FEE-TO-TRUST TRIBAL CONSULTATION

TUESDAY, FEBRUARY 20, 2018
PHOENIX, ARIZONA
9:20 A.M.

MODERATING:

MR. JOHN TAHSUDAH, III
Acting Assistant Secretary
Indian Affairs

MR. KYLE SCHERER
Counselor to Assistant Secretary
Indian Affairs

Carmelita E. Lee
Professional Court Reporter
INDEX OF SPEAKERS

1. Invocation, Pastor 3
2. Chairman Harry Pinkernell 7
   Confederated Tribes of the Chehalis Reservation
3. Vice-Chairman Shan Lewis 10
   Fort Mohave Indian Tribe
4. Chairwoman Jennifer Ruiz 12
   Picayune Rancheria Chukchansi Indians
5. Chairperson Jane Russell-Winnieki 16
   Yavapai-Apache Indian Tribe
6. Chief of Staff Bruce Talawyma 25
   Hopi Indian Tribe
7. Remi Bald Eagle 32
   Cheyenne River Sioux
8. President Quinten Cook 35
   Craig Tribe
9. Councilwoman Herminia Frias 39
   Pascua Yaque Tribe
10. Councilmember Charlotta Tilousi 46
    Havasupai Tribe
11. Assistant Secretary Tahsudah, III 48
12. Verlon Jose 58
    Tohono O'odham Nation
Phoenix, Arizona; Tuesday, January 20th, 2018;
9:20 a.m.

MR. TAHSUDAH: Good morning. We've started here. This is the Department of Interior, Bureau of Indian Affairs.

Let me start over.

Good morning.

GROUP PARTICIPANTS: Good morning.

MR. TAHSUDAH: Good morning.

This is the Department of Interior, Indian Affairs Consultation on some needed trust proposals, ideas that we put out. There is no proposed regulation yet. This is just a discussion, and we have previously sent out in your Tribal Leader letter that had a number of questions that have been raised by folks inside of the Department and folks outside of the Department. We are using that to serve as a basis to begin the discussion as to whether or not it's worthwhile to change Part 51 Regulations, dealing with off-reservation trust.

Before we go too much further, I would like to ask the Pastor to give us an opening prayer.

PASTOR: Let us pray.

Father, Creator, we come to you this
morning to just ask Your presence. We come because we have come to exchange words, words that are very important for us. I pray that as we exchange words that it would be in truth and in honesty, because we come here from many places, but we come in the common knowledge that we come here to speak on behalf of our people. We pray that as we have always looked to others for leadership, and have trusted in their words, we pray that that would be true today.

I thank You, Father, for giving everyone who has come safe travels. We pray that this day will be fruitful in many different ways; that we might be patient and long-suffering, and always dealing with one another in kindness.

We thank You for life itself. We thank you for the responsibilities that we hold because we know that we represent creation. We thank you for being stewards of our people, and I just give this meeting to You, and pray that as each one has come that they will be blessed.

And I give them to You, Father, because as each one has come, may they enjoy life, and we pray that our leadership here on both sides will be understanding of one another.

I give this day to You. I give this day to
You, Lord.

In Jesus' name, amen.

MR. TAHSUDAH: So just a couple of housekeeping things.

This is the fourth of six scheduled consultations on this discussion. If you haven't received it yet, it should cross your desk very shortly. We had to postpone the Connecticut consultation that is now scheduled for March 15th, still at Foxwoods, which is where it will be held, and we also, in that letter to Tribal leaders crossing your desk, has that information. We moved the date out for final written comments to be submitted, and those are now June 30th. So as you have been traveling, they may not have crossed your desk yet, but the final consultation will now be at Foxwoods, and I want you to understand that the final date to submit your comments will be June 30th.

We have -- so this is the Tribal Consultation. So we have to proceed on government to government basis, so we need to make sure that everybody that gives comments on the record here today is either a Tribal leader, or you have been specifically appointed by your Tribal leader or your Tribal Council to speak on their behalf if they cannot be here.

So that being the case, I hope whoever is
your designated spokesperson has signed in out front. I have a list of folks here. We will try to go in a more or less orderly fashion, but we'll just go name by name. But I will be -- I don't think it is an issue yet. I'll try to give priority on at least the first speaking spots to the Tribal Leaders, and those folks who are not Tribal Leaders but are speaking on behalf of the Tribe after that.

MR. SCHERER: And for the benefit of the record and the court reporter, maybe you are familiar with how we operate, but maybe if you could just state your name and your Tribal affiliation, that would be helpful. Also for our benefit and the benefit of the court reporter, about halfway through we will take a brief restroom break. And to the extent that we are running short on time, we will add whatever time period that tacks onto the end of the Consultation.

While many of you know John, my name is Kyle Scherer. I am somewhat new to the Department. I have been here for about three months.

MR. TAHSUDAH: My apologies. We are working together almost daily at the offices, and we still don't have a full suite of offices, so my apologies, Kyle. I also assume everyone knows everyone here.
So with that, I'll open up the floor. The first Tribal leader I have on the list is Chairman Harry Pinkernell.

CHAIRMAN PINKERNELL: Good morning, and thank you. Thank you for the time and thank you for the opportunity.

My name is Harry Pinkernell. I am the Chairman of the Confederated Tribes of the Chehalis Reservation. The Chehalis Reservation is located in Southwest Washington State, about 15 minutes south of Olympia, Washington. The original reservation was established by Executive Order in 1864, consisting of about 4400 acres at the confluence of the Chehalis and the Black Rivers.

In modern times, under the current regulations, the Tribe has been able to repurchase land within its own land areas. The Tribe has been able to add 380 acres of lands into trust off-reservation, 835 acres of fee lands off-reservation, and 597 acres of trust land added to the Reservation, totalling an additional 1,820 acres, which provided ecological protection for the rivers, which the Tribe fish, for wetland protection, and other parcels devoted to economic development and jobs.

Through the fee-to-trust regulations as
they currently stand, the Tribe has been able to build, own and operate the Great Wolf Lodge Waterpark in Grand Mound, adjacent to I-5, and also the Fairfield Inns and Suites in Grand Mound. These projects provide employment for Tribal members, and for non-Indians and economic diversification for the Tribe.

The Tribe was fought tooth and nail by Thurston County in Washington when we proposed and developed the Great Wolf Lodge, even though the Lodge employs 542 employees in an economically depressed end of the county.

In addition, the Tribe has now added 32 more employees at the Fairfield Inn and Suites in the same economically depressed end of the county, as a result of the fee-to-trust process under the current regulations.

If the Tribe had been required to obtain an MOU with Thurston Country, or even if there was a checklist with an MOU on it, the Tribe would not be owning and operating the economic development projects that exist instituted to diversify its economy beyond gaming. Instead, the Tribe would be fighting Thurston County in the IBIA and in Federal Court. That would be an unintended consequence of a reference to an MOU in any proposed regulation.
The Tribe understands that voluntary cooperation between Tribal and non-Tribal governments is good. But enabling a non-Indian government to demand payments or withhold consent to an MOU is a major Tribal diversification.

The second issue I wish to address is the proposed 30-day wait to take land into trust. The opponents of fee-to-trust conversions already have ample appeal time guaranteed by court cases. Under the current regulations and procedures, the State and counties already have time to comment on the fee-to-trust process in advance of a Record of Decision. 30 days is just an unnecessary delay and a further invitation for non-governmental opponents to sue and diminish the resources of Tribes in defense, not to mention the resources of the United States, which could be better spent to assist Tribes rather than to defend a legitimate decision.

Finally, as discussed by many tribes in Sacramento, Mystic Lake, and again in Portland, what prompted this discussion about changing the regulations? It certainly wasn't prompted by the vast majority of Tribes. The current regulations are the devil we know, not the devils that went outside of the trust responsibility and want to impose on the Tribes. As has
been said to you, if it ain't broke, don't try to fix it. End this inquiry and do not overturn the current fee-to-trust process because you think you will not be sued as often. Those people who want to sue will sue no matter what the process looks like. Hands off our current regulations. Thank you.

MR. TAHSUDAH: Thank you, Chairman.

Vice-Chairman Lewis, Shan Lewis.

VICE-CHAIRMAN LEWIS: Good morning. My name is Shan Lewis. I am the Vice-Chairman of the Fort Mohave Indian Tribe, and I'm President of the Intertribal Association of Arizona. And on behalf of the 21 member Tribes, I want to welcome all the Tribal leaders here and those who have come to Arizona from across the region to discuss this important matter. I also wanted to extend a warm welcome to the representatives from the Department of Interior who are in attendance here this morning.

We appreciate you coming to Arizona to hear directly from Tribal leaders about Interior's proposal to revise the Land into Trust Regulation, dealing primarily with off-reservation acquisitions. In deference to the many Tribal leaders we have who have traveled here today, I will make my comments on behalf of ITAA very brief.
Overall, we are concerned with the proposed changes to Part 151, which seem to be premised on several bold assumptions. First, the Tribes already have adequate land base. I'm sure many of the Tribal leaders will explain to you today, many tribes still do not have a significant land base for housing, economic development and other needs. The extra hurdles proposed within in the current draft regulations make the process of restoring land specifically harder, not easier, for the Tribes.

Second, most fee-to-trust acquisitions are controversial, and not well received by the local communities. This is not the case. In fact, the vast majority of fee-to-trust acquisitions do not present the controversy or difficulty that the proposed regulations appear to address.

Third, the proposed changes seem to suggest that tribes generally have and pursue relationships with the neighboring non-Indian communities, one that must be mediated by the Department of Interior through a regulatory process. This is not the everyday experience for most Indian tribes. To the contrary, Tribes generally work very well with their local communities. They are often one of the largest employers in the region, and they work hand in hand with the neighboring
communities on public safety, economic development and regional planning matters, just to name a few of our cooperative activities.

In short, on behalf of ITAA, we urge the Department of Interior to listen very closely to the Tribal comments here today, and to revisit the draft, so that it truly can streamline the fee-to-trust process for tribes, and not impose additional hurdles that seem to be -- that attempt to solve a problem that doesn't exist, and sadly, solve it badly at that.

Again, we thank you for being here today and look forward to hearing from the Tribal leaders on this important issue. Thank you.

MR. TAHSUDAH: Thank you, Vice-Chairman. Next up, I have the Campo Band of Mission Indians, Treasurer Marcus Cuero.

We'll go now to the Picayune Rancheria, Chair Jennifer Ruiz.

CHAIRWOMAN RUIZ: Good morning. My name is Jennifer Ruiz. I am the Chairwoman representing the Rancheria Chukchansi Indians from Coarsegold, California. Thank you for taking the time to listen to us this morning. We appreciate that.

We have five properties that have been pending via trust approvals for quite a few years, and
so the first point I want to make is that for
on-reservation or non-gaming land acquisitions, that
process definitely needs to be streamlined. The biggest
point that I want to make -- and we're going to submit
more detailed written comments on this -- but the
biggest point that impacts us is having the local
government, the County, be more involved in the process.
Unfortunately, that has been a challenge for us. You
know, I would love to say -- I hear other Tribes talking
about how good their relationships are with their county
government, and I definitely see that it hasn't been for
us trying. But unfortunately, our county has made it
very challenging for us in every step of the process,
trying to build our on-reservation economic development
ventures. Everything we try to do is opposed in some
way.

It is tied to what I really wanted to focus
on today, which is off-reservation land acquisitions for
gaming. I would not be doing my job as Tribal leader if
I didn't say that this issue has impacted us
specifically, and already today, because we have an
off-reservation proposal that would directly affect our
Tribe and our on-reservation economic development, and
it's a significant issue for us.

We feel that off-reservation gaming, by
definition, has to be looked at completely differently from on-reservation acquisitions for non-gaming purposes, because it triggers a completely separate set of issues and impacts.

The Congress approved a draft because on-reservation Indian gaming enhances on-reservation economies, and creates on-reservation jobs, not just to make money. That is why Congress added, post 1988, Land Limitations For Gaming Act, and carved out exceptions to it for land-claim-related acquisitions and newly recognized Tribes.

The mere fact that Congress put that post 1988 limitation into the Act, and their vote in the two-part determination process, demonstrates how Tribes, the Congress and the Department of the Interior were thinking about off-reservation gaming at times in the past.

Congress made the two-part determination a very conditional opportunity that can only be afforded if all of the parties agreed, and there is little question that Congress believed that the surrounding Tribes would have a clear voice in that process.

For our Tribe specifically, a proposed off-reservation project is already impractical today. Even if we go to negotiate our compact, and are in
league with our county, county officials have told our Tribal leaders that they won't accept anything less than what was offered to them by the off-reservation proposed projects. And having an on-reservation project, we really think we cannot be without it, and it is impacting our Tribe today before that project is even able to move forward.

A new off-reservation gaming proposal can, and often does, at least in California, have a direct impact on the surrounding Tribes, and even the other Tribes in the State. We have over 195 in our state, so maybe we need it there. Yet under their new proposal, State and local governments are afforded a far greater role in the approval process, while the other tribes in the State are left out. Even those who suffer direct impact are left out of the process if they are not within 25 miles of the proposed site, and in our case it is less than 30, so it is very close to that.

Decisions about off-reservation casinos can have a direct impact on the compact renewals of other tribes, who are also experiencing that. They can also impact the way that the State and local governments view the casinos, and the economy of the non-Indian communities that are surrounding existing on-reservation facilities.
All of these factors need to be considered in the off-reservation casino approval process, and this is not happening today. Interior should be required to undertake its own inquiries into all of these issues before approving an off-reservation two-part decision.

We don't oppose Tribes, any Tribe's right to gaming, and we never have. But like I said, we would not be doing our job as Tribal leaders if we did not communicate how impactful this decision would be for our community.

Thank you for this opportunity. Thank you.

MR. TAHSUDAH: Next up I have Chairperson Jane Russell, Yavapai-Apache.

CHAIRPERSON WINIECKI: My name is Jane Russell-Winiecki. I'm the chairperson of the Yavapai-Apache Nation.

All Indian Nations across the country share a common history of losing all, or a portion of our homelands. As America expanded its borders across the continent over 200 years, a period known as "Westward Expansion," a similar story was repeated many times over. The Indian Nations encountered by the United States were different in name, language and culture, but the experience was largely the same. The Indian Nations lived on and cared for their respective homelands. The
non-Indians, moving west, wanted that land and its resources for themselves, and they proceeded to take it through the political and military power of the United States government.

The effect on Indian people of the loss of their land was profoundly devastating culturally, spiritually and economically. The land was everything to Indian people. The land was a living, breathing entity given to the people by the Creator to care for, as one would care for a person. The land provided the economy and livelihood for the people. It provided sustenance to both the farmer and the hunter. Wherever Indian people lived, that place was their home, a place to raise their family, to find purpose and fulfillment, and to find happiness through all the seasons of life. This land gave us blessings of life generously to the people, and asked for respect in return. The spiritual strength of the people was tied to the land in its sacred and holy places. To walk the earth and see its beauty was to see and feel the hand of the Creator and to understand the people's place in this world.

Now, before I go on, I would ask you to stop for a moment and imagine in your mind's eye the overpowering loss experienced by Indian people when all of this was taken away, when their deep connection to
the land as a gift from the Creator, as a place of both physical and spiritual sustenance, was ripped away and shattered.

The story of the Yavapai-Apache people of the Verde Valley and their loss of land is emblematic of the loss suffered by all of Indian Country in the course of America's expansion.

The ancestors of the Yavapai-Apache people, whom I represent here today, inhabited the Verde Valley of Central Arizona for many generations prior to the arrival of non-Indians in what is now Arizona. The Verde Valley and the surrounding mountains were their homeland. During wars for expansion that followed America's settlers across the continent, the Yavapai and the Apache people were looked upon as the enemy to the non-Indian farmers, ranchers and miners. As an entire people, we became inconvenient roadblocks in the American nation's vision of its so-called Manifest Destiny. By 1871, the United States had ordered the Yavapai and Apache families living in and around Verde Valley to be concentrated onto the Camp Verde Indian Reserve, which was a 575,000 acre reservation -- 575,000 acre reservation -- carved out of our much larger aboriginal homeland encompassing some 16,000 square miles. The Camp Verde Reservation was set aside in 1871
by Executive Order of President Ulysses S. Grant, and was intended as our permanent homeland. To the United States, however, the idea of a permanent homeland apparently meant less than five years. At the urging of federal officials, as well as non-Indian Arizonans -- the farmers, ranchers and miners who would benefit from an Indian Country where all the Indians had been removed -- President Grant, in 1875, rescinded the Executive Order, he abolished our reservation homeland, and agreed to the demands of federal and Arizona territorial officials and private citizens, that the Yavapai and Apache people be removed some 200 miles to the San Carlos Reservation, where they could be further concentrated, along with the Indian people already held there. In this terrible act of bad faith on the part of the United States, the Yavapai and Apache people lost their entire homeland, their birthright, and their legacy.

The Yavapai-Apache land of the Verde Valley was taken by the United States for the specific purpose of opening that land to non-Indian settlement. What was once Indian land was to become the property of non-Indian settlers, a federal policy enforced by military power.

So on February 27th, 1875, about 170 years
ago this weekend, on a cold and snowy day, more than 1300 Yavapai-Apache people were rounded up by American soldiers over the preceding days, began the forced march over the mountains to San Carlos. There was no waiting a few more weeks for spring to arrive. No horses. No wagons to carry the people. There was only walking in moccasins that eventually gave way to bare feet while walking through brush, cactus and sharp rocks.

There was no travel over established wagon roads to the south in what might have been warmer weather. There was only a straight-line route over the mountains. The people were forced into exile with only so much of their belongings as they could carry on their backs. The very young and the very old were all treated with equal cruelty. Those of our people who refused to leave the Verde Valley tried to escape, and remain free and unseen. As ordered by the United States, these people were hunted down and either captured or killed outright.

Imprisoned in San Carlos, the Yavapai and Apache people never forgot their Verde Valley homeland. It is our homeland, and we never gave up the hope that someday we would be allowed to return to that homeland to rebuild our lives.
So in the early 1900s, Yavapai-Apache individuals and families began to trickle back to the Verde Valley, back to what had once been their homeland. There they found that their former home was now owned by the non-Indians and their descendants who had insisted on their removal to San Carlos some 30 years earlier.

In November 1909, the United States acquired 18 acres of land in trust for the Yavapai-Apache. I repeat. 18 acres. A school was built, and a small reservation was reestablished for the people. Recognizing that the needs of the people were great, the United States acquired an additional 460 acres in trust in 1915. This was the beginning of our recovery as a people from the terrible loss that we have suffered when our lands were taken and given to others. The harm done in 1875 through the loss of our land was deep and abiding, and has reached down through the years to harm every generation of the Yavapai-Apache people from then until now. To take away everything that a people have is to rob them of their culture, their economy, their sense of place in the world, and their identity as a people. Little by little, over the years since then, the Yavapai-Apache people, with the occasional assistance of the United States, began the slow and painful process of recovering from the
devastating loss of their homeland by reacquiring a small portion of our original lands. Additional small trust acquisitions have occurred slowly over the years so that now our small reservation consists of just over 1830 acres. Remember, the Yavapai-Apache people went from an aboriginal territory of over 16,000 square miles to a 575,000 acre reservation in 1871, to no land at all in 1875, when imprisoned at San Carlos, and now to only 1830 acres. That is less than three square miles of land. Three square miles of land. The loss of land for the Yavapai-Apache people was stark in its magnitude.

For the Yavapai-Apache Nation, the acquisition of land is always about our recovery from the terrible harm done to us by the United States, which shattered our connection to the land, took away our homeland, and gave it away to strangers. The recovery from such loss by a Nation of people can only occur over a long period of time, so every land acquisition by the Yavapai-Apache Nation is aimed at rebuilding at least a small portion of our homeland. Whether for housing, economic development, cultural preservation or open space, for agriculture, watershed protection, all land acquisitions are for the benefit and for the general welfare, and long-term prosperity of the Yavapai-Apache Nation. Reacquiring our lands is a small part of
reclaiming the legacy which was stripped away from us in that long march to San Carlos in 1875. In acting to acquire new lands into trust, the Yavapai-Apache Nation is simply trying to regain a very small portion of what was taken away from us by the United States.

Acquiring lands in trust is not about diminishing the local non-Indian tax bases or rezoning land use. Again, acquiring land in trust is not about diminishing local non-Indian tax bases or rezoning land uses. Land acquisitions are about rebuilding Indian communities that have long been devastated by the loss of their land. The Indian Nations and local communities can, in many cases, work out their differences in land acquisitions. The Yavapai-Apache Nation, for example, works closely with local non-Indian communities to provide for cross-jurisdictional cooperation. The Tribes and the local communities should be left to work out our local issues without particularized regulatory mandates. Again, the Tribes and the local communities should be left to work out local issues without particularized regulatory mandates. Where such mutual arrangements are difficult because of lingering local animosity towards the Tribes -- and this is important -- it is the responsibility of the United States to exercise the discretion Congress provided in 1934 -- in
1934 -- under the Indian Reorganization Act, to acquire land for the various needs of the tribes. That is your responsibility. What we cannot accept in your proposed regulatory revisions is any regulatory changes that take away Secretarial discretion, or that gives local, non-Indian communities veto power over Native Nations' land acquisitions. Unacceptable. This would be contrary to Congressional intent, and harmful to the Indian Nations.

The United States should not now begrudge the Indian Nations the opportunity to recover from the cultural, spiritual and economic losses, and the genocidal harm inflicted on Indian people by the failed federal policies of the past. Instead of making it more difficult for Indian people to recover their lost lands, as the proposed revisions of the Part 151 regulations will do, the United States should be clearing away the bureaucratic obstacles that currently stand in the way. Instead of throwing up sandbags, laying down pitfalls, the United States should be smoothing out the road to greater Tribal prosperity by streamlining the land into trust process.

The current regulatory requirements are onerous enough. They do not need to be made worse by the proposed provisions. Please, don't ask Indian
Country and the various Nations that have been harmed enough by failed federal policies, to buy into new bad policy initiatives. I cannot agree with this. Please.

In closing, I have two questions I would like to leave with you. First, it is not entirely clear why the Secretary is considering the proposed Part 151 revisions. One of the issues that we hope to address by such revisions, is the Secretary opposed to all trust acquisitions? Or just certain acquisitions?

Can you identify the kinds of acquisitions with which the Secretary is concerned? It is difficult to respond in generalities, so greater specificity is needed.

In addition to my comments made today for the Yavapai-Apache Nation, we will submit formal comments in response to the consultation questions by the June 30th deadline.

Thank you very much.

MR. TAHSUDAH: Thank you very much.

Next up I have Mr. Marcos Ceuro, has he come in? From the Campo Band?

All right. So then I have Bruce Talawyma.

MR. TALAWYMA: (Remarks in Native language.)

Thank you. Good morning.
My name is Bruce Talawyma. I have the honor of serving as chief of staff for the Chairman Timothy Nuvangyaoma. Chairman Nuvangyaoma was unable to attend, but he sends his warm welcome to everyone here.

I would like to thank you, Acting Assistant Secretary, Indian Affairs, Tahsudah and his team for traveling to Arizona to meet with our Tribal leaders to discuss the Department's proposed rulemaking on Part 151 regulations.

I appreciate the Department being here today and holding this consultation, but Indian Country did not ask for the Department to make changes to the fee-to-trust process. The Indian Reorganization Act and the Part 151 Regulations are working for Indian Country in helping Tribal Nations to rebuild their homelands. Of course, there are always areas where the process can be improved, but I am skeptical that this is the purpose of this rulemaking.

Every Tribal leader in this room today will tell you that land is essential to our future as Tribal Nations. Every Tribal leader here will tell you that our respective Tribal Nations' territories stretch far beyond our current reservation boundaries. From the outset, it is critical to acknowledge that any acquisition made by any Tribal Nation pursuant to the
Indian Reorganization Act and the 151 Regulations is a re-acquisition. We all understand what that is. We are re-acquiring what was once ours and taken from our Peoples.

The Hopi Tribe resides on a 2,500 square mile reservation located in Northeastern Arizona. Our reservation is unique in that it is landlocked and completely surrounded by the Navajo Nation's reservation. It is absolutely essential for our Tribe to look off-reservation for lands for economic development, housing and other needs because there is no land adjacent to our reservation. We are completely surrounded by the Navajo. This makes the fee-to-trust process very important to the Hopi Tribe.

Many other Tribal nations confront the issues of the lack of available land on reservations, or even lack of a formal reservation. This means that they have to pursue acquisitions off-reservation to help meet the needs of their Tribal citizens. The Indian Reorganization Act did not limit acquisitions to on-reservation lands or the reacquisition of allotted lands. The IRA's language and the powers it granted to the Secretary were broad. The IRA did not place distinctions between on-reservation and off-reservation lands. The Department should not impose undue burdens
The Hopi Tribe appreciates that the Department withdrew the discussion draft at issue last fall, and abandoned that rulemaking process. It is good to see that the Department listened to Indian Country. It is always better to listen to Tribal leaders before the Department begins changing its regulations and processes.

Even though the Department withdrew its discussion draft, I feel compelled to share some of the Hopi Tribe's concerns with the proposal. The first is that it created a two-step review process to address State and local governments' concerns. The current Part 151 Regulations already take into account the local governments' views, and the proposed two-step process would only complicate the fee-to-trust process and place new hurdles in the way of Tribal Nations reacquiring lands.

The discussion draft also contained a requirement that the applicant Tribal Nation enter into an MOU with the local governments, and if it did not, it was required to explain why. The current regulations do not require MOUs. MOUs may be best practices but they are not always possible to achieve. The Hopi Tribe has a great relationship with our local neighbors but not
all Tribal nations are that fortunate. The MOU requirement could tip the scales in favor of local communities and provide them with more leverage to extract concessions from Tribal Nations. Worse, the MOUs could even be seen as providing local communities with a pocket veto on fee-to-trust acquisitions.

As the Department searches for ways to improve the fee-to-trust process, the most obvious issue that needs to be addressed is where the decision-making process occurs. Last April, the Department moved decision-making authority for non-gaming off-reservation fee-to-trust applications from the regional offices to the central office. This creates a logjam at the central office because it does not have the resources or expertise to process so many application from diverse regions. The regional offices have the local expertise, institutional knowledge and the resources to efficiently and effectively handle these applications. The Department should return decisional-making authority to regional offices for non-gaming off-reservation applications.

Another improvement that the Department could immediately initiate is abandoning the 30-day self-stay policy for fee-to-trust acquisitions. The Patchak decision made clear that the Quiet Title Act
does not protect fee-to-trust applications from legal challenges; therefore, the 30-day self-stay is no longer necessary, so the land should be placed immediately into trust upon approval of the application. The 30-day stay prolongs the fee-to-trust process and allows legal challenges, even frivolous challenges, to prevent land from going into trust. This causes Tribal Nations to deal with added expenses and uncertainty.

Again, I appreciate the Department withdrawing its decision draft, and instead asking Tribal nations to answer a series of ten questions. The Hopi Tribe will answer the ten questions with formal comments that we will submit to the Department during this consultation period.

However, I would like to express my concern that the Department is pursuing this consultation that will have a major impact on Tribal Nations without a Senate-confirmed political appointee at the helm. The Senate has yet to confirm an Assistant Secretary for Indian Affairs, which is an important aspect of the checks and balances built into the United States Constitution. Similarly, there is no Deputy Solicitor for Indian Affairs. The Department's current consultation efforts would be better served if Senate-confirmed political appointees were leading this
Finally, I would be remiss if I did not express my concern that some of our sister Tribal Nations are being left out of this consultation process. The Department's efforts would have a profound impact on all Tribal Nations across the entire United States, yet, there are no consultations scheduled in Oklahoma, Alaska or the Great Plains. These areas are home to many Tribal Nations, and they deserve a voice in this process. The Department should schedule additional consultations to listen to Tribal Nations located in these areas.

Again, I would like to thank the Acting Assistant Secretary of Indian Affairs, John Tahsuda, for meeting with us today. We will supplement the record with formal comments, addressing the ten questions the Department asked. The Hopi Tribe is also open to discussing ways to improve the fee-to-trust process, but we will vigorously oppose any efforts to create new obstacles.

And also, I would just like to point out also for all of us Indian Nations, we have our culture, and last month we just finished our Hopi Tribal ceremony, which is a cleansing and purification in our Hopi Nation, and this begins the New Year for the Hopi,
and this is the time that we move forward with good hearts and prepared for everything, all life, that we will continue to grow in our own ways and not be burdened by so many other issues that we now have.

Thank you.

MR. TAHSUDAH: Mr. Bald Eagle, Cheyenne River Sioux Tribe.

MR. BALD EAGLE: Good morning,

Mr. Tahsudah, Chair, people of the southwest.

My name is Remi Bald Eagle. I come from the Cheyenne River Sioux Tribe of the Great Plains.

Thank you for welcoming me to your territory today, and giving me the opportunity to speak to the federal government on your lands. Actually, my lands, the top of the Sioux Nation. Thank you to the representative from the Hopi Nation for mentioning us today.

Mr. Assistant Secretary, I am here on behalf of the Chairman of the Cheyenne River Sioux Tribe with the following message.

First, we would like to quote one of our leaders, Crazy Horse, by saying, "My lands are where my dead are buried."

You gave us many questions to answer. But now I will briefly go over those questions because I know you want them. I am not going to read the
questions. I am pretty sure you already know what they are.

First question, restoring our homelands should be our primary purpose of the fee-to-trust process. States have more authority than the Tribes under the proposed regulations, and that isn't right. It is much easier to take trust-to-fee than it is to take fee-into-trust. It should not be more difficult to do so. For off-reservation acquisitions we should not be required to submit a map showing the parcel of land in relation to the reservation. The fee-to-trust process should be about restoring our homelands, not about regulating gaming.

Second question, Interior doesn't have an effective fee-to-trust application process. Every time the Cheyenne Sioux Tribe attempts to reach out to our fee-to-trust process, we are constantly met with roadblocks, told the person isn't there, told the people we need to talk to are not present, and never return our phone calls.

Question number three. There should never be a disapproval of treaty lands ever. My lands are where my dead lie buried. If you can point to one place in the great Sioux Nation, according to our treaty territory, and come to a parcel and tell us this spot
right here in your treaty land, a Lakota warrior didn't
die in that spot. Then we can start assisting you about
fee-to-trust in our Native lands. If it is treaty land
it should be approved.

Question number four. The Black Hills were
illegally taken from the Great Sioux Nation. Your
courts say that. So any fee-to-trust that has been
taken into consideration regarding the Black Hills
should be put into trust without being frivolous because
they were illegally taken.

Question number five. No questions or
criteria should be implemented. America is free, isn't
it? Why is capitalism only okay if you are not an
Indian?

Question number six. It is a taxing
revenue.

Question number seven. No application
should not be subject to community agents prior to
approval.

Question number eight. Federal government
doesn't have fiduciary responsibility for the states and
local government, and has no absolutely no
responsibility to the general public as regards
fee-to-trust on Indian lands. So comments from the
states and local governments and federal authorities
should carry no weight. This is a nation to nation
issue. Our treaties don't require communities or state
governments.

Question nine. MOUs are dangerous for
Tribal jurisdiction. It gives guardianship to Indian
lands that are not their land.

Question number ten. Easy. Simply remove
the application as they come in. The federal
government's responsibility is to protect Tribal lands
and not diminish it.

Lastly, I want to point out that the Tribal
leaders does not consider my presence here as formal
consultation. They invite you here to the Cheyenne
River Sioux Tribe to speak before our Tribal Council
regarding this and look forward to providing additional
comments before the deadline on January 30th.

I moved this microphone because I didn't
want to turn my back on my elders. Thank you.

MR. TAHSUDAH: Thank you, Mr. Bald Eagle.

Mr. Quentin Cook, Craig Tribe.

PRESIDENT COOK: Good morning. My name is
Clinton Cook, I'm the Tribal President of the Craig
Tribal Association. I am honored to be here today to
tell you how important land-in-trust is for tribes in
Indian Country.
We are a small Tribe in Craig, Alaska, and are the only Tribe in Alaska that has been able to put land taken into trust since the Alaska Exception, which barred tribes in Alaska from taking land into trust was finally removed from Department 151 Regulations in late 2014.

I would like to thank the Hopi Nation for recognizing that you guys did not come to Alaska. 568 federally recognized Tribes across the U.S., 229 of them are in Alaska. You need to be in Alaska. You need to be on the Great Plains.

Having land in trust has profitably changed our community. We now have a small parcel of trust land that our members and Tribal children can be proud to call home again. The land we have put in trust houses the Tribal government, program offices, the Tribal community center and economic development center.

Land into trust program is critical in fostering greater Tribal self-sufficiency, and stronger Tribal governments. Without land in the trust, Tribal governments like my own, that operate on fee lands, are subject to State and local laws, and are forced to function more like private companies or non-profits. Because of this we are often not treated as sovereign nations by local governments in telling them that we
have land in trust.

The Department must continue to support Tribes in restoring our homelands, and ensure that the land-in-trust process is geared towards helping us achieve this goal.

We do believe that any changes in the current regulations are necessary, the current regulations provide sufficient standards to allow the Department to effectively and adequately balance the State and local interests of the Tribe's responsibility when evaluating land-into-trust applications, regardless of whether they are on or off-reservation.

For example, State and local governments are provided notice of land-in-trust applications and decisions. They have adequate opportunity to submit comments, voicing their concerns during the process. But the Department must not confuse the opportunity for State and local governments to be heard with some broader but unfounded notion that these third parties have a right to prevail on the merits, or veto land-into-trust decisions. The Department is required to make its decision based on the law, consistent with its trust responsibility to the tribes. State and local government concerns do not change the law or government obligations to the Indian Tribes.
The Department must remember that Indian -- the IRA Act -- was intended to reverse the wrong of prior political policies, and help to revitalize Tribal self-government by taking land-into-trust to tribes.

In passing the IRA, Congress established a clear policy in favor of taking land-into-trust to help tribes achieve self-determination and correct the harms done by the federal government, taking so much from the Tribes throughout our history.

Any changes to the current land-into-trust program will also have an immediate and negative impact on Alaska tribes. It has only been just over two years since we have been able to submit applications to have land taken into trust, and only one application has been approved to date.

The Department should not make this process more difficult by changing it now, or creating additional hurdles for off-reservation acquisitions, especially since there is only one reservation in Alaska, and it is only because of the Department's past policy barring tribes in Alaska from taking land into trust that we don't have more reservations in Alaska today.

We must be given the same opportunity that Indian Tribes in the lower 48 states have had to acquire
land in trust, and finally be able to have meaningful
government upon our lands as sovereign agents.

We urge the Department not to make any
changes to the current process; rather, the Department
should ensure that all agents and regional offices have
enough staff, and are properly trained in the
land-in-trust process to ensure that applications of the
process are received in a timely manner.

Given the Department's reorganization and
staff reduction, the current land-into-trust program
must be protected, and the environment should make land
into trust a priority in terms of both staffing and
funding resources all over Indian Country.

Thank you for your time. Like I said
before, I came from Alaska at great effort to get here.
You guys need to be everywhere. You don't need to be
where you guys want to be. You need to be where we are
at. It's very shameful not to have government authority
in Alaska, or even Washington, where it would be easier
for us to travel. Thank you.

MR. TAHSUDAH: Thank you, President Cook.
I think we have another group. Ms. Frias
from Pascua Yaqui.

MS. FRIAS: Good morning.
I have some comments that I would like to
read on behalf of the Pascua Yaqui tribe. We have one
of our council members here, Mrs. Antonia Campoy, and we
hope to have other Tribal Council Members join us today.

I would like to thank you for providing us
a forum to provide feedback on the fee-to-trust process.

Before I go into my thoughts, I think it's
helpful for you to understand the history of the Pascua
Yaqui Tribe as the original proposed regulation and the
subsequent questions seem to assume that so-called
off-reservation acquisitions should be the exception,
and therefore more difficult to acquire. However, this
ignores the history of many Tribes in the U.S., which
have included terminated Tribes -- terminated tribes --
and Tribes, like us, that are left land-poor. For some
of the Tribes it is nearly impossible to acquire
on-reservation or contiguous parcels of land to put into
trust. We should not be punished for the history that
the U.S. government is responsible for.

The Yaquis have existed in Arizona since
time immemorial. We have inhabited what is now known as
Southern Sinaloa, Sonora, New Mexico, California, Texas,
Utah, Colorado and Arizona. The Yaqui people settled in
various communities from South Tucson to Scottsdale.

In 1964, Congressman Morris K. Udall
introduced a bill in Congress authorizing the transfer
of 202 acres of federal desert land to our Yaqui elders. On September 18th, 1978, Public Law 95-375 recognized the Tribe as a United States Indian Tribe. However, the Tribe did not have specific connection with the land that was to be transferred to the Tribe; rather it was easily transferrable since it was BLM land.

Numerous members of the Tribe have relocated from their traditional communities elsewhere in the State to the Reservation, and have built a thriving community there. However, the acquisition of the land adjacent to the Reservation is limited in space and is running out to build additional housing for Tribal members. Traditionally Yaqui communities continued to exist off-reservation. For example, a Yaqui community exists in Guadalupe, which is 115 miles from the Pascua Yaqui Reservation.

Public Law 95-375 recognized the Tribe in 1978, and put 202 acres in trust for the Tribe. Public Law 103-357, which amended Public Law 95-375, recognized 202 acres was insufficient, and directed the Secretary of Interior to conduct a land study to determine what land would be sufficient for the Tribe for the foreseeable future, and at what cost. The Tribe completed the land study, and determined that a total of 3,815.4 acres will be needed by 2015 to house the Pascua
Yaqui population, and an additional 14,353 acres of nonresidential land will be needed. A total of 18,164.4 acres of land is needed by the Tribe by 2015.

The Tribe continues to grow, and due to its land shortage, the population is suffering. More than 446 Tribal families are waiting for Tribal housing and 239 Tribal families are waiting for land assignment.

Therefore putting an additional burden on off-reservation acquisition discriminates against land poor and landless Tribes, as all of their acquisitions fall into that category, despite the fact that significant Tribal communities exist -- continue to exist in areas where they seek to acquire land.

One of the questions that you asked in your Dear Tribal Leader letter is, what should the effect of the land-into-trust program be? What should the Department be seeking to accomplish? We believe that the Department has both a legal and a moral obligation to acquire land-into-trust for all Tribes, and particularly those where Congress has recognized that the land base is insufficient. We ask that if amendments are to be made to the regulations, that the Department consider acquisition within, or contiguous to existing recognized Tribal communities, not to be considered off-reservation, and thus subject to
additional scrutiny.

Any additional restrictions placed on the fee-to-trust process will frustrate the Tribe's ability to meet its land needs for its people. Most federal programs are designed to assist Tribes, and are tied to trusts and reservation lands. For example, the Tribe is prohibited from constructing homes with NAHASDA funding on fee lands.

The Department has expressed concern about the adequacy of the current criteria in addressing the concerns of local communities. However, the current criteria already provides a strenuous process for considering the concerns of local communities. Any additional restrictions would effectively allow the local communities that are unwilling to negotiate with the tribes the ability to hold the application hostage.

There is no policy justification for providing local governments to veto over off-reservation land acquisitions.

The questions further asked whether applications should be treated differently if they are for gaming purposes. Congress has already set up the rules when newly acquired land can be used for gaming in Section 20 of the Indian Gaming Regulatory Act, and the Department has already adopted regulations implementing
this law. Attempting to conflate the fee-to-trust process with IGRA's gaming requirements is unsupported by the law, and will only result in a more convoluted, complicated and legally challengeable process. We urge the Department to abandon this process entirely.

According to the Brookings Institute, President Trump has rescinded well over three dozen proposed rules and delayed numerous others. It seems strange that in this era of deregulation, where America is open for business, that Indian Country should be mired in regulations. If infrastructure projects can be streamlined to less than two years, so, too, can the fee-to-trust process. Applications shouldn't be allowed to sit around for years on end. The Department should develop a streamlined process wherein all applications are processed within the same two-year window.

Additionally, no Assistant Secretary of Indian Affairs has yet been appointed. Any challenges to the regulations should await the person's appointment as they may take a wholly different view of the process.

Finally, we appreciate the Department is looking into these regulations. Perhaps it is time that they are revisited; however, since the history of the Tribes are so diverse, and Tribes are in very different land situations, we invite the Department to consider
either a Tribal working group or negotiating rulemaking so that the Department fully understands all of the Tribal positions and concerns and can amend the regulations in a manner that suits all the parties' needs.

I would like to thank you for your time, for listening, and also on behalf of the Pascua Yaqui Tribe for this opportunity to speak on their behalf.

(Remarks in Native language.)

MR. TAHSUDAH: Thank you, Ms. Frias.

One more call for the Campo Band. Is there a spokesperson for the Campo Band?

So usually what I do at this point, whenever all Tribes have had a chance to speak, I try to take notice of who spoke, and I'll raise some issues and try to address those as best I can, to go through them. And I'm happy for you to come back up if you want to clarify if I say something that I didn't understand correctly, if you want to clarify that.

But let me ask this before we do. Should we take a break? Why don't we take a break and then, because I see a few heads nodding, and then I'll start off again with some responses to the questions. We'll take a five or ten minute break.

Thank you.
(Recessed from 10:29 to 11:08 a.m.)

THE COURT: All right. Are we ready to go again?

So we have had a couple more folks come in, I think, so before I comment a little bit, let's put the mic up to Council Member Charletta Tilousi of the Havasupai Tribe.

COUNCILMEMBER TILOUSI: Good afternoon, or good morning.

On behalf of our Tribal leaders, thank you for giving me this time to testify on behalf of our Tribe.

I am a member of the Havasupai Tribal Council, elected official for the Tribe, and I am here to raise some concerns about what we are going to discuss today. The Tribe has purchased some territory near the Grand Canyon south rim. We wanted to purchase that land to protect the area from uranium mining, and we also purchased it for the reasons of protecting various sites.

The site I'm talking about, we applied to put it into trust and we have been waiting for quite some time. In good faith, the Havasupai Tribe has applied all the necessary documents and use of the Tribe's resources to obtain the land and put the land
into trust.

It has been a long process for us. We have used legal attorneys, and we use our resources to complete all the tasks in a timely manner, and we have still not received any response from your agency to the Tribe, whether we have been approved or not.

We are not here to express our concerns against any gaming Tribe, but we are here to express the fact that we have waited for quite some time from your agency.

The land that I am referring to is right next to our sacred mountain, called Red Butte. That mountain is not only sacred to the Havasupai, but it's also sacred to the neighboring tribes, and we have been fighting for many years against uranium mining. Our intentions were to protect that area from further mining, and around that area is a lot of area sites that we want to protect. And that was the set intention of the Tribe.

I understand that there are going to be some suggested changes to regulations, and we would like to be fully informed of that.

Do we start all over again, since there will be changes? Is the application ever going to be approved? Or are we just going to keep waiting for a
long time? Those are the concerns and questions that we have.

We have numerous Tribal members in my tribe, and the history of my tribe is very, very dark, just as some of the Tribes represented here.

We once owned the entire Grand Canyon National Park, which is now a national park. My great-grandparents and family members all lived in that area, and when it came down to Theodore Roosevelt coming into the Grand Canyon, he took all of that land away from us, and I was a landless person until I became six years old. The large demand allowed -- Congress finally passed a large demand and gave some of our land back to the Havasupai Tribe, which is now the Havasupai Reservation.

So the goals of my Tribe is to start purchasing property in our territory to protect them from mining and protect our ancient burial sites and protect them forever. So that is our intention here today, is to voice our concerns about why does it take so long for us to have any kind of response, because we have done everything we can think of, followed all of the guidelines and procedures that your agency has asked us to do.

So thank you for your time to listen to my
testimony. My written testimony will be provided again by your schedule and your deference.

So we hope to hear from you guys soon on that matter. Thank you.

MR. TAHSUDAH: Thank you, Ms. Tilousi.

So I think to answer your questions, it's probably fastest and easiest to do that first. I think there may be one or two more Tribal leaders who may be coming along wanting a chance to speak when they get here.

So right now, this is only a discussion about changing the off-reservation fee-to-trust program. Anything that is in the pipeline that has been submitted, it will continue on. Nothing is being held up. Everything should be business as usual, what we talked about, and improved business as usual on off-reservation acquisition.

We will look into -- I am not sure where your -- I can't guess where your applications are at, your now long-awaited fee-to-trust applications are probably in the regional office here, but we will check on that and try to get a status for you.

So I'm going to try -- I think I can answer a couple of the questions or points that were raised this morning fairly quickly.
So there is no intent to hold up any applications that have been submitted. Again, this is just a discussion at this point, and if down the road we went through a rulemaking process and change the regulation, it would be forward-looking regulation, and would only deal with applications made after that date.

The Secretary is 100 percent supportive of trusts, and to continue to develop land on the reservation, provide better homes and better communities and better economic opportunities to our members, whatever it takes. And if it means going off reservation, then there is no opposition to that, we just have some extra hurdles that we have, that we're required to, by law, to go through. This is part of what we want to discuss now.

But this is, is there a better way to do it? That is the fundamental question for us. We are asked, who asked you to do this, et cetera, and I guess my response is, this question has been hanging around the Department for a long time. Before I got here, and going back several administrations. They always raise the question, why does it take so long to get the answers? Why does it take 15 years to get an off-reservation acquisition, or seven years?

So the fundamental question is, is there a
better way that we can do this? If it takes a change of
regulations to accomplish that, or more clarity for the
regulations, I don't see that as adding more bureaucracy
if it turns out to be a better process, for instance.

So I guess -- I hope that addresses those
questions.

I think there is a misunderstanding that I
keep -- we keep running into this, the question on the
local government comments and MOUs. So again, in the
regulations now, and through a number of court cases,
you know, we have -- we have to, as a government agency,
provide the opportunity for affected parties -- the
local governments in this case -- to write comments on
our actions. So that's what that process is for.

In a lot of states, and I know in a number
of Tribes, they have been able to establish a pretty
good working relationship with the surrounding
communities. So one of the questions that comes to mind
is, as we go through the process we have to go through,
getting local comment, addressing those, et cetera, is
there a better way to do that? And one better way that
comes to mind is what a lot of Tribes are doing; they go
to their local communities. And if they have a good
ongoing relationship, and I know that is not always the
case, but if they do, then they can already, by the time
they submit the application to us, they would hopefully be able to already have those issues addressed in an MOU. Well, here they are, they are addressed in the MOU, and we don't even have to go in and think about it, right? We just -- it's already in the book. That part is done.

These are all things along the way that take up time and take up resources on your part, and again, if we could find a better, more efficient way to go about this, I think that's a good thought.

Now, there has never been an intent that -- in discussion about MOUs, is that veto in any way on behalf of local communities is not in the regs now, and it's not our intent to add something like that into the regs.

So I hope that you can consider that question, that idea in that context. Is there a better way that we can go about doing it? If you have a decent relationship, or if you can accomplish this with the local community, all right. So if you can't, it doesn't stop us considering it. It's just we have to be more involved in that, and we have to be more involved in hearing their comments and your responses, et cetera. So that is simply the idea.

If you think that's not a good idea, if you
have a better idea on how to handle that part of the process, we are very happy to hear it, but please submit those comments.

Let's see. I think the other thing is, again, part of this is -- so I guess I'll say there are two sort of underlying assumptions on our part. One is can we improve the process. Again, this is all focused on the off-reservation acquisition of land fee-to-trust. All right. Is there a better way we can handle the process? And two, is there a way that we can accomplish better decision-making?

The Department virtually gets sued every time it makes a decision these days, and Tribal fee trust is usually -- is often not an exception to that. So it is incumbent upon us to add that when we make a decision on your behalf, that we are able to defend it. Part of this process, as well, is in trying to make clear for us, and make wholly clear to the Tribes in the application, information that is helpful to us to come to a defensible decision on your behalf.

I think it is a tragedy in a sense that we are not able to do that. And we have extra complications that we didn't have 25 years ago; right? We have the Carcieri case; right? It affects Tribes in different parts of the country a little differently.
based on history, but that's -- and it added later that
20 years ago it didn't have to be considered by Tribes.
So that is not something in our hands. That is handled
by the Supreme Court.

But for us, and that's something that only
Congress can address. We cannot address that. All we
can do is deal with the impacts of that case because the
Supreme Court has said this is the law of the land.

We only apply the law. We don't make it.
So we have to make that consideration as well.

So part of all of this is trying to get, at
the end of the day, a better decision so that we don't
have another case like that, hopefully, or maybe like
the Patchak decision. These are all things that, you
know, you learn lessons from those. Hopefully we will
do a better job so that we don't at least get wrapped on
the knuckles for a similar situation, or maybe some
different thing on the law that nobody anticipated.

But if we could anticipate what is the
current status of the law and make better decisions
based on that, I think that is also incumbent upon us.
That is a responsibility of ours at the end of the day.

So those are sort of two of my assumptions
that also kind of underpin this, and again, you know,
this is intended to begin a dialogue on this. If you
think that the process as it stands works well, is efficient on your behalf, does it take too much time and money? Please make those comments and submit it to us. If you think that we are going about the process of making good decisions and defending it, but we could be better, we are more than happy to hear about it. But those are the ultimate goals, is to have better decision-making and get it done more efficiently and faster.

That's sort of the underlying thought process that we have. So if you see some of those here, some of the questions that have been put out, certainly I think it is helpful for us, as we do turn over the deliberations, that if you address these questions, but if you have other parts of the process that you think need to be addressed or could be improved, I really urge you to make those comments as well.

I'll open the floor to anybody to who has a comment to that. If not, I'll keep going.

So one of the things that I keep hearing a lot is the uses of the land, and particularly off-reservation. So that's one of the things that could be helpful, I think, again in this process, is trying to find a faster way to be efficient, more defensible decision-making.
What are some of the uses that we can identify that don't carry additional legal risks or concerns or other considerations that we have to make. So some of those are what we call, you know, continuing use, right, or no change in use of the land. Are there things that are, you know, important for other reasons, cultural reasons, religious reasons? Are those things -- personally I think they should be -- but are those factors positive factors that should be considered? I don't know if they are really addressed in the way that would make it better for us to make a decision. So are there uses like that?

Or if it is a commercial use and you are not changing it, for example, the golf course that the Tribe has purchased, they are just keeping it as a golf course.

So there are several things we can do in the process, hopefully. We are underway in examining our Geneva analysis, and one of the things that strikes me as being underutilized in the past are categorical conclusions. So we have authority to do this. We actually have about 15 different categories in our administration currently that are really not used. We are basically making Tribes go through needless analyses that they don't necessarily need to right now. So we
are looking at that now, and we are going to make sure that we import those.

And to use the golf course example, if it is not being changed in use, why should there be an extended Geneva analysis? So those are part of the things that we want to hopefully build into a better decision-making process.

What else?

So I'm not sure -- so the question was raised before about adding a 30-day period before the fee-to-trust decision is made public or put in the federal register. And so again, I encourage you, when you make a comment, to remember that. But I think that the easiest way to look at that is the thought process of anticipating that there will be litigation. So the fact of the matter is that following the Patchak case, the Supreme Court has said that those outside folks who want to challenge the fee-to-trust and have standing to do it, the fee-to-trust decision, have six years to do it. That is a fact of life for us.

But instead of waiting until year five, five and a half, if we have a period in which people are notified, if you want to challenge this decision, please do it in this 30-day period, they can be encouraged, those who are going to do it, to jump in and get it.
done, right, and then we can get through the process faster. If there is going to be a challenge, we can get it into court faster and resolve it and not be waiting until year six and wade through four more years of litigation or something like that.

So that is sort of our very basic thought process that we have. Again, if you have a better idea how to help that part of the process, we would be very happy to hear it.

Again, in the category of how we can structure the process as well, I would certainly appreciate thoughts and comments, so Councilwoman Frias, from the Pascua Yaqui talked about they had a progressive study to identify these, et cetera. It has been raised before, there has been comment made that maybe Interior should have sort of a similar process where we try to put together a plan, sort of structure it, and get some of the things like public notice out of the way early on, right. And so again, you know, there is a thought that might make the process easier, and certainly you can comment on that.

I think the Vice-Chairman from the Tohono O'odham Tribe is here. Would you like to comment?

Good, you'll get a break from hearing me.

VICE-CHAIRMAN JOSE: (Remarks in Native
Good morning. Greetings to every one of you. This is a good day. It's an important meeting, and thank you for being here.

I want to make some comments on the fee-to-trust regulatory review by your questions.

The fee-to-trust process is already overly burdensome, even for mandatory acquisition applications that should be reviewed and approved as a matter of routine. Comments are repeated efforts to keep modifying the regulations and keep changing the rules to cause significant hardship for applicant Tribes, and is inconsistent with this administration's pledge to reduce regulatory burdens.

The Nations' mandatory applications for land adjacent to existing reservations has been pending before the Department for more than a year and a half. The Nations find it difficult to understand how the Department can possibly consider imposing additional requirements on the fee-to-trust process, when it already delays processing existing applications.

The question of the proposed reinstatement of a self-stay of trust land acquisitions is both unnecessary and would results in further delay. Our comments are if we stay the self-stay provision, it
would effectively allow the Department to delay its
acquisition indefinitely, thereby thwarting the Tribal
investments and development. This outcome is neither
consistent with the language and purpose of the IRA --
and the purpose of the IRA -- for other federal
statutes, nor does it streamline or improve the land in
the trust process.

The question, the interest of Tribes in
Indian Country, rather than concerns with State and
local jurisdictions, must drive the fee-to-trust
process. State and local communities should not be
allowed a veto over the fee-to-trust process.

MOUs between Tribes and local communities
frequently address the economic or environmental impact
regarding the new development on neighboring land. Many
states recognize and encourage such agreement. However,
these agreements are the gravamen of sovereign
government. It would be both paternalistic and contrary
to the plain language and intent of the federal statute
for the Secretary to require MOUs as a part of the trust
acquisition process.

Those are our comments. Thank you from the
Tohono O'odham Nation.

MR. TAHSUDAH: Thank you, Vice-Chairman.

So Chairman, we talked about your mandatory
fee in trust acquisition here last week. We will
follow-up with you shortly.

VICE-CHAIRMAN JOSE: Thank you. I signed
it yesterday.

MR. TAHSUDAH: How's that for speedy
action?

So I repeat again, too, so there is no
intent on holding up any applications in the process
now. Any that would be filed before any proposed
changes in the rules were finalized, et cetera.

So I did want to go back to -- I think to
the Chairwoman from Picayune, who raised the question
about the 25-mile-radius impact, et cetera. I think, if
I understand what you're asking about, that those were
part of the Part 292, the gaming regulations, but I
certainly think that there is room for improvement there
as well, and if you have comments or suggestions, maybe
you should make those available for us. We can hear
that.

So I know there is a question about the
local governments and taxation, and again, the
Chairwoman brought that up in the gaming context, and
the expectation that every time you get sort of a new
bar set, that every fee-to-trust application is not
going to meet that. So that is part of the process now.
If you have suggestions on how we can improve that, as far as the local impacts with the local governments and responses to that outside of the MOU context, I would like to hear that. So specifically in that context and outside of the gaming context.

But that brings us back to one of the questions that we have, and this is what impact does gaming have on sort of the universe of off-reservation applications, and should there be a separate track.

It's just a question: Should there be?

I know we are going -- I won't say how far, but a few years back when there was a big question raised by the Tribes who were looking for land off-reservation for non-gaming purposes, but everything was being held up because of the furor over the off-reservation gaming. And the question was raised then, should there be a separate track for gaming versus non-gaming, particularly off reservation.

So I guess if that concern is no longer valid, or is no longer an issue for the Tribes, certainly a comment can be made. But at least as we review applications, there is usually more comment, more political I guess insertion into more politics as brought into the situation by local communities all the way up to the states, if there is gaming or potentially
gaming involved. So is there a better way to handle that as well. It's just a question. If you have an idea, and if you think it works perfectly now, that's great.

It just strikes me that there is a better way of looking at it internally that we can handle. So we would like to work with you.

Does anybody -- did I miss any questions that anybody asked? I am happy to keep talking. We still have about a half hour left in the clock here.

So I think that's it. It sounds like everyone has had a chance to talk, all the travelers had a chance to talk. I look forward to written responses again. The deadline for the written responses have been extended to June 30th.

I guess hopefully that also conveys that we are very open to making this extended dialogue and in-depth discussion with it. There is no drop dead deadline that we are working towards, so as we get further along, we can get these consultations done and evaluation of where we are. If there are any new questions to be raised that need to be considered as well, we will deal with that too.

I think we are done, and we will close out the consultation.
Thank you.

(The consultation concluded at 11:37 a.m.)
I, Carmelita E. Lee, do hereby certify that
the foregoing pages constitute a full, true, and accurate
transcript of the proceedings had in the foregoing matter,
all done to the best of my skill and ability.

WITNESS my hand this 6th day of March 2018.

Carmelita E. Lee
Professional Reporter and Notary Public