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TRIBAL CONSULTATION

HELD ON

MONDAY, OCTOBER 16, 2017

9:13 A.M.

HELD AT

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1 **TRIBAL CONSULTATION**

2 **HELD ON**

3 **MONDAY, OCTOBER 16, 2017**

4 **9:13 A.M.**

5
6 **MS. APPEL:** Good morning, everyone.

7 Welcome to the Department of the Interior session.

8 Our acting assistant secretary, John Tahsuda, is

9 running a little late, but he will be here. We

10 wanted to get started in the meantime, since we're

11 cramming quite a bit into a three-hour slot.

12 So our plan today is to have a joint

13 session. The first hour or so, depending on how it

14 goes, will be a formal consultation on the Indian

15 trader -- Indian trade and commerce topic. And then

16 around ten a.m. we'll move on to the listening

17 session on the consultation draft for FETA trust

18 regulation revisions.

19 So my name is Liz Appel, I'm with the

20 Office of the Regulatory Affairs and Collaborative

21 Action and the Office of the Assistant Secretary For

22 Indian Affairs. And with me is Tana Fitzpatrick,

23 who is a counselor to the assistant secretary for

24 Indian Affairs. We have a court reporter today

25 transcribing everything, so when you provide your

1 input, please state your name and affiliation so
2 that she can record that in the record.

3 And we also have a sign-in sheet going
4 around, so please sign in. We have a block for
5 whether you're here for the Indian trader topic or
6 the FETA trust topic or both, so please check those
7 as appropriate. And then we also have some handouts
8 for you, the Dear Tribal Leader letters on each of
9 the topics, and then some additional background
10 information.

11 So we have with us the presentation that
12 Dr. Gavin Clarkson, our deputy assistant secretary
13 for policy and economic development, has been
14 providing at each of the consultations, so I will
15 run through that in his stead, but I wanted to give
16 you some background first.

17 The current licensed Indian trader
18 regulations are at 25 CFR 140, and they were
19 promulgated back in 1957 and have not been
20 substantively updated since then. In December last
21 year, the Department had issued an advance notice of
22 proposed rule making, and we received over 60
23 comments from tribes. Mostly the comments we heard
24 that the regulations do need to be updated and that
25 the updates should include clarifications on the

1 regulatory jurisdiction and tax jurisdiction on
2 Indian land.

3 And then on July 28th, the Department
4 issued a new Dear Tribal Leader letter announcing
5 additional consultation sessions. So we've had
6 another round of consultation sessions, and that is
7 what this is part of. And so overall we're looking
8 at modernizing the Indian trader regulations to be
9 consistent with the federal policies of tribal self-
10 determination and self-government. So we'll run
11 through the slides and then we'll open it up for
12 discussion and see where we go.

13 So themes from this new -- new
14 administration, this effort to take another look at
15 the Indian trader regulations, started in the last
16 administration, but fits with the themes of the new
17 administration for sovereignty. You may have heard
18 Secretary Zinke saying tribal sovereignty has to
19 mean something, tribal self-determination and self-
20 governance and respect for tribes and their economic
21 freedom and empowering tribes.

22 And another key theme of this -- of this
23 administration is reducing regulatory burden. So
24 Secretary Zinke's quote, "sovereignty has to mean
25 something," there is basically a zone of

1 sovereignty, and within that zone of sovereignty are
2 tribes, and there's a spectrum, with direct service
3 tribes on one end -- and then fully empowered tribes
4 at the other end. But regardless of what the
5 tribe's relationship is with the federal government,
6 the federal government has a role in protecting
7 tribal sovereignty.

8 So how can we best help tribes develop
9 self-sustaining economies and promote jobs while
10 prosperity and independence. And a big key is that
11 when Indian country prospers, then the surrounding
12 communities also prosper. So a rising tide lifts
13 all boats. And with this administration, energy
14 development is a key piece of looking at that
15 economic development.

16 So in looking at the Indian trader regs,
17 we're also looking at how we can best empower tribal
18 leaders and best return economic sovereignty to
19 tribes. What is the best way to invest in tribal
20 members and native people, not just through college
21 education but also skilled trades. And again, just
22 as when state and surrounding economies are better,
23 when Indian country economies are better, they're
24 also better when Indian country's work force is
25 better educated and better trained.

1 So a long-term strategy for promoting
2 tribal economic growth and tribal self-government
3 simultaneously is what we're looking toward.

4 So as I mentioned, we had issued an
5 advance notice of proposed rule making, and we
6 received feedback that the regulations do need to be
7 updated. And the basis for the regulations, the old
8 Indian trader statutes, while they're outdated, they
9 also reflect a legislative intent from that time
10 that tribes do have their own jurisdictions that is
11 exclusive of states.

12 And then through time, federal common law
13 cases had breached that idea of the exclusivity, and
14 federal and state regulations then compounded the
15 problem. And through the ANPR comments, Indian
16 country had suggested that tribes be -- it be
17 clarified that tribes have the exclusive ability to
18 tax and regulate trade and commerce that occurs on
19 Indian land, trust and restricted fee land.

20 And tribes were also interested in
21 allowing for a mechanism where they could opt out of
22 federal regulatory oversight of actions on their
23 land so that economic development could be better
24 promoted, and that the current taxation system that
25 depends on, in certain cases, whether you're native,

1 nonnative, tribal member or not, that that be
2 replaced with a jurisdiction-based system just like
3 states.

4 So what would the sovereignty zone look
5 like under the Indian country's proposed
6 regulations. And the idea is that whether you're a
7 direct service tribe or otherwise, that the
8 regulations would help you to promote your economic
9 development.

10 So we can thank Dr. Clarkson for the
11 animations. So that zone of sovereignty, the
12 federal regulations and the state attempts at
13 taxation, which is bounced off the zone of
14 sovereignty. So with our Dear Tribal Leader letter,
15 we had a number of questions in there and we asked
16 for tribes to provide any information they could,
17 whether anecdotal or, you know, as specific as
18 you're comfortable submitting, about projects that
19 are not happening on your land that would happen if
20 there were more clarity with regard to the taxation
21 and regulatory jurisdictions.

22 So what capital expenditures, annual
23 revenues, jobs, any of that information is helpful
24 to us in -- in determining how the Indian trader
25 regulations should be updated and making that

1 economic case for updating the Indian trader regs.

2 So with that, I will open it up for your
3 input. And if you would like to come up and speak
4 into the microphone here, you're welcome to,
5 otherwise I'm happy to hand you the microphone. Do
6 we have any comments?

7 **MR. PAYMENT:** You can give him the mic. I
8 don't need a mic.

9 **MS. APPEL:** Would you please state your
10 name and affiliation?

11 **MR. PAYMENT:** Oh. My name is chairperson
12 Aaron Payment with the Sault Ste. Marie tribe of
13 Chippewa Indians. So I appreciate the messaging of
14 this presentation, so I'm going to focus on that a
15 little bit more than on the substance, or partially
16 on the substance. So it's good messaging. I
17 appreciate the respecting tribal sovereignty, our
18 sovereignty as opposed to subordinating ourself to
19 states.

20 And also I was just asking, this has been
21 in the pipeline for a little bit under the previous
22 administration, and the current administration
23 picked it up and they're going to get a victory out
24 of this because I think it's something that we're
25 looking forward to. And I asked about the

1 timeframe. So originally there was some
2 consultations in December of last year, then there
3 was some consultation for a couple of months this
4 summer, then there's consultation again right now,
5 and so that is the way it's supposed to be. And I
6 appreciate that.

7 And I'm hoping I'm going to carry that
8 message to the next session, 'cause it looks like we
9 have all of three sessions through all of Indian
10 country on optimization. So this seems like the
11 right approach, and I'm hoping we have similar to
12 the next approach. But certainly the dual taxation
13 represents a threat to Indian country. So getting
14 that finally clarified, we'd appreciate it. Thank
15 you.

16 **MR. FRANKLIN:** Good morning. Thank you.
17 My name is Gus Franklin, chairman for the Forest
18 County Potawatomi Indians. And I missed your
19 earlier part of your introduction presentation. But
20 one of the things that the Forest County Potawatomi
21 movement developed a development corporation. One
22 of the issues that we had with the state of
23 Wisconsin is the state of Wisconsin has its
24 processes in which entities would feel if we wanted
25 to, I can't think of the name and the word for it,

1 but almost like charter, incorporate some
2 businesses.

3 And the state of Wisconsin is a
4 nonincorporating state, and the governments don't
5 get involved in stuff like that. Wisconsin has a
6 cumbersome process that everybody has to follow the
7 state of Wisconsin. And I'm wondering why is the
8 tribe subject to the same regulations that the state
9 lays out for its citizens? If we're truly a
10 sovereign entity, how come we can't develop our own
11 standards in which we can do businesses that don't
12 have to be chartered or whatever. So that's my
13 question to you. Thank you.

14 **MS. APPEL:** Thank you. I think that's a
15 very good question, and I think that is something
16 that we should be looking at and how we can address
17 situations like that and make it clear that's one of
18 the things that we're focusing on is making it clear
19 that tribe's tribal land is their jurisdiction, that
20 that is not within the state's jurisdiction so that
21 you should be having that trouble with your economic
22 development. Do we have other --

23 **MR. ALLEN:** So my name's Ron Allen. I'm
24 the chairman for the Jamestown S'Klallam tribe in
25 Washington state, and treasurer for NCAI. I think

1 this is a good initiative with regard to updating
2 the trader act, Indian Trader Act, and clarifying
3 the tribe's jurisdiction. I guess a couple of
4 things. I mean, I agree with the points that Gavin
5 had put in his presentation and the points that
6 Aaron was making with regard to recognizing, not
7 empowering but recognizing the tribe's authority in
8 jurisdiction.

9 So I think it's important for you to
10 clarify how you -- how you word the actual
11 regulations themselves so that it's clear that
12 you're recognizing the tribe's jurisdiction based on
13 -- you know, maybe law that has already passed or
14 what the intent of the Indian regulatory -- excuse
15 me -- the gaming trader act intended.

16 And my remark. We were discussing this
17 with the Obama administration; it was an issue of
18 what was the intent of the act and -- originally,
19 and then the intent when they updated in '57. So,
20 you know, just like our treaties, you know, what was
21 the intent of the treaties, you know, back in the
22 1800s.

23 So the issue to me is that when you do it,
24 make sure that it's unequivocally clear that you're
25 recognizing the sovereignty of the tribe, the

1 jurisdiction of the tribe with regard to any
2 economic activity, any activity, period, that goes
3 on on Indian reservation, so that whatever we do
4 regarding the tax issue, eliminate the dual taxation
5 agenda, eliminate the notion of either local
6 governments or state governments, etcetera, wanting
7 to impose their taxing structure into the activity
8 involved in the Indian reservation, that would be
9 helpful for us.

10 It would help reestablish a tax revenue
11 base for us, and it also would provide an
12 opportunity for us to solicit and secure outside
13 investors to come in. If we propose for a
14 corporation to come in and do business on our
15 reservation, then we want to be able to give them a
16 tax base. That's why they would want to do business
17 on our reservation as opposed to the local
18 government.

19 So you need to be unequivocally clear
20 about it. I think you need to move on this thing as
21 fast as possible. Listen to Indian country's
22 recommendations. Our attorneys have, you know, done
23 various -- and set recommendations, and I think that
24 they're all of great value. But while my -- there's
25 no perfect one, but it's gotta be a whole lot better

1 than what it currently is in eliminating a lot of
2 problems that we have in terms of getting investment
3 and getting entrepreneurs to invest in our respected
4 communities to create jobs and create new tax
5 revenue opportunities for our tribes. That is a big
6 deal to us.

7 So I think we need to move, move forward,
8 move quickly, listen closely to the tribes and,
9 again, National Congress of Gaming's recommendation
10 in order to get this thing moved forward as quickly
11 as possible. It's going to be helpful for us with
12 regard to our self-reliance. Thanks.

13 **MS. APPEL:** We have John Tahsuda in the
14 house. So we'll give him a minute to get settled.
15 And in the meantime, do you want to go ahead?

16 **MR. HARVIER:** So are we letting him get
17 settled before we ask a question or -- good morning.
18 My name is Martin Harvier. I'm the vice president
19 for the Salt River Pima-Maricopa Indian community.
20 First of all, I'd like to thank staff for putting
21 this together. You know, I attended the
22 consultation that the doctor had in Albuquerque and
23 really appreciate his efforts in the Indian Traders
24 Act in bringing that forward.

25 One of the issues that we're facing in our

1 community, again, it was brought up earlier about
2 outside investors, outside businesses wanting to do
3 business in Indian community. In our community we
4 have an economic area we call our corridor. Our
5 treasury department said last year about \$27 million
6 left our community in taxes. One of the issues that
7 we're facing now, we recently wrote a letter to Mr.
8 Black, the director of Indian affairs, of a concern
9 that we have.

10 We have 70 acres of tribal land, not
11 allotted land, tribal land that we've developed an
12 auto mall. And we've recently, in October, I
13 believe, got the master lease approved by the
14 Bureau. With the auto mall, we have subleases
15 within the master lease. And the concern that we
16 have is that we haven't, to this date, got those
17 subleases approved because of information that's
18 being requested in those subleases from the dealers
19 that are coming into our community.

20 We're in direct competition now with the
21 surrounding dealerships, auto dealerships, in our
22 area. Information that's being requested from these
23 dealers as far as financial information is not
24 requested on the outside. And these dealers are not
25 wanting to give this information up. We have about

1 four other spots that we need to get under lease
2 here, with hopefully other dealers that will be
3 coming into the area. But with this information
4 that's being requested, they're not going to come.

5 And I really kind of feel that that's
6 putting a hamper on us as a tribe in trying to
7 continue economic development in this area. We have
8 two major freeways that go through our community,
9 the 101 and the 202. First responders, as far as
10 emergency, they come from our community. Taxes that
11 go off our community could be used in those areas
12 because we're shorthanded.

13 So in bringing this issue up, it's very
14 important as far as trying to retain tax dollars in
15 our community. But limiting us as far as wanting
16 information from subleases in our community and,
17 again, hampering, or I guess putting roadblocks up,
18 it's something that I would hope that this is looked
19 into.

20 We've sent a letter in, back in October,
21 to Mr. Black. And so I really, from the Salt River
22 Indian community, I would hope that you would take a
23 look at that and hopefully get that approved so that
24 we can move forward. Thank you.

25 **MR. TAHSUDA:** Hello. My apologies for

1 being late. My name's John Tahsuda. I'm sure a lot
2 of you know me; I see a lot of familiar faces around
3 the room. Thank you, guys, for coming here, and
4 thank you for your patience with me.

5 And I would have been here just about on
6 time, but there was a little bit of an accident on
7 the freeway. You know how that goes. So -- but
8 anyways, I don't want to really interrupt anything,
9 I just want to say thank you guys for being here,
10 thank you for your input. And I think -- sounds
11 like you guys have been able to get through the
12 beginning part of our slides and this stuff, and so
13 we'll continue.

14 But I think we did want to have an
15 invocation as well. And Mr. Payment, would you mind
16 getting -- we're a little backward here, but if you
17 can get us going with the invocation, we'd
18 appreciate that.

19 **(Invocation.)**

20 **MR. PAYMENT:** So I just gave thanks in our
21 Ojibwe, Odobwa (phonetic), Potawatomi base, gave
22 thanks to each of our directions, and also an
23 ancient prayer. And those who've attended NCAI have
24 heard this one before, the wind damin daminda
25 (phonetic) is are you my relative. And that is a

1 commitment to each other and our responsibility to
2 each other. And I share that today because as we go
3 through these listening sessions, that we remember
4 all of our Indian people, that the staff remember
5 their sacred responsibility to all of our Indian
6 people, and that they hear us.

7 **And also we had a little bit of a session already,**
8 **and I liked what I heard with respect to honoring,**
9 **listening and consultation and the deliberative**
10 **process, careful and deliberative process so far**
11 **with the Indian trader regulations. And I'm hoping**
12 **that there's not a difference with the off-**
13 **reservation land and trust issues, that we will see**
14 **that right away if it is different. That we respect**
15 **that. And with that, I pray to empower the staff**
16 **that have the ongoing responsibility to represent**
17 **Indian country and hear what Indian country has to**
18 **say. So meegwich (phonetic.)**

19 **MR. TAHSUDA:** Thank you, Chair. All
20 right. There was more people up at the bat. Thanks.

21 **MS. MCCOVEY:** Coo ee en qui (phonetic.)
22 I'm Lana McCovey; I'm from the Yurok tribe. I am a
23 council member. So the Yurok tribe supports the
24 fresh look at the regulations with emphasis on
25 tribal self-determination. The regulations should

1 recognize the tribe's authority to determine how and
2 why it does business with traders on its own lands.
3 Tribal law should regulate businesses on tribal
4 land.

5 There should be a basic presumption of
6 tribal jurisdiction for these -- those businesses
7 electing to operate on the Yurok reservation. Yurok
8 struggles with economic development on our
9 reservation. On portions of our reservations, the
10 unemployment rates are higher than 80 percent.
11 Economic sovereignty is essential to the Yurok
12 tribe's ability to be self-sufficient.

13 The Yurok tribe strongly encourages the
14 DOI to pursue revisions to the Indian trader
15 regulations that would have an effect on preempting
16 state and local taxes on tribal lands.

17 At Yurok, clarity on this issue would
18 prompt the development of Yurok chartered
19 construction companies for natural resource
20 projects. Currently we're doing river restoration,
21 and it's a major endeavor at this time. And it
22 would greatly help us with this particular project.

23 Preemption of state taxation is vital to
24 the continued growth of the Yurok tribe. The Yurok
25 tribe provides many governmental services to the

1 reservation community, including water systems,
2 social services, roads, transportation, fishery
3 management, tribal police, tribal court, and much
4 more. In order to continue providing these
5 services, we must have the ability to collect excise
6 taxes and personal property taxes.

7 Like many native communities, we're rural
8 and remote, and it's hard to get these services and
9 have the ability to get these services without
10 taxation. Because the -- the government that is
11 supposed to provide that, doesn't. So thank you.

12 **MS. ONNEN:** Good morning. My name is
13 Liana Onnen. I am the chairwoman of the Prairie
14 Potawatomi nation out of Kansas. And I just want to
15 share a little bit of our story in Kansas. There's
16 only four tribes in Kansas, so we're a relatively
17 small population, isolated to the northeast area
18 geographically. We have been proven to be an
19 economic driver in our community. We fund our own
20 programs through our casinos. We have seen
21 increased competition from state gaming in our
22 state, which puts us in a position where we need to
23 raise other revenues.

24 We were able to, a few years ago,
25 negotiate a tobacco tax on that with our state. The

1 reason we were able to do that is because they had
2 signed off on that master settlement agreement and
3 gotten themselves in a bind, so they needed us to be
4 able to comply with that. That's what brought them
5 to the table. Since then, my tribe has gone back to
6 them to say can we talk about sales tax.

7 Now, for those that may not know, in the
8 state of Kansas, they're in a financial crisis right
9 now. And so getting them to have a conversation
10 with us about letting us have some exclusive sales
11 taxing authority, that's probably not going to
12 happen in my state. It's not going to happen unless
13 there's something of a push or something that gives
14 them a little nudge that says you need to sit down
15 and have a conversation with tribes about this
16 issue.

17 And I gotta echo Ron Allen's sentiments,
18 and let's move this forward. Let's start having
19 this conversation. Let's let states know that we're
20 serious that we need to have jurisdiction. We need
21 to have these monies and these revenues for all the
22 reasons that everybody else has outlined.

23 But my point being today is we're asking
24 you to move forward with this so that people know
25 that we're very serious and that you're serious as

1 well. If the states don't believe that, they're not
2 going to sit down -- some of them are not going to
3 sit down with tribes and do this, because why should
4 they? What's the motivating factor for them? So
5 that's my comment for today.

6 **MR. CARL:** Kickee (phonetic) Carl, United
7 South and Eastern tribes. Just kind of carrying
8 forward pursuant to the conversation that we had. As
9 you said last week, we have a resolution in support
10 of Indian trader. But I want to make sure that
11 we're clear on the extent to which these regulatory
12 changes would have an impact on state taxation.

13 So the point that I want to make is that
14 yes, state taxation, dual taxation, that issue gets
15 in the way of Indian country being able to get to
16 the type of economic development that we're talking
17 about. But the Indian trader regulations, you know,
18 the Indian Trader Act is between a non-Indian and an
19 Indian on Indian lands. And what's being suggested
20 here extends beyond that.

21 So the question that I have is, and I know
22 you are representing the Department right now, but
23 on the solicitor side that we talked about last
24 week, this is ripe for legal challenges if this goes
25 beyond that. And while this would be good in terms

1 of a win in the tax arena overall, it does not fix
2 the issue of state taxation and dual taxation
3 overall. Congress made that very clear in Cott
4 Petroleum, that Congress needs to take the step to
5 preempt state taxes in Indian country.

6 So while a regulatory fix is good, a
7 statutory fix is better. And what we need to hear
8 from the Department is while there is support for
9 this regulatory fix, the bigger issue is a statutory
10 fix to reinforce Cott Petroleum bracker. And we need
11 to know that the Department's willing to stand
12 strong in that arena as well. Because as you know,
13 the second that states start fearing that taxes are
14 coming off their rolls, there's going to be a large
15 push to fight on their behalf to protect that.

16 So I'm interested, if you're able to share
17 from the soliciting perspective, and working as your
18 partner down the hall, where they stand on the legal
19 challenges that this is ripe for, as well as where
20 the Department stands overall in supporting Indian
21 country in a broader, more solid statutory fix.

22 **MS. APPEL:** Anybody else in response to
23 that comment? I know that the Office of the
24 Solicitors have been looking into this issue very in
25 depth, so it's definitely under review.

1 **MR. CRAWFORD:** Jeff Crawford, attorney
2 general for the Forest County Potawatomi community.
3 I know there's a lot of focus on the state taxation,
4 but our experience in working on economic
5 development is that we oftentimes have problems with
6 the federal government, in particular the IRS,
7 especially with the last administration. And so
8 when we're trying to do a partnership or a joint
9 venture with a non-tribal entity, you know,
10 inevitably we run up against an IRS regulation or
11 interpretation.

12 Similarly, when there are economic
13 development initiatives by the federal government,
14 through the DOE or BIA or other agencies, when you
15 are trying to partner up with a non-tribal entity,
16 you run smack dab into the inconsistencies of those
17 agencies and their rules and interpretations, and
18 what DOE is trying to accomplish.

19 **MR. ALLEN:** I want to add to my -- Ron
20 Allen, Jamestown S'Klallam tribe again. One of
21 the things, when you promulgate these regulations,
22 they're not -- the local governments and the state
23 governments are going to object. And they're going
24 to object based on the notion that you're taking
25 away their taxing authority in order to provide

1 essential services to Indian communities: roads,
2 public safety issues, fire protection, etcetera.

3 Bottom line is, 99 percent of those
4 services don't get to our reservations. So do not
5 give them credit for that as if that they are
6 actually providing services to our communities,
7 'cause they don't. We don't get those services.

8 Proportionally, whether it's human
9 services, infrastructure services, public safety
10 services, etcetera, we don't get those kind of
11 services. So all they're trying to do is reach into
12 our reservations and our economies and extract from
13 us the economy and the tax base that should be ours,
14 not theirs. So you have to fight for us. You have
15 to fight for our authority, that tax base, so it's
16 not dual taxation. 'Cause, quite frankly, we can't
17 have dual taxation.

18 If we tax again, then it's a distraction -
19 - or not a distraction, but it's a deterrent from
20 economic activity on our reservation. And, quite
21 frankly, that's the wrong thing to do.

22 Don't listen to them. Listen to them, say
23 got your point, I'll take it under due
24 consideration. And that's the end of the day.
25 There's another issue that would be raised as well,

1 you know, and it could be relative to the activity
2 that is going on in our reservation. They may try
3 to say it's in conflict with what's going on in that
4 respecting area. That's a zoning issue, okay?

5 So we govern our own areas of what kind of
6 activities will take place on our reservation. The
7 same kind of conflict, existing counties and in
8 states, one state or one county will have some
9 activity on the edge of the border of their
10 jurisdiction, and then the other one will have a
11 difference of opinion about what should happen.
12 That is common inter-governmental conflict that go
13 on.

14 And, quite frankly, we're the ones that --
15 have to take into consideration what kind of
16 activity should be appropriate in our jurisdiction.
17 We have to find the right places that work.
18 Location is a big deal for us too, quite frankly.
19 So I'm definitely concerned about it. And it's
20 gotta be unequivocally clear this regulation is just
21 one of our governmental functions, just one of them.
22 And it's intended to enhance our economy so that we
23 can provide better services.

24 So one last point. There's \$20 billion
25 out there in the federal government that serves

1 Indian country. Our need is north of 200 billion.
2 So you'll never get there. We have to provide that
3 resource. You need to recognize our authority and -
4 - so we can get the job done. Thanks.

5 **MR. BROWNEAGLE:** Good morning. Dave
6 Browneagle of Spokane tribe, vice chair. You know,
7 it's nice that we're talking about the state
8 governments and the federal governments, 'cause I
9 know it all ties in. However, we work with banks.
10 We work with funding sources; we work with big
11 businesses. And anytime the Spokane tribe tries to
12 get across that, you know, you need to sign our
13 tribal agreement as a sovereign nation, they say no,
14 you're going to have to sign ours or we're not going
15 to loan you the money.

16 And so that all ties in. And so I believe
17 we really have to look at these corporations and
18 banks, because they're not following what the state
19 and Feds are trying to follow. So that's -- that's
20 a headache. Thank you.

21 **MR. MICKLIN:** Hi. Will Micklin. I'm
22 speaking for Ewiiapaayp and Kumeyaay Indians. So
23 I'd like to give you a specific example. There's a
24 wind energy conversion project in East Sacramento
25 county. It's a 202 megawatt project. 51 megawatts

1 of that would be -- is intended to be the second
2 phase of the project on the southeast ridge line of
3 the reservation.

4 So we performed a financial calculation,
5 we took a net present value for the ten-year
6 revenues for the project based on the participatory
7 rent, the sales tax, and the possessory interest tax
8 that the county assesses on improvements in which
9 they believe they have jurisdiction on the
10 improvements held -- owned by the non-tribal entity
11 which is the developer to the project.

12 So this is very similar to the Kumeyaay
13 wind project that's just southeast of us on the
14 Campo band of Kumeyaay Indians, where the county
15 assesses the potential use tax and the sales tax on
16 those improvements, which is the 25-megawatt wind
17 project that was begun in 2007.

18 So Campo, by the way, is the largest
19 taxpayer in East county. And the -- so we looked at
20 where those revenues go. So all of the revenues,
21 the tax revenues from the county assessed and
22 collected by the county go into Sacramento, the
23 state capital, and then back down to the county.
24 About 20 percent of those revenues flow back to the
25 county. Zero goes back to the Campo reservation.

1 And that's what we would anticipate to receive for
2 our portion of the reservation for the wind project.
3 If the taxes were assessed by the county, we would
4 get back zero.

5 So of those revenues over the ten-year
6 period on the net present value, it breaks down to
7 30 percent is sales tax, 35 percent is participatory
8 rent revenues, and 35 percent is the possessory
9 interest tax revenues.

10 So the tribe would only stand to receive
11 the participatory rent and forego the 65 percent of
12 the potential revenues that are generated by that
13 project. If dual taxation persists and the county
14 has promised to litigate the issue, they believe
15 they have full rights to that revenue stream. But
16 the example is good for anyone that has a federal
17 business lease under part 162, that today, if there
18 are tax revenues that flow off the reservation
19 because of sales tax or possessory interest tax,
20 there's an opportunity by affirming the meaning and
21 the intent and the impact of -- and the reach of
22 these trader regulations to stop that flow and to
23 keep it on the reservations. Those would be
24 immediately available to any tribe that's similarly
25 situated with a federal business lease that has

1 those revenues today flowing off the reservation.

2 We are concerned by the comments to -- the
3 prior comments to the Trader Act, some submitted by
4 such as the Convenience Store Association, where
5 they were requesting that there be additional
6 language with additional requirements, additional
7 restrictions and additional interest balance for
8 non-tribal interest who they believe are impacted
9 competitively by the assertion of jurisdiction, tax
10 jurisdiction by tribes.

11 We don't believe that should be the
12 position of the administration, that they should
13 defend tribals -- tribal's undisputed jurisdiction
14 on tax and affirmed by the federal supremacy
15 principle that is the basis for the Indian Trader
16 Act. It's incredibly important those revenues are
17 available today. If that were therefore affirmed,
18 I'm sure tribes would still be litigated, but that
19 litigation has gone against us in the past for any
20 number of reasons in the narrowing of the bracket
21 tests and the Montana tests.

22 This is an opportunity to bring revenues
23 to states that exist today and could be increased as
24 tribes utilize this. But without calling upon the
25 federal treasury and further appropriations which we

1 all know are -- is very unlikely. We're in fact
2 defending large decreases to our annual
3 appropriations. So this is a great opportunity, and
4 I really encourage the department to take advantage
5 of it. Thank you.

6 **MR. SNOW:** Thank you for this listening
7 session. Probably the first question -- my name is
8 Jim Snow from Winnebago tribe of Nebraska. And the
9 first question on everybody's mind is, what's the
10 rush? You know, after 200 years, you know, all of a
11 sudden this thing wants to be rushed through. And
12 then, you know, the Winnebago tribe has a long
13 relationship with the United States government
14 through our treaties, you know, and those things
15 should be recognized and honored, and our land base,
16 and what we have and what we had when we were
17 removed in the 1830s, you know.

18 We still have our oral traditions, where
19 we came from, the stories and our relatives that
20 have gone on before us and all the things that they
21 -- they suffered, they endured like that, you know.
22 And then our land. And they tell us about this land
23 here, you know, this -- this Turtle Island, you
24 know. And then the Indian people, you know, we are
25 the poorest of the poor. But still we believe in

1 the creator.

2 And one of the things that he told us is
3 take care of this land, take care of the water, take
4 care of the animals and be good to one another. You
5 know, and we take that to heart, and we pray about
6 that every day. And when we -- when we meet with
7 you, and you try to rush things through, you know,
8 kind of like a used car salesman, you know, we're
9 kind of apprehensive and -- with that, you know.
10 'Cause I talked to them about the air, you know our
11 air, the air that we breathe, but also the airspace,
12 you know, that's taxable nowadays. So we just have
13 these questions. You might want to look at it, and
14 then really would appreciate it a little more time.
15 Aho.

16 **MR. CLADOOSBY:** Thank you. Brian
17 Cladoosby, B-R-I-A-N, C-L-A-D-O-O-S-B-Y, vice
18 chairman of the Swinomish tribe, S-W-I-N-O-M-I-S-H,
19 also president of the National Congress of American
20 Indians. Thank you, Mr. Tahsuda, for being here,
21 you and your team. First question I gotta ask you
22 is, are you my trustee?

23 **MR. TAHSUDA:** Yes.

24 **MR. CLADOOSBY:** Are you my trustee?

25 **MR. TAHSUDA:** Yes.

1 **MR. CLADOOSBY:** Are you? Are you my
2 trustee? Thank you. Very important. Very
3 important. And it's a relationship you and I did
4 not ask for. It's one that we inherited. And I
5 hope you take it, that responsibility, very serious
6 in watching our back, looking out for our best
7 interests. And, you know, NCAI has been advocating
8 for the last three or four years with the Obama
9 administration, and now with the Trump
10 administration, to seriously look at these very,
11 very archaic rules and regulations.

12 And it's interesting on the slide show --
13 and Lance and I had a little chuckle about this --
14 where it said founding fathers. That goes back a
15 long ways. That goes back. A lot of things have
16 changed since -- since the founding fathers came up
17 with these rules and regulations. And I love
18 speaking to the choir. I love that you come from
19 Indian country. I love that you know our needs, and
20 I love that you know that we have unmet needs
21 throughout Indian country.

22 I'm thankful that you know that some
23 tribes only are able to produce \$3,000 of income a
24 year on their reservations because there was no
25 Marshall Plan for that tribe. Zero Marshall Plan.

1 So right now they're sitting at 80, 90 percent
2 unemployment, 80, 90 percent alcoholism and drug
3 abuse. They have unmet needs in their communities.
4 They do not have roads; they do not have sewer.
5 They do not have telecommunications; they do not
6 have schools. They do not have jails. They do not
7 have adequate places, elder centers. There's unmet
8 needs out there. And it is third world conditions.

9 And once again, I'm speaking to the choir.
10 You guys know the tribes that I'm referring to out
11 there. There's unmet needs; there's unfunded
12 mandates. When I think of -- is anybody from Twiope
13 (phonetic) in here? Yes, I have one. Anybody from
14 Three Affiliated? Thank you. Those are my poster
15 childs for the need to deal with dual taxation in
16 Indian country. Because when the Three Affiliated
17 tribe is losing \$1 billion to their state, and their
18 state is returning peanuts, if anything -- are you
19 getting anything back on that one billion?

20 You can't even point to, like, a program
21 where the state -- that's not the way our tax system
22 is supposed to work. When you pay taxes into a
23 government, you should at least expect something in
24 return in the form of services.

25 Do you think the Three Affiliated tribes

1 would just love to invest \$1 billion right now into
2 their infrastructure, into their people, into their
3 health care, into maybe the unmet needs they have?
4 Or what about Twilope? Almost \$50 million in taxes.
5 How many have been to Two-ay-la (phonetic)? It's
6 beautiful. They've created a model economic
7 development program for Indian country, and it's
8 working.

9 Unfortunately, the cities, the counties,
10 the states, hardly did anything to help create that
11 economic engine that creates thousands of jobs. And
12 how much money is the state returning in that \$50
13 million? That's a good question. That's in a
14 lawsuit right now. And we're willing the courts,
15 and the DOJ is fighting on behalf of the Two-ay-la
16 tribes in that lawsuit. So Lord willing we'll have
17 a good decision coming out of there to help deal
18 with the tax issue in Indian country.

19 And I don't need to remind you how, you
20 know, we've never ever had a tax base. How many of
21 you remember Slade Gordon? In 1999, at a hearing in
22 Seattle, Ron was probably there, some of us others,
23 and he challenged us at that hearing; he says,
24 create a tax base for your people. Well, that's
25 easier said than done.

1 But in closing, like I said, NCAI, John,
2 his team, our litigation subcommittee, has been
3 passing resolutions the last couple years to
4 encourage the Obama administration, now the Trump
5 administration. So, you know, this isn't being
6 rushed through. We've been working on this, just to
7 correct the other gentleman back there. You know,
8 it's been worked on the last two or three years.
9 And so hopefully something positive for Indian
10 country will come out of this. And Lord willing,
11 you as my trustee, will have our back. Thank you.

12 **MR. CARR:** Kiki Carr, the United
13 Southeastern Tribes. On a slide earlier in the
14 presentation I've heard this comment made several
15 times during these presentations about sovereignty
16 having to mean something. And we agree with that.
17 But along with that there should be a slide on
18 fulfilling trust and treaty obligations should mean
19 something as well. And I know that this is meant to
20 be a tax conversation, but it's -- the broader issue
21 is economic development.

22 And I just want to put this in context for
23 a moment. This comes from data that's provided by
24 the federal government. If you look at the value of
25 federal land holdings, not including Indian country,

1 and the value of the natural resources coming off
2 those federal land holdings, that value, compared
3 to, I'm going to use nine million, Ron, versus that
4 20 million O&B figure.

5 The funding that goes to any Indian
6 country on an annual basis represents about one-
7 tenth of one percent of that value. So we sit here
8 and we have these conversations. But when you put
9 it into context, we're talking about marbles here;
10 nuggets, in terms of small pieces of the overall
11 pie. So one-tenth of one percent is not a big
12 hurdle.

13 The request that I would ask to the
14 administration is that when you're talking about
15 economic development, that you're doing so
16 comprehensively. So it's one thing to talk about
17 the Indian trade regs, and making amendments to
18 those regulations, but it's another thing, that on
19 the other hand, where we have proposed budget
20 administration zeroing out the CDI funds.

21 So the comment that was made in the back
22 about having commercial entities, well, CDI was
23 meant to be a remedy to that, at least partially.
24 So when you zero out the CDI, which is lending
25 capital to Indian country, especially to tribes that

1 sometimes have challenges getting access to that
2 capital, and you zero that out, you're not dealing
3 with economic developments in a broad and
4 comprehensive manner.

5 I know with them going to the land
6 conservation, of course land is central to this
7 conversation as well. So that we're hopeful that
8 when we -- to have a real conversation about all
9 these issues, we need to do so comprehensively.

10 And my final comment is we just seem to
11 have a tendency to make what should be fairly
12 simple, oftentimes complex. So if we want to talk
13 about -- President Cladoosby just made a comment
14 about the Marshall Plan, and we're making that pitch
15 on the infrastructure side to make sure that there
16 is an Indian set aside piece, an investment into
17 domestic nations in the same way that this country
18 invested into Europe post-World War II.

19 But the way that Indian country is going
20 to get to what we talked about with these issues in
21 terms of strong, vibrant tribal nation economies,
22 is, one, the federal government fulfilling its trust
23 and treaty obligations, and funding Indian country
24 in the manner that it's supposed to. And that goes
25 back to my one-tenth of one percent comment.

1 Assisting us as a trustee, when states are imposing
2 in our jurisdiction, and reaching in in a way that
3 they should not be, that that comment was -- is
4 exactly correct. Most oftentimes those monies that
5 come out of our communities are not benefitting our
6 citizens.

7 Judicial protection of our sovereignty
8 authorities, we always have the administrative and
9 congressional side of this conversation. We need to
10 be having the judicial side of this conversation,
11 making sure that those justices understand what
12 tribal sovereignty means and what it means to
13 protect and uphold that. If we're going to have
14 conversations about the constitution, let's have
15 real conversations about what that means to us.
16 Then, of course, the unnecessary burdens and red
17 tape and regulations that get in the way.

18 So when you break this down, it's not
19 rocket science, it's not complex, it's just a matter
20 of holding people accountable and making sure that
21 people are doing what they're supposed to do to get
22 to all these talking points that we oftentimes put
23 up on PowerPoint slides and talk about. But we
24 gotta find a way to get there. 'Cause at the end of
25 the day, people are hurting, people are suffering

1 because these challenges that we have not been able
2 to resolve. So it's about time we figure out how to
3 get these resolved. Thank you.

4 **MS. APPEL:** Well, if we don't have any
5 more comments on the Indian trader -- we have one
6 more comment and then we'll move to the FETA trust
7 listening session.

8 **MR. BROWNEAGLE:** Dave Browneagle, Spokane
9 tribe vice chair, still. Not the vice chair, but
10 Dave Browneagle still. Well, I'm a retired social
11 studies teacher by trade, so I'm going to bring up
12 some social stuff. And I think for me it ties into
13 what we've talking about. How many of you are in
14 your 60s and 50s and 40s? How many of you remember,
15 you had to know your place? If you spoke up in
16 class, either high school, junior high, grade school
17 or college, and you questioned the authority, you
18 were forgetting your place.

19 How many of you remember going into
20 restaurants and not being served? And I remember
21 this when I was a little boy with my parents, and
22 not being served. And my mother would sit there for
23 an hour or more just to prove a point. And as soon
24 as they were willing to serve us, after over an
25 hour, she said thank you, but no thank you. Then she

1 politely told them off in a good way. So I had some
2 real good teachers in my life. So I think for a lot
3 of what's happening in Indian country -- and again,
4 this is just my own opinion -- is we're becoming
5 economically self-sufficient.

6 We can go into the towns and buy goods,
7 buy a brand-new car. Again, I'm going to ask you
8 how many of you ever went into a store and they
9 wouldn't wait on you because they figured you
10 couldn't afford it? Or you go into a car lot and
11 they show you the broken-down cars; they weren't
12 going to show you the new car. So I believe what
13 we're facing from the state, and perhaps the federal
14 government, except with our trustees up there, is we
15 have the old way of thinking.

16 Because right now I really got a feeling
17 there's fear on the other side. Because we got
18 money. We're becoming self-sufficient. We can buy
19 a brand-new car. And what I'm also saying is, you
20 know, we still need a lot of help with our
21 communities, our tribes, because the federal
22 government isn't holding up to its trust
23 responsibility.

24 How many people do we have on a
25 reservation who are really hurting healthwise? And

1 we don't have the funds. Then we have to deal with
2 the state and the county. And that's why I was
3 saying what I said earlier. How do we legislate
4 that, treating human beings as equal partners in the
5 community.

6 And as I said, I'm a retired educator, so
7 I've always worked. And even to this day, in the
8 city of Spokane I can go into a store and be treated
9 like I don't have the money to be treated with
10 respect. 'Cause I saw that on the overhead. I have
11 my self-respect, and I believe everybody in here has
12 the same thing. That's why we're here.

13 So, you know, we can legislate like crazy,
14 but until we can find the human beings that are
15 going to adhere to their own moral compass, it's
16 going to be a battle. But I'm willing to be with
17 the rest of you. Let's keep fighting. Because, all
18 those antiquated laws were put into place to hold us
19 in our place. For any history teachers there, go
20 back and check that out. It's to hold us in our
21 place.

22 We're being tired -- we're tired of being
23 held in our place by some antiquated laws and
24 regulations and federal guidelines. Because I
25 believe we're all sitting in here because we have

1 that self-respect for ourselves and our people.
2 Because look how much we've gone through
3 historically from every tribe in this room. And
4 we're still here. And it scares them. Thank you.

5 **MS. APPEL:** Then we have one last comment,
6 and then we'll move on to the listening session.

7 **MR. DIXON:** Hello. My name's Juan Dixon.
8 I'm a tribal -- listener council for the tribe. And
9 one of the biggest issues we've had, and I'm enjoyed
10 listening to many of the comments, and I think we
11 have some steps forward, but I agree with some of
12 the other leaders that were talking about that one-
13 tenth of one percent is very real. And if you don't
14 change that, it will drag us down.

15 One of the bigger issues we had, where I'm
16 from, we have citrus. Our biggest issue right now
17 is the inter -- intrastate tax issue of taking our
18 commerce, our citrus, to other parts of Indian
19 country. We have wanted to trade Indian for a long
20 time, you know, and we've come up with different
21 ideas, but we've been -- kind of like we've had our
22 stuff confiscated.

23 If you think about it, our bin holds about
24 500 pounds of oranges, or avocados, or lemons, or
25 grapefruit, and it's \$1000 a bin. And you put 100

1 bins on a truck, that's \$10,000 or more. Up to
2 \$100,000 you can get going on some of those trucks.
3 And they want to tax that as a result of going over
4 to the highways. And we've had several governors
5 who fought really hard, but we're saying we're
6 trading with Indians. We're taking our stuff to the
7 northwest, to the east, to the south, you know, to
8 parts of Indian country.

9 And we're thinking there's a way in which
10 we had, as one tribe to another, to sell our stuff
11 to one another, or actually trade, in terms of we
12 get stuff from them and we would bring our stuff
13 back. And the hard part of this is that that hasn't
14 been resolved. We're stuck. We have all this
15 fantastic growth, and things that we are doing
16 amongst us as tribes, and we are not cutting that
17 road to stop that terror attacks that this should
18 not be required.

19 Additionally, when you look at those
20 issues that are coming up, we know that when we
21 wanted to do freight by air, we thought maybe it
22 would go by air, all of a sudden we're getting
23 tariffed in the air. Okay, let's try water. Got
24 tariffed on the water. So it's like, you know,
25 there's -- that's a way to fix it. And when tribes

1 -- if somebody really wanted to have commerce with
2 one another, you'd think that they would support
3 that. But, you know, right now in the US, Florida
4 oranges cannot be sold in Florida. They have to be
5 sold on the west coast. West coast oranges can't be
6 sold on the west coast, they have to be sold on the
7 east coast.

8 That's what America's doing so that
9 they're -- it's taking so long to get to either
10 coast, it's good money. As you know, I can get a
11 whole bag of oranges for five bucks at home, or for
12 nothing, or I just go to the tree, hey. But you see
13 what I mean? There's -- it's reasonable to expect
14 you to effect change on something that's doable.

15 And I know we have all these other issues,
16 but if we can get some of the doables done, it's a
17 step moving forward for commerce. Same thing with
18 broadband. They put their broadband on, they're
19 starting to assess fees on them that never existed.
20 So it's like Americans coming up with language and
21 regulations so fast that they just want to get ahold
22 of whatever tax dollar they can. But we have some
23 serious ground level issues that -- intertribal
24 commerce has been there for a while, and we've been
25 hampered really badly by that. So I think in some

1 of our relations with another, to each other in
2 commerce, and with you as our trustees, you have to
3 help us cut down those walls, cut down those fences
4 that they've put up. Thank you.

5 **MS. APPEL:** Thank you. Just as a reminder
6 at this point, if you have any written comments,
7 they're due October 30th to Consultation@BIA.gov.

8 **MR. TAHSUDA:** That's Liz's favorite e-mail
9 address. I just want to close this down quick by,
10 again, thanking all you guys for coming out and for
11 your comments. I'm -- I will be honest with you,
12 I'm a little bit behind on this discussion just
13 because I haven't been involved in it from the
14 beginning. And so I appreciate everything that
15 you've said. Certainly you've given us -- given me
16 some things to think about.

17 I'm not sure if Dr. Clarkson has probably
18 heard some of these comments from you, but I don't
19 want to contradict, you know, the discussions you've
20 had with him. But I do -- I do want to say I take
21 note, particularly of the conversation we had last
22 week as well. I think that it would be beneficial
23 for our whole discussion not to get caught up on one
24 particular thing like the tax issue, but that the
25 overall economic picture is what we want to focus

1 on.

2 And I know this discussion is really sort
3 of focused in on a particular set of regulations,
4 but I think that we have the opportunity in this
5 administration to focus on economic development, to
6 look a little broader than that as well. And I want
7 to encourage you not -- maybe tie this in to
8 Chairman Harvier's (phonetic) comments. There are
9 some other things we have -- we have a lot of
10 hiccups in our regulations in a lot of ways, but on
11 the economic picture probably as much as anywhere
12 else. And so some of our leasing regulations, even
13 how we're recording leasing, leases, etcetera, I
14 think are a hindrance to economic development.

15 And so I want to -- I hope that this
16 discussion can also be sort of a springboard to take
17 a bigger look at the overall economic development
18 picture and what we can do to get out of the way.
19 That's kind of a catch word, I think, nowadays, but
20 I really mean it. What can we do to change some of
21 the regulations that we have and streamline them,
22 make them work better for Indian country, and
23 hopefully improve the economic development picture
24 on the reservation. So I thank you guys very much.
25 And I guess, again, for seeing me through this.

1 This is the first time I'm on this side of the
2 table.

3 But I think we can close this out and
4 we'll move on to the next discussion we're going to
5 have, which is about the -- our ideas on some
6 changes to the land and the trust regulations.

7 So again, we'll close that down, we'll
8 start a new one. Just imagine walking out of the
9 room and came back in. And so we're going to --
10 here to talk a little bit about some ideas we have
11 on some potential changes to the land and trust
12 regulations. And really focused on the off-
13 reservation land and trust regulations. So we have
14 up here some talking -- or some points on what we're
15 looking at.

16 And specifically two sections, 151-11,
17 151-12. And what we're looking to do is, to my
18 mind, we're trying to kind of streamline the process
19 here a little bit as well as -- as well as trying to
20 address how these things are considered from our
21 perspective and make sure that we're adequately
22 complying with the law, doing the full sort of
23 review that we are supposed to do under the law. So
24 essentially, you know, we're looking at creating a
25 two-phase secretary review and approval process.

1 And that would distinguish between offers for
2 acquisitions for gaming, from non-gaming, and even
3 noneconomic development acquisitions off
4 reservation.

5 And the -- the additional considerations
6 that gov -- particularly to gaming and separate
7 statute that deals with that, those kind of things,
8 would not hold up a partial if it was for nongame
9 emergencies from those initial reviews. And we would
10 take a quick -- or we would do a change in what's
11 required for the application itself, again, all with
12 the purpose of trying to get a fuller view and be
13 able to provide a more comprehensive consideration
14 of the factors that we're required to consider under
15 the law and the regulations.

16 And we would reinstate the 30-day delay of
17 taking land into trust following a decision, and
18 also to put into the regulations, maybe it seems
19 obvious, but I guess it's -- to me it's kind of new,
20 it's -- I guess it's not obvious that a court tells
21 you to take the land out the trust, you have to do
22 it, but we're going to put that into the regulation
23 as well. That's sort of just the basic overview of
24 what we're aiming for.

25 So currently -- and, you know, in our

1 view, a big sort of hangup in what takes so long and
2 what's so costly in getting some of these
3 applications done is the applicant for an off-
4 reservation FETA trust parcel for gaming purposes
5 has to submit all of the application information
6 before we can even begin reviewing the process.

7 And I know for a lot of tribes there's a
8 lot of back and forth about what does it mean when
9 we have or we haven't submitted all the information
10 that's required. And so part of our thought process
11 is if there is basic information provided before,
12 then we can take a look, particularly if the intent
13 is for gaming, then we can provide sort of an
14 advanced look for the tribe applicant at what --
15 what that entails.

16 And again, sort of a quick review of the
17 law and whether this application would comply with
18 that, the provisions of the law. If that is
19 satisfied, then the application would proceed, sort
20 of on the normal basis. But instead of going
21 through a lot of expense with a NEVA documentation -
22 - NEBA documentation, which is very costly and very
23 expensive and time-consuming, that would wait until
24 after there's an actual, you know, review of whether
25 the land would be eligible for gaming.

1 Also, the carscierie (phonetic) analysis;
2 these things that take a little bit more time and
3 are more costly for the applicant, they could get
4 sort of a preview of whether the Department's view
5 of the application of gaming law and our regs to
6 that would make the land eligible for gaming if it
7 proceeds all the way through to going into trust.

8 So assuming that there's a thumbs up on
9 that, you could involve with the other parts. So
10 right now, essentially, you have to supply the same
11 application information. All the requirements apply
12 to off-reservation applications regardless of the
13 purpose of it. So in our thinking, and this is in -
14 - maybe I should go back and say you should have,
15 with a new tribal leader, sort of just an outline of
16 what we're thinking, a brief look.

17 And in there you'll note that we would
18 apply -- or we would require four additional items
19 in applications. Off-reservation for gaming
20 purposes, I believe the unemployment rate on the
21 reservation, the effect the gaming operation would
22 have on that, what are the explicit and implicit on-
23 reservation benefits of proposed gaming, the off-
24 reservation gaming, evidence of the cooperative
25 efforts that you have or have not been able to make

1 with the local communities, MOUs, etcetera, with the
2 local community.

3 And then, finally, are there any economic
4 benefits to the local community from the gaming
5 project as well, sort of the outside community. And
6 that these are to help us fill out the picture of
7 what we have to consider. So -- okay. I'm sorry, I
8 was reading that wrong.

9 So currently our regulations require --
10 they have in the regulations that they're a criteria
11 to be met, but it doesn't really specify with any
12 detail what you have to supply to meet that
13 criteria. So we're just going to explicitly list
14 what the application must include and what we will
15 consider. And then in addition to that, we -- in
16 the Dear Tribal Leader that hopefully you've
17 received by now, are some questions.

18 So we have some ideas about what that
19 criteria is under the law and under our regulations,
20 but are there other criteria that -- that you think
21 would be useful to have in that for us to consider
22 in that as well.

23 And then finally the 30-day delay. Current
24 regulations require the Bureau to immediately
25 acquire land into trust after a decision, or the

1 expiration of the timely filing of a notice of
2 appeal about deficiencies. So we reinstate the 30-
3 day delay before acquiring the land in trust by
4 changing the language to say no sooner than 30 days,
5 and on the 31st day we would take the land into
6 trust unless a court has ordered otherwise in that
7 previous 30 days.

8 As I mentioned in the beginning, so
9 currently in the regulations there's just no
10 discussion about what happens if a court ultimately
11 reverses our decision to take land into trust. So
12 the regulation will just clarify that. If there's a
13 final court order or resulting judicial remedy that
14 requires us to take the land into the trust, our
15 regulation will say we'll take it under trust.

16 So our questions to you, and hopefully we
17 can have a good discussion about this, is under what
18 circumstances should we approve or disapprove an
19 off-reservation trust application for gaming. What
20 criteria should the department -- well, I guess, let
21 me clarify that. Maybe not just for gaming, but for
22 all off-reservation things, and then is there -- or
23 what special considerations should be made for
24 gaming as you perceive it.

25 What criteria should we use when approving

1 or disapproving the off-reservation application, and
2 should there be different criteria for processing
3 off-reservation applications, whether it's for
4 economic development for non -- whether it's for
5 economic development or noneconomic development. So
6 again -- or something like a tribal government
7 building, tribal council, etcetera, etcetera.

8 So should there be a distinction between gaming
9 purposes as distinguished from other types of
10 economic development and the considerations that go
11 with that. And another question is what if the
12 application involves no change in use for the land,
13 really. Should pending applications be subject to,
14 again, if we move forward with this regulation,
15 here's a question: Should pending applications be
16 subject to the new revisions if they're finalized?
17 Should there be kind of a grandfather clause or
18 something there? And do memorandums of
19 understanding, and other similar cooperative
20 agreements between tribes and local state
21 governments help facilitate tribal relationships and
22 off-reservation economic developments?

23 If they do improve the relationships,
24 should that be reflected in the off-reservation
25 application process. I think we kind of have a

1 thought that it does, but we -- you know, again,
2 this is part of what we'd like to hear from you.

3 So comments are due December 15th. Like
4 the prior ones, you can e-mail Liz at
5 consultation@BIA.gov, or mail -- I won't read that
6 out, I'll let you write that down if you want. If
7 you want to send that snail mail. So we will -- in
8 the Dear Tribal Leader letter we have consultation
9 dates. And following on that, we'll compile the
10 comments and review them as appropriate and then
11 move forward with the -- based on those comments,
12 move forward with the standard promulgation process,
13 proposed rule and federal regulation, and have that
14 moved to a final. And that date I guess will be
15 determined at some point when we get to the close of
16 the consultation and see where we are and move
17 forward from that.

18 So that's sort of where we are right now.
19 And I think -- I mean, I'd like to just open it up.
20 Again, we want this to be a kind of a free-flowing
21 conversation with you, and hopefully we can get some
22 ideas that you can feed us as well before we start
23 into the formal consultation process.

24 **MR. JACKSON:** I win. Well, first of all,
25 I want to let you know that I'm Larry Jackson and I

1 am the vice chairman for the Yavapai-Apache nation
2 located in central Arizona. And I would -- it's
3 cold here. I want to make that quite clear. I
4 gotta apologize. The NCAI, because I was not
5 planning on coming this year because of course we
6 have pressing issues, but when the Dear Tribal
7 letter that has been referenced that came out, then
8 it became an issue with us.

9 We are the Yavapai and Apache. And
10 historically, and I'm not going to talk very long,
11 so -- just to let other tribal leaders know that I'm
12 not going to take all the time -- we of course, like
13 all tribes, we were -- lived in a land without
14 borders. But then of course, by edict of the
15 government, we were moved into tribal lands.

16 Initially our tribal lands covered 128,000
17 acres, and we're talking the late 19th Century. And
18 then, by the stroke of a pen, it was down to zero.
19 And we were removed from our lands that we roamed
20 historically. Today, we are at 1,850 acres. Three
21 miles. Three square miles, and that's it. So when
22 we talk about taking land into trust, it becomes an
23 issue with us.

24 And so in reference to your letter -- and
25 by the way, I do want to thank you, Mr. Secretary,

1 and your staff, for the opportunity to bring some
2 remarks today. In your letter it says that the
3 proposed revisions will create a two-step review.
4 And I say let's be honest. It is a cumbersome
5 process, very expensive process legislatively,
6 economically, speaking.

7 And so what we're talking about in reality
8 is we're talking about doubling the burden on tribal
9 nations in an already burdensome system. That's what
10 we're talking about. It's not two-step, nor is it
11 two-phase. It's about creating a burden for the
12 tribal nations, a burden that sometimes we wait
13 years to overcome, and now we're going to add more.

14 As to the questions that you had on the
15 screen, questions one and two talks about
16 circumstances and criteria. Where should we start?
17 What should we consider in this new process? And I
18 say why don't we consider the original trust
19 responsibility from 1934, which was clearly about
20 restoration, about healing, about providing for our
21 tribal people. That which was taken away. That's
22 the criteria. That's the circumstances that you
23 need to start with.

24 As far as gaming and interjecting gaming
25 into the 151 process, we are certainly aware of

1 that, being from Arizona and having seen the
2 circumstances around the city of Phoenix. And we
3 cannot help but think that this is an event that is
4 best described as the tail wagging the dog. That
5 meaning the states who cannot win in federal court
6 and now want to get the Department of Interior on
7 their side. State interests is what this is about,
8 in reference to gaming.

9 Moving on in your letter, it talks about
10 MOUs as part of suggested process. We all here know
11 historically that states look out for their own
12 interest. And when we open ourselves up to
13 interjecting MOUs in the FETA trust process, we now
14 create another shackle within the tribal nations to
15 have to comply with, or to consider, or to
16 interject.

17 And then finally in reference to the
18 consultation dates and locations. While certainly
19 we are appreciative of the fact that Phoenix is one
20 of those locations, that does not work for Indian
21 country at large. Our tribal nations are across
22 this entire country, not just on the west coast.

23 So I stand up here today to speak against
24 these proposed revisions. And I say rather, let's
25 take a look at where we're at and pick up the mantra

1 of the current administration and look at truly
2 reducing the process of all the burdens that we have
3 to go through. And I say let's truly give it an
4 honest effort to seek tribal opinions across this
5 country so that everyone, all tribal communities,
6 have a voice in this whole process of proposed
7 revisions. So I thank you for your time, and I
8 thank you all.

9 **MR. CLADOOSBY:** Brian Cladoosby, chairman
10 of the Swinomish tribe, president of the National
11 Congress of American Indians. I was happy to defer
12 to my fellow leader in Arizona since ASUV, my
13 beloved Huskies is -- All right, getting back to
14 what I'm here for.

15 Once again, thank you, Mr. Tahsuda, for being
16 here. And I just want to refer to the former slide
17 show that was presented by you, where themes from
18 your boss, Secretary Zinke, outlined his goals for
19 Indian country: one, sovereignty; two, self-
20 determination; three, self-governance; four,
21 respect; five, economic freedom and empowerment; and
22 six, very, and probably the most important, reduce
23 regulatory burden.

24 Now, the conservative mantra is less
25 government, less government, less government. But

1 what I as a tribal leader am seeing here is more
2 hoops to jump through and more government. We are
3 seeing more regulatory burdens through this action.
4 And once again, I love talking to the choir to
5 remind you that the 1934 Indian Reorganization Act
6 was created to help reverse the decline of the
7 economic, cultural, governmental and social well-
8 being of Indian tribes caused by the disastrous
9 federal policies of allotment and sale of
10 reservation lands.

11 And between '87 -- 1887 and 1934, tribal
12 governments, the tribes that are sitting right here
13 in front of you today, each and every one of them
14 were part of the almost 100 million acres of land,
15 which made up nearly two-thirds of all reservation
16 lands that was sold or stolen by and to settlers.

17 And so I just want to read to you what the
18 Act says from 1934. And I quote, "The secretary of
19 interior is hereby authorized, in his discretion, to
20 acquire, through purchase, relinquishment, gift,
21 exchange, or assignment, any interest in lands,
22 water rights or surface rights to lands within or
23 without existing reservations, including trusts, or
24 otherwise restrict the allotments, whether the
25 allottee be living or deceased, for the purpose of

1 providing land for Indians."

2 It also goes on to say -- and this year
3 was from Mr. Howard, who was one of the sponsors of
4 the IRA act, this was at a hearing, it says,
5 "Furthermore, that part of the allotted lands which
6 has been lost in the most valuable part of the
7 residual lands taking all Indian-owned lands into
8 consult, nearly one half, or nearly 20 million
9 acres, are desert or semi-desert lands. Through the
10 allotment system, more than 80 percent of the land
11 value belonging to all of the Indians in 1887 has
12 been taken away from them. More than 85 percent of
13 the land value of all the allotted Indians has been
14 taken away.

15 And each tribal leader can stand up here
16 and tell you about those most valuable pieces of
17 property that were lost off of their reservations.
18 I'd like to also point out that we believe this
19 consultation draft improperly inserts gaming
20 considerations into the larger FETA trust process as
21 prohibited by the Indian Gaming Regulatory Act.

22 Very important for your solicitors at DOI
23 to give us an analysis of their opinion on what our
24 attorneys are saying. DOI's current land into trust
25 regulation, 25 CFR .151, land acquisition, states,

1 "Land not held in trust may only be acquired for a
2 tribe and trust status when such acquisition is
3 authorized by an act of Congress, 25 CFR 151.3."

4 To this point, Section 151.11(a)(1) of the
5 consultation draft purports to apply if the
6 acquisition is for gaming purposes. We assert that
7 DOI does not have the necessary land acquisition
8 authority under the Indian Gaming Regulatory Act, 25
9 USC 2701, to include this provision of the
10 consultation draft. So it will be very important
11 for DOI to give tribal leaders their perspective on
12 what they believe is a reach by Interior on
13 something that is already covered by the Indian
14 Gaming Regulatory Act.

15 The 30-day stay period is very concerning.
16 Once again, many tribes across the nation can stand
17 up here and tell you how local governments have
18 delayed and destroyed economic development on and
19 off reservation because of their ability to hold up
20 FETA trust. I will give you an example at
21 Swinomish. In 1972, our elders wanted to create an
22 economic development zone, so they wanted to build a
23 1200-slip marina at Swinomish as their economic hub,
24 their anchor.

25 And so from 1972 to 1997 we worked with

1 our trustees and the core of engineers and BIA and
2 other federal agencies to get a 1200-slip marina
3 submitted. 25 years later we got that permit to
4 build this marina. We were going through the FETA
5 trust process on that land. The county government,
6 who was not friendly to the Swinomish tribes and
7 other tribes in our area, appealed that FETA trust
8 decision. The agency approved the FETA trust; the
9 county appealed it. The director at the Portland
10 office approved it; the county appealed it. DOI,
11 the DC level, approved it; the county appealed it.
12 It went to the IBIA. And the IBIA approved it.

13 It took from 1997 to 2007 to get this FETA
14 trust approved. Our project in 1997 was a \$30
15 million project. By the time that we went through
16 the ten years of this court by the county being
17 allowed to challenge this, our project went from 30
18 to \$65 million, which was not feasible at that time.
19 And so our partners, who had been patiently waiting
20 for us for those ten years, could not do the project
21 'cause we didn't have the money to do the project
22 and we didn't have any money to finance us.

23 So the county -- we actually won our FETA
24 trust, but we lost at the end, because the county
25 was able to hold up this project for so long. Now,

1 we considered this a frivolous lawsuit, but we had
2 no recourse. So once again, we feel that this 30-
3 day window once again will allow those who are not
4 friendly to Native Americans across the nation, we
5 could give you story after story, will just get
6 another opportunity at the bite at the apple. And
7 so we ask that you seriously consider some of the
8 suggestions that we have going forward for this, and
9 we thank you for being here. Thank you.

10 **MR. FRANK:** Thank you, assistant secretary
11 Tahsuda. I want to say good morning. I'm Gerald
12 Frank, chairman of the Forest County Chippewa. And
13 thank you for this opportunity for us to make
14 comment on the FETA trust regulations. And this is a
15 unique opportunity for us as Potawatomi people,
16 since the land that you're standing on, or sitting
17 on right now, used to be Potawatomi property.

18 The president said it was absconded from
19 us, so -- years ago, years later under the authority
20 of the Indian Reorganization Act, the secretary
21 reacquired two parcels of land located in the city
22 of Milwaukee. One is at the Concordia trust
23 property, and the other one is down in the valley,
24 as we call it. But really was an eyesore. We got
25 that where our casino located at yet today, after

1 spending hundreds of millions of dollars in the
2 area, you know, we got a renovated area, revitalized
3 that area.

4 I'd like to -- the Potawatomi, we have
5 long urged the Bureau of Indian Affairs to adopt the
6 substitute standards that would be followed in
7 approving or rejecting off-reservation gaming
8 applications. In fact, the Forest County Potawatomi
9 have had -- long had their off-reservation gaming
10 policy, since 1999. And we walked around, went
11 around, drove around, flew around the United States
12 asking somebody to take a serious look at adopting
13 some of these policies that we were proposing.

14 I'm not belittling anybody here, but, you
15 know, you give something to an attorney, they sure
16 know how to make words out of something that we
17 thought was so basic. What we thought was good
18 policy was that you should be able to prove that it
19 was on your historical tribe homeland. Number two,
20 that the application wouldn't adversely affect a
21 tribe. Number three, that it didn't look like an
22 Indian casino, which means that you have a
23 management company who takes the lion's portion of
24 the funds with very little risk. The tribe is the
25 one who bears the risk.

1 Well, we appreciate that the secretary's
2 authority to re-acquire former Indian lands under
3 the IRA is pressure. Was passed to the IRA to give
4 the secretary the power to reacquire former tribal
5 lands lost during the allotment era and create new
6 reservations for landless Indians. This is now
7 referred to as building a tribal homeland.

8 Many of the Indian tribes would like to
9 repeal -- that's a dirty word today -- many forms of
10 Indian tribes would like to repeal or severely
11 restrict the authority of the secretary under the
12 Indian Reorganization Act. If the secretary uses --
13 uses this authority for purposes not clearly
14 supported by the historical practice of the
15 secretary, the secretary will put at risk his duty
16 of restoring former tribal lands and building viable
17 homeland.

18 For this reason, we urge the secretary, in
19 the development of its rules, policy and practice,
20 to use his authority under the IRA judiciousness, so
21 as not to put at risk this important statutory
22 authority.

23 Some tribes will make a case that the IRA
24 should be used aggressively as a tool for commercial
25 development. Those tribes argue that the tribe's

1 history on the land and the distance of the land
2 from its current homeland does not matter. We urge
3 the secretary to reject such arguments. Those
4 business ventures should be encouraged and
5 supported, but not under Section 5 of the IRA.

6 Potawatomi urges the assistant secretary
7 to include in its revision to part 151 substitute
8 standing, including a requirement that the
9 applicants can demonstrate a direct aboriginal or
10 historical connection to the land, or for tribes
11 whose reservation or other side of the historical
12 area require that the land be in close proximity of
13 the tribe's current home.

14 In part -- in addition, part 151 should
15 protect the rights of nearby impacted tribes.
16 Impacted tribes should be included as interested
17 parties who are allowed to formally participate in
18 the application. Consultation has impacted parties
19 shooting to Indian tribes and other Indian local
20 communities. Our experience would demonstrate that
21 the Department of Interior has a very bad track
22 record of consulting with the surrounding
23 communities.

24 Indian gaming pursuits has affected a
25 wider area than just local government with

1 jurisdiction over the proposed facility site.
2 They're the directors, they affect the government's
3 obligation on the revenue side, and other
4 governments in the area. All impacted parties
5 should have an opportunity to consult.

6 Additionally, it is important that the
7 assistant secretary adopt specific procedures to
8 ensure an open, on-the-record process for handling
9 applications. Part 151 should provide party status
10 to all affected parties and require that every party
11 provide other parties copies of all submissions and
12 communications with the Bureau of Indian Affairs.
13 The written submission should be maintained on a
14 public document available on the Internet.

15 Our experience has been that BIA grants
16 the applicant ex parte status with special access to
17 the decision maker, while at the same time making it
18 very difficult for other tribes, state and local
19 governments to participate in the decision here.
20 Applicant tribes may believe that this ex parte
21 practice works to their advantage; however, in the
22 long run the credibility of the process and the
23 integrity of the decision-making will be enhanced if
24 it is transparent and open to all affected parties.

25 Potatotami support the two-step process,

1 appropriate suggestions in the draft revisions. We
2 have learned firsthand that requiring all parties to
3 fund a full-scale application can be very time-
4 consuming and very expensive. The two-step process
5 may require additional procedural clarification, but
6 it would benefit tribes and save valuable resources.

7 Finally, Potawatomi supports the
8 reinstatement of the 30-day waiting between the land
9 into trust issued by the assistant secretary and the
10 actual acquisition. Potawatomi, by parties,
11 submitted comments in opposition for that change,
12 and it was opposed because it seemed like they could
13 create procedural problems. Unfair and prejudiced
14 tribes and other entities wishing to challenge a
15 FETA trust decisions, and then ultimately would
16 undermine the integrity, the trust status of land.

17 The rule change adopted in claim 13
18 devalues the trust amendment by forcing the
19 government to claim that the secretary can put land
20 in trust and take it out of trust arbitrarily. We
21 believe that trust land status should be viewed by
22 the government with a high level of seriousness. The
23 reinstatement of the waiting period, in our opinion,
24 enhances the permanency of the trust standards.

25 We appreciate the work the assistant

1 secretary and his staff have invested in the
2 detailed proposal, analysis and explanation for the
3 draft amendments to part 151. Potawatomi will
4 assist in this effort in any way it would be useful.
5 And with that, Secretary Tahsuda, we await you.

6 **MR. GUMBS:** Good afternoon, Mr. Secretary.
7 My name is Lance Gumbs. I am a former tribal
8 chairman for the Shinnecock nation. I'm currently a
9 tribal ambassador. And I'm also the regional vice
10 president for the National Congress for the
11 Northeast Region.

12 First and foremost, we have great concern
13 with the limited amount of consultations that are
14 taking place at this point. I don't know if you've
15 forgotten that there are tribes east of the
16 Mississippi or not, but I'm here to remind you that
17 there are, and that we need to have meaningful
18 consultation within the northeast region, southeast
19 region, anywhere east of the Mississippi. That
20 being said, we respectfully request that those
21 consultations be added to that -- to our regions.

22 I'd like to just touch a little bit on the
23 rules and regulations that you're proposing. In
24 1859, my tribe lost, or had stolen, over 3,000 acres
25 of land on eastern Long Island. We live in the

1 richest community probably in America, the Hamptons.
2 So the land base out there is limited. So when
3 you're talking about when and off-reservation
4 acquisitions in your October 4th testimony, you said
5 that the Department recognizes that the inequities
6 may be different for restored tribes and landless
7 tribes when it comes to off-reservation gaming and
8 land into trust proposals.

9 You then went on to say, given the
10 unavailability of the land in close proximity to its
11 members, the tribe, Shawnee tribe of Oklahoma,
12 elected to explore other alternatives. You then
13 went on to say at the end of that paragraph, while a
14 decision on that acquisition is pending -- is
15 pending with the Department of Interior, it is
16 committed to reviewing all factors and seeking broad
17 input in its decision-making.

18 We have a serious concern about that.
19 Because you talk about the, you know, inequities
20 that are being applied, but we're questioning, what
21 are they? What would be the considerations for
22 tribes that do not have land? What do tribes have to
23 go through to have their lands restored who've had
24 it stolen? We filed a \$10 billion land claim
25 against the State of New York, and they came back to

1 us with latches, claiming that we had never tried to
2 go after their land.

3 And yet every year from 1859 to present
4 day, we filed claims and we were defied the ability
5 to go into court and get the court turned around and
6 said latches is the order of the day. So for us, you
7 know, it is a real concern. And we would like to
8 officially oppose some of the language that you have
9 implemented in this.

10 And with all due respect to the gentleman
11 that just spoke, we oppose 95 percent of the
12 language that he just gave. We oppose the 30-day --
13 reinstating the 30-day extension, we oppose any and
14 all language that would give more power to any
15 state, local or county government to have a say in
16 over -- over what lands are coming into trust for
17 our tribe or for any tribe.

18 I think there is absolutely an additional
19 hindrance. In your draft here you said you're going
20 to add four additional items for the application for
21 trust acquisition for gaming purposes. You want to
22 include the unemployment rate on the reservation and
23 the affect the gaming operation would have, you want
24 to include off-reservation benefits for proposed
25 gaming, you want to include evidence of cooperative

1 efforts to mitigate impacts on local communities and
2 copies of agreements with state and local
3 governments. And you want us to show economic
4 benefits, you know, for the local community.

5 My understanding, my belief, is that
6 gaming, or whatever economic benefits, are for the
7 tribe. They're for us. They're not for the
8 surrounding communities. If we can assist the
9 surrounding communities in any way, well, that's
10 fine, that's great. But the purpose of this is not
11 for the surrounding communities. It is for the
12 Indian communities across this country who do not
13 have resources. So for you to stick that in there
14 is totally unacceptable.

15 So that being said, we will submit a
16 written -- written commentary on this with our
17 opposition to the majority of what you have proposed
18 here. And just on the record, we are absolutely
19 opposed to the whole thing. So I thank you for
20 giving me this opportunity to speak, and I'll look
21 forward to seeing where this is going to go.

22 **MR. PAYMENT:** Okay. My name is Aaron
23 Payment; I'm the chairperson of the Ste. Sault Tribe
24 of Chippewa Indians. As representative of the
25 secretary of the US Department of Interior, you know

1 that through treaties, tribal nations exchanged
2 almost all of our lands and resources to the federal
3 government for the promise to continue recognizing
4 tribal sovereignty, to recognize certain hunting and
5 fishing rights for the tribes, and to provide for
6 the health and general welfare of tribal people.

7 The United States benefits from lands and
8 resources it gains through these treaties, and now
9 tribal nations lack land resources, and most members
10 of tribes don't have adequate health care, housing,
11 educational opportunities, transportation,
12 telecommunications, investment opportunities or
13 employment.

14 In fact, we have the worst of the worst
15 statistics on all spectrums. Highest rates of
16 suicide, historical trauma, lowest education
17 attainment rates. Tribal treaties have been largely
18 forgotten by the United States. The Trump
19 administration, however, has promised that the
20 forgotten people living in America will be forgotten
21 no more. We appreciate that message. We appreciate
22 that you're here to listen. And we hope that you
23 won't forget our message or the president's message.

24 We want the basic obligations of our
25 treaties to be met. This includes the right to

1 acquire lands for our survival. First and foremost,
2 the Department's draft revisions are counter-
3 intuitive and undermine the goals of the Indian
4 Reorganization Act. With a membership of over
5 43,000 members, my tribe, we are the largest tribe
6 east of the Mississippi.

7 Despite our population, however, my tribe
8 has an extremely limited land base. We are
9 reservation poor. It consists mostly of several
10 small, isolated land parcels scattered across a
11 seven-county area of the upper peninsula of
12 Michigan. To the best of our ability, my tribe
13 provides central government services to our members.
14 Due to the noncontiguous nature of our land base,
15 these programs and services are spread out. Despite
16 this, my tribe operates a housing program, education
17 program, youth services program, elder care, health
18 care, and social services program, and law
19 enforcement services.

20 The scattered nature of our lands have
21 created a checkerboard-type scenario, with trust
22 land abutting private and non-Indian lands. The
23 draft regulations appear to be built on an
24 assumption that all tribes have an adequate
25 reservation and non-reservation, and acquisitions

1 are only needed for a handful of unusual cases.

2 These are simply not the facts.

3 Many tribes are like my own and have only
4 scattered trust parcels and only small, diminished
5 reservations that are insufficient as viable land
6 for their people. Some have no reservation lands at
7 all. Most tribes' off-reservation acquisitions are
8 vital, since on-reservation acquisitions are not an
9 option. For example, as a land poor tribe, per
10 population, my tribe has to purchase land, we try to
11 place any newly-acquired land, off-reservation
12 lands, into trust so that we can use it for various
13 travel purposes.

14 A hundred percent of our revenues go for
15 membership services. We need off-reservation land
16 parcels that provide treaty fishing access sites.
17 Several of these sites are already in trust;
18 however, we currently have an application pending
19 for another. Such access sites are essential to our
20 treaty rights.

21 Other examples include five parcels of
22 off-reservation land located near our tribal school,
23 used for tribal youth education purposes. And off-
24 reservation land from which we operate our tribal
25 advocate and resource centers, which addresses our

1 high rates of domestic violence in our community,
2 and that land is only a hundred feet from our
3 existing trust land. But it's waiting; it's
4 pending.

5 Creating a heavy presumption against
6 taking land into the trust off-reservation would
7 create a devastating impact on the majority of
8 tribes, and it is not what Congress intended in the
9 Indian Reorganization Act of 1934. Just read the
10 legislative record. Draft language is vague and
11 open to interpretation.

12 As per the suggested additional
13 requirements to the application, the draft language
14 is extremely vague and subjective. As examples,
15 look to the requirement for analysis. At no point
16 are there any specific requirements or guidelines
17 establishing regarding what such an analysis might
18 conclude or what types of analysis will be
19 acceptable. It becomes more subjective.

20 In an offer of states and local
21 governments -- and this is where I agree a hundred
22 percent with Lance -- yeah, they need to identify
23 potential impacts and potential conflicts regarding
24 the land in fee. These terms are vague, overly
25 broad and subjective, and it subordinates our tribal

1 sovereignty to local county governments and city
2 governments. That is not acceptable. That's not
3 acceptable for the trustee of American Indians to
4 even be promoting that. It's amazing in this day
5 and age that that's even coming out of the
6 Department of Interior.

7 The draft identifies ramifications of
8 applications that do not adequately address the
9 forms required, at no point is adequately defined.
10 So again, becomes more subjective. Regulation
11 requirements cannot be subjective. As it stands,
12 the subjective nature of the draft regulation
13 revisions would frustrate the process and create
14 unnecessary delays and litigation. The Department
15 of Interior is wrong to insert gaming considerations
16 into the fee's trust process. We have an IGRA for
17 that.

18 In consultation. While my tribe
19 appreciates the Department of Interior has included
20 reference to consultation, we respectfully remind
21 the Department that the spirit of tribal
22 consultation is only met when tribes are able to
23 engage in meaningful dialogue with federal
24 government, enabling the federal government to best
25 meet its trust responsibilities best.

1 In this case, the Department is not
2 allowing tribes adequate time to review the matter
3 or analyze impacts. The Department is proposing to
4 leave most tribes out of the consultation process.
5 Having participated in dozen of consultations, and
6 having helped facilitate these on behalf of the
7 administration, I detect the current process as a
8 backtrack. Our hope is it is not to approve a
9 foregone conclusion and that you cherry-pick what
10 you hear today and the messages that might support
11 what you're proposing are then allocated, and those
12 messages that contradict it are left on the floor.

13 I'm requesting consultations in each of
14 the twelve NCAI regions across the country, and hold
15 at least a few web-based consultation sessions to
16 allow all tribes to participate, not based on their
17 economic ability to get to these sessions in the
18 first place.

19 So in conclusion, the Trump administration
20 promised to remember the forgotten people of
21 America. We hope that you can deliver on that
22 promise. The Department of Interior's proposed
23 revisions will create new barriers to off-
24 reservation land acquisition that are directly
25 contrary to the purpose of the Indian Reorganization

1 Act, and also contrary to IGRA.

2 Overall, the draft is poorly written,
3 creates opportunities for subjective determinations,
4 and will create needless delays and increased
5 denials. We respectfully urge the federal
6 government to recognize that changes to tribal
7 acquisition laws, policies, and/or regulations will
8 significantly and directly impact tribal
9 governments. I'm not concerned about local
10 governments, I'm concerned about tribal governments.
11 Changes cannot be made in good faith without the
12 thorough consultation of all federally recognized
13 tribes, and reasonable economic, cultural, religious
14 and governmental services impact determinations.

15 I also just wanted to point out the
16 inconsistency with -- I've been invited to the White
17 House several times now under this new
18 administration, and the constant mantra is de-
19 regulation. Everything that's being proposed is to
20 become more regulatory, more regulations, more
21 bureaucracy, more steps. So it's interesting,
22 because the administration wants to deregulate and
23 become less bureaucratic on the conservative mantra.
24 When it comes to other issues, or acquiring our
25 natural resources or negotiating sale of our natural

1 resources, Trump wants to become more regulatory,
2 more burdensome and restrictive when it comes to
3 land and trust, which is in the spirit of the Indian
4 Reorganization Act.

5 So finally, I do want to thank you for
6 coming here, it can't be easy, and listening to us.
7 But earlier on the trader regulations we went
8 through and detailed the constitutions to date.
9 We're talking almost a whole year over that process
10 for something that's a win-win, an easy one. And so
11 if that one, a win-win, is stretched out over almost
12 a year, than having three sessions in one month, one
13 of them, by the way, being the proposed White House
14 tribal summit, which means law and tribal leaders
15 aren't going to be able to go, is not -- so if you
16 can carry back the message that if there's any
17 redeeming quality of what's being proposed to the
18 administration, tribes have to have the opportunity
19 to respond to that. So with that, thank you.

20 **MS. MCCOVEY:** Lana McCovey, Yurok tribe.
21 So I just want to say that our reservation was
22 created by an act of Congress. And in doing so, our
23 acreage was very limited. When we -- when our
24 reservation was created, we only owned less than 30
25 percent of it. So we are in the process of

1 reacquiring our lands. And those lands are not
2 limited to just what was designated as our
3 reservation. We are also trying to reacquire our
4 aboriginal territory, which is important to us
5 because of our natural resources and our cultural
6 sites, which were left out of this process.

7 We want to also say that the FETA trust
8 process is more than just gaming, which this seems
9 to be focused on. The Yurok tribe believes that the
10 Department should approve off-reservation trust
11 applications where the land is within the tribe's
12 aboriginal territory. And it should be expedited.
13 Especially when there's no change in the use of the
14 land.

15 Sorry, I tried to downsize this to give
16 everyone a chance to talk. One of the things that
17 was really evident in this is that the requirement
18 to do MOUs with the local governments. You may think
19 that this is something good, but for Yurok, this
20 doesn't work. When they're made mandatory, it
21 doesn't help to facilitate, you know, or improve
22 relationships. What it has done for us is hold us
23 hostage.

24 We have the counties not wanting to enter
25 into MOUs with us because they feel as though

1 they're losing their taxes, that they believe that
2 they deserve money from us to provide services which
3 they don't provide. I mean, it's just -- we're in a
4 real community, and we -- even though we're a poor
5 tribe, we respond first. We respond first in fire,
6 we respond first in public safety, in social
7 services, all of it. We are the ones that provide
8 the services. And the local governments, they
9 don't. So we -- okay, that's all I'm going to say
10 right now. Thank you.

11 **MR. ALLEN:** Good morning, John. Ron
12 Allen, chairman of the Jamestown S'Klallam tribe and
13 treasurer for NCAI. I rise primarily in opposition
14 to this proposal. This is a bad proposal, and this
15 is contrary to the conversation we just had this
16 morning with regard to the Indian Trader Act
17 taxation, jurisdiction, and tribes -- helping tribes
18 move our agenda forward.

19 So there's so -- these are so
20 inconsistent, it just boggles my mind. And before I
21 get to my comments, you know, sometimes we always
22 say, no disrespect. I tell you right now, in
23 disrespect, this is just wrong. The proposal on the
24 table is wrong. It's, as the previous speakers have
25 already said, it's contrary to everything we've been

1 doing for 50 years. 50 years we've been trying to
2 restore our sovereignty, restore our land base,
3 restore our authority, restore everything that we're
4 doing. This proposal stops everything. Quite
5 frankly, it stops everything we've accomplished.
6 Now, this administration hates the past
7 administration. We get that. But too bad. It
8 doesn't -- with regard to Indian country, we don't
9 care if you're Democrat or Republican. We don't
10 care.

11 **SPEAKER:** There it is.

12 **MR. ALLEN:** We don't care. We care about
13 our agenda. And our land is our land; we want it
14 back. We want as much back as we can get. We can't
15 get a lot. And, quite frankly, things in here, you
16 know, what happens to the current applications? Do
17 we go back to square one after all the work we've
18 done? You know, Brian talked about one that took
19 ten years. I can tell you about ones that took
20 longer. It's just ridiculous. All we were trying to
21 do is improve the process and improve the competency
22 here.

23 So the comment that was made earlier about
24 the -- get the government out of the way,
25 deregulate. Well, that's not what this does, it

1 empowers the local governments around us. That's not
2 what -- you know, that's just wrong. You know,
3 that's not recognizing our sovereignty. So it's
4 inconsistent with the secretary's mission and
5 commitment to Indian country. So we're going, what
6 are you doing here?

7 I guarantee you, 99 percent, if not 100
8 percent of those local governments and state
9 governments will object to it. They want our money,
10 they want control over what we do with our land.
11 They will try to stop it. There will be all kinds
12 of frivolous lawsuits by non-Indian entities to stop
13 it. Don't open that door for those guys. That's
14 just crazy stuff. I mean, that's just contrary to
15 what you're trying to do to empower us to get our
16 land back.

17 And, you know, sometimes you say you can
18 get caught up in, well, let's have a conversation
19 about the off-reservation gaming. You know as well
20 as anybody here, John, we got a lot of large land-
21 based tribes, and we got a very small land base that
22 are scattered and trying to restore our sovereignty.
23 They can't always be adjacent. Some of them are
24 proclaimed reservations, some of them are in trust
25 added, and sometimes we would like to join them

1 together, but because of our success, these non-
2 Indian entities out there think that we got this
3 bottomless well of money and the price of those
4 properties that we want back go way up and we can't
5 get them back. And so that's a huge problem for us.

6 So as already been stated, we're buying
7 our land back for culture reasons, religious
8 reasons, housing reasons, conservation reasons,
9 economic development reasons, infrastructure
10 reasons, and on down the line. So quite frankly,
11 what we want to do with our property is our call.

12 So as I mentioned earlier, and I can't
13 remember if you were here when I made the comment
14 about the taxing issue, one county has one set of
15 rules with regard to what goes on, another county
16 has another set of rules, and they are in conflict;
17 they have a different opinion. I don't need
18 somebody out there telling me what I need to do with
19 my property. As long as I'm being a good steward of
20 the resource.

21 And that's one thing you'll find, we are
22 good stewards with regard to our land and the use of
23 our land and the appropriateness of it. And quite
24 frankly, you know, that we want that respect. So
25 again, like Brian said, go back to Secretary Zinke's

1 comment, respect. Respect that we know how to
2 govern. We know how to use our land. So respect
3 that. We want our land back.

4 You should help us move that process along
5 so that we can use that land for the benefit of our
6 community, regardless of what its use is. We might
7 buy a piece of property we're not even sure what's
8 going to happen to it. But quite frankly, I can
9 show you all kinds of counties and states that they
10 don't know what they're going to do with their
11 property until further down the road. I don't need
12 to come back to you for approval how I'm going to
13 use that property. That's my call.

14 You know, I'm going to testify, John --
15 or, excuse me, I'm going to write my comments on
16 behalf of my tribe, and I know my sister tribes are
17 going to do the same thing. The timing's terrible.
18 December 15th? Oh my God, ten days before
19 Christmas? That's the kind of Christmas present
20 you're going to give us? I don't think so.

21 You need to extend this thing for, you
22 know, 60 days way beyond Christmas so we have more
23 time to vet this thing, you have more time to
24 consult with Indian country. Because the timing's
25 terrible with regard to how you're engaging with

1 Indian country and how we're going to talk about
2 really a better way of doing business.

3 So how do we improve this process and not
4 to empower those are who anti-Indian, those who are
5 opposed to what we're trying to do in order to
6 become self-reliant? And my comment this morning is
7 that we are -- we've had lots of successes. But all
8 of a sudden one of our successes is reacquiring our
9 homelands for multiple reasons. As I already said,
10 all of a sudden we're going to stop that, we're
11 going to slow that down. So what the previous
12 administration did was empower the local components
13 at the regional offices to take that land into trust
14 if it's non-gaming, okay? If it's non-gaming.

15 So retain that power there. They know the
16 tribes in their respective region better than you do
17 in Washington, DC. Washington, DC is where things
18 go to stop. So quite frankly -- you know, and
19 that's what this president said. So, you know, get
20 the hell out of the way.

21 So you know that -- that's kind of where
22 we are, guys. And we -- we think that your
23 regulation should reflect that. You should be
24 getting out of the way. Recognize the tribes'
25 authority to -- trust us. You're our trustee, trust

1 us. And trust our ability to do our job in order to
2 manage our affairs. We are strong governments.

3 Now, this is not 50 years ago where we
4 were still wondering exactly what our authority was.
5 We're now in the 21st Century, and we know what our
6 authority is, and we're really strong. Sometimes I'm
7 worried that the current things that are coming out
8 of Congress and coming out of Washington, DC is
9 because we're too successful, we're too powerful
10 now, we have too much of a strong voice, and we
11 gotta suppress them.

12 My old buddy Joe Gilcross used to say, you
13 know, sometimes they want to keep us -- keep us like
14 we don't know where we are, we don't know what we
15 need. That ain't true anymore. And we have shook
16 that -- that burden -- that burden off of our
17 shoulders now, and now we're moving strong forward.

18 I want to finish by -- you know, your
19 testimony, John, last week really bothered me. In it
20 was -- you know, it doesn't comment in there, but
21 inside it you made a reference to, you know, what's
22 going on with the gaming industry and the influences
23 on our tribal community. And it really disturbed
24 me.

25 Now, maybe I didn't fully understand the

1 way you said it, but the mere fact that it's in your
2 testimony, the mere fact that you said it verbally
3 about the organized crime and the prostitution and
4 the human trafficking and drug cartels and stuff
5 that's going on out there, as if it's relevant to
6 our casinos and our properties and our operation.

7 We have -- we have properties of great
8 integrity. We run our shops with the utmost
9 integrity to the patrons that we see in order to do
10 business on our properties. We don't see that. We
11 work with John Geerbach here with NIGC and his
12 colleagues, and our own tribal gaming regulatory
13 agents. We do a great job of assuring the integrity
14 what goes on with our property. None of that stuff
15 that we heard back in the '90s is true.

16 And I don't want to see that re -- I don't
17 want anybody in Washington, DC to think that,
18 because we will push you back and say no, that's not
19 what's happening on our property. We take care. Do
20 we have some challenges? Who doesn't? You been to
21 Vegas lately? You know? So, you know, the issue
22 here -- so I'm trying to be -- I'll finish, I
23 apologize for being so passionate about this, but I
24 am passionate about it, and I shouldn't apologize
25 for it. So --

1 **SPEAKER:** Drop the microphone.

2 **(Laughter.)**

3 **MR. ALLEN:** Okay, I don't want to be
4 overtheatrical. I'm being advised by my advisors
5 back here. Anyhow, John, so I'm done. I think you
6 get the message. The message is my colleagues that
7 already shared some specific issues and I know more
8 will come. You know, we gotta get you guys to
9 understand the realities of Indian country. We need
10 you to be our friend. You need -- we need you to be
11 our partner. We need you to work on getting stuff
12 out of the way, recognizing our authority, so we can
13 do our job.

14 You know, so it's -- we have a big
15 challenge in front of us. One of the things that
16 I've observed, you know, in my 40 years as a tribal
17 chairman, is great success in our last 40 years, but
18 that success reveals how much more we need to do.
19 We have a long ways to go to serve our people. And
20 so even those tribes that you can say are amazingly
21 successful, they have more to do.

22 So -- and then the others who are still
23 trying to get into a self-reliant status, they
24 realize how far they have to go in order to be able
25 to serve our people. So I'll leave it at that,

1 John. I want you guys to step back and deliberate
2 on this proposal with us more responsibly and more
3 deliberately to the interest of the tribes. Thanks,
4 John.

5 **MR. TAHSUDA:** If I can just throw a couple
6 of things in there, 'cause I do want this to be a
7 little bit of a give and flow. So I don't want you
8 to think I'm up here just listening like a stone
9 wall and not hearing what you're saying.

10 So I think it's important -- it's really
11 important to us, first of all, that we have to
12 follow the law. And so there are requirements in
13 IGRA, there are requirements under our regulations
14 for land into trust that we're required to follow.
15 And what we're really talking about in the few
16 things that we're shooting for with this, and one of
17 these is making sure that we are really following
18 the law the way we're supposed to. And when we
19 don't, we've seen some bad consequences; we've had
20 some bad court cases.

21 We're trying to make sure that -- that we
22 have considered all the things that we're supposed
23 to consider adequately, flesh them out and make sure
24 that if they ever come under review, we're not going
25 to have failed you in our part of the process in

1 reviewing the application. So that's part of it I
2 want to make sure we have out there.

3 And there's a lot of comments I just want
4 to make sure you understand, a lot of comments about
5 the MOUs, the memorandums of understanding.
6 Conceptually for us, and again, this is all concept,
7 but this is not -- this would not be a requirement,
8 this would be something to say that if you have
9 those in place, that can facilitate the process
10 faster and better. And it kind of goes along this
11 line.

12 If you look at one of the requirements for
13 a two-part determination, it impacts the local
14 communities and also in our regulations. And I
15 don't know if you -- so if you listened to my
16 testimony the other day, I tried to get to this,
17 what part of the thought process is that it can be
18 difficult to measure impacts to the local
19 communities, the non-Indian community. And that's a
20 challenge that we have.

21 But if you and the local community have
22 reached an agreement on how you've addressed
23 impacts, that kind of answers the question for us.
24 There's no question if you've addressed it, because
25 the two of you have agreed that you have.

1 And so that just sort of goes to saying
2 that you've reached an MOU; that facilitates the
3 approval process for us, and that you have helped us
4 address that criteria that we're supposed to
5 address. And that's all that that's really intended
6 to reflect. If you don't use MOUs to address local
7 impacts, we still have to go through the process, we
8 still have to do -- you know, weigh the
9 considerations that are on the impacts, etcetera.

10 It's just that if you do that, you've kind
11 of taken it into in your own hands and addressed it
12 with the local communities in the way that the two
13 of you think best. At least that's the way that
14 we're looking at it, and I'm looking at it.

15 And I also wanted to go back to the
16 hearing. So the reference to crime is an
17 interesting one. So when IGRA was enacted and there
18 was a lot of consternation, the discussion was about
19 organized crime and where's that going to
20 infiltrate, basically tribal casinos, and that the
21 real beneficiary would not be the tribes, it would
22 be some Mafia-like, you know, organization.

23 And yes, we have absolutely addressed
24 that. I think the Department of Justice has
25 testified a number of times over the years that

1 there's never been evidence proven of any kind of
2 organized infiltration of tribal gaming. So we've
3 addressed that question. So what is coming up now,
4 and it came up at the hearing, I think both the NCAI
5 chairman and I were both asked questions about crime
6 happening at casinos, though. And I think it's
7 something that we can't get hung up on, but I think
8 we have to understand it is a real factor.

9 And part of it's just traffic. When you
10 have more people coming into an area, whether it's
11 for a casino, a concert venue, you know, anything
12 that has a lot more traffic, by definition you have
13 more people, you're going to have more opportunity
14 for those elements to come with them.

15 So the questions that we're getting, and
16 one of the things that, again, I think so that we
17 can sure we're adequately doing our job, is to ask
18 ourselves, and ask through the process, you know, is
19 this an issue that's been addressed, is it being
20 addressed, you know, is it appropriate to address
21 it. You know, I don't know. I mean -- but so this
22 -- that's where that question came up.

23 And I think, you know, if you think it's
24 totally inappropriate, and that it's totally
25 addressed by the tribe, then that would be good

1 information for us to know. We have had comments,
2 pleas from tribes, you know, around the country,
3 they're being impacted by opioid. First we had the
4 meth epidemic, right, that invaded the reservations;
5 now we have this opioid thing going on.

6 So again, when you have high traffic areas
7 and lots of people, transient, coming into the
8 reservation, that's an opportunity for those
9 elements to follow them right on in. And so -- I
10 mean, it's -- this is anecdotally, and we'd love to
11 get comments and actual substance, but it sounds
12 like that this is an issue that we need to think
13 about.

14 And we're working -- I thought I saw
15 Charlie back here, he heads up our drug task force.
16 So this is something that we're really struggling
17 with. And we have a number of tribes that have
18 reached out to us for assistance so we can try to
19 bring greater federal presence to address this gang
20 and opioid and meth crisis that's happening on their
21 particular reservation. So that was aimed at making
22 sure we address that question from the centers and
23 let them know that we're trying to do what we can on
24 that front as well. Thank you. Sir?

25 **MR. WILLIAMS:** My name is Michael

1 Williams. I'm on the tribal council in a small
2 village in Akiak, Alaska. There are 229 tribes
3 north of the state of Washington. Trust lands are
4 vital to native self-determination. As you are well
5 aware, trust lands have been long keystone of
6 federal Indian policy. They enhance tribal self-
7 determination generally by helping tribes solidify
8 our land base, protecting homelands from alienation,
9 and allowing for more comprehensive exercise of
10 governmental authority over internal affairs and
11 tribal lands.

12 Tribes as a most -- as a most immediate
13 and accessible form of local government are far
14 better position to know how best to allocate
15 resources for the community's needs, or how to deal
16 with the offenders and affect culture in relevant
17 ways. Presently, the Alaskan native tribes and
18 individuals own well more than one million acres of
19 free land. Some of the lands are transferred to
20 tribes under Section 14C of the Alaskan Native
21 Claims Settlement Act of 1971. Some of these lands
22 are otherwise transferred by Alaskan native
23 incorporation village, corporations to tribes, and
24 others were acquired by gift or purchase.

25 In addition to these fee lands, Alaskan

1 natives also received Alaskan rates through the
2 Alaskan Native Townside Act and the Alaskan Native
3 Allotment Act. These lands are held in restricted
4 fee status and cannot be alienated with the -- the
5 consent of the secretary of interior. However,
6 because of lack of formal trust status, the state of
7 Alaska refuses to recognize town sites and
8 allotments as Indian country.

9 The fee lands currently in Alaska Native
10 ownership land lack even the basic protections
11 afforded to undeveloped free lands held by Alaskan
12 Native corporations and village and regional
13 corporations. While undeveloped corporate land is
14 protected via federal statutes, Alaska native free
15 lands can be taxed, foreclosed upon, adversely
16 possessed, and subject to imminent domain
17 proceedings.

18 The Alaska tribes, like all other
19 federally recognized tribes, have a paramount
20 interest in securing a land base, and having such a
21 land base protected through trust status. The
22 secretary's proposed rule would assist Alaska
23 Natives, providing them land base necessary to
24 promote village, level economic development,
25 including the development of housing projects and

1 public works projects of tribal governments, as well
2 as provide desperately needed public safety services
3 to America's most remote communities.

4 Trust lands are vital to address the
5 public safety crisis in rural Alaska. We're having
6 a real tough time up there because in my region,
7 there's only nine village public safety officers,
8 and the rest -- there's a whole lot of villages
9 without any public safety at all. But, you know, we
10 have the highest suicide rates, highest rates of
11 domestic violence, highest rates of sexually --
12 sexual abuse in the country.

13 And I just wanted to say that a change is
14 long overdue. Tribal governments, I think, are
15 trying to effectuate that change in Alaska and --
16 but first, well, we need to acquire a land base.
17 And in the issue of the -- on the issue of off-
18 reservation acquisitions, this section provides the
19 criteria by which an off-reservation trust petition
20 is weighed. And we have had that Alaska exception.
21 But that in turn we have -- we have passed that now.

22 And, you know, it's wonderful to see that
23 we are past some of those roadblocks that were in
24 front of us. And, you know, I think the
25 acquisitions for Indian community, all potential

1 trust acquisitions will be off reservation. Given
2 this reality, the secretary should take into
3 consideration that many of the existing provisions,
4 Section 151.11, do not adequately take Alaskan
5 native land holdings into account.

6 For example, Section 151.11(b) provides that
7 the secretary consider a potential off-reservation
8 act in light of the location of the land relative to
9 safe boundaries and its distance of the boundaries
10 of the tribe's reservation shall be considered as
11 follows: As the distance between the tribe's
12 reservation and the land to be acquired increases,
13 the secretary shall give greater scrutiny to the
14 tribe's justification of anticipated benefits from
15 the acquisition.

16 The secretary shall give greater weight to
17 the concerns raised pursuant to paragraph D of this
18 section, because the only reservation within the
19 state of Alaska belongs to Metacotta (phonetic)
20 Indian community. The other 228 federally
21 recognized tribes will be disadvantaged in any
22 criteria in which I ask the secretary to weigh the
23 distance from the boundaries of the tribe's
24 reservation when considering our trust petition.

25 Again, this provision demonstrates that

1 the criteria by which trust petitions are judged
2 were written with the lower 48 mind-set. To work in
3 Alaska, they should be revised to reflect the lack
4 of reservation in the state.

5 Conclusion. What the Alaska tribal
6 community seeks is choice. We seek the right to
7 decide for ourselves whether trust land status is in
8 the best interests of our tribes and our tribal
9 communities. Given the choice, some tribes may
10 conclude that it may be in their best interests to
11 have local lands to be in corporate ownership.
12 Others may conclude it is in their best interests to
13 have their tribal lands be in the fee simple
14 ownership.

15 But some will decide it is in their best
16 interests to have their lands protected through
17 federal trust status. And that choice should be
18 ours alone to make. This is the heart of tribal
19 self-determination and self-governance. Tribes in
20 Alaska deserve the opportunity to maximize their
21 self-determination just as much as any other tribes
22 in America.

23 For these reasons, I strongly urge the
24 secretary to complete and publish these final rules
25 on trust acquisition in Alaska so that we may begin

1 a new chapter in our government-to-government
2 relationship. So it's very, very important that
3 there are no exceptions in these rules. And those
4 are my comments. And we will be presenting the
5 written comments. Thank you very much.

6 **MR. FORSMAN:** Leonard Forsman, chairman of
7 the Suquamish tribe and president of Lake Tribal.
8 And just wanted to emphasize the empowering of local
9 governments to get involved in our trust
10 relationship is a bad idea. Many of these local
11 governments are anti-tribal; we've had to fight
12 really hard in our local area, and other tribes are
13 continuing to do that, where we have local
14 governments that won't even recognize tribes as
15 existing.

16 And when we start from that place, it's
17 kind of hard to have a diplomatic relationship that
18 the federal government seems to be encouraging. So
19 I think it's very important that many of the other
20 people have spoken to this, but back in the early
21 days of our government-to-government relationships,
22 which have improved greatly over the last three
23 decades, mainly through our work and our money, we
24 had county commissioners who were writing John
25 McCain when he was on the senate committee of Indian

1 Affairs, on why are you even recognizing this tribe
2 as a government.

3 So we started from that low point. So we
4 have to be very careful how that's done. And I
5 think this issue of off-reservation of land and
6 trust between the federal government and the tribes,
7 and the process of the love, love, love, those have
8 been mentioned. And I think, just for an example,
9 is this kind of early application without a lot of
10 data has kind of been a ripe opportunity for
11 somebody to exercise veto power within the federal
12 government.

13 So I think that's a small example of how
14 you could use a very short application to have a
15 very short answer, which would be no. So on behalf
16 of the Suquamish, we are really concerned and hope
17 you will extend the comment period and revisit the
18 regulations as presented. You had your hand up,
19 sir, earlier.

20 **SPEAKER:** Good day. I'm here on behalf of
21 the Yakama nation. What's being proposed could be
22 seen as, from Yakama nation's perspective, as an act
23 of domination and dehumanization. But we'll leave
24 that till a little bit later. But today my nation
25 speaks as opposed to what's being proposed right

1 now.

2 Going back to the treaty that was signed
3 with the United States and the Yakama nation back in
4 1855, ratified in 1859, there was a time when
5 there's a really beautiful place to the play along
6 the Columbia river. We had what was known as a
7 tribal, a huge trading place in the northwest. And
8 so we used that as a place of living, as a way of
9 life that we had. And because of the treaty, we
10 were moved to the reservations in north central
11 Washington, but our people stayed along the Columbia
12 river to maintain their livelihood.

13 And so since then, we recognize and
14 understood that, and we put provisions in the treaty
15 to allow us usual custom, fishing, hunting, what
16 have you. So all along the Columbia river, we what
17 now is called elucites, where fisherman can go and
18 gather, do what they're supposed to do for
19 subsistence. We had that because of the dam that
20 was put there in 1952. And I'm bringing this all
21 together because our people are still there.
22 Irregardless of what's being done by the dam, we
23 remain.

24 And so because we're still there, our
25 people still live there and our reservation was

1 located where it is today. You know, we still have
2 members actively living along the Columbia river.
3 And so what we're doing now is we are creating
4 communities from using funds to create housing along
5 the Columbia river. And that's coming out of our
6 pocket.

7 And so this idea of limiting trust lands,
8 when those are our lands previously, limits our
9 capability of our people. And so we will continue
10 to provide housing, social needs for our people
11 along the Columbia river. We're the largest tribe
12 in the northwest, with large membership, and the
13 current capacity of our reservation is limited.
14 There's spaces on our reservation where water is not
15 accessible. And so we need to expand where we place
16 our tribal members. And we'd like to go back to
17 where it was before.

18 And so we will continue to do that.
19 Irregardless of the trust status, we will continue
20 to expand where our people live, going back to their
21 homelands. Right now we have housing that should be
22 finished within about another year-and-a-half along
23 the Columbia river in the dalport (phonetic) area,
24 but that land's not in trust and so we just bought
25 it ourselves. And we're going to provide that.

1 Along with that, they need jobs to pay for
2 rent. And so we're looking at economic development
3 all along the river, irregardless of the status. It
4 helps, but, you know, we look forward to that fight
5 because, you know, recently the nation won a case
6 where the right to tribal trade, it was acknowledged
7 within our treaty. So we speak today against what's
8 being proposed. We do ask that it be extended, the
9 timeline. Irregardless, you have to do what's in the
10 best interests for our people. Thank you.

11 **MS. ONNEN:** Good afternoon. My name is
12 Liana Onnen, I'm the chairwoman of the Prairie
13 Potawatomi nation; I'm also regional vice president
14 southwest -- southwest -- for the Plains region for
15 NCAI, area vice president. I'm going to reiterate
16 some things because I think repetition is good. I'm
17 going to start by saying things that I've heard
18 folks in this audience, because I hear them and
19 repeat, you are our trustee. These conversations
20 again about state and local governments having input
21 and concern for their input.

22 My background is, I was a housing director
23 for my tribe, and I was the general manager of
24 tribal operations for my tribe before I took this
25 job. So I've been on the ground when we processed

1 trust applications off and on for 15 years. This
2 concept that somehow these local governments don't
3 have enough say, I don't know where that's coming
4 from.

5 Because my experience is, back 15, 20
6 years ago, people in my state and my local
7 communities were contesting trust applications on
8 reservations. We had to fight with them to get on-
9 reservation contiguous pieces put into trust. So
10 when we go back to talking about having these
11 conversations with local government and making sure
12 we have their input, it is troubling for us. We've
13 had to fight to come a long way. Whether we had to
14 fight here, whether we had to fight back home with
15 our states, whether we had to massage those
16 relationships and get them to a place where they're
17 not doing this anymore, it feels like we're going to
18 open up another can of worms and we're going to get
19 them back in this habit of contesting everything.
20 At least that's the fear.

21 I think that so much concern for those, I
22 guess the question that I have really, and you don't
23 have to answer it today, is can you explain to me
24 how these regulations help us? Because I don't see
25 that. Now the intention may be there, but I don't

1 know where that's at. So tell me where that's it.
2 Show us that. Because I don't see it. It seems to
3 help the Interior and a lot of local governments,
4 but -- and you're saying you're trying to reduce the
5 burden on tribes, but it really feels like the
6 burden's being increased on tribes and taken off of
7 Interior and somewhat off of local governments,
8 making things easier.

9 Perhaps that isn't the intent. If it
10 isn't, please show us that. That's my request to
11 you today. I would also caution you to don't mix
12 metaphors. And when I say that what I mean is,
13 let's be clear about IRA and IGRA. Let's not mix
14 those two things together. If I'm correct, nothing
15 in this section shall effect or diminish the
16 authority and responsibility of the secretary to
17 take land into trust. That's in there.

18 So I guess I just need to know more about
19 this conversation. I think we all need to know more
20 about this conversation. This is a complex issue.
21 It doesn't have any simple answers. And it feels as
22 if it's being treated as if there are simple
23 answers, like this is going to solve it. I hope
24 that's not the case. I hope this is a starting
25 point to where we continue to have conversations,

1 'cause everybody said more consultation is needed,
2 and in more areas, as my colleagues have stated.

3 And I'll take it a step further than Lance
4 and say there are tribes east of not just the
5 Mississippis, but the Rockies. So make sure that,
6 you know, those of us that are in the middle are
7 being considered as well. There's a financial
8 burden to traveling. There is that burden to doing
9 that. So be considerate of that so you're getting
10 everybody's input.

11 I guess I'm going to just say this. I want
12 to see us progress. I want to see progress. I don't
13 want to see us regress. And I don't think it has to
14 be, but for us to find a solution that works for
15 everyone, there has to be a great deal more
16 consultation on this. And so I will just finish
17 with that. Thank you.

18 **MR. CLEVELAND:** Aho. Good morning to each
19 one of you, and recognize each one of you for being
20 here for this consultation. And my name is Wilfrid
21 Cleveland from the HoChunk Nation here in the heart
22 of Wisconsin. And so it's good to see this many
23 people come over here for this occasion.

24 And this issue that we're talking about
25 here, we've been dealing with that ever since the

1 IRA came into being. And we don't have a
2 reservation here in Wisconsin, and we have
3 communities throughout the lower two-thirds of
4 Wisconsin here. We -- at one time our stewardship
5 over this land was from where it is presently, the
6 Twin Cities to Green Bay, south to -- into the
7 northern part of Illinois and Iowa. That's where
8 the HoChunks were stewards at one time.

9 But over the years, the federal government
10 thought it would be a good idea to put all
11 indigenous people west of the Mississippi. And so
12 they -- they've been trying to do that for quite
13 some time with our HoChunk people and never were
14 successful. So they finally gave it up and gave us
15 some trust lands here in this area. And because of
16 this trust applications that have been going on
17 since that time, we have several communities that
18 we've been able to establish since that time. And
19 there's probably approximately five or six large
20 communities that we have in this area.

21 And through that we've also been able to,
22 because of these trust lands, it was basically for
23 homes, what it was, and through that then we've also
24 had to be able to -- we were able to have like Head
25 Starts, tribal aging facilities, expanded our -- we

1 were able to expand our -- our land base through
2 these trust applications. And there's a question
3 that I was thinking about for -- for a while here,
4 and it's been asked and it was mentioned, is I was
5 wondering who is -- who's the BIA supporting, was my
6 thought.

7 My original thought was that they were
8 here, they were put on here to support and -- our
9 indigenous people's interest. But this here go-
10 round that brought me up to that question, because
11 from what it looks like, they've -- it was mentioned
12 earlier too in our -- in our conversation that
13 things are going to be streamlined and -- and it
14 seems to have been done. However, that
15 streamlining, it took the -- it took the
16 applications from the regional office and sent them
17 straight to Washington, DC And in that there, then
18 all these other added -- added stipulations were put
19 on us as people are trying to have an application
20 here.

21 And it almost makes it near -- near
22 impossible if these -- if these stipulations were in
23 there back when the IRA was first put together, we
24 wouldn't have this -- we wouldn't have these
25 building sites that we do here around the state of

1 Wisconsin, and we wouldn't have -- we wouldn't have
2 all these -- all these land base for -- to assist
3 our tribe members that are so widespread in this
4 area.

5 And so that -- I guess that's one of the
6 concerns that -- that I have. And there was also
7 the mention of -- of consultations. And that was
8 the other wondering thought in my mind, was why are
9 those all on the west coast and none here. Like even
10 someone mentioned east of the Rockies. So those were
11 the kind of thoughts that I had that -- and so
12 thinking about all this.

13 And also in there, in the -- in this
14 conversation that thing had today was the -- the
15 concern for us indigenous people that do not have a
16 reservation but is nowhere written in the CFR that
17 we are going to be able to continue on with these
18 kinds of applications. And those of us that don't
19 have reservations, I see that as a real problem
20 going forward. I guess there's maybe the idea of
21 streamlining and then the stipulations that go on
22 kind of brings a thought of like a mistrust,
23 mistrust to the direction that the BIA is going
24 today and that they are -- they are being like a
25 dictator. I would even go that far in saying this

1 is the way that it's going to be.

2 And then we have this consultation here
3 today and kind of very quickly thrown together. And
4 because there was going to be a lot of indigenous
5 people here for this meeting, and then that's going
6 to take care of everything, which I really don't
7 agree with. And then the question also is so what's
8 going to happen to all this -- all these comments
9 and testimonies that are being said here, going into
10 -- going into the future?

11 What, do you take this, all this
12 information back to your boss? Is that something
13 that's going to be put on a desk, okay, yes, we did
14 this for them so we can continue on in what we want
15 to do? So this is kind of what kind of thoughts
16 that come to mind as I'm standing here listening to
17 -- we all have similar -- we all have similar
18 concerns, but we're all different. We have -- and
19 just like -- and when the IRA moving forward this
20 way, I always thought that a lot of our
21 constitutions that we made to organize our
22 government was like a boilerplate, a boilerplate
23 constitution thrown out into Indian country. We
24 each tried to fix it the best way that we could. And
25 it seems like it's going to be that way with this

1 moving forward. Okay, this is how it is for you in
2 Indian country, do with what you want the best that
3 you can.

4 And so this -- I think we have to move
5 forward and say that each one of us, each one of us
6 nations here have our -- our individual concerns
7 about why this is not going to work the way that it
8 is put before us. And so I'd appreciate -- I guess
9 I appreciate this, this time here that we have to --
10 to come together and share ideas and maybe make a
11 stronger voice into the direction that -- that
12 Secretary Zinke wants for us moving forward, and he
13 would come out to Indian country and he would look
14 at what we're talking about and see -- see how we
15 are as -- as nations and sit down and talk with us
16 and have a real -- real consultation with us and our
17 homelands.

18 So this is -- at this time here, I don't
19 want to take up too much time, 'cause I know there's
20 a lot of others that would like to express some
21 words here, but I would also like to add that
22 there'll be comments forthcoming from the HoChunk
23 Nation. Aho. Thank you for listening.

24 **MR. TAHSUDA:** Thank you.

25 **MS. JOSEPH:** My name is Rachel Joseph. I'm

1 a lifetime member of the National Congress since the
2 '70s. My comments today are personal, John, as one
3 of your Indian aunties from Indian country who have
4 watched your career with admiration as you served as
5 a valued staffer of the senate Indian Affairs
6 committee, as an advocate for tribes for years, and
7 as an advocate for Indian country.

8 In my heart of hearts, I believe not only
9 did you hear what was said today, I believe that you
10 agree with most of what has been said. So my plea
11 and concern to you today, as one of your aunties who
12 cares about you, is that whoever's advancing this
13 agenda, don't let them compromise who you are. When
14 the process is completed, those of us that know you
15 believe that you will do what you do and will do
16 what you need to do to ensure that the tribes do not
17 go backwards. Be there for us and continue to be
18 the advocate that you have always been. Thank you
19 for your time, and thank you for your time.

20 **MR. TAHSUDA:** So we were supposed to end
21 at twelve, but John has said we can keep going, so
22 we'd like to do that. But you'll have to excuse me
23 for a couple minutes. Do you want to keep going and
24 give your comments, or you want to take a two-minute
25 break and I'll be right back?

1 **MR. CLARKE:** I'll be real quick.

2 **SPEAKER:** I'm hungry too.

3 **MR. TAHSUDA:** So we'll take like a quick
4 two-minute break, and then we'll come back.

5 **MR. CLARKE:** You sure?

6 **MR. TAHSUDA:** Yes.

7 **MR. CLARKE:** I'll be shorter than two.
8 Timing. You can time me. Damon Clarke, Hualapai
9 nation. Our heartland is from, you know, the
10 Hualapai nation, but there are many people out there
11 that are really, really nice and they're giving
12 lands to us, they're giving it to us, and we're --
13 we don't know how to respond. We don't know how to
14 say no because it's hard to say no to get lands
15 back. We even got lands in Nevada. Can you believe
16 that? We're in Arizona, but we got lands in Nevada.

17 Our biggest challenge today for you is to
18 hear there's time limits. There shouldn't be no
19 time limits. Because when Arizona was bought,
20 California was bought by the United States from
21 Mexico. Where were we? We didn't get involved with
22 that. It was bought from Mexico. It wasn't bought
23 from Mexico, it wasn't bought from Hualapai,
24 Yavapai, Supai, Navajo, anybody else. It wasn't
25 bought. It was bought from Mexico. Where were we?

1 Now we got lands in Nevada, but what do we
2 do with that? We can't put that into trust, but
3 that's our land. We also have lands that were just
4 given a little while ago, 40 acres, 40 acres, and we
5 don't know what to do with that. We don't know if
6 we're going to say yes or no. But the Trump
7 administration said this, right? They said make
8 America great again. This is one thing with one of
9 our tribal members said, make America great again,
10 give it back to the natives.

11 **SPEAKER:** Hasay. Hill Oneida nation
12 chairman. Just got a prepared statement to read
13 quick; hopefully it won't take as long. The Oneida
14 Nation Wisconsin is pleased to be here concerning
15 the Department of Interior's consultation draft
16 amendments 2.5, 51.11, and 51.12, the regulations
17 dealing with trust acquisition of lands outside of
18 and noncontiguous with tribe's reservations. And
19 the process by which the FETA trust applications are
20 considered.

21 The proposed amendments to the 151.12
22 would have a negative impact on Oneida nation for
23 trust acquisitions of lands located on or contiguous
24 to the Oneida reservation. In addition, we fear the
25 proposed amendments to the 151.11 may serve as a

1 prelude to future changes to the regulation
2 concerning trust acquisitions of lands located
3 within or contiguous to the reservations.

4 As proposed, the changes to the 151.12,
5 the Department would reinstate the 30-day stay
6 before taking lands into trust after positive
7 determination has been reached. This change in
8 policy simply promotes an environment of litigation
9 rather than cooperation. Such as the policy also
10 creates an additional financial burden on tribes,
11 exposing tribes to continuous obligation to pay
12 property taxes on lands deemed eligible to be placed
13 into trust. Truly this proposal -- proposed rule
14 creates a situation where tribes would be required
15 to underwrite the litigation efforts being waged
16 against them. The reinstatement of the 30-day stay
17 also delays the time it takes for tribes to make
18 beneficial use of its land.

19 If it was just a 30-day delay, that might
20 be tolerable, but the likely practical effects of
21 this proposed approach is to delay trust acquisition
22 of land until the completion of lengthy and costly
23 litigation. While the stated objectives of the
24 proposed changes of the 151.12 has provided economic
25 benefit to tribes by giving them the opportunity to

1 begin the review process without having to incur
2 expense of procuring environmental and historical
3 reports, the proposed changes will require
4 additional analysis and impose additional costs.

5 The proposed changes require analysis of
6 whether the tribal government can effectively
7 exercise governmental and regulatory powers at the
8 proposed site. This requirement may result in the
9 Department inappropriately substituting its judgment
10 for that of the tribe with respect to tribal
11 governance. In addition the proposed changes
12 require analysis of the economic benefit to the
13 tribe and local community if the acquisition is for
14 economic development purposes.

15 This requirement suggests that the
16 Department may weigh the interests of the tribe
17 against those of the local community, although it is
18 not the role of the Department to do so. Finally,
19 the changes require analysis of the extent to which
20 the proposed acquisition will consolidate tribal
21 land holdings and reduce checkerboard jurisdiction.
22 These analysis will undoubtedly create additional
23 delays in the process.

24 We are not convinced that fragmenting the
25 process will lead to great efficiency in the

1 consideration of the fee trust application. At the
2 same time, we are concerned that the additional
3 hurdles erected by the proposed changes will lead to
4 greater costs and delays in an already lengthy
5 process.

6 While we are grateful to the Department
7 for its desire to find ways to limit the financial
8 obligations tribes must incur simply to reclaim our
9 homelands, the additional financial obligations that
10 would be incurred to the tribes should this rule go
11 into effect far outweigh any suggested benefit. And
12 we are also supportive of extending the consultation
13 process as stated many times this morning. Thank
14 you.

15 **MR. TAHSUDA:** I just want to let you know
16 our court reporter has another date, so she needs to
17 pack up and leave, but we're going to stay here a
18 little bit longer. We'll take good notes.

19 **SPEAKER:** I just want to say, from Nevada
20 tribes here, that we are totally opposed to this
21 legislation, or proposed legislation. A number of
22 reasons. First of all, when we talk about
23 consultation, really it should be driven by the
24 interests of the tribes. And really when I came
25 here and I saw a two-step process here, I thought

1 well, this is probably a way to really make things
2 easier, you know, something like that. But when I
3 started to read this, it basically says that it's
4 going to basically exclude -- it's a process of
5 exclusion.

6 Why I say that is that when we look at the
7 way the old 151 was, everybody could make
8 application. Now it says there's going to be
9 exclusion on the front end where certain tribes have
10 to meet certain requirements even before they can
11 submit an application. So right there you have
12 exclusion where they'll probably say well, you don't
13 meet these requirements, we're not going to let you
14 even get into the queue with an application. So I
15 see that as an exclusion.

16 The other part is, when we start -- we
17 know that the issue on whether or not tribes were
18 federally recognized in 1934, almost -- I'm not sure
19 the IRA tribe, Indian organization tribe, you're
20 kind of excluded there to. And it almost says that
21 we didn't agree with -- even with the lawsuit, where
22 the Bureau -- I mean where the Bureau of Interior
23 was -- when somebody sued them saying that they
24 didn't have the authority to take land into trust.

25 So when we put into this, we're basically

1 saying we agree with that. So again, it's another
2 process of exclusion by the tribes that are not IRA
3 tribes, to not be a part of this process. So you
4 see two points of exclusion within this whole
5 process here. So -- and then the other thing is
6 that the process of -- we know that in the 151
7 process, the cities and counties are notified. I
8 mean, you know, they know what we're going to do, so
9 there's no -- and common sense tells us that the
10 tribes are going to go and talk to the counties and
11 cities, because we know that they're going to have a
12 say in that. So it doesn't have to be put into a
13 rule that mandates us to do that, because we're
14 going to do that common sense-wise anyway. So I
15 don't see a need for that, because we're going to
16 try to persuade them to not oppose this the best we
17 can. So you can see those two points.

18 The other point is, if we're trying to do
19 this by Christmastime, you know, we're not going to
20 be able to get -- and the Cochran divide issue is
21 that we're going to go out, have listening sessions
22 in different areas of the United States, then we buy
23 into this whole process by going out to -- out in
24 Washington state or in the southwest.

25 And so as we let this go forward, then

1 we're basically buying into the process that we're
2 going to have more listening sessions, we're
3 basically saying yes, go ahead, and we'll throw our
4 ten cents into whatever they're proposing. That's
5 not coming from us, it's coming from the whoever, if
6 the federal government, or you, or President Trump,
7 or whoever.

8 The time that we first were transitioning
9 when we came to Washington, DC, we met with some of
10 the agencies, I think Ross Zimmer was there, and
11 right away we weren't even into the transition, they
12 were saying, well, you know, we've got some new
13 initiatives already, one was to make it easier for
14 oil and gas to come on the reservations. I'm saying
15 what the heck, is this a mini Dawes Act that's being
16 proposed here, you know?

17 So that's what was the first thought in my
18 mind when I heard at the transition time that there
19 were some people that weren't us that were proposing
20 something for us down the line. So this just seems
21 like that's where we're heading now. So I hope that
22 in this NCAI, that we pass a resolution that totally
23 opposes this, that somebody has a resolution in
24 place that either gives us more time or totally
25 opposes this, 'cause it's -- we are not ready for

1 this. It takes away from us, it excludes us, it
2 divides us. So that I think that we need to totally
3 oppose this and it has to be driven by the tribes,
4 not the federal government. So thank you.

5 **MR. BROWNEAGLE:** Dave Browneagle, Spokane
6 tribe. And I wanted to speak before everybody went
7 to lunch. You know, I -- I have a problem with
8 consultation. And I'll give you one real brief --
9 we had a consultation/listening session in Gavin.
10 And I was third on the list to speak, being an
11 elected official. And there were eight bureaucrats,
12 if you will, sitting in the front. And when the
13 first got up and spoke, one of the people who were
14 supposed to be listening had a cell phone on the
15 table and he was looking at his cell phone and
16 tapping away.

17 So I looked at the first two speakers and
18 wondered how come they didn't approach him, call him
19 on it. So he kept doing that. So I got up, I was
20 the third speaker. And I just stood there and I
21 watched this man, this gentleman. And I continued
22 to watch. And pretty soon everybody's kind of
23 getting nervous, like how come you're not talking.
24 And finally this guy who was on his cell phone looks
25 up.

1 And I said excuse me, I said, could you
2 put your cell phone away? This is our listening
3 session; you're supposed to listen. We speak. And
4 the point I'm making is yes, I've been hearing
5 everybody speak and I appreciate all the words that
6 have been shared, but the problem I have with
7 consultation is it always seems one-sided. We do
8 the speaking and the box is checked and we listened
9 to the Indians, now we'll move on.

10 Because the sessions that I've been in so
11 far is, like everybody's been saying, it's quick, it
12 seems rushed. And my theory is -- and that's all it
13 is, is a theory -- is it's already been taken care
14 of, now they just need to go out and listen to the
15 Indians on the west side as well as the east side.

16 So I don't really feel it's true
17 consultation. What I mean by that -- and I was
18 fortunate, I was around my grandmother and my elders
19 when I was a little boy and got to see a lot of what
20 I thought was consulting at that time. If there was
21 something going on with the tribe or the families,
22 they'd sit down and everybody would have their
23 opinion and they would speak and everybody listened.

24 And like I said, I was fortunate. I didn't
25 understand it at the time, but I was very fortunate,

1 I got to sit around a whole lot. 'Cause it took
2 forever for those older people, if you remember
3 that, they spoke forever, and in their language.
4 But nobody left, nobody argued, they would go hmm.
5 When they finished, the next person would get up.
6 And when it was all said and done, then the family
7 or the tribe made a decision on what was going to be
8 done for the best for the people. For the people.
9 Not for the individual. Not for one particular
10 family, but for the people.

11 And when I was growing up, I never saw one
12 individual get up and get upset and walk out. Or
13 gripe about it outside. And when you're a little
14 boy, you can get around all this stuff 'cause they
15 don't pay attention to you, they don't think you can
16 see it and hear it.

17 So the point I'm making is, you know, at
18 one time early on in the history of Euro-America and
19 Native America, or American Indian, the consultation
20 was taking place because what you needed, what we
21 needed, what you wanted, what we wanted. And that's
22 how it went. Until the Euro-American became more
23 powerful. In other words, you get on that side of
24 the river, we'll leave you alone, we'll take this
25 side of the river. But once it became powerful,

1 well, you're going to have move from your side of
2 the river and move to a little creek or whatever.

3 So sometimes I feel that's the same thing
4 we're dealing with, is we come in all these
5 listening sessions and we speak, you listen, you
6 record. And my question has always been, is it
7 already a done deal? We're just being given this
8 false sense of empowerment that we get to speak. And
9 that's how I feel until something's proven
10 otherwise, because I will never stop coming to
11 these, because everyone that you speak, I hear some
12 beautiful, powerful words, and that's empowerment,
13 from your tribe, your history, your values, your
14 belief, your people.

15 But then I have the question, where's the
16 government? Are they listening to this? And I've
17 also seen this, and I know some of you have seen
18 this too, as long as grass grows, river flows. We
19 make beautiful speeches. And those of us who
20 understand that kind of talk, it's powerful because
21 we're connecting to who we are and why we are. But
22 does the other side hear it? And here's this one
23 example. As long as the grass grows, river flows.

24 You know the joke is, well, they put
25 fences around the grass and they dammed up the

1 water. Well, here's how I take it. As long as the
2 grass grows, those are my children, my
3 grandchildren, my great-grandchildren. And as long
4 as the river flows, that's our life blood as a
5 people. So as long as my children grow and my blood
6 flows, we're still going to fight. I just want --
7 let's do more than listen.

8 Let's -- it'd be kind of nice if we had
9 some tribal representatives from all over the United
10 States, not just the west side, and we delegated
11 them because we trust them to speak for us. And
12 when you're having these sessions on how are you
13 going to help the Indian people, we have our
14 representatives sitting there with you at a
15 roundtable discussing what are we going to come up
16 with, what are we going to come up with as true
17 consultation, not let's get something set up and
18 we'll show the Indians, let them speak, okay that's
19 done, let's move on to something else. Thank you.

20 **SPEAKER:** I asked for 30 seconds more, so
21 despite the two minutes I took, I probably was only
22 1:30, so I have two minutes left reserved.

23 **MR. TAHSUDA:** You can have some of my
24 time, John.

25 **SPEAKER:** One additional comment. We have

1 pending land into trust applications. I'm sure some
2 of the people here too have that in the room. If
3 the purpose of this change in the regulations is to
4 reduce cost, we ask you to consider another cost,
5 time. You know, time doesn't wait, it continues on,
6 it moves forward, it doesn't go backwards. Every
7 day we wait for our applications to be approved,
8 there is a cost. We have to pay, you know,
9 attorneys, and the attorneys have to pay other
10 people, and we end up, you know, taking in that
11 burden.

12 Mr. Tahsuda, you can reduce that. You
13 know, we talked about phones, we talked about that.
14 Today, right now, you can do that. You can take
15 your cell phone and send an all-staff e-mail that
16 says the BIA will continue to process pending
17 applications under the existing regulations without
18 cost. Thank you.

19 **MR. MANION:** My name is Edward Manion
20 (phonetic.) And we will be submitting a written
21 testimony opposing the revisions that are being
22 proposed in the land fee, land and trust. Many of
23 the tribal leaders brought out the imperfections to
24 their policies. We agree with all those. So I'm
25 not going to go into each one of those stating why

1 we oppose it or put it in writing.

2 And the only thing I want to bring out
3 what this tribal leader brought out earlier
4 regarding processing land fee trust applications,
5 'cause we do have one pending right now from the
6 Danota (phonetic) nation. We purchased land, 134
7 acres. 54 acres was put into trust at that time a
8 year ago because it was noncontroversial. We got
9 everything settled now on the rest of the land, the
10 88 acres that we put into trust. But it's being
11 held up now because of these revisions.

12 And yet when Congress approved our
13 settlement, we purchased that land based on that
14 settlement. Within that settlement it states the
15 secretary shall take these lands into trust for
16 reservation purposes. That was the mandate from
17 Congress. So we don't see why it should be held up
18 just because we're going through a land into trust
19 revisions.

20 We still have a pending land into trust
21 law. So I hope you consider moving our land into
22 trust forward and putting in place, because it's
23 true we're wasting money in waiting, we're wasting
24 time in waiting. And time is money. So thank you.

25 **MR. TAHSUDA:** Thank you, Jerry.

1 **MR. FINLEY:** Good afternoon. Vernon
2 Finley, chairman for the Confederate and Salish and
3 Kootenai tribes. I just wanted to rise in
4 opposition to the proposed changes for all of the
5 reasons that were stated earlier in the testimonies,
6 and would like for you to, you know, consider some
7 of the comments that were made in regards to the
8 lady that spoke as your auntie.

9 You know, as elected leaders, our people
10 put a lot of trust in us to -- to do what is best
11 for them. And collectively, you have a lot of
12 leaders that are here that you're a voice for. It
13 appears from the length of time that was scheduled
14 for accepting testimony during the consultation
15 process, it appears a foregone conclusion has
16 already been made. It appears these consultation --
17 these consultations that we're going through are
18 merely going through the hoops, just check off the
19 box that says the tribes have been consulted.

20 I would hope that isn't the case. I would
21 like to give you the benefit of the doubt. I don't
22 know you. But it would be nice if you took the
23 words of your auntie to heart. There are a lot of
24 folks that are depending on the result of this
25 process, and somewhere in the middle of it, I would

1 hope that you find a process that would enable you
2 to do your job, but also take into consideration
3 everything that has been said here today and
4 everything that will be submitted on the written
5 comments as well. Thank you for your time.

6 **MR. TAHSUDA:** Thank you, Chairman.

7 **MR. MICKLIN:** Masanto onsayyentee
8 (phonetic.) My name is Will Micklin. I'm a second
9 vice president central council, Tlingit and Haida
10 tribes of Alaska, speaking for central council and
11 also CEO of Ewiiaapaayp and Kumeyaay tribe in
12 southern California.

13 So I just want to speak, offer comments by
14 example to specific applications that would be
15 impacted by the proposed change to the rules. The
16 central council, we submitted a completed
17 application for a FETA trust. The land entered the
18 parking lot next to our tribal office, and in 2010
19 it is still in process. We essentially relied on
20 Mike and his community to win the court contest, but
21 still that contest was once some time ago, and we
22 only have one parcel in trust on the Craig
23 community, on Prince of Wales Island that's been
24 conveyed to trust since that court -- that court
25 decision.

1 We submitted seven applications in 2000,
2 and none of those have yet made their way to a
3 conveyance of title as the final process for
4 acquisition for acquiring them into trust. For
5 various reasons -- and what I was to allude to, is
6 the problem of delay. And delay is a huge issue
7 with FETA trust applications because of lost
8 opportunity.

9 And that delay you speak to at the
10 reintroduction of the 30-day stay policy, that was
11 taken out after patchcheck (phonetic.) It's kind of
12 is, what we call the partial patchcheck fix. And
13 patchcheck providing that many year, was it six-year
14 window, after the final conveyance and final agency
15 action for an appeal by an interested party that
16 could dispute the -- that could sue the secretary
17 for the acquisition.

18 That was partial, because what we actually
19 asked for was the full patchcheck fix, would be to use
20 what is in regulation 25 CFR part two, which
21 provides the process for the IBIA appeal, that it
22 would test the merits of the litigation, of the
23 appeal. And if there was not a substantial chance,
24 probability that the appeal would -- would be
25 successful and therefore determining the -- whether

1 -- the relative merit of the appeal, the conveyance
2 of title would proceed.

3 So the argument and the reason we did get
4 the full patchcheck fix was because they were -- the
5 assistant secretary was concerned, well, you know,
6 if we did that and we lost the litigation later on,
7 we'd have to take the land out of trust. And really
8 that hadn't been a problem before the patchcheck
9 ruling. But now you propose rules in 151 that
10 provide a clearer path for retroceding land from
11 trust back to fee.

12 If that's the case, there's gotta be
13 balance. The solution would be to follow the IBIA
14 procedure and regulations and test whether an appeal
15 would be as a probability of success and let these
16 conveyances go to title. And then let someone, the
17 interested parties, come in and litigate, because
18 they are going to litigate. Perhaps I'm biased
19 because we're in California, and it seems every FETA
20 trust is litigated.

21 So once there's final agency action, the
22 regional director or the systems secretary makes
23 their final agency action, it goes to IBIA. And
24 IBIA is an uncertainty. It can take anywhere from
25 18 to 36 months to get a ruling out of IBIA no

1 matter the merit or not of the -- of the appeal.
2 Then it's still, after IBIA provides a favorable
3 opinion, conveyances made of title, there's still
4 action in federal district court where an interested
5 party would go and litigate by -- litigating the
6 secretary for the FETA trust. So that is still
7 there.

8 And these delays are the reason that some
9 applications take from five to ten to 15 to 20 years
10 for resolution. So when your rules, your Dear
11 Tribal Leader letter comes out and says you want to
12 improve the process, remove the bureaucracy and --
13 for the benefit of the tribes, the actions, the
14 changes to the -- to the regulation need to match
15 those words. And right now they don't match those
16 at all.

17 In fact, they make longer and more
18 uncertain the appeal and litigation process. And
19 for the applications that -- that have been in since
20 2000, you know, this is 2017, there are some that
21 have had -- ones had four notice of decisions and
22 others had two, others just haven't gotten out,
23 several -- most of them were pulled into central
24 office by the systems secretary in 2002, again in
25 2009, again in 2011.

1 And essentially they laid there on the
2 desk of the assistant secretary for six years
3 without action until 2008, when assistant secretary
4 Carl Artman sent them back to the region. Of course
5 they were pulled back to central before they went
6 back to the region.

7 This is the kind of uncertainty that I see
8 in the language in the proposed rule that says no,
9 that there -- the 30-day stay, the decision would be
10 after a 30-day stay, it wouldn't be decided any
11 sooner than 30 days. You know, to me, that's the
12 bottomless pit of central office that many tribes
13 have experienced, where their applications go to
14 central and rattle around somewhere.

15 And there is no way, despite numerous
16 trips to DC to beg the assistant secretary or the
17 acting assistant secretary to take an action yes or
18 no, that there is the invitation for nothing to be
19 done. That is extremely problematic. We've had for
20 the proposed use some -- one -- only one with a
21 commercial use for tenant occupancy. We've had EDA
22 offer us \$2 million, that was ten years ago; we've
23 had tenants fully subscribe the proposed facility
24 for the last twelve years, and of course we keep
25 telling them well, we're not quite sure when the

1 application would be approved, and therefore the
2 project ready to go, and therefore it continues.

3 So, you know, we've lost touch with folks
4 over these twelve years. People come and go, we've
5 just stopped talking about it because we know that
6 even when we get through IBIA, day comes certain we
7 still have some applications to go to IBIA, some in
8 IBIA, we know that federal district court looms
9 after that. So if you're going to be helpful, is --
10 helpful measures would be to reduce the timeline and
11 reduce the uncertainty and make clear what the
12 process is in this.

13 And my final comments are about the
14 additional requirements. There's language about
15 business plans and about use and about state and
16 local government interests. Now, this is the
17 rebalancing of tribal interests on the fulcrum of
18 what state and local government interests are and
19 what the implications are for state and local
20 government that has then been -- that has been the
21 character of the narrowed court decisions since 1959
22 and Williams E. Lee, which was really the high-water
23 mark for tribal interest and has gone down since
24 then.

25 And I'll quote Cafe Valley Coalition v.

1 Jewel, which was a ruling that came down this year.
2 And the court deemed that the tribe may acquire land
3 in trust to expand its land base without being
4 required to develop the land. Indeed, nothing
5 requires the BIA to consider why the tribe needs the
6 land in trust as opposed to in fee. I'm speaking to
7 the need standard.

8 It's really problematic when we have
9 language in there, even though it may not be
10 dispositive, about need and about use, that when a
11 decision approving -- a notice of decision approving
12 an application goes to IBIA, the IBIA has
13 demonstrated a great interest in remanding these --
14 these appeals back to the BIA to get a better
15 expression of what it means and what these -- these
16 interests are.

17 And every time you add interest from a
18 state, from a third party, your state and local
19 government or individual, they're going to take ever
20 more precaution to make sure that those interests
21 are finally balanced. And that comes at the cost of
22 tribal interests. And so I really caution you in
23 adding anymore material, anymore hooks, in these
24 decisions for the IBIA to take an interest in.
25 Because the -- what it means is we may, in the end,

1 not get an unfavorable ruling, they may favor us,
2 but it may be ten or twelve or 15 years later. And
3 by that time, the economic opportunity, or even the
4 housing opportunity or even the no change in use for
5 agricultural, whatever purpose is -- it's not at all
6 what we began after that time period. So we will
7 submit our written comments to this in greater
8 detail. So thank you.

9 **MR. TAHSUDA:** Thank you both.

10 **MR. MEDIKUM:** My name is Mr. Angel G.
11 Medikum (phonetic.) I'm trying -- I'm going to not
12 try and be a wind talker like we just experienced
13 recently. What I want to say is when is this
14 country going to recognize that this land is Indian
15 land and nobody else's land, and it owes Indians
16 more than anything. In fact, it owes so much that
17 it should stand behind the written documents that it
18 has, like the Bill of Rights and the Declaration of
19 Independence.

20 And when is it going to recognize that
21 Indians have rights even above every other immigrant
22 and even illegal immigrants on this land. Honestly.
23 You guys are just wasting paper up there. And
24 wasting everybody's time when you should be
25 recognizing that this land is not even your land,

1 it's Indian land, right? It's not even USA land.

2 It's not anything that you guys represent out in
3 Washington.

4 It's a joke what you people are doing in
5 Washington. You're not doing your work. And if you
6 were doing your work, you'd be enforcing what the
7 justice system says, which is what, empowering all
8 the Natives, giving them back their land, and, if
9 anything, giving them more rights than they deserve
10 right now. 'Cause you're insulting them with all
11 this paperwork, insulting them with all your
12 intelligence, insulting them with everything,
13 honestly.

14 When is the US government going to work
15 for American Indians, or Native Americans? When?
16 You going to answer that question? I think now is
17 the time. Instead of picking up a paycheck out
18 there, hey, about time, put your ass to work out
19 here, you know? Sickening. That's all I have to
20 say. I don't want to be a wind talker.

21 **SPEAKER:** I thought I'd just ask one
22 question about the -- a detail in the regulations
23 that I thought was interesting. There's one
24 provision that asks that the tribes would submit an
25 analysis of whether the acquisition will facilitate

1 consolidation of the tribe's land holdings and
2 reduce checkerboard patterns of jurisdiction. And
3 this applies only to offers of acquisitions that are
4 not contiguous. So I wonder how you would answer
5 that question in a way that would be satisfactory.

6 So anyway, that's my question. It just
7 seems like a tough one, right? If it only applies
8 to noncontiguous acquisitions, how do you deal with
9 this, you know, that it has to also consolidate land
10 and not contribute to checkerboard?

11 **MR. TAHSUDA:** Well, so that's a
12 consideration. That's a consideration, right, not a
13 mandated --

14 **SPEAKER:** Right. I guess how would the
15 tribe even answer that question?

16 **MR. TAHSUDA:** So Paula has a thought.

17 **PAULA:** I'll take it, John. I think in
18 that case what we were looking for is to where
19 tribes have checkerboard reservations, if you're
20 purchasing land next to one of your parcels, it
21 doesn't -- you're not taking it -- so you have to
22 look at it as a checkerboard, and you want to
23 increase the land holdings that you already have, is
24 what we're asking for. So you're not creating more
25 checkerboard, but you're adding to the existing base

1 that you have, even though you're not consolidating
2 everything, but you are next to or contiguous to a
3 parcel that you already own. So I think that's what
4 we're looking for.

5 **SPEAKER:** And this is outside of a
6 reservation?

7 **PAULA:** Yes, yes.

8 **MR. TAHSUDA:** There are some situations I
9 think where the reservation has been shrunk, dis-
10 established, right? The size of it, anyways. But
11 there are parcels that are -- that are down outside
12 of the reservation, were part of the original
13 reservation, right, in that? So that a positive
14 consideration is consolidating those parcels
15 together, I think. I think that's what we're
16 getting at. Does that make sense?

17 **SPEAKER:** I still think it's going to be a
18 very awkward question to try to answer in most
19 cases.

20 **MR. TAHSUDA:** Well taken.

21 **SPEAKER:** The solicitor's opinion, if I
22 may, in the Meals case, that discusses what the word
23 consolidation of tribal land holdings means in the
24 context of Michigan Lands Settlement Act. So I
25 suppose this would have to be consistent with that

1 opinion.

2 **MR. FRANK:** Good morning, my name's Willie
3 Frank, III. I'm a Nisqually tribal council member
4 from the state of Washington. And the Nisqually
5 tribe has concerns with your proposal here today.
6 In 1917, Ford Lewis came and condemned two-thirds of
7 our reservation. And the military base this year
8 wanted to celebrate our hundred-year partnership,
9 they called it. And for us that wasn't a
10 partnership. You know, my grandfather always said
11 we lived in paradise as Indian people. You know, so
12 for us, we can't go and evict the military base
13 right there.

14 So for us, it is valuable to find property
15 off reservation and be able to put it into trust for
16 future economic development for housing. We have all
17 kinds of issues around the reservation. We're trying
18 to buy upland around the Nisqually river. We're
19 traveling 80 miles from Mount Rainier to the Puget
20 Sound. And we want to continue to move forward, and
21 it's unfortunate that we are buying back our own
22 land. But the Nisqually tribe definitely has
23 concerns. And we will submit our comments.
24 Hopefully it won't be by December 15th; hopefully
25 you will give us an extension on that, because

1 that's a very short period of time. Thank you.

2 **SPEAKER:** Thank you.

3 **MR. BROWNEAGLE:** That it? Okay. First
4 off, I want to thank you for requesting an
5 invocation at the beginning of the meeting. That
6 was kind of unheard of when we're talking to
7 government officials. I think it's the first time
8 I've ever seen it, so I commend you on that. So I
9 would like to -- oh, I also have to -- my relative
10 back here, I'm half Spokane on my mother's side and
11 half HoChunk on my father's side, so I'm back here
12 on my dad's land. So I'd like to request somebody
13 from this area, if we're done, if we could have a
14 closing invocation.

15 **MR. TAHSUDA:** Sure. I would like to do
16 that. I just wanted to offer a couple comments to
17 close as well. So again, and in the spirit of
18 having a dialogue and a discussion, this was not
19 intending to be a formal consultation. I know that
20 consultation can take many forms. But we do have
21 the actual formal consultation scheduled. Appreciate
22 the comments of folks who think we need to have more
23 of them and in different places around the country.
24 You know, we recommend you submit those formally as
25 well with your other comments.

1 So let me just throw a couple things out
2 there, and the next time we have this conversation,
3 we can, you know, can also pick up on these. So
4 there is not a hiatus in FETA trust applications.
5 What we're talking about is, you know, looking
6 forward, is there a need to change to the
7 regulation. So things that are before us now will
8 be handled as good or as bad, as they've been
9 handled all along. But -- so that process, you
10 know, goes -- goes forward. For those of you that
11 have FETA trust applications in process, those are
12 continuing to work their way through.

13 So I want to go back and just reiterate
14 some of the -- one of the central thoughts to this
15 process, and hope to be part of the discussion, is
16 the notion that we can better the process. And we
17 can better the process for the tribes and for us.
18 And so again, conceptually, I know maybe the devil's
19 in the details, but, you know, we have a land into
20 trust off-reservation process that has a lot of
21 considerations that go into it, there's a lot of
22 complications that come with it. And gaming, if
23 that is going to be the use of the land, is a
24 particular complication and brings other
25 considerations in because it brings in a whole other

1 statute as well.

2 And so the Department has a lot of
3 comments over the years from tribes who have a
4 complaint really, a concern, when they're having a
5 FETA trust application considered for gaming off-
6 reservation, that they have to go through years of
7 expense, time, and money, which everybody has
8 agreed, I think today, is a valuable thing. And
9 they get through that process because they have to
10 expend a lot of money on FETA analysis and other
11 things. And then only after they've done all that
12 do they get the question answered oh, is this land
13 actually going to be eligible for gaming if that's
14 the intended purpose of it.

15 And so what we are considering is maybe we
16 can answer that question up front, right? Would the
17 land be eligible for gaming conceptually, right?
18 And if, in the view of the department -- legally,
19 again, we have to follow the law, legally is the
20 land eligible for gaming or not. And if it's not,
21 maybe we've saved you a whole bunch of time and
22 money and you can find another parcel that might fit
23 the law and -- for gaming. Or you might find that
24 there's another purpose, you know, for that parcel
25 that would change the consideration. But at least

1 you haven't gone through that time and expense.

2 So that's sort of part of the concept
3 here. Is there a way we can do that to save you
4 time and money. And also in the vein of trying to
5 make the process better, you know, trying to clarify
6 what our -- what our process is, what are the
7 criteria and what are the considerations that go
8 into that and what information do we need from you
9 to be able to adequately meet our requirements under
10 the law to consider those factors, make those
11 considerations, and render a decision that is
12 ultimately defensible at the end of the day.

13 We can both agree on it, but it's
14 something that has to be defensible in court because
15 -- particularly with gaming. We know off-
16 reservation there is a high likelihood that somebody
17 will challenge it. And we want to be sure that we
18 have done the best job for you in getting that
19 answer, that at the end of the day, you will get
20 what you need to be able to conduct gaming on that
21 parcel. And so that's sort of where this is -- the
22 root of this and where we're coming from with this.

23 So I appreciate all the comments. And I
24 know that every time people talk about a change in
25 law or regulation, it causes consternation. It's a

1 change in the status quo and causes you to think.
2 And so I very much appreciate that that is a factor
3 in your consideration and your thoughts. Just know
4 that we're not looking to add an extra burden.

5 You know, at the end of the day we're
6 hoping that we can relieve a burden, and
7 particularly relieve a costly burden to the tribes.
8 So -- and then I just want to address this really
9 quickly. So there is a timeframe involved in this.
10 And I know sometimes it seems like oh, it's a
11 foregone conclusion. That's a great comment, great
12 remark. But I say no, it's not a foregone
13 conclusion.

14 We're going through this exercise, and I
15 think we're going into it in a pretty substantive
16 way, but we do have a timeline ourselves that we
17 have to try to meet, because at the end of the day,
18 promulgating the regulation or changing the
19 regulation takes time for it to go through the
20 formal process. And before we even get to that,
21 we're trying to provide our consultation process
22 with you as well.

23 So that's just a -- that's a chunk of
24 time, and we have to work backwards from that. And
25 so again, you know, certainly appreciate comments.

1 If you think we're moving too fast, that's something
2 we will factor in, and also factor in comments that
3 you have regarding additional locations if those are
4 needed.

5 And again -- so that's all I have to say,
6 I think. And do you guys have anything to add?
7 Paula, anything? George? Oh, you're not part of
8 the team anymore. Sorry. So thank you very much.
9 Now, would you be so kind as to provide us a closing
10 invocation, or if you know somebody --

11 **MR. BROWNEAGLE:** Oh, he left. Again, I
12 believe all you know this, when you come into
13 somebody's homeland, you respect the home. And so
14 even though I'm HoChunk on my father's side,
15 somebody from this area wanting to close?

16 **MS. LONETREE:** I will.

17 **MR. BROWNEAGLE:** Okay, good. Thank you.

18 **MS. LONETREE:** Good afternoon, everyone.
19 My name is Kathleen Lonetree, White Rabbit. And you
20 are in our ancestral homelands for the HoChunk
21 nation. We represent over 7500 tribal members
22 worldwide. And one of the main reasons we wanted to
23 be the platinum sponsor for NCAI and their 74th
24 annual convention and marketplace is because this is
25 our territory.

1 And when you talk about sharing the lands
2 with our neighbors, we had a chance at one time to
3 open the casino here in Milwaukee, but our ancestors
4 from the Winnebago, Wisconsin business committee
5 stepped aside and gave that honor to our Forest
6 County Potawatomi friends.

7 So I'm going to encourage you all to
8 attend our welcome reception tonight at the Harley-
9 Davidson museum; it's our great honor to host all of
10 you here at our homelands. So with that, I want to
11 say to our Creator above, mahuna (phonetic.) Please
12 bless the proceedings of the National Congress of
13 American Indians. There are tribal representatives
14 here from probably over 567 nations federally
15 recognized with their own languages, their own
16 culture, and their own traditions.

17 And so we want to ask that you watch over
18 and bless all of your people from sea to shining sea
19 and from all the lands, from Alaska, to the
20 contiguous United States, to our Hawaiian relatives,
21 to all the indigenous peoples. And everyone has
22 constituents and tribal members and family and
23 friends that are in need of all the services and
24 help, so please watch over all of the attendees, all
25 the presenters, all of our tribal members that --

1 and family and friends that are here.

2 Let us all walk away with good feelings
3 from this 74th annual convention. Let us all make
4 new friends. Let us all not harbor any bad feelings
5 towards one another. We -- I heard this morning
6 from a Vietnam veteran saying that we shouldn't be
7 doing side attacks to each other. So with that I
8 want to say Creator, envelope us with all your love,
9 your protection, your guidance, and help us to be
10 sacrificing and be good leaders like our ancestors
11 did for us. And with all these things, I ask, dear
12 Heavenly Father, in your son's name, Jesus Christ,
13 Amen.

14 **(Proceedings concluded at 12:51 p.m.)**

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1 STATE OF WISCONSIN)
) ss.
2 COUNTY OF MILWAUKEE)

3 I, ANITA KORNBURGER-FOSS, Registered
4 Professional Reporter and Notary Public in and
5 for the State of Wisconsin, do hereby certify
6 that the preceding tribal consultation was
7 recorded by me and reduced to writing under my
8 personal direction.

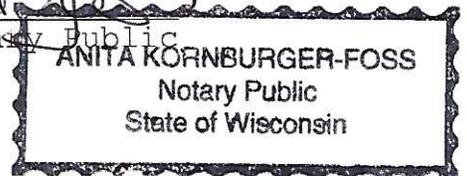
9 I further certify that said tribal
10 consultation was taken at 400 West Wisconsin,
11 Milwaukee, Wisconsin, on October 16, 2017,
12 commencing at 9:12 a.m. and concluding at 12:51
13 p.m.

14 I further certify that I am not a relative
15 or employee or attorney or counsel of any of
16 the parties, or a relative or employee of such
17 attorney or counsel, or financially interested
18 directly or indirectly in this action.

19 In witness whereof, I have hereunto set my
20 hand and affixed my seal of office at
21 Milwaukee, Wisconsin, this 29th day of October,
22 2017.

23 *Anita Kornburger-Foss*
ANITA KORNBURGER-FOSS, RPR - Notary Public

24 My commission expires May 24, 2021.
25



1 DECLARATION

2 Transcript of: Meeting Date: 10/16/17

3 Regarding: Tribal Consultation

4 Transcriber: KORNBURGER-FOSS

5 _____

6

7 I declare under penalty of perjury the following to
8 be true:

9

10 I have read the transcript and the same is true and
11 accurate save and except for any corrections as made
12 by me on the Correction Page herein.

13

14 Signed at _____,

15 on the _____ day of _____, 2017.

16

17

18

19

20

21

22 Print Name _____

23

24 Signature _____

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