

In the Matter of:
Tribal Consultation Hearing

Reporter's Transcript of Proceedings

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1 TRIBAL CONSULTATION

2 DRAFT REVISIONS TO FEDERAL ACKNOWLEDGMENT REGULATIONS

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11 THURSDAY, JULY 25, 2013

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1 SOLVANG, CALIFORNIA

2 THURSDAY, JULY 25, 2013; 9:11 A.M.

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4
5 MR. ROBERTS: We have a relatively small group
6 this morning. Thank you for showing up so early. We have
7 a couple of folks in the front. If people want to move up
8 closer to the front that would be great. My name is Larry
9 Roberts, I'm a member of the united nation of Wisconsin
10 and am principal deputy, assistant secretary for Indian
11 Affairs at the Department of the Interior.

12 This morning's session is a tribal consultation
13 with federally recognized tribes. So what I'm going to do
14 is since we have such a small group I want to go around
15 and have introductions of folks. This brief part of it,
16 of introductions won't be on the record but when you do
17 speak either this morning or later this afternoon please
18 speak slowly and spell your first and last name as well as
19 the group that you're with so we can have this for the
20 court reporter.

21 All of the materials that are submitted as part
22 of the consultation and public meetings will be put up on
23 our Web site and available to everyone, including the
24 transcripts of these so that everyone is able to learn
25 about what was said at the tribal consultations and as

1 part of the public comment process here today and for the
2 rest of these consultations.

3 We're going to -- so I'm going to go ahead and
4 just have folks introduce themselves so we know who's all
5 here and we'll move forward.

6 (Non-reported introduction of audience members)

7 MR. ROBERTS: So this morning's session is for
8 leaders of federally recognized tribes and those tribes
9 that are on the list that the department recognizes as
10 federally recognized tribes. The afternoon session is
11 open to basically everyone else, everyone from the public.
12 So what I'm going to ask though, I know a lot of people
13 have traveled here this morning and have shown up early,
14 I'm going to ask that we take a very short break, just
15 five minutes, and I'm going to be out at the front table.
16 If there are any tribal leaders from federally recognized
17 tribes that object in terms of having this session open to
18 non- federally recognized tribes or the others that
19 themselves that are in the room if you can let me know,
20 and if there is leadership from a federally recognized
21 tribe that would prefer to have this session closed I
22 would ask that everyone respect that. That's something we
23 need to do to comply with on the executive orders on
24 tribal consultation.

25 I will let everyone know that if we do go into a

1 session with just federally recognized tribes, the
2 presentations are the same in the morning as the
3 afternoon, it's the same PowerPoint, it's the same
4 materials. And like I said, all comments are going to be
5 put on the Web site.

6 So we're going to take a very short five-minute
7 break. At which time I'll come back and if there is an
8 objection I'll let folks know and we will respect that;
9 and if not, we'll just move forward. But we will be
10 doing, regardless of how we move forward today, this
11 morning we will have the same presentation this afternoon
12 as well.

13 With that we'll just take a couple of minute
14 break.

15 (Recess was taken at 9:20 a.m.
16 and resumed at 9:27 a.m.)

17 MR. ROBERTS: Okay. Thanks for your patience
18 everyone. We're going to go ahead and get started here.
19 We'll let folks take a little time to take their seats.

20 So for those federally recognized tribes that
21 are in the audience, during the break I did not have
22 anyone from federally recognized tribes come up to me and
23 express any concern about wanting this session closed to
24 those people that are already -- or opposed to only
25 federally recognized tribes, so those folks that are were

1 already here and attend this session, if there is anyone
2 that didn't have a chance to talk with either myself or
3 Katie Chinn or Liz Appel here to express a concern if you
4 could just let me know now otherwise we're going to start
5 going forward with this tribal consultation session here.

6 Okay. So I've introduced myself, I'm going to
7 let the other members of my team introduce themselves to
8 ya'll and we're going to get started with a PowerPoint
9 that will last roughly 20, 25 minutes and then we're going
10 to open up the floor to comments and questions on the
11 discussion draft.

12 MS. CHINN: My name is Katie Chinn, I'm a
13 citizen of Wyandotte nation of Oklahoma. And I work in
14 the solicitors office in the division of Indian Affairs.

15 MS. APPEL: Good morning everyone. My name is
16 Liz Appel and I'm from the office of Regulatory Affairs
17 and Collaborative Action, and we report to the assistant
18 secretary for Indian Affairs.

19 MR. ROBERTS: Okay. So within your materials
20 this morning is a copy of the PowerPoint that we're going
21 to run through. Essentially, the first slide here just
22 provides a very general background in terms of how tribes
23 may be acknowledged by the federal government, and then it
24 can happen through the judicial branch by Congress passing
25 specific legislation recognizing tribes or

1 administratively by the Department of the Interior.

2 What we're here to talk about today is the Part
3 83 process, the regulatory process that the department
4 promulgated to provide a uniform process for recognition.
5 Prior to 1978 the department recognized tribes on a
6 case-by-case basis. In 1978 the department promulgated
7 it's regulations to provide a process to handle those
8 petitions that were received by groups asking that they be
9 recognized as a federally recognized tribe.

10 In 1994 the department revised the regulations.
11 For the most part, the primary change to that was the
12 previous unambiguous federal acknowledgement portion of
13 those regulations. And then in 2000, 2005 and 2008 the
14 department published guidance on how it would process
15 petitions through the Part 83 process.

16 Of the 566 federally recognized tribes today, 17
17 have been recognized through the Part 83 process. So in
18 terms of why we issued a discussion draft and what's
19 brought us here today is we have heard from a number of
20 people outside the federal government that the process has
21 been criticized as broken. It's been the subject of
22 numerous congressional hearings. A lot of testimony
23 before Congress has complained about the process being too
24 long, burdensome, expensive, unpredictable in terms of how
25 the criteria have been applied, it's too subjective and

1 that the process itself was not transparent enough.

2 So in terms of the development of the discussion
3 draft that all of you have this morning, which was posted
4 on our Web site I believe in June of this year, in 2009
5 when Secretary Salazar was the secretary for the
6 Department of Interior, one of his earliest hearings
7 before the senate committee of Indian Affairs, he talked
8 about the need to look at the process and the commitment
9 to look at the process. Later that year in 2009 the
10 department testified about the need to revise the process
11 and that it was taking a hard look at eliminating
12 immediate steps, it was taking a hard look at the
13 standards the department was committed to clear standards,
14 and the department essentially testified that they thought
15 in 2009 it would take a year or two to issue a proposed
16 rule and another year or two to issue a final rule.

17 In 2010 after that testimony, the department
18 internally worked on potential revisions to the Part 83
19 process. And then in 2012, the department again testified
20 there was concerns expressed by members to the Indian
21 Affairs on why the department had not yet issued a
22 proposed rule. In that testimony the department
23 identified guiding principles that it would look at in
24 terms of potential reforms to the Part 83 process, and
25 those goals are on the PowerPoint there in terms of

1 transparency, timeliness, efficiency, flexibility and
2 integrity.

3 So in 2013 when I and assistant secretary
4 Washburn joined the department, we testified before the
5 House committee earlier this spring about the process that
6 we would be utilizing to look at reforms to the Part 83
7 regulations. And as part of that process, what we have
8 done is we've convened an internal work group, that is,
9 representatives from the assistant secretary's office,
10 representatives from the solicitor's office and
11 representatives from the Office of Federal Acknowledgment.

12 And so what that group did was they put together
13 potential options in terms of how to improve the process,
14 and then from those options those were winnowed down and
15 those options are now reflected in the red line before you
16 in the Part 83 regulations.

17 So this next slide is just a very brief overview
18 of some of the proposed changes and sort of the bigger
19 picture changes. And I'll talk more in detail on each one
20 of these issues in the following slides.

21 So the first proposal is to eliminate the letter
22 of intent. Currently the process begins with a letter of
23 intent, and then sometimes it can take years for a
24 petitioner to actually submit a petition; and so rather
25 than starting the process with a letter of intent, the

1 discussion draft proposes eliminating that and starting
2 the process with when we receive a documented petition,
3 because the letter of intent is literally just a letter
4 that says, I intend to petition.

5 The discussion draft addresses how we would
6 handle those petitions that we either already received or
7 where we've received letters of intent and sort of the
8 timeline, generally speaking, the Office of Federal
9 Acknowledgment and the assistant secretary's office we
10 work on these petitions on a first-in first-out basis, so
11 the first petition we received that's the one we work on
12 and then issue a decision before we move on before we work
13 on a following petition.

14 The next suggestion in the discussion draft is
15 to utilize the process for expedited denials. And that
16 process would essentially be utilized for all petitioners,
17 that if a petitioner enters the process and cannot prove
18 descent from a historical Indian tribe, which is one of
19 the existing criteria, or if the petitioner cannot show
20 that they are not members or principally composed of
21 members who are already members of federally recognized
22 tribes, or if there's legislation that has terminated the
23 tribe, that would be a basis to basically say, okay, this
24 petitioner does not satisfy one of these three criteria
25 and therefore we're going to provide an expedited no.

1 Because in a number of these circumstances like, for
2 example, Subsection G that the federal relationship is not
3 terminated, if a tribe was terminated by Congress then we
4 don't have the authority to override Congress's law on
5 that point.

6 So this process would then provide that within
7 six months after beginning -- after consideration if the
8 petitioner cannot show one of these three -- or all three
9 of these three criteria, then it would be an expedited
10 negative. If the petitioner shows that they satisfy these
11 three criteria, and if they assert that they are eligible
12 for an expedited favorable decision, then the process
13 would look at that criteria which is on the following
14 slide.

15 So an expedited favorable, what we have for
16 those criteria is if they have satisfied those first three
17 criteria then we would look to see whether the petitioner
18 asserts whether they maintained a reservation recognized
19 by the state and continues to hold that reservation from
20 1934 to the present; or if the United States has held land
21 for the group at anytime since 1934. The 1934 date is
22 tied to the changes in federal policy where federal policy
23 prior to 1934 was essentially assimilating tribes and
24 allotting tribal lands in 1934. The federal policy
25 changed to promote tribal self-determination.

1 So if one of these two criteria were satisfied
2 then there would be an proposed expedited favorable
3 findings and in six months that favorable finding would be
4 issued. If the petitioner asserts that they were eligible
5 for this expedited review and for whatever reason the
6 department disagreed with that, the petition would then be
7 processed under the normal criteria.

8 In terms of adjustments to the criteria, what we
9 have in the discussion draft is proposing to eliminate
10 Criteria A. Criteria A essentially requires
11 identification of the group from 1900 to the present by an
12 external entity. So it's proposed to delete that criteria
13 and remove because if a tribe satisfies all of the other
14 criteria just because someone, an external entity, was not
15 there writing it down, may not mean that it's not a tribe.

16 In terms of criteria B, currently the
17 regulations require a tribe to show that first any
18 non-Indian contact to the present. We suggest in this
19 discussion draft focusing that review from 1934 to the
20 present, again reflecting the change in federal Indian
21 policy. The discussion draft does not prohibit groups
22 from providing information prior to 1934, but the
23 department's focus is from 1934 to the present.

24 In terms of Criteria E, descent from historical
25 tribe, the discussion draft -- right now the department

1 relies primarily on genealogy records to show a descent
2 from a historical tribe, and the discussion draft would
3 allow other types of evidence such as historian and
4 anthropologist's conclusions of the decent from the
5 historical tribe.

6 In terms of the discussion draft, we've received
7 some comments. We have place holders in the discussion
8 draft in terms of the objective criteria and the numbers
9 that should be put there and you'll see them in a big
10 double X essentially, those are just placeholders where
11 we're seeing comment on what should that percentage be.
12 We're also seeing comment on what other objective criteria
13 should be utilized in the Part 83 regulations.

14 In terms of withdrawal of petitions, that's as
15 the process currently works once a petitioner has started
16 the process they can essentially not withdrawal from the
17 process. And so to provide flexibility to those
18 petitioners who may need to withdraw their petition to do
19 more work or for whatever reasons internally they want to
20 withdraw their petition, the proposed -- not the proposed
21 but the discussion draft suggestions that a petitioner has
22 that ability before the proposed finding is issued by the
23 department, that the petitioner would have the ability to
24 withdraw from the process. However, if the petitioner
25 resubmits that petition, they would lose their place in

1 line and go to the bottom of the list. In terms of -- we
2 also have a suggestion there in terms of automatic final
3 determinations. So if a proposed finding is positive and
4 there is no objection or arguments against recognition
5 submitted by a federally recognized tribe within the state
6 or by a state or local government or the petitioner's
7 office is located, then that proposed favorable finding
8 would automatically become final after a period of time.

9 One of the questions that we're looking for
10 comment on from the public is currently the Office of
11 Federal Acknowledgment prepares a draft, then the
12 assistant secretary's office issues both a proposed
13 finding and a final determination. In the discussion
14 draft you'll see we've left placeholders for comment on
15 whether we should utilize the office of hearings and
16 appeals as part of this process. So that let's say, for
17 example, in the discussion draft as it's set out is a
18 petitioner would submit their information, the assistant
19 secretary's office would issue a proposed finding and then
20 at that point the process would transition to the office
21 of hearings and appeals to basically adjudicate or look at
22 the proposed finding and comments received either in
23 support or against the proposed finding, and then hold the
24 hearing, if requested by the petitioner or interested
25 parties, consider the arguments and the evidence and then

1 the office of hearings and appeals would issue a final
2 determination.

3 Another change that we're proposing is
4 eliminating the administrative appeals process itself as
5 part of its review. So right now my understanding is that
6 this is the only decision that the assistant secretary
7 makes currently. That is then subject to Interior Board
8 of Indian Appeals review, and so this would eliminate that
9 review so that if there were a negative finding or a
10 positive finding, a positive finding or determination or a
11 negative, that those challenges would go immediately to
12 federal court and be challenged in federal court.

13 The discussion draft. Although this is a
14 discussion draft, we have a number of steps to go before
15 it becomes a final rule before the department issues a
16 final rule. What we have put forward in terms of wanting
17 feedback and comment is an approach that essentially looks
18 at how the Part 83 process will apply to those petitioners
19 that are currently in the process. So for those
20 petitioners that haven't reached active consideration yet
21 they would fall under the new version of the regulations
22 whenever those are promulgated, and anyone who is under
23 active consideration at the time that a regulation or
24 amendments would go final, they could choose to complete
25 the process under final regulations under the new

1 documented petition or carry forward with the regulations
2 that were in existence prior to those changes.

3 Finally, we also have a provision in there that
4 if a petitioner who has already gone through the process
5 and has been denied, if they can prove by a preponderance
6 of the evidence that the changes from the regulations
7 under which they were denied and the final regulations
8 that are adopted, if that would change the outcome, they
9 can re-petition to the assistant secretary or the office
10 of hearings and appeals to have their petition
11 re-evaluated.

12 We also just to be -- we obviously want comments
13 on all parts of the discussion draft, but we also want
14 input, we're specifically speaking input in terms of
15 should any of the definitions be revised, if so how should
16 they be revised. Should the department put out as some
17 sort of guidance, a standardized form for petitions, would
18 that be helpful to petitioners to at least have some sort
19 of model form that they can utilize and decide for
20 themselves whether that's a good format for them to
21 present their petition.

22 In terms of the criteria themselves, I touched
23 upon this before in terms of we're looking for feedback in
24 terms of objective criteria for the community and, for
25 example, what percentage of marriages should be between

1 group members, those sort of things that we typically look
2 for under the current regulations for community, how can
3 we make those standards more objective.

4 Again, same questions for political influence or
5 authority and descent from a historical tribe. What
6 percentages should we use, what other objective standards
7 should we be considering as part of this rule making
8 process.

9 Finally, we've heard people express concerns
10 about the never ending flow of documents and the length of
11 petitions and the length of the proposed findings and the
12 length of the final determinations. So we're asking for
13 comment in terms of, should the department impose page
14 limits on any of these issues. Obviously, if we would
15 impose page limits on a petition it would be the petition
16 itself and not the underlying documents, the source
17 documents, the primary documents that support the
18 application, it would be the petition itself. Again,
19 should we impose page limits on our proposed finding,
20 OFA's reports and then any sort of comments in response to
21 the proposed finding.

22 So comments on this discussion draft are due
23 August 16th. You can E-mail them or send them to Liz.
24 All of your comments here today will, as I said earlier,
25 will be part of the record. If any of you are presenting

1 comments where you're reading from prepared comments, if
2 you're comfortable, please provide a copy of that to us so
3 we can make sure the transcriptionist has it, that we have
4 an accurate accounting of what you said today. And with
5 that I'm going to open it up to tribal leaders first to
6 see if they have any comments and then we'll open it up to
7 other folks.

8 SPEAKER: My name is Mike Rodriguez from the
9 Costanoan Band of Carmel Tribe. Mr. Roberts, I wanted to
10 ask you one of the questions and it might be a little bit
11 off but the tribes that are actually going to be helping
12 base decisions as far as the panel that you have, will
13 that be a final decision once everyone sends in their
14 comments? The guideline I think would be a great idea,
15 only because it could get off the subject so we had some
16 type of guideline to follow to simplify our suggestions.
17 Will those suggestions be set with the panel that you have
18 along with the tribes that are actually federally
19 recognized? And will that decision, even though our
20 comments go there, will the decisions of the tribe and
21 stuff be made upon that and if we have some type of an
22 input as far as what the results came back, will we be
23 notified of that decision?

24 MR. ROBERTS: Sure. So the process moving
25 forward is we're having a number of consultations on the

1 discussion draft itself, and then what we've asked for is
2 public comment from everyone, and the department will take
3 all of that public comment into account. And what we'll
4 do is then the Department of Interior will meet internally
5 and discuss the comments that we've received and examine
6 those comments. And then the Department of Interior
7 internally will put out a proposed rule, and that's going
8 to be a start a normal rule making process then. So that
9 proposed rule then will go out, you'll see sort of the
10 changes that we've made from this discussion draft to the
11 proposed rule based on your comments and everyone else's
12 comments as far as this process. And then what we'll do
13 is we're going to essentially do this all over again and
14 ask for comments on that proposed rule and get input.
15 Then once we get that input from folks, then internally
16 again within the department we'll meet and we'll issue a
17 final rule based on all of the comments that we receive.
18 And at that point once the final rule goes out then it's
19 final essentially.

20 In terms of the guidance that you're asking for
21 in terms of petitions, if you think that's a good idea
22 that will take into account in terms of how to move
23 forward on that, that's helpful to have that comment.

24 THE SPEAKER: Because August 16th isn't that
25 much time, so that really doesn't give us a lot of time to

1 set the guidelines because it seems to be lengthy as far
2 people's suggestions and input. My biggest concern is
3 about the timeline.

4 MR. ROBERTS: I think at this point, August
5 16th, what we're looking is feedback, for example, on
6 guidance on petitions that say, yes, this is a good idea
7 the department should start working on that. And then
8 what we'll do is we'll take further input in terms of the
9 guidance and how to move that forward. But in terms of
10 right now for this process and what we're seeking input on
11 are specific ideas on how to change this rule or whether
12 folks don't like the changes in the rule they should be
13 otherwise, or that the public may say we don't like the
14 changes that you propose in this rule and we prefer the
15 rule as it's currently written.

16 THE SPEAKER: One last question on the areas
17 that have been deleted, input as far as some of the
18 wording it could be -- I feel there's some change that
19 needs to be looked at. Are these things set in concrete
20 that are actually blacked out?

21 MR. ROBERTS: No, it's just a proposal and the
22 red line there that is crossed out, those are the existing
23 regulations. And so if you think some of that should stay
24 that would be great to have that as part of the public
25 comments. The other thing I would say is that while we

1 circulated the red line against the existing regulations
2 what we'll probably have to do since these regulations
3 haven't been updated since 1994 is to update them and put
4 them in plain language so they're more easily
5 understandable for the public.

6 THE SPEAKER: Thank you. I think it's great the
7 timelines have actually been reduced in terms of criteria,
8 it seems to make much more sense so I want to thank you
9 for that.

10 THE SPEAKER: Ken Woodrow, Chair for the
11 Wuksachi Indian tribe. So the timeline from 1934 you're
12 basically basing it on the IRA?

13 MR. ROBERTS: Yes. It's a change in federal
14 policy at that point in time, yes.

15 THE SPEAKER: Thank you.

16 THE SPEAKER: Michael Lombard, Augustine Band.
17 Page 7, Mr. Roberts, can you provide guidance in terms of
18 the comments that we will submit for tribes who have been
19 in the process for years now and are at the conclusion of
20 a pending decision in how we should communicate our
21 favorable reaction to anyone under active consideration,
22 even if they have received a proposed finding that chooses
23 to complete the process under the new revision and files a
24 new document petition.

25 Would comments encourage you, the secretary, to

1 not act on any applications until this process is
2 concluded be appropriate, because it would be unjust and
3 unfair for a tribe to be rejected in the next several
4 months and then have new regulations come out under which
5 -- or perhaps they could have successfully completed their
6 petition?

7 Should the process come to a screeching halt now
8 while you're getting comments on these regulations or what
9 should we put in our comments? Thank you.

10 MR. ROBERTS: I'll address your last question
11 first which is what you put in your comment. That's up to
12 you obviously in terms of how you comment. How we're
13 handling the process moving forward right now is we don't
14 know how long the rule making process will take. We don't
15 know what the final rule is going to look like. This is
16 just a discussion draft. We still have to issue a
17 proposed rule which could take -- under the best of
18 circumstances, we're looking at a final rule being issued
19 maybe in two years under the best of circumstances. So
20 what we have done is we've reached out to those
21 petitioners that are either in active consideration or on
22 the ready and waiting list, their petition is completed
23 and they're just waiting to be evaluated. What we've done
24 there is we've sent letters to them essentially saying,
25 Let us know how you would like to proceed given that we're

1 going through this rule making.

2 We're not going to tell you one way or the other
3 whether you want to move forward under the existing
4 regulations, but we have heard from some petitioners, Hey,
5 like you said, I'm close to a decision within the next
6 year, we're not going to put a hold on ours we want to
7 move forward under the existing regulation. So we're
8 leaving that decision to each petitioner.

9 I should say we have multiple microphones, so if
10 folks wanted to step up to the mics and we'll take folks
11 as they get up to the mics.

12 THE SPEAKER: Yes, thank you. Florence Dick,
13 Dunlap Band of Mono, I'm the secretary, and we're a very
14 small tribe. I appreciate the Indian Affairs coming out
15 to California to give us this opportunity to make
16 ourselves known, and that's what we're doing today. We
17 re-grouped here and we're making ourselves be seen and be
18 heard. Okay.

19 First of all, some of us don't have E-mail, some
20 of us don't have access to the modern convenience. It's
21 probably our own fault, but as unrecognized Indians we
22 always get everything last or don't get it at all. Now,
23 for us, the Dunlap Band of Mono, we're going to have to go
24 back and re-group and, you know, digest this document; and
25 I see some changes and I see some that are good and bad,

1 but we will be making a formal written -- our formal
2 written comments will be forthcoming.

3 One of the things you went over here is
4 proposing a model to be sent out for the petition, right,
5 the sample model? I think that would be -- I think that's
6 a good idea. That's all I had.

7 MR. ROBERTS: Okay. Thank you.

8 I will say in our last consultations and public
9 meetings what we heard from both recognized tribes and
10 non-recognized tribes was we should look at trying to
11 improve the process of getting this information out to
12 folks. So what we have done prior to that is put it up on
13 our Web site, we issued a press release, we issued a
14 notice in the federal register, we issued a letter to all
15 federally recognized tribes. So as part of this process,
16 if you want to include in your comments how we can improve
17 the outreach on this we're more than happy.

18 THE SPEAKER: Lisa Albritre. Yes, that was one
19 of my things of how the state recognized tribes can start
20 receiving information in reference to any communications
21 from your agency. First, thank you for coming out, we
22 really appreciate it.

23 Another thing was I just wanted to clarify a
24 statement. You're telling me if somebody has an
25 application in process we're looking at maybe two years

1 now?

2 MR. ROBERTS: Generally speaking, the rule
3 making process, it doesn't matter whether it's Part 83 or
4 some other rule, it generally takes a couple of years to
5 go from proposed to final. So there's no way to determine
6 how long this process is going to take. It could take
7 longer, it could go move quickly, it just all depends on
8 the volume of comments received and how we process those
9 comments essentially.

10 THE SPEAKER: What about the backlogs as far as
11 when people submitting the documentation, supporting
12 information for the applications, is that -- that's over a
13 200-page document, could be to 500. When people do the
14 application with supporting documents, is going to remain
15 the same or are you going to maybe shorten the
16 applications?

17 MR. ROBERTS: Well, first of all before I answer
18 your question could I just get your name for the record.

19 THE SPEAKER: Lisa Albitre, A-1, b as in boy,
20 i-t-r-e.

21 MR. ROBERTS: So in terms of the documentation
22 under the standards, I don't know that we're -- I don't
23 think that we've proposed any change in the documentation
24 and the integrity of the standards themselves. What we
25 have done is we said rather than going back from time of

1 first non-Indian contact moving up to that date to 1934.
2 That doesn't prohibit petitioners from submitting
3 information prior to that as long as it's relevant to the
4 1934 or forward time period.

5 THE SPEAKER: Then under the new revisions, do
6 the applications get grandfathered in when the revisions
7 are already done or does it kickback?

8 MR. ROBERTS: What we're doing now is if the
9 petition hasn't been -- if the petition hasn't been
10 completed, if the petitioner is not on the active
11 consideration or the ready and waiting, then the new
12 regulations would apply to those petitioners if they
13 haven't submitted a complete petition yet by the time the
14 regulations go final.

15 Again, this is just on the discussion draft so
16 we encourage comments on that process and how we should be
17 handling that.

18 THE SPEAKER: Ken Woodrow, Wuksachi Indian
19 tribes. So 83.8 that's removing the assistant secretary's
20 recognition of a tribe from the AS-IA?

21 MR. ROBERTS: The previous -- federal
22 acknowledgement?

23 THE SPEAKER: No, what I'm talking about is how
24 they were recognized, that process. This removes that
25 process itself also.

1 MR. ROBERTS: This is just a revision to the
2 Part 83 process itself, it's not addressing anything other
3 than Part 83. So if you think it should you should submit
4 comments on that.

5 THE SPEAKER: Well, it's just that from the
6 inspector general's office we were supposed to be notified
7 that the tribe was recognized and we were never recognized
8 or notified.

9 MR. ROBERTS: If you want, we can -- just
10 provide your information to Liz Appel and we'll make sure
11 that the inspector general's office gets in touch with
12 you.

13 THE SPEAKER: Hello. My name is David Galvan,
14 G-a-l-v-a-n, from the Miwok El Dorado. We have sent in a
15 petition several years ago to be federally recognized. We
16 have dealt with OFA for several years now trying to get
17 recognized. And the question that my tribal council
18 leaders would like to ask is: You are asking us now to
19 re-submit a new petition or was the old one we have
20 submitted several years ago dating back to 1852, we can
21 take our timelines, now you're asking the 1934, the IRA
22 Act. Do we need to re-submit our petition now since we
23 have done that because we've been working with OFA. They
24 have never denied us and they've been working with us. So
25 we believe we're being accepted, but now this new process,

1 you guys are doing, like the gentleman vaguely said here,
2 does our process actually stop now? Are we starting all
3 over, waiting again several years now waiting to do this
4 again?

5 MR. ROBERTS: The short answer is no. It's up
6 to the group in terms of whether they want to suspend the
7 process that you're currently working under under the
8 existing regulations. If the group wants to go forward
9 under the current regulations they can do that, it's up to
10 them. If they want to suspend their process until these
11 new regulations, if and when they are promulgated, if they
12 want to suspend they can do that as well. We're trying to
13 provide maximum flexibility to the petitioner.

14 So I will say that under the discussion draft,
15 let's say, and I don't know the specifics of your petition
16 but let's say it's not considered complete yet for
17 whatever reason, under the discussion draft if the
18 discussion draft went final tomorrow, then you would need
19 to submit a new petition because it's not on the final --
20 it's not on the ready and waiting to be considered list.
21 If it were, you would have a choice on whether to continue
22 under the existing regulations or go under the new
23 regulations. But that's what the discussion draft
24 proposes. So if that approach is wrong or fraud please
25 provide comments on that or comments on it to prove it.

1 But the short answer to your question right now
2 as it stands is it's completely up to you as to whether
3 you want to suspend your petition now or whether you want
4 to keep going forward with it.

5 THE SPEAKER: One more question, too, then on
6 the petition is if we do suspend it, will we have to wait
7 -- we will have to wait end up waiting for this several
8 years for this revised act to be done before we can
9 re-submit a petition then?

10 MR. ROBERTS: So currently what we would do
11 is --

12 THE SPEAKER: That's if we denied our petition
13 now.

14 MR. ROBERTS: If you decided not to move forward
15 now --

16 THE WITNESS: Yes. And we did it, we'd have to
17 submit after this is done several years?

18 MR. ROBERTS: Right. So right now this is just
19 a proposal, we're not changing the regulations.

20 THE SPEAKER: That's fine. I want to go back to
21 the tribe so I can give them the information that if we
22 stop there's a good chance we're going to have to wait
23 several years to refile after this revised.

24 MR. ROBERTS: If it gets revised, that's
25 correct.

1 THE SPEAKER: Thank you.

2 MS. CHINN: As the draft stands right now, that
3 predates 1934 can't still exist in your petition. So it's
4 not as if you have to have that information.

5 THE SPEAKER: Ben Wolf again from an enrolled
6 member of Kiowa tribe. We are federally recognized. I
7 was just curious, this is all interesting stuff here about
8 recognition I hear about it quite a bit out here being
9 away from my home area. But one thing I wanted to know
10 about is there's three different determinations on the
11 judicial congressional -- congressional and administrative
12 that determines Indians and how many tribes, I guess 17
13 since '78, how many have been denied and which of these
14 three different areas are determining organizations or
15 whatever they are -- are the ones that have determined the
16 most and in the process of it? I'm just kind of curious.

17 MR. ROBERTS: I don't have those exact numbers.
18 I want to say that since 1978 the Office of Federal
19 Acknowledgment has denied roughly 40 petitioners and
20 approved 17. I think Congress since the process has been
21 put in place in '78, I think Congress has enacted
22 legislation to recognize more tribes than what our Office
23 of Federal Acknowledgment has recognized.

24 But in terms of the administrative branch in
25 Congress, I think historically the administrative branch

1 in Congress have recognized almost all of the other tribes
2 because it's either through treaties or setting aside
3 lands, that sort of thing. So I don't know that there's
4 been a breakdown in terms of how each tribe was
5 recognized, whether it's administratively or
6 congressionally. So, for example, you know, a tribe in
7 Wisconsin we have a treaty where George Washington who
8 signed in 1794. Is that administrative or congressional?
9 Maybe it's both because it's a bonified treaty.

10 THE SPEAKER: How many are petitioning right
11 now?

12 MR. ROBERTS: I think we have a list -- I think
13 the petitioners that have filed a notice of intent to
14 petition is over a couple of hundred I want to say, but
15 they're all in various stages. Of those that are ready,
16 like a complete petition, I think it's less than 20.

17 THE SPEAKER: Okay. Thank you.

18 THE SPEAKER: Ken Woodrow of Wuksachi Indian
19 tribe. The IRA (sic) why are you using that as the date?
20 Because that was created by the federal government, it
21 wasn't a tribal creation. They were required to sign this
22 document to be a tribe, to be a government. Why are you
23 using '34? Because a lot of tribes were forced to do it
24 if you have a tribal organization, a government.

25 MR. ROBERTS: What date would you think we

1 should use?

2 THE SPEAKER: Well, let's go to the 28
3 applications that distinguishes who we are in the tribes
4 which we are back to the treaties which goes into the land
5 judgments for California. That in itself is an affidavit.
6 It's -- people signed off on it.

7 MR. ROBERTS: And when was that?

8 THE SPEAKER: 1928.

9 MR. ROBERTS: Okay.

10 THE SPEAKER: California land judgments.

11 MR. ROBERTS: So we're using 1934 because it
12 reflects the change in federal policy. This is a federal
13 process in terms of federal acknowledgement of a tribe.
14 Let me be clear because the discussion draft covers this.
15 If there's information, let's say from 1928 what you're
16 raising, that is relevant to the existence of a tribe,
17 you're not precluded from submitting that information.
18 The department will look at that information and say this
19 is relevant to that time period or not, but we're not
20 precluding anyone from submitting any information. So
21 let's say, for example, I know there were a lot of
22 unratified treaties in California with California groups.
23 A petitioner may want to submit that information and say,
24 this is relevant to our tribal existence. So what the
25 1934 date is attempting to accomplish is to say this

1 marks, this is a -- we have to pick a timeline somewhere,
2 we have to pick a date and we can use the time of first
3 non-Indian contact, we heard it takes a lot of resources
4 from petitioners to provide all of that information. And
5 so the 1934 date is triggered to the change in federal
6 policy from assimilating tribes to promoting tribal
7 self-determination. But you can use that information
8 prior to 1934. The discussion draft specifically says,
9 "Petitioners can submit that information that's relevant
10 prior to 1934."

11 THE SPEAKER: Because like our tribe, we were
12 signed allotments within our pre-area, which also
13 specifies our tribe that you have to be a federally
14 recognized tribe, a member of a federally recognized
15 tribe, to get Indian allotment land and we were outside
16 the reservation. The reservation was out here and we were
17 out here. In 1930, because of the IRA everything changed
18 for us. We're on the outside. That's a problem. Because
19 of that creation we were left out.

20 MR. ROBERTS: Thank you.

21 THE SPEAKER: My name is Tony Cerda, I'm the
22 chairman of the Costanoan Rumsen Carmel tribe. My
23 questions were: In the beginning there's no federally
24 recognized tribes in the central coast of California. The
25 most endogenous people of that area, our rights of

1 endogenous occupancy was never honored; so therefore we
2 never got any federal land because the state legislators
3 and the governor of California went to Washington, D.C.
4 to fight ratifying these treaties that would have made us
5 federally recognition. We are sovereign people.
6 Sovereignty is something that we always had. Nobody ever
7 gave that to us, so I don't think anybody can take it away
8 from us. So our rights have never been honored because of
9 a paper of that doctrine that was discovered and that
10 document remains in the United States Constitution with
11 the Supreme Court Justice, John Marshall, and it was part
12 of all of these things that we're talking about. So what
13 it seems like to me as endogenous people we should have
14 some of those endogenous rights. And some of our tribes
15 of sovereignty we should be able to have, because that's
16 who we are. We're not -- sometimes they call us first
17 nations, first people, I don't believe that. So we're the
18 original people. Not the first -- we didn't come from --
19 we are from California.

20 Now, we turned in an application to the White
21 House in '95, we went there, then we went twice more, in
22 '95 we turned in one, in 2000 we did another one and we
23 did another one in 2002. But we have never gotten any
24 feedback from them. And I talked to Holly in records and
25 Manning (phonetic) and all of those people, John Dearborn.

1 But we've never gotten any responses from them as to what
2 was really needed, what do we need to complete it, they
3 never did. We're very simple people, we need to have some
4 of that information back to us.

5 So somebody up there is making decisions and
6 who's going to make decisions on this? Is there a
7 committee or is there a commission? Because I remember
8 there was a committee in California Indian policy back at
9 that time, and are some of those recommendations taken
10 into account? There's a lot of things that came out at
11 that time that I don't hear anymore. One of them was that
12 John Sheppard that wrote the regulation that worked for
13 the VIA said it was easier to make a nuclear reactor than
14 to get this petition through. And it seems to me like
15 sometimes it's changing things, but they're still making
16 it, like he said, impossible.

17 I know what I see is the ones that have been
18 federally recognized who afterwards were tribes that were
19 terminated and those are the ones being recognized. So
20 those are the things that I've -- I'm 76 years old and
21 I've been looking at this stuff. Most of the ones I've
22 seen have been recognized by the administrative, and that
23 was even in the '60s and '70s and all of those. So I
24 don't understand why it makes it so impossible for
25 endogenous people from this country to have somebody from

1 some other place who doesn't have roots here, original
2 roots, to keep us from doing what we do as sovereignty
3 people.

4 I know that President Obama assigned an
5 endogenous rights bill. What does that really mean? Was
6 that just a show or does it really mean that they going
7 to, under the rights of endogenous people in this country,
8 that's the question I'd like to ask somebody that somebody
9 could answer for me. Thank you very much.

10 MR. ROBERTS: Sure. Thank you for your
11 comments. You know, that's one of the reasons that we are
12 having this discussion draft is to get comments from folks
13 on how to improve the process right; so we don't have all
14 of the answers, we don't have all of the ideas, we don't
15 have the history of this process as it came to be in 1978
16 necessarily. And so we do need those comments in terms of
17 how the process can be improved.

18 In terms of the administration's commitment to
19 endogenous rights, I think that the Obama administration
20 has done a fantastic job in terms of promoting tribal
21 rights and in terms of this particular issue on Part 83.
22 The regulations haven't been changed since 1994 and we
23 have put out a discussion draft here trying to improve the
24 process. There's been a lot of complaints about the
25 process and so we're taking that first step here to

1 improve that and hopefully before the end of this
2 administration we're going to have a process that is much
3 improved through the comments from leaders like yourself
4 and others that makes the process that works for those
5 petitioners.

6 I think the other thing that I heard you say,
7 and correct me if I'm wrong, but it sounds like one of the
8 things that you're raising is petitioners need more
9 technical assistance, they need more feedback, they need
10 more guidance in terms of what a petition should look
11 like. They need resources and assistance to do that
12 rather than sending something into the federal government
13 and then not knowing where it sits essentially. So those
14 sort of comments are helpful for us, and in terms of what
15 would be also helpful are just specific examples of how --
16 what we should write in here to require that to happen
17 essentially. So I talked earlier about something as
18 simple as page limits, but if we impose page limits on
19 ourselves then that makes theoretically for a more
20 readable and understandable document or a more readable
21 and understandable decision in terms of how we're moving
22 forward. Because some folks might say a decision that is
23 over 1,000 pages to read, it's going to take a lot of time
24 and it's hard to decipher that and we should be making
25 things more easier to understand of how our process moves

1 forward. So thank you for your comments.

2 THE SPEAKER: Good morning assistant secretary
3 and solicitors. Rose Mary (inaudible) from the Muwekma
4 tribe of the Bay Area. I have a few words for you,
5 Mr. Roberts. First of all, I pray that you and secretary
6 Washburn as solicitors can find in your heart and your
7 wisdom and knowledge to find justice -- in a way of
8 justice. We're talking about a human race issue. Like I
9 said, I pray for California tribes. I know the experience
10 that they face and it's not an easy or a fun process to go
11 through. I have watched California tribes that have
12 minimal resources that had to suffer and their children
13 and grandchildren have had to suffer with them. I pray
14 that you find in your heart justice and truth, and the
15 evidence that California tribes provide you and solicitor
16 Washburn. I believe that secretary Washburn has the
17 authority to do what's right for California tribes. Now,
18 let me say Muwekma is a previously recognized tribe.
19 Muwekma has gone through regulations and the changes and
20 amendments of regulations, we've also gone through the
21 appeals court twice. Some of the information that has
22 been provided for the BAR, the secretary, the judges,
23 someone as secretary, who we all agreed to, but yet
24 previously recognized tribes like Muwekma has not made it
25 through the regulations. So again I just hope you find

1 justice for California tribes. I'm not speaking for them,
2 they speak for themselves. But I just want you to know
3 that. Also I brought a chart to share with California
4 tribes. If you will, I would like to share that with you
5 and with California tribes.

6 MR. ROBERTS: Sure. That's fine. My only
7 hesitation in doing so is in terms of time. I don't know
8 how much time that will take and how many other people
9 want to make their comments. So are there -- I'm going to
10 open it up to the group.

11 Raise your hand if you still have a comment to
12 make.

13 Would you mind if we just hold off on that to
14 let other people have a chance to speak and then we can do
15 that?

16 THE SPEAKER: Yes, thank you.

17 THE SPEAKER: Elizabeth Shoulderman(phonetic)
18 from the Costanoan Carmel tribe in Pomona. So I was
19 wondering what your rationale for the August 16th date as
20 for the comments? Because basically you said it would
21 take two years, right, the whole process? But this is
22 only like literally two weeks or less for unrecognized
23 tribes to get the comments get back to the tribes, tell
24 everyone about it, convene, make comments and give them
25 back to you. It's less than two weeks and it's something

1 that we need to take a lot of time to think about. It's
2 not something that you can do it two weeks. I wanted to
3 know what is your rationale since we have two years to do
4 it any ways?

5 MR. ROBERTS: Sure. That's a great question.
6 Let me sort of back up and say that typically what we do
7 when we issue -- when we're going to propose the change of
8 federal rules typically what we do is we just go right out
9 and we issue a notice of proposed rule making, and
10 basically it just says, Here's our proposed changes and
11 comment and we're going to finalize them. What we've done
12 in this process here is we've actually stepped back a
13 step, knowing that we would probably want to get a lot of
14 public comments on this issue and wanting to maximize
15 input, so this August 16th date is a discussion draft,
16 it's a step back from a proposed rule. And August 16th
17 date we sent this out, we made it public like I said in
18 June, we had roughly a six-week time period to folks to
19 submit comments. But once this August 16th date closes,
20 that doesn't preclude people from commenting on the rule
21 itself. What will happen is we have this deadline on
22 August 16th, we'll take these initial comments, then we'll
23 actually start the process of a proposed rule. And once
24 we issue that proposed rule everyone in the room is going
25 to -- everyone in the room and everyone in the public is

1 going to have another opportunity to comment, and that
2 comment period will probably be somewhere between 30, 60,
3 90 days, I don't think that has been determined yet, but
4 this is just a very first draft and the very first
5 opportunity to make comment. There's going to be
6 additional opportunities to comment.

7 THE SPEAKER: Good morning and thank you for
8 opening it up to those of us who are not federally
9 recognized or even know where they belong in the tribe.
10 Lydia Ponce, Los Angeles, California. How was this
11 publicized and why is it that the documentation here
12 provided for the people who have traveled near and far do
13 not have an automatic E-mail or phone number or even fax
14 number? If this is the White House, then how is it that
15 this was publicized and why is it that the handouts this
16 morning do not have a place for an elder to make a phone
17 call or their grandchildren to fax or E-mail?

18 In addition to that question, I'd like to say
19 that this is timely; and I want to make sure that our
20 sweet elder here has her time to present her timeline
21 because that is one thing that we cannot afford is time.
22 These decisions that are being made here today in the two
23 years that it takes, there's pipelines coming down,
24 there's fragments that's something down on this land that
25 truly does belong to the original people. So it's absurd

1 that we're talking about time when we need to be able to
2 channel our conversations to these atrocities that are
3 happening where we live. We're in the seventh generation
4 now and two years from now what is that going to look like
5 when they just discovered shale oil from the south side of
6 San Francisco to the north side of Bakersfield,
7 specifically where some of the families are here.

8 (Inaudible) connects Canada, Turtle Island all the way to
9 Mexico globally and these issues we're raising to the
10 White House and concern for the pipeline and the
11 fragmenting and the mining and the deforestation and so on
12 and so on. These two years means a continued modern day
13 genocide. I hear today to be thankful, to be honored, to
14 be part of the conversation, but can you provide some
15 communication, some information and perhaps maybe
16 regalvanize the information today and who we are to make
17 our commitment to make sure that pipeline doesn't come
18 through, the fragmenting or the water rights or the issues
19 that were addressed, because I recognize you. I don't
20 need a piece of paper. Thank you.

21 MR. ROBERTS: Sure. Thanks for your comments.
22 A couple of takeaways. One is if there are concrete
23 comments in terms of how to, again, get notice out to
24 folks, more appropriately that's been, and I understand
25 maybe not everyone has access to the Internet these days,

1 but it's been on our Web site since June. We issued a
2 press release, it's picked up in the press in June making
3 this available. We issued a federal register notice, I
4 know some folks may not read the federal register. If you
5 have ideas, concrete suggestions on how we can provide
6 better public notice we're happy to consider those. I
7 should also say that we reached out, maybe two days after
8 the discussion draft was made available, to the national
9 Congress of American Indians, they have a task force on
10 non-federally recognized tribes. A lot of non-federally
11 recognized tribes participate on that task force. A lot
12 of non-federally recognized tribes participate in the
13 national Congress of American Indians. We reached out to
14 their task force to help get the word out and get the
15 public notice out. We met with their task force, their
16 non- federally recognized task force at NCAI to briefly
17 discuss the discussion draft and how we're moving forward;
18 so I appreciate your comments.

19 And the other take away that I take from your
20 comment is two years is too long, we're already -- as I
21 went through my PowerPoint, the administration said we
22 were going to do this in 2009, we haven't met that goal,
23 right, of two years? Two years is too long, I hear that.
24 We're also working under the legal framework that we have
25 and the rules that we have. If we promulgate a rule

1 ignoring the federal legal framework of how we would
2 promulgate a rule, then we might as well not be doing this
3 at all because it's all for none. So we will work within
4 our constraints and our legal framework to move forward,
5 but I also just to -- everyone should know at best it's
6 going to take two years. And if I said something else it
7 would be untruthful.

8 THE SPEAKER: Then my follow-up question would
9 be: If these task forces have had meetings and we're
10 basically governed by Roberts rule of order and the Brown
11 Act in California and we have these other rules of
12 engagement federally then those notes and those minutes
13 for those particular meetings from these task forces that
14 you've had, have had ample notification and publication of
15 the meetings and participation and clear concise notes,
16 minutes for us to review?

17 MR. ROBERTS: The National Congress of American
18 Indians is a completely separate organization from the
19 Department of Interior. You would have to talk with them
20 about their minutes and what they kept.

21 THE SPEAKER: Miiyuyam, Mr. Assistant Secretary
22 Washburn and Bureau of Indian Affairs representatives. I
23 am Heidi Harper Perez, Tribal Council Member for the
24 Juaneno Band of Mission Indians, Acjachemen Nation from
25 Orange County, California. I represent formally our

1 people and thank you for the opportunity to contribute
2 towards ways to improve the department's process for
3 acknowledging Indian tribes, which at this present time is
4 time consuming, expensive and tremendously burdensome.

5 We are advocates for the proposed revisions to
6 the current acknowledgment regulations, as we truly
7 believe that the existing acknowledgement regulations
8 serve as an injustice to all Native Nations. Many tribes
9 have been in this acknowledgement process for decades and
10 worse yet, many have been denied federal acknowledgement
11 under the current regulations because they lacked the
12 financial resources to meet the unduly burdensome
13 requirements and documentation that have unnecessarily
14 changed over the years to become more stringent and
15 burdensome.

16 My Nation has struggled through the
17 acknowledgement process starting in 1982 when we filed our
18 letter of intent. Today, over 30 years later my Nation
19 has a petition for federal acknowledgement still pending
20 which has not yet received a final and effective
21 determination since it is currently pending before the
22 secretary of the Interior on referral from the Interior
23 Board of Indian Appeals. During those decades, we have
24 spent significant financial resources to deal with an
25 unduly burdensome process. And we are one of many

1 petitioners. When put into perspective, the combined time
2 and money spent by petitioners from the point of
3 acknowledgement process was established in 1978 is a
4 staggering amount but it was not intended to be so as
5 testified to before Congress. Thus, we welcome the
6 reform.

7 With that said, our main points are as follows:
8 First, we understand that other petitioners who do not
9 have a final and effective determination have been offered
10 the option of choosing to have their petitions suspended
11 pending adopting of the new regulations, and that the
12 proposed draft regulations provide that they can re-file
13 under the new regulations if they choose to do so. My
14 Nation has not received that same offer even though our
15 petition is not yet final and effective. We should be
16 treated the same as those who are similarly situated, that
17 is, the same as those petitioners whose petitions are not
18 yet final and effective. We request immediate
19 consideration on this point since my Nation's petition has
20 been referred to the secretary by the IBIA, so time is of
21 the essence.

22 Second, for those petitioners who choose to
23 proceed under the new acknowledgement regulations, their
24 petitions, if on active consideration, should remain their
25 priority and be placed on active consideration.

1 Third, we call for the preservation of the
2 independent review process identify and request that an
3 independent review body be separate and distinct from the
4 Bureau of Indian Affairs.

5 Fourth, we agree with the proposal to delete
6 criterion (a) which we have argued is unnecessary since,
7 among other things, it is subsumed by criterion (b) or
8 (c). In practice, OFA will cross-reference criterion (a)
9 evidence with criterion (b) and (c). Essentially, this
10 practice would be adopted by the deletion of criterion
11 (a).

12 Fifth, we agree with the proposal to change
13 criterion (b) and (c) which require, respectively,
14 documented proof of community and political authority
15 since historical times, presently to mean from March 4th,
16 1789. By reducing the time depth to 1934, the proposal,
17 among other things, takes into account the severe
18 treatment of Indian tribes and historical circumstances of
19 our Nation. We cannot ignore those factors. For example,
20 military aggression and assault against tribes caused
21 significant disruption of tribes, often resulting in
22 removal or migration of tribes or tribes basically going
23 into hiding. With this type of oppression, the last thing
24 tribes are going to do was to produce documents of
25 whatever nature. Moreover, what documents were in

1 existence were destroyed by a National calamities like the
2 earlier Indian wars and the Civil War. Here in
3 California, the treatment of Indian people has been
4 deplorable and well documented. Thus, 1934 is a
5 reasonable starting point since it is the year of the
6 Indian Reorganization Act was passed and when the federal
7 government was actively seeking out tribal existence
8 across the Nation in a comprehensive way.

9 In closing, once again thank you, Mr. Assistant
10 secretary Washburn and Bureau of Indian Affairs
11 Representatives for this preliminary opportunity to
12 comment upon the proposed federal acknowledgement
13 regulation reform. Thank you.

14 MR. ROBERTS: Thank you. Would you be willing
15 to share those for the record?

16 THE SPEAKER: Yes.

17 THE SPEAKER: Again, Lisa Albitre. One of my
18 concerns of approaching and speaking out is that I see a
19 lot of disadvantages for state recognized tribes with the
20 ICWA, the Indian Child Welfare Act, and people are not
21 knowledgeable of it. So if they go to court, and because
22 it's not a federally recognized tribe, people
23 automatically think -- a judge or a social worker presume
24 that the law is not applicable. However, it does if the
25 child is Native American, it is applicable. Another

1 concern is that I see in the south of California their
2 housing and they cannot apply for federal housing, for any
3 funding to even create a housing project because they're
4 not federally recognized. Same goes to any kind of
5 programs. So if you have youth that are battling with
6 alcohol and drugs you cannot apply for federal funding
7 because it is not a federal recognized tribe. So what
8 does that do to the people? The people are the ones that
9 are hurting as the African-Americans had to go through
10 their struggle. I believe the Native Americans are being
11 treated even worse because they know that we are here.
12 And if there's a way, can regulations be challenged by
13 where we can say, can a state recognized tribe go for
14 federal funding for houses so we don't have to deal with
15 the homelessness that we have right now or that we can go
16 for federal funding as the state recognized tribe to deal
17 with the drug and alcohol problems that we have with our
18 youth right now. Those are the issues. But if we're just
19 heard and the actions are not done, then what's the
20 meeting for? That is my concern, is how the state
21 recognized tribes, not just mine, the Ohlones, there's
22 many tribes in the state that are getting -- it is to me
23 inhumane. I am fortunate. I am educated. I do know
24 about ICWA and I do know about HUD and I do know about
25 education, but what about the tribes that don't and will

1 not get assistance just because they're state recognized.
2 So how can you guys turn that around until they become
3 federally recognized? We're not asking to break the
4 rules, not even to bend them, but can we be more
5 collaborated. People are waiting ten years to even be
6 spoken to. I spoke with people and they're like, there's
7 a ten-year waiting list for this or that. At this day in
8 age this is technology. Where, I mean, you'll get a
9 letter from me in an E-mail. But the thing is, if the
10 state of California, if the Native Americans and the
11 tribes that are not federally recognized, if they're not
12 going to get any existence -- assistance in those crucial
13 areas dealing with obesity but we can't even request it
14 because we're not federally recognized? That is at the
15 risk of our people. Where is our future?

16 MR. ROBERTS: I hear what you're saying, that's
17 a much broader issue than the Part 83 regulations here,
18 right? And like you were saying, some of those programs
19 that you were mentioning are limited to federally
20 recognized tribes, that's a Congressional mandate
21 essentially, right? So that's the law, there's not a
22 whole lot we can do on that. What we're focusing on is
23 Part 83. I understand your concerns and the lack of
24 resources on state recognized tribes, and so what we're
25 attempting to do is -- there have been a number of

1 senators and others, former assistant secretaries that
2 have said this Part 83 process to become a federally
3 recognized tribe is broken, so we're focusing on that, to
4 try to improve that process. But the broader issues are
5 -- they're important, but there's something that we're not
6 focusing on in this particular consultation today.

7 MS. CHINN: One of the expedited -- one of the
8 ways you can get an expedited favorable finding is by
9 having a state reservation, so we are trying to take into
10 account recognition for the state. But if you have
11 additional comments about how we can better do that please
12 submit them.

13 THE SPEAKER: I have a couple of questions,
14 comments about the outreach process. I'm Gina
15 Lamb(phonetic) here today is the Costanoan member of the
16 Carmel tribe of Pomona. One of the more than 200
17 petitions that you spoke about that are currently in the
18 process now, do you know what percentage of those are
19 California tribes?

20 MR. ROBERTS: I don't know off the top of my
21 head, no.

22 THE SPEAKER: Is it close to half of them? I
23 heard that there's a lot in California. So one thing I'm
24 wondering is just looking at percentage-wise around the
25 country of how many petitions are coming in from where?

1 Maybe there should be more meetings held in a state as
2 large as California with as many tribes that are being,
3 you know, have petitions in. Because if it is half,
4 because I heard that it's close to 100 petitions just in
5 the state of California alone, maybe more, that there
6 should be consideration for the state based on the
7 history, the broken treaties in California, the broken
8 land promise in California, the specific history that
9 California tribes didn't have access to the federal
10 government early on, that this needs to be addressed in
11 this day in age because we know the history now.

12 The other question that I have is that I assume
13 the petitioners that you do have, the 200-plus petitioners
14 that you have and you have the contact information for
15 these tribes, can you make a commitment to as soon as
16 possible send hard copy letters to each one of the tribes
17 that have petitions in to get notifications of these
18 meetings? Because I think this meeting today is sorely
19 unattended by many tribes in this state but have petitions
20 in; and as far as I can tell from your letter, the only
21 meeting being held in California.

22 MR. ROBERTS: Yes, so what we'll be doing as
23 part of this process is going back, and for the proposed
24 rule process looking at the comments and looking at how we
25 can do better outreach. One of the things that was

1 suggested at a different consultation was sending a letter
2 to all petitioners in the process itself and letting them
3 know of the meetings. Off the top of my head it makes
4 sense, I want to make sure in talking with staff when we
5 go back that we have up-to-date letters -- addresses I
6 should say, for everyone. The other thing that I was
7 actually thinking about while you were talking about it is
8 perhaps on our sign-in sheet we can adjust those sign-in
9 sheets to include an E-mail address or something like that
10 so that attendees at these meetings will get further
11 notifications. So we'll be looking at these type of
12 things.

13 THE SPEAKER: But with so many people that
14 aren't here today, and the Ohlone tribe just found out
15 very recently about these meetings. Also, it wasn't clear
16 about the public section, the information be clarified
17 about how the meetings were going to be processed would be
18 very helpful. Thank you so much and thank you for having
19 this conversation today.

20 THE SPEAKER: Hi. I'm Sandra Chapman. I'm with
21 the Southern Sierra Miwuk Nation and we're petitioner 82.
22 We just got a letter saying that we have until July 31st,
23 which is only a couple of days, to go this way or go this
24 way, the criteria we've been going after. So that just
25 seems like that's just really not enough time because you

1 guys decided to change your way. We have changed our
2 criteria to meet you guys everytime. We're going into 30
3 years. I asked my elder, what would she say if she could
4 come down here. She said, what I would say was, "when?"
5 And why do we have to be the only people to tell who we
6 are, to show who we are, when you have all of their
7 documentation, and still we have to go back and keep
8 showing you more and more documentation. You guys have it
9 up there in Washington, we have taken it up to Washington.
10 It has been submitted.

11 Now, my elder who was a child and now he's like
12 80 and he has been going through this process, so you
13 know, I was a child and seeing my mom and dad go through
14 this and seeing the other elders go through this and now
15 I'm 66 years old, so are you going to tell us now that we
16 got another ten years? I'll be 76. My siblings will be
17 all gone like our elders are disappearing. So I want to
18 know how long is it going to take us to do this? We're
19 supposed to be number five on the list or something, now
20 I'm hearing that there's like hundreds.

21 MR. ROBERTS: Okay. So thank you. Thank you
22 for your comments. I'm going to address your letter
23 first. So we sent out the letters because we thought it
24 would be fair to notify those petitioners that are in
25 active consideration or waiting like yourself to say,

1 look, we're starting this process just so you know and we
2 may be changing the rules as we're going along. If you
3 want to -- it probably could have been expressed better in
4 your letter, but we're essentially trying to say, look, if
5 you want to suspend it right now please let us know as
6 soon as possible so we're not committing resources to that
7 petition. If you don't want to suspend it you don't have
8 to. The immediate feedback that we got from petitioner's
9 like yourself is and it's a completely fair comment is,
10 wait a second, we haven't even seen the discussion draft,
11 we don't know what the rules are going to be and you're
12 asking us to make a decision in a time frame that we don't
13 even know what the new rules will be; and that's
14 completely fair. So what we're trying to express through
15 this letter is, as we're going through this process
16 petitioners should feel free to write to us and say, we
17 want to suspend active consideration of our petition given
18 that you're going through the rule making -- it's up to
19 you in terms of whether you want to do that or not. So
20 this deadline of July 31st isn't a -- it's a, let us know
21 as soon as possible. If that deadline passes and let's
22 say 18 months from now we issue a -- we're close to
23 issuing a new rule and you see that and you say, you know
24 what, we just want to take a time out for six months you
25 can do it then. We're trying to manage our resources

1 internally. Working on those petitioners that want to go
2 forward under the process, knowing that we're working on
3 these rule makings, but what we don't want to have happen
4 is a petitioner say, hey, we didn't know you were doing
5 this, we didn't know that you were looking at the rules
6 and we didn't want you working on our petition during that
7 time. So we want to make everyone aware that if they want
8 to take a time out they can do that essentially.

9 Does that answer your question about the letter?

10 THE SPEAKER: No. Really, what I am saying is
11 that, so if you went into suspension and then how long is
12 that going to take?

13 MR. ROBERTS: It's up to the tribe. It's up to
14 the petitioner.

15 THE SPEAKER: Okay. So why have we waited all
16 of this time? So are we going to have wait another -- if
17 this comes out and it's not favorable, we don't want to go
18 this way, so is it going to take another ten, 15 years for
19 us to become recognized?

20 MR. ROBERTS: It's up to you as to whether you
21 want to suspend or not.

22 THE SPEAKER: I'm asking about being recognized.

23 MR. ROBERTS: I don't know the specifics of your
24 petition, where you are in the process. I can't tell you
25 the timelines. I'm happy to talk with you offline or at

1 break to get more information. I do think in terms of
2 your other comments about the process itself, those are
3 all extremely helpful in terms of the burdens and the
4 generational work on this that it's taken and still no
5 answers. What we really need from for the department, is
6 we need concrete objective suggestions, how do we fix it.
7 I hear you saying it's broken, it's not working, it's
8 multi-generational. What we need is, how do we fix it
9 specifically. And that's what we need -- what encouraged
10 folks to send us by the August 16th deadline so we can
11 consider that, but that's not the only opportunity to
12 consider how do we fix -- how do we improve this process.
13 There will be another opportunity to do that at the
14 proposed rule stage.

15 THE SPEAKER: And also when there's another time
16 to make comments on the open floor, is it going to be open
17 to everybody or are you just -- is it going to be here in
18 California?

19 MR. ROBERTS: Oh, we haven't picked the
20 locations yet of the consultations for the proposed rule.
21 I don't know when we will do that. I will say I
22 appreciate the comment that there are a lot of petitioners
23 pending in California. I have a list that there's 79 out
24 of the 352 that have at least filed a notice of intent to
25 petition, that 79 of those are here in California. I

1 don't know where those are going to be on the proposed
2 rule. I hear your comment that it should be here and I
3 will take that into consideration. I will say that we've
4 heard from petitioners that why aren't we going to other
5 states, why aren't we going -- you know, we do have
6 limited resources. We're doing five public meetings and
7 consultations on this preliminary draft. I don't know how
8 many we will do on the proposed rule, but we're going to
9 try to hit as many locations as we can within our
10 resources. So just to give you an example of what we do
11 in the normal context with proposed rules, the department
12 finalized regulations governing leasing of Indian lands.
13 For those proposed rules, we had three consultations and
14 we didn't have any public meetings to the best of my
15 knowledge, we just had three consultations across the
16 country. So for this discussion draft we're doing five.
17 I hear you saying we need to come to California for the
18 proposed rule on proposed rule and consultation, and we'll
19 take that into account, but we're also dealing with
20 limited resources. So I can't say where we're going to
21 consult and meet on the proposed rule just yet.

22 THE SPEAKER: As a non-federally recognized
23 tribe, we too are dealing with finances and resources that
24 we don't have, and to come here, that's why we can't bring
25 a lot of our people here because it's costly; and so we

1 just don't have the money. Our main thing, what we do is
2 we have our Indian taco sale at our fair, and then that's
3 where we raise our money and we make money like that. So
4 we are on very limited income. Thank you.

5 MR. ROBERTS: Thank you.

6 THE SPEAKER: My name is John Ammon, A-m-m-o-n.
7 Our ancestral home is along the Trinity River in Humboldt
8 and Trinity counties. I bring you greetings from my tribe
9 and ask for your safe travel and protection for everyone
10 and for your friends and family.

11 I have a question about the placeholders that
12 are in the document. Do you want each of us to send in,
13 it should be 49 percent or 40 percent or 50 percent? I'm
14 confused as to how that's going to work.

15 MR. ROBERTS: So we're looking for comments from
16 everyone. So there may be disagreements in this room in
17 terms of what the percentage should be or whether we
18 should be looking at tribes. But what we want to do is
19 it's something that rather than impose the number or pick
20 a number in this discussion draft, we said, well, let's
21 leave this as a placeholder and see, let's see what the
22 public has to say about what these numbers should say.

23 THE SPEAKER: So all of us then should submit
24 those placeholders?

25 MR. ROBERTS: It's up to you.

1 THE WITNESS: The other question, as you
2 commented about resources, do you want comment on your
3 resources? Do you need more support from us to get more
4 help in your department?

5 MR. ROBERTS: That's a good question. I don't
6 know at this point.

7 THE SPEAKER: Well, I think that --

8 MR. ROBERTS: I suppose in this time frame of
9 constricting budgets we can always use more resources.

10 THE SPEAKER: Because some of us are politically
11 connected and able to go to our representatives and
12 specifically state that we came to this hearing and it was
13 stated that you have limited resources and perhaps that's
14 why there's only five places in the United States where
15 you traveled to make these hearings, and hopefully that
16 would alleviate some of the problems for the petitioners.

17 MR. ROBERTS: I don't want to interrupt you, but
18 I do think what is important on the resource issue, just
19 to share with the group, we had a consultation and public
20 meeting session in Oregon and some of the comments that we
21 heard there were that the issue with the regulations is
22 procedural and resources, and we should be providing more
23 resources to it, but we shouldn't be changing the criteria
24 or the process itself, we should be cutting down on sort
25 of how their process, but expedited yeses and expedited

1 nos, they weren't necessarily sure. They were basically
2 saying we think it's a resource issue. So it's important
3 to have those comments in terms of here as to what the
4 issues are. Should we be -- are folks supportive of the
5 proposed changes or how can they be improved or do they
6 need to be improved.

7 THE SPEAKER: Just as a petitioner, I want to
8 express to you that I'm confused as to what to do, you
9 know, should we suspend like a previous speaker or should
10 we wait? We've been waiting for so long and we're
11 frustrated in that it's so time consuming, it's so
12 expensive. It's very confusing for us to, I think make
13 the proper decision for our petition.

14 MR. ROBERTS: So we can't make that decision for
15 any particular petitioner. You have to make that on your
16 own. What I will say, what I will try to reiterate is
17 what we've tried to do is say, if you are in that
18 situation where you're either active, actually being
19 considered right now or ready and waiting, please let us
20 know essentially as soon as possible whether you want to
21 suspend. Because let's say, for example, we have a
22 petitioner who is under active consideration right now and
23 let's say that for whatever reason they say, you know
24 what, we do want to suspend right now, we can then, within
25 the department, take those resources that have been

1 working on petitioner A and move those to the next
2 petitioner in line. So while we want to know as early as
3 possible, the July 31st date is not like a deadline where
4 you would not be able to suspend later in time.

5 THE WITNESS: Then if you did choose to suspend,
6 you would place it on another list in arrangement order?

7 MR. ROBERTS: I think if you choose to suspend
8 you're essentially -- once you would come off of
9 suspension you would go back to where you were in line
10 itself, you wouldn't lose your spot.

11 THE SPEAKER: I think that's a clarification
12 that we needed.

13 MS. CHINN: It's also important to know that
14 under the draft regulations as they are now your choice is
15 preserved. If you're on active consideration and the new
16 regulations come out, the way they're written right now
17 you can still choose whether to go under the old
18 regulations or the new regulations, even if you choose to
19 suspend.

20 THE SPEAKER: I'm on the elder's council, the
21 ruling body for my tribe. And because of constraints and
22 distance I'm the person representing our tribe. I bring
23 the concerns very specifically, we are a tribe that had
24 previously been acknowledged. And my question is: How
25 will the process affect us because we did have or do have

1 previously acknowledgement?

2 MR. ROBERTS: So under the discussion draft, and
3 it's just a draft that is likely to change, if there is
4 previous ambiguous federal acknowledgement we take that
5 date or 1934, whichever is more recent. So we're not
6 changing the regulations for previous unambiguous federal
7 acknowledgement and how those work. What we're doing is
8 we're taking whichever date is more recent to begin the
9 analysis. So under the current previous unambiguous
10 federal acknowledgement reservation, we look at certain
11 criteria that is not changed in the proposed discussion
12 draft; that would be status quo.

13 THE SPEAKER: Okay. And you stated that
14 probably the changes in the regulations will probably be
15 like two years? That's a question.

16 MR. ROBERTS: It's a best guess.

17 THE WITNESS: Okay. Will previous
18 acknowledgement bring about technical reviews for us?

19 MR. ROBERTS: I don't think the discussion draft
20 has changed the technical review process. So that remains
21 the same.

22 THE SPEAKER: In 1995 we submitted to BAR and
23 well, it's you guy now, a request for determination
24 regarding previous acknowledgement. That was in 1995 and
25 we were determined at that time to be previously

1 acknowledged. In 1996 we submitted our documentation B
2 through G and at that time we asked for BAR to give us
3 guidance and we've never heard a response.

4 MR. ROBERTS: Okay. I don't know the specifics
5 of your situation.

6 THE SPEAKER: Right. But I think that other
7 people have expressed that same thing. We are noticeably
8 not getting responses. And since 1995 I think that -- oh
9 man, it's just so frustrating. And I think because of the
10 presidency now and his commitment to the tribes that the
11 changes are taking place, and I acknowledge that, but it's
12 been 18 years we've been waiting. And actually it goes
13 back further when California became a state, 1850. It's
14 well known, and it was pointed out earlier the treaties,
15 and you mentioned it were lobbied against by our new
16 legislators and then California treaties were never past.
17 And now as you pointed out, there are 79 petitions from
18 California of the 352 and that's -- the date on that is
19 July 31st of 2012.

20 The statement was made that the land is too
21 valuable for savages, that's part of the argument that was
22 made against the treaties. It's hard to understand why my
23 mother was taken -- I'm sorry. She was taken to boarding
24 school and how here we are trying to prove we're Indians.
25 My grandmother was taken by a soldier, Cap White, she gave

1 birth to four boys, my half uncles. Later after he left,
2 transferred I guess, another soldier, Samuel Benjamin
3 Taylor, took her. She gave birth to my mother. My aunt
4 -- soldiers hunted and killed my ancestors. I resented
5 Squirrel Tail Tom. He was killed. His head was brought
6 back to verify that he was dead. Who are the savages?
7 Who are the savages now? This is not unique to my tribe,
8 so I had to move to relocate to keep from being killed.
9 Like the tribe from Carmel, San Francisco Bay area.
10 Please make the changes so that the federal government can
11 remedy the injustice created here in California. Report
12 to the secretary so that changes take place in an
13 expedient manner. Thank you.

14 MR. ROBERTS: Thank you.

15 THE SPEAKER: (Speaking in unknown language).

16 My name is Mandy Marine and I'm a member of the
17 Dunlap Band of the Mono Indians. I'm also a descendent of
18 the Muwekma. I'm also a descendent of Maidu. None of my
19 tribes are federally recognized.

20 I thought I got all of my crying out earlier,
21 but this is frustrating. I'm an archaeologist and an
22 anthropologist. And our tribes have been working on
23 federal recognitions for 30 years or so. And I have a few
24 comments and some questions. My comments are in regards
25 to the process that as tribes here in California people

1 don't give us credit for being indians and knowing who we
2 are because they see California as such a conquered state,
3 a port state where the Spanish came in and the Russians
4 came in and the French have been here. How can we be
5 Indians when we've been conquered for so long? And we're
6 not conquered. If we were conquered we would have quit
7 being Indians a long time ago and we haven't. As an
8 anthropologist, I work in the records every day, and the
9 records were written a long time ago with the few
10 informants, and yet they have become the gospel of
11 California. And as tribes trying to establish their
12 identity, we've been put in a position where we almost
13 have to create or be creative about who we are because if
14 it doesn't match that record we're doubted. If we try to
15 re-establish what we know our history to be, it's
16 questioned. And that's not an opinion that's mine, that's
17 fact. I work with professionals. I have a degree. I sit
18 at the table and I did that because I got tired of people
19 telling me who I was. I wasn't old enough to know my
20 history, I wasn't an elder, I wasn't a professional. I
21 was raised with my elders, I know my community. I know my
22 culture. But there's always an archaeologist or
23 anthropologist always sitting around saying who I am and
24 how they know it better, and that's why I am one because
25 that's the only way I could sit at the table and argue for

1 my tribes. And sometimes I get it wrong, it happens.

2 The process though, it makes us be creative
3 because people don't believe unless it's written. I work
4 in Agra, we're not invited to the table because we're
5 unrecognized. Other tribes get to be invited to handle
6 our collection. I work on the East Coast with museums and
7 their reviewers tell me how nice it is that I was able to
8 learn my history and how great the anthropologists were
9 for having documented it so well. I say, you know what,
10 we didn't learn our history from a book, we know our
11 history. And they don't understand that. And that's what
12 we're faced with here in California, is as tribes we have
13 to prove ourselves because we have prove ourselves based
14 on a written record so the reviewers can vouch for the
15 authenticity of our petition.

16 I'm not here as a tribal representative. I
17 don't represent the tribe. I'm a member, I'm a citizen.
18 I have a vested interest personally. I'm not going to get
19 anything out of federal recognition. I have a job. I
20 have a house. I have schooling. We were recognized at
21 some point, we have, you know, 100 -- a couple hundred
22 acres amongst four multiple families. The bureau finds it
23 appropriate to oversee our lands, but they don't recognize
24 that they actually have people that live there. You talk
25 about getting the information out to the public, the

1 Internet, the federal registers, all of that stuff is
2 great, but my community still doesn't have running water
3 or electricity. We have outdoor plumbing. I appreciate
4 your concern for the environment. We can't even get
5 running water. So as much as I'd like to be on board with
6 you, I'm still trying to get the little things taken care
7 of and that's what federal recognition offers to us. I've
8 been groomed under federal recognition under ICWA, my
9 mom's background. People call us and they say, are you
10 recognized? I'm a teenager and I say, yes, we're
11 recognized, call the tribe. I don't know who these kids
12 are. CPS calls me, calls my house, we had the only phone.
13 We're groomed to say we're a federally recognized tribe
14 because we at least get to stop one kid from being taken
15 into some strange custody. We were recognized enough that
16 we had HUD housing. And we have people now without houses
17 and indoor plumbing and water, but we were recognized
18 enough, my grandpa was the housing guy. He put in septic
19 for a lot of our elders, they got grants then, but they're
20 not eligible now. I just happened to be raised in the
21 timeframe when federal recognition stopped being Indians
22 in the United States and started being federally
23 recognized individual tribes. So as a kid we were
24 Indians, but as a teenager I wasn't, and as an adult I'm
25 really not. Whatever. I'll work with it.

1 The gentleman brought up California. In our
2 communities we have Indians enough to get role numbers but
3 they're not recognized anymore. Our birth certificates
4 say we were born indians but we're not, I don't know.
5 Well, I know it doesn't change me from being Indian, but
6 somewhere in some legal record somebody may question that
7 one day. I'm not sure who's going to change and fix that
8 one. My family was recognized enough to get school loans
9 when they were in college. We've lost a lot of our tribal
10 membership because we want them to be recognized. They're
11 always welcome to come home to Dunlap. But like my
12 sisters, we sent them to their dad's tribe, they will
13 always be Dunlap Monos. But there was a rule in Northrop
14 Rancheria because we had to let our membership go where
15 they could be protected and they could receive benefits.
16 They're always welcome to come home to Dunlap. But they
17 are enrolled somewhere else, and that's what we could do
18 with our tribal community to help them.

19 As far as the process, I have a question for
20 those of us who do not have a letter or submitted a
21 petition but have been given a number based on the letter
22 of intent, we're sitting down here patiently on this --
23 down in the '80s. When we make our way up the list I
24 suppose it's a good time to have your petition ready to
25 submit, but when you're number 80 it's not like you're

1 sitting around with your petition in hand. In this
2 process what happens to all of those tribes that have been
3 patiently waiting with their number? Are they all going
4 to the back of the line for those people who have their
5 petition in hand and the process becomes immediately
6 accessible to those first?

7 MR. ROBERTS: So my understanding of the process
8 currently is, like you said, you've submitted a letter of
9 intent, right?

10 THE SPEAKER: Yes.

11 MR. ROBERTS: And we have 352 petitioners that
12 have submitted that. There is nothing stopping any
13 petitioner now from completing their petition; and then
14 even though you're number 80, let's say you completed your
15 petition tomorrow, you would then move up to the active or
16 ready and waiting to be considered list. So the number
17 you have now just signifies when you've gotten into the
18 process, when you've submitted your letter of intent. If
19 you completed your petition tomorrow you could go up to
20 the ready and waiting to be considered. And so let's say,
21 for example, you get up to the ready and waiting to be
22 considered, and let's say you both submit your petitions
23 on the same day, only then would that number, is my
24 understanding, would that come into play. Let's say you
25 were number 80 and number 341 submitted theirs on the same

1 day, because you got your letter of intent issued earlier
2 you would be up higher. But you can submit your petition
3 now.

4 THE SPEAKER: So you have built in a
5 grandfathering clause for those people that are patiently
6 sitting on that petition, letter of intent waiting list?

7 MR. ROBERTS: If you have your letter of intent
8 you can submit your petition at any time, that's the
9 status quo.

10 THE SPEAKER: I get that. What I was
11 questioning is if number 300 shows up with their petition
12 in hand, those of us that have been patiently waiting with
13 no expectations of being heard tomorrow because we're down
14 in the '80s, are those numbers 300 going to be seen before
15 us and we're just going to be sitting back in limbo still
16 or is there a grandfathered in clause that allows us to
17 maintain our seat?

18 MS. CHINN: Are you asking about under the draft
19 regulations? So under the draft you receive your priority
20 number after you go through the expedited findings, and
21 then if petitioners have the same priority number, then
22 your letter of intent becomes a tiebreaker.

23 THE SPEAKER: Well, I'm kind of winging it here
24 and I may just stop my conversation here.

25 MR. ROBERTS: If you're going to stop what I

1 would like to say, just a couple of things, thank you for,
2 one, sharing your personal experiences, number one. But
3 number two, because of your background, it's important for
4 you from an anthropologist with that degree to tell us how
5 we can improve this process from your own expertise; and
6 so that would be very valuable in terms of concrete sort
7 of written comments in terms of how we can improve the
8 process with someone from your expertise.

9 THE SPEAKER: Thank you. I did actually
10 remember what I was going to say and it was kind of more
11 of a, I don't know, I probably shouldn't say it, but I do
12 these things, you know. The gentleman brought up
13 California and one of the things that catches me ironic is
14 that in California you have this big payout for the state
15 of California. We had tribal people in the 1960s that
16 they got their \$200 checks and it's like you bought the
17 state of California, but the people you bought it from,
18 they weren't really sold. So is California really sold or
19 what happened to that transaction? What really irks me
20 about this process is the divide and conquer mentality
21 that has been imposed on the Indians. We're fighting for
22 who's going to be the first one at the table, who can get
23 their genealogy together first, because if the neighboring
24 tribes beats me are they going to get recognized and then
25 I'm not? There's this competition amongst us. There's

1 the small tribes like ourselves that we have very little
2 funding. Okay, we have no funding. We fundraise once in
3 awhile or I come out on my own dollar. I paid to come out
4 here and do stuff. I have a job, so I can help my tribe
5 with their federal recognition, otherwise I can do
6 something else. My family pays for their trips. We come
7 to these events at our own cost. It's a buy-in for us.
8 If we get too much money people question where our money
9 came from, you know. Are we getting casino support. Is
10 somebody investing in us. If we get too much money it red
11 flags us. So we stay grassroots so that we can stay out
12 of that politics. The divide and conquer concept is well
13 under-established in Indian country. This whole process,
14 it's hard enough to be an active citizen in California in
15 a different discussion than Indians. We have raised
16 issues in California and you can't speak too much Spanish
17 because then you're questioned about your origin. And for
18 us Indians, we get it all the time. But even mostly the
19 Indians, this whole process has made us second class
20 citizens amongst Indians. Federally recognized tribes
21 invite federally recognized tribes, they don't invite us.
22 And the irony is we're traditionalists and we're basket
23 weavers. They ask us to help them learn, but they won't
24 invite us to their events. We're good enough Indians for
25 one but we're not good enough Indians for another. This

1 whole process just reinforces our second-class citizenship
2 within our own Indian community. And that is just hurtful
3 and it's more hurtful that it comes from other Indians.
4 So I just appreciate everybody coming out and all the
5 words that are being shared and just everybody offering
6 their support to each other.

7 MR. ROBERTS: Thank you.

8 THE SPEAKER: Gina Lamb (phonetic) again. In
9 just listening to people's comments and concerns that
10 already have petitions in, as to whether or not they
11 should suspend or whether or not they should go with new
12 or wait for the new rules, I'm just wondering is there any
13 possibility to expedite, especially petitions that have
14 been in for ten to 30 years, to get some type of feedback
15 expedited in order for people to make that determination?
16 I mean, I think the idea of the assistance for petition,
17 like some type of petition assistance like guidelines is
18 essential, and I'm glad that that's been brought up, but
19 is there any way to make a commitment to this feedback
20 that people haven't gotten in ten and 30 years; and do we
21 need to request our government for resources to get this
22 done?

23 MR. ROBERTS: I think that's a good question.

24 It's something that we'll need to talk with folks within
25 the Office of Federal Acknowledgment when we get back and

1 it may be something where what we can do is I've heard
2 some folks say that they think they have a completed
3 petition in with the Office of Federal Acknowledgment but
4 they haven't heard anything from the office for many
5 years. And so we'll need to follow-up to see what sort of
6 outreach we can do there, even if it's a letter from the
7 Office of Federal Acknowledgment saying, yes, your
8 petition is complete and here's where you are on the
9 waiting list, or no, we don't deem your petition complete
10 at this time because of X, Y and Z. We'll have to take a
11 look at that with each petitioner.

12 What I would say is for those petitioners in the
13 room that have that concern, please during the break stop
14 by and talk to one of the three of us so we have that
15 contact information and we can reach out and get in
16 contact with you. So I don't really think we'll be doing
17 that for every single petitioner, but we will do it on a
18 case-by-case approach.

19 THE SPEAKER: My name is Shane Chapparosa. I'm
20 the tribal chairman for Los Coyotes Band of Cahuilla and
21 Cupeno Indians. We are a federally recognized tribe, and
22 being here listening to everybody, hearing everybody, now
23 I feel honored to be here and to say that now you know
24 firsthand what to take back to your superiors and
25 colleagues to make the changes and better decisions on the

1 laws that will benefit the tribes here in California and
2 across the nation. So I thank the office of the solicitor
3 and Indian affairs, Kevin Washburn's office for being here
4 and taking their time to take the step forward. Thank
5 you.

6 THE SPEAKER: My name is Julie Dick Tex,
7 J-u-l-i-e, D-i-c-k, T-e-x. I'm a member of the Dunlap
8 Band of Northern Indians of Dunlap, California eastern
9 federal county. My home is the Kings River, we were moved
10 out of there into Dunlap because they were logging
11 redwoods. My children recently walked me back to our
12 ancestor land to see my great grandmother's grave. We
13 just got identified to the forest service so that people
14 can't lewd it. But all of our people know where we came
15 from. Our band is very small. Many of us band members
16 are full-blooded Indian. We have no other ethnicity to
17 claim. In 1978 we were Indians, everybody was Indian as
18 long as they could claim a quarter Indian. Nobody has
19 talked about the self-determination act and what it's done
20 to us. My sister is very humble, Florence, Mr. Ammons is
21 very humble because his niece and my sister -- and my
22 sister, Sandra Chapman, her chairman, Jay Johnson sat on
23 the Congressional AAAIP for non-federally recognized
24 Indians. They wrote a book presented to Congress on
25 California Indians and how unique we are. California what

1 I consider the best state in the continental United States
2 is so diverse, it offers everything, but in that diversity
3 come our people. And in that diversity, as an
4 anthropologist, when we first started this field I can
5 remember sitting with the anthropologists in this big
6 arena and the Indians were appealing. This was back in
7 the '80s and they were appealing telling their stories of
8 their ancestors and why they got it wrong. And I remember
9 getting so mad, because you know what, it pains me and I
10 have pain. I get mad and when I get mad I have a tendency
11 to cry. I remember telling them and I'm going to tell the
12 same thing, it's BS. I'm an anthropologist. My daughter
13 is an anthropologist. My other daughter is an
14 anthropologist. We all read the same damn books that are
15 being read in Washington D.C. and they don't reflect the
16 history of our people. And until we write books or get
17 published, nothing is going to change. One of my
18 recommendations therefore would be to give us an
19 anthropologist to review our petitions because California
20 is unique. That's why you have 79 petitioners for federal
21 recognition. And that's why we know our people. That's
22 why you don't see any acknowledged tribes here because
23 they're okay and you're okay with our process. They don't
24 feel threatened with us. We're all Indians. We know our
25 people. We are the only race that has to prove who we

1 are. How unfair is that? I sleep, I drink, I sometimes
2 even dream in Mono. I don't know anything else but to be
3 Indian. My dad was the headman. We don't know tribal
4 council, we play the game really well. I have a master's
5 in social work. I got a master's in social work because
6 as a social worker I saw my relatives being adopted out,
7 and when I tried to sit around the table they said, "Are
8 you recognized?" "No." "You don't have expertise in
9 social work?" "No." "Well then why the hell am I going
10 to listen to you?" That's what it does to us. So we
11 learned how to play the game. I got educated, she got
12 educated. She's educated. Okay, if that's what it takes
13 to be around the table we've got that. And we play the
14 game so we can manipulate what we need to manipulate to
15 keep our tribe going. We're alive and well. We know our
16 people. We have a land base. We know our language and
17 we're perpetuating that. And we know our culture. That's
18 the sad part. We have baskets in museums all over the
19 United States. And do you know that some of those baskets
20 were probably considered fake because they weren't made by
21 a federally recognized Indians. When I taught my children
22 our culture they came to me as a child and they said,
23 "Mommy, we're sad." "Why?" She said, "Because we're
24 teaching the elders how to do these things, why would that
25 be?" And I had to explain to them the boarding school

1 phases and the adoption phases. And I said, "It's your
2 turn to each them and they're in turn going to teach their
3 generations and all things will be good. My dad was a
4 headman, my grandfather was a headman. We need California
5 anthropologists to understand that when you change this
6 law to 1930, we're going to have to revise some of our
7 thinking because tribal council is something new to us.
8 And only an anthropologists that understands the history
9 of California is going to understand that difference. We
10 ask that you have somebody from California be a reviewer.
11 And we ask that you recognize California as being so
12 diversified and so unique that you give us that at least.

13 The other thing about the AACIP is you see a lot
14 of us crying. Manny won't toot her own horn, but she's a
15 district liaison and she sees and works with many, many
16 tribes. So she sees what we don't get that they get. And
17 she has to advocate for all the tribes, which is good.
18 She comes from a long line of politicians on her side, her
19 dad who drug us as children to take minutes, our sister
20 who took minutes in California payout when she was 16 or
21 17. My children who were drug with us through federal
22 regulations who actually gave Congressional testimony to
23 the AACIP(sic). We saw many many years of testimony. We
24 sat through many many years of tears and heartbreak and
25 stories, because that's really what federal recognition

1 does to us, for the Indians who have always been Indians.
2 I know that sounds derogatory, but damn it, that's who we
3 are. We've always been Indians. And I know some of you
4 who are out there have members that are Johnny come late
5 -- I'm sorry, I'm going to put it out there, we who have
6 always been Indians, it's really unfair to us. My cousins
7 who have no running water and electricity, and who cannot
8 get out of getting a better education, getting help, it's
9 unfair to them.

10 One of the things I'm suspicious of is why 1930?
11 Is that because you don't want anybody to go into gaming?
12 Don't punish us who have our letter of intent prior to
13 gaming. Don't punish us. But that's our suspicion. And
14 that needs to be clarified.

15 MR. ROBERTS: What date would you have?

16 THE SPEAKER: I'm not going to throw out a date.
17 Why don't we even need a date? Why do you have to have a
18 date?

19 MR. ROBERTS: So what would be the approach then
20 if we didn't have a date?

21 THE SPEAKER: I don't know.

22 MR. ROBERTS: Okay.

23 THE SPEAKER: You know, we're going to submit
24 our comments.

25 MR. ROBERTS: Okay.

1 THE SPEAKER: This was thrown upon us in a
2 matter of two weeks to get over here and take time off of
3 work and find a place to stay, because it takes us four
4 and a half hours to get here. Why the hell did you guys
5 have a meeting in Solvang? It's not convenient. Why not
6 Fresno, Bakersfield, Sacramento? Why the hell here? It's
7 crazy. That's my personal comment. But thank you, I do
8 appreciate you coming. I really do appreciate you coming.
9 I work for a public agency, I know you're doing what you
10 have to do in order to meet the criteria for public
11 outreach because I do the same thing. Okay. It's just
12 that there were better ways and we'll submit our comments
13 on that, too. Thank you.

14 MR. ROBERTS: Thank you.

15 AUDIENCE MEMBER: She asked a valid question and
16 you answered it with a question. She said, "Why 1934?"
17 And you asked, "Why not?" Could you explain your
18 rationale for 1934.

19 MR. ROBERTS: Sure. 1934 that's when the
20 federal government changed it's policy from allotment and
21 assimilation to self-determination. So it's an enactment
22 of Indian American reorganization act.

23 AUDIENCE MEMBER: Did allotment apply to
24 California tribes? I apologize. Andrew Lara one Juaneno
25 Band of Mission Indians -- sorry, the mic isn't working.

1 My question is: Did allotment apply to
2 California tribes in general? Did the allotment process
3 apply to them?

4 MR. ROBERTS: I don't know that any Indian lands
5 were adopted in California. This is a discussion draft in
6 terms of --

7 THE SPEAKER: I can answer that. No.
8 California tribes were not part of the allotment process
9 because they fell under the 1928 CBIB(sic) and the monies
10 that were granted to them. They were never allotted
11 individual plots of land. So therefore 1934 is just, it's
12 arbitrary. It really shouldn't apply.

13 MR. ROBERTS: Okay.

14 THE SPEAKER: Again, this is an eye opener for
15 me, and really very important here. I'm kind of surprised
16 again. I'm with the Kiowa tribe but I'm not representing
17 the Kiowa tribe, I'm a member of the Kiowa tribe. We are
18 federally recognized. I don't know how many other
19 federally recognized tribal Indian Native American Indians
20 are here, but I think they should all see this, it's
21 important. I don't know our tribal leaders. I actually
22 called our Kiowa complex this morning on our ride up here
23 and they were unaware of this. Although our tribal
24 administrator, our tribal council, I'm sure they have some
25 sort of acknowledgement that was sent out to all the

1 tribes.

2 I am not quite sure of the role of the federally
3 recognized tribes and what they would play in this because
4 I heard the comment that they're secure, they're okay,
5 they don't have to worry about anything. I know that
6 growing up myself I had to -- I was born in the Clinton
7 Indian hospital in Oklahoma and I was telling my friends,
8 all I ever remember having to do, and I grew up being
9 called an Indian, an Indian. We had to always prove who
10 we were and we always had to have your tribal IDs, your
11 birth certificate. You had to have that to get any
12 services for anything, for any of the clinics and anything
13 like that, that's all I know. I ran an election, and good
14 to see you Mr. Andrade back there, in L.A. awhile back for
15 -- as a commissioner. This has been maybe 15, 20 years
16 ago, I've been out here for 28 years but I go home
17 regularly. I ran an election there and I had to prove
18 too, then at that time. You don't have to do that now. I
19 didn't know how to take that, you know, because of the
20 change; but I understand something here today and it is an
21 eye opener here. I have a program that I developed and
22 this is something, it's the Native American Indian
23 Parents, Family and Friends of Victims of Murdered -- out
24 of California State University in Dominguez Hills. The
25 only Native American Indian family that fall victim to

1 murder in their family, and this goes back to whatever
2 generation you want. I lost two sons to that in Oklahoma
3 and here in California. We come from a traditional tribe,
4 so called. What I see here I feel like, I want to say
5 this, I'm really sorry that there are not a lot of
6 federally recognized tribal leaders here today, and again
7 this is just my own thoughts, because they should be here.
8 And then I wonder about that because how can they support
9 this? How can they help because they have the authority
10 as a tribal sovereign nation to help process these things
11 as Indian people, helping Indian people. My heart goes
12 out because I never heard this kind of stuff before and I
13 have, again not dealing with my own issues here and trying
14 to work with all Indian families, you know, that fall
15 victim to -- we just put on two celebrations honoring
16 national victim rights here in California and in Oklahoma,
17 the two largest Native American Indian populated states in
18 the country. But what I see here too is victimization
19 here. It's not good, you know. I've heard these things
20 that go on here and I'm experiencing the older I get the
21 more I'm out here, as well as back home, that we're
22 supposed to take care of each other and help each other,
23 that's the Indian way, you were always taught that. Never
24 to say no. But we've allowed the government here to
25 dictate who can be an Indian and who cannot be an Indian

1 and we have to follow those ordinances, those rules, those
2 policies. I was told that my Grandpa's Grandpa, his name
3 was Billy Bogle Long Wolf (phonetic), he was the principal
4 chief of our tribe, helped to establish some of the
5 guidelines with a translator and also helped to establish
6 some of the policies of the Bureau of Indian Affairs as it
7 was being established in the 1800s. But I wonder about
8 the day the leadership of the federally recognized tribes
9 and the chairman, I forgot the chairman's name here, but I
10 was glad that he was here, I just wish there were more
11 federally recognized tribal leaders here. And I don't
12 know the other places where you're going, but I hope they
13 get more of a turn out for federally recognized tribes so
14 that they can hear the reality of it. Because I've
15 learned living in this state about this historical state
16 recognized tribes, and very unheard of in our area where
17 I'm from in Oklahoma, but to hear this and then to see
18 some of the people here and how we as Native American
19 Indians have allowed other tribes to become victims of the
20 policies of the Bureau of Indian Affairs, Congress, the
21 judicial system here in this country... I just want to
22 tell you my heart goes out to all of you who are seeking
23 your petition to become a federally recognized tribe
24 because I right now believe we all should become a
25 federally recognized tribe and it shouldn't take two years

1 to snap to it and do it because that's what it's about,
2 you know.

3 Anyways, I don't know what to say. This is
4 amazing to me, you know. God bless you all and I hope you
5 all get to your goals because it really is heartbreaking
6 to know that our Indian people get treated like this all
7 the time. Justice is what it's all about, justice for all
8 of us.

9 THE SPEAKER: Hello. My name is Jessica
10 Bevins (phonetic), I'm a member of the United Houma Nation
11 from Houma, Louisiana. My tribe's petition has been
12 pending for 29 years. I know that because it was
13 submitted the year that I was born so we could keep track
14 of it. We submitted our letter of intent in 1979,
15 submitted the petition in 1984. First, I do want to
16 express support for the amendments for the regulations in
17 general. I know so many people here have said this is a
18 broken process that needs to get fixed. That being said,
19 I do think that there are a lot of questions about the
20 proposed regulations that we have seen today. Some
21 specific questions: First, you said that the tribes which
22 are in active consideration such as my tribe could suspend
23 their petition and then re-submit under the new
24 regulations. My question is, how will that order be
25 determined? Will we be in the same position that we were,

1 that we're currently pending or is it just going to be
2 like first-come first-serve whoever submits their
3 petition? The regulations are unclear on this.

4 Second, I do want to express my support for
5 subsection -- criteria (e) which allows for historians and
6 anthropologists' conclusion, this is in addition to the
7 regulation and I think that's a really good addition. But
8 I have a question about criteria (e) which is that the
9 other criterias (b) and (c) have to change to 1934 that
10 we've been talking. However, criteria (e) goes back to
11 historical times. So my question is: Why wasn't criteria
12 (e) changed to parallel the 1934 date with the other
13 criteria?

14 Our tribe illustrates -- well, why should this
15 criteria also be limited to a certain amount of time
16 versus some kind of guidance on what period of time we're
17 looking at? Because this tribe states of every other
18 tribe in the state of Louisiana recognizes our tribe to be
19 Houma, and the state of Louisiana has recognized our tribe
20 to be Houma, even though federal experts on southern
21 tribes such as John Swanson and Frank (inaudible)
22 identified our tribe as Houma, the VIA still questioned
23 that we were descendents from the Houma tribe. So this
24 criteria needs to be changed.

25 Fourth, you said that one criteria that would be

1 considered for an expedited finding was a state
2 reservation. I'm wondering if that includes state
3 recognition or if it's specifically limited to state
4 reservation?

5 Lastly, my tribe also got the letter from July
6 31st requesting that we -- or the letter requesting that
7 we let you know by July 31st whether we'd like to suspend
8 the petition. We're in this really unique situation
9 because our tribe petitioned and had to suspend due to
10 working Katrina and the BP oil spill which greatly
11 affected our tribe since we right on the bayous of the
12 coastal living area. And do we still have to suspend even
13 though it's stated and that may be something that we can
14 talk about.

15 MR. ROBERTS: That's something we can talk about
16 during a break. My sense is, no, if you're already
17 suspended that you don't have to suspend again.

18 In terms of your first question in terms of
19 timing, I think that's something that we would need to
20 clarify in the proposed rule, that's a good point. In
21 terms of your question on (e), decent from a historic
22 tribe, we've not changed that date to 1934 just based on
23 -- we want to essentially make sure that how we're moving
24 forward is that we are recognizing a tribe, a historic
25 tribe that has continued to exist. So we left it as the

1 current status, but we welcome comments on that. I don't
2 think we're going to obviously get everything right in
3 terms of a discussion draft, that's why we circulated it.
4 So if there are other approaches or other dates we
5 appreciate feedback on that or other rationales why 1934
6 would be appropriate for that particular criteria.

7 THE SPEAKER: I have one last question about the
8 state recognition.

9 MR. ROBERTS: I'm sorry, so for state
10 reservation versus state recognition, we have limited it
11 to state reservations. Some comments have been that every
12 state uses a different process for state recognition of
13 the tribes, and so the state reservation approach from
14 1934 to the present really shows, I think, that the
15 community there, right, and political authority, if
16 they've had that land base for that period of time. And
17 so it's something, again, in the discussion draft that
18 we're willing to consider it or if you think state
19 recognition should be there. Essentially everything, you
20 know, we're opening up all suggestions and how to improve
21 it, but I think there have been criticisms that some
22 states don't do any review, they just will recognize all
23 the requests of a particular group. So that's why.

24 THE SPEAKER: Thank you.

25 THE SPEAKER: My name is David Galvan again.

1 Just sitting here listening to everyone today, and first
2 of all, I'm not representing the Miwok tribe. I'm a
3 liaison. I'm here to bring this information back to our
4 tribal members. My tribal members are very old. We've
5 been trying to be federally recognized since my
6 grandmother has been alive, she died in '72. So my whole
7 family, my grandmother and my aunts and uncles, we're all
8 federally recognized with BIA numbers. But I being born
9 after 1972 never received a number but I am recognized by
10 the state of California. We have historic documents in of
11 the Miwok tribe before this became the United States.

12 I have created questions of my tribal members
13 that I'd like to give to you so you may respond to them,
14 mostly concerning the revised act we've been speaking of
15 today. The majority question that sticks in my mind right
16 now is state recognition and federal recognition.

17 If we have historically documenting on federal
18 documents of our tribe, how come the federal government
19 does not recognize that name?

20 That's one maybe question we don't understand.
21 We are recognized by the state, the documents are held by
22 the state. So these questions here also consist of other
23 questions that might pursue other petitions, tribes of
24 ourselves today on recommendation for you guys. And what
25 I've heard today on my recommendation is that I think you

1 need to expedite the time for petitions for these 79
2 tribes in California. For you and the federal government
3 expedite us to respond to you guys within a matter of
4 weeks, but we are in there have been waiting for a matter
5 of decades to hear a response. And I recommend this also
6 to be put in as your recommendation on helping recognize
7 federal tribes in the United States. Thank you.

8 MR. ROBERTS: Thank you.

9 THE SPEAKER: Thank you. My name is
10 Sandy Hester. I'm a friend of the Ohlone and Tsungwe
11 tribes, but I'm a member of the California Democratic
12 party and Native American Caucus. I'm speaking here as a
13 California citizen and I care about this community. I
14 have a master's degree in public policy, so I'm taking a
15 look at the document, and as requested to try to help
16 improve it and make it more user friendly and really help
17 recognized tribes in an expedited manner.

18 I would just like to chime in on the issue of
19 state and federal recognition, that you could be flexible
20 in your regulations or in your new guidelines to recognize
21 state rights; and if the states have recognized a tribe in
22 certain ways, that you respect that and accept that as a
23 part of your recognition criteria. Whatever that may be.
24 So that would be a recommendation.

25 On page 6, the discussion on the draft revisions

1 where it says, "Withdrawal an automatic final
2 determination. The petitioners may withdraw a petition
3 any time before a proposed finding is published, but if --
4 then you would be ceased consideration upon withdrawal.
5 And then you'd have to re-submit a petition. But it would
6 be placed at the bottom of the numbered register and may
7 not regain its initial priority number."

8 I suggest you delete that and replace it because
9 it's unfair. And those that are in the process, on the
10 active list or ready and waiting, that they be assigned a
11 liaison to work with them upon meeting the criteria within
12 a certain described timeline. Because it's unfair to
13 place them back at the bottom of the list. They should
14 regain their status on the list. Also on page 6, the
15 discussion, "Who issues the final determination." You've
16 described, "OFA prepares and AS-IA both issues the finding
17 and final determinations." And I don't know how
18 transparent that process is, but I would recommend that
19 you make it transparent. I guess the office of hearing
20 and appeals is in charge of that, I don't know. But who
21 are these people? How are they selected? And they
22 obviously need to be increased in numbers so they can
23 expedite their jobs, get these petitions done and signed.
24 If they're making final determinations you need more
25 people to do it. That's ridiculous that it's been 20

1 years, 30 years for some tribes. It just shows a total
2 lack of disrespect for the Native Americans. It's
3 unacceptable. So I would recommend you do everything
4 possible to increase your staff.

5 I would suggest you work perhaps with the
6 National Volunteer Registry and train volunteers to work
7 with petitioners to help, and to help you expedite these
8 petitions and obtain in a timely manner. I would think
9 you should establish a timeline for your work. You get a
10 petition, how much longer, in three months you have to
11 have it at this status and four more months you have to
12 have it at this status and so on. And if it's not done by
13 then, you need to have an automatic allocation from
14 Congress to increase your staff to meet your guidelines.

15 On page 7 -- oh, you're saying, "Currently the
16 final determination" and that is appealed both to the
17 appealable to the Interior Board of Indian Appeals and
18 then all challenges to final determination would instead
19 have to be filed in federal court." I would say that I
20 challenge that, that the federal court is too slow, too
21 costly, too much expertise is involved for these tribes to
22 come up with a way to fight something in court; and I
23 would recommend that instead you submit that -- suggest a
24 recommended arbitration process instead of going to court.
25 It would save money, it would save time and it would be

1 more user-friendly so we can get the results that we all
2 want.

3 Also on Page 7 I guess it's anyone who is under
4 active consideration and under the new process and files a
5 new document petition, I guess that's in the second slide,
6 that I suggest that you provide a process for
7 reconsideration of their status instead of they've already
8 been in line, and assign staff and a liaison to work with
9 them. I think I mentioned that earlier. But I highly
10 recommend that to be fair to people, to tribes who already
11 submitted petitions and who don't want to lose their
12 status. It's very unsettling and unnerving to think that
13 they may have to suspend all the work that they've been
14 doing for 20 years, 30 years and then come under the new
15 process that won't even be available for two more years
16 and not know where they're going to be. That's an
17 unreasonable request and they should not lose their place
18 in line.

19 I think on communicating with the public, I
20 would suggest -- there's not electricity or Internet, but
21 our public libraries have computers. I would suggest you
22 work with -- at the federal level, with a library system
23 whoever that department is and ask them to put out
24 information in the library that would inform the community
25 that they can come to the library, get online and have

1 people help them and put their comments, have a process on
2 your Web page where people can make their comments on your
3 Web page and use the local libraries to do that. Thank
4 you.

5 MR. ROBERTS: Thank you.

6 THE SPEAKER: (Speaking in unknown language).

7 My name is Jerome Fredericks. I'm the headman
8 of the Antelope Valley Indian community in Antelope
9 Valley, California, petitioner Number 76.

10 It's a little inconvenient for me. We've been
11 involved in the process for quite awhile. My tribe has a
12 very unique background here in California. We were one of
13 four tribes that I know that were granted half-blood
14 Indian community status prior to regulations implemented
15 in 1978. Of those four tribes, us and Mono Lake Indian
16 community who are the only ones who aren't recognized
17 today. Another part of our tribe's history is we were
18 relocated by the Indian Service in the 1930s who were
19 actually removed from the Ohlone Valley in the Bishop area
20 of California, and we were relocated in Coalville,
21 California, which is in Mono County; and today we are
22 still the remaining tribe members that actually hold our
23 allotment that was part of the original allotment that was
24 sold. But today we are still unrecognized. I would like
25 to know, how do these regulations apply to half-blood

1 Indian communities?

2 MR. ROBERTS: The half-blood Indian community
3 process, as I understand it, is separate legally from the
4 Part 83 process, so they're two different processes.

5 THE SPEAKER: I'm not to put you guys on the
6 spot or anything but when we tried to organize, we weren't
7 given any assistance from the Bureau of Indian Affairs.
8 How would we proceed on that?

9 MR. ROBERTS: Under the Part 83?

10 THE SPEAKER: Either/or --

11 MR. ROBERTS: So the Part 83 process of Bureau
12 of Indian Affairs is not involved in it, it's with the
13 Office of Federal Acknowledgment. So typically through
14 the Part 83 process once a petitioner submits a completed
15 petition it then goes into a technical review by the
16 Office of Federal Acknowledgment. They take a look at it
17 and they typically meet with the petitioner or have
18 conference calls and say, Okay, we've received your
19 petition, here is where we think it needs to be
20 strengthened, and they provide that also in writing.

21 So there's some technical assistance. If you
22 think there needs to be more technical assistance
23 throughout the process, you know, that is something that
24 we'll be considering as we move forward with the proposed
25 rule.

1 THE SPEAKER: I'm not sure if you quite answered
2 my question. How does this apply to the half-blood Indian
3 communities?

4 MR. ROBERTS: They're different processes.

5 MS. CHINN: My understanding is when you're
6 trying to organize under the BIA as a half-blood you would
7 submit a letter to ASIA (phonetic). It's a completely
8 different process than Part 83.

9 THE SPEAKER: Would we be able to take this up
10 at a break?

11 MR. ROBERTS: Sure.

12 THE SPEAKER: Another question I had was in
13 California can there be regulations that are adopted
14 specifically? Because each region differs one from
15 another. I see in the expedited findings in 83.10 where
16 the state recognizes reservations would have some
17 precedence, could there be a similar standard authored
18 throughout the United States concerning the different
19 jurisdictions in the way they may have dealt with the
20 Indians?

21 MR. ROBERTS: I'm not sure I'm following the
22 question.

23 THE SPEAKER: Okay. Basically can the precedent
24 manual be incorporated into the regulations? Because
25 that's what OFA is using, correct, is the precedent

1 manual?

2 MR. ROBERTS: Yeah, so one of the things that
3 the draft regulations or the discussion draft does is it
4 basically eliminates the precedent manual itself, so that
5 it's just the regulations that we're putting forward. So
6 it's a good question, right, because we have regulations
7 currently and then we have a precedent manual. I think
8 the thought is that that might be confusing. We should
9 have all of the requirements in one document, right, so we
10 should have the requirements in the actual regulations.

11 So what the discussion draft does is it tends to
12 eliminate the precedent manual in and of itself and rather
13 have OFA's role be technical assistance.

14 THE SPEAKER: How do you know that they're
15 applying it consistently?

16 MR. ROBERTS: It would be through hopefully what
17 we'll have as part of this discussion draft in a proposed
18 rule is actually objective standards so that -- you know,
19 I'm making this up, but let's say 90 percent of the
20 community lives within a X number of radius, let's just
21 make something up, 100 mile radius, a 20 mile radius it
22 doesn't matter what the number is, but that would be an
23 objective standard that could be applied so that the
24 petitioner know, okay we have 95 percent of the people
25 living within a ten mile radius, there's nothing

1 subjective about it, it's just facts. So that's what
2 we're looking for in terms of feedback, in terms of how
3 can we make the standards objective so we don't need to go
4 to a precedent manual or remove subjectivity out of it,
5 out of the question -- or out of the analysis altogether,
6 and have it based just on the facts; but also have it
7 flexible enough to account for each individual groups'
8 unique history. So one of the things you asked about was,
9 could we have regulations that are specific just to
10 California maybe or something that takes into account
11 California's unique history. That's not in this
12 discussion draft, but if that's something we should
13 consider for a proposed rule, you know, we invite that
14 comment. And if I'm misreading your comment let me know,
15 but I think that's what you were saying.

16 THE SPEAKER: I think it would be a good idea to
17 keep the precedent manual because it would give tribes who
18 are going through the process a little more guidance on
19 applying these different precedents to their situation. I
20 realize everybody's situation is different, but it may be
21 to their benefit to follow the guidance under the
22 precedent manual.

23 One thing also going back to the earlier
24 recognition that I had mentioned about how we were one of
25 the four tribes -- actually one of two tribes that weren't

1 recognized as far as the government following through, one
2 of the tribes, Timi Shishu Shoshone actually followed the
3 federal process and the calculate at the end, OFA then
4 known as BAR, said that the Timi Shishu didn't actually
5 have to follow the process because they were recognized as
6 a half-blood community. So in a way it was like they were
7 told to go through with the process with the hope they
8 would maybe fail or give up or die. But nevertheless, OFA
9 said that so why are we making everybody run around when
10 we could have just clarified it in the first place.

11 MR. ROBERTS: I think that they are two separate
12 processes, so it's helpful. I didn't know that OFA had
13 said that to the Timi Shishu Shoshone, so we'll definitely
14 take a look at that.

15 THE SPEAKER: Okay. I also made that in my
16 written comments. I submitted it last week so you should
17 get that.

18 MR. ROBERTS: Okay great, thank you.

19 THE SPEAKER: My name is Tony Cerda, chairman of
20 Costanoan Rumsen Carmel tribe. I'm here again because one
21 of the most pressing problems for our tribe is that the
22 Indian house services, they will not accept our tribal
23 card. Now, as a sovereign, nobody has a right to tell us
24 who our members are, but we have cards and those cards
25 have our picture ID and that has our tribal operation's

1 number with the BIA on it and we used to get Indian house
2 services from the clinics, the Indian health clinics.
3 Probably about five years ago they started this thing that
4 they had to be a federally recognized tribe. Now, in 2010
5 when the census was going on, the census bureau in
6 southern California asked us if we would do a ceremony at
7 each of their regional offices when they opened it up. We
8 did that at their regional offices and this is what these
9 folks told me, Tony, make sure all of your people register
10 as Indian, however it is, Rumsen or Costanoan or whatever
11 because that's the way the funds are distributed to you.
12 So that means that that money goes to Indian house
13 services for that area, for the number of people that we
14 have in our tribe. It was over 2,000 of us there in
15 southern California and more up here in northern
16 California. So that money right there goes to them, yet
17 they don't want to give us services.

18 THE WITNESS: What they're telling us is that
19 each member has to have a letter from the BIA certifying
20 them as a California Indian. So you're talking about
21 2,000 people. Now, we go to BIA and they tell us there
22 they don't have the funds to help us. So it makes it very
23 hard, puts us between a rock and a hard place, you know,
24 they're telling us that they won't take us unless we have
25 a letter and they're telling us they don't have the funds

1 to issue a letter to us. So that's the main problem we're
2 having right now. And California is the most under-served
3 state. A lot of you don't know that, but we provide more
4 money than any other state, but yet we're the most
5 under-served and that's what's happening. If you look at
6 all of your reports you'll see all the other states get
7 more funds allocated to them than California does, and
8 there's more people in California than any other state,
9 yet we're the most under-served.

10 One of the things I heard Sandy say that's very
11 important is about California state recognized tribes.
12 We're a 501 C3 nonprofit organizer. To get that we had to
13 get that certification from the state of California, then
14 it was easy to get it through the federal IRS. So the
15 state does more investigating and looks more into it, and
16 once they pass it then the federal just passes it. So
17 it's strange that this BIA works in a different way.

18 MR. ROBERTS: Thank you.

19 THE SPEAKER: I guess I'll -- Andrew Lara,
20 Juaneno Band of Mission Indians. One of these days I'll
21 go back and get my master's in Native American studies
22 from UCLA. I'd like to discuss the rejection of CDIBs
23 throughout California in the federal recognitions process.
24 I think that's a great disservice that was handed down by
25 the federal government upon California tribes. CDIBs go

1 back to the 1928 applications when California Indians
2 were -- because of the fact that the treaties between the
3 senate and California Indian tribes pre-1949 were never
4 ratified, the federal government had to go back and
5 provide final compensation for the land that was taken in
6 the 1928 applications. That's why a lot of -- that's why
7 in California there's individual Indians even though you
8 can be federally recognized or non-federally recognized.
9 So in 1928 they went through and they collected in my
10 community, everyone's community it didn't matter if you
11 were federally recognized or not, they went through and
12 they asked if you were Native American. People presented
13 themselves, Mr. Forester was a gentleman who collected all
14 the notifications, and people identified themselves as
15 Native whichever tribe they were from. And from that you
16 got your BIA number and you got your certificate. And
17 that blood quantum that was put on that application that
18 was later calculated to your CDIBs. Everyone for the most
19 part here is Native California here, so you have your CDIB
20 and your blood quantum today is based upon that, it's
21 based upon those 1928 applications, okay. Then tribes
22 organized themselves, they went to the Indian health
23 clinic, you presented your CDIBs. You wanted to join a
24 tribe, you wanted to run for office, you wanted to
25 recalculate your blood quantum, you did it with your CDIB,

1 you didn't do it through the Bureau of Indian Affairs.
2 That was a means of identifying yourself. Not only were
3 you given a certificate, but you were given monetary
4 compensation.

5 My father, all my relatives received money from
6 the settlement act. K-134, that was the case number. So
7 when the Juaneno Band of Mission Indians, when they went
8 through the process a lot of members had CDIBs because
9 that's all they had, that's all the they identified
10 themselves with. Then the BIA says, no, you have to go
11 through lineal descendents. So my question is, it's
12 rhetorical, is in California did federally recognized
13 tribes use CDIB as a means of membership identification?

14 MR. ROBERTS: I don't know.

15 THE SPEAKER: The answer is yes. They did. Let
16 me make this a little bit easier. If a federally
17 recognized Indian in California says they wanted to run
18 for office and they needed more blood quantum, and say
19 they magically found it, would they go to the BIA to
20 recalculate their CDIB blood quantum.

21 MR. ROBERTS: I don't know. Would they?

22 THE SPEAKER: Okay. They did. So if the
23 federal government recognized the CDIB as a means of
24 identifying this individual as an Indian within a
25 federally recognized tribe, why are non-federally

1 recognized tribes treated differently? Why is it CDIB
2 were good for federally recognized tribes but they're not
3 good for non-federally recognized tribes?

4 MR. ROBERTS: It's a good question. It's
5 something that we'll have to take a look at as part of the
6 rule making process and I take your --

7 THE SPEAKER: Because this is why not only does
8 it apply, see, when my tribe went through the process they
9 were told that they were -- they were told that they were
10 only going to accept true Indians, whatever that was,
11 right. And it goes at the heart of sovereignty, okay.
12 And someone mentioned it earlier, when you study Indian
13 federal law one of the really only areas of federally
14 recognized tribes that have true sovereignty over is their
15 membership. We know the stories in California, they kick
16 out people all the time and they can't be touched because
17 they're truly sovereign on this point, okay.

18 Now, in current affairs the United States are
19 debating whether or not they're going to allow a bunch of
20 undocumented immigrants into the United States, people
21 without their papers, right? I'm okay with that. The
22 United States can do that because they're a sovereign
23 entity. The same applies to Native American tribes. If
24 they had members who had CDIBs that the federal government
25 labeled this family as Native American in 1928 and this

1 family carried that CDIB, took on that identity, received
2 financial compensation, received health care with that
3 CDIB and then later in 2000 you say, when we mark out your
4 genealogy you're really not Indian you're probably
5 Mexican, but yes, we misidentified you, sorry. But the
6 problem with that is that the tribe took that certificate
7 that was issued by the bureau of Indian Affairs and
8 adopted these people. So when you -- when you get a
9 scalpel and you tear them away to try to get through the
10 process, you lose that social network that we're trying to
11 prove to you. All of those people attended meetings, all
12 of those people sat on tribal council, they were family.
13 And yet when you rip them away you make it impossible for
14 these non-federally recognized tribes who identify their
15 members with CDIB to get through the process.

16 MR. ROBERTS: Thank you. We are running over
17 time here. I'm happy to keep going more and we promised
18 the chairwoman here that we would have a chance to have
19 her speak as well again about the history of her timeline
20 here. And so if there's no objection, I'd actually like
21 to give her an opportunity to speak as we said we would in
22 the beginning, and then take a break for lunch and then
23 come back after that.

24 THE SPEAKER: Can I ask a question? It's like
25 really quick. I guess I'll go ahead. Elizabeth

1 Shoulderman (phonetic) again from the Costanoan Carmel
2 tribe in Pomona. I think we've all acknowledged that the
3 August 16th date is really close. It's really
4 unreasonable, and at least 50 percent of the tribes who
5 need to be here are not here, and that the information
6 should get out.

7 So can you commit to extending an August 16th
8 date to at least two months in advance, and can you please
9 answer with a yes or no.

10 MR. ROBERTS: No, I can't commit. It's
11 something that we'll consider doing, but just know that if
12 we extend the process it's going to make the process
13 longer. Right now we're looking at two years. So there's
14 going to be other opportunities and comments as well, but
15 no, I can't commit to extending it now.

16 THE SPEAKER: On a follow-up to that, if you
17 could the -- what's already in your draft that we had a
18 discussion about it, if you would consider not putting
19 those people at the bottom of the line again -- if you
20 would work on that issue so people could make a better
21 decision if they want to withdraw or not, that would help
22 them make a decision. You know what I'm referring to?

23 MR. ROBERTS: Yeah, I do know what you're
24 referring to. I just want to make everyone clear that
25 even if we revise the discussion draft today to make that

1 clear, to clarify that point itself, it doesn't mean
2 anything until it's finalized. So we still have to go
3 through a notice and comment and rule making. So there
4 really would be no difference.

5 THE SPEAKER: It would show intent.

6 MR. ROBERTS: In fairness, the department would
7 be free to change its mind throughout the rule making
8 process. There's no certainty in that.

9 THE SPEAKER: Quick question. Everything the
10 public comment is going to be transcribed?

11 MR. ROBERTS: Everything you're saying right
12 now.

13 THE SPEAKER: Great. I want to make sure.

14 THE COURT REPORTER: What's your name, ma'am?

15 THE SPEAKER: Lydia Ponce.

16 MR. ROBERTS: How would you like to proceed,
17 chairman?

18 THE SPEAKER: I would like to, out of respect,
19 to allow the council members, chair members at large to go
20 ahead and have lunch then come back for a brief overview
21 of our history.

22 MR. ROBERTS: Okay, that's fine. Is that fine
23 with everyone?

24 So let's come back at 1:30. It's 12:24 now and
25 we'll take an hour break.

1 (Whereupon the noon recess was taken at 12:24 p.m.)

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SOLVANG, CALIFORNIA

THURSDAY, JULY 25, 2013; 1:39 P.M.

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MR. ROBERTS: Good afternoon everyone. I apologize for us starting a little bit later than our intended schedule this morning, so I appreciate your patience. Just a couple of quick introductions. For those of you who were here this morning, bear with me, you've heard this before. My name is Larry Roberts. I'm the principal deputy assistant secretary for the Department of Interior, Indian affairs. So there's the secretary of the Interior, Sally Jewell; there's the assistant secretary, Kevin Washburn and then there's myself; and then we supervise the Bureau of Indian Affairs and the Bureau of Indian Education and then all of the offices that report directly to the assistant secretary.

I'm a member of the United Nation of Wisconsin and I started with the Department of Interior in September of last year. How we're going to move forward this afternoon is we're going to go through a very brief

1 PowerPoint, it will take about 20 minutes, then after that
2 we're going to talk a little bit just about the general
3 timelines for rule making, just so everyone knows so just
4 generally those timelines in a typical process. And then
5 we're going to open up the floor for comments questions,
6 insights on the discussion draft itself. Does that sound
7 good? All right.

8 So I'm going to let the other members of my team
9 introduce themselves and I'll start with Katie.

10 MS. CHINN: My name is Katie Chinn. I'm a
11 citizen of the Wyandotte Nation of Oklahoma. I work in
12 the office of the solicitor in a division of Indian
13 Affairs.

14 MS. APPEL: Good afternoon everyone. My name is
15 Liz Appel. I'm with the office of regulatory affairs and
16 collaborative action. We report to the assistant
17 secretary of Indian Affairs.

18 MR. ROBERTS: Great, thank you.

19 So we're here to talk about the discussion
20 draft, the federal document regulations that we posted on
21 our Web site in June of this year. And we're going to
22 talk very briefly in terms of the mechanism in which a
23 tribe can become federally recognized. It can be
24 recognized through the courts, it can be recognized by
25 Congress, there's specific legislation, federal

1 legislation, and it can be recognized by the Department of
2 Interior through the administrative process. And so what
3 we're here to talk about today is recognition through the
4 Part 83 process.

5 Prior to 1978 the department did not have
6 regulations in terms of how to acknowledge a tribe.
7 Around the mid to -- from the mid-'70s and a little bit
8 before then the department would receive a number of
9 different requests from tribes to acknowledge the
10 government to government-federal relationship. The 1978
11 the department promulgated regulations for a uniform
12 process to handle those petitions. The regulations were
13 amended in 1994 to take into account those tribes that had
14 previous unambiguous federal acknowledgement; then the
15 department in 2000, 2005 and 2008 had issued guidance to
16 both the employees within the Office of Federal
17 Acknowledgment which works on petitions, and then also to
18 petitioners and the public to clarify how things are
19 moving forward. Of the 576 federally recognized tribes,
20 today 17 have been recognized through the Part 83 process
21 since 1978.

22 So today one of the reasons why we've issued the
23 discussion draft is we have heard from various members of
24 the public and petitioners that the process is broken in
25 their words. The current process is criticized in taking

1 long, it's too expensive, it's too burdensome. It's
2 unclear. There needs to be more predictability and more
3 clarity in the standards, and the standards need to be
4 more objective; and the process has been criticized in not
5 being transparent.

6 So eventually up where we are today, in 2009
7 Secretary Salazar took off and said the Department of
8 Interior and at his -- at the hearing before the committee
9 of Indian Affairs that year he potentially testified that
10 he would take a look at the process. So a various amount
11 of senate committee members were asking him to take a look
12 at the process and explain why the process was broken. So
13 he told the committee that the department would look at
14 that.

15 Later that year in 2009 the department again
16 testified before the senate committee of Indian Affairs,
17 and at that point committed to looking at the process
18 needing to examine if there were any unneeded steps in the
19 process, taking a hard look at the standards and looking
20 -- and that the department would look to develop
21 post-regulations within the year, and then a final
22 regulation a year after that.

23 So in 2010 after that testimony, the department
24 convened an internal work group to start looking at
25 potential revisions to the Part 83 process. In 2012 the

1 department again testified before the senate committee of
2 Indian Affairs, essentially laying forth the guiding
3 principles that we would look for in terms of improving
4 the process. And then in 2013 the assistant secretary and
5 I testified before the House of Potential Resources
6 Committee, a subcommittee that was specifically on Native
7 issues, and set forth there before the committee our
8 process, sort of moving forward in terms of reconvening
9 the internal work group, picking up on the work that had
10 been done by the department and then issuing a discussion
11 draft this spring which we would deliver this summer in
12 which we would consult with federally recognized tribes
13 and hold public meetings to get input from the public
14 before we started a rule making process.

15 So the discussion draft, and Liz will talk a
16 little bit about the normal rule making process, but just
17 so everyone is aware here at this meeting, the discussion
18 draft -- typically the federal government will amend its
19 regulations by just issuing a notice of proposed ruling
20 and issue a proposed rule and the changes they suggest
21 making to that rule. We've taken a step back to garner
22 more input from tribes and the public and petitions and
23 issued a discussion draft before we even start that
24 proposed rule making so that we can get input early on
25 from everyone in terms of potential revisions to the Part

1 83 process.

2 So the discussion draft that you have before you
3 today that was put on our final Web site in June makes a
4 number of suggested changes for comment and consideration.
5 Each of the slides that follow this we'll discuss in more
6 detail of the suggested changes in the process.

7 So the first, one of the first changes is to
8 eliminate the letter of intent. Under the current
9 process, that's what kicks off the process, essentially a
10 petitioner can submit a letter, literally a letter to the
11 department saying, We intend to petition for federal
12 acknowledgement. It can then take years before a petition
13 is actually submitted. And so one of the proposed
14 improvements here is to eliminate that letter of intent
15 process and instead start off the process when a petition
16 is actually submitted by the petitioner.

17 The discussion draft also sets forth criteria
18 for expedited negative findings and expedited positive
19 findings as a way to make the process more efficient and
20 improve the timeliness. So what the discussion draft
21 proposes to do is once a petition is submitted, that the
22 department would then take an initial look and evaluate
23 that petition under E, F and G criteria which is "Descent
24 from a historical tribe." These are the criteria right
25 now, "Descent from a historical tribe," that the group

1 that is petitioning for recognition does not consist of
2 members who are primarily members who are already a
3 federally recognized tribe and Congress has not forbidden
4 a government-to-government relationship with that
5 petitioner.

6 So under the proposal, if petitioner was not
7 able to satisfy all three of these criteria we would issue
8 an expedited negative finding, basically ending the
9 process at that point, and we would issue an expedited
10 negative finding within six months after actively
11 considering the issue. If the petitioner were to satisfy
12 all three of these criteria, we would then move to the
13 next stage of the process under the proposed rule. And
14 under the next stage of the process, depending on the
15 petitioner, it would be the review for an expedited
16 favorable finding or the review under the remaining
17 criteria.

18 So the expedited favorable finding sets forth
19 two criteria for public comment and those criteria are if
20 the petitioner has held that it has held a state
21 recognized reservation 1934 to the present that would
22 constitute an expedited favorable finding; or if the
23 United States has held land for the group at any time
24 since 1934, that would also be an expedited favorable
25 finding. If the petitioner didn't assert either of these

1 two and they met these criteria or if the petitioner
2 wasn't able to show either of those two criteria, even if
3 they made that assertion, then the petitioner would -- the
4 Office of Federal Acknowledgment would take a full
5 evaluation of petitioner under the remaining criteria.

6 In terms of the criteria themselves, the
7 discussion draft suggests adjustments to the criteria.
8 One of the adjustments has suggested that we delete
9 current criteria (a), which currently requires external
10 identification of the petitioner. And by external I mean
11 someone other than the tribe writing down and identifying
12 that what they have in their community is a tribe from
13 1900 to the present. And the general concept there is
14 that if a petitioner satisfies all the other criteria in a
15 tribe is (a) necessary.

16 In terms of criteria (b) and (c), Community and
17 Political Influence and Authority, the discussion draft
18 proposes starting that analysis from 1934 to the present,
19 and the reason the discussion sets forth 1934 is that
20 that's generally the accepted date of when the United
21 States changed its federal Indian policy from one of
22 allotment and assimilation in breaking up tribal
23 governments to promoting tribal self-determination through
24 the organization acts. So that's why the discussion draft
25 identifies 1934 as a starting point for the analysis.

1 That's not to say the discussion draft does provide
2 flexibility for those petitioners who have evidence prior
3 to 1934, they can still submit that evidence if it's
4 relevant to their petition from 1934 to the present.

5 With regard to criteria (e), Decent from a
6 Historical Tribe, currently the department relies
7 primarily on genealogy and genealogy records. And this
8 would -- the proposal would allow expert conclusions from
9 historians and anthropologists as evidence to be
10 considered in looking at and determining whether the
11 petitioner meets descent from a historical tribe.

12 And then as you'll see in the discussion draft,
13 we have a number of placeholders, either blanks or there
14 are double x's, that is basically seeking input from the
15 public in terms of what those criteria should be. What
16 we've heard a lot from the public is that we should have
17 objective criteria so that if somebody submits a petition
18 both they and the public know fairly relatively easy
19 whether that criteria is satisfied or not.

20 In terms of other changes with the goal for
21 flexibility, the discussion draft provides that a
22 petitioner may withdraw a petition at any time before a
23 proposed finding is published. And what we've heard is
24 that there may be reasons having nothing to do with the
25 petition process itself, it may be a resource issue, it

1 maybe a natural catastrophe, it may be something else
2 where essentially the petitioner needs to take a pause in
3 the petitioning process. This potential change would
4 allow them to withdraw their petition. The department
5 would cease its consideration, move to other petitions,
6 but if that petitioner would decide to resubmit their
7 petition in the future, they would essentially default
8 again in line to the terms of consideration. So generally
9 speaking, what we do under the current process, it's a
10 first-in first-out process. If we receive a petition from
11 a bigger petitioner they are processed before the other
12 petitions were submitted say a year later or six months
13 later.

14 The other proposal here attempts to -- my
15 understanding is -- basically codify or through
16 regulations codify the existing process, which is the
17 department issues a proposed positive finding and there
18 are no objections to that proposed positive finding, it
19 would automatically become a favorable finding. Here what
20 we've done is we've stated that if we don't receive any
21 opposition, arguments or evidence in opposition to a
22 petition from a federally recognized tribe within the
23 state or by the state or the local governments where the
24 petitioner is located, that that would automatically
25 become a final determination that would be favorable.

1 One of the sort of broader policy issues that
2 we're seeking input from the public is who issues a final
3 determination. So what the discussion draft attempts to
4 cover here is under the current process the assistant
5 secretary through the assistance of OFA issues a proposed
6 finding. That is then put out there for the public and
7 interested parties can comment on. This discussion draft
8 doesn't change those public comment rights whatsoever.
9 Instead what it asks is, once the proposed finding is
10 issued by the department should the final decision maker
11 on that remain the secretary of Indian Affairs or should
12 we transition that final decision over to the office of
13 hearings and appeals, and the office of hearings and
14 appeals is an independent office within the Department of
15 Interior that is staffed by administrative law judges to
16 either review appeals or review cases in the first
17 instance. And so under the discussion draft you'll see in
18 brackets the office of hearing and appeals or the
19 assistant secretary for Indian Affairs in terms of a final
20 determination, and we're looking for comment on which is a
21 more appropriate course of action to go.

22 The discussion draft also eliminates review by
23 the Interior Board of Indian Appeals. So under the
24 current process the assistant secretary makes a final
25 determination, either petitioner or some other entity may

1 challenge that final determination. That now goes to the
2 Interior Board of Indian Appeals, and then after those
3 remedies have been exhausted, it then goes to federal
4 court. The proposal here would eliminate that review and
5 allow parties to go directly to federal court under the
6 idea that sometimes if an appeal, if you're required to go
7 to the Interior Board of Indian Appeals it delays the
8 final decision by years.

9 One hot topic has been with this discussion
10 draft how we handle petitioners that are currently in the
11 process as we're moving forward with this rule making.
12 And so as I mentioned earlier, this is a very initial
13 discussion draft for public input. We're looking at a
14 process where we would issue a proposed rule that may look
15 similar to the discussion draft, it may look different
16 based on the comments that we receive. And then basically
17 as we're going through this process, petitioners have
18 asked for what rules will apply to me. So what we've
19 tried to put in the discussion draft is if this were -- if
20 this discussion draft were to become the final regulation,
21 how would the petitioners in the process be handled. So
22 let's just pretend for purposes of illustration if the
23 discussion draft were to go final tomorrow, which can't
24 happen, right, it's just -- we're just making this up for
25 right now, if the petitioner is in the process but they're

1 not under active consideration, then they would be
2 processed under whatever the new version of the rules are.
3 If they are under active consideration where they have put
4 in their petition, we've received a proposed findings,
5 they've invested resources in the process, the discussion
6 draft would leave that choice up to the petitioner to
7 either continue under the rules that were in effect when
8 they went under active consideration or they could choose
9 to go under the new documented -- or file a new documented
10 petition under the new rules.

11 Finally, the discussion draft sets forth a
12 process where if a petitioner has gone through the process
13 and has been denied federal acknowledgement, it provides
14 an opportunity for them to repetition if they can prove
15 that the assistant secretary or office of hearing and
16 appeals by a preponderance of the evidence that the
17 changes from the existing regulations to the new version
18 would warrant a reversal of the final determination.

19 In addition to sum of these broader comments
20 that we are seeking input on, we are also seeking input on
21 essentially if any of our definitions in the Part 83
22 process should be revised, if so which ones? How should
23 they be revised? Should the department put out a standard
24 form for petition members on how they should submit their
25 petitions? This would be -- should it be available and

1 optional or should it be required? Should we use a
2 required format? We're also, as I mentioned earlier,
3 seeking input in terms of what objective criteria the
4 department should use for community, and we've left
5 placeholders here to demonstrate community. So, for
6 example, what percentages of marriages should we look to
7 between group members to demonstrate community, again,
8 trying to -- asking the public for comment on objective
9 criteria so that everyone know what the standards are.

10 In terms of -- same thing for political
11 influence and authority and descent from a historical
12 tribe. Again, what objective standards can the department
13 use, that's what we're receiving input on as part of this
14 discussion draft.

15 Finally, we've left placeholders in there for
16 page limits, what sort of page limits should the
17 department impose on petitioners, not necessarily the
18 underlying source documents themselves, not those
19 historical documents. I'm talking about the petition they
20 summarize how they meet the various criteria, should there
21 be a page limit there? Should there be a page limit on
22 the proposed finding that the department issues so that
23 it's more real for the public and the petitioner. And
24 then should there be page limits after the proposed
25 finding is issued on arguments both in support or opposing

1 and page limits throughout the process.

2 So comments are due August 16th. You can submit
3 the comments by E-mail or by mail. This is not the only
4 opportunity to comment on any proposed changes to this
5 regulation. As I mentioned earlier, this is a discussion
6 draft. We're starting the process earlier than we're
7 required to by law to get maximum input from folks. Once
8 this comment period closes on August 16th what we'll then
9 do is we'll then utilize the normal process and issue a
10 notice of proposed rule making which we will then have
11 another comment period somewhere probably at least 30
12 days, maybe 60 days maybe 90 days, that hasn't been
13 determined yet, but we will have another public comment
14 period. We'll have additional tribal consultations and
15 we'll have additional meetings with the public on that
16 proposed rule. And then from there after that comment
17 period is concluded we will then review all of those
18 comments, again meet internally within the department and
19 issue a final rule.

20 A couple of housekeeping notes for those of you
21 that are wondering about the tribal -- we had a tribal
22 consultation here this morning. We are setting up tribal
23 consultations with federally recognized tribes. And the
24 purpose of doing that is that we have executive orders
25 that would require us to consult with federally recognized

1 tribes, rules that may affect them. But the presentation
2 that we just gave is exactly the same presentation that
3 was given this morning, so there's no difference. The
4 other thing is just so everyone knows, is that all of your
5 comments today will be part of the public record that will
6 be available on our Web site for everyone to see, just
7 like the tribal consultations. All of those comments that
8 we received this morning as part of the tribal
9 consultation are all being transcribed and they will be
10 part of the public record and put up on our Web site. So
11 if you can't make a public meeting or tribal consultation
12 you'll be able to follow what was said and who had various
13 suggestions or ideas on how to improve the process.

14 So with that I'm going to turn it over to Liz
15 for a couple of minutes. We had a lot of questions this
16 morning about how long does the rule making process take.
17 It's an answer that only an attorney could love, which is,
18 it depends. But Liz is going to talk a little bit about
19 that rule making process and just give you a little bit
20 more information.

21 MS. APPEL: So generally what we've seen for the
22 past couple of rules, it generally takes about two years
23 from start to finish. So this is the discussion draft,
24 this is the preproposed rule stage. Once we collect all
25 the comments, as Larry said, we'll update the draft and

1 publish that as a proposed rule in the Federal Register.
2 So that that will be the official notice of that proposed
3 rule. We'll also make that available on the BIA Web site
4 www.bia.gov. That will open a comment period, which as
5 Larry said, could be anywhere from 30 to 90 days probably.
6 And then during that comment period we'll have additional
7 tribal consultation sessions, hold public meetings and at
8 the close of that public comment period we go through the
9 same thing where we compile all the comments, go through
10 them all, make all the changes, and then the final rule
11 will be published in the Federal Register; and that final
12 rule will include in its preamble a summary of all the
13 comments received and how they were addressed.

14 Once the final rule is published in the Federal
15 Register there is usually a 30 day delay before it becomes
16 effective. In certain cases that delay is 60 days
17 depending on whether OMB identifies the rule as
18 significant or not. So as you can see, there are several
19 steps in the process and that generally lengthens out to
20 about two years, but we can't say with absolute certainty.
21 But if you have any questions about the rule making
22 process please feel free to ask.

23 MR. ROBERTS: Okay. So with that I think what
24 we'll do is we'll open up the floor to comments, questions
25 and I appreciate everyone's attention today.

1 I'm sorry, the court reporter here is
2 frantically telling me that we need to have everybody
3 state their first and last name, spell that please.
4 Please speak slowly for the court reporter. And if you
5 have any written comments please provide them to us.
6 Those will go up on our Web site, but also our court
7 reporter will be able to capture everything that you're
8 saying. And what organization or tribe you are with.
9 That would be great as well.

10 THE SPEAKER: Good afternoon. I'm James Marino,
11 M-a-r-i-n-o. I'm an attorney and I represent a number of
12 groups all around the state of California, mostly
13 community groups who do two things; one, they impose the
14 introduction of any further gambling casinos in the
15 community; and secondly, they oppose the concept of fee of
16 trust without resolving a number of community concerns
17 about transferring land from the ownership in the Indian
18 trust. My question, my main one this morning about the
19 new rule, the proposed rule, is why given the purpose of
20 the 1934 Indian Reorganization Act that was to restore
21 tribes, tribes, government tribes that existed prior to
22 1934, would there be any attempt to eliminate the
23 requirement that those proposing that they were a tribe
24 had a historic tribe that predated 1934? What is the
25 purpose of that? I mean, you probably know all of you the

1 allotment act was essentially designed to eliminate tribal
2 government by allotting the land owned by the tribe to the
3 individual members and when all of that land had been
4 allotted, the tribe disappeared as a political entity and
5 a social entity. So if the attempt as I understand it
6 Mike Cohen in the 1934 act of Congress was to restore
7 tribes that existed prior to 1934, why would you eliminate
8 that historical requirement if somebody showed that they
9 were a tribe prior to 1934?

10 MR. ROBERTS: So the reason we picked 1934 was
11 basically that the dramatic change in federal policy from
12 what you were saying, basically federal policy of
13 allotment and assimilation to a policy of tribal
14 self-determination. We're not precluding anyone from
15 submitting information prior to 1934 if it's relevant to
16 1934 to the present time period. But it's to reflect that
17 dramatic change in federal policy.

18 THE SPEAKER: But 83.7, 2583.7 specifically
19 requires a showing of a tribe going back to 1900,
20 presumably to say it should have gone back to 1891, the
21 day the allotment act was enacted. Assume we pick 1900,
22 why would you eliminate the requirement that there be a
23 showing of a tribe, a governmental tribal entity that
24 existed prior to 1934.

25 MR. ROBERTS: I think we're just -- we're taking

1 the 1934 starting with -- I appreciate your comment, we're
2 not necessarily eliminating the requirement of the showing
3 of a tribe. It's just for purposes of our analysis, 1934
4 seemed to be an appropriate date to coincide with the
5 shift in federal policy. So it's a date that we put up
6 there, we appreciate your comments and would welcome
7 comments whether, why we shouldn't use 1934. It's
8 something we're going to have to look at internally, but
9 to answer your question that's the reason we're picking
10 1934.

11 THE SPEAKER: I don't mean to belabor the point,
12 correct me if I'm mistaken, the point of the 1934 act was
13 past to restore tribes that previously existed but
14 disappeared because all the land was allotted to the
15 tribal members. Why would you eliminate the requirement
16 if somebody showed that they were a tribe prior to 1934 in
17 order to be reinstated as a tribe under the administrative
18 process created by the IRA?

19 MR. ROBERTS: I don't know that we're
20 eliminating the requirement, it's the administrative
21 burden in terms of looking at our timelines and what we're
22 going to evaluate. And I guess the -- I don't know that
23 reorganization under the Indian Reorganization Act
24 required a particular tribe who was recognized under that
25 act to show that they existed from the sign of first being

1 in contact, which is what the current existing regulations
2 have. So again, it's something that we're happy to look
3 at and we appreciate your comments.

4 THE SPEAKER: Thank you.

5 THE WITNESS: Hi. My name is Martha Gonzalez,
6 G-o-n-z-a-l-e-z. I'm from the governmental K'iche tribe
7 Nation in Los Angeles. Our chief is Ernie Salas
8 (phonetic). I'm here today to talk a little bit about
9 what we're going through with the criterias and criteria
10 (e). It talks about the historical and everything like
11 that. Well, you know what, our family has shown documents
12 past down from the 1800s almost to the 1700s we have
13 documents proving that our ancestors, the villages that
14 they came from, their names -- the Native American names
15 that they have. And we also got certified from a
16 genealogist. We did DNA testing.

17 I'm here today to ask you, what more do you want
18 from us?

19 Also, getting hold of BIA to even request
20 papers, impossible. Riverside, we've been calling for
21 over a year, will not answer the phone. We met with -- we
22 talked with Sacramento BIA to find out that they took me,
23 my brothers, my sisters, my mother, which my mom is dead,
24 but I understand that they took her part to the archives,
25 but they took ours literally to the archives as history.

1 Took us out of the database. And now what we can prove?
2 Well, thank God we have what we had, but I just want to
3 inform the people here, they're taking the Native
4 Americans that are living right now out of the database
5 and putting them in the archives. So I really would like
6 to have that investigated with the BIA to see.

7 But we got money in the 1970s, yeah, it was
8 three cents an acre. We got a check of \$500. But
9 Washington, you guys know we exist. You know some of
10 these Native Americans exist. What more do you want to
11 prove? That's all I have to say. Thank you.

12 MR. ROBERTS: Thank you.

13 THE SPEAKER: My name is Valentin Lopez,
14 V-a-l-e-n-t-i-n, L-o-p-e-z. I'm the chairman of the Amah
15 Mutsun Tribal Band. Our tribe is from the San Juan
16 Bautista area. I have two sets of notes to report. First
17 of all, we have a group of tribes and have gotten
18 together, approximately 12, 14 tribes, so the notes are
19 going to present first are from the group. And then I'm
20 going to go to the end of the line and come back a second
21 time if that's okay and talk about our Amah Mutsun tribe
22 specifically. So the first notes will be from the group
23 of tribes.

24 MR. ROBERTS: Okay.

25 THE SPEAKER: Thank you. It is widely accepted

1 by the legal community, historians and academics and the
2 history of California Indians, that the history of the
3 California Indians is unique; and therefore the current
4 criteria for federal recognitions are inappropriate.

5 First, the unique history of California -- I'll be very
6 brief -- important considerations regarding federal
7 recognition standards; and finally, it provides
8 recommendations for revisions to the federal recognition
9 process.

10 The history of California. I will break it down
11 in a number of periods here. We break it down to the
12 mission periods. During the mission period there were
13 approximately one to one and a half million Indians living
14 in California, this was central California where our tribe
15 is from which was one of the most populous locations for
16 Native Americans. In 1787 there was a United States
17 constitutional convention, a northwest ordinance. The
18 speaker related that the utmost -- this is the
19 Constitution of the United States -- the utmost good faith
20 shall always be observed for the Indians. Their land and
21 property shall never be taken from them without their
22 consent, and in the property rights and liberty they
23 should never be degraded or disturbed unless unjust and
24 unlawful war authorized by Congress. But justice and
25 humanity shall from time to time be made for preventing

1 wrong being done to them and for preserving peace and
2 friendship with them. The United States constitutional
3 convention of 1787 agrees with the federal beliefs of
4 indigenous people's rights to be self-conservative or
5 social in judicial practices at the time of contact, and
6 several hundred years there afterwards. The intent of
7 indigenous people inherent rights, including the right to
8 self-determination as agreed upon -- well, that's it for
9 that point. I'll stop there for that.

10 The total loss of indigenous population during
11 the mission period as we estimated was a high of
12 72 percent of the Indian side. I've seen numbers as high
13 as 40 percent of the total Indian population decreased
14 during mission time. There were many documentary examples
15 of -- massacre, physical or psychological brutality of
16 genocides during the mission time. And this history is
17 reported in the history books. There were indigenous
18 women and children of Spanish soldiers and land owners and
19 priests was rapid during mission times. The missions were
20 unequal in their brutality and led to the extermination of
21 many many tribes, and the social order of indigenous
22 people. As many as 80 tribes were taken to any one
23 particular nation and forced to live and work together.
24 During this time, many tribes in which the mission can't
25 even state. At the closing of the mission there was no

1 single tribe that could have continued the openly attack
2 maintaining indigenous culture and knowledge of judicial
3 ways. At the closing of mission there was no single
4 mission tribe -- okay I said that. Franciscans and the
5 Spanish both said they wanted to return land to the
6 Indians and that never happened.

7 The Mexican period was next. During the Mexican
8 periods huge lots of land was taken by the powerful
9 citizens of Mexico. It is estimated the total population
10 was reduced to -- extermination, migration -- and
11 destruction of the food supply. During the mission period
12 the California population dropped by well over 100,000
13 Indians. The indigenous people were used as a slave labor
14 force during the time of the Mexican period. Many land
15 owners did not allow indigenous people or tribes to live
16 on the property or the ranches during this time. Huge
17 herds of cattle, sheep required that the landscaping be
18 changed by grazing grasses as did the planting of
19 non-indigenous crops. This resulted in a floor -- being
20 eliminated by drastically -- or drastically reduced. And
21 these are the original -- the indigenous plants are
22 cultural resources, they were given to us by the creator.

23 So this has a huge impact on our cultural, our
24 tradition and our spiritual belief, and it was created for
25 protecting and taking care of mother earth. And under

1 these conditions we were not able to fulfill our
2 commitments to the creator.

3 During the American period. First the treaty of
4 Guadalupe made promises to the Native people and they were
5 never kept. The discovery of gold in the foothills of
6 California brought in enormous populations from all over
7 the globe. This resulted in the second wave of ongoing
8 genocide of California. In 1849 an act protected Indians,
9 Chapter 133 here in California legalized genocidal crimes
10 against Indians. After this discovery of gold they
11 realized they had an Indian problem. They discovered gold
12 and there was an Indian problem so there were two
13 solutions to address this Indian problem, one by the state
14 and one by the federal government. The federal
15 government's solution is that they sent Indian agents to
16 California to negotiate treaties. Those treaties gave
17 Indians 8.5 million acres of California land. And all of
18 the tribes in California were to be relocated to those
19 reservations. Those reservations -- those treaties were
20 then sent to Washington, D.C. and the California
21 legislature and the governor got together and wrote
22 letters to the senate and to the governor and asked that
23 the treaties not be ratified. The treaties did not ratify
24 -- the senate did not ratify these treaties, and the
25 president ordered that these treaties be sealed for 50

1 years. That's a very important part of our history.

2 Now, the state solution to the Indian problem
3 was that in 1852 Peter Burnett, we have a lot of schools
4 in California named Peter Burnett believe it or not, Peter
5 Burnett signed an executive order to exterminate all
6 Indians in California. During this time bounties for dead
7 Indians were paid 25 cents to \$5 for every dead Indian.
8 In addition, there was military expeditions to go out and
9 hunt and kill Indians. The state of California paid
10 \$1.2 million of the effort to exterminate Indians and that
11 lasted from 1852 to 1858.

12 In addition to that, they had passed laws of
13 endangered servitude in 1858. And the endangered
14 servitude is slavery. A lot of Indians were still
15 enslaved, not a lot, there were several Indians that were
16 enslaved as late as 1930s. Into the 1930s Indians were
17 still in endangered. There was also laws passed that
18 legalized the kidnapping of Indian children. During that
19 period of time Indian children were being kidnapped and
20 sold sometimes for up to \$300. A lot of them were used
21 for domestic or other purposes. Over 10,000 Indians were
22 kidnapped during that period of time, it's been
23 documented. In 1891 an act for the relief of mission
24 Indians in the state of California was signed by the
25 president, was signed by the president, an act. And this

1 provided -- let me see. This act provided for the just --
2 mission Indians residing in the state of California. I'm
3 trying to read these notes here. While the commissioners
4 were to select the reservation for each tribe or village
5 of mission Indians residing within the state of
6 California. Each mission -- each mission -- the tribe
7 from each of the missions was to get a reservation in this
8 act signed by the president of the United States. A few
9 reservations in San Diego were formed under this act, but
10 no others. We're still waiting, mission Indians --
11 mission tribes continue to wait for the implementation of
12 an act that was signed in 1891. I'm going to go to the
13 highlights here.

14 Indians did not become citizens unless they were
15 on a reservation or if you went to the war or there might
16 have been one or two other reasons. If you were on the
17 reservation you became a citizen, if you went to World War
18 I and you came back you were a vet, you got citizenship.
19 But for the rest of the Indian population we did not get
20 our citizenship until 1924. Also, we were not allowed to
21 own property during that time. Up until the mid-'20s
22 Indians could not own property. Then in 1927 or prior to
23 that actually, but in 1927 endorsed by Ali
24 Dorrington(phonetic) submitted a report or he was sent to
25 California to determine the land needs of California

1 tribes. Dorrington had -- was a retired colonel from the
2 military, he's on record as saying, No tribes deserve
3 land. He also got written up for dereliction of duty and
4 he got -- and he had a number of accidents due to drunk
5 driving, but yet he's determined -- his job was to
6 determine the land needs of California tribes. He
7 procrastinated, didn't do any work and finally Washington
8 put pressure on him. So he sat down to write a report
9 very quickly. And for a lot of tribes -- in his report
10 included over 220 tribes, 220 tribes he wrote on. Of
11 those, 40 tribes got land, some got a half acre, most
12 tribes got 20, a few got 40 and I believe that was that.
13 These were for whole tribes. The other 180 tribes
14 received no land. Now, what's interesting is the tribes
15 that received land are federally recognized today, the
16 tribes who did not receive land are not recognized, are
17 ant recognized tribes today. However, that report says
18 that those tribes are under the jurisdiction of the
19 Sacramento field office or Indian field services which is
20 BIA now. So those 180 tribes were illegally terminated in
21 1920 -- well, it's probably a couple of years after that,
22 1929. Now, that Dorrington report, it's really curious
23 about it if you read what he wrote about those tribes it's
24 astounding, absolutely astounding from our tribes. At
25 that time we were referred to as the San Juan Band of San

1 Juan Bautista Indians. He writes this, In San Bernardino
2 county we find that San Juan Bautista Band, which resides
3 in the vicinity of mission San Juan Bautista, which is
4 located near the town of Hollister. These Indians have
5 been well cared for by Catholic priests and have no land
6 needs." Now, how the heck can the BIA delegate its
7 authority and its responsibility to the Indians to the
8 Catholic church?

9 At the same time I have letters from the
10 archives at the Monterey diocese and also from the priest
11 that was living -- the priest at San Juan Bautista and
12 they did a complete search and there's no records of
13 Dorrington ever corresponding, talking to, visiting or
14 anything with these Indians. In fact, Dorrington never --
15 there's 18 boxes of Dorrington archive records in San
16 Bruno. And in those archives -- in those archives there's
17 no record of Dorrington ever visiting the territory from
18 San Francisco down to San Louis Obispo, he never visited
19 those territories, and yet there's a new of tribes within
20 those territories that he writes reports about like he's
21 very knowledgeable and did in depth studies. When he
22 wrote for our tribe is much of the same kind of thing he
23 wrote for all the other tribes and he provides no
24 documentation, collaborations, you know, research, records
25 or anything. He writes a two sentence report and then

1 tribes are terminated based on that. That's pretty
2 egregious.

3 MR. ROBERTS: Mr. Lopez, I appreciate all of
4 your comments. I'd appreciate your courtesy in saying
5 that you are going to share some of these comments and
6 then move to the end of the line and share your tribe's
7 comments. I would politely ask -- and we can make that
8 all part of the record, but don't want to get off the
9 beat, we have about ten people lined up behind you, so if
10 we could just --

11 THE SPEAKER: I have quick recommendation.

12 MR. ROBERTS: Thank you, sir.

13 THE SPEAKER: One is the OFA should be moved out
14 of the BIA, absolute conflict of interest. It's ran by
15 Native Americans who are recognized and they do not --
16 they should not be making -- they do not want other tribes
17 to be recognized. The current process is designed to weed
18 tribes out, not to weed tribes in, that needs to be
19 changed. The burden of proof initially was on the BIA,
20 the burden of proof changed to tribes. It was originally
21 designed, the burden of proof -- that needs to change, the
22 burden of proof needs to go back the BIA. Tribes --
23 report to work with all kind of outside people to try and
24 submit their documents, the process is designed so the
25 tribes can do that independently. The process takes too

1 long. The process has been in the position for 35 years.
2 Now, one tribe, a California tribe has gone through the
3 OFA process successfully in 35 years. There should be
4 unique standards for California. There should be
5 standards for mission Indians, for Gold Rush Indians and
6 another one should be tribes were impacted during the 1900
7 American period. I'm sorry. The criteria decision is
8 affecting us greatly and members of our tribes who have
9 passed we -- we believe firmly many of the members were
10 aboard before we were terminated, they were going to
11 recognize tribes. One of the goals was to get the tribe
12 recognized before my mother passed, that didn't happen, my
13 mother passed two years ago. We lose elders and it just
14 breaks our heart. A lot of the documents that they asked
15 for, my grandmother did not read or write, my mother had a
16 third grade education, her brothers and sisters did not
17 read or write. They signed with an X. I can look at the
18 signatures, Oh, that's grandmother's signature, and that's
19 Manuel's signature. Yet you're requiring documents and
20 there just aren't documents. In the process of federal
21 recognition gets more difficult. Every time a tribe
22 submits an application I think the OFA has learned from
23 that and they start putting up road blocks and looking up
24 a loophole to preventing a tribe from doing that. A big
25 important consideration and issue of previous recognition.

1 A lot of tribes were previously recognized. We put a lot
2 of hope into that previous -- the previous unambiguous
3 previous recognition standard, and then after they looked
4 at the case they terminated that process. I'll stop there
5 and I'll be back again.

6 MR. ROBERTS: Thank you.

7 THE SPEAKER: (Speaking in unknown language).

8 I give thanks to the Chumash people for allowing
9 us to talk on their homeland.

10 (Speaking in unknown language).

11 My name is Louise Miranda Ramirez. I am the
12 tribal chairwoman for Ohlone/Costanoan-Esselen Nation. We
13 are the indigenous people of the greater Monterey Bay
14 area. I come to you with information, Ohlone/Costanoan-
15 Esselen Nation is currently in the process of reaffirming
16 its status as an American Indian tribe with the Bureau of
17 Indian Affairs through the federal acknowledgement process
18 administered by the Office of Federal Acknowledgment,
19 petition number 132. Ohlone/Costanoan-Esselen Nation
20 leadership submitted our tribal petition and narrative to
21 BAR and OFA on January 25th, 1995 during a meeting at the
22 White House in Washington, D.C. The completed petition
23 which meets all of the acknowledgement criteria was hand
24 delivered to BAR and OFA in August of 1995. At the
25 present, we continue to work towards the goal of

1 reaffirming our previous status as a federally recognized
2 tribe, and with this letter certify our intent to continue
3 with our petition filing.

4 In 1883 special Indian agent, Helen Hunt
5 Jackson, identified our tribe as the San Carlos Indians
6 living near old San Carlos mission at Monterey. She wrote
7 to the commissioner of Indian Affairs notifying him about
8 placing our tribe along with the Santa Ynez Chumash
9 directly under her jurisdiction. That never happened.
10 The Chumash was granted land by the Catholic church and we
11 were dropped. We just were forgotten about.

12 Ohlone/Costanoan-Esselen Nation was never legally
13 terminated by any act of Congress, executive order or
14 court decision. In fact, the lineages comprising
15 Ohlone/Costanoan-Esselen Nation's historic community were
16 formally recognized by the United States government as the
17 Monterey Band of Monterey County identified by special
18 Indian agent, Charles E. Kelsey and others. The Monterey
19 band -- excuse me -- the Monterey Band as with other
20 federally recognized tribes of California was placed under
21 the jurisdiction of Bureau of Indian Affairs in
22 Washington, D.C. under the auspices of the Reno and later
23 Sacramento agencies between 1906 and 1923. As a result of
24 this discovery, in 1905 of the 18 unratified treaties
25 negotiated by the United States and California tribes, the

1 insuring federally Congressional Appropriation Act of 1906
2 and 1908 and years later, the Monterey Band became known
3 federally recognized while waiting for purchase of home
4 sites. Our tribe was specifically named in the Bureau of
5 Indian Affairs' special Indian census, as well as by its
6 agents, correspondence and reports. Kelsey's Indian
7 census identified Tom Santos Miranda and family, Agnes
8 Inez Garcia her children, Thomas Anthony Miranda, Maria
9 Guadalupe Miranda residing at the Sur Rancheria, Monterey
10 County. OCEN today lists 100-plus tribal members directly
11 descended from Thomas Santos, my great grandmother and my
12 grandfather Thomas Anthony Miranda. And yet it denies,
13 the BIA denies that information from 1906 as Congress sent
14 out Charles E. Kelsey. We didn't ask him to come out,
15 they sent him out and they deny that report. It says just
16 because -- the letter of determination from the BIA says
17 just because he wrote down the name and identified them as
18 Monterey Band of Indian doesn't make him Indian.

19 Although we were formally recognized due to an
20 administrative error our tribe was overlooked and
21 neglected under the Congressional acts to purchase land
22 for landless and homeless California Indians and tribes.
23 The Monterey Band of Monterey did not have any land
24 purchased for our landless community, yet Sacramento
25 Superintendent Dorrington did not include our band among

1 the 135 tribes that he administratively dropped. The
2 tribe dates the federal government's neglect of
3 OCEN/Monterey band as an acknowledged tribe to this
4 period. So although he dropped, you heard Chairman Lopez
5 telling you that he dropped 135 tribes, he never dropped
6 us. But he never included us. We were forgotten.

7 It's wrong, the Department of Interior needs to
8 identify that information and accept it instead of saying,
9 Well, you don't exist, because he dropped you. Without
10 any benefits from the government and with only a minimum
11 compensation for the theft of California Indian land, our
12 families enrolled in 1928, 1932 -- 1948 through 1955, 1968
13 through 1972. For the loss of the acres, we heard already
14 the price you've heard how much was paid for that land.
15 Our direct ancestors severed as linguistic and cultural
16 consultants to Alexander Taylor in 1856. Alfred Kroeber
17 in 1902 to 1910. C. Hart Merriam to 1902 to 1922, and
18 John P. Harrington, Field Ethnologist for the Smithsonian
19 Museum's Bureau of American Ethnology in 1939 to 1930; and
20 yet those dates still are ignored by the BIA. We all know
21 how long that this has taken. Indian Country News
22 magazine says the federal recognition process is a
23 travesty, but who can fix it. An oversight hearing on
24 federal recognition, political and legal relationship
25 between government hearings stated goal was to examine the

1 process of recognizing tribes through the administrative
2 and Congressional process. The panelists described the
3 BIA federal acknowledgement process as broken, long,
4 expensive, burdensome, intrusive, unfair, arbitrary and
5 capricious, less than transparent, unpredictable and
6 subject to undue political influence.

7 I know that Val already said some of those so
8 I'm going to skip that part.

9 Nonetheless, our people, our tribe continues to
10 thrive by revitalizing our tribal government, a community
11 with heritage, and we actively participate in waking our
12 language which has slept for over 70 years due to the
13 forced removal of children to schools where punishment was
14 quick for speaking our words. We are working on Esselen
15 language through brochures, coloring books, prayers and
16 ceremony. At tribal events we return the arts of basket
17 weaving, clapper sticks, tule boats and mats making and
18 abalone jewelry shaping. We teach our children the
19 importance of respect for elders and truth. We work to
20 teach everyone the importance of being together as a
21 people and working together. We recognize that we are
22 here because of our ancestors who came before us and gave
23 us life and direction. Today and always we will continue
24 to fight for the rights to land, acknowledgement by the
25 cities disturbing our ancestor burial grounds in the name

1 of progress and the federal acknowledgement of our way our
2 ancestors were denied. As a historic tribe that is
3 politically acknowledged within our aboriginal homeland we
4 have worked to educate the local community regarding our
5 history by participating with schools, organizations and
6 political parties. These actions should be included as
7 part of requirement for meeting that criteria of a
8 historic tribe seeking reaffirmation by the federal
9 government.

10 Our men and women have served in the Air Force,
11 Air Forces. All the way back from World War I. On our
12 Web site we have pictures of our veterans. How important
13 that is through court order on our homeland. For ten
14 thousand years the Esselen, Monterey Costanoan, Carmeleno,
15 Rumsen, Achastan, Guatcharron and Chalon Indians have
16 lived in the Monterey bay area without interruption.
17 Despite missionization, government changes, broken
18 treaties, devastation to our culture, and loss of land, we
19 have survived. All of our people and tribal areas are
20 united as Ohlone/Costanoan-Esselen Nation.

21 Today OCEN has 700 enrolled tribal members all
22 with genealogy proven to 13 core families all the way back
23 to the first mission records through Carmel and Soledad.

24 And so what we're asking is for the BIA to
25 reconsider, to understand this documentation, to learn

1 genealogy and come out and understand that this is our
2 history. We have been here and you continue to deny no
3 matter what we submit. We ask you to review the
4 documents, make sure -- I got told that we were going to
5 be removed from the list, from 1995 we were going to be
6 removed because we haven't been able to raise enough money
7 to hire the archeologists, the anthropologists to submit
8 additional, we got one grant and we worked with
9 professors. But if they don't get paid, they don't want
10 to do it, and we don't have the money because you guys
11 have taken our history, our lives from our ancestors, our
12 elders that are dying, our children that died and our
13 children that survived. I will probably never see the
14 recognition of my people, but I hope that my grandchildren
15 do and their children because I will teach them who they
16 are. And in ten years when you're standing here asking us
17 again to go through this process it will be them because I
18 feel that this process will not change. I'm here to speak
19 my mind and hope because we always have hope that one day
20 the people of these United States will understand that
21 we're here and this is our history and acknowledge us.
22 And that's all I said --

23 AUDIENCE MEMBER: We've had some great history
24 lessons, some moving testimony, but we're not dealing with
25 these regulations. We're going to be here all night if

1 this keeps up.

2 THE SPEAKER: My name is Marcus Lopez --

3 MR. ROBERTS: I'm sorry to interrupt you. We're
4 going to give everybody an opportunity to speak here
5 today. I know there are some folks -- in the interest of
6 time, I think what everyone has to say here is important.
7 We're going to give everybody a chance to speak. We're
8 going to limit statements to five minutes at the outset
9 and then let's just circulate the line. So if you have
10 comments to make, please get in line. We're going to give
11 everybody five minutes to speak. We're not leaving today
12 until everyone has had a chance to speak for the public
13 record so don't worry about time, we got started a little
14 late today, okay. But it's important that we get a record
15 or everybody and that everybody has something important to
16 say. And I appreciate the last comments, I think it's
17 important for us to learn about the history of California.
18 I think it's important for us to hear about the process,
19 what the perceived difficulties of it are. And I also
20 want to hear comments from everybody if you have them. So
21 everyone will get a chance to speak, but please let's
22 respect everybody's time here today. We'll limit folks to
23 five minutes but you can --

24 THE SPEAKER: Thank you very much. My name is
25 Marcus Lopez, co-chair of the Barbareno Chumash Council,

1 along with Deborah Sanchez co-chair of Santa Barbara,
2 California.

3 (Speaking in unknown language).

4 Hello my friends. In this building are my
5 relatives beyond the beyond. The criteria, two important
6 things that I see and we will submit it by your date is
7 flexibility of our unique histories, and the efficiency of
8 the being mindful of our very limited resources. The two
9 speakers before me indicate of those lucid limited
10 resources and the dynamic history of California. All of
11 our Native people in this room and all throughout the
12 United States should beg for forgiveness of Native people
13 and indigenous people, beg for forgiveness. This book,
14 "Murder State" by Brendan C. Lindsay documented the
15 holocaust and genocide that we have all experienced,
16 that's why this is so emotional.

17 The criteria is a master template which needs
18 adjustment and change. And ladies and gentlemen, a master
19 template is not giving Native people, indigenous people a
20 just reason to exist. It needs to be changed. My
21 congratulations and my empathy for your struggle for
22 trying to figure this out. It's a difficult process. In
23 Florida, the Iroquois, northwest, Texas, the west, all
24 different. All different. Cannot fit a template. So I
25 propose to the Bureau of Indian Affairs that they adopt

1 the United Nations declaration and rise of Indigenous
2 people. That the 13th of September, 2007 the world had
3 the ethical or moral grounds in order to recognize
4 indigenous people. United States needs to catch up. Just
5 like the base of 1934. The reason why they picked 1934 is
6 because of the massacre of tribal groupings before that.
7 Before the allotment and Wheeler Act.

8 Now let's go forward folks, let's go forward to
9 adopt and implement a declaration of the rights of
10 indigenous people and I'll read Article 33. One,
11 "Indigenous peoples have the right to determine their own
12 identity or membership in accordance with their culture
13 and traditions." What a concept.

14 "This does not impair the right of indigenous
15 individuals to obtain citizenship of the states in which
16 they live."

17 And the second point: "Indigenous people have
18 the right to determine the structures and select the
19 membership of their institutions in accordance with their
20 own procedures." Indigenous people listen. The panel,
21 you're just people here, it's your job to present a
22 presentation. Listen to this. One more last point. I
23 would suggest and highly recommend that the Bureau of
24 Indian Affairs stop hiding indigenous people. Indigenous
25 people don't bite them, won't eat them alive, they're very

1 spiritual people. Sit down and meet with all the
2 unrecognized peoples and communities. These issues are
3 very emotional because the genocide, holocaust was very
4 emotional. All you white folks in the room, you should
5 pray in your prayers for forgiveness of what you did. Not
6 today, but yesterday, so we can go on forward in healing
7 our communities. Thank you very much ladies and
8 gentlemen.

9 MR. ROBERTS: Thank you.

10 THE SPEAKER: (Speaking in unknown language).

11 My name is Michael Cordero. Hello, I'm --
12 C-o-r-d-e-r-o. I'm tribal chair of the Coastal Band of
13 the Chumash Nation and we have a letter of intent in to
14 the BIA for recognition; and so I'm here to learn and to
15 see what is being proposed so we can have an understanding
16 of what is being done with the criteria. And as a
17 non-recognized tribe, we understand what it means to not
18 be covered under the federal regulations and policies and
19 such that federally recognized tribes cover. We know that
20 this continues today with even the new health care act
21 where there's a discrepancy between what the federally
22 recognized tribes and the non-federally tribes will
23 receive as far as in regards to premiums, deductibles and
24 co-pay and such. So we want to see that these federal
25 regulations, these criteria will make it easier for the

1 tribes to be recognized and receive these same benefits.
2 Thank you.

3 THE SPEAKER: Good afternoon. My name is
4 Andi Culbertson, and my husband and I are residents of the
5 Santa Ynez Valley. First and foremost, I would like to
6 thank the representatives of BIA for coming to the Valley
7 and speaking to us directly about your proposed rule
8 making. My purpose in coming forward, and I will be
9 submitting written comments, is what I'd like you to
10 consider is the history of California that many speakers
11 have already covered and I won't repeat. But what the
12 history of California has done in combination with your
13 Indian tribe definition is create a lot of subgroups. And
14 if each of these subgroups are afforded status as Indian
15 tribes, first it's not historically what the situation
16 was, and second because of the benefits that flow from the
17 BIA and federal government, seated trusts for casinos, it
18 places a disproportionate impact on the community.

19 Now, we know the history of California is such
20 that the Spaniards, as one speaker said he's absolutely
21 correct, they actually absconded with tribal members and
22 forced them to work on the mission. They took them out of
23 their native area and was very damaging to their culture
24 and to their continuation of their use of the land. What
25 I am saying is that because your Indian tribal definition,

1 and you invited to make comments on definitions, because
2 that Indian tribe definition, I don't think you intended
3 this, includes a lot of subgroups that may have been
4 artificially created by western Europeans, dominance in
5 the area prior to the United States. It creates a problem
6 in California with a virtual avalanche. I'm not quite
7 sure of the number, you probably know it, there are 100 or
8 so recognized tribes in California, federally recognized.
9 In that hundred or so recognized tribes, we know that from
10 petitions before you there are probably 69 or 79 tribes or
11 bands or rancherias that are asking for federal
12 recognition. In addition, when they receive federal
13 recognition they are entitled to request free for trust
14 casinos, et cetera. In the hundred or so tribes that's
15 roughly, don't hold me to the arithmetic, but that's
16 roughly 20 percent of the tribes that you have federally
17 recognized, yet California represents only 15 percent of
18 the population of the nation.

19 So I would ask you as you promulgate rules
20 governing the federal recognition to understand that
21 federal recognition of Indian tribes is important and it's
22 part of our commitment in this country to the indigenous
23 people. However, it also carries with it a very difficult
24 secondary effect of fee to trust going through this
25 country and through this state, it is very damaging to

1 communities. We have no control over the land use, we
2 have nothing from the taxes. But we have to pay for the
3 schools that the children go to, we have to pay for the
4 police and fire protection. It's devastating to our
5 communities. So I would ask you respectfully to consider
6 how you look at Indian tribes with a historical
7 perspective in mind, and that it's not perhaps like my
8 husband who is a member of the Western Band of Cherokees
9 in Oklahoma. It's not the same because of California's
10 unique history. I would ask you to seriously consider
11 that and the effects on local communities when you
12 undertake your rule making. And thank you and I'll be
13 submitting comments.

14 MR. ROBERTS: Thank you. I want to make sure I
15 understood your comment on the definition section. We
16 don't need to get into details here, but I just want to
17 make sure that I got it, which is, in your written
18 comments that you'll submit you're suggesting some sort of
19 change to definitions of Indian tribes?

20 THE SPEAKER: That's right.

21 MR. ROBERTS: And just for clarity sake, we
22 haven't proposed any changes to that.

23 THE SPEAKER: Right.

24 MR. ROBERTS: We're happy to take comments.

25 THE SPEAKER: I sincerely appreciate -- this is

1 a perfect step on your part to gather this kind of
2 thinking, but -- I'm not saying you're going to do -- you
3 intended this effect, but this is a very serious problem
4 in California.

5 MR. ROBERTS: Thank you.

6 THE SPEAKER: Thank you very much for your time.

7 MR. ROBERTS: I thank you for all of the public
8 comments here in terms of keeping it within five minutes,
9 I appreciate everybody's staying within those limits,
10 thank you.

11 THE SPEAKER: Representatives, relatives of all
12 colors. My name is Wallace Clark, C-l-a-r-k. I'm a
13 tribal council member of Konkow Valley Band of Maidu
14 located on the north fork of the Feather River in Butte
15 County. Historically we were signed with the Bidwell
16 Treaty of 1851/1852 whereas, U.S. Congress refused to
17 ratify this and other treaties and then placed an
18 injunction of secrecy upon these papers.

19 I'm also a decorated Vietnam Veteran and an
20 honest and respected man. Along with this I have a great
21 grandson of Toom-ya-nem, the last Noponi of the
22 Koyomk'awi.

23 (Speaking in unknown language).

24 It was our family that was hunted down, and
25 either killed or rounded up to be taken to the Round

1 Valley Reservation. Toom-ya-nem's daughter, my
2 grandmother hid to avoid capture and was never to see her
3 father, brothers or sisters alive anymore. Her mother had
4 already been hung by that time.

5 From those early days our family has tried to
6 maintain a point of decency and as recorded by the U.S.
7 Army in Round Valley the old chief helped to maintain the
8 peace when there was none. We, in the family, have served
9 in the Mexican-American War, World War I and II, the
10 Korean and Vietnam and my younger generation relatives are
11 now serving currently.

12 This part of the family has never left our lands
13 and even though we lost our homes, most of our culture,
14 along with our right to worship we have been able to raise
15 the family in self-preservation while maintaining our self
16 dignity.

17 The question of acknowledgment of families and
18 tribal communities is simple. There is no rhetoris(sic)
19 or deception, only truth, and, your duty is quite clear.
20 Define yesterday's immorality with today's right morals.

21 Life has not been easy for any of the families
22 that stand before you. And even most of those tribes who
23 now receive that special recognition had to endure slavery
24 and/or genocide. I say most because as a personal
25 observation, I have also noticed that some of the families

1 in order to avoid these atrocities fled to the white man's
2 ranches and never had to endure the full brunt of
3 punishment. I am not criticizing them as they did what it
4 took to survive.

5 Boarding schools, laws enacted to prevent us
6 from being who the world maker wanted us to be have not
7 stopped us from dreaming or hoping. Re-educating us only
8 served for us to better understand that government then as
9 is now.

10 Again, I stand before you as an honest and
11 respected man, who as a good soldier did not quibble about
12 being wounded and when ordered to stand firm, did so,
13 knowing that my fellow soldier could rely on me as also
14 his future generations of family members.

15 You now have the means of morally correcting an
16 injustice. Search your own history and your own
17 consciousness, relative. One can never do a wrong when
18 doing what is right. Nem Wennen.

19 THE SPEAKER: Lisa A-1, b as in boy, i-t-r-e
20 Galvarino. Thank you again, Mr. Roberts, for bringing
21 your team out here and meeting with us. I did speak
22 earlier and I failed to ask a question. Upon the
23 applications that have been submitted for the federal
24 recognition, what is the policy and procedure to obtain a
25 copy of it to make sure that we are in compliance, we are

1 in good faith, that we are showing the burden of proof,
2 that we are doing everything according to the policies and
3 procedures, we are not being aggressive but assertive?
4 And we understand that it is a complex application and the
5 documents are critical. But as I said earlier as well,
6 there are epidemics going on in the Native American
7 communities with the homeless Vets, with the ICWA, with
8 the housing. The list goes on and on. But I hear now
9 there might be a two-year waiting list when something has
10 been submitted 20 years ago. I would like to know, has it
11 ever happened or is there a way that we can get a copy of
12 the application that was submitted 20 years ago?

13 MR. ROBERTS: Sure. All you need to do is just
14 submit a letter in writing to the Office of Federal
15 Acknowledgment asking for a copy of that record and
16 they'll process that and send a copy to you.

17 THE SPEAKER: Then at the same time as they give
18 me the application, we want to show it again. It's been
19 more than two years, where would that put us?

20 MR. ROBERTS: Just requesting a copy of your
21 application is not going to change the status of your
22 application.

23 THE SPEAKER: Okay.

24 THE SPEAKER: Greetings everybody. My name is
25 John Schneider and I'm a retired veteran. I'm an old guy

1 and I can't give long speeches this --

2 MR. ROBERTS: I'm sorry, sir...

3 THE SPEAKER: -- I've been on this continent for
4 many many years. The Americans were helpful, courtesy,
5 kind, cheerful. In 1492 they we were invaded by
6 foreigners and the problem was is the Americans didn't
7 have an immigration program and they didn't teach the
8 people coming aboard to become Americans and their
9 descendents didn't become Americans and this is why we're
10 in the problem and the crisis we're in today. Now I do
11 have a speech that I'm going to give this Mr. Washburn. I
12 have one for the chief -- I'll find a way to get it to him
13 then.

14 THE SPEAKER: (Speaking in unknown language).

15 My name is Maura, M-a-u-r-a, Sullivan. I'm here
16 as a secretary of the Coastal Band of the Chumash Nation
17 representing San Luis Obispo, Ventura and Santa Barbara
18 counties. I'm here today on behalf of many tribal members
19 who wish to be here but because of family, work
20 circumstances were unable to come. I just wanted to start
21 with a few things. Outside of Alaska, California has the
22 second largest Indian population, and that's something
23 that I worked with a woman on a documentary and that was
24 one of the facts that we talked about. Another thing is
25 that here in California I've actually been working on

1 claiming Native language, and in California alone, in the
2 borders of California, we have almost 300 distinct
3 dialects of language. So if you consider that that
4 translates to show how many people are living here, that
5 just shows how many different tribes and communities that
6 represents.

7 So I also had from my own heart -- it isn't
8 about a casino for me and for my family, and it's not
9 about, you know, the fears of that the land becoming
10 something called fee and trust where casinos are being
11 made for us. It's not about that. So for me and my
12 family I just wanted to express that. I also have a
13 question about the initial slide that talked about the DOI
14 work group. If you're able to answer: Who is qualified
15 or who works on that DOI work group? And that's all I'll
16 say today.

17 MR. ROBERTS: Sure. So as I mentioned earlier,
18 we convened an internal team to come up with options to
19 improve the regulations, so as part of that team we had
20 folks from the solicitor's office, attorneys essentially,
21 we had folks from the Office of Federal Acknowledgment,
22 historian, anthropologists and people who work in that
23 office. And then we had people from the assistant
24 secretary of Interior Affairs' office participate in that.
25 So it was a work group of, I think somewhere between ten

1 and 20 people that basically pulled together various
2 options for improving the process.

3 THE SPEAKER: So I don't really hear tribal or
4 -- I know you guys represent different nations
5 yourselves...

6 MR. ROBERTS: It was an internal work group,
7 yep.

8 THE SPEAKER: Then finally I'd like to remind
9 you and put that in the notes the ACCIP report that was
10 made which was the -- I'm blank on it, but it's pretty
11 much the same document that people are working on it now
12 which talks about why California is a special case and why
13 we feel that we need to listen to California tribes. So
14 thank you.

15 MR. ROBERTS: Thank you.

16 THE SPEAKER: Good afternoon. My name is
17 Tracy Rivas. I am from Yuchi Creek and I am from
18 Oklahoma. There is no meeting in Oklahoma on this
19 particular event because, as you know, Yuchi tribes in
20 Oklahoma are federally tribes; however, the Yuchi have
21 submitted an application, an OFA application in the '90s
22 and we were denied. We were reviewed on one criteria and
23 that is was the rule enrollment that we were denied on and
24 that is something that I have a question on these proposed
25 findings. The Yuchi tribe, we made up the creek federacy

1 before we were moved into Oklahoma, and that made up -- 44
2 bands make up the Muscogee Creek Nation. When the
3 Oklahoma Welfare Act came out in '36, as you know, we were
4 exempted. When that came out it allowed for any band or
5 tribe to be recognized through a constitution or through
6 charter. Some of the tribal towns have broken away from
7 Creek Nation and established as a tribal town and the
8 solicitor's office has actually issued an opinion on this
9 in '37. But the Yuchi tribe, we are not Muscogee. We
10 were a completely separate tribe, there's a separate
11 census, everything was completely separate. We maintain a
12 separate language. And even through the Muscogee Nation
13 we are even acknowledged as being separate; however, when
14 we submitted a land claim in the '50s we had to go all the
15 way to the Supreme Court to get special recognition to
16 even submit the land claim, and then it became
17 consolidated. When we submitted our application in the
18 '90s under the OFA guidelines we were denied federal
19 enrollment. And there's really no way to overcome that.
20 We do receive federal status because we are enrolled as a
21 Muscogee Nation; however, we're a separate tribe. And as
22 a separate sovereign it infringes on our right to be who
23 we are. If you were from someplace else and someone is
24 telling you you can't be who you are. We've maintain a
25 separate cultural community, a separate language and these

1 are very distinct between the communities.

2 So with these proposed guidelines I'm asking for
3 some clarification on the bilateral political
4 relationship, it's not clearly defined in the regulations.
5 So there's not really a clear way to overcome that. We're
6 all enrolled underneath the Muscogee Nation or another
7 tribe because we -- the way we were combined, but there's
8 not a mechanism for us to step outside and break away from
9 that.

10 As well as, these regulations under the OFA
11 guidelines are more strict than from the Oklahoma Welfare
12 Act prescribes. They're much more narrow and there's not
13 any guideline between 81, 82 or 83 that allow for the
14 tribes under this status that were pushed underneath to
15 separate and break away. So I'm asking for clarification
16 on that because we had no other choice but to submit under
17 the OFA guidelines.

18 MR. ROBERTS: Okay. I don't have clarification
19 for you on your specific issue, but I will say that we'll
20 take your comments as something that needs to be looked
21 at. The discussion draft doesn't change those criteria in
22 Part 83, and so what I'm hearing is that your comments are
23 is that we should look at that issue and your comments are
24 that we should change it essentially?

25 THE SPEAKER: On the dual enrollment it doesn't

1 allow for tribes that were forcibly pushed underneath.
2 Even though we still have federal status, we're a separate
3 tribe and we can show that. And with that, actually, part
4 of the regulations when you were discussing this earlier,
5 if you were able to overcome the E, F or G you would
6 immediately have gone to the expedited, we would
7 automatically fail that which means we have to go another
8 full review. We've already been through the lengthy
9 process and submitted documents. So again that still
10 doesn't allow for those guidelines, it would automatically
11 kick us out.

12 MR. ROBERTS: Okay, thank you.

13 THE SPEAKER: (Speaking in unknown language).

14 Greetings. My name is Roberta Cordero. I'm a
15 member of the Coastal Band of the Chumash Nation. I want
16 to make one mute point, but I just wanted to make a
17 clarification. The use of the word tribes is really an
18 anthropological use. Most of us indigenous people on this
19 continent did not exist and what most people said is some
20 kind of overriding governance of a whole bunch of people
21 over areas of land, we existed mostly in bands and maybe
22 coalitions of bands, so it's not new to have a lot of
23 different entities to be able to address this issue.

24 The second clarification that I wanted to
25 emphasize and that Maura just made is all of us aren't

1 interested in casinos, it doesn't even come on our radar
2 for lots of us. But we are interested in being more
3 effective in protecting our traditional territories and
4 resources. And that's because we see the creator giving
5 us privileges to gather on the land, to exist on the land,
6 to interact with and with that it comes with a commitment
7 which we have great difficulty taking care of. And
8 whether or not we still have that same autonomy on the
9 land day to day, we still have that same duty. So this
10 would afford us that same opportunity.

11 The main point I wanted to make though is that I
12 really believe that we really need in this document, you
13 note criteria or some kind of considerations for
14 California Indians because as many of us has heard today
15 because of affect of historical representations that make
16 it especially difficult to show continuity. Thank you.

17 MR. RICHARDS: Thank you.

18 THE WITNESS: My name is Art Cisneros,
19 C-i-s-n-e-r-o-s. I know some of you, I've met you
20 recently in ceremony at Tully River. I bring a message
21 from that organization -- from that gathering. All
22 communication is through an open heart. That is the key.
23 This message comes from our mother earth herself, through
24 the people, from the Sierra of Columbia. As I understand
25 this message, as it came through me. The supreme

1 spiritual grandmothers and grandfathers are demanding for
2 human beings to love one another unconditionally, to be at
3 peace with one another. To unite as true brothers and
4 sisters of the same family, with the same mother, the
5 earth. We are connected to our mother and when we are in
6 love in life and joy, also peace and harmony. When we
7 suffer, so does our mother. We must begin the unification
8 by forgiving ourselves and each other and our ancestors of
9 any suffering that may have been caused by our
10 disconnection from our mother. All misunderstandings,
11 miscommunications, bad intentions, bad word, bad actions
12 are un-ancestral rules. We must embrace each other. We
13 must now begin the recapitulation, the connection,
14 reconnection to our mother. We have to untangle and
15 release these negative aspects that have come up over the
16 last few millennia. We must become who we truly are. Our
17 identity as one family is key. We are all children of our
18 one mother, the earth. We must assume our responsibility
19 as the caretakers of ourselves, the people, all people,
20 all our relations in nature, everything that exists and
21 will be. The life that flies in the wind, grows in the
22 earth, swims in the water and is part of the fire in the
23 sun, in the stars, in our mother and in our heart. We
24 must take care of the elementals, the wind, the earth, the
25 water, the fire. Bless us.

1 That came from a direct communication through
2 the people of the mountains of Columbia. They came to a
3 gathering, not by our invitation but by invitation of the
4 spirit of the mountain itself in the Sierra Nevada, and
5 this is for all people. Thank you for listening.

6 MR. ROBERTS: Thank you. It looks like -- do
7 you have something to say, too? Okay, great. So we have
8 two more speakers. I'm not trying to change the order at
9 all what, I'm looking at is the clock here. It's 3:20 now
10 and what we'll do is after these two speakers, at 3:30
11 we'll take a short ten-minute break, then we'll reconvene
12 so everyone is going to get a chance to speak, but we're
13 going to take a break at 3:30.

14 THE SPEAKER: (Speaking in unknown language).

15 What I came up here for was to provide you with
16 a copy for the official record. I'm sure you don't want
17 me to read 65 pages, 63 pages of it so here is the
18 official advisory council of California Indians policy
19 final report and recommendations to the Congress of the
20 United States pursuant to public law 102416. An executive
21 signed it.

22 THE SPEAKER: Good afternoon. My name is Mona
23 Olivas Tucker, and I'm the tribal chair for Yak tit'u
24 tit'u Northern Chumash and we represent San Luis Obispo
25 county in that area in general, and I'll give you that

1 information with the correct spelling in just a little
2 bit.

3 We all know that the existing policies were
4 obtained in federal recognitions are quite cumbersome,
5 expensive; and most of us who started don't expect it to
6 be finished in our lifetime and that's wrong and that
7 should be changed. So I hope some of the new revisions
8 will help in that matter. But I would like to encourage
9 you to go further with this and to perhaps help with
10 advocacy, provide advocates, provide liaisons, provide
11 people whose purpose is to help us and not to throw road
12 blocks at us, but to help us through this very difficult,
13 expensive and cumbersome process.

14 Most of us here, I think we still work for a
15 living and we don't have resources, you know, to fund this
16 kind of work and so not only are we spending money to be
17 here, we are losing out on the hours that we might
18 otherwise be working. So this process, I'm assuming takes
19 thousands of hours if not more, and I don't know how many
20 hundred of thousands of dollars. So we need from you to
21 help us work through that process. So if you would
22 consider providing advocates to help us, especially
23 advocates who are very well-versed in California Native
24 American history. Thank you.

25 MR. ROBERTS: Okay, thank you. We're going to

1 take a very short break after that speaker if that's okay.
2 We'll reconvene at 3:35 promptly and thank you.

3 (Recess was taken at 3:23 p.m.
4 and resumed at 3:37 p.m.)

5 MR. ROBERTS: We're going to go ahead and get
6 started then on the record.

7 Please proceed, Mr. Lopez.

8 THE SPEAKER: My name again is Valentin Lopez.
9 I'd like to thank Julie for calling us to order here. I
10 spoke earlier this morning and I spoke for the groups of
11 tribes that we're working with. We will be submitting a
12 document from all the representative tribes and they'll be
13 signing the letter as well. So that's something you can
14 look forward to.

15 Part of that package is going to be a number of
16 research reports, letters, other documents and stuff like
17 that that have the document's future efforts, what the
18 recommendations were, what the -- you know, what they saw
19 as problem. Just very, very useful and valuable
20 information. So I hope that the folks responsible for
21 writing -- doing review and developing the criteria, I
22 sure hope that they read every page there and take it
23 serious because there would be a lot of wisdom of
24 religious ideas and points and a lot of stuff for the
25 administrators as well. So there will be a lot of

1 valuable documents for this process.

2 I'm talking about the Amah Mutsun now. I feel
3 that it's very, very important that the BIA, really in
4 California at least, really focus on the issue of previous
5 recognition. What does that mean? One is established
6 previous recognition and then what responsibility does the
7 BIA have to those tribes that were previously recognized?
8 These tribes here, we were illegally terminated by law.
9 Only an act of Congress can terminate tribes, but these
10 tribes were never legally terminated. We feel and we tell
11 folks that our recognition was never terminated;
12 therefore, theoretically we're still a recognized tribe.
13 The government just ignores us and that's the way we
14 honestly feel. So working with previous recognition you
15 identify who's previously recognized or who should have
16 been previously recognized, that's the another important
17 point. Because the act that was signed by the president
18 in 1891, those tribes should have been recognized. And
19 then how do you correct the mistake? The process -- this
20 revised process cannot be a one-side works all, even here
21 in California, as I said earlier, the mission tribes have
22 different history, a different experience than the Gold
23 Rush. And there's other regional differences as well.
24 And those must be researched and identified in different
25 separate standards because they have different types of

1 evidence for their tribes. You deleting the issue of
2 external observers to identify groups of Indians, that has
3 pluses and it has minuses. Because like our tribe is
4 recognized as being a continuous and historic tribe, by
5 but folks such as the museum at U.C. Berkeley, the Hearst
6 Museum at U.C. Berkeley they recognize us, the Fowler
7 Museum at UCLA, they recognize us as a historic tribe.
8 Our tribe is very well represented at the Smithsonian,
9 widely told that our tribe has the second greatest
10 selection of anthological -- of any tribe in the United
11 States at the Smithsonian. We're very well represented at
12 the Smithsonian. So if you identify those external
13 observers, you know, identify your groups and stuff like
14 that, that possibly could impact us.

15 Here is some other criteria for California
16 mission tribes -- for California tribes and in some cases
17 mission tribes. But in California there were Indian
18 census -- population censuses that were taken in the
19 1900s, 1905, 1906 and 1910. A lot of tribes showed up on
20 all three of those Indian censuses, their tribes. A lot
21 of the tribes that were under the jurisdiction of the
22 Indian Field Service, now BIA, they are tribes. The --
23 Dorrington I talked about this morning and those tribes
24 were illegally terminated because the Muwekma who were
25 given previous and indigenous federal recognition, a big

1 part of their recognition was that Dorrington report, and
2 180 tribes were terminated under that Dorrington report.
3 So Muwekma was previously unambiguously recognized. Those
4 other 180 tribes are highly likely or probably previously
5 recognized as well.

6 Allotment tribes have -- I mentioned how there's
7 a lot of different histories. The allotment tribes are an
8 important group as well. They are tribes and they
9 allotment land, but that needs to be looked at very
10 specifically and individually for those tribes. A lot of
11 tribes are currently recognized by the state of
12 California. Some tribes are recognized by the state as
13 previously recognized and recognized as the current and
14 historic tribes by the state assembly, that's another
15 important piece of evidence. Some tribes have federal
16 use, MOAs with the national park service and BLM, Bureau
17 of Land Management, those are important agreements they
18 have.

19 MR. ROBERTS: Mr. Lopez, I don't want to
20 interrupt you but a couple of more minutes for the
21 five-minute rule.

22 THE WITNESS: I don't have a lot more.

23 MR. ROBERTS: Okay.

24 THE WITNESS: And they have been, the external
25 ones, there's a lot more -- there's a lot of other places

1 there where the recognition by outside members and stuff
2 like that is important. I'll stop my -- my reading my
3 comments there, but one size fits all won't work. I'd
4 like you to seriously look at the previous federal
5 recognition designations and make a determination where
6 there are tribes there and can they be restored in an
7 expedited fashion. That is probably the most valuable
8 thing that OFA, BIA could do. Thank you.

9 THE SPEAKER: Hello. My name is Gerry,
10 G-e-r-r-y, Shepherd, S-h-e-p-h-e-r-d, and I'm here
11 representing the Santa Ynez Valley concerned citizens, a
12 group of over 800 households here in the Valley. I would
13 like to thank you for first of all for holding these
14 meetings, it's been very informative and very helpful to
15 us.

16 Secondly, just wanted to let you know that we
17 would be submitted our written comments, thank you.

18 MR. ROBERTS: Thank you.

19 THE SPEAKER: Andrew Lara, last name L-a-r-a.
20 Juaneno Band of Mission Indians in San Juan Capistrano.
21 Just real briefly I just wanted to state for the record
22 that one of the largest complaints regarding the federal
23 recognition process is the length of time that it takes,
24 it takes 30 years sometimes for tribes to be considered
25 for recognition. You could have given my tribe another 50

1 years and they would not have been able to complete the
2 process. The original -- if I remember correctly, the
3 first application that was submitted was 70 pages. We
4 submitted something like 50 boxes of information. So not
5 only is it just the length of time, but it's the amount of
6 money that you're asking these tribes to come up with.
7 They have to consult genealogists, anthropologists,
8 historians s and it's not -- it's not like anyone can
9 respond to those regulations -- you have to have a legal
10 writer who is an anthropologist, a historian who
11 understands the proper framework of the legal writing
12 which the BIA is accustomed with; not only that, they need
13 lobbyists, they need everyone who dips their hand in the
14 pot in the amount of money. So here you have a
15 sortly (sic) recognized subgroup of indigenous Americans,
16 Native Americans who are on the lower end of the social
17 economic scale in terms of the amount of wealth that they
18 have, and you're asking them to complete this process.
19 And if I remember correctly, there was a book in 2000 that
20 stated the average was \$10 million, and I'm sure that's
21 gone up now. Not only that, you have to fight off the
22 other Indian tribes who are ahead of you who want to
23 defeat your petition because they're concerned about their
24 march. And then you have to fight off the concerned
25 citizens that are afraid that you're going to set up a

1 casino, and that you're really just in it for a casino,
2 despite the fact that the majority of these tribes in here
3 submitted their letter of intent in the '70s before Indian
4 gaming ever came about, when it wasn't cool to be Indian,
5 when there was no financial benefits to become Indian. So
6 if those concerned citizens would understand the
7 historical context of it and not just look at the flashing
8 lights you realize that there's something a little bit
9 more to it. So I just wanted to put that on the record.

10 THE SPEAKER: My name is Chris Sandoval.

11 Sandoval, S-a-n-d-o-v-a-l. I'm from the Juaneno Band of
12 Mission Indians, Acjachemen Nation. The difference
13 between federally recognized and non-federally recognized
14 is maybe three letters, but it's also the difference
15 between being the car in the accident or being the person
16 driving by the car accident thanking God that it's not me
17 in the accident. You have been given an opportunity. And
18 the opportunity is the distinction between pixels on a
19 screen or ink on a piece of paper, because what you have
20 is the opportunity to do is to carry the angst of the
21 words of these people, the hopes of these people back with
22 you about this process. Think about it for a minute, how
23 totally absurd it is to have to prove who you are now when
24 nobody wanted to be Indian before? But it is with you as
25 human beings to now be our representatives to carry that

1 with you.

2 MR. ROBERTS: Thank you.

3 THE SPEAKER: Hello. Ken Woodrow, chairman of
4 the Wuksachi tribe. I just had a question on page 16. On
5 it it says, "The petitioner has maintained since 1934 a
6 reservation recognized by the state an continue to hold a
7 reservation recognized by the state; or the United States
8 has held land for the group at any point in time since
9 1934."

10 When you say state, you mean federal government
11 or the states?

12 MR. ROBERTS: I'm sorry? I'm sorry, I think the
13 question -- I think she couldn't hear what you were
14 saying. If you could get closer to the microphone that
15 would be great.

16 THE SPEAKER: "The petitioner has maintained
17 since 1934 a reservation recognized by the state and
18 continues to hold a reservation recognized by the state;
19 or the United States has held land for the group at any
20 point in time since 1934."

21 When you say state, does that mean federal or?

22 MR. ROBERTS: The state.

23 THE SPEAKER: Well, in California we don't have
24 state lands. There's no process for us to be recognized
25 by the state. Are you talking East Coast Indians that

1 were recognized previously during Europeans?

2 MR. ROBERTS: You know, it's not focused on the
3 East Coast, it's basically anywhere where there would be a
4 state reservation from 1934 to the present. So, for
5 example, some of the tribes are recognized now but there
6 are tribes in Michigan who are currently recognized who
7 had state reservations for a period of time before they
8 became federally recognized, so it's one category. And
9 the purpose of this comment period is to say, are there
10 other categories that we should consider, categories that
11 we put up there, are they wrong, should we not consider
12 those categories. It's the intent of putting up those
13 categories to say, give us feedback, what does the public
14 think about these.

15 THE SPEAKER: The only reason I question it is
16 we have band of trust from our great grandfather and on
17 the paper it says, Wuksachi/Michahai tribe. And my
18 understanding is you could only be federally recognized to
19 got allotment back. I don't know if I'm right or wrong.
20 The state -- California just doesn't have that. So
21 this...

22 MR. ROBERTS: I understand what you're saying
23 and I appreciate the comment. You're saying it doesn't
24 address California and we should do something that
25 addresses California. I will say that the second part

1 about the United States holding land for the group, so
2 that is -- we got a question from an earlier consultation
3 public comment session and someone asked, Well, if it's
4 United States holding land for an individual does that
5 count? And under the proposal that would not count, it's
6 for a group. So if there are concerns with that approach
7 we need comments on that.

8 THE SPEAKER: Well, that's what I'm getting at.
9 The document it says, Contain a member of the Wuksachi
10 tribe. It's basically -- we were pretty decimated.
11 There's only a few hundred of us left, and those were
12 situated for family allotments, but in reality that's
13 where the tribe lived because that's all the places they
14 lived we had to congregate on these lots because
15 everything else was taken, everything was free. So that's
16 what I was wondering about the state, as far as I know
17 California -- I'm concerned with California because that's
18 where we're from, this is where we're at right now. So
19 thank you.

20 MR. ROBERTS: Okay, thank you.

21 THE WITNESS: Back again real fast. I'm going
22 to give you my card and I'm not an anthropologist, I'm not
23 a linguist; I'm Indian. I'm working for my people and I
24 offer to volunteer to help you to make sure that this
25 doesn't end here.

1 THE SPEAKER: My name is Alfonso Rodriguez,
2 A-l-f-o-n-s-o, R-o-d-r-i-g-u-e-z, and I had a hard time
3 learning the spelling when I was a kid.

4 I just had a comment, listening to everybody
5 here I'm a 70-year-old man, I've been going through this
6 for years with my family about federal recognition. When
7 I was a kid I didn't even know what it was. When I went
8 to the military they gave us some money. They didn't know
9 what for. But then I learned about the previously
10 recognized tribes and I have been taught these things by
11 the Esselen Nation, by Val and other people. I don't
12 understand it. There's something wrong. I don't know who
13 to go to, who to talk to, and I'm asking the question:
14 Who can we go to or who can we write to or talk to about
15 previously recognized tribes? I've asked a lot of people
16 and they all tell me, Read this, read that. I would like
17 to have a name, a number, an office. What happened to
18 this paperwork? Who can help us?

19 MR. ROBERTS: I would say that the first stop
20 would be the Office of Federal Acknowledgment.

21 THE SPEAKER: I went that far already, nothing.

22 MR. ROBERTS: Okay. Well, let's talk after this
23 session and I can get more information about your specific
24 situation and figure out who the appropriate person is to
25 talk to.

1 THE SPEAKER: Okay. We're reasoning. Just
2 asking the questions.

3 MR. ROBERTS: Sure.

4 THE SPEAKER: And I also want to thank you
5 people for coming here to help us. And I know everybody
6 here that are Native American that could help you to make
7 your job easier because I know you got a hard job, I
8 wouldn't want it. Call us on, we'll call on you. Thank
9 you.

10 THE SPEAKER: I believe you have my name on file
11 already, I'm James Marino, I identified myself. I've
12 listened to most of these comments and it seems to me the
13 big problem is that a lot of the individuals and families
14 and groups who have American-Indian heritage in California
15 feel somehow insulted because they think that by federal
16 recognition they are going to acquire something more than
17 they already have because of their background, and they're
18 insulted by the fact that the federal government doesn't
19 recognize them. And I think they don't understand the
20 distinction to be made between groups and individuals and
21 families and a political entity of a tribe. I think
22 probably all of you know or are very familiar with a
23 recent district case in Washington of the Ohlone case
24 versus Salazar in which the courts very distinctly made
25 and explained the difference between simply individuals,

1 groups and families, not to demeaning, not that they're
2 any less Indian, and don't have less culture than anyone
3 else, but there's a need to have a political
4 identification of a tribe because there are federal
5 benefits involved for anyone who is an acknowledged Indian
6 tribe, and if they don't meet those criteria as a total
7 entity, a tribe that has an internal government and an
8 external governmental relation with the government, then
9 they're just not a tribe. It doesn't make them any less
10 Indian or it doesn't affect their culture or anything
11 else. That seems to be what I've heard today is one of
12 the big problems is there's a lack of understandings about
13 the distinction about a tribe, a political entity and
14 individuals and groups and families of Native American
15 Indians.

16 MR. ROBERTS: Thank you.

17 THE WITNESS: Maura Sullivan, Band of Chumash
18 Nation and I've already spoken earlier, but reading
19 through the material here --

20 MR. ROBERTS: Can you just state your name.

21 THE WITNESS: Maura, M-a-u-r-a, Sullivan. So
22 I'm particularly interested by -- kind of going off the
23 gentleman's comments, 83.7, mandatory criteria for federal
24 acknowledgement. I'm confused as to here on page 8 some
25 of these -- this criteria may be demonstrated and then we

1 have one then two and three and four and we have a red
2 line next to it. So is that these things will be
3 discussed or they're of interest? And these kind of talk
4 about significant rates of marriage within the group
5 and/or as may be culturally required having an
6 out-marriage in the Indian populations. Two, significant
7 social relationships connecting individual members; three,
8 significant ranks of informal social interaction which
9 exists broadly among members of a group.

10 So before you answer my question about the
11 markings, it's almost -- it's absurd to think that we have
12 to prove or show or abide by these things when so many
13 other people and citizens of the earth don't have to. I
14 guess I'm kind of struck by that. I know that obviously
15 our situations as Native people is unique, but some of
16 this stuff is really -- it's pretty interesting. So what
17 do the red tics mean?

18 THE SPEAKER: The red tics are just typos there
19 from spacing, I think we deleted the spacing these and
20 they showed up. So these are all the existing criteria
21 right now. But as a general matter, that's something that
22 we've asked for a comment on. I take your comment to mean
23 that these criteria are --

24 THE WITNESS: I just think that -- I'll go ahead
25 and I know we have until August 16th to submit comments as

1 tribal members or as groups, so I think that these are of
2 specific interest probably to a lot of people, especially
3 changing the percentages and who will decide what those
4 percentages are going to be. Thank you again.

5 MS. CHINN: These aren't actually requirements
6 to prove communities, they're just suggested ways that you
7 can show a community. If you have ideas for better ways
8 we'd love to hear them.

9 THE SPEAKER: So that's on page 7 (g) saying
10 that the criteria is not mandatory?

11 MS. CHINN: I think what you were reading from
12 is in (b) which is the community.

13 THE SPEAKER: Okay. But on -- if we look at
14 Page 7 where it says (g) right before, that's where it
15 says it's not mandatory.

16 MS. CHINN: Right. Exactly.

17 THE SPEAKER: Okay. Thank you.

18 THE SPEAKER: (Speaking in unknown language).

19 Hello. My name is Amber Machamer,
20 M-a-c-h-a-m-e-r. I come from the village of the
21 Makah(phonetic), meaning the place of the whales, modern
22 day Avila Beach near San Luis Obispo, Yak tit'u tit'u, San
23 Luis Obispo area. It's not that we Native people want to
24 jump through this hoop, we have to. Because federal
25 recognition affords us certain rights and privileges that

1 we don't have otherwise, such as medical care, the
2 opportunity for grants for cultural revival. Water
3 rights. The government-to-government consultation and
4 these very important issues for their survival of our
5 cultures is at stake. Cultural resources is vital and if
6 we're not federally recognized we can just be pushed
7 aside. So that's kind of why we want this. That is why
8 we want this. The perverse irony is that a lot of us
9 think that the magic pill to federal recognition is you
10 get a casino because you get someone to pay for your
11 application, but that's the only way someone thinks we can
12 compile the masses of information that you need to. We
13 don't want necessarily to go this way, but feasibly it
14 would be like hitting the lottery, getting federal
15 recognition.

16 What I want to just point out also is the unique
17 governance styles in California may not be recognized and
18 worried that when people would come forward with the
19 petition that it may not be recognized by the review
20 orders of the unique style of governance in California,
21 that it looks very social, it looks familial and it
22 certainly is kinship based, which might by the criteria
23 make us ineligible. So I find that lacking in the regs or
24 at least I don't see a good definition of what that looks
25 like to you. And when we present it, if what we get

1 reflected back is something that you don't see as
2 governance. So what we would call family reunions that
3 have happened in five years might be tribal government
4 meetings, but we would call them family reunions. There's
5 very important things that happen annually at these
6 gatherings. So it may not translate, our style of
7 governance may not translate as governance to people who
8 aren't familiar with California style with governance.

9 THE SPEAKER: Roberta Cordero, Costal Band of
10 Chumash. I just have to say something about who we are
11 and who we think we are, and would really like to disabuse
12 the idea that was spoken earlier that we don't understand
13 the difference between individuals, families, tribes and
14 so on. We understand very well who we are. We don't need
15 federal recognition to tell us that. We don't believe
16 that that is the case. We have inherent rights that we
17 are not currently able to exercise without having a seat
18 at the table, and mostly that's what this gives us. Thank
19 you.

20 THE SPEAKER: Hello. My name is Peggi Odom,
21 P-e-g-g-i, O-d-o-m. I'm from the Yak tit'u tit'u, San
22 Luis Obispo County. I would just like to say -- I'm going
23 to keep it simple -- and just please change how you see
24 not how you look.

25 MR. ROBERTS: Okay. It's five minutes after

1 four o'clock this was scheduled until 4:00, but we started
2 late so I'm going to give anyone who wants to say
3 something for the record a final opportunity. So speak
4 now or we're going to close out the consultation here in
5 and the public meeting.

6 THE SPEAKER: I can't go without being heard
7 again. So my name is Sandra Chapman, I'm from the
8 Southern Sierra Miwuk Nation. Yosemite Park was our home.
9 We got ousted out of there and we all generated down to
10 Mariposa. And we're still a tribe. We're still together.
11 We're still a band. We're still people. We do our
12 ceremonies in Yosemite. We have a roundhouse up there and
13 we're trying to build another one. We're going to start
14 our traditional walk which starts this weekend, we go from
15 Yosemite Valley to Farrington Ranch, and we have taken
16 over the old trail. We do our spiritual camp each year
17 there. We have four -- we have our bear ceremonies there
18 all the time. I just wanted to let you know that we're
19 still here and we're still going to be here. Whether we
20 get federally acknowledged, we don't call it recognition
21 we call it federally acknowledged because it doesn't take
22 you to tell us who we are. We already know who we are.
23 We'll keep doing our ceremonies and keep strong.
24 Blessings to all of you.

25 MR. ROBERTS: Thank you.

1 THE SPEAKER: Good afternoon. My name is
2 Emilieno Martinez. I'm a descendent of the Yaqui Nation
3 (unknown language). I'm born and raised in Los Angeles,
4 East L.A. in particular, and made the journey up here
5 today just to give my thanks to all of my relatives here,
6 the California peoples who know who they are and happy
7 that they know who they are and they continue on their way
8 and they're still here despite the 520 years of the
9 invader of these lands. I come to offer up my help and
10 support any which way, if it's not moral support today;
11 and request for justice and recognition and
12 acknowledgement from the federal government of these lands
13 here. Yes it's true you don't need that to continue on,
14 but I hope if you do get something from the federal
15 government it's because you deserve it, it's justified,
16 it's, you know... a lot of folks that died and suffered
17 and left to starve, left to suffer. And while these banks
18 have been bailed out, all of that money that they bailed
19 out for the -- Obama signed that -- it wasn't supposedly
20 his problem, but that money when it went to the people,
21 you know, how better off we would have all been already.
22 That's all I care to share. Thank you.

23 THE SPEAKER: There's one problem that I just --
24 oh, Valentin Lopez. You always have to be aware of
25 protocol especially when you're an Indian.

1 There's one problem that I think everybody is
2 aware of, but I think we need to mention and that's the
3 issue of a lot of tribes bring up every year, and it makes
4 it difficult for your job to identify who are the
5 legitimate groups and stuff like that. Because in our
6 Ohlone territory, I bet you if you were to do an
7 individual count you could get 30, 40 different tribes.
8 And a lot of those tribes right there, they're Natives,
9 they're not Natives. They say I'm from the Ohlone tribe.
10 There's no such thing as an Ohlone tribe. You know, there
11 was an Ohlone tribe in particular a grouping, a name of a
12 group that an anthropologist put on the people from that
13 territory. My ancestors were born into the Ohlone tribe
14 and we continue our traditions today.

15 But my point is is that your job is difficult
16 and we recognize that. And then you say, Well we want to
17 be fair, we want to give everybody an opportunity to tell
18 your story and we're going to look at all the records and
19 everything else. That just takes so much time and energy
20 away from the true focus on the legitimate tribes. In our
21 territories and stuff like that, if the city commissioner
22 of the city or the county want to find -- want to make a
23 certain decision of these tribes, they want another
24 decision they can work with the other tribe. They can
25 shop around for the tribes and find the answers that they

1 want.

2 So I'm just acknowledging that there's a lot of
3 difficulty out there. It's probably not fair for you guys
4 that it happened, it's not fair for the historic
5 indigenous tribes that it happens, but that's a real
6 problem we have out there. And with federal recognition
7 that would solve a lot of that problem. I just wanted to
8 mention that, thank you.

9 MR. ROBERTS: Thank you.

10 THE SPEAKER: Hi. Sam Cohen, Government Affairs
11 and Legal Offices of San Diego, Band of Chumash Indians.
12 This is our meeting, this is your meeting; but Chairman --
13 wanted me to say welcome. And this is an issue that is
14 important to all tribes in California and nationally and
15 you are always welcome back here at any time. The cost is
16 not an issue. This house is always open to the Bureau and
17 to the other tribes here, thank you.

18 THE SPEAKER: Lydia Ponce. It's fitting that we
19 found each other. There's a wealth of history and rich
20 culture that no piece of paper needs to be provided and
21 proof of recognition when we look for each other.

22 The thing that hurts me the most that I have to
23 say for the record is that when elders are accosted
24 verbally their spirit is hurt, when they're told that
25 they're not native, we have to be careful of the

1 assimilation in our struggle to be who we are when we
2 continue to push other people away or out. I stand before
3 you twice colonized and I don't speak my ancestor's
4 language. I speak two others that don't belong to my
5 ancestors.

6 With regards to your job, I think that you've
7 heard so many different stories that the two things that
8 stand out to me, and my recommendation is to fill the
9 chasm of the lack of communication, transparent and
10 accountable, with people who are here and their
11 grandchildren, be it an archaeologist and/or a teacher and
12 a lawyer, and the people that they have that carry their
13 stories. They're storytellers, they can come and help
14 with these documents. It is fitting for the federal
15 government to continue the modern day genocides and the
16 garble and babble and the continued conversation of
17 approval that we need to be who we are. The rich
18 diversity of who we are is that we all carry stories of
19 water, of earth, of family, of song, of food. Everything
20 that we do in our traditions is rich. Very few of us can
21 afford to stay traditional, and some of us have casinos
22 and some of us don't. There's a whole other plethora of
23 problems. But I'm asking you to fill the chasm with some
24 names and numbers.

25 You provided your name and number, I hope they

1 call you. And I hope that if you truly do genuinely try
2 to find each other. There's another sister here who wants
3 to have a non-recognized tribal gathering of
4 non-recognition, whatever, step of approval, Triple A or
5 whatever with pieces of paper, that she wants to have a
6 gathering for us, all of us who are welcome to that
7 conversation to galvanize and be supportive. I don't know
8 of any one woman to have ever been idle, it's just that
9 we've been idle in working together.

10 The second thing is for you and for these
11 transcriptions to be posted on the Internet, to make sure
12 that you have your grandkids and/or your families help you
13 find the documents. Go to the local libraries and see
14 what it looks like because I don't know when it's going to
15 be transcribed. We have a lot of wonderful stories here.

16 And lastly, that enough is enough. The
17 decisions that this government is making with this
18 pipeline, there are women being assaulted and left for
19 dead by the workers at that pipeline. It's not sexy, it
20 doesn't sell the idea of this pipe that is coming through
21 Turtle Island from Canada to the United States and God
22 knows where it ends in Mexico. The fact that it's not
23 okay to assault women. It's lack of transparency and
24 accountability, respect for women. Canada, United States,
25 Mexico, the women that are disappearing and left for dead

1 after they have been detained for days and gang raped,
2 it's not okay. If there's no respect for women, there's
3 no respect for mother earth; and this is what we're here
4 about because these pieces of paper don't provide a cold
5 glass of water. Don't provide the healthy food we need.
6 It doesn't take away our right for ceremony where we deem
7 necessary, where we have a right to practice. Thank you.

8 THE SPEAKER: I'm Gary Pierce, co-chair of the
9 Salina tribe of Monterey and San Luis Obispo counties. My
10 question is: OFA seems to be totally understaffed. Can
11 you guys help out there, give them some help in that
12 direction? We've had our petition in for a year and a
13 half, it hasn't moved an ounce. Also, these new
14 regulations you talk about two years before they're --
15 what about the petitions like ours that are in there, is
16 somebody going to work on them pretty quick or are we just
17 going to sit there for two more years before they look at
18 it?

19 MR. ROBERTS: The process is going forward even
20 though we're going through this rule making process. If
21 you have a petition in, that process will keep moving
22 forward. As I explained a little bit earlier, petitioners
23 will have an option if they want to suspend their
24 applications or their petition at any point in time they
25 can do so.

1 With regard to your first question on additional
2 resources, it's something that we will look at. I will
3 say though that as all you know the subject situation for
4 the federal government is extremely difficult. We have
5 had to cut \$120 million from just Indian Affairs' budget
6 this year. And the budget forecast moving forward, the
7 House came out with their proposed budget for Indian
8 Affairs and there's further cuts. I want to say it's like
9 14 percent. So the budget cuts are very difficult,
10 sequestration is very hard. So we will look at the
11 question of additional resources, but it's very tough in
12 this fiscal environment.

13 THE SPEAKER: Thank you.

14 THE SPEAKER: I'm back. Louise Jane Miranda
15 Ramirez. It's sort of hard to sit here and to hear how
16 this lawyer or this other group feels about us. You know,
17 we're not taking any of their rights away, we don't try to
18 take any of their rights away. We are here for us, for
19 all of us. Not to hurt them and not to allow them to
20 continue to take away our rights. I want to make sure
21 that that's known. It's not them personally, so why do
22 they attack us personally? And that's where I'll leave
23 that because it hurts the heart; and all of us have
24 hearts, we're still human. Thank you.

25 THE SPEAKER: Emilieno Martinez again. Just a

1 technical question on this meeting today: Why can't this
2 be streamlined on the Internet so other people who might
3 have access to make the drive out here can see, at least
4 see it on the computer or something like that? I would
5 highly recommend that in this day in age we have to put
6 things to work here. Skype it or something.

7 MR. ROBERTS: We hadn't thought of that. I
8 don't know that we've done that before for our public
9 meeting or tribal consultation. It's something that we
10 will look at in the future. Just off the top of my head,
11 we'll need to look at whether the locations where we're
12 holding public meetings has the technology to do that and
13 then what are the costs associated with that.

14 I want to also just say while I have an
15 opportunity, I want to thank the tribe for allowing us to
16 have the public meeting and consultation here and having
17 them give their facility to us; but that's something we
18 will take into consideration as we move forward. So thank
19 you.

20 THE SPEAKER: My name is Shirley Macagni, it's
21 M-a-c-a-g-n-i. I'm an elder in the Salina tribe of San
22 Luis and Monterey County. I have one question that
23 bothers me all through meeting. The criteria of having to
24 have a reservation, I don't think the state of California
25 had very many Indian reservations. I have to take our

1 group and our tribe and our tribes above us, we weren't a
2 bunch of fighting Indians, and those were the only ones
3 who seemed to get anything because they wanted to -- the
4 government wanted to set them in a canyon somewhere where
5 they could kill them if they came out, and that was a
6 reservation. We don't have those or very few of them in
7 California. The missions were supposed to give us back
8 our land when they left, which they did with Santa Ynez.
9 That's the only one that I know of. But there aren't any
10 reservations, there never has been in this state at least
11 that I know of. We didn't have one. My family that I
12 trace back to 1771 had a small area between Morro Bay and
13 Atascadero that they considered a reservation until the
14 oil company came in and said we wanted that land. And the
15 people that were in charge at the time, a very crooked
16 bunch, they took the land away from my family. It went
17 through court and the court's decision gave it to these
18 oil people and their reasoning was, gee, we didn't know
19 they were Indians. Well, the Indians proved in later
20 years that we've been there for over 6,000 years. But
21 that doesn't come into play. The government doesn't want
22 to know that kind of thing. But we're still fighting for
23 our recognition. And we will continue to fight as long as
24 we can. As long as the government will allow us. Thank
25 you.

1 THE SPEAKER: (Speaking in unknown language).
2 My name is Deborah Murro (phonetic), I'm the
3 daughter of the Murros, the great granddaughter of Murros
4 I'm from -- the Yuchi, I want to ask for forgiveness for
5 the elder in our neighboring areas because I know exactly
6 what area she's talking about. My grandmother was best
7 friends with the Baylong(phonetic) family, my
8 grandmother's name was Maria Garcia. So I'm very aware of
9 the lands they set that our families shared. But I think
10 that's important to note that you guys sent a gentleman by
11 the name of Red Clout(phonetic) in our homeland to
12 inventory our family members and to find out their names
13 and to enroll us. So you came to our community and now
14 we're the same -- we've existed, we've existed in
15 kinships, we've existed in a formal organization for
16 hundreds of years. We were here to say hello. We're
17 still here right now in the same organized format. Really
18 what's important is that you may want to reconsider those
19 families that you came to our doors and you knocked at and
20 you wanted to -- you inventoried and you wanted to know
21 who we were and who our families were, you need to come
22 back to our families again because we're still here. And
23 instead of making these complex -- you've inventoried us
24 and now there's a 40-page document that we have to
25 re-introduce ourselves again. So I think that you do have

1 that follow-up. The paperwork is there. So you may want
2 to start using -- consider using some multiple measures
3 when working with our community. Thank you.

4 MR. ROBERTS: Thank you.

5 Okay, anyone else? Okay we don't have anyone
6 else at the microphones right now so we're going to close
7 this public meeting.

8 I want to thank everyone who attended and
9 provided their comments for the record. There was some
10 questions about when we will get this stuff on the Web
11 site, that will be dependant on how quickly we get the
12 transcript back from our transcriptionist, then we will
13 put it up on the Web site.

14 So the other thing is I appreciate the requests
15 or the offers of assistance from many of you that helped
16 throughout this process. We want to keep this a
17 transparent process. So the best way that everyone in
18 this room can help us as we're moving forward with the
19 process is to submit their comments for the record. I
20 don't know -- I know that some folks have offered and
21 provided their cards for us to reach out to them. I don't
22 know that we'll be doing so because we're going to want to
23 have the transparent process where comments are on the
24 record. Our interactions are up on the Internet, and so
25 if we don't call that just means that all we will want is

1 for all of you to state publicly through this process so
2 everyone else can see what everyone else is saying. So I
3 appreciate your time today, thank you.

4
5 (Whereupon the proceedings were
6 concluded at 4:26 p.m.)

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CERTIFICATE

I, WENDY DRISCOLL, C.S.R. 12480, in and for the State of California, do hereby certify:

That the foregoing 200-page proceedings were taken down by me in shorthand at the time and place stated herein, and represent a true and correct transcript of said proceedings.

I further certify that I am not interested in the event of the action.

Witness my hand this _____ day of _____, 20__.

Certified Shorthand
Reporter in and for the
State of California