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NATIONAL INDIAN GAMING COMMISSION CONSULTATION

May 20, 2015

Commencing at 3:00 p.m.

REPORTED BY: KELLEY E. ZILLES, RPR

Job No. NJ2044731

1 National Indian Gaming Commission Consultation,
2 taken on the 20th day of May 2015, commencing at 3:00
3 p.m., at the Mystic Lake Casino, 2400 Mystic Lake
4 Boulevard, Prior Lake, Minnesota, before Kelley E.
5 Zilles, Registered Professional Reporter and a Notary
6 Public of and for the State of Minnesota.

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9 APPEARANCES

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11 On Behalf of the National Indian Gaming Commission:

12
13 Jonodev Osceola Chaudhuri, Chairman

14 Christinia Thomas, Deputy Chief of Staff

15 Eric Shepard, General Counsel

16 John Hay, Associate General Counsel
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23 NOTE: The original transcript will be delivered to
24 Rita Homa, National Indian Gaming Commission, as
25 requested.

1 CHAIRMAN CHAUDHURI: Okay. I guess we'll
2 go ahead and get started. It's 3:00 p.m. now. Welcome
3 everyone. Thank you for taking the time to be here at
4 today's formal NIGC consultation. Before we begin, it
5 is customary for us to start off in the right way with a
6 blessing. And I've been doing this for some time and
7 we're very grateful that Mr. Leonard Wabasha has offered
8 to provide us with a blessing today. Mr. Wabasha is
9 director of cultural resources for the Shakopee
10 Mdewakanton Sioux Community. So many thanks, Mr.
11 Wabasha. You may lead us off, sir.

12 (Blessing given in native language.)

13 LEONARD WABASHA: Grandfather, thank you
14 for this beautiful day. I give you my thanks. Today I
15 ask you for your blessings for the people, for health
16 and for life and for understanding that we may all get
17 along together in a good way.

18 CHAIRMAN CHAUDHURI: Thank you, sir, and
19 thank you for that blessing. Many thanks to the
20 Shakopee Mdewakanton Sioux Community who is our host
21 nation today, and many thanks to Great Plains Indian
22 Gaming Association who allowed us to schedule this
23 consultation to coincide with that event. The
24 partnership between the NIGC and our regulatory
25 partners, tribes and tribal regulators is very important

1 to us and we're very grateful for the strong
2 relationships that we have in our continued work
3 together to strengthen the regulatory structure of
4 Indian gaming.

5 My name is Jonodev Chaudhuri and I'm honored to
6 be chairman of the National Indian Gaming Commission. I
7 am Muscogee Creek and I am very honored to have recently
8 been confirmed as chairman.

9 Before getting into the meat of today's
10 consultation I think it's only proper that we get to
11 know each other as best as we can and can continue with
12 some additional introductions, both attendees and NIGC
13 alike. So with that, we'll go in the direction of our,
14 my people, and I get to make the call on the direction
15 at least, we'll go in this direction consistent with our
16 stomp ground tradition. So with that, our deputy chief
17 of staff.

18 DEPUTY CHIEF OF STAFF THOMAS: Good
19 afternoon, my name is Christinia Thomas, I am the deputy
20 chief of staff of the National Indian Gaming Commission
21 and I'm also a member of the Mille Lacs Band of Ojibwe
22 here in Minnesota.

23 LINDA DURBIN: Good afternoon, I'm Linda
24 Durbin, regional director of the St. Paul Region.

25 MIKE ODLE: A very good afternoon, my name

1 is Mike Odle, I'm the director of public affairs for the
2 NIGC.

3 ROBERT BURBACH: Robert Burbach, compliance
4 officer out of the St. Paul Region.

5 BEN BUCK: Ben Buck, compliance officer of
6 the St. Paul Region, also a St. Croix Chippewa member
7 across the river.

8 TONY DUBOIS: Tony Dubois, director of
9 compliance, Shakopee Mdewakanton Sioux Gaming
10 Commission.

11 VINCE COOK: Vince Cook, regulatory
12 director for the Little Traverse Bay Bands.

13 DORIS DAHL: Doris Dahl, internal auditor,
14 internal auditor director for the Fond Du Lac Band.

15 RAEANN SMITH: RaeAnn Smith, risk manager,
16 I'm for the White Earth Band of Ojibwe.

17 JIM VISTAS: Jim Vistas, auditor for the
18 NIGC in St. Paul.

19 RITA HOMA: Rita Homa, executive
20 administrator for NIGC.

21 KENNETH JOHNSON: Kenneth Johnson, Sisseton
22 Wahpeton Oyate.

23 SHAWNNA ELLIS: Shawna Ellis, compliance
24 officer, NIGC, enrolled member of Lac Courte Oreilles
25 Band of Ojibwe, Wisconsin.

1 ANNETTE JOHNSON: My name is Annette
2 Johnson, I'm the tribal treasurer for the Red Lake Band
3 of Chippewa Indians.

4 MARY PRENTICE: Good afternoon, Mary
5 Prentice from the Red Lake Gaming Commission.

6 LEONARD WABASHA: Leonard Wabasha, director
7 of cultural resources of Shakopee Mdewakanton Sioux
8 Community, welcome.

9 EDDIE JOHNSON: Eddie Johnson, Sisseton
10 Wahpeton Oyate.

11 BRIAN DECORAH: Brian Decorah, general
12 manager at North Star Casino.

13 WALLY MILLER: Wally Miller, tribal
14 president, Stockbridge Munsee.

15 CORI BLASCHKE: Good afternoon, I'm Cori
16 Blaschke, gaming commission chairperson for Ho-Chunk
17 Gaming Commission.

18 JAMES DAKOTA: Good afternoon, I'm James
19 Dakota, Ho-Chunk Gaming Commission.

20 LENA WALKER: Lena Walker, vice chairperson
21 for Ho-Chunk Gaming Commission.

22 BILLIE JO SARCIA: Billie Jo Sarcia, I'm
23 with the Mille Lacs Band Gaming Regulatory Authority.

24 MARC BOUDREAU: Hi, I'm Marc Boudreau, I'm
25 councilman for the Sisseton Wahpeton Oyate.

1 PHILLIP OROSCO: I'm Phillip Obusco,
2 regulatory compliance for Agua Caliente Gaming
3 Commission.

4 ZACHARY ATHERTON-ELY: Zach Atherton-Ely,
5 I'm a deputy solicitor general from the Mille Lacs Band,
6 fancy way of saying I'm an attorney.

7 BECKY MAJZNER: Becky Majzner, compliance
8 coordinator of the Mille Lacs Band Gaming Authority.

9 LIL PEHRSON: Lil Pehrson, Shakopee
10 Mdewakanton Gaming Commission.

11 HEIDI BIRD: Good afternoon, Heidi Bird,
12 I'm the tribal inspector for the Ho-Chunk Gaming
13 Association.

14 ASSOCIATE GENERAL COUNSEL JOHN HAY: I'm
15 John Hay, I'm associate general counsel of the NIGC.

16 GENERAL COUNSEL SHEPARD: Eric Shepard,
17 general counsel of NIGC.

18 CHAIRMAN CHAUDHURI: And thank you. I
19 think that, you know, I think we touched on everybody
20 who is in here. And anybody who comes in a little bit
21 later we're happy to, to have them introduce themselves.
22 But we've got a full agenda today. Again, thank you for
23 taking the time to engage in meaningful dialogue
24 regarding the direction of the agency. We want to be as
25 respectful of everyone's travel arrangements as

1 possible, we understand some people have traveled a
2 great distance and may have planes to catch. And so at
3 this point I want to give, before moving on to kind of
4 explaining the format of today's consultation further, I
5 want to give anybody who may have a plane to catch an
6 opportunity if they want to get a statement on the
7 record to give you an opportunity if you have kind of a,
8 a real scheduling concern to do that now. Otherwise
9 we'll move forward with framing today's discussion a
10 little bit more. Anybody have a plane to catch or ball
11 game to watch? Okay.

12 Well, again, we're here today to consult on some
13 very important topics from our perspective. And our
14 discussion today fits into our larger commitment as an
15 agency to work hand in hand with our partners, our
16 regulatory partners in helping craft meaningful policy
17 for the agency that, that sensibly targets positive
18 changes to make moving forward. So we will, you know,
19 we are holding today's consultation consistent with our
20 existing consultation policy which grew out of President
21 Obama's executive order 13.175, but is very similar to
22 the Department of the Interior's consultation policy.

23 The format of today's discussion will basically
24 be an explanation of the various topics from NIG staff
25 members followed by an open-ended discussion among our

1 partners. And we'll get to those presentations in a
2 moment and we'll get to some other housekeeping matters
3 in a moment, but really what we're talking about is
4 meaningful conversation and dialogue. And so formats
5 aside, I want everybody to have an opportunity to, to
6 share any, any perspectives that they may bring to the
7 table today regarding those consultation topics.

8 Every part of this discussion is recorded and
9 transcribed and it will be available for public review,
10 however, I don't want anybody to feel that this is the
11 only opportunity that you have to, to get on the record.
12 We still will be accepting written comments until
13 June 22nd of this year. Additionally, we are in the
14 process of setting up a telephonic consultation which we
15 will be able to hold at a later date. So please, you
16 know, keep an eye out for an announcement on our Web
17 site, nigc.gov, for that telephonic consultation. So
18 consultation is very important to us as an agency
19 because we are absolutely committed to sensible
20 formulation of policy informed by comments received from
21 our partners.

22 The way, the way that we process the comments
23 that we receive is really case-by-case specific. So I
24 can tell you that the comments received from prior
25 consultations have helped guide our agency direction.

1 We look at every comment that's submitted and, and that
2 informs our decisions at the agency and we'll do the
3 same with the comments received today.

4 So with that, we have some housekeeping items
5 that I want, that I'm hoping our regional director Linda
6 Durbin can discuss briefly. But before we have Linda
7 lay those out, I do want to thank her entire team as
8 well as her personally for putting together this
9 consultation session and making all the logistical
10 arrangements that they made working hand in hand with
11 headquarters staff as well. But many thanks to you,
12 Linda, as well as the team that you have with you from
13 the St. Paul region. So, Ms. Durbin.

14 LINDA DURBIN: Thank you, Mr. Chairman.
15 The consultations are scheduled to go from 3:00 to
16 5:00 p.m. today, however, they may, it may end early if
17 all the topics are covered and there are no comments
18 from the tribes. The meeting is transcribed as the
19 chairman said, so when speaking please use the
20 microphone that Shawna will be carrying around and
21 state your name, the organization you're with or the
22 tribe that you're affiliated with. And this is an
23 official government consultation between the United
24 States Government and designees from your tribal
25 government and not open to the public or media. As you

1 mentioned, the comment period ends June 22, 2015. And
2 that's all they'll let me say. I don't have anything
3 else.

4 CHAIRMAN CHAUDHURI: And thank you, Ms.
5 Durbin. Thank you for the excellent work you and your
6 region do on a day-to-day basis with the tribal nations
7 in the region.

8 So yes, one additional request that our
9 transcriber asked is that if anybody has, you know,
10 well, when you state your name if, if your name like
11 mine, you know, has various spellings or various ways to
12 spell the name, please feel free to spell out your name
13 for the transcriber before you speak.

14 So with that, as I mentioned, we're here today
15 to talk about four topics. I want everybody to feel
16 that they have an opportunity to get their comments on
17 the record, but in the interest of organizing the topics
18 we're going to go topic by topic today. We'll start
19 with a substantive explanation of the topic from one of
20 our, our team here, and then move forward with comments
21 on that given topic.

22 Now the, the substantive description of the
23 topic will, you know, is a follow-up to the written
24 materials that we sent out as part of the consultation
25 notice and those materials are also available on our Web

1 site. But without further ado, we'll start off with
2 topic No. 1, which is proposed changes regarding the
3 privacy act. And for that we have our associate general
4 counsel, Mr. John Hay, here to lead us off.

5 ASSOCIATE GENERAL COUNSEL HAY: So the
6 privacy act revisions we are contemplating are, I don't
7 want to say they're boring, but may be the least
8 exciting of the things we're going to be speaking about
9 today. They are entirely focused on our internal
10 processes when it comes to the privacy act and
11 compliance with the privacy act. And so we don't think
12 there will be any impact at all on tribes themselves.
13 The changes deal with how we receive privacy act
14 requests, how we process them, how we respond to them.
15 The reason we're updating them is because the last time
16 we did updates to them it was 1992. A lot has changed
17 since that time, including our address which is
18 incorrect in our writings and so we have to change that.

19 And so the types of things that we are going to
20 be making revisions to are how information is requested
21 from us, from the agency, how we work with other federal
22 agencies when we receive requests. We want to match up
23 our privacy act regulations with some of the deadlines
24 in our Freedom of Information Act requests. That's
25 important to us because from an internal standpoint the

1 individuals who respond to the requests are the same
2 individuals that respond to privacy act requests. And
3 it's helpful that they have kind of the same process and
4 procedure for, for handling these so that they don't
5 make mistakes and it's just easier for them to flow from
6 one to the other.

7 The other reason is that we really don't get too
8 many privacy act requests. In fact, this year we
9 received zero, last year I don't think we received any,
10 in fact, in the last five years we might have received
11 two. So it's very rare that we actually receive privacy
12 act requests. But there are regulations we have to keep
13 updated, it's a federal law, and we have to be
14 up-to-date with how we handle these requests. And we
15 also need to consolidate some of the things we've done
16 over the years.

17 The privacy act requires that any time we create
18 a system of records that we list that system in the
19 federal register. We've done that, except they're all
20 in different places. There isn't one unified place
21 where they're all listed, so we want to consolidate them
22 so anyone that wants to go and look at what we have can
23 just go to one spot. And so in a nutshell, that's what
24 we're doing in terms of the privacy act.

25 CHAIRMAN CHAUDHURI: Thank you, Mr. John

1 Hay. Internal joke there, but. Thank you, John. So
2 with that we'll move forward with comments. And keeping
3 in mind, we want everybody to have an opportunity to
4 speak if at all possible. And we also recognize that
5 folks may have to head out the door right at 5:00. So
6 if we end early, there's no shame in finishing early.
7 So I just want to throw that out there.

8 But as to the privacy act before we move on with
9 some additional introductions here in a moment, any
10 comments regarding the privacy act or the proposed
11 changes? Ms. Homer.

12 ELIZABETH HOMER: Just a, just a question,
13 Mr. Chairman. In terms of the privacy act exemption
14 generally, could you talk a little bit to the group
15 about, you know, what, what that means in terms of what
16 the exemption is.

17 CHAIRMAN CHAUDHURI: Sure.

18 ASSOCIATE GENERAL COUNSEL JOHN HAY:
19 Typically the types of requests that we get through the
20 privacy act are individuals would want to know what
21 information we have in our record system about them.
22 Privacy act systems of records are records which are
23 searchable by a person's name and you want to protect a
24 person's identity. So the most common example that we
25 get, and I think the only example we get is a supposed

1 individual has been licensed by a tribe and then at some
2 point their license is revoked and they want to protest
3 that or they want to know what information we have.
4 They will write to us and ask for a copy of those
5 records. In writing to us they have to do several
6 things. There's a specific format for the request to
7 us, it has to be notarized. Basically they have to
8 prove who they are and that we can release this
9 information to them.

10 Now those are not the only people who may be
11 requesting that information. Other people, law
12 enforcement, tribes can request this information. We
13 don't require law enforcement and tribes to jump through
14 all those hoops. And so we have certain groups of
15 individuals and certain groups of records that are
16 exempt from those requirements.

17 And so that's what Liz is talking about is we
18 have what we call a system of records, and those system
19 of records are exempt from all of the hoops you have to
20 jump through to get the records. So a garden variety
21 would be you would call up our region office and say,
22 hey, do you have any information about X individual. We
23 wouldn't make you certify who you are. The fact that we
24 know you are a tribal regulator, that's enough for us to
25 give you that information, there's an exemption for

1 that, as well as any other law enforcement that is out
2 there, we can give them that information.

3 CHAIRMAN CHAUDHURI: Thank you, Mr. John
4 Hay. Liz, just one thing, and as part of the
5 introductions, Ms. Homer, we had mentioned a request
6 from the transcriber to spell out names if at all
7 possible. Do you mind if I spell, do you mind
8 introducing yourself. Before we do, I just want to say
9 it's always good to see NIGC alumni here and having Ms.
10 Homer bring her, her very relevant experience having
11 served as a commissioner on the NIGC to this
12 consultation is, is greatly appreciated. So Liz.

13 ELIZABETH HOMER: Absolutely, I'm sorry.
14 My name is Elizabeth Homer, H-O-M-E-R.

15 CHAIRMAN CHAUDHURI: Okay. Thank you. And
16 with that, before we move on to additional introductions
17 here, thank you for that question. Any additional
18 comments or questions regarding privacy act? Okay. So
19 with that, we did a round of introductions when we
20 started, but we did say that we'd certainly introduce
21 additional folks that may come in after the
22 introductions are, are done. And we do have a few folks
23 who have come in since, but not to put anybody on the
24 spot, but it's always good to see Chairman Stevens here
25 and we're always grateful for his long-standing

1 leadership in not just Indian gaming policy, but Federal
2 Indian policy and Native American issues going back
3 many, many, many decades. So Chairman Stevens, I don't
4 know if you want to take a moment and introduce
5 yourself.

6 CHAIRMAN STEVENS: It's Stevens with a V.
7 Yeah, you know, this is the second time I, last weekend
8 my wife and I went to the opening of Oneida Lake which
9 is a beautiful facility in our community and there's a
10 walk and everything. And the guard said, yeah, if you
11 park, when I'm home I drive a little hot rod, you know,
12 so I try to act young and be young, and he said yeah,
13 there's a couple of elder spots left up there. So when
14 you say decades, I'm assuming that you're talking that
15 my father spent ten years in DC, so maybe it's multiple
16 generations. But at the same time, I'm old enough to
17 park in that elder spot by the convenience store on the
18 res too, so I just made my first year as an Oneida elder
19 at 55, I have 13 grandchildren, so maybe you're right.

20 CHAIRMAN CHAUDHURI: It's all out of
21 respect.

22 CHAIRMAN STEVENS: It is, it is, and I
23 appreciate it. We're just kind of, we're hanging out
24 and wanted to stay on and, and just mostly, mostly
25 listen to the leadership here and what comes to the

1 table here. So all, all joking and, and teasing aside,
2 this is, this is a very important part of the function
3 that all of us do. And, you know, I had a chance to
4 talk with our folks, and I think they're in one of these
5 rooms right next door, and we kind of went down the list
6 and we had a nice discussion about the important
7 priorities of regulation. And one of the things that I
8 always try to emphasize to them is that they are all
9 leaders and some of the best teachers are the, are the
10 people who are being trained or are learned, especially
11 when it comes to Indian Country. You know, the people
12 that are sitting there are the best teachers, so they
13 put their minds together to try to do what is best for
14 Indian Country and that's kind of what we're doing. So
15 I definitely emphasize that, emphasize the importance of
16 regulation and protecting the integrity of our
17 community. It's really not just about gaming, it's
18 about our community.

19 So I'm just hanging out and lending eyes and
20 ears and just enjoying the company of these important
21 men and women lawyers that are here to look out for
22 Indian Country, so that's what I'm doing. Mr. Chairman,
23 it's an honor to be able to call you chairman and not
24 have to be acting anymore, it's a great honor to work
25 with you in Washington.

1 CHAIRMAN CHAUDHURI: Thank you, sir, thank
2 you. And again, I apologize for --

3 CHAIRMAN STEVENS: Don't apologize, it's
4 all in fun, and I appreciate that. And tell you what,
5 it's nice to catch that parking spot there. And it is
6 what it is and my 13 grandchildren say clearly that I'm
7 an elder, a young one, but nonetheless.

8 CHAIRMAN CHAUDHURI: Thank you, sir. And
9 anybody else who came in after introductions, just so we
10 all know one another and have a real dialogue?

11 AARON HARKINS: Aaron Harkins, I'm an
12 attorney at Faegre Baker Daniels, I do quite a lot of
13 work with Indian tribes.

14 CHAIRMAN CHAUDHURI: Okay. Any additional?
15 Okay. Well, with that, so we had just finished topic
16 one of four, so we're here today to talk about four
17 topics and engage in conversation, I'm very excited
18 about them. Our next topic up involves applicability of
19 NEPA to the approval of management contracts. And so
20 for further information on that I'll turn it over to our
21 general counsel Mr. Eric Shepard.

22 GENERAL COUNSEL SHEPARD: Hi, good
23 afternoon. Last year the NIGC held consultations on two
24 topics, technology and the applicability of NEPA to the
25 approval of management contracts by the chairman. The

1 comments that came out of the NEPA portion of that
2 consultation indicated support for the idea of limiting
3 the role of NEPA in the approval process for management
4 contracts because it is expensive, because it causes
5 significant amount of delay, because it provides another
6 vehicle for litigation over management contracts, and
7 mostly because it's simply not necessary. Nothing about
8 the approval of a management contract process has really
9 anything to do with the approval of the construction of
10 a casino, with the building of a casino, which is where
11 the real environmental impact has.

12 And so what the commission has done is proposed
13 a NEPA policy and procedure manual that will include a
14 categorical exclusion for the approval of management
15 contracts. Previously the NIGC determined that
16 approving the management contract constitutes a major
17 federal action and requires NEPA review. That review
18 takes the form of an environmental assessment or in some
19 cases an environmental impact statement, both of which
20 are very costly and very time consuming. By adopting
21 this categorical exclusion tribes would not be required
22 to prepare a lengthy and expensive environmental
23 assessment or environmental impact statement except in
24 the cases of very rare extraordinary circumstances.

25 The policies and procedures manual of the NIGC

1 now seeks to adopt and is very limited in scope. In
2 addition to setting forth procedures applying to
3 categorical exclusion, it will define the extraordinary
4 circumstances under which a categorical exclusion would
5 not be appropriate and the policies and procedures to be
6 followed in order to conduct a NEPA review.

7 By adopting the manual, commission post and the
8 inserted piece surrounding the NEPA review requirements
9 it saves tribes both time and money. It's important to
10 know that in developing this we reviewed every single
11 environmental document that had been prepared as part of
12 a management contract and we concluded that none of them
13 had contained the major Federal action, a significant
14 impact on the environment, and that becomes the basis
15 for the creation of the categorical exclusion.

16 CHAIRMAN CHAUDHURI: Thank you, Eric. So
17 comments, questions? And really this is a conversation
18 more than anything else. So if, if folks have concerns
19 or, you know, reservations, feel free to express
20 concerns and reservations. If folks are supportive of
21 the direction, a particular direction, feel free to
22 express that. You know, it doesn't have to be, I know
23 we have a transcriber and microphones, but it doesn't
24 need to be more formal than it needs to be.

25 BILLIE JO SARCIA: I did have a question on

1 the NEPA levels. There are three levels, can you
2 explain that a little more.

3 GENERAL COUNSEL SHEPARD: Yes. There is
4 three types of environmental documents that you prepare
5 as part of NEPA. And so the first is a categorical
6 exclusion and that's a very simple document that says
7 this project is very similar to the kinds of projects
8 that the agency has reviewed in the past and determined
9 that there is no significant environmental impact. And
10 that's essentially what we are saying that most, if not
11 all, management contracts would fall into that category.

12 The next level is an environmental assessment
13 which is a much more detailed assessment of the impacts
14 and potential impacts of the project on, on the human
15 health in the environment.

16 And the last is an environmental impact
17 statement which is an even bigger environmental document
18 subject to a lot of public review, public scoping
19 meetings and can take years really to put together. And
20 so there really just depends on the, the detail and the
21 intricacy of each project.

22 What this is proposing is a categorical
23 exclusion which we believe most, if not all, management
24 contracts would fit into because every management
25 contract we looked at before we have not found any

1 significant environmental impact.

2 ASSOCIATE GENERAL COUNSEL HAY: Just to add
3 some perspective to it. When the commission is looking
4 at a management contract that's been submitted to us,
5 there are three areas that we're actually looking at.
6 We're looking at the terms of the contract to make sure
7 that they comply with NIGC regulations, that is probably
8 the quickest amount of time out of the whole process.
9 The other parts of it are the background investigation
10 of the management contractor and the NEPA part of it.
11 NEPA can take many years and it can cost several
12 hundreds of thousands of dollars, and it also can lead
13 to a lot of litigation. And we don't want tribes to be
14 faced with the prospect of coming to us with a
15 management contract and being dissuaded from doing that
16 simply because of the time and money involved in getting
17 it through the process.

18 CHAIRMAN CHAUDHURI: And thank you for that
19 question. As you see, you know, one question leads to
20 other questions. And so thank you for, you know, your
21 part in that. Just for the transcriber's benefit, do
22 you mind restating your name and affiliation for the
23 record.

24 BILLIE JO SARCIA: Billie Jo Sarcia, Mille
25 Lacs Band of Ojibwe Gaming Regulatory Authority.

1 CHAIRMAN CHAUDHURI: Thank you. Additional
2 questions, comments? Okay. We'll have a catch all at
3 the end if anybody wants. Ms. Homer?

4 ELIZABETH HOMER: In the absence of other
5 comments, I'll just throw in that, bravo. I think that
6 this has been a long time in coming. I think that this
7 should have been subject, well, I could argue that there
8 is no significant Federal action as that term is, you
9 know, meant in the National Environmental Policy Act,
10 but I think that the NIGC's proposal to have a
11 categorical exclusion for the management contracts is
12 great. I believe that that is wonderful, it's going to
13 save a lot of money, I think it's consistent with the
14 law, and it's a good decision. So I just wanted to
15 throw that in the absence of other comments.

16 CHAIRMAN CHAUDHURI: Thank you, Ms. Homer.
17 And I just want to take my hat off to our team that
18 helped formulate the proposal. And I think one of the
19 overarching efforts of the agency, and I've tried to
20 point this out whenever I can, is to engage in sound
21 regulation, but also take a close hard look at whether
22 or not any activities that we take on are truly
23 consistent with the actual, with the law and, and doing
24 what we can to address unnecessary road blocks to
25 development.

1 So we, we definitely believe in sound
2 regulation, while at the same time not really
3 perpetuating unnecessary roadblocks to travel economic
4 development. So hats off to the team that helped
5 develop this proposal. So thank you for those comments,
6 Ms. Homer. Yes, sir? And by the way, we make no
7 judgments about attorneys here, you know, there's
8 several of us who are still in recovery.

9 ZACHARY ATHERTON-ELY: Well, let me speak
10 first. My name is Zachary Atherton, that's
11 A-T-H-E-R-T-O-N, hyphen, capital E-L-Y. I'm deputy
12 solicitor general for the Mille Lacs Band of Ojibwe.
13 And I just wanted to bring up I guess sort of a question
14 but also comments. In looking at Section 4.3 dealing
15 with extraordinary circumstances, it creates essentially
16 a list of what type of circumstances fall into that
17 category that might be extraordinary. And the
18 adjectives I guess just don't seem consistent to me
19 where extraordinary seems to be a very severe adjective
20 and then the circumstances that could fall into that
21 categorical category is just a reasonable likelihood
22 that a project will have a significant impact. I just,
23 I'm, I'm, maybe a little inciting into the crafting of
24 that language would be helpful.

25 ASSOCIATE GENERAL COUNSEL HAY: Sure. You

1 know, we didn't want to recreate the wheel here, so
2 everything that we've done here we've pulled from what
3 other Federal agencies have done and we also went
4 directly to the CEQ, the Council on Environmental
5 Quality, they are technically part of the White House.
6 And anything dealing with NEPA in terms of our actions
7 that we're doing here, we basically need their blessing.
8 And so we went to them and asked them for advice on what
9 language to use and they said, you know, this is
10 language that has passed judicial review in the past,
11 you might want to consider at least putting it out there
12 and seeing what type of response you get to it.

13 And we have gotten at least one letter which
14 raised I think some of the identical issues that you
15 raised right here. So I think that's something we're
16 going to take a look at, whether we can clarify these so
17 it's a little more precise and so that people know when
18 we would be applying them, the extraordinary
19 circumstances.

20 And, and for everyone else, the, the reason why
21 this is important is it would be an exception to a
22 categorical exclusion, meaning that a particular project
23 would require us to do an environmental impact statement
24 or an EA. I guess the, you know, one example of that
25 would be is if someone wanted to operate gaming on a

1 former waste dump or something like that, that would be
2 extraordinary circumstances where we would want to take
3 a closer look at what the environmental conditions are
4 for the gaming.

5 CHAIRMAN CHAUDHURI: And thank you for that
6 comment, and we still make no judgment. So with that,
7 additional comments on, on this topic? Again, we'll
8 have a catch all at the end.

9 ANNETTE JOHNSON: My name is Annette
10 Johnson and I'm the treasurer for the Red Lake Band of
11 Chippewa Indians. I just want to say thank you to the
12 committee for providing the information. We had a
13 project that we worked on for our tribe and going
14 through this as it explains for future reference
15 development of the area. And I can see where, where we
16 may have some areas that fall in the extraordinary
17 circumstances.

18 But I do agree going through that whole EA, EIS
19 process and getting confirmation from NIGC that
20 something is not the management contract, that takes a
21 long time. So we opened a property just last, was that
22 last year, yeah, and I worked, I was real active in that
23 due diligence process. So I just want to say thank you
24 for the efforts you did to get this to where it's at
25 today.

1 CHAIRMAN CHAUDHURI: Thank you so much for
2 that comment. Thank you. On behalf of the entire NIGC
3 team, thank you. And like I said, we'll have a catch
4 all at the end in case, I don't want anybody to ever
5 feel like there's only one bite of the apple to get your
6 comments on the record. But with that, if there are no
7 additional comments on this topic, we'll move on. Our
8 next topic is one that we're very proud of, we refer to
9 it as BIGS, the Buy Indian Goods and Services proposal.
10 So with that, we'll have Mr. John Hay lead us off.

11 ASSOCIATE GENERAL COUNSEL HAY: So the
12 commission is considering adopting regulations that are
13 implicated when it goes out and it either purchases
14 goods or services at fair market value. Specifically it
15 would be a preference for qualified tribally owned,
16 Indian owned businesses. The clearest example of that
17 would be this room right here or when we hold training
18 sessions and we go out, where we hold those training
19 sessions is important. And so we'd like to be able to
20 go to tribes and use their facilities when we can as
21 long as we're not overpaying for those facilities and
22 give them a preference.

23 The commission has been doing this for some
24 years as a practice, but we'd like to put it in our
25 regulations. It's important we think enough to put in

1 our regulations and so that would be a mandate for the
2 agency going forward so that few commissions would be
3 bound by it as well.

4 The commission had gone out back in 2011 and
5 consulted on doing something, I don't think we had the
6 fancy acronym that we have now, we just called it the
7 Buy Indian Act and our adoption of Buy Indian Act
8 regulations. And one of the things that it seemed was
9 unclear at that time was who would this apply to. And I
10 just want to make it clear that this does not apply to
11 tribes, it only applies to NIGC buys, goods or services.
12 Tribes can go to anyone they want, they are not required
13 to go to another tribe.

14 You know, as I said with our, our NEPA
15 handbooking guidelines, we're really not reinventing the
16 wheel here. And so we took a hard look at Interior's
17 regulations on these and we, we pulled those together
18 and we think that they'll work for us. It will be kind
19 of standardized across the Federal government. And so
20 the commission is considering with a few tweaks to
21 adopting those regulations as their own. And it's, as I
22 said, it's something we've wanted to do for some time,
23 we think it's the right thing to do, and we're finally
24 moving forward with it.

25 CHAIRMAN CHAUDHURI: Thank you, John. And

1 I'll stop referring to the inside joke about Mr. John
2 Hay, but thank you, John. With that, comments,
3 questions regarding the Buy Indian Goods and Services
4 proposed regulation?

5 CHAIRMAN STEVENS: I apologize, Mr.
6 Chairman. You say that it's, it's an in-house policy
7 and it's not a tribal policy, but I think it's an
8 important factor in, in helping tribes to understand
9 that at your level it's possible to do that, you know,
10 our tribes and our, our business folks can appreciate
11 that. I just want to make sure I understood that right.

12 CHAIRMAN CHAUDHURI: Thank you, Chairman.
13 We absolutely respect the sovereignty of our partners,
14 the tribal nations we work with, but we are committed to
15 doing what we can in our shop to be consistent with our,
16 you know, with our mission.

17 CHAIRMAN STEVENS: That says a lot.

18 CHAIRMAN CHAUDHURI: Thank you, Chair. Is
19 there questions?

20 BILLIE JO SARCIA: Does this pertain just
21 to tribal governments as far as you would use their
22 services, would this go with also personal businesses
23 owned by tribal members?

24 GENERAL COUNSEL SHEPARD: Both, it would be
25 both. So the preference is to be either Indian owned

1 businesses or tribal governments in the case where
2 tribal governments provide services.

3 BILLIE JO SARCIA: Okay.

4 GENERAL COUNSEL SHEPARD: The other
5 question we frequently get is why is it 48 C.F.R.
6 instead of 25 C.F.R., and it's because these are
7 actually amendments to our FAR regulations. So there's
8 a special provision that deals with how we buy goods and
9 services and these are regulations that relate to 48
10 C.F.R. and not under 25.

11 CHAIRMAN CHAUDHURI: And thank you for that
12 question. Additional questions, comments?

13 CORI BLASCHKE: Cori Blaschke from the
14 Ho-Chunk Gaming Commission. My question is, will there
15 be a list developed of the businesses that you'll be
16 purchasing from?

17 GENERAL COUNSEL SHEPARD: I don't think
18 that that's called, did you want to answer?

19 DEPUTY CHIEF OF STAFF THOMAS: Yes, I can
20 answer. So how these will work, these will actually
21 replace the Federal FAR regulations that we already have
22 to follow. Our purchasing goes through the Department
23 of Interior, IEC is what we they call it, and they
24 actually already have a list compiled of Indian owned
25 businesses that we can use. So as John had stated, we

1 already do this in practice, this is just formalizing
2 the process that we're already using.

3 CHAIRMAN CHAUDHURI: Excellent question.

4 BILLIE JO SARCIA: Billie Jo Sarcia again.
5 So since they already have a list, is there a process
6 that businesses that are tribally owned or I guess
7 personal band member businesses, is there a process that
8 they have to go through in order to get accepted and
9 what is that process?

10 DEPUTY CHIEF OF STAFF THOMAS: There is a
11 process, I don't know exactly what the process is, but
12 if you want to take my business card I can definitely
13 point you in the right direction on how that works.

14 BILLIE JO SARCIA: Thank you.

15 CHAIRMAN CHAUDHURI: Thank you for those
16 questions and comments. Additional questions and
17 comments on this topic before we move on to the fourth
18 topic? Okay. With that, our fourth topic deals with
19 our proposal to examine potential non-mandatory
20 voluntary guidance regarding Class III minimum internal
21 control. Again, I stress, non-mandatory guidance. So
22 with that we have our deputy chief of staff Christinia
23 Thomas to give background.

24 DEPUTY CHIEF OF STAFF THOMAS: Thank you,
25 Mr. Chairman. So the NIGC's Class III minimum internal

1 control, the MICS, were promulgated in 1999 and then
2 revised in July of 2002. There's been a lot of changes
3 in the industry since then and the MICS have not been
4 able to keep up with those changes. Due to the Colorado
5 River Indian Tribe decision, or the CRIT decision, the
6 NIGC does not have the authority to promulgate or update
7 the Class III regulations. However, we do still feel
8 that there is a need for them and we do understand that
9 in some cases it makes it part of tribal compacts and
10 even part of some of the tribes gaming ordinances.

11 During our last regulatory review process we
12 asked for comment on how we should proceed with regard
13 to the Class III MICS. We received a lot of great
14 responses. Some wanted us to implement these
15 regulations while some wanted us to withdraw the
16 regulations completely, and some didn't want us to do
17 anything with them.

18 After reviewing all the comments the commission
19 has decided that we want to move forward with proposing
20 the Class III MICS as guidance. These will be advisory
21 only and unenforceable by the NIGC, but will allow us to
22 make sure that the MICS keeps up with the advances in
23 the gaming industry and provides guidance to tribes that
24 do rely on the MICS.

25 The plan moving forward is to, one, develop

1 updated Class III MICS guidance; two, publish them for
2 comment; three, consider all the comments and revise as
3 necessary; and finally publish the guidance. Because it
4 will be guidance instead of regulations we will be able
5 to be much quicker at adapting to changes in the
6 industry.

7 CHAIRMAN CHAUDHURI: Thank you, Ms. Thomas.
8 So we anticipate a number of comments and questions on
9 this topic, and fortunately we have plenty of time. But
10 let me address one question that was asked before the
11 consultation because it may help all of us. A question
12 was asked well, why haven't we provided the guidance
13 just at the, at the outset. And that speaks to our
14 larger approach to consultation, and that is firmly
15 believe in listening and communicating before putting
16 pen to paper on things of this significance in Indian
17 Country.

18 So while we have proposed an approach moving
19 forward, we very much want to hear input from all of you
20 in terms of what that guidance would look like. And so
21 I appreciate the gentleman that asked that question, I
22 think that was a question that benefits all of us. So
23 with that, questions and comments regarding this, this
24 proposed plan of action?

25 WALLACE MILLER: Wallace Miller, president

1 of Stockbridge Munsee. For me, I just found out about
2 this consultation last week Wednesday. Being a tribal
3 leader, I'm very busy day-to-day. I watched your Web
4 site every day to see what was going to be proposed for
5 Class III, watched it every day to see what time, what
6 room. Last night I left my council meeting at 7:00,
7 picked these two up, B-lined over here just so I can be
8 over here because I want to know what's happening with
9 Class III. As far as I'm concerned, I don't want you
10 guys to touch it. You have no enforcement over it,
11 leave it alone.

12 My legal staff would have come with me but we
13 had three court hearings today and none of them could
14 follow, they had a lot more detail than me. Being as
15 busy as I am, I made it a point to be here. But for our
16 tribe, we don't want you to touch it. And when you do
17 post something for comment we will be ready to send
18 something.

19 CHAIRMAN CHAUDHURI: And thank you, sir.
20 We very much hope you do send, send comments and your,
21 you know, any concerns or reservations you may have.
22 And also thank you for taking the time to be here, you
23 know, we understand many folks have traveled from great
24 distances to be here and we're mindful of your time and
25 responsibilities to your community, many thanks.

1 Before turning it over to our team for
2 additional discussion, I do want to just make one
3 general statement. I stressed the voluntary and
4 non-mandatory nature of this proposal purposely and the
5 reason I stress that is we absolutely recognize the
6 legal authorities that apply to the NIGC when it comes
7 to Class III MICS and our, our, you know, our
8 limitations regarding those authorities. But we're also
9 committed to doing what we can to support larger tribal
10 economic development efforts.

11 And so the reason we've been asked almost from
12 day one since the decision was issued, the reason from
13 what I understand we have been asked to explore the
14 possibility of issuing guidance is that for various
15 reasons different tribes through their contacts or
16 through their ordinances still refer to our Class III
17 MICS even though CRIT has basically clearly said we
18 don't have the authority to issue those, but the reality
19 is as tribes are trying to engage in their operations on
20 the ground, they still for a variety of reasons still
21 may have their contacts that require them to look at our
22 MICS or their ordinances which require them to look at
23 our MICS.

24 So our, our challenge is to figure out how we
25 can support the larger, you know, the larger regulatory

1 structure of Indian gaming while still being true to our
2 limitations on authorities. So in other words, we're,
3 what we're talking about is voluntary non-mandatory for
4 a reason. We want to be supportive of those, those
5 communities who reference our MICS while at the same
6 time following the law.

7 I, I hope that's helpful. But if anybody wants
8 to add to that on our team, be my guest. But we
9 certainly appreciate the time that it takes to attend
10 these consultations and we're very grateful to you for
11 being here.

12 WALTER MILLER: One more comment I want to
13 add. Being in the tribal politics for the last
14 15 years, passing tribal laws, ordinances, I've learned
15 that if you leave something big, someone down the road
16 is going to change it to where it doesn't benefit the
17 tribe. And I've come from a long family of leaders.
18 I've had two grandfathers and my father was tribal
19 chairman and it's been the same from the beginning. You
20 make one rule, that expands into 50 more rules, and I
21 just don't agree with it. They don't all fit for all
22 tribes.

23 I would, when I go back I have to relook at our
24 gaming ordinance to see what it specifically states for
25 Class III, but I know we got to follow the state

1 compact. Our casino is strictly Class III except for
2 bingo which is the only Class II we have in the
3 building. So rules, we'd have to follow the state, we'd
4 have to follow whatever you do because eventually you're
5 not going to have any enforcement powers now, what's
6 going to happen five, ten years from now. Then we're
7 going to have to follow two pages, the State, the Fed.
8 That's what I'm watching. And I don't want that, I only
9 want to have to follow one set of guidelines. Thank
10 you.

11 CHAIRMAN CHAUDHURI: Thank you, sir. Just,
12 again, all the more reason that we're appreciative of
13 you being here. Unintended consequences is something
14 that we're very mindful of. So any path taken, we
15 absolutely don't want to create more problems than we're
16 trying to solve. And so that's why we do want to hear
17 since everybody is, I mean, every facility let alone
18 every nation is unique, not just every nation, but every
19 facility is, and so we, we do want to hear, you know,
20 whether or not there are any unintended consequences of
21 a given approach that maybe we hadn't thought of. And
22 so, thank you.

23 ZACHARY ATHERTON-ELY: On one hand I
24 definitely see the value in the guidelines, and on the
25 other hand I think I share some of the same concerns in

1 that as compacts are renegotiated, as technical
2 amendments come out, we have seen that states will, will
3 even now try to bootstrap in the Class III MICS into
4 that compact. So although as you publish it and it will
5 become voluntary, but you get pressure from the state to
6 make that binding.

7 And so again, I do see the value in it, but
8 there's also concern that if it's going to be published
9 if it's, if it's going to be, that all of, all of the
10 bands concerns are, are addressed. And, and I strongly
11 encourage every tribe to be mindful of that as their
12 compact renegotiations come up because I know in
13 Minnesota we have seen that already, we've explained to
14 them already, hey, listen, you want us to essentially
15 reference MICS that aren't binding and haven't been
16 updated, and their answer was yes.

17 CHAIRMAN CHAUDHURI: And thank you for that
18 comment. Again, I believe it speaks to the chairman's
19 comment regarding unintended consequences or potential
20 unintended consequences. But we're, I mean, absolutely
21 committed to trying to look at the effects of any
22 approach. So on balance, and I don't want to put you or
23 anybody on the spot but, you know, given that an ideal
24 solution isn't always easy to come by in any situation
25 and there are trade-offs sometimes, pros and cons on

1 balance.

2 If anybody has strong, or not even strong, but
3 if anybody has suggestions or recommendations based on
4 your assessment of the community that you're coming
5 from, whether or not on balance one approach is better
6 than another, please feel free to share those. But
7 thank you for flagging the potential use in those
8 negotiations of even non-mandatory guidance being
9 updated, it's appreciated.

10 ZACHARY ATHERTON-ELY: Do you have a
11 timeline?

12 CHAIRMAN CHAUDHURI: That's a good
13 question. So by timeline I was very happy to have
14 gotten through one process here pretty quickly, I'm
15 mindful of trying to get as much done as I can during
16 the period that, you know, I'm up to bat on. But we
17 don't have a timeline in the sense that, we want to move
18 as quickly as we can, but we, we don't want to sacrifice
19 doing the right thing for moving too quickly. And so
20 this is a tricky issue or else it would have been
21 tackled years ago.

22 It is a tricky issue because it's just, it's
23 just filled with secondary impacts of any proposed
24 approach. So we want to make sure that we communicate
25 well, as well as communicate clearly in advance so that

1 people can prepare if there are impacts, they can
2 prepare adequately. So we don't have a specific time
3 frame in mind, but we, we certainly want to move as
4 quickly as we can. Once, you know, I want to move
5 quickly, but I don't want to do so at the expense of
6 missing something. And it's not just the chairman, it's
7 the full commission. And I believe I can speak to that
8 for Commissioner Little even though he's not here, my
9 fellow commissioner is very thorough, thorough
10 individual. And, you know, at some point we may get a
11 full commission, but the commission will make the
12 decision as a whole I assume regarding issuance of
13 guidance. And I believe everybody is on the same page
14 to move quickly, but not at the expense of shortcuts.
15 Yes, sir?

16 WALTER MILLER: Can I ask NIGC if you do
17 propose changes that you do hold more consultations, not
18 just comment time, more consultation, get the tribes
19 together. I would rather sit down and talk to you
20 face-to-face than send you a letter. I will follow up
21 with a letter, but.

22 CHAIRMAN CHAUDHURI: And thank you, sir.
23 Let me just add one general comment regarding
24 consultation in general. So today is a formal
25 consultation on this topic and it's a consultation which

1 there's a rather large invitation that goes out to
2 tribal leadership and tribal regulators and it's a group
3 consultation. But we are always open to discussion of
4 tribal specific concerns and direct consultation and
5 communication too. So we do have an open-door policy
6 regarding any specific concerns that are raised.

7 WALTER MILLER: I disagree that this is,
8 this part of it is formal. In your letter, management
9 contracts guidance for Class III minimum internal
10 control standards. The other three topics come in
11 little packets, you had nothing.

12 CHAIRMAN CHAUDHURI: On purpose, we don't
13 want to write something without talking to you.

14 WALTER MILLER: The way you explained it
15 when you started the meeting, that would have been more
16 than enough to me to decide whether I was going to come
17 sit here or just send a letter. I'm not, my time is
18 busy.

19 CHAIRMAN CHAUDHURI: Yes, sir. Well, and
20 if there's anything that I've learned it's the benefit
21 of talking through things before, well, you think before
22 you act, and right now we're thinking in collaboration
23 with our partners. And so we thank you for your time
24 being here today, but I think it would have been
25 disrespectful to act without giving you the opportunity

1 to be here today, so. We certainly would welcome
2 additional input once proposed language, you know, is
3 created.

4 We have some thoughts, and let me just share, I
5 mean, I'm more than happy to talk about different ways
6 this could be approached without reinventing the wheel,
7 but our thoughts are merely one group of partners
8 thoughts and they, they don't mean anything without true
9 dialogue and communication, so. It's not like we just
10 said well, let's do something.

11 ELIZABETH HOMER: So that would be great if
12 you want to share some of those thoughts, Mr. Chairman.

13 CHAIRMAN CHAUDHURI: Yeah, thank you, Ms.
14 Homer. So there are different things that we could do.
15 So, for instance, this is very, very different than the
16 very large overhaul of the Class II MICS that the
17 commission recently engaged in. And so just to kind of
18 refresh where we are right now, recently the commission
19 did a full formal updating of the technical standards
20 for Class II MICS and in doing that, because it took the
21 form of an actual regulation and regulatory changes, and
22 let me step back. Any guidance wouldn't be an actual
23 regulation or formal regulatory changes, but because
24 that took the form of a regulation and regulatory
25 changes we did that through a more formal process and

1 that involved a committee that worked together for quite
2 some time. But the product of that was to hammer out
3 some very specific updates for our technical standards.

4 Now much of what's already been created in
5 regard to technical standards through that process,
6 there may be some benefit, there may not be some benefit
7 to taking, to avoiding reinventing the wheel, and simply
8 keeping in mind we're talking about non-mandatory gap
9 guidance, adopting as much as we can from that process.
10 But again, that's just one potential way to get this
11 done that would, there would be some benefits and time,
12 time saving of that approach, you know. But that's just
13 one potential approach. I don't know if you guys want
14 to add more to that or not or pull me back.

15 ELIZABETH HOMER: This is your final
16 consultation I think, you have one more in DC.

17 CHAIRMAN CHAUDHURI: Yes, we're going to
18 try to have one more telephonic consultation. But
19 written comments can be submitted any time before the
20 deadline and we do want to have a larger phone
21 consultation as well for folks who couldn't travel.

22 ELIZABETH HOMER: So what are you hearing
23 back from other tribal leaders, what are the themes that
24 you're hearing in terms of the comments that are coming
25 back to you?

1 CHAIRMAN CHAUDHURI: Well, I think we all
2 hear different pieces and we'll, we'll absolutely
3 coordinate all the comments that we receive and review
4 them thoroughly. And so because we all hear different
5 pieces, I do want other members of the team to have an
6 opportunity to weigh in.

7 But my perspective is this, the comments that
8 the chairman has made regarding unintended consequences,
9 they're very, very well taken. There are a lot of
10 concerns regarding, because tribes are differently
11 situated throughout the country and subject to different
12 types of compacts and different types of negotiation
13 processes, the concerns regarding unintended
14 consequences is, is a major prevailing theme and plays
15 out in different ways. But overall there have been a
16 number of positive statements in support of doing
17 something given the fact that, you know, that this, the
18 issue of tribes looking to the Class III MICS still
19 exists despite the CRIT decision, but doing something in
20 a sensible way, and that's the real trick, doing
21 something in a way that benefits the, the regulatory
22 structure of Indian gaming and by extension Indian
23 Country while at the same time doesn't cause more
24 problems than it solves.

25 And so we haven't, I mean, there have been

1 different proposals regarding whether, what to do with
2 the old regs that are up there. Even if we do issue
3 guidance do we leave them up there, do we formally
4 withdraw them. And we're open to hearing comments on
5 both. And we haven't made a final decision one way or
6 the other because as the chairman mentioned, we want to
7 engage everyone early in the process, early rather than
8 at the end saying here's what we decided we wanted to
9 do, do you like it. And so that's my take on what I've
10 heard. Generally positive comments with concerns
11 saying, well, you know, keep an eye on the unintended
12 consequences. But I don't know if anybody wants to add
13 to that.

14 GENERAL COUNSEL SHEPARD: Yeah, I think
15 that's, that's what we've been hearing. Generally there
16 seems to be support out there for the idea of issuing
17 Class III guidance, that seems to be coming off
18 recognition that 542 is very dated, the surveillance
19 standards in 542, for example, that relay on analog, not
20 digital equipment. And that's just one example of how
21 old and kind of out-of-date and technologically
22 inflexible 542 has become. But there has been a lot of
23 concern directed at whether to leave the existing 542 on
24 the books or take it down as part of once the guidance
25 comes out.

1 We went through consultation most recently in
2 Oklahoma where prevailing opinion seemed to be to leave
3 542 up even after there is guidance out. Other folks
4 think that would cause more confusion to leave 542 up
5 and have newer guidance out there, that having both out
6 there at the same time doesn't make a whole lot of sense
7 either. There has definitely been a couple of comments,
8 there has been a couple of comments not to do anything,
9 to just leave things the way they are right now or just
10 withdraw 542 and do nothing.

11 CHAIRMAN CHAUDHURI: Thank you, Ms. Homer.
12 Before we hear more comments, and I have a feeling, you
13 know, we're going to hear quite a few more, I want to
14 introduce a couple of other members of our team who
15 weren't in the room during the introductions, I don't
16 believe. And correct me if I'm wrong, but we have a
17 couple folks from headquarters here, Mavis Harris and
18 Rita Homa who are here from DC, both of them have been
19 with the agency many, many, many years. And Chairman
20 Stevens isn't here, but they've, you know, they've been
21 here decades as well. Well, I don't want to, I'm really
22 digging myself into a hole here. But they work very
23 hard, they work very hard day-to-day and have done so
24 many, many years in trying to serve the agency and by
25 extension, you know, the larger structure of Indian

1 gaming. So with that, additional comments, questions?
2 Yes, sir?

3 ZACHARY ATHERTON-ELY: I guess for the
4 attorneys, have you taken, I mean, the NIGC has copies
5 of all of the approved gaming ordinances and all of the
6 approved comments. Have you taken a look at the
7 separate clauses in the ordinance in the compact to see
8 how moving that would affect each tribe?

9 GENERAL COUNSEL SHEPARD: We haven't done
10 that for every ordinance out there, but in general we
11 have kind of made a list of places where it's going to
12 be problematic. Not problematic, but where we'll need
13 to reach out to tribes depending on which direction the
14 commission goes in the end. And we envision working
15 hand in hand with folks to get them up-to-date or to
16 reflect whatever changes we put out there.

17 It came up actually first in the California
18 consultations because there are 15 or so tribes in
19 California that have adopted 542 expressly in their
20 ordinances and agreed to allow the NIGC to enforce 542.
21 And that question came up from them as to what impact
22 guidance would have. And we made the commitment there
23 and we continue to make it that we will work one-on-one
24 with everybody depending on how this goes.

25 CHAIRMAN CHAUDHURI: Yes, sir?

1 VINCE COOK: Vince Cook, regulatory
2 director for Little Traverse Bay Bands. I would like to
3 say as a regulator I appreciate and the tribe that I
4 work for is, is happy to see this Class III 542 being
5 updated. We actually went through the process of
6 reviewing the draft that we had done in 2010 and looking
7 at those and incorporating some of those changes into
8 our MICS.

9 Our main goal is to make sure that we're
10 basically monitoring and, and setting as good of
11 internal controls as we can to protect our gaming
12 operation. What we did is we met with the gaming
13 operation, reviewed all the changes, asked them if these
14 would create any hardships on them because they are just
15 guidance. We know that the NIGC doesn't have the
16 ability to say you must do this.

17 Everything that we looked at our gaming
18 operation is already doing, we are already in compliance
19 with them. So we put those steps into our gaming, into
20 our tribal MICS. And as a young regulator, as a young
21 supervisor working my way up one of the things I was
22 told is don't be afraid to use your resources, and I've
23 always looked at the NIGC as one of those resources.

24 CHAIRMAN CHAUDHURI: Thank you for that
25 comment. I can't tell you how, I can't tell you, that's

1 music to our ears because we see ourselves as a resource
2 for our regulatory partners too, so thank you. Now any
3 more comments like that? I'm sorry. See how it's done.
4 No, I'm joking, just for the record, for the
5 transcriber, that's a joke. So anyway. This is a very
6 serious topic and I'm sorry to joke so much, but no need
7 not to laugh every now and then. But with that,
8 additional comments, any? Please do not hesitate to
9 share concerns, criticisms, reservations, you know,
10 that's, that's what we're here for. Okay.

11 With that, we'll move to a catch all section, a
12 last round just, you know, I think we're doing pretty
13 well on time. As I mentioned, since we have covered
14 four topics today, all of which, you know, we're very
15 excited to hear as much input as possible about, I do
16 want everybody to have an opportunity to get anything on
17 the record that they want to get on. At this time are
18 there any other additional comments regarding some of
19 the, any of the previous topics or any of the four
20 topics that anybody wants to raise? Okay.

21 Well, with that, there is no harm in finishing
22 early and, you know, getting back on the road so we
23 don't have to rush home. And so with that, again, I
24 just want to express our sincere appreciation for taking
25 the time to be here today. Please check our Web site,

1 we'll send, we'll get information out regarding the
2 call-in consultation. But feel free to submit any
3 written comments that you may have. You know, certainly
4 if on the drive home you think of an additional thought,
5 don't hesitate to send that to us. And many, many
6 thanks for being here and safe travels and be safe.
7 Thank you.

8 (Proceedings concluded at 4:07 p.m.)
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STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

I hereby certify that I reported the National Indian Gaming Commission Consultation on the 20th day of May 2015, in Shakopee, Minnesota;

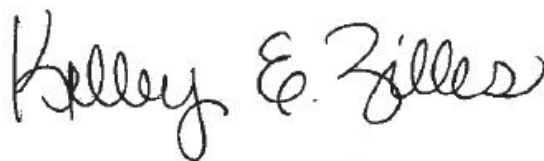
That the testimony was transcribed by me and is a true record of the testimony of the witness;

That the cost of the original has been charged to the party who noticed the deposition, and that all parties who ordered copies have been charged at the same rate for such copies;

That I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel;

That I am not financially interested in the action and have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect my impartiality;

WITNESS MY HAND AND SEAL THIS 20th day of May 2015.



Kelley E. Zilles, RPR
Notary Public, Washington County, Minnesota
My commission expires 1-31-2020

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