

TESTIMONY

SUBMITTED

TO

THE ALASKA NATIVES COMMISSION

TASK FORCE

ON

GOVERNANCE

IN CONNECTION WITH A HEARING

ON GOVERNANCE ISSUES

AND

SOLUTIONS

AT

ANCHORAGE, ALASKA

OCTOBER 16, 1992

ALASKA NATIVES COMMISSION

JOINT FEDERAL-STATE COMMISSION

ON

POLICIES AND PROGRAMS AFFECTING ALASKA NATIVES

4000 Old Seward Highway, Suite 100

Anchorage, Alaska 99503

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ALASKA NATIVES COMMISSION

GOVERNANCE TASK FORCE HEARING
ON ISSUES AND SOLUTIONS

FRIDAY, OCTOBER 16, 1992

1 O'CLOCK P.M.

COMMISSIONERS PRESENT:	FATHER NORMAN ELLIOTT
	EDGAR PAUL BOYKO, ESQ.
	FRANK PAGANO
	MARY JANE FATE, CO-CHAIR
OTHERS COMMISSIONERS, PUBLIC MEMBERS, AND STAFF PRESENT:	ELLA ANAGIK
	BART GARBER
	PAUL TONY

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P R O C E E D I N G S

(On record at 1 o'clock p.m.)

COMMISSIONER PAGANO: (Had begun speaking before the recorder was turned on) . . . everyone. We will now officially open up the Alaska Natives Commission hearings on the Task Force on Governance. Up here at the table, you -- those of you who do not know me, my name is Frank Pagano. I'm also President of Koniag, Inc. On my left, we have Father Elliott, who is a Commission member.

This doesn't work; it's just for that system.

COMMISSIONER BOYKO: It doesn't amplify? Then you'd better speak up. Can everybody hear?

COMMISSIONER PAGANO: On my right we have Commissioner Boyko. If you can't hear, you should move forward.

COMMISSIONER ELLIOTT: There's no PA system.

COMMISSIONER PAGANO: And Resources Task Force members is Bart --

MR. GARBER: Garber.

COMMISSIONER PAGANO: -- Garber; and Ella --

COMMISSIONER BOYKO: Ella Anagik --

COMMISSIONER PAGANO: -- Anagik,

COMMISSIONER BOYKO: -- yeah.

COMMISSIONER PAGANO: We will try to limit testimony to ten minutes, because question and answers could take into

more time; and depending on how many we're going to have that's going to testify. We just shut down at 5 o'clock; so it's between now and 5 o'clock, and see if we can get everyth -- everybody who want -- wishes to testify through and finished.

The first one on the list is Charlie --

MR. KAIRAIUAK: Kairaiuak.

COMMISSIONER PAGANO: All right. If you want to come forward?

MR. KAIRAIUAK: About right here?

COMMISSIONER BOYKO: Yes, please. Thank you.

COMMISSIONER PAGANO: Right there.

(Pause.)

If you'd state your name and where you're from, and what you -- if you're representing anything. But, however, you testified last night in the general session; and if your testimony is going to be pretty much the same today, I would like you to limit it to ten-minute situation. If it's different, we can go a little.

MR. KAIRAIUAK: Yeah. Thank you. My name's Charlie Kairaiuak. I'm from the village of Chefornak. I'm living here presently, and I still works -- work with the elders constantly in the village by providing them technical assistance in whatever I can. And so, based on that working relationship, I'm going to state my views on the governance issues.

A long time ago, our village governing system was based on the elders' council; and those -- they were the ones that made the laws, and led court, and made the decisions within our village about any issue that was brought up to their attention. And they followed the traditional laws of our people that have been passed on for thousands of years.

And when the federal government came in, they forced our people to try to get them under this IRA Act -- to operate as under IRA Act. And then state of Alaska, after it was created, forced them to adopt the city council, and they did it illegally. When they came in, they ha -- they were meeting with three people in the village, and they forced 'em to sign by only telling our people that if they created the city government, that they would be given a lot of money; so this was a vehicle of promise of funneling money to our community. And the other two signatures that they needed for creation of a city in the village of Chefnak, the people that were representing the state, which work through RURALCAP, walked out in the street and got two signatures from people that were not even at the meeting.

And they -- to date, the state is still trying to force the village to use the state government as a governance organization.

And -- but village has converted back to the elders' council as a governing body. And it has ver -- worked very

well for us, because of the things that are maj -- that were becoming major problems, were taken care of.

For example, at the time that our village reverted back to the elders' council, our village -- we estimated that 80 percent of the people in the vi -- adults were drinking. And with the efforts of the elders' council, we've eliminated that problem from our community; and now we're looking at economic development, because our elders' council now understand a couple of things that we're using as vehicles to get access to funding to develop economics.

One is that -- the Tribal Tax Status Act, which is used to get funding for people that are within the jurisdiction of the United States to give their moneys to the tribe if they choose to. Because the side benefit is that the credit that they receive would be 100 percent credit, rather than diminished form that is used by the government in forgiving charitable funds -- to give tax credit.

And the other one is the tax-free bonds. Since the United States cannot issue any more tax-free bonds, so the only ones who -- within the United States that can issue tax-free bonds are the tribes. And so there's different vehicles that our people can use, that we know of, that our village is using.

And in these eras of declining moneys, that is, to me, tribal governments -- traditional governments -- not tribal government, but traditional governments are the vehicle to

dealing with all of these problems. And Senator Stevens finally stated this morning, after 20 years of fighting against it, is that the tribal governments and the sovereignty of the people within their communities should also be used as a vehicle to deal with the social problems that our people are dealing with.

Because the main problem I see in villages is that they become dependent communities when they use city governments, or even corporations, to do services for them; and since there's a strong move by the communities to govern their own people, because they find out that the main problem is that the State Troopers or law enforcement a -- people do not live in the communities, the communities have a tendency to break apart. And so, knowing these experiences, and having these experiences, people are moving back to the tribal government system; because time and time again, they've turned to the state; time and time again they've turned to the federal government for help; and they've been given very little help. And when it does -- when it is given to them, it's c -- it is given to them in a bandaid form. It's just to cover up the problem; not to solve it; not to take care of it, but to cover it up.

And that's been the history for village Alaska ever since the U.S. government came in and forced their system on

the village. And in a lot of cases, it has pushed away the villages.

Now there's two things -- there's one important thing I think that this Commission should be aware of, that when they talk to the villages, that they should be aware of this fact. There's three type of governing systems that are in place. One is -- one are the state systems, and they come in the form of corporations or municipalities. Sometimes the govern -- the corporation ends up being the governing form of a system for the community, because the people that are in corporations are powerful enough to make things happen, so they take over, in some cases, as governing bodies. So that's why I say they're one form of governing body.

The second governing body is the municipalities that the state force -- in most cases, forced on our people to adopt. And I'm -- no, that -- the second form is the tri -- IRA governments that are -- that pla -- have placed themselves under the jurisdiction without knowing the fact that they are sovereign people; that they have -- are in the same level of sovereignty as United States government, because of the fact that the Kozlitzof (ph.) Memorandum explains very clearly that the land title belongs to the Native people and does not belong to the United States nor to the U.S. govern -- I mean, to state of Alaska. And those are the govern -- tribal governments that are subjugating themselves to the government of United States.

Now the third form of governance that is being practiced by some villages is total sovereignty. They're exercising their full authority, and they are not subjugating themselves to the U.S. government.

And, in a lot of cases, there's a lot of misinterpretations of who's a governing body, especially when there's organizations like AFN, who run around and say that they represent the Native people. And then cu -- and then there's culprits that are running around saying that they represent the Native people, and then -- so forth and so on. So we -- and non-profit organizations from -- regional non-profit organizations say the same thing; and so there's a lot of confusion as to who the real governing bodies are by those people that are dealing with those villages.

But in some villages, it's very, very clear who the -- who they have choose to be their governing body. In my village, it is very clear to the people that the governing body is the elders' council. In other places, the traditional governments are the recognized governing body.

So instead of making an assessment from a far-off distance like Anchorage or Juneau, the Commission should make effort to deter -- to find out which governing body that is recognized by that village. Because all those things that I brought up has, to me, contributed to the failure of solving a lot of problems that exist in the villages, because even the

State Legislature, our representatives are not able to help our communities, because they don't live in those communities. And so what I would recommend to this Commission is that instead of continuing to violate the rights of our people, to determine and help them clearly understand the difference between the choices that they're going to make. If they haven't made those choices, that this Commission ma -- should make every effort for the village to understand what choice -- when they make their choice, which governing body they're going to work. But I think the -- this Commission should work toward rec -- the recognition of those -- the governing body that those people choose in that village to have. Because the longer this question is not answered, the bigger these problems are going to have -- our people are going to have.

And many of the burdens that the State carries and federal government would be greatly eliminated if, in fact, those things are recognized so that the people can start using the tools that they have within their own system. Because those are the ones that have already proved themselves to be working. Thank you.

COMMISSIONER PAGANO: Do you have --

MS. DEMOTT: I would like to ask a question, --

COMMISSIONER PAGANO: No, it's not --

MS. DEMOTT: -- please.

COMMISSIONER PAGANO: -- no.

COMMISSIONER BOYKO: The procedure will be --

COMMISSIONER PAGANO: Yeah, --

COMMISSIONER BOYKO: -- the Commission members, --

COMMISSIONER PAGANO: -- the procedure is the --

COMMISSIONER BOYKO: -- the staff people, and then the audience.

COMMISSIONER PAGANO: -- Commission asks the questions, not -- I want to add our latecomer Paul Tony -- or Tony Paul -- Paul Tony, who is one of the resources people, just joined us.

MR. TONY: Hi.

UNIDENTIFIED SPEAKER: We can't hear you guys in the back.

COMMISSIONER BOYKO: Come forward. We don't have amplification, and --

COMMISSIONER PAGANO: The person who just joined us as a resource person on the Task Force of Governance is Paul Tony.

COMMISSIONER BOYKO: There's lots of seats up front, and we don't have a full house.

UNIDENTIFIED SPEAKER: I can't; I'm losing my voice.

COMMISSIONER PAGANO: We're taking as loud as we can, I'm sorry. Anyone have any questions of Charlie? Ella, do you have any questions of Charlie?

MS. ANAGIK: No, I'm sorry, Mr. Chairman, I was just (indiscernible).

COMMISSIONER PAGANO: Okay, the -- how about, Bart. Do you have any?

MR. GARBER: No.

COMMISSIONER PAGANO: Ed, do you have a question?

COMMISSIONER BOYKO: Yeah, I do. You've given us a description of the kind of local governments that have sort of developed under -- one under existing state law and jurisdiction, and one created by the federal government, (indiscernible) under the claim of sovereignty, and you've also made a distinction between tribal government and traditional village government. And -- but it seemed to be all these choices out there. Now, are you suggesting that each village should sort of exercise some kind of local option and decide where it wants to fit?

And if that's the case, how are we going to make it all work together?

MR. KAIRAIUAK: Well, I think the first thing is to make sure that if they're -- if the village are given that option, that unlike the creation of the state, or sub -- people subjugating themselves to the federal government, or even with the Land Claims, that all facts and issues that affect the rights of those individual people be explained.

And the reason I say that is because, in looking at the history of our people, when Alaska -- when the Treaty of Cession was signed between United States and Russian, people assumed and also believed the government, because they were running -- the government was running around saying that they bought Alaska. People assumed that it meant that they had bought the land, and all the resources, and everything else in it. But the history -- that document, Kozlitzof (ph.) Memorandum, which explains the Treaty of Cession, says that United States bought only the Ru -- the property of the Russian-American Trading Company, which includes two forts, one in Switch -- in a place called now -- place in Sitka and one in Kodiak Island, which is Abercrombie (ph.) Bay. And the for -- the people that -- the Russians that built those forts, staked out lands and -- in -- and the latest estimate, based on those four posts on each place equals to 240 acres.

And also in the sale, it included all the hunting and fishing boats and gear that the Russian-American Trading Company had; and the only other purchase that is assigned in this agreement states that the Russians were going to move out and allow the United States to come in and occupy for -- only for the purpose of trade and barter. And so that's the only thing United States bought.

Now for many Native people, and they're still being taught in school today in the classrooms that United States --

in 1867, the United States bought Alaska. They did not, and that -- those kind of things should be cleared to our people by -- when they are told that the United States in 1867 signed a Treaty of Cessions, which only bought them these specific things.

That when you talk about the rights of Native people as their governance, that they should understand that they had not lost their sovereignty; that their tri -- traditional governments are on the same sovereign level as United States of America; and that if they choose to subjugate themselves to that government, that they would have to give us specific things. And those things should be outlined, and our people should co -- be made to understand that wa -- that if they subjugate themselves to United States, they are going to be losing something. There is always a price for it, because the difference between the sovereignty that we have, the way I understand it, that if we join United States, we're losing our sovereignty, become -- but we're becoming democratic. And the sovereignty and democracy are two different elements of being -- that Na -- that people -- Native people have.

Did I answer your question?

COMMISSIONER BOYKO: Well, not really. I think you and I have a similar view of the legal history of the, quote, acquisition of Alaska. It's one of my arguments in favor of ANCSA, that the United States didn't buy very much from the

Russians legally. As a practical matter, we know, in history, that he who controls the military force in a given territory, owns it. And, you know, the whole world has been, at one time or another, either conquered by war or taken over semi-peacefully, but still by force. And on such -- until such time as Alaska's Natives are prepared to somehow secede from the Union and have their own Army, Navy, and Air Force, and the -- all these other wonderful things that go with sovereignty, you may have a problem.

But what I'm talking about is local government. I understood you to say that there are options, the form of local government for the villages; and I'm particularly interested in that, because I do believe -- I do agree with you that our state/municipal government system probably does not fit the needs of most of the Native villages. I do agree that the traditional way of self-government is something that we need to look into and make available if it's -- if it can be made to work.

But my question is, you know, you have a number of villages with different ethnic backgrounds, with different histories, with different traditions. How are you going to make this all work together? Is each one of them going to determine for themselves whether they want to be traditionally governed, tribal government, sovereignty, IRA? How are we going to do this?

MR. KAIRAIUAK: Well, I think it's the sovereign right. When I moved here -- I'll give you an example. When I moved here, there's already an Anchorage Municipality, and the Municipality had created their own laws, so when I move here, I have to follow their laws here, in -- within the Anchorage area. But when I go back to my village, then I have to follow the traditional laws.

COMMISSIONER BOYKO: Well, let me ask you something on that. When you go back to your village, assuming that the traditional laws are governing and that that's the law of that area, --

MR. KAIRAIUAK: Uh-huh (affirmative.)

COMMISSIONER BOYKO: -- how do you deal with, let's say, crimes? How do you deal with somebody killing somebody? Who takes care of it and in what fashion?

MR. KAIRAIUAK: Well, the traditional ways that -- the way that our court system worked, on a serious crime, the whole village was called together, and the elders would sit up front; and the person that was accused of murder would be made to kneel in the center of the meeting hall. And there would be two warr -- three warriors assigned to that person, one on each side of the person and one behind. And people would bring their information or documents to show what this person did. They'd bring in the witnesses and all the evidence that they would need to try this person. And so, at

the end of that hearing, if that person is sou -- found guilty by the village, then the Chief would pass the sentence; and when the -- and if the Chief -- Chief's sentence is for that -- the sentence for that person's crime is death, he would be killed right there in front of everybody, because everybody in that village would make that decision whether he's guilty or not of such serious crimes.

So, therefore, very few people committed crimes in the village for that reason, because punishment was quick and justice was quick. But it was clearer and cleaner than the system that we're allowed to go in, where you wait months, and months, and months; and finally you get there and, in many cases for Native people, in this kind of system that we're dealing with the State system, a lot of our young people -- young men and young women that are in jail either get two things. One is that they don't -- they get thrown in jail for longer periods of time, less than anybody else in Alaska -- what I mean is White people, and the Black people, or other people, because -- and that's already a proven fact, because they've investigated those things.

And secondly the state system for -- and federal system are supposed to be designed for rehabilitation. And it's o -- it's becoming known fact today that when Native people come out of jails, they are worse off than when they went in. So that creates a situation where they're going to --

those people who have a tendency to commit more crime, or lean in that direction, because they were not rehabilitated.

And so, therefore, you know, those kind of things that we're looking at -- knowing those things, my feeling -- or my belief is that the traditional governing system of the village does still exist; it's never been taken away. It's just that people are not practicing, because somebody came in and told 'em:

"Well, you'll have to use this municipal government; you have to use this corporation; and you have to use this law or something."

And so -- but now people are realizing that they don't have to do that. They're -- a lot of villages are going back to their traditional form of government.

COMMISSIONER PAGANO: Father Elliott?
(Indiscernible.) That doesn't work. That's only to the PA system. That system doesn't work.

COMMISSIONER BOYKO: No, it records, but it doesn't amplify; so you have to keep your voice up.

MR. TONY: Okay. I've got a question, and I guess this goes to the issue that you had referred to earlier, which was the authority for governance, and I'm not sure if my esteemed colleague, Mr. Boyko, is aware of the -- one of the Seminole cases in federal Indian law, which was written by Justice Douglas of the United States Supreme Court, and it

spoke to the very issue of Indian tribes being conquered by another, and referred to nation states in Europe being conquered, but retaining their sovereignty for purposes of self-government.

And I just wanted to ask a general statement about whether you think that there might be a similarity? If there is, the issues that he's talking about, not having the military might, whether or not there -- that we might still retain this sovereign right to govern ourselves in the same way that same of the European nation states did?

MR. KAIRAIUAK: Yes, it was assumed for some time that Alaska would fall under those -- under that type of jurisdiction of the United States, where United States to be able to use the conquering of a tribe in Lower 48 and apply it to Alaska.

Now, after -- during the time of the Anti-Genocide Act, there was a provision that United States signed to -- with United Nations, which stated that just becau -- more or less stated that just because a government has a large military power that they cannot go in and take over the land base of sovereign nations. And since Alaska and Hawaii were the last two, and -- two state that they conquered, and they were not contiguous to the Lower 48 states, that that assumption would -- that type of legal assumption would not apply. So, therefore, they created the provision where Alaska Natives and

Hawaii Natives could take an option; and that option was of several things. They could maintain their sovereign identity by having their own governing system, and retaining their land title, and everything.

N -- and then the second thing is that they could maintain their sovereign status, but agree to become a satellite country to the United States, just like the Philippines are.

Or they could give up all their rights and become part of the United States under U.S. jurisdiction. And the Department of Interior, Department of -- I think -- Justice, and Treasury and -- had two secret meetings. In their require -- in their legal requirement, they're allowed to have three meetings; but they had two secret meetings, and they needed three cu -- three meetings to be able to settle those -- that question. The last meeting that they were having, the third meeting, was in Hawaii; and our people got a wind of it; they went down to Hawaii, and interceded on behalf of all the Native tribes in Alaska -- traditional governments, that they did not want to subject themselves to any of the latter two; that they still had the right and power to make that decision. Now, in the first two meetings, the only Alaska representatives that were allowed were the Governors -- the Governors of Alaska; and they knew about this provision, and they -- and this was a way of closing the door forever on the issue of

sovereignty for Native people in Alaska, and Hawaii, and other islands like --

COMMISSIONER BOYKO: Guam?

MR. KAIRAIUAK: Guam and those -- the -- what do you call 'em?

COMMISSIONER BOYKO: Puerto Rico?

MR. KAIRAIUAK: Marshall Islands. And so when our representatives flew to Hawaii to that meeting they were able to stop the door from closing, because it was the last act that they United States was going to follow to finally take away the sovereign rights of the Native people in Alaska; but we were able to stop that. Now, the thing is that we know for a fact, based on international laws and United States signature to the Genocide Act, we say -- they, themselves, created in 1985 -- that our people still have this option of whether t -- that they should have their own country and retain everything, or they should subjugate themselves only under satellite authority, or they -- they're going to give everything up. And so we are not subject to that law anymore, because of United States' own signature to a new law that applied only to Alaska, and Hawaii, and Marshall Islands. And so we are not subj -- my response is that we are not subject to that law you are referring to, because we have our own treaty author -- rights and authorities, which we have never exercised in, and we have never signed a treaty with United States that diminishes any

authority that -- and the sovereignty of -- that Native people in Alaska.

MR. TONY: I've got one follow-up question, if I might, Mr. Chairman? It's my understanding that the government-to-government relationship between Native American and Indian tribes, and the United States government began for one of the very purposes that he was talking about. It was a military question. When the government of the United States was in its infancy, when the colonies were forming the Constitution of the United States, they were very susceptible to attacks by Indian tribes; and it could have been -- if some of the stronger Indian tribes on the East Coast united with the French people in Canada, that they would have wiped out the Colonialists who were coming over from Europe. They could have destroyed the colonies completely. And it was that reason, my understanding is, from history, that the provision was put in the United States Constitution, giving Congress the authority -- the United States Congress the sole authority to deal, on a nation-to-nation basis, with Native American tribes; and that that's where the beginning of that nation-to-nation -- the sovereign relationship between separate nations began.

And, I guess, as it's developed over time, the doctrine has become to be understood that unless Congress acts specifically to relinquish a tribe's sovereignty, that they

retain that right of self-government; that sovereign government-to-government relationship.

And I just wanted to ask the person testifying here today if he knows of any such Act which relinquishes the sovereignty of the Alaska Native tribal governments?

MR. KAIRAIUAK: There is a little bit of history in that area by the words of Tlingit people; but just like majority of the tribes that -- in the later history of United States that were dealt with very harshly; they were lied to; and they were tricked into signing treaties; that Tlingit people were subject to that type of dealing by the United States, because the only goal of the United States was to steal land and not pay for it.

COMMISSIONER BOYKO: Nothing's changed, has it?

(Laughter.)

MR. KAIRAIUAK: And if -- and (laughing) if those tribes had exercised their full authority, that these -- we might not have this problem with United States, but maybe with another country. But maybe we would have learned by then, where we would have created our own nation like Japan did there in the Philippines.

But anyway, that's besides the quest -- but as far as I know, as a whole, because Alaska Native people has had -- has a treaty that dates father back than the treaty that the Tlingits signed with United States -- I don't know exactly what

year and how far back this treaty goes back, but a long time ago, our nations were warring nations. The Yup'iks would war against the Inupiat; and Yup'iks would war against Athabascans -- they -- or Aleuts, or any other groups of nations -- and the -- and for territory; and there's a long history of the struggles of takeover of different areas; but that's for us to know, I guess, and when we decide to share it someday, we will.

(Laughter.)

Yeah.

COMMISSIONER BOYKO: Quick follow-up question. What about the impact of ANCSA? My -- we have two brilliant aboriginal --

MR. KAIRAIUAK: Yeah, I'm not --

COMMISSIONER BOYKO: -- lawyers here.

MR. KAIRAIUAK: Yeah, I'm not --

COMMISSIONER BOYKO: Maybe they can answer.

MR. KAIRZIUAK: I'm trying to answer his question.

COMMISSIONER BOYKO: Yeah.

MR. KAIRZIUAK: Now that those -- one Athabascan Indian up in Tanana, he was an alasquq (ph.) -- you guys call them shamans, but we call them alasquqs (ph.). He was an alasquq (ph.) who had a vision of stopping all wars in Alaska, and the Inupiaq, Yup'ik, Athabascan nations, Aleut, Tlingit, and Tsimshian -- I don't know anything -- whether Haida nation

or not did sent a representative there; but ten miles south of Tanana, there was a treaty signed between the United States -- I mean, a treaty signed between all the nations in Alaska. Now, when that man send out a Treaty Convention, it took five years for it to happen, because we didn't have airplanes, railroad tracks, and the modern-day conveniences. It took five days [sic] for all these representatives to get together ten miles south of Tanana; and the word was sent out that ea -- the representatives of those nations would not be harmed; that if any of the representatives were harmed from those nations that the -- that those nations that come -- that agreed to this Treaty Session, that other -- the nations would go together -- ban together and have a big war on them; so everybody -- nobody wanted to be ganged up, so they followed this; and it took five years to do that.

And in that Treaty Session, they all agreed never to have wars. The only thing that happened after that that some people might call wars are raiding. That continued after that treaty was agreed to; but they -- after -- following that, there was no wars between Native people in Alaska; and that preceded the treaty that Tlingit had with the United States.

So, therefore, in -- because of that treaty agreement that was made between all nations, for any treaty of one nation to be valid with the United States, all of those nations have to come to an agreement that they no longer have this treaty,

where they're going to work together. Because it created a conglomerate of nations to work together what that treaty was agreed to. So, one nation, whether under pressure by United States, cannot be subject to be -- as far as I'm concerned, to be legal. The only ones that can relinquish that power and authority is if all the tribes agreed to disband that treat -- a treaty that was made up at Tanana.

COMMISSIONER ELLIOTT: Frank?

COMMISSIONER PAGANO: Okay, Father Elliott, you had a comment?

COMMISSIONER ELLIOTT: It might help in this to read from -- just a paragraph from the Alaska Native Policy Papers. This particular paper, having been written by Thomas Morehouse, Professor of Political Science, the Institute of Social and Economic Research, University of Alaska Anchorage, concerning the treaty business. And he writes this:

"Federal Indian policy in Alaska. The case of the Alaska Natives is both similar to and different from that of Native Americans elsewhere. It is similar in that Alaska Natives, as the original inhabitants of the region, could claim aboriginal rights, a trust relationship, and inherent governmental powers, and those are documented by cases. It is different primarily in that until recent times in most of Alaska, there was little or no pressure on

Natives to surrender their lands, including their traditional hunting and fishing grounds. A major exception was the Russian occupation of southern coastal and Aleutian region before the American purchase. Thus, Alaska Natives, unlike most other Native American tribes, were not conquered by Euro-Americans; did not sign one-sided treaties; and were not forced onto reservations. Alaska Natives' dependent sovereignty or inherent governmental power was not documented in treaties or institutionalized on reservations, although many special-purpose reservations were created in Alaska."

Those, as you know, were done away with, except for Metlakatla. The Tsimshians granted that, by the United States government, to Canadian Indians.

"Ironically, the absence in Alaska of these traditional instruments of Indian subordination and control has tended to undermine rather to -- than reinforce the tribal status and powers of Alaska Natives."

So there was no treaty with the United States government, as may have been the reason for -- as you mentioned, Tony, in Europe, countries may have been conquered, or they may have been occupied by peaceful means, but were allowed to retain their own form of government. That would have been by treaty.

And -- but the point here is -- seems to be that there has been no treaty, and this is part of our problem in determining what constitutes a tribal status, or Indian sovereignty, or Indian country in Alaska -- one of the problems we're wrestling with.

MR. GARBER: I'd hope that the board --

COMMISSIONER PAGANO: Just a minute. Bart, go ahead.

MR. GARBER: I'd hope that the Commission -- I -- me, being a public member, wouldn't presume to answer any of these questions. I'd like to maximize -- Charlie has done a wonderful job in testimony, but I'd like to maximize testimony. If we do have a question about what the Claims Act did or didn't do, I'd rather have another public member -- or another person in the audience speak to those issues as they come up. We're supposed to be taking testimony here.

COMMISSIONER ELLIOTT: Yeah, that's right.

MR. GARBER: I'd like to maximize that.

COMMISSIONER BOYKO: I agree with that.

COMMISSIONER PAGANO: Okay.

MS. DEMOTT: I'd like to ask a couple of questions.

COMMISSIONER PAGANO: I'm -- at this time, we're running behind. Charlie has had the floor quite a while. We still have quite a bit. We'll take no questions on the floor; the questions will come from the panel. At this time, Charlie, I appreciate your time, and your interest, and your testimony, and we thank you for that.

MR. KAIRAIUAK: Thank you.

MS. DEMOTT: There's no question. I wanted to comment here on something on the -- what I have gathered, 'kay? -- I went to Regina, Canada, and I went to a tribal court. I was invited to sit as a judge, and I wanted to say something to Charlie about that, because he's been talking about tribal (indiscernible).

COMMISSIONER PAGANO: Okay.

MR. GARBER: I would suggest that you testify.

MS. DEMOTT: I am going to testify. I'm waiting for some (indiscernible) --

COMMISSIONER PAGANO: The --

MS. DEMOTT: -- this is (indiscernible) and other things, and maybe I could throw this in, too.

COMMISSIONER PAGANO: The next one on the agenda is Noah Andrew? Do we have Noah Andrew here?

(Pause.)

COMMISSIONER BOYKO: Why don't you pass him right now, and take the next one, and when he comes back, --

COMMISSIONER PAGANO: Okay.

COMMISSIONER BOYKO: -- put him in.

COMMISSIONER PAGANO: Well, then we'll move on to Joel Blatchford.

(Pause.)

MR. BLATCHFORD: My name is Joel Blatchford, and I'm -- I just wanted to say something about pollution in my subsistence food. And it's got to be cleaned up, because, you know, like wha -- you know, Endicott Island, right? I helped build that island; I helped work on it; I helped the oil men drill that -- drill all them holes. I watched them dump all the muds -- 'cause I had to make the muds for 'em and test the muds for 'em, and they really put a lot of minerals into our water. It sits on the bottoms, and even oil goes in there. And I watch it -- one time, I reported Sohio -- when it used to be called Sohio -- I said:

"Look at this. You got diesel going right into the ocean right here from this pipeline."

And he says:

"Joel, don't say nothing. The -- I don't have no time for this. Just cover that lid and shut up; and I'm going to work with the EPA, and we're going to show 'em this other stuff."

So, I did. And also I was one of the men that injected acid into the ground for that. And that really got to me. I said -- I didn't know it was acid at the time; and I sat there, and I said:

"Hey, you know, my skin is coming off my hands. Why is this?"

And he said:

"Here, I'll get you some rubber gloves."

And he got me rubber gloves; gave me a face mask; and I sat in that injection skid, and I just kept on injecting. And then, all of a sudden, I said:

"No, I quit. I quit working for you oil companies. You're dirty. This is wrong."

And I told 'em, I said:

"One day, nature's going to come back on us, and we'll have an earthquake up here, and it's going to pop that hole just like a zit on your face; and it's going to come out, and it's going to ruin our land."

So I quit. I don't work for them people any more, and I won't have nothing to do with oil companies. And out here, where they have all these oil rigs, they dump that mud in the ground, and all that minerals is going in the bottom.

Everybody thinks it's going to distribute itself. It's not. The tide's just going to move it around a little bit and cover up all them bottom fish; and I have proof of -- my fish that I have caught, some of them have had tumors growing from their mouths.

I -- and the belugas that my dad and I -- my dad's Percy Blatchford. Him and I go whale hunting over -- all the time over there. Komokuks (ph.), (indiscernible), they're always over there with me, and hunting, too, and one time we found five of them in one year that we cut 'em open, and yellow

ooze is pr -- see that piece of paper that's right there in front of you. That orangish yellow is coming out of the whole back. The fat is supposed to clear. We reported it to Fish and Game. Fish and Game says:

"Oh, that's from the whales mating -- when they bump into each other."

But when they mate, they don't mate that bad to where it makes them ooze yellow out of their skin and fat. And the boobiks (ph.) looked bad on their skin. It's just -- I said:

"Well, let's cut out this piece. Maybe it's just in that one section."

We cut it out, and then, no, it's all over the whole body. And I'm tired of -- I'm getting scared to eat my own Native food any more. I used to really like it a lot; but now it's getting scary to eat Native food any more. And a lot of Natives -- other Natives here have seen things even in seals, and it's getting sick out there in the oceans. And the water is part of our life. That's what feeds us; and it's going to stop subsistence real soon. It's not going to take very many years.

MR. GARBER: Mr. Chairman?

COMMISSIONER PAGANO: Yeah.

MR. GARBER: Joel, this is a committee on governance.

COMMISSIONER PAGANO: Yes, (indiscernible).

MR. GARBER: I'm wondering if -- do you think there's a role for village governments to play in approving

developments that are nearby them? I mean, how could they impact the type of issue you're concerned about?

MR. BLATCHFORD: Well, I really don't understand that question.

MR. GARBER: Well, what you're opposed to is development that might impact the environment that sustains your subsistence resources. Since we're concerned here with governance, would the ability of a village to have some power or control over development near them, would that help you in your concerns?

MR. BLATCHFORD: You mean -- well --

MR. GARBER: The village could regulate development --

MR. BLATCHFORD: Yeah, reg -- if they could regu --

MR. GARBER: -- in and around their activity.

MR. BLATCHFORD: -- if -- they should put somebody on there to watch these people, because -- and regulate 'em, right, because their muds are dangerous. They are. I've made 'em -- plenty of their muds for 'em. They make acid muds all the time, and then they just dump 'em back out there in the ocean again. It's bad.

MR. GARBER: So, you haven't seen villages be able to have much impact --

MR. BLATCHFORD: No, 'cause --

MR. GARBER: -- in that area up to now?

MR. BLATCHFORD: -- every time -- when I worked up there up north, I watch how they do it; and they have a guard at each -- it's like, instead of fences any more, they have guards that sit at each one of these roads that -- and people can't come in. And then they say:

"If you don't work here, if you don't have that badge, you can't come in."

Even EPA. They'll stop an EPA man. They won't let him come in.

UNIDENTIFIED SPEAKER: Is it possible for people to speak up, because some of the elders can't hear.
(Indiscernible.)

MR. GARBER: Well, if -- speaking as loud as I am right here, they can't hear in the second row, we're -- we just have a problem that may not be able to get fixed.

UNIDENTIFIED SPEAKER: (Indiscernible.)

MR. GARBER: They're not mikes; they're mikes for
- recording, not amplification.

COMMISSIONER BOYKO: We still have seats up front, and the first row is practically empty. There's one, two, three, four seats in the second row, and -- if people way back there -- and I realize that some of you may be a little shy, but we won't bite you if you come up front, and we can hear.

COMMISSIONER PAGANO: Joel, Bart is waiting for you to come to the point in your testimony as to the problem and

then to the governance of who governs the sanitary issues such as that; but, however, do you have much more to testify on, or what the solutions to some are, as Bart asked?

MR. BLATCHFORD: Well, they should allow some of the Native council -- or whoever -- you know, somebody of importance in our communities to go and watch these people, 'cause they'll hide it. Them people hide this stuff. They -- and they get away with it. It's always hid.

COMMISSIONER PAGANO: Is any -- do you have any comment or question to (indiscernible)?

MS. ANAGIK: I just wanted to comment that with regard to those statutes like CIRCLA (ph.) and the Super Fund, a lot of those statutes that deal with hazardous waste, it's been my experience that when village corporations or tribes want to at least exercise the right of consultation for an observer-type of status, that it's been the position of a lot of these oil companies, because it's not explicitly included in the statute, especially as it pertains to Indian tribes or Native villages, that these villages don't have a standing. And that is an issue that I have come across in my prior work as an attorney, so there's some real fundamental issues here, you know, that villages should be made aware of, especially with those statutes that pertain to like the Super Fund or to CIRCLA (ph.). I just said that I've reviewed this, and it was my recommendation at the time that they -- the villages seek

a more fundamental status with regard to tribal status, so that they could have these same rights of consultation as the Indian tribes in the Lower 48. I just wanted to bring that up.

COMMISSIONER PAGANO: Any other comment? Father Elliott?

COMMISSIONER ELLIOTT: No.

(Pause.)

COMMISSIONER BOYKO: Go on to the next one.

COMMISSIONER PAGANO: Yeah. I'll just see if Bart -- Bart, do you have any more comments?

MR. BLATCHFORD: No, I don't.

COMMISSIONER PAGANO: Well, we appreciate your comments and testimony, and we thank you.

MR. BLATCHFORD: I just wanted to say it, 'cause that's going to ruin a part of our life. All right, thanks.

COMMISSIONER PAGANO: Okay, is Noah Andrew in here yet?

(Pause.)

COMMISSIONER ELLIOTT: No, I saw him, but he's gone.

COMMISSIONER PAGANO: You saw him? Okay, we'll go on to Willie Kasayulie.

(Pause.)

MR. KASAYULIE: Good afternoon. My name is Willie Kasayulie, and I'm the chairman for Akiachak, Native Community, which is a federally-organized IRA government. It was

organized in 1948, and I think that that number shows that our community organized under federal law 11 years prior to statehood. I guess, prior to 1948, the community basically governed themselves under a traditional-law format; but in 1948, the residents opted to utilize the federal legislation and organize as an IRA government. During 1948 to 1974, the community, as I stated, governed itself under the tribal governments. In 1974, the community incorporated as a municipal government; and, in the mid-1980s, we took the initiative to begin educating the community on the functions of tribal government versus the municipal government; and, in that light, the community, through a referendum, proceeding with the dissolution of the municipal government.

And I think we set a precedence in that area; and whatever work this Governance Committee is doing will have some impact on our ability to utilize our tribal government to provide the needed services on the local level. I think every one of us here agree that, because of our society, and because of our -- where we come from, the tribes and tribal governments have always been in existence in one form or another.

One of the things that I see as a problem in the Native communities is that we have a lot -- a whole lot of municipalities existing; and, in many cases, these municipalities basically assume the responsibilities of the tribal governments. Something needs to be done to reeducate,

restrengthen the tribal government's ability to provide services to the members and residents. We know that there are some funds that the tribal governments have access to, whether from the state, or the federal government, or whatever grants may be available out there. Majority of the funds that are currently available to the tribes are through the BIA program systems.

I serve on the BIA Reorganization Task Force, as one of the three representatives from Alaska. Whe -- the problem that we see on the Bureau level is the funds that are allocated through Congress on a nationwide basis. I understand BIA is broken down into 12 areas, and we're one of the 12. In terms of population, if I'm not mistaken, the Alaska Natives are number three, behind, I believe, the Cherokees or the Navahos. But in terms of funding, we're down like number 10 or 11. That goes to show that the sys -- the BIA appropriation system is flawed. But that's something the Task Force has begun to address, in terms of providing equity funding to the areas and tribes that are eligible for these programs.

There was a question earlier by Mr. Boyko to the first presenter about which forms of government the communities may opt to utilize to run their communities. And I think it's the choice of the community, whether it's tribal, municipal, or otherwise. In the case of Akiachak, it was tribal; and the support is very important if the community wishes to utilize

that route. Up at the AFN Convention, there's been some discussion on the request for solicitors' opinion. I think it's something that's needed; however, I think that Congress -- committees of Congress needs to come to Alaska and listen to the concerns of the tribes; because, ultimately, whatever opinion may come out, it would have a severe impact on our ability to govern ourselves on the local level.

And one area that we attempted to include in the 1991 provisions was transfer of land from the corporations to the tribes. I think that's still feasible; but we need to make sure the BIA or whoever is responsible make applicable to the lands that are transferred to the tribal governments. We know that reservation has been discussed. I don't think the villages in the regions would want to establish themselves under a reservation-type government, but something that the communities and the regions develop by themselves.

One of the things that we're pushing for in our area is the establishment of the -- a regional tribal government under a confederacy type, meaning the authority would lie with the Native governments on the local level; but giving the regional tribal government some authority. That's something I feel the regions need to look at, in terms of strengthening the authority and involve the local people on a regional and village level.

We know that, under the tribal-government format, we have the capabilities to establish tribal courts. And tribal courts, in many cases, in smaller villages, handle civil cases.

As Charlie mentioned earlier, many of the communities' traditional laws were applicable, but I think times are changing; and there are series of federal law that have an impact on the ability of the tribal courts and tribal governments, to name a couple: Indian Civil Rights Act and Public Law 280.

Public Law 280 allows the state to handle criminal law and jurisdiction in the communities; but I feel that law needs to be reevaluated for Alaska; and one of the things that I would like to see, as far as Alaska is concerned, is to look at how the other states in Lower 48 deal with their tribes, and maybe that's something that is needed to -- because tribal governments are not going to go away. We'll still be here, despite the efforts to establish state-charter governments.

- Thank you.

COMMISSIONER PAGANO: Do you have -- Paul, do you have a question?

MR. TONY: Yeah, I've got a question about -- he made a mention of Public Law 280; and I was at the Indian -- the Federal Bar Association's Indian Law Conference in Albuquerque, where a lawyer gave a presentation about a state in the Midwest

that had given the Public Law 280 jurisdiction back to the tribe.

Is -- what's your position on that type of an occurrence?

MR. KASAYULIE: If I'm not mistaken, there's -- has also been discussion by several Indian nations and tribes about the possibility of repealing Public Law 280, where this law is applicable in those states. If the state of Alaska is willing to provide some authority to the tribal governments and maintain the federal law, I think that's something that we as tribes need to look at. One of the things that we heard upstairs is -- on subsistence is co-management; but, in this case, since the tribal court is existing in the community, the tribal court should have that authority.

I failed to mention earlier, we do have State Troopers enforcing some law in our villages; and, in many cases, it takes anywhere from two to three days for them to show up in the village; and, by the time they show up, the dispute may be resolved in the tribal court or tribal-government setting. But the state, not recognizing the authority of the tribes, they usually take the individual out of the community and, basically, retry them in their state courts.

COMMISSIONER PAGANO: Ella, do you have any questions?

MS. ANAGIK: I -- not at this time.

COMMISSIONER PAGANO: Bart?

MR. GARBER: Yes. Willie, you pointed at the problem with the allocation of 638 and federal funding on a nationwide level, I know that there's been an issue -- perhaps not in your area, but may -- perhaps you could comment on it and see -- and tell me if the Commission should be concerned about the allocation of funds on a village-by-village level. Even in any particular village or community, I know that there's a problem with priorities. It hasn't cropped up that often, but have you had the experience of a village corporation competing for funds alongside a village? And perhaps the whole system of getting resolutions to provide support to tribal organizations, is there -- what can the government do to help with the priority system and the contracting system as it stands?

MR. KASAYULIE: Not so much under the 638 Contracting System; but there are funds available through the Bureau for economic development. The tribes and the corporations are both eligible for these funds; but, in many cases, because of the structure of the village corporations, they're more likely to be eligible than the tribal governments in their access for -- into these types of funding. You know, equity funding needs to be discussed, not just on the national level, but here in the state of Alaska as well. The Bureau provides -- or has five agencies in this state; and, basically, the funds that are

funneled through the Juneau office are distributed to the five areas. That distribution formula also needs to be evaluated, if we're going to be providing some type of equity funding to the tribes and villages that are eligible for them.

And there needs to be expanse in the funds also. I'm aware that in Lower 48, under the Bureau program, the tribes in Lower 48 are eligible for law enforcement. It's not -- nonexistent up here; but we're eligible -- I feel we're eligible for those kinds of funding, because, in the first place, we're having to deal and hire our own village police officers to enforce local ordinances. And the state, although they have some resources, they don't always show up when you need them.

MR. TONY: If I understand you correctly, what you're -- what I hear you saying is that the tribal governments at the village level are not getting the adequate funding to do the work that's there for them to do; and what I'm wondering is if the tribal governments are adequately funded, if they're provided with enough money to do the job, is there an incentive, both on the federal and the state level, to provide that funding? In other words, will it decrease -- in your opinion, will it decrease -- will it give the federal government and the state government cost savings in other areas, such as in social programs, and court costs, and things of that nature?

MR. KASAYULIE: I think so. If the village tribal governments in the community have dedicated people, there's a lot of money out there that's available.

I can use my community as an example. As I mentioned earlier, under the state law, we're considered an unincorporated community -- another fancy word for tribal governments under state law, I guess. But as far as state funding, municipal revenue sharing, we're only eligible for about \$11,000 for a year; whereas, if we were a municipality, we may have been eligible for seventy-five to eighty thousand dollars.

And from the Bureau's level, they do have some funds available, but it's minimal. I'm guessing the average funds that the Bureau dishes out to the communities is about \$3,000 per village.

If self-determination is to work, you need to have people that are dedicated on the village level. In our case, for the last three to four years, functioning as a tribal government, our annual budget has run about four hundred fifty to half a million dollars a year, some of it generated locally by the authority of the tribes to initiate sales tax; we own some properties; and others -- and most of the funding that we get are special grants for specific purposes.

COMMISSIONER PAGANO: Okay, Bart. Go ahead.

MR. GARBER: Yeah, I just wanted it -- to get it clear on the record. Well, Willie, do you think then that it's -- maybe I'm not -- maybe you don't have the problem out in your area; but this priority system, would you -- right now, it's just a policy in BIA that if a tribe comes in and wants money and a village corporation in the same location wants it, they've got an unofficial policy that says the tribe gets it.

MR. KASAYULIE: Yes.

MR. GARBER: Would you like to see that policy made official; or do you think that each community should deal with it on their own?

MR. KASAYULIE: Personally, I would like to see that policy changed; because, under the new amendments to the 638, for some strange odd reason in Alaska, they identified organizations that are eligible to receive and contract Bureau services. Of course, we have the two tribal governments that have the priority; and if the tribal governments are not existing or not functioning in the village, then the village corporations are eligible for these types of programs under BIA 638 regs. I've voiced my opposition to that specific language. In fact, last year, we tried to introduce a resolution here on the Convention; but we all know the majority of the members are of these corporations, and that kind of put it aside. But it -- basically, it's up to the tribes to whom -- if they -- they can authorize whomever they want to provide that service

if they don't have the infrastructure on that -- on the village level. Competition for funds are there.

MR. GARBER: Just a short follow-up. You mentioned tribal taxation in your village. Let me be devil's advocate, okay? What would happen if the federal government said that potentially, some of our federal budget would be gone; but, in exchange, we would have recognition of our authority to generate our own revenues through taxation, or whatever means. Even if it wasn't so extreme, would that be a price to pay for having local authority to generate revenues, --

MR. KASAYULIE: I'm not sure if --

MR. GARBER: -- or would it be difficult?

MR. KASAYULIE: -- if I understand.

MR. GARBER: Well, what happens if we have some of our federal funds reduced; but, in lieu of that, we have federal acknowledgment of the authority to tax and generate our own revenues? What would be the result of that kind of policy? Would you support that kind of policy?

MR. KASAYULIE: I would not support that kind of policy. I think I would advocate that the federal government has a crux responsibility to Alaska Natives and American Indians, but recognizing the tribes to have the authority to develop, for example, sales tax ordinances.

COMMISSIONER BOYKO: I'm experiencing, as I'm listening to the testimony of these witnesses, a growing

concern, which I would appreciate have somebody addressing. Have we created -- are we in the process of creating a crazy quilt and patchwork of overlapping, competing, different entities, partially governmental, partially corporate, partially tribal, which will result in -- might result in diluting the availability of resources, interfering with simple administration, and recognition of local needs? Do you see this happening?

I mean, we've got ANCSA corporations; we've got municipalities; we've got tribal governments; we've got the sovereign villages; we've got maybe some reservations, or that we could have; what -- where are we going with this? I mean, are we vulcanizing Alaska?

MR. KASAYULIE: I think we are; because, on the village level, we have the three main organizations: the tribes, the municipalities, and the corporations, each with their own board of directors, and each with their bylaws, and whatever. They, basically, represent the same constituents. If there is some feud between individuals, then that creates a problem in that community. We have, in some of our communities, a cooperative effort of the three organizations trying to work together. But that's the choice of the communities to take. The danger, as far as the three organizations, is the individuals that may sit on those boards or councils. I think something that needs to be understood by

the people is that they should understand they represent the same people, and --

COMMISSIONER BOYKO: Well, don't you wind up with competing budgets, and personnel, and staff, and --

MR. KASAYULIE: Personnel. Competition is there.

COMMISSIONER BOYKO: So -- but that's really wasteful, isn't it?

MR. KASAYULIE: Uh-huh (affirmative). That's why we'd like to see one government -- tribal governments; do away with the municipalities and the corporations. The tribes have the authority to establish businesses that's existing in Lower 48, and it's something that Alaska should look into, I think.

COMMISSIONER BOYKO: Should we have a five-minute stretch, Mr. Chairman?

COMMISSIONER PAGANO: Wait.

COMMISSIONER ELLIOTT: Oh, I just have --

COMMISSIONER BOYKO: Oh, oh, I'm sorry.

COMMISSIONER ELLIOTT: -- one question. I heard you speak upstairs, and I -- if I am correct, you did urge the tribal government on village level, and you have stated that one of the things that would happen under such tribal government would be a court system, local, such as in Minto, Sitka, and somewhat at the North Slope. But I'm interested -- and perhaps others are, too -- what other areas of control or government do you see the tribal government assuming? What

would be the areas that the tribe would then regain either from state, federal, or whatever you will, some authority?

MR. KASAYULIE: Civil, criminal, and resource management jurisdiction.

COMMISSIONER ELLIOTT: Pardon?

MR. KASAYULIE: Civil, criminal, and resource management. Resource meaning subsistence that our people depended on wa -- on land and water. We do have Na -- traditional laws towards these resources we depend upon; but these laws are not recognized by the state; and, I think, under the authority of the tribal governments and tribal courts, those can come back, and the laws can be developed to suit the regional needs.

COMMISSIONER ELLIOTT: Thank you.

COMMISSIONER PAGANO: Willie, I have a couple. Maybe you could clarify some issues for me. We talk about the tribal -- village tribal governments, corporate structures, and the municipalities -- the city governments, three entities; and then we have the non-profit corporations, such as Kana -- Tanana Chiefs, etcetera, etcetera. How do those corporations which I understand deliver many of the social services to people in the village, are they contracted on behalf of those tribal entities in the village? Or --

MR. KASAYULIE: Yes, they are.

COMMISSIONER PAGANO: -- are they another entity separate?

MR. KASAYULIE: In the case of our region, AVCP contracts on behalf of the villages, by authorizing resolutions for 638 Programs. In many of 12 regional non-profits, these organizations are not governmental entities per se. They basically receive funds to provide services to their members, and not necessarily establish laws for them, or tribal courts for them. That authority lies with the tribal governments on the village level. And I think that authority can be expanded on a regional level, if the regions should organize a regional tribal government.

COMMISSIONER PAGANO: One more. How then -- who does the non-profits show accountability to? The government who gives them the con -- the monies, or are they accountable in any way to the tribal entities in the village as to deliver to the service and the amount of dollars spent, whether it's an administration warranted?

MR. KASAYULIE: I think, as far as fish go, accountability, the region non-profits are accountable to the federal government; but in the cou -- in this same line, they are also accountable to the villages, because that's who they provide service to.

COMMISSIONER PAGANO: Okay, my -- that last question then, in a regional profit corporation, the non-profit, and the

tribal entities, how can best we get together to work together to the end result of a better quality of life for the Native people?

MR. KASAYULIE: I think, as far as the regional profits and the non-profits, you need to get your people together and identify responsibilities. We've attempted several times in our region to get major organizations -- Native organizations that provide service to us, and give them specific responsibilities to improve the economic stability of our villages. Again, there on that level, it usually depends on the attitudes of the individuals that serve or are in the leadership position. I think all of them needs to understand that if they are to provide quality life, they need to work together and provide that service to their constituents.

COMMISSIONER BOYKO: What about the -- you said resource control. What about the lands and sub-surface resources that are now being held by the regional corporations? Is this a system you want to see continued, and how would the tribal governments fit into that?

MR. KASAYULIE: I don't think I can answer the sub-surface part, because that ties in with the Alaska Native Claims Settlement Act, and it involves the other -- all of the 12 regions -- or the 13th --

COMMISSIONER BOYKO: It does, indeed, but --

MR. KASAYULIE: -- is also involved.

COMMISSIONER BOYKO: -- my question is directly addressed to that, because how are you going to have control of your resources if somebody else owns it?

MR. KASAYULIE: Well, again, there I think if we do a scenario of establishing a regional tribal government, it would be incumbent upon the regional government to sit down with the corporations to arrive at some agreements in that area.

I need to say one thing. I know that there has been some discussions in some communities of the possibility of disbanding the corporate structure and transferring the land over to the tribes. I think, if that's the desire of the communities, that's their choice. But transferring property, especially land, to the corp -- the tribes, doesn't mean that the corporation would go out of existence. I think it can still be utilized as a tool to provide some type of economic stability to the people that they represent.

COMMISSIONER PAGANO: Another one. In your testimony, you mentioned that there was money, either to the tribal entity or the corporate structure, for economic development. Now, where does that money come from, and who does it go through? What organization does it go through? The non-profits or who?

MR. KASAYULIE: Well, sitting on the BIA Reorganization Task Force, the Department of Interior

recommended that a separate department be established within the Bureau structure. Their main emphasis there is to strengthen the tribes' economic strength in reservations, or wherever. So, in that light, the funds are generally funnelled through the BIA system; and the tribes, I believe, under some type of competition or a grant process, are eligible for those funds.

MR. GARBER: There -- well, speaking as a resource person, they also come from some other agencies through loan programs, some Small Business Administration, some EDA on loan packages. But BIA has, I think, the largest direct funding packages --

COMMISSIONER BOYKO: Well, --

MR. GARBER: -- both directly through them and ENA.

COMMISSIONER BOYKO: Let me ask you this, Bart. Are there any local communities now that do generate their own revenues for governmental purposes?

MR. GARBER: Willie's does through a tax that's essentially the old municipal tax. And there are a number of other -- I don't know how many more in your area.

COMMISSIONER BOYKO: Are they doing this by virtue of state law, municipal corporation status, or. . .

MR. GARBER: No.

MS. ANAGIK: Inherent.

MR. GARBER: Tribal.

COMMISSIONER BOYKO: Tribal authority.

MR. GARBER: Tribal tax.

MS. ANAGIK: Inherent (indiscernible -- speaking simultaneously).

MR. GARBER: Willie's had his for -- what? -- half a dozen years?

COMMISSIONER BOYKO: I like the idea, but I'm kind of apprehensive of some people in the villages winding up with three or four or five layers of government bearing down on them. Whi -- I realize that some of that stuff flows down to them; but knowing the nature of governments and hierarchial organizations to create little empires for themselves, I think that's a very frightening picture; and it seems to me that we need to address the concept of streamlining this crazy quilt that we've created in this state, and continue to create.

Every time we reg -- we see a problem, we'll create some other governmental structure, or some other organization with competing powers and, I think, it's a mess. But I could be wrong.

MR. KASAYULIE: I think there's already a simple solution that's evident, and that's to, basically, utilize the tribal format, because it has been in existence for a long time. Do away with the municipal and the corporation, and utilize the tribal government on the village level.

COMMISSIONER BOYKO: My question to you then is why didn't we do that in the first place, when we created all these other monsters?

MR. KASAYULIE: I think there were some attempts -- and maybe Frank can shed some light to it -- during the Land Claim process. I think that was debated (laughing), to utilize government format -- tribal government format to be the custodian of the lands. Instead, they created the corporations.

COMMISSIONER PAGANO: Well, I guess that's a real grey area, and as to what really the legalities of doing something like that and how it would keep all shareholders in, and have the eligibility for the benefits from the profit corporation, I think there's a lot of grey there; and I think, to me, these things have to be answered.

MR. KASAYULIE: Well, just one example also, the mo -- nominees -- I don't know if everyone's aware of it; but initially the Land Claims for the nominee tribes was through the corporation types of entities; but, eventually, because of loss of lands, the tribal governments were reinstituted to the nominee tribes.

COMMISSIONER PAGANO: That -- Willie, I really appreciate your testimony. I think it was very good; and we've got a lot to talk about, and I -- we thank you.

MR. KASAYULIE: Thank you.

MR. GARBER: Do you want to take a five-minute break right here?

COMMISSIONER PAGANO: Let's take a five-minute break.
(Off record.)

(Tape changed to Tape #4.)

COMMISSIONER PAGANO: (Already speaking before recorder turned on). . .the list is a Mike Williams.
(Pounding noise and people speaking in background.)

MR. WILLIAMS: Hello, my name is Mike Williams. I'm from Akiak, Alaska. I'm Vice-chairman of the Akiak IRA Council, and, you know, I have been involved for the last about 20 years -- 15 to 20 years in our tribal government, and village corporations, and municipal governments; and one interesting thing is, you know, why are we in this fix right now today in Alaska? With all the resources that we have; we have all the oil; we have all the gold; we have all the minerals; we have all the fish; we have all the timber; we have all of those, and the Alaska Native people, us, are having to go through this process to take care of our problems.

And if we had all those resources that were developed and the payment that all the tribes in Alaska would receive, we'd have the best health program, best education program, best of everything right now at this time. But it isn't so, because, you know, all of the dollars are going away from the communities and not generated within the communities; and we

have problems with water, sewer, and all those suicides, alcohol, and all those social ills that we face.

I will talk a little bit on the governance. We've heard it before today; but my big concern is having three, four, five governments within the small community and -- for an example, in Akiak, you know, our community is split, and we're having family wars, and, you know, we have hard feelings -- political hard feelings to our own family members; and we're fighting amongst ourselves; and the only -- I think, before the arrival of different forms of government, we had our own; and I think, you know, that -- our people handled them well; and regardless if it's domestic, or criminal, or whatever issue, I think it was dealt with.

And we had our resources -- the moose -- the living animals and the fish, you know, they were taken care of by our own laws. You know we have our own laws towards that -- towards those resources.

I think -- to make this really short, I think, you know, we as Yup'ik people have become dependent upon somebody else coming in and giving us free -- of everything free: free health care, free education, and you know what? Those things aren't free.

But I think, in order to sol -- fix or solve the problems that we have today, I think, first, we need to revitalize our own forms of government that we had before;

utilizing our elders; and have tho -- and have our people be recognized by the state. You know, I -- you know, sometimes I feel like a Palestinian -- Palestinians, because -- you know, because of no recognition of that existence. And I just kind of feel like an outlaw at times when I get my views out in the area of tribal sovereignty and those. But I think we need to, whichever way the village wants to form their government, please do it, and we'll help you.

You know, I think -- like I said, we've become dependent over a hundred years and experienced all these little forms of government; and the Alaska Native Claims Settlement Act, I didn't really agree with it. I opposed it during my high school days in Chemewa Indian School in Oregon; and I totally opposed it, and I thought to myself, what about our elders back home that are going to become capitalists overnight from being a hunter/gatherer to fo -- becoming a board member or chief executive officer and all those? Because we were just, you know, going from fall camps, to spring camps, to winter camps, and moving all the time, and putting on a three-piece suit; and in a very few years -- and, you know, with all these laws imposed upon us, you know, it had devastating effect on a -- the chain -- you know, on our quality of life.

So, governance is, you know, I think the issue that I think our villages need to be informed of what is happening at the national level through the federal government; and

the -- and, you know, if all the villages are informed, then, you know, we would -- our life would be better out there. But, you know, with ANCSA, most or all of our elders or people didn't know what was happening; didn't realize the implications or the -- you know, what kind of fix we are going to be getting into. But those are my general feelings; but, you know, we need to really organize in our areas.

Like, for instance, I'm from the western Yukon-Kuskokwim area; and I would see viable tribal government there in our region and exercised democracy.

And one issue I would like to bring out is issue of alcohol. Right now, there's no liquor stores or anything in Bethel or our area; and -- but the booze is still coming in, you know by the damp status. They can bring in booze, and everybody, you know, is getting rich out there; not -- I mean, very few people are getting rich out there, but, you know, the bootleggers. But if we had a regional tribal government, and everybody voted to ban that, then we would have that authority to do so; but right now, as it stands, we cannot do that; and, you know, those are the issues that we're dealing with right now.

I think empowerment is very important to the communities; and we are not threat to -- we are no threats to either the state or the federal government. You know, how --

COMMISSIONER PAGANO: Not to interrupt, but we -- we're going to have to stick to about ten minutes. You've been quite a bit over. We have quite a few to testify; and we have an hour and a half left.

MR. WILLIAMS: Oh, did I talk that long?

COMMISSIONER PAGANO: Yeah.

MR. WILLIAMS: I mean, I (laughing) --

COMMISSIONER PAGANO: And so if you want to --

COMMISSIONER ELLIOTT: I have one question.

COMMISSIONER PAGANO: -- wrap it up in a sentence.

MR. WILLIAMS: Ye -- do you have a question?

COMMISSIONER PAGANO: If you're done.

COMMISSIONER ELLIOTT: I do have just one question. You mentioned regional tribal government, which is a term I haven't heard today. I've heard village tribal government, but not regional. Would you explain that, please?

MR. WILLIAMS: I think Willie Kasayulie mentioned the regional tribal government. The --

COMMISSIONER ELLIOTT: I heard him upstairs say:
"Tribal, village."

MR. WILLIAMS: -- I think, what is that government? You give the powers to the villages, but you still have that regional --

UNIDENTIFIED SPEAKER: Confederation.

MR. WILLIAMS: -- confederate -- confederated tribes.
I think, you know, that has been looked at.

COMMISSIONER ELLIOTT: I see. Thank you.

MR. WILLIAMS: Uh-huh (affirmative).

MR. GARBER: Mike, you mentioned --

MR. WILLIAMS: Oh, yeah.

MR. GARBER: -- I mean, at the very beginning, the importance of resources, and the richness of resources in this state. And we know that we've historically depended on resources for subsistence. Well, one big issue always comes up, and that is that non-Natives are always concerned about tribes, because they think they're non-development -- that they oppose development. Do tribes in your area, maybe individually or as a whole, oppose all development, or what are their views on development?

MR. WILLIAMS: No, I think, you know, our views are that, you know, we can -- you know, with sensible development, we can develop our fishery; we can develop our tourism, or whatever; but under our own powers. And, you know, I think, you know, those are -- we're not opposed to any kind of economic development I don't think; but I think, you know, those are the things that we need to keep informed of our villages; and we can do it.

MS. ANAGIK: Can I --

COMMISSIONER PAGANO: Do you have any --

MS. ANAGIK: I just wanted to comment. I -- and that deals with the Congressional appropriations that flow into the villages.

(Whispering.) What is that amount? Do you know? About 400 million?

MR. GARBER: 250 -- 200.

MS. ANAGIK: Two hundred to two hundred fifty million.

COMMISSIONER BOYKO: I don't think they can hear you back there, Helen.

MS. ANAGIK: I think these Congressional appropriation are constitutional under the Constitution, because of the fact that Alaska has, in the past, the IRA Traditional Act, which was passed in 1934, and amended in 1936 to include bands or groups of Alaska Natives. That established the legal status by which the Congress has always recognized its plenary authority to deal with the Alaska Native villages. So, it's -- I think it's real important. You know, I'm bringing this to the attention of the other Governance Task Force members, because there are substantial revenues that flow from the U.S. government to these villages, which are essential to rural Alaska. That's all that I'd like to say.

COMMISSIONER PAGANO: Do you have any comment? Well, thank you, Bill -- Mike. Next one on is Julia DeMott. Do you want to have a seat? I'd just like to remind you that we're

running fast out of time; we have a big list, so limit to ten minutes and then questions. Thank you.

MS. DEMOTT: Good afternoon. My current concerns are with the Native villages -- village councils located in Alaska. For the past two years, we have been actively searching for ways with which to force the council into having an annual membership and an election.

The council will not participate in the -- any election process whatsoever. They have stated that they did, indeed, have membership meetings during the annual corporation meetings. We all know that the village councils and the corporations are two entities -- they're two different business entities, with totally different responsibilities to our Native brothers and sisters here in Alaska.

The current council I am speaking about was held over seven and a half years ago; however, due to resignations, and so forth, the council that was totally voted out is back on seat. We, the Native people, have every right to vote in a traditional council to represent us, just like we vote in our city councils. Through our effort, which, by the way, we have full support of our elders and many, many Native members, and we have met with name calling, blacklisted to attend conferences, ignored and lied to. Enough is enough. The time has come for the present councils to own up to their responsibilities and answer our questions. What do we do

besides falling short of physically removing them from the council office?

They are also in the midst of the passing resolutions and amendments concerning membership qualifications with stipulations to be qualified and recognized to be included in the village, even though we are bona fide residents. The main reason for our concerns is the fact that the members of our current council have condoned sexual incest, child abuse within their own personal family, and have been, indeed, convicted of such horrendous crimes.

And we, the people of our community, whatsoever, do not condone these actions, and do, indeed, believe that this abuse has led to self-destruction of our children through drug and alcohol.

This is why we need our tribal courts enacted. We have not given up; and we will continue to fight for our community; and it has been a hard struggle, but our beliefs shall prevail. And the bottom line is that the pride and the dignity of being Native shows through, and proves the fact that we are strong people who have honor and integrity. And our persistence with this matter is just an extension of that feeling.

To deal with these are very serious matters, and what is the solution? We know what the solution is. If we did have

tribal courts, our people would deal with these terrible wrongdoings the way we had done in the past.

There's a lot of child abuse, and these people aren't serving any time. This one deal that I'm talking about happened with eight girls, starting from two years old; and the father raped all these children -- all these little girls. Now, this is one of the things that I want you people to know here.

I do -- I think you'll remember that there was an article in the paper last year where this Native man raped a child and said it was done in the Native families, which is wrong. This is what this one man from my area stated; and it was in the front page, and said that it was Native practice to sleep with your daughters. And all of you know that is not true.

We are very proud people. How can we be -- how can we have that on our records, and in front of God and everybody saying this to us? This is not true, and I want you people to know this; that my mother sat us down, and I come from a family of 14 -- 9 brothers and 5 sisters -- and she told us who we were related to; who we were; what we were about; who not to marry, that -- 'cause they're related to us; and we figured even third cousins were too close; figured it was incest.

So, what is that telling you? That it does not happen in -- within the Native people. Whether it's here or in the Lower 48. It doesn't happen here.

So, I just wonder, what do we do? These people have been tried in court by -- one guy -- this one guy was tried by a big judge here, and what does he do? He gives him clemency. He raped his eight daughters; he got clemency. Isn't that sad?

Now, I'd like to get back to tribal court. I was invited down to Regina, Canada. I was the first woman to ever sit on tribal court with all men, and we were -- we started out with the White man's court -- that's what they call it down -- and they call the attorneys counselors. And so the counselors said that this was going to be tried in tribal court, and which we did. We went there, and it was three days that we had tribal court.

And I was amazed, and I have never in my life have ever seen anything like that. It was just like I was sitting in a movie, and I thought it was the greatest thing that the Native people could have something like that where they can try their people. This is why I'm so for tribal courts within our areas, because of something like this.

And I can't understand why, and I never will understand why, that from day one, here we are, back to number one, day one, back to the White man, where we are asking him permission to do what we have to do; what we want to do. Here

we are again. I see this happening. I see it up here in AFN. Sure, at AFN, they have all the -- they don't deal with our problems, where I believe that this is where we should be up there, dealing -- them dealing with us, and us dealing with them, with the Native people present, and we are there, take a half a day to bring our problems to them; not to attorneys, not to priests, but to our own people.

Here we are back to day one. I remember the time when I was growing up, the Natives sat on one side, the White man on the other. They were buried one side; the White men on the other side. And I still see prejudism to this day. Why did we have to go to you people to get permission to do what we want to do? And I think that's wrong.

Here I am, discussing this deal here; was tried by the White man's court; then the man gets away. He raped eight of his daughters from two years on up. How terrible. We know what the answer is. But what good is it for us to come up here, and -- when it's not going to be answered? What good is it? Here we are, we're talking. When we do, we're rabble rousers; we try to stick up for our people, we're troublemakers; we don't know what we're talking about.

I'm 65, going on 66; and a lot of our -- just like me now -- history was never written down. It was passed from word, from generation to generation, what we should do and what we can't do.

COMMISSIONER PAGANO: Mrs. DeMott -- Ms. Demott --

MS. DEMOTT: Okay, thank --

COMMISSIONER PAGANO: Okay, you've had ten minutes --

MS. DEMOTT: -- you very much.

COMMISSIONER ELLIOTT: I have a question.

COMMISSIONER PAGANO: -- just -- any question?

COMMISSIONER ELLIOTT: I do have just one question. Since Minto and Sitka do have tribal courts, what is the block that in -- doesn't allow you to have one?

MS. DEMOTT: Well, what do -- we've been trying; we've been -- what happened here in this one area that I was in, that we got together, okay? This is sad, you know, because -- let me get back to that. We had a meeting -- not a meeting, but a get-together, because we can't hold meetings as shareholders, okay? Why call us shareholders? You know, we're just a, you know, a number, a share. We're not human beings; we're shareholders.

- So here we are; we're getting together to form -- we say a meeting, get together. Here we are; here comes the directors; and we wanted to discuss our problems to see what we could do; if we could get our -- whatever -- back to the people -- our resources, and you name it; okay? We want to discuss everything, and have our tribal government, you name it, okay? So here they come with their attorneys, and we tried -- we -- they weren't -- we told them to get out; leave;

you weren't invited. And here are the corporation directors -- okay? -- they're paying this man a big price, and here we are, representing ourselves, because we are not covered by attorneys -- the shareholders aren't. If we open our mouth; if we say anything, we're in trouble. Not me. I say what I want (laughing). I don't -- I mean, that's the way it is. That's the way I was raised; and I'm going to voice my opinion.

But, anyway, this is what I'm saying is that we tried that, okay? It's what I just said here. We were lied about; you name it. I knew of a gal -- okay? -- she has been a sobriety for three or four years -- okay? -- and she put her name on this list -- she asked me put -- her name put on the list, you know, to go to this Kenai deal. Guess what? The same bunch didn't like her, so they took her name off that list. She couldn't go. This is the things they're doing. Nepotism. Lot of nepotism. They -- their own -- there's so much incest in this one group, so help me God, their cousins, you name it, they're the ones that make the decisions for our people. Grants; you name it.

COMMISSIONER PAGANO: I think --

MS. DEMOTT: Okay. You asked me a question, I --

COMMISSIONER PAGANO: -- you've answered his question.

MS. DEMOTT: -- hope I answered it.

COMMISSIONER PAGANO: Bart, you have a --

MR. GARBER: Julia, would it -- in some areas like that where you get a dysfunctional village or community, would it help if you had a larger support system at a regional level that helped influence some decisions and put some pressure on a Native village to go in the right direction?

MS. DEMOTT: Yes, that would be fine; but there we go again. Nepotism. Because these same people -- you know what is so sad that -- you don't -- you -- I had a mother that went to the third grade, okay? But she was smart. We have people are in the fourth grade, and they're trying to run all this stuff; and they don't even know what they're doing half the time (laughing).

So what I'm saying are those people, the same ones, sit on the -- as vice-president; they sit on the parent -- well, you know, the -- whatever -- and the same ones been doing this for years. So now what we're doing that we already got something going; and what is happening, that they're holding these -- okay, they're holding these meetings -- okay? -- illegally. I tried to warn them. I said:

"If you don't have minutes," --

I go up there, and I ask them for minutes. They don't have 'em, okay? So how are they going to help us? So we have to do this on our own, which we are doing; and they call us rabble rousers, and we're just trying to help our people.

I'm 65. I don't need this money. I have my money. I've worked hard. I fish for a living; I'm a drifter; but I'm trying to help our people; because I know, in my heart, how it is to be poor. I was there.

And I want to see education for our children. Look, it's 20 years since ANCSA, right? How many of our children, which I have asked -- I was a director from day one. I was a director and the parent -- in the village, both boards, and I have asked for scholarship grants; I have asked for many things for the elders and for our children. How many of 'em are educated now to take over here? The same ones -- now what's so sad is the same ones are sitting on the board like -- say, --

COMMISSIONER PAGANO: Julia?

MS. DEMOTT: -- that Chugach had a bankruptcy, okay?

COMMISSIONER PAGANO: Julia? I hate to be disrespectful; but, however, we have a load, and I believe you have made your point --

MS. DEMOTT: Well, he asked me a question, so --

COMMISSIONER PAGANO: -- and we've heard a lot of this; I just --

MS. DEMOTT: -- I tried to answer it for him, okay?

COMMISSIONER PAGANO: Yes, but I think you answered it.

MS. DEMOTT: Why we can't have --

COMMISSIONER PAGANO: I --

MS. DEMOTT: -- the participation of the people in the whole, okay?

COMMISSIONER PAGANO: -- I want to give the rest of the people the opportunity --

MS. DEMOTT: Yes, all right.

COMMISSIONER PAGANO: -- at least to say hello. I'm sorry.

MS. DEMOTT: It's too bad, because I could go on forever and tell you the problems.

(Laughter.)

COMMISSIONER PAGANO: I'm sorry.

MS. DEMOTT: Thank you very much.

COMMISSIONER PAGANO: I appreciate your time.

MS. DEMOTT: You're welcome.

MR. GARBER: I don't know that we'll -- testimony is getting short; but two examples of why tribal courts at a local level have a difficult time proceeding. Local communities can, and have, as you've heard, created their own tribal courts. Beyond the point, however, for a court to function, you need internal administrative capabilities, as well as external recognition. There are problems in both directions. VPSOs are not capa -- are not allowed to enforce tribal laws; that's a problem locally. Tribal judgments, except for certain limited things, aren't recognized by state courts externally; so,

within its limits, it's effective on a local; but it has problems both locally and outside the community.

COMMISSIONER BOYKO: Well then, it seems to me that one of the issues we, as a task force, should be addressing, if there is, indeed, a strong ground swell in returning to tribal courts as a way of dispute resolution, as a way of keeping the public order, what we should look at is whether or not --

UNIDENTIFIED SPEAKER: Could you speak up a little bit?

COMMISSIONER BOYKO: Yes. What we should look at is whether or not we should recommend enabling legislation to, number one, standardize the creation, the organization of the tribal courts; define their jurisdiction; provide for their enforcement; and provide for their recognition; because, here again, you see, these things seem to grow up like topsy.

What I said about -- a while ago about different competing entities, and government, and layers, and now you've got tribal courts, and you've got the local magistrate, and you've got the regional courts, and state system, and the federal system, and it -- and, again, it's a crazy quilt; and we -- it seems to me that a lot of the problems we keep hearing about come from this mushy kind of system that we've created in this state.

MR. GARBER: In this area, it's not so much a problem of mushy overlap; it's absence -- for the absence of state funding to go into local areas, and for the failure, by and large, of the magistrate system, which has become -- if there were -- there was a notion of the local Native magistrate; but now if you look at the 53 or 54 magistrates, the vast majority are White lawyers, even in rural locations.

MS. ANAGIK: Okay, can I --

COMMISSIONER PAGANO: Ellen, you had a comment?

MR. ANAGIK: Mr. Boyko, I just wanted to address that; and that deals with the Public Law 280 Statute that Congress passed -- when did it become effective here?

MR. GARBER: '58.

MS. ANAGIK: In 1958. It's my understanding that the 11th Circuit has stated that those states (indiscernible) Public Law 280 jurisdiction, which essentially deal with Congress granting to the states criminal jurisdiction in Indian country or in villages. I believe that the 11th Circuit has ruled that this jurisdiction is not exclusive; but that it's concurrent; that is, it can be exercised between the state and the villages. Now, this deals -- it's a facet that can be looked at with regard to the setting up of tribal courts -- what jurisdiction, if any, or power, do these tribal courts have, and, you know, what types of crimes will it have?

COMMISSIONER BOYKO: Yeah.

MS. ANAGIK: Misdemeanor? Felony? Public Law 280 did not grant to the states civil jurisdiction. That is in the realm of the IRA Councils, the traditional councils; so I just wanted to clarify that there is already legislation. It just has not been -- and that legislation pertains to the jurisdictional aspect.

COMMISSIONER BOYKO: Well, my question to you then is let us assume you had a given Native village in one of our rural areas; and these people, after having been exposed to the White man's system of justice in the criminal side, say:

"This isn't working. I mean, our people get dragged up to Fairbanks or Anchorage, and they wind up in jail; and they don't know what's going on. We want to establish for our community and for the surrounding communities, a system -- a functioning tribal courts that will deal with most of these issues, short of, let's say, major crimes; where you have to have some rather radical state intervention."

How do they go about it under the existing law? What do they do to organize it and to get it going?

MR. GARBER: Have we got somebody in the audience who could testify?

UNIDENTIFIED SPEAKER: This -- the older gentleman right here.

COMMISSIONER PAGANO: What?

MR. CONN: Well, one of your -- (indiscernible) you should --

REPORTER: Excuse me, you're not in front of a mike.

COMMISSIONER PAGANO: What --

REPORTER: In order to speak, you have to be in front of a mike.

COMMISSIONER PAGANO: Let's just hold on here. What you looking for?

MR. GARBER: I want to keep testimony to a minimum by Commissioners, and the maximum by --

COMMISSIONER PAGANO: Well, -- he's not up yet.

MR. CONN: Well, I'm not -- I'm just --

REPORTER: We have an entire list of people who have --

MR. CONN: All I wanted to suggest is that Martin Moore here --

COMMISSIONER PAGANO: Yes?

MR. CONN: -- from Emmonak, who's a member of your Commission --

COMMISSIONER PAGANO: Yes.

MR. CONN: -- was party to an experiment of Conciliation Boards, called Problem Boards, in the early 1970s. He and I were just chatting about it. And, within your own internal deliberations, you might want to talk to Mr. Moore.

He was a member of that, 'cause I was a university professor working with him; and he could tell y -- he can answer that question, precisely how you could grab this onto the existing state system.

COMMISSIONER PAGANO: Well, we're not deliberating now.

COMMISSIONER BOYKO: Martin will --

REPORTER: Sir, could you please --

COMMISSIONER BOYKO: Martin --

REPORTER: -- identify yourself?

COMMISSIONER PAGANO: Do you want to remove for a minute, and let's get back on track.

COMMISSIONER BOYKO: Martin will tell you, by the way, that --

COMMISSIONER PAGANO: Just hold it.

REPORTER: I need this man to identify himself.

COMMISSIONER PAGANO: Okay.

MR. CONN: Oh, Mike -- I'm sorry -- I'm sorry -- and I'm sorry for interrupting.

COMMISSIONER PAGANO: We're not going to deliberate an issue here at this time. We've got more testimony to take, and --

MR. CONN: Oh, I'm not try -- I'm not --

COMMISSIONER BOYKO: But give the reporter your name, please.

MR. CONN: My name is Steven Conn, and I'm a retired Professor of Justice at the University of Alaska, and --

COMMISSIONER PAGANO: Yeah.

MR. CONN: -- during that co -- and during that period my life, I worked with Mr. Moore --

COMMISSIONER PAGANO: Yeah.

MR. CONN: -- in the village of Emmonak on the establishment of Problem Boards.

COMMISSIONER PAGANO: (Indiscernible) it's late.

COMMISSIONER BOYKO: Martin will tell you that I tried to drag him up here when I spotted him in the audience; but he was too shy and retiring (laughing).

COMMISSIONER PAGANO: Okay, we'll debate this later. Thank you.

COMMISSIONER BOYKO: But he's a valuable source to this Commission.

COMMISSIONER PAGANO: I don't want to cut off; but next person is Paul Swetzof. If you'll come up, and keep your testimony to ten minutes.

(Pause.)

MR. SWETZOF: I hope I can take less time than that. It's -- I was just taking notes; and every time I take notes, I ramble; so forgive me. Only when --

COMMISSIONER PAGANO: I'll put my hand up --

MR. SWETZOF: -- I take notes. When I just speak, I don't ramble.

COMMISSIONER PAGANO: -- when you're finished.

MR. SWETZOF: What's that?

COMMISSIONER PAGANO: You get a chop when you're finished.

MR. SWETZOF: Yeah, chop me when you're finished (laughing). The -- first of all, I just wanted to address that one guy was up here speaking on the environment, and he found yellow pus, and what have you, in the whales; and the question that came from the Com -- some of the Commission members was, you know, how does this relate to self-governance? I w -- I'm proud that one of my relatives, Larry Merculieff, is -- has initiated a Bering Sea Coalition just to address that real quick; and that Bering Sea Coalition ex -- is suppo -- is attempting to get the input. And the membership consists of all of the villages in both the Russian and the American side -- and the Alaska side who border the Bering Sea, because the Bering Sea is pretty sick right now.

And those -- a lot of those entities that are a part of that are obviously tribal governments, and those t -- and the idea there is that: (a) traditional knowledge coming from -- come through and by the tribal government; and (b) co-management with the villages bordering the Bering Sea, along with traditional Western knowledge, because Western knowledge

is so compartmentalized. And Native people who live along the w -- who live along the ocean, tend to take a broader total eco-system-type of a view.

So that's -- and that's -- co-management concept is a self-governance concept. That was one of yo -- I think it was your question, Frank, or Bart's question, or something.

The other thing was I think the Commission needs to address the underlying problems and concerns of people; and I would strongly suggest that -- and I would say -- I don't know how you put things on the record, but I would strongly suggest that you go back three or four years and take a look at the Berger (ph.) Commission Report. I think if you're looking for things on self-governance that have to do with what's in Alaska, it wasn't a White guy from Canada trying to impose his views, that was -- it was Native people from all areas of the state, many with divergent views who came together, showed their commonality; and it was written up in a report. And the report is obviously sold in book forms. Many of you have read it. And it's "Village" -- it's called "Village Journey." I would e -- I would strongly suggest that you incorporate that book into your delib -- into your hearings, because I think that what you're -- the study's already been done for you. I don't think you need to keep running around, hearing the same thing. And I think that most of you are becoming aware by now that what you're going to hear is pretty much the same thing

that's been said over the years. I don't think that you're going to get a whole lot of variation on that; you might get some little nuances of differences of opinion, and what have you; but it's not going to change a whole lot.

The other question -- the question I really wa -- that I really wanted to address was the -- what somebody -- I think I got -- it was you, Frank, a question of the legal status of Alaska Natives as being different than perhaps -- or maybe it was Mr. Elliott there -- of the legal status of Alaska Natives being somehow different -- or questioned as being different by whoever. I think that's -- a lot of that is hype. I think that, especially under this Governor of Alaska, Wally Hickel, I think that the -- that it's presented to Congress and to other people every time he can make his voice heard, that we're not -- somehow we're different from Outside tribes, because they have treaties and we don't.

I say, I don't think it matters, and perhaps Bart and Ella can address this; perhaps Mr. Boyko can address this. It's three fine attorneys here; but I don't think that a treaty defines the sta -- defines the legal status of the federal government with Native tribes. I think what matters is the history between those tribes and the federal government.

The history of those tribes and the federal government is (a) that in '36, the IRA Act was extended to Alaska; that there -- P.L. 280, as much as I dislike that law,

you can't limit powers of somebody, without first recognizing that powers exist to begin with. Those laws, such as P.L. 280, I think, c -- I think they state clearly:

"Hey, these guys have particular power, and we want to limit that power."

And so Congress did just that; they limited a power. They didn't pull all power; they didn't pull all the -- the whole concept of sovereignty out from anybody's feet. They simply said:

"We want to limit that power somehow."

And so when you have these laws, these programs, these Executive, Congressional agency branches recognizing tribes in Alaska, you have a recognition. There's no difference. You don't need a treaty.

I think the problem is is the jurisdictional issue over lands. The Ninth Circuit in Tyonek -- and they're reconsidering their decision -- again, I don't know if Bart -- if they've come up with anything else lately; but they've said that they're -- that -- in their initial decision that the tribes, while they don't -- may not own it directly, have jurisdiction over particular lands, including corporate lands. And that was in Tyonek, Vee Puckett (ph.) Now they're considering that decision -- am I right? And they're still in the process of doing whatever it is they do with -- when they reconsider. But if that's true, if that premise holds, then

what you have is how do you con -- what's -- if a corporation, by example, in a certain area won't turn the area over to a self-governing tribe, then what you have is you have a tribe able to say:

"We'll take control anyway, 'cause what we'll do is -- by example -- is when you want to extract the particular mineral, you'd better hope that it's zoned properly by us. You better hope that -- you better -- you -- if you want to do something, you better come to us and ask, because we're going to zone. We're going to have development zones; we're going to have recreational zones; we're going to have subsistence zones; but we're going to take control of the jur -- we're going to exercise jurisdiction over that -- over those lands."

That is legal stuff that I don't know how it's going to come out. But I would suggest that I don't think there's anything in the world that suggests that we don't have sovereign powers in tri -- among tribes. And I've gone so far as to make a few people here and there, who may not like me for this, but I've gone so far as to criticize some Native people and some White people, who have, in fact, imposed -- tried to impose their jurisdiction on other villages, by running around and saying, you know:

"You do this; and you do that."

And, boy, I tell you, in Aleut region, they don't take that stuff; and, you know, every village is entitled to its own form of government or governments, as they choose.

I think that that's self-determination, and that's -- I don't think anybody's got a right, be it another -- be -- I don't care who they are -- to tell -- to walk into another village and say:

"You do it my way."

And I think -- so I guess, in a nutshell, I think that there's no question of -- the tribes exist in Alaska, there's no trust -- question they have -- they have powers; there's no question that they have many similarities to Outside tribes. The question is ownership of land; and what kind of jurisdiction do you have over those people -- that -- over those lands? That's the question that's being decided; and lobbied and everything else.

And I think that the biggest impediment right now -- and I don't know how this Commission resolves this -- to maximum self-determination and maximum sovereignty is the State of Alaska. The State of Alaska is the one running around lobbying against all -- I mean, it's -- I don't think -- every time a decision is made, it's a pol -- in Washington -- it's been more of a political decision than a legal decision. And so I don't think you have to question whether or not sovereignty exists.

And I don't really have anything else to say about that, it's just -- I would like you to, however, to put that -- the Berger (ph.) Commission report on the record for this Commission; because I think that a lot of co -- a lot of people have spoken; and I don't know why you want to do it again.

COMMISSIONER PAGANO: Do you have a question or a comment? Ella?

MS. ANAGIK: Not at this time.

COMMISSIONER PAGANO: Do you have a comment or question?

MR. GARBER: No.

COMMISSIONER PAGANO: Father Elliott?

(Pause.)

Mr. Boyko?

COMMISSIONER BOYKO: I'll save it for later.

(Laughter.)

COMMISSIONER PAGANO: Thank you, Paul, for your testimony.

MR. SWETZOF: Thank you.

COMMISSIONER PAGANO: Next one on the list, you have a Al Nakak, or something to that -- Al Nakak.

(Pause.)

Limit to ten minutes, please, and. . .

MR. NAKAK: Thank you, Mr. Chairman, and I appreciate giving the opportunity to speak to this group; and let me pre-

state that I appreciate the high honor and integrity that Mary Jane Fate brings to this prestigious group of people.

My concerns go back, well, my whole lifetime. I've wondered ever since I was about four years old why things were the way they were, and started trying to come up with solutions as the barefoot kid from the village.

Let me also state that I've served in many different capacities, from just being a foot soldier, to being a council member in the village, or a tribal council member, or task board member of village corporation, chairman and president of the village corporation. I also served in the Legislature in 1977-78, from the Nome district, so I'm real familiar with the litany of problems that all of our communities have, not only in our region, but statewide, and the impact that the state and federal governments have on them.

I have attempted to present a basic solution to the issues which St. Michael faces; and my solutions are based upon the only asset we have; and the asset that St. Michael has over any other community in our area, or any other part of the state, is our geographical location. Historically, from when our people went there, it's because of its protected harbor. Our people are called the tutchuq abute (ph.). Tutchuq (ph.) in our language is big bay, and we are the people of the big bay -- St. Michael Bay. It's a natural island, separated from

the mainland by a natural canal. Two communities reside on that island: Stebbins and St. Michael.

We just got a \$10 million road project completed about two months ago, connecting Stebbins and St. Michael. Stebbins has a little bit over 500 people; St. Michael has a little bit over 350 people. That includes the transient population of the people who come to teach in the schools and then leave for the summer, or whatever. I mean, I'm hoping that, in the future, more and more people are local teachers, and so they'd be the resident population, as opposed to the transient population.

We are starting a 5,000-foot heavy industrial airport next year. We have \$4.2 million to start that project. St. Michael also has dedicated a thousand acres to serve as an industrial yard for the Port of St. Michael; and we've been contacted by -- I've been in contact with an outfit called Gana-A'yoo. It's five Interior villages: Anvik, Grayling, Kaltag, Nulato, and Galena, who have 500,000 acres of harvestable timber. They need a seaside contact point from which to export that material.

The federal government has promised to appropriate approximately \$225 million a year for the next five years, or six years, to address transportation issues in the state of Alaska. One of my solutions is an 80-mile haul road from Grayling to the coastal port community of St. Michael, our

industrial yard, where local people from those five communities and St. Michael could be the truckers who haul out this harvestable timber, as opposed to putting it on a barge four months out of the year, and then not be able to work the rest of the year, because the river is frozen.

St. Michael's harbor has one-year ice. We've had ice-breakers in the Norton Sound and in the Bering Sea. If the traffic was such, it's conceivably possible that the four- or five-foot thick ice could be broken to haul any of that material to Korea, or to Japan, or wherever the market desired. It's also conceivably possible that the St. Michael harbor, the industrial yard of a thousand acres and all its supportive services, could serve not only the Bering Sea in the community development quota of Bering Sea fisheries, but increase traffic through the Bering Sea, the North Pacific, and into the Arctic Ocean, whether it's going toward Canada or toward Russia.

As I stated, the assets St. Michael has is its geographical location. The component parts are a heavy industrial airport, a heavy industrial dock and yard, roads connecting it; and, in the future, we could connect further; but my answer to those other five communities, which have the harvestable timber, is connecting them on the north side of the Yukon, so that they are able to haul out their harvestable timber; thereby creating our own economies.

There are a myriad other issues, which I'm sure you've been bored stiff with, even though they're critically important. I proposed an issue such as beach and bank reclamation several years ago, where all the commercial traffic from a hundred years ago from White Horse, Yukon Territory, San Francisco, and Seattle, and Portland that went into the St. Michael harbor to serve the needs of the Nome gold rush, many of those ships and boats, which were my playground, now pollute our harbor and bay. As a child, they were my playground; but now they're wrecking our boats; and now that all the commercial activities have made their profit, they left their mess there. And one of the projects I proposed was beach and bank reclamation. You know, a nice big bulldozer; a nice big forklift; a lowboy; and give me five or ten years to clean up all the beaches. And I could clean up the rocks and reinforce the banks along the shore.

Last week, we had a big storm; and, for us, a big storm is 70 miles an hour. There were about 18 boats lost -- wrecked on the rocks and on these old steamboat sternwheelers, and about 20 feet off the banks of St. Michael on the shore. It's not so much the erosion from the storm that's a problem, it's the secondary erosion after that happens, because the erosion that happened from the storm was what was essentially the tow of the slope that was taken away. Now the tow of the slope is taken away, the rest of the banks are going to erode;

and then, after that, the s -- the ground that supports the homes on top of the banks are going to start falling, thereby creating another problem.

We've addressed the issues of development and economy by removing land acquisition as an artificial barrier. In other words, if either the federal or state government had the financial wherewithal to do a project, we just threw the land at it. In our opinion, at St. Michael, it's ridiculous to own 115,000 acres of land and have nothing happen, so in the case of the 5,000-foot airstrip, we've essentially put up 450 acres so that the state, in essence, is embarrassed into spending \$5 b -- \$5 million to build a 5,000-foot airstrip.

In a -- when I had a moment this morning, I told Senator Stevens, who has his hands on the purse strings of the Appropriations Committee, you know, I'll probably need another \$2 million to make it longer, so that I can serve an even greater need in the area.

We've -- historically, ocean traffic has gotten into St. Michael, and because of our natural harbor, we have less of an expense to --

COMMISSIONER PAGANO: Well, you've had ten minutes, if you could wind --

MR. NAKAK: Yeah, okay, fine. I'll close up. Anyway, transportation, I feel, is the critical mode here; and we're offering to participate.

COMMISSIONER PAGANO: Any questions, Ella? Comments?

MS. ANAGIK: Bart, do you have --

MR. GARBER: In St. Michael, in your region, including (indiscernible), do governments: tribal, municipal, state, or federal, and their relationships cause any impediment to your development plans? Are there any things in those areas that could be improved to help you with your goals?

MR. NAKAK: Well, if you called the low lands' legislations -- wetlands or the plethora of governments and their agencies -- you know, a DEC man comes from Nome, and he says:

"No, you can't that" --

but a Commerce man says you can. Therefore, because there's a disagreement, you can't. Those are some of the things that we run across. I mean, we've survived by gosh and by golly, because there have been persistence efforts -- persistent efforts by individual people to work through problems; but, yes, the plethora of governmental offices and agencies are, in essence, an impediment to our villages progressing (laughing).

Fur -- there's no doubt we can work through something; but I'm of a mind that, if I can do something in 40 minutes or in two hours, if a governmental entity is involved, it'll probably take eight months, so. . .

COMMISSIONER PAGANO: Do you have any?

MS. ANAGIK: Just one question here. Thinking international as you're speaking, 'cause you mentioned Siberia and Canada in regard to import/export, who's looking into that -- into the regulations, or are they falling into place just --

MR. NAKAK: No, one of the things I did prior to dedicating this was, number one, I -- since our stockholders own the property, I got their permission, and they approved us dedicating it. After I got approval from the stockholders to dedicate this thousand-acre industrial yard, then I contacted the United States Coast Guard Department, Department of Commerce, and all their people, and I asked a series of about ten questions. As a matter of fact, I wrote to the President's designee of Transportation, who was Andrew Card (ph.) at the time, and then he delegated his supernumeraries to answer each of the questions I had, with reference to regulations and funding possibilities.

COMMISSIONER ELLIOTT: Just one quick question. Since St. Michael is at the mouth of the Yukon, and Grayling is on the Yukon, and to avoid wetland controversy and so forth with the haul road as you propose from Grayling to St. Michael, what is the advantage? Why not float the barge or otherwise to the Yukon to the mouth to St. Michael?

MR. NAKAK: The correction is St. Michael is 60 miles north of the Yukon. We're the first protected harbor in the

Bering Sea -- north of. The argument against shipping by barge is you're limited to four or five months of operation. The haul road, it can be a year-round operation; and local people from Galena, Nulata, Kaltag, Grayling, Anvik would be employed in that activity on a year-round basis; St. Michael, again, being a frozen harbor four or five months of the year.

The reason for the thousand-acre industrial yard is if we needed 200 acres to stockpile material over the winter, we could do it; and then the Korean barges -- ocean-going barges can come -- or the Japanese barges can come into St. Michael in June and then operate through October.

COMMISSIONER ELLIOTT: Thank you.

COMMISSIONER PAGANO: Okay, I thank you for your testimony.

MR. NAKAK: Yeah.

COMMISSIONER PAGANO: I appreciate the time.

MR. NAKAK: I appreciate your time also, and I'd like to, again, thank Mary Jane for inviting me to participate.

COMMISSIONER PAGANO: The next one is Stanton Katchatag?

(Pause.)

MR. KATCHATAG: I appreciate this time. The only thing that I'd like to remind you is that the issues locally and the issues statewide, I think, should be taken care of on that basis. Since you are limiting time, I feel like being

denied in talking about just one special area. I don't have anything in general. I've already spoken in Nome; but I'd like to touch on the categories that this body has been created for; and to do this, I think, just for your information, briefly I'd like to give you a little background, which I hardly ever do.

I'm the Chairman of Kawarak Board, which is the non-profit arm of Bering Straits Native Corporation within that region, and it's comprised of 20 villages -- or 20 communities. I also serve in the Norton Sound Tel -- Corporation Board on the health issues. I'm also a member of Eskimo Walrus Commission; and that deals with a lot of marine mammals and subsistence issues. And, as far as tribal issues are concerned, I'm also in the committee of the formation of Inter-Tribal Alaska Councils, which is a statewide tribal organization that we need so badly here in Alaska. And under education, I serve also in RURALCAP, which deals a lot with Head Start programs, who are throughout the state. And I also have served in the IRA for the last five consecutive years as president; then prior to that, I have served on and off for quite a number of years.

And my big concern is dealing with this after-born governments and trying to evaluation our government as tribal governments and finding it difficult to understand why the grandfather governments, which are the IRA and Native tribal governments, are being undermined by so many of these after-

born governments. These are my concerns, and I have prepared, and I'll try to just read it quite fast if I may.

Mr. Chairman, members of Alaska Natives Commission, special guests, spectators, ladies and gentlemen, my name is Stan Katchatag, as I stated before, of Unalakleet, Alaska, chairman of Kawarak Board of Directors in my region. I have the honor to appear before you once again to welcome you to join us as identified Native leaders, federal, state, and all agencies to deal with the problems that seem to become even more destructive and widespread. In spite of the fact that experts, professors, politicians, and bureaucrats point to the technology of this day and seem to say:

"Wait a minute, old mother, grandpa, or feeble old man, we can put your problems in this gadget; and this machine will tell us how we can solve your problem and find solution."

Does it work that way? I doubt very much it will work. It might seem like it would, because health, education, economics, governance, social, or cultural, you name, it, remember this matter can be fed into the computer, and you will read the feedback of this machine. That don't happen. It's not happening.

The problem in health does not seem so much aware of modern technology today. Health issues are not just diagnoses of disease, or prescriptions for that matter. There are other

matters involved increasingly, such as lawsuits in connection with health, and they are all health related. Insurance, Medicare, Medicaid, and many other regulated problems and issues, not to mention modern eye care, hearing, cancer, TB, AIDS, and other epidemics that we see today.

Education has more than its share of daily problems. Here also the education seem to weigh even more of where and how they could gain benefits to themselves. I'm talking about the professors and teachers. Or popularity. From all sides of the population, whether the area be small or large, in some cases, the matter of this most important issue become just another steppingstone to reach under the step, under the ladder of one's own ego or self-value. This, to me, is misuse in preparation for the only resources to take care of our problems of tomorrow. Our children are our future. If we must survive, they must be prepared to meet the challenge of tomorrow.

Economics have effects in all directions, wherever people must meet their everyday needs. Whether it be at home, community, region, state, or the nation, I strongly believe the weakness of the issue has reached out in political arena this election year. But the bottom line hangs dear on who is going to change the course that this issue is hanging on, and structure the management where it will have positive, effective, rather than negative effects. In short, who is capable to oversee the overhaul, from the White House to each

level of the ladder of livelihood, from teenage pregnancy to the final resting cushion of the pioneers.

Governance is something that we're not in lack of today. What is lacking is working relationship. Neither are we lacking laws and regulations; we are lacking commitment to enforce the laws to the point of honest approach to prevention of repeated crime. This, to me, is only penalty beyond all reasonable doubt. Our government was meant to govern the people of law-abiding citizens; but was also obligated to punish, but not penalize the criminals in all walks of life, without classification or classified mercy.

Finally, social and cultural matters can best be dealt with in local level. The system today make this wide open for fake and dishonesty. For example, on social side, who benefits? Where is social assistance going? Who are the bingo-holics, food stamp recipients, (indiscernible), we can go on and on. On the other hand, cultural handicraft can produce and be manufactured anywhere in the world.

In closing, I want to welcome you to join us as Native leaders in our state. And I thank you very much. I'm not looking for questions. This is jus -- these are the points that I'd like to give to you. Thank you.

COMMISSIONER PAGANO: Did anyone have any comments?
Thank you.

CO-CHAIR FATE: I'd like to make a comment. I want to thank you so very kindly for what you have provided us with today, because it seems like it's the basis to a lot of what we're -- why we're here -- a lot of our problems; and you said some solutions in order that we're going to look at very clearly; and if we have any further questions, we could write to you.

MR. KATCHATAG: Thank you very much.

CO-CHAIR FATE: Thank you, Mr. Katchatag.

MR. KATCHATAG: Before I go down, I wanted to pass you my card. (Indiscernible -- speaking away from microphone.)

COMMISSIONER BOYKO: Thank you, sir.

COMMISSIONER ELLIOTT: I remember you from Nome.

MR. KATCHATAG: Yes, you -- thank you. And I thank you all.

COMMISSIONER PAGANO: Next one on the list is Myron Naneng. Is he here?

(Pause.)

Must have left, huh? How about Charles McKee?

MR. MCKEE: Right here.

(Pause.)

For the record, my name is Charles McKee, and I'd also like to say that I have a lot of documentation in front of me that will substantiate what I am about to say, in which

case everything resides from ye sons, ye holy vibrations, hallowed be thy name, know thy kingdom come.

I've been studying American history and how we've dealt with the indigenous people of the United States, and it's very painfully clear that what happened over in England, the people that came to America were not conformants to the tyranny there; they just wanted to get away from it; and they weren't the party -- along with Christopher Columbus, I might add -- they were followed that sergeancy.

I have here handouts that I'll pass on; and it's -- Texe Marrs, he authored this book called "Dark Magesty," and he talks about the "Illuminati." Now, this is a sinister group of Satan -- they praise Satan for whatever reason; and they infected Freemasonry. What we have is nepotism of a cult programs here infecting the United States; and I gave these people a chart as to who controls the money in the United States; and I also gave them a chart of the Masonic Order, the York Rite, and the Scottish Rite. I have right here a 33rd Scottish Rites Mason book that I found. It should have been destroyed. I have what they call the Blue Book Lodge book.

CO-CHAIR FATE: Sir, where do you work?

MR. MCKEE: Ma'am, don't in -- I'll --

CO-CHAIR FATE: I just wondered if you could --

COMMISSIONER PAGANO: Just a minute (indiscernible -- speaking simultaneously).

MR. MCKEE: All right, just wait. I'll answer that.

CO-CHAIR FATE: I know, but I was wondering if you could bring out your most top priority points.

MR. MCKEE: I'm getting to it. I'm getting to it.

CO-CHAIR FATE: Okay.

MR. MCKEE: I have to lay the foundation. Now, I only got ten minutes. Now this book was authored by a Mr. Pike; and wouldn't you know it? He was the founder of the Klu Klux Klan. Albert Pike. Right here in this paper.

And here I have paper money of the United States from colonial to the present day; and what happened was the founding fathers established original Treasury seal, which I have here, the coupon I made -- a redemption coupon with the original Treasury seal. What we have on our current money today is not legal, so what they paid you for the -- the billion dollars for the ANILCA land settlement thing, the billion dollars was illegal money. So what I did was I produced redemption coupons, 600 of them all together, and I would like to make out a redemption coupon of a billion dollars and give it to the Native villages. One copy stays with me; one copy goes to the people of the Native villages; and the hard copy -- it's like a money order -- goes to the Treasury Department. They have to reissue greenback dollars. It's not the type of money you can put into a savings account and collect interest off of it. It's grant money. It's to be used; to be spent on

infrastructure in the villages that you need, and you don't have to pay nobody for it, and no interest. So, you use it like in a checking account, rather than putting it in a savings account and expect it to draw interest. It -- get away from the usury aspect.

We've got a \$4 trillion deficit; and, I might add, that's their total in -- interest is en route to global occupancy. They -- occupation. They want to destroy any form of self-determination, period. They want to do away with the United States nation sovereignty in itself. They want to go -- this One World Order is just that. They want a corporation of all resources, and people are considered a resource. They are not people, they are all actually a number; and this is the information I want to expose these people to.

I have the redemption coupons printed up. What I did was I was inspired by the Creator to come up with the mathematics of eternity. The Creator when light emerged in universe and then created the earth, heaven --

COMMISSIONER PAGANO: Charles, you have one minute left.

MR. MCKEE: One minute left. And so what happens is I established -- I got the copyright on this. I talked to professors in physics -- and she can sit there and laugh all she wants about it; but the fact is is they approved that fact

that this is a proper math for quantum mechanics and mathematics of eternity.

My -- I may add, the Alliance Civilization, their core life was the mathematics of eternity; but what I did was I established the original Treasury seal along with that, so when I incorporated the copyright, that was included; so I can reproduce the original Treasury seal along with the math; and so they have to recognize that. And that's what we need to do is reestablish their financial equality and equity, and get 'em -- get the money into their hands and out of the corporate hands, so they can buy back the land that was sold for illegal moneys; or keep them from selling their land. And I'd like to offer that assistance, if I may?

COMMISSIONER PAGANO: Okay. Thank you for your testimony. Is there a Nastasia Marshberg [sic]?

MS. WAHLBERG: Wahlberg.

COMMISSIONER PAGANO: Wahlberg? Wahlberg, sorry.

(Pause.)

MS. WAHLBERG: Thank you. What I'd like to speak on is, since this issue of tribal sovereignty is a continual question, and my feelings; my -- from my observation, and studies, and examining what it means to be sovereign and be exercising it, what I feel and what I'm going to say, I'm not trying to be pompous, but I am exercising my right as a sovereign tribal member. I'm exercising it, because I believe

it's working; it's being exercised; and it's working. It's not defined; there's nothing written in there; but I don't see why we have to have the federal government, although it has plenary powers what has been kind of a problem with us in the past, that we don't need to have someone define it for us.

Therefore, I'm speaking as an individual with those tribal sovereign powers; and I realize, for Western civilization, they wouldn't recognize it; but my people would. My people are from the Yup'ik nation area. I'm from Bethel. I believe, as far back as my history -- as far in history I can go back on -- even going back to oral history from stories that I have heard, it's gone back as close to prehistoric times. You know, anthropologists may argue about that, but they're scientific, that's no -- it's kind of irrelevant for me right now. What I'm saying is I really hope you'd recognize this is that the thing is that with our people, we're kindly asking to have this equal status with the state to exercise a style of government that we have a right to. We have that right.

From the beginning of the first intrusion of the Europeans with Columbus, the reason why they entered into treaties were because they were afraid, because they needed this agreement that they would be protected by the Indian tribes within that surrounding area. Okay. As history advanced, and as the population grew, the few changed into something where the tribes were considered being in the way.

So the relationship changed, and the treaties were made to put people away into reservations, where that status, it was not the choice of the people.

I -- therefore, I believe, and I'm exercising on those premises; because where the United States could not define it in some past laws, as you might have through Georgia versus Worster (ph.) -- Rooster (ph.) rather; that they defined some degree of relationship -- began to define it; but those are just their definition. That's the federal government's vague beginning of entry of relationship between the tribal people and their government.

I believe that we have that authority to define that; and in recognition of that, that we mandate the Congress on an equal basis and look at it; and ask to have them define ANCSA lands as boundaries defined for Indian country.

There's been some technical quandary over that, you know. Where -- because of the fear of having this governmental sh -- right being shared, state governments have historically tried to boost out tribal governments as in Lower 48. But I'm hoping that, with the 20th Century, and us going into the 21st Century, that we as a human being people, that regardless of our race, and regardless of our positions, that we start getting into a different frame of mind; that we can, if you really do believe in equality, if you do believe in the sharing

of government, that people do rule their own govern, that those be honored; that those words be honored.

Don't get so caught up in the little nitty gritty stuff that you guys have to think that, hey, if they get tribal sovereignty, that means, you know, we -- they're going to overpower us. That's a fear; that's a continual fear; and what my concern is is as we go along, and as you've heard testimonies all along, people want the right to govern themselves, so they can take care of their own affairs. They have that right. They want that for their children; they want the future. And once this basic ethic and moral thought is in place, you can argue about the little fine stuff; but I feel that this Commission needs to recognize this stuff. I don't give this Commission any power or any authority. It has powers to probably to just recognize and expedite some things that the people are working on. They recognize their own tribal sovereignty.

Some examples that I see in exercising our -- the local-option laws that goes in line with the federal line in -- originally where it came from 18 U.S.C.A. 1154a, okay? That, along with the state's local option law that was passed, that's being exercised. The Indian Child Welfare Act is being exercised. Under P.L. 93-638, Indian Self-Determination Act, is being exercised; and contracting of schools is being exercised; although other human services, health services,

that's the way the people are trying to exercise their tribal sovereignty; to exercise their right.

And I recognize it; so, therefore, you kn -- you recognize it. I don't -- I can't even ask you to recognize it. I want you to recognize it. I'm just pointing it out to you; and I'm normally an easy-going person; I'm -- but I feel that this is a -- kind of like a technical area. We're walking on areas where you talk about powers. If I believe it, and the people in the villages and regions believe it, they need to say this more. I'm exercising it; therefore, it's alive and well.

And I'd like -- I liked Stan Katchatag's language, where when he was talking, he said:

"Join with us."

I believe in his words strongly; and I believe in that type of -- those type of thoughts and words strongly, because, for one, in our past we've tried to work cooperatively. We even ask and stuff; and we've always tried to leave it -- okay -- to the federal government; try to leave it with the state; and it's over there, and it never works out.

It's -- but, I think, there -- with some good intentions, especially with the federal government's part, some good intentions are there; but these have to be recognized within the state of Alaska, that this is a form; we are exercising it. And if there's question over it, just because of ANCSA, then there should be a mandate to Congress and to the

Secretary of Interior to define ANCSA lands as boundaries for Indian country -- defined as Indian country, 'cause it --

REPORTER: Off record.

(Tape changed to Tape #5.)

MS. WAHLBERG: Okay, I think that was it.

COMMISSIONER PAGANO: Okay. Ella, you have any question or comment?

MS. ANAGIK: I do have a comment, and, I'm sorry, what is your name again?

MS. WAHLBERG: Nastasia Wahlberg.

MS. ANAGIK: Nastasia, from what I hear you saying, that is your voice, you want recognition by this body, or this task force, for tribal councils and their governing powers? Is that the. . .

MS. WAHLBERG: Well, I have to talk from a basis of not being recognized; because I recognize it. I'm a Yup'ik, and I'm also Alaska Native, and I'm also Native American, I'm also an indigenous person; and I'm not asking anybody to recognize it for me. I recognize it, because these are inherent powers of my people -- of all the Alaska Natives and Native American people. These are their powers. They don't need to be recognized by the state and federal. They're already recognized. However, defined or controlling, either parties to be about it, I want it stated, for the record, in these hearings that it is so, because the more we speak on it,

you see, and if we leave it up to the federal government to define it for us -- I heard someone say that we got to ask Secretary of Interior define tribal sovereignty. No way. No way. We define it, and they deal with it. It's got to be on a government-to-government basis. That's where the basis is. That's where the powers are.

And I just wanted to be -- have it stated and recognized for the record that this is the way it is; this is the way it is in our country; whether the federal government or the state does not recognize it or not, this is the way it is. Thank you.

COMMISSIONER BOYKO: I have a question.

COMMISSIONER PAGANO: Bart, did you have one?

MR. GARBER: No.

COMMISSIONER PAGANO: Okay.

COMMISSIONER BOYKO: We received a mandate to look into and come up with recommendations on the subject of problems and programs affecting Alaska Natives; and I think the understanding is that there's a general consensus that there are serious problems: health, education, economic, political; and that the programs which have been devised to address them don't seem to be working very well. And so we are supposed to come up with some wisdom, after listening to everybody, you included. And I know all of us take that very seriously.

And what I hear you saying is we are what we are. We are an ethnic group of indigenous Americans; that we have our own sovereignty; and whether you agree with that, or recognize it, or tip your hat, or fly the flag, we don't care; we know where we are. Don't tell us; don't recognize us.

I respect that. But I want to ask you a very hard question. What -- as you sit here, what do you perceive to be the role, vis-à-vis Native Alaskans -- Native American, of either the federal or state government? What are they supposed to do? Just -- to borrow a phrase from the Reagan/Nixon years -- benign neglect? Just let you be, and let's go do something else?

MS. WAHLBERG: No, I'm not saying that. I'm not saying that to ignore or to let be; but what has happened through history is that whenever Indian tribes progress -- okay? -- there was a -- some education done right in the beginning of the earlier years, okay? The Chickasaw and the Cherokee nations started progressing in the education area. First they were separate; first they were behind; but then they start advancing, and they became private. Their education became so far advanced over the pioneers during that time. They were good; and then, because there was some threat -- there was some threat this other tribe, people were more -- becoming more advanced, that they took away those rights. They

separated them; put 'em up in reservations; put 'em up in -- separated them. Okay?

A Lockman (ph.) case. There's the Cherokee nation, where -- there -- became very advanced. They took on what the initial forefathers -- I guess, the White forefathers were -- had initially wished that they did this, so that they could become Westernized, and progressive in farming, and all this stuff. Yes, the Cherokee nation did do that. And the White settlers became threatened by that progressiveness again and tore that apart. So history, there's been the Determination Act; there's been the Daws (ph.) Act; and (indiscernible) -- you know, the Trail of Tears into a lot of things. Even with the Indian Civil Rights Act, heck, you didn't have any rights unless you were a citizen; and you weren't a citizen if you weren't civilized.

We're all considered savages, you know (laughing), so, you know, what we're saying is we enter into this -- we need to enter in this as human. We first recognize our humanness; and back to the old basics. That's the problem with this forum. The Congress and the Presidential race now, the people are disillusioned -- a little too much of that; get back to our humanness first; and then deal with it in good faith. You know, it's -- it's -- there's too much sidetracking.

I'm not sure if I answered your question.

COMMISSIONER BOYKO: Partially. Well, we'll take it up again some other time, hopefully.

MS. WAHLBERG: Okay.

COMMISSIONER PAGANO: Do you have any other questions? We thank you. Appreciate your --

MS. WAHLBERG: Okay, thank you.

COMMISSIONER PAGANO: -- testimony. Thank you. Next one is Mary Ann Mills?

(Pause.)

MS. MILLS: My name is Mary Ann Mills; and I'm sorry if -- I've got a bad earache; and (laughing) I'm not very well prepared; but I'm from the Kenai Peninsula, and I'm a council member for the Traditional Tanaina Tribe. And we have many concerns regarding our rights and regarding the United States.

We feel they have a poor record when it comes to their indigenous people, both in Alaska and in the South 48. We feel that the Native Land Claims Settlement Act was done illegally and under fraud and deception. Some of our finding are based on what was left out of the Senate sele -- or out of the Federal Field Commission, who was mi -- mandated by the federal government to find all of the logs -- laws pertinent to the ownership of Alaska; and they left out the Senate Document 152, known as the Kozlitzof (ph.) Memorandum. This document shows that the title of Alaska belongs with the indigenous people; and when the Senate Select Committee was a -- or when the

Federal Field Commission was asked why they left it out, the Chairman said:

"For political realities."

We feel that this was a violation against our rights; and we feel that a government's, just the same as a family, cannot be based on lies, fraud, or deceit. It's very destructive; it will not work.

There are many policies over Alaska; there's many universal treaties over Alaska and the indigenous people, in which the United States was to protect our lands and to protect our people, until we were up to our own self-governance; which we feel we are at this time. We've seen what's transpired under the federal government system, such as the pollution with the nuclear waste sites.

There's also a document called the United States Arctic Research Plan, which was done by a Public Law, and it covers Alaska. And in this Arctic Research Plan, they refer to the indigenous people as a research project -- an extensive re -- health research project that will benefit other populations. We feel that this is clearly -- we are being used as guinea pigs; and we feel that these are rights against our bodies.

We also have documentation from children who were in the -- well, in particular, some were in the Anchorage School Districts; and, for some reason, Native children only were just

pulled from the classes, given a mass hepatitis B immunization that was for all Native children and adults; and many times without parental consent or even parental knowledge. We feel that these are violations against our rights as individuals. We feel that we are responsible for the bodies of our children, and that the decision-making should include parental consent.

Subsistence is a number one priority. As most people know, the indigenous people throughout Alaska have the highest disease rate, the highest poverty rate, the highest suicide rates, the high -- the chance for economic development is practically nil. It was only given to a certain segment of our Native populations under the Native Claims Settlement Act. We feel that our rights, in general, whether they are physical, economic, have been violated; and we feel that we are prepared for our own sovereign governance, and we have asserted our sovereignty; and we are asserting our tribal courts.

The problems we have with the tribal courts is that we cannot get the state or the federal government to recognize them. They -- we have been told when we testified at subsistence hearings and other hearings that we are second-class citizens, and that it's not their problem; but that's the way it is with the indigenous people. We feel that this is our land; and we are doc -- we are chartered the -- the Tanaina tribe is chartered under the Doctrine of Human Rights. We know the truth of the laws; and we are not here to take anybody's

rights away; but rather to protect those who wish to integrate peacefully into our tribal communities.

Also, with this Commission here, we do not give you consent, nor do we give AFN consent to represent us in any governmental decisions. That stays with our people, and with the decisions coming from our tribal governance.

There are a lot of concerns that we have, and we feel that the federal government and the State of Alaska has been very, very insensitive to the needs and to the problems of the indigenous people. We s -- we can see even since the Native Claims Settlement Act, a high increase of various problems, from social problems, to physical problems; and we are concerned.

And we would just like to make these comments known to -- that AFN, the Alaska Federation of Natives does not represent us. They are Alaska Federation of Natives, Incorporated; and the Alaska Federation of Natives, Incorporated, represents the corporations. They do not have the authority to represent tribal governments; that belongs to each and every sovereign tribal government.

And we also know the difference between the tribal governments, like the Cook Inlet Tribal Council, which is a state-chartered tribal governance; and we know that they are subject to, not only federal law, but state law. We also are -- know what the Indian Reorganization Act Governments are -- the IRAs. They are basically corporations to the

federal government, and they are not sovereign, and they are under federal law. We also recognize our Traditional governments, those being of our culture from time memorial. These are what we consider legitimate governments, holding full sovereign authority over our land.

And I know we have a short time, so if -- I'll take questions at this time.

COMMISSIONER PAGANO: Ella, you have any comment or question?

MS. ANAGIK: None at this time.

COMMISSIONER PAGANO: Bart?

MR. GARBER: And when you speak of legitimacy of the tribes -- traditional ones, how do you determine the legitimacy of the Tanaina tribe that you represent --

MS. MILLS: Well, the tr --

MR. GARBER: -- as an example?

MS. MILLS: As an example, we know that we are entitled to our own governance. Now, we can put restrictions on us, or we can not put restrictions on us. The last chief of the Salamatof (ph.) and the Kenaitze people, when she understood what was happening on the Kenai Peninsula, she was one of the people who said:

"We must do something. We must go Traditional. We are qualified for this."

And so it was done in regards with Reka Murphy (ph.) who was the last known chief on the Kenai Peninsula. We know that by doing this, we can -- when we let -- give others -- our other people the information that we've had the opportunity of spending years to research and understand, that they will also be protected, and their lands will be protected by this. It was done prior to 1986, in accordance to the provisions under ANILCA; and that's when the whole state of Alaska was filled by sovereign tribes throughout Alaska, until the educational -- until people understood what it is that -- what our rights are, and what it is that we can or may not give up; depending on us. But we need time to get the information out; we need time to discuss things; and we feel that that -- whether you are a tribe or a person, these are individual, as well as communal, rights.

MR. GARBNER: Thank you.

MS. MILLS: You're welcome.

COMMISSIONER PAGANO: Do you have any questions?

COMMISSIONER BOYKO: Briefly, if you could write the findings and recommendations of this Commission that we're going to be asked to give to the President, and to the Governor, and to the Congressional committee, on the issue of Native Alaskan governance, what would you want us to say?

MS. MILLS: Well, first that we should be not considered second-class citizens, and that we do have a right

to our own governance, and these are things that has been clouded over, maybe through the educational systems, or through the mission schools, whatever has come in to mis-educate our elders -- many of our elders and many of our younger people. And that in the true spirit of human rights, that Public Law 100-606 be followed. We -- and that our rights as human beings are our first priority; and our rights to our land is first priority.

COMMISSIONER BOYKO: Now, with respect to the rights to the land, I'm sure you are very familiar with the history of the Alaska Native Claims Settlement Act.

MS. MILLS: Yes, I worked for AFN during the time.

COMMISSIONER BOYKO: I had the honor and the privilege to represent, among others, the Kenaitze people, with -- vis-à-vis the settlement negotiations. I will tell you very quickly that I'm not at all deliriously happy with the outcome of those negotiations, and the legislation which followed; but it was a settlement arrived at by representatives of various indigenous groups, tribes, organizations, (indiscernible) including the Kenaitze, including the people in the -- from Kodiak Island, which I also represented --

MS. MILLS: Uh-huh (affirmative), yes.

COMMISSIONER BOYKO: -- and it was, eventually, agreed to. So, how do you get around that?

MS. MILLS: Okay, George Miller, who at the time was very instrumental in Kenai for the Native Claims Settlement Act, is now on the council for the Traditional Tanaina tribe; and when he understood that information was withheld that would have a bearing on his decision, he felt that what had happened -- he was cheated, and what had happened was wrong. Another thing that most people know in regards to federal law, if we want to go federal law, Public Law 280 is -- in order for the indigenous people to have relinquished or given up any rights, there had to be a vote of all adults, and this had to be done by the Secretary of Interior; and, of course, it was not.

COMMISSIONER BOYKO: All right, thank you very much.

MS. MILLS: You're welcome.

COMMISSIONER PAGANO: Mary Ann, do you have any questions?

(Inaudible response.)

The next one is Dalee Sambo.

(Pause.)

MS. SAMBO: Thank you very much. I think I -- am I last on the list here?

COMMISSIONER PAGANO: No, we have one more.

MS. SAMBO: Oh, okay, okay. At this point in time, what I'd like to do is limit my comments to the Alaska Native Review Commission Project; and the other comments that I have

related to governance and the right of self-determination, I'll go ahead and withhold, and try to relate those to the entire Commission, which I understand is holding hearings tomorrow morning at 9 a.m. As well, maybe people will be a little more alert at that point in time, hopefully.

First of all, after hearing the earlier discussion, I must make it clear that myself, as an indigenous person, am not an ethnic minority. Ethnic minorities are very distinct and different from indigenous peoples. Indigenous peoples recognize the collective dimension of their rights; and this relates specifically to the political right of self-determination. Indigenous peoples also have land rights that are inherent out -- often. When I use the term distinct, I mean distinct from others in society; and that I'm not merely an advocate for Native human rights, with the desire or the aspiration to be equal to other Americans or other ethnic minorities who make up society in America; but more specifically, my advocacy work is -- or the path leads to recognition of the distinct status and distinct rights of Alaska Native people, as well as indigenous peoples around the world.

I think back, when you hear the terms ethnic minority, to what Brooklyn Rivera (ph.), the Mosquito Indian leader of the Mosquito, Sulu, and Rama (ph.) Indian people of

the Atlantic coast of Nicaragua said to the Alaska Native Review Commission that:

"Ethnic minorities run restaurants; that indigenous peoples have land rights, have rights of self-determination; have hunting and fishing rights."

So I think it's really important to make that distinction, because Alaska Native people are not merely seeking equality in the way that Black people are, or Chinese Americans are, or others in society; but more specifically, we're seeking distinct recognition of, and respect for, our inherent rights as indigenous peoples; which are merely inherent in our legal status as Indian people, or Native people, or whatever each respective tribe chooses to call themselves.

I think it's a really important distinction that must be made; and, again, it doesn't go -- it doesn't apply merely to Alaska Native people; it applies to all indigenous peoples around the world. At the international level, there has been some development related to the definition of indigenous peoples; and it's very, very clear that the international legal community, or the world community generally, makes this distinction; and I think that it's important for the Alaska Natives Commission to make this distinction as well. Because, again, it's not equality that we're seeking; we're seeking recognition of and respect for our distinct rights, which are the political right of self-determination; the rights to

ownership and control of lands and resources; the right to continue our own traditional economic activities, whether they're hunting or fishing; whatever they might happen to be.

With regard to the Alaska Native Review Commission, and I think some -- many of you here know about the work of the Alaska Native Review Commission. Just for the record, I'll state that the Inuit Circumpolar Conference in 1983 established the Alaska Native Review Commission, appointed the sole commissioner, former Justice Thomas R. Berger (ph.) from British Columbia, Canada, as, again, it's sole commissioner. The Alaska Native Review Commission conducted its work from 1983 to 1985. The result of the 62 hearings that were held throughout rural Alaska, and embraced the testimony of the Native people who came forward throughout those 62 hearings, was "Village Journey, the Report of the Alaska Native Review Commission."

I think that it's extremely important that the Alaska Natives Commission go back and visit, especially Chapter Seven of "Village Journey," which outline the specific recommendations of Justice Berger (ph.), after listening to 1,450 Alaska Native people across this state, as well as indigenous peoples from other parts of the world who came forward and shared their experiences with self-determination, lands and resources, hunting and fishing, and agricultural rights.

Specifically, when I think about the title of this Commission itself, the Programs and Policies Affecting Alaska Native People, what we have is really a contradiction of programs and policies. For example, the Department of Health and Human Services of the federal government, Administration for Native Americans, provides funds directly to tribal governments in this state for political development, cultural development, social development, whatever it is that these communities aspire to. Albeit, the funding is very little; but it is funding again from the Administration for Native Americans to tribal entities.

Yet, at the same time, there's an unclear policy within the federal government as to the existence and the status of tribal governments in the state of Alaska, not to mention the total denial of the recognition of the status of tribal governments by the present Hickel Administration.

I won't go into all of that history. I mean, most of you are very familiar with the present state of affairs, at least at the state level. So what we're saying is that at the federal level, the programs exist that -- Indian Health Service is another example. I know that there are other people who can provide you with greater details, in terms of the funding that's brought into this state and helps to generate the overall state economy by virtue of the fact that tribes are a reality here; that tribes exist here; yet, at the same time,

there's an unclear federal policy, and a total denial on the part of the state of Alaska.

I think that one of the things that needs to be done with respect to state policy, as well as federal policy, and the rights of self-government of Native tribes in this state, there must be clear and explicit recognition of the right of self-determination of the Alaska Native people. Once this clear and explicit recognition is put in place, whether it's in terms of policy, or in terms of -- gosh, I would love to see a Constitutional amendment -- but I know that that's not going to happen.

But once there's clear and explicit recognition of the right of self-determination and the right of self-government of Native people from this state, and if there follows with that, the political will and the political generosity to recognize these tribal governments as a third order of government, meaning we have the federal government; we have the state government; and we have tribal governments, then we can create cooperative relationship between these three levels of government -- or three distinct governments, to respond to the various different problems that are facing the Alaska Native community.

Upstairs, throughout this AFN Convention, we've heard people speak on panels about the social and cultural problems. I mean, you, yourselves, as Commission members, have heard many

of these problems raised in the few hearings that you've already held; the political problems, in terms of recognition; the economic problems.

But, again, once there's clear and explicit recognition of the right of self-determination, then I think we're going to see real collaboration and cooperation to resolve some of these problems. And without that clear and explicit recognition, we're always going to be in this grey area, which has not been helpful to anybody.

Tribes are beginning, as many of you know, to assert their right of self-determination in their own communities, in their own languages, and in their own ways, to solve their own problems. The attitude is changing. People are recognizing that they can't rely upon anyone else to solve their problems or to take care of them; that they are going to have to take care of themselves. And if there were a measure of political generosity shown to tribal governments in this state, I think we could then turn around and begin to resolve some of the dire and urgent problems that do face the Native community here.

The recommendations of Justice Berger (ph.) are not a White man's version, or they're not a White man's solutions to the problems. The recommendations that Thomas Berger (ph.) made, after hearing from Native people are simply a reaffirmation of what Native people have been saying in my lifetime, and even previous to this. It's a couple generations

back from con -- from first contact basically. So, Justice Berger's (ph.) recommendations, I really urge you to seriously look at them and consider them; and also to incorporate them into the work of the Alaska Native Commission, especially with regard to governance; because, again, the clear and explicit recognition of the right of self-determination will be key to the many other areas, whether it's self-determination and health care delivery, solving social and cultural problems, pursuing economic development that's distinct from what we already see going on with the Native regional corporations and village corporations, as well as the issues of hunting and fishing rights.

One last point is it boggles my mind -- I just don't understand it that here in Alaska and the United States, the great super power, one of the most developed countries in the world, that we are seeing a diminishment and deterioration of indigenous rights; whereas, right next door in Canada -- you know what they just went through in Canada? Maybe most of you are aware of it; but it's amazing to me. I think it's an extraordinary development. They just went through a constitutional negotiation, where the indigenous peoples were able to put in place language that would entrench the inherent right of Native self-government in the Canadian constitution, the highest law of the land as it's referred to.

That is an extraordinary political development. Yet, at the same time, here in Alaska, we have a Hickel Administration that denies the recognition and the powers of tribal governments. It doesn't make sense. It simply doesn't make sense. The world community; the international legal community is beginning to accommodate the rights of indigenous peoples.

I'd like to save that whole discussion of the International Human Rights Law development for the full Commission; but, again, I think that there has to be clear and explicit recognition of the inherent right of self-determination and self-government; and it's for the people out there and on the ground to exercise it and demonstrate it in their own way.

It'll take their own prerogative to do this. There, obviously, is a real political spectrum in terms of how they exercise it and demonstrate it; but I think the key -- the first hurdle to clear is having a clear policy, providing for explicit recognition; then people can move on. I mean, they're moving on, despite what the Alaska Natives Commission says, or despite what the State of Alaska says, or despite what the Secretary of Interior says. People are persisting, and their resilience ought to be celebrated in that regard. But in terms of actual policy, I think that this is going to be really,

really critical to the further political development of Alaska Native tribes. Thank you.

COMMISSIONER PAGANO: Any comment, Ella?

MS. ANAGIK: Yes, I would like to comment on that. I do agree, and I would like to reiterate the fact that the U.S. Congress, in making millions of dollars of appropriations per year, has operated on exactly that premise; that is, the funding, in order to be constitutional under the U.S. Constitution, has appropriated millions of dollars to the villages, on the premise that these villages -- Native villages are tribes. But there has been no clear expressed statement, and I appreciate that.

COMMISSIONER PAGANO: Bart?

MR. GARBER: No. Thank you very much, Mary Ann.

COMMISSIONER PAGANO: Boyko?

COMMISSIONER BOYKO: I'm a bit at a loss. This has been a very articulate statement; and I thank you for it.

COMMISSIONER PAGANO: Father Elliott?

COMMISSIONER BOYKO: But let us assume -- let us -- I wasn't quite done.

COMMISSIONER PAGANO: Oh, okay.

COMMISSIONER BOYKO: (Laughing) I'm coming to my point now, forgive me. Let us assume, you know, that we all died and went to heaven, and tomorrow the federal government will have a declaration of the rights of indigenous people

of -- kind of a second Magna Carta. As a matter of policy, -- okay? -- we recognize that indigenous people are not just minorities -- it's like Italian or Polish immigrants -- they were here first; and they have certain basic rights that we have to recognize. Now, let's say we've got that. Now what do we do in the present-day world? With the realities, political and economic, that exist in Alaska, what do we do to implement that?

MS. MILLS: You know, that's a very good question; because that's exactly what indigenous peoples at the international level are struggling with as well. What are the practical realities here that we have to deal with? How is it that we implement something that will be meaningful in some way to our own communities? Really, what it's going to take, that if, in fact, this did happen, your scenario, and this was the new Magna Carta; and the state of Alaska, as a political subdivision of the United States, had to adhere to this as well; then we would not only need to bring -- or conform state laws and policies, as well as federal laws and regulations, to traditional laws and customs, or the desires of Native communities out there.

So I'm talking about wha -- that we'd have to deal with any conflict of laws that might exist out there. But that's all in writing. What's more important is what, I think, you're getting at; and that is actually the actions of people

out there and on the ground. If we could clear this all up on paper, and there was clear policy, then it would really take just the hard work of these individual communities to breathe life into this new Magna Carta -- to make the reality of self-determination a reality for themselves.

The other thing that goes along with this, and I think we here in Alaska and the United States generally, have a different view towards this than others in Canada and elsewhere, that not only comes a right, but also a duty; and tribal members would be able to exercise certain rights; but they would also have a duty and an obligation to their community. The same goes for the state of Alaska and the United States government that they're -- they exercise certain rights, and powers, and authority; but, in addition to that, they have an obligation and they have a duty to provide financial resources to our communities to insure that they can make their aspirations a reality out there and on the ground.

So it's not only going to take clear and explicit policy, and laws that are entrenched in things like Constitutions, and so forth; but it's going to take the hard work of people within their own communities, as well as the financial resources that are needed to really make these things feasible in any way.

COMMISSIONER BOYKO: What would you do -- my last question. What would you do with, basically, competing and

perhaps conflicting, systems and structures such as ANCSA, which really doesn't fit into the tribal and sovereignty picture, does it?

MS. MILLS: Not to mention other competing rights and interests. I mean, the subsistence debate is the classic example of competing rights and interests; and I think Natives first. I mean, (laughing) without question. That's not acceptable to --

COMMISSIONER BOYKO: But would you repeal ANCSA? Would you give the land and the money back --

MS. MILLS: No, this is one reason --

COMMISSIONER BOYKO: -- and say:

"Let's start from scratch?"

MS. MILLS: No, this is one reason why I'm urging you to look at the recommendations in "Village Journey," and Chapter 7 specifically. Here, again, it would be a matter for every community to look into. If their village corporation -- at a small community level, if their village corporation happens to be operating, and operating well, and conducting appropriate economic development for that particular community, what I would probably urge a community to do is to -- through the framework of a tribal government, to bring that village corporation under its arm, or to make it the economic-development arm of that tribal government.

On the regional level, it's a whole another matter. I think its important to recog -- at least for me it is important to recognize that the Native regional corporations serve a very different function and a very different purpose, distinct from smaller grassroots' communities and villages out there. That's a little more complex. I don't think that I would repeal ANCSA; I would certainly repeal the extinguishment of aboriginal hunting and fishing rights. To date, there's been absolutely no one who's gone forward to challenge the plenary power of Congress to extinguish the rights of the Native people in that regard. That's what's put us in this present day deba -- situation on the subsistence debate, is that the Alaska Native Claims Settlement Act in 1971 extinguished the aboriginal hunting and fishing rights of Alaska Native people.

COMMISSIONER BOYKO: It said it did, anyway.

MS. MILLS: Well, it said it did; but that's what has, indeed, put us in this present --

COMMISSIONER BOYKO: But where are you going to change that? In the Court of International Justice before the United Nations assembly? I mean, you're not expecting Congress to say:

"Well, we overstepped our rights under generally-accepted human rights' concepts in the New World Order, or whatever you want to call it."

How you going to remedy that?

MS. MILLS: Well, I think -- well, we're always changing policies; we're always -- I mean, we've amended ANCSA how many times?

COMMISSIONER BOYKO: I'm not suggesting that the policy couldn't be changed; --

MS. MILLS: Uh-huh (affirmative).

COMMISSIONER BOYKO: -- but I -- are you -- you expect Congress to admit that it didn't have either the Constitutional or the international power to extinguish --

MS. MILLS: Absolutely not. Congress would never say that we never had the power in the first place. Is it -- I mean, you know, we're talking about the most elite, all-male, you know, I mean, it's not going to happen.

COMMISSIONER BOYKO: Last time I looked, it wasn't very all male (laughing).

MS. MILLS: Well, practically. I won't get into that; but, no, --

COMMISSIONER BOYKO: I thought this was the Year of --

MS. MILLS: -- I'm under no delusion that --

COMMISSIONER BOYKO: I thought this was the Year of the Woman.

MS. MILLS: You know, we'll see; we'll see. You know, I'm under no delusion over whether or not Congress would

go back and question their own plenary power. They've used it against Alaska Native people; they've used it against Indian people all across the United States to further their own interests and their own initiatives, which are primarily motivated by greed. And I think that that was what was going on here in Alaska with the Alaska Native Claims Settlement Act.

But I think that there is no problem with opening up this issue and entrenching the rights of Alaska Native people to hunting and fishing.

You know, it boggles my mind that in 1982, we even had a referendum as to whether or not subsistence was a good use of our resources. I mean, talk about competing rights and competing interests here. Obviously, I'm going to stand up for Native rights. I think that it's -- that if we could go back and -- or, no, if we can -- if we could actually take the present-day laws and policies and bring them in line with the international legal developments. I mean, you're aware that our individual rights, and now collective indigenous people's rights, in no case may a peoples be deprived of its form of subsistence. But the Alaska Native people, through ANCSA, and by the pen, have been -- I mean, their aboriginal hunting and fishing rights, their subsistence rights, were extinguished.

COMMISSIONER BOYKO: But then an effort was made to ameliorate that in ANILCA, wasn't it?

MS. MILLS: But, again, we're not talking about distinct rights and distinct status. We're talking about rural users and, I mean, all these other terms that have emerged.

COMMISSIONER PAGANO: Okay.

MS. MILLS: Anyway, I'm sure you're --

COMMISSIONER BOYKO: Well, appreciate the (indiscernible -- speaking simultaneously).

COMMISSIONER PAGANO: One comment. You have very interesting testimony; however, I do understand, you know, as you say, tribes are reality in Alaska. But I guess what Governor Hickel has a problem with is not recognizing tribes as sovereign, and to what degree sovereign rights? Tribes and sovereignty, two different things. And I guess that's the question many of us have as to what sovereign limits there are, you know, in the tribes, and then how the tribes would affect the corporate structures? And so -- and I think the big confusion in Alaska Natives and why we're sitting arguing against each other, pushing in wrong directions --

MS. MILLS: Uh-huh (affirmative); uh-huh (affirmative). Just --

COMMISSIONER PAGANO: -- but that's just a comment I had (indiscernible -- speaking simultaneously).

MS. MILLS: Yeah, well, just in follow-up, at the international level, this very same dialogue is taking place; this discussion of the external right of self-determination and

the internal right of self-determination. Indigenous peoples at the international level, their present position is that there should be no limitation on the right of self-determination of indigenous peoples anywhere, any time, and for any reason.

I think that it's safe to say that here in the case of Alaska Native tribes, that we're not going to see 200 secessionist movements crop up just because there's some clear and explicit right of -- or recognition of the right of self-determination. I mean, let's be practical, the moment that it's written down, it's not going to happen. This is the fear of Australia, of Canada, of all these other states out there; but I think, to be realistic, that it really is not going to take place here. Certainly there -- I don't want to undermine the arguments of those tribes and those nations who want to pursue that avenue. I mean, the Hoden (ph.) and Shawnee people, the Six Nations people, who have clear and distinct treaty rights, they believe they are a nation. It's a -- but that's a whole another issue.

COMMISSIONER PAGANO: Okay. Thank you very much. Appreciate your time and concerns.

COMMISSIONER BOYKO: Think that'll be all.

COMMISSIONER PAGANO: We have one more on the list is Alfrieda Lord. Is she here?

(Off record.)

(On record.)

MS. LORD: Okay, my name is Alfrieda Lord. I represent the Native village of Barrow. We have approximately 3,000 members. Okay? I just came on board, working for a tribal government in this past May. Okay? I'm learning about 638 and doing everything else; but one of the things I already found out, since you people are supposed to be the state/the federal government, working -- solving problems with the tribes, right? Okay, under TARO (ph.), everybody's putting it in effect; they're going out and taking care of employment rights for the tribal people, which is fine; except their funding, they have to look elsewhere for. The Lower 48, every reservation automatically get that funding, and I wish you would check into this and find out why Alaska is deleted.

And then there's another thing under TARO (ph.) again, is that the State of Alaska when they give out any money to anybody for construction, they put the wording local hire; which is fine, except federal money has the wording for the -- for -- especially Indian money, says Native hire preference. Okay? Well, they get federal money, mix it with their own money, and then when it arrives in the village, it says local hire.

In Barrow, they're building a middle school; a very large project, and it's still going on. They have 80 people

working there; there is only one Inupiat; so, anyway, that give you an idea of what's happening on that.

So, we went and checked with the Borough. The Borough had made -- had started out and said they want Native hire. The state came and said:

"With our money, it has to be local hire."

Local hire could be anybody off of the plane, in half an hour get a job. So, if you want to help us trying to solve some of our employment problems, I wish you would try and see if the federal money could have the wording "Native hire" attached.

COMMISSIONER PAGANO: Yeah. Any comments? Do you have any comments?

MR. GARBER: What is the name of your organization?

MS. LORD: Native Village of Barrow.

COMMISSIONER BOYKO: Is this a village corporation under the --

MS. LORD: No, this is a tribal government.

COMMISSIONER BOYKO: Okay.

MS. LORD: Yeah, it's -- we have the highest unemployment rate in the state of Alaska. It's very, very bad. There's a lot of people under General Assistance. We have a housing problem; we have everything that's wrong up there; and we're trying to solve this; but Tanana Chiefs (indiscernible) Officer came up there to help us, trying to get people on the

job; and then we ran into this. And this kind of just stops us, because all I want is for the people to go to work, okay?

COMMISSIONER PAGANO: Thank you. Well, with that, we'll close the Task Force on Governance hearing.

(Off record at 5:30 p.m.)

END OF PROCEEDINGS

C E R T I F I C A T E

STATE OF ALASKA)
) ss.

I, _____ court reporter for the Third
Judicial District, State of Alaska, hereby certify:

That the foregoing pages numbered 1 through 136 contain
a full, true and correct transcript of proceedings in hearing
of Alaska Natives Commission's Governance Task Force tran-
scribed by me to the best of my knowledge and ability from
tape identified as follows: Tape Nos. 3, 4, and 5.

DATED at Anchorage, Alaska, this 4th day of November,
1992.

SIGNED AND CERTIFIED TO BY:

Court Reporter

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