COMMITTEE ON NATURAL RESOURCES
114th Congress Disclosure Form
As required by and provided for in House Rule XI, clause 2(g)(5)

Oversight Hearing titled:

"The Obama Administration's Part 83 Revisions and How They May Allow the Interior Department to Create Tribes, not Recognize Them."

April 22, 2015

For Individuals:

Name: Donald Craig Mitchell
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For Witnesses Representing Organizations:

Name:
Name of Organization(s) You are Representing at the Hearing:
Business Address:
Business Email Address:
Business Phone Number:

* * * * *

For Nongovernment Witnesses ONLY:

1. Please attach/include current curriculum vitae or resume.

2. Please list any federal grants or contracts (including subgrants or subcontracts) related to the subject matter of the hearing that were received in the current year and previous two calendar years by you or the organization(s) you represent at this hearing, including the source and amount of each grant or contract.

None

3. Please list any contracts or payments originating with a foreign government related to the subject matter of the hearing that were received in the current year and previous two calendar years by you or the organization(s) you represent at this hearing, including the amount and country of origin of each contract or payment.

None

CURRICULUM VITAE

DONALD CRAIG MITCHELL
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EDUCATION

Hastings College of the Law
University of California
J.D. 1972

PROFESSIONAL MEMBERSHIPS

California Bar Association
Alaska Bar Association
District of Columbia Bar Association
Bar of the United States Supreme Court

PROFESSIONAL EXPERIENCE

1974-77	Alaska Legal Services Corporation Anchorage, Alaska
1978-80	Alaska Federation of Natives Washington, D.C., Counsel
1981-83	Alaska Federation of Natives Vice-President and General Counsel Anchorage, Alaska
1984-Present	Private Practice

BOOKS AND PUBLICATIONS

Sold American: The Story of Alaska Natives and Their Land, 1867-1959. 1997. University Press of New England.

Take My Land Take My Life: The Story of Congress's Historic Settlement of Alaska Native Land Claims. 1960-1971. 2001. University of Alaska Press.

"Alaska v. Native Village of Venetie: Statutory Construction or Judicial Usurpation? Why History Counts," 14 Alaska Law Review. 1997.

(with David Rubenson) Native American Affairs and the Department of Defense. 1996. RAND.

PROFESSIONAL EXPERIENCE

1974-1976

In 1974 Donald Mitchell moved to Alaska from California to practice law as a VISTA attorney assigned to the Alaska Legal Services Corporation (ALSC) field office in Bethel, the largest Yup'ik Eskimo village on the Yukon-Kuskokwim River Delta in western Alaska. For the next three years Mitchell traveled extensively throughout the region providing legal services to a predominately Yup'ik Eskimo client population. In addition to managing a regular caseload, Mitchell litigated a number of important law reform cases, including Deacon v. United States (class action ending Bureau of Land Management policy discriminating against women applicants for employment on village fire crews) and Calista v. Mann, 564 P.2d 53 (Alaska 1977)(Alaska Supreme Court recognition of traditional Eskimo cultural adoptions). In 1976 Mitchell served as supervising attorney of the Bethel field office.

In 1976 ALSC transferred Mitchell to its central office in Anchorage where he maintained a law reform-oriented caseload and coordinated litigation in the ALSC field offices. Cases Mitchell litigated included Williamson v. State (class action resulting in consent decree requiring State of Alaska to provide diagnostic services and medical treatment for Medicaid eligible children living in rural villages) and State v. Tanana Valley Sportsmen's Association, 583 P.2d 854 (Alaska 1978)(representing Native organizations throughout the northwest arctic in first action challenging the constitutionality of the Alaska Legislature's authority to enact and implement a subsistence hunting and fishing priority).

1977-1980

In 1977 Mitchell moved to Washington, D.C., to represent Native villages regarding subsistence hunting and fishing issues during Congress's initial consideration of H.R. 39, enacted in 1980 as the Alaska National Interest Lands Conservation Act (ANILCA). See Inclusion of Alaska Lands in National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems: Hearings on H.R. 39 before the Subcommittee on General Oversight and Alaska Lands of the House Committee on Interior and Insular Affairs, 95th Congress, Part XI 153, 398-479 (1977)(statement of Donald C. Mitchell).

From 1978 through 1980 Mitchell was Washington, D.C., counsel for the Alaska Federation of Natives (AFN), the organization Alaska's Indians, Eskimos and Aleuts organized in 1967 to represent Alaska Natives during Congress's consideration of legislation to settle aboriginal land claims that in 1971 was enacted as the Alaska Native Claims Settlement Act (ANCSA).

Mitchell's principal responsibility was to represent AFN before Congress and the Department of the Interior regarding H.R. 39. In addition to participating as a principal negotiator and drafter of title VIII of ANILCA (the title establishing federal standards for regulating subsistence hunting and fishing), Mitchell represented AFN in the negotiation and drafting of the sections of ANILCA that amend ANCSA and establish policies that affect individual Alaska Natives and ANCSA corporations.

1981-1983

From 1981 through 1983 Mitchell was Vice-President and General Counsel of AFN in Anchorage. In that role, he represented AFN before Congress, the State of Alaska, the Department of the Interior,, and other federal agencies regarding Alaska Native-related issues that ranged from state and federal regulation of subsistence hunting and fishing to Bureau of Indian Affairs and Indian Health Service service delivery problems. Of particular note, Mitchell was a principal negotiator and drafter of the 1981 amendments to the Marine Mammal Protection Act (MMPA), Pub. L. No. 97-58, 95 Stat. 979 (1981), the most comprehensive rewrite of that important statute.

1984-Present

Since 1984 Mitchell has been in private practice in Anchorage. In that capacity, Mitchell represented AFN during the three-year negotiation and drafting of Pub. L. No. 100-395, 102 Stat. 979 (1988), which resolved one of the most complex public land survey-related problems in Alaska, prohibited the Secretary of the Interior from trading public land in the Arctic National Wildlife Refuge (ANWR), and added 325,000 acres to ANWR. See 134 Congressional Record 19826 (1988)(statement of Representative George Miller commending Mitchell on the floor of the House for work during the negotiation and drafting of that statute).

In addition to representing AFN and other Native organizations on legislative matters, Mitchell also represented the same organizations in litigation of national interest, including Alaska Fish and Wildlife Federation v. Dunkle, 829 F.2d 933 (9th Cir. 1987), cert. denied, 485 U.S. 988 (1988) (interpreting the intent of Congress embodied in the 1918 Migratory Bird Treaty Act); McDowell v. State, 785 P.2d 1 (Alaska 1989)(defining the Alaska Legislature's authority to enact statutes implementing title VIII of ANILCA); State v. Hebert, 803 P.2d 863 (Alaska 1990)(Alaska Supreme Court upholding regulatory scheme for western Alaska commercial herring fishery intended to encourage village economic development); Peninsula Marketing Ass'n v. State, 817 P.2d 917 (Alaska 1991)(interpreting the intent of the Alaska Legislature embodied in the 1986 Alaska subsistence statute); McDowell v. United States, U.S. District Court for the District of Alaska (1992)(upholding the

constitutionality of title VIII of ANILCA).

Representing the Kokechik Fishermen's Association, between 1986 and 1989 Mitchell litigated Kokechik Fishermen's Association v. Secretary of Commerce, 839 F.2d 795 (D.C. Cir. 1988), cert. denied, 488 U.S. 1004 (1989). In Kokechik the Circuit Court enjoined the Secretary of Commerce from issuing the Japanese high seas drift net salmon fishery a permit to entangle and drown marine mammals within the United States 200-mile exclusive economic zone. The Kokechik injunction motivated the U.S. government to end high seas drift net fishing. Kokechik also required the National Marine Fisheries Service to begin regulating commercial fishing by U.S. fishermen that results in unpermitted takings of Steller sea lions and other threatened and endangered marine mammals in violation of the MMPA.

In 1985 Mitchell was counsel to Alaska Governor Bill Sheffield's Task Force on Federal-State-Tribal Relations. In that capacity, Mitchell researched and wrote the Task Force's report on Alaska Native tribal status. In 1988 the Alaska Supreme Court characterized the Task Force's report as a document "of impressive scholarship," see Native Village of Stevens v. Alaska Mgmt & Planning, 757 P.2d 32, 37 (Alaska 1988). The Court subsequently has repeatedly relied on the report as definitive authority regarding one of the most historically convoluted, legally complex, and unsettled areas of federal Indian law presently being litigated in the state and federal courts.

In 1994 in the U.S. District Court for the District of Alaska, Mitchell represented the six nonprofit corporations that are participating in the Western Alaska Community Development Quota (CDQ) Program in Alliance Against IFQs v. Brown, a lawsuit in which Mitchell successfully defended the CDQ Program from a legal challenge which asserted that the establishment of the CDQ Program by the Secretary of Commerce was ultra vires.

From 1995 to the present Mitchell has been counsel for the Norton Sound Economic Development Corporation, the nonprofit corporation through which the residents of Nome and fourteen surrounding villages participate in the CDQ Program. During that representation Mitchell was a negotiator and drafter of the principal federal statutes that control commercial fishing in the Bering Sea and North Pacific Ocean: the Sustainable Fisheries Act, the American Fisheries Act, and the Western Alaska Community Development Quota Program Amendments of 2007.

In 1997 Mitchell represented Alaska U.S. Senator Ted Stevens before the U.S. Supreme Court as amicus curiae in Alaska v. Native Village of Venetie Tribal Government, 522 U.S. 520 (1998), a lawsuit in which the Court accepted Mitchell's view that Congress did not intend land in Alaska that the Secretary of the Interior conveyed to Alaska Native corporations pursuant to ANCSA

to be "Indian country."

Between 2000 and 2009 Mitchell was retained by the President of the Alaska Senate and Speaker of the Alaska House of Representatives to advise the Alaska State Legislature on Native American legal issues generally and on the Indian Gaming Regulatory Act (IGRA) specifically. In that capacity, in 2000 in the U.S. District Court for the District of Columbia, Mitchell represented the Alaska State Legislature in Akiachak Native Community v. Harold Monteau, Chairman, National Indian Gaming Commission and Native Village of Barrow v. National Indian Gaming Commission, lawsuits in which three Alaska Native groups (unsuccessfully) challenged decisions of the chairman of the National Indian Gaming Commission that the tracts of land in Alaska on which the groups aspired to conduct class II gaming did not qualify as "Indian lands" for the purposes of the IGRA.

In 2007 Mitchell researched and wrote the comments the President of the Alaska Senate and Speaker of the Alaska House of Representatives submitted to the National Indian Gaming Commission which demonstrated to the Commission that the Alaska Native residents of the Native Village of Eklutna (NVE) did not qualify as an "Indian tribe" for the purposes of the IGRA and that the land on which NVE aspired to conduct class II gaming did not qualify as "Indian lands" for the purposes of the IGRA.

At the request of the Committee on Natural Resources of the U.S. House of Representatives, in April 2009 and July 2011 Mitchell testified as an expert witness at hearings the Committee held on Carcieri v. Salazar, the decision in which the U.S. Supreme Court held that Congress did not intend section 5 of the Indian Reorganization Act to delegate the Secretary of the Interior authority to take title to land into trust for recognized Indian tribes that were not under federal supervision in 1934.

Mitchell also has written a two-volume history of the Alaska Native land claims movement. In 1997 the University Press of New England (Dartmouth College) published Sold American: The Story of Alaska Natives and Their Land, 1867-1959, which former Secretary of the Interior Stewart Udall described as "the most important and comprehensive book about Alaska yet written and a major intellectual triumph." In 2001 the University of Alaska Press published Take My Land Take My Life: The Story of Congress's Historic Settlement of Alaska Native Land Claims, 1960-1971. In 2003 the University of Alaska Press published the second edition of Sold American. In 2006 the Alaska Historical Society named Sold American and Take My Land Take My Life two of the most important books that have ever been written about Alaska.

Mitchell presently is writing a book on the political and legal history of Indian gaming.