BUREAU OF INDIAN AFFAIRS

INDIAN TRADE AND COMMERCE CONSULTATION MEETING

HELD SATURDAY, OCTOBER 21, 2017

9:40 A.M.

DENA'INA CIVIC AND CONVENTION CENTER

600 WEST SEVENTH AVENUE

ROOM 3, SECOND FLOOR

ANCHORAGE, ALASKA 99501
APPEARANCES

John Tahsuda, III
Principal Deputy Assistant Secretary
Office of the Assistant Secretary, Indian Affairs

Elizabeth Appel
Director
Office of Regulatory Affairs and Collaborative Action
BUREAU OF INDIAN AFFAIRS

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(Invocation offered by Nelson Angapak.)

MR. JOHN TAHSUDA: We can officially dabble open the consultation. So this is the consultation on a proposal to amend the Indian Trader Regs, which are a really old set of regulations that the Bureau has based on the Indian Trader Act, which is from the 1800s. These regs really haven't been used at all in a long time, and so one of the ideas is that they might be able to be used to sort of give the tribes an option where they can have greater control over the business activity on the reservation.

So from the Secretary, these are touch points that he's given since he first got into office. You know, belief in tribal sovereignty, belief in self-determination and self-governance for the tribes, respect for tribal government, respect for tribal sovereignty.

And what does that mean on the ground? Economic freedom and empowerment and reduced
regulatory burdens from our side. Reduced in this aspect as well is whether we can reduce the amount of regulatory work that we do and increase what the tribes do so that they have more control over what happens in their communities.

So he said sovereignty has to mean something. And it means different things to different tribes. And as you do up here, in the Lower 48 we have the same thing. We have some tribes who really still want the federal government to provide almost everything for them, all the services, and we have other tribes at the other end of the spectrum who want to do everything themselves. And then, of course, we have a lot of folks who are in the middle.

So when it comes to economic development, how can we best help tribes to develop self-sustaining economics, right, for jobs and community wealth, prosperity and independence. And we also know it affects everybody, both Native and nonNative. When Indian Country prospers, the whole -- the region around it does better.

And so one of the things that obviously is important to this administration and something that we want to, from the tribal side, be a part of is
promoting energy development. It's critical to --
for a lot of tribes, critical to their economic
development. And part of this reducing the
regulatory burden is can we reduce the regulatory
burden we place on tribal -- or energy development
in some way that it can get a boost.

So tribal empowerment. How do we as
tribal leaders, do we return the economic part of
sovereignty to the tribes?

The other thing that's important in this
is human capital development. So related to that,
you know, as part of jobs, we have to invest in our
people, not just college-educated people, but people
who have trades, have a skilled workforce. And so
again, in -- along the line of thinking that the
whole community and the whole surrounding area is
better off, so when Indian Country has a good
workforce, a better educated, better trained
workforce, that benefits the entire region.

So we want to help tribes have a long-term
strategy for promoting economic growth and their
self-governance. And they work hand-in-hand, so we
need to promote both of those simultaneously.

So on these regs. So it's an old statute,
outdated regulations. We can talk about what was
the original intent, et cetera, but we have some cases that breach sort of this exclusivity that the founding fathers originally thought of the tribes being able to have control over, and really it be federal and tribal control over trade and commerce with Indian Country.

So we have talked about things that can help with that. So Indian Country has talked to us and said taxation and regulation as it occurs on Indian lands is an important part of that. Letting the tribes opt out of sort of overly aggressive or oppressive federal regulatory actions. And then, again, back to taxes. You know, is there a jurisdiction-based system that we can go to that would provide more certainty for business.

So this is, I guess, Gavin's fun slide. But just the things we talked about, you know, regulations, you know, getting certainty on tax issues. So we have sent out the tribal leader letter. And what we really are looking for to build the record for changing these regulations is the information that relates to economic development: Capital expenditure, revenues, jobs, economic impact studies, et cetera.

MR. RANDALL CHARLIE: I didn't catch,
MR. JOHN TAHSUDA: My name is John Tahsuda. And I'm the Principal Deputy Assistant Secretary for Indian Affairs, and I'm the Acting Assistant Secretary until we get our Assistant Secretary confirmed and in office. So we are the federal government, and we are here to help.

So again, we are looking to get information that would provide a strong record for us to look at revising the regulations and revising them in a way that's helpful to Indian Country.

MR. RANDALL CHARLIE: So you are talking about jobs. How are you going to help communities that are -- that have no jobs, I mean, have nothing in the village? How are you guys going to get jobs or help the communities that are out there with, like, nothing to fix, nothing to build, nothing to -

MR. JOHN TAHSUDA: Well, I think -- so part of the theory and the thinking is we are not the ones to say what kind of jobs should be out there. In the past the Bureau has tried to do that for tribes around the country, and it's not been very successful. What has been successful is when the tribes themselves have found business ventures.
and ways to provide jobs and stuff themselves.

And so part of the concept of this overall effort would be to say -- because we don't want to do the thinking for you because we can't. We are not good at it. We are not in your community. We really are not the ones to say what would be successful.

So the idea is to provide you sort of creative space to figure out what would work for your community. And whatever that would be, we would then try to be in the position of, first of all, not blocking and not having some regulations or some processes that are going to make it too hard to get a business or something going in your community. So we can get out of the way of that.

And then if there is other things we can do to help, then we would like to be there to help. So that's kind of what our -- our view in the big picture is to get out of the way, let you do the thinking, and then if we can be helpful, be there to help.

**MR. RANDALL CHARLIE:** Do you have any examples of how? I'm trying to get a better picture of how -- can you name something that the tribe has tried to -- or has been doing and then you guys come
in and --

        MR. JOHN TAHSUDA: And do it badly? Pretty much everything that we have tried. I don't know -- that's a good question.

        MR. RANDALL CHARLIE: I just want to get the -- get it registered to my brain. I want to know exactly what --

        MR. JOHN TAHSUDA: You want a real world example kind of thing.

        MR. RANDALL CHARLIE: Yeah.

        MR. JOHN TAHSUDA: So I'm not sure myself what would be a good example. I know -- so I have -- some of the tribes I've known in the past have -- going back some years, they had asked the Bureau for assistance on finding stuff, and the Bureau had found, like, a company to go out and, like -- I think it was in Montana -- to build a pencil making factory, which was just a huge disaster, and it was a lot of wasted money and ultimately just ended up being a building that was empty that sat on the reservation.

        So the flip side of that is so now we have sort of a surge in energy development in the country, and a lot of that is in Indian Country. I don't know what the estimate is. Something like 20
percent of energy resources nationwide are on
actually tribal lands.

And so -- but despite that, a lot of
tribes are having difficulty getting sort of the
full impact and the full -- the full value of their
natural resources because we have a lot of rules
that would be applied just specifically to tribes
and specifically to Indian Country that make it
challenging to get through. It takes a lot of time.

And companies that want to do business with the
tribes that are on the reservation decide they can
do it better off the reservation. It just takes
less time and it's less of a problem trying to get
the thing started. So that's part of what we are
looking at.

I think that, again, you know, business
ideas that the tribes have, that tribal communities,
Native communities, have, you know, we would love to
hear. It's just -- so right now, like, energy is,
like, an easy one to look at, right? We can easily
see that, hey, off the reservation it's going really
good. On the reservation it's okay but could be a
lot better and what are we doing that's blocking it.

That's something that -- the Department of
Interior has been involved with resource development
from its very beginning. So that's at least
something that we have some familiarity with and we
can kind of take a look at in working with the
tribes to say what can we do to help with that. It
would be great to kind of move that to other
economic areas and other businesses and things.

So I can't give you an example because,
again, I think those ideas should come from the
communities and from the tribes. But that concept
of, you know, if you had something you wanted to do
and then you found out there was something that we
were doing that was a hurdle to it, we would like to
work with you to remove that hurdle so you can do
it.

Part of this is also -- so this exercise
is to say here are these really old, outdated
regulations that nobody even uses anymore. Can we
use those as a way to let the tribal community say
this is how we want business to go on our
reservation, and we could let them do that and just
take it over and we would be out of the way. So
that's conceptually what this exercise is about, not
on any kind of business specific, but to say can we
create a business environment that the tribe
controls and that we are not in the way of.
There you go. So you asked. That's what we were thinking. What are you thinking? That's it, right? Is this the last slide?

**MS. ELIZABETH APPEL:** That's it.

**MR. JOHN TAHSUDA:** So I'm curious in part because I just don't have a lot of familiarity with Alaska and the --

**MR. RANDALL CHARLIE:** That's what I was going to say, that the stuff that we have here in, like, the small communities are way different than what they have down south. And I mean, it's easier for them to raise money because they have got reservations, and we have got tribal lands that are reserved for hunting and subsistence. So we are for subsistence, and the further down south you go, they want money because that's the way everything is going.

Our community is slowly heading in that direction, but there is no place to make money in our village. We have no -- like in my village, the only thing we have, and maybe in Toksook, is gravel, but nobody wants to chop a mountain down and sell it to anybody because we need to preserve our land. In Toksook Bay, Scammon Bay, there is probably prime grounds for berry picking, blackberries and stuff,
and nobody wants to -- the elders don't want --

    Fish & Game had land up two miles out of
our village, and that was our blackberry -- on the
whole north face and west face -- east face of the
mountain, that was all berry picking, and the money
got involved and they cropped a big chunk of
mountain out, and that was Fish & Game land. Fish &
Game gave them the okay to do it. Now the
corporation, now we are trying to get the land over
to us so that we can make our own decisions and
stuff. So -- I mean, that's the way I see it.

    MR. JOHN TAHSUDA: Well, so I mean, that's
not to say that's not -- so that's how we see it, as
well. I think the whole idea really is to put the
decision making in the tribes' hands.

    MR. RANDALL CHARLIE: How do you help the
little towns that rely on, like, federal money? They
don't -- it seems like they don't get the money.
They get the small, little grants like the small,
tiny ones for little jobs, but all the communities
want is -- the little communities want to see some
sort of development.

    Like housing is a really big issue in the
villages. There is more kids now than there was 20
years ago. And houses with 20 people in there.
There is houses with 15 people in there. And the tribe is there to help the community. So is the corporation and the city. But money -- money is involved. It's hard to get money anywhere for anything like that.

Now, I built my own house. I saved my money up, and I was recognized in our village, say, why can't you be like Randall, but that pissed off a lot of people. I saved enough money to build my house. My brother did the same thing, my older brother.

I mean, how are you going to -- how is this going to help the villages that have nothing? There is no mineral, no nothing we have out there.

MR. JOHN TAHSUDA: So this is not intended to be an answer for everything. And so the Indian Trader Regs -- so this effort is really focused on that. Let me say a couple points. This is really focused on those regs, initially anyways, which have to do with sort of trade and commerce on the reservation. And at least historically that's a different dynamic than existed in Alaska. I understand that.

So I don't know -- and this is something we would like to hear. Is there a way that those
regs could be helpful at least to some communities?
If we can, that's great. If not -- so alongside
this is also a larger effort to take a look at how
we regulate activities in Indian Country and is
there a way to do it better. Is there a way that we
can get decisions made faster and more efficiently?
And so this is one piece of sort of this overall
effort.

Again, you know, a lot of the regulations
and the processes that we have have historically
been focused on the Continental U.S. tribes. So I
don't know -- and I don't know enough about Alaska
to have any -- any real ideas myself on how that
could be helpful. What would be great is to hear
from you guys who live here to tell us, you know,
here is a problem we have, can you be helpful in
helping us find a better way to do it. Or here is a
problem we have with you, Bureau of Indian Affairs.
You are getting in our way to do this or that, and
can we be helpful in trying to resolve that.

So that's -- that's where this effort is
aimed. The larger -- so the even bigger picture of
that about, you know, resources, resource
allocation, you know, is a challenge that we face
Bureau-wide. I know it's a particular challenge up
here because of geography and everything you have.

And the answer for that, I think,
ultimately is not that we are going to somehow come
up with money from the federal government to address
that. There has got to be more outside investment.
There has got to be more money from the outside that
comes in and, you know, so that we could -- we could
-- the federal dollars that we put in can be
magnified by that and hopefully address some of
this.

MR. RANDALL CHARLIE: I guess I got
nothing. I wish that somebody from our traditional
council was here.

MS. ELIZABETH APPEL: We are also
accepting written comments if anyone wants to write
in, like by email or mail, until October 30th.

MR. JOHN TAHSUDA: But I think, you know,
even if you didn't get an invite, then we would
still be happy to get comments, information from you
guys; you know, in specific what's going on up here
and how we can do a better job on our side to try to
help with that. So --

MR. RANDALL CHARLIE: I'm not familiar
with our TC in the village. I know enough --

MR. JOHN TAHSUDA: What's the TC?
MR. RANDALL CHARLIE: Traditional council, our tribal council. I call it TC. I mean, they are trying to do a lot of stuff out there, but nothing is falling into order because we have three entities out in the village. We have the city, the corporation and the tribe.

And we are slowly learning to -- in order to get anything done out there, we have got to work together, but that's -- it's not really working because somebody wants -- somebody wants, like, oh, wow, you did this, cool, yeah. These guys didn't do anything. Everybody wants the spotlight. But now that the older guys are starting to, like, not be voted in and stuff, it started to be like -- it wasn't just this person that did this. It's the whole -- the whole entity -- all entities. And --

But I mean, it's really hard to get -- that's the only way we could do stuff is if we work together out there, and we haven't really done anything as an entity to get anything.

But right now we are working on our tank farm. We are working now with -- maybe that's something you guys could help with. Our tribe is trying to get funding to help with the tank farm because our tanks that we have are -- they are --
they are at the age we have used them to their --
almost to their full life, and we have got these
huge 30,000-gallon tanks that are very thin, and we
can't take the bungs off them to drain it, to clean
it because it buckles the -- it bends the huge
tanks.

And they are looking for money to try and
find money to put into it because it's a health
issue, too, out there. I mean, if we -- there is a
tank farm right here, and 150 yards is the river,
and a mile out is the Bering Sea. And every year
now -- every year now the water comes in and we get
these -- our village is all brown in the fall -- I
mean, in the summer right before fall it's green and
brown and really nice. By this time of the year
it's all water. The whole thing is ocean as far as
you can see.

And the -- I might have a video of
connexes floating like off the road, the airport
underwater, the houses -- water going into houses
that are up on the mountainside, propane tanks, just
everything going out. We got no money to relocate
our tank farm. We have a place --

MR. JOHN TAHSUDA: What you are talking
about, you need to not just replace them; you need
to move them, too.

**MR. RANDALL CHARLIE:** We need to relocate it. But I haven't even heard from them. Everybody is quiet about it. Which we talk to the tribe about this kind of stuff, they will say, we are working on it, and I never hear any reports or -- they will just say, so-and-so is working on it. And I asked him, and he was, like, yeah, I'm waiting on a call from -- or a letter from this place. I don't know what's going on.

But -- but our village needs serious help with that issue, with the -- I mean, the flooding is getting worse every year. But there is also other communities that are in bad shape, too. And the government is, like -- only has two eyes. They can only see a couple places at once.

And it's just -- I don't know. I don't even think -- like, 50, 60 years from now all those villages that are out on the coast ain't going to be there no more. They are going to go to the mountains or they are going to come to the city. Yeah. It's going to be a lot of work for everybody.

After '86, like the '90s and early 2000s, kids, they have no idea what's going on in the village. They don't know. They just -- they will be
like -- I mean, I guess in all the communities they are -- like kids, they ain't worried about global warming. They're not worried about anything. Or they don't know what the tribe is doing out there. All they want is the free stuff, the kids out there. So they are in control and --

But -- I don't know from -- your job or the people that are going to take over your job are not going to be able to help the villages. So you will see -- I mean, if you live in the village, you see everything.

You know, I grew up with my uncles' politics, listening to them, listening to what they had to say about our village, because even as a young kid growing up I was worried about our community and stuff and I was always nosy, and them, get out of here and telling me to go. And I said, no way. I want my playground. I want my -- I want all the outdoor stuff that I see on TV that the kids in bigger schools have.

I used to tell the older guys that -- I mean, I would say that I was into politics as a young kid listening to people and wondering what's going to happen, what are they going to build in our community next. And I'd be listening, and then the
older guys were telling me, go play someplace. This is for when we are deciding. I was just a young kid.

And -- but I mean, there is nothing now. I was just saying that I was -- I want to be there for my community and stuff like that. But from what I see, there is nothing -- our village is struggling right now, or all the villages are struggling right now. So I don't know where that money is going to come from or anything. But you guys don't know, either, huh?

MR. JOHN TAHSUDA: Like I said, there is only -- there is only so much resources we have that we can put towards things. So there has got to be resources coming from outside somewhere. I don't know. That's a challenge for --

MR. RANDALL CHARLIE: Maybe if we had oil under us.

MR. JOHN TAHSUDA: Yeah.

MR. RANDALL CHARLIE: I've got no further questions.

MR. JOHN TAHSUDA: Should we formally close the session?

MS. ELIZABETH APPEL: Sure.

MR. JOHN TAHSUDA: I don't think we are
getting anybody else here. What time is it now?

MS. ELIZABETH APPEL: 10:15.

MR. JOHN TAHSUDA: All right. I guess we can close down. Thank you, Randall.

MR. RANDALL CHARLIE: Thank you, guys.

(Proceedings adjourned at 10:15 a.m.)
REPORTER'S CERTIFICATE

I, MARY A. VAVRIK, RMR, Notary Public in and for the State of Alaska do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that the proceedings were reported stenographically by me and later transcribed under my direction by computer transcription; that the foregoing is a true record of the proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed my seal this 27th day of October 2017.

MARY A. VAVRIK,
Registered Merit Reporter Notary Public for Alaska

My Commission Expires: November 5, 2020
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