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2018 NATIONAL INDIAN GAMING COMMISSION MEETING

TRIBAL CONSULTATION SESSION

WEDNESDAY, FEBRUARY 21, 2018

1:00 p.m.

POTAWATOMI BINGO & CASINO

HARMONY ROOM

1611 WEST CANAL STREET

MILWAUKEE, WISCONSIN 53233

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A P P E A R A N C E S

CHAIRMAN JONODEV CHAUDHURI
VICE CHAIR KATHRYN ISOM-CLAUSE
COMMISSIONER E. SEQUOYAH SIMERMEYER

* * * * *

1 TRANSCRIPT OF PROCEEDINGS

2 CHAIRMAN CHAUDHURI: Okay. Good
3 afternoon. Before we begin our formal
4 consultation, we always open with a blessing. And
5 we're very honored to have a blessing for us today
6 from Forest County Gaming Commission Chairman,
7 Mr. Ken George, Jr. Mr. George, if you'd like to
8 lead us.

9 (Blessing.)

10 CHAIRMAN CHAUDHURI: Before we introduce
11 ourselves, are there any -- it's just truly an
12 honor to be here at Forest County. And always give
13 thanks to being allowed into the homelands. Any
14 tribal nation. We're also happy to be among so
15 many tribes from the area, whether it be Menominee,
16 Ho-Chunk, Stockbridge, Oneida or Ojibwa bands.

17 Are there any additional statements from
18 the host nation before we begin?

19 MR. GEORGE: No, sir.

20 CHAIRMAN CHAUDHURI: Again, thank you so
21 very much for that blessing. And look forward to
22 moving forward today with open hearts and open
23 minds.

24 My name's Jonodev Chaudhuri, Muscogee
25 Creek Bear Clan. I'm also East Indian. And very

1 honored to serve as chairman of the National Indian
2 Gaming Commission.

3 I'm going to turn it over to my fellow
4 commissioners to introduce ourselves before I get
5 into a little bit of housekeeping about today's
6 discussion. So I'll turn it over to our vice
7 chair.

8 VICE CHAIR ISOM-CLAUDE: Thank you. Good
9 afternoon. I'm Kathryn Isom-Clause. I'm vice
10 chair of the Commission. Can you hear me all
11 right? I'm Taos Pueblo, but actually grew up in
12 Michigan. So it's kind of nice being back here.
13 Feels like home. Appreciate being by the Great
14 Lakes.

15 So I'd like to echo the thanks. Thank
16 you for hosting us here. This is an incredible
17 eagle feather. It's an incredible honor. Just,
18 you know, a little bit speechless about it. Thank
19 you so much for the honor.

20 The tribal consultation for us is a means
21 for us to listen to tribes, to the regulators who
22 are primary regulators, and also to honor the
23 government-to-government relationship that we have
24 between the federal government and tribes. It's a
25 time for us to present our ideas for ways that we

1 think we can make the Agency and industry more
2 efficient, but it's also a time for us to listen to
3 you. And so we hope that we'll have some really
4 good dialogue later on.

5 This round of our consultation sessions
6 is following up on some previous sessions that
7 we've had as this current commission. We're hoping
8 that these are some kind of topics that will
9 reflect our initiatives and kind of bring us full
10 circle as a commission.

11 While we are limited with our current
12 commission, it's not to say we plan on any policy
13 changes or any other change in our direction. In
14 fact, we plan on being very stable moving forward.

15 We just released our strategic plan.
16 That's on our website right now. And you'll see it
17 has our current initiatives that we've been working
18 on this entire time as a commission. Those are
19 protecting against gamesmanships on the backs of
20 tribes, developing outreach to small and rural
21 gaming establishments, staying ahead of the
22 technology curve, we're putting a strong workforce,
23 as well as internal operational excellence. And so
24 you'll see that's for the years 2018 through 2022.
25 So I do encourage you all to take a look at that.

1 Besides that, we're just really looking
2 forward to hearing your feedback. And thank you,
3 again, for all being here.

4 COMMISSIONER SIMERMEYER: Good afternoon.
5 I'm Sequoyah Simermeyer. I'm Coharie. My tribe's
6 community is in eastern North Carolina. And I'm
7 the third member of the Commission.

8 I want to join my colleagues in saying,
9 Thank you, Chairman George. It was -- that's quite
10 an honor to receive. And we're very -- I join my
11 colleagues in saying we're very thankful for that.
12 And thanks to the Potawatomi community for hosting
13 this meeting in this facility today.

14 I also want to just briefly share a bit
15 about some of my perspectives in terms of my role
16 in the Commission, how I approach the work along
17 with my colleagues.

18 One of the kind of important
19 considerations for me is in looking at the intent
20 and meaning behind the Indian Gaming Regulatory
21 Act. It not only provided the federal framework
22 for regulation, but its policy objectives have been
23 important in growing what's become an over
24 \$31 billion industry that's benefitting Indian
25 people and making lives better in Indian Country.

1 Secondly, it's important for me in the
2 work that I'm doing on the Commission is just
3 really rely on the partnerships that are important,
4 both within the Agency we have institutional
5 knowledge that exists there with our dozens of
6 auditors, compliance officers, financial analysts,
7 attorneys, but also the over 6,000 members of the
8 Indian Country's regulatory community, too. It's
9 important to making informed decisions and more
10 defensible federal actions.

11 And lastly, it's important, I think, in
12 the work we do as a commission, and my colleagues
13 share in being diplomatic in our decision-making
14 processes in honoring intergovernmental
15 relationships that tribes establish in order to set
16 the path for and achieve the goals for their own
17 people. That's a vision only tribes can institute.
18 So it's an important thing that we, whether it's
19 through consultation or through other types of
20 decision-making, that we seek that feedback and
21 consideration and are diplomatic and have an
22 understanding of how our actions are impacting that
23 intergovernmental tool for tribes.

24 So thank you all for being here. And
25 thanks for the opportunity to engage in

1 arrangements. We're scheduled to go through
2 3 o'clock today. No shame in finishing a little
3 early or a little bit late. But if anybody needs
4 to make a statement on the record before getting on
5 the road, we're happy to be flexible
6 structure-wise. Just feel free to let us know and
7 we're happy to get you on the record.

8 Does anybody need to get a statement on
9 the record before getting on the road right now?
10 Okay.

11 MR. FUNMAKER: I'd like to make a
12 statement.

13 CHAIRMAN CHAUDHURI: Sure.

14 So that others may benefit from our
15 discussions, these -- our discussions today will be
16 transcribed. And so for the benefit of the
17 transcriptionist, if we could just say our name and
18 tribal affiliation.

19 MR. FUNMAKER: Yeah, my name is Gary
20 Funmaker. I'm from the Ho-Chunk Nation. I'm one
21 of the tribal elders. I hit that golden number of
22 70. I moved to Milwaukee back in 1952 when they
23 relocated Native American people to the city for
24 acculturation. So I used to crawl up on 27th
25 Street viaduct, and we used to get those baby

1 pigeons and take them down to Wisconsin Avenue and
2 sell them to the Chinese. So I've been in this
3 town when they won the World Series in '57.

4 One thing that I noticed, and I don't
5 know whether I tried to get ahold of the Indian
6 Health Service, but is the lack of senior care on a
7 lot of our reservations, including Ho-Chunk. You
8 know what I mean by senior care? Senior citizens.
9 We send our people downtown. And I know that NIGA
10 talks about the health education and welfare.

11 Now, I think that we should be encouraged
12 or encouraging the tribes to take a percentage of
13 their money, or if not the percentage of the money
14 that you get, and make sure that the seniors are
15 taken care of on the reservations, which is part of
16 our culture, correct? Can I get an amen to that?
17 Is that right?

18 Every time I hear a politician run, he's
19 talking about the elders and the veterans. I'm a
20 Vietnam veteran. I served '64 to '67. And this
21 fellow Ho-Chunk member over there's also a Vietnam
22 veteran.

23 But that's what I want to encourage that
24 we look at how can we get some funding to the
25 tribes. And of course, they'll come up with their

1 part, but for senior care. If somebody did an
2 analysis on that, you'd probably find a nominal
3 amount of tribes that have it. I know that
4 Michigan has got a very aggressive one down in
5 southern Michigan. And I think in Arizona, they
6 have a -- kind of like a little community for their
7 elders. So you're going to have people that can
8 take care of them for their medical needs,
9 preservation of the language. All those things
10 could be dovetailed by creating these communities
11 for our elders. And, you know, let them freely
12 speak in their own language. If they want to eat
13 some wongchick (phonetic), which means Indian food,
14 we'd have people come in and prepare that food.
15 But they'd feel at home.

16 And then if we would hook them up using
17 either Kindles or, you know, the Skype so that they
18 can speak to their relatives maybe that are in
19 hospitals or wherever in the United States. We
20 don't have to fly anymore. We can communicate
21 anywhere we wish.

22 So that's my heart, that's my prayer.
23 And I thank you for -- the gentleman for sharing
24 that song. It was from his heart. And it really
25 touched my heart. And I know that when we talk

1 about our elders, we talk about them with great
2 respect. You know, they created a lot of things
3 that we have right here. That's why we're sitting
4 here today because somebody paid the dues. You
5 know, including the people in the '70s that marched
6 for self-determination. That's why we're here.

7 So I back you up completely. And I'll be
8 holding you guys up in prayer, Chairman and the
9 board. And so thank you for your time. Gary
10 Funmaker, Ho-Chunk Nation.

11 CHAIRMAN CHAUDHURI: Thank you so much,
12 Mr. Funmaker. Brief comment: That's one of the
13 things that I love about Indian Country and Indian
14 Gaming. You see efforts across the board to figure
15 out ways to take care of one another that you don't
16 see in other commercial -- in commercial
17 activities. So thank you so much for those
18 comments.

19 MR. FUNMAKER: Thank you, sir.

20 CHAIRMAN CHAUDHURI: So the Commission's
21 introduced themselves. I'm going to go around the
22 table. The way we have our topics structured
23 today, we'll hear a brief presentation from one of
24 our subject matter experts. And then we'll open it
25 up for discussion.

1 Just so we know who all's in the room,
2 I'm just going have to our presenters introduce
3 themselves. But I do want to make the point that
4 we have a lot of folks from NIGC, including Mr. Ben
5 Buck, our compliance officer, and Ms. Linda Durbin,
6 our regional director, who helped put today's
7 consultation on, in conjunction with Forest County,
8 made all the arrangements. Many, many thanks for
9 our team on the ground.

10 But if we could introduce ourselves
11 briefly so that the tribal representatives and the
12 audience know who we are. So those of us at the
13 table.

14 MR. THOMAS: I'm Dustin Thomas. I'm the
15 director of compliance.

16 CHAIRMAN CHAUDHURI: And your nation?

17 MR. THOMAS: I'm from the Mohawk Nation.

18 MR. KAQUATOSH: Gerald Kaquatosh,
19 governmental affairs. I'm Menominee.

20 MS. LAWSON: Jennifer Lawson. I'm from
21 the Office of General Counsel. I'm the regional
22 attorney with the Office of General Counsel.

23 MS. THOMAS: Good afternoon. Christina
24 Thomas. I'm the chief of staff for the National
25 Indian Gaming Commission. I'm also a member of the

1 Mille Lacs Band of Ojibwa from Minnesota, so I'm
2 happy to be back in the Midwest.

3 MS. LEE: Good afternoon. My name is
4 Yvonne Lee, director of finance for the NIGC.

5 CHAIRMAN CHAUDHURI: Sometimes, depending
6 on the size of the audience, we'll have everybody
7 in the room introduce themselves. I don't want to
8 put anybody on the spot. Anybody that wants to get
9 on the record about who you represent, feel free to
10 now. Otherwise, in the course of Q and A or
11 discussion, please feel free to mention your name,
12 tribal affiliation. And if you're here
13 representing a tribe other than your own, please
14 let us know that as well.

15 Anybody want to get on the record and --
16 maybe we can just go around the room.

17 MR. YOUNG: Good afternoon, everybody.
18 My name is Mark Young, vice chair of the Forest
19 County Potawatomi Gaming Commission. Tribal member
20 also.

21 MR. GEORGE: Good afternoon. Kenneth
22 George, Jr., Forest County Potawatomi Gaming
23 Commission Chairman. Also, a tribal member of the
24 Forest County Potawatomi Tribe.

25 MR. NICHOLS: Good afternoon. Jason

1 Nichols. Executive director for the Forest County
2 Potawatomi Gaming Commission. And a proud member
3 of the Muscogee Creek Nation.

4 MS. TERRIO: Good afternoon. Terrie
5 Terrio. Stockbridge-Munsee Tribe. And I'm also
6 the tribal treasurer there.

7 MR. MATHERLY: Andrew Matherly. Spokane
8 tribal member. I chair the Spokane Tribal Gaming
9 Commission. And I appreciate the Commission. And
10 thank you to the Potawatomi for allowing me to be
11 here.

12 MR. MUDD: Good morning? Good afternoon.
13 Robert Mudd. I'm the executive director of
14 business for the Ho-Chunk Nation and also a tribal
15 member. And I'm also a veteran, like Gary over
16 there, and pushing 70 here. It's a pleasure to be
17 here and I appreciate your time.

18 MS. GARRETT: Good afternoon. My name's
19 the Carolyn Garrett. Legislative attorney for the
20 Ho-Chunk Nation. Thank you.

21 MS. LIAZUK: Good afternoon, and welcome
22 to Wisconsin. I'm Angie Liazuk and I'm from
23 Ho-Chunk Nation. Also a tribal member and sit on
24 the Gaming Commission.

25 MS. BLASCHKE: Good afternoon. I'm

1 Corinna Blaschke. I'm a tribal member of the
2 Ho-Chunk Nation and also the chair for the Ho-Chunk
3 Nation Gaming Commission.

4 MS. SMITH: Rae Smith, director of
5 compliance, White Earth Reservation Business
6 Committee.

7 MS. MASON: (Native language) I'm Tara
8 Mason, secretary/treasurer for the White Earth
9 Reservation Business Committee.

10 MS. CHAPMAN-CHEOLEIER: My name's Crystal
11 Chapman-Cheoleier. I'm the secretary of the
12 Menominee Nation and I'm the chair with the
13 Menominee Gaming. I was hoping to sneak out. I
14 had it on my calendar it went to 5:00. I hear you
15 guys want to get out of here, too, so -- thanks for
16 the table.

17 MR. DINISHEK: I'm John Dinishek,
18 business associate for Mr. Funmaker. I represent
19 the Ho-Chunk Nation.

20 MR. TAYLOR: Jeff Taylor, St. Croix --
21 chairman of the St. Croix Gaming Commission and a
22 tribal member from there.

23 MR. SCHREIBER: Good afternoon. James
24 Schreiber, staff member for Forest County
25 Potawatomi Gaming Commission.

1 MR. DAVID: Hello. I'm Billy David with
2 Bo-Co-Pa Associates out of Oregon Klamath tribal
3 member. And affiliated with the Forest County
4 Potawatomi Gaming Commission.

5 CHAIRMAN CHAUDHURI: Okay. Again, I want
6 to thank everybody for taking the time to join us
7 today. I know folks have driven in from all
8 directions. We're going to try and keep this on a
9 pretty steady pace and make every effort to get any
10 comments, concerns or questions on the record that
11 anybody may have.

12 Yes, Mr. Funmaker?

13 MR. FUNMAKER: I think my friend John
14 there felt a little uncomfortable and -- well,
15 maybe over here, because he was saying that he was
16 representing the Ho-Chunk Nation. And I think he
17 can speak for himself just real quick, if you may,
18 five minutes or whatever you want to say what you
19 want to do here, John.

20 MR. DINISHEK: Thank you, Mr. Funmaker.

21 I'm here to learn a little bit about
22 Gaming Commission's policy and an interest in
23 compliance. My background is in anti-money
24 laundering, anti-terrorist financing, and fraud.
25 And work with a lot of financial service companies,

1 banks, corporations, casinos, and other folks as
2 far as being able to identify, track, report on,
3 and protect themselves from that type of risk
4 compliance area.

5 CHAIRMAN CHAUDHURI: Thank you.

6 So before turning it over to our chief of
7 staff for some additional housekeeping, I do want
8 to, again, thank everybody for being here today.
9 This is a nation-to-nation consultation. So at all
10 points, we will strive to defer to tribal leaders,
11 tribal regulators, and make sure that all comments
12 and concerns and questions from tribal leaders,
13 tribal regulators, are on the record. I understand
14 that there are other representatives in the room,
15 but I want us to make sure that tribal leadership,
16 tribal regulators, get every opportunity to say
17 whatever needs to be said today before we hear from
18 others.

19 So with that, I do want to say one thing
20 very briefly. I'm fighting a cold. So if I don't
21 hear something, and if either I or the
22 transcriptionist don't hear something, please bear
23 with us if we get out the old tin horn and put it
24 up to our ears.

25 I'll turn it over to our chief of staff.

1 MS. THOMAS: Thanks, Chairman. So just
2 some brief housekeeping stuff before we get started
3 on the topics that we're going to discuss today.

4 As the Chairman said, we're scheduled to
5 go to 3:00 p.m. today. And as he always says,
6 there's no crime in finishing early. But we'll
7 stick around until we get all the comments on the
8 record for each of the topics.

9 Just a reminder again: This is
10 transcribed. So if you do have a comment for the
11 record, please introduce yourself and your tribal
12 affiliation before entering your comments so that
13 the transcriptionist can get it.

14 We have three topics that we'll be
15 discussing today. The first one is management
16 contract revisions. We have draft discussion
17 changes to the regulations that were part of the
18 copies of the packets that we provided for today.
19 Second topic is audit submissions. It's kind of an
20 open-ended topic. We don't have anything drafted
21 on this yet. We're just looking for feedback on.
22 And the third one is the management and sole
23 proprietary interest draft definitions that'll be
24 discussed. In between each topic, we'll be
25 stopping and getting comments for the record.

1 This is our final consultation. This is
2 the sixth consultation that we've done on these
3 three topics. Our comment period on the drafts is
4 February 28th, 2018.

5 And with that, I will hand it back over
6 to you, Chair.

7 CHAIRMAN CHAUDHURI: Okay. Thank you,
8 Ms. Thomas.

9 Before we turn it over to Yvonne Lee, any
10 other comments from the Commission? Okay. So I'll
11 turn it over to Director Lee now for our first
12 topic.

13 MS. LEE: Thank you, Chairman.

14 Under IGRA and current NIGC regulations,
15 tribes wanting to engage a third party to manage
16 their operations are required to enter into a
17 management agreement with the third party that must
18 be approved by the Chairman of the National Indian
19 Gaming Commission. Following the NIGC's 2017
20 consultation sessions, the Commission carefully
21 reviewed its regulations, and the Agency's internal
22 procedures for reviewing and approving management
23 contracts. As a result of that review, and based
24 on comments received during the consultations, the
25 Commission believes that changes to our management

1 contract regulations will improve the efficiency of
2 the contract review process and ensure consistency
3 with IGRA's requirements regarding term limits.

4 I will provide some background on this
5 topic, including current regulations, Agency
6 concerns, and the Commission's proposed amendments
7 to the regulations.

8 The Chair of the NIGC may only approve a
9 management contract if it does not exceed a term of
10 five years, or in rare circumstances, seven years.
11 NIGC regulations reflect that stipulation and
12 management contracts are not approved unless they
13 comply with all requirements of IGRA, including
14 term limits.

15 After management contracts have been
16 approved, tribes and their management contractors
17 may amend their contracts by following the
18 streamlined procedures for review and approval of
19 contract amendments found in NIGC Regulations 25
20 C.F.R. Part 535. Part 535 provides an expedited
21 process within which background investigations are
22 only required if the third-party individuals and/or
23 entities responsible for the management contract
24 have changed, and no new business plan or updated
25 financial information is required. The expedited

1 process is designed to allow the parties to sustain
2 their relationship in a dynamic business
3 environment while maintaining the integrity of the
4 Chair's initial management contract review and
5 approval.

6 The safeguards found in NIGC's management
7 contract review process serve to assure IGRA's
8 primary policy goals are met, including protecting
9 Indian gaming and ensuring a tribe is the primary
10 beneficiary of its gaming operation.

11 A thorough review of past practice
12 revealed that parties, using Part 535's expedited
13 process, have submitted amendments to the initially
14 approved contracts that have extended the term of
15 the approved contract by an additional one to five
16 years, resulting in a contract that extends beyond
17 the explicit term limits of IGRA.

18 Thus, the Commission believes it is
19 important to update regulations to maintain IGRA's
20 mandate.

21 The proposed amendments clarify the
22 regulations by explicitly noting that amendments
23 that extend the approved management agreement
24 beyond the term limits permitted by IGRA, which is
25 five or seven years, will be reviewed under the

1 full requirements of a new management contract
2 under Part 531.

3 So, for example, if an approved contract
4 with a five-year term is nearing the end of its
5 term, and the parties are happy with the
6 relationship and simply wish to extend it for an
7 additional five years, they may do so, but it may
8 not be reviewed as an amendment. Because IGRA
9 limits contract terms to five or seven years, the
10 Chairman will review the agreement under Part 531,
11 and the entire requisite information that 531
12 requires must be submitted.

13 For another example, though, if a
14 management contract had a one-year term, and the
15 parties wanted to amend the agreement to extend it
16 for an additional year, for a total term of two
17 years, the Chair would review the amendment under
18 Part 535 because the term limit would still be
19 within the statutory limit of five or seven years.

20 The Commission understands this change
21 may affect the timing and expense of updating
22 background investigations for making suitability
23 determination of management contractors. And
24 independent of the changes discussed above, the
25 Commission received comments during the last round

1 of consultation that the background investigation
2 process was time-consuming and expensive. As a
3 result, the Commission has done a thorough review
4 of its background information process, and is
5 proposing changes to our internal procedures to
6 make the process more efficient, thereby reducing
7 the cost of investigations.

8 Under the new process, NIGC staff will
9 review the background investigation applications
10 and divide them into different investigative groups
11 based on the level of risk. This process will
12 allow the Agency staff to focus their investigative
13 resources on the most vital individuals and
14 entities. This replaces a one-size-fits-all model
15 that scrutinizes all applicants the same.

16 For example, under the current process,
17 the top direct financial interest goes through the
18 same background investigation as the smallest
19 indirect financial interest. But under the new
20 process, entities and individuals with a direct
21 financial interest, holding the highest level of
22 risk to the tribe, will have a more in-depth
23 background investigation completed versus those
24 entities or individuals who have an indirect
25 financial interest.

1 In addition, the Commission has proposed
2 changing the individuals and entities that are
3 required to submit background applications under
4 the regulations to those that have ten percent or
5 greater financial interest. This proposed change
6 should significantly reduce the costs to the
7 management contractors in submitting full
8 applications on smaller investors. Further, this
9 proposed change will also better align the Agency's
10 requirements with other regulatory agencies.

11 This change should not increase the risk
12 to tribal gaming as the Commission will retain
13 discretionary authority to conduct background
14 investigations on the owners with even the smallest
15 interests, who may pose a threat to the industry.

16 In addition, the Commission is proposing
17 a regulatory change to clarify the "reduced scope
18 of investigation" provision to reduce the burden of
19 background investigations for those who qualify.

20 To further reduce the time and cost of
21 background investigations, the Agency will no
22 longer use the Office of Personnel Management, or
23 OPM, to conduct part of the background
24 investigations. Instead, we will process
25 fingerprint checks through FBI and perform credit

1 checks through other, more efficient alternatives.

2 Lastly, to reduce the upfront financial
3 burden and timing concerns, the proposed amendments
4 to the regulation removes the requirement of a
5 deposit before the background investigations begin.
6 Instead, the Agency will bill the management
7 contractors regularly as the investigation
8 proceeds.

9 I would now like to turn it back over to
10 the Commission to lead a discussion. Thank you.

11 CHAIRMAN CHAUDHURI: Thank you, Ms. Lee.

12 So for additional background, I'll turn
13 it over to my fellow commissioners.

14 COMMISSIONER SIMERMEYER: Thanks, Chair.
15 I'll just make three brief points. One about the
16 motivations for efficiency. Secondly about the
17 importance for making a defensible interpretation
18 of the Indian Gaming Regulatory Act. And last,
19 just the importance of understanding what the
20 impacts of this might have in how tribes work in
21 the regulatory setting or in their operational
22 setting.

23 The management contract review process,
24 it's conducted by the Chairman, not the full
25 Commission. And unless there's an appeal, it's

1 rare for the full Commission hears an appeal from
2 the Chair's denial of a management contract.
3 However, as a full Commission, we're hoping that
4 some of these proposed changes will provide more
5 efficiency to help avoid backlogs in the review
6 process, and improve our stewardship of the Agency
7 and how we handle our resources in looking at these
8 issues.

9 It's not intended to create unnecessary
10 burdens on tribes that are seeking to develop and
11 to maintain their partnerships. Specifically by
12 not using OPM, removing the deposit requirements,
13 creating tiers for the background work that the
14 Chair uses to make this determination, it often
15 leads to more efficient, less costly, less
16 burdensome review process.

17 Finally, it's important to me that these
18 changes don't exceed what the Indian Gaming
19 Regulatory Act requires for management contract
20 terms in any changes in the action, how we've been
21 doing things, is important to keep in mind how we
22 approach this proposal.

23 So it'll be helpful to hear what works
24 for tribes in how they approach partnerships from
25 management and nonmanagement professional service

1 type agreements as well, and to hear more about
2 ideas about the impact this might have in the
3 process. So thanks.

4 VICE CHAIR ISOM-CLAUSE: This topic has
5 been particularly active, I think, of the three, so
6 I'm really looking forward to the discussion.

7 And so I won't repeat too much, but I
8 just did want to highlight that the tier approach
9 that Ms. Lee mentioned and Commissioner Simermeyer
10 had mentioned as well is one that we really think
11 could be incredible savings of time and resources
12 that would benefit both Agency and anyone coming
13 into contact with a management contract who is
14 waiting on us.

15 We don't believe it will cause any issues
16 with the integrity of the background investigation.
17 Our proposal is that it's just more of a risk-based
18 and kind of a smarter approach rather than just a
19 one-size-fits-all. So that's the kind of thing we
20 like to think about as an Agency. And we're really
21 happy with our team for coming up with this
22 proposal. With that, back over.

23 CHAIRMAN CHAUDHURI: Thank you, Vice
24 Chair. Thank you, Commissioner.

25 Just want to echo everything my

1 colleagues said. I know there aren't a lot of
2 management agreements represented in the room. I
3 see Spokane here. And I think there may be one or
4 two other management agreements. But this ties
5 into a couple of other large themes that I think
6 represent our direction as an agency. One, as has
7 already been mentioned, good governance. So we're
8 all about streamlining where we can, but still
9 doing our job under IGRA. So the governance aspect
10 of this is important.

11 But too, one of our key initiatives at
12 the Agency is protecting against gamesmanship on
13 the backs of tribes. IGRA requires that the status
14 of tribes as the primary regulators of their
15 operations be respected and protected at all
16 points, as well as the role of tribes as the
17 primary beneficiaries of their operations be
18 respected and protected at all points.

19 One of the ways that we do our job at
20 NIGC, you know, one of the hooks that we have is as
21 we strive to protect against third-party threats to
22 tribal assets or operations, we work through our
23 management agreement approval process to uphold our
24 fiduciary duty that's laid out for us in IGRA. So
25 the approval of management agreements have kind of

1 two facets to them. One is looking at the contract
2 itself. But the second part is doing up-to-date
3 backgrounding of key officials.

4 So the idea that we're looking at ways to
5 stay truer to IGRA's five to seven-year management
6 agreement period helps us ensure that we're
7 relying -- we're not relying on stale
8 backgrounding. You know, the alternative is if you
9 have repeated amendments or extensions of
10 agreements, at some point the period of time
11 between backgrounding, and you run the risk of
12 having too much time passing.

13 So this is a way for us to think about
14 ways to clarify the rules, hopefully bring clarity
15 to the process, streamline and facilitate economic
16 development on the ground, but at the same time,
17 make sure that we're doing our job at NIGC.

18 So that's a little background -- a little
19 bit more background from the Commission. I
20 appreciate Director Lee's perspective. We're going
21 to turn it over to the floor now for any comments,
22 questions, discussions. And we'll really -- I
23 don't want the process to get in the way of
24 conversation or of discussion. So we'll also have
25 a catchall at the end of today's consultation if we

1 miss anything. But I turn it over to the floor
2 now. Please feel free to raise your hand and our
3 regional director will get the microphone over to
4 you.

5 MR. MATHERLY: Andrew Matherly, Spokane
6 Tribe.

7 So the Spokane Tribe, you know, we do
8 have a management contract. This is a second
9 go-round with this specific company.

10 First off, you know, I think the Spokane
11 Tribe, we agree that clarity is needed beyond the
12 five or seven. And I'll just speak from
13 experience. With this management company before,
14 we did the five years and then it was extended one
15 year beyond that. But the tribe itself wanted to
16 go another year, and the Gaming Commission itself
17 said, We're not going to approve it.

18 I guess part of some of the things I see
19 personally is the declination as it applies to
20 development projects. And I'll use our tribe as an
21 example, is that when we're creating a new
22 facility, you have a management company in the
23 tribe that brings forward to my commission body
24 they want a management contract. Well, you don't
25 have a casino. You can't submit nothing to NIGC.

1 So I do appreciate NIGC, that fact,
2 because they assisted me in saying we're going to
3 hold off because once we start that, that five-year
4 time period starts. But the questions I have is
5 the development portion of the day-to-day say of,
6 you know, we -- because as we identify primary
7 management officials or key employees that have
8 those day-to-day operation decisions, you don't in
9 a development declination, so --

10 The tribe, we do agree that if amendments
11 are considered for new contracts, then that we
12 agree that increased efficiency in the review
13 process are necessary.

14 The ten percent, as you know with our
15 agreement, we have is a sole proprietor. What you
16 run into a problem with that is is that that sole
17 proprietor has people that work under him. So what
18 we've done is if they're going to be on our
19 property, we're going to license them. They're not
20 going to the back of the house, they're not making
21 any decisions. So we took the stance in our Gaming
22 Commission that you're going to be licensed as a
23 PMO. And it did slow the process down for a lot of
24 their staff, but that's just how we're going to
25 operate.

1 We support the concept of background
2 investigation tiers. And billing the management
3 contractors for background costs rather than
4 requiring deposits. NIGC's really familiar with
5 our management contract, and it was rigorous, you
6 know, but we do appreciate the process. It is our
7 job to, as you mentioned earlier, Chairman, is to
8 the tribe being be the sole beneficiary that
9 protect our interest. And so I guess as a
10 regulator, that's something that I've spent a lot
11 of my time educating our tribal government and
12 other entities because it's -- we're responsible
13 for it.

14 So thank you.

15 CHAIRMAN CHAUDHURI: And thank you for
16 those comments. I'm going to look over at Yvonne's
17 way. I'm not sure if there's anything you want to
18 weigh in on the development side of things.

19 But, you know, there are two parts of
20 what we're proposing. One's the regulation change.
21 The second part is the administrative kind of
22 operational changes that's kind of internal to the
23 Agency. So that's where the background and the
24 backgrounding tweaks and the three-tiered process
25 comes into play. That doesn't necessarily --

1 that's not necessarily in the regulation. That's
2 an internal administrative change. But both are
3 designed to really uphold our responsibilities,
4 while at the same time recognizing that time is --
5 time is money when it comes to these agreements.
6 Trying to shave off what we can, where we can, but
7 at the same time, we would be -- we'd be ignoring
8 our responsibilities if we didn't do our part to
9 make sure that we were doing adequate backgrounding
10 as well.

11 So thank you so much for those comments.
12 Yes, sir.

13 MR. FUNMAKER: Gary Funmaker again.
14 Ho-Chunk Nation tribal member. I'm not necessarily
15 an official. But my background -- I was just
16 thinking here, my background is way back in the
17 early '80s, I was assigned to be a commissioner for
18 our Ho-Chunk housing. And then I was assigned the
19 designation of being secretary/treasurer. And then
20 while I was with the Bureau, I was the
21 secretary/treasurer of the Federal Indian Service
22 Employee Union. And -- but my thoughts here, I
23 want to lean on the Chairman a little bit here.

24 I notice that you are out there in
25 Washington. And I read the information on that,

1 where that tribe was having some trouble. I don't
2 know whether it was enrollment or whatever. But
3 then I noticed that the BIA jumped in behind you.
4 And I was saying, Well, jeez, my experience with
5 the Bureau is that they never jumped in to anything
6 political with the tribe.

7 At the same time, one of your
8 representatives from NIGA from St. Paul gave me a
9 call on an issue that I've had with Ho-Chunk Nation
10 concerning one of our officials that could be
11 deemed a felon. And she informed me that NIGA does
12 not interfere with tribal politics. But then,
13 again, I saw you out in the state of Washington
14 where the Bureau even backed you up, stating, you
15 know, some type of timeline, you know, backing up
16 what you are saying to that tribe out in
17 Washington.

18 I was just wondering, you know, if you
19 could clarify that for me as a tribal elder. Thank
20 you, sir.

21 CHAIRMAN CHAUDHURI: Thank you so much,
22 Mr. Funmaker. Absolutely. We defer to tribal
23 decision-making whenever and wherever possible.
24 Not only is that good policy, that's the law. When
25 we talk about tribes being the primary regulators

1 of their operations, that that's just the law.

2 What happened in the case that I think
3 you're referring to, it's still kind of an open
4 case, so I don't want to get too much into it. But
5 I can talk about portions that are part of the
6 public record.

7 When we look to take action, and for this
8 one, I better say when I look to take action,
9 because any enforcement actions that the Chair
10 takes are appealable to the full commission. So
11 I've got to be a little careful about saying "we"
12 versus "I" on this one; although, I don't like
13 saying "I" too much.

14 When I took action there, did everything
15 I could to make it clear that we weren't weighing
16 in on the governance matter because I think it is
17 good policy to defer as much as possible to the
18 internal sensibilities, internal processes, and
19 internal policies of any sovereign nation. What we
20 were weighing in was a number of things, including
21 whether or not we could ensure that the sole
22 proprietary interest of the tribes' operations was
23 being protected.

24 And so that's -- that's an important
25 distinction. We're not kingmakers. As a matter of

1 policy, I don't think it makes sense for the
2 federal government to be kingmakers when it comes
3 to sovereign nations. But we do have a
4 responsibility -- you know, IGRA may be flawed in
5 many ways, but it says what it says. We have a
6 responsibility to make sure that tribes, and not
7 third parties, not -- not even individuals, but
8 tribes are the ones benefitting from their
9 operations.

10 So that was the distinction. But we do
11 steer a hand whenever and wherever possible from
12 getting involved in internal tribal politics when
13 we recognize that, as sovereign nations, sovereign
14 nations are free to govern themselves pursuant to
15 their constitutions or traditions in ways that are
16 appropriate for that nation.

17 So I don't know if that helps with a
18 little background, but that's -- and I, you know --
19 that matter is still ongoing, but it wasn't a
20 matter of injecting ourselves into internal
21 politics. I can guarantee we take every effort not
22 to do that.

23 MR. FUNMAKER: Thank you for that answer.

24 The reason I'm here is, you know, the
25 Ho-Chunk Nation certified my company, First Nation

1 Supply, which is a broker wholesaler. So I've been
2 in business since 2002. We've done business with
3 Forest County here and Ho-Chunk and different
4 tribes. The Oneidas. But what I bring today is
5 the gentleman that came with me. Like I said, a
6 broker wholesaler. So I'm finding those widgets,
7 I'm finding those things that even the DOT needs.
8 My company's certified as a disadvantaged business
9 with Wisconsin and the state of South Dakota.

10 So that's why I brought Mr. John with me
11 today. And he mentioned some of the things that
12 his company can do as far as backing up NIGA and
13 making sure that everything is clean.

14 So maybe during the audit portion I think
15 is on the agenda today, maybe you could give him a
16 little bit of time. And he's going to be part of
17 who I am as one of my companies being a broker
18 wholesaler. So that's why I brought him. And I
19 think the timing is unique. And from what I've
20 read of some of the correspondence that they've
21 given me, and talking with him on the way over here
22 from Black River, this company is something that we
23 really need. And not only us, but any tribe if
24 they want to use this company, they're -- they're
25 really cutting edge.

1 So with that, I'll say thank you.

2 CHAIRMAN CHAUDHURI: And thank you,
3 Mr. Funmaker. We're happy to hear public comments
4 and comments from private organizations, which
5 is -- this is kind of an open-ended structure, with
6 the caveat, though, that this is a
7 government-to-government consultation first and
8 foremost out of deference and respect to tribal
9 nations, want to make sure that tribal leaders and
10 tribal regulators have the first opportunity to
11 weigh in.

12 So if there are public comments, we'll do
13 our best to allow those, if time allows. Thank
14 you.

15 MR. FUNMAKER: One more thing. We have
16 four parts of the Ho-Chunk government. Executive,
17 legislative, judicial. So two of them are
18 represented today. I think the judicial would be
19 represented, and also the executive with Mr. Mudd.

20 I have this general council, which is the
21 fourth part of our government. And that's who I
22 recognize right now as far as leadership in our
23 government. The general council are the people.
24 All right? Because too many people just look to
25 the tribe. If you talk to a senator, which I have,

1 I've talked to many of them, they'll mention "the
2 tribe." "We did this for your tribe." But when
3 you ask for something individually, they don't want
4 to answer that question. They'll say, Well, we've
5 done something already for your tribe. And this
6 was a guy named LaPoint that ran for one of the
7 senator positions in South Dakota. He mentioned
8 it. He was from Pine Ridge. He said, Ask them if
9 they do anything for the individuals. Okay?

10 So I just want to clarify that. You
11 know, if I get any static over here, I'm part of
12 the general council, which is part of the four
13 positions of the tribe of the Ho-Chunk Nation. So
14 I'm with 3,000 voting members. So clarify that.
15 Thank you.

16 CHAIRMAN CHAUDHURI: Thank you.

17 MS. CHAPMAN-CHEOLEIER: Crystal
18 Chapman-Cheoleier, Menominee Nation.

19 My comments are in regard to the
20 extensions are the administrative policy behind
21 background checks. It's the definition piece. The
22 25 C.F.R., Part 502, the additional language to be
23 put into the management definition.

24 My concern is that the definition, which
25 includes things such as the maintenance of the

1 facilities and the supervision of construction
2 improvements, is that it doesn't correctly align
3 with 25 C.F.R., Subsection 510, which speaks to
4 gaming operations. I feel that it's kind of
5 extending into non-gaming operations. And then
6 there's the risk of that also extending the NIGC
7 management contract approval process to those
8 non-gaming functions of management in the casino.

9 CHAIRMAN CHAUDHURI: So we have -- thank
10 you for that. We have a third topic, which is our
11 proposed tweaks to the -- or proposed language for
12 definitions of management and sole proprietary
13 interest. Maybe we could come back to some of
14 those comments after that third section because I
15 think we're going to get into those definition
16 discussions quite a bit. But it's well-taken. We
17 definitely -- this conference room's called the
18 Harmony Conference Room. We seek to harmonize
19 various provisions of our regulations as much as
20 possible. And so we do have some thoughts about
21 how the provisions work together. But if we could
22 defer that to the third topic.

23 MR. FUNMAKER: Before Bobby goes here.

24 Back in 1981, I was the guy that spoke up
25 against John Koberstein. And the case was

1 Wisconsin Winnebago versus John Koberstein. I
2 believe that maybe we might have been one of the
3 first tribes to oust a management agreement because
4 he didn't get it approved by the Bureau. Nobody
5 else was saying anything. He was sticking up there
6 and controlled the meetings. Finally, I grabbed
7 the mic from him, and I said, "Why do you have the
8 mic?" You know. And then I had a statement. And
9 people couldn't believe that I could write a
10 statement. And eventually we took that to federal
11 court, right? If you look that up, Wisconsin
12 Winnebago versus John Koberstein. So go ahead,
13 Bob.

14 MR. MUDD: Robert Mudd, Ho-Chunk Nation,
15 executive director of business.

16 Kind of like what the young lady said
17 there, and I was kind of like, We were going to go
18 there. And I got a young gentleman sitting next to
19 me who's actually going through some of this stuff
20 that we're talking about. So it's very
21 interesting.

22 And what I've seen so far, some of the
23 changes, I am not, you know, that sounds good to me
24 because I think there's something has to be done,
25 and I think this is a start. Thank you.

1 CHAIRMAN CHAUDHURI: Thank you, sir. I
2 mean, I don't want to put off the discussion if you
3 want to get into the definitions a little bit more
4 now. I mean, I don't want to take -- I think
5 Jennifer is doing the SPI section. She had a whole
6 written presentation. I don't want to steal
7 Ms. Turner's thunder. Yeah, maybe we could just
8 flip the order. We'll go into that next.

9 MS. LAWSON: Sure.

10 CHAIRMAN CHAUDHURI: Any other comments,
11 questions, concerns, on this topic before we move
12 on to our next topic? Okay.

13 And as I said, you know, I don't want
14 process to get in the way of discussion. So at the
15 end, we're going to have an open-ended portion
16 where if there are any additional comments folks
17 have.

18 Any other comments from the Commission
19 before we move on to the next topic? Okay. With
20 that, we are going to flip the order of our topics
21 because it's a nice segue from the last comment, or
22 the previous comment about definitions. We're
23 going to now turn it over to Ms. Jen Lawson -- did
24 I say Turner before? I'm thinking solicitors.
25 Anyway, Ms. Jen Lawson. I'm so sorry. I'm

1 fighting a cold. I'm fighting a cold. And we're
2 going to hear a little bit more about management
3 and sole proprietary interest definitions.
4 Jennifer.

5 MS. LAWSON: Hello. I'm fighting the
6 same cold. In fact, I think everybody at NIGC is
7 fighting exactly the same cold right now. So bear
8 with me and I will try my very best not to cough.

9 As we touched on a little bit earlier,
10 IGRA provides that tribally-owned gaming operations
11 may be managed either by the tribe or by management
12 contractor subject to an NIGC management
13 contract -- NIGC-approved management contract.
14 This applies to any arrangement in which a
15 contractor manages all or part of a tribally-owned
16 gaming operation. And to provide better clarity,
17 the Commission is considering developing
18 regulations that will clearly set out its standard
19 for what constitutes "management," as well as its
20 criteria for evaluating when a sole proprietary
21 interest violation has occurred.

22 In the past, to assist tribes in
23 determining whether an activity constitutes
24 "management," NIGC issued Bulletin 94-5. That was
25 issued in '94 -- 1994, and the Commission still

1 relies on it pretty heavily today. In that
2 bulletin identifies various activities that are
3 management. And these actions include planning,
4 organizing, directing, coordinating, and
5 controlling all or part of a gaming operation.

6 The NIGC Office of General Counsel issued
7 an opinion letter back in 2009 expanding on these
8 terms by providing examples of management
9 activities. To date, however, the Commission has
10 not issued a formal regulation that would define
11 management. The Commission believes that, in
12 consultation with tribes, developing a regulatory
13 definition consistent with past interpretations
14 would help provide greater clarity to the tribal
15 gaming industry regarding what constitutes
16 management. The Commission recognizes that the
17 Seventh Circuit has also recommended that the
18 Commission provide more certain guidance.

19 So as far as sole proprietary interest
20 goes, a stated purpose of IGRA is "to ensure that
21 Indian tribe is the primary beneficiary of the
22 gaming operation." To serve this purpose, IGRA
23 requires that tribal gaming ordinances provide that
24 tribes have the sole proprietary interest in and
25 responsibility for the conduct of any gaming

1 activity, unless the gaming activity is
2 individually owned.

3 To determine whether a third party has
4 received a proprietary interest in a tribal gaming
5 operation in violation of the sole proprietary
6 interest mandate -- we'll just call it SPI because
7 that's a big mouthful -- the NIGC considers the
8 term of the relationship, the amount of revenue
9 paid to the third party, and the right of control
10 over the gaming activity by the third party.

11 The Commission previously consulted on
12 developing guidance or regulations concerning sole
13 proprietary interest back in 2008 and 2010. Since
14 then, and just prior to that, courts have
15 considered and discussed this issue in the
16 intervening years noting and upholding NIGC's
17 criteria for evaluating such violations. The
18 Commission believes that a regulation consistent
19 with past NIGC enforcement actions, and litigation,
20 would provide greater certainty to the tribal
21 gaming activity -- excuse me, tribal gaming
22 industry regarding what constitutes a violation of
23 the sole proprietary interest mandate.

24 The draft regulations that you have here
25 in your packet incorporate these interpretations

1 for consideration, as an addition to the
2 Commission's compliance regulations.

3 And now I'd like to turn it back over to
4 the Commission to lead the discussion, and respond
5 to any comments.

6 COMMISSIONER SIMERMEYER: Thank you,
7 Ms. Lawson.

8 As the presentation mentioned, Agency
9 guides and legal opinions, as well as federal case
10 law, help to inform these definitions. And I just
11 want to make three relatively brief points.

12 As a member of the full commission, I
13 will not make the determination about an
14 unauthorized management contract or about -- if
15 there's an unauthorized management or if there's
16 been a violation of the sole proprietary interest
17 requirement. That's a determination the Chairman
18 makes. But as a member of the full commission, we
19 do hear an appeal to review the Chair's decision.
20 So it's hoped that by promulgating the standard,
21 we'd be able to help support transparency and good
22 governance in the decision-making processes, both
23 at the Chair's level and with the full Commission.

24 Secondly, I hope that promulgating
25 definition or providing some other guidance in this

1 area could help to provide some certainty to the
2 partners that are working with Indian Country. In
3 fiscal year 2017, the Office of General Counsel at
4 our agency provided almost 60 declination letters,
5 mostly to financial institutions, to try to give
6 some assurances about what level of management was
7 or wasn't occurring in an agreement or partnership.

8 And while it's important that that
9 assistance continue, and there's no reason that
10 that type of support should stop, those types of --
11 looking for that certainty through declination
12 letters does provide -- does add costs to --
13 transactional costs and adds delays in time. And
14 it can have an impact on how partnerships develop.

15 A third and last point is that by
16 promulgating a definition, we can help to perhaps
17 improve general awareness of the sole proprietary
18 interest requirement or about the requirement for
19 management contract approval process that's under
20 the Indian Gaming Regulatory Act.

21 I believe there's a small number of
22 action between the Agency's history dealing with
23 sole proprietary interests, and often fact-specific
24 determinations about management. And that's a
25 helpful way to provide some awareness. And of

1 course, nobody hopes for enforcement action, but if
2 there are other ways that we can help to bring
3 awareness to these requirements in IGRA, that's an
4 important thing for us to do as a Commission.

5 VICE CHAIR ISOM-CLAUDE: I'll just add to
6 that that, you know, as is mentioned, we have these
7 definitions floating around in a lot of places.
8 They've been out there for years. Developed over
9 the years, in fact. And this is our effort to put
10 the definitions all in one spot, in one concise
11 place, and to add greater clarity going forward.
12 And also as Commissioner Simermeyer mentioned,
13 potentially, if there is an enforcement action, to
14 give us a little more stable ground to stand upon
15 when we do have any of those functions taking
16 place.

17 The intention is not, to your point, to
18 add any new requirements or, you know, not change
19 things midstream, but that's why it's always
20 important to talk with folks like you all experts
21 that are working with this every day to see if
22 things are reading differently than we intended
23 them or, you know, any kind of comments like that
24 would be very much appreciated.

25 CHAIRMAN CHAUDHURI: And thank you. I

1 don't have too much to add to that. But as I
2 mentioned earlier on, the management agreement
3 approval process is important to allowing us to do
4 our job. It's an important part of our
5 responsibility to ensure primary beneficiary status
6 of tribes.

7 Along the same lines, sole proprietary
8 interest is in IGRA, but it's not defined. And,
9 you know, there are all these pieces of definitions
10 that come from case law, come from Agency
11 enforcement actions, but it's -- doesn't make sense
12 not to compile those and put them in one readily
13 accessible place. And that's what we're trying to
14 do.

15 We're also trying to avoid -- or we're
16 trying to ensure some consistency in Agency
17 actions. One of the things I've noticed in my role
18 as Chairman is that, without a clear definition
19 under the regulations, a lot of times you're left
20 to make the best decision that you can. And I can
21 honestly say that with, you know, working
22 hand-in-hand with our team at the Agency, we can
23 stand by -- behind every decision that we've made.

24 But at the same time, it shouldn't be
25 left to just one Chair's -- no matter how good that

1 Chair may be, one Chair's decision-making process
2 as to what the definition of "sole proprietary
3 interest" is. And so that's -- that's our effort.
4 We're trying to bring clarity to the definitions,
5 trying to bring clarity to our actions.

6 So with that, I'm going to turn it over
7 to the floor now. And like before, we'll open it
8 up to questions, comments, concerns.

9 MR. FUNMAKER: Okay. Do I have to repeat
10 my name over there, Court Reporter?

11 THE REPORTER: No. I'm good with you.

12 MR. FUNMAKER: You know, one thing about
13 changes of life on the reservation, in watching
14 economic development progress, is that nowadays you
15 have men and women that were independently wealthy.
16 And then you have fee land and you have allotted
17 lands. So in the allotted land is, let's say, a
18 group of four people. Let's say four Funmakers.
19 So they own one quarter on that tract of land.
20 Could be 40 acres, let's say. All right.

21 So they own 40 acres. And four of the
22 Funmakers, they all have degrees. One has a degree
23 in law. One has a degree in economics. And they
24 have the capital behind them because of their
25 reputation that they carry, not the tribe, as

1 individuals.

2 You know, some of the things that we're
3 talking about really, when we marched in the '70s,
4 it was against oppressive behavior of the
5 non-Indian. So now I've seen, and to be honest
6 with you, I see oppression by tribes on their own
7 people. All right? It happens.

8 Now, in my make-believe casino, I would
9 have training using the money that we have with
10 various universities. And everybody's doing online
11 training. And this is what I voiced when I was
12 with the Bureau. And the regional directors
13 actually would come against me because I wanted to
14 get improvement in our employees.

15 Now, the same in this fictitious casino
16 that the Funmakers own is that I would definitely
17 have videoconferencing in improving each one of
18 those people that are employed in that casino. So
19 in my finance department, they would be talking
20 about accounting degrees. Some of the latest
21 software that could be used. I don't see that
22 happening now.

23 So that's the difference between dealing
24 with a tribe and dealing with a sole
25 proprietorship. Unless I'm way off here. But like

1 I said, this is a different world. There are
2 people, responsible tribal members, that now have
3 capital, or access to capital. May it be some of
4 the money from overseas -- what do they call
5 that -- in fact, I think Ho-Chunk started the
6 Sovereign Nation Wealth Fund.

7 And one other thing is I wanted to
8 mention is that I think that the pool of money that
9 you have now, it would be interesting to have the
10 opportunity for tribes to chip in whatever they
11 want to chip in in that fund. I know I think the
12 percentage is 0.08 of the gross of each casino.
13 That's what NIGA is taking right now. All right?

14 Now, our brothers over there, the
15 Potawatomis, the Ho-Chunks, Mystic Lake, you know,
16 Mille Lacs, let's say they want to kick in an extra
17 ten. I don't know where the money's going now, but
18 if it's going into an investment vehicle, it would
19 be nice if we could be part of that. Do you follow
20 me what I'm saying there?

21 So, okay, we beef it up, we beef NIGA up,
22 but we also pool our money, which has always been
23 my dream -- and when I finally found out and I
24 looked at -- you know, because I got on the
25 website -- the mailing list for NIGA, come to find

1 out this is 2016, going back ten years about,
2 they've been in the billions. Holy mackerel, these
3 guys did it. It's pooled. All the money is
4 pooled.

5 Now what are we going to do with it? And
6 I see Washington, you know, talking \$18 million for
7 this and that. And Trump wants the wall. In fact,
8 I told Senator Johnson's office, I said, "Why don't
9 you get it from NIGA?" And I said it on David
10 Webb's National Patriot Radio. I said that to him.

11 So he got behind it a hundred percent.
12 And he goes, Yeah. He says, You guys create your
13 own -- you know, get your laborers over there.
14 There's so many things that we can do. When you
15 have capital like we have, you know, that's what
16 it's all about.

17 So what my recommendation here is sole
18 proprietorship, I'm just saying that the times have
19 changed. Okay. That a family's got an allotted
20 piece of land. The tribe does not own that land;
21 they own it. It's in trust. It meets all the
22 criteria. If you look at 25 C.F.R., it mentions
23 "tribe" and also "individuals" they put in there.
24 Did you ever notice that? It says "tribes" and
25 "individuals." Okay?

1 So we're not going to oppress our people
2 anymore because, you know, we're far beyond that
3 now. We're on our way. We are a major player.
4 Look at the Ho-Chunk Nation in this state here.
5 We're a major employer. Potawatomi, they got this
6 ramp coming right off the -- whatever you call it,
7 right into their parking area. I said, Man, that's
8 something. And then when they did business with
9 the Mohicans out there, they have a whole
10 interstate that came right out there, out to
11 Mohican, when I was doing business with those guys.
12 And then Fox Road's only 20 miles away.

13 You know, if you're out in the middle of
14 nowhere is one of those doughnut -- famous doughnut
15 places. There isn't even anything out there, and
16 they got -- out East, they really love these. What
17 are the doughnut places they call them? They're in
18 all over the place.

19 But anyway, that's kind of how I see it
20 as far as sole proprietorship. Everything you guys
21 are talking about I've seen, I've experienced. But
22 the main thing everybody is pray that we're not
23 going to be oppressing our own people. Right? Do
24 you understand what I'm saying? You guys are all
25 young here. But pray that that doesn't happen

1 because, you know, not only us, people, college
2 people, when we took over Alcatraz. But, I mean,
3 aim, they -- everybody did their part to get what
4 we have.

5 So we have to be able to think freely.
6 And how are we going to do these things? How are
7 we going to become a little bit more powerful than
8 we already are? There's a lot of land issues we
9 could get behind. Ho-Chunk Nation, we have
10 paperwork from the BIA stating that we own various
11 section, township and ranges. And one in Rockford,
12 Illinois, right in downtown in Section 26 and 27.
13 They told us in '79 to clear up those titles. To
14 clear title. When you buy a house, the title
15 company looks to make sure there's no encumbrances.
16 That's what they told us. And I gave that
17 paperwork to our president, and he lost it.

18 So, you know, hopefully we can -- you
19 know, what NIGA has is to be able to be
20 free-thinking. And hopefully, we get unity. And
21 it's going to be really fun. I think the State
22 should be entertaining doing joint ventures with
23 the tribes as far as economic development.

24 I've been talking with a company from
25 China called Puxin Technology. Their renewable

1 energy systems are so clean. Aesthetically
2 palatable. I asked them to come to Chicago, to our
3 Chicago property, and start, you know, doing what
4 they do over in China here. That's just me. I'm
5 just an entrepreneur.

6 But God has blessed me with, you know --
7 I mean, when I used to tithe the church and give
8 that ten percent, I'm getting it back. If you guys
9 know what I'm talking about. It's true. It works.

10 So thank you for your time. And I think
11 I'm going to try to stay off the waves. But it's
12 good being here. I'm glad to meet you, young man.
13 You've got a tough job. And we got to be praying
14 for you that you're wise, that you're protected in
15 every way possible. That there's a mighty hedge --
16 they say a mighty hedge built around you of
17 protection. And NIGA. That's what I pray for you
18 guys. And I'll continue to pray that. So thank
19 you very much. God bless you.

20 CHAIRMAN CHAUDHURI: Thank you for those
21 comments. Thank you for calling us "young" twice.
22 It's very much appreciated.

23 And I should probably, just for the
24 benefit of some of the folks in the room, just to
25 take a -- I should probably take a moment just to

1 differentiate what we're talking about with this
2 topic from another portion of IGRA that allows for
3 individually-owned gaming.

4 So individually-owned gaming has some
5 clear percentages that are allowed. There are
6 rules and requirements that apply to
7 individually-owned gaming. We don't see a lot of
8 this in Indian Country. But bottom line, the tribe
9 is -- at bare minimum, the tribe has to have
10 60 percent of revenues in individually-owned
11 gaming. Rather, sole proprietary interest, it's
12 kind of an undefined term. And tribes have to
13 maintain a sole proprietary interest in their
14 operation. So we are trying to bring clarity as to
15 what that means.

16 But very much appreciate your comments.
17 Again, I really want to defer to tribal regulators,
18 tribal leadership. I want to hear from all
19 corners. But we have a lot of regulators in the
20 room today. And I always have a special place in
21 my heart for fellow regulators. We don't get too
22 much love in any corner of the world. So I want to
23 defer to regulator comments as much as possible,
24 leadership comments as much as possible. Thank you
25 so much for those comments.

1 Additional questions, comments, concerns?

2 Yes, sir.

3 MR. MUDD: This is Robert Mudd again. I
4 have to be excused. So far, the discussion and
5 everything that I've seen looks pretty decent to me
6 and acceptable from my personal view as executive
7 director of business for the Ho-Chunk Nation. And
8 thank you.

9 CHAIRMAN CHAUDHURI: Thank you, sir.
10 Thank you for taking the time to be here today.

11 Additional questions, comments, concerns?

12 Yes, sir.

13 MR. MATHERLY: Thank you, Chairman,
14 fellow commissioners. I also want to thank my
15 elder over here for those comments. Andrew
16 Matherly, Spokane Tribe.

17 First, I'm just going to read off some of
18 my notes here. We're going to submit our comments
19 before the 28th.

20 So supporting open discussion on whether
21 NIGC should develop regulations to clarify the
22 management -- definition of "management." One goal
23 should be to reduce NIGC review on financing and
24 other complex transactions.

25 As you know, like -- I guess that's -- as

1 a regulator, that's my concern is that we enter
2 into a management contract, but we have a lending
3 company. And those lending companies tend to hide
4 behind federal banking institutes, so they're
5 exempt from all these other licensing requirements,
6 but then they put restrictions on how the money
7 could be used, when it can be done. As a
8 regulator, we don't license them. So, you know,
9 some of that's done with the tribal government
10 attorneys. And so we have to come in and we have
11 to be the ones that have to say, No, sorry, you
12 don't get that.

13 One goal actually, which not only -- I
14 mean, with that, that places a burden on the NIGC.
15 Also places a burden of costs to the tribes, you
16 know. As NIGC knows with our last project, you
17 know, we -- but I do appreciate the Gaming
18 Commission giving me that determination literally
19 at the last hour. We did a soft opening on
20 January 5th to the public. NIGC came in -- I know
21 you guys had extreme hurricane winter blizzard, and
22 got that approved for us. So I do appreciate that.

23 We note the need for clarity in the area
24 given increased vendor demand for control over
25 placement and operation of leased gaming machines.

1 That's a concern.

2 Second, we support consideration of
3 regulations to clarify sole proprietary interest.
4 Despite the NIGC and federal court's guidance
5 that's been provided in this area, there continues
6 to be fundamental misconceptions about the bedrock
7 requirement of IGRA. And what I do want to state
8 is this -- this NIGC body, and probably the last
9 administration, I think we can all agree at the
10 table, and other tribes, that we have a good
11 understanding. We have a relationship. Former
12 administrations before that, we didn't have that
13 relationship. I mean, the old NIGC would walk in
14 the door, Hey, how you doing, Andy? And walk out
15 and give me a PNOB. Okay?

16 Third, we'd request that NIGC consider
17 clarifying the terms and conditions under which
18 individually-owned gaming is allowed under IGRA.
19 And the application of those terms and conditions
20 to the operation of state lotteries on Indian
21 lands.

22 And I won't go into detail, but NIGC
23 provided opinion back to us on state lotteries.
24 And I know I stressed that in my opinion before is
25 that if you have a state that's going to conduct

1 Class III gaming, prize consideration and chance,
2 and the tribe should be able to also operate that
3 same gaming. And I've referenced that in state
4 lottery because the state lottery systems only want
5 to give five percent back to the tribes. So that
6 doesn't make a sole proprietor. We don't benefit
7 from it. And so that -- as a regulator, that's
8 something I'm always constantly fighting. It's
9 people that are in the government and they're sold
10 -- they're sold, I guess, false goods that, A, if
11 we put lottery on your lands, it's going to
12 increase revenue and bring a bunch of money to your
13 c-stores. But in essence, who really benefits, you
14 know, so -- so thank you.

15 CHAIRMAN CHAUDHURI: Thank you so much
16 for those comments. And really, hats off to the
17 Office of General Counsel that issued that opinion
18 regarding Washington State sole proprietary
19 interest issues. And hats off to the General
20 Counsel's office.

21 You know, well taken, those points about
22 additional rules regarding individually-owned
23 gaming. Additional rules that help bring clarity
24 in other areas. We're constantly on the lookout
25 to -- you know, for how to do things better.

1 So those are some comments that we
2 haven't heard widely. But again, sometimes it's
3 these discussions that get us thinking about
4 additional topics of conversation or additional
5 regulatory improvements we can make. So those are
6 very well-taken.

7 Also well-taken, we want to avoid
8 unintended consequences as much as possible. And I
9 think a comment was made about keeping in mind the
10 impact on financing that the definitions may have.
11 And that's important that we've talked about
12 internally quite a bit. As my fellow commissioners
13 mentioned in their background discussions, we do
14 put a lot of work, and we see it as a service to
15 the industry, service to Indian Country, but we put
16 a lot of work into the declination letters that our
17 general counsel's office issues. But those
18 declination letters are just fancy ways of
19 saying -- they're attorney opinion letters on
20 contracts that are submitted to us where our office
21 weighs in on whether or not those contracts are
22 management agreements. And the thought and the
23 hope is that if there's a clearer definition of
24 "management," there can be more clarity on the
25 front end that the industry can rely on, even

1 before sending letters to us for declination -- for
2 a declination letter.

3 So the hope is you have a defined
4 definition that everybody knows what the rules are.
5 And the finance industry, tribal nations, they'll
6 have a clearer picture, in theory, even before
7 engaging in the declination process.

8 So I think that touches on some of the
9 comments that you may have brought up earlier. Not
10 really, but I don't want to -- I don't want to
11 forget about that. But again, thank you so much
12 for those comments, sir.

13 Additional comments? We are going to
14 come back. Additional comments, questions? I
15 don't know if you want to expand on your question
16 after Ms. Lawson's presentation.

17 MS. CHAPMAN-CHEOLEIER: I have another
18 piece -- a sole proprietary piece.

19 CHAIRMAN CHAUDHURI: Okay.

20 MS. CHAPMAN-CHEOLEIER: It seems almost
21 like you're trying to define it by potential
22 violations. And that may be an actual simplistic
23 definition would be better served with Section 502,
24 the definitions area. And that could be as simple
25 as speaking to the ownership control and right to

1 revenue. And then always leaving that little bit
2 of language in there that speaks to by
3 determination of the chairman.

4 The other piece I just wanted to touch on
5 was that there doesn't seem to be a clear role for
6 some tribes. It speaks to the tribe, but some
7 tribes choose to -- like Menominee, for instance,
8 choose to create a business entity by tribal law,
9 appointed by the tribal government, but to provide
10 that separation. And that maybe there could be
11 some language somewhere in here that speaks to
12 that.

13 CHAIRMAN CHAUDHURI: Well, that speaks to
14 that in terms of weighing in? I mean --

15 MS. CHAPMAN-CHEOLEIER: Well, just, like,
16 kind of referencing it. Rather than referencing
17 the tribe who's going to do casino where they're
18 going to have somebody do the casino under a
19 management contract. Sometimes the tribe will
20 choose to do it by a separate business entity as a
21 part of the tribal government.

22 CHAIRMAN CHAUDHURI: Ms. Lawson, please
23 feel free to correct me, but we -- we strive to
24 have as much flexibility in our approach to the
25 tribal nations, recognizing that, you know, tribes

1 set up corporate entities, subsidiary entities, and
2 in every which way possible. We don't want to
3 place any restrictions on that. We've always seen
4 that as an outgrowth of the tribe's ownership. Its
5 gaming.

6 And so there are so many -- I'd be a
7 little hesitant to weigh in on getting into too
8 many rules relating to that because I think the
9 baseline is tribes should be free to structure
10 their businesses however they see fit.

11 MS. CHAPMAN-CHEOLEIER: Maybe the
12 language like -- just including the language, like,
13 tribes are tribal gaming business. Just to be a
14 little more inclusive.

15 MS. LAWSON: So if I understand right,
16 you're saying when we're talking about management
17 and third-party management --

18 MS. CHAPMAN-CHEOLEIER: Yes.

19 MS. LAWSON: -- you're saying just add a
20 note in there that when we say "third party," we're
21 not including tribal arms.

22 MS. CHAPMAN-CHEOLEIER: Exactly.

23 MS. LAWSON: That's a good comment.
24 We'll consider it.

25 CHAIRMAN CHAUDHURI: We'll definitely

1 consider that. And thank you for that. Because,
2 you know, last thing we want to do is make any new
3 rules for tribal entities. In our view, that's
4 part of the tribe. But making that clear, again,
5 the whole point is clarity.

6 MS. LAWSON: And that is the question
7 that we get asked on a fairly regular basis. Folks
8 asking us, Is this branch of the tribe that's
9 managing our operation, is that a management
10 contract? So it might not hurt.

11 CHAIRMAN CHAUDHURI: And thank you.
12 That's exactly these types of comments that, you
13 know, even if we have a proposal that we think is
14 good, it can always be better. So appreciate it.

15 MS. BLASCHKE: Corinna Blaschke, Ho-Chunk
16 Nation Gaming Commission.

17 We've had some questions regarding
18 management contract, the definition, so -- I just
19 wanted to say that the Ho-Chunk Gaming Commission
20 does support these clarifications that were made.
21 Thank you.

22 CHAIRMAN CHAUDHURI: Thank you for that.
23 Thank you.

24 Another thought is nobody should have to
25 pay -- I mean, with all respect to lawyers, and all

1 respect to consultants, you shouldn't have to have
2 a consultant figure out what these things are by
3 going to ten different sources. It should be --
4 and a starting point can be one place that, you
5 know, everybody can look to to read.

6 Additional comments, questions, concerns?
7 All right. Anything else from the Commission
8 before we move onto our third topic?

9 Okay. I think we'll move onto our third
10 and final topic. We switched order. So the audit
11 submissions discussion, Chief of Staff Christina
12 Thomas.

13 MS. THOMAS: Thank you, Chairman.

14 So under IGRA and current NIGC
15 regulations, gaming operations, regardless of
16 income, are required to submit an annual audited
17 financial statement, completed by certified public
18 accountants, to the Commission within 120 days of
19 their fiscal year end. These audits may be
20 encompassed within existing independent tribal
21 audit systems.

22 Submission of the annual audit report is
23 critical to the NIGC's mission to protect the
24 integrity of Indian gaming and provides a certain
25 level of assurance as to the safekeeping of tribal

1 gaming revenues. The audit report prepared and
2 submitted on a timely basis is evidence of, among
3 other things, the integrity of the gaming operation
4 and, more specifically, of the adequacy of the
5 books and records, the functioning of the internal
6 financial controls, and the disclosure of
7 information having a bearing on the financial
8 statements.

9 The Commission, however, recognizes that
10 small or charitable gaming operations often
11 struggle with the cost of these requirements. With
12 this in mind, the Commission is seeking feedback
13 and recommendations on whether changes are needed
14 to the audit submission regulations. Specifically,
15 we want input on what level or levels of audit
16 should be required for smaller gaming operations or
17 charitable gaming operations.

18 A gaming operation earning less than
19 \$2 million in gross gaming revenue annually can
20 request from the Commission to submit a
21 CPA-reviewed financial statement, if it has
22 submitted an audited financial statement for
23 three -- the three consecutive years prior. A
24 reviewed financial statement must be completed by
25 an independent CPA and conform to statements on

1 standards for accounting and review services of the
2 gaming operation.

3 In fiscal year 2016, only 80 operations
4 earned less than \$2 million in gross gaming
5 revenue. Of those 80, only six submitted the
6 lesser financial statement review. Small or
7 charitable gaming operations often produce less
8 than \$100,000 in gross gaming revenue annually,
9 some less than \$10,000. Contracting a CPA firm to
10 perform an annual audit can prove cost prohibitive,
11 and as a result, may defer tribes from pursuing
12 these gaming opportunities.

13 NIGC reviewed statutes and regulations
14 from a number of jurisdictions and agencies
15 concerned with financial entities, including the
16 State of Nevada, the Federal Deposit Insurance
17 Corporation and the Department of Interior. We
18 found no consistency in the audit requirements.

19 For example, Nevada gaming regulations
20 require audits of financial statements for
21 operations grossing more \$5 million, but maintain
22 the right to require audits, compile statements, or
23 reviews the financial statements of those
24 operations whose gross revenue is less than
25 \$5 million. Interior exempts non-federal entities

1 from their audit requirement if the entity expends
2 less than \$750,000 per year.

3 As NIGC considers altering its own
4 regulations, it recognizes that there are currently
5 95 tribal operations that produce less than
6 \$3 million in gross gaming revenue. Further, the
7 Commission is aware that tribal gaming operations
8 deal with the most regulations from their own
9 governments, as well as state and federal entities.

10 Our hope through this consultation
11 session is to discuss opportunities to receive
12 feedback and recommendations on how to amend this
13 regulation, while still ensuring we are supporting
14 financial stability and maintaining a high level of
15 protection of tribal gaming operations.

16 With that, I will hand it back over to
17 the Commission to start the discussion.

18 CHAIRMAN CHAUDHURI: Thanks.

19 COMMISSIONER SIMERMEYER: Thanks,
20 Ms. Thomas.

21 Like with our first management contract
22 review process discussion, what the Commission is
23 looking at with regard to audit -- I was saying
24 that like with the management contract review
25 discussion that we began with, what the Commission

1 is looking at here with regard to audits is to make
2 sure that the changes in the process comply with
3 Indian Gaming Regulatory Act's requirement that
4 tribes submit an annual independent audit to the --
5 to our Agency.

6 So whatever changes that the -- that
7 we're considering with this are ways to meet this
8 obligation, a couple observations have jumped out
9 to me in understanding this process.

10 First, that many tribes' regulatory
11 bodies already have a very sophisticated capacity
12 and ability to conduct audits and to ensure
13 independence and integrity. It's also the case
14 that the high cost of an audit can make a small
15 gaming operation not profitable. Or worse, it can
16 create a disincentive to comply with the annual
17 submission requirement, or to allow even small --
18 for regulators to allow small gaming operations to
19 operate at all because of the annual audit costs.

20 So it'll be helpful to hear about your
21 experiences with NIGC's auditing or other aspects
22 of your regulation or governance. It's also, I
23 think, as Ms. Thomas pointed out, it's interesting
24 to hear that of potentially -- 80 potentially
25 eligible operations, only six sought the lesser

1 financial statement process.

2 What are of the other incentives that
3 might be there? Is raising the threshold from
4 \$2 million, would that be an adequate enough
5 incentive? What other types of things can we do to
6 look at minimizing the cost of this auditing
7 process and, at the same time, complying with
8 Indian Gaming Regulatory Act's expectation that
9 these audits are going to take place in order to
10 provide financial stability and help ensure
11 capacity at the regulatory level? So thank you.

12 VICE CHAIR ISOM-CLAUSE: I'd just like to
13 highlight that one of the reasons that we're
14 considering this is because of our rural outreach
15 initiative where we're considering different ways
16 we can be responsive to small and rural operations.

17 So, for example, one of the things that
18 we've done under that initiative is our regional
19 training conferences now are live-streamed, so you
20 can join through Adobe Connect. But helpful, I
21 think, to tribes that are in remote areas, or just
22 don't have the budget or time to travel.

23 So, you know, this is another way we're
24 kind of trying to think outside the box within the
25 limits of IGRA, which is a box, but ways that we

1 can consider our own regulations and our own
2 functionings as an Agency to be more responsive to
3 the needs of tribes with those concerns. Thank
4 you.

5 CHAIRMAN CHAUDHURI: And thank you,
6 fellow commissioners. I really don't have much to
7 add to that. Actually, I don't have anything to
8 add to that. I couldn't have said any of that
9 better myself.

10 So at this point, I'll turn it over to
11 the floor for questions, comments, concerns?

12 MR. TAYLOR: Good afternoon. Jeff
13 Taylor, St. Croix -- Chairman of the St. Croix
14 Gaming Commission. Thank you for the opportunity
15 for the consultation today, NIGC.

16 Back home, we have a small community of
17 bingo. They don't make more than \$900 a year.
18 It's mainly for the community, for elders. We know
19 a lot of our couples like to play bingo. They get
20 out with the grandkids and go and play bingo in the
21 evenings every Wednesday night. And right now, big
22 firms, the big -- that do our outside audits for
23 our casinos, they want to charge us \$20,000 to do
24 an audit for a small operation like that, you know.

25 So we're hoping the Commission consider

1 additional limits to this so maybe something like
2 that we can maybe get away with the review maybe or
3 something. Because right now, somebody that spends
4 \$20 to play bingo every Wednesday night, elders
5 bring grandchildren to play to support the
6 community. Elders love to play bingo back home,
7 so --

8 I was hoping we could change something on
9 this. Because you can have fun down there for less
10 than \$20, you know, to do a CP audit. Any
11 recommendations would help here from anybody in the
12 room here, too, so --

13 MS. LAWSON: After the meeting, I can
14 give you my information. I'm Jennifer Lawson.
15 Also general counsel. And we can talk about some
16 ways that are available under our regulations now
17 that might be able to get you into the reviewed
18 financial statement category.

19 MR. TAYLOR: Sure. I mean, it's just
20 that the State, the bingo, the VFWs, they all
21 have -- they all have to be audited, they get out
22 of it because the State don't have enough auditors
23 to audit them. So some of them don't even have to
24 audit. They just have to have their paperwork
25 presentable if somebody does shows up, you know.

1 So, I mean, just we're competing, you know, with
2 local bingos around the area, too, so --

3 MS. LAWSON: Whatever happens with the
4 regulations, let's try, at least for now in the
5 meantime, before they get changed, let's try to get
6 you into something that's going to be less cost
7 prohibitive for you under the current regs. And
8 then hopefully there'll be a change that is great
9 for you, even better. Okay. Chair.

10 CHAIRMAN CHAUDHURI: And I really
11 appreciate your comments. Really appreciate
12 Ms. Lawson's comments as well.

13 Just, I should say one of the reasons
14 these consultations are transcribed is that -- so
15 that folks who aren't in the room can benefit from
16 the comments, the dialogue, that we have.

17 In addition to NIGC responses, if
18 there -- since we have so many regulators in the
19 room, if there are -- if there's any kind of back
20 and forth, I want us all to approach all of this as
21 a conversation.

22 Beyond today, in addition to following up
23 with Ms. Lawson or anybody at the general counsel's
24 office, I do want to remind folks that our
25 trainings are -- I don't want to say they're free,

1 as we always say they're prepaid because, you know,
2 our Agency runs on fees from tribal nations. But
3 our trainings can be tribe specific, too. So we
4 stand ready to be as responsive as possible if
5 anybody wants to come in and sit down with -- with
6 your commission or any commission or tribal
7 leadership, we'll try and schedule that and make
8 that happen. So we have an open phone line. And
9 open-door policy at NIGC. But in addition to that,
10 I did want to mention our trainings.

11 But thank you so much for those comments,
12 Chairman.

13 MR. TAYLOR: Thank you, Chairman.

14 MS. MASON: Tara Mason,
15 secretary/treasurer for White Earth Reservation
16 Business Committee.

17 And so I think I really want to thank
18 you, first of all, for hosting this and for having
19 us here. I really enjoy your facility and for
20 having consultation. And I know we're wrapping it
21 all up.

22 But I think this is one of the things
23 that, when it comes to White Earth, we're in the
24 northern part of Minnesota. And we are rural. But
25 our gaming facility is large enough. But what

1 we've done in that area is we have our offsite
2 gaming. And so we've partnered with area
3 businesses and we have our non-tribally-operated
4 gaming entities.

5 And what is happening is that currently
6 throughout the year, there are 17 partnerships that
7 we have where we have our Class II. And during the
8 summer months, those increase. So that number
9 increases. But what we're looking at is a lot of
10 these entities, whether they be local member-owned
11 c-stores, we have some bar facilities that we've
12 partnered with, some are tribal members, some are
13 not. But we have over Class II in there.

14 And the cost -- a lot of us don't have
15 audits. They're not being audited. And so now we
16 have a number of audits. And that's one of the
17 things because we're looking at, you know, what are
18 some of the proposals, what are some of the things
19 that we can do to help offset these costs because
20 we don't -- we can't afford to assume the cost for
21 their audits for their businesses, but we're still
22 following underneath these regulations.

23 So I was wondering if there was, you
24 know, going back to, you know, the position that
25 White Earth is in, and then also looking at, like,

1 the community bingos and what our community
2 councils are doing once we issue out our gaming
3 licenses for those entities. And if there are
4 other solutions. And I know that there's some
5 things that are kind of, like, provisions. But if
6 there's any options or any kind of conversation we
7 can have with that.

8 And then I also brought Rae Smith, our
9 compliance director, because we've looked at that.
10 So she might be able to kind of clarify this and be
11 part of this discussion. So is there anything that
12 you'd like to add, Rae?

13 MS. SMITH: I just think that with a lot
14 of the smaller sites, as Ms. Mason has said, we
15 actually would not -- a majority of them would not
16 be able to have a CPA come in. And we've looked at
17 -- and actually this year, we had it kind of
18 segregated out and rolled into ours. But we would
19 prefer to have, like, a separate review process or
20 something that's easier. Or allow our compliance
21 division to be able to -- our, you know, internal
22 auditors to be able to go out and actually do that,
23 and then perhaps resubmit those audits to NIGC.

24 Some other kind of options, other than,
25 you know, put the burden back on the facilities

1 because we don't want to lose them. If we, you
2 know, try to -- many of the sites fear that, you
3 know, you start talking audits, are they talking
4 just our -- you know, the bingo games that we're
5 holding, or because we're operating in their bars
6 or, you know, their restaurants, gas stations, are
7 they going to start looking at doing it to provide,
8 you know, our operations information.

9 A lot of them don't keep those records
10 separate. They all -- you know, they're small
11 mom-and-pop businesses, and they run everything
12 through one checking account, you know. It would
13 be very difficult to -- for them, it would be a
14 burden to try to have -- put it all back to the
15 sites.

16 CHAIRMAN CHAUDHURI: Thank you so much
17 for those comments. And I imagine our team
18 probably has a lot of things that they can speak
19 about those issues. We covered a lot of ground in
20 those comments. Let me talk about a couple
21 different things that kind of caught my ear.

22 We talked about non-IGRA gaming in terms
23 of working with some folks off the reservation.
24 And we also talked about charitable gaming, you
25 know, whether it's VFW or any of these groups. Let

1 me just say a couple things about that.

2 This may be one of those things that kind
3 of we continue to work on long after I'm gone, or
4 hopefully not too long after I'm gone, but we have
5 internally talked about trying to bring some
6 additional clarity in the world of charitable
7 gaming. And so we recognize that, especially for a
8 lot of rural and small -- a lot of rural
9 communities, charitable gaming is an important part
10 of what folks do. But the burden's to make sure --
11 the burdens of compliance fall on the tribe and not
12 necessarily the charities that operate the gaming.

13 What can we do as an Agency to work with
14 the tribe to allow -- I mean, because IGRA does
15 allow for charitable gaming. But to make sure that
16 things are as smooth as possible, but the tribes
17 aren't necessarily bearing the costs of the audits
18 and the regulation that really should be borne by
19 these entities. Again, you can't make it so
20 burdensome that it's not -- it's not even a viable
21 option.

22 But that's something that we welcome
23 further discussions with you about. That's
24 something that we talked about as a potential topic
25 for regulation. But we certainly want to hear

1 more, talk more, and kind of weigh -- weigh what is
2 the most sensible approach moving forward.

3 IGRA requires independent audits for
4 gaming. What "independent audits" truly means,
5 that could be potentially subject to some
6 interpretation. But we welcome that dialogue and
7 answer the question, Yes, this is something that we
8 thought about and talked about tackling, and maybe
9 that we do it after I'm gone. But not -- just
10 so -- well, I'm not going to get into that. But
11 Chief of Staff.

12 MS. THOMAS: So I wanted to kind of jump
13 on that. So yes, IGRA does require an independent
14 audit. And we have been having discussions on
15 exactly what that means, so --

16 Historically, the Agency has defined what
17 the audit requirements are within their
18 Regulation 571.12. And out of those requirements,
19 it requires the CPA and it requires that it be done
20 annually. So the Agency has historically defined
21 that independence within that regulation.

22 So as part of the consultation, we're
23 looking for feedback from tribes such as White
24 Earth -- and I'm from Minnesota, so I'm very
25 familiar your guys' makeup in northern Minnesota --

1 to get an understanding of where those burdens
2 exist and maybe defining or changing 571 to better
3 meet the needs of tribes in situations like what
4 you have, but still maintain the integrity of
5 tribal gaming.

6 CHAIRMAN CHAUDHURI: It's the whole point
7 of these consultations. So in addition to the
8 topics that we're working on, maybe this tees up a
9 new round of dialogue. But that is something that
10 I think would be well-timed. Very timely. Thank
11 you so much.

12 Yes, sir.

13 MR. MATHERLY: Thank you, Chairman,
14 fellow commissioners. Andrew Matherly, Spokane
15 Tribe.

16 So to get back to audit submissions. We
17 had a few notes here for the additional amendments
18 to 571.12 to allow small operations to submit
19 unaudited or CPA-compiled rather than reviewed
20 financial statements. And to increase the maximum
21 GGR to allow submission of renewed -- reviewed
22 rather than audited financial statements to
23 \$3 million.

24 But I also am interested in the
25 charitable gaming, and how we can define that.

1 Obviously, our compacts and states are going to
2 define it as noncharitable organizations that they
3 look at in their register as 501(c)(3)'s, but how
4 tribal governments and how tribes can view what
5 they view as nonprofit charitable gaming. And get
6 into some of those regulations of having pull tabs
7 as a Class III intermixed with bingo as a Class II,
8 and how that's orchestrated. I'm interested in
9 that future topic.

10 And also just a side note. I know some
11 of the language in IGRA, you know, it's outdated.
12 As we're talking numbers, we're talking \$2 million,
13 \$3 million. And hopefully, we can get back to some
14 of the definitions, like I'll use an example of
15 "key employee." People are compensated over
16 \$50,000. Well, when that language was written in
17 1988, \$50,000 was probably a lot of money. But we
18 have people that work in our facility that work in,
19 like, say the facilities would be a non-gaming
20 function, but because of their threshold and their
21 compensation, we need to license them, fingerprint
22 them as a key employee.

23 So I do want to get into some of those
24 topics later down the road. Thank you.

25 CHAIRMAN CHAUDHURI: And thank you for

1 that. I should say that even the topics that we're
2 discussing today grew out of conversations like
3 this on other topics. So it's -- the idea of
4 partnership is it's an ongoing conversation. And
5 so the issue's definitely been raised among all of
6 us. And we can be assured we'll continue our
7 discussion on charitable gaming, on small operation
8 audit requirements. Thank you so much.

9 It's 3:00 right now. There's no harm in
10 going a little bit past our scheduled time. I want
11 to make sure everybody has ample opportunity to
12 weigh in and provide comments, questions and
13 concerns. But I did want to let everybody know
14 where we are time-wise.

15 Additional comments, questions? Yes,
16 sir.

17 MR. GEORGE: Sorry, everybody. Kenneth
18 George, Jr., still. Forest County Potawatomi
19 Gaming Commission Chairman.

20 All the discussion this afternoon has
21 been very great discussion. I never heard Cory
22 talk so much in my life. But thank you, Cory, for
23 saying something. So I know we're part of the
24 Wisconsin Gaming Regulatory Association. Jeff and
25 Cory are commission chairmans, and also ourselves

1 for the Forest County Potawatomi.

2 We have an organization within Wisconsin
3 that we all share information with each other. So
4 we have a regulatory association that is a very
5 strong organization, and we share information with
6 each other as much as possible. And also the --
7 Linda and her group are a big part of that
8 organization as well, so -- I know we have a great
9 working relationship as well with the Office of
10 Indian Gaming Regulatory Compliance with the State
11 of Wisconsin. And they're also part of our
12 organization.

13 So with that said, you know, as we move
14 forward into -- I call it the "new evolution of
15 gaming," you know, everything is online. It's
16 online gaming here, online gaming there. You know,
17 I think for 28 -- 25 to 30 years, I think we as
18 regulators and leaders in this room have learned a
19 lot. I think we've learned how to do business. I
20 know we've learned how to read the federal
21 register. We know how to do all this. We know how
22 to do all that. And I think it's time for us to
23 take control of that. You know, as leaders, as
24 regulators, as Indian people. You know, as
25 ownership. Ownership of these properties. And

1 also with this being a tribal member of these
2 properties.

3 And also speaking from an appointed
4 official role for the Forest County Potawatomi is
5 that we definitely need to look at how do we move
6 forward. You know, we do look at all of the
7 regulations, you know. The regulations are old,
8 you know. There are standards in there that have
9 been there since the beginning.

10 But how do we get that done? You know,
11 how do we move forward and how do we move into the
12 21st century with -- where everybody has an iPhone,
13 a smartphone. They can look up Google. Anything
14 you want to Google while you're sitting in a
15 meeting or you're sitting here. You know, that's
16 the future of gaming. No matter if we're ready for
17 it or not. That's where we're moving towards.

18 You know, and if we can sit here and talk
19 about management contracts, audit submission, sole
20 proprietary, I think we can look at the future as
21 well. How are we going to deal with those as the
22 evolution of gaming starts to continue? I think
23 with -- with the -- as we move forward, and with
24 your guys' commission, when your leadership and how
25 you guys are looking at it, I think that's a

1 recommendation from Forest County Potawatomi Gaming
2 Commission is to look at that, look into the
3 future, and maybe start looking at consultations to
4 where, let's be proactive on moving forward into
5 the next evolution of gaming.

6 Because the -- the competitors in our
7 market have already done it. You know, the
8 corporate games, the nonnative vendors. You know,
9 we look past all of our native -- there's a lot of
10 native vendors that are out there that have paid
11 their dues, have done -- have done whatever they
12 have to do to get to where they're at. And I think
13 that's one of the things we do is we owe them a
14 chance to do good for Indian Country.

15 You know, I think that's one of the
16 things that we miss sometimes when they sit here
17 and talk in consultation is we sit here and we
18 nitpick this, that or otherwise, or whatever word
19 we were talking about earlier. I think that's the
20 thing that we don't want to -- we don't want to
21 waste any of our time, we don't want to waste your
22 guys' time.

23 I think it's something that, as we move
24 forward, let's be proactive. And I think as we do
25 move forward, let's use our minds and let's sit

1 down together and say, Okay, where are we going?
2 Because we are going into a different -- a
3 different -- different way of gaming.

4 You know, Jeff was talking about, you
5 know, his elders and the children playing bingo,
6 you know. That's big for them up there in northern
7 Wisconsin. You know, that's something that we need
8 to be looking out, is looking out for each other in
9 the state and then in the region. How do we help
10 each other out on that? You know, because they're
11 just doing that for fun. They're not doing it to
12 make money.

13 I think that's one of the things that we
14 have to look at is, Come on now, when's enough
15 enough, you know. I think that's one of the things
16 we need to look at is to make sure that there's
17 common sense used. You know, sometimes we lose
18 track of common sense.

19 So with that said, we need to definitely
20 look at the future of gaming, which is all online.
21 You know, we got to start thinking about what's
22 the -- what's the next federal register going to
23 look like for gaming -- for Indian gaming? What's
24 the next IGRA going to look like iGaming, for
25 online gaming? Because none of it -- nothing in

1 IGRA says anything about online gaming. So that's
2 one of the things that we need to look at and be
3 proactive on.

4 MR. FUNMAKER: I agree with you. I was
5 just loading my gaming slots here. And I got that
6 from Amazon. And then --

7 CHAIRMAN CHAUDHURI: Playing slots during
8 the consultation, sir? Is that what you --

9 MR. FUNMAKER: No. I need the Wi-Fi
10 password. So they won't let me in.

11 So, you know, this is really fun to goof
12 around with. And, of course, my mind starts
13 thinking, I said, Well, I looked up on Amazon and I
14 put in "gaming." And sure enough, they bought a
15 major software company that they're preparing to do
16 gaming. So I said, Well, how would they do it?
17 Would they pay out with money or could they pay out
18 with goods? Follow what I'm saying? Doesn't have
19 to be money. Amazon's got, you know, all those
20 goods. Well, instead of you taking that thousand
21 dollars, we'll give you a \$700 TV or whatever.

22 So I agree with my brother here from the
23 Forest County. We got to watch out.

24 And then there's that bill in New Jersey
25 about that sports betting. Has anybody looked at

1 that? And they're saying that's Trump's way of
2 getting in here and disrupting our game.

3 So there's a couple, you know, different
4 things on the horizon. And like my brother says,
5 we have to be prepared. How are we going to do it?
6 How do we retain the market that we now have?

7 So I'm glad you said that. Behind you
8 100 percent. So that's kind of how I'm seeing it.
9 Am I a visionary? Yeah, I am. When I played
10 basketball, I could always see two or three plays
11 ahead. So I always tell my athlete young people, I
12 said, That gift will come back to you some way in
13 another form. You won't lose it, but it'll come
14 back in another way.

15 So I like to think that a lot of us
16 really have that gift from the Creator. Thinking
17 ahead, especially those compliance people. I
18 shouldn't say this, but I lived out there amongst
19 the Lakota Dakota. And you live out there, you can
20 see a long ways. You know, they said a guy's dog
21 ran away, and you watched it for three days.

22 CHAIRMAN CHAUDHURI: Well, I so
23 appreciate those comments. I mean, we heard about
24 two of our four tent pole initiatives earlier. We
25 talked about protecting against gamesmanship on the

1 backs of tribes. We heard about our commitment to
2 rural outreach. Third and fourth ones are -- third
3 one is supporting a strong workforce, both within
4 NIGC and among our regulatory partners.

5 But our fourth one -- earlier today we
6 were joined by our technology division director,
7 Travis Waldo. The fourth one is a commitment to
8 staying ahead of the technology curve. And part of
9 that was the creation of the technology division,
10 the hiring of Travis as our first director. And
11 that's been very important to us. That's kind of
12 helped shape our Agency functions both on policy
13 level, it's helped to inform our regulatory
14 discussions, but also internally our day-to-day
15 operations. I mean, as I always joke about, a few
16 years ago, when we all first started, we didn't
17 have caller ID at NIGC. We've come a long way in
18 the last few years.

19 But, you know, I feel comfortable with
20 saying that, you know, hand-in-hand we're meeting
21 the challenges of the day. But your point about
22 meeting the challenges of tomorrow is very well
23 taken. And the only way we can do that is by
24 listening and learning and talking among our
25 partners. So thank you so very much for those

1 comments.

2 We're a little bit over time. But again,
3 we want to make sure that all voices and
4 perspectives are heard. Any other additional
5 comments?

6 Before the Commission wraps up, we do
7 want to -- we want to provide our host nation with
8 an additional opportunity for final comments. But
9 any other comments on this topic? Yes, sir.

10 MR. DINISHEK: Thank you. I'll try to
11 make this quick, given that -- my name is John
12 Dinishek. And I'm serving as a consultant with
13 Mr. Funmaker. And we've been in recent
14 conversations about him pursuing and looking at the
15 viability of a business opportunity that he's
16 looking at.

17 In the quick way of background. I spent
18 17 -- the last 17 years working in the intelligence
19 communities specifically focused on anti-money
20 laundering and anti-terrorist financing. I've done
21 a lot of work with the financial service
22 communities globally. All the biggest banks in the
23 US, Canada, as well as Europe and several in Asia
24 and Asia-Pacific. As well as a lot of the largest
25 casinos in Atlantic City and Vegas, Macaw,

1 Singapore, and some of those properties.

2 I'm a Minnesota native. I'm a patron of
3 both Mille Lacs properties in Hinckley and the
4 Grand Casino properties fortunately up in Tower,
5 Minnesota. And so I'm a customer as well.

6 Is money laundering, terrorist financing,
7 an international problem, or is it a domestic issue
8 and a challenge? It's not a drug challenge for
9 Columbia. It's not a terrorist issue for the
10 Middle East. It's here in our backyard.

11 In the intelligence community, we were
12 tasked with identifying, tracking and profiling
13 those bad actors, and being able to work with
14 financial service companies to identify them and
15 cut off the money supply.

16 What I can tell you is we're adding
17 30,000 new profiles a month. It's a growing
18 challenge. If we were to map that across the
19 United States, here in this city, in Minneapolis,
20 in northern Minnesota, in all of the areas where
21 your tribal representation and states happen to be,
22 it's a challenge there.

23 So I guess what I was here to help
24 Mr. Funmaker kind of understand, or maybe better
25 qualify is: Is that a focus today for the

1 Commission? Is it a focus today for the regulatory
2 bodies for the various tribes? And is that
3 something that is a viable opportunity for
4 Mr. Funmaker to look at pursuing as far as services
5 to help each of the casinos identify and protect
6 themselves for that type of a risk?

7 CHAIRMAN CHAUDHURI: Thank you for that.
8 I got three things, just in the interest of time,
9 and we'll say it very quickly.

10 We're not in a position to provide any
11 business advice in this setting. This is a
12 government-to-government consultation. But our
13 doors are always open to chat with any members of
14 the Indian gaming community about, you know, kind
15 of some of our experiences. And so we can -- we
16 welcome further conversations down the road.

17 Second, we're not in a position to
18 endorse any -- any business or any, you know, any
19 private outfit. And I know that's not the crux of
20 your question, but -- the crux of your statement.
21 But I do want to put -- and this comes out -- comes
22 up a lot in terms we work with a lot of industry
23 stakeholders, you know, regarding testing. But no
24 matter how much we respect the work of various
25 testing labs, we've got to be careful about

1 endorsing any one lab's -- lab's offerings. So we
2 don't do that. And we always kind of hesitate --
3 or we shy away from kind of weighing in on any
4 specific business product in detail.

5 But third, to kind of the general thrust
6 of your question: Absolutely, this is something
7 that the Commission is focused on. Our agency is
8 mandated by law to implement IGRA to ensure the
9 integrity of Indian gaming.

10 So as the lead federal agency empowered
11 and mandated to implement the law, we have a
12 responsibility to work with tribes, tribal
13 regulators, but also federal partners to ensure the
14 integrity of Indian gaming.

15 So we're mindful of other statutes that
16 work hand-in-hand with IGRA, even though we don't
17 implement those statutes. And we work with other
18 agencies that do implement those statutes. So we
19 work quite a bit with FinCEN. We work with IRS.
20 We work with FBI. If there are issues that arise
21 under Bank Secrecy Act, we make referrals as
22 appropriate. That's part of what we do. But
23 moreover, that's part of what every regulator in
24 this room does. When Chairman George mentioned
25 that tribes are the frontline regulators, we can

1 only do what we can do if we have a positive and
2 open dialogue with our regulatory partners.

3 So to answer your question, cyber
4 security, financial security, that is absolutely
5 what we're about as an agency. And we work with
6 other agencies, as well as tribal partners, to
7 ensure the integrity of Indian gaming.

8 Anything else that our team wants to
9 weigh in on that?

10 MR. DINISHEK: And thank you. I
11 appreciate that.

12 CHAIRMAN CHAUDHURI: Absolutely.

13 MR. DINISHEK: The gentleman talked about
14 online gaming as being the next kind of generation,
15 if you will. It's one of the biggest challenges
16 right now in the industry is how do you vet and
17 provide integrity and security around indirect
18 types of activities. And that's something that the
19 non-tribal gaming organizations are really
20 struggling with. And certainly something that, as
21 you guys look to kind of embrace that move in that
22 direction, will certainly be a risk area to look
23 at.

24 But thank you for the clarification. I
25 certainly appreciate that.

1 CHAIRMAN CHAUDHURI: And I should add,
2 some of the biggest wins in financial -- in the
3 financial security world came from issues that were
4 flagged by tribal regulators. And so there are
5 some good examples to point to on that in terms of
6 concerns about money laundering that was raised by
7 tribal regulators.

8 So my hat's always off to our regulatory
9 partners because, as we always point out, who has a
10 greater interest in protecting tribal assets and
11 operations than the tribes themselves. And so
12 thank you for those comments.

13 So any other comments, questions,
14 concerns, before we wrap up?

15 Catchall, like I said, as promised, if
16 there's anything additional folks want to mention.
17 I do want to mention that our written submission
18 date deadline, as we mentioned before, is
19 February 28th. We are committed to try to move
20 forward with as much positive work this spring as
21 possible. And so we do want to take all comments
22 into account. But if on the drive home today you
23 wish you had said something more, please feel free
24 to email us. Go to NIGC.gov, submit additional
25 comments. We're always open to that.

1 And so before turning it back over to my
2 fellow commissioners for some closing statements, I
3 just wanted to see if our host nation had any final
4 wrap-up thoughts.

5 MR. GEORGE: Yes, Chairman.

6 I have a 28-year-old -- or 28-day-old
7 daughter right now, so I'm in no hurry to get home.
8 So I could sit here and talk all day or all
9 evening.

10 So one of the things I did in 2006 --
11 2005, when I became a gaming commissioner was, I
12 told my mom, "Hey, mom, I think I'm going to be a
13 regulator." And she goes, "Well, you know what? I
14 don't love you anymore. Because even I don't love
15 regulators." So when she said that to me, I'm
16 like, "Mom, really? You don't love regulators?"
17 But since 2005, she's beginning to like me again
18 because we're making progress. And she is a very
19 likeable woman. And she definitely found a piece
20 of her heart to let me back in. So thank you, mom.
21 That's one of the things I always wanted to say on
22 the record. If that's in Washington, D.C., on the
23 record somewhere, "Mom, I love you. Ken George,
24 Jr., Forest Potawatomi Gaming Commission,
25 Milwaukee." What's the date?

1 All joking aside, I would like to thank
2 everybody for being here. I'd like to thank the
3 Commission, the NIGC Commission, for being here,
4 along with supporting staff. And also Dustin
5 Thomas, our -- used to work with us here in
6 Milwaukee.

7 One of the things we did when we were
8 here before was, as we did, and maybe this will
9 work at the national level, if we do look at it, is
10 we looked at having a new system of internal
11 control, you know, as we looked at it.

12 And one of the things we looked at when
13 we looked at it, because we inherited 858 internal
14 controls here. You know, that was overregulation,
15 beyond overregulation. And also our small property
16 north of here in Carter, Wisconsin, had the same
17 amount. And it's probably about as big as this
18 room. Maybe just a little bit bigger than this
19 room. So that was overregulated.

20 One of the things we asked at that time
21 was -- the management team is, Why do you write
22 internal controls? Because the Gaming Commission
23 told us to. You know, I think that's the big thing
24 that we have to realize here is that we need to
25 change. You know, the thing we have to do is, How

1 do we work with our management teams? How do we
2 work to make Indian gaming better? Because we can
3 sit here and talk about the national, you know,
4 regs. We can sit here and talk about state regs.
5 Blah, blah, blah. But, you know, it comes down to
6 is that we got to watch our own house.

7 You know, as regulators, we need to
8 figure out how can we make ourselves better and how
9 can we make our management teams better and make
10 them take ownership of -- how are they going to
11 comply to the mix that are in place that the
12 regulatory bodies and the jurisdictional are -- and
13 the gaming commissions that have the jurisdictions
14 of this jurisdiction, which we have the
15 jurisdiction here in Milwaukee, is that we need to
16 understand our standards and our internal controls
17 better than they do.

18 You know, that's one of the things that
19 we have to do is that here in Milwaukee, now
20 there's -- and Dustin was a big part of it -- was
21 now there's 158 internal controls here in this
22 building. But now there's more policy and
23 procedure in place to where the management team
24 takes ownership of -- from a standpoint of the
25 general manager saying, Okay, this is how I want to

1 manage this property as a general manager. And
2 there's nothing regulatory about it. It's all
3 management decision.

4 So over 700 internal controls, because
5 there was such a misunderstanding of what an
6 internal control was, was the management team just
7 kept writing internal controls that were management
8 decisions, you know.

9 And that's one of the things that we have
10 done here in Milwaukee is the -- to take the onus
11 away from the Gaming Commission of being the bad
12 person. You know, because we've got that -- we've
13 got that name because of that reason. You know,
14 because we're the bad guys, so to speak. But we
15 don't have to be the bad guy anymore. You know, we
16 can use our minds of 28 years to 30 years of
17 experience as regulators to say, Okay, we can do
18 this better than the last 28 years.

19 And we have to make sure we look at
20 understanding our jurisdiction and what is allowed
21 in our jurisdiction because we reacted a lot back
22 in the day, since 2005 when my mom didn't like me.
23 Was when our slot director, or whoever the heck
24 went to G2E or NIGA trade show or any of these
25 trade shows, they went with a blank check and they

1 come back with new machines that were in our
2 loading dock four weeks later, two weeks later,
3 they're ready to go on the floor. And we have to
4 react to that with regulation.

5 And that's one of the things that we have
6 to look at is, as we move forward, how do we look
7 at that? How do we change? I know the gentleman
8 here says that, you know, IGRA doesn't cover that,
9 or at that time, there's standards in there that
10 are very old. Well, how do we do something about
11 it? Because there's a lot of "we can't." You
12 know, I think there's got to be a lot of "how can
13 we?"

14 You know, I think that's the problem that
15 we have. And when we look at it is, if you give
16 the management team a chance to blame you, they're
17 going to blame you. You know, I think, as
18 regulators, and the regulators in the room, and
19 sorry for any management team members in here, is
20 that, you know, we have to understand what our job
21 is and what our roles are. You know, every person
22 in here has a role from the NIGC all the way down
23 to a surveillance operator. You know, and that's
24 one of the things we have to understand is that
25 with that role, you have to stay within that scope

1 of authority that is given to you by your -- as
2 delegated to you by your executive council.

3 So that's one of the things that we've
4 done. Ad we definitely will share that information
5 with anybody who wants it, is that we came up with
6 a new system of internal controls here in Milwaukee
7 that has changed our direction from where we were
8 to now where we have a great working relationship
9 with our management team here in Milwaukee and also
10 in Carter.

11 So that's one of the things we have to do
12 is we have to evolve. We have to evolve from the
13 years of experience that we've learned. And if we
14 don't evolve from the experience we learned, shame
15 on us. Because we have the information. There's
16 28 years of information somewhere. And each in
17 one of our -- each in one of our jurisdictions
18 somewhere, and also up in Washington, D.C.

19 So, you know, the information that we
20 have, I think when we do consultations, I think we
21 can become better instead of confrontational, you
22 know, saying this, saying that. I think let -- we
23 can spend our time wisely on looking for ways we
24 can do it instead of ways we can't do it.

25 And I think that's one of the things that

1 we've learned as a gaming commission. And that
2 we've -- we've become very -- that's a very
3 important part of our organization is that we need
4 to make sure we understand what our jurisdiction
5 is.

6 So just a final comment again with the
7 online gaming is that, as we move forward into the
8 evolution of gaming, as we call it, is that there's
9 four levels of understanding what iGaming is or
10 online gaming is.

11 So there's two differences. Internet
12 gaming and there's internet gambling. So gaming is
13 what's happening today. And gambling is, What do
14 you need from a federal legislation level to
15 pass to allow internet gaming in the United States?

16 So that's what the NIGA principles are
17 that the NIGA has all four of the seven principles
18 that they like to see in federal legislation is
19 that they would've liked to allow internet gaming
20 -- or gambling.

21 Internet gaming has been exploited by the
22 corporate gaming. The corporate gaming entities.
23 They've found a way around us waiting for federal
24 legislation to pass. So right now there's seven
25 types of iGaming that's happening today already

1 that the corporate gaming is making millions and
2 millions of dollars off. Even billions. So all
3 you have to do is Google it to find out.

4 So that's one of the things we need to
5 make sure we do is -- now there's an eighth
6 category that we're looking at, and the gentleman
7 talked about it, was PASPA, the sports betting --
8 repeal of the sports betting law that's been in
9 place. You know, that's one of the things that
10 we'd be looking at. And that's very hot on NIGA's
11 agenda here at the next trade show. And they
12 support it. If you get a chance to read it, read
13 it, because if it does get overturned, it's
14 definitely going to be an eye-opening experience in
15 how we're going to compete against that.

16 So the four levels of understanding.
17 Like I said, I got a 28-year-old -- 28-day-old
18 daughter at home, so I'm going to take this time,
19 as much as I can, to try to get the information
20 that we have that we're willing to share with you
21 guys.

22 So internet gaming, internet gambling,
23 two different things. So if you hear "internet
24 gaming," it's already happening today. Internet
25 gambling, you have to have federal legislation to

1 pass before we can do it.

2 So understanding. How do we understand
3 it? So from a tribal structure standpoint, you got
4 four different levels of understanding. You have
5 tribal leadership is one. Two, you have executive
6 management teams. Three, you have your regulators.
7 And four, you have outside agencies, including
8 NIGA. You know, all the alphabet soups that are
9 out there.

10 And all the vendors. Any vendor that's
11 out there that trying to be become -- that wants to
12 become part of doing business in Indian Country,
13 and to scare Indian Country into saying, You got to
14 be ready for internet gaming when it happens. How
15 many people have heard that? You know, we've heard
16 it millions and millions of times at every
17 conference you go to in the last two years. You
18 got to be ready when they're ready to turn the
19 switch.

20 So tribal leadership. How do they
21 understand internet gaming or internet gambling?
22 They don't. Because they understand it from a
23 level of compacts, dealing with the State of
24 Wisconsin, dealing with the NIGC. You know, they
25 say, Well, I'm not going to pay that -- I'm not

1 going to pay our compact gaming if you -- if this
2 part of it says you can't allow any of this gaming
3 into the states. Okay, that's how they understand
4 it. They understand policy. They understand
5 grants. They understand that from a high level --
6 high-level situation. I don't understand it. You
7 know, I can say in faith, like, I understand it,
8 but I don't. I'm a regulator.

9 So we have to make sure we understand
10 together, how do we -- how do we understand? As an
11 industry, how do we move forward as an industry?
12 Because we're all part of the Indian gaming
13 industry, like it or not. And we have to
14 understand, you know, as we move forward, the game
15 is changing.

16 In executive management, if anybody in
17 executive management says they understand internet
18 gaming or any -- any internet gaming platforms,
19 they're lying because none of them have done it
20 before. Milwaukee hasn't done it. Carter hasn't
21 done it. So none of our management teams have ever
22 managed any kind of iGaming platform. So how do
23 they understand it? If they're saying they
24 understand it, tell them to explain it to you.
25 Because they don't and none of them did it. We're

1 all in the same boat.

2 As regulators, we have the intel, so we
3 have to background these people. All right? How
4 do we use that information to those first two
5 levels of understanding, tribal leadership,
6 executive management? Sometimes we got to save
7 themselves from themselves as regulators.

8 Outside agencies, you know, they're there
9 just to make money. You know, how do we -- how do
10 we tell the difference between who's our friends
11 and who's just going to take advantage of us?
12 Because we know who's been taking advantage of us
13 for the last 28 years as vendors, as regulators.
14 We have that information as regulators. We got
15 background information on them.

16 So those are the four levels of
17 understanding. We all understand differently from
18 a tribal-structured standpoint. We all have to sit
19 in a room, which we did here at Forest County, to
20 say, Okay, how do we all understand what our threat
21 is in the industry? And we sat down and we
22 brainstormed it.

23 You know, there's a lot of egos that were
24 hurt. There was a lot of egos that didn't want to
25 say they understood it, and they sat there and they

1 talked and talked and talked for two hours. And it
2 sounded like they understood it, but they didn't.

3 You know, I think that's one of the
4 things we have to make sure we understand is the
5 future of Indian gaming is changing. And we have
6 to make sure we use our collective heads and the
7 leadership of NIGC as we move forward. I know
8 we've made -- you guys have made a lot of progress
9 and a lot of initiatives. You know, I applaud you
10 for that, and I applaud you not to stop. You know,
11 I encourage you to keep going because we're looking
12 to you for assistance. You know, we're the
13 frontline, the regulatory bodies, but we're looking
14 to you for assistance. And we don't want to be
15 wasting our time, you know, talking about other
16 things to where we can become better and stronger
17 to compete against our competitors. And to look
18 out for everyone. 400-some tribes that are in the
19 United States. We got to look out for 400 and
20 whatever tribes that are there.

21 MR. FUNMAKER: 38.

22 MR. GEORGE: 438 tribes. We need to look
23 out for those. Not just the people who can pay us
24 \$25,000, \$30,000, \$50,000. We need to look out for
25 them. That's our industry. That says "Indian,"

1 right?

2 MR. FUNMAKER: Well, I want to back you
3 up. My company's going to do in conjunction with
4 this young man here, and the rest of those people,
5 is we're going to study that gambling portion you
6 talked about. You said there's already people
7 making money. They're not going to allow us to do
8 anything unless we have our ducks in order, which
9 is all the management, all the IT ideas, everything
10 that matches theirs and beyond. Then you apply.
11 Does that sound right? Somebody's already doing
12 it, but we have to see how they're doing it. Then
13 we have to do it better. And then we apply. Does
14 that make sense?

15 That's what -- that's how I see it as an
16 entrepreneur. That's what I'm going to do. I look
17 for business. You may laugh there, young man, but
18 that's what I mean, you know.

19 CHAIRMAN CHAUDHURI: I'll tell you what
20 I'm smiling about. I mean, the topic is absolutely
21 apropos in terms of knowing the future of -- at
22 least not being left behind. Indian Country not
23 being left behind. But what I'm laughing about is,
24 you know, absolute respect to my elders, you know,
25 I love the vision that my elders are showing. I

1 would love to see some younger folks saying the
2 same things. And no disrespect to elders, but I'm
3 like, you know, if we're talking about the future,
4 you know, we need to invest more in youth
5 leadership.

6 So that's what I'm kind of smiling about.
7 And just nothing but respect to the elders. But,
8 you know, when we talk about the future, you know,
9 each generation has an obligation to inspire and
10 motivate the younger folks. So it would be -- I
11 mean, not that you're -- I mean, what, you're in
12 early 40s, something -- sir? I'm going off topic.

13 MR. FUNMAKER: 71.

14 CHAIRMAN CHAUDHURI: You carry it well.
15 But that's what I'm smiling about.

16 MR. FUNMAKER: Thank you. Thank you.
17 But I do back you up and that's how I see it as a
18 company, as an entrepreneur. I'm going to talk
19 with that man there, and I know he's with me,
20 unless he speared the company, the big company, and
21 to be able to analyze the gambling portion, what my
22 brother spoke about. And I don't know whether
23 Potawatomi -- because I know Ho-Chunk won't do it
24 with me. Somebody's got to be a prototype. And
25 then once we put everything together, then we'll be

1 ready to submit. And maybe from a legislative
2 standpoint, that's where you guys will come in and
3 submit, you know, all the technology that we have
4 and we're ready to go to that next step. Does that
5 make sense? It does to me.

6 Anyway, I mean, I had the common sense
7 that you're talking about. And that's my
8 background is management. I got my degree in
9 theology, but my background was in management and
10 finance.

11 And so that's how I'm going to approach
12 it. Then I'm going to give it to you, or I'll give
13 it to Potawatomi to consider what we have and to
14 what we're going to try to do on our dime to figure
15 it out and then to go forward. Instead of dealing
16 -- you know, you deal with tribal councils, you're
17 just going to deal with one individual, myself, and
18 then I'm going to bring it to the --

19 CHAIRMAN CHAUDHURI: But with all
20 respect, I want to make clear that we're -- we want
21 Forest County, as the host nation, to have the
22 opportunity to provide closing comments. So I
23 don't want to cut into that.

24 MR. FUNMAKER: Well, yeah, hold on now.
25 He knows darn well that we had a chance for this

1 property for Ho-Chunk before they did. They came
2 to us for this property. Do you remember that?
3 Did you know Joe Pilasnik?

4 CHAIRMAN CHAUDHURI: Okay.

5 MR. FUNMAKER: No, no, no.

6 CHAIRMAN CHAUDHURI: Change of subject.

7 MR. FUNMAKER: This is relevant. This is
8 relevant. Those folks didn't have a dime, just
9 like us. We didn't have a dime. I used to roll a
10 tire around the mission. A tire, for
11 entertainment. So I lived that other life. And I
12 respect the young people. And when I talk to
13 Ho-Chunk young people, our managers, I tell them
14 that I'm proud of what they're doing.
15 Academically, they have it together, just like you
16 folks. You're academic. And that's very cool.
17 You got a certain process.

18 But I'm just, you know, backing up
19 because if he doesn't know the history, they asked
20 Ho-Chunk first whether we wanted this land. And
21 our tribal chairman said, No, it'll never happen.
22 Well, they were lucky enough to be able to say,
23 Yeah, we'll do it. So they got this property here.
24 So there.

25 CHAIRMAN CHAUDHURI: And I appreciate

1 that. Let me just say, as I started, we're happy
2 to be in a region with so many strong nations. And
3 so, you know, we mentioned Menominee. We mentioned
4 Ho-Chunk. We mentioned Potawatomi. Obviously,
5 we've mentioned Oneida. We mentioned Ojibwa. A
6 lot of strong people in this neck of the woods.

7 Today we are being hosted by Forest
8 County Potawatomi. I appreciate those comments.
9 But I do want to make sure that, in terms of final
10 words, Mr. George, I don't want to cut you off.
11 Chairman.

12 MR. GEORGE: Thank you, Mr. Chairman.

13 Just to finish up is that if there's any
14 information or anything that you may need from us
15 of the discussions that we do had -- or that we did
16 have here, we're definitely open to sharing that
17 information with anybody that's here today. And
18 we're looking for to moving it forward as well.

19 So with that said, I'll respectfully give
20 it back to you, Mr. Chairman and the Commission.
21 We appreciate you again for being here. And for
22 our jurisdiction, we're definitely taking charge of
23 our jurisdiction of what we're allowing in here.

24 CHAIRMAN CHAUDHURI: Thank you so much,
25 Chairman. I'm going to turn it over to my fellow

1 Commissioners for final words. But again, with
2 deepest gratitude, we so very much appreciate the
3 blessing that you provided this morning, as well as
4 the honor song by Mr. David.

5 I'm going to turn it over to my fellow
6 Commissioners.

7 COMMISSIONER SIMERMEYER: Thanks,
8 Chairman. I just want to say, you know, thank you
9 to Forest County Potawatomi for this facility that
10 we have here. And also for sharing your story
11 about the regulatory reform that you went through
12 in that process. It's interesting to hear. It's
13 also really enlightening to see that you have that
14 process. And the integrity and culture that you
15 have here, it's just apparent. So as a fellow
16 regulator, thank you for sharing that story.

17 I also want to say thank you to the other
18 comments that were very concise and nuanced.
19 There's some really complicated topics that we've
20 been grappling with in our Agency. And I think
21 that they were really stated in a really helpful
22 way that's going to help inform our decision-making
23 process. So thank you so much for those.

24 And for some of the broader vision-type
25 statements that were made. I think it really

1 reflects a lot of the -- you know, there are
2 certain limitation in terms of our
3 government-to-government relationship. There are
4 certain sort of spiritual and cultural bearings
5 that some folks had mentioned today that I think
6 are really important to any discussion. And so
7 thank you for sharing those.

8 And I also wanted to say, since Chairman
9 George brought it up earlier, to say, and I think I
10 speak for a lot of folks in our Agency, thank you
11 for mentioning Mr. Thomas who works with us here at
12 the Agency. I know him and his family are
13 Ho Shoshone (phonetic), but he's a really important
14 part of the leadership team at the National Indian
15 Gaming Commission. And I know he has roots here.
16 And, you know, professionally, and with folks here,
17 he's done an excellent job of just getting the
18 respect and providing some real institutional
19 knowledge at the federal level. So we want to say
20 thank you for the influence you had on him and any
21 leadership that he brings to our agency.

22 And a final thing because I want to give
23 a really heartfelt gratitude to Mr. David and
24 Chairman George for the honor song early on. That
25 was a really -- a real blessing that you gave to

1 the commission, and something that, you know, is a
2 humbling part of this experience. So thank you
3 very much for that.

4 VICE CHAIR ISOM-CLAUSE: So I know I just
5 keep repeating our thank you's, but, you know, I do
6 think it bears repeating that we really, really
7 appreciate your hosting us here and to all of you
8 for being here as well. It's been an credibly
9 productive session today. I think we've had some
10 very insightful comments and as well as folks'
11 perspective on things overall. And it's going to
12 give us a lot to work with when we go and consider
13 this.

14 We're also looking forward to written
15 comments by February 28th. So we are at the end of
16 our in-person consultation sessions. So we know
17 it's not a whole lot longer for the written
18 comments, but we are very much looking forward to
19 reading those.

20 And it's really been a pleasure being
21 here. We're ending on a high note. I think this
22 has been one of our best sessions. So really
23 appreciate you all for making us feel welcome here,
24 for the honor song, for the blessings, for all the
25 great comments. Thank you all.

1 CHAIRMAN CHAUDHURI: And thank you. Just
2 it's been a beautiful day. And it's an honor to be
3 here. I actually have it written in my notes. You
4 mention Dustin. Because we're very thankful for
5 the fact that you're able to hopefully -- I mean,
6 maybe it's just a loan. You might take him back, I
7 don't know. But we're not giving him up without a
8 fight. He's been incredible at the Agency.

9 But many thanks to everybody in this room
10 for taking the time out of your days to share your
11 thoughts and to hopefully learn and listen to one
12 another. Really appreciate it. Many thanks to our
13 team for putting together this consultation. I
14 agree, I think this is ending on such a high note.
15 This is our last consultation of this season.

16 And, you know, on a personal note, my
17 statutory term ends the end of April. And so
18 this -- I don't know if this will be my last
19 consultation. It likely will be, but it definitely
20 will be my last consultation in my statutory term.
21 I very much appreciate the ongoing work that we've
22 all done together. And I am very, very optimistic
23 and encouraged about the future.

24 All jokes aside about, you know, the
25 elders speaking about the future. It really is the

1 elders who got us to where we are. And it's the
2 elders who are paving the way. But every time I
3 see young people talk about the changing landscape
4 of economic development in Indian Country, it makes
5 my heart full that we're in good hands. And we see
6 that a lot when we're out on the road.

7 So many, many thanks for our collective
8 work together. And safe drive home. Thank you
9 again for hosting us. Mvto. And with that, the
10 session's closed. Mvto.

11 (Proceedings concluded at 3:45 p.m.)

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1 C E R T I F I C A T E

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7 I, MARGARET M. MITCHELL, a Certified
8 Realtime Reporter, Registered Merit Reporter, do hereby
9 certify that I reported all proceedings adduced in the
10 foregoing matter, and that the foregoing transcript
11 pages constitutes a full, true and accurate record of
12 said proceedings to the best of my ability.

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I further certify that I am neither
related to counsel for any party to the proceedings, nor
have any interest in the outcome of the proceedings.

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IN WITNESS HEREOF, I have hereunto set my
hand this 5th day of March, 2018.

22

Peggy Mitchell, RMR, CRR

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