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BUREAU OF INDIAN AFFAIRS

OFFICE OF THE SECRETARY

TRIBAL CONSULTATION

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Reported by:

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MR. TAHSUDA: Good morning. Welcome, guys. We want to get started here. I don't know if we are going to bring more chairs or not but hopefully you guys can find a place to get comfortable. So to start us off I would like to ask Chairman Attebery to lead us in prayer.

CHAIRMAN ATTEBERY: (Speaking in another language.) Hello, how are you and good morning. My name is Russell Attebery and I am the Karuk tribal chairman. First of all, let me take this opportunity to thank all of the government leaders and tribal leaders that are here today to discuss important issues. And we all know that the tribal leaders put in a lot of time to dedicate to the people, to their elders, to their children, to help build a better quality of life. So thank you for that.

(Prayer.)

MR. TAHSUDA: Thank you, Chairman. It is always great to start the day off on a good note. So we will get started here. And before I start us off though I wanted to make sure to note I know we have -- what I would like to do is start off with tribal leaders who have signed up and said that they want to speak and so
we can kind of proceed in that fashion first, and then
I'm assuming we will have time after that for folks to
come up after that and make comments as they want after
that.

Now, I notice also that a few tribes have
multiple people that want to speak so if we could first
have one spokesperson from your tribe and then if you
have other people from your tribe that would like to
speak as well if they could go after we have gone
through the list of tribal leaders and hear from you
next, I would like to proceed that way.

So thank you guys for coming and I wanted to --
I don't want to take up any of your valuable time with
me standing up here saying nothing but I do want to
thank you guys for coming. This is a very important
discussion for us and, you know, going back to one of
the principles that our boss, the Secretary of the
Interior, has laid out and that is that we want
sovereignty to mean something for the tribes that we
have a government-to-government relationship with. And
there is -- towards that relationship there is nothing
more important than the land that we have that you have
sovereignty over and so this is an important part of
that discussion. The Secretary is very familiar with
Indian country. He grew up in Indian country in
Montana. He is very comfortable with tribes so the establishment and the further growth of tribal land bases and the economic and cultural and community values that brings the tribes he understands are of paramount importance and that is something that we have worked -- are working hard on from day one when I came in and even before that. So that I think should be a foundation for us to proceed from.

From there and really the focus of today is to talk about acquisitions of land off reservation and that's been something that the Department has done off and on going all the way back to the Indian Reorganization Act. The original regulations really didn't -- you know, didn't come about -- the Department really just operated under the statute until 1980 and that was sort of the first fleshing out of further process through regulations and how this was to be handled.

And from that time the regulations have been updated several times and have been changed, including on how to address off-reservation acquisitions as distinguished from on-reservation and what that means. And so today we really want to focus on the off-reservation acquisitions and we have, and hopefully you have in hand, as your tribal leader that lays out
some questions that we came up with that we hope will
sort of further, you know, push the discussion forward,
give us something to talk about and focus on. And so I
would like to hopefully to the extent possible kind of
cover those. And you don't have to cover them all.
When you get up and speak if one of those things really
jumps out at you and you want to talk about that, that
is perfectly fine. Now, if you have other issues -- and
I am not saying that we have thought of every issue in
this short list of questions -- if you have other issues
that you think are relevant to the discussion as well,
of course bring those forward but we do hope to come
forward from this today and from the follow-up
consultations we are going to have around the country
with -- you know, with some answers to these questions
for us to process internally and figure out where we go
from here.

So with that I want to really just turn it over
and let's hear from you guys. I hope to spend most of
the time hearing from you. We have a great turnout, a
lot of tribes here, a lot of tribal leaders. I want to
make sure that you all get the opportunity to give to us
your message and so I don't want to again talk too much
myself. If you have a burning question that you would
like us to try to respond to if we can, happy to do that
but, again, I would really like to spend most of the
time listening to you guys and have you give your
message to us.

So thank you and let's start off -- Chairman
Smith on behalf of the land consortium, would you like
to offer a couple comments? And then just to be
prepared, next batter up, Vincent Duro from San Manuel,
if you could be -- when Chairman Smith is done we will
have you come up next.

CHAIRMAN SMITH: Good morning. Again, my name
is --

MR. TAHSUDA: It is not that we don't want to
hear you talk.

CHAIRMAN SMITH: Good morning, Principal Deputy
Assistant Tahsuda, Department of the Interior official.
Again, I am Robert Smith, Chairman of the Pala Band of
Mission Indians, also Chairman of the California
Fee-to-Trust Consortium. I welcome and appreciate the
opportunity to have opened today's consultation with the
Department's efforts to review the land and the trust
process. In the interest of time I will begin a short
statement on behalf of the Pala Band that will provide
introduction on behalf of the Consortium, which intends
to make a short presentation for you today.

Again, the Pala Band of Mission Indians is
located in northern San Diego County, occupies the Pala
Reservation, was established by executive order in 1875,
consists of 12,273 of trust and non-trust lands. While
our reservation is large by California standards it is
nevertheless insufficient to support housing and
economic development needs of our large and growing
tribal member population since large portions of the
reservation are not suitable for development and other
tracts are in non-tribal ownership. Relying on the land
in the trust developed by the Department of the Interior
over 30 years ago, the tribe has developed a
comprehensive plan for expansion of our trust lands to
support the population in furtherance of tribal
self-governance. The plan involves purchase of lands
within the contiguous-to-the-reservation boundaries and
within our ancestral territory, most of which our tribe
actively uses for economic development purposes. In
fact, while the tribe has been successful in growing our
gaming operation, we are actively aware of the need to
diversify our economic development activities to ensure
continued vital for our tribal community. And each and
every proposed land trust application for the tribe has
been undertaken with this in mind and has directly
furthered the goals of the Indian Reorganization Act.

Through the land and the trust process which
much better as a result from Fee-to-Trust Consortium the
process is still difficult, costly for Indian tribes.
The objective of the land-into-trust program is and
should continue to be to facilitate acquisitions of land
into trust, promote tribal self-government and
sovereignty without the imposition of additional burdens
that only serve to make the process more difficult. For
that reason the Pala Band opposes any effort of the
Department to make the process more encumbrance costly,
time-consuming for tribal nations.

Regarding Department's questions concerning the
direct proposed updates to the land-into-trust process,
the Department should not adopt any changes that
diminishes the tribes' ability to acquire land into
trust. The Department should not impose any new
standards, deny land-into-trust applications where such
applications meet the goals of the IRA, especially where
land lies squarely within the tribe's ancestral
territory. The Department should not treat acquisitions
and change of land use differently since the goal of
furthering self-governance does not require the tribe to
develop land. Further, under the NEPA Policy Act
applications for purpose of change of land use already
trigger a process that normally includes consultation
with local governments and independent analysis of
potential impacts, mitigations, and alternatives.

The Department should not give local or state governments increased role of land-into-trust process or require cooperative agreements as part of the process. Based on our experience, giving state and local governments veto power over federal land-into-trust decisions or tribal land use would be a serious mistake. Although some local governments act in good faith, others will refuse to do so for political reasons. The IRA should apply to all tribes equally, regardless of political conditions in local and state governments. To that end, whether tribes choose to enter into cooperative agreements with state or local governments, this matter is the tribe's sovereign authority. While the tribe appreciates the Department's efforts to take a hard look at the land-into-trust process, we respectfully submit the Department's goal should be streamline the process, decrease regulatory burdens and to approve the process to benefit Indian tribes.

Also, with that, Chairman of the Fee-to-Trust consortium, I would like to introduce Dore Bietz of the Tuolumne Band of Me-Wuk Indians. Dore will be making a short presentation on behalf of members of the tribes of our Consortium. The Consortium was formed in 2000 and consists of an average of more than 50 percent tribes in
California region. Its purpose is for the tribes to assist the BIA in processing land into trust by requesting allowing the tribal BIA dollars to remain with the Bureau to fund staff devoted to processing land-into-trust applications. The Consortium's formation is the result of a cooperation between California Indian tribes the Pacific regional office. Its formation has allowed the process of hundreds of land-into-trust applications throughout the state. The consortium approach has been successful in California and was recognized by Harvard Project in American Indian Economic Development as 2010 Honoring Nations honoree. The Consortium demonstrates the beneficial government-to-government relationship and -- have on tribes and the Department alike. Again, thank you.

MS. BIETZ: (Speaking in another language.) Thank you, Chairman Smith. And to all the tribal leaders, both the Consortium and those in the room, I do apologize to all of you and the elders as my back is turned to you as I speak, but I want to concentrate my comments on to you.

Good to see you again, Paula, John. It's been a long time but I am back. So as the Chairman had mentioned I drew the short straw from the group that was working on kind of collective, but I am very happy to be
here to talk about something that I truly believe in.

And one of the important things that we wanted to do --
and again, I don't want to take time away from the
tribal leadership because as you can see this is a very
important subject for many of our tribes, but we also
believe that because this is the first consultation
session and this is very important to us, that we want
to remind you about who we are and what our history is
and why we are a little bit different and a little bit
unique here in California and why these proposed changes
could be very detrimental to our people.

I had a PowerPoint planned and we were hoping
to show it, but you will get an e-mailed copy of this
because it has some great visuals. But I quickly want
to go over a little bit about our history and about some
major historical events that kind of shaped some of the
laws and the policies. And many of us in the room know
these stories and I know that many of our tribal leaders
today will stand up and speak to their individual
concerns or their individual history, because each one
of us is so uniquely different, but really to comprehend
some of the land problems we have here in California,
you really need to understand some of those historical
events.

So if we go way back -- and we are talking way
back -- I am going to 1848, to the Treaty of Guadalupe Hidalgo between the United States, that large cessation -- you know, cession of land to the United States, including more than 70 million acres, which California Indians asserted that original title, and between 1851 and 1852 there were 18 treaties between the United States and 139 Indian signatories representing one third to one half of California's aboriginal tribes. In the Land Claims Act of 1851 which provided that all lands in California the claim to which was invalid or not presented within two years of the date of that act would pass to the public domain, while treaty negotiations were in progress, the limitations period on all California land claims, including Indian claims, was running as a matter of federal law. California Indians were unaware of the need to present their claims and failed to meet the 1853 statutory deadline.

The California Indians' fate was sealed when the Senate refused to ratify those treaties. Deprived of protective legal title to their lands by treaty or formal claim, the California Indians, with the exception of certain bands of Mission Indians protected in their occupancy by early Spanish land grants, became homeless. Had the treaties been ratified, they would have established an Indian land base in California of
approximately 8.5 million acres of land. In addition, had Congress required the Attorney General to file claims on behalf of the unlettered and uninformed Indian tribes under the 1851 statute's claim procedure, it is likely that additional California tribes would have had their lands protected from adverse claims.

In little more than half a century, the California tribes with few exceptions have been dispossessed of their vast aboriginal homelands and the dwindling numbers of their descendants forced to reside on small, unproductive parcels of lands, isolated geographically, socially, and economically from neighboring non-Indian communities.

At the behest of government officials and citizens sympathetic to the economic and physical distress of California Indians, Congress passed special legislation at the turn of the century to acquire isolated parcels of land for homeless California Indians. Between 1907 and 1910 a series of appropriations acts were passed that provided funds to purchase small tracts of land in the central and northern parts of the state for the landless Indians of those areas. These land acquisitions result in what has been referred to as the rancheria system in California.

1934 brought another major shift in national
Indian policy. Congress passed the Indian Reorganization Act, very important legislation that announced a new federal Indian policy encouraging trial self-governance and eliminating the absolutist executive discretion previously exercised by the Interior Department and the Office of Indian Affairs. Although many tribes accepted the provisions of IRA, its potential benefit in terms of land acquisition was never realized because its implementation was cut short by another shift in federal Indian policy. Beginning in 1944 forces within the BIA began to propose partial liquidation of the rancheria system. California became a primary target of this policy when Congress slated 41 California rancherias for termination pursuant to the Rancheria Act of 1958. Under the terms of the Rancheria Act lands were distributed in fee to individual Indians, but the water and sanitation facilities promised the Indians under the terms of the Act were in virtually every circumstance either inadequate or not provided at all. Moreover, the Indians' dire need for adequate housing was not even addressed. As a consequence, most of the distributed lands were rendered uninhabitable and were subsequently sold or passed out of Indian ownership pursuant to tax sales or sales made under duress to obtain the most basic necessities of life.
This situation persisted until the late 1960s, when the California tribes, assisted by legal service attorneys, commenced a series of lawsuits to unterminate the California rancherias and restore federal recognition to the terminated California tribes. During the past three decades judicial decisions and settlements have restored federal recognition to most of the terminated California tribes, but most of the original rancheria lands were never restored. Because significant portions of the rancheria land base had passed into private hands following termination, it was usually impossible in the restoration process to reacquire and return those lands to tribal trust status. Even where rancheria lands were restored and the original rancheria boundaries reestablished, private ownership within reservation boundaries has made assertions of tribal jurisdiction difficult. Private land owners often resist and challenge the exercise of tribal authority and local governments simultaneously attempt to exercise jurisdiction. These jurisdictional challenges deplete limited tribal resources and complicate tribal planning and economic development initiatives.

I had a pretty awesome map to show you about California pre-Columbian contact where basically we
occupied pretty much everywhere here in California, and then another map showing where during those 1851 treaties those intended areas to reserved for the tribal communities. And then I have a map that shows what is in trust today. So currently in California there are, what, 110 federally recognized tribes holding over 531,000 acres of trust land, including those trust lands under individual ownership usually in the form of public domain allotments. I think it's about 15 largest tribes hold over 358,000 thousand acres of land, or greater than 75 percent of all California trust lands. The remaining 95 tribes have extremely small land bases. Roughly about 40 of the 52 tribes in Central California Agency have around 200 acres.

The smaller allocation of land in California is an artifact of the unique history of California tribes. Many tribes around the nation were able to retain large blocks of land to exercise their tribal sovereignty. Among all regions of the Bureau of Indian affairs, only Juneau, Alaska has less land per tribe than California. Most tribal land resides in remote locations with minor economic value. This makes it extremely difficult for tribes to create and support a vibrant economy for the communities and people. Meanwhile, the United States government distributes several funding and other
benefits to tribes based on formulas of how much land a tribe has. Often when a tribe can afford to build housing or community facilities, the land is not suitable and acquisition of new land is required. No matter which way a tribe turns, land is key to tribal sovereignty, tribal self-determination, and an absolute necessity for serving the requirements of tribal members at a local level.

Chairman Smith spoke of the tribes in California in the about 1998 -- so 1999 we were doing this. You know, we were going around the country, talking about regulations, but a group of central California tribes realized that there was a problem and they wanted to make it a priority. And over the years while we have been able to purchase lands it's been very hard to convey those parcels into trust status. So 1998 many of the tribes within central California agency developed the land acquisition subcommittee of the Central California Advisory Board. That committee was asked to look at why the BIA took so long to process land into trust and what could be done to improve the overall process. There were many issues that surfaced, including lack of staff within the BIA, which caused a backlog, lack of knowledge in the process and unfamiliarity of what was required by regulations.
Tribes were often told that their applications were incomplete and therefore could not be processed or that it was not a priority within the Department. As a result the tribes began to develop a standard package for submitting applications and looked for ways to streamline the process.

The idea for a consortium was developed by that committee and a group of tribal leaders who saw the need for change in approach to processing fee-to-trust applications within the Pacific region. While the consortium only began with a few, it's now blossomed to a very large, successful -- and sometimes -- some years we have over 70 member tribes in that consortium. The idea was really to solve many of the excuses that tribes were receiving. Modeled after the trust consortium, tribes left money from their individual TFAs for hiring realty and environmental staff who could process and concentrate only on fee-to-trust applications. It took several meetings and long discussions but the end result was an initial agreement between the tribes and the regional director and, as Chairman Smith said, in 2000 the California Fee-to-Trust Consortium was born.

Currently right now, because we just started a new year, we are at 34 member tribes. Total applications that are sitting in that consortium are
166. Total acreage in the process is 13,722.44 acres. And since 2000 the amount of land that's been taken under trust through the consortium has been 28,196.5 acres of land.

One of the things that we are happiest or proud of most is the relationship we have with the Pacific regional office. And I want to thank Amy Dutschke, her staff and the leadership on both sides, the tribal leaders and the Bureau of Indian Affairs leadership at working together to make sure that we are meeting the requirements of the regulations.

While the summary sheet of consultation drafts suggests revising existing regulations specific 151.11 for off-reservation and 151.12 for action on request, you can't help but believe that the 10 questions proposed for actual consultation sessions delve really into the entire process and some of the fundamental facts within the taking of land into trust. And I think one of the things that we want to do is highlight the need to grant those fundamental principles, like the intent of the IRA. There are comments about creating two categories, off-reservation gaming versus non-gaming. We also hear a lot of comments that these proposed changes create a land use approval process aimed at really regulating gaming. Tribes across the
country are agreeing on several things and we do talk amongst each other, as you know, and you will hear throughout the consultation sessions throughout Indian country some of those same key points. Reinstatement of the 30-day stay before taking the land into trust invites litigation. It is bad enough that we have opposition from every angle. Lack of consultation with tribes -- while you are here today, truly the process seems to be rushed and disingenuous. This is felt by many of our tribal leaders. And no offense, but you are coming to California with 110 tribes. We are going to have to at least have 200, 300 chairs. Sorry. I had to say that.

Some of our fundamental comments -- let's start with the huge cost borne by tribes. The IRA authorized the appropriation of federal money to acquire land for tribes, but Congress stopped appropriating money for general land acquisitions in the 1950s, same as the timber nation era. Accordingly, other than the very small tracts of lands rancherias purchased in the 1910s with the federal government, for the last 65 years California tribes have had to purchase lands with their own money. Do you know how much it costs for an acre of land in California today? It is crazy, depending on where you live. And the minute you find you are a tribe
that price doubles, if not quadruples.

Since NEPA was adopted in 1969 this has meant that tribes have had to pay also for their own or the Department's NEPA compliance. Since the Supreme Court mangled, for a better word, the Carcieri decision in 2009, some tribes now being treated as second-class citizens are forced to incur additional huge expenses to also demonstrate that they were under federal jurisdiction in 1934. The tribes most diversely affected by these costs and by the ever-increasing numbers of hurdles to trust acquisition that have been erected since the IRA was enacted are the ones that can least afford these costs. Often landless and land-poor tribes are forced to borrow significant sums of money to navigate this process.

The uncertainty -- this is another comment -- the uncertainty caused damage -- and we will talk again about this Carcieri decision has harmed California tribes. The Supreme Court's decision caused significant economic and other damage to tribes. For several years after the opinion was rendered affected tribes had a hard time borrowing money to acquire and develop land because the banks, like everyone else, could not easily determine which tribes were eligible for the IRA and which were not. After nearly two years of allowing this
uncertainty to run rampant, the Department finally
provided guidelines to reduce the confusion, eventually
codifying those guidelines in an M opinion. In the
several years since the opinion was issued the federal
courts have unanimously and repeatedly adopted those
same guidelines. Sound public policy counsels in favor
of maintaining certainty so that tribal job-creating
government and economic development projects are not
threatened by yet another round of new interpretations
of the Carcieri decision. There is no benefit to nor
justification for adopting a more stringent test than
what has already been adopted by the courts. Any such
new restrictions must be viewed as job-killing
additional federal administrative hurdles at direct odds
with the administration's pledge to reduce such hurdles.

The 10 questions that you asked -- excuse me --
what should the objectives of the land-into-trust
program be? What should the Department be working to
accomplish? The objective of the land-into-trust
program should be to facilitate the timely acquisition
of land into trust to promote tribal self-determination
and self-sufficiency, both on and off reservation,
without the imposition of unnecessary and expensive
regulatory burdens that serve no reasonable purpose
other than to create a chilling effect on tribal efforts
to rebuild their land bases.

How effectively does the Department address on-reservation land into trust? Well, many tribes will not be able to answer this question because there is no fee land located within the reservation boundaries to acquire, especially here in California. This fact underscores the importance of ensuring that the land-into-trust regulations are implemented in a way that benefits all tribes, including the many tribes with small reservations or no reservations at all. As already stated, it is taking our tribe over 100 years to acquire 500 acres. And I will talk about Tuolumne later, but that's the same and that's -- could be -- that's a lot for many of the tribes.

How many acres is really enough? For us we have -- as tribal communities as you can see we are just now at the process of actually being able to afford the land or the land is becoming available for us to purchase. One of the questions -- and I think how effectively does the Department address on-reservation applications? If you could continue to identify contiguous land as on reservation, then for us there's been some great movement, but when you don't have on-reservation from which to acquire, then you are definitely thrown in the off-reservation regardless.
And in California that is a lot of our tribes. What criteria should the Department consider when you are approving or disproving off-reservation trust acquisitions? You could preserve regulatory certainty by continuing to use the existing criteria already enumerated in 25 CFR part 151. And I think we want to really oppose the addition of any further criteria as they serve no reasonable policy function and appear intended to have a chilling effect on acquiring more off-reservation trust land. The current criteria provides a more adequate basis for the Department to make a decision on whether to approve or disapprove an off-reservation application.

One of the questions also too that was asked that we would like to highlight real quickly, whether the application involves no change in use. Again, there is no reason to use different criteria or procedures for processing off-reservation applications where no change in use is involved, as existing regulatory requirements in 25 CFR part 151 already take this into account. The regulations require the tribe submitting fee-to-trust applications comply with NEPA, and the BIA's NEPA guidebook and the Department manual provide for a categorical exclusion for approvals of conveyances or transfers of interest in land where no change in use is
planned. So the short answer is no. Building a
shopping center with services such as a gas station or
grocery store is way different from building a casino,
and both of the examples are different than no change in
use.

What are the advantages, disadvantages of
operating on land that is in trust versus land that is
owned in fee? Any Indian tribe can acquire
off-reservation land in fee anywhere in the United
States. A subsequent decision to submit an application
to have land taken into trust by the United States for
its benefit is based on multiple factors, depending on
the intended use of the land. For instance, if a tribe
intends the off-reservation land to be used for or to
conduct gaming under the Indian Gaming Regulatory Act,
the land will have to qualify as Indian lands. We do
not believe that the general inquiry into the advantages
and disadvantages of placing land into trust is either
useful or relevant. That inquiry will be made by an
applicant tribe before it decides to submit a trust
application for a particular parcel, and if it decides
that placing the parcel of land into trust is in its
best interest, that decision should not be
second-guessed by other entities.

One of the questions about the Department
recognizing and balancing the concerns of state and
local jurisdictions, which -- what weight should the
Department give to public comments? The IRA does not
empower the Secretary to recognize and balance the
concerns of state and local jurisdictions in acquiring
land for tribes. As Congress provided no such
direction, either in the text of the statute or the
legislative history of the IRA, nor does the IRA
contemplate a role for public comments in the trust
acquisition process. Rather, under the IRA the
Secretary is to exercise his powers in order for the
economic development and self governance amongst tribes.
While the Secretary may exercise discretion, this
discretion is limited by the text and purpose of the
statute. The Secretary is not empowered to act outside
of the guidelines expressed by Congress.

In contrast, nowhere does either the text or
the legislative history of the IRA even hint at such a
balancing test, and we feel that the Secretary similarly
considers the concerns of state and local jurisdictions
and the general public when undertaking like most trust
acquisitions that may implicate NEPA. So it is there
already.

I wanted to finish just with the last two about
the MOUs and about whether MOUs and other similar
cooperative agreements between tribes and state and
local governments help facilitate. Tribes and state and
local governments routinely enter into government --
enter into intergovernmental agreements to facilitate
all manner of activity. These agreements address the
complexity, uncertainty, and cost of state and tribal
jurisdiction in Indian country. These agreements
address the economic or environmental impact. While
these agreements often make good policy, their execution
remains by definition the prerogative of the respective
sovereign governmental signatories. As noted above, the
IRA does not contemplate the participation of state and
local governments in the fee-to-trust process. It would
therefore be both paternalistic and contrary to the
plain language and intent of the statute for the
Secretary to impose such a requirement as part of the
trust acquisition process.

Last, what recommendations would you make to
streamline? Shorten the processing time. Allow the
regional director to review and approve off-reservation
applications and do not reinstate the 30-day judicial
review period.

On behalf of the consortium, again, thank you,
Chairman Smith and the tribal leaders. I am sorry that
I took so much time. I will e-mail this to you and
anyone else that wants it, but I think it is so
important to understand the unique history in
California. And I know that you will hear from tribal
leaders today about their particular history and their
particular circumstances and why we are different and
this "one rule for all" will not fit here in California.
Thank you.

MR. TAHSUDA: Should we move the mic back? I
feel like you guys are talking right in my face.
Thanks, Vince. Good to see you again.

THE DEPONENT: Good to see you. (Speaking in
another language.) Good morning, department officials
and Mr. Principal Deputy Assistant Secretary John
Tahsuda. My name is Vincent Duro, vice chairman of San
Manuel Band of Mission Indians located in Southern
California near the city of Highland.

Tribal trust land is fundamental to the
sovereignty of Indian tribes. The Department of the
Interior in adherence to its role as trustee must
embrace the policy that supports tribal government
reacquisition of aboriginal lands lost as a direct
consequence of misguided federal laws and policies
towards native governments and their people. The
Congress and the Department have long repudiated harmful
land policies of the past. This administration should
not turn back to those failed Indian land policies of a
bygone area.

Two guiding principles of modern federal Indian
policy are critical for the United States to follow in
undertaking any proposed revision to the fee-to-trust
process, which should be free of burdensome regulations
and unnecessary bureaucratic delays to facilitate tribal
self-determination through the reacquisition of native
aboriginal homelands occupied by native people since
time immemorial.

First, any revised federal regulation must ease
the standards for tribes to reacquire lands within
demonstrable aboriginal territories, not make
reacquisition more difficult. On-reservation versus
off-reservation distinctions should be rejected for
relying on the false premise that tribal homelands are
the same as existing reservation lands.

Second, the unique government-to-government
relationship between the tribes and the United States
must guide federal policies related to tribal land
reacquisition. Federal fee-to-trust policy cannot favor
counties and local governments over tribal governments.

For centuries my Serrano people, known in our
language as Yuhaaviatam or the People of the Pines,
occupied and thrived throughout the lands located in the
San Bernardino and San Gabriel mountains and the
foothills, as well as the Mojave and Santa Ana River
watersheds in an area encompassing nearly 7 million
acres.

In 1890 -- excuse me -- in 1891 President
Benjamin Harrison established the San Manuel Indian
reservation by executive order, setting aside small -- a
small land area of just 640 acres in the steep foothills
of the San Bernardino Mountains. Through fee-to-trust
acquisitions our reservation has grown to a modest
966 acres of tribal trust land. We have historically
faced serious threats from natural disasters on our
reservation as a result of wildland fires, mudslides and
earthquakes. In particular, the notorious San Andreas
fault as well as other faults traverse our land and
hampered development of many areas within the
reservation.

As we have worked hard over generations to
build a strong tribal government, economic enterprises
and community of residents, we are now faced with a
severe shortage of buildable land. It is essential to
the growth and self-sufficiency of tribal communities
that any revised regulations ease the standards for
tribes to reacquire their demonstrable aboriginal
territories, rather than make the process more
difficult.

San Manuel's community has experienced significant growth over the past two decades and that growth is projected to continue. Our government gaming enterprises and government organization have grown to where we are among the top 10 employers in the San Bernardino region, with more than 4,300 employees. Young tribal citizens seeking housing find themselves placed on waiting lists for available reservation home sites. The growth of our tribe has created an urgent need for additional work and living space on our geographically challenged land base. For these reasons, new lands must be acquired outside our existing reservation and fee-to-trust regulations must make it easier for tribes to reacquire lands within their demonstrable aboriginal territories.

Further adopting an on-reservation and off-reservation distinction in the fee-to-trust process creates barriers to growth, sustainability, and self-determination and ignores the cultural relationship tribes have with their aboriginal territories. Our relationship to the totality of our ancestral territory is fundamental to who we are. It is where hundreds of generations of our children have been born, the location of our villages where they were raised, and where our
ancestors are laid to perpetual rest. It is within this traditional use area that you will find the plants, animals, and water that still sustain and heal us, as well as the physical manifestations of our creation story, our history, and our most sacred places where we still practice ceremony. It informs every part of our existence and instructs us about how not only to survive but thrive. Lands acquired by San Manuel, whether for government offices, housing, a health clinic, or gaming, and transferred into federal trust status reflect the reacquisition of lands to which the tribe has an aboriginal or historical connection. The federal trust duty to Indian people is not fulfilled when the fee-to-trust process gives states and local governments a type of veto power over tribal land acquisitions.

While San Manuel has built a positive and cooperative relationship with San Bernardino County and other local governments, we know that tribes in other parts of California must deal with county officials who advance hostile anti-tribal sovereignty positions.

Unfortunately, the Department's earlier proposal elevates county and local interests in a way that diminishes the federal trust responsibility to tribes and fails to propose ways to streamline the fee-to-trust process. Further, the proposal is contrary to the
mandate of the administration to reduce or eliminate red
tape and ensure that tribal sovereignty, quote, unquote,
"means something."

Such a policy would run -- would also run
contrary to the intent of Congress. The part 151
regulations implement the trust land acquisition
authority delegated to the Secretary by the Indian
Reorganization Act of 1934 or IRA. The IRA was
primarily intended to redress the effects of the
discredited past policies of allotment and assimilation.
To help restore tribal land bases, the IRA delegates
authority to the Secretary to acquire lands in trust,
both, quote, "within or without existing reservations,"
end quote. Thus, the core, long-standing policy
underlying the Department's land acquisitions
regulations has been strengthening tribal governments by
providing a tribal land base on which tribal communities
could flourish and grow.

Finally, before moving forward with any
proposed regulatory change, the Department should wait
for the confirmation of the new Assistant Secretary for
Indian Affairs and ensure the Department's team is fully
in place. As our trustee, the Department can then
determine whether any proposed regulatory change helps
or hurts the vast majority of tribes. The Department
must carefully listen, review, and respond to the many varied concerns expressed by the tribes during this consultation session and all future sessions before any changes are considered or implemented.

Thank you for the opportunity to provide comment today.

MR. TAHSUDA: Thank you, Vice Chairman.

So next up, Christina Kazhe.

All right. We will move on. Chairman Melendez.

CHAIRMAN MELENDEZ: First of all, I would like to -- my name is Arlan Melendez. I am Tribal Chairman, Reno-Sparks Indian Colony located in Reno, Nevada, Washoe, Paiute, Shoshone people. I also have today with me our Vice Chairman, Doug Gardipe, and our treasurer, Robin Eagle out of our tribal counsel, and some of our staff along with us here.

First of all, I just want to comment on -- I agree with what everybody has said and I also would like to focus on the National Congress of American Indians' position on the streamlining of the NEPA process. NCI believes the Department should begin its approach by asking the solicitor's office in conjunction with the BIA environmental review staff to explore possible categorical exclusions that may be helpful in reducing
costs and delays in the fee-to-trust process. We note that over the years tribes have supported additional categorical exclusions to help reduce the burden on applicants and assist the Department with its National Environmental Policy Act compliance. Proposing additional categorical exclusions falls within the Department's current initiatives to reduce regulatory barriers, streamline process, and reduce costs to tribes for the land acquisition process.

One of the most important things to tribes -- and my tribe has been successful in the city of Reno-Sparks in taking land into trust and hopefully we don't want to see changes that would be detrimental to the current process to make it harder. It should be made easier for us. Two things we want to focus on. One would be the time it takes to take land into trust, to try to reduce that, and also to reduce the costs of what it costs to go through this NEPA process. As you know, some tribes are fortunate to be able to work with local governments, county and city officials and try to get concurrence from them during this process and even maybe prior to that.

What we would like to see as far as the categorical exclusions, and we think they are needed, is if local governments support the trust application for
any reason, then a categorical exclusion should be supported by the Bureau. And also if local -- if the local master plan or land use plan or zoning would have been allowed -- would allow the tribal project even without the Bureau approval, then it should be also a categorical exclusion. So we think that, you know, when we put in a lot of work to build these relationships, then basically those should be automatic.

Let me give you an example of what I mean. We are concerned about the Bureau of Indian Affairs' interpretation of some of these policies and we have to be consistent to everyone across the United States to the tribes. Our tribe in the city of Reno has economic development parcels. We had an auto dealership on one parcel and these were located out in basically agricultural type of -- basically it was a cow pasture. So we bought these on the outskirts of Reno. And when we established a auto dealership there was another parcel, basically a cow pasture. We purchased that also for expanded parking lot to the same auto dealership and were expecting a categorical exclusion, but we actually ended up with the environmental assessment which, as you know, the environmental assessment can cost nearly $45,000 and it can take up to three to six months. And as you get into the Environmental Impact Statement,
those could take two or three years and run you two or
three hundred thousand dollars. So we are just saying
that is an example of where the interpretation has to be
consistent and we would like to see these categorical
exclusions broadened so that they would support tribes
that have done a lot of work with the local governments
to -- and we are not opposed by them.

So I just want to thank you for that comment
and staff will probably comment a little later on some
more specifics having to do with the NEPA. So thank you
very much.

MR. TAHSUDA: Thank you, Chairman. Chairman
Potter.

CHAIRMAN POTTER: Good morning, Principal
Deputy Assistant Secretary Tahsuda and Deputy of the
Interior (sic) officials. I am Jack Potter, Junior,
Chairman of the Redding Rancheria. And I thank you for
the opportunity to comment on the Department's proposed
changes to the land-into-trust process today.

The Redding Rancheria is located in Redding,
California, and we are comprised of the descendents of
three Northern California tribes, the Pit River, Wintu
and Yana people, whose ancestral territory covered large
portions of Northern California from Mt. Lassen to
Mt. Shasta, which consisted of about 11 million acres
and the surrounding area. Our ancestors were among
those who signed the infamous 18 unratified California
treaties -- in fact, I am a descendant of one of those
signatories -- which were never honored by the United
States but which would have set aside over 8.5 million
acres of land for California Indian people.

Today, unfortunately, tribal trust lands in
California are a mere fraction of that number. The
Redding Rancheria originally consisted of roughly
31 acres and was set aside for our exclusive use and
benefit in the early 1920s. But in 1958, pursuant to
the California Rancheria Act, the United States
terminated our government-to-government relationship and
divided the rancheria in parcels that were distributed
to 17 tribal members in fee.

Fortunately, as a result of the litigation, the
tribe's government-to-government relationship with the
United States was restored in 1984. That restoration
included a commitment by the United States to reacquire
the original rancheria lands in trust and to treat the
tribe's land-into-trust applications in the rancheria
boundaries as mandatory acquisitions. This was supposed
to remedy the devastating effects of the United States'
termination policy and streamline the process for
restoring the trust status of our original rancheria.
Unfortunately, that has not been the reality. In the early years after restoration the tribe struggled to secure funds to reacquire our rancheria lands. It was only the result of the tribe's own economic development activities that the tribe, without the assistance of the United States, was able to purchase back several parcels within the rancheria boundaries, yet nearly 34 years after our restoration we have still been unable to restore the rancheria to trust status.

Today, the tribe owns just under one half of the rancheria lands and only 8.5 acres of the rancheria have been restored to trust status. Even if the tribe is able to restore the entire rancheria to trust status, the tribe would still be left with an insufficient land base to support our people. With a tribal member population of 378, the rancheria lands are vastly inadequate to meet our housing and economic development needs and goals. Furthermore, our rancheria lands are bordered by a county irrigation canal, a creek, a highway, and multiple private landowners, making the acquisition of contiguous lands nearly impossible.

As a result, we have had to look beyond our rancheria boundaries and immediately neighboring lands for other lands available to the tribe that can be used for housing and economic development purposes. Through
careful and thoughtful planning, the tribe has been able
to acquire and develop several economic development
ventures to support our growing member population. We
count among these ventures a gas station, a mini-mart,
hotel, and a medical facility building. While each of
these businesses are located squarely within our
ancestral homeland and they are less than 10 miles from
the rancheria boundary, they are subject to the more
extensive review process for off-reservation
land-into-trust acquisitions under the current part 151
procedures. Placing additional burdens on the tribe
with regard to the trust acquisition of these parcels
would seriously undermine our ongoing efforts to develop
an economically viable homeland, capable of supporting
our tribal member population, and would unfairly benefit
the local non-tribal community, who already has a
significant voice in the land-into-trust process.

In addition, many years ago the tribe set in
motion a long-range plan for the relocation of our
existing gaming facility from our small, predominantly
residential rancheria community to a larger parcel zoned
for commercial development and separate from the tribal
and non-tribal residential neighborhoods. We initially
requested that the United States acquire this land in
trust in 2003 and since that time have invested
significant time and tribal resources toward the
proposed acquisition. We embarked on this endeavor in
reliance on the land-into-trust process as it stands
today.

Now, 15 years following this request, we are
finally making our way through the land-into-trust
process and as part of that process we are actively
engaged with the local government and community
regarding our proposed development. The tribe has
always understood and appreciated the importance of
having a positive relationship with our surrounding
community and has and continues to actively engage in
efforts to foster that relationship. We do not believe
it is necessary or appropriate for the Department to
dictate when or how we cooperate with our local
government.

In closing, the tribe respectfully requests
that the Department refrain from making changes to the
current land-into-trust process, especially if those
changes make the process more difficult or costly for
Indian tribes, and changes to the land-into-trust
process should be aimed at streamlining the process and
furthering the goals of the Indian Reorganization Act to
provide housing or economic development for tribal
communities and to further self-government and
self-determination for tribal nations.

And the land that we have received in the past, allotments and everything -- there was 900 individual allotments that were given to our people within those areas, and all of them are flooded over by Shasta Dam, and the dam was built without compensation, which made us homeless in our homeland again. We were relocated five times to the Nomakult reservation from our homelands. We returned home. Then we were sent over the hill to Kovelow. We went hunting and we found our mountain and we returned home. They sent us back and the pass was snowed in so they sent us to Tejon. And we find ourselves homeless in our own homeland. Thank you.

MR. TAHSUDA: Thank you, Chairman.

Chairman Cozart, Soboba Band?

CHAIRMAN COZART: Good morning. My name is Scott Cozart and I have the honor to be the Chairman of the Soboba Band of Luiseno Indians. We are located in Southern California at the foothills of the San Jacinto Mountains and the banks of the San Jacinto River. The Soboba tribe is governed by an elected five-member tribal council. And here with me today is our vice chairman, Isaiah Vivanco, our tribal administrator, who is also a tribal member, Mike Costello, and two of our warriors, Devon Lonayesva and Loretta Tuell.
Today as representatives of the United States you are here to listen and hopefully to learn. As Chairman of the tribe I am here to talk to you about the Soboba tribe, our unique history, challenges and opportunities for a brighter future, a future that requires a secure homeland, one with a sufficient land base to advance our self-determination and self-governance needs far into the future. The tribe will submit written testimony to address the formal record, but today our tribe would like to give you an overview of our story, one that is similar but different from every tribe here today.

We know that all tribes have their own stories, but the one thing that unites us all is our need for a secure and stable homeland. The Soboba people believe our sovereignty is weakened without a strong land base and the basic needs for survival. What is our sovereignty without land, without water, without housing, without health care, without schools, and without economic development? Our land base and resources must grow as we grow our tribal communities. As our federal trustees it is important that you understand and fulfill the duties and responsibilities of your offices. This means more than coming to listen for a few hours. It requires that you consider our
history and the past policies of the federal government. This means you need to consider the impacts of our proposed policy changes on the trust between us, this trust relationship, before you seek to enact them. The Soboba tribe firmly believes that when all the promises to our people have been fulfilled, then we can talk about whether we need more regulations. Until then, any new policies should make things better, not worse.

Let me say that we appreciate that you are here in California today, but there are more BIA regions that will not get this same opportunity. This is a mistake. We also believe that President Trump's nominee for Assistant Secretary of Indian Affairs should be present to learn about the unique history of California and more specifically our tribe. It is premature to advance such significant changes without a confirmed Assistant Secretary. While we also appreciate that the Department has pulled the original proposed regulatory changes to undertake these new consultations, the Soboba tribe believes the post-rationalism for your original failure to consult is not enough. Consultation after the fact is not consultation.

Further, the tribe is skeptical that those original proposed regulatory changes will not resurface, regardless of the testimony received from Indian Country
here today, consultation and the future planned
consultations. The tribe also continues to question the
labels used in this effort to make things better, like
off-reservation and the assertion of gaming under the
land acquisition process, words we believe incite
division among our tribes and further create wedges
between our non-Indian neighbors. The tribe reacquiring
our traditional homelands should not be categorized as
off-reservation. Instead, we are restoring our
traditional lands and reviving our communities.

As our trustee, your obligation is to seek to
fulfill the purpose and intent of the treaties, the
Constitution and statutes like the Indian Reorganization
Act. Department's role as trustee is not to advance the
perceived needs of the state and local communities over
our tribal interest. Indeed, that would be a breach of
your duty. Rather, it would be more appropriate if any
proposed changes to the land-into-trust process truly
did streamline the process by reducing the time and
money spent on a lengthy regulatory process.

Yet the answer proposed in the draft
regulations didn't help. Instead, the tribes were given
a pathway for an expedited "no," a pathway that
predetermines the application is faulty. An affirmative
"yes" pathway would seem more appropriate and could
speed up the process. A speedy "no" is not a solution.

With that said, please let me share with you a little history of the Soboba tribe. Since time immemorial the descendants of the Soboba Band have lived on and occupied the land presently known as the cities of San Jacinto, Hemet, Valle Vista and Winchester and a few others. Today our reservation is geographically located across the river from the city of San Jacinto.

Our nearby neighbor tribes are Morango, San Manuel, Agua Caliente, Pechanga and a few others. Soboba's tribal members have a rich and diverse tribal history, as members come from both Cahuilla and Luiseno ancestry. Prior to both Mexican and American settlement in the valley, the people of Soboba were virtually self-sufficient. The Soboba people farmed land that was irrigated with surface water from the San Jacinto River, two of its tributary streams, Poppet and Indian Creeks, and from more than 40 perennial springs. These water sources sustained gardens, animals, and orchards.

During the Spanish and Mexican rule in California the Soboba Indians were recognized as an established Indian community. In 1842 after the missions were secularized, the San Jacinto Rancho Viejo was granted to Jose Estudillo, with a stipulation that "the new landowner shall not in any manner prejudice the
Indians who are established on said lands." Starting in
1868 the heirs to the Estudillo family began selling
various portions of the Rancho San Jacinto Viejo and by
1880 most of the rancho lands had been sold and the
Soboba people were left with no legal claim to their
land or water.

It was during this time that Matthew Burn of
San Bernardino was awarded 700 acres on the northeastern
side of the San Jacinto Valley, including the village of
Soboba, its cultivated fields, and all the water.
Mr. Burn planned to graze sheep on his land and at first
allowed the Soboba people to remain living there.
However, a few months later he changed his mind and
threatened to evict the Indians unless the U.S.
government paid him for his 700 acres. In response, on
June 9, 1883, President Chester Arthur by executive
order established the Soboba Indian reservation, a
3,172-acre tract which included the Soboba village and
the adjacent hills. The President had limited authority
as he was only able to set aside public land for the
establishment of a reservation and had no authority to
take private lands; thus, the Soboba village, cultivated
lands and major springs were still considered to be part
of Rancho San Jacinto Viejo and the property of
Mr. Burn.
In November 1883 Burn was granted his eviction order and an appeal was filed before the California Supreme Court. On January 31st, 1888 the California Supreme Court ruled unanimously in favor of the Soboba people. For the first time the state's high court voted to uphold the land rights of an individual Indian tribal group. Unfortunately, the California Supreme Court decision was reversed a year later by the United States Supreme Court. Although we did not have legal title, the people of Soboba remained on their lands.

In 1903, after Burn and later his heirs failed to pay taxes, the State of California seized the lands. In a major victory, the California Legislature was persuaded to sell the Soboba part of the seized lands to the federal government for $775. The deed was recorded on September 11th, 1911, and the last legal title -- and at last legal title was held in trust for the Soboba tribe.

But this is not the end of our story. In 1933 the Metropolitan Water District of Southern California began constructing a tunnel through the San Jacinto Mountains as part of its Colorado River aqueduct designed to supply water to Southern California. The San Jacinto tunnel, 16 feet in diameter and over 13 miles long, passed within three and one-half miles of
the Soboba reservation. The tunnel's destruction of the reservation surface streams and creeks left the people of Soboba without water and destroyed the last remnants of their once flourishing agricultural economy.

Eventually, Soboba filed suit against Metropolitan for the San Jacinto Tunnel, and after prevailing in a series of additional motions filed by Metropolitan, the parties agreed to a stay of the proceedings to seek a settlement. The ensuing settlement negotiations, which spanned the following decade, ultimately led to an agreement. In 2008 President George W. Bush signed the Soboba Band of Luiseno Indians Settlement Act which brought closure to more than 150 years of conflict and decades of litigation. Importantly, the settlement included lands for the tribe. At the time, the Soboba tribe received assurances from Secretary of the Interior Dirk Kempthorne that our lands would be placed into trust in an expedited process. These lands included those outlined in the settlement, as well as 535 acres contiguous lands known as the Horseshoe Grande property, the site for our new casino project. The application for the adjacent lands to the reservation received the moniker of off-reservation and eventually took about 12 years to be placed into trust and cost billions of
dollars.

Today the Soboba tribe has a current enrollment of approximately 1,200 tribal members. The reservation encompasses nearly 7,000 acres, 400 of which are devoted to residential use. The reservation lands include land taken into trust over the years, including the Jones Ranch, the Elks and Horseshoe Grande property. Currently the tribe has an application to place additional homelands into trust with no change in use designation.

Therefore, for the record, we are adamantly opposed to any retroactive application of any new policies that would impede our efforts to reacquire our homelands. On the reservation the tribe has created a local economy despite the loss of our reservation water supply for decades. These historical wrongs have made the Soboba people stronger and better prepared to face the next challenges to our tribal sovereignty, but the Soboba tribal council’s quest is to go well beyond simply being able to open businesses and create jobs. Rather, the tribe must strengthen our communities by advancing the overall well-being of our people. As such, the Soboba tribe will need to expand the current boundaries of the reservation to meet the future needs of our people, which includes the need to create new
infrastructure, housing, health facilities, new schools and community centers.

Tribes are fully capable of creating and regulating our own lands and industries and, most importantly, tribes are not avoiding state laws. We are implementing tribal laws. Again, to be clear, tribes are fully capable of governing our own lands and people.

In closing, the Soboba tribe firmly believes that a secure homeland is the key to advance and strengthen our self-determination and self-governance. Finally, for the record, the Soboba tribe supports the submitted testimony of the National Congress of American Indians. We think this process should slow down and we look forward to the opportunity to engage in true consultation to secure homelands for all tribes. Thank you.

MR. TAHSUDA: Thank you, Chairman.

We have Chairman Escobedo from the Tejon Band.

If I could just make a quick sort of procedural comment, too. Without disrespecting anybody or -- but I want to make sure that we have a chance for every tribal leader to present an oral statement. You can submit written comments and I would suggest maybe if you have an extensive background and history peculiar to your tribe or particular to your tribe, that maybe that could
Chairman, please.

CHAIRMAN ESCOBEDO: Good morning. I am Octavio Escobedo III, Chairman of the Tejon Indian Tribe, the only recognized tribe in Kern County, and I represent 882 tribal citizens. We are a landless tribe. We are a landless tribe because of the United States. Early in our nation-to-nation relationship Indian Superintendent Beale acquired our lands for himself, never telling us that we needed to protect them through the California Claims Commission.

In the early 20th century the United States acted honorably as our trustee by establishing a reservation for us and filing a land claim on our tribe's behalf against what is today known as the Tejon Ranch. The United States pursued our land claim all the way to the United States Supreme Court, but the Supreme Court ruled against us because of a statute of limitations problem caused by Beale's dishonorable actions. Although our trustee lost the lands claims, the Departments of Justice and Interior negotiated on
our behalf so we could lease some of our home lands from
Tejon Ranch. During the termination era our trustee,
the Department of the Interior, also acted dishonorably.
They walked away from their efforts to set aside and
confirm a permanent land base for the tribe.

Because of our trustee's actions we are
landless today. Because of our trustee's actions every
trust acquisition in the future will be treated as
off-reservation. The Bureau of Indian Affairs' mission
statement is to enhance the quality of life, to promote
economic opportunity, and to carry out the
responsibility to protect and improve the trust assets
of American Indians, Indian tribes and Alaska natives.

The Department's draft revisions and steps to change the
land-into-trust process are against that statement.

Today our trustee proposes to change the already
strenuous regulations to make it even more difficult for
every tribe to restore tribal homelands. In addition to
the draft revisions, the Department now asks tribes to
spend limited resources to answer a series of questions
aimed at changing the regulations. The Tejon Tribe does
not want the regulations changed and shouldn't be asked
to expend limited resources to develop a solution in
search of a problem. The regulations work. During the

Bush Administration Solicitor General Paul Clement made
this very point, claiming that the existing regulations
address the concerns of state and local governments for
both on-reservation and off-reservation acquisitions.

    I am asking you as our trustee to stop this
effort to change the rules. The Department should be
utilizing its time and resources to improve tribal
self-governance, strengthen social services, law
enforcement, Indian education, housing, energy
development, and streamlining the NEPA process to
restore tribal homelands and filing affirmative
litigation for tribes as it did for us in the 20th
century.

    With all due respect, this is not adequate
consultation. The Department has not explained why it
is pursuing changes to the land-into-trust process. The
October 4th letter stated that the proposal will reduce
the burden on tribal applicants, but proposed longer
processes, additional hurdles, and delay after it makes
a favorable decision. The draft revision does nothing
to promote the restoration of tribal homelands. It
punishes landless tribes. It helps only those that
oppose this Department's duty and responsibility to
restore tribal homelands. If the Department continues
to pursue changes to these regulations, it needs to
start this process over with a clear statement as to why
it is pursuing these changes and holding extensive
consultations in every BIA region. Secretarial order
3317 and the Department's consultation policy require
open and transparent communication. This consultation
process needs to start with such communication clearly
setting forth why the Department is pursuing these
regulations and on whose behalf the Department is
acting. Who is asking for this rule making? We deserve
to know.

I have high hopes for Secretary Zinke. He says
that tribal sovereignty ought to mean something. He
says that we ought to be thinking about what Indian
country will look like in 100 years. This is his
opportunity and yours to walk the walk by listening to
my tribe, NCIA, and all the other tribal nations that
request nation to nation and the Department as our
trustee immediately withdraw and cease any efforts to
amend the land-into-trust regulations. Tribes certainly
will be worse off in the near term and in the hundred
years if the Department continues with this rule making.
Please stop this process now so that tribes do not need
to expend their limited resources fighting their
trustee. Collectively we need to be expending those
resources on issues that will ensure healthy, vibrant
tribal communities for future generations.
Thank you for being here today and I hope our future meetings will be focused on how to promote jobs, education, infrastructure, and native language for my landless tribe and all of Indian country. Thank you.

MR. TAHSUDA: Thank you, Chairman.

Chairman Pickernell?

CHAIRMAN PICKERNELL: Good morning. Thank you for the time and the opportunity to present the concerns of the Chehalis Tribe. My name is Harry Pickernell. I am the Chairman of the Confederated Tribes of the Chehalis Reservation in southwest Washington state. We are a small tribe in a rural area with high unemployment. Economic diversification through fee-to-trust land acquisitions is key to providing the services our members need for a better and more secure life.

The tribe has a number of concerns about both the process and the actual regulations that might be implemented. The commutability rules seem to be aimed at combating criticism of gaming location shopping, but they would simultaneously harm the attempts of tribes like Chehalis to diversify economically in off-reservation locations within their traditional homelands. Tribes must have the ability to successfully pursue economic opportunities in order to employ their
members and provide revenue streams that go beyond gaming. Narrow rules about the distance from reservations or other trust land when seeking non-gaming fee-to-trust opportunities fail to recognize the needs of tribes to access financial markets and customers in order to grow their economies.

Trying to raise the issue of the Department's ability to manage trust properties is a throwback to the 19th century and paternalism. Self-determination and the progress of tribes means that tribes and not the BIA deal every day with the realities of management of trust land. To make this an issue and a condition of taking land into trust is an open invitation to tie up tribes and the BIA for years of needless litigation by entities opposed to tribal self-government and the betterment of the way of the life of tribal members.

Regulations concerning payments in lieu of taxation is another attack on tribal sovereignty. That type of regulation means that state and local governments can hold the tribes hostage and try to extract money when they are not entitled to tax activity on trust land and/or reservations. Such fee-to-trust requirements merely allows the state and local non-tribal authorities to put their thumbs on the scale of balancing tribal and federal interest versus the
state and local interest or, in reality, block tribal economic development in its entirety.

In addition, by granting a priority review for tribes who enter into lieu-of MOUs, the Department is requiring that tribes which use economic development as their tax base will be double taxed, because tribes will have to pay the state and local entities their taxes as a de facto real estate tax in order to be allowed to obtain tax revenues to support their tribes.

Waiting 30 days to take land into trust after the decision is made is just an invitation to non-Indian opponents of tribes to deplete tribal resources. Court decisions have already made fee-to-trust determinations vulnerable. This proposed change just says "sue us now," basically.

Finally, an early rejection of a fee-to-trust application denies tribes due process. If a tribe objects and has to go to court after the first rejection and prevails, then it has to suffer the possibility of a second rejection and further court action. This just takes valuable resources away from tribes, the very resources they need to economically diversify.

I ask you what is broken about the current regulations which relate to off-reservation non-gaming economic development? My answer is nothing. Your trust
responsibility is not to create new problems for tribes but to help tribes help their members to lead better lives. These regulations will harm tribes, not help them. Thank you for your time. Thank you.

MR. TAHSUDA: Thank you, Chairman.

Chairman Gholson.

CHAIRMAN GHOULSON: My name is George Gholson. I am the Chairman for the Timbisha Shoshone Tribe out of Death Valley. And we were a landless tribe. The land that we were on became Death Valley National Park, two million acres, and the other land that we were on became a weapons facility for the Navy. So that left us with no land. We were recognized in '82. We were under the jurisdiction of the BIA in 1934. We received money for housing from the Department of Interior.

But it's been a real challenge for us because the land that we have now is in the middle of nowhere. There is no infrastructure. There is no economy. Even if we build houses, there is no place to work. We are just literally -- the land is somewhat useless and covered with old mining remnants and old chemicals. I am actually kind of surprised that it didn't go through an environmental process before we received it. There is actually old dumps out there that have cyanide and other chemicals that are, you know, very hazardous. We
are also downstream of what would be the aquifer, the
Yucca Mountain repository. So we have been fighting
against that, too.

But by giving local governments more authority
in the process is a huge mistake because a lot of times
these projects are opposed not for what they are but for
who is doing it. And racism is alive and well. And I
didn't want to believe that, but as we worked with
several city councils on different projects, we became
acutely aware that it is still there and that they
oppose us not for the project but just for who we are.
And they don't like it. We were referred to as a
foreign nation at one point. There was a campaign for a
guy named Wallace Martin who is on the city council. He
refers to us as a foreign nation moving into the city.
Even though we inhabited that land well before the city
was there, that doesn't matter. We are a foreign
nation. And I was at a city council meeting not too
long ago and another gentleman came up to me and says,
"Oh, you guys, you are the foreign nation that is moving
in next to the base." And I am like, "I don't know who
you are calling foreign, but I am pretty sure it is not
me. We were here first." But they don't like to
acknowledge that.

But we do -- we do oppose the addition of a
30-day waiting period because that allows litigation, and litigation for a tribe like ours, who has pretty much zero money, is devastating. It stops projects. Again, stops them for not what they are but who is doing them. There were references made like, well, why can't we do that? Why can't the public do gaming? Why can't they do these other projects? Well, you are not us. We paid for -- we paid for our land with blood and we still don't have a lot of it. We will never get the park back. That is two million acres we will never be able to do anything with. Now, the same with the base. Even though they have -- every so many years they have to withdraw so many acres or so much land, it doesn't happen. It is just reappropriated. It belongs to BLM and the Navy gets to use it. So we will never be able to go home to where we traditionally hunted and lived. As a matter of fact, my mother wasn't even a U.S. citizen until the '40s. She was naturalized. That is so beyond my comprehension, that she couldn't buy a house because she wasn't a citizen. She couldn't buy land. And the land that she would have had was taken away from them because the base threw everybody off. But the base paid the people who were non-Indians for their land. They just threw us off. They didn't give us anything.
We also oppose regulatory policy that allows
the removal of lands through court order without other
litigation possibilities, that we should have our due
process in anything as -- just as Americans we should be
enjoying that due process or equal protection under the
law. We live in a PL 280 state and I've had some real
experiences with the county law enforcement on our
lands. We should have complete civil jurisdiction on
our lands and we don't. That's a real problem.

And giving -- let's see here. Giving local
governments more authority to veto projects -- again, we
are back to that. Are they vetoing a project because
they can't mitigate the off-reservation impacts or the
impacts that are going to take place? Most of the time
not. When you have an organization like Stand Up
California who is often funded from sources outside the
state and not even geographically close to where we are
operating, they are going to be able to weigh in and
influence local government and then that local
government is going to be able to influence a decision?
That is not fair. We -- they shouldn't be able to do
that. In the Constitution we are listed on the same
level as states. We are not subject to the states and
we should enjoy the same rights as the states do when
things are going through the process.
And it shouldn't be retroactive. Our application that we have in now should be considered under the current regs. Why should it be rolled back so people who have had these applications in for years be subject to regs that are going to be coming up? That is not fair either, because under the current regs maybe we qualify; under the new regs maybe we don't. That's not fair. And it should be equitable.

We support a two-step process for gaming acquisition, but it is only if the first phase meets a threshold that -- we don't start paying for a NEPA process during the first phase and find out that, oh, we don't qualify but we have already spent the money, that the first phase should have a threshold that says, okay, you have completed the first phase. Now let's go into the NEPA process, which would mean that is money well spent, rather than just a waste. And with all due respect to Secretary Zinke, you know, I have fish at home. I know what temperature their water should be. I know what they should eat. I know what the pH level should be. But I am not a fish. I don't know what their environment consists of. I don't know the challenges they face, because I personally can't face those challenges. So if you are not living on the reservation and you are not a tribal leader or a tribal
citizen, it is very difficult to know what we face on those inner social workings. People just don't know.

Even though Secretary Zinke is familiar with tribes, you don't have those experiences from within a tribe and it is completely different because I couldn't tell you what my fish think or how they feel.

That's my comments. Thank you.

MR. TAHSUDA: Thank you, Chairman. So we have Chairman Mazzetti and Councilman Stallings from Rincon. Which one of you would like to take the lead here?

Thank you, Chairman.

CHAIRMAN MAZZETTI: My name is Bo Mazzetti, Chairman of the Rincon Band of Luiseno Indians in San Diego County. I will try to consolidate things a little bit, but you have to understand the termination efforts starting in '52, '51 by the federal government really had a major effect on California, major, and it wasn't officially ended, the termination concept of the federal government, until President Nixon stopped it as a policy in 1974. So during the periods after that, the tribes were just surviving, trying to get our governments going, trying to survive.

Then what happened? We had gaming. And I think the majority of the tribes that do have gaming, it now became a source where we could buy back our land.
That's what we are doing is we are buying our land back. To me it is ludicrous, but we have to do it.

So let me get to the regulations. We are in San Diego County, California. Now, do we get along with them? Yeah, pretty well, except they have a blanket policy, no question about it. Any fee-to-trust application they are going to oppose. That's a policy.

Do we like our board? Sure, but that is a policy.

So when you say or you put the possibility of allowing the state or the county to have a MOU or some kind of agreement in place, what you are doing is you are setting them up to extort from the tribes whatever they want. You are going to reach an agreement or not.

Now, look at gaming. Look at some of those agreements. You folks know -- nice seeing you again, Paula -- but it is a disaster. You know, you can't -- you can't get along with every government, but once you take away the right, you know -- I think under the Indian Reorganization Act the policies that is there is perfect. It works. Now why are we having to look at this? The first thing everybody says, county, state, my God, we are losing these tax dollars. That is what it is all about, tax money. Look at them. Most of the land that most of us purchase I believe that tax dollar is minimal, nothing, you know, so we need to look at
that. You know, that is an excuse.

The other thing is, oh, you are going to buy
this land, the Indians are going to get it and it is
going to be lawless. That is BS. In California, Public
Law 280, criminal jurisdiction whether it is Indian land
or fee land doesn't matter. The jurisdiction is there.
So it is not lawless. That is the other thing people
like to use. So these excuses -- you know, we need to
look at them. But whatever you do, you know, the 30-day
rule, for example, that's telling the state or the
county, okay, we got to file something. We got to
oppose this. We have 30 days. So you are begging for
rejection. You are begging for something to be
submitted.

I think the existing rule -- and our tribe's
position is the existing rule is fine. Also the
applications that are in should be processed. They were
submitted under existing rules. Process them under the
existing rules, not hold them up. But I think, you
know, we have to be real careful, you know. I think why
we are really going after these things is because the
states and the counties put pressure on certain folks to
change something. We don't have to. I think you
folks -- some of you I know -- stick up for what's
right. As the trustee, be a real trustee. Stand up,
push back for us. That's what we are asking for. Thank you.

MR. TAHSUDA: Thank you, Chairman. We are getting close to the midway point here. Should we take a short coffee and bathroom break? So it is basically 10:40 now. Should we reconvene at like 10:50? Maybe we will get started by 10:55.

(Off the record.)

MR. TAHSUDA: We will get started again here.

I have on my list here Doug Gardipe.

COUNCILMAN GARDIPE: I am with Reno-Sparks.

You can go ahead.

MR. TAHSUDA: So Chairman Attebery?

CHAIRMAN ATTEBERY: Russell Attebery, Karuk Tribe Chairman. Karuk Tribe is located in the very northern part of California, not to be confused with Sacramento or San Francisco. I am also a Pacific Region member of the TIBC along with Chairman Smith from Pala, and a member of -- a Native American heritage commissioner.

So I will be brief. I didn't prepare a long speech. I just basically wanted to speak on behalf of the Karuk tribal people. And the Karuk Tribe is a reservationalist tribe. We are the second largest tribe in California. And over the years we have made some
attempts to acquire reservation status that has not worked for us, but so the fee-to-trust process is very important to the Karuk tribe for economic development. We did -- we were able to acquire some land into trust for housing. We do have a casino project in the works which should be opening soon. It will be -- it is very small by comparison, but it will provide economic development to the area. And to give you an example of the need for economic development, in Siskiyou County we had a job fair over -- a little over a week ago and 800 people showed up to apply for a little more than 200 jobs. So the economic need up there is developed through the demise of the timber industry, which has been gone for a long time. Again, the tribe -- we have been there since time immemorial.

And the consultation process is huge because we didn't -- we didn't have it in the past and therefore the decisions that were made about our area were made by people who had never been there before. Quick story. I was a small child. My grandfather was watching the Forest Service send trucks up -- the mills closed down and they were going up to put the fires out that had happened up there. And he had a sad look on his face and slumped shoulders. And I said, "What's the matter, Grandpa?" And he said, "Our forest lands are being
destroyed." And later on I learned that the Indians in
that area and the community people in that area -- the
Native Americans always worked together with the
community. That's how they survived. And they used
fire as a tool to prevent more devastating fires to the
future, and that was taken away. I don't need to go
into any other detail. You can see the result.

So the tribe has developed over the years a
TREX program, which is the training to reduce the fuels
for the fires up there, but we still struggle with the
local government on how to use those and whether or not
they consult with us. For the land to trust, I will
give you a real quick example. And it's been around
year 2000 when we first received the determination to
get a casino. And at that time the Karuk tribe put
.9 acres up into trust to help expand our medical
clinic. And a local government sued us over that
.9 acres, saying, "You are going to put a casino on this
land." We said, "I guarantee you we are not going to
put slot machines in our medical clinic. Okay?"

When we finally received a determination in
April of 2012, after going through two levels of court
and reaching the Ninth Circuit which the county lost,
they finally said, "Oh, I guess you are not going to put
a casino on that land. Okay." So just an example of
the difficulties we have with our land-to-trust process.

So consultation, again, it is all revolving around what happens in the area and the people who live there. And the people who live in those areas know best what's for those areas. And it is just ludicrous to not consult those people. Whether it be co-management, stewardship, land-into-trust process, Native Americans and community members up there have always been stewards of the forests and that's been taken out of their hands. So I encourage you to look into what is being said here, look for the best processes. We have a very good working relationship with our Pacific Region out here so maybe give the regions a little more say in working with the land-to-trust process. Don't make it lengthy. Streamline it as much as you can. And hopefully with this process, you know, we can help the tribes in that area who know and can offer a lot of assistance to you and your staff in what's best for that area.

And the land-to-trust process is very important, I know, to us up there because we have a lot of great ideas. We just want to be heard and we don't want to be sitting on a desk for a long period of time, so I encourage you to streamline the process, work more with the Pacific Regions or all the regions and hopefully we can come to some -- a conclusion. Thank
MR. TAHSUDA: Thank you, Chairman.

Next from Picayune, Chairwoman.

CHAIRWOMAN RUIZ: My name is Jennifer Ruiz. I am the chairwoman for Picayune Rancheria of Chukchansi Indians. I am just going to make a few brief points. We are going to submit more detailed comments in writing, but I wanted to start out by saying that our tribe is one of the tribes that was terminated. And a lot of the challenges we still face today tie back to that. And of course one of those is our very small land base. So we have had five application -- land acquisition applications pending for quite some time. And I think we would all agree that those non-controversial, non-gaming land acquisitions -- that process needs to be sped up and streamlined.

And we believe that some of the proposals that were initially included to change would probably have the opposite effect of that, particularly around NEPA. NEPA has become a very costly and time-consuming process. As well having local governments have greater say into the approval process is especially concerning for us. I wish I could stand up here and say we are one of the tribes that had a great relationship with their local government. We have tried very much but
unfortunately every step that we have taken to try and better the condition in our tribal community, the local government has their hand out. And I believe that this process would create that with every land application that we would submit.

And then, as far as the changes to the rules, that is really not going to solve the problem of the staffing in the BIA offices, the lack of resources there to oversee the approval process and ensure that it gets done. That really needs to be looked at. I understand that the GIS review process and legal reviews have held up the process after some of the positions have been vacant over six months and haven't even been posted yet. So, you know, changing the rules isn't going to solve not having the resources there to actually get the approvals through.

And then just to comment on off-reservation gaming, of course we feel this needs to be looked at different from other acquisitions because of course you have the risk of really significantly impacting tribal communities that are trying to better the conditions on the reservations. And I can say that we definitely don't oppose any tribes -- we want all tribes to be successful, but our concern is having large non-Indian gaming interests coming into the state and creating an
environment where they are taking advantage of other
tribes, taking advantage of the regulations and creating
a situation that is significantly detrimental to the
tribes who are already trying to better the conditions
on their rancherias. So we would really like the
opportunity to discuss this further.

So thank you.

MR. TAHSUDA: Thank you, Chairwoman.

We have somebody from Hoopa Valley?

MS. RISLING: I guess it is still morning.

Good morning. My name is Lois Risling. I am a Hoopa
tribal member. I live on the Hoopa reservation and I am
representing the Hoopa tribe today.

Even though you asked us not to talk about our
lands, even after you were directed by two other chairs
who said you can't understand us unless you know about
our land and you know where we are from and what our
struggle has been about, so to be asked to put that into
writing and send it to you seems a little bit
questionable about the approach, because I turned to the
man next to me and asked him, "Are they recording this
or something or what or is he going to read it later or
is he going to read all those comments?" So --

MR. TAHSUDA: So we have a court reporter just
so everybody knows.
MS. RISLING: I came up to her in the break to check it out. She was very good.

I am still going to tell you about my reservation and I am going to tell you about my land because I know something from my many years of living with non-Indian people, particularly Euro-Americans and Americans is that land plus people equals wealth, equals power, self-determining power. And land is very critical to us. When we do our ceremonies we take our moccasins off, we take our shoes off, and we put our feet in the land because the land goes from us up to the Kahrenai. And the Kahrenai gave us this land. We are 12 square miles in Northern California. We are located in what is now called Humboldt County. This land came to the Hoopa people because we were Kunyatyon. All of California is Kunyatyon. They eat acorns. That is what it is. And the Kahrenai said, "Hoopa, this is your place." And that place, a remnant of it, a small remnant of it, to this day still belongs to the Hoopa people from the Kahrenai. We have resided there since time immemorial. We still live there. We still care for it. We still use our home forever.

Hoopa came like every other tribe in California. Our neighbor tribe, the Karuks, who -- my grandfather was a Karuk tribal person. Our cousins over
the hill in Redding or up in the hills, the Pit Rivers, our friends in Southern California -- my daughter became a college professor and taught at San Diego State for a while before she was able to come home. And the Southern California people greeted her and welcomed her and had her be part of it, because we all shared the commonality of land. We came -- Hoopa people, as other people have told you here, time after time and will tell you after me, have come under onslaught from federal policies and laws, reservation systems, extermination programs, the Dawes Act, the Indian Reorganization Act and many others. These actions implemented and took land from us and we must get this land back. The Department of the Interior, the federal government must get these lands back for our peoples. We need our spiritual lands, our prayer areas. They need to be in trust and protected for us. We don't need to have prayer areas that we have to set up schedules to visit and debate to find out whether or not we can use those sacred areas. We don't need to have springs that are -- people are dumping burial stuff in there because people want to be up in the area, like the people in Mount Shasta have to put up with. We don't need that. We need them in trust to be protected by our trustees. Hoopa needs its rain rock back. We need to be able to
use that. We need our sacred trails not to be monitored by some outside entity.

I was a little concerned when this -- when you opened the meeting and said that we were going to focus on off-reservation acquisitions today and that adds to the confusion, because on your December 6, 2017 "Dear tribal" letter, it says, "We are announcing a new revised consultation beginning in January, ending in February. Additionally, based on the initial input received in response to the draft revisions, a broader discussion about the direction of updates to part 151 may be more appropriate." A lot of conditional language in the letter that does not allow tribal people to know whether we are consulting about what this is, a broad discussion, or if we are -- we are consulting about regulatory changes in part 151. Regulatory changes in part 151 has a different impact on us than a broad discussion of vague questions. Part 151 will change and implement our life, both spiritually, politically and just financially and everyday workings. It will change that. And yet it is unclear from the instruments that were sent out to us which direction we are going in this discussion. It says there were initial responses received. Nothing was sent to the tribes to say what those initial responses were that the Department
received or what the response was other than we may be
having this discussion. And then you find out this
morning that you want to talk about off-reservation
acquisitions. You went on to say, "A broader discussion
about the direction of updates to part 151 may be more
appropriate." "May be." That is a conditional tense.
That means it is possibility but I don't know. But I
learned this morning that it is going to be a
consultation on off-reservation acquisitions. It's
conditional language. It is difficult to have a
discussion about vague language and conditional tenses.
Why is this approach more appropriate than having a
consultation about the proposed changes so that we know
what the direction is that we should be taking?

It goes on to say, "In that vein, I suggest we
consult instead on a list of questions." Suggest? What
is the status of the proposed trust acquisition
regulations at 25 CFR part 151? How come we can toss
them aside and not have to have that consultation?

The quote out of the letter says, "We heard
repeated calls for additional time and sessions to
consult on the draft revisions." They wanted more time
and consultations on draft revisions. Will we get this?
Will we get more time on those draft revisions or are we
supposed to be answering the 10 questions? Will the
answers to the questions construe information for different draft revisions? We don't know. There is no information on that.

I want a consultation process that is comprehensive and transparent, a process that tribal nations can rely on, a process and a policy that responds to the needs of tribal nations so that they can be engaged in true self-determination. Success for this fee-to-trust proposal depends on the depth of input received from Indian nations, not from the Department. The Department must participate in the consultation process in a manner that demonstrates a meaningful commitment. I don't see that. So that's my introduction.

I have the answers to your 10 questions. Everybody here -- I agree with what they have said so I am going to -- I am going to short circuit that and give you just a few answers because I think it is more important that you understand we don't -- we don't want the regulations as they are proposed, but your 10 questions are really questions that are designed to add evidence and push toward getting information that will allow you to implement those proposed regulations.

So I know I am taking a lot of time, but question number 1, here we go. "What should the
objective of the land-into-trust program be?" It should be to put land into trust as quickly as possible, build -- we need to build self determining and productive tribal nations. And to borrow from Euro-American philosophical belief, land plus people equals wealth equals power. That's your -- that's your government's mantra. That's what it practices. We -- Land into trust needs to build self-determining and productive tribal nations with ample and abundant land. It should be just as easy to put land into trust, especially on-reservation lands, as it was to take them out of trust. All you had to do if you were an Indian woman was marry a white man and your land would go out of trust. I am not advocating that. Maybe. Everybody should marry an Indian man and then the land would go back to the trust.

But that's how easy it was to take it out. But now when Indian people want to reclaim their land, their own land, my 12 acres -- now, Amy, I don't want you to get excited about it -- we have 99 potential on-reservation fee-to-trust acquisitions. So I mean we are trying to work with this and yet there is more and more obstacles coming up to that. And I tell you, Pacific office tries to do everything it can to help us to do this.
What should the Department be working to accomplish? This is a very vague question. I used to be a teacher and I would have marked you down for that question. So what should the Department be working to accomplish? Remove the obstacles, not put new obstacles back into the process. You are our trustee. Stop trying to be the trustee for other entities. They have got all kinds of people taking care of them. Cities have people taking care of them. Counties have groups and entities taking care of them. You need to represent us and our interests. You need to streamline the process.

So that was question number 1. I can keep going but I think everybody is getting the idea. Hoopa doesn't like this. Okay? Such as, "What criteria should the Department consider when approving or disapproving" -- this is question number 4 -- "an off-reservation trust application?" Does the tribe want the land? That's the criteria. And it is your job to make it happen.

There are other questions but I will fast forward to number 10, because I did the math here. You did four speakers in the first hour. You did five speakers in the second hour. So at that rate that's like 10 speakers. We only have two hours. 10 more
people, 10 more tribes can get up and talk and then --
and there is how many tribes in California?

AUDIENCE MEMBER: 115.

MS. RISLING: And our neighbors, Nevada and
Washington, are also coming? So with the size of the
room, the structure of the room, how it is set up, the
vague questions, the fact that it wasn't -- really, the
intention is not to get what the tribes want. Those 10
questions needed to be a conversation and not just us
going up and talking. We needed interaction because
things are different. Hoopa is one of the tribes that
has land that's on reservation so we can speak to the
on-reservation process. Hoopa also has land off
reservation, but we are not surrounded by huge cities
like San Diego and Sacramento and so our nearest border
town probably isn't even as big as one of the suburbs
down there. So we have different issues, but we could
have had that conversation. But this forum is not
designed for that.

I do want to say that we support what everybody
else has been saying all this time. And about your
recommendations would you make to streamline or improve
the land-into-trust program -- shorten it. Shorten the
process time. Reduce the time. Allow regional offices
to make the final decisions as they have in the past.
Don't add additional burdens to the regional office and
to tribes. And look at the NEPA process and try to
figure out some way to streamline that.

Those are just kind of practical things that
can be done. And there are many other things that need
to be done. I think we have been using this kind of
similar process for like 80 years. Took us 80 years to
get here. If you keep adding this on, it is going to be
worse. So we are not interested in changes that would
create a review process that adds additional burdens on
tribes and seeks to keep tribes from developing economic
self-sufficiency. This discussion, as well as the
proposed revisions, will impact on, affect and diminish
the authority and responsibility of the Secretary to
take land into trust. It will add additional
requirements on tribes. Listen to what the previous
speakers have said. They have identified -- which was
part of my testimony but I figure I didn't have an hour.

So thank you for your time.

MR. TAHSUDA: Thank you, Ms. Risling.

Can we have -- is Chairwoman Pope Flores here
with us? Buena Vista Rancheria? Thank you.

CHAIRWOMAN POPE FLORES: Thank you for the
opportunity to speak today. I won't go into our tribe's
history. I think I have shouted it enough to you,
Mr. Tashuda, and many others. I am going to talk about what I am disappointed. And what I recommend is that -- well, I guess let me back up.

Let me ask a question. So all of these proposed language, were any of them proposed by tribes? Because if they were not, then it is not true consultation. Consultation takes place at the beginning where you have equal parties sitting and making recommendations. What has happened here, I am going to tell you, is that CSAC has made these recommendations, and it is very scary to see how they parallel in what you are proposing in the regulations and it is insulting to our tribes because it is hard for us to get comments and to get -- in just any consultation process to get our comments implemented. Most of the time we will get a sentence here or there.

And looking at the CSAC letter with their recommendations for the fee to trust, what they are recommending is just amazing. I am so disappointed because I feel as though Department of Interior has forgotten that their trust responsibility is to our tribes, not to your local governments. It is to your tribes. And so now what you are proposing is going to put us years -- our tribe has been attempting to put our land back into trust for decades and we -- we are on our
original reservation. We have had nothing but
opposition with Amador County. I am glad to hear that
there are some tribes that have good relationships with
local governments, but I am going to tell you and I am
going to give you the nightmare that our tribe
experiences.

They have taken every opportunity to delay
anything that our tribe does. We built a cultural
center and they contacted the contractor and tried to
litigate against the contractor for not pulling permits.
We are on our original reservation. We were terminated
in 1958 and we have been trying to get our land back
into trust. Amador County has attempted to auction off
our reservation. We have had to write them letters
after letters, indicating you entered into a stipulation
in 1987 under Tillie Hardwick. It was not mandated.
You voluntarily entered into this stipulation. And the
counties are allowed to continue litigation just to
stall tribes in anything that they do. This is not
sovereignty. What you are proposing in these
regulations is not -- is not upholding tribal
sovereignty. It is degrading it. You are putting us
back 10, 20 years. It took us how long to get where we
are today, and in these proposed regulations you are
going to put us back decades. I look at my fee-to-trust
application now which has been sitting in your office
for years and I -- no disrespect, but with every
turnover we start all over. And I know that our tribe
is not the only one that has this happen.

So what I recommend is that you look in the
mirror and instead of asking what you can do for these
local governments and states, how you can improve the
process for our tribes. Do you know how much money our
tribes have to spend fighting local governments and then
they team up with Stand Up for California and then they
team up with other organizations and this is just --
this is horrible to think what is being proposed here.
Sorry. We need a little podium up here.

I want to -- I want to talk about if you are
proposing these types of things for our tribes, what
about -- you know, what about all of the benefits that
our tribes bring to the local governments? What about
all of unemployment rates and those types of things? We
are being asked, you prove that you are bettering. All
you are doing is exchanging mitigation for really -- it
is a form of tax. I mean that shouldn't even be
contemplated. This shouldn't even -- my recommendation
is to tear these proposed -- what you are proposing here
and start over with tribes and find a process that works
for all of us.
Another thing that I want to talk about is we have been pursuing gaming for years, and I mean years. It's like the joke now. Oh, yeah, Buena Vista. We have been out three times for financing. We are on our original reservation and under the Indian Gaming Regulatory Act we are able to do gaming on our land without having it in trust because we are within the boundaries of our original reservation. You would think that would be a slam dunk, but it is not. It has taken decades and decades for everyone to figure out that up until November 27th, 2017, Amador County fought us since 2006, fighting our tribe, claiming that we are not able to game on our land because it is not Indian land. Well, first of all, really? Not Indian land? Are you kidding me? I mean if we all want to, then let's go back to the original treaties and what we are entitled to. You know, most of us are scrambling for little pieces of land in California. We get, you know, "Why is your tribe so small? Why are you this? Why that?" I can't -- it just it is so frustrating to me and it is so disrespectful to our tribes.

So I am going to tell you that, from experience, you implement this process, then the problem is going to be yours to handle, because ultimately you think you are going to pass it off and say, oh, local
governments, go ahead and make your ISAs and your
mitigations and this and that. No, that is not what is
going to happen. You are going to hold tribes up, you
are going to end up in litigation, and then you are
going to be in the same position that our tribe is in,
where you never get our land back in trust.

Our land -- you want to know why our land got
in trust in the first place? Because my
great-great-great uncle was defending it and they beat
him so badly, the farmers, that they finally -- it hit
the newspapers and they said, "We need to do something
about this. Let's send an Indian agent out there." And
yet here I stand today, still trying to tell people this
is our reservation. We have been here. And after 10
years of litigation, over 10 years, and millions of
dollars that has cost our tribe -- and I don't know if
any representatives of Ione Band are here, but that is
another tribe in that county that is going through the
exact same thing that we are.

So I urge you, there are processes that need to
be improved, but it is to benefit our tribes, not to
make our process harder, not to give the counties the
opportunity to encroach on our sovereignty, not for them
to dictate how we are supposed to hold our ceremonies.

I was in a section 106 consultation and I had the local
government telling me when we should and should not have our ceremonies because of ordinances that they have in place. We have fee-to-trust process in two other applications pending and they are currently opposing both of them for no reason. No reason. Oh, because we might move our casino from our original reservation, which we have already spent millions of dollars trying to get built in the first place, over to the 56 acres. So why would we do that when we would have to start all over and open ourselves up to the same thing?

I just urge you to consider what door you are opening. Your trust responsibility is to our tribes, not to local governments. And they have continued to abuse the power. That little door that has been opened, gaming compacts -- you want to talk about gaming? Well, all the compacts are now requiring ISAs. So why now are we going to have another layer of bureaucracy? I won't even go into how that's worked out with our ISA, because we have a current ISA. We built a fire station which fought all those fires in Amador County and we still haven't broken ground on a casino on our original reservation. So please do not open that floodgate.

MR. TAHSUDA: Thank you, Chairwoman.

I have from the Mechoopda Tribe Vice Chairwoman Sandra Knight.
VICE CHAIRWOMAN KNIGHT: Good morning. Sandra Knight, Vice Chairperson from Chico Mechoopda Indian tribe. And we oppose changes to the fee-to-trust 151. We do support the NCAI resolution and comments regarding the proposed changes.

If there is an example of what could go wrong with the fee-to-trust applications, it is Mechoopda. There is ample opportunity for governments to weigh in. We were in litigation for over 15 years and under Assistant Secretary Washburn we finally got our land into trust and we will be breaking ground this summer so we are very grateful. Thank you, Paula.

We are very grateful for the staff at the Pacific Region. We think it should be a model. We appreciate all their dedication and work on our applications. So thank you.

MR. TAHSUDA: Thank you, Chairwoman.

Chairman -- Chairwoman Laurie Thom from the Yerington Paiute Tribe.

CHAIRMAN THOM: Hello and thank you. What I would like to say -- I guess, starting off first is my name is Laurie Thom. I am the Chairman of the Yerington Paiute Tribe. I traveled here from Nevada.

I think that the process that we have started here or that has been started is backwards. I believe
that the tribes should have been consulted properly and
individually. Whether or not these issues -- and I know
that all these issues have come to your desk, because I
can't tell that you all these tribes have probably
written you every letter for every complaint of why they
can't get land into trust. Whether or not those have
been reviewed and compiled and are part of this process
or what has brought you to this point makes me question
why we are here. This to me is more of a listening
session than it is a consultation. And I believe that
it is difficult for us to speak here with so many issues
and so many different situations facing each tribe.

My tribe is in Yerington, Nevada. I don't know
if you have heard recently but there are two girls in
the high school that are suing the county and the school
district because of racial divide, because how they are
being treated in Yerington. They are not native. They
have never heard our complaints of how we were being
treated and discriminated against all these years.

And the reason I am here is for this off-land
acquisition. For 30 years we have had a piece of land
inside the city of Yerington. We have leased it to the
Dairy Queen and Subway. We do not collect taxes on it.
That business license that hangs behind that counter is
the city of Yerington, not the Yerington Paiute Tribe.
That is our land. We have that right to self-determine what needs to go with those tax funds and how to provide those to our people.

We have another piece of land. It is right attached to our colony. We can't turn that into trust but we have to lease it out to somebody else that can run a business on that land. We have a piece of land that the BIA brought us down eight miles from our colony. The only road into that land is three miles, and it used to be a fenceline road. Then it got bigger and then somebody put some asphalt on it. Never got the easements done correctly. We cannot provide safe transportation onto our reservation from one of the major highways, Highway 95A, because we can't get easements. They won't let us turn that into trust to be able to use our funds to provide a safe highway. There are deaths at that four-way but we can't fix that because the county won't let us change any of our land into trust.

When I was elected in 2016 my first meeting with the county manager was because of floods, but he waits until I am alone and he points at me and tells me, "You will not get one piece of land into trust. I will fight you tooth and nail." I didn't ask for that. We were trying to figure out how to keep our people from
flooding and guess what? They never fixed our stuff to
make sure we weren't going to flood again like we did in
'97. We are an afterthought in these counties. We are
discriminated against because we don't get to do
economic development, and that hurts our people, which
puts us in a point of we asked you guys to be our trust,
take care of us, be our person, our voice against these
types of people that we have faced for years. They came
into our lands. They use federal dollars to separate
water rights off of private lands along the Waco River.
You guys have all heard about the Hilton Ranch, right?
They bought those with federal dollars. And the reason
I found out that they gift deeded those to the State of
Nevada is because I got a ticket to the Governor's state
of the state address. We were never even consulted.
That is all river access. Those are our traditional
lands, our hunting lands where we have ceremony. Our
burials are still out there, but the state now wants to
come and ask us, well, what areas do you not want people
in? Where our petroglyphs are, where our people are
still in the ground. Maybe we will put up an arborary
for you and, again, we will schedule it when we feel
like it. That's not what we are needing.
We are on the verge right now as we speak
trying to get a piece of land that's going to give us
probably 200 square feet, maybe, 200 feet of river access. That's the only access that our tribe has to the river when it used to be all of it for us. 200 feet of water access. But you don't understand what we face based on whatever that next county line is.

And they tell us it is because they need the taxes. Do you think that county, which is the largest county in Nevada, needs those taxes more than we do? I don't think so. It is a ploy to keep us desolate, to keep us broke and to keep us poor so that they can keep a thumb on us. They don't want us to make money. They don't want us to have ability to provide for our people.

Since I have gotten in there, we are trying to make progress, but we still have that racial thumb that we are under. Go ahead, provide a dialysis center. We will help you. But our people have to go. They have to be there. They have to have access. Why can't we do it on our own?

I think this situation is backwards and I would really ask that you take a step back and maybe revert what we are trying to do here and listen to the tribes and actually consult with them first. Thank you.

MR. TAHSUDA: Thank you, Chairwoman.

I have Steve Baldy from Big Lagoon Rancheria?

VICE-CHAIRPERSON HAYWARD: I am not scheduled
but I know that this isn't a true consultation and it
honestly feels like it is not even a listening session
so I don't know if --

MR. TAHSUDA: I am sorry. Can you state your
name and who you represent?

VICE-CHAIRPERSON HAYWARD: Michelle Hayward,
Redding Rancheria vice chair. And I wish you would put
your iPad and your phone away and listen, because it is
very disheartening to watch our elders and our tribal
leaders sit up here and pour their hearts out to you
while you are on the iPad and while you are on the phone
and you are not even looking them in the eye. It is
very disrespectful. So can you please -- somebody take
it from him or can you put them away. Thank you.

MR. TAHSUDA: I apologize for the
misperception. I do try to take a few notes
occasionally that people give -- that arise in my head
as we are doing it, but if it makes you feel more
comfortable I will shut the iPad.

VICE-CHAIRPERSON HAYWARD: It is very
disrespectful.

MR. BALDY: My name is Steve Baldy. I am not a
chairperson. I think you said that about me. I work
with Big Lagoon Rancheria, which is a small tribe in
California. I am originally from Hoopa. I live in
Hoopa with my wife. I grew up in Hoopa and we used to do a lot of things as a family and it was a multi-generational thing. We used -- you know, Hoopa is about a million acres, approximately. We grew up walking trails. We grew up riding. We grew up fishing and hunting on a million-acre piece of property. That's how we learned how to live on the land. And the land was important.

Later on in life you start learning other things. You start learning about how land -- how air is important. You start learning about how water is important. You start learning about you need water because fish -- you need to drink water, but animals, fish need water to live.

So when we are talking about land into trust, I think we need to talk about the other issues that are around land into trust other than specifically whether or not we are doing gaming, whether or not we are doing economic development. I think that we should be talking about what you are saying here a little bit, how do we streamline the process so that it should be done quickly?

In Big Lagoon's case, Big Lagoon spent a lot of money and the Bureau of Indian Affairs spent a lot of time helping us put together a fee-to-trust application.
We did it for a five-acre parcel. We did it for housing. We did all the studies. We did everything that was required to be done. It got to the final point to be published in the Federal Register. That was the last step that was supposed to be done. And then Carcieri came up and that stopped the process.

So from Big Lagoon's perspective, we need to be talking about land-into-trust regulations and things, but we also need to talk about how do you fix -- I think that we need to focus on how do you fix the Carcieri effect on tribes. It is not just Big Lagoon. There is a lot of tribes that are affected by that decision. I don't even know what the current status of that is. I don't think anybody knows. They just say, "We are working on it." It is all that people say.

So I would recommend very strongly that we take some kind of effort, some resources, to fix the Carcieri problem.

In Big Lagoon it just seems funny -- in working with Big Lagoon on the coast, which is about 60 miles from Hoopa, if you look at the Big Lagoon Rancheria, it sits adjacent to its original site. The original site is the OPA village site. That site has been dated archeologically I think 12,000 years ago. That's where the Yurok Tribe had a major village site. And things
happened there. Big Lagoon doesn't own that site. The county owns that site. A private white development corporation owns that site. Big Lagoon is restricted to approximately 22-acre site adjacent to it. We are required now to buy outside of the adjacent properties to the rancheria. All that property is bought up. In Big Lagoon's case there was a non-profit corporation that wanted to stop development at Big Lagoon so badly that they came in and bought the surrounding property to the rancheria so that we could never, ever buy or own or put into trust, or make it very -- you know, a very stringent process to put into trust property that's not adjacent to the rancheria. That was a deliberate design.

You know, in -- in therapy, in counseling you talk about multi-generational stress. That's a term that people talk about. I think that we should be also talking about and considering when you are doing this stuff, these regulations, multi-generational racism. That is what still exists. We don't want to talk about it, but it exists because it exists by the actions of people who do things. And doing this buying up the surrounding property of the rancheria was a deliberate effort, is a deliberate effort to stop anything that the rancheria can do.
So that when we talk about -- in your suggested processes you talk about what authority should we give in terms of the outside agencies that we have to work with and MOUs and things. Well, in Big Lagoon's case our experience is that we have to work with a racist organization. We have to work with a racist California commission, a state commission for -- that protects the coastal zones of California. They protect it against our Indian development, but they didn't protect it against all the development that occurs on that coastline in California. And why do they do that? Because those other agencies -- those other entities have money that small tribes like Big Lagoon don't.

We also have to work with the county. We have a county that says when you have property around that is not adjacent to the rancheria that's 12 acres, we look at that 12 acres and we say we can build probably 12 houses, you know, an acre or so per house, because we are all on septic systems and you need a little more property for septic systems. The county looks at that property and says, "No, you can only build one house per 12 acres. If you petition us correctly, maybe we will allow you to do a mother-in-law unit." Mother-in-law unit is a house next to the house you build that is one square foot less, but you have to petition. It is an
exception.

So that is the kind of stuff that happens and that's the kind of things that you have to deal with when you say let's work with MOUs, you know, and have them have some kind of impact on the fee-to-trust process. I think that that should be just totally done away with. We don't need their input. Fee to trust should simply be do the tribes want to put a piece of property into trust? Thank you.

MR. TAHSUDA: Thank you, Mr. Baldy. Quickly make sure. I think that's everybody on the list. So if there are other tribal representatives that would like to speak, open it up. I just want to be sure be clear that, you know, because this is a consultation, we need to have those who are, you know, either tribal leaders or duly appointed representatives of the tribes to come up and speak on the record. Thank you.

MR. MARSTON: Good afternoon. My name is Les Marston. Charles Wood is the Chairman of the Chemehuevi Indian Tribe and Lloyd Matheson is the Chairman of the Chicken Ranch Rancheria and they asked me to come here today to speak for them. We are going to be -- I am up to I think 28 pages on my comments on your proposed regulations.

The result of those comments is a
recommendation that you scrap them and start over. But
I came here today to talk about three specific issues.
The first is notably absent from your regulations is the
reason or the purpose why you are enacting them. And I
don't know whether it came from Donald Trump or
Secretary Zinke or what. I have my doubts whether it
actually originated within the Department of the
Interior or not, but I think it would be good to add to
the regulations a purpose section. And in determining
what goes into the purpose section I start with the
statute. There is really two statutes at issue here,
one being the Indian Reorganization Act, section 465,
now recodified -- I think it -- what is it, 5508? -- and
the Indian Reorganization Act.

So the first thing I did when I started to look
at your proposed regulations is I went back to the
statute, looked at the wording in both of the statutes,
465 and 2719. I went back and looked at the legislative
history. You know, there actually was a Senate report
on 465. I am sure all three of you have read it,
because if you have, you will see that the very purpose
for which Congress enacted 465 was not just to stop the
allotment process and the forced fee patent process
under the Burke Act, but it was to allow -- to start a
program to replace for tribes and individual Indians the
lands that they lost through that process. That's the
purpose of the statute.

Under the IGRA under 479, while it is true
there is a prohibition, the purpose of the statute is to
allow the tribes to engage in gaming so they can
generate governmental revenue to provide essential
governmental programs, benefits, and services. If you
can fall within one of the exceptions, you get to game
on land that is acquired after 1988. So the Secretary
doesn't get to make new law when he promulgates
regulations. He is required under numerous federal
court decisions to do two things. If there is ambiguity
in the statute, the purpose of the regulations is to
find and clarify the ambiguity. And if Congress has set
up a procedure but hasn't given all the details, the
purpose of the regulations is to fill in the gaps.

But clearly under the case law, whether it is, you
know, Morton versus Ruiz or the Dixon case, you can't
promulgate regulations that frustrate the very purposes
for which the statute was enacted. So the purpose of
the statute is not just to authorize a process to
acquire land. It is to replace the land that was lost
through allotment and through forced fee patents. Well,
that is 90 million acres. That is 90 million acres of
land that was lost.
And the United States government has some culpability in this. It is not state or local governments that caused Indians to lose their land. It was a course of dealing with the United States. It was the allotment process that opened up reservations and parceled out or subdivided the reservations up and gave the individual Indians their lands and then the United States coming in and forcing them to take patents and then, when Indians and tribes sued, the United States government stands behind the statute of limitations period and sovereign immunity so that the Indians can't at least collect money for the breach of trust. It is illegal termination. You weren't supposed to convey the deeds under the Rancheria Act until you provided the services. Well, you didn't provide the services. In developing the distribution plans, you didn't take into consideration the fact that the subdivision you created didn't comply with the California Subdivision Map Act, the Indians' housing didn't comply with local county building code requirements, and that the Indians didn't have enough money to put in the water or sewer systems or pay the property taxes.

So in many cases, including Chicken Ranch, the very day the Indians got the deed to their land, county inspectors came out and red-tagged their homes. They
were forced to sell, those that were lucky enough to find a buyer -- there always seemed to be some unscrupulous non-Indian there ready to buy it up for, you know, a pittance of what it was worth.

And then there is the legal actions of the United States government. Congress enacts the -- you know, the 1948 Parker Dam Act, takes 7,700 acres of Chemehuevi land. Why? So people in San Diego and LA can have water, you know, or they condemn the Coyote Valley Indian reservation, 1958, and then the United States government -- even though the statute wasn't a termination statute, they treated them as termination.

So the United States has culpability in this. And if you add a purpose section to your regulations and state, "Look, we are supposed to implement the statute. The purposes of the statute is to replace the land that the Indians lost and is to allow the tribes to engage in economic development." If you state that and then you admit the wrongdoing that the United States government did in the purpose of the regulations, if you admit your culpability in forced fee patents and in illegal termination and in condemnation, in that backdrop look at the regulations that you have drafted. I don't think they carry out the purposes for which the statute was enacted. I think they conflict with the plain wording
of the statute and the purposes for which the statute
was enacted. That is my point number one.

Point number two, if the purpose is to replace
the land, then why are you drawing a distinction --
well, actually you don't draw a distinction between
off-reservation acquisitions of land that lie within the
boundaries of former reservations and off-reservation
acquisitions of lands that are outside the boundaries of
any reservation, including a former reservation. If
your illegal conduct resulted in the termination of an
Indian reservation and is a proximate result of that
breach of your fiduciary duty, the tribe no longer has
any land within the boundaries of the reservation and
the boundaries of the reservation weren't restored, all
the Indians should do, consistent with the purposes for
which the Indian Reorganization Act was enacted, is they
should be able to come to you and say, "Here is the
property. We have acquired it. Here is proof that we
got good, marketable title. We have complied with NEPA.
Take it into trust." That fulfills the purposes for
which the statute was enacted. That allows the tribe to
put a piece of property back into trust, whether it is
for -- you know, for gaming purposes or not. As long as
the land that the tribe or the individual Indians wants
to put back into trust lies within the boundaries of the
reservation or within the boundaries of a former
reservation that was created by treaty -- well, actually
here in California -- well, we have got some, I guess --
treaty, statute, executive order or administrative
action, all the Indians should have to be -- should have
to demonstrate is that there is good, marketable title,
it is not full of a bunch of, you know, nuclear waste
and they have complied with NEPA. And you should take
it into trust. That streamlines the process. That
makes the process easy.

The last point I want to make is with regards
to gaming. And the points I think have been well made
by a number of other people. I think injecting into the
process basically a balancing test, where you are
balancing the interests of a tribe and local governments
in the state and where you are requiring tribes to enter
into memorandums of agreement violates the statute.

First of all, the plain wording of the statute
under the two-part determination process is that all the
tribe has to show is that it is going to benefit the
tribe and that it is not detrimental or harmful to the
surrounding community, not that it has to benefit the
community. Where do you get the authority to require
that? It is actually contrary to the statute because,
you know, it is like I am walking down the street and
there is somebody walking the other way. If I don't
touch them, if I don't look at them, if I just walk by
them, I haven't harmed them in any way, right? But now
you want me when the guy is walking down the street to
get into my pocket and handled the guy a hundred-dollar
bill. I got to show I am benefiting them. Where did
that come from?

And most certainly the counties will hold the
tribes' applications hostage. You are putting the
tribes in an unequal bargaining position. You are
forcing them to go to the table and get on their knees
and beg to the counties to get an agreement so they can
get a piece of property into trust or a piece of
property into trust for gaming purposes. I submit to
you it is illegal. I think it is beyond your authority
to do. It goes beyond the statute.

And why do you need to promulgate new
regulations on off-reservation gaming acquisitions to
begin with? The statute seems to me to be pretty clear.
A tribe just has to show that it is in their best
interest -- I am a tribe; I got no land; I got a
six-acre parcel of land or a ten-acre parcel of land on
the Chicken Ranch Rancheria; I want to acquire another
parcel of property and it is going to be for gaming
purposes and I am going to make X number of millions of
dollars. It is pretty easy for me as a tribe to be able to demonstrate that gaming and the generation of revenue is going to be in my best interest. The only other thing is, okay, is it harmful, not to local governments but to the surrounding community? And again it is a harmful test, not a benefit test.

So I think you ought to eliminate the distant restriction and I think that you ought to eliminate the requirement that they have got to produce some kind of a memorandum of agreement with local government and be able to demonstrate that they are providing local government with some benefits. It's in violation of the statute.

All of the rest of the comments we will submit in writing. Thank you.

MR. TAHSUDA: Thank you, Les.

MR. DICKSON: Good afternoon. My name is Aaron Dickson. I am the secretary-treasurer of the Susanville Indian Rancheria. I am here today to talk about -- I still agree with everybody's comments today of these regulation changes, because it is going to impair and also do harm to our tribes, not only just in California but within the United States.

And part of it is that, you know, we can sit up here and talk about history, we can talk about
everything else, but what are you going to do with that information? That is the main question. Part of it is that with us, with the Susanville Indian Rancheria, we are the only federally recognized tribe in Lassen County. We have a membership of 1,200 tribal members. Our reservation consists -- it started in 1924 of 24 acres. Now our acreage is over 1,300 or 1,500 acres now. We went out and purchased the lands that used to be ours years, centuries ago. We are still acquiring land, either buying land or going through the Congressional transition way of buying land from BLM, or not -- I am sorry -- transfer land from Bureau of Land Management or acquiring land from military downsizing. We also acquired housing and infrastructure from a military base that was downsizing. So we are trying to acquire our lands back for us. We are self-sufficient and also self-sustaining. We want to be stewards of our own lands, not have somebody else come in and tell us what to do or what we can't do. That is the most important thing is we control our own destiny.

Now, getting back to our history, well, the history of the federal-Indian relationship in California shares some common characteristics with that of native people elsewhere in the United States, it is different in many aspects. It includes the state's refusal to
ratify the 18 treaties negotiated with the California tribes during 1851, the lawlessness nature of California settlement after the Treaty of Guadalupe Hidalgo, including state-sanctioned efforts to exterminate indigenous people. At that time, the California governor declared war on Indian people. I am not going to say Native American. It was Indian people. He went out and made a statement, "A good Indian is a dead Indian." And at that time that California governor put a 5 dollar bounty on Indians. And it was horrific.

Under the pressure -- and also with that the California governor called the legislatures in Washington D.C. to not ratify those treaties. Under pressure from the California Congressional delegation, the United States Senate not only refused to sign the 18 treaties that had been negotiated, but they also took extraordinary steps to place the treaties under seal. Between the unratified treaties and the Land Claims Act of 1851, most California Indians became homeless.

In addition to not only homeless, there was also massacres that were taking place in California. My great-grandfather, Old Man Joaquin, he was the lone survivor of the massacre that took place in Papoose Meadows in the second week of June of 1866. And during that time, the militia killed his whole family. And as
he was fighting the militia, he realized that it was a
losing battle because most of the families -- the
captain told his militia, "Don't use your bullets." So
he saw his own family, the kids, the infants, being
thrown against the trees, killing these -- my family,
and using the bayonets, knives, and whatever else they
had in their possession to kill my family.

So when it comes to fee to trust, we have a
responsibility. My family gave up our blood, our sweat,
our tears for that. And now I am here to fight for
that, because we need to. And I can feel that my
presence of my grandfather and my father, Harold
Dickson, still fighting with me as I am speaking,
saying, "You need to say this."

In 1905 the public was finally advised of the
18 unratified treaties. Citizens sympathetic to the
economic and physical distress of California Indians
encouraged Congress to pass legislation to acquire
isolated parcels of lands for homeless California
Indians. As a result, between 1906, 1910 a series of
appropriations were passed that provided funds to
purchase small tracts of land in Central and Northern
California for the landless Indians in those areas. We
were one of those areas. Like I said, we started out
with 24 acres.
The land acquisition resulted in what is referred to as the rancheria system in California. The Susanville Indian Rancheria is one of many tribes in California whose ancestors signed these treaties. My great-grandfather, Old Man Joaquin, was there at the signing in Lassen County. And we have one of the ranchers that just passed just recently indicated that he remembered that signing in Lassen County.

Some of the federal regulations state that in order to enforce a tribe's right, they must be tied to a treaty. In our case this is not possible because those treaties were never ratified. The Susanville Indian Rancheria requests your support on any effort to change language from that of a treaty tribe to that of a federally recognized tribe, and part of it is that every time I go to a conference -- it could be in New Mexico, it could be Arizona or anywhere within the United States -- you, the Bureau of Indian Affairs, officials, staffers, indicate -- says, "We are here to recognize treaties." What happens if we have a treaty that is not signed and recognized by Congress? What happens then? Are we just landless again? That is my question.

Most of all, these changes that you are requesting -- are recommending are going to be very difficult for us to accept because those changes will --
is going to affect all native lands in the United
States. You cannot template that to impose on
California, Nevada, Washington or throughout the United
States because every tribe is going to be different.
Every tribe had different needs, different wants, but at
the same time the tribes are there to help their
membership. In some cases, it is going to hinder the
tribes because now it is going to cost us more money.

We in the past have went out and acquired land,
but at the same time we had some difficulties, not only
within the government, between the city, the county or
individuals. In this case you indicated the 30-day
review panel or review session. That is going to be
difficult for us because now you are saying that with
this little stipulation here now you are imposing on our
sovereignty. We are trying to get our land back. We
are doing every effort with what the amount of money
that we have. We are trying to do that. But in some
cases it is going to be very difficult for us if these
changes go into effect. All it takes is one person to
say, "I don't want this. This is not beneficial for the
tribe." They don't know. They are not there to help
the tribe. They are just there to make things more
difficult, more money to be consumed and so forth.

In the early 1900s Congress passed -- or I take
that back -- Congress gave 160 acres to our ancestors.
That was for them to be homesteading. That was also to
be self-sufficient and also be able to grow, be
self-sustaining on the land. But what Congress didn't
know was the fact that the land that was given to our
ancestors, they couldn't grow crops. They couldn't do
anything because the land that was given to us was
either on hillsides, rocky or unable to do anything with
the land, but most importantly our ancestors survived
and when -- they got through that. As time went on,
when it got to the point when our ancestors got their
titles, they either sold the land, they lost it by
taxes, and last but not least the land was stolen from
them. When I talk about stolen, my great-grandfather
had a parcel of land in Milford, California. It had 160
acres. It had water. It had timber. It had the
habitat to live on. It was appropriate place for a
family to live. One day Red River Lumber Company came
through and says, "All we want to do is harvest the
timber off your land." And so my great-grandfather put
his X on that contract. As time went on, once the
timber was removed off the land, the Red River Lumber
Company came back and says, "Oh, by the way, not only
did you have to -- did you sell us the timber but you
also sold us the land." And so the other aspect is when
I look at documents that the Bureau of Indian Affairs has submitted, they have indicated that way back when that Old Man Joaquin sold his land, but in reality it was stolen from him because of the timber sale. But what happened after that, in 1924 he was the first occupant to reside on the Susanville Indian Rancheria of the land that was given to us back in 1924.

So with that I want to close with -- I take that back. When you talk about taking a break and everything else, I think we all know when we need to take our own breaks, but importantly it is important that you are here to listen to -- because you only have 40 minutes. I know we probably have about 20 more speakers. You don't give us an allotted time to listen to everybody. That is the short amount that needs to take place. You need to allocate more time for that.

My closing is this. The Bureau of Indian Affairs' mission is to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American people, American Indians, Indian tribes, Alaskan natives. We will accomplish this through the delivery of quality of services, maintaining government-to-government relationships within the spirit of Indian self-determination. We as Indian tribes make
that self-determination, not the federal government.

Thank you.

MR. TAHSUDA: Thank you, sir.

CHAIRMAN OYOS: Deputy Assistant Secretary, I am Virgil Oyos, Chairman of Mesa Grande Band of Mission Indians.

VICE CHAIRPERSON OYOS: Ladies and gentlemen, My name is Judy Oyos and I am Vice Chairperson of Mesa Grande Band of Mission Indians.

MR. TRUJILLO: My name is Anthony Trujillo and I am a Councilman of the Mesa Grande Band of Diegueno Nation. It is good to be here. Thank you.

VICE CHAIRPERSON OYOS: We would like to thank you for opening up the mic for conversation. We would also like to thank you for indicating that the session is being recorded. So, therefore, Mesa Grande Band of Mission Indians would like to formally go on record by saying that we oppose new off-reservation requirements. Number one, proving historical connection is counterintuitive because it was not the intent of IRA. The point of IRA was to return lands to tribes without having to prove historical connection.

We oppose the facilitation of consolidation, in effect needing new requirements. And we also oppose showing of an effective exercise of authority, because
it invites the involvement of state and local
governments. And we oppose the reinstatement of a
30-day waiting period because there is already a
 provision for review. Subsequently, this would also
 invite potential litigation there by causing potential
delays. Thank you very much.

MR. TAHSUDA: Thank you.

Dore?

MS. BIETZ: I will be brief.

MR. TAHSUDA: I'll believe that when you
actually --

MS. BIETZ: I know. Uh-huh.

Dore Bietz. I am an enrolled member with the
Tuolumne Band of Me-Wuk Indians and I am actually here
making a statement on behalf of our Chairman, Kevin Day,
who could not be here, but I would like to acknowledge
our community council member and elder, Mr. Dennis
Hendricks, which most of you know, who is also here with
me today.

So a few things. The Tuolumne Band of Me-Wuk
Indians, Tuolumne County is about two and a half hours
kind of southeast of here. Beautiful country. Our
tribe's first federally acknowledge land was created or
established by executive order in 1910 for about some
289 acres. Over the years we have added as we could,
either through legislation or through the 151 process.
Today we have just over 792 acres in tribal trust. That
may seem like a lot, but it is not. And when you think
about many of the areas in California, we have a lot of
granite. We also have slope and topography that also
prevents us from building on all of those acres.

So we have added, obviously -- that is, what,
about 500 acres over the last 108 years. And we are
very proud that we are also submitting and we have
current applications sitting at the Pacific Regional
Office because we have a large membership that wants to
come home. And we as a government have a duty -- we
have a duty to provide for our people. And so in order
to do that we have to have that.

Why has it taken us so long? Obviously, like
many other tribes, first and foremost we didn't have the
funding. We did not have the economic development in
order to buy the land, nor was that land that was
adjacent to us -- was that available to purchase. Just
over the last couple of years have we been able to do
that. And part of that -- and I know I share this story
from many other tribes -- is sometimes we have to be --
I don't want to use the word "devious," but we don't
obviously sometimes announce when we buy land because
that land price for a lot of our tribal communities goes
skyrocketing. As soon as they know a tribe wants to buy
that property, those prices just increase tremendously.
And so one of the things that -- we as a tribe were
purchasing those lands because we want to grow in our
economic self-sufficiency. We have needs. We have
membership that has needs for housing, for improved
infrastructure. We have tribal facilities that are
needed to which to govern. I truly believe and I share
and I am so thankful for all of the tribal leadership
that has spoken before here today that it is about our
connection to the land. And we have a lot to make up
for, but we tie -- our ties to the land is like no
other. And it is so important for us to provide for our
people, to protect and provide those services and also
protect the natural resources and the cultural sites
that are there.

Like any other government entity, whether
tribal, state, or federal, we have that responsibility
to provide for those that live in our community. These
are our elders. They are our youth, our tribal members
and their families. With that comes the necessity to
protect those lands, those resources, and those cultural
places that define us. Land is key to who we are as a
government and as a people. We take very seriously our
responsibility to provide for our community and to
protect our natural resources and our culture. We also
take very seriously our relationship to local
governments, that the services they provide to our
members, to our employees and to the guests that utilize
our businesses.

The process under 151 is no easy task and we
have committed much time and much of our financial
resources to follow that process so that we can provide
for our people.

Some very general comments. One, the
process -- you have heard it -- should not be harder.
It should be easier. The concurrence or the requirement
that you are asking for, local governments should not
have a say. We are very fortunate in our community to
have one of the most or the best relationships with the
local government that you may find. We have worked hard
for that, but we also hear the voices of our sisters and
brother in the north, whether it is Amador County or in
the south in Madera County. We hear those horror
stories. In fact, our local sheriff, who goes to many
different state meetings, is appalled at what he hears
that comes out of the mouths of local government about
how they treat tribal governments, and he comes back and
he says to us, "Wow, I had no idea that you guys have to
deal with this."
So, real quickly, specific to two questions, under what circumstances should the Department approve OR disapprove an off-reservation trust application? At Tuolumne, we understand the concern that approving off-reservation acquisition creates checkerboard jurisdictions, but because so many tribes in California were left homeless and the lands that they occupied are no longer available or that the original lands that they had set aside for them are not necessarily in the area they would have chosen, why couldn't a tribe -- if they were equipped to manage those lands off reservation, why shouldn't they have those lands placed into trust for them? At Tuolumne, we have a parcel of land that is about 630 acres. It is not contiguous but as the crow flies it is about two and a half miles from our existing tribal trust lands. It is known as Murphy's Ranch. Public safety division of our tribe travels there several times a day to patrol it. Our tribal fire department and our field crew not only train there but they manage the timber and the natural resources, whether it is cutting down the dead or dying trees due to bark beetles or to gather and cut wood for our tribal families. Our cultural department visits there often to check on and protect our cultural sites. We take our youth out there to teach them about the environment, how
to protect it. It is a beautiful place. It is where
our people existed, where our people occupied. We
recently received a land transfer from the U.S. Forest
Service for about 80 of the adjoining acres, because
they realized we know how to take care of that land. If
we are already providing those services, if we do not
plan to develop it but we are there just to protect it,
why shouldn't we be allowed to have it transferred so
that we can properly manage it?

Housing for our people, economic business for
our people, education, cultural and natural resource
protection should all be reasons to have any land,
whether it is on or off reservation, be placed into
trust.

Last is number 7, should pending applications
be subject to new revisions if and when they are
finalized? It is entirely inappropriate to impose new
rules on a tribe that already has relied on the existing
rules in formulating its application. Applicant tribes,
particularly those whose applications are complete,
should be given the option to complete the application
process under the regulations as they existed when the
application was filed or to proceed under the newly
amended regulations. We encourage the Department to use
the process in 25 CFR 85.7 of the newly revised part 83
regulations, the procedures for establishing that an
American Indian group exists as an Indian tribe, as a
model for this purpose.

Better yet, we urge the Department to abandon
its efforts to amend part 151 regulations altogether and
instead give the tribes the benefit of continued
regulatory stability. You have heard a lot of tribal
leaders talk about the process and how it is working.
We have worked very hard to do the things that you have
asked of us. We are doing a good job at that. I hope
that you listen to what we have to say and to offer.
Tuolumne will be submitting written comments as a part
of the process. Thank you.

MR. TAHSUDA: That was relatively brief, Dore.
I am impressed.

MS. LAPENA: My name is Michelle LaPena. I am
a member of the Pit River tribe, but I am here today on
behalf of my clients. I am an attorney. I am here on
behalf of Dry Creek Rancheria. And Dry Creek Rancheria
is a tribe located in Sonoma County. They have a very
small original rancheria and they recently acquired a
campground that is less than four miles away from the
rancheria. And they wanted to using the campground and
there is no change in land use on this application. It
was submitted several years ago. The environmental work
was completed, the application was complete, and it was
at the regional office ready for the notice of decision
to be issued, and then there was an election and then
there was a subsequent swearing in of the new president,
and then there was a new secretary.

And in the process of those few months, the
application has been redirected to central office and it
is sitting there. It is a completed application. It is
an application that is technically an off-reservation
application but it is within the tribe's aboriginal
lands. It is for tribal use. There is no change in
land use. The campground is a campground that the
tribal members use and they have used for a very long
time. They are very proud of the campground and they
have no intention of changing the use. They have worked
with the county in this instance. There had a been a
long-standing difficult relationship with Sonoma County
but they have managed to resolve a lot of their
differences and the county actually supported the
application.

And so, because of all of the work that went in
and the effort and the time and the expense of this
application, which should be a really simple one, it is
very frustrating for the tribe that the application is
still pending and we have actually been given no
correspondence, no notification that -- as to why there
is a hold. We do know of it, though, through our
communications through, you know, our representatives in
D.C., but the fact that there has not been any
communication to Dry Creek Rancheria specifically
explaining to them why there is this hold I think is a
breach of the trust responsibility to the tribe.

I also am here to speak on behalf of the Potter
Valley Tribe, who is another client of mine. It is
located in Mendocino County. And that tribe has a
similar fee-to-trust application that was completed, the
environmental work was done, and it was -- it was
actually part of -- there was originally two parcels in
the application but it was bifurcated for some technical
regions at region and one of the applications was
approved and the nod was issued prior to the election
and the other one was not, and now it is on hold at the
central office. There is no change in land use. It is
for tribal housing. All of the environmental work is
completed, the site visits have been made, and now they
will become stale, which I think is a big problem in
having applications pending, because now you will
need -- you know, the BIA will say, well, now we need to
do new site visits when the site visits have been
completed. And it is ready and it also has county
support. It is for tribal member housing, which is low-income housing. And there will not be any further development on the site.

So I wanted to point your attention to these two specific applications which under any other political kind of scenario these would be no-brainer, easy nod through the regional office, and now they are sitting in central office without any correspondence to the tribe. I do think that that is a breach of the trust responsibility.

When I explained what the trust process is to my clients, particularly Potter Valley, who had never experienced the process of fee to trust, I explained it to them that it is -- you know, non-Indians have the process of putting land into a living trust or into an estate. And in the process of doing that, you take the control of that land and you put it into a trust so that it is protected. And it what, you know, very wealthy people do in this country is they create these trusts so that they can protect the land for their future children, their descendants. And it does trouble me that Indians are now viewed in a different way and that we can't protect the land for the future generations of our people because we are growing, we are increasing in number, and we have needs that are very important.
So I would hope that they -- the applications that are currently in the pipeline should be moved very quickly. And I had worked with region to try to come up with what a checklist would look like, just to get it through the process to get signatures, and I understand that that is just really a technical issue right now. I wish we could get some movement on those applications.

And so with regard to the last question, what recommendations would you make to streamline or improve it, you know, you are going to really need to move the existing backlog. The backlog is building and it is going to prevent tribes in the future to take land into trust.

And just as a personal note, you know, my grandfather -- he is an elder. He is a member of the Cabazon Band of Mission Indians and he had always told me that someday the federal government will stop taking land into trust for tribes. And I know he is a very wise man and he said that with a lot of experience, living through it. He is 91. And, you know, I am concerned that that is happening and I am concerned that he is right. And I hope that he is wrong.

So please take all that you have heard here and I hope that you can, you know, provide some relief to the California tribes. Thank you.

UNIDENTIFIED SPEAKER: Just real quick, just testimony to what the last comment was. The backlog that has been created, I agree it needs to be -- and testimony that is the Karuk Tribe, we have had a land-to-trust process for our ceremonial area. Again, we are a reservationalist tribe so any property that we want to put into trust is off reservation. So this is land -- it is called Cuttamee and it is where we do our dances and our prayers. We perform our ceremonies. It is where we do our dip netting so we can take our fish to our elders and families. And this year, because the fish are becoming endangered, we are not taking any fish this year. We are letting everything go through. But that process is in place and that is a no-brainer. This is in the deep, dark woods that we have only used forever for that purpose. We have an MOU right now. We are always, you know, worried that that MOU might be pulled, but that is an example of the backlog that's there.

To me -- and I have heard testimony from other tribes that have similar situations. To me that's a no-brainer to get that land into trust because that is what has been used for since time immemorial and that's
what it will be used for forever.
So there is other situations out there so I
would just like to reiterate that there probably is a
backlog that needs to be taken care of, and then other
land-into-trust issues that might take a little more due
diligence, could be you could focus on those. Thank
you.

MR. TAHSUDA: Thank you.

MS. RISLING: Lois Risling, Hoopa tribe.
Because of the confusion in your letter, one of the
things it says is that there should be a broader
discussion about the direction of updates to part 151,
that that would be more appropriate than having
consultation hearings on the actual regulations
themselves.

It's been my experience that discussions
involve two parties talking to each other or two people,
so it would be beneficial to me if you could tell us
what you've heard today, because your letter says it is
a discussion, not a consultation. So that would be very
beneficial for those 10 questions, not on the part 151
regulations which you introduced this morning as wanting
to have consultation on the 151 regulations for off
reservations.

And I would really encourage you to -- and
that's why I am interested in the discussion to take the message back to whomever is making this decision that we don't need changes to part 151 that are designed to make sure that we cannot get land into trust, but that they should be working on issues that truly impact us, like a fix to Carcieri, because that does not impact my tribe directly but it impacts a lot of tribes here in California, as well as the nation. So I would appreciate some kind of discussion from you.

COUNCIL MEMBER WALKER: Hello. I am Tom Walker, Council Member, Picayune Rancheria. I heard a lot of good things, a lot of people. I respect history of your particular tribe and area that you live in.

I would like to just point out, our meeting here, you are our fiduciary. You are the federal government and, you know, we hear a lot of history examples -- no disrespect, nothing personal regarding you yourselves -- you are filling a position that's been around since the beginning of this country, the federal government's shoes. So in that context are my comments.

I heard something like termination here in California. I have heard that, you know -- you know, that has created a whole lot of mess here in California, the areas of California that experienced that. Now, I heard somebody touch on also the Land Claims Commission
in 1850, 1851. You know, that required anybody having a
claim to any land to submit a claim within the Land
Commission in Sacramento. I just have a question of,
well, how many Indians at that time knew how to speak
English, much less write and submit a form or have an
attorney to explain to them what they are doing? I
appreciate somebody saying, you know, it goes to their
comment of putting an X on it, not knowing they were
giving the land to this logging company. Those are
classic examples.

A fiduciary is supposed to educate us on our
rights of what we have that -- what we do have, and
advise us on the course of action that would be
beneficial to our particular people, our tribe. So, you
know -- and this all goes to credibility. Credibility
is a two-way street, though. It regards two parties.
So, you know, we are raising the stakes when we are --
you know, we are using -- you know, we are going to
history, we are going to classifications and names when
we say racial things. You know, those things happen.
Those things are true. So we have to also be able to,
you know, go forth from there. You know, the tribes
are -- have seen this and we don't want it to be
repeated. It just seems like the prevailing view here
is the counties are going to be in a better position to
leverage against the tribes of, you know, what the
counties want, which is money, but NEPA was enacted to
benefit the tribes, not the counties, not the state, and
that's what it says. And if it just says that and it
doesn't mean it, then, you know, we are all in a big
mess here, because we are all -- you know, we are all
going to be having to fight that fight, you know, to
avoid any capricious, arbitrary decisions.

And it is a mess because you can't fix history.
I understand that. I am not expecting you to. But I
just want you to treat every tribe the same and equally
and fair and don't pick winners and losers. But I thank
you for the opportunity.

MR. TAHSUDA: Thank you. Well, thank you,
guys. I will offer a comment, since I have been asked
to comment.

So thank you again. I appreciate all the
comments you have made. I will try to proceed without
looking at any notes I had made earlier to figure out
what I was going to offer at the end here.

So I think that -- I wanted to -- a couple
things I want to make sure. I have heard a lot of
comments about giving counties a veto authority or
something, and so that was not ever part of our
discussion. I want -- I think that the intent of that
and -- was to see if there is a way when we have to --
when we have to do within the Department the evaluation,
review and application and all the pieces that go with
it, and if it is off reservation we are required to give
some weight to impacts on local communities, et cetera.
That is a very difficult process and I think that one
way that you can accomplish that is when a tribe and a
local community come together voluntarily and they reach
an agreement on what those impacts are and how they are
going to deal with it. That is prima facie the evidence
of the local impact and how it has been dealt with and
we don't have to do some sort of separate analysis that
we may get wrong or that the county may sue over later
or whatever. You guys have reached that agreement. And
I know, my past experience, that those discussions often
happen and they often happen before the application is
even submitted to us. Sometimes they come to fruition
and there is an agreement reached, a meeting of the
minds, and sometimes there is not. But if there is a
meeting of the minds and that is submitted with the
application, if you talk about streamlining the process,
trying to make it happen faster, that is certainly one
piece of it, I think, that could happen that way.
And so that was put out for your thought and
your discussion. I think if you feel like there is no
way in heck that you can ever have a discussion with
your local communities that would be fruitful, make that
comment and we will take that into consideration. And
if it is not going to be helpful in any way, that
wouldn't go forward with any regulation. So, again,
that's up to you.

I would say in my experience -- I am from
Oklahoma. Certainly the historical relationship with
local communities, non-Indian communities, has not been
great, but we have made light-years of progress in the
last -- just in the last decades, really, in developing
relationships with local communities that have become
much better. And again, these impact discussions are
often now resolved between the local community and the
tribe, and the Department really doesn't even enter into
that discussion anymore. So if you think that can work
for you, great. If you don't, you know, offer that
comment. I appreciate that.

So that also leads to, I guess, a step up from
that, which is to say I do want to assure everybody
there is -- the ultimate goal of our effort here is to
say that if there is a better way to handle this
process, we would like to hear about it. And so -- I am
an Indian person. I have -- I have an IIM account. I
have land that is in trust in my family. I have an
interest in my own name. I understand my tribe has land
in trust. I understand all of that. My experience is
that the Department's way of processing these things has
not historically been great. And there have been some
improvements. As we said at the beginning, that these
regulations were really first promulgated in 1908. That
is pretty late in the game, really, if you think about
it. So -- and they have been amended several times
since then. And so if there is a way for us to make the
process better, again, I would like to take a crack at
that. I would like to see the process be better at the
end of the day.

Now, that process has a lot of facets to it.
Part of this is internal and how we can help you, the
tribes, to submit your applications, make the process
more effective, more efficient, and easier for you.
There are also external factors and we cannot forget --
at least we can't forget at the Department -- we get
sued over everything. And so at the end of the day we
also have to be able that we are in a position where we
can defend the decisions that we are making with you.
And so there is also as you -- as you guys digest this
information and you submit us written comments, you
know, I would suggest that you also keep that in mind,
as you -- I am sure you pay lawyers a lot of money and
that is something that also, though, we would like to
you consider, because at the end of the day it doesn't
do any of us any good if we have elements to the process
which do not comport with federal law, federal court
cases and we end up making the process worse again than
it was before.

So I also want to make sure and offer that out
to you, there are both internal and external factors we
hope to consider, we hope to look at and see if we can
make them better, and that at the end of the day is the
ultimate goal.

Questions about, you know, can we make -- can
we -- I may say when you ask what did I hear out of
this, there are a lot of things, and thank you very
much. Some of the things -- one of things that really
rose to my mind is in keeping with I think one of the
questions we asked, which is are there circumstances
that are different -- we have several tribes that don't
have reservations, some tribes that don't even have land
yet, so is that a consideration and how would we go
about, you know, making that part of a priority
decision-making process or not? You know, what would
that look like? We would love to hear your comments on
that. I know for tribes that, you know, don't have
formal reservations, there are questions and questions
that we have to struggle with internally as to how we
deal with those processes. So again, your thoughts and
comments on those, very helpful to us.

And I think even at the end of the day if there
were no new changes to the regulations that came out of
this, I think this discussion is helpful. It is helpful
to us to digest your experiences. California is very
different than other places in the country, of course.
One of the reasons we are trying to hold these
consultations all over the country is so that we can
have those, and at the very least it goes into sort of
our bank of knowledge as we try to service the needs of
the tribes and individual Indians.

So that's all I can recall off the top of my
head. I want to thank you guys.

Paula, did you have anything you want to offer?

MS. HART: I think the only thing that I would
like to say is we do have the court reporter here. I
have been in this position now for quite a while and I
do think -- I know you are feeling this isn't
consultation, but we do have the court reporter. We go
back, we review all of the comments, we look at them,
and then we pass them up through the administration so
that they do get to see everything that is being said
here today.
So -- and we hear all the time in my office, you know, we need a better process. And so we are kind of hearing -- so when this administration come in and they said, "Well, can we make the process better?" And then we started this process to find out what it is that you guys want and what it is you think needs to be better.

I don't think we hit it on the first round out, but I definitely can say that we are going to. And I think Liz is here. We are going to be going through these comments. We are going to listen to it. We are going to be reading them over and over again and that's what this process is all about. So we will -- everybody all the way up in this administration asked for this and they are going to hear about it. We are going to do -- this will be all transcribed. All your comments will be heard by many more people in the Department. Thank you.

MR. TAHJUDA: Thank you. And just to confirm, too, that at some point through the collection process and everything these will be online as well, right? Through our website? Okay. Sorry. I am still kind of new at this. So on our website, you know, once we are able to process it and get everything online and they will be there for your viewing as well.

And so if there is no other comments, I would
like to close us out.

UNIDENTIFIED SPEAKER: Can I have a closing comment?

MR. TAHSUDA: Yes. Yes.

UNIDENTIFIED SPEAKER: So I have a big voice and I don't need to use the microphone, but as I was sitting here I remembered the words of my grandmother. I won't use the exact word because it is derogatory now, but it started with an N. And so in place of that she said, "Remember, even in your own country you will be treated as a second-class citizen, just like an N, and if you are going to do work for Indian country, the worst thing to be is an apple. So if you start to look like an apple and you are forgetting your purpose and what you are doing for your people, leave that job."

I don't believe you guys are apples. I believe you are here to hear us and you are working for the people. I will let you know when you become an apple.

MR. TAHSUDA: Thank you, Chairman. Thank you guys. We will close out the session now.

(Proceedings concluded at 12:55 p.m.)
I, the undersigned, a Certified Shorthand
Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken
before me at the time and place herein set forth; that a
verbatim record of the proceedings was made by me using
machine shorthand which was thereafter transcribed under
my direction; further, that the foregoing is an accurate
transcription thereof.

I further certify that I am neither financially
interested in the action nor a relative or employee of
any attorney or any of the parties.

IN WITNESS WHEREOF, I have this date subscribed
my name.

Dated: January 26, 2018

ELIZABETH A. WILLIS-LEWIS, CCRR, RPR, CSR NO. 12155