

1 NATIONAL INDIAN GAMING COMMISSION
2 NOTICE OF INQUIRY REGIONAL CONSULTATION
3 GROUP 1 AND 2
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10 REPORTER'S TRANSCRIPT OF PROCEEDINGS
11 MAY 20, 2011
12 9:00 A.M.
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17 HELD AT: COEUR D'ALENE CASINO
18 37914 South Nukwalqw Road
19 Worley, ID 83876
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24 Pages 1- 88

25 Job No. 331338

1 May 20, 2011; 9:00 a.m.

2 P R O C E E D I N G S

3 COMMISSIONER LITTLE: Good morning. I'd like
4 to take this opportunity to welcome all the tribal
5 leaders, elders, and tribal representatives of the
6 National Indian Gaming Commission consultation session
7 on group 1 and 2 of our gaming -- or our regulatory
8 review schedule. Additionally, I'd like to extend my
9 gratitude to the Coeur d'Alene Tribe for allowing me and
10 NIGC to hold this session on your land.

11 On behalf of the entire Commission, we are
12 very grateful and honored to be able to address everyone
13 this morning and discuss the very important issues
14 contained in our notice of regulatory review.

15 My name is Dan Little and I'm the associate
16 commissioner with the NIGC. Today I'm here on behalf of
17 Chairwoman Tracy Stevens and Vice-Chairwoman Steffani
18 Cochran. They send their regards and look forward to
19 reviewing the transcript and comments that you all
20 submitted. But before I get started, I would like to
21 turn the session over to Councilor Jeannie Louie of the
22 Coeur d'Alene Tribe to say some opening remarks.

23 JEANNIE LOUIE: (Native language spoken).
24 Good morning, everyone. Chief Allen, our chairman, was
25 unable to make this meeting to welcome you all and he

1 asked me to come in his place. I am on the tribal
2 council and I serve as the secretary on the executive
3 board, so I would like to welcome you here to the
4 casino, and our Coeur d'Alene people, and to our
5 reservation.

6 Just a little bit about the reservation, is
7 that back in our ancestral area days, we -- our area
8 extended clear up to Sandpoint and over to the Spokane
9 River, clear over to the mountains to St. Regis, and on
10 down to the Clearwater, which is past well over a couple
11 million acres. And, of course, through, as we all know,
12 the federal government and the taking of lands, reduced
13 us to the reservation that we have today.

14 Our casino resort here started back in 1993
15 when it was just a one-building bingo hall, and then
16 from the revenues from that, we were able to expand it
17 into a -- maybe a two-building casino, and then from
18 there into our Sunset Hotel. And just recently and here
19 today, we've expanded further and now we have the
20 Sunrise Hotel, plus we also have our Circling Raven Golf
21 Course, which is renowned throughout the country. If
22 you haven't yet had an opportunity to play golf, we'd
23 like to see you do that. It's a wonderful golf course.

24 We also have in Plummer the wellness center,
25 which we have A gym in there for our children, and we

1 also have state-of-the-art exercising machines and
2 equipment. We have pools, a therapy pool, and we
3 also -- included with that is our Benewah Medical
4 Center, which is owned by the Coeur d'Alene Tribe, and
5 we service about 7,000 people that live on and off the
6 reservation.

7 Our children attend the Plummer-Worley
8 schools, elementary, middle and high schools, and we
9 also have the tribal school located in Desmet that
10 operates a preschool through eighth grade. We have an
11 excellent education department that gears its efforts
12 towards young adults, older adults into a program that
13 allows them to achieve their degrees in the areas and
14 the fields of their choice. And we're also very proud
15 of our IT department that has served Internet for almost
16 all the residents on the reservation. And also we have
17 RESCAS (phonetic), which is a -- more like a movie
18 direction that plays on all of our laptops or computers,
19 and we recently are looking into having our own radio
20 QUIS (phonetic).

21 And through all of that, with our government
22 employees, all those here at the casino, resort golf
23 course, we are now the largest employer in North Idaho.
24 And with that, we've built the economy here in North
25 Idaho, and we've also, among other things, that we know

1 how important gaming is. We pay probably millions of
2 dollars in taxes to support the government, so ...

3 And with all of that, we have our own gaming
4 commission and I chair that gaming commission, and we
5 have our gaming commission CEO and that's Matthew
6 Stensgar. He will be here in attendance, and also our
7 attorney Brian, who you know, and Troy is here with us
8 also, Troy Holt. He's on one of our staff of the gaming
9 commission.

10 So with that, I know how very important it is
11 and for this meeting to get started and hope that you
12 will be able to discuss your issues and come up with
13 some positive results for all of Indian country. And
14 with that, if you need anything, any assistance, any
15 help, feel free to let Lucky or any of our staff know,
16 and they'll be glad to help you. Thank you very much.

17 COMMISSIONER LITTLE: Okay. Councilor, thank
18 you very much. And I do have to commend you on your
19 facility. I think all the NIGC staff stayed here last
20 night, and what a wonderful facility, so thank you.

21 I also wanted to thank the Tribe for hosting
22 the refreshments in the back. Please help yourself.
23 But before I continue, I'd like to recognize NIGC staff
24 that is here with us this morning. With me from
25 headquarters in Washington DC is our chief of staff

1 Paxton Myers. He's to my right. Next to him is staff
2 attorney Melissa ...

3 MELISSA SCHLICHTING: "Schlichting."

4 COMMISSIONER LITTLE: Schlichting. Okay. To
5 my left is our controller Chris White. From our
6 Portland regional office, we have our regional director
7 Mark Phillips. And our field investigator Vida Bishop.
8 I don't want to let anybody off the hook here in the
9 room, so I'd actually like to go around the table if it
10 would be possible and maybe we can start with my left
11 here and maybe you can introduce yourself and the
12 organization you're with.

13 Just for housekeeping, we do have a court
14 reporter here and she is keeping a record of this event.
15 Her name is Keri. She's to my right. When you speak in
16 the microphone, try to speak clearly and state your name
17 and your organization. So please start on the left
18 here.

19 RON SAMUELS: Ron Samuels, enforcement
20 director Spokane Tribe.

21 I'd like to thank Coeur d'Alene Tribe and NIGC
22 for having this and Coeur d'Alene Tribe for hosting it,
23 and also for NIGC picking the area here in the Northwest
24 first to be able to be here conveniently.

25 GREG ABRAHAMSON: Greg Abrahamson, chairman

1 for the Spokane Tribe.

2 ANDREW MATHERLY: Andrew Matherly, Spokane
3 Tribal Gaming Commission chair.

4 CARLOS ALDER (phonetic): Carlos Alder,
5 executive director of Cow Creek Gaming and Regulatory
6 Commission for the Cow Creek Band of Umpqua Tribe of
7 Indians.

8 TERRENCE SPRINGER: Terrence Springer,
9 Coquille Tribe, chair of the Coquille Gaming Commission.

10 STEVEN TOBY: Steven Toby, Lummi Nation
11 council member.

12 JOSEPH TURREY: My name is Joseph Turrey. I'm
13 with the Lower Elwha Klallam Tribe, councilman.

14 WARREN SPENCER, JR.: Good morning. Warren
15 Spencer, Jr., tribal council Yakama Nation.

16 RICHARD GEORGE: Good morning. Richard
17 George, Yakama Nation tribal council.

18 TERRY GOUDY-RAMBLER: Good morning and thank
19 you for hosting this. And my name is Terry
20 Goudy-Rambler. I'm vice chair Yakama Nation executive
21 board.

22 DENEEN AUBERTIN-KELLER: Good morning. I'm
23 Deneen Aubertin-Keller. I'm an attorney with Grand
24 Ronde Tribe.

25 JACK GIFFEN, JR.: Jack Giffen, Jr., tribal

1 council Grand Ronde Tribes.

2 JIM MALATARE: Jim Malatare, Salish Kootenai
3 tribal council.

4 LANA PAGE: Lana Page with the Confederated
5 Salish and Kootenai Tribe, staff attorney.

6 BRIAN McCLATCHEY: Hi, I'm Brian McClatchey.
7 I'm the in-house attorney at the Coeur d'Alene Casino
8 here. Welcome.

9 DEBRA PARKER: (Native language spoken). Good
10 morning. My Indian name is Tsi-Cy-Altsa, also Debra
11 Parker. I'm with the Tulalip Tribes.

12 JAN NELSON: (Native language spoken). My
13 name is Jan Nelson. I'm with the Nez Perce Tribal
14 Enterprise.

15 MATTHEW STENSGAR: (Native language spoken).
16 My name is Matt Stensgar, tribal gaming director.

17 TROY HOLT: My name is Troy Holt. I'm the
18 compliance officer for the Coeur d'Alene Tribal Gaming
19 Board.

20 COMMISSIONER LITTLE: I'm not going to let you
21 off the hook back there. Can you introduce yourself?

22 TERRY PARR: My name is Terry Parr. I work
23 for Affiliated Tribes of Northwest Indians.

24 COMMISSIONER LITTLE: Great. Thank you for
25 coming. As many of you know about myself, I came on

1 board with the Commission a little over a year ago.
2 It's hard to believe I've been on the Commission for
3 over a full year now. I have a three-year term. I'm
4 originally from Connecticut. And prior to joining the
5 Commission, I was employed by the Mashantucket Pequot
6 Tribe at the Foxwoods Resort & Casino where I worked as
7 a compliance and regulatory affairs advisor.

8 Additionally, I work with the state
9 legislature in Connecticut, and I served over ten years
10 in the Army and Army Reserve.

11 When this new Commission was organized last
12 summer, we developed a vision for this agency that
13 includes a commitment to building a meaningful
14 government-to-government working relationship with
15 tribes. In practical terms, we are committed through
16 respecting tribes as the primary regulators and
17 understand our responsibilities of federal oversight of
18 this industry.

19 We understand that tribes and regulators are
20 most familiar with their own operations. We know that
21 tribes differ from region to region, state to state, and
22 so do their gaming operations. In order to fully
23 support tribal regulations, we know we must work with
24 tribes to ensure the integrity of this industry is
25 maintained. Tribes, states, and the NIGC each have an

1 important function in the regulatory structure created
2 by IGRA. The industry is best protected if we all
3 perform our roles effectively.

4 We have heard from tribes that the process of
5 consultation is just as important as the substance of
6 consultation. True government-to-government
7 consultation must be inclusive, collaborative,
8 meaningful, and must be an ongoing dialogue and exchange
9 of ideas. It's not merely a box we check off in
10 developing policy.

11 With this in mind, last fall the Commission
12 began a process to identify regulations that possibly
13 needed review and on November 18th of 2010, we issued a
14 Notice of Inquiry advising the public that the NIGC
15 would be conducting a comprehensive review of all
16 regulations promulgated to implement the Indian Gaming
17 Regulatory Act and requested comments.

18 The purpose of the NOI was to hear from tribes
19 on which regulations were in most need of revision, in
20 what order should they be reviewed, and what process
21 should the Commission utilize to make provisions.

22 In January and February, the Commission held a
23 series of eight consultations throughout the country to
24 listen to tribal leaders and invited written comments to
25 be submitted by February 12th of this year. After

1 reviewing all the consultation transcripts submitted, on
2 April 1st the Commission published a notice of
3 regulatory review schedule. The review schedule
4 provides a comprehensive agenda for addressing the
5 regulations raised during the NOI.

6 Based upon tribal consultations and comments,
7 the Commission decided to organize the regulatory
8 reviews into five groups. The regulations in each group
9 were reviewed separately from the regulations in other
10 groups, and specific regulations in each group may
11 proceed through the regulatory review process
12 independently from each other -- from other regulations
13 in a particular group. We understand that some
14 regulations are a lot more complicated than others, and
15 that we don't want to do this as one huge block, because
16 then we might have problems getting things done.

17 So today we're here to talk about those
18 regulations included in group 1 and 2 of the notice of
19 regulatory review schedule. Paxton Myers is going to go
20 through a PowerPoint presentation that gives you a
21 little more information and detailed explanation of the
22 items included in group 1 and group 2.

23 Before I get started, once again remind
24 everybody, I want to comment that we encourage your
25 comments. State your name, speak clearly into a

1 microphone, and your organization. The meeting is being
2 transcribed by Keri Veare. We will post the transcript,
3 like all of the consultations, on our Web site. If you
4 haven't been on our Web site NIGC.gov, click on the
5 regulatory review box on the left, you'll see any of the
6 comments, agendas, PowerPoint presentations, anything
7 submitted by the Tribe, anything. Any drafts are all
8 online there. So if you don't get something today, you
9 don't hear something, it will be online there.

10 We're scheduled to go to 5 o'clock. These
11 meetings have not been going that long. We'll try to
12 come back after lunch. If there's no one here, we might
13 not go the full time, so I encourage everybody, if you
14 have comments, to make -- do them earlier.

15 I don't think there's any media reporters in
16 the room, but this meeting is for tribal leaders and
17 your representatives. The Commission, we respect the
18 tribe's rights. If you prefer an attorney or one of
19 your tribal representatives from your gaming commission
20 to speak on behalf of the Tribe, we accept that and we
21 encourage that, so we welcome that. And I think that is
22 it.

23 I'm going to turn it over to Paxton right now.
24 So thank you and welcome.

25 PAXTON MYERS: Thanks, Dan. (Native language

1 spoken). Good morning. My name is Paxton Myers. I'm
2 the chief of staff of the National Gaming Commission. I
3 am also an enrolled member in the Eastern Band of
4 Cherokee Indians in North Carolina. And I want to thank
5 the Coeur d'Alene Tribe and everybody for welcoming us
6 here today.

7 As you know, the consultation is a big key
8 component of what we do here as an agency, so we are
9 adhering to executive order of 13,175, which has been in
10 place by President Clinton and reaffirmed by President
11 Obama shortly after he took office.

12 The consultation has three parts. One is we
13 encourage tribes to develop their own policies to
14 achieve the program objective. Where possible, we defer
15 to Indian tribes to establish their own standards, and
16 we're determined to establish federal standards and
17 consult with tribal officials as to the need for federal
18 standards and any alternatives that would more or less
19 preserve the authority of Indian tribes.

20 Our regulatory review process, we've broken it
21 down into three phases: Preliminary drafting phase,
22 which will allow consultations with written comments;
23 proposal rule, which will have additional consultations
24 and a 60-day comment period; and then the final rule,
25 which will have a 45-day comment period.

1 The NIGC has divided the regulations up into
2 five groups. The groups do not indicate any priority,
3 only a number of factors, including the subject matter,
4 comments that we received in response to -- from the NOI
5 regarding the priority, estimated time, and resources to
6 complete the review. So that's why you'll see group 1,
7 2, 3, 4 and 5, and we're consulting on groups 1 and 2
8 today. But in the near future, we'll be doing 1, 2, 3,
9 4 and 5 eventually.

10 The consultation process, preliminary
11 discussion drafts for the consultation will be initial
12 working drafts, which we are working on those now. You
13 have in your packets, I think, working drafts of
14 group 1. We're in the process of completing the working
15 drafts in group 2, which we should have those out fairly
16 soon. I think we have the last meetings next week with
17 internal staff, so we should have those published fairly
18 soon so you guys could have a chance to review those.

19 As Dan stated, this meeting will be
20 transcribed, so everything that's been said here will be
21 transcribed. Written comments and transcripts will be
22 posted on our Web site.

23 We want to commit that every comment that we
24 receive will be reviewed and considered. Any proposed
25 or final rule will include a summary of the comments

1 that we have received. The Commission is committed to a
2 clear and transparent process, so therefore, we'll have
3 everything posted on the Web site. If anyone's had a
4 chance to visit the Web site, we're posting all the
5 comments, all the consultations that are transcribed
6 will be posted on the Web site, so feel free to look at
7 our Web site if you have any questions following today's
8 consultation.

9 Group 1. Under group 1, we will address the
10 fees and the fee schedule, the review and approval of
11 existing ordinance and resolutions, the facility
12 licensing, the Buy Indian Act regulation, and the
13 minimum internal control standards for class III gaming.

14 We're asking actually on this part to get some
15 feedback from tribes on how they would like for us to
16 proceed with class III post-CRIT decision.

17 Part 514, which is the fees. The discussion
18 draft will contain the fee calculation to be made based
19 on a gaming operation's fiscal year rather than a
20 calendar year. That's proposed in section 514(a)(1).
21 The fee rate to be published in March rather than
22 February 1st to allow more time for accurate preliminary
23 rate. This is proposed in section 514(a)(2). The
24 removal of amortization section from
25 section 514(b)(2)(ii) to reflect existing practices.

1 Continuing with 514, also proposed is going
2 back to quarterly payments as opposed to biannual
3 payments. To clarify, when computing fees, the gaming
4 operation will utilize part 514(b) calculation to
5 determine assessable gross revenues for the previous
6 fiscal year. And finally, notification period for the
7 gaming operation changes its fiscal year. This is
8 proposed in 514(c)(7).

9 I'm kind of running through these, but we'll
10 have time for questions after we get through with the
11 PowerPoint presentation.

12 Continuing on with the fees and the discussion
13 draft, we have a new section which is entitled "Late
14 payment system prior to notice of violation." This
15 section will include appeal options, defines late
16 payment, which is payments within 91 days of end fiscal
17 year versus failure to pay annual payments made after 91
18 days of the end of the fiscal year. Also, late payment
19 results in a fee. Failure to pay late annual fee
20 payments is a substantial violation that could result in
21 an NOV or possible closure order.

22 Continuing on, discussion draft regulation. A
23 new section will be the fingerprint processing fees,
24 proposed section 514(c)(9)-(11). Clarifies NIGC's
25 collection of this fee. Clarifies NIGC publish the fee

1 amount biannually. Potential questions that we might
2 propose to tribes: Should the term admission fee be
3 changed to entry fee? Should the term tournament fee be
4 included in examples of admission or entry fee?

5 Other potential questions that we propose:
6 Definition of gross gaming revenue. The NOI asked if
7 the term should be changed to be consistent with GAAP
8 for calculating the purpose of the fees. This
9 discussion draft does not make this change, however.
10 Another question: Should the Commission define wager
11 and payout?

12 Finally, the written comment period for draft
13 fee regulation closes May 31st, 2011. And like I said,
14 Chris is here to answer any questions when we get to the
15 question area about the fees.

16 Part 523, review and approval of existing
17 ordinances and resolutions. This only applies to gaming
18 ordinances enacted by tribes prior to January 22nd, 1993
19 which were not submitted to the Chair for review or
20 approval. Should this part be repealed? We have no
21 ordinances now on the books that were prior to 1993, so
22 we're proposing that we just eliminate this section all
23 together.

24 Moving to part 559, facility license
25 notifications, renewals, and submissions. The NOI asked

1 should this part be revised. We received a number of
2 comments. The majority of the comments supported
3 reopening this part for review. Indicated concerns
4 about the process by which the part was adopted. Stated
5 NIGC did not have the authority over environmental,
6 public health and safety issues, which are also covered
7 by other federal agencies.

8 Continuing on, discussion draft regulation
9 proposed to change the time frame for tribes to submit a
10 notice of new facility license from 120 days to 60 days,
11 and we reserve the right at the Chair's discretion to
12 request another additional 60 days for review. It also
13 includes a provision for expediting the process for
14 verifying Indian land status when circumstances permit.

15 Continuing on. We also proposed that the
16 tribes will send newly issued or renewed facility
17 license to the Chair within 30 days of issuance. Also
18 proposed, the Tribe will certify the Tribe has
19 determined the construction and maintenance of the
20 gaming facility and operation of the gaming conducted in
21 a manner adequately protects the environment and public
22 health and safety.

23 Also included in the discussion draft is
24 notice of the facility license sent to the Chair within
25 30 days when the license is terminated or expires, or if

1 a gaming place, facility, or location closes or reopens.
2 Also proposed, Indian land and environmental and public
3 health and safety documentation provided only if the
4 Chair requests. And electronic submissions will be
5 accepted.

6 The written comment period for preliminary
7 draft discussion on part 559 closes June 17th, 2011.

8 Moving forward to the Buy Indian Act. This is
9 just for the agency to adopt the Buy Indian regulation,
10 for the agency not to have that imposed on the tribes.
11 Comments from the NOI were generally supportive. NIGC
12 have adopted such a regulation. Allows NIGC to Buy
13 Indian when purchasing goods, services, and property.
14 Supported by IGRA. And the Commission intends to
15 distribute a regulation very soon. We're still in the
16 drafting phases of that.

17 Class III MICS. As I stated earlier in
18 group 1, we are just right now talking about what
19 structure do we use to address class III MICS. We're
20 asking for tribes to give input on what is that
21 structure that they would like to see and how did this
22 issue impact tribes, states and regions differently
23 across United States. You'll have different views in
24 California and Oklahoma, as you might have where I'm
25 from in North Carolina or Mississippi or out in this

1 area.

2 So we're asking -- we're soliciting
3 information from tribes about how do we proceed with
4 class III's. Is it guidance? Is it a bulletin? Is it
5 regulations? Those types of things.

6 When we get to group 5, we anticipate these
7 meetings will focus on the practical implementation of
8 what was discussed in group 1 of class III MICS.

9 As stated, we're asking how do tribes -- what
10 structure would they like to see NIGC address in class
11 III MICS issue. CRIT held the Commission did not have
12 authority to promulgate established in class III MICS.
13 What is the impacts to certain tribes and certain
14 regions? What is the impact to states? So we want to
15 again solicit information from a variety of all tribes
16 across the United States on this issue.

17 Through the NOI, tribes suggested that we
18 replace part 542 with recommended guidelines. Another
19 option was to address this through agency and tribal
20 compacting process. Tribal ordinance is incorporating
21 part 542 with NIGC applying different fee rate to those
22 particular tribes that adopt class -- our class III
23 regulations. Also, we had to maintain part 542 and
24 convene a Tribal Advisory Committee to update the
25 current regulation, and then some tribes said total

1 repeal 542.

2 Moving on to group 2, that will be enforcement
3 and the regulations concerning procedures before the
4 Commission, parts 519, which is service; 524, appeals;
5 539, appeals; and 577, appeals before the Commission.

6 The enforcement section. The NOI requested
7 comments on whether the NIGC should promulgate
8 regulation authorizing the withdrawal of an NOV by the
9 chair. Received numerous comments. Some comments were
10 the regulation is unnecessary because there's no
11 prohibition on withdrawal now. A specific regulation
12 outlining the process and circumstances of withdrawal is
13 appropriate. Another comment received: Only the
14 Commission has the ability to withdraw an NOV.
15 Additional comments: NOV should be expunged after a
16 certain number of years for noncompliance issues
17 resulting in NOV have been resolved. NOVs posted on the
18 Web site should not have identifying information. NIGC
19 should work with tribes to bring into compliance so NOV
20 is never a surprise. The agency policy now is
21 sufficient. If the NIGC and tribe discussed the IGRA
22 violation prior to the issuance of NOV, then a
23 withdrawal would not be necessary and voluntary
24 compliance model should be utilized.

25 Proceedings before the Commission. The NOI

1 requested comment on whether the rules for proceedings
2 before the Commission should be reviewed. Received
3 numerous comments. Some of those said a more formal
4 process may be more burdensome on tribes, costly and
5 delay the process for review. Any rules should
6 guarantee due process for the Tribe. Consolidate all
7 the regulations regarding proceedings before the
8 Commission.

9 Proceedings before the Commission. The NOI
10 requested comment on whether the NIGC should consider a
11 more comprehensive and detailed procedural rules for
12 proceedings before the Commission. Tribal comments,
13 again, said consolidate all regulations regarding
14 proceedings before the Commission, so to make them more
15 understanding, more understandable, and they can find
16 them all in one place. Eliminate the presiding officer
17 proceedings. Add informal hearing option to the
18 ordinance and management contracting approval process.

19 The written comment period for preliminary
20 draft fee closed -- 514 closes May 31st, 2011. Written
21 comment period for the preliminary draft facility
22 licensing 559 closes June 17th, 2011.

23 I'll now turn things back over to Commissioner
24 Little for questions. Thank you again. (Native
25 language spoken.)

1 COMMISSIONER LITTLE: Okay. That was a lot.
2 One thing that I think -- trying to get folks
3 comfortable with it, I think in the past a lot of times
4 folks came to these consultation sessions and just
5 listened to the NIGC speak. We're -- as you can see by
6 the presentation, we're very interested in your
7 comments.

8 Kind of a three-step process here where the
9 NOI, like I said, was to determine which regulations and
10 what time frame and what performance. Many tribes
11 submitted comments, some very good comments that were
12 taken into account. That was one of the -- the three
13 issues, like I said, we were really interested in is
14 what issue, you know, what priority and when.

15 So we're -- we're going to start off with 514,
16 the fees, and just start going through there. And I
17 encourage you that if you have comment, just, you know,
18 pick up a microphone and speak any time. We've got a
19 few on the table.

20 So getting started on 514, there is a couple
21 changes, and I encourage Chris White here to jump in
22 anytime. Couple changes were -- are helpful for the
23 Commission. A couple years ago we went to a biannual
24 fee assessment, which has proven to be a little
25 difficult, implementing from a budgetary standpoint,

1 and, you know, the Commission is proposing that we go
2 back to four times a year. That was in the past and it
3 states in IGRA. Does anybody have any
4 suggestions/comments they'd like to talk about about
5 going back to the quarterly fee assessment?

6 Okay. Just trying to go through some notes of
7 what tribes had commented. All right. Another question
8 in the NOI was some tribes requested the ability to
9 choose to pay fees based on a calendar year or a fiscal
10 year. These regulations require a fiscal year. Does
11 anybody like to comment on that? Not everybody speak at
12 once.

13 If you don't -- if you're not prepared to make
14 a statement today, we encourage you you can submit
15 questions or comments at a later date, so I don't want
16 to feel like -- we're not bullying you to say something.
17 Honestly, it's okay if you don't have -- not prepared
18 to, you know, say something. I know a lot of you may
19 have to go back and talk to your councils first before
20 you say something, so we definitely understand that.

21 Fee submission schedules, a draft regulation
22 that returns to the quarterly fee submission. Is there
23 any concerns on that, or no?

24 Okay. Late fees. This was an interesting one
25 that -- it's very important to this Commission. Notice

1 of violations we understand are very big, big items, big
2 issues. In the past, the Commission has issued notice
3 of violations for late fees, and we're proposing that we
4 implement sort of a ticketing late fee process.

5 Basically that, you know, certain time thresholds are
6 met, a fee will be implemented automatically versus the
7 Commission, the chairwoman putting a formal notice of
8 violation together.

9 We understand those create, you know, bonding
10 issues with some financiers. They create public
11 relations problems with your, you know, folks in your
12 area. And, you know, we understand, okay -- I mean,
13 fees are very important. This Commission does not
14 receive federal appropriations, so the fees that you all
15 pay fund the agency. We understand that's very
16 important. We need those fees in order to continue
17 operations. However, is it a seven-day late, you know
18 submission? Does that warrant a notice of violation,
19 the whole formal process of issuing a violation?

20 We proposed setting up a four-tiered system.
21 I think that's on page 5 of the proposed regulation,
22 preliminary draft. And that is lines 13 through 20.
23 And the idea -- one of the things we're really
24 interested in is, we've got -- in line 13, we begin with
25 the first late schedule and then we have four tiers up

1 until 91 days. On the 92nd day, it does become a -- it
2 does become a major violation at which time the chair
3 can issue a violation.

4 We figured up to 91 days there should be a
5 process. And does anybody have any comment whether we
6 should do a percentage of the fees, whether it should be
7 a flat fee, whether it should be based on the gaming
8 revenue?

9 Yes, sir? Mike right there. Just state your
10 name and your organization, please.

11 JOSEPH TURREY: Yeah, my name is Joe Turrey.
12 I'm councilman for Lower Elwha Tribe. I have a prepared
13 statement here and you're jumping around on everything
14 here. I could just read the section on 514 if you
15 prefer or the whole statement?

16 COMMISSIONER LITTLE: It's up to you. If
17 you'd like to, you know, go through your statement,
18 that'd be fine.

19 JOSEPH TURREY: Well, I'm going to read the
20 whole statement here and I'll cover the 514 here. This
21 was addressed to Chairwoman Stevens, Vice Chairman
22 Cochran, Associate Commissioner Little. It says, Thank
23 you for conducting this consultation session and
24 providing this opportunity for Lower Elwha Klallam Tribe
25 to comment on the group 1 and 2 regulations subject to

1 this discussion today.

2 Adoption of a Buy Indian Act Regulation. The
3 Tribe fully supports the proposal that the Commission
4 implement a Buy Indian policy and believes that it is
5 entirely appropriate given the Commission's role.

6 Part 523, review and approval of existing
7 ordinances or resolutions. The Tribe has no objection
8 to removing this part.

9 Part 514, fees. The Tribe, one, supports
10 proposal to shift the fee calculation period to
11 particularly -- to the particular tribe's fiscal year;
12 two, the Tribe does not object to changing the admission
13 fees to entry fees; and three, the Tribe believes that
14 the free play should not be counted in determining the
15 amount of money wagered on class II and class III games.

16 Further, the Tribe strongly supports the
17 proposal to institute late fee penalties in lieu of more
18 drastic measures when the Tribe fails to submit fee
19 payments or quarterly payment statement in a timely
20 manner, including the provision permitting negotiation
21 of a settlement. The Tribe suggests that the late fees
22 be either a percentage of the total fee due or otherwise
23 based on a scale that accounts for the income of the
24 facility so that the late fee is relative to the amount
25 due. I have some examples here if you want to --

1 example of a late fee: Up to greater than \$100 or
2 .1 percent of the total fee due, assessed for each day
3 the payment is late for the first 30 days; a late fee up
4 to greater of \$200 or .25 percent of the total fees due,
5 assessed for each day from the 31st to the 60th day.
6 And then a late payment, late fee up to greater of \$300
7 or .5 percent of the total fee, assessed each day for
8 the 61st days through the 90th day of late payment.

9 Part 559, facility license notification,
10 renewals, and submissions. The Tribe recommends
11 removing part 559 entirely. In the alternative, the
12 Tribe strongly supports the proposed changes, in
13 particular, the deletion of most of 559.5. As it is
14 currently written, 559.5 is over broad, overly
15 burdensome, and outside the scope of the Commission's
16 authority.

17 Part 542, minimum internal control standards
18 for class III gaming. In light of the Colorado River
19 Indian Tribe's case, the Tribe supports removing the
20 invalidated minimum internal control standards
21 regulations and suggests providing the standards as a
22 guide or model available for use as needed.

23 Part 573, enforcement. The Tribe supports
24 revision part 573 to, one, require that notices of
25 violation and orders of closure be issued only after all

1 other reasonable measures have been taken and good-faith
2 efforts have been made to resolve the problem; two,
3 clarify that the Commission has the inherent authority
4 to withdraw a notice of violation; three, incorporate
5 the proposed late fee system from part 514 and make it
6 clear that the orders of closure should be issued for
7 late payments only under the very limited circumstances
8 after more than 90 days have passed and it has become
9 clear that the failure to pay is a willful refusal.
10 Basically, that's all we have. Thank you for your time.

11 COMMISSIONER LITTLE: Well, I appreciate that.
12 Will you be submitting those? Will you be submitting
13 those comments?

14 JOSEPH TURREY: Yes, I have a written comment.

15 COMMISSIONER LITTLE: I appreciate that.
16 We'll give it to the transcriptionist, so we have a copy
17 of it. Does any other tribes have written comments that
18 they would like to go ahead and submit? Chairman.

19 GREG ABRAHAMSON: Yeah, we do. Thank you,
20 Dan, for the opportunity to address NIGC and these
21 important issues identified in group 1 and 2. On behalf
22 of the Spokane Tribe, I'm submitting a preliminary
23 written statement. I say preliminary because the
24 session is only one of many.

25 Spokane Tribe will observe and listen to the

1 consultation session. The Tribe anticipates additional
2 drafts to be circulated before the end of the group 1
3 and group 2 consultations and likely will submit
4 supplemental drafts at this time. What we do have is we
5 have a six-page written documentation, and I don't need
6 to burden everybody reading it off today, but we will
7 submit it in too for testimony later.

8 COMMISSIONER LITTLE: Thank you.

9 GREG ABRAHAMSON: But we did have -- my
10 chairman and commission did have a comment on the tier
11 level.

12 COMMISSIONER LITTLE: If you want to
13 summarize, you're more than welcome to. I mean, the
14 time is yours. You want to summarize.

15 ANDREW MATHERLY: Andrew Matherly, chairman of
16 the Gaming Commission. The question to you, Mr. Little,
17 is the -- you indicated NIGC has a proposed tier level.
18 Is it appropriate if I ask what that tier level is?

19 COMMISSIONER LITTLE: No, we don't -- we got
20 tiers, but we've left it blank. If you look on page 5
21 of the preliminary draft, they're blank.

22 ANDREW MATHERLY: Okay.

23 COMMISSIONER LITTLE: Maybe we don't. Maybe
24 it's online. Oh, 559. I'm sorry. We might be able to
25 pull up a copy. My apologies. I think it's online, but

1 we'll get this up here for you.

2 ANDREW MATHERLY: The Spokane Tribe reiterates
3 with the -- what we're looking at a percentage, based on
4 the four different levels we're looking at from 1 to 30
5 calendar days late. So we have those built in our
6 comments, so I won't state them again. They're similar
7 to Lower Elwha.

8 COMMISSIONER LITTLE: I appreciate that.
9 Thank you very much.

10 My apologies. I thought that we had copies of
11 that. It is on the Web site. And, Chairman, I thank
12 you for reminding me. These are preliminary drafts.
13 This is just a first brick in kind of a compilation of
14 all the comments that we've heard.

15 We expect that, you know, there will be
16 changes after we, you know, hear more feedback from the
17 Tribe. So thank you for bringing that point. We've
18 got -- probably at least two or three more times in this
19 area we'll be back here, and then we'll progress before
20 we move to final rules. So there will be plenty of
21 opportunities to comment. There will be plenty of
22 drafts that you'll see. As we get drafts available,
23 preliminary discussion drafts, we'll get them online and
24 then we'll get them out to everybody.

25 Yes, ma'am?

1 UNIDENTIFIED SPEAKER: So these time lines,
2 they're for comments on your most current proposed
3 drafts?

4 COMMISSIONER LITTLE: Correct, preliminary
5 draft.

6 UNIDENTIFIED SPEAKER: Thank you.

7 COMMISSIONER LITTLE: Or if you've got other
8 comments that you don't see in there, please, you know,
9 put them down and make those suggestions, okay? We're
10 real interested in hearing what you have to say. Is
11 there any other tribes that got prepared statements that
12 they'd like to -- I think it takes a couple seconds.

13 DEBRA PARKER: We have comments, but on part
14 542. So do you want me to hold off on that?

15 COMMISSIONER LITTLE: Yeah. Why don't we get
16 to that point. Just 542?

17 DEBRA PARKER: At this moment, yeah.

18 COMMISSIONER LITTLE: Okay. Thanks. Does
19 anybody have any comments on 514 so far?

20 LANA PAGE: For the Salish and Kootenai
21 Tribes, we're in agreement with having a late payment
22 system. However, we would like to kind of address --
23 the chair has a lot of, I guess, authority as to
24 distinguishing what type of late payment would be, and
25 it's kind of -- well, it -- I guess if we actually come

1 up with an amount, it would be kind of arbitrary. And
2 in the past, you know, the tribes have always been a
3 little bit concerned with the Bill Hogan administration
4 and how that could have an impact on whether he's -- was
5 mad at the tribes at that time are coming out,
6 commenting under our thing. So I guess it's always been
7 a little bit of a barrier for the tribes to see that,
8 you know, with that in there.

9 I mean, we have no problems with this
10 administration, but it just -- as a concern that after
11 this administration, what administration's going to take
12 over after that and what kind of fees will they be
13 putting out there? Is it going to be, you know, it's
14 just -- it's a little bit scary, I guess, for the tribes
15 to have that uncertain with those fees, and if it's
16 going to be arbitrary or if it's going to be set at an
17 amount and have that across the board for all late
18 payments.

19 COMMISSIONER LITTLE: Your comment is very
20 well taken, and we did hear that some of the fines
21 assessed in the past were a little heavy. And that's
22 why I think -- do you believe that if we had a set
23 percentage or a set fee in the regulation, that would
24 satisfy some of those concerns?

25 LANA PAGE: I believe -- I mean, to some

1 point, yeah, it would, but I guess we haven't really
2 gotten that far. I mean, we would like to kind of see
3 exactly where it would be, but that was just our
4 concern, is that seeing, you know, that it would be
5 straight across the board instead of having that
6 discretion only with the chairperson at that time. So I
7 guess that would be -- and like I said, I mean, the
8 amounts are whether it's percentage or a set amount,
9 yeah.

10 COMMISSIONER LITTLE: Okay. Just checking to
11 see. I think the regs do give the Chair a lot of
12 discretion. That could be just once you pass the 91st
13 day whether or not to issue an NOV. But I do appreciate
14 your comment. Thank you.

15 Anybody else have any other -- the comment --
16 I mean, in the proposed draft, the Chair may, which
17 doesn't provide some discretion there. It's a shall.
18 You know, in Washington DC may and shall are huge
19 debatable items. But I do -- point well taken. We'll
20 definitely, you know, consider that, so thank you.

21 Another -- and this is probably something that
22 some folks are not fully versed on, and I don't expect
23 you to, is on the new section fingerprint proposed fees.
24 And this just clarifies the NIGC collection of fees, and
25 I think the question we have should the term -- okay.

1 Should the term admission fee be changed to an entry
2 fee?

3 I think on -- well, let's -- fingerprint fees,
4 first of all, we collect fingerprint fees. There's been
5 some issues with how we can then actually utilize that,
6 so I think a comment on the whole issue on how we can
7 utilize that. Then on fee calculation, it is how
8 admission fee versus entry fees, and I think a lot of
9 these have to do with folks that have poker facilities
10 and should the fee to enter a tournament be used in
11 calculating gross gaming revenue. I don't know if
12 anybody has any comment on that or those fingerprint
13 fee.

14 Any questions on -- the NOI asked if the term
15 in the definition of post-gaming revenue be changed or
16 to make it consistent with Generally Accepted Accounting
17 Principles -- GAAP, you know, used quite frequently --
18 for the purpose of calculating the fees. Does anybody
19 have any comments, suggestions?

20 LANA PAGE: I just have a comment, again, on
21 the fingerprinting fees, I believe. Is that for those
22 fees? Is that an addition in -- I mean, in the past, I
23 know there's been, with the Commission and the fees that
24 have been collected from tribes, there's been talk that
25 there's been excessive amount of fee left over to have

1 different, I guess, trainings and different things for
2 the tribes. Is that no longer -- is there no longer a
3 surplus with the Commission in amounts of fees that are
4 out there, or is that ...

5 COMMISSIONER LITTLE: Very good question. And
6 the whole idea of fees, and I've asked Chris White where
7 that coffee can was and he swears there's no coffee can.
8 There's no surplus. And this gets back to the
9 fingerprint fees. I guess there was a point in time --
10 and, Chris, interrupt me any time you'd like -- the
11 Commission had trouble in accessing those fees
12 collected, and to a point, considerable amount of money
13 had accumulated.

14 Over the past couple years, the fee rate was
15 capped at a lower level and that money was spent. It
16 was used for operations. Very reluctantly, earlier this
17 year, and I know Chris can attest to this because we
18 beat him up pretty bad, we had to raise the fee.
19 Something that we really did not want to do, but one of
20 the reasons why we had to raise the fee was because
21 there was a surplus from the previous commission that
22 was utilized to fund operations.

23 Once that money was spent down, we're
24 basically -- the fee that -- fee rate that we adopted,
25 preliminary fee we adopted in January, basically just

1 funds current operation, so there's no surplus. I hope
2 that answers your question.

3 LANA PAGE: Yeah. I guess that would be the
4 thing, to see that the fingerprinting fee is not going
5 to be a part of the funding operations but rather that
6 just for the fingerprinting itself.

7 COMMISSIONER LITTLE: Yes.

8 LANA PAGE: Is that ...

9 COMMISSIONER LITTLE: I'll let Chris answer
10 that.

11 CHRIS WHITE: Yeah, thank you. What this
12 proposed regulations for fingerprinting fees does is
13 basically formalizes what we already do. The one
14 practical effect it has on my side of the house is that
15 it allows me to incorporate these fees into our general
16 revenue account. But the rate we charge will continue
17 to be based on our actual costs in processing
18 fingerprint fees.

19 We have a number of personnel that are --
20 their costs are to process fingerprint fees, equipment
21 replacement, that type of thing. And that review is
22 written into this regulation and will require the
23 Commission to review that fee annually and base it on
24 the cost of the Commission and in addition to the costs
25 that the FBI charges us to process those cards.

1 So to -- I guess it's sort of a roundabout way
2 of answering your question. No, it's not -- we're not
3 collecting fees for fingerprints to fund other aspects
4 and other operations within the Commission. That's what
5 our gaming fees are for and that's what their gaming
6 fees fund.

7 LANA PAGE: But the fees will be used to --
8 for your -- well, I guess your personnel that do the
9 fingerprinting fees, though? I mean, it won't just be
10 for the actual cost of the fee for the fingerprints?

11 CHRIS WHITE: That's correct. That fee is
12 to -- is based on the costs of what it cost the
13 Commission to process those cards. Now, the flip side
14 of that is that it prevents us or it takes the necessity
15 out of using our gaming fees to subsidize this program
16 that is only used by a certain number of tribes.

17 LANA PAGE: How much does that fee usually
18 cost for processing now? Is that part of your taking it
19 out of the annual fees right now?

20 CHRIS WHITE: No. The fee right now is based
21 on actual cost to the Commission.

22 LANA PAGE: And how much is that? Because --
23 I mean, it's my understanding, though, that tribes have
24 an agreement with -- I mean, if they could, they could
25 go directly through the FBI, right, and have those

1 fees -- or is there --

2 CHRIS WHITE: And that's an operational
3 question, but it's my understanding the FBI will not
4 allow tribes to interface with them directly. They
5 require them to go through the NIGC.

6 LANA PAGE: Okay. I thought there was some
7 type of equipment out there where some of them are, I
8 mean, like law enforcement where they can go through
9 their law enforcement? But maybe I'm wrong as to that,
10 as to how that ...

11 CHRIS WHITE: I don't -- you know, I don't
12 work on the operational side of the house, but it is my
13 understanding that the FBI has stated that if tribes
14 want to utilize that fingerprinting system, they have to
15 go through the NIGC. Now, I know there's some states
16 that will process cards for tribes as part of the
17 compact, so ...

18 LANA PAGE: So that's only for class III then?
19 I mean, it wouldn't be -- if tribes -- I guess if tribes
20 wanted to utilize that way, would that be covered under
21 these regulations then, I mean, if there's an
22 alternative mode where they could -- wouldn't have to
23 pay for these fingerprinting fees and wanted to go
24 through like the state and cut the costs? Is there --

25 CHRIS WHITE: Yeah, there's nothing to prevent

1 tribes from going through states or other agencies to
2 satisfy this requirement. There's no requirement that
3 the tribes utilize the NIGC fingerprint service.

4 COMMISSIONER LITTLE: I mean, the fee is
5 minimal. I think it's what, \$28?

6 CHRIS WHITE: 24.

7 COMMISSIONER LITTLE: It's \$24. I tell you,
8 looking operationally on a budget standpoint, it is
9 basically what the FBI charges plus the actual cost of
10 the employee to process it. It's not a lot. Point of
11 reference, Connecticut, the license to compact was
12 through them and they charge in excess of \$175 per
13 person. So I tell you, we're not making a lot of money
14 off of this. Good point. Another good question. I
15 hope if we haven't clarified this, if you want to submit
16 that in your comments, that would be very helpful.

17 LANA PAGE: Okay.

18 COMMISSIONER LITTLE: Good discussion thus
19 far. Anyone have any other comments on this? Just
20 trying to go through the list here and make sure that
21 we're covering all the parts here.

22 TERRY GOUDY-RAMBLER: My comment is --

23 COMMISSIONER LITTLE: Takes a couple seconds
24 to initialize because it's wireless, so ...

25 Could you please state your name and

1 organization, please.

2 TERRY GOUDY-RAMBLER: My name is Terry
3 Goudy-Rambler, Yakama Nation. My comment is, if what
4 we're discussing now and this is a comment period, I
5 believe that by you addressing the tribes, that some of
6 this stuff that you have pointed out should have already
7 been addressed, like what she's saying.

8 The tribes have Bureau of Indian Affairs. The
9 BIA employees have to go through background checks. I
10 believe, you know, this should have been sorted out by
11 you probably, because you sound like you're -- you know
12 what -- that it should be dropped back to the tribes
13 with solutions so that the tribes could go ahead and
14 evaluate them.

15 And then like what you're asking us to comment
16 on, because I also wanted to comment on the fees. When
17 tribes have powwows, our Indians are taxed. That's a
18 tribally band. So I believe that it should not be
19 taxed, and I don't know how we could address that,
20 whether we can have it written for internal controls or
21 whether we can go ahead and provide tribal funds like
22 through our timber resource, something that we pay these
23 funds, so that we can say it's tax exempt for our
24 natives that participate in it.

25 I believe that class III, the Yakamas are

1 going to go ahead, and this is our first meeting, our
2 group here, and we'll be taking all this information
3 back to our attorneys, but I believe that when we had
4 our gaming put onto the reservations, that that was for
5 us, for our economic growth, and we also helped the
6 United States with billions of dollars in the economic
7 growth. So that's just kind of what I wanted to point
8 out here. Thank you.

9 COMMISSIONER LITTLE: Yes, sir?

10 RICHARD GEORGE: Richard George, Yakama
11 Nation. I just have my comments are my own personal.

12 COMMISSIONER LITTLE: They're welcome.

13 RICHARD GEORGE: The Yakama Nation is forming
14 a consultation process and we're using for all federal
15 agencies, so I don't know if this particular 13,175
16 consultation of tribal governments, myself, I'm not
17 considering this consultation with tribal governments.
18 I think that a representative of your guys' department
19 can come and meet with us tribal government or the
20 tribal company with you guys, and that's what I would
21 call a consultation.

22 We are making a consultation process that
23 we're making for all federal agencies, but a lot of
24 these areas that we haven't been -- all this information
25 here is kind of new to us, so we kind of get back to the

1 Tribe and go to the lawyers or whatever, but I think
2 that a lot of these issues here have to be discussed.
3 And that's what Warren here is on our development
4 committee, so he does have some statements on this.
5 This isn't just my own. Thank you.

6 COMMISSIONER LITTLE: It's all right. I
7 appreciate both your comments and I'm delighted that
8 your tribe is here. I assure you, sir, this is
9 government-to-government consultation. I'm a member of
10 the Commission. There's a three-member commission.
11 I've been appointed by the Secretary of Interior, so
12 your comments will be submitted. You'll -- it will be
13 submitted and the full Commission is reviewing every
14 single comment, so I want to thank you again for coming
15 here. I'm glad and I hope to see you at future
16 consultations when we're back in the area, so thank you.
17 And, Miss, thank you for your comments. I really
18 appreciate those. Thank you.

19 Yes, sir?

20 WARREN SPENCER, JR.: Good morning. You know,
21 this is --

22 COMMISSIONER LITTLE: Excuse me, sir, could
23 you just state your name?

24 WARREN SPENCER, JR.: Oh, sorry. Warren
25 Spencer, Yakama Nation tribal council. As Richard

1 stated, that we weren't privileged to this information,
2 and I was just recently delegated to be a part of this.
3 Sounds like it's going to be --

4 COMMISSIONER LITTLE: It's good, very good.

5 WARREN SPENCER, JR.: But a lot of work. And,
6 you know, you guys as NIGC regarding Terry's comment and
7 also the other lady's comment, you know, there's a lot
8 of federal laws that are implicated into this process.
9 Just like Terry mentioned, the powwows, the contest
10 winners are taxed, but also too there's the Freedom of
11 Religion Act dealing with this as Native Americans.
12 And, you know, which myself, everything's tied into this
13 and we need to think beyond gaming, you know, the
14 Freedom of Religion, dealing with the powwows, dealing
15 with the ceremonies and also too the contributions that
16 we provide to the communities, that we provide to the
17 local and state entities also, too. Those need to be
18 addressed. And myself, I am in agreement with Richard,
19 that Yakama Nation doesn't view this as a
20 government-to-government consultation because we're only
21 3 of 14 elected officials. And just for the record,
22 that, you know, I want to state that also, too. Thank
23 you.

24 COMMISSIONER LITTLE: All right. Thank you.
25 You know, we are in the final stages of our formal

1 consultation policy. That is online. So I encourage
2 you to take a look at that and submit any comments if
3 you got on that. So thank you for your comment, sir.
4 Thank you for commenting.

5 Did you have some comments, ma'am? Is there
6 anyone else that would like to make any more comments on
7 514?

8 We're going to move on to 523. And as Paxton
9 had stated earlier, these are obsolete regulations.
10 These were used before to accommodate the tribes that
11 were gaming when the Indian Gaming Regulatory Act was
12 adopted. Like Paxton said, none of these ordinances are
13 in effect and they're obsolete, so the Commission is
14 proposing they be deleted.

15 Does anybody have any comment on these?

16 Okay. Moving right along. The facility
17 license, part 559. The NOI asked: Should this be
18 revised? We heard a lot of comments on the facility
19 license that tribes were not happy with the process that
20 was followed for promulgation of this rule. They also
21 were not happy with some of the environmental health
22 safety requirements in there.

23 Anybody like to comment on this? Yes, sir?

24 JACK GIFFEN, JR.: Yes. My name is Jack
25 Giffen, Jr., tribal council representing the

1 Confederated Tribes of Grand Ronde Community of Oregon.
2 Facility licensing regulation group 1(d), as a tribe
3 that has earned certificate of self-regulation, Grand
4 Ronde has previously urged the Commission to exempt
5 self-regulated tribes from the facility license
6 regulation.

7 Along with the other regulations under review,
8 Grand Ronde recommends the Commission evaluate whether
9 the facility license regulation impacts one of the
10 powers described in IGRA from which Congress
11 specifically exempted self-regulated tribes. This being
12 said, Grand Ronde has reviewed preliminary draft
13 amendment to the facility license regulations which are
14 posted on the Commission's Web site and is pleased with
15 the direction the Commission is taking with regards to
16 the regulation. Thank you.

17 COMMISSIONER LITTLE: Okay. Thank you, sir.
18 Would anybody else like to comment on the facility
19 license? I know this is a very contentious issue, so,
20 you know, please don't be bashful.

21 LANA PAGE: Lana Page, Salish Kootenai Tribes
22 again. I think it goes back to that a lot of these we
23 would probably see those open back up and see that the
24 Commission at the time didn't have that authority to go
25 in and ask for additional requirements under the

1 environmental, and things that were already covered
2 under the federal laws that the tribes have to abide by
3 in regards to some of those safety health and concern
4 where the tribes already implement themselves.

5 So it would be something where we would like
6 to, you know, having that additional requirements puts a
7 little bit of a burden on tribes to have to go in and
8 show that every time when they have it. I mean, I can
9 see if it's as to a new facility being opened at the
10 time, but just the fact that the NIGC needs to, I mean,
11 see that the tribes all follow the federal laws and
12 regulation and tribal laws and regulations in place, so
13 not having additional burdens placed on them from that.

14 COMMISSIONER LITTLE: Okay. Thank you. Does
15 anybody have any comment -- I know -- and I apologize I
16 wasn't aware of this, but I understand some tribes,
17 their casino operations are seasonal. Does anybody have
18 any comment -- I'm not sure if this is applicable to
19 anyone here in the room on how this affects the facility
20 licensing. Because I think, you know, if you close the
21 facility for the season, you would then have to resubmit
22 another facility license in order to open. Does anybody
23 have any comment on does that cause undue burden? Yes,
24 sir?

25 RON SAMUELS: Ron Samuels, Spokane Tribe. We

1 have one operation that is seasonal. It's Two Rivers
2 Casino. It closed in '09 in October and reopened in May
3 and the Tribe did not resubmit to NIGC based on the fact
4 that we had personnel on site 24 hours a day. So it was
5 closed to the gaming public, but it was occupied by
6 whether it be security from the operation side or
7 surveillance from the regulatory side. So the comment
8 on having to resubmit, I think, is a little inaccurate,
9 at least in our predicament.

10 So it's not really a -- I don't think it's --
11 if the facility's still there, I know there was another
12 tribe in the state on the west side that closed for a
13 fairly good time and then they reopened. I don't know
14 what exactly their process was, but the games were still
15 there. You know, it was just a matter of supervising to
16 make sure somebody didn't come in and vandalize the
17 property, primarily the vacant parts. But I don't know
18 why the Tribe would have to resubmit to NIGC.

19 Basically, it's not going to be Two Rivers Casino Resort
20 No. 2 down the road, so ...

21 COMMISSIONER LITTLE: I appreciate that.
22 Thank you for that comment. And I'll throw this out
23 here. I know a lot of folks are not happy with
24 environmental safety and health requirements in IGRA --
25 I mean, in this regulation, rather. Does anybody have

1 any experiences how -- you know, because -- you know,
2 tribes have commented that there's other federal
3 agencies that do, you know, have this kind of area of
4 expertise, like OSHA, I believe. Does anybody have any
5 comments they'd like to talk about that? Sir?

6 ANDREW MATHERLY: Andrew Matherly, Spokane
7 Tribe. What I want to comment on is the Spokane Tribe
8 takes strong objection with the current rule. And one,
9 just an experience of being with the Tribe for a long
10 time is the -- we had a situation where the NIGC
11 postings -- you get on there and it will show ours
12 complies with facility license or whatnot -- and it will
13 have the X's and it will show compliance, but I'm not
14 blaming this administration, but previous and former
15 administration before that, when you talk about the
16 health and safety issues and you have staff that come in
17 and they give you a checklist or they won't give you the
18 checklist to review; however, leave the facility and
19 then, you know, want to give you a notice of violation.

20 One issue with us was the sprinkler system,
21 you know. They've been coming there for years, year
22 after year. And then all of a sudden, we got this
23 certification for compliance for the previous ten years
24 before that, then you get sent an agreement, which is
25 tribes settle with the settlement agreement. Obviously,

1 we want to be in compliance.

2 But I think the public health and safety issue
3 is too broad. Because, you know, like with our tribe,
4 you engage in a compact. Compact provision in there
5 with the State of Washington that we have to comply
6 with, and then you get NIGC coming in and there's a
7 different set of rules. And, you know, we also
8 encompass (inaudible), another police officer on board,
9 so you got three different entities trying to work
10 together. From a commission level, it's always been of
11 importance to have our employees and our patrons
12 protected.

13 So we do establish our own ordinance. We have
14 our own rules. I think some of the public health and
15 safety matters, whether it plays in the facility
16 license, need to be relooked at or redrafted. And in
17 reading some of the comments, I know this is one of --
18 again, the Spokane Tribe wants to challenge some of this
19 as we get in more depth. So thank you.

20 COMMISSIONER LITTLE: I appreciate that
21 firsthand experience and that's important to the
22 Commission so we can get some more information on that.
23 So I definitely appreciate that. Does anybody else want
24 to comment on facility license?

25 I guess we can go on to the Buy Indian Act if

1 anyone doesn't have any further comments on the facility
2 license.

3 And just for a clarification, if there's any
4 issues that I can go back to that we've already covered,
5 please just speak up and more than welcome -- interested
6 in hearing if there's something you forgot or you want
7 to -- someone has come late, you know, please -- if
8 we've passed it already in the agenda here, come back to
9 it no problem.

10 Buy Indian Act, like Paxton had said, this is
11 strictly for the Commission. This is not for tribes.
12 We're interested in finding out your comments on whether
13 this should be a policy or if this should be a formal
14 regulation. And from a budgetary perspective, I'll be
15 really honest with you, sometimes when we come out in
16 the field, we go to tribal facilities and I have all
17 respect for the tribes. Tribal facility's a lot more
18 expensive than going somewhere off the reservation.
19 That's great. I'm glad the tribes are able to do that,
20 and that's -- you know, the market -- you know, the
21 tribes are, you know, smart and understand the market,
22 what it is for the area.

23 But the question that I think I have how that
24 pertains to is, do you believe that -- and keeping in
25 mind that our agency operates 100 percent off the

1 revenue that you all provide us, is it more responsible
2 for the Commission to stay at that cheaper
3 off-reservation facility or go on the reservation and
4 stay at the more expensive tribal facility? Does
5 anybody have any comments about that?

6 You know, I think the Commission fully
7 understands because we are funded through your fee
8 assessments, that we have, you know, an obligation or we
9 should attempt to patronize tribal facilities as much as
10 possible. Procure any of the services that tribes
11 offer. But keeping in mind, sometimes it's more
12 expensive. Does anybody have any comments on that?

13 ANDREW MATHERLY: Lower our fees.

14 COMMISSIONER LITTLE: Yes, ma'am?

15 TERRY GOUDY-RAMBLER: Yakama Nation, Terry
16 Goudy-Rambler. Yes, I believe that the Buy Indian Act
17 is appropriate. I believe that we should utilize our
18 Indian businesses and access its tribes.

19 COMMISSIONER LITTLE: Okay. Thank you for
20 that comment. Chairman?

21 GREG ABRAHAMSON: Greg Abrahamson, Spokane
22 Tribe. I think so too. I think that we should utilize
23 it, at least make the tribes at least be comparable to
24 it, because we all work off budgets. We all know that.
25 We don't want to have (inaudible) because we are going

1 to tribal facilities, but it's costing us more. So I
2 mean, there should be some sort of commission in there
3 that they have to be comparable, and also I appreciate
4 too that this commission does that. You guys are
5 (inaudible) too, so our tribal people being employed for
6 that, so we appreciate that too.

7 COMMISSIONER LITTLE: Well, thank you. Thank
8 you for that comment. Yes, sir? Yes?

9 JOSEPH TURREY: Joe Turrey, Lower Elwha Tribe.
10 I want to comment on your talking about the tribes
11 having the expensive, more expensive hotels, whatever.

12 COMMISSIONER LITTLE: I hope you don't think
13 that.

14 JOSEPH TURREY: I don't take it as
15 disrespectful. I'm just going to give you an example.
16 I have a big family. I have ten children, okay? I
17 planned a trip to California. The only place I could
18 stay was at tribal casinos because it was a hell of a
19 lot cheaper for me to stay in those places with my big
20 family than to go on the outside, anywhere on the
21 outside.

22 I just want to let you know that I totally
23 oppose what you just said because for me personally it
24 was a lot easier to book ahead to a tribal reservation,
25 you know, 300 miles away so I could drive that 300 miles

1 with my family, and then stay in a casino because it was
2 just cheaper for us to do that, and I did that all the
3 way down to California and back. Because for me, that
4 was the only way I could have taken my whole family to
5 do something like that, so I just wanted to interject
6 that as long as you were interjecting your comment.
7 Thank you.

8 COMMISSIONER LITTLE: I appreciate that and
9 thanks for allowing me to clarify myself. I was just --
10 absolutely no disrespect. Just being good stewards of
11 the fees that you all provide us, we want to make
12 sure -- understand how you feel about that, that -- and
13 I'm a free market capitalist. I mean, if tribes can get
14 a higher fee, I am happy for that, that is great and
15 that is a good thing. And that's what, you know -- you
16 know, gaming provides, you know, funding for, you know,
17 essential tribal operations, so that's good.

18 But it is good to understand that, and I'm
19 assuming we can take that as, you know, a tribal
20 comment, that we should utilize tribal facilities even
21 though it may be more expensive, so I appreciate that
22 comment. Thanks for allowing me to clarify myself.
23 Thank you.

24 Anything --

25 LANA PAGE: Yeah. I would just like to make a

1 comment. Don't you guys get the government rate on
2 these facilities?

3 COMMISSIONER LITTLE: I mean, you know, in all
4 honesty, a lot of tribal facilities don't have a
5 government rate. They don't have a lot of government
6 rates, so -- and that is a -- that's a good question, so
7 thank you. That is another problem we have. Even
8 though we are funded through your fee assessments, we
9 are a federal agency and we do have to follow the
10 federal procurement schedule and we do have to follow
11 the per diem schedule. So that is the thing we do --
12 it's a tough one. So we're trying to -- this Commission
13 wholeheartedly believes we should patronize tribal
14 facilities. And if you look at this regulatory review
15 process, I think with the exception of a very, very few,
16 maybe, you know, less than five, every single one of
17 these fees consultations sessions are being held at
18 tribal facilities. It's important to us. I think it's
19 an important statement that we're making, that we're
20 coming to Indian country and we want to patronize, you
21 know, these operations.

22 You know, and quite frankly, I slept in the
23 beds here and they are fantastic. This is a great
24 facility, and, you know, some of these tribal
25 facilities, they're the best in their -- in the area,

1 and that's why they can get a higher rate, so I
2 appreciate that. Thank you.

3 One other point, this is not just for the
4 consultation. Paxton is reminding me. We do extensive
5 training. Training is a big component of the
6 Commission, the agency, and it's a big part of this
7 commission that, you know, our training matches needs of
8 Indian country. And when we do these, we do these in
9 Indian country, and that means we come out to tribal
10 facilities, so ...

11 Does anybody else want to comment on the Buy
12 Indian Act? Like Paxton said, I'll remind you, this is
13 just for us because we do have some confusion. There
14 was a couple other consultations that tribes were
15 concerned that we were imposing this on them, but no,
16 this is just for us.

17 Anybody want to comment on whether this should
18 be a regulation or a policy that we adopt? Policy's
19 easier, can be done quicker, regulation takes longer,
20 more difficult to do; however, in the regulation, and
21 that would make it more difficult for future commissions
22 to change about having to come out to you and do
23 sessions like this. So if you don't have anything else
24 to say on this particular issue, we'll move on. But if
25 you want -- would like to submit written comments,

1 please do so.

2 We will have a preliminary draft out pretty
3 soon. I can't say when, but I think probably within a
4 couple weeks. So like I said, these are preliminary
5 discussion drafts. These are just starting points from
6 what we've heard from comments from tribes, so ...

7 Can we take a 15-minute break? Come back at
8 10:45, then we'll pick up on -- oh, the fun one, the
9 class III 542. Okay. Thank you, everyone.

10 (Recess taken.)

11 COMMISSIONER LITTLE: We're going to get
12 started again. We finished up all the parts in group 1
13 except for the 542 class III MICS. And keep in mind,
14 we're interested in your comments and how we should
15 handle this. The NOI, we had a lot of folks submit
16 comments, specific comments, but this is the time if --
17 depending upon where you go around the country, we get
18 very heated opinions on whether it should be withdrawn,
19 whether they should be kept.

20 This Commission feels that Colorado River
21 Indian Tribe decision prohibited us from promulgating
22 regulations, so we feel we've had some tribes say that's
23 not true and they didn't -- they don't believe in that
24 interpretation of the law. That's the way this
25 Commission believes, is that the decision said that we

1 cannot promulgate regulations. So what we do, because
2 we've got, in many instances, where you've got -- as in
3 Oklahoma, you've got the class III MICS are included in
4 the tribal state compacts.

5 You've got tribes in other parts of the
6 country that have adopted NIGC class III MICS in their
7 gaming ordinances. You've got tribes in California that
8 have voluntarily opt in as part of their state compacts
9 to allow the NIGC to do MICS, class III MICS audits.

10 I think we're really kind of interested in,
11 you know, how you feel. Should we, you know, publish
12 guidelines? Should we withdraw the current regulation?
13 You know, should we replace them? Replace the 514
14 guidelines, whether we address it through agency tribal
15 compacting process? Does anybody want to start off and
16 comment? Yes, ma'am?

17 DEBRA PARKER: Thank you again. For the
18 record, my name is Debra Parker and I'm a member of the
19 Tulalip Tribe. I'm here on behalf of Chairman Mao
20 Sheldon of the Tulalip Tribes to comment on the National
21 Indian Gaming Commission, group 1 review on behalf of
22 Tulalip Tribes, specifically part 542 class III minimum
23 internal control standards.

24 And I have a letter here. It's addressed to
25 Chairwoman Tracy Stevens, so they're coworkers.

1 COMMISSIONER LITTLE: You may proceed.

2 DEBRA PARKER: For the record, we work well
3 together and we miss her.

4 All right. So part 542 class III MICS, the
5 Tulalip Tribes agrees with the court in the Colorado
6 River Indian Tribe decision, holding that the Indian
7 Gaming Regulatory Act does not give authority to the
8 NIGC to promulgate and enforce MICS regulations for
9 class III gaming.

10 Congress intended that the state tribal
11 compacting process would govern the regulation of class
12 III gaming, and this is how Indian Gaming Regulatory Act
13 was constructed.

14 We understand the importance of gaming control
15 standards and gaming regulations to protect the tribes
16 in its assets and to protect the integrity of the
17 gaming. Through the compacting process, tribal gaming
18 agencies and the State Gaming Commission have jointly
19 developed internal controls for class III gaming as
20 required under the Indian Gaming Regulatory Act.

21 These internal controls are exhausted,
22 covering all areas of class III gaming. Layering this
23 process with another federal regulation CFR part 542 to
24 this MICS is confusing, unnecessary and redundant.

25 Furthermore, the minimum internal controls developed by

1 the tribal gaming agencies and the state gaming agency
2 are specific and unique to each tribe.

3 Having said this, we understand the unique
4 issue that each tribe faces in their respective states;
5 thus, the NIGC should develop a mechanism where the
6 tribes have the ability to use the NIGC as a resource or
7 a request class III technical assistance. The cost of
8 this assistance should be borne by the Tribe requesting
9 it and should not be a burden on tribes not requiring
10 this assistance.

11 Tribes have established a strong record,
12 showing they have the ability to regulate themselves,
13 including regulation of class III gaming. We request
14 that CFR part 542 be stricken and that IGRA work as it
15 was intended. Tulalip feels this is a high priority
16 item and will also be submitting written comments on all
17 five areas in group 1 prior to the submission deadline.
18 We thank you again for the opportunity to provide oral
19 comment at this time. Thank you.

20 COMMISSIONER LITTLE: Thank you for those
21 comments. And your comment about tribes paying to
22 utilize the -- you know, I guess our -- I don't want to
23 say our offices, but we've heard that comment before, so
24 I appreciate that. Thank you.

25 DEBRA PARKER: Thank you.

1 ANDREW MATHERLY: Andrew Matherly, Spokane
2 Tribe. The Spokane proposes that NIGC establish a clear
3 date to withdrawal class III MICS -- you probably heard
4 this many times -- from its body of regulations, notices
5 and bulletins.

6 The NIGC should provide those tribes with
7 effective ordinances or compacts as an opportunity to
8 take correcting measures in the matter of exercising
9 tribal self-governance and/or through
10 government-to-government compact, amendment
11 negotiations.

12 One thing the Spokane Tribe -- you know, and I
13 always utilize this as being a regulator, is that, you
14 know, we have the internal controls, the minimum
15 requirements that are required in our compact
16 provisions. And I always use an example is that -- to
17 our staff and to operations, is that the minimum
18 internal control for us is going to say that wall needs
19 to be blue, then the regulations we adopted, standard
20 operating procedures, more kind of a guidance that gets
21 us to that wall being blue tells you how to get that
22 wall blue.

23 Some recent questions that's always opposed by
24 management because it's from some of the old
25 administration is what applies and what doesn't. And a

1 concern I share is that people tend to bring in and say,
2 well, this is what the MICS says, you know. And, you
3 know, my ultimate answer is no, the minimum internal
4 control that's adopted is the document to follow.

5 So I firmly believe that the class III MICS, I
6 don't think the tribes should be paying a fee against
7 those also. And so, you know, as a regulator, I oppose
8 the class III MICS. The tribes have an ordinance. They
9 have negotiations with the states, and I think it's just
10 going to be overabundant. It's going to be confusing.
11 People are not going to know which document to follow.

12 We have -- like Chair Abrahamson said, it's a
13 six-page document. A lot of this information is in
14 there. The Spokane Tribe, we repeat this same concern
15 over and over, so again, I'm just here providing another
16 comment.

17 COMMISSIONER LITTLE: Thank you for the
18 comment. And maybe follow up with you or anyone else, I
19 mean, how -- what are your comments on how do you feel
20 if the class III MICS regulations are repealed, how
21 would it affect those tribes that have it in their
22 compact? Does anybody have any comment they feel that
23 this is going to pose a problem?

24 You know, you've got Oklahoma and they are
25 adamant, do not repeal the MICS. Those are some of the

1 comments that we had when they were in -- the same thing
2 in California, you know, it's all over the place, you
3 know. So anybody want to talk about that?

4 JOHN ROSS: My name is John Ross and I
5 represent the Spokane Tribe, but this is more just a --
6 you know, a personal response to your question. I think
7 irrespective of how it affects them, if it's not
8 legal -- if it's illegal, it's illegal, correct? And it
9 seems like, as sort of the clearing house for the
10 legalities of Indian gaming, that wouldn't necessarily
11 be your position to even ponder that question, whether
12 they enter into an illegal term into their respective
13 compacts. That's unfortunate for them and they may have
14 to renegotiate those. So I mean, I think that's the sum
15 and substance of the response, is that if it's wrong,
16 it's wrong.

17 COMMISSIONER LITTLE: And that raises a very
18 good point, and that is, this Commission is fully aware
19 of the issues that tribes face when they have to
20 renegotiate compacts. Does this cause them to have to
21 go back and renegotiate a compact and what kind of
22 problems would that pose?

23 That question you don't have to answer it. If
24 you want to think about things and just make comments,
25 again, I say that. You can do it at a later time. Yes,

1 ma'am?

2 LANA PAGE: I mean, wouldn't it be about
3 making a bulletin or guidelines for the tribes instead
4 of having actually it be a regulation, I mean, so it's
5 optional and it's out there? What's like being proposed
6 with a class II, same thing, you know, that the, I
7 guess, tribal working group has been working on and
8 trying to look at doing some type of guidelines where it
9 helps the tribes to show that this is where it could --
10 you could look at it and you guys are out there
11 supporting that, so when it does come to the compact and
12 saying that they do actually have these available, and,
13 you know, they're there, so it wouldn't really take it
14 away from them, from having it, or they shouldn't be
15 thought by the states that they're not out there.

16 COMMISSIONER LITTLE: Okay. I appreciate
17 that. Thank you. Yes, sir?

18 BRIAN McCLATCHEY: Brian McClatchey from the
19 Coeur d'Alene Casino. I think that we need to be clear
20 about what is the sort of evil to be addressed. What is
21 the problem? In your initial comment, I thought I heard
22 you say that there is the problem that there is not
23 uniform treatment of this issue across the tribal lands
24 because a bunch of different tribes do things different
25 ways. Could be addressed in the compact. Could have

1 their own mix. Maybe they need a lot of technical
2 assistance to develop their MICS case by case. That's
3 one problem. And then I thought I heard you say later
4 on that there were particular tribes who had compact
5 issues which could be triggered by removing class III
6 MICS from the regulations.

7 So if the first problem is uniform of
8 treatment, it's important to ask is that even a good --
9 is that even something we should be striving for, and if
10 the issue is how individual tribes are going to be
11 impacted in their compacts negotiations, I think you
12 need to address this on a case-by-case basis.

13 I want to take one more step from the comments
14 from the Spokane Tribe, and I agree that if the NIGC's
15 going to be producing anything in terms of MICS, whether
16 they're model MICS, guidelines, whatever you want to
17 call them, nonbinding, there's immediately going to be a
18 distinction between the tribal MICS, any given tribal
19 MICS, and the federal NIGC regulations -- or the NIGC
20 MICS that come out.

21 Regardless of which one's binding, there's
22 going to be confusion about which one is better or
23 worse. And the next step beyond that is you're going to
24 have conflicting interpretations of what these
25 regulations mean. Some of these MICS are going to

1 mean -- are going to be viewed as, you know, stronger,
2 more well constructed, more effective, whatever, than
3 others will be.

4 And so I think that's another issue that you
5 need to figure out. I guess what -- from my personal
6 perspective, what I would like to see is simply an
7 enhanced effort on the part of the NIGC. Go to the
8 tribes that may have issues and help them develop their
9 MICS, and that way we don't have to worry about whether,
10 you know -- it's good that you can see that, you know,
11 CRIT tells you that you can't do promulgation of the
12 regulations, but to my mind, if you're putting out
13 guidelines or, you know, a model set of MICS, you're
14 going to run into a lot of the same sorts of issues. So
15 I'm wondering if you can address that.

16 COMMISSIONER LITTLE: Just to clarify, I don't
17 necessarily -- that makes it a problem, issues that are
18 raised when we travel around the country with different
19 tribes that have the class III MICS in their compacts or
20 their ordinance and they have differing opinions on
21 that. And that's what we're here for.

22 We're here to try to, you know, find out what
23 will work, if there's a process that, you know, will
24 work for everybody. And so I do appreciate that. And
25 I'm not really sure if I'm answering your question, but

1 we're here to get comments on how you feel we should
2 handle this.

3 I'm not saying -- I'm not prepared here right
4 now to give an explanation of, you know, what we think.
5 We don't have a preliminary draft like we've got for the
6 custodial license or for the fees. We're just trying to
7 get information. We will handle this in group 5.

8 This is actually where we'll take the meat of
9 this up when we get to group 5. I think right now we're
10 just really interested in hearing, you know, what your
11 opinions are. We had such a contentious issue. The
12 last commission spent a lot of hours, a lot of resources
13 addressing this issue, and it's important. It's
14 something that we want to make sure that we listen to
15 everybody, we hear all comments, everybody feels they're
16 able to participate and they have their voice heard.

17 So probably can't answer your question
18 totally, but we're working on it and hopefully when we
19 get to group 5 and get down and roll up the sleeves and
20 try to work on something, you know, you can have a
21 better confident level. I appreciate your comment.
22 Thank you.

23 Any other questions on part 542? If not, I
24 guess we will move on to group 2, and those are the
25 enforcement regulations. And what -- let's see. You

1 know, a lot of these, we talked about 519, 522, these
2 are the parts. A lot of it is just clarifying and --
3 you know, once again, I don't know -- I didn't mention
4 this, but putting everything in perspective, the NIGC is
5 a very young organization.

6 If you look at, you know, historically, the
7 government, we're part of the Department of Interior,
8 which is, you know, over 100 years old. You know, the
9 Commission created in -- with the passage of IGRA in '88
10 didn't really get functioning until '92, '93, so our
11 regulations are fairly young. So it's important that,
12 you know, we go back and, you know, trying to, you know,
13 make sure they're working.

14 You know, technology is just creating, you
15 know, a need to be, you know, continually recognizing
16 and looking at these, especially with the class II and
17 the class III MICS, the technical standards, technology
18 changes quicker than I think we can promulgate
19 regulations, so we want to make sure that these work.

20 So as we go -- looking through the enforcement
21 proposals here, there's some cleanup, some housekeeping,
22 but then there's also some -- you know, make sure that
23 we are doing, you know, our job better and, you know, we
24 understand that -- and like I said in my opening
25 comments, respecting the fact that the tribes are the

1 primary regulators. We play an informed federal
2 oversight role, as do the states and the, you know,
3 compacting process.

4 But Indian OI, we were requesting comment on
5 whether or not the Commission or the Chair should be
6 able to withdraw a notice of violation. I guess there's
7 some upsides and some downsides. If you have one
8 commission and you've got a -- you know, our chair. She
9 walked in on day 1 with an NOV that was issued, you
10 know, just days prior to her coming on board, and that's
11 something that she had to deal with.

12 Does anybody have any comment on whether or
13 not the Commission should be able to withdraw an NOV?
14 Whether it should be an authority that the chair already
15 has? Whether it should be something that the full
16 commission should vote on? Whether or not it's even
17 needed?

18 Yes, sir?

19 ANDREW MATHERLY: Andrew Matherly, Spokane
20 Tribe. Just kind of more of an example as applies to
21 NOV. We had a situation many years ago with the outside
22 auditors or firms that come in and do our independent
23 audits, you know, they're not bound any NIGC licensing
24 requirements or whatnot. But like in our case, we were
25 receiving NOV based on an audit report being filed late,

1 and that's a concern from the regulatory bodies because we
2 don't have any teeth on those individuals other than
3 when that time frame's up, we don't -- we kick them out.
4 We get somebody else, so -- because it's of our utmost
5 importance to ensure regulations are done. And I think
6 a more formal policy that ensures that the Commissions
7 or regulators are informed of this, and I think just one
8 thing that's helpful and I know IGRA has language in
9 there as far as tribal representative, these
10 communication lines, I know a lot of information gets
11 sent to the tribal chairs of the council or certain
12 delegates, but it's important that we have a good
13 communication and everybody's involved.

14 There's been times when we had an NOV and we
15 get ten days to respond or we're looking at a closure.
16 Well, when we get it on the fourth day and we're the
17 regulators that need to come up with a quick answer or
18 fix to the issue, it -- you know, we're running into
19 time, and we've experienced that.

20 I think it's important as -- whether we
21 communicate with our region office, is that we work
22 together on that, because I know our tribal chairs,
23 they're busy. You know, they put us in these positions
24 to ensure that we're protecting the Tribe's interest.
25 And so as far as due diligence, I think that should come

1 both ways.

2 COMMISSIONER LITTLE: Your point is definitely
3 well taken and I actually got to give a lot of credit to
4 our regional staff because we've been putting a lot of
5 pressure on them lately that -- because the
6 communication is difficult. We know how it goes, you
7 know, with -- I worked for a tribe for over ten years,
8 and, you know, the councils or elected bodies get
9 inundated with requests, papers, and, you know,
10 sometimes, you know, information that we might be
11 sending out gets stuck in a pile, and it's not always
12 addressed immediately. And I think that's where our
13 regional staff come and do a very good job at making
14 sure that, in addition to contacting the tribal leaders,
15 which that is who actually, you know, the federal
16 government, we have our relationship with, is with the
17 elected governing officials of the tribes; however, you
18 know, our regional staff does a really good job at
19 reaching out to folks like yourself, gaming
20 commissioners, compliance officials, and so we'll
21 continue to do that.

22 We know it's a cumbersome process and we know
23 it is -- you know, our communication efforts do, you
24 know, become an issue that we do address all the time,
25 but we're going to continue to work with our regional

1 staff, you know, get them to get the information out.

2 You're always welcome to contact them. And,
3 you know, they do get the information to us, so that's
4 always helpful to raise and is a continuing issue.

5 Communication with the tribes is always -- it's always,
6 you know, you know, an issue because tribal leaders are
7 busy. And we like to think that when the federal
8 government contacts a tribal official, they're going to
9 jump and listen to us, but I tell you what, when a
10 tribal elder calls them, they're going to listen to them
11 first. We understand that and we respect that.

12 RON SAMUELS: Again, Spokane Tribe. And this
13 is more of a comment to the Commission, is that if a
14 tribe enters into a settlement agreement with the NIGC,
15 that that should be an agreement between the -- that
16 tribe and the NIGC. Should not go across state lines
17 into another jurisdiction with the -- where the NIGC has
18 the authority to, say, make reference to, well, the
19 Spokane settled on this. Why don't you settle on this?

20 Specifically, a meeting in region 1 that was a
21 concern that was brought up before a settlement did come
22 into play and actually ended up being signed, is that
23 the NIGC not use the Spokane Tribe as leverage to
24 address EHPS, Environmental Health and Public Safety
25 guidelines on other tribes throughout the nation,

1 because what that does is that creates the animosity
2 towards -- between the tribes, which is a -- an issue
3 that is heard throughout the nation where tribes can't
4 get along, and then the federal government's coming in
5 and saying, well, Chairman Abrahamson signed an
6 agreement. Why doesn't your chairman sign an agreement?
7 It's unfair to the tribes. It's unfair to the
8 government.

9 COMMISSIONER LITTLE: Thank you for that
10 comment. We definitely understand that. Thank you.

11 Does anybody have any comments on the issuance
12 of NOVs, how -- whether or not -- we've heard from
13 tribes that have said that there needs to be guidance to
14 identify under which circumstances an NOV must be
15 issued.

16 I think it's the opinion of this Commission
17 that NOVs should be not something that comes to us as a
18 surprise to a tribe; that, you know, our regional staff
19 and our enforcement staff are, you know, working, you
20 know -- you know, they're meeting with regulators of the
21 Tribe, and you know issues that, you know, will arise or
22 could arise to an enforceable action.

23 Does anybody want to comment on whether or not
24 they feel that the current system is adequate; that, you
25 know, you feel that there's enough information out there

1 in the regulation that provides, you know, information
2 so that you know when an NOV could pop up? Or do you
3 think this area really needs some work, it's lacking,
4 and there's not enough information for tribes to make
5 good assessments of the situations?

6 You know, keeping in mind that the Commission
7 is very, very aware of the severity of NOV's. We're
8 finding it more and more in this economic climate that
9 these NOV's come into play when tribes are trying to go
10 out and access bonding and financing, and we understand
11 they have a lot of teeth outside of trying to bring the
12 facility into compliance, but it does affect tribes in
13 other areas. Anyone want to comment on that?

14 Anybody have any experience in this -- well,
15 they can go on to what your comment was earlier. Some
16 tribes also commented that they feel that they know that
17 the Tribe may be under investigation, but they never
18 know if that investigation stopped or discontinued.

19 Does anyone feel that, you know, we should
20 adopt guidelines or regulations that we have to like
21 formally state when an investigation is ended or what our
22 findings are?

23 Yes, sir.

24 WARREN SPENCER: Thank you. Warren Spencer,
25 Yakama Nation. I appreciate Spokane Tribe's concern and

1 their comments that he made. Do you know -- and you
2 didn't respond to his question, his comments. Once the
3 Tribe tries to enter and come up on a settlement
4 agreement with you guys, other entities try, federal
5 government, you know, comes back and after we settle, we
6 spend all our time and our efforts, our attorney fees,
7 et cetera, negotiating with you guys. But then again,
8 another branch comes out and reopens the settlement that
9 we made with you guys. And that needs to be addressed.
10 And once we sign that settlement agreement, it should
11 not be revisited by anybody, because you guys are the
12 NIGC and we're a sovereign tribes, sovereign nations,
13 and that's between you guys and us.

14 And I think that needs to be really strongly
15 emphasized, that there should not -- should not come
16 back -- the issue should not become reawakened, I guess
17 I could say it. You know, I just think that it needs to
18 be addressed and taken care of.

19 COMMISSIONER LITTLE: Well, I do appreciate
20 your comment and -- I do appreciate your comment. We're
21 looking at our internal processes right now to make sure
22 that there's consistency in the application of our
23 corporate proceedings across the region and by tribes so
24 there is some consistency. That is an internal issue
25 that we are reviewing right now. I hope that, you know,

1 sort of answers your question. But we do understand
2 your point. We appreciate that. So thank you.

3 Something else that we're looking for, we
4 requested comment. Does anybody want to talk about
5 whether or not NOV's should be expunged after a, you
6 know, certain number of years or noncompliance issues
7 resulting in any of these being resolved? You disagree?

8 JOSEPH TURREY: I believe they should be
9 expunged after a certain amount of time has passed,
10 because I think once a tribe has suffered an NOV, I
11 don't believe it should be put and stayed onto the
12 record.

13 COMMISSIONER LITTLE: Okay. Thank you very
14 much. Also, does anybody have any comment on whether or
15 not NOV's that are posted on the Web site include
16 specific tribal information, or whether that should be
17 something that's a private matter? Folks might be
18 saying that's a dumb question here.

19 Okay. Let's see. If there's -- anybody have
20 anything else on enforcement actions?

21 TERRY GOUDY-RAMBLER: On the NOV, I believe
22 the Yakima Nation did receive an NOV, and we negotiated
23 it and we came out kind of favorably. But I think if
24 another tribe could learn, you know, from the experience
25 of another tribe, I guess that kind of depends on, you

1 know, the issues that we've suffered.

2 I think that's what tribes are all about. You
3 know, we learn from each other. And I think for Yakima
4 Nation I don't believe that we should have a problem
5 with sharing, you know, with another tribe the
6 experiences that we suffered, and we came out of it
7 ahead.

8 COMMISSIONER LITTLE: Well, I'm really hoping
9 that suffering is not from us. Maybe it's a good point
10 because I think what we're trying to do is we want to
11 turn this into more of a how the Commission works with
12 the tribes to bring your facilities into compliance when
13 an issue is uncovered or identified. And I think
14 ideally, you know, we'd like to avoid violations. I
15 think everybody -- that helps us out. You know, it
16 helps us out because, you know, it takes a lot of
17 resources to issue an NOV and the process and attorney
18 fees, and while I'm not an attorney by trade, we employ
19 a lot of attorneys. So I mean, and they cost money, so
20 we want to make sure that, you know, once again, being
21 good stewards of the resources that you all provide
22 that, you know, if we can avoid an NOV, that makes me
23 happy.

24 I know -- I think there was a feeling that
25 sometimes, you know, NOV's were kind of an award the

1 Commission had and, you know, I'd rather avoid all NOV's.
2 And we can do that through compliance and working with
3 the tribes, and that would be better.

4 And like I said earlier, tribes should not --
5 an NOV should not be a surprise. It should be something
6 that you know is coming because of, you know, unresolved
7 compliance issues. And we should be -- and our
8 responsibilities is to make sure that we're providing
9 every resource that we possibly can to help bring you in
10 compliance.

11 So if, you know, changing -- the purpose of
12 updating the regulation is to hopefully get the view of
13 this commission that that's our view, and that's how we
14 want the regulations to reflect. And I'm sorry, please
15 continue.

16 TERRY GOUDY-RAMBLER: Thank you for that.
17 Because Yakima Nation, our people voted on a stimulus
18 payment and so we went ahead and went back, we met on
19 it, and we gave our people a stimulus payment of 2,000.
20 Then we went ahead and we gave them another one, and
21 that was right around when Obama done the same thing for
22 America. So that was the NOV, and we negotiated back
23 and forth, the IRS came in and, like you said, it got
24 quite expensive for us, but we negotiated it and we came
25 out, you know, I thought favorably. Thank you.

1 COMMISSIONER LITTLE: All right. Thank you.
2 I think we should be taking more time here. Is there
3 any other comments or questions on enforcement? I'll
4 say it again. If there's things that come up as you're
5 driving away or leaving here today, you want to submit
6 comments, please feel free to do so. They can be
7 submitted online. I think we have the e-mail. It's
8 actually on the -- probably the first and last page of
9 the PowerPoint presentation. Reg.review@NIGC.gov you
10 can submit comments to.

11 If there's no more comments on the
12 enforcement -- yes, sir?

13 BRIAN McCLATCHEY: Could you reiterate what
14 the comment deadline is for class III MICS issue? I see
15 the other ones.

16 COMMISSIONER LITTLE: There's not a deadline
17 yet.

18 BRIAN McCLATCHEY: I see. Okay. Thanks.

19 COMMISSIONER LITTLE: We're going to address
20 that in group 5. I think at this point -- we just need
21 an opportunity because it is such a critical issue.
22 It's the, you know, 800-pound gorilla in the room that,
23 you know, how do we address this. And, you know, I'll
24 be honest with you, I worked for a tribe for ten years,
25 and I can remember opposing NIGC stuff simply because

1 tribes didn't feel that consultation was done correctly.
2 And I don't ever want to come to a meeting or get a
3 comment submitted to the Commission where it says, well,
4 we don't feel that a proper consultation was followed.

5 We want to make sure that tribes are given
6 every opportunity, that we're out here, that we're not
7 just sitting in Washington. We're coming out here
8 visiting tribes, coming to your wonderful facilities,
9 and listen to what we hear. So that was the whole
10 purpose of putting it here just to kind of get some
11 roadmap or some comments on how we should continue to
12 follow this process. Thank you.

13 If there's no more enforcement comments, we'll
14 move on to proceedings before the Commission. The NOI
15 requested comments on whether the rules or proceedings
16 before the Commission should be reviewed. Some of the
17 comments submitted were tribes felt that a more formal
18 process could be a lot of extra work, could be costly
19 for the agency, and costly for the tribes.

20 Others felt that, you know, there needs to be
21 a clear defined process for appeals for, you know, when
22 the Commission does act.

23 Does anybody want to comment on that? How
24 they -- I mean, I know as -- the way this Commission is
25 composed, you've got the chair who is basically the

1 prosecutor when it comes to violations, and then you
2 have the two associate commissioners, Vice Chairwoman
3 Cochran and myself. We kind of act as kind of an
4 appellate core, if you want to say, or commission.

5 Any notice of violations or any actions issued
6 by the chair can be appealed to the full commission.
7 However, if you look at our regulations, the appeal
8 process is pretty limited and they open up possible
9 legal challenges.

10 So does anybody want to comment on whether or
11 not we need a formalized procedure or appeals, or if
12 they feel their current process is adequate?

13 ANDREW MATHERLY: Andrew Matherly, Spokane
14 Tribe. I think the appeals process, the time frames
15 aren't sufficient. I think the 30-day window, you know,
16 for an internal process to determine whether to file an
17 appeal, I think should be 90 days. I think some of the
18 supplemental statements going back to NIGC on that
19 ten-day window, I think that needs to be increased.

20 Again, I indicated earlier, you know, it's not
21 that a tribe's playing ignorant or trying to hide
22 something. You know, the appropriate officials once
23 they're given the information, give them adequate time
24 to gather the information, get it to NIGC, so I think
25 some of the time frames need to be looked at.

1 COMMISSIONER LITTLE: Let me ask you another
2 question I'll throw back at you. How do you feel,
3 because the Tribe gets 90 days to appeal, what should be
4 the time frame for the Commission to act, and especially
5 considering on possible closures? Do the tribes feel
6 that you have to give the Commission 90 days to act on a
7 closure?

8 ANDREW MATHERLY: Yeah, I think it's running
9 concurrent. I think the NIGC give the 90 days, but, you
10 know, the Tribe needs that opportunity also.

11 COMMISSIONER LITTLE: Okay. Thank you. I
12 appreciate that. Thank you.

13 We've heard comments that, you know, if the
14 Commission was to take 90 days to act on a closure, that
15 could be detrimental, critically detrimental to a
16 facility.

17 ANDREW MATHERLY: If they're seasonal, then
18 just wait until October or November.

19 COMMISSIONER LITTLE: Okay. Got that. I'm
20 just looking through some comments that we've received
21 from other tribes through this comment period or through
22 these consultation sessions. Might be anything of
23 interest, so we can ...

24 You know, all of our -- all comments, and I
25 think I said before, they're online. So if you really

1 don't have anything to do one day and you want to read a
2 whole bunch of stuff, it's all online there. All the
3 transcripts are online. So, you know, the President's
4 very adamant about transparency for all the federal
5 agencies, so any of these proceedings, I think it's kind
6 of -- it's a new process for a lot of tribal folks,
7 tribal leaders that you see a court reporter in the
8 room. And that is just -- you know, we understand
9 everybody's got very, very busy schedules and, you know,
10 full disclosure, full transparency. Everything is going
11 to be online, so all the comments that we make, all the
12 comments that you all make will be online in written
13 form so that they can be reviewed and so you guys have
14 all that proof that you were here, so ...

15 Does anybody, or Paxton, anything you want to
16 talk about with the proceedings? Chris? No?

17 Like I said, we've got discussion drafts for
18 the facility license part 559 and the fees part 514. We
19 are working on getting preliminary discussion drafts for
20 all of the proposed regulations, all the regulations
21 we're working on. They will go up online.

22 This whole process provides us with feedback
23 so that when we are putting together these drafts, we're
24 taking into account your comments, the comments you
25 submit, the comments that you make orally, so that when

1 they come out in the draft, they're online. You can
2 look at them.

3 They're all going to say preliminary draft
4 because they just are drafts. Please keep that in mind
5 when you look at them and bring them back to your
6 councils or your elected bodies. They're not concrete.
7 These are, you know, taken into account experiences that
8 the Commission has had, our staff has had, the tribes
9 have had, gaming commissions have had, what our field
10 staff have had, and then basically are used as a
11 starting point for the discussion.

12 So theoretically, what we put out in our
13 discussion drafts could and probably will change
14 dramatically, so please don't read any of it -- any of
15 the handouts you picked up today, these are just
16 starting points, starting points for discussion,
17 starting points for us to be in a process of reviewing
18 these regulations.

19 And I don't want to end this, you know, early,
20 because we got -- still on east coast time. We got
21 thirty minutes to 12:00, I think. Does anybody have any
22 comments about not just the proceedings but any of the
23 other parts that we discussed earlier? Any comments
24 about -- I want to open up on anything else because I
25 know you guys ask questions, so ...

1 I know we've got more attorneys in the room
2 here. Like I said, these -- this is just a starting
3 point. There's going to be a lot more opportunities.
4 We've got about another 30 sessions between now and next
5 spring for you to comment. We're always interested in
6 anything you submit. You can submit them online.

7 UNIDENTIFIED SPEAKER: Just one observation
8 and I don't need the microphone. Is there any
9 particular reason why you're only doing all five groups
10 at the Chair's reservation?

11 COMMISSIONER LITTLE: That is interesting. I
12 didn't observe that. I just know that she's got me
13 going to Bismarck in January, I think. Low man on the
14 pole, I think. So will we see you there then?

15 UNIDENTIFIED SPEAKER: You will.

16 UNIDENTIFIED SPEAKER: We have comfy beds.

17 COMMISSIONER LITTLE: Well, if there's no
18 other comments here, I'm going to -- I guess we'll close
19 the session. I just want to thank everybody on behalf
20 of the full Commission. This is a long process.

21 Quite frankly, this is the process where
22 people have said that we're nuts for taking, taking on,
23 but I think it's something that's really important. The
24 President's made it very clear that he wants all
25 agencies to look at their regulations to make sure

1 they're effective, that they're working.

2 Especially in this industry, we got to make
3 sure that they work for you all, that, you know, we all
4 have the same goals, and that is to have very
5 well-regulated facilities. And at best, we reach that
6 goal when we all do our job, we all do our part, and the
7 regulations create the roadmap to get there.

8 So if there's no more comments, I'm going to
9 close the session. I want to thank everybody. I want
10 to thank the Coeur d'Alene Tribe for hosting us. I want
11 to thank everybody for traveling here today. I wish you
12 all very safe travels home, and please feel free to
13 submit any other comments online or feel free to come to
14 any future consultation sessions.

15 VIDA BISHOP: The next consultation session in
16 this area is at Tulalip, actually following the
17 Northwest Gaming Expo, and it's July 14th.

18 COMMISSIONER LITTLE: July 14th and 15th at
19 Tulalip for the next one.

20 VIDA BISHOP: Yeah, following the Northwest
21 Indian Expo. So we figure a lot of people will be in
22 attendance there, but it will cover all five areas.

23 COMMISSIONER LITTLE: I think that's why
24 there's two days scheduled instead of just one day.
25 Thank you, everyone.

(Proceedings adjourned at 11:37 a.m.)

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1 STATE OF IDAHO }
 } SS: REPORTER'S CERTIFICATE
2 COUNTY OF KOOTENAI }

3 I, KERI VEARE, Certified Court Reporter and Notary
4 Public in and for the State of Idaho and Washington, do
5 hereby certify:

6 That the foregoing proceedings were taken May 20,
7 2011, at the time and place herein stated;

8 That the foregoing is a true and correct
9 transcription of my shorthand notes of said proceedings
10 transcribed by me or under my direction;

11 I further certify that I am not interested in the
12 outcome of said action, nor connected with, nor related
13 to, any of the parties of said action or to their
14 respective counsel.

15 IN WITNESS WHEREOF, I have hereunto set my hand and
16 seal this 5th day of June, 2011.

17 _____
18 KERI VEARE, RPR, CPE, ID CSR 675, WA
19 CCR 3033, Notary Public in and for
 the State of Idaho and Washington,
 residing in Coeur d'Alene, Idaho.

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21 My Commission Expires: ID 5/6/2016
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