

US DEPARTMENT OF THE INTERIOR

ANC CONSULTATION

PROTECTION & RESTORATION OF TRIBAL HOMELANDS

VIRTUAL CONSULTATION

MONDAY, OCTOBER 18, 2021

10:00 a.m. – 11:00 a.m. (ADT)

Bryan Newland, Assistant Secretary Indian Affairs

Sam Kohn, Senior Advisory Counselor

Stephanie Sfridis, Senior Advisory Counselor

Maria Wiseman, Senior Advisory Counselor

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**BRYAN NEWLAND:** Good afternoon everybody. My name is Bryan Newland, I am the Assistant Secretary for Indian Affairs here at the Department of the Interior, and we are hosting this consultation session with leaders from ANC's, given your special and unique interests in land estates across Alaska to seek your feedback on the Department's lands policy for tribal homelands. So, in anticipation of this consultation session we sent out a framing paper. The framing paper that we sent out to tribal leaders across the country included 10 questions related to land-into-trust, leasing rights-of-way, sacred sites and treaty rights, as well as just protecting restoration of tribal homelands and on those questions or in those categories rather, we asked whether the questions were really specific to tribal governments.

But we know that ANC's have particular interests in how this process works. So, without further ado, Liz, can put the Dear CEO questions in the chat. And we can open the floor up at this time to representatives, and the answer – actually, before we do, I just want to make sure that I'm introducing the rest of our team. We do have the esteemed, Liz Appel who hosts, all of our consultations and really does a lot of work to help get the word out and to pull these together. We also have four counselors from our office in the Assistant Secretary for Indian Affairs, in no particular order, we have Sam Kohn, who is a member of the Crow Tribe. Maria Wiseman, who has been with the Department for a while. Many of you may know Maria. She's an expert on environmental issues here at DOI. We have Stephanie Sfridis, is a member of the Mashpee Wampanoag Tribe. And we have Rose Petoskey who's a member of the Grand Traverse Band of Ottawa and Chippewa Indians with us as well. So, with that, we can turn this consultation, over to you all welcome your feedback. Liz, do you want to give the instructions?

**ELIZABETH APPEL:** Absolutely, if you would like to make a comment, please click the raise hand button on the bottom toolbar of your screen. Please also feel free to chat your

comment if you prefer to do that. And we have a comment from Sarah Obed. So, Ms. Obed you should be unmuted.

**SARAH OBED:** Thank you. I just want to express my appreciation for hosting this consultation with the Alaska Native Corporations, kind of independently from private Alaska. I was also able to listen in this morning, with the Tribal consultation. And so, you know, sometimes, it isn't clear whether or not we should participate in Tribal consultations as it pertains to tribes and so having this clear consultation available for ANC's, I think was really helpful in terms of having a place for me to weigh in, in consultation with some of the questions that the Department of Interior is seeking input on. One of the things I think we, I represent Doyon Limited. I'm External Affairs and we're an Alaska Native Corporation. We have probably a half million acres of land in our entitlements, about 11 and a half have been – are conveyed to us and our, in our management. And we have, after 50 years of ANCSA. We still have remaining entitlement to be conveyed to us. So just in terms of restoring homeland, I think putting some pressure on the Department of Interior to get the rest of those lands conveyed would be greatly appreciated by Doyon and by some of our shareholders. Some of them are the remaining entitlement or in terms of conveyance status and some are just still in selected status. So, there's a goal there to get those lands finalized and conveyed. We also view ourselves as stakeholders in the land into trust in Alaska policy and I think some people think Doyon opposes land-into-trust in Alaska. That's not an accurate statement. We view ourselves as a stakeholder and we, we certainly don't oppose land-into-trust in Alaska, first for Tribal lands or for the town sites, but for former ANCSA lands, we do have a couple of things that we think should be considered. One is that the Part 151 Regs for taking land-into-trust, don't really apply in Alaska, there's no near reservation lands really in Alaska and so it's all off-reservation application processes. So, we

actually would recommend some Alaska specific regulations to be considered. What those look like I don't have an opinion. But I think some Alaska specific regulations for how land in Alaska is taken into trust could be considered. For former ANCSA lands, I, we don't really support ANCSA land being taken into trust. For that to happen, they would have to be conveyed out of ANCSA status into Tribal hands which has happened. And so, we, we have protections on those ANCSA lands. Some land protections. And if they're conveyed out of ANCSA holding, what happens to those protections? Well, they don't, they don't transfer over. And so, if there's some kind of protection that can be carried with the ANCSA lands if they leave ownership of the corporation that they can still be protected, would be a goal until they were taken into trust. Because I think the actual land-into-trust application process is a very lengthy with kind of, there's never a no, right? There's just not always a yes that they're taken into status and so ensuring those lands are protected. Again, we're not really supportive of having ANCSA land taken into trust. We would actually, if they were former, if they were in our region, we would like to weigh in on that process as part of those regulations. So those are some things that Doyon would kind of start out with in terms of what the Department of Interior should consider. We have the full list of comments and we can submit written comments after today, that will go into more detail on some of the Doyon's position. We've submitted numerous comments in the past, in the way that made regulation change that took place about five or seven years ago now, as well, which we could share all those as well. Thank you, Assistant Secretary.

**BRYAN NEWLAND:** Thanks Ms. Obed, I really appreciate your comments. And that's, given the interests of the corporations in ANCSA lands. We recognize there's an added layer of complexity in the fee-to-trust process in Alaska, so we want to make sure that we're accounting

for the interests of all the corporations as well, and making sure that we're, we're upholding ANCSA.

**ELIZABETH APPEL:** Our next comment comes from Tim Schuerch. Mr. Schuerch?

**TIM SCHUERCH:** Hello, Assistant Secretary Newland. Can you hear me?

**ELIZABETH APPEL:** Yes.

**TIM SCHUERCH:** I'm Tim Schuerch. I'm an attorney with Calista Corporation. Our Vice-President of Lands Tisha Kuhns, she's tied up in a board meeting -- she asked me to make a few comments. So, cemeteries and historical sites were conveyed to village corporations, many of them ANCSA to 12 eight and 12 Big conveyance processes with the regional Corporation generally receiving the subsurface to those lands. So, within the ANCSA section 11 and section 16 withdrawal areas, the lands that ultimately were conveyed to the village corporations did contain cemeteries and historical sites. However, because the village corporations were only able to select and have conveyed a small part of their respective ANCSA lands to Section 11 of 16 withdrawal areas. There are likely many cemeteries and historical sites on federal land within these original withdrawal areas that were ultimately not conveyed to the respective village corporation. So, our recommendation would be that the BIA work with the BLM, in consultation with affected tribes and ANC's to identify and protect the cemeteries and historical sites within the original ANCSA section 11 Section 16 withdrawal areas that ultimately were not conveyed to a village corporation. So that's kind of the first point. Then if we go outside of those ANCSA section 16 and section 11 withdrawal areas, many historical sites and cemeteries, outside of those withdrawal areas were ultimately selected and prioritized for conveyance, to the respective regional corporations per ANCSA section 14 h one. However, the BIA and BLM were overly restrictive in the past in accepting ANCSA section 14 h1 withdrawal request from regional

corporations. This resulted in many of those cemeteries and historical sites not being properly protected via the ANCSA 14 h1 conveyance process. So, our recommendation for those cemeteries and historical sites that are on federal land is that the BIA should work with BLM in consultation with the affected regional corporations to reassess prior rejections of ANCSA 14 h1 withdrawal requests from regional corporations and fully comply with this key provision of ANCSA, consistent with the promise of ANCSA in the trust responsibility. One more point on the 14 h1 process but even for those in this -- this is in support of Sarah's, Vice-President Obed's comment a minute ago. Even for those ANCSA 14 h1 parcels that were approved for approval by conveyance by the BIA and BLM. The BLM still has not surveyed or conveyed a lot of these 14 h1 parcels. You know, we know this is mainly the BLM's fault cause that's their job not surely BIA's job but from our perspective this delay. It's been 50 years since ANCSA was enacted - this delay is an inexcusable violation of the promise of ANCSA and the trust responsibility. And, as a practical matter, has greatly hurt the ability of regional corporations to protect these sacred cemeteries and historical sites. And that, that concludes what Vice President Kuhns had wanted me to relay at this consultation. Thank you.

**BRYAN NEWLAND:** Thank you Mr. Schuerch, I appreciate those comments as well. Did you say that you have written comments?

**TIM SCHUERCH:** Yeah, our plan is to, per Vice-President Kuhns to submit our comments in writing prior to the November 5th deadline.

**BRYAN NEWLAND:** Great. Thank you very much I appreciate that. We record these, where our whole team including myself, so you might see my head down from time to time, we take our notes here, and then they get fed into our policymaking process., Sometimes we miss things and, which is why we encourage people to send in more detailed written comments;

especially on more technical matters or nuanced matters like you were discussing. So, I appreciate it.

**TIM SCHUERCH:** Thank you Mr. Assistant Secretary.

**ELIZABETH APPEL:** Once again, if you'd like to make a comment, please press the raise hand icon at the bottom of your screen.

**BRYAN NEWLAND:** I do want to take this opportunity since I see Rob Porter on, and Rob, I know you had raised this with us earlier - we're going to try to find a way to, -- good to see you. I see your Bills helmet. They're really having a fun season. We're gonna try to find a way to have another round of engagement with the Tribal leaders from Alaska, and make sure that we're getting - we're doing a better job of getting the word out, including with our BIA Director doing some direct outreach. But –

**ROB PORTER:** It's appreciated.

**BRYAN NEWLAND:** Yeah, there's a, there's a process for that so we got it. And Liz is the boss of that process, so we've got to make sure that we're following that.

**ROB PORTER:** That's, that's terrific and 56 tribes in that region that Calista represents is, is the group that I work most closely with and boy, it's tough sometimes just getting the word out. And, you know the schedule of life and the virus, of course, and I think it's a good point also I'm going to reach back out about participating in the other consultations. Perhaps the Pacific consultation next week to get comments in. And I know we can probably get some written comments in for sure, but boy, these are, these are tough times and I really appreciate the consideration to keep the door open for input.

**BRYAN NEWLAND:** Sure, and thanks Rob and I - believe me, from my time as Tribal leader, I know how hard it is to try to stay on top of it, all the ongoing consultations across

federal and state agencies and things that are important to you. It's not a - it's not a joke to say tribes could probably hire someone on staff to do consultations full-time between federal and state agencies that do them. So, we're trying to be mindful of that while also making sure we're doing consultation, like we, like we say we would. So, thanks for your comment about restricted fee.

**ROB PORTER:** It was killing me on the last one, not to say something. And you know what, it's my crusade, but you know we're gonna make another run at it and we'll definitely make sure that you have a full complement of input. We have a new bill that Don Young and Tom Cole are looking to sponsor again, that builds in a more robust approach to create this alternative for restricted fee lands. I've heard leaders in Alaska say - why do we have to turn our lands over to United States in order for them to be protected? And so, it's just another alternative we want to make sure that the record will be completed in our comments.

**BRYAN NEWLAND:** Thanks Rob, I appreciate that. For folks on the line representing corporations. Anyone have additional comments on the subject of this consultation?

We've got two hours set aside for this, but we are not going to ask everyone to stay on the line and stare off into space. But we're here to hear your comments and to really engage with you if that's what you'd like and of course welcome you to submit written comments as well by November the 5th. I'll do, I'll do another call for comments, if we don't get any, we can adjourn this virtual consultation session. If you would like to continue the discussion of course happy to stay on for all the time we have allotted.

**ELIZABETH APPEL:** Again, you probably are all familiar with this, but if you'd like to make a comment, please press the raise hand icon at the bottom of your screen.



**BRYAN NEWLAND:** All right, with no further comments then we can adjourn the session. I invite you to submit your written comments at [consultation@bia.gov](mailto:consultation@bia.gov). Ms. Obed and Mr. Schuerch I appreciate your comments are very insightful. I look forward to getting your written comments and going over them with our team. I wish all of you good health and safety. And please make sure that if you're missing Dear CEO letters or Dear Tribal Leader letters, we do post our ongoing consultations on the department's website. Liz, can you put the please put the link in that, in the chat. So, everyone has it, because I know what it's like to get a flood of Dear Tribal Leader letters in my inbox. It's always a good idea just to check in on this website from time to time and see what we have going on. So, with that, we can end today's session, I appreciate your time today. Again, I know that the pandemic is still ongoing and is especially bad in many communities in Alaska right now so please be safe and take care. We'll talk again soon.

**[End of Transcript]**

[Transcript completed in-house by A. Romero and E. Appel, DOI/AS-IA, RACA]