

1 U.S. DEPARTMENT OF THE INTERIOR/ANC CONSULTATION
2 OPINION-M 37043 - AUTHORITY TO ACQUIRE LAND INTO TRUST
3 IN ALASKA
4

5
6 October 21, 2018

7 1:00 p.m.

8 Anchorage, Alaska
9

10
11
12
13
14
15
16
17
18
19 Proceedings electronically recorded, then transcribed

20 by:

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

22 Suite 200, Anchorage, AK 99501 - 907-276-0544
23
24
25

1 P R O C E E D I N G S

2 (On record)

3 MR. TAHSUDA: All right. We'll get started
4 here. We'll open up this consultation on the second
5 topic that we're seeking comment on from the tribes here
6 in Alaska, and that is the Secretary's authority to take
7 land into trust in Alaska under the Alaska IRA
8 amendments to the IRA.

9 Those of you that haven't, if you can sign in
10 again. If you signed in this morning, great, but if
11 you -- if you weren't here this morning or if you did
12 come this morning, if you could sign in again, just so
13 that we have an accurate record of who was here, et
14 cetera, for this.

15 Also, like this morning, please, if you could
16 speak into the microphone and also state your name and
17 your Tribal affiliation so that we can have that down
18 for the record as well.

19 I'm going to ask if you -- if you're okay. We
20 had an invocation this morning. Is that good enough
21 to carry us through to this afternoon, or we can offer
22 another one, have another one offered, if you'd like.

23 Is that good with everybody? I'm hearing no
24 objection.

25 For those of you that were here this morning,

1 I'll introduce myself, and I guess also for the
2 record. My name is John Tahsuda. I'm the Principal
3 Deputy Assistant Secretary for Indian -- Indian
4 Affairs at the Department of Interior. With me, I
5 have Matt with the Solicitor's Office, and we have
6 Regina and Amanda also helping out as well.

7 If you have -- in addition to your oral
8 comments today, we will take written comments, and so
9 if you have a paper you want to hand to us, that's
10 fine. I would ask you to hand it to Regina. She will
11 -- she's part of our regulatory Affairs team and
12 compiles the record for these consultations for us.
13 So if you have paper, and you want to give it to her,
14 that will be part of the record of today.

15 You may also submit written comments online.
16 We have -- it is at consultation@bia.gov; right?
17 Pretty simple. You think I could remember that
18 easily. So you can submit written comments to
19 consultation@bia.gov as well, and that will be made
20 part of the formal record for this consultation.

21 As I said this morning, we recently had the
22 solicitors take a look at the legal opinion that was
23 issued on the authority of the Secretary to take land
24 into trust in Alaska under the authorities of the
25 Indian Reorganization Act. There was an opinion

1 issued by the solicitors in January of 2017 regarding
2 the -- this authority, and so under direction of the
3 President and the Secretary, we have been looking at
4 various actions that were taken in January of last
5 year, this being one of them.

6 There are a number of legal issues,
7 significant legal issues, as we discussed this
8 morning, that come from analyzing the Indian
9 Reorganization Act, the Alaska amendments to that
10 provision, and also subsequent and intervening laws.
11 So we also have a number of court cases that have
12 tried to interpret the interplay of those laws and --
13 and any number of other legal issues that create a
14 thicket for us to walk through in -- in making
15 decisions. So our hope is that we can have a good
16 discussion on these issues and begin providing a
17 better foundation for us to move forward with
18 decisions under -- on fee to trust under the IRA.

19 So I want to also say, as I did this morning,
20 that this is a beginning discussion for us. We want
21 to have a very broad and open discussion. If you
22 have, you know, a question regarding the questions
23 that were put out with the "Dear Tribal Leader" letter
24 on that, again, the idea was to have not focused
25 question, but broad questions so that we can try to

1 capture as much as possible, and not just the legal
2 issues, but the policy and factual issues that
3 underlie this, so that whenever we have a final
4 decision on how to move forward, we'll -- we'll -- we
5 will have not just a legal basis, but also a factual
6 historical and policy basis to support that.

7 I'm going to ask Matt if he has any comments
8 he wants to make to begin with. Nope? Of course not.
9 Leave it to me.

10 So thank you very much. We'll open it up now
11 for public comment, and if anybody that wants to --
12 again, if I can repeat -- anybody that wants to speak,
13 please take your turn, speak in the microphone, give
14 us your name and your Tribal affiliation so we can
15 associate your comments with that tribe.

16 You said you were getting warmed up for us.

17 MR. TRUITT: Good afternoon.

18 (Speaking Tlingit). For the record and for the
19 transcription, I -- I just said I'm Tlingit. My name is
20 "Tuksak," and my name is "Katishan" (ph). My English
21 name is Ken Truitt, and to round out my introduction,
22 I'm -- (indiscernible) -- people, Raven Coho is my clan
23 affiliation. I'm from Sitka. I'm a child of the
24 Wooshkeetaan, which is Eagle Shark. My father is
25 Gilbert Truitt who was Wooshkeetaan. I'm a grandchild

1 of the Kicksutti (ph). I'm born and raised in Sitka.
2 I'm an enrolled Tribal citizen of the Central Council of
3 the Tlingit and Haida Indian Tribes of Alaska, and I am
4 currently the Chief Operating Officer at Tlingit and
5 Haida.

6 And I -- I want to -- we also commented this
7 morning. For those of you who weren't here, I'll --
8 I'll try not to completely repeat myself since we were
9 on the record once this morning, but I would -- or once
10 today already. I would say that -- well -- well, I -- I
11 thank you for -- for being here. I think you heard this
12 morning some of -- some of our suspicions and -- and
13 dismay at part of this process, but I -- I certainly
14 want to express on behalf of our tribe that -- that that
15 is not anything personal to you two gentlemen that are
16 here today. You're here on your Sunday just like we are
17 as well.

18 So we -- we don't think this process is
19 necessary, but to the extent that you are involved in
20 the process with us, we certainly want you to know on
21 behalf of our tribe, we appreciate your time and the
22 time and care that you're taking to be here. However,
23 with that, we are -- unlike this morning, we are not a
24 tribe affected by the questions posed for the morning
25 session. We are a tribe that is impacted by the

1 questions this afternoon, so we'll probably spend a
2 little bit more time than we did this morning giving you
3 comment on that.

4 Specifically, we have 34 -- 34 -- we have --
5 we have 34 parcels of land in Juneau in what's known
6 as the Old Juneau Village that are currently under
7 application for fee to trust through this process, and
8 the applications themselves, they take up at least
9 three bookshelves and three binders in my office, so
10 -- and they are very comprehensive. The applications
11 cover pretty much everything. So, really, in terms of
12 what would our formal comment be, our formal comment
13 is please see our applications and please make a
14 decision on them, because there are some that are ripe
15 and ready for decision.

16 And what it -- just a little bit of history
17 for -- for those who -- who might not know where this
18 is geographically in Juneau, this is in what's known
19 as the "Old Townsite Indian Village." We are -- we
20 are situated -- our main Tribal building is on these
21 lands. In 1926, Congress passed the act that made the
22 Indian Townsite Act applicable to Alaska, and the
23 parcels of land, where our main Tribal administration
24 building stands, was then divided up between the
25 inhabitants of that Indian village.

1 Under that law, parcels of land that were not
2 made claim to by the current inhabitants, the then
3 inhabitants of -- of that townsite escheated or
4 reverted to the -- the local municipal government. So
5 we truly have a patchwork of -- classic Indian Country
6 patchwork of -- of land, of a village townsite land,
7 where the municipality has jurisdiction, where the
8 federal government has jurisdiction. Our land that
9 our -- that we have sought to put into trust currently
10 does not have trust status because, as it became
11 unrestricted, and we as a tribe acquired it, it lost
12 its trust status. So that's why we are seeking to put
13 kind of the historical village site where our -- our
14 administrative offices and client services offices
15 exists. We want that -- we would very much like that
16 on trust land.

17 And when we say '34, our parcels, you all were
18 in our building, and when you were sitting against
19 that wall, it was very likely that the front leg and
20 the back leg of your chairs intersected three
21 different parcels. We have one parcel that's really
22 no wider than that partition behind you. So it isn't
23 just patchwork; it's a crazy, crazy patchwork.

24 Of all of our -- of all of our parcels, they
25 take up less than a quarter of an acre of land, but it

1 would provide, for us to have that status, more
2 streams of potential revenue and services that we
3 could tap into by virtue of -- of having a land base.
4 They're currently, to us in Alaska, tribes in Alaska,
5 we're not able to access, so we have very practical
6 reasons for wanting to see these applications acted
7 on, hopefully approved. And it's very real to us as
8 we continue to seek to increase our own economic
9 activity, because we -- as a Tribal government, we
10 exist to provide services to our people to help raise
11 the status of our people and -- and provide a better
12 community for our people.

13 Our president is fond of saying, "Healthy
14 communities make healthy tribes," and these -- this is
15 a step for us to be able to provide for a healthier
16 community, a healthier Tribal community, and -- and
17 therefore a healthier community in Juneau and a
18 healthier community in -- in our region. So it is
19 very important to us. I really can't stress that
20 enough. And I know when you were in Juneau, you heard
21 from our president. You heard from some of our other
22 elected officials, so I won't -- I won't belabor too
23 much longer, or -- or I won't belabor any longer than
24 is traditional for a Tlingit man with a microphone our
25 views, except to say -- maybe to say some of the

1 things that were touched on this morning, we'll --
2 we'll probably get to them this afternoon, if you're
3 going to talk about the effect of ANCSA.

4 We -- we were a little -- we -- we were more
5 silent, and we thought Ms. Williams did an -- an
6 excellent job kind of addressing some of the ANCSA
7 questions, and we completely agree with her from what
8 she said this morning. And I would add to that, I --
9 I -- it -- from just a casual spectator's point of
10 view, it looks like to me you're all overthinking that
11 ANCSA angle of it. ANCSA is a big law. For sure it
12 did a lot of things, but even in its very initial,
13 very top of the bill itself, it -- it was -- it
14 limited itself to extinguishing aboriginal title, but
15 there's over a million ac- -- a million acres, as you
16 have heard throughout this process, of allotment land
17 in Alaska that was not touched by ANCSA. ANCSA --
18 ANCSA extinguished everything that -- that hadn't been
19 specifically claimed up until its passage.

20 So you have a tremendous land base, including
21 the land that we are -- that our -- the lands that are
22 in our application, because as I said, they were part
23 of the 1926 Townsite Act, was not subject to ANCSA.
24 Sealaska doesn't claim those lands in their -- in
25 their land base, neither does Goldbelt, the Juneau

1 ANCSA Corporation, the local ANCSA Corporation. So
2 you have -- you have a million acres of allotment land
3 that have -- ANCSA has no jurisdiction over, and so --
4 and as Ms. Williams mentioned this morning, it did not
5 abrogate any other elements of what we as Tribal
6 people have, by virtue of our sovereignty and our
7 rights to self-determination.

8 And I guess, I mean, in preparing this morning
9 as I was looking, I was reading through some of the
10 earlier -- and I won't quote all of this because it
11 already happened once. I assume you all were there --
12 but particularly when you were in Fairbanks -- and I
13 only say this because your concern about being sued
14 was -- was a big part of our conversation this
15 morning. This is -- I'm just going to quote from what
16 Lloyd Miller said in the -- at that presentation, that
17 session. And, you know, for -- for those of us in the
18 Tribal world, Lloyd, Lloyd's work has, in his track
19 record litigating, has benefited all of us in this
20 room, and he has an impressive track record in
21 litigation, which you seem to be afraid of, and he
22 said there, "The Department should be worried about
23 being forced back into court if it does not undo the
24 path it is proceeding down."

25 I mean, you really have to consider what you

1 said to the three federal judges on the court of
2 appeals and the action that the trial court took based
3 on the government's representations. You do not want
4 to be in a situation, I suggest, where a federal judge
5 holds that the United States has acted in bad faith.
6 And he was referring to the -- the action that was
7 taken to resend the M-Opinion and throwing into
8 question everything that the government had
9 represented was clear at that point in the litigation.

10 So maybe I'm just a "scaredy pants," but if
11 Lloyd Miller is telling me that, I'm kind of nervous
12 if he's suggesting that there's bad faith on behalf of
13 the government and that there might be a chance that
14 the government is before those judges again trying to
15 explain that. And -- and that kind of, I think, sums
16 up certainly how -- how we feel. It -- it seems --
17 Lloyd's takes on it seems to be the reality that we're
18 living, more so than what we hear you saying as you
19 opened these sessions, but, again, I -- it's -- it's
20 Sunday. It's been a long week for most of us. You're
21 here with us now, and -- and we have seen you in a lot
22 of these, so thank you for your time. We -- we didn't
23 really have lunch together. We were a couple of
24 tables away, but it was still pleasant, and we're glad
25 you're here.

1 Thank you.

2 MR. TAHSUDA: Thank you, Mr. Truitt. Can I ask
3 you a couple of follow-up questions, actually --

4 MR. TRUITT: Sure.

5 MR. TAHSUDA: -- while I've got you here?

6 So you made reference to greater economic --
7 economic activity that you could have on the land if
8 they're taken into trust. Could you elaborate on that
9 a little bit? Because one of the issues that we
10 struggle with is -- at least in the Lower 48 -- is
11 that sometimes the trust status of lands actually can
12 get in the way of economic activity, and, you know,
13 trying to think through better ways that we can assist
14 tribes with economic development is one of the things
15 we'd like to do.

16 MR. TRUITT: It would certainly provide for us
17 the tax space, so that would be essential to any
18 governing body's ability to raise its own revenue.
19 There are also other federal programs that are
20 unavailable to us because we don't "have a land base,"
21 that would be available to us if we had a land base,
22 and there's going to be a myriad of those throughout
23 the different federal agencies, Department of
24 Transportation comes to mind. But they're -- and --
25 and we could give you that more specifically in

1 writing as we conclude this.

2 MR. TAHSUDA: That would be great to have, I
3 think. Thanks. Was there other questions? Do you have
4 other questions?

5 MR. TRUITT: No, I just -- I wanted to --

6 MR. TAHSUDA: Okay.

7 MR. TRUITT: Yeah.

8 MR. TAHSUDA: Thank you.

9 MR. WEYIOUANNA: Hi. My name is Tony
10 Weyiouanna, Sr., and my village is Shishmaref, but I
11 work with Ka- -- Kaw- -- Kawerak Land Management
12 Program. We're a service provider for our Native
13 allottees.

14 My question is: There's some Native allottees
15 in our region that are wanting to put their land into
16 trust, but the BIA is saying they're not going to put
17 them into trust, but because they said, you know, the
18 Native allotments are already into trust, but to me,
19 they're not really into trusts the way the Native
20 allottees want them, you know, no development on their
21 lands, and no assistance for whatever they want to do,
22 you know, similar to actually putting your private land
23 into trust and you get -- you qualify for certain
24 assistance, you know.

25 So then -- so my question would be: If the

1 BIA is saying that allotments are already into trusts,
2 then what other kinds of assistance could they qualify
3 for? But, you know, other than service providers,
4 assistance, and that kind of thing. So that's my main
5 question.

6 MR. TAHSUDA: Matt, maybe you can correct me if
7 I'm wrong, but I don't think that the allotments are in
8 -- in trusts. I think they're restricted allotments,
9 meaning they have a restricted status. They have
10 protection, you know, on to -- on title and stuff, but
11 they're not -- but they're not in trusts, so the federal
12 government doesn't own the underlying title.

13 But, generally speaking, restricted allotments
14 and trust lands are treated fairly similarly, and so
15 I'm not -- I guess that's one of the questions I would
16 have, is what would be the advantage of switching that
17 to trust status?

18 MR. WEYIOUANNA: Well, there are other
19 programs that say some of the Native allottees -- one
20 -- one thing that we're looking at in our region is
21 the carbon credit program. And, yeah, that's another
22 thing, is BIA Realty is telling us that we can't put
23 them into the carbon credit program, but I think the
24 way that it's set up is that they're allowable, you
25 know -- or we're able to put them into the carbon

1 credit program if the Native allottee wants to put
2 them into the program to qualify for projects, like --
3 once you do anything besides building anything on your
4 Native allotment.

5 So one of the ways that we're looking at
6 putting those into the carbon credit program is to
7 have the Native allotment allottees partner with other
8 private owners, such as Native Corporations, to
9 qualify for the carbon credit program, because once
10 you put your land into the carbon credit program, it's
11 for a hundred years, you know, lock up your land for
12 nondevelopment for 100 years, and then qualify for
13 assistance, you know, for your community or for the
14 land owners.

15 So that's another thing too, is that BIA is
16 saying that they're not allowing it to put it into
17 their -- that program, because they're in trust with
18 the federal government, but I disagree with their
19 comment in Realty. Allottees should be allowed to do
20 that kind of thing for their land, you know...

21 MR. KELLY: Sir, do you have a business card?

22 MR. WEYIOUANNA: I ran out. (Indiscernible -
23 away from mic).

24 MR. KELLY: That's fine. Afterwards, if we can
25 get together, I'll take your information, and I'll try

1 and get some -- I'm not familiar with the programs that
2 you were asking about, but I'll see if we can track down
3 and get some more information and follow up on that for
4 you. Even though it's not directly related to the
5 consultation issues, it's certainly something we should
6 address.

7 MR. WEYIOUANNA: I just had to mention --
8 (indiscernible - away from mic) --

9 THE COURT REPORTER: Microphone, please. You
10 have to have a microphone.

11 UNIDENTIFIED SPEAKER: Let me help you.

12 MR. WEYIOUANNA: I just had to mention about,
13 you know, those things that we're running into in our
14 program, because we need to start somewhere, so this is
15 almost related, but, you know, something like that.

16 MS. THUMMA: My name is Myra Thumma. I'm with
17 the Native Village of Venetie Tribal Government, and I'm
18 also in the Tribal council, and I forgot to say, my --
19 (indiscernible - heavy accent).

20 My name is Myra Thumma. I've been raised and
21 living in Venetie, and I've been living a subsistence
22 lifestyle, and I was born and raised there, and I'm
23 still living in Venetie, and also Arctic.

24 I have a question -- a question. How do you
25 view the impact in the -- of the Alaska Native Claims

1 Act, the Federal Land Policy Management Act of 1976,
2 and the Alaska National Interest Land Conservation Act
3 on the -- (indiscernible - heavy accent) -- in Alaska,
4 to view the impact on ANCSA?

5 MR. TAHSUDA: Sorry. Are you --

6 MS. THUMMA: That's the question I have.

7 MR. TAHSUDA: Oh, okay. Well, that's the
8 question that we had.

9 MS. THUMMA: Oh, that's the question you had?

10 MR. TAHSUDA: Yes.

11 MS. THUMMA: Oh, okay.

12 MR. TAHSUDA: So we're looking at it from a
13 legal perspective. There's -- there's obviously that --
14 you know, that question, when you have the interplay of
15 different laws that are enacted at different times, as
16 well as some court cases that have interpreted them, but
17 I think that one thing that would be helpful to us as we
18 move forward, and, again, similar to what I said this
19 morning, is being able to hear a little bit of -- of
20 your history and the history of your tribe, how you have
21 -- what that history has been through time as you've
22 gone through pre-ANCSA, post-ANCSA, you know, et cetera,
23 and how that can impact the policy decisions we make in
24 addition to any kind of legal analysis.

25 MS. THUMMA: Yeah. Venetie Native -- Venetie

1 Native Village Tribal Government, we're not under the
2 ANCSA, and we're under the IR- -- the IRA, and -- and
3 that's a decision that our ancestors made, and -- and we
4 have -- you know, we have all the documents that we
5 exist. We live in our home, you know, the subsistence
6 lifestyle we know, you know, and we have our Tribal laws
7 that we abide by with our people, you know, we're still
8 -- we're still living -- you know, like, our traditional
9 lifestyle is really important to us, and I'm just, you
10 know, kind of -- I'm still learning.

11 Thank you.

12 MR. TAHSUDA: Thank you, Ms. Thumma.

13 MR. ERICK: Thank you.

14 My name is Ernest Erick. I'm also the Native
15 Village of Venetie Tribal Government. I've been there
16 almost 30 years, and I know a lot of -- (indiscernible -
17 heavy accent) -- has been happening since then, but
18 Venetie really doesn't want to be regulated on how the
19 trust land is being brought to the State of Alaska.

20 Trust is not in favor with Venetie and Arctic
21 Village because we're running our own programs, doing
22 our own housing programs, doing our own transportation
23 programs. We're taking careful law and order there.
24 We comply with the State and federal government.
25 We're doing it in a good way. We have local judges.

1 We have local people that's willing to do for --
2 what's the best interest for our tribe.

3 And our land statuses, fee simple title land,
4 owned by the tribe, and we don't want to break that.
5 We're just trying to open the doors to the
6 corporation. It's better going after a fee simple
7 title land instead of creating other -- other problems
8 for the State, Native people within the State, you
9 know, and we didn't take the money from the federal
10 government, or we didn't take the money from the State
11 of Alaska. We went on our own. We made a trail
12 around of our land, our forefather, and we done it a
13 good way, in a good way.

14 So I think that other organization should
15 realize that, you know, under our case, you know, the
16 Indian Country case, you know. We were not spoiling
17 the State of Alaska. We just want a government and
18 exercise some of our constitution and Tribal laws,
19 God's law, and the common laws that we have. Those
20 laws are very important today, and it's been
21 recognized out there in the State of Alaska and the
22 federal government, and we -- we honor that to
23 everybody's stake, you know, because I don't want to
24 get the money because I want trust land. I want to be
25 able to govern my membership, the best interest.

1 We don't have no alcohol or drugs related,
2 very small amount, but as of being Tribal Council in a
3 Native Village to enforce these laws. I hear a lady
4 from Venetie done a lot from the last 20 years,
5 enforcing the law -- coming in, enforcing the law,
6 drug law, the alcohol law, so these are complied with
7 the common laws that we have. So bear in mind, we
8 came a long way ourselves too. Our documents come
9 from past 1934. It's written in Indian way. We honor
10 that.

11 And I never have trust for attorney advisory,
12 advisors, never did, you know, they're here to collect
13 the data, but once he put the comment on the table,
14 he's going to use that against me. So I'm afraid of
15 people that's attorney advisory. That's how I think.

16 Thank you.

17 MR. WEYIOUANNA: Do I need to introduce myself
18 again?

19 UNIDENTIFIED SPEAKER: I've got you. Thank you.

20 MR. WEYIOUANNA: I'm Tony Weyiouanna, Sr. I
21 represent Shishmaref, but I work with the Kawerak Land
22 Management Program, our regional nonprofit in Bering
23 Strait region.

24 Two years ago, I -- I think in 2016, there was
25 a small presentation by BIA, and maybe DOI, maybe. It

1 was on land to trust, and there was a lady that also
2 presented from Metlakatla, you know, their land is
3 already into trust, so -- and I know that once you put
4 your land into trust, you're supposed to be able to
5 get quite a bit of assistance from the federal
6 government, but the way I understand it from
7 Metlakatla and their presentation, that they haven't
8 received all of the assistance that they're --
9 they're eligible for, for having their land into
10 trust. Metlakatla was the only full-fledged
11 reservation in Alaska.

12 And -- so once the process for the land into
13 trust is fully authorized, you know, for tribes in
14 Alaska to be eligible to put their land into -- into
15 trust, is the federal government going to fix the
16 problem that they're having with Metlakatla in not
17 providing all of the assistance that they qualify for,
18 and is there a guarantee that the village that put in
19 their application will qualify for those assistance?

20 MR. TAHSUDA: I'm not -- well, I guess there are
21 some programs that would be affected by having fee to
22 trust or restricted lands, but in general, if you're a
23 recognized tribe, if you're on the -- the '94 list, as
24 we call it, then you're eligible for the programs that
25 you're eligible for, and you can apply for those.

1 We have a budget that we have to abide by, and
2 we don't -- we don't create that budget ourselves.
3 Congress tells us. They say, "You have this much
4 money," and -- and then we try to meet all the needs
5 we can with what -- with what they give us, and so
6 it's -- to be honest, it's never enough; right? I
7 mean, at least none of the tribes in the country seem
8 to think it's enough.

9 So I don't know that getting land into trust
10 is going to impact that budget situation for tribes up
11 here greatly, you know. I think that's a different --
12 that's a different question, different process, you
13 know, getting more resources to tribes in general and
14 to tribes in Alaska is -- is a little bit of a
15 different question.

16 MS. TUCKER: Hi. My name is Kalani Tucker,
17 and I'm from Knik Tribe.

18 My question is just kind of that tribes being
19 able to put land into trust would have them be able to
20 reach their full kind of capacity of Tribal
21 sovereignty. That's kind of the missing link right
22 now. It would make them be able to create ordinances
23 and maybe kind of beef up Tribal courts, which is a
24 huge deal right now. We're trying to really do that.

25 So my question is: What -- you're concerned

1 just because you don't think it's been great in the
2 Lower 48? Or I'm just wondering, if tribes want it,
3 what is your reasoning to not? Is it just a lot of
4 paperwork? Is it going to cost money? I'm just,
5 like, why not, is my question?

6 MR. TAHSUDA: Well, there's -- there's a couple
7 of questions there that we're actually hoping to get
8 thoughts from, and that's part of what a consultation
9 is, the dialogue, is getting -- getting the input from
10 the tribes.

11 So we have questions about the legal authority
12 to take land into trust under the Alaska provisions of
13 the IRA, and so -- and those won't stand alone.
14 They're -- they're subsequent acts that deal with
15 Native land and Native people, et cetera, in Alaska,
16 and we have to take that into consideration. So
17 that's one question, what is that.

18 And then the question is -- also, I'm not
19 saying this -- this is something we get from tribes
20 all the time across the country. Some tribes aren't
21 all that happy with land being in trust. They like it
22 being in -- in, like, reservation status or in a
23 protected status. But when it's placed in trust,
24 there are some additional -- so there's additional
25 protections that come with it, and there's some

1 additional hurdles that come with it, and they're not
2 always happy about the hurdles.

3 One of the things that -- that there's been a
4 lot of discussion in recent years about is, can we
5 find something that has more of the protections but
6 less of the hurdles, and so that's -- that's sort of a
7 policy question and discussion, and -- and obviously
8 the tribes need to have a really -- we need to know
9 their mind on that, you know, and it doesn't have to
10 be one for all. I mean, you know, there obviously
11 could be different situations for different folks.

12 But one of the questions, then, for us as we
13 consider both the legal implications of the
14 fee-to-trust provisions of Alaska IRA amendments is
15 also the policy question of what is important about
16 that? And this is part of what -- in filling out this
17 whole picture we want to get from you, you know. So
18 you said some things like courts and things like that.
19 Those are important things. Those are things that we
20 need to hear that you think would be an important part
21 of this. Going along with that, there's going to be
22 other questions that -- that -- that the tribes need
23 to think about.

24 Who's going to fund those courts? Where --
25 where is that going to come from? Who -- who should

1 be subject to those courts? That's a big issue that
2 we have in the Lower 48, you know, who -- who is
3 subject to the Tribal courts, and what's the -- what's
4 the extended jurisdiction over what lands? Are they
5 reservation lands? Are they just trust lands? You
6 know, there's a lot of -- there's a lot of complicated
7 questions, and -- and -- so I think those are things
8 that we would like to -- to also get, as I said, sort
9 of factual -- and -- and -- and when I say "policy," I
10 would like to hear -- I think it would be good for us
11 to hear from the tribes here about what are the
12 positive benefits that you would see from that, and if
13 you think that there are some negative things that we
14 could take into consideration and -- and try to -- to
15 avoid, that would be good to hear as well. So that's
16 basically what we're asking, I think.

17 MS. TUCKER: My -- my only thing is the -- the
18 tribes that don't want to and do think it's negative,
19 that don't have to. It's optional to apply. So the
20 tribes that do want to, for whatever reasons, are just
21 -- that's -- I kind of guess why I'm confused is the
22 -- the people that don't want to don't have to, so I
23 don't really see why that's a part of it, but I guess
24 that's why we're here, so...

25 MR. TAHSUDA: Well, it's -- it's -- they don't

1 have to, yes, and they can leave it in fee simple,
2 right, and they can work with that, as Venetie has done;
3 right? But there's also folks who are looking -- so
4 there are some original reservations in the Lower 48 in
5 which they have a restricted fee status, right, and so
6 the tribe actually owns the land in fee, but it has most
7 of the protections that trust land does, but it doesn't
8 have some of the hurdles because the United States
9 doesn't own title to it, then we don't -- then the tribe
10 doesn't have to come to us every time they want to do
11 something with that land; right?

12 If it's in trust, you have to come to the
13 United States, because we actually -- the United
14 States -- when I say "we," I mean the United States,
15 not me, individual -- the United States owns that
16 land, actually, and you're the -- you know, so the
17 tribe is the beneficial, the beneficiary of that, but
18 that means before you do something on that, if it has
19 -- if there's significance to it, things like MEPA and
20 what not, you've got to come to the United States and
21 make sure you get -- go through the MEPA analysis, you
22 do all this stuff. A lot of times, you know, on
23 restricted fee lands, you don't have to do that. So
24 there's the question.

25 But it's not -- it's not a freestanding

1 authority to take land into restricted status. So
2 that's -- that's the question, is if -- if you want
3 something like that more, then there can also be a
4 discussion about, you know, changing the law so that
5 there would be that option for tribes as well. So
6 Congressman Don Young, you know, has this proposal out
7 there, that why don't we do that? That if -- as an
8 option, just as an option, you don't have to do it,
9 but there would be that option for the tribes
10 everywhere; not just Alaska, but in the Lower 48 as
11 well, to have this restricted fee status. So just to
12 think about that. Is that an option that should be
13 considered as well?

14 MS. TUCKER: Thank you.

15 MR. NEWMAN: Good afternoon. My name is Matt
16 Newman. I'm a staff attorney at the Native American
17 Rights Fund. In that capacity, I work with tribes
18 across the State of Alaska, including the Native
19 Village of Venetie Tribal Government, and others.

20 A couple of items today that -- that I want to
21 focus on and --

22 MR. TAHSUDA: Matt, I'm sorry.

23 MR. NEWMAN: Yes?

24 MR. TAHSUDA: Are you here representing a tribe?

25 MR. NEWMAN: I am here on behalf of the Native

1 Village of Venetie Tribal Government, yes.

2 MR. TAHSUDA: Okay.

3 UNIDENTIFIED SPEAKER: I give him authority to
4 speak today -- (indiscernible - away from mic).

5 MR. TAHSUDA: That's fine. This is a --

6 MR. NEWMAN: (Indiscernible).

7 MR. TAHSUDA: -- consultation, so we want to
8 respect that.

9 MR. NEWMAN: That's right.

10 So one thing I kind of want to start out with
11 is I -- I need to take issue with kind of some
12 historic items that are being presented here, because
13 in the "Dear Tribal Leader" letter that Ernest and
14 others at Venetie received, you know, it -- it
15 mentioned that the 2017 Tompkins memorandum was under
16 review pursuant to this Secretary or Chief of Staff
17 order, but then simultaneous to that, and -- and what
18 happened as well, was the solicitor's department
19 withdrew that Tompkins memorandum and then inserted a
20 new one by Assistant Solicitor Jorjani, which really
21 took to task the Tompkins memo saying, "Well, it
22 really didn't look at ANCSA. It didn't look at FLPMA.
23 It's incomplete," and -- and the issue I take there
24 and what needs to be addressed to the Tribal leaders
25 in this room, is the history of the trust lands issue

1 in Alaska, including the authority to take land into
2 trust, the policies around Part 151, all of that was
3 developed over decades in Alaska.

4 The authority to take land into trust is a
5 question that has been asked in this state since 1978
6 when the Native Village of Venetie Tribal Government
7 submitted a letter to the BIA asking for it to take
8 some of the fee simple lands of a former Venetie
9 Indian reservation into trust, and the culmination of
10 that policy and that legal debate was the 2013
11 Akiachak opinion, which has thus far gone unmentioned.

12 Now, I know that opinion was appealed and the
13 appeal resulted in the fact that the case law itself
14 was mooted, but separate from that case, and this is
15 something that led to it being mooted, is this
16 department, the Department of the Interior undertook a
17 rulemaking, a public comment period that lasted almost
18 six months, hundreds of hours of testimony, hundreds
19 of pages of written comments. You had these same
20 questions: Authority? Does Part 151 work? What's
21 the impact of ANCSA, of FLPMA? These same questions
22 were posed to the Tribal leaders in this room in 2014.
23 You got answers. Those answers were memorialized in
24 the final rule that came out December 23rd, 2014,
25 removing the Alaska exclusion, which prohibited tribes

1 from even participating in this program.

2 But all of that rulemaking, all of that
3 testimony that these leaders gave, we're just playing
4 make pretend that it doesn't exist anymore, and we're
5 asking these questions over, and it just doesn't make
6 sense. And the harm that it's doing, is it's not just
7 an academic exercise, because in between 2014 and now,
8 tribes in Alaska have been putting together -- those
9 that choose have been putting together trust land
10 applications -- I know my colleague Kristi Williams
11 has worked on several -- and those tribes have now had
12 their petitions paused, and we've been informed in
13 previous consultations, there'll be a six-month
14 administrative review, and then we're going to have to
15 wait another six months for an answer to what the
16 agency wants to do. So at least a year now is being
17 added to the wait time for the tribes that believed in
18 good faith that the 2014 rule on Alaska Tribal trust
19 lands was going to be enforced.

20 The other thing it's going to harm is that
21 last Wednesday, this past Wednesday, you had a
22 consultation for ANCSA Corporations. I attended that
23 on behalf of a village corporation client of mine, and
24 I'll tell you what I noticed was so incredible, is
25 that there's finally some healing happening in the

1 community that has taken a long time since 2014,
2 because this was a very divisive issue, whether we
3 have trust lands in Alaska or not. And it was amazing
4 to see in that consultation on Wednesday, you had
5 Calista, Sealaska, Doyon, others, standing up and
6 saying, "If our tribes want to do this, we're going to
7 be on their side." That's a big change from four
8 years ago, and now those wounds that have healed those
9 divisions that were had are being reopened.

10 And so I just really want to emphasize to you
11 gentlemen, Alaska and Alaska tribes are ready to move
12 into this new phase. This policy discussion has
13 occurred. Everyone worked really hard for years to
14 come up with an answer, come up with policy solutions,
15 and they worked. We've had an Alaska tribe successful
16 complete the trust lands process down in Craig. Other
17 tribes are working their way through the
18 administrative process.

19 This program, which is voluntary on a
20 tribe-by-tribe basis, can work in Alaska, and the only
21 thing -- and I see -- I want to emphasize, we have
22 members from the State of Alaska here today. We have
23 corporation members that came on Wednesday. The
24 stakeholders in Alaska who are going to work this
25 program think we can do it. And so I'm requesting the

1 Interior Department, please, just let this program
2 work in Alaska. The tribes, the State, the boroughs,
3 the corporations, they can work out how to make what
4 is historically a Lower 48 program work in this state.
5 The courts have told you. You have the authority to
6 do it. Congress has directed you and the IRA that you
7 must do it. So let's get out of the way and let these
8 tribes and the people of this state find the solution
9 for themselves through the administrative process, as
10 happened in Craig, and I hope it's going to happen in
11 the future for tribes across the state.

12 Thank you.

13 MS. WILLIAMS: I'm Athabascan -- (speaking
14 Yup'ik.)

15 For the record, I'm Kristi Williams. I'm a
16 Tribal citizen of the Gwichyaa Gwich'in Tribal
17 Government. I'm speaking here today as a Tribal
18 citizen, not as a Tribal leader.

19 Our tribe has a petition before you for trust
20 land. It is a very small parcel of land, 1.92 acres,
21 which is just under two acres of land. The parcel
22 that the land encompasses in Fort Yukon, we have no
23 plans to change what's currently happening on that
24 land. It's where the Tribal government has its
25 offices, its administration, and it's also the -- the

1 home of our Tribal hall. It's -- it's a community
2 center for our entire village.

3 The application has been pending since
4 December of 2014, so we got in line right -- right as
5 the Alaska exception was lifted and the Akiachak
6 litigation was settled. We really have been looking
7 forward to movement on this petition, but
8 unfortunately, similar to the tribes that are waiting
9 for federal acknowledgement, we've been waiting and
10 waiting and waiting.

11 There were some hiccups in the road. This is
12 a brand-new process for Alaska. A lot of tribes here
13 are not familiar with the process of how land is taken
14 into trust in the Lower 48. The Department of
15 Interior didn't do a lot of initial work helping
16 tribes understand what the process entails, so there
17 was a learning curve, and there still is for many
18 tribes. But it seems that in making tribes, again,
19 have this opportunity taken away, that you're treating
20 us differently. You're treating tribes in Alaska
21 differently than you're treating tribes in the Lower
22 48, and they still have the opportunity, but we had it
23 for -- for a breath, and then it was taken from us.

24 So we really respectfully ask that, for at
25 least the pending petitions, that you move these

1 applications forward and you reconsider rescinding
2 that M-Opinion, and you move forward to advance this
3 opportunity for Alaska tribes. As -- as my colleagues
4 both stated, this -- this is a voluntary activity on
5 behalf of the tribes, and it's also discretionary on
6 behalf of the Secretary. So if there are parcels that
7 have issues, you don't have to take it into trust.
8 It's a discretionary authority.

9 So, you know, each application can be looked
10 at individually to see if it's a right fit for trust
11 land with the tribe, but it's up to the tribe, you
12 know, it's a paternalistic view for the Department to
13 tell a tribe what it can do and what it can't do and
14 what's best for it. That's up to the Tribal
15 government to determine for its membership. So I -- I
16 just ask you respectfully to reconsider this opinion
17 and to please move these applications forward.

18 Thank you.

19 MR. SINK: I'm Charlie Sink with Chugachmiut.

20 I think I'll start out on a fundamental level
21 on -- on -- on this one. It's the IRA decision of
22 1936 where Alaska tribes recognized as Indians, the
23 Alaska Native people are recognized as Indians, and so
24 we -- we agree with that decision. And it follows
25 from -- from that act that the Secretary can, at -- at

1 its discretion, turn fee lands in- -- in- -- into
2 trust lands.

3 I'm -- I'm glad Matt made -- made a
4 distinction between restricted lands and trust lands,
5 because it's probably not something suited for
6 everybody, but -- but it's an option. And as we
7 talked about this morning, like our chief from -- from
8 Chenega who spoke this morning about trying to -- to
9 maintain this identity in the communities that exist,
10 what we're seeing is the restricted lands, the Native
11 allotment lands, and the townsite lot lands are being
12 turned over to fee simple, and some of them are being
13 sold.

14 We have some tribes trying to acquire some of
15 those Native allotments back, but outside of the
16 Venetie equation and the Metlakatla lands that are --
17 in our area, are subject to ANCSA, which -- which
18 means that if you develop the lands, you can be taxed.

19 And then I have two villages on the Kenai
20 Borough, Port Graham and Nanwalek, are trust townsite
21 lots that are -- when we -- there's kind of an
22 agreement with his to -- to build housing. You have
23 to be able to form a lien against the lands so the
24 land is taken out of restricted status and put into
25 fee simple, and then if people don't make payments,

1 they can be foreclosed on.

2 So we had this, kind of this economic plight
3 where if lands are -- are -- are -- (indiscernible) --
4 of fee simple and taxed, it's creating a burden on the
5 local people, for those can't necessarily afford
6 making the payments, you know, even though it's kind
7 of like a subsidized kind of a housing with lower
8 payment, if you don't have an economy and can't pay
9 these things, these lands are being taken away from
10 the local people and -- through this taxation effort.
11 And so we have to worry about that, and then how do we
12 plan for that? And so one of the plans for some of
13 the tribes is to try and acquire these lands on -- on
14 the Tribal umbrella, and then it be -- since they --
15 they were restricted lands before, they would like to
16 try and acquire them to keep the identity of the
17 communities.

18 And -- and I mentioned those two villages
19 because to the north lies Seldovia, and Seldovia is a
20 good example of how townsite lots were -- restricted
21 townsite lots were turned over into fee simple, and in
22 the community itself has become predominately
23 non-Native. All the Natives live on -- on -- on
24 Corporation land up behind Seldovia, and so -- so --
25 so it displaces the identity of these communities, and

1 so the option of having to put -- being able to
2 acquire land fee simple and put it into trust may be
3 motivation for some of our tribes.

4 Thank you.

5 MR. JOSEPH: Victor Joseph, Tanana Tribal
6 member, Tanana Chiefs, Chief Chairman on a 42 member
7 organization, 37 federally-recognized tribes.

8 I'm thinking about this, and once again I'm
9 frustrated with this consultation process, because
10 action was taken before consultation was provided, and
11 proper protocol would require you had the discussion
12 first before you take action, and so this becomes
13 really important when we start looking at the withdraw
14 of the 2017 M-Opinion, and so I think it's really
15 important that you look at that. And, by the way, I
16 don't think it should be stopping, and I also believe
17 that it should be reinstated during this consultation
18 process.

19 Secondly, when we look at land-into-trust
20 issues and know that the Alaska exemption has impacted
21 us in many, many areas, and having to fight that fight
22 and to get to the point where we could finally put
23 land into trust was a real big thing for us and we
24 were celebrating. Now to go back and to have this
25 discussion again, and it appears that it could be

1 challenging us from putting land into trust, it even
2 becomes more frustrating. You're worried about
3 litigation? Litigation will happen if this continues
4 to move forward.

5 And, you know, I think the thing is, is that
6 Alaska is different than the Lower 48. I understand
7 that, but also, too, a lot of our tribes don't have a
8 lot of fee land. They hardly have any land. I think
9 about the application that -- (indiscernible) -- tribe
10 wants to put in land in trust, is land where my great
11 grandfather, my grand- -- my grandfather, my
12 grandmother, my relations are buried. That's the land
13 they want to put into trust.

14 The thing is, is if the tribe wants to put
15 land into trust, it should be the tribe's decision to
16 put that land into trust, not yours, not worry about
17 what I may like and what I may not like. That's my
18 decision. That's my tribe's decision. Please get out
19 of the way and let our tribes be able to put the land
20 into trust if they so choose to. That's their
21 government. That's their sovereign right. They know
22 what they're doing when they ask, "We want to put land
23 into trust."

24 I also know that our own Congressman Young,
25 when the order came down, was really upset, and he

1 called up the Secretary and started hollering at them,
2 you know, but the decision was made. And we also need
3 to understand that the relation struggles that was
4 spoke about here were very true. In the Interior,
5 Doyon and TCC were on opposite sides, very divisive,
6 and it was good to hear that they're standing up. If
7 our tribes want to put it into trust, let them put it
8 up in trust. We can develop a processes. We know how
9 to work with each other. We know how to work with the
10 State here and other governing bodies that are
11 concerned with the issues, to work through them
12 through ourselves.

13 So once again, we're needing to really look at
14 the consultation process that's being used and use it
15 appropriately so we can have meaningful dialogue, not
16 just two hours. This is a big issue, and it's taken
17 us years to get here and only a swipe of a pen to stop
18 it.

19 So thank you.

20 MR. DEMOSKI: Peter Demoski from Nulato Tribal
21 Council. I'm also Elder Advisor for the TCC Executive
22 Board.

23 Sitting here, I'm listening. I hear the chief
24 of Tanana Chiefs Conference, and I hear these two
25 lawyers over here. Basically, they're telling you to

1 why re-open a land trust issue? It's working before.
2 And I agree with Victor. It's not your decision to
3 tell the tribes what to do. You're putting obstacles
4 in their sovereignty rights.

5 I have a question for the Venetie issue,
6 though, or Fort Yukon people. The land, the 1.8
7 million acres that you took in fee title, and you
8 recently compacted with the United States Fish and
9 Wildlife Service to control and manage those
10 1.8 million acres, if you proceed with your re-opening
11 the land into trust issue, will that interfere with
12 our rights to put in the same application that Venetie
13 did? We -- we have a national refuge right outside
14 Nulato, and we're thinking of applying for a compact
15 with the same people they did for us to control and
16 manage that refuge.

17 MR. TAHSUDA: I don't -- I don't think it should
18 impact that. That -- there's a decision about the
19 compact, and those considerations were part of a
20 different process.

21 MS. WILLIAMS: Hi. This is Kristi Williams
22 again. I just wanted to add to Chief Demoski's message,
23 that trust land, actually, I don't know if we described
24 it fully, but if -- if the land were to be put into
25 trust, the tribe could manage their own Fish and

1 Wildlife resources, so that is an important point, I
2 think. Venetie has a decision, and Arctic, with what
3 they want to do with their fee simple lands. They
4 aren't trust restricted. They're fee simple lands. But
5 if they were in trust status, they would be able to
6 manage those lands.

7 MS. PITKA: Hello, again. I checked out of my
8 hotel. I'm good now.

9 MR. TAHSUDA: Okay.

10 MS. PITKA: Okay. Rhonda Pitka, Chief of the
11 Village of Beaver and Vice Chair of the Council of
12 Athabascan Tribal Governments. The Council of
13 Athabascan Tribal Governments is a consortium of ten
14 Tribal governments in the -- in the Interior of Alaska.
15 We encompass land in the Yukon Flats National Wildlife
16 Refuge, Yukon-Charley National Preserve, and the Arctic
17 National Wildlife Refuge.

18 You know, within our -- within our area, we
19 have those ten tribes, and I think only Fort Yukon and
20 Venetie were going to be pursuing applications, but we
21 support those tribes in their applications, and
22 instead of throwing roadblocks in the way of tribes
23 exercising their sovereignty and their Tribal
24 responsibilities, I would suggest that you offer
25 technical assistance. Technical assistance would be a

1 lot more effective than doing a lot more of this
2 stuff. But the M-Opinion should have been consulted
3 before -- before it was withdrawn.

4 There was a very effective consultation that
5 Matt Newman brought up in 2014. The transcripts are
6 pretty detailed. You can find them online. That's
7 where I found them.

8 The consultation today is also bothersome for
9 the reasons that I mentioned earlier, it being a
10 Sunday, our elders not wanting to -- to do these on
11 Sunday. It -- it goes against religious beliefs.
12 It's not okay.

13 I'm trying to find my place in my notes right
14 here. There was one more thing that I wanted to add,
15 but I can't remember right now, and I'll probably
16 remember on the plane tonight.

17 MR. TAHSUDA: You can always write it and send
18 it in to me.

19 Any other comments?

20 MR. SINK: I guess I'll ask a question.

21 There was a proposed revision that's contrary
22 to the goals of the Trump Administration to decrease
23 federal regulations and would create a two-step review
24 process for all off-reservation acquisitions. Is
25 there a two-step process that's going to be

1 considered, or is that part of the land into trust
2 review?

3 MR. TAHSUDA: I'm -- I'm not sure where that's
4 -- which one --

5 MR. SINK: Yeah, no, I just -- it's some other
6 comment paper that I -- that I saw. They're raising
7 issues, "Create two categories of off-reservation
8 acquisitions. Gaming and non-gaming is prohibited by a
9 gaming regulatory act." It's out of context, I guess.

10 MR. TAHSUDA: Yeah, I'm not -- I mean, I guess
11 one of the -- I don't know. This is more of a
12 solicitor's question, but I guess one of the questions
13 that at some point we would have to cross is, you know,
14 how -- we do have different -- there are different
15 processes to -- there are different paths to process
16 on-reservation fee-to-trust applications and
17 off-reservation fee-to-trust applications, because at
18 least in the Lower 48 there are different -- different
19 implications for those. So I'm not sure where that puts
20 folks in Alaska, I guess, you know...

21 MR. SINK: I -- I'll -- I'll address that.
22 That's -- that's -- that's a good one there, because
23 what -- what are our -- our boundaries? And so I think
24 that's -- that's where ANCSA comes in to play, because
25 it kind of defines boundaries, but I heard earlier that

1 the tribes were established before ANCSA, and so it's an
2 interesting take on -- on things, because we don't have
3 reservations, except for the one identified, Metlakatla,
4 but we do -- we do have boundaries that was established
5 by ANCSA, and so does that mean a tribe can -- can
6 acquire lands within its boundaries? And so -- so is
7 that -- is that the defined boundaries created by ANCSA,
8 or is that the defined boundaries created by -- by the
9 region? So there's 12 geographic regions in Alaska and
10 a 13 one outside, so when you look at the geographic
11 regions, are tribes able to acquire land in that region
12 or not?

13 So that's an interesting question, because when
14 you're looking at economic development for the tribes,
15 there may be an occasion for acquiring lands or health
16 clinics and other -- other common needs of the -- of the
17 tribe, and also economic development, so I don't think
18 that's well defined what -- what -- what the boundaries
19 are, because if -- if reservations have boundaries, do
20 Alaska tribes and regions have boundaries? And I don't
21 think that's been addressed.

22 MR. KELLY: I think the fee-to-trust regulations
23 of Part 151 distinguish between reserv- --
24 on-reservation lands and off-reservation lands, and
25 those are defined. There are many ways you can

1 determine boundaries for different purposes, but for
2 purposes of the fee-to-trust regulations, the relevant
3 distinction is between whether the subject parcel is
4 within an existing reservation or outside of an existing
5 reservation. And so under that dichotomy, under that
6 split, because there are no reservations in Alaska, all
7 fee-to-trust applications would be considered
8 off-reservation applications.

9 Last year -- excuse me, it was earlier this
10 year, a national policy memo went out, which is good
11 for a year, stating that all off-reservation
12 applications from anywhere in the country, and
13 regardless of whether it's related to gaming, are all
14 going to go through the Department of Real Estate
15 Services, which is currently headquartered in
16 Washington. My understanding is it may be moving
17 somewhere else.

18 And so in other words, the applications are
19 not going to be processed in the region the way most
20 on-reservation applications are. If an on-reservation
21 application is related to gaming, gaming-related
22 applications also come to the central office to go
23 through a separate office that handles gaming issues,
24 but ordinarily, fee-to-trust applications, if they're
25 on-reservation, are handled at the regional level, but

1 because these -- those in Alaska are considered
2 off-reservation under that definition in the regs --
3 which is not to say that there may not be other ways
4 of defining boundaries for different purposes, and it
5 may be worth considering for purp- -- purposes of this
6 consultation the relevance of those other boundaries
7 for the kinds of jurisdictional issues, for example,
8 that could arise in the fee-to-trust context or any
9 other. There may be federal programs. There may be
10 national resource management issues, all of which may
11 hinge on what is a definable territory. And so to the
12 extent that that is relevant to the 151 issues, it
13 would certainly be worth having comments on that.

14 MR. SINK: Yeah, to add to that, there --
15 there -- there's a trend to creating Tribal
16 conservation districts through the USDA, so there
17 might be some relevance there as -- as far as tribes
18 taking control of their lands or territories, that
19 those go beyond ownership and applies to -- to regions
20 of land. So there are some things that's probably
21 need -- need to be interpreted and be better defined
22 here; although, you know, kind of like the off- --
23 off-reservation concept, because, I mean, if you're
24 not restricted to be an on-reservation, you know,
25 where can you get the lands? And I don't know if

1 we've defined that yet or not.

2 MR. ERICK: I've got a few minutes. Ernest D.
3 Erick from Venetie.

4 I just want to thank everybody for being here
5 and speaking your tongue in a good way, but I've got
6 to be taking off here shortly here, you know, and --
7 and we have -- we'll probably be there at the BIA
8 conference there in Fairbanks and everything else, and
9 I guess we're going to have to bring the whole tribe.

10 Thank you.

11 MS. WILLIAMS: Kristi Williams again.

12 I -- I just want today say thank you as well
13 to -- to both for being here. I used to work for the
14 federal government, so I know that your jobs are not
15 easy and you have a lot of pressure, and as my
16 colleague, Ken, said earlier, it isn't anything
17 personal. It's just that we have a vested interest in
18 this, and I know that you are working on behalf of
19 your tribes and -- and the federal government and the
20 people of America, so I appreciate what you're doing
21 here.

22 Another consideration for a consultation would
23 be -- and you'd have to speak to Victor Joseph, who
24 unfortunately isn't here, but during the Tanana Chiefs
25 Conference convention in March, it's the biggest

1 convention outside of AFN, and all of the Interior
2 tribes will be at that convention, so I would suggest
3 that is another place for consultation.

4 Thank you.

5 MR. WEYIOUANNA: Tony Weyiouanna from
6 Shishmaref and Kawerak.

7 I agree with Victor Joseph with his concerns
8 question- -- questioning why these consultations are
9 opening up again, you know, because if you look at
10 Akiachak and that village -- (indiscernible - heavy
11 accent) -- into the trust program, Akiachak, I don't
12 know if there's some kind of problem with the process
13 they've got to get into the program. I -- I don't
14 really see what the problem is, unless you're seeing
15 what kind of problems are running into.

16 One of the things about the trust program is
17 that I -- I think there should be an option for
18 whoever put their land into trust to have an option to
19 take the land back out of trust, say, 50 years down
20 the line or 100 years, you know, so I don't know what
21 the restrictions are in the trust program.

22 MR. TAHSUDA: Well, there's a process for
23 individuals; right?

24 MR. KELLY: Yeah.

25 MR. TAHSUDA: So there is a process under the

1 regulations for individuals to ask to have their land
2 taken out of trust in -- in -- under the 151
3 regulations.

4 Is that it? All right. Ken, do you have --

5 MR. TRUITT: No. I was just --

6 MR. TAHSUDA: Oh, okay.

7 Thank you, guys. You've given us a lot of
8 information. I would encourage you again to help us
9 think through not just the legal issues, et cetera,
10 but also the background information and what's
11 important to -- to the tribes up here, or individuals,
12 if that's the case, you know, in having the option to
13 put land into trust.

14 Thank you, and we'll close out this session.

15 (Off record)

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 129 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 21st 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 13th day of February, 2019.

SIGNED AND CERTIFIED BY:

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