OFFICE OF THE ASSISTANT SECRETARY
INDIAN AFFAIRS
FEE-TO-TRUST
TRIBAL CONSULTATION

Miccosukee Resort and Gaming
500 Southwest 177th Avenue
Miami, Florida 33194

Thursday, February 22, 2018
9:00 a.m. to 12:20 p.m.

Reported by:

Robert Worst, Court Reporter

APPEARANCES:

JOHN TAHSUDA, III, Principal Deputy Assistant Secretary, Indian Affairs

PAULA HART, Director, Office of Indian Gaming
(Thereupon, the following proceedings were had:)

MS. HART: Good morning. My name is Paula Hart. I'm the Director for the Office of Indian Gaming. The Acting Assistant Secretary has asked me to be here today, and I wanted to let everyone know that Mr. Tahsuda is being -- is delayed. Something happened with his flight. So, he isn't expected to be here until about 10:00, 10:30.

So, I guess I want to leave it up to you guys. I can go over -- Mr. Cason spoke to the crowd at the listening session in D.C., on Thursday. I can go over some of his comments. I have -- I listened to the tribes in Sacramento and in Minneapolis. I can go over some of my thoughts on the questions that they had with Mr. Cason giving the answers that he gave on Thursday. I think I can summarize some of that.

We can proceed like that. I see we only have one person signed up to speak. So, you can, in the back, the ladies are at the table as you come in the door. You can go in and you can sign up to speak, there.

So, I think I kind of want to leave it up to
you guys. How do you want to proceed, knowing that Mr. Tahsuda won't be here for another hour, hour-and-a-half? And I don't know how many -- how many of you were at the listening session in D.C. on Thursday?

Okay. So, about a quarter of you heard what Mr. Cason had to say up there.

Any thoughts? Anybody want to --

AUDIENCE MEMBER: I think the answer is we would just prefer to wait for John.

MS. HART: Okay.

AUDIENCE MEMBER: We couldn't hear that in the back.

MS. HART: Okay. Chehalis would like to wait until John gets here before they speak. That is completely understandable.

So, I guess what I'll -- Ernie?

MR. STEVENS: Sorry. Does that mean we are just delayed until he gets here?

MS. HART: We can -- I was asking people here what they would prefer to do.

MR. STEVENS: I agree with the Council, but I would say we let any elected officials --

MS. HART: Right.

MR. STEVENS: So, I would be interested in
their thoughts, but I wouldn't mind waiting.

MS. HART: Okay.

MR. STEVENS: Not that you're not a very important lady.

MS. HART: Because I could -- and, Ernie, actually, you heard what Jim Cason had to say at the listening session.

MR. STEVENS: Yes.

MS. HART: So, I thought, you know, maybe you could, or I could, kind of -- there is about a quarter of the people here heard Mr. Cason. So, I think it would be helpful for the rest of the people to hear kind of what Jim had to say.

So, I thought maybe we could do that before John gets here. So, is that --

AUDIENCE MEMBER: That part sounds okay.

MS. HART: Okay.

AUDIENCE MEMBER: Is that just considered informal dialogue before the formal consultation starts when he arrives?

MS. HART: It will all be on the record. It will still be all on the record, but, yeah, it would be -- what I heard in Sacramento and what I heard in Minneapolis was the tribe leaders wanted
kind of a back-and-forth of dialogue.

And so, I guess I would have answered some of the questions, and now that Mr. Cason has answered those questions, and I think we were saying the same thing, that I could kind of explain to you how we got to this point, kind of explain the draft that had come out early on, things like that. So, kind of do more like a setup, so you guys, hopefully, I can answer some of the questions that I have heard before, and we can proceed like that.

But I apologize for Mr. Tahsuda. He has been -- I think he was in Phoenix at a consultation on Tuesday, and I think he had another thing to go to on Wednesday. And so, based on his travel across country, he was delayed to come here this morning. So, we do -- but he is planning on being here.

MR. STEVENS: Let me just say, Paula. I certainly am not going to speak on behalf of Mr. Cason. If there are any elected officials here, I'm interested in their -- I work for 184 member tribes and I'm very interested in their posture.

I think that, if there is nobody else that wants to really analyze that, maybe you could give us a brief overview. I can give you a couple
points, and then, maybe, we'll try to just kind of exercise that, and maybe take a short break before John gets here.

    MS. HART: Okay, that sounds good.

    Okay.

    MR. STEVENS: The only thing I'll say on behalf of Jim is that he said that he wrote me a blank check. No, I'm kidding.

    (Laughter.)

    MS. HART: I didn't hear that.

    AUDIENCE MEMBER: Sounds scary, Ernie.

    MR. STEVENS: Yeah, and Paula is going to sign it.

    (Laughter.)

    MR. STEVENS: I think that we heard more of the same things that the tribes continue to be concerned about, and, again, I'll wait until John gets here. If I say anything, I really yield it to the leadership or their designee. I've been at just about every one -- we, Mr. Jason Giles, who is our executive director, we have been at every one, between the two of us, and we continue to have that posture.

    Mr. Cason gave us, I got the assignment, but he gave us the opportunity to write to him. So,
if there is any input about any of the tribes, we're going to write him a letter. I had written him a letter at the beginning of this process.

MS. HART: Right.

MR. STEVENS: So, I think that, you know, a lot of folks are really trying to emphasize that the priority of understanding what it is to recover our homelands, and too many people get in and claim that we'll try to get a casino. I don't know if my presence really helps that, because, for those of you who don't know who I am, my name is Ernie Stevens and I'm Chairman and chief spokesperson for the National Indian Gaming Association based in Washington, D.C.

I'm an Oneida from Wisconsin. I live on a beautiful reservation right on the edge of Green Bay. I don't know if anybody has heard of Green Bay. We have a good football team. Put that in the record, please.

But again, we don't want to control or push this process around, and I'm a second-generation person in this world of tribal sovereignty. I learned this from my father, who traveled this whole country long before there were any lobbyists, very little staff, no cell phones, fax,
none of that stuff, and my father taught me about sovereignty, self-determination, self-sufficiency, and all these things.

And really, that is what our land is about, coming back to where we came from, and it is unfortunate when people come and say that we are trying to get a casino. There's like ten, you know, rulings, and only, really, a few that are really off reservation.

So, I really think that, while I am an advocate, a chief spokesperson for the industry in which myself and my team here will stand pat and work heard, this really is about the recovery of our homeland. And again, we went down the list and we will put it in our illustration, in our writing, I should say, about some of those experiences, some of those experiences that I heard from my father, some of them verbal, some of them I don't even care to put on the record because they are so sad about how we lost our land.

And those experiences are too many to even list in this process. So, once we -- we have good folks that help me write, because I tend to write like I talk, I ramble on. And so, we will try to streamline it.
I know nobody believes that, right?


MR. STEVENS:  I've got a technique.

But I think, when it is all done here, this is about recovery. This is about making it right. And when it first started out, Paula, it was like they just threw this process out there and then they're going to do it -- that gave reflection to us that they are going to do a formality and they are going to continue to take us down the road.

And there is a new administration and different things that play a role into that. Those are concerns. But I will say, and this is all I will state on behalf of Jim, Jim Cason, because I won't speak for him, but I found that last week's meeting was a more open-door posture, that he was willing to listen, and that he had a better viewpoint in soliciting our input.

And that is the most I can say, because, look, it has happened before. You know, I always say it's like Charlie Brown, when Lucy pulls the football out there. You run up, try to kick it, and then they pull it out. Tell Jim Cason to let us kick that football and we will give him something that is fair, something that any country can live with,
and that will impact us for the next seven
generations. I know that sounds rhetorical. I
have 15 grandchildren and they should not have to
go through what we have to go through to try to
acquire that, to try to start a business, to try to
bring our people home to our community, because we
have jobs there now, to a large extent.

More land will create economic development,
create more jobs, and bring people home, and that's
our -- that's really a strong goal of ours. It is not
about a casino. This is about self-sufficiency and
people coming back to their homeland and feeling
comfortable about being there.

So, that is as much as I'll say. I can keep
going, but I'm running out of breath.

MS. HART: Okay. Thank you, Ernie.

MR. STEVENS: Thank you.

MS. HART: What we will do is I'll have
somebody do a prayer, but we will do -- start that
once John gets here.

What I would just like to do is kind of
summarize what has happened and how we got to this
point. I think, from day one, Jim Cason came on
real early and a memo came out saying that he was
pulling everything into D.C. All the non-gaming
applications were coming in, and one of the things that he was hearing right away was these applications taking way too long, what, you know -- we need to do something about that.

So, what he did is he said, okay, non-gaming -- all gaming applications come in here and go to the Assistant Secretary. I want to see all the gaming applications. And all the non-gaming ones have to come into D.C. and will be signed off on by the Assistant Secretary, and I will have to (inaudible) off on them.

So, we pulled in all that applications, but the non-gaming applications he pulled in because of the -- of what the cry from Indian country, saying there is -- these are taking way too long and why are they taking so long.

So, he came in the door, he was hearing that right away. He had heard that the Obama Administration had made a bunch of decisions on the very last day, in the very last hour, on gaming, for sure. And I can tell you what had happened in that case is we had been working on projects for a long time. The applications had been in a while, it takes a while, we were working with the tribes, and we did a big push, at the end, to get applications completed and
out the door.

And it had just so happened that, on the last day, we tried to get as many as we could out, but not by taking any shortcuts, but by following the law and doing what we thought was the best that we could do, put forward a good application. All of our applications are litigated, most of the time. So, we have to put together a process that will withstand that litigation, and we have actually had -- you know, I don't think we have lost on any of our cases. So, when we put together an application, it does take a while to make sure that we will -- the tribes aren't harmed in the litigation process.

So, Jim -- so, Mr. Cason was looking at all of that, all of that. Along with that, what was happening is tribes were coming in, he was taking meetings with tribes nonstop, from day one, tribes were coming in, and tribes were making their cases, and they were saying this is what we need, this is what is not there, this is what we have been asked for, it is not in the regulations, this tribe wants to do -- and it was a lot of competition, it was a lot of people coming back, and we are hearing a lot of
competition amongst tribes.

And so, Mr. Cason was calling together, internally,
saying, asking us what it is that we were doing to handle these issues, and we were saying that, listen, we follow the law, we build our case, and, yes, we ask for maps, we ask for this, we ask for that, but it is all in an effort to help the tribes produce stronger applications. And so, if it is not part of the regulations and we know that a congressman or a governor is going to ask for it, when we put that application out and ask for a concurrence or we put it out with a letter asking for local community support or opposition letters, support letters, when they come in, we look at these, and a lot of people started to immediately send their letters of opposition to Mr. Cason, also.

So, tribes were sending in letters. We have, I think in the Shawnee application, we have about 300 letters of opposition that went right to Mr. Cason that we, you know, nobody below him had seen until he came up and asked me to read these letters of opposition.
So, I think what he was doing is he was saying to us, and he was saying, how do we -- we need to give Indian country some answers, like how do we address this? So, he -- we came up with that draft that went out early on, September, October, and, now that I look back at it, I think that there's some -- I think we wrote it from the wrong point of view.

I think we write it, like, okay, for example, when he said, listen, we should see what the local communities want, we should see these MOUs, maybe we should put in there that there should be an MOU. Well, what I heard in Sacramento is that there are counties that actually have ordinances that say we will oppose every single land acquisition by any tribe in the county.

So, I think what we should be saying, in our regulations, is, are the -- do the tribes have evidence of counties or local governments not coming forward with or not working with the tribes. So, something -- so, we kind of looked at it and said, do you have an MOU? We can use that to say this is going to be great.
When he suggested that, I did come right
back, and I
said, no, no, no, we cannot -- that will cause a
problem, and I think George and I dealt with that
in Collins [sic].

Way back when, they asked, do we need an MOU?

And
we said, unofficially, yeah, you know, you have to
have an MOU with the locals, because this
administration, that's what they like to see.

So, but I think -- so, I came back to Mr.
Cason and
I said we absolutely can't do that, because what is
going to happen is the tribes are going to be --
they are basically going to be blackmailed into
doing something. So, he said to me, well, what do
you think? What do you think we should -- how do
we answer that? And I said, we need to, if you're
going to have that provision in there, then we need
a provision in there that said, if you can't get an
MOU, then you need to explain to us why.

And think if you are in California and you're
dealing with a county that has an ordinance that
says, automatically, they are going to oppose, we
need to know about that. We need to know the
negative, as well as the positive.

So, I think, when the tribes seen that provision, it was -- it was outrageous, and, now that I look back, it was outrageous, and -- but I -- and nobody seemed to see the second part that said, well, if you can't get an MOU, you need to tell us why, and I think we should have flipped it, and, if I had to rewrite it again, I would put the why up front, say, if the county or you have evidence that the county is not going to work with you, then we need to know that, because we need to have an answer for that, also.

So, a lot of the questions that I heard were why did this come about, how did this come about? Tribes were coming in and tribes were complaining. They were complaining about how long it took for land to go into trust. They were complaining about how far tribes were going away and they were coming into other areas, competitive areas. They were complaining about -- and then, local counties, counties, mayors were coming in and they were saying we need to have more say in this process because this is putting a lot of strain on our
infrastructure and we don't know how that's going to affect, you know, and we want to have a say in it.

So, he was looking at all of these, all of these questions, and he wanted to come up with a way to address the questions, how to make the process easier.

Now, the other thing, at the same time, that was going on, was we had an application in, and we had processed it as an initial reservation. It had gone all through the process, it went into trust, and then there was a Carcieri issue. Everybody, everybody knew that this tribe had gotten into a lot of debt, and, if the litigation didn't go their way, the tribe was out a lot of money and there was nothing that we could do. So, that tribe came and said, listen, how about if we do -- we can't game under IGRA because of this Carcieri issue and the litigation, but if we had the land and it wasn't in trust, then maybe we could -- we probably could do commercial gaming, under state law. So, how do we do that?

So, Mr. Cason came to everybody and said,
okay,

well, how do they do this? There is no way, under the Indian Gaming Regulatory Act, to do that once the land is in trust and it becomes Indian country. So, we were asking everybody, we were asking the tribal attorneys, we were asking, okay, so what do we do? How do we do this?

So, the question, then, comes up, well, do we take the land out of trust? If we took the land out of trust, this tribe would be able to go 100 percent forward with commercial gaming and would be well on their way to paying back their debt. So, that kind of worked its way into the regulations: How do we take land out of trust? Do we do this?

The other question that we were hearing a lot, and it was -- and I have to say, I wasn't hearing it at all, but I know, every time I talked to Mr. Cason, he would bring it up, he said, a lot of times, people were complaining that the land was going into trust for non-gaming, and then the use was changed to gaming.

So, that has become a question and I think I heard,
in Sacramento, and I think this is a really good point, so I'm kind of restating it, so you guys can put it all in your comments to write in on this. And what the chairman got up and said was that governors do it all the time to us, they make deals, and then a new governor comes in and changes position, and that's not illegal. And mayors do it, city councils do it all the time, where they come in, they change their positions, and then -- so, why is it like a big crime for Indian tribes to do it, when a chairman comes in and says we're absolutely not doing gaming, a new administration comes in and they say, okay, we want to do gaming. Why is that so bad?

And I don't think -- so I actually, when the next time I met with Mr. Cason and he brought up the example of tribes changing their mind, I repeated exactly what the tribal chairman said. And so, he kind of paused, and he looked at me, and he said, well -- it's almost like I could see that he had never thought about that. And so, if he sees it in writing and if you keep raising it to him, I think he is going to understand, from that point of view,
just like when I was talking about the MOUs and I put this language in there and we worked on this language, and then, now, when I listen to the tribes and I think, okay, we should have said that a little differently. It shouldn't have been, you have MOUs; it should have been, is there something we should know about and why the locals would not be supporting the tribes. I think we should have put it a different way, and I think it wouldn't have been so harsh. But it certainly wasn't where we were looking for you guys absolutely have MOUs, because we knew that was impossible.

The other thing I think that he is looking at is he has always -- Mr. Cason has always dealt with just the gaming applications, and a lot of the people who come in to talk to him are talking about gaming applications, and I think that's the process that he is familiar with and I think we definitely have to make sure that he separates gaming applications from the non-gaming applications. I think that's a good starting point.

I think he has to understand that, you know, there's a lot -- there's a reason why there is this process
and why it was put in place and why the local
communities get way more involved in a gaming
application than a non-gaming application. I think
Prairie Band made a really good point where that
chairman got up and said that my reservation is an
island, so everything is off reservation. I think
stories like that, that Jim needs to hear because
he doesn't understand. He is not as familiar with
Indian country as we are, and he doesn't understand
that there's these unique situations with tribes
that he may not have heard of, and, unless we get
them in the record here and I can -- and in many
instances, when he says something about, oh, that
is off reservation, I can come right back and
explain to him Prairie Band's situation and ask
him, well, how do you want to handle this, because
everything is going to be off reservation because
there is no -- there is water all around this land.
And I need to -- and then, he needs to think about
that.

But I think it makes him very much aware --
George?

AUDIENCE MEMBER: I think you mean Prairie
Island, not Band.

MS. HART: Yes, Prairie Island. You're
absolutely right. Prairie Island. You're absolutely right.

So, I think that -- so, I think he is -- I think we have to educate him on who we are, and I think the stories that I'm hearing, it's very helpful. I think he -- I think he is coming from a point where he wants to -- he does want to -- he wants to be fair. He doesn't always come across like that, but he does, I have to say, he has welcomed meetings by anybody who has called in and asked. You have been able, everybody has been able to get a meeting with him. There's times that he has had to say no because of scheduling, but he is pretty much -- and even myself, I have to say, I think he's the first Deputy -- Associate Deputy Secretary that I can walk up and -- on Friday, before I left, I walked up there to give him a briefing paper and he called me right in and we talked about this consultation, we talked about what he said at NCAI.

So, he was -- you know, he's -- and I asked, I said,
because, inside the building, he is known, perceived as a very mean person and he is out to get Indians, but I don't think that's -- I don't
think that's -- I even told him, I said, yeah, your reputation, you might have ruined it because you're coming out as, you know, you're actually going to want to work with Indian tribes, and that's a good thing.

And so, he -- but he will tell me, he comes right out, and he'll say, you know, I've got a lot of local people in here and they're saying a lot of bad things about what's going on, and I said, okay, then, we need to have the tribes respond. We need to have the tribes come back and tell you their side, because you can't just hear one side. And so, I think he's willing to do that, and I think, part of this process, he asked me about the process.

He said, what do you think, how do you think the consultation is going, and I said, listen, I think the tribes are not going to be happy at the end of this consultation process because, I said, the way it's running is like we're sitting there, listening to what the tribes have to say, and they're not getting any feedback. And I said, so I think it was good that you gave feedback at the listening
session, you actually had a back-and-forth, and I said that really needs to keep happening.

I said, but I think what has to happen is the tribes need to hear that we hear what they're saying, and so we need to develop something, some way of figuring out how you guys will know that we have heard what you said.

So, he talked to me about that already. He -- so, we're -- he wants to put in place a policy that works with Indian tribes on consultation, like how do we better do consultation. Is there consultation that you've been to that you thought, you know, that's really good consultation? What needs to happen for that, for you guys to feel like you've been heard? Because I do think that, at the end of the consultation, you guys are still going to be unhappy with this process, and I informed him of that. He is very much aware of that.

So, he is thinking, right now, he wants to kind of do a summary, and I have to talk to Mr. Tahsuda about this, so I probably am speaking beyond what I should, but I think I'm relaying to you what Mr.
Cason and I had talked about, and just to kind of let you guys know that this is all something that he is thinking about, this is all something that he is aware of, and he does want to figure out what it is, what it is that -- and I think the other thing that he realized is that what he is hearing in meetings is not necessarily what Indian country is saying.

I think he really has heard that loud and clear.

But how do you -- how do you -- and I have this problem, too. How, when a tribe comes in, sits in front of you, and tells you what it is they want to do, and why it is going to be really, a really good thing for that tribe, then how do you make policy that affects every other tribe and still make sure you keep your word to that tribe that is sitting right in front of you?

And I think he needs to understand that is a difficult thing to do, and I think he tries to be as honest as he can, and I think one of the things that he has a hard time doing is there's -- he is hearing a lot of information that I'm not aware of, and it is -- and he may have to say no on some cases, and how do you do that, and when do you do
that, and how do you do it in a manner that -- how
do you tell a tribe, listen, you know, this -- this
-- like with the tribe that is now in big-time
debt, how do you -- and we kept saying to the tribe
-- to the administration, listen, you know, we have
to let tribes make bad decisions, too. We can't
just -- we can't just think that every decision
they make is a good decision, and, you know, if
they make a bad decision, we have to process it, we
have to follow the law, and we have to do what we
have to do, even if we think it's a bad decision
and ends up they're in a lot of debt, we did what
we could to help them do what they wanted to do.

So, and I use my own tribe all the time
because they

make a lot of bad decisions -- no, I shouldn't say
that, but I disagree with a lot of things that they
say, and I can see George laughing back there
because he said our tribal state compact is the
worst on the record, and I think it still holds
that. We have a -- it was a bad decision and
George argued with the tribe for about an hour to
get them to say we should disapprove this, and the
tribe absolutely wouldn't go along with him, so.

We have to, even though we're sitting here,
we have
to leave it to tribal leaders to know what is best
for their tribe and their situations, and I think,
when he meets with you, he listens to what is going
on. And so, okay, this is a big backlog, at the
Bureau, there is a big backlog, let me call these
applications in and let me find out what is going
on.

And it is probably good that John isn't here
because
he said to John, John, I've been here a year now
and we haven't processed one non-gaming
application, what is the holdup? Either you guys
are not doing anything, or you're not telling me
what you're doing. And no non-gaming application
had been processed in a year. And so, he looked at
John and he said, what's the problem? And John
said, basically, the trust -- the Office of Trust
has been in a re-org and they are working on that,
and they haven't been able to get to him the
applications for non-gaming that need to be
processed. And John -- and so, Mr. Cason says to
Mr. Tahsuda, listen, this is what they're -- this
is what the problem is, this is what the complaint
is. You guys have got to be able to do your job, so
that, when I go out there or you go out there, we
don't hear how this backlog is. So, it is
unacceptable that, for one year, there hasn't been
one single non-gaming application processed.

So, this was a conversation that we had
within a
week. So, he is hearing what is -- he is
listening, he is hearing, and he is trying to
improve the process, and I think -- I think that is
something that the administrations have been doing
for a long time.

The other thing I think that the heard from
the last
time is regional directors were handling
applications different. And so, what was happening
in Indian country, one tribe's application would go
through no problem, and the exact same circumstance
would happen in another region and it would be
stuck for a long time. And so, this tribe would
come in and say, well, they got it done, and it
was, you know, no issues, and we do the same thing
and there's all kinds of problems. So, he tried to
get the regional directors to, you know, try to
standardize the process for everybody, and I think
that's -- this is a work in progress.
I think this is -- has a lot to do with the management, and I think that's why he asked Mr. Tahsuda to look at what is going on and what is slowing things down.

So, I think those are the major issues that I heard and that he addressed at the listening session.

Does anybody have any questions on any of this?

Okay.

AUDIENCE MEMBER: Is there going to be something at NCAI in Kansas City?

MS. HART: I -- Debbie?

AUDIENCE MEMBER: I think they agreed to that case that --

MS. HART: Okay.

AUDIENCE MEMBER: -- and they moved the deadline to June.

MS. HART: Okay. So, yes --

AUDIENCE MEMBER: But I haven't heard that anything has come out. I know you guys are going to Foxwood.

MS. HART: Yes.

AUDIENCE MEMBER: But I haven't heard whether you're also going to Kansas City.
MS. HART: I think -- I think, when Mr. Cason spoke on Thursday, I think Liz Apple (phonetic), who is the person in charge of these, she has to make that -- put that on -- get that on the schedule and she has to do all of that. And I think -- so that's in the process, right now.

But yes, there is going to, on March 15th, they scheduled -- they rescheduled the Connecticut consultation, so that one will happen March 15th.

And I think what -- I think what will happen is there will be a notice coming out that, if we schedule one, when that one gets scheduled, there will be another notice that goes out on that.

I think I think the only thing that I keep saying, and one thing I want to make sure everybody is aware of is that I am pushing to make sure that he separates the gaming and the non-gaming. I think there was a couple good ideas about paddocks. One of the things he did say, also, he told Mr. Tahsuda, on reservation, let's get those out. They should not -- there should be no delay on those.

So, he heard what was being said. He said that the only ones that, you know, should be
taking more time is off reservation. And I have
to tell you that he does have, when I first talked
to him about off reservation, I will give an
example of -- is anybody here from Oneida of New
York?

Okay. Well, he had dealt a lot with the
Oneida application when he was here eight years
ago, and they had concluded that there was 13,000
acres that the tribe would take back into trust.
So, when he came back this time, there was three
parcels that they had applications in for, and he
said, wait a minute, what are these three parcels?
And so, we explained to him they are within the
exterior
boundaries of the reservation. And he said, we
agreed to take in 13,000, and here is the cluster,
and is it within that 13,000? I said, no, that
13,000 is done. And he said, well, that's the
reservation and anything outside of that would be
off reservation. I said, oh, no, no, no, that's
not -- that is absolutely not true. I said,
Supreme Court said their exterior boundaries had
never
been terminated. And he said, well, eight years
ago, we agreed to this 13,000. And I said, well,
that doesn't change the definition of exterior boundaries within the reservation boundaries.

So, I -- so, we talked through that, and he now understands that, you know, what he thinks as on reservation is totally different than I bet anybody else in this room. So, that's why, Prairie Island, it was really important for them to understand -- him to see that situation, because, even in an easy case where the Supreme Court has said these are the exterior boundaries, he doesn't -- he didn't see that everything within there is on reservation. He felt like what we had taken into trust was now the reservation, and so anything outside of that was off reservation.

So, there's some really things that I think, in Indian country, we all understand and see very clearly, that he -- I don't think he ever thought about. So, I think getting everything in writing, submitting it, testifying, everything is taped, he now is going to, I think, try to make sure that there is a document put out or something that you guys understand that he has heard what you said, and maybe it's a summary of the consultation, but something to help you understand that he -- he has
-- actually, he reads everything, so he is probably going to be reading all the transcripts.

He does read everything that comes across. Everything that I have given him, he has reads. He reads all the briefing papers, he looks at the maps, he looks at everything. And of course, there is a lot fewer gaming applications than non-gaming, and I can't speak to the non-gaming applications, how he is treating them.

AUDIENCE MEMBER: I don't know if you have addressed this, but one of the things that came up with Cason, too, is how a tribe's past treaty lands and private treaty lands going to be impacted by this, and that was a comment, too, that he had asked tribes to write what you think and how it should be that the Supreme Court ruled (inaudible) encourage tribes to write on both that issue.

MS. HART: About the treaty, the treaties --

AUDIENCE MEMBER: Past treaties.

MS. HART: -- past treaties --

AUDIENCE MEMBER: Prior treaties --

MS. HART: -- prior treaties and
settlement acts. All of that, he needs to understand, and he needs to --

AUDIENCE MEMBER: With off reservation and all of that.

MS. HART: Yeah, so. Okay. Yeah?

MR. CARROLL: Kitcki Carroll, United South and Eastern Tribes. Just one initial thing I wanted to offer.

First, a comment about your remarks this morning.

I think part of the challenges that the Bureau is suffering from is a communications deficiency. So, it's insightful to hear your thoughts about inside the game, inside the wall conversations that are taking place, but, using your own example of a whole year went by before any fee to trust applications were approved, the Bureau has to appreciate, from our perspective, as an outsider who is not inside those walls, having those conversations, that's a statement in and of itself.

MS. HART: Yeah.

MR. CARROLL: All right. So, when the very next thing that happens is rolled out an announcement from the Bureau is memo 151, where is
this coming from, when we just had a year of
(inaudible) trust answered.

MS. HART: Right.

MR. CARROLL: The thing I want to remark on
that came up during last week's session was you
would assume, from hearing conversations that were
had inside the building about deficiencies in the
process, those meetings are probably a small
fraction of a percentage of the 573 tribes
approved.

MS. HART: Right.

MR. CARROLL: So, before, one would assume
that, before the Department takes the steps that
it did, it would offer Indian country some
analysis to justify that action. Really, what is
the problem in this process? And you just
mentioned, you know, the administration's own
effort on reorganization is interfering with the
very
process that we're talking about.

On top of that, and I'm speaking only from a
BIA eastern regional perspective and our knowledge
of existing deficiencies within this region, we
also know that the Bureau suffers from capacity
and resource issues to do its jobs in a multitude
of areas, including the fee to trust process. So, we would like to see, we have asked for what analysis has been done, beyond just anecdotal comments from conversations about process, to really zone in on where those problems are coming, why there are these delays. Is it really a procedural one, and that's the reason for procedural changes? Or is it resource related and there needs to be a resource piece of this address, as well?

The other thing that you mentioned and that I have heard now, a couple times, we are aware that is part of the meetings that are being discussed, but there are tribal concerns being put forward in this space. At the same time, everybody in this room who does this work on a daily basis is fully aware of the challenges that we, the consistent challenges that we have with local counties and state governments.

The roundtables at our organization that our tribe leaders have been involved in over the years, on this fee to trust issue, have concentrated on that very reality that the counties and the states don't like this in many
ways, to your own point where they have standing policy
that, for any fee to trust application, there is going to be opposition to that.

And so, that also begs the question for us, where is this coming from? And I keep hearing, in response, the tribal pressure, and then kind of dismissal of the local county/state pressure, where, from our perspective, it seems to be the reverse.

But it seems, for whatever reason, the Department is leading with the predominant message of this is a tribal issue that is causing this problem, as opposed to counties and states are the ones behind this, causing this issue. And you're giving some glimpses that those conversations are happening, so we know they are happening, so it would be interesting to know, as part of that same analysis, who is -- not necessarily who, specifically, but with all these interests that are kind of in play here, where are the predominant pressures coming from? What is the Department responding to? So, just some initial thoughts.
MS. HART: And how would -- should we put out a tribal leaders' letter? How do we -- how do we communicate that? Because there's -- you're absolutely right, there are -- and when I talk, I'm leaving out tribal names because we're having meetings and I'm listening to what the tribes are saying and we're trying to make adjustments to that.

But I don't know, unless that tribe, or every tribe that meets with me, wants to make their interests well known, that's the other problem. How do I do -- how do I put it out there, without saying or getting very detailed on a certain tribe's situation?

So, I guess -- so, how do I -- how do we do that?

MR. CARROLL: So, I don't have all the answers in response, but here is what I would say, just as a -- within the current administration, in comparison --

MS. HART: Okay.

MR. CARROLL: When the Indian Trade Regulations were being rolled out, the message that was coming, in relationship to those new trade rights, was we are going to have the most
robust consultation that any country has every
seen about these Indian Trade Regulations.

    MS. HART: Yes.

    MR. CARROLL: That's what we were being told, and this is going to be a multi-consultation
across Indian country.

    MS. HART: Right.

    MR. CARROLL: When the administration and the Department took this step, it was night and day, because, in fact, our first communication was whoa, what is the rush. One, where is this coming from? One, why is -- the comment deadline was, initially --

        AUDIENCE MEMBER: December 15th.

    MR. CARROLL: -- December 15th.

    MS. HART: Yeah.

    MR. CARROLL: All right. So, it was a very small window. So, to your point, we had just sat back, watching nothing happen; now, all of a sudden, this is being forced with a quick turnaround.

    MS. HART: Yeah.

    MR. CARROLL: Again, that speaks volumes to what the intentions are when there isn't a more direct inclusion.
So, part of my response would be, I'm sure the Department is getting hit with a variety of issues, a multitude of issues, from a variety of tribes.

MS. HART: Right.

MR. CARROLL: My position on that, I feel like the administration has a responsibility to assess whether this is indicative of an all Indian country issue, or whether this is an issue in isolation, and then that determines whether or not how it goes forward.

But that goes back to my analysis. Has the Department done any analysis to substantiate what it is hearing in these discussions about a problem with the process? And sharpen that with clarity and focus, so it can identify is this something on us, is this getting bogged down in our own internal discretion? Do we not have the right people in the seats to do their job to process these applications? What is going on here that is behind this?

MS. HART: Okay. The only thing I can say to that is, I think, when we put out a schedule, like the December 15th deadline, I do -- I don't think that -- I don't think that anybody
inside the building felt like this was going to be a done deal by December 15. I think we anticipate that we are going to have to do more consultation, but I think what we try to do is put a start date and an end date, so that -- and I think the administration puts that on the staff to say, okay, this is -- this is your timeframe and we want something done.

And so, even on December 15th, if we come back and we say, listen, we need -- we need six more consultations, that it -- and I think that's probably on us, that they are saying you guys need to do something and here is what we have, and now you need to reschedule -- you need to schedule six more consultations.

So, I understand, now, in having you said that, that, if -- if you're comparing to, and you should because they're happening at the same time, the Federal Indian Traders License Consultation versus what happened here, I -- and I think it was just different offices' way of moving things forward.

And Dr. Clarkson came in, he told us this was his goal, this is what he wanted to do if he accomplished nothing else while he was here,
during this administration, that he wanted to work on the Federal Indian Traders License, and he focused on that, and that was his -- that was his project. And so, he did what he needed to do to take that step.

The 151 regs kind of crosses over into a lot of programs. Like I said, it isn't -- the regulations are not gaming regulations, but they call me in because all of the gaming applications go through the 151 process and they wanted to make sure that I was aware of everything, the trust people were on board, the regional people were on -- had to be called in. So, there was a lot more people involved in the 151 internal process.

And I think, and I think, also, a lot of people, new administration -- we're hearing all kinds of rumors. There's all kinds of stuff, you know, being said. You know, there's a -- and on top of this, now, there's a whole big re-org with the whole Department of Interior, and all of these things affect everything that is going on.

And I don't think a lot of people talk to Mr. Cason on a daily basis like Mr. Tahsuda does. So --

MR. CARROLL: Just one last thing from last
week's session, I didn't see -- I didn't want to
(inaudible) that Chairman Stevens said in his early remarks.

One of the things that we talked about last week, as well, is this is all restoration of homelands. We don't need to get into the history of the whys behind that. The starting point is in recognition that this is a restoration of tribal homelands.

Part of the -- part of my communication on and our frustration with the way that we're hearing this presented, and it is not that we are naïve to reality, we all get how D.C. works and how the real world works. However, there seems to be a reoccurring theme about the Department striking a balance between tribal interests, state, county, and local government interests, and you can at least appreciate, from our perspective, this is about the restoration of tribal homelands.

Nowhere in that restoration, nowhere in the Bureau's mission does it say anything about striking balance between, in its job and responsibilities to Indian Country, with local and state county governments, because this is not a new phenomenon that states, and counties are
opposed to tribal sovereignty. We have numerous examples where we can shed light on that. So, that has always been there.

So, it is a little disconcerting to us when we hear this notion trying to strike balance, because, if that's the case, it is going to be a very slow process because there is going to be constant county/state opposition, in many cases, to fee to trust applications, especially in this off-res environment.

So, we would just hope that, as part of this continuing conversation, that the Department expresses a greater weighing, balancing towards our interests, if there is balancing at all, that the goal is restoration of tribal homelands. That noise of state governments, local and county governments is always going to be there, and that really, then, becomes the concern of the Department to figure that out, as opposed to tribes trying to get all this handled to present to the Department so it doesn't have to deal with that. Its job is to restore our lands.

MS. HART: And let me -- and I absolutely, as a tribal member, I absolutely, 100 percent agree, and I absolutely try to push back
on that, all the time.

But I will use an example of what happens, and I keep using George because George is the former Director of the Office of Indian Gaming, and there was an application that came in. We had finished our analysis, it had gone through the surname process, it was going up to the Assistant Secretary for signature.

One of the local communities submitted like a 1,000-page report, and the Director of Gaming said, no, we can't look at that because it's past the deadline, you know, we're outside, and my decision has been made, it has gone up. The courts came back, and they basically said, absolutely no way; if that came in before the document is signed and final, then you have to consider that.

So, it's not that the local counties came and said we want you to look at this and we said we've got to be fair about this. In that case, we had to stop the whole process and we had to consider this document by order of a court. So, we're being -- things are being done in reaction to litigation, also.

And we push back all the time, and we say to
the administration, you know, we -- this is the
Bureau of Indian Affairs and we want to make sure
that that is first and foremost. And so, inside
the building, we do push back, but we also realize
that, if any of these applications go in front of
the court, and, like I said, all of the ones I
deal with go to litigation, and that's what the
judges are looking at, did you listen to what so-
and-so -- and look at Patchak, for example. The
whole Patchak case, how is that man able to do
what he has done? But we have to look at that
because that is what the courts are saying has to
come

And so, that is kind of why, I think, the
locals have gotten so much into this process, and
it is not that we sit back and think that, you
know, let's be fair to these people. You know, we
realize that we're looking out for the tribes and
we're trying to make the applications the best
possible, so that, when it goes in front of a
judge, the judge can't change it so that they have
more power.

And we constantly say, especially on off
reservation gaming applications, wait a minute,
the state has veto power over this anyway, so we
need to make sure that the tribal interests are well up front. So, you know, there -- so, I do have to say litigation has a lot to do with the process, also.

MR. CHARLES: And if I could tag on to Mr. Carrol's comments, and, Kitcki, thank you for those comments. I'm James Charles.

THE COURT REPORTER: I'm sorry, could you come up to the microphone? I can't hear a word you're saying.

MS. HART: For the record, Rob would like you to spell your name.

THE COURT REPORTER: Everybody, when they speak, if they could please come up to the microphone. Otherwise, I'm just putting you're in the gallery because I can barely see where somebody might be.

MR. CHARLES: James Charles, C-H-A-R-L-E-S. Just to tag onto Kitcki's comments, I think something that is extremely important is that, when you're going through and you're looking at these regulations and you're looking for consultation on them, you're looking -- you're processing this based on -- you have a bureaucratic process that you go through.
For a lot of tribes, as Kitcki said, this is restoration of ancestral homelands. This is a cultural decision which requires traditional decision-making, and traditional decision-making doesn't necessarily follow in that 30, 60, 90-day timeframe. And being, respecting that will help for meaningful comments.

So, I would just respectfully request that you guys acknowledge that, and, you know, your comments brought that to my mind. It's difficult when you get -- you guys have worked on something for eight to 12 months, and then we get it back and we have 30, 60, 90 days to respond. Well, how do I -- how do we get the elders, how do we get the community meetings together, how do we explain this, how do we process all this, how do we get a decision? And then, how do we go, quote, unquote, "formally" give something to the tribal council. That doesn't normally happen in 30 days. I appreciate it.

MS. HART: Thank you for that comment.

What I would recommend, and I don't -- and I think we look at that all the time, and one of the
things that I process in my office is, if a tribe writes to me and tells me that is what they have to do, then I totally, totally will allow the tribe's process to go forward. I think we put the 30-day time limit, we put those time limits in, so that the process keeps moving.

But if, absolutely, if the tribe has a process that is not going to fit, I think if you let the program know that that's the problem, then we will certainly make adjustments to that. Thank you for that comment, though.

Okay. I think, then, if there -- hopefully, this was helpful. I tried to let you know what the thinking was inside the building, and kind of how it is we work with Mr. Cason's office.

But Mr. Tahsuda should be here, he said about 10:00, 10:30, so I'm expecting any time now. So, we want -- everybody take a break, and we can start over and we'll do a prayer when he gets here, and we can, then -- and then, like Rob said, as you come up to the mic, if you want to say your name and spell your name, your comments will be recorded on
the record. Thank you.

(Off the record.)

MS. HART: If everybody would be will stand for a prayer before we start our consultation with Mr. Tahsuda. Robert?

MR. SAUNOOKE: Please bow your head, as your custom dictates.

Our most kind, gracious father in heaven, we bow our heads and give thee thanks for the many people who have come and traveled far distances today to fight and offer advice and consultation over our lands, our people.

We are mindful of those who have struggled and fought with us before, gone before us, and laid the groundwork for our ability to be here today. We ask for their spirits to be with us as we work together to accomplish the goals of our people and to protect our sovereignty, our traditions, and our customs.

We ask for wisdom, for strength, patience, and to allow us to have open ears and hearts, so that we might be able to share with one another our struggles and find strength in those struggles. Please help us be mindful that, together, we are stronger than we are apart; that,
as a people, we are the foundation of this country
and set the example and tone for those who
continue to oppose our struggles and to fight for
the efforts that we are trying so hard to protect.

Please give wisdom to those who come from
Washington, D.C. to listen, that they might also
have the wisdom and spirit to be openminded and
help us to find a way to continue this path and
this journey that we have been fighting and
struggling for so long.

We ask you to watch over those who travel,
that they will do so safely as they return back to
their homelands, that they will be able to return
with a positive message and a better understanding
of what is necessary, so that we might be able to
accomplish the goals of our people, as we continue
to struggle and fight for our rights and our
sovereignty.

We ask these things humbly in the name of
Jesus Christ. Amen.

MR. TAHSUDA: Good morning.
Believe it or not, I'm thankful I could actually
make it here to be with you. It was quite the --
quite the travel experience to get here, so.

So, I know Paula had talked with you a little
bit beforehand, and if I repeat anything she said
take it as emphasis, but I thought, we're trying
to offer, as we do these consultations, a little
bit of the overarching themes that we're aiming
for, and also to dispel any concerns or
misperceptions about what we're talking about.

And so, as a foundational matter, our boss,
the Secretary of the Interior, is strongly
supportive of tribal sovereignty. He said that
publicly. He supports tribes getting land into
trust. He supports tribes having strong, healthy
communities, both on the economic side and on the
cultural and spiritual side, the health side. And
so, this is part of our direction from him is to
find how we -- ways that we can better serve
Indian country. That is our charge on his behalf,
is to serve tribes and Indian-people.

So, in that regard, I've heard the question
asked a couple times, and I think it bears
repeating, strongly, that there is no hesitation
on behalf of the Secretary and our doing our work
for him to take land into trust for tribes. It is
a fundamental responsibility that we have on your
behalf, and a fundamental aspect of your
sovereignty, and something that we continue to do
and will continue to do. That includes both on
reservation and off reservation.

So, the discussion that we've having today is
really on the off reservation, 151, Part 11, and
that discussion is really focused around us trying
to find a better way to come to more timely
decisions on the tribes' behalf, and come to
decisions, at the same time, that are strongly
defensible if we are faced with litigation over
these.

And I would say, without hesitation that we,
the Department and you, the tribes, get sued a lot
more often for off reservation acquisitions than
you do for on reservation. So, part of our effort
is also to try to build the strongest record we
can on your behalf, when we make a decision to
take the land into trust.

So, that is part of what -- I guess that is
sort of an underlying theme of what we're here to
do, and part of that then leads into how can we do
-- how can we address off reservation acquisitions
in a way that addresses the tribes' needs, that
addresses the legal responsibilities that we have,
also.

So, I know there has also been asked the
question about why do we make -- I think, to boil
it down, why do we make it so difficult, with all
these regulations, to take land into trust off
reservation? And the sort of simple explanation
is that the discretionary authority for the
Secretary to take land into trust, both on
reservation and off reservation, comes out of the
1934 Indian Reorganization Act.

1934 was quite a while ago and Congress wrote
laws differently then than they do now, and that
statute is more simply written, I guess you could
say, than if it were a piece of legislation being
enacted today. And so, for those reasons, the
statute has been under challenge for years, and,
in an effort to bolster the constitutionality of
that statute, we have, the Department has engaged
in, for years, decades, at this point, really, in
trying to build a legal structure that sort of
fleshes out the Act in a way that the Supreme
Court, ultimately, the Federal Courts, but the
Supreme Court, ultimately, will be satisfied that
the law meets certain constitutional touchstones
that they want to see in this type of legislation.

So, that is the reason we have more extensive
regulations under this law than you may think is
needed. It is also something, why we have to be very careful on how we tread in making the decisions under the statute and following our regulations carefully.

So, anything else I should add?

MS. HART: I think that's it.

MR. TAHSUDA: Okay. So, this is the -- was going to be the last consultation but is now the fifth.

And did you tell them about the rescheduling?

MS. HART: Yes.

MR. TAHSUDA: Okay. I just want to make sure everybody knows about the rescheduling of the Connecticut consultation and that the timeline for written submissions has been extended to June 30th.

So, hopefully, we would love to hear from all the tribes, get your views. You hopefully, also, have the Dear Tribal Leader letter that originally went out with a series of about ten questions, and hoping that that -- that is not the universe of questions. If you have questions or points that you want to make, of course that is part of this dialogue, as well, but, at least for our initial thoughts going into this, that sort of seemed to
be some questions that would be good for us to hear from Indian country on.

So, I will now open the floor up. So, our general practice has been to allow tribal leaders the first opportunity to speak, and then, if there are representatives of tribes who have been nominated to speak on their behalf, we will hear from them.

In most cases -- so, this is a consultation, and so it's a government-to-government meeting, and so it needs -- we need to, generally speaking, follow the protocol of having government officials interacting with us, as well.

So, first up, I have on my list is Chairman Harry Pickernell from the Chehalis Tribe.

MR. PICKERNELL:  Good morning.

THE COURT REPORTER:  Can you please state your name and spell it for the record, please?


Good morning, John and Paula. Thank you, again, for the time and the opportunity. My name is Harry Pickernell, Chairman of the Confederated Tribes of the Chehalis Reservation.
As you may have noticed, I have attended the Sacramento, Mystic Lake, Portland, Phoenix, and now the Miami consultations.

Based on the discussions from tribes at all the consultations, I would like to focus on an important issue concerning sovereignty and majority. I appreciate the fact that all tribes which have presented and tribes which may have spoken to you privately are sovereigns with differing needs and opinions.

However, my takeaway from the previous five consultation sessions and what I have heard about the listening session from the Fall NCAI meeting is that the vast majority of tribes with which you have a trust responsibility are opposed to an amendment to the current regulations. This is a majority voice you should not ignore.

Tribes are adaptable and have adapted to the current regulations and have worked within the boundaries of those regulations. Starting over and amending the current regulations will cause countless hours of time to revamp tribal government and tribal staff processes to adjust to new regulations.
These are resources that are better spent for the betterment of the lives of our members, rather than figuring out how to reinvent the wheel, again.

You will not be saving tribes time and money. On the contrary, these new amendments will have the opposite effect. Tribes have always had their detractors, those who feel we should be just like everyone else with no special relationship with the United States. No matter what the Department truly believes, those people will feel encouraged by your potential actions. They will view anything that the government now does with respect to Part 151, whether true or merely perceived, as a further signal from this administration that their time has come to challenge tribes at every turn.

Couple that encouragement with the divisiveness which we see daily on the television and the appointment of conservative judges to the Appellate Courts, and the unintended consequences of any new regulations will be more resource-sucking conflict to the detriment of the tribes.
Finally, there is one thing the Department can do to help tribes with the fee to trust process, as it now stands. So many tribes which have spoken have urged you to speed up the process of applications. The way to accomplish this result, at least for all non-gaming, off reservation applications, is to return the delegation of decision-making to regional offices; bolster the regional staffs with more resources in order to reduce the length of time between the submission and final consideration; rescind the requirement that all off reservation, non-gaming applications and submissions go back to Central Office in D.C. That would be the single most important improvement to 151 process, and it wouldn't take new or amended regulations and further challenges. Thank you for your time.

MR. TAHSUDA: Thank you, Chairman.

Next up, I have Kathy DeCamp from the Ho-Chunk Nation.

MS. DECAMP: Do you have something I can
stand on? Is it still morning?


(Speaking in Winnebago) but you can call me Kathy DeCamp.

So, this morning, I was asked to be here by the Vice President and the President of the Ho-Chunk Nation. I was to meet the Vice President here, this morning, but he weaseled out at the last minute, unbeknownst to me, but I love to public speak, so that wasn't an issue for me.

So, we spoke about many things, this morning, and I had the privilege of reading the entire transcript from the Mystic Lake consultation, and, just like the Chairman Tibadal (phonetic) said here, earlier, a lot of the tribes mirrored each other what they said about what they wanted and what they didn't want.

And before I get started on my rant, I would like to say, first, exactly how we stand and what our -- what our recommendations are, and then I'll get into all the meat of what I was here to -- sent here to say.
The recommendations that we make to streamline/improve the land into trust program is do not impose the 30-day appeal period before accepting a property into trust status. Salazar versus Patchak rendered this period unnecessary, as opponents now have up to six years, after the land has been placed in trust, to file appeals.

By reintroducing this period, it not only creates uncertainty for tribes looking to develop the property, it also imposes a time period not in conformance with the Patchak decision. And excuse me if I'm pronouncing that last name wrong.

In order to streamline the program, expanded consultation with tribes for any future proposed changes is necessary. The tribe knows what best issues and problem areas exist within the current fee to trust process. The program must reach out to Indian country and understand the problems that tribes have. They would be the top -- that should be the top priority of the Department.

The program needs to revise the fee to trust handbook for any changes and would assist and clarify what is expected in future applications.

Finally, the program must work with Congress on a fix that reaffirms the Department to take
lands into trust for all tribes, and affirm lands that already exist in trust, a Carcieri fix.

When tribes reacquire homelands, it is a core cultural identity issue. When stripping the ability of tribes to reacquire homelands, it is a termination policy, intended or not.

This morning, I saw Paula at breakfast, with my friend from the Menominee Tribe, and it was nice to see them. It's always nice to see them. And when I was reading the transcripts, I noticed that a lot of the tribes were upset, and they would come, and they would yell, or they would give their history, or whatever. So, but before I get into that, which I'm not going to yell because I think that, when you communicate in a positive manner, that has more impact than that type of behavior, but thank you so much for the job that you do. Maybe you don't get thanked enough but thank you for that.

So, all of us tribes are not cookie-cutter. We are not the same. I think that resonates with Mr. Cason, that he understands that.

My tribe has 7,767 members, and our tribe was forcibly removed from our ancestral lands 11 times. We are the only tribe in the State of
Wisconsin that do not have a reservation because of that forced removal.

We face a lot of challenges and we step up to the plate for those challenges. We have MOUs with the various counties that we reside in. We have to reeducate every time that there is a new administration. Not all the counties love native people, that's for sure.

However, because you have people like me that step up to the plate and are not ashamed or embarrassed to talk about who we are, what we want, and how to get it, we are making those bridges with those counties in the State of Wisconsin.

I think we are very nervous with this administration that came in, because, when the former administration was in office, we had a lot of advantages, a lot of benefits that we were given, and, now, we are unsure exactly of where we stand. I think that is true with every administration that comes in, though; we never know what's going to happen from one moment to the next.

We talked about -- I have, like, a lot of notes that I -- we talked about the ten questions
that you had, so I'm just going to go ahead and read what my answers are. Can you all hear me back there? Am I talking loud enough? Okay, thank you.

So, what should the objective of land into trust program be? What should the Department be working to accomplish? That was the first question.

The objective of the land into trust program should be to rebuild and restore tribal nations' land bases in the most efficient and accommodating manner possible. Tribes must exercise jurisdiction over our lands and rebuild our economics for the benefit of our people.

The Department should carry out the rights granted to the Secretary of the Interior from the Indian Reorganization Act.

The second question. How effectively does the Department address on reservation land into trust application?

The Department implementation of the trust authority pursuant to the IRA is fully consistent with the 73rd Congress. However, the goals of the IRA remain mostly unfulfilled. Today, only a small percentage of lost lands have been restored.
to tribal nations. Introducing additional
regulations is contrary to the current
administration's deregulation policy.

The third question. Under what circumstances
should the Department approve or disapprove an
off-reservation trust application?

The Code of Federal Regulations, Subsection
151.10 and 151.11 describe when the Department
should approve or disapprove an off-reservation
trust application. The process works, but the
process is slow, and the tribes would like to see
the process be seemingly condensed and, thus,
quicker.

Question four. What should the Department
consider when approving or disapproving an off-
reservation trust application?

Aboriginal territory, specifically, it should
consider whether the acquisition would benefit the
tribe.

Question number five. Should different
criteria and/or procedures be used in processing
off reservation applications based on, A, whether
the application is for economic development, as
distinguished from non-economic development
purposes, for example tribal government buildings
or health care or tribal housing?

The answer is no, applications should not be discriminated against based on use, unless it is for gaming.

And B, whether the application for gaming purposes, as distinguished from other non-gaming economic development?

The answer is no, additional regulations are already in place for applications that are for gaming purposes.

And C, whether the application involves no change in use?

Yes; as there would be no change in land use, the application should be streamlined, as long as the required NEPA and title reviews are sufficient.

What are the advantages and disadvantages of operating on land that is in trust versus land that is owned in fee?

Advantages on trust: Tribes, as sovereign entities, are guaranteed the right to form our own government that can create and enforce laws. Tribes may collect taxes and regulate land use and domestic affairs of our own people. Tribes may lease our own lands with our federal oversight,
through the nation's HEARTH leasing ordinances, agricultural, business, and residential. The right for a government to govern its own people and land is invaluable.

Disadvantages of trust: Development can stall because of the cumbersome process of getting right-of-way or lease approved and recorded. Federal oversight: The U.S. government has a responsibility to protect tribal interests, such as land, water, income derived from interests in lands. However, they have not always fulfilled its obligation as a trustee to the tribes, as affirmed by the Cobell lawsuit.

Advantages on fee simple: Process for recording is quicker through county offices, records are more accessible through county offices than LTRO.

And I'm going to read one last disadvantage, and I think I'm going to take a break.

Disadvantages on fee simple: Tribes do not have jurisdiction over fee lands. Tribes are treated as any other owner, which includes taxation, restrictions on land use, law enforcement, and zoning. State and local laws may limit or eliminate potential development or land
use. Anything that can be deemed as a lien, such as a managed forest law, cannot be on title once a nation applies to have property placed in trust.

So, those are the types of thoughts, and those are the things that I was sent to come here and say. And I believe that most of us tribal members from the federally recognized tribes are saying the same thing. We are mirroring the same thing.

If any of this is changed, it is going to affect us. And so, I know that, because you take your jobs very sincerely and seriously, I know that you're going to be able to reiterate all of these feelings and thoughts for us.

So, thank you, God bless you for everything that you do, and it was nice to see you again, no matter how late you were. Thank you.

MR. TAHSUDA: Thank you, Ms. DeCamp. So, are there any other tribal leaders that would like to make a comment now? I only had those two on the sign-up list outside. No? Okay.

Do you want to make a statement, Ernie?

MR. STEVENS: Yes, I would.
MR. TAHSUDA: I guess I'll call you a tribal leader surrogate. You're made up of an organization of tribal leaders, so.

MR. STEVENS: Thank you, John. I represent 184 member tribes, and, for the record, my name is Ernest L. Stevens, Junior. I'm Chairman and Chief Spokesperson for the National Indian Gaming Association, based in Washington, D.C.

Much of what we talked about has been reiterated by the tribal leadership over and over again, but my personal experience, in working with local communities, has been a tribal decision, and that is some of the discussion that has resonated throughout.

And my father, I was a little bit energetic in my early 30s as a city councilman for Oneida, and my dad sat me down, as he was proposing to negotiate an agreement with a local municipality, and he told me, he broke it down for me that what is fair and why it is so, and you can't just say because you're sovereign and your government, you work on a government-to-government level, that you disregard these folks.

And he explained that to me, and we went on to write several service agreements with local
municipalities that have worked for many years. We don't -- haven't done that without its kinks. There have been struggles with others, but, again, the ones where we have struggled, have really cost those communities, local municipalities hundreds of thousands, if not millions, of dollars, because they just don't want to come to agreement, but our agreements are fair, and I believe they are in the majority and they resonate throughout all of Indian country.

There's a couple of real tough ones that haven't -- haven't been acted upon, but, if they did act on them and they were fair, they would provide for a safer community, but, for the most part, that process is working and they are a volunteer agreement based on what is fair and a fair tradeoff with mutual respect, and that is the majority what's happening in Indian country and it works.

Again, so respectful and mutual tradeoff.

And I really stand in opposition to any discussion that would mandate that type of agreement, and I don't -- we have already been through this process in the 109th Congress, and it would be unfortunate to have to go backwards. I
think that we have to go forward, and the people who want to be proactive and respectful, they should follow our lead because there's examples all over the country that are working very well.

And you know, with Mr. Cason, we had a very productive meeting, and we appreciate it because we know that Mr. Suto (phonetic) was very much a part of that and Ms. Hart are very strong components of this process.

And, but I want to just encourage you to remember, wherever we go, you have your standard Indian fighters who want nothing, no part of Indian country moving forward and doing good things, in spite of the fact of our gaming related and non-gaming related employment marks up over 700,000, half of those being non-Indians.

We remember the days of the sign that says Casi-No and all these different vigilante groups. Well, maybe that's a strong term. Anti-Indian groups, call them what you want, but once they fall in and figure out what we do for the economies and how we take of people around us, not limited to just our tribal members, many of those folks that stood in opposition to us now work with and for us or benefit from our economic impact in
some way.

So, unfortunately, there are still the Indian fighters. Again, they cost their communities probably millions of dollars, and they are going to fight us no matter what and they are always going to be there to fight us, and we have to stand above them, but we can't appease them, we can't lower ourselves to individually dealing with folks who are anti-Indian and blatantly racist against governments who are doing great things. I didn't bring my statistics; I'm sure they will be in my written testimony.

We had a good meeting last week, and I want to be careful because I don't want to say that Jim Cason is our next hero. I can't afford to rely on a person with such a strong conservative background, but I can be very pleased about his posture, and I stated it last week.

But what we have to rely on is our sovereign rights as governments; that's our strength, and we're going to continue to take advantage of Mr. Cason's openness to hear from us. And obviously, you guys are the key listeners and spokespersons for that, two people I have the utmost respect for. And as was stated previously, I would never
condone any disrespect or aggressive posture with you, and certainly not with Mr. Cason.

And so, in closing, I just want to emphasize that folks want to fight Indian country, and what they are trying to do, because Indian country is trying to reacquire land that was once theirs, that have the audacity to call that some kind of encroachment. That's wrong.

And I think if you really -- if we could vote on every one of these, I think the people around us would really see that the bottom line is that people like what we're doing. People like the economic impact we have. They like the fact that our families can afford to buy a house, can afford to send their kids to private school, and maybe have a decent car. People like that. And guess what? There's a whole bunch of people that are not Indians that once drove those beat up cars and had those beat up yards and had no money, that are now working in our industry, that can make those kind of payments. So, it's just not Indians.

So, I'll close, Ms. Hart and Mr. Tahsuda, with, again, with utmost respect, and for Mr. Cason, as well. But as I said in my previous statement, you know, the gaming is one thing, and
I'll stand -- I'll lay in the tracks for our rights under gaming, but the main thing is what my father told me and what so many tribal leaders are telling me, is that we need to reacquire land to build our future.

I have 15 grandchildren and they are going to need a house, they are going to need some property, you know. They are going to need land that they have a right to live on as Native American people in a Native American community. We need opportunities to create businesses, to strengthen and advance our culture, our tradition, our language. All these things center around our land. So, let's focus more on helping Native America reacquire their land in a more timely process.

And when it comes to gaming, we're willing to fight that fight, when we have to, as well, but I think this is really about, overall, land into trust and bringing community members home. So, I thank you for your time today.

MR. TAHSUDA: Thank you. So, we have -- yes? Yes, Robert?

MR. SAUNOOKE: If I may? My name is Robert Saunooke. I'm an enrolled member of the Eastern
Band of Cherokee Indians. And Paxton might be a little worried what I might say. It's not on behalf of the tribe.

Saunooke is S-A-U-N like Nancy, O-O-K-E.

I have the privilege, also, of practicing Indian law and I teach federal law and policy, as applied to Indian tribes, as I am often reminded that there is no such thing is federal Indian law, it's just federal law that is forced upon us. And I also have the privilege of representing the Miccosukee Tribe in much of its issues.

I don't think there's a question, and there are some things that have been said today that I want to make sure are really in the record. One, that we are all different tribes and individuals, as communities and as culture, and that is something that should always be remembered in utilizing these regulations.

The second thing is there is no question that the history of tribal lands was designed by the federal government to eventually eliminate the existence of tribal lands. I mean, we see it in
the allotments, we see it in the requirement of
blood quantum, which, when it expires, the tribe
ceases to exist. It was a systematic trick to
allow tribes to be peaceful, and in their place,
and then, eventually, pushed away.

So, the reacquisition of property that was
taken
should be not only a mandate, but a very simple
and easy process. It should not be complex. It
should not have questions. It shouldn't suggest
that we have to justify getting back what was once
ours. It's like if I stole your car and you catch
me, and then have to prove that your theft and
getting my car back is justified by some action on
my part.

I spoke with Paula briefly and I want to
highlight
something that I think -- that I don't see no in
the Bureau today, and it's something that I don't
know if many are aware of or have remembered, but
the federal law clearly states, and, as lawyers,
we look for that language to kind of help us get
to where we need to be, but Title XXV of the U.S.
Code says that the, "Commissioner of Indian
Affairs shall," it's not discretionary, shall,
can't decide, consider, they shall, "have the management of all Indian affairs and of all matters arising out of Indian relations."

So, clearly, the Secretary of Interior and Commissioner of Indian Affairs have that authority. And what does that authority grant to them? Well, I look at the CFR for guidance and, as it is amended repeatedly, I'm reminded that, "Notwithstanding any limitations, the Secretary retains the power to waive or make exceptions to the regulations in the best interest of the Indians."

So, if that's the charge and that's the law, why is there a question as to whether or not reacquisition of lands should not be had? It is obviously in the tribes' best interest. They are getting back what was once theirs. They are reacquiring cultural and sensitive homelands that are a part of their culture, their history, their people. It builds for a future of their children, as Ernie so eloquently stated. They need that connection and it is more than simply title.

In a historical context, the early treaties, you
know, when tribal elders and leaders entered into agreements that contained language like as long as the mountains exist, and the wind blows, and the rivers run, we didn't take that as just a cute little colloquial of art. We firmly believed it and we brought our children back when these treaties were reread and reagreed, so that our children would know that that was what it was.

For the non-Indian that we were dealing with, they were simply words that they could amend and change later, and I'm confused, I guess, as to why we have to answer these questions of how we should recognize the balance of concerns of local jurisdictions. Well, I try to be patient with the fight that we fight, but the reality is we don't have many friends, the Indian fighters, that want to help or assist us.

And I see a lack of institutional historical context where we are losing and have lost very powerful and longsuffering employees of the Bureau, people like John Harrington who, for 40 years, served as a solicitor, and his office now, today, is vacant, and no one is stepping in to understand what
happened before, so that they can help us fight as we go forward.

I would ask that the Bureau do what the law says it should do, and that is take steps, waive, modify, make exceptions to the law as is in the best interest of the tribe. It's what the Supreme Court has charged. If there are ambiguities, they are decided in favor of Indians.

But in meeting with Secretary Zinke, as I walked into his office, he said, very clearly, my job is to enforce these laws to make sure your rights are protected. I still continue to wait for that to happen, and I would urge the Department, as they examine this process, to be mindful and continue the idea and the mandate that the decisions that are made and the regulations that are in place should always be done in the best interest of the tribes that they serve. Thanks.

MR. TAHSUDA: Thanks, Robert.

First, I want to second the comments that Mr. Saunooke just made.

Two points I want to make, one I made a little bit earlier, and one just additional thought, too, about what Mr. Saunooke just offered.

Mr. Tahsuda, in your opening remarks, you said that the current regs, the complexity of the current regs are tied to the vagueness of ambiguity of the 1934 Indian Reorganization Act. I don't know if those were your exact words, but that was basically the point that you made. Then, you also said that the law in '34 and how laws were crafted in '34 was done differently than if that same law was to be crafted today.

But to the point that Mr. Saunooke just made, that is supposed to be in our favor. That ambiguity, that vagueness in the IRA is supposed to be interpreted in our favor if there is any ambiguity or vagueness that exists.

So, efforts that try to type that up to make it a 2018-type of sharper, clearer focus type of thing, works to our detriment in a way that I don't believe was the intent of '34.

The '34 Indian Reorganization Act was a
significant moment in time where there was a recognition of the wrongs that had been done and the stealing of lands and opened the door for land restoration.

One of the things that I want to say, though, in terms of process, and it is a suggestion that I'm making for the record, and you've heard this question posed numerous times, I think you're hearing from tribes across the country in these sessions that there is a desire for a more timely process to be in place. I don't think there is a dispute over that.

I think there still is, though, this remaining question about what are we responding to and whom are we responding to? So, with any procedural process where you're trying to gain greater efficiencies, it starts with an assessment of what the problem is, where are the shortcomings, what is causing the delays, so, when you propose changes to that process, it is responding to those very things that are identified as the incumbrances or the challenges.

So, what we would like to see, in order to get to that place of more timely processing of applications, more efficient, we need to hear from
the Bureau what exactly are you responding to. Where do those deficiencies lie?

We talked, one of the things this morning, about was the reorganization charge and some of the challenges that may be tied to that, in real time. We talked about deficiencies in the overall BIA budget and having the right people in the seats, just from a financial standpoint, to be able to do their job as part of this process. We have had conversations in the past about whether the right people are on the right seat on the bus and doing their jobs effectively to be able to process these applications.

So, I think there are different things that you can look at to sharpen that, to achieve that timely process, but we haven't even had -- we haven't seen anything to identify that in a very clear way.

So, the ask that I would have, on behalf of our membership, is we would like to see what exactly has the Bureau found and identified as the challenge to achieving that timeliness? And that way, when we see what the administration is proposing, or put us in a position to propose to tighten that up to achieve that same timeliness,
because we all want that. We want that timeliness. We want to achieve those goals, as expressed in the Indian Reorganization Act, to rebuild tribal homelands.

MR. TAH SU DA: Thank you, Kitcki.

All right. Any other tribal leaders? If not, I'll offer a few thoughts, see if I can try to give you some responses, now. Obviously, we look forward to getting written responses from you, as well, and compiling those, and then being able to kind of give a comprehensive response to questions the tribes raise.

So, I understand -- so, that's a good point, Kitcki, and I think it kind of relates back to what Chairman Pickernell was saying.

So, we don't want any changes in the process to further incumber it. That is not the point. And it is actually a process we're going through. It is incumbent upon us to assess internally, human capital, do we have the right people doing the job, do they have the right training to do the jobs that they are doing, and I would guess most
of you here in the room, if you have dealt with
the Bureau over the years, you would say we
probably have some challenges in that front, folks
who need a little bit more training on how to
process the work that they have, and I don't think
the Bureau, historically, has done a good job of
doing that for its workforce.

We also have -- we have -- we have an issue,
which
all of the government is dealing with, and that is
that we have, sort of, a donut hole in the middle
of our workforce, in the sense of we have a lot of
great people, with great experience, who worked
for us for decades, but they are ready, now, to
take a well-deserved retirement.

And we have a fair number of young people
that come
in the door and stuff, but we don't have -- we are
very deficiency on those folks in the middle who
should be the next ones stepping up to senior
leadership roles, those who should be developing,
now, years of experience and turning that to the
benefit, you know, to the benefit of our programs,
our services. Other bureaus, and stuff, again,
you have the same kind of issue.
So, that's also something that we are in the process of trying to figure out what is the best way to address that, and we have -- we have, in the Indian Bureaus, we have the issue -- we have the issue of trying to fill those slots with as many Indian people as we can, first, too. We have an Indian preference. And so, that -- so, that further winnows down the field of folks that we might be able to tap to bring in, you know, instead of starting at the ground level, but folks who might be able to come in at mid-level. So, those are all considerations that we have to make.

And also, partly to your point, Chairman, I don't -- so, the moving of the decision-making from the regions to the central office I think has less to do with any bottlenecks in the process. So, there is a multistep process -- is it 16 steps in the fee to trust?

MS. HART: Yeah.

MR. TAHSUDA: So, and the big chunk of those, even for the off-reservation ones or the gaming ones that come to the central office, the bulk of that work is actually done out
in the regions.

And so, really, what Paula does for gaming things or for the other off reservation acquisitions, we're really doing a lot of more reviewing what has been compiled by the region, and then, for our purposes, again, I go back to the point that I think is really important for us to confirm is that we have to make the best decision we can, the most defensible position we can.

So, the Department does spend a fair amount of resources on attorneys. You would probably be surprised. I was surprised and I'm a lawyer, so. But there is a lot of work that goes into, also, the legal review. And, you know, along with this sort of expansion on the complexity of statutes and laws, over time, it also means that there has been, grown in sort of complexity in how they are interpreted. So, all the government uses more lawyers now than they probably should.

But we also have the situation in which we have a significant amount of influence on our policies that happen outside of even Congress.
They happen in courts and stuff. And so, we have a lot of time and energy that is spent making sure that the decisions that we make are going to be following current court themes. You can't -- they're not like statutes, all right, you have to kind of just pick up a theme in it.

And so, making sure that we're doing that, so that, if this case gets litigated, and we get sued a lot, all right, for any number of reasons, but that we will have kind of divined the good themes and be able to defend this. So, that's a lot of the time and effort that goes into that.

And for -- I guess, unfortunately, but I would say, you know, a lot of the off reservation -- a lot of the litigation over fee to trust happens with off reservation acquisitions, whether it's gaming, sometimes there's some non-gaming ones that people are, around the community, are opposed to.

So, it's also, I think, on those, incumbent upon us to put the extra effort into, as well, just because you have to anticipate that there may be a challenge there. So, that's part of the process that -- I'm getting really longwinded. Sorry, Chairman, I'm tired.
So, but that is part of the process that -- when it comes to the central office. And, but the really -- the big bulk of the work has to do with NEPA and those kind of things, and those all primarily happen at the regional level. And so, I don't know that, you know, any changes that we would propose or the question of is there a point of decision-making in the region or in the central office, has that big of an impact on the overall time component.

But, in addition to this discussion, I mean, we are working, also, charged by the Secretary to look at how we apply things like NEPA. And I was actually kind of surprised because you don't hear it talked about much when we talk about fee to trust, but the BIA actually has on the books, I think it's 25 categorical exclusions that it rarely uses.

And so, we're actually putting out a Federal Registered Notice to identify those and to get comment from the tribes, if there is any other kind of categorical exclusions. There is a great way to speed up the process, right there, I have to say. If you buy a golf course and you're going to keep it a golf course, there really should be
no NEPA analysis done, right? That's a categorical exclusion that is on our books and should be used now, but for reasons I don't know, I haven't been on the job that long, maybe Paula knows, she has been around forever, but we haven't really been utilizing them that well.

So, we have an ongoing process of trying to identify some other things that I think are bottlenecks in the system that we can -- that we will hopefully deal with positively outside of this dialogue and anything that comes out of it.

I think it's really -- so, I think, those of you that were there last week, when Jim and I came over and talked, I thought it was -- I hope it was illustrative to you guys that part of the thought process -- so, we had the Chairwoman from the Prairie Island community, I'm trying to think, there was a couple others, but spoke really well about the unique history and circumstances of their tribes, and that's really something that we would like to hear about, too. You know, is that a process -- or is that something that we can build in, that we don't have cookie-cutter, that we can actually have a positive way to insert that into the process, as we look at it, and that be a
positive factor in consideration, as well. So, I think that's a really important thing.

I think other things that, like cultural and religious, you know, reasons for particular sites, I know Eastern Band has an ancient historical site, right, and so I think those are great opportunities for us to find additional -- similar to categorical exclusions, similar ways that we could identify, maybe, that those are really important and carry additional considerations, positive considerations that we could apply to the consideration -- apply to the review.

Anything else? Do you guys -- I think I -- did I answer all of it?

I appreciate -- I should say, also, I've been trying to keep hitting on the MOU. I want to make sure that everybody understands that there is no -- there is no proposal or concept that there would be mandatory MOUs, and, if you didn't get one, that, somehow, that gives a veto to a local community.

The real purpose of that, again, and I have kind of come to look at it sort of like NEPA, again, like these categorical exclusions. So, in this context, when you have addressed with the
local community your simple needs, water, sewer, law enforcement, jurisdiction, you know, you've worked all that out, a lot of tribes have -- I know it has been painful, but have, over decades, now, been able to get a mutually respectful relationship with local jurisdictions and they can work these things out. And so, for us, I think, it also would be helpful.

So, the idea of the MOU is to say this whole thing about considering impacts to the local community, benefits to the tribe in that -- is we really don't have to think about it if you have an MOU. You have already addressed that, in large part. So, if you have that in place, then that is maybe another spot that we can speed up the process.

And so, if you can't, if the relationship is not there, or for whatever reason you can't do it, or you don't want to do it, that's your choice. Nobody is taking that from you or nobody would -- we're not proposing to take that from you. It would just be simply, for us, another possible mechanism to get through the process faster, on your behalf.

And I think, ultimately, again, when I -- I
don't want to harp too much, but I keep coming back to the notion of legal defensibility. So, when a local community has entered into and hit these touchstones on local impacts, then there is little argument to say that we, the federal government, on your behalf, or jamming something down their throat, right? They have signed an agreement and said that you have addressed these issues.

So, that is -- I really would like to hear, you know, again, more on the MOU, if we're not looking at it the right way, but that's kind of the way I have been looking at it and hope that that --

MR. JOHNSON: Sir, are you voicing this, what you just explained about the MOUs, differently today than you have in past consultations or maybe even going back to October?

Because what I'm hearing in Indian country, and from constituents, is something totally different than what you just now explained.

MR. TAHSUDA: I have been trying to --

THE COURT REPORTER: I'm sorry. Who are you?

MR. JOHNSON: I'm Lewis Johnson, Assistant
Chief with the Seminole Nation of Oklahoma.

And my question to Mr. Tahsuda was, is how he explained, just now, about options of MOUs that would actually use that terminology streamline, but not mandated, could be looked at by the Interior as a possible way to speed up these applications for trust.

My question to him was this: Is this what he has stated over the course, since the beginning, even back to October? Because what we're hearing among our constituency and other Native tribes is something different than what you just articulated to us this afternoon.

So, that sounds actually like trying to get the process going faster, as long as it is not mandated, but the Interior Secretary of Indian Affairs would consider that as a process that doesn't necessarily have to have, you know, a microscope over it, if you have those types of agreements with your local municipalities, your communities, and so forth. But as long as it's mandated, those types of things, as Mr. Stevens said, and others, we have worked on those things for years.

But I will give you an example of a piece of
property that the Seminole Nation was going after and the community knew that we were going to a council meeting to either approve or disapprove that acquisition, on a Saturday, and this was a Friday evening, and an attorney from a local community wanted some property that we just had purchased and we were able to acquire that property in their interest.

So, what happened in that particular instance, the Friday before we go to the Council to vote on that property, I get a message in about 4:59, right around 5:00, I usually leave the office about 5:30, 6:00 o'clock, but I picked that message up and you know what it was? Another deal has been made.

Now, Mr. Tahsuda, you have been out to Miccosukee Mission, just a little ways outside of Seminole. Do you know how I interpreted that? I didn't see it as a courtesy call to the Assistant Chief of the Seminole Nation. I did not. I saw it as good try, Indian, but you stay out at Miccosukee Mission, but don't you try to come to town.

And those are the type of things that we know exist, you know, in certain areas of Indian
country, and, being from Oklahoma, you also know some of those things exist because people in this room know that, whenever there is a case that involves Indian country or sovereignty, they realize -- Bay Mills is an example. The Choctaw Tribe there in Mississippi and the Dollar Store situation, they are always there whenever something is to do with sovereignty, and, if possibly to kind of edge away from that sovereignty, they are there to do that very thing.

So, to say, to make that a mandated type of MOU definitely would not always be in the best interest. Obviously, you have got to work with other communities; that is within the statute, already, as far as them having a comment period. So, mandatory would be probably not in the best favor of Indian country, because of those types of situations.

But is that something that you have shared in that context of what you just shared continually, since October, or is it something you just shared today?

MR. TAHSUDA: No, I've -- I have tried to make that clear at every consultation we have had. It has been a question that has been
raised from the very first discussion we had at NCI back in -- in October?

   MS. HART: October.

   MR. TAHSUDA: In Milwaukee. So, I have been trying to make that clear. I'm not sure --

   MR. JOHNSON: I hear what you're saying.

   MR. TAHSUDA: But again, I want to clear any misperceptions.

   I understand that lawyers can have different views on things, and I think some tribes express views their lawyers have put to them.

   And again, so this is, though, the -- great things to work out through the comment period, right, and you -- we are looking at it in what I think of as a positive way.

   If it is -- if there is an angle to it that I'm not seeing, I'd love to hear about it and see that. So, thank you.

   MR. PICKERNELL: John, Paula stated earlier that --

   THE COURT REPORTER: Sir, your name?

   MR. PICKERNELL: Harry Pickernell. Paula stated earlier that Cason had voiced his displeasure at the -- that not one off reservation
had been processed in a whole year.

Can I move back to your comment about the central office not being a bottleneck? Can you clarify your stance on that, that it is simply a review board and not a bottleneck area, in the process?

MR. TAHSUDA: In the process.

Well, so, there has been, initially, you know, as we have moved complete, I guess you would say, decision-making authority from the regions and bringing the end review back to the central office, there was, fair to say, some confusion, I think.

The original message that went out to the regions was not entirely clear, and, so, I think there was some confusion on their part, and we take the blame for that.

So, and then, there, you know -- there was -- there has been -- there was sort of a slow ramp-up to leadership in the Department on Indian Affairs, as well. And so, I think that probably contributed to it, some, as well.

But we are processing them now. The Secretary, just a few weeks ago, signed an off-reservation gaming parcel in Oklahoma for the
Shawnee Tribe. And so, I hope that's -- people see that as a good sign.

Again, we are continuing to process and work through. We do have a number on the desk that I think we will, hopefully, we will have decisions announced soon. But I, you know, I think it's fair to say that we created our own bottleneck, briefly there, for a while as we were making the adjustment back and not being crystal clear with the regional directors, the regional folks on that.

MS. BENNETT: Good afternoon. Jeanine Bennett, J-E-A-N-I-N-E, B-E-N-N-E-T-T. I'm the In-House General Counsel for the Miccosukee Tribe of Indians of Florida, and, on behalf of the Tribe, we welcome you all here.

It is interesting that you gave the analysis of a golf course. The Tribe has, since 2003, tried to have its golf course placed into trust. We have been met with immense local opposition, not for any valid reason, but because the Tribe has affirmed its sovereignty in relationship to a matter not even involving the golf course but some direct opposition from the -- not even from the mayor, not from the council, not from any elected
body, but from the person who is the State Attorney in Miami-Dade, because she could not serve subpoenas on our reservation, which is in a direct conflict to the Tribe's sovereignty of what she wanted to do.

And because we fought her against it, the Tribe has had to wait all this time to have its land placed into trust. We have done a summary NEPA, which is what was originally required, because we're not changing the use. We were directed back to go do a full NEPA, even though we are not changing it, because the drum up of the fact that everybody in the area who enjoys their golf course view thought that they would -- that the Tribe would be putting a gaming facility on that land, regardless of the fact that the Tribe spent millions in placing -- doing improvements to make that golf course PGA certified.

When we went back to go do our NEPA, we also had to do a Carcieri analysis, not because it was something that Interior required of us, but it is, indeed, something that we knew we would have to do because that decision, in the meantime, had come down. So, in order to be able to make sure that the Tribe did not have to go back a third time, we
went through that analysis.

We had, audacities of all audacities, had to have somebody who is non-Native go through and write an opinion about the fact that this Tribe existed way before that magical day in time and in history.

Now, we have submitted that application, and it is with the Eastern Region and it has been with the Eastern Region for a while, and the letters that we have gotten from Eastern Region saying that they are looking -- they are looking at the application, they are this portion of the application, that portion of the application, regardless of the fact that the first letter we got didn't even pertain to the golf course itself, but some other tribe's property.

But it just describes to you the bottleneck that this Tribe has had to endure. And, in the meantime, now, we, because of another issue that the Tribe has, involving its sovereignty and its right to be able to enter into the manner of leases with individuals, and then have dividends based on those leases, but because we happen to be a gaming tribe, the view is we must be distributing that gaming revenue.
So, now, that application is bottlenecked into that aspect, because we cannot get title insurance on a land that we have had for all this time. So, the Tribe's concern, when these new rules came out, is that, one, we would have additional hurdles that we would have to do, on top of all the other hurdles that we have had to endure, but, also, the fact that the way the rules were viewed from our point was that we would have to go back to these people who fought us so ferociously to now do an MOU on this land.

So, this Tribe is looking for definite assurances that they are not going to have to endure another 15 years, and then, therefore, make this process 30 years in trying to have a land placed into trust for the economic benefit and well being of the Tribe that is not gaming related.

So, whatever assurances you can have on that would be great, at this point. I am thinking maybe I just might take a copy of the application and give it to our lobbyist and have it on Jim Cason's desk. I don't know what else to do.

MR. TAHSUDA: Thanks, Jeanine.
So, if your question is, does -- so, let me back
up.

So, what we're discussing are some concepts that, if we move forward, could go into proposed rules, proposed amendments to the current rules. So, if your question is, is, if, at the end of the day, we amended the regulation, would you have to go back through the process? That's what I'm hearing, right?

MS. BENNETT: Correct.

MR. TAHSUDA: So, that is not the intent. Another thing I have tried to make, hopefully, make clear to everybody, this is a forward-looking process, completely.

We have not stopped processing fee to trust applications, and anything that is in the pipeline now would continue on under the current regulations. It is not to say that we probably wouldn't give you the opportunity, if you like the new regulations better, to jump into that pipeline, if you wanted to, but that would be your choice.

But the whole discussion on this is a forward-looking discussion.

And we can talk some more about that. I know
there are some other -- so, there are other
issues, extraneous, that have bottlenecked that
up, and, but so, you know, the Secretary met with
the Chairman in D.C., and we're trying to be
helpful where we can. It's just --

AUDIENCE MEMBER: We get it.

MR. TAHSUDA: It's a complicated
issue.

AUDIENCE MEMBER: Very.

MR. TAHSUDA: Thank you. Thank
you very much.

Okay. So, we're about at the end of the
time, and, again, I apologize for being here late.

It was not in my hands. I'm not a pilot, so I
couldn't force the plane off the ground myself,
last night, but I'm glad I could make it and be
here with you guys, at least for a short time.

We have the other consultation coming up on
March 15th. The 15th, right?

MS. HART: Yes.

MR. TAHSUDA: The 15th, in
Connecticut. And the open comment period open
until June 30th, so.

MR. CARROLL: Just one comment I want to
make, if you're going to be closing this out, and
I know we spoke about this just briefly last week. And please understand -- Kitcki Carroll, USET -- in no way am I suggesting that this administration needs to act or do or behave like any other administration, but I have heard you say, now, a couple times, including today, as well as last week, that Secretary Zinke has made it a priority to restore tribal homelands and that he believes in the fee to trust process. That's great. But we also know that, 15 months into this administration, there is a very small number of approvals that have actually occurred.

So, with anything, I think it is a good idea for this administration to set itself a target. So, if you want to have that same conversation about whether the right people are in the right seats on the bus to be able to do this work and whether the resources are right, if you don't -- if you leave it open-ended, it's kind of, people prioritize on a day-to-day basis. But if there is a goal that gets spoken to, meeting after meeting, public speech after public speech becomes something real, and I think that is what is missing right now.

So, it is great to hear that the Secretary
has a priority for fee to trust acquisitions, but we highly recommend that this administration set itself a goal, so that we can monitor how well that verbal commitment is actually translating into actual fee to trust approvals.

It would also be interesting to know, right now, how many applications are pending, and maybe some related analysis identifies what is the challenge. Is it getting hung up at the region? Has a request been sent back to the tribe and it's pending? I know some of this is information that can't be disclosed, but, in a general way, what are the applications that are sitting out there, right now, and what is preventing them from coming to closure, so we don't have a 15-year issue going on. And that is not an isolated situation; we have heard of other situations like that where there are these multi-year pending applications that aren't being resolved.

The other question I would have, I know that it changed into the ten questions that the administration proposed, the question I would have, though, is, just a hypothetical, if you have a situation where -- well, before I say that.

We share the same sentiment that you have
heard over and over about the thought of an MOU recognizing the many challenges that exist with many states, local, county governments, municipalities, whatever, unable to even achieve that. So, just park that on the side for a second.

But in a situation where a tribal nation does have a favorable relationship with that local government, or whatever that government structure is that it needs to enter into an MOU with, and they achieve that, and they get a free and clear NEPA analysis, would there be any reason, under the Department's discretionary authority, why it would not approve that?

If the NEPA is clear, if the MOU between the local governments is clear that they support this, would there be any remaining situation why the Department would use its discretion to deny that application?

MR. TAHSUDA: You're talking for off reservation acquisitions?

MR. CARROLL: Yes.

MR. TAHSUDA: Well, so, we still have the other considerations. You know, there's a Carcieri analysis, possibly, that has to be
done. So, we -- there's --

MR. CARROLL: So, there is the potential --

MR. TAHSUDA: You can go through
the list. So, there is the list of the -- in the
regulations, now, they list the things that we go
through.

MR. CARROLL: So, it is not that simple,
then. So, it is not -- so, the MOU is just a
factor in getting to that ultimate --

MR. TAHSUDA: It's a factor. It's
also a time -- so, I know that it takes time. So,
anecdotally, in my experience, in my observations,
say in a state like Oklahoma where a lot of the
tribes have been able to do -- get a reasonable
history of these, you know, type of agreements,
those are typically in place before the
application is submitted. And these are on
reservation, not off reservation.

But, and so, that should mean that part of
the process is done, right? So, that is the
thought. So, in the off-reservation context, when
the same situation arises, then you have just
taken care of that. And so, that timeframe that
we go, if we're doing the analysis, we have to get
comments from the local community and we have to
go and weigh those, so maybe we can shorten that, and that's the idea.

All right. Thank you, guys. Thanks for traveling so far. Hopefully none of you had the travails that I did, and I guess, as it seems, we will probably see some of you in Connecticut, but I appreciate your efforts and look forward to talking with you more. Thank you.

(Thereupon, the proceedings were concluded at 12:20 p.m.)
CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Robert Worst, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings, and that the transcript is a true and correct record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 8th day of March 2018.

____________________________________
Robert Worst, Court Reporter