requests for additional public meetings and tribal consultations. So the those requests are under consideration at this time.

MR. BEETSO: So thank you, Liz. And just a little housekeeping note, if you have a written statement that you want to read, please try your best to summarize the statement. You definitely have the opportunity to submit the statement in writing by August 1st, so just try to keep it short. We have a lot of people here. We want to make sure everybody that has an inclination to speak today has an opportunity to do so.

PUBLIC COMMENTER: Thank you very much. My name is Andrew Laura [sic], I'm with the Juaneno Band of Mission Indians. I thought it fitting to go after Mr. Mendoza, the gentleman that just spoke because I'd like to clarify a few things. I live in Pico Rivera, that's a city next to Commerce in Southern California.

I want to just clarify something. In the City of Commerce is a casino and it's called the Commerce Casino. And he stated that the city council members would have liked to have come but for lack of resources they were unable to make it. I, too, am an elected official in my city. And I know for a fact if they were to come, they're
not going to pay out of their own dime, they're going to charge the city.

And so I found many of his comments disingenuous. I'm usually not a petty man and I say this sitting inside a casino. I put good money to bet that he's not paying out of his own pocket either to be here. He was paid and he was given comments to make to show up.

And I'd like to -- I want to touch that in the sense that ever since the -- sorry, I'm kind of speechless right now -- but ever since the regulations for federal recognition were enacted, the first submission was only 88 pages. And that was in the early, I guess 1979 or 1980, it was only 88 pages, and the turnaround time was very small.

Today tribes are submitting hundreds of thousands of pages and are spending millions of dollars. Why, because a gentleman like Mr. Mendoza, he represents Commerce Casino. But you also have neighboring and competing federally-recognized tribes that have their own casinos that are going against non-federally-recognized tribes through this process. And they have large pockets.

If we're going to start with the assumption and the fact that Native Americans are on the lower end of the social economic scale, right, and you expect them to compete against entities like Commerce Casino, what if you
have a consortium, Commerce Casino, the Bicycle Club, Hawaiian Gardens and some of the other neighboring tribes of the desert, and you want a non-federally-recognized tribe to compete against those powerhouses, you could give my tribe 100 years to go through the federal recognition process and I'll tell you what, you could have given them another hundred and they wouldn't have understood the process nor would they have been able to develop the political savviness that it takes to navigate through this process.

All of those other federally-recognized tribes and casinos like that, they're in the political gain. They have their contacts, they have their lobbyists and that's something that's not talked about. I understand we're talking about rules and we're talking about proposed rules and what have you, we're talking about transparency.

But it's individuals like Mr. Mendoza, I don't mean to put you on the spot, I don't know you personally, I'm sure you're a nice guy but you represent something. You represent something. And we need to put that out there. We need to talk about that and that's not being talked about. But I'm glad you showed up because you represented a point.

Now I just have three questions and I'll get off the mic. The OFA cites inconsistencies and interpretation,
that's one of the reasons why there's proposed rules. There's proposed changes to the regulations. Can they give examples? Can they give examples in the past where they have gone wrong? You talk about you've been inconsistent, but can you give us like a top ten?

How does a suspended tribe or even a petitioning tribe get their information back? You have about five or six suspended tribes. How do they, if according to the proposed regulations, if those tribes go through the federal recognition again or the process of it, how do they get the information that they submit to you back so they can either resubmit it, edit it, take things out, how does that happen? Can we expedite that process even if it's at the expense of a tribe?

And I have three but I'll just leave it at two.

Thank you.

MR. BEETSO: Thank you for your comment. Just another housekeeping rule, the public forum is a great forum because we get to hear a lot of different perspectives on this issue. We know this is a very emotional issue, but please direct all your comments to us. We're the ones here accepting comments so to the degree you can try to limit all your comments directed toward us, the federal officials. Thank you.

PUBLIC COMMENTER: I'd like to let my chairwoman
MS. APPEL: If you don't mind I can respond to one of the previous comments. The Proposed Rule does provide that if Petitioner repetitions, they do not have to resubmit the materials, that the Department will rely on materials already submitted. There's no bar against submitting additional materials but there's no need to get the materials back and resubmit. That's it. Thank you.

PUBLIC COMMENTER: Good morning. I am a chairwoman, Teresa Romero of the Juaneno Band of Mission Indians, Acjachemen Nation. On behalf of my people, thank you for the opportunity to participate in regulation reform, even if by public comment only.

While we stand we could spend the next few days discussing the atrocity suffered by my people at the hands of non-Natives and the current recognition process. I'm here today to support regulation reform and ask specific questions that will benefit not just my people but all Native tribes.

As a California Tribe the new regulation reform still falls short in providing sufficient accommodations for the unique circumstances faced by most California tribes over the last 250 years. The responses to the first round of public hearings indicated the Proposed Rule would add objective standards in the criteria where possible to
ensure consistency while retaining some flexibility to
account for the circumstances faced by each petitioner.

We have been unable to identify the flexibility
for California Tribes. We are formally requesting specific
regulations that would allow for California tribes to be
treated fair and giving equal opportunity to be federally
recognized.

If there are no plans to incorporate those types
of accommodations or flexibility because California tribes
like mine had to go underground with our Indianness, as
documented by historians, anthropologists, genealogists
alike, what types of evidence could California tribes
submit to meet the reform regulations as they exist in the
Proposed Rule?

For example, to stay alive we identified
ourselves as Mexican or Caucasian in census records and
vital records, but in reality we weren’t accepted by either
ethnicity. And we knew we were Indian because our
ancestors or family members told us we were, but never to
go to school or church and say it was so.

My question refers to Criteria B, regarding
evidence demonstrating communities, specifically 83.11
(b)(1) IX, children of members of geographical areas were
placed in Indian boarding schools or other Indian
educational institutions.
My nation submitted enrollments to California Indian school, only to be rejected as evidence because it was deemed as self-identification versus outside entity identification of our aunties and uncles as Indians.

Further, because many California tribes were often identified collectively as Mission Indians versus specific tribes associated to specific missions, this evidence was further negated. Can you define how the nearly proposed race would be applied, specifically 83.11 (b)(1) IX?

Furthermore, since Criteria B requires Natives to demonstrate distinct communities from 1934 to present, is 83.11 (b)(1) IX stating petitioners who have submitted enrollment evidence for every consecutive year since 1934? Can you respond?

MS. APPEL: I don't know that we have thought about that.

PUBLIC COMMENTER: I'll go on. Let me just finish up.

MS. APPEL: I'm glad though that you pointed out, that is an addition that I think I forgot to say in the presentation that we are explicitly allowing for records of Indian boarding school enrollments in support of the criteria for community. So I'm glad that you pointed that out.
But if you have specific ideas on how the Proposed Rule can better address the unique issues in California, then we certainly welcome that.

PUBLIC COMMENTER: Thank you. We will be submitting that.

MS. APPEL: Great.

PUBLIC COMMENTER: I'm going to wrap up after my next question. My next question refers to the same criteria 83.11 (b)(1), only now II, social relationships and individual members.

Can you define what is considered a social relationship and what types of evidence will support that definition? We recognize those types of questions that should be answered by technical assistance; however, in our experience in 2008 with technical assistance they provide no assistance at all.

MS. APPEL: Thank you. So clarification of what is a social relationship?

PUBLIC COMMENTER: Yes.

MS. APPEL: Thank you.

PUBLIC COMMENTER: Finally, in regards to address open opposition to regulation reform, for example, State of Connecticut. In other words, once a proposed rule has once again successfully passed from OMB and other government agencies and protocols, how will you answer the state or
state representatives or local municipalities that openly oppose reform?

MS. APPEL: I'm not sure I understand the question. I'm sorry, can you repeat it?

PUBLIC COMMENTER: Sure. In regards to addressing open opposition, for example, the City of Commerce or the State of Connecticut that has clearly identified they are against regulation reform, how does your office plan to address that?

MS. APPEL: Well I think that the fact that we're moving forward with looking at how to improve the process, it's not a question of whether we're looking more at how.

PUBLIC COMMENTER: Okay.

MS. APPEL: So it is a priority of this administration to get some final rules in place so that we improve the process. I think it's been well established on record that improvements are appropriate.

PUBLIC COMMENTER: Thank you. In closing I would just like to thank you and all the reps here today and commend everyone in the reforming process, what has so long been a tragic process for Native Americans. May you travel home safely until we meet again. May the Creator guide your efforts towards justice and fairness for all Native people.

MS. APPEL: Thank you. And I think Katie, our
representative from the Office of the Solicitor, may have
some input that can help clarify, too.

MS. KLASS: Thank you. So you spoke to the need
in California to sort of go underground and hide your
Indianness. And that sort of relates to our proposal to
remove Criteria A, external identification, so that we can
focus more on internal community and internal political
autonomy and less on external identification of a tribe.

Also, with regard to the boarding schools, the
proposed language talks about basically kids coming from
the same geographic area in being put in boarding schools.
So I think that's how we're thinking right now that that
will function, basically showing that these kids do live in
a community together or did live in a community together.

MR. BEETSO: Thank you. And so we have this
gentleman here and then followed by Miss over here and then
the gentleman in the back.

PUBLIC COMMENTER: Good morning. My name is
Rosemary Cambra, and I'm the chair of the Muwekma Tribe.
Council members, would you please stand in regards to
paying respects to the chairs that are here representing
their tribe and council members and members at large.

Muwekma's -- I'm saying the statement first --
Muwekma's history has been well documented, submitted to
the Bureau of Indian Affairs. Our legal case is
challenging the Bureau in regards to previous recognition, it has been submitted as well. I just want to say I'm very honored to be among the chairs and I share your struggle and I could only say to you and advise you keep your spiritual place for your people and especially the leaders. Advise your members, remind them of their spirituality. Remind them that you, too, have their struggles, whether it be acknowledged by the government or economically or even having adversarial relationships with recognized tribes. And pray, like I do every day. Pray that somehow that you can create a partnership with recognized rights.

We're all related. Believe me when I say that. We're all related. I want to end my comments again by thanking you and I pray that you will be given justice and that you will have acknowledgment. But again, I too pray for that because I'm not yet -- my people are not yet acknowledged, but we acknowledge ourselves.

Do you really think, and this is the question again to the staff, do you really think anyone here at the room, they need help writing their history? Do you really think that they have a problem with who's their father, who's their mama? I don't think so.

Again, I'm not speaking for all the people in this room, I'm speaking for Muwekma. And I'm just giving
you my point of view. Now I want to thank again the
chairs, the councils and the consultants that have worked
for Muwekma. I thank you publicly. I wouldn't have been
able to complete the petition of my council and members the
way that the Bureau wanted without my consultants or the
consultants of the tribe.

Now let me acknowledge the Bureau of Indian
Affairs for being here, for being here and listening to
your voices. Thank you.

MS. APPEL: Thank you. Before we move on I know
we still have several people who would make comments but I
think our court reporter may need a quick break. If we
could reconvene in ten minutes and then everyone can gather
their thoughts and hopefully we'll get done on time. Thank
you.

(Whereupon a recess was taken.)

MS. BROOKS: Hi, everyone. My name is Viola.
I'm with the Pacific Regional Office. And people have been
talking about the ACCIP Report, it's been mentioned, you
know, a few times so I, just for the record, wanted to let
everyone know that the ACCIP Report is the Advisory Council
on California Indian Policy. And it was a series of eight
reports on various topics including federal recognition and
termination and overview of California Indian history.

And it was a report initiated by Congress. And
it did have several recommendations in there, actually
quite a lot of recommendations and just kind of status and
history. Just for the record and for all of you, the ACCIP
Report is called the Advisory Council on California Indian
Policy. And it's available online as a PDF, the executive
summary.

PUBLIC COMMENTER: And the original report is
that thick, it weighs five pounds, I have it so you don't
want that.

MS. BROOKS: If anyone is familiar with it,
there's two hoop, like caps, like basket caps on the cover
of the book. I know a lot of people refer to it as that,
the report by's it's looks.

PUBLIC COMMENTER: I have a copy here, we'll make
copies for you if you want.

MS. BROOKS: The IA can make copies.

MR. BEETSO: Thank you. So I believe we had a
queue with two individuals in it, so we're going to start
there.

PUBLIC COMMENTER: Good morning, my name is
Victor Farfan, I'm a City Council Member from City of
Hawaiian Gardens. And I'd like to share some concerns
about the aspect for new rules for tribal recognition. We
believe the new proposed rules significantly weakens the
standards for groups seeking recognition and stacks the
debt in favor of petitioners to the detriments of everyone else including other tribes. Even worse, it appears to do nothing at all to end reaffirmation or other types of executive recognition that bypasses all the objective criteria and analysis by experts which should be required of all. For these reasons alone, we cannot support the proposed rules.

However, there is non-policy access to the entire rulemaking process that is very troubling to us as well. We have been made aware there are a number of individuals employed by the BIA where members of non-recognized tribal groups that have been involved in the drafting of these rules. It is a clear conflict of interest and they should have never been included in any works or discussions on these topics.

But unfortunately, their participation is not our biggest concern. The biggest problem is with Larry Roberts, their boss. With all due respect to you, Mr. Roberts, you should have never been involved in any aspects of the proposed changes. Your past history of working for years as a paid lobbyist for unrecognized tribal groups and off reservation projects cannot be ignored.

At best, it means you were a former outsider who is now an insider designing the rules for recognition
reform. At worst, it is a conflict of interest and presents a set of temptations that not even the most ethical individual would find hard to completely insulate themselves from.

It calls into question whether or not the public can have the confidence that relevant decisions of the proposed rules were made on a basis as sound public policy. It also makes it fair game to ask to what extent the proposed changes might benefit causes and clients you have previously championed, as well as your friends of former associates who are still working on these causes.

It is my understanding that as Principal Deputy Assistant Secretary of Indian Affairs, you've been the point person for the BIA throughout the entire rule making process. Your presence here today running meetings and three others who have gone throughout the country would seem to bear witness to that fact.

Being the point person no doubt gives you great influence in the drafting and shaping of the proposed role-making changes. It also likely places many important discretion decisions directly in your hands. It is easy to anticipate that at least some of these decisions, you have the effect of making it easier for certain petitioners to gain federal recognition by removing an obstacle they face under the current regulation.
Since common sense tells us since you spent so many years lobbying and doing legal work for unrecognized groups, you should be familiar with the particular circumstance that are known exactly that would change in the process and would most benefit those changes for recognition.

Regardless of whether your knowledge of these groups' specific needs ever came into play, it would potentially cast a shadow of doubt over the single decision that made the entire process. Public disclosure records of the U.S. Senate show for many years prior to joining the executive branch you and your firm you worked for received huge sums of money for various unrecognized groups seeking federal recognition. It also got a lot of money for several recognized tribes seeking off reservation for every casino gambler backed by non-tribal casino developers.

And I understand you have accused yourself of any involvement which you previously, clients, firms and associates when it comes to manners of casino gambling. That was the right thing to do and I applaud you for doing so.

However, this bends the question, since you did not refuse yourself from involvement in the gambling and casino proposal, why did you not do the same for matters involved in tribal recognition as well?
Whether or not we like it, tribal recognition and casino gambling are linked. Becoming recognized is a necessary prerequisite to having land taken into trust, which is then turned into necessary prerequisite of opening a gambling casino.

So the impact of your petition and the process, [unintelligible] changes the rules whereby tribes are recognized has the potential to not benefit just your former recognized clients but your former gambling development clients as well.

The ease of the rules of recognition to more newly recognized tribes you get, the more new recognized tribes you have, the more potential casinos you can develop. Even the more -- even the most ethical individual would not be unable to learn the rule changes that would benefit their former clients.

So why on earth have you put yourself in a position involving yourself with such rules knowing that any time your objectivity could be illegitimately called into question and the credibility of the entire process be fairly undermined?

I want to respect everyone's time here but I do need to point out a few other things. Mr. Roberts currently does have a number of associates that are still working to represent a number of tribes, non-tribals. One
such tribe is the tribe of North Carolina. State records also how that he was paid over 1.2 million to lobby for federal recognition of Native Hawaiians. In addition to that, their firm -- well he himself was paid at least 180,000 in attempts to get the [unintelligible] tribe recognized. In addition to that, I want to point out just four points and then I'll close.

MS. APPEL: If I could just interrupt you for a moment. I want to put out that Assistant Secretary Roberts is not present --

PUBLIC COMMENTER: I recognize that.

MS. APPEL: And he is unable to respond to any of these allegations that you're making, and also --

PUBLIC COMMENTER: Right. I need to have this present for the record.

MS. APPEL: I want you to be able to state your peace but I'd also like to emphasize that the decisionmaking is not -- one person does not hold the power to make the decisions on what the regulations should -- this is a long process that goes through many layers of approval.

As I mentioned, it's approved by the Office of Management and Budget, but even before it gets to that point it goes through several layers within the Department of the Interior. So I just want to make that clear. But I
do want you to be able to say your peace, so I apologize for interrupting.

PUBLIC COMMENTER: No, that's fine. This is a public forum.

PUBLIC COMMENTER: We were restricted to two minutes, he should be restricted to two minutes.

PUBLIC COMMENTER: So closing once again, I'm stating I do not intend to be disrespectful or accuse you of unethical behavior raising these issues, but I need to state four issues.

You and your former partners have a very long history of working for unrecognized groups in controversial casino projects.

Recognition of as many new tribes as possible is desirable for your former clients, partners and employers. There could be no doubt that your proposed rules long establish standards for recognition, thereby makes it easier for any group to get recognized.

Four, most if not all these full recognized tribes will be pursuant off reservation or urban casino location of the kind that you are paid to lobby on behalf.

Thank you.

MS. APPEL: Thank you. And another clarification I'd like to make, the tie between recognition and casinos, I just want to point out that once a tribe is recognized,
it is not automatic that that tribe can then game. Once
the recognized tribe wants to take land into trust there's
a process under 25 CFR 151 where they need to apply to get
the land taken into trust and that process includes notice
and participation of local governments in the state and
then to get approval for casino-style gaming.

There's another set of requirements and process
that they need to go through under 25 CFR, Part 292, and
Katie may have more on that.

PUBLIC COMMENTER: Didn't have to enter into
state --

MS. APPEL: Right, right, that's part of 292.

MS. KLASS: Even when you don't engage in Class 3
casino-style gaming, you still have a lot of procedural
steps to go through even for Class 1 and Class 2 gaming,
so...

PUBLIC COMMENTER: My name is Quanah Parker
Brightman, I'm executive director of the United Native
Americans and I'm also an enrolled member of the Lakota
Nation and a citizen also of the Creek Nation, so I have
dual citizenship. And I came here in support of the Miwok
Nation and of course a number of the tribes here in the
State of California and nationally who are looking for
federal recognition to have an equal opportunity to their
land, an equal opportunity to all their resources and of
course, the claims to their ancestor lands which all of us need.

You know, my grandfather once told me, he said every day they make new people but they don't make new land and we should value every piece of our land, every single piece because our ancestors sacrificed a lot for us to be here today.

My father, many of you may know him, Dr. Lehman Brightman, he's one of the founders of the Civil Rights Movement. Now my mother, Trudy Brightman, is also one of the founders. I represent them in the best way I can each and every single day, and I'd like to bring voice to some of the things I've seen as an organizer for over ten years now.

We have organized demonstrations against the tribes who had practiced this genocidal campaign of dis-enrolling. What is the Bureau of Indian Affairs going to do about all the people in the tribes who have vanquished and dis-enrolled some of their citizens, why?

Now the blood quantum which the Bureau of Indian Affairs imposes on us as tribal members, we have to be one-fourth or more blood throughout the Bureau of Standards for us to receive services from the federal government.

I recommend that all of us as tribal people and our tribes, whether we're federally recognized and
non-federally recognized both through lineal descent where we can prove through our documentation of our ancestry not to go by blood, because what are we going to do when we are not one-fourth or more?

Every day there's new people being born but what are we going to do when we're not able to recognize them by the blood quantum? What are we going to do then, we're going to being extinct. We'll be extinct within less than 100 years if we don't change these policies that the Bureau of Indian Affairs that was founded under the war department continue to impose upon each and every one of us.

Now in closing, I recommend that the Ohlone Nation from San Francisco and all the other petitioners who are seeking federal recognition and equal equality be granted that. I ask that from the Bureau of Indian Affairs and the Department of Interior, please give them federal recognition, for they need it, they want it and most importantly, they deserve it. Thank you.

MR. BEETSO: Thank you. We have the two.

PUBLIC COMMENTER: Hi, my name is Erin Young and I am a Native American. I may not look Native American but I was, you know, came out of the family and I have roll numbers from my great-grandfather, actually my grandfather. And he had to assimilate off of his reservation that was then stolen from us.
And if any of you guys have experienced any of this, you know what I'm going through. I'm just a peon when it comes to Native Americans. I know that I have history just like he stated. I can prove it literally but then when you start to look at where I come from, I have four sons, I struggle, seriously.

I'm Native American, then I have tribal cousins who are just a touch away from me, that by blood and by heritage I'm cousins to them. But for some reason they have a casino and they get $40,000 a month, and here I am on TANF. What is TANF?

So TANF is ran by the casino who stole my tribal identity and then they kicked me off when they find out who I was. Okay? So it's really kind of weird when you stand at a peon position and you look out and you see all these Native Americans and all the people who claim to be Native American even though they don't have a BIA ID.

My grandfather was issued a roll number but my mother was not, I was not, my children were not. Where is the anthropologists that are supposed to go out and say hey, there's a roll number here and who's the descendents off of that? Hey, let's test that person's blood and see how much DNA comes out of original bones that sit in Berkeley?

Why isn't this happening? Why is it that I stand
alone a part of a tribe that has been scattered to the wind
over some land that I no longer possess, have control of
even though my ancestors lived on that land? And because,
you know, one of the other ladies had stated that we had to
assimilate, we had to move off.

My grandfather had to move off of that
reservation because no electricity was brought to there, no
water was brought to there. So we assimilate, we move off.
But then, oh, we'll give this land over here to this other
tribe. And then that tribe says we're going to take your
ID because we can't get a casino under our ID, under their
ID.

So it's really kind of weird. This whole thing
is nerve wracking and it's kind of crazy that we're all
cousins somehow but we're all divided seriously, and you
guys talk about your little numbers and, you know, No. 9 of
3FC or whatever number it is, but really you're not getting
down to the point that I, too, am Native American but
nobody acknowledges that. And we fight against what this
gentleman stated, against a big huge casino that has big
deep pockets even though they don't have proof from you
guys that they have BIA identification.

When is that going to stop? When is the
anthropologist going to show up on my door and say who are
you and how are you connected? Oh, yeah, you were
federally recognized but they stole it. Oh, yeah, that's in court, who really cares, we don't have control of that. So it seems very weird and I may not have all my knowledge correct because like I said, I'm just a peon Native American, I'm a fraction of one percent of the population. And just like he said just a second ago, if the bloodline is not tracked, we too will be extinct just like that dinosaur. And there's nothing else we can say about it because here we're under a governing rule, the government and their red tape.

So everybody needs to fill out their little forms and submit it and they may or may not get it back. And as goes for TANF, okay, and there's non-gaming funds for non-gaming Indians, where is it? Where do I sign up for it? How do those big casinos get money and the peons do not? I could have swore Californians voted a rule that non-gaming Indians would be helped. Okay?

How can I be helped when I apply for TANF and TANF is run by a casino that stole my name and they kicked me off of TANF, how do they help me, who do I go to, how does my voice get heard? So I just hope everybody here, we can all like unite and say we're Native American even though your bloodline is over there, even though we're cousins.

I just hope something good will come out of this
beyond the people with deep pockets that can pay off other board of supervisors, they can pay off this, they can buy that, and they sweep the little ones under the carpet. I too am Native American.

PUBLIC COMMENTER: If I'm going to address you, I feel it's respectful for me to stand up in front of you and look you in the eye. My name is Chris Luho, I'm a member of the Juaneno Acjachemen Nation. I'm thankful to be here this afternoon to participate with the honorable assistant secretary and staff and applaud its courageous efforts and make meaningful adjustments in the CFR 83.7.

If you don't know what I'm talking about, I'm going to give you a little trip down memory lane with OFA over the last ten years. My professional experience in dealing with the OFA began nine years ago during [unintelligible] tribe, though my family's struggle lineage has been under review in the Department's broken process for more than 30 years.

During this time I witnessed the Department's negative influence on multiple petitioners including activity which promoted the creation of rival petitions. Splinter groups took the acceptance of secondary letters of intent coupled with wrongful designation of [unintelligible] and interested party status even decades even after initial filing event.
This activity by the Department has on numerous occasions underminded Petitioner's ability to dissolve disputes internally and ultimately perpetuate Community's rations within a tribe. For the Department and the public this creates confusion, complication and a perpetual wasteful spending of a Department and tribal funds.

Further, the failure of the OFA staff and its leadership to appropriately and fairly apply the regulations pertaining to evidentiary standards of reasonable likelihood of the validity of the facts is a continued major concern.

Simply put, even with the Supreme Court's interpretation of a reasonable likelihood it remains an unknown quantity for petitioners when attempting to qualify the evidence to include in a documented petition. For example, the OFA must let Petitioner 84 (a) in a face-to-face technical assistance meeting attempted by the Department's leader, Lee Flemming, the designated research team, Wendy Brown, Francis Flavin and Janet Earl regarding a significant piece of evidence which pertained to Criteria B and C, leadership.

An 80-year old obituary which clearly identified the Captain Jose Dorm, captain of the tribe, whose granddaughter who's sitting back in the back row. Just prior to the documented Chief Clarence Lobos along with any
community participation which is my grandfather, 50-year era.

Finally, after much viable meeting and time to debate with the Department, the tribe produced a visual copy and presented it once again during the same technical assistance meeting OFA, that conceded to the qualitative and quantitative information contained therein, and stated that a reasonable likelihood had been met, assuring the petitioner that the petitioner should consider the criteria meant for that tribe for that time period leading up to 1940 only to have this finding later rescinded and final recommendations to the AFIA with no explanation whatsoever. Pardon me.

This same activity took place regarding even more objective pieces of evidence pertaining to the genealogical record for Criteria E, example, technical assistance meeting with OFA, its staff only requested a sample of the membership genealogical record which documented the membership's ancestor's descent from the identified historical tribe who resided at Mission San Juan Capistrano from first a state European contact beginning in 1776.

100 percent of the requested samples were approved by OFA. Genealogical staff, however, later during recommendation to the ASIA, OFA in turn misled the Assistant Secretary, Carl [unintelligible] regarding the
tribe's genealogical record stating that it was incomplete and that it appears -- I'm almost halfway done, wrapping it up -- that only 2 percent of the tribe's membership had past.

This evaluation had the Department -- if the Department had been forthright the tribe would have produced the voluminous genealogical record for the 1,941 members of my tribe dating back to the mid 1700s which was eventually submitted, and the response to the misleading proposed findings.

These passing percentages later grew from 2 percent to 67 percent, then to 75 percent, passing of the nearly 2,000 member tribe, and after publication of the negative final determination and would have moved well above the passing 80 percent threshold had the OFA attempted to disqualify previously approved lineages whom are here as well, attempting to sabotage the tribe keeping the percentage below passing levels and protecting its faulty report and recommendation.

Wrap up right now. I got a few more comments I'm going to submit for the record, but I think it's important to acknowledge our elders in here. I saw Chief Cambra in the back who's been fighting for her tribe for many years and I want to say thank you for all you've done.

I want to acknowledge Quanah Parker standing up
and speaking the way he did. I see there's a lot of people here in Indian country, they've been fighting for their rights, and I see some people here that have been biggest adversaries to federal recognition and legitimate tribes. And I want you to know that we're not going away. We're not going away.

MR. BEETSO: Thank you.

PUBLIC COMMENTER: Hello, my name is Dan Medina, I'm a city councilman for the City of Gardena in Southern California, I think I'll go to the front, too. Last thing you want to do is look back.

First of all, thank you for allowing me to speak and most importantly, I want to congratulate all of you because the education I got today, I'm sure I'll never, ever learn in school or in high school or in college. For the sake of education and for the sake of knowledge of the general population in California, you truly, truly need to get this out there because we're a small group of people who know your history but for a non-Indian like myself, I need to be educated as well.

I'm a city councilman for the City of Gardena and we voted to be opposed to this legislation. But the more I'm learning, the more I'm realizing that a lot needs to be done, a lot. There are some unjust things that have happened and continue to happen. And to address the amount
of money I make a month, you'd probably spend more than that in gas. I make a whopping $600 a month as a city councilman, but I consider myself a servant.

And I just want to convey the message to yourselves that our city is opposed to that. We're the only city in Southern California that has two casinos and they contribute to 20 percent of the revenue in our city. We're a small city of 60,000 people, excuse me, and they pay the taxes on what they make to partner with our city, which we are not exactly a wealthy city, and to verify the fact, our city did pay for the flight and the room, well, you got to tell it like it is. Well, when you make 600 a month, what do you do.

PUBLIC COMMENTER: Compensation for my country.

PUBLIC COMMENTER: We are both in the same planet and we have to live together about that. So I thank you all for educating me on the process of what you're going through. So in the lines of the old days, don't shoot the messenger, but I am bringing up the fact that our city is against that and we need to, from what I'm listening is we need to straighten out what some of the rules you had with regards to federal recognition.

I don't know if this will make it stronger or weaker, but from what we've gathered down south is that it will make it weaker. So what we're asking is if you could
have more meetings, both not only in the Southern California but also farther north because I know there's other tribes farther north.

PUBLIC COMMENTER: I'm from California, too.

PUBLIC COMMENTER: That's exactly my point is you need to expand up and down California so everyone can come by and not have to pay for a flight or have the city pay for the flight, and they can come by and give their own opinions with regards to how they feel about this legislation. Thank you.

MR. BEETSO: Thank you.

MS. APPEL: And I would like to clarify, we definitely have received the requests for additional consultations, thank you. I'd also like to clarify the intention of the Proposed Rule is not to weaken the criteria, we still plan, we want this process to be a robust process and maintain its stringency.

The changes in the Proposed Rule are really intended to help reduce the documentary and administrative burden both on the petitioner's side and on the federal government's side so that we can get petitioners through the process in a more expeditious manner. Do we have additional comments?

PUBLIC COMMENTER: I'm Ken Woodrow, chair for Wuksachi Tribe. Earlier today you mentioned a memorandum,
the Memorandum 37029 dealing with under federal
jurisdiction that you created in the Solicitor's Office?

   MS. KLAS: I don't think we've talked about that
yet but yes, the Solicitor's Office did have that opinion,
so...

   PUBLIC COMMENTER: Okay, thank you.
   MR. KEETSO: Several people in the queue.
   MS. APPEL: Since we have about 45 minutes left,
could we just get a show of hands to see about how many
speakers want to speak that haven't spoken yet? Okay. So
if we keep people to two to five minutes, I think we should
be able to get through.

   PUBLIC COMMENTER: [Unintelligible.] Thank you
for being here, for allowing us to be here our minds and
open all of your hearts. I believe this to be only the
beginning of change, that these changes are not perfect
because they still close the doors to many Native people.

   I pray that the Creator touches the hearts of
these people who come to speak against us because they and
their ancestors came to our homeland, we were always here
and yet they find that they need to speak against us once
more. They spoke against us in the missions, they spoke
against us in the gold rush, they spoke against us always,
and they continue to speak against us. But that's not
going to stop us.
We are here, we will stay here and we will continue to teach our children as I have my grandson here who is keeping notes and hopefully learning how they continue to hate us. They hate us because we love our land, because we love this earth. And I can only say don't give up. Don't care how many times these people look at us and say we're the city government.

My ancestors have been here forever, all our ancestors have been here forever and all we can do is continue to fight, continue to teach our children and one day we will have that justice and have our homeland back.

PUBLIC COMMENTER: Hello, my name is Rudy Ortega, Jr. I'm from Tataviam from San Fernando Mission, I'm the vice president of the tribe, I'm also the chairman of the Los Angeles City County Indian Commission. On the commission, we voted and actually abstained from comments on the regulations. We look a mutual stance.

Our commission is former federally-recognized people and also some who are state-acknowledged or acknowledged through the state of some of the departments. But acknowledgment is a fighting crisis that we fought in our tribe. I mean, we have a letter in 1971 that says here's five requirements to move the tribe into trust, to move land into trust, so we have a lot of history here.

But I think more importantly, what I wanted to
talk about and give comments is everyone's talking about
the cities we're here representing, and some of the
federally-recognized tribes, we need to give them history,
what's [unintelligible] what's the problem with BIA, with
the whole thing actually? How long does it take? Why does
the tribe sit there so long, because these folks have
different issues, federally-recognized tribes have
different issues we're fighting for.

To move trusts that they've lost into trust
lands, move different federal rights, my tribe, we fight
equal. BIA [unintelligible] cases in Oklahoma, here in
California, we fight cultural resources, we work with
developers, some of the federally-recognized tribes support
us, wanted federal government agency working with them.

They bring us to the table for [unintelligible]
consultation. In cultural resources, we're the cultural
tribe for the region. So there's a lot of ways even as a
non-recognized tribe we still have recognition. One thing
we have is a sovereignty. We retain sovereignty. We just
don't have an agreement with the federal governor at the
moment.

So without that, we need to have that agreement
with the federal government and to one day, one of the
tribes who is not acknowledged challenges that, say I'm
going to move land to our own property, there's no way you
can stop us. Reverse it, because it hasn't been challenged yet.

So that is one thing I would like to see. I know you guys are working hard, maybe a little history, it says tribes talk about the burden of proof, the difficulty. My tribe raised every penny ourselves for acknowledgment. My father, he's passed already, but we fought a long time for it. And it takes us a lot of dollars to raise it. We have to be creative.

We don't have gaming facility. It wasn't in our interest when we started asking for land and trust because it wasn't part of it until the gaming facilities came in then they had to be taught, yes, it's an economic development. But as I said before, it's still a hurdle, tribe is landless, our tribe is landless.

We have to go through a petition again just like for exact knowledge to move land and trust, then we have to ask the state for gaming contract which I don't understand why tribes are doing it today anyway, it's their land. I mean their taxes. I thought tribes could get taxes [unintelligible].

That's all I would like to say is that perhaps a little history about the process and why tribes were suffering so hard so that these folks, these cities, tribes can understand what we're going through. Thank you.
PUBLIC COMMENTER: I'm Shelly Covert, tribal council secretary of the Nevada City Rancheria. We're up in the foothills of Northern California, and because we are a terminated rancheria, we are terminated by Congress during the termination era. We are barred from this process.

I like some of the revisions that are happening, one of which is when you petition your intent, to petition to the federal government. We were very naive because a lot of you guys can tell there are so many different paths that a tribe can possibly take to recognition. It's very confusing if you don't have advisors and people who understand law or understand any of this thing, it's so intimidating and it takes generations to learn and understand and find your own path.

Each rancheria is different, some are terminated, have come back, some game, some don't. Some maybe will never be recognized again. So while we're barred from this process because we're terminated, we're also barred from our court case because of the Statute of Limitations right now.

And I have always been thankful on one hand that we didn't have to go this process because I feel so bad for so many of your tribes because they're generational. Generations have been on these lists waiting and waiting
and trying to put together their knowledge to understand the process, to fit these criteria, to make the timelines and all these things that I don't think are natural to us because we are an oral society, so it's only been a few generations who can understand this process.

So, but sitting today we can meet the criteria for this process but we are barred from this process. So I just wanted to say that we have talked and said that any improvement on the process is a good improvement but there's so far to go.

The people from the city, I like what this man said, that he's been educated today. You don't -- you can't even walk into another tribe's shoes. I mean our world is our world, when we came down and spoke with the tribes who are for this process, that have gone through the mission system, the missions is something we don't understand.

We didn't have missions up in the hills and our whole reality is the Gold Rush and they didn't really have the Gold Rush in their timeline. I was like, how could you not have -- you know, that's our sort of where our life stopped up there.

And each tribe is so different and a process is that is so, I mean it's a big government, what can you do? Any improvement is good. But you're trying to squish
especially California Indians into this box, and how it
even works at all is it just beyond me.

And so I'm always happy any tribe that gets
recognized. I hate to get all, you know, weird about
genocide and all that kind of stuff, I know it's stuff
nobody likes to hear but it kind of, it's due to the
people, it's real.

And I have a lot of non-native friends who don't
understand, and so I'm an interpreter, I'm the middle
person, I will tell a story 50 ways if I can get one person
to understand. Like you said, soften the heart a little
bit.

Sometimes it's just educating people, it's like
oh, well I thought, you know, if more tribes got recognized
there would be more casinos. You don't know about some of
these tribes who have generations. Some of us leaders who
have no money, we take the responsibility of our entire
families and our entire tribe, we carry that with us every
day.

And you know, it's part of economics is a reality
because we're Americans, it's manifest destiny and all that
good stuff, it's part of reality, too. But again, we
support any changes that make it easier, the confusion,
this process is broken. And so any changes that can help
clarify some of this stuff I think is good.
PUBLIC COMMENTER: Vanessa Esquivido, Nor Rel

Muk. I've heard a lot of people today, and I'll be brief, and the reason why I wanted to speak because I didn't want to speak before, but now I want to speak, I thought of my daughter. She's ten months' old.

I'm 28 years old and we're not fully recognized. Our tribe has been going through federal recognition process for over 30 years. I know people roll their eyes, we're getting tired of hearing everyone's story, but you know what, this is our life that we live and the fact that we can't get services and things like that. So we're affected.

This might be your job, and I understand that, but this is my life. And I'm just asking you guys because we've already been through it for 30 years, how much longer do we need to go? These sound amazing to me the fact that things are changing and that we're having a conversation now, but it's been 30 years and longer for other tribes.

So what do you guys anticipate the length of turnaround for this, because even if you were to cut it in half, that's still 15 years. I'm just wondering what you guys think, how long this will take once all these go through and things start moving, what's the projected timeline?

MS. APPEL: I don't think we have an estimate
because it will vary, I think, on the complexity of each case and petition. But the changes are intended to move petitions through the process in a quicker manner, but we don't have a timeline. But as I said, the intention is for it to be more reasonable.

MS. KLASS: Within the proposed regulations in 83.32 there's a table and it provides kind of more of a timeline.

PUBLIC COMMENTER: I'm Brenda Garcia, and do occasional freelance writing in Los Angeles. So I would like to formally request an extension on the comment period, I believe it's extremely important especially hearing from city council members who are here.

I believe it's extremely important to have a meeting in the Los Angeles area. I also believe it's very important that the BIA understand that the California Indians are so diverse. We have in our state approximately seven different climates, I believe there's only seven climates in the world, something like that; am I correct?

In our one state you have every single climate, we have so many different Indians. And I specifically am aware of the Mission Indians and, you know, atrocities that occurred with them.

As a bystander, freelance writer, an information gatherer, I've gathered a lot of information over the last
several months. You can find a lot of it online and some of it is from the individuals here. There have been extreme atrocities to the Indians, there's been genocide, there's been theft of land, and our nation is not looking at that as -- not looking at it for what it is.

I know the BIA is changing, this is wonderful that you're considering new regulations. I have to state with the city councils that are here that a lot of -- I don't know everything that they have to deal with because of the casinos, but I know that there's a lot of greed, a lot of greed that would want individuals to stop regulations becoming more reasonable or individuals who suffered great losses.

And so obviously I'm requesting that with these meetings, there's more information. So there's a great lack of information from city councils that came to this meeting. They obviously have not read the entire document or federal -- for federal recognition, they haven't read the documents, nor/or can they understand what the changes entail or what they mean.

And actually, in my personal opinion how non -- my point is, they're not going to make a huge difference for a lot of the tribes. The rules and regulations are very stringent for these individuals to prove that they existed as a tribe to begin with.
And finally, if we look at human, human nature, if we look at the Jews and the genocide, if we look at the Armenian Jews, the Russians, there are so many, if you look at Civil Rights Movements, it's only since the '70s that the tribes really felt as if they were able to speak out, when the Civil Rights Movements occurred.

So as a Caucasian white from Germany who has no interest in the tribal recognition or not, our nation needs to look at the discrimination and prejudice against these individuals who had their land stolen, who are working 30-plus years to prove that their land was initially their land.

And one another comment is, someone made a comment on, anyway, it hurts other tribes. I'm not exactly sure how that's possible, I don't know who said that, but regarding Larry Roberts who's not here, I'm sure he's proactive for tribes because he's witnessed and listened to the individuals who are in this room who very specifically have suffered and their families and their genealogy and lineage have suffered. Their grandmas and grandpas have suffered through this. Congratulations to Larry Roberts.

PUBLIC COMMENTER: Hello, my name is Kristin Mackey, and I have been assisting the Miwok Tribe of El Dorado County originally from Shingle Springs Reservation for the last eight years. I also speak on behalf of
Darlene Gurovich [sic] an elder in the tribe who has given me the authority for me to speak as if it is her voice. I have a question for the Bureau of Indian Affairs.

The question is, when a tribe's identity has been stolen, what recourse do they have? We are not in a situation where we can apply for recognition, we already have recognition. We are IRA voters, Immuno Reorganization Act voters in 1934, and we have all documents, BIA identification, and that identity was stolen so that those people could make a casino.

They are the Verona Band of Homeless Indians, the Sacramento Verona Band of Homeless Indians. And when they were not able to get a casino because they were told you don't have federal recognition, they sadly became the Shingle Springs Band of Miwok Indians, and this is all documented.

What does a tribe do at that point? I would like the Bureau of Indian Affairs to give an answer to what we as a tribe can do at this point.

MS. KLASS: Within the regulatory process, other petitioners, you know, unrecognized groups, tribes can get involved and submit comments, so I'm not sure if that answers your question.

PUBLIC COMMENTER: Doesn't answer my question.

I'm asking, we're not wanting to submit, we want to know
what we can do to have our identity back, what can we do? We're not submitting for recognition, we want to know what know we can do now that our name has been stolen. What can the BIA do for us to get our recognition recognized, what can we do?

MS. KLASS: I guess I would just say if you have suggestions for how that can be handled better in the process, please submit comments.

PUBLIC COMMENTER: I don't understand what you're saying.

MS. APPEL: I think your situation that you're describing is really unique and we're trying to --

PUBLIC COMMENTER: It is unique, and that's why I'm asking what can we do? It's a unique situation, they paid off my friend and tribal member, they have the money to pay off the board of supervisors, they may contact the county, city council, they bought everybody off in El Dorado County. What do we do now?

MS. APPEL: So I think if you -- I can't answer that for you but if you have suggestions on how the regulations can address situations like that, we will be very open to considering them.

PUBLIC COMMENTER: Are you saying I should come up with suggestions?

MS. APPEL: Yes.
PUBLIC COMMENTER: Oh, even in the room?

MS. APPEL: We're open to anyone's suggestions, yes.

PUBLIC COMMENTER: I really want -- that would be great for other ideas, I want to know how the BIA can help us. Thank you.

PUBLIC COMMENTER: My name is Olivia, and I'm a member of the San Luis Rey Band of Mission Indians from Northern San Diego County. And I just want to say thank you, first of all, for being here and giving us all the chance to give our comments.

And I'm speaking on behalf of my tribe. We're [unintelligible] people and we support these proposed changes and all that the Secretary of Indian Affairs has proposed, and we see this as well reasoned and consistent with precedence.

And we especially support that the 83.8 previous federal acknowledgment still included and that, you know, there's the ability for us to comment on that. And it's especially important for us because we didn't just start this process in the 1980s, we've been dealing with it since we signed the treaty in Temecula in 1852.

And so we really see this as a way of continuing our request for federal acknowledgment and for being a sovereign nation with those government-to-government
privileges. And I just want to say again, thank you so much for being here.

PUBLIC COMMENTER: Good afternoon. I'm Kim Olivares Leone, the elected tribal secretary of Juaneno Band of Mission Indians, Acjachemen Nation. I'm hopeful that the outcome of all the public hearings and comment periods will lead to an improved set of regulations for the process of obtaining federal recognition of an Indian Nation.

I would like to address a few of your questions regarding the proposed changes to the current regulations. I feel that the proposed appeal process should go before a totally independent agency for review and not to the agency's OHA.

However, should you choose to keep the appeal hearing at the OHA, then only an administrative law judge appointed under Section 5USC3105 should be allowed to make a judgment on appeal and not an administrative judge or an attorney designated by the director of the OHA.

An administrative law judge who is separate and apart from the BIA would be the best choice, not someone who reports either directly or indirectly to the assistant secretary.

With your permission, I would like to ask several questions regarding current petitioners who have been
reviewed but whose decision has not become final and effective.

Where would these petitioners be placed in line for review once the new regulations are approved and adopted?

Would there be a window in which to submit an entirely new petition?

And with that resubmission, what would the new timeline for review look like?

Will templates on how to submit evidence to meet criteria be available to assist -- tribes.

With regards to membership criteria through regulation, reform allows, quote, other records or evidence, unquote, to be submitted to establish a person or their ancestor as a member.

Would DNA evidence be accepted for some members lacking official United States vital records?

In conclusion, I would like to say I am grateful for the opportunity to speak to you today on the record. Gratitude turns what we have into enough. It turns denial into acceptance, chaos into order, confusion into clarity and strangers into friends.

MS. APPEL: Thank you. We do have a section in the Proposed Rule that addresses how current petitioners will be treated.
MS. KLASS: It's in 83.7. Those that have submitted documented petitions have under the Proposed Rule are able to choose which set of regulations they want to proceed under. And the way that the Proposed Rule stands now, basically the order in which OFA will look at each petition is by date of submitting the documented petition.

And the current Proposed Rule doesn't address DNA evidence but if that's something that you feel like we, the Department, should add, please, if, you know, maybe this was your comment or submit additional written comments on that.

PUBLIC COMMENTER: My name is Angela Williams Eddy, I'm with the Mono Lake Kutzadika'a in Lee Vining, California, here with my father, Richard Williams, also a tribal member. Our story is like many in here. We've been doing this for almost 40 years trying to get recognized.

And like I said, we're from Lee Vining, California, which Independence, Low Pine, Bishop, Big Pine, also Coleville, Bridgeport surround our whole land, our town. They're all federally recognized except for us.

And Independence had an executive order from the president in 1915 and 1916 to be recognized as a tribe. We have the support of the tribes, which Independence is one of them, the council chair supports us, recognizes us. Bishop, their tribe recognizes us and supports us.
I'm an employee at the Bishop Pine Palace Casino. I was recognized there as an Indian, got a job, all of these towns that surround Lee Vining are tribes in the valley. Death Valley is also a tribe, was recognized down there. Their office is in Bishop, California which is 45 minutes from our town. They've all been recognized.

We've been working on putting our paperwork in, keeps getting sent back. It has been, like I said, over 40 years. We put our paperwork in 1971. I married a Timbisha Shoshone. Their tribe from Death Valley put their paperwork in in 1974. My husband, my sons are federally recognized. Myself, my daughters are not. If everybody knows the tribal custom, the boys go with the father, the girls go with the mother to their tribes. Me and my girls, still not recognized.

We have over 64 members that are enrolled. We have a total of probably about, I would say close to a good 100 that aren't -- don't have their enrollment packets with our tribe because they have taken other choices and gone to the tribes that are surrounding us. And they're in those tribes and they're waiting to come home. Just like the rest of us are waiting to get home and get our tribes recognized.

Basically our whole tribe is made up of descendents from Joaquin Sam, Maggie Howard, Bridgeport
Tom, Captain Sam, and all of them are from Lee Vining and Yosemite. Everybody knows Yosemite. Go to the museum, you'll see my grandmother there. Let's see, and it also -- it started a lot of our paperwork got sent back, they tell us it's wrong but they don't explain what's wrong with it.

And just like some of the ladies and gentlemen, we know who our family is. How come BIA is telling us it's wrong? I know who my grandmother is. I know who my father is. I know my great-grandmother, great-grandfather, all of them. I know who every one of them are.

So basically in closing, I thank you guys for being here, but if you could help us and let us know what we need to do, it's been 40 years.

MS. APPEL: Thank you.

PUBLIC COMMENTER: Darlene Franco, Wukchumni. I'm from Visalia, California which is in San Joaquin Valley and I am the chairperson of the Wukchumni Tribal Council. And I came here today to hear from all our brothers and sisters about what the process everybody's going through. We submitted our letter of intent back in 1988. The process became very tedious for us over the years that we kind of stopped really working on our federal recognition packet because there were other things that we needed to do, like keep teaching our culture to our kids, keep our language in tact, a lot of other things we needed
to spend our time on rather than politically and through this paper, this tedious process of federal recognition.

So we kind of stopped doing a whole lot, but I was very exited to hear that the processes are changing, hopefully to make it easier for federal recognition. Like I said, we submitted in 1988 when my daughter was an infant.

At that time my mother was a tribal chairwoman. My daughter's 26 years old today and we haven't got any further than we were back then. Okay. So my lineage, when we look at our families and our lineage, I was talking about some other people here today, you know, I'm tied into Santa Rosa Rancheria, Tule River Reservation, [unintelligible] Tribe and a lot of non-federally recognized entities also, like the Wuksachi.

And like I said, I represent the Wukchumni people here. Our people are survivors and I'm so glad to hear all the language that's being spoken here because that tells me that our culture has not died among all these non-federally recognized Indians, but we know who we are, we know where we come from.

So we're often, we may not be recognized by the federal government, but we are recognized by the federally-recognized tribes, because we are called often to come in and teach a language, we are called in to teach all
the culture, dances, songs, how our people lived back in
the day and continue to live this day.

So the federally-recognized tribes recognize us.

This whole process, you know, today there's tribal
consultation this afternoon, but it's only for
federally-recognized tribes to be there. So we're not
invited to that meeting.

The meeting this morning is public comment. I
came here to listen to the public comment for my brothers
and sisters from these non-federally recognized tribes.
And I appreciate and I take your words to my heart because
I feel you.

But then I had to -- we had to share our time and
I know it's a public meeting with the political entities
that are against us. And I felt -- I didn't feel good
about that. It is what it is and I appreciate your words
and comments, but I guess a good thing that came out of
that is there is people who changed their thoughts. They
came here [unintelligible] people are maybe changing their
thoughts.

So my recommendation to all the political
entities that are here is to go home and learn about your
people in your areas. Know the people that are indigenous
to that area. How are you going to represent your
communities if you don't know the people that were
originally there? We are not about casinos. Casinos do not define us. Casinos are another way that some of our Indian Tribes have learned about self-sufficiency to gain some financial prosperity, but that’s not us.

You know, I go home, we don’t have a casino. We paid our way to come here, like many of you probably did, many of you probably took time off of work to be here so you’re losing out on that also, but we care about our future. We know who we are, you know, we know our stories, we know where we came from, we know who we are today and the practices that we practice and we know where we want our future to go with our children.

So I commend all of you that are here and I pray for all of you that your work will continue in a good way and I pray for BIA to also open their ears, eyes and the process, so that we may all gain from this process in a good way.

So the one question I did have though because of this whole process, the old ways, it was two petitions were being reviewed a year. Is there any kind of hope that more with this new process will be reviewed a year, more than two? Is there going to be additional staffing to review these new processes? Thank you.

MS. APPEL: We are hoping with the changes with the regulations that more than two, hopefully much more
than two a year will be reviewed. I don't know, I can't
speak on behalf of the Department about resources, but that
is a comment that we've received, that additional resources
are needed for review and petitions.

MS. KLASS: And also, I just wanted to highlight,
you talked about basically having relationships with
federally-recognized tribes. And under the Proposed Rule a
suggested form of evidence or whatever for demonstrating
political influence or authority is relationships with
federally-recognized tribes.

MR. BEETSO: Just looking at the clock, seems
like we've got time for two more comments so we got this
gentleman over here and one more comment.

PUBLIC COMMENTER: Hello, thank you. My name is
Joe Melegh, and I'm not an Indian, I'm Yugoslavian. And I
just wanted to address everyone here. I have a small card
room here in California. And I watched the Indian issue
more of over 25 years, and I watched the larger casinos
freezing out the smaller tribes for recognition, purging
their roles to get rid of -- to shorten their roles to
increase their profits.

And I'm here to speak in support and opposition.
Number one, I want to support all the unrecognized Indians
that have fought this battle for a long time and fought the
battle against big money and big business. There was a gal
back there that claimed that her tribe was -- name was taken away and used by another group to get recognized and get funding for casino operations, etc.

So I personally, just speaking for myself and other card room owners, I personally hope these rules are changed, that these Indians are recognized for who they are and that their heritage eventually catches up and puts them at the same level as other Indian tribes that have had good success with business and development.

I do want to speak in opposition though to the eventual recognition of these tribes. And a lot of that revolves around gaming. And I would think that a lot of the tribes that may be recognized would be interested in gaming. It is a good business.

And on that note, I would be in opposition to the proliferation of gaming and the breaking of the promise of the initial 1(a), but the law of 1(a), that was passed in California a long time ago when the Indians agreed that they would not proliferate gaming throughout the state. So that, I would be in opposition to.

The one other thing I want to say -- I know the time is short -- is I've always been very disappointed with the larger gaming Indian groups not paying into the fund that the smaller tribes could use to develop some of the resources they need on their reservations. And this is a
matter that -- well I don't know all the details, but these tribes need help themselves, and I don't know why people don't take care of their own people sometimes.

    I didn't want to say greed, but that might be part of it. In any case, thank you very much for your time and good luck.

    MR. BEETSO: Okay, sir. Take us home.

    PUBLIC COMMENTER: My name is Fred Short, Little Shell Band of Indians, but I was born here in Sacramento, and raised on -- when my life began like in the '60s and later part of the '60s, I went on a American Indian Movement, people that started getting back into fighting for who we are and these things, these issues today.

    I'm here to support all of our non-federally-recognized tribes. So that whatever benefits, anything, you know, that is coming to them, I hope we get -- I hope we all get, you know, response. I've spoken to many of the big dealers, unions, leaders in getting proposition of tribes and everything on the ballots and saying we deserve just to be able to have Cadillacs if that's the way it's going to be like anybody else, you know. There's going to be money for us, we deserve it.

    But more, really what I wanted to say is my whole adult life, you know, when I was out there with the Sixth Nations people, they gave us protection, sensory, but in
the long house there they have never signed a treaty with
the government.

And in 1983 they called me up, the United Council
of Churches, to sit on the board to represent some of these
things that pertain to us. But the chiefs told me, Fred,
never sit at the same table with them. I thought about it
for a long time. Really, my inside question was why?

But they said, never sit in the same table with
them because eventually you're going to become one of them,
you know. And I learned that when that is, and I hope, I
care since the '60s, '70s, '80s and now, why we're getting
to this point where we're at is because our children are
dancing, Indian ceremonies, our culture.

Our culture is really coming back. You know,
it's getting stronger. This is what pulls us here. I
don't mind working with the BIA now. I even sang the songs
in the office over in Washington. You know, but in the
'70s they would have arrested me. We ran from there.

Different now. And I hope it continues to get different,
but better for all of us in the long term.

You know, Clyde and Dennis, you know, the long
thing in us, it has to die, is that Christianity [sic].
Our children has to go past that. And many of our elders,
it's hard to say that because they were raised that way.
And that's with the chiefs and elders up there in the Sixth
Nation were telling me, don't sit at the same table as
them. [Unintelligible] I'll go on that way.

So those elders are here, you know, in the
Lincoln Documentary, it's not because I'm losing my house,
all these things [unintelligible] up here in California and
in the prisons.

My thing is if you're still cussing, if you have
these added thoughts, that's not our way. That's not our
way. As Indian people are coming here like, you know, to
try and gather and get as strong as we can through our
ceremonies, our language, our elders so these little ones
now have [unintelligible.]

MS. APPEL: Okay. I think with that we're going
to close the public meeting this morning. If anyone wanted
to speak and didn't get a chance, do we have people who
wanted to speak and didn't get a chance? Okay. If you can
submit your written comments. Again, the email address is
up there.

And as I said, we weigh them equally, so the
statements made today will be reviewed as well as the
written comments. Thank you everyone for coming. It's
clear how important this issue is to everyone in California
and I wish you safe travels back.

(Whereupon the proceedings were
adjourned at 12:00 p.m.)
REPORTER'S CERTIFICATE

I, Amy E. Perry, a Certified Shorthand Reporter in and for the State of California, duly appointed and commissioned to administer oaths, do hereby certify:

That I am a disinterested person herein; that the public meeting was reported in shorthand by me, Amy E. Perry, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting; that the foregoing is a true and correct record of the proceedings.

IN WITNESS WHEREOF, I hereby certify this transcript at my office in the County of Sacramento, State of California, this 29th day of July, 2014.

[Signature]

AMY E. PERRY, CSR 1880