

DEPARTMENT OF THE INTERIOR
OFFICE OF THE ASSISTANT SECRETARY - INDIAN AFFAIRS

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CERTIFIED COPY

PUBLIC MEETING
FEDERAL ACKNOWLEDGEMENT OF INDIAN TRIBES
PROPOSED RULE - 25 CFR 83
Tuesday, July 22, 2014

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Reported by: Amy E. Perry, CSR License No. 11880

A P P E A R A N C E S

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Also present: Regina Gilbert, Regulatory Specialist,
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Viola Brooks, Pacific Region

Harley Long, Pacific Region

Public Commenters: Marilyn Delgado
Elias Castillo
Gary [unintelligible]
Lorraine Escobar
James Semien
Florence Dick
Delbert Davis
Valentin Lopez
Robert Robinson

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Dirk Charley
Raymond Patton
Cesar Caballero
Alan Leventhal
Fernando Mendoza
Andrew Laura (sp)
Teresa Romero
Rosemary Cambra
Victor Farfan
Quanah Parker Brightman
Erin Young
Chris Luho (sp)
Dan Medina
Ken Woodrow
[Unknown]
Rudy Ortega, Jr.
Shelly Covert
Vanessa Esquivido
Brenda Garcia
Kristen Mackey
Olivia Chilote (sp)
Kim Olivares Leone
Angela Williams Eddy
Joseph Melegh (sp)
Fred Short

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1 Tuesday, the 22nd day of July, 2014, commencing
2 at the hour of 8:32 a.m., thereof, at Cache Creek Resort,
3 14455 California 16, Brooks, California, before me, Amy E.
4 Perry, a Certified Shorthand Reporter, in and for the State
5 of California, a public meeting was held.

6 MR. BEETSO: I just wanted to welcome everybody.
7 My name is Derrick Beetso, I'm a counselor to Assistant
8 Secretary Washburn. Assistant Secretary sends his regards,
9 he wishes he was able to be here but he was unable to
10 attend so I'm here representing that office.

11 Welcome to Sacramento, to Cache Creek, we're in
12 the land of the Yocha Dehe Wintun Nation, so I want to
13 thank them for hosting us this morning. And you know, it's
14 any time we do things in any country, it's always
15 appropriate to start out with a prayer.

16 So we ask Mr. Delbert Davis, he's a traveled
17 elder from the Wuksachi Tribe. So we wanted him to come up
18 and give a brief opening prayer before we begin this
19 morning. So if you guys would all stand.

20 (Opening prayer by Mr. Davis.)

21 MR. BEETSO: Thank you, sir. Just to let you
22 guys know, welcome again. Thank you for taking your time
23 out of your morning to come here. I know it's Tuesday
24 morning so a lot of you guys are taking a day off of work
25 so we appreciate that. And this is part of the process for

1 federal rule making, so just to let you guys know this is a
2 very important process.

3 There's a proposed rule out there and this is our
4 opportunity to hear from the public on what your response
5 is to proposed rules. Just to let you know, we have a
6 transcriber over here in the corner and she's going to be
7 transcribing all the statements made today, typing it down.
8 So please when you do speak, make sure you're clear and
9 concise with what you're saying and we have a large
10 audience here, we have over 50 people here and we expected
11 a large audience, so just a little bit of ground rules.

12 We want to keep comments to two minutes and I'll
13 be watching time so I'll let you know when the two minutes,
14 when you're approaching two minutes. Keep comments to two
15 minutes. We want to make sure everybody has an opportunity
16 to speak, then once everybody has had an opportunity to
17 speak, then we'll have a second round of comments. So
18 we'll open it up to folks that want to say a second comment
19 or add to a comment that somebody mentioned earlier, so
20 you'll have an opportunity to do that.

21 I wanted to start by introducing the Federal team
22 here because we have a lot of Federal folks here, just so
23 you guys can put a name to a face.

24 My name is Derrick Beetso, like I said earlier,
25 I'm Counselor to Assistant Secretary. To my right I have

1 Kaitlyn Klass, she's an Attorney Advisor within the Office
2 of the Solicitor. So she's an attorney within the
3 Department of the Interior. And then we have Liz Appel,
4 she's the Director of Regulatory Affairs within the Office
5 of Assistant Secretary, Human Affairs.

6 Out front we have Regina Gilbert, she's a
7 Regulatory Specialist within the Office of Regulatory
8 Affairs. And then we have two folks from the Pacific
9 Region that are here, we have Viola Brooks and we have
10 Harley Long.

11 So just to let you know, I'm from the Navajo
12 Nation, Katie's from Hawaiian.Nation. Ms. Gilbert is from
13 the Hopi Nation. Viola is from Hoopa Valley and Harley is
14 from Round Valley. Just so you guys can put a name to the
15 face and see where we're all from.

16 As we talked about time and the opportunity for
17 everybody to have equal opportunity to speak, the court
18 reporter, just so you know, will have an opportunity for
19 breaks, and that will be done in a consensus. So if it
20 seems everybody's tired and don't have any comments to add,
21 then we'll go ahead and take ten or something and come back
22 to the room.

23 So just as a welcome, thank you again and I'm
24 going to turn it over to Liz Appel over here and Liz Appel
25 is going to give a little bit of background on why we're

1 here today, the process we're going through here today and
2 she's going to run through the 83 Proposed Rule. And after
3 that point we'll open it up for comments. Okay.

4 MS. APPEL: Good morning everyone, thank you.
5 Wow, this is loud. So as Derrick said, I'm going to run
6 through the presentation and you should have a copy of that
7 in your packet. The packets you picked up at the front
8 desk from Regina also include a copy of the Proposed Rule
9 and a comparison chart showing a comparison of the current
10 rule as it exists and then the proposed changes.

11 And then it also includes a frequently asked
12 question sheet and a summary of comments that we received
13 on the discussion draft released last year and what our
14 responses are to those comments.

15 And then lastly as another separate Proposed Rule
16 which I'll discuss in the presentation, but that's an
17 Office of Hearings and Appeals Rule. So to get started
18 with the presentation, I'm just going to give a little bit
19 of background about how we develop the Proposed Rule and
20 then give an overview of what the Proposed Rule contains.

21 So as background in general, there are three ways
22 that the federal government can recognize a tribe:
23 Judicially; congressionally, through Congress, obviously;
24 and administratively which is what we're discussing today.
25 And so that is through a determination by the Assistant

1 Secretary for Indian Affairs.

2 And before 1978 when a tribe would petition for
3 recognition, it was a very ad-hoc process so there was no
4 established procedure for doing that. The assistant
5 secretary would just look at each individual case and
6 determine whether to recognize the tribe.

7 And in 1978 the Department of the Interior
8 established uniform procedures for tribes to petition for
9 recognition. Those regulations have been in place since
10 1978. They were updated in 1994. During those 1994
11 updates the criteria were unchanged but there was a
12 procedure added for previous federal recognition and other
13 minor tweaks made.

14 And then in 2000, 2005 and 2008 the Department
15 published guidance documents updating how they would
16 interpret various provisions of the regulations.

17 So of the 566 tribes that have been federally
18 recognized, only 17 of those have been recognized through
19 this Part 83 regulatory process, and approximately 30 have
20 been denied through that process.

21 So the need for revisions over the years, we've
22 heard from many from tribes who have gone through the
23 process, from tribes petitioning, from people in Congress
24 that process is broken, that it takes too long, it's
25 burdensome. Tribes have spent millions if not billions of

1 dollars trying to get through the process. It's
2 unpredictable and not transparent.

3 And in 2009, Secretary Salazar testified before
4 the Senate Committee of Indian Affairs and committed to
5 examining ways to fix the broken process. And in 2012 --
6 2010, excuse me, he pulled together an internal working
7 group within the Department of the Interior to take a look
8 at ways that the process could be improved.

9 And that working group included representatives
10 from the Assistant Secretary of Indian Affairs, the Office
11 of the Solicitor and the Office of Federal Acknowledgment.
12 And in 2012 the Assistant Secretary for Indian Affairs had
13 a representative who again testified before the Senate
14 Committee on Indian Affairs and said that the internal
15 working group had identified certain guiding principles for
16 revisions to the regulations but had not yet drafted
17 revisions.

18 And so in 2013 when -- well I guess in the fall
19 of 2012 the Assistant Secretary, Kevin Washburn, came on
20 board and he and the Deputy Assistant Secretary, Larry
21 Roberts, decided they were going to make this a priority to
22 tackle. And so they again convened an internal working
23 group again with representatives from those offices, and
24 that working group developed a discussion draft of changes.

25 So in June of last year the assistant secretary

1 released that discussion draft for public input and the
2 goals of that discussion draft were the same as the goals
3 that the assistant secretary had identified back in 2012
4 for transparency, timeliness, efficiency, flexibility and
5 integrity.

6 So in July and August of last year we, the
7 Department, held various public meetings and tribal
8 consultations throughout the country to get input on this
9 discussion draft which was really a strongman for input for
10 discussion. And as a result of that, the Department
11 received over 350 unique comment submissions and that
12 represented over 2,000 commenters or signatories to the
13 letter and there were also form letters.

14 So the Department again pulled together the
15 internal working group and read through each and every one
16 of those comments and discussed how to develop a proposed
17 rule.

18 So the Proposed Rule, it looks a lot different
19 from the discussion draft because it's been written in
20 plain language according to plain language requirements,
21 it's question-and-answer format. So and on top of that, of
22 course, we tried to address comments as much as possible.

23 And so once we had a consensus draft within the
24 Department, we then submitted that to the Office of
25 Management and Budget for their review under an executive

1 order. And after that review we published in the Federal
2 Register on May 29.

3 So comments on the Proposed Rule are due
4 August 1st, and this is one of several public meetings that
5 we're having throughout the country for your input. We, as
6 Derrick said, we have this meeting transcribed so your
7 comments made today will be considered along with the
8 written comments that we receive.

9 The Proposed Rule contents, they're really, they
10 are revisions to the process, revisions and clarifications
11 to the criteria, and then primarily just clarifications to
12 previous federal acknowledgment and burden of proof.

13 And then there is an allowance in the Proposed
14 Rule for limited re-petitioning and the Proposed Rule also
15 includes some additional notice requirements and
16 furtherance of our transparency goal.

17 The first change to the process that we made is
18 to eliminate the Letter of Intent. So currently under the
19 process, someone who's interested in petitioning can submit
20 a Letter of Intent to the Department saying that they at
21 some point intend to provide evidence that they meet the
22 criteria.

23 And we found that that extra step, while that
24 doesn't trigger any Departmental review at that point, it's
25 been causing confusion because petitioners think once they

1 submitted a Letter of Intent, that it's now, the ball's in
2 the Department's court, whereas the Department's just
3 waiting for additional information from the petitioner.

4 So the Proposed Rule would eliminate that step
5 and the process would begin with submission of a documented
6 petition. And that's how the federal government usually
7 starts its processes when it receives a complete
8 application when it starts review.

9 The second big change to the process is that we
10 are, while petitioners still have to meet all seven
11 criteria, generally the Department now reviews all those
12 criteria at once. This would instead create a phased
13 review where the Department would first look at Criterion
14 E, which is descent from historical Indian tribe.

15 And if the petitioner does not descend from an
16 Indian tribe, then at that point they would receive a
17 negative proposed finding and the Department would not look
18 at the rest of the criteria.

19 If they do descend, then the Department would
20 next review Criteria A, which I'll discuss; and Criteria D,
21 which is governing document; F, which is membership; and G,
22 which is congressional termination.

23 So assuming if any of those aren't met, then
24 again, the petitioner could receive a negative proposed
25 finding at that point. But if they meet those criteria

1 then the Department would move on to Phase II where the
2 Department looks at community and political influence and
3 authority criteria. And the reason for that being pushed
4 to a later phase is that those are intensive, they're
5 generally more intensive review and time-consuming reviews.

6 Currently under the process, the Office of
7 Federal Acknowledgment prepares a proposed finding which
8 goes to the assistant secretary, and the assistant
9 secretary actually issues the proposed finding.

10 Under the Proposed Rule, the Office of Federal
11 Acknowledgment would be issuing the proposed finding and if
12 the proposed finding is positive and there are no negative
13 comments received during the comment period, then that
14 positive proposed finding would automatically become final.

15 So in terms of efficiency, there's no objection,
16 then it would be automatically final. If the proposed
17 finding is negative, the Proposed Rule would allow the
18 petitioner to elect to have a hearing before an Office of
19 Hearings and Appeals judge. And then that Office of
20 Hearings and Appeals judge would make a recommended
21 decision to the Assistant Secretary for Indian Affairs.

22 So the Assistant Secretary for Indian Affairs in
23 any case is going to be the one issuing the final
24 determination, but that addition of a hearing gives the
25 petitioner the opportunity to present its case to an

1 independent third party. And third parties can -- well, an
2 independent neutral judge. And then third parties who may
3 be interested in the decision can intervene under the
4 Office of Hearings and Appeals rules if they meet the
5 requirements for intervention. So as I said, the assistant
6 secretary issues the final determination.

7 Another change that we're making is at that point
8 under the Proposed Rule, the assistant secretary's final
9 determination would be final for the Department.

10 So currently there is the opportunity for some
11 limited review. There are narrow grounds on which someone
12 can appeal the assistant secretary's decision to the IBIA,
13 the Interior Board of Indian Appeals. The Proposed Rule
14 would eliminate that IBIA re-consideration and instead, as
15 I said, the final determination would be final for the
16 Department. So if anyone wanted to challenge that final
17 determination they would need to file in Federal District
18 Court.

19 With regard to the hearing on if there's a
20 negative proposed finding and the petitioner elects to have
21 a hearing before the Office of Hearings and Appeals, the
22 Office of Hearings and Appeals, OHA, has issued a separate
23 rule that's basically a civil procedure-type rule that
24 explains how those hearing procedures would happen.

25 And they have identified two questions that they

1 would like input on: One, who should preside over the
2 hearing and issue the recommended decision; so should it be
3 an administrative law judge who is generally the most
4 independent of the judges, an administrative judge which is
5 someone who reports to the director of OHA; or an attorney
6 designated by the OHA director and they report ultimately
7 to the OHA director but they may not have as much
8 experience conducting hearings.

9 And the other question OHA had was should the
10 basis for the OHA judge's recommended decision encompass
11 just the hearing records or should it encompass all the
12 information that was presented as part of the petition and
13 during the comment process.

14 Other revisions to the process include allowing
15 the petitioner to withdraw the petition at any time before
16 the proposed finding is published. At that time OHA will
17 cease consideration, and the catch is if a petitioner
18 withdraws when they re-submit, they may not regain that
19 place in the priority line.

20 And the Department is also going to be posting
21 under the Proposed Rule, would also be posting on the
22 internet those portions of the petition, proposed findings,
23 reports, comments, etc., that are releasable under Federal
24 Law, so anything that's not covered by the Privacy Act and
25 would be releasable under a Freedom of Information Act

1 request anyway.

2 So changes to the criteria, the first, well first
3 of all, there are currently seven criteria of which the
4 petitioner must meet all seven criteria. We're not
5 changing that. Under the Proposed Rule there are still
6 seven criteria, all of which are mandatory.

7 But the first criterion there is a change to,
8 currently Criterion A requires that external parties
9 identify the petitioner as Indian. So there must be third
10 parties that have written about the petitioner as being an
11 Indian group. And generally they've been, those external
12 identifications have been required for every ten years
13 since 1900.

14 We are getting rid of that criterion, we're still
15 allowing that evidence to be submitted in support of the
16 other criteria. So in support of Criteria B, community; or
17 C, political influence authority, if you have documentation
18 that others have written about you identifying the
19 petitioner as an Indian group, you can submit that.

20 But it's been deleted as an independent criterion
21 for a couple reasons: First of all, because we haven't had
22 any petitioners to date fail solely on that Criterion A;
23 and second, if a petitioner were to meet all the other
24 criteria, they show community, they show political
25 influence authority, they descend from an Indian tribe, are

1 they really less of an Indian tribe because a third party
2 hasn't written about them, and we didn't think so.

3 So the new Criterion A instead requires the
4 petitioner to provide a narrative with evidence of their
5 existence as a tribe before 1900. So that is basically in
6 recognition that the Department is not creating new tribes,
7 it's not recognizing tribes that just sprouted into
8 existence in recent times. We're recognizing existing
9 Indian tribes.

10 So this next criterion, Criteria B, for Criteria
11 B, community; and Criteria C, political influence and
12 authority, we are beginning our analysis of the criteria at
13 1934. Currently the analysis begins at the time of first
14 sustained contact or 1789, whichever is later, and we are
15 shortening that to 1934.

16 And the reason for that is because 1934 was when
17 the Indian Reorganization Act was passed. And that
18 represents watershed shift in the federal government's
19 relationship with tribes. It was ending the period of
20 allotment and assimilation and beginning the period of
21 tribal recognition and tribal self-determination and
22 self-governments.

23 So 1934 is an important date for that reason.
24 And the other, excuse me, the other reason for the 1934
25 date is that we found that of all the petitioners to date,

1 none have met the criteria for community and political
2 authority from 1934 to the present but failed the criteria
3 from 1934, well for first sustained contact of 1789 to
4 1934. So it's our way of trying to take advantage of
5 administrative efficiency while reducing the burden on both
6 the petitioners and the government.

7 Another change to Criteria B, community, is that
8 in trying to make the criteria more objective we've
9 established a percentage of 30 percent for showing the
10 distinct community at each time period. And that
11 30 percent also comes from the Indian Reorganization Act
12 which requires -- which required 30 percent of its
13 membership to pass constitutions.

14 And for both community and political influence
15 and authority criteria, we've also established that or the
16 Proposed Rule would also establish that if a petitioner has
17 maintained a state reservation since 1934 or if the U.S.
18 has held land for the petitioner at any point since 1934,
19 then that petitioner would meet the criteria for community
20 and political influence and authority.

21 And this comes from when the Department looked at
22 petitions on an ad-hoc basis. It really looked closely at
23 the collective ownership and Indian land, and that was a
24 strong indicator of tribal community and political
25 influence and authority.

1 The Proposed Rule would also define without
2 substantial interruption to the less than 20 years. So as
3 a general matter these criteria should be -- there should
4 be evidence of these criteria for periods at least shorter
5 than 20 years.

6 So without substantial -- this gets a little
7 confusing -- but without substantial interruption means
8 less than 20 years. So substantial interruption would be
9 more than 20 years. So Criterion E, descent, also in
10 furtherance of the goal of having more objective criteria,
11 the Proposed Rule would establish that 80 percent must
12 descend from the tribe that existed in historical times
13 which we're defining as being pre-1900.

14 And this also incorporates what has been the
15 practice over the years, 80 percent has been practice what
16 the Department looks at. And that doesn't mean that
17 20 percent of the members are not Indian or not descended
18 from a historical tribe, it means basically that 80 percent
19 has to have the documentation in place and that also allows
20 for adopted in and that kind of situation.

21 The Proposed Rule would also establish descent to
22 be traced from a roll prepared by the Department or at
23 direction of Congress and at any point otherwise, then the
24 Department is going to look at whatever the most recent
25 evidence before 1900 was to determine to trace descent

1 from.

2 In Criterion F we made a small change in response
3 to comments we received on the discussion draft that some
4 petitioners have been in the process for so long that there
5 are members who were eligible for membership in
6 federally-recognized tribes by necessity ended up enrolling
7 in those other tribes because they needed services,
8 healthcare services, for example.

9 And so the Proposed Rule would add that if a
10 petitioner had filed a Letter of Intent by 2010 and then
11 joined a federally-recognized tribe, that would not count
12 against the membership as far as the petitioner having its
13 open membership.

14 And then Criterion G, currently the petitioner
15 must show that or proven negative that it has not been
16 terminated by Congress or Congress has not forbidden a
17 federal relationship with it. And the Proposed Rule would
18 switch that and put the onness on the federal government to
19 determine whether Congress has terminated the petitioner.

20 For previous federal acknowledgement, the current
21 rule we found is a little unclear, so we've tried to in the
22 Proposed Rule spell out exactly how it's currently
23 implemented. We're not proposing any change to how that's
24 currently implemented but we are looking for a comment if
25 you have any on that.

1 And then on the burden of proof, again, we're not
2 changing the burden of proof, it's still reasonable
3 likelihood. But we are clarifying what reasonable
4 likelihood is based on what the Supreme Court has said
5 since the last update to the regulations.

6 Then as I mentioned, the Proposed Rule would
7 allow for re-petitioning in some circumstances. So if a
8 tribe has been denied recognition, it may be petition under
9 narrow circumstances. And basically those circumstances
10 are if the petitioner has been denied and third parties
11 have litigated about the decision and ultimately the
12 petitioner was denied recognition, the petitioner must
13 first obtain the consent of those third parties before
14 seeking to re-petition.

15 And the reason for that is that where parties
16 have litigated and equities have been established, those
17 third parties would need to agree to disrupting those
18 equities. So if those third parties consent or if there
19 wasn't -- there weren't third parties involved with the
20 litigation, at that point then the petitioner would need to
21 present to an OHA judge again either that a change in the
22 regulations warrant redesign, consideration of the petition
23 or that when the petition was reviewed by the Department,
24 that the Department had misapplied that burden of proof,
25 that reasonably likelihood of burden of proof. And the OHA

1 judge would determine whether that petitioner can restart
2 the process for Part 83.

3 And OHA's separate rule also includes how those
4 procedures, how it would handle those procedures just to
5 determine whether to -- whether the group can re-petition.
6 So as I said, the Proposed Rule adds some new notice of the
7 petition. So we're retaining the provisions that had the
8 Department acknowledging receipt of the petition and
9 publishing receipt and then the Federal Register, but we're
10 adding that the Department will post the petitioner's
11 narrative and other releasable information on the
12 Department website.

13 The Department will continue to notify the
14 Governor and the Attorney General in the state, but it will
15 also notify any federally-recognized tribe within the state
16 or within a 25-mile radius of the petitioner so that would
17 get -- so a federally-recognized tribe right across the
18 state board would get notice. And then we'll continue to
19 notify any other federally-recognized tribe or petitioner
20 that has relationship of the petitioner.

21 And then as far as notice to the petitioner and
22 informed parties, and anyone can become an informed party
23 by requesting to be kept in the loop on a specific
24 petition, OFA will notify the petitioner and informed
25 parties when it begins review of the petition, when it

1 issues the proposed finding, and that proposed finding will
2 also be published in the Federal Register on the website.

3 And the assistant secretary, if the assistant
4 secretary grants any time extensions, we'll notify the
5 petitioner and informed parties and will notify them when
6 he or she begins review of the petition and when the final
7 determination is issued.

8 So comments on the Proposed Rule are due
9 August 1st. Comments on the Office of Hearings and Appeals
10 Rule are due August 18th. We prefer to receive comments by
11 email if that's easiest. If not, the Proposed Rule has
12 other ways that you can submit your comments.

13 As far as next steps, we are going to collect the
14 comments, review the transcripts and the written comments
15 as a working group, go through and discuss what changes
16 need to be made to the Proposed Rule, and then that will
17 also, when we have a draft final rule, that will again go
18 through the Office of Management and Budget for review and
19 then we will publish a final rule in the Federal Register
20 and that final rule will become effective 30 days after
21 publication.

22 So I think now we're going to open it up. We
23 want to hear -- we're here today not just to share with you
24 an overview but we want to hear your thoughts on how we can
25 make the Proposed Rule better, any changes that you all

1 would like to suggest. So as Derrick said, we have quite a
2 crowd here which we're happy about.

3 But if you could try to limit your comments until
4 we -- until everybody has a chance to speak and we have a
5 microphone up here if you don't mind coming up and standing
6 or if you prefer to sit, as we all have, I apologize, feel
7 free to take the microphone and sit down.

8 If you can though, when you make your comment, if
9 you would introduce yourself and your affiliation so that
10 our court reporter can accurately capture who made the
11 comment, that would be much appreciated. So thank you all.

12 MR. BEETSO: Maybe I can walk the mic around if
13 you raise your hand if you have a comment, I can bring it
14 to you.

15 PUBLIC COMMENTER: Hello. Marilyn Delgato with
16 the Nor Rel Muk Wintu Nation, Tribal Chair. And we're
17 located in Trinity County, California. That's been our
18 average in the lands forever. I want to thank the Bureau
19 of Indian Affairs for making these needed changes.

20 Nor Rel Muk submitted their Letter of Intent in
21 1984 and their petition in 1988. So it's been a long time.
22 We've gone back and forth with deficiencies, with the whole
23 thing now, and it's very costly and time consuming, but I
24 have a couple questions or need clarification on a couple
25 of the sections in the Proposed Rule.

1 And one is at Section 83.11, I think it's good
2 but it talks about if the United States has held
3 [unintelligible] petitioner or collective ancestors of the
4 petitioner at any point in time from 1934 to the present, I
5 want to know if that includes individual Indian land
6 allotment or land that the tribes are stewards of, that
7 they have notification, they will get transferred to them
8 once upon receipt of recognition.

9 And I'll send in my letter, too, also. On 83.12
10 where it talks about treaty tribes, I want to know if that
11 also includes unratified treaties because many of us are in
12 California, are unratified -- do have unratified treaties.
13 On 83.21 (4) I'd like to know if the residential address
14 means the physical address as it always has?

15 You know, in remote areas we still don't have
16 residential addresses but we do have the physical
17 description of placement, which is what we've used in the
18 past. So I wanted to know if the travel membership list
19 will be kept confidential from the FOIA request or posting
20 on the OFA internet, which I would assume it would because
21 it's going to maintain the address and everything else and
22 information.

23 And then at 83.22 (b) (2) on the 25-mile radius
24 from any federally-recognized tribe, I wanted to know if
25 that's actual road miles or if that's as the crow flies

1 because in remote areas where we are at, it's mountainous,
2 so 25 miles as the crow flies can be completely different
3 than road miles.

4 And then at 83.23 (b), will those who are already
5 in the system now be reviewed first to maintain our number
6 and line? Thank you. And again, I want to thank you for
7 your changes.

8 MR. BEETSO: Thank you. I think those are very
9 helpful. Just to clarify, we're also seeking comments so
10 if you have proposals, I know you asked a lot of questions
11 for different sections in there but if you have proposals
12 and viewpoints on there, it's good to let those be heard,
13 too.

14 I guess I'll turn to Liz. And just a reminder,
15 since we have a lot of people, we're trying to keep opening
16 comments to two minutes or less. Okay.

17 PUBLIC COMMENTER: Okay. Well then my one
18 proposal would be if it goes to the OHA for changes, then
19 you should look at everything that they submitted in the
20 petition and not just what's on record.

21 MR. BEETSO: Thank you. Liz.

22 MS. APPEL: So the one answer I think I can give
23 you on the spot is in section 83.11. The U.S. needs to
24 have held land for the group, so for the tribe so I don't
25 think individual allotments would qualify. But that

1 question and the other questions, we may not have answers
2 to all of the questions. Some of them may be things that
3 we haven't considered yet.

4 So those are great questions though because
5 basically what your comment is, is that we need to clarify
6 in the rule what those answers are. So thank you.

7 MR. BEETSO: This gentleman here.

8 MS. APPEL: And Katie can answer some of the
9 other.

10 MS. KLASS: For previous federal acknowledgement,
11 our previous regulations in the current Proposed Rule talk
12 about treaty relations which would include interactions
13 over treaties, not necessarily ratified treaties. And also
14 FOIA, there's a FOIA extension for personally identifiable
15 information, so addresses, names, that can be redacted.

16 MR. BEETSO: Would fall under the --

17 UNIDENTIFIED COMMENTER: Did she clarify what she
18 said? It wasn't clear. So you're saying the unratified
19 treaties would qualify?

20 MS. KLASS: Yeah, under the current regulations
21 treaty relations which is, you know, interacting over
22 creating a treaty qualifies.

23 PUBLIC COMMENTER: So the 18 unratified treaties
24 would qualify? Thanks. This would fall under development
25 of 2013 discussion draft especially flexibility account for

1 the unique histories of tribal communities. And also the
2 criterion for political inference and authority analysis of
3 criteria from 1934 to present, and that little section
4 there. This will take about two-and-a-half minutes to
5 present.

6 I'm Elias Castillo and what I'm going to do is
7 give you a brief overview of what happened to California's
8 Indians. I think this is brand new information that is
9 critical to your understanding of what happened to the
10 California Indians. And so I'm Elias Castillo, the author
11 of a forthcoming book titled, A Cross of Thorns: The
12 Enslavement of California's Indians by the Spanish
13 Missions. I'm a former journalist, a three-time Pulitzer
14 Prize Nominee and winner of 13 journalism awards.

15 MR. BEETSO: Sir, we're trying to keep the
16 comments brief.

17 PUBLIC COMMENTER: Yes. Like I said, this is
18 brand new information that I have uncovered and it is
19 critical to the understanding of what happened to the
20 California Indian. And I'm sure you don't even know about
21 it, but it will be. So that's why I'm under the unique
22 situation there.

23 Says, "I'm here to provide a condensed history of
24 the tragedy that California's Indians have suffered for
25 more than 200 years and has affected their claims for

1 federal recognition by your bureau. The savage horrors
2 that they have endured, starting with Franciscan friars and
3 then white settlers who advocated killing them all is a
4 shocking experience that can only be described as absolute
5 evil.

6 In order to understand the dark history that
7 befell these Native Americans, we must go back to the
8 beginning when Catholic Franciscan Friars, led by Father
9 Junipero Serra, first set foot on California soil in 1769
10 in what we know now as San Diego.

11 That was a start of an unbelievable reign of
12 terror that for too long has been twisted and sugarcoated
13 by California State officials and others in an effort to
14 hide a terrible dark secret that was inflicted on the
15 Indians of this state.

16 Across this land, Serra and his friars are
17 described as gentle priests who worked in harmony with the
18 Indians and loved them like their own children. Tragically
19 they also treated grown men and women like children,
20 punishing them with unfettered ferocity. Children, once
21 they reach the age of ten were considered adults and could
22 be and were whipped or placed in irons for any violation of
23 the stringent mission rules set by Serra.

24 Yet Serra and his Franciscans are praised
25 undeservedly for founding the missions that supposedly led

1 to the development of California. Nothing could be further
2 from the truth. In fact, one California historian, Carey
3 McWilliams, described the Franciscans' treatment of the
4 Indians in these words, "With the best theological
5 intention in the world, the Franciscan padres eliminated
6 the Indians with the effectiveness of Nazis operating
7 concentration camps." He wrote that statement in his book,
8 Southern California Country: An Island on the Land,
9 published in 1946.

10 Across California and even in the rotunda of this
11 nation's capitol, dozens of statues of Serra have been
12 erected depicting him as the protector of Indians and the
13 founder of this state, schools and streets named after him
14 in many California cities.

15 MR. BEETSO: Okay. Just to clarify, if you have
16 a written statement, we're collecting written comments
17 until August 1st. Right now I think we really want to hear
18 comments on the proposed rules. So sorry to cut you off
19 but you are at your two-minute mark. We're trying to keep
20 to two minutes or less. I see you have that in written
21 form, so we'll be happy to --

22 PUBLIC COMMENTER: Why don't you take that.

23 MR. BEETSO: A formal submission is in the rule.

24 PUBLIC COMMENTER: My name's Gary

25 [unintelligible] of Winnemem Wintu Tribe. Our tribal

1 leader will be here later, I'm sure she'll make some
2 comments. So a couple brief ones. We had a pre-meeting
3 yesterday with some of the tribes and they have put
4 together a letter which we subscribed to some of the things
5 they said but weren't able to sign onto it because we
6 weren't here.

7 And we suggest that the previous federal
8 acknowledgement first, 83.12 be the first thing considered
9 and not somewhere later on in the process, that would
10 [unintelligible] the process and move on to the others.
11 83.37, federally-recognized tribe within 25 miles wide.

12 The class system that has been set up between
13 federally recognized and unacknowledged tribes has led to
14 discrimination, poverty, lack of services and all that and
15 to continue to set up that precedent to have a recognized
16 tribe possibly deny your existence because it might
17 infringe upon their economic base even though we were
18 legitimately a tribe in the area, is kind of untoward
19 towards us.

20 Under the section that my sister there from Nor
21 Rel Muk under 83.12, what's criteria previously federal
22 acknowledgement, we would like to submit that you include a
23 subsection taken from the Advisory Council on California
24 Union Policy, final reports and recommendations to Congress
25 of the United States pursuant to Public Law 102416.

1 In other words, it was an act of Congress that
2 you include a definition of a California Indian because of
3 the extraordinary history of the California Indians. The
4 definition is on page 19 of that executive summary. The
5 California Indians shall include any member of
6 federally-recognized California Indian tribes.

7 You need to submit an Indian who is presiding in
8 California in June 1852 but only if such descendant is a
9 member of an Indian community. I don't have to read
10 through all of this but I will get down to the main parts.

11 Any California Indian who's listed on the result
12 rolls of California Indians prepared in 1933, 1955 and 1972
13 for the distribution of the United States Court of Claims,
14 Union Claims Commissions, any California Indian who's
15 listed on the plans for distribution of assets, California
16 [unintelligible] under the act of August 1958,
17 [unintelligible] and like those included.

18 We have a question on the government document.
19 Our understanding of the past is that you have to have a
20 constitution with elected officials such as a chairman,
21 vice chairman, secretary, etc., which totally goes against
22 Native traditions or the historical tribal structures of
23 chief advisory councils, women's councils, men's councils,
24 elder's councils.

25 Does a governmental document denoting historical

1 tribe, traditional tribal structure as far as governments
2 satisfy via the document? And the last thing I would like
3 to put is that I would, in the law or in the regulations, I
4 would like a comment put in there, something such as this.

5 A designation as a federally-recognized tribe
6 should not supercede or supplant the rights and privileges
7 and protections afforded by states to state-recognized
8 tribes nor should the term federally-recognized tribe be
9 wholly relied upon by states when enacting laws, rules and
10 regulations affecting tribes within their state where they
11 are recognized by the state and between Indian tribes of
12 the state, whether federally recognized or not. Thank you.

13 MS. APPEL: Thank you.

14 PUBLIC COMMENTER: Two minutes is not enough time
15 but I'm going to give it a shot. I'm Lorraine Escobar.
16 I'm a certified genealogist with the specialty in Native
17 American lineages. I've been working with a lot of these
18 California tribes. There is two major objections. One's
19 the Proposed Rule in E.

20 I mean, I totally understand trying to make the
21 process more efficient and fast-tracking E is a good idea,
22 but you got to do it right. Okay? And my concerns are
23 working with California tribes. I know that there were
24 11,000 applications in 1928 in response to the California
25 Indian Jurisdictional Act. And I can tell you in Orange

1 County alone, half of the people who applied were not
2 Indian. And we found this out through the process of doing
3 the Juaninos petitioning, and OFA returned that verdict,
4 and it was a public point of information.

5 But the point is if you don't go behind 1900, you
6 can't disprove what the BIA keeps trying to push forward as
7 evidence. The BIA keeps delivering certificates of degree
8 of Indian blood based on that 1928 data. And when they do
9 that they empower frauds to take over and usurp the rights
10 of those who are really Indians.

11 Now, I've been working in California genealogy
12 long enough to know if someone's an Indian I can find the
13 evidence. You don't have to limit it to 1900, I can find
14 it. If they're not Indian I can find that, too. And OFA
15 knows this. OFA established that precedence. So to limit
16 it to 1900 or just to the roll, you could do a real
17 disservice to the California Indians if you don't go back
18 far enough.

19 And secondly, on the point of getting E right,
20 OHA may be great, maybe I'll submit some recommendations to
21 them but OFA, you got to make sure the job is done right.
22 OFA made mistakes. They made mistakes. We didn't find out
23 until we were often in the appeal process that they even
24 admitted to a single mistake we gave them.

25 Now I put the question on the table, are these

1 guys credentialed? I think there's only one certified
2 genealogist on that staff, Dr. -- early historian, Lee
3 Flemming is not a genealogist. And they made mistakes and
4 we didn't find out about that until we're in appeal.

5 I mean, that's a hard time to find out about it.
6 Where is the openness? Where is the transparency there?
7 Why were things happening behind closed doors? Why didn't
8 they look at all the mistakes they made? Had they done
9 that, the passing would have exceeded 80 percent for that
10 tribe.

11 But things are happening behind closed doors and
12 it's not right. If you take out the technical assistance
13 meeting part of the process and replace it with OHA, then
14 not only increases the cost of litigation but how do we
15 know that those judges know what they're doing? We need
16 something else besides OHA's -- I think if you just had a
17 subcommittee of two or three genealogists, they could do
18 the job, they could write it up, they could hand it to OFA
19 to hand it to the tribe, tell them what's wrong with their
20 petition.

21 Take OFA out of it. Make it objective. Make it
22 credential. Make it believable. Make it reliable. And
23 none of these surprises at the last minute, otherwise looks
24 like something crooked is going on behind closed doors. If
25 you want that transparency, you got to work at that a

1 little harder. I have more ideas in the paper I submitted.

2 MS. APPEL: Thank you.

3 PUBLIC COMMENTER: My name is James Semien. I'm
4 an independent researcher and my family belongs to a
5 community in Louisiana and they descend from the Chitimacha
6 Historical Tribe. The reason I'm here is because of the
7 criteria. I feel I degree with the lady here from Orange
8 County that the genealogist within the OFA doesn't have a
9 clear understanding.

10 And part of the issues here, is the timeliness is
11 equal to the staff count? There's not enough staff to
12 actually do the research and understand it. I was in touch
13 with Regina Delmars to kind of work back the genealogy in
14 the Chitimacha. So when I contacted OFA, the information
15 is lost in the database with old disks or whatever it may
16 be.

17 My research has already proven lesser and
18 incorrect in their Louisiana tribal information and what
19 was published in the 1800s, 1890s and 1910. So part of
20 that and then getting to my tribe, I have a problem with
21 83.11 (a) requiring a narrative of petitioners existent as
22 a tribe.

23 In Louisiana, particular tribes, you know,
24 there's already a stigma in how people are identified with
25 Louisiana. And currently you have four or five tribes in

1 the process who have problems identifying themselves as
2 well as the public.

3 And then by starting a tribe, you've already
4 eliminated those people versus community. I think, you
5 know, if you put tribe on it, they give you the right to
6 turn down that tribe who's petitioning just based on that
7 criteria.

8 So I agree with the gentleman up here where he
9 said that you need to have a specific definition of a
10 Louisiana tribe or a California tribe because it's
11 different from California to Louisiana. I wasn't able to
12 make the Marksville meeting at the beginning of the month
13 but I hope that my comments are heard.

14 Also, the last point here, Phase 1, review of the
15 criteria, state reservation since 1934, you're kind of
16 eliminating historical assistance. My community's been in
17 assistance for 220 years and descends from the historical
18 Chitimacha Tribe which is 15 miles down the road. They
19 were there pre-treaty in 1777. If you change the criteria
20 where you're starting at 1900, you've basically erased all
21 the previous history and you're starting at 1900 from
22 existence as a tribe.

23 The community's been there from existence and
24 same with a lot of the people here in tribes, we've been
25 here for 200-plus years and they're still here. My

1 communities lived on the same property for 220 years and
2 they still live there today. There's a highway that goes
3 through the property, has separated the community in two
4 sides. But they're still in existence.

5 So I think 83.11 (a), it breaks down and
6 eliminates, you know, the tribe versus community. Not
7 everybody is identified as a tribe because of certain
8 stigmatism in the local parish. So I think that needs to
9 be clarified or broken down.

10 MS. APPEL: Thank you. If you have suggestions,
11 you mentioned possibly having a specific definition for
12 Louisiana tribe or California tribe, those regions, if you
13 have suggestions for language please feel free to submit
14 those because we're very interested in getting that input.

15 PUBLIC COMMENTER: Just one last thing I want to
16 state. For the Letter of Intent, I don't think there's
17 confusion. What it does is it puts those tribes on notice
18 with the Bureau. It doesn't mean that you're going to
19 start the process but at least the Bureau knows you're
20 going to exist.

21 A lot of these tribes are tucked away in rural
22 areas just like our community, and they're not socializing
23 with everyday society, they're tucked away on their own
24 land, living there, farming it, doing whatever they do.
25 And at least with the Letter of Intent, it puts you on the

1 radar, doesn't mean it starts the process but at least the
2 Bureau will know about you that you do exist because my
3 community, they don't know, nobody knows they exist.

4 I went to the federal tribe down the road and
5 told them we were going to file a Letter of Intent. They
6 were shocked. But I have historical documents that proves,
7 like I said, from the early days. And you know, the
8 treaty, that should have some major significance in this
9 process. Thank you.

10 MS. APPEL: Thank you.

11 PUBLIC COMMENTER: Good morning. My name is
12 Florence Dick, D-i-c-k. I'm from Fresno County, member of
13 the Dunlap Menomena Indians. And this morning we're going
14 to send a letter from our attorney, Jenny Kim, on behalf of
15 our tribe. But I had wanted like a clarification on this
16 Criterion B that says met if state reservation maintained
17 since 1934 or U.S. held land at any point since 1934.

18 Our tribe has approximately between four and five
19 hundred acres of trust land and free land. Now that free
20 land at one time was trust land, but it was turned for
21 various reasons. And a lot of it was lost too prior to
22 that. But right now we probably have between four and five
23 hundred acres of actual land that we own and we live on.
24 And we don't pay taxes and we get tax exemptions.

25 But I would like a clarification on that whether

1 that entails public domain and trust land because for those
2 of us that own public domain land, right now we're part of
3 this Cobell case. And one of these days they are going to
4 issue a little check to us on part of that. But I can't
5 see why that, I mean we are -- when we want to do something
6 on our property, our Indian property, we have to get --
7 we're supposed to get permission from the Bureau of Indian
8 Affairs.

9 I would like clarification on that because they
10 told us you can't expand your graveyard unless you get
11 permission from us. You can't put a tree unless you get
12 permission from us. You just can't do stuff, you know, so
13 we are under the government, we are like a government ward.

14 And something else, one of the good things about
15 now California is unique, I'm not going to say we're
16 special but we are unique in the realm of the United
17 States. And when I was born and my sister and brother were
18 born, I'm sure some of these other folks in here, because
19 I'm going to be 70, when we went to the county hospital the
20 federal government only charged us 30 or 40 bucks, charged
21 my mother 30 or 40 bucks to be born. And they cut the
22 Indian Health Service off to California.

23 Then they reopened it but in the Indian Health
24 Service, under Indian Health Service in California and this
25 gentleman eluded to it that there is a rule in there where

1 if you are an ancestor back to 1852, you can get health
2 services. Therefore, we are covered in that instance which
3 is good. And most of us have access to a health plan
4 because we are rural.

5 Anyway, that's it. Thank you. And thank you for
6 coming. I want to thank the administration, thank the
7 Bureau of Indian Affairs for making it possible for us
8 rural Indians to have access to hands-on without taking a
9 three or four-day trip back to Washington, D.C. to talk to
10 a solicitor.

11 MR. BEETSO: Thank you.

12 PUBLIC COMMENTER: My name is Del Davis, I'm
13 Wuksachi Tribe, and the lady spoke before you, she was on
14 the board when I was the director of Central Valley Indian
15 Health so we went through this process and with her sister
16 sitting next to her, they were also on the board.

17 But what I'd like to see with the revisions that
18 you presented today, I'm seeing a lot of positive things
19 out of them. Again, there's a note in my mind, I need some
20 more clarification from yourself, from Elizabeth when she
21 asked you some of the questions.

22 And one of them I elude to is the portion about
23 the federal land held under trust, our allotments. You got
24 to understand under the allotment act, the allotment act
25 was a mandatory compulsory act, [unintelligible] references

1 in his books. So we were forced compulsory to put
2 allotment land because they wanted to mainstream us to
3 assimilate into mainstream society as, quote, modern
4 civilized society.

5 So it's not those are individual allotments,
6 those are compulsory allotments through the allotment act
7 on tribal lands where a public domain land was able, those
8 that are on tribal land as well as there are allotment
9 lands on tribal lands. Our allotment lands are on tribal
10 lands. They're on individual names because that is what
11 the government dictated to us, not what we chose.

12 So that portion needs to be clarified with the
13 understanding, individual allotment lands, they are not
14 individual, those are individual tribal allotment lands.
15 The key word is tribal.

16 MS. APPEL: Thank you.

17 PUBLIC COMMENTER: And the other point I'd like
18 to make quickly is that these rules and changes, they would
19 be applied both the spirit and the letter as they're
20 written. Those are two differences. The spirit is
21 understanding, you know, that it's been directly in the
22 right way and the letter of the laws is we can't do any
23 more of this because it says this, you know.

24 You got to apply both the spirit and the letter
25 of the regulation. You know, you don't separate it. And

1 if there's any solid or ambiguous parts of the regulation,
2 that should be made to the tribe in question. In simple
3 terms, like in baseball, hey, tie goes to the runner, it
4 should go to the tribe and not you against the tribe if
5 there are solid and ambiguous parts to that regulation
6 tried to be applied.

7 It should go to the benefit of the tribe and they
8 have questioned that and they have yet to know that tribe.
9 And overall, I appreciate the Board and Derrick, and also
10 I'm honored that you asked me to be here today to do this
11 blessing.

12 All of you have a big job before you. There are
13 many good questions but we, myself, as an elder of our
14 tribe, I see these regulations and revisions. They're a
15 positive change. They're still work. They're always work.

16 MS. APPEL: Thank you.

17 MR. BEETSO: Is there anybody else who would like
18 to make a comment? Right here, this gentleman.

19 PUBLIC COMMENTER: Thank you and good morning.
20 My name is Valentin Lopez and I'm the chairman of the Amah
21 Mutsun Tribal Band. Yesterday a number of the
22 unrecognized tribes got together for a meeting and we all
23 agreed to the following points I'm going to make and we
24 signed a letter to that in support.

25 The other side, historical tribes collectively

1 make the recommendations that the proposed federal
2 acknowledgment regulations be implemented immediately. The
3 proposed regulations should be interpreted in the spirit of
4 the regulations as well as the letter of the law.

5 If any required criteria are slighted or
6 ambiguous, then said decision should afford difference to
7 the tribes in question. There are several points to be
8 noted.

9 Part 83.8, previous recognition should be
10 considered at the beginning rather than at the tail end of
11 the petitioning process, thereby allowing the assistant
12 secretary and OFA staff the opportunity to formulate the
13 expeditious consideration for the tribe's status
14 clarification.

15 The 1982 -- to 1928 to '32, 1948 to '55, and 1968
16 to '71 California BIA enrollments should be considered as
17 evidence under Criteria 83.7 (b), (C) and (e). Any and all
18 federal actions not mentioned in the proposed regulations
19 regarding members of the tribal community should be
20 acceptable as evidence under Criteria 83.7 (b) and (c).

21 Also, evidence needs to be carefully evaluated
22 and weighted by all OFA staff and by the assistant
23 secretary in a reasonable likelihood of the facts. We
24 expect that the existing OFA staff embrace the new
25 regulations in the spirit in which they are intended,

1 respectfully submitted.

2 MS. APPEL: Thank you.

3 MR. BEETSO: Thank you. Yes, sir.

4 PUBLIC COMMENTER: My name is Bob Robinson, an
5 historic officer [unintelligible] community in the Western
6 Mojave and Tahachape and Twin Valley area. Other response
7 with the allotment issue. In our area, we recently were
8 taken as part of the San Sebastian Reservation at the Tejon
9 Ranch. And when that was taken away, the ranchers had
10 developed ranches in the homeland area and they wanted the
11 Indians back for labor basically.

12 And they petitioned the government to issue
13 allotments in those areas and scattered out so that people
14 would be available for labor. And in lieu of a reservation
15 we have documentation of the correspondence back and forth
16 for that. And in that instance we were issued 66
17 allotments, 168-acre allotments for our area.

18 And after World War II and [unintelligible] came,
19 the BIA was also complaisant in taking those reservations
20 or those allotments away from the people and giving them to
21 the ranchers and most of them were sold for less than \$100.
22 And I think that, you know, that issue about individual
23 allotments really should have some flexibility because in
24 California they were used as a tool really against the
25 Indians and in more than one way.

1 MR. BEETSO: Thank you.

2 PUBLIC COMMENTER: Good morning, my name is Dirk
3 Charley, I'm a tribal council member at large for Dunlop
4 Band of Mono Indians. And I would like to thank officials
5 for hosting this meeting and giving us all the opportunity
6 to be heard and to make comments.

7 One of the key things that I wanted to say on
8 behalf of those that are not here, either they passed away
9 or they couldn't make this trip, but the whole process has
10 just been exhausting. And it's been -- it's a relief to
11 see that Administration of Indian Affairs recognizes that
12 to deal with some of these barriers and hurdles.

13 There's a lot of people that I learned from in
14 regards to dealing with this in all of the meetings and all
15 of the regulatory process we had to make. And these
16 leaders and these people, these warriors, a lot of veterans
17 in Indian country, a lot of them are passing away or
18 they're in poor health.

19 So people like us representing our people here,
20 we're going to do our best and we're going to do our best
21 as a people. I heard a lot of good feedback, I heard a lot
22 of good comments that my people, the leaders that make up
23 our council, we concur with. And again, we hope that this
24 all comes out in a good way, and we're able to achieve the
25 benefits of a federally-recognized tribe talking about

1 housing, health, education.

2 It's not about gaming. It never was. It's the
3 principle of the thing, how can you not be federally
4 recognized when we are living on tribal lands? How did we
5 get the land? Those are the types of things I just wanted
6 to say. I will always strive for and I'll have a lot of
7 people with me and we're just continuing to educate the
8 youth until we get justice.

9 MR. BEETSO: Thank you. Do we have anybody else
10 who would like to make a statement? Yes, sir.

11 PUBLIC COMMENTER: Hello, my name is Raymond
12 Patton. I'm Wintu of Hayfork. I have a comment in
13 question about community. I would like to request that
14 ancestors be expanded to include collateral ancestors or
15 relatives that descend from a common ancestor.

16 It's common in our tribe that there might have
17 been four sisters that have land that's held in trust. And
18 that's, of course, if this law does apply to individual
19 allotments. It's my recommendation is the Indian allotment
20 land should count because you're required to be a member of
21 a federally-recognized tribe to get the allotment land to
22 start with. So it should include individual allotments.

23 But direct ancestors is too narrow because you
24 could have one great-grandmother that dies from
25 tuberculosis before 1893. 1893 is when our tribe received

1 allotment lands but she could have had sisters that were
2 alive in 1893 and got allotment land and only those
3 descendents would qualify the way ancestors are listed
4 because it's just direct ancestors.

5 So once again, I would request it be expanded to
6 collateral ancestors or relatives that descend from a
7 common ancestor. And that becomes more important because
8 of the definition Thomas entity [sic], which I don't think
9 is fair and I think the words "exclusion from any other
10 political entity" should be eliminated because that creates
11 a situation where really no tribe qualifies or no country
12 even in the United States does not qualify because under
13 the definition of Thomas entity is where your political
14 leader had control to the exclusion of any other political
15 and government entity, which does not even apply to the
16 United States.

17 The federal government has represented us from
18 the states and it has states that have their own government
19 and their own entities you would think, but they don't meet
20 that definition, because there's still political influence
21 from the federal government on states and vice-versa.

22 The states still exist and they have
23 representatives that are part of the Senate, part of the
24 House of Representatives. And that would also apply to
25 other countries. The United States still recognizes China

1 or Russia as a country in a separate sovereign nation but
2 they don't meet that definition.

3 So I would request any rules for community would
4 be reciprocal where it would apply to the United States and
5 the United States itself would still apply for other
6 countries that the United States deals with. And that
7 comes into play a lot more because of modern technology
8 knowledge and changes that occur.

9 Under community one of the rules is that you hunt
10 together. Well back in 1770, people in the United States
11 that were American citizens, or 1777, they mostly hunted
12 and had gardens, now they have grocery stores, so they've
13 changed.

14 For the Native Americans, we have had a lot of
15 changes. One time there were no horses, then there were
16 horses, then there were cars. And a lot of the rules for
17 community that don't seem to fit now are just because of
18 modern technology.

19 But I would say if the Indians are required to be
20 still hunting together, then that should be requirement for
21 the United States Government which obviously does not
22 apply, and especially then with the changes that the United
23 States Government made by taking away the hunting lands
24 making the hunting season so short where it's only a few
25 weeks during the year, you can't have a collective hunting

1 throughout the year.

2 And so there's a whole list that I can put in
3 writing of problems with community that don't apply in our
4 affairs that really is just modern technology. The
5 [unintelligible] case said that if you have previous
6 recognition it should not be taken away [unintelligible].
7 Then there's a Wyoming case that says well you can't fade
8 away.

9 Under the definition of fading away, the United
10 States Government has faded away in all the counties they
11 deal with. When we first had treaties with the United
12 States Government, women could not vote, African-Americans
13 could not vote and they weren't people, they were slaves,
14 but the government changed.

15 Now there's an African-American president. I
16 think that's fine and that should be allowed but your
17 government should be allowed to change with modern
18 technology. But by the definitions that are fading away,
19 the United States Government faded away, they have an
20 African-American president. They didn't even have
21 African-American citizens when they first signed their
22 treaties with our tribe.

23 I'd like to suggest that you keep the Letter of
24 Intent. There are lots of ways that this has value. One
25 is that you're able to get grants for research that could

1 be important to proving the requirements for federal
2 recognition. And most people that will provide a grant
3 will not provide that unless you have the Letter of Intent.

4 There are also other laws that you have to either
5 be federally recognized or have the right to be federally
6 recognized, and having the Letter of Intent in let's you
7 qualify for different organizations and different laws.

8 I'd like to suggest that we could go to an appeal
9 and there's an administrative law judge that everything be
10 considered, not just the hearing record but everything
11 that's submitted. I think that's essential to making the
12 final decision.

13 And I have a question about previous federal
14 recognition because early on in the presentation it was
15 said that it is required that you prove seven things and I
16 would say that's true, but that's an exception. Currently
17 under the law, if you prove previous federal recognition
18 you only have to prove that you're currently a community
19 and that you currently have political influence over the
20 members.

21 So I would like some clarification. Is that
22 still going to be the law after the new regulation because
23 that was not clear to me how that's going to be changed? I
24 did see that some things are going to be deleted regarding
25 previous federal recognition but it did not specify what's

1 going to be deleted or changed.

2 MS. KLASS: Under the Proposed Rule you need to
3 prove community at present and then political authority
4 autonomy going back to previous federal acknowledgment, but
5 a little tweak. The language is very specific. If you
6 can't meet that tweak, political autonomy requirement, then
7 you prove community and political autonomy both back to
8 previous federal acknowledgement.

9 It's a little confusing. If you have
10 recommendations for making it more clear, please submit
11 them.

12 MR. BEETSO: Yes, sir.

13 PUBLIC COMMENTER: Good morning, my name is Cesar
14 Caballero, I chairman for the Miwok tribe in El Dorado
15 County. By the confusion regarding the list that gets put
16 out nowadays, because I have a federal documentation where
17 the names of the reservations, names of the tribes are
18 delineated in item for California, all 117 tribes, all of
19 them, every single of them is in these records.

20 Our tribe has been fairly recognized since the
21 1900s, during every item of requisition, the requirements
22 that are being proposed, every single item our tribe is --
23 it fits in the picture. It fits right in.

24 It's confusing to see the new federal register
25 list being absolutely new names that have been changed not

1 matching the federal list that exists in various Senate
2 resolutions in collaboration with Congress.

3 Congress specifically gave orders, they said, you
4 know, the California Indians are the Indians that we've
5 been recording throughout history. Everybody, there's roll
6 numbers issued to all these people, tribal affiliations
7 issued to all these people. And suddenly the names changed
8 and all of a sudden absolute -- a new group of persons
9 claim, oh, we're this new name change, we're all sitting on
10 your reservation because we were landlocked or we weren't
11 given proper access, but there was never no question of
12 identity.

13 Every single citizen of my tribe has a certified
14 roll number, the CRN's. Everybody has federal
15 identification. The only identification that's recognized
16 in the State of California, at social security offices,
17 Department of Motor Vehicles, United States borders,
18 everywhere, this is the only federal ID that's recognized
19 throughout California.

20 Having said that, it's unfathomable, like a
21 gentleman was saying, you know, he said if we're on federal
22 land, if we have federal ID, how are we being told you're
23 not recognized? It's extremely baffling for the name
24 changes where there's no due diligence in the name change,
25 there no publications for the name change and all of a

1 sudden somebody with a brand new name says we voted
2 ourselves your name. And in many cases these individuals
3 have no CRN's, they have no certified roll numbers and they
4 took over your reservation.

5 I believe, you know, it's very important for some
6 proper due diligence to check proper CRN's, federal roll
7 numbers, not, you know, we can't -- I mean everything is,
8 you know, 117 tribes, we got me Miwok, we got Maidu, we got
9 Wintun, we got but Yurok, we got Crescent City. In my case
10 it's Miwok.

11 In Miwok reservations we have our federal Miwok
12 ID. But now these new lists are out that do not match the
13 historic list we have in our federal recognition. We have
14 been recognized since the 1900s to now. We're part of the
15 IRA. We all have federal identifications. We all need a
16 proper due process and not allow corporations to take over
17 our reservations and tell us, oh, your roll number, your
18 federal Miwok ID means nothing. And by the way, we don't
19 have one but we're the ones that got the power so we're
20 going to go ahead and take over.

21 So that's what's been happening a lot. And it
22 really needs proper due diligence. We need some proper
23 policing regarding that matter so that corporations do not
24 take over. Very appreciative that the Bureau of Indian
25 Affairs is here in California listening to us allowing us

1 to all speak. The gentleman that spoke before me, very
2 intelligent stuff he had to say.

3 I have this list available for the Bureau of
4 Indian Affairs officials for you guys to compare the 117
5 tribes that are here in California to compare against which
6 the current list of names of which you have today. Even
7 when our tribe and our people, when we changed our name
8 they used to call us Digger Indians.

9 There was a publication that went through the
10 newspaper and there was a proper due process of that name
11 change. When the Digger Indians requested not to be calls
12 Diggers anymore, it became Miwoks. And it was that Digger
13 term was, you know, degrading for the Miwok people.

14 Anyhow, I request due diligence for proper
15 federal identification and I'd like to offer the list that
16 I have from the Senate Resolution through Congress where
17 Congress explicitly says the California Indians list is not
18 to be remade.

19 We've already got the list, that's the list we
20 need to go by. Last time there was roll numbers taken it
21 was 1968, all of our ancestors and all our federal roll
22 numbers. And thank you very much for letting me speak.

23 MR. BEETSO: Thank you. And this gentleman here.

24 PUBLIC COMMENTER: My name is Alan Leventhal, I'm
25 a tribal ethnohistorian for the Muwekma Ione Tribe. I

1 worked with the ACCIP from its inception from the
2 legislation in 1992 to the end when the reports were
3 submitted to Congress 1997, 1998.

4 I worked with Muwekma Tribe since 1980. They
5 submitted their Letter of Intent in 1989. They requested
6 under the revised regulations in 1994 a determination of
7 previous unambiguous federal recognition. In 1995 the
8 Bureau, the OFA [unintelligible] requested of Muwekma's
9 researchers in the tribe to turn over the universe of BIA
10 policies to the Interior Department before they would look
11 at any California Indian petition.

12 Joe Sulk, who was the chairman of ACCIP, wrote a
13 letter and said, Does this say that the OFA is not prepared
14 to deal with any California Indian petitions? The response
15 was basically that they want to work collaboratively and
16 they would draft a report, George Roff, who's the
17 anthropologist on the acknowledgement of California tribes
18 from 1887 to 1934.

19 In 1995 we handed them 100 pages of documentation
20 from Record Group 75, the Roseburg Files, and they wanted
21 more. In that was the Dorrington Report of 1927 plus some
22 other evidence that Dorrington was under investigation.
23 The response from OFA was that the acknowledgment paper
24 would be submitted back to ACCIP for the benefit of
25 California Indian Tribes to help them get through the

1 recognition process. We turned in all our documentation in
2 March of 1996.

3 On May 24, 1996 the Muwekma Tribe received a
4 determination of previous unambiguous federal recognition.
5 The tribe then asked Interior, If we have previous
6 unambiguous federal recognition, we would like to be
7 treated equally with two other tribes, California Tribes,
8 Ione Miwok and Lower Lake Koi to be reaffirmed.

9 Interior said that the assistant secretary does
10 not have the authority to do that and they don't have to
11 accept those as precedence. So the Muwekma kept on asking
12 and they all said the other question, if a previous
13 unambiguous federal recognition, how are we legally
14 terminated?

15 1994 out of HR 4188 which was a technical
16 corrections bill that corrected the [unintelligible]
17 restored [unintelligible]. The third part of that said
18 that the assistant, the Secretary of the Interior nor any
19 of the other agents do not have the authority to terminate
20 a tribe or withdraw services from a tribe.

21 Under the court they said to the federal court
22 that they would determine how the tribe lost its federal
23 recognition and it would be in the final determination. It
24 was never stated in court nor in the final determination
25 how the tribe lost its federal recognition. It speaks to

1 someone of Sam's Tribe in 1995 of the Margaret Green Case.

2 The important thing here is that when we went
3 through technical assistance in 2001, we were told that to
4 terminate everything that we want to be considered and
5 argued, we grew concerned that because the tribe had
6 previous recognition, we hadn't demonstrated it was a tribe
7 at present.

8 In the final determination OFA said we would not
9 look at anything after 1985 to the present or 1927 or
10 earlier because we've given that to the tribe and then we
11 rescinded the previous recognition.

12 So the question is, is confidence within OFA --
13 sorry for being longwinded -- but confidence in OFA in
14 being objective, in being neutral, and the important thing
15 here is that they said to court that they gave the tribe a
16 thorough review of the petition, but yet in the final
17 determination they emit that they did not look at anything
18 that we submitted for the final determination from 1985 to
19 the present, 1927 or earlier.

20 This becomes a critical threshold in dealing with
21 confidence through objectivity from this particular group
22 of scholars and specialists and this has been one of the
23 concerns that no doubt many tribes who have gone through
24 the process have. And this is something that needs to be
25 really carefully considered. Thank you.

1 MR. BEETSO: Thank you. This gentleman here and
2 then come back to you.

3 PUBLIC COMMENTER: Good morning. My name is
4 Fernando Mendoza. I'm from the Deputy Administrator for
5 the City of Commerce and I'm here representing my collected
6 officials.

7 With regard to the substance of the policy
8 changes that you're proposing for new rules on recognition
9 I have with me here a resolution of opposition passed
10 unanimously by our City Council last week. I would ask it
11 be entered into the record of these proceedings as our
12 resolution speaks for itself regarding your proposed policy
13 changes.

14 The city leadership has instructed me to talk
15 about a different aspect of what you are doing that they
16 are very concerned about. We believe there are real
17 problems with the plans for public consultations and the
18 deadline for the submissions for comments. The
19 consultations are too few, the deadlines too short and your
20 plans for both need to be changed.

21 When the City of Commerce first learned of the
22 public hearings and comment period on the Proposed Rule,
23 there were two important things that puzzled us and we just
24 couldn't figure out. The first thing we couldn't figure
25 out was why the BIA did not schedule a public comment

1 session in Southern California.

2 We can guess that you wanted to avoid an
3 environment where you knew there was widespread opposition
4 to your plans. But that was only speculation on our part.
5 But we do find it curious that you did not come to Southern
6 California. Los Angeles County is the populous in the
7 United States, Orange, Riverside, San Diego and San
8 Bernadino Counties are all in the top 12 most populous
9 counties in the nation as well, more would propose new
10 rules, impact more people, communities and
11 federally-recognized Indian tribes than in Southern
12 California.

13 Southern California has perhaps the greatest
14 concentration of tribal petitioners and stinta [sic] groups
15 that stand to directly benefit from the lower standard for
16 the recognition they're proposing. Yet for some reason you
17 chose not to come to our area and instead held this forum
18 in a place that is difficult for Southern Californians to
19 get to and in the middle of the workweek.

20 We're disappointed you chose today's session far
21 away from the communities and tribes in Los Angeles and San
22 Diego areas. Travel here required either an expensive
23 plane ticket or 500-mile drive for anybody in Southern
24 California who wanted to attend. There are many persons in
25 our city government that would have liked to have come and

1 express their opinions on your proposal but we lack the
2 resources necessary to do so.

3 In addition to the monetary cost involved, there
4 is also a significant investment of time to get here,
5 attend the session and return home. If this session had
6 been held in the Los Angeles area, there is a good chance
7 that my city officials would have been able to participate
8 in this forum. The time and distance involved in getting
9 here eliminates that possibility.

10 It simply makes no sense to us why you would
11 choose a location that is difficult to get to for these
12 important forums and schedule the meeting times during
13 business hours in the middle of the workweek.

14 The second thing that didn't make much sense to
15 us is why the timeline for public hearings and comments is
16 so short. The changes you have proposed to the federal
17 recognition process in this rule are the most significant
18 the process itself established decades ago.

19 No one disputes that if enacted they will
20 represent a major departure from previous policies in a
21 number of areas. Recognition of any group as a sovereign
22 Indian tribal government is serious business. Sovereignty
23 involves important governmental power such as taxation, law
24 enforcement, receipts of federal funds and availability to
25 have land taken into trust by the federal government.

1 Any changes in the process demands a highest
2 level of care for examination and public scrutiny. Rather
3 than a schedule that reflects the gravity of what you have
4 proposed, you have instead presented us with an extremely
5 compact schedule that provides a little over two months'
6 time period that also included two major holidays for the
7 public to analyze and evaluate your proposals.

8 The proposal itself is highly technical in nature
9 and many [unintelligible] can only be understood by
10 individuals with a high level of knowledge and expertise in
11 the subject matter. To ask a municipal or tribal
12 government or anyone else for that matter to identify an
13 individual capable of evaluating the merits of the roll,
14 enter into a contract with them, investment time, to
15 carefully analyze all the nuances and impacts of what you
16 are proposing and then prepare constructive comments in a
17 span of a little more than two months is totally
18 unrealistic.

19 Your abbreviated time frame essentially serves to
20 prevent anymore than a cursory review of the proposal, one
21 that is likely to [unintelligible] ramifications. This
22 calls into question whether you are truly interested in the
23 input for municipalities and tribes or whether you see this
24 process as boxes that be checked on the road to
25 predetermined outcomes.

1 One could be forgiven for thinking that handful
2 of public consultation to have scheduled in a very short
3 time frame are merely a window dressing for a forgone
4 conclusion. If that is the case -- I'm almost done -- then
5 you may see the short comment period as a blessing, review
6 it as a problem and one that must be addressed.

7 Fortunately, we're not alone in recognizing the
8 inadequacy of the consultation and comment period you have
9 constructed for this rule. It is our understanding that
10 our own Senator, Dianne Feinstein, urged the BIA to extend
11 the comment period and to provide additional consultation
12 opportunities.

13 We are very grateful that Senator Feinstein is
14 interested in increasing the opportunities for public input
15 into this process. When such a highly-respected senator on
16 Capitol Hill tells BIA your current framework for public
17 comment and consultation is inadequate, it should be a
18 clear indication that you need to reconsider your current
19 plan.

20 The changes that are proposed in the new rule are
21 far too serious for the limited amount of time and
22 opportunity [unintelligible] and the public to analyze and
23 comment on them. You need to put an end to the rush to
24 judgment in what appears to be happening in this process.
25 Major policy changes at any level of government should not

1 be done at a race against the clock.

2 I strongly urge you to change your current
3 course, extend the public comment period by at least six
4 months and greatly increase a number of recently diversity
5 of public hearings and consultation on your proposal.

6 Thank you for your time and consideration.

7 MR. BEETSO: Thank you.

8 MS. APPEL: Thank you for your comment. I would
9 like to point out that this process of looking at these
10 regulations and considering revisions to the federal
11 acknowledgement process has been a multi-year effort and we
12 did release a discussion draft which is something that we,
13 you know, usually don't do in advance of publishing a
14 Proposed Rule in the Federal Register.

15 And that discussion draft we released back in
16 June of last year and we held five public meetings
17 throughout the country last summer, we held five tribal
18 consultations throughout the country last summer. And this
19 Proposed Rule, we're hosting six public meetings across the
20 country and six tribal consultations likewise.

21 We did on the discussion draft have one of our
22 public meetings and tribal consultations in the Southern
23 California area in Santa Ynez. So our effort for the
24 Proposed Rule, we thought we would try to hit the northern
25 part of the state.

1 But all that said, we have received several
2 requests for an extension of the comment period and
3 requests for additional public meetings and tribal
4 consultations. So the those requests are under
5 consideration at this time.

6 MR. BEETSO: So thank you, Liz. And just a
7 little housekeeping note, if you have a written statement
8 that you want to read, please try your best to summarize
9 the statement. You definitely have the opportunity to
10 submit the statement in writing by August 1st, so just try
11 to keep it short. We have a lot of people here. We want
12 to make sure everybody that has an inclination to speak
13 today has an opportunity to do so.

14 PUBLIC COMMENTER: Thank you very much. My name
15 is Andrew Laura [sic], I'm with the Juaneno Band of Mission
16 Indians. I thought it fitting to go after Mr. Mendoza, the
17 gentleman that just spoke because I'd like to clarify a few
18 things. I live in Pico Rivera, that's a city next to
19 Commerce in Southern California.

20 I want to just clarify something. In the City of
21 Commerce is a casino and it's called the Commerce Casino.
22 And he stated that the city council members would have
23 liked to have come but for lack of resources they were
24 unable to make it. I, too, am an elected official in my
25 city. And I know for a fact if they were to come, they're

1 not going to pay out of their own dime, they're going to
2 charge the city.

3 And so I found many of his comments disingenuous.
4 I'm usually not a petty man and I say this sitting inside a
5 casino. I put good money to bet that he's not paying out
6 of his own pocket either to be here. He was paid and he
7 was given comments to make to show up.

8 And I'd like to -- I want to touch that in the
9 sense that ever since the -- sorry, I'm kind of speechless
10 right now -- but ever since the regulations for federal
11 recognition were enacted, the first submission was only
12 88 pages. And that was in the early, I guess 1979 or 1980,
13 it was only 88 pages, and the turnaround time was very
14 small.

15 Today tribes are submitting hundreds of thousands
16 of pages and are spending millions of dollars. Why,
17 because a gentleman like Mr. Mendoza, he represents
18 Commerce Casino. But you also have neighboring and
19 competing federally-recognized tribes that have their own
20 casinos that are going against non-federally-recognized
21 tribes through this process. And they have large pockets.

22 If we're going to start with the assumption and
23 the fact that Native Americans are on the lower end of the
24 social economic scale, right, and you expect them to
25 compete against entities like Commerce Casino, what if you

1 have a consortium, Commerce Casino, the Bicycle Club,
2 Hawaiian Gardens and some of the other neighboring tribes
3 of the desert, and you want a non-federally-recognized
4 tribe to compete against those powerhouses, you could give
5 my tribe 100 years to go through the federal recognition
6 process and I'll tell you what, you could have given them
7 another hundred and they wouldn't have understood the
8 process nor would they have been able to develop the
9 political savviness that it takes to navigate through this
10 process.

11 All of those other federally-recognized tribes
12 and casinos like that, they're in the political gain. They
13 have their contacts, they have their lobbyists and that's
14 something that's not talked about. I understand we're
15 talking about rules and we're talking about proposed rules
16 and what have you, we're talking about transparency.

17 But it's individuals like Mr. Mendoza, I don't
18 mean to put you on the spot, I don't know you personally,
19 I'm sure you're a nice guy but you represent something.
20 You represent something. And we need to put that out
21 there. We need to talk about that and that's not being
22 talked about. But I'm glad you showed up because you
23 represented a point.

24 Now I just have three questions and I'll get off
25 the mic. The OFA cites inconsistencies and interpretation,

1 that's one of the reasons why there's proposed rules.
2 There's proposed changes to the regulations. Can they give
3 examples? Can they give examples in the past where they
4 have gone wrong? You talk about you've been inconsistent,
5 but can you give us like a top ten?

6 How does a suspended tribe or even a petitioning
7 tribe get their information back? You have about five or
8 six suspended tribes. How do they, if according to the
9 proposed regulations, if those tribes go through the
10 federal recognition again or the process of it, how do they
11 get the information that they submit to you back so they
12 can either resubmit it, edit it, take things out, how does
13 that happen? Can we expedite that process even if it's at
14 the expense of a tribe?

15 And I have three but I'll just leave it at two.
16 Thank you.

17 MR. BEETSO: Thank you for your comment. Just
18 another housekeeping rule, the public forum is a great
19 forum because we get to hear a lot of different
20 perspectives on this issue. We know this is a very
21 emotional issue, but please direct all your comments to us.
22 We're the ones here accepting comments so to the degree you
23 can try to limit all your comments directed toward us, the
24 federal officials. Thank you.

25 PUBLIC COMMENTER: I'd like to let my chairwoman

1 speak first.

2 MS. APPEL: If you don't mind I can respond to
3 one of the previous comments. The Proposed Rule does
4 provide that if Petitioner repetitions, they do not have to
5 resubmit the materials, that the Department will rely on
6 materials already submitted. There's no bar against
7 submitting additional materials but there's no need to get
8 the materials back and resubmit. That's it. Thank you.

9 PUBLIC COMMENTER: Good morning. I am a
10 chairwoman, Teresa Romero of the Juaneno Band of Mission
11 Indians, Acjachemen Nation. On behalf of my people, thank
12 you for the opportunity to participate in regulation
13 reform, even if by public comment only.

14 While we stand we could spend the next few days
15 discussing the atrocity suffered by my people at the hands
16 of non-Natives and the current recognition process. I'm
17 here today to support regulation reform and ask specific
18 questions that will benefit not just my people but all
19 Native tribes.

20 As a California Tribe the new regulation reform
21 still falls short in providing sufficient accommodations
22 for the unique circumstances faced by most California
23 tribes over the last 250 years. The responses to the first
24 round of public hearings indicated the Proposed Rule would
25 add objective standards in the criteria where possible to

1 ensure consistency while retaining some flexibility to
2 account for the circumstances faced by each petitioner.

3 We have been unable to identify the flexibility
4 for California Tribes. We are formally requesting specific
5 regulations that would allow for California tribes to be
6 treated fair and giving equal opportunity to be federally
7 recognized.

8 If there are no plans to incorporate those types
9 of accommodations or flexibility because California tribes
10 like mine had to go underground with our Indianness, as
11 documented by historians, anthropologists, genealogists
12 alike, what types of evidence could California tribes
13 submit to meet the reform regulations as they exist in the
14 Proposed Rule?

15 For example, to stay alive we identified
16 ourselves as Mexican or Caucasian in census records and
17 vital records, but in reality we weren't accepted by either
18 ethnicity. And we knew we were Indian because our
19 ancestors or family members told us we were, but never to
20 go to school or church and say it was so.

21 My question refers to Criteria B, regarding
22 evidence demonstrating communities, specifically 83.11
23 (b) (1) IX, children of members of geographical areas were
24 placed in Indian boarding schools or other Indian
25 educational institutions.

1 My nation submitted enrollments to California
2 Indian school, only to be rejected as evidence because it
3 was deemed as self-identification versus outside entity
4 identification of our aunties and uncles as Indians.

5 Further, because many California tribes were
6 often identified collectively as Mission Indians versus
7 specific tribes associated to specific missions, this
8 evidence was further negated. Can you define how the
9 nearly proposed race would be applied, specifically 83.11
10 (b) (1) IX?

11 Furthermore, since Criteria B requires Natives to
12 demonstrate distinct communities from 1934 to present, is
13 83.11 (b) (1) IX stating petitioners who have submitted
14 enrollment evidence for every consecutive year since 1934?
15 Can you respond?

16 MS. APPEL: I don't know that we have thought
17 about that.

18 PUBLIC COMMENTER: I'll go on. Let me just
19 finish up.

20 MS. APPEL: I'm glad though that you pointed out,
21 that is an addition that I think I forgot to say in the
22 presentation that we are explicitly allowing for records of
23 Indian boarding school enrollments in support of the
24 criteria for community. So I'm glad that you pointed that
25 out.

1 But if you have specific ideas on how the
2 Proposed Rule can better address the unique issues in
3 California, then we certainly welcome that.

4 PUBLIC COMMENTER: Thank you. We will be
5 submitting that.

6 MS. APPEL: Great.

7 PUBLIC COMMENTER: I'm going to wrap up after my
8 next question. My next question refers to the same
9 criteria 83.11 (b) (1), only now II, social relationships
10 and individual members.

11 Can you define what is considered a social
12 relationship and what types of evidence will support that
13 definition? We recognize those types of questions that
14 should be answered by technical assistance; however, in our
15 experience in 2008 with technical assistance they provide
16 no assistance at all.

17 MS. APPEL: Thank you. So clarification of what
18 is a social relationship?

19 PUBLIC COMMENTER: Yes.

20 MS. APPEL: Thank you.

21 PUBLIC COMMENTER: Finally, in regards to address
22 open opposition to regulation reform, for example, State of
23 Connecticut. In other words, once a proposed rule has once
24 again successfully passed from OMB and other government
25 agencies and protocols, how will you answer the state or

1 state representatives or local municipalities that openly
2 oppose reform?

3 MS. APPEL: I'm not sure I understand the
4 question. I'm sorry, can you repeat it?

5 PUBLIC COMMENTER: Sure. In regards to
6 addressing open opposition, for example, the City of
7 Commerce or the State of Connecticut that has clearly
8 identified they are against regulation reform, how does
9 your office plan to address that?

10 MS. APPEL: Well I think that the fact that we're
11 moving forward with looking at how to improve the process,
12 it's not a question of whether we're looking more at how.

13 PUBLIC COMMENTER: Okay.

14 MS. APPEL: So it is a priority of this
15 administration to get some final rules in place so that we
16 improve the process. I think it's been well established on
17 record that improvements are appropriate.

18 PUBLIC COMMENTER: Thank you. In closing I would
19 just like to thank you and all the reps here today and
20 commend everyone in the reforming process, what has so long
21 been a tragic process for Native Americans. May you travel
22 home safely until we meet again. May the Creator guide
23 your efforts towards justice and fairness for all Native
24 people.

25 MS. APPEL: Thank you. And I think Katie, our

1 representative from the Office of the Solicitor, may have
2 some input that can help clarify, too.

3 MS. KLASS: Thank you. So you spoke to the need
4 in California to sort of go underground and hide your
5 Indianness. And that sort of relates to our proposal to
6 remove Criteria A, external identification, so that we can
7 focus more an internal community and internal political
8 autonomy and less on external identification of a tribe.

9 Also, with regard to the boarding schools, the
10 proposed language talks about basically kids coming from
11 the same geographic area in being put in boarding schools.
12 So I think that's how we're thinking right now that that
13 will function, basically showing that these kids do live in
14 a community together or did live in a community together.

15 MR. BEETSO: Thank you. And so we have this
16 gentleman here and then followed by Miss over here and then
17 the gentleman in the back.

18 PUBLIC COMMENTER: Good morning. My name is
19 Rosemary Cambra, and I'm the chair of the Muwekma Tribe.
20 Council members, would you please stand in regards to
21 paying respects to the chairs that are here representing
22 their tribe and council members and members at large.

23 Muwekma's -- I'm saying the statement first --
24 Muwekma's history has been well documented, submitted to
25 the Bureau of Indian Affairs. Our legal case is

1 challenging the Bureau in regards to previous recognition,
2 it has been submitted as well. I just want to say I'm very
3 honored to be among the chairs and I share your struggle
4 and I could only say to you and advise you keep your
5 spiritual place for your people and especially the leaders.

6 Advise your members, remind them of their
7 spirituality. Remind them that you, too, have their
8 struggles, whether it be acknowledged by the government or
9 economically or even having adversarial relationships with
10 recognized tribes. And pray, like I do every day. Pray
11 that somehow that you can create a partnership with
12 recognized rights.

13 We're all related. Believe me when I say that.
14 We're all related. I want to end my comments again by
15 thanking you and I pray that you will be given justice and
16 that you will have acknowledgment. But again, I too pray
17 for that because I'm not yet -- my people are not yet
18 acknowledged, but we acknowledge ourselves.

19 Do you really think, and this is the question
20 again to the staff, do you really think anyone here at the
21 room, they need help writing their history? Do you really
22 think that they have a problem with who's their father,
23 who's their mama? I don't think so.

24 Again, I'm not speaking for all the people in
25 this room, I'm speaking for Muwekma. And I'm just giving

1 you my point of view. Now I want to thank again the
2 chairs, the councils and the consultants that have worked
3 for Muwekma. I thank you publicly. I wouldn't have been
4 able to complete the petition of my council and members the
5 way that the Bureau wanted without my consultants or the
6 consultants of the tribe.

7 Now let me acknowledge the Bureau of Indian
8 Affairs for being here, for being here and listening to
9 your voices. Thank you.

10 MS. APPEL: Thank you. Before we move on I know
11 we still have several people who would make comments but I
12 think our court reporter may need a quick break. If we
13 could reconvene in ten minutes and then everyone can gather
14 their thoughts and hopefully we'll get done on time. Thank
15 you.

16 (Whereupon a recess was taken.)

17 MS. BROOKS: Hi, everyone. My name is Viola.
18 I'm with the Pacific Regional Office. And people have been
19 talking about the ACCIP Report, it's been mentioned, you
20 know, a few times so I, just for the record, wanted to let
21 everyone know that the ACCIP Report is the Advisory Council
22 on California Indian Policy. And it was a series of eight
23 reports on various topics including federal recognition and
24 termination and overview of California Indian history.

25 And it was a report initiated by Congress. And

1 it did have several recommendations in there, actually
2 quite a lot of recommendations and just kind of status and
3 history. Just for the record and for all of you, the ACCIP
4 Report is called the Advisory Council on California Indian
5 Policy. And it's available online as a PDF, the executive
6 summary.

7 PUBLIC COMMENTER: And the original report is
8 that thick, it weighs five pounds, I have it so you don't
9 want that.

10 MS. BROOKS: If anyone is familiar with it,
11 there's two hoop, like caps, like basket caps on the cover
12 of the book. I know a lot of people refer to it as that,
13 the report by's it's looks.

14 PUBLIC COMMENTER: I have a copy here, we'll make
15 copies for you if you want.

16 MS. BROOKS: The IA can make copies.

17 MR. BEETSO: Thank you. So I believe we had a
18 queue with two individuals in it, so we're going to start
19 there.

20 PUBLIC COMMENTER: Good morning, my name is
21 Victor Farfan, I'm a City Council Member from City of
22 Hawaiian Gardens. And I'd like to share some concerns
23 about the aspect for new rules for tribal recognition. We
24 believe the new proposed rules significantly weakens the
25 standards for groups seeking recognition and stacks the

1 debt in favor of petitioners to the detriments of everyone
2 else including other tribes. Even worse, it appears to do
3 nothing at all to end reaffirmation or other types of
4 executive recognition that bypasses all the objective
5 criteria and analysis by experts which should be required
6 of all. For these reasons alone, we cannot support the
7 proposed rules.

8 However, there is non-policy access to the entire
9 rulemaking process that is very troubling to us as well.
10 We have been made aware there are a number of individuals
11 employed by the BIA where members of non-recognized tribal
12 groups that have been involved in the drafting of these
13 rules. It is a clear conflict of interest and they should
14 have never been included in any works or discussions on
15 these topics.

16 But unfortunately, their participation is not our
17 biggest concern. The biggest problem is with Larry
18 Roberts, their boss. With all due respect to you,
19 Mr. Roberts, you should have never been involved in any
20 aspects of the proposed changes. Your past history of
21 working for years as a paid lobbyist for unrecognized
22 tribal groups and off reservation projects cannot be
23 ignored.

24 At best, it means you were a former outsider who
25 is now an insider designing the rules for recognition

1 reform. At worst, it is a conflict of interest and
2 presents a set of temptations that not even the most
3 ethical individual would find hard to completely insulate
4 themselves from.

5 It calls into question whether or not the public
6 can have the confidence that relevant decisions of the
7 proposed rules were made on a basis as sound public policy.
8 It also makes it fair game to ask to what extent the
9 proposed changes might benefit causes and clients you have
10 previously championed, as well as your friends of former
11 associates who are still working on these causes.

12 It is my understanding that as Principal Deputy
13 Assistant Secretary of Indian Affairs, you've been the
14 point person for the BIA throughout the entire rule making
15 process. Your presence here today running meetings and
16 three others who have gone throughout the country would
17 seem to bear witness to that fact.

18 Being the point person no doubt gives you great
19 influence in the drafting and shaping of the proposed
20 rule-making changes. It also likely places many important
21 discretion decisions directly in your hands. It is easy to
22 anticipate that at least some of these decisions, you have
23 the effect of making it easier for certain petitioners to
24 gain federal recognition by removing an obstacle they face
25 under the current regulation.

1 Since common sense tells us since you spent so
2 many years lobbying and doing legal work for unrecognized
3 groups, you should be familiar with the particular
4 circumstance that are known exactly that would change in
5 the process and would most benefit those changes for
6 recognition.

7 Regardless of whether your knowledge of these
8 groups' specific needs ever came into play, it would
9 potentially cast a shadow of doubt over the single decision
10 that made the entire process. Public disclosure records of
11 the U.S. Senate show for many years prior to joining the
12 executive branch you and your firm you worked for received
13 huge sums of money for various unrecognized groups seeking
14 federal recognition. It also got a lot of money for
15 several recognized tribes seeking off reservation for every
16 casino gambler backed by non-tribal casino developers.

17 And I understand you have accused yourself of any
18 involvement which you previously, clients, firms and
19 associates when it comes to manners of casino gambling.
20 That was the right thing to do and I applaud you for doing
21 so.

22 However, this bends the question, since you did
23 not refuse yourself from involvement in the gambling and
24 casino proposal, why did you not do the same for matters
25 involved in tribal recognition as well?

1 Whether or not we like it, tribal recognition and
2 casino gambling are linked. Becoming recognized is a
3 necessary prerequisite to having land taken into trust,
4 which is then turned into necessary prerequisite of opening
5 a gambling casino.

6 So the impact of your petition and the process,
7 [unintelligible] changes the rules whereby tribes are
8 recognized has the potential to not benefit just your
9 former recognized clients but your former gambling
10 development clients as well.

11 The ease of the rules of recognition to more
12 newly recognized tribes you get, the more new recognized
13 tribes you have, the more potential casinos you can
14 develop. Even the more -- even the most ethical individual
15 would not be unable to learn the rule changes that would
16 benefit their former clients.

17 So why on earth have you put yourself in a
18 position involving yourself with such rules knowing that
19 any time your objectivity could be illegitimately called
20 into question and the credibility of the entire process be
21 fairly undermined?

22 I want to respect everyone's time here but I do
23 need to point out a few other things. Mr. Roberts
24 currently does have a number of associates that are still
25 working to represent a number of tribes, non-tribals. One

1 such tribe is the tribe of North Carolina. State records
2 also how that he was paid over 1.2 million to lobby for
3 federal recognition of Native Hawaiians. In addition to
4 that, their firm -- well he himself was paid at least
5 180,000 in attempts to get the [unintelligible] tribe
6 recognized. In addition to that, I want to point out just
7 four points and then I'll close.

8 MS. APPEL: If I could just interrupt you for a
9 moment. I want to put out that Assistant Secretary Roberts
10 is not present --

11 PUBLIC COMMENTER: I recognize that.

12 MS. APPEL: And he is unable to respond to any of
13 these allegations that you're making, and also --

14 PUBLIC COMMENTER: Right. I need to have this
15 present for the record.

16 MS. APPEL: I want you to be able to state your
17 peace but I'd also like to emphasize that the
18 decisionmaking is not -- one person does not hold the power
19 to make the decisions on what the regulations should --
20 this is a long process that goes through many layers of
21 approval.

22 As I mentioned, it's approved by the Office of
23 Management and Budget, but even before it gets to that
24 point it goes through several layers within the Department
25 of the Interior. So I just want to make that clear. But I

1 do want you to be able to say your peace, so I apologize
2 for interrupting.

3 PUBLIC COMMENTER: No, that's fine. This is a
4 public forum.

5 PUBLIC COMMENTER: We were restricted to two
6 minutes, he should be restricted to two minutes.

7 PUBLIC COMMENTER: So closing once again, I'm
8 stating I do not intend to be disrespectful or accuse you
9 of unethical behavior raising these issues, but I need to
10 state four issues.

11 You and your former partners have a very long
12 history of working for unrecognized groups in controversial
13 casino projects.

14 Recognition of as many new tribes as possible is
15 desirable for your former clients, partners and employers.

16 There could be no doubt that your proposed rules
17 long establish standards for recognition, thereby makes it
18 easier for any group to get recognized.

19 Four, most if not all these full recognized
20 tribes will be pursuant off reservation or urban casino
21 location of the kind that you are paid to lobby on behalf.
22 Thank you.

23 MS. APPEL: Thank you. And another clarification
24 I'd like to make, the tie between recognition and casinos,
25 I just want to point out that once a tribe is recognized,

1 it is not automatic that that tribe can then game. Once
2 the recognized tribe wants to take land into trust there's
3 a process under 25 CFR 151 where they need to apply to get
4 the land taken into trust and that process includes notice
5 and participation of local governments in the state and
6 then to get approval for casino-style gaming.

7 There's another set of requirements and process
8 that they need to go through under 25 CFR, Part 292, and
9 Katie may have more on that.

10 PUBLIC COMMENTER: Didn't have to enter into
11 state --

12 MS. APPEL: Right, right, that's part of 292.

13 MS. KLASS: Even when you don't engage in Class 3
14 casino-style gaming, you still have a lot of procedural
15 steps to go through even for Class 1 and Class 2 gaming,
16 so...

17 PUBLIC COMMENTER: My name is Quanah Parker
18 Brightman, I'm executive director of the United Native
19 Americans and I'm also an enrolled member of the Lakota
20 Nation and a citizen also of the Creek Nation, so I have
21 dual citizenship. And I came here in support of the Miwok
22 Nation and of course a number of the tribes here in the
23 State of California and nationally who are looking for
24 federal recognition to have an equal opportunity to their
25 land, an equal opportunity to all their resources and of

1 course, the claims to their ancestor lands which all of us
2 need.

3 You know, my grandfather once told me, he said
4 every day they make new people but they don't make new land
5 and we should value every piece of our land, every single
6 piece because our ancestors sacrificed a lot for us to be
7 here today.

8 My father, many of you may know him, Dr. Lehman
9 Brightman, he's one of the founders of the Civil Rights
10 Movement. Now my mother, Trudy Brightman, is also one of
11 the founders. I represent them in the best way I can each
12 and every single day, and I'd like to bring voice to some
13 of the things I've seen as an organizer for over ten years
14 now.

15 We have organized demonstrations against the
16 tribes who had practiced this genocidal campaign of
17 dis-enrolling. What is the Bureau of Indian Affairs going
18 to do about all the people in the tribes who have
19 vanquished and dis-enrolled some of their citizens, why?

20 Now the blood quantum which the Bureau of Indian
21 Affairs imposes on us as tribal members, we have to be
22 one-fourth or more blood throughout the Bureau of Standards
23 for us to receive services from the federal government.

24 I recommend that all of us as tribal people and
25 our tribes, whether we're federally recognized and

1 non-federally recognized both through lineal descent where
2 we can prove through our documentation of our ancestry not
3 to go by blood, because what are we going to do when we are
4 not one-fourth or more?

5 Every day there's new people being born but what
6 are we going to do when we're not able to recognize them by
7 the blood quantum? What are we going to do then, we're
8 going to being extinct. We'll be extinct within less than
9 100 years if we don't change these policies that the Bureau
10 of Indian Affairs that was founded under the war department
11 continue to impose upon each and every one of us.

12 Now in closing, I recommend that the Ohlone
13 Nation from San Francisco and all the other petitioners who
14 are seeking federal recognition and equal equality be
15 granted that. I ask that from the Bureau of Indian Affairs
16 and the Department of Interior, please give them federal
17 recognition, for they need it, they want it and most
18 importantly, they deserve it. Thank you.

19 MR. BEETSO: Thank you. We have the two.

20 PUBLIC COMMENTER: Hi, my name is Erin Young and
21 I am a Native American. I may not look Native American but
22 I was, you know, came out of the family and I have roll
23 numbers from my great-grandfather, actually my grandfather.
24 And he had to assimilate off of his reservation that was
25 then stolen from us.

1 And if any of you guys have experienced any of
2 this, you know what I'm going through. I'm just a peon
3 when it comes to Native Americans. I know that I have
4 history just like he stated. I can prove it literally but
5 then when you start to look at where I come from, I have
6 four sons, I struggle, seriously.

7 I'm Native American, then I have tribal cousins
8 who are just a touch away from me, that by blood and by
9 heritage I'm cousins to them. But for some reason they
10 have a casino and they get \$40,000 a month, and here I am
11 on TANF. What is TANF?

12 So TANF is ran by the casino who stole my tribal
13 identity and then they kicked me off when they find out who
14 I was. Okay? So it's really kind of weird when you stand
15 at a peon position and you look out and you see all these
16 Native Americans and all the people who claim to be Native
17 American even though they don't have a BIA ID.

18 My grandfather was issued a roll number but my
19 mother was not, I was not, my children were not. Where is
20 the anthropologists that are supposed to go out and say
21 hey, there's a roll number here and who's the descendents
22 off of that? Hey, let's test that person's blood and see
23 how much DNA comes out of original bones that sit in
24 Berkeley?

25 Why isn't this happening? Why is it that I stand

1 alone a part of a tribe that has been scattered to the wind
2 over some land that I no longer possess, have control of
3 even though my ancestors lived on that land? And because,
4 you know, one of the other ladies had stated that we had to
5 assimilate, we had to move off.

6 My grandfather had to move off of that
7 reservation because no electricity was brought to there, no
8 water was brought to there. So we assimilate, we move off.
9 But then, oh, we'll give this land over here to this other
10 tribe. And then that tribe says we're going to take your
11 ID because we can't get a casino under our ID, under their
12 ID.

13 So it's really kind of weird. This whole thing
14 is nerve wracking and it's kind of crazy that we're all
15 cousins somehow but we're all divided seriously, and you
16 guys talk about your little numbers and, you know, No. 9 of
17 3FC or whatever number it is, but really you're not getting
18 down to the point that I, too, am Native American but
19 nobody acknowledges that. And we fight against what this
20 gentleman stated, against a big huge casino that has big
21 deep pockets even though they don't have proof from you
22 guys that they have BIA identification.

23 When is that going to stop? When is the
24 anthropologist going to show up on my door and say who are
25 you and how are you connected? Oh, yeah, you were

1 federally recognized but they stole it. Oh, yeah, that's
2 in court, who really cares, we don't have control of that.

3 So it seems very weird and I may not have all my
4 knowledge correct because like I said, I'm just a peon
5 Native American, I'm a fraction of one percent of the
6 population. And just like he said just a second ago, if
7 the bloodline is not tracked, we too will be extinct just
8 like that dinosaur. And there's nothing else we can say
9 about it because here we're under a governing rule, the
10 government and their red tape.

11 So everybody needs to fill out their little forms
12 and submit it and they may or may not get it back. And as
13 goes for TANF, okay, and there's non-gaming funds for
14 non-gaming Indians, where is it? Where do I sign up for
15 it? How do those big casinos get money and the peons do
16 not? I could have swore Californians voted a rule that
17 non-gaming Indians would be helped. Okay?

18 How can I be helped when I apply for TANF and
19 TANF is run by a casino that stole my name and they kicked
20 me off of TANF, how do they help me, who do I go to, how
21 does my voice get heard? So I just hope everybody here, we
22 can all like unite and say we're Native American even
23 though your bloodline is over there, even though we're
24 cousins.

25 I just hope something good will come out of this

1 beyond the people with deep pockets that can pay off other
2 board of supervisors, they can pay off this, they can buy
3 that, and they sweep the little ones under the carpet. I
4 too am Native American.

5 PUBLIC COMMENTER: If I'm going to address you, I
6 feel it's respectful for me to stand up in front of you and
7 look you in the eye. My name is Chris Luho, I'm a member
8 of the Juaneno Acjachemen Nation. I'm thankful to be here
9 this afternoon to participate with the honorable assistant
10 secretary and staff and applaud its courageous efforts and
11 make meaningful adjustments in the CFR 83.7.

12 If you don't know what I'm talking about, I'm
13 going to give you a little trip down memory lane with OFA
14 over the last ten years. My professional experience in
15 dealing with the OFA began nine years ago during
16 [unintelligible] tribe, though my family's struggle lineage
17 has been under review in the Department's broken process
18 for more than 30 years.

19 During this time I witnessed the Department's
20 negative influence on multiple petitioners including
21 activity which promoted the creation of rival petitions.
22 Splinter groups took the acceptance of secondary letters of
23 intent coupled with wrongful designation of
24 [unintelligible] and interested party status even decades
25 even after initial filing event.

1 This activity by the Department has on numerous
2 occasions undermined Petitioner's ability to dissolve
3 disputes internally and ultimately perpetuate Community's
4 rations within a tribe. For the Department and the public
5 this creates confusion, complication and a perpetual
6 wasteful spending of a Department and tribal funds.

7 Further, the failure of the OFA staff and its
8 leadership to appropriately and fairly apply the
9 regulations pertaining to evidentiary standards of
10 reasonable likelihood of the validity of the facts is a
11 continued major concern.

12 Simply put, even with the Supreme Court's
13 interpretation of a reasonable likelihood it remains an
14 unknown quantity for petitioners when attempting to qualify
15 the evidence to include in a documented petition. For
16 example, the OFA must let Petitioner 84 (a) in a
17 face-to-face technical assistance meeting attempted by the
18 Department's leader, Lee Flemming, the designated research
19 team, Wendy Brown, Francis Flavin and Janet Earl regarding
20 a significant piece of evidence which pertained to Criteria
21 B and C, leadership.

22 An 80-year old obituary which clearly identified
23 the Captain Jose Dorm, captain of the tribe, whose
24 granddaughter who's sitting back in the back row. Just
25 prior to the documented Chief Clarence Lobos along with any

1 community participation which is my grandfather, 50-year
2 era.

3 Finally, after much viable meeting and time to
4 debate with the Department, the tribe produced a visual
5 copy and presented it once again during the same technical
6 assistance meeting OFA, that conceded to the qualitative
7 and quantitative information contained therein, and stated
8 that a reasonable likelihood had been met, assuring the
9 petitioner that the petitioner should consider the criteria
10 meant for that tribe for that time period leading up to
11 1940 only to have this finding later rescinded and final
12 recommendations to the AFIA with no explanation whatsoever.
13 Pardon me.

14 This same activity took place regarding even more
15 objective pieces of evidence pertaining to the genealogical
16 record for Criteria E, example, technical assistance
17 meeting with OFA, its staff only requested a sample of the
18 membership genealogical record which documented the
19 membership's ancestor's descent from the identified
20 historical tribe who resided at Mission San Juan Capistrano
21 from first a state European contact beginning in 1776.

22 100 percent of the requested samples were
23 approved by OFA. Genealogical staff, however, later during
24 recommendation to the ASIA, OFA in turn misled the
25 Assistant Secretary, Carl [unintelligible] regarding the

1 tribe's genealogical record stating that it was incomplete
2 and that it appears -- I'm almost halfway done, wrapping it
3 up -- that only 2 percent of the tribe's membership had
4 past.

5 This evaluation had the Department -- if the
6 Department had been forthright the tribe would have
7 produced the voluminous genealogical record for the 1,941
8 members of my tribe dating back to the mid 1700s which was
9 eventually submitted, and the response to the misleading
10 proposed findings.

11 These passing percentages later grew from 2
12 percent to 67 percent, then to 75 percent, passing of the
13 nearly 2,000 member tribe, and after publication of the
14 negative final determination and would have moved well
15 above the passing 80 percent threshold had the OFA
16 attempted to disqualify previously approved lineages whom
17 are here as well, attempting to sabotage the tribe keeping
18 the percentage below passing levels and protecting its
19 faulty report and recommendation.

20 Wrap up right now. I got a few more comments I'm
21 going to submit for the record, but I think it's important
22 to acknowledge our elders in here. I saw Chief Cambra in
23 the back who's been fighting for her tribe for many years
24 and I want to say thank you for all you've done.

25 I want to acknowledge Quannah Parker standing up

1 and speaking the way he did. I see there's a lot of people
2 here in Indian country, they've been fighting for their
3 rights, and I see some people here that have been biggest
4 adversaries to federal recognition and legitimate tribes.
5 And I want you to know that we're not going away. We're
6 not going away.

7 MR. BEETSO: Thank you.

8 PUBLIC COMMENTER: Hello, my name is Dan Medina,
9 I'm a city councilman for the City of Gardena in Southern
10 California, I think I'll go to the front, too. Last thing
11 you want to do is look back.

12 First of all, thank you for allowing me to speak
13 and most importantly, I want to congratulate all of you
14 because the education I got today, I'm sure I'll never,
15 ever learn in school or in high school or in college. For
16 the sake of education and for the sake of knowledge of the
17 general population in California, you truly, truly need to
18 get this out there because we're a small group of people
19 who know your history but for a non-Indian like myself, I
20 need to be educated as well.

21 I'm a city councilman for the City of Gardena and
22 we voted to be opposed to this legislation. But the more
23 I'm learning, the more I'm realizing that a lot needs to be
24 done, a lot. There are some unjust things that have
25 happened and continue to happen. And to address the amount

1 of money I make a month, you'd probably spend more than
2 that in gas, I make a whopping \$600 a month as a city
3 councilman, but I consider myself a servant.

4 And I just want to convey the message to
5 yourselves that our city is opposed to that. We're the
6 only city in Southern California that has two casinos and
7 they contribute to 20 percent of the revenue in our city.
8 We're a small city of 60,000 people, excuse me, and they
9 pay the taxes on what they make to partner with our city,
10 which we are not exactly a wealthy city, and to verify the
11 fact, our city did pay for the flight and the room, well,
12 you got to tell it like it is. Well, when you make 600 a
13 month, what do you do.

14 PUBLIC COMMENTER: Compensation for my country.

15 PUBLIC COMMENTER: We are both in the same planet
16 and we have to live together about that. So I thank you
17 all for educating me on the process of what you're going
18 through. So in the lines of the old days, don't shoot the
19 messenger, but I am bringing up the fact that our city is
20 against that and we need to, from what I'm listening is we
21 need to straighten out what some of the rules you had with
22 regards to federal recognition.

23 I don't know if this will make it stronger or
24 weaker, but from what we've gathered down south is that it
25 will make it weaker. So what we're asking is if you could

1 have more meetings, both not only in the Southern
2 California but also farther north because I know there's
3 other tribes farther north.

4 PUBLIC COMMENTER: I'm from California, too.

5 PUBLIC COMMENTER: That's exactly my point is you
6 need to expand up and down California so everyone can come
7 by and not have to pay for a flight or have the city pay
8 for the flight, and they can come by and give their own
9 opinions with regards to how they feel about this
10 legislation. Thank you.

11 MR. BEETSO: Thank you.

12 MS. APPEL: And I would like to clarify, we
13 definitely have received the requests for additional
14 consultations, thank you. I'd also like to clarify the
15 intention of the Proposed Rule is not to weaken the
16 criteria, we still plan, we want this process to be a
17 robust process and maintain its stringency.

18 The changes in the Proposed Rule are really
19 intended to help reduce the documentary and administrative
20 burden both on the petitioner's side and on the federal
21 government's side so that we can get petitioners through
22 the process in a more expeditious manner. Do we have
23 additional comments?

24 PUBLIC COMMENTER: I'm Ken Woodrow, chair for
25 Wuksachi Tribe. Earlier today you mentioned a memorandum,

1 the Memorandum 37029 dealing with under federal
2 jurisdiction that you created in the Solicitor's Office?

3 MS. KLASS: I don't think we've talked about that
4 yet but yes, the Solicitor's Office did have that opinion,
5 so...

6 PUBLIC COMMENTER: Okay, thank you.

7 MR. BEETSO: Several people in the queue.

8 MS. APPEL: Since we have about 45 minutes left,
9 could we just get a show of hands to see about how many
10 speakers want to speak that haven't spoken yet? Okay. So
11 if we keep people to two to five minutes, I think we should
12 be able to get through.

13 PUBLIC COMMENTER: [Unintelligible.] Thank you
14 for being here, for allowing us to be here our minds and
15 open all of your hearts. I believe this to be only the
16 beginning of change, that these changes are not perfect
17 because they still close the doors to many Native people.

18 I pray that the Creator touches the hearts of
19 these people who come to speak against us because they and
20 their ancestors came to our homeland, we were always here
21 and yet they find that they need to speak against us once
22 more. They spoke against us in the missions, they spoke
23 against us in the gold rush, they spoke against us always,
24 and they continue to speak against us. But that's not
25 going to stop us.

1 We are here, we will stay here and we will
2 continue to teach our children as I have my grandson here
3 who is keeping notes and hopefully learning how they
4 continue to hate us. They hate us because we love our
5 land, because we love this earth. And I can only say don't
6 give up. Don't care how many times these people look at us
7 and say we're the city government.

8 My ancestors have been here forever, all our
9 ancestors have been here forever and all we can do is
10 continue to fight, continue to teach our children and one
11 day we will have that justice and have our homeland back.

12 PUBLIC COMMENTER: Hello, my name is Rudy Ortega,
13 Jr. I'm from Tataviam from San Fernando Mission, I'm the
14 vice president of the tribe, I'm also the chairman of the
15 Los Angeles City County Indian Commission. On the
16 commission, we voted and actually abstained from comments
17 on the regulations. We look a mutual stance.

18 Our commission is former federally-recognized
19 people and also some who are state-acknowledged or
20 acknowledged through the state of some of the departments.
21 But acknowledgment is a fighting crisis that we fought in
22 our tribe. I mean, we have a letter in 1971 that says
23 here's five requirements to move the tribe into trust, to
24 move land into trust, so we have a lot of history here.

25 But I think more importantly, what I wanted to

1 talk about and give comments is everyone's talking about
2 the cities we're here representing, and some of the
3 federally-recognized tribes, we need to give them history,
4 what's [unintelligible] what's the problem with BIA, with
5 the whole thing actually? How long does it take? Why does
6 the tribe sit there so long, because these folks have
7 different issues, federally-recognized tribes have
8 different issues we're fighting for.

9 To move trusts that they've lost into trust
10 lands, move different federal rights, my tribe, we fight
11 equal. BIA [unintelligible] cases in Oklahoma, here in
12 California, we fight cultural resources, we work with
13 developers, some of the federally-recognized tribes support
14 us, wanted federal government agency working with them.

15 They bring us to the table for [unintelligible]
16 consultation. In cultural resources, we're the cultural
17 tribe for the region. So there's a lot of ways even as a
18 non-recognized tribe we still have recognition. One thing
19 we have is a sovereignty. We retain sovereignty. We just
20 don't have an agreement with the federal governor at the
21 moment.

22 So without that, we need to have that agreement
23 with the federal government and to one day, one of the
24 tribes who is not acknowledged challenges that, say I'm
25 going to move land to our own property, there's no way you

1 can stop us. Reverse it, because it hasn't been challenged
2 yet.

3 So that is one thing I would like to see. I know
4 you guys are working hard, maybe a little history, it says
5 tribes talk about the burden of proof, the difficulty. My
6 tribe raised every penny ourselves for acknowledgment. My
7 father, he's passed already, but we fought a long time for
8 it. And it takes us a lot of dollars to raise it. We have
9 to be creative.

10 We don't have gaming facility. It wasn't in our
11 interest when we started asking for land and trust because
12 it wasn't part of it until the gaming facilities came in
13 then they had to be taught, yes, it's an economic
14 development. But as I said before, it's still a hurdle,
15 tribe is landless, our tribe is landless.

16 We have to go through a petition again just like
17 for exact knowledge to move land and trust, then we have to
18 ask the state for gaming contract which I don't understand
19 why tribes are doing it today anyway, it's their land. I
20 mean their taxes. I thought tribes could get taxes
21 [unintelligible].

22 That's all I would like to say is that perhaps a
23 little history about the process and why tribes were
24 suffering so hard so that these folks, these cities, tribes
25 can understand what we're going through. Thank you.

1 PUBLIC COMMENTER: I'm Shelly Covert, tribal
2 council secretary of the Nevada City Rancheria. We're up
3 in the foothills of Northern California, and because we are
4 a terminated rancheria, we are terminated by Congress
5 during the termination era. We are barred from this
6 process.

7 I like some of the revisions that are happening,
8 one of which is when you petition your intent, to petition
9 to the federal government. We were very naive because a
10 lot of you guys can tell there are so many different paths
11 that a tribe can possibly take to recognition. It's very
12 confusing if you don't have advisors and people who
13 understand law or understand any of this thing, it's so
14 intimidating and it takes generations to learn and
15 understand and find your own path.

16 Each rancheria is different, some are terminated,
17 have come back, some game, some don't. Some maybe will
18 never be recognized again. So while we're barred from this
19 process because we're terminated, we're also barred from
20 our court case because of the Statute of Limitations right
21 now.

22 And I have always been thankful on one hand that
23 we didn't have to go this process because I feel so bad for
24 so many of your tribes because they're generational.
25 Generations have been on these lists waiting and waiting

1 and trying to put together their knowledge to understand
2 the process, to fit these criteria, to make the timelines
3 and all these things that I don't think are natural to us
4 because we are an oral society, so it's only been a few
5 generations who can understand this process.

6 So, but sitting today we can meet the criteria
7 for this process but we are barred from this process. So I
8 just wanted to say that we have talked and said that any
9 improvement on the process is a good improvement but
10 there's so far to go.

11 The people from the city, I like what this man
12 said, that he's been educated today. You don't -- you
13 can't even walk into another tribe's shoes. I mean our
14 world is our world, when we came down and spoke with the
15 tribes who are for this process, that have gone through the
16 mission system, the missions is something we don't
17 understand.

18 We didn't have missions up in the hills and our
19 whole reality is the Gold Rush and they didn't really have
20 the Gold Rush in their timeline. I was like, how could you
21 not have -- you know, that's our sort of where our life
22 stopped up there.

23 And each tribe is so different and a process is
24 that is so, I mean it's a big government, what can you do?
25 Any improvement is good. But you're trying to squish

1 especially California Indians into this box, and how it
2 even works at all is it just beyond me.

3 And so I'm always happy any tribe that gets
4 recognized. I hate to get all, you know, weird about
5 genocide and all that kind of stuff, I know it's stuff
6 nobody likes to hear but it kind of, it's due to the
7 people, it's real.

8 And I have a lot of non-native friends who don't
9 understand, and so I'm an interpreter, I'm the middle
10 person, I will tell a story 50 ways if I can get one person
11 to understand. Like you said, soften the heart a little
12 bit.

13 Sometimes it's just educating people, it's like
14 oh, well I thought, you know, if more tribes got recognized
15 there would be more casinos. You don't know about some of
16 these tribes who have generations. Some of us leaders who
17 have no money, we take the responsibility of our entire
18 families and our entire tribe, we carry that with us every
19 day.

20 And you know, it's part of economics is a reality
21 because we're Americans, it's manifest destiny and all that
22 good stuff, it's part of reality, too. But again, we
23 support any changes that make it easier, the confusion,
24 this process is broken. And so any changes that can help
25 clarify some of this stuff I think is good.

1 PUBLIC COMMENTER: Vanessa Esquivido, Nor Rel
2 Muk. I've heard a lot of people today, and I'll be brief,
3 and the reason why I wanted to speak because I didn't want
4 to speak before, but now I want to speak, I thought of my
5 daughter. She's ten months' old.

6 I'm 28 years old and we're not fully recognized.
7 Our tribe has been going through federal recognition
8 process for over 30 years. I know people roll their eyes,
9 we're getting tired of hearing everyone's story, but you
10 know what, this is our life that we live and the fact that
11 we can't get services and things like that. So we're
12 affected.

13 This might be your job, and I understand that,
14 but this is my life. And I'm just asking you guys because
15 we've already been through it for 30 years, how much longer
16 do we need to go? These sound amazing to me the fact that
17 things are changing and that we're having a conversation
18 now, but it's been 30 years and longer for other tribes.

19 So what do you guys anticipate the length of
20 turnaround for this, because even if you were to cut it in
21 half, that's still 15 years. I'm just wondering what you
22 guys think, how long this will take once all these go
23 through and things start moving, what's the projected
24 timeline?

25 MS. APPEL: I don't think we have an estimate

1 because it will vary, I think, on the complexity of each
2 case and petition. But the changes are intended to move
3 petitions through the process in a quicker manner, but we
4 don't have a timeline. But as I said, the intention is for
5 it to be more reasonable.

6 MS. KLASS: Within the proposed regulations in
7 83.32 there's a table and it provides kind of more of
8 a timeline.

9 PUBLIC COMMENTER: I'm Brenda Garcia, and do
10 occasional freelance writing in Los Angeles. So I would
11 like to formally request an extension on the comment
12 period, I believe it's extremely important especially
13 hearing from city council members who are here.

14 I believe it's extremely important to have a
15 meeting in the Los Angeles area. I also believe it's very
16 important that the BIA understand that the California
17 Indians are so diverse. We have in our state approximately
18 seven different climates, I believe there's only seven
19 climates in the world, something like that; am I correct?

20 In our one state you have every single climate,
21 we have so many different Indians. And I specifically am
22 aware of the Mission Indians and, you know, atrocities that
23 occurred with them.

24 As a bystander, freelance writer, an information
25 gatherer, I've gathered a lot of information over the last

1 several months. You can find a lot of it online and some
2 of it is from the individuals here. There have been
3 extreme atrocities to the Indians, there's been genocide,
4 there's been theft of land, and our nation is not looking
5 at that as -- not looking at it for what it is.

6 I know the BIA is changing, this is wonderful
7 that you're considering new regulations. I have to state
8 with the city councils that are here that a lot of -- I
9 don't know everything that they have to deal with because
10 of the casinos, but I know that there's a lot of greed, a
11 lot of greed that would want individuals to stop
12 regulations becoming more reasonable or individuals who
13 suffered great losses.

14 And so obviously I'm requesting that with these
15 meetings, there's more information. So there's a great
16 lack of information from city councils that came to this
17 meeting. They obviously have not read the entire document
18 or federal -- for federal recognition, they haven't read
19 the documents, nor/or can they understand what the changes
20 entail or what they mean.

21 And actually, in my personal opinion how non --
22 my point is, they're not going to make a huge difference
23 for a lot of the tribes. The rules and regulations are
24 very stringent for these individuals to prove that they
25 existed as a tribe to begin with.

1 And finally, if we look at human, human nature,
2 if we look at the Jews and the genocide, if we look at the
3 Armenian Jews, the Russians, there are so many, if you look
4 at Civil Rights Movements, it's only since the '70s that
5 the tribes really felt as if they were able to speak out,
6 when the Civil Rights Movements occurred.

7 So as a Caucasian white from Germany who has no
8 interest in the tribal recognition or not, our nation needs
9 to look at the discrimination and prejudice against these
10 individuals who had their land stolen, who are working
11 30-plus years to prove that their land was initially their
12 land.

13 And one another comment is, someone made a
14 comment on, anyway, it hurts other tribes. I'm not exactly
15 sure how that's possible, I don't know who said that, but
16 regarding Larry Roberts who's not here, I'm sure he's
17 proactive for tribes because he's witnessed and listened to
18 the individuals who are in this room who very specifically
19 have suffered and their families and their genealogy and
20 lineage have suffered. Their grandmas and grandpas have
21 suffered through this. Congratulations to Larry Roberts.

22 PUBLIC COMMENTER: Hello, my name is Kristin
23 Mackey, and I have been assisting the Miwok Tribe of El
24 Dorado County originally from Shingle Springs Reservation
25 for the last eight years. I also speak on behalf of

1 Darlene Gurovich [sic] an elder in the tribe who has given
2 me the authority for me to speak as if it is her voice. I
3 have a question for the Bureau of Indian Affairs.

4 The question is, when a tribe's identity has been
5 stolen, what recourse do they have? We are not in a
6 situation where we can apply for recognition, we already
7 have recognition. We are IRA voters, Immuno Reorganization
8 Act voters in 1934, and we have all documents, BIA
9 identification, and that identity was stolen so that those
10 people could make a casino.

11 They are the Verona Band of Homeless Indians, the
12 Sacramento Verona Band of Homeless Indians. And when they
13 were not able to get a casino because they were told you
14 don't have federal recognition, they sadly became the
15 Shingle Springs Band of Miwok Indians, and this is all
16 documented.

17 What does a tribe do at that point? I would like
18 the Bureau of Indian Affairs to give an answer to what we
19 as a tribe can do at this point.

20 MS. KLASS: Within the regulatory process, other
21 petitioners, you know, unrecognized groups, tribes can get
22 involved and submit comments, so I'm not sure if that
23 answers your question.

24 PUBLIC COMMENTER: Doesn't answer my question.
25 I'm asking, we're not wanting to submit, we want to know

1 what we can do to have our identity back, what can we do?
2 We're not submitting for recognition, we want to know what
3 know we can do now that our name has been stolen. What can
4 the BIA do for us to get our recognition recognized, what
5 can we do?

6 MS. KLASS: I guess I would just say if you have
7 suggestions for how that can be handled better in the
8 process, please submit comments.

9 PUBLIC COMMENTER: I don't understand what you're
10 saying.

11 MS. APPEL: I think your situation that you're
12 describing is really unique and we're trying to --

13 PUBLIC COMMENTER: It is unique, and that's why
14 I'm asking what can we do? It's a unique situation, they
15 paid off my friend and tribal member, they have the money
16 to pay off the board of supervisors, they may contact the
17 county, city council, they bought everybody off in El
18 Dorado County. What do we do now?

19 MS. APPEL: So I think if you -- I can't answer
20 that for you but if you have suggestions on how the
21 regulations can address situations like that, we will be
22 very open to considering them.

23 PUBLIC COMMENTER: Are you saying I should come
24 up with suggestions?

25 MS. APPEL: Yes.

1 PUBLIC COMMENTER: Oh, even in the room?

2 MS. APPEL: We're open to anyone's suggestions,
3 yes.

4 PUBLIC COMMENTER: I really want -- that would be
5 great for other ideas, I want to know how the BIA can help
6 us. Thank you.

7 PUBLIC COMMENTER: My name is Olivia, and I'm a
8 member of the San Luis Rey Band of Mission Indians from
9 Northern San Diego County. And I just want to say thank
10 you, first of all, for being here and giving us all the
11 chance to give our comments.

12 And I'm speaking on behalf of my tribe. We're
13 [unintelligible] people and we support these proposed
14 changes and all that the Secretary of Indian Affairs has
15 proposed, and we see this as well reasoned and consistent
16 with precedence.

17 And we especially support that the 83.8 previous
18 federal acknowledgment still included and that, you know,
19 there's the ability for us to comment on that. And it's
20 especially important for us because we didn't just start
21 this process in the 1980s, we've been dealing with it since
22 we signed the treaty in Temecula in 1852.

23 And so we really see this as a way of continuing
24 our request for federal acknowledgment and for being a
25 sovereign nation with those government-to-government

1 privileges. And I just want to say again, thank you so
2 much for being here.

3 PUBLIC COMMENTER: Good afternoon. I'm Kim
4 Olivares Leone, the elected tribal secretary of Juaneno
5 Band of Mission Indians, Acjachemen Nation. I'm hopeful
6 that the outcome of all the public hearings and comment
7 periods will lead to an improved set of regulations for the
8 process of obtaining federal recognition of an Indian
9 Nation.

10 I would like to address a few of your questions
11 regarding the proposed changes to the current regulations.
12 I feel that the proposed appeal process should go before a
13 totally independent agency for review and not to the
14 agency's OHA.

15 However, should you choose to keep the appeal
16 hearing at the OHA, then only an administrative law judge
17 appointed under Section 5USC3105 should be allowed to make
18 a judgment on appeal and not an administrative judge or an
19 attorney designated by the director of the OHA.

20 An administrative law judge who is separate and
21 apart from the BIA would be the best choice, not someone
22 who reports either directly or indirectly to the assistant
23 secretary.

24 With your permission, I would like to ask several
25 questions regarding current petitioners who have been

1 reviewed but whose decision has not become final and
2 effective.

3 Where would these petitioners be placed in line
4 for review once the new regulations are approved and
5 adopted?

6 Would there be a window in which to submit an
7 entirely new petition?

8 And with that resubmission, what would the new
9 timeline for review look like?

10 Will templates on how to submit evidence to meet
11 criteria be available to assist -- tribes.

12 With regards to membership criteria through
13 regulation, reform allows, quote, other records or
14 evidence, unquote, to be submitted to establish a person or
15 their ancestor as a member.

16 Would DNA evidence be accepted for some members
17 lacking official United States vital records?

18 In conclusion, I would like to say I am grateful
19 for the opportunity to speak to you today on the record.
20 Gratitude turns what we have into enough. It turns denial
21 into acceptance, chaos into order, confusion into clarity
22 and strangers into friends.

23 MS. APPEL: Thank you. We do have a section in
24 the Proposed Rule that addresses how current petitioners
25 will be treated.

1 MS. KLASS: It's in 83.7. Those that have
2 submitted documented petitions have under the Proposed Rule
3 are able to choose which set of regulations they want to
4 proceed under. And the way that the Proposed Rule stands
5 now, basically the order in which OFA will look at each
6 petition is by date of submitting the documented petition.

7 And the current Proposed Rule doesn't address DNA
8 evidence but if that's something that you feel like we, the
9 Department, should add, please, if, you know, maybe this
10 was your comment or submit additional written comments on
11 that.

12 PUBLIC COMMENTER: My name is Angela Williams
13 Eddy, I'm with the Mono Lake Kutzadika'a in Lee Vining,
14 California, here with my father, Richard Williams, also a
15 tribal member. Our story is like many in here. We've been
16 doing this for almost 40 years trying to get recognized.

17 And like I said, we're from Lee Vining,
18 California, which Independence, Low Pine, Bishop, Big Pine,
19 also Coleville, Bridgeport surround our whole land, our
20 town. They're all federally recognized except for us.

21 And Independence had an executive order from the
22 president in 1915 and 1916 to be recognized as a tribe. We
23 have the support of the tribes, which Independence is one
24 of them, the council chair supports us, recognizes us.
25 Bishop, their tribe recognizes us and supports us.

1 I'm an employee at the Bishop Pine Palace Casino.
2 I was recognized there as an Indian, got a job, all of
3 these towns that surround Lee Vining are tribes in the
4 valley. Death Valley is also a tribe, was recognized down
5 there. Their office is in Bishop, California which is
6 45 minutes from our town. They've all been recognized.

7 We've been working on putting our paperwork in,
8 keeps getting sent back. It has been, like I said, over
9 40 years. We put our paperwork in 1971. I married a
10 Timbisha Shoshone. Their tribe from Death Valley put their
11 paperwork in in 1974. My husband, my sons are federally
12 recognized. Myself, my daughters are not. If everybody
13 knows the tribal custom, the boys go with the father, the
14 girls go with the mother to their tribes. Me and my girls,
15 still not recognized.

16 We have over 64 members that are enrolled. We
17 have a total of probably about, I would say close to a good
18 100 that aren't -- don't have their enrollment packets with
19 our tribe because they have taken other choices and gone to
20 the tribes that are surrounding us. And they're in those
21 tribes and they're waiting to come home. Just like the
22 rest of us are waiting to get home and get our tribes
23 recognized.

24 Basically our whole tribe is made up of
25 descendents from Joaquin Sam, Maggie Howard, Bridgeport

1 Tom, Captain Sam, and all of them are from Lee Vining and
2 Yosemite. Everybody knows Yosemite. Go to the museum,
3 you'll see my grandmother there. Let's see, and it also --
4 it started a lot of our paperwork got sent back, they tell
5 us it's wrong but they don't explain what's wrong with it.

6 And just like some of the ladies and gentlemen,
7 we know who our family is. How come BIA is telling us it's
8 wrong? I know who my grandmother is. I know who my father
9 is. I know my great-grandmother, great-grandfather, all of
10 them. I know who every one of them are.

11 So basically in closing, I thank you guys for
12 being here, but if you could help us and let us know what
13 we need to do, it's been 40 years.

14 MS. APPEL: Thank you.

15 PUBLIC COMMENTER: Darlene Franco, Wukchumni.
16 I'm from Visalia, California which is in San Joaquin Valley
17 and I am the chairperson of the Wukchumni Tribal Council.
18 And I came here today to hear from all our brothers and
19 sisters about what the process everybody's going through.

20 We submitted our letter of intent back in 1988.
21 The process became very tedious for us over the years that
22 we kind of stopped really working on our federal
23 recognition packet because there were other things that we
24 needed to do, like keep teaching our culture to our kids,
25 keep our language in tact, a lot of other things we needed

1 to spend our time on rather than politically and through
2 this paper, this tedious process of federal recognition.

3 So we kind of stopped doing a whole lot, but I
4 was very excited to hear that the processes are changing,
5 hopefully to make it easier for federal recognition. Like
6 I said, we submitted in 1988 when my daughter was an
7 infant.

8 At that time my mother was a tribal chairwoman.
9 My daughter's 26 years old today and we haven't got any
10 further than we were back then. Okay. So my lineage, when
11 we look at our families and our lineage, I was talking
12 about some other people here today, you know, I'm tied into
13 Santa Rosa Rancheria, Tule River Reservation,
14 [unintelligible] Tribe and a lot of non-federally
15 recognized entities also, like the Wuksachi.

16 And like I said, I represent the Wukchumni people
17 here. Our people are survivors and I'm so glad to hear all
18 the language that's being spoken here because that tells me
19 that our culture has not died among all these non-federally
20 recognized Indians, but we know who we are, we know where
21 we come from.

22 So we're often, we may not be recognized by the
23 federal government, but we are recognized by the
24 federally-recognized tribes, because we are called often to
25 come in and teach a language, we are called in to teach all

1 the culture, dances, songs, how our people lived back in
2 the day and continue to live this day.

3 So the federally-recognized tribes recognize us.
4 This whole process, you know, today there's tribal
5 consultation this afternoon, but it's only for
6 federally-recognized tribes to be there. So we're not
7 invited to that meeting.

8 The meeting this morning is public comment. I
9 came here to listen to the public comment for my brothers
10 and sisters from these non-federally recognized tribes.
11 And I appreciate and I take your words to my heart because
12 I feel you.

13 But then I had to -- we had to share our time and
14 I know it's a public meeting with the political entities
15 that are against us. And I felt -- I didn't feel good
16 about that. It is what it is and I appreciate your words
17 and comments, but I guess a good thing that came out of
18 that is there is people who changed their thoughts. They
19 came here [unintelligible] people are maybe changing their
20 thoughts.

21 So my recommendation to all the political
22 entities that are here is to go home and learn about your
23 people in your areas. Know the people that are indigenous
24 to that area. How are you going to represent your
25 communities if you don't know the people that were

1 originally there? We are not about casinos. Casinos do
2 not define us. Casinos are another way that some of our
3 Indian Tribes have learned about self-sufficiency to gain
4 some financial prosperity, but that's not us.

5 You know, I go home, we don't have a casino. We
6 paid our way to come here, like many of you probably did,
7 many of you probably took time off of work to be here so
8 you're losing out on that also, but we care about our
9 future. We know who we are, you know, we know our stories,
10 we know where we came from, we know who we are today and
11 the practices that we practice and we know where we want
12 our future to go with our children.

13 So I commend all of you that are here and I pray
14 for all of you that your work will continue in a good way
15 and I pray for BIA to also open their ears, eyes and the
16 process, so that we may all gain from this process in a
17 good way.

18 So the one question I did have though because of
19 this whole process, the old ways, it was two petitions were
20 being reviewed a year. Is there any kind of hope that more
21 with this new process will be reviewed a year, more than
22 two? Is there going to be additional staffing to review
23 these new processes? Thank you.

24 MS. APPEL: We are hoping with the changes with
25 the regulations that more than two, hopefully much more

1 than two a year will be reviewed. I don't know, I can't
2 speak on behalf of the Department about resources, but that
3 is a comment that we've received, that additional resources
4 are needed for review and petitions.

5 MS. KLASS: And also, I just wanted to highlight,
6 you talked about basically having relationships with
7 federally-recognized tribes. And under the Proposed Rule a
8 suggested form of evidence or whatever for demonstrating
9 political influence or authority is relationships with
10 federally-recognized tribes.

11 MR. BEETSO: Just looking at the clock, seems
12 like we've got time for two more comments so we got this
13 gentleman over here and one more comment.

14 PUBLIC COMMENTER: Hello, thank you. My name is
15 Joe Melegh, and I'm not an Indian, I'm Yugoslavian. And I
16 just wanted to address everyone here. I have a small card
17 room here in California. And I watched the Indian issue
18 more of over 25 years, and I watched the larger casinos
19 freezing out the smaller tribes for recognition, purging
20 their roles to get rid of -- to shorten their roles to
21 increase their profits.

22 And I'm here to speak in support and opposition.
23 Number one, I want to support all the unrecognized Indians
24 that have fought this battle for a long time and fought the
25 battle against big money and big business. There was a gal

1 back there that claimed that her tribe was -- name was
2 taken away and used by another group to get recognized and
3 get funding for casino operations, etc.

4 So I personally, just speaking for myself and
5 other card room owners, I personally hope these rules are
6 changed, that these Indians are recognized for who they are
7 and that their heritage eventually catches up and puts them
8 at the same level as other Indian tribes that have had good
9 success with business and development.

10 I do want to speak in opposition though to the
11 eventual recognition of these tribes. And a lot of that
12 revolves around gaming. And I would think that a lot of
13 the tribes that may be recognized would be interested in
14 gaming. It is a good business.

15 And on that note, I would be in opposition to the
16 proliferation of gaming and the breaking of the promise of
17 the initial 1(a), but the law of 1(a), that was passed in
18 California a long time ago when the Indians agreed that
19 they would not proliferate gaming throughout the state. So
20 that, I would be in opposition to.

21 The one other thing I want to say -- I know the
22 time is short -- is I've always been very disappointed with
23 the larger gaming Indian groups not paying into the fund
24 that the smaller tribes could use to develop some of the
25 resources they need on their reservations. And this is a

1 matter that -- well I don't know all the details, but these
2 tribes need help themselves, and I don't know why people
3 don't take care of their own people sometimes.

4 I didn't want to say greed, but that might be
5 part of it. In any case, thank you very much for your time
6 and good luck.

7 MR. BEETSO: Okay, sir. Take us home.

8 PUBLIC COMMENTER: My name is Fred Short, Little
9 Shell Band of Indians, but I was born here in Sacramento,
10 and raised on -- when my life began like in the '60s and
11 later part of the '60s, I went on a American Indian
12 Movement, people that started getting back into fighting
13 for who we are and these things, these issues today.

14 I'm here to support all of our
15 non-federally-recognized tribes. So that whatever
16 benefits, anything, you know, that is coming to them, I
17 hope we get -- I hope we all get, you know, response. I've
18 spoken to many of the big dealers, unions, leaders in
19 getting proposition of tribes and everything on the ballots
20 and saying we deserve just to be able to have Cadillacs if
21 that's the way it's going to be like anybody else, you
22 know. There's going to be money for us, we deserve it.

23 But more, really what I wanted to say is my whole
24 adult life, you know, when I was out there with the Sixth
25 Nations people, they gave us protection, sensory, but in

1 the long house there they have never signed a treaty with
2 the government.

3 And in 1983 they called me up, the United Council
4 of Churches, to sit on the board to represent some of these
5 things that pertain to us. But the chiefs told me, Fred,
6 never sit at the same table with them. I thought about it
7 for a long time. Really, my inside question was why?

8 But they said, never sit in the same table with
9 them because eventually you're going to become one of them,
10 you know. And I learned that when that is, and I hope, I
11 care since the '60s, '70s, '80s and now, why we're getting
12 to this point where we're at is because our children are
13 dancing, Indian ceremonies, our culture.

14 Our culture is really coming back. You know,
15 it's getting stronger. This is what pulls us here. I
16 don't mind working with the BIA now. I even sang the songs
17 in the office over in Washington. You know, but in the
18 '70s they would have arrested me. We ran from there.
19 Different now. And I hope it continues to get different,
20 but better for all of us in the long term.

21 You know, Clyde and Dennis, you know, the long
22 thing in us, it has to die, is that Christianity [sic].
23 Our children has to go past that. And many of our elders,
24 it's hard to say that because they were raised that way.
25 And that's with the chiefs and elders up there in the Sixth

1 Nation were telling me, don't sit at the same table as
2 them. [Unintelligible] I'll go on that way.

3 So those elders are here, you know, in the
4 Lincoln Documentary, it's not because I'm losing my house,
5 all these things [unintelligible] up here in California and
6 in the prisons.

7 My thing is if you're still cussing, if you have
8 these added thoughts, that's not our way. That's not our
9 way. As Indian people are coming here like, you know, to
10 try and gather and get as strong as we can through our
11 ceremonies, our language, our elders so these little ones
12 now have [unintelligible.]

13 MS. APPEL: Okay. I think with that we're going
14 to close the public meeting this morning. If anyone wanted
15 to speak and didn't get a chance, do we have people who
16 wanted to speak and didn't get a chance? Okay. If you can
17 submit your written comments. Again, the email address is
18 up there.

19 And as I said, we weigh them equally, so the
20 statements made today will be reviewed as well as the
21 written comments. Thank you everyone for coming. It's
22 clear how important this issue is to everyone in California
23 and I wish you safe travels back.

24 (Whereupon the proceedings were
25 adjourned at 12:00 p.m.)

REPORTER'S CERTIFICATE

I, Amy E. Perry, a Certified Shorthand Reporter in and for the State of California, duly appointed and commissioned to administer oaths, do hereby certify:

That I am a disinterested person herein; that the public meeting was reported in shorthand by me, Amy E. Perry, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting; that the foregoing is a true and correct record of the proceedings.

IN WITNESS WHEREOF, I hereby certify this transcript at my office in the County of Sacramento, State of California, this 29th day of July, 2014.



AMY E. PERRY, CSR 11880