

1

2

3

4

5

6

7

8

9 NATIONAL INDIAN GAMING COMMISSION CONSULTATION

10 ON MARCH 24, 2017 AT 8:35 A.M.

11 IN TULSA, OKLAHOMA

12

13

14

15

16

17

18

19

20

21

22

23

24 REPORTED BY: Shannon S. Harwood, CSR

1 CHAIRMAN CHAUDHURI: We thank Mr. Enlow for

2 that invocation --

3 MR. ENLOW: You're welcome, brother.

4 CHAIRMAN CHAUDHURI: -- and Mr. Enlow is a

5 member of the Muscogee Creek Nation and we thank the

6 Muscogee Creek Nation for being the host tribe. We are

7 at the River Spirit Resort and we very much appreciate

8 their hospitality. We also thank NTGCR, National Tribal

9 Gaming Commissioners and Regulators, for allowing us to

10 schedule this consultation in conjunction with their

11 conference. This has been an incredible conference and

12 we look forward to a positive day of consultation to cap

13 everything off.

14 My name is Jonodev Chaudhuri. I'm a proud member

15 of the Muscogee Creek Nation, also Bengali on my

16 father's side. It is especially good for me to be back

17 home in Creek country and I'm thankful to be here with

18 my fellow commissioners, fellow members of the NIGC team

19 and fellow regulatory partners in the room. I thank you

20 all for the time that you've taken to attend today's

21 consultation.

22 We have a number of topics to go through that we

23 very much look forward to hearing your input on. Before

24 we get into the specifics of how the format will

25 proceed, I'm going to turn it over to my fellow

1 commissioners, but let me just say a brief thought and

2 we'll hear more from others about consultation.

3 For us at NIGC, we are governed by a unique

4 mission. We're proud of our mission, and that mission

5 is to support tribal self sufficiency, tribal economic

6 development and strong tribal governments. And we do

7 that through our regulatory work governed by the

8 mandates of the Indian Gaming Regulatory Act.

9 But the particularly powerful aspect of our mission

10 that I'm proud of is we are required to work closely

11 with the primary regulators of Indian gaming, which are

12 tribal nations themselves. And so we're part of a

13 larger regulatory structure, a larger regulatory

14 framework that requires regular ongoing positive

15 collaboration and coordination with our partners.

16 Consultation is an important part of that.

17 In addition to our day-to-day interactions with our

18 regulatory partners, hearing input regarding any

19 regulatory directions or significant agency actions is

20 part of our decision making process. So we are governed

21 by our own consultation policy, but furthermore, we are

22 on record for repeatedly saying, before we put pen to

23 paper on any significant, any major action at the

24 agency, we will work hand in hand to listen closely and

25 to take input from our partners at every stage possible,

1 and so today's consultation is a reflection of that

2 commitment.

3 We have a number of important topics that span a

4 number of agencies -- agency activities and so I'm proud

5 to be a member of my nation, Muscogee Creek Nation,

6 proud to be a member of team NIGC, but I'm also proud to

7 be a member of the larger regulatory structure that has

8 supported such an important economic development tool

9 that has helped support some of the important services

10 and programs in Indian country.

11 So thank you for your time today. Thank you for

12 being here. I'm going to turn it over to our vice chair

13 now, Ms. Isom-Clause.

14 COMMISSIONER ISOM-CLAUSE: Good morning. I

15 see a lot of familiar faces here today, so I will keep

16 my remarks brief this morning. I'm Kathryn Isom-Clause.

17 I'm Taos Pueblo and I'm vice chair of the Commission. I

18 would also like to thank Muscogee Creek Nation and all

19 of you for being here with us today.

20 While we're here today to discuss several important

21 topics, in a larger sense, our work is to honor the

22 government-to-government relationship between the tribal

23 governments and federal government. In addition to the

24 trust responsibility -- trust responsibility that all

25 federal agencies have, our statutory purpose as an

1 agency is to promote tribal economic development, self

2 sufficiency and strong tribal governments through

3 effective regulation of tribal gaming.

4 And some refreshments here. It's early. All

5 right.

6 To me, this includes ensuring the policies and

7 regulations that we set forth have a view toward

8 safeguarding benefits of tribal gaming for future

9 generations. As our partners in regulation, tribal

10 voices are essential to this work. This ongoing

11 dialogue is one of the most important tools we have for

12 creating strong regulations and policy.

13 I'd also like to briefly mention that we're in the

14 process of developing our required strategic plan that

15 will start in 2018 and that your comments here today

16 will also be used in the formulation of that plan, and

17 there will be an opportunity to review that at a later

18 date once we have a draft and comment on it. We'll keep

19 you up to date with that time line and guidance as we

20 get it.

21 And beyond the session today, our door is always

22 open, so please always feel free to contact us, meet

23 with or email us. And so with that, thank you for being

24 here today and we look forward to your comments.

25 COMMISSIONER SIMERMEYER: Good morning,

1 everyone. I'm going to join my colleagues in thanking

2 Creek Nation and the speakers of the invocation earlier

3 today, our colleagues and especially everyone for being

4 here today. I'm Sequoyah Simermeyer. I'm Coharie. My

5 tribe is from Eastern North Carolina, and I'm the

6 associate commissioner. And I just want to join others

7 in emphasizing the importance of consultation.

8 For me, being in federal public service for about

9 10 years, it's been my experience that consultation is a

10 really important tool in developing an ongoing

11 relationship, whether it's providing formal settings

12 like this or in cultivating collaboration that takes

13 place on a day-to-day basis.

14 So I think that the opportunity we have to talk,

15 especially with a lot of the leadership and

16 institutional knowledge at the NIGC today, hopefully

17 will instill, as the vice chair said, an ongoing,

18 open-door discussion, especially on some of the topics

19 that are a bit open-ended in terms of your feedback

20 about how we can meet our emphasis areas and how we can

21 meet our unique responsibilities as part of the federal

22 members of the regulatory team in Indian country, so

23 thank you.

24 CHAIRMAN CHAUDHURI: Thank you, Commissioner.

25 So at this point, in order for us to know who we're

1 speaking among so we can, you know, best share

2 information, and that's the point of these

3 consultations, to share and learn, we're going to move

4 forward with some introductions, but we have a lot of

5 the same folks that are in the room that were in

6 yesterday's consultation.

7 And I always recognize our alumni, and Ms. Homer is

8 here with us today, and so Ms. Homer was former vice

9 chair of the Commission. And -- oh, she keeps hiding

10 back there. Lael Echohawk is there, too. Okay. And

11 there she is. And she also worked as counselor to the

12 chair working on some critical policy initiatives at

13 NIGC, and so we thank them for their past service to the

14 Commission, but their ongoing service to Indian country

15 and to Indian gaming.

16 Just in the interest of time, I'm just going to

17 introduce the folks here at the table. And I don't know

18 if -- you know, if we'll have time to -- well, we'll

19 move forward with introductions with everybody in the

20 room so we all know who is here, but with us at the

21 table providing subject matter expertise and also being

22 available to answer any questions, we have our general

23 counsel, Mike Hoenig.

24 We have our deputy chief of staff, Christinia

25 Thomas. You know, I'm just -- but we have our training

1 manager, Steve Brewer. Trying to see who all sat up

2 front. Okay. We have our finance director, Yvonne Lee.

3 We have our technology division director, Travis Waldo,

4 and our Oklahoma City regional director, Mr. Tom

5 Cunningham. Mr. Tom Cunningham will be working with all

6 of you to receive questions and to distribute the

7 microphone.

8 So that's our team here and there are other members

9 of our team in the audience today, but I'm going to turn

10 the microphone over to the audience at this point so we

11 can all introduce ourselves.

12 As I mentioned yesterday, these consultations are

13 transcribed and the purpose of transcription is so that

14 others may benefit from the comments that are provided.

15 There will be a transcript developed a little bit down

16 the road, but more than that, the comments received and

17 the transcription will be part of our deliberative

18 process. We take very seriously the comments we receive

19 both at consultations and through other submissions and

20 we review and discuss and evaluate all comments before

21 moving forward on a decision point.

22 So because our consultations are transcribed,

23 please state your name, your tribal affiliation, if any,

24 and if you're a tribal leader, what nation you

25 represent, or if you're a designee of a tribal nation,

1 what tribal nation has designated you as a

2 representative.

3 So this is, as our vice chair mentioned, an

4 outgrowth of government-to-government consultation. Our

5 primary purpose here is to hear from tribal leaders and

6 their representatives, but we also recognize that there

7 may be other people in the room who have perspectives to

8 share regarding the overall landscape of Indian gaming.

9 We welcome those perspectives, if all tribal leadership

10 has had the opportunity to provide perspective and if

11 there are no objections from tribal leadership to those

12 perspectives being provided. And so with that, others

13 are welcome to provide perspectives, but not -- not if

14 there's an objection.

15 And along a similar line, these -- these

16 consultations are closed to media. We want people to

17 feel -- to feel free to provide input and comment. At

18 the same time, I reiterate that these consultations are

19 transcribed, but the transcription will be available

20 much later down the road.

21 So I'm going to turn it over to Mr. Cunningham who

22 can provide a microphone to everyone here and let's all

23 get to know each other a little better.

24 MS. KAISER COLLIER: Good morning, everybody.

25 Morning, back there. Barbara Kaiser Collier with the

1 Quapaw Tribal Gaming Agency. I'm the executive director

2 and I'm here on behalf of the Quapaw Tribe.

3 MS. HOMER: Good morning. My name is

4 Elizabeth Lohah Homer. I'm a member of the Osage Nation

5 of Oklahoma, so I'm just from a few miles up the road

6 from Hominy, Oklahoma. I'm very happy to be here in

7 Tulsa and I am here today accompanying the Quapaw Tribal

8 Gaming Agency.

9 MR. TOMLINSON: Tyler Tomlinson, Choctaw

10 Nation of Oklahoma, technical compliance manager for the

11 gaming commission.

12 MS. NELSON: Jody Nelson. I work for the

13 Choctaw Nation of Oklahoma, although I'm a Cherokee

14 member and I'm audit manager there.

15 MS. PENZ: Good morning. I'm Paula Penz,

16 gaming commissioner for the Choctaw Nation.

17 MR. NORMAN: Kyle Norman, project manager,

18 Choctaw Gaming Commission.

19 MS. MYERS: Good morning. Kelly Myers. I am

20 with Cherokee Nation Gaming Commission and I'm also here

21 on behalf of Iowa Tribe of Oklahoma as their chairperson

22 for their gaming commission.

23 MR. SWITCH: Good morning. My name is Kelly

24 Switch. I'm with the Absentee Shawnee Tribe, member of

25 the Absentee Shawnee Tribe. I'm with the Absentee

1 Shawnee Gaming Commission as the deputy commissioner.

2 MS. BUTLER WOLFE: Good morning, everyone.

3 I'm Edwina Butler Wolfe, governor of the Absentee

4 Shawnee Tribe.

5 MR. HITCHCOCK: Jeff Hitchcock, Wyandotte

6 Nation Gaming Commission.

7 MR. BURRIGHT: Jered Burright, IT manager for

8 the Muscogee Creek Nation.

9 MR. ADAMS: Charlie Adams, the compliance and

10 surveillance manager for the Muscogee Creek Nation.

11 MR. YORK: I'm Buddy York. I'm gaming

12 commissioner for the Muscogee Creek Nation.

13 MS. GIBSON: Jackie Gibson, executive director

14 for the Muscogee Creek Nation.

15 MR. MORGAN: Good morning. Matthew Morgan,

16 director of gaming affairs, Chickasaw Nation.

17 MR. BRYNE: Happy Friday, everybody. Billy

18 Bryne, director of audit, Poarch Band Creek Indians.

19 MS. COZZONI: Shannon Cozzoni, Northern

20 District of Oklahoma, United States Attorney's Office.

21 MS. ECHOHAWK: Good morning again. Lael

22 Echohawk. I'm here on behalf of Seminole Tribe of

23 Florida Band of Pueblo Indians and the Kickapoo Tribes

24 of Texas.

25 MS. MORAGO: Good morning. Sheila Morago,

1 executive director Oklahoma Indian Gaming Association.

2 MR. MOODY: Brian Moody, NIGC Tulsa region.

3 MR. LARNEY: Jeremy Larney, gaming

4 commissioner, Seminole Nation of Oklahoma.

5 MR. LAURENZANA: Rudy Laurenzana, chief gaming

6 regulator, Seminole Nation Gaming Agency.

7 MR. HALE: Terry Hale, compliance manager,

8 Seminole Nation Gaming Agency.

9 MS. DAN: Billie Dan, director of compliance

10 Seminole Nation Gaming Enterprise.

11 MR. FRAZIER: Arlo Frazier, Pawnee Nation

12 Gaming Commission.

13 MS. MODRICH-ALVARADO: (Speaking in native

14 language.) Mary Modrich-Alvarado with NIGC, Office of

15 General Counsel.

16 MS. OBER: Good morning. Marci Ober with the

17 NIGC in the Tulsa region.

18 MS. BLAKELY: Miranda Blakely, NIGC Tulsa

19 region.

20 MR. BADGER: Austin Badger, staff attorney,

21 NIGC.

22 CHAIRMAN CHAUDHURI: And I thank you again for

23 taking the time to be here today. So a few housekeeping

24 topics before we move on to receive informal comments.

25 We're scheduled to go to 1 p.m. today. However, this

1 consultation may end early if all comments have been

2 made, if everybody has had an opportunity to speak.

3 As I always say, there is no crime in finishing

4 early, and even though we have a lot of topics to cover,

5 you know, our consultations often finish early. So

6 please feel free to speak your mind, say whatever you

7 want, but there's no need to fill up the entire

8 consultation time.

9 I want to remind everybody about our upcoming

10 consultation dates. Please encourage your cohorts, your

11 colleagues to attend our upcoming consultations, because

12 consultation isn't one bite at the apple type of

13 situation. Comments and perspectives evolve over time.

14 We recognize that.

15 As we move forward with some of the topics that

16 we're discussing, as we heard yesterday, additional

17 analysis takes place, additional reports are submitted.

18 I want there to be multiple -- we all want there to be

19 multiple opportunities to provide valuable perspective

20 and feedback, both through attendance and verbal

21 comments, but also in writing.

22 At the end of June, we're going to collect all

23 comments, review all comments and all comments received

24 through June will be part of our deliberation process

25 for the next step in some of the -- some of the

1 consultation deliverables that we always try to proceed

2 with.

3 I think we're on record saying whenever we have

4 consultations, we do our best to make sure that we have

5 done our level best to produce deliverables on past

6 topics and we have some announcements coming down the

7 road regarding some previous consultation topics.

8 For this series of consultations, at the end of

9 June, we'll be compiling and collecting all comments.

10 So these upcoming consultation dates are important and

11 if you can encourage your colleagues to attend those,

12 we'd greatly appreciate it.

13 April 5th at the Salt River Pima-Maricopa Indian

14 Community; April 13th, in conjunction with the National

15 Indian Gaming Association's conference in San Diego;

16 April 20th at the Northern Hotel in Billings, Montana.

17 One of our early promises was to have a consultation in

18 Montana at some point, and we've had consultations in

19 the past in Rapid City and St. Paul. We're proud to be

20 hosting a consultation in Montana.

21 May 4th, in conjunction with the Southern Gaming

22 Summit in Biloxi, Mississippi; May 22nd, to be held in

23 conjunction with the Affiliated Tribes of the Northwest

24 Indians at a date to be determined. So we would

25 appreciate you -- your possible attendance, but also

1 your passing the word on to your colleagues.

2 So we have a number of topics that we're going to

3 cover today. Let me go through them briefly and talk

4 about who the subject matter expert is. At the end of

5 each topic, we're going to hear comments, receive input.

6 We -- we see our consultations as a two-way street, a

7 dialogue.

8 Whenever possible, we'll -- we'll respond to any

9 questions and engage. We have our subject matter

10 experts here to -- you know, to weigh in as well, but

11 we'll receive comments at the end of each topic, at the

12 end, in case you folks want to add some final comments

13 and we'll -- we'll go through a kind of catch-all

14 section.

15 But before we move forward, I understand that some

16 people may have planes to catch. I know one member of

17 our team had to make arrangements to fly out early. If

18 anybody wants to get or needs to get a comment on the

19 record early in order to catch a plane, please let us

20 know at this time and we'll allow -- we'll have that

21 comment on the record before we kind of get into the

22 meat of the consultation.

23 Does anybody have a plane to catch that they need

24 to get a comment on the record right now?

25 Okay. With that, for rural outreach, we'll have

- 1 Christinia Thomas providing background information.

- 2 For our developing a strong tribal work force

- 3 through training topic, we'll have our training manager,

- 4 Mr. Steve Brewer, provide background.

- 5 For our management contract portion of our

- 6 discussion, we'll have our finance director, Ms. Yvonne

7 Lee.

8 For our technical standards for mobile gaming

9 devices we'll have our technology director, Mr. Travis

10 Waldo.

11 For our fees discussion, we'll have Ms. Yvonne Lee

12 again give comments.

13 And regarding our draft guidance, our draft

14 voluntary, voluntary, voluntary guidance regarding Class

15 III minimum internal controls -- did I say they're

16 voluntary -- voluntary, non-binding, draft, non-binding,

17 voluntary guidance regarding Class III MICS, we'll have

18 Christinia Thomas provide some background on those

19 draft, voluntary, non-binding Class III MICS.

20 So with that, I'm going to start us off with rural

21 outreach and turn it over to our deputy chief of staff,

22 Christinia Thomas, and we'll receive comments after her

23 short presentation.

24 COMMISSIONER THOMAS: Thank you, Chairman.

25 The NIGC would like to consult with you on our rural

- 1 outreach initiative and ask specifically for discussion
- 2 and comments on, one, whether regulatory revisions are
- 3 needed that protect tribal gaming revenue and the
- 4 integrity of Indian gaming, while not burdening smaller
- 5 operations; two, whether NIGC should adjust the way we
- 6 do business, such as our training technical assistance

7 compliance efforts to provide better assistance where

8 needed; and, finally, whether the NIGC should create an

9 eighth region to provide a stronger connection to tribes

10 located in North and South Dakota, Montana and Wyoming.

11 We all know in Indian country that generally most

12 of our tribal lands are in rural areas. Reaching out to

13 smaller gaming operations that may not be situated in a

14 strong market is an important initiative of the agency.

15 The NIGC recognizes a likely correlation between

16 proximity to large population centers and the viability

17 of economic opportunities. Therefore, NIGC appreciates

18 that its functions will likely benefit from a greater

19 understanding of the -- the unique needs of and

20 opportunities available to smaller operations.

21 NIGC regulations have historically taken into

22 account the needs and capabilities of smaller gaming

23 operations. For instance, the MICS and accounting

24 requirements differ between Tier A facilities earning

25 lease than 8 million, Tier B facilities earning between

1 8 and 15 million, and Tier C facilities earning 15

2 million -- over 15 million.

3 The majority of tribal gaming operations are

4 smaller facilities with lower gross gaming revenue.

5 Many small rural gaming operations provide their

6 communities with much needed jobs, but earn little net

7 revenue for their tribal government. NIGC provides

8 technical assistance and training to all tribes and

9 enforces and its regulations as necessary to ensure

10 tribes are the primary beneficiaries of their gaming

11 operations.

12 The Commission also has a responsibility to review

13 the regulations to assure that compliance is responsible

14 and achievable for all tribes while protecting the

15 integrity of gaming as a whole. The NGIC may find

16 through this consultation and comment period that

17 current regulations require amendments to better address

18 the regulatory needs of smaller operations.

19 In a separate component of the rural outreach

20 initiative, the commission is further considering

21 creating an eighth region and expanding the Rapid City

22 satellite office to serve it. The NIGC St. Paul

23 regional office currently covers nine states, 59 tribes

24 and 144 gaming facilities, and is the largest

25 administrative region of the agency.

- 1 In 2003, the Rapid City satellite office was added
- 2 to the St. Paul region to aid the region in reaching the
- 3 tribal gaming operations in North Dakota, South Dakota,
- 4 Wyoming and Montana.
- 5 Under this new plan, the St. Paul regional office
- 6 would then cover only five states; Minnesota, Iowa,

7 Wisconsin, Michigan and Nebraska, 37 tribes, and 95

8 gaming facilities. The new Rapid City regional office

9 would then cover four states; Montana, Wyoming, North

10 Dakota and South Dakota, 22 tribes and 45 tribal gaming

11 operations.

12 The NIGC would like to hear any questions, comments

13 or concerns regarding this plan. Thank you.

14 CHAIRMAN CHAUDHURI: Thank you, Ms. Thomas.

15 So we'll open it up for questions and comments now. If

16 there are questions, we'll do our best to answer them,

17 you know, on the spot. If we need to get back to you,

18 we'll always be up front about our need to get back to

19 you, so with that.

20 And Mr. Cunningham will be here with the

21 microphone.

22 MR. YORK: Just one quick question I might

23 have on the thing. As far as the budgetary deal, would

24 this take away from our region resources or anything in

25 any way?

1 CHAIRMAN CHAUDHURI: I don't believe so.

2 There -- we haven't done an actual study. A lot of --

3 efficiency is very important to the agency, so a lot of

4 the services that are provided to all of the regions are

5 shared between regional offices and headquarters. And

6 so there are a lot of services that really aren't

7 impacted by the region that is requesting work.

8 Our office of general counsel is located in

9 Washington D.C. We support our regional teams in the

10 field. The split -- and it's not really a split. It's

11 the creation of a new office won't impact certainly in

12 any way the services provided by headquarters. And

13 there -- you know, we do our best to balance our

14 budgetary realities with our agency operations, and we

15 haven't done a market study on that, but I don't -- I

16 don't foresee any impact to Oklahoma City.

17 COMMISSIONER THOMAS: And I'll add to that.

18 So our regional offices that are currently existing,

19 we're not changing the staffing levels there at all. So

20 your regional office and the staff that's at those

21 regional offices won't change with this proposal of

22 adding Rapid City as a region.

23 CHAIRMAN CHAUDHURI: Thank you, Mr. York. And

24 if I could ask folks, just for the benefit of the

25 transcriptionist, if there are any comments, just, you

1 know, when you look at the transcript, it's just a bunch

2 of black and white letters. If we can just, again,

3 mention our names and our communities when we provide

4 comments, and just for purposes of the transcription.

5 MS. ECHOHAWK: Laela Echohawk from Hobbs,

6 Straus, Dean & Walker. Just a question, I don't know if

7 you've already done it, but to evaluate how would that

8 expand the staffing levels at Rapid City and would the

9 staffing levels in St. Paul decrease? What does that

10 look like in terms of budgets?

11 I know that tribes are very conscious, you guys's

12 budget is obviously based on the fees that our -- that

13 the tribes send in, so I don't know if you've done that,

14 but if you haven't -- if you haven't, it would be great

15 to see and maybe, you know, include some of this

16 information at next consultations.

17 CHAIRMAN CHAUDHURI: And, thank you,

18 Ms. Echohawk. I think I'll turn it over to Ms. Thomas

19 again, but staffing levels we've anticipated -- we

20 always try to staff according to needs. I think we've

21 been pretty up front about the agency's commitment to

22 supporting tribal beneficiary status, to supporting the

23 primary regulatory status of tribal regulators. And so

24 we've -- we've tried to enhance our team in accordance

25 to that.

1 So we've talked about gamesmanship over the last
2 year. We've added a couple new compliance officers who
3 will, you know, be part of the overall staffing of the
4 agency, but our staffing has been in line with our
5 budget, our funding levels and our priorities.
6 I don't know if you want to provide any additional

7 details about this one.

8 MS. THOMAS: No, just that even the St. Paul

9 regional office would not go down, the staff that's

10 actually assigned to the regional office. The staff

11 that's assigned to the Rapid City satellite office

12 currently would stay with that office.

13 We would be adding an additional regional director

14 and additional administrative staff to assist that

15 region as well. And then I did want to point out that

16 our rural outreach coordinator would actually be tied to

17 that regional office as well. She's currently in

18 Billings, Montana.

19 CHAIRMAN CHAUDHURI: And I think it would be

20 helpful to restate that rural outreach is a recognition

21 of the fact that we have a responsibility at the agency

22 to support the integrity of the entire Indian gaming

23 structure, to support Indian country's work and

24 supporting the integrity of the entire Indian gaming

25 structure. So I believe everybody involved in Indian

1 gaming has an interest in supporting smaller and rural

2 -- rural operations as well, because the health of the

3 industry depends on the health of facilities both large

4 and small.

5 And so that's why, you know, given the geographic

6 size of the region that St. Paul currently covers as

7 well as the number of rural and small facilities located

8 throughout the region, that an additional office west of

9 St. Paul is probably pretty wise. It's huge, and if you

10 talk about plane, flight distances, driving distances,

11 having sufficient coverage of the facilities in the --

12 in the plains region is necessary, and so that's what

13 we're looking at.

14 Rural outreach is one of -- kind of our primary --

15 primary priorities, you know, along with a strong work

16 force protecting against gamesmanship on the backs of

17 tribes and staying ahead of the technology curve, and we

18 see this as an outgrowth of that commitment. Thank you

19 for that question, Ms. Echohawk.

20 MS. HOMER: It's just a question -- Elizabeth

21 Homer. It's just a question. Do you -- I mean, that is

22 a very large -- a large area. Has there been any

23 thought given to instead of creating a single regional

24 office, to create multiple field offices?

25 CHAIRMAN CHAUDHURI: And I don't know if any

1 of the other members of the team wanted to address this.

2 We do have -- and that's an excellent question,

3 Ms. Homer. We do have field offices. I think, as

4 Ms. Thomas mentioned, the Rapid City office is a field

5 office at this time, but being able to have the

6 administrative infrastructure to coordinate with the

7 office of general counsel from a regional director level

8 to -- to the point -- point person at OGC to coordinate

9 with the compliance division, you know, elevating that

10 office to an actual regional -- regional office is

11 helpful for a number of administrative reasons, but

12 where needed, we do have point people in the field to

13 operate out of field offices.

14 Another good example is our -- our rural outreach

15 coordinator is currently located in Billings, Montana to

16 help service some of the communities in that area. We

17 recognize the rural communities throughout -- throughout

18 Indian country and all of the work that we do is, you

19 know, needs to support rural outreach in Indian country,

20 but that's one of the reasons our rural outreach

21 coordinator is located out there.

22 But we do have an eye towards trying to develop

23 field presence wherever needed given the geographic

24 realities of how -- you know, how diverse and how large

25 Indian country is.

1 MS. THOMAS: So I'll add to that, too, so if

2 you add multiple field offices, I'm going to get back to

3 the budget question, so adding office space actually

4 increases our budget because we have to do all the work

5 through GSA. So it is more feasible for us from a

6 budgetary perspective to elevate the Rapid City

7 satellite office to an actual regional office than to

8 create multiple field offices.

9 MS. HOMER: I guess you have to balance that

10 off with the travel expenses, you know, and the time it

11 takes to visit everyone and it's a tough -- it's a tough

12 problem.

13 MS. THOMAS: Yeah, it is.

14 MS. KAISER COLLIER: Barbara Kaiser Collier.

15 You know, we -- we do think about our brothers and

16 sisters that have that vast majority of land and they're

17 really kinda off the main path, beaten path, as you

18 might say, so they have a more difficult time, even

19 though they do have some revenue trail.

20 Have you -- and it's good to bring it to other

21 places, but like being an Oklahoma tribe, if I was going

22 to expand or want something done in my area, I would

23 want all of the tribes to have an input. So I feel like

24 perhaps -- I mean, maybe you've done that. All the

25 tribes in that area, have you contacted them and

- 1 their -- their hierarchy or commissions and see what
- 2 would work best for them?
- 3 You know, they're there and they know what might be
- 4 better for their area than us here sitting in Oklahoma.
- 5 So I feel like that your people there as well as the
- 6 tribal leaderships that are in those vast areas should

7 have major input and maybe be contacted one on one to

8 see what would actually work best for them.

9 CHAIRMAN CHAUDHURI: And thank you,

10 Ms. Collier. It's not an accident that we have an

11 upcoming consultation in Billings, Montana, and we have

12 reached out and very proud of our team. Our compliance

13 officers especially, but the regional office as a whole

14 has very strong one-on-one relationships with their

15 tribal counterparts and so our communications and

16 coordinations with our regulatory partners in that area

17 are strong in terms of reaching out and discussing, you

18 know, issues of mutual concern, but the consultation in

19 Billings is an outgrowth of our interest in hearing

20 input and hearing perspectives about -- about ongoing,

21 you know, anticipated tweaks.

22 We recognize that once you formalize a regional

23 office, for administrative and bureaucratic reasons,

24 that takes on a life of its own. That's just part of

25 government, and so we strongly value the input we

1 receive from the partners that are affected by it.

2 So we've had consultations in Rapid City many, many

3 times. I don't know many, but you know, we've had prior

4 consultations in Rapid City. Knowing tribes and knowing

5 nations that are outside of Rapid City are impacted by

6 the services of -- of our Great Plains region, you know,

7 help to inform the decision to have consultation outside

8 of Rapid City as well. We want to hear all voices in

9 those decisions.

10 Mr. Cunningham?

11 COMMISSIONER CUNNINGHAM: If I could just add,

12 having once been the Tulsa region when we split those

13 regions into two, Tulsa and Oklahoma City, the advantage

14 that I saw, and I think it's one of the advantages that

15 they're considering, is when you take 130 facilities and

16 divide that into two or almost two, so if you're one of

17 130 and you have an issue and you call the region

18 office, you've got to -- you know, you're going to take

19 a rank on priority of where the NIGC resources get to

20 you. It could be training. Could be investigation.

21 Could be a number of issues.

22 Well, when you divide that region into two, your

23 odds of rising up higher on the priority list go up

24 substantially. And that's kinda what we saw in the

25 split between Oklahoma and Tulsa, is that having two

1 regional directors to manage those issues, it got

2 more -- it actually put more resources into both

3 regions. And I will leave it to you guys to tell them

4 if you think it was beneficial or not.

5 CHAIRMAN CHAUDHURI: Let the transcription

6 show there's a lot of head shaking in the "yes"

7 direction. Thank you for that comment. Additional

8 comments, questions?

9 MR. MORGAN: Thank you. Matthew Morgan,

10 Chickasaw Nation. In looking at the question that

11 Ms. Thomas put up there on the rural outreach, I will

12 say, you know, Chickasaw Nation will be submitting

13 formal or in-depth comments, but just to briefly address

14 some of those questions this morning.

15 On your first question on the regulatory revisions

16 needed for gaming tribe with small rural operations, I

17 think a hard look needs to be taken at that. With

18 tribes that have other economic development going, the

19 impact is not as deep, but it's still hard when there is

20 a one-rule-kinda-fits-all decision that comes down,

21 especially when you consider the timing of that during

22 the budgetary cycle of how you're going to handle that.

23 And if that's your only economic development in some of

24 the more rural areas, that impact is really great in

25 trying to decide how you're going to cover that within

- 1 whatever time is given to be in compliance.

- 2 I think you said it earlier, Mr. Chairman. You

- 3 know, a lot of people -- a lot of tribes' gaming

- 4 facilities in more rural areas and the focus is jobs.

- 5 It's not really profit. It's jobs. You know, it's

- 6 becoming better partners with that community and lending

7 assistance there, because you know, you have the tribal

8 and non-tribal citizens alike there, but it's becoming

9 partnerships and developing and making sure something

10 stays, money is turned over.

11 Maybe you get lucky and you're creating more of an

12 insurance pool that's utilized in the health care

13 centers, whatever it is, but it's not really -- you're

14 not -- you're not becoming rich off that facility. And

15 like you said, the vast majority of tribal gaming is

16 those small -- smaller gaming centers across the

17 country.

18 So I do think some special consideration needs to

19 be given anytime we look at new rules and regulations on

20 how that's going to impact those facilities, because it

21 becomes a difficult balancing act for tribal government,

22 tribal leaders when they are trying to decide how they

23 want to allocate revenue across many programs and

24 services that they offer, because again, it's really

25 about employment at that point.

- 1 Should NIGC adjust the way it does business with
- 2 small -- probably, again, it's kinda the same answer.
- 3 They're in a different business mindset than some large.
- 4 You know, we're very blessed in Chickasaw Nation, we
- 5 have multiple facilities. We have very large facilities
- 6 and we have very small facilities as well. Those small

7 facilities run the gamut on where they're at.

8 You know, does the town have that power supply that

9 you need, you know, running into that building? You

10 know, does it have some of the services there that

11 may -- that you may need? We opened up that, again, for

12 jobs in a building that's 20 years old and we've got it

13 up to spec that were on the books seven, eight years

14 ago, and suddenly those -- those environmental health

15 and safety or something raises. There's some particular

16 considerations that need to go into that, how we want to

17 come to be in compliance with those standards.

18 I think that's all a good thing that you've created

19 this rural outreach coordinator that really can focus on

20 some of these issues, because again, I know that you

21 placed it up in Montana, but I think -- if you haven't

22 seen it, I invite you to look. OIGA did its last

23 economic impact study, and one of the things they were

24 looking was the rural impact versus the urban impact

25 here in Oklahoma, and you know, what does that mean and

1 how do they differ. And I think you'll find some of

2 those differences through a lot of regions across the

3 country.

4 CHAIRMAN CHAUDHURI: Thank you, Mr. Morgan. I

5 think that it brings up a lot of thoughts. I don't know

6 if anybody wants -- wants to share.

7 COMMISSIONER SIMERMEYER: Sequoyah Simermeyer

8 with the Commission. Thank you for that comment and the

9 earlier comments. I'll take a minute here and say a few

10 of my thoughts about some of the comments of the day.

11 And I appreciate Mr. Cunningham talking about the unique

12 perspective that existed for this particular region for

13 process or things that have occurred in the past that

14 have helped us to form how we might look at this in

15 other parts of the country. So thanks for that, as well

16 as the comments that has unique impacts on that part of

17 the country as well. So we should be looking at that as

18 well.

19 So one of the thoughts that I had with the comment

20 that just -- Mr. Morgan's comment just now was that in

21 looking at other emphasis areas of the Commission and

22 the Chairman's leadership early on and I think before

23 the vice chair, all those emphasis areas were

24 identified, including rural outreach and technology and

25 other issues. But there is -- one of the things that

- 1 attracted me to that approach was that the -- often
- 2 times tribal communities, rural or non-rural, the
- 3 technology considerations and decision making processes
- 4 that they go through often impact beyond just the gaming
- 5 operation and really serve as an infrastructure corridor
- 6 for that community.

7 So I think it translates well into some of the

8 comments that were just made about how a community that

9 might not have the opportunity to diversify its -- its

10 revenue or other issues might have unique considerations

11 in how they are looking at their decision making

12 processes so that, as partners, we want to avoid from

13 the federal side a one-size-fits-all approach in taking

14 the opportunity to develop a process to look at the

15 unique needs of each community and how they have

16 structured their vision and how they're going to execute

17 their goals to their citizens is really important in

18 structuring that around perhaps rural outreach.

19 And then a final thought of some of the earlier

20 comments about the budgetary process, and I appreciate

21 those comments, and you know, each of us -- one of the

22 decision making roles that we each have on the

23 Commission is the budget process and we'll talk a little

24 bit later on I think in this consultation series

25 about -- about fees and how we approach that. But you

1 know, from my perspective opportunities to engage more

2 and have input and thought are very important and it's a

3 matter of good governance. And so I appreciate those

4 comments that are being made today in this specific part

5 of the consultation.

6 CHAIRMAN CHAUDHURI: And excellent comment,

7 and echo everything Commissioner Simermeyer just said.

8 The jobs creator role of the majority of tribal gaming

9 facilities is not lost on us, and we want to do whatever

10 we can to support the regulatory efforts of communities

11 that may not always have, you know, the largest IT

12 departments or the largest regulatory bodies, but we see

13 a benefit to supporting the overall framework of Indian

14 gaming and that that framework benefits all parts, all

15 members of that, large and small, and so if there are,

16 you know, any issues anywhere in Indian gaming that

17 affects everybody and so we are committed to doing

18 whatever we can through our regulatory mission to

19 support small rural operations.

20 And so this isn't a one bite at the apple

21 consultation. If there are other things that we can do

22 as we move forward as an agency to support newer

23 possibly start-up operations, we always -- we already

24 have quite a few trainings for start-up facilities, for

25 new facilities, but if there is anything that we can do

1 to support newer or rural facilities, please let us

2 know.

3 You know, we have certainly a lot of our emphasis

4 on the technology side. We provide, you know,

5 vulnerability assessments free of charge, which I think

6 are especially beneficial to newer or smaller

7 facilities. We provide a number of trainings that I

8 think help in terms of not just regulation, but

9 governance issues that tribal nations face, but beyond

10 that, when we look at the challenges that rural -- that

11 rural communities face, sometimes there are related

12 issues, whether they be telecom or connectivity that we

13 may be able to help facilitate dialogue with other

14 members of the federal family, that even though there

15 may not be a direct issue in our regulatory lane, we may

16 provide a resource to some of those communities who are

17 seeking to expand their infrastructure across the board.

18 And so we want to be helpful and we want this to be

19 an ongoing conversation. So the Rapid City office is an

20 important part of that, but everything we're doing as an

21 agency, we want to make sure supports rural and newer

22 facilities because we're all in it together. If there

23 are compliance challenges, if there are operational

24 challenges, if there are market challenges that that

25 smaller or rural facilities face, we understand that

- 1 impacts everyone in Indian gaming. And certainly the
- 2 impact on jobs, the work that OIGA has done and its
- 3 analysis, the economic study that NIGA has put forward,
- 4 we are -- you know, it's important for us to recognize
- 5 in all stages the impact on jobs, both for Indian
- 6 country and surrounding communities in everything we do,

7 and so that's part of our commitment to rural outreach.

8 So thank you for that comment, Mr. Morgan. Okay.

9 We have a number of topics to cover, but I

10 always -- I want everyone to feel that all

11 opportunity -- that everybody has had every opportunity

12 to share. Are there any additional comments on this

13 topic before we move forward with our next topic?

14 And I know it's a long consultation schedule. It's

15 9 -- almost 9:30 right now. If we can shoot for a short

16 five-minute break at 10:15 in case anybody needs to use

17 the facilities or just stretch, we'll shoot for a 10:15

18 break.

19 But with that, we'll move on to our next topic,

20 unless there are any other comments that anyone wants to

21 submit, which is developing a strong tribal work force

22 through training, and we'll turn it over to our training

23 manager, Mr. Steve Brewer.

24 COMMISSIONER BREWER: Good morning. As

25 Jonodev said, my name is Steve Brewer. I'm the training

1 manager for the National Indian Gaming Commission. A

2 strong work force is an essential ingredient to the

3 success of any business. The NIGC believes one of our

4 best assets is our employees and recognize that this is

5 also the case for tribal gaming operations.

6 With this in mind, the Commission is prioritized to

7 supporting a strong work force both within NIGC and

8 among our tribal regulatory partners as one of its four

9 initiatives. In order to foster a strong tribal work

10 force, the NIGC seeks to enhance our external training

11 program and ensure that it continues to meet the needs

12 and demands of the industry.

13 To that end, we take this opportunity to update you

14 on the direction and commitment of our training program

15 and to consult with you about how we can deliver a

16 better training program to meet the needs of our tribal

17 regulatory partners.

18 Currently, the NIGC offers three types of training

19 events: The regional training conferences. These are

20 based on and derived from our training catalogue and are

21 based on the needs of the region where training is

22 occurring. We also have the regulating gaming

23 technology, which is geared towards providing both an

24 understanding of our variety of technologies on a casino

25 floor and strategies on how to effectively regulate and

- 1 understand such technology.

- 2 It should be noted that the RGT training for 2017

- 3 has been suspended to allow time to revamp the training

- 4 to make sure new technologies are included, and it is

- 5 anticipated that the new RGT will start in 2018.

- 6 Finally, we provide site specific trainings. These

7 trainings are trainings that are requested by a tribe to

8 meet the individual needs of its tribal government,

9 gaming commission regulators and operators.

10 The NIGC has developed some assessment tools that

11 tribes can request at no cost. The first assessment

12 opportunity is the information technology vulnerability

13 assessment or ITVA for short. The ITVA is performed by

14 the division of technology who completes a vulnerability

15 assessment of a facility's IT system to identify

16 potential security threats.

17 The second type of assessment is an internal

18 control assessment or ICA performed by the audit staff.

19 This could be a comprehensive review of a tribal gaming

20 facility's entire system of internal controls or it

21 could be a specific system, such as an internal audit

22 review. Based on the identifying -- findings identified

23 in either a completed ITVA or ICA, the training program

24 can then offer and develop training specific for that

25 tribe.

- 1 All NIGC training is developed to support our
- 2 tribal customers. The training request process is used
- 3 to shape and deliver training courses and programs that
- 4 are uniquely tailored to each organization based on
- 5 their specific needs and requests.
- 6 The NIGC training program is currently undergoing a

7 process to revamp, revise and update all our training

8 offerings. The NIGC is committed to craft trainings

9 that are carefully targeted to meet the evolving needs

10 of our regulatory partners and address high priority

11 matters critical to safeguarding the Indian gaming

12 industry.

13 In this manner, the NIGC training program is in the

14 process of revising its instructor-lead training courses

15 to provide a more interactive and hands-on experience.

16 As a commitment to the value we put on training, we have

17 recently brought in additional staff to help develop our

18 training platform and assist with incorporating new

19 methods of training.

20 Additionally, we will utilize more technology in

21 our training offerings. We are working towards offering

22 an online, on-demand training to allow for live video

23 conferencing events.

24 With the kickoff of our current training unit, the

25 NIGC has developed new training classes, including a

- 1 12-hour comprehensive training for internal audit, a
- 2 12-hour hands-on workshop for TICS, SICS development, a
- 3 new gamesmanship 2.0 training, and a new IT training
- 4 related to the auditing of the Class II control
- 5 standards as it relates to Part 543.20. Each training
- 6 is designed to be interactive and take a hands-on

7 approach.

8 We're in the process of revising our full training

9 catalogue to reflect these new training opportunities.

10 Additionally, in 2016, the NIGC instituted knowledge

11 reviews in certain audit courses. The intent of the

12 knowledge review is to review the effectiveness of our

13 training.

14 This testing is performed in two points: First,

15 upon completion of a training class to understand what

16 the students learn, and a second test is performed 90

17 days later to see if the student retained the

18 information.

19 For 2017, the NIGC is expanding the knowledge

20 review for all courses offered by the NIGC. The NIGC is

21 interested in learning from you about what our training

22 program can do to meet the needs of your operations,

23 what additional types of trainings or events you'd like

24 to see, what more can our training program do to help

25 tribes stay abreast of emerging trends in Indian gaming,

1 including technological developments such as online and

2 on-demand training, smart phone or tablet apps or other

3 technology? Or if you have any other comments or

4 concerns you would like to share, we look forward to

5 hearing your input and questions. Thank you.

6 CHAIRMAN CHAUDHURI: And thank you, Steve. So

7 comments and questions on that? This is an exciting

8 part of the consultation for me. A lot of our trainings

9 are specifically tweaked because of the comments

10 received from Indian country, and so we're always open

11 to input and guidance, but we're really looking forward

12 to kind of setting some clear benchmarks about our

13 training program as we move forward, you know, down the

14 road.

15 So very much look forward to input here. Looking

16 around the room, I'm just thinking about the impact that

17 certain comments have made -- been made. I see one

18 person, individual -- I mean, in particular. I don't

19 want to throw her under the bus unless she wants to go

20 on record, but she very much helped -- helped inform

21 our -- even though this isn't technically training, but

22 our vulnerability assessments, the need to support

23 communities that don't have full, you know -- or that

24 have smaller IT services, Francine Dupuis.

25 MS. DUPUIS: Dupuis.

- 1 CHAIRMAN CHAUDHURI: Francine Dupuis. I
- 2 remember early conversations with the Commission
- 3 regarding, hey, many community's vendors effectively
- 4 provide IT services. I'm, like, well, what support can
- 5 we do. And really thank Travis and his team for kind of
- 6 really developing a program that's perfectly tailored to

7 -- to those needs.

8 Same thing with training. You know, gamesmanship,

9 a lot of our specific trainings come from comments in

10 the field. So if anybody has any specific comments now

11 or later, please let us know about how we can tweak our

12 trainings and very happy that Steve has set us on a very

13 good path.

14 MR. HUMMINGBIRD: Excuse me. Jamie

15 Hummingbird, Cherokee Nation. I want to applaud the

16 NIGC for the efforts that they've taken for increasing

17 and expanding their training programs. That is one area

18 that I've been advocating for the NIGC to take up for a

19 very long time, just simply because, as you mentioned,

20 tribes across the country have varying degrees of

21 capabilities when it comes to technology, maybe even

22 just coming down to budgetary issues and staffing.

23 So the -- having that type of training be easily

24 accessible is a critical component for all tribes.

25 One thing -- and, Steve, I apologize if I missed

1 something. When you were talking about being able to

2 possibly look at online or something not in person,

3 let's just put it that way, does that contemplate also

4 doing trainings sort of in the style of YouTube where

5 you would be able to have a training on a subject that

6 could be accessed via the NIGC website or is it

7 something that is just going to be a static downloadable

8 type presentation?

9 MR. BREWER: That's a great question, Jamie.

10 One of the things that we're looking at is we're looking

11 at creating our own YouTube channel, you know, recording

12 some of our trainings and then placing them on a YouTube

13 channel so it would be something that you could watch.

14 We're also talking about interactive training by

15 developing a learning management system where it's --

16 you know, you go in and it could be multiple different

17 types of aspects from video to PowerPoint to, you know,

18 voice over with questions and going to that interactive

19 approach of training like you see on some of the other

20 LMS for education.

21 MR. HUMMINGBIRD: Just a quick follow-up.

22 Jamie Hummingbird again. Two -- actually, two

23 questions. One is, would the -- would it be possible

24 for some expanded training offerings on the IT side?

25 And I'll point it to Travis and his group. They've done

1 a great job up to now getting things kinda brought up to

2 date with respect to certain aspects of the operation.

3 One of the things that I see, and it may be already

4 in the works, is we tend to focus a lot on the machine

5 and the system itself. One of the things I think may be

6 lurking in the background is the other issues we talked

7 about, the internal -- excuse me, the vulnerability

8 assessment, which is good and gets us part of the way

9 towards assessing network security and vulnerability

10 that way.

11 Is there any plans to expand training in that area

12 or any offerings in the network security type area?

13 CHAIRMAN CHAUDHURI: And before Travis weighs

14 in on this, I do want to just take my hat off to Travis

15 and Steve in terms of -- of the way that they work

16 together. So obviously training and the positive

17 direction training takes needs to be supported by a

18 larger technology, you know, vision and Travis has

19 provided that vision.

20 You know, I mentioned Francine -- Francine's input

21 regarding technology as a whole. That was early on that

22 helped inform the emphasis on technology. The

23 vulnerability assessment was Travis's brain child. I

24 really gotta give Travis massive credit for that, but

25 the work that Travis is doing on the technology side and

1 the work Steve is doing on the training side, they go

2 hand in hand.

3 So it's a perfect question. Just wanted to mention

4 that and take my hat off to those two before Travis

5 weighs in.

6 COMMISSIONER WALDO: Thank you, Jamie. We are

7 actually looking at some expansion of that, but we have

8 to kinda limit what we can do because we end up putting

9 our hands on systems that we shouldn't really probably

10 touch. So we can't get in that break-fix situation, but

11 we're looking at some non-industry specific training --

12 or excuse me, non-vendor specific industry standard type

13 trainings, the CISSP for network security. There's some

14 stuff in there that we're kinda looking at maybe

15 incorporating.

16 I'm looking at kind of expanding the vulnerability

17 assessment a little bit with some different types of

18 scans and some software that we could use, but again, we

19 always have to stop short of actually doing a physical

20 PIN test and we have to stop on the -- you know, just on

21 the assessment side of that, but as far as training

22 goes, we can tailor training to just about anything, you

23 know, someone needs.

24 If someone or a small operation has a specific need

25 for network security training, or you know, some

1 information on, you know, network security training, you

2 know, with specific vendors, we can tailor to that. We

3 certainly could.

4 MR. HUMMINGBIRD: And finally, Mr. Chairman,

5 one last point to -- Jamie Hummingbird again. And I

6 understand that the things can be tailored. I like that

7 aspect. I would just encourage you and Steve as you are

8 going through and deciding these training programs to

9 keep people like me in mind that don't know come here

10 from sic 'em when it comes to a great deal of the

11 technology.

12 What I'm saying is keep in mind people that have

13 varying levels of understanding of the technology aspect

14 and -- because back in my day, I knew computers

15 backwards and forwards. Today, I'm lucky if I can turn

16 it on. So keep people -- people's degree of proficiency

17 in mind.

18 CHAIRMAN CHAUDHURI: That's an excellent

19 point, Chairman, and he's got me to deal with on a daily

20 basis, so he's used to breaking things down into short

21 sentences and using small words, so we're working on

22 that.

23 MR. BREWER: The one thing I'd like to add if

24 I could quickly is a lot of the new trainings that have

25 been developed through the training program is directly

- 1 as a result of the feedback that we've gotten from the
- 2 tribes themselves in our regional training conferences.
- 3 Specifically, the regional guidance on the issues was --
- 4 was a course that was developed based on comments that
- 5 we received here in Oklahoma as to why were we not
- 6 giving specific information to the specific region and

7 just kinda more of a broad overview of the regulations.

8 And so whenever we get our evaluations back from

9 the RTCs, I go through it and I look at it, and I've

10 gotten some really great ideas and that's kind of what

11 caught -- it's kinda continuing the training program to

12 advance. It's based on the comments. So we -- I agree

13 with you. I think best practices and breaking things

14 down is the best approach for getting everybody up to a

15 higher level. Thank you.

16 CHAIRMAN CHAUDHURI: Thank you for those

17 comments. Additional comments on this topic? Okay.

18 Any additional --

19 COMMISSIONER SIMERMEYER: I just wanted to --

20 as folks are considering this consultation series for

21 these next couple of months, two things that, for me,

22 would be helpful to hear more about and to keep thinking

23 about is kinda what unique role can be played in -- in

24 kind of facilitating these dialogues, understanding

25 there might be kind of regional differences or capacity

1 differences that might exist between operations, but if

2 you have thoughts on that, I think that would -- from

3 operations, be -- to be beneficial.

4 And also to keep in mind, I think in the

5 presentation or the earlier comments that was made, I

6 appreciate significantly is, you know, the call for how

7 we can assess and benchmark and understand the impact

8 that our actions are having on the regulatory community

9 and the ability to read articles, so ...

10 MR. SWITCH: All right. Okay. My name is

11 Seisman (phonetic) Switch and I have one question,

12 Mr. Chairman. NIGC has developed its training program.

13 Later on in the future, on down the road, will the NIGC

14 be focusing towards tribes requiring these to qualify or

15 yearly inspections to make sure the tribes are doing

16 these trainings or anything like that? Is there

17 anything like that, such as developing these training

18 programs, beefing up the training which it's providing

19 in the fashion you-all are doing now? Are there

20 anything like that be coming up in the future?

21 CHAIRMAN CHAUDHURI: And, sir, are you

22 speaking about certification or requiring certain

23 certifications?

24 MR. SWITCH: Yeah, requiring certifications.

25 CHAIRMAN CHAUDHURI: I don't know if Steve or

1 Christinia want to speak to that, but our trainings at

2 this point are voluntary and --

3 MS. THOMAS: So we are actually required by

4 statute to provide training, so that's why we put such

5 emphasis on our training program. And I'm going to

6 reiterate that Steve and Travis together have actually

7 upped our standard for training and what we provide, but

8 no, at this time, we are not looking at making any

9 requirements or certifications for tribes for the

10 training that we provide.

11 CHAIRMAN CHAUDHURI: And just to add to that,

12 there's a general statutory -- I mean, I think all

13 credit goes to Indian country who worked to amend NIGRA

14 to put in a training aspect into our mission, but

15 what -- what we've done with that is we've elevated it

16 to, you know, a fundamental priority in the agency and

17 it's -- it's, you know, the utmost importance to us

18 because it informs everything we do.

19 So even in terms of the ongoing compliance side of

20 our functions, we're committed to the notion that doing

21 whatever we can on the front end to support tribal

22 regulatory efforts through training to avoid compliance

23 issues is the most efficient way to -- to achieve

24 compliance. And, of course, we're -- we're -- we never

25 shirk from our responsibilities to address compliance

1 issues on the back end, but just part of our philosophy

2 as an agency is to do whatever we can to listen to the

3 needs of our regulatory partners and to tailor our

4 trainings accordingly.

5 So that's inherently voluntary. That's inherently

6 a two-way street in terms of listening to our tribal

7 partners, figuring out what the needs are from other

8 regulatory bodies and tailoring our training

9 appropriately. We -- we don't have a requirement that

10 mandates certain trainings because there are other

11 functions of the agency that are in place to ensure

12 compliance, and those other functions, you know, involve

13 other authorities of the agency.

14 We see training as a two-way hand-in-hand operation

15 where needs are discussed. We tailor our trainings

16 accordingly and that serves the entire community better

17 to work better on the front end rather than the back

18 end. So that's kinda how we approach trainings. It's

19 voluntary in nature. Thank you. Excellent question.

20 Thank you, sir.

21 MR. YORK: Thank you. Buddy York with

22 Muscogee Creek Nation Gaming Commission. Just a quick

23 comment on the training. We have -- and they do provide

24 us with any type of training that we request. That's

25 not a problem. One of the things I would like to see is

1 maybe have training for, like you say, from A to Z, from

2 start to finish, but a lot of times, we have a lot of

3 turnover in our -- some areas. And so beginning

4 training is fine, but for people that have been in there

5 for a long time, maybe have a different type of training

6 that would be a little more in-depth for those people

7 that have been there for quite awhile, and you know,

8 just train them on anything that may be new or get a

9 little more into it than we would for those that are

10 just starting out in a certain area. Thank you.

11 CHAIRMAN CHAUDHURI: Thank you, sir. We'll

12 definitely look at that, but one of the things that

13 we're proudest of is, you know, these trainings aren't

14 free, even though sometimes I say, you know, it's no

15 charge to the tribes. A better way of saying it is

16 they're prepaid. It's like a prepaid phone card. You

17 know, our fees come from Indian country and the ideas to

18 support -- support Indian -- the health of the industry.

19 So they are prepaid, and as a result of that, if

20 there are any specific trainings that are specific to a

21 nation or specific -- specific to a TGRA that's needed,

22 we're very proud of the fact that our team will do

23 in-person training for a given nation. And hats off to

24 Steve and his team for overseeing that, but thank you so

25 much for that comment, Mr. York.

- 1 And I apologize for sounding like a duck. My
- 2 allergies are kicking in right now.
- 3 Okay. Additional comments? So let me take one
- 4 second to converse with the team here briefly. Okay.
- 5 So we may have to push our break back a little bit,
- 6 depending on how this session goes, but if you will, I

7 think we're going to adjust the order of our topics

8 briefly. We have, you know, a couple of members of our

9 team who have to change schedules for important

10 purposes, but you know, I want -- I want to give all

11 attention necessary to the MICS discussion, the

12 voluntary, non-binding MICS discussion.

13 Unless there's objection, we always -- you know, we

14 take great effort to provide notice as to whatever we're

15 doing and how we're going to do it and we did lay out

16 this order of topics, but unless there's objection, we'd

17 like to move forward with -- with our discussion about

18 the draft guidance regarding -- voluntary, non-binding

19 guidance regarding Class III MICS, and if we could move

20 forward with that portion of the discussion just in the

21 interest of having all relevant parties in the room when

22 we have it.

23 Okay. So, Ms. Thomas, I don't see any objections,

24 please proceed.

25 MS. THOMAS. Thank you. Christinia Thomas

- 1 again. So as a result of the 2015-2016 consultations,
- 2 the Commission will issue non-binding Class III MICS
- 3 guidance. We have issued a draft of that guidance and
- 4 are asking for feedback before we finalize and publish.
- 5 Although a guidance document does not require a
- 6 formal notice and comment process, the Commission

7 recognizes the value of tribal and industry input and

8 intends to thoroughly consider all comments we receive

9 from you to inform this guidance. Copies of the draft

10 64-page guidance document are provided for review today,

11 but are also available on our website.

12 The NIGC is very fortunate to have so many tribal

13 gaming subject matter experts working for the agency who

14 are well versed in operational procedures and the risks

15 associated with them who have been diligently working to

16 develop this draft.

17 You'll notice that the draft follows the formatting

18 and style of the current Part 543 Class II MICS. We

19 hope it assists those tribes with MICS facilities to

20 develop a comprehensive set of controls while still

21 enabling tribes themselves to establish standards that

22 best fit their needs.

23 Exclusively Class III areas such as gaming machines

24 and table games have been updated after extensive review

25 of other jurisdictions incorporating tribal regulatory

1 in current industry standards. Additionally, those

2 controls in Part 543 that require TGRA analysis and

3 approval, such as variances and supervision controls,

4 are carried over into the Class III guidance.

5 We would also like to consult with you on a

6 proposed decision to suspend the existing 542

7 regulations. Suspension of the regulations leaves the

8 existing text in the code of federal regulations, but

9 adds a note that they are not enforceable and refers the

10 reader to the guidance document. We believe that this

11 solution accomplishes the goals of keeping the language

12 accessible for those who need it. Thank you.

13 CHAIRMAN CHAUDHURI: And thank you,

14 Ms. Thomas. So we can, of course, give ample additional

15 background, but I want to open it up to comments and

16 questions on, as I said before, to this voluntary,

17 non-binding draft guidance.

18 MR. HUMMINGBIRD: Jamie Hummingbird with

19 Cherokee Nation again. Just to refresh my memory if you

20 could, I realize we covered this subject at a

21 consultation in Shawnee last year and I think you might

22 recall then I asked the question, and I'm hoping to get

23 a refresher, because I'm wondering how this move is

24 going to impact tribes here in Oklahoma and elsewhere

25 where their compacts are tied to compliance with the

1 TICS -- or excuse me, the MICS that are contained within

2 Section 542.

3 What is the expectation or what does NIGC

4 anticipate any potential ripple effect being when it

5 comes to those situations?

6 CHAIRMAN CHAUDHURI: I think that's an

7 excellent question and we recognize that the compacts

8 for tribal nations vary greatly from state to state.

9 And, you know, we have some thoughts, but we also are

10 always interested in hearing from Oklahoma tribes'

11 perspectives about the potential impacts, but again, I

12 stress that these are non-binding and voluntary, but if

13 I could turn it over to our general counsel, we've had a

14 lot of internal discussions on this as well.

15 COMMISSIONER HOENIG: Hi. So the -- the kind

16 of solution we came up for that was to try and figure

17 out a way to point out that the regs that are existing

18 on the books of Part 542, we can't enforce those because

19 of the Colorado River Indian Tribe's decision back in

20 2008, but those regs have stayed on the books and we

21 understand that they need to be on the books for the

22 reason that you discussed.

23 So by suspending, which is what we're proposing to

24 do, by suspending the regulations, they stay there. 542

25 will still be there and it will still get printed. It

- 1 just -- it means that the NIGC can't enforce those
- 2 regulations and it makes that clear. Everything will
- 3 still be there. You'll still be able to look them up.
- 4 They'll still be referenced. We just won't -- I mean,
- 5 it really won't have any -- any practical effect in the
- 6 sense that we haven't been able to enforce them since

7 the CRIT decision. We still won't be able to enforce

8 them.

9 This will make that clear in the regs and then it

10 will point folks that want to use them to the guidance.

11 That way, for the compacts that reference 542, that will

12 all still be there. We wouldn't be able to update those

13 regs regardless because of the CRIT decision. We just

14 don't really have the authority to mandate anything in

15 Class III internal controls.

16 So they'll just kinda stay the way -- they're kinda

17 frozen in time, essentially. They're suspended. You

18 can still reference them if you need to, and in the

19 meantime, we'll be putting out this -- this guidance is

20 just kind of a point of reference for tribes that need

21 it for their Class III MICS. I hope that answers your

22 question.

23 MR. HUMMINGBIRD: Mostly.

24 COMMISSIONER HOENIG: Mostly. Is there

25 anything I can --

- 1 MR. HUMMINGBIRD: Well, I just think -- and I
- 2 understand where you're coming from and I think I
- 3 understand how this will kinda flow and it's -- I think
- 4 it's going to be something more of a question now that
- 5 we will have to work on internally as well as possibly
- 6 with the -- anything with the state, simply because with

7 -- with respect to the outdatedness, if you will, of the

8 current 542 -- the technologies, the processes,

9 everything that was in place eight, nine years ago, not

10 in place today, and if we had the ability to amend

11 those, I'm sure they would have been amended, you know,

12 three years ago when the rest of them were -- or four to

13 five years ago when the rest of them were.

14 But with -- with the rest of the -- my questions, I

15 think they're not necessarily for you. It's going to be

16 something I have to ask my tribe and we might have to

17 confer with my counterparts on the tribal side here in

18 Oklahoma and maybe even with our state compliance

19 agency.

20 COMMISSIONER HOENIG: Yeah, and we know that

21 there are compacts elsewhere, too, that reference back

22 to the NIGC's MICS. And so there's kind of a mix how

23 that's done throughout the industry and we're trying to

24 come up with a way to have to -- to be able to update

25 something, but have the least amount of impact on those

1 compacts that reference our MICS, or you know, sometimes

2 they're dropped right into the compact even, but for

3 those that just reference back to Part 542, we're trying

4 to figure out a way to be clear that, you know, we can't

5 really do anything with these, but here they are in case

6 you still need them, if you're still referencing them in

7 your compact.

8 MR. HUMMINGBIRD: And is the move to make --

9 the 542 non-binding guidance, is that a move that NIGC

10 is going to keep forward with all regulations in the

11 future? It was a joke.

12 COMMISSIONER HOENIG: I thought you meant

13 keeping it updated.

14 COMMISSIONER SIMERMEYER: I'm okay with the

15 regulations.

16 CHAIRMAN CHAUDHURI: You know, I can't --

17 can't predict the future, but the Class III MICS have a

18 unique history, as we know, and the diversity in Indian

19 country about how various compacts review them and I

20 think it results in very -- some very unique approaches

21 and solutions, but can't really speak to that. But the

22 guidance will be referenced and there will be kind of a

23 signal saying, you know, these rules are suspended,

24 however, NIGC maintains its guidance at X, and you know,

25 whatever the website is and we -- the benefit of that is

1 as technology changes, we don't have to -- we're not

2 issuing new regulations since this is non-binding

3 guidance. That guidance can be updated with input from

4 Indian country as -- as needed. And so it's not a

5 formal regulation from there on out. It's non-binding

6 guidance.

7 MS. HOMER: Just one question. You know, I

8 understand that, you know, the NIGC, when you say it's

9 non-binding guidance, at least I think I understand,

10 that that means you-all can't bring an enforcement

11 action for non-compliance. However, I would presume

12 that you're still going to be writing your audit

13 checklist and using the new guidance documents as what

14 will form the basis for your audits going forward.

15 And so to that extent, you know, if you're not

16 complying with Part 542 guidance, then you would be

17 getting an audit ding for not doing that, which how does

18 that work?

19 CHAIRMAN CHAUDHURI: And I'll turn it over to

20 Ms. Thomas who can speak in more detail, but I'm not

21 sure if that's quite -- well, go ahead.

22 MS. THOMAS. So we may adjust our training

23 programs and the stuff that we offer, like the IC is

24 based on the guidance, if that's what tribes would like

25 to see, but we don't require tribes to have audits

- 1 completed or AEPs completed on Class III stuff. That's
- 2 not something that we can ask for.
- 3 I do know that tribes still do Class III audits or
- 4 AEPs and based on whatever controls that the tribe has
- 5 in place, and if you get a finding based on your own
- 6 controls, well, that's the tribe's controls and you just

7 have an independent auditor auditing against your own

8 controls.

9 MS. HOMER: Okay. Just for purposes of

10 clarification, then, when we have a MICS Class II and

11 Class III facility, which is very common here in

12 Oklahoma, wouldn't the classification --

13 classification -- the MICS for the Class II be applied

14 for the whole facility as opposed to just a part of the

15 facility? How does that -- how does that -- how do you

16 perceive that working?

17 MS. THOMAS: So if it's a MICS facility, we've

18 always said from the onset of the implementation of the

19 542 for the Class II MICS that if an area touches any --

20 if any of the Class II areas touches, so your cage, your

21 surveillance, all of those particular controls, are

22 already part of 543. So we would be measuring against

23 those controls. We wouldn't be measuring against the

24 guidance, but I can tell you that the duplicative areas,

25 like the cage and all those, carry over into this

1 guidance document, so it's going to be verbatim what's

2 in 543 for all of those areas that touch every portion

3 of the Class II area. So there's no differences between

4 what we have for the cage language in 543. It's exactly

5 the same as we have for cage language now in this

6 guidance document.

7 CHAIRMAN CHAUDHURI: Thank you for --

8 MR. HUMMINGBIRD: I don't think I need a

9 microphone, just -- Jamie Hummingbird again. How soon

10 do you plan to make the switch?

11 MS. THOMAS: Well, our comments -- our comment

12 period isn't done until the end of June, and I

13 anticipate that we're going to get a bunch of written

14 comments on this particular issue. And it's going to

15 take us some time to review all the comments and make

16 changes where we feel appropriate, so we're still a few

17 months out.

18 CHAIRMAN CHAUDHURI: And that will result in

19 kind of a more final proposed draft and we'll submit

20 that for final -- final comments as well.

21 MR. MORGAN: Matthew Morgan, Chickasaw

22 Nation --

23 CHAIRMAN CHAUDHURI: I'm sorry, to answer,

24 we're trying to get as much done this year as possible,

25 if that's helps. Sorry, Mr. Morgan.

1 MR. MORGAN: No, no, you have the floor

2 anytime, sir. It's not a problem. A lot smarter minds

3 than mine in the room, but a concern that keeps tripping

4 me up is that CRIT decision on not only the authority to

5 enforce, but the authority to issue what's termed in the

6 record Class III MICS. I don't -- I know the

7 enforcement part goes to the regulatory format of how

8 that is, but you know, how you get over that hurdle of

9 issuing expending fees on Class III minimum internal

10 control standards, that worries me on how the NIGC is

11 going to address that and get over that hurdle.

12 CHAIRMAN CHAUDHURI: Thank you, Mr. Morgan.

13 And we've talked about this internally. And, Mike, do

14 you want to field this?

15 COMMISSIONER HOENIG: Sure. No, I appreciate

16 that concern and we've -- we have heard that from the

17 beginning. I think here again, by putting it out as

18 non-binding guidance, I guess we would have to look to

19 see maybe even what fees we are really expending. I

20 know we're working on this and it is something that

21 we're -- you know, we're taking time to do, but I also

22 think, too, that we can look at this as it is providing

23 a service to some tribes that have asked for it and say

24 we do need this.

25 We also have in some places the class three tied

1 through ordinances, so we have to kinda look at how we

2 deal with that as well, which is another issue. So I

3 would say that I take your point and I can see that that

4 is a concern. I think that the CRIT decision itself,

5 though, is really more focused on the regulatory aspect

6 and on being able to enforce these and really having any

7 kind of regulatory authority to go in and enforce Class

8 III minimum internal controls.

9 But I think that what the Commission is trying to

10 do here, is it almost falls more in the technical

11 assistance and guidance aspect of the Commission's role.

12 I mean, we do have -- you know, regardless of what the

13 Court and CRIT said about our authority, I think we do

14 have a lot of in-house internal expertise on these

15 issues that I think we can bring a lot of assistance to

16 the industry for some of the tribes that are asking for

17 it, some of the operations that are asking for it and

18 could use it.

19 And at the same time, it's, I think, a very low

20 kind of -- it's not an -- it's not something that we're

21 going to be out, you know, every day in there saying,

22 are you keeping up with Class III MICS and expending

23 resources that way, if that makes any sense, so ...

24 CHAIRMAN CHAUDHURI: Again, apologize for my

25 allergies here. Okay. Additional comments? Wow.

1 Okay. Thank you.

2 So it's 10:07 right now. Rather than start --

3 COMMISSIONER HOENIG: Do you want to try and

4 do management contracts?

5 CHAIRMAN CHAUDHURI: Oh, yeah. Before --

6 okay. That's a good -- if we could press through and

7 try and get through the management contracts discussion

8 before our break and that might -- that might be good

9 since we have everybody in the room that needs to

10 discuss that as well. Any objections pressing through?

11 Okay. So with that, we'll turn -- turn our

12 attention to the management -- management contract

13 regulations and procedures topic of today's

14 consultation, and for that, we have our finance

15 director, Ms. Yvonne Lee.

16 COMMISSIONER LEE. Good morning. My name is

17 Yvonne Lee. I'm the director of finance for the

18 National Indian Gaming Commission. One of our primary

19 initiatives at NIGC is to protect against anything that

20 amounts to gamesmanship on the backs of tribes.

21 Gamesmanship is a broad term for any third-party threats

22 to tribal assets or operations. It includes third-party

23 interference with a tribe's sole proprietary interest in

24 its gaming operations.

25 Many gamesmanship violations may occur when the

- 1 third-party vendor or services provider is managing some
- 2 aspect of the gaming operation without an approved
- 3 management contract or where a management contractor is
- 4 operating outside of an approved management contract,
- 5 thus, approval of management contracts by the NIGC chair
- 6 is required by IGRA as a means of protecting the tribe

7 against gamesmanship.

8 The chair has a fiduciary responsibility to tribes

9 to ensure that they remain the primary beneficiary of

10 their gaming operations. The management contract and

11 backgrounding process should protect against

12 gamesmanship, but the process should also not stymie the

13 entrepreneurial spirit of the tribes.

14 With this in mind, the Commission is seeking

15 feedback and recommendations on whether changes are

16 needed to the management contract and background

17 investigation regulations. Specifically, we want input

18 that may improve our efficiency in the management

19 contract review process, but also continue to protect

20 tribe's sole proprietary interest in their gaming

21 activities.

22 To provide some context to this consultation, I'll

23 briefly summarize the current approval process, then

24 we'll open the floor to questions and suggestions.

25 A management contract is any contract, subcontract

- 1 or collateral agreement between an Indian tribe and a
- 2 contractor or between a contractor and a subcontractor
- 3 that provides for the management of all or a part of the
- 4 gaming operation. Detailed requirements for management
- 5 contract can be found on our website.
- 6 The following are a few of the most significant

7 requirements: The contract term may not exceed five

8 years, unless a special authorization for up to seven

9 years is granted if the chair is satisfied with

10 justifications for the additional time.

11 The management fee provided for in the contract may

12 not exceed 30 percent of net revenue, unless a special

13 authorization for up to 40 percent is granted if the

14 chair is satisfied with justifications for the

15 additional fee, and the contract must provide for a

16 minimum guaranteed monthly payment to the tribe that has

17 preference over the retirement of development and

18 construction costs.

19 To commence the review and approval process,

20 submitters must submit a management contract and all

21 relevant documents in accordance with 25 CFR Parts 531

22 and 533 to NIGC. Once a contract is submitted to the

23 NIGC, they are processed and reviewed based on the order

24 received. The length of NIGC review is dependent on

25 several factors, which can include the number of prior

- 1 applications received and already in the review queue,
- 2 the completeness of each submission, the responsiveness
- 3 of the parties in compliance with existing laws and
- 4 regulations and the complexity of the submission and
- 5 those subject to background investigation.
- 6 There are often various and simultaneous management

7 contracts in one or more review stages at any given

8 point. Once all the documents are received and the NIGC

9 and the tribe have determined that the submission is

10 complete, chair approval or denial can be expected

11 within 180 days of this full and complete submission.

12 However, please remember that a complete submission

13 requires multiple steps. Often after an initial review

14 is complete, the NIGC contacts the tribe and/or the

15 manager to obtain additional information or request

16 clarifications. Therefore, the review process usually

17 takes more than 180 days from the initial submission

18 date.

19 The chairman must also make a determination that

20 the manager is suitable to manage the gaming operation.

21 The background investigation process is an important

22 component of the submission. Background information

23 must be submitted for all persons and entities that have

24 a financial interest in or management responsibility for

25 the management contract as identified in 25 CFR Part

1 537.

2 If a tribe wants to amend a term of an existing

3 approved contract or simply extend the original approved

4 contract pursuant to 25 CFR 535, it must submit an

5 amendment and relevant documents, include a letter from

6 the tribal chairperson and associated resolutions, as

7 well as background investigation applications.

8 For new individuals or entities, background

9 investigations are required. Individuals or entities

10 previously found suitable may also need to have their

11 background investigation updated, depending on the

12 length of time since their last background

13 investigation.

14 After the NIGC staff completes a management

15 contract review and the background investigations, they

16 will submit the materials to the chair for approval or

17 disapproval. If the NIGC chair learns of any actions or

18 conditions that violate the standards of Parts 531, 533,

19 535 or 537 or the manager deliberately or substantially

20 fails to follow the terms of the management contract or

21 tribal gaming ordinance, the chair may disapprove a

22 submitted contract or void the contract or require

23 verifications of an approved contract. If submitters

24 find the chair's determination unsatisfactory, they may

25 appeal the decision.

- 1 We would now like to take this time to hear from
- 2 you. Do you have any questions about the process or
- 3 regulations or any suggestions as to how the NIGC can
- 4 improve its efficiency in processing these applications
- 5 and providing technical assistance? Thank you.
- 6 CHAIRMAN CHAUDHURI: Thank you, Ms. Lee. So

7 we'll turn it over to comments or questions, but you

8 know, management agreements are an important part of our

9 functions at the agency. We talk about gamesman --

10 doing anything we can to protect against gamesmanship on

11 the backs of tribes. You know, the approval of

12 management agreements and ongoing responsibility to

13 ensure compliance with terms of a management agreement

14 are, you know, fundamental to ensuring that tribes are

15 the primary beneficiaries of their operations, that

16 tribes are, you know, maintaining a sole proprietary

17 interest in their operations, and so we welcome any

18 comments or perspectives you may have in terms of, you

19 know, regulations or administrative tweaks that may be

20 appropriate.

21 MR. YORK: Buddy York with Muscogee Creek

22 Nation Gaming Commission. My question is, when you're

23 talking about management contracts and you mentioned in

24 that definition gaming, okay, a lot of the resorts of

25 the larger casinos and everything have a lot of entities

- 1 -- other entities that don't -- that aren't directly

- 2 gaming. Does the definition tell us just exactly which

- 3 of these entities would be covered under a gaming

- 4 management contract or something like that if it doesn't

- 5 deal directly with gaming, but it is using gaming money

- 6 to pay for those contracts?

7 CHAIRMAN CHAUDHURI: Going to turn it over to

8 our general counsel to talk about IGRA as well as how we

9 apply or how we approach management agreements.

10 COMMISSIONER HOENIG: So I guess the short

11 answer is the management contract approval process, you

12 know, the contracts have to be submitted and go through

13 this process are only for contracts that call for

14 management of the gaming operation itself, so the gaming

15 floor. If you have a contract, for example, with

16 someone that's going to do your food service and that's

17 it, they don't touch the actual management of the

18 gaming, I don't think that's something that we would

19 need to see.

20 You know, if you ever have a question, though,

21 about whether you think something touches on management

22 of the gaming operation, the office of general counsel

23 will review agreements before they're executed to make a

24 determination on whether we think that they're

25 management or not. We call it the declination letter

1 process. We have a bunch of them.

2 Lately, they all seem to focus on financing where

3 the money, you know, if the tribe's gaming revenues are

4 going to be used as collateral, they want to get an

5 opinion on that, but we also look at developmental

6 agreements and other management contracts if the

7 operations of the tribes ask us to.

8 As far as the revenue being used to pay for those

9 management agreements, again, I don't think that's

10 something that we would then say triggers the need to

11 review that contract unless that contract actually

12 manages the gaming operation. Then it's just a question

13 of whether the gaming revenue -- well, that would be

14 probably an operating expense maybe or a question

15 whether it's net gaming revenue if it's going to one of

16 the five purposes that are permitted under IGRA.

17 So it would be kind of a different review if we

18 ever had a question about that. It wouldn't really

19 be -- go to management as much as it would to use of the

20 net gaming revenue. Does that answer your question?

21 MR. YORK: Yes.

22 CHAIRMAN CHAUDHURI: Let me add to that just

23 really briefly, although it's -- so management contract

24 approval works hand in hand with other functions at the

25 agency and the agency, as a whole, has a responsibility

- 1 to improve primary beneficiary status of the tribes.
- 2 And so what I mean by that is, as we approve management
- 3 agreement, we approve it per the guidance or the
- 4 mandates of the Indian Gaming Regulatory Act. However,
- 5 there are other compliance functions that we perform and
- 6 I think general counsel alluded to them to -- that help

7 us ensure primary beneficiary status of the tribes.

8 One unique thing about the management agreement

9 approval process is management agreements have to be

10 devoid of undue influence by third parties, undue

11 influence of tribal operations, and they also, you know,

12 have to ensure primary beneficiary and sole proprietary

13 interest of the tribes. And so it really is a positive

14 opportunity to make sure that the tribe's interests are

15 protected.

16 In addition to the opportunity, it's also the

17 responsibility on NIGC's part to make sure that that

18 fiduciary responsibility is upheld. And so we do that

19 when we're approving these -- these agreements. We do

20 that both in terms of the terms of the agreements, but

21 also some of the backgrounding that -- that goes along

22 with these agreements, but certainly ensuring the

23 primary beneficiary status of tribes is a function that

24 we perform beyond management agreements, and hence,

25 we're engaged in a lot of gamesmanship activities where

- 1 we encourage folks to alert us to any issues involving
- 2 potential third-party threats to assets or operations in
- 3 Indian country.
- 4 But in our actual approval of management
- 5 agreements, we're guided directly by IGRA. We follow
- 6 the mandates of IGRA and our review is limited to the --

7 to the management agreement process set forth in IGRA.

8 However, if there are administrative tweaks that can be

9 made or regulatory tweaks, we're welcome to hear, but

10 management agreements are just part of the larger

11 compliance efforts that we undertake as an agency and we

12 take those very seriously.

13 MS. HOMER: Chairman, I think that it would be

14 useful for us in developing comments to really

15 understand the NIGC's internal process for the review

16 and approval of management contracts. Because I know

17 that, you know, technical staff will review the

18 management contracts, but so does legal staff. And how

19 that gets done, you know, whether it's kind of a lineal

20 process or simultaneous review process, it would help us

21 to know what that is.

22 CHAIRMAN CHAUDHURI: Okay. Good question.

23 And those who have worked with us through one of these

24 management agreement processes is probably pretty

25 familiar, but I think that's a very, very good question

1 that our finance director, Yvonne Lee, will speak to.

2 COMMISSIONER LEE. I mean, first I would say,

3 every contract is different, but the general process

4 that we go through is once we receive the management

5 contract submissions, our office of general counsel

6 would also receive a copy of it. So the review started

7 simultaneously. The finance staff who review the

8 contents of the management contract would focus on

9 financial terms, the management fee calculation and all

10 those kind of financial analysis while office of general

11 counsel will focus on the legal side of it. And then,

12 you know, we -- there is back-and-forth discussion in

13 between until we -- we determine, like, it's a stage to

14 send out issues letter or we need to contact the parties

15 for further clarification or more additional

16 information.

17 But, first, I mean, once we receive the submission,

18 usually we'll go through a quick review to make sure

19 that we have all of the required documents submitted to

20 us to start the review process. So if we are missing

21 any documents, first we'll send out what we call a

22 submission letter to inform the parties that there are

23 additional documents required, while we continue to

24 review the -- the review process doesn't stop while we

25 send out the submission letter and waiting for the party

1 to respond.

2 We'll continue to review the contents and then

3 we'll send out the issues letter and then the process

4 could go from there. It depends on the responsiveness,

5 the completeness of the documents and whatever, you

6 know, that the review process goes on. And once we

7 reach a point we have all the complete documents

8 submitted and then all the terms and provisions

9 clarified, then we will recommend the staff -- both from

10 finance and the office of general counsel would

11 recommend approval or disapproval to the chair, and

12 ultimately, it's up to the chair to decide whether he's

13 going to approve or disapprove the contract.

14 MS. HOMER: At what point in this process do

15 you start initiating the background investigations?

16 COMMISSIONER LEE: Well, we get the
17 submission, we send all information to background
18 investigation team. Then they will see if we already
19 have the list of the individuals or entities who are
20 involved in this management contract. If we don't, we
21 will contact the parties to submit the list, and then
22 based on the list, we'll require the deposits and also
23 the applications so we can start the process. Again,

24 it's simultaneous.

25 MS. HOMER: So you don't hold up on the

1 background process pending the first review, the initial

2 review of the submission?

3 COMMISSIONER LEE: No, it's kind of separate.

4 We do it all, you know, simultaneously, because it's

5 really not depending on one another, the management

6 contract review on the contents, that's the content

7 review. Background investigations is on the management

8 contractor, either persons or entities who have

9 financial interest in or management responsibility for

10 the management contract.

11 MS. HOMER: What if one of the proposed

12 management contractors is a tribal entity? How do we

13 handle the background investigation with respect to

14 tribal entities?

15 COMMISSIONER HOENIG: It's pretty much the

16 same. If the contractor is a tribal entity, then we

17 treat them as we would any other management company.

18 They're -- at that point, they're acting as a commercial

19 vendor, I guess maybe that's not the best word, but

20 they're coming in to provide a service to another tribe.

21 We're looking at the company that's providing that, as

22 we would any other management company, so they go

23 through the same process.

24 MS. HOMER: Okay. I think more specifically,

25 if you have a tribal -- a tribally owned entity, how do

1 you handle the background investigation? Are you doing

2 the entity itself or do you background the entire tribal

3 counsel or how -- how does all of that work?

4 COMMISSIONER HOENIG: I think it depends on

5 how that tribal company is structured. Typically,

6 though, we would just look at the company. I don't

7 think we would have to reach in to the tribe, but again,

8 it's hard to say hypothetically. You need to see how

9 the company was structured and all of that, but in

10 most -- Yvonne, I don't know if you have another answer

11 to that, but I would say, you know, typically we're

12 going to be as -- we're not going to want to over reach

13 ever and I guess it really depends on how involved the

14 actual tribal counsel is in the -- in the company that's

15 being set up as to whether we would ever want to

16 background investigate them.

17 COMMISSIONER LEE: And I just want to add

18 something, two important terms, whoever has financial

19 interest in or management responsibility for this

20 management contract. So it will have to submit a list

21 of persons or entities, and then if they are, you know,

22 tribal members or whatever, I mean, we don't kind of

23 distinguish between if it's a tribal entity or an

24 outside management contractor who are proposing this

25 management agreement. So whoever has financial interest

1 and management responsibility, those people or entities

2 we would have go through a background investigation

3 process.

4 MS. HOMER: Okay. I'm hearing two different

5 things.

6 COMMISSIONER HOENIG: No, I think it

7 depends -- again, it depends on how the company is

8 structured, so if there is a financial interest, a

9 direct or indirect financial interest in the company or

10 in the contract, then those -- that entity or those

11 people would have to be -- would be subject to

12 background under IGRA Regulations.

13 MS. HOMER: Yeah, well, there is a provision

14 in the regulations that says -- for tribal entities that

15 this process will be -- I don't know --

16 COMMISSIONER HOENIG: Is a reduced scope?

17 MS. HOMER: A reduced scope, and so I -- I

18 guess that's really what I was getting to is what's the

19 nature of that reduced scope?

20 COMMISSIONER HOENIG: Do you want to talk

21 about how -- I don't know what goes into a reduced scope

22 background investigation. I know that we've had a

23 couple of requests for those from -- another is, like,

24 institutional lenders can get a reduced scope, and

25 typically we -- we need someone to ask for that so we

1 can do the reduced scope, and then I think, again, it

2 depends on the -- how reduced it is kinda depends on

3 who's on -- whether it's an entity, a person, all that

4 kind of thing, so ...

5 MS. HOMER: Thank you.

6 COMMISSIONER LEE: Every case is a little bit

7 different, so you will have to initiate a request to us

8 and then we will review to determine if the reduced

9 scope is appropriate.

10 MS. HOMER: Okay. Thank you. Just to kind of

11 wrap up, I just want to say thank you. I don't mean to

12 hog the time here, but developing comments for this

13 particular issue is really more about you-all's internal

14 functions and how you manage that, and that's why I was

15 asking all of these questions, because I -- you know, I

16 don't know if that process has changed over the years.

17 It's encouraging to hear that you're doing things

18 simultaneously, so you're not waiting, you know, for one

19 thing to happen before triggering another step. I mean,

20 that's positive, but I think the only other thing is the

21 resources that are devoted to doing this within the

22 agency. I mean, there's two things -- I always said

23 when I was on the NIGC that there's really only two

24 things we know for sure IGRA authorizes the NIGC to do

25 and one is to approve gaming ordinances and the other is

1 to approve management contracts. These are the two

2 critical functions, and I have to wonder about the

3 resources that are devoted, because I do know for a fact

4 that it can sometimes take a very, very long time to get

5 through the management contract approval process, and

6 it's really frustrating, and it's why I think sometimes,

7 Chairman, that there is gamesmanship, because people

8 just don't want to go through this. That's, you know,

9 one to three years of not being able to operate, and you

10 know, the way that the parties, you know, anticipate and

11 so it is -- you know, but it really is up to you guys,

12 you know, to figure out the internal stuff.

13 CHAIRMAN CHAUDHURI: And thank you, Ms. Homer.

14 Just a few things to say on all of this and --

15 absolutely there is a reduced scope. You know, there is

16 reduced scope language, but this speaks to your question

17 about the internal administrative functions of the

18 agency. If there is regulatory clarification that, in

19 practice, any of you have noticed would be helpful in

20 terms of clarifying what reduced scope means or the

21 relationship between tribal applicants and tribal

22 operators or the tribal gaming entity, we welcome those.

23 We welcome comments regarding a specific regulatory

24 language as well.

25 As to internally, you know, I might say that IGRA

1 doesn't -- I mean, it says a little bit more than two

2 specified areas --

3 MS. HOMER: For sure. Two for sure.

4 CHAIRMAN CHAUDHURI: -- you know, of

5 activities. You know, there is some -- you know, quite

6 a bit of language in there regarding our

7 responsibilities to support the overall integrity of

8 Indian gaming. But that said, you know, we encourage

9 nation-to-nation economic development. We encourage --

10 we think that is consistent with IGRAs purposes of

11 supporting strong tribal governments.

12 At the same time, you know, given our current

13 regulatory language, no matter how we process things

14 administratively, nothing takes away from our fiduciary

15 responsibility to the tribe at hand whose gaming

16 operations are being -- being managed pursuant to a

17 management agreement. So that is our first and foremost

18 fiduciary responsibility.

19 We need to make sure that whenever we're approving

20 a management agreement, that that responsibility is

21 maintained and that -- that we do whatever we can to

22 ensure that there is no undue influence or there is --

23 you know, there are no fiduciary problems with the

24 management agreement that's submitted. That's our first

25 responsibility when it comes to management agreements

1 and that is because the operations in question are the

2 question -- are the operations of the tribe that is

3 submitting the management agreement.

4 So everything else kind of is, in my view,

5 secondary to that. Our first responsibility is to

6 maintain adherence to our responsibilities to the tribe

7 whose -- whose operations are going to be managed, and

8 we appreciate and we encourage nation on nation --

9 nation-to-nation economic development, but when it comes

10 to management agreements, our responsibility rests with

11 supporting the tribal operations in question.

12 COMMISSIONER HOENIG: Can I say one other

13 thing? One thing I think we forgot to mention, and it's

14 I think a pretty big deal, as far as the time

15 consideration of how long it takes us to do

16 management -- to get through the approval process on

17 management agreements, one of the things in the past we

18 saw that was kind of maybe not the only reason, but it's

19 certainly a big reason that we had that time lag was the

20 NEPA process.

21 Management contracts are considered a federal

22 action, so they have -- they are subject to the NEPA

23 requirements, which requires a whole nother level of

24 review. We recently, the Commission published in the

25 Federal Register, a categorical exclusion for certain

1 management agreements. It doesn't cover all of them

2 right now. We're working to build a record so we can

3 get to that point, but any management contract that

4 doesn't call for construction of a new facility or

5 major, you know, renovations that would have a direct

6 possible impact on the environment, we've issued a

7 categorical exclusion, which I believe is still in the

8 process of being finalized, but it's out there. It's in

9 the Federal Register if you want to take a look at that

10 and we hope that that will help with reducing some of

11 the time that it takes us to get a recommendation up to

12 the chair for approval on a management agreement.

13 CHAIRMAN CHAUDHURI: And thank you for that,

14 Mike. We're very, very proud of that, and actually, we

15 probably should have highlighted that more, but you

16 know, this is consistent with our efforts to reduce

17 artificial roadblocks to the appropriate economic

18 development activities that grow out of the

19 entrepreneurial spirit of tribes, and so we're very

20 proud of that and thank you for mentioning that.

21 You know, our team doesn't get enough credit for

22 doing what they can to reduce those roadblocks, but we

23 should probably, you know, highlight that a little bit

24 more. Thanks, Mike.

25 Yes, sir.

1 MR. BURRIGHT: Jered Burright with Muscogee
2 Creek Nation. I kinda want to take a step back for a
3 second as far as to kinda tie on to what Buddy had said
4 earlier. And I know that you had said that the
5 management contracts that you guys look at are directly
6 affected by -- directly tied to gaming. One gray area

7 that I feel like we've noticed, and I've wondered if you

8 guys have noticed, and I kinda hoped Travis was going to

9 be in here for this, but with the ever-growing inclusion

10 of centralized accounting systems in back houses for

11 casinos and how they expanded technological wise, it

12 seems that every amenity that gets brought into a

13 resort, they want to tie them into those systems.

14 Is that something that you guys have looked at and

15 noticed and feel like that those then make those added

16 amenities kind of where they should be included as part

17 of a gaming environment?

18 CHAIRMAN CHAUDHURI: And, again, when we

19 approve these management agreements -- that's a great

20 question. I'll probably turn it over to Christina in a

21 second to talk a little bit more about the practice of

22 tying those systems together, but I want to separate the

23 management approval process from the compliance efforts

24 that we undertake when we look at managing without an

25 approved contract. They are related, but they are not

1 the same.

2 And so when we look at an agreement, we look at the

3 parties with financial interest. We do backgrounding as

4 appropriate. We look at the contractual relationship

5 between the manager and the tribe and we determine

6 whether or not the agreement at hand is consistent with

7 IGRA, and that's our analysis. And so rarely would

8 those -- would those kind of system tie-ins come up in

9 an agreement itself. I don't know, maybe Yvonne has

10 seen other agreements that actually contemplate the --

11 those tie-ins, but rarely that comes up.

12 Where those issues come up a little bit more is in

13 our -- I'm not talking about those specific issues, but

14 when -- when other kind of secondary issues as they

15 relate to management come up a little bit more is in our

16 compliance efforts. And we have an ongoing

17 responsibility to address management without an approved

18 contact, and that's a compliance issue, separate and

19 apart from the management agreement approval process.

20 And so, you know, I think it's an excellent

21 question. It definitely relates to management

22 agreements, but I just want to clarify the distinction,

23 at least from NIGC's part, between approving a contract

24 and looking at a compliance issue involving management

25 without a contract. They're related, but they are not

1 the same.

2 I don't know if anybody wants to address the

3 technical aspects of the tie-ins between systems.

4 That's why I'm turning to the technology folks who are

5 smarter than I am on that, but we would certainly -- if

6 it comes up in the context of a compliance issue, that

7 would certainly be discussed with our compliance team

8 with advice and input from our technology division and

9 our office of general counsel, but it would be a very

10 fact specific inquiry.

11 Christinia or Travis, do you want to --

12 MS. THOMAS: Well, I'm not sure I can add more

13 to that. The chairman is correct. So if we're looking

14 at a contractor or a vendor that's coming into the

15 systems area, unless there's a direct tie-in to how

16 they -- to the management of the gaming itself, it's not

17 something we would generally look at.

18 CHAIRMAN CHAUDHURI: But I mean, we wouldn't

19 necessarily look at that in terms of management, but

20 there are other compliance functions that we play in

21 terms of use of gaming revenue, sole proprietary

22 interest violations, thing of that nature. That's why

23 it's a very case-by-case analysis, but the bottom line,

24 we'll look at -- whenever there is -- and there are a

25 number of means of -- for information to be brought to

1 us, a number of ways that information can be brought to

2 us. Usually it's from the tribe itself saying, can you

3 take a look at this. Sometimes it's by other -- other

4 parties, but whenever there's a question of whether or

5 not something involves one of our compliance functions,

6 we'll look at that on a case-by-case basis to see if any

7 elements of IGRA are -- are, you know, at issue.

8 And so if there's a use of gaming revenue issue in

9 play or if there is, you know, a management issue,

10 whether it's, you know, effective management by a vendor

11 or a third party or effective -- or concerning influence

12 by an outside party, that's very case by case and that's

13 based on the facts at hand. And so if there is kind of,

14 you know, lack of clarity as to how gaming revenue is

15 being distributed, we'll work with tribal communities

16 just to -- just to talk about, you know, whether or not

17 there are compliance issues that need to be addressed

18 and we'll look at those -- those tie-ins closely, but we

19 never take a one-size-fits-all approach to compliance.

20 It's very much based on the systems at hand and the

21 tie-ins in question. I think I've exhausted my

22 technical knowledge of the systems, but --

23 COMMISSIONER THOMAS: Chairman, I have

24 asked -- so Tom is actually the individual that we have

25 kind of given the hat to give the gamesmanship trainings

1 this year. So I had asked him to provide an example of

2 what you're talking about.

3 CHAIRMAN CHAUDHURI: Please. Thank you.

4 MR. CUNNINGHAM: You know, kinda to go back to

5 your question, you have these entities that are -- that

6 are touching your back of the house system. So what we

7 would look at is, are they touching and using the

8 information, that's really not an issue.

9 Now, if they went beyond that and were controlling

10 the information or were managing the information or

11 reaching beyond the back of the house system to control

12 or manage other parts of the gaming area, then that

13 would become a management -- could become a management

14 issue.

15 Another thing we look at is, you know, contracts

16 that aren't necessarily management contracts, but you

17 find an element in there where they are controlling or

18 managing a part of your gaming operation or the revenues

19 that's paying for that contract, they've tied it to a

20 percentage of gross gaming revenue or a percentage of

21 net gaming revenue. So we would look at those very

22 closely to see if it throws them into the management

23 contract arena.

24 Does that make sense? So we look for control,

25 management, and then kind of the compensation, how is

1 the compensation determined in that contract.

2 CHAIRMAN CHAUDHURI: Excellent question.

3 Thank you. Thank you, Tom.

4 MR. MORGAN: Matthew Morgan, Chickasaw Nation.

5 This is I think going to echo a lot of Ms. Homer's

6 comments at a broader level. I definitely think this

7 area may be one that not necessarily needs more

8 regulation, a tribute to Mr. Hummingbird's statement,

9 another topic, but more clarification to demystify what

10 that internal process is.

11 A lot of tribes when they have made that decision

12 that they need to bring in a management contractor have

13 made a determination that they lack that expertise to do

14 that. There's a lot of sequencing that goes on, as you

15 know, during these events. They don't understand what

16 is expected from them, what is the turn around, what is

17 the process, what is the time lines. It makes it very

18 hard to meet those business needs that tribes are

19 looking, you know, in the first place, in order to have

20 this economic development activity.

21 So I think a lot of the -- a lot of this area could

22 go towards -- I don't know if it's information on your

23 website or something, because I understand -- you know,

24 I'm an attorney. I love to use those caveats up front,

25 case by case, everything is differently, but some

- 1 general parameters around that would be very helpful in
- 2 understanding more of what the expectations are when we
- 3 start out on this to make sure that we give you guys
- 4 enough time to complete your process and that, you know,
- 5 there's enough time during the business transaction in
- 6 order so everything is sequenced correctly.

7 CHAIRMAN CHAUDHURI: Thank you, Mr. Morgan.

8 That's an excellent point. You know, just as a matter

9 of governance, I try to -- I mean, I try to -- from my

10 part, and can't speak for my fellow commissioners, and

11 try to avoid a regulation for regulation's sake. I

12 don't think anybody likes that, but we do try to provide

13 as much guidance as possible. And I think we -- in the

14 past, we have provided quite a bit of guidance materials

15 regarding the management agreement process.

16 We -- I don't know if Yvonne wants to mention that,

17 but part of our technical assistance that -- that we

18 provide, we always have an open door, open phone line

19 policy, and whenever we're giving trainings or

20 discussions -- or discussing management agreements, we

21 encourage folks to contact us early. I know that's not

22 what we're talking about, but you know, we are open, you

23 know, every day of the week to walk through any

24 potential applicant -- walk any potential applicant

25 through the management agreement process to be as

1 transparent as possible about how we approach things.

2 Now, how we've structured things administratively,

3 it's consistent with IGRA and with our regulations, but

4 there is always a flexibility built in to reflect the

5 needs of the industry, the needs of the agency, the

6 resources and so that's why we welcome comments

7 regarding any tweaks that folks may see as relevant, but

8 we do try to provide guidance.

9 I'll have Yvonne mention -- I mean, talk about that

10 a little bit more, but to your point, Mr. Morgan, a flow

11 chart -- I don't know if a flow chart is available right

12 now, but I'm just thinking a flow chart of the process,

13 getting that up on our website quickly certainly

14 couldn't hurt. And you know, that's short of a formal

15 regulation, but at least that helps applicants

16 understand the process and work with us as efficiently

17 as possible.

18 But anything else you want to add to that, Yvonne,

19 regarding guidance?

20 COMMISSIONER LEE: Yeah, just to add some

21 important resources that we have from our website which

22 will help you with the management contract and also

23 understand our review process, we have submission

24 checklist and also a management contract checklist,

25 which are exactly all those basic things we're looking

1 for. So those will be great reference for you if you

2 were starting a management contract. And we also have a

3 redacted approved management contract on our website,

4 which you can take a look at other's contents and kind

5 of for your reference when you make your deal.

6 CHAIRMAN CHAUDHURI: But the point is well

7 taken. And thank you, Yvonne, on -- the point is well

8 taken and certainly if there are ways to tweak our

9 regulations consistent with other priorities, such as

10 rural outreach, or you know, reflect our technology, you

11 know, commitment, please let us know, but we will

12 continue to work to try to make the processes as timely

13 as possible.

14 The NEPA aspect is an important part of that, but

15 whatever we can do, we'll try and -- we'll try and do

16 better on. These things are very -- they do take

17 awhile, but I can -- I can speak for the agency, I think

18 that everybody processes these agreements as quickly as

19 possible. We have some wonderful subject matter experts

20 who work on these from the date of submission on to a

21 final decision, but if there are -- from experience,

22 anybody who's worked with one of these agreements, if

23 there are things that they wish we could realign, please

24 let us know. Thank you.

25 MS. KAISER COLLIER: Barbara Kaiser Collier.

- 1 Having been down this road in the past, long past, long
- 2 time ago, you said a lot of things that were positive
- 3 questions that I had that I was going to bring up while
- 4 you were speaking about the betterment of the tribe and
- 5 the tribe's the most important thing in an agreement.
- 6 One of the things that I would hope to see -- and I

7 know it's a long process. It took years, physically

8 years, but then at the end of the trail, when the

9 management agreement is not approved, you know, I think

10 in our case, it -- much more contact with the tribe. So

11 I would recommend that you, along the way, have more

12 contact and more correspondence and conversation with

13 the tribes if they're -- you know, if they don't meet

14 your standard if they are not -- if the contractor or

15 the agreement that they've sent you doesn't specifically

16 say and do what you feel it should, to correspond on

17 that and not just say, you know, you need to send us

18 this.

19 Really talk through it and explain your vision as

20 to what it should be or shouldn't be, because in our

21 case anyway, it wasn't so specific. You know, we were

22 just kind of floundering out there wondering, okay, if

23 we -- what should we do. So I think, you know, you're

24 all working towards that, have a good hand on it and I

25 was glad to hear you explain some of the things you did,

1 but that was one of the things that was missing was

2 personal information, personal correspondence back and

3 forth when the process was actually occurring.

4 Because it's one thing when you're sitting out

5 there waiting, you know, to hear back, and then six

6 months later, well, we need this, you know, and it's --

7 maybe you've changed that and I hope you have for the

8 betterment of the tribes. So just a little note of, you

9 know, I think it -- more correspondence.

10 CHAIRMAN CHAUDHURI: And thank you,

11 Ms. Collier. I see Yvonne has a couple of things she

12 wants to say, but before I say that -- I mean, before I

13 turn it over to Yvonne, really appreciate your comment.

14 In terms of our correspondence with management

15 agreements, in terms of any letter -- approval letters

16 with management agreements, let me bring up a larger

17 administrative effort we've been making at NIGC to look

18 at every -- and I think this is fair to say. Every

19 action that we take is an opportunity to hopefully

20 provide assistance and provide guidance. And so as a

21 result of that, there are a lot of very small but

22 important things that we've been doing over the last few

23 years. And I certainly am honored to be part of a team

24 that's committed to looking at every everything that we

25 can do to support the health of Indian gaming, but

1 certainly the teams prior to our current team also felt

2 that way.

3 So I'm honored to be part of a long chain of folks

4 who have tried to make improvements each step of the

5 way, but some of the small administrative things that

6 we've done to try and provide helpful guidance at each

7 step, you know, for all of our ordinance approvals, we

8 have a regular check-in before any approval goes out to

9 ensure that there aren't other secondary issues that we

10 may be able to provide assistance with a given tribe on

11 that may not relate to the four corners of the

12 ordinance, but if there are other opportunities to

13 provide assistance, the ordinance approval process is an

14 opportunity to talk about that given nation.

15 Same thing with management agreements. We -- we

16 always can do better and we want to do better, but in

17 the management agreement process, there are

18 opportunities to share our perspectives regarding

19 experiences that we've seen with other nations. Now, we

20 always stay in our lane when we approve agreements and

21 we don't go outside of IGRAs mandates, but there are

22 opportunities to provide technical assistance to tribes

23 at that -- at that point.

24 Compliance issue -- what I'm trying to get at is,

25 you mentioned correspondence, we try to put in language,

1 when appropriate, where appropriate, to provide signals

2 or helpful guidance to a given nation. And if there are

3 opportunities missed in your experience for us to do

4 that, you know, let's continue to talk, even talk off

5 line if you'd like, but we want -- we want -- it's not

6 just a personal touch. We want every interaction to be

7 about what can we do to provide technical assistance to

8 our partners, and we can always do better no matter how

9 well we're doing.

10 Yvonne?

11 COMMISSIONER LEE: Yeah, I just want to add to

12 that that in addition to written communications, that

13 is, you know, the submission letter or issues letter we

14 send out, we usually keep very close contact -- contact

15 with the parties, you know. We hold meetings. We have

16 phone calls to discuss issues.

17 A lot of times when the parties receive our issues

18 letter, they will call us and ask us to go through each

19 issue and explain to them, make sure they understand

20 before they respond and we do that. So feel free to

21 reach out to us, you know, once you submit your

22 management contract to either inquire where it stands,

23 the status, or if you have -- need any help in any

24 areas.

25 MS. KAISER COLLIER: Well, thank you. Our

1 situation was 12 years ago or more and I don't know that

2 we'll be going down that path again. So you probably

3 weren't born then, so it was just a bad situation all

4 around. We were actually summoned to Washington D.C.,

5 and you know, told, do this, get rid of this guy, so we

6 did.

7 CHAIRMAN CHAUDHURI: Thank you. Thank you,

8 Ms. Collier. Any other comments --

9 MS. KAISER COLLIER: Probably don't want to

10 put that on the record.

11 CHAIRMAN CHAUDHURI: Any other comments on

12 this topic before we break? Okay. Well, with that,

13 it's 10:55 right now. We've got a couple shorter topics

14 left, technical standards for mobile gaming devices and

15 fees. You never know the future, but I don't foresee

16 those taking quite a long time. Why don't we take a

17 five-minute break. I know a lot of us have been sitting

18 for quite some time. Five-minute break and reconvene in

19 five minutes, but I think our general counsel will be

20 leaving, but Austin Badger will be here as a

21 representative of our general counsel's office to add

22 some additional questions. Thank you and we'll

23 reconvene in about five minutes. Thanks.

24 (A recess was taken from 10:55 a.m. to

25 11:10 a.m.)

- 1 CHAIRMAN CHAUDHURI: I know some of you are
- 2 double booked, but we want to make sure everybody has
- 3 every opportunity to share comments, ask questions,
- 4 engage as much as possible, so we'll be -- as you know,
- 5 we'll hear all comments before concluding, but again, no
- 6 shame in finishing early as well.

7 So with that, thank you everyone for your comments

8 and questions to this point. We're going to move

9 forward with our next subject for consultation, our

10 second to last subject, and that is technical standards

11 for mobile gaming devices.

12 MS. THOMAS: Travis isn't here, so do you want

13 me to take it?

14 CHAIRMAN CHAUDHURI: In that case, are you

15 prepared, Yvonne? We'll move on to fees with Yvonne

16 Lee. Thank you.

17 COMMISSIONER LEE: The Commission is

18 considering amending the language to 25 CFR Part 514.

19 Under the current regulation, the Commission announces a

20 preliminary fee rate of March 1st and the final fee rate

21 three months later on June 1st.

22 The proposed regulation will require the NIGC to

23 set the fee rate only one time per year to be announced

24 on November 1st. The proposed changes on the fee rate

25 publication date will also apply to the fingerprint

1 processing fee rate. These are the proposed 514.2

2 changes on fee rate and these are the proposed 514.16

3 changes on fingerprint rate.

4 When the Commission originally adopted fee

5 regulations in 1991, the amount the agency could collect

6 in fees was \$1.5 million. At that time, the agency

7 could make quarterly adjustment to raise or lower fee

8 rates to meet that number. The multiple fee rate

9 announcements were needed to avoid going over or too far

10 under that cap. For example, if the preliminary fee

11 rate resulted in the agency potentially earning \$2

12 million in fees, it could later be adjusted down to

13 prevent that overage.

14 In the time since those regulations were adopted,

15 changes in the law have alleviated a need for the

16 quarterly or even bi-annual announcements permitted in

17 the current regulation. By setting and announcing the

18 fee rate once a year, the Commission will be able to,

19 one, improve the efficiency of the fee rate analysis and

20 publication process; two, coincide the fee rate

21 announcement with the annual release of the gross gaming

22 revenues and the completion of the Commission's budget

23 for the upcoming year; three, reduce the margin of error

24 for fee calculations as the rate would only be set once

25 within the fiscal year; four, mitigate any confusion

- 1 that may arise from changing a fee rate twice a year.

- 2 In addition, a majority of tribes have fiscal years

- 3 ending either on September 30th or December 31st.

- 4 Tribe's submission of audited financial statements are

- 5 required 120 days after the end of their fiscal years.

- 6 Thus, when we first used these financial statements to

7 set the preliminary fee rates, our analysis is limited

8 to a fractional portion of the financial audit

9 submissions and must be reanalyzed again after

10 additional submissions are received at the end of April.

11 The proposed changes will allow the analysis to

12 take place once a year after the Commission has received

13 all annual audited financial statements. In addition,

14 the fee rate calculation will more accurately reflect

15 the Commission's required operation funding, which will

16 become available by September 30th each year.

17 The NIGC seeks comments on the proposed changes to

18 the time period these fee rates are published.

19 CHAIRMAN CHAUDHURI: And thank you, Yvonne. I

20 don't know if fellow commissioners want to weigh in on

21 this, but I'm excited about this. This sounds like a

22 small change, but in terms of good governance, it's an

23 important change. This will allow us to schedule our

24 budget setting in conjunction with -- I mean, well, in

25 conjunction with, you know, a realistic understanding of

1 the fees coming in and the needs of the agency moving

2 forward.

3 So timing wise, I'm very excited about this change.

4 I don't know if anybody else wants to add to that,

5 but --

6 COMMISSIONER ISOM-CLAUSE: No, I just agree.

7 I think this is really good common sense efficiency sort

8 of streamlining regulations that we don't often get to

9 do and so it's really nice to just make something easier

10 for both you and for us, and unless anyone has any

11 concerns that we haven't identified, you know, we're

12 very excited about this.

13 CHAIRMAN CHAUDHURI: Any comments? I mean,

14 it's perfectly fine not to have any comments. Thank

15 you. Okay. That's excellent.

16 And so now we'll move to our last topic of

17 consultation today. That's technical standards for

18 mobile gaming devices, and we'll have -- have our

19 division of technology director, Travis Waldo, lead us

20 off. Travis?

21 COMMISSIONER WALDO: Good morning, everyone.

22 The National Indian Gaming Commission is considering

23 draft language to amend 25 CFR 547.18, which would

24 clarify and add new technical standards for wireless

25 gaming systems and communication between mobile

1 communication devices and mobile gaming systems.

2 These new draft regulatory standards provide clear

3 and specific definitions that have not been included in

4 the regulations previously. The new standards also

5 support security and system integrity for mobile gaming

6 operations.

7 Portable hand-held gaming devices have been around

8 for many years and are authorized in many state

9 jurisdictions. Hand-held gaming devices or electronic

10 devices allow casino patrons to play anywhere within the

11 casino or within tribal lands as defined by Indian

12 Gaming Regulatory Act, such as restaurants, hotels or

13 other amenities.

14 The draft technical standards for mobile gaming

15 devices will not authorize Internet games. That's not

16 what these are for. These draft technical standards

17 only address hand-held mobile devices within tribal

18 lands. These draft technical standards which can be

19 found on our website are proposed standards for tribal

20 review, comment and consultation.

21 Any questions? How did I know that?

22 MR. HUMMINGBIRD: Thank you, Mr. Chair. Jamie

23 Hummingbird, Cherokee Nation. This is where that low

24 level of proficiency comes in that I spoke of earlier.

25 When I was looking at the proposed sections with -- this

1 will be a new Section 547.18, I was wondering how this

2 proposed section enterplays with the 547.15, which does

3 speak with -- about daily communications and wireless

4 connectivity between Class II components and systems.

5 COMMISSIONER WALDO: Yes, so there is nothing

6 that clearly defines mobile gaming, so a lot of the

7 questions that we got when we were out in the field and

8 were doing ICAs, were doing the vulnerability

9 assessments was about mobile gaming devices. How do I,

10 you know, connect card minders and things like that? So

11 we kinda started thinking along those lines. I wanted

12 to get past that card minder technology that's out

13 there, because there's a lot of other ways that people

14 can do this. There's a lot of other technologies out

15 there, and so we felt like that maybe if we had a clear

16 standard and we clearly said that you can -- you know,

17 you can do this and this is how you can do it, it might

18 spur some growth in that.

19 They are very well -- they are very closely

20 intertwined, but this just gives a little bit more

21 guidance on hand-held devices themselves and how to

22 secure them.

23 MR. HUMMINGBIRD: A quick follow up. Is

24 the -- is the concern surrounding the mobile devices to

25 the level where it would require the regulation or would

1 it be something that could be accomplished through a

2 bulletin or some other guidance document?

3 COMMISSIONER WALDO: This is something that

4 we've actually discussed, Austin and Michael Hoenig and

5 myself. That's an option. I'm certainly not, you know,

6 opposed to something like that and we've talked about

7 that quite a bit actually, and that's why we're looking

8 for input back from you guys. If you feel like, you

9 know, the standards are there, and you know, they're

10 pretty robust, I mean, this is something we've actually

11 considered making a bulletin.

12 MR. HUMMINGBIRD: And just an -- again, quick

13 follow-up comment on that, the reason I put it that way

14 is simply because as regulators, you know how difficult

15 it is to change regulation. And if the basis of -- if

16 the foundation was already laid within 547.15 and a

17 guidance document was put out there much in the way of

18 the guidance bulletin was put out there for digital

19 surveillance years ago, surveillance was out --

20 surveillance standards are in the MICS and in the TICS,

21 and additional surveillance is contemplated within that.

22 However, there were aspects of that technology that

23 did need fleshing out, did need clarification, and

24 rather than going through and inserting that language

25 and that verbiage within the standard itself, within the

1 statute, a guidance document or a bulletin was issued.

2 Not only does that accomplish the goal, but it also

3 allows the additional flexibility to update that

4 terminology, the technology, all the different aspects

5 that would impact achieving the goal that is to be --

6 you know, is desired.

7 COMMISSIONER WALDO: That was -- that's

8 something that we have definitely discussed and are

9 considering based on comments and input that we get back

10 when this is finalized.

11 CHAIRMAN CHAUDHURI: And that's an excellent

12 comment and we'll take a look at that, because certainly

13 in terms of options, in terms of our thinking, and

14 again, I want to thank Travis for his leadership at the

15 division of technology. This was proposed by technology

16 as an opportunity to stay ahead of the technology curve,

17 recognizing there's a need for additional clarity in

18 this emerging -- you know, this emerging area.

19 And so I think when we talked about sending this

20 out for consultation, we definitely -- we continue to be

21 very excited about how we can provide any clarity that

22 might be helpful to the field. The form that clarity

23 takes, that's why we're consulting and so ...

24 MR. MORGAN: Matthew Morgan, Chickasaw Nation.

25 Kinda to echo Mr. Hummingbird's comments, concern I

- 1 think around this is, kinda using some of your own words
- 2 there, it is emerging technology. It is something
- 3 that's new and when we go down that regulatory path, we
- 4 increase the risk of stymieing some of that innovation
- 5 that we look to for new technologies on how to grow the
- 6 industry, and that concerns me, you know, a

7 one-size-fits-all approach.

8 You know, I like to tell folks, you know, in our

9 own tribal government a lot of times, a lot of the work

10 we do hand in hand is rely upon people staying in their

11 lanes and making sure that, you know, just because

12 somebody may ask you a question doesn't necessarily

13 mean -- means that you need to respond. It may be

14 appropriate that some other group needs to respond.

15 Maybe that's OTGRA, maybe that's NTGCR, maybe

16 that's NIGA, maybe that's some of the independent labs

17 that can put some more finite perimeters around what

18 they think is going on in this, and I question the need

19 to answer a lot of these questions with regulation.

20 I think a lot of clarification, again, in this area

21 can be achieved through some type of guidance documents,

22 through working with your stakeholders, and I agree. I

23 like that you're asking these questions and having these

24 dialogues. I just don't know if regulation is the

25 correct road to go down.

1 CHAIRMAN CHAUDHURI: Thank you, Mr. Morgan.

2 MR. YORK: Buddy York, Muscogee Creek Nation.

3 The question I have is, if you have a hand-held

4 device -- and since we have not ever used them before or

5 anything, I -- we don't know much about it. If they

6 take a hand-held device, say, to the pool or something,

7 does that make that area a gaming area that would be

8 regulated by OPG?

9 CHAIRMAN CHAUDHURI: I don't know if you want

10 to weigh in. I'm happy to weigh in on it.

11 MR. YORK: I have a second part to the

12 question.

13 CHAIRMAN CHAUDHURI: Okay, yes.

14 MR. YORK: Also, that's kinda close to the

15 first, but okay, if it's on tribal land, does it have to

16 be inside the facility? What if they want to -- and I'm

17 being the devil's advocate here -- tribal land 50 miles

18 away where there is no casino, could they get on a

19 device there and game in that casino?

20 CHAIRMAN CHAUDHURI: Well, that raises all

21 sorts of questions about geo fencing and what have you,

22 but I don't know if you want to weigh in on the

23 technical side of all that.

24 COMMISSIONER WALDO: Yeah, the technical side,

25 we can very easily isolate that to where they can't.

1 You know, again, the regulatory bodies determine, you

2 know, and then based on all the regulations, you know,

3 what's casino property, what isn't, we can fence that

4 very easily. That technology is in existence. It's

5 relatively old now, but as far as, you know, what is a

6 gaming area, that's probably more of a question for the

7 TGRAs, and you know, general counsel than me.

8 CHAIRMAN CHAUDHURI: And so, you know, my

9 first response would be, you know, we would have to talk

10 about it in terms of any draft language. We welcome

11 comments, but unless there was something that required

12 it to be determined -- I mean, deemed a gaming area

13 under IGRA, we're talking about access on -- I mean,

14 through a secured mobile -- mobile connection. I don't

15 know if that would automatically create a gaming area

16 situation, but we would have to of course talk about it

17 and review it with office of general counsel. And it's

18 just an initial thought of it, but certainly before we

19 put pen to paper in any final form, we welcome input.

20 Additional questions and comments before we go to a

21 catch all?

22 Okay. With that, you know, we'll kind of open it

23 up to any final comments or -- I know we covered a lot

24 of ground today. We covered some very important topics.

25 As I said before, I never want anyone to feel that they

1 only had one bite at the apple to share comments or ask

2 questions.

3 We'll open it up to a catch all, but at the

4 conclusion of that, if folks think about questions or

5 comments on the drive home, I encourage everybody to

6 submit to -- any questions they want to submit in

7 writing, but also to attend and encourage others to

8 attend our upcoming consultation sessions. We want this

9 to be an ongoing dialogue.

10 At the end of June for this session, as I

11 mentioned, we'll be compiling and -- we'll be compiling

12 all comments submitted up to that point and then we'll

13 begin reviewing all of them before any deliverable

14 action and so these comments are part of our

15 deliberative process.

16 So with that, any final comments, questions,

17 statements that anybody would like to share?

18 MS. KAISER COLLIER: I know you're thinking,

19 oh, I might. Barbara Collier. In the past, way past,

20 when audits, year-end audits and management responses

21 were -- external audits and management responses were

22 submitted to NIGC, in return, we would get the letter of

23 acknowledgment or whatever. I don't know what you call

24 it yourself, but in your -- in our past leadership for

25 NIGC, they changed that submission of that from sending

1 it to the regulator to sending it directly to the chief

2 or chairman of the tribe. And I'm not wanting you not

3 to send it to him, but I want -- I feel like that the

4 regulators should also get the same information at the

5 same time, because then when the chairman or chief

6 contacts us, in my situation, the chairman, and if I'm

7 not notified of the information that's on there, then I

8 can't respond.

9 So since it's our daily task to perform those

10 duties, I would request that -- I don't know. Maybe you

11 have switched it back, but that we, in turn, get our

12 information so that we can intelligently respond when

13 we're contacted.

14 CHAIRMAN CHAUDHURI: And thank you,

15 Ms. Collier. And this is an important question and I

16 want us to be always available to be responsive to

17 questions, even if they are not part of the formal

18 consultation list, but let me -- let me speak to that

19 very briefly. This raises some important protocol

20 questions, and we strive to be respectful of all of our

21 partners.

22 We've heard similar concerns raised by tribal

23 leadership that, you know, sometimes when we're talking

24 to our fellow regulators, that leadership doesn't always

25 know what the story is. So, you know, it's -- we have

- 1 some protocols in place, depending on the nature of the
- 2 correspondence. And you mentioned audits, but there are
- 3 other types of regulatory correspondence that we
- 4 undertake. And typically in respect to -- in respect of
- 5 the nation-to-nation relationship, if there is a new
- 6 communication, our first order of business is to reach

7 out to tribal leadership and say, you know, we wish to

8 respect and honor the nation-to-nation relationship, but

9 if there -- you know, there are going to be some very

10 detailed nuts and bolts questions, we're always happy to

11 work with our regulatory partners as well, but please

12 feel free to designate who you'd like us to work with.

13 So sometimes the tribal leadership will designate

14 an office, their office of general counsel or attorney

15 general, if it's -- if it's largely a legal matter.

16 It's kind of case by case, but we're aware of the need

17 to loop in. You know, as regulators, you're our

18 day-to-day partners. We try to loop our partners in as

19 much as possible, but there are protocol issues involved

20 with -- we don't want to leave leadership out of the

21 loop either.

22 And so it's kind of case by case and we've -- we've

23 lately been copying both and if leadership gets tired of

24 hearing from us, we'll say please feel -- if you're

25 comfortable with us moving forward, just stay in contact

1 with the TGRA. We're happy to do that, but we always

2 want to be respectful of tribal leadership as well.

3 MS. KAISER-COLLIER: Yeah, and I'm not asking

4 you don't send it. I'm just asking that if you send it

5 to them, send it to me, too, so I can know what's -- you

6 know, when I get called up what --

7 CHAIRMAN CHAUDHURI: I don't know, Christina,

8 if you want to add anything to that, but we try to loop

9 in everybody --

10 COMMISSIONER THOMAS: Yeah, it should be going

11 to both.

12 CHAIRMAN CHAUDHURI: It should be going to

13 both. It's kind of a protocol tweak we've made recently

14 to try to be as respectful to everybody as possible.

15 MS. KAISER COLLIER: Okay. Thank you.

16 CHAIRMAN CHAUDHURI: I mean, support tribes as

17 the primary regulators of Indian gaming, and it's the

18 TGRAs who are the embodiment of that and so we are

19 always honored to be part of TGRs functions when we're

20 able to kinda piggyback our schedule, you know, kinda to

21 coincide with your conference, because we -- we respect

22 the work that regulators do day in and day out and we're

23 very proud of the relationship that we have with our

24 fellow regulators, but we're also respectful of the

25 nation-to-nation relationship with, you know, tribal

1 leadership as well. Thank you for that. Try to loop in

2 both.

3 MS. KAISER COLLIER: That's good. That's

4 great. I appreciate it.

5 CHAIRMAN CHAUDHURI: Uh-huh.

6 MS. KAISER COLLIER: Keeps me out of trouble.

7 CHAIRMAN CHAUDHURI: Thank you, Ms. Collier.

8 So any other final comments, questions?

9 Okay. Well, as I said before, there's no crime in

10 finishing early. I -- I want to make sure that

11 everybody feels that they have a full opportunity to

12 weigh in, so I'll say going once, going twice.

13 With that, I want to -- there's Chairman

14 Hummingbird. With that, I want to thank everybody for

15 taking the time, especially getting up early and

16 starting at 8:30 this morning, taking the time to be

17 here today. Consultation is vital to the work that we

18 all do together and thank you and blessings to you and

19 safe travels on your -- on your way home and we look

20 forward to continuing meaningful, ongoing dialogue with

21 all of you. Mvto. Thank you.

22 (End of consultation.)

23

24

25

1 CERTIFICATE

2

3 I, Shannon S. Harwood, CSR do hereby certify that

4 on March 23, 2014, at 3:41 p.m. at the River Spirit

5 Casino, 8330 Riverside Parkway, Tulsa, Oklahoma, there

6 came before me tribal consultation; and that the

7 foregoing pages constitute a full, true, and correct

8 transcript of the tribal consultation on the date as

9 indicated.

10 I do further certify that I am not counsel,

11 attorney, or relative of either party, or otherwise

12 interested in the event of this suit.

13 IN WITNESS WHEREOF, I have hereunto set my hand and

14 affixed my seal this 3rd day of April, 2017.

15

16

17

18

19

20



21

Shannon S. Harwood, CSR

22

23

24

25

26