NATIONAL INDIAN GAMING COMMISSION

PUBLIC CONSULTATION

TAKEN ON

WEDNESDAY, APRIL 12, 2017

SAN DIEGO CONVENTION CENTER, ROOM 25

111 WEST HARBOR DRIVE

SAN DIEGO, CALIFORNIA 92101

DAY 1

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INDEX

I. Welcoming and Opening prayer/Blessing

II. Introduction of Commission and brief

III. Introduction of NIGC Staff and Tribal Leadership representatives

IV. Discussed format for the consultation Questions and comments

V. Opening Statements for those who cannot stay for entire consultation

VI. Housekeeping Items

VII. Topic Order: 25C.F.R. Part 547 Grandfathered Class II Gaming System

VIII. Closing
SAN DIEGO, CALIFORNIA, WEDNESDAY, APRIL 12, 2017

AT 10:30 O'CLOCK A.M.

JONODEV CHAUDHURI: Thank you all for being here. I appreciate everybody's flexibility. We definitely want to accommodate. Thankfully, Ms. Devon Lomayesva has agreed to open us up.

    Thank you, very much, very much.

DEVON LOMAYESVA: Hello everyone. How are you? I absolutely would defer to any elders from the Kumaya Nations because that the territory we are in today. Seeing that no one is here, I will very humbly accept this. My name is Devon Lomayesva. I'm a member of the Saint Isabella tribe here in San Diego. I am here on behalf of Soboba band. As we enter this meeting, I hope we have good participation, welcome everyone's thoughts in a good way, and that as we go through, keep that open mind for positive outcomes for our communities and the tribes that we serve.

    And, with that, once again, good blessings and travels to everyone that is attending the conference.

JONODEV CHAUDHURI: Thank you so much.

Good morning. And thank you to everyone who is taking the time to be here. We are here to discuss
some important issues affecting a very sizable segment
of the Indian gaming industry.

Although the issues we are here to discuss
today are pretty narrow in terms of their regulatory
scope, we recognize the profound impact that these
discussions may have on real lives on the ground. So,
with that in mind, thank you so much for taking the time
to be here.

My name is, Jonodev Chaudhuri. I'm a proud
member of Mississippi Creek Nation. I am also proud to
be Indian on my father's side from India. And, again, I
thank you Ms. Lomayesva for opening up today's
consultation because, really, we are here in the spirit
of true communications.

So I am going to turn it over to my fellow
Commissioners. We have the full Commission here today.
Before moving forward with some housekeeping items that
then will frame our discussions here today.

But I'll turn it over to Vice Chair, Ms.
Kathryn Isom-Claus. Introduce yourself and talk a
little about the about Consultation.

KATHRYN ISOM-CLAUS: Good morning. I am
Kathryn Isom-Claus. I am Vice Chair of the Commission.
I would like to thank you all for being here with us
today. I appreciate you for being committed to the
We are here today to honor the government-to-government relationship between the Federal Government and Tribal Governments.

As partners in gaming regulations, Tribal voices are essential to our work. The ongoing dialogue is one of the most important tools that we have for building a strong policy and regulation in NIGC.

We are here at today's discussion with an open mind. And I would like to thank you all for comments we are going to adhere to. And, with that, I'll turn it over to Commissioner Simermeyer.

SEQUOYAH SIMERMEYER: Good morning. I want to join my colleagues in thanking everyone for being here. My name is Sequoyah Simermeyer. I am with the Coharie Indian tribe, Northern Carolina. I am Associate Commissioner for NIGC. I join my colleagues also in having appreciation for the Consultation process and time and everything that goes into the Tribal side and Federal side as well.

I think, in my experience, that Consultation serves really positive purposes. One is, it helps to verify and maintain government to government relationship, which is unique to tribes and government.
It also provides an opportunity for us to make more informed decisions at a Federal level to better serve the people that we are charged to serve.

I also think that it provides a platform for Tribal leadership to communicate their vision for how they are serving their citizens in their leadership role, and how we, as Federal partners, should help them. So I want to thank everyone for their time and I look forward to their comments that we will have today.

Thank you.

JONODEV CHAUDHURI: Thank you, Commissioner.

Thank you Vice Chair. So as we begin our NIGC Tribal Nations Consultation, let me just set out some structural ideas. We always try to recognize our former colleagues, NIGC alumni. And we have Dan Little at the end of the room here today, who is a former Commissioner.

I just want to say, you know, save the best for last. You know, so we have Dan Little here, former Commissioner as well as Ms. Liz Homer, former Vice Chair. Am I missing anybody?

But we thank you for your past service and your past service at NIGC and your continued service to the Indian Gaming Industry.

So with that, introductions are an important
part of this process. Let me talk about what we are going to do with your comments.

We have a transcriber here with us. At the end of today's consultation, all comments will be transcribed and ultimately available for public review.

But introductions are beneficial because we all have much to learn from each other. And so knowing who is in the room together is just as important as any of the dialogs between Tribal Nations and NIGC.

I have heard many times that some of the best parts of these Consultations are the cross-conversations that occur.

So we always start off with introductions. We will do that in a moment. We are scheduled to go until 12:30 today. I, again, thank everyone for their flexibility in starting a little late. We did want to accommodate the organization who scheduled this consultation in conjunction with NIGA's schedule.

But, if we finish early, there's is no crime in finishing early. We want to make sure that everybody has a true and fair opportunity to present their thoughts.

With that in mind, we recognize that these are ongoing evolving discussions. So if in five minutes after we finish, you have an additional comment that you
want to provide, we want to assure everybody that there will be ample opportunities to provide additional comments.

We have upcoming consultations that additional comments can be made in person at. And those upcoming consultations are, first and foremost, here tomorrow, from 8:30 to 12:30, in the same room.

And those consultations cover a wide array of topics. Next week, April 20th, we have a consultation in Billings, Montana, 1:00 p.m. to 5:00 p.m. Details are on the website. nigcnet.gov. May 4th, we have a consultation in Biloxi, Mississippi.

And the week of May 23rd, at a date and time to be determined, we will be hosting a consultation in conjunction with the affiliated tribes, Northwest Indians Annual Conference.

So there are multiple opportunities to present comments in person. Beyond that, there are always opportunities to submit comments in writing.

And these are, as I mentioned, evolving comment periods. At the end of June, we will be compiling all comments that are received for further consideration.

But I want to assure you that we are listening as we go along and trying to work with all voices in
this discussion to continually review positive measures. And so that's especially true with regard to the Grandfathering Privileges of CLASS II. And so we welcome that ongoing dialog.

So, one final point: This is a Nation-to-Nation consultation. So our Consultation is really between NIGC and Tribal Nations and regulatory bodies or their designees.

If you're not a Tribal Nation Representative, or a regulator, please inform us who has designated you to speak for the nation.

If we have heard all comments and concerns from Tribal Representatives, we would welcome any additional comments from other interested parties.

But this is, first and foremost, a Tribal Nation Consultation. And so if there's any objections or concerns raised by the Tribal Leadership regarding any non Tribal representative in the room, we will be sensitive to that. And we will discuss clearing the room.

That said, this is a closed session. Even though the discussion here today will be transcribed, for public review, media Not part of this consultation. We do want people to feel free to engage in open and meaningful dialog. So this is a closed session.
So with that, we have a number of subject matter experts with us today, who will discuss the topic of consultation in more detail. I'll let them introduce themselves in their own fashion.

But maybe we could just go around the room. We are heavily represented by NIGC staff here today. But that is by design. We do value our day-to-day outreach with our partners.

And so we will just go around the room and get to know each other a little bit better. So maybe we will start with our General Counsel.

MICHAEL HOENIG: Good morning everybody. I am Michael Hoenig. I am General Counsel for NIGC. And I am happy to be here today.

JONODEV CHAUDHURI: And I'm sorry. I should have added, because this is transcribed, please state the nation or organization you represent.

And if your name, like mine, has a lot of syllables in it, please feel free to spell your name for the benefit of the transcriptionist.

TRAVIS WALDO: Good morning everyone. I am Travis Waldo, Director of Technology for NIGC.

FRANK HERNANDEZ: Good morning. Frank Hernandez, NIGC, Sacramento Region, Temecula.

MICHAEL RUST: Good morning. Mike Rust from
San Manuel Band Mission.

EDWINA BUTLER WOLFE: Good morning everyone.

Edwina Butler -- Edwina Butler Wolfe, Governor of the
Absentee Shawnee Tribe.

LESLIE TANYAN: Hi. I'm Leslie Tanyan.

Absentee Shawnee Gaming Commission, Executive Director.

KELLY SWITCH: Good morning everybody. My
name is Kelly Switch from Absentee Shawnee Gaming
Commission. Commissioner of Absentee Shawnee.

CELESTE HUGHES: Good morning everybody.

Celeste Hughes, representing Soboba Band. Gaming
Commission Chair.

DEVON LOMAYESVA: Good morning.

Devon Lomayesva, Tribal attorney with the Soboba Band.

FEMALE SPEAKER: Good morning. (Inaudible)

MALE SPEAKER: (Inaudible)

ELIZABETH HOMER: Elizabeth Homer. I am
principal attorney for Charter.

BARBARA COLLIER: Good morning.

Barbara Collier, the Executive Director of the Quapaw
Tribal Gaming Agency, Quapaw Tribal member from
Oklahoma.

NANCY GREEN: Good morning. I'm Nancy Green,
here on behalf of the Senequot Bay Nation.

KERRY HOLTON: Good morning. I'm
Kerry Holton, President of the Delaware Nation.


SHEILA MORAGO: Good morning. Sheila Morago. Executive Director of Oklahoma Gaming Association.

MATTHEW MORGAN: Matthew Moragan, Director of Gaming Affairs for Chickasaw Nation. And I also served as Chairperson for NIGA subcommittee.

SHAWN HOUSTON: I.T. Auditor at NIGC.

LAE L ECHO-HAWK: I'm Lael Echo-Hawk.

DANIEL LITTLE: Vice President of relations.

KEVEN BUNTROCK: Keven Buntrock. (Inaudible).

JOSH BENEFIL: With the NIGC Office of Audits.

STEVE BREWER: Steve Brewer Manager of National Indian Gaming Commission.


TOM CUNNINGHAM: Tom Cunningham (Inaudible)

BADGER AUSTIN: Badger Austin. Staff attorney for NIGC.

STEVE BREWER: Good morning, Compliance Officer for gaming commission.

DUSTIN THOMAS: Good morning. Dustin Thomas, Assistant director of Compliance NIGC.
TRACI SANTILLANES: Traci Santillanes, Audit Manager, NIGC. And member of tribes Idaho.

LISA DECOTEAU: Lisa Decoteau representing the United Gaming Commission.

YVONNE LEE: Yvonne Lee, Director of Finance of NIGC.

JONODEV CHAUDHURI: Okay. I think that's everybody. Eric and his team here in the Sacramento region, as well as folks that help set up this consultation, many of the folks from the agency here today have been actively involved in trainings this week.

We have been doing quite a few trainings in conjunction with NIGA. And I thank you for that. Most importantly, many thanks for Kumeyaay people for allowing us into their territory. Many, many thanks.

I have started to notice a trend. There is a person here named Ms. Echo-Hawk, who likes to make a fashionably late appearance after we introduce all NIGC alumni so she gets her own introduction.

We do recognize that. And we appreciate that opportunity to honor you individually. So an additional, alumnus, Ms. Echo-Hawk, former counselor to the Chair. We want to thank her for her prior service.

So with that, we will begin the Consultation.
For the subject matter background, we have our first Director of our Technology Division, Mr. Travis Waldo here, to talk a little bit about what we are here to consult on today. Mr. Waldo.

TRAVIS WALDO: Thank you, Chairman.

Again, my name is Travis Waldo. I'm Director of Technology for the National Indian Gaming Commission. Our subject for today is Grandfathered Class II Gaming Systems.

The NIGC has an ongoing commitment with Tribal Leadership and Tribal Regulatory Partners to balance a reasonable regulation of Indian gaming with the need to avoid unnecessary or artificial road blocks to impede on the development.

The Sunset Provision for the Grandfather Class II Gaming Systems is an opportunity for all of us to understand where the Grandfathered Systems pose potential risk in the integrity of Indian Gaming and consult on an appropriate solution if needed.

The development of Class II Minimum Technical Standards began in 2004 as a collaborative effort between the National Indian Gaming Commission, tribes, and manufacturers to mitigate certain risks that need to exist in the ever advancing Class II gaming system technology.
The NIGC initially implemented the technical standards in 2008. The technical standards require that before the Class II Gaming Systems may be placed on the floor and offered to the public for play, it must be submitted to an independent game laboratory, which would test the system against the technical standards.

It was recognized by tribes in the industry and NIGC that the implementation of technical standards would come at a financial cost to gaming industry and to tribes.

A particular concern, however, was the potential financial burden on bringing gaming systems that had already been manufactured and were put into play and compliant with applicable law in absence of technical standards into compliance with the new the 2008 rule.

Thus, to reduce that cost, the NIGC provided an that gaming systems manufactured prior to the issuance of standards of 2008 could be certified to an alternate minimum standard as Grandfathered systems.

To be offered for play as a Grandfathered system, the Tribal Gaming Regulatory Authority is required to submit the pre 2008 system to a testing laboratory for certification within a 120 day window after the 2008 technical standards were issued.
All systems manufactured after 2008 would be required to meet full technical standards. Grandfathered systems would be permitted to be continued to be offered to play during the five-year Grandfathered period.

By 2013, all Grandfathered systems would be required to be removed from operation. It was thought at the time that the national market for system cause the fully compliant systems to replace the old Grandfathered systems and that the looming sunset of the grandfather period would otherwise (inaudible) the industry to transition to fully compliant systems.

Technical standards further provide the Grandfathered systems to be modified to become fully compliant with those standards, and thus be removed from grandfather status and continue to operate after 2013.

By 2012, however, it was clear that the industry would be unable to bring all Class II Gaming Systems into full compliance of technical standards. Through consultation with its tribal partners, the NIGC extended the grandfather period an additional five years to November 10, 2018.

In July of 2016, recognizing that the NIGC tribal regulators would again have to deal with this issue, in keeping with our efforts to ensure gaming
integrity, while avoiding unnecessary road blocks to
tribal economic development, the NIGC proactively
reached out to tribes to gather input and information.

Also, NIGC staff from it's Office of General
Counsel and Technology Division have been working with
NIGA sub committee on grandfathering issue as well.

If we look at the technical standards, you can
see that only 12 of the total 56 technical standards for
547 are required to be tested in order for a game to be
a Grandfathered system.

In addition to the technical standards provide
that modifications to grandfather systems, such as
replacing a component, are not required to meet fully
compliant system standards so long as the modification
maintains or advances the grandfather's overall
compliance.

I want to focus our risk analysis on 44
technical standards that are not included as part of the
Grandfathered system.

A Grandfathered system that was manufactured
before 2008 that remains in play today has had many of
its original components replaced with components
manufactured after 2008.

These new components were likely designed to
meet fully compliant system standards, but are not
required to be tested as such because they resolve into the Grandfathered system.

Of the 44 technical standards that are not included as part of the Grandfathered system, what is still outstanding and what risks, if any, remains to those outstanding areas.

The NIGC is interested in consulting on this topic, including, but not limited to obtaining 1) any information related to the steps tribes take to comply with the Grandfathered provision and any difficulties in implementing those provisions; and 2) What risks, if any, the Grandfather games may pose to gaming operation and the gaming public; and, finally, (3) How those risks may be mitigated by means other than part 547.

Thank you.

JONOVDEV CHAUDHURI: Thank you, Mr. Waldo.

It's an important point that was made that our approach to the consultation is really looking to discuss potential solutions in keeping with one of our founding principles, and that is certain adherence to regulatory responsibilities, while not unnecessarily inhibiting the intrapleural spirit of tribes.

So I know many folks in this room working quite hard on compiling information about potential solutions. And I thank you for that work.
We have Mr. Schalansky with the microphone here. We don't have any time constraints on comments. But I trust that we will all be respectful of each other's times. That said, we will move forward to formal comment period.

This is a two-way dialogue. We are here to address questions as well, if we can. If not, we are always happy to go back and see how we can best provide the information that is requested.

So with that, the floor is yours. And Mr. Schalansky will work the field in questions, or comments. And I also would like to thank Ms. Echo-hawk for her prior service to NIGC. Thank you.

MATTHEW MORGAN: Matthew Morgan, Chickasaw nation, here on behalf of National Gaming Association, sub committee on Tribal Authority, Tribal Leadership, Department of Commerce.

As you know, NIGA, (inaudible). We have been working diligently on trying to address some of the questions surrounding the Class II issue. I'll be brief. We have talked about this in other sessions here at the NIGA.

So one of the things that we have done is we have engaged (inaudible). I have some preliminary numbers. Once we finalize those numbers, I'll gladly
submit those for the record.

So what we have so far, we have responses from 29 tribes in 12 states representing 106 casinos. So far, we have encompassed 28,800 gaming units. And of those, 45 percent are Grandfathered. Of those 29 tribes -- 55 percent of the tribes and 78 percent of the casinos still have Grandfathered systems in play. Each of those have an average of 3.3 Grandfathered systems on the floor currently.

86 percent of those tribes have had some sort of modification through the years to update those in different ways. So, clearly, they are taking advantage of 547 to upgrade some of the components.

On the systems, through those 29 tribes, we have not found one breach yet through the Grandfathered system. Nobody has reported a breach. On the Grandfathered machines, 55 percent of tribes represented 78 casinos had Grandfathered machines. And, again, no breaches have been reported on any machine units.

On the non-Grandfathered side, though, there have been two reported breaches on the gaming system and one reported breach on gaming units. And that has been over a five-year period. So three breaches in five years. Like I said, preliminary, and we still have ongoing results coming in. And we look forward to
April 12, 2017

wrapping that up soon. We want to make sure we provide
you with as much information as we can.

Secondarily, we worked with National
Congregating Regulatory Association to go through with
your staff to look at risk associated with the
Grandfathered System.

And as Mr. Waldo indicated, we went
through and -- and Mr. Hummingbird, Chairperson in the
audience here -- 56 technical standards of 547, and
broke it down into high, medium and low risk issues.
High, means a compliance risk; cheating, misleading or
integrity issues; medium, being minimal compliance risk
that don't affect integrity issues; and low means of
little or no consequences.

Of those standards, we have 28 high-risk
standards being involved with the 547 testing. But all
of those being within the Grandfather Section. But
there are other sections of 547 that we have to look at
in order to test those from a lab perspective, either 26
of the 28 (inaudible). And the other thing we are
currently exploring is some of the additional
things because 93 percent is from testing lab
perspective.

We all know that once the lab (inaudible), The
Tribal Gaming Commission does more testing. And by way
of example, live verifications, signature testing,
currency testing, online monitoring system, MICS audits.
And then there are other tribes that do their own
additional testing.

We are trying to answer you on what is that
risk associated with that out there, and we think we
have a pretty good handle on it. But, again, we are
still having on going discussions to make sure we can
present you with documented evidence that we feel make
our case.

And our case is this: We feel like there's
nothing wrong with the machines. Over a ten-year
period, if there had been something wrong, we would have
heard about it. It's not out there. We can't find it.
We talked to the lab, we talked to the tribe to find out
where is there a risk.

We would ask that you leave the job of
regulating the machines on the floor. Let it be an
economic and Tribal regulatory decision, not a Federal
Government decision. And don't cause unnecessary
economic harm where risk that does doesn't exist.

The only other thing I think I can probably
add today other than that, is I notice on your time line
you were talking about July 1st. Because this issue is
on a separate tribe from the other ones, I would ask if
we could rule this as quickly as possible.

That would be very advantageous to tribes out there who are caught right now, trying to make sure they know how to plan their businesses for the next fiscal year. The sooner we have some guidance on the issue, which would help a lot our businesses and tribes plan for that next year. Thank you for your time. And thank you for having this consultation discussion.

JONOVDEV CHAUDHURI: Thank you, Mr. Morgan.

Many, many thanks to the subcommittee. I know that this was somewhat in response to the statements that we made that we appreciate the economic impact of these games.

But as regulators mandated to ensure the integrity of Indian Gaming, we want to hear more about the risks involved in these systems.

And I very much appreciate the analysis. We understand a little more information is on its way. But to your point about the timing of this, these are revolving consultations. Yes, we have a schedule that involve closing the comments at the end of June. However, our analysis of potential solutions is ongoing and active right now.

So if there's additional ideas that come to mind, we have no problem engaging in further dialog, whether it is on draft or a draft presented by a
subcommittee, we are happy to move this as quickly as we can. We know 2018 is going come one way or another.

    So I thank you. Does anybody have anything they want to add to that.

    We thank you for that input Mr. Morgan. And certainly the balance of the economic impact and risk is very important to us.

    SEQUOYAH SIMERMEYER: I just want to ask for clarification. Your preference is that there be resolution to this before the end of the year?

    MATTHEW MORGAN: Yes. As tribes try to forecast what their budget and revenues are, understanding that should this Sunset Provision stand, they're going to have to make necessary decisions. And the sooner they can understand what that landscape looks like, the sooner they can make better decisions. We prefer this discussion of subcommittee, that be taken care of sooner than later if at all possible.

    JONODEV CHAUDHURI: Excellent point. Thanks for making that point.

    EDWINIA BUTLER-WOLF: Good morning again. I always have to make sure everyone is recognized. And the two young ladies on the end that introduced themselves. I always have to make sure everyone's recognized.
JONODEV CHAUDHURI: Thank you. How did we miss that?

CHRISTINA THOMPSON: We were thinking it was okay. We didn't need to do it. Christina Thompson, Deputy Chief of staff with NIGC.

SHANNON O'LOUGHLIN: Shannon O'Loughlin, Oklahoma. And I am the Chief of Staff at NIGC.

EDWINA BUTLER-WOLFE: That's just my fashion. You have to make sure everyone is recognized. I'm Edwina Butler-Wolfe, Governor of the Absentee Shawnee Tribe in Oklahoma. We are a small tribe which is a little over 4000. And we have two casinos in our area.

In talking with (inaudible) and gaming commission Kelly Switch and our Executive Director Leslie Tanyan, who keeps me updated on all the gaming procedures and what is happening in Indian Gaming, so as Governor, I've got many items on my plate to look at. So I wanted to express my good thoughts to Leslie.

I just wanted to put it out there that these Grandfather games do not pose a risk to us. Grandfathered games remain some of the most popular and profitable games in our casinos.

Removing Grandfathered games will hurt tribes economically. The Grandfathered language should be removed.
And I know I'm echoing a lot of my comments when I was in Tulsa, Oklahoma. And I wanted to thank you for allowing Tribal leaders and representatives from the tribes to express our sentiments on what works for us as a tribe.

And this would not work for us. Like I said, we are a small tribe. And I think that would hurt us economically.

So I wanted to express that again. And I know that I have said in Tulsa that I would bring my comments. And it's a beautiful state, California. And you've got a very beautiful area here. So I enjoy coming out here. It's my first time out here in San Diego. So I wanted to thank you for allowing us to express our concerns for this issue.

It is a vital issue that we as tribes look at and to think about our people. Because we have to think about our people. And we have got to look at them and there well-being. So it's a lot of stress on the leaders and all of our people that work under us. So I want to thank you for being allowed to do that.

JONODEV CHAUDHURI: Thank you, Governor.

Thank you for your advocacy for your nation.

NANCY GREEN: Nancy Green again. Green Law firm. I don't know if I mentioned that earlier.
You know, I wanted to say, you know, thank you to the NIGC for considering this. I know that you have been in receipt of many comments surrounding these games before. And so I won't regurgitate those for this morning.

But, also, I would like to say thanks to Mike and Mr. Morgan and Mr. Little, and those folks that are working together for the real data for this that will, help, I hope, make an educated decision on whether or not Sunset Provision on this be removed.

And also just for clarification purposes, when are we expecting, you know, to conclude the comment period on this?

JONODEV CHAUDHURI: Well, as I mentioned before, at the end of June, we haven't called it a deadline, because we do welcome comments that are relevant at all times. But at the end of June, we will be compiling all comments.

With that said, I don't want to get ahead of ourselves, but depending on additional data that comes in, we will consider the benefit of having an initial discussion document prepared before that. But we understand that the time sensitive nature of some of these discussions. And we want it to move as quickly as we can.
NANCY GREEN: Yeah. And I appreciate that.

JONODEV CHAUDHURI: The end of June is the comment period end. But I wouldn't be surprised if we produce something before that for discussion purposes.

NANCY GREEN: Okay. Thank you.

JONODEV CHAUDHURI: That report is very important. We welcome data. And we want our analysis to be data driven. And we appreciate you doing your own independent analysis. We appreciate the hard work that is going into analyzing the risk from the perspective as well.

MS. GREEN: Just one more question in regard to that comment. You mentioned that you're pursing your own data. Is there any ETA when that might be published so that the tribes will have an opportunity to look at your findings?

JONODEV CHAUDHURI: You know, I think that good ideas come from multiple sources. So the comparisons of Grandfathered Systems and the controls that apply to them against non Grandfathered Systems is something that we have been looking in terms of actual practice on the ground about how those concerns that were reflected in non Grandfathered arena are being addressed.

So I think that's what we talked about quite a
bit. I don't know -- I hate to throw Travis under the bus. But whenever we start talking Technical Data, there are people that can speak to this better than I can.

NANCY GREEN: No pressure Travis. Just jump on in there.

JONODEV CHAUDHURI: He's looking at me like --

But in terms of our own analysis, we have compared the safeguards for Grandfathered versus non Grandfathered, trying to look at the underlying rational behind those safeguards.

We have looked at the regulatory history of that. And we are trying to have a realistic sense of whether or not the public safety issues are already addressed with the systems that are in place right now.

So in terms of data, you know, we have looked at compliance issues that may have arisen because of these matters. But those are the kind of things we are looking at. We are looking at the underlying logic of how the regulation is formatted and compared to relevant risk on the ground. I think that's fair to say.

NANCY GREEN: Thank you.

SHANNON O'LOUGHLIN: So right now, we have a deadline set for July 1st for all our written topics on all seven topics that we have. Considering the comments
here today, we will do our best to work with the Commission to see what would be a reasonable date for us to set a deadline for written comments about this subject, as well as whether we are going to be producing any written document or findings from the analysis we are doing work that will be a part of any kind of Federal Register or any kind of public notice.

So give us a little time so that we can get correct information on that and make sure that we are all aware and on the same page as far as deadlines. We are not going to move forward without back and forth. So give us a little time, and we will bring this to the Commission.

NANCY GREEN: Well, thank you for that. I was really just -- given to the time-sensitive nature of the issue that we have all discussed and recognized. At least from my part, I wanted to encourage my tribal clients to, you know, get our comments prepared as soon as we can, and verbally. I just didn't know. I was trying to get a sense of when that might be.

JONODEV CHAUDHURI: Thank you Chief of Staff. As I said before, don't be surprised if there's a discussion draft issued -- but, again, solely for discussion -- earlier than June.

BARBARA COLLIER: Good morning again. Barbara
Collier. Several things have been brought to my mind going along with what Nancy what saying. Keeping item seven on your agenda separate would be more costly for the tribe I believe.

So if we could get this issue behind us as quickly as possible. Not that the other six are not important. But there's no time line there. If it continues to stay a time line, then we are looking at having to work with that.

So, to my knowledge, the consultations that I've been privileged to be with, there have been no tribes that have had any risks with these machines. So I don't know what your data is showing you that you're collecting.

But any data that we have been shown through the (inaudible) or OTRGRA, Oklahoma hasn't shown any risk of the compliance of these machines that are Grandfathered. There are many left in Oklahoma, as you've heard from the report.

So one of our issues is that if we do have to meet this guidelines and the Sunset portion is not removed or something is not done about that, then there will be a hurry-up job. And you all know, or maybe you don't know, front line compliance individuals often, when there's a hurry-up jobs from vendors, even though
they don't intend for there to be, often times that
makes for more issues and more problems.

So continuing on with it as it is, there's
going to be thousands of machines across the United
States that (inaudible) before November 10, 2018. And
that there may lie a problem with getting them done
properly. You've mentioned integrity earlier, the
Commission having integrity of operations. Well, that's
too goes to the tribes. The authority that my
department, my agency, has over the casino, rules and
regulations is not just on someone that -- don't take
this wrong -- I know you sit behind a desk just like I
do. But I have people on the front line, compliance
agents, that open and close machines daily. They check
them daily. They check the software. They install the
software. They make sure it talks with the server.

They do everything that's possible to make
these machines -- electronic gaming machines in Oklahoma
because we don't have slots -- run properly.

And some of these machines that you're keying
on or being keyed on as not being acceptable, are some
of the most popular machines in Oklahoma. They are also
in other States. But in Oklahoma, the down-home red
neck Oklahomans like these machines. So they like to be
play them. And if they are not there when they come in,
they are mad. Or if someone is sitting at their
machine, they are mad. And they stand over in the
corner and wait and glare at them.

So if you think I'm joking, and that was kind
of a red-neck comment, but that's the truth. I have
seen it with my own eyes. They come in, and they are
very protective of what they like to play.

We just had a new casino open up in Kansas.
And they only have Class III. So guess what? Their
Kansas players are still coming to Oklahoma because they
can play what they want, class II games.

So here are a couple of things on the other
comments. But I'm not going to with dwell on those
consultation until I see the announcement from the NIGC
suspending 542, putting out a Voluntary non binding
Guidance Document.

In the past, because I've been around a long
time, guidance documents work well. We appreciate
having guidance documents that we can have thoughts and
comments back on. Because they don't become law, you
can work with them a little bit better.

If this had been a Guidance Document, we would
not be sitting here today talking about the Grandfather
Clause. The Technical Standards, we have a lot of
concern about that. We know that Travis Waldo is A-1 on
technical issues. And so we are not really concerned about what will or won't happen.

But we are concerned about the future. We know that electronics are the future. And me, being old, I know that they have come a long ways and they are going to go further.

And the further they go, the harder they are going to be to regulate, the more difficult. And right now, let them say, "Well I'm downloading so and so to your sever." Well, okay. Because I can't look at that and tell if they are doing that of course, the technicians can. That's why we have those people. So we are putting a lot of confidence in Travis to come up with a solution that will be all right for everyone.

My comments about Grandfathered Gaming System, I know there have been a lot of discussions about why we should not be moving Grandfathered games off the floor and the Sunset Clause.

Today, I would like to speak to some of the positive aspects of the Grandfathered games and reasons why we should be keeping them on the floor.

First, the very fact that the game has been Grandfathered under 547, makes it undeniable that it constitutes Class II gaming. This Grandfathered designation can be helpful in defending the Class II
status of a game, especially in negotiations with the
State.

In Oklahoma, as you know, my contract is set
to expire on January 1, 2020. And we will need all the
leverage we can get to defend the status of our Class II
games.

Also, Tribal Game Regulatory Agencies have
greater flexibility with Grandfathered systems than they
do with fully compliant Systems. Under 547.555, A
Grandfathered system can be modified without having to
be submitted to a testing laboratory as long as the
Tribal gaming regulator authority feels the
modifications would maintain or advance the Class II
gaming system.

My hope is that you will take the action
needed to help us protect the status of Class II games.

These are all my comments for now on this
issue. I'll be submitting in more detail the formal
comment in coming months.

But please keep in mind that we are on the
floor, my people are in and out of machines every day,
testing software, making sure that the integrity of
gaming, as well as what we report to NIGC gaming
commission is topnotch.

And I think that most of all, all gaming
agencies or gaming commissions that I know, in my area anyway, do the same or are the same. And I'll stand behind them as I do my own. So we do our very best to make sure that our people are not going to be conflicted by any machine. The switch on these machines, most of them, are going to have to be updated, and because it's already talking with the systems, seems to be just something that does not need to be done.

So with those comments, I appreciate you letting us speak with you today. It's a pleasure to get to see you all as we do when we have these occasions. And have a safe trip home. Thank you.

JONODEV CHAUDHURI: Thank you Ms. Collier for your comments and your valuable perspective. We absolutely respect the role of these games and the role that you played in making this industry what it is. So thank you.

Ms. Homer.

ELIZABETH HOMER: Thank you.

Liz Homer. Thank you for conveying these consultations. I think the NIGC's continuing demonstration of consultation is very encouraging to Indian country.

But I also commend you for saying -- now, I believe I heard you correctly when you said you were
going to review the rational that was underlying the
original rule making for this part 547.

JONODEV CHAUDHURI: Certainly. I mean, part
of the process is figuring out where we are going. And
risk is part of every analysis that we have. So I
assume -- and if there is insight that you have, given
your past experience with the commission, please share
it. But I assume that the reason for the provisions as
they are written right now wouldn't be helpful for our
discussions. So we haven't been talking about what was
trying to be achieved by a past commission when these
Grandfather provisions were instituted in the first
place. Because, again, we are about sound regulations,
which involves doing your job, but also not creating
artificial roadblocks.

ELIZABETH HOMER: Thank you for that. I think
it's really important because I think that part 547 was
created for another purpose that, you know, morphed into
these technical standards.

And a lot of my colleagues are here at the
table today. And we all participated in those
consultations pertaining to 547. And it was really
pretty -- wouldn't you say -- there's a lot of back and
forth animated discussion about it.

But part of the problem was -- and this is
also why I'm really glad you all updated your technical staff and that we have good folks to take a look at these. Because I think in that very first team, there really was not a good understanding about the Class II gaming technology.

And I think that it was, with respect to some decision makers, whose idea was that the Class II gaming technology, that these are just slot machines that we call Bingo. We spend a lot of time disproving that notion, that these not slot machines that we call Bingo. These are Bingo based server-based gaming systems.

So if you go back through your records, through your administrative records through this rule, you'll see that very easily, that a lot of things that got deleted out of the original proposal on part 547 is really because it did not fit for Class II.

It was like slot machine standards. So we have that issue. We also -- and I think I pointed this out before but it bears repeating. All these regulations on the CLASS II issue. But, initially, the idea of part 547 was because we could not ever agree, tribes in NIGC could never agree on classification regulation.

You know, so it was the Chairman's idea that with part 547, we will just send it to the laboratory.
Then we will know it's Class II math, Class II game architecture. And then we won't have to worry about game classification that's been in controversy since I was on the commission a thousand years ago. That was one of our very first regulations that was on my desk.

So bear in mind this history because it's really important because I think it justifies your reconsideration of this Sunset provision. You know, things get in place and morph over time. But if you go back in the history and look, this is not necessarily what was intended here.

The other issue is, really, to set product standards, you know, I wouldn't say to the product safety standards, more like product integrity standards. We all want integrity. Nobody is arguing against integrity. Nobody wants any kind of game machine on their floor that is either going to cheat the house or cheat the players. Nobody wants that.

So everyone is not up here going, "Oh, gosh, this is terrible. We are being forced to have integrity. So we want the NIGC not to do that." That is a backwards and upside down way of looking at what everyone is saying.

And I think what everyone is saying is we are looking at this, and we are still looking at this very
hard. And we are not finding any integrity issues. And these games have had the status for ten years. In ten years, if there was some big scandal out there, it would have erupted. We would have had that scandal. So is there really any continuing justification for a sunset? Rather, doesn't it be make more sense just to have it Grandfathered? And Federal agencies, when they are making rules in areas that have a significant economic impact, you know, under the regulations governing regulators, they are supposed to tread softly. You know, tread softly. Don't do economic harm, especially needlessly. The burden is really on the agency to justify these kinds of rules.

I know we have a gaming commission that is acting in good faith. So these are not intended to be criticisms of you or any member of the staff. I know you're in good faith. I know you take this seriously.

But I also just want to point out that we should also be looking specifically, you know, at the details. But we also need to keep in mind the principals of good governments and the boundaries that Federal agencies and adhere to in making these kind of decisions that affect the market place. Thank you.

JONODEV CHAUDHURI: Thank you Ms. Homer. You can probably anticipate the following in this statement.
I just want to clarify, for us, this is not a classification discussion at all.

We are trying to come up with a rational approach to an existing regulation that is currently part of the status quo.

And so the status quo is what existed, exists now, based on decisions that have been made before. And we respect the decision making process that led to those decisions.

But, if anything, any potential agency action we are considering, it involves having a reasonable approach to possibly improving the regulations on the books now.

So I definitely appreciate the -- I think the well-founded statement that agencies should take impacts into account when making new law. But what we are doing is, we are trying to address something that is part of status quo.

So I do want to make that point because, you know, my hats off to our team, the NIGC, who worked with Indian country to say, "Let's look at what is already on the books and discuss if there are ways to make it better" because for better, for worse, I don't think any of us were around when the Sunset Provisions were drafted in the first place. But we do welcome this
ELIZABETH HOMER: I was there.

JONODEV CHAUDHURI: Well, I know you were, Liz. But we do welcome this dialogue and all of the data all of you are working so hard to present.

I do want to mention to Ms. Collier's comment. We don't want a hurry up job either. We want to take a sober look at how we got to where we are, where the industry is going, and how to balance our job in support of the primary regulators of Indian gaming to maintain integrity of operations while balancing risks and concerns.

We want to look at those together. And I think that's what we are doing. Thank you so much for your comments.

ELIZABETH HOMER: Let me just point out one more thing. I don't want it to sound like I alone was there. Matthew Morgan was there. Sheila Morago was there. Nancy Green was there. Kathy Odas was there. A lot of people in this room were there and can testify as to the accuracy of my statement is that this thing morphed and became something else. And I hope you take that into account.

JONODEV CHAUDHURI: And it's very appreciated, because I want to make clear, this is not classification
discussion for us. This is just an approach to figure out a sound resolution to something that is already on the books, that's all.

ELIZABETH HOMER: The point of raising the classification is just to point out -- I'm not suggesting that that's part of this discussion. It's to point out that is how this regulation was conceived. It was some kind of an answer to the classification regulations.

JONODEV CHAUDHURI: And that very well may be the case. And so here we are. We have got it on the books. And we are open to doing something about it.

BARBARA COLLIER: Also, just to clarify, your comment about the hurry-up issue that I was referring to is not you hurrying up to make a decision -- although, I am hoping that you do. After all of the consultations that I've attended and that you have planned, I hope that it does come to an end one day.

But, you know, it has trickled over from last year and on and on, for ten years now, I guess you could say. My expedient process was, if we do -- if the Sunset Clause is not removed, we have no problem on my end anyway upgrading the machines. It's just time frame now that we are up against.

I don't want that to be a hurry-up job like
for one company to come in and have to completely close
down the casino. But then they have to hurry up and get
this installed so they can go somewhere else and
somewhere else and somewhere else.

That was the hurry-up job I'm talking about.
Because whenever you do that, you get mistakes, human
error. Because they are trying to hurry up, and they
are trying to get your machines back up on your floor
and not be detained. That was my issue. The more
courage you get, the more mistakes you make.

JONODEV CHAUDHURI: Excellent point,
Ms. Collier. Not to direct comments in any way. But
for the sake of argument, say, the agency makes a
decision that the risk levels are such that the
integrity concerns are minimal, to say the least, with
these games. That would lead us to the next question:
Well, where do we go from there? There are different
models that have been proposed.

As I said, please don't be surprised if there
is some discussion documents in the future. But
Mr. Morgan had mentioned empowering TGRA's to make some
of those cuts. You, know, we are about empowering
primary regulators as much as possible.

But if there specific comments folks have
about models that may be, you know, may be suggested,
please feel free to suggest those as well. Like I said, we may issue something solely for discussion purposes. But we are not going to finalize anything until we have all had a chance to collaborate and discuss.

Thank you Ms. Collier and Ms. Homer.

SEQUOYAH SIMERMEYER: Having the opportunity to look back at the history and evolution of this issue, one thing that does it for me is, in 2008, in the preamble for the regulations, the commission at that time stated saying that the purpose of it is to provide a viable means for TGRA operators to ensure the standards of Class II game is played with technological aids are fully audible.

And that is something that in 2012, the commission did not reverse back. So perhaps on the same lines, the Chairman feels getting feedback on economic process is again important.

CELEST HUGHES: I want to thank NIGC for the opportunity to participate in this very important consultation. I want to thank Yvonne for her blessing and for saving me and to Echo-Hawk for extending her thoughts to all tribal leaders and to representatives.

I stated earlier I representing the Soboba Band of Indians as Chair Commissioner. I also serve as Secretary for National Gaming Commission.
I am here today to listen to the tribal leadership, to listen to their concerns and to obtain information from NIGA sub committee and thank them for the work.

Again, I want to understand the economic impasse that are going to be impacting tribes. I urge NIGC to allow prior regulators to turn in if and when any impact needs to be removed from the floor based on proven integrity issues. I look forward to the special draft. And I would want to apologize for having to leave early. Thank you.

JONODEV CHAUDHURI: Thank you for that.

We have about 45 minutes left in our scheduled time. But I wanted to make sure everyone has the opportunities to be heard. No shame in finishing early.

SEQUOYAH SIMERMEYER: I want to say that in my experience in consultations from the Federal side. The process is a really important consideration in consultation. And to great extent as possible making consultation bilateral back and forth.

It makes consultation something different than administrative rule making. So this employing comments between the government is important to be as bilateral as possible. On Indian country so I would appreciate the effort folks make in keeping that dialog going.
BARBARA COLLIER: Thank you for your comments. But earlier on, when you made your comment about 2008, 2012, making the machines auditable, I don't think there's ever been a question about them being auditable. And I have been through the machine inside and out. So maybe there's a question here that is not being covered. If there's a question about auditable. The machines that are in question, have met that issue.

SEQUOYAH SIMERMEYER: Not to say that it's established. I am just saying that in looking at the letter.

ELIZABETH HOMER: Thank you for raising that point. That verifies what I was saying is that there wasn't a good understanding of the technology. This was this belief that these CLASS II games are just slot machines that the Indians are calling Bingo. It's a server-based gaming system. It was brand new. Now the bigger roles of gaming and Class II world, they have a server that's following the Class II technology.

So it might be worth while to look at the technical standards to even review some of those standards, you know, because there are new standards for server-based gaming that both laboratory have, you know, issued since then.

So you know, I am realist here. I am not
saying "Open the whole regulation back up. Get rid of
the Sunset provision." And I think no one is
really complaining. We have technical standards. But
it's just that the Sunset provision didn't make good
sense. But I hear you. And I just want to reiterate.
There was serious misunderstanding about the technology
at the time.

JONODEV CHAUDHURI: We have I'll turn it over
to my fellow Commissioners for final statement if there
are no additional comments or questions.

KATHRYN ISOM-CLAUS: This is the last time for
any purpose on this topic. Thank you for the topics,
and we look forward. Thank you.

SEQUOYAH SIMERMEYER: I want to state my
appreciation for that and what we can do to make
bilateral process a better result in the end. And say
that I appreciate the work. This would not be possible
without the expertise at the regional level. We have a
lot of the ground experience on the regulation. So I
don't think any of our Federal agencies will be affected
unless we have on the ground perspective with partners.

JONODEV CHAUDHURI: Thank you.

Thank you all for taking the time to be here
today. I think everybody recognizes the impact of these
issues. While they may involve some very dry regulatory
language, we all do recognize the impact that these
matters have on real lives on the ground.

So thank you for taking the time to be here.
Thank you for any comments that you'll be submitting
after this. And I just really wish you the best of luck
as we move forward.

We do have a consultation tomorrow on other
topics. I hope everyone here will attend that
consultation as well. And thank you for those who are
heading home.

Safe travels.

(The consultation concluded at 11:50 a.m.)
STATE OF CALIFORNIA )
COUNTY OF SAN DIEGO )

I, KIMBERLY S. HANNA, CSR NO. 12230, a certified shorthand reporter for the State of California, do hereby certify:

That said Hearing was taken down by me in stenographic writing at the time and place therein named and thereafter reduced to computer-aided transcription under my direction;

That the foregoing transcript, as typed, is a true and accurate record of the proceedings;

I further certify that I am not interested in the event of the action.

Witness my hand this 31st day of May, 2017.

_________________________________
KIMBERLY S. HANNA, CSR NO. 12230