

UNITED STATES DEPARTMENT OF THE INTERIOR  
OFFICE OF THE ASSISTANT SECRETARY - INDIAN AFFAIRS

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IN RE:

TRIBAL CONSULTATION

DRAFT REVISIONS TO FEDERAL ACKNOWLEDGMENT REGULATIONS  
(25 CFR 83)

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TRANSCRIPT OF PROCEEDINGS

Taken on the 29th day of July, 2013, at the  
Odawa Casino Resort Hotel, 1444 U.S. 131 South,  
Petoskey, Michigan, at 9:04 a.m.

APPEARANCES:

Larry Roberts, Deputy Assistant Secretary - Indian Affairs

Kaitlyn Chinn, Office of the Solicitor, Division of Indian Affairs

Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action - Indian Affairs

Amanda Begay, Office of Regulatory Affairs & Collaborative Action - Indian Affairs

Jennifer L. Beatty, Grand River Bands of Ottawa Indians

George F. Lewis, Grand River Bands of Ottawa Indians

Patsy A. Beatty, Grand River Bands of Ottawa Indians

Gerald Gould, Swan Creek Black River Confederated Ojibwa Tribes of Michigan

Harold Gould, Swan Creek Black River Confederated Ojibwa Tribes of Michigan

James A. Keedy, Michigan Indian Legal Services

Larry Romanelli, Little River Band of Ottawa Indians

Eric Cox, Ma-Chis Lower Creek Indian Tribe

John Dunnagan, Miami Nation of Indians of Indiana

Clayton Pendergrass, Sr., Miami Nation of Indians of Indiana

Deb Peterson, Ma-Chis Lower Creek Indian Tribe

Fred Peterson, Ma-Chis Lower Creek Indian Tribe

Augustine Kiogima, Burt Lake Band of Ottawa and Chippewa Indians

Sarah Shenoskey-Holmes, Burt Lake Band of Ottawa and Chippewa Indians

Josh Shenoskey, Little Traverse Bay Bands of Odawa Indians

Mary Parkey Slocum, Burt Lake Band of Ottawa and Chippewa Indians

APPEARANCES (CONTINUED):

Isabel Scollon, Burt Lake Band of Ottawa and Chippewa  
Indians

Lula Rood, Burt Lake Band of Ottawa and Chippewa Indians

Frances Compo, Grand River Bands of Ottawa Indians

Ron Yob, Grand River Bands of Ottawa Indians

John M. Causley, Jr., Mackinac Bands of Chippewa & Ottawa  
Indians

Terry Gouza, Mackinac Bands of Chippewa & Ottawa Indians

Frank Ettawageshik, United Tribes of Michigan

Dexter McNamara, Little Traverse Bay Bands of Odawa Indians

Elmer Knox, Grand River Bands of Ottawa Indians

Richard Sterk, Mackinac Bands of Chippewa & Ottawa Indians

Brian Buchanan, Miami Nation of Indians of Indiana

Nitumigaabow Champagne, Grand River Anishinaabeg Community

Lorraine Ceplina, Grand River Anishinaabeg Community

Amanda Pete, Grand River Anishinaabeg Community

Stephanie Pecoc, Grand River Anishinaabeg Community

Henry L. Negake, Grand River Bands of Ottawa Indians

Martin Reinhardt, Sault Ste. Marie Tribe of Chippewa  
Indians

Scott "Ossokeh Ninii" Wyzlic, Grand River Bands of Ottawa  
Indians

Lisa Wyzlic, Grand River Bands of Ottawa Indians

Nola Parkey, Burt Lake Band of Ottawa and Chippewa Indians

Don Parkey, Burt Lake Band of Ottawa and Chippewa Indians

## APPEARANCES (CONTINUED):

Reena Parkey King, Burt Lake Band of Ottawa and Chippewa  
Indians

Ken Parkey, Sr., Burt Lake Band of Ottawa and Chippewa  
Indians

Roy Parkey, Jr., Burt Lake Band of Ottawa and Chippewa  
Indians

Bruce R. Hamlin, Burt Lake Band of Ottawa and Chippewa  
Indians

Larraine Parkey Ostwald, Burt Lake Band of Ottawa and  
Chippewa Indians

Loretta Parkey, Burt Lake Band of Ottawa and Chippewa  
Indians

Phillip Cantu, Grand River Bands of Ottawa Indians

## REPORTED BY:

Kristine K. Grigsby, RPR,  
Certified Shorthand Reporter, #4834  
(231) 625-0095  
*kristinegrigsby70@gmail.com*

1 Petoskey, Michigan

2 Monday, July 29, 2013 - 9:04 a.m.

3

4 MR. MCNAMARA: Good morning. My name is  
5 Dexter McNamara. I'm the tribal chairman of Little  
6 Traverse Bay Bands of Odawa Indians, and I just want  
7 to welcome you all here to our reservation and our  
8 beautiful hotel. I hope your stay was great and your  
9 travels were safe getting here, of course, and -- and  
10 on the way back.

11 I just want to recognize the Department of the  
12 Interior. If you got on the Internet, like I did the  
13 other night, it was really funny because it said it is  
14 a department of everything, and I'm telling you, these  
15 people do a lot of work for the Department of the  
16 Interior and I really appreciate all of the work they  
17 do. But I have another appointment real quick like,  
18 and I just want to welcome you here and have a good  
19 class, whatever you -- seminar, whatever, and thank  
20 you very much for coming.

21 MR. ROBERTS: Thank you.

22 MR. MCNAMARA: Thanks, Larry, very much.

23 MR. ROBERTS: Yep. Thank you. Okay. Good  
24 morning, everyone. My name is Larry Roberts. I'm  
25 principal deputy assistant secretary for Indian

1 Affairs at the Department of the Interior. I want to  
2 thank the Little Traverse Bay Bands for having us here  
3 today for this tribal consultation and public meeting.

4 Before we get started and before we start with  
5 our introductions with our team here, I'm going to ask  
6 Frank Ettawageshik to say a few comments, if you  
7 would, please, just -- the chair -- he's the co-chair  
8 with the NCAI Task Force on Federal Acknowledgement,  
9 and so we've been coordinating with NCAI as part of  
10 our -- our role out of this and so we put the -- made  
11 the discussion draft available to the public. We had  
12 a meeting with NCAI and I'm going to ask him to say a  
13 few words. Thank you.

14 MR. ETTAWAGESHIK: Thanks, Larry. Good  
15 morning, everyone. This day has been a -- has  
16 certainly been a long time in coming. We've -- we've  
17 been working on -- on trying to make this federal  
18 recognition process a more fair process for -- for  
19 many, many years. When Little Traverse was in the  
20 process of -- was working through it, we felt that  
21 the -- that the regulations as they were written, as  
22 they were being enforced, we didn't feel comfortable  
23 with the way they were, and we wish that there were  
24 some changes.

25 We actually had a public hearing that was

1 before the House, that at the -- at this time it was  
2 back in '92, I believe, where we talked about the fact  
3 that the regs were not being utilized in the way that  
4 they had been written, and this was organized through  
5 the Confederated Historic Tribes of Michigan. We  
6 worked on this back at that time.

7 We've been talking now I think as I -- I  
8 attended a meeting when I was the chair here at Little  
9 Traverse a number of years ago in Fort Lauderdale, one  
10 of the NCAI meetings, and when I was there, they -- I  
11 walked in and sat in the back row, thought I'd just  
12 hang out a little bit and see what's going on at this  
13 meeting, and it was the Federal Recognition Task  
14 Force. And before I left that meeting, I'd been  
15 elected as the co-chair. I've been the co-chair ever  
16 since. And so I just dropped in to say hi and instead  
17 I ended up in a position and I'm still there.

18 As a federally recognized tribal member, I was  
19 the co-chair, and the other co-chair is a co-chair  
20 from one of the nonfederally recognized tribes. This  
21 task force meets at all of the NCAI meetings. We have  
22 a -- we have a pre-meeting meeting. Some of you here  
23 in this room have attended those meetings, but it's  
24 open to -- to every tribe that is seeking -- either is  
25 currently federally recognized or is in the process in

1       some manner or -- or other. And we have -- we  
2       discussed -- the purpose was to be informed for the  
3       discussion on how the changes -- how we thought  
4       this -- the process needs to be -- needs to be redone.

5               And in that length of time, I've testified  
6       before the Senate Select and the Senate Committee, the  
7       senate -- both the Senate Select Committee and the  
8       Senate Committee on Indian Affairs over the years on  
9       this process, most recently on the -- the issues  
10      related to -- to this -- the problems that tribes are  
11      having with the federal recognition process.

12             And so with all of that, the last several  
13      Assistant Secretaries of the Interior have been eager  
14      and interested in trying to find a way to change the  
15      regs but have been unable to get anything to the point  
16      where we're going to -- we're -- to get anything  
17      finalized enough for -- for discussion on them. There  
18      have been a few -- a few meetings. There have been  
19      several efforts to make drafts. There have been some  
20      drafts circulated by different people, but nothing  
21      actually got done until -- until Assistant Secretary  
22      Washburn came in along with Deputy Assistant Secretary  
23      Roberts, and we met with them at NCAI, actually before  
24      they had business cards, so -- and trying to make sure  
25      that we were high on their agenda, and we were ensured



1       that this process and the revision of this process  
2       would be -- would be high on the agenda, and they have  
3       followed through on that.

4               They even gave us a deadline when they were  
5       going to be done with the draft regs and they -- they  
6       made the deadline, which was -- I thought it would be  
7       great, but the fact that they made the deadline was  
8       really impressive. And so it's been -- we're really  
9       pleased that there's been so much effort put into --  
10      into these proposed changes in the regs and that  
11      these -- there is this series of consultations and  
12      meetings that will be collecting data.

13             I also was very, very impressed that they have  
14      a court reporter here to be recording and to pay  
15      attention to these. I've attended an awful lot of  
16      these meetings where we do a lot of talking and  
17      everybody's sitting up there listening, but I don't  
18      even see nobody taking notes, and so it's really --  
19      it's going to -- it's really important, I think, to  
20      see the -- and you're to be applauded for the  
21      attention you've paid to this issue and to actual --  
22      getting justice for all the tribes that have been in  
23      this process for so long and have had such a great  
24      burden before them.

25             As we've said, the application of the regs, if

1       you didn't know better, maybe you don't know better,  
2       every time somebody would get through this process,  
3       it's almost like the federal system said, "Oops, we  
4       didn't see that coming," and they'd draw the line and  
5       make it tougher. And so each time, things seem to  
6       have gotten tougher and tougher and tougher, and the  
7       amount of required data is getting bigger and bigger  
8       and bigger and the cost is so huge.

9               So these revisions will help address all of  
10       those issues and we're real pleased for that. And  
11       then speaking as the co-chair of the Federal  
12       Recognition Task Force of the National Congress of  
13       American Indians, I want to thank you for all of your  
14       efforts, and I hope things go well today. We'll be  
15       here through the day and I -- I'm glad that you're  
16       here and I hope you get a chance to enjoy this  
17       beautiful northern Michigan weather here.

18              MR. ROBERTS: Thank you. So I think what  
19       we'll do is introduce ourselves and then we have a  
20       smaller group, I'd like to just go around the room and  
21       have everybody introduce themselves. For purposes of  
22       the court reporter, I don't think we need to capture  
23       everyone's name. We'll just get it while we're  
24       speaking and that will save you some time in terms of  
25       names and spellings. But we do have a court reporter

1 in the room so that all of your comments will be made  
2 part of the record. We'll bring transcripts up on our  
3 web site as they come in so that -- we're having a  
4 series of public meetings and consultations, so that  
5 if you want to see what was said at the public meeting  
6 and the consultation in California, for example, that  
7 transcript will be available online for everyone to  
8 read.

9 So with that, my name is Larry Roberts. I'm a  
10 member of the Oneida Nation of Wisconsin and started  
11 as the -- with the Department of the Interior in  
12 September of last year.

13 MS. CHINN: My name is Katie Chinn. I'm a  
14 citizen of the Wyandotte Nation of Oklahoma. I work  
15 in the department in the Office of the Solicitor,  
16 Division of Indian Affairs.

17 MS. APPEL: Good morning, everyone. My name's  
18 Liz Appel. I'm with the Office of Regulatory Affairs  
19 & Collaborative Action, and we report to the Assistant  
20 Secretary for Indian Affairs.

21 MR. GOUZA: Good morning. I'm Terry Gouza  
22 from the Mackinac Bands of Chippewa & Ottawa Indians.

23 MR. STERK: Dick Sterk, Mackinac Bands.

24 MR. CAUSLEY: John Causley, Jr., Mackinac  
25 Band. Also chairman.

1 MR. BUCHANAN: Brian Buchanan, the principal  
2 chief for the Miami Nation of Indians of Indiana.

3 MR. PENDERGRASS: Clayton Pendergrass. I'm  
4 the spiritual leader for Miami Nation of Indians of  
5 Indiana.

6 MR. DUNNAGAN: John Dunnagan, vice chief of  
7 Miami Nations of Indians of Indiana.

8 MR. YOB: Ron Yob from -- the tribal chairman  
9 of Grand River Bands of Ottawa Indians.

10 MR. KEEDY: Jim Keedy, Michigan Indian Legal  
11 Services.

12 MS. COMPO: Fran Compo, vice chairman of the  
13 Grand River Bands of Ottawa Indians.

14 MS. PETE: Amanda Pete, Grand River.

15 MS. PICOC: Stephanie Picoc, Grand River Band  
16 of Anishinaabeg Community.

17 MS. CEPLINA: Lorraine Ceplina, Grand River  
18 Band of Anishinaabeg.

19 MR. CHAMPAGNE: Nitumigaabow Champagne. We're  
20 representing Grand River Band of Anishinaabeg  
21 Community in Wisconsin.

22 MR. COX: Ma-Chis Creek, Lower, Alabama.

23 MR. ROMANELLI: Larry Romanelli, Ogema for the  
24 Little River Band of Ottawa Indians.

25 MR. ETTAWAGESHIK: Frank Ettawageshik. I'm

1 executive director with the United Tribes of Michigan  
2 and the co-chair of the Federal Recognition Task Force  
3 for NCAI.

4 MR. JERRY GOULD: Jerry Gould, Swan Creek  
5 Black River.

6 MR. HAROLD GOULD: Harold Gould, Swan Creek  
7 Black River.

8 MR. KNOX: Elmer Knox, Grand River Band of  
9 Ottawa Indians.

10 MS. JENNIFER BEATTY: Jennifer Beatty,  
11 secretary for Grand River Bands of Ottawa Indians.

12 MR. LEWIS: George Lewis, tribal council  
13 member.

14 MS. PATSY BEATTY: Patsy Beatty, treasurer,  
15 Grand River Band of Ottawa Indians.

16 MR. ROBERTS: Okay. So what we've -- as  
17 probably all of you know, the morning session has been  
18 designated as a tribal consultation with federally  
19 recognized tribes. That's pursuant to the executive  
20 order that President Obama has issued for the  
21 department to consult with federally recognized  
22 tribes.

23 what we have done in both Oregon and  
24 California, we had situations where federally  
25 recognized tribes were in attendance and leaders of

1 nonfederally recognized tribes came to the morning  
2 session, and what we did is we just asked if there  
3 were any objections from the federally recognized  
4 tribes to having leadership from the nonfederally  
5 recognized tribes to be part of this tribal  
6 consultation, so -- and -- and if there are  
7 objections, I would -- I would hope that everyone who  
8 is not leadership from a federally recognized tribe  
9 would just respect that because we're doing -- we're  
10 essentially complying with the executive order and we  
11 do have an afternoon session and so we . . .

12 MR. ROMANELLI: Yes. As a leader of a  
13 federally recognized tribe, I have no objections.

14 MR. ROBERTS: Okay.

15 THE COURT REPORTER: I'm sorry. Your name,  
16 please?

17 MR. ROMANELLI: I'm Larry Romanelli from  
18 Little River Band of Ottawa Indians, and I'm just  
19 responding that I have no objections to those  
20 nonfederally recognized tribes being in attendance and  
21 speaking at the morning session.

22 MR. ROBERTS: Okay. Does anyone have any  
23 objections?

24 (Hand raised.)

25 MR. ROBERTS: You have a question. Okay.

1                   MR. YOB: The question is if we speak now, do  
2 we speak in the afternoon also or . . .

3                   MR. ROBERTS: We will -- we will keep the  
4 afternoon session open and we will have the afternoon  
5 session, so what has happened at other consultations  
6 is some members of the public or members of  
7 nonfederally recognized tribes have -- have attended  
8 at one o'clock, and so we will have both sessions, and  
9 the afternoon session is open to the public and so --  
10 so it -- are there -- are there any objections at all  
11 to moving forward?

12                  MR. YOB: So should we reserve our comments  
13 for that session or for -- or during --

14                  MR. ROBERTS: I think if there are no  
15 objections, you could -- you could make your comments  
16 at either this morning or the afternoon. I would just  
17 ask that we -- since this is a consultation with  
18 federally recognized tribes, that they be allowed an  
19 opportunity to provide their comments first. Okay.  
20 Is everyone all right?

21                         (No response.)

22                  MR. ROBERTS: Okay. What we're going to do  
23 is -- and -- and just for logistical purposes, we'll  
24 have a PowerPoint that we'll go through for about 20  
25 minutes, and the PowerPoint is the same in both

1 sessions, this morning and this afternoon, but it's to  
2 provide an overview of the regulations themselves. So  
3 you should have it in your -- in your materials. And  
4 are there -- are there any comments that leadership  
5 would like to make before we get started?

6 (No response.)

7 MR. ROBERTS: Okay. So just by way of -- of  
8 general background, we have -- as you all know, there  
9 are a number of ways in which a tribe can become  
10 federally recognized, through the Judicial Branch by  
11 court order, congressionally by legislation and then  
12 administratively. And one of the processes  
13 administratively is the Part 83 process that was  
14 promulgated in 1978.

15 UNIDENTIFIED SPEAKER: Larry, Hi.

16 MR. ROBERTS: Yes, sir.

17 UNIDENTIFIED SPEAKER: I have a question. And  
18 this is regarding the multi ways in which a tribe can  
19 be recognized. And the first one that you mentioned  
20 was judicially?

21 MR. ROBERTS: Right.

22 UNIDENTIFIED SPEAKER: Can you tell me -- give  
23 me an example what tribe is being federally recognized  
24 judicially?

25 MR. ROBERTS: Sure. I'll ask my trusty



1           solicitor for that.

2                   MS. CHINN: Do you want to repeat the question  
3           asked?

4                   MR. ROBERTS: The question was an example of a  
5           tribe that has been recognized through the judicial  
6           branch.

7                   MS. CHINN: I don't know any off the top of my  
8           head, but there are instances where tribes who are  
9           litigating with us, that they haven't been terminated,  
10          and sometimes in litigation we can resolve that.

11                   MR. ROBERTS: So it's something that we can --  
12          we can ask about. I know that there have been a  
13          number of cases where in California (inaudible) tribes  
14          and that litigation where tribes had sued the  
15          department essentially saying that we did not  
16          terminate them, and we entered into a settlement with  
17          those tribes and the Court affirmed that settlement,  
18          confirmed the settlement as part of a court order,  
19          so . . .

20                   UNIDENTIFIED SPEAKER: Because I'm not aware  
21          that any judicial court federally can recognize a  
22          tribe.

23                   MR. ROBERTS: Okay. well, for the -- maybe  
24          what we'll do is -- is note your -- your comment for  
25          the record that you're not aware of any court order

1       that's recognized a tribe and we'll respond to that as  
2       part of the rulemaking process when we go forward.

3               UNIDENTIFIED SPEAKER: The only exception  
4       might be, as the solicitor mentioned, is that had  
5       there been --

6               THE COURT REPORTER: I'm sorry. I can't hear  
7       him.

8               UNIDENTIFIED SPEAKER: That during the 1950s  
9       that a tribe had been terminated and then perhaps  
10      could they appeal through the court that it -- they  
11      might reinstate them through the judicial process, but  
12      that's the only one I'm aware of. Otherwise they're  
13      either going to be recognized legislatively by a bill  
14      or through the administrative process, what they --  
15      whatever they call it.

16              MR. ROBERTS: Okay. Well, I know that federal  
17      legislation has also noted that tribes can be  
18      recognized through the judicial branch as well, so  
19      (inaudible) so the amendments to promulgate the  
20      (inaudible) for Congress to essentially state that.  
21      But we will -- we will have an answer in the -- in the  
22      preambles to our proposed rule on that. We just --  
23      this is just a general overview of how tribes get  
24      recognized.

25              So prior to 1978, the department made these

1 determinations on a case-by-case basis for a group  
2 seeking federal acknowledgment. And then in 1978, we  
3 promulgated the Part 83 regulations to establish a  
4 uniform process. Those regulations were amended in  
5 1994, primarily to add a section on previous  
6 unambiguous federal acknowledgment. And then the  
7 department has issued guidance to the public,  
8 petitioners and the OFA staff in 2000, 2005 and 2008.

9 And so since the Part 83 process has been in  
10 place since 1978, 17 tribes have been recognized  
11 through that process. The other 549 tribes have not  
12 been recognized through the Part 83 process.

13 So why are we circulating the discussion draft  
14 today and why are we looking at improving the  
15 regulations? We've heard from a number of folks in  
16 Congress, from NCAI and others that the process is  
17 broken, concerns that it takes too long, that it's  
18 expensive, that it's unduly burdensome, that the  
19 criteria that we're utilizing is too subjective, that  
20 we should be using more objective criteria with clear  
21 benchmarks and that overall there are concerns about  
22 the transparency of the process.

23 So when Assistant Secretary Washburn and I  
24 started with the department last fall, this was --  
25 actually had been a process in the works to look at

1       how to improve the regulations for some time. So in  
2       2009, when Secretary Salazar joined the Department of  
3       the Interior, he testified before the Senate Committee  
4       on Indian Affairs and committed to -- to looking at  
5       the process and looking at how the process could be  
6       improved.

7               Later that year, in November of 2009, the  
8       department again testified before the Senate Committee  
9       on Indian affairs, and in that hearing the department  
10      committed to looking at how to eliminate unnecessary  
11      steps, taking a hard look at the actual standards  
12      themselves, committing to clear standards. And at  
13      that time, in 2009, the department said that they  
14      thought they could get a proposed rule out in one year  
15      and apply the rule a year after that.

16             So in 2010, there was a team of folks within  
17      the department looking at the regulations, looking at  
18      the national improvements.

19             In 2012, the department again testified before  
20      the Senate Committee on Indian Affairs, and at that  
21      hearing the department was asked why they were not  
22      meeting the -- the time lines that they had testified  
23      to in 2009. And at that 2012 hearing, the department  
24      identified sort of guiding principles or goals that  
25      they were trying to achieve in terms of improving the

1 process and -- and those goals are laid out right  
2 there.

3 In 2013, when the assistant secretary and I  
4 joined the department earlier this spring, we  
5 testified before the House Subcommittee on Indian  
6 Affairs. And at that hearing, we laid out that we had  
7 convened an internal workgroup comprised of the Office  
8 of Regulatory Affairs, the solicitor's office and  
9 folks within the assistant secretary's office to  
10 develop options on how to improve the process. And at  
11 that hearing, we testified in terms of the goal of  
12 putting out a discussion draft and how we were going  
13 to move forward with the process at that time.

14 And so essentially we circulated a discussion  
15 draft prior to any sort of proposed rulemaking to get  
16 maximum input from all of you, from federally  
17 recognized tribes and the public, before going on with  
18 any sort of proposed rulemaking because what we want  
19 are comments back from everyone on how to improve the  
20 process and what parts of the process should be  
21 changed.

22 So some of the major changes, and we'll --  
23 we'll talk about these in more detail, but some of the  
24 improvements that we've had is eliminating certain  
25 steps in the process, adding expedited negative

1       determinations and favorable determinations,  
2       attempting to clarify some of the criteria, providing  
3       for automatic final determination in some  
4       circumstances and asking the public in terms of who  
5       should -- who should be the final decision maker on  
6       these -- on these petitions and then also eliminate  
7       IBIA review.

8               So one of the first things we looked at in  
9       terms of improving the process was suggesting that we  
10      eliminate the letter of intent. The -- the letter of  
11      intent, while it serves a -- a function in terms of  
12      order, one of the petitions to be considered, the  
13      letter of intent itself is -- is just that, a simple  
14      letter. We may not get the petition for some time  
15      after that, and so the -- the discussion draft  
16      suggests starting the process when we actually get a  
17      petition from the petitioner.

18             The discussion draft also sets forth the  
19      framework for expedited negative findings and  
20      expedited favorable findings. And so what the  
21      discussion draft sets forth is that when the  
22      department would receive a petition, it would be  
23      immediately reviewed to see whether the petition  
24      satisfy criteria (e), descent from historical tribe,  
25      criteria (f), that the members are principally of

1 persons who are not members of an already federally  
2 recognized tribe, and (g), that the Congress has not  
3 basically forbidden a government-to-government  
4 relationship.

5 And so if a petitioner were not able to  
6 satisfy those three criteria at the outset, there  
7 would be an expedited negative determination within  
8 six months of active consideration.

9 If the petitioner were to satisfy those three  
10 criteria at the outset, then we have a -- a section  
11 that would provide for an expedited favorable  
12 determination.

13 If -- so if the petitioner asserted that they  
14 were eligible from these two criteria, it would -- it  
15 would move forward on an expedited favorable track,  
16 and that would be the criteria that the petitioner has  
17 maintained since 1934 a reservation recognized by the  
18 state and has continued to hold that reservation since  
19 1934 or if the United States has held land for the  
20 group at any time since 1934.

21 And so those are the two criteria that are in  
22 the discussion draft. If there are other criteria  
23 that should be considered as part of an expedited  
24 favorable finding or any criteria that, for whatever  
25 reason, these criteria are not appropriate for an

1 expedited favorable finding, we need comments from  
2 folks and feedback in terms of what we should be  
3 looking at.

4 Again, this would work in the -- in the same  
5 manner as expedited negative is that if one of these  
6 two criteria were met, then that discussion would be  
7 made within six months of beginning active  
8 consideration.

9 And if -- if the petitioner either doesn't  
10 assert that they satisfy these two criteria or the  
11 two -- these two criteria aren't met, that would  
12 proceed under the -- the full evaluation.

13 So in terms of adjustments of the criteria,  
14 the discussion draft suggests that the leading  
15 criteria (a), which is external observation of -- or  
16 observation of a group from an external entity, I  
17 think that the general thought there is that if a  
18 petitioner satisfies all of the other criteria, that  
19 just because someone wasn't -- a non-Indian entity was  
20 not there from 1900 to the present, that that doesn't  
21 mean that the group isn't a tribe.

22 In terms of the other criteria, criteria (b),  
23 we've changed the date to 1934 to reflect the change  
24 in federal policy from allotment and assimilation to  
25 tribal self-determination and promotion of tribal



1 self-determination for the enactment of the Indian  
2 Reorganization Act. We have left criterion (e) as it  
3 is, except that we've allowed an opportunity for  
4 expert testimony, historians' and anthropologists'  
5 conclusions to support descent from an historic tribe.

6 And then you'll see in the discussion draft  
7 itself there are a number of different placeholders,  
8 where we're asking for feedback on what percentage  
9 should be for a particular criteria. And we have --  
10 we purposefully haven't put a number in for those  
11 because we want feedback from the public as to what  
12 those numbers should be.

13 The discussion draft also provides for --  
14 allows for withdrawal of a -- of a petition. So if a  
15 petitioner, for whatever reason, decides that they  
16 want to withdraw, they could -- they could do so  
17 before a proposed finding is published.

18 And then if the petitioner withdraws before a  
19 proposed finding is published, then it would cease  
20 consideration.

21 But if the petition were resubmitted, it would  
22 go to essentially the end of the line, so we -- as  
23 many of you already know, we operate on generally a  
24 first-in/first-out basis and there are a lot of  
25 petitioners that are -- there's a handful of

1 petitioners in active right now that are actively  
2 being considered and then there are a number of  
3 petitioners that are ready and waiting to be  
4 considered.

5 And then the discussion draft also provides  
6 for an automatic final determination. If the proposed  
7 finding is favorable and there is no arguments or  
8 evidence in opposition to that favorable finding from  
9 either a federally recognized tribe within the state  
10 or the state, local governments where the petitioner's  
11 office is located, if there are no objections in  
12 opposition to that proposed favorable finding, it  
13 would just automatically go final, and that's  
14 something that -- for example, I know early on in the  
15 federal acknowledgment process, there were a number of  
16 petitioners who were -- received a proposed favorable  
17 finding and there were no comments in opposition and  
18 so that proposed favorable was just adopted as a final  
19 determination.

20 So one of the areas that we're seeking input  
21 from the public on is who should issue the final  
22 determination. Currently, both the preparers, the  
23 drafts which are approved and issued by the assistant  
24 secretary, both the proposed finding and the final  
25 determination, the discussion draft puts out a

1 slightly different approach so that essentially  
2 after -- it wouldn't change anything with the -- with  
3 the proposed finding, but once the proposed finding is  
4 issued, then the question becomes should it stay with  
5 the assistant secretary for the final determination or  
6 should it go to the Office of Hearings & Appeals. And  
7 the Office of Hearings & Appeals is an independent  
8 office within the Department of the Interior, and that  
9 is staffed by administrative law judges, and it would  
10 then essentially -- the discussion draft actually  
11 should then transition to the Office of Hearings &  
12 Appeals for essentially any comments in response to  
13 the proposed finding and then sending out an order  
14 where there may be an opportunity for a hearing. And  
15 then the Office of Hearings & Appeals would issue the  
16 final determination.

17 And so we're simply asking for comment upon  
18 whether that process -- who's the appropriate decision  
19 maker as part of these petitioners? Is it the  
20 assistant secretary or would it be better to have it  
21 with the Office of Hearings & Appeals?

22 One of the other revisions we've added to the  
23 process is that we're -- it's in the discussion draft,  
24 is suggesting deleting review from the Interior Board  
25 of Indian Appeals. That's a -- that's a section

1 within the Office of Hearings & Appeals that  
2 reviews -- generally reviews decisions made by  
3 regional directors.

4 As far as we know within the department, this  
5 is -- federal recognition decisions are the only  
6 decisions that are reviewed by the Interior Board of  
7 Indian Appeals, and those decisions are made by the  
8 assistant secretary. The assistant secretary's  
9 decisions are final for the department.

10 And so what this would provide essentially is  
11 anyone who wants to challenge the final determination  
12 would just go directly to federal court rather than  
13 going through the Interior Board of Indian Appeals.

14 We've gotten a lot of questions in terms of  
15 petitioners already in the process in terms of what --  
16 what rules will apply to petitioners if the  
17 regulations are changed. And so the discussion draft  
18 sets forth an option for them to go forward, but this  
19 is something that we would like feedback on as well.  
20 So the discussion draft has it whereas anyone who  
21 hasn't reached active consideration as of the  
22 effective date of the new version of the regs, they  
23 would be -- fall under the new version.

24 Anyone who's under active consideration would  
25 have a choice of whether to go under the new version

1 of the regs, whatever those would be, or -- or  
2 continue under the existing version.

3 And then this -- this discussion draft also  
4 provides a narrow opportunity for if the petitioner  
5 has been denied through the federal acknowledgment  
6 process, they can re-petition if they prove -- either  
7 the assistant secretary or the Office of Hearings &  
8 Appeals, whoever that decision maker is, if they  
9 prove by a preponderance of the evidence that the  
10 change from the previous version to the new version of  
11 the regs would warrant reversal upon determination  
12 that had already been issued.

13 We're seeking comment on -- on all parts of  
14 the Part 83 process and, more specifically, we're  
15 looking for any comments on the definitions, which  
16 definitions should be revised, how should they be  
17 revised, if any. Should we -- should the department  
18 put together a standard form of what a petition should  
19 look like that could be used as guidance for  
20 petitioners themselves? It wouldn't be a mandatory  
21 form. That's something that petitioners could look at  
22 and utilize as guidance as they're putting together  
23 their -- their petitions.

24 Again, as I mentioned earlier, we're looking  
25 at any input on objective criteria so that -- you

1 know, what percentage should comprise a distinct  
2 community? What percentage of marriages should be  
3 between group members? Some sort of objective  
4 criteria for community and for political authority so  
5 that both the petitioner and the public know that if  
6 they meet a certain threshold, that that specific  
7 criteria is satisfied. And this is just asking the  
8 questions for criteria (c) and (e) as well.

9 We're also asking for comment on page limits.  
10 So throughout the discussion draft you'll see that  
11 there are, again, a couple of Xs in terms of should we  
12 be imposing page limits on any petition. Not  
13 necessarily the underlying source documents, not the  
14 primary documents, but the petition itself. Should  
15 there be a page limitation? Should there be a page  
16 limitation on proposed findings? Should there be a  
17 page limitation in terms of response to comments and  
18 comments on the proposed finding? And, if so, if we  
19 have page limits, what should they be?

20 And so this is obviously just a discussion  
21 draft. We're asking that comments be received by  
22 August 16th. And so as the process moves forward,  
23 what we'll be doing is after August 16th, we'll look  
24 at the transcripts. We'll look at all of the written  
25 comments we've received. We'll look at those

1 internally and -- and move forward with a proposed  
2 rule based on all of the comments we've received.  
3 Once we've got a proposed rule, then essentially this  
4 process will start all over again. We will have  
5 tribal consultations, public meetings and have a  
6 comment period yet again. So we've already had  
7 some -- heard some people say, "well, August 16th  
8 is -- is too short a time and we're not going to have  
9 a chance to submit our comments," and I just want  
10 everyone to be aware that this is sort of an initial  
11 step even before the normal rulemaking process, and  
12 there's additional opportunities for comment once  
13 we've got a proposed rule.

14 And so with that, I will open it up to the  
15 floor. If folks could please use the microphone so  
16 everyone can hear you. Please state your first and  
17 last name so that the court reporter can get that on  
18 the record. And thank you for attending this morning.

19 MR. ETTAWAGESHIK: Hi. This is Frank  
20 Ettawageshik. I'm -- I wanted some clarification on  
21 the Office of Hearings & Appeals. One of the concerns  
22 that many of us have is the -- the -- the staff that  
23 currently is -- is -- is in the -- is in the Office of  
24 Federal Acknowledgment. There have been a lot of -- a  
25 lot of tribes feel that they have had some negative --

1 negative relationships with these folks, and this is  
2 very long-term career staff people that are in these  
3 positions. And when asked what we could do about  
4 that, we -- we have -- what we usually hear is we have  
5 to wait until they retire or until they die, and we  
6 have -- what I'm wondering about is if we change  
7 this -- the Office of Hearings & Appeals, how is --  
8 how is the staff selected from this office? And how  
9 often is it changed? Who -- you know, I want to be  
10 sure that if we -- if we are looking to this --  
11 looking to another office, at least, if that -- if  
12 there's -- and we don't run into a similar problem  
13 there. If the opponents of federally recognized,  
14 this process, get people instituted somehow in these  
15 official positions, would we run into the same kind of  
16 issue with that? So my question is, is that what is  
17 the -- how is this -- how is this office selected?  
18 How does it operate? Because I'm unfamiliar with that  
19 office, so . . .

20 MR. ROBERTS: Okay. Thank you for the  
21 question. I should -- I forgot to mention at the  
22 onset that the -- as part of our internal discussions,  
23 the Office of Federal Acknowledgment was -- was also  
24 involved in pulling together the options that were  
25 ultimately selected for the discussion draft, and so



1 I'm going to give sort of a very broad -- my general  
2 understanding of the Office of Hearings & Appeals, and  
3 I think Liz works quite a bit with them. Liz, if you  
4 want -- have anything to add, or, Katie, please do so.

5 But my understanding is that the Office of  
6 Hearings & Appeals is completely sort of independent  
7 from the department, and so they are administrative  
8 law judges that are -- are selected just through their  
9 credentials in terms of -- of being an ALJ. I don't  
10 know that they have any specialized expertise in  
11 Indian affairs itself. But it's different so that  
12 Office of Hearings & Appeals has a number of different  
13 branches.

14 One of the branches is the Interior Board of  
15 Indian Appeals, and that's -- that's where your  
16 petitions, if you're -- if you're going to -- if  
17 they're going to be appealed would normally go to and  
18 they have some expertise. This is -- when we're  
19 talking about the Office of Hearings & Appeals is a --  
20 is a different section that is staffed by neutral  
21 administrative law judges that routinely hear hearings  
22 and hold -- and hear evidence on -- on certain  
23 matters. And so they may not have a background in  
24 Indian affairs, but they're -- they're -- they handle  
25 lots of hearings for the department itself and are

1 independent. So, Liz, I don't know if you have  
2 anything to add.

3 MS. APPEL: I think that's generally right.

4 MR. ROBERTS: Okay.

5 MS. APPEL: Uh-huh.

6 MR. HAROLD GOULD: My name is Harold Gould.  
7 would -- would -- this administrative law group would  
8 be also handling your final determination if there was  
9 any objections to -- it talks about the possibility of  
10 going into the court system, handling -- handling any  
11 objections to your recognition process. would that be  
12 the -- the judges that would be hearing that or -- or  
13 was this going just to the general court?

14 MR. ROBERTS: So the discussion draft, as it  
15 looks right now, it would -- once the proposed finding  
16 is issued, if -- if the public thinks that the Office  
17 of Hearings & Appeals is a good idea and the  
18 department thinks that, what -- what would happen,  
19 then, is that the petition process would essentially  
20 transfer over to the Office of Hearings & Appeals once  
21 a proposed finding is issued, and then it would be up  
22 to the Office of Hearings & Appeals to handle if there  
23 are, let's say, comments objecting to the proposed  
24 finding.

25 There might be an opportunity -- it would be

1 up to the Office of Hearings & Appeals to hold -- they  
2 could hold a hearing that would allow for  
3 cross-examination of various folks to get additional  
4 evidence and then that -- that administrative law  
5 judge would then look at all of the information  
6 received in response to the proposed finding, and  
7 maybe that's a hearing, and then the administrative  
8 law judge would make a final determination for the  
9 department.

10 MR. HAROLD GOULD: Would there also be -- an  
11 appeal process be --

12 MR. ROBERTS: Yes. And so once -- so that  
13 would be the final decision for the department. And  
14 then what would happen is if someone was -- still  
15 wanted to challenge whatever decision that was, they  
16 would then file litigation in federal court.

17 MR. HAROLD GOULD: So all this time, then, if  
18 a person goes through the process, is accepted by the  
19 process, then object, if it goes into the court  
20 system, then that could drag on for another ten years  
21 through appeals?

22 MR. ROBERTS: Yes. That's -- that's the way  
23 our process generally works, whether it's federal  
24 acknowledgment or any decision that the department  
25 makes, we're always subject to suit in federal court.

1                   MR. ETTAWAGESHIK: I have another on -- my  
2                   question is definitions on the standard form. One of  
3                   the issues that -- that so many of the comments have  
4                   been in problems with the regs is that they -- they  
5                   really don't deal with regional differences and the --  
6                   something that's really dangerous is once you have a  
7                   form and something called a standard form, unless it's  
8                   really specific, that that is only a guideline and  
9                   that they're a -- you know, it -- it's -- we run the  
10                  risk of having the standard form -- anything that  
11                  doesn't fit on the form somehow not being considered,  
12                  and I know that there -- there are so many different  
13                  issues regionally that differ from one petitioner to  
14                  another, that -- the idea of the standard form is  
15                  probably not a bad idea, but I'm really concerned that  
16                  when it be presented that it clearly not become the  
17                  only form and that there be room for dealing with  
18                  regional differences. Maybe there's a -- maybe  
19                  there's a -- something on the standard form that  
20                  addresses regional differences, for instance, so --  
21                  but that would be a comment on that standard form.

22                 MR. ROBERTS: Thank you.

23                 MR. CHAMPAGNE: Good morning. Nitumigaabow  
24                 (inaudible). Champagne is the last name. I guess,  
25                 you know, we're sitting here. We traveled from

1 wisconsin this morning and we got here quite early,  
2 three or four o'clock in the morning, and so I  
3 apologize if I seem a little groggy. But I guess, you  
4 know, when we look at this, this is really good news  
5 for our community. Our community is Grand River Band  
6 of Anishinaabeg Community of Wisconsin. And so while  
7 a lot of us have been not federally recognized, you  
8 know, my grandfather always used to say, you know,  
9 "We're Grand River. We're Grand River." And I see  
10 some of my brothers here from probably lower parts of  
11 the state from Grand River. Also Mr. Romanelli  
12 representing the other Grand River Band. And you kind  
13 of look at anything, well, how does it all play in?  
14 The government made the agreements, the treaties with  
15 our people throughout the entire history. And, you  
16 know, when they came in, the last treaty being 1855,  
17 they never established a reservation. It never  
18 existed. And so, you know, our families who used to  
19 live here in northern Michigan, they ended up moving.  
20 And that was by government policies that we move.  
21 They offered financial incentives and relocated, and  
22 we kind of took our journey and we ended up in  
23 Wisconsin. And so we settled there in our own  
24 distinct Indian community.

25 But these new regulations in 1934 helps a lot

1       for our people because we knew we were always Odawa  
2       people. We've always considered ourselves to be  
3       Anishinaabeg, but we've never seen any of the same  
4       benefits. When we needed services, tribes like Lac du  
5       Flambeau and Watersmeet, they were nice enough to help  
6       us out and help our people. But if you don't  
7       understand the -- the meaning when you're not  
8       recognized, what does that mean for your people?

9               So a lot of our people were part of the  
10       Northern Michigan Ottawa Association. My grandmother  
11       here, she was part of that. And when we got  
12       recognized, they were going through the reaffirmation  
13       process. Not all of our communities got recognized.  
14       Little Traverse Bay Band, Little River Band, a few  
15       others, but we did. And so our members, while we  
16       could enroll in multiple different bands, it's not a  
17       relationship of our community. That's not who we are.

18              The BIA has had dealings with our community  
19       since then, whether it's the Urban Indian Relocation  
20       Program, when they moved us to urban centers, when  
21       they did their allotments, those all happened there in  
22       Wisconsin. Distinct. The feds came in. It wasn't  
23       until 1999 that they removed us from our land, where  
24       my grandmother's father sat and our people lived. But  
25       they said you can still maintain it and use it for

1           whatever purposes you want.

2                       So when I look at these regulations, the 1934,  
3           we -- we meet all those requirements, passed IRA. We  
4           petitioned for the Indian Reorganization Act and it  
5           didn't go through. But when I look here and it says,  
6           "Its members do not maintain a bilateral political  
7           relationship with the acknowledged tribe," what does  
8           that mean? I think I know what the government means.  
9           It means you can't be recognized. Your members can't  
10          belong to anywhere else. That's a hard thing for a  
11          person, an Indian person. That means if your members  
12          choose not to be part of anywhere else, even though  
13          that's not their community, they can't get services  
14          through Indian Health Services. They can't receive  
15          education services. They can't go through BIE school.  
16          They're denied everything.

17                      And we understand it's part of a unique  
18          political relationship. Our community has had that  
19          with the Bureau of Indian Affairs. The agent used to  
20          come down all the time. And when I look at that,  
21          that's an area that I oppose, because I think you may  
22          be eligible for multiple bands, and I know a lot of  
23          people from Grand River down here could enroll in  
24          other bands, too, but that's not their community.  
25          That's not where their grandparents were. That's not

1        what they identify as home. And it's not what the  
2        government made agreements with us as. And so when I  
3        look at that, I have concern over that.

4                I also look at some of the definitions that  
5        you're asking for us to comment on. What percentage  
6        should comprise a distinct community? What percentage  
7        should reside in a geographic area? What percentage  
8        of marriages should be between group members? What  
9        percentage should maintain distinct cultural patterns?  
10       I see one of those that are more from an Indian  
11       perspective. Who we are as Indian. That's what I  
12       took that last question to mean. It's our community  
13       who identifies what our cultural patterns are, what  
14       our ceremonies are.

15               When I look at the rest, it looks like more  
16       barriers for bands to overcome. Because to be able to  
17       say the geographic region, we know now American Indian  
18       population, there's more in the urban center than in  
19       rural, according to the last census.

20               We also then don't take into account the  
21       Indian Urban Relocation Act, government policies that  
22       moved us from our rural areas to assimilate us in.  
23       All these government policies were established for  
24       assimilation or extermination. I used to always  
25       believe it was to have that American melting pot.



1                   An elder told me -- I gave a presentation  
2                   once, and he said, "You know what?" He goes, "You  
3                   almost had it right. You did all the different  
4                   government policies towards our people, whether it's  
5                   boarding schools" -- my grandma went to boarding  
6                   school. "Whether it's removal. Whether it's urban --  
7                   Indian Urban Relocation Act." He goes, "But you  
8                   messed up on one. The government only had one policy  
9                   and that was the extermination of our people." And I  
10                  think that's what we're talking about here.

11                 We have to jump through so many hoops for a  
12                 chance to be able to be recognized by a government who  
13                 doesn't want us to be recognized. And I think when we  
14                 look at that, we need to realize why -- what are --  
15                 what is the purpose of those barriers?

16                 Because if the government made relationships  
17                 with the Indian community, that's the unique political  
18                 body. The rest of it is filler. And I think the -- I  
19                 agree with where you mentioned, has the government  
20                 identified reservation, why it's held land.

21                 In our community we can say yes, the  
22                 government has held the land for our community. Those  
23                 are unique government relationships. The rest is  
24                 filler, and I would hope that those barriers would go.  
25                 Miigwetch.

1                   MR. CAUSLEY: My name is John Causley. I am  
2 chairman of the Mackinac Band, which is a nonfederally  
3 recognized tribe at this time. First of all, I'd like  
4 to say miigwetch to the tribal representatives that  
5 are here today of recognized tribes. You allow us to  
6 speak.

7                   We've been in existence and are trying to  
8 receive federal acknowledgment since 1973. We've run  
9 into some very technical issues in our -- our quest to  
10 become federally recognized. One is, which is the  
11 biggest right now, we cannot receive technical  
12 assistance because we -- our organization is trying to  
13 receive federal acknowledgment, because there's more  
14 than one group involved, has taken over some of what  
15 we started out, so they went into the same name,  
16 Mackinac Band, but they formed their own government,  
17 per se, their own council.

18                  And when I did the letter of intent in 1998, I  
19 was the petitioner of 186. Now we've got three groups  
20 out there that say we're 186. But we weren't allowed  
21 to say nothing legally to try to support our issues or  
22 somebody make a decision to say that we are 186. And  
23 we're running into that issue now with people coming  
24 in and doing this and taking over some of our control  
25 from different councils representing themselves as

1 Mackinac Band to receive grants and things like that.

2 My question, I guess, basically: Is there  
3 some way we could legally -- that BIA or the  
4 government make a decision on is our story true or  
5 their story true to show that we are 186? They've  
6 used our logo. They've used our identity to slow  
7 processes down.

8 One of the processes that we were going to do  
9 in 2002 and that was get legal services and technical  
10 assistance from the Michigan Indian Legal Service and  
11 Jim Keedy, but because we're -- now that more than one  
12 group's involved and there is discussion of battling  
13 going on because of it, we don't get those services  
14 and we're really running into an issue with that. But  
15 we're looking for some guidance on how we're going to  
16 be able to solve that issue.

17 MR. ROBERTS: I would -- I think all -- in all  
18 fairness, we will have a talk during our break and get  
19 more information on your specific situation. I'm not  
20 up to speed on that, but I'd like to get more  
21 information about it. And, you know, in terms of what  
22 I would ask in terms of comments on the discussion  
23 draft, you've -- you know, you're living through this  
24 situation right now. How can we -- how can we address  
25 that so that it doesn't happen in the future?

1 MR. CAUSLEY: Miigwetch.

2 MR. BUCHANAN: My name is Chief Brian  
3 Buchanan, chief for the Miami Nation of Indiana. In  
4 1854 the tribe was recognized. Forty years later it  
5 was illegally taken by an opinion by General Willis  
6 Van Devanter of the BIA. And from that point on, we  
7 have been unacknowledged at this -- at that situation.

8 The tribe has been through all the petition  
9 processes. We have been through the appeals process.  
10 It has been admitted that what they've done to us was  
11 wrong. As individuals, we are all recognized. We've  
12 all received paychecks from the federal government.  
13 And I'll tell you that right now seeing something like  
14 this has -- has brightened our -- we've been through  
15 every avenue other than the congressional. And  
16 without state support, as we all know the politics,  
17 that will go nowhere in Congress.

18 And I have a question specifically is some of  
19 this automatic final determination, if you have some  
20 type of a wall that comes up against the tribe that's  
21 from state or local government, how much bearing --  
22 how does the -- how does the department -- or the  
23 appeals -- how do they address that? What do they --  
24 is there -- is there another opinion that will be  
25 taken into consideration what happened to us in 1897?

1       How -- I guess how critical is it that the state and  
2       local governments -- because right now the local  
3       governments, we have every major city in the state of  
4       Indiana that has entered into a proclamation with the  
5       tribe on a government-to-government relationship,  
6       including the city of Indianapolis.

7               Two-thirds of the state of the towns and  
8       cities and county seats have done also the same, but  
9       when it comes to statewide, we always run up against a  
10      brick wall. And -- and how important is that to BIA  
11      and -- and how do they determine this? Is this going  
12      to be another -- you know, another option or  
13      opportunity for them to make an opinion?

14             MR. ROBERTS: Yeah. So the -- the discussion  
15      draft, and that's what we're seeking comment upon in  
16      terms of, you know, how do we improve the discussion  
17      draft, right? These are just ideas that were put out  
18      there to generate comments. And so right now the  
19      discussion draft essentially provides if you don't --  
20      if you don't have anyone, either a state or local  
21      government objecting, affirmatively objecting or  
22      questioning the proposed finding, then it will go  
23      automatic final. So it's not written in a way where  
24      state and local governments have to affirmatively  
25      support. They have to object. But as it's written

1 now, if a state would object, then it would go through  
2 the normal process of after a proposed finding, we'd  
3 look at the objections, we'd look at the responses  
4 from the petitioner and then we would make a final  
5 determination based on the evidence that was part of  
6 the objection.

7 MR. BUCHANAN: And the reason why I ask that  
8 question is in our appeal, it was admitted that what  
9 was done to us was -- was wrong. The statute of  
10 limitations was a hundred years ago, so it is what it  
11 is. Is that going to take the same type of note when  
12 we would go into this? I mean, who knows?

13 MR. ROBERTS: Yeah. I -- I don't know. And,  
14 you know, in fairness, it's a discussion draft. The  
15 discussion draft could change radically based on the  
16 comments that we receive and internally how we're  
17 looking at it in terms of -- so this is an opportunity  
18 for everyone to say, you know, we think that these  
19 criteria should be changed. Like the earlier comment  
20 was basically saying, I think, you know, for criteria  
21 (b), community, these -- we should be using a large  
22 majority of these because they're not reflective of  
23 the history of the United States Indian policy.

24 what we need is comments in terms of what the  
25 objective criteria should be and how the process

1       should -- should move forward in those situations. So  
2       we're sort of starting on, for lack of a better word,  
3       sort of a blank slate, but we're trying to get  
4       comments in and then we'll move forward.

5               MR. BUCHANAN: All the criteria that we were  
6       denied under this petition process was tribal  
7       abandonment. And during those periods of world war I  
8       and II, when we weren't having meetings every month  
9       or -- you know, when (inaudible) is in a reservation,  
10      which we didn't. Our men were over fighting for our  
11      country and so it wasn't sufficient. It doesn't mean  
12      it wasn't there. It just wasn't -- in their behalf,  
13      in their eyes, it wasn't good enough for them, so  
14      that's why I was asking.

15             I want to say on behalf of the Miami Nation as  
16      written, those issues have been addressed and we fully  
17      support this and we thank you.

18             MR. COX: Aho. My name is Eric Cox. Ma-Chis  
19      Creek from Alabama, Lower Creek. I was called to come  
20      up and make a presence. I didn't know if I could come  
21      here, so I do thank the federally recognized tribes  
22      that have allowed me to be here. I'll tell you a  
23      little bit about myself. I'm a retired Marine with 26  
24      years, plus-years service. What I do now is I go into  
25      five prisons and I work with the natives there. So

1       that's kind of why I snuck in here so I can give some  
2       information to the brothers that are there. I work  
3       with them and all their ceremonies there.

4               I come to you today to thank you for your  
5       service in the interior, each one of you. That's a  
6       tough job. I don't know of the total details in  
7       regards to our fight back in 1970 till today. But  
8       this is what I say: I come to you in a humble way and  
9       ask you for a hand up, not a handout. I ask you to  
10      help us to clear away the injustice to our ancestors  
11      and help us to give these blessings to our great,  
12      great grandchildren that I'll never see. I'd like to  
13      be looked upon as one of the ancestors who done the  
14      right thing.

15             MR. YOB: Hello. I was going to speak this  
16      afternoon, but I guess I should. Maybe anyone that's  
17      here, though, I'll say it again. Okay. First, we  
18      want to thank you for the opportunity to present the  
19      views of the Grand River Bands of Ottawa Indians --  
20      Ron Yob with the Grand River Bands of Ottawa Indians,  
21      by the way -- on this first draft of what we hope will  
22      be new regulations to govern the process by which  
23      Indian groups are recognized.

24             we believe the concepts outlined in the draft  
25      are long overdue and we applaud the determination of



1 the bureau to -- in their efforts to bring fairness  
2 and certainty to this recognition process.

3 By way of background, our tribe, the Grand  
4 River Bands of Ottawa Indians, have been in this  
5 process since 1994, when our tribal leaders agreed to  
6 seek federal reaffirmation of our status.

7 We filed our original documented petition in  
8 2000, which was composed of 21 Bankers Boxes of  
9 papers, three copies of every document. We received a  
10 technical assistance letter in 2005 and provided the  
11 additional information to the BIA. Shortly  
12 thereafter, we filed our final additions to the  
13 document in 2006. We were the -- we were actually the  
14 first tribe to submit our entire final petition in  
15 digital form, which after -- it cost us a bunch of  
16 bucks to do that, and after we filed it, the bureau  
17 changed the format, so it didn't matter what we did  
18 because they changed the format on us, you know. But,  
19 anyway, that's something else.

20 We were placed on ready-for-active list in  
21 March of 2007, and we're still there six years later.  
22 We've been on the ready list since 2003.

23 And then at the beginning of last year,  
24 another group kind of jumped us, just by some crazy  
25 thing, you know. We were kind of sitting there

1 waiting and waiting and all of a sudden a tribe from  
2 nowhere jumps us, you know.

3 we know you're sadly overworked, but we  
4 believe we had the right to expect to be placed on the  
5 active list before now. There's still no definite  
6 date when our petition will begin that two-year  
7 process. The two-year process is subject to long  
8 delays with many extensions permitted by both the  
9 tribe and the OFA.

10 It will be at least two years before the draft  
11 regulations will become final and our concern is how  
12 our petition will be treated in the meantime. Will  
13 OFA continue to process existing petitions under the  
14 existing rules? We believe we meet all the current  
15 mandatory criteria, even the -- even if the draft  
16 regulations were finalized as they're written now. If  
17 they were finalized like that, our task would have  
18 been much easier, so we -- we were grateful for that.  
19 We spent 20 years doing something, but we'll still  
20 take (inaudible) if we can take it.

21 Grand River is a treaty tribe. Many of our  
22 members trace our ancestry to the signers of the 1855  
23 treaty, amongst other treaties. In 2006, which was  
24 150 years to the date, we actually brought the  
25 original document to Grand Rapids where it was --

1        where it was signed along the river. It was about 150  
2        years to the date in the exact place where -- where  
3        the sig -- the signing was. It happens my  
4        great-great-great-great-grandfather -- four  
5        great-grandfathers was one of the signatories for that  
6        treaty. And if we look at that, that's four  
7        great-grandfathers, a grandfather, my mother and me,  
8        which makes me the seventh generation of that  
9        signatory, you know, and I -- I really feel that some  
10       of the things that were in that signatory -- in that  
11       treaty were -- were written for our generation now,  
12       you know.

13                One of the things this fellow mentioned here  
14       was -- was the -- the guy from Indianapolis, about  
15       how -- about meeting and -- and breaking up and stuff.  
16       If you look in Article 5 of our treaty, it talks about  
17       how -- that the government will not -- will not bring  
18       our tribe back together except maybe in small groups  
19       when -- when needed, you know. Look up Article  
20       5 sometime and interpret that, you know, of the 1855  
21       treaty.

22                Several provisions deserve some special  
23       mention, especially the use of the year 1934 as the  
24       new proposed date from which cohesive self-governing  
25       tribe must present certain evidence. We also like the

1 expedited review provisions. For legitimate tribes  
2 like us, it would speed the process up so the staff  
3 can spend their time on the more troublesome tribes,  
4 you know.

5 We do have some questions about the process  
6 during this transition period and hopefully they can  
7 be made clearer. Under proposed Section 83.3(g), if  
8 Grand River is not yet on the active list when the  
9 proposed regulations are finalized, we would be  
10 required to proceed under the new regulations. The  
11 regulations do not make it clear that we will maintain  
12 our position in the list of tribes that -- in the  
13 order that were taken. You know, it took us a long  
14 time. We're, I believe, number three on the ready  
15 list now and I'd hate to get stuck in the big general  
16 pool with everybody again after spending 20 years to  
17 get where we're at, you know.

18 We also need to reco -- we also recommend  
19 revisions to clarify the process and order of  
20 processing petitions that are under the mandated  
21 criteria or the expedited review or even under the  
22 rules governing the previous federal acknowledgment.  
23 We are unsure how these will be handled and in what  
24 order. We are confident that Grand River will succeed  
25 in each of these categories and would like to have the

1 assistance of the department and the regulations to  
2 know which option is best.

3 We -- we can't -- like we just got a letter to  
4 make a suggestion by the end of this month if we want  
5 to have our petition suspended or go by the new rules,  
6 but we don't even know the new rules yet, so how can  
7 we make a statement that we want to -- we can't -- you  
8 know, it's like do you want to play in this ball game  
9 here, but we're not going to tell you the rules until  
10 after you start playing, you know. I mean, so that's  
11 what's kind of, you know . . .

12 MR. ROBERTS: Yeah. I -- I appreciate those  
13 comments. I -- a couple of things. One is we don't  
14 know how long this process is -- is going to take.  
15 All right? So generally speaking, just the rulemaking  
16 process in general, it usually takes about two years  
17 from start to finish. That's just -- that's just a  
18 ballpark general. That's not specific to Part 83.  
19 This could take a shorter period of time. It could  
20 take a longer period of time. It really depends on  
21 the number of comments we get and just internally how  
22 -- how quickly we can look at those comments and  
23 decide how to move forward.

24 And so the -- the letter that you mentioned  
25 earlier about asking -- we sent the letter to those

1 petitioners that are either under active consideration  
2 or ready and waiting to be considered. And the idea,  
3 the concept of that letter was just to say to those  
4 petitioners in those two categories, hey, if you want  
5 us to suspend your petition right now -- well, hey,  
6 we're going through this rulemaking process. It could  
7 impact your petition once it gets filed. If you want  
8 to suspend, that's up to you. Please let us know  
9 essentially as soon as possible.

10 And so I think that the date that was in those  
11 letters is -- is going to pass this week essentially.  
12 But what we've been telling petitioners who've made  
13 the very fair point that you've made, which is, "Hey,  
14 how can you ask us to suspend something when you're  
15 not telling us what the new rules are going to be?",  
16 so that date isn't like a -- a date where you're not  
17 going to be able to suspend later on if you want to do  
18 so because of the regulations. It was more a way of  
19 the department saying, look, if, for whatever  
20 reason -- we're going through this process. For  
21 whatever reason, if you want to suspend while we're  
22 going through this process, let us know as soon as  
23 possible because there may be other petitioners that  
24 will continue to work on that; they don't want to  
25 suspend while we're going through this rulemaking

1 process.

2 And so it was really a way for us internally  
3 to allocate resources in case -- the last thing we  
4 wanted was a petitioner coming to us somewhere down  
5 the road and saying, hey, you didn't tell us about  
6 this rulemaking process and we would have wanted to  
7 suspend our application while you're going through  
8 that. It was more of here's what we're doing. Please  
9 let us know at your earliest convenience if you want  
10 to suspend. And so if you don't want to suspend,  
11 that's -- that's completely up to the petitioner, and  
12 we're going to keep moving forward, the Office of  
13 Federal Acknowledgment, and so -- but that won't  
14 preclude you from, let's say, a year from now if  
15 you're not under active consideration, let's say, and  
16 you want to suspend or if you're in active  
17 consideration, depending on how the department deals  
18 with that, you'll still have that opportunity,  
19 so . . .

20 MR. YOB: Can I continue?

21 MR. ROBERTS: Uh-huh.

22 MR. YOB: Okay. We also believe that some  
23 words and phrases that are used throughout the current  
24 regulations and the proposed regulations are too  
25 subjective, leaving the interpretation to the whim of

1 the reviewer. We hope that they address some of these  
2 either by elimination or definition. For -- for  
3 example, reasonable likelihood, sufficient, strong  
4 influence, significant, minimal, preponderance,  
5 substantial and the like. We understand that the  
6 people in the field of humanities are not necessarily  
7 legally trained and perhaps additional guidance might  
8 be given to them of some sort.

9 And that -- just finally -- I'll shut up here  
10 in a second.

11 MR. ROBERTS: Yeah. That's fine.

12 MR. YOB: At the current rate of making final  
13 determinations, we think this could last us for  
14 another hundred years and that if that was to happen  
15 our -- it would be hard for our tribe to survive as a  
16 distinct cultural and political entity unless we start  
17 beginning to soon receive like educational things.

18 Like, for instance, in Michigan here there's a  
19 Michigan Indian Tuition Waiver, you know, and they cut  
20 off the nonfederally recognized tribes. Dale Kildee,  
21 our -- our former congressman here, he -- I asked him  
22 about that and he -- he was visibly upset. And his  
23 first comment was that we wrote that tuition waiver  
24 for Indians, not tribes, you know. And so what they  
25 did was they cut out -- you know, at one point we were



1 the same -- same as everybody else and that was  
2 before -- when that waiver was written, there wasn't  
3 federally recognized tribes in Michigan. Maybe Sault  
4 Ste. Marie, but the other tribes weren't -- were not  
5 at that point at the stage yet, you know, but it kind  
6 of cut our -- it's -- it's making our tribe go  
7 extinct, you know, so -- is basically what it's doing.

8 Along with preservation assistance, health  
9 care, housing benefits, it's causing us to lose  
10 members because, of course, we -- our own members, the  
11 adults are staying with us, but their -- their  
12 children are going -- signing with the federally  
13 recognized tribes because they can get tuition paid  
14 for -- for higher education, you know, so it's taken  
15 our membership down. It's caused -- the -- the length  
16 of this process is causing us to -- causing tension  
17 between our tribes, you know. They're trying to  
18 invade our territories. You know, they're trying to  
19 leave their own territories to come in our areas,  
20 which we -- which we -- like I told you, I've got --  
21 I'm a seventh generation right where I'm from and --  
22 and people are trying to come in from outside to take  
23 over, you know. I mean, it's -- it's really  
24 ridiculous for us, you know, when you see it from the  
25 inside like that.

1                   We're unable to participate in any  
2           discussions, for instance, treaty rights, fishing  
3           issues, things like that. We're totally blocked out  
4           of those things.

5                   If you were to follow the evolution of tribes  
6           from precontact to -- to European contact to United  
7           States government to treaties, you'd find that our  
8           people in Michigan all follow the same path, the same  
9           evolution, and we were all one group of people, you  
10          know. And then once recognition came, it -- it  
11          just -- our evolution stopped and everybody else went  
12          up.

13                   I mean, I can still remember going to some of  
14          these tribes and they still had little offices about  
15          the size of that little corner there and the people  
16          lived in dirt floors and tar paper shacks, you know,  
17          and our people aren't much further than that right  
18          now. You know what I mean? Everybody else started  
19          evolving with the federal assistance and ours just is  
20          deteriorating, you know. It -- we were -- we were --  
21          and I've said this several times. If we were like an  
22          exotic butterfly or a snail darter or some exotic  
23          animal, you know, there'd be all these tree-hugger  
24          people that would be trying to preserve us, you know,  
25          because they see that we've got a generation of people

1           that are leaving.

2                   There's an effort in Grand Rapids right now to  
3           put sturgeon back in the river. And one thing the  
4           biologists from Little River commented about is the  
5           sturgeon are better -- they found that the sturgeon  
6           have a higher and higher survival rate if they're from  
7           the actual gene pool that come from that river and not  
8           from another state or another part of the country.  
9           It's the same with our people, you know. We've --  
10          we've lived there, our people are buried there, you  
11          know. Even though we can't do repatriation, we do it  
12          anyway. You know what I mean? You know, because if  
13          someone brings your remains back, you're going to take  
14          care of them, you know.

15                  You know, it -- it just seems sad to me that a  
16          process that is (inaudible) and several times, but  
17          (inaudible) is broken, you know. And I've never heard  
18          anybody compliment the process, you know.

19                  And I've been a hunter my whole life, you  
20          know, and if I see something that was broken and  
21          wasn't doing well, I would probably put it out of its  
22          misery, you know. And -- and this is probably what I  
23          know you guys are trying to do and I want to thank you  
24          for your efforts to, you know, make this more of a  
25          right thing, you know. Miigwetch.

1                   MR. ROBERTS: Thank you. We have heard other  
2 people say that. We shouldn't have a process that  
3 takes generations to get an answer.

4                   MR. CHAMPAGNE: I'll just thank you,  
5 Miigwetch, because those are the same things our  
6 grandparents said. We're both Grand River. We call  
7 ourself Anishinaabeg. There's no difference. All the  
8 bands in Michigan are Anishinaabeg. We're the same  
9 people. But when the government came, they made these  
10 separate treaties and broke us up in each individual  
11 little community.

12                  You know, we hear your struggle because we --  
13 that's why I pointed out that section before. It's  
14 the same issue. For us to be able to get anything,  
15 whether it's health care or education, whether it's  
16 stop being arrested for invoking our treaty rights, it  
17 has to go to federal recognition. You know, none of  
18 these bands were recognized for a long time. '94 was  
19 when Little River and Little Traverse all started to  
20 come about through legislation. And so when I hear  
21 your words, it resonates because our poor community is  
22 still -- you know, my grandmother grew up with no  
23 running water, no electricity, tar paper shack. Our  
24 families live like that and that's okay because we're  
25 strong within.

1                   When I went around to our elders this year and  
2 I met with them all back home in Wisconsin, they said,  
3 "You know, we just want our community to be home.  
4 wouldn't it be great for that land to be given back to  
5 us that they -- that they're holding for us? wouldn't  
6 it be great for our community to be vibrant again?"  
7 You know, those are the words I heard from my elders.

8                   And that's why when I read through this, we  
9 had a new sense of hope because there's a hope that  
10 our community will be recognized for who we are.

11                  You know, when we moved to Wisconsin, it was  
12 by government policy, and we are one of the  
13 signatories on the 1855 treaty. We're Grand River  
14 people also. It doesn't mean we're identical, same  
15 community. Our relatives knew each other. You know,  
16 we know each other, but we're not the same. And the  
17 process -- I used to hear my grandpa always tell me,  
18 "Oh. wait till that Indian money comes." He used to  
19 always laugh. And because -- they laugh because they  
20 knew they would be passed on. They knew they wouldn't  
21 be walking in this world anymore because they said  
22 that's what they were told, "wait until your Indian  
23 money comes. We're all going to be very rich."

24                  That day has come and gone and we still live  
25 in squabble. The United States government doesn't

1       really care. They only care when there's an issue,  
2       then they come and intervene in our community.  
3       Otherwise they leave us alone. And when I look at  
4       that, you know, going back even from the (inaudible)  
5       with Northern Ott -- with Northern Michigan Ottawa  
6       Association, we participate in that. They came over  
7       to Wisconsin. They met. My grandmother hosted it.  
8       Because they recognized that was a distinct Indian  
9       community also, different from the ones here, that  
10      they were their relatives but were separate. And so  
11      when I look at that, that doesn't -- the federal  
12      government doesn't understand that. They want to lump  
13      you all into one single category and that's not how it  
14      works because we have had our meetings, our own  
15      political bodies and we continue on that.

16               And it's hard to stress such a great  
17      importance to understand that your community is  
18      vibrant. When they came around and they did  
19      allotments, they gave us -- we were one of the few  
20      areas in Wisconsin that actually had an allotment that  
21      was not affiliated with the tribe. That's unique to  
22      our area and they still hold that land. It's a  
23      federal forest or whatever they have. And I look at  
24      that and I think how many more generations.

25               My uncle (inaudible) said, "You go ahead and

1       you go over and talk to those people." He can't be  
2       here today. He's too old. He's -- he's not in good  
3       health. And he said, "You go talk to those people and  
4       bring back." And he kind of laughs and he goes,  
5       "Maybe there might be a hope, huh, that we could --  
6       that could go through? I'll be long dead, though."

7               And I laughed and I said, "I probably will be,  
8       too."

9               So even an old man knows that the system's  
10       geared against our communities, and it's not whether  
11       or not one has a right or the other one doesn't have a  
12       right. It's whether or not that we had  
13       government-to-government relationships with the United  
14       States and going off of that. And, you know, and I  
15       worry because, I'll put the elephant in the room,  
16       there's some federally recognized bands who don't want  
17       to see us recognized. They'll pay their lobbyist to  
18       lobby against it. That's not the Anishinaabeg way.  
19       That's -- we're supposed to be looking after each  
20       other and never harm another. But because of the days  
21       of casinos or what have you, that's all that's on  
22       people's mind. That's not what's on our mind. We're  
23       poor now, we'll be poor after, and we'll -- you know,  
24       we can accept that. But we're rich with our family  
25       and our heritage and our traditions. Miigwetch.

1 MR. ETTAWAGESHIK: Frank Ettawageshik again.

2 I was -- have some questions about comments on the --  
3 on the percentages, for instance, and the percentage  
4 of marriages should be between group members. One of  
5 the things that happens with -- with many of our --  
6 our tribes is that we're relatively small compared to  
7 very large, you know, multiple thousands of members,  
8 say, you know, 20,000, 60,000, these larger groups.  
9 And when you have the smaller tribes, well, we find  
10 we're related to everybody, and so we often have a  
11 very difficult time finding a mate that's with --  
12 that's part of our own -- in our own tribal community,  
13 so we generally go just outside that.

14 And so I think when you look at percentages  
15 between group members, you have to take into  
16 consideration that -- that culturally we may be  
17 politically independent, but we're not necessarily  
18 culturally independent. We're part of large cultures.  
19 And with the boarding schools and other things that  
20 have happened, we've -- we've actually formed many  
21 strong pair bonds between -- between members of our --  
22 our citizens and citizens in other -- of other tribal  
23 nations. So I think that if you look at that and  
24 you're thinking of percentages of marriages, you have  
25 to take into consideration marriages with other



1 Indians, with other citizens of other tribes, and not  
2 count that against a group, because actually, you  
3 know, that's part of our tradition.

4 In the old days we used to go on rave parties  
5 to get our wives in other places. It was -- it was  
6 part of the system, you know, and we -- but in these  
7 days, those rave things are called going to college  
8 or -- or other things of this sort where we send our  
9 young people out with each other in organizations. So  
10 I think that that's got to be considered. So just a  
11 percentage saying this percentage of -- of people are  
12 marrying from within this petitioning group, that's --  
13 it's a dangerous thing to do that. You need to  
14 certainly look at that in a broader sense.

15 So the -- and cultural patterns be clarified.  
16 That's -- that's also a very difficult thing. Here at  
17 Little Traverse, we have -- you know, we successfully  
18 made it through legislation back in 1994, as has been  
19 mentioned previous -- by one of the previous speakers,  
20 but it -- in -- you know, in our case, we have -- we  
21 have some of our tribal citizens that have been --  
22 they have been Christian and Catholic since the 1600s,  
23 their families consistently all the way through have  
24 been that. So what is a traditional culture? There's  
25 items that are -- it's going to be really difficult to

1       define this.

2               The other thing that is difficult to define in  
3       this case is that any living culture evolves and  
4       changes over time, so you can't find a fixed point and  
5       say, how do we measure against that? Are we -- are we  
6       cultural because we're somehow less than this point,  
7       say, a 100 years ago, if -- you know, if we use that  
8       as a way of determining what -- what true culture is.  
9       So the cultural -- it's going to be really difficult  
10      to do that, and I don't really know how to approach  
11      that other than to -- to be aware that -- that we  
12      evolve.

13              I know that, you know, my friend Charlie Hill  
14      once did a little thing that was very informative on  
15      this. I want to borrow it from him for -- for this.  
16      I told him a couple months ago that I do this every  
17      now and then. But he says, "You know that they call  
18      the Indian the vanishing American." He said, "You  
19      know, I got up this morning and I said -- I looked in  
20      the mirror," and he said, "I felt pretty good, you  
21      know." And he said, "But I got to thinking, when --  
22      when was the last time that you ever saw a pilgrim?"

23              The idea being, of course, that people don't  
24      expect the descendents of pilgrims to walk around  
25      looking like pilgrims like we think of. But, yet,

1        somehow people think the descendents of our -- of our  
2        ancestors of that same time period, that we somehow  
3        look less than that. We're less of an Indian. Or if  
4        we dress differently or if our occupation has changed  
5        or if -- all these different things. You know, we, as  
6        a living people, have evolved with times. And I think  
7        that that's something that has to be looked at in  
8        here.

9                    So any -- any definition, it's really  
10       dangerous to try to pin a particular definition of  
11       culture down and then measure people against that as a  
12       part of the criteria. So I would -- I want -- I just  
13       wanted to comment on that, that I think there are some  
14       issues with that, and if that's going to be done, that  
15       it be done in -- in a way that will encompass the  
16       evolution of the living cultures that our tribes are.

17                   The next comment I have is on the question on  
18       page limits. The -- I guess what I'm -- I'd like to  
19       hear the -- the rationale for the idea of proposing  
20       page limits. I think from a tribal point of view, you  
21       know, our -- I know Grand Traverse Band, when they  
22       submitted their petition, it was about this thick  
23       (indicating). I think a single box of Bankers Boxes  
24       of documents. And then the Shinnecock, when they were  
25       going through, told me they had 160,000 documents and

1       it took a whole truck to haul them there. And the  
2       regulations hadn't changed, only the way they were  
3       looked at. And I know that this attempt is an attempt  
4       to -- to try to streamline that process, and we  
5       certainly appreciate it, but I'd like to know what the  
6       thought of the -- the limit of petition -- or the  
7       limit of page numbers are, because for those people  
8       who are petitioning, it's their only shot and they've  
9       got to really make it work, and so that's why I think  
10      that they -- as people have been less and less  
11      successful, they've been more and more wanting to make  
12      sure that they didn't run into problems and trying to  
13      provide more documentation. In some cases, that  
14      documentation has been asked for by the department,  
15      and in other cases it's -- it's just being done out of  
16      a sense of self-preservation on the part of the  
17      petitioner. So I'd just like to hear a little  
18      discussion about that -- why the -- the proposal for  
19      limiting the pages is.

20               MR. ROBERTS: Okay. So the -- the page limits  
21      itself, what we put out there, it wouldn't apply to  
22      the underlying source documents. So a petitioner has  
23      100,000 pages of source documents that they want to  
24      provide to the department, the -- the rule doesn't  
25      preclude that at all.

1                   what we're proposing in terms of page limits  
2           is should there be a page limit on the petition  
3           describing what the petitioner -- how -- how that  
4           petitioner satisfies all the different criteria?  
5           Maybe there shouldn't be a page limit on a petition.  
6           Should there be a page limit on proposed findings so  
7           that it's more readable for the petitioner and for the  
8           public in terms of, you know, everyone can more easily  
9           go through an 80-page document than a thousand-page  
10          document, and so should the department propose page  
11          limits on ourselves? And, you know, maybe it's just  
12          a -- a side effect of having a legal background, but,  
13          you know, typically when attorneys file briefs they  
14          have a page limit, otherwise the pages would go on  
15          forever, right?

16                   And so -- so it's just a question in terms of  
17          would that be useful to the process, and I think maybe  
18          there are certain parts of the process that deserve  
19          page limits and other parts of the process that  
20          shouldn't be limited by pages, so it's something that  
21          we then kick around internally and want to get public  
22          feedback on it.

23                   MR. ROMANELLI: Hi. Larry Romanelli, Little  
24          River Band of Ottawa Indians, Ogema. I just wanted to  
25          say it appears that I'm the only leader of a federally

1 recognized tribe of Michigan in attendance right at  
2 the moment, and I just want to say that I -- I did  
3 welcome the communication with all nonfederally  
4 recognized tribes and people that are going through  
5 federal recognition because I believe they have the  
6 right to speak and I believe I want to listen to this.

7 I want to say that I appreciate the years of  
8 work that have been going on with this -- this issue  
9 because I think it's very important to all of the  
10 people in the room here and to the Indian nations. I  
11 also want to say that I appreciate the -- this  
12 consultation. It appears that at least locally within  
13 Michigan the tribes are having an issue with state  
14 consultation, what they call consultation, which seems  
15 to happen after the fact sometimes, so I do appreciate  
16 this and that you're going around and gathering as  
17 much information as possible. Miigwetch.

18 MR. YOB: Ron Yob, Grand River. I want to  
19 comment on something Frank brought up about the  
20 culture -- the percentage of cultural patterns and the  
21 marriage as well. In our teachings we were taught to  
22 marry outside of the clan, for one thing, so that's  
23 not (inaudible) amongst your tribe. Even though  
24 you -- for instance, I -- I could -- I could be in  
25 Saginaw Chippewa, I could be in Little Traverse, I

1       could be in Little River, but why would I go, you  
2       know, 200 miles away from my home to be in a tribe,  
3       you know, for one thing? Our culture itself holds  
4       that you marry outside the clan because -- like what  
5       this statement does, it almost promotes inbreeding,  
6       you know. You know, stay in your community and that  
7       ain't going to happen, you know. Our people don't --  
8       don't live that way, you know.

9               The -- and the other thing is -- and -- and I  
10       don't know. I can't speak for any other Indian  
11       community, but there's probably a very high percentage  
12       of natives in our community that aren't married but  
13       they've been living together for 20, 30, 40 years and  
14       they just -- they might get married in a traditional  
15       sense, but they don't -- because of the mistrust in  
16       any kind of government issues, whether they be local  
17       or federal or whatever, they're not going to --  
18       they're not going to sign these documents, you know.  
19       They just -- they're -- I grew up a little different  
20       than some of these people because I'm a little older  
21       than some, but we were taught not -- not to get  
22       involved with those things and don't -- you know,  
23       because then all of a sudden you're part of their  
24       system and then you're part of their regulations and  
25       then so are -- in our -- in our community, there's --

1 I don't want to give a percentage because I don't know  
2 how I'd base it, but there's a high, high percentage  
3 of spouses that are happily married and have kids and  
4 went -- you know, they're (inaudible) generations and  
5 they ain't never gotten married, you know, so  
6 they're -- so you're going to -- that issue might be  
7 tweaked somehow, you know. I don't know how.

8 MR. ROBERTS: So -- so both of the comments  
9 raise the challenge that we have basically with these  
10 regulations, which is -- what I'm hearing from folks  
11 is that some of the objective or could be objective  
12 criteria probably aren't appropriate objective  
13 criteria, right? But if we just take those and put  
14 those aside, what do we replace them with because  
15 otherwise they're -- they're subjective then, right?

16 I mean, we've heard from groups that we want  
17 more objective to be in the process, not -- not  
18 more subject -- not -- not -- you don't want the  
19 criteria to be subjective, right, and so I -- I  
20 understand what you're saying about, you know, tribes  
21 are evolving and, you know, some of these criteria  
22 probably don't reflect modern life, right? So what  
23 should the criteria be and how -- how can we make them  
24 objective so that every petitioner, when they're going  
25 through the process, they know that they either have



1 or haven't satisfied with the criteria? So I thank  
2 you for your comments and any comments in terms of  
3 what we should be using for objective criteria is --  
4 is greatly appreciated.

5 MR. YOB: Got tough, tough decisions to make.  
6 One of the things we do within our own tribe, though,  
7 is our enrollment and membership denotes where their  
8 nativeness comes from and then -- and so we separate  
9 it to a certain point that they have to track through  
10 our -- the -- for instance, the -- and this is -- I'm  
11 being fictitious here. But suppose a native in our  
12 community could be one-eighth Grand River, for  
13 instance. You know, they're descendents in Grand  
14 River or whatever. And then the other seven-eighths  
15 could be Little Traverse, Sag Chipp, you know, Grand  
16 Traverse, but the whole constitutes a hundred percent  
17 Indian blood, so by them living in our community  
18 they -- they want to become members of where they  
19 live, you know, even though -- even though the highest  
20 percentage could be other ways. You know, we don't  
21 ask them for marriage licenses or anything, we just  
22 ask them for their -- for their certification of who  
23 they descend from, you know.

24 MR. ROBERTS: Yeah.

25 MR. YOB: Thank you.

1                   MR. ETTAWAGESHIK: And I'm not -- on the issue  
2 of cultural, I guess it wasn't saying -- I wasn't  
3 saying that we need to remove that as a criteria.  
4 What I'm saying is we need to be careful how it's  
5 applied and that -- that -- you know, the cultural  
6 practices should be looked at, but that if they're not  
7 the same today as they were a hundred years ago, it  
8 doesn't mean that they don't exist basically is what  
9 I'm -- what I'm saying. You know, in the case of  
10 naming ceremony, for instance, (inaudible) naming  
11 ceremony that I know of. I've been to -- I've been to  
12 so many naming ceremonies and I don't know that I've  
13 ever been to any two that are done exactly the same.  
14 They're a little bit different. Even the same person  
15 does them a little bit differently from time to time.

16                   And so if you're trying to set a standard,  
17 here's what it is and anything less than this,  
18 anything different than this is somehow less true I  
19 think is -- it's one of the -- one of the issues that  
20 we have often when being looked at by the -- by social  
21 scientists who study us as opposed to those of us who  
22 live -- with whom are living our culture, and there  
23 are -- you know, we've all run into this where I've  
24 been in ceremonies where a visitor will stand up and  
25 say, "well, aren't you supposed to do it like this?"

1                   "well, wait a second," you know. "We're doing  
2 this. Watch what we're doing and see how we do it.  
3 Don't try and tell us how somebody in a book did it 25  
4 years ago."

5                   And we actually have people who do that to us.  
6 And so, you know, that's part of our -- our concern  
7 about this -- about this process is that often we feel  
8 that the -- the recognition process has been staffed  
9 by people often who are holding us to some sort of  
10 criteria that is different than -- than -- than who  
11 we -- than -- than -- it's sort of an unrealistic  
12 idealized standard, and we're concerned about that.  
13 Because as everybody knows, a living culture  
14 constantly is -- is evolving and that's what we think  
15 that we are. So that was my concern about that  
16 cultural standard and just that it not be at a fixed  
17 -- a fixed point in time, but it -- but then I think  
18 the idea that there be, you know, a showing of  
19 continuity and spiritual practices and continuity of  
20 social interactions and feasts and other types of  
21 interactions in the community, I think those are  
22 really important that show that the existence of -- of  
23 a tribal -- a tribal entity.

24                   MR. KNOX: My name is Elmer Knox, Grand River  
25 Bands, council member. I think you've classified

1 tribes and bands together, and they're not, as you've  
2 seen here. Three different Grand River Bands have  
3 different opinions. My thing is, we were not a tribe.  
4 The Ottawas were not a tribe. Treaty of 1836, in  
5 order to get this treaty signed, they banded them all  
6 together and they said you all speak the same  
7 language, you're Ottawas. I have one friend whose  
8 father was born Chippewa and died Ottawa because of  
9 this. So there's a lot to it. You have to take these  
10 as bands and not as tribes; on -- on the Ottawas, at  
11 least. Because if you look at the treaties, it's very  
12 plain right there. It's always plural, Grand River  
13 Bands of Ottawa Indians. Thank you.

14 MR. CHAMPAGNE: I think what that gentleman is  
15 saying is a hundred percent correct. When we look  
16 at -- you know, that goes to the other comment about  
17 the marriages, and our bands are very small versus  
18 like a nation, Ho-Chunk Nation or Navajo Nation.  
19 we're comprised of a couple thousand members, you  
20 know, versus 30,000 members like tribes out west, and  
21 each individual community has their own way of  
22 handling their business. And each one of our  
23 communities sent a signatory and, you know -- and  
24 that's one of the things that we relied off each  
25 other, we traded together. But when we start looking

1 and wanting to put percentages and define to a  
2 percentage, I get leery of that because that's usually  
3 a tool, mechanism to weed out and, you know, to say  
4 what percentage resides in a geographic area.

5 So our whole community is located in northern  
6 Wisconsin. But with the Indian Urban Relocation Act,  
7 some went to Cleveland, a lot went to Milwaukee, so we  
8 have a major population in Milwaukee which holds  
9 political meetings in conjoint with us. We're all the  
10 same people and we all are on the same page, but we  
11 have two now different communities, not by design but  
12 through government policy, and so we're hesitant of  
13 that.

14 And then if you trace back to the treaties,  
15 our home communities would be along the Grand River,  
16 you know. And so whether -- my grandmother's mother  
17 was born in -- in -- right in Manistique and, you  
18 know, but that was over a hundred years ago and our  
19 community has since existed in Wisconsin, also by  
20 government policy, though.

21 You know, these policies were designed to  
22 split us up. And maybe it was designed for good  
23 purposes, maybe it was for economic reasons. I'm not  
24 sure. I wasn't there. But what I do know is that I  
25 know where we came from, what we consider home.

1                   When you say intermarry, we don't marry inside  
2                   our own clan. But with a thousand members, like  
3                   someone else mentioned, it's a limited people. A lot  
4                   of people intermarry. We're surrounded by two other  
5                   bands, two tribes, Ojibwe, which are also Anishinaabeg  
6                   Band. Not much different. You know intermarrying  
7                   occurs there, and so we intermarry as a form of  
8                   survival, you know, as you would. And I think when  
9                   the government wants to put a percentage and to say,  
10                  oh, you're only one-quarter Grand River and you're  
11                  really -- maybe my dad's white, so you're half-white  
12                  and -- and it goes on. And I think it's what you  
13                  identify and your community identifies, you know, as  
14                  being part of that community. And when I look at our  
15                  community, we know we're vibrant, we know we exist, we  
16                  know we belong and we know our children belong. See  
17                  one of our young youth here right now. And our  
18                  daughter, she wanted to know what's going on. She  
19                  unfortunately had to work. But they come because they  
20                  want to know what to carry on, and that shows you  
21                  right there a community. Your children are  
22                  participating. They know what the vision of their  
23                  community is. They want to see it happen also.  
24                  Miigwetch.

25                   MS. BEATTY: Hello. I'm Jennifer Beatty. I

1 am a tribal council member of the Grand River Bands of  
2 Ottawas in Grand Rapids.

3 I just -- I appreciate the process that is  
4 getting revised because I am now 40, but I'm probably  
5 one of -- I'm one of the two youngest members on our  
6 tribal council and I just -- from personal history,  
7 I -- my mom joined the tribal council in '94, and they  
8 filed a petition and she's been on that tribal  
9 council, and I hear from her despair in her voice  
10 because she's afraid this process of recognition isn't  
11 going to come before she passes on because she heard  
12 the same stories and I've heard the same stories from  
13 my grandmother, who was part of Northern Michigan  
14 Ottawa Association and went to those meetings in Sault  
15 Ste. Marie to find out the stuff that was going on in  
16 the Indian community.

17 Those communities do exist and we're still  
18 trying to maintain them, but I agree with them that we  
19 have to be careful how we reference those things  
20 because, even in my generation -- myself as an  
21 example, I'm not married, but I do have a son who is  
22 very in touch with his culture, participates in the  
23 powwows, understands the ceremonies and the beliefs.  
24 But I can see other kids that have more blood quantum  
25 that receive benefits from other tribes and have no

1 understanding of their cultural relevance, so there  
2 has to be a lot of leeway in there. But I appreciate  
3 that it's getting simplified, that they've added the  
4 expedited part in the petition, and I just hope it  
5 helps the other tribes out. Thank you.

6 MS. COMPO: Hello. My name is Fran Compo, and  
7 I'm a member of the Grand River Bands of Ottawa  
8 Indians. I'm actually a grandmother. I have a new  
9 grandchild that was born on the 4th of July making  
10 that my 17th grandchild. And one of the things that's  
11 happened within my own family is I am half Little  
12 Traverse Bay Band of Odawa Indians. Frank is my  
13 cousin. I could belong to this tribe and -- but my  
14 parents -- I was born and raised in Grand Rapids,  
15 Michigan, and I don't know why, but my parents raised  
16 me to be Grand River Bands of Ottawa Indians. I  
17 raised my children to be Grand River Band of Ottawa  
18 Indians. And when my daughter was attending college,  
19 she come to me and she says, "Mom, I just found out  
20 that if I joined grandma's tribe, Little Traverse Bay  
21 Band, they will help me with my college education and  
22 I won't have to be so far in debt with all these  
23 government loans I'm having to get. They'll help me  
24 pay for my books." And she did that. So now she is  
25 living in -- up here in Petoskey, has joined Little



1 Traverse Bay Band and she is now having children that  
2 are Little Traverse Bay Band children.

3 So our tribe is slowly, slowly, with probably  
4 one of the largest tribes in lower Michigan at one  
5 time, is slowly -- slowly our members are having to  
6 join other tribes that they can just for the benefits  
7 that our tribe can't provide them. Even though we do  
8 what we can as a tribal council, it's very limited  
9 resources out there for us.

10 And I can remember my parents, when I was  
11 little, taking me to all the NMOA meetings, the  
12 Northern Michigan Ottawa Association meetings around  
13 the state, and my grandparents would be there, and  
14 everybody would be going to the Indian meeting. And I  
15 liked to go because I was just a kid and I got to go  
16 outside and see all my cousins and play and see  
17 people, kids that I hadn't seen in a long time, and I  
18 never realized how important those meetings were, why  
19 those people were getting together and what they were  
20 fighting for.

21 But as I got older, I started -- you know, and  
22 especially when my daughter's coming to me and saying,  
23 "You know, we're not having any of these benefits.  
24 What's going on?" well, I've maintained Grand River  
25 Band of Ottawa Indians. I still live there. I intend

1 to die there. But my grandchildren, most of them  
2 are -- have now become Little Traverse Bay Band of  
3 Odawa Indians because of the benefits they can  
4 receive. I also have a few Pokagon Potawatomi  
5 members, but -- but otherwise the majority of my  
6 grandchildren are turning to the federally recognized  
7 tribe because of the benefits they can receive.

8 And I think back to my dad when he was alive,  
9 and he was glad that I had started down this route for  
10 recognition, but he didn't believe it would ever  
11 happen and he did die. And I'm afraid that the same  
12 thing's going to happen to me; I'm going to die before  
13 I see this tribe recognized. But I do appreciate that  
14 you are trying to make it a simpler process and I wish  
15 you well. Thank you.

16 UNIDENTIFIED SPEAKER: Aho.

17 MR. ETTAWAGESHIK: This is Frank Ettawageshik.  
18 And I -- I've acknowledged the comments of my -- my  
19 cousin and are -- we are in this -- around the state,  
20 we're all related to each other from -- from band to  
21 band and tribe to tribe, and so many of us could be  
22 members of several different tribes.

23 In fact, during the hearing for our  
24 legislation for Little Traverse and Little River back  
25 in -- I think it was in '9 -- '93, one of the --

1       Congressman Campbell at the time indicated that he had  
2       constituents who were full-blood Indians but didn't  
3       have enough blood quantum to be a member of any one  
4       tribe, but they were full-blood Indians, and that  
5       because of all this interrelationship and everything,  
6       that that's -- that's the kind of problems that --  
7       that many of us have had because of relocation or  
8       because of the boarding school process or because of  
9       just the fact that we have difficulty in marrying our  
10      own cousins and so we often go to other tribes and so  
11      our descendents end up having pretty mixed blood  
12      quantums. And so, anyway, I just wanted to  
13      acknowledge that.

14               And then as a specific comment, very much I'm  
15      in favor of the date 1934 being used. And I think  
16      that that's a -- that's a significant step in this  
17      process, is to -- is to use that new date as the -- as  
18      the basis.

19               However, one of the things I'm concerned about  
20      is to make sure that that's fully documented in the  
21      preamble. It's fully documented why that date was  
22      chosen. And the reason is, is because I think in this  
23      room you'll find that everybody's -- everybody's  
24      speaking in favor and likes the fact that they're  
25      wanting to fix the process and make sure that the

1 process works better, but there are many people around  
2 the country who would like to see the process be even  
3 harder and more difficult and would not want to see  
4 something changed. In fact, there have been articles  
5 out in the newspapers out East that with these new  
6 changes there'll be a flood of new casinos happening  
7 throughout New England, and it will really make a mess  
8 of things, and so, you know, they're not in favor of  
9 these proposed changes.

10 And I think that this -- one of the criteria  
11 that this may get -- may get attacked is the picking  
12 of that date, 1934, so I think it's really important  
13 to fully document that and to explain that -- that in  
14 the -- in these -- in these regs so that the -- to  
15 help make this less able to be attacked.

16 MR. ROBERTS: I think what we'll do is --  
17 we'll take a ten-minute break for folks. One of the  
18 things that I've heard about throughout a number of  
19 different speakers this morning is that, you know, one  
20 of the -- one of the criteria that's existing that we  
21 haven't proposed to change at all is criteria (f),  
22 which is membership principally of persons who are not  
23 members of another acknowledged tribe, and so I think  
24 it's helpful to have the comments that we've had  
25 today, but I think it's also helpful for you to submit

1 written comments as part of our commentary on what  
2 that criteria should be or how it should be adjusted  
3 at all.

4 So with that, let's take a ten-minute break.  
5 we'll come back at about 11:10. Thanks.

6 (A recess was taken from 11:02 a.m. to  
7 11:20 a.m.)

8 MR. ROBERTS: Okay. We're going to go ahead  
9 and get started again. If there are any additional  
10 comments for folks before -- before the lunch break,  
11 I'm happy to take additional comments or questions and  
12 then we'll -- we'll break for lunch and reconvene at  
13 one o'clock, so we'll just turn the floor over to all  
14 of you.

15 MR. HAROLD GOULD: Hello. Good morning.  
16 Harold Gould, Swan Creek Black River. I was concerned  
17 on your definition of geographic areas and if -- you  
18 know, if this will stay consistent from east to west,  
19 a geographic area, because, you know, a lot of times  
20 in Washington, at the bureau, that they seem to think  
21 that -- they understand that the automobile is going  
22 to (inaudible) and the telephone and things like that,  
23 which will greatly expand our geographic area and they  
24 seem to think we should (inaudible) communities. I  
25 think, you know, that we're not Amish, so, you know,

1 we do drive autos, and our geographic area has  
2 expanded. Do they take that into consideration? Is  
3 there a difference between out west where the  
4 geographic areas are much larger and back East where  
5 they're smaller? I'm kind of confused at what,  
6 exactly, is the size of a geographic area.

7 MR. ROBERTS: Yeah. I -- I don't -- I don't  
8 know off the top of my head how that's treated and,  
9 you know, it's something that I'm willing to take a  
10 look at in terms of whether -- what you're saying,  
11 whether it should be looked at regionally, whether it  
12 should be looked at just in terms of modern day  
13 technology, that sort of thing, so . . .

14 MR. KNOX: Elmer Knox, Grand River. On this  
15 geographical part, my wife and I are amateur  
16 genealogists. And up until 1941, when the war  
17 started, you could find your natives gathered in one  
18 spot. After 1941, all the industry was opening up,  
19 fellows going off to war, everything changed, so . . .

20 MR. ROBERTS: So -- so one question to  
21 consider, then, is based on -- on that comment, should  
22 the criteria change based on time periods that we're  
23 looking at? It's just a question for the group.

24 MR. KNOX: Yeah. You'd have to base it on the  
25 time period now. Because, actually, from the tribe, I

1 live 100 miles and I have to drive 100 miles to  
2 meetings. But I was the only one -- our family was  
3 the only family in Ann Arbor, Michigan at the time.  
4 My mother was an interpreter for U of M because of the  
5 depression area. The natives coming down were mostly  
6 on welfare and a lot of them couldn't speak English,  
7 so my mother was an interpreter for them. That's how  
8 I got my cultural background, because every time when  
9 family came in and explained things to me, I had to  
10 learn our traditions that way.

11 MR. ETTAWAGESHIK: This is Frank Ettawageshik.  
12 Another thing to consider is that with the modern  
13 roads and with cars that get good gas mileage and, you  
14 know, that we don't think as much of traveling further  
15 distances. But another thing to consider when looking  
16 at community is the fact that so many of us are --  
17 the -- we're connected through the Internet, through  
18 cyberspace, through Facebook pages and through web  
19 sites, online language courses and cultural courses  
20 and all sorts of different things that -- you know, as  
21 just an example, that -- that I will say for Little  
22 Traverse as a federally recognized tribe. Through our  
23 records department and our education records, we have  
24 resources online that our tribal citizens utilize  
25 wherever they live in the world, and we have some

1 tribal citizens in Germany. We have a significant  
2 group of citizens that live in California. And then  
3 in all of the major urban cities as people talk about  
4 (inaudible) relocation.

5 And in many cases, people have a very strong  
6 tie to the community through either driving back for  
7 feasts and -- and events or for a connection through  
8 the Internet. And so perhaps another way of looking  
9 at the -- not just geographic location, but, you know,  
10 activity might be looking at -- at the use of modern  
11 technology in terms of communication.

12 For instance, many tribal councils have --  
13 either have or consider putting tribal council  
14 meetings live stream on the web so that people will be  
15 able to participate in the political process without  
16 having to be right in a small geographic area, so  
17 this -- we want to look at that idea of geographic  
18 location not just in terms of -- look at in terms of  
19 modern technology as well. Thanks.

20 MR. ROBERTS: Are there any -- this is a  
21 question for the group. Are there any federally  
22 recognized tribes or nonfederally recognized tribes  
23 that define their membership by geographical  
24 proximity?

25 MR. HAROLD GOULD: I'm aware that -- I'm a



1 member of the Saginaw Chippewa tribe also, and they  
2 have three geographic areas and three districts and  
3 that's how they identify their membership is through  
4 screening out different distinct areas. One is called  
5 a large group, which covers all -- virtually the  
6 world, and -- and then they have a small satellite  
7 reservation, Saganing, and then there's District 1,  
8 which is the residential reservation or the historic  
9 reservation around Mt. Pleasant and this is all  
10 basic -- that -- all services are provided according  
11 to the -- to their geographic area, too. You know,  
12 the people in District 1, the Mt. Pleasant reservation  
13 receives more services than the large group or even  
14 District 2, which is Saganing.

15 MR. ETTAWAGESHIK: I don't know of any that --  
16 that -- at least not in the Midwest that define  
17 membership by geography, but they often define  
18 political -- you know, for instance, just down the  
19 road, Grand Traverse Band, you have to live within  
20 their service area in order to vote, but anybody could  
21 be a member from the -- you know, anywhere you live.  
22 But in order to vote, you have to be within their  
23 service area.

24 MR. ROBERTS: Do you have to live within the  
25 service area or do you just have to vote within the

1 service area?

2 MR. ETTAWAGESHIK: You have to live within the  
3 service area. Some other places that you -- anybody's  
4 welcome to come to general council meetings wherever  
5 they live and participate, but they have to actually  
6 physically be there to participate, but -- so I -- the  
7 only thing that I know is that there's some people  
8 that limit the political activity through geography,  
9 but I don't know of any that limit the -- limit  
10 citizenship by geography.

11 MR. ROBERTS: Okay. I want to give everybody  
12 an opportunity to -- if they have comments now,  
13 otherwise we'll break a little bit early for lunch.  
14 If there's anybody that wants to make a comment,  
15 otherwise we'll -- we'll break and reconvene at one  
16 o'clock.

17 MR. YOB: Just can I -- can I make my  
18 statement of public record --

19 MR. ROBERTS: Sure.

20 (Mr. Yob handing document to Mr. Roberts.)

21 MR. ROBERTS: You can have this for your  
22 transcript. (Handing document to court reporter.)

23 MR. BUCHANAN: This kind of goes along with  
24 the geographical/regional discussion, and forgive me  
25 if I ask a silly question here, but I'm trying to

1 understand, what importance is it that the state has  
2 the right to have such a valued opinion on a protest  
3 or rebuttal against a recognized tribe's petition or  
4 resubmittal for this -- for this process? Isn't this  
5 relationship between the tribe and the federal  
6 government, and the states really don't have any -- I  
7 don't understand that.

8 MR. ROBERTS: Sure. So in terms of our -- our  
9 normal process, you know, any -- any state, local  
10 government or individual can participate. It's an  
11 open process. And we're not changing that at all in  
12 terms of opportunities to participate. I think with  
13 that expedited favorable, I think the thought was  
14 looking to see whether any other governmental entity  
15 objected. And if so, then it would go through the  
16 normal process. So I hear what you're saying, why  
17 should the state have that. That's something we'll  
18 take a look at, but that's what our discussion draft  
19 (inaudible) was, you know, other governmental entities  
20 nearby, including other tribes.

21 MR. BUCHANAN: Yeah. It's just very, very  
22 visual, you know, our own unique situation that the  
23 state has been one -- one of the deciding powers that  
24 continue to keep us down at the level that they have  
25 in the past 150 years. Thank you.

1                   MR. ROBERTS: Thank you. Okay. We'll see you  
2 all back at one o'clock.

3                   (A lunch recess was taken from 11:34 a.m. to  
4 1:04 p.m.)

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1 Petoskey, Michigan

2 Monday, July 29, 2013 - 1:04 p.m.

3

4 MR. ROBERTS: Good afternoon, everyone. We're  
5 going to -- we're going to go ahead and get started.  
6 I just -- there are a lot of people here this  
7 afternoon who were here this morning. Thank you for  
8 traveling to attend this -- this meeting today on the  
9 Part 83 regulations and the discussion draft.

10 My name is Larry Roberts. I'm the Deputy  
11 Assistant Secretary for Indian Affairs. I'm a member  
12 of the Oneida Nation of Wisconsin and, unfortunately,  
13 I just learned about a few minutes ago that my flight  
14 this evening has been canceled at seven o'clock and so  
15 I'm actually going to have to leave and catch an  
16 earlier flight out of Traverse City at 3:30. I think  
17 it takes roughly about an hour and a half to get down  
18 there, so I'm actually going to have to leave in a few  
19 minutes here, but Liz Appel, our head of the Office of  
20 Regulatory Affairs, is going to go through the  
21 PowerPoint. The PowerPoint is the same PowerPoint  
22 that we showed you this morning.

23 For those of you that weren't here this  
24 morning, we have a court reporter in the room that's  
25 going to be taking down everything that you say for

1        comments for the record so we have that as part of our  
2        process moving forward. We're going to put all of the  
3        transcripts up on the Internet so the folks can see  
4        what's -- what comments are being made as part of  
5        these consultations and public meetings. And then if  
6        you have any prepared statements that you want to  
7        provide for the record, as well, please give them to  
8        Liz or the transcriptionist and then once we have  
9        those, those will also be put up on the web site.

10                And so, again, I apologize for not being able  
11        to be here this afternoon. I do have to be back in  
12        D.C. tomorrow for something else, and so I'm going to  
13        catch this earlier flight, but I'm going to turn it  
14        over to Liz Appel. Before I do that, I'm going to  
15        have Katie Chinn from the solicitor's office introduce  
16        herself.

17                MS. CHINN: Hi. My name is Katie Chinn. I'm  
18        a citizen of the Wyandotte Nation of Oklahoma. I work  
19        for the department in the solicitor's office in the  
20        Division of Indian Affairs.

21                (Mr. Larry Roberts exited the meeting room at  
22        1:07 p.m.)

23                MS. APPEL: Okay. Good afternoon, everyone.  
24        My name, again, is Liz Appel. I work for the Office  
25        of Regulatory Affairs & Collaborative Action and we

1 report to the Assistant Secretary of Indian Affairs.

2 I hope that on your way in that you had the  
3 opportunity to sign in and you should have gotten a  
4 copy of the presentation that we'll run through and  
5 also a copy of the discussion draft, which includes  
6 red lines of the changes that are under consideration  
7 now. So all the black text is what is the current  
8 rule and all the red text and the strikeouts are the  
9 draft changes that we're considering. And we also  
10 have some notes in there that -- that will explain  
11 that text has been moved or something like that.

12 So I will go through the presentation as -- as  
13 Deputy Assistant Secretary Roberts mentioned. This is  
14 the same presentation that was given this morning. So  
15 for those of you who were here this morning, I  
16 apologize. It may be a little less interesting for  
17 you, but bear with me.

18 So there are three main ways that -- really  
19 three ways, period, that a tribe can be federally  
20 recognized. The first is judicially through a federal  
21 court decision, or Congress can pass a law recognizing  
22 the tribe, and the final way is administratively, and  
23 that is through recognition by the Assistant Secretary  
24 for Indian Affairs. That's what we're discussing  
25 here, which is the -- the regulations at 25 CFR Part

1       83, which set out the process for that administrative  
2       recognition.

3               So just as some background, before 1978, there  
4       were no regulations saying how the assistant secretary  
5       acknowledges tribes. And in that time, the assistant  
6       secretary would review requests to be acknowledged on  
7       an ad hoc basis and groups would just petition. There  
8       was no standard way that they would petition or time  
9       period or process for reviewing.

10              And then in 1978, the interior -- Department  
11       of the Interior promulgated regulations that  
12       established a uniform standard for how the assistant  
13       secretary would review those petitions.

14              In 1994, revisions to those regulations were  
15       published, but those revisions primarily left the  
16       criteria unchanged. The main -- the main change in  
17       those revisions was that it added the process for  
18       previous unambiguous federal acknowledgment.

19              And then in 2000, 2005 and 2008, guidance  
20       documents were published in the Federal Register that  
21       further explained how the rules would be implemented.

22              So since -- since the regulations have been in  
23       place in 1978, 17 groups have been recognized,  
24       federally acknowledged under the Part 83 process. So  
25       of the 566 federally recognized tribes, 17 of those



1 have gone through and been acknowledged through the  
2 Part 83 process.

3 So we are looking at revising these  
4 regulations because there have been many criticisms  
5 that the process is broken. We've heard from  
6 Congress, from petitioners who have successfully gone  
7 through, unsuccessfully gone through the process, many  
8 others that the process is too long, too burdensome,  
9 it's expensive, it's unpredictable in how the criteria  
10 are going to be interpreted by the Office of Federal  
11 Acknowledgment.

12 MR. GERALD GOULD: Lisa.

13 MS. APPEL: Liz.

14 MR. GERALD GOULD: Liz. Excuse me. Liz.

15 THE COURT REPORTER: Could I have his name,  
16 please?

17 MR. GERALD GOULD: Jerry Gould.

18 THE COURT REPORTER: I'm sorry. I can't hear  
19 you.

20 MR. GERALD GOULD: I can hear me. You said  
21 since 1978, 17 tribes have been recognized.

22 MS. APPEL: Right.

23 MR. GERALD GOULD: How many since 2001?

24 MS. APPEL: I will have to look that up for  
25 you. I know that we have that and I may even have it

1 in my materials somewhere here, so I'll try to find  
2 that and get back to you.

3 MR. GERALD GOULD: And just one point,  
4 regarding the need for revisions and regarding the --  
5 the discussions, when I look at this (indicating), I  
6 didn't see anything that addressed expenses that  
7 theoretically (inaudible) this revised edition for  
8 federal acknowledgment, maybe less, but they don't  
9 address additional funding or funding sources.

10 MS. APPEL: That's a very good comment and  
11 maybe we can get into that a little bit more after the  
12 presentation because that -- that -- you're correct.  
13 The rule doesn't directly address -- address funding.  
14 We did have in mind the -- the burden that comes with  
15 producing all the documentation and the expenses that  
16 that entails and hiring experts and -- so in -- in  
17 making some of the changes that this discussion draft  
18 includes, we have that in mind, for example, that --  
19 which we'll -- we'll talk about how for criteria (b)  
20 and (c) we've cut the date back to 1934 for -- for  
21 when you have to show community and political  
22 influence/authority back to rather than way back to  
23 the period of first sustained contact with  
24 non-Indians.

25 MR. GERALD GOULD: That really wouldn't make a

1 lot of difference because most tribes do have a  
2 history; treaties, annuities, just different kinds of  
3 things that document those (inaudible) recognized.  
4 They're actually looking for a reaffirmation  
5 (inaudible).

6 MS. APPEL: Uh-huh. I -- I welcome your  
7 comment, and if you have ideas on how we can reduce  
8 the burden and the expenses on petitioners, I would  
9 love to hear them. Or ideas for funding, for example.

10 MR. GERALD GOULD: Well, those are things  
11 that, you know, should be incorporated in this. Thank  
12 you.

13 MS. APPEL: Thank you. So another criticism  
14 of the process besides it being expensive is the  
15 unpredictability and results and that the process  
16 isn't transparent and what -- and as we were  
17 discussing, what proof is sufficient. So how much  
18 documentation do you need? How much proof do you  
19 need?

20 So this discussion draft that you have with  
21 you today, the origins date back to 2009 when  
22 Secretary Salazar testified before the Senate  
23 Committee on Indian Affairs and committed to taking a  
24 look at the process and ways to improve it.

25 And in 2010, the assistant secretary, Office

1 of the Solicitor and Office of Federal Acknowledgment  
2 got together and started working on potential changes.

3 In 2012, another representative of the  
4 assistant secretary's office again testified about the  
5 efforts to revise this regulation and he identified  
6 certain guiding principles for the revisions and those  
7 are the -- what are the goals of the discussion draft,  
8 which are listed here: Transparency, timeliness,  
9 efficiency, flexibility, integrity.

10 And in 2013, the Assistant Secretary Washburn  
11 promised the release of the discussion draft and  
12 convened an internal working group that were  
13 representatives of the Office of Federal  
14 Acknowledgment, the Office of the Assistant Secretary,  
15 Solicitor and Regulatory Affairs on this work group  
16 and that they -- they developed these draft changes  
17 that are before you today.

18 So an overview of the changes -- we'll go into  
19 each of these in a little more detail, but the changes  
20 try to eliminate unnecessary -- an unnecessary step in  
21 the process, add some expedited tracks for getting  
22 positive/negative determinations, clarifying some of  
23 the criteria, allowing petitioners to withdraw after  
24 the consideration -- active consideration begins,  
25 providing for automatic final determination under

1 certain circumstances, examining who issues the final  
2 determination.

3 And we have a question in there, you'll see,  
4 that we'll discuss later as to who the proper party is  
5 for making the final determination. And it eliminates  
6 IBIA review. And you'll also see in the draft that  
7 there are placeholders for input, so you'll see double  
8 xs and that's because we want to get input on what  
9 those numbers should be, if -- if there should be  
10 numbers there at all.

11 So the first major change is eliminating the  
12 letter of intent. Currently the -- the federal  
13 acknowledgment process begins when a petitioner files  
14 a letter of intent that states their intent to go  
15 through this process, but we propose that the process  
16 instead would begin upon filing the documented  
17 petition. So the letters of intent that have already  
18 been filed would still be kept on file as far as what  
19 date they were submitted, so if it ever comes down to  
20 a question of timing as to whose petition should be  
21 addressed next, then your place in line would be  
22 retained.

23 The expedited reviews include an expedited  
24 negative review and an expedited positive review or  
25 favorable review.

1           The expedited negative review would take a  
2 look at -- so the first thing that would be examined  
3 is whether the petitioner meets criteria (e), which is  
4 descent from historical Indian tribe; criteria (f),  
5 which is membership of the petitioning group is  
6 composed principally of persons who are not already  
7 members of another federally recognized tribe; and  
8 criteria (g), which is that Congress hasn't forbidden  
9 or terminated the federal relationship.

10           And if the petitioner fails any of those three  
11 criteria, then it would be an expedited negative  
12 finding within six months of beginning active  
13 consideration.

14           If the petitioner meets all of those criteria,  
15 then they would either proceed to a full evaluation or  
16 an expedited favorable review.

17           An expedited favorable review happens if the  
18 petitioner asserts that they meet either of these two  
19 criteria, otherwise the -- the -- it would go straight  
20 to the full evaluation. So the two expedited  
21 favorable review criteria are: First, if the  
22 petitioner maintained since 1934 a reservation that's  
23 recognized by the state and the petitioner continues  
24 to hold that reservation, or if the United States has  
25 held land for the group at any time since 1934.

1           If the petitioner meets either of those  
2 criteria, then they get to go through the expedited  
3 favorable track. And within six months of beginning  
4 active consideration, they would get a proposed  
5 finding acknowledging them -- them as a tribe.

6           And if the petitioner were to fail the  
7 criteria, then OFA would just go to the normal full  
8 evaluation.

9           So changes to the criteria include deleting  
10 criterion (a). This is the criterion that -- that  
11 requires a showing that external groups have  
12 identified the petitioner as an Indian group. And  
13 this criterion has been deleted in the draft basically  
14 because if there's no -- it -- whether an outside  
15 group calls you Indian or not doesn't measure whether  
16 you're an Indian group.

17           And in criteria (b) and criteria (c), the  
18 analysis of whether you're a community or there's  
19 political influence and authority is measured only  
20 back to 1934. And the reason 1934 was chosen as the  
21 start date is because that's the date that there was a  
22 significant shift in federal policy toward Indian  
23 tribes. It was the end of the allotment era and the  
24 beginning of self-determination and that -- when the  
25 Indian Reorganization Act, IRA, was passed.

1           In criterion (e), the only change that's  
2 included in the discussion draft is that it now allows  
3 historians' and anthropologists' conclusions as  
4 evidence of descent from an Indian tribe.

5           And as I mentioned, there are -- in the  
6 criteria, there are placeholders for other -- other  
7 criteria numbers for percentages. And the reason for  
8 that is because we're trying to gear the draft to  
9 be -- well, gear the rules to be as objective --  
10 included as objective criteria as possible so that you  
11 could see by looking through the criteria, yes, we  
12 need these. And to remove this objective, well, maybe  
13 we do, maybe we don't. So we're looking for input on  
14 what those numbers should be.

15           Other changes include allowing petitioners to  
16 withdraw the petition at any time before a proposed  
17 finding is published. So currently there's -- once  
18 active consideration begins, a petitioner can't  
19 withdraw because the idea is that resources are being  
20 devoted to that -- to reviewing that petition, but the  
21 draft would allow the petitioner to withdraw. The  
22 catch is if you resubmit, then the petition's placed  
23 at the bottom of the numbered register, so you'd lose  
24 your place in line.

25           Another change in the draft is there is -- you



1 can get an automatic final determination if the  
2 proposed finding is positive and there's no opposition  
3 or timely arguments or evidence submitted by a  
4 federally acknowledged tribe that's located in the  
5 same state or by the state or local government where  
6 the petitioner's office is located. So as long as  
7 there's no -- no opposition, arguments, evidence filed  
8 during that time period, then it's automatically a  
9 positive final determination.

10 Currently under the current rules, OFA  
11 prepares -- the Office of Federal Acknowledgment  
12 prepares and the Assistant Secretary for Indian  
13 Affairs issues both a proposed finding and final  
14 determination. The discussion draft, we're looking at  
15 changing that and we're looking for input on who  
16 should be issuing that final determination.

17 So if we have a proposed finding issued by OFA  
18 and AS-IA, then should we have OFA? So we have AS-IA  
19 or OFA, who's the Offices of Hearings & Appeals, and  
20 that's -- and another body in the Department of the  
21 Interior but whose separate from Indian Affairs and  
22 they're an administrative court basically. So are  
23 they instead an appropriate party to be issuing the  
24 final determination? So would they be the party who  
25 should decide whether to grant extensions of

1 deadlines? Should they hold a hearing and have the  
2 petitioner and anyone opposing providing evidence that  
3 they review as an objective third party? So that's  
4 something that we're really interested in getting  
5 people's comments on is who -- who should be making  
6 that -- that final determination.

7 And another big change in the rule is that we  
8 deleted the -- and this is just draft, but we've  
9 deleted the review up to the Interior Board of Indian  
10 Appeals, IBIA. So now if someone were to challenge  
11 the final determination, instead of going through the  
12 IBIA review process, they would file directly in  
13 federal court. And the reason we cut out that process  
14 in the discussion draft is because we've heard a lot  
15 of -- a lot of comments that the IBIA review process  
16 takes a long time and is slow, and it's also something  
17 to think about in terms of who is issuing the -- the  
18 final determination, if it -- the Office of Hearings &  
19 Appeals is issuing the final determination, maybe it  
20 does make sense to go, then, directly to federal  
21 court.

22 So if the discussion draft is proposed and  
23 finalized, the discussion draft has in there  
24 provisions for what would happen to petitioners who  
25 are already in the process. And this discussion

1 draft, we have a long way to go before any rule gets  
2 finalized. Once we -- once we take in comments as  
3 part of these consultations and meetings, we're going  
4 to review all the comments, make updates and changes  
5 to the rule and then we'll have to publish a proposed  
6 rule in the Federal Register.

7           Once we publish a proposed rule, there's  
8 another public comment period, which will be 30, 60,  
9 90 days long, and we don't know how long yet, but  
10 we'll go through another series of public meetings and  
11 collection gathering and then publish a final rule.  
12 And then even at that point, there's usually a 30 to  
13 60 delay before it becomes effective. So we're  
14 looking at roughly two years before we have a final  
15 rule that will be in effect. So this is really  
16 looking ahead down the road, but we do want comments  
17 on at that point, when there are new rules in place,  
18 what should happen to the petitions that are already  
19 in progress in the process.

20           So what the discussion draft proposes is that  
21 anyone who hasn't received -- been -- made it to  
22 active consideration under the Part 83 process when  
23 the new rules are in place, that they would be subject  
24 to the new rules. And anyone who is under active  
25 consideration, they can choose to either go under the

1 new rules or the old rules. Did I say that right or  
2 did I get it backward?

3 MS. CHINN: Once you're under active  
4 consideration, then you have a choice.

5 MS. APPEL: Right. Once you're under active  
6 consideration, you have a choice. I started  
7 second-guessing what came out of my mouth.

8 So the other -- other sort of similar issue is  
9 that petitioners who have already gone through the  
10 Part 83 process but have been denied acknowledgment,  
11 under the discussion draft, they could re-petition  
12 under Part 83 if they show by a preponderance of the  
13 evidence that a change -- that the new rules they  
14 would have been acknowledged basically versus the old  
15 rules.

16 So we're seeking comments specifically on some  
17 items. I mentioned a few before, but we would like  
18 some comments on whether any of the definitions should  
19 be revised. And, if so, how? would it be helpful to  
20 have a standard form for petitions? Right now there's  
21 no standard form. But would that be helpful?  
22 would -- should it be optional if it's made available?  
23 Should it be required?

24 In criterion (b), community, what percentage  
25 should we require as compromising a distinct

1 community, if one is -- if a percentage is appropriate  
2 at all? what percentage should reside in geographic  
3 area? what percentage of marriages should be required  
4 between group members? And these are all with the  
5 idea of making the criteria more objective.

6 And, again, we have in criterion (c), should  
7 there be evidence of a bilateral relationship? In  
8 criterion (e), what percentage of the group's  
9 membership should descend from a historical Indian  
10 tribe? And are there other objective standards that  
11 we could use?

12 And then finally, the final specific thing  
13 that we're seeking comment on in addition to all other  
14 comments, is what page limits, if any, should we have  
15 for the petition and proposed finding, and other  
16 documents?

17 The idea behind this is that when the Part 83  
18 process first started, the petitions and the amount of  
19 paperwork generated was not as voluminous as it is in  
20 the more recent years. So with the page limits, we're  
21 looking at -- for the petition, there wouldn't be a  
22 page limit. We're not looking at putting a page limit  
23 on the evidence that you would produce or back up.  
24 But for the petition, summary itself, would a page  
25 limit be appropriate?

1                   And for the proposed finding, likewise, would  
2                   the goal of the proposed finding need something that's  
3                   a little more readable than maybe the past few ones  
4                   have been?

5                   Comments on the draft rule we're looking for  
6                   by August 16th. And you can submit them by e-mail or  
7                   mail. As I mentioned, our next steps are to review  
8                   the comments and make changes and then propose a rule  
9                   in the Federal Register, so this certainly isn't your  
10                  last opportunity to comment on the rules, but we are  
11                  interested in your comments as often and -- you know,  
12                  as you want to make them, can make them.

13                  So at this point, I'll open it up for  
14                  statements and questions and comments, and Katie and I  
15                  will do our best to answer them for you.

16                  MR. ETTAWAGESHIK: I wondered if we could have  
17                  introductions around the room so we know who's here.

18                  MS. APPEL: Sure. That sounds great. Do you  
19                  want to just --

20                  MS. BEGAY: I'll start here. Would you like  
21                  to start?

22                  MS. APPEL: Would everyone like to make  
23                  introductions? If you're not comfortable, feel free  
24                  just to pass --

25                  MR. KNOX: Elmer Knox, Grand River Band of

1 Ottawa Indians.

2 MR. REINHARDT: Could we have a standard form  
3 for that?

4 MR. LEWIS: George Lewis, Grand River Bands.

5 MR. CANTU: Phillip Cantu, Grand River Band.

6 MS. JENNIFER BEATTY: Jennifer Beatty. I'm on  
7 the tribal council for Grand River Bands of Ottawa  
8 Indians.

9 MS. PATSY BEATTY: Patsy Beatty, Grand River  
10 Band, tribal council.

11 MS. PETERSON: Deb Peterson, Ma-Chis Creek,  
12 Alabama.

13 MR. PETERSON: Fred Peterson, Ma-Chis Creek,  
14 Alabama.

15 MR. COX: Eric Cox, Ma-Chis Creek, Alabama.

16 MS. COMPO: Fran Campo, Grand River Bands of  
17 Ottawa Indians.

18 MR. KEEDY: Jim Keedy, Michigan Indian Legal  
19 Services.

20 MR. YOB: Ron Yob, Grand River Bands of Ottawa  
21 Indians.

22 MS. PETE: Amanda Pete, Grand River  
23 Anishinaabeg.

24 MS. PECOC: Stephanie Pecoc, Grand River  
25 Anishinaabeg.

1 MS. CEPLINA: Lorraine Ceplina from Grand  
2 River.

3 MS. CHAMPAGNE: Nitumigaabow, representing  
4 Grand River Band Anishinaabeg Community from  
5 Wisconsin.

6 MR. REINHARDT: Martin Reinhardt, Sault Ste.  
7 Marie Tribe of Chippewa.

8 MS. WYZLIC: Lisa Wyzlic, Grand River Band of  
9 Ottawa Indians.

10 MR. NEGAKE: Henry Negake, Grand River Bands  
11 of Ottawa Indians.

12 MR. WYZLIC: Scott Wyzlic, Grand River Band of  
13 Ottawa Indians.

14 MS. KING: Reena King, Burt Lake Band.

15 MS. OSTWALD: Larraine Ostwald, Burt Lake  
16 Bands of Ottawa and Chippewa Indians.

17 MS. ROOD: Lula Rood, Burt Lake Band of Ottawa  
18 and Chippewa Indians.

19 MS. SCOLLON: Isabel Scollon, Burt Lake Band.

20 MS. NOLA PARKEY: Nola Parkey, Burt Lake Band.

21 MR. DON PARKEY: Don Parkey, Burt Lake Band,  
22 tribal council.

23 MR. KIOGIMA: Augustine Kiogima, Burt Lake  
24 Band, tribal council.

25 MS. HOLMES: Sarah Holmes, Burt Lake Band,



1 tribal council.

2 MS. SLOCUM: Mary Slocum, Burt Lake Band.

3 MR. KEN PARKEY: Ken Parkey, Burt Lake Band,  
4 tribal council.

5 MS. LORETTA PARKEY: Loretta Parkey, Burt Lake  
6 Band.

7 MR. HAROLD GOULD: Harold Gould, Swan Creek  
8 Black River Band.

9 MR. JERRY GOULD: Jerry Gould, Swan Creek  
10 Black River.

11 MR. ETTAWAGESHIK: Frank Ettawageshik. I was  
12 the former chair at Little Traverse, and I'm the  
13 co-chair of Federal Recognition Task Force for the  
14 National Congress of American Indians.

15 MR. HAMLIN: I'm Bruce Hamlin. I'm tribal  
16 chairman at Burt Lake Band, tribal council.

17 MR. ROY PARKEY: Roy Parkey, Burt Lake Band,  
18 tribal council.

19 MS. CHINN: Thank you for your introductions.

20 MR. REINHARDT: Can you guys introduce  
21 yourselves again, too?

22 MS. CHINN: Sure. I'm Katie Chinn. I work in  
23 the solicitor's office in the Division of Indian  
24 Affairs.

25 MS. APPEL: I'm Liz Appel. I'm with the

1 Office of Regulatory Affairs & Collaborative Action  
2 under the Assistant Secretary for Indian Affairs.

3 MS. BEGAY: I'm Amanda Begay. I'm in the same  
4 office as Liz with regulatory affairs.

5 MS. CHINN: So at this point, we'll just go  
6 ahead and open up the floor for comments or questions.

7 MR. REINHARDT: Is this young lady just taking  
8 notes and no name and . . .

9 MS. APPEL: This is our fabulous court  
10 reporter.

11 THE COURT REPORTER: Kristine Grigsby.

12 MR. REINHARDT: Thank you.

13 MS. APPEL: And that reminds me, if you can --  
14 if you're making a comment, if you wouldn't mind  
15 stating your name and affiliation for the record.

16 MR. COX: My name is Eric Cox, Ma-Chis Creek  
17 from Alabama. I have a question in regards to -- to  
18 83.10(g). It says here, "U.S. has held land for the  
19 group at any point since 1934."

20 What I want to point out, too, is that up to  
21 until 1920, it was legal to kill an Indian in Alabama.  
22 Some of that mindset is still down there. And there's  
23 no land given to us, because back in 1934 they also  
24 point out there are no Indians east of the  
25 Mississippi, so it kind of puts us in a tough spot to

1 fight for that recognition.

2 My question is, we are state recognized, how  
3 much weight will that carry in the process for federal  
4 recognition?

5 MS. CHINN: So currently our expedited  
6 favorable criteria doesn't include state recognition.  
7 It includes if you have -- if the state holds a  
8 reservation for you since 1934. But we're here to  
9 take comments on how we should change those, so . . .

10 MR. COX: Right. We have -- we have land down  
11 there and we're fighting for getting some attention on  
12 that down there, but we've had no luck yet.

13 MS. CHINN: Okay.

14 MR. COX: Thank you.

15 MR. REINHARDT: Martin Reinhardt, Sault Ste.  
16 Marie Tribe of Chippewa Indians. And this question is  
17 in regard to the bilateral relationships previously  
18 established.

19 If we have tribes, here in Michigan or  
20 otherwise, that have already established a bilateral  
21 relationship; hence, federal recognition through  
22 treaty or otherwise with the federal U.S. government,  
23 how much does that weigh in currently into the  
24 equation?

25 And I guess, you know, it seems that William

1 Canby, a federal judge, he made an opinion about that,  
2 and he suggested that the Supreme Court should -- and  
3 I say should -- look on that favorably because federal  
4 recognition hasn't always been through acknowledgment,  
5 it's been through treaty and otherwise. And so we  
6 have -- we have tribes like that here in the state of  
7 Michigan, and I'm sure in other states they do as  
8 well. Thank you.

9 MS. CHINN: So under the current regulations  
10 and under the proposed draft, when you can prove  
11 previous federal acknowledgment, which is what you're  
12 saying, through treaties or something like that, it  
13 shifts what you have to establish under the criteria  
14 so that you only have to prove existence back to that  
15 point of acknowledgment. So the regulations do take  
16 that into account.

17 MR. REINHARDT: Okay. Thank you.

18 MS. APPEL: I still want to clarify. One of  
19 the slides, it mentioned bilateral political  
20 relationship for criterion (c), the political  
21 influence or authority. And that is we're seeking  
22 comment on whether there should need to be a showing  
23 of a bilateral relationship between the tribal members  
24 and the tribal governments. Because I think right now  
25 it's not reflected in criterion (c), but that may have

1       been a consideration in some of the past  
2       acknowledgment decisions. So if it is going to be a  
3       consideration, should it be? If it should be, we  
4       think it should probably be made explicit in the  
5       draft, so that's why we have that flag there.

6               MR. REINHARDT: I just want to add a little  
7       piece to that, then.

8               MS. APPEL: Uh-huh.

9               MR. REINHARDT: Because you're -- you're  
10       pointing out that there's individual rights and then  
11       there's tribal rights. And in the case of Menominee,  
12       you know, the U.S. Supreme Court has already  
13       determined that individual rights carry on regardless  
14       of tribal rights. But that also played into the  
15       re-recognition of Menominee, individual rights that  
16       carried on as part of their treaty rights. So will  
17       that also, then -- should that also -- I guess in my  
18       opinion it should -- be considered as part of that  
19       continuous bilateral relationship if individual tribal  
20       citizens have continued to see themselves as  
21       exercising treaty rights? Thank you.

22               MS. CHINN: So right now bilateral means the  
23       tribal government sees itself as the political entity  
24       and its members interact with it, like it's the  
25       political leadership. So it's basically leaders who

1 are recognized by the people. But that's -- that's a  
2 great comment about individual rights. Thank you.

3 MR. ETTAWAGESHIK: Hi. Frank Ettawageshik.  
4 You know, at the task force, one of the things that we  
5 talk about is the -- the idea that so many of the  
6 petitioning groups are sort of conditioned to think by  
7 the process, that they're somehow not a tribe until  
8 the United States decides that they are. And, of  
9 course, the criteria actually are measuring whether or  
10 not we are tribes and we're active as tribes, and yet  
11 none of the -- we have none of the tools to do the  
12 things that we're being measured as to whether we're  
13 doing or not. So the idea that -- that -- the concept  
14 is that tribes are inherent sovereigns and that our  
15 sovereignty, when we're doing this process -- on the  
16 one hand, there's this recognition process that the  
17 United -- that the United States is going through to  
18 decide. But effectively it's a mutual decision on  
19 whether they grant diplomatic relations with us, but  
20 two sovereigns, the tribal nation and the United  
21 States. It's a two-way street. And this process has  
22 been one that is pretty condescending, it's extremely  
23 expensive and all of the communications and other  
24 things that are -- that are gone through from the  
25 federal government and then the other people that

1 react to it are ones that make it very difficult for  
2 us to meet the criteria.

3 So, for instance, they want to know do we  
4 exercise authority over our tribal citizens, and in  
5 such a way, such as through judiciary, and yet no one  
6 will acknowledge the fact that we have the right to  
7 have a judiciary prior to the federal government  
8 deciding that we're federally recognized. And so we  
9 have to find ways to exercise that judicial authority  
10 in ways that we can do that.

11 Some tribes have been very creative in doing  
12 that and finding ways to do that, but it's almost like  
13 the criteria I'm looking at is to see are you a tribe,  
14 and yet none of the tools that tribes would have to  
15 use are available to us through the federal  
16 government.

17 And so the -- you know, if we're going to form  
18 an organization, we end up having to form a nonprofit  
19 corporation and then sometimes that's -- that's held  
20 against us because we're a corporation, we're not a  
21 tribe when we do things like that. And yet we have to  
22 have a fiduciary entity in order to get grants, even  
23 the grants that are out there to help us through the  
24 administrative process, to help us through this --  
25 this process. So we're sort of in a catch-22. And I

1 think it's really important for, you know, those  
2 folks -- and I want to applaud the staff here and the  
3 assistant secretary and deputy assistant secretary for  
4 their work on this, because we've been asking for  
5 changes for years and these proposed changes go a long  
6 ways down that road to deal with a lot of these  
7 issues.

8 But the fundamental problem behind them all  
9 still is the idea that they're trying to measure  
10 whether the tribe is acting as a sovereign or not and  
11 yet we still have that problem of being able to do so.  
12 And so I don't know how that's addressed in here, but  
13 I felt it was important to bring that issue up and  
14 talk about it because so many of our -- of our tribal  
15 nations that have come -- and I'm referring to the  
16 state recognized and the nonfederally recognized  
17 nations that come to the NCAI Task Force on Federal  
18 Recognition and share their stories with each other  
19 about the problems that they're having. So many of  
20 those problems emanate from being measured by the  
21 yardstick that's to measure a tribe by the very entity  
22 that is denying that -- that proof, the ability to  
23 take the actions that are then being measured.

24 And so there's a -- there's a real problem  
25 there that's -- that needs to somehow be -- we need to



1 be aware of it. I don't have a specific place in  
2 these regs that would be good to address that, but  
3 it's just -- it needs to be part of the discussion as  
4 we're going through this. Thank you.

5 MS. APPEL: Thank you. And if there's some  
6 way that we can alter the criteria to -- to account  
7 for that, but if you have ideas on that, we welcome  
8 those.

9 MR. REINHARDT: Well, I guess, you know, we're  
10 talking -- Bill Mendoza in the Office of Indian  
11 Education for the White House Initiative, you know, in  
12 that house, they're talking about capacity building  
13 for tribal education departments. And what Frank is  
14 talking about with other aspects of tribal government,  
15 you know, why is it that the entire range of  
16 perspectives on our tribes and their capacities can't  
17 follow suit? Why can't there be a capacity building  
18 component in the regulations to account for the fact  
19 that it was the United States and other foreign  
20 governments that pulled the rug out from under our  
21 tribes in the first place to take away that capacity  
22 so that now we need that capacity back in order to  
23 establish the kind of governments we need to interface  
24 with the United States and other governments?

25 MS. CHINN: Did you say that was education?

1 MR. REINHARDT: Yep.

2 MS. CHINN: Okay.

3 MR. REINHARDT: Yeah. The White House  
4 Initiative on American Indian Education. Thank you.

5 MR. HAMLIN: On behalf of the Burt Lake  
6 council, thank you all for coming and the efforts  
7 you're making towards the process. And thank you,  
8 Frank, for your comments. Those are very good points.  
9 As a tribal member has asked me to ask about your  
10 meeting this morning with the federally recognized  
11 tribes, we'd like to know would those comments be  
12 available on the Federal Register or can we hear what  
13 was talked about then, because we'd like to know just  
14 everything that was discussed and . . .

15 MS. APPEL: Sure. We'll be making transcripts  
16 of those sessions available on our web site at bia --  
17 www.bia.gov. And we plan on -- on getting a link  
18 directly to Part 83, this revision process, so that  
19 we'll have all the documents in one place. But you  
20 should see a link directly on that web site hopefully  
21 in the next week or two.

22 Now, as far as when the transcripts are put up  
23 there, it depends on how fast the court reporters can  
24 turn them around, and I think that -- that usually  
25 takes about two weeks or more, so -- so this

1 session -- this session, the transcript should be  
2 available in about two weeks.

3 MR. REINHARDT: I apologize for keep opening  
4 my mouth, but if anyone else has anything to say,  
5 please do.

6 (Laughter.)

7 MS. CHINN: What's your name one more time?

8 MR. REINHARDT: Martin Reinhardt. Regarding  
9 state historic or state recognition, the federal  
10 government itself empowers states to interact with  
11 tribes today. We witness that through these compacts  
12 in gaming. We witness that through inland consent  
13 decrees. We witness that through the STEP, State  
14 Tribal Education Partnerships. We can see that the  
15 federal government has, as far back in Michigan, the  
16 1934 Comstock Agreement with -- the U.S. Congress  
17 turned over the Mt. Pleasant Indian Boarding School to  
18 the State of Michigan in exchange for the State of  
19 Michigan taking on certain responsibilities for the  
20 health and welfare of American Indian people within  
21 the state of Michigan. We can see that the federal  
22 government has this habit. And the state continues to  
23 interact with tribes.

24 Now, those things should be accounted for in  
25 the new regulations. It should have been accounted

1       for all along. The federal government has empowered  
2       the State of Michigan to act as a federal agency, in  
3       fact, in dealing with the tribal people. Yet, at the  
4       same time, the federal government says, oh, we --  
5       we're not going to look at state recognition or state  
6       historic status as part of the acknowledgment process.  
7       It doesn't seem fair when -- you know,  
8       one -- on one hand, the federal government can say,  
9       yeah, we're going to rely on the state to interact  
10      with you people, and then, on the other hand, we're  
11      not going to count that as far as there's interaction.

12               So just to point that out, that does need to  
13      be accounted for. It's not fair that it's not  
14      accounted for. And, you know, if we were to look at  
15      this from a -- a deconstruction of the federal  
16      relationship with American Indian tribes here in the  
17      state of Michigan at least, we would see that the  
18      federal government has interacted with us through the  
19      state.

20               MS. CHINN: So in the current regulations,  
21      interaction with the state would -- would constitute  
22      evidence for the first three criteria, especially the  
23      first one, which is identification by an outside  
24      entity. Under the draft regulations, the -- having a  
25      state reservation makes you eligible for an expedited

1 favorable, so maybe it's arguable that that is, you  
2 know, more significant.

3 So do you have any recommendations for how we  
4 could better take into account state interaction?

5 MR. REINHARDT: Maybe change reservation to,  
6 you know, these state -- or maybe change reservation  
7 to jurisdiction. You know, because I think if you  
8 look at it, tribes -- our -- our jurisdiction over our  
9 tribal citizens doesn't stop at the reservation  
10 border. You know, we don't get to the reservation  
11 border and all of a sudden you say, hey, I'm not  
12 worried about my tribal citizens anymore. That  
13 continues across borders, especially when we're  
14 dealing with treaty rights.

15 MS. CHINN: Uh-huh.

16 MR. REINHARDT: You know, we've never given up  
17 our right to educate our people the way we want to,  
18 whether they're on the reservation or off the  
19 reservation or if in China. I mean, we still have  
20 sovereignty over that.

21 MS. CHINN: Uh-huh.

22 MR. REINHARDT: They still exercise treaty  
23 rights within our treaty territories. You know, we  
24 still provide health care. We still provide a wide  
25 range of services that really come to emanate from our

1       sovereignty. And so I think if we think about it  
2       maybe in terms of legal/political jurisdiction versus  
3       hard reservation borders -- because, you know, when  
4       we're talking about reservation as people, that did  
5       happen on -- you know, if -- if we never had a  
6       reservation or if the reservation hasn't been taken  
7       away, that's very unfair in the process.

8               MS. CHINN: Uh-huh. Okay. Thank you.

9               MR. ETTAWAGESHIK: This is Frank Ettawageshik  
10       again. One of the things that we need to be aware of  
11       in this process also is the -- in many cases the  
12       federal government has been obligated by treaty and  
13       by -- by its own rules and -- and regulations to take  
14       actions for on behalf of our -- our tribal citizens,  
15       and this is true for those who are federally  
16       recognized and also it's true for the -- many of the  
17       citizens of these -- of the nonfederally recognized  
18       tribes, many of them petitioners. And the mere fact  
19       that the federal government neglected its duty and  
20       didn't take actions should not be held against the  
21       people themselves, you know, and it often is. Say,  
22       well, where's your signs of federal interaction and  
23       you'll see, well, there are none. Well, that's often  
24       held against us and that shouldn't be, because there  
25       are -- the federal government has been under an

1 obligation to meet -- to do certain things, in  
2 education, for instance, and in other arenas and --  
3 and so when the federal government does not take its  
4 actions, that should not be held against the tribes,  
5 and so there's -- I don't know, once again, the  
6 specific location that this -- that this pertains to,  
7 but I know that -- that I've heard many stories over  
8 the years from people that have had these kind of  
9 issues. And under the current regs we've heard the  
10 story from one of the -- the councilman from the  
11 Shinnecock who talk about the department that told  
12 them they didn't need to bother going through the  
13 process, it wasn't -- they had to -- it was described  
14 as a tunnel on a train. They can see the tribe being  
15 this train at the end of the tunnel. Ten years later  
16 it comes out, and they say, well, we want to be sure  
17 that you were the same train that came out that went  
18 in, and so we want you to figure -- to poke holes in  
19 the top of that tunnel so we can see. And the  
20 particular question that we need to ask about was one  
21 that they said we don't think -- we don't think we  
22 should have to do that, and the -- the office told  
23 them they -- they had to do.

24 So they spent a million dollars and did it.  
25 And after the years that they spent doing it, they

1        were then told, you know, you were right, you didn't  
2        have to do that. And it's that kind of story that's  
3        out there, and that kind of -- of attitude on the part  
4        of the federal government, but really incredibly  
5        costly and -- and burdensome on the petitioners that  
6        these things are trying to resolve. And so we're  
7        hoping that -- that we won't have any situations like  
8        those again under this system, under these new regs.

9                    And I know that there are other ones that -- I  
10       had a personal experience of taking -- of wanting  
11       to -- asking us for proof that we were holding  
12       political action, so we brought a picture of a meeting  
13       where people were voting at the meeting, and we -- we  
14       brought it. They didn't care about the fact that they  
15       were voting. They said, well, all right, I see you're  
16       voting. Now we want to know what the ladies in the  
17       back were talking about that were standing by the  
18       food. They wanted a whole story about what kind of  
19       things were they talking about.

20                   MR. CHAMPAIGN: Food sovereignty.

21                   MR. ETTAWAGESHIK: Right. And so it was like  
22       it was a new criteria. So as I described once before,  
23       the system has treated the petitioners -- every time  
24       someone gets through and someone will -- and they say  
25       oops, and if there was a discovery that they'd done



1 something wrong, somebody got through, they made this  
2 tougher, so it's gotten tougher and tougher and  
3 tougher each successful petition that has come  
4 through. And so, you know, today, we want to try to  
5 stop that -- stop all those problems that are coming  
6 from the regs getting more and more detailed in terms  
7 of the interpretation of them and it becoming more and  
8 more burdensome. And so we're hoping that things can  
9 go back to -- and I know that one of the comments that  
10 you asked for comment on was page limits. Should  
11 there be page limits? And I think that it's a good  
12 idea to have -- to have some page limits with some  
13 criteria to it, that means some way of thinking about  
14 it, because as long as the page limits are on the  
15 written -- on the petition, but not on the -- the  
16 documentation that you could provide to help support  
17 that, I think that that's an important part of that  
18 page limits.

19 And I also -- and I made this comment earlier  
20 in the first session, but I wanted to follow up on it  
21 here, and that's the -- your question about  
22 percentages and -- it's on Page 8 of the -- of the  
23 handout, and it's the second box on that page, about  
24 what percentage of marriages should be between group  
25 members. And I just wanted to point out that as -- in

1 Michigan here, the -- our tribes generally are -- are  
2 fairly small compared to some of the other places  
3 around the country and we're all related. In fact,  
4 many of us are related across from tribe to tribe.  
5 And when we go to get married, we need to often go  
6 outside of our tribe to marry from another tribe, just  
7 because we've got to be away from all of our cousins,  
8 and even that doesn't work sometimes.

9 So the point is, is that many of us have a  
10 mixture of many different bands from Michigan that are  
11 individually recognized or petitioners. And, you  
12 know, my wife, for instance, could be a -- could be  
13 enrolled in five different Michigan tribes. She has  
14 the criteria to do that. She's in Little Traverse.  
15 But the point is, is that I think you've got to look  
16 at this really carefully and make sure that -- that --  
17 that it not just be amongst the group members of the  
18 petitioner, but also be with other Indians.

19 The boarding school process was designed to  
20 take the Indian out of the Indian, but they put a  
21 whole bunch of Indian boys and girls together and we  
22 did what Indian boys and girls do all the time, we got  
23 together. And we now have kin relationships from one  
24 end of the country to the other with member -- blood  
25 quantum from many different tribes mixed together.

1 And so while the boarding school was successful in one  
2 way in terms of stripping away a lot of our culture,  
3 on the other hand it's the Pan-Indian Movement led us  
4 together. That is really strong because of our  
5 relationships with each other. And so I think that  
6 you have to really be aware of that when you're  
7 doing -- there's a question about -- about group  
8 members and the percentages. Thanks.

9 MR. HAMLIN: Bruce Hamlin, Burt Lake Band  
10 again. Going back to your pointing out a few things  
11 in relation to 1934, and I understand your reasons for  
12 doing so; however, a significant portion of our  
13 argument for Burt Lake, or at least a couple major  
14 points in our case predate 1934. I do note that you  
15 have, throughout these proposed regulations, used the  
16 term "case-by-case scenario." We would like some  
17 assurance that those arguments of ours that predate  
18 1934 will be applied to our case.

19 MS. APPEL: Yes. Under the discussion draft,  
20 evidence relating to time periods before 1934 would  
21 still be accepted and considered. It's just that  
22 officially we wouldn't require anything before 1934.

23 MR. HAMLIN: Okay. Thank you.

24 MS. APPEL: Thank you.

25 MR. YOB: Ron Yob, Grand River Band. I don't

1 really (inaudible) the stuff we talked about this  
2 morning, but to answer his question, there are three  
3 tribes since 2000 that have been recognized.

4 MR. GERALD GOULD: Which ones?

5 MR. YOB: I know it's the . . .

6 MS. APPEL: Shinnecock --

7 MR. YOB: Shinnecock was the last one.  
8 Mashpee and -- there's one other one. Shinnecock,  
9 Mashpee. I'd have to go back. I'd have to --

10 MR. GERALD GOULD: Thank you.

11 MR. YOB: And back to your -- the question  
12 about -- this morning about percentages again.  
13 When -- when -- through the Freedom of Information  
14 Act, we got Grand Traverse's petition, which -- which  
15 we commented earlier was about that thick, you  
16 know (indicating). It's like if -- like if you went  
17 through in 1980, the home run fence was 200 feet away  
18 and now it's about 400 feet.

19 But, anyway, when Grand Traverse went through,  
20 if you look at their demographics, there were more  
21 Grand Traverse tribal members in Kent County, which is  
22 where Grand Rapids is, than there were in Leelanau  
23 County, where the tribe is. So there were more  
24 members in our county than there were in their own  
25 homeland, you know.

1           Also I wanted to -- on your first thing, we  
2           commented about the ways to get recognized. Now, I  
3           can't remember where I read it, but it seems like  
4           there was presidential action, too. So -- so you  
5           didn't -- you might need to include that on there. I  
6           can't give you an example, but -- but anyway . . .

7           And then I just want to re-emphasize, and I  
8           did it this morning, but that -- that our tribe is in  
9           active consideration, you know. It took us 20 years  
10          to get it there. We'd hate to get stuck in the pool  
11          with everybody else after all these years of our  
12          efforts, you know.

13          Probably the last thing is I really don't mind  
14          the extent of your scrutiny because there's a lot of  
15          people around Grand Rapids that just think they can  
16          become a tribe. You know, if you didn't have -- if  
17          you didn't have some kind of regulations, then you're  
18          going to -- you're going to have about 10,000  
19          applicants instead of the ones you have, you know.  
20          That's it for now.

21                 MS. APPEL: Thank you.

22                 MR. NEGAKE: My name is Henry Negake. I'm  
23          from the Grand River Bands of Ottawa Indians. The  
24          question that I have doesn't have to do so much as  
25          what this meeting is all about, but in the interests

1 of expediting federal recognition procedures, I'm -- I  
2 once spoke to somebody in Washington who said the  
3 reason it took so long to get federally recognized is  
4 because the office wasn't really funded properly, that  
5 there was a dire lack of people to accurately do the  
6 work. I have a question. Is there any possibility in  
7 the future that this office being just a little bit  
8 better funded so the process could be expedited a  
9 little?

10 MS. CHINN: Under this draft, that's not  
11 explicitly provided for, but your comments are -- are  
12 helpful on that. Unfortunately, money's a little  
13 tough right now, but it's a good comment, so thank  
14 you.

15 MR. REINHARDT: So Martin Reinhardt again.  
16 Regarding the tribes that have established bilateral  
17 relationships with the United States, is it possible  
18 to have some kind of a preference where they're moved  
19 up in the process versus the tribes that are not able  
20 to establish that they're a bilateral relationship?

21 MS. CHINN: That's a great idea. That's not  
22 called for in this draft, but it's a good comment.

23 MR. REINHARDT: Okay. And I guess, then, the  
24 other comments I have are related to what Frank was  
25 saying about percentages and identity. Though tribal

1 identity, whether that's individual tribal citizenship  
2 identity or whether that's how we define our  
3 community, that should all be tribal determined. And  
4 percentages -- if a tribe -- if we as a tribe say it  
5 should be a percentage, well, then should it be. But  
6 it shouldn't be the federal government saying what the  
7 percentage should be. That's the tribal prerogative.  
8 And that should be on there. If the tribe says so,  
9 then it is so.

10 MR. CHAMPAGNE: Boozhoo. I spoke about this  
11 earlier in the morning session. When we look at  
12 specifically 83.7 of the rules (f), it says, "The  
13 membership of the petitioning group is composed  
14 principally of persons who are not members of any  
15 acknowledged North American Indian tribe." And then  
16 it gives the exceptions. And I kind of spoke to it.  
17 But number (2) under that -- under the revision, "Its  
18 members do not maintain a bilateral political  
19 relationship with the acknowledged tribe," we kind of  
20 had a discussion this morning that entailed that, that  
21 talked about the struggles we have, because our  
22 community in Wisconsin, I can enroll in three  
23 different bands, federally recognized bands. What  
24 does it mean to be an Indian? Well, our community is  
25 vibrant no matter if we're federally recognized or

1 not. But with that federally recognition, it allows  
2 our children to go to BIE schools. It allows us to  
3 access Indian Health Services. So while that's not  
4 our whole community, some tribes are nice enough to  
5 give us without being federally recognized, but most  
6 of the policies and funding are tightened. We notice  
7 that they -- they need to have that card. And so when  
8 we have that, it makes it very difficult for our --  
9 when our communities are struggling, you know. A lot  
10 of our communities are in tar paper shacks, trailer  
11 houses, substandard housing, low income. Any help  
12 with our communities is greatly appreciated, and it  
13 doesn't mean that we would want to have dual  
14 citizenship in a community that's not of our own. But  
15 until the time that our tribe, our community is to be  
16 recognized, we need to be able to survive. We need to  
17 be able to access those -- those services that the  
18 government provides the Indian people. Something as  
19 simple as hunting and fishing rights so we're not  
20 arrested when we go netting or spearing. You know,  
21 those are things that have long -- you know, our  
22 people have to deal with.

23 I think about my grandma, her dad mentioned a  
24 story. He said about a time when he went out as --  
25 going out and hunting and they brought him in and they



1       said, you know, oh, he was poaching. Well, we were  
2       just feeding our family, which was 17 or so kids. And  
3       the judge said, "You know what, Joe Pete, your people  
4       have been here a long time before us. You can hunt  
5       and feed your family as however you see fit."

6               But not all of the judges are like that. So  
7       they'll fine us, throw us in jail, take our catch, you  
8       know, and so I have a real issue with that number (2)  
9       because we're not trying to say that we're belonging  
10      to another community. But without being identified as  
11      being Indian, we also don't have the same services to  
12      our communities. Miigwetch.

13             MS. CHINN: Thank you.

14             MR. ETTAWAGESHIK: You know, one of the --  
15      some of this brings up to mind this -- people to  
16      discuss things, is that the long delay in this process  
17      has the effect of -- of creating nonrecognizable  
18      entities out of recognizable tribes. When we start,  
19      we clearly meet all the criteria. But over the 30,  
20      40, 50 years it takes to go through the process, we --  
21      we don't have the tools to keep our communities  
22      together in the way that we should. And what happens  
23      is, is that it -- the delay becomes a self-fulfilling  
24      prophecy for denial just because of the long delay,  
25      and so it create -- it's a real struggle. It's hard

1 enough for a federally recognized tribe to maintain  
2 all of the different things it needs to maintain a  
3 culture and language. For a nonfederally recognized  
4 tribe, it is very difficult, and without access to the  
5 tools and the economic structure that's necessary and  
6 so, you know, this -- this is just another definition  
7 of the problem, but I think it's -- it's part of  
8 the -- you know, we need to -- somebody was speaking  
9 about capacity building. I forget who it was.

10 MR. REINHARDT: (Raising hand.)

11 MR. ETTAWAGESHIK: Okay. Speaking about  
12 capacity building. Marty, I should have known. But,  
13 you know, in helping tribes maintain the -- the  
14 cultural components and helping tribes maintain the --  
15 the different status that would then make them meet  
16 the criteria is -- is important.

17 And as an example, in the Indian Arts and  
18 Crafts Act, a specific provision in Indian Arts and  
19 Crafts Act made it federally recognized tribal  
20 citizens, state recognized tribal citizens, and those  
21 citizens who are artists are those who aren't enrolled  
22 members of either of those two state or federal tribes  
23 but are recognized by state or federal tribes are all  
24 recognized as Indian artists. And so there's already  
25 a provision. And that requirement there is that if a

1       tribe takes an action and says, all right, somebody  
2       from Burt Lake, for instance, that's not federally  
3       recognized, but we know them as basketmakers, if one  
4       of the federal tribes in the state would say we  
5       acknowledge them as an Indian artist, then they --  
6       they would be acknowledged as an Indian artist and --  
7       under the federal law that exists right now.

8               And so there's -- there's an example of  
9       federal law right now that exists that deals with the  
10      question of what does it take to be Indian. In this  
11      case, what does it take to be an Indian artist? And I  
12      think that there are some -- maybe some -- this  
13      process could be informed a bit by the way that law  
14      was written and by the way that -- that that law is  
15      enforced.

16             Now, there are a lot of problems having a  
17      tribe recognize somebody as an Indian artist, so I  
18      know that that's a problem. But this is a way still  
19      that is one way that's been dealt with in federal law  
20      already and through several regulations and revisions  
21      to that law and enforcement.

22             You know, I wrote the State of Michigan  
23      comments for the Indian Arts and Crafts Enforcement  
24      Act of 2000, and in that I used Burt Lake as one  
25      example. You can have a full-blood member of Burt

1 Lake who is not an Indian artist and could be  
2 prosecuted for up to a fine of \$250,000.00 for -- for  
3 selling their work as an Indian artist, and yet  
4 they're full blooded all the way down through their --  
5 through their history. And then you take someone  
6 who's a member of another tribe -- and I'll say Sault  
7 Ste. Marie in this case. Not to pick on them  
8 particularly, but because they are federally  
9 recognized but don't have a minimum blood quantum in  
10 their criteria. And you can take someone who has very  
11 low blood quantum and yet they're an Indian artist.

12 And so the federal law had a problem and  
13 it's -- it is an issue because if you try to prosecute  
14 a full-blooded Indian who is not -- but not an  
15 enrolled citizen for making a basket and calling it  
16 Indian art, that's going to be a really tough battle  
17 in the -- in the courts. It's going to be a tough  
18 battle in the public opinion.

19 And so the whole question comes down to this  
20 whole thing of the definition of an Indian. And I'm  
21 really -- but I think that that -- the way it was  
22 dealt with in the Indian Arts and Crafts Act might be  
23 a way to help think about what we could do to help the  
24 tribe do some capacity building and help open a door.

25 There are a number of federal programs that

1 are open to state recognized tribes today, and many of  
2 the successful petitioners are the people who are --  
3 who have active tribal programs and centers are from  
4 state recognized tribes that have been recognized  
5 through state law and have -- are taking advantage of  
6 the Office of Justice Programs, the Department of  
7 Labor programs. Pretty much every agency except the  
8 Bureau of Indian Affairs and Indian Health Service  
9 have programs for funding nonfederally recognized  
10 Indians that are state recognized and urban Indians.

11 And so I think that we need to try to figure  
12 out how to make this process work better with all of  
13 those others. Thank you.

14 MR. WYZLIK: Scott Wyzlic with Grand River  
15 Bands of Ottawa Indians. To the percentages of 83.7  
16 part (b), maintain distinct cultural patterns and  
17 reside in specific geo -- geographic area. The  
18 definition of a geographic area, as Chairman Yob had  
19 pointed out, would have been Kent County.

20 I reside in (speaking in unknown language)  
21 Mackinaw City. I hunt and fish. I gather medicines,  
22 edibles. I exercise treaty rights that were explicit  
23 that have been paid for over and over by our  
24 ancestors. But because I don't live in Kent County, I  
25 don't live in the city, I'm not considered in the

1 geographic area, and yet I'm in treaty territory.

2 If I get caught by DNR or any other agency,  
3 I'm going to go to jail for exercising treaty rights.  
4 which, regardless of federal recognition, Judge Canby  
5 with the Ninth Circuit has denoted that a tribe does  
6 not need to be federally recognized to exercise their  
7 treaty rights. That has never gone, as far as I know,  
8 to court, so --

9 MR. REINHARDT: Menominee did.

10 MR. WYZLIC: Menominee did?

11 MR. REINHARDT: Uh-huh.

12 MR. WYZLIC: But the geographic area needs to  
13 be defined because we were not -- we were removed from  
14 our homeland. The boarding schools spread our people  
15 out and yet many of my family -- much of our family  
16 still lives in the area, in the counties surrounding  
17 Kent County, but not in Kent County. How is it going  
18 to be addressed, because this is just a  
19 generalization? Geographic area, it's ambiguous. And  
20 I guess my question is: How is that going to be  
21 addressed? How is it going to be defined? Is it  
22 going to be defined by treaty territory or the county  
23 that the petitioning tribal organization resides from?  
24 Miigwetch.

25 MS. CHINN: So currently the regulations in

1 the draft don't define geographic area. But from our  
2 conversation today, it sounds like that maybe that's  
3 the necessary element to the new draft.

4 I do want to take this opportunity to point  
5 out that the -- the types of evidence listed under 1,  
6 on Page 8, they're just suggested types of evidence  
7 that you can put forward to establish community.  
8 They're not requirements in and of themselves. But it  
9 does sound like from today's conversation, maybe  
10 these -- these types of evidence for community are not  
11 as good as they could be, so maybe we have some  
12 updating to do.

13 MR. REINHARDT: Again, Martin Reinhardt. I  
14 just want to emphasize that the definition of our  
15 community should be tribally defined. It should not  
16 be something that's coming down from the federal  
17 government. And it should be historical. We should  
18 have historical evidence. We should have shared  
19 community definition. You know, if we recognize as  
20 Anishinaabeg, Ojibwe, Odawa, Bodéwadmī as a Three  
21 Fires group, that we are and have been since time  
22 immemorial in this Turtle Island and then we've had  
23 significant migrations, and that through those  
24 migrations we've reestablished traditional homelands  
25 and we, amongst ourselves, say this is our homeland,

1       that should be good enough for the bureau. That  
2       should be good enough for the external governments to  
3       recognize that we recognize ourselves as being from  
4       here and that we have a shared identity.

5               And if we look at these geographic areas and  
6       they comply with the history and the shared identity  
7       between different tribal groups, that should be good  
8       enough. It emanates from the people, then, not from  
9       the bureau of acknowledgment or Bureau of Indian  
10      Affairs. It needs to come from us.

11             MS. CHINN: So if -- if there were any  
12      comments that you guys could put forward about how we  
13      could take, you know, internal viewpoints about  
14      community, how we could take that more -- when we're  
15      looking at community, when we're determining whether a  
16      group is a community, how could we better consider  
17      your own internal feelings about being a community?

18             MR. YOB: Ron Yob again from Grand River  
19      Bands. Just to go on his point, and we discussed this  
20      at another meeting before, but it's like if you  
21      remember the large family -- say your last name is  
22      Smith, right? Just because you move out of state, do  
23      you have to change your name? You're no longer a  
24      member of that family? I mean, you're kind of saying  
25      you're not. You know, you're still going to be part



1 of that family. And I think people are still part of  
2 our family whether they're -- like Frank brought up  
3 this morning, we have members in China, you know. I  
4 mean, they're still part of their family. I mean,  
5 just because they move away doesn't mean you're --  
6 you're not, you know. It's -- that's like really  
7 simple.

8 MR. CHAMPAGNE: I agree with what both these  
9 gentlemen said. You know, my grandma pointed out  
10 right before you mentioned, we're Indian for all the  
11 negative government policies, whether it's boarding  
12 school, whether it was removal of our children. She  
13 mentioned that a large number of our children were  
14 adopted out to white homes and part of that does  
15 affect, you know, our -- where our people live.

16 we also look at, you know, your government  
17 policies of urban relocation, moving us to different  
18 centers. We have a large population located in  
19 Milwaukee, and so when you would look at our home  
20 community in northern Wisconsin, you'd say, well, we  
21 have half your population in Milwaukee. How is that  
22 possible? well, it was a government policy that moved  
23 them there. We now have more American Indian people  
24 living in urban center, most of those were relocation  
25 centers, than we do living on a reservation or rural

1 community. Nationwide that is.

2           When I also look at -- I hear define  
3 geographic for Anishinaabeg people. You know, our  
4 creation story puts us out on the ocean and migrating  
5 here. We span through the Great Lakes regions out  
6 into Minnesota, even in -- all through Canada. And so  
7 to say -- I hear one point, the 1855 treaty, we ceded  
8 this much land and this is where it occurred. Well, I  
9 guess we don't fall within that treaty area. We're  
10 just a little bit south of that. Is that still not  
11 Anishinaabeg territory? The only ones who were there  
12 before were Menominee. You know, Oneida, Stockbridge,  
13 those were all transplants from the East Coast.  
14 That's all Anishinaabeg territory. We made that  
15 circle around that lake. And, you know, when we look  
16 at that, it does define -- you know, I agree with this  
17 gentleman, your community defines where your  
18 geographic region is, where your people hunt and  
19 gather and where you practice your ways. And I guess,  
20 you know, that's -- that's an issue. And when we look  
21 at -- to the percentages, you know, you see the 50 and  
22 then crossed out and you're asking for a consultation.  
23 What does that mean? I think that's up to the  
24 community to set those standards in their own  
25 community.

1           You know, if you really want true tribal  
2       consultation, I think that's what most bands would  
3       want. Because while 50 percent may work to a western  
4       band that live in the geographic region, that may not  
5       work so well in the Great Lakes area. And, you know,  
6       we have smaller populations. We call ourselves bands.  
7       It's just a group in our families. When we signed our  
8       treaty, we signed as bands. We didn't sign as a  
9       nation or a tribe or Three Fires. We signed as  
10      individual communities. And they just now are trying  
11      to put us all together. And some of our relatives got  
12      reaffirmed, other ones did not. Well, a lot of us,  
13      we -- we here in the group, how many of us are Grand  
14      River? We're probably extended relatives and our  
15      relatives knew each other. But we come from different  
16      communities, we have different political  
17      relationships, different ways to handle how we do  
18      practices in our community, and I guess that's  
19      something the government kind of lacks because it's  
20      easier just to say, oh, you're all just one person  
21      versus saying, oh, yes, you're each individual.  
22      Miigwetch.

23           MS. WYZLIC: I'm Lisa Wyzlic, Grand River  
24      Bands of Ottawa Indians and also the Association on  
25      American Indian Affairs. In regards to what these

1 gentlemen were saying about -- about geographic  
2 location and, you know, percentages and things like  
3 that. Our board of directors recently changed our  
4 policy on our scholarship program. We used to go by a  
5 quarter of Indian blood for federally recognized  
6 tribes. And nonrecognized tribes, if it -- you know,  
7 if they were quarter Indian, they were -- you know,  
8 that's preferred. We did take that into consideration  
9 on an individual basis, and we did have to provide  
10 other documentation. But they decided that, you know,  
11 tribes have the ability to recognize their own people.  
12 And so you have a 92-year-old national nonprofit  
13 organization who has been active in Indian policy  
14 since 1922 who is changing their policy.

15 And the discussion that was in the room had to  
16 do with the fact that the quarter Indian blood was  
17 established -- it's put upon us. That's not something  
18 that we decided for ourselves, it was put upon us, and  
19 we just followed suit.

20 And so our board, which is a diverse board  
21 from across the country, made up of many tribal  
22 leaders with expertise in many areas, has decided to  
23 change that policy and let the tribes decide for  
24 themselves who their people are and recognize their  
25 own people for who they are.

1           A couple other housekeeping questions and  
2 other questions I have. Even when these comments  
3 are -- are submitted and looked at, when do you  
4 anticipate the proposed rule to be -- to be published  
5 so those comments can be made? And how do you access  
6 the Federal Register or how will that be announced so  
7 people can, you know, go to that web site or get a  
8 copy of that Federal Register to -- to make those?

9           I was also looking at the -- the criteria in  
10 regards to being recognized by outside entities. Here  
11 in the state of Michigan, the other tribes recognize  
12 the nonrecognized tribes as tribal entities and always  
13 have. As has been said, many of us are related and  
14 eligible for many different tribes. Not only are we  
15 both recognized by other tribes, but we are also  
16 recognized by other entities within the state. Grand  
17 River has state recognition. But other entities as --  
18 as far as like tribal -- or as far as like city  
19 councils and city governments and nonprofit groups,  
20 Daughters of the American Revolution, there are --  
21 there are a number of other entities that recognize  
22 the nonrecognized tribes as Indian peoples. And I'm  
23 sure that's the case in many other states. Many --  
24 you know, some other states, you know, there are --  
25 the tribes have been split, so there are, you know,

1       those cases as well, but, you know, they recognize the  
2       other people as -- as Indian people.

3               So I think that may be -- need to be looked at  
4       a little bit closer as far as being recognized by  
5       other groups. Sorry. I have notes written.

6               In regard to a land base, you had kind of  
7       talked about reservation land, and some of -- some  
8       tribes don't have reservation land. They have  
9       allotted land. Again, historical policies and  
10      government policies created those types of situations.  
11      As I said, I work for AAIA and I live actually in  
12      Virginia. And I do drive home to participate in  
13      powwows and tribal meetings and anything that I  
14      possibly can. I don't make them all. You know, it's  
15      a 15-hour drive. But I do make those efforts to do  
16      that. I do make efforts to stay connected to my tribe  
17      even though I do live outside the geographical area.  
18      I've been fortunate to be able to attend several of  
19      the Senate Committee hearings, one of the roundtables  
20      and a couple of the House Committee meetings. Most  
21      recently I attended the March 19th House meeting where  
22      Assistant Secretary Washburn and Assistant -- Deputy  
23      Assistant Secretary Roberts testified.

24              I know at the -- one of the roundtables they  
25      were talking about taking into consideration

1 regional -- regional things that would have affected  
2 someone's recognition or the -- that process they were  
3 going through. For instance, in the south because  
4 some of those tribes had their records burnt in the  
5 courthouses during the Civil War, they were talking  
6 about different regions of the country, you know, have  
7 specific things that affected the tribes and taking --  
8 taking those things into consideration regionally. So  
9 I just wondered if those things are going to play into  
10 that.

11 The other thing that, you know, with the  
12 nonrecognized tribes and with blood quantum issues is  
13 I -- my understanding is that Canadian students who  
14 are at least half Indian blood are actually eligible  
15 for BIA scholarships. And students who are state  
16 recognized, no matter what their blood quantum, are  
17 not recognized for any of those scholarships. Non --  
18 students from nonrecognized tribes have difficulty  
19 obtaining funding through any -- you know, any kind  
20 of, you know, scholarship opportunities because  
21 they're not available to them.

22 Most recently, the Michigan Indian Tuition  
23 waiver has been removed from state recognized tribes,  
24 you know, although there are tribal citizens from  
25 other states who are federally recognized can come to

1 our state and take advantage of the tuition waiver.

2 Thank you.

3 MR. KNOX: And that is a treaty issue.

4 MS. WYZLIC: That is a treaty issue, yes.

5 MS. APPEL: Thank you. You have a number of  
6 really good questions and comments. To start with the  
7 procedural questions, we're hoping to get a rule  
8 published as proposed in the Federal Register by early  
9 2014. And to access the Federal Register, if you  
10 Google "Federal Register," you'll be able to get a  
11 link to the Federal Register. Another way to get  
12 access is through [www.regulations.gov](http://www.regulations.gov), and that has a  
13 search engine where you could search for Part 83, 25  
14 CFR 83, federal acknowledgment. Or, you know, if you  
15 type in the exact title procedures for establishing  
16 that an American Indian group exists as an Indian  
17 tribe, that would pull it up. I think they're still  
18 working on some kinks in that system, but if you play  
19 around with it a little bit, it should pull up.

20 We'll also, I'm sure, be posting everything on  
21 our web site, which, again, is [www.bia.gov](http://www.bia.gov). And we  
22 will likely have a press release when the proposed  
23 rule is published.

24 MS. CHINN: And we also have gotten some  
25 comments requesting that we send letters to



1 petitioners next time we do something big like the  
2 proposed rule and so we're taking a look at that,  
3 we're seeing if that's a possibility.

4 MS. APPEL: So some of your -- your questions,  
5 one that I noted, is whether regional differences will  
6 be considered, and that's something we're looking for  
7 comments on, is how we can work that into the rule.  
8 If regional differences are appropriate in how the  
9 criteria are applied or should different criteria be  
10 applied depending on what region it is, we were --  
11 we're definitely interested in hearing ideas for that.

12 MS. CHINN: It's difficult to make the process  
13 more objective so that everybody is on the same page  
14 about, you know, percentages and things likes that,  
15 but also be flexible with regional differences. So if  
16 you have any suggestions for us on how to do that, it  
17 would be much appreciated.

18 You -- you asked a good question about our  
19 proposed deletion of criteria (a), which is  
20 recognition by outside entities of, you know, tribal  
21 existence. The way that we see it is what would have  
22 counted as evidence under criteria (a) can be put  
23 forward to criteria (b) and (c), political autonomy  
24 and community. So if an outside entity is recognizing  
25 you as an Indian community, that -- that can count as

1 evidence of community. It's just no longer, under  
2 this draft, a separate mandatory criteria.

3 Under the draft for an expedited favorable  
4 proposed finding, the second way to get there is land  
5 being held for the group at any point in time since  
6 1934. And you brought up that some -- some tribes  
7 have allotment land, not group land, and we've heard  
8 that comment before, so we'll be taking that into  
9 account.

10 MS. APPEL: Are there any -- you also  
11 mentioned about the issue with the scholarships going  
12 to one-half Indian blood and -- I think -- I think  
13 that's a statutory issue, if I remember, that there's  
14 a statute about setting a certain blood quantum for  
15 any -- that it's interpreted as -- I think. I hope  
16 I'm not speaking out of school here, but I think it's  
17 interpreted as one-half of the blood of a federally  
18 recognized tribe, so -- which is what I think you were  
19 getting at.

20 MR. REINHARDT: That's based on (inaudible)  
21 status.

22 MS. APPEL: Okay.

23 MS. CHINN: So if you have specific comments  
24 on that, we encourage you to submit them in writing  
25 because we can't answer them right now.

1                   MR. REINHARDT: Okay. I just wanted to add a  
2 little bit based upon the idea of treaty relationships  
3 being preferred in the acknowledgment process. Who  
4 does the federal government treat with or deal with  
5 today for the treaty rights and treaty relationships  
6 that are still outstanding?

7                   MS. CHINN: I'm not sure I understand your  
8 question.

9                   MR. REINHARDT: It's a loaded question. They  
10 deal with the tribes that sign the treaties. And if  
11 they are not recognizing the tribes that sign the  
12 treaties as the ones who can deal with those treaties,  
13 then who do they deal with? It behooves the federal  
14 government to recognize that the entities that they  
15 sign these treaties with are still in existence so  
16 that way they can deal with these treaty -- things of  
17 interest to treaties.

18                   For instance, in the state of Michigan,  
19 there's this thing called State of Michigan that, you  
20 know, we tend to forget that treaty rights go both  
21 ways. There would be no state of Michigan were it not  
22 for those treaties, you know, this very land, and that  
23 there's a number of other things that were exchanged,  
24 but, you know, Indians aren't the only ones that  
25 invoke treaty rights. U.S. citizens invoke treaty

1 rights every day when they walk on these soils and  
2 fish in the lakes and cut the wood and eat our fish,  
3 so, you know, this is an ongoing relationship. It's  
4 not something that happened 200 years ago and that's  
5 it. Treaty relationships are still enforced. They  
6 are the supreme law of the land. Treaty rights are up  
7 there with the U.S. Constitution. We don't want to  
8 forget that, and so that's why they have to be  
9 preferred in this process, otherwise what happens to  
10 the entities, the bilateral relationship that still  
11 exists?

12 There's also Aboriginal rights and those are  
13 those rights that tribes retain from our ancestors  
14 since before treaty making, before colonization that  
15 we've never given up in treaty or otherwise, and  
16 that's something that we retain. And unless the  
17 tribes and the federal government have sat down and  
18 treated over those things, we still maintain those.  
19 And those are not necessarily chronologically listed  
20 out anywhere, they're not necessarily accounted for on  
21 paper, but we still exercise them the way we always  
22 have.

23 MS. CHINN: So when you say preferred, are you  
24 saying that tribes that are exercising the treaty  
25 rights should have an expedited finding?

1                   MR. REINHARDT: Tribes who have treaty rights  
2 that are enforceable should, in fact, be preferred in  
3 this process.

4                   MS. CHINN: Okay.

5                   MR. ETTAWAGESHIK: Along those lines, what was  
6 just said -- this is Frank Ettawageshik again.  
7 They -- when they we were in negotiations on the --  
8 the consent decree for the U.S. versus Michigan Indian  
9 Hunting and Fishing Rights, several times during the  
10 very extended, very long and involved negotiations on  
11 that consent decree, which were successful, we had to  
12 stop and remind the State of Michigan that their --  
13 they weren't giving us anything, that we were  
14 exercising retained rights that were inherent and that  
15 we had them prior to this, and that the state was --  
16 the state was exercising hunting and fishing rights  
17 that they got from us. So rather than them giving us  
18 something, we gave them something, as Marty pointed  
19 out.

20                   But we had to stop about every six weeks in  
21 the negotiation and remind the state again that this  
22 was the case, and so they should stop that mindset of  
23 what they were going to give us, but rather what this  
24 was about is how they were going to live with what we  
25 already have. They had to figure that out. And then

1           how we were going to coexist on the other issues. But  
2           this is true on the hunting and fishing rights.

3                       But when there's a treaty, one of the inherent  
4           things that's in a treaty, a treaty is between  
5           sovereigns. And you don't (inaudible). The United  
6           States did not make a treaty with the Farm Bureau.  
7           Okay? Treaties are made between sovereigns. And one  
8           of the things that's inherent in that treaty is the  
9           acknowledgment of the sovereignty of both parties by  
10          the other party. And so it's a two-way street.

11                      And that's -- as you pointed out, Article 6 in  
12          the U.S. Constitution says that treaties are the  
13          supreme law of the land and stand right beside the  
14          Constitution.

15                      So one of the underlying problems of the  
16          issues that we've had for years, and as Ryan spoke  
17          earlier here about -- about a friendly judge saying  
18          well, we know who you are and you've got treaty rights  
19          so we're not going to throw this case out. You know,  
20          I remember Dan Bailey, the chairperson at Little River  
21          during our hearings, bringing a copy of the treaty  
22          that his -- his grandfather used to take to court.  
23          Whenever one of their tribal citizens had gotten  
24          arrested, he'd take this copy of the treaty there and  
25          tell the judge, "You have no right to be prosecuting

1       this guy." This is before federal recognition. This  
2       is years ago. And his job was to take this copy of  
3       the treaty to the Court and defend citizens who  
4       were -- who were exercising their treaty rights. So,  
5       you know, but we -- we've tried to formalize that  
6       through these relationships now, this federal  
7       recognition relationship. But, nevertheless, I just  
8       wanted to reemphasize the importance of a treaty  
9       relationship and why that has a different -- why  
10      that -- why that should play a very strong role in  
11      these -- in these -- the process for federal  
12      recognition. Thanks.

13               MR. YOB: Ron Yob again. Just to go -- add to  
14      the treaty rights. I know they talked about, you  
15      know, it's preferred preference to those tribes --  
16      treaty tribes, but also you should add to that is  
17      tribes that got land settlements. Because -- because  
18      of treaties we did get land settlements. And then  
19      just as recent as 2007, we had a land payment from an  
20      1836 treaty, so it took 170 years to get the payment,  
21      but they did acknowledge us 170 years later.

22               UNIDENTIFIED SPEAKER: 171.

23               MR. YOB: 171. Miigwetch.

24               MR. REINHARDT: I guess I would just say, too,  
25      you know, for the folks that are dealing with this,

1 state historical, state recognized, you know, those  
2 testimonies of people who have gotten those tickets  
3 from the DNR, who have gotten their shotguns and  
4 fishing poles confiscated, all of that should be  
5 submitted, all of that should be considered evidence,  
6 because those are stories that don't necessarily come  
7 up in political papers or legal papers on a collective  
8 level. But on an individual level, every time they do  
9 that and sit down and say, you know, "why should I  
10 have to buy a state license, damn it? This is my  
11 treaty right." That should be accounted for, you  
12 know. And those are the things that this kind of  
13 overlooks. You never get those real hard-core  
14 feelings from the families, you know, when we're  
15 sitting around wondering why our relative is sitting  
16 in jail for exercising our treaty rights. You know,  
17 you just -- you may not get to see that on a form, but  
18 that's what matters to us, you know. It's -- it's our  
19 sovereignty and those things -- those kind of  
20 individual testimonies about our individual rights as  
21 Indian people because they were part of our tribes,  
22 there needs to be room in the process for that  
23 evidence to be considered as well.

24 MR. CANTU: Phillip Cantu, Grand River Band.  
25 I'm just commenting on the need for revisions for how



1 long it takes. Being unrecognized, we want to be a  
2 tribe that flourishes, not diminishes. Each step we  
3 take forward, we take a step backward. An elder dies,  
4 someone else joins another tribe. So in that respect,  
5 that still doesn't stop us from pursuing the federal  
6 recognition. Thank you.

7 MR. YOB: I just want to -- Ron Yob. I just  
8 want to comment, when Lisa asked about, you know, how  
9 they notice it and how we find this stuff up,  
10 just -- just to let you know, this morning's session,  
11 Grand River outnumbered. And right now, Grand River  
12 outnumbers everybody. But Grand River has never been  
13 formally noticed of a proceeding. I don't know how  
14 you guys circulated it, but (inaudible) sent me  
15 e-mails, our Washington people sent me an e-mail, but  
16 the government itself had never told us this meeting  
17 was happening, so, I mean, just to show you how things  
18 are going. If we wouldn't have had these people, you  
19 know, from various locations to see that, we probably  
20 wouldn't have been here, but you can see that just  
21 what little notice we got, we -- we're here.

22 MS. APPEL: If you have recommendations on  
23 ways we can better reach out --

24 MR. YOB: well, you know, if you just go on  
25 your list of tribes and look on the ready list,

1 we're -- we're right there. I mean, it would seem  
2 like if you're going to Michigan, you see a Michigan  
3 tribe, you're going to make it a point, but --  
4 especially to get ahold of them and acknowledge that  
5 they're -- they're here.

6 MS. CHINN: would you see a letter as -- as  
7 doing that, a letter to petitioners?

8 UNIDENTIFIED SPEAKER: Yes.

9 MR. YOB: Yeah.

10 MS. CHINN: Okay.

11 MR. YOB: If I wouldn't have had tribal  
12 members that -- that had seen that or our Washington  
13 lawyer, we would have -- actually it wasn't even our  
14 lawyer, it was another lawyer that's consumed by --  
15 with our cause, you know, that e-mailed me about it,  
16 you know, but otherwise we would have never -- we  
17 would have never known. You can see that our people  
18 came. You know, this is -- you've got to figure when  
19 you get one people here, they represent 50 people, you  
20 know, so our whole tribe is concerned.

21 MS. CHINN: We're happy that you made it.

22 MR. REINHARDT: And when you send those  
23 letters, could that be used as evidence of federal  
24 recognition?

25 (Laughter.)

1                   MR. WYZLIC: Scott Wyzlic, Grand River Bands.  
2           There are -- to my understanding, there are three --  
3           three identifying qualifiers for being Indian. I am  
4           Indian. He is Indian (indicating). I have this card  
5           from the BIA that says I'm Indian. And what Frank was  
6           mentioning earlier about the arts and crafts, I am --  
7           I make copper bowls. I cannot sell them as native  
8           made. I cannot sell them as an Indian-made item. And  
9           it goes back to the treaty issues. I was fortunate  
10          insofar as -- fortunate. I'm a disabled veteran. I  
11          served in the United States Navy. I went to college  
12          with my rights that I earned through the military.  
13          Chairman Yob signed my papers for the tuition waiver.  
14          I could have used that. I chose to use my military  
15          benefits instead. I have cousins who have had to join  
16          the military now because they no longer qualify for a  
17          treaty right that was handed over to the State of  
18          Michigan from the federal government. Yet as a treaty  
19          right, we are told now that it's affirmative action.  
20          And it's eroding at the corners of our sovereignty.  
21          And the longer that we wait on the ready list, the  
22          longer -- it's been, what, 20 . . .

23                   MR. YOB: Well, our intent letters came from  
24           '94.

25                   MR. WYZLIC: '94. So how long does this

1 process have to take? We've known that it's been  
2 broken for over 20 years. So now the BIA is just  
3 acknowledging that, hey, there might be a problem  
4 here. But the problem is, we have no economy here  
5 anymore in Michigan. Our kids and our grandchildren  
6 are having to leave the state to go find work. And  
7 yet these rules say that we have to be a distinct  
8 community. We have to stay in the geographic area.  
9 You go into downtown Grand Rapids and count the number  
10 of buildings that are vacant, even though there is a  
11 revitalization going on in the downtown areas of  
12 Muskegon and Grand Rapids. Small businesses aren't  
13 making it. Our large corporations are leaving the  
14 state. Our people don't have a place to go get a good  
15 job and to stay active in their community.

16 We just came from a language camp, language  
17 and culture camp down in Manistee. We got in at 8:30  
18 last night. We've been up for a sunrise ceremony  
19 before six o'clock every morning. We've been going to  
20 bed at midnight, one o'clock. We knew that this was  
21 going on today, so we are here. But what does it take  
22 for us as Indian people, as Anishinaabeg, to prove our  
23 Indianness and that we're still here and that we still  
24 recognize our tribal councils regardless if they are  
25 reaffirmed by the federal government or not? Our

1       grandfathers signed treaties. Our great-grandfathers  
2       signed treaties.

3               As a matter of fact, the United States would  
4       not exist, because in order to sign a treaty, it means  
5       that you exist as a federal -- as a -- as an entity  
6       that has a sovereign right to sign that treaty.  
7       Britain never would have recognized the United States  
8       government had it not been for the treaties they  
9       entered into with our tribes. So I guess I'm  
10      wondering why this 20-year time span goes by and I  
11      lost, you know, my mother, recently my aunt. My uncle  
12      just turned 92. My grandmother will be 93 in October.  
13      Do they have to die not having what was inherently  
14      theirs? They weren't born United States citizens.  
15      That right was given to them in 1924. How many treaty  
16      rights have to be taken away from our sovereignty  
17      until we no longer exist? That's the premise of this  
18      CFR 25 Part 83. This tells us this is what we have to  
19      do to be considered Indian (indicating). We jump  
20      through the hoops.

21             Chairman Yob has put together cases of  
22      paperwork and hand-delivered them to the bureau in  
23      D.C. and yet we still wait because there's not enough  
24      people to go through it or we have to go through it at  
25      such a pace. These years erode at what this piece of

1 paper tells us we have to have. How is the BIA taking  
2 into consideration our needs? Not just our comments,  
3 but actually physically hands-on working with our  
4 tribes and our tribal leaders and sitting down and  
5 saying, okay, we know there's a problem here, but  
6 here's our fix, live with it. Why does not the BIA  
7 say, Chairman Yob, the chairman from Burt Lake, Black  
8 River Swan Creek, Mackinac Band, these unrecognized  
9 tribes -- I'm sorry I'm using Michigan tribes because  
10 those are the ones I know -- "We would like to have  
11 you, invite you to Washington," as they did with our  
12 grandfathers, to sit down and say, "This is the  
13 problem, we need to fix this," and then jointly coming  
14 up with a decision. Not just, "What are your  
15 comments? Okay. We'll take them into consideration,"  
16 and then go back and then give us some more paper that  
17 says these are the rules that you have to live by.  
18 Miigwetch.

19 MS. APPEL: Thank you. So these meetings  
20 are -- are an attempt at having that discourse and  
21 getting ideas. Normally the rulemaking process would  
22 begin with the proposed rule publication, but we're  
23 taking a step back and we're having these meetings  
24 across the country to try to get at the front end, you  
25 know, your ideas on how to fix -- fix the problems

1       that -- that are -- the length of time that it takes  
2       to get through the process, among the other issues.  
3       If you have other ideas for how we can pull together  
4       and work these out, you know . . .

5               MR. WYZLIC: I just offered one. Bring our  
6       leaders to D.C. Sit down as a group and say we have  
7       problems. How do we fix this? Not just I have a  
8       comment from here, comment from there. Actually  
9       literally sit in a room and physically discuss amongst  
10      leaders and come up with this is how the process  
11      works.

12             I was told that when I make a decision, my  
13      decision affects seven generations. So when I speak,  
14      I accept the responsibilities for my actions. But if  
15      I'm discussing and making decisions for everyone, such  
16      as our leaders are, they take into consideration is it  
17      good for our people now? Is it good for the next  
18      generation? Is it good for seven generations? If it  
19      does not meet that criteria, it's not good for us now.

20             MS. CHINN: We think --

21             MR. WYZLIC: There's a difference of thought  
22      between cultures, between the races. Our people have  
23      always taken into consideration the future, not just  
24      what happens today.

25             MS. CHINN: We appreciate --

1           MR. WYZLIC: So that would be the idea. Get  
2 together with the leaders, make the decisions, make  
3 the rules.

4           MS. CHINN: Okay. We appreciate your comment,  
5 and we had talked about working more closely with NCAI  
6 going forward. They have a task force. Do you -- do  
7 you view that as a good step?

8           MR. WYZLIC: Yes, it is.

9           MS. CHINN: Okay. Well, thank you.

10          MR. GERALD GOULD: Jerry Gould, Swan Creek  
11 Black River. I'd say that's a beginning. But, again,  
12 we have to speak to the people who are directly  
13 involved. We want their input first. We spoke about  
14 this earlier, about what the gentleman said just a few  
15 minutes ago. You want to talk to the people who are  
16 directly involved and will have a (inaudible), and we  
17 want to talk to them first. We talked about what it  
18 would mean to go to D.C. or whether you have groups  
19 come to different areas in the United States, get  
20 their input on the problems that these nonfederally  
21 recognized groups are having, and -- regarding  
22 funding.

23                 I want to ask just a quick show of hands, just  
24 a quick show of hands, is there any group here in  
25 their recognition effort that has too much money?



1 (Laughter.)

2 MR. GERALD GOULD: Just -- no, no. Don't be  
3 shaking Ray's hand. Any group here that has too much  
4 money?

5 (No hands raised.)

6 MR. GERALD GOULD: Is there any group here --  
7 another show of hands by any group in their  
8 recognition effort that could use more funding for  
9 research, your recognition effort, anybody here that  
10 could use more funding?

11 (Hands raised.)

12 MR. GERALD GOULD: So you're all getting  
13 enough? Maybe some? That itself is an obstacle that  
14 those people in D.C. too many times don't realize  
15 because these are the people that are coming to grips  
16 every day, every day (inaudible) Indian (inaudible),  
17 getting their telephone bill paid, buying a printer,  
18 because those people in D.C. won't provide the paper  
19 and have no comprehension about the problems that the  
20 Indian groups are having here. That should have been  
21 the first step in the problem-solving process, is  
22 either having them come to D.C. or coming out to them.  
23 Ultimately the problem is they won't find a problem.  
24 That would be the first step is finding out. Who  
25 would you ask? Well, the gentleman mentioned you have

1 the list. You have the list. You have a list of  
2 every tribe. And I wouldn't eliminate that letter of  
3 intent. That's a bad mistake. Because for those  
4 tribes, with all that documentation prepared before  
5 they've even filed, would take them years. That's too  
6 long. Like he said, people -- people die. So the  
7 first effort should have been made, and I don't know  
8 how you can correct it, because you still don't  
9 understand the problems that these tribes, federally  
10 recognized or not, are having, and they need your  
11 help. And this afterthought, this gathering of  
12 comments, isn't -- isn't going to be that helpful.  
13 Miigwetch.

14 MS. CHINN: So in our draft we do focus a lot  
15 on trying to limit the administrative burden. That's  
16 the point of changing the time frame to begin at 1934.  
17 But am I hearing you say that we should look into  
18 actually getting funding for petitioners?

19 MR. GERALD GOULD: Yes, you should. You have  
20 to active -- actively help these groups, these tribes  
21 seeking -- you have to take a preactive role. They  
22 come together, they file a letter of intent, some of  
23 them are in different stages of providing  
24 documentation, and you need to take a preactive role  
25 in helping, otherwise some of them, it's taking so

1 much time because they're scraping money together to  
2 get grants, or beg, squeeze or steal the money to --  
3 to do the research because they need by the criteria  
4 from OFA. And OFA should be here. They're not today.  
5 That in itself diminishes the process. If they need  
6 the money, it takes so long just to get it because  
7 they need the professional expertise that the  
8 government wants with anthropologists, genealogists,  
9 historians just because it sounds good coming from  
10 them what we already know.

11 MS. NOLA PARKEY: Nola Parkey, Burt Lake Band.  
12 One of the problems that I have on Page 8 here, you  
13 have criteria down, and you're asking what percentage  
14 of this, what percentage of that. Burt Lake Band area  
15 is -- would be in Cheboygan County. Cheboygan  
16 County's probably one of the poorest counties in the  
17 state. It can't possibly support the people that need  
18 to work in that county. Therefore, the people go  
19 other places. They go to Lansing. They go to  
20 Detroit. We still come back and -- and take part. We  
21 still come back and -- and go to the meetings. It  
22 doesn't mean we're not part of the community. It just  
23 means we're trying to support our family. Burt Lake  
24 Band has been at this now for how long? Somebody tell  
25 me.

1 UNIDENTIFIED SPEAKER: Since '79.

2 MS. NOLA PARKEY: '79? 1979. That's a long  
3 time we've been trying to be recognized. We have done  
4 everything and then some. The amount of paperwork  
5 that they have on Burt Lake Band is unbelievable.  
6 We had a reservation, but they burned it out. The  
7 State of Michigan said they were going to give us 400  
8 acres to try to replace that land. They -- they put  
9 it through, they voted on it, they okayed it, they  
10 just never gave it to us. So here we are. You know,  
11 you want to put -- you want to take out rules on one  
12 hand, but then you want to put other rules back in  
13 place.

14 To -- to say -- to put down here percentages  
15 of how much of your community lives here in this area,  
16 they can't live in this -- it's Michigan. That's how  
17 Michigan is. It's a seasonal place. They close down  
18 Mackinaw City in the winter. No one works in Mackinaw  
19 City in the winter. It's -- it's that way for -- for  
20 much of the northern part of the state. So you can't  
21 really -- you can't really ask people if you want to  
22 be a member of this tribe, you have to live in this  
23 area, because that doesn't work in Michigan. But that  
24 also is why everybody has a car or two or three and  
25 we're not afraid to drive three or four or five or six

1 hours, whatever it takes, to go to the things that we  
2 need to be involved in. It's part of our culture,  
3 it's who we are, it's what we do.

4 So I -- as far as adding percentages and  
5 telling a tribe how many -- how much percentages of  
6 whatever have -- you know, in order for them to be  
7 considered a member of your tribe, I think you have to  
8 leave it to the tribe. It -- it says right here in --  
9 at Page Number 1, it -- it talks about what it means  
10 to be a community. And on Page Number 2, it actually  
11 gives the definition of a member of an Indian tribe,  
12 and it says it's the tribe's job to say who is a  
13 member and who isn't a member. I think it's as easy  
14 as that. Don't add percentages. Don't tell them jump  
15 through this hoop and that hoop, because I have to  
16 tell everybody, we've been at this since 1979. It  
17 doesn't work. You send it in. You send what they  
18 want. They deny you. They say, well, you didn't do  
19 this. You do that. You send it in. They pick out  
20 something else. And it just doesn't work.

21 So I would say the best thing you could do is,  
22 as far as -- as membership goes, speed it up. Don't  
23 put it through so many people's hands, because for  
24 some reason everybody that touches it feels they have  
25 to have an opinion about it, and let the tribes decide

1           who their members are and who they are. Thank you.

2                   MS. CHINN: I do want to reiterate that the  
3           kinds of evidence listed under (1) and (2) on Page 8  
4           are just different suggested ways for showing  
5           community. So I think we're hearing that geographic  
6           area doesn't work in Michigan definitely. But if  
7           something does work, if you know of something that  
8           does show community here in Michigan, please put it  
9           forward.

10                   MR. YOB: Ron Yob, Grand River. Just wanted  
11           to add one more comment on funding. In our area,  
12           we're -- we're full of people from all different  
13           tribes. And this morning we talked about tribes and a  
14           couple of their service areas. So us as a tribe, when  
15           we try to get funding to address the social needs of  
16           the people, the dysfunctional things, education,  
17           substance abuse people, mental health, housing, you  
18           know, I could go on and on, but when we applied to  
19           funders in our area, more than -- we put off and we  
20           get a response back that we're bias towards a special  
21           group of people and we can't fund you. So -- so by us  
22           trying to help Indians and our own tribal members or  
23           the members that live in our community, we're being  
24           denied because they're saying we have to -- we have to  
25           use a grant that's open to the whole general public,

1 and so that really hurts our funding efforts, too,  
2 because it -- you know, we're constantly being denied  
3 towards that way because they say we're too bias  
4 towards a specific group of people, so that -- you  
5 know, you have to take that into account, too. I'm --  
6 I'm just kind of adding to what these guys are saying  
7 here.

8 MS. CHINN: Thank you.

9 MS. WYZLIC: Lisa Wyzlic, Grand River Bands of  
10 Ottawa Indians. Just to add to that, you know, a  
11 couple of years ago, I attended a Native American  
12 philanthropy conference and they were indicating at  
13 that point that if you go to an outside funder, a  
14 foundation or something like that, corporate America,  
15 the amount of giving is like -- I don't know. It was  
16 like .02 percent of their philanthropic giving is to  
17 Native American communities, you know, so the -- even  
18 the -- you know, the opportunity to get that is so  
19 slim, if it even exists -- and like I said -- like he  
20 was saying, you know, some of the grants that, you  
21 know, you might apply to, you have to be, you know --  
22 you know, they say you can't be biased on sex, race,  
23 you know, et cetera, et cetera, et cetera. You know,  
24 they give the whole list. So that is -- you know, it  
25 is very true.

1 I did have a couple more questions and  
2 comments. I go to the NCAI Federal Acknowledgment  
3 Task Force meetings most often, but at least once or  
4 twice a year, and they have three a year, so I get an  
5 opportunity to see people from nonrecognized tribes  
6 from different regions of the country, and I think  
7 that there's -- there's a lot of frustration, and I  
8 think there's a consensus that they see OFA as  
9 changing the rules to suit their needs and constantly  
10 changing them, and so there's a really great mistrust.

11 In addition to the historical mistrust of the  
12 government, there's a current mistrust of the  
13 government, you know, that, you know, even if -- you  
14 know, even if you do something, oh, it's going to  
15 change next week anyway, so, you know -- I mean, it's  
16 just a real frustration for people all across the  
17 country.

18 You have five consultations listed on your  
19 list. Are there going to be more consultations? I  
20 mean, I applaud our brothers and sisters that came  
21 from Alabama.

22 UNIDENTIFIED SPEAKER: We live here.

23 MS. WYZLIC: Okay. But you're -- but you're  
24 here representing your people.

25 UNIDENTIFIED SPEAKER: We go back and forth



1 just like you guys do.

2 MS. WYZLIC: Right. But you're here  
3 representing your tribe, you know. I mean, as people  
4 have to -- you know, and you have five listed here.  
5 Are there plans to have other initial consultations in  
6 other areas of the country? And what is -- I guess  
7 help me understand the review process. Once our  
8 petition gets there, is there a -- is there like a  
9 person that is responsible or is there a team that's  
10 responsible? I mean, obviously I know it takes years  
11 and you get up to your point where you're being  
12 reviewed, but what actually takes place in that  
13 office, you know? You know, because is there two  
14 people reviewing our petition? Are all 11 people  
15 reviewing our petitions? And am I correct that  
16 there's still only 11 in that office?

17 MS. APPEL: So with regard to your first  
18 question, first, about whether we'll be holding  
19 additional consultation sessions, we will be holding  
20 additional consultation sessions after a proposed rule  
21 is published. Currently the plan is to take the  
22 comments from these five and any five sessions and any  
23 written comments that we receive by August 16th,  
24 review them and, based on them, make changes to the  
25 draft, then publish the proposed rule, then do another

1 series of tribal consultations and public meetings  
2 across the country. And I think the idea is we'll  
3 probably hit different areas than we hit this first  
4 time around. But if you have suggestions on what  
5 areas, what geographic areas we should hit, let us  
6 know.

7 MS. WYZLIC: But written comments will be  
8 accepted from anyone at that time as well?

9 MS. APPEL: Yes. Yes. Yeah. Usually --  
10 well, I'm not sure exactly yet what the time period  
11 will be for submitting comments at that point, but,  
12 again, if you have comments on that.

13 MR. WYZLIC: Just a real quick addendum to  
14 that. The letter that is posted on BIA's web site  
15 announcing this, --

16 MS. APPEL: Uh-uh.

17 MR. WYZLIC: -- it says from nine to noon, and  
18 it had it listed over at the casino, and it didn't say  
19 anything about nine to noon only for tribal leaders,  
20 and it had no mention of this public event.

21 MS. APPEL: So this has -- this has been --

22 MR. WYZLIC: Addendum.

23 MS. APPEL: Yes. You're absolutely right.  
24 This has been a learning experience for us because  
25 usually when we do rulemakings, we send out a tribal

1 leader letter to federally recognized tribes and so  
2 that's the process we followed in this case. And the  
3 federally -- the consultations that we hold under the  
4 executive order is with representatives of the  
5 federally recognized tribes, those were held in the  
6 morning from nine to twelve. And since those letters  
7 were to the -- the federally recognized tribes, we  
8 didn't even mention the afternoon sessions, I guess,  
9 but we had the press release and we published in the  
10 Federal Register descriptions of both of those  
11 sessions, but I -- I think it's clear that we need to  
12 do a better job of outreach the next time around.

13 (Ms. Appel and Ms. Chinn conferring out of the  
14 hearing of the court reporter.)

15 MS. APPEL: Oh. And then you had a question  
16 about the petition process.

17 MS. CHINN: Uh-huh. And then also you brought  
18 up the fact that it kind of feels like OFA may be  
19 interpreting regulations, right, for -- let's see.  
20 How did you say it? Changing the rules.

21 MS. WYZLIC: I just kind of -- I just kind of  
22 get the -- when I go, I get the feeling from everybody  
23 else, oh, they just change the rules to suit their  
24 needs, you know, whatever --

25 MS. CHINN: Part of what we're trying to do

1 here is make everything more objective so everybody is  
2 on the same page about how the revisions will be  
3 interpreted. So it's tough because being objective,  
4 we have less wiggle room and so we're trying to find  
5 that balance right now. But that's why we proposed  
6 the percentages, so things would be more objective and  
7 there would be less interpretation of the rules.

8 And then real quick, in the -- in the  
9 petitioning process, there is a point when you receive  
10 a team, an OFA team, and it's a -- I think a  
11 historian, a genealogist and an anthropologist, and  
12 you are contacted with the name -- the names of your  
13 team members and everything, and that's when you come  
14 under active consideration, so -- and I can walk you  
15 through the petitioning process if you want me to.

16 Basically you -- you give your letter of  
17 intent when you submit your documented petition and  
18 you go through a technical assistance review. Yeah.  
19 So okay. Did you have a question over there?

20 MR. REINHARDT: I -- Martin Reinhardt. The  
21 funds that could be available to help tribes in the  
22 process, just to weed out those petitioners that  
23 haven't met a certain threshold with those who have,  
24 it's my opinion that that threshold should be to have  
25 a clearly established bilateral relationship. And

1       that would make a lot of sense because the federal  
2       government has already established that relationship  
3       at some time in this tribe's history. If they can  
4       clearly show that that has been met and they can show  
5       a need -- you know, if they're a multimillion dollar  
6       organization that has money in their coffers, they  
7       don't really need that. But if they can show a need  
8       and they can clearly show that they have a previously  
9       established bilateral relationship with the federal  
10      government, that should be a threshold, the criteria  
11      used to then say, you know what, they should be  
12      eligible to apply for a fund, a capacity building fund  
13      to help this organization overcome the obstacles  
14      that's in its way to get this paperwork done and in  
15      and get it moving along in the process so that the  
16      only thing they're waiting on then is for the agency  
17      to get back with them. Because that's enough.

18               Now, on top of that, because funding's always  
19      the issue, well, okay, so we all agree, you know, this  
20      would be a great fund to have. Let's say we all agree  
21      on the threshold and the criteria of the need-based.  
22      well, where does the funding come from? I think if we  
23      leave that open for multiple mechanisms for funding,  
24      whether that's direct agency funding, just re-channel  
25      currently appropriate funds for the agency to be

1       streamlined into this, it would clear up a lot of the  
2       problems I think that you're having. Just re-funnel  
3       the funds. Re-think the funds in how they're being  
4       used at the agency level.

5               I think an appropriation, asking for more  
6       appropriations, you know, that would make sense. But  
7       also leaving it open for donations. And I'm not in  
8       any way saying that this is a tribal responsibility to  
9       fund this, but I do know that there are tribes out  
10      there and other benevolent organizations and  
11      individuals who would love to throw some money into  
12      this process if there was a fund for this.

13             You know, maybe even Johnny Depp, now that he  
14      wants to buy the Badlands, maybe he'll throw some  
15      money in.

16             UNIDENTIFIED SPEAKER: I've already got a call  
17      in to Johnny.

18             UNIDENTIFIED SPEAKER: Have to name something  
19      after him.

20             MR. ETTAWAGESHIK: As to the question what  
21      happens prior to that team and going on active  
22      consideration to the petitions, I personally have  
23      witnessed petitions sitting in their boxes in the  
24      hallways unopened for extended period of times, and I  
25      know that to be true from personal observation on at

1       least two instances, but from incidental stories of  
2       other people who have discovered that they were being  
3       asked questions that were answered in what they had  
4       already sent them, and yet they're being asked  
5       questions. You know, "We need you to answer this."  
6       And yet they already sent the answer to this. It was  
7       clear that no one had read what had already been sent.  
8       So part of that is because of lack of staff, because  
9       of the length of time it takes, and also the volume of  
10      material.

11               The other thing about -- you know, talk about  
12      funding a bit. It's gotten to the point where this is  
13      such an expensive process, that pretty much the only  
14      people where we have a source of funds are from  
15      potential casino backers. And we haven't said that  
16      word yet in this room, you know, but this -- you know,  
17      casino, gaming has really complicated the whole  
18      recognition process. And it's complicated it because  
19      for many tribes, they -- they choose to do gaming once  
20      they're federally recognized, that they have the right  
21      to do so. But because of that, we have a lot of  
22      casino backers who go out and actually shop tribes  
23      trying to find someone who will -- they want to own a  
24      casino in a certain area, they'll shop around and they  
25      think they find some descendents in this area, and

1       then they'll start backing them trying to hope that  
2       they will eventually get a casino.

3               And so because of those things, there's this  
4       huge amount of money that gets involved, and it's the  
5       only source for a lot of people to get the kind of  
6       money that's allowed to produce a 100,000-document  
7       research. And so if there's some way to help stop  
8       that -- and -- and when Little Traverse went through,  
9       and we went through with legislation in 1994, we did  
10      not get any money from a casino backer. We did not  
11      talk to any of them prior to federal recognition. And  
12      we told everybody in the process, including in  
13      Congress, that if we did gaming that was going to be  
14      something later. It was a decision we'd deal with  
15      when the time came. In the meantime, we were working  
16      on a social justice issue.

17             And at the time, we were lucky because the  
18      Administration for Native Americans had status  
19      clarification grants, so we applied for status  
20      clarification grants, and we were able to fund our  
21      office to the tune of a hundred to 140,000 a year with  
22      status clarification grants from the Administration  
23      for Native Americans. And this allowed to us have a  
24      loan officer and to do (inaudible) some history and  
25      some research. And, of course, this was many years



1       ago. But what it did is it allowed us to have an  
2       office.

3               well, under the Bush administration -- I  
4       suppose I shouldn't be naming names in this matter for  
5       you folks that are in the feds. You can ignore that  
6       if you want, but they stopped doing those consent  
7       clarification grants because everyone doing them was  
8       just to -- they're just suing us, so why should we  
9       fund them?

10              So what happened is, is they stopped those --  
11       those grants. However, I did hear from the ANA that  
12       they were in the process of considering having some  
13       grants that -- I'm not sure if they're going to call  
14       them the same thing, but they might be able to help  
15       with this, so that's one possible existing route of  
16       funding that would merely require additional  
17       appropriation, too, rather than reauthorizing the  
18       program, which is -- you know, it's always a difficult  
19       thing, but to -- to get a program authorized, but --  
20       but there is an existing -- the Administration for  
21       Native Americans that already has an administrative  
22       history of issuing grants to help -- to help  
23       petitioners, and so I think that would be one source  
24       perhaps, Marty, for the -- the funding.

25              And I know that there's already some desire to

1 do that primarily because of the criticism that's  
2 being leveled by -- the only source for the money that  
3 we have is from gaming concerns, and so we really need  
4 to try to find a way that these new regs are looked  
5 at, these revisions that would simplify the process.  
6 Maybe now is a perfect time to also try to work with  
7 the ANA to -- to try to reestablish that program for a  
8 capacity building to deal with the -- the issues for  
9 petitioners. So thanks.

10 MS. APPEL: Thank you.

11 MR. REINHARDT: This is when you guys say,  
12 yeah, we're going to fund it.

13 (Laughter.)

14 MR. KNOX: Elmer Knox from Grand River Ottawa.  
15 In all our conversations we've changed titles, we've  
16 changed names, we've changed any way we can put this  
17 up there, but I haven't seen too much put up on the  
18 emphasis of the time, put a timetable on it.  
19 Something like a ladder, and you finish the first  
20 criterion, you go on to the second. But when you  
21 reach the top, you all have been approved. What else  
22 do you have to approve? I think -- I think your  
23 Bureau of Acknowledgment is just slow in  
24 interpreting these things and that is where your  
25 trouble lies.

1 MS. CHINN: Are you suggesting creating  
2 shorter time frames for each step?

3 MR. KNOX: Either shorter time frame for each  
4 step or have to face that step before you go on to the  
5 next, so it doesn't have the funding to go on to the  
6 next because of research, so it should be held at the  
7 first step. You get to that second step, then they  
8 can go on to the third.

9 MS. WYZLIC: Lisa Wyzlic again. I just had a  
10 couple of quick questions. On Page 5, it says  
11 specific numbers (see placeholders) for more objective  
12 criteria. I'm sorry. I came in a little bit late.  
13 Can you just clarify that?

14 And then also could you clarify -- now, are  
15 these -- are these notes from this meeting in the  
16 meeting this morning, are those going to be available  
17 before August 16th so the tribal leaders and  
18 organizations can take a look at those to help them  
19 make their written comments or no?

20 MS. APPEL: So the -- we're going to make the  
21 transcripts of each session available as soon as the  
22 transcripts are ready. We're going to post them on  
23 the web site, but it usually takes I think about two  
24 weeks for the court reporters to get the -- get it  
25 transcribed, so this session may be, you know, right

1 before the August 16th deadline. But, again, as soon  
2 as we get it, we'll post it.

3 And then your other question was about Page 5?  
4 Can you say it again?

5 MS. CHINN: Was it Page --

6 MS. WYZLIC: It was Page 5 in the -- in the  
7 second box. It was last -- last bullet. Specific  
8 numbers.

9 MS. APPEL: Yes. So in the -- in the  
10 discussion draft, we have various places where you'll  
11 see double Xs, and those are places that we've just  
12 used the Xs as placeholders because we want input on  
13 what -- what numbers are appropriate in there.

14 MS. WYZLIC: Okay.

15 MS. CHINN: If any.

16 MS. APPEL: If any.

17 MS. WYZLIC: Right. Yeah. I -- I came in a  
18 few minutes late, so thank you for the clarification.

19 MS. COMPO: I just wanted to follow -- my name  
20 is Fran Compo with Grand River Bands, and I just  
21 wanted to kind of follow up with what Elmer was  
22 saying. We submitted our petition and we submitted  
23 all our documentation. We hand-delivered 21 boxes  
24 because we didn't dare send them through the mail. We  
25 wanted to make sure they reached the place that was

1       going to review our petition. And then the next thing  
2       we find out is we get -- we get a response back  
3       telling us, okay, now you have to clarify all these --  
4       you know, they started to look at our -- our material,  
5       but now we had to go through and clarify it again, and  
6       so we sent in more material. And then we were told,  
7       okay, now you guys have to put everything digitally.  
8       And so we had to take all those records and digitize  
9       them, and it seems like even though it's not in the  
10      written process of the regulations and the -- we still  
11      had to do it. And at that time, we assume -- I guess  
12      we assumed, or it was implied, that if we digitized  
13      everything, the Bureau of Indian Affairs would be able  
14      to go through it more quickly and we'd become  
15      recognized quicker, but here we are still waiting and  
16      not recognized. And so it's like, okay, now what  
17      other hoops are we going to have to jump through?

18               I couldn't tell you how many times the  
19      regulations have changed on us and we've had to do  
20      more. And it's like how many times is this going to  
21      happen before we actually get to the part where you  
22      say yes, you are a tribe?

23               MS. CHINN: So under the current regulations  
24      and the draft, also, the time frames that OFA works  
25      under, they start once you hit active consideration,

1 but there aren't really time frames before that. Am I  
2 hearing you say that it would be better to have time  
3 frames before that, too?

4 MS. COMPO: I think so.

5 MS. CHINN: Okay.

6 MR. YOB: As long as we're taking comments,  
7 I'm going to give one more. When we went to  
8 Washington probably, oh, a year ago anyway, it was in  
9 2012, we talked to Lee Fleming, and I asked him -- I  
10 asked him a question. I says, "You know, I notice on  
11 your list there, we've been on this ready list for so  
12 long, but no one ever comes up below us," you know.  
13 Because there's like a couple hundred tribes below us,  
14 right? And his comment back to me is because none of  
15 those other tribes sent anything in, you know, and  
16 it's like if you open the flood gates, it's going  
17 to -- I'm going back to reemphasizing we don't want to  
18 lose our place because we've been spending a lot of  
19 time answering -- anytime they correspond with us, we  
20 correspond back. And now we're going to get caught  
21 with all these tribes that haven't been doing anything  
22 for the last 10, 12 years and then all of a sudden  
23 they can come in and we're in a pool of 300 tribes  
24 after we spent so many times playing the games by the  
25 rules that -- that he gave us, you know. But that was

1 his comment, was that -- that -- and if you look on  
2 there, look at -- look at that list. There is no  
3 other tribes that have -- that have done anything.  
4 They haven't done anything to move to the ready list,  
5 you know.

6 MS. CHINN: Right.

7 MR. YOB: And so -- so I just don't want to  
8 get caught up in a bunch of people that all of a  
9 sudden we're going to open the door wide open and  
10 everybody can come through right now and then we're  
11 going to get lost in a great big shuffle again, you  
12 know.

13 MR. REINHARDT: Unless they automatically give  
14 every one of us federal recognition.

15 UNIDENTIFIED SPEAKER: No. Then we'd still be  
16 on the ready list.

17 (Laughter.)

18 MS. CHINN: So from OFA's web site right now,  
19 it says that there are three on the ready list, four  
20 waiting for proposed findings and one waiting for a  
21 final determination. And this isn't the first time  
22 that we've heard that comment about maintaining  
23 priority under these new regulations, so we hear you.

24 MR. YOB: Miigwetch. Miigwetch.

25 MR. REINHARDT: Just a real quick question.

1 Are you the team that was at the previous meetings or  
2 were there others sitting in your chairs?

3 MS. CHINN: Just the two of us and Larry.

4 MS. APPEL: And Larry Roberts.

5 MS. CHINN: Uh-huh.

6 MR. REINHARDT: Can you guys -- I don't know  
7 if you did earlier, but can you tell us what are some  
8 of the comments you got back from the previous  
9 meetings? Were they similar comments?

10 MS. CHINN: Similar -- I mean, they -- since  
11 each one is held in a different region, they -- they  
12 definitely reflect regional, you know, histories.  
13 California talked a lot about, you know, the specific  
14 history of California and -- but we are hearing some  
15 similar comments across, such as that one, maintaining  
16 priority.

17 MR. REINHARDT: Heard any other gems, like,  
18 you know, things that we're talking about here, ideas  
19 that are going to be helpful, capacity building funds  
20 or stuff like that --

21 MS. CHINN: That's the first time we've heard  
22 that. I think that's a great idea. I wish -- I wish  
23 I could point out gems, but I think I'd have to look  
24 back at my notes.

25 MR. ETTAWAGESHIK: I can answer some of that.



1 I've gotten some reports from people who attended and  
2 there have been some comments against the new regs  
3 because there are some tribes in some areas of the  
4 country that actually want it to be difficult. They  
5 think that all of the tribes that should be recognized  
6 already are and, therefore, the more difficult it is,  
7 the better. And I've heard this from several  
8 different people. They may not have said it in  
9 exactly those same words, but there are -- there are  
10 places where there are people who maintain that.

11 And back -- you know, there are -- there are  
12 entities that have fought hard to stop any state  
13 recognition at all and so that there are -- there's a  
14 lot of differing views when -- when -- and I'm going  
15 back to personal experience again, and this was many  
16 years ago, but they -- at Little Traverse we -- we  
17 wanted to get resolutions of support from various  
18 entities, and we had tried to get a resolution of  
19 support from the Dakota-Lakota-Nakota folks in the  
20 Plains, and we were turned down. The National Tribal  
21 Chairmen's Association passed a resolution opposing  
22 the recognition of many of the tribes. And so they  
23 said, no, we won't give you a resolution.

24 And we had Vine Deloria come here to Petoskey  
25 to speak at a conference that we put together with the

1 Michigan Indian Legal Services, Jim Keedy helped us  
2 put it together, that we had here, and Vine, when he  
3 heard our case -- and he came to talk with us about  
4 constitutions and sovereignty. When he heard our  
5 case, he agreed to testify and then he -- he, in his  
6 research, had found a treaty that he said was the  
7 first written treaty between -- between tribes.  
8 Not -- not the first Wampum Treaty, but the first one  
9 written in English, and that it was between the  
10 Anishinaabeg and the Dakota-Lakota-Nakota, and it was  
11 a mutual self-help. It's a Peace and Friendship  
12 treaty. And so he took that treaty and he went to the  
13 traditional leaders, not to the elected leaders, the  
14 traditional leaders at the Dakota-Lakota-Nakota and  
15 presented them with this treaty and said, "If we  
16 expect the United States to live up to its treaties,  
17 we have to live up to ours." And he successfully got  
18 them to pass a resolution supporting Little Traverse  
19 and Little River, and that resolution is part of the  
20 congressional record now, part of the record on our  
21 legislation, and so we were able to get that from --  
22 you know, from other people.

23 So I thought I'd pass that -- that story on,  
24 that -- you know, that there are a lot of -- there's a  
25 lot of reasons. And the principal reason that they

1 did it was not so much anti Indian as anti cutting up  
2 their budget into smaller and smaller pieces. They  
3 wanted every federal recognition to be included in the  
4 appropriation. Make it even tougher to get one if  
5 there had to be a new appropriation with every tribe.  
6 And so we faced that at that time.

7 And there are other -- there are other places  
8 around the country where different tribes have been in  
9 conflict with each other over the years and have --  
10 and still carry that conflict into this arena. So I  
11 can tell you that I know that there's some of that  
12 that's happened in different places and that, you  
13 know, it's still -- well, I guess the -- the  
14 interesting ones are coming up, that are yet to  
15 happen, so we expect there will be a lot of input at  
16 some of the other ones. But I work as the co-chair  
17 for the Federal Recognition Task Force. We have  
18 members of the task force that are attending different  
19 hearings at different places and we're comparing  
20 those, and -- and so we're coordinating our efforts so  
21 we don't -- all of our comments at any time one -- at  
22 any one of the hearings so these guys can have an  
23 opportunity to hear everything, so . . .

24 MR. REINHARDT: Frank, you said that some of  
25 that angst from the current tribes may be due to

1       appropriations. How much of the angst is due to  
2       casino saturation? Do you think there's a great  
3       deal --

4               MR. ETTAWAGESHIK: Oh, there's -- there's  
5       clearly -- there's clearly concern about -- with --  
6       about competition from a casino, from any proposed  
7       casino that might come along. That's -- that's  
8       entered into this now, which is why it's so important  
9       to focus on -- on the issues of social justice and  
10      treaty rights. And, you know, economic development is  
11      something that comes along with the exercise of those  
12      things. But if you focus on casino and have that be  
13      the firm thing and everything else sort of being --  
14      you know, and that be the tail wagging the dog, you  
15      get into trouble and it plays right into the hands of  
16      all the critics of the process to do that, and so  
17      if -- if -- I think it's so important that we have  
18      this -- we have these changes and that we -- we try to  
19      focus on the social justice issues and staying away  
20      from those other ones that are so controversial. And  
21      that makes it really hard when the major source for  
22      funding for most of the tribes is a casino backer, who  
23      is hoping that the tribe will eventually be able to  
24      have a casino.

25             MR. REINHARDT: There -- there was a -- I

1 don't know (inaudible). But, anyway, there's a --  
2 there's a tribal -- there's a tribal consortium in the  
3 San Francisco Bay area in California, that they made a  
4 compact with the state of California that the tribe  
5 that currently had their gaming would be able to share  
6 their gaming revenue with the other tribes if they  
7 were allowed to expand their gaming operation, so the  
8 other tribes that were federally recognized or not  
9 currently federally recognized was able to receive  
10 assistance from the federally recognized tribe that  
11 had gaming if the nonfederally -- or the nongaming  
12 tribes agreed not to open casinos, so they had this  
13 consortium of tribes.

14 And that -- you know, that model might be able  
15 to work for tribal communities that are currently not  
16 recognized, seeking recognition, that they could work  
17 something out with the tribes. Of course, then it all  
18 comes down to the leadership, but . . .

19 MR. ETTAWAGESHIK: And -- and one of -- one of  
20 the issues that comes from that is that there are many  
21 federally recognized tribes that are not eager to hear  
22 someone saying that they're going to give up their  
23 right to gaming, because they're accepting limits on  
24 their sovereignty, even if they choose not to do it  
25 later, if they did it in the process.

1                   And, for instance, we'd never want to see that  
2                   be part of the federal recognition administrative  
3                   process, but it's often a part of the legislative  
4                   process. And what happens is that there are tribes --  
5                   and I was -- I was -- as a leader, I didn't really  
6                   like it if someone was going to go give that up  
7                   because if -- if they set the example that they're  
8                   willing to give it up, then everybody's going to give  
9                   it up. The issues that we're dealing with right here  
10                  in this room and in this process end up being  
11                  reflected in the issues and all of the federal tribes  
12                  end up giving the federal government on, and, you  
13                  know, we've -- we've won the issues we've brought up  
14                  in this whole process.

15                 And one of the friends from the task force who  
16                 spoke on this element over the years is that as we're  
17                 treated, that's the way the federal tribes are likely  
18                 to be treated and then our (inaudible). And all of a  
19                 sudden all of the federally recognized tribes are  
20                 being invited to the haves and have-nots as to whether  
21                 they had (inaudible) jurisdiction in 1934 and whether  
22                 or not they had a land trust based on that  
23                 (inaudible). And so all of a sudden they started  
24                 being divided into two groups.

25                 well, that same kind of issue is what we feel

1       like we've had for years. So these are all things I  
2       was talking to Marty about as to this -- the full --  
3       to the full assembly here is that this is -- these are  
4       issues that we need to -- we need to pay attention to.  
5       And so like I said, I would never advocate and  
6       certainly do not that -- that any limits on  
7       sovereignty be part of this process, such as an  
8       anti-gaming provision. Thanks.

9               MS. CHINN: A couple of comments that we've  
10       seen throughout the consultations in public meetings  
11       that we've had so far, the way their regional  
12       differences have manifested themselves is just like  
13       what you guys were talking about, the community, the  
14       listed -- you know, suggested evidence to prove  
15       community and also with our two expedited favorable  
16       criteria. And so if you have ideas for -- for how  
17       these regulations can better reflect your region,  
18       please submit comments and ideas to us. We have a  
19       couple more minutes. Any other comments?

20              MR. ETTAWAGESHIK: In the absence of no other  
21       comment, I'll (inaudible). One of the things that --  
22       there are states where it's (inaudible) illegal to be  
23       an Indian. You either are black or you're white. And  
24       it's -- one of the specific regional issues is in  
25       those states. It's almost impossible to produce the

1 genealogical record that is required from birth  
2 certificates for the recognition process. It's hard  
3 to prove that you exist today when it's been illegal  
4 to exist for several decades, and so it's not just --  
5 it was mentioned earlier that sometimes the records  
6 have been burned during the Civil War, other times  
7 they just burned up when the church burned. Some are  
8 in the community. There's other places where the  
9 records were destroyed by -- by overt conscious  
10 governmental entity action that said you will not be  
11 an Indian and so you can't exist. And so in those  
12 states, there needs to be some other acceptable  
13 evidence for the proof of -- of identity.

14 MS. CHINN: So in a draft, we proposed  
15 historians' and anthropologists' opinions and things  
16 like that as evidence for descent. Do you have any  
17 other suggestions? We're certainly interested in  
18 other ideas for how to show descent.

19 MR. ETTAWAGESHIK: Well, I think part of that  
20 is that weight -- just historians and anthropologists  
21 implies advanced degrees, college degrees, advanced  
22 degrees and that you're looking for some method of  
23 accreditation of those people who make those  
24 decisions. And in doing so, you often are missing the  
25 tribal historian and the tribal culture bearers who



1 are passing the -- the stories of our people on and  
2 that these are -- we need to have weight given to  
3 these individuals so that as -- as culture bearers,  
4 they need to carry an equal weight with the historians  
5 and the anthropologists, because -- you know, my  
6 daughter has a degree in anthropology. I mean, I'm  
7 not -- I understand that it's important to get  
8 degrees. It's important for us to send our kids to  
9 school. But what's important for them is to still be  
10 Indian when they're done and not just to have switched  
11 their mind over to the non-Indian mindset through the  
12 education process.

13 So we have to somehow get the education  
14 without losing our Indianness, and that's a difficult  
15 task sometimes. So we have -- what we have to -- if  
16 we don't fight for our traditions to be acknowledged  
17 and our culture bearers and our -- our tribal  
18 historians to be acknowledged as part of this process,  
19 then we put our hands totally in the hands of -- of  
20 other people who have studied -- might have a degree  
21 from the University of South Wales or something, but  
22 they have a degree, but is their degree -- but do they  
23 know anything about the tribes and what kind of -- you  
24 know, do they know anything about the people that  
25 they're working with?

1 MS. CHINN: Uh-huh.

2 MR. ETTAWAGESHIK: And I think that these are  
3 very important -- important points. So I would say  
4 this is one specific regional issue that needs to be  
5 dealt with, and that's -- I would say that we need to  
6 turn it -- make sure that -- that the tribal  
7 record-keepers, the historians, the oral history of  
8 the tribe take on a very important -- important role  
9 in that.

10 MS. CHINN: Thank you.

11 MR. REINHARDT: I just want to back up what  
12 Frank said. Northern Michigan University where, I  
13 work, we've talked about the idea of eminence  
14 credentialing and really recognizing that if the  
15 tribal entity itself sees someone as an expert in an  
16 area, like language or history or culture, then who  
17 are we as a university to not recognize that this --  
18 you know, this community recognizes their own? And I  
19 think the State of Michigan has -- you know, just  
20 passed recent legislation for language speakers, you  
21 know, recognizing that there are Ashininaabemowin  
22 language speakers, teachers, who are qualified to  
23 teach in our public schools. This is the trend, you  
24 know, eminence credentialing, recognizing the cultural  
25 expertise.

1 MS. WYZLIC: Lisa Wyzlic again. It's not a  
2 pleasant part of our history, but is -- are any of the  
3 boarding school records being used for purposes of  
4 submission in our petitions? I guess I'm asking the  
5 tribal leaders in regards to that.

6 UNIDENTIFIED SPEAKER: Are there really any  
7 records left? Weren't they all destroyed?

8 MS. WYZLIC: I don't know.

9 MS. CHINN: My understanding is that evidence  
10 of boarding school can be used for showing community.  
11 It -- I don't think that it represents past federal  
12 acknowledgment at this point. It's not seen as  
13 representing that because it doesn't necessarily show  
14 the existence of a current political entity, but if  
15 you think that it should be given more weight, that's  
16 a great comment.

17 MS. WYZLIC: Just asking the -- I mean, you  
18 know, my grandmother is, as my brother said, is almost  
19 93 and she's never -- we didn't have to do that. You  
20 just -- you just were. You know, she was in a  
21 boarding school, so . . .

22 MR. REINHARDT: Just -- just to add to Lisa's,  
23 you know, the boarding schools are one of the  
24 mechanisms that was used to pull the rug out from  
25 under these tribes. That is "the" one, if any one, is

1 the most disruptive one, scattered our people about,  
2 took them away from their language and cultural  
3 traditions. And now we're expected to somehow, you  
4 know, we need to pull them back, you know, which we're  
5 trying to -- revitalization efforts, but, you know,  
6 there has to be some recognition, fancy word, anyway,  
7 about that, you know, and its influence on this  
8 process.

9 MR. ETTAWAGESHIK: And while there's a --  
10 while boarding school attendance may not prove that  
11 there's a current political entity, could be proved,  
12 it certainly shows they didn't haul off white kids to  
13 these schools. They only took Indians. Okay? And so  
14 the thing is, is that it shows that -- that these were  
15 acknowledged Indians at the time that they would have  
16 gone to the school. And so it clearly establishes the  
17 fact that -- you know, in my case, my dad was a --  
18 went to a school in Carlisle. He was born in 1896.  
19 He went to school at Carlisle before he was a citizen  
20 of the United States. And they wouldn't get  
21 citizenship until he was -- till he was discharged  
22 from the Army after word war I and -- and then it was  
23 the Citizenship Act that followed that.

24 Someone mentioned here earlier that they had  
25 relatives that were -- that were not -- that were born

1 before they were -- when they were not citizens of the  
2 United States. You know, if they weren't citizens of  
3 the United States, where were they citizens? Okay?  
4 Because everybody's a citizen somewhere. And so what  
5 happens is, is if they're citizens, that's some --  
6 that's proof of being Indian if you could -- if you  
7 weren't a citizen before the Citizenship Act.

8 well, I think the same thing as attending  
9 boarding school. Then that ought to be evidence, that  
10 that ought to become part of this -- this evidence.  
11 And then the standard for evidence -- this is another  
12 issue that we haven't mentioned yet today. It should  
13 have been -- right now it's sort of beyond a  
14 reasonable doubt. I mean, it's probably easier --  
15 someone told me it's easier to get somebody executed  
16 with the death penalty than it is to get a tribe  
17 recognized in terms of the costs, in terms of the time  
18 that -- you know, there's this -- and there's this  
19 huge amount -- the preponderance of the evidence is  
20 that -- you know what I mean, it's -- the criteria  
21 that's being used is beyond a reasonable doubt, and  
22 it's -- and it's on our part as if we're the criminal.  
23 The tribe, it's on our part, we're being asked for  
24 this. And, instead, the government -- we ought to  
25 come forth and say here we are. The government

1       should -- it should be the government's responsibility  
2       to say -- to prove that we aren't, that they have --  
3       the proof should be there rather than us having to  
4       spend all the time and effort to prove that we are.  
5       And so the -- the shoe should be on the other foot and  
6       the -- the expense ought to be on the other foot and  
7       the criteria to do it ought to be clearly listed, what  
8       did and what doesn't constitute a tribe so that rather  
9       than -- you know, it would make the process a lot more  
10      fair if they did that so that the level of evidence  
11      shouldn't be beyond a reasonable doubt. Preponderance  
12      at the very least. We ought -- we ought to have this  
13      different standard, so . . .

14               MS. CHINN: Good. Because we did -- the draft  
15      did change the burden and it is preponderance of the  
16      evidence, so . . .

17               MR. ETTAWAGESHIK: Well, very good. Then  
18      I'm -- then I'm supportive of that.

19               MR. REINHARDT: So you're saying that the  
20      federal government has to disprove that we weren't a  
21      tribe? I'm just kidding.

22               MS. WYZLIC: Lisa Wyzlic again. This is just  
23      for the tribal leaders in -- in this room. If you are  
24      not a member of NCAI, I would encourage you to  
25      actually at least look at their web site and consider

1       being members. Frank is co-chair, along with Pastor  
2       John Norwood, and they do an excellent job of  
3       representing the nonrecognized tribes to the folks in  
4       NCAI and, in turn, to the government of the United  
5       States. It's also, from what I've seen, a great  
6       support system for the nonrecognized tribes to, you  
7       know, talk with each other and be supportive of each  
8       other.

9               Not everybody can come to every single meeting  
10       because nobody's got that kind of money. I happen to  
11       be fortunate that I get to go to these meetings  
12       through my work, through my job. But take a look at  
13       some of the other web sites for the nonrecognized  
14       tribes, take a look at what other folks are doing, how  
15       they're exercising their sovereignty. I think Larry,  
16       getting on his high horse and, you know, always --  
17       always pushing everybody in the room to exercise their  
18       sovereign rights even as nonrecognized tribes. But,  
19       you know, exercise those rights, take a look at what  
20       other folks are doing and, like I said, at least take  
21       a look at NCAI's web site. You know, our organization  
22       is working on federal acknowledgment as well and -- so  
23       take a look at our web site and, you know -- you know,  
24       there are newsletters out there that provide  
25       information about, you know, what's going on and we

1       should at least be aware of all the issues that are  
2       going on in Indian country with federally recognized  
3       tribes for when we do get recognized. And I'm being  
4       positive and saying "when we do," so that we're -- so  
5       that we're ready to jump on those horses when we have  
6       to.

7                   MR. ETTAWAGESHIK: I'll just follow up on what  
8       Lisa has said, that the -- the Federal Recognition  
9       Task Force is always a pre-meeting. And for those of  
10      you that can't afford registration for NCAI, it  
11      happens before the NCAI meeting really officially  
12      starts, so you don't need to be registered for a  
13      conference in order to come to our task force  
14      meetings. You would have the expense of getting  
15      there, but the meeting is usually from one to five in  
16      the afternoon of the day of the pre-meetings, before,  
17      and it's open to any nonfederally recognized or  
18      federally recognized tribe. And a number of state  
19      recognized are members of NCAI, but a lot of people  
20      are not.

21                   And as an example, the issues that we're  
22      discussing at this meeting today were raised first in  
23      meetings with the assistant secretary and the deputy  
24      assistant secretary when they came to our task force  
25      meeting. And then when they announced this in the



1       spring, they did it at our task force meeting, they  
2       actually brought a copy of this and talked to us  
3       there, and so people got the -- the idea -- they got  
4       the idea of what was going to be coming down to  
5       make -- that they were going to be doing these  
6       hearings. So we don't speak for everybody. We do our  
7       best to work for everybody, but not everybody can  
8       afford to be there, and so we're working on solving  
9       the problems that the issue raises, but we're not  
10      working on any one individual case for any one tribe.  
11      And so the task force is nonfunded. We're volunteers.  
12      And anybody who comes is a member of the task force.  
13      And so I know that -- that -- I know Ron came here  
14      when we were out in California, Sacramento, and the  
15      chair of Burt Lake has attended a couple of the  
16      meetings. I've seen some of the others from here  
17      there, and it's -- it's always open to anybody, so I  
18      just thought I'd pass that on. When I say it's not  
19      about working, with the task force, it doesn't mean  
20      that we're controlling anything, it just means we're  
21      doing our very best to try to move this issue along  
22      and we're there to work -- we're there to work for  
23      this issue, to make this issue better for everybody,  
24      and to try to get social justice for everybody.  
25      Thanks.

1 UNIDENTIFIED SPEAKER: Because of my  
2 occupation, working on trying to (inaudible), so I'm  
3 forced to live in Fort Lauderdale, Florida, which is a  
4 long ways to come here. And one of the things that I  
5 noticed living out of state, particularly in Florida,  
6 was the amount of attention that the United States  
7 government gives to people who come here from foreign  
8 countries, particularly those south of the border,  
9 Cuba, Dominica, all those countries down there. They  
10 give so much attention to those people about the  
11 immigration issue. The immigration issue has always  
12 raised my hair. It -- it just -- what I mean is that  
13 the United States government is giving so much  
14 attention to everybody else and precious little to us,  
15 particularly in the Grand River Bands.

16 I remember a case where the newspaper  
17 (audible) government was doing because there was a  
18 young man from another country who applied for and  
19 gained his citizenship in the United States in four  
20 months. We -- we at the Grand River Bands have been  
21 trying to get our treaty rights established and  
22 correct past mistakes on the part of the United States  
23 government for years and years. I can only say I hope  
24 you, as being representatives of the Bureau of Indian  
25 Affairs, takes our request to the Great White Father

1 in Washington and gives -- gives us just a little bit  
2 of what we think is our dues in the matter -- matter  
3 of federal recognition.

4 MS. CHINN: Thank you.

5 MS. APPEL: Thank you. So I think we're  
6 just -- we're a little past four. Do we have any  
7 closing comments before we wrap up?

8 (No response.)

9 MS. APPEL: Okay. With that, I will close the  
10 public comment session and thank you, everyone, for  
11 your time today and your -- your excellent comments.  
12 Thank you.

13 (The proceedings concluded at 4:04 p.m.)  
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## 1 CERTIFICATE OF NOTARY

2 STATE OF MICHIGAN )

3 ) SS.

4 COUNTY OF CHEBOYGAN)

5

6

7 I, Kristine K. Grigsby, a Notary Public in and for the  
8 above county and state, do hereby certify that the foregoing  
9 212-page proceeding was taken before me at the time and  
10 place hereinbefore set forth; that the foregoing was duly  
11 recorded by me stenographically and reduced to computer  
12 transcription; that this is a true, full and correct  
13 transcript of my stenographic notes so taken; and that I am  
14 not interested in the event of this action.

15

16

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18

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KRISTINE K. GRIGSBY, CSR-4834, RPR

19

Notary Public, Cheboygan County, Michigan

20

(Acting in Emmet County)

21

My Commission Expires: April 23, 2017

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