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U.S. DEPARTMENT OF INTERIOR,
OFFICE OF REGULATORY AFFAIRS
25 CFR PART 83 PROPOSED RULE ON
RE-PETITIONING FOR
FEDERAL ACKNOWLEDGEMENT
AS AN AMERICAN INDIAN TRIBE

GOVERNMENT-TO-GOVERNMENT
CONSULTATION SESSION

HELD VIA ZOOM ON
TUESDAY, SEPTEMBER 3, 2024
1:02 P.M.

WASHINGTON, D.C.

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1 REMOTE APPEARANCES

2
3 J. Michael Harty, Facilitator, Kearns & West

4 Madeline Kane, Facilitator, Kearns & West

5 Anna Rossi, Kearns & West

6 Keely Driscoll, Hayiitka, LLC

7 Ben Hausbach, CART

8 Tehassi Hill, Oneida Nation

9 Regina Gilbert, Office of Regulatory Affairs and

10 Collaborative Action

11 Oliver Whaley, Office of Regulatory Affairs and

12 Collaborative Action

13
14 DEPARTMENT OFFICIALS:

15 Bryan Newland, Assistant Secretary for Indian

16 Affairs

17 Kathryn Isom-Clause, Deputy Assistant Secretary for

18 Policy & Economic Development

19 Stephanie Sfiridis, Senior Counselor, Office of

20 Assistant Secretary for Indian Affairs

21 K. Denise Litz, Acting Director, Office of Federal

22 Acknowledgment

23 Sam Ennis, Assistant Solicitor, Tribal Government

24 Services, Office of the Solicitor

1 REMOTE APPEARANCES CONTINUED

2
3 DEPARTMENT OFFICIALS CONTINUED:

4 John-Michael Partesotti, Attorney-Advisor, Tribal
5 Government Services, Office of the Solicitor

6
7 PUBLIC SPEAKERS:

8 Jacob Snow, Tunica-Biloxi Tribe of Louisiana
9 Lance Gumbs, Shinnecock Indian Nation

1 GOVERNMENT-TO-GOVERNMENT

2 CONSULTATION SESSION

3 HELD VIA ZOOM ON

4 TUESDAY, SEPTEMBER 3, 2024

5 1:02 P.M.

6
7 MR. HARTY: Good afternoon. Welcome to
8 today's virtual government-to-government
9 consultation session on the 25 CFR Part 83 Proposed
10 Rule on Re-petitioning for Federal Acknowledgement
11 as an American Indian Tribe.

12 Today's consultation session is being
13 recorded. My name is Michael Harty, and I'll be
14 facilitating today's session. My colleague Madeline
15 and I are contractors to the Department of the
16 Interior. We're supporting the Department's team
17 for this Part 83 consultation process.

18 Derrick Beetso and Keely Driscoll, from
19 Hayiitka, are also part of our contractor team.
20 They are tracking all input in this consultation
21 process.

22 This is the second of three opportunities
23 to provide input virtually on the Part 83 proposed
24 rule. A listening session is scheduled for
25 September 5th. This information was provided in a

1 Dear Tribal Leader letter dated July 12th. A link
2 to that letter can be found in the chat.

3 A few notes about today's listening
4 session.

5 If we could get the next slide.

6 The consultation session today is open to
7 federally recognized tribes.

8 Closed captioning is available. For
9 closed captioning services, go to the bottom of your
10 screen and click on the arrow next to "Closed
11 Caption" and choose "Show Subtitle," or you can use
12 the link that we will paste into the chat box.

13 We have a court reporter capturing your
14 input today so that a complete transcript can be
15 prepared. The court reporter's name is Rebecca
16 Fuchs.

17 If you choose to comment today, please
18 remember to state your name along with your tribal
19 affiliation and your title or position. This
20 position -- this information will assist the court
21 reporter.

22 I'm going to turn to Bryan Newland,
23 Assistant Secretary for Indian Affairs, for welcome
24 remarks and introductions.

25 MR. NEWLAND: Miigwech. Thank you,

1 Michael.

2 (Speaking Ojibwemowin.)

3 Good afternoon. Good morning, everyone.

4 Thank you for joining us for this government-to-
5 government consultation today. I hope you all
6 enjoyed a long holiday weekend, capping off what I
7 hope was a good summer for all of you.

8 My name is Bryan Newland. I have the
9 privilege of serving as the Assistant Secretary for
10 Indian Affairs here at the Department of the
11 Interior.

12 Ordinarily we like to begin these
13 consultations with time for a prayer or a blessing
14 from an invited tribal representative. We,
15 unfortunately, were unable to get somebody today to
16 offer us a prayer or a blessing.

17 And so instead at this time, we'll simply
18 offer folks an opportunity to pray in your own way
19 as we begin, for a good conversation with open
20 hearts and open minds and with respect for one
21 another coming from different backgrounds and with
22 different viewpoints.

23 Before we move forward into our
24 programming, I do want to take a moment to introduce
25 the folks who work on our team here at the

1 Department of the Interior. I could not be more
2 proud or honored to serve alongside so many
3 talented, dedicated servants here at the department.

4 And one of those servants is here with us
5 today, our Deputy Assistant Secretary for Policy and
6 Economic Development, Kathryn Isom-Clause.

7 We also have our senior counselor from our
8 office here and the Office of the Assistant
9 Secretary, Stephanie Sfiridis.

10 From the Office of the Solicitor, we have
11 Sam Ennis, and we also have John-Michael Partesotti.

12 And while he's not listed on this slide, I
13 also want to give a shout-out to Oliver Whaley, who
14 runs our Office of Regulatory Affairs and
15 Collaborative Action. Oliver helps organize all of
16 these consultations, as well as helps to shepherd
17 all of our rules and regulations, and policies
18 through that process.

19 And we've got other folks on the line from
20 the department as well. Again, all brilliant,
21 talented, dedicated public servants and -- and it's
22 an honor to serve alongside them.

23 I also see not listed on here, we have
24 Denise Litz, who has been the Acting Director of the
25 Office of Federal Acknowledgement, as well.

1 Sorry, Denise, I didn't mean to leave you
2 out.

3 Can we go to our next slide, please?

4 So today, you know -- and we're just going
5 to give a very brief overview of how we got to this
6 point and the proposed rule, and then we'll open it
7 up to the most important part of this, which is your
8 comments and your feedback.

9 So that's going to include a little bit of
10 background on our Part 83 regulations, some of the
11 litigation that brought us to this point, and then
12 some background on the decisions that we've made.

13 So next slide, please.

14 As many of you probably know, the
15 department and the federal government went for two
16 centuries without regulations governing the process
17 by which the federal government would recognize
18 Indian tribes as sovereign tribal nations.

19 In 1978 the department first promulgated
20 regulations to -- to guide this process on how the
21 department would recognize a tribe, and that
22 recognition results in placement on the list of
23 federally recognized tribes as mandated by Congress
24 in 1994.

25 Next slide, please.

1 Many of you are familiar with the
2 mandatory criteria as part of our federal
3 recognition regulations. They're listed here on
4 your screen.

5 For those of you who aren't able to see
6 what's on your screen, those seven mandatory
7 criteria include: identification as an Indian
8 entity; community; political authority; the
9 existence of a governing document; descent from a
10 historical Indian tribe; unique membership to the
11 petitioning tribe; and the lack of termination by
12 Congress.

13 If Congress has explicitly terminated the
14 government-to-government relationship between the
15 United States and a tribe, only Congress can restore
16 that relationship. We don't have the unilateral
17 authority and the executive branch to do that.

18 Next slide, please.

19 So prior to the rule that is before you
20 today, the department had prohibited groups that
21 were previously denied federal recognition from
22 reapplying or re-petitioning for recognition. Since
23 1994 Part 83 has expressly banned or prohibited re-
24 petitioning.

25 A decade ago the department published a

1 proposed rule that would have allowed limited re-
2 petitioning, but the final rule published a year
3 later did not include that exception to the
4 prohibition on re-petitioning. And, you know,
5 retained the policy that was in place since 1994.

6 Next slide, please.

7 After the publication of that final rule,
8 two separate petitioners filed two separate lawsuits
9 against the department to challenge our decision to
10 not include re-petitioning in the final rule.

11 In 2020 the courts hearing both of those
12 cases in the Western District of Washington, and
13 here at the District of Washington D.C., found -- or
14 sided with the petitioners and held that the final
15 rule violated the Administrative Procedure Act
16 because it was arbitrary and capricious for lacking
17 an explanation of why the final rule did not match
18 up with the proposed rule.

19 And instead of striking down the entire
20 rule, the department -- or the courts, rather,
21 remanded the rule back to the department and we have
22 been evaluating that ever since.

23 Next slide, please.

24 So here's a timeline of what's transpired
25 since then: In early 2020 the courts issued their

1 decisions just two-and-a-half months apart and
2 remanded those back to the department.

3 It was in late 2020, after the election,
4 but before President Biden's inauguration, the
5 department announced its intent to reconsider the
6 ban.

7 In 2021, after the inauguration, the
8 department held consultation with tribes and then
9 closed the comment period later that spring.

10 At that point we were considering three
11 different options: Retaining the ban on re-
12 petitioning. The second option would be to allow
13 limited re-petitioning, or the third option would be
14 to allow open-ended re-petitioning.

15 And a year later in 2022, we had proposed
16 a rule that initially would have kept the
17 prohibition on re-petitioning in place.

18 Next slide, please.

19 And that proposed rule, two years ago, the
20 department provided several justifications to keep
21 the re-petitioning ban in place. They're listed
22 here on your screen.

23 If you're unable to read the screen, I
24 will just recap very briefly the four justifications
25 that we had included in the proposed rule would be,

1 you know, defense of our prior negative
2 determinations. The existence of due process for
3 those petitioners whose -- who were denied
4 recognition. That the revisions in the 2015 final
5 rule were not significant enough to justify re-
6 petitioning. And the last one was the interest and
7 finality of the department's decisions by all
8 affected parties.

9 Next slide, please.

10 Again, you see here that we went forward
11 with consultation and a comment period. Again, we
12 looked at the comments and made an evaluation that,
13 you know, we had three options to move forward:
14 Keep the ban in place, allow limited re-petitioning,
15 or allowing open-ended re-petitioning.

16 And ultimately we settled on the second
17 option, to allow limited re-petitioning, but rather
18 than publish that in a final rule, because of the
19 nature of this change, we felt it was necessary and
20 sound to go forward with a proposed -- a new
21 proposed rule and solicit feedback on that.

22 Next slide, please.

23 Here we're laying out, as we have in the
24 preamble to this proposed rule, the justification
25 for allowing re-petitioning on a limited basis.

1 One is equity and fairness to those
2 petitioners who were denied recognition on their
3 previous attempt.

4 The second is to be responsive to the
5 court's concerns in the Chinook and Burk Lake cases.

6 Third is advancements in technology.

7 The fourth is protection from wide-ranging
8 litigation of previously decided issues.

9 And again, also the interest in finality
10 in the decisions the department makes.

11 Next slide, please.

12 So this proposed rule would amend or add a
13 new subpart to the Part 83 regulations that have a
14 -- a process for limited re-petitioning, and that
15 includes a threshold review before we get into a
16 substantive review of a new petition -- or rather a
17 re-petition.

18 So in order to submit a new petition or --
19 or a re-petition for recognition, the group would
20 first have to demonstrate or allege plausibly the
21 Interior's prior negative determination would change
22 to a positive on reconsideration based on one or
23 both factors that the change in the department's
24 Part 83 regulations would affect the re-petition or
25 that new evidence exists to support the new

1 petition.

2 Next slide, please.

3 Unsuccessful petitioners would have five
4 years to submit a re-petitioning request under this
5 proposed rule.

6 That five-year period would begin either
7 upon the date of final rule or publication of a
8 final rule that we've proposed or on -- within five
9 years of the date of a negative final determination,
10 whichever one comes later. And that clock would be
11 tolled during any period of judicial review.

12 A petitioner that's denied authorization
13 to re-petition would not be allowed to submit a new
14 request unless the Department of the Interior
15 revises our regulations in the future.

16 Next slide, please.

17 Our proposed rule lays out the procedures
18 that would apply here. Those are found at Sections
19 83.5 to 83.61 -- excuse me -- 83.50 to 83.61. And
20 that would mirror the process for processing a
21 documented petition, including publication of notice
22 on the federal register, posting of certain portions
23 of the submission on our website, notice to certain
24 third parties, and then opportunity for the public
25 to comment on the request and the petitioner to

1 respond.

2 Next slide, please.

3 And our proposed rule also clarifies how
4 Interior would prioritize review of documented
5 petitions and re-petitioning requests.

6 Those that are already under review would
7 receive highest priority, followed by petitions
8 awaiting review.

9 New petitions would have priority over the
10 re-petitioning requests, at least initially.

11 And the Office of Federal Acknowledgement
12 would maintain a list of re-petitioning requests
13 ready for active consideration.

14 And any re-petitioning request pending on
15 the list for more than two years would have priority
16 over any subsequently filed petition.

17 Next slide.

18 Within 180 days of the date on which we
19 notify petitioners that the assistant secretary has
20 begun review, the assistant secretary would issue a
21 decision on the re-petitioning request.

22 We would grant authorization to re-
23 petition if there's a finding that the petitioner
24 meets the conditions of 83.47 through 83.49.

25 A decision granting authorization to re-

1 petition would not be final -- would not be a final
2 agency action, rather. Instead, it would allow the
3 petitioner to submit a new documentation.

4 But a decision denying authorization to
5 re-petition would be considered final agency action
6 subject to judicial review.

7 Next slide.

8 The proposed rule that we've put before
9 you would also give any petitioners currently
10 proceeding under the prior versions of Part 83 the
11 choice to switch over to the 2015 version.

12 We believe that this provision promotes
13 efficiency, and without this option petitioners
14 currently proceeding under the prior -- the pre-2015
15 version of our regulations would have to await a
16 final determination, and if that's negative, then
17 file a request for re-petitioning under 2015.

18 Next slide, please.

19 So now we're getting to the most important
20 part of this consultation, which is to hear from all
21 of you.

22 Again, I want to emphasize that today we
23 are here on a government-to-government consultation.
24 This is intended for federally recognized tribes and
25 their leaders and representatives to speak.

1 This is not a public hearing or meeting,
2 and this is not also intended for groups that are
3 not federally recognized to comment. There will be
4 an opportunity for groups that are seeking federal
5 recognition, but not yet federally recognized or not
6 federally recognized. We will have a listening
7 session for you coming up very soon.

8 So if you are here representing a tribe or
9 an intertribal organization, we do want to hear from
10 you. You can use the Raise My Hand feature at the
11 bottom of your screen. So if you go down to the
12 heart button in the middle, it says reactions, or
13 react, within there you will see a button that says
14 Raise Hand and that will put you in the queue.

15 If you're here on the phone, you have to
16 press star 9 on your keypad; that will raise your
17 hand so we can call on you. I'll identify you by
18 the last four numbers of your phone number. And
19 then when I do call on you, you'll have to press
20 star 6 to unmute yourself.

21 We are working to monitor the chat. This
22 is not intended to be a Q&A session, so if you have
23 questions, we may not be able to answer them at this
24 time.

25 And, of course, we want to make sure that

1 we are receiving written comments from those of you
2 who wish to submit them, and we'll take those all
3 the way up, I believe, until midnight on September
4 the 13.

5 There it is on your screen there. You can
6 submit those to consultation@bia.gov.

7 So I will stop now and open the floor up
8 to all of you who wish to speak. And we'll call on
9 folks in the order they raise their hands.

10 All right. We have no speakers in the
11 queue. We'll give it a few minutes. I know some
12 folks always want to see if someone -- who wants to
13 go first. But I promise I'm not going to hold you
14 all here to stare at my face for two hours if -- if
15 we don't have any speakers.

16 All right. We have Jacob Snow from
17 Tunica-Biloxi.

18 MR. SNOW: Yes, I just have a quick
19 question. And I know that you'd mentioned that this
20 is not a question-and-answer session, but I did just
21 -- just want to get your feedback on the -- in
22 reading some of the -- the previous court cases with
23 Chinook and the other one, there was a lot of
24 Chevron analysis. And given the low propriety
25 enterprises decision, has the BIA taken into

1 consideration what type of impact that that would
2 have on this proposed rule, or is that beyond the
3 scope of this session?

4 MR. NEWLAND: Thank you, Jacob.

5 What I will say is that BIA, The
6 Department of the Interior, like all federal
7 agencies, are working to make sure that our
8 regulations that are in process, you know, are --
9 are being moved forward in consideration of the
10 Supreme Court's ruling in that case.

11 But here in -- in -- so that's the case
12 here as well. But, you know, that doesn't remove
13 our rule-making authority or our trust obligations,
14 particularly when it comes to the recognition of
15 tribes and so we're being mindful of that. And I
16 think that's why it's all the more important to have
17 the considered views of tribes in this process.

18 All right. The line to speak is -- is
19 open. If you wish to speak you can use the Raise My
20 Hand function at the bottom of your screen.

21 I'm going to hold for just another minute.
22 So I'll stare into the camera awkwardly until we
23 have some more speakers lined up, but if not, I'm
24 happy to adjourn this and await your written
25 submissions.

1 Oliver, could you -- while we're waiting
2 for speakers, could you add into the chat the date
3 and time where we'll have a listening session with
4 potential re-petitioners?

5 MR. WHALEY: Yeah, I'll put that in,
6 Bryan.

7 MR. WAYLAND: Thank you.

8 All right. I see Lance Gumbs from the
9 Shinnecock Nation. Lance.

10 MR. GUMBS: Good afternoon, Bryan. Can
11 you hear me? Can you hear me?

12 MR. WAYLAND: You betcha.

13 MR. GUMBS: Okay. I just want to thank
14 you for having this -- this consultation. And I
15 have a prepared statement that I will read.

16 My name is Lance Gumbs. I'm the vice
17 chairman and ambassador for the Shinnecock Indian
18 Nation, and the vice president of the National
19 Congress of American Indian for the Northeast
20 Region.

21 My lasting achievement as the chair of the
22 Shinnecock Indian Nation was to successfully
23 complete my Nation's 32-plus years participation in
24 the federal acknowledgment process.

25 We are a first contract tribe with a

1 history recorded in European records for over 400
2 years. Over those centuries we have survived
3 colonization pressures designed to make us
4 disappear. We did not. We did not disappear.

5 We learned how to stubbornly -- stubbornly
6 remain on our shores despite the diseases, the land
7 grabs, and all the efforts of the federal government
8 to ignore us. At the end, and after decades of
9 work, the federal government cannot ignore us
10 anymore.

11 And that is because we forced -- yes, we
12 forced the many levels of doubters to see the truth
13 of who we have always been. It wasn't always
14 pretty. We were told we would have to wait many
15 more decades before anyone even began to look at our
16 petition.

17 Back in 2003 when I met with the
18 Department of Interior and asked why our petition
19 was being delayed for so long, having been the
20 fourth petitioner in 1978, I was told that due to
21 many different circumstances our petition had been
22 skipped over and at that particular point in time we
23 were number 17 on the list.

24 And having those discussions with former
25 people that were there, Scott Keep and Barbara

1 Cohen, I was told when I asked, Well, how long
2 before you got to look at my petition? I was told
3 they would look at my petition maybe in 2020 and
4 have a decision for us sometime in 2029 or 2030 for
5 a process that was supposedly -- supposed to take
6 only two years.

7 That was a situation for us that was
8 unacceptable. And we didn't wait. We were told
9 that we had to prove that we were the same nation
10 over every single decade, even if the federal
11 government wasn't looking -- or was looking away for
12 much of that time, and even though our existence was
13 uninterrupted and unquestioned in the eyes of the
14 State of New York. If for some -- for -- if some
15 records had gone missing, we had to find more proof
16 to correct bureaucratic errors. Always more errors
17 that had to be corrected with more proof.

18 We always knew this wasn't a game. It was
19 deadly serious. The outcome controlled whether we
20 had access to programs to protect our people. The
21 outcome controlled whether we could be at the table,
22 including at consultations like this one.

23 The need to prove the truth will never be
24 more important than to the petitioning tribe. The
25 truth of the petitioner's existence will be

1 unchanged by the actions of bureaucrats.

2 The nation is always and has been what it
3 is and we are what we are. But the government's
4 decision weighs oppressively for generations. It
5 has always been so. For the years of neglect, and
6 for the years of process that is so oppressive that
7 we watched our elders die waiting for the final
8 government acknowledged. That our case at
9 Shinnecock, we watched as the process played itself
10 out, and those that had worked on the petition from
11 1978 through 2010, when we finally received our
12 federal recognition, the -- those elders had passed
13 on.

14 The search for the truth must be the most
15 important goal of the federal acknowledgement
16 process. Every tribe that should be on the list,
17 but is not, is a horrible mistake that lasts for
18 centuries and decades and keeps harming a people who
19 deserve more and deserve better.

20 The Interior Department knew this enough
21 to greatly reform the recognition rules in 2015, but
22 it made a huge mistake at the time, even as it tried
23 to make the process more fair for -- for
24 petitioners.

25 It denied that fairness to petitioners who

1 had been harmed by rules now known to be mistakes.
2 The department chose to make those mistakes
3 permanent by denying the right to -- to re-petition,
4 a new mistake and one that was challenged and called
5 out in the Federal Court.

6 So here we are now with the department
7 proposing a limited opportunity for petitioners to
8 seek another chance to correct the department's
9 mistakes. But before they can do so, they have to
10 submit more proof; proof that the new rule would
11 change the outcome of the prior finding and remedy
12 the shortcomings of -- the shortcomings OFA had
13 found for those petitioners or proof of new evidence
14 that would fill prior gaps.

15 There is a long process to document and
16 justify the right to petition again under better
17 rules or with better proof. But there remains a
18 critical flaw, and it is one that has disturbed me
19 for many years.

20 The request goes back before OFA, whose
21 staff have been recently complete -- whose staff
22 have recently completed their formal education.

23 In our case we had several individuals who
24 were just out of college that was going to attempt
25 to look at our petition and make a final decision on

1 our petition from the historical, from the
2 genealogical, and anthropology -- anthropological
3 realm.

4 That was very disturbing to us because
5 they knew nothing about the history of our tribe.
6 And these individuals just coming out of school were
7 -- it was a great deal of -- of issue and concern to
8 us, and it was a problem.

9 They may not have the experience with the
10 regional variations relevant to know how -- to non-
11 federal tribes and know how they survive, often
12 unforeseen for years. They do not have the
13 experience -- and they did not have the experience
14 in recovering traumatic memories and the abuse our
15 elders suffered from the dormant and powerful
16 neighbors or the hands of local, state, and federal
17 government.

18 That kind of understanding may build over
19 years of work and upon careful reading of
20 acknowledgment decisions for our sister tribes, but
21 mistakes are made, and we are one of those to
22 suffer.

23 It has been more than nine years since the
24 Interior Department announced this new rule. No
25 petition has been considered under those new rules.

1 We don't know if the rule -- the reformed rules will
2 fix anything. We don't know if the new staff will
3 fully understand what went wrong with the old rules
4 or with improperly denied petitions or why it was so
5 hard to find the new evidence that may be the cure
6 for a decision waiting -- found waiting before.

7 Without context the process is just an
8 echo chamber. Without continued consultation with
9 tribes that have survived the process, your staff
10 and succeeding administrations will not know how to
11 improve their outcomes going forward.

12 At this time I suggest that you implement
13 a tribal advisory committee made up of
14 representatives of tribes that have gone through the
15 federal acknowledgement process, whether
16 acknowledged or denied, to ensure a path to improve
17 the search for the truth.

18 I know that this committee cannot itself
19 determine the outcome of petitions, but it can be
20 consulted about issues that arise and provide
21 insight into necessary context and paths to improve
22 the analysis.

23 The 2015 rules were formed -- reformation
24 was good -- it was a good beginning, but it was not
25 enough to correct the department's mistakes, and the

1 arbitrary decisions of the ban on re-petitioning
2 threatened to make prior mistakes permanent.

3 The proposal to eliminate the ban on re-
4 petitioning is a good step, but it is not the end to
5 correcting the department's mistakes. The
6 department owes the highest duty to correct the
7 error that has kept so many tribal nations from
8 fully participating in the governance of its lands
9 and its people and from fully realizing their
10 children's future.

11 I urge you to continue the efforts to make
12 sure that the process recognizes its responsibility
13 to find the truth.

14 Thank you very much.

15 MR. NEWLAND: Thank you, Lance. I
16 appreciate that. It's always great to see you and
17 to hear from you as well. And when you saw my head
18 down, it was me taking notes. And I know we're
19 taking -- making a transcript of this as well, and
20 we'll -- we'll take your comments into our internal
21 conversations as we move forward in this process.

22 MR. GUMBS: I have a lot more, and I will
23 -- we will submit that in written form. But I
24 didn't want to take up time because I didn't know
25 how many people were going to -- were going to

1 speak.

2 But just to reiterate, I really believe
3 that the -- the process itself -- and people can say
4 whatever they want, but -- and I've seen a lot of
5 the comments that tribes that have not been through
6 the process have made. And some of them are just
7 completely out of line and -- and off-center with
8 what this process really is about.

9 And for a tribe having gone through it for
10 over 32 years, and understanding all the dynamics,
11 and how easily some things can be misconstrued or
12 how easily tribes that -- especially those tribes
13 that were in -- in the Jim Crow era where their
14 records were either destroyed or they were not even
15 allowed to acknowledge themselves as being Indian
16 and how harmful that was and how difficult it was to
17 find documents.

18 I know in our own situation when we were
19 right in the middle of the process, we had a small
20 gap. We were told that we had to go back and find
21 proof. We were asked and told that we -- they
22 weren't sure whether we were the same train going
23 into that little gap tunnel as the same train coming
24 out. And we had to go and find proof. And we took
25 another year and a half to do that.

1 And we poked holes in the tunnel as they
2 asked for -- and that was literally the way they
3 described it. "We would like you to poke holes in
4 the tunnel to see if you could show some kind of
5 relevance to you coming out of the tunnel on the
6 other side and being the same tribe."

7 I mean, these are the kind of little
8 ridiculous things that we went through. And then
9 after we did all of that, they came back and said,
10 "Oh, you know, you were right. You didn't have to
11 do that because one of the other criteria that you
12 had met the -- met the standard."

13 These are the kind of things that we went
14 through, and I -- I can assuredly tell you that the
15 tribes that have not been recognized have gone
16 through some of the same things. Especially the two
17 tribes up here in the Northeast with Schaghticoke
18 and Eastern Pequot and some of the issues concerning
19 them being recognized and then having it taken away.

20 So we will be discussing these things in
21 our -- and in some written form, and in some written
22 comments.

23 So thank you very much, Bryan. I
24 appreciate the opportunity to just extend my
25 comments.

1 MR. NEWLAND: All right. Thank you,
2 Lance.

3 All right. Do we have any other tribal
4 leaders or representatives who -- who wish to
5 comment today?

6 All right. Remember you can also submit
7 written comments up until midnight on September the
8 13th. That's next Friday.

9 Also, on Thursday we will be hosting a
10 listening session for present, former, and
11 prospective petitioners that will begin at 3:00
12 Eastern Time. It is also a virtual consultation.
13 And that will be intended again for those groups
14 that are not federally recognized but are present,
15 former, or prospective petitioners.

16 All right. I will -- I will make another
17 call for comments. If we don't have anybody line up
18 in the queue, what we will do is adjourn this
19 consultation session early and, again, be open to
20 your written comments. If we have speakers we'll
21 stay on for our scheduled time today.

22 All right. I don't see any hands raised
23 in our queue, so this will be your final last call
24 for comments.

25 Going once. Going twice.

1 Okay. I want to thank all of you who have
2 taken time out of your schedule today, tribal
3 leaders and representatives. We know how hard you
4 work, the people you serve. We're very grateful
5 that you've taken some of your time to share with us
6 today.

7 We do welcome your written comments. You
8 can submit those to consultation@bia.gov. We do
9 read them. They are built into our rule-making
10 process. It's one of the reasons why we're here
11 today, and so I encourage you to do those so our
12 team can review.

13 Thank you all again. We will adjourn this
14 consultation at 1:41 Eastern Time. Look forward to
15 seeing all of you in our future travels together.
16 Take care.

17 (WHEREUPON, the consultation session
18 concluded at 1:41 p.m.)

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CERTIFICATE

I, Rebecca Fuchs, do hereby certify that I reported all proceedings adduced in the foregoing matter and that the foregoing transcript pages constitutes a full, true and accurate record of said proceedings to the best of my ability.

I further certify that I am neither related to counsel or any party to the proceedings nor have any interest in the outcome of the proceedings.

IN WITNESS HEREOF, I have hereunto set my hand this 10th day of September, 2024.



Rebecca Fuchs

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