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NATIONAL INDIAN GAMING COMMISSION  
CONSULTATION MEETING  
OKLAHOMA INDIAN GAMING ASSOCIATION  
OKLAHOMA CITY, OKLAHOMA  
AUGUST 14, 2013

Transcribed by: David Harjo

1 MR. BRYAN FOSTER: Good afternoon  
2 everyone. First off, I would like to thank the  
3 National Indian Gaming Commission for holding their  
4 consultation during our OIG Conference. It's  
5 certainly an honor and a pleasure to have you here,  
6 Chairwoman Stevens and Commissioner Little. We  
7 really appreciate your time. As we all know,  
8 there's many of very interesting goings on in the  
9 Indian gaming industry and it's very important for  
10 the tribes and our regulatory authority body of the  
11 National Indian Gaming Commission to communicate and  
12 it's certainly a pleasure to have you here and we  
13 want to welcome you and, Chairwoman Stevens, we  
14 really appreciate all that you have done. At this  
15 time I will turn it over to you. Thank you.

16 CHAIRWOMAN TRACIE STEVENS: Well, thank  
17 you, Chairman. I want to say welcome to everyone.  
18 I know we have a number of people trickling in.  
19 There are a few things that we need to do before we  
20 get started to talk about the subject at hand. So  
21 first of all, I'll introduce myself, my name is  
22 Tracie Stevens and I'm a member of the Tulalip Tribe  
23 of Washington state, and chairwoman of the National  
24 Indian Gaming Commission.

25 I want to apologize for the confusion

1 about where the room -- where the consultation was  
2 taking place. Apparently the Renaissance manages a  
3 certain number of rooms here so we unfortunately had  
4 a few people going over actually to the Renaissance  
5 looking for Room 8, so my apologies first.

6 How we usually start these is we do  
7 introductions. And I do want to invite any tribal  
8 leaders and/or their delegates to the table.  
9 Certainly make room for our tribal leaders at the  
10 table with us. And then -- so we'll go around,  
11 we'll do introductions with the attendees first and  
12 then we will introduce the NIGC staff.

13 If you could please, if we could move  
14 around the room with the microphone and if you could  
15 please tell us your name and what tribe you are  
16 with, and we can start back there and we will move  
17 this way. And you thought sitting in the way, way  
18 back was going to be the way to go. It is not. So  
19 we'll start in the back, if you can say your name  
20 and your tribe, that would be wonderful.

21  
22 MS. JEZUN YUEN: Yezun Yuen, Wyandotte  
23 Nation.

24 MR. TUZARI BIGKNIFE, Viejas Band of  
25 Kimmeyzay.

1 MR. KYLE WILLIAMS: Kyle Williams,  
2 Alabama-Coushatta Texas.

3 MR. PETER LAWSON, Alabama-Coushatta  
4 Texas.

5 MS. LESZA SHAW: Lesza Shaw, Absentee  
6 Shawnee Tribe, Special Projects Manager.

7 MR. JOHN TAHSUDA: John Tahsuda,  
8 Navigators Global.

9 MS. VALARIE SPICER: Good afternoon.  
10 Valarie Spicer, Arizona Indian Gaming Association.

11 MR. RAYMOND CAMPBELL: Good afternoon,  
12 Madam Chair. Ray Campbell, Iowa counsel.

13 MS. MICHELLE CARR: Michelle Carr  
14 representing the Sycuan Gaming Commission.

15 MR. ED MAGDALENO: Ed Magdaleno, Sycuan  
16 Gaming Commission.

17 MR. SCOTT COLBERT: Scott Colbert,  
18 Chickasaw Gaming Commission.

19 MR. HASKELL ALEXANDER: Haskell  
20 Alexander, Deputy Gaming Commissioner for the  
21 Chickasaw Nation.

22 MS. ANGELA APAUTY: I'm Angela Apauty  
23 with the Wichita Gaming Commission out of Anadarko.

24 MS. BETH PARKER: Beth Parker, Wichita  
25 Gaming Commission.

1 MR. JASON NICHOLS: I'm Jason Nichols of  
2 the Viejas Gaming Commission.

3 CHAIRWOMAN TRACIE STEVENS: From this  
4 side of the table we'll go around and then we'll  
5 introduce our staff.

6 MR. LLOYD PAPPAN: Lloyd Pappan with the  
7 Kaw Nation.

8 MR. STEVE YORK: Steve York, Ft. Sill  
9 Apache Nation.

10 MR. GUY MUNROE: Guy Munroe, Chairman,  
11 Kaw Nation.

12 MR. KEN BELLMARD: Ken Bellmard,  
13 Government Relations, Kaw Nation.

14 MS. DANA DEERE: Dana Deere with the  
15 Absentee Shawnee Gaming Commission.

16 MS. EDWINA BUTLERWOLF: Edwina  
17 Butlerwolf, Governor, Absentee Shawnee Tribe.

18 MS. TERRI PARTON: Terri Parton,  
19 President, Wichita Gaming Commission.

20 MS. LESLIE TANYAN: Leslie Tanyan with  
21 the Iowa Tribe of Oklahoma.

22 CHAIRWOMAN TRACIE STEVENS: Okay. Great.  
23 I also want to acknowledge all of the staff that we  
24 have here and many others that you don't all get to  
25 see that are in other offices or at our headquarters

1 in D.C. With us today is Christy Jacobson, she's  
2 one of our AA's, administrative assistants. Benise  
3 McCoy is also an administrative assistant. We also  
4 have Tony Wheeler who I think is manning the booth  
5 right now. Bryan Moody, both compliance officers.  
6 Dana, who -- I think she's also -- Dana Freeman is  
7 managing the booth right now. Our Oklahoma Regional  
8 Director is Tom Cunningham, who is right over here  
9 with the transcriptionist. Tim Harper who is in the  
10 back and also will be manning the microphone.

11 Also, we have from our General Counsel's  
12 office our Acting Associate General Counsel Mike  
13 Hoenig, right here; our Acting General Counsel Eric  
14 Shepard; with our General Counsel's office Sarah  
15 Walters, and Associate Commissioner Dan Little.

16 I would like to take a moment to turn the  
17 mic over to Dan for his opening remarks and then we  
18 will get underway.

19 MR. DAN LITTLE: Good afternoon  
20 everybody. I want to thank you all for coming here  
21 today and I want to thank the Oklahoma Indian Gaming  
22 Association for hosting this event. Chairman  
23 Foster, you guys put on a great show and a great  
24 trade show and I really enjoy the time here.

25 I'm really happy that -- I guess I'm just

1 going to be sharing the last consultation meeting I  
2 have with Chairwoman Stevens on this important  
3 issue. It's something that I think is near and dear  
4 to our hearts. It's something that we have long  
5 needed to look at and I can't think of a better  
6 place to do our final consultation than in Oklahoma.  
7 You guys have done so many great things here with  
8 Class II gaming and I'm very happy that we are  
9 taking the time to review this, share our thoughts  
10 with all of you.

11 Basically in line with the way we have  
12 been consulting the last few years before we make  
13 any major decisions. So I'm looking forward to  
14 hearing all of your comments and thank you again for  
15 coming.

16 CHAIRWOMAN TRACIE STEVENS: Thank you,  
17 Dan. Just some reminders. What we are here for  
18 today is the Federal Register Notice that we issued  
19 in June and our General Counsel's office will go  
20 over the details. There is a copy of the Federal  
21 Register Notice available out in front so you should  
22 be able to bring one in with you. If you don't have  
23 one, certainly raise your hand and we'll get one for  
24 you. But that's the subject at hand today of this  
25 consultation. We request that -- respectfully

1 request that we stay on topic. If there are other  
2 issues specific to your tribe or other issues in  
3 general, please feel free to stop any of us after --  
4 after the consultation. If you wish to discuss  
5 other matters, we are certainly open to talking to  
6 you.

7 A reminder that consultations are for  
8 tribes only and their designated representatives.  
9 No media is allowed, so if you are with the media we  
10 kindly ask that you step out of the room. These  
11 proceedings, I guess this consultation is  
12 transcribed as all of our consultations have been  
13 since we have embarked on our regulatory review and  
14 other processes. We have here, David Harjo, he is  
15 our transcriptionist. If you could, please, when it  
16 comes time to comment, speak your name loud and  
17 clear and who you are with so that he can take your  
18 name down for the transcription, that will be posted  
19 on our website later down the road.

20 So with that, I'll turn it over to our  
21 General Counsel's office and we'll review the  
22 Federal Register Notice and our look forward to your  
23 comments.

24 MR. MICHAEL HOENIG: Good afternoon  
25 everybody. Like Tracie said, my name is Michael



1 Hoenig. I'm with the Office of General Counsel and  
2 I thought that we could begin by just giving a  
3 little bit of background on the Federal Register  
4 Notice that was published on June 25th and what the  
5 proposed reinterpretation does exactly.

6 So just first thing to remind everybody  
7 of is, it is a request for comment that was  
8 published and so we really do want to see and hear  
9 comments, not only today but if you have written  
10 comments, please feel free to submit them, and the  
11 deadline for that is August 26th, which I believe is  
12 a week from next Monday. So if you have written  
13 comments that you want to submit, that's the  
14 deadline for getting them in.

15 So by way of background, in 2008 the  
16 Metlakatla Tribe of Alaska -- the Metlakatla  
17 community in Alaska submitted a game specific  
18 ordinance to the National Gaming Commission for  
19 review and approval, and in that ordinance they  
20 defined Class II gaming to include what we refer to  
21 as one-touch bingo. I think everybody here knows  
22 what that is, it's just bingo, an electronic bingo  
23 game that can be played with one touch of a button  
24 instead of two or three.

25 Chairman Hogan, who was chairman at the

1 time, reviewed the ordinance and disapproved it on  
2 the grounds that one-touch bingo is not a Class II  
3 game but is a Class III game. The disapproval was  
4 basically laid out three reasons for his decision,  
5 and the first was that definition of bingo did not  
6 include one touch because one touch didn't meet the  
7 necessary element of competition. And I should say,  
8 if you haven't seen the Federal Register Notice yet,  
9 this is all laid out in much more detail there. I'm  
10 just going to kind of give the highlights.

11 So the first was that it didn't meet the  
12 definition of IGRA, the definition of Class II  
13 gaming under IGRA because it didn't contain the  
14 necessary element of competition.

15 Second, that it was not a game similar to  
16 bingo because it didn't have that element of  
17 competition.

18 And lastly, that it -- that one-touch  
19 bingo is a Class III facsimile of a game of chance.

20 And again it was, all three of these were  
21 basically grounded in the fact that this one touch  
22 didn't have the necessary element of competition.

23 So after the chairman's decision went out  
24 there was an initial appeal but that appeal was  
25 withdrawn so it was never taken up by the full

1 commission for -- approved for -- excuse me -- for  
2 decision before the full commission and subsequently  
3 never made it into federal court. It stopped at the  
4 chairman's decision.

5 So the commissioners have considered  
6 whether that decision issued in 2008 is correct, and  
7 that decision, that reconsideration has come because  
8 a lot of folks in the industry have been asking  
9 questions about, well, we know that this one  
10 decision is out there but what does that mean? Is  
11 one touch a Class III game or is it a Class II game?  
12 So the commissioners have proposed this  
13 reinterpretation and they are asking for folks'  
14 comments on it.

15 And the reinterpretation basically is, it  
16 addresses the three aspects in the 2008 decision,  
17 and first that one-touch bingo does, in fact, meet  
18 all of the elements that are laid out in IGRA's  
19 definition of bingo, and not only that they play for  
20 prizes, that all of the numbers are covered on the  
21 card when drawn, and that the game is won by the  
22 first person to cover, and that's the only thing  
23 that's required. And so this additional element  
24 that Chairman Hogan spoke about in the 2008  
25 decision, with competition being, I guess for lack

1 of a better way to put it, competition being implied  
2 from this "first person to cover" language, that  
3 that is not a necessary -- it's not an aspect of the  
4 definition in IGRA and therefore it shouldn't be  
5 grounds for finding one touch to be a Class III  
6 game.

7           Second, that one-touch bingo is not a  
8 game similar to bingo. We agree with the -- overall  
9 the proposed reinterpretation agrees with the  
10 ultimate conclusion but for different reasons, and  
11 it's not a game similar to bingo because it is  
12 bingo. It doesn't need to meet all those other  
13 aspects.

14           And lastly, that it is not a facsimile of  
15 a game of chance. It's not a Class III facsimile  
16 because it doesn't incorporate all of the aspects of  
17 the game of bingo, namely that you still have to  
18 have competition, you are still playing someone  
19 else, and also that it meets the exception that's  
20 laid out in Class III facsimile definition for an  
21 electronic bingo game that broadens player  
22 participation by allowing multiple players to play  
23 against a machine. Whether it's one touch or two  
24 touch, that's not changed and therefore it's -- not  
25 only is it not a facsimile but it also meets the

1 exception.

2           And lastly, the proposed reinterpretation  
3 talks about this just being in line with what  
4 Congress intended when they passed IGRA, that tribes  
5 should be able and encouraged to take advantage of  
6 technological advances that happened in the  
7 industry, and that interpreting bingo in Class II  
8 gaming this way is more in line with what Congress  
9 intended.

10           So that's it in a nutshell and -- and  
11 like I said, the deadline for comments is  
12 August 26th, so I'm eager to hear what everybody  
13 thinks. Thank you.

14           CHAIRWOMAN TRACIE STEVENS: Thank you,  
15 Mike. And I do want to raise my hands to the Office  
16 of General Counsel and others that were integral to  
17 the -- this Federal Register Notice and really  
18 thoroughly examining this particular issue, the  
19 Metlakatla decision, you know, what the law  
20 provides, what our regulations provide, and  
21 providing this commission with lots of information  
22 on the subject, and, you know, from that we were  
23 able to, you know, certainly form our decision to  
24 publish this Federal Register Notice comment, so I  
25 want to thank the General Counsel's office for all

1 of their hard work on this. It was a very  
2 deliberative process on their part to really, really  
3 closely examine this particular issue. Thank you  
4 very much.

5 With that, we can open the floor to  
6 questions, to comments, if any of you -- certainly  
7 we understand that there -- you know, it's a  
8 conference, there's a lot of other meetings going  
9 on, a lot of other activities. If there are  
10 individuals that are pressed for time and have a  
11 prepared statement, please feel free to step forward  
12 and make a comment. I just want to remind  
13 everybody, again this is being transcribed and  
14 please state your name and the tribe that you're  
15 with.

16 Yes, sir.

17 MR. KEN BELLMARD: Yes. My name is Ken  
18 Bellmard with the Kaw Nation and I have a couple of  
19 comments. The first comment would be related to,  
20 Has there been any consideration of the unintended  
21 consequences of this, particularly in Oklahoma? And  
22 if you will just follow my line of thinking here for  
23 a minute.

24 In Oklahoma we enjoy somewhat of an  
25 exclusive as far as our gaming goes. In exchange

1 for this exclusive we pay the state revenues from  
2 Class II. We have some concern that because of the  
3 blurring of the line, because this is a fast game.  
4 The difference between this game and what used to be  
5 considered Class III, they are very close. They are  
6 very close games. And our concern is is that  
7 because we are in an exclusive type state, that if  
8 you can replace Class III with these type of  
9 machines then there will be no compact revenues to  
10 share with the state and in turn the state won't  
11 allow us to continue to have an exclusive. That's a  
12 concern to us. And we were wondering if that  
13 unintended potential consequence was something that  
14 had been considered by the commission. So that's I  
15 guess a comment and a question.

16 The second thing is, I know for years --  
17 and I have been involved in this situation or I have  
18 represented tribes and I submitted the first compact  
19 request on the part of the tribe that I represented  
20 in 1989, so I've seen a lot of change from when the  
21 U.S. attorney said, "If you plug it in the wall it's  
22 a gaming device and you are all going to jail," and  
23 as things have evolved, but it always seemed that  
24 one of the critical elements of bingo was always the  
25 daubing, the claiming the two touch. And I was

1 wondering -- I guess this is more of a question than  
2 a comment. I understood what the gentleman said and  
3 I've read this, but I'm trying to get a better  
4 handle on that determination or that decision that  
5 it didn't take a daub and a claim, that just having,  
6 I guess, the algorithm based on a bingo card was  
7 essentially enough for it to constitute bingo.

8 Thank you.

9 CHAIRWOMAN TRACIE STEVENS: Well,  
10 certainly we -- thank you for your comment -- we  
11 thought about a number of, you know, potential  
12 consequences and certainly I don't think anyone can  
13 know all consequences. What we would suggest is  
14 that you provide some comments to us in writing.  
15 This may be sufficient for us to examine that in  
16 your verbal comments. I will turn it over to OGC to  
17 freely talk about your question about the daubing  
18 versus claiming question, and that versus a  
19 one-touch element.

20 MR. MICHAEL HOENIG: Yeah, we certainly  
21 took that into consideration. And basically it's  
22 still being done, it's being assisted by the  
23 machine, so the machine is electronically assisting  
24 the player in covering the numbers and calling  
25 bingo. Like you said, it does happen fast but it



1 also happens fast with two touch. It's not I don't  
2 think a significant difference, but more importantly  
3 is -- is that it's still, I think, is in line with  
4 what -- how IGRA defines bingo and the definition of  
5 Class II gaming.

6 So it's still -- there's competing  
7 against one another, there's still a ball draw,  
8 there's still a covering of a card, and there's  
9 still one of the player terminals calling out, "I  
10 have bingo" or "I have four corners" or whatever the  
11 game is for the prize.

12 MR. STEVE YORK: Steve York, consultant  
13 with the Kaw Nation. My question is this, is that,  
14 you know, you talk about the facsimile definition.  
15 The facsimile definition has been amended three  
16 times by the commission over the period of time the  
17 commission existed, but in the definition you guys  
18 really haven't taken consideration to fully define  
19 what the difference between Class II and III is. I  
20 mean, the only missing piece of the puzzle that's  
21 left is to define what constitutes a Class III  
22 lottery in electronic format. That is still a  
23 missing piece of the puzzle, so that hasn't been  
24 defined.

25 And then, also, how are you going to

1 address 2721? Which is the last part of IGRA.  
2 2721, 2701 through 2721, but somebody needs to look  
3 at 2721 because I think that's the reason that they  
4 took on that one touch deal, I mean with Hogan's  
5 initial limited ability, in his limited ability and  
6 knowledge of gaming, that's what he put out to that  
7 tribe on -- on not saying that you could have a  
8 one-touch game. But like I say, because you  
9 don't -- the NIGC has never fully defined what  
10 constitutes a Class III lottery under the 2721, I  
11 don't know how we can proceed forward without  
12 addressing that issue.

13 And the other things, I mean, there's  
14 others things that the NIGC really needs to do  
15 underneath IGRA, is clarify what constitutes a  
16 management contract, besides the 3040 stuff that's  
17 taken into place, but there's three items in IGRA  
18 that has never been fully addressed by any  
19 commission. I mean, they have tried to address just  
20 parts of it but still IGRA needs to be looked at as  
21 a whole and not amended. I mean, that's the key to  
22 the whole thing.

23 But I agree with Ken that we might be  
24 facing some exclusivity problems, you know, that we  
25 currently enjoy because Class II is the only

1 leverage that we do have with the states with  
2 compacts. I mean, even currently if you go to  
3 different states, even Nebraska, which I used to be  
4 the former superintendent in Kansas and worked with  
5 the tribe that was situated out of Nebraska, and  
6 they can't play Keno up there but even here in  
7 Oklahoma we were playing -- we were playing Keno  
8 games even though it's not allowable underneath the  
9 Cherokee Games Act because, you know, we've got  
10 independent test sites that say, well, that's an  
11 instant game, you know, an instant bingo game, and  
12 by far it ain't an instant bingo game, it's a Keno  
13 game; otherwise, you guys would have different  
14 things in your minutes that wouldn't address Keno.

15 So like I say, it's a thought process,  
16 and you don't take on one piece of IGRA and then say  
17 we can fix it and not look at the total consequences  
18 that a tribe has to maybe face in the long run. I  
19 mean, that's the only thing I'm saying to you.

20 CHAIRWOMAN TRACIE STEVENS: Okay. Thank  
21 you very much and we look forward to the Kaw  
22 Nation's comments and, you know, potential, from  
23 your prospective, consequences and how we may  
24 improve this interpretation.

25 Do we have other comments with tribal

1 leaders that want to make comments?

2 Yes, sir. Move that microphone over,  
3 Jamie, thank you.

4 MR. RONNIE THOMAS: Ron Thomas,  
5 Alabama-Coushatta Tribe of Texas. First of all,  
6 Chairwoman Stevens, we want to thank you for the  
7 opportunity to have you put this tribal consultation  
8 together in regard to this one-touch bingo issue  
9 that's at hand.

10 The Alabama-Coushatta Tribe of Texas is  
11 pleased that the NIGC is considering the  
12 reinterpretation, you know, of its recent position  
13 regarding the one-touch and two-touch bingo. The  
14 tribe agrees that the terms of IGRA should mean what  
15 they say, and the tribe is pleased that the NIGC  
16 will take a reasonable and principle approach in the  
17 interpretation of our regulations.

18 You know, according to IGRA, bingo has  
19 the three elements that were addressed in the  
20 June 25th Federal Register Notice and the tribe is  
21 glad to see that the NIGC has seized upon these  
22 elements and we do support, you know, their common  
23 sense approach in the interpretation of the regs.

24 You know, currently there's no provision  
25 within IGRA that requires multiple touches or daubs.

1 You know, such a position has the effect of stifling  
2 the technological advances in gaming. You know, for  
3 those tribes with access only to Class II gaming  
4 (and resulting economic benefits) any limitation by  
5 the NIGC on Class II gaming technological aids  
6 should be taken only after serious consideration of  
7 the legal basis for the limitation and its potential  
8 negative economic consequences. It is not any  
9 secret that the amount of revenue generated by Class  
10 II gaming operations, you know, is significantly  
11 less than Class III gaming. You know, any agency  
12 decisions about Class II gaming limitations should  
13 not be made in a vacuum.

14 You know, limiting the decisions, you  
15 know, will have its real life consequences. For  
16 example, the Kickapoo Tribe of Texas worked for  
17 years to obtain a Class III gaming compact with the  
18 state of Texas, but to no avail.

19 In the wake of the Seminole decision, the  
20 amount of leverage Indian tribes have in encouraging  
21 a state to enter into a good faith tribal-state  
22 gaming compact negotiations have been significantly  
23 reduced. You know, we would encourage the NIGC to  
24 act within the statutory limits of IGRA while still  
25 recognizing the principle purposes of IGRA and

1 Federal Indian Policy which are to promote tribal  
2 economic development, tribal self-sufficiency and  
3 strong tribal government.

4 In 2007, and in response to the state of  
5 Texas' refusal to compact with the Kickapoo Tribe of  
6 Texas, the Department of Interior issued Secretarial  
7 Procedures that would have allowed the Kickapoo  
8 Tribe of Texas to conduct Class III gaming. You  
9 know, however these procedures were invalidated by  
10 the 5th Circuit. The Kickapoo Tribe is now left  
11 only with Class II gaming. Should the  
12 Alabama-Coushatta Tribe of Texas have the  
13 opportunity to take advantage of the opportunities  
14 of Class II gaming in the future, we would hope that  
15 there would be continued value in Class II which  
16 would allow the tribe to generate significant  
17 revenue to support our government, our people and to  
18 undertake the economic development for the benefit  
19 of our membership.

20 The Alabama-Coushatta Tribe strongly  
21 supports the efforts of the NIGC to reverse course  
22 on the interpretation of the IGRA and definition of  
23 bingo. You know, we do look forward to submitting  
24 our comments in support of your efforts.

25 CHAIRWOMAN TRACIE STEVENS: Thank you

1 very much, sir.

2 Do we have other comments? Any  
3 questions?

4 MR. ED MAGDALENA: Good afternoon. Ed  
5 Magdalena, Sycuan Gaming Commission. Back in 2009  
6 the gaming commission put together a fact finding  
7 hearing on this very matter. We invited different  
8 professionals to our hearing and got a lot of  
9 testimony and evidence in regards to this. As a  
10 matter of fact, I could probably fill this table  
11 here, but we have condensed it and I have it here to  
12 introduce as, not only our comments but an  
13 incredible resource on this matter.

14 CHAIRWOMAN TRACIE STEVENS: Okay. Hand  
15 that to Sarah, she'll take that.

16 Thank you.

17 Jamie.

18 MR. JAMIE HUMMINGBIRD: Jamie  
19 Hummingbird, Cherokee Nation. As Ed had mentioned,  
20 a few years ago I was able to take part in that fact  
21 finding mission that Sycuan was so gracious to hold  
22 for this issue, and the very arguments and the very  
23 statements and reasoning that we put forward during  
24 that fact finding mission, I'm glad to hear is also  
25 being voiced by the NIGC, recognizing the

1 information and the hard work and diligence that  
2 went into fighting for development and protected  
3 future development of Class II games.

4 So I do want to say that the  
5 reinterpretation I believe is a positive step. I  
6 think it is one that has been a long time coming. I  
7 appreciate the work that you, Chairwoman Stevens in  
8 the commission role that you have done and the staff  
9 have done in reexamining this issue, because I think  
10 it's one that we have had out there for probably  
11 seven, eight, ten plus years, and for that to be  
12 recognizing to be made into a policy I think is a  
13 very positive step for Indian gaming. Thank you.

14 CHAIRWOMAN TRACIE STEVENS: Thank you,  
15 Jamie.

16 Other comments? Questions?

17 Yes.

18 MS. LESLIE TANYAN: Leslie Tanyan with  
19 the Iowa Tribe of Oklahoma, Tribal Secretary. I  
20 would just like to say that the Iowa Tribe of  
21 Oklahoma applauds your efforts in defining one-touch  
22 bingo. We are a small tribe and like most small  
23 tribes we rely on our Class II gaming as well as  
24 Class III, so by you making that step forward that  
25 does help with the regulations, it does help with



1 smaller tribes as well as any tribe in Oklahoma. So  
2 we look forward to submitting our comments by the  
3 deadline. And, again, we thank you for holding  
4 these consultations today.

5 CHAIRWOMAN TRACIE STEVENS: Thank you  
6 very much. We look forward to your comments.

7 Yes, sir.

8 MR. WILLIAM NORMAN: William Norman with  
9 Hobbs, Straus, Dean and Walker. We represent a  
10 number of tribes, both inside the state and outside  
11 the state of Oklahoma where Class II is extremely  
12 important. I just want to echo the comments  
13 supporting the commission's effort to consider  
14 examining this issue. We appreciate the proposal  
15 that's in the Federal Register and we expect that a  
16 number of our clients will be submitting comments  
17 supportive of the analysis. This is extremely  
18 important. This has been mentioned in the state of  
19 Oklahoma where the tribes began with Class II and  
20 really sort of defined the Class II historically and  
21 the need to have the flexibility for viable Class II  
22 activities in the future as we get further down the  
23 line with our gaming compacts. So thank you for  
24 your effort.

25 CHAIRWOMAN TRACIE STEVENS: Thank you.

1 Yes.

2 MS. ROBIN LASH: Robin Lash, Miami Tribe.  
3 The Miami Tribe would like to thank you also for  
4 being here and providing the tribe with this  
5 opportunity to comment, and the Miami Tribe would  
6 like to respectfully submit that this is not  
7 actually a review, a reinterpretation, that it seems  
8 that Chairman Hogan drew his conclusions from his  
9 own review, and it was like a review of the  
10 ordinance, so the Miami Tribe would like to submit  
11 that this action that you're taking today is  
12 actually an initial interpretation and we appreciate  
13 this opportunity. Thank you.

14 CHAIRWOMAN TRACIE STEVENS: Will Miami be  
15 providing comments that will further explain?

16 MS. ROBIN LASH: Yes, ma'am, we will be.

17 CHAIRWOMAN TRACIE STEVENS: Okay. Great.  
18 Thank you.

19 MS. BARBARA COLLIER: Good afternoon.  
20 I'm not going to bore you with all of my comments,  
21 but I would like to read -- paraphrase from a couple  
22 of paragraphs and then we have our comments to  
23 submit to you.

24 Barbara Collier with the Quapaw Tribal  
25 Gaming Agency.

1           Of course, on behalf of we thank you for  
2 your reinterpretation. I don't want to have a  
3 conflict of interest there with Robin but that's  
4 what our comments say.

5           Under IGRA, however, the game of bingo is  
6 bingo so long as the game meets the statutory  
7 elements, the possibility that more than one player  
8 can simultaneously hit bingo does not turn a Class  
9 II bingo game into a Class III game, nor does the  
10 fact that a button is pressed only once transform  
11 the game of bingo into a Class III electronic  
12 facsimile.

13           Moreover, the number of potential winners  
14 is not an element of the game of bingo, neither is a  
15 manual cover requirement an appropriate criteria for  
16 classification. In fact, none of these criterias  
17 represent appropriate legal elements determinative  
18 of the class of a game under IGRA.

19           In spite of this, the 2008 letter  
20 improperly focused its game classification analysis  
21 on the number of times a button was pushed.

22           And then I will skip on to the closing.  
23 We applaud the NIGC for proposing a reinterpretation  
24 of IGRA that will assure tribal governments the full  
25 benefit of the law. As recognized in the proposal

1 and reflected in the legislative history of IGRA,  
2 Congress not only anticipated but in fact intended  
3 to facilitate the use of modern technology of in the  
4 play of Class II games.

5 In enacting IGRA, Congress is well aware  
6 that Class II gaming technology would continue to  
7 advance and that the industry would likewise evolve  
8 to keep up with the emerging technologies.

9 We therefore strongly agree with the  
10 NIGC's position that the commission should give  
11 consideration to the interpretation of bingo that  
12 embraces rather than stifles technological advances  
13 in gaming.

14 For the reasons set forth above, we urge  
15 the NIGC to adopt this proposal to reinterpret its  
16 position on one-touch bingo. We welcome this  
17 proposed change and believe that it will bring much  
18 needed clarity, certainty and stability in relation  
19 to the law pertaining to Class II gaming. And I  
20 have this to submit to you.

21 I would also like to take just a few  
22 seconds and thank you for your time. We will miss  
23 you even though we didn't always see eye to eye, it  
24 has been a joy to have someone in the position that  
25 you have held to stand up for tribes and Native

1 Americans, and I love you.

2 CHAIRWOMAN TRACIE STEVENS: Well, thank  
3 you very much. Those are very kind words, and, you  
4 know, we didn't always agree but I was brought up  
5 from my own upbringing just because we don't agree  
6 doesn't mean we have to be disagreeable, we can  
7 still be respectful and we can still move on with  
8 business. So thank you very much.

9 I do want to mention that, you know,  
10 there were certainly a number of options that we  
11 could have -- you know, paths, I should say, that we  
12 could have taken to take a look at this because  
13 there were so many questions from the industry about  
14 this particular subject, and in keeping with the  
15 Executive Order 13175, when it came to policy  
16 changes, and also in making sure the tribes and the  
17 public had an opportunity to comment, we chose to go  
18 through this request for comment on an agency, you  
19 know, interpretation of its governing statute, and  
20 to be transparent about this process.

21 So we certainly want everyone's comments,  
22 and, you know, as we have always done with our  
23 consultation for improvement, from maybe something  
24 we didn't see or something we didn't consider, so  
25 please do comment.

1           But thank you, Barbara.

2           Others? I'm sorry there is not enough  
3 seats. I know you are all standing back there. You  
4 can certainly join us at the table. I feel like I'm  
5 at an auction. I feel like I should say, going  
6 once, going twice?

7           Yes.

8           MS. EDWINA BUTLERWOLF: Good afternoon.  
9 I'm Edwina Butlerwolf, Absentee Shawnee Tribe,  
10 Governor, newly elected Governor, and as well we  
11 will be making our comments to this particular  
12 topic, so I just wanted to let you know that. And  
13 as well as anybody knows, once you get into office  
14 and as a newly elected official, you've got a lot of  
15 reading to do. So I know there's a lot of  
16 experience in this room and I need to get up to par  
17 here to educate myself on this. As well, we will be  
18 making comments on behalf of the Absentee Shawnee  
19 Tribe.

20           CHAIRWOMAN TRACIE STEVENS: Thank you  
21 very much, and welcome to your new office and we  
22 look forward to seeing comments from the Absentee  
23 Shawnee.

24           Other comments? Questions? Might start  
25 that again. Going once?

1 Well, if we don't have other comments at  
2 this time I strongly, strongly encourage you to  
3 bring this information back to your tribe, consider  
4 what has been said today. I know that when we get  
5 our comments we try to get them up onto our website  
6 as quickly as we can so that others may see them,  
7 and certainly as we have always done, we will  
8 consider all comments that come in.

9 If you have any questions about this, you  
10 can always call our office and talk to either Sarah  
11 or Mike. If you need clarification, we're always  
12 happy to help.

13 I would like to turn it over to Dan for a  
14 moment for some closing comments.

15 MR. DAN LITTLE: Well, I've got to tell  
16 you, this has been the easiest Oklahoma consultation  
17 I have ever --

18 CHAIRWOMAN TRACIE STEVENS: Yeah, it's  
19 funner that way.

20 MR. DAN LITTLE: You know, sitting here  
21 and listening to some of the comments with Robin and  
22 Barbara, you know, we have gone through, we started  
23 off with taking a look at the Class II mixed and the  
24 technical standards, and we spent a lot of time  
25 working on this whole subject matter, and it was --

1 I don't want to say a tough process but it was an  
2 informative process, and it only worked because of  
3 the support and the feedback that we got from the  
4 tribal community. So I want to thank all of you.

5 I think, like it was mentioned, everybody  
6 didn't get everything they wanted, but we got  
7 something that worked, and I think we have got good  
8 regulations on the book. I think this process here  
9 goes to kind of clarifying an issue that's still out  
10 there that needed to be reviewed.

11 So I want to thank you all for not just  
12 the support and not just the feedback on this issue  
13 but on everything we have done in our Class II  
14 regulatory review, so I want to thank you again. I  
15 want to thank OIGA for hosting this great event. I  
16 want to thank our staff. Still, I believe our staff  
17 is the single greatest asset of the commission. We  
18 could not do your job if we could not have the  
19 experts, and I can say that for this commission,  
20 future commissions and past commissions. You know,  
21 we're here for a short period of time but they  
22 remain and they continue to provide great service to  
23 the commission and to the communities. So I want to  
24 thank all of the staff.

25 And then finally, I must have to thank



1 Chairwoman Stevens. This will be the last  
2 consultation that I have the honor to sit next to  
3 her and I'm very sad that she's leaving but I  
4 understand her reasons and what she's doing. Tracie  
5 and I have been friends for a long time, long before  
6 coming on the commission. We joke around that we  
7 kind of got our feet wet standing behind some of the  
8 great Indian advocates like Jess Green and others  
9 throwing rocks, but we got to stand behind them.  
10 Well, now we're on the receiving end of those rocks  
11 and it's kind of fun, but we learned from folks  
12 before us, and it's been an honor to work with  
13 Tracie as a friend, as a colleague and, you know,  
14 instrumentally our great leader here in the NIGC.  
15 We have had a very busy three years. It could not  
16 have been done without her leadership. Got a couple  
17 of dents in the back of my head from her smacking me  
18 around but we made great progress through the  
19 regulatory reviews, sticking on message, you know,  
20 the way we do consultation, being respectful and  
21 listening before we make decisions. Could never  
22 have been done without Tracie. So I want to thank  
23 her and I wish her much luck, but also tell her that  
24 she's going to be greatly missed.

25 (Applause.)

1           CHAIRWOMAN TRACIE STEVENS: Well, those  
2 are very kind words, Dan, thank you very much. And  
3 I want to echo his comments about our staff. It was  
4 really great coming into the NIGC and finding this  
5 like gold mine of great employees that helped inform  
6 us with what we needed to do and set a direction,  
7 and then implement it. You know, more than just  
8 going through these regulatory changes and changing  
9 words on paper and in our regulations is the actual  
10 implementation that's going to have to happen over  
11 the next couple of years that we have already  
12 started, and it's -- you know, we cannot do that  
13 without our staff, you know, which we relied upon.  
14 So I want to, you know, in, you know, my culture is  
15 my hands up to the staff that has worked with us all  
16 these years and helped us keep the momentum going  
17 with our very aggressive agenda. We -- I want to  
18 say that people laughed at us when we told them what  
19 our core missions were; we were like, "You are never  
20 going to get that done."

21                   I'm like, "Oh, yeah? Well, watch."

22                   We're going to get this done and we're  
23 going to do it in a manner that's respectful to  
24 tribes. We're going to talk, and we're going to  
25 talk, and we're going to talk some more. We're

1 going to go through draft after draft after draft,  
2 and we did and we read and read and read lots and  
3 lots of comments, drafts, just so that we could have  
4 a very well-informed process, because we get hung up  
5 on processes it's really hard to talk about the  
6 substance.

7 I really enjoyed my time. It -- you  
8 know, I came to this position, not trying to get to  
9 this position but I sort of ended up in this  
10 position and -- because I used to stand behind Jess  
11 Green and egg him on and give him rocks. You know,  
12 and he gave me pointers on my aim. Now I'm on the  
13 other side and I have developed my dodging skills,  
14 so, you know, it has last helped to be from the  
15 tribal community, it has helped me to come from a  
16 reservation, it has helped me to come from an  
17 operation, and it's also going to help me as I move  
18 into my future on what is meant to be part of the  
19 administration, how these decisions are made, how  
20 things look from this side of the table.

21 And I do want to finally, you know,  
22 thank -- well, before I finally thank Dan who has  
23 been my friend for a very long time and sometimes we  
24 fight like brothers and sisters, but we, you know  
25 how it is if you have kids, but, you know, we

1 always, you know, make up and move on, but, you  
2 know, I couldn't have done this without a really  
3 helpful set of commissioners to move the massive  
4 amount of work that we generated, and these guys and  
5 the guys that our staff know that we generated and  
6 still had to do their day-to-day jobs. So thank you  
7 very much, Dan.

8 But I want to thank all of you because  
9 understandably you all had come -- the first speech,  
10 real speech that I made was at OIGA in 2010. It was  
11 a long speech, and it was during the dinner, during  
12 the awards, and somebody had told me, I think it was  
13 Chairman Qualls, that said everybody was just sort  
14 of sitting, waiting to see what we were going to do.  
15 And we laid this whole thing out on what we were  
16 going to do. I had Jess Green taking notes  
17 everywhere I went, and said, "You said this three  
18 times, you know, and if you said it three times,  
19 then I expect you to do it." And if he were here  
20 today, I would hope that he would say to me, "You  
21 did everything that you said you were going to do,"  
22 and kept my word.

23 But I want to -- we couldn't have done  
24 this without your participation. It was a lot to  
25 ask because we had a very aggressive agenda with a

1 long schedule and even if you couldn't make it you  
2 called us, you e-mailed us, you wrote in comments,  
3 and those affected our decisions. When we thought  
4 we, you know, had it right, we were like, oh, well,  
5 we didn't think of that, and it helped inform the  
6 final process, that in the end our goal was to  
7 protect the industry like you want to. We're not  
8 necessarily that different. We're all trying to do  
9 the same thing.

10           So I appreciate your steadfast  
11 participation. Sometime we didn't get along and  
12 sometimes we didn't agree, and that's okay. But we  
13 moved on, and I think we found a path forward that  
14 led us to some really good decisions and tools for  
15 all of you to continue protecting your -- your  
16 revenues and your facilities. So my hands up to all  
17 of you and all the tribes that participated. I  
18 didn't want say much more. I don't want to get  
19 all clint -- which I don't do normally because I'm,  
20 you know, not a big cryer, but I thank you very much  
21 and I'm sure it won't be the last you see of me,  
22 but, again, please do comment, good or bad, on this  
23 Federal Register Notice as we always encourage  
24 everyone to do when we have a notice out.

25           So thank you very much. Please have safe

1 travels home to wherever you are going and, you  
2 know, peace be with you. Thank you.

3 (Applause.)  
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C E R T I F I C A T E

I, David Harjo, Certified Shorthand Reporter, do hereby certify that the foregoing proceeding was by me taken in shorthand and thereafter transcribed; and that I am not an attorney for nor relative of any of said parties or otherwise interested in the event of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 22nd day of August 2013.

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David Harjo, CSR RPR

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