

1 U.S. DEPARTMENT OF THE INTERIOR/ANC CONSULTATION
2 OPINION-M 37043 - AUTHORITY TO ACQUIRE LAND INTO TRUST IN
3 ALASKA

4
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1 And, Lord, you said that you have come to give
2 life and life more abundantly, and, Father, we just
3 pray and thank you for the abundance that you have
4 blessed us with in Alaska, the abundance of land, the
5 abundance of resources, Father, everything that we
6 need to survive, because you said, "Don't worry about
7 what you're going to eat or what you're going to
8 wear," and so we just praise and thank you.

9 So I pray, Father, for wisdom, for the
10 stewards of this land. Father, I pray for wisdom,
11 that your holy spirits speak truth for them, Lord, so
12 that we can enjoy and partake in the blessings that
13 you blessed us with, each and every one of us from
14 wherever we come from. I ask that you bless us, Lord,
15 bless this meeting, again, for your wisdom.

16 In Jesus name, we pray. Amen.

17 (Indiscernible crosstalk.)

18 MS. SWEENEY: What a nice blessing.

19 I want to introduce some people who are here
20 with me from the Department of Interior. We have
21 Eugene R. Peltola, Jr., also known as Gene, also known
22 as "Buzzy" to some people, or a lot of people inside
23 his region. He is our Regional Director for the
24 Bureau of Indian Affairs here in Alaska. And also we
25 have Matt Kelly with the Solicitor's Office at the

1 Department of Interior.

2 In terms of process, we have two people who
3 have signed up from the -- from Alaska Native
4 Corporation to provide comments. And beyond that,
5 afterwards, we can open up the floor to others who may
6 have comments based on the discussion here.

7 When you provide your comments, if you could,
8 please, state your name, your ANC or Tribal
9 affiliation. We are recording this session. This is
10 -- it is an official consultation, so we do have a
11 recorder here. She needs to -- she needs to hear you,
12 and we are requesting that if you'd like to say
13 something, just please raise your hand. We have one
14 mic, and -- I was going to say Regina, but you're not
15 Regina --

16 UNIDENTIFIED SPEAKER: Amanda.

17 MS. SWEENEY: -- Amanda -- Amanda will be
18 bringing the microphone over to you.

19 With respect to land into trust, the -- the --
20 the purpose of this consultation is to hear from the
21 ANC community, and also from tribes. If -- for those
22 of you who are familiar with consultation inside the
23 Department of Interior, we have two policies for
24 consultation; one, for -- for tribes, and one for
25 Alaska Native Corporations. And those policies we've

1 set aside time to provide those consultations for
2 those constituencies. I don't want to be exclusive,
3 and, so, again, I -- I stress that we will -- we will
4 provide time for the Alaska Native Corporations, and
5 then also provide time for tribes.

6 During this session, it's important to
7 remember we do have a Tribal consultation session on
8 Sunday, and unfortunately I will not be here. The
9 Principal Associate Deputy Secretary, John Tahsuda,
10 will be conducting that session with Gene, and with
11 Matt as well.

12 And so with that, Matt, would you like to...

13 MR. KELLY: Sure. Good afternoon, everybody.
14 Is this on?

15 MS. SWEENEY: Yeah.

16 MR. KELLY: So this afternoon session is
17 addressing the "Tribal Dear Letter" (as spoken) with
18 respect to the withdrawal of the Department's M-Opinion
19 respecting fee to trusts in Alaska.

20 The -- by way of background, the opinion was
21 withdrawn pursuant to a memorandum from the
22 President's Chief of Staff asking for review of
23 statements of policy that have been issued by the
24 prior administration. The Alaska M-Opinion was issued
25 on, I believe it was, January 16th -- 14th or 16th --

1 and the memorandum was issued on January 20th.

2 This, the memorandum, affects work at all
3 agencies, not just the Department of Interior, but
4 because the Alaska M-Opinion announced a policy
5 position of the Department, it was subject to review.
6 The Principal Deputy Solicitor subsequently issued in
7 -- in his withdrawal memo, also describe reasons that
8 he felt the analysis contained in the original
9 M-Opinion was inadequate, and they primarily dealt
10 with subsequent changes in law subsequent to the
11 enactment of ANCSA, and that included not just
12 amendments to ANCSA itself, but to other legislation,
13 ANILCA, the Federal Lands Policy and Management Act,
14 and it also -- as well as the amendments to the IRA,
15 the so-called Privileges and Immunities Amendment, in
16 addition to court litigation in Washington D.C. in the
17 case of Akiachak.

18 Based on that, a letter was sent out for the
19 consultations, listing a number of questions that the
20 Department and the Solicitor sought the views of the
21 Alaska community. I attended the consultations in
22 Juneau, and the Principal Deputy Assistant Secretary,
23 John Tahsuda -- who will be here on Sunday --
24 addressed more why we want to do this, "we" being the
25 Department. There were a lot of concerns expressed at

1 those consultations over what the letters meant, and
2 in part, that was a failure on the Department's part,
3 on our part, to communicate more clearly what this was
4 about.

5 The message that John delivered was going
6 forward with fee to trust in Alaska, the Department
7 wants to ensure that every decision it makes rests on
8 as solid and as sound of legal footing as is possible,
9 and it's the position of the Secretary, Secretary
10 Zinke, and the Deputy's Secretary, David Bernhardt,
11 that they want to issue decisions for tribes.

12 When they -- when a tribe submits a request,
13 they don't want to see applications pending in the
14 Department for many years, as has been the case, but
15 before they will issue a decision they'd like to know
16 what the legal basis for it is. And as Mr. Tahsuda
17 put it in Juneau, he would rather say no before
18 issuing a decision that he's not sure why they're
19 issuing it in the first place. And in part, that is
20 to avoid leaving it to the courts to determine the
21 Department's policy, and leaving it to the courts to
22 interpret statutes that Congress has entrusted the
23 Secretary with implementing.

24 I think one example of what John may have had
25 in mind was the decision in Carcierri, which

1 interpreted a single word in Section 5 of the IRA,
2 which transformed how we now go about practicing
3 fee-to-trust applications.

4 With the withdraw of the M-Opinion, the Alaska
5 fee-to-trust memo, did not change the 151 regulations.
6 Part 151 refers to those regulations that govern the
7 implementation of the fee-to-trust provisions in the
8 IRA. That has not been changed. The so-called
9 "Alaska exception," which prevented the Department
10 from considering fee-to-trust applications from
11 Alaska groups, that was removed in 2014. That remains
12 the case.

13 There are a number of fee-to-trust
14 applications from Alaska groups pending before the
15 Department. So far as I'm aware, they continue to be
16 processed. What we are seeking guidance on is whether
17 we need to change the existing Alaska M-Opinion, which
18 was withdrawn, and if so, how? Are there areas that
19 have not been addressed? The Deputy Solicitor
20 believes that did not adequately address certain
21 aspects of subsequent amendments to ANCSA, the
22 Akiachak decision as well.

23 So those are all the things on which we're
24 seeking comments. We heard earlier this morning that
25 the questions in the "Dear Tribal Leader" letter

1 appear vague, perhaps ambiguous, not specific. As I
2 was explaining after the morning session, the reason
3 for that is to leave it open so that we can -- don't
4 preclude views on any particular questions. So that
5 is why we're here. We want to hear everything on the
6 process, how it should operate, whether the existing
7 laws are in any way affecting applications from
8 Alaska.

9 So that's all by a way of background. I think
10 what we'd like to do now is turn it over to you to
11 hear your input and your comments. When, if you have
12 a question or a comment, please raise your hand. A
13 microphone will be brought over to you, and if you
14 could speak directly into the microphone, that will
15 assist the court reporter to transcribe what you're
16 saying. We will have a transcript from today's
17 sessions, which will be available online at some
18 point.

19 MS. SWEENEY: So on the list we have Natasha
20 Singh. She's right there.

21 MS. SINGH: Oh, okay. Thank you. Should I
22 stand up here?

23 MS. SWEENEY: Whatever you're comfortable doing
24 is fine.

25 MS. SINGH: I'll sit. Should I face you guys?

1 Thank you all for the opportunity to deliver
2 these comments. Today I'm representing Dinyee Village
3 Corporation. My name is Natasha Singh, S-i-n-g-h.

4 Dinyee is the ANCSA Village Corporation out of
5 Stevens Village. Most of the shareholders and the
6 Tribal members live outside of the village today in
7 Fairbanks and Anchorage. Both entities, the village,
8 ANCSA Corporation, and the tribe, have very little
9 resources. They work somewhat closely together when
10 they have the resources to communicate, but Dinyee
11 itself is very interested in developing its ANCSA
12 lands. It's been in close communication with our
13 original ANCSA Doyon to do that, and it's very
14 interested in insuring that these development projects
15 are allowed to continue in the kind of planning
16 phases. So they are very aware of and considered with
17 barriers that might hinder that development planning.

18 I say that because the land into trust for
19 tribes in Alaska will not hinder that development for
20 Dinyee Corporation. They know the tribe is interested
21 in insuring that these plans go forward. They feel
22 strongly that the current 25 CFR 151 process gives the
23 village corporation the proper voice in order to voice
24 any of those concerns that would move forward.

25 To the question of the legal authority of the

1 Secretary to consider these petitions, I think it's
2 clear in Section 5 of the R -- IRA that the Secretary
3 has this authority, and that authority has not been
4 repealed by ANCSA, FLPMA, or ANILCA.

5 As you know, tribes aren't flooding the gates
6 with applications for land into trust. It's because
7 it's very specific instance when a tribe might want to
8 pursue this heavy federal oversight and protection,
9 and many tribes simply don't have the resources and
10 have other priorities in front of pursuing land into
11 trust.

12 I think the idea behind using 25 CFR 151 was
13 to see how it goes, and we haven't been able to do
14 that yet. We have one application that's been
15 approved in Craig. I think it's premature to pull the
16 process without seeing more applications and see how
17 -- how they work for the various interests to go
18 forward.

19 That's all I have to say. Thank you.

20 MS. SWEENEY: The next on the list is Jaeleen
21 Kookesh.

22 MS. KOOKESH: Thank you. I don't want my back
23 to anybody, so I'll stand over here.

24 I'm Jaeleen Kookesh. I'm the Vice President,
25 General Counsel, and Corporate Secretary at Sealaska

1 Corporation, which is the regional corporation in
2 Southeast Alaska, and I appreciate the opportunity to
3 provide some comments on the land-into-trust issue for
4 our region, regional corporation, and just broadly for
5 Alaska.

6 I guess I would start by saying that in the
7 first go-around when you came up here and had sought
8 comments for implementing land into trust into Alaska,
9 Sealaska did support allowing our tribes to -- to put
10 land into trust. I say that in part because of our
11 own region's different treatment in ANCSA, our
12 regional corporation actually is the smallest land
13 base of all the ANCSA regional corporations. Despite
14 having the largest number of shareholders, we were
15 treated very differently in ANCSA. So despite having
16 over 22,000 shareholders, we only have 362,000 acres
17 in a 22 million acre region, compared to other
18 regional corporations, which have millions of acres.
19 So the more land that we can get into Native ownership
20 in our region, I think is very beneficial for our
21 Native people in the region, because currently we're
22 surrounded mostly by National Forest and Park Service
23 land, so I'm hoping that we can get more land in our
24 region into Native ownership.

25 I do want to address one of the arguments

1 against land into trust in Alaska is that ANCSA was
2 enacted, and that there was an intent to essentially
3 attempt to do away with the existence of tribes in
4 Alaska. That intent and that expectation has never
5 happened. Our tribes continue to exist. We are still
6 Tribal people, and all that simply was created was a
7 separation of some of our inherent Native sovereign
8 rights that most tribes have consolidated in the Lower
9 48. So what you have in Alaska is the ANCs with the
10 land base, and then you have our tribes who still have
11 a sovereign status and authority over their
12 membership, and their Native children, and to
13 administer programs that the Bureau of Indian Affairs
14 does.

15 So we -- we have sort of a bifurcated
16 sovereignty in Alaska, and what -- what -- what that
17 has resulted in is with the limited sovereignty over a
18 land base, our tribes have to deal with a lot of
19 issues in terms of jurisdiction. We have a lot of
20 criminal jurisdiction issues and other jurisdictional
21 issues that we don't have -- our tribes don't have the
22 authority to exercise certain levels of sovereignty.
23 So -- so despite some of the language in ANCSA, that
24 expectation and intent never happened, and we still
25 have tribes here and we're still Tribal people. So --

1 so we at Sealaska continue to support land into trust
2 for our tribes.

3 And in regards to Title 20 -- or 25 CFR 151, I
4 think for the most part it -- it works. I do think
5 that there needs to be some little tweaks, because it
6 doesn't -- because of the exemption that previously
7 existed -- previously existed in language, it doesn't
8 necessarily take into account uniqueness of Alaska.
9 So I don't know that you have to do a wholesale
10 amendment to it, but maybe you add another subtitle
11 within that section or that part so that you can
12 address some of the Alaska-specific issues, like the
13 reservation to using the boundaries of a preexisting
14 reservation. That doesn't really work for most of
15 Alaska. There were some reservations that existed
16 before ANCSA, but some of that language doesn't quite
17 work here, so -- and I don't want to get into
18 specifics now, but I'm happy to help with any drafting
19 at any point.

20 So, I guess, overall, I just want to continue
21 to express the Alaska support for land into trust.

22 MS. SWEENEY: Thank you.

23 I want to just remind the audience that we
24 also have two additional consultations coming up in
25 Bethel on September 5 (as spoken), and Kotzebue on

1 December -- December 5th and December 7th. We will
2 also be doing a teleconference on December 12th.
3 Comments are due on December 20th, and so for the
4 regional and village corporations who want to submit
5 comments on -- from the ANC perspective, please get
6 those in by that time with your suggestions on if
7 there are tweaks that need to be made, if we need to
8 do some adjustments in different parts of the
9 regulations, then let us know what that looks like,
10 because hearing from you and from your perspective is
11 certainly going to be important in the deliberative
12 process. And I appreciate the comments that both of
13 you and Natasha have put forward.

14 And in terms of the ANCs that signed up to
15 provide comments, that's it. If there are other
16 representatives from ANCs that would like to speak at
17 this time, just raise your hand, and we'll go ahead
18 and bring the microphone over.

19 Can you state your name and your corporation,
20 please?

21 MR. GEORGE: Fritz George, shareholder --
22 (speaking Yup'ik), Tribal member -- (speaking Yup'ik).

23 Presently, I serve my village as a chairman
24 for the council. Kind of -- the IRA is kind of like
25 an embarrassment, like -- like according to Felix

1 Cohen, he -- he stepped down. So the IRA was created
2 to strip the villages, the tribes of their chiefs.
3 We're starting to vote -- vote for council, its
4 replacement, but anyways -- (indiscernible) -- is one
5 of the plaintiffs in a case -- (indiscernible) --
6 Salazar.

7 But anyways, we attended -- I attended the
8 Falmouth -- Falmouth Institute's trust land workshop,
9 and they said the Department of Interior is not going
10 to accept polluted land because it doesn't want -- it
11 doesn't want to pay for the costs to clean up.

12 Well, anyways, it seems -- Akiachak apply for
13 trust land, like, after reading horror stories, which
14 is, like -- the tribe down south, the Lower 48, they
15 come up with a proposal to improve their economy.
16 They wait for six years, or they don't get a respond.
17 It seems like they want us to stay put or something
18 like that, and it seems like -- what we're thinking
19 about is Representative Don Young's Empowerment Act,
20 H.R.212, are restricted.

21 (Indiscernible) -- is Congress going to
22 approve that?

23 MS. SWEENEY: That's up to -- it's up to
24 Congress to approve that.

25 MR. GEORGE: It seems like we are going to be

1 waiting for that, I hope not forever. When?

2 MS. SWEENEY: When you -- when you talk about
3 the federal government taking a long time to respond --
4 and -- and we heard that this morning as well in the
5 Alaska IRA consultation -- there have been groups that
6 have been waiting decades for either federal recognition
7 or for their fee-to-trust applications.

8 And I can't remember if Matt mentioned it
9 earlier, but when Secretary Zinke started, and with the
10 Deputy Secretary, David Bernhardt, it was clear and made
11 clear to the leadership inside DOI that we can't afford
12 to just let decisions languish, and that we do need to
13 take action and provide clarity and a clear path forward
14 and processes on issues facing the department.

15 And so I hear what you're saying about the --
16 the response time by the federal government, and you
17 have a commitment that we're taking a look at different
18 processes to ensure that that response time is shortened
19 so that people have decisions.

20 Are there any other ANC representatives that
21 would like to provide comments? I will open it up to
22 Tribal representatives that are here. Any other
23 comments?

24 MS. TOTEMOFF: Hello. My name is Angela
25 Totemoff. I am a representative of the Tatitlek

1 Corporation. I'm here to provide comments on behalf
2 of the Tatitlek Corporation.

3 The Tatitlek Corporation believes that placing
4 land into federal trust is an important component to
5 self-determination and longevity. While not all
6 Alaska Native tribes will take advantage of it, we
7 believe it is important to have the ability to do so,
8 should the tribe or ANC decide. Having this
9 protection allows communities to thrive for future
10 generations.

11 Additionally, many -- many federal programs
12 and services are available, only on reservation or
13 trust lands. We ask that the administration support
14 Alaska Native tribes and corporations' rights to
15 continue putting land into federal trusts. Please do
16 not take away that ability.

17 MS. SWEENEY: Thank you, Angela.

18 So we have two individuals on this side of the
19 room. Right behind you. She was first.

20 MS. KATCHEAK: Good afternoon. My name is
21 Marie Katcheak. First of all, my -- my name, to tell
22 the truth, is "Crockety" (ph). That's my name. I was
23 born and raised in the village of Deloycheet -- you
24 can look that up and find out where that is -- and I
25 reside in Kobuk (ph).

1 I'm concerned about my Native allotment that's
2 up on the federal reserve. And about the last ten
3 years or so, the federal government was running around
4 -- (indiscernible) -- Holy Cross people to buy their
5 Native allotments for 50 grand, and then we'd get off
6 the land forever. I want to know how much longer are
7 you able to keep our lands and trusts on these
8 refuges. I intend to have my refuge passed on to my
9 own descendants, and I'm not talking about blood
10 quantum; I'm talking descendants. That's what I want
11 to do, but you don't have language that states that.
12 It's not language, if you do. Please clear me right
13 now on that language. Make it loud and clear so I'll
14 understand it.

15 When we talk about Native allotments that are
16 in trust, we need more time to think about this.
17 These are some things that seem like they're just
18 getting dissolved all over the state. We are very
19 scared of what would happen if there were no more
20 Native allotments, what development would take place
21 we wouldn't even know about. I'm concerned about the
22 future of my children and grandchildren.

23 For this -- thank you for this opportunity.
24 As a Tribal member of Deloycheet, I want you to study
25 what you are doing. Talk with the Native people.

1 Don't come in and make a -- going to be on the radio
2 or something. Send your representatives out there.
3 If a war was declared, the Army and everybody would be
4 out there. Well, this is kind of like a war, so take
5 heed. Give us your time, and we come in and we give
6 you our time. (Speaking Yup'ik).

7 MS. SWEENEY: Thank you.

8 Matt, can you provide some clarification,
9 please.

10 MR. KELLY: What we're talking about today and
11 what we're seeking folks' views on, what is under
12 consideration is the policy towards taking land into
13 trust, not the policies that affect allotments, Native
14 allotments, and what's been going on. Those concerns
15 are important ones. I'm not familiar with what the
16 specific issues that you discussed that you've
17 witnessed where you are. We have from the Regional
18 Solicitor's Office, Lisa DeCora, one of our
19 solicitor's attorneys, who works specifically on these
20 issues as well in the Alaska region. So perhaps after
21 we're done, we can talk and get some more information
22 from you to find out if there is a specific issue that
23 needs addressing with respect to the Native allotments
24 you -- you mentioned, but Native allotments is not
25 part of the reason -- the issues that we're talking

1 about right now. It's not to say it's not important
2 and that we can't talk about it, but that we can talk
3 about it once this is closed out, if that's okay with
4 you.

5 MS. KATCHEAK: Okay. Around -- around a lot
6 of our Native allotments is corporation, you know,
7 we're all -- we're all tied into this, but some of
8 ours are in reservations, I mean, national -- national
9 reserves, but a lot of the people from Native
10 Corporations have their allotments right back to back,
11 so it's going to affect us one way or another.

12 MS. SWEENEY: So what I would like, if you have
13 time after the -- the consultation closes down, is to
14 sit -- sit down with -- there's Lisa here from the
15 Solicitor's Office. Can you stand up just so folks can
16 see you? Thank you. And then with Gene, our Regional
17 Director, he's our boots on the ground, and Gene has
18 immediate and direct access to our office in D.C., and
19 we also have Carol Brown who is a senior policy advisor
20 for my office, and she's located in D.C. The nice thing
21 is she's very familiar with Alaska. She spent five
22 years in the AVCP region working on Native issues.

23 And so I've been fortunate enough to have the
24 opportunity to surround myself with people who are
25 also familiar with our issues here in Alaska, and what

1 you're raising is an issue that was also raised during
2 the break by another individual from a different
3 region asking similar questions, and so we're happy to
4 talk to you about that after the consultation ends
5 this afternoon.

6 MS. KATCHEAK: Thank you. Thank you so much
7 for your clarification. When we come in from Bush
8 Alaska, we have no idea of what you guys have all
9 planned to talk about, you know, you don't ask us; you
10 just start talking to us. And so we can start
11 communicating, break that line of communication with
12 Bush Alaska, because that's where we are.

13 MR. JACKSON: My name is --

14 MS. SWEENEY: Is the mic on?

15 MR. JACKSON: My name is Joel Jackson. I'm from
16 Southeast Alaska. We're one of the few tribes in Alaska
17 that actually has some trust land, and I just want to
18 speak in support of putting land into trust so we can
19 expand our land base in our community.

20 We are buying up some properties in -- in our
21 village. We're trying to stop outsiders from buying
22 land in our community, because our land base is very
23 small, so we want to try to get as much of the land, you
24 know, into trust if we can, to hinder the process of
25 outsiders buying our -- our ancestor lands.

1 So, you know, really need -- really need this
2 for our future generations, you know, that are coming.
3 We don't worry about ourself. We all own our own piece
4 of property, but I'd love to put my land into trust for
5 my grandchildren, so I think -- I think it's real
6 important that you guys look at it and try to help us
7 secure our lands, because a lot of the little
8 communities are probably in the same boat as us.

9 We just got a postage stamp. One --
10 (indiscernible) -- claimed thousands of acres,
11 thousands. That was our territory. Now we've got a
12 little postage stamp. So now we've got to protect that,
13 because it's very important to us.

14 All right. And I was wondering, are you going
15 to take any comments on the Roadless Rule? That's one
16 of the things we're facing. I know it's a very touchy
17 subject, but could I briefly comment on that?

18 MS. SWEENEY: The consultation is not on the
19 roadless rule. If --

20 MR. JACKSON: Yeah, I know. I know.

21 MS. SWEENEY: -- you would like --

22 MR. JACKSON: I know. I'm not going to be here
23 Sunday or anything, any time after that.

24 MS. SWEENEY: If you would like to, there's --
25 we do have a court reporter. If you would like to make

1 some comments on that for the record --

2 MR. JACKSON: Okay.

3 MS. SWEENEY: -- I would suggest that you make
4 them briefly --

5 MR. JACKSON: Okay.

6 MS. SWEENEY: -- and if you have comments that
7 you would like to submit for the record that are
8 written, we'll also happily take those.

9 MR. JACKSON: Yeah. I've already -- we've
10 already submitted it to the Forest Service, so...

11 MS. SWEENEY: Okay.

12 MR. JACKSON: Yeah.

13 MS. SWEENEY: We'll share your comments with the
14 Forest Service.

15 MR. JACKSON: Well, they -- they -- they know
16 our stand on it, you know.

17 MS. SWEENEY: Well, you're welcome to for the
18 record.

19 MR. JACKSON: Okay. Well, you know, our -- our
20 tribe is against the amending or overturning the
21 Roadless Rule. We were one of the litigators. On the
22 first time around, we sued the Forest Service to stop
23 building roads and logging around our area. We took a
24 lot of heat for it because we're the first one on the
25 list of many litigators.

1 But, you know, after all is said and done, we
2 just told people nobody stands up for us. I don't care
3 who they are. They don't come and stand with us. We
4 stand by ourselves. We stand alone for what we want,
5 for what we think is important. So that's --

6 I see you're looking at the corporate people
7 over there. I'm --

8 MS. SWEENEY: No. I was looking --

9 MR. JACKSON: -- well aware of it.

10 MS. SWEENEY: -- I was looking to see who had
11 just walked in.

12 MR. JACKSON: Yeah, okay.

13 MS. SWEENEY: Sorry.

14 MR. JACKSON: All righty.

15 But, you know that's our stand on it, you
16 know, it's -- it's very -- it's very, very important
17 that we keep our land and keep what's left of the
18 trees to secure our food, gathering, hunting, fishing.
19 Without it, we're nothing.

20 So thank you for your time, and thank you for
21 your patience, and we'll talk more later, hopefully.

22 MS. SWEENEY: Thank you.

23 Are there any additional comments on
24 fee-to-trust applications in Alaska?

25 Sarah, I was looking at you when you walked

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in.

MS. OBED: I was, like, "Did she just look at me?"

MS. SWEENEY: I did, yes.

We'll get a mic over to you.

MS. OBED: Okay.

MS. SWEENEY: Just announce your name, your affiliation, and then --

MS. OBED: Sure.

MS. SWEENEY: -- it's for the court reporter.

MS. OBED: Okay. Thank you.

My name is Sarah Obed, O-b-e-d. I work for Doyon, Limited as the VP of External Affairs.

And I guess before I go to the fee-to-trust piece, I want to say something about consultation. We talked to the BIA Regional Office probably about eight months ago about the Qutekcak land in trust application. We're supportive of that. It has no ANCSA lands involved, and I asked if they consider to be consultation, and they said no, they didn't recognize consultation with Alaska Native Corporations. And so I sent them a copy of the DOI policy and said, "Here's your policy," and they said, "Thanks," but it was -- it was kind of hard in that regard to have a meaningful dialogue --

1 MS. SWEENEY: Sure.

2 MS. OBED: -- with the federal government when
3 that's what consultation is supposed to be all about,
4 and there was no meaningful con- -- consultation at that
5 time.

6 Doyon has taken a very pragmatic approach to
7 land in trust in Alaska. We certainly don't oppose
8 it. We know that the tribes in our region really want
9 an opportunity for land into trust. We think as part
10 of ANCSA lands are concerned, there does need to be
11 some kind of acknowledgement about -- especially
12 subsurface lands, if surface lands of ANCSA
13 corporations are being taken into trust, how do we
14 manage the opportunity for the resources to be
15 developed from those subsurface lands, and have asked
16 the Department of Interior for Alaska-specific
17 regulations.

18 We think the Part 151 Regulations don't really
19 fit for Alaska, especially the on-reservation,
20 off-reservation component, and the fact that there's
21 no reservations -- and I say that very hesitantly,
22 about no reservations -- but in Alaska and -- and the
23 adjacent, kind of, process for the Part 151
24 Regulations.

25 So we really ask for an opportunity for

1 Alaska-specific set of regulations to really govern
2 land into trust in Alaska, and how tribes may work
3 with Alaska Native Corporations, and the Department of
4 Interior might work with Alaska Native Corporations to
5 weigh in on land-into-trust applications, especially
6 as they pertain to former ANCSA lands.

7 MS. SWEENEY: Okay. I would be interested,
8 Sarah -- you can either do it on the order or after the
9 consultation is over -- in sharing with me where that
10 breakdown in consultation understanding occurred inside
11 DOI or Indian Affairs. Is it Indian Affairs --

12 MS. OBED: It was --

13 MS. SWEENEY: -- you said?

14 MS. OBED: -- it was with the Bureau of Indian
15 Affairs.

16 MS. SWEENEY: Okay. Yeah, I'd like to know,
17 because I remember working on this consultation policy
18 for ANCs with a number of people in this room, and --
19 and now leading Indian Affairs, that really concerns me
20 in the sense that our -- the team that I'm leading, we
21 need to have that understanding, the unique differences
22 in Alaska, the landownership issues within the Alaska
23 Native Corporation world, but also highlighting that
24 government-to-government relationship with tribes, and
25 -- and the -- the status that it's -- that is afforded

1 to tribes because they are sovereign, and I need people
2 to understand that inside of Indian Affairs, so happy to
3 talk to you about that afterwards.

4 MS. OBED: Sure, yeah.

5 MS. SWEENEY: Okay.

6 MS. OBED: Absolutely. I can -- I can tell you
7 who was with them. It was probably eight months ago. I
8 don't really -- I don't really remember --

9 MS. SWEENEY: We'll figure it out.

10 MS. OBED: -- but we were really looking at the
11 one land-into-trust application our region -- we were
12 really looking at the one land-into-trust application in
13 our region. Again, it didn't have anything to do with
14 ANCSA lands, and we're generally supportive of that, had
15 done some research into it and wanted to weigh in in
16 terms of consultation, and they were, like, "Well, this
17 is a good informational meeting, but it's not
18 consultation." I was, like, "Okay." So it's a little
19 frustrating, because I'm, like, "Here's your own DOI
20 policy that Erin helped co-chair that whole process --

21 MS. SWEENEY: Jaeleen.

22 MS. OBED: With Jaeleen, yeah.

23 -- on establishing what that means. And so to
24 spend two years developing a consultation policy and
25 have it not kind of reflected in -- in how it's being

1 used was a little bit frustrating, to say the least.

2 MS. SWEENEY: Okay. And with respect to your --
3 your comments about 151, again, welcome your comments in
4 writing on where you think the appropriate alignments
5 need to take place.

6 MS. OBED: Okay. We'll definitely submit
7 comments in writing.

8 MR. KELLY: And I just wanted to ask with
9 respect to the consultation issue, were the -- you were
10 seeking to consult on the pending application. Is that
11 it?

12 MS. OBED: Yeah.

13 MR. KELLY: Okay. Because I'm wondering if
14 there might have been a miscommunication on our side.

15 There is a process within the 151 Regulations
16 that allows -- the regular -- the ordinary regulations
17 -- that allows local and state governments to submit
18 comments on pending fee-to-trust applications, and my
19 understanding is that has been in the -- with the
20 Alaska policy, that that has been extended to ANCs.
21 And so in using the term "consultation," that might
22 have confused -- the difference between consultation,
23 which is one formal set of communications versus
24 comments, which only applies in the 151 context. So I
25 just wanted to make sure there --

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MS. OBED: Sure.

MR. KELLY: -- wasn't a confusion on the --

MS. OBED: No, there was not confusion. So we actually missed the opportunity to submit comments --

MR. KELLY: Okay.

MS. OBED: -- and so we were following up, asking for consultation, and they specifically told me that consultation was only for Tribal governments. And, actually, when I asked --

MR. KELLY: Oh, that's right.

MS. OBED: -- about the ANCSA consultation policy, they said they had no knowledge of that policy, even though it's a DOI policy that Doyon relies on quite regularly, not just BIA issues, but BLM issues and U.S. Fish and Wildlife Service, National Park Service, so --

MR. KELLY: Okay.

MS. OBED: -- it's an important policy for Doyon, Limited.

MS. SWEENEY: Thank you.

I also wanted to recognize Representative John Lincoln here. Thank you for coming. You've certainly been exposed to a lot of Tribal issues for the district that you represent, and I appreciate you sitting in and -- and hearing from the federal

1 perspective what we're going through.

2 MR. LINCOLN: I still work for NANA, so that's
3 -- (indiscernible - away from mic).

4 MS. SWEENEY: Okay. All right.

5 Are there any further comments?

6 MS. WILLIAMS: Hi. Kristi Williams. I'm
7 speaking today as a Tribal citizen of the Gwichyaa
8 Gwich'in Tribal government and Gwicyaa Zhee, Fort
9 Yukon.

10 I just wanted to comment following Sarah, that
11 our tribe does have a pending application before the
12 Department of Interior, and it's been pending since
13 just after the Alaska exception was removed. And as
14 Sarah mentioned, Doyon is not -- doesn't have a
15 concern with it because it doesn't have ANCSA lands,
16 but our concern is that this process is holding up the
17 timeline for the tribe.

18 This opportunity to apply for -- for land into
19 trust hasn't been one that Alaska tribes have enjoyed
20 because of that Alaska exception language that -- that
21 plagues us in statute and in regulation. So to have
22 it taken away was a real opportunity, and tribes had a
23 lot of hope. Since that opportunity, there's only
24 been one tribe, as you know, in Craig, to have had a
25 small -- small parcel of land approved for trust.

1 Our tribe also has a very small parcel of land
2 that it's seeking to help place into trust, and it's
3 where the Tribal government has its offices. There is
4 no intended change of action on the land. There
5 aren't any plans to make any changes, so it's just a
6 very small, almost an administrative act to have that
7 parcel of land placed into trust.

8 I helped the tribe with the trust application.
9 I was working as a counselor too. Assistant Secretary
10 Washburn was very excited to hear that he had, you
11 know, removed this exception language, but it's very
12 troubling to hear that even the parcels of trust land,
13 applications that you have pending, are now in a hold
14 pattern again, which is something that plagues the DOI
15 that you're trying to overcome as this -- this
16 longstanding problem of efficiency in the office. So
17 this, again, is a process I really hope doesn't hinder
18 tribes who have pending applications in moving their
19 applications forward.

20 Some of tribes, as mine, have been working
21 with Doyon, have been working with the village
22 corporations, have been working with the State of
23 Alaska, spending a lot of money and time and resources
24 that could frankly be better used elsewhere just to
25 get through this process. They have to keep up their

1 title insurance, which is a financial burden on a
2 tribe. It's been years now that this application has
3 been pending.

4 Complete support from everyone in the region,
5 including Tanana Chiefs Conference. So we're -- we're
6 just hoping that the Department of Interior advances
7 the applications that are currently pending and
8 doesn't let the process hinder the implementation.

9 Thank you.

10 MS. SWEENEY: Thank you.

11 MS. JOHNSON: Hi. Assistant Secretary to Tara
12 Sweeney. I've known Tara for quite some time, so I'm,
13 like, going, "How do I formally" -- My name is Millie
14 Johnson. I'm with Chugach Alaska Corporation. I'm the
15 Vice President of Shareholder Development and Relations,
16 and I -- and I know Gabe was here earlier, but I did
17 want to men- -- mention again that we do support the
18 land in trust as building communities and -- and helping
19 advance our people. Not only our current generation,
20 but our generations to come, and we do -- we will have a
21 formal letter that we will provide in December as well,
22 so I just wanted to, you know, make a note to that.

23 Thank you.

24 MS. SWEENEY: Thank you.

25 MR. GEORGE: Fritz George, again. (Speaking

1 Yup'ik). I forgot to mention Calista, Calista
2 Corporation shareholder, too.

3 Well, anyways, some time ago when a fire truck
4 came into Akiachak, you have to have a -- a house for
5 it, a firehouse or something like that, and it became
6 trust land, on behalf of the tribe for 25 years --
7 25 years, and then it became a free land again.

8 Well, anyways, it looked like in 1982 or
9 somewhere around there, Akiachak voting members voted to
10 dissolve the municipality, the City of Akiachak. It's
11 called Senate Bill 50 -- (indiscernible) -- city
12 government.

13 But, anyways, and ANCSA 14(c), if we implement
14 it, the 14(c)(3) said, "If we don't have a municipality,
15 then we give 14(c)(3) land to municipal land, trust,
16 under DCRA." It seems like the municipality in Akiachak
17 dissolved for a -- I don't think it's going to come
18 back. And every time it seems like during the DIA --
19 (indiscernible) -- they always survey and say --
20 "(indiscernible) -- 14(c) so we can survey our land,"
21 and it seems like we were hesitant to implement 14(c)
22 because we're going -- are they going to force us to
23 give up 14(c)(3) land to MLT? Something like that.

24 MR. NEWMAN: Thank you. My name is Matt Newman.

25 MR. KELLY: Hang on just one second.

1 MR. NEWMAN: Yes.

2 MR. KELLY: Sorry. I didn't mean to cut you
3 off. I just wanted to respond to this gentleman's --

4 MR. NEWMAN: Oh, absolutely.

5 MR. KELLY: -- question. I'm sorry about that.

6 I just want to respond to your
7 comments, sir, that that's not something I have an
8 answer for you on, but we can talk afterwards so I can
9 get some more information and get a response to you, the
10 question about the 14(c) lands. I just wanted to
11 respond.

12 MR. GEORGE: (Indiscernible).

13 MS. SWEENEY: Can -- can we talk about that
14 specific issue after the consultation is over?

15 MR. GEORGE: Okay.

16 MR. NEWMAN: All right. Good afternoon. My
17 name is Matt Newman. I'm a staff attorney at the Native
18 American Rights Fund. I'm hear today on behalf of the
19 Levelock Village Corporation, which is located in
20 Levelock, Alaska in the Bristol Bay region, on the banks
21 of the Kvichak river. The corporation has about 150
22 shareholders and 5,000 acres of land.

23 And specifically today what I've been asked to
24 talk about is the questions that were posed in your
25 "Dear CEO" letter sent out this summer. The initial

1 three questions concerned the authority of the Secretary
2 to take land into trust, and what I specifically would
3 like to bring to the representatives of the Department
4 to your attention, is in the 2014 rulemaking concerning
5 the development of the trust land rules for Alaska, for
6 specifically the removal of the Alaska exception, now,
7 those questions concerning secretarial authority were
8 pretty heavily analyzed in the rulemaking in the public
9 comment period.

10 And in the final rule itself, the Department
11 discusses at length its analysis of the Alaska Native
12 Claims Settlement Act, FLPMA, and other post-1971
13 federal laws and how they may or may not have effected
14 the Secretary's authority. And the Department's answer
15 at the time is that based on its internal analysis, that
16 those federal laws did not have an effect, and the
17 memorandum that is cited is a solicitor's memorandum to
18 Assistant Secretary Washburn that's dated April 29th,
19 2014. So I -- I mention that because that memorandum,
20 that solicitor's memorandum, is not withdrawn by the
21 Jorjani opinion that came out this summer. It's been
22 mentioned several times, that the final rule from 2014
23 remains in effect, remains in force.

24 So it seems that a lot of the questions that are
25 being asked are ones that are still currently reflected

1 in the Department's rulemaking and in departmental
2 policy. And so as the administrative period of six
3 months for internal review, six months for comment and
4 six months for internal review proceeds -- just, again,
5 keeping in mind that there is a bulk administrative
6 record that occurred in 2014 -- and I hope that the
7 Department and its attorneys will -- will very much
8 incorporate that deliberative decision-making that was
9 made in 2014, because a lot of hard work -- not just
10 from the Department, but from tribal leaders, ANC
11 leadership, State of Alaska leadership, the
12 municipalities and boroughs throughout the State, and
13 this was an issue that was very heavily debated, and
14 everyone put a lot of time, energy, passion into the
15 issue, and I hope that that's not going to be ignored in
16 this 2018, 2019 deliberative process.

17 Thank you.

18 MS. SWEENEY: Thank you.

19 Are there any additional comments?

20 MR. LOJEWSKI: Hi. My name is Nathan
21 Lojewski. I'm a forester with Chugachmiut. We're one
22 of the regional nonprofit Native Corporations. We've
23 compacted BIA trust management on Native allotments in
24 our region, and our organization is supportive of the
25 fee to trust, and folks within our region were pretty

1 excited when that exemption for Alaska was lifted, and
2 we'd just like to have the opportunity to see that
3 stay that way.

4 Thank you.

5 MS. SWEENEY: Thank you.

6 Any additional ANC or tribal comments?

7 MR. TALLEKPALEK: Hello. Good afternoon. My
8 name is Alexander Tallekpalek, Corporation President
9 for Levelock Native Corporation.

10 I just wanted to reiterate the gentleman over
11 here that, you know, our corporation too is excited
12 for the land into trust. We're located in the Bristol
13 Bay area on the Kvichak River, and, you know, our --
14 our area is -- is great land and resource for the
15 resources in our area. So saving our -- our land into
16 trust is saving our salmon as well.

17 We generate resources in our -- in our quality
18 of lifestyle in the Bristol Bay, and having the
19 quality of life with -- with -- with our yearly
20 resources and the abundance of salmon is -- is very
21 helpful with the land into trust, and I just wanted to
22 pass that out to you guys.

23 Thank you.

24 MS. SWEENEY: Thank you.

25 Are there any additional comments? Okay. I'm

1 hearing none. I will go ahead and close the
2 consultation. Just to kind of go over some additional
3 administrative points, again, there will be a
4 consultation in Bethel and in Kotzebue in December;
5 December 5th in Bethel, December 7th in Kotzebue. We
6 will have a teleconference on December 12th.

7 I encourage all of you, regardless of whether
8 you're in the ANC community or the tribal community,
9 to provide comments on this issue, submit them for the
10 record, and with your comments, propose solutions or
11 adjustments to the current regulations if -- if you
12 feel that there needs to be adjustments made for
13 Alaska.

14 As I said in the earlier consultation session,
15 I have an open-door policy, and I look forward to
16 hearing from Alaskans on these very important issues
17 to our state. Gene is boots on the ground. He is
18 direct and immediate access to -- to D.C., and so I
19 would encourage you to -- to reach out to him, he's
20 local, and to utilize his office as an advocate, in
21 addition to the office of Assistant Secretary in D.C.

22 I take the trust responsibility very
23 seriously, and it's one that I hold in extreme high
24 regard and with great respect, and while you have
25 Alaskans inside of DOI, it's -- it's an opportunity

1 for us to educate leadership and career individuals
2 about why Alaska is so unique, and why these issues
3 are very important to our -- our communities and to
4 our state.

5 So I welcome the opportunity to hear from you.
6 I thank you for your time and the effort and the
7 engagement. It's -- it's very -- it's positive to see
8 regional corporations and -- and village corporations
9 coming out in support of our tribal community. And
10 for those of us who have been working on these types
11 of issues for many years, it wasn't always this way,
12 and so this is a step in the right direction in terms
13 of bringing together the Alaska Native community, and
14 that is a very positive big step. And so I commend
15 both sides for continuing to work together on these
16 issues, they are very important, and I look forward to
17 the continued relationships.

18 So thank you very much.

19 (Off record)

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C E R T I F I C A T E

UNITED STATES OF AMERICA)
STATE OF ALASKA)

I, Kasidy Pighini, CSR No. 14046, Notary Public in and for the State of Alaska and reporter for Accu-Type Depositions, do hereby certify:

THAT the foregoing pages numbered 1 through 101 contain a full, true and correct transcript of the U.S. Department of the Interior/ANC Consultation, recorded electronically by Accu-Type Depositions Court Reporter on the 17th of October, 2018, and thereafter transcribed under and reduced to print:

THAT the Transcript has been prepared at the request of:

U.S. DEPARTMENT OF INTERIOR -
BUREAU OF INDIAN AFFAIRS
Anchorage, Alaska

DATED at Anchorage, Alaska this 25th day of January, 2019.

SIGNED AND CERTIFIED BY:

Kasidy Pighini
Notary Public, State of Alaska
Commissioner Expires: 08/25/2020