

UNITED STATES DEPARTMENT OF THE INTERIOR
INDIAN AFFAIRS

TRIBAL CONSULTATION ON DRAFT REVISIONS TO LAND
ACQUISITION AND CLASS III TRIBAL-STATE GAMING
COMPACT PROCESS REGULATIONS
"PART 151 AND PART 293 CONSULTATIONS"

Washington, D.C.

Monday, May 9, 2022

10:00 a.m. (EDT)

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1 P R O C E E D I N G S

2 (10:00 a.m.)

3 MS. WILBERT: Thank you everyone for
4 your patience. You have now been placed into the
5 consultation session. This is the first of four
6 virtual nationwide government to government
7 consultations hosted by the Department of the
8 Interior Office of the Assistant Secretary Indian
9 Affairs. Prior to making proposed revisions to
10 two regulations, 25CFR Part 151, Land Acquisition,
11 and 25CFR Part 293, Class III Tribal State Gaming
12 Compact Process. This is a government to
13 government consultation and is closed to the
14 press.

15 If you are a member of the press, we ask
16 you to please sign off at this time. This and
17 each subsequent consultation will last three
18 hours. Upcoming consultations are scheduled for
19 this afternoon beginning at 2:00 p.m. Eastern
20 Time, Friday, May 13, at 1:00 p.m. Eastern Time,
21 and May 23, at 1:00 p.m. Eastern Time.
22 Registration links for these future sessions are

1 available at a link in the chat.

2 For optimum audio quality, please ensure
3 your microphone remains on mute unless you would
4 like to speak. Please take a moment to add your
5 title and affiliation to your name in Zoom. To do
6 this, please click on the participant list, find
7 your name, click on the blue MORE button next to
8 your name and choose rename.

9 The session will be recorded. If you do
10 not consent to being recorded you may disconnect
11 at this time. Closed captioning is available in
12 real time at a link in the chat. I will now turn
13 it over to Assistant Secretary for Indian Affairs,
14 Bryan Newland.

15 MR. NEWLAND: Thank you, Biju
16 (phonetic), Annie, friends. Good morning to
17 everybody. I hope you're all doing well. I want
18 to welcome you to this government to government
19 consultation that the Department of the Interior
20 is hosting on two sets of regs that we are in the
21 process of developing: Updated regs on the Land
22 and the Trust Process as well as updated regs on

1 the Gaming Compact Process.

2 Before we begin, we want to make sure
3 that we start these meetings in a good way and an
4 appropriate way. We don't have anybody available
5 today to offer us an opening prayer so we'll just
6 take a very brief moment of silence and allow
7 those of you who wish to pray in your own way or
8 reflect in your own way to take that moment before
9 we begin.

10 All right. So, just to give you a
11 little bit of an overview of today's agenda, we
12 are doing consultation on two different sets of
13 regulations that are not linked to one another,
14 but for convenience of people across Indian
15 Country, I know that we keep you all busy on
16 Tribal consultations, we are consulting on both of
17 these regulations at the same time.

18 So, to have some semblance of order,
19 we're going to try to focus the first 90 minutes
20 of this morning's consultation on our draft fee to
21 trust regulations. We will take a very short
22 five-minute break to allow you to refuel your

1 coffee mugs or your tea cups and then we will come
2 back and in the second half of this morning's
3 session, we will discuss the draft Gaming Compact
4 Regulations.

5 We want to prioritize Tribal leadership
6 in the comments as well as Tribal representatives
7 and want to make sure I emphasize that this is a
8 government to government consultation and we will
9 do our best. We've got a lot of folks on the line
10 here from the Department of the Interior to make
11 sure that we capture everybody's comments and I
12 hope you have seen in the draft regulations that
13 we put together that we do incorporate the views
14 that are shared during these consultations from
15 across Indian Country.

16 So, with that, we're going to go ahead
17 and get into the substance of our land-into-trust
18 regulations in the consultation. If we can
19 go to the next slide. All right, so you all
20 should have received your Tribal Leader letter
21 from us that included a link to our draft
22 regulations as well as some framing questions for

1 today's discussion. The first question that we
2 have asked is do the revisions that we've drafted
3 make the fee-to-trust application process
4 more efficient? Are there additional ways to make
5 the process more efficient?

6 We've also asked do the draft revisions
7 reduce the costs of the fee-to-trust application
8 process? Are there additional ways to
9 reduce that cost? The third question is the draft
10 revisions identify needed information for a
11 complete fee-to-trust application after,
12 which the secretary will have 120 days to issue a
13 decision. Are there additional ways to increase
14 certainty in the fee-to-trust application
15 process?

16 The fourth question that we've put
17 forward is the draft revisions propose criteria
18 for evaluating applications involving land within
19 the boundaries of a reservation, land contiguous
20 to the boundaries of a reservation, land outside
21 the boundaries of a reservation and land for an
22 initial trust acquisition. Do the draft revisions

1 sufficiently account for the range of fee-to-trust
2 applications? Next slide please.

3 The next question we put forward is the
4 draft revisions explain how the Secretary will
5 determine whether statutory authority exists to
6 acquire land in trust status including
7 determinations whether a tribe was under federal
8 jurisdiction in 1934. Do these criteria
9 sufficiently explain how the Secretary will
10 evaluate the information? And finally, we have
11 asked do the draft revisions sufficiently consider
12 the concerns of state and local governments? And I
13 think that is it for the framing of the discussion
14 so I want to invite folks who wish to comment
15 during this consultation to raise your hand. I
16 believe you can use the raise your hand function
17 at the bottom of your screen on Zoom. Don't know
18 if we have folks who are joining us by telephone.
19 We do have a few numbers. Jan or Claire, what is
20 the function to raise your hand on Zoom by
21 telephone?

22 MS. WILBERT: If you are joining us on

1 the telephone it is star nine to raise your hand
2 and star six to mute or unmute yourself.

3 MR. NEWLAND: Thank you, Claire. I
4 am going to again call on folks in the order
5 they come up in the queue and try to prioritize
6 elected Tribal leaders. And our first comment
7 will come from Kelly Dennis. Kelly, can you
8 unmute yourself please? Kelly, we may have to
9 come back to you. We can't hear you. It looks
10 like you're still on mute.

11 I don't see any other hands raised or
12 other speakers in the queue. Again, we'll have
13 several other opportunities for folks to
14 comment, but Kelly, it looks like you're off mute
15 We can't hear you. Again, as I was saying, Kelly,
16 you may want to disconnect and try to log back
17 in or check your audio settings. We still can't
18 hear you. We will have additional consultation
19 sessions on these regulations this week and
20 encourage folks to submit comments in writing
21 as part of the record and our intention is
22 to take these comments, fold them in to our

1 work, get to a draft set of regulations for both
2 sets along with the preamble that we can propose
3 formally through another proposed rule making and
4 make sure that we're fulfilling the President's
5 commitment to make the fee-to-trust process easier
6 for tribes to navigate and work more efficient.

7 Those of you who wish to submit comments
8 in writing can submit those comments up until
9 midnight on Thursday, June 30. All right, so we
10 will go to Tim Beyer from Quinault Indian Nation.

11 MR. BEYER: Maybe you just need somebody
12 to break the ice a little bit. Good morning.

13 MR. NEWLAND: Good morning.

14 MR. BEYER: Thank you for this
15 opportunity to provide input on the proposed
16 regulations. I worked for the Quinault Nation in
17 the 80s and 90s specializing in fee-to-trust work
18 and for the last year I've been a contractor back
19 working for the Quinault Nation on fee-to-trust
20 both on reservation and off reservation
21 acquisitions. At this point, I'll just offer a
22 couple of perhaps responses to the first question

1 regarding efficiency or opportunities for
2 efficiencies. As you're likely aware, or
3 certainly those are aware that there is a new
4 policy or a new process that's been put in place
5 as of the 26th of April related to the land
6 description review process for fee-to-trusts.

7 This is a shift from the historic
8 expectation or the more recent expectation that
9 those land description reviews are reformed by
10 certified federal surveyors and/or Bureau of Land
11 Management Indian Land Surveyors and I understand
12 there had been some inconsistency across the US as
13 far as how those were handled so I do appreciate
14 the efficiencies that this has now put in place by
15 having the BIA undertake those land description
16 reviews which are now called realty land
17 description reviews. I think my concern is that
18 even though this provides an efficiency and it
19 reduces a cost to the tribe of no longer having to
20 hire a certified federal surveyor to do the land
21 description review, I'm not sure if there will be
22 additional funding directed to the BIA offices to

1 support this added work responsibility of them to
2 perform the realty land description review or for
3 the GIS strike teams which I also understand are
4 understaffed to do this work. So, you know, it
5 provides an efficiency but at the same time if
6 that efficiency is not funded to take on that
7 additional work it's not an efficiency at all if
8 you understand what I'm saying.

9 So that's one of the concerns I have is
10 again, it provides a great efficiency in the
11 process but if it's not funded and there are a
12 number of dates in that process of ten days for
13 this and 30 days for that and certainly an
14 opportunity to pass things back and forth so a
15 concern on funding. One of the other questions I
16 guess when I look at these things I look at
17 clarity consistence, clarity, complexity and
18 feasibility. I've heard from a number of
19 individuals that the new draft regulations require
20 a survey for all fee-to-trusts. I think as I look
21 through the document, and sometimes maybe this is
22 just the new English, but there has been in some

1 places a purposeful striking of the words or or
2 and in context and so a little clarity might be
3 added to Section 151.8 sub A sub 3 where it talks
4 about the mapping requirement. It states for the
5 legal description of the land from the applicant
6 including a statement of the estate to be acquired
7 or a survey if land cannot be described by
8 eloquent legal description. A survey must be
9 completed by a land surveyor registered in the
10 jurisdiction and concurrence by the Secretary that
11 the legal description is legally sufficient so I
12 think there's a little lack of clarity in there as
13 far as which the ors or the ands apply to it. I
14 think some people are reading this that unless it
15 can be described by eloquent terms that a survey
16 is required. I don't necessarily read it that
17 way. I may want to read it that if I have a legal
18 description and that is concurred by the Secretary
19 that I should be good to go without needing a
20 survey but a little bit of clarity could be useful
21 in there. I think at this point I'll stop and see
22 if anyone else has any questions. I'm not an

1 elected official but I certainly can offer more
2 but at this point let's see if anyone else has
3 some questions.

4 MR. NEWLAND: Thank you, Mr. Beyer. I
5 appreciate those comments and the specific
6 references. Those are always helpful to us. I'm
7 going to go back over to Vice Chair Randy King
8 from Shinnecock Tribe, so, Vice Chairman, you're
9 up. It looks like you're outside on a beautiful
10 sunny day.

11 MR. KING: Thank you. It's a beautiful
12 day here in Shinnecock and can you hear me first?

13 MR. NEWLAND: Yeah. It's a little windy
14 but we can hear you.

15 MR. KING: Great. So just kind of want
16 to illustrate for the Department the land of
17 Shinnecock that we have memorials that we hold as
18 our Tribal land. This is their side and this is
19 our side. These are the stories of this land.
20 We're seeking to protect our land. We're seeking
21 to create some sort of economic development for
22 our people so we can truly realize the

1 self-determination that other tribes have across
2 this country. You, obviously, understand that our
3 work product is before you. Obviously, this is
4 fee-to-trust regulations and a lot of that work
5 product is different than what you're asking and I
6 just wanted you to acknowledge our presence today
7 and the restricted fee status of the Shinnecock
8 land that we've maintained through these years as
9 perceived so, thank you, Assistant Secretary
10 Newland, for hearing us and if you have any
11 questions just let me know.

12 MR. NEWLAND: Thank you, Vice Chairman.
13 I appreciate that and the recognition of
14 restricted fee lands as a legitimate land tenure
15 as well and the importance to your people and your
16 tribe and thanks for taking time with us this
17 morning.

18 MR. KING: Thank you.

19 MR. NEWLAND: All right. We don't have
20 any speakers in the queue at this time on the
21 fee-to-trust regulations. It looks like Mr. Beyer
22 has his hand raised again. I want to invite those

1 of you here on behalf of your tribe or your
2 inter-Tribal organization to raise your hand and
3 offer comments and, of course, provide us written
4 comments as well. We do read those I assure you
5 and oftentimes our work product is fundamentally
6 changed and helped by the comments we receive in
7 these sessions and the written comments. Mr.
8 Beyers, I will come back to you.

9 MR. BEYERS: Thank you, Assistant
10 Secretary. Again, it may be a couple of direct
11 points of clarity or reference. So I had
12 mentioned previously about some of this kind of
13 purposeful omission or striking of ors in a series
14 of statements and as a specific example I would go
15 back to 151.6 where previously 151.6 had
16 identified A through E as being a series of ors.
17 Again, I'm not an English expert but now the only
18 or that exists is between sub D and sub E and the
19 rest are just statements, which might lead someone
20 to believe in a clarity of are those now ands or
21 are those still all ors. So, again, there's just,
22 you know, maybe to go back and see if that could

1 be cleared up for the full range of people that
2 will be reading the regulations and putting them
3 into place.

4 A couple of examples or other questions
5 related back to I'm not sure which question
6 specifically, but in the definitions section, and
7 maybe this is just a broader conversation for a
8 different time or a different policy, but references
9 this issue of restricted land or land held in
10 restricted status and so there's been, you know,
11 you own land in fee, you own land in trust,
12 but sometimes it appears there's this opportunity
13 for that middle ground of restricted status
14 land that again, cannot be incumbered without
15 the approval of the Secretary but at the same time
16 perhaps provided a little bit more opportunity
17 for tribes to manage those lands without
18 needing the full support of the Department.

19 Again, just to comment there is no
20 process other than what I've seen through, you
21 know, congressional action, there is no process
22 that allows for a tribe or an individual to go

1 through like fee-to-trust to put land into
2 restricted status.

3 Second thing is that under again,
4 definitions, sub L talks about Tribal
5 consolidation area and that is also referenced a
6 couple of times in the fee-to-trust regs but no
7 reference to any process or law that would allow
8 an organization to develop a Tribal consolidation
9 area or a Tribal acquisition plan. So, again, it
10 provides efficiency as efficiencies are listed in
11 the proposed consultation draft where it talks
12 about if there's a Tribal consolidation area, but
13 again, no reference about how you would get a
14 secretarially approved Tribal consolidation area.
15 And I'll take a pause again at that point. Thank
16 you.

17 MR. NEWLAND: Thank you, Mr. Beyer.
18 Again, I appreciate your comments. So, we don't
19 have any folks in the queue for speaking or
20 comments. I want to pause here and make sure that
21 we're providing an opportunity for those of you
22 who do want to make comments to get that raise my

1 hand function. We'll give it another few minutes.
2 If we don't, we can move on to the second part of
3 our consultation. I'll give it just a few moments
4 here. Tim, is that a new hand?

5 MR. BEYER: That's the left hand, so
6 I'll leave you with just one more, please. One of
7 the questions was where it talks about on
8 reservation off-reservation, does the draft
9 document provide for, I'm trying to find my list
10 of questions here briefly. Sorry about that. One
11 of the questions was the draft revisions propose
12 criteria for evaluating applications involving
13 land in the boundaries, contiguous and off. Do
14 the draft regulations or revisions sufficiently
15 account for the range of fee-to-trust
16 applications?

17 And I know it's natural to be referenced
18 in 25 CFR 151, but these regulations do not
19 incorporate mandatory acquisitions. Not sure
20 again if there's a value added of trying to pull
21 those into 151. Those are my comments for today.
22 Thank you.

1 MR. NEWLAND: Thanks, Tim, and thanks
2 for raising that last point as an issue. I know
3 that's been discussed before and how the
4 Department effectuates those mandatory
5 acquisitions, and it often involves a legal review
6 of the statutory language, but I appreciate you
7 referencing it. It must be a little too early in
8 the morning for folks to get wound up about
9 land-into-trust regulations. For folks here at the
10 Department who are doing this work I'll tell you
11 it's never too early in the morning to start
12 talking about this stuff and working on it. We'll
13 give you, again, just another few minutes here if
14 you do want to offer a comment. If not, we can
15 move on to the second set of regs. All right,
16 going once. Going twice. Okay, Claire, can you
17 please, oh, all right, never mind. Chief Barnes
18 from the Shawnee tribe.

19 MR. BARNES: Good morning, Deputy
20 Secretary. I just want to offer a comment and
21 more of a point of order for this consultation and
22 the next one. For those of us that work inside

1 section, I've dealt extensively in Section 106 and
2 NAGPA world and I promise this is germane to this
3 conversation. I feel that we have a hard time
4 having discussion today frankly and honestly with
5 yourself and making sure that our concerns are conveyed
6 or things that we speak today are going to be conveyed
7 to Secretary Haaland in confidence when we have a
8 third party hosting on your behalf today as a
9 public/private partnership where we contracted out
10 this consultation with Bernstein and Associates.
11 They've often sat across the table from us
12 adversely and as hired by entities at state
13 government levels, museums and universities. And so
14 having our private conversations consultations
15 between us and Interior having that potential for
16 that conversation to not be privileged causes me a
17 little bit of concern so I bring this up as a
18 point of order. I'm very excited for this
19 administration, the appointment of yourself and
20 Secretary Haaland but I think it's a misstep to
21 have a third party act as a interceptor, a liaison
22 or to attend these privileged conversations

1 between ourselves and our federal partners. And I
2 say these things very respectfully, sir.

3 MR. NEWLAND: Thank you, Chief Barnes.
4 I appreciate that and note your concerns and we'll
5 make sure that we're discussing internally. What
6 I do want to say in response to that is we often
7 use a third party contractor to facilitate these
8 consultations to do the technical assistance piece
9 with the Zooms and pulling it all together and so
10 we'll make sure that we're being mindful of that
11 and I will also say that as far as the folks are
12 concerned here at the Department of the Interior,
13 we view this as a part of our government to
14 government relationship and consultation and we
15 approach these conversations and your comments
16 with that in mind and we just for awareness with
17 these all of our consultations we typically have a
18 court reporter and under our policy we generate a
19 report of the consultation as well as the written
20 comments that we receive and those reports are
21 generally available on our website for Indian
22 Country to make sure that we're accurately

1 reflecting and capturing what folks say but, Chief
2 Barnes, your comments and concerns are well taken
3 and I appreciate you raising your hand.

4 Okay. I see Bethany Sullivan.

5 MS. SULLIVAN: Hello, Assistant
6 Secretary Newland. My name is Bethany Sullivan.
7 I'm an attorney with Maier Pfeffer Kim Geary &
8 Cohen. We represent a number of Tribal
9 governments in California, but I am here today on
10 behalf of the Federated Indians of Green Rancheria
11 and I just have a few comments and really I think
12 a couple of them are more so questions for
13 clarification so maybe not necessarily things that
14 you can respond to today, but things for you and
15 your staff to think about as you're developing
16 these regulations.

17 So, I'll start with 151.12 which is also
18 reiterated in the definition section and this idea
19 of Initial Indian Acquisition, it seems like the
20 intent of this provision is for it to really apply
21 to tribes as opposed to individuals and again, so
22 I would just make the minor drafting suggestion

1 that that be changed to refer to Initial Tribal
2 Acquisition.

3 My next comment concerns subsection B
4 that reiterates in the four different types of
5 fee-to-trust acquisitions so, within reservation
6 boundaries, contiguous, off-reservation and
7 initial and again, this is sort of just putting a
8 question out there to gain some clarification as
9 to what is the intent behind this subsection B.
10 It's reiterating a lot of the secretarial policy
11 from earlier in the regulations but then a few
12 factors are missing such as housing. So, it's not
13 clear if the purpose of this subsection is to sort
14 of reinforce the secretarial policy or if it's to
15 create perhaps like a priority track for certain
16 types of applications, which is an idea that I
17 think has come up in a couple different contexts
18 in terms of thinking about conservation and
19 coastal resource protection, etcetera, or is it
20 just creating perhaps a greater likelihood of
21 approval for certain types of applications. So, I
22 think just better understanding the purpose of

1 subsection B would be very helpful.

2 My next comment concerns notice and
3 comment. So, as we all know, there has been for
4 some time a notice and comment requirement for
5 local jurisdictions and we would recommend that
6 there be a similar notice and comment requirement
7 for local tribes. So, local jurisdictions beyond
8 cities, counties and the state. That seems
9 imminently logical and appropriate in terms of
10 incorporating the local Tribal sovereigns.

11 And then my last comment concerns the
12 presumption of community benefits that is woven
13 into a few different provisions. You know, this,
14 of course, seems like a positive thing but I think
15 we're just trying to figure out what exactly does
16 it mean for there to be a presumption of community
17 benefits, if that benefits to the non-Tribal
18 community in the area, benefits to both the Tribal
19 and non-Tribal community. What about neighboring
20 Tribal communities, so just a little bit of
21 clarification as to what it means to have a
22 presumption of community benefits. And that is it

1 for me.

2 MR. NEWLAND: Thank you. I'm just
3 trying to keep up with your comments --

4 MS. SULLIVAN: I have written comments
5 as well.

6 MR. NEWLAND: -- in my note taking.
7 With respect to the comment you made regarding
8 including tribes as governments entitled to notice
9 and comment to the extent that you submit written
10 comments it would be helpful for us to understand
11 the scope of that. You know, there are tribes
12 that share reservation boundaries and there are
13 tribes that share aboriginal homelands and there
14 are tribes that are just very close neighbors and,
15 you know, it would be helpful to understand the
16 scope of your concern in your comments. So, and
17 not something you have to address this morning
18 but.

19 MS. SULLIVAN: Yes, absolutely, and
20 that's something that we're definitely thinking
21 about and I'm sure, you know, that same type of
22 question has already been tossed around with

1 Interior in terms of how to notify local
2 jurisdictions that are not tribes so there might
3 be some precedent there to borrow from but we'll
4 definitely comment on that.

5 MR. NEWLAND: Thank you. All right. I
6 see nobody else in the queue for comments on this.
7 I'll give it 30 more seconds if you want to talk
8 and, otherwise, we can move on to the second set
9 of draft regulations. Okay. Seeing nobody else
10 in the queue on the land-into-trust regulations
11 we'll go ahead and walk through the draft
12 revisions of Part 293 regulations and the framing
13 questions that we've shared with you in our Dear
14 Tribal Leader letter.

15 So, the first question that we framed.
16 Let me back up, the Part 293 Regulations govern
17 the process by which the Department reviews Class
18 III Gaming Compacts negotiated between tribes and
19 states. As I think most folks know those
20 agreements have to be submitted to the Department
21 of the Interior for secretarial review within 45
22 days under the Indian Gaming Regulatory Act and

1 the Secretary can either choose to approve,
2 disapprove or take no action on a gaming compact
3 and IGRA sets out some limited grounds for
4 disapproval.

5 Over the course of many years the
6 standards for the Secretary's review of Class III
7 Gaming Compacts have really evolved through this
8 administrative case law, if you will, here in the
9 Assistant Secretary's office with decision letters
10 that are available on the website at the Office of
11 Indian Gaming and so what we are attempting with
12 these regulations is to provide some more clarity
13 on the standards for what is and is not
14 permissible in a Class III Gaming Compact, which
15 agreements need to be submitted to the Department
16 for review and try to draw some clear boundaries
17 so that states and tribes have a better
18 understanding in advance of what topics and what
19 issues are in bounds for Class III Gaming Compacts
20 rather than to force folks to define the
21 Department's intent in our policies by reviewing
22 dozens of those compact decision letters and

1 synthesizing the principals in there.

2 That's the intent behind this rule
3 making. So, we put forward several framing
4 questions for these regulations as well in our
5 Dear Tribal Leader letter. The first question
6 that we've asked is do the draft revisions
7 increase certainty and clarity in the Secretary's
8 compact review process. Are there additional ways
9 to increase certainty and clarity?

10 The second question is do the draft
11 revisions provide sufficient guidance to parties
12 engaged in compact negotiations. Are there ways
13 to provide additional guidance?

14 The third question is should the draft
15 revisions include provisions that facilitate or
16 prohibit the enforcement of state court orders
17 related to employee wage garnishment or patron
18 winnings?

19 Question number four was should the draft
20 revisions include provisions that facilitate or
21 prohibit state court jurisdiction over the gaming
22 facility or gaming operations? Should this apply

1 to all claims or only certain types of claims?

2 Next slide, please. Question number
3 five is should the draft revisions include
4 provisions that identify types of meaningful
5 concessions that a Tribe may request from a state
6 other than protection from state license
7 commercial gaming, i.e., exclusivity for which a
8 tribe could make revenue sharing gains. How would
9 such provisions affect compact negotiations?

10 Question number six is should the draft
11 revisions include provisions that facilitate
12 statewide remote wagering or internet gaming? And
13 the last question that we've asked is should the
14 draft revisions include provisions that offer or
15 require the submission of electronic records?

16 So, with that, again, want to make sure
17 that the floor is open for those of you wishing to
18 comment on the Part 293 draft regulations. Those
19 draft regulations should have been included in a
20 link in the Dear Tribal Leader letter that you
21 received and are available on our website as well.

22 So, again, those of you who want to

1 comment can use the raise my hand feature, which
2 is at the bottom of your screen. Those of you
3 joining by phone can press star nine. And if you
4 are joining by phone and you press star nine,
5 please press star six to unmute yourself when
6 called upon. I see no speakers in the queue.
7 Give it just a moment. I'm going to take that as
8 a good sign that we're getting close to the mark
9 on some of these things maybe. Of course, your
10 feedback is always welcome, critique or
11 redirection, any of that all really helps this
12 process.

13 Okay. Oh, I'll give it just another
14 minute or two and if we have no speakers we can
15 wrap up. I see George Skibine has his hand
16 raised. George, we'll call on you.

17 MR. SKIBINE: Can you hear me? All
18 right. I am George Skibine. I'm self-employed but
19 I represent several tribes across the country. At
20 this point I only have one comment and that is on
21 293.26, may a compact or a (inaudible) engage in
22 any form of Class III gaming activity. I think

1 the, it says yes if the state allows any form of
2 Class III gaming then the state is regulating all
3 forms of Class III gaming. The state's refusal to
4 negotiate in a compact for all forms of Class III
5 gaming not prohibited in the state is considered
6 evidence of bad faith. I think this provision is
7 a little unclear because at first it seems to take
8 the position that any means all so that let's say
9 if a state permits horse racing, then it means a
10 tribe can seek to negotiate a compact on slot
11 machines if any means all.

12 But in the second part of the second
13 sentence, it says if and the clause not prohibited
14 in the state and I think that is where I'm not
15 sure if it is to be clarified because you have a
16 lot of states who essentially do not permit any
17 gaming unless they're specifically permitted and
18 so states have gone slowly to essentially expand
19 Class III gaming by providing certain forms of
20 gaming on lots but not others so I think that this
21 provision will be controversial with the states to
22 begin with but it will be needed to be I think

1 clarified to make sure of what the Department's
2 intent is here.

3 MR. NEWLAND: Thanks, George, for that
4 flag and that comment. We will certainly go back
5 and make sure that we discuss that. Again, these
6 conversations are always very helpful. As you
7 know, when you sit with work product for a long
8 time, sometimes your eyes blur, but I appreciate
9 you flagging that and, of course, would welcome
10 recommendations or direction or guidance from
11 folks on the direction we should take. Thank you,
12 George.

13 MR. SKIBINE: You're welcome.

14 MR. NEWLAND: All right. Once again, you
15 can submit comments in writing to us by midnight
16 on June 30th of this year. You can email those to
17 us at consultation@bia.gov. Okay. I see Rob
18 Porter has his hand raised.

19 MR. PORTER: Good morning, Mr. Assistant
20 Secretary and team. How are you doing this
21 morning? Thanks for the consultation. Question
22 relates to timeframe in terms of your approach

1 you'll take comments through the end of June. Do
2 you have a sense of how long it might take to work
3 through the process and what might be an effort to
4 get the regulations finalized?

5 MR. NEWLAND: Sure. Thanks for the
6 question on that, Rob. Obviously, it takes us a
7 bit of time to go through the comments and sort
8 them out by subject matter and then have the
9 discussion on each one and also any rule making
10 would require a preamble. It's my intention that
11 all of that work would continue here internally
12 over the course of the summer and, you know, again
13 that we are committed to getting to a notice of
14 proposal we'll be making on these. I can't give
15 you a firm date on that because there's a lot of
16 interagency review that goes on on any rule making
17 that is deemed significant and that designation I
18 think as you know there's a lot that goes into
19 that. So, I can say that it's our intent to move
20 these forward to proposed and to final in
21 consultation with tribes. The President made a
22 commitment before taking office that he wanted to

1 make the land-into-trust process easier and
2 it's our job to make good on that commitment.

3 So, I'll stop there, Rob, and just say
4 that it's not our intention to take any long
5 breaks in this process. We'll get to June 30th,
6 we'll immediately start to work on piercing through
7 the comments and putting the preamble together.

8 MR. PORTER: Thank you.

9 MR. NEWLAND: All right. There are no
10 speakers in the queue. I want to remind folks,
11 too, that there is another consultation this
12 afternoon at 2:00 p.m. Eastern. We have an
13 additional consultation session this Friday, the
14 13th at 1:00 p.m. Eastern and again on May 23rd at
15 1:00 p.m. Eastern. I will of course welcome those
16 of you who want to join and comment at any of
17 these later sessions and submit written comments
18 as well. So, if we don't have any more speakers
19 lined up for this morning, we can wrap up. Thirty
20 more seconds. All right. Well, with that, I want
21 to thank all of you for joining us this morning.
22 For those of you who did share comments, questions

1 and concerns, our team is really excited about
2 this work. I do want to make sure I take a moment
3 to give credit to everyone on our team who helped
4 pull these together. Our Deputy Assistant
5 Secretary, Kathryn Isom-Clause, you see on your
6 screen here as well, Maria Wiseman from our
7 office, Stephanie Sfiridis, Rose Petoskey and Sam
8 Kohn. We worked very closely with Paula Hart and
9 the team at the Office of Indian Gaming as well as
10 Johnna Blackhair and Darryl LaCounte and folks
11 across the Bureau of Indian Affairs and our great
12 partners in the Solicitor's office including
13 Ann Marie Bledsoe Downes and Eric Shepard. We've got
14 a brilliant team here who's working hard to make
15 sure that we're carrying these things forward to
16 fulfill our trust responsibility and benefit
17 Indian Country. Thank you all for taking time
18 with us this morning. I look forward to seeing
19 you on our travels out and about and wish you all
20 a very happy day. That will conclude our
21 consultation this morning.

22 (Whereupon, at 10:52 a.m., the

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CERTIFICATE OF NOTARY PUBLIC

DISTRICT OF COLUMBIA

I, Mark Mahoney, notary public in and for the District of Columbia, do hereby certify that the forgoing PROCEEDING was duly recorded and thereafter reduced to print under my direction; that the witnesses were sworn to tell the truth under penalty of perjury; that said transcript is a true record of the testimony given by witnesses; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was called; and, furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

(Signature and Seal on File)

Notary Public, in and for the District of Columbia

My Commission Expires: May 31, 2022