

1 U.S. DEPARTMENT OF THE INTERIOR/ANC CONSULTATION
2 ALASKA INDIAN REORGANIZATION ACT OF 1934 (IRA)

3
4 October 17, 2018

5 10:00 a.m.

6 Anchorage, Alaska
7
8

9 APPEARANCES:

10
11 BUREAU OF INDIAN AFFAIRS:

12 Tara MacLean Sweeney, Assistant Secretary

13 Eugene R. Peltola, Jr., Regional Director
14

15 U.S. DPT OF THE INTERIOR:

16 Matthew Kelly, Assistant Solicitor

17 Carol Brown, Senior Counselor
18
19

20 Proceedings electronically recorded, then transcribed by:

21 Accu-Type Depositions, 310 "K" Street,

22 Suite 200, Anchorage, AK 99501 - 907-276-0544
23
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1 ALSO PRESENT:
2 Malia Villegas, Afognak Native Corporation
3 Lester Lukin, Afognak Native Corporation
4 Fritz George, Akiachak Native Corporation
5 Delice Calcote, Alaska Inter-Tribal Council
6 Abe Albert, Anchorage, Alaska
7 Bridget Anderson, ANCSA Regional Association
8 Adam Walters, Association of Village Council Presidents
9 Erik Kenning, Arctic Slope Regional Corporation
10 Daniel Cheyette, Bristol Bay Native Corporation
11 Jennifer Brooks, Bristol Bay Native Corporation
12 Millie Johnson, Chugach Alaska Corporation
13 David Phillips, Chugach Alaska Corporation
14 Gabriel Kompkoff, Chugach Alaska Corporation
15 Lindsay Swing, Chugach Alaska Corporation
16 Ben Cutrell, Chugach Alaska Corporation
17 Charlie Sink, Chugachmiut
18 Nathan Lojewski, Chugachmiut
19 Lisa DeCora, Department of Interior, Office of Solicitor
20 Natasha Singh, Dinyee Village Corporation
21 Jonathan Simon, Doyon, Limited
22 Sarah Obed, Doyon, Limited
23 PJ Simon, Doyon, Limited
24 Kristi Williams, Hobbs Straus
25 Marie Katcheak, Holy Cross, Alaska

1 ALSO PRESENT: (CONTINUED)
2 Nora Brock, Kawerak, Inc.
3 Francine Johnson, Kawerak Inc.
4 Joel Jackson, Ketchikan, Alaska
5 Thomas Panamaroff, Koniag, Inc.
6 Lance Kramer, Kotzebue
7 Alexander Tallekpalek, Levelock Native Corporation
8 John Lincoln, NANA Regional Corporation
9 Matthew Newman, NARF/Levelock Village Corporation
10 Megan Condon, NARF/Levelock Village Corporation
11 Melissa Borton, Native Village of Afognak
12 Loretta Nelson, Native Village of Afognak
13 Eric Jordan, Native Village of Chenega
14 Maria Coleman, Native Village of Eklutna
15 Raymond May, Native Village of Port Lions
16 Nancy Nelson, Native Village of Port Lions
17 LaToya Hartley, Native Village of Port Lions
18 Dorothy Shinn, Native Village of Tazlina
19 William Albert, Northway, Alaska
20 Jaeleen Kookesh, Sealaska Corporation
21 Ben Mallott, Senator Lisa Murkowski
22 Eric Reimers, Senator Lisa Murkowski
23 Pearl Chanar, Seth-De-Ya-Ah Village Corporation
24 Becca Patterson, Sonosky Law Firm
25 Whitney Leonard, Sonosky Law Firm

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ALSO PRESENT: (CONTINUED)
Pearlene Pete-Moore, Stebbins, Alaska
Angela Totemoff, Tatitlek Corporation
Rami Paulsen, Tatitlek Corporation
Nanci Robart, Tatitlek Village IRA Council
Cassandra Kroto, Tyonek, Alaska
Joan Johnson, Unalakleet Native Corporation

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P R O C E E D I N G S

(On record)

MS. SWEENEY: Good morning.

Hi. Good morning. It's very, very nice to be back home in Alaska. By way of introduction, my name is Tara MacLean Sweeney. I'm from Utqiagvik, and I serve as the Assistant Secretary for Indian Affairs, and I -- I'm happy to be home. It's nice to be here.

The purpose of this morning is we're having a consultation session as part of the round of both public -- public and Tribal consultations on the issue of the Alaska portion of the Indian Reorganization Act as it applies in the Tribal recognition context. And we have another session this afternoon, just as a reminder, in dealing with fee-to-trust issues.

This is a formal consultation, so we're doing a transcript of this meeting, and -- and the reporter is sitting over here to my right. We'll be sure to have comments submitted here today as part of the collection of records as we will keep this -- as we keep this discussion moving forward.

And before we get started, generally I know we would start with a blessing, and we do -- okay. We were -- we were hoping we'd get a volunteer to provide that blessing this morning.

1 MS. SHINN: Good morning, everyone. Let's bow
2 our heads.

3 Our Heavenly Father, we just thank you for
4 this day, Father. We thank you, Lord, for the
5 privilege of being here, Father, and being able to
6 participate in this consultation, Father.

7 Father, I pray, Lord God, that you would give
8 the words to our people to speak for the betterment of
9 our people. Father, we need you, and we'll trust you
10 for everything. Father, bless this consultation, and
11 give us your mercy, dear God, for our people.

12 Thank you, Heavenly Father, for everything
13 that you do for us. Father, bless us. Bless the
14 people who are here to support us, Father. Thank you.

15 In the name of Jesus, I pray. Amen.

16 MS. SWEENEY: Amen. Thank you.

17 MS. SHINN: They want me to sing. No.
18 They want me to introduce myself. My name is Dorothy
19 Shinn. I'm from the Ahtna Region. I'm a council member
20 from the Native Village of Tazlina, and I serve on the
21 Copper River Native Association's Board of Directors,
22 and I'm also very involved on the Board with Heritage
23 Foundation, so I'm a pretty busy gal. I'm trying to
24 step down and get our young people to take over, but
25 we're working on that. So thank you.

1 MS. SWEENEY: Thank you, Dorothy.

2 So I ask that -- ask that you bear with me,
3 and I thank you for your patience. This is my first
4 consultation as Assistant Secretary.

5 With me here today, we have Matt Kelly with
6 the Solicitor's Office with the Department of Interior
7 from D.C., also our Regional Director for the Bureau
8 of Indian Affairs, Eugene R. Peltola, Jr. In addition
9 to Matt and Gene, we have Carol Brown. Can you please
10 identify yourself?

11 Carol comes to the Indian Affairs Office as a
12 detailee from the Solicitor's Office. She is a Senior
13 Policy Advisor, directly to Indian Affairs and to me.
14 And a fun fact about Carol is she also spent five
15 years in the AVCP region.

16 And in the back, I believe we have Regina, who
17 will be passing around a mic. If you'd like to make
18 comments, just raise your hand, and -- and she'll
19 bring -- bring the mic over. When you -- when you
20 speak, can you please speak clearly and loudly for the
21 reporter to record your comments? It's being
22 transcribed, and we want to be able to record which
23 tribe you're from and -- and which leader is making
24 comments so that we can keep that as part of our
25 records. So clearly state your name, your tribe or

1 village that you're representing.

2 If you have any written comments or statements
3 that you'd like to make part of the record, please
4 leave those with the RACA staff in the back, or
5 outside, or with Carol, or you can bring it up to our
6 table.

7 A couple of things before we get started. You
8 should have received a "Dear Tribal Leader" letter
9 that accompanied a withdrawal of an opinion from the
10 Solicitor's Office, and part of that leads into these
11 discussions about Tribal recognition under the Indian
12 Reorganization Act and what that means here in Alaska.
13 There's some -- different history here than in the
14 Lower 48, and -- and we need to be cognizant of that.

15 We're seeking comments regarding the Alaska
16 IRA, and in the "Dear Tribal Leader" letter, there
17 were a list of questions regarding information that we
18 are specifically seeking.

19 As a background, Congress passed the Alaska
20 IRA in 1936, and this is something that I don't need
21 to tell any of you. In order to extend the benefits
22 of the Indian Reorganization Act to Alaska, it allows
23 groups of Indians in Alaska, not recognized as bands
24 or tribes, but having a common bond of occupation or
25 association or residence within a well-defined

1 neighborhood community or rural district, to
2 participate in the IRA by organizing and adopting
3 constitutions. And groups in Alaska have used the IRA
4 to adopt constitutions; however, a majority of those
5 elections occurred in the 1930s, '40s, and '50s, and
6 since ANCSA, only three villages have adopted
7 constitutions under the Alaska IRA in 1989, 1991, and
8 1992.

9 The Department has never adopted regulations
10 setting forth the process to reorganize under the
11 Alaska IRA. The Department did, however, release
12 instructions in 1937. These instructions were
13 developed pre-statehood and pre-ANCSA, so many legal
14 and policy questions were left unanswered, and
15 currently, we have three Alaska IRA applications
16 pending before the department.

17 Due to the complex nature of this issue, two
18 of these applications have been pending for quite some
19 time. It's important to note that the groups that
20 have applications pending before the Department are
21 not federally recognized tribes. Their application
22 under the Alaska IRA is tantamount to an application
23 for federal acknowledgement, and if the application
24 was approved, it would entitle them to be included on
25 the list of federally recognized tribes.

1 This process is forward-looking. The
2 Department is not seeking to question or disturb any
3 constitutions previously adopted by tribes under the
4 Alaska IRA. And to my understanding, because this is
5 the first consultation that I've participated in, this
6 was a concern raised in Ketchikan, in Juneau, and in
7 Fairbanks.

8 Because Solicitor Tompkins issued her opinion
9 on fee to trust in Alaska on January 13, 2017, it
10 became subject to regulatory review under the
11 memorandum from the President's Chief of Staff, and it
12 was dated January 24, 20 -- 2017. The memo required
13 review of any agency statement of general
14 applicability and future effect, setting forth a
15 policy on a statutory, regulatory, or technical issue,
16 or an interpretation of a statutory or regulatory
17 issue.

18 After the initial review, the Principal Deputy
19 Solicitor found that the Alaska opinion lacked a full
20 discussion of the effect of post-ANCSA legal
21 developments on the Secretary's authority to take land
22 into trust in Alaska. That included the Federal Land
23 Policy and Management Act of 1976, ANILCA, the
24 privileges and immunities amendments to the IRA, and
25 the federal district court's interpretation of the IRA

1 amendments in Akiachak.

2 The Principal Deputy Solicitor withdrew the
3 Alaska opinion for further review, and to allow
4 comments from Indian and Alaska Native communities on
5 an interim policy for off-reservation land-into-trust
6 Alaska acquisitions within and outside of Alaska. To
7 ensure appropriate notice and meaningful opportunity
8 to provide comments, the Principal Deputy Solicitor
9 proposed six months to take comments on the issues,
10 and six months for the Department to -- to consider
11 them. The Principal Assistant Deputy Secretary sent
12 letters to Tribal leaders and corporation heads with a
13 detailed list of questions for consideration.

14 I want to reiterate a few points. This is not
15 a plan to change the government-to-government
16 relationship with federally recognized tribes. This
17 is not an attempt to create different classes of
18 tribes, and it is not a process of changing existing
19 recognized status. Again, these issues have been
20 raised in previous consultations, and I want to
21 underscore those points.

22 Coming into this position after these
23 decisions were made, I understand my trust
24 responsibility, and I take that trust responsibility
25 very seriously, and it's important for us to move

1 forward through this process to create a consistent
2 application for Alaska.

3 And with that, I would like to turn over to
4 the Regional Director, Eugene Peltola, also known as
5 Gene, and some people may know him as "Buzzy" (ph),
6 but to turn it over to -- to Gene to make a few
7 comments.

8 I think it's on.

9 MR. PELTOLA: Okay.

10 Good morning. I appreciate your all -- your
11 attendance here today. I participate in the
12 Fairbanks, the Juneau, and Ketchikan consult- --
13 consultations, and a lot of people have spoke with
14 concern from the heart and engaged in a meaning- --
15 meaningful capacity. I -- I do appreciate the active
16 involvement, because what we're discussing today and
17 -- and in the future can have direct applicability to
18 our Tribal members and Tribal organizations, and --
19 you know, and our involvement and engagement
20 throughout the state. I -- I would just like to
21 reiterate that I appreciate your participation today.

22 Okay. That's all I have this morning.

23 MS. SWEENEY: Matt.

24 MR. KELLY: Good morning. My name is
25 Matthew Kelly, the Assistant Solicitor from the

1 Department of Interior.

2 I guess what I would like to do -- to do to
3 kick off this consultation session is re- -- review
4 some of the comments that were heard at the Juneau and
5 Ketchikan sessions, which I attended, and then also to
6 go over the framework for why we're here, as
7 articulated at those sessions by John Tahsuda,
8 Principal Deputy Assistant Secretary.

9 In order to acknowledge the concerns that were
10 raised there and to clarify that the consultations
11 today are not intended to address or affect in any
12 way, and also to help give some focus for where we, as
13 a department, seek guidance from Alaska.

14 We clearly heard that the consultation letter
15 that was sent out could have been clearer in what it
16 was or was not addressing. As Assistant Secretary
17 Sweeney just indicated, this has nothing to do with
18 the status of tribes, IRA tribes, or any other
19 recognized entities in Alaska. This is simply about
20 how to implement the procedures that the Alaska IRA
21 provides for, which have never been formalized in
22 either internal guidance or regulations in the same
23 way that other provisions of the IRA have been; for
24 example, Part 151, the Fee-To-Trust Regulations, or
25 the regulations providing for secretary -- for

1 organization secretary -- secretary elections.

2 What we're looking for are input -- input on
3 what would be the best manner going forward to handle
4 both requests for organization under the IRA that have
5 been pending before the Department for a while, and
6 any ones that we may receive in the future. So it's
7 not just about what is currently before us, but what
8 could come before us in the future. What is the best
9 way for handling that? What is the appropriate way
10 for doing it? What are the concerns and
11 considerations we should take into account?

12 One of the points that Principal Deputy
13 Assistant Secretary Tahsuda emphasized in Juneau was
14 that the Secretary of the Interior, Zinke, and the
15 Deputy's Secretary, David Bernhardt, have a concern
16 for taking action. They are -- would prefer not to
17 see requests for action from the Department sit before
18 the Department for years on end, which has been the
19 case in some instances here.

20 That said, they also want to ensure that any
21 decision the Department makes is on as sound a legal
22 basis as possible. Mr. Tahsuda indicated that that is
23 part of the trust responsibility in his view too,
24 otherwise, what you would be doing is making a
25 decision that might not have a secure or firm basis,

1 and you're ultimately leaving to the courts to decide.

2 With respect to fee-to-trust decisions, for
3 example, while it was pointed out in the past that we,
4 the Department, now has a good track record of
5 defending decisions that it has made -- because as you
6 know, those are all from challenge -- it's worth
7 pointing out that Carcieri was the decision that came
8 out of a challenge to a fee-to-trust decision, and
9 that decision -- that ruling turned on the
10 interpretation of the word now in the IRA, which the
11 Department had not done previously. This is our
12 opportunity to get it right for Alaska.

13 As Mr. Tahsuda also pointed out, he used the
14 analogy of strata. I prefer geology. Alaska has a
15 complex geology of legislative history, and it's
16 changed over time. Between the Alaska IRA in 1936,
17 ANCSA, FLPMA, all the other wonderful acronyms. All
18 of those acts have been amended many times as well.

19 It was decided that Principal Deputy Solicitor
20 Jorjani in conducting a regulatory review, ordered by
21 the President's Chief of Staff, that the M-Opinion --
22 which was issued just a few days before the
23 administration's change -- did not adequately, in his
24 mind, address those particular issues. Those are
25 issues that could form a basis for a challenge in the

1 future. It's prudent to try and look at them now in
2 order for future decisions to be -- to rest on as
3 sound legal basis at possible.

4 Concerns were expressed in Juneau and
5 Ketchikan over the questions that were listed in the
6 "Dear Tribal Leader" letters. There were concerns
7 that the Department had targeted particular issues
8 that were otherwise seemed to be settled in law. That
9 was not the case. The Department was targeting
10 nothing, but was attempting to open the door to
11 examine the issue from all perspectives in order that
12 whatever policy determinations were made down the
13 line, again, were on a sound legal footing as
14 possible. Those are the kinds of questions that could
15 come up in litigation challenging such decisions.

16 So from my mind, from my perspective as a
17 lawyer, I like to be able to find out all the
18 weaknesses beforehand going forward in making a
19 decision so that they can be addressed to ensure that
20 the decisions and policy that's we're adopting will
21 endure going forward for a long time to come.

22 So I think with that said, the way we worked
23 it in Juneau and Ketchikan was to open the floor and
24 to listen to your comments and concerns. This is for
25 you to provide those opinions and -- and your views to

1 us. The first session is dealing with the issue of
2 the IRA letter, and the questions are the starting
3 point for any comments you might have. Thank you.

4 MS. SWEENEY: We'll go ahead and open the
5 floor for any comments or questions. Just raise your
6 hand, and Regina will bring over the microphone.

7 MR. SINK: Let's hit the first one, the common
8 bond.

9 MS. SWEENEY: Can you state your name and
10 your -- your Tribal affiliation, please?

11 MR. SINK: Okay. My -- my name is Charlie
12 Sink. I work for Chugachmiut --

13 MS. SWEENEY: Okay.

14 MR. SINK: -- which is a Tribal consortium,
15 made of seven tribes, fed- -- federally recognized.

16 So the common bond, as we've come to know in
17 Alaska, my understanding, albeit limited, is that that
18 it's geographic and ethnic regions, that the 12
19 established regions in the State of Alaska, and that
20 -- that is how I have seen it identified throughout
21 Alaska. That's kind of how we tend to think of what
22 our regions are, who we work for, and it's -- it's the
23 groups within that region. There may be several
24 subgroups, such as our region -- because I think
25 there's about four to five different subgroups just

1 because of being coastal -- and then the nature of
2 that, and the trade that occurred in times past.

3 But that's -- that's our common bond, is the
4 region, and I think that glues most of Alaska
5 together, and generally it's -- it's a long ethnic
6 region. I'll let the other people here describe that
7 better than me, but to -- to change that, to interpret
8 it in -- in a different way, us not being lawyers -- I
9 don't know how many lawyers are in the group here -- I
10 don't know how to interpret that beyond what we see as
11 a common practice.

12 Thank you.

13 MR. KELLY: With respect to that, that's very
14 helpful if it were possible for you to memorialize
15 that in a letter to us with comments, how this has
16 been interpreted locally over the years since the
17 Alaska IRA was enacted is helpful.

18 The terms that the Alaska IRA uses are
19 different from the terms used in different statutes,
20 and this was a concern that came up in Juneau and in
21 Ketchikan. The Part 83 Regulations, which is -- which
22 implements the IRA and the recognition process,
23 doesn't take that into account. And so while -- so we
24 have to acknowledge that and understand that better,
25 and what you've just indicated for me, as an attorney,

1 is very helpful.

2 MS. VILLEGAS: Good morning. My name is Malia
3 Villegas. I am the Vice President of Corporate
4 Affairs for Afognak Native Corporation. I also serve
5 on the Tribal Council at the Native Village of
6 Afognak, which is an IRA tribe performed under --
7 under that.

8 I really appreciate you folks coming and
9 clarifying some of the questions that were raised in
10 the letter. As you have already noted, there are a
11 lot of concerns about the implications. We've
12 certainly been following what's been happening in the
13 Mashpee case, as well as others that you've noted that
14 you'll be hearing comments on and consulting on later
15 today.

16 I think what I'd like to do is just share a
17 few comments about the experience of our tribe. I
18 understand that you've said that we -- we shouldn't
19 worry, as we're already formed, but thinking about in
20 particular the Question Number 4, "In your view,
21 should a group of Alaska Natives sharing a common bond
22 of occupation have the ability to exercise sovereign
23 governmental powers?" and certainly heard the concerns
24 of Mashpee about whether the decision allows them to
25 continue to act as a sovereign nation -- and I think

1 that was when my heirs in particular were raised on
2 this -- any implications for, as I'm speaking as
3 corporate, the two tribes that we work with, most
4 specifically Native Village of Afognak, although
5 Native Village of Port Lions is organized under
6 different means. That's always our concern, just
7 thinking about those relationships.

8 So for our tribe, we, Native Village of
9 Afognak, we were displaced by a tsunami, one of the
10 largest ever at the time, and so our people moved into
11 two different -- at least two different regions and
12 outside of the region. Beginning to reacquaint myself
13 with the terms, under ANCSA and legal terminology, I
14 as well am not a lawyer, but the notion that our
15 Tribal status were sovereigns without territorial
16 reach is something that I think a lot about in my
17 various roles. So the IRA role is really critical.

18 I really am hoping that you take a look at the
19 John v. Baker case, 1999, and this had to do with
20 really defining what Tribal jurisdiction and authority
21 was, and in this case it was related to a child
22 custody -- custody case. And at the Native Village of
23 Afognak, in particular, our child welfare cases and
24 work are really, really fundamental. Our ability to
25 ensure our families can stay reunified and our

1 children and our descendants have the opportunity to
2 connect to their cultures, connect to our traditional
3 places, even when we cannot live in those places any
4 longer, is really fundamental. And so in thinking
5 about the sovereign status and the ability of people
6 who have, as this term, the "common bond," what is
7 really fundamental in our experience is that
8 relationship and the authority of tribes to engage in
9 child custody matters and family custody matters.

10 So I hope that as you folks are looking at
11 regulatory matters and thinking about the cases that
12 are before you and that will come in the future, this
13 is something that we, as Tribal people, as well as
14 corporate stewards, that is what ANCSA was created
15 for, to ensure the social and economic determination
16 of our people. That is who we are. And so this is a
17 piece that I just ask, as in your role as leaders,
18 that you think with us about and that we can figure
19 out how to support those communities that have that
20 bond and want to exercise that sovereign authority and
21 that care and that stewardship over their people.

22 I think I would be remiss in my corporate role
23 to not also talk about the economic development. We,
24 in our region, are working very closely. We just had
25 last night into the wee hours met as economic

1 development committee with two of our tribes, Native
2 Village of Afognak and Native Village of Port Lions,
3 as well as Alaska Native -- Afognak Native
4 Corporation, to talk about economic development at the
5 Tribal level, how -- what our role as corporate
6 leaders is in investing in that, and we need our
7 tribes to act in their sovereign authority to partner
8 fully and to take -- to take care of the levers that
9 they can press as Tribal leadership on this front.

10 So I think that's the question that really is
11 -- is heavy on me in this moment in terms of our --
12 our -- the sovereign status of tribes in relation to
13 our cultures and our families, as well as our economic
14 futures going forward.

15 MS. SWEENEY: Thank you.

16 I want to just comment. You -- you -- you
17 raised the issue of Mashpee, and that is something
18 that is on everyone's mind in Indian Country based on
19 that decision. Indian Affairs is not going to take
20 the -- their current land that is in trust out of
21 trust unless we are court ordered to do so. So that
22 is not going to change, and -- and I think that
23 message has gotten lost during the course of time, and
24 so I find myself continuing to reaffirm that, because
25 it is a concern that we've heard, and it's a part of

1 the discussion that we -- we had with Mashpee, so I --
2 I wanted to clarify that.

3 With respect to economic development, there
4 are some very good and promising programs inside of
5 Indian Affairs that your tribes can take advantage of,
6 and by working with Jack Stevens and the Indian Energy
7 and Economic Development Division, specifically his
8 division of capital investment, there are
9 opportunities there.

10 I recently signed an MOU with the Department
11 of Commerce for the American Indian Alaska Native to
12 -- to implement the Native Act and with AIANTA. And
13 you -- you're talking about tourism, and in your
14 region -- which is an amazing region, by the way -- to
15 promote tourism in Indian Country, and there are
16 opportunities there, and I would encourage your Tribal
17 entities to figure out a way to partner with the
18 village and regional corporations, because you nailed
19 it. You're exactly right in the sense that there are
20 different levers that Tribal organizations have and
21 different opportunities that Tribal entities have over
22 -- versus a village or regional corporation, and you
23 can continue down this road autonomously, or you can
24 pull your resources, leverage your resources, and --
25 and the different powers that you have to progress

1 your region forward with respect to economic
2 development.

3 And so I would offer Jack Stevens -- and Jack
4 Stevens is here. I know that he's here this week, and
5 he should be at AFN tomorrow, and -- and if he is,
6 then I will point him out while I'm on stage so
7 everyone can -- so everyone can see him.

8 MR. SINK: Charlie Sink again with
9 Chugachmiut. To follow-up on -- on -- on your -- on
10 your comments there, and -- and -- and yours, Matt, on
11 the request for organization under -- on IRA, we -- we
12 have two tribes that we recognize that are not
13 federally recognized that's been petitioning Congress
14 for recognition, and this -- this notion of -- of
15 being as a common bond in the neighborhood type --
16 type of affiliation is, when ANCSA was created in
17 1971, there are a couple of things that occurred in
18 those two communities, which are Seward and Valdez.

19 Seward was made an Army base in 1941, and so
20 it kind of displaced the -- the Natives that were
21 there, and their -- and their tribe is called Qutekcak
22 -- I'll have to send you the spelling on that -- and
23 then the Valdez is also trying to be recognized as --
24 as an IRA, and I don't know how far along they are,
25 but -- and because of the pipeline in that area, it

1 transformed that area, also being a fishing port.

2 And so we -- we have these -- these regions
3 where there were affiliated groups in -- in any small
4 common neighborhood type thing that are trying to be
5 recognized under the IRA, are trying to petition
6 Congress, and they -- they keep trying again and again
7 and not quite reaching it.

8 I see in the -- in the statutes here that the
9 four groups that fail to be recognized, they have to
10 keep -- keep re-petitioning, and I think that's kind
11 of some of the language that you're trying to define,
12 is the groups that may be more recognized as tribes as
13 of the 1971 -- maybe has the affiliation common bond
14 in the neighborhood that are -- that are trying to --
15 to attempt that, but because of hist- -- historical
16 timings that it's -- they were kind of displaced, and
17 I think those groups have -- have legitimate claim,
18 but it doesn't quite fit the way the laws were laid
19 out, and when they occurred, when the Alaska tribes
20 regained federal recognition.

21 But we also have a situation in Chenega where
22 we have a tribe that was displaced by the tsunami
23 also, and they -- they moved literally from one island
24 to an entirely different island.

25 And so the -- the -- the issues of

1 sovereignty, I -- I have a few tribes and Tribal
2 chiefs, which I'll bring Sunday, that are really
3 concerned about the sovereignty of tribes in Alaska as
4 -- as a government-to-government entity. And we -- we
5 -- we struggle, not only with the -- with the State on
6 the recognition of tribes to begin with, we -- we also
7 struggle with the federal agencies on the tribes being
8 recognized as sovereign, and -- and the major issue
9 there is -- is that the -- I find that the long-term
10 leaders of the -- of the -- of the tribes here are
11 very knowledgeable and that a lot of the agency people
12 are not as -- as knowledgeable, and so I think that
13 creates some -- some frictions and interpretations on
14 the laws and -- and -- and not only the laws, but the
15 -- but the -- the way that the procedures and -- and
16 protocols work, not the -- (indiscernible) -- under
17 me. It's like I get to deal with a lot of land issues
18 in that regard, and you're talking about cleaning up
19 the vagaries of the interpretations of -- of what goes
20 on along this line.

21 And then my realty officer, along with the
22 other twelve realty officers in the state for
23 nonprofits like ours, or heavily working with the BIA
24 to clear out some of the interpretations of the
25 statutes because they have been un- -- unevenly

1 applied, depending on which -- which federal person
2 that you talk to, and it's created a lot of slowdown
3 in the process, because everybody's interpreting
4 things, whichever's the flavor of the day, so to
5 speak, and we'd like to see that cleared up.

6 And then also, have it so that the -- that the
7 people at the federal agencies understand what
8 sovereignty does mean to us in Alaska.

9 MS. SWEENEY: Did you want to comment on any
10 of that? Okay.

11 You bring up some great points, and the
12 purpose of this consultation is to hear from -- from
13 Alaskans and -- and Tribal leaders on this very issue.
14 In helping us define and work out and -- and create
15 those understandings internally is going to be
16 extremely important throughout this -- this process.

17 Unlike our counterparts in the Lower 48,
18 through the Part 83 process, there is a prescribed
19 process that they are -- they have to go through for
20 recognition, and you -- you made the, I believe -- you
21 highlighted why we're here, and that is to -- to gain
22 clarity, to establish a process for Alaska recognition
23 so that there is no ambiguity from administration to
24 administration, and that folks understand the process
25 going forward, so that they can adequately prepare

1 their information to be presented to Indian Affairs.

2 And so I -- I can turn it over to Matt, if you
3 have any other comments.

4 MR. KELLY: Just add that the notion of
5 acknowledgement, you're acknowledging what is already
6 there. Sovereignty isn't being created; sovereignty
7 is there, and then the act of acknowledgement
8 acknowledges that sovereignty and establishes a
9 government-to-government relationship. The question
10 is: What is the process for going about acknowledging
11 that, which already exists?

12 The Alaska IRA uses language like "common
13 bonds," which doesn't appear in the '34 IRA. They
14 both came out at the same time. We're talking about a
15 time when Alaska was still -- 20 years before
16 statehood. Like the Lower 48, as you describe it,
17 Alaska has a history of communities being moved around
18 because of circumstances beyond their control. The
19 IRA certainly understood that, the Lower 48, as it's
20 applied there.

21 And so they talked about groups of Natives
22 who had been displaced and giving them an opportunity
23 to organize what we have to deal with on particular
24 statutory terms of the Alaska IRA, and that is what
25 distinguishes it from the Part 83 process as it exists

1 so far. You can argue that the Part 83 process is
2 adequate and should be adequate to Alaska as well.

3 Those are the kinds of arguments and
4 discussions we'd like to hear from -- about.

5 Oh, and, by the way, we're expecting Mashpee
6 too. I just wanted to add that the Mashpee decision,
7 I understand the concern that's raised, deals with
8 their attempt to have land taken into trusts under
9 Section 5 of the IRA, and their eligibility under the
10 Supreme Court's decision in Carcieri. It has nothing
11 to do with their recognized sovereign status
12 whatsoever. They were acknowledged under the Part 83
13 process. They remain an acknowledged tribe, and they
14 are now pursuing all avenues available to them to get
15 what they need to have. In the meantime, as Secretary
16 Sweeney pointed out, the land remains in trust until
17 the court tells us otherwise.

18 MS. WILLIAMS: Good morning. I'm Kristi
19 Williams. I'm here representing Hobbs Straus today.
20 Both of the tribes that have pending applications
21 before you are our clients that we've been
22 representing for many, many years.

23 I do want to point out to you, Mr. Kelly, that
24 the many tribes in Alaska were incorporated prior to
25 statehood. So you keep mentioning statehood, but my

1 tribe, Gwichyaa Gwich'in, Fort Yukon, was incorporated
2 in 1940. So, you know, it's -- it's -- it's okay that
3 some things came before statehood and still apply
4 today. Our tribe wouldn't think of reincorporating
5 simply because statehood happened.

6 Kanakanak, Oscarville it's sometimes referred
7 to, Bristol Bay has had a pending application since
8 2001, seventeen years. Qutekcak has also had a
9 pending application for -- for 25 years. This is
10 simply a -- a lack of an effective process within the
11 Department of Interior. There's no need to issue new
12 regulations and guidance. The statute is clear. The
13 guidance is clear. There have been numerous tribes,
14 three -- at least three recognized under -- under the
15 Alaska IRA process, and have any of those tribes been
16 challenged in court?

17 You mentioned that this is something to, kind
18 of, tie up the loose ends so that there aren't any
19 challenges in court, but I don't think that those
20 tribes have had any challenges, so I'm not sure what
21 the impetus is here to re-open this issue, something
22 that's been working internally.

23 The Department of Interior has issued multiple
24 legal opinions on why some tribes or -- or groups of
25 Native people don't meet that common bond standard.

1 So it's an internal process that has been working.
2 Now, why these two tribes that -- that we represent
3 haven't been able to get through the process is -- is
4 -- is the real question, and I think that's something
5 that needs to be handled internally, not taking up the
6 time of Tribal leaders here. I don't even think the
7 Department of Interior has noticed those two tribes,
8 or gone out to the two villages to talk to the Tribal
9 leaders. You know, instead, we're having
10 consultations across the State with multiple Tribal
11 leaders who are busy, you know, they have other things
12 to do. They should be consulting on things that apply
13 to them. This doesn't really apply broadly across the
14 State to re-open an issue that we have clear guidance
15 and a clear standard. So it -- it makes me wonder
16 what the true impetus is for re-evaluating a process
17 that's already working internally.

18 I think that -- that -- we've already
19 submitted comments for the record and have been to a
20 number of the other consultations, so I won't go over
21 the notes, but I would just like to ask that the
22 Department of Interior expedite the two pending
23 applications. I think you have three. I'm not sure
24 of the other one. I don't have any familiarity with
25 it. But the Qutekcak and Kanakanak tribes should be

1 reviewed expeditiously, and the Department should make
2 a determination one way or another. They have broad
3 support from the delegation from AFN, from a lot of
4 the Tribal leaders in Alaska. I think that the DOI
5 should focus its efforts on -- on -- on those two
6 tribes.

7 Thank you.

8 MS. SWEENEY: Kristi, I believe we -- we do
9 have a meeting scheduled, maybe after NCAI, with one
10 of your clients, and I'm not sure if it's -- it's both
11 of them.

12 You mentioned that we've not been out to visit
13 with them, and I'd like to understand more from my
14 staff when I get back to D.C., why. I wasn't aware of
15 that, so thank you for sharing that.

16 Are there further comments, questions,
17 suggestions? Yeah.

18 MR. PELTOLA: One thing I'd like to address is
19 what was mentioned by -- by Charlie when he talked
20 about the changeover in the bureaucracy, or the
21 federal government, and the more -- more of a firm
22 position with the Tribal leaders. And this is coming
23 from the new Regional Director of BIA. I've been in
24 the position since July, but I've spent my whole
25 career here, born and raised here, and so I understand

1 that.

2 I wanted -- part of your comments stood out to
3 me in a sense that at a local level within this
4 region, that something we're trying to accomplish, is
5 that we want to have a consistent message coming from
6 our office, and being in the government for 35 years,
7 we always have a tendency of -- in my personal
8 opinion, was that, you know, "Come meet with us here
9 as opposed to we're going to meet somewhere with
10 somebody." On the local level, what I'm trying to do
11 is engage with our staff, and this region is trying to
12 get actively to locations in tri- -- in -- to meet
13 with tribes.

14 You mentioned the realty program. You know, a
15 lot of times we have exchanges via e-mail, telephone
16 calls and such. I've asked our staff to act- --
17 actively engage to go out and meet with -- with
18 individual tribes, such that the people that we're
19 engaged with. If nothing else, place a face with a
20 name. What I've been finding out is that a lot of
21 times someone might be becoming familiar with a name,
22 and the -- (indiscernible - speech slurred) -- the
23 realty office, but they've never really met, but the
24 more -- (indiscernible - speech slurred) -- spoke with
25 them on the phone, but never see them in person.

1 That's something that we're trying -- we're trying to
2 do in this region since I've come on board. I'm not
3 saying that that did not occur prior to my arrival,
4 but that's something I feel strongly about.

5 Being the new Regional Director, you know, I
6 came from a program where we had ten regions. I came
7 from the Federal Subsistence Program. We had ten
8 regions. Here, we -- we look at regions a little
9 different -- different within BIA, but I've also
10 reached out to Tribal leaders, organizations, and
11 asking if I can sit down and meet -- meet with them
12 and talk about areas of their concern, just such that,
13 you know, some people in the State know me; a lot of
14 others do not, but I want to establish that personal
15 connection, which I think is integral between our
16 organization and the tribes that we service.

17 MS. BORTON: Melissa Borton, Native Village of
18 Afognak. I'm the Tribal administrator. I just do
19 want to say congratulations to you on your recent
20 confirmation.

21 I'm not going to reiterate with what my
22 colleague said. Malia summed up the needs of our
23 tribes well. I just want to point out that coming
24 into this week and your consultations was difficult
25 for many of us, and so as you look to plan further

1 consultations and Tribal listening sessions, it's very
2 difficult to plan additional things during this week.
3 Many of us are pulled in many directions and have to
4 make difficult decisions. We're missing what is
5 happening upstairs so that we can sit here and be a
6 part of your consultation as well. So I understand a
7 lot of people traveled to Anchorage and it's costly,
8 but it's hard to be pulled in many directions, so
9 please keep that in mind as you schedule further ones.

10 MS. SWEENEY: I appreciate that comment, and
11 especially from my previous experience with AFN, and
12 sitting on the board and actually sharing some of that
13 same concern on the other side of this microphone in
14 my previous life. And I recognize the pull, and as we
15 have our discussions on scheduling and engagement in
16 Alaska. What's nice now is that you have Alaskans
17 inside the Department who can shed some light on the
18 perspective that many Alaskans would have on timing,
19 and -- which is one of the reasons why I reached out
20 to NCAI and AFN, knowing that the Tribal leaders
21 meeting takes place the day before AFN, and I will not
22 be there on Sunday because I'm going to NCAI.

23 I wanted to make myself available to the
24 Tribal community to -- to answer questions, or to
25 receive feedback, and I hear you and certainly

1 understand that the Sunday after AFN is also a very
2 difficult time to host a consultation. The schedule
3 is what it is for this issue, but going forward, we
4 certainly are going to have a more interactive
5 dialogue on that with respect to Alaska consultations.

6 Are there any further comments?

7 MS. CHANAR: My name is Pearl Chanar, and I'm
8 with Seth-De-Ya-Ah Village Corporation. The chief of
9 our village, Clifford Charlie, is on his way to
10 Anchorage right now, and I spoke with him this
11 morning, and that's the Native Village of Minto.

12 I did talk to him, and like Fort Yukon, I
13 think he's feeling the same way. There's many IRA
14 village councils that organize way back to the 1940s.
15 This is not a problem for them. There -- there are
16 procedures. There's policy that's implemented
17 already.

18 And I guess if you're looking for a definition
19 for -- that have a common bond, from way back from --
20 like, my grandfather is Chief Charlie (ph) from Minto.
21 He was one of the chiefs that met in 1915 with Judge
22 Wickersham. That's -- our tribe has always been where
23 it is right now. Since then, that whole area within
24 the Minto Flats, we've always been there. We will
25 always be there, and everything that we do from

1 subsistence to the way we live, what we eat, the
2 clothing we wear, everything, that's our common bond
3 and the way our village is organized in what we do.
4 My corporation works very closely with the council,
5 and especially now all of this land into trust.

6 I retired from Central Office in 2008 as a
7 Senior Realty Specialist. I'm very familiar with
8 land-into-trust applications, and also with IRA, the
9 definition. I think if our chief was here, he would
10 support saying -- and we support what -- you know, we
11 have the same view as Fort Yukon. It's been there for
12 a long time.

13 And I don't see a lot of Tribal
14 representatives here, and most of them in Alaska have
15 been in existence since the 1940s. I don't see,
16 except for Chugachmiut. You know, the new people who
17 have applications pending right now, I -- I don't -- I
18 -- I kind of sympathize with you. I know that when I
19 worked in Central Office for land into trust, 25 years
20 was not uncommon for an application to be pending, so
21 I don't know if that's just the way the government
22 works, or -- but I'm not going to criticize.

23 Thank you.

24 MS. VILLEGAS: Malia Villegas again, Afognak
25 Native Corporation.

1 I just wanted to ask a clarifying question in
2 some of the questions, again, particularly I think
3 Number 7, 8, and 9. The term "Alaska Native groups"
4 are used, and in Number 7, it kind of looks as if it's
5 "American Indian Tribes" and then "groups in Alaska."
6 Who does that refer to, "groups in Alaska"? Who does
7 that include?

8 MR. KELLY: I think I would say, for purposes
9 of the question, it would probably be best interpreted
10 as applicants. In Part 83, the sort of jargon they
11 use is "petitioning group" to distinguish the
12 petitioner from a recognized or acknowledged tribe.

13 MR. NEWMAN: Good morning. My name is Matt
14 Newman. I'm a staff attorney at the Native American
15 Rights Fund here in Anchorage. I'm here today on
16 behalf of the Levelock Village Corporation.

17 As far as substantive comments, I actually
18 would just incorporate by reference what my colleague,
19 Kristi Williams, had said earlier: NARF has very
20 similar opinions about the guidance, and I've spoken
21 before at the Ketchikan and Fairbanks sessions about
22 this as well.

23 I actually wanted to speak this morning on a
24 logistical issue, if I may. I think the reason you
25 don't see a lot of Tribal leaders in this particular

1 room, despite the fact that hundreds are upstairs, is
2 that today's session was styled as an ANCSA
3 Corporation consultation, and there is a general
4 misunderstanding upstairs. Tribal leaders upstairs
5 don't think they're allowed in this room right now,
6 because they are here in their capacity as council
7 members and Tribal leaders, and if -- if possible, if
8 -- if Gene or -- or the Assistant Secretary could go
9 upstairs and let the leaders upstairs know that for
10 both this session and the trust lands session this
11 afternoon, that they are welcome, and they have an
12 opportunity to testify. I really think this room will
13 -- will be much more populated, and then we can spare
14 the stress that folks have to attend on Sunday, which
15 is travel day. Everyone's going home on Sunday. So
16 if that announcement is possible, I think it would do
17 a lot to bring a lot more voices in this room.

18 MS. SWEENEY: Thank you.

19 Looking at the schedule, it does reflect ANC
20 consultation for this session and the afternoon
21 session. The way that it is structured is if there
22 are ANCs who want to provide comment, this would be
23 the time to do it. If there -- if -- if there are
24 Tribal leaders who want to participate in the ANC
25 consultation period, they're welcome to as well. I

1 can't speak to the schedule. It was -- the schedule
2 was set, and it's been noticed. They will continue to
3 have that consultation on Sunday, but, again, I
4 certainly understand the -- the concern about timing
5 and participation.

6 MR. SINK: Matt, I think in the beginning you
7 brought up, you know, trying to clean up some of the
8 language for the applications to IRA, so I'd like to
9 hear a little bit more what other terminology you're
10 looking at to -- to evaluate more -- more distinctly.

11 MR. KELLY: We are not looking at anything
12 specifically. It's just the Alaska IRA as such. So
13 any -- any input, any thoughts on that, to the extent
14 it's succinct from the IRA.

15 MR. SINK: You mean the application to -- or
16 -- or the IRA Act itself?

17 MR. KELLY: I'm sorry. When you say
18 "application," you mean...

19 MR. SINK: Well, because we get a little
20 confused here because we have a lot of IRA councils,
21 and I have two tribes applying for federal
22 recognition. So that's one issue, and there's
23 language related to that.

24 Are you talking about the 1934-1936 IRA Act
25 itself, any interpretations of that?

1 MR. KELLY: Yes. That's what the consultation
2 is centered on.

3 MR. SINK: Okay. I just wanted to clarify
4 that --

5 MR. KELLY: Yeah.

6 MR. SINK: -- so we understand it better.

7 MR. KELLY: Sure. Sorry about that if I was
8 unclear.

9 MR. SINK: Okay.

10 Since I'm on a roll, yeah, so -- so when I
11 read that solicitation, the mem- -- memorandum and --
12 and the numbers there, and the Solicitor's opinion in
13 January, the interpretation was that Alaska Natives
14 and their entities are Indians by definition. And
15 then in July, we see the -- the interpretation is
16 challenged on -- on -- on the July -- these two July
17 letters, and that created the soliciting session.

18 And when -- when I read the M-Opinion, I
19 thought it was pretty well-written, and it was pretty
20 well-defined, that Alaska Natives are -- are Indians.
21 And is there some challenge on that? I think you said
22 no, but I would like to hear your guys' interpretation
23 of that, because I thought it was well-defined.

24 MR. KELLY: Which opinion are we talking
25 about? Sorry.

1 MR. SINK: The three criteria for the Lower 48
2 tribes to -- to -- to be identified as Indians, and
3 then Solicitor's opinion in January, said that the
4 three criteria for the Lower 48 didn't necessarily
5 apply to Alaska Natives, because Alaska Natives, by
6 definition, are determined Indians. Is there -- is
7 there any challenge to that at all?

8 MR. KELLY: Pending legal challenge?

9 MR. SINK: Or interpretation is coming up, and
10 does it need to be better defined in that, or not?

11 MR. KELLY: I'm not aware of any legal --
12 legal challenges to it. I don't know what the basis
13 for such a challenge would be at this time in -- in
14 terms of application that's having been applied, and I
15 think the Department is seeking input on that issue,
16 so -- so --

17 MR. SINK: So seek- -- seeking -- seeking
18 input on it, I --

19 MR. KELLY: Yeah. So --

20 MR. SINK: -- I think that's kind of, like, a
21 broader issue, because I was talking to my executive,
22 Jan Vanderpool, yesterday, and one of the things that
23 is a reoccurring theme is the challenge of whether the
24 Alaska Natives are Indians, and so if you're trying --
25 trying to revisit that -- but that's -- that's not

1 what's going on here?

2 MS. SWEENEY: No.

3 MR. SINK: Okay. Because I was -- then we
4 have the ICWA decision that kind of modified that term
5 of who are Indians and what's -- what's the sovereign
6 right on that. And then we -- we have some real
7 issues of these adoptions because of the Texas case,
8 and the -- so it's kind of a -- there's a sovereignty
9 issue going on here of what's right, and it's being
10 interpreted as -- as a prejudicial thing that some --
11 some rights that the Indians have is -- is -- is more
12 than -- than the equal rights of other people in -- in
13 -- in -- in the nation.

14 And so as these laws are -- are -- are passed
15 by and then interpreted by Congress, I think that's
16 where the ambiguity is, that -- that we, as -- as
17 representing sovereigns, are very particular about how
18 you address that, and -- and I -- we -- we come here
19 and -- and we -- we -- the Solicitor's letter, in my
20 opinion, you know, I'm going, like, "Okay. Yeah, we
21 agree," but then we're hearing that it might be
22 reviewed by Congress to be interpreted maybe in a
23 different way, and we just need to understand what you
24 guys are looking at and what kind of input you need
25 from us, because some of this is pretty ambiguous, and

1 -- and so -- but I think there's some real legal
2 precedence that could come out of this -- this
3 session.

4 And there's a lot of people here, I think,
5 that are probably in the same boat that I am, kind of
6 wondering just -- just what are we dealing with here,
7 we're -- and it feels like we're not addressing the --
8 some of the other questions that are not being stated
9 that are being looked at. So that's kind of why I've
10 been asking Matt and -- and -- and -- and yourself,
11 what are all of the issues that we're looking at here?
12 Because if we know what the issues are, then we'd have
13 a better way of being prepared to -- to answer that
14 question; maybe not today, but in our written comments
15 later on.

16 Thank you.

17 MS. SWEENEY: Do you want to --

18 MR. KELLY: Yeah.

19 There -- there are no unasked or hidden
20 questions. I think the ICWA decision that you
21 reference is a sign of the importance of these issues
22 and of the changing landscape in the inter-relative
23 legal landscape in which all of them, you know,
24 connect up, so what happens here can have an effect
25 over there.

1 We are seeking guidance so that we can ensure
2 that the decisions that we make in these two areas,
3 fee to trust and organization, are as sound as
4 possible. The ICWA decision is something that has
5 happened out in, you know, an unrelated area that has
6 repercussions in this area, or vice versa, however you
7 want to look at it.

8 Those kinds of things were not, as far as I
9 know, on the radar behind accepting out these -- these
10 Tribal -- "Dear Tribal Leader" letters. Instead, it
11 was to understand we have this process in front of us.
12 This process doesn't have explicit guidance. It has
13 been implemented a great deal in the past. A lot has
14 happened in the intervening 70 or 80 years, and even
15 in the area of administrative law alone, and the
16 Department feels that, given some of those
17 developments, clear guidance, be it in the form of
18 internal policies and procedures, be it in the form of
19 reg- -- regulations through -- (indiscernible) --
20 comment are the kinds of things that will buttress
21 whatever decisions there are going forward.

22 The kinds of issues that you pointed to just
23 now, the kind of repercussions are exactly the kinds
24 of things that need to be pointed out in -- in the
25 comments and the consultation that we get back, to

1 ensure that they are noticed, noted, and considered,
2 and so that they can be part of the subsequent rounds
3 of consultation -- (indiscernible) -- that will
4 happen, which certainly are expected to happen in the
5 context of fee to trust.

6 So the questions themselves are broad. They
7 are vague. I don't -- I didn't have a hand in
8 drafting them, so I can't explain specifically, but it
9 seems to me that's a good thing, because it opens it
10 up so broadly. It doesn't unnecessarily preclude
11 consideration of something that we might want to
12 consider, precisely because of the interconnected
13 nature of this field of law that we're operating in.

14 MS. DECORA: Thank you.

15 My name is Lisa DeCora. I work at the local
16 office of the Regional Solicitor here in Alaska for
17 Department of Interior.

18 There was an M-Opinion that came out on
19 January 18th, 2017, that talked about the
20 reaffirmation of the U.S.'s unique trust relationship
21 with Indian tribes and related Indian law principles.
22 Is that the M-Opinion you're speaking of? So it's not
23 the fee-to-trust M-Opinion; it's the other one that
24 came out at the same -- on the same day.

25 MR. KELLY: Yes. Because there was a

1 discussion on the fee-to-trust opinion about the
2 definitions, the IRA definitions of Indian also.

3 MS. DECORA: So you're incorporating the two
4 of the --

5 MR. SINK: Yeah. And I think --

6 MS. DECORA: -- issues together?

7 MR. SINK: -- M-37043.

8 MS. DECORA: 37 -- 37045?

9 MR. KELLY: 43 is the fee to trust.

10 MR. SINK: 43 is -- (indiscernible).

11 MS. DECORA: The fee to trust?

12 MR. KELLY: Yeah.

13 MS. DECORA: Okay. And then there's 145 --
14 045 that came out on January 18th that also was
15 talking about the unique trust responsibilities with
16 Indian tribes, so I didn't know if that was the one.

17 MR. SINK: I -- I -- I hadn't seen that --

18 THE COURT REPORTER: You have to have a
19 microphone.

20 MS. DECORA: Okay. Well, I -- it sounded like
21 it might have been that one, so I wasn't quite sure what
22 M-Opinion you were talking about, but there also was
23 that one that came out on that day.

24 MR. SINK: I would ask the audience. I have not
25 seen the -- the -- the M-45 document. Has anybody else

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seen that?

MR. KELLY: Just so you're aware, the Solicitor has a webpage with all their M-Opinions, including that one.

MR. SINK: No. Just that the -- had some information came to us through the Internet through our Colaska network, we saw the M-43 letter, but we did not see the M-45 letter get passed around, and so -- but you said we -- we can -- we can find it on a web- -- website?

MR. KELLY: You can. Just search "Interior Solicitor's Opinions," and you'll go to the webpage that has all of them, and I'm looking at it right now. That's on there as well.

MR. SINK: Okay.

MR. KELLY: And this is an opinion which the general stated principle is affirming the government-to-government relationship.

MR. SINK: Okay. I'll -- I'll look for it. I'll -- I'll be back Sunday with -- with whatever Tribal members are left in town, and --

MR. KELLY: Well, if you give me a card afterwards, can I e-mail --

MR. SINK: Yeah. I'll --

MR. KELLY: -- it to you right now.

1 MR. SINK: -- I'll do that.

2 But I have one more question, because there --
3 there was another thing raised about the -- the 34 and
4 36 Act was -- was created when Alaska was a territory,
5 and so there's -- now there's an interpretation, now
6 that Alaska is a state --

7 MR. KELLY: No. Let me -- let me clarify what I
8 meant by that. I was simply trying to provide
9 historical context for the language that was used in
10 1936, '35, '36, when the Alaska IRA was drafted. It's
11 not to suggest that statehood had any impact on that, on
12 the implementation of groups organizing under it
13 whatsoever. It was simply to suggest that terms, the
14 unique terms that are used in the Alaska IRA, like the
15 phrase "common bonds," were understood just as the
16 phrases that were used in the IRA, the '34 IRA, were
17 understood in the -- in the day at a time, and this is
18 reflected in the lengthy hearings on the bill that
19 became the IRA.

20 Those terms are understood in a way that is
21 different from it is -- than it is today. I simply
22 referenced statehood as a marker of 1959 to show that
23 in the ensuing 70 years or so, I understand some of
24 these concepts and terms has changed, and that it
25 might be important to go back to the original

1 understanding to get a better -- to show that the way
2 a common bond might have been used in the Alaska IRA
3 might not have been so different from the way the
4 terms were being used elsewhere in the IRA, and, you
5 know, based on the common experience of Natives in
6 Alaska and Natives in the Lower 48 and the historical
7 injustices that the IRA was intended to address --

8 MR. SINK: Okay.

9 MR. KELLY: -- so I apologize if I was -- was
10 flagging statehood as some- -- somehow having legal
11 significance. I simply meant it as a time marker to
12 show that a period of time had elapsed.

13 MR. SINK: Well, I think that's why I keep
14 asking questions, because I -- I think this -- that --
15 that was a good discussion there, because I think what
16 you're looking for is how we -- we view ourselves
17 today as compared to 1934, 1936, and how we see things
18 being conducted in Alaska the way we do -- do business
19 between the federal agencies and us as tribes and
20 ANCs. And is that the kind of feedback that you want
21 from us, and -- and how it carries out in -- in
22 practical terms in a legal sense? And then we can
23 bring out some of the challenges that we run into. Is
24 that the kind of feedback that you want?

25 MS. SWEENEY: Yes.

1 MR. SINK: Okay.

2 MS. WILLIAMS: Hi. Kristi Williams again,
3 Hobbs Straus. I just had a question about the
4 timeline for this process in the pending applications.

5 So will the pending applications continue to
6 be -- well, "reviewed," I guess, is the best word I
7 can think of -- but during this process, or have you
8 halted that process? Will they continue as they are?
9 Will they have to go back to the beginning? If you
10 have new regulations promulgated, what -- what --
11 what's your plan for the current pending applications?

12 MR. KELLY: I'm not aware of any plan that's
13 been articulated with respect to them. I'm also not
14 aware that they've been withdrawn. Everything is
15 still in the same process it was where it was before
16 the, you know, letters came out.

17 That is something that will be considered. It
18 is certainly something that would be worth opining on,
19 as to what you think the best way of proceeding is in
20 the event the Department goes this way or goes that
21 way, but I'm not aware of any plans to change the
22 handling process of them right now.

23 MS. WILLIAMS: I -- I -- I would assume it
24 would be grandfathered in, that the pending
25 applications would be reviewed under the Alaska IRA

1 process as -- as it currently stands, if new
2 regulations are promulgated by the Department.

3 And, I mean, my advice would be to -- to work
4 on those things instead of opine about how it can be
5 fixed, you know, since the tribes have been waiting 25
6 and 17 years for a decision, to act on issuing a
7 decision, rather than, you know, researching it and
8 having consultation about it, but to actually act on
9 issuing a decision.

10 Thank you.

11 MS. CHANAR: As ANCSA Corporation, I guess I
12 -- I'd like some clarification on your definition of
13 -- if -- if the Village of Minto submitted a
14 land-into-trust application, how is that treated, your
15 special relationship with that tribe if they're part
16 of a consortium? I mean, do you go through Tanana
17 Chiefs, or do you work directly with the tribe? How
18 is that special relationship?

19 MS. SWEENEY: So you said it made the Village
20 of Minto a federally recognized tribe?

21 MS. CHANAR: Yes.

22 MS. SWEENEY: And so there is a prescribed
23 process for tribes to apply to have land into trust,
24 and even though you -- your tribe is a member of TCC,
25 that is a consortium and association of tribes, but

1 your application would be with respect to the Native
2 Village of Minto.

3 UNIDENTIFIED SPEAKER: That's right.

4 MS. CHANAR: So all of your communication,
5 everything would be directly to Minto?

6 MS. SWEENEY: Yes. If -- if the Native Village
7 of Minto were submitting the application, yes.

8 MS. CHANAR: Okay. Thank you.

9 MS. SWEENEY: And can I take that just a step
10 further? Native Village of Minto, even though is a part
11 of TCC, and TCC is a part of AFN, if -- if Native
12 Village of Minto were to submit an application, we
13 wouldn't be communicating with AFN on that.

14 Are there any other comments? Are there any
15 other comments or questions? I don't mean to put you
16 on the spot, but I just saw you walk in, Gabe, and I
17 see the little Chugach caucus going on over there and
18 just want to give you a little bit of time, if you
19 need it.

20 MR. KOMPKOFF: Just another minute.

21 MS. SWEENEY: Okay.

22 MR. SINK: I do have one comment.

23 I -- I -- I don't know if this is true or not,
24 but I -- it was brought to my attention that Chenega
25 made an application a couple of times, and a couple of

1 times the applications disappeared, I guess, over
2 time, and so -- (indiscernible - mic cuts out) -- I
3 think your consultation -- if you -- if you talk to
4 Qutekcak about their application, then they can
5 probably tell you more about that.

6 And -- and I -- I will just say that, yeah,
7 things disappear over time on -- on different things,
8 but I think, like, with our modern age where we can
9 put documents on the Cloud and stuff, that maybe
10 that's a point of improvement that -- that -- that
11 will occur in the future that is better handled.

12 Just as a past land manager, every -- every
13 place I have left -- my last job, all my rotted away
14 files disappeared on me. So, you know, I -- I think
15 that's kind of common practice, but now with the --
16 with the modern era of being Cloud-based, I think we
17 can move forward and record all of the documents that
18 come through and be able to track them down instead of
19 having them "disappear."

20 MS. SWEENEY: And did Chenega submit an
21 application for recognition, or for fee to trust?

22 MR. SINK: Recognition.

23 MS. SWEENEY: Okay.

24 MR. SINK: It's Qutekcak -- Qutekcak, I mean.

25 MS. SWEENEY: Oh, okay. All right.

1 MR. SINK: (Indiscernible - not at mic).

2 MS. SWEENEY: That one is still pending.

3 MR. SINK: (Indiscernible - not at mic).

4 Qutekcak's in our region, but Kristi is of -- of
5 counsel for them, so...

6 MS. WILLIAMS: This is Kristi again.

7 Just to clarify, so there was an administrative
8 error that occurred. The tribe is actually listed as a
9 federally recognized tribe, and an administrative error
10 occurred and they were removed from the list of
11 recognized tribes without any notice or reason. So
12 that's -- that's what happened back in the day, but it's
13 -- it's incorporated in our comments that we've
14 submitted.

15 MS. SWEENEY: Okay. Thank you.

16 MR. KOMPKOFF: I guess it's my turn.

17 Good morning. I'm Gabe Kompkoff with Chugach
18 Alaska Corporation, and we just really wanted to thank
19 you for having this -- having this session here in
20 Anchorage and giving us a chance to provide comment.
21 I don't have specific comments but will be -- will be
22 providing some comments to the questions that you've
23 asked, and we think they're great questions to ask, so
24 we'll make sure we provide some written feedback
25 before the December deadline.

1 I wanted to show up and just voice for the
2 Chugach Region. We've arrived at a place where we're
3 not just focused on -- on business. And I think
4 people think of Alaska Native corporations, and they
5 -- they -- they focus on that label of corporations,
6 and they put us in this general category of what we
7 see with the companies that are traded on Wall Street
8 or the NASDAQ, and we're -- we're very different from
9 those types of companies. We have a mission that is
10 to serve the people of our particular region, and
11 we're very excited to be engaged in a discussion about
12 the IRA process, federal recognition of our tribes,
13 and we're in full support. So I'm really here just to
14 voice solidarity support of your tribes and our tribal
15 councils and their governments.

16 So thank you for the opportunity to -- to
17 speak.

18 MS. SWEENEY: Thank you.

19 Are there any further comments or questions,
20 issues of discussion with respect to IRA?

21 Matt or Gene, do you have any?

22 MR. KELLY: No.

23 MS. SWEENEY: Okay. We'll go ahead and close
24 this session. I want to encourage you, from the tribal
25 community, there is a session on Sunday, and we will be

1 hosting two other consultations, one in Kotzebue and one
2 in Bethel, in December, and there will be a telephonic
3 consultation -- correct? --

4 UNIDENTIFIED SPEAKER: Yeah.

5 MS. SWEENEY: -- on Wednesday, December 12th.

6 And I -- I want to stress, coming into this
7 position and having and carrying that Alaskan
8 perspective, and I know that there are some in here who
9 have worked for the federal government, worked in DOI,
10 and can relate to the importance of bringing that Alaska
11 perspective into Indian Affairs.

12 My office is open, and I have an open-door
13 policy. I want to hear from Indian Country. I want to
14 hear from Alaskans on issues that are important to the
15 Tribal community and the Alaska Native Corporation
16 community as well, because we wear two hats. I'm Tribal
17 member, and I'm a corporation shareholder, and so I do
18 bring that perspective to the discussion.

19 And so as we go through these issues, I -- I
20 just want you to know that my office is open outside of
21 these consultations to have those discussions, and that
22 we're also open to -- to visiting the communities that
23 are affected. And so thank you for raising that,
24 Kristi, but -- but we really are here to serve you. And
25 when I started in this position, the message that I

1 brought in with our central leadership staff, and as I
2 visit different field offices, is how do we get to yes?
3 How do we get to yes? And if the answer is not yes,
4 what alternatives are we providing to Indian Country so
5 we can move the needle for empowerment? And that is the
6 message that I carry to Alaska. That's the message I've
7 carried to Albuquerque. That's the message I've carried
8 when I've traveled to Montana, because it's important.

9 We are in service to Indian Country, and we need
10 to find ways to be more efficient and more effective
11 with our service delivery, and that takes partnership in
12 open dialogue. There are formal avenues, like
13 consultations, listening sessions, but there's also that
14 one-on-one time that we can meet, and so I want to
15 extend that to you so that you know my office is open.
16 And if we don't have the right people sitting at the
17 table, for those of you that know me, know that we will
18 make sure that the right people are sitting at the table
19 to have those discussions.

20 So, with that, I thank you so much for your
21 time and the participation that you provided today in
22 previous consultations and through submitting
23 comments.

24 (Off record.)

25 ///