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6 National Indian Gaming Commission Consultation

7 May 25, 2017

8 1:30 p.m.

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11 DoubleTree by Hilton

12 Helens Room

13 1000 NE Multnomah Street

14 Portland, Oregon 97232

15

16 BEFORE: Chairman Joondev Chaudhuri

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21 REPORTED BY:

22 Robin Nodland, FAPR, RDR, CRR, OR CSR

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1 P R O C E E D I N G S

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3 CHAIRMAN CHAUDHURI: Okay. I guess
4 we'll go ahead and get started. If we start on time
5 and hear all comments, there's always a good chance
6 we'll finish early. So we'll go ahead and get
7 started.

8 My name is Joondev Chaudhuri. I'm honored
9 to be Chairman of NIGC. And before turning it over
10 to my fellow commissioners, it's customary that we
11 start off with a blessing. And Chairman Jerry
12 Iyall, Chairman for the Cowlitz Tribe Gaming Agency,
13 has agreed to start us off.

14 MR. IYALL: Thank you. Welcome,
15 everyone.

16 Heavenly Father, thank you for bringing
17 these people together. Bless this event and these
18 people. Grant us the grace and wisdom for a
19 successful consultation, and grant us safe travels
20 home. Amen.

21 CHAIRMAN CHAUDHURI: In recognition
22 of your willingness to start us off with a firm mind
23 and spirit. (Speaking in native language.) Thank

24 you, sir.

25 Good afternoon. As I mentioned, I'm

3

1 Joondev Chaudhuri. I'm with Muscogee Creek Nation.

2 (Speaking in native language.)

3 Very much honored to be here today to
4 engage in ongoing dialogue with our regulatory
5 partners, and we share many common interests in
6 terms of supporting the regulatory structure of an
7 industry that has done so much to fund important
8 programs and services in Indian country and support
9 strong tribal governments. So I'm honored to be
10 here.

11 I'm going to turn it over to my fellow
12 commissioners in a moment, but these consultations
13 are important to what we do as an agency. We're
14 committed to not ever put pen to paper on a
15 significant action without active, meaningful
16 engagement through meaningful consultation with
17 Indian countries. I thank everyone here for taking
18 time out of their schedules to be here to engage in
19 dialogue.

20 There are a lot of open seats up front,
21 and we try to set these tables up in as close to a
22 circle as possible, so that there really is a
23 conversation that flows through these consultations.

24 I understand folks like to sit in the back, but

25 plenty of seats up front. And I promise we won't

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1 bite.

2 But I'm going to turn it over to Vice

3 Chair Isom-Clause at this time, who will talk a

4 little bit more about today's consultation.

5 MS. ISOM-CLAUSE: Thank you.

6 Good afternoon. I'm Kathryn Isom-Clause

7 and I'm vice chair of the Commission. I'm Taos

8 Pueblo. And I'd just like to thank you all for

9 being with us here today, and also to thank ATNI. I

10 know there are a lot of different things going on,

11 and so you had to choose to come here. So we do

12 appreciate that choice that you made to give us your

13 time and comments.

14 In our work, we always try to keep in mind

15 our statutory purpose, which is to promote tribal

16 economic development, self-sufficiency, and strong

17 tribal governments, as I believe Chairman Chaudhuri

18 always says.

19 So we're here today to discuss several

20 topics that reflect those priorities and aim to

21 further those goals. This ongoing dialogue on these

22 and other issues honors our government-to-government

23 relationship and, as partners, we work together in
24 the effective regulation of tribal gaming through
25 this ongoing dialogue.

5

1 I'd also like to briefly mention that
2 we're in the process of developing our required
3 strategic plan, and we will use any comments that
4 are relevant to that to inform the plan as we move
5 forward. There is going to be a opportunity to
6 review and comment on the draft strategic plan this
7 summer, and we'll keep you up to date on those dates
8 as they become available.

9 So in closing, we appreciate you being
10 here today. Thank you, all, and our door is always
11 open for further discussion.

12 MS. SIMERMEYER: Thank you.

13 I'm Sequoyah Simermeyer. I'm from the
14 Coharie tribe in North Carolina, and I'm on the
15 Commission, the National Indian Gaming Commission.
16 And I just wanted to join my colleagues in saying
17 thank you for your time and your contributions both
18 today and the conversations that we've had during
19 the course of this consultation series about these
20 topics. It's an important part of how we can
21 improve meeting our mission as a federal agency, and
22 it's important for the next generation of agency to

23 help to improve the DNA of the quality of the

24 feedback that we have.

25 So I appreciate my colleagues' effort in

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1 this and the work that we've been able to do, and

2 especially the staff and the regions and the central

3 office who help to keep this dialogue going. So

4 thanks to the leadership and thanks to the expertise

5 that we have with us here today. Thanks.

6 CHAIRMAN CHAUDHURI: Thank you,

7 fellow commissioners.

8 So we have quite a few introductions to go

9 through and some housekeeping matters to go over

10 before we begin. But both as a Muscogee Creek and

11 also as a representative of NIGC, I just want to

12 extend my gratitude for being allowed into the

13 homelands of the native peoples of this territory.

14 We were honored by the Cowlitz Tribe with

15 a site visit this morning, and we also were honored

16 by Warm Springs yesterday, being able to visit their

17 community, just to see how their efforts to pursue

18 healthy gaming operations not only are designed to

19 support tribal sovereignty and culture and heritage,

20 but grow out of tribal sovereignty and culture and

21 heritage.

22 The fact that culture has informed every
23 aspect of the facility that we saw this morning, and
24 the gaming facility at Warm Springs helped support
25 an incredible museum, these are all reflections of,

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1 I think, the policy purposes of IGRA at work, and
2 that's, again, strong tribal governments. And so
3 it's an honor to be in Indian country whenever we're
4 invited into the homelands of sister nations, and we
5 honor that today.

6 So we have six important topics to hear
7 consultation comments on. I don't want anyone to
8 feel like this is the only bite at the apple in
9 terms of presenting topics. If there are thoughts
10 or ideas that anybody reflects on on the drive home,
11 we have an open consultation schedule that at the
12 end of June -- well, actually, on July 1st we're
13 going to be wrapping up our comment period and
14 reviewing all comments that we've received from this
15 round of consultations.

16 But I don't want anybody to ever feel that
17 formal submissions of comments are the only way that
18 we hear and recognize the input of our regulatory
19 partners. Our phone lines are always open. Our
20 doors are always open. And that's one of the
21 reasons you'll see so many NIGC folks at a lot of

22 events, such as ATNI.

23 In addition to trainings that we do to
24 help support the regulatory work force of Indian
25 gaming, it's important for us to know each other on

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1 as much of a first-name basis as possible. And so
2 our team will introduce themselves in time, but I
3 want today's consultation just to be part of a
4 larger continuum of dialogue and coordination, and I
5 thank you for taking the time to be here.

6 We have subject matter experts who will
7 frame each consultation topic at the beginning of
8 each topic. They'll introduce themselves in a
9 moment. And we'll receive comment and input and
10 hopefully engage in a two-way dialogue at the end of
11 each topic. At the end of all six topics, we'll
12 have a catchall section so that if there are any
13 additional comments or questions folks forgot to
14 bring up, that will be an opportunity to bring them
15 up at that time.

16 However, since we're all here and you're
17 all in the room, if there are topics that are
18 slightly outside of the scope of consultation, if
19 time permits and if everybody has had the
20 opportunity to share their perspectives, we're also

21 open to broader dialogue as well.

22 So that's kind of the framework that we're
23 going to be working off of. If everybody has had an
24 opportunity to share their thoughts, and we look at
25 the clock and we still have time before our

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1 scheduled 5:30 end time, there's no shame and no
2 crime in finishing early. If everybody's had an
3 opportunity to speak, we very well may finish one,
4 two hours early.

5 So with that, I'm going to turn it over to
6 our -- actually, to everybody, and allow us all to
7 kind of get to know each other better. The benefits
8 of these consultations are that they're transcribed.
9 People benefit from the dialogue at these meetings
10 who aren't even in the room. But there's also an
11 opportunity, at all equal levels in the room, to
12 have a conversation.

13 And so we'll go through a brief round of
14 introductions. Please keep in mind that everything
15 will be transcribed, and for the benefit of the
16 transcriptionist, if you can state your name, your
17 tribal affiliation, if any, and what tribal nation
18 or regulatory body you're here representing, that
19 will help with the transcription.

20 So with that, I'm going to turn it over to

21 our chief of staff to start off with the

22 introductions.

23 MS. O'LOUGHLIN: Okay. Great.

24 Hello. Do we need mic or not?

25 Hi, everyone. My name is Shannon
10

1 O'Loughlin. I'm a citizen of Choctaw Nation of

2 Oklahoma, and I am chief of staff at the NIGC.

3 MR. WETZLER: Shannon, I have a mic.

4 MS. O'LOUGHLIN: You have a mic?

5 Okay.

6 MR. OSBORNE: Hi. I'm Marvin

7 Osborne. I'm the executive director for the

8 Shoshone-Bannock Tribes Gaming Commission, Fort

9 Hall, Idaho. It's a long drive but we got here.

10 MS. GRAY: Good afternoon. My name

11 is Shawna Gray. I'm the executive director with the

12 Siletz Tribal Gaming Commission, and I am a Siletz

13 tribe member as well.

14 MR. IYALL: And I'm Jerry Iyall with

15 the Cowlitz Indian Tribe. I serve on the tribal

16 council, the executive council, and I'm the Chairman

17 of the Cowlitz Tribal Gaming Agency.

18 MS. LEE: Good afternoon. My name is

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

20 National Indian Gaming Commission.

21 MR. WALDO: Hello. I'm Travis Waldo.

22 I'm director of technology for the National Indian
23 Gaming Commission.

24 MR. BREWER: Good afternoon. I'm
25 Steve Brewer, training manager for the NIGC.

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1 MS. DITTLER: Good afternoon. My
2 name is Esther Dittler. I'm Mohawk from Six
3 Nations, and I'm a staff attorney and a regional
4 attorney for the Northwest region.

5 MR. STEINER: Good afternoon. I'm
6 Steve Steiner. I'm a compliance officer in
7 Portland, Oregon.

8 MR. WETZLER: Good afternoon. Sam
9 Westzler, compliance officer with the National
10 Indian Gaming Commission.

11 MS. MYERS: Good afternoon. I'm Kim
12 Myers from the Cherokee Nation in Oklahoma and I'm
13 director of public affairs.

14 MR. SLAGLEY: Karl Slagley, Agua
15 Caliente Gaming Commission, executive director.

16 MR. DeSARO: Hello. My name is Paul
17 DaSaro. I'm the assistant director for enforcement
18 for the Cowlitz Tribal Gaming Agency.

19 MR. WEBSTER: Good afternoon. I'm

20 Joe Webster with Hobbs, Strauss, Dean & Walker in
21 Washington, D.C. I'm here on behalf of the Seminole
22 Tribe of Florida, Lytton Rancheria, Agua Caliente,
23 and Kickapoo Traditional Tribe of Texas.

24 MS. SIMMONS: Hello. I'm Alison
25 Simmons. I work with the Siletz Tribal Gaming
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1 Commission. I'm the licensing agent and I'm a
2 member of the Siletz tribe.

3 MR. BEN: Good afternoon. My name is
4 Charles Ben. I'm the compliance agent for the
5 Siletz Tribal Gaming Commission, and I'm also a
6 member of the Confederated Tribes of Siletz.

7 MS. RENTZ: I'm Pamela Rentz. I work
8 for the Legal Department of the Kootenai Tribe of
9 Idaho.

10 MR. HANSON: Good afternoon. I'm
11 Daniel Hanson, the executive director of the
12 Snoqualmie Gaming Commission.

13 MR. BAKER: Ralph Baker. I'm
14 Chairman of the Gaming Commission, Confederated
15 Tribes of Grand Ronde.

16 MR. FISH: I'm Tanner Fish. I'm the
17 assistant director for the Grand Ronde Gaming
18 Commission.

19 MR. BOYCE: Mike Boyce, executive
20 director of Grand Ronde.

21 MR. PHILLIPS: I'm Mark Phillips,
22 regional director for the Portland region of the
23 National Indian Gaming Commission.

24 CHAIRMAN CHAUDHURI: I'd like to
25 thank Mark and his team for getting today's

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1 consultation set up, as well as the calories you
2 burn today running the mic back and forth. Thank
3 you, Mark. Thank you.

4 And headquarters helped too. So thank
5 you, everyone.

6 So we've got six topics. We'll go through
7 each of them, but I understand people drove a long
8 way, in some instances, maybe have flights out. If
9 anybody needs to get statements on the record
10 early -- and I know there are other events going on
11 at the same time right now. If somebody needs to
12 get a statement on the record early, we're happy to
13 adjust our scheduling to accommodate.

14 But let me just go through the six topics
15 we're going to hear about today and also hear more
16 about who the subject matter expert will be who will
17 introduce those topics.

18 First, we're going to hear about rural

19 outreach, and rural outreach is one of our tent pole
20 initiatives at NIGC. We're committed to doing
21 whatever we can in every aspect of our operations to
22 support rural and small gaming tribes. We'll have
23 our chief of staff, Shannon O'Loughlin, speak more
24 to that.

25 Next is another outgrowth of one of our
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1 tent pole initiatives, which is supporting a strong
2 regulatory work force both at NIGC and among our
3 regulatory partners. So we're going to be hearing
4 more about that initiative with a special emphasis
5 on the training side of it. And so we have our
6 training manager, Steve Brewer, who will provide
7 more background.

8 Third, we're going to talk about
9 management contract regulations and procedures. We
10 have our director of finance, Ms. Yvonne Lee, here.
11 And I just want to take a moment to note that there
12 are many -- I mean, many of the communities in the
13 room here today have operated under management
14 agreements. We welcome your perspectives and your
15 experiences in trying to help us refine our internal
16 processes.

17 I think we do a decent -- a pretty good

18 job at NIGC, but you can always -- you can always
19 improve, and we completely understand the importance
20 of many management agreements to the folks in the
21 room.

22 Fourth, we're going to hear about mobile
23 gaming devices and thoughts about some potential
24 guidance or technical standards for local mobile
25 gaming devices. We have the director of our newly

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1 formed technology division, Mr. Travis Waldo, here
2 to provide background.

3 Fifth, we're going to talk about fees and
4 the way -- some potential tweaks to the ways that we
5 schedule our fee collections for that. We have,
6 again, Director Lee speaking to that.

7 And sixth, we're going to be talking about
8 draft guidance regarding possible voluntary class
9 three minimum internal controls. And I want to
10 stress that the guidance that's going to be
11 discussed is just that. It's guidance. It's
12 voluntary. It's nonbinding. And we're going to
13 have our regional attorney, Ms. Esther Dittler,
14 provide additional background.

15 As I mentioned, the comment period for
16 this consultation topic extends through July 1st,
17 and at that point we're going to try and move

18 expeditiously to work on deliverables from these
19 consultations. But I don't want anybody to ever
20 feel like they can't call any time there's an issue
21 that you want to discuss or ideas you want to
22 present.

23 So with that, if there are any questions,
24 feel free to ask at any time, but we'll move forward
25 with that actual consultation part of today's event.

16

1 And we'll start off with rural outreach and have
2 Ms. Shannon O'Loughlin lead us off.

3 MS. O'LOUGHLIN: Thank you.

4 Hi, everyone. I'm Shannon. All of our
5 subject matter experts are actually going to read
6 off a script so we're being consistent throughout
7 our different consultations. But our discussion
8 afterwards is completely not scripted. So feel free
9 and open to say what you'd like.

10 The NIGC would like to consult with you on
11 our Rural Outreach Initiative. We're looking for
12 feedback on how we can do a better job with outreach
13 to small or rural gaming tribes on training and
14 technical assistance and other initiatives you may
15 see as important for us to be doing, and asking you
16 if you will inform the Commission if you see that

17 there are regulatory burdens that small or rural
18 gaming operations may face.

19 We all know in Indian country that most of
20 our tribal lands are in rural areas. Reaching out
21 to smaller gaming operations that may not be
22 situated near a strong market is an important
23 initiative of the agency.

24 The NIGC recognizes a likely correlation
25 between proximity to large population centers and
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1 the viability of economic opportunities for tribes.
2 Therefore, NIGC appreciates that its functions will
3 likely benefit from a greater understanding of the
4 unique needs of smaller operations.

5 NIGC has historically taken into account
6 the needs and capabilities of smaller gaming
7 operations through its regulations. For instance,
8 NIGC's regulations for minimum internal control
9 standards and accounting requirements differ between
10 tier A facilities that earn less than 8 million,
11 tier B facilities that earn between 8 and 15
12 million, and tier C facilities that earn over 15
13 million.

14 And we know from annual gross gaming
15 revenue announcements that the majority of tribal
16 gaming operations throughout Indian country are

17 smaller facilities with lower gross gaming revenue.
18 Many smaller -- many small rural gaming operations
19 provide their communities with much-needed jobs but
20 may earn little revenue to support tribal government
21 services.

22 The Commission has a responsibility to
23 review the regulations to assure that compliance is
24 reasonable and achievable for all tribal operations
25 while protecting the integrity of gaming as a whole.

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1 The NIGC may find through this consultation and from
2 your comments that current regulations could be
3 amended to better address the regulatory needs of
4 smaller operations.

5 In addition, the NIGC provides technical
6 assistance and training to all tribes and enforces
7 IGRA and its regulations to ensure tribes are the
8 primary beneficiaries of their gaming operations.

9 Also, in order to better meet technical
10 assistance and training needs of small rural tribes,
11 the Commission is also considering creating an
12 eighth region that would include North Dakota, South
13 Dakota, Wyoming, and Montana. These states are
14 currently served out of our St. Paul region, which
15 is the largest administrative region of the agency

16 and currently covers nine states, 59 tribes, and 144
17 gaming operations. To help address the need of
18 western tribes in the region, in 2003 the Rapid City
19 satellite office was added to the St. Paul region to
20 better reach the tribal gaming operations in North
21 and South Dakota, Wyoming, and Montana.

22 By splitting up the St. Paul and Rapid
23 City offices into separate administrative regions,
24 the St. Paul regional office would then cover only
25 five states -- Minnesota, Iowa, Wisconsin, Michigan,
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1 and Nebraska -- 37 tribes, and 95 tribal gaming
2 operations. The new Rapid City regional office
3 would cover four states -- Montana, Wyoming, North
4 and South Dakota -- with 22 tribes and 45 tribal
5 gaming operations.

6 This split will not take away resources or
7 budget from any region and only split the resources
8 between the St. Paul and Rapid City offices, as
9 appropriate.

10 The NIGC would like to hear any questions
11 or feedback and ask specifically for your discussion
12 and comments about:

13 One, whether regulatory revisions are
14 needed that protect tribal gaming revenue and the
15 integrity of Indian gaming, while not burdening

16 smaller operations;

17 Two, whether NIGC should adjust the way we
18 do business in our training, technical assistance,
19 and compliance efforts to provide better assistance
20 where needed; and, finally

21 Whether the NIGC should create an eighth
22 region to provide a stronger connection to tribes
23 located in North and South Dakota, Montana, and
24 Wyoming.

25 We're open for questions, comments,
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1 discussion.

2 CHAIRMAN CHAUDHURI: So just
3 formatwise, I really want it to be a free
4 discussion. I mean, written statements are great.
5 If somebody wants to make a formal statement, that's
6 wonderful. But we have pretty much the entire
7 senior leadership of NIGC here. There's nothing
8 wrong with just asking questions or just having a
9 conversation. Even though there are microphones
10 here, that's really for the benefit of other folks
11 who can't be here today who can benefit from our
12 conversations. So it doesn't have to be formal.

13 Yes, sir?

14 MR. DeSARO: Thank you. Just a

15 general question.

16 Paul DaSaro from the Cowlitz Tribal Gaming
17 Agency.

18 Just a general question about the creation
19 of the additional regional office. Is that going to
20 entail -- how does that work from a budgeting
21 standpoint? Is that going to entail any additional
22 costs or fees on to those regions that are not part
23 of that geographic distribution?

24 MS. O'LOUGHLIN: Thank you. And no,
25 we don't foresee any changes in fees to add the
21

1 extra administrative region. It's merely to give
2 our satellite office, I guess, more authority to act
3 on its own without having to go through St. Paul to
4 act, so that it would have its own official region
5 designation.

6 So as far as budget is concerned, what
7 we're looking to do is just split the budget between
8 the St. Paul and satellite -- or the St. Paul and
9 Rapid City offices. So we don't foresee any change
10 in budget concerns there.

11 CHAIRMAN CHAUDHURI: And thank you
12 for that question. And I think that's absolutely
13 accurate. We already have staffing in Rapid City,
14 and what we're talking about is elevating the

15 authorities. But down the road, we always strive to
16 meet our statutory responsibilities regardless of
17 what region we're talking about. And so we're
18 always going to be looking at, are we well-equipped
19 to provide the services and the support that we need
20 to as an agency?

21 And I will say, if staffing adjustments
22 need to be made, regardless of what region you're
23 talking about, that's something that we want to hear
24 from our regulatory partners about in terms of how
25 to provide the training, the technical assistance,

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1 the compliance support that we provide. And so
2 short-term, we don't envision a big impact, but we
3 are always open to making adjustments as we move
4 forward.

5 Yes, sir?

6 MR. OSBORNE: I have a comment
7 about -- oh. Marvin Osborne with the
8 Shoshone-Bannock Tribes.

9 We're sort of in a rural area. We're kind
10 of like in the middle, and we're -- any direction
11 you go, we're going to be far from any regional
12 office. But one thing that I have a concern with
13 is, I guess, the support when we get into any legal

14 issues. Idaho is really an unusual set of
15 circumstances, and we help to build and design and
16 fight for what we believe is correct, following the
17 rules and regulations of the NIGC, IGRA, all the
18 other tribal laws that we have to put up with.

19 When it comes down to enforcing the law, I
20 don't -- we've never seen NIGC, you know, in back of
21 us or trying to support us, because some of these
22 suits can be very devastating to tribes, especially
23 the smaller tribes, because in some instances --
24 I'll go in the past here. We've had a situation
25 where we had a person -- or two people self-exclude

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1 themselves, and what happened is they ended up
2 filing a lawsuit against the State of Idaho for,
3 they feel, violating their rights through the
4 compact that the State agreed to.

5 Once that was shut down by the State, then
6 they turned around and filed against the government.
7 The government -- of course, we had to intervene and
8 file an amicus to it because we felt the government
9 didn't know what was going on and what was
10 happening. So we had to make sure that our rights
11 are protected. And this thing could have gone all
12 the way to the Supreme Court.

13 And what's backing those people were

14 antigaming people. And they got into the
15 legislative people's mind that gaming is wrong in
16 Idaho and we shouldn't allow it. But that brings,
17 you know, a lot of issues to the table because if an
18 issue like that starts to develop, and it's hard to
19 stop, because, you know, there's more voters than
20 there are Indians, sometimes we need that support
21 out there in the rural area.

22 The latest issue was the historical racing
23 matter that surfaced that was in violation of the
24 Idaho Constitution. But the group duped the
25 legislative people, and it actually turned out
24

1 they're gaming machines. So that type of thing set
2 off the horse racing industry to really go after the
3 tribe.

4 So, you know, all we can do is inform
5 NIGC, but whether they're going to do anything to
6 support us and back us, you know, it's an unresolved
7 issue. But, I mean, it fits into your rural
8 categories of tribes way out there, and you've got a
9 lot of people out there who do not like gaming, do
10 not like the Indian tribes' rights. It makes it
11 really difficult sometimes, and sometimes you need
12 that support.

13 CHAIRMAN CHAUDHURI: Thank you, sir,
14 for that comment. I'm going to look around and see
15 if anyone else wants to weigh in.

16 Do we have compliance here?

17 Let's see. I have a number of things to
18 say about that. First, let me just speak generally
19 about communication. There are a number of ways to
20 be supportive, and I think part of our role is to
21 support our regulatory partners. IGRA created a
22 three-tier regulatory structure to support Indian
23 gaming, with tribes being the primary regulators at
24 the top. So whatever we can do to support our
25 regulatory partners benefits the industry and helps

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1 preserve the integrity of Indian gaming. So there
2 are many ways that we do that. It starts with
3 communication.

4 So I wasn't -- I'm not aware of all the
5 specific issues that Shoshone-Bannock faces, but I
6 do recognize, and I think can speak for all of us,
7 there are unique communication challenges when
8 you're dealing with rural communities. So our
9 compliance officers do make an effort to engage in
10 regular contact with their counterparts through site
11 visits, through individual visits. But, you know,
12 that's why meetings such as this are so important.

13 Outside of those site visits, it may be
14 weeks at a time, months at a time before sometimes
15 you see us in person. We want to make it clear that
16 our phone lines are always open, and we're looking
17 at utilizing technology in everything that we do to
18 help support rural compliance issues.

19 So if there are training issues, we want
20 those to be accessible online, if possible. If
21 there are litigation issues that we need to be aware
22 of, that, you know, maybe there's a request for an
23 amicus brief or some litigation role. We have our
24 regional attorney, Esther Dittler, here. We want to
25 make it clear that our phone lines are open, also,

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1 at our office of general counsel.

2 So I'm not aware of all those specifics.
3 There are a lot of different ways to help. We try
4 to help on the compliance and regulatory side of
5 things. But if there's litigation brewing that we
6 need to be aware of that affects the functions of
7 IGRA or affects Indian gaming, please let us know.

8 And I'm sorry if there are some specific
9 litigation matters that we may not have been aware
10 of, but we always stay in our lane as regulators,
11 and we don't engage in things that's outside of our

12 authorities. But if something impacts our reading
13 and understanding of the Indian Gaming Regulatory
14 Act, we don't hesitate to be involved, where
15 appropriate.

16 And do you need a microphone, sir -- this
17 is a great discussion -- just so everyone can hear
18 you in the back?

19 MR. OSBORNE: I just want to also say
20 that the reason I brought that out is because
21 whether tribes know it or not, the impact of another
22 tribe getting into a lawsuit that causes a national
23 issue impacts us, even though we're not anywhere
24 near that tribe, the location or that state. And
25 that's why I think it's so important that we kind of

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1 watch -- we watch those things.

2 I know we fought hard. We look at
3 legislative people. We work with legislative
4 people. If it wasn't for one of our local
5 legislative representatives in southeastern Idaho,
6 we'd have probably went further in this discussion
7 and got into a lawsuit. Coeur d'Alene did file that
8 lawsuit, and they succeeded in it, you know. And
9 you'd have to make sure that a lot of tribes are
10 aware of those issues.

11 But the fact of the matter is that way out

12 there, I know in California -- I don't want to say
13 anything bad about them, but when the issue that
14 came up about unions popped up and that scattered
15 across -- whether they know it or not, it impacted
16 us, and we had to scurry to develop an issue that
17 would help to prevent unions from coming in.

18 But our circumstances at Fort Hall is
19 probably a lot different than any other location.
20 We're almost 98 percent Indian employed, and so we
21 have very little non-Indians involved at all. So we
22 manage this thing with tribal members, and it's kind
23 of difficult sometimes, but at the same time we have
24 to really be watchful, careful. We try to
25 communicate as best we can out there wherever we

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1 can.

2 But again, those outside impacts of
3 lawsuits in the other states sometimes get a little
4 too close to us, and it makes it hard for us
5 sometimes.

6 CHAIRMAN CHAUDHURI: Thank you, sir,
7 for that comment.

8 So let me add -- and I've got to turn it
9 over to our chief of staff. I think she wanted to
10 say some things as well. But -- so we are very

11 mindful of the impact of one litigation matter in
12 one part of -- one part of the state or one part of
13 the U.S. affecting tribes throughout the Indian
14 gaming world. We're very aware of that.

15 We work closely with our lawyers. We have
16 our in-house office of general counsel, but for
17 litigation the Department of Justice represents
18 NIGC. We work very closely with our lawyers to have
19 a reasonable, sensible approach that supports the
20 policy purposes of IGRA in all of our litigation
21 positions.

22 We can't speak for other agencies, and we
23 can't necessarily determine the litigation
24 approaches for other agencies, but we do have an eye
25 on the big picture when we try to decide what types

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1 of matters to file briefs on to support litigation.
2 And so if there are -- yeah, you mentioned a few
3 examples, and those are examples that certainly were
4 on our radar screen as those discussions took place.

5 In addition to litigation, we see an
6 important public education role for the agency. You
7 know, when we meet with other federal agencies, when
8 we meet with members of the Hill, we do have a
9 responsibility as regulators to explain our
10 regulatory roles under IGRA, what Indian gaming is,

11 why Indian gaming is different than other types of
12 gaming and different than commercial gaming. And we
13 do our best to make those arguments.

14 I'm always thankful when we're allowed to
15 be brought into the homelands of a nation, like we
16 were today and yesterday, because the stories that
17 connect gaming to services, to language programs,
18 cultural preservation programs, governmental
19 infrastructure, jobs, those are stories that we tell
20 both behind closed doors and publicly.

21 So it's definitely our hope and our
22 interest to be mindful of litigation matters that
23 may affect the fabric of the Indian gaming tapestry,
24 but it all starts with communications. So if
25 there's -- if there are litigation matters that are

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1 brewing, I mean, by the time things get to the
2 federal courts, a lot of times we're pretty aware of
3 the issues. But if there are potential issues
4 brewing that we need to be made aware of early, I
5 want to encourage you to reach out to our office of
6 general counsel.

7 If there are compliance issues -- you
8 know, I talk about work with our regulatory
9 partners. We also work with states, and sometimes

10 there's an opportunity there and working with
11 partners to head things off before they become big
12 issues.

13 But I appreciate that -- those comments.
14 Certainly, the spirit of those comments we share in
15 terms of wanting to avoid. And that's why we take
16 our compliance roles so seriously. We don't want
17 one unique set of events in one community to
18 disproportionately color the discussion of what
19 Indian gaming is nationally. And so we take
20 compliance very seriously, and we try to address
21 things early and aggressively.

22 Do you want to add to that?

23 MS. O'LOUGHLIN: Yeah. I wanted to
24 echo that, you know, one of our jobs as NIGC is to
25 set the record straight on what Indian gaming is,

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1 and our public affairs division is strongly involved
2 in making sure that the stories get out that need to
3 get out about what Indian gaming is and isn't.

4 I also wanted to make you aware that, you
5 know our regions are very good about compliance
6 issues and offering training and technical
7 assistance, but our headquarters folks, where
8 there's bigger issues, the region can help you set
9 up a meeting request with the commissioners, with

10 OGC and the head of our compliance division if there
11 are other issues you need more attention for. We're
12 happy to set up a teleconference or, if you're in
13 DC, to sit down and meet with you and talk about
14 whatever issues that are there are.

15 And just lastly, I would encourage you, if
16 there's more details that you'd like to talk to us
17 about, we're happy to give you a card at the end of
18 this, or you can write them down and send them to
19 us, and we can get to work on whatever those issues
20 are you had.

21 MR. OSBORNE: I can write and kick
22 something out just to be on the record here.

23 CHAIRMAN CHAUDHURI: And we welcome
24 both comments in this forum, but, you know, we're
25 happy to follow up as well.

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1 MS. O'LOUGHLIN: Follow up with you,
2 yes.

3 CHAIRMAN CHAUDHURI: But certainly
4 there are a lot of cases, a lot of litigation that
5 we put a lot of thought into. And, of course, we
6 can't control all aspects of the federal government,
7 nor should we be able to. But when it comes to
8 NIGC, we put a lot of thought into our litigation

9 positions that we take. But thank you for that

10 comment, sir.

11 I see a lot of new faces that just joined

12 us. I thank you for -- I know a lot's going on

13 today. There are other meetings going on. Thank

14 you. We want this to be an open dialogue, a two-way

15 conversation. There are a lot of seats up in the

16 circle here. But if you want to kind of sit in the

17 overflow seats, that's fine too. But we want this

18 to be as two-way and active of a dialogue as

19 possible.

20 Thank you for that comment, sir.

21 Additional comments, thoughts, about rural

22 outreach before we move forward?

23 I mean, that brought up some great ideas.

24 I think our regional offices really do do a good job

25 of maintaining great relationships on the ground,

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1 but it's getting easier and easier to link in rural

2 communities. And we don't want to be behind the

3 curve on that. That's why we created a technology

4 division, and it's headed up by our new technology

5 director. We want to be ahead of the curve in being

6 able to not just do trainings, but have compliance

7 functions performed remotely as possible to help

8 save costs for rural communities, but also

9 troubleshoot things before they're problems. So

10 thank you.

11 So we'll move on to the next topic,

12 unless -- and there is going to be a catchall

13 section at the end. If you think about a rural

14 outreach comment at the end, there will be an

15 opportunity.

16 But we'll go ahead and move on to the next

17 topic that we discussed, developing strong work

18 force -- strong tribal work force through training.

19 And it really should be supporting a strong tribal

20 work force, because, you know, as we know, the

21 regulatory structure of Indian gaming, its health is

22 due to the work, first and foremost, of the primary

23 regulators on the ground.

24 Our job, as fellow regulators, is to do

25 whatever we can to support our partners as much as

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1 possible. Yes, we perform compliance functions, and

2 we never shirk from those, but we take very

3 seriously our training responsibility, and we take

4 very seriously our technical assistance

5 responsibility. And so when we talk about

6 strengthening a strong -- or strengthening the

7 regulatory workforce, training's at the heart of it.

8 So we have our training manager, Steve Brewer, who
9 is going to give us additional background on our
10 next topic.

11 MR. BREWER: Again, good afternoon.
12 I'm not going to introduce myself again since I did
13 it once.

14 A strong workforce is an essential
15 ingredient to the success of any business. The NIGC
16 believes that one of our best assets is our
17 employees and recognizes that is also the case for
18 tribal gaming operations. With this in mind, the
19 Commission has prioritized supporting a strong
20 workforce, both within NIGC and among our tribal
21 regulatory partners, as one of our four initiatives.

22 In order to foster a strong tribal
23 workforce, the NIGC seeks to enhance our external
24 training program and ensure it continues to meet the
25 demands of the industry. To that end, we take this

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1 opportunity to update you on the direction and
2 commitment of our training program and to consult
3 with you about how we can deliver a better training
4 program to meet the needs of our regulatory
5 partners.

6 The NIGC offers three types of training
7 events:

8 Regional training conferences are
9 trainings derived from our training catalog and are
10 based on the needs of the region where the training
11 is occurring;

12 Regulating gaming technology is geared
13 towards providing both an understanding of a variety
14 of technologies on a casino floor and strategies on
15 how to effectively regulate and understand such
16 technology. It is anticipated that an all-new RGT
17 course will start in FY -- fiscal year 2018. We
18 have postponed it or suspended it for this year to
19 update it;

20 And, finally, site specific trainings are
21 trainings requested by a tribe to meet the
22 individual needs of its tribal government, gaming
23 commission, regulators, and operators.

24 The NIGC has developed some assessment
25 tools that the tribes can request at no cost. The

1 first assessment opportunity is the Information
2 Technology Vulnerability Assessment, or ITVA. The
3 ITVA is performed by NIGC IT auditors who complete a
4 vulnerability analysis of a facility's IT system to
5 identify potential security threats.

6 The second type is an internal control

7 assessment, or ICA, performed by our audit staff.
8 This can be a comprehensive review of a tribal
9 gaming facility's entire system of internal
10 controls, or a specific or limited review of a
11 specific area of a gaming operation. Based on the
12 findings identified in either of these assessments,
13 the training program, along with the tribe, can then
14 develop training specific to meet the needs of that
15 tribe.

16 All NIGC training is developed to support
17 our tribal customers. The training request process
18 is used to shape and deliver training courses and
19 programs that are uniquely tailored to each
20 organization based on their specific needs and
21 requests. The NIGC training program is currently
22 undergoing a process to revamp, revise, and update
23 all of our training offerings.

24 The NIGC is committed to craft trainings
25 that are carefully targeted to meet the evolving

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1 needs of our regulatory partners and address high
2 priority matters critical to safeguarding the Indian
3 gaming industry. In this manner, the NIGC training
4 program is in the process of revising its
5 instructor-led training courses to provide for a
6 more interactive and hands-on approach.

7 As a commitment to the value we put on
8 training, we have recently brought in additional
9 staff to help develop our training platform and
10 assist in incorporating new methods of training and
11 technology. Currently, we include things like live
12 call-in during training events, electronic training
13 files, which are available for download prior to the
14 commencement of a training event, and have included
15 new tool kits to assist tribes in better
16 understanding the intent of the minimum internal
17 controls.

18 We are currently working towards offering
19 an online training course and on-demand recordings
20 of these trainings. Additionally, we are excited to
21 announce we will be conducting live
22 videoconferencing of training on a routine basis.

23 With the kickoff of our current training
24 year, the NIGC has included new training classes,
25 including a 12-hour comprehensive training workshop

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1 for internal audit, a 12-hour hands-on workshop for
2 TICS/SICS development, a new Gamesmanship 2.0
3 training designed to teach regulators how to detect
4 potential Gamesmanship issues, and a new IT training
5 relating to auditing the Class II control standards

6 at part 543.20.

7 In 2016, the NIGC instituted knowledge
8 reviews in certain audit courses. The intent of the
9 knowledge review is to review the effectiveness of
10 our training. The testing is performed at two
11 points: First, upon completion of a training class
12 to understand what the student learned; and a
13 second, another test is performed 90 days later to
14 see if the student retained the information.

15 A knowledge review is an important aspect
16 to ensure our training is efficient and effective.

17 In 2017, the NIGC is expanding the knowledge reviews
18 for all courses offered by the NIGC.

19 At this time I'll take any questions you
20 might have.

21 MR. IYALL: I'm Jerry Iyall with the
22 Cowlitz -- with Cowlitz Indian Tribe.

23 I'm curious about the ITVA and ICA
24 assessments, you know, about how much time those
25 would take and what would happen with the results

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1 from those assessments.

2 MR. BREWER: I can let Travis talk
3 about the ITVA, and I can talk about the ICA.

4 MR. WALDO: Yeah. The ITVA is a
5 passive vulnerability scan. It's not an actual

6 penetration test of your network. Typically takes
7 about a day. The standard software is Nessus, which
8 is the industry standard for scanning a network.
9 When the scan is actually over, the information is
10 yours. We'll sit down with the Commission and
11 operations and everybody that we can basically get
12 in the same room. We go over the results and
13 findings. We also give you remediation activities
14 for stuff to actually correct if we find any serious
15 vulnerabilities or even moderate vulnerabilities
16 when that is done. But at the end of the scan, the
17 information is essentially yours. It's not an
18 audit.

19 MR. IYALL: Thank you.

20 MR. BREWER: Quickly, on the ICA, it
21 really just depends on the size of the property and
22 the stuff that's being audited. If it's a full
23 comprehensive audit, it can take a couple of weeks,
24 as it would for an external auditor to come in and
25 do the same thing. Or it can be a limited scope,

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1 where you just wanted, say, your bingo to be looked
2 at. They can come in and do a limited review of
3 whatever it is you want. So it can be really
4 comprehensive, which is going to take a while, or it

5 can be limited to what it is you want.

6 MR. IYALL: Thank you.

7 CHAIRMAN CHAUDHURI: Thank you for
8 that question. Before we hear the next question,
9 just to add to that, anything that's produced from
10 those reports is produced -- I mean, so with the
11 ITVA, there's a report at the end of the assessment.
12 You know, with the ICA, there's a sit-down meeting
13 where the results are discussed. That's all done
14 with an eye towards technical assistance. It's not
15 being done in -- you know, in the compliance arena.

16 And so we're looking at the results of
17 those findings as an opportunity to help work
18 together to address any -- you know, any
19 deficiencies or any challenges before they're
20 problems. Now, of course, eventually, if -- I don't
21 know -- if things are never addressed, there may be
22 compliance aspects to that way down the road, but
23 the whole idea is to work together quickly to team
24 up and to address these things through the technical
25 assistance lane.

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1 And so -- and they're free. I always say
2 they're free. But it's prepaid because NIGC's
3 funded by Indian country, but these are really great
4 services that any nation can request. And we'll try

5 and work folks in as quickly as possible, especially
6 at newer facilities. You know, we talked about the
7 needs of rural facilities. We've heard a lot of
8 good things about how helpful these services are.

9 MR. DeSARO: Paul DeSaro from the
10 Cowlitz Tribal Gaming Agency.

11 Just a quick question on the ITVA. For
12 clarification, is that referring to primarily the
13 regulatory body's internal IT systems, or is that
14 looking at the casino's IT systems?

15 MR. WALDO: It's primarily looking at
16 casino's IT systems, but we will scan basically
17 whatever systems that you guys are comfortable with
18 us looking at, or whatever is in the realm that you
19 want us to scan. On average, it should be a cost
20 savings of around \$10,000 to tribes, because the
21 first step in a penetration test is a vulnerability
22 scan, and that's usually where you spend most of
23 your time gathering the data. That was the original
24 projection for that; that's one of the reasons we
25 developed that.

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1 But we will look at any system that you
2 want. I've looked at tribe systems; they've wanted
3 us to look at old accounting systems. They've

4 wanted us to look at old back -- past network
5 systems that they weren't sure were still up and
6 running. We can look at pretty much anything that
7 you need us to.

8 CHAIRMAN CHAUDHURI: Yes, sir?

9 MR. OSBORNE: Is that going to be --
10 are you going to be able to do site visits? Can you
11 do site visits for the IT testing?

12 MR. WALDO: I guess I misunderstand.
13 I guess I misunderstand the question. I'm sorry.

14 MR. OSBORNE: On the -- what he was
15 referring to over there, about the penetration of IT
16 systems, where the outside can come in and, you
17 know, zoom in, do you do site reviews on that at
18 request?

19 MR. WALDO: We can look at specific
20 sites, if there's an individual site that you want
21 us to. If your network is structured in such a way
22 that all of your sites are connected to one central
23 place, we can usually scan from one central
24 location. Again, it's nonintrusive; it's very
25 passive. We can do it usually in a day, day and a

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1 half. But if you want us to address specific
2 physical aspects of a certain site, like network
3 ports or, you know, vulnerabilities you think exist

4 to a specific site, we can do that as well.

5 MR. BREWER: And if I can just
6 clarify, if you're interested in an ITVA, if you go
7 onto NIGC.gov website, there's a training request
8 form, and in the training request form it has the
9 ITVA -- the request for the ITVA, and then that will
10 be sent through us, forwarded to the technology
11 division, and then they'll coordinate with you-all
12 on getting it on the calendar.

13 CHAIRMAN CHAUDHURI: That's great,
14 Steve. Do you want to talk about how to request an
15 ICA?

16 MR. BREWER: Sure. It's the exact
17 same thing. You go on the website. On the training
18 request form it has both -- basically, both an ICA
19 and an ITVA. And there's also a notes section. So
20 if you're looking for just a limited scope, where
21 you just want one area looked at, then you would
22 just identify what that area was. That would be
23 forwarded to the audit manager, and then the audit
24 manager, along with training, will coordinate a time
25 for that to occur.

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1 CHAIRMAN CHAUDHURI: Okay. Great
2 questions.

3 Again, the purpose of the transcription,
4 the idea is, we have a lot of folks with shared
5 interests in the room, and it would be great if
6 everybody could benefit from just this information
7 sharing. But the purpose of the transcript is to at
8 least provide this background for anybody who wants
9 to pull it up on the website.

10 So any other questions regarding
11 strengthening regulatory workforce through training
12 before we move on to the next subject?

13 And again, I do want to restate there will
14 be a catch-all section at the end where, if we miss
15 any comments, we'll have an opportunity to circle
16 back on some of these topics if you so choose.

17 So with that, we'll move to another
18 important topic, and that's management contract
19 regulations and procedures. And I mentioned how
20 many of the communities who are representative --
21 represented in the room today have operated under
22 management contracts or may be currently operating
23 under management contracts. We have a role to play
24 in observing our fiduciary duty and approving those
25 contracts, but whether you have input on process or

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1 procedures, we want to -- we always want to hear how
2 we can do things better or streamline things as much

3 as possible.

4 On kind of a little bit of a detour on the
5 topic, we have an ongoing commitment at NIGC to
6 really engage in meaningful consultation, and what
7 that means is trying to do everything that we can to
8 be active in listening and following through with
9 input received. So it's important for us to deliver
10 results based on past consultations, and one of our
11 past consultations involved the possibility of
12 obtaining a categorical exclusion from NEPA with
13 regard to our approval of management agreements.

14 We heard quite a bit of input from Indian
15 country. Through that input and through our
16 discussions with CEQ, we narrowed our immediate
17 request to looking at nonconstruction management
18 agreements with an eye towards developing a fuller
19 record for all construction -- I mean all management
20 agreements in the hopes that we may be able to
21 achieve a broad categorical exclusion at some point.

22 But I'm very happy to say we made a lot of
23 progress on the nonconstruction management agreement
24 side of things. We don't have anything that we can
25 roll out at this time, but our engagement with CEQ

1 has been active largely due to the input and

2 comments that we've received from folks such as you,
3 many of the folks in this room, who have gone
4 through the management agreement process and
5 understand the time and cost implications of our
6 regulatory approach to it.

7 So I want to thank you for your past
8 comments. Today's topic is even broader than that,
9 but if there are ideas about how to effectively
10 improve the management agreement approval process so
11 that -- so that due diligence is still performed and
12 tribal interests, community interests are protected
13 while still not creating -- while avoiding
14 unnecessary roadblocks to economic development, we
15 want to hear those comments.

16 So with that, we have our director of
17 finance who oversees our management agreement team
18 to provide additional background.

19 Yvonne, take it away.

20 MS. LEE: Good afternoon. For those
21 who came in late, again, my name is Yvonne Lee. I'm
22 the director of finance for the National Indian
23 Gaming Commission.

24 One of our primary initiatives at NIGC is
25 to protect against anything that amounts to

1 gamesmanship on the backs of tribes. Gamesmanship

2 is our broad term for any third-party threats to
3 tribal assets or operations. It includes
4 third-party interference with a tribe's sole
5 proprietary interest in its gaming operations.

6 Many gamesmanship violations may occur
7 when a third-party vendor or services provider is
8 managing some aspect of the managing -- of the
9 gaming operation without an approved management
10 contract, or where a management contractor is
11 operating outside of an approved management
12 contract. Therefore, approval of management
13 contract by the NIGC chair is required by IGRA as a
14 means of protecting the tribe against gamesmanship.
15 The chair has a fiduciary responsibility to tribes
16 to ensure that they remain the primary beneficiary
17 of their gaming operations.

18 The management contract and backgrounding
19 process should protect against gamesmanship, but the
20 process should also not stymie the entrepreneurial
21 spirit of tribes. With this in mind, the Commission
22 is seeking feedback and recommendations on whether
23 changes are needed to the management contract and
24 background investigation regulations. Specifically,
25 we want input that may improve our efficiency in the

1 management contract review process, but also

2 continue to protect tribes' sole proprietary

3 interest in their gaming activities.

4 To provide some context to this

5 consultation, I'll briefly summarize the current

6 approval process; then we will open the floor to

7 questions and suggestions.

8 A management contract is any contract,

9 subcontract, or collateral agreement between an

10 Indian tribe and a contractor or between a

11 contractor and a subcontractor that provides for the

12 management of all or part of the gaming operation.

13 Detailed requirements for a management

14 contract can be found on our website. To commence

15 the review and approval process, submitters must

16 submit a management contract and all relevant

17 documents in accordance with 25 CFR parts 531 and

18 533 to NIGC.

19 The Chairman must also make a

20 determination that the manager is suitable to manage

21 the gaming operation. The background investigation

22 process is an important component of the submission.

23 Background information must be submitted for all

24 persons and entities that have a financial interest

25 in, or management responsibility for, the management

1 contract, as identified in 25 CFR part 537.

2 Once a contract is submitted to the NIGC,
3 they are processed and reviewed based on the order
4 received. We've distributed three handouts to help
5 you understand our review process. The first
6 handout is the process flow chart. The second and
7 third handouts are the NIGC checklist for management
8 contract review and background investigation. You
9 can also print the checklists from NIGC's website.

10 As you can see on the flow chart, which
11 illustrates the process flow of management contract
12 review, once the submission is received, it will
13 immediately be distributed to all staff involved to
14 start the review process. We will first send out a
15 submission letter to inform the parties if there are
16 any information and/or documents still missing.
17 Then the staff in both the Division of Finance and
18 the Office of General Counsel will conduct the
19 review for their respective area as outlined on the
20 flow chart.

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

1 are any issues with the management contract. In
2 addition, the NIGC staff will work with the parties
3 to help them understand the issues, if necessary.

4 Please bear in mind that sometimes it might take a
5 few rounds to resolve all issues.

6 The length of NIGC review is dependent on
7 several factors, which can include:

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

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

13 The complexity of the submission and those
14 subject to background investigation.

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

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

1 submitted contract, or void the contract, or require
2 modifications of an approved contract. If
3 submitters find the chair's determination
4 unsatisfactory, they may appeal the decision.

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

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

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

24 Thank you.

25 CHAIRMAN CHAUDHURI: Thank you,

1 Yvonne.

2 MR. ADAMS: (Speaking in native
3 language.) Thank you, everyone. (Speaking in native
4 language.) I am from Nooksack, and I'm here to pose
5 some questions, but also to -- to -- in conjunction
6 with the management aspect.

7 Now, first of all, I would like to applaud
8 the Commission for opening this floor to meet
9 questions that arise from just ordinary people from
10 reservation life. Let's put it that way.

11 You know, you probably have a table full
12 of things before you, but we have concerns of, as
13 the tribal members Debbie, Fran, and Robert and
14 myself are here to pose, is -- in our world, up in
15 northern part of Washington State, well, we have a
16 situation where our standing -- the standing
17 government of the tribe is under question.

18 And as noted in -- from the letter from
19 Larry Roberts, then the deputy assistant secretary
20 of Department of Interior, basically stating that
21 since the then tribal council suspended elections of
22 our tribe, vacating all possible tribal community
23 input and pursuant to our Constitution, and it's
24 still as of -- to date, there's no bona fide
25 election. So leaving what amounts to a tribal

1 government basically in disarray because we have no
2 quorum.

3 We need four council members to constitute
4 a quorum -- no. Excuse me. Yeah, four. No.
5 Actually, we need five, five to make the quorum. So
6 we lack a quorum as of March 24th, 2016, as noted by
7 Larry Roberts, the deputy assistant secretary, in
8 our October 17th letter that he issued.

9 And so what pertains to this discussion
10 here is the propriety, this whole propriety at
11 issue, and also the issue of the primary
12 beneficiaries, i.e., the tribal people. So this is
13 what we're here for, is the legitimacy of what's
14 taken place. I know it's not the issue here for
15 this board -- or this Commission, but what is the
16 issue is the sole proprietyship, as well as the
17 primary beneficiaries, where there was a default on
18 a loan, say, back X years ago, maybe one or two
19 years ago, and then in that case there was -- it was
20 adjudicated where the courts rendered a decision
21 that the tribe's at fault.

22 Okay. This is where the problem comes in.
23 Now, in order to evade any kind of revenue
24 consequences of how the protocols go towards revenue
25 protocols, they chose to hold monies in a secure

1 place within the compounds of the casino. We only
2 have one casino left; we had two.

3 So the question, you know, if it's within
4 the regulatory authority of this Commission to see
5 to it that -- to intercede in this matter as a
6 fiduciary, to protect those people that are
7 involved, that are primary beneficiaries, seems to
8 me would be the logical place to go, and at least in
9 a good way they'll delve into the matter to see
10 where it stands and just follow the money.

11 So the other thing I wanted to bring up as
12 well, sounds like the people may or may not know
13 that there is a disarray in our community. And that
14 issue is we're trying to work on it until we get a
15 fair and just election. At that time we need
16 protection in absence of a standing government-to-
17 government as Mr. Roberts pointed out, since last
18 March of last year.

19 We've also had other BI -- IHS and HUD
20 intervene, too; other regulatory agencies as well
21 followed the lead of the bureau, Department of
22 Interior, in garnering a fair election. As you
23 know, it was a disenrollment issue. As I stated
24 earlier, it's not an issue that anybody can decide

1 But when a holdover council, and in this
2 case one portion of the council, chose to ignore the
3 Constitution for every four years each council
4 person must stand for election, and to override
5 that, leaving the credibility and the standing of
6 our government in question.

7 And so my -- or our concern as members who
8 are often not heard, are often not heard, this forum
9 here, I applaud this Commission once again. And for
10 that I'd like to turn the floor over to fellow
11 tribal member Debbie, who would like to share a few
12 words too.

13 (Reporter requests clarification.)

14 MR. ADAMS: Thank you. Syelpxen is
15 my traditional name. You may not write it, but it's
16 George Adams, Nooksack Indian Tribe.

17 MS. ALEXANDER: Hi. My name is
18 Deborah Alexander, and we're calling ourself the
19 voices of the Nooksack people that are never heard.
20 I'll probably repeat a few things that George has
21 said because I'm not great at speaking in front of
22 people. I have note cards.

23 So, first of all -- first of all, I'd just
24 like to say that we are here because of many of the

1 Indian Tribe in regards to tribal gaming monies that
2 are being spent. Like George was saying -- excuse
3 me.

4 Like George was saying, the Nooksack
5 Tribal Council has been defunct, and this has been
6 happening since March of -- March 24th of 2016. He
7 also said that the BIA, Indian Health Services have
8 all made this determination. They've frozen a lot
9 of the money. Each of these federal agencies have
10 said that they and the United States will not
11 recognize the Nooksack Tribe until a tribal election
12 is held.

13 The tribal council that is operating now
14 have -- we haven't had any election since March
15 24th, but they're still acting in the capacity as
16 tribal council members.

17 Since March 24th, 2016, there has not been
18 a legitimate governing body, like I just said, to
19 serve as sole proprietor of the Northwood casino.
20 Since 2016, when the feds began to freeze Nooksack
21 638 monies, the holdover council has relied upon
22 Northwood gaming revenues to fund illegal enterprise
23 and the Nooksack people are not the primary

24 beneficiaries of these dollars.

25 Since at least 2013 the holdover council

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1 has made gaming per capita distributions twice per
2 year. They call them school supply stipends and
3 Christmas distributions. Nooksack has never had an
4 approved allocation plan to allow for those gaming
5 distributions. The Christmas distributions total at
6 least \$450,000. So over the last three years the
7 holdover council has illegally distributed over 1.8
8 million in gaming monies, and this is not to any of
9 the people that they have bogusly disenrolled within
10 the last year.

11 For the last several years the holdover
12 council has instructed Northwood casino management
13 to keep gross gaming revenues in the cash cage
14 rather than depositing them into bank accounts, and
15 that's because of the multi-million dollar judgment
16 entered against the tribe in favor of a lender for
17 the river casino that they -- that was shut down a
18 year ago. And this is so the monies would not be
19 swept out of those accounts.

20 Excuse me.

21 Millions of dollars are unsecured and not
22 being regulated by anybody, especially since March
23 24th, 2016. Even worse, those monies are being

24 misappropriated by the holdover council to pay

25 themselves and their allies millions in lawyer fees.

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1 We ask you to immediately intercede at Northwood to

2 suspend operations and place the facility in

3 receivership until a tribal election is held.

4 Please fulfill your trust responsibility

5 -- responsibilities to all Nooksack Indians and

6 intercede at Nooksack like your sister agencies have

7 done.

8 Thank you for your time. Again, Deborah

9 Alexander. And my family and I are one of the

10 306-plus individuals that have been illegally

11 disenrolled by a null and void council. Thank you.

12 My Indian name is Hulth Yaan.

13 CHAIRMAN CHAUDHURI: And thank you

14 for -- thank you for those comments.

15 I'm sorry.

16 MR. ADAMS: Just a quick thank you,

17 once again.

18 CHAIRMAN CHAUDHURI: Okay. Thank you

19 very much for those comments.

20 Let me say a few things very, very

21 briefly. I appreciate the input. We try to err on

22 the side of being as open and, you know, possibly

23 informal as we can -- we can be at these

24 consultations, because anything that can help move

25 the ball forward in terms of advancing the

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1 regulatory structure of Indian gaming, we're all for

2 that.

3 We are aware of the difficulties, many of

4 the difficulties, within Nooksack that you

5 mentioned. We absolutely wish the people of

6 Nooksack the best in resolving many of those

7 difficulties. Beyond Indian gaming, but just in the

8 spirit of harmony and strong governments and strong

9 tribal communities, we absolutely wish Nooksack the

10 best.

11 We are aware of other agency dialogue and

12 actions. Let me -- we can't speak to other

13 agencies, but let me just speak very briefly about

14 NIGC. We're a unique agency, and I'm proud of the

15 agency that we belong to. We have a unique mission

16 under the law, under IGRA, to support Indian gaming

17 as a whole and preserve the integrity of Indian

18 gaming, and we take that responsibility very

19 seriously.

20 Part of that, part of the way that we

21 perform -- and I'm proud of this part of our

22 mission -- is that in the first instance our primary

23 duty is to support the primary regulators and the
24 primary regulatory bodies of tribal nations. There
25 are -- you know, there are unique things that come
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1 from that responsibility.

2 When it comes to appreciating and
3 understanding the federal government's relationship
4 with a given nation, we don't make those
5 determinations. To the extent that we're a federal
6 agency, we look to the Department of the Interior
7 and determinations that the Department of Interior
8 has made in terms of who are appropriate
9 counterparts for us to engage with on a
10 nation-to-nation basis. And so we were aware of the
11 letter that you've referenced, and we appreciate
12 your comment on that.

13 Beyond that, when it comes to exercising
14 our compliance responsibilities as an agency, we
15 take very seriously our responsibilities to uphold
16 IGRA and preserve the primary beneficiary status of
17 tribal nations, the sole proprietary interest of
18 tribal nations, but we're also regulators and we
19 take action based on confirmable facts.

20 I can't speak to what we look at when
21 we -- we try to track down confirmable information,

22 but all I can say is we're aware of activities that
23 were referenced, and we are -- as an agency,
24 concern -- are concerned of any -- are concerned
25 with, you know, any situation that potentially has

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1 gaming impacts. And so we do look at things of this
2 nature.

3 That said, when and if we take -- whenever
4 any actions we take -- we're very different than
5 some other agencies that were mentioned. We don't
6 provide grants. We don't oversee 638 monies. So
7 any function that those agencies perform and any
8 dialogue that they've had in terms of their
9 reference to other correspondence, that's kind of
10 outside of our lane.

11 When it comes to compliance, we look into
12 things. We verify things. We make sure that we're
13 on solid footing whenever we take any regulatory
14 action. And I can't speak to the specifics that
15 were -- you know, any specifics of things that we
16 look at.

17 But I just wanted to say thank you for
18 your comments. They're appreciated. Certainly, the
19 integrity of Indian gaming is important for not just
20 the folks at NIGC, but I think everyone here in the
21 room, and we understand that what impacts one of us

22 impacts us all. So many thank yous -- I mean, thank
23 you for your comments.

24 So -- yes, sir?

25 And I do want to circle back to the
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1 management agreement approval process.

2 MR. GLADSTONE: I apologize. I just
3 felt it important to zero in on something you said.
4 I think the main -- Robert Gladstone, by the way,
5 although I do offer my full name.

6 I think the one point that we're trying to
7 make -- I know we talked about grant funds and this
8 sort of thing, but the main focus of the statement
9 they wanted to make here today is you, the Indian
10 Gaming Commission, in your capacity as gatekeepers
11 of the Indian Gaming Regulatory Act, we wanted to
12 point out the fact that the Department of the
13 Interior has said that they don't recognize this
14 council because they haven't been following their
15 own Constitution. Indian Health Services has said
16 the same thing, and so has Housing and Urban
17 Development.

18 So if they're saying that they're not a
19 legitimate government, what we're saying to the
20 Indian gaming regulating authority is that they

21 aren't recognized by those branches of government,
22 then they're not the legitimate people that should
23 be operating the casino. And if, in fact, they're
24 using funds for things other than social aspects in
25 supporting their government, that would fall under

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1 the umbrella of your Commission, and your fiduciary
2 obligation is to ensure that the regulatory
3 standards are being followed. And that's the
4 specific thing that I think we wanted to address
5 here. Although there was other things mentioned,
6 that's the focus.

7 I'll let you carry on, but I just thought
8 I needed to clarify that. It can get convoluted in
9 a lot of this, but the bottom line is, you're a
10 regulatory body. There's regulations on the table,
11 and they're not being followed, short and sweet, and
12 they're quite serious and substantial and very, very
13 obvious.

14 CHAIRMAN CHAUDHURI: Thank you, sir.
15 I appreciate you narrowing the -- I mean, just
16 clarifying. And all I can say is, we take these
17 matters seriously and can't speak to all the details
18 of anything that we look at, but we're aware of
19 matters -- matters on the ground in Nooksack, and
20 we're, you know -- first order of business is always

21 to gather as much information as possible. Thank

22 you. Appreciate your comments.

23 So with that, again, Yvonne's still on the

24 hook, our finance director.

25 You know, these management agreements,

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1 management agreements are a unique opportunity when

2 we approve them, but also -- I mean, they present a

3 unique opportunity when we approve them, but also

4 along -- I mean, moving forward, as they're

5 administered, to ensure that tribal interests are

6 protected. Ms. Lee talked about protecting against

7 gamesmanships on the backs of tribes.

8 In a nutshell, IGRA provides a lot of the

9 authorities and responsibilities for the Commission,

10 but it boils down to, you know, protecting against

11 third-party threats to tribal assets or operations.

12 It's as simple as that. When you're trying to

13 protect the primary beneficiary interest of tribes,

14 you need to make sure that you're performing due

15 diligence when approving these management

16 agreements. And so many, many of the folks in the

17 room have had experience with these types of

18 agreements.

19 Before moving on to the next topic, we

20 welcome any comments you might have about how to
21 refine or improve the process.

22 Yes, sir?

23 MR. OSBORNE: Before I got there with
24 our tribe, we experienced a management contract
25 issue, and I wasn't there to see what was happening
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1 or what went on, but I think they did get approved
2 by NIGC. But later on, they just turned into a
3 monster, got into a lawsuit with them, and ended
4 their contract, and I don't think -- I don't think
5 we'll ever get involved in a management contract
6 again. I think that was too devastating.

7 CHAIRMAN CHAUDHURI: Thank you for
8 that -- thank you for that background.

9 Okay. We will have catchall, and if it's
10 looking like we're going to use all of our time --
11 and I don't think we're there yet -- if we need a
12 stretch-your-legs moment, we're happy to work in a
13 little break. But feel free to take a break at your
14 own discretion. The break is really for a lot of
15 the folks who are stuck up here on the -- you know,
16 holding a microphone. And Travis has his ready for
17 the next topic.

18 So if there's no additional comments or
19 concerns, we'll move forward with our fourth topic,

20 which involves technical standards for mobile gaming
21 devices. Our director of technology, Travis Waldo,
22 will speak to that in more detail, but again, I
23 always am appreciative -- we're always -- we're all
24 always appreciative of comments received.

25 When this consultation topic was first

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1 advanced as something that might help -- you know,
2 help our partners stay ahead of changes on the
3 horizon, the initial thoughts involved a potential
4 regulatory tweak. There were several comments
5 received in some of the early consultations about
6 how nonbinding guidance or just simple guidance may
7 fit the bill in terms of being supportive while
8 allowing for flexibility for technological change
9 that may come down the pike.

10 I don't understand any of this nearly as
11 well as our director, but the point I'm making is,
12 we do listen to comments in terms of the approaches
13 that we take at NIGC and welcome your input.

14 So, Director Waldo.

15 MR. WALDO: Thank you, sir.

16 Good afternoon, everyone. You have to
17 excuse my voice.

18 The National Indian Gaming Commission is

19 considering draft language to amend 25 CFR 547.18,
20 which would clarify and add new technical standards
21 for wireless gaming systems and communications
22 between mobile communication devices and mobile
23 gaming systems. These new draft regulatory
24 standards provide clear and specific definitions
25 that have not been included in the regulations

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1 previously. The new standards also support security
2 and system integrity for mobile gaming operations.

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

7 Portable handheld gaming devices have been
8 around for many years and are authorized in many
9 state jurisdictions. Handheld gaming devices are
10 electronic devices that allow casino patrons to play
11 anywhere within the casino or within tribal lands,
12 as defined by the Indian Gaming Regulatory Act, such
13 as at restaurants, hotels, or other amenities.

14 The draft technical standards for mobile
15 gaming devices will not authorize Internet gaming.
16 These draft technical standards only address
17 handheld mobile devices within tribal lands. The
18 draft technical standards, which can be found on our

19 website, are proposed standards for tribal review,

20 comment, and consultation.

21 We'll now take any questions you may have.

22 Thank you.

23 CHAIRMAN CHAUDHURI: And the draft

24 language was part of the materials that we provided,

25 wasn't it?

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1 MR. WALDO: I believe so, yes.

2 MR. WEBSTER: Good afternoon. Joe

3 Webster with Hobbs Strauss.

4 A number of our tribal clients have

5 already submitted written comments, and I just

6 wanted to follow up on those and, one, thank the

7 Commission for this initiative. We do think that

8 this is something that's important and something

9 that will be helpful to tribes in terms of providing

10 guidance and also certainty to the industry about

11 mobile gaming and how this type of technology can be

12 made use of.

13 We do think that the approach that you-all

14 take is important. I do agree, and I think our

15 clients agree, that many of these issues can be

16 addressed through guidance. There's probably some

17 that do require regulatory changes, and we've

18 suggested those in the comments that our clients
19 have submitted.

20 We also think that it's important in
21 looking at this issue to look at the related issues
22 in facility license regulations. So in terms of how
23 the license notifications are done in the context of
24 mobile, where you're not limited to a specific
25 facility, but you are operating on Indian lands that
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1 might be completely outside of any facility.

2 So the written comments here explain these
3 issues in more detail. But just generally, we think
4 this is a good start in terms of this discussion and
5 support the efforts to try to develop these
6 standards. So thank you.

7 CHAIRMAN CHAUDHURI: Thank you.

8 Any additional comments, questions, before
9 we move on?

10 We're doing great on time right now. So
11 it's looking like there's a good chance we won't
12 need a stretch-your-legs break, but we'll move on
13 with discussion about some potential changes
14 regarding how we receive the fee payments that we
15 receive. We have our director of finance,
16 Ms. Yvonne Lee.

17 MS. LEE: The Commission is

18 considering amending the language to 25 CFR part
19 514. Under the current regulation, the Commission
20 announces a preliminary fee rate on March 1st and a
21 final fee rate three months later on June 1st.

22 The proposed regulation will require the
23 NIGC to set the fee rate only one time per year, to
24 be announced on November 1st. The proposed changes
25 on the fee rate publication date will also apply to

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1 the fingerprint processing fee rate.

2 These are the proposed changes on 514.2,
3 on fee rate. And these are the proposed 514.16
4 changes or fingerprint rate.

5 By setting and announcing the fee rate
6 once a year, the Commission will be able to:

7 One, improve the efficiency of the fee
8 rate analysis and publication process;

9 Two, coincide the fee rate announcement
10 with the annual release of the gross gaming revenue
11 and the completion of the Commission's budget for
12 the upcoming year;

13 Three, reduce the margin of error for fee
14 calculations as the rate would only be set once
15 within a fiscal year;

16 Four, mitigate any confusion that may

17 arise from changing the fee rate twice a year.

18 In addition, a majority of tribes have
19 fiscal years ending either on September 30th or
20 December 31st. Tribes' submissions of audited
21 financial statements are required 120 days after the
22 end of their fiscal years. Therefore, when we first
23 use these financial statements to set the
24 preliminary fee rates, our analysis is limited to a
25 fractional portion of the financial audit

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1 submissions and must be reanalyzed again after
2 additional submissions are received at the end of
3 April.

4 The proposed changes will allow the
5 analysis to take place once a year after the
6 Commission has received all annual audited financial
7 statements. In addition, the fee rate calculation
8 will more accurately reflect the Commission's
9 required operation funding which will become
10 available by September 30th each year.

11 The Commission is seeking comments on the
12 proposed changes to the time period these fee rates
13 are published.

14 CHAIRMAN CHAUDHURI: Thank you,
15 Yvonne.

16 And I don't know if anybody else wants to

17 speak to this, but we're very excited about any
18 opportunity to increase efficiency and transparency
19 at the agency. Having our fee rate -- our fees
20 coincide with actuals in terms of our budget and
21 gross gaming revenue, it's exciting to -- it's a
22 minor tweak, but I think it's a tweak that will pay
23 off quite a bit when it comes to efficiency.

24 MR. OSBORNE: Marvin Osborne.

25 I have two questions. First of all, is

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1 the FBI fee involved in that? It's lowered?

2 MS. LEE: It's the fingerprint
3 process. When you talk about the FBI, it's the
4 fingerprint process. This only involves the data to
5 publish -- publish the fee rates.

6 MR. OSBORNE: Okay. The other part
7 is, I know we pay once a year, and as long as we
8 file the worksheets, is that still permissible?

9 MS. LEE: When you say pay once a
10 year, meaning you make advance payments; right?

11 MR. OSBORNE: Yes.

12 MS. LEE: So when the fee rate
13 changed, you were supposed to send in a revised
14 worksheet and adopt the revised fee rate. For
15 example, if we publish one fee rate, and then right

16 now we might change it on March 1st and, again, we
17 might change it again on June 1st. So if the fee
18 rate changes during those two time periods, then you
19 will have to submit a revised worksheet and submit
20 the correct payments.

21 MR. OSBORNE: Okay, but we can
22 still --

23 MS. LEE: It's okay. You pay in
24 advance based on whatever the current fee rate is at
25 that point. But when fee rate change, it will

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1 revise it.

2 MR. OSBORNE: Okay.

3 MR. BREWER: Just a quick
4 clarification, or just to go along with what
5 Yvonne's saying, if you pay your fees annually at
6 one time, you're still required to submit worksheets
7 even if -- you know, with the preliminary or final
8 fee rate, still required to submit the quarterly
9 worksheets.

10 CHAIRMAN CHAUDHURI: Thank you for
11 those questions.

12 So additional -- any additional comments
13 or questions regarding our proposed approach with
14 fees?

15 Okay. Well, we're doing great on time.

16 That brings us to our sixth and final topic
17 involving draft guidance regarding -- let me just
18 add to that: Voluntary draft guidance, nonbinding
19 draft guidance regarding Class III minimum internal
20 control standards. And so for that we have our
21 regional attorney, Ms. Esther Dittler.

22 MS. DITTLER: Hello. I'm Esther
23 Dittler again. I'm Mohawk from Six Nations, and I'm
24 the regional attorney for the Northwest region.

25 So as a result of the 2015-2016

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1 consultations, the Commission will issue nonbinding
2 Class III MICS guidance. We have issued a draft of
3 that guidance and are asking for your feedback
4 before we finalize and publish. Although a guidance
5 document does not require a formal notice and
6 comment process, the Commission recognizes the value
7 of tribal and industry input and intends to
8 thoroughly consider all comments we receive from you
9 to inform this guidance.

10 The draft 64-page guidance document is
11 available today in the books you received and also
12 on our website for review. The NIGC is fortunate to
13 have so many tribal gaming subject matter experts
14 working for the agency who are well-versed in

15 operational procedures and the risks associated with
16 them. And they have been diligently working to
17 develop this draft.

18 You'll notice that the draft follows the
19 formatting and style of the current part 543 Class
20 II MICS. We hope it helps to assist tribes with
21 mixed facilities to develop a comprehensive set of
22 controls while still enabling tribes themselves to
23 establish standards that best fit their needs.

24 Exclusively Class III areas, such as
25 gaming machines and table games, have been updated

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1 after extensive review of other jurisdictions,
2 incorporating tribal regulatory and current industry
3 standards.

4 Additionally, those controls in part 543
5 that require TGRA analysis and approval, such as
6 variances and supervision controls, are carried over
7 into the Class III guidance.

8 We would also like to consult with you on
9 the proposed decision to suspend the existing 542
10 regulations. Suspension of the regulations leaves
11 the existing text in the Code of Federal
12 Regulations, but adds a note that they are not
13 enforceable and refers the reader to the guidance
14 document. We believe that this solution

15 accomplishes the goals of keeping the language
16 accessible for those who need it.
17 Again, the guidance is being done to
18 provide voluntary, nonbinding updated regulatory
19 controls for Class III gaming areas. Because it
20 will be guidance instead of a regulation, we will be
21 able to quickly adapt to changes in the industry,
22 and we are seeking your feedback on the draft
23 Class III MICS guidance. And finally, we would also
24 like your input on the intent of suspending the
25 existing 542 regulations.

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1 CHAIRMAN CHAUDHURI: Thank you,
2 Ms. Dittler.

3 MR. WEBSTER: Thank you. Joe Webster
4 again.

5 Again, this is an initiative we think is
6 very important. Our tribal clients are in the
7 process of putting together comments now. The
8 initial draft is significantly improved. I think
9 our clients are going to have a number of technical
10 comments. But one of the general themes that we've
11 heard is the desire to have the tribal advisory
12 committee or similar body used to help go through
13 the document before it's finalized.

14 Even though it's going to be a draft
15 guidance, many tribes are still going to rely on
16 this for purposes of compacts, to cross-reference a
17 compact documents in gaming ordinances. And so the
18 final product is still going to be incredibly
19 important as best practices and in some ways maybe a
20 default that tribes will choose to incorporate into
21 other documents.

22 But the tribal advisory committee process
23 as used in the past, it can be a long process, but
24 on the other hand, the final product, I think, in
25 the cases where it's been used before, has

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1 absolutely been worth the effort and the ultimate
2 result has been good. So again, we certainly would
3 encourage the Commission to consider utilizing a
4 tribal advisory committee or similar format before
5 finalizing the document.

6 In terms of suspending the existing regs
7 while keeping all the books, again, that -- you
8 know, my clients think that is a good approach.
9 Even though the NIGC doesn't have the authority to
10 enforce, the current regs are referenced in many
11 compacts and ordinances. And so keeping them out
12 there so that they are available and can be used as
13 a standard is definitely helpful to many tribes. So

14 thank you.

15 CHAIRMAN CHAUDHURI: Thank you,
16 Mr. Webster.

17 Just in the interest of being as up-front
18 and straightforward as possible, that suggestion has
19 been made elsewhere, and I think it's been framed
20 about -- framed in a way asking, are we looking to
21 form a tribal advisory committee on this, also known
22 as a TAC? And I always just try to be as consistent
23 and up-front as I can be. The answer I gave -- and,
24 you know, our approach would, of course, be a joint
25 Commission approach.

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1 The answer I gave is, for my part, no.
2 And the reason for that is, we recognize that these
3 are nonbinding -- this is nonbinding guidance for
4 the purpose of helping bring clarity to the
5 industry, bring clarity to tribal regulators as
6 quickly as possible given the fact that, you know,
7 what's on the books for Class III is very outdated,
8 very old, and very difficult to work with as tribes
9 try to work with states that reference these MICS
10 and implementing them.

11 So time -- I don't want to say that tribal
12 advisory committees in any way are bad things.

13 They're great things. They help facilitate
14 dialogue. But we want to hear from all of Indian
15 country. We consider all of Indian country an
16 advisory committee on this, and that's why we try to
17 be as active and open about the information we
18 provided. But we also want something that we can
19 deliver and produce quickly.

20 We encourage active dialogue in forums
21 such as this and any written comments that are
22 submitted. But given we don't -- we also don't want
23 to add to the perception that we're in any way
24 getting outside of our lane as an agency. The
25 Colorado River Indian Tribes' decision was pretty

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1 clear regarding our authorities to implement actual
2 minimum internal controls when it comes to Class
3 III. We can't do it.

4 And with that in mind, given the
5 relatively narrow scope of what we're trying to do
6 here, the fact that we're trying to provide clarity
7 as quickly as possible, we absolutely respect and
8 honor the role of tribal advisory committee
9 participants who have worked with NIGC to produce
10 Class II MICS in the past. We honor and recognize
11 the value of those committees and a number of uses
12 in the formulation of policy and rules. But always

13 trying to be as up-front as I can be about where I'm
14 coming from.

15 We want to produce something, and I think
16 we're very close to producing something that will be
17 quickly of service to Indian gaming and to the
18 larger -- I mean, to the Indian gaming industry, but
19 don't want to diminish the value or importance of
20 tribal advisory committees in any way.

21 MS. SIMERMEYER: I appreciate the
22 Chairman's comment on that, and in the same vein
23 I'll share a slightly different perspective when
24 this issue has come up in another setting. I
25 appreciate the Chairman's acknowledgment of that,

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1 and I do think that there is an opportunity that we
2 have to maybe look at where there might -- we could
3 account for efficiencies, make sure that, you know,
4 we're cognizant of being responsive to the need that
5 exists for this, and also acknowledging this will be
6 unique in the way it has been in the framework
7 that's not been built up around these MICS in terms
8 of state-tribal relationships in the past.

9 So I think it's good that we have the
10 opportunity to kind of think of how we can have some
11 sort of process to make sure this is as -- is it a

12 good draft, I think, and we're getting positive
13 feedback in this process, and but as good of a draft
14 as it can be and as informed as it can be by kind of
15 looking for opportunities to dialogue and analyze
16 it.

17 So I thank the Chairman for acknowledging
18 that. Thank you.

19 CHAIRMAN CHAUDHURI: Absolutely.

20 Sir?

21 MR. DeSARO: Thank you, Mr. Chairman.

22 Just a quick question.

23 (Reporter requests clarification.)

24 MR. DeSARO: I'm sorry. Paul DaSaro

25 from Cowlitz Tribal Gaming Agency.

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1 Could you or someone on the panel
2 summarize the process that will typically take place
3 whenever there needs to be adjustments or changes to
4 this recommended MICS? And how would that process
5 take place? And what's the frequency with which
6 changes are made?

7 CHAIRMAN CHAUDHURI: Thank you for
8 that.

9 I don't know if anybody wants to address
10 this other than myself, but flexibility's the key,
11 and the idea is you want sound product. You want

12 whatever guidance is out there. You want it to be
13 reasonably tailored to meet the needs -- I mean, the
14 realities of the gaming landscape at a given time.

15 So you need to produce good product, but
16 the benefit of guidance is you don't go through all
17 the regulatory steps that a regulation requires. So
18 my guess -- and again, each time it's updated, it
19 would be a larger discussion among the Commission.
20 But my guess is, any changes would be approached in
21 a similar way, well, with, at a minimum, the same
22 level of vigilance and diligence that we've taken in
23 producing these guidelines in the first place. But
24 we do want them to be, you know, flexible enough to
25 amend as needs change, as realities change in

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1 gaming.

2 I don't know if that answers your
3 question, but we're not going to just unilaterally
4 change them. There's always a distinction between
5 technical amendments and substantive amendments. I
6 don't want to say that if we move, we won't change
7 our address, things like that. Hopefully, we won't
8 move anytime soon.

9 But, certainly, if it's a substantive
10 change, we would always welcome Indian country

11 input, as well as just general stakeholder input in
12 terms of understanding the landscape that we're
13 trying to tailor our guidance towards.

14 MR. DeSARO: Just one quick follow-up
15 to that. So do I understand that your intent is
16 that when changes -- when you make changes to this,
17 that you intend to run them by or do a consultation,
18 similar to what you're doing today, or is that going
19 to be imposed -- not imposed, but applied
20 immediately?

21 CHAIRMAN CHAUDHURI: I think that's
22 an excellent question. It's not something that I
23 think we have specifically all voted on and
24 discussed, but maybe I could turn it over to my
25 fellow commissioners. I'd feel comfortable with
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1 that approach and that's certainly my intent.

2 MS. SIMERMEYER: And to the extent
3 that I've thought about it, I think this is, from my
4 earlier comments, one of the reasons to consider
5 what sort of vehicle can we have that might be, you
6 know, more flexible than a consultation, but that
7 allows us to kind of get a survey of the land, see
8 what's out there in the future.

9 My understanding is a lot of what went
10 into this is feedback from Indian country, as well

11 as an assessment of what standard practices are in
12 other jurisdictions too. So I think having some
13 sort of vehicles that we should be considering at
14 this stage, and that, in part, is why we might need
15 to explore what sort of next steps we could have
16 even in this version of the MICS and getting more
17 feedback, whether that be through a TAC or something
18 more flexible or something more, you know, expedited
19 and responsive. So we'll keep thinking about that
20 still.

21 MS. ISOM-CLAUSE: Thank you for
22 bringing this up. Obviously, we're still kind of
23 discussing it amongst ourselves, and it's a very
24 important question. I think we all agree that we
25 will not impose unilateral change on the tribes. As

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1 mentioned, you know, this is a very important piece
2 of work out there, and we're very committed to
3 tribal engagement in that process.

4 CHAIRMAN CHAUDHURI: Excellent
5 question.

6 MR. HANSON: Daniel Hanson, the
7 Snoqualmie Gaming Commission.

8 I guess I'll start by saying that we
9 certainly support the Commission's direction to

10 suspend and preserve the 542 regulations in the
11 federal code of regulations. I think that will help
12 alleviate some of the concerns for those tribes that
13 have compact or ordinance language that directly
14 references those regulations.

15 I have vetted through the voluntary
16 guidance in depth, and I do want to commend you
17 guys. I think it's an excellent document. The fact
18 it parallels 543 is going to really help us as
19 regulators on the ground floor making sure we have a
20 consistent system for our TIC documents. With that
21 said, I did have a couple of comments I wanted to
22 add.

23 One is that I was wondering if there was
24 any consideration given to developing a definitions
25 section similar to what was in 542 and 543. I think
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1 that will really help provide some context and
2 uniform interpretation of some of the standards --
3 or the verbiage that's being used in those
4 standards.

5 And then secondly, in section 543 there's
6 a section on how tribal governments comply with this
7 part. That may be beneficial for voluntary
8 guidance, just to clarify the scope of the guidance
9 and the fact that they are truly voluntary for

10 tribes who adopt those standards.

11 I have some other more technical comments,
12 but I think those probably would better to be
13 submitted in written format.

14 CHAIRMAN CHAUDHURI: Excellent input.
15 Thank you. I hope the transcriptionist got down the
16 support for the Commission. Thank you for that.

17 You got it; right?

18 THE COURT REPORTER: (Nodding head.)

19 CHAIRMAN CHAUDHURI: But as to the
20 two comments, I think definitions section, I mean
21 internally we have discussions about how certain --
22 how to approach the definitions of certain terms. I
23 think that's a broader question, and it's an
24 excellent question to ask, but we tried to mirror
25 543 as much as possible, but 543 doesn't have that

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1 definitions section.

2 Any changes that would be made -- we
3 hadn't talked about changing 543 at this time. I
4 mean, at some point in the very near future it may
5 be appropriate to undergo, and this is part of the
6 regular process. You need to update the regs on a
7 regular basis anyway.

8 But your question certainly extends to 543

9 as well, and that's something we'll continue
10 thinking about. It would be difficult to put a
11 definitions section in just for the Class III
12 guidance that doesn't impact our existing regs, and
13 so since we're just taking a guidance approach at
14 this time, we'll put thought into, you know, how we
15 can look at some of those things.

16 But I think it's an excellent point, and
17 we'll kind of keep the definitions in mind as part
18 of our ongoing regulatory review responsibilities.
19 And so excellent question on that.

20 Properly framing the way we talk about
21 having tribes comply with this section is an
22 excellent point, and I think -- I don't know --
23 we'll definitely talk about that as a Commission. I
24 think that would be a somewhat easy change, easy
25 change to make. That's a great comment. Thank you.

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1 We're already on it. Going to take that
2 comment back to DC with us.

3 MS. DITTLER: I messaged them
4 already.

5 CHAIRMAN CHAUDHURI: All right. All
6 right. Thank you.

7 So additional comments, questions before
8 we move to a catchall section?

9 MR. OSBORNE: Can I get a
10 clarification of this grandfather clause issue? Are
11 you referring to gaming machines?

12 Are you referring to -- oh. Marvin
13 Osborne.

14 Are you referring to gaming machines or
15 bingo?

16 CHAIRMAN CHAUDHURI: Do you mind
17 repeating that question? Only because it ties
18 into -- again, for the benefit of other folks who
19 may read the transcript. It ties into some good
20 stuff here.

21 MR. OSBORNE: The question about the
22 547 grandfather clause Class II gaming systems, it
23 appears to me that's referring to gaming machines.
24 And I just wanted to clarify between bingo and the
25 machines.

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1 CHAIRMAN CHAUDHURI: Our intent is to
2 look at gaming systems, and so that's -- you know,
3 we had parallel consultations regarding the
4 grandfather provisions of 547, and we're looking at,
5 you know -- there's a whole additional topic that
6 we're happy to speak to, but I think in our dialogue
7 it's been about systems.

8 MR. BREWER: Yeah. Just to clarify,
9 it's the Class II electronic bingo machines. So
10 we're talking about the Class II version.

11 MR. OSBORNE: I just wanted to
12 clarify, because our audit is the class -- it goes
13 to that Class II system.

14 CHAIRMAN CHAUDHURI: Yeah. And just
15 to clarify, we're talking about Class II systems.
16 We're not talking about the Class III games; Class
17 II games.

18 Right? I'm looking at Travis. Did I
19 mangle anything?

20 MR. WALDO: No. No.

21 CHAIRMAN CHAUDHURI: Excellent
22 question.

23 So anything else about the Class III
24 guidance, voluntary guidance, before moving on to a
25 catchall?

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1 Okay. With that, I mean, we have the full
2 Commission here, our chief of staff, a
3 representative -- our regional attorney, our
4 training manager, our finance director. We're open
5 for business, open for questions. We've got our
6 regional team here, our regional director.
7 Compliance office, you know, is fully represented.

8 Our technology division. We're open for business in
9 terms of any questions.

10 Yes, sir?

11 MR. HANSON: Again, Daniel Hanson,
12 Snoqualmie Gaming Commission.

13 I just had a quick question about the
14 mobile gaming standards. I was curious, you know,
15 who was involved in the development of those
16 standards and if there's been any thought given to
17 maybe a tribal advisory committee with, you know, a
18 mix of IT professionals to address those regulations
19 since they will be added to the technical standards
20 in 547?

21 MR. WALDO: Not so much an advisory
22 committee on this. It was myself and my staff, my
23 technology staff, which are comprised of the
24 industry, as well as some regulatory people that
25 work for some of the big test labs, and a lot of the

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1 information was just gathered with us. But an
2 advisory committee was definitely something that we
3 had talked about later on, but it was a little bit
4 after the fact.

5 CHAIRMAN CHAUDHURI: Thank you for
6 that question.

7 Okay. There's no shame and no crime in
8 finishing early, but I want to make sure everybody
9 has every opportunity to share their perspectives
10 and ask questions. So additional comments,
11 questions? I'll just say going once, going twice.

12 With that, before I turn it over to my
13 fellow commissioners for any closing comments, I
14 just want to say, again, how much I appreciate all
15 of you taking the time to be here today. I know
16 there's a lot going on at ATNI. We're thankful to
17 ATNI for allowing us to schedule this in conjunction
18 with ATNI. Having input from tribal nations
19 throughout Indian country is always important to us,
20 but having input from tribal nations in the
21 Northwest with their unique experiences and concerns
22 is very important to us.

23 Thank you for your time, for being here
24 today, and I'll say a couple of last things before
25 we close. But I'll turn it over to my fellow

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1 commissioners at this time.

2 MS. ISOM-CLAUSE: Thank you. I won't
3 keep you too long here. I just wanted to echo the
4 thanks. I feel like this has been a very productive
5 conversation here. We really appreciate the very
6 thoughtful comments. I look forward to seeing your

7 written comments as well. Thank you.

8 MS. SIMERMEYER: I join my colleagues
9 in saying thank you. I think we had a good
10 conversation today, and I appreciate if we can kind
11 of keep it going. Consultations are a really
12 important part of defining and maintaining and
13 developing our relationships. I appreciate
14 Mr. Osborne's earlier comments, talking about their
15 experience at Fort Hall, what it takes to maintain
16 that vigilance, to prepare for and plan for a
17 changing gaming environment, and I think it helps us
18 to inform us as a federal partner about the
19 importance of maintaining, helping, and being ready
20 to play our unique role in that. So thank you for
21 that. A lot of the comments in specific expertise
22 today were very helpful. So thank you.

23 MR. OSBORNE: I have one closing
24 comment.

25 CHAIRMAN CHAUDHURI: Yes, sir. Yes,
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1 sir.

2 MR. OSBORNE: Marvin Osborne. And
3 that's fine. I'm good.

4 I want to thank everybody for giving us
5 this opportunity to voice, you know, any opinions,

6 plus the new way you're going about implementing
7 this. But I think, too, that it's important -- at
8 least in our neck of the woods, we have such a hard
9 time with tribal councils. They just don't seem to
10 get it. Every time that you try to approach them,
11 whether it's budgeting period or their ordinance,
12 it's just a hassle every single time.

13 We make monthly reports to them. We go
14 every -- down there. But, gosh, I wish there was
15 some way that they could be made aware more closely
16 what Indian gaming's all about and what they can do
17 to support it. It's really tough sometimes. It's
18 just -- it's just a pain in the neck to me, but I
19 manage and get along with it, but boy, it's really
20 difficult. I don't know what else can happen.
21 Maybe you can have a better idea and a better way of
22 looking at it.

23 CHAIRMAN CHAUDHURI: Well, thank you,
24 sir. Way to throw out some land mines right as we
25 get out the door.

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1 It's a great point in terms of -- the role
2 of regulators is absolutely -- sorry.
3 The role of regulators is absolutely
4 important, even when you're talking about the bottom
5 line. When you're talking about the bottom line,

6 having a fair and safe environment for the
7 engagement of gaming activities is absolutely
8 fundamental to having a healthy operation, but it's
9 often counterintuitive.

10 Regulations sometimes seem restrictive if
11 you don't -- you know, if not done properly or not
12 understood fully. But we recognize the hard work
13 that tribal regulators do in making the case of
14 saying, hey, we're not here to slow down operations
15 or to slow -- you know, to slow down advancement.
16 We're here to kind of keep things healthy and sound
17 in the long term.

18 On the national scale, we try to make
19 those same arguments ourselves. So we do have
20 kinship as fellow regulators in making that point,
21 that, really, if you're talking about strong tribal
22 governments, you got to have healthy regulation.
23 It's got to be sound. It can't be regulation just
24 to regulate, but you got to have a sound regulatory
25 structure.

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1 So in that sense, we feel your pain, but
2 in another sense, our relationship -- you know, we
3 respect and honor our relationship with tribal
4 leadership because that, in turn, respects and

5 honors the nation-to-nation relationship between the
6 federal government and tribal nations.

7 So we do our best to maintain strong
8 relationships with our fellow regulators, as well as
9 with tribal leadership, but if there are any
10 opportunities that we can help bridge those gaps, we
11 jump at those opportunities. So we have new
12 regulator trainings that we do, and we've talked
13 about -- and we've actually been requested by tribal
14 leadership in the past, new tribal leadership
15 trainings, that -- where, you know, always have in
16 the back of our minds to, again, help make that
17 point, that if you have a fair and safe gaming
18 environment, that produces the best economic
19 opportunities that are available.

20 And so we feel your pain. We're open to
21 ideas, but I'm also thankful for the ongoing
22 advocacy of tribal leadership and the larger policy
23 arena and larger national arena to make that point.
24 At some point there are shared interests all over
25 the place, and just wanted to thank you.

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1 So any additional closing comments?

2 Okay. Well, I'm not going to extend it
3 any longer. I just know that many folks traveled a
4 long way. I wish you safe travels and many

5 blessings, and thank you for being here. Good luck,
6 and we look forward to continued dialogue.

7 (MEETING ADJOURNED AT 3:40 P.M.)

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1 CERTIFICATE

2 I, Robin L. Nodland, an Oregon Certified

3 Shorthand Reporter, a Registered Diplomate Reporter,

4 and a Certified Realtime Reporter, do hereby certify
5 that I reported in stenotype the proceedings had
6 upon the hearing of this matter, previously
7 captioned herein; that I transcribed my stenotype
8 notes through computer-aided transcription; and that
9 the foregoing transcript constitutes a full, true
10 and accurate record of all proceedings had during
11 the hearing of said matter, and of the whole
12 thereof.

13 Witness my hand at Portland, Oregon, this
14 15th day of June, 2017.

15

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Robin L. Nodland
Oregon CSR No. 90-0056
Expires 3/31/20
Washington CCR No. 2530
Expires 11/11/20

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