NATIONAL INDIAN GAMING COMMISSION MEETING
TAKEN ON AUGUST 19TH, 2011
IN TULSA, OKLAHOMA

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MS. COCHRAN: Good morning. If we have --

Tom, I don't know if there's anybody outside still.

MR. CUNNINGHAM: No.

MS. COCHRAN: Okay. Well, good morning. My

name is Steffani Cochran and for those of you who I've

not had an opportunity to meet, I'm vice chairwoman at

the National Indian Gaming Commission, and I want to

welcome you this morning for the second day of our

consultations.

I'm going to go ahead and get started. We hope
to get us done a little early today. I know it's

Friday. I know it's been a long week for all of us

and we would like to get you home, get me started on

my vacation. So if you'll let us move as quickly as

we can through the materials for you, we look forward
to some discussion today. I know many of you are

interested in the TAC and the MICS, how we're going to

handle the technical standards and, of course, that

will be on the agenda for today.

So before we begin, I see there's many that were

here yesterday, but there are also some new faces. If

I could and also for the court reporter, let's go

around the room and just introduce ourselves and

please identify which tribe you're representing. And

when you speak, people were great about this
yesterday, if I could ask you to do it again today, to please identify who you are because the court reporter is going to transcribe this meeting as we've done with all of our consultations. And so we want to make sure that we properly attribute comments to the right person. Unless you're Lael and you ask us to redact it.

So with that I'm going to turn it over and let Commissioner Little say good morning and then we'll go around the room again and if you would identify yourselves.

    MR. LITTLE: Hi, good morning, everyone. I just want to thank everybody for coming back today. I see some new faces in the audience, and I look forward to hearing your comments, so thank you.

    MS. DITTLER: Esther Dittler, I'm a staff attorney in the office of general counsel.

    MR. HILL: Ronald Hill, the Acting Commissioner from Muscogee Creek Nation.

    MR. FLUTE: Homer Flute, Apache Tribe.


    MR. KITCHKUMME: Rey Kitchkumme, Prairie Band Potawatomi Gaming Commissioner.

    MS. TOPPAH: Amber Toppah, Vice Chairman for
the Kiowa Tribe of Oklahoma.

MS. ECHO-HAWK: Lael Echo-Hawk, you-all heard me say chicken yesterday.

(Whereupon, members of the audience introduce themselves.)

MS. COCHRAN: Well, thank you. And, wow, there's a lot of representatives from Kickapoo. I know you've come a long way, so thank you for joining us. It's always a pleasure to see you. Before we begin, I do want to invite anybody who wants to come and sit at the table. We obviously have a smaller crowd today. We encourage you if you'd like to come join us, please feel free to do so. We do reserve it for tribal leaders, but this is not a group large enough that we need to adhere to that rule formally.

I do want to always acknowledge the tribal leaders that are here and to thank for you joining us. We know and I know personally that your time is extremely valuable and that you have a lot on your plates. And for you to take time to come out to join us means a lot to us, and we recognize that you've done that for us. So thank you.

Is there anybody who needs to make a statement and or would like to make a statement before we begin for the record? I'm happy to give you that time. At
any point in time if you need to leave and you want to
read a statement or if you have something you want to
make sure gets into the record, please do so. Please
let us know. We're happy to do that. Yes, sir.

MR. HORTON: Sam Horton, Ft. Sill Apache

Gaming Commissioner.

Your chairman asked me a question yesterday and I
went back to my commissioners last night and her
question was -- my comment was, I don't really see a
reason for Class III MICS. And we just had a real
short call last night between four of us, and
basically I'm new at this. Many of us are new at
this, but the overall comment I made yesterday was, I
don't really see the needs for Class III MICS. I
think it's a waste of time.

And intrinsically, when I went back and the guys
on the Commission, who are older than myself in this
world, their comments were basically such that the
differences are subtle in between Class II and the
Class III MICS. And the surveillance comment that was
brought up as an example was one refers to the
situation be a manned and other the one staffed. And
that's not significant enough a difference for me to
see spending the time on it when the NIGC really
doesn't regulate Class III and that we are the final
regulators. And then on top of that, NIGC gets paid for Class III because of the fees they collect from the casino.

I think a system of standards or suggestions put out by bulletin are addressing the parts of the Class II MICS that intrinsically are different, that really do make a difference between Class II and Class III. I think you'd spend a whole lot less time developing a whole mirrored book of MICS for Class III if we could just document and recommend by the way these are suggestions we make as far as what Class III should be or standards that could exist in Class III.

But to make two books that will run parallel in my world of having Class II and Class III machines interspersed, I really don't think I'm going to have a commission or a casino staff that's ever going to really totally understand the difference between the machine on the left and the one on the right. Thank you.

MS. COCHRAN: Thank for you following up and letting us know about your conversation. Your perspective is certainly not alone. I mean, we've heard similar types of comments from other areas of the country and it's part of the whole rainbow of options that the Commission has available to it. So
thank for you sharing that with us and letting us know.

Are there any other statements? All right. I am going to turn it over on Lael and I'm going to let her walk us through the first group and then we'll dive right in.

MS. ECHO-HAWK: Good morning again. Just some logistics, we -- today we are going over Group 5 and Group 3. We did have some discussion yesterday on Group 3, which is the Class II minimal internal control standards and technical standards. You should have an agenda, and just so you know if -- I know that the Commission tries to be flexible so at times we may shorten this up. So we try to follow this out, but just so you're aware. Second, we did -- our wonderful staff here did go and make copies of the PowerPoint. The updated PowerPoint of the slides that were missing yesterday are now included in there. Those are the slides on the appeal section and I think it's like slide 31 to 42 or something. So be sure to pick up the PowerPoint because it is an updated copy, and thank you to the staff who went home and made all those copies.

So this morning we're going to start with Group 5. Group 5 covers Part 518, which is
self-regulation regulation. I always feel a little
odd saying that, but that's the regulation. We are
also going to be talking about sole proprietary
interests, and then very briefly we'll probably
discuss more of this in the Group 3 about the minimum
internal control standards for Group 3 -- or for
Class III gaming. So the notice of inquiry -- and I
also want to say that we did -- yesterday we posted a
draft of Part 518 so a new draft is out. Is it in the
handouts now? Was it on the table?

MR. CUNNINGHAM: (Nodding head.)

MS. ECHO-HAWK: Okay. So you should have a
copy of the brand new, top-of-the-line Part 518. This
is the discussion draft that we've been working on and
we posted it on the website. It is in your handouts
and hopefully you'll have some time to review it
between now and, I think, it's September 17th is the
day to comment on that.

But the notice of inquiry asked basically whether
or not we should review the process for obtaining
Class II self-regulation certification. Out of the
200-plus tribes that game, we have two self-regulating
tribes. And the Commission thought, well, maybe that
regulation isn't as effective as they could be so what
are those changes that we could make. And so we put
the notice of inquiry out and we heard over and over again that the administrative burden of completing the process outweighs the benefits obtained.

The submission requirements were duplicative and burdensome. The petition and annual reporting requirements undermine the purpose of certification and self-regulation, but that high standards should be maintained when issuing a certification of self-regulation. Self-regulation is a hallmark of tribal sovereignty and that this was one mechanism for recognizing that.

So we came up with some questions and asked how many tribes -- and we'd like to hear today how many tribes are interested in self-regulation. As we've gone around and talked about this with another consultations, we've seen a lot of interest. Now self-regulation is for only Class II gaming activities, but we've seen a lot of interest and not just purely Class II tribes, but tribes that have hybrid operations.

We're also trying to figure out, sort of, what are these benefits? What are the additional responsibilities that a tribe would take on or incentives for self-reg tribes to become self-regulating? How should the annual reporting
requirements be amended?

Currently the regs require a report to be sent in and a certification made by the tribal officials to access, and you'll see that we made those change in the regulation. The Act says that the tribe, only if it sends in its annual audit as it would do, and then a list of resumes' for key employees and primary -- or for all the employees that's hired. And then we amended the definition -- or we added the definition of employee so that it would be for key employees and management officials. And that's in the new -- in the new draft. But instead of having to submit this annual report, we went back to what the language of the statute says, which says just the annual audit and resumes'.

So the regulation is, if you look at it, you'll see it has just a ton of information it requests. A lot of that information is -- were things that we now already have at the NIGC that we have available to us. This regulation was drafted in 1998, and so it was before we adopted MICS, and it was before sort of gaming really took off. And I think there was, you know, an effort made to be as comprehensive as possible. But now as things have developed and tribes have become more sophisticated and so has the NIGC, a
lot of this stuff we already have.

And we really wanted to shift the focus because it seemed to us that the focus of the regulation was more on the operation and less on the regulation. So we wanted to make sure that as we put this self-reg draft together that we made sure that we stayed focused on the regulatory structure and the regulatory framework. And you'll see us in the draft try to make that shift. We want to make sure that the tribe is adequately regulating, that's the point of the regulation. What happens in operations isn't -- doesn't -- while it may pertain in some small degree to the regulation, our primary interest is making sure that the tribe is regulating effectively. And so that's what we tried to do.

There's a number of criteria included in the current regulation. And really what it boils down to is what the Act says. And that's a, Finding that the tribe conducts gaming with an effective and honest accounting of all revenues; with the reputation for safe, fair, and honest operation; on a fiscally and economically sound basis; and with no criminal or dishonest activity. And finding that there's adequate systems for all those things and that the gaming activity has been conducted in compliance with IGRA
and NIGC regulations and the tribe's ordinance and
gaming regulations. So that's what the Act says. So
we wanted to go back to that and that's what we tried
to do in the new draft.

There's a listing, and it's included in the
PowerPoint, a listing of all these indicators that
were included in the regulation, what those include.
And we tried to take out the things that weren't
really that germane to the regulation that were more
relevant to the operation. We tried to make sure that
the information that we request and the tribes have to
demonstrate really pertains to the regulation of
Class II gaming.

So you do have the draft. Comments on that close
on the 17th of September, written comments do. And we
really look forward to hearing from you about your
take on this particular issue. Whether you're
interested, sort of what the criteria should be, and
how we should go about making this regulation more
effective so the tribes can take advantage of it.

The next issue that we talked about in 5 -- in
Group 5 is a sole proprietary interest. We asked in
the notice of inquiry whether the Commission should
consider a regulation defining sole proprietary
interest and provide a process by which a tribe may
request review. We had a lot of comments on this:
That the Commission should promulgate a regulation
only to provide review only at the request of a tribe;
that the percentages contained in IGRA, which is 60/40
or 70/30, define what percentages might violate the
Act; that if sole proprietary interest is defined,
then so should primary beneficiary.

And then on the other hand we heard, Well, a
clear definition of sole proprietary interest may
provide stability and access to financing. Completely
opposing view that a definition might limit tribal
access to capital and that a determination of sole
proprietary interest should be left to the courts.

We -- this is an issue that comes to the
Commission often. I think we did a survey of all the
times that we've issued a determination on sole
proprietary interest either by itself or in the
context of a management contract, and we've done it
over 92 opinions, very few actual final agency
actions. And that was one of the criticisms we
received is that when we make these decisions it's not
then under -- it's not been final agency action. So
there has been no -- a court hasn't had the
opportunity to take a look at this and then provide
perhaps additional guidance of what sole proprietary
interest is and what a violation of that might look like.

So we don't have a draft regulation out yet. We're very interested in hearing what tribes have to say. We've heard a number of tribes say it's too fact. The fact patterns are too -- there's too many fact patterns and that we couldn't define something adequately in a way to cover all of the -- all of the situations that might come up. But that perhaps providing a process for review might be a way to at least get -- allow tribes to put their foot in the door so that they can get a perspective on what their particular situation is and whether or not they might be in that area where the sole proprietary interest provisions of IGRA might be being violated.

And then finally, we'll talk about this a little bit later, is we included in Group 5 the Class III MICS, and I think we're going to talk about that in the next group. So that is what we have for this morning.

MS. COCHRAN: Well, thank you, Lael. I'm kind of excited to see some feedback on the self-regulation materials. This is the first consultation time that we've had, this just came out. I know many of you may not have had an opportunity to
read it yet, but this is an area that I know -- I personally take a great deal of interest in and have spent a lot of time with the staff and with Lael talking about how to get this to be a useful aspect of IGRA.

The other thing that I like about this particular group and this particular part, is it is one of the places that I believe the Commission can showcase its commitment to reducing redundancies in what we do. This regulation was screaming to be realigned, not only with what our authorities are under IGRA, but also to reduce the burden that we've placed upon tribes to take advantage of something that is statutorily provided to them.

So I like this regulation. And I'm really interested in seeing the feedback that comes in, especially from an area like Oklahoma where this is, I know, an important aspect, Class II being an important aspect and large aspect of your business. So is there any initial thoughts or comments that you want to offer? Yes.

MR. HORTON: Ft. Sill Apache, Sam Horton.

Are there any self-regulating tribes in Oklahoma at this point?

MS. COCHRAN: Sam, there are not. There are
only two in the country. One of them is Grand Ronde in Oregon and the other one is Menominee. And that's one of the reasons why we, of course, focused it on this, two tribes in entire country. And the feedback that we got makes sense. You're operating from a business perspective. You're looking at cost versus benefits. And the regulation that was in place flipped the expense to the tribe, the cost to the tribe, whether it's monetarily or just your time. And putting the materials together flipped it upside down and made the benefits not worth it and hence you have two tribes.

Is there any -- again, I don't know how much of an opportunity you've had to look at the regulation. Is there anybody here that maybe attempted it and withdrew their efforts who can perhaps provide some insight on the amount of reduction that we've done in this as far as what's required, what must be reported, how it must be reported?

MS. HUBER: Bernadette Huber, Iowa Tribe of Oklahoma.

MS. COCHRAN: Good morning.

MS. HUBER: On page 3 of the draft, line 3 and line 13, one of the comments that we had when we did the original review is that some of the
requirements seem to be repetitious. And to me this
still -- maybe you can clarify a list of gaming
activity internal controls at the gaming operation and
then a set of the gaming regulations. It seems to me
that those are inclusive, they are repetitious of one
another. And I'm just wondering is there is a -- a
thought pattern why those should be a separate thing?

MS. COCHRAN: That's a good question. I'm
actually going to look to the attorneys because they
did so much of this drafting to maybe give you some
thoughts on what the thinking was.

MS. ECHO-HAWK: You're talking about
Numeral 10(x) there?

MS. HUBER: Yes.

MS. ECHO-HAWK: Well, what we've seen is
that a number of tribes will -- they send in their
ordinance for adoption, and their ordinance contains
everything that an ordinance must contain. And then
what they do is they adopt a set of regulations that
they can then amend as they need to and doesn't have
to come to us for approval or disapproval. So if the
gaming regulation -- if they do that, then they don't
have to send them to NIGC for updating so we might not
have the most current copy.

So the point of this was to make sure that we
have the most current regulations, if they're not already included in the ordinance, just to make sure that we have the most updated regs that the tribe -- that the tribes regs, which could be their text, it could be a number of things, but we might not have the most updated copy because it wasn't included in the ordinance submission, which is fine. It's just another way to go about it.

MS. COCHRAN: Is your question, though, coming from the perspective of that your internal controls may be in your gaming regulations?

MS. HUBER: (Nodding head.) It's Number 7.

MS. COCHRAN: She's talking about how this differs from this.

MS. ECHO-HAWK: Tribes structure their ordinance in their internal controls and their regulations all differently so they can come to us all different ways. They can come to us all in one packet in a gaming ordinance submission, but like I know at the tribe that I worked with, their set of internal controls was incredibly comprehensive and included things that weren't included in the ordinance and were not included in the regulations either.

So tribes do it all differently, and we just want to make sure that as long as it's all -- if it's all
there, great. You don't have to send two copies.
Just make sure that we have your internal controls,
your regulations, and your ordinance. So we just had
to say it.

MS. COCHRAN: Does that answer your
question?

MS. HUBER: It does answer my question, but
it does seem to me to still be repetitious.

MS. COCHRAN: Thank you. We received
comments throughout our consultations seeking us to
consider additional benefits that might flow outside
of the -- the Act. As you know IGRA allows for the
four activities of the Commission that will cease
during your period of self-regulation. The
Commission, by regulation, provides for the reduction
in fees so there's been some ideas floated around
about how we might make it more enticing. Is there
anybody who has thoughts or would like to add in to
that conversation? No? All right.

Well, I hope you'll take the time to look at it,
to give some feedback, to let us know if this is going
to work. It really is intended to provide a better
mechanism for the tribes to take advantage of what
IGRA allows for. And if we've fallen short or if
we've missed the mark in any way or if there are
improvements, simple improvements, that can be made to
the proposed discussion draft, then we certainly
courage you to do that. Good morning, Liz.

MS. HOMER: Good morning, Commissioner. I
think I, personally, I will say that we're very --

MS. COCHRAN: Liz, you're going to have to
identify yourself.

MS. HOMER: Beg pardon?

MS. COCHRAN: Identify yourself.

MS. HOMER: Elizabeth Homer. I want to
thank you all for focusing on this. A number of my
clients are very interested in the self-regulation
regulations, and it's very encouraging that -- very
briefly I've had an opportunity to look at this this
morning so my comments here are not going to be
comprehensive.

A couple of things, I think that, number one, on
this submission question, I think that somebody posed
or that you talked about, Lael, in terms of, you know,
resumes' of all the key employees, I think you might
be biting off a whole lot more than you really want on
an annual submission, you know, in terms of that. I
think that you-all do receive the suitability
determinations. I would presume that you would
continue to receive the suitability determinations so
that you should have all of the tribe's licensees at
least in each of your regional offices.

I would also say the other -- you know, the other
thing that impresses me with respect to the
self-regulation, and, you know, bear with me, I'm
going to be a little politically incorrect here.
But -- and we talked about this during your
consultation in D.C. You know, the point -- I think
the problem with the old self-regulation regulation is
that it is so focused on management and not focused on
regulation. You know, and if you take the purpose and
intent of IGRA, which is to strengthen the
institutional framework of tribal government, to
strengthen the tribal government, and, of course,
self-regulation is an aspect of that, then what you
would think or what I would think if I had a shot at
this regulation again, is that the focus of this
should be on the regulatory framework.

And, you know, the Commission can do a lot to
support tribal gaming regulatory agencies. You know,
I have -- I will say that I represent a myriad of
different types of clients. I represent gaming
operations. I represent tribal councils and
enterprise wards. And so I have kind of a range of
experience here. And one of the things that I think a
lot of tribes struggle with and my own clients have
struggled with historically, is that there isn't a
complete appreciation for the importance of your
regulatory agency and investing properly and paying
enough attention to your regulatory agency.

And the point of this regulation I would think is
to encourage that. You know, to encourage tribes to
really -- especially tribal legislatures that maybe
don't always adequately fund, tribal regulatory
agencies, not everyone, of course. I see you looking
at me. I told you I was going to be politically
incorrect. You know, I think that that is the
pinnacle. That is the hallmark of self-regulation, is
for the tribe itself to not only acknowledge the
importance of gaming regulation, but to really dig in
and make sure that its gaming regulatory agency is
adequately funded, adequately staffed, and is -- is
carrying out all of the duties that are required to
adequately and effectively regulate tribal gaming.

You know, I mean, and it's expensive. I mean, it
is expensive and, you know, that was kind of the idea
in the old regulation for reducing fees to the NIGC
for the self-regulating tribes. Because if you're --
if you're fully -- fully effective in your regulatory
structure, you're conducting routine investigations,
routine hearings. It's not just a licensing entity as you-all well know. But a lot of tribal governments tend to -- and I'm not saying the gaming regulatory agencies, but the funding, the legislatures, don't always appreciate what all goes into it.

And so self-regulation should not be a simple thing to get, but it shouldn't be an impossible thing to get. And that's kind of what the problem has been is the bar was so impossibly high and the focus was just on the gaming operation side, not on the regulatory side. And I think that this regulation has a potential to make it really clear how important tribal gaming regulatory agencies are to the health of our tribal gaming industry. That's my comment.

MS. COCHRAN: I'm not sure I could put that much better.

MS. HOMER: Thank you.

MS. COCHRAN: But that does -- Liz, that does reflect our initial attempt in getting the discussion draft out to the tribes is to redirect our focus and to be more in line with what the intent is and what it should accomplish. And I think we didn't -- certainly as you see, we didn't eliminate all the requirements. There's still a burden in there, and we do believe that that burden should
measure the tribe's ability to sustain its
certificate. But it shouldn't be so hard to get, you
know. So I hope you'll have some time before the 17th
to give us some feedback because your clients' input
is important. And we want to hear how close we've
come to that mark.

And I am going to ask Lael to briefly comment on
the resumes' because we had a long discussion about
this, what IGRA requires, which was surprising to me,
and what we can and cannot get out of this regulation
with regard to what we're asking on employees.

MS. ECHO-HAWK: Yeah, we were kind of stuck
by the Act because the Act says in the section that
talks about self-regulation, The tribe shall continue
to submit an annual independent audit and shall submit
to the Commission a complete resume' on all employees
hired and licensed by the tribe subsequent to the
issuance of self-regulation. All employees.

So what we did, because we were, like, that could
be a lot, we -- and in point -- 518.7(b) we said what
the Act says, annual independent audit, a complete
resume' for all employees hired bla, bla, bla, and
then for the purposes of this subsection, employees
shall consist of primary management officials as
defined and key employees as defined because those
are -- those are the license, the information for the licensees that we do receive. So when you license a primary management official or a key employee, you have to send us the stuff. So we're going to try to figure out a way to do that without having a stack of papers come in of 2000 employees. It is -- yes, the Act has --

MS. HOMER: I think I might define -- you might work on a resume' definition.

MS. ECHO-HAWK: Right, right. That's a good point.

MS. COCHRAN: Well, and that's exactly when we -- when I had the opportunity to sit with the lawyers, I don't, unfortunately, have enough time to spend all their discussions with them, but when I pop in and stir up the pot and they answer my questions, that was one of the things I know that we initially threw out is, can we work in the definition side of this to have the Act make sense in today's environment.

MS. HOMER: And you could also look at it, it says hired and licensed by the tribe. Could that not be the regulatory agency's employees? You think that it has to be defined as the -- as the gaming operation's employees?
MS. ECHO-HAWK: That might be a way to define it. Because if we are focusing on the regulatory side and not on the operation, then it seems like maybe we're interested in who the regulators are, not -- but that's a good -- that's a good -- that might help us, so. Thank you.

MS. COCHRAN: That's exactly -- but that's the kind of stuff, Liz, I'd like to -- I hope you'll -- I'm encouraging you to submit some comments to help us think broadly and think creatively in how we can meet the Act, stay within our lane, but be not burdensome, overly burdensome.

MS. HOMER: Don't worry. You'll hear from us.

MS. COCHRAN: Okay. Any other comments on self-regulation?

Sole proprietary interest. Lael did a really nice job laying out this part and some of the things that we've talked about. I think the only thing that I would perhaps share with you in addition to the comments that have come in on the enterlie (phonetic) that these comments, type of comments, have been presented during other consultations.

One of them is there was discussion that happened in Tulalip that had to do with whether or not the sole
proprietary interest on -- whether or not this was the only mechanism for final agency action under this was an NOV. So is an NOV the only mechanism that we have to provide final agency action. So that was an interesting discussion that we had.

There was also some more discussion on whether or not there was even a need to make these types of decisions final agency action, whether or not there was a -- is this something that we just need to keep in an advisory form but find a better way to communicate the breadth of our decisions and our advisory opinions to tribes so that you can use that in your decision-making process.

Does anybody have any comments they'd like to share? I think you-all are conspiring to get me to my vacation early. I like this group.

MR. LITTLE: Either that or maybe they are okay with us giving sole proprietorship for the regulation.

MS. COCHRAN: Yes, Liz.

MS. HOMER: This is an incredibly important issue.

MR. LITTLE: Just joking by the way.

MS. HOMER: Elizabeth Homer.

It's an incredibly important issue legally to
tribes, and I think that the problem that you're going
to have with sole proprietary interest is from a
regulatory point of view. You're just going to want
to do probably a definition, and you'll try to come up
with a definition that will be able to be applied
equally to all circumstances at all times so that it's
a fair and good regulatory definition. It's all in
the manual that the Federal Register puts out.

But I have worked for ten years trying to come up
with a definition of sole proprietary interest that
could work under all circumstances, at all times, that
apply equally to all situations, and you can't do it.
I mean, we do this for fun sometimes, and you just
can't come up with it. So I think what I recommend or
what I recommend you consider is to -- is to approach
it as an interpretive role. You know, so you're not
coming up with elements that are going to be applied
in litigation like you would a definition.

But, you know, the only way I think to address
this issue is by the big picture. And that's going
all the way back to the sub -- to the fundamentals of
Indian law. What is this trying to accomplish? What
was Congress trying to accomplish when it put this
provision in? And I think that it's actually a fairly
simple -- it's a fairly simple concept, and that is
nobody can foreclose on an Indian -- on an Indian gaming operation. It's inalienable.

You know, no third party can come in and take a piece of the tribe's revenue. It allows -- it allows for the tribe to, you know, to encumber its revenue stream, but not its land, not its gaming operation. That is the tribe's. That is why the tribe has a sole proprietary interest. Only the tribe can own it. And it must be the primary beneficiary because, you know, and you have to go back, you know, back into history. You know, they did amend Section 81 a number of years ago, but that was built into IGRA initially. And I think it's those same old concepts is that there's always something, someone out there trying to get whatever it is the Indians got. You know, and this language is intended to prevent that and to protect the tribes' interest and to make sure that it is the tribe that is going to benefit.

And I don't know how you put that in a definition. It's just too hard to put that in a simple definition. But an interpretive rule? I think it is amenable to that, you know, and you can have a discussion about, you know, about some of the case law and, you know, principles, fundamental principles, of federal Indian law. I think that that would work for
you better than trying to put out a straight, you know, regulation.

MS. COCHRAN: One of the suggestions that has come out is for us to consider a roundtable type of a discussion with some experienced people, most likely lawyers, but not necessarily. I actually think that has a lot of potential. Did you -- is this something that you and your clients might find a good way to look at the issue?

MS. HOMER: Oh, I think that that would be -- I think that would be very beneficial. The same with your practice, your proceedings, before the Commission regulation. I highly recommend a roundtable, you know, a roundtable on that one too. Because I think this is -- you know, this is a lawyer issue. This is -- this is not one that gaming regulators are going to, you know, necessarily, you know, want to take the time and go to the trouble of being a part of at this point.

You know, this is really a legal, you know, legal concept. There's law, there's, you know, a lot of things that look into that discussion. And I think that one thing we can do from the legal community is to help frame those issues so then everyone can weigh in on it. But I think until the issues are framed and
thrown out there, it's hard for people to wrap their
arms around this subject matter.

MS. COCHRAN: Thank you. Good morning.

MR. BRIEN: Russ Brien, I'm here with the
Prairie Band, but this is more of a general
observation. It's not something I work with them
specifically on it. I don't have authority to speak
for them on this particular issue.

So, but what Liz was saying, I think particularly
on this sole proprietary interest issue, the thing
that I've seen in my practice over the years is trying
to fend off people who are trying to bring money to
the table to finance a facility or an expansion or
something like that, and they are looking in any way
possible to take, not just a security interest in a
revenue stream, but they want to creatively create an
equity interest in revenue. And that is really the
key that I think we really need to focus on on this
definition.

So if you could really focus on security interest
in revenue streams versus an equity interest in
revenues, that would go a long way to helping weed out
at the front some of the issues that I see in Indian
Country on day-to-day basis.

MS. COCHRAN: That's an excellent
observation. Thank you. Lael.

MS. ECHO-HAWK: Can you send that in? And I say that because that's a very substantive comment, one we haven't heard before. And I think it makes a very key distinction and it's something that, you know, we at the agency may not have as much experience in dealing with as the attorneys that work with tribes on the ground in making that distinction. So -- and then if the other attorneys or tribes in the room have comments or have things like that that they can weigh in on, that's very, very helpful. Thank you.

MR. TAHSULA: John Tahsula.

MS. COCHRAN: Good morning.

MR. TAHSULA: Just to pile on to what Liz and Russ said here. But I think the comments made earlier in other regions suggested that this is very much a lawyer issue and a very fact specific issue lended to one of those, which is very difficult to have a sort of real substantive definition as Liz said. Because I think, you know, history of the Commission has shown that these all wrap together with the primary beneficiary, and at some point you pull in percentages. And so I think, you know, it's so fact specific that it's very difficult to have a rule that fits everything.
And, you know, if -- I think what Russ and Liz alluded to, if you had something that maybe set out one of the goals of this from a foundational level and then, you know, I think this also fits in with the notion that we need to have a little better than there's been in the past a process -- a process to get through judicial reviews so there can be some real lawyering that goes on.

But, you know, real interaction on a fact specific basis with legal principles involved, but that can fit that situation with the ultimate goal, if needed, between the commission and the tribe. We can't reach a final resolution in that specific instance that there would be available court reviews. If you could define agency action and get a court review of that that would then build up a body sort of law that would be applied, you know, to different facts in the way that we've become accustomed to the law being applied to different sets of facts but with commonly-used principles.

I think that's really the only way we get somewhere from this. There's a decent body decision that's been developed over the years. Certainly those can come in, you know, I think to influence, you know, future decisions. But I think we still need more.
More, you know, input into that as these things develop. We're not the only lawyers in these. Other lawyers, as Russ, you know, said, they get very creative and we need to be able -- this also needs to be flexible enough to help the tribes address those situations. So that would be my suggestion.

MS. COCHRAN: Thank you. I echo your comments because I've heard it in other consultations that we've got to find a way to get some of this stuff moving out of the Commission and into judicial review and get a better sense of -- of allowing some certainty in areas where there needs to be certainty, flexibility where it needs to be flexible. So thank you, John.

MR. FRIEND: Billy Friend, Wyandotte Nation.

MS. COCHRAN: Good morning.

MR. FRIEND: I guess, from a tribal perspective, one of the things that we would like to see most is some consistency. I think this has been one of the most inconsistent areas as far as, you know, we're concerned. You know, just from our own experience, you know, entering into a development agreement, sending that agreement in several months prior to opening, and then two years into operation receive an opinion letter that we're in violation of
sole proprietary.

And so by this time, of course, the tribe has even entered into a contractual agreement and so -- and I realize there was changes of administration. But I think as far as tribes are concerned, it's not so much that we want to see regulations, but we would like to see some criteria or some guidelines or some standards set that when we enter into these agreements, we know basically the dos and the don'ts instead of getting into an agreement and getting two or three years down the road on a project and then receive a letter and then going back to the NIGC and asking for some help on the issue and then getting complete opposite opinion back once again.

And I think mainly what we would like to just see is consistency in this area. I don't think that -- as the former speaker said, I think that we still need flexibility because you can't take a cookie-cutter approach to it, every -- every situation is different. But we would definitely like to see some type of criteria or guidelines or standards that are set forth, that when we sit down to enter into an agreement, we have some guidelines to follow. Thank you.

MS. COCHRAN: Thank you. One of the
comments that came up early on in this discussion, which I think resonated with many of us, was a description that sole proprietary interest is a snapshot in time, it's one snapshot. Tribes move forward, agreements are entered, more agreements are entered or changed. And because of that and not only because it is just that, a snapshot, the players, the interest can change at any given moment, which makes defining that a greater challenge, I think, for us. And I thought that was an excellent way to be described and why we need to be so meticulous and thoughtful in how we approach this so that we can give certainty, we can do a little better job perhaps of getting timely information back, but also to be cognizant that it's just a snapshot of time. Any other thoughts?

All right. We'll take a quick break. Lael has got to do some PowerPoint changes real quick and then we'll do our last group and see where we go from there. Maybe ten minutes or so and then we'll reconvene.

(Break taken from 10:07 a.m. to 10:25 a.m.)

MS. COCHRAN: All right. If we could get everybody seated again. Well, we're going to move forward into the final group that's on our agenda,
this is Group 3. This is probably the most watched
group for many reasons, and I'm going to turn the
microphone over to Lael to walk us through. I am
going to have -- there were a couple of people that
have come in and I'm going to ask that they identify
themselves for our court reporter. And then we have
some tribal leadership and Matthew Morgan is here,
I've seen. So anybody who didn't initially introduce
yourself, if you would just take a moment, introduce
yourself for the record, and then we'll turn back to
Lael.

   MS. ROWE-KURAK: Janice Rowe-Kurak, Chairman
   of the Iowa Tribe of Oklahoma.

   MR. MORGAN: Matthew Morgan, Gaming
   Commissioner Chickasaw Nation.

   MS. O'TOOLE: Carrie O'Toole, Tribal Council
   Prairie Band Potawatomi Nation.

   MR. KITCHKUMME: Rey Kitchkumme, Prairie
   Band Potawatomi Nation Gaming Commission.

   MS. TOPPAH: Amber Toppah, Vice Chairman of
   the Kiowa Tribe of Oklahoma.

   MS. COCHRAN: Well, thank you for joining
   us. We have one final group to cover so if you'll
   bear with us I'm hoping perhaps even if it's not right
   at the noon hour that maybe around the noon hour we
can get done and let you start your weekend. And so I'm going to turn it over on Lael.

MS. ECHO-HAWK: Okay. So the last and final group that we have on the agenda for today and for this meeting is Group 3, which covers Class II minimum internal control standards and Class II technical standards. When we sent the notice of inquiry out, we asked how do we go forward with amending these parts? We know that the effective date for the Class II bingo currently is October 13th, 2011. You can look forward to a Federal Register notice next week extending that implementation date out because we are going to be focusing on -- and I'll speak to that in a minute. We're going to be focusing on amending the Class II MICS so that implementation date will be extended for one year. Just in case your clients are interested, that will be in the Federal Register next week.

So the NIGC has been drafting changes to the Class II MICS from -- oh, gosh, a long time. But not a lot of work -- not a lot was really accomplished from -- well, they started in 2006. These -- the Class II bingo MICS that were due to be implemented in October were from 2008. They're still not in place yet. And there was a lot of, sort of work being done on a number of different fronts on addressing the
Class II MICS and technical standards.

However, nothing has really been adopted that's been satisfactory to all parties. Even the things being worked on were outdated. Tribal gaming working group submitted a draft to the NIGC at our July 20 -- I believe, it was on July 28th or 29th, they submitted their alternative standards to us. Forge Creek came and provided us that information. That is now out for notice. We've published a notice of availability and request for comment in the Federal Register. You can find that entire draft posted online. The Federal Register contains the exact link, but if you go to our reg review 2010 to 2011 page and click on Group 3, you'll find that information there. We are looking for comments on that and that's out currently.

We had a number of comments suggest that we begin using a tribal advisory committee that tribes wanted to take another shot at drafting the Class II technical standards and minimum internal control standards. So last week on October [sic] 10th, a nomination letter and nomination form was sent out to tribal leaders and gaming commissions all across the United States. It's also published on our website and we're asking for nominations for the tribal advisory committee. Tribal advisory committee is going to be
taking a look at Class II MICS, Class II technical standards, and Class -- and also discussing what to do with the Class III minimum internal control standards. Nominations are due by September 16th because we have to make a selection by October 3rd.

The inaugural meeting is set, currently set, for October 20th through the 21st. We run into a little bit of a glitch with NIGA's midyear and we're working right now as we speak on trying to -- am I going too fast? Okay. We're going -- we're working right now on figuring out a way to reschedule or in working with NIGA to perhaps move some days around so we can get both NIGA and the inaugural meeting for the tribal advisory committee done that week, likely in Connecticut. We're working on that.

After the inaugural meeting, we have additional five meetings scheduled, they're three-day meetings. And the nomination letter is very clear that anyone who is nominated, we need for you to -- we need for those nominees and members to be willing to commit to attending those meetings, all of them from start to finish. We have a very short time frame. The TAC work is due March 31st, 2012. So we've got about six months to get all of this accomplished. And March 31st is our deadline because we need to have
time to take that information that the tribal advisory committee comes up with, put together a notice of proposed rule for comment, send it out for a 60-day comment period to tribes, and consultations. We'll go back out and do additional consultations.

The Commission is aware that -- very cognizant that the tribal advisory committee does not substitute for consultation, so it's important that we work that in. And then we have to have this all finalized before we get the notice that no more rules will be -- can be made final prior to the presidential election. So we have a really short time frame, but this is something that the Commission and I don't know -- but I know the chairwoman is adamant that we resolve this issue that's been looming out there for so many years that we resolve it.

So some of the things that we're very interested in hearing today is what factors should be considered in formulating the tribal advisory committee. If you look at those nomination letter and the nomination form, we don't specify you must have this, you must have that. We anticipate tribes know who's qualified to sit on a committee like this, technical -- very technical in nature. And we look forward to seeing a very broad group of nominees.
Some of the factors that we've come up with or thinking about is, you know, we need to be representative of regions, size of operation, have regulators and operators with the Class II and Class III experience, what an individual's background and expertise is. There's a number of -- as you know from MICS, there's a number of substantive subject matters areas and making sure that we have all those areas covered and then trying to figure out, like the chairwoman said yesterday, you know, we've heard, we've been trying to figure this out in the Commission's experience, that 20 to 25 gets a little -- anything over that number gets a little bit unwieldy.

And so we're going to have to figure out a way to have a broad representation of people on the tribal advisory committee and then figure out a way to work in the expertise that we'll need from industry, from consultants, and the other people that tribes have to advise them on these issues.

The tribal advisory committee is going to use the tribal gaming working position group documents and the comments that we received in those documents. We'll be using the current NIGC MICS and then the draft NIGC MICS that are on the website that the agency was
working on prior to -- or after the 2008 MICS were
drafted. Just to reiterate, the Class II MICS
extension will be published next week in the Federal
Register, and that will be extended out for a year.

Questions that we're going to need to resolve and
we'd like your assistance in getting some feedback is
whether or not the TAC -- whether or not we should use
a facilitator, how we should use a facilitator, how
other tribes can participate in the TAC, even if they
don't have a member on the committee, how other, you
know, industry, the gaming labs, how other people can
prep manufacturers, how can we gain from their
knowledge and their expertise as we go through this
process.

What is the product that we're looking for? Are
we looking for a set of rules? What is it that the
TAC will provide the Commission? And then how do we
consult, how do we make sure that the consultation
component is built in following the TAC, the
March 31st, and the product that's sent to the
Commission via the tribal advisory committee.

So that's what we're grappling with right now.
We're not so much talking about the substance of the
Class II MICS technical standards or Class III MICS
right now. We're just figuring out the process and
the Commission has decided to go forward with the
tribal advisory committee. So we need to make sure
that that process is comprehensive as possible.

   I think we're -- that the Commission is aware
that, you know, it can't have a seat on the committee
for every tribe that's in gaming, we might get a
little criticism for who we select, but that's okay.
We're just trying to move forward and make sure
everyone is as involved that needs to be involved and
that everyone has an opportunity to have their voice
heard.

   So with that, I will give it back to the
chairwoman -- vice chairwoman.

   MS. COCHRAN: Well, that's about as current
as you can get. The TAC is something that we've spent
a great deal of time, not only listening to the
recommendations that the tribes have made and we took
many of them to heart. You know, I was just again
looking at some of my notes at the more recent
consultations. We were asked to predetermine dates
and notify during the solicitation period, which we've
done. We were asked to consider asking for volunteers
to select from, which we've done. So there's many
things that have come directly from the tribes as
suggestions on how we ought to approach this that we
took to heart and built into the process because they were good ideas, sound ideas.

The TAC is -- we do have our first recommendation come in, and so we're excited to see, you know, what comes through. We anticipate there's going to be a wide range of experiences, a wide range of personalities that will come through, but we're going to work very hard to try to make it make sense, the makeup of this committee make sense. And we're also very committed to setting very firm ground rules to make this work in the small amount of time that we have.

As Lael pointed out, the chairwoman, and I know Commissioner Little and myself, are extremely committed to moving this forward and getting this issue out of the agency in some way. And we're trying to do everything we can to bring the resources to the table as the tribes have brought their resources through TGWG and other mechanisms so that we would get it resolved.

So any other comments or feedback or thoughts or has anybody not received a letter? We would like to know if there was any breakdown in our communication process. Is there anything that wasn't clear in the letter? The chairwoman spoke a little bit yesterday
about the need for as we look at this we're, of course, interested in making sure that tribal representatives and tribal leadership, whoever is put on the committee, be prepared to commit the resources, their time being the big one, we need the group there.

And the inaugural meeting is the most important because that's where the ground rules will be set. You know, how are discussions going to be handled. How are real technical topics going to be addressed by the group? How -- you know, how is this all going to play out? And all that will be determined at that inaugural meeting so that ground rules are set, everybody knows the expectations, and we don't get hung up on process in trying to get decisions made.

So is there anybody also who -- Liz, I know you're sitting there and TGWG is -- you've been very helpful in explaining the TGWG product. We put it up on our website. If anybody hasn't had access to it or doesn't know about this product, now is the time to speak up. We need to make sure we get this information to you. And Liz can certainly -- if there's more information you want to share since D.C., I know there was a great deal of discussion at D.C., please.

MS. HOMER: Thank you, Commissioner. The
tribal gaming working group has been working for
almost a year now to try to take the Part 543 of the
NIGC's regulations, which are the Class III MICS and
to revise those so that they fit more appropriately
with, one, the Class II gaming industry. Did I say
Class III before? I meant Class II.

And this is a working group that was actually
born when this regulation was first promulgated under
the last administration. And as you-all may recall,
originally the group started working on a set of
technical standards for Class II gaming machines. And
because neither -- I think at that time both the
Commission and the rest of the world figured out that,
you know, we didn't really have our arms around this
technology very well. And I think that there was a
basic agreement that, yes, we do need to have
technical standards that would be very helpful. It
may get us out of the game classification standoff
that went on for a number of years, legally, with
legal challenges going back and forth.

And so the Commission came up with the idea if
you had technical standards and you could submit your
machine to a gaming laboratory and the gaming
laboratory could verify that the machine operated this
way, it was a bingo-based game, it wasn't a slot
machine, that, you know, maybe it would solve a lot of
problems that we had been having over the years on
this issue.

So this tribal gaming working group came together
at that time. It was made up of systems engineers,
gaming regulators, tribal leaders, tribal operators,
you know, just kind of everybody that was kind of up
to speed on the latest, greatest technology in the
Class II environment and came up with these technical
standards, which actually have worked pretty well. I
think the group is still recommending a few tweaks to
it, but overall the experience with that technical
standard has been -- that set of technical standards
has been very good.

Now once we were in the middle of writing these
technical standards to recommend to the NIGC, we
realized that, you know, one, you're going to have to
update -- you're going to have to have Class II
minimum internal control standards to make these
technical standards work. Because we found ourselves
trying to put in internal control procedures into a
technical standards, and it was something that
couldn't be verified by a laboratory. It was
something that would have done by a tribal gaming
regulatory agency. So then the group morphed into the
Class II MICS tribal gaming working group, and we've just kind of stayed together ever since.

It make sense. There's this long continuity in terms of familiarity with all the regulations. And so when the NIGC published last -- last fall, their notice that they were going to undertake this regulatory review, the tribal gaming working group went, great. Because there are still a lot of problems left in the regulations. There are still a lot of things that need to be addressed in the Class II MICS.

And so the group came together and we started working on this, and we last -- what was it, two weeks ago in D.C.? We -- our group finally finished the endless process of writing and drafting these technical -- I mean, these Class II MICS, and we presented it to the NIGC. And I want to thank the NIGC for, you know, respecting our work product. And basically as I understand your Federal Register notice of earlier this week, that that will be the baseline document if that is acceptable to the new tribal advisory committee. And that will be the starting point for the development of the final rule -- or not the final rule, but the proposed rule to be published in the Federal Register and ultimately, you know, a
final rule.

So it's been a lot of work. I think that everyone is going to be pleasantly surprised when they read these MICS because we've gotten rid of a lot of the procedures. But we're also sensitive to the fact that we don't want the rest of the world to think we're deregulating tribal gaming here. They have to be good and sound MICS, they have to make sense.

So what we did -- and this is kind of our little innovation -- is we added comprehensive guidance documents for each section of the MICS. So the MICS would become the federal regulation, but then there are guidance documents that would be published as guidance documents that are much more detailed on what you would do step-by-step applying best practices, best industry practices.

So I think it's a pretty solid -- you know, I think it's a pretty solid document. I think there's some new issues that have come up because while we're working on this, FinCEN went and published new regulations so we have to figure out if FinCEN's new regulations are going to affect our work product.

But given that it's really the beginning point is not -- we don't expect the world to go, God, great work TGWG, we're going to pass that. We're going to
actually, you know, provide that as a service and as a starting point for the NIGC to do a full consultation process.

On your questions, yes, yes, yes, and yes. And then I think that after that process, you really probably ought to have a hearing so that everyone can participate at the end of the process. I'll sit down and be quiet now, thank you.

MS. COCHRAN: Thank you, Liz, for the overview. The work product of the TGWG has begun its breakdown in our agency to be looked at and thought about and discussed and debated and analyzed in terms of, you know, how the agency looks at the MICS. And hopefully, you know, we'll have -- we'll be just as prepared when the TAC is put together and we begin the more substantive discussions between the two entities, the tribal regulators and our agency. We'll be just as prepared to have those conversations.

We've been very candid and we understand that there's going to come point of disagreement. We need to be well-versed and need to be articulate in our concerns or our propositions and be prepared to have those open and candid conversations and the TAC should allow that to happen. So thank you, Liz. Yes.

MR. MORGAN: Matthew Morgan, Chickasaw
Madam Vice Chair, on your questions I like -- I agree with Liz as well. I know the difficulty that your Commission will have to take up will be, you know, trying to get a group that will work together and commit to the process that is very timely, and I assume, you know, long hours over those three days. The one point I want to keep in mind sometimes because we discussed this the other day at our OIGA meeting. Please remember Oklahoma is two regions now that you're going through. We are two regions and that will help us get more representation on the TAC. We would very much like that.

MS. HOMER: Good point, Matthew.

MR. LITTLE: You know, that's part of the record now, right?

MS. COCHRAN: Well, thank you. While I can't assure you the representation of the group, what I certainly can do is we are very cognizant of how important Class II is in this area of the country and how important it is for the tribes in this area. And to the extent that we're looking for the most knowledgeable people, it doesn't take a rocket scientist to figure out that some of the best and brightest in Class II are in this area. And I'll be
expecting your name to come through. Are you committing for six months?

MR. MORGAN: I do have the congratulations e-mail, yes, ma'am.

MS. COCHRAN: Well, this is -- Liz, you mentioned, you suggested, the idea of a hearing after it's all said and done. And I think that's certainly something we need to discuss in the Commission. But Lael is absolutely right, whatever comes out of the TAC will go through consultation regardless. And it may come down to timing issue it may come down -- hearing maybe more efficient or hearing type, I don't know. But thank you for the suggestion.

And that is something I do want to say very clearly because I've gotten some minimal questions or concerns about, Well, if my tribe is not on the TAC, how is our voice going to be heard? Through the consultations is actually probably the best place for a tribe's voice if they're not able or willing to participate in the TAC. That is still an avenue for input.

Commissioner Little, I know you've been awfully quiet, but you've been a large part of these discussions. Is there anything you want to say?

MR. LITTLE: I think I'm interested in
hearing from anyone. During the last advisory committee, I attended a lot of the meetings and it seems that they kind of fell apart at the end, lost a lot of the members. Is there -- anybody have any suggestions on composition? I know we're going to take up Class II, Class III.

(Off-the-record discussion.)

MR. LITTLE: In any event, does anybody have any -- suggestions on, you know, ways that we can bring in all the, you know, different -- I guess not just geography but, you know, as far as the types of games that tribes have and how we maintain? Because I think what happened on the last one, I think we lost a lot of the Class II tribes. And then, you know, immediately, you know, the product become -- became something that wasn't reflective of that, you know, major segment of this industry.

So does anybody have any suggestions on ways that -- I think we've already talked about utilizing a facilitator, and I'm not sure if NIGC has ever done that in the past.

MS. HOMER: Long time ago.

MR. LITTLE: Long time ago?

MS. HOMER: (Nodding head.)

MR. LITTLE: Okay. Liz is correcting me.
Thank you. And I'm very excited about that because I think that could be very helpful. I know the chairwoman has talked about it a number of occasions. There are some benefits being a part of the Department of the Interior, and that is they have a lot of resources that we can tap into. And one of them is utilizing some facilitators that, you know, have minimal cost to the agency besides travel and things like that. So, you know, if there's any suggestions, and I'm not asking for them today, if you want to, you know, send them in on how we could make this exercise more effective. Because at the end of the day, at the end of, you know, six months it's going to take to do this, if everybody doesn't feel comfortable that the process was correct and that, you know, tribes are comfortable that their voice was heard, then it's -- it's, you know, it's a kind of a waste of everybody's time and money and energy.

So I think the goal is just to make sure that there's adequate buy-in and when we get done, we're going to have something, you know, that we're ready to move forward with.

I kind of -- you know, I find it, you know, very comforting that our chairwoman is -- she's very adamant that we're going to fix this and we're going
to get this done. And I guess I've been in
Washington, D.C. too long and, boy, that's a -- that's
a -- you don't make statements like that. But I think
it's a testament to her desire and her drive and her
leadership that we're going to get this done. And I
feel comfortable that we are going to get this done.
And we're going to get this done because, you know,
we're all going to work very hard.

So that's all I really have to say. But I just
want to, you know, if you have any ideas, you don't
feel comfortable sending them in today, just --
Sheila.

MS. MORAGO: Sheila Morago.

I, again, want to just echo everybody. I'm glad
you guys are doing this. We're really excited about
this. But I just have a question in something -- if
you've thought about it, great.

But in the TAC form it says the person that you
nominate has to be committed to the full schedule and
have the resources to attend every meeting. Are you
cconcerned at all that they may very well take out a
huge segment of Indian Country in terms of smaller
operations, smaller tribes, that may have some very
capable people within their organizations but can't
afford the time nor the money because as you—all know,
a smaller tribe with a smaller operation, your best
and brightest aren't going to be able to hit that time
frame and may not have the resources available for
them to pay for someone, plus staff, to do that. Did
you consider any of that at all?

MS. ECHO-HAWK: Yes, it was very much a
consideration when the Commission was talking about
this. One of the ways we tried to address it is
making sure that the NIGC cover the hotel and air fare
expenses for representatives of a Tier A, so annual
gross revenues of less than 5 million, 50 percent of
those costs for Tier B, which is gaming operations
with less than 15 million, and then we anticipate that
if anyone comes from a larger operation, 15-plus
million -- or over 15 million, then their tribe would
pick up those costs. We want to make sure that we
tried to be aware of that.

Now I think the Commission and the commissioners
can speak to this as well, one of the considerations
that we kind of wrapped our brain around was how can
we get this done in six meetings if we have people
coming in and out. We can't. So the Commission was
adamant when we were drafting the letter getting an
e-mail a day make sure that it's clear in there that
we have -- and, you know, of course, emergencies may
But the expectation has been, and I think we laid it out pretty clearly is that, you come and you attend and you grind it out and you might be miserable and hate people at the end of the third day, but that, in order to get this thing done, that's sort of what we need to do.

MS. COCHRAN: Lael is correct. I mean, that's -- we did hash this over, the three of us extensively and then absolutely in receiving the advice of our senior leadership. We -- there's also -- and part of this goes back to the inaugural meeting.

The other thing that I think we anticipate what we're going to be faced with is because there is an intense commitment of resources is in the inaugural meeting being mindful in setting, again, agreements and ground rules about how can we best utilize that so that the tribes aren't bringing in all their experts, all six times, all three days.

And it may take very firm commitments to, I don't know, I'm thinking out loud here, these three days we're going to talk about surveillance issues so that's -- it's not going to be discussed later on, it's not going to be discussed before. So you can
anticipate bringing in those experts for this time. Something along -- being very firm in how process-wise we communicate because we're aware, and we've tried to make the initial steps to take the financial burden away from the smaller tribes.

So how else can we contribute? And we anticipate, and I've already heard some discussion about tribes being prepared to collectively contribute to the discussion, sending maybe their best and brightest on this issue, another tribe sending their best and brightest. So I know that that's going to happen. Tribes are very ingenious when it comes to maximizing their limited resources. They've done it so long and will continue to do it. So that's -- I hope that answers your question.

MS. MORAGO: Yes, thank you.

MS. COCHRAN: Sure. Lael is looking up, she wants me to reiterate deadlines for nominations. September 16th?

MR. MORGAN: Madam Vice Chair.

MS. COCHRAN: Yes.

MR. MORGAN: Matthew Morgan, Chickasaw Nation.

When you're thinking about technical expertise as we're going through, I know on the tribal gaming work
group, one of the issues that seems to pop back up this year and in previous years is remembering that when you start talking in Class II, you have to start talking about session bingo and pull tabs, and as you're looking for technical expertise, just don't, you know, be mindful of electronic gaming.

A lot of tribes still run a lot of those forms of games around the country that, you know. We found some difficulty sometimes getting those technical expertise to the table and making sure that we weren't somehow negatively impacting those groups as well.

(Off-the-record discussion.)

MS. COCHRAN: Liz, you're going to have to come to us.

MR. MORGAN: Pull tabs was especially difficult for us sometimes, trying to get technical expertise. So as you're thinking about, you know, how do we assemble this group. That is something I know with had to deal.

MS. COCHRAN: Well, thank you. And that's -- these are the comments that need to come out, again, during the inaugural meeting so that we get those insights so that we prepare the best we can. We're not going to obviously be able to prepare for everything, but we can certainly -- you-all just have
gone through this. These things are very fresh in
your mind, and that's very useful information. Thank
you.

The only other thing I want to state out here, I
know it was said in D.C., and I think it was said in
New Mexico, as well, the TAC -- in forming the TAC and
utilizing the TAC in no way should conveyed or
inferred that it is a position of the NIGC on how
we're going to look at Class III or that we're
committed somehow to Class III regs. We have not made
that decision. The TAC doesn't infer that we have.
The TAC is -- at this point, its primary function is
Class II. Class III may very well get brought up in
some context or will have to be perhaps addressed or
dealt with, but it's not an inference. And I hope
nobody takes that away. I don't want any tribe to
take that away because we're going down this path that
we have a commitment to Class III regs in any way.
That's absolutely not correct.

All right. Is there anything else?

We have, again, tribal leaders amongst us. I
always want to be mindful of your comments and your
thoughts if there's something you'd like to say or
offer or ask of us. And thank you for your time.
Thank for you listening to us.
Okay. Anything else from the audience? All right. Well, I'm going to then -- Commissioner Little, is there any final comments from you?

MR. LITTLE: No. I just want to thank everybody for coming.

I think we have a question.

MS. ROWE-KURAK: I would like to add one thing. I understand that several -- I'm sorry.

Janice Rowe-Kurak, Chairwoman of the Iowa Tribe of Oklahoma.

And I would like to say I've attended several of these consultations, and I'd like to say thank you to the NIGC for being willing to work with us on this because I know that we've been working on this a long time. So I appreciate that you're respecting us and our opinions.

MS. COCHRAN: Our pleasure. All right.

Well, I appreciate your time. I appreciate your commitment to the process. I look forward to the next time. I'm going to start my vacation in about 15 minutes so if there's any other comments, please make them in 15 minutes, or I'll have to get back to you in two weeks.

Ms. ECHO-HAWK: Happy vacation.

MS. COCHRAN: Thank you. And safe travels.
The members of the Kickapoo Tribe that have come a long ways, please, safe travels back home.

    Thank you again for joining us.

    (Proceedings concluded for the day at 11:02 a.m.)
CERTIFICATE

I, Carla S. Kimbrough, do hereby certify that on August 19, 2011, at the Doubletree Hotel, Tulsa, Oklahoma, that the foregoing pages constitute a full, true, and correct transcript of the proceedings held on the date as indicated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal at my office in Tulsa County, Oklahoma, this 29th day of August, 2011.

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Carla Sue Kimbrough, C.S.R.
Oklahoma Certified Shorthand Reporter
Certificate No. 1237
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