National Indian Gaming Commission Consultation

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Talking Stick Resort

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CHAIRMAN CHAUDHURI: Okay. I guess we'll go ahead and begin.

I want to thank everybody for taking the time to be here today. I know a lot's going on in conjunction with the Federal Bar Indian Law Conference, but just wanted to start before turning it over to the person we are very honored to open this Consultation up for us, how much of an honor it is for all of us to be here at Salt River Pima-Maricopa Indian Community. We are honored to be here and we are also honored to be having this Consultation in Arizona.

We recognize the impact Arizona has had on the national gaming landscape, and more specifically we recognize the impact that Salt River and Nations in the Phoenix area have had on compact discussions and the text for Indian gaming in Arizona and beyond.

So with that, we are very honored to have the president of Salt River Pima-Maricopa Indian Community here with us, President Delbert Ray, and he has agreed to open us up with a blessing and brief statement. So this happens to be President Ray's birthday week, and so in addition to all the attorneys from the Nation being here in town, he has a million meetings going on and has his birthday this week, so we are especially pleased and honored to have him here to open this up.
So with that, President Ray, thank you.

PRESIDENT RAY: Thank you.

First of all, I'd like to start out with a prayer, so if it's your custom to stand. (Speaking in Native language.)

You may be seated. I just want to say thank you and good afternoon to each one of you. On behalf of Akimel O'Odham, the River People, and Xalychidom Piipaash, people that live toward the river, just want to welcome you to our place here. We are one community, but we are composed of two different Tribes. And I'll say that I want to welcome Chairman Chaudhuri and the Commissioners. It is a pleasure to have you here today for this important Consultation meeting.

For me, what I see is a rapid change in the gaming industry as a result much of the activity on the regulatory side of gaming just to keep up with the continuous change that we see on the operation side. Here in Arizona, we -- you may well know the state and many of the gaming Tribes in the state are in discussions to, quote, modernize our compacts. That's the word that the governor uses, and some of us may be familiar with that term. Well, this is now an ongoing process. We do know that this will affect both the operations of Tribal gaming here in Arizona as well as the regulatory framework.
For our community we see both the challenges of working through complex issues, but we also see opportunity to be able to generate more revenue for the benefit of all our community members. And all these activities, it is always important to be able to communicate with respect to Tribal, state, and federal agencies to make sure that what we are doing is in the best path for the Indian gaming industry.

As it looks like a long agenda for this meeting this afternoon, it is my hope this Consultation will be constructive and worthwhile for both the Commission and both Tribal interests.

Again, I just want to welcome you. Got a long week here. We've had a long week as far as activity. Tomorrow I don't know if you'll be here, but also the Federal Bar, I think this is our third year that we've hosted this event, and CLEs and everything else, you know. But I just want to welcome each and every one of you.

And gaming is a very important part of Tribal Nations. You know? And this morning as I shared with VAWA, the Violence Against Women Act, group this morning, you know, I told them about how important this freeway is to us, it is open. You know, back in the day it was the river. We are the River People, and that's where we got our sustenance, everything. And nowadays
it's the freeway because it brings us many opportunities. And, again, you know, for me, I'm the 24th president of Salt River Community, and I stand on the shoulders of leaders who had a vision. You know, right now I'm just reaping all the benefit of all that's been done by former leadership. We've done a lot here at Salt River with gaming and we have a lot more to do. Right now we are at 10,300 plus, our membership. And I appreciate such organizations as NIGC that oversees, regulates gaming to make it to be an industry with integrity.

So I thank you for all that you do. Again, it's -- I have a Council meeting to get to, but I just want to thank you, Chairman Chaudhuri, and all that are here. Safe travels to each of you. God bless you.

CHAIRMAN CHAUDHURI: Thank you.

(Applause)

CHAIRMAN CHAUDHURI: Thank you, President, and early happy birthday. We have a little something for you that I'll have to actually hand deliver. It got lost on the flight, but I'll make sure if we don't get it to you during this conference we get it to you at National Indian Gaming Association's conference next week. But happy birthday. Thank you so much for that opening.

PRESIDENT RAY: Thank you.

CHAIRMAN CHAUDHURI: So (speaking in Native
language). Welcome, everyone, and blessings to you all today.

My name is Jonodev Chaudhuri. I'm Muscogee Creek and East Indian (indiscernible). I'm proud of both my heritages, proud to be a member of First Nations as well as the nation -- as well as the first American-born person on my father's side. So it's always an honor to be in Indian Country for any reason, but particularly in conjunction with work that we do at NIGC.

I'm going to get out in a moment and turn it over to my fellow Commissioners to provide some opening remarks, but today's Consultation is part of our ongoing commitment to working with our partners before we put pen to paper on any major actions that we take as an agency. It's consistent with national Consultation policy and consistent with our internal NIGC policy that -- far and above policies, the work that we do requires us to have meaningful day-in-and-day-out relationships with Tribal leadership as well as Tribal regulators. We are a part of a regulatory structure that includes Tribes as the primary regulators of Indian gaming. And so just as a matter of survival and necessity, our meaningful consultation is important to us.

I want to thank everybody for taking the time to be here today. We have the room set up in a
circle, and I would like to encourage anybody who wants to sit at the circle to participate at the circle so that we can really approach this as a two-way dialogue and two-way conversation. But we understand that people -- there's a lot going on right now. People may need to go in and out of meetings. And if you want to sit closer to the doors, that's fine.

But wanted to say again thank you so much for being here today. I want to turn it over to my fellow Commissioners before we get into some housekeeping items and start the Consultation format. So I'll turn it over to our Vice Chair.

MS. ISOM-CLAUSE: Hi. I'm Kathy Isom-Clause. I'm Vice Chair of the Commission, and I'm Taos Pueblo.

I'd also like to thank the Salt River Pima-Maricopa Indian Community for having us here, and I'd like to thank him for his words, setting us off on a good path, a productive path for our Consultation.

I'd also like to echo the Chairman's words about the importance of ongoing dialogue, about this being a bilateral conversation, that we are not (indiscernible) regulations or policies but really working with the regulated communities. We are all here to make sure that we are doing the best work that we can.
Just one more housekeeping point that I'd also like to mention. We are in the process of developing our required strategic plan, and the Consultation topics that we have today reflect many of the Commission's priorities. So the comments we hear throughout the process will be used to form the strategic plan as well. And there's going to be opportunity at a later date this year to review comment on that plan separately, and we will keep you informed as we know more about that process going forward.

So (speaking in Native language). I'd like to thank you all for being here and having this dialogue with us and look forward to hearing your comments. I will turn it over to Commissioner Simermeyer.

MR. SIMERMEYER: Thank you. Good afternoon. I'm Sequoyah Simermeyer, the third member of the Commission, and I'm a member of the Coharie Tribe in North Carolina and want to join my colleagues in both thanking the Indian Community here for hosting us and for having the opportunity to engage this Consultation and also their sentiments about the importance of having a collaborative relationship with Indian Country. It's -- I'm appreciative that -- all the Commission shares an appreciation for our responsibilities to engage with the
Tribes, and not just because it makes our decisions more defensible and more informed and more accurate but because it helps define and maintain our unique relationship through the federal government and Tribal governments.

So thanks so much for your time, and we are looking forward to this conversation today.

CHAIRMAN CHAUDHURI: Thank you, Commissioners.

So let me raise a few points regarding our format today. We have subject matter experts who will give some brief background about each of the topics that we are here to discuss. I think we have six topics, and we have subject matter experts to lay the opening -- the framework for each. We are going to introduce those folks, but we have a lot of dedicated members of the NIGC team primarily from our regional office here with us as well. I'll leave introductions of our team in total to our individual introductions we'll have when we go around the room. So what I mean by that, let me just start by saying who our subject matter experts are who are going to help us open things up.

We have our division of technology director here with us today, Mr. Travis Waldo. We have our finance director, Yvonne Lee. We have our training manager, Steve Brewer. We have our chief of staff, Shannon O'Loughlin.
And from the Office of General Counsel, our associate general counsel, Ms. Heather Corson here. We have other members in the back. But, again, the purpose of these Consultations is meaningful two-way dialogue. In addition to informing NIGC about concerns or questions that Indian Country has, we always think there's some benefit to all of us learning from each other. So we always open up our Consultations with an introduction of everyone in the room. As we do this, I do want to let everyone know we have a transcriber with us. At the end of this Consultation, all comments will be transcribed, again, for the benefit of our fellow regulators, benefit of Indian gaming partners. And at the end of our Consultation series, towards the end of June we will be compiling all comments and evaluating all comments as we consider appropriate next steps on each of the Consultation topics that we will discuss today.

So bottom line as we go around and introduce who we are, if you could please say your name and spell your name if possible for the transcriber, as well as please state what community you are here to represent, that will help facilitate all of our conversation today. So with that, I'm going to turn it over to all of you so you can all introduce yourselves and get to
know -- get to know each other a little bit better. And I'll start over with the executive director of Tonto Apache.

MR. HOOSAVA: My name is Ferrell Hoosava. I'm with Tonto Apache Tribe. I'm the executive director.

MR. NANTY: Hubert Nanty, with the Tonto Apache Tribe.

MR. NIXON: Sam Nixon. I'm the executive director here at Salt River.

MR. GARCIA: (Speaking in Native language.) My name is Albert A. Garcia, Junior. I'm from the Pascua Yaqui Tribe, the executive director of gaming office.

MS. LOPEZ: Good morning. I'm Maria Lopez, and I'm the deputy chief at Pascua Yaqui Tribe.

MS. FERREIRA: Good morning. My name is Judy Ferreira. I am the Phoenix regional (indiscernible) at the National Indian Gaming Commission. Happy to see everybody.

MR. OLEA: Good morning. My name is Francisco Olea. I'm with the Pascua Yaqui Tribe, contract employee for the Office of the Attorney General and a law student.

MS. LOMAYESVA: Good afternoon, everyone. My name is Amanda Lomayesva. I'm the assistant attorney general with the Pascua Yaqui Tribe.
MS. CASTILLION: Good morning. My name is Sylvia Castillion, and I am with Salt River Pima-Maricopa Indian Community, community regulatory agency department.

MS. JIM-MONTOYA: Melissa Jim-Montoya, also with Salt River Pima-Maricopa Indian Community.

MR. RUSS: By the way, I'm Tim Russ. I'm with the local Phoenix regional office of the National Indian Gaming Commission.

MS. SAMUEL: Good afternoon. Shawna Samuel. I'm a compliance officer with the Phoenix regional office as well.

MR. PAGE: Good afternoon. My name is Robert Page. I'm with the Colorado River Indian Tribes Councilmembers.

MR. STEVENS: Granthum Stevens, Colorado River Indian Tribes Councilmember.

MR. KILLSBACK: This is my first time. The president -- Chairman. Sorry. Good afternoon. Dion Killsback, attorney with the law firm Rosette, LLP, member of the Cheyenne Tribe.

MS. GRUBB: Hello, everyone. My name is Mariah Grubb. I work with the Commission in the headquarter office.

MS. ECHO-HAWK: Hi. Lael Echo-Hawk, attorney with Hobbs Straus, Seminole Tribe of Florida,
1 Athabascan Indian and (indiscernible) Tribes.
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3 MR. HORVATH: Hello. Mark Horvath, attorney, Fort McDowell Yavapai Nation.
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5 MR. RAMOS: Good afternoon. Javier Ramos, in-house counsel, Gila River Indian Community.
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7 MR. WATERMAN: Donavan Waterman, Tonto Apache Tribe.
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9 MR. TIINNIN: I'm Junior Tiinnin. I represent the Tonto Apache Tribe.
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11 MS. SFIRIDIS: Hello. Stephanie Sfiridis, law clerk, Mashpee Wampanoag Tribe.
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13 CHAIRMAN CHAUDHURI: Thank you, everyone, for introducing yourselves.
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15 As I mentioned, this is really the discussion for all of us to benefit from. Some housekeeping items. We are going to have six topics: first one being rural outreach; second one being developing strong Tribal workforce through training; third one being management, contract regulations, and procedures; fourth one being technical standards for mobile gaming devices; fifth one being fees; and sixth one involving draft voluntary guidance for class III minimum control -- internal control standards. Let me repeat that again. It's voluntary guidance. Mr. Stevens, I'm looking in your direction. Voluntary, voluntary nonbinding
guidance regarding class III minimum internal controls.

And did I say voluntary? I don't know if anybody heard me say voluntary, nonbinding guidance regarding class III minimum internal control.

So we have six topics. We are going to open it up to background statements. We have a lot of ground to cover and we have a lot of time on the agenda, but there's no crime in finishing early. And so I want everybody to have a full opportunity to get any statements that they want on the record on the record. If we exhaust all conversation and all statements, we may finish well before our allotted time. That said, we also understand sometimes there are travel arrangements that all of you may have made and you may need to get out of here soon. So if somebody needs to get a statement on the record, please raise your hand and we will work you in at the outset before the actual background presentations.

Does anybody need to catch a plane or get out of here right now? Okay.

So we'll just kind of move forward with our standard agenda. We are going to hear -- we are going to open it up for questions and answers and dialogue at the end of each topic. Once we go through all the topics, we will have a catchall conversation. And so I don't want anybody to feel like this is the only bite of the apple to
get statements on the record. As I mentioned, we are going to have a rolling review process that's going to culminate at the end of June. If anybody wants to submit written comments during this period, we will review all written comments whenever they're submitted. Beyond that, if there are additional comments relating to a previous topic that somebody wants to raise, that's the purpose of the catchall conversation at the end. I want this to be part of an ongoing conversation. We are just going to go through things topic by topic in the interest of structure, but I don't want anybody to feel like there's only one bite at the apple.

So before we begin, I do want to do some self marketing. We encourage vibrant dialogue today, but as you are driving home and you wish you had said something on the record, keep in mind we have other Consultations coming up down the pike. Next week we will be in San Diego in conjunction with the National Indian Gaming Association's annual conference. We will be hosting Consultations both on the six topics we are discussing today and we will have an additional conversation regarding class II grandfathering provisions. So we encourage you to get the word out regarding that Consultation.

Next week, and I'm looking at Mr. Killsback
back there, we are very excited to be hosting a Consultation in Billings, Montana. So robust participation, but Northern Cheyenne Nation as well as if anybody goes out there would be greatly appreciated and encouraged. It's going to be the fruition of a promise we made a few years ago to hold a Consultation in the plains areas and someplace other than Rapid City or St. Paul. So we are coming out to Billings for that specific purpose.

Beyond that, in addition to that, on May 4th we will be hosting a Consultation in conjunction with the Southern Gaming Summit in Biloxi, Mississippi. May 25th, we have -- the details are still being hammered out, but we are going to be holding a Consultation in conjunction with the Affiliated Tribes of Northwest Indians Conference in Portland, Oregon. So I encourage everybody to get the word out about these ongoing Consultations, submit comments as necessary, but never be afraid to approach any of us individually. We always make a point of being engaged on a first-name basis with our partners.

Consultation is a broad concept that also includes the one-on-one relationships that we all have.

So those are some of the Consultations we have coming around the corner, that's a little bit of background about how today's Consultation will be structured. At the end of each subject matter
presentation, I encourage all of you to be -- don't be shy, ask questions, yell at us, call us names if you need to, and we're here to really engage.

So with that, I'll start us -- I mean, we will start off with our first topic, which is rural outreach. And I'm going to turn it over to our chief of staff, Ms. Shannon O'Loughlin.

MS. O'LOUGHLIN: Hello. My name is Shannon Keller O'Loughlin. I'm a citizen of the Choctaw Nation of Oklahoma, and I'm also chief of staff with the National Indian Gaming Commission.

I'm very happy to be here, always happy to be in Arizona, where I spent my college career and some of my early attorneyhood here as well. So nice to see everybody, and thank you for letting us be here.

So let's get right into it. Rural outreach. This -- our rural outreach initiative was initiated by Chairman Chaudhuri a couple of years ago. We have a rural outreach coordinator who is stationed in Billings, Montana, who is working on our initiative. And so I'm going to tell you a little bit about that and hope to hear from you.

So the NIGC would like to consult with you on our rural outreach initiative. We all know in Indian Country that most of our Tribal lands are in rural areas.
Reaching out to smaller gaming operations that may not be situated near a strong market is an important initiative of the agency. The NIGC recognizes the likely correlation between proximity to large population centers and the viability of economic opportunities for Tribes; therefore, NIGC appreciates that its functions will likely benefit from a greater understanding of the unique needs of smaller operations.

NIGC has historically taken into account the needs and capabilities of smaller gaming operations through its regulations. For instance, NIGC's regulations for minimum internal control standards and accounting requirements differ between tier A facilities that earn less than 8 million, tier B facilities that earn between 8 and 15 million, and tier C facilities that earn over 15 million. And we know from annual gross gaming revenue that the majority of Tribal gaming operations throughout Indian Country are smaller facilities with lower gross gaming revenue. Many small, rural gaming operations provide their communities with much needed jobs but may earn little net revenue to support Tribal government services.

The Commission has a responsibility to review regulations to assure the compliance is reasonable and achievable for all Tribal operations while protecting
the integrity of gaming as a whole. The NIGC may find through this Consultation and from your comments that current regulations could be amended to better address the regulatory needs of smaller operations.

In addition, the NIGC provides technical assistance and training to all Tribes and enforces regulations to ensure Tribes are the primary beneficiaries of the gaming operations. If the agency can provide training and technical assistance better suited to smaller operations, the agency would appreciate your feedback on that as well.

In addition, in order to better meet technical assistance and training needs of small, rural Tribes, the Commission is also considering creating an eighth region that would include North Dakota, South Dakota, Wyoming, and Montana. These states are currently served out of the St. Paul region, which is the largest administrative region of the agency and currently covers 9 states, 59 Tribes, and 144 gaming operations.

To help address the need of western Tribes in the region, in 2003 the Rapid City satellite office was added to the St. Paul region to better reach the gaming operations in North Dakota, South Dakota, Wyoming, and Montana. By splitting up the St. Paul and Rapid City offices into separate administrative regions, the St. Paul
The regional office would then cover only 5 states — Minnesota, Iowa, Wisconsin, Michigan, and Nebraska — 37 Tribes and 95 Tribal gaming operations. The new Rapid City regional office would cover 4 states — Montana, Wyoming, North and South Dakota — 22 Tribes, and 45 Tribal gaming operations. This split will not take away resources or budget from any region and only split the resources between the St. Paul and Rapid City offices as appropriate.

The NIGC would like to hear any questions or feedback and asks specifically for your discussion and comments about whether regulatory revisions are needed that protect Tribal gaming revenue and the integrity of gaming industry while not burdening smaller operations; whether NIGC should adjust the way we do business in our training, technical assistance, and compliance efforts to provide better assistance where needed; and finally whether the NIGC should create an eighth region to provide a stronger connection to Tribes located in North and South Dakota, Montana, and Wyoming.

And with that, I open it up for consultation or questions.

CHAIRMAN CHAUDHURI: Thank you, Ms. O'Loughlin.

So with that, the floor is open to everyone
here. And it's not a real formal way that we are
approaching this, but Mr. Tim Russ, back there, has a
microphone. Just please feel free to raise your hand if
you have any comments you would like to share on our rural
outreach initiative.

Yes, sir.

MR. HOOSAVA: Ferrell Hoosava, Tonto Apache.

Basically what you are saying, then, with
this comment is that current regulations require
amendments to better address the regulatory needs of
smaller, rural operations. I mean, that could be a number
of things for an operation. You know, we are a small --
we consider ourselves a small operation. Arizona has a
few smaller operations versus, you know, a facility like
this. So anything, you know, in terms of what that
statement is there, you know, any type of structure or
additional needs that need to be met in terms of
regulation is always an expense to a small operation. So,
you know, that opens up the door to a lot of conversation
with you, I guess, with the NIGC and to see what is really
in that current regulation, what does that mean to the
NIGC in terms of what -- dealing with rural versus, you
know, metro.

CHAIRMAN CHAUDHURI: Thank you, sir, for
that comment.
And just a little bit of background about how we will proceed. Really I think anyone from NIGC may have relevant comments to provide, and really we are all free to kind of jump in at any time. I'll do my best to frame things in my way, but fellow Commissioners as well as our leadership here, you know, we all have slightly different perspectives.

When we talk about seeking comments regarding any positive regulatory tweaks that may be made, we are really trying to focus on positive suggestions. So if we are -- if we are ever to consider a regulatory tweak, I don't want there to be a concern that we are looking at any of our tweaks from the perspective of trying to slow down operations or make operations more difficult.

In fact, one of our guiding principles as an agency is strict adherence to our regulatory responsibilities while not creating artificial roadblocks to the entrepreneurial spirit of Tribes. So we do want to hear from Indian Country regarding any proposed regulatory tweaks that may help us still maintain our regulatory responsibilities but make operations easier. So there could be tweaks that streamline operations while still address risk sufficiently. So those types of regulatory tweaks, we welcome any input that Indian Country may have.
Short of actual regulatory tweaks, there are a number of things that we are doing and we have done as an agency to support small and rural operations, and we are happy to do those things administratively. And let me go through a few examples of things that we are doing to support rural communities. But there's only so much that you can do administratively. Sometimes a regulation tweak may be necessary to really streamline activities. So that's what we are really hoping to hear from folks on.

So some examples of things that we are doing administratively, as I mentioned before we have our technology director here, Mr. Travis Waldo, and that's part of our technology initiative. Staying ahead of the technology curve is one of our tadpole initiatives. But technology works hand in hand with rural outreach. Technology division was developed in part to support our rural partners who have limited budgets to attend trainings, to have the -- you know, do all the things that regulators need to do to make sure that vulnerabilities are protected, that their IT is fully operational. So we developed this technology division to support Indian Country the best we could.

One of the first things Mr. Waldo initiated as, you know, head of this initiative is the development of IT vulnerabilities assessments that are free of charge
and available upon request of Tribal communities, whereby
our team will go out -- and Travis can speak to this a lot
better than I can. Our team will go out and work with
regulators and perform vulnerability assessments free of
charge and provide a report so that issues can be
addressed before they ever become loss issues or
compliance issues. That's one example.

Another example, we developed a rural
outreach coordinator. Another example, we have targeted
trainings that we've crafted to support rural outreach.
So we are trying to do what we can administratively. But
if the regulations, you know, legal things that we can
issue that Indian Country thinks that we could be more
supportive on, we want to hear and we want to be as
helpful as we can.

So I'm sorry for speaking so long on the
topic, but that's a great question or a great point that
you made. We are not here to regulate just for the sake
of regulation.

Thank you, sir.

MR. NANTY: Hubert Nanty, Tonto Apache
Tribe.

I've seen the restrictions of development
that sometimes gets us into a bind, but for rural
community it has its struggles. Of course I'm not the
first one to say this. Our employment pool many times
repeats itself in terms of the same employee that we let
go a week ago will return six months from now because we
are running out of employees, or other potential
employees. But perhaps what really -- not just necessary
along the employees are reaching out for employment
opportunities.

But more along the lines of
self-regulations, I have been very interested in seeing
how many Tribes actually make it to that status of
attaining self-regulation. And as I looked at it, and I
haven't done this in a little while, but some of the
requirements for attaining self-regulation is so
far-fetched that a larger metro community has no problem
reaching those, yet it's not readily accessible by rural
Tribal gaming operations. If that can be reviewed -- if
it has, then I've not seen it. Maybe I'm not accessed to
Internet that often because I'm in a rural community. I
don't know. But that would be a challenge for me.

I think there's -- what you've covered as
far as rural outreach is very general, and it would --
those same principles are no different than your general
outreach anyway. But what specifically is NIGC doing to
help those rural communities attain perhaps that
self-regulation status?
CHAIRMAN CHAUDHURI: Thank you for that comment.

I'm going to turn it over to fellow Commissioner Simermeyer here in a moment. And Mr. Simermeyer serves as our Office of Self-Regulation director. But I really want to thank you for that point.

To my knowledge, this is the first time that rural outreach has been tied to our self-regulation regulations, and that's something that I am just speaking for myself would welcome more -- well, a discussion among the Commission about how we can look at our self-regulation regulations with an eye to our emphasis on supporting rural communities.

That said, we understand it's a rigorous process that Tribes have to go through to achieve self-regulation certification. We stand -- I mean, we always stand ready and willing to work through that process with any potential applicants. But you are right, there's only a handful of communities that have fully achieved self-regulation certification because as far as I understand it requires a pretty robust look-back for the last I think three years regarding compliance. Three years? And that's an expensive, very rigorous process. And if there are ways that we can be more supportive of rural communities with regard to that regulation I, for
one, would be happy to hear it. But I'm going to turn it
over to our self reg director here.

MR. SIMERMeyer: Well, thank you for that fact that you are making on this point.

To speak just generally about self-regulation, as a full Commission we haven't had the opportunity to review a request for self-regulation yet. So what I can give is historical background and my own personal perspectives about how it perhaps is an opportunity, how we interpret it, what is laid out.

So one thing I think that has happened recently with the self-regulation program is that in 2013 there was a regulatory reform, a reg shift towards focusing more on the Tribe's capacity and not necessarily on the performance of past activities in order to make a finding that the Tribe would receive a self-regulation certification. I think that's a positive step because I think that is more in line with what the intent of the rule was when it was first passed, is that self-regulation really is a self determination, self governance type of policy. So for each Tribe, they need to make a decision, self determination, type of self governance program; they need to come to the federal government to kind of stick as close as we can to what the law says about what's required for it.
So as a group here, the three of us have never had the opportunity to interpret that for the self-regulation requests, and you are right there's only three Tribes right now who are -- have self-regulation certification. And I think part of that has to do with -- what I am seeing in my personal experience is there's a cost-benefit analysis that Tribes say is this the direction we want to go, is it worth it. And so that is one thing that in my position it is appropriate for us as a Commission to look at, what can we do to streamline that, to make sure that we are sticking as close as we can to what the law -- to the standard for IGRA, make sure our regulations aren't getting in the way and keep going with the trend we started in 2013 to focus on capacity, not some sort of, you know, audit that goes in other directions. But I appreciate your raising that. And besides that, if your Tribe or any other Tribe is interested in talking more about it, I'd love to talk with you more about what it might look like for your Tribe. But it's definitely a model that fits a whole different -- a whole profile of Tribes, from smaller Tribal operations to larger ones.

MR. NANTY: Thank you. Thank you very much. I know that one of the requirements is a financial audit which every Tribe is required to --
should say every gaming operation is required to submit.
Within those audits is the (indiscernible) procedures
report for review.

If there are any findings in those -- in
that category, they're usually corrected either
immediately or on the spot or within a short period of
time. The internal controls on financial -- or financial
internal controls are also addressed, so any weaknesses or
material sufficient findings are also usually corrected.
So that information is readily available to your agency as
it is. So this is almost a redundant process of -- if I
apply for self-regulation certification, you already have
that information. So it's almost like a dual process that
Tribes have to jump through, yet we ourselves have been in
this process for 20 years. We can correct those. We have
the ability and the strength and the maturity to
understand what accounting professions are looking for and
how these are correctable and attainable.

I think it should be the Commission's goal
to make sure that rural communities can use this as
attaining a process where Tribes are saying, hey, look,
here is our self-regulation certificate. As you are
saying, there's only five, yet how many gaming operations
are there and how many are -- or how many years has this
regulation been in effect?
CHAIRMAN CHAUDHURI: Again, I want to thank you for that comment.

Tying to our rural outreach initiative is a worthwhile discussion. So I think you are correct, the last certification we issued was Seminole Tribe in Florida, I think. I believe so. So we did a ceremony out at Seminole in which we celebrated that because I think everybody was exhausted by the end of it. And what I mean by that is we sent a team from compliance as well as a number of attorneys out to Seminole for weeks, and Seminole dedicated a large team to work through all the documents relating to that three-year look-back that was necessary. And they got to where they needed to get, but, again, that related to class II self-regulation, and there was a lot of -- there are a lot of resources expended in that process. Now, not all communities are able to bring to bear all the attention and resources that are necessary to get there, and that's an excellent point.

So just in terms of way of structure, the Office of Self-Regulation is mandated by our regulations to provide a recommendation to the full Commission. And so that Office of Self-Regulation will work with that team that I mentioned, the attorneys, the compliance officers, to process an application that's brought in by a different Nation and then make a recommendation to the Commission as
a whole. And one of the Commissioners is -- serves as the
director. You know, that's why we are so thankful that
Commissioner Simermeyer wears that hat. But it is an
extensive process and an expensive process, and we
recognize that.

So I don't know -- since this topic involves
rural outreach, I don't know if we can go further into the
weeds today, but I thank you for bringing those two ideas
together. Or if there are specific ideas in terms of
tweaks of either a regulation or how we approach these
matters, please let us know. But our attorneys are always
open to work through applicant's -- or work through the
process with applicants and our compliance office is as
well. And I keep saying compliance. I know Yvonne's
team, as finance director, had a heavy hand to play -- not
heavy hand. Yvonne doesn't have heavy hands; she works
with folks. But she had a heavy role to play in that past
application as well. But thank you so much for that
comment.

Additional comments? Questions? Yes, sir.

UNIDENTIFIED SPEAKER: You just mentioned
the other two Tribes. Seminole you said is one. And the
other two that have that sort of regulation?

CHAIRMAN CHAUDHURI: Oh, boy.

MR. BREWER: The NAGA Tribe and Grand Ronde.
UNIDENTIFIED SPEAKER: Thank you.

CHAIRMAN CHAUDHURI: I do want to take this opportunity. At the front end of our introductions we always recognize NIGC alumni because we are always thankful to folks who are willing to, you know, take the slings and arrows in serving in these seats, and I didn't get an opportunity to call to Ms. Echo-Hawk. Ms. Lael Echo-Hawk is sitting back there. She served as counselor to the chair and was very responsible -- I'm sorry. Not very responsible. I don't want to throw her under the bus here. Very involved in the most recent regulatory overhaul that NIGC undertook. So I just want to say thank you to Lael back there.

I don't want to blame you for any -- well, anyway.

Additional questions, comments? Yes, sir.

MR. STEVENS: Granthum Stevens, Colorado River Indian Tribe.

I think one of the areas that you are going to see -- I love the way NIGC is approaching the rural issue when it comes up. As you know, being in a rural Tribe, a lot of rural Tribes that sit in here, we look at gaming different. Gaming in our area is really getting jobs for our people. It's really to give the economic development to our area. For La Paz County, we are the
largest employer for our county. And so when we look at rural, that's what we bring to the table, is how do we bring our communities together.

And I know some of the people that worked out there at the St. Paul area, and that is a very vast area to cover. How they do it, I have no clue. But I don't know. One guy, he was like in -- he traveled I think eight months out of the year. He was on the road all the time. So I understand by breaking that up, I can see the benefit coming out of it. I mean, Oklahoma, we broke Oklahoma up years ago to where we had the west region and the east region. Tim took over the Tulsa office and then we created the one in Oklahoma City where Tom Cunningham is. I mean, so we've seen the benefit coming out of it. And I think if you are going to strive for that, I think that it would be very good in NIGC's opportunity.

Budgetary wise, I will just -- I can see the offset coming up because you are not paying for the rental car, not paying for that flight to go all the way across. So I think it's very needed. But at the same time, I think with Tulsa we remember that when we hear rural, especially being from a rural area, when you hear rural that's the first thing you think of is, wait a minute, how is that outreach actually going to help, how is it
actually going to be to really our benefit, how is it going to work for us. Because like I said, we look at gaming a little different.

We look at gaming not as a true economic development (indiscernible) in my view as we sit here, but also as if they're saying how do I employ my people, how do I get people into their positions. Because we are in the same boat as Hubert said from Tonto. We do the same boat, we recycle our employees back in. They may get done, about six months later they need a job, we put them right back to work. So, I mean, that's the rural struggle we deal with. We don't have an employee population to where we can pick people up. It just comes down to how do we keep our facility going.

So I think if you benefit and I think the Tribes up there, if they are willing to have that separation and get their own office to where they can start to communicate with them, I'm in agreement with it.

CHAIRMAN CHAUDHURI: Thank you, sir. Thank you.

I mean, really we don't want to just be so narrowly focused just to think about what we can do in the regulatory concept -- context. We also understand that we are part of a larger federal network. I mean, a lot of the either operational or regulatory issues that rural
communities face with respect to gaming, they interact
with a lot of other governance issues that those Nations
have. So if there are conversations that we can help
facilitate in terms of broadband or -- and reach out to
partners at FCC or if there are things that we can be
doing that have impacts on gaming that are a part of
larger challenges that rural communities face, we want to
be aware of those operational or administrative ideas as
well. So we may not be driving the train on those, on
those initiatives involving other agencies, but we want to
be aware of those so that as we interact with them we know
how to -- you know, issues that we can bring up on behalf
of our regulatory partners. So goes beyond regulation.

And to your point, Mr. Stevens, this is
really about efforts the rural communities are undertaking
to provide necessary programs and services on the ground
to our members. And so we recognize that and thank you
for that comment.

So if there are no additional comments or
questions on this topic, thank you so much to Shannon for
serving as -- I mean for providing us that background.
And we will move on to our developing a strong workforce
through training topic. Right now it's close to 2:00.
After the third topic if we are -- you know, if it's
looking like this Consultation will truly go a few hours,
we may take a break. I know it's a long time for folks to sit. We may take a five-minute break after topic 3. But we will just see how things go.

So with that, we have Mr. Steve Brewer -- are you ready, Steve? -- here with us, who is going to provide some background information on our workforce initiative.

It's hard to get a mike out of --

MR. BREWER: I'm Steve Brewer. I'm training manager for National Indian Gaming Commission.

Can everybody hear me in the back? Okay.

Never mind. We will use a mike.

So, again, my name is Steve Brewer. I'm the training manager for National Indian Gaming Commission.

Just to get started, a strong workforce is an essential ingredient to the success of any business. The NIGC believes that one of our best assets is our employees and recognize that this is also the case for Tribal gaming operations. With this in mind, the Commission has prioritized supporting a strong workforce both within NIGC and among our Tribal regulatory partners as one of our four initiatives.

In order to foster a strong Tribal workforce, NIGC seeks to enhance our external training program and assure that it continues to meet the needs and
demands of the industry. To that end, we take this opportunity to update you on the direction and commitment of our training program and to consult with you how best to deliver a better training program to meet the needs of our Tribal regulatory partners.

Currently, the NIGC offers three types of training events. The regional training conference. Our trainings are derived from our training catalog and are based on the needs of the region where training is occurring.

Regulating gaming technology is geared towards providing us both an understanding of a variety of technology on the casino floor and strategies on how to effectively regulate and understand such technology. The RGT training for 2017 has been suspended to allow time to revamp the training and make sure new technologies are included. It's anticipated by me that the new RGT course will resume in 2018.

Finally, the site specific training, training requested by a Tribe to meet the individual needs of its Tribal government, gaming commission, regulators, and operators.

As Jonodev was talking about, the NIGC has developed some assessment tools that Tribes can request at no cost. The first assessment opportunity is the
information technology and vulnerability assessment, or ITVA. The ITVA performed by NIGC IT auditors is to complete a vulnerability analysis of the facility's IT system to identify potential security threats.

The second type of assessment is internal control assessments, or ICA, and that's performed by our audit staff. This can be a comprehensive review of the Tribal gaming facility's entire system of internal controls or specific systems such as internal audit. Based on the findings that they find in either a completed ITVA or ICA, the training program can then develop training specific for that Tribe.

All NIGC training is developed to support our Tribal customers. The training requests process is used to shape and deliver training courses and programs that are uniquely tailored to each organization based on their specific needs and requests. The NIGC training program is currently undergoing a process to revamp, revise, and update all of our training offerings.

NIGC is committed to craft trainings that are carefully targeted to meet the evolving needs of our regulatory partners and address high priority matters critical to safeguarding the Indian gaming industry. In this manner, the NIGC training program is in the process of revising its instructor-led training courses to provide
more interactive and hands-on approaches. As with the
commitment to the value we put on training, we have
recently brought in additional staff to help develop our
training platform and to assist with incorporating new
methods of training. Additionally, we will utilize more
technology in our training offerings. We're working
towards offering online on-demand training and
additionally for live videoconferencing events.

With kick-off of our current training year, the NIGC has included new training classes, including a
12-hour comprehensive training for internal audit, a
12-hour hands-on workshop for developing Tribal internal
control standards and assist with internal controls, a new
gamesmanship 2.0 training, and a new IT training relating
to the auditing of class II control standards as part of
54320. Each training is designed to be interactive and
take a hands-on approach. We are in the process of
revising our full training catalog to reflect these new
training opportunities.

In 2016, the NIGC instituted knowledge
reviews in certain audit courses. The intent of the
knowledge reviews is to review the effectiveness of our
training. The testing is performed at two points: first
upon completion of a training class to understand whether
a student learned; and a second, another test is performed
90 days later to see if the student retained the information. For 2017, the NIGC expanded the knowledge reviews for all courses offered by us.

So the NIGC -- excuse me. NIGC is interested in learning from you about what our training program can do to meet the needs of your operations, what additional type of training or events would you like to see, what more can training -- can the training program do to help a Tribe stay abreast of emerging trends in Indian gaming, including technological developments such as online and on-demand training, smartphone or tablet apps or other types of technology. Or do you have any other comments or concerns that you would like to share? We look forward to hearing your input and questions.

Any questions?

CHAIRMAN CHAUDHURI: Okay. Works for us. No shame, no crime in finishing early. I just want to repeat that.

Okay. So with no additional questions, thank you so much, Mr. Brewer.

We will move on to topic No. 3. This is a little bit more open-ended because we are looking at any and all possible improvements to this process. But our third topic involves management contract regulations and procedures. It's a broad topic, but to clarify it all we
have a director of finance, Ms. Yvonne Lee, and she will demystify this for us. She will also field all the tough questions.

MS. LEE: My name is Yvonne Lee, and I am the director of finance for the NIGC.

One of our primary initiatives at NIGC is to protect against anything that amounts to gamesmanship on the back of Tribes. Gamesmanship is our broad term for any third-party threats to Tribal assets or operations. It includes third-party interference with the Tribe's sole proprietor interest in these gaming operations.

Many gamesmanship violations may occur when the third-party vendor or service provider is managing some aspects of the gaming operations without an approved management contract or where a management contractor is operating outside of an approved management contract. Thus, approval of management contracts by NIGC Chair is required by IGRA as a means of protecting the Tribes against gamesmanship. The Chair has a fiduciary responsibility to Tribes to ensure that they remain the primary beneficiary of their gaming operations. The management contract and background process should protect against gamesmanship, but the process should also not stymie the entrepreneurial spirit of Tribes.

With this in mind, the Commission is seeking
feedback and recommendations on whether changes are needed
to the management contract and background investigation
regulations. Specifically, we want input that may improve
our efficiency in the management contract review process
but also continue to protect Tribes' sole proprietary
interest in their gaming activities. To provide some
context to this Consultation, I'll briefly summarize the
current approval process. Then we will open the floor to
questions and suggestions.

The management contract is any contract,
subcontract, or collateral agreement between an Indian
Tribe and contractor or between a contractor and
subcontractor that provides for the management of all or
part of the gaming operation. Detailed requirements for
management contract can be found on our website. To
commence the review and approval process, submitters must
submit a management contract and all relevant documents in
accordance with 25 C.F.R. parts 531 and 533 to NIGC.

The Chairman must also make a determination
that the manager is suitable to manage the gaming
operation. The background investigation process is an
important component of this submission. Background
information must be submitted for all persons and entities
that have a financial interest in or management
responsibility for the management contract as identified
Once the contract is submitted to the NIGC, they are processed and reviewed based on the order received. We have distributed three handouts to help you understand our review process. The first handout is the process flow chart. The second and third handouts are the NIGC checklist for management contract review and background investigation. You can also print the checklist from NIGC's website.

As you can see on the flow chart which illustrates the process flow of management contract review, once the submission is received it will immediately be distributed to all staff involved to start the review process. We will first send our submission letter to inform the parties if there are any information and/or documents still missing. Then the staff in both the divisional finance and the Office of General Counsel will conduct the review for their respective areas as outlined on the flow chart. During the review process, there will be internal discussions and meetings among the NIGC staff to coordinate the review and monitor the status.

After the review is completed, we will send out an issues letter to notify the parties if there are any issues with the management contract. In addition, the
NIGC staff will work with the parties to help them understand issues if necessary. Please bear in mind that sometimes it might take a few rounds to resolve all issues. The length of NIGC review is dependent on several factors which can include the number of prior applications received and already in the review queue, the completeness of each submission, the responsiveness of the parties and compliance with the existing laws and regulations, and the complexity of the submission and those subject to background investigation.

Once all issues are cleared and the submission is complete with all necessary documents, then the Chair has 180 days to approve or disapprove the management contract. The NIGC Chair may approve a management contract if it meets the standards of parts 531, 533, 535, or 537. If the NIGC Chair learns of any actions or conditions that violate these standards or the management deliberately or substantially failed to follow the terms of the management contract or Tribal gaming ordinance, the Chair may disapprove a submitted contract or void the contract or require nullification of an approved contract. If submitters find the Chair's determination unsatisfactory, they may appeal the decision.
If a Tribe wants to amend a term of an existing approved contract or simply extend a regional approved contract pursuant to 25 C.F.R. 535, it must submit an amendment and relevant documents, including a letter from the Tribal chairperson and associated resolution as well as background investigation applications.

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

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

CHAIRMAN CHAUDHURI: Thank you, Yvonne.

So, again, it's a broad topic. This is an opportunity really to share ideas. Any comments, thoughts regarding management agreement procedures, administrative approach to management agreements?

Just by show of hands, how many communities are operating under a management agreement right now?

Okay. Well --
MR. HOOSAVA: We learned from the very beginning on the first one that don't do them.

(Laughter)

CHAIRMAN CHAUDHURI: Thank you. I mean, I think frankly Indian Country has more than enough knowledgeable resources to share ideas among Nations without various dos and don'ts regarding management agreements, but we are always interested in learning how we can do our job better. So this is kind of a selfish perspective from us, but we certainly know that each of your Nations have had their own experiences.

So with that, again, no crime in finishing early. No shame in finishing early. Since I think we are doing well on time, if anybody wants to take a break, of course any of us can jump out at any time. But is there a consensus about moving forward? Should we move on to topics? Or it's a good time for a break; we are happy to do that as well. Just looking at eyes and nods in the room.

Okay. We will just go ahead and move forward. I should mention Frank Olea back there is also an NIGC alum. He has already had a wealth of experience before going to law school, but he was with NIGC as a fellow and brought a lot of his perspective as a Tribal leader to NIGC. Thank you for his past service.
So with that, we will move on to the fourth topic. And if we have a lot of discussion, we can take a break afterwards, but we will just keep moving forward.

Technical standards for mobile gaming devices. We have our director of the division of technology, Travis Waldo, here to kick us off.

MR. WALDO: Good afternoon, everyone. Thank you for being here.

Again, my name is Travis Waldo. I'm the director of technology for the National Indian Gaming Commission.

The National Indian Gaming Commission is considering draft language to amend 25 C.F.R. 547.18 which would clarify and add new technical standards for wireless gaming systems and communication between mobile gaming communication devices and mobile gaming systems.

These new direct regulatory standards provide clear and specific definitions that have not been included in the regulations previously. The new standards also support security and system integrity for mobile gaming operations. The draft language is based on input and collaboration with our Tribal partners. The intent of the new draft regulation is to support the growth and the innovation in mobile gaming systems.

Portable handheld gaming devices have been
around for many years and are authorized in many state jurisdictions. Handheld gaming devices are electronic devices that allow casino patrons to play anywhere within the casino or within Tribal lands as defined by the Indian Gaming Regulatory Act, such as restaurants, hotels, or other amenities. The draft technical standards for mobile gaming devices will not authorize Internet gaming. These draft technical standards only address handheld mobile devices within Tribal lands.

The draft technical standards, which can be found on our website, are proposed standards for Tribal review, comment, and Consultations.

Any questions?

MR. NANTY: What's the time frame?

MR. WALDO: Chairman, what would be our time frame?

CHAIRMAN CHAUDHURI: Time frame. Thank you for that question.

So right now, again, if folks want to weigh in on whether or not this is even appropriate for a regulatory tweak, we are happy to hear that. Right now we are going to compile our comments at the end of June and figure our next steps.

We had some excellent comments at our last Consultation about the pros and cons of moving forward
with the regulation on this topic versus potential guidance from NIGC. And the pros and cons kind of break down to the speed at which we are able to issue guidance, the speed at which we are able to amend guidance. We were thankful for those comments. And we are not -- we are not proceeding under a specific time frame to get a regulation passed. If the best path forward is truly guidance rather than regulation, we are open to that. But we are here to listen to Indian Country.

That said, I think we've always been pretty assertive in terms of our Consultations. We've committed to doing our best to move forward with deliverables on past Consultations whenever we embark on a new Consultation series. And in short order, I think we are going to be issuing deliverables soon on past Consultations, but we are trying to get as much done this year as possible just because we want to keep moving forward on a positive trajectory. So I don't know if that helps with time frames. But bottom line, no specific one, but we want to get things done.

MR. SIMERMEYER: Just this specific topic, not to caution against what the Chairman was saying, I agree with that, but I think that it might be helpful, Travis, if you could give a little bit of feedback in terms of that this is coming from Indian Country, the need
for it. But I don't know that it sort of has an emergency situation, correct me if I'm wrong, but maybe from a perspective to folks in terms of Travis's insight as the director of technology is really helpful because one of the challenges of the agency is how responsive do we need to be to change it. So if you can provide that, Travis, that might give some perspective too in terms of timing.

MR. WALDO: There's no critical rush on this. This has been around for years. We all know that mobile handheld devices have been out there for years. There's just not been a very clear definition and regulation or technical standards as to, you know, how to implement it, what security standards are best, what practices are best. This is just kind of a response to that when we go out and do trainings. I get a lot of questions regarding mobile devices, you know, and not so much the CardMinders and the handhelds that we see today but kind of where we are going with that. Are iPads and other types of mobile devices that are going to be allowed to -- the intent of that was to kind of maybe give some growth to that side of mobile gaming, but certainly not a rush situation.

CHAIRMAN CHAUDHURI: So any additional comments, questions?

I do want to thank Travis, you know, and his
leadership in flagging this as a potential issue of discussion. Because a lot of communities, as we know, are considering these wireless handheld devices to further their operations. And we have an eye -- as part of our stay ahead of the technology curve initiative, we have an eye towards doing whatever we can to help on the regulatory side of things, help augment the operational innovation that Tribal Nations are undertaking. So we know this is a burgeoning field in Indian Country, and so we want to be as helpful as we can on the regulatory side of things to help provide support while not getting in the way of, you know, healthy economic development activity.

So thank you, Travis.

Additional comments, questions?

Okay. We are moving along pretty quickly.

I'm sorry. Yes, Mr. Stevens.

MR. STEVENS: I think my only concern --

Colorado River Indian Tribes.

I think my only concern is if you do a wireless gaming device that goes out, it's really designed for having that go beyond the intended area, right, rather than -- you have a machine out here. If you come over here and you can have it in here -- correct? Am I reading it right, or am I --

CHAIRMAN CHAUDHURI: Well, I think we've --
I mean, any regulatory tweak would be a matter for the Commission to discuss in light of Consultation comments. But I think our current course has always been to defer or to work with TGRAs as much as possible for Tribal Commissions to determine the gaming space that's regulated. Is that an accurate reflection?

MR. STEVENS: That would be my next comment in that situation is giving guidance -- or giving the little flexibility back to NIGC in the areas where we don't want you guys to be at to begin with.

MR. WALDO: No. The regulation states at the discretion of the TGRA, our position TGRA, as to where the gaming area actually is, not in our discretion.

CHAIRMAN CHAUDHURI: So I don't think any of us can comment on a draft that hasn't been drafted yet, but we have some kind of outline ideas. But I do feel comfortable -- and of course my fellow Commissioners can weigh in as appropriate.

Certainly in the spirit of empowerment for Tribal regulatory bodies to make some of those decisions that are appropriate for the needs and realities of their community is something that I would think would definitely inform any regulation that we did on this. So deferring as much as possible to Tribal regulators and supporting our regulatory partners, that's kind of been a hallmark to our
approach, and I don't envision that changing. But it's hard to speak to a regulation that isn't --

I mean, and I guarantee you this, we can say this, anything that is close to being promulgated or issued is going to go out for comment. It's going to go out for formal input from Indian Country as well. So this is -- this is kind of an initial feeler to see if this is -- you know, the points that Travis raised in his presentation and if this is something that would be helpful. And, again, we haven't even made a decision whether or not a regulatory approach or guidance approach would be the most sensible.

So I don't know if that helps, Mr. Stevens.

Okay.

MR. STEVENS: It does.

CHAIRMAN CHAUDHURI: Thank you. Excellent comment.

Additional questions or comments before we move on? How are folks doing break wise?

Okay. Is there a comment back there?

MR. PAGE: Robert Page, Colorado River Indian Tribe.

What would be the originating purpose of this?

MR. WALDO: Just originally to kind of spur
technology growth and get people thinking, you know, about
that and to provide some clear definition and regulation
that hasn't really existed in the past.

MR. PAGE: Hasn't?

MR. WALDO: Not really. It's not been
clearly laid out for Tribes, you know, that we can do this
and this is, you know, best practice to protect that, you
know, these are standards for that. It's kind of all over
the place and it's not very clearly defined. There's a
lot of states that allow stuff like this, there's a lot of
regulations out there on it; there's just nothing in our
regulations that are very clear. So I get a lot of
questions when we do trainings, and that's pretty much
what spurred that.

MR. PAGE: So it's not in use anywhere?

MR. WALDO: Yeah, it's in use in a lot of
different places. A lot of state jurisdictions have stuff
like this, but I get a lot of questions from Tribal
regulatory authorities.

CHAIRMAN CHAUDHURI: Thank you for that
question.

So we are trading back and forth a couple
mikes. Did the transcriber get it? Excellent.

Any other questions on mobile gaming
devices? Okay.
We are moving on now to fifth of six topics. If anybody motions for a break, we will definitely take a break, but, again, we can all sneak out as necessary.

We will move to No. 5, fees. And I just want to say just before turning it back over to Director Lee that I and I think all of us on the Commission, although I can't speak for anybody else, we are very excited about this very minor but important potential tweak to the way that we set our fees, namely I'm very excited about the timing involved. As a matter of good governance, having our fees process coincide a little bit more with our budget process I think will add to the efficiency and transparency at the agency, and I'm personally excited about this, but I will leave it to Ms. Lee to speak more.

Okay. Yvonne, take it away.

MS. LEE: The Commission is considering amending the language to 25 C.F.R. part 514. Under the current regulation, the Commission announces the preliminary fee rate on March 1st and the final fee rate three months later on June 1st.

The proposed regulation would require the NIGC to set the fee rate only one time per year, to be announced on November 1st. The proposed changes on the fee rate publication date will also apply to the
fingerprint processing fee rate. These are the proposed
514.2 changes for fee rate, and these are the proposed
514.16 changes for fingerprint rate.

By setting and announcing the fee rate once
a year, the Commission will be able to, 1, improve the
efficiency of the fee rate analysis and publication
process; 2, coincide the fee rate announcement with the
annual release of the gross gaming revenue and the
completion of the Commission's budget for the upcoming
year; 3, reduce the margin of error for fee calculations
as the rate would only be set once within a fiscal year;
4, mitigate any confusion that may arise from changing the
fee rate twice a year.

In addition, a majority of Tribes have
fiscal year ending either on September 30th or
December 31st. Tribe's submission of audited financial
statements are required 120 days after the end of their
fiscal years; thus, when we first use these financial
statements to set the preliminary fee rates, our analysis
is limited to a fractional portion of the financial audit
submissions and must be reanalyzed again after additional
submissions are received at the end of April. The
proposed changes will allow the analysis to take place
once a year after the Commission has received all annual
audited financial statements. In addition, the fee rate
calculation will more accurately reflect the Commission's required operation funding which will become available by September 30th each year.

The NIGC seeks comments on the proposed changes to the time period these fee rates are published.

CHAIRMAN CHAUDHURI: Thank you, Yvonne.

So any comments or questions about this proposed change?

MR. SIMERMEYER: I'll just add, as the Chairman said initially about the opportunity that I think a simple change like this might be able to kind of promote transparency, other things that we can do at the Commission through our processes. As you are thinking about this in the coming weeks, months here concerning this one thing that might be helpful, if you have thoughts about -- traditionally there hasn't necessarily been a big shift in the fee rates that we've had and how Tribes perceive that in their planning and their budgeting, their own process. So if that's something that you have thoughts on or about, thoughts, that would be helpful from our perspective, to hear a bit more of that, about how Tribes perceive the current schedule of our fee process.

CHAIRMAN CHAUDHURI: Thank you,

Commissioner.

Looking around the room, we may be able to
conclude this Consultation in record time. I don't want to knock on wood. But any other questions, comments on our fees section?

Okay. With that, we will move forward with a discussion about draft voluntary, voluntary draft nonbinding, voluntary nonbinding draft, nonbinding voluntary guidance regarding class III minimum internal controls. As we engage in this discussion, I would like to point out that the draft that we have involves nonbinding voluntary guidance.

And so with that, all joking aside, this is important. These are important issues, and we understand the difference in situations of the Tribal Nations throughout the United States and the inherent difficulty in approaching, you know, any agency activity, whether it's regulation or guidance, in a way that recognizes the fundamental differences between Nations. And so we recognize that what works for one Nation in Arizona may not work for another Nation in Oklahoma, may not work for another Nation in California.

But with that reality in mind, we do seek to be as helpful as we can be to help support Tribal efforts to engage in economic development through gaming in a way that is consistent with Tribal law, consistent with federal law, and that's the spirit in which we have
approached this nonbinding voluntary class III guidance.

And with that, we are pleased to have

Ms. Heather Corson here from the Office of General Counsel, here to give us more details. So, Ms. Corson.

MS. CORSON: Hi, guys. I'm Heather Corson. I'm a member of the Crow Tribe. I'm also associate general counsel with the NIGC. I've been with the agency for almost exactly five years and before then practiced with Tribes in Montana, where I'm from.

So in 2015-2016, the Commission engaged in Consultation. As a result of that, they decided to issue nonbinding class III MICS status. We have prepared a draft of that guidance and are asking for your feedback before we finalize and publish it.

Although guidance document does not require formal notice and comment process, the Commission recognizes the value of Tribal and industry input and intends to thoroughly consider all comments we receive from you. The draft 64-page guidance document is available for review on our website. The NIGC is fortunate to have many Tribal gaming subject matter experts working for the agency who are well versed in gaming operational procedures and risk associated with them, and they have been working diligently to develop this draft.
You'll notice the draft follows the formatting style with its current class II MICS that are 25 C.F.R. part 543. We hope this assists Tribes with MICS class II and class III facilities to develop a comprehensive set of controls while still enabling Tribes themselves to establish standards that best fit their needs. Exclusively class III areas such as gaming machines and table games have been updated after extensive review of other jurisdictions incorporating Tribal, regulatory, and current industry standards.

Additionally, those controls in the class II MICS, which again are part 543 of the C.F.R., those controls that require Tribal regulator analysis approval, such as variances and supervision controls, are carried over into the class III guidance.

We would also like to consult with you on proposed decision to suspend the existing 25 C.F.R. part 542 regulations. Suspension of the regulations leaves the existing text in the Code of Federal Regulation but adds a note that they are not enforceable and refers the reader to the guidance document. We believe this solution accomplishes the goals of keeping the language accessible for those Tribes that need it.

We are ready for your comments or questions. Any?
MR. NANTY: Could you clarify what you said? Suspending of the existing 25 542, how are you proposing that to occur? Is it -- I mean, like --

MS. CORSON: It would be a decision of the Commission to suspend it. It's -- I don't know how to best describe it. You guys might be more sophisticated at explaining how it is.

But it's a decision to suspend it, so it will say suspended in the Code of Federal Regulation. So as you know, the CRIT decision said that the Commission didn't have authority -- they gave me a mike because I am only talking to you two. I guess the rest can't hear me.

But the Colorado River Indian Tribe's decision said the Commission didn't have the authority to develop and enforce these class III MICS, so this is sort of an acknowledgment of that. They are saying they are suspended, but we didn't want to take them away because a lot of places like them still. So they are taking action, I guess, the Commission would.

Is that your understanding?

MR. SIMERMeyer: Yeah. And the Consultation occurred earlier in 2015-2016, where we saw input from Indian Country about a path forward or a process for doing that.

CHAIRMAN CHAUDHURI: Thank you for that.
MR. STEVENS: Granthum Stevens, Colorado River Indian Tribes.

When would you look at that suspension for 542? I mean, what's your guys's time frame on looking at it? If you were to suspend it as a Commission, I mean, are you looking at it this year?

CHAIRMAN CHAUDHURI: That's an excellent question.

I mean, we are going to reserve comment on actual timelines until we receive our comments. And so at the end of June, we will look at anything that's submitted and then propose next steps forward. But I think we are talking about, you know, kind of parallel action, sort of issuing the guidance as well as suspension with a signal within the Federal Register as to where we will keep the guidance. So it would be whenever we issue the guidance.

MR. STEVENS: Okay. Because I know the Consultation was in 2015 when it was brought up, when we were -- when you guys first proposed suspending 542 during that time frame. And I think in 2015 it was also voiced that there was a lot of compacts that depended on the wording of 542 during that time frame. So one of the comments that I have made was instead of saying what was that review going to be when that -- how many compacts were actually going to be affected if we suspend 542, and
it was said that you guys didn't look at that aspect during that time frame or when you considered it.

Now we are two years out from there. And has that been looked at, or are we still just looking at it broader picture, saying if it affects you it affects you?

CHAIRMAN CHAUDHURI: Okay. Excellent question.

So I don't know if Heather or anybody on chief of staff's side wants to weigh in on this. But as far as actual numbers of affected, kind of depends what we mean by affected. So depending on the state, some compacts reference 542. And ones that reference 542, the idea would -- has always been that the guidance would help provide that background information. It really depends on the language of the compact at hand the extent to which anything will be affected. It's our hope to move forward with some guidance that's still consistent with our authority under the Colorado River Indian Tribe decision.

And so whether or not we suspend, the Court made it pretty clear that we didn't have authority to promulgate it, those class III MICS, in the first place. That's why kind of the middle ground forward, you know. It has been presented by Indian Country as nonbinding voluntary guidance.
So I don't mean to dance around any question. As to the number of Nations affected, it depends on which compact we are talking about. And Arizona's language is very different than the California compact.

MR. STEVENS: Well, Oklahoma, I'm pretty sure if it had to change on the model compact, it clearly states that for class III you have to follow the 542. It's clearly written --

CHAIRMAN CHAUDHURI: I don't know if you want to weigh in.

MR. STEVENS: -- in that model compact.

MS. CORSON: Yeah, you are correct. I don't know the number of Tribes that are affected. I don't know if Steve does either.

But when the Commission -- the Commission did the 2015-2016 Consultations, they had several ideas of how to deal with these MICS. And one of them was suspension, but one of them was complete withdrawing and removing from the books. I think this was their best solution that they could come up with, that acknowledge that they are not able to promulgate them, but develop as guidance to update those that are out there because they are really out of date. If Tribes want to use that guidance they can, but also still keep the -- the
suspension will say they are suspended in regulation, but they'd still be there so the compacts that reference them still have a touchstone to reference. So I think this was ultimately the -- seemed like the best middle ground.

CHAIRMAN CHAUDHURI: Mr. Stevens, do you want -- I mean, we came all the way to Arizona. We want to be as thorough as we can. So if you have followup questions, please. Of course, you can always submit them in writing, but we are all ears.

MR. STEVENS: Like I said, one of my questions was, one, I just want to see the trooper behind it, although I can see the fuller picture. And having those questions brought up throughout the country, I can see where you guys's position is to look at the whole pie versus just a slice of it. So I understand that part.

But if these are nonbinding and you voluntarily get into this, I do not see why on section -- when it's auditing, section 13(d)(2), the Tribe must submit two copies of the (indiscernible reading) to the Commission within 120 days. So I know that 271 makes that requirement under 25 C.F.R. 271.

So, I mean, if these are nonbinding and just pure guidance, how do we -- how do you apply this into an area to where it's going to be a mandated situation? So, I mean, we are going to add two laws on top of one?
CHAIRMAN CHAUDHURI: And excellent question. I mean, what we are dealing with -- and, frankly, the approach that we are taking came down to some of those Consultations, and appreciate yours and CRIT's previous input on these topics because that helped us try to strike the appropriate tone in this approach. So we're not creating two new laws; we are not trying to create any new law. We are trying to provide updated guidance that's actually helpful to the communities whose compacts reference 542 while at the same time avoiding getting sued again.

MS. CORSON: Can I add?

CHAIRMAN CHAUDHURI: I don't mean to joke about it. But the CRIT decision was very, very helpful in terms of highlighting the meets and bounds of IGRA when it comes to class III. And we do see an overall role for the agency to provide clarity and guidance in Indian gaming while at the same time we are committed more than ever to stay in our lane as much as possible. So that's why -- that's why we are trying to approach this as nonbinding, voluntary guidance.

MS. CORSON: I just want to add that part of the reason for developing the 64-page guidance was to have feedback, to have that level of feedback. So we wanted your thoughts on the suspension and the Commission's
decision or proposal to suspend, but also sort of feedback that you are going into that's kind of really looking at the document itself. So thank you. If you have more of those, that's great. You might have the answer.

MR. STEVENS: I'll reserve it.

MS. CORSON: Send it in.

CHAIRMAN CHAUDHURI: I do want to stress we very much appreciate the perspective that has been brought to bear by you, Mr. Stevens, on many of these issues ó so thank you ó and by so many others in this room as well.

So thank you.

MS. CASTILLION: Sylvia Castillion. I just wanted to make a note of an observation. There is regulations specific to progressives in slot machines portions, but there is no regulation specific to progressives in Black Jack and Keno and there are progressives within those areas. And it would be helpful to have similar regulation within all gaming areas, all throughout your gaming.

MR. CHAUDHURI: That's an excellent -- excellent point. I am not sure if that was by design, and you may have just flagged something that we hadn't caught.

Thank you. Thank you. Thank you very much. Worth the price of admission right there. Thank you.

MR. PAGE: That's why you have these.
CHAIRMAN CHAUDHURI: Additional comments, questions? Okay.

So with that, we will -- yes. Yes, sir.

MR. NANTY: Not related to any of these.

CHAIRMAN CHAUDHURI: Poor Tim. I wish we had one of those odometers that could track your miles today.

MR. RUSS: I need all the help I can get.

MR. NANTY: Aside from the list that you have for Consultation, I'd like -- I want to thank the Gaming Commission for coming out here and meeting with Tribes. And I know the difficulty you get. And once again, if you reach out to rural Tribes, maybe there will be more Tribes in the room and we can host up there in Payson. I don't think any one of you have been up there. If you are a local Arizona native, then well certainly you know where that is. It's a beautiful, beautiful part of Arizona, spectacular ponderosa pines, beautiful area.

What I wanted to address to the Commission is a recommendation to at least take a look at the Bank Secrecy Act. That's been -- as you are aware, the operators are aware, the Tribal regulators are aware that the U.S. department of treasurer has been trying recently and more so putting the heat on Tribes' gaming operation because it is considered a financial institution. Looking
at that, FinCEN will not hesitate and does not hesitate
and will not apologize for any conclusions or findings
they have. And some of these findings are very, very
hefty. I've been monitoring that, I subscribe to them,
and almost certainly within a month's time there's fines
issued.

And I think it would benefit the Commission
to put together some type of a training process. There
are most certainly others out there that do a good job for
training on Title 31 that goes into the anti-money
laundering. More specifically is the (indiscernible), the
recent -- maybe not so much recent, but for an agency
that's been added, that has been there. And for Arizona,
because we live close to borders and some Tribes have
direct highway access to the border where different kinds
of cartels are possible -- create possible risk for gaming
operations. So I think I would just recommend training
and assistance for Title 31 and covering all of it and
perhaps even in conjunction with FinCEN or the Department
of Treasury.

CHAIRMAN CHAUDHURI: Excellent point.

Excellent point. So I'm going to throw our training
manager on the spot -- or put our training manager on the
spot.

But that raises a larger issue. You know,
we do have an opportunity, and I think a responsibility, to coordinate with other federal partners when we perform our training so that they are up to date, that they are relevant to the needs of the partner, you know, to -- relevant to the needs of the communities that we are going into. There are a lot of great examples of how our team has done that in the past.

This idea about working more closely with FinCEN, we do work closely with FinCEN on some broader issues. There's an Indian gaming working group that NIGC participates in that involves a number of agencies and there are also regional relationships that our regional offices have.

But in terms of training, I don't want to throw Steve under the bus, but I don't know if you have heard that before? And I'm going to turn it over to Steve. That's a great idea.

MR. BREWER: Yeah. So we are always reaching out to our partners to partner with them at our regional training conferences. Most recently I think 2014 we were doing the Title 31 FinCEN training, bringing in IRS and FinCEN people to give this training. And we suspended it for this year because we brought in a couple of different ones, being active shooter and human trafficking. But we are always looking at bringing them
back because that is an issue that we hear quite often is
what can you do to help us with Title 31. Because it's
not our regulation, we don't really speak on it per se,
but we do partner with the authors and bring them out to
the training. So, you know, again we have heard this and
it's something that we were planning on bringing back into
our trainings.

CHAIRMAN CHAUDHURI: Thank you for that.

I also want to recognize our Vice Chair's
leadership on human trafficking issues. Again, this is an
example of an area that's not directly under our duties on
the enforcement side of things but falls squarely in line
with our -- the opportunities that are available for us to
facilitate dialogue among other partners, whether they're
federal partners or Tribal partners, and very much wanted
to thank our Vice Chair for spearheading our attention and
focus on human trafficking issues that did involve
bringing in folks from DOJ and various offices to support
our discussions with Indian Country. Thank you.

MS. ISOM-CLAUSE: I don't want to jump in
while you are still on this topic, but we can come back to
human trafficking later if folks in the room here are
interested in talking about that or want some comments.
We certainly don't want one issue to displace another. We
can work with Steve and work with your needs on what
actually is needed each year. So let's not think of it as
one or the other but just all the things that might be
helpful. Please give us kind of feedback what we should
be including. So thank you.

MR. NANTY: Thank you. I know that from a
financial institute, especially a bank will take a look at
it. And each major financial institution, whether it's
wherever you bank has a compliance department, and those
quite often request information on Bank Secrecy or
Title 31, in which if there are deficiencies they don't
want you as a customer. It's something that's very --
that's coming up. If you ask Tribes that have been
visited by FinCEN, these issues will come up. And I would
think that you would take an interest, being that you do
receive our financial audits, and that when you take a
look at those financials and how it's structured and can
see that there might be some medium risk, some high risk,
and some low risk, taking that into consideration there
can be some recommendations to Tribes as to how to
mitigate those and minimize the impact that perhaps if
they are considered by FinCEN can be resolved either
sooner or later.

And it's not a fun game at all. The thing
about it is that when FinCEN comes knocking, all your
information is there. Everything that they look at is
proprietary, yet on the other hand can -- if you are not following it because of one day or another there were some errors made, that's a significant finding.

So I just want to suggest that only because your interests -- in our state in particular, because we have a revenue sharing portion -- you all know, everyone in this room knows IGRA was crafted to benefit the revenues going to the Tribe, exclusively to the Tribe. It has a sole proprietary interest and the only proprietary interest. Now that you have a state of the United States interest in those revenues, it should heighten our alertness to watch to see if there is any kind of either steps that were missed, any kind of miscalculation.

I'll just say the department of gaming comes to each -- Arizona department of gaming comes to each gaming facility; it's required by them in the compact to do a quarterly assessment and a quarterly review on the revenues that they have received from the gaming operation. They monitor it. They have altogether 26 certified fraud examiners doing this 100 percent of their time. I would think National Indian Gaming Commission would take that kind of interest being this is the revenue and sole economic drive of the Tribe. So I strongly suggest that some type of heightened up, more training be put into the FinCEN or even Title 31.
MR. SIMERMeyer: I just want to say thank you for raising that issue. I think there is definitely an important role that we can play in terms of helping with the federal family, developing relationships that we were talking about earlier. But just as you might know or others may not know that there's -- FinCEN has some resources that it often points to in terms of how to interpret those BSA and AML provisions in this culture of compliance, they are calling it. There's some key speeches by their leadership that they laid out, six different principles about how you develop a risk-based compliance program. So those are resources that I'll be sure to apply within our team too and point that out that they should try to encourage people at the front end to reach out to understand how they are interpreting that risk-based compliance, approaching from that respect.

CHAIRMAN CHAUDHURI: But we do hear you loud and clear. Chat with Steve a little bit more. You know, this brings up a larger issue, I think. One of the other tadpole initiatives that we touched on earlier that I want to kind of address briefly is addressing gamesmanship on the backs of Tribes. So we talked about our authorities under IGRA when it comes to third-party threats to assets and operations. Well, those authorities are pretty narrowly delineated or set forth in
But we also recognize, back to your point, the importance of doing whatever we can to safeguard the important avenue for economic development, the important lifeblood for actual lives on the ground that is Indian gaming. So we see an important role for us to play in sharing best practices in our trainings and sharing examples of things that we've seen in the field. So we don't want to have blinders on in terms of our trainings being directly flow -- our trainings directly flowing from our compliance authority. We also see a role for us to play in terms of our experience working with other Tribal Nations, working with other regulatory bodies, and sharing some of those experiences in terms of best practices.

So even if something is not directly in our lane, I think we are committed across the board to looking at areas of opportunity to work with other agencies or to share best practices in our trainings to further support the overall health of the Indian gaming industry.

That's actually a very subtle but important point that I want to make. There are two ways to approach trainings. There's one way where you just look at compliance authority or enforcement authority from IGRA and you train based on that. We are committed to supporting the health of the industry as a whole and to
1 supporting economic development. Pursuant to our statute,
2 that's what we have to do. And so we have to look at
3 things beyond our enforcement authority: things like
4 FinCEN, things like gamesmanship, things like trafficking.
5 Those things are things that affect the industry as a
6 whole, and we are committed to doing whatever we can to
7 stay in our lane on the enforcement side, on the
8 compliance side, but also not have blinders on when it
9 comes to facilitating discussion. And that's a small but
10 important shift that I think we have been making over the
11 last several years, and I'm proud to be part of an agency
12 that is doing that.
13 Get all that, Steve? Steve has been a
14 leader in all of this, so kind of joking with Steve. I'm
15 using his words a lot.
16 MR. BREWER: I think it's a fascinating
17 paradigm shift from where we were to where we are going.
18 Specifically what I'm referring to is it's going from the
19 how come to the how to. And I had this in my script
20 originally, and people were like, no, they don't care
21 about that, that's too training technical.
22 But getting back to the FinCEN point, you
23 know, one of the things that we used to do when we did our
24 ICAs or audits was we did a Title 31 review. We were
25 actually asked to stop by the IRS, saying it's not your
regulation, you shouldn't be doing this. But we do have partnerships, and we can put you in contact with points of contact from those agencies that can give you some guidance if that's what you -- if that's what I'm getting that you need.

And I firmly hear what you are saying, and I totally agree that it's definitely something we are going to bring back into our trainings, in our RTCs, because our first day general session is really geared towards the overall industry health. So we ask for outside federal partners to come in and give training that touches base on things that maybe, like Jonodev was saying, is not in the enforcement realm but is a big picture type look at Indian gaming, and FinCEN would definitely be one of those.

CHAIRMAN CHAUDHURI: Thank you for that point.

So that's also a perfect segue. So I think we finished up the management -- sorry, the class III MICS voluntary nonbinding guidance discussion and we have already moved into the kind of catchall area. But if there are additional catchall comments, questions, now is a perfect time to go into that.

You know, we'll going once, going twice, call it before we wrap up, so no fear in not getting any comments in. We want everybody to feel ample opportunity
to get on the record.

All right. So going once. Going twice.

Okay. Recognizing there's no crime in finishing early, I want to check with my fellow Commissioners if they have any final comments as well. But before doing that, thank you all so much for taking the time to be here today. I know we all have a lot going on, but Consultation is the lifeblood of what we do, and very appreciative of your engagement today.

So I'm going to turn it over to our Vice Chair for any other comments she may have.

MR. HOOSAVA: Going once, going twice, three times.

MS. ISOM-CLAUSE: I will be very brief, but I just want to thank you all for your really thoughtful comments. At a really granular level we mentioned that the comments we received on the voluntary nonbinding class III MICS is really helpful. Feel free to send us written comments if that's easier. Sometimes the textual stuff is really hard to do out loud. But thank you. Keep the comments coming.

MR. SIMERMeyer: I'll just say -- also join in saying thank you for the comments and the time you put in and reiterate that this Consultation series should be an ongoing dialogue. This is where face to face is an
important part of that, that opportunity. I think probably in order to make sure that this process has a kind of beginning, a middle, and end to it and that we keep the constant communication. This isn't just this sort of one-time thing that happens. So please keep your comments and thoughts coming so we can make this a collaborative process.

CHAIRMAN CHAUDHURI: Thank you so much, and final thanks to the Salt River Pima-Maricopa Indian Community for hosting us. Thank you to all the Arizona Nations for being here as well.

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