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Valley Center, California, Wednesday, June 22, 2011

MS. STEVENS: Good morning. I would like to go ahead and get the meeting started. We are waiting to make sure that everybody that was going to be here is here.

So to start, I would like to ask Delisle Calac from Rincon to open our meetings.

MR. CALAC: Thank you. My name is Delisle Calac, and I'm Chairman of the Gaming Commission at Rincon. Welcome. I hope you enjoy your visit here. We enjoy hosting these types of things. You're always welcome to come back. I would like to open with a prayer.

(A prayer was offered by Mr. Calac)

MS. STEVENS: Thank you, sir.

This is day two of a two-day consultation that we've scheduled. We'll have many more like this as we increase the number of regulations that we discuss in consultations. They are two-day consultations.

Everyone should have an agenda here. If you could, please, I just want to clarify that the table area here is for tribal leaders or their designees as the tribes have appointed, and what I would like to do is do introductions around the table before we begin.
I'm Tracie Stevens, and I'm the Chairwoman of the National Indian Gaming Commission, and I'm a member of the Tulalip Tribes of Washington.

MR. ROBERTS: I'm Larry Roberts. I'm the general counsel for the National Indian Gaming Commission, and I'm a member of the Oneida Nation of Wisconsin.

MS. STEVENS: To my right. Everyone just tell us who you are.

Athena Prieto, Campo Gaming Commission.
Mark Powless, Big Sandy Rancheria Gaming Commission Director.
Good morning. Chad Delgado, Bishop Paiute Tribe.
Tracy Burris, Viejas Gaming Commission.
Scott Bachtelle, Chicken Ranch Gaming Commission.
Jan Costa, Tribal Administrator, Chicken Ranch Rancheria.
Jason Maldonado, Pechanga Gaming Commission.
Willie Ramos, Pechanga Gaming Commission.
Alex Sanchez, Torres Martinez Gaming Commission.
Steve Hines, Morongo Gaming Agency.

Jerry Shultze, Morongo Gaming Commissioner.

Morris Reid, Picayune Rancheria Band of Indians Tribal Council.

Sheila Morogo, Executive Director, Oklahoma Indian Gaming Association.

Scott Crowell, legal counsel to the Rincon Band.

Norm DesRosiers, Commissioner for San Manuel.

Sherry Rodriquez, La Jolla Gaming Commission.

MS. STEVENS: Okay. Thank you very much.

And, again, I do want to emphasize if there are any tribal leaders that are sitting out, certainly feel free to sit where you would like. We invite you to sit at the table with us.

Following the agenda here, I do want to introduce the staff that we have here. Also from our D.C. office way over there running the PowerPoint is Melissa Schlichting. She is a staff attorney from D.C.

From the regional office, we have the Regional Director, Eric Schalansky, who is right there. Many of you probably work with him on a regular basis. His administrative assistant, which is out in the foyer at the registration table, Pete Angeles; Field Investigator Manny Sanchez, who is right here behind me; Field
Investigator Frank Hernandez; Field Auditor Paul Bycroft.

Many of you probably work with them on a regular basis. So I want to thank them for helping us put this together. Without them, we would not have been able to orchestrate this and have it go as smoothly as it has. So that's the staff we have here.

Going over the meeting agenda, as we did yesterday, we changed up our agenda from the previous consultations. This is consultation No. 9 of a very long schedule that goes out into February, as we have many regulations that we are reviewing as part of our initiatives as a Commission of this -- not even a new Commission anymore. It's part of our objectives during our term to look at the regulations and see how we can refine them and improve the regulatory structure for Indian gaming.

So we've broken up these groups -- the regs into certain groups and have paired them with other regulations, and are going out and talking to tribes about each of these parts and whether they're working or not for you, and also having some discussion drafts, when possible, so we have something specific to talk about. This is based on priorities that were given to us by tribes earlier on in a Notice of Inquiry that we
published last November.

So the meeting agenda, when we were first doing this, we had a small number of regulations that we were looking at. We would talk about them and inform you sort of the backdrop of the regulation and why we were talking about it. Now we're up to many regulations that we're talking about. So we broke up the agenda so we're talking about certain parts on certain days.

This is our first two-day consultation. We've been doing one-day consultations, so it was a little easier to manage and have an open forum. We are now breaking these up so that, as we've been asked over the past few days and even in some of the previous consultations, inquiries about what time should I show up because I only want to speak to a certain part, or I've already spoken to a certain part; do you have any new parts I want to talk about?

So we've broken them up. Yesterday we were talking about Group One, fees, existing ordinances, process questions on Class III MICS, facility licensing, and the potential (inaudible).

We also talked about enforcement and the PO processes, background and investigation and licensing issues and those related regulations. We talked about those yesterday.
Today we're going to be talking about part 543, internal control standards for Class II gaming, and later today minimum technical standards for gaming equipment used in the -- to play the Class II games.

That's the subject today. And I do want to emphasize that we -- if you weren't here yesterday and you want to make comments about certain parts, you're welcome to. We're not restricting it to just these topics today.

We understand that everybody is busy and has a schedule, especially tribal leaders. They have many, many other things going on besides what we're talking about today. I understand that you have a busy schedule.

You may only need to make a statement. We do make time. At any time, the mike is open for open comments to give a prepared statement, if you would. That's always going to be a part of the agenda. So that if you need to leave, you can, and if you can give your statement or submit written comments to us here.

Generally, what we'll be talking about is Group Three today, Class II MICS and technical standards for Class II gaming equipment. So that is what we'll be talking about. If there's anyone who needs to make a statement, prepared statement, give a prepared statement
right now, we do have time on the agenda for that. But absent that, I would turn the microphone over to Larry Roberts, our general counsel, to go over our topics of discussion for the first part of this morning.

Is there anyone that needs to address those in some way?

Yes, Mr. Crowell.

STATEMENT BY SCOTT CROWELL

MR. CROWELL: Good morning. I have a very busy schedule today, so I appreciate the time now. And I apologize in advance for not being here yesterday.

"Welcome to the Rincon Reservation. It's been my privilege to represent the tribe here for at least the last 15 years or so. And as you can see, the tribe has come a long way.

"We hope your stay here has been comfortable and productive. I submit these comments today on behalf of the Rincon Band of Luiseno Indians.

"The Rincon Band has previously submitted comments and testimony on Groups One and Two, so we'll focus our comments today on Groups Three and Four, except to note that we are pleased with the progress that has been made on Groups One and Two and with the attention received by our comments as well as those of the other Tribes."
Regarding "Group Three: Class II Gaming."

"Our comments on Group Three, Class II gaming, will be brief. We had followed the very hard and detailed work of the Class II Working Group and we support their efforts and comments. Although Rincon has a compact, and although California has waived its 11th Amendment immunity, and although Rincon has successfully used the two together to obtain favorable changes through the federal courts, Rincon does not lose sight of the fact that many tribes throughout the United States rely on viable Class II games. Many Tribes are confronted by states who hide behind 11th Amendment immunity to deprive them of compacts, such as Louisiana with the Jena Band and the Choctaw and Texas with the Kickapoo. Many other States use the unfair leverage of the Seminole decision to coerce tribes into unreasonable gaming taxes and intrusions into tribal self-governance. As you consider the regulations of Class II games, please keep in mind that a viable Class II game is the only leverage that many tribes have in the wake of the Seminole decision.

"With prior Commissions, discussion of Class II policy flowed into discussion regarding monitoring and investigation - a main topic of Group Four. It was with great frustration that Rincon watched prior Commission
Chairman Hogan work so hard to draw a 'bright line' with Class II games only to undermine the efforts of many tribes to leverage Class II gaming to secure Class III gaming compacts. While the NIGC would place many Class II games in question, the Department of the Interior sat quietly by when it could move forward on Class III procedures where States assert 11th Amendment immunity, and DOJ sat quietly when it could bring litigation against those states on behalf of the Tribes. 11th Amendment immunity is not a viable defense in an action brought by the United States. NIGC, Department of Interior and Department of Justice should work cooperatively under the federal umbrella to develop a collective and coordinated approach to place all tribes in the position that Congress intended - to class all tribes in the position they would be if they had not had the remedy taken away from them by the Seminole decision.

"Group Four." Our primary theme is deference to the tribal gaming agencies as the primary regulator. "Group Four covers a lot of territory. Rincon accepts that NIGC needs access to the gaming facility. If we revisit the existing regulations, NIGC should embrace a policy of deference and support of tribal gaming agencies. The TGA is the primary regulator of
tribal gaming. The tens of millions of dollars in authorized Tribal Commission budgets, the sheer manpower numbers, and the common presence of the most experienced regulators in the industry, quantify this basic fact. The Tribe itself has the highest incentive to ensure that the games are fair and honest. In the vast majority of circumstances, any Tribe out of compliance has the highest incentive to come into compliance. Rincon encourages the NIGC to embrace a formal policy that ensures that the NIGC will take every effort to identify the problem for the TGA and/or the Tribal Council, work with the Tribe to come in to compliance and only if those steps have been taken and have failed, then take action in the form of an NOV with attendant threats of fines and closures. I hear rhetoric that this is how the Hogan Commission approached situations, but I know of too many circumstances where the NOV came as a surprise to the Tribe and forced the Tribes at issue to panic at the possibility of major fines and closure orders. Even though those situations were resolved with nominal fines, the heavy-handed threat has no place in proper government-to-government dialogue.

"The monitoring and investigative authority of the NIGC gives it the ability to embrace a policy of deference and support for TGAs. Using the authority to
make the case against a Tribe to show skeptics on the
Hill that you are a strong regulator places the
objectives of IGRA on their head. In contrast, using
the authority to discover problems, and working with
TGAs and Tribal Councils to correct those problems
embraces with the objectives of the Indian Gaming
Regulatory Act.

"Rincon has technical comments on the specifics
of Group Four, which are set forth in our written
statement. We will stop our oral testimony at this
point, unless the NIGC has questions or issues that it
would like us to address. Again, welcome to Rincon."

MS. STEVENS: Thank you, Mr. Crowell.

Do we have others that need to make prepared
statements or offer a comment due to their schedules?
If not, what I would like to do is turn over the
microphone to Larry Roberts, our general counsel, to
pick up on what page -- page 17 on the PowerPoint.

And it is up on the screen there, so I'll let
Larry go ahead and go through the discussion on Group
Three.

MR. ROBERTS: Good morning, everyone. I see a
lot of the same faces that were here yesterday. Thank
you for attending this consultation. For those of you
that did not attend yesterday, I want to make clear that
this is a government-to-government consultation between NIGC and tribes, and if you are not here at the request of a tribe, we ask that you not attend this consultation. This is not a public meeting. This is a government-to-government consultation.

For those of you that weren't here yesterday, NIGC has gone forward with a regulatory review process of all of its regulations. And not to go too much in detail or to re-cover steps that we took yesterday, but basically NIGC is going through consultations here to hear directly from tribes as to how and in what format and where the regulations should be reviewed and addressed and perhaps amended.

The Commission is committed to a clear and transparent process. We're going through this process in sort of three phases, where the Commission is putting forward discussion perhaps, like we discussed yesterday, for physically licensing and fees, to get initial comment back from tribes and the public on those drafts.

If, after receiving comment from tribes on discussion drafts, the Commission may then decide whether to move forward with a proposed rule, which would allow, again, consultations and comment from the public on those proposals before the Commission decides whether to go forward with a final rule.
The proposed rule stage would typically allow 60 days for comment, and the final rule would provide for a 45-day written comment period.

As the Chairwoman mentioned today, we're going to talk about Group Three, Class II, internal control standards and Class II technical standards. The PowerPoint presentation for today is going to be significantly shorter than what we had yesterday.

Basically we asked, in Group Three, a handful of general questions that we're hoping for feedback on today. The Notice of Inquiry that the Commission issued requested comment on how to proceed with revisions to these two parts. Currently the MICS implementation date is October 13, 2011.

NIGC was in the process of drafting changes to the Class II MICS during 2010. And most recently, as probably many of you are aware, the Tribal Gaming Working Group rules have been submitted to the NIGC, and those are currently under review. We're hoping to post those on our website shortly.

In terms of Class II minimal internal control standards, the questions that we would like to discuss are what are the key issues that need to be addressed in the MIC? Are there any structural revisions that should be made to the MIC? How should NIGC make revisions in
the future to address technology? And finally, should
the Commission consider extending the effective date of
the MICS for bingo that is -- currently the
implementation date is currently October 13, 2011.

With that, I'll turn it back to the Chairwoman.

MS. STEVENS: So today, like Larry says, this
is a very short portion of our PowerPoint. We have not
put a draft out. We have the existing regs that were
put on the books in October of 2008 with extension time
lines for several years for the effective date.

We have heard from tribes about the need to
address some of the areas in the Class II MICS. These
MICS were born from a tribal advisory group, I believe,
that was started in -- I want to say July of 2008, but
before that, there were other groups that were working
on this that was working with the NIGC's tribal advisory
group.

We do have, as we said, some alternative
standards that were delivered to us by tribes that was
done through a Tribal Working Group that was separate
and apart from NIGC. The NIGC did not participate in
that. That was more of an ad-hoc group that was put
together at the behest of several tribes that were
interested in putting an alternative option, some option
in front of the NIGC. And as Larry said, we're still
reviewing that. And we'll post that as a comment for submission on our website as soon as our review is done. So I'm going to open the floor to just anything on Part Three, Class II minimal internal control standards. Any observations, especially from the regulators, and how the current work that was finalized in 2008 -- how is that working for you? What changes do you think will need to be made for these Class II MICS? Any of those issues that would help inform our decisions here.

The floor is open on Class II MICS. Anyone who would like to provide comment or ask any questions?

STATEMENT BY NORM DESROSIEERS

MR. DESROSIEERS: Norm DesRosiers, San Manuel.

I don't have so much as a comment as I do a question, maybe, that might be helpful to most of us. I understand there are a couple of folks here, regulators, from that working group. And I would sure love to hear from them on maybe some of the highlights of what was worked on the change in comparison to the other stuff. Is that possible we can do that?

MS. STEVENS: I'm happy, if there are folks that were part of the Tribal Gaming Working Group that are authorized from the tribe to speak, we would be happy to hear from you.
Yes. You want to just come right here?

STATEMENT BY LINDA McGHEE

MS. McGHEE: I'm Linda McGhee with the Poarch Band Creek Indians in Alabama.

And I was on the 2008 advisory group working on the MICS. And I would like to say, and Norm knows this because he sat in several of them, when we worked on that group, there were -- we were working on Class III documents, but the Class III, they kept getting shot over to Class II regs. And when the Class II regs came out, we noticed that a lot of the regulations in there were still geared towards Class III games.

So, in my opinion, the document that we worked on in 2008, if considered Class II, is not a working document. It's -- there's too many things in it that are not Class II. They're more geared to Class III regs.

Right now, I'm a member of the tribal working group that's working on the document now, and we are trying to gear it more in line to Class II regulations rather than Class III. We're trying to keep the Class III out of it, because there's a lot of aspects in Class II that, if you put Class III into the Class II, they're not going to work. If that makes sense.

MS. STEVENS: Are there specific areas, if I
may, that come to the top of your mind about a process
for class -- MICS process for Class III that does not
transfer over to Class II? Can you name specifically --

MS. McGEE: Yeah. There's instances in the
technical standards. And there's instances in the bingo
standards. There's no bingo in Class III. There's a
lot of bingo in Class II. Bingo is one of our biggest
sections.

And they were trying to -- in Class III, it was
called gaming machines. And the gaming machines were
fed over into the bingo document. And as a regulator --
I'm a director of compliance for the gaming commission
at Poarch Creek, and as a regulator, we had a very
difficult time trying to do audits based on the gaming
machine section, when we were trying to separate out
electronic bingo from regular bingo, paper bingo.

So, in that instance, bingo is one of the
biggest topics, because in Class III, like I said, it's
geared to gaming machines. And we don't have gaming
machines.

MS. STEVENS: Do we have others here that are
part of the Tribal Gaming Working Group or the Tribal
Advisory Committee that the NIGC sponsored years ago?

Yes, sir.

STATEMENT BY JERRY SCHULTZE
MR. SCHULTZE: Jerry Schultze from Morongo.

Tracy Burris was on it with me for quite a while, and basically we started out as another Class III commission. And it got converged with the Class II commission. And that was the one that ended up, I believe, in February of 2008. And part of the process was that we would advise, but our advice wasn't taken.

And the attorneys -- there were several, many attorneys that were there present during most of these things, and their view was we needed to keep the electronic needs to bingo as close to bingo as possible and not using Class III terminology. And, from a guy using the Class III, it was a little bit of a shock.

But like the bill acceptor and all those terms used in Class III are different for Class II. And the purpose of that is to defend against states like Alabama, Oklahoma, and maybe in the future California, so that they're consistent and all with bingo.

And the technical standards, we never even saw those. Those were just handed to us by a former chief auditor from NIGC. We had no say on that whatsoever. So it was basically an advisory committee that advice wasn't taken.

So the latest group, they've come along, and they've had a lot more experts -- like in Oklahoma and
people like that, they're experts on this Class II stuff. They have a lot of input with a lot of the Class II attorneys. That's what's needed so that we can fight the governments, like in Alabama and Oklahoma or wherever, you know, they're not fair to the tribes.

So that's when that whole process started.

That's when it came to be and taken up by the new committee.

MS. STEVENS: Just before I go to you Tracy, I want to clarify that, and I heard it from Poarch over here, is that the previous NIGC-hosted basically tribal advisory committee did not -- and the product that came out of that did not necessarily reflect the working -- the committee, the advisory committee. Is that -- and that --

MR. SCHULTZE: Yeah.

MS. STEVENS: -- you know, would be helpful? Are you saying it would be helpful to have another advisory committee --

MR. SCHULTZE: If you were to have an advisory committee, you're there because you want to get their advice. And they're there because they have some level of expertise to be able to give you this advice. They don't represent all the tribes, but they represent experience of the tribes.
We had some high-powered people on these things. And we were promised a bunch of things, and it never came to be. It was just here it is. And Mr. Hogan -- the directorship was kind of a dictator. It was either his way or else, you know, which was a complete difference from what we were using before when we had Terry and Elizabeth and people like that. It was kind of a slap to us.

One commissioner, a good friend of mine, he wasn't always in conjunction with the chair, but he was the vice chair, so you have to kind of go along with it. But we were very, very disappointed. And quite a few members actually quit along the way, because we felt we were being used as window dressing -- you know, we consulted with you guys, but they really didn't. Our input was not taken per se.

Different from the other MICS. That was on the 2001/2002, and that was verbatim just about what we agreed to, even though if you go back and look at the opening, we said the NIGC didn't have the authority to do this. In the spirit of cooperation, we realized the MICS was important to do this. That was almost taken verbatim from us. And it didn't happen after that.

So I'm just saying I think you have assets here that you need to use and you need to use these people's
experience and everything else, because we have some evil state governments out there.

MS. STEVENS: Well, so do you think it would be beneficial to put together another tribal advisory committee that would be more interactive? If the product that was produced as a result of the other advisory group, the former Commission -- and, you know, we're hearing this all the way up to today. I've been on this now for a year and I've heard this repeatedly and also used to work for a tribe. I know what you're talking about.

There's no point in an advisory committee if the advice is not taken or at least considered. We want to make well-informed decisions here. We're not going to operate in a vacuum.

Would it be of benefit to you -- are there folks here that think it would be beneficial to try to do a re- -- convene another working group or an advisory committee? And then, if that's the case, there's a lot of questions involved in that. Who makes up the group? How do you decide? Would it be beneficial to have a facilitator?

I've been in a -- I got the -- had the fortune of working at Interior and working with some of the facilitators on some really contentious issues that
involved tribes, and not just gaming but other things. It was helpful to have a neutral person being able to bring the groups to consensus as their goal.

And one of the original members of the first advisory committee -- his name was Jamie Hummingbird -- who said yeah, we had a facilitator, and that's how we got to supportive -- some consensus in the group. Otherwise, you're just coming to loggerheads or somebody wins and somebody loses, and/or there's a sense that's what's happened and people walk away.

MR. SCHULTZE: First of all, yes, I think an advisory committee is important and would be well received by the tribes. The way our process worked, you were nominated by your tribe to be a representative from this. And then the commission selected 10 members from these people, based on experience or geography, et cetera, et cetera.

And we're on this commission, and it was over a year. And we went through all the federal procedures on advisory committee and everything else. And we met once a week for each month for, God, I think our last meeting was April 2002 in Philadelphia. We did have a moderator. She was great. You're right, we had to reach consensus. And there's times that was difficult. We'd have to stop and caucus and everything else.
But we gave to the political realities, NIGC representatives gave as much as they could to the political realities. And I think I was telling you we were trying to get the tiers expanded to help the smaller tribes, and stuff (inaudible) at the time, but it wasn't practical, but we got the best we could.

We're regulators, but we're trying also to cut responsible regulatory regulations for the tribes so they can keep money from their operation. It's their base. They don't make a lot, and we don't want to get them all caught up in regulations.

But back to that, I think if you were to do it maybe based on that finding, is that you guys put out a memo to the tribal governments and asking for nominations. Then you guys go over the resumes and everything else. Like I said, it should be representative all across the country: West Coast, East Coast, South, Oklahoma, things like that. And then kind of empower them a little bit so at least they feel what they're doing. Because it takes a lot of work. It's useful, not just (inaudible)

MS. STEVENS: I would be interested in having tribes put forward some names would be helpful, but how do we get to other parts as an industry?

MR. SCHULTZE: You deal with regulators. And
these meetings are basically -- we allow them to be open
to other people if they want to come in and sit. If a
tribe wanted to bring in, as an expert, their attorney
or a manufacturer as a representative, as an expert on
certain issues and things like that.

Like we were just getting into digital
surveillance at the time, so we were bringing in experts
from the different tribes, different manufacturers,
things like that. So you look at what you're dealing
with. Especially in technology with these issues, and
you want to bring in your experts, so you go over that
and you try to -- your regs are always going to be
changing. So you try to think of maybe three or four
years down the road, especially on technology.
Otherwise, it should probably be industry standards.

We do what Nevada does, what New Jersey does,
what Mississippi does. It's all pretty consistent,
because from the operations side, they're from all over.
We've got people from everywhere, and they come into our
place and say, "Oh, this looks like Nevada regs," or
"This looks like New Jersey regs," or whatever.

And I think you've seen, since our regs have
been like that in the last 10 years, I think that you
don't hear the sniping anymore, "Oh, you guys don't have
regulations," you guys don't do this or you don't do
that. You get, "Oh, you have the same regs we do and gee, you guys enforce them."

I've got gaming guys in the floor 24/7, and they have the power to pull licenses or do anything else for an emergency. But we spent a lot of time and effort. And that's what we really worked hard on, to get that information out there to commercial gaming that the tribes are equal or better.

MS. STEVENS: Okay. Tracy.

STATEMENT BY TRACY BURRIS

MR. BURRIS: Tracy Burris, Viejas.

(inaudible) there's a major difference between the Class III and II regs is server-based. That defines a whole new world. It's not a standalone unit. It's a collection of units or boxes that are based on servers, and so it's the dynamic of separating the technical aspect, technological age to the game of bingo.

It makes it extremely -- it's gotten easier to understand. It yet still is, in a sense, complicated, because people can't wrap their heads around the game of bingo. And then trying to mimic what they believe are the characteristics of bingo.

And whether it's from paper, the shutter cards to daubers to all kind -- they were just segments or amended to improve the accountability of the game over
the years. We went to daubing paper from using (inaudible) and stuff for the shutter deals, because it's easier to keep recycling paper.

There was nothing -- you didn't have to daub. You didn't. They marked it with a pencil to keep recycling the paper, so they wouldn't have to buy again for the next day or the next week. So the daubing with the ink, you know disfigured it, therefore they no longer allowed it. It's hard enough trying to keep up with the serial numbers on a daily basis.

When we talk about what we've done is -- some misconception about it is that people failed to realize that some of the things that were done were done for managerial reasons or control reasons, not the fact that it changed the game of bingo.

So that's what people have had trouble wrapping their heads, if you will, around it, to get a concept what the game is about. As we go into the technology aspect of how will we utilize it, I think we've come a long ways with it. It's still necessary -- as Jerry says, we still need various experts, the technical, IT guys, that understand what a server -- you know, one thing I learned over the years, there's a difference between a system engineer, there's a software engineer, there's a program engineer.
I mean, they all have a different function and all have a different school of thought. With all respect to the lawyers here, they all have different schools of thought where they went to law school and their emphasis. Everything has a different school of thought, and IT people are no different.

We often -- I often get in trouble -- I've said it before and I'll say it again, software and IT technology is driven by the person, personality. And of course that's how we get certain technology or plays or methods of plays, by someone's thinking of something and you know, patent it. And then we get into those issues where we don't have an infringement on someone's technology, if you will.

I'm sure that's why the manufacturers have certain concerns, and, one, we don't go out there and put a -- one manufacturer's system as a preference. Hopefully -- I don't think it has been done. Some might still argue that to some degree.

The old people in the system that have been in a long time would say one thing and people who try to say differently maybe, heard different comments over the years. But it's a thing that -- the technical standards are a good thing.

The need for an advisory committee, I believe,
should be under the negotiated rule-making process. Not just rule making, because that sort of alludes to what Jerry addressed, that the rule-making deals, that you are in an advisory role; the agency can take or leave our advice. And that's fair enough.

Under the negotiated rule-making process under the federal system, at least there's input. And as Jerry says, at some point there's ability to caucus and come to an agreement. Hopefully that will be accomplished, coming to an agreement, and it's effective both for the industry -- when I say "the industry," I'm talking about the tribal gaming industry, its concerns and needs for its future. I think that's the greatest concern that we need to maintain is the longevity of this viable economic tool in Indian country.

So those are things that we need to do. And I think also the advancement -- let me back up a little bit. Advancement of technology, too, was often driven by lawsuits won and lost. Nobody seemed to say anything when we were getting our butts kicked in the early '90's. And then when we figured out how to -- we adjusted what the court's interpretation (inaudible) that along with the tribes went to the manufacturer and said, "Look, we can't do this. What we can we do? What do you think?"
So we put our heads together and see what technology advised us, and we started doing things that we believed would work. And lo and behold, we started winning some lawsuits. There's a little of that -- maybe what Jerry talks about, the political aspect of it. There's the practicality we need to make sure we're compliant, because it is an economic tool.

As a regulator, I want MICS, I want technical standards. My operations may not, to a certain degree, other than -- you know, if it's cost prohibitive. They also want to be protected, too, from -- you know, maintaining and maximizing their profit, too. They also are having to provide more manpower for monitoring on the internal control systems. Got to be cautious there.

And we -- there's those of us in the early years, the '90s, when we first came out with the MICS, I was on that first advisory meeting. It was greatly concerned about the cost, the burden for those of us that were just up and starting and struggling. But I got to say, over the years, over the last three, four advisory meetings, some of us got a little complacent because we had the money. Maybe it was a bad thing.

Sometimes we may overextend ourself because of a good thing. It's easy to have 15 people looking at something if you can afford them. But I think the
reality of it is we thought this -- I'll say this, I've been sitting in a lot of these meetings for the last 20 years listening to tribal leaders. We thought this thing was going to go longer than it has. Not that it still won't, but it's changed. The influence of commercial, states' inputs in gaming has drastically impacted and rule Indian country in a way that we haven't seen, that we didn't anticipate for years to come.

So I think we're going to be forecasting different changes. Not to say the controls can't be in place. We have to be practical. Again, we can't have 15 people watching something, much less have five. It's an overkill. You know, who is watching the watcher, and the watcher is watching who and who has the authority, and it's got to reasonable and rational.

I think, as Jerry said, we've got people on the floor and Nevada does not. We had this conversation a while back. We were in Vegas a year or so ago for one of the deals, and I asked the people -- we were sitting at Harrah's there. I said, "Tell me if you see a state regulator here on the floor." Nobody could point one out.

Go to a tribal facility, and chances are you get an idea who -- on a regular basis who the regulator
is. I think the tribes, by putting their regulatory
people as tribal government officials as opposed to
operate-their-business officials, there's the
distinction they do have the authority to have a viable
(inaudible) reach out and grab someone doing something
wrong, whether it's a customer or whether it's an
employee. It's done. You know, that's big.

I mean, tribes are looking at great expense to
have people on the floor and have that separation of
authority. They're not security. They're not security
personnel. There's a distinction what the role security
does on a floor as opposed to what a regulator does.

There's got to be -- those things have got to
be looked at. If you took a flow chart and put it
together and really mapped out what the tribes do as
opposed to the other ones, you don't see it.

So it's important that -- I think the
committee -- advisory committees are coming together.
They need to be for the future. They don't need to go
away. We'll have other issues as we come and go along.

As technology gets better, who knows, we're
always worrying about the day we have virtual reality,
we see these screens here on the wall that (inaudible)
and walking through facilities and playing games, doing
their things, but it's going to be a different way of
having to look at it. So maybe it works, maybe it
doesn't. There's going to be new things that tribes are
going to have to do to be more competitive, once again,
to get people to rule (inaudible).

There are those companies that are fortunate
enough to be close to urban centers and there are others
that are definitely are not. We're talking maybe 20
properties are truly close to urban centers, and the
rest are not.

If you start getting 20 miles away at 4 and $5
a gallon of gas -- I think when I started this, I think
gas was still around a buck. And now we've watched this
in the last five years drastically go from less than a
buck fifty to $4 to $5 a gallon. And that's a big
impact to our markets. So we have to be aware of it.

Because the interest says it very clearly, it's
an economic tool. And that means that -- I truly
believe the tribal leaders believe it, it was intended
to be an economic tool. And I believe it gives the
agency some deference to understand that viability to
the importance of that.

Like I said, everyone has got comments. Jerry
has made great comments, so does Linda, and there will
be more. Scott made his remarks, too. There are
concerns, and there will be more concerns, because no
one knows what five years hold for us. We're going to
still be doing it. It's just what advantage or
disadvantage we're going to be in. Thank you.

MS. STEVENS: I just want to ask some
clarifying questions from you, Tracy.

Jerry had mentioned, you know, some sort of
working group or an advisory committee again. You
mentioned negotiated rule-making. I do want to
emphasize the time this takes. It's not necessarily
associated with my time in office, but I think the sort
of incompleteness of what even the last commission, and
then look at Norm's, once you're moving out of office,
it can change within an administration.

So I think our desire is to have some sense of
finality of these Class II MICS, because they have
been -- the effective date is postponed. We have
corns about how the advisory committee -- you know,
products and suggestions and advice was taken or not
taken.

Negotiating -- how do you all feel about the
time it's going to take to do another advisory committee
or a negotiated rule-making, which actually, Tracy, is
going to take a lot longer than the tribal -- the former
commissioner over here -- another former commissioner,
Teri, is shaking her head yes.
Are you concerned about the time frame it's
going to take or, you know, is there -- you know, I have
a list of questions here I want to ask the group.
Negotiated rule-making versus the tribal advisory group
that, you know, can fall under an exception under the
fact that we're tribal governments.

You know, if you sat through the (inaudible)
rule-making, that took many years to do, and can the
industry really wait that long?

MR. BURRIS: Let's think outside the box.

MS. STEVENS: I'm all ears.

MR. BURRIS: Assuming and understanding and
serving on three of the advisory committees over the
years, I understand it's complex. Who says the agency
can't put together an advisory group informally? Show
up, you know, you could pick 10 or 12 people to come in
on a quarterly basis or every six, biannually, and sit
down and discuss some of these things person to person.

Not official. I don't know if that can be
done. But we can get ahead of the group before you have
to do something official. I don't know if that can be
done, because (inaudible). But in a sense, it seems
like it makes sense. I mean, like the TGR, it's a group
that's put together, but doesn't mean you can't reach
out to 10 or 12 people or five or six and sit down and
have strong discussion about things that are coming to
the future or are currently impacted that need to be
changed, and then move forward with your official
process.

MS. STEVENS: So do you all think -- I'm
looking at the two of you, since you made comment, and
I'll get to you in just a minute, Teri.

Do you think it could be done within a year, at
least on Class II and the technical standards? We
already have some products that we'll put in front of
us. We have current regulations. I mean, what's a
reasonable amount of time that this is going to take?

STATEMENT BY JERRY SCHULTZE

MR. SCHULTZE: Well, I would say don't throw
out the baby with the bath water. You've already had
this advisory group going for the last couple years and
working on the Class II. I would like to see what they
have and what they produced. I know they have had a lot
of outstanding people helping them. And most of the
people involved in this really rely on Class II as their
lifeblood.

I'm saying down the road, I think we considered
our commission -- Teri, wasn't it a standing committee
basically?

MS. POUST: Yeah.
MR. SCHULTZE: We did everything, whole Class III revised in 10 months. But it took a lot of time and effort. A lot of focus.

MS. STEVENS: I'm optimistic about it, given that we have been honoring the executive order (inaudible) combination about considering alternatives that tribes put before us before we start drafting. And that may be helpful, as you have said, that, you know, there may be a product out there in consideration -- consider it with the current regulations.

Some of that work may have already been done, or it sets the stage for a discussion on how do we come to some consensus between the two if there needs to be. I think some of the work has already been done.

I worry about letting this linger much more, because it has been for several years now. I do want to see some movement, closure, as I'm sure you all do.

MR. SCHULTZE: Things have changed in the 10 years since the first one. What we did was we made sure that we opened it to up NIGA, we opened it up to the National Tribal Gaming Regulators Association. There were about 350 comments or so from the tribes. And every one of them was answered. And some of them were fantastic, great ideas. So we had a lot of (inaudible) on this process.
From a practical standpoint, I (inaudible) because the states right now, you know, Alabama, California, they're trying -- you know, it's -- bingo is real simple. You know, it's bingo or it's not bingo.

You've got the court decisions. We kicked Justice's butt several times, and they kept coming after and coming after, and I could never understand that. I think they're oh and three when it comes to the bingo things.

That's what -- the basic thing is, is that these machines are -- they're either bingo machines or they're not bingo machines. So why make it overly, overly, overly restrictive and things like that.

On the Class II MICS, when it started, there was a certain auditor. But he was trying to make it so that because maybe the CRIT decision went out and you guys wouldn't have a Class III MICS, but the Class II MICS was even far more reaching than the Class III MICS, was the cage standards, all of this other stuff.

Like what Tracy is saying, man, you've got personnel costs up the ying-yang, you know, that you're trying to keep under control and make it reasonable and stuff like that.

So getting back to the point here, I would say let's go with what this present committee has. Let's
put it out, get comments on it, and then go from there.
I surely wouldn't -- all the time and effort they put in
this thing, I wouldn't just let it go down and bring in
a new one and start from scratch. I know people on the
committee, and they're very sharp.

MS. STEVENS: I'm not into reinventing wheels.
I only have so much time. My time is a third of the way
gone. I do want to give Teri a moment here, and then
we'll go to Scott.

STATEMENT BY TERI POUST

MS. POUST: Teri Poust here representing Poarch
Band of Creek Indians.

But I was the NIGC Commissioner in charge of
the 2001 MICS Advisory Committee. So I'm very thankful
to hear this discussion. I think a lot of good comments
have already been brought up, good suggestions.

My number one suggestion, and I know Jerry hit
on this, was using a facilitator. We did use a
facilitator, and she was phenomenal. And I think that
was one of the main reason why even today people speak
very highly of the process we undertook there, for a lot
of different reasons.

One, she kept us focused and on task. We knew
this is what we had to get done in this week's time, and
she kept us focused so that we could do that.
She was also really good about helping us reach consensus, which I think is really important. She would step in when she needed to when somebody was about to say something they would later regret, and really kept us focused. Because the way we operated was the changes made to the document may not have been your first option, may not have been your second option, but it had to be something that you could live with. And I think that was really important.

And I think that our facilitator was very good about, okay, well, Jerry, I hear you're saying this, NIGC, I hear you're saying this. It kind of seems like if we do this, it will make everybody happy. And then we could all go, yeah, that make sense. We can all live with that. Maybe not your first choice.

(Interruption)

MS. STEVENS: They're testing.

MS. POUST: I do think using a facilitator was very helpful. I highly recommend if you do do another tribal advisory committee -- starting with what the tribal working group has come up with, I think is the way to go. Whether or not you want to go ahead and publish it as a proposed rule or a draft rule or something for Indian country to be able to take a look at it and provide comment and then have the advisory
committee with the facilitator go through those comments, I think it would be a very good way to work. And I think you could do it pretty quickly, and definitely within a year. It would be kept focused and on task. I think it is very doable.

MS. STEVENS: Okay. That's helpful, Teri. It's good to know.

I'm a big fan of facilitators, and having come from Interior, we use them often, even though there's some very, very contentious issues between the tribes and the department. And it turned out really well. And I've seen that they are able to get consensus but also move through and keep everybody on task.

I like taskmasters, and I like being able to stay on schedule and stay focused and see the end of -- the objective at the end, which is we want set regulations that ensure the integrity of gaming operations but are workable for tribes but not overly reaching or overly burdensome; they're not hard on your budgets; that is something that is reasonable regulation and protects the industry.

And we do have submitted to us probably less than a month ago the independent working group that's been put together and that has put together a Class II.

But we do have the documents. We are wanting
to take a look at them. We do plan on putting them up on our website and deciding what it is that we should do with them. What should we do with those? We have a suggestion here from Terry that we put them out and get comments on those and then work from those comments to find, you know, a workable set of regulations for Class II.

And you had mentioned this, Jerry, because you were working on both Class II and Class III.


MS. STEVENS: But the original group was just a set of MICS with no differentiation between --

(Interruption)

MS. STEVENS: We might -- go ahead, Jerry.

STATEMENT BY JERRY SCHULTZE

MR. SCHULTZE: What I was going to say basically the first one was specific towards Class III MICS. It was actually the second committee. Tracy was on the first one that came out in '99. Ours came out in, I think, April or June of 2002, and when Hogan came aboard in 2003, he wanted a standing MICS committee.

And some of the original members from the second committee were on it, like Hummingbird and me and a few others, and then we brought new members. And that
lasted a while and then he wanted a third one. And in the meantime, Class II was really popping up, so they made a technical advisory group for Class II. Norm was on that one.

And eventually they kind of merged to the MICS of Class III and technical of Class II, and, boom, so they were all thrown together. And it was a circus at times. But it was pretty good.

MS. STEVENS: Okay.

Scott.

(Interruption)

MS. STEVENS: Scott, go ahead, and I think maybe we'll take a break until we get past this.

STATEMENT BY SCOTT CROWELL

MR. CROWELL: Can we find out how long it's going to go on, someone from Rincon, during the break? I'll figure out how long it's going on. I apologize. I also apologize for the volume.

I want to make a comment and put it in some context, because although I understand the need to move quickly, when you figure out what's the end game here, you know, the end game is to get the issue resolved and resolved in a manner that's going to be beneficial for the tribes.

I, several years ago, represented a tribe that
got a proposed NOV through noncompact Class III gaming.
We worked very hard with the NIGC at the time to take
those games out and put in games the NIGC was confident
constituted Class II games.

We entered into a formal settlement agreement.
I installed the new games, only to have the Department
of Justice file a Johnson Act violation against the
tribe. And we literally had, in the courtroom, the NIGC
taking one position and the Department of Justice taking
another. It was an outrageous circumstance.

It's because of that, that I think some
consideration might be given to the negotiated
rule-making provisions for the very reason that, you
know, the Department of Justice right now doesn't have a
chair at the table. I would want to know what the
position is before you invited them to the table.

But there's the possibility that whatever you
come out with, they are already on record saying the
NIGC can do whatever it wants, but if we consider it
Johnson Act advice without a compact, we're going to go
after it.

In that litigation, if that were to happen,
there would be a large amount of discussion of the level
of Chevron deference that should be given to the agency
interpretation. If you had gone through the negotiated
rule-making process, even though it's more
time-consuming and probably more costly, (inaudible) it
probably provides the tribes better insulation against a
hostile Department of Justice.

And the focus -- Phil got beaten up -- and I
beat Phil up all the time. Phil got beaten up for the
last several years, and Norm did, too, for engaging in
an agenda to try to develop a bright line. But we all
forget that he started that process, in large part to
get the Department of Justice out of the game, because
they were going around saying we don't care what the
NIGC says. We like the Tony Hope definition of Class II
gaming, that if you plug it into the wall, it's Class
III. And we embarked on a series of lawsuits.

When we think about what we're trying to get
through, we need to come up with a product that is
either going to have Justice stand down or have Justice
defer. And I think that that should be part of your
consideration on how to go forward with the Class II
process.

MS. STEVENS: Thank you. We're close enough to
our scheduled break, and if there's more testing that is
going to take place, if you have comments or you wanted
to address us, if you could just hold on to those, and
let's give a little time to the facility to get through
their testing. And we'll come back and see where we're at in about 20 minutes. Okay. So hang on to your thoughts.

(Recess)

MS. STEVENS: Okay. Sorry about the long break. It's our understanding that testing should be over at this point. Hopefully we can get some people back here pretty soon. I know I saw a lot of them out in that direction.

So we were talking about the process to address Class II minimum control standards, and I know I had some -- Skip mentioned to me that there might be some comments that he has, especially about what we have up on the screen right now.

If you want to -- one thing I do need to remind everybody is that our transcriptionist says she is having a hard time hearing people. If you can put the mike up against you, that will help. Okay. Thanks.

STATEMENT BY SKIP LAMBERT

MR. LAMBERT: I'm Skip Lambert with the Chickasaw Nation of Oklahoma. Couple of points to be made.

I think the -- earlier you asked the question of one of the commenters what specifically is out there that's different in the Class II and the Class III that
make the MICS document that's out there now what it is. One of the problems -- and perhaps the best example I can give you is in the requirements that if a gaming machine -- what we call the electronic player stations in some of these documents, was paying out at a percentage that was more than 3 percent off the standard, that that created a variance that had to be individually addressed.

Well, that works for Class III. It absolutely doesn't work for Class II. Because in Class II, it's a linked bingo game. It's -- when it's in electronic form, it's linked, as Tracy mentioned, by a server, where you have a lot of people participating in a common game.

Now, from a MICS standpoint, if for some reason that game, as a whole, does not pay within 2 or 3 percent of what it's supposed to, well, sure, that's a variance. And just like you would -- maybe you would treat it as such, but not the individual player station.

The variances will be incredibly great from game to game, from day to day. But in the end, over time, it will in fact meet that standard, just not necessarily on a machine level.

When -- I've been part of the working groups through this process. I was part of the working groups
that Tracy and Jerry referred to going back to, I think, '06 or '07. At that time, I was with a manufacturer, so I was one of the experts with the working groups. Now I'm with the Nation and part of the latest working group.

The approach that we've taken in the working group with what we have sent to you as a bit of a skeleton with supporting bulletins, that approach is specifically to deal with your third question up there: How you make revisions that deal with evolving technology. Well, that was one of the big challenges that we saw, because even in those sections of the MICS, coming from prior advisory groups, we knew over time, and there's only been one or two years since that release, there already need to be things changed. There already were new technologies that need to be addressed.

So for that reason, our suggestion has been let's make the minimum internal control standards the minimum standards and let's use bulletins to give the detail and explain how to make those work.

So that is the approach we've taken. It is specifically relative to your third question. And to your second question, it would certainly be a structural revision. But we think over time, it will be a lot easier to deal with new technologies when something new
happens, instead of having to rewrite a section of the MICS. You simply have to add a bulletin or revise the bulletin. That's why we did what we did.

MS. STEVENS: All right. Thank you.

STATEMENT BY KATHRYN OGAS

MS. OGAS: Good morning. Kathryn Ogas on behalf of the Lytton Rancheria of California. And I want to first say I want to concur with everything that everybody before me has said -- what?

MS. STEVENS: Speak into the microphone.

MS. OGAS: But I did want -- one thing I wanted to point out that I know the NIGC knows, is that Lytton is entirely dependent on Class II and will likely remain that way for a very, very long time. I've been doing this MICS roadshow for quite some time, I think since 2004. So I've seen it all happen, some of it good and some of it bad.

And to carry on Jerry's comments about that last TAC was very frustrating, especially for tribes that were sitting in the audience that weren't even part of the committee. We were not allowed to even have any input, and we thought we had a lot of good ideas.

That being said, I think structurally there needs to be a lot of changes with the MICS. And I think the work that the TGWG has done over the last eight
months has put a lot of time and serious effort into it and money. And I would agree with Jerry, I think you should put that work out there for people to comment on. And let's go from there and get this done.

MS. STEVENS: Any other commenters?
Yes.

MR. DESROSIERS: I've been really quiet.

MS. STEVENS: Today.

STATEMENT BY NORM DESROSIERS

Just a couple of brief comments.

Getting back to some of the earlier discussions, I'm a huge proponent of tribal advisory committees. And your question about how they should be comprised, my only comment there is Jerry talked about geography, skill and experience. And I think all of those are important, and I support that.

You touched on, a little earlier, about making sure that we -- the composition of the committee is indeed tribally authorized representatives, so it is a tribal advisory committee, not a federal advisory committee. So it's a government to government, and you don't get wrapped around the axle of the fact of the requirements. That's almost as bad as negotiated rule-making as far as the complexity and expense and
everything else. So that's all I want to say about the composition, in addition to what Jerry said.

I would -- and I support the notion of facilitators. I think they're great. I've been through a lot of exercises with them, and they do serve a very valuable purpose.

I'm anxious to see what the working group has proposed. It may be premature to talk about an advisory committee until -- I mean, maybe that working group product is worthy of comments, draft. I don't know what it is. But we may want to look at that before we talk about advisory committees.

My only last comment on 543 in general is get her done. We've been waiting for years. What Class II internal controls exist? Just don't address the Class II gaming systems issues. And we need those.

As you've heard previously mentioned, we have some, I think, inquisitive state regulators that are looking to challenge, you know, a lot of the Class II stuff. And the more we have backing us up on a federal regulatory level, the easier it's going to be for us to keep state regulators out of the Class II inquiry business. Okay.

That's really all I have to say on 543. I hope we can get it done. I have a couple comments on 547
when we get there, which I hope is not too late in the
day because I'm going to have to leave.

    MS. STEVENS: Thank you. We will get to 547
after lunch. Just trying to allow folks now to talk
about these, manage our agenda a little better.

    Do we have any other folks -- you know, I agree
with you. I do want to get this done. It has been sort
of incomplete for a number of years, prior to my term
and your term, prior to your term. This has been going
on for a while. And it doesn't -- it needs to be
finished so that the industry has what it needs to
maintain the integrity of the operations.

    So I agree with you.

Sheila.

    STATEMENT BY SHEILA MOROGO

    MS. MOROGO: Thank you, Chairwoman.

    I'm Sheila Morogo, Oklahoma Indian Gaming
Association.

    I want to echo Norm's comments in terms of
let's get this done. It's been a long time of -- and a
lot of money, a lot of time spent working through these.

    What I would say is we also have to remember
that the Class II is large and small. And we have to
take into consideration smaller operations that may not
have the electronic, you know, infrastructure that some
of the larger ones have.

So when you're looking at these, I would suggest that you get folks in from both the large and the small tribes, so that when you do this and it finally gets done, it is put to bed forever and it takes care of the continuum of what we have in this part of the industry. So that, you know, it is not a burden for the small tribes in this economic environment to do anything new and can take care of the upcoming technological situations that we're going to see.

So that's a big bite to take. But I think if everybody puts their nose to the grindstone, I think it can get done.

MS. STEVENS: Thank you.

So barring anyone else have some general comments they need to provide, I do have a list of questions. We have gone around some of the process on advisory committees versus negotiated rule-making, what went wrong, what went right with former tribal advisory committees that we can draw from.

We've heard what -- from some what you would all like us -- to see us do with the tribal working groups draft that has been sent to us so that we can get some feedback. It's also my understanding, I'm told, that that is a part of a number of parts that that group
will be putting forward to us as an alternative. It's therefore not complete right now is my understanding from folks that are on the group.

There is some supplemental information. I'm cautious about putting it out there, just as a -- what's been submitted to us as an alternative. There's some other working parts that supplement that work, but I will see that when we see it. But you've told us that you all would like to see it in common time.

It would be great if we had a representative from the tribal gaming working group. And we did get some of it from Skip on how they went through the process and the -- with Kathy and, you know, what was the process. There's -- you know, but then again, this is the group's draft. And I'm not inclined to ask for or answer any questions on their behalf. I can't really ask or answer questions because it's just a draft, but we'll address that later on as we get more into a set of documents from the group.

I've been wondering about this, is if we do move forward, how we move forward. I know in the past, it's been very segregated groups. Is this MICS and technical standards something that can be done together or in conjunction or parallel, one after the other?

I'm a little cautious about separating some of
these, because you don't have everything at hand which you need to talk about. They're not mutually exclusive from the technical standards and the Class II MICS.

Should those be addressed in the same type of working group? Trying to get in my mind, see how that would play out, and how it would be orchestrated with having certain people at the table who have certain expertise, tribes and regulators at the table for minimum control standards.

Do folks have thoughts on whether we tackle these together, apart, parallel, consecutively? Some thoughts on that?

STATEMENT BY TRACY BURRIS

MR. BURRIS: Tracy Burris, Viejas.

I guess your administration, Madam Chairwoman, has expressed a lot more deference towards being, if I may use the word "reasonable," then I guess the question would be in moving these groups forward is what -- maybe there has to be a clear, concise what is reasonable. What part of the minimum -- sort of an age-old question is what is a minimum standard?

And I think both for the agency in the past, also for some of the TGRAs, what does that really mean? In other words, you know, it's fair to say some of these regs are beyond minimum, to a point.
Maybe it's just a -- sitting down and going through the idea of what we're really trying to do. You know, what is the agency's expectation, and what is its sense of being minimum? What does that really, really mean? And how do we achieve minimum, as opposed to leaving the TGRAs, with the exception of writing that regulation more stringent that makes it necessary; therefore being on the tribal level of being adjusted, in the event of technology changes and stuff, quicker?

That's the greatest concern I have, because we're talking about a philosophical difference that the previous administration seemed to have. Their idea of minimum, I think it's fair to say, is extremely stringent, overbearing, in my opinion, on some things. Not all things but on most things.

You know, is that the difference? Are we talking about the MICS? Are we talking about the actual cash handling? Are we talking about movement of paper? You know, there's some basic points that we're -- you know, obviously if we rank and utilize our risk, obviously in our facilities, we worry about whether we have cash. What about everything else when we don't have no cash? And to what extent do we do that?

The irony of it is, is that we went to so much -- to take it in and take it out -- and I realize
it's being treated as currency. But the ability to
track and void and all of that is so easy anymore, that
sometimes I wonder if our philosophy has changed enough
by treating it too extreme.

It's something to think about, because the
system is tracking us in ways it's never tracked before,
the back-of-the-house systems. So I just want to be --
how are we going to use technology in that sense, in
terms of tracking out ticket in and ticket out?

And I mean, I'm just wondering how much cash
anyone ever handles, actually, other than what they
handle at the cage when they cash out and the initial --
once someone inserts a $20 bill in the machine, after
that, it becomes a ticket in and ticket out.

We've looked at it. We often shake our heads
at times and pull out how much tickets we have as
opposed to currency. So it's just something to think
about, I think, you know, to better understand -- I
understand yours, as the Chair, but the other
commissioners, but -- you know, the reality is that is
that you're staffed. What is the agency's staff concept
on this?

I think someone alluded to -- Jerry alluded to
earlier about the -- because of CRIT, whatever, I know
the agency has a lot of auditors that looked at Class
III environment, and maybe there's a point that some of us thought some of these regs were being written -- these MICS were being written in order to preserve people's (inaudible) in an agency.

You know, we all have to face cuts, unfortunately, in these times. And if there's truly a need for that much oversight. I mean, I realize we have a role of oversight. But if that's what it is or there's a role of actually -- you know, do a forensic audit as opposed to doing an audit and things like that, and how much detail does it take?

I'd be a little curious about that to be able to get a grasp on that. Because some of us take a defensive role from, again, past experience.

Thank you.

MS. STEVENS: Yes.

STATEMENT BY KATHRYN OGAS

MS. OGAS: Kathryn Ogas, Lytton Rancheria.

I think you need to do them at the same time, tech standards and MICS, for a lot of reasons. I mean they complement each other, and they do even have the same terminology. And I think if you get them at different groups, different times, you might start coming up with more definitions and more changes than you would want to have.
MS. STEVENS: I asked that question, just in looking back at the previous technical standards, and it was clear separation between the working groups and what they were charged with, the advisory committees. And I recall frustration in being -- in sort of being in this silo.

And would it be beneficial to do these together so it's not mutually exclusive, and it's inclusive, when there's crossover, there has to be some reference to other parts, that you're not boxed in?

And I always wondered about the necessity of these sort of silos that were created with these working groups. Especially if this independent working group is working on both of them, it sounds like it's beneficial to do both.

What about, you know -- and you all were charged with this, but the segregation of Class III, whether it's a reg or a guidance. That puts a whole other spin on whether or not these should be addressed, in whatever form they come out. Because that does need to be addressed as well.

Is there any benefit on the down side of trying to tackle these in different groups or doing them all together somehow in terms of what the groups work on?

Any thoughts on that?
STATEMENT BY NORM DESROSIEERS

MR. DESROSIEERS: Norm DesRosiers, San Manuel.

Going back down memory lane, before we had technical specifications, any Class II gaming product that wanted to be offered for public play had to be subjected to analysis by legal counsel, NIGC, and then an opinion rendered, yeah, it's Class II, or no, it isn't. Obviously that slowed down the industry and limited what products got on the market, limited -- extended the length of time for approval of a product. And it wasn't working.

I mean, the manufacturers didn't know what specs to manufacture to, test labs didn't know what specs to test to, tribes didn't know what products could qualify. So the technical specifications that eventually, painfully were promulgated at least eliminated that nonsense.

It set some standards, which was a win/win for all of the stakeholders: The tribes, the test labs, and manufacturers. At least we had some ground rules on what a product functionally and physically had to be to be Class II. And certified by a lab.

But technical specs were just that. They were more addressed to the physical box, the server, the software, the programming, the security of the box, the
functionality, what it had to do, where your controls --
and of course we often, throughout the discussions, had
disagreements -- not disagreements but debates over,
well, is this a technical specification or is this a a
control, you know? What box do you put it in?

And I understood that. And probably, in large
part, a lot of work controls. But controls now are
designed to do, I think, two primary jobs: Controls
address accounting, accounting for the money, who gets
access to the money, the metering of the money,
protection of the money, and how it's handled and how
it's received, how it's taken out of the box, what
account it goes into. That was all accounted for in the
meetings. And security, as well, for access to software
and who can -- you know, mess with the software that
controls the games.

So those are -- you know, the controls of
access and accounting are really a separate function
from the main -- the box and the server and software and
all of its functionality.

So there is a real distinction between
technical standards. Personally I don't care if the
same group addresses both of them. I understood from
Skip the discussion, during the break, there's not a
whole lot that the working group is looking to change in
the existing technical standards. So I don't think
that's going to be an obstacle to holding back progress.

I think the controls is going to take the bulk
of your time. What little have to be done with
technical standards, you can throw that along with it.
I don't care. I just want to make sure that people
understand the distinction of what the technical specs
do and what the controls do.

MS. STEVENS: Linda.

STATEMENT BY LINDA MCGHEE

MS. MCGHEE: Linda McGee, Poarch Creek.

My thoughts were along the same lines that
Norm's were, but I also wanted to point out that if you
did, in the future, elect a committee, just make sure
it's diversified. Because there are a lot of tribes out
here that are not only Class III but also work Class II.

And I know the committee that I was on, there's
was only one Class II representative, which was me, and
the others were Class III. But yet, we were told that
we reviewed the Class II regs, which we did not. But in
that, you need to make sure you have as many Class III
experts on the table as you do Class II; otherwise, it
gets confusing.

I know I was the only pull tab expert in our
group. So what I said basically went, and that's not
fair to the other tribes. You need more people out there speaking that have expertise in those fields. So, you know, I'm all for working groups. They're excellent.

You know, a lot of tribes come together, and you hear a voice from all areas throughout the country. But just make sure if you do form a group, that it is one that's diversified, that it has both Class II and Class III on it if you're going to work on both documents.

MS. STEVENS: Charlie.

STATEMENT BY CHARLES LOMBARDO

MR. LOMBARDO: Hi. Charlie Lombardo, representing Poarch Creek today.

I was on the original tech committee which -- first meeting was actually May of 2004. And at that point in time, as we went through the technical standards, we separated out -- because there's a lot of misconception, we separated out what was the technical standard and what was a minimal control.

So going forward, I think the two documents need to go parallel, need to go together forward -- forward together. And there's a lot of terms and documentations that kind of will make sense, if both of them are together, and may not make sense if they get
separated.

From the question of Class II and Class III MICS, being an operator, I will tell you that as many similarities as there is in the two, there's many, many differences. And to try and combine them would be a big mistake.

MS. STEVENS: Glad you addressed that, because I've had tribes come to me and say you're asking me to have two separate processes, and it's costing me money. And all of the money is moving the same -- we have the money moving the same way. And now I'm having to duplicate processes or have separate processes from Class II from (inaudible) originally a Class II game to a Class III game, and it is causing me headaches.

You know, we had tribes tell me we'll just follow the set standards. It might be a higher standard, but they do it. And that, you know, I'm glad you addressed that, because I've heard it.

MR. LOMBARDO: Again, there's a lot of functionalities are the same, and there's no reason why, as an example of a Class II, money can't be counted at the same time as Class III money that's coming off the casino floor. That's not -- those are the things that are similar.

The things that are different have to be
addressed and have to be maintained differently and separate.

STATEMENT BY KATHRYN OGAS

MS. OGAS: Kathryn Ogas of Lytton Rancheria.

I just want to follow up on that from being a Class II-only operator. I've heard the same things you're talking about with Class III (inaudible). And I sympathize with them, but on the other hand, I don't want the Class II in the Class III when that's all we operate. And there are some things that are different. So I would like to see them kept separate where they can be kept separate.

STATEMENT BY NORM DESROSIER

MR. DESROSIER. Two follow-up counts.

For what was just said, that's precisely one of the reasons we made a new part 543, for controls Class II unique. And 542 was meant to be Class III unique. So that you had some separation. So -- in all classes so they have, you know, their own set of rules.

Not to mention 542 is pretty convoluted right now because it's a combination of both, none of which address or question gaming systems. So it's a mess that needs to be cleaned up.

The other, I think, consideration for a need for separation between II and III, obviously it should
be that our revenues in MICS states for Class III are accounted for independently, and we don't want the accounting commingled of Class II revenues and Class III revenues so that the states get their nose into that and try to determine, well, do they owe us or not on a percentages of revenues for that.

So there really needs to be certainly a distinct separation, both in accounting and not commingling any of the rules.

MS. STEVENS: Yes, Charlie.

Am I ignoring anybody over here? I apologize.

STATEMENT BY CHARLES LOMBARDO:

MR. LOMBARDO: Just as a follow-up to that, again, functionally may be the same. Separation of money or funds, it's a revenue audit. The functionalities on the floor itself don't necessarily have to be separated. They can be done simultaneously. It's a revenue audit, and computer systems, they maintain the separation for us.

So, you know, part of what the DSA standards has actually done is allow us to operate some of those functionalities together. So again, it's not the -- the physical part. It's really a lot of the behind-the-house stuff that needs to be separated.

MS. STEVENS: Scott.
STATEMENT BY SCOTT CROWELL

MR. CROWELL: I have to point out that overlaps into the issue of the authority regarding Class III. If you do what I think the court clearly directs you to do is get out of the Class III business, then there's not going to be this issue of putting Class II, Class III together. NIGC MICS will be only Class II MICS.

Doing that doesn't prevent you from saying that, you know, in those situations where there's both Class II and Class III games, and certain functions meet certain requirements, that they can be done together. That's something that can be written into it.

The easiest way to keep them separate is for the NIGC to do what the court told them to do, which is to get out of the Class III process altogether. I think that takes care of that issue. And Norm -- (inaudible) and I point out just from also going further down the line in terms of I'm the lawyer, always looking at the down-the-road legal challenge, the more you commingle Class II and Class III, the more difficult it's going to be to unravel them in future court decisions.

MS. STEVENS: Is there any more on -- excuse me -- on minimum internal control standards for II? I think we were getting a lot of feedback here at least on
II with some shades of III in there, in terms of opinions. We can stop and be clear about what I mean. And if not, then it is break time. And we'll come back at 1:30 and start talking about the technical standards. We're all good with that?

   We'll be back at 1:30, then.

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   (LUNCHEON RECESS)

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   MS. STEVENS: Okay. Good afternoon. So we're continuing on with our agenda. We're going to discuss 547, which is the technical standard for the Class II games.

   So as I said earlier today, we have made time on the agenda for people who want to provide their prepared statements to us, if there are any folks here that have comments on the technical standards or any other parts, if you were not able to attend yesterday or this morning's session.

   Do we have anyone that needs to make an opening statement for the sake of their own schedule?

   If not, then what I'll do is turn over the microphone to Larry again to talk about what we're looking for with regard to -- this is Group Three. This morning we talked about minimum internal control
standards for Class II games. This afternoon it's for
the technical standards for gaming equipment for Class
II games.

So I'll hand it over to Larry, and we'll open
up the floor afterwards.

MR. ROBERTS: I think for purposes of the
discussion this afternoon, the following things that we
would like to discuss with folks are in the technical
standards that -- the grandfathering issue of gaming
systems, the limitation on odds, the entertaining
display requirements, tribal testing laboratories,
variances, remote access, and compliance with MIC
standards, and anything else that should be added to the
discussion for technical standards.

So this is really an opportunity -- I know some
of these issues have been around for a long time. But
we would really like to open the floor and have tribal
comment on any of these issues.

MS. STEVENS: Yes.

STATEMENT BY NORM DESROSIERS

MR. DESROSIERS: Thank you. Norm DesRosiers,
San Manuel.

I just have two of those bullet points that I
would like to comment on. And the others, I'm sure,
will be appropriately addressed by everybody else.
But the limitation on odds, first thing. And I -- I'm no expert in this. A lot of the discussions that -- when we went through technical standards were over my head, but one thing I learned about bingo math, thanks to some of the experts in our advisory committee was that -- I mean, it is really complex far beyond what -- mostly what I understand. And then you have the odds of getting an interim prize versus the game-winning prize and the game-ending prize and all of these other prizes.

And keep in mind, when I was on the Commission, when it came to that and then the entertainment display, which is the other thing I'm going to comment on, I really took my NIGC hat off and I had my tribal regulator hat on.

And I was very adamant about those two things in this respect: The -- you know, and I hate to compare the two, you know, Class III and Class II, but every jurisdiction in Class III has a limitation on odds. I mean, this is the only way you can face the public with a straight face and say this game is fair and there's a reasonable opportunity to win an advertised prize is if you set the odds. And the regulators need to do that, I think, in the interest of the public.

And we did that, the original technical
standards, with a lot of debate. But conceivably, from what little I learned, you could do the math on odds in these bingo games for a prize, a top of jackpot, that could be posted and advertised that virtually could never be won. The odds would be so skewed with such an infinite number of possibilities that that could conceivably happen. And that was admitted by the experts during our advisory committees and everything else.

So in the interest of the public -- and I think we have to -- of course, most of our interest is in protecting the tribe. But we do have a responsibility to protect the public and make sure the game is reasonably operated.

And so I'm a very, from a tribal regulator's perspective, firm believer that some limitation has to be set on the odds. If you don't, again, you can conceivably have prizes that are likely never to be won or are very, very, very infrequently won.

So that's an important point that I'm sure other math experts in here will contribute to. But you have to have something. If you don't, if there are no odds, and you have a public inquiry or a media inquiry or a legislative inquiry on, well, what are the limitations on these games, and you say, well, there are
none; we just leave it up to the tribes or the
manufacturers, or whoever, to do the math and figure out
the odds, then you're not going to look very good as a
regulator.

So I feel very strongly about that. And I
don't know that I want to beat it more to death. That's
as clear as I can make that point.

The entertainment display requirements, I'm not
sure what the issue is there, but I know during the
course of developing the technical standards, there was
a lot of pushback on last-game or last-three-game
recall, to be able to pull up what that display was
during the last game. Again, having had my staff tied
up endless hours, even to this day, investigating patron
disputes over what the display said -- you know, "It
said I won." Well, if I can't recall it to show it,
what symbols were displayed on the last play, I'm
handicapped, as a regulator, to investigate a patron
dispute. I need to be able to have that capability.
That's the first issue.

And the second issue on the entertainment
display is I feel when you have got a pay table on a
Class II system that says three cherries will pay this
and five 7s will pay this, or whatever your symbols say
on your pay table, I don't care if you've got signs on
the box that say "This display is for entertainment only," if I'm a customer, if I'm a player, I have the right to expect if I get these three symbols, that's what it is supposed to pay.

If you don't have that expectation or that right to expect that as a player, then you're deceiving them. So if you're going to have an entertainment display and you're going to have a pay table that says for entertainment only, but if you get these symbols, this is what it is supposed to pay, then that's the way it should be.

And if you get those three symbols and it doesn't pay that, then there's either something wrong with the system or the game that needs to be fixed or investigated, you're going to be in a patron-dispute investigation again to figure out, well, why did these symbols come up, but it didn't pay that?

So those are things, as a tribal regulator, in the interest of fairness to the public, that I firmly believe in. And it's also in the interest of the tribal regulator to help them do their job in the investigation. So I don't know if I made those points clear enough. But those are the only things that I feel very strongly about.

And again, it wasn't as a National Indian
Gaming Commissioner when I argued those things. It was as a tribal regulator.

MS. STEVENS: While you don't -- those are the only two things that you wanted to comment on? Nothing on the grandfathering clause? Because that has been a contentious issue as well.

MR. DESROSIERS: Quite frankly, I don't recall -- I haven't studied it, and I don't remember what that clause was, but I'm thinking we're ending the near -- the end of that grandfather period. So -- in fact, a lot of the manufacturers just skipped that and manufactured products that were -- you know, that wasn't even applicable on the new products being manufactured out there.

So I don't really know what the issue is. I thought the grandfather period was coming fast to an end. So I can't comment on that.

MS. STEVENS: All right. Charlie, Tracy, who wants to go first? If you can enlighten us a little on some of the topics, that would be great.

STATEMENT BY CHARLES LOMBARDO

MR. LOMBARDO: I would just like to follow up first on the first comment Norm was talking about. And we were talking about limitations of odds.

My first comment, before we get into that, is
many of the regulators, their only point of reference is
Class III, with very little reference to Class II. And
there's a big difference.

    Bingo math is quite complicated. When you add,
as an example, 75 numbers but you have a bingo card with
only 24 numbers or 25, the number of different
combinations you can have on that bingo card is an
astronomical number. And when you look at the number of
people playing and the number of cards, we started
writing odds down, we could go circle this room, and
that's how big the combinations are.

    I don't think there's anybody that says that we
shouldn't have limitations on odds. I think the
question always was we should be competitive with the
marketplace, whatever that may be. So there's lottery
odds, there's Class III gaming odds that are much higher
than what was ever suggested by the NIGC. I think that
tribes only want to be competitive in Class II. I think
that really becomes the issue.

    From a entertaining display requirements, we
have to remember that we're playing bingo and we're not
playing a slot machine. And I'm not a lawyer, but there
was court cases that were decided in favor of using the
entertainment displays, and IGRA allows the tribes to
play bingo with the entertainment display.
And the entertainment display has absolutely nothing to do with the outcome or the results of the game. The only thing it does is the bingo portion. So if you want to look at what the bingo card had and what the balls were drawn and how that determined the outcome of the game, then that's fine. But the entertainment display has nothing to do with the outcome of the game.

MS. STEVENS: How do you address recall? If you've got somebody disputing -- just to address Norm's concern, how do you go back on a Class II bingo machine and verify it?

MR. LOMBARDO: It's the bingo pattern. So you look at the bingo card, bingo balls drawn, and the pattern covered.

MS. STEVENS: Can you do that a number of games back?

MR. LOMBARDO: Yes.

MS. STEVENS: Okay.

STATEMENT BY TRACY BURRIS

MR. BURRIS: Tracy Burris, Viejas.

On that, too, on the number of recalls, you got some assistance on the Class II, because they're server based, that would let us go back as much as a hundred last games played. And because, when we use the original player card, tracking on the original Megamania
stuff, we could actually go back close to a thousand, wasn't it, Skip?

It takes some time to pull it up, but it shows the whole pattern that player used to activate their card in their system. We can actually recall their whole play. It was a combination of things happening, because they're server-based.

MS. STEVENS: May I inquire, from the display or from elsewhere?

MR. BURRIS: Well, from elsewhere. From the server.

Remember, it's not the machine that's doing it. And that's why it becomes important about this play. And if we take it one more step further, when you talk about -- one thing that is not up there, maybe, and that reflects the technology, is that if we try to coordinate bingo, Xs, Four Corners, Postage Stamp, and Straight Bingo, any of the variations of the bingo patterns, to correlate to symbols, cherries, 7s, single bars, triple bars, double bars, if they're coordinated, then I would think that would give the argument that we are playing with a bunch of technology, because now we're trying to picture a pattern or win or, even more specifically, anything going wrong on that last recall being reflective of the beginning game.
Because we had this years ago. I mean, this very thing. Because when we first started, when I first started in Class II, all of my studying was done on Class III. So I had those concerns.

As I learned, and as I do -- what I do know about bingo, doing it for as long as I did, was that when we talk about bingo patterns, the perms, limited to 75 numbers, and we're talking about different series of paper available out there, and the ability to -- didn't I say perms or the patterns on each five columns, five numbers, from B to O, you know, what you can do, there is a limitation that you can do. And you cannot do it, as you can with the math of a standalone machine of meeting three symbols only. Three cherries, three bars, three other bars, or whatever that combination, is a lot different than on bingo patterns.

Because bingo is bingo. It is bingo. There is an extreme difference in that. So I think that's -- I mentioned that in Minneapolis recently. I wish we had the paper. The paper -- we can see it from one of the distributors for the (inaudible) showed how that worked.

But you got to keep in mind, this is a game of bingo. It has nothing to do with a slot machine and that concept. And I mean, I don't know if you guys get that. There is a distinction difference.
So my concern would be in the entertainment display part of it, I know the biggest complaint was how big it had to be on the machine. I don't think it has to take up the whole machine. I don't think it has to be everything, but I think that some of the things -- the choices that are out there are complimentary. I like the (inaudible) personally, because there's that true distinction that it is a bingo game.

As a regulator, it does illustrate it's a bingo game, shows the ball draw, and you still have that entertainment display. So I don't have a problem with that because I can distinguish that when I have a dispute, that it is not a compacted game as we know it. It's a Class II game.

So I think there is that distinction, and I think that's how you achieve that. We have to give our players a little credit, you know. We can't assume that, even though they choose to play (inaudible) at times, but we also know as well as we do now, that when we have those disputes with them, if they're using their player tracking card, I go back on my system 1 anyway, and it gives me a good indication of how they played and how they wager on every transaction.

So there are other elements that are available, when dealing with a dispute, that can be brought
forward. Does it make it easier always? No. But it does help. And it will rise in the credibility as to how well that -- whether it's our techs or whether it's our IT people, who's ever doing it, how knowledgeable we are of our products.

And that would be the ultimate deal is how knowledgeable are we on this product? I'm telling you, if I just had to justify just this single unit, it's easier. I don't know what Jason has. Maybe I don't know what he has. It's a different unit. As it stands by itself, it's a lot easier to debate and turn off if there's a problem.

On a server-based, when you turn it off, you might be turning it off (inaudible) for 40 machines, 400 machines. You don't have one unit you can seal off and say, oh, we can have it tested, and we know what it might be, because power surge or this. It's not the case.

Now, do individual ones go out? Yeah, monitors, whatever. But if there's something wrong with the server, it affects everything on that server. So there is that distinction.

And that's what I alluded to earlier about that people had certain mindsets, assuming that you don't get it because it's a standalone machine. It's easy. Just
turn the damn thing on, seal it off, nobody has to mess with it. But you can't do that on a day-to-day basis.

So, you know, I mean, granted, it could be --
some of this could be said more eloquently than I've sort of -- I've dealt with too many of these disputes, if you will, and I understand it now. After 18 years, I get it, to a point. There's all nuances to be surprised by technology.

That goes back to how detailed we're going to get with the network engineer. Do I need a network engineer? Do I need a software engineer? Those are some of the technical questions that come about. So that's the remote access.

We had the Class IIs, and I think that we use -- for our property now, we have it pretty well of tracking it. I think it goes back to -- I know people questioned it. It comes to a point that I learned with a server-based, we hope someone hasn't manipulated it. We hope that someone hasn't come in and manipulated the software or whatever at some point. It's always a possibility.

I know that the companies, as a whole, try do it with integrity, too. There's always that possibility, just as there is with someone getting the wrong chip, E-prompt chip, there to one of my standalone
units, too.

What we hope for is that the controls that we have in place -- which is why we had MICS, too. It makes it important for these two documents to go hand in hand. And the reality is if it were to happen anyway, it would take us time to be able to audit it backwards to develop any case in order to really truly determine whether or not, you know, someone deliberately impeded the integrity of that system.

So those are things to -- the remote access, I mean, there's ways that we can track that. Again, it's about tracking it. It doesn't mean that we can stop something bad.

Every tribe has its different protocols by -- by which the agreements that they have with that Class II manufacturer utilizing the machines, on how they come in, what they need to do, based on -- a lot of it is the technology and software and hardware and all of that.

So it's complicated, but it has to be taken into consideration. And it's actually more work for the TGRA to try to understand the manufacturer's system. And they're not the same. They are not the same. They all have different platforms. There are different things that are different about it. So there is an impact there.
So that's my two cents on it. That's all it's worth.

MS. STEVENS: Thank you, Tracy.

STATEMENT BY RON HARRIS

MR. HARRIS: Ron Harris with the Miami Tribe of Oklahoma.

On a couple of these issues, the grandfathering, is one year dear to our market, we argued with -- quite a bit with the previous Commission. And it has to be said that the grandfathering of a system itself and the boxes, or whatever component of that system we're talking about, when you hit this magical five-year window and all of a sudden, what used to be legal, what used to be played in tribal gaming facilities around the country, mysteriously is no longer legal.

There's a lot of legal issues that I think the attorneys spoke very eloquently about for some time, about why you can't just arbitrarily pick out a five-year period in this case. But the point, I think, the Commission is focused on here, too, is what it does to some of the smallest tribes in the country. And you see it in the Class III business.

You don't -- there are a lot of tribes around the country that might be in a remote area that has a
very small population base to draw on. That piece of
equipment that's five years old works out fine. A piece
of equipment that's already been depreciated may not
warrant a new $36,000 box, that, A, that they couldn't
pay for themselves or that would come in on a revenue
share, because the manufacturer might not want to go out
there in this location to put it in there.

But these smaller depreciated boxes, now all of
a sudden, you put a tribe that has the ability to, A,
acquire them or, B, that a manufacturer would literally
justify their investment to go into remote locations
with used equipment and earn -- the tribe earns $30 a
day. Now, all of a sudden, that make sense.

So when we come up with this grandfathering
thing, I think the primary focus needs to be on the
world of have and have nots. There's a lot of tribes
that desperately need gaming in their facilities that
this grandfathering system will impact greatly.

Our little company, we're impacted by this, in
that -- not so much on the boxes itself, but on the
system itself. There's another provision, at least,
that TGWG advised to also back off of is that mystical
day that you had to show up and put your software in the
lab within 120 days of promulgation of the regs.

We weren't smart enough to run in and take all
of our systems and put it in a lab. We had our current
software we thought the market was going to go. So here
we are with the game of the Rocket Classics. It's the
only game ever produced that has a DOJ letter that
says -- a Department of Justice letter that says this
game is a legal Class II bingo game. The NIGC also
wrote letters on this.

Well, the commercial viability of that game had
dropped off, and it wasn't in play. So we didn't go and
take it into a lab and incur the expense of doing it.
Well, lo and behold, within the last 12 months, we had
tribes reopen their bingo facilities. We've had
customers that remembered those games, said, geez, we
want those games, but Rocket can't go back and rewrite
that system because it's not economically feasible.

We can go in with a cheaper machine with a
system that still works perfectly fine. The system
integrity is there. All of these other things are
Microsoft doesn't even support that anymore.

So these old systems are still kind of like --
like they have the old Tack Force, you got the Monkey
Tattoos, you got the Megamanias, things that have won
significant court cases that said this is Class II, and
yet you marked -- picked an arbitrary, capricious date
to say up to this date, it's no longer viable. And I think there was an old Meister study -- I call it meister.meister (inaudible) study that showed the economic impact of that in Indian country, and it was significant.

Limitation of odds. I think Charlie hit it pretty well there that -- I don't know that the argument ever was that there shouldn't be a limitation on odds. There's two pieces of that argumentative. First of all, who says what that odd should be?

We look at it as it's TGWG group can write this as the primary regulator is the TGA. It's the tribe. It's not a federal standard. The tribe is the one that the TGA decided what odds they want in their facility, and I deal with it every day. The tribes decide what odds they want, they decide what wages they want, max bet, the whole gamut. It's done at a tribal level.

Now, in this particular case, the government did feel they needed to set a standard. And then the 547 as -- when it was promulgated, had the reasoning behind it of some of the things they did. The odds were set at 1 in 100 million.

We did try to make the argument to say why would you put a tribe at a disadvantage over a state lottery? The Kickapoos in Texas, guess what, their
biggest competitor is the Texas Lottery run by Texas. They have got better odds than we can put in a bingo game. Why is that? It's 1 in 175 million, but yet we're limited to one in 100 million.

Then you get into slot machines in Class III facilities. You've got Class II facilities that have to compete with state-run Class III facilities. And guess what? There are slot machines out there at this time -- and we made this argument back several years ago, there's slots out there with 1 in 400 million. Why did we pick one in a hundred million? Why?

I reread it on the airplane coming in, and it basically said in the preamble, well, geez, we think it's fair to set an odd at 1 in 100 million because we think that means that jackpot -- there were some mathematical computations there -- could be won once a year. We set a jackpot. We think it should be won once a year.

That, first and foremost, in my opinion, and I think, mainly the tribes that I deal with regarding a tribal gaming regulatory decision, the tribe itself should make that decision. But I also think that's an awful arbitrary number to have picked, to sit and say that a bingo pattern should be won once a year.

I can take you to tribal bingo balls that have
had blackout dollar amount for paper bingo up there for
18 months, two years. The players know it will be won.

    Also, this whole issue on odds is a little
interesting, because I think some of the game plans at
the time were arguing, geez, you should set the math for
this, you should disclose the math for this, because how
else will a player know? And you get back into the
Class II mind-set.

    You're right, when you walk up to a slot
machine out there on the floor, you don't know the odds.
Who can go in and look at that little chip and see what
the odds are set at? The difference in Class II bingo
is you have rules. You pull up the game rule screen.

    We have our competitors, just like we do with
their machines as well, you can figure out somebody
else's math simply by going into the machines and
looking at their game rules, taking a picture of that,
write it down, whatever you want to do, and look through
all of the bingo patterns. You have to close the bingo
patterns to play. So if I know the rules how you're
playing the game and I know all the bingo patterns, I
can reverse engineer anybody's math. It's on display
for the players to see.

    So there is a difference between a Class III
approach to setting odds versus Class II. It's not as
player beware, like you have in a slot machine. Bingo is different. We post the rules, and it's there for them to see. So, again, I think that the fairness issue, tribal bingo, Class II bingo, should have comparable odds to what is in the industry.

Now, at one bit -- more little bit. And I believe that should be decided for by the TGA. Why is that? Because that's maximum flexibility. If you're at a Hollywood Park (inaudible) facility in Florida, they may say, look, we want this stuff to go -- you know, we don't need to advertise most things. It got to the point we want to see what's on this (inaudible), turn through here, here is what we want our odds to be.

But in other parts of the country where they need to market an $80 jackpot to bring people in, that has a radius of a hundred miles from which to draw their customer base, they may want a big jackpot up there to draw on (inaudible). I believe that kind of marketing condition should be left up to local TGAs.

We do have it in these proposed regs that we manufacture these games, so we have to disclose it and labs have to test it and also prove here is what the odds of winning it are and disclose it to the tribe. The decision should be left to a tribe.

Entertainment display is another interesting
argument that we talked about over and over and over again, and we weren't successful in our arguments. The attorneys, there's the legal arguments of getting credibility. We kept listening that we have to have a bright line between Class II and Class III.

The minute you say you're giving legal deference to spinning 7s or the horse race or the car race or whatever you're showing there, you just left the smoking gun for that DOJ or state regulator, whoever it is, to say see, that really isn't bingo; it's a slot machine.

You're giving legal credibility -- and we've got some attorneys in here that can -- you know, we wrote a position paper and provided it to the NIGC that you shouldn't do that for those issues alone and clouding the situation between the Class II and Class III.

However, as a manufacturer, we built it in there anyway, because it only takes one Norm out there that we work for, when we go into a tribe, that the tribal gaming regulator calls the shots here. So if we go in and (inaudible) says we want 1-in-50-million odds, Rocket better be ready to be 1-in-50-million odds. And if Norm says, by the way, I want to see those game reels as it's replicated, we better be ready to do it. And I
think all manufacturers do it.

What we push back on is it should not be a federal standard. That's the right of the tribe. They're the primary regulator. That's where the decision should be. Then we make a commercial decision whether we want to meet that or not, which all manufacturers that I know do.

There's also a conflict -- and, again, the attorneys here can talk until they're blue in the face, but we have got an issue in the technical standards of promulgating. It says you have to show the entertaining display in the video, but you don't have to do it with a mechanical. Right?

So if it's a stepper for -- I don't have to replicate what the player would have seen in a stepper, but I do in video. You know, you get back to the parent who who does he normally or she normally -- the old joke about you normally discipline the good child because the bad one, why waste your time. You get back into something like this.

Video was easier to put this bridle on that was mechanical, so we're going to go after the video. You have two standards here. One, you're saying you've got to replicate it, one you're saying you don't. I think there's issues with that as well, from a legal basis.
I think those were the three things that I was commenting on was grandfathering, limitations, and the entertaining displays.

MS. STEVENS: Thank you.

Were you waiting, Tracy?

MR. BURRIS: Yeah.

MS. STEVENS: Okay. Tracy, and then, Linda, did you raise your hand? Okay. Linda and then Charlie.

STATEMENT BY TRACY BURRIS

MR. BURRIS: I just wanted to reiterate what Ron said -- this is Tracy Burris, Viejas.

On the Meister report, that's the 2006 report -- I have it here in front of me, and one of the things that's important about it, as he said, "According to the Proposed Rules, Class II machines would have to meet the following requirements:

"Bingo and other games similar to bingo.

"Players must compete against one another.

"Although the NIGC encourages play with six or more participants, a game can begin with a minimum of two players if six players do not enter a game within two seconds after the first player enters.

"Bingo cards must be used; however, those cards may be electronic.

"Bingo cards must be provided to players before
numbers are drawn.

"Each card played in a game must have an equal chance of obtaining a winning pattern."

"Alternative technologic displays of game results (game theme graphics, spinning reels or other imagery) are permitted as long as the game results on the electronic bingo card are always shown.

"Numbers must be randomly drawn in real time or very near real time to the actual play of the game."

I think this study does very well. The reason I say this (inaudible) because there's a lot more to even look at it, because back in March when I had a new council come on from the end of January, they wanted to know about Class II. So I sat down and I was trying to figure out how to do it. And I remembered this report. So I used a lot of this trying to explain Class II to them.

I hope I did. I attempted to. I don't know whether I succeeded or not. When you think about it, as opposed to as I said, I can pull that single unit -- unit playing machine, there's a big difference. I mean, this has to be reiterated constantly to remind even myself at times, it gets complacent with my Class III games. It's easier to manage my Class III games, my slot machine than it is to manage my bingo games. And
maybe that's a way of saying it.

So the reports is one -- the Commission commissioned to have it done. And it was an interesting conversation I had with Alan Meister about it anyway, at the INGL, a couple weeks ago. And he uses -- he is one that testifies on behalf of different companies, other states, whatever. He is an expert witness, if you will.

And I think it's fair to say that I don't always agree with the man, but it is a good report. And I think it was very objective, from a bird's eye view, and things that he pointed out, I think it should be something that NIGC uses as sort of a preamble with dealing with Class II games. Thank you.

MS. STEVENS: Linda.

STATEMENT BY LINDA MCGHEE

MS. MCGHEE: Linda with Poarch Creek.

I just wanted to bring up, from a regulator's viewpoint, on the entertaining display requirements. When we have a problem, a customer has three red 7s, and naturally it's a malfunction of the machine if they did not win, because the bingo pattern is showing that they didn't get a bingo.

Our customers, believe it or not, they're not stupid. Gamblers around the world, if ours are anything to tell by it, they're not stupid people. If we have a
dispute and we clearly indicate to them you're playing a bingo pattern. If you look at the bingo patterns that we recalled, there is no win there. The three 7s was a malfunction on the display, and that's all.

And nine times out of 10, you can convince these customers that, hey, the bingo pattern didn't win anything. So to us, it makes no difference whether the entertaining display is recalled or not, because we're concerned with the bingo card. It needs to be recalled. The game play on that needs to be recalled, because that's what we're telling our customers: You're playing a bingo game. You're not playing, you know, triple red 7s or whatever. That's just there to entertain. Of course, we are very careful on using the word "that's there to entertain," because sometimes they take offense to that.

But really all in all, customers, once you convince them they are playing a bingo game and show them those bingo patterns and they didn't win on that bingo, then, you know, they're satisfied.

The ones we have problems with are ones that, in my opinion, would be the type of people that would go into Walmart and purposely knock over a can of liquid so they could slip and fall on it and get a big lawsuit. But for the most part, we handle all of our complaints
just by explaining to them you're playing a bingo pattern, you're playing a bingo card. And see, none of these bingo cards -- the last one you played didn't have a win on it, the one prior to that didn't have a win on it, and this one here that you won didn't have a win on it. You didn't win. It was a glitch on the box itself caused those three red 7s.

And most of the time, we can convince the customers, okay, I didn't have a win. And they're okay with it.

MS. STEVENS: Thank you, Linda.

If you would, Charlie.

STATEMENT BY CHARLES LOMBARDO

MR. LOMBARDO: I would just like to follow up with one more item on the limitations on odds.

In a Class III game, if I have a million-to-one odds to hit any award, that means that game has to have a million handle holds or spins of the reels, or whatever you want to call it, on average before it will hit. The average casino probably gets, oh, anywhere between 4- or 5,000 hand pulls or games a day, so that means somewhere around 200, 300 days or so before that will hit that particular award.

In a bingo game, you have multiple players competing for the same prizes. I can have a game within
just a few seconds where I'm allowing 50 to a hundred or
more players per game. I can hit that same
million-to-one odds in just a matter of a few days.

And so, in saying that, to say that bingo can
have an unfair advantage, bingo actually has a much
fairer advantage in paying the awards they advertise to
the players.

STATEMENT BY RON HARRIS

MR. HARRIS: It's Ron Harris again.

There's another distinction that we should
point out when we talk about this entertaining display
issue.

Nevada has one of the best laws in the country,
which is malfunction voids pays to plays. All of the
players -- the only thing the player relies on is the
screen, the spinning symbols. Right? So we go back
into the argument that the NIGC had before is what -- we
need to see all evidence and give some credibility to
this entertainment display so the player may see
increased odds in conjunction with their bingo card.

In a Class III environment, in Vegas all you
see is the three 7s. But if the manufacturer shows up
and says, geez, I have a documented software glitch and
I can document the software glitch, it shouldn't have
had three 7s, guess what? It voids pays and plays.
In Class II, you have a bingo card, you're entered into a game. Here is your bingo card, here is a ball draw. You see what it is. Again, it's like opening up the RNG chip inside a Class III box and showing it to you in real time. It's up here. That's why we have legal credibility to the people (inaudible). You're playing against somebody else.

And if this glitch is over here, this game is already over. Bingo is over. Bought the card, daub the balls, game over. Or but now I'm going to show it to you in a different way. But the fact is that pattern did not get won or didn't win is documented by the patterns on it.

So, again, Class II has something that Class III doesn't. But yet Class III has got a heck of a lot better, more user-friendly rules than we're imposing on Indian country for Class II gaming. Again, that's where we think that's wrong.

That does not mean that we don't -- as a manufacturer, we've had it from -- we've been doing this since 1996. We've always had the ability to look up and see what that game was in real time. We record whether you touched the dauber or you touched the screen. We can tell you exactly what they did.

So again, it goes tribe by tribe what they want
us to do. It should not be a federal standard.

    MS. STEVENS: Tracy.

STATEMENT BY TRACY BURRIS

    MR. BURRIS: You bring up great points. Tracy Burris, Viejas.

    To add the emphasis to it is that there are times when nine times out of 10, manufacturers (inaudible), my experience on the malfunction on a Class II device is nine times out of 10 the wager has not been taken. Because it loses connectivity with the server, or whatever the malfunction is, it never took the wager.

    More often than not, I've had seven out of 10 where my Class III, my slot machine took the wager. So when you're trying to be objective in hearing that, I believe when I make that decision is if it took the wager, what was the expectation? If it didn't take the wager, what is the expectation?

    You do have a -- operations has a nightmare of dealing with that, but it's less than -- most players, as Linda says, when you point certain things out to them that occur, being objective is that it didn't take the wager, you know. You did have the attempt to have the wager happen, but it didn't take the wager. It malfunctioned. It came up, let's say, a jackpot.

    So I think, in fairness to this, throughout the
jurisdictions, if it doesn't take the wager, did that
transaction ever occur? I mean, there's those things,
and that's one thing in a Class II system does work.

I do know (inaudible) complicated Class II
system that said where that occurred and then further
investigation, it ended up those manufacturers are no
longer with us. I mean, I can tell you 10 years ago,
they were -- at one point, I had 60-something requests
on my desk to look at different Class II systems. I'm
sure today there are probably 10, maybe, eight.
Manufacturers aren't even around. I don't know, eight
or 10 left on Class II systems.

MR. HARRIS: I believe I count -- last I heard
was 12 out of about 43 at one point that we --

MR. BURRIS: A lot of those others, they
were -- in all fairness, their systems were not
accurate. And there's those that get lost out for
(inaudible) proper integrity.

Having said that, too, again, those are the
things that we have to take into consideration, and that
leads us to the TGRA to make that decision, you know,
being objective in its role with hearing a dispute.
Those are the things that occur.

By the way, I've never seen a happy gambler.
How many times have you seen someone hit -- you know,
oh, I wagered a dollar and I hit $15,000. You know what, if I had done three, I would have tripled that.

The point with me is -- to Linda's point is a gambler is never happy. And our biggest dissatisfaction -- because most of you -- how many have had your screens busted, monitors, at $118 apiece? How many get your bill acceptors with the coffee dumped in them because they weren't winning? How many, even more so today, in the last year, you watched your economy go down and your number of plays go through, so you have machines sitting for a day or two, and someone comes in and dumps 2- or $300 and are frustrated because they're not winning?

Well, nobody tells them, "Well, they haven't been played in two days. That's why you're not winning." As to the days when we had people stacked, packed and racked everywhere. Things were moving. It's moving. It's playing.

These are the things that we have to deal with on a daily basis and things we have to take into consideration (inaudible). Then there's that viability of the Class IIIs. I think, it's been proven in those Class II markets where it's utilized, sometimes the bingo games move faster and pay faster because they eventually equal out as the play increases on those more
popular nights, Friday and Saturday night, than during
the course of the week.

So those are things that we have to take into
consideration when doing all of this. And I just wanted
to pass that on. Thank you.

MS. STEVENS: Yes, Ron.

STATEMENT BY RON HARRIS

MR. HARRIS: (Inaudible) to follow up
(inaudible) which is entertaining displays and the
malfunction voids pays and plays and these kind of
things, we put ourself with these regulations, as
written, in a legal quandary.

And since 1996, when you're able to show and
replicate that there is a problem, it's not a legal
decision, malfunction voids pays and plays, but you
still then put the tribe in a position to make a
business decision, versus what happens at the MGM and
Mirage and Las Vegas casinos. The law is clear. If
it's got a software bug, malfunction voids pays and
plays regardless of the display. And whatever the
player sees, it doesn't matter. There was a glitch, a
malfunction voids pays and plays.

What these guys do, which our experience is
most tribes do as well, is they make a business decision
and they say, geez, yeah, you know, we understand you
think you should have won $3,000 and you didn't, because it was letter X pattern, and that plays a hundred credits.

But then you get into the decision-making mode of business decision. This is one of your best, most loyal customers, who spends thousands and thousands and thousand of dollars a month there and they have for 15 years, you're going to say, you know what, I'm going to give you a $2500 consolation, here is your free meals, or -- you know, you get into this whole thing how you treat the customer.

That is another reason why this can't be handled at a federal level. It's handled by the primary regulator and by the tribe itself, in your operating procedures on how to handle these kinds of things.

STATEMENT BY NORM DESROSIERS
MR. DESROSIERS: Well, I, of course, respectfully disagree on a couple of points.

It is a legal matter. To try to say it isn't is to -- maybe not in some jurisdictions, maybe that tribal regulator on the floor is the ultimate, finished end of end-all be-all of the decision-making, but in many jurisdictions, at least mine, the due process allows a dispute to move on to, at least in my case, tribal court. And I'm sure some may have arbitrations
and some may have any number of due-process things. And it becomes a legal issue. And I have to prove my case, and the appellant has the opportunity to prove their case. In this day and age, I've got two cases right now -- not Class II, but people are taking pictures on their cell phones of the display and saying, you know, I should have been paid this. I mean, it's hard to convince a judge, when somebody has got a picture, you know, of what it said and they didn't get paid.

So to say this shouldn't be or isn't a legal issue, it is. It very definitely is. And I guess I take issue with the notion that there shouldn't be federal standards on some of these issues. You know, if there isn't, then what does the manufacturer know to build it to, what does the lab know to build it to, unless they're going to 240 different tribal jurisdictions and sorting through 240 sets of individual technical specifications.

You know, I mean, certainly in most environments, tribes have the right to exceed the minimums, but I would urge the Commission to consider you know, taking responsibility for setting some standards.

MS. STEVENS: Thank you, Norm.
STATEMENT BY SKIP LAMBERT

MR. LAMBERT: Let me say that I agree with Norm, in that it is a legal issue. I respectfully disagree as to what that legal issue is.

In my mind, the legal issue is this is a Class II game. It is a bingo game. The only reason that legally it can be on my floor is that it's a bingo game. As soon as there's a federal requirement which says that you can use the entertaining display to determine a player dispute on a win-or-loss question, you have now opened up the door to be challenged by DOJ or anybody else to say ah-hah, it's not a bingo game. You didn't award that prize based on the result of the bingo game. You rewarded that prize arbitrarily based on the result of that entertaining display.

That's a legal place I don't believe the NIGC should go, for that very reason. These are bingo games. That's why they're legal. And yes, it is a legal question.

MS. STEVENS: Thank you, Skip.

Do you have other commenters? Are you coming up, Charlie, or --

MR. HARRIS: Yes.

MS. STEVENS: Okay. Sorry. Wasn't sure if you
were just cruising the room.

STATEMENT BY RON HARRIS

MR. HARRIS: Ron Harris.

To make one last comment, actually, I think my position isn't greatly different than Norm's, in that it is -- it can be made a legal issue. But I think our tribe's position has always been it should be a tribal court issue and not a federal court issue.

STATEMENT BY CHARLES LOMBARDO

MR. LOMBARDO: This is Charlie Lombardo again. I just wanted to kind of give an operator's view.

As an operator, if a player won, I wanted to pay him. There is never, ever a reason why we felt that the player had legally won an award that we did not pay them. But you also have to remember as an operator, our job is to protect the assets of the tribe. And if there is a claim on a jackpot that did not win or pay out of any type, then we have procedures to go through, which lets the proper people make those decisions.

And Ron was absolutely correct. Many times it becomes the manufacturer's issue and not the operator's issue, because the game malfunctioned. And every game out there, if you go out there and look now, Class II or Class III, they'll all say malfunctions void all pays and plays.
They say that for a reason. Because there's a history of people making claims against a casino. And we need to make sure that we're protecting ourselves. That is one piece.

The other thing I wanted to kind of touch on, as far as the odds for displays or anything else in a Class III world -- it's also true in a Class II world -- that any operator can make a request of I want special odds, I want special displays, I want special features on my game. Because as long as you're willing to pay, a manufacturer will make it, the labs will test it.

And as far as having a thousand different projects -- products out there, there is for any one manufacturer too many different customers. While they may look the same, it plays differently.

If you go to any of the -- this place we're in, as an example, Harrah's, has their own set of rules and odds and displays that they like to have just for their casino, because they have so many and are so spread out across the country. As long as they're willing to pay for it, the manufacturer will make it.

MS. STEVENS: Thank you, Charlie. See what time it is.

So we have a flurry of comments on technical standards. Does anyone have any comments right now?
What I suggest we do is go ahead and take a break, come back at 3:00 and see if we have any other -- anyone has an epiphany during the break, we'll be here to add to the discussion on Class II standards and the list of items that we have up there and give some thought to some questions about how the current standards, as the regulators, have they helped or hindered your ability to regulate those games? How to move forward with advancements in technology.

Because, you know, these electronic games evolve rather quickly, the software that's involved with them. Are there other areas up there that we haven't listed that we need to take a look at or that the current standards don't address that they should address? I think we've talked about grandfathering, odds, talked about recall.

I don't think there's anything more up there. But if we're missing something, please let us know. Let us know what your experience has been with the current standards as they are. Things to think about during the break. Or if you're not able to stay for future meetings or your future comment to us, if you're providing anything in writing.

So think about those things and we'll take a break for about 15 minutes.
(Recess)

MS. STEVENS: Okay. So it is 3:15. I believe we have a few more folks that wanted to make comment on the technical standards, give some thoughts to the questions that I posed prior to the break, if you would, about is there anything missing from that list, and what has been your experience in dealing with the technical standards as they are now.

Yes. Why don't you come right up and have a seat here. You'll probably have to pull the microphone right up to the stand.

STATEMENT BY GARY LOEBIG

MR LOEBIG: Ms. Chairwoman, I would just like to make a couple of comments on previous testimony on the record. My name is Gary Loebig with Poarch Creek Band.

This relates to product. It related to a display. And I would like to make a comment.

First of all, any reliance on the entertaining display encourages fraud. As most people in the business know, there's a certain percentage of the players who will take any advantage of the facility. If they understand a facility can be put under pressure because an argument that the display is valid, then they will attempt to put that pressure on the -- by saying
that the display -- because they understand sometimes
the facility will pay off on a display (inaudible)
strong enough, then it encourages them to solicit
somebody in the facility themselves to collude with
them.

They're going to complain about the display.
The person that has been brought into their association
on this makes a decision very readily, because the
facility has been doing that readily, because it's
allowed, to go ahead and pay off the player. And so
therefore, it kind of opens the door for encouraging the
opportunity for fraud.

And in my prior life, even on Mega Bingo, which
is a very (inaudible) which is a very simple game, we
were running a ball draw to generate the outcomes, we
had employees from some facilities going to another
facility to play the game, in cahoots with a third
facility, that actually was generating or playing the
game.

And so the internal players were actually
winning or -- related to the employees of the facility
were actually winning the game. And it was through
forensics at that time we determined that there was --
something was up, and the FBI came in and in fact
confirmed that. So it's not something new to have
inside complicity with an outside encouragement going in and trying to commit fraud.

And so it's important that the players know that the entertainment display is just that, it's an entertainment display. You can run these games, and everybody knows this, without that entertainment display. You put up a giant bingo card and have the same game.

But for novice players, it's easy to understand a win if there's three cherries or a four corner win. So if the tribe encourages players that might not play because they don't understand bingo, to come and play the game, because they don't have to know the intricacies of bingo, they know they got three cherries, they have to hit so much, that's a four-corner win. Because the three cherries helps them get there quicker by understanding that. So my point is any reliance on the display encourages fraud because it encourages collusion.

Additionally, there's all kinds of recordkeeping issues that -- or it can cause confusion in recordkeeping, because there's all kinds of other variances that you have to capture. And it sets a pattern for allowing that, so it's harder to detect, I think, for the auditors to know they probably
(inaudible) this is another malfunction, with -- it's another variance that will allow, because some player complained it was the symbols and not the bingo game. So it becomes a pattern allowing things outside of the rules and variances to occur in the recordkeeping. It just becomes standard.

Second thing I would like to comment on is cameras -- requirements of cameras over the devices that the players play on these -- the bingo system is a giant computer system, not unlike the NIGC has in its offices. Each terminal happens to be a giant dauber in this case. The game is never on the terminal. You're using the terminal simply to daub the card.

It's an electronic card. All of the data that was tracked and captured, just like your computer system in your offices. You may have some stuff that resides on your desktop, but all of the real data, all of the real information is on your server.

Same thing applies to these bingo games. The playing devices that the players are sitting in front of are a convenience to the player to help them to understand the game, and understand if they win or lose, has nothing to do with the game. It's a giant dauber. Requiring cameras on those daubers -- on those daubers, which is what they really are, is tantamount to causing
it to require cameras on the bingo players playing bingo paper, for example.

I was formerly Multimedia, and Multimedia had a million dollar game called MegaBingo. MegaBingo, one game people -- players were playing for a million dollars. That's a very large prize. They would daub their cards, and you would inspect the cards for alterations, those kinds of things. But we did not have a camera on every player.

The same thing applies to these machines. The data is always on the server. That's how you really determine which was the winner, by sending information back to the true card, everything is captured there. You really don't need a camera on every machine. The machines are irrelevant. They're just giant daubers.

Thank you.

MS. STEVENS: Thank you.

Were there other comments?

STATEMENT BY CHARLES LOMBARDO

MR. LOMBARDO: Thank you. I'm Charlie Lombardo.

I just would like to make one general comment on the technical standards. One of the things, when these standards were written, we gave a lot of care to making sure that we were forcing the vendors in the
tribes to do things right, to remove the gray-area tag around Class II and make -- and try to observe that nobody was given an opportunity to do something that could be perceived a little bit illegal or a little bit out of the norm.

So there's really a lot of thought that went into all of those processes and all of those standards that were written. And I think part of the reason today that we're down to so few vendors is that when this process started, we started to squeeze the so-called gray-area guys out of the business. Because they -- we brought in an awareness to what Class II really was, and you know, forced people out.

So I think we've already done a good job of cleaning up and getting things going in the right directions, and these things will only make it better.

MS. STEVENS: Thanks, Charlie.

Other comments on technical standards? Class II? Okay. Anyone?

If not, I think this has been a really healthy discussion this afternoon. And what -- I think what we'll end with is that we are going to be -- we've got a three-week reprieve here before we're on the road again. We'll be out at the Northwest Indian Gaming Conference and Tradeshhow at Tulalip July 14th and 15th, which is a
Thursday and Friday, at which time we will be discussing all five groups.

Does someone have the list? Sorry. It's a lot. So that's the whole sort of buffet of issues that we wanted to bring out on Group Five.

I think some interesting things that will come, in addition to the first four groups that we'll be discussing over these past two days, we will be discussing sole-proprietary interests, self-regulation, and what to do about Class III, on how to address Class III.

We've heard everybody's position. I'm pretty clear on everybody's position on what -- you know, how Class III minimum internal control standards effects them, who enforces them, how it's written, the enforcement is written into either the compacts. They work with the states. They work with us. Into an ordinance.

Part of Group Five is how we proceed forward based on what we've heard thus far. And several meetings from that point on -- (inaudible) sore several meetings thereafter at Tulalip, and it's posted on our website, we will be talking about all five groups for about five or six of the meetings.

After that, the following week we'll be in
Albuquerque. We'll be back in D.C. at the end of July. We'll also be at the Oklahoma -- in Oklahoma, we'll be talking about all five.

Group Five includes -- yeah, I hit them all. What do you know, I remembered? Self-regulation of Class II, and how to address that right now. We only have two tribes that are certified to be self-regulating -- for self-regulation. The concept of sole-proprietary interest regulation, and also how to handle the Class III, minimum internal control standards. That's the whole cornucopia we're going to start talking about over the next two months.

What we will be doing, as we have done here today, is breaking out our agenda so everybody has a better idea. It's been brought to our attention that if we put it on our schedule, they have a better idea when they should show up. They don't have to sit through the whole two days painfully on subjects they might not want to hear about, to get their opportunity to speak. If -- and some will be doing that.

We'll be breaking up the agenda, like we did, and tell you when we are going to be discussing certain groups. And also don't want to have this firehose effect at the beginning of the meeting where you're having to listen to us like Charlie Brown's adults in
Charlie Brown. It gets to be too much.

So that's going to be the format going forward at those next meetings over the next two months for all of those groups. So we look forward to any attendance you might be able to -- if you can attend, that would be great. We will be having other subjects come up.

We will also have more discussion drafts come up on some of the groups that we've covered yesterday, not necessarily today -- maybe today, depending what else we get from the Tribal Gaming Working Group.

You will start seeing discussion drafts posted on the website, and we'll circulate those discussion drafts so that, as we get to these next five meetings, we'll have lots to talk about. We'll have actual drafts that we can -- and solicit input from.

So that's what is coming up. And I appreciate you all sitting through this with us for two days. Most of the rest of the consultations are two days; are they not? They are two-day gigs. So we'll try to get this information out to all of you well in advance so that you can prepare and make your plans, know when to show up on the areas that you want to talk about or at least sit and listen.

And if you have any questions at all, please contact us. We have all of this was information up on
the website, all comments are being put on the website, all transcribed notes -- I'm getting really tired -- transcriptions are going to be on the website.

    So again, I appreciate everybody attending. I know many of you came a long ways to attend. And I look forward to seeing you at one, if not more, of the consultations in the future. In the meantime, safe travel home and to be continued.

    Thank you.

    (The meeting concluded at 3:30 p.m.)
I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; that the foregoing is a reporter's transcript of the proceedings.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: ________________

_______________________________
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