

1 U.S. DEPARTMENT OF THE INTERIOR

2
3 TRIBAL CONSULTATION

4
5 ALASKA IRA AND LAND-INTO-TRUST IN ALASKA

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8 TRANSCRIPT OF THE PROCEEDINGS
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12 Northwest Arctic Heritage Center

13 171 Third Avenue

14 Kotzebue, AK 99752

15 Alaska IRA Session: 10:00 a.m. to 12:00 p.m.

16 Land-Into-Trust in Alaska Session: 1:00 p.m. to 3:00 p.m.

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21 REPORTED BY: Elizabeth K. Appel, Director
22 Office of Regulatory Affairs & Collaborative Action
23 Office of the Assistant Secretary – Indian Affairs

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25 DATE OF PROCEEDINGS: March 7, 2019
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ATTENDEES

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE ASSISTANT SECRETARY – INDIAN AFFAIRS:

John Tahsuda, III, Principal Deputy Assistant Secretary for Indian Affairs

Elizabeth K. Appel, Office of Regulatory Affairs & Collaborative Action

BUREAU OF INDIAN AFFAIRS:

Gene Peltola, Regional Director – Alaska

OFFICE OF THE SOLICITOR – DIVISION OF INDIAN AFFAIRS:

Matthew Kelly, Attorney-Advisor

TRIBAL REPRESENTATIVES

Frederick Brower, Executive Director, Inupiat Community of the Arctic Slope

[No Tribal representatives were present for the morning session, so this transcript begins at the start of the afternoon session. Mr. Tahsuda opened the afternoon session at approximately 1:15 p.m.].

MR. TAHSUDA: We'll open up this public meeting, actually, this consultation, on the second topic that we're seeking comment on, from the Tribes here in Alaska, that's the Secretary's authority to take land into trust in Alaska, specifically for entities organized under the Indian Reorganization Act and the Alaska amendments of 1936. So, we'll do a transcript formally for this, and it'll be part of our record of our consultations that we've done. This is the last of the series of the consultations that we've done up here. And, so I assume that Liz is able to get your name and everything down so we have your comments down as part of the formal record. So, did you read the letter? Did you get a chance to read?

MR. BROWER: Yes.

MR. TAHSUDA: Okay, you know that, so this kicked off as a direction from the President, which happens virtually every new Administration, to take a look at things, decisions made in the final closing days of the previous Administration, including in this case, M-opinions that were issued by the Solicitor, one of which was an M-Opinion dealing with the authority of the Secretary to take land into trust in Alaska. So, that M-Opinion has been essentially put on hold while we conduct these consultations. And this is also part of the Solicitors

1 Office taking a deeper look at the interplay of the various laws that have come into effect
2 since the 1936 Alaska amendments to the IRA, including Alaska Statehood, ANCSA, ANILCA,
3 I'm missing one – what's—the Federal Lands Policy Management Act, and the number of
4 amendments that have occurred to some of those different Acts. So I know ANILCA's had
5 some amendments, et cetera. So, as part of their look at the interplay of those laws and
6 determining whether the previous M-Opinion satisfactorily set out the authorities for the
7 Secretary to exercise or whether it needs modification, expansion, whatever, they're going
8 through the legal exercise. Part of what we've sought through these consultations is
9 assistance from the Tribal perspective in Alaska on those legal authorities. But there's also
10 a policy element to this, not strictly legal and we also wanted to cover that. And so, in
11 addition to comments on legal authorities, it's also important for us to develop as part of
12 the record the policy implications for exercising, potentially exercising, this authority. So
13 that, and for us, I think, in particular in the Assistant Secretary's office, being sort of the
14 policy arm as opposed to Solicitors being the legal arm of the Department. I think there are
15 some questions that were in, attached to the letter regarding land into trust. And those are
16 in part to help us understand the, again, sort of the impact of this policy for Tribes in
17 Alaska. And since we're talking about something that derives from 1936, you know this
18 fundamental question about, is it still relevant, how important it is to you, what would you,
19 what would you, what would the tribal entities in Alaska think are the goals and
20 accomplishments that are important to them that this could provide. And again, are they
21 still relevant to today as they were in 1936, et cetera, those kind of questions. Really to get
22 a factual background as well, to support the legal questions that the Solicitors are looking
23 at. So, that's really the intent of what we've been doing through these and, so, you know,
24 feel free to give any of your thoughts on that. And I think it's helpful to the extent you have
25 been able to hear and understand the history of it from your family, from elders, et cetera,
26 and relate those also to your view of how it could apply today.

27 **MR. BROWER:** Okay.

28 **MR. TAHSUDA:** So I think, let me add, see if I had anything else, I just want to make sure.
29 So I think that's largely it. I would say also, so, this morning's session was intended to deal
30 with the sort of companion part of this, which is the ability of Tribal entities to organize

1 under the IRA in Alaska, and again whether that's relevant today, what type of Tribal
2 entities should be eligible for that given that we now have different entities, we have the
3 ANCSA corps, we have village corps, et cetera, so, and if you have a thought how there's
4 different perspectives from those different ones that could be relevant to us as well. So, for
5 our purposes this afternoon, I would like you to feel free and for us to be able to discuss the
6 whole range of issues, so including the recognition and the entities that should be able to
7 exercise or ask for this authority to be exercised for them, as well as the actual exercise of
8 it. So—

9 **MR. BROWER:** Okay.

10 **MR. TAHSUDA:** You got anything you want to add, Matt?

11 **MR. KELLY:** Excuse me for being late, I had a work phone call I had to take. My name is
12 Matthew Kelly, I'm the Assistant Solicitor for the Branch of Environment and Lands. We're
13 the division in Central Office that helps regions in processing fee-to-trust applications
14 among other things. And, it's a pleasure to be here.

15 **MR. BROWER:** Nice to meet you.

16 [Unintelligible sentence].

17 **MR. PELTOLA:** Buzzy.

18 **MR. TAHSUDA:** So, and I don't know, it may not be a question that was in your head at all
19 but, in some of the previous consultations, the question came up and I do want to be clear
20 as well, that when it comes to the recognition of tribal entities, we're not looking
21 backwards. We're not questioning any of the IRA tribes here. Nobody's wanting to change
22 their status or anything. This is all forward looking and so, that, some of the, especially
23 when we were down in Juneau, some of the Tribes there were concerned about that, that
24 we were looking to change their status. We're not looking to do that. It's really forward
25 looking about, you know, the proper exercise of this authority, et cetera.

26 **MR. BROWER:** Has there been much applications that, to form IRAs recently?

27 **MR. TAHSUDA:** We have—

1 **MR. KELLY:** There are three that have been pending for a number of years. And in part one
2 of the reasons they have been pending is uncertainty in, over how to process in the absence
3 of a guidance or regulatory framework.

4 **MR. BROWER:** So, in regards to the fee into trust or land into trust, I'm the Executive
5 Director for Inupiat Community of the Arctic Slope, Frederick Brower, for the record. And I
6 had a recent discussion with the new Tribal president from the Native Village of Point Lay,
7 and their concern, and also discussions with my President George Edwardson, and which I
8 brought up to Gene, that we're trying to look into the application that was submitted on
9 behalf of the Native Village of Point Lay. And that, I think had made it through the process
10 and then was waiting for an approval. I'm not too sure because this was prior to me
11 becoming Executive Director. And that when the Trump Administration came in they
12 halted all the land into trust transfers or land into trust discussions, applications for Alaska.
13 So the question came up for the Native Village of Lay, well, where's that put our application,
14 what's the status, they're trying to gather information, since they've had a turnover in their
15 board, and presidency, so it's a new person just trying to basically start from zero as far as
16 information that she may have or knowledge. And that's why I'm here is to just, pretty
17 much specifically ask that question, and, what would be the steps moving forward, and if
18 there's any guidance or assistance from the Department of the Interior on this, that'd be
19 great. That's pretty much the only reason why I'm here. So.

20 **MR. PELTOLA:** I've asked for active applications, those that we currently have. So, we
21 currently have 10 active applications, okay, two from individuals, eight from entities, Tribal
22 entities, then we've had some where final action has been taken on. Obviously the Craig
23 transfer and then a couple of others which were found to be incomplete, the applicant
24 never responded so they were closed out. And then one individual review, so when I go up
25 through, and that's one thing I asked our realty division on, is when I first came on board, to
26 give me a list of current applications. So, as of March 6, 2019, from what I've been told is
27 that we don't have an application for Point Lay.

28 **MR. BROWER:** Okay. So, would they have to re-go through the steps again, or is it not
29 going to go anywhere with the current halt on applications?

1 **MR. PELTOLA:** We received, let me get the date correct here first.

2 **MR. BROWER:** I think it was 2017, 2016, somewhere around there is kind of what I was
3 hearing.

4 **MR. PELTOLA:** So we received an active application from Ketchikan Indian Community as
5 early as August 3, 2018, when we did a consultation down there on fee-to-trust and also
6 Alaska IRA recognition. You know, and then we reviewed that. So, when we receive an
7 application within the region, we're required to respond within 10 days and we did a
8 review that found it to be incomplete and sent it back to Ketchikan and they're filling in the
9 gaps. So, it's a long process, like I mentioned earlier, it's actually 16 individual steps once it
10 gets within the Department of the Interior, towards conclusion. So it's not that we're not
11 accepting them, but then going through the review, we have [Gordan], an individual
12 application; we have [UNS or Eunice], individual application; then entities, other than that.
13 And we do not have Point Lay, at least on the list, which I asked for of current applications.
14 And these all go back as late as 2015 that we're acting upon. I actually reviewed the list that
15 is currently in the Solicitors Office that some of the responsibility falls within the bureau
16 within the Alaska Region. And then, once we take our initial steps then we turn them over
17 to the Solicitor's Office, they have some responsibility, all the way up into the Interior
18 before a final decision has been made. So I looked at closeout applications, we had one for
19 Point Hope that was closed out, and then, but I don't see anything for Point Lay. We have
20 another one for an individual off the Slope where she canceled her application because she
21 sold her parcel. So, I don't have one for Point Lay.

22 **MR. BROWER:** Hmm, that's interesting. That's good to know. Because there's thoughts
23 from my current president and then former members of the Native Village of Point Lay
24 except, what they're telling me is that they were in DC, met with Obama, or the Obama
25 Administration, and that they were notified that their application was done and accepted
26 and then with the change in Presidency, then they kind of are where we're at now. So I need
27 to at least go back and do a little more searching on my end, gather some more factual
28 information and any documents. When I got on board with ICAS, we had of course change
29 in Executive Directors, plus we had a full remodel, a lot of paper we had lost, that were

1 boxed up when they were doing the new carpet, new furniture, so we may have them, but
2 I'd have to start going through a lot of the boxes to try to find any correspondence or any
3 application from the Native Village of Point Lay. Because they're, they're pretty adamant
4 they thought it was done and, we're just trying to figure out what the status is.

5 **MR. TAHSUDA:** Okay, so if you could follow up, and then let us know, we'll try to follow up.
6 So, that doesn't sound familiar to me, from the applications that we have, that I thought we
7 had in the Central Office, but we can follow up on that.

8 **MR. BROWER:** So—

9 **MR. TAHSUDA:** So—Oh, go ahead.

10 **MR. BROWER:** Moving forward, if we can't find it or it's not, can be found, do they have the
11 opportunity to reapply, or apply, for—?

12 **MR. TAHSUDA:** So, yes, although, they may want to hold off until—so this is one of the
13 questions we have to resolve is, you know, do we have the authority to do it. This, you
14 know, this is one of the fundamental questions that we're looking at. And so, they could
15 submit it but really nothing is going to happen until we figure out what our path forward, if
16 there is one, what it is and how we'll do it. So, that you know, would be I think probably be
17 wise for them to hold off.

18 **MR. BROWER:** Okay.

19 **MR. TAHSUDA:** The package that they put together, so if eventually, you know, so we have
20 a couple of steps. One, there's this fundamental authority to do this, that we're looking at.
21 And assuming that that is determined in the positive, that the Secretary does have the
22 authority to do it, then we also have to consider the process. So, you know, this has been
23 the question of this authority has gone back and forth for a long time, decades, through
24 successive Administrations, et cetera. And through all of that, there was never a process set
25 up for land into trust in Alaska other than the process that we currently have in the lower
26 48. And so one of the, sort of like a follow-up question for us, would be, you know, should it
27 be the same process, given the sort of differences up here and the way things, you know,
28 sort of historically and then through our bureaucratic process, some of the things up here

1 are very unique to Alaska. So that would be a question as well, I think for us to get through,
2 you know, what would be the process to take it into trust. So I mean there's no, so for
3 example, generically speaking, in the lower 48, you know, there is a process. The process is
4 handled two different ways. If it's on-reservation, it's handled one way. If it's off-
5 reservation it's handled another way, even though the steps that he's talking about are the
6 same. So, but there's no reservations in Alaska so, you know, one of the questions we ask is
7 would we do everything like it's off-reservation, that would seem to be very inefficient. So
8 that's supposed to be a, I won't say unusual, but a less frequent, you know, application in
9 the lower 48, right?

10 **MR. BROWER:** Mmm-hmm.

11 **MR. TAHSUDA:** And so generally speaking most of those, well, they start out in the agency
12 and the region, they come to DC for part of the process. And the on-reservation ones, by
13 and large, unless they have to do with gaming or something that has, triggers some, you
14 know, significant environmental review or something like that, they all just take place out
15 in the region. They're handled by the agency and the region which handles the realty office
16 functions, right. So, though, it would seem really inefficient if we're going to start as a
17 regular process of taking land into trust in Alaska, it would seem really inefficient for us to
18 do it off-reservation, like an off-reservation process. So, we have these, I keep using the
19 word "process," but we have these process questions that we'll have to get through as well,
20 how we're going to do that. So, this is a long way around to saying that, probably the
21 information that they put together will be useful and helpful in, you know, when they
22 resubmit, I'm just not sure that we'd be, I mean it's not going to go anywhere, so they may
23 as well hang onto it for now, until we get past this point, and then they can submit it, and
24 then there'll be probably some additional information, but it won't be like starting over
25 from scratch.

26 **MR. BROWER:** Okay.

27 **MR. KELLY:** One thing I would add too, just by the way for your information, if you go
28 online and you search for "BIA fee-to-trust handbook," that's the manual that is used by the

1 Department for processing all fee-to-trust applications generally. And it breaks down the
2 steps that Gene referenced.

3 **MR. BROWER:** Okay.

4 **MR. KELLY:** And it explains, the back-and-forth that can go on when information is missing,
5 what's necessary, what the steps are, when information can become stale. So you can get a
6 more detailed picture how the process works generally too. I think that might be helpful.

7 **MR. BROWER:** Okay. That's good, that's good information. More than what I had, so. And
8 for me, it was worth flying all the over way here to get this, so. My council thought
9 otherwise, but, it was going to be the last meeting and I had to make an effort to try to make
10 it, so—

11 **MR. TAHSUDA:** I appreciate it.

12 **MS. APPEL:** Yeah, thank you.

13 **MR. TAHSUDA:** Any other questions?

14 **MR. BROWER:** No.

15 **MR. TAHSUDA:** Anything you can think of that— Part of this I have also been trying to
16 encourage and hope to get through these consultations is for us to give you and the Tribes
17 questions to think of and maybe give us more information later, right, but so, not thinking
18 that we have all the questions to ask that we need answers for but maybe that triggers
19 more questions from you, and we can have some back and forth as well.

20 **MR. BROWER:** Okay.

21 **MR. TAHSUDA:** So.

22 **MR. PELTOLA:** I think by going through the process, you know, going through the
23 handbook like Matt was talking to you about, you know, I mentioned that there was a 16-
24 step process that derived from what we do, and if you go through and look at that and see if
25 there is anything that you think is applicable, you know that you think should be applicable

1 in this situation, you know, to populate the recommendations that are coming out from
2 John and Matt to the Secretary.

3 **MR. BROWER:** OK. I'll look into that.

4 **MR. TAHSUDA:** So, let me ask you this. So, you know, one of the fundamental questions I
5 have and really this is sort of more pragmatic, policy-related, is what are the, what are the
6 reasons that the tribes around here would want land into trust, what would they want to
7 use it for, what do they think are the perceived benefits, et cetera. That's helpful for us also
8 as part of the calculus.

9 **MR. BROWER:** Yeah. So, I know with Native Village of Point Lay, they're trying to – they're
10 the only unincorporated community of North Slope and so their city council [unintelligible]
11 the Native Village. And the local corporation, which is Cully corporation, so there's some
12 disputes with the ANCSA and ANILCA as far as who ceded lands, the surface rights, it's
13 becoming a dispute between the two, the corporation and the native village, as far as who's
14 the actual owner of the land, who should be the one discussing when they're talking with
15 the North Slope bureau, or are other entities. There's some interest from this outfit in
16 Russia that was looking to produce coal mines, or coal, which is, the type of coal was a
17 metallurgical type they could turn into metals, it was, instead of just heating, there was
18 more benefits to it. Well, it turns out that process was being done on State lands, was kind
19 of out of the question can we do anything anyways, but it raised the question of well, who
20 should the outside entities be talking to on the landowners. And, with the new president,
21 that's kind of her stumbling block right now is, trying to understand that, and how to move
22 forward as far as, are there business dealings and/or just general discussion and
23 knowledge on who's the rightful owner. And it's been an ongoing issue because the
24 corporation, although they're local, the board of directors live in Anchorage. No one lives in
25 Point Lay and the communication efforts between the two entities are pretty, pretty
26 limited, and it's quite concerning that that set-up is like that. But it's kind of to the point
27 where, the Native Village of Point Lay, their back is against the wall in trying to figure
28 something out, and move it forward. So. And then also, they've got an issue two years ago
29 with the, their water source, so they're trying to find another water source. What happened

1 was their river, erosion kind of got into the permafrost, started melting that away, and it
2 busted the side of the riverwall, the lake, it burst through the water pipe, and it turned out
3 there was landowners from Cully the Native Village and then also the U.S. Army owned a
4 portion of that lake, but it all dumped out. And they're trying to find some other sources but
5 then again it's to well, who's land is it when they want to go find another water source.
6 They're currently doing it through reverse osmosis right from the ocean. I mean, it works,
7 it's, it's clean water, but then the mentality of thinking that it's coming from the ocean. You
8 know, it's good drinking water, but they would like it to have it come from the lake. Or, just
9 be another filtration process to get the same water. So, it's kind of an interesting discussion.
10 But, again, it gets back into, how far can we go out as a native village as far as waters are
11 land and where does it start, who owns it, and their general knowledge about that
12 application they thought they had submitted and was approved. So—

13 **MR. PELTOLA:** I just texted the Office to look at their files regarding any correspondence
14 from Point Lay, on fee-to-trust because, you know, like I said, I asked for that and they said
15 the March 6 report came up here.

16 **MR. BROWER:** Okay.

17 **MR. PELTOLA:** But it doesn't mean it could not be somewhere else.

18 **MR. BROWER:** And they're the only ones that I'm aware of besides Point Hope that may
19 have submitted an application, so I'm not too sure or familiar with that process that Point
20 Hope did, or what the reasons were to submit an application. Yeah, that was kind of before
21 my time. So.

22 **MR. TAHSUDA:** Okay. So, from some of the other regions, consultations we did, it seemed
23 like a big point of emphasis for them was being able to potentially assert, like, law
24 enforcement authority, et cetera. Is that something that is—

25 **MR. BROWER:** I know the Native Village of Barrow, they were, they established their
26 Tribal courts. It was pretty robust, and they got an actual court, the judges, but in the north
27 slope region we do have our own police force with the borough, that is in every community.
28 So, that's our established process with the borough, which is the municipal services, along

1 with the fire, fire departments, but I think the direction we're, like Barrow and Cally, is
2 going is the— there's a lack of district attorneys or prosecutors due to how they're funded,
3 the borough actually assists with paying for those positions so we could have them within
4 the Cally, and a lot of the ICWA cases involving the children within that tribal court, that's
5 where a lot of where their dealings are, and I think Point Hope is looking to establish the
6 same thing. So, not necessarily they're looking to establish their own police force because
7 it's already there. Does that help?

8 **MR. TAHSUDA:** Yeah, it does. Sorry, I'm trying to catch up with my notes here.

9 **MR. BROWER:** No problem.

10 **MR. TAHSUDA:** It was Point Hope, you said, that was also interested in doing—

11 **MR. BROWER:** Yeah, a Tribal court.

12 **MR. TAHSUDA:** Alright. Questions? Thoughts?

13 **MR. KELLY:** I have a question I'd like to ask that comes out of the subject you've been
14 talking about, from the consultations we have had. How, when you're approaching this
15 process, and when you're approaching for example the fee-to-trust process, you have an
16 application you'd like to submit and so on. How do you go about getting the information
17 about the process itself. Are, do you do the research, you and the council, whomever, do the
18 research yourselves, do you work with attorneys to do that—

19 **MR. BROWER:** We work with our attorneys.

20 **MR. KELLY:** And they're able to explain it to you?

21 **MR. BROWER:** Our current attorneys are Hobbs Strauss Dean and Walker.

22 **MR. KELLY:** Okay.

23 **MR. BROWER:** Which we're finding out they're everyone's attorney, and it's kind of a
24 conflict. At least for me, because I'm coming from a background in risk management and
25 dealt with the attorneys. And back to how I found out was at a Council meeting, we're
26 looking into the Nanuuq Commission, which ICAS is part of, and some of the native villages

1 on the coastal communities are part of that. Well, I had one of the attorneys work on
2 something for me, well the representative from Point Oaks started jumping on my case and
3 they came, well you're my attorney, why haven't you given me that same information to
4 submit. What it came down to the Alaska, Nanuuq Co-Management Council, was looking to
5 reside within a jurisdiction, whether it be the Nome area, the NANA area here, or the North
6 Slope region, and Point Hope was looking to 638 it out and then take it under their native
7 village and then run it that way. And ICAS as the regional Tribal government for the North
8 Slope region was looking to do the same thing. Well, when an attorney gave his opinion and
9 the other guy jumped in and said, well you're my attorney why didn't you give me that
10 information, I was interested also and I started scratching my head. I was like, well, how's
11 that work out? And then finally, it just, we asked our counsel, our legal counsel, I was like, I
12 think something's going to change here very soon. Because I'm finding out they're not just
13 our attorneys but they might be attorneys for almost all the native villages part of our
14 consortium. And, yeah. It's kind of, an interesting situation I'm finding myself in. But, I
15 mean, a lot of it's all new, at least for me. I'm in this position one year, background in risk
16 management and emergency management, and was looking for a change and here I am. It's
17 fun, I'm learning something new. So.

18 **MR. TAHSUDA:** Well risk management's fun.

19 **MR. BROWER:** It was, I did all that for 10 years. It was. I did all the insurance for the
20 borough, litigation cases, workers comp. Of course, safety for all the employees, it was quite
21 the gig. I actually got bored when I left because there's just not, not nothing new every day
22 like I was when I was in risk management with something always coming up. A lot of
23 brainstorming trying to figure out problem solving. So I joined back with the fire
24 department when [unintelligible] calls to do something kind of exciting in life. Besides
25 hunting. Well, other than the general questions in regards to Point Lay, I mean, that's all I
26 have in regards to this whole, this whole meeting. I mean, is there anything else from you
27 guys as far as this other information or—

28 **MR. TAHSUDA:** I don't know, I think maybe at some point, you know, we'll probably follow
29 up as we're digging into – so the process from here. This is the last consultation that we'd

1 scheduled and then basically we've scheduled 6 months for the Solicitors to do a lot of
2 thinking about the legal aspects. Probably take her a couple more weeks, but Liz's crew will
3 have the records of the consultations and whatnot, and to have for consideration, so. But
4 we really had like a 6-month period for in-depth thinking. So my thought was, maybe
5 during that time period, we could have some follow up, I'm sure there will be other
6 questions that come up, you know, raised by us. And I would encourage you, as Gene said,
7 to go through the, or I mean as Matt said, to go through the fee-to-trust guidebook. And,
8 there may be things, again, that would seem to, parts of the process that are important to
9 how we do it in the lower 48, maybe they're not important to how we would do things up
10 here. Or maybe there are different things that should be considered.

11 **MR. BROWER:** Okay.

12 **MR. TAHSUDA:** And so, or you may just have a question, like why the hell do you have us
13 do something stupid like that, you know. So, at least we can explain it.

14 **MR. BROWER:** Yeah, okay.

15 **MR. TAHSUDA:** You know one of the things too, to think about, so you know there is a
16 fundamental question as well for us about what entities are eligible to have this authority
17 exercised for them. So, because, you know, there are, so—under the '34 IRA, the
18 Department has broadly applied that to all Tribes in the lower 48, whether they are
19 reorganized under the '34 IRA, whether they kept the traditional form of government they
20 had, or have done something different. You know, the Department has, other than the
21 limitations in the Carcieri case, largely applied that to all the lower 48 folks. But the '36
22 amendments, you know, extended that to Alaska, the authority to take land into trust but,
23 it's not entirely clear whether it was contemplated to only apply to tribal entities at that
24 time, tribal entities that reorganized under the '36 amendments, IRA amendments, and
25 then of course no, no thought at that point, for 40 years later when ANCSA would be
26 enacted, right, what would happen with those entities et cetera. So that's another sort of
27 question that we have. I think that, there's probably a difference of opinion. I think, well,
28 there's been questions it seems like raised in the past that, you know, maybe some village
29 corporations, which are ANCSA entities, think that they should have access to that

1 authority. It's not clear to me anyways, and let me just talk off of my cuff, and Matt can keep
2 quiet if he wants to and add or tell me I'm wrong, but you know it would seem to me that
3 unlikely to be the intent of the '36 Act was making applicable to ANCSA entities. Right, so
4 my thought would be, we probably can't exercise that authority for the ANCSA entities, but
5 there are other entities that, you know, traditional villages, the native, you know, and the
6 un-IRA-organized native tribes, you know, et cetera.

7 **MR. PELTOLA:** Or the majority of Tribes on our west [unintelligible].

8 **MR. TAHSUDA:** Right, that's another question. And it also partly relates to my question
9 about, at the end of the day, what are the pragmatic reasons that it would be important to
10 you to have that right, to exercise that. So.

11 **MR. KELLY:** I would stress, as I have in other consultations that I've attended, the value of
12 input. And I understand that if you're working with attorneys, oftentimes attorneys will
13 take the lead on revising and preparing the questions. To the extent you can engage them
14 as well, and go beyond for your own satisfaction, it's going to be helpful to us. We sit in an
15 office, what is it, like 3,500 miles away, and some of us are not as familiar with, you know,
16 the history of here, the people, and what the concerns are, and so we rely on that input to
17 really get a more subtle understanding to the extent you can do that, with that distance. So,
18 spread the word, and you know, think about these things, and read over some of this stuff.
19 And questions that come up – no question is not worth hearing because it helps us, and put
20 things in context. So. That's the only thing I wanted to add.

21 **MR. BROWER:** Thank you.

22 **MR. KELLY:** I couldn't give you a business card, I'm sorry I forgot to bring them with me.

23 **MR. BROWER:** That's fine.

24 **MR. TAHSUDA:** So, he's clearly not an attorney in private practice. Alright, anyone have
25 any more questions? How about you, Gene?

26 **MR. PELTOLA:** I have a couple of things outside the consultation.

27 **MR. TAHSUDA:** Okay. So let's close out the record, Liz.

1 [End of Transcript].