

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

TRIBAL CONSULTATIONS ON 25 CFR PART 151  
LAND ACQUISITIONS

Thursday, January 19th, 2023

Held Remotely via Zoom Webinar

1:00 P.M. - 2:47 P.M.

Reported by Garrett Lorman

1 MEETING ATTENDEES:

2

3 OLIVER WHALEY

4 Regulatory Affairs and Collaborative Action

5 KATHERINE ISOM-CLAUDE

6 Deputy Assistant Secretary for Policy and

7 Economic Development of Indian Affairs

8 TEHASSI HILL

9 Chairman, Oneida Nation

10 N. KATHRYN BRIGHAM

11 Chairman, Confederated Tribes of the

12 Umatilla Indian Reservation

13 ROSE PETOSKEY

14 Senior Counselor to the Assistant

15 Secretary, Bureau of Indian Affairs

16 PAULA HART

17 Director, Office of Indian Gaming

18 PHILIP BRISTOL

19 Deputy Director, Office of Indian Gaming

20 STEPHANIE SFIRIDIS

21 Senior Counselor to the Assistant

22 Secretary, Bureau of Indian Affairs

1 PUBLIC COMMENTORS (chronologically):

2

3 CHERYL ANDRWES-MALTAIS

4 Chairwoman, Wampanoag Tribe of Gay Head

5 (Aquinnah)

6 CANDACE STOWELL

7 Planning Director, Reno-Sparks Indian

8 Colony

9 MARIA WISEMAN

10 Senior Policy Advisory for Climate and the

11 Environment

12 TIM BEYER

13 Quinault Indian Nation

14 JON HARE

15 DIANE SAM

16 Realty Specialist, Bureau of Indian

17 Affairs, Alaska Region

18 SONYA McINTOSH

19 Muskogee Creek Nation

20 MICHELLE LEE

21

22

1 THEREUPON:

2

3 **MR. WHALEY:** Thank you everybody for  
4 joining the consultation today. We're just  
5 gonna give everybody a second to get logged in  
6 and their audio connected.

7 All right, looks like everybody's been  
8 admitted in. Again, thank you for being here  
9 today.

10 At this moment, we'd ask that you keep your  
11 mic on mute. Until the time for comments. We'd  
12 also request that you take some time to add your  
13 title and affiliation to your name and Zoom. To  
14 do this, just click on the participant list,  
15 find your name, and then click on the blue more  
16 next name and choose rename.

17 As a reminder, this is a  
18 government-to-government consultation.  
19 Consequently, this consultation is closed to the  
20 press. So, if you are a member of the press, we  
21 do ask that you disconnect at this time.

22 Additionally, this session is being recorded and

1 transcripts are being created. So, if you do  
2 not consent to being recorded, we also ask that  
3 you disconnect at this time.

4 When we get to the comment part of this  
5 consultation, we welcome your comments. As just  
6 a matter of logistics. If you'd like to make a  
7 verbal comment, please raise your virtual hand.  
8 To do this, go down to the reactions tab at the  
9 bottom of your screen, select raise hand, and  
10 we'll call on individuals to speak. If you're  
11 unable to raise your hand, please type a comment  
12 in the chat box when you're called upon to  
13 provide a verbal comment. Please also include  
14 your name, title, and Tribe.

15 We also have closed captioning services  
16 available today. If you go to the bottom of  
17 your screen and click on the up arrow next to  
18 the closed caption and choose subtitle. Those  
19 subtitles should appear at the bottom of your  
20 screen. But if you're unable to do that, we  
21 will also provide a stream text link in the  
22 chat. And then in the chat, we will also

1 provide a link to the Dear Tribal Leader Letter  
2 on our BIA consultation webpage just for  
3 reference.

4 So, at this time, I will turn the floor  
5 over to our Deputy Assistant Secretary, Kathryn  
6 Isom-Clause.

7 MS. ISOM-CLAUSE: Thank you, Oliver.

8 Good afternoon and good morning to  
9 everyone. Thank you for joining us today for  
10 our consultation on the Part 151, Land and  
11 Interest Regulations, and the Part 293, Gaming  
12 Compacts Regulations. My name is Kathryn  
13 Isom-Clause. I'm Taos Pueblo and I serve as the  
14 Deputy Assistant Secretary for Policy and  
15 Economic Development in Indian Affairs here at  
16 the Department of the Interior.

17 Oops, sorry. My screen just changed. I  
18 think y'all were putting up the slides.

19 We do not have someone identified today,  
20 unfortunately, to provide an opening prayer.  
21 So, instead, we will begin with a moment of  
22 silence for everyone to pray or start this

1 session in the way that's most appropriate for  
2 you.

3 So, let's start with that now for that  
4 moment of silence for prayer.

5 (THEREUPON, A MOMENT OF SILENCE WAS  
6 OBSERVED.)

7 MS. ISOM-CLAUSE: Thank you.

8 So, we have a quick PowerPoint presentation  
9 to begin the discussion. But I see Chairman  
10 Hill you have your hand up. So, I just want to  
11 check if you have any concerns before we go  
12 through that or if we have a substantive  
13 comment. Let's save that until after the  
14 presentation. So, our note takers are ready for  
15 that.

16 But Chairman Hill, did you have something  
17 right now?

18 **CHAIRMAN HILL:** Oh, no. I was just getting  
19 in line for --

20 MS. ISOM-CLAUSE: Okay, well, great. Front  
21 of the line for you. We'll go to you first.

22 Just a few quick slides just to kind of set

1 the stage.

2 Great. So let's go onto the slide -- the  
3 next slide. Please.

4 Okay. So, we're in our second consultation  
5 session, and we previously had one in person.  
6 Is that -- was just last week already. So we  
7 have one more virtual session coming up on the  
8 30th. And please note that written comments are  
9 due by March 1st. So that's still a full month  
10 after the last consultation session. So,  
11 there's plenty of time for everyone to get in  
12 both your verbal and written comments, and we  
13 really appreciate those.

14 Let's go on to the next slide, please.

15 Okay. So, just a few high points of the  
16 Part 151 Proposed Regulations. The NPRM  
17 proposes the following changes that will codify  
18 the standards that implement the 2009 decision,  
19 in *Carcieri v. Salazar* to increase clarity and  
20 certainty in determining the Secretary's  
21 authority to take land into trust for Tribes.  
22 That's at section 151.4.



1           Reduce processing time and uncertainty by  
2           identifying the documents needed for a complete  
3           application, after which the BIA will issue a  
4           decision within 120 days. That's at 151.8.

5           Articulate a clear land acquisition policy  
6           to strengthen self-determination and  
7           sovereignty, ensure that every Tribe has  
8           protected homelands where its citizens can  
9           maintain their Tribal existence and way of life,  
10          and consolidate land ownership to strengthen  
11          Tribal governance over reservation lands and  
12          reduced checkerboarding. You can find that at  
13          151.3.

14          Establish clear criteria by requiring that  
15          great weight given to establishing a Tribal land  
16          base or protecting Tribal homelands, protecting  
17          sacred sites or cultural resources and  
18          practices, establishing or maintaining  
19          conservation and environmental mitigation areas,  
20          consolidating land ownership, reducing  
21          checkerboarding, acquiring land loss through  
22          allotment, protecting treaty or subsistence

1 rights, or facilitating Tribal self-  
2 determination, economic development, and Indian  
3 housing. That's at 151.9-12.

4 And I see there's a question on whether  
5 these slides are available. I look to our team  
6 here, I believe so, but if someone wants to  
7 correct me in the chat.

8 **MR. WHALEY:** I will make sure we post it  
9 onto the consultation website.

10 **MS. ISOM-CLAUDE:** Thank you, Oliver.

11 All right. So, no need to take notes on  
12 all this, you'll get that.

13 All right. And then also to increase  
14 efficiency by analyzing applications as either  
15 on-reservation, contiguous to reservation,  
16 initial acquisition for landless Tribes, or off-  
17 reservation. Recognizing that each category  
18 requires specific criteria for appropriate  
19 analysis. That's again at 151.9-12. It'll also  
20 establish clear criteria that presume on-  
21 reservation, contiguous and initial acquisitions  
22 for landless Tribes will be approved and that

1 Tribal communities will benefit from those  
2 proposed acquisitions. That's without thinking  
3 about the distance from the reservation. We'll  
4 also still consider the concerns of state and  
5 local governments by notifying them and  
6 requesting comments on regulatory jurisdiction  
7 and real property taxes, except recognizing that  
8 no comments will be requested for on-reservation  
9 acquisitions because they're likely to have very  
10 few or no impacts on these governments.

11 Also reduce expense by clarifying when  
12 environmental studies and reports are to be  
13 updated, thus, eliminating the need for repeated  
14 updates. That's at 151.15.

15 All right. So, again, written comments due  
16 on March 1st to [consultation@via.gov](mailto:consultation@via.gov). And  
17 there's the link to register for the next  
18 session on the 30th. And if you have any  
19 questions, please contact Maria Wiseman, Senior  
20 Policy Advisor for Climate and the Environment,  
21 and we are joined by Maria here as well on this  
22 call. So, she'll be able to answer your

1 questions in person.

2 All right, so, at this time we're going to  
3 open up for comments. We'll prioritize comments  
4 from Tribal Leaders, and then, if there are no  
5 more remaining from Tribal Leaders, we'll go on  
6 to others who may like to submit comments.

7 So, let's start off with Chairman Hill.

8 **CHAIRMAN HILL:** Good afternoon. Good  
9 afternoon, everyone. Deputy Assistant Secretary  
10 Isom-Clause, the Oneida Nation extends our  
11 heartfelt -- heartfelt gratitude for all the  
12 work and good energy you and your staff have put  
13 into revising -- revisiting these regulations.  
14 I'm honored to be a part of this history and  
15 commend you updating the regulations to today's  
16 realities.

17 The only comment the United Nation wishes  
18 to offer is Section One 151.9(d) regarding the  
19 evaluation of a request involving land within  
20 the boundaries of Indian Reservation. The  
21 section reads, Upon receipt of written requests  
22 to have lands acquired in trust with the

1 boundaries -- within the boundaries of an Indian  
2 reservation, the Secretary will notify the state  
3 and local government with regulatory  
4 jurisdiction over the land to be acquired of the  
5 -- of the applicants requests.

6 The Nation originally commented on this  
7 section and continues to advocate for change for  
8 on-reservation acquisitions. This section seems  
9 to presume that State or local governments have  
10 jurisdiction over tribally owned fee land. This  
11 is contrary to recent case law in Oneida Nation  
12 v. Village of Hobart. The second -- or the  
13 Seventh Circuit ruled that municipal land use  
14 regulations are not applicable to tribally owned  
15 fee land.

16 Similarly, at Red Cliff Band of Lake  
17 Superior Chippewa Indians v. Bayfield County,  
18 Wisconsin, the Court ruled that the County's  
19 zoning ordinance were not applicable to fee land  
20 owned by tribal members on the reservation.  
21 Both these decisions are in line with Gobin v.  
22 Snohomish County, in which the Ninth Court --

1 Circuit Court ruled on-reservation fee land  
2 owned by tribal members is not subject to  
3 municipal zoning laws.

4 As written, this section seems to presume  
5 that State and local governments have  
6 jurisdiction over tribes fee land, which we  
7 disagree. While the Nation doesn't believe that  
8 this section is intended to be interpreted in  
9 this manner, it is the Nation's recommendation  
10 to remove the language that indicates that state  
11 and local governments have regulatory  
12 jurisdiction over land and replace or clarify  
13 the language that state or local governments  
14 have jurisdiction over non-Indian-owned fee  
15 land.

16 Thank you for this opportunity to share our  
17 additional comments.

18 (THEREUPON, A FOREIGN LANGUAGE WAS  
19 SPOKEN.)

20 MS. ISOM-CLAUSE: Thank you for those  
21 comments, Chairman Hill. We really appreciate  
22 the United Nations comments throughout this

1 process. We know that you have done a lot of  
2 thinking about Land and Interests and have a lot  
3 of personal experience, and we have strived to  
4 incorporate those comments that we've received  
5 into this draft.

6 So, you know, I will just note briefly that  
7 I think they were just notifying but not asking  
8 for comments. But really appreciate the further  
9 clarity that you've given us just now and if you  
10 want to submit any written comments, we would  
11 appreciate that as well too. Just, like, the  
12 line-by-line text edits are always really  
13 helpful for our team. Thank you.

14 So, if anyone else would like to make a  
15 comment, please go to the reactions button and  
16 then there's another button there that says  
17 raise hand. If you're having any trouble with  
18 that, you can just come off of mute or put  
19 something in the chat.

20 Chair Brigham, I see your hand is up,  
21 please, go ahead.

22 **CHAIRWOMAN BIGHAM:** As we all know, our

1 land is very important, and I think you know,  
2 when we went through the Trump Administration,  
3 we were very concerned about being able to put  
4 our land in that trust, and when the decision  
5 was transferred to the DC office versus the  
6 regional office, it definitely created some  
7 problems.

8 So, I'm really -- I think we're pleased  
9 that you know, we're now able to work with the  
10 regional office to get our land into trust and  
11 it's been very beneficial.

12 And I just want to thank you for all your  
13 work and CTUIR will be submitting comments by  
14 the March 1st date, but I just wanted to share  
15 that we think positive things are being done and  
16 appreciate the work. Thank you.

17 MS. ISOM-CLAUSE: Thank you for those  
18 comments and we'll look out for those written  
19 comments as well.

20 I'm looking out for hands, but please let  
21 me know if I'm missing anyone. I'm not seeing  
22 any hands right now.



1 Oh, sure, Chairwoman Andrews-Maltais.

2 CHAIRWOMAN ANDREWS-MALTAIS: Hey there, how  
3 you doing? Happy New Year.

4 Just really want to thank you for the  
5 efforts and the work that you guys have been  
6 putting in to really streamline this process and  
7 get it to where it belongs, and really be  
8 supportive of Tribe's rights to be able to put  
9 land into trust. It's been a long haul since  
10 2009, February, that we've been faced with this  
11 challenge of having to work between the lines of  
12 what the Federal Government and the Court felt,  
13 that it was the Tribe's responsibility or the  
14 Tribe's rights versus what we know they have  
15 been to be in 75 years of practice. So, thank  
16 you for all of this work.

17 And just wanted to, I guess, also support  
18 with Chairman Hill, you know, ensuring that, you  
19 know, we have language in there that is  
20 unambiguous about a town, local municipality, or  
21 state's influence or interjection into property  
22 ownership rights, and jurisdiction on lands that

1 are owned by Tribes, and Tribal Nations, and  
2 individual Indians, as well as just something to  
3 think about, what we can do for having Tribes  
4 not be taxed on fee lands. That's something  
5 that we feel very strongly about because other  
6 nonprofits don't get taxed. Churches and  
7 religious organizations don't get taxed. Why  
8 should Tribes as sovereigns get taxed, you know,  
9 on our lands that we should be tax exempted  
10 from? Because we're just using tax dollars to  
11 pay tax dollars and that's kind of crazy.

12 But thank you very much for all of your  
13 work and hopefully, we can incorporate some of  
14 that language in there. And, you know, --

15 (THEREUPON, A FOREIGN LANGUAGE WAS  
16 SPOKEN.)

17 MS. ISOM-CLAUSE: Thank you, Chairwoman. I  
18 appreciate those comments. Our whole team has  
19 been working on these post regulations, just not  
20 online here. So, taking lots of notes and to  
21 incorporate these suggestions.

22 CHAIRWOMAN ANDREWS-MALTAIS: I did forget

1 something.

2 MS. ISOM-CLAUSE: Yeah, go ahead.

3 CHAIRWOMAN ANDREWS-MALTAIS: Sorry.

4 Also, in the process of sacred sites, and  
5 ceremonial sites, and those types of things  
6 becoming mandatory, especially when they're off-  
7 reservation. Because, again, it's something  
8 that when we're fortunate enough to be able to  
9 get a hold of, these parcels and these lands  
10 that have these significant sites for us. It  
11 should be mandatory, and it should be a streamed  
12 -- mandatory and streamlined process, because  
13 oftentimes, sometimes those windows of  
14 generosity or windows of opportunities close as  
15 quickly as they open for us. So, we would like  
16 to also see that and as long as they're in  
17 historical territory, and when we talk about  
18 historical, it's our historical territory, not  
19 somebody else's determination or definition of  
20 historical territory.

21 But sorry, thank you.

22 MS. ISOM-CLAUSE: That's helpful, thank

1           you.

2                   Other comments at this time? Looking out  
3           for hands. Right. I see a couple of hands up.

4                   So, Candace Stowell your hand came up first  
5           on my screen. So please, go ahead.

6                   **MS. STOWELL:** Good morning. Thank you.  
7           Candace Stowell, Reno-Sparks Indian Colony  
8           Planning Department.

9                   I was wondering if you could confirm or  
10          clarify the proposed change in the phase one  
11          environmental site assessments? It sounds like  
12          in the proposed regulations that even if we  
13          carried out phase one ESAs, you know, five or  
14          ten years ago, we would not necessarily have to  
15          provide updated documents within the usual six  
16          months requirement unless conditions had changed  
17          or unless we identified some issues. I just  
18          wanted to confirm that because that is -- that  
19          is a big assistance; a very positive change that  
20          we noticed in the proposed regulations. Thank  
21          you.

22                   MS. ISOM-CLAUSE: Thanks. Maria --

1           **MS. WISEMAN:** Yeah, yeah, thank you for the  
2 question. Yeah, no, we wanted to eliminate the  
3 six-month repeated updates, recognizing that  
4 that's a -- that's problematic and expensive.  
5 So our intent is that we do one -- phase one as  
6 part of the application process, and that's  
7 noted under the complete documents for the  
8 application, and then do an evaluation. Prior  
9 to take care -- or yeah -- prior to taking the  
10 land and trust to make sure that we don't need  
11 to do an updated one. So, providing some  
12 flexibility in how we address that.

13           **MS. ISOM-CLAUDE:** Thank you for that  
14 question and clarification, Maria.

15           Let's go to Tim Beyer.

16           **MR. BEYER:** Thank you for this opportunity.

17           Again, I would echo comments of others that  
18 have stated so far this -- these improvements  
19 are great to see. There still is a little bit  
20 of confusion, at least on my -- on my side here.  
21 Trying to understand if 151.8(a)(3) items (i),  
22 (ii), and (iii), if the intent is that a map and

1 a statement of the estate acquired surface or  
2 subsurface rights only applies to the aliquot  
3 part and does not include lands that would be  
4 defined by metes and bounds survey. So again,  
5 it's only listed under (i) as a description of  
6 the land as follows, an aliquot part and a map.  
7 But under the metes and bounds there's no  
8 requirement for a map or no requirement to  
9 identify the estate that's being acquired,  
10 whether it's subsurface, surface or  
11 individually.

12 And then secondly, it seems like there's  
13 maybe a missed opportunity here. I know, at  
14 least the Tribe I work with, and I talked to a  
15 couple of CFedS last night, Tribes that they  
16 work with, that there's currently lists, a  
17 description of the land being an aliquot part,  
18 but that does not include true government lots.  
19 It includes metes and bounds. But what it also  
20 does not include is a lot block subdivision.  
21 So, a lot of Tribes have lands that were  
22 previously in trust, were sold off to non-

1 Indians, put into fees, subdivided into a  
2 significant number of subdivision lots plotted,  
3 you know, with the recorded and certified plat,  
4 and then the Tribes are slowly buying back those  
5 lots to consolidate land or protect resources.  
6 But those would not fall under an aliquot part,  
7 they would not fall under a metes and bounds  
8 land description, they are a lot block  
9 subdivision. And again, talking to the CFedS,  
10 it said, you know, those are some of the easiest  
11 ones for them, historically, to do the land  
12 description review because there's -- it was all  
13 created at the same time, there's no opportunity  
14 for overlap. It's very defined boundaries.

15 So, I'll be submitting these in writing,  
16 but I just wanted to bring those up for others  
17 to -- to weigh in on. Thank you.

18 MS. ISOM-CLAUSE: Thank you, we look  
19 forward to seeing that a little bit more in  
20 writing. You know, all of our subject matter  
21 experts, again, are on the line here. So, we  
22 will follow up on that make sure we're

1 accounting for it.

2 You know, this process is great. It really  
3 allows us to refine everything and so, we very  
4 much appreciate all of the excellent minds on  
5 this. Thanks for these comments.

6 Any other comments right now?

7 It looks like we've heard from Tribal  
8 leaders. So, you know, we're kind of opened up  
9 more broadly now for anyone who'd like to submit  
10 comments.

11 While we're waiting for hands, I'd also  
12 just like to remind folks that the NPRM that's  
13 available, the link on our website, the Notice  
14 of Proposed Rulemaking, that contains the  
15 preamble and that kind of walks through every  
16 change that we've made so far in this version.  
17 So, you can kind of see the thought process  
18 there. That's in reference to Michelle's  
19 comments about being provided document that  
20 reflects the changes from the prior version.

21 Sorry, I have been neglecting the chat box.

22 So, thanks for reminding me. Okay, there's a



1 couple of hands up. Let's go to Jon Hare.

2 **MR. HARE:** Hello, can you hear me?

3 **MS. ISOM-CLAUSE:** Yes, we can hear you.

4 **MR. HARE:** Hey, I put something in the chat  
5 box.

6 One thing I have a -- it's kind of like all  
7 these revisions, major revisions, and nothing's  
8 being done to redefine interested parties.  
9 Currently, all an interested party has to do --  
10 a citizen has to do is write the decision maker.  
11 So, I was just thinking there's -- there's other  
12 definitions for federal recognition. Under  
13 their standard, the interested party there  
14 actually has to demonstrate that they have some  
15 interest to either amusement or factual basis,  
16 and it's kind of like a preliminary standard  
17 because most of these -- the first thing they  
18 have to do is show standing. But anyways, I  
19 just think that that really needs to be looked  
20 at and maybe just draw upon the federal  
21 recognition standards for what is required to be  
22 an interested party. It would save a lot of

1 mailing for the BIA staff for one.

2 The only other -- the only other section,  
3 you know, without going into a lot of detail  
4 about the CFedS program and -- and, you know,  
5 that kind of got established and other we  
6 started now where we're just going to send it to  
7 look at the aliquot parts, legal description,  
8 and don't need to do a CFedS -- have BLM  
9 approved and do certifications.

10 But I was wondering, it seems simpler  
11 without trying to blow that up. And we repeal  
12 all that and go back to what we're doing. If it  
13 could be an option, but I tried to continue to  
14 use CFedS and BLM to certify their surveys. So,  
15 then the Secretary won't have to procure, I  
16 don't have to go through that other review with  
17 BIA realty and that's currently the way it's  
18 working. Now they kind of said, Hey, you can do  
19 either or, but under the proposal rules are just  
20 going to be all, You just got to use the BIA  
21 method; you can't use BLM anymore. And I don't  
22 know if I could just put on chat that section.

1 I'll be sending -- we'll be sending in the  
2 comments -- written comments. Hopefully explain  
3 it. But hit that interested party section, that  
4 one's been there. It's just kind of archaic  
5 with -- with all the wonderful revisions of  
6 (inaudible), they're missing one, that could be  
7 a big problem for Tribes. Thank you.

8 MS. ISOM-CLAUSE: Thank you. And again,  
9 you know, these very detailed and specific  
10 comments are super helpful for us. So, we  
11 really appreciate those. And we'll take a look  
12 at that. I know our team is already following  
13 up. Thank you.

14 Let's go on to Diane Sam.

15 **MS. SAM:** Yes, thank you.

16 I'm the sole Fee to Trust Adjudicator in  
17 the Alaska Region and we're actually new to fee  
18 to trust, we've just done our second decision  
19 ever in November. One -- and you can send us  
20 information by email if you want, but one of the  
21 issues we've come across in the last nine months  
22 is it is extremely difficult to get any

1 information out of Central Office, even when  
2 requested by one of my managers. And so, I'm  
3 wondering if you have a recommendation. And I  
4 do have Tribes ask me these questions, but I  
5 don't have a briefing any kind -- of any kind on  
6 these regulation changes. And I'm wondering if  
7 you could point me to something in a video or  
8 whatever that would be the best way to -- to get  
9 a briefing on these. I have gone to the  
10 consultation webpage back before this  
11 consultation and downloaded things, but it's  
12 kind of a mass of information and hard to pick  
13 apart what's, you know, what's what. So, if you  
14 have any recommendations on that, I'd really  
15 appreciate it.

16 And then just a comment on something that  
17 previous person commented on, and that is that  
18 Alaska does have a lot of surveyed parcels, all  
19 of our native allotments and restricted town  
20 lots are surveyed, even in the TAMS record of  
21 system. There's not -- we have to sort of put  
22 it in -- in a squirrely way, because we've asked

1 for and have not received a tab that allows us  
2 to put in those survey type lands. So, I would  
3 agree with the person earlier that, basically,  
4 I'll be looking at the regs closely to make sure  
5 that that is recognized because that's primarily  
6 -- not primarily, but it's a significant way on  
7 how we do land descriptions up here. Thank you.

8 MS. ISOM-CLAUSE: Thank you for those  
9 comments, Diane. And I will note that Senior  
10 Counselor to the Assistant Secretary Rose  
11 Petoskey is on the line here. She focuses a lot  
12 of her work on issues in Alaska and works very  
13 closely with the region but she's here in  
14 Central Office. If she wouldn't mind, I'd like  
15 to ask her to follow up with you to -- so you  
16 can make sure you're getting the information you  
17 need. We certainly don't want that to be a  
18 cause for concern that you're either not getting  
19 information or not getting the right training.  
20 So, if that's all right with you, we'll just  
21 follow up after the session. Do we have -- I  
22 think -- hope we have your contact information

1 when you registered.

2 All right, so, we'll track that down if not  
3 -- okay. Okay, you're a BIA employee. So, we  
4 do have that contact information. Thanks. We  
5 will follow up separately.

6 All right. So, I'm seeing a hand from --  
7 it's just saying Muskogee Creek Nation, I'm  
8 sorry, I can't see the name.

9 **MS. McINTOSH:** This is Sonya McIntosh from  
10 Muskogee Creek Nation.

11 I'd just like to make a comment on the LDR  
12 reviews. It has worked splendid -- splendidly  
13 for us as far as just having the realty  
14 personnel review those for us. Instead of  
15 having the CFedS surveyor in Eastern Oklahoma,  
16 we've had a problem for the past several years,  
17 that has been our bottleneck. And with the  
18 policy memorandum that came out last year in  
19 April, we have been able to get a lot of our fee  
20 to trust acquisitions done. I'm -- I see a  
21 couple of other five Tribes on here, on this  
22 call, and I think they would agree with us. We

1 recently had an Inner Tribal Council, a piece of  
2 legislation signed by all of our chiefs,  
3 supporting that memorandum to make it permanent.

4 So, I just wanted to make that comment and  
5 commend you guys for what you're doing because  
6 it has been a great success for all of us. That  
7 -- that was just my comment. I know it's not a  
8 universal for everybody, but it has definitely  
9 worked for us on the Eastern Oklahoma side.

10 MS. ISOM-CLAUSE: Great, thank you for your  
11 comments.

12 All right, I see there's a question in the  
13 chat asking, With final written comments due on  
14 March 1, what timeline do we foresee for the  
15 finalization of these regulations? In other  
16 words, the effective date.

17 So, we're working as quickly as we can on  
18 these, we really want to get them in place as  
19 soon as possible once we have incorporated all  
20 of the suggestions and edits and comments that  
21 we've received. So, that's probably going to be  
22 this fall. It's important to us that not only

1 do we finalize these regulations, but also have  
2 a chance to implement them during this current  
3 administration. So -- sorry I can't be more  
4 specific, but this fall is our plan.

5 And, Michelle, we see your hands up.

6 **MS. LEE:** Yes, thank you for the  
7 opportunity to communicate on these important  
8 regulations.

9 I have a couple of questions that are not  
10 specifically about the regulations but fall from  
11 it. And one is recently -- actually just  
12 yesterday, we had a fee to trust consortium  
13 meeting from Cali -- the California Fee to Trust  
14 Consortium, and one of the questions that arose  
15 was the letters that go out to Tribal Leaders on  
16 their pending applications that are generated  
17 through CAMS, and I know that the authority or  
18 the requirement for this letter stems from the  
19 handbook, the Fee to Trust Handbook. And so, I  
20 was wondering if there will be a review of the  
21 handbook to bring it into line with the new  
22 regulations? And if there is sort of a parallel



1 review going on with the handbook?

2 MS. ISOM-CLAUSE: Great question.

3 Absolutely. Yes, that's a big part of it. We  
4 -- you know, I know folks are already looking at  
5 that, you know, if we were able to update this,  
6 but we want to, of course, make sure it counts  
7 for all the changes that we make as part of this  
8 regulatory process. So, you know, I think  
9 that'd be kind of the next step, updating the  
10 handbook, training everyone on it, making sure  
11 that that's, you know, gotten out to everyone  
12 who works on these issues. That's a great  
13 point.

14 MS. LEE: And just as a follow up. So, one  
15 of the concerns that was raised by the regional  
16 office was that the letters that are generated  
17 by CAMS aren't really the proper format to  
18 directly just send -- resend on to Tribal  
19 leaders. For example, they don't address the  
20 Tribal Chairperson, they just say Dear Tribe or  
21 Dear Applicant, and that wasn't something that  
22 the Regional Director felt comfortable signing.

1 And so, there's a considerable amount of time to  
2 edit these generated letters out of CAMS, to  
3 update Tribes on their pending applications, and  
4 they're not always accurate.

5 So, you know, that is an important issue  
6 for California, even though it may not be, you  
7 know, a particular process question, it is  
8 something that comes out of the handbook. And  
9 if there's going to be time spent on anything,  
10 we want the time that the BIA Staff spends on  
11 the actual review of the applications versus  
12 this administrative and clerical work. Because,  
13 of course, there's a lot of Tribes in  
14 California, and this is a lot of letters and  
15 requires a significant amount of time. So, you  
16 know, I'm real sensitive to these topics where  
17 it's a -- an activity that's required that isn't  
18 really a good use of the BIA's administrative  
19 time when we'd like to have them on substantive  
20 topics.

21 So, I just want to flag that as an issue in  
22 California, that potentially it impacts all

1 Tribes with have -- that have applications  
2 pending and is something that takes away from  
3 review time for our applicant Tribes. And  
4 that's all the comments that I have. I'll be  
5 providing written comments more substantively on  
6 the regulation.

7 MS. ISOM-CLAUDE: Thank you and we'll look  
8 out for those but also appreciate the comments  
9 that aren't, you know, maybe directly, you know,  
10 on the regs but are related, because it is part  
11 of our overall policy work in this area. So, we  
12 do appreciate those. And it's, you know, again,  
13 I love the detail that everyone is bringing  
14 today. It's very concrete suggestions that we  
15 can look at. Thank you.

16 MS. WISEMAN: Katherine, I see a comment in  
17 the -- or a question in the chat asking for an  
18 explanation how the new deadline applies to  
19 pending applications. And I'm assuming this --  
20 I assume this is referring to 151.17.

21 All pending applications will proceed under  
22 either of the existing regulations or the

1 proposed regulations, depending on how the Tribe  
2 wishes to proceed. Hope that answers the  
3 question.

4 MS. ISOM-CLAUSE: Thanks, Maria.

5 Michelle, do you have another comment?

6 **MS. LEE:** Yeah. May I follow up on that?  
7 That was another question that came up with the  
8 Fee to Trust Consortium Meeting was the 120-day  
9 timeframe for the new application. And some of  
10 the comments coming from California may be about  
11 that timeframe and the concern that, you know,  
12 new applicants -- new applications might jump  
13 over the pending applications because of the  
14 120-day timeframe. And so, if there could be  
15 some, you know, a look at that process within  
16 your -- I'm sure there will be comments about  
17 it, but there was a question about what -- when  
18 does the 120 days begin, so that we could ensure  
19 that the new update -- the new applications  
20 don't overtake the pending ones. There was a  
21 question about that. Thank you.

22 MS. ISOM-CLAUSE: Thank you. Maria, did

1           you want to follow up more on that? Or -- if  
2           not right now, we'll certainly make sure we  
3           account for that. Go ahead.

4           **MS. WISEMAN:** Yeah, no, thank you for the  
5           comment. It's a -- it's a good point. The  
6           regulation reads that it will start soon as the  
7           application is complete. So, we'll look at your  
8           comment about the queue in terms of pending  
9           applications. So, thank you for that.

10           MS. ISOM-CLAUSE: Someone want to share a  
11           comment? I thought I just heard someone come  
12           off of mute. Maybe they're not able to raise  
13           their hand? Maybe it was just a mistake.

14           **MR. WHALEY:** Katherine, just as an update,  
15           we did get those slides posted to the  
16           consultation webpage. So, they are available  
17           now.

18           MS. ISOM-CLAUSE: Great, thank you, Oliver.  
19           So, just as a time check, we had allotted  
20           until 2:30, I believe, 2:30 Eastern Time for  
21           this discussion. So, a little bit less than an  
22           hour remaining and then we're going to move on

1 to the Part 293 proposed regulations. But we  
2 can certainly start that discussion earlier if  
3 we conclude early on this section. So, you  
4 know, we'll keep it open to see if we had more  
5 comments on Part 151, but if not, we'll move on  
6 to Part 293 when folks are ready.

7 Okay, I'm just gonna give it a couple more  
8 minutes, just in case we're missing anyone who  
9 joined us late and would like to comment on Part  
10 151. But otherwise, we'll move on to Part 293  
11 on gaming compacts shortly. Just while we're  
12 waiting for any final comments on this, I want  
13 to emphasize that Assistant Secretary Newland  
14 finds this topic incredibly important as we all  
15 do. And this was one of our very first  
16 regulatory agenda items. So, we're really  
17 looking forward to getting this finalized and  
18 made better through this process.

19 All right, not seeing any further hands.  
20 Let's take a quick break so we can get set up  
21 for our next portion and make sure folks are  
22 ready to go. So, we'll just maybe just take one

1 or two minutes.

2 Thanks, Oliver. You have a slide already  
3 to go. And I will transition over to the Office  
4 of Indian Gaming to give their presentation for  
5 Part 293 next.

6 (THEREUPON, THE TRIBAL CONSULTATION ON  
7 25 CFR PART 151, LAND ACQUISITIONS, WAS  
8 CONCLUDED.)


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C E R T I F I C A T E

I, GARRETT LORMAN, Court Reporter and Notary Public, hereby certify that I was authorized to and did report the foregoing proceedings and that the transcript is a true record.

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

WITNESS my hand and official seal this 26th day of January 2023.

  
\_\_\_\_\_  
GARRETT LORMAN



UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

TRIBAL CONSULTATIONS ON 25 CFR PART 151  
LAND ACQUISITIONS

Thursday, January 19th, 2023

Held Remotely via Zoom Webinar

1:00 P.M. - 2:47 P.M.

Reported by Garrett Lorman

1 MEETING ATTENDEES:

2

3 OLIVER WHALEY

4 Regulatory Affairs and Collaborative Action

5 KATHERINE ISOM-CLAUSE

6 Deputy Assistant Secretary for Policy and

7 Economic Development of Indian Affairs

8 TEHASSI HILL

9 Chairman, Oneida Nation

10 N. KATHRYN BRIGHAM

11 Chairman, Confederated Tribes of the

12 Umatilla Indian Reservation

13 ROSE PETOSKEY

14 Senior Counselor to the Assistant

15 Secretary, Bureau of Indian Affairs

16 PAULA HART

17 Director, Office of Indian Gaming

18 PHILIP BRISTOL

19 Deputy Director, Office of Indian Gaming

20 STEPHANIE SFIRIDIS

21 Senior Counselor to the Assistant

22 Secretary, Bureau of Indian Affairs

1 PUBLIC COMMENTORS (chronologically):

2

3 CHERYL ANDRWES-MALTAIS

4 Chairwoman, Wampanoag Tribe of Gay Head

5 (Aquinnah)

6 CANDACE STOWELL

7 Planning Director, Reno-Sparks Indian

8 Colony

9 MARIA WISEMAN

10 Senior Policy Advisory for Climate and the

11 Environment

12 TIM BEYER

13 Quinault Indian Nation

14 JON HARE

15 DIANE SAM

16 Realty Specialist, Bureau of Indian

17 Affairs, Alaska Region

18 SONYA McINTOSH

19 Muskogee Creek Nation

20 MICHELLE LEE

21

22

1 THEREUPON:

2

3 **MR. WHALEY:** Thank you everybody for  
4 joining the consultation today. We're just  
5 gonna give everybody a second to get logged in  
6 and their audio connected.

7 All right, looks like everybody's been  
8 admitted in. Again, thank you for being here  
9 today.

10 At this moment, we'd ask that you keep your  
11 mic on mute. Until the time for comments. We'd  
12 also request that you take some time to add your  
13 title and affiliation to your name and Zoom. To  
14 do this, just click on the participant list,  
15 find your name, and then click on the blue more  
16 next name and choose rename.

17 As a reminder, this is a  
18 government-to-government consultation.  
19 Consequently, this consultation is closed to the  
20 press. So, if you are a member of the press, we  
21 do ask that you disconnect at this time.

22 Additionally, this session is being recorded and

1 transcripts are being created. So, if you do  
2 not consent to being recorded, we also ask that  
3 you disconnect at this time.

4 When we get to the comment part of this  
5 consultation, we welcome your comments. As just  
6 a matter of logistics. If you'd like to make a  
7 verbal comment, please raise your virtual hand.  
8 To do this, go down to the reactions tab at the  
9 bottom of your screen, select raise hand, and  
10 we'll call on individuals to speak. If you're  
11 unable to raise your hand, please type a comment  
12 in the chat box when you're called upon to  
13 provide a verbal comment. Please also include  
14 your name, title, and Tribe.

15 We also have closed captioning services  
16 available today. If you go to the bottom of  
17 your screen and click on the up arrow next to  
18 the closed caption and choose subtitle. Those  
19 subtitles should appear at the bottom of your  
20 screen. But if you're unable to do that, we  
21 will also provide a stream text link in the  
22 chat. And then in the chat, we will also

1 provide a link to the Dear Tribal Leader Letter  
2 on our BIA consultation webpage just for  
3 reference.

4 So, at this time, I will turn the floor  
5 over to our Deputy Assistant Secretary, Kathryn  
6 Isom-Clause.

7 MS. ISOM-CLAUSE: Thank you, Oliver.

8 Good afternoon and good morning to  
9 everyone. Thank you for joining us today for  
10 our consultation on the Part 151, Land and  
11 Interest Regulations, and the Part 293, Gaming  
12 Compacts Regulations. My name is Kathryn  
13 Isom-Clause. I'm Taos Pueblo and I serve as the  
14 Deputy Assistant Secretary for Policy and  
15 Economic Development in Indian Affairs here at  
16 the Department of the Interior.

17 Oops, sorry. My screen just changed. I  
18 think y'all were putting up the slides.

19 We do not have someone identified today,  
20 unfortunately, to provide an opening prayer.  
21 So, instead, we will begin with a moment of  
22 silence for everyone to pray or start this

1 session in the way that's most appropriate for  
2 you.

3 So, let's start with that now for that  
4 moment of silence for prayer.

5 (THEREUPON, A MOMENT OF SILENCE WAS  
6 OBSERVED.)

7 MS. ISOM-CLAUSE: Thank you.

8 So, we have a quick PowerPoint presentation  
9 to begin the discussion. But I see Chairman  
10 Hill you have your hand up. So, I just want to  
11 check if you have any concerns before we go  
12 through that or if we have a substantive  
13 comment. Let's save that until after the  
14 presentation. So, our note takers are ready for  
15 that.

16 But Chairman Hill, did you have something  
17 right now?

18 **CHAIRMAN HILL:** Oh, no. I was just getting  
19 in line for --

20 MS. ISOM-CLAUSE: Okay, well, great. Front  
21 of the line for you. We'll go to you first.

22 Just a few quick slides just to kind of set

1 the stage.

2 Great. So let's go onto the slide -- the  
3 next slide. Please.

4 Okay. So, we're in our second consultation  
5 session, and we previously had one in person.  
6 Is that -- was just last week already. So we  
7 have one more virtual session coming up on the  
8 30th. And please note that written comments are  
9 due by March 1st. So that's still a full month  
10 after the last consultation session. So,  
11 there's plenty of time for everyone to get in  
12 both your verbal and written comments, and we  
13 really appreciate those.

14 Let's go on to the next slide, please.

15 Okay. So, just a few high points of the  
16 Part 151 Proposed Regulations. The NPRM  
17 proposes the following changes that will codify  
18 the standards that implement the 2009 decision,  
19 in *Carcieri v. Salazar* to increase clarity and  
20 certainty in determining the Secretary's  
21 authority to take land into trust for Tribes.  
22 That's at section 151.4.



1           Reduce processing time and uncertainty by  
2           identifying the documents needed for a complete  
3           application, after which the BIA will issue a  
4           decision within 120 days. That's at 151.8.

5           Articulate a clear land acquisition policy  
6           to strengthen self-determination and  
7           sovereignty, ensure that every Tribe has  
8           protected homelands where its citizens can  
9           maintain their Tribal existence and way of life,  
10          and consolidate land ownership to strengthen  
11          Tribal governance over reservation lands and  
12          reduced checkerboarding. You can find that at  
13          151.3.

14          Establish clear criteria by requiring that  
15          great weight given to establishing a Tribal land  
16          base or protecting Tribal homelands, protecting  
17          sacred sites or cultural resources and  
18          practices, establishing or maintaining  
19          conservation and environmental mitigation areas,  
20          consolidating land ownership, reducing  
21          checkerboarding, acquiring land loss through  
22          allotment, protecting treaty or subsistence

1 rights, or facilitating Tribal self-  
2 determination, economic development, and Indian  
3 housing. That's at 151.9-12.

4 And I see there's a question on whether  
5 these slides are available. I look to our team  
6 here, I believe so, but if someone wants to  
7 correct me in the chat.

8 **MR. WHALEY:** I will make sure we post it  
9 onto the consultation website.

10 **MS. ISOM-CLAUDE:** Thank you, Oliver.

11 All right. So, no need to take notes on  
12 all this, you'll get that.

13 All right. And then also to increase  
14 efficiency by analyzing applications as either  
15 on-reservation, contiguous to reservation,  
16 initial acquisition for landless Tribes, or off-  
17 reservation. Recognizing that each category  
18 requires specific criteria for appropriate  
19 analysis. That's again at 151.9-12. It'll also  
20 establish clear criteria that presume on-  
21 reservation, contiguous and initial acquisitions  
22 for landless Tribes will be approved and that

1 Tribal communities will benefit from those  
2 proposed acquisitions. That's without thinking  
3 about the distance from the reservation. We'll  
4 also still consider the concerns of state and  
5 local governments by notifying them and  
6 requesting comments on regulatory jurisdiction  
7 and real property taxes, except recognizing that  
8 no comments will be requested for on-reservation  
9 acquisitions because they're likely to have very  
10 few or no impacts on these governments.

11 Also reduce expense by clarifying when  
12 environmental studies and reports are to be  
13 updated, thus, eliminating the need for repeated  
14 updates. That's at 151.15.

15 All right. So, again, written comments due  
16 on March 1st to [consultation@via.gov](mailto:consultation@via.gov). And  
17 there's the link to register for the next  
18 session on the 30th. And if you have any  
19 questions, please contact Maria Wiseman, Senior  
20 Policy Advisor for Climate and the Environment,  
21 and we are joined by Maria here as well on this  
22 call. So, she'll be able to answer your

1 questions in person.

2 All right, so, at this time we're going to  
3 open up for comments. We'll prioritize comments  
4 from Tribal Leaders, and then, if there are no  
5 more remaining from Tribal Leaders, we'll go on  
6 to others who may like to submit comments.

7 So, let's start off with Chairman Hill.

8 **CHAIRMAN HILL:** Good afternoon. Good  
9 afternoon, everyone. Deputy Assistant Secretary  
10 Isom-Clause, the Oneida Nation extends our  
11 heartfelt -- heartfelt gratitude for all the  
12 work and good energy you and your staff have put  
13 into revising -- revisiting these regulations.  
14 I'm honored to be a part of this history and  
15 commend you updating the regulations to today's  
16 realities.

17 The only comment the United Nation wishes  
18 to offer is Section One 151.9(d) regarding the  
19 evaluation of a request involving land within  
20 the boundaries of Indian Reservation. The  
21 section reads, Upon receipt of written requests  
22 to have lands acquired in trust with the

1 boundaries -- within the boundaries of an Indian  
2 reservation, the Secretary will notify the state  
3 and local government with regulatory  
4 jurisdiction over the land to be acquired of the  
5 -- of the applicants requests.

6 The Nation originally commented on this  
7 section and continues to advocate for change for  
8 on-reservation acquisitions. This section seems  
9 to presume that State or local governments have  
10 jurisdiction over tribally owned fee land. This  
11 is contrary to recent case law in Oneida Nation  
12 v. Village of Hobart. The second -- or the  
13 Seventh Circuit ruled that municipal land use  
14 regulations are not applicable to tribally owned  
15 fee land.

16 Similarly, at Red Cliff Band of Lake  
17 Superior Chippewa Indians v. Bayfield County,  
18 Wisconsin, the Court ruled that the County's  
19 zoning ordinance were not applicable to fee land  
20 owned by tribal members on the reservation.  
21 Both these decisions are in line with Gobin v.  
22 Snohomish County, in which the Ninth Court --

1 Circuit Court ruled on-reservation fee land  
2 owned by tribal members is not subject to  
3 municipal zoning laws.

4 As written, this section seems to presume  
5 that State and local governments have  
6 jurisdiction over tribes fee land, which we  
7 disagree. While the Nation doesn't believe that  
8 this section is intended to be interpreted in  
9 this manner, it is the Nation's recommendation  
10 to remove the language that indicates that state  
11 and local governments have regulatory  
12 jurisdiction over land and replace or clarify  
13 the language that state or local governments  
14 have jurisdiction over non-Indian-owned fee  
15 land.

16 Thank you for this opportunity to share our  
17 additional comments.

18 (THEREUPON, A FOREIGN LANGUAGE WAS  
19 SPOKEN.)

20 MS. ISOM-CLAUSE: Thank you for those  
21 comments, Chairman Hill. We really appreciate  
22 the United Nations comments throughout this

1 process. We know that you have done a lot of  
2 thinking about Land and Interests and have a lot  
3 of personal experience, and we have strived to  
4 incorporate those comments that we've received  
5 into this draft.

6 So, you know, I will just note briefly that  
7 I think they were just notifying but not asking  
8 for comments. But really appreciate the further  
9 clarity that you've given us just now and if you  
10 want to submit any written comments, we would  
11 appreciate that as well too. Just, like, the  
12 line-by-line text edits are always really  
13 helpful for our team. Thank you.

14 So, if anyone else would like to make a  
15 comment, please go to the reactions button and  
16 then there's another button there that says  
17 raise hand. If you're having any trouble with  
18 that, you can just come off of mute or put  
19 something in the chat.

20 Chair Brigham, I see your hand is up,  
21 please, go ahead.

22 **CHAIRWOMAN BIGHAM:** As we all know, our

1 land is very important, and I think you know,  
2 when we went through the Trump Administration,  
3 we were very concerned about being able to put  
4 our land in that trust, and when the decision  
5 was transferred to the DC office versus the  
6 regional office, it definitely created some  
7 problems.

8 So, I'm really -- I think we're pleased  
9 that you know, we're now able to work with the  
10 regional office to get our land into trust and  
11 it's been very beneficial.

12 And I just want to thank you for all your  
13 work and CTUIR will be submitting comments by  
14 the March 1st date, but I just wanted to share  
15 that we think positive things are being done and  
16 appreciate the work. Thank you.

17 MS. ISOM-CLAUSE: Thank you for those  
18 comments and we'll look out for those written  
19 comments as well.

20 I'm looking out for hands, but please let  
21 me know if I'm missing anyone. I'm not seeing  
22 any hands right now.



1 Oh, sure, Chairwoman Andrews-Maltais.

2 CHAIRWOMAN ANDREWS-MALTAIS: Hey there, how  
3 you doing? Happy New Year.

4 Just really want to thank you for the  
5 efforts and the work that you guys have been  
6 putting in to really streamline this process and  
7 get it to where it belongs, and really be  
8 supportive of Tribe's rights to be able to put  
9 land into trust. It's been a long haul since  
10 2009, February, that we've been faced with this  
11 challenge of having to work between the lines of  
12 what the Federal Government and the Court felt,  
13 that it was the Tribe's responsibility or the  
14 Tribe's rights versus what we know they have  
15 been to be in 75 years of practice. So, thank  
16 you for all of this work.

17 And just wanted to, I guess, also support  
18 with Chairman Hill, you know, ensuring that, you  
19 know, we have language in there that is  
20 unambiguous about a town, local municipality, or  
21 state's influence or interjection into property  
22 ownership rights, and jurisdiction on lands that

1 are owned by Tribes, and Tribal Nations, and  
2 individual Indians, as well as just something to  
3 think about, what we can do for having Tribes  
4 not be taxed on fee lands. That's something  
5 that we feel very strongly about because other  
6 nonprofits don't get taxed. Churches and  
7 religious organizations don't get taxed. Why  
8 should Tribes as sovereigns get taxed, you know,  
9 on our lands that we should be tax exempted  
10 from? Because we're just using tax dollars to  
11 pay tax dollars and that's kind of crazy.

12 But thank you very much for all of your  
13 work and hopefully, we can incorporate some of  
14 that language in there. And, you know, --

15 (THEREUPON, A FOREIGN LANGUAGE WAS  
16 SPOKEN.)

17 MS. ISOM-CLAUSE: Thank you, Chairwoman. I  
18 appreciate those comments. Our whole team has  
19 been working on these post regulations, just not  
20 online here. So, taking lots of notes and to  
21 incorporate these suggestions.

22 CHAIRWOMAN ANDREWS-MALTAIS: I did forget

1 something.

2 MS. ISOM-CLAUSE: Yeah, go ahead.

3 CHAIRWOMAN ANDREWS-MALTAIS: Sorry.

4 Also, in the process of sacred sites, and  
5 ceremonial sites, and those types of things  
6 becoming mandatory, especially when they're off-  
7 reservation. Because, again, it's something  
8 that when we're fortunate enough to be able to  
9 get a hold of, these parcels and these lands  
10 that have these significant sites for us. It  
11 should be mandatory, and it should be a streamed  
12 -- mandatory and streamlined process, because  
13 oftentimes, sometimes those windows of  
14 generosity or windows of opportunities close as  
15 quickly as they open for us. So, we would like  
16 to also see that and as long as they're in  
17 historical territory, and when we talk about  
18 historical, it's our historical territory, not  
19 somebody else's determination or definition of  
20 historical territory.

21 But sorry, thank you.

22 MS. ISOM-CLAUSE: That's helpful, thank

1           you.

2                   Other comments at this time? Looking out  
3           for hands. Right. I see a couple of hands up.

4                   So, Candace Stowell your hand came up first  
5           on my screen. So please, go ahead.

6                   **MS. STOWELL:** Good morning. Thank you.  
7           Candace Stowell, Reno-Sparks Indian Colony  
8           Planning Department.

9                   I was wondering if you could confirm or  
10          clarify the proposed change in the phase one  
11          environmental site assessments? It sounds like  
12          in the proposed regulations that even if we  
13          carried out phase one ESAs, you know, five or  
14          ten years ago, we would not necessarily have to  
15          provide updated documents within the usual six  
16          months requirement unless conditions had changed  
17          or unless we identified some issues. I just  
18          wanted to confirm that because that is -- that  
19          is a big assistance; a very positive change that  
20          we noticed in the proposed regulations. Thank  
21          you.

22                   MS. ISOM-CLAUSE: Thanks. Maria --

1           **MS. WISEMAN:** Yeah, yeah, thank you for the  
2 question. Yeah, no, we wanted to eliminate the  
3 six-month repeated updates, recognizing that  
4 that's a -- that's problematic and expensive.  
5 So our intent is that we do one -- phase one as  
6 part of the application process, and that's  
7 noted under the complete documents for the  
8 application, and then do an evaluation. Prior  
9 to take care -- or yeah -- prior to taking the  
10 land and trust to make sure that we don't need  
11 to do an updated one. So, providing some  
12 flexibility in how we address that.

13           **MS. ISOM-CLAUSE:** Thank you for that  
14 question and clarification, Maria.

15           Let's go to Tim Beyer.

16           **MR. BEYER:** Thank you for this opportunity.

17           Again, I would echo comments of others that  
18 have stated so far this -- these improvements  
19 are great to see. There still is a little bit  
20 of confusion, at least on my -- on my side here.  
21 Trying to understand if 151.8(a)(3) items (i),  
22 (ii), and (iii), if the intent is that a map and

1 a statement of the estate acquired surface or  
2 subsurface rights only applies to the aliquot  
3 part and does not include lands that would be  
4 defined by metes and bounds survey. So again,  
5 it's only listed under (i) as a description of  
6 the land as follows, an aliquot part and a map.  
7 But under the metes and bounds there's no  
8 requirement for a map or no requirement to  
9 identify the estate that's being acquired,  
10 whether it's subsurface, surface or  
11 individually.

12 And then secondly, it seems like there's  
13 maybe a missed opportunity here. I know, at  
14 least the Tribe I work with, and I talked to a  
15 couple of CFedS last night, Tribes that they  
16 work with, that there's currently lists, a  
17 description of the land being an aliquot part,  
18 but that does not include true government lots.  
19 It includes metes and bounds. But what it also  
20 does not include is a lot block subdivision.  
21 So, a lot of Tribes have lands that were  
22 previously in trust, were sold off to non-

1 Indians, put into fees, subdivided into a  
2 significant number of subdivision lots plotted,  
3 you know, with the recorded and certified plat,  
4 and then the Tribes are slowly buying back those  
5 lots to consolidate land or protect resources.  
6 But those would not fall under an aliquot part,  
7 they would not fall under a metes and bounds  
8 land description, they are a lot block  
9 subdivision. And again, talking to the CFedS,  
10 it said, you know, those are some of the easiest  
11 ones for them, historically, to do the land  
12 description review because there's -- it was all  
13 created at the same time, there's no opportunity  
14 for overlap. It's very defined boundaries.

15 So, I'll be submitting these in writing,  
16 but I just wanted to bring those up for others  
17 to -- to weigh in on. Thank you.

18 MS. ISOM-CLAUSE: Thank you, we look  
19 forward to seeing that a little bit more in  
20 writing. You know, all of our subject matter  
21 experts, again, are on the line here. So, we  
22 will follow up on that make sure we're

1 accounting for it.

2 You know, this process is great. It really  
3 allows us to refine everything and so, we very  
4 much appreciate all of the excellent minds on  
5 this. Thanks for these comments.

6 Any other comments right now?

7 It looks like we've heard from Tribal  
8 leaders. So, you know, we're kind of opened up  
9 more broadly now for anyone who'd like to submit  
10 comments.

11 While we're waiting for hands, I'd also  
12 just like to remind folks that the NPRM that's  
13 available, the link on our website, the Notice  
14 of Proposed Rulemaking, that contains the  
15 preamble and that kind of walks through every  
16 change that we've made so far in this version.  
17 So, you can kind of see the thought process  
18 there. That's in reference to Michelle's  
19 comments about being provided document that  
20 reflects the changes from the prior version.

21 Sorry, I have been neglecting the chat box.

22 So, thanks for reminding me. Okay, there's a



1 couple of hands up. Let's go to Jon Hare.

2 **MR. HARE:** Hello, can you hear me?

3 **MS. ISOM-CLAUSE:** Yes, we can hear you.

4 **MR. HARE:** Hey, I put something in the chat  
5 box.

6 One thing I have a -- it's kind of like all  
7 these revisions, major revisions, and nothing's  
8 being done to redefine interested parties.  
9 Currently, all an interested party has to do --  
10 a citizen has to do is write the decision maker.  
11 So, I was just thinking there's -- there's other  
12 definitions for federal recognition. Under  
13 their standard, the interested party there  
14 actually has to demonstrate that they have some  
15 interest to either amusement or factual basis,  
16 and it's kind of like a preliminary standard  
17 because most of these -- the first thing they  
18 have to do is show standing. But anyways, I  
19 just think that that really needs to be looked  
20 at and maybe just draw upon the federal  
21 recognition standards for what is required to be  
22 an interested party. It would save a lot of

1 mailing for the BIA staff for one.

2 The only other -- the only other section,  
3 you know, without going into a lot of detail  
4 about the CFedS program and -- and, you know,  
5 that kind of got established and other we  
6 started now where we're just going to send it to  
7 look at the aliquot parts, legal description,  
8 and don't need to do a CFedS -- have BLM  
9 approved and do certifications.

10 But I was wondering, it seems simpler  
11 without trying to blow that up. And we repeal  
12 all that and go back to what we're doing. If it  
13 could be an option, but I tried to continue to  
14 use CFedS and BLM to certify their surveys. So,  
15 then the Secretary won't have to procure, I  
16 don't have to go through that other review with  
17 BIA realty and that's currently the way it's  
18 working. Now they kind of said, Hey, you can do  
19 either or, but under the proposal rules are just  
20 going to be all, You just got to use the BIA  
21 method; you can't use BLM anymore. And I don't  
22 know if I could just put on chat that section.

1 I'll be sending -- we'll be sending in the  
2 comments -- written comments. Hopefully explain  
3 it. But hit that interested party section, that  
4 one's been there. It's just kind of archaic  
5 with -- with all the wonderful revisions of  
6 (inaudible), they're missing one, that could be  
7 a big problem for Tribes. Thank you.

8 MS. ISOM-CLAUSE: Thank you. And again,  
9 you know, these very detailed and specific  
10 comments are super helpful for us. So, we  
11 really appreciate those. And we'll take a look  
12 at that. I know our team is already following  
13 up. Thank you.

14 Let's go on to Diane Sam.

15 **MS. SAM:** Yes, thank you.

16 I'm the sole Fee to Trust Adjudicator in  
17 the Alaska Region and we're actually new to fee  
18 to trust, we've just done our second decision  
19 ever in November. One -- and you can send us  
20 information by email if you want, but one of the  
21 issues we've come across in the last nine months  
22 is it is extremely difficult to get any

1 information out of Central Office, even when  
2 requested by one of my managers. And so, I'm  
3 wondering if you have a recommendation. And I  
4 do have Tribes ask me these questions, but I  
5 don't have a briefing any kind -- of any kind on  
6 these regulation changes. And I'm wondering if  
7 you could point me to something in a video or  
8 whatever that would be the best way to -- to get  
9 a briefing on these. I have gone to the  
10 consultation webpage back before this  
11 consultation and downloaded things, but it's  
12 kind of a mass of information and hard to pick  
13 apart what's, you know, what's what. So, if you  
14 have any recommendations on that, I'd really  
15 appreciate it.

16 And then just a comment on something that  
17 previous person commented on, and that is that  
18 Alaska does have a lot of surveyed parcels, all  
19 of our native allotments and restricted town  
20 lots are surveyed, even in the TAMS record of  
21 system. There's not -- we have to sort of put  
22 it in -- in a squirrely way, because we've asked

1 for and have not received a tab that allows us  
2 to put in those survey type lands. So, I would  
3 agree with the person earlier that, basically,  
4 I'll be looking at the regs closely to make sure  
5 that that is recognized because that's primarily  
6 -- not primarily, but it's a significant way on  
7 how we do land descriptions up here. Thank you.

8 MS. ISOM-CLAUSE: Thank you for those  
9 comments, Diane. And I will note that Senior  
10 Counselor to the Assistant Secretary Rose  
11 Petoskey is on the line here. She focuses a lot  
12 of her work on issues in Alaska and works very  
13 closely with the region but she's here in  
14 Central Office. If she wouldn't mind, I'd like  
15 to ask her to follow up with you to -- so you  
16 can make sure you're getting the information you  
17 need. We certainly don't want that to be a  
18 cause for concern that you're either not getting  
19 information or not getting the right training.  
20 So, if that's all right with you, we'll just  
21 follow up after the session. Do we have -- I  
22 think -- hope we have your contact information

1 when you registered.

2 All right, so, we'll track that down if not  
3 -- okay. Okay, you're a BIA employee. So, we  
4 do have that contact information. Thanks. We  
5 will follow up separately.

6 All right. So, I'm seeing a hand from --  
7 it's just saying Muskogee Creek Nation, I'm  
8 sorry, I can't see the name.

9 **MS. McINTOSH:** This is Sonya McIntosh from  
10 Muskogee Creek Nation.

11 I'd just like to make a comment on the LDR  
12 reviews. It has worked splendid -- splendidly  
13 for us as far as just having the realty  
14 personnel review those for us. Instead of  
15 having the CFedS surveyor in Eastern Oklahoma,  
16 we've had a problem for the past several years,  
17 that has been our bottleneck. And with the  
18 policy memorandum that came out last year in  
19 April, we have been able to get a lot of our fee  
20 to trust acquisitions done. I'm -- I see a  
21 couple of other five Tribes on here, on this  
22 call, and I think they would agree with us. We

1 recently had an Inner Tribal Council, a piece of  
2 legislation signed by all of our chiefs,  
3 supporting that memorandum to make it permanent.

4 So, I just wanted to make that comment and  
5 commend you guys for what you're doing because  
6 it has been a great success for all of us. That  
7 -- that was just my comment. I know it's not a  
8 universal for everybody, but it has definitely  
9 worked for us on the Eastern Oklahoma side.

10 MS. ISOM-CLAUSE: Great, thank you for your  
11 comments.

12 All right, I see there's a question in the  
13 chat asking, With final written comments due on  
14 March 1, what timeline do we foresee for the  
15 finalization of these regulations? In other  
16 words, the effective date.

17 So, we're working as quickly as we can on  
18 these, we really want to get them in place as  
19 soon as possible once we have incorporated all  
20 of the suggestions and edits and comments that  
21 we've received. So, that's probably going to be  
22 this fall. It's important to us that not only

1 do we finalize these regulations, but also have  
2 a chance to implement them during this current  
3 administration. So -- sorry I can't be more  
4 specific, but this fall is our plan.

5 And, Michelle, we see your hands up.

6 **MS. LEE:** Yes, thank you for the  
7 opportunity to communicate on these important  
8 regulations.

9 I have a couple of questions that are not  
10 specifically about the regulations but fall from  
11 it. And one is recently -- actually just  
12 yesterday, we had a fee to trust consortium  
13 meeting from Cali -- the California Fee to Trust  
14 Consortium, and one of the questions that arose  
15 was the letters that go out to Tribal Leaders on  
16 their pending applications that are generated  
17 through CAMS, and I know that the authority or  
18 the requirement for this letter stems from the  
19 handbook, the Fee to Trust Handbook. And so, I  
20 was wondering if there will be a review of the  
21 handbook to bring it into line with the new  
22 regulations? And if there is sort of a parallel



1 review going on with the handbook?

2 MS. ISOM-CLAUSE: Great question.

3 Absolutely. Yes, that's a big part of it. We  
4 -- you know, I know folks are already looking at  
5 that, you know, if we were able to update this,  
6 but we want to, of course, make sure it counts  
7 for all the changes that we make as part of this  
8 regulatory process. So, you know, I think  
9 that'd be kind of the next step, updating the  
10 handbook, training everyone on it, making sure  
11 that that's, you know, gotten out to everyone  
12 who works on these issues. That's a great  
13 point.

14 MS. LEE: And just as a follow up. So, one  
15 of the concerns that was raised by the regional  
16 office was that the letters that are generated  
17 by CAMS aren't really the proper format to  
18 directly just send -- resend on to Tribal  
19 leaders. For example, they don't address the  
20 Tribal Chairperson, they just say Dear Tribe or  
21 Dear Applicant, and that wasn't something that  
22 the Regional Director felt comfortable signing.

1 And so, there's a considerable amount of time to  
2 edit these generated letters out of CAMS, to  
3 update Tribes on their pending applications, and  
4 they're not always accurate.

5 So, you know, that is an important issue  
6 for California, even though it may not be, you  
7 know, a particular process question, it is  
8 something that comes out of the handbook. And  
9 if there's going to be time spent on anything,  
10 we want the time that the BIA Staff spends on  
11 the actual review of the applications versus  
12 this administrative and clerical work. Because,  
13 of course, there's a lot of Tribes in  
14 California, and this is a lot of letters and  
15 requires a significant amount of time. So, you  
16 know, I'm real sensitive to these topics where  
17 it's a -- an activity that's required that isn't  
18 really a good use of the BIA's administrative  
19 time when we'd like to have them on substantive  
20 topics.

21 So, I just want to flag that as an issue in  
22 California, that potentially it impacts all

1 Tribes with have -- that have applications  
2 pending and is something that takes away from  
3 review time for our applicant Tribes. And  
4 that's all the comments that I have. I'll be  
5 providing written comments more substantively on  
6 the regulation.

7 MS. ISOM-CLAUDE: Thank you and we'll look  
8 out for those but also appreciate the comments  
9 that aren't, you know, maybe directly, you know,  
10 on the regs but are related, because it is part  
11 of our overall policy work in this area. So, we  
12 do appreciate those. And it's, you know, again,  
13 I love the detail that everyone is bringing  
14 today. It's very concrete suggestions that we  
15 can look at. Thank you.

16 MS. WISEMAN: Katherine, I see a comment in  
17 the -- or a question in the chat asking for an  
18 explanation how the new deadline applies to  
19 pending applications. And I'm assuming this --  
20 I assume this is referring to 151.17.

21 All pending applications will proceed under  
22 either of the existing regulations or the

1 proposed regulations, depending on how the Tribe  
2 wishes to proceed. Hope that answers the  
3 question.

4 MS. ISOM-CLAUSE: Thanks, Maria.

5 Michelle, do you have another comment?

6 **MS. LEE:** Yeah. May I follow up on that?  
7 That was another question that came up with the  
8 Fee to Trust Consortium Meeting was the 120-day  
9 timeframe for the new application. And some of  
10 the comments coming from California may be about  
11 that timeframe and the concern that, you know,  
12 new applicants -- new applications might jump  
13 over the pending applications because of the  
14 120-day timeframe. And so, if there could be  
15 some, you know, a look at that process within  
16 your -- I'm sure there will be comments about  
17 it, but there was a question about what -- when  
18 does the 120 days begin, so that we could ensure  
19 that the new update -- the new applications  
20 don't overtake the pending ones. There was a  
21 question about that. Thank you.

22 MS. ISOM-CLAUSE: Thank you. Maria, did

1           you want to follow up more on that? Or -- if  
2           not right now, we'll certainly make sure we  
3           account for that. Go ahead.

4           **MS. WISEMAN:** Yeah, no, thank you for the  
5           comment. It's a -- it's a good point. The  
6           regulation reads that it will start soon as the  
7           application is complete. So, we'll look at your  
8           comment about the queue in terms of pending  
9           applications. So, thank you for that.

10           MS. ISOM-CLAUSE: Someone want to share a  
11           comment? I thought I just heard someone come  
12           off of mute. Maybe they're not able to raise  
13           their hand? Maybe it was just a mistake.

14           **MR. WHALEY:** Katherine, just as an update,  
15           we did get those slides posted to the  
16           consultation webpage. So, they are available  
17           now.

18           MS. ISOM-CLAUSE: Great, thank you, Oliver.  
19           So, just as a time check, we had allotted  
20           until 2:30, I believe, 2:30 Eastern Time for  
21           this discussion. So, a little bit less than an  
22           hour remaining and then we're going to move on

1 to the Part 293 proposed regulations. But we  
2 can certainly start that discussion earlier if  
3 we conclude early on this section. So, you  
4 know, we'll keep it open to see if we had more  
5 comments on Part 151, but if not, we'll move on  
6 to Part 293 when folks are ready.

7 Okay, I'm just gonna give it a couple more  
8 minutes, just in case we're missing anyone who  
9 joined us late and would like to comment on Part  
10 151. But otherwise, we'll move on to Part 293  
11 on gaming compacts shortly. Just while we're  
12 waiting for any final comments on this, I want  
13 to emphasize that Assistant Secretary Newland  
14 finds this topic incredibly important as we all  
15 do. And this was one of our very first  
16 regulatory agenda items. So, we're really  
17 looking forward to getting this finalized and  
18 made better through this process.

19 All right, not seeing any further hands.  
20 Let's take a quick break so we can get set up  
21 for our next portion and make sure folks are  
22 ready to go. So, we'll just maybe just take one

1 or two minutes.

2 Thanks, Oliver. You have a slide already  
3 to go. And I will transition over to the Office  
4 of Indian Gaming to give their presentation for  
5 Part 293 next.

6 (THEREUPON, THE TRIBAL CONSULTATION ON  
7 25 CFR PART 151, LAND ACQUISITIONS, WAS  
8 CONCLUDED.)


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C E R T I F I C A T E

I, GARRETT LORMAN, Court Reporter and Notary Public, hereby certify that I was authorized to and did report the foregoing proceedings and that the transcript is a true record.

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

WITNESS my hand and official seal this 26th day of January 2023.

  
\_\_\_\_\_  
GARRETT LORMAN