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NATIONAL INDIAN GAMING COMMISSION

PUBLIC CONSULTATION

TAKEN ON

THURSDAY, APRIL 13, 2017

SAN DIEGO CONVENTION CENTER, ROOM 25

111 WEST HARBOR DRIVE

SAN DIEGO, CALIFORNIA 92101

DAY 2

Reported by: Kimberly S. Hanna
CSR No. 12230

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- I. Welcome and Opening prayer/Blessing
- II. Introduction of Commission and brief statements
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 - 1. Rural Outreach
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 - 5. Fees
 - 6. Proposed Draft Voluntary guidance for non-binding Class III Minimum Control Standards (MICS)

1 SAN DIEGO, CALIFORNIA, THURSDAY, APRIL 13, 2017

2 AT 8:33 O'CLOCK A.M.

3
4
5 JONODEV CHAUDHURI: Thank you everyone for
6 being flexible timing wise. I think we are ready to get
7 started. I am Jonodev Chaudhuri, Chairman of NIGC. I
8 am proud to be here. But most important, proud to be
9 here among tribal members.

10 Before we get started with formal
11 consultation, in keeping with our important practice of
12 opening with blessing, Ms. Barbara Collier has agreed to
13 start us off with some words.

14 So thank you so much.

15 BARBARA COLLIER: Good morning.

16 Thank you for your blessings throughout this
17 day. Be with us as we go into this consultation,
18 provide each and everyone's words and thoughts as we try
19 to progress and do many things for our people. Just be
20 with each and every one and each and every tribe today
21 as we go through our day, businesses, and leaders.

22 Thank you, the leaders that are here. I
23 apologize for speaking in front of them. But just be
24 with us, direct us and help us do the right things for
25 all the right reasons.

1 Bless each one as they travel home. Have a
2 safe journey to their homes and their families. Be with
3 all of our elders that are sick, touch them with your
4 greatness.

5 Be with our little ones. Help them grow and
6 be strong and be leaders in our communities and our
7 country. Be with our country, Lord, and be with all of
8 our soldiers that are fighting.

9 Thank you once again, Lord, for being with us
10 as we complete our day. Thank you for all of your
11 blessings that you shine upon us. Amen.

12 JONODEV CHAUDHURI: Thank you so much.

13 So we are here today to begin our consult on
14 topics. I know a lot of things are going on, a number
15 of aspects of NIGC's Operations, consultation is
16 important to us as an agency as an arm of the Federal
17 Government.

18 We respect all of our regulatory partners.
19 More importantly, we take every effort to fulfill our
20 trust obligations at tribal nations consultations.

21 An important part of that, we have an ongoing
22 commitment to working with and listening to agencies
23 before putting pen to paper on any important matters of
24 the agency. And so I thank you for taking the time to
25 be here today. I know a lot of things are going on.

1 I am going to turn it over to my fellow
2 Commissioners. But after we introduce ourselves, we
3 will go forward with a little bit of housekeeping
4 information. And then we will go ahead and get started.

5 So, again, thank you all for taking the time
6 to be here today. Let's have a great consultation.

7 I'm going to turn it over to Tribal Advisor.

8 KATHRYN ISOM-CLAUSE: Good morning. I am
9 Katherine Isom-Clause. We've said this a few times
10 throughout the conference. But I think it bears
11 repeating. So I just want to mention that, in addition
12 to the tribe's responsibility that all Federal agencies
13 have, our statutory purpose as an agency is to promote
14 tribal economic development, self sufficiency and strong
15 tribal governments. And this allows us to safeguard the
16 benefits of our gaming for future generations.

17 As partners in our gaming regulations, tribal
18 voices are, of course, essential to this work. And we
19 thank you all for being here today.

20 One thing I didn't mention yesterday, I would
21 like to briefly mention now, is we are also in the
22 process of developing our required strategic plan.

23 And the topics today reflect that so the
24 comments we hear today will be used as part of that
25 process as well. And we don't have dates yet. But we

1 will be happy to review that plan and provide comments
2 specifically on that in the future.

3 And, beyond that, just thank you all for being
4 here with us today. We look forward to hearing your
5 comments.

6 SEQUOYAH SIMERMEYER: Thank you. Good
7 morning. My name is Sequoyah Simermeyer. I'm a member
8 of (inaudible) tribe, North Carolina. I join my
9 colleagues in saying thank you for your time and your
10 effort in coming here today and engaging in this
11 consultation process that we are all involved in right
12 now.

13 I also want to join my colleagues in saying,
14 as you said in the past, our appreciation and our
15 commitment to the consultation process and the
16 opportunity it provides to cultivate, refine, maintain
17 our government-to-government relationship.

18 It is also a great opportunity for us as a
19 Federal decision making body to make sure we make more
20 informed decisions that are better serving.

21 I am excited about today's consultation.
22 There are a number of different topics, themes that are
23 important to each of us as members of the Commission.
24 So whether it is discussing our fees and our
25 transparency sufficiency, we are going to talk about the

1 MICSed standards, and what it means for our diplomatic
2 decision-making, Tribes' government-to-government
3 relationship. Thank you.

4 JONODEV CHAUDHURI: Thank you, Vice Chair
5 Commissioner.

6 So let's move forward with some housekeeping
7 matters. But before I begin, I do want to say this is a
8 nation-to-nation consultation. We respect everyone's
9 time. Lots going on here at NIGA. And I know various
10 folks have plane flights that they may need to catch.

11 If anybody needs to get a statement on the
12 record on behalf of their given nation, please raise
13 your hand now, and we will be happy to take statements
14 on the record at the front if someone has a plane to
15 catch.

16 Okay. Well, with that, again, this is
17 nation-to-nation consultation. We are here to primarily
18 hear from our partners, specifically, tribal nations and
19 tribal regulatory bodies.

20 We also understand there are likely other
21 representatives of tribal nations in the room. And so
22 we will proceed as follows: This is a Tribal
23 consultation. If there are any requests from tribal
24 leadership or tribal regulators for this meeting to be
25 closed, we will be sensitive to that, and we will

1 address that, if such a request is made.

2 Otherwise, we recognize that there are a
3 number of attorneys and other representatives in the
4 room. We will allow comment and input from those
5 individuals. But please be clear and specific about who
6 you are representing and whose designated authority
7 you're operating under.

8 So, with that, we are scheduled to go through
9 until 12:30 today. I always say there's no shame in
10 finishing early. If we finish early, and everybody has
11 had full opportunity to be heard and to ask questions,
12 we will finish early.

13 But I don't want anybody to feel pressured in
14 any way to keep their statements short. I trust that
15 you can all be respectful of each others time. But,
16 again, no crime in finishing early.

17 We have six important topics to discuss today.
18 I'll just briefly go down that list of topics again 1)
19 Rural Outreach. 2) Developing a strong Tribal work
20 force through training. 3) Management Contract
21 regulations and Procedures. 4) Technical Standards for
22 local Gaming Devices. 5) Fees. 6) Proposed Draft
23 Voluntary Guidance.

24 And I see Mr. Stevens in the corner. May I
25 point out we are discussing draft, non-binding,

1 voluntary, draft non-binding voluntary guidance
2 regarding Class 3 minimum internal controls.

3 For each of these six topics, we are going to
4 have subject matter representatives, subject matter
5 experts from the agency provide some background
6 information. And we will open up the floor for
7 questions and comments and discussion after each one of
8 those topics.

9 At end of the all of this, we are going to
10 have a catchall portion in which any additional
11 questions relevant to our consultation will be heard.

12 I also want folks to feel free to raise other
13 questions of relevance to NIGC. However, we will try to
14 keep within the scope of today's consultation as best
15 that we can. After that catchall section, we will close
16 again if everyone has had their opportunity to be heard.

17 Today, we also also want to recognize
18 distinguished alumni from National Indian Gaming
19 Commission, Ms. Leal Echo-Hawk. We thank her for her
20 past service As well as I don't see anybody except our
21 distinguished Vice Chair, Ms. Liz Homer here, who is
22 here another alumna of NIGC, who we appreciate and
23 respect the continued good work you do for Indian
24 Country.

25 So, before we jump in, it's always good to

1 know each other a little bit better. We will go through
2 a round of introductions. But I do want to point out
3 that we do have a transcriptions. All statements made
4 today will be ultimately transcribed and be available
5 for public review.

6 However, we want everyone here to feel open in
7 discussing their concerns and their questions.

8 Therefore, I want to go back to the point that if there
9 are any requests to close this meeting or possibly even,
10 discuss matters with only tribal representatives in the
11 room, you know, we are happy to entertain that.

12 But at the end of our consultation sessions,
13 we will be closing the comment period. For these six
14 topics, we will close the comment period at the end of
15 June. And so July 1st will be the deadline for all
16 written comments to be submitted.

17 However, I want to encourage everyone to
18 participate in every fashion possible. We have
19 additional consultations coming up next week, April
20 20th, in Billings, Montana, from 1:00 to 5:00 p.m., May
21 4th, in Biloxi, Mississippi, as well as the week of May
22 23rd at a date to be determined to be held in
23 conjunction with affiliated tribes of Northwest Indian
24 Annual conference.

25 So there will are additional opportunities to

1 provide verbal comments on the record. But we always
2 appreciate any written comments that are submitted.
3 This is kind of a rolling consultation period. We will
4 be reviewing comments as we receive them.

5 However, we will compile all the comments and
6 the transcriptions at the end of the comment period and
7 review those for next steps to work on deliverables from
8 these consultation topics.

9 I do want to point out, we have a slightly
10 different consultation comment deadline for the topic we
11 discussed yesterday. And I want to inform everybody in
12 the room. Largely in response to the request made
13 yesterday in the previous discussions, we understand the
14 time sensitive nature of the Class II Grandfathering
15 Sunset Provision discussions.

16 And so we are going to close the deadline for
17 those comments on May 31st. And so May 31st, we will
18 send -- this will be available on our website. And we
19 will send notices out.

20 But we are very, very interested in getting a
21 discussion draft on that topic out as quickly as
22 possible.

23 And so, again, Grandfathering Class II Sunset
24 Provisions Consultations, our deadline will be for
25 May 31st.

1 But that does not apply to the consultation
2 topics we are going to discuss today. There's a reason
3 we kind of segmented that topic out on a slightly
4 different time track than these other topics.

5 So those are some opening ground rules, for
6 lack of better word. We will move forward now with
7 introductions. We have quite a few members of our NIGC
8 Team here today. And that's by design.

9 We always try to be as responsive to our
10 partners as possible and be available for working
11 through issues. But, in addition to our day-to-day work
12 with our partners, a lot of us are here for trainings
13 that are part of NIGA's agenda.

14 So I'll turn it over first to our General
15 Counsel. And if we could just go around the room and
16 introduce ourselves so that we can all get to know each
17 other a little bit better and benefit from each other's
18 questions and comments.

19 MICHAEL HOENIG: Good morning everybody. My
20 name is Michael Hoenig. I am General Counsel for NIGC.

21 TRAVIS WALDO: Good morning. Travis Waldo,
22 Director of Technology.

23 YVONNE LEE: Good morning. I am Yvonne Lee,
24 Director of Finance of National Indian Gaming
25 Commission.

1 STEVE BREWER: Good morning. Steve Brewer,
2 Training Manager from National Indian Gaming Commission.

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

5 JANE ZERBI: Good morning. Jane Zerbi,
6 attorney, representing the United Auburn Indian
7 Community, the Pala Band of Mission Indians and the
8 Jackson Band of Miwuk Indians.

9 ED MACHADO: Good morning. I'm Ed Machado,
10 Chairman of the Tribal Gaming Agency for United Auburn
11 Indian Community.

12 EDWINA BUTLER WOLFE: Good morning. I'm
13 Edwina Butler Wolfe, Governor of the Absentee Shawnee
14 Tribe of Shawnee, Oklahoma.

15 KELLY SWITCH: Good morning. My name is
16 Kelly Switch with the Absentee Shawnee Tribe as Deputy
17 Commissioner and member of the Absentee Shawnee Tribe.

18 JANICE SULLIVAN: Good morning everyone. I'm
19 Jan Sullivan. I'm the Executive Director of the Cabazon
20 Band of Mission Indians.

21 DAVE KERR: Good morning. Dave Kerr from
22 Sycuan Gaming Commission, Regulations Supervisor.

23 JASON MARTINEZ: Good morning. My name is
24 Jason Martinez. Regulation Inspector of Sycuan Band of
25 Camanche.

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

3 NANCY GREEN: Good morning. Nancy Green with
4 Green Law Firm, here on behalf of Senequot Bay Nation.

5 JAROD EASTERLING: Jarod Easterling, attorney
6 with Green Law Firm.

7 ELIZABETH HOMER. Elizabeth Homer. I am
8 principal attorney for Charter.

9 BARBARA COLLIER: Good morning again, Barbara
10 Collier, the Executive Director of the Quapaw Tribal
11 Gaming Agency, Quapaw Tribal member from Oklahoma.

12 GRANTHUM STEVENS: Granthum Stevens, Colorado
13 River Indian Tribes, Tribal Counsel Member.

14 ERIC HAGER: Good morning. Eric Hager.
15 Tohono O'odhom Nation. Lead counsel, Casino Operations.

16 Ed MAZZETTI: Ed Mazzetti Gaming Commissioner
17 Rincon Gaming. And I'm also Tribal member.

18 PETER LARSON: Tribal attorney for Rincon
19 Gaming.

20 JOHN ROBERTS: John Roberts, Chairman of
21 Mashpee Wampanoag Tribal Gaming Commission in Mashpee,
22 Massachusetts.

23 KATHERINE OGAS: Good morning. Katherine
24 Ogas, here from Lytton Rancheria, California.

25 SAVANA SAUBEL: Savana Saubel, Agua Calliente

1 Band, Gaming Commissioner.

2 KARL SLAGLEY: Karl Slagley, Agua Calliente
3 Band, Senior Director of Tribal Gaming Commission.

4 PHILLIP OROSCO: Phil Orosco. Agua Calliente
5 Band, Senior Director of Compliance. Tribal Gaming
6 Commission.

7 JOHN TORO: John Toro, Agua Calliente Band,
8 Vice Chairperson. Tribal Gaming Commission.

9 LAEL ECHO-HAWK: Good morning. Lel Echo-Hawk,
10 Seminole of Florida. Tribal Attorney.

11 SHAWN ARAGON: Good morning Shawn Aragon, from
12 Economic Commissioner.

13 KEVEN WATSON: Director of Technical Services
14 from Video Gaming Services.

15 GARY LOEBIG: Gary LOEBIG. Video.

16 PHIL SHERWOOD: Phil Sherwood. Video King.

17 SHAWNA GRAY: Good morning Shawna Gray,
18 Tribal.

19 JIM RYAN: Good morning. Jim Ryan, CEO of
20 Pala Interactive.

21 TOM CUNNINGHAM: Tom Cunningham.

22 BADGER AUSTIN: Badger Austin.

23 TRACI SANTILLANES: Tracy Santillanes, Audit
24 Manager, NIGC. And member of (inaudible) tribes Fort
25 Idaho.

1 JOSH BENEFIL: Josh Benefil, Auditor with
2 NIGC.

3 STEFFANI COCHRAN: Good morning. My name is
4 STEFFANI Cochran, chair person for Gaming Commission.

5 ERIC SCHLANASKY: Region Director, NIGC.

6 CHRISTINA THOMAS: Christina Thomas member of
7 (inaudible).

8 SHANNON O'LOUGHLIN: My name is Shannon
9 O'Loughlin. I am Chief of staff, Gaming Commission,
10 Oklahoma.

11 JONODEV CHAUDHURI: Did we miss any?

12 Okay. We already thanked former Vice Chair
13 Liz Homer, as well as former Counsel, Laurel Echo-Hawk
14 for their past service. I see another alumnus. Thank
15 you for past service at NIGC and continued service.

16 So we will go ahead and jump into it. Again,
17 Creek as well as a descendant from India. I am very
18 honored to be here. We will go ahead and get started
19 with our subject matter experts. We will start off
20 with -- let's see. Shannon O'Loughlin:

21 SHANNON O'LOUGHLIN: Good morning everyone.
22 Everyone is so excited. I can feel it. I wanted to
23 just let you all know that what we are doing here as
24 subject matter experts is we are reading from scripts so
25 that we are consistent in all of our consultations so

1 that we are giving consistent information to everyone.

2 But at the end of each script, we will open it
3 up for discussion and questions. So let's get started
4 here. So I'm talking about today our Rural Outreach
5 Initiative.

6 NIGC would like to consult with you on our
7 Rural Outreach Initiative. We are looking for feedback
8 on how we can do a better job with our training and
9 technical assistance for smaller and rural tribes, as
10 well as asking if you have any feedback that will inform
11 the commission if there are regulatory burdens for
12 smaller rural tribes that may need some tweaking.

13 We all know in Indian country that most of our
14 Tribal lands are in rural areas. Reaching out to
15 smaller gaming operations that may not be situated near
16 a strong market is an important initiative of the
17 agency.

18 The NIGC recognizes a likely correlation
19 between proximity to large population centers and the
20 viability of economic opportunities for tribes.
21 Therefore, NIGC appreciates that its functions will
22 likely benefit from a greater understanding of the
23 unique needs of smaller operations.

24 NIGC has historically taken into account the
25 needs and capabilities of smaller gaming operations

1 through its regulations.

2 For instance, NIGC regulations for minimum
3 internal control standards and accounting requirements
4 differ between Tier A facilities that earn less than \$8
5 million; Tier B facilities that earn between \$8- and \$15
6 million; and Tier C facilities that earn over \$15
7 million.

8 And we know from annual gross gaming revenue
9 that the majority of tribal gaming operations throughout
10 the gaming country are smaller facilities with lower
11 gross gaming revenue.

12 Many small rural gaming operations provide
13 their communities with much-needed jobs but may earn
14 little net revenue to support the tribal government
15 services.

16 The Commission has a responsibility to review
17 the regulations to ensure that compliance is reasonable
18 and achievable for all tribal operations while
19 protecting the integrity of gaming as a whole.

20 The NIGC may find through this consultation
21 and from the comments that current regulations could be
22 amended to better address the regulatory needs of
23 smaller operations.

24 In addition, the NIGC provides technical
25 assistance and training to all tribes and enforces IGRA

1 and its regulations to ensure tribes are the primary
2 beneficiary of their gaming operations.

3 Now, we are moving on to a Rapid City Region.
4 In order to better meet technical assistance and
5 training needs of small rural tribes, the Commission is
6 also considering creating an eighth region that would
7 include North Dakota, South Dakota, Wyoming and Montana.

8 These states are currently served out of the
9 St. Paul region, which is the largest administrative
10 region agency, which currently covers 9 states, 59
11 tribes, and 144 gaming operations.

12 To help address the needs of western tribes in
13 the region, in 2003, the Rapid City satellite office was
14 added to the St. Paul region to better reach the tribal
15 gaming operations of North Dakota, South Dakota, Wyoming
16 and Montana.

17 By splitting up the St. Paul and Rapid City
18 offices into separate administrative regions, the
19 St. Paul regional office would then cover only five
20 states, (Minnesota, Iowa, Wisconsin, Michigan and
21 Nebraska), 37 tribes and 95 tribal gaming operations.

22 The new Rapid City regional office would cover
23 four states, (Montana, Wyoming, North Dakota and South
24 Dakota), 22 tribes, and 45 tribal gaming operations.

25 This split will not take away resources or budget from

1 any region and only split the resources between the
2 St. Paul and Rapid City offices as appropriate.

3 The NIGC would like to hear any questions or
4 feedback and asks specifically for your discussion and
5 comments about:

6 1. Whether regulatory revisions are needed
7 that protect tribal gaming revenue, integrity of Indian
8 gaming, while not burdening smaller operations.

9 2: Whether NIGC should adjust the way it does
10 business with training, technical assistance and
11 compliance efforts to provide better assistance where
12 needed.

13 And, finally, number 3: Whether the NIGC
14 should create an eighth region to provide a stronger
15 connection to Tribes located in North and South Dakota,
16 Montana and Wyoming.

17 We are ready for your comments.

18 JONODEV CHAUDHURI: So we will move forward
19 with questions and comments. I, again, want to restate
20 that all comments today are transcribed. So when you
21 introduce yourself, please restate your name.

22 And if you have a name like mine that has a
23 lot of syllables in it, please feel free to spell your
24 name for the transcriptions, as well as let us know who
25 you're representing and what your position is.

1 So we welcome comments, input. Let's open the
2 floor. Ms. Collier. And, again, I would like to thank.
3 Mr. Schalansky for all the exercise he's getting today.

4 BARBARA COLLIER. First off, as we all know,
5 we look at budgets. So we would be concerned, I guess,
6 as to what this would cost. That would initially make
7 our need for NIGC increased.

8 And, secondly, though, I think it's a
9 wonderful idea if it's within the budget and reason, I
10 would encourage you to -- I think you made the comment
11 about Oklahoma, one of you young ladies. And you're all
12 very young ladies. OTGRA, Oklahoma Tribal Gaming
13 Regulators, was started back off-and-on back in 2005 and
14 2006. I would encourage you, and I don't know how many
15 other states -- Arizona, of course, I think has a large
16 one, as well as California, but I am not sure about
17 anyone else in their regions.

18 But Oklahoma Tribal gaming regulators was part
19 of the reason to begin to start that was for training
20 and professional and quality training within Oklahoma or
21 within the Oklahoma area to help rural tribes because
22 there are the most rural tribes there.

23 So that was part of the reason to even begin
24 the Regulators Association to share in training and
25 expertise. So I would encourage you to try -- I don't

1 know if they ask you to volunteer. I know there's some
2 now lately. I know Tom has been there a few times to do
3 training. But training that you all have respectfully
4 for auditing and contract writing and preparation and
5 things like that, if you would offer up something like
6 that to the hierarchy of those types of organizations
7 where you could kind of like you do with ATGCR and NIGA
8 and things like that, maybe either come in and do
9 training at that level for conferences or else piggy
10 back that so that you would share it with more.

11 We have 35 gaming tribes in Oklahoma alone.
12 And most of them are rural. So we do get a lot of
13 things done within our organization that wasn't being
14 done otherwise.

15 JONODEV CHAUDHURI: Excellent comment. Love
16 to hear from Shannon and Christina. But we also have
17 Mr. Steve Brewer here, who is our Training Manager. And
18 he works very, very hard to build those relationships,
19 both with specific Tribal nations, but organizations,
20 you know.

21 Steve, do you want to talk about it?

22 STEVE BREWER: Sure. Speaking of OTRA, we
23 have within the last two years, we will be there at the
24 end of April this year to provide four training, two
25 audit specific related courses, one new workshop will be

1 created. So we are always looking for reaching out and
2 partnering with agencies and associations like OTGRA,
3 NTGCR.

4 MS. COLLIER: Thank you. I did not attend, I
5 don't think, the last conference. But there was another
6 individual in your position that I had contact with.
7 And that's great. I did see your name on the agenda.
8 But early on, when we began, it was few and far between.

9 So, as a matter of fact, on one occasion, I
10 asked for an auditor to come and train a new person that
11 I had. And there just was not anyone available at that
12 time. So this was many years ago. So I'm glad it is
13 improving.

14 And thank you for your efforts to do that. We
15 really appreciate that. It was really makes my heart
16 happy to know that you're doing those things. I
17 appreciate it.

18 JONODEV CHAUDHURI: That is an excellent
19 point, though, Ms. Collier. We really want to make the
20 trainings meaningful to the communities that we serve.
21 And so beyond today, if there is any specific input, you
22 may have regarding content, please let us know. We want
23 our trainings to be specifically crafted to meet the
24 needs of our regulatory partners. Shannon and
25 Christina.

1 SHANNON O'LOUGHLIN: Interestingly enough,
2 Ms. Collier, Steve is going to be talking about a strong
3 workforce and is going to be talking about some of our
4 training programs that we are implementing and what we
5 are looking at. So we will be talking about that a
6 little more shortly.

7 BARBARA COLLIER: I'll be looking forward to
8 it. Thank you.

9 JONODEV CHAUDHURI: Thank you, Ms. O'Loughlin.
10 One last thing to Ms. Collier's point about budget. We
11 have taken a look at some of the costs involved. I
12 think it will be minimal.

13 Christina, do you want to speak to that a
14 little bit more?

15 CHRISTINA THOMAS. Currently, we already have
16 space in Rapid City where we are proposing to make the
17 regional office. So we won't have an increased expense
18 by turning it into a regional office versus having that
19 that satellite office.

20 JONODEV CHAUDHURI: Thank you, Ms. Thomas.
21 And happy birthday to Christina Thomas. Today is her
22 birthday and she's celebrating with us.

23 Thank you, Ms. Collier. Any other questions
24 or comments? Ms. Chochran?

25 STEFFANI CHOCHRAN: Are you also anticipating

1 creating another director for it and additional
2 personnel? Are you talking about increasing personnel
3 would Minnesota oversee Rapid City in terms of
4 hierarchy?

5 SHANNON O'LOUGHLIN: Thank you, Ms. Cochran.
6 We have staffed up over the last year. So we have a
7 strong set of compliance officers in our St. Paul and
8 Rapid City Region offices.

9 We are also looking to elevate internally for
10 Regional Director position. So we are not necessarily
11 looking to expand. The first thing we want to do is be
12 fiscally responsible and make sure that we work with
13 what we have and see if there is still a need.

14 So that would be our first set of -- that
15 would be the first thing we do. And then we will see if
16 we need to expand the Rapid City office. Thank you.

17 JONODEV CHAUDHURI: Thank you for the
18 questions. Any additional comments on rural outreach?

19 SEQUOYA SIMERMEYER: We appreciate the
20 comment, not just about the specific comment related to
21 Oklahoma regional approach, but also there might be --
22 the first part of the discussion supposed to keep in
23 mind thoughts about this what might be unique needs that
24 exist in gaming operations.

25 I believe we had a discussion in Oklahoma.

1 Some of the things that might be different in another
2 even more densely populated area. But in hearing what
3 people's views are on that. Generally speaking. Rules
4 that the operation might play in the communities.
5 Infrastructure. Work force or anything else. That is
6 useful information for us.

7 JONODEV CHAUDHURI: That is an excellent
8 point. Let me add to that. These consultations are
9 really designed to truly be engaging. We want to know
10 what we don't know. We want to learn more about what we
11 don't know.

12 Let me give a good example. We have our first
13 Director of the Technology Division, Mr. Travis Waldo
14 here. One of the factors in the creation of that
15 Technology Division, and it was an important factor, was
16 a comment that was made in a tribal meeting, such as
17 this, in San Diego -- I think it was in San Diego
18 actually, it was in California. But there was a comment
19 made by one regulator, saying, "We actually don't have
20 the capacity to have, you know, a fully staffed I.T.
21 office. So as a matter of necessity, we have to rely on
22 our vendors to perform a lot of I.T. work for us."

23 And the question was, what can NIGC do to help
24 in those situation. Well, it's neither our statutory
25 charge, nor a realistic possibility, that we can perform

1 I.T. services for every tribal nation that we serve.

2 But there are things that we can do. From
3 that, Mr. Waldo helped developed I.T. vulnerability
4 assessments. And those I.T. vulnerability assessments
5 helped form the foundation of discussions that led to
6 the Technology Division being developed.

7 And that was all from a comment received in a
8 room such as this. So I really want to echo
9 Commissioner Simermeyer's statement about really hearing
10 about anything and everything we can do to -- whether
11 it's on the operational side of things or the regulatory
12 side of things -- serve rural communities better. So we
13 have some ideas. But we really want to hear the ideas
14 from our partners.

15 So any additional comments or concerns before
16 we move on to -- Yes, Ms. Homer.

17 ELIZABETH HOMER: You guys just gave me an
18 idea, and I wanted to share it with you. Have you
19 considered incorporating into your training program some
20 cross-training so that maybe tribes -- you all could be
21 doing some of the technical training, but tribes could
22 be providing an NIGC personnel training about Tribal
23 Governments, about how they go about regulating on a
24 day-to-day basis, those types of things. So it's a
25 two-way system that benefits both the NIGC and the

1 Tribal regulatory arena.

2 JONODEV CHAUDHURI: I think that's an
3 excellent point. We do have Strong Work Force
4 discussions coming up in a bit. And those incorporate
5 quite a bit of training discussions.

6 So far, we have been doing our best to recruit
7 and retain some of the best and brightest from Indian
8 country. So we are very proud of some of the newest
9 members of our team coming from regulatory bodies in
10 Indian country. So we are trying to cross-pollinate the
11 best we can. The idea of cross-training -- I am not
12 much for cross-fit. It's catching on like wild fire.
13 But cross-training is very, very important. So thank
14 you for that. Ms. Collier?

15 BARBARA COLLIER: I can't imagine the topic
16 that was brought up before with all the states that were
17 covered in the new area that you're maybe, possibly,
18 trying to expand on because Oklahoma's tribes are all
19 compacted right there together.

20 But I appreciate the fact that Travis does
21 know about rural Oklahoma. He's from there and knows
22 all about that. So technical assistance is one of the
23 big issues with OTGRA with coming in and I.T. and all of
24 those things, which he's already aware of that I'm sure.

25 But those kinds of things are the things that,

1 typically, are troublesome to smaller tribes. Not all
2 the tribes in Oklahoma have enough revenue to support
3 those kinds of things. I have one I.T. person. And I
4 am very fortunate, I feel, to have that.

5 But the smaller tribes that just have very
6 small enrollment and monetary avenues to go down don't
7 have that. So I know he's working and hope that he's
8 working diligently to help those -- and that's one of
9 the big things looking at future, whatever we have,
10 internet, not internet, back and forth, hand-helds, and
11 all of that stuff that is way beyond my wants and needs.

12 But, you know we realize, that electronics is
13 where it's going to, down every avenue. So that's a
14 very important position. I complement you for getting
15 the new office. I think it's very well needed and can
16 be very well used.

17 JONODEV CHAUDHURI: Thank you for that. It's
18 a perfect segue to Strong Work Force. But I want to
19 make sure all comments -- we will allow for all comments
20 on Rural Outreach before we move forward.

21 KELLY SWITCH: Good morning, Mr. Chairman. My
22 name is Kelly switch: That's a great idea of having
23 cross training. I know yesterday we had a discussion
24 with some individuals here in our casino, we have check
25 list about Class II, actually, how machines are done

1 with audits, and things. So I think it would be a
2 brilliant idea to do some of the cross-training to get
3 the feel of how things are ran in different casinos and
4 everything, a little bit more kind of outside of the box
5 thing. So that's how I want to bring that up here.
6 Thank you.

7 JONODEV CHAUDHURI: Thank you, sir. As a
8 decidedly amateur poker player, I've spent a significant
9 amount of time on the floor. So I have got some
10 sensitivity. But its decidedly amateur. But I think
11 it's a great idea. Thank you, sir.

12 STEVE BREWER: Can I just add something to
13 this? So we haven't done a cross-training. But we have
14 invited Tribal subject matter experts to come in for our
15 trainings. We have always opened up the door to the
16 regional directors when we are putting our agenda
17 together, to reach out to the tribes. And if they know
18 a subject matter expert from a different tribe, and they
19 are comfortable coming to speak, we have always
20 encouraged that. Because we understand that the process
21 in California might be a little bit different than
22 Oklahoma. So it's always nice to bring in that subject
23 matter expert and invite them to speak at our trainings.

24 JONODEV CHAUDHURI: Thank you for that point.

25 LIZ HOMER: When I think about cross-training,

1 I am thinking about it being bilateral. So the NIGC
2 staff is being trained and the Tribal regulators or
3 operators are being trained. So it's a back and forth,
4 both sides training one another.

5 JONODEV CHAUDHURI: And I think it's a great
6 idea. We will discuss it internally. But these things
7 can be rafted to the existing schedules they have in
8 place so it's the least burdensome on our partners. I
9 don't want to get into Steve's way. Steve knows the
10 logistics of setting up these trainings a lot better
11 than I do. But you can see portions built in for
12 cross-pollenization. It's a great idea.

13 Okay. With that -- no crime in finishing
14 early. Any other comments before moving on to the next
15 topic? Just as a housekeeping topic, we have a long
16 agenda. We are going to finish at 12:30. We can shoot
17 for a break around 10:45 or so, just a five-minute
18 stretch-your-legs break if you want.

19 But if we are moving pretty quickly, if we are
20 pretty close to the end at 10:45, we can push through.
21 But we will kind of discuss among ourselves whether we
22 want to do that.

23 But if we are proceeding as scheduled with the
24 idea of going all the way through 12:30, we will take a
25 five-minute stretch your legs break around 10:45.

1 So any other questions or comments before we
2 move on to the next section? There will be a catchall
3 discussion at end.

4 With that, we will move on to the next topic
5 of consultation, which is developing a Strong Tribal
6 Workforce Through Training. This is another one of our
7 for principal priorities at the agency. We have our
8 Training Manager, Mr. Steve Brewer.

9 STEVE BREWER: Good morning. Again, I am
10 Steve Brewer, Training Manager with NIGC. A strong
11 workforce is essential to the success of any business.
12 The NIGC believes that our best asset is our employees
13 and recognizes this is also the case with gaming
14 operations.

15 With this in mind, the commission has
16 prioritized supporting a strong work force, both within
17 NIGC and among our tribal regulatory partners, as one of
18 its four initiatives.

19 In order to foster a strong Tribal work force,
20 the NIGC seeks to enhance our external training program
21 and ensure that it continues to meet the needs and
22 demands of the industry.

23 To that end, we take this opportunity to
24 update you on the direction and commitment of our
25 training program and to consult with you about how we

1 can deliver a better training program to meet the needs
2 of our Tribal Regulatory Partners.

3 As some background, the NIGC offers three
4 types of events: The Regional Training Conferences,
5 which are derived from our training catalog and are
6 based on the needs of the region where training is
7 occurring; our Regulatory Gaming Technology is geared
8 toward providing both an understanding of a variety of
9 technologies on a casino floor; and strategies on how to
10 effectively regulate and understand such technology.

11 The RGT training for 2017 has been suspended
12 to allow time to revamp the training to make sure new
13 technologies are included. We anticipate that a new RGT
14 course will resume 2018.

15 And, finally, Site Specific Training are
16 trainings requested by a tribe to meet the individual
17 needs of its Tribal Government, Gaming Commission,
18 Regulators and Operators.

19 The NIGC has developed some assessment tools
20 that tribes can request at no cost. As Jonodev spoke
21 about earlier, the first assessment opportunity is
22 Information Technology Vulnerability Assessment or ITVA.
23 The ITVA is performed by NIGC I.T. Auditors who complete
24 a vulnerability assessment of a facility's I.T. system
25 to identify potential security threats.

1 The second type of assessment is an Internal
2 Control Assessment, or an ICA, performed by our Audit
3 staff. This can be a comprehensive review of a tribal
4 gaming facility's entire system of internal controls, or
5 a specific review, such as internal audit, and or drop
6 and count.

7 Based on the findings identified in either a
8 completed ITVA or ICA, the training program can then
9 develop training specific for that tribe.

10 All NIGC training is developed to support our
11 tribal customers. The training request process is used
12 to shape and deliver training courses and programs that
13 are uniquely tailored to each organization based on
14 their specific needs and requests.

15 Apparently, the Training Program is revamping
16 and revising all of our training offerings.

17 The NIGC is committed to craft trainings and
18 are carefully targeted to meet the evolving needs of our
19 regulatory partners, and address high priority matters
20 critical to safeguarding the Indian Gaming Industry.

21 In this manner, the NIGC training program is
22 in the process of revising the instructor-led training
23 courses to provide more interactive and hands-on
24 experiences.

25 As a commitment to the value we put on

1 training, we have recently brought in additional staff
2 to help develop our training platform and assist with
3 incorporating new methods of training.

4 Additionally, we will utilize more technology
5 in our trainings offerings. We are working towards
6 offering online on-demand training to allow for live
7 video conferencing events.

8 With the kickoff of our current training year,
9 the NIGC has included new training opportunities,
10 including a 12-hour comprehensive training for Internal
11 Audit; a 12-hour hands-on workshop for Development of
12 Tribal Internal Controls and System Internal Controls; a
13 new Gamesmanship 2.0, helping regulatory detect
14 gamesmanship, and a new IT training relating to the
15 auditing of Class II control standards in relation to
16 543.20.

17 Each training is designed to be interactive
18 and take a hands-on approach. And we are in the process
19 of revising our full training catalog to reflect these
20 new training opportunities.

21 In 2016, the NIGC instituted Knowledge Reviews
22 in certain audit courses. The intent of the Knowledge
23 Reviews is to review the effectiveness of our training.

24 The testing is performed at two points: first,
25 upon completion of a training class to understand what

1 the student learned; and, second, another test is
2 performed 90 days later to see if the student retained
3 the information.

4 For 2017, the NIGC is expanding the Knowledge
5 Reviews for all courses offered by the NIGC. The NIGC
6 is interested in learning from you about:

7 What our training program can do to meet the
8 needs of your operations.

9 What additional type of trainings or events
10 you would like to see.

11 What more can our training program do to help
12 Tribes stay abreast of emerging trends in Indian
13 Gaming, including technological developments, such
14 as online and on-demand training, smart phone or
15 table apps or other technology?

16 Or do you have any other questions or concerns
17 you would like to share? We look forward to
18 hearing your input and questions.

19 JONODEV CHAUDHURI: And Thank you, Steve. So
20 just as a matter of process, there were some very
21 helpful comments made regarding training and workforce
22 development, the previous topic.

23 We are not going to put blinders on when we
24 review the comments. We will incorporate those comments
25 into our discussions on the training side as well.

1 So we will open up for questions and comments.

2 Thank you, Steve.

3 ED MACHADO: Ed Machado: Rincon Gaming. My
4 question is about skill based sports. Are you guys
5 planning on any kind of training like that? Because we
6 are going to skill based. As a matter of fact, we are
7 having live demonstration now and will be on the floor
8 on the 17th.

9 Are you going to do any type of training or
10 anything like that?

11 JONODEV CHAUDHURI: So, Steve, I know we do a
12 lot of regional trainings, a lot of topic based
13 training. But we do a lot of site specific tribally
14 requested trainings as well.

15 Do you want to speak a little more to that,
16 Steve?

17 STEVE BREWER: That's exactly where I was
18 going to go. So with something like skill-based or
19 gaming as far as gaming machines are going, we have
20 don't have a current training program for that specific
21 area.

22 We do have the gaming machines training
23 trainings and Bingo training. But we can always ask you
24 to submit a site specific training requested where you
25 can tell us what you want. And then we can determine

1 whether or not we can fill those needs. And we come in
2 and train specifically on what it is you're asking for.
3 Probably, one of the things that we are really proud of
4 is with our site specific training is we can really get
5 to the level of what it is that the Tribal operations
6 are doing. So we can tailor that training specific to
7 the need, as opposed to regional trainings where it's
8 going to be kind of broad based to incorporate all this
9 training for everybody, we can drill down to that
10 specific training.

11 ED MACHADO: The thing is a skill-based
12 gaming, it's here. These sportsmanship -- as a matter
13 of fact, I believe it's (inaudible) has a complete floor
14 just for that. I think they are planning on being live
15 by, I believe, it's 2018, a whole floor dedicated. MGM
16 already has it.

17 And I'm sure that there's going to be a Tribal
18 Operations that are going to start. I'm looking into
19 that. Trainings for that may be headed that way.

20 JONODEV CHAUDHURI: Well, I think it's an
21 excellent question that is kind of is interwoven with
22 some other policy matters that we talk about frequently
23 internally.

24 Our regulations are, of course, tailored,
25 mandated by IGRA. And so our regulations kind of

1 implement the authorities and requirements of IGRA.

2 And so day-to-day regulation on some of those
3 activities is something that we are discussing in the
4 broader conversation above and beyond training in terms
5 of how some of these platforms that are being developed
6 impact our ongoing responsibilities as an agency.

7 So we would welcome any thoughts about
8 regional trainings or larger trainings that might help
9 inform best practices in the industry.

10 But it would be something we would have to
11 discuss in conjunction with Steve's, you know,
12 curriculum right now.

13 But if you have specifics about trainings that
14 you think that would be helpful across the board for
15 fellow regulators who understand that a number of
16 communities are considering skill-based games, and on a
17 day-to-day basis through our technical assistance
18 functions we -- so we are always hesitant to really kind
19 of get into the broad discussions about those approaches
20 because the platforms that are in use are very dependent
21 on specific technologies that, really, the nature of the
22 platform kind of dictates what our role is.

23 And so separate and apart from trainings, our
24 office of general counsel's phones are always open to
25 work through any questions that a given community may

1 have about how a given game or a given platform fits
2 into our regulatory activity.

3 So I'm a little hesitant to say we are going
4 to do trainings on every potential platform out there
5 because some platforms, frankly, are outside of our
6 scope as an agency.

7 But given the nature of the question, I do
8 want to make a point that, in addition to trainings,
9 OGC -- and Mike is looking at me like don't throw it in
10 my lap.

11 But our Office of General Counsel is always
12 open if folks have a questions about a specific -- maybe
13 they have been approached by a vendor with an idea for a
14 certain game, and they want to know, is this Class III?
15 Is this Class II.

16 Those are very important questions. And we
17 would much rather prefer to work with a given nation on
18 the front and look at the actual platform that is being
19 presented and work through any potential regulatory
20 issues and be of service to that nation.

21 Because we know communities invest a lot of
22 money in moving forward with those platforms. And some
23 are good and some are bad out there. And much rather
24 work on the technical assistance side of things to
25 provide guidance and feedback early and often.

1 Mike, I don't know if you want to add to that.

2 MIKE HOENIG: Sure. I'll just say that I know
3 what the up and coming games are skill based. I know
4 the east port is huge. From what I've been reading
5 about it, it's definitely a major industry.

6 So I think we are looking at these at the same
7 time a lot of folks in the industry are looking at them.
8 But, yes, if you do have any specific questions about
9 these games, about classifications or anything like
10 that, how they fall into the general scope of IGRA or
11 regulations, feel free to reach out to the Office of
12 General Counsel.

13 In fact, I'll point out that Austin Badger
14 over here is the California Region Attorney. So he's a
15 good point of contact for Office of General Counsel for
16 any questions you may have about that.

17 I think as the agency kind of figures out
18 about these games, I'm sure that training is, as we kind
19 of learn about the training and things like that, would
20 be part of our, something that we are out there
21 regulating, it would make sense to provide training on
22 that just as anything else we regulate.

23 JONODEV CHAUDHURI: One last point I want to
24 add to that. Again, back to the idea of not painting
25 some of these emerging technologies with a broad stroke.

1 That is one of the reasons we developed the Technology
2 Division. OGC, as well as Training, works closely with
3 Travis and his team to evaluate these games, both for
4 training purposes, as well as for technical assistance
5 service purposes.

6 So I always refrain from saying, "Oh, we are
7 going to give trainings on skill-based gaming or we are
8 going to give trainings on -- all of these are very
9 dependent on the guts of the games that are presented.
10 You have to look at the guts to be able to weigh in on
11 what they mean for classification purposes or what they
12 mean for other regulation purposes.

13 So, bottom line, we are very sensitive to the
14 interests the Tribal nations have in investing in
15 emerging technologies. But we want to take a very
16 measured approach in working with our partners in
17 evaluating those games early and often and be as much
18 service to you.

19 So I would much rather us approach those
20 things through our technical assistance functions that
21 can really get into the guts in a little bit more detail
22 rather than addressing things in broad generalities.

23 But excellent, excellent question. And this
24 speaks to a lot of kind of broader issues that as we try
25 to keep an eye on things coming down the pike and

1 looking over the horizon to see what types of emerging
2 technologies there are, we do want to be aware of, you
3 know, the economic development investments that Tribal
4 nations are making. And thank you so much for that,
5 sir.

6 Anything anybody else wants to add to that?
7 Excellent, question. Excellent, excellent question.

8 So additional questions, comments, regarding
9 Developing a Strong Workforce? You know, some of these,
10 I know we have broad consultation topics. Some of them
11 are very specific in their regulatory nature, and some
12 of them are a little more general.

13 But the idea is we want to hear about maybe
14 things that we should be thinking of but we aren't. The
15 last question is a perfect in that regard.

16 But all of this goes to our general approach
17 of really listening before we do anything major so we
18 are not locked into the idea that it just has to be a
19 regulatory tweak that we consult on. If there are major
20 directional issues that we are considering, we want to
21 hear from Indian country.

22 So with that, any questions or comments before
23 we move on to our next topic? And, again, we are going
24 to have a catchall session at the end.

25 Okay. So before we move on to the next one, I

1 just want to move on to the point I just made. The next
2 topic is procedural in nature. We do want to hear about
3 regulatory tweaks that may be recommended.

4 But this is a good example of our consultation
5 approach. As a matter of administered activity, the way
6 we process management agreements, I think it is designed
7 to try and get things done as quickly as possible.

8 But we know the financial impact on Tribal
9 Gaming Operations that management agreements have, and
10 that the process, itself, in improving management
11 agreements also has a financial impact.

12 That's why we welcome comments, not just on
13 the regulation side of things -- or the regulatory side
14 of things. When I say "regulation," I'm talking about
15 C.F.R. regulations. But we also want to hear input on
16 our process. Many of the people in this room have
17 worked on the management agreement approval process with
18 us and do welcome those thoughts and concerns. But to
19 give background on that, we have our Director of
20 Finance, Ms. Yvonne Lee, who is going to give us a lot
21 more background information. We will move forward with
22 that consultation topic now.

23 YVONNE LEE: Good morning. One of our primary
24 initiatives at NIGC is to protect against anything that
25 amounts to gamesmanship on the backs of tribes.

1 Gamesmanship is a broad term for any third-party threats
2 to tribal assets or operations.

3 It includes third-party interference with a
4 tribe's sole propriety interests in its gaming
5 operations. Many gamesmanship violations may occur when
6 a third-party vendor or services provider is managing
7 some aspect of the gaming operation without an approved
8 management contract, or where a management contractor is
9 operating outside of an approved management contract.

10 Thus, approval of management contracts by the
11 NIGC Chair is required by IGRA as a means of protecting
12 the tribe against gamesmanship. The Chair has a
13 fiduciary responsibility to tribes to ensure that they
14 remain the primary beneficiary of their gaming
15 operations.

16 The Management contract and backgrounding
17 process should protect against gamesmanship -- but the
18 process should also not stymie the entrepreneurial
19 spirit of Tribes.

20 With this in mind, the Commission is seeking
21 feedback and recommendations on whether changes are
22 needed to the management contract and background
23 investigation regulations. Specifically, we want input
24 that may improve our efficiency in the management
25 contract review process, but also continue to protect

1 Tribes' sole proprietary interests in their gaming
2 activities.

3 To provide some context to this consultation,
4 I'll briefly summarize the current approval process.
5 Then, we will open the floor to questions and
6 suggestions.

7 A manager contract is any contract,
8 subcontract, or collateral agreement between an Indian
9 Tribe and a contractor or between a contractor and a
10 subcontractor that provides for the management of all or
11 part of the gaming operation.

12 Detailed requirements for a management
13 contract can be found on our website. To commence the
14 review and approval process, submitters must submit a
15 management contract and all relevant documents in
16 accordance with 25 CFR Parts 531 and 533 to NIGC.

17 The Chairman must also make a determination that
18 the manager is suitable to manage the gaming operation.
19 The background investigation process is an important
20 component of the submission. Background information
21 must be submitted for all persons and entities that have
22 a financial interest in, or management responsibility
23 for the management contract, as identified in 25 CFR
24 PART 537.

25 Once a contract is submitted to the NIGC, they

1 are processed and reviewed based on the order received.
2 We've distributed three handouts to help you understand
3 our review process.

4 The first handout is the process flow chart.
5 The second and third handouts are the NIGC checklists
6 for management contract review and background
7 investigation.

8 You can also print the checklists from the
9 NIGC's website. As you can see on the flow chart, which
10 illustrates the process flow of management contract
11 review, once the submission is received, it will
12 immediately be distributed to all staff involved to
13 start the review process.

14 We will first send out a submission letter to
15 inform the parties if there are any information and/or
16 documents still missing. Then, the staff in both the
17 Division of Finance and the Office of General Counsel
18 will conduct the review for their respective area as
19 outlined on the flow chart.

20 During the review process, there will be
21 internal discussions and meetings among the NIGC staff
22 to coordinate the review and monitor the status. After
23 the review is completed, we will send out an issues
24 letter to notify the parties if there are any issues
25 with the management contract.

1 In addition, the NIGC staff will work with the
2 parties to help them understand the issues, if
3 necessary. Please bear in mind that sometimes it might
4 take a few rounds to resolve all issues.

5 The length of NIGC review is dependent upon
6 several factors which can include:

7 The number of prior applications received and
8 already in the review queue;

9 The completeness of each submission, the
10 responsiveness of the parties and compliance with
11 existing laws and regulations.

12 And the complexity of the submission and those
13 subject to background investigation.

14 Once all issues are cleared and the submission
15 is complete with all necessary documents, then the Chair
16 has 180 days to approve or disapprove the management
17 contract.

18 The NIGC Chair may approve a management
19 contract if it meets the standards of parts 531, 533,
20 535 or 537. If the NIGC Chair learns of any actions or
21 conditions that violate these standards, or the manager
22 deliberately or substantially fails to follow the terms
23 of the management contract or tribal gaming ordinance,
24 the Chair may disapprove a submitted contract, or void
25 the contract, or require modifications to an approved

1 contract. If submitters find the Chair's determination
2 unsatisfactory, they may appeal the decision.

3 If a Tribe wants to amend a term of an
4 existing, approved contract or simply extend the
5 original approved contract, pursuant to 25 CFR 535, it
6 must submit an amendment and relevant documents,
7 including a letter from the Tribal Chairperson, and
8 associated resolutions, as well as background
9 investigation applications.

10 For new individuals or entities, background
11 investigations are required. Individuals or entities
12 previously found suitable may also need to have their
13 background investigations updated, depending upon the
14 length of time since their last background
15 investigation.

16 We would now like to take this time to hear
17 from you. Do you have any questions about the process
18 or regulations, or any suggestions as to how NIGC can
19 improve its efficiency in processing these applications
20 and providing technical assistance? Thank you.

21 JONODEV CHAUDHURI: Thank you, Ms. Lee. As I
22 said before, I see a lot of folks in this room who have
23 worked under these management agreements. And we
24 welcome all perspectives and thoughts. And we always
25 want to do better. I think Yvonne and her team as well

1 OGC and the rest of us that have touched the process, we
2 do our best. We we are proud of the work that we have
3 done. We had the honor of visiting a new facility
4 yesterday -- was it yesterday? So much has been going
5 on -- yesterday that opened after an approval of such a
6 management agreement. We understand the important role
7 the management agreements still play for some
8 communities. And so we want to the hear feedback. We
9 will open up the floor please share comments, concerns,
10 questions.

11 I'm taking that silence on a vote of approval,
12 by the way.

13 ELIZABETH HOMER: Looking back to the, you
14 know, ancient times when I was at NIGC, the management
15 contract process has just been vexing for everybody.

16 You know, it takes a long time. And, you
17 know, some of that gamesmanship -- and I think that
18 there is a lot of gamesmanship out there -- is to
19 circumvent the process, not necessarily because the
20 actors are bad or there is some mal intent. It's just
21 to make something happen more expeditiously.

22 And so that's the big criticism about
23 management contractor fee process. There are some
24 things in here, on the chart too, that I think we have
25 had other conversations about, like the per review. We

1 really do we need per review on a management contract
2 signature still today after all of the water under that
3 bridge.

4 Now the process takes a long time. It's very
5 expensive. At E.A., it can cost you upward of \$150- to
6 \$250,000 in some cases. So it's like, you know, that's
7 a problem.

8 The background investigation fees has gone
9 from \$5,000 to \$10,000. That's a lot. The process is
10 just really expensive.

11 And when you start adding up all of these
12 things that you have to do, it's very expensive. And,
13 you know, for some of these big gaming management
14 companies, maybe that's not such a big deal. But, you
15 know, not everybody needs Harrah's or Ceasers, or that
16 kind of thing.

17 So I think by reviewing these elements, you
18 know, and looking at it, not only -- I mean, we have to
19 balance the need for integrity in the process to make
20 sure we do not allow bad people to get in control of our
21 casinos on the one hand. But, on the other hand, the
22 time and expense that is associated with the process.

23 I think if it could be -- if the cost could
24 be contained in a reasonable way and the decisions made
25 more timely, you wouldn't see so many people trying to

1 be consulting agreements or vendor contracts or having a
2 management contractor is being called by a different
3 name because the parties are eager to go forward with
4 their development.

5 So that's just my observations.

6 JONODEV CHAUDHURI: And thank you, Ms. Homer.
7 Let me just address a few things. I always try to give
8 kudos to the team wherever I can. So just kind of a
9 cor -- corollary -- If people don't catch the speech
10 impediment that I have, I can't say my "r"s.

11 Coro -- Okay. Sorry. We have to have add a
12 little levity, especially on the last day at NIGA of the
13 morning. And we will start talking about Bugs Bunny,
14 and the "Wascally Wabbit."

15 But an important corollary to the Management
16 Agreement Approval Process is the defamation letter
17 process that OGC undertakes. And so they go
18 hand-in-hand. And the time frames for turn around
19 defamation letters under our General Counsel's
20 leadership, Mike Hoenig, have greatly diminished. And I
21 really want to thank Mike for that. Because you're
22 right, Ms. Homer, a lot of the of circumvention involves
23 trying to get around Management Agreement Approval
24 Processes.

25 But we recognize that, and we say, "Hey, if

1 you have a grievance that you can send to us that are
2 important to your financing, or important to your
3 opening in other respects, and you want us to weigh in,
4 we have this defamation letter process. Please submit
5 to us early and often because once things gets executed,
6 all of a sudden you're in the compliance world. And
7 that's a different process.

8 And so I really want to tip my hat at Mike for
9 that important cor -- I'm not even going to try to say
10 it again. I don't know why I can't say that word.

11 Anyway, thank you Mike. But as to your other
12 points, Liz, about the backgrounding, we do what we can.
13 And we also recognize that in some cases, the management
14 agreements have involved people who have been
15 backgrounded very recently in other agreements or other
16 Tribal communities.

17 So we try to not reinvent the wheel where we
18 can. But part of that involves a sharing of information
19 sometimes from, you know, other agencies. And we look
20 to build relationships as much as we can.

21 So part of that is kind of practical in terms
22 of developing those relationships. And I know Yvonne's
23 team is making quite a bit of in-roads. What I'm
24 referring to is, in some cases there is information from
25 other law enforcement organizations that we try to work

1 with to speed up the process.

2 But, finally, in terms of the NEEBA side of
3 things, I, again, want to take my hat off to Mike and
4 his team, Yvonne and her team, as well as Ms. O'Loughlin
5 and Ms. Thomas. The work they have done to work on the
6 CATX, on Non Construction Management Agreements. Our
7 goal is to pursue a possible CATX for all management
8 agreements.

9 But I think we are pretty close to unveiling
10 some significant progress regarding a CATX on non
11 construction management agreements.

12 And that's all been done with an eye towards
13 the expense and time involved with the NIGRA reviews.
14 We absolutely respect and appreciate the importance of
15 environmental protection.

16 But we also recognize that tribes have their
17 own inherent environmental safeguards that they
18 implement on the ground. And we look to the true nature
19 of our Federal action when we approve these management
20 agreements. And we understand the limited nature of the
21 Federal action involved when we approve these management
22 agreements.

23 And so the progress that has been made toward
24 the CATX on non construction management agreements has
25 largely been driven by Mike and his team, Yvonne and her

1 team. And I want to thank the input that we have
2 received from Indian country to help get us there.

3 So those are all excellent points that you
4 raised, Ms. Homer, especially with regard to the
5 defamation letter parallel process that we have.

6 That's another word that's hard to pronounce.
7 I still have problems with -- this goes back to the
8 second grade. I can't address it now. Okay. But thank
9 you, Ms. Homer.

10 YVONNE LEE: Can I just say one thing? In
11 terms of the background investigation cost of \$10,000.
12 That's a deposit that is required. Often times, we
13 don't use up all that deposit, depending on the
14 complexity of the person's background.

15 JONODEV CHAUDHURI: Coro -- Thank you so much.
16 That transcript is going to be hilarious. Yes, Ms.
17 Collier.

18 BARBARA COLLIER. I do have an "R" in my name.
19 Don't do it. That's my comment. Don't do it.

20 I would be curious though -- none of you know.
21 But we had one of those a long time ago. And our
22 gamesmanship was fined \$4,000,000 by the NIGC. Did
23 you all ever get any of that?

24 JONODEV CHAUDHURI: I am sorry?

25 MS. COLLIER: Our gamesmanship back in

1 2004, was fined \$4,000,000 by the NIGC. Did you ever
2 get any of that? Was it eleven? I thought it was four.

3 JONODEV CHAUDHURI: Do you have a check for
4 us.

5 MIKE HOENIG: So our fines don't come back to
6 us, the agency. They go to the treasury. So if
7 somebody has not paid a fine, we put the United States
8 Treasury on them. We have a collection basically. I
9 can't remember the name of the act but there is an act
10 that we rely on. So we turn it over to the Department
11 of Treasury, and they then go and collect it. We have
12 had to do that a few times. So that's the way it works.

13 So I can check to see if that money ever made
14 it over. I would imagine it did. Because I know that
15 they are pretty diligent.

16 MS. COLLIER: Just curious. But if you didn't
17 get it, yeah, we'll help you.

18 MR. HOENIG: Okay. Thank you.

19 JONODEV CHAUDHURI: Thank you, Ms. Collier.
20 See, the "r"s at the end are fine.

21 Additional comments, questions on Management
22 Agreements? And thank you for those comments. So we
23 will have a catchall at the end. We will move forward.
24 It's ten o'clock. We are doing very good on time.

25 Okay. So with that, our next topic of

1 consultation involves Technical Standards for Mobile
2 Gaming Devices. And before turning it over to
3 Mr. Waldo, let me just say, we are very appreciative of
4 the comments received in Oklahoma on this topic. One of
5 those comments was, "This is helpful, but have you
6 weighed the pros and cons of something in the CFR,
7 versus just some informal guidance that can be updated
8 as necessary and updated a little bit more quickly than
9 a regulation?"

10 We are very much appreciative of those
11 comments. We are talking about those options
12 internally.

13 But I want to turn it over now to Mr. Travis
14 Waldo, our first director of the Division of Technology
15 to discuss our presentation. So take it away Travis.

16 TRAVIS WALDO: Thank you sir. The National
17 Indian Gaming Commission is considering draft language
18 to amend 25. C.F.R. 547.18, which would clarify and add
19 new technical standards for wireless gaming systems and
20 communications between mobile communication devices and
21 mobile gaming systems. These new draft regulatory
22 standards provide clear and specific definitions that
23 have not been included in the regulations previously.

24 The new standards also support security and
25 system integrity for mobile gaming operations. The

1 draft language is based on input from collaboration with
2 our tribal partners. The intent of the new draft is to
3 support the growth and innovation of mobile gaming
4 systems.

5 Portable handheld gaming devices have been
6 around for many years and are authorized in many state
7 jurisdictions. Handheld gaming devices are electronic
8 devices that allow the casino patrons to play anywhere
9 within the casino or within tribal lands, as defined by
10 the Indian Gaming Regulatory Act, such as at
11 restaurants, hotels, or other amenities. The draft
12 technical standards for mobile gaming devices will not
13 authorize internet gaming.

14 These draft technical standards only address
15 handheld mobile devices within tribal lands. The draft
16 technical standards, which can be found on our website,
17 are proposed for tribal review, comment and
18 consultation. We'll take questions now.

19 NANCY GREEN: Nancy Green. My question goes
20 to how would these proposed standards -- I'm recognizing
21 this is a draft and maybe a first effort. But how would
22 these standards apply to, say, a mobile device that is
23 somebody's cell phone, somebody's iPhone? As we all
24 recognize, technology has advanced considerably and will
25 continue to do so.

1 So, I mean, I think that if that were, at some
2 point, an option in somebody's facility, then we would
3 not want to curtail that. We would not want to prohibit
4 anything that would be beneficial to that Indian gaming
5 facility.

6 So how would these particular regulations,
7 proposed regulations, apply in that scenario?

8 TRAVIS WALDO: In a situation like that,
9 that's actually one of the reasons we are looking at
10 drafting these, is to kind of maybe spur some growth in
11 that area in that industry. The standards are best
12 practices based on integrity and to protect patrons.

13 It does not necessarily specify that you can
14 or cannot do something on specific device. Because
15 there's the option for iPads, there is options for mobil
16 devices. But ultimately the TGRA has discretionary
17 authority over what type of systems that they will allow
18 in, and if they're comfortable with those controls and
19 security.

20 And these standards just kind of specify what
21 kind of security and controls that you could have on a
22 mobile gaming system, whatever system that may be. It's
23 not designed to be restrictive in nature.

24 NANCY GREEN: Well, we are, I think, venturing
25 a little bit out of my area as far as technology goes.

1 But the way I read some of these, they would apply to
2 the device itself. As far as sports and things like
3 that, they can't be there.

4 And so, again, I feel like it would limit
5 those sorts of regulations that go to the device itself.
6 It does not contemplate something that a person owns,
7 but it is capable of interacting with the system.

8 MICHAEL HOENIG: Well, yeah. I'll just say I
9 think that it's a good point. And these are just a way
10 to kick it off. I think that's something that we need
11 to consider. And it's helpful to hear things like that
12 because I think that the reason -- Travis correct me if
13 I'm wrong. But one of the reasons we kind of ventured
14 into this is because going out into some of the
15 facilities, we hear from the TGRAs or from the
16 operations, "Is this allowed?" and "Does 547 prohibit
17 these things?" and "How do we do this?"

18 And so this was kind of a way to kind of
19 answer some of these questions and show, that, yeah,
20 there are ways that you can do this.

21 I mean, the technical standards apply to all
22 technologic aids to the Class II gaming. So all this
23 stuff is already included. I think the preamble to the
24 previous technical standards even mentions mobile
25 devices.

1 So this was kind of a way to get at these
2 things specifically and show and demonstrate that there
3 is a way to do this. And if there are things we need to
4 consider. Certainly, it was not the intent to limit or
5 try to prevent any future technology.

6 So like you're saying, I think with some of
7 these there may be -- like with closed ports and things
8 like that, and not having certain features. It may be
9 as simple as just ensuring that those things are secure,
10 and if we need to go back and look at that, even if we
11 look at this guidance or however.

12 NANCY GREEN: Thank you.

13 JONODEV CHAUDHURI: Thank you Mr. Hoenig.

14 LIZ HOMER: Okay. Just for full disclosure
15 purposes, I have no clients that are game manufacturers.
16 But I do get concerned about rule making that affects
17 the tribe, but, in fact, is affecting the industry and
18 affecting technology that, basically, the tribes are
19 purchasing or leasing or licensing, but are not
20 manufacturing that.

21 And I think that the Federal agency has to
22 proceed very cautiously about doing product standards.
23 And I was concerned about that initially with the Class
24 II 547, for all the Class II gaming systems. But I
25 think that -- And I am not making an accusation that

1 this is Mission Creek. But, I mean, be cognizant about
2 that, and be cognizant about -- you can consult with me
3 and my clients all day. But really when you start
4 affecting products, it's really only fair to include the
5 manufacturers and get their feedback and input because
6 we don't want to have unintended consequences so we are
7 putting some guy out of business, and we are not even
8 aware of that, or we are creating a monopoly somewhere.

9 And I am not saying that your proposal does
10 those things. I am just raising them as general
11 concerns, just as a principal of good governments.

12 JONODEV CHAUDHURI: Thank you, Ms. Homer.
13 Homer. This is not a broad based Class II discussion.
14 But I think it's a helpful parallel discussion.

15 Two years ago the Commission -- and this is
16 during the time that former Vice Chair Cochran was here
17 and worked hand in hand with Chair Stevens and
18 Commissioner Little and pretty large Class II overall.
19 And all that was done with an eye towards listening and
20 working with tribes regarding regulatory needs but
21 having an ear to the ground on economic impact of those,
22 you know, those 547 tweaks. And 547 was a big part of
23 that, as we know.

24 Right now, we are working toward refining some
25 provisions of that. And that what what's yesterday's

1 consultation was for. We have a number of ways we
2 receive input from industry. But for purposes of today,
3 this is a nation-to-nation consultation. That is where
4 our primary trust responsibility lies.

5 So we welcome and always encourage feedback
6 from Tribal nations on the governmental side and the
7 operational side of our regulations and our regulatory
8 approach.

9 But, certainly, we are sensitive to industry
10 concerns, and we have a number of ways that we hear from
11 industry. And so excellent point. But we don't have a
12 blind eye by any means, or we don't turn a blind eye by
13 my means to impact on industry.

14 But I wanted to again bring this back to the
15 scope of today's consultation.

16 SEQUOYA SIMERMEYER: I appreciate those
17 comments. Aside from the specific area of the security
18 issues, that tribes have input from (inaudible).
19 Present with another opportunity to have this section
20 down the road about the process and how we assess and
21 integrate this feedback. I understand your point about
22 moving forward, having a clear perspective about the
23 impact that it would have. We want to approach
24 guidance, not having the same rule making process might
25 have. But also just in terms of having a perspective in

1 terms of, as Liz said earlier, how do we know what the
2 overall impact is in other areas.

3 How do we know what the overall impact is. To
4 make sure that are regulations are sticking to our
5 responsibilities and not become a burden to the business
6 and not allowing a monopoly to take place.

7 JONODEV CHAUDHURI: Thank you.

8 JAN SULLIVAN: Hello, Jan Sullivan. When is
9 he deadline for comments?

10 JONODEV CHAUDHURI: As I mentioned earlier, I
11 believe we are looking at the end of July -- I am sorry.
12 July 1st. July 1st for these comments. So at the end
13 of June, July 1st. I'm a little bit off this morning.
14 Cor-ro-larry. Additional comments? Concerns.

15 Okay. With that, we are doing great on time.
16 It's 10:11. I think we will just push through without a
17 break.

18 The next topic really speaks to good
19 governments. We are very excited about the potential
20 for this minor important tweak to be made to our
21 regulations and it involves the timing to receive fees.
22 Ms. Yvonne Lee will go into details. But we are excited
23 about this. Yvonne, take it away.

24 YVONNE LEE: The Commission is considering
25 amending the language to 25 C.F.R. Part 514. Under the

1 current regulation, the Commission announces a
2 preliminary fee rate on March 1st, and a final fee rate
3 three months later on June 1st.

4 The proposed regulation will require the NIGC
5 to set the fee rate only one time per year to be
6 announced on November 1st. The proposed changes on the
7 fee rate publication date will also apply to the
8 fingerprint processing fee rate.

9 These are the proposed 514.2 changes on fee rate.

10 These are the Proposed 514.16 changes on fingerprint
11 rate.

12 By setting and announcing the fee rate once a year, the
13 Commission will be able to: (1) Improve the efficiency
14 of the fee rate analysis and publication process.

15 (2) Coincide the fee rate announcement with the annual
16 release of the Gross Gaming Revenue and the completion
17 of the Commission's budget for the upcoming year. (3)
18 Reduce the margin for error for fee calculations as the
19 rate would only be set once within a fiscal year. (4)
20 Mitigate any confusion that may arise from changing a
21 fee rate twice a year.

22 In addition, a majority of tribes have fiscal
23 years ending either on September 30th or December 31st.
24 Tribes' submissions of audited financial statements are
25 required 120 days after the end of their fiscal years.

1 Thus, when we first use these financial statements to
2 set the preliminary fee rates, our analysis is limited
3 to a fractional portion of the financial audit
4 submissions and must be reanalyzed again after
5 additional submissions are received at the end of April.

6 The proposed changes will allow the analysis
7 to take place once a year after the Commission has
8 received all annual audited financial statements. In
9 addition, the fee rate calculation will more accurately
10 reflect the Commission's required operation funding,
11 which will become available by September 30th each year.
12 The Commission seeks comments on the proposed changes to
13 the time period these rates are published.

14 JONODEV CHAUDHURI: Thank you, Ms. Lee.

15 So we think this is a very sensible tweak that
16 will allow us to schedule our fee assessment and our
17 budget at the same time.

18 We are not about to make significant impact on
19 our partners in terms of when fees are submitted. We
20 think it makes sense. But we definitely want to hear
21 from folks before we move forward.

22 SEQUOYA SIMERMEYER. For me, coming to the
23 commission is a unique experience when it comes to the
24 budget process. But any information, I believe, that we
25 can have to better form the process, or making sure we

1 are aware of the impact of our decision making process,
2 I think is a good thing.

3 So I think this is a good opportunity to think
4 about how our actions on the setting might affect your
5 decision making process or your operations.

6 KATHRYN ISOM-CLAUSE: I just want to add to
7 that very briefly that I think this proposed regulatory
8 change kind of reflects the attitude that we have where
9 we are trying to be more efficient, where we can
10 streamline processes making things easier for tribes,
11 while not creating big changes that take effort, time,
12 money to adjust it. So it kind of reflects our approach
13 when we look at regulations.

14 JONODEV CHAUDHURI: Absolutely.

15 Comments? Questions? Yes.

16 STEFFANI COCHRAN: Steffani Cochran. The only
17 thing that I think will impact us is we don't budget on
18 the calendar year. We budget on the fiscal year. So
19 your fee rate will come out after we have asked for our
20 budget from counsel.

21 JONODEV CHAUDHURI: Yvonne, do you want to
22 speak to the impact? We know some tribes work on the
23 fiscal year; some tribes work off the calendar.

24 YVONNE LEE: Well, unfortunately, it's hard to
25 accommodate every tribe because every tribe operates

1 under a different fiscal year. Some end September 30;
2 Some end December 31st.

3 So for the tribes whose fiscal year ending
4 December 31st, they can incorporate this into the next
5 coming years's budget. But the tribes whose fiscal year
6 is ending September 30th, unfortunately, it's going to
7 be hard.

8 STEFFANI COCHRAN: What I'm asking is, does it
9 have to be November? Can it be July 1st? Can it be
10 some other day that might accommodate both sets of
11 budget processes?

12 YVONNE LEE: Well, when we proposed the
13 changes, what we have in mind is we really need to
14 understand the agency's operations and funding for the
15 next year in order to set the fee rate as accurate as
16 possible.

17 So we will take that comment and go back and
18 consider that. But we use rather than training as a
19 factor when we calculate the fee rate as well. So that
20 information will not be available until early July. And
21 then our budget for the next fiscal year won't be ready
22 until September 30th.

23 So the reasonable day will be anything after
24 September 30th. So we will take that comment go back
25 and look at that.

1 JONODEV CHAUDHURI: Thank you for that comment
2 and question. We recognize that this has impasse on the
3 budget side of things for tribes. So that's why I
4 definitely wanted to hear feedback.

5 But we are trying to be as up front as we can
6 be as to why we are looking at this. I have a feeling,
7 Ms. Cochran, you've dealt with the budget setting issue
8 versus the fee setting issue at the Commission before.

9 It forces you to be kind of a fortune teller
10 in terms of how to accurately set the budget when it's
11 hard to forecast what the fees will be. But thank you
12 for that question.

13 Additional comments? Concerns? Rotten
14 tomatoes? Okay. We will move forward to our final
15 consultation topic. Again, as I mentioned, there will
16 be a catchall section.

17 And our final topic will be drafts, non
18 binding -- I had a dream the other night that I got to
19 go on vacation in had Maui. And I was there by myself
20 on the beach. And then out of nowhere a gentleman named
21 Granthum Stevens from the Colorado River Indian tribes
22 appeared. And he kept me honest about Class III Non
23 Binding Voluntary Guidance and Minimum Internal
24 Controls.

25 So It's good to see you on the beach there,

1 Mr. Stevens. We really appreciate the input that we
2 received from Indian Country on this important topic.
3 We are really trying to do our best to provide helpful
4 guidance to Indian country, while recognizing that
5 making landscape is so different from state to state,
6 and given the unique landscapes that tribes navigate.

7 And so we are thankful for past comments and
8 input. We are very much looking forward to ongoing
9 comments and inputs regarding our efforts in this
10 regard.

11 But for this topic we have the birthday
12 person, Ms. Christina Thomas, to discuss our NON-BINDING
13 Voluntary Guidance.

14 CHRISTINA THOMAS: Thank you Mr. Chairman.
15 Christina Thomas, Department Chief of Staff with NIGC.

16 As a result of the 2015-2016 consultations,
17 the Commission will issue non-binding Class III MICS
18 guidance. We have issued a draft of that guidance and
19 are asking for your feedback before we finalize and
20 publish. Although a guidance document does not require
21 a formal notice and comment process, the Commission
22 recognizes the value of tribal industry input and
23 intends to thoroughly consider all comments we receive
24 from you to inform this guidance.

25 The draft 64-page guidance document is

1 available today and also available on our website for
2 review. The NIGC is fortunate to have so many tribal
3 gaming subject matter experts working for the agency who
4 are well-versed in operational procedures and the risks
5 associated with them. They have been diligently working
6 to develop this draft.

7 You'll notice that the draft follows the
8 formatting style of the current 543 Class II MICS. We
9 hope it assists those tribes with MICS facilities to
10 develop a comprehensive set of controls, while still
11 enabling tribes themselves to establish standards that
12 best fit their needs.

13 Exclusively, Class III areas, such as gaming
14 machines and table games, have been updated after
15 extensive review of other jurisdictions, incorporating
16 Tribal regulatory and current industry standards.

17 Additionally, those controls in part 543 that
18 require TGRA analysis and approval, such as variances
19 and supervision controls, are carried over into the
20 Class III guidance.

21 We would also like to consult with you on our
22 proposed decision to suspend the existing 542
23 regulations. Suspension of the regulations leaves the
24 existing text in the Code of Federal Regulation but adds
25 a note that they are not enforceable and refers the

1 reader to the guidance document.

2 We believe that this solution accomplishes the
3 goals of keeping the language accessible for those who
4 need it.

5 Again, the guidance is being done to provide
6 voluntary non-binding updated regulatory controls for
7 Class III gaming areas. Because it will be guidance
8 instead of regulations, we will be able to be much
9 quicker at adapting to changes in the industry. And we
10 are seeking your feedback on the draft.

11 And, we would also like your input on the
12 intent on suspending the existing 542 regulations.

13 Thank you.

14 JONODEV CHAUDHURI: Thank you Ms. Thomas.

15 So we will open the floor up for comments on
16 this. And then, as I said before, this one, while we
17 appreciate input on all of our topics, we have received
18 quite a bit of input on this one.

19 Thank you. Ms. Collier.

20 BARBARA COLLIER: I did have a more formal
21 comment. And then -- "Don't do it."

22 In an earlier consultation in Tulsa, back in
23 March, you announced NIGC will be suspending part 542,
24 Voluntary Non Binding Guidance, as a reference for
25 tribes.

1 As you're aware, Oklahoma tribes have a
2 compact that require us to have internal control
3 standards that equal or exceed those in part 542.

4 The problem with 542 is that they are outdated
5 and don't always reflect the processes in place today.
6 However, we understand the position that the NIGC is in,
7 in that it cannot update or amend the regulations
8 because of the CRIT decision.

9 But for Oklahoma and other tribes with
10 compacts that reference part 542, we are stuck with
11 outdated the standards. And guidance does not
12 necessarily help us in this regard.

13 None the less, given the circumstances, we
14 reviewed your proposal to suspend part 542 and issue a
15 new guidance that is an acceptable approach.

16 Today I'm questioning you about the method on
17 the actual language that you have in mind for suspending
18 part 542, the logistics, if you will. Where will this
19 language to suspend 542 be placed?

20 In the preamble to the registered notice part
21 542 regulation itself, how would you reconcile your new
22 language with the CRIT decision? Will there be rule
23 making prior to the final rule.

24 The language you use will be critical for two
25 important reasons. First, it will dictate the terms of

1 the suspensions duration.

2 Will the suspension be for an indefinite
3 period? If so, how would you phrase that? Also, the
4 language needs to be carefully worded to make clear that
5 this is not a temporary clause, but a more permanent
6 policy on the regulation enforcing part 542.

7 Suspensions are generally considered temporary
8 in nature. The language needs to be make clear the
9 justification and policy reasons for suspending
10 regulation so that a new administration cannot come in
11 and reverse course.

12 That's all I have for now with respect to the
13 Class II MICS proposal. My more formal written comments
14 will follow in coming months.

15 JONODEV CHAUDHURI: Thank you for that
16 comment, Ms. Collier. I think a number of us can speak
17 to that issue. But in terms of our current thinking,
18 maybe the best person will be your General Counsel Mike
19 Hoenig.

20 So, Mike, do you want to speak to that
21 suspension question?

22 MICHAEL HOENIG: Sure. And this is one that
23 we actually had. We put a lot of work into figuring out
24 how this exactly would work because it is something we
25 have not done before.

1 So we have had a lot of conversations with the
2 folks at the Federal Register about what this means and
3 how it would be done.

4 And the plan is, is to suspend the rights.
5 And then, in the regulation itself -- not the preamble,
6 but in the actual regulation -- so any time somebody
7 goes to look at part 542, what they will see is, "This
8 right has been suspended."

9 And then there will be some language that we
10 will put right at the top, explaining that it has been
11 suspended because of the decision of the Colorado River
12 Indian Tribe's case, that the court held that we did not
13 have the authority to enforce these regulations.

14 So that would be the justification for doing
15 the suspension. Basically, it was court ordered. We do
16 not have any way to enforce these.

17 And so we looked at a couple of -- as you
18 know, prior consultations, we talked about, well, do we
19 just pull it down entirely, or do we just leave it up as
20 is and create a parallel set of guidance.

21 And taking it down entirely, obviously, did
22 not work for a lot of folks, including the Oklahoma
23 tribes. And we understood that. And then leaving them
24 up with no explanation when they are not enforceable
25 anymore. And having guidance, we figured would just

1 confuse everybody with having two competing sets of
2 standards.

3 So with the suspension, it allows all of the
4 text to stay there. We will do a preamble just as we
5 would in any other rule making, explaining things.

6 But the actual language as to why they are
7 suspended, what the justification is for that, would
8 state in the CFR itself.

9 Plus, it would have a note in there directing
10 folks to go and look at guidance if they want a more
11 updated MICS. They can go look at the guidance that we
12 put on the website. So we will direct them to that as
13 well.

14 As for the administrative process itself, this
15 is not something that the agency necessarily has to give
16 notice and comment on, because, really, we don't have
17 any choice here. The court has ordered this to go down.

18 But I think that we would definitely be
19 open to hearing -- Well, I shouldn't speak for the
20 Commission. But I imagine that everybody would be open
21 to getting feedback on the language that we put in front
22 of the existing regulation so that is as clear as
23 possible and that does not inadvertently do any damage.
24 I'm sure we can talk about that as well.

25 Does that answer everything? I hope it covers

1 a lot of your questions.

2 MS. COLLIER: Yes, thank you.

3 MICHAEL HOENIG: Okay. Thank you.

4 JONODEV CHAUDHURI: Thank you for that. And
5 thank you for your past input. We do value your ongoing
6 contributions to this. Yours personally, but also
7 anybody who provides a perspective on potential impacts
8 given to the specific state in which you're located.
9 Oklahoma is a very important part of the framework.

10 BARBARA COLLIER: I know.

11 JONODEV CHAUDHURI: Ms. Echo-Hawk.

12 LAEL ECHO-HAWK: I understand this is non
13 binding voluntary guidance. But what is this guidance
14 going to be like under this? Is it's going to be like a
15 model building code, or gap.

16 And so I encourage the Commission to look
17 carefully at how those kind of documents are drafted.
18 And I understand we have got fact issues, and do we want
19 to do a Tribal Advisory Committee? But this is a
20 guidance. So I think that there has to be some wiggle
21 room.

22 But I think it's very important. The industry
23 is going to look at this. Tribes are going to look at
24 this. Whether it's binding, non binding, voluntary, et
25 cetera, it still is going to be the model.

1 And so it might useful to look around the
2 other Federal agencies and see how they developed sort
3 of models or guidance that impact -- as Ms. Elmar said
4 earlier -- in a significant way. Because this is going
5 to be the gold standard.

6 JONODEV CHAUDHURI: Excellent point. I don't
7 know if the birthday person or Mike wants to weigh in.
8 Both of you could equally weigh in on forming that
9 guidance with best practices. Which one?

10 Okay. Ms. Thomas.

11 CHRISTINA THOMAS: So speaking to your
12 specific question on how we kind of formatted it and
13 came up with it. I got the joy of compiling this
14 document and drafting it.

15 And going off of what Mike had said earlier,
16 for simplicity purposes, so that there was no confusion,
17 I did follow the path of former Class II MICS for it so
18 that if a tribe was going to use this at some sort of
19 MICS facility, it would be very comprehensive and kind
20 of fit right in to how a class II was already drafted.
21 As for looking at other areas, I didn't look so much at
22 how Federal agencies did it.

23 But I did read a lot of different tribes. I
24 read all of the Nevada stuff. I read all of the
25 Missouri stuff, New Jersey, to kind of compile and keep

1 up with what some of the standards in history were for
2 Class II areas.

3 MICHAEL HOENIG: Also, I think one of the
4 benefits of the Guidance is, we can be a lot more nimble
5 and quick with making changes and adjustments as the
6 industry advances and continues to grow, obviously, than
7 we could with the rule making, or the administrative
8 process and everything.

9 And I think that not only is this one out for
10 comments, and I really do hope we get a lot of comments
11 on this. I welcome red lines, however you want to send
12 it, but also just ongoing feedback as the industry
13 continues to grow.

14 I know the Class II subcommittee. But I think
15 that things like that where people are looking at this
16 and kind of keeping an eye on how these internal control
17 standards, these minimums as well as how the industry
18 are keeping up, so we can make sure we are staying on
19 top of it going forward as well.

20 So I think the Commission welcomes and all of
21 us on the ground at the agency welcomes ongoing feedback
22 on this as well.

23 JONODEV CHAUDHURI: Thank you for that, Mike.
24 Thank you for that Ms. Echo-Hawk.

25 JANICE SULLIVAN: Jan Sullivan. Understanding

1 that these are guidance memos. And moving forward
2 during the comment period. There was a mention of a
3 Tribal committee providing comment. In your
4 presentation yesterday, you referred very heavily on
5 working with the boots on the ground, the Tribal
6 regulators to ensure that things are done the way that
7 the current practices are being done.

8 Is there any thought of the commission to put
9 an advisory group together to do that?

10 JONODEV CHAUDHURI: I want to be honest. No.
11 And I am happy to explain that. But do you want to?

12 SEQUOYA SIMERMEYER: (Inaudible) Process or
13 how to work in the future in terms of how to make sure
14 that there is still some sort of responsive
15 transparency, or some sort of process. That we have
16 perspective. It's important to have a ruling making
17 process. But whether it's important those are some.

18 JONODEV CHAUDHURI: Thank you. I'll be
19 careful. My own personal comment on this. To be
20 honest, no. Well, I don't want to say the thought has
21 not gone into it. A lot of thought has gone into
22 whether or not a TAC -- a Tribal Advisory Committee --
23 would be appropriate for this topic.

24 A lot of thought has gone into that. There
25 are no plans to create a TAC for this. And let me

1 explain why. The first and foremost, the idea is the
2 guidance want it -- the word "nimble" was used. We want
3 it to be helpful to the Indian gaming community as
4 quickly as possible.

5 So we want to be able to amend and adapt as
6 technology changes. That does not mean we don't want to
7 do that hand-in-hand with Indian country.

8 So close work with tribal leadership and
9 tribal regulators is paramount to our process. The
10 question is, what form does that take?

11 One of the benefits of consultation, as well
12 as ongoing dialogue through everyday technical
13 assistance, is that it engages all potential voices of
14 Indian country.

15 So all regulatory bodies, all tribal leaders
16 are welcome to provide input and comment and advice on
17 this product. And so that's why we are reaching out at
18 every stage that we can to solicit that feedback.

19 We really want this to be an all Indian
20 country event. We had utmost respect for the advisory
21 committee process because when you're kind of working
22 on -- we're finding giving language, sometimes it helps
23 to take a committee approach to nail down a consensus
24 for a certain line or a certain paragraph. And that
25 there is absolutely value in the committee process.

1 But we don't want to just hear from committee
2 members. We want to hear from all Indian country on
3 this because we know that different communities are
4 impacted in different ways.

5 So you combine the need for being nimble on
6 one hand, as well as the interests in hearing from all
7 corners of Indian country.

8 I recognize, being a former lawyer, that there
9 are benefits to the people who are involved in the
10 committee itself. And this isn't to diminish from the
11 committees. But we also want to hear from the
12 non-lawyers and from the, you know, tribal leaders, and
13 tribal regulators. And that is why we are engaged in
14 activity consultation.

15 So I have utmost respect for communities --
16 Let me give you an example, one of the hybrids that
17 works -- And I want to thank somebody for breaking this
18 down into two words. I can say the word, "Larry". And
19 I can say the word "coral".

20 So I'm going to try to say them separately. A
21 good corollary is the Class II discussion involving the
22 Grandfathering Provisions, the Sunset provisions. NIGA
23 has created a class II sub committee that we worked very
24 closely with to solicit input and feedback. And I thank
25 Mr. Matthew Morgan, who is in the room, for his work on

1 that committee. That was a committee that is kind of
2 organic to Indian country that was generated from Indian
3 country that was providing us input and recommendations
4 and comments.

5 And we are listening very, very closely to the
6 input and guidance and comments being generated by that
7 committee. And that work has proceeded in, you know, a
8 very speeding fashion. And we are thankful for that.

9 We welcome any comments from Indian country.
10 And I think that sub committee is a good example of
11 that. But the Tribal advisory committee approach, it
12 definitely worked when we were talking about the large
13 scale regulatory over all that went into 547 and all the
14 Class II regulatory changes we made a few years ago.

15 Here, since we are talking about guidance, we
16 are really not being driven by being nimble, and hearing
17 from all Indian Country. So I don't know if that helps.
18 And I don't mean to bag on my fellow lawyers. I'm a
19 lawyer, for better or worse. We are all lawyers. Thank
20 you for that comment. Nothing against lawyers.

21 JANE ZERBI: Jane Zerbi, Attorney. I'm here
22 on behalf of the United Auburn Indian Community, the
23 Pala Band of Mission Indians, the Jackson Band of Milwuk
24 Indians. These are all California tribes.

25 First, we want to -- I am echoing comments

1 that were made in Northern California recently at a
2 tribal consultation.

3 But really we want to express our appreciation
4 of you taking an approach where 542 Class III MICS would
5 stay published in the Federal Register. Because we feel
6 it plays an important role and positive in the industry
7 having uniform Federal Standards.

8 Also, in California, tribes all have different
9 situations in California, that 542 is mentioned in a
10 compacts. It's mentioned in a statewide uniform
11 regulation. It was adopted through a Tribal State
12 Association through the compacts.

13 And, also, there's a number, quite a few,
14 actually, of California tribes that voluntarily
15 procreated in the gaming ordinance.

16 So I think you've been responsive to our
17 concerns about suddenly having nothing where there's a
18 reference to it.

19 To the point of -- it's already been made --
20 of how it's talked about in the Federal Register and,
21 perhaps, in the guidelines published, I think that
22 specifying -- and, obviously, you would figure out where
23 it would be best to specify -- the different guidelines
24 that are proposed meet or exceed the 2006 MICS and
25 necessarily account for the technical changes.

1 It's helpful from a California perspective
2 because that sort of language complements the way CGCCA
3 talks about it, which references, for instance, the
4 published 2006 standard and Tribal standard that meets
5 or supercedes it, gaming ordinance that are similar.

6 So it just takes away any confusion and
7 enables the tribe to know that the government
8 guidelines.

9 JONODEV CHAUDHURI: Thank you for that. It's
10 great to see you, by the way. I don't think there's any
11 issue or any challenge. It's very helpful. And again,
12 we want to bring a clarity. We don't want to muddy the
13 waters any more. So thank you for that.

14 JENNI WILDCAT. Jenni Wildcat, Northern
15 Arapaho Tribe. Something we would like to think about
16 is (inaudible). However, one of the things that you
17 guys want to do is say that we don't have any
18 (inaudible). But we adopted 542 and 543 into our rates.

19 And within our secondary procedures, we give
20 enforcement to the National Gaming Commission.

21 So, yes, I understand we are unique in that we
22 are one tribe. But that is something we would like you
23 to think about that we do give enforcement action to
24 (inaudible). And you will run into some of my
25 colleagues next week in Billings. And they might have

1 the same comments there. But we will follow up with
2 written comment.

3 JONODEV CHAUDHURI: And thank you for that. I
4 don't know if anybody else wants to speak to that. But
5 it's an important distinction to make here.

6 We always make the distinction between our
7 internal controls or MICS and other responsibilities and
8 authorities of the agency, recognizing that there is a
9 lot -- I mean, there's incredible diversity in the
10 compacts that tribes have with the States. But there is
11 also incredible diversity in ordinances that tribes
12 have. And in quite a few communities were requested or
13 required to engage in other responsibilities that flow
14 from either ordinances or compacts. So we are careful
15 not to kind of muddy the waters.

16 All we are doing here is we are working on the
17 MICS side of things. But I always make a point that you
18 do have a role in many communities for many different
19 reasons in the Class III arena separate and apart from
20 the issuance of MICS.

21 But I don't know if anybody wants to add to
22 that. Thank you for drawing that distinction. It's an
23 important distinction to make. Thank you for that. And
24 we take those responsibilities seriously.

25 Mr. Stevens.

1 GRANTHUM STEVENS: Granthum Stevens, Colorado
2 River Indian tribe. Understanding the NIGC's decision
3 (Inaudible), the decision that came out of it.
4 Understanding where this is going, 542. Like I said
5 before, when we get that clarification, that clear line,
6 of where 542, 543, in our State compact appendices,
7 especially for us, where does that lie at? Where is
8 that definitive line? (Inaudible) back in Phoenix, was
9 that when 543 came out, it seemed to muddy that water
10 back up again. It blurred that line between a Class II
11 and Class III facility.

12 That was always our biggest concern
13 (inaudible). Where does that definitive line begin?
14 With the suspending 542, like I said in 15 and 16 during
15 the consultations, especially here in San Diego, 15 was
16 that we had asked how many compacts would have been
17 affected during that time frame?

18 Now we have new secretarial procedurals that
19 have come out that reflect back to 542 and 543. So we
20 basically need that line re-drawn again and
21 reemphasized, saying that NIGC acknowledges it does not
22 have that predatory presence in class III.

23 I'll bring back up in the voluntary process,
24 under Section 13, an audit accountant, goes back to E2,
25 is, the tribe must submit two copies of agreed upon

1 procedures to report to the commission within 120 days
2 of being in operation fiscal year, and in conjunction
3 with the submission of the annual financial audit report
4 pursuant to 525 (inaudible).

5 If it's voluntary, why do I have to submit
6 that in when it's not binding? Who actually enforces
7 that? This is what I'm saying when it comes down to we
8 are putting extra layers of regulations on top of a dead
9 layer of regulation.

10 And knowing that 542 suspensions, I agree, it
11 needs to be updated. If it's going to be removed, then,
12 ultimately, make that decision coming down the road,
13 saying, "We are going to go ahead and remove it."
14 Because right now, like they're saying, when it reads
15 (inaudible), it says that 542 is suspended see the
16 guidance, how are they going to take a Class II
17 regulation and then say, go look at a Class III
18 guidance, when you have 543 that became a Class II MICS?

19 So, basically, you're just saying, "We didn't
20 like this one. Here, go look at that one. But you
21 still have to maintain 543."

22 Because when 543 first came out, it was your
23 original draft Class III MICS. When it was first
24 developed it was classified as a Class III MICS until
25 the decision came back out and re-defined that line.

1 I wish we could have that consultation on the
2 beach. But it's really just coming back down to if it's
3 non-voluntary, non-binding, then I don't see adding the
4 extra regulation inside the non-binding involuntary act.

5 You know CRIT'S decision is we want that line
6 clearly defined in Class III. We want it to be echoed
7 out there, saying it is going to be a Class III.

8 But I think with 542, you won't have the
9 standard as it is coming out. Like I said, the
10 secretary of procedures (inaudible) compacts will
11 renegotiate it. It's going to give language back to
12 542. So you have got your hands full.

13 Thank you.

14 JONODEV CHAUDHURI: Thank you so much,
15 Mr. Stevens. So, you know, there were a few things that
16 were covered there. Again, very thankful for the input
17 and comment and thankful for ongoing dialog.

18 As we can see from today's discussion, the
19 references to 542 that are made in compacts are
20 different from State to State and across the board.

21 Some compacts don't reference them at all.
22 Some mandate that 542 be followed. And it's everywhere
23 in between. So, you know, trying to have a helpful
24 approach that brings clarity to the industry, that's
25 what we are trying to achieve.

1 But let me, as an important corollary, to the
2 discussion with the last question, let me kind of
3 separate a couple of ideas out.

4 Again, we want to distinguish this guidance
5 from other Class III responsibilities and authorities.
6 I appreciate the effort and idea of bringing clarity
7 between Class III Guidance and Class II MICS. I want it
8 separate that out from discussions with other
9 authorities.

10 And, in addition to that, I think we have had
11 previous discussions about how MICS facilities are
12 governed by 543 as well.

13 And so with that, for additional detail, I
14 don't know if Ms. Thomas wants to speak about how we
15 have been approaching this draft. But it's not been a
16 cut-and-paste job. We want the guidance to be
17 consistent with the 543 MICS that are out there.
18 They're some things that are covered. I think what --
19 Keno. But it's not a cut and paste. So I don't want
20 there to be a discussion, "Hey, if it's already there
21 with 543, why do we need to do this with 542?" It's not
22 one-to-one overlap.

23 CHRISTINA THOMAS: To clarify that a little
24 bit more, (inaudible). There were two areas that were
25 not game specific so they were not specific between or

1 game Class III. The sections in Class II MICS like
2 that, auditing accounting, surveillance, cage dropping,
3 those were carried over, so if an individual had a MICS
4 facility, it would be easier to have it flush with Class
5 II controls it would be together. It would be a
6 complete set of controls. So that's why the language is
7 there. That is a requirement under Class II MICS. And
8 that would be just for simplicity purposes.

9 If somebody is going to use this, (inaudible)
10 MICS facility, they would have the information there.
11 So the (inaudible) in the Guidance is Keno, and
12 (inaudible). And those are all Class III. And those
13 have not been updated with newer industry standards.

14 JONODEV CHAUDHURI: Thank you, Mr. Stevens.
15 See you in Maui. Additional comments, questions,
16 concerns.

17 Go ahead Jane.

18 JANE ZERBI: Jane Zerbi, Attorney. I'm here
19 on behalf of the United Auburn Indian Community, the
20 Pala Band of Mission Indians, the Jackson Band of Milwuk
21 Indians. (Inaudible Comment)

22 JONODEV CHAUDHURI: Thank you. We will look
23 forward to those comments. So additional questions on
24 this topic or comments? With this, we will move forward
25 with our catchall section.

1 I think we are all on board with kind of
2 pushing through. So, again, I want to say, if on the
3 drive home, there are additional comments folks wanted
4 to make or folks think about, our date line for comments
5 on these topics is July 1st.

6 So any final questions, comments? Before
7 turning it over to my fellow commissioners, I just want
8 to personally thank everybody for helping me work
9 through something that has vexed me since the second
10 grade. I can now say "cora-larry." Breaking it up into
11 two words helps.

12 Again, I'll turn it over to our Vice Chair.
13 Thank you for taking the time to be here today.

14 KATHRYN ISOM-CLAUSE: Welcome. That's my
15 routine up here. A little bit of analogy how we work
16 through all of this. I thank you all for being here and
17 providing your perspectives and comments and concerns
18 with your years of background experience, we very much
19 respect all of the expertise and knowledge we have in
20 the room.

21 So thank you very much. Mr. Chairman said
22 there is no crime in finishing early, so I'll keep it
23 brief. Thanks again.

24 SEQUOYA SIMERMEYER: I'll keep it brief too.
25 But I want to take the opportunity to say thank you for

1 everyone's comments (inaudible). This is, as I
2 mentioned, only because I think it's really important in
3 our consultation process is our required dialogue
4 (inaudible).

5 But I want to comment on the importance of
6 making sure that the cost of, the time associated with
7 the process does not become a roadblock for getting done
8 things that are necessary. (inaudible) what we need to
9 do. I also heard that (inaudible) transparency in the
10 governments and being diplomatic in the roles that we
11 play, recognizes game importance for tribes (inaudible).
12 So I just wanted to pass that on with respect continuing
13 thoughts on the consultation process and say thank you
14 for everyone.

15 JONODEV CHAUDHURI: Thank you. Many of you
16 have flights home today. Long drives home. We wish you
17 safe, safe travels. Thank you for today's comments.
18 And thank you for your ongoing dialogue partnership.
19 Many blessings to you.

20 (The consultation concluded at 11:00 a.m.)

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STATE OF CALIFORNIA)
) SS.
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 29th day of May, 2017.

KIMBERLY S. HANNA, CSR NO. 12230