TRANSCRIPT OF CONSULTATION MEETING
NATIONAL INDIAN GAMING COMMISSION
NOTICE OF INQUIRY FOR REGULATION REVIEW
HELD AT THE CHOCTAW CASINO AND RESORT
IN DURANT, OKLAHOMA, ON APRIL 28, 2011
AT 9:00 A.M.

Job No. NJ328073
REPORTED BY: DAVID G. HARJO, CSR RPR
VICE-CHAIRWOMAN CHOCHRAN: Good morning.

My name is Steffani Chochran, I'm Vice-Chairwomam for the National Indian Gaming Commission. I'm with the Chickasaw Nation, born and raised here in Oklahoma. I'm glad to be here consulting with the tribes, and I am honored that we are starting that process here in my home state and with people that I admire and am very familiar with.

So with that, we going to start. We have asked Chief Pyle to provide some opening remarks this morning. Chief Pyle is an amazing leader. I know he has been doing this a long time. I know that he, as is Governor Anoatubby, as are many of the leaders around here, are very focused on the needs of the tribes and making sure their economic tribal activities produce revenues sufficient to meet those needs, including health care and education and things that I know Chief Pyle is very actively involved in, so I'm going to turn it over to him. I just want to say good morning, and thank you, Chief Pyle, for being here this morning. I know you have a very busy schedule, so I'm going to turn it over to you.

CHIEF GREGORY PYLE: Well, if I may, I just want to welcome everyone here to the Choctaw
Nation Casino and Resort. You know, we are only about ten minutes from the Texas border and you can be downtown Dallas in about ninety minutes. Actually, you can be here to McKinney in fifty minutes and so that's our major markets all up and down the river.

We have four casinos that are on the river. We have six major casinos and about eight minor casinos. That's the travel classes. And if you have a travel class, we are just now really getting into those, where you find that in a lot of towns that we have making a very good income.

So we learn every day. So we are proud to have you here. And I know many of you have traveled a long ways. And NIGC is -- we are really proud they are here. If you don't mind, they have come a long ways, let's give them a great round of applause. (Applause.)

Well, usually I give an hour-and-a-half speech, I'm going to cut it down to one hour. No, I'm kidding you. We keep ours pretty brief here. We mentioned the Chickasaws, all of Oklahoma, the southern half was originally deeded 275 years ago to the Choctaw. We were the first tribe to come over the Trail of Tears, 1831.
And we traded land in Mississippi for fee simple title here. That means everything we have. So now, the Chickasaws share 22 counties on natural resources. And, of course, now it's lots of other issues.

We had gaming back there. Now we have natural resource, which is water. And there's lots of people that want it. We work every day with Governor Anoatubby and many other tribes, but since we share so much, you will see us working together. Our staff were together yesterday.

And the reason we can work and probably help save a big portion of this natural resource from becoming very long, very expensive is because of gaming.

We send about 5,000 kids a year to college around the nation because of gaming. We built a hospital with gaming dollars. And the list goes on and on.

We generally try to do it the old-fashioned way. We try to stay out of debt. Sometimes we have borrowed, sometimes we haven't. But the big thing there is, where did we get this great facility?

We could start telling you it's probably
out of about fifteen or twenty casinos. And many of them in California, in New Mexico, mostly out west, because they have been in gaming longer. And so we started out by looking and looking and looking. And we ended up in Vegas looking for some too.

But that's what we did. Choctaws don't invent too much, they steal their best ideas. So watch out if we come around.

We do share. When I first became assistant chief twenty-eight years ago, and I was fourteen years there, now I've been chief fourteen years, we don't try and invent too many things. We try to go to other tribes.

I've been all over the tribes many times, business-wise and how they function with their council, and we could just tell you how we function with our council, because we were at many of your tribes many years ago looking how you did it, making friends, relationships.

And today, what you're about is really relationship building here. All the tribes coming up, commissioners. We have a government to government relationship, and once you kind of meet somebody, and you know Indian saying that says "you don't trust anyone until you eat much bread
together."

Well, that's basically what we found. And to be very honestly, we find that we either go, you know, here, have dinner with somebody, you get to know them. That evening you sit around and then you visit, and you find, oh, we have a lot more common ground than we began. And that's where it really begins, and so we really appreciate that.

When I was first started, I thought just go to the meeting and get back home. No, now we understand it's staying a little bit longer, visiting a little longer, coffee breaks, taking someone to lunch, to dinner.

And I'm still learning every day. So what I'm saying is after twenty-eight years in the business, usually if there's a problem, you just sit down with somebody and say, hey, we would like to sit down and discuss this with you.

Most of the time I find it's probably sixty or seventy percent of me climbing a ladder like, I think they are after us. And they, go, no, no, that's not what was intended. And then we work it out. And you generally can work it out before you get to that level.

That's just for twenty-eight years of
gray hair. I had coal black hair and it was long back in those days, so, you know. We really appreciate your coming down to Choctaw Resort and Casino.

Anything we can do or improve on, let us know because we can tell you the casinos we went to, there was probably, like I said, at least a dozen different casinos, you will see maybe how the rooms where they come out of or we saw a lobby area somewhere or why didn't we have a buffalo, that's come out of a different casino.

Everything here was probably from rest of Indian country. So, again, we are here to provide the best we can to the people, keep people happy, coming back.

And it really means so much because we have a large tribe and we take care of Choctaws from coast to coast. We share our tribal money with our people out there that have had to move away.

My folks ended up -- took them a year before I was born to go. I grew up in northern California in a little Redwood, nobody's -- Mendocino, it's a very small community still today.

And so my folks, their goal was to get moved back here. When I was 16 we moved back. So
I've been upon both issues.

And so the big thing is that we try to help other people and work with everybody. And that's what you're, I think, going to do today here. So we really appreciate everybody's effort here.

I was going to say just welcome and anything we can do or any suggestions, please come up there. And thank you for coming. God bless.

(Applause.)

VICE-CHAIRWOMAN CHOCHRAN: Thank you Chief. President Patterson I understand that you'll be providing our invocation this morning. If you would like to do that now, I think that would be appropriate.

DON PATTERSON: Let me say just a word. It's certainly my pleasure to be here and an unexpected honor to offer prayer. I am the president of the Tonkawa Tribe, which is a lot smaller than the Choctaw Tribe.

The history books said that our tribe, the Tonkawa, was one of the most warlike tribes in the Southern Plains in those days and so I take a lot of pride in that. I have been president now for eight terms but I've been fighting for Indian causes and issues since 1969. I was at Alcatraz Island;
those of you that are familiar with that history, I was part of that takeover there. I was in the march on Washington in 1972 and the takeover of the Bureau of Indian Affairs building. I was at Wounded Knee in 1973.

And so we are gathered again to deal with issues that confront our people and so it's always my pleasure.

In our tribes, you know, we have names for our higher powers, you know, God, if you will. The Sioux call him Wakan Tanka. Poncas is Omaha call him Wakonda. Sac and Fox people call him Getamonatoo. Cheyenne people call him Maheel. Kiowa people call Da Kiee. In our language, we call him Takushtacot. I understand all of these languages. What the great Chief Sitting Bull once said, "Let us put our minds together and see what kind of life we can make for our children."

And so if we put our minds at least together spiritually we can do likewise. So let's pray together.

Almighty God, our most gracious Heavenly Father, it is so good to stand before You and
acknowledge Your goodness, Your graciousness, Your most wholly nature.

We are so thankful, Father, for opportunity to gather together here today, to consult with leaders across the nation pertaining to issues that affect our people.

We are so thankful for who we are, Almighty God, Father, the various and diverse nations of indigenous Native people.

Surely, Father, in the beginning You must have had a special place in your heart when You created us into the beings that we are, and so we are so proud to stand before You, Father, and acknowledge you as our God.

We give You thanks, Father, for all the good, and for all of the love, and for all of the many tender mercies that You have bestowed upon us, for all of the blessings, Father, that our tribes have enjoyed in the past and continue to enjoy this day.

We are so thankful for so many good things, Father, that words escape us. For we know how good and how great You are, Father. We also acknowledge sometimes how pitiful that we are when we stand before You. Too often, Almighty God,
Father, as individuals and even as nations of people we turn and drift apart from You, Almighty God, as we concern ourselves with the pursuit of the pleasures of this life, but we know how patient and how faithful You are, Almighty God.

Now we turn to You again this morning, this hour, Almighty God, Father, asking You to look kindly upon us, Almighty God, Father. Look into the depths of our hearts, Almighty God, Father, all of us here who are representative of our various tribes and communities.

Consider, Almighty God, Father, all that is about us. And forgive us of any our shortcomings and our failings, Almighty God, Father, that You might indeed reconcile us unto You this very hour, Almighty God, and that You would indeed hear our prayer.

We are so thankful, Almighty God, Father, for so many things, but we are most thankful, Father, because we have You, Almighty God, Father, and we acknowledge that apart from You we can do nothing. So we call upon Your name this morning, Almighty God, Father, to guide and direct our hearts that we might do and say those things that will not only be beneficial to ourselves and our people, but
pleasing in Your sight, Father, for we love You.

    We believe and trust only in You. We ask
Your spirit to abide with us throughout our
gathering here this day. Be with us even as we
depart from this place, Father. Be with us
tomorrow, the days and weeks ahead. Be with us,
Father, even unto the world, even and to the end of
the world, even as You promised.

    We'll always be careful to praise and
honor, and glorify Your name, Father, for we love
You.

    We acknowledge you, Almighty God, Father,
as the one and only true and wise God. And to You
is all glory and all majesty, all dominion and all
power forever and ever.

    In the name of your Son, we ask this
prayer. Give us thanks, Father, for who we are, for
we thank You indeed, Almighty God, Father, for who
You are.

    Be with us now, I ask in His Holy
precious name, Jesus. Amen.

VICE-CHAIRWOMAN CHOCHRAN: Thank you,
Mr. President.

I would like to next spend just a few
moments introducing the people we have in the room.
I know that there are many tribal leaders with us. There's also many representatives from tribes here, and then once we have introduced each other so that we know who is here today, then I would like to have the staff introduce themselves from the NIGC, so --

start this way?

We can start over here. If you would, just tell us your name and who you are representing.

MARTIN TSATOKE: My name is Martin Tsatoke, better known as Pepper Tsatoke, Kiowa Nation Gaming Commissioner.

MATTHEW MORGAN: Good morning. My name is Matthew Morgan, and I am representing the Chickasaw Nation. I serve as their Gaming Commissioner.

JIM SCHREEN: Jim Schreen, Tonkawa Tribe, Vice President.

DON PATTERSON: Again, Don Patterson, President of the Tonkawa Tribe.

ROBIN LASH: Good morning. Robin Lash, I am the in-house counsel for the Miami Tribe and Gaming Commissioner as well.

TOM GAMBLE: Tom Gamble with the Miami Tribe. I am serving as chief.

JASON NICHOLS: Good morning. My name is
Jason Nichols with the Muscogee (Creek) Nation, Gaming Commissioner.

RICHARD WOOD: Richard Wood, Seneca-Cayuga Tribe, Gaming Commissioner.

BARBARA COLLIER: Barbara Collier, Quapaw Tribe, Director of Regulatory Gaming.

KAY BUSBY: Kay Busby. Thank you for coming. I am the Executive Director for the Gaming Commission for the Delaware Nation.

VICE-CHAIRWOMAN CHOCHRAN: Good morning. I'll start over this way. We do have other chairs up here if there's other leadership or representatives who want to come and sit at the table. Please join us.

DEBRA WILSON: Good morning. I am Debra Wilson with the Cherokee Nation Gaming Commission.

ELIZABETH HOMER: Good morning. I am Elizabeth Homer and I am an attorney. I am a member of the Osage Nation of Oklahoma.

KYLE NORMAN: Kyle Norman, I am with the Choctaw Nation.

JODY NELSON: I am Jody Nelson, I am with the Choctaw Gaming Commission.

VICE-CHAIRWOMAN CHOCHRAN: We have somebody transcribing so if you can use your louder
voices.

MURIEL WHEELER: I am Muriel Wheeler and I am from the Sac and Fox Nation.

LORENA WOOD: I am Lorena Wood and I am from the Sac and Fox Nation.

FRAN WOOD: Fran Wood, Quapaw Tribe, Vice Chairman of the Quapaw Casino Authority.

JEFF JONES: Jeff Jones, Osage Nation, Attorney General.

JILL PETERS: Good morning. Jill Peters, Executive Director, Comanche Nation Gaming Commission --

LISA DAWSEY: I am Lisa Dawsey, Licensing Director of the Comanche Nation.

BRANDON GRIMES: Brandon Grimes with Video Gaming Technologies.

TIM COTTON: Tim Cotton with Video Gaming Technologies.

Russell Witt: Russell Witt, Director of Gaming Compliance, Video Gaming Technologies.

JERRY LANKFORD: Jerry Lankford, Miami Nation Gaming Commission.

LAEL ECHO-HAWK: Okay. I'm sorry. If you could, just speak a little louder.

Okay. Go ahead.
JERRY LANKFORD: Can you hear me? Jerry Lankford, Miami Nation Gaming Commission.

GRANTHUM STEVENS: Granthum Stevens, Pawnee Nation Gaming Commission.

YVONNE WILSON: Yvonne Wilson, Cheyenne-Arapaho Director of Gaming.

RICHARD HENSON: Richard Henson, Acting Chairman, Comanche Nation.

MICHAEL MARTIN: Michael Martin, Gaming Commissioner for the Cheyenne-Arapaho Tribe.

CHEEVERS HEAP OF BIRDS: Cheevers Heap of Birds, Gaming Commission, Cheyenne-Arapaho Tribe.


CHRISTINE BAKER: Christine Baker, Executive Director, Tonkawa Tribe.

ROBERT WILSON: Robert Wilson, Cheyenne-Arapaho Tribe.

KAY WYNN: Kay Wynn, Director of Internal Audit for the Chickasaw Nation.

KEVIN WILKINS: Kevin Wilkins, Chicasaw Nation Internal Audit.

WILLIAM NORMAN: William Norman, attorney with Hobbs Straus.

KIRKE KICKINGBIRD: Kirke Kickingbird,
attorney, Hobbs Straus.

RICHARD GRELLNER: Richard Grellner, attorney.

TOM CUNNINGHAM: Tom Cunningham, Regional Director for the Oklahoma City Office of NIGC.

BRAD MOODY: Brad Moody from NIGC.

OSCAR SCHUYLER: Oscar Schuyler, Osage, Manager.

AMBER TOPPAH: Amber Toppah, Kiowa Tribe.

CHARLOTTE BOINTY: Charlotte Bointy, Kiowa tribe.

DORINDA HANRAHAN: I am Dorinda Hanrahan, I am a staff attorney for the National Indian Gaming Commission, I've been there for about a year-and-a-half.

CHRIS WHITE: I am Chris White, I am the NIGC Comptroller and I have been at the agency about six years now.

LAEL ECHO-HAWK: Good morning. Lael Echo-Hawk, member of the Pawnee Nation of Oklahoma, and I am currently counselor to the Chairwoman.

And just to ease everyone's mind, we will provide Mr. Harjo a list of everyone who's registered so even if we couldn't hear you it will be transcribed.
Just a logistic point. If you could speak up. We thought we were going to have wireless mics. Unfortunately we don't. So if you do have comments as we move forward, it would be helpful if you either come forward around here. We will try to be Vanna White here and move this microphone around, but we are transcribing it so if you could speak up. And if you do have comments, come from the back of the room forward here, that would be helpful.

FROM THE AUDIENCE: Also, if you have not registered with the ladies out front, if you would do that before you leave, we would appreciate it.

VICE-CHAIRWOMAN CHOCHRAN: For those of you who have participated in the last set of consultations we did, we did have those recorded and transcribed as well.

And the other part of the process is, is when you speak, it's to get up and identify yourself first, again for the transcriptionist so he can identify who is making what comments.

I again want to welcome you. I also want to send wishes and let you know that Chairwoman Stevens and Associate Commissioner Dan Little also send their best for this meeting and are excited
that this is the beginning of a very long process, but it is a process that we are very much looking forward to as we go through looking at the regulations that the Commission currently has and trying to make some improvements and revisions to those regulations during our time, so they send their best.

We have got a long road ahead of us on the Commission side, as do the tribes, and so we will be splitting up our time. You will see one Commissioner out at every consultation because there are so many that we will be handling. So I was lucky of the draw and got to come here so I am very grateful for that.

Lael has been handling the regulatory review process, which is one of the major initiatives of this Commission. We have the four major initiatives that that we have been working on, and will continue to work on during our time: One being Consultation and Relationship Building; the second being Technical Assistance and Training; third being Agency Operations, Review; and then the largest part of what we are here for today, which is the Regulatory Review Initiative. And Lael has been spearheading that. And this lady has done an
amazing job with the amount and volume of information that she's been tasked with to keep track of and to keep us on track of.

So I am going to turn it over now to Lael and let her begin the conversation. At any point, if you want us to clarify something or you have questions, please let us know and then I'll let her lay out the rest of the meeting process for this afternoon.

LAEL ECHO-HAWK: I will try not to get twisted up in the microphone cord here.

Thank you, Steffani. I appreciate the responsibility I have been given and I hope that, you know, as this process progresses that we end up with a better product for Indian Country. Ultimately that's the goal.

So, again, my name is Lael Echo-Hawk and I am counselor to the Chairwoman. Right now, as Stephanie mentioned, I am sort of the point person, certainly not the only person working on this project but if you have comments, and they do come to me, and if you have any questions about the process, et cetera, feel free to contact me, reg.review@NIGC.gov. is the easiest way to do that.

I have got hyphens, et cetera, in my name.
so my personal email is a little bit tricky but reg.review@nigc.gov will come directly to myself if you have questions.

If you haven't already, everyone should have received a packet of handouts when you came in the door.

Did everyone receive a packet?

Okay. In that, we have several handouts including the agenda. We are a little bit behind but that's okay, we are used to that. And we try to be real flexible with everyone as we move forward. So we will be kind of moving along agenda.

As you can see right now, the Summary of the Regulations. I am going to go through the PowerPoint that's also contained in the packet, so you can follow along, take notes, jot down questions that you might have.

I am going to try to do a very 30,000-foot summary of the draft regulations for Part 514, which is the C regulation, also included in the handout, also up on the website. So if you forget it, you leave it here, you can go home, look on our website, we have got -- on the website there's a tribal consultation but if you click that button, there's a reg review section and all this
information is contained on there.

So I am going to try to walk through where we are at in this process for the Group One regulation. Again, if you need a point clarified, just please let us know.

After that, the floor is yours and we hope that we can engage in a conversation with you about the proposed -- just the discussion draft. Again, remembering that this is a discussion draft only and the Commission put it forward as a way to stimulate conversation, not necessarily taking a position one way or another just yet.

We are coming out to Indian Country to consultation. This first part is a drafting phase, and so we really want this to be a conversation. We wanted to hear what your ideas, input, concerns are as we move forward.

So, again, this is part of the consultation phase. That is a portion of the executive order that the Commission feels very strongly about, particularly C3, which is determining whether to establish federal standards, we consult with tribal officials.

And that's what we are doing. We have not issued a notice of proposed rule making. We
have no -- the Commission hasn't made a decision yet on regulation or standards. We are here to consult with you before we do that.

So there are three phases. Today is the kick off for the rest of the year. It is also the beginning of Phase I, which is drafting. We are just drafting right now. I want to be clear about that, that this is a conversation. This is just discussion. The draft that you have is a discussion draft. There will be other drafts coming forward, probably in the next week for Part 559. Again, discussion draft only.

Please keep your eye on our website. We try to -- we don't try, we will put all of this stuff on there, but just make sure that you check it periodically as things are updated.

Additionally, I anticipate that the Buy Indian draft regulation will be out within the next week or two as well.

So as we move forward, and as we come to point where a draft looks like it's going to be ready for a proposed rule making, we will issue a proposed rule making.

The consultations. As we continue, you will see that at some points we may be in
consultation during a drafting phase of a certain set of regulations and we may be consulting on another set of proposed rule making at that same meeting.

So there's going to be a lot of moving parts, but there is going to be consultations, in both the drafting session and the notice of proposed rule making session.

And then finally, final rule is that, if we get there then there would be an approximately forty-five day written comment period we try to submit it.

There are five groups of regulation. As you have seen in the notice of regulatory schedule, or agenda. There's five groups of regulations and we have grouped them together, not out of priority necessarily, but we considered a number of factors, including sort of the subject matter, the comments that we received from tribes about priorities, estimated time and resources that we are going to need to extend to put together those regulations.

So it was really just a matter of throwing the balls up in the air and then figuring out how they best came together. And hopefully, this is the right grouping. We will see as we move
forward but I just want to clarify that. Just
because this is Group One doesn't mean that this is
sort of the highest priority level. It just might
be -- it just seemed like an appropriate way to sort
of kick this process off.

Again, these are preliminary discussion
drafts. They are just working drafts. So I want to
make sure that that's clear. This meeting is being
transcribed, and so Mr. Harjo is over here listening
very closely and we want to make sure that the
transcripts are accurate so when you do have
comments, if you have questions, et cetera, please,
if you're in the back, again, move forward so that
he can hear. We do have a bit of a logistic problem
with only one microphone so bear with us.

Any written comments that are submitted,
again, you can submit them by mail, you can e-mail
them to reg.review@nigc.gov. You can scribble on
something and hand it to me. Whatever we get we
will put it on the website.

And the transcripts, again, as soon as
they are available they will also be posted on the
website so everyone can see what the comments were
being made.

The commitment by the Commissioners is
that every comment received is going to be reviewed and considered. We read everything. Steffani will put herself to sleep by reading the comments on the notice of inquiry. We value your input and we are considering carefully every comment that is received.

Any proposed or final rule will contain a summary, much like the notice of inquiry and the notice of regulatory agenda, contain a summary of the comments that we receive. And the Commission is committed to a clear and transparent process. Everything is going to be on the website. Decision-making, reasons for taking a position or not taking a position will be explained in those summaries.

So sort of the stuff you're all here to talk about, Group One, and this is just sort of the order that -- this is just numerical basically, so I am going to be walking through this during the PowerPoint.

So Part 514, this is the fee section. We have Mr. White here. Chris is here from -- he's the comptroller for the NIGC, so we brought him out here in case some of your questions escaped me.

I am a lawyer. I don't do math, that's
why I went to law school. So we brought Chris out here to help us with that. So, if you have questions, you know, Chris will be answering some. And, hopefully, we have the staff here that can answer questions as they come up.

So if you look in your packet, your purposed rule, I am just going to kind of walk through from the beginning to the end and hitting the high points of the proposed changes.

The proposed rule does contain the fee calculation to be made based on the gaming operations' fiscal year rather than calendar year.

That doesn't mean that if you have -- if your fiscal year is a calendar year that you have to change that. It just means that whatever your fiscal year is, if it's September to September, if it's December to December, whatever that is, that fee calculation is going to be made based on your fiscal year.

The fee rate will be published on March 1st rather than February 1st. This allows the Commission time to review the audited financial statements and make a preliminary fee proposal or put out the preliminary fee rate for the year based on more accurate -- we are not guessing -- we
receive most of the audited financials by then and we can make a more accurate projection.

Removing the word "amortization" from the Section 514(b)(2)(i), to reflect existing practices.

We are moving from -- the agency was -- a couple of years ago we changed to a bi-annual submission of fees. We are moving back to what IGRA says or to more reflective of what IGRA says to a quarterly system.

Financially, for the agency it makes more sense. It certainly helps us, you know, instead of being five, we had some concerns about when the fees are coming in and so we are moving back to that system.

Some tribes have been, carried on with quarterly submissions and other times went to bi-annual. But we are moving back to quarterly payments, at least in the proposed draft.

Clarification. This is somewhat technical and it was very hard even to figure out in the PowerPoint how to phrase this. But the regulation, if you point back to the actual section of the regulation that said what the calculation was for determining accessible gross revenues for the previous fiscal year. So it's just a clarification
point. This section will reference you back to what
the formula is for coming up with that accessible
gross revenues.

The proposal also contains a notification
period, so if a tribe moves from a calendar year
fiscal year to a September fiscal year, it just
provides -- just tells us how to get there, how you
notify us.

New sections. One of the things that the
notice of inquiry asked about was whether or not it
was more appropriate to implement a late fee or a
late payment system before you issue a notice of
violation for -- or NOV for submitting a late fee.

Tribes are very supportive of this. In
fact, I think we had -- if I can find my notes here.
We had, out of the 74 respondents: 62 of the tribes
that responded were in favor of this sort of
process. And we heard -- we heard on the road that
this was something tribes really favored, and so we
included it in the draft's rule.

And it includes an appeal option. It
defines a late payment as a payment made within 90
days of the end of the tribe's fiscal year, and the
failure to pay annual fees as payments made after 91
days of the end of the fiscal year.
And what it does is it makes a distinction so if you have a late payment then you will have to, you will end up having to pay some sort of fee to the NIGC, much like a ticket. You know, you don't pay a parking ticket in time, you're assessed a fee. Something like that.

If there's a failure to pay an annual fee, which is any payment made after 91 days, then that could result in a notice of violation, possible closure order. So we tried to make a distinction between what is sort of a late payment for, you know, personnel changes or anything that could happen at a gaming operation, versus a failure to actually pay the fee.

We also added the fingerprint processing fee section, which clarifies how we collect the fees.

And also, the fee rate will be published bi-annually on the same calendar date as the fee rates.

We had a couple of questions come up when we were putting together the draft. And something that we really would like to hear from you, the current regulation uses the term "admission fee" when it's talking about a poker tournament or other
tournaments. And our staff's recommendation would be that we change that to be more consistent with industry standards and use the term "entry fee."

The staff doesn't think that that's a substantive change. We didn't include it in this preliminary draft because, frankly, we didn't bring it up during the notice of inquiry, but it is something that it's an industry term, it's a term of art, "entry fee," and it's less confusing.

We had some comments, apparently, come up from various tribes, who would, you know, like say you have an admission fee for like a MMA fight or a concert, and there was some confusion about whether or not that admission fee was included in the calculations of fees, or included when you're putting together that calculation.

So that's something that we would like to hear from tribes. If it's a non-substantive change and it's more consistent with the industry standards and terminology, then that might be something we would consider changing in the regulation.

Again, and then the question underneath, should tournament fees be included in examples of "admission" or "entry" fee?

So you remove the term "entry" fee -- or
you change the term "admission" fee to "entry" fee
and then include in part of that definition
tournament fees.

The other thing, the other issue that
together, the notice of inquiry asked whether
or not we should change the definition of gross
gaming revenue to be consistent with GAAP, Generally
Accepted Accounting Principles, for the purpose of
calculating the fees.

You will see in the draft we didn't make
that change. We didn't make that change for a
number of reasons, including the fact that the
new -- the new GAAP definitions are not consistent,
or the new GAAP -- they are putting together this
big guidance on gaming and the GAAP definition of
net gaming -- gross gaming revenue was not
consistent with IGRA. And that was a point that was
made by a number of tribes who commented.

But there is concern at the agency from
the staff as we are calculating the fees, and that
concern is that it's less than clear. The
definition of gross gaming revenue is somewhat
fuzzy. And we have, you know, the definition -- one
of the points that staff made is that we could
define what "wager" is and what a "payout" is and
that might provide some clarity in what the
definition of gross gaming revenue is.

    IGRA is, you know, it's a very basic,
gross gaming revenues is wager less payout,
basically. And if we need to define "wager" and
"payout" to make that more clear, and if that would
help tribes when they are making their calculation
then we would like to hear that, hear comments on
that.

    Okay. So the next section was Part 523,
Review and Approval of Existing Ordinance or
Resolution. This is a recommendation that we
repealed in part.

    Currently there are no gaming ordinances
that were enacted prior to 1993 that have not been
submitted to the chair for review and approval so
this section is for all intents and purposes
obsolete and we are considering repealing it.

    Part 559, Facility Licenses. This also
contains the Environmental Public Health and Safety
section. The question has come up, and in fact in
the responses to the Notice of Inquiry, tribes said
that this part was enacted without -- that the
process used to enact this part was flawed and that
we should open it back up to consultation. And so
we are opening that back up to consultation. We would love to hear your comments. Again, I anticipate that we will have within the next week or two a draft rule. We will notify you and it will be on the web site, but if you have comments about this, we would really love to hear them.

The "Buy Indian Act." This was an issue that we raised in the Notice of Inquiry, whether or not the agencies should implement a regulation that implements the Buy Indian Act at the agency level.

Comments from tribes who commented were generally supportive. This allows to us buy Indian. We are here at the Choctaw, lovely Choctaw Resort and Casino. It basically is an issue of federal procurement. It allows an agency, when you're on or near an Indian reservation, to buy Indian goods and services. It's a set-aside under the federal procurement process.

I am sure most of you are familiar with it in one form or another, but it is something that the Commission is, you know, somewhat excited about implementing at the agency.

It is supported by IGRA; the citation is there. And, again, a draft reg will be coming forward soon. It's going to look very similar to...
what the BIA does and what Indian Health Services
does, what their regulation looks like.

And then what has been sort of sucking
the air come out of the room in a lot of our
meetings, Class III. This is a process question.
This is not a substance question just yet. We
wanted to take this issue out of the Class II issue,
wanted to take it as a standalone issue.

And the question is: What do we do with
Class III NICS? What do we do with the regulations
that we currently have? What structure do we use to
implement this? What structure can we use given the
California River Indian Tribe -- or Colorado
River -- I always say that -- Colorado River Indian
Tribe case. What are our limitations?

And we need your feedback on this.
Tribes are, frankly, all over the board. We have
some tribes that say repeal it completely. We have
other tribes that say we need it; particularly,
tribes in California that included NIGC authority to
enforce Class III in their ordinances.

So there's a wide variety of thoughts on
how we do this. The agency does have its
limitations, and so we need to figure out a way to
meet the needs the best that we can of all the
tribes, given our legal constraints. So we need to hear from tribes.

This, again, is a process question. Once a decision has been made about how to deal with this issue, then in the Group 5 section we will begin a drafting phase, notice — perhaps a notice of proposal making final rule phases to implement it, whether it's, you know, creating advisory guidelines, whether it's changing the fee structure. There's a number of comments out there about ways to deal with this but we need tribal input on this.

So, again, in the PowerPoint this contains some of the options. One of the issues, and I think Liz raised this, is addressing this issue through an agency tribal sort of compacting process, which was — I don't think we had heard before — tribal ordinances incorporating Part 542 with the NIGC. Perhaps we apply a different fee rate to those tribes. It's sort of like pay for services. Other tribes, again, suggesting to maintain Part 542 and convene a tribal advisory committee to update those. And then at the opposite end of this spectrum, repealing 542 altogether.

So this is sort of the 30,000-foot view of these Group One regulations. If you have
questions, comments, the floor is now yours. And I hope we have a good dialogue here.

VICE-CHAIRWOMAN CHOCHRAN: Thank you, Lael.

I have decided, in addition to being a lawyer, she should be a juggler because this woman really does keep all of our balls in the air for us, and she's just begun this process.

So, yes, we do want to turn it over now. We are here to listen, we are here to engage in a dialogue with the tribes, not to do the talking at you. And I know, because I know many of you sitting here, you have comments, so I am going to turn it over to anyone who's ready to talk.

We have got tribal leadership sitting here. If you want to start here at the table, you can certainly do that. If you'd like to defer to your experts for comments, we can certainly do it that way as well.

LAEL ECHO-HAWK: If you do have comments, please, again, come forward so that -- I believe Mr. Harjo has some microphones here. There's one here. Looks like there's one by President Patterson.

If you could, please state your name and
what tribe you're with. That's just so that when we transcribe this we know who made the comment and we can allocate it appropriately.

   BARBARA COLLIER: Barbara Collier, Quapaw Tribe, will defer to our legal counsel.

   ELIZABETH HOMER: Thank you, Barbara. And Madam Vice-Chair, Counselor Echo-Hawk, thank you very much for your presentation. We are so happy to have you in Oklahoma and we are so happy about the process that you all instituted at the NIGC. I think that this level of outreach is long, long awaited and deeply appreciated.

   Having said that, I want to put my two cents in on a couple of things. One would be on the Environment Public Health and Safety aspect of the licensing, the facility licensing regulation. And I do believe that it's very important to open that process up for review and to have a tribal advisory committee take a look at that.

   I think that there are some things that are in the regulations that are problematic and, you know, just require a lot of extra steps that perhaps are needed so it could be streamlined more.

   I don't think anyone argues with the fact that we need to have a process for facility
licensing. We all -- it's in the statute. We know we need to do that. I think it's more in the nature of how is the oversight of the public health and safety aspects of that, you know, really going to be workable given the limitations on the NIGC staff, the level of expertise and those kinds of things.

And I think that putting our heads together we can really come up with something that's very workable but is kind of less top heavy and more proactive at the tribal level. So I think that there's a lot of good ideas out there to explore, so I encourage that.

The other issue, of course, is the Class II or the Class -- yeah, the Class III MICS. What are we going to go do about the Class III MICS? You know, in Oklahoma we have bought into the Class III MICS? We have adopted that in our gaming compact and so if that were to vanish that could prove problematic to us.

I know that in California it's been problematic because it has made the state want to get more involved in implementing, and executing and enforcing minimum internal control standards. I know that's been a big struggle for the California tribes.
I certainly would not want to see that happen to the Oklahoma tribes, especially since this is primarily where I practice law and we don't need those kind of problems. We have got plenty of other things to do here.

So I think that -- again, I thank you for predicking with that, Lael. It's been an idea of mine for a long time is that we would do this, to assign kind of a compacting process so that the tribes -- you know, it's sort of like a self-governance compact at the Department of the Interior.

This is not a new concept, and I think that, you know, if -- as NIGC moves more towards, to a service mode, we can also add those other kinds of elements, you know, into that kind of compact.

So I think that -- I am really glad you guys are mentioning that. I was glad to see it on the board today, and thank you for that.

And then just in closing, thank you for making this whole process a lot easier than it used to be. You know, it's nice to be able to say supportive things and not have to be a ranter, so I appreciate that. Thank you very much.

LAEL ECHO-HAWK: So do we.
Do you have any comments on the fee rate or are those going to be coming?

ELIZABETH HOMER: You know -- you know, I think -- you guys are actually -- when I was looking at your review, you're proposing things that were in my comments originally several years ago, so I am really happy with the changes in the fee regulation.

And going back to the quarterly structure, I think that that makes a lot of -- makes a lot of sense. You know, at first we all thought that might be a good thing where we only have to pay twice a year but it's sort of affecting our accounting system. We weren't set up to just -- you know, and when you have a very large, complex accounting system and suddenly you're going to have to change, you know, that whole process, there's a lot more to it than I think that people thought about.

I think the intention was good but I think that with proper consultation, if we really talked about these things more, we could have pointed out or could have discovered beforehand some of the problems just moving precipitously from one way of doing business to a completely different one.

VICE-CHAIRWOMAN CHOCHRAN: Liz, can I put
you on the spot one more time?

ELIZABETH HOMER: Of course.

VICE-CHAIRWOMAN CHOCHRAN: Do you have any thoughts on the late payment system?

ELIZABETH HOMER: I love it. It is -- it makes so much sense. You know, I had -- I think in our consultation in San Diego I had mentioned this. The problem with NIGC, from both the tribal and the NIGC perspective, is the top-heavy nature of the sanctions.

You know, it's like all of the power of the United States falls on your head or nothing happens. And, you know, to get an NOV, you know, because there's been an oversight or there's been a screwup with the accounting system or, you know, there's a million reasons why you might be late making a payment that have nothing to do with wanting to stiff the United States of America.

And so for that not to turn into an NOV, especially if you're already a stressed operation, is just really a great thing, you know. But it does require a sanction. People need to be paying their fees. So, you know, a hand slap is a lot better than being hit in the head with a sledge hammer.

Now, if we get an NOV for stuff like that
then it's going to affect our credit, our ability to acquire capital, you know, our reputation for being -- you know, for our integrity, for all of those things. So I think this system makes a lot of sense.

VICE-CHAIRWOMAN CHOCHRAN: Do you have any thoughts on -- because I know you have a variety of clients -- do you have any thoughts on whether or not it ought to be a percentage base or a set amount so -- you know, dealing with a range of operators and --

ELIZABETH HOMER: You mean on the penalty?

VICE-CHAIRWOMAN CHOCHRAN: On the penalty side. Do you have any -- could you give --

ELIZABETH HOMER: I think, you know, you're authorized under gaming regs to asses penalties and fines up to $25,000 per day per violation. I would recommend something less than that $25,000 per day. But, you know, I think some reasonable daily fee, you know.

And you might base that on the size of the enterprise. I mean, those of us that have great big enterprises with highly -- you know, with highly developed infrastructure and those kinds of things,
we have a lot less of an excuse. Okay? We need to be doing that, you know, so I think that maybe a sliding scale of -- of fine or civil penalty for that is probably the best way to go.

VICE-CHAIRWOMAN CHOCHRAN: Thank you, Liz.

President Patterson?

DON PATTERSON: What about a simple standard percentage of the amount due? I don't like the idea of looking at the history of somebody, you know, because if you don't like somebody's history you might impose a penalty that might not be fair.

If I get -- if I have a -- at home and I have a late fee for my electric bill, it's a standard -- it's a standard percentage of the amount due, and I think that would be more reasonable. If you had a standard percentage of the amount of the payment due, I think would satisfy that end.

But I don't like the idea of the chair may, you know, looking at the history of this operation or that one, impose this amount of late fee or that amount. I think that's too arbitrary.

What that percentage would be, I don't know. But, just for an example, if the late fee was one percent of the amount of the fee that was due,
you see, rather than the chair just having that kind of open-ended, sort of a, you know, indeterminate sentence concept. You see what I am saying?

Did that make any sense to you, Liz?

ELIZABETH HOMER: Yes. Chairman Patterson, I think that that -- that makes a lot of sense. My only concern would be that you don't want to -- if you're one day late and you're going to be penalized, you don't want to be paying your one percent of what you owe, you know. It should be a -- I think it should -- you know, you might end up paying more than you would if you had a sliding scale and a set fee per day.

DON PATTERSON: Have that sliding scale based on the amount of time within that amount --

ELIZABETH HOMER: Right. There you go. Yeah.

DON PATTERSON: -- up to a percentage, and then that prorated on the number of days late.

ELIZABETH HOMER: Right.

LAEL ECHO-HAWK: I don't know if this will be helpful but if you look on page five of the draft rule and the proposal, on -- let's see, it's on line 13. It sort of begins the assessment. So it says, "for statements and/or fee payments one to
30-day calendar late, the chair may propose a late
fee of up to..." -- and we left this blank to either
a dollar amount or a percentage, and then that
percentage would change.

Under this discussion draft, if you're
thirty-one to sixty days late, if you're sixty-one
to ninety days late, and then over ninety-one days
it changes. And so we are looking for input of some
type about whether or not that should be a set
dollar amount or as President Patterson has
suggested a percentage of the amount due.

Additionally, on line five, we tried to
put in a process where the chair would -- you know,
once the tribe -- the tribe knows -- you know if
you're late, right? You know when you're supposed
to submit your fee and you know when you're late.
And if we were to send a notice out to allow the
tribe to say, "Hey, look, my CPA had to have open
heart surgery and was unable to complete this in a
timely manner." We tried to build in some -- some
flexibility there so that the chair can consider
that when assessing those fees. Because those were
stories that we did hear. Literally, "My CPA had to
go have heart surgery and so our fees were late."
And so we want to be aware of that and provide a
mechanism where a tribe can talk to the agency and say, Hey, look, not intentional, you know, extenuating circumstances.

So page five is where the bulk of that proposal is.

JILL PETERS:  Jill Peters, Comanche Nation. While we are discussing fees, I would like to ask the NIGC to consider whenever a tribe prepays for an entire year, that that quarterly worksheet is not due, because you still have the wording in here that you may issue a proposed fine or penalty for not submitting that quarterly fee worksheet.

CHRIS WHITE:  Just to be clear, you're saying if we go back to a quarterly system and a tribe or gaming operation pays their full amount for the year in that first quarter, they are not -- you don't want them to be required to submit those fee statements for the subsequent quarters?

JILL PETERS:  Correct.

VICE-CHAIRWOMAN CHOCHRAN:  There were a number of -- not a large number but a number of tribes who in the comment period on the NOI, asked if they could be given the option to either pay on a quarterly or a -- excuse me, not quarterly -- a fiscal or a calendar year.
Is there any thoughts or anybody willing to share their thoughts on: Does this make sense or is it going to cause more chaos within your accounting systems to base it on your fiscal year's calendar?

BARBARA COLLIER: Barbara Collier, Quapaw Tribe. I appreciate the fact that it is per quarter, that per quarter, because I felt like that did cause some accounting problems when it was changed twice a year because of the fiscal year dates, because some tribes, such as ours, have an offset time. And so I think that will assist some tribes in breaking it down more easily and adapt -- more adaptable.

My question -- my concern, too, would be when you get to the end of the year, whichever year it is, calendar or fiscal, if you're not submitting the quarterly report form, then if you had to adjust one way or the other at the end of whichever your year is, how would you do that if you didn't submit the form? At least the final form.

VICE-CHAIRWOMAN CHOCHRAN: Do you have any thoughts on that, Jill?

JILL PETERS: How would it change, because isn't it based on pretty much the fiscal
year? How would you change for the quarter in that, you know, that secondary year you're paying. You're paying for the previous year; correct?

CHRIS WHITE: That's correct. Yes.

BARBARA COLLIER: I guess maybe we had adjustments when maybe other people have not.

CHRIS WHITE: I mean, yeah. In reviewing audited financials, and looking at the timeline for payments versus on a quarterly system, let's say, if a gaming operation has a December 31st fiscal year end, their audited financials aren't due until the end of April, 120 days from the end of the fiscal year.

Under the proposed reg, though, they would have a payment due on March 31st that would require them to assess fees based on that previous fiscal year.

So there is the possibility that that statement submitted in March would reflect assessable gross revenues that were then adjusted to the audit. So I can see the possibility of there being a change.

From a regulatory standpoint, there's no reason that my office needs subsequent fee statements if nothing has changed. The problem
rises though if we don't require those statements
how do we know if there's been a change? And so
there's some questions I have with sort of not
requiring subsequent fee statements even if the
operation's been paid up in full. But it is a good
discussion to have.

VICE-CHAIRWOMAN CHOCHRAN: Lael pointed
out in her PowerPoint presentation the concept of
changing the terminology from "admission fee" to
"entry fee." Although not included in our draft,
it's something that was discussed internally with
us. I'd like to see if anybody has any thoughts on
that.

I know we have got lots of commissioners
here. Does it reflect industry terminology issue
usage? Does it make sense then?

Mr. Morgan, I am not going to let you off
the hook. You were late to class today.

MATTHEW MORGAN: Madam Vice-Chairman, I
was here prior to 9 a.m.

Matthew Morgan, Chickasaw Nation Gaming
Commissioner.

On behalf of Governor Anoatubby, thank
you for coming to Oklahoma. We appreciate your time
and efforts in this endeavor. And what an endeavor
it is.

To speak specifically to your question, you know, we always -- at least at my place, always like to standardize definitions whenever we can to make the clarification easier for both our operational folks and our regulatory folks that come in afterwards so there's not confusion. If confusion exists over calculations of what should be included in the calculations when you're charging fees and this clarifies that, you know, that makes it simpler, at least in my mind, that that would be a very simple change to do.

I did have one additional question kind of back to you guys. Anytime my staff or a couple of boards may submit proposals to me, I always ask them back, you know, if you're going to make these changes, is this going to increase staff requirements on your side to keep track of, you know, if you're going to allow a quarterly -- I am sorry -- a fiscal versus annualized?

Right now annualized, everybody submits everything at the same time. With different statements coming in, depending on a tribe's ending of their fiscal year, what is the increased workload going to be back on your agency?
Is that going to increase head count? Is that going to require an increase in IT resources or software upgrades?

VICE-CHAIRWOMAN CHOCHRAN: I am going to let Mr. White handle that because he's in charge of this department.

CHRIS WHITE: Yes and no. Yes, we have considered that. And no, we don't anticipate a need for increased, certainly not increased personnel.

The finance section is running very smoothly lately and the people we have in place to process payments and record fees, I don't anticipate that they'll have a problem with the increased workload.

In fact, it's really spreading it out. Right now, you know, we collect the bulk of our payments twice a year. And so for a couple of weeks in July and a couple of weeks in December, January, you know, there's this volume of payments and statements coming in. So this would actually spread that out, which, both returning to a quarterly system and then allowing, you know, payments based on fiscal year, would spread it out even further.

MATTHEW MORGAN: I would like to add, on any changes made to fees -- and I will take this
back to our accounting staff and get specific answers and be responding accordingly -- but I would ask that we be cognizant of the timing if we are going to make changes from a regulatory perspective, the timing issue of when we are going to make those changes, because I think that will have a big impact on our operational staff and our accounting staff. If they are changing processes, once again, how are we going to have time to incorporate those changes and make sure that we are correct, especially that very first year after that transition?

VICE-CHAIRWOMAN CHOCHRAN: That's an excellent point and one that we did give some consideration. The draft does anticipate that we would make the changeover in December, I believe, is what the recommendation is.

And -- yeah, in December, not this December but a December time frame.

But, certainly, we want to make sure that whatever change is made that it has minimal impact or the least intrusive impact we can have on your accounting departments and your systems in place.

We can adjust accordingly for us but we need you all to be ready to do that. So absolutely, that's an ongoing dialogue we will continue to have.
MATTHEW MORGAN: Thank you.

VICE-CHAIRWOMAN CHOCHRAN: All right. I have one more question I would like to throw out there and see if there's any thoughts on it before we take our break, and it has to do with the definition of gross gaming revenue.

There was a lot of discussion in the NOI comments about the GAAP definition and about us making a change to that, and I haven't heard anything mentioned this morning so I wanted to throw that out for discussion.

We haven't defined it yet and we have explained a little bit of what our thoughts were on why we chose not to offer it in our draft. Doesn't mean we have taken a firm position. We wouldn't do that. It's just we are not ready to do that.

Is there any tribe that prefers or has an opinion, that prefers or doesn't prefer that we make that change?

JILL PETERS: Jill Peters again. I do have one comment on the definition of net gaming revenue, or gross. Is there any way that we can put in there that you do not calculate free play into that?

We are kind of having a problem with our
state here on that free play calculation. It's kind of like double charging the tribes on that, on your own money.

LAEL ECHO-HAWK: Yes. And that is something that we actually did at the agency. We did sort of a fee 101, like how do you calculate gross gaming revenue? And that is something that was, if you have those questions, you know, number one, first of all, our staff is really great about helping figure that out.

Number two, when it comes to free play, it is not typically something that's included in because it's -- basically, it's playing with the casino's money. That's the way that the audit department explained it.

JILL PETERS: But I think by maybe putting that into this definition, that would help us with our state compact, the way they are interpreting it.

LAEL ECHO-HAWK: I see. Yeah. Okay. Well, we will take that comment back. Yeah. Thank you.

That might be -- and that goes I guess to the question of whether or not we define "wager" and "payout." You know, whether or not free play is
included in the wager or if it's -- the payout is
included or if it's included in the payout, so that
was a suggestion from staff, would be to further
define and refine what wager and payout mean. And
that might get to your concern. So if you have
additional comments, we would love to have hear
them. You can e-mail, write, call, do whatever you
need to, whatever, we would appreciate it. Thank
you.

MATTHEW MORGAN: Madam Vice-Chair, on
your question -- Matthew Morgan, Chickasha Nation.

On your definition of "gross gaming
revenue," not to specifically address your question,
but just to reiterate the point, and I know you guys
are, but just to make sure that it is emphasized, I
would be very sensitive to any change in a
definition that unduly impacts IGRA in giving any
member of Congress an excuse to look at reopening
IGRA, is my concern with touching definitions that
are called for within the Act itself.

VICE-CHAIRWOMAN CHOCHRAN: That is a very
valid point and one that we were constantly putting
out on the table when we were having our
discussions. We are not interested in running to
Capitol Hill right now either. We have got plenty
on our plate. So thank you. We agree.

All right. Is there any other comments?
I don't want to cut anybody short. I know you've
got a lot on your plate.

All right. Why don't we take a 15-minute
break. Let you stretch your legs, get something to
drink and we will reconvene.

(Break.)

VICE-CHAIRWOMAN CHOCHRAN: Tom, if we
could encourage people to come back in and go ahead
and get started.

All right. We are going to get started
again so that we can try to stay on schedule and not
interrupt anybody's either lunch plans or travel
plans.

I would like to turn our attention now, I
think we have exhausted the comments, unless there's
any other comments on the fees. I think I would
like to turn our discussion to the facility
licensing section.

I am going to turn it back over to Lael
just give one more quick summary as we wait for any
final people to come back into the room.

LAEL ECHO-HAWK: Okay. Most of you are
familiar with the Facility Licensing. IGRA requires
a Tri-issue facility license. That provision was used in creating a Facility Licensing regulation, Part 559, that was enacted in 2008.

The current regulation is in your handout but, again, I am sure that most of you know the content.

We received a number of responses. Out of 74 letters, tribal commenters, 66 tribes did comment on the Facility Licensing regulation.

Ten percent of those commenters said that this, agreed that we should reopen the regulation for consultation because of the process that was used to create the regulation in the first place was flawed.

Forty-five percent said that the NIGC exceeded its authority in enacting the licensing Regulations.

Thirty-eight percent of the people, of the comments said that the environmental public health and safety matters and facility licensing are proper exercises of tribal sovereignty and should be left to the jurisdiction of tribes.

You know, comments were made about Facility Licensing being also within with the purview of state compacts. Also that EPA and IHS
has jurisdiction and authority over that.

The Indian land issue that's addressed in Facility Licensing, the submission of, you know, some of the documentation, tribes commented that that was duplicative and that that was unnecessary because the Bureau of Indian Affairs already has that information.

Additionally in some of the things that we would like to hear about is the 120-day requirement. There was a number of comments indicated that there should be some flexibility in that 120-day time frame.

One of the primary purposes of the Facility Licensing regulation is to make that Indian lands determination, to make sure that the facility is actually being built on land, Indian lands eligible for gaming.

Sometimes that's a very easy determination to make, sometimes, given the checker boarding of reservation and fee versus non-fee land that's a difficult determination to make and may require some more time.

Within the agency, we have considered, you know, how do we work that time frame so that there's enough time at the agency level to make a
review? Often times, we have to work, particularly lately, you know, we are seeing a number of Indian land determination requests come through from tribes who may be newly recognized, they have a Restoration Act, and it gets very complicated when we have to work with Department of Interior to make those determinations so it can take a little more time. But then you have large land-based tribes like, say, Navajo, where it may be much easier to make that determination.

When it comes to opening an operation, you know, obviously your financiers want to make sure that the location is actually Indian land eligible for gaming before they, you know, begin writing checks. So that's a lot of practical implications that, frankly, at the agency level we just don't fully appreciate and we need your input on that. And if there needs to be some flexibility built in those time frames, what does that look like? How can we help you meet the needs of your operation in terms of financing of those other things? And how can we make sure that we also have enough time when it comes to those more difficult Indian land determinations, when we have to make those decisions, making sure that we have enough
time.

So those were some of the primary concerns that we heard from the comments. So just again open the floor, if you have any comments on that.

YVONNE WILSON: Yvonne Wilson, Cheyenne-Arapaho Tribe.

At one time NIGC required us to have documents from -- to describe our tribal land, and we did so.

Do we have to do it every year or what?

LAEL ECHO-HAWK: Well, to that, that's an issue that's raised, that we are thinking about. The current regulation requires the facility license to be renewed every year. Is that necessary?

Is it, you know, for tribes to send us that documentation again, is that necessary or is the initial land determination that's made the first time the facility licensing is open, is that necessary?

These are all things that we need, you know, we need to hear about because those comments are things that -- you know, speaking for myself, I worked at a --

Did I say three years?
Oh, okay. So some licensing is required to be made every three years.

When this regulation came out at -- I was working as in-house counsel at a tribe in Washington state, and I remember looking at that and thinking, that's lot of stuff that we have got to put together every three years. It's already at the BIA, why do we have to do it again?

And those are comments that we heard, you know, from tribes that felt if that is a concern, then, you know, what's reasonable?

We do have to make the Indian land determination but, you know, like I said, is the initial Indian land determination sufficient? I mean, if it's not, are you going to pick up the building and move it to different location? Probably not.

You know, so is it -- your question, I think is well taken and that is, once we have made the determination do we need to see your facility licensing again?

If it's licensed again, does the regulation -- should there be a renewal requirement? And if there is, what is a reasonable amount of time? And if there is renewal, should that have to
be resubmitted to the agency?

These are all questions that we have and we would like to hear from tribes. So if you have a position on that, that would be helpful.

YVONNE WILSON: I think most of the tribes, NIGC can require that we send immediately what was in trust for our tribe, but we never did get no response back. This was long ago.

VICE-CHAIRWOMAN CHOCHRAN: Thank you.

I think follow up on that same point is, we do have a staff member that is specifically appointed to preparing an Indian land database so that we as an agency have recorded and kept in our files the information that is being sent in. And it's my understanding that she's gotten through about three-quarters of the tribes that we have gotten information come in. And I would assume that that database will be used to offset the burden upon a tribe of resubmitting documentation for the same information, you know, whatever is ultimately decided on, if it's renewed every three years or five years.

That doesn't get to the harder questions, I think, which is what happens if the structure is moved, if it's a temporary structure and it's moved,
or it's expanded upon, or -- and those are some of
the more difficult issues, of course, that we would
like to hear from tribes.

You know, would that be a triggering
point? Maybe, again, looking for ideas. Rather
than saying it's every three years on the same
facility, maybe we look to triggering mechanisms, to
say, If you do this, it triggers.

Tom.

TOM CHOQUETTE: I think one of the things
that Ms. Wilson was addressing was, a lot of times
different tribes have in their gaming wanting to
issue a license and it may not require a rule. Some
tribes renew them every year, some do it every three
years. And I know in the regional offices, we would
try to make sure if they do renew them every year,
is that we had a current copy of the renewed
license, so, and maybe the tribes can provide some
input as to what would work best for them so that
our database is up to date.

YVONNE WILSON: I would like to comment
too that all this information that you are giving
us, why all of a sudden the change? How is it going
to improve what we already have?

It scares me, like the Chickasaws were
talking, the Congressmen can see this and they say, You might want to look into see what these Indians are doing now. But that's the big concern of mine.

VICE-CHAIRWOMAN CHOCHRAN: I hear what you're saying and I would also make sure it's clear. Part of what we are doing in looking at these is what the response from the tribes has been, and it is I think our collective opinion in the agency that the existing regulation is burdensome on the tribes, and so the review is to look at ways to improve that process so that we take the burden away, still meet the statutory objectives and requirements that are placed upon the agency that eliminates some of the burden. So that's the intent, is coming from being responsive to the tribes.

YVONNE WILSON: You know, I know it's probably good for you and probably good for the attorneys because, you know, they get more money.

VICE-CHAIRWOMAN CHOCHRAN: Right.

YVONNE WILSON: But how is it good for us?

VICE-CHAIRWOMAN CHOCHRAN: Right. Well, if we -- the result is to eliminate the burden, that of course is a benefit to the tribe. And we also have a -- the chairwoman has made a very firm
commitment to congress that we will engage in reviewing our regulations so that they're -- we remove duplications, we remove redundancies, we remove unnecessary burdens upon the industry, which is our ultimate objective as well. So that's the goal, is to reduce those redundances, those burdens upon you.

YVONNE WILSON: Thank you.

VICE-CHAIRWOMAN CHOCHRAN: I am looking at Liz. She's sitting on the front row.

Liz, I know you have been involved in this; many, many years reviewed some of the work product that came out of your time. Did you have anything you wanted to offer to the discussion? I know you made some earlier comments. Did you want to revisit anything you said? You don't have to but I am just asking. I see you.

ELIZABETH HOMER: Well, you know, in a sense I have kind of mixed feelings about the Facility Licensing regulation because for those of my clients that are gaming commissioners, I think that having the regulation in place has kind of, you know, facilitated the ability of the gaming commission to really effect a good Facility Licensing program. Which I think is the objective,
you know, or should be the objective of good
regulations, to facilitate as opposed to kind of
come down on everybody's head with a hammer.

My major objection has always been to any
NIGC regulation that requires the enactment of law
by a tribal legislature. I just -- you know, if the
NIGC can't even promulgate, you know, minimum
control standards as a matter of law then where do
you find the authority to put in an affirmative
burden on a tribal legislature to enact law? And so
that has always been my major problem with this, and
a couple of the other late regulations from the
prior administration that put these affirmative
burdens. You know, and I think to the credit of the
agency, I am not just being critical of the former
administration for the fun of it but I think what
happened is the previous chairman saw a lot of
things that needed fixing and, you know, felt
compelled to try to fix them regardless of this
authority question.

I guess what wasn't appreciated is all of
us deal with these. We struggle with these same
issues in an up close and very personal way and
that, you know, there are ways to -- you know, there
are all these different ways to accomplish. You
know, I mean, it would be a substantial violation of
the Indian Gaming Regulatory Act for any tribe to
engage in gaming that is not on Indian land, you
know, that doesn't have a facility license issued by
the tribe or some entity of tribe when, you know,
the real question here -- I mean, because one -- and
here's another thing. If the NIGC can write a five
page clarification of what their regulation means,
you know, then there's something wrong that
regulation, you know. And this comes up all the
time. People will call me and say, Oh, my God, our
facility license is coming due, what do we need to
do? And, you know, there's this like fear that, oh,
we have missed that 120 days. Well, that 120 days
really only applies to new facilities. It doesn't
apply to renewal. The package for renewal is much
simpler. You know, it's sort of, like, you know,
list the laws that, you know, that apply. Those
kinds of things. So, you know, in a sense it's
really just a notice requirement, you know.

But that needs to be clear in the
regulation. I mean, I am a lawyer so I spotted that
word "new," you know, and I realized you don't have
to, you know, keep repeating all of these things
over and over again. But not everybody, you know,
not everybody read it that way so it required some additional guidance.

I think, one, your initial guidance is like a nice place to start, you know, in terms of reforming, you know, the regulations. It's a lot simpler to understand and it's a lot -- you know, it's a lot clearer.

You know, this issue that we all have to adopt, you know, our tribal councils have to adopt, you know, the full plant of construction, engineering and building standards and all of those kinds of things in order to comply with this, I think is problematic. You know, it's just not that easy to get statutes, you know, enacted. And to have a good building code, you know, might take you some considerable period of time.

And that was the other major concern, was when this -- when this came out it was like this very, you know, immediate compliance with that, you know.

My tribe, the Osage Nation, our congress meets in session twice a year, so when I have to, you know, figure out how to get, you know, this building, engineering, water, sewer, all of these -- you know, all of these standards enacted, that's a
huge -- that's a huge problem.

I think that a lot of things could be solved through tribal regulations. You know, and in fact the regulations, all of my clients have regulations that establish what the building code, the building standards, the engineering, the construction, all of those kinds of things. So it doesn't have to be by ordinance because most everybody is basically either applying the model codes or the -- or the state's, you know, construction and health standards, so, you know, everyone is pretty much doing that.

I think that this regulation is problematic because I think it creates liability for the NIGC, that the NIGC can ill afford. You know, it is assuming a degree of responsibility on the part of the federal government that the federal government need not assume, which is, you know, we are responsible for that. You know, if you look at Indian law and Indian policy, the most protected area of tribal sovereignty is in the area of environment, public health and safety. So I think deferring to the tribal gaming regulatory agencies or the other entities -- the Chickasaw Nation has a whole, you know, health department. You know, I
mean, there are governmental structures set up and
it's not reflected in these kinds of regulations and
it needs to be.

VICE-CHAIRWOMAN CHOCHRAN: Thank you,
Liz.

ELIZABETH HOMER: Oh, just to add to
that. You know, my point is, by making the public
health in taking care of the applicable casinos by
regulation, allowing that to be done by regulation
as opposed to ordinance, tribal ordinances is -- you
know when a tribal government makes law, you know,
they are not just looking at the casino. It's a
whole nation. You know, it's a whole nation. If I
am going to have building codes and building
standards, it's for the entire nation. And that's a
much more difficult project than coming up with a
set of regulations that apply just to the casino
properties.

GRANTHUM STEVENS: Granthum Stevens,
Pawnee Nation, Gaming Commissioner.

Like Elizabeth said, we have gone through
that route. Pawnee Nation has not been around to
where we built -- we built all these codes because
of the facilities, and what we experienced the first
year was, we had tremendous growing pains. And a
lot of it came down to who had the authority underneath it? Because, I mean, when you look at the regulation it said that the gaming commission shall have the authority to enforce all this. Underneath tribal law, underneath ours was, it came back to the Gaming Commission. However, when we actually looked at the enacted by the council itself it was actually given to somewhere -- to a different department. And when I actually went out and took a facility license, and Marci knows because I called her basically every day for two weeks and she put a block on my phone so -- so I retorted to emailing her. But I mean basically she became my vent -- my venting because I had to explain to her, because we went beyond our period. And it was -- came down to the fact that when we actually looked at who had the authority to enforce everything, it was out of the Gaming Commission's hands. And we found -- what I found out though is when I went to the department that actually had it was, they had no clue that they had it. I had a food inspector and I asked him, I said, "Do you guys go out and look at your facility for food?" And he had no clue that he had the authority to go out there and look at it. He's not a food inspector, he's a microbiologist, but because
he had all the training they just gave it to him.
So that was some of our problems that we had.

And as far as the criteria that we have
to do it, we are on a yearly basis for our facility
license and we have to go through this process every
year. And it -- I know it comes down to, I like the
triggering effect that you had talked about. I
think if it's a new expansion, that, yeah, you are
going to be required to go all the way through it.

We have implemented some sort of checklist now that
we are going back to. We utilize the NIGC's
checklist in some areas to help us cover this. But,
I mean, as far as what they are saying, I mean, it
was okay for the council to come in and enact this
because NIGC required it right off the bat. And
that's the way that it was presented by RAG, was, we
needed to have of this in place. We accommodate it
the first year, and this is basically our
one-and-a-half year at this point and we are still
in a growing pain on who has the authority to go
under who. So that's the basis of our ability to
say, yeah, it's become a problematic regulation that
should be cleared up somehow. So that's my concern.

VICE-CHAIRWOMAN CHOCHRAN: Thank you.

Yes.
MATTHEW MORGAN: Matthew Morgan, Chickasha Nation.

Just to add on to the comments on facility license. I agree it has become problematic when we look at it at an operational level. You know, on the operation side they love to look at how many facilities we have. Only the regulatory side that becomes an issue. I currently license eighteen separate locations. You know, when I am looking at eighteen separate locations, of how that works and as Liz pointed out, I have a health department within our division of commerce. I have OEA, which is with our division of health that I work with on these issues and trying to coordinate those two inspections, along with NIGC coming in from time to time wanting to look at that, it becomes problematic on our inspections, it becomes problematic because I have a separate tribal entity, a utility authority that actually does a lot of building and utility codes, so, you know, there's lots of issues intra-tribal that we have to sort out, when suddenly the NIGC places the authority at my office level, when before I wasn't there.

It hurt me in a way because the way the definitions and the way the regulation was written,
it seems to indicate that my authority is now limited to the facility only. In the past our, or the way that we have always judged our operations, I license a property. If it happens on that property, it falls to me. Our statute is wrote that way. Which is our gaming ordinance.

This now puts into question exactly where my line is versus where some other office's jurisdiction comes in on the issues, so I guess, you know, and I know you brought up earlier financing on some of our issues of making sure a property is licensed. There's a lot of detail on new or renewals. There's not a lot of details on remodels, expansions and so we have had to go in and try to clarify that for ourselves, to make sure that our operations are clear because I get confusion all the time. When am I supposed to give you a notice? Is it 120 days every time? If I am, you know, redoing the general manager's office, is that 120 days notice? There's issues on here about closings and openings. You know, if I close a small facility to redo the carpet, do I got to give you notice because it's closed for 24 hours? Or what triggers those notices and those time frames? So I really think this is an issue that is right to reopen and a
tribal advisory committee would be very appropriate
here to grasp comments to try to rework this,
because I agree with Liz on this.

In ways it has helped my office, you
know, and it has helped us as a nation to try to
clarify some of those outstanding issues but it
brought a lot of other problems to the forefront and
didn't really solve those, it just added layers of
-- I think my operations falls into total
bureaucracy, to them trying to operate, so, you
know, we are very cognitive trying to not interrupt,
impede our operations anymore than necessary.

VICE-CHAIRWOMAN CHOCRAN: Thank you.

I often hear the Chairwoman describe,
when we are looking at the big picture, how the
Agency is conducting itself, staying within our
lane, and this sounds like it's a regulation that
we've got a lane, which is good, because the
alternative is we're off on the shoulder.

But we've got a lane that maybe we're not
completely within our lane, or maybe we need to
redefine our lane a little bit to make sure it is in
conformance, because we certainly don't want to take
actions that have a negative consequence on tribes.

If there's benefits here, we want to
preserve those and improve upon things that perhaps had consequences that either weren't foreseen or weren't part of the discussion back when all of this was revised last.

All right. Are there any other comments?

All right.

The next topic I would like to take us to, and I'm not sure that there will be a lot of discussion but it might be the right conversation before hunch, is the Buy Indian Act regulation. And, again, I'm going to turn it back over to Lael one more time just to -- because we have a few new people that have come in -- just to summarize kind of where we are at on this issue.

LAEL ECHO-HAWK: As I sort of went over earlier, the Agency in the Notice of Inquiries asked tribes if it was something that, if creating a Buy Indian Act or Buy Indian Act regulations to implement the Act at the agency level would be appropriate.

And just to clarify, because there was some confusion at some of the consultations, was that this would be a responsibility placed fully on the Agency. So when the Agency goes to make purchases and goods and services on your Indian
reservation, instead of going to the Embassy Suites, we would come here, or et cetera, so that we are putting -- you know, one of the issues that the Commission has talked about is putting, you know, Indian money back into Indian country, and so that's -- we can do that through the Buy Indian regulations.

The Buy Indian Act, as most of you know, is an act -- it's 25 USC 47. It's very, very -- it's a fairly old piece of legislation and it's utilized by the BIA and IHS in this same way.

Now, we don't make nearly the amount of purchases in goods and services. Primarily it would be, you know, using facilities and those kind of things, but it is something that was important to the Commission to reach out and ask tribes if it was something that you would like to see us implement.

And 90 -- we received 39 comments on this, and 80 percent of those all agreed that we should implement the Act.

Some commenters suggested that instead of doing it through regulation that we do it by NHR policy. And we considered that. The issue is that these regulations implement a federal set aside in procurement. Federal procurement is enormous and
it's very complicated, but there are certain set
asides; for example, small minority-owned
businesses; you know, veteran-owned businesses,
Native-owned businesses, and in order to do this and
actually meet those requirements for the set aside,
we need to do this through a regulation.
    So we seek lots of favorable comments.
This would, again, only place the burden on the
Agency to make those purchases in Indian country.
And, you know, there may not be a lot of comment
about it but it is something that we want to open up
for comment.

    VICE-CHAIRWOMAN CHOCHRAN: One of the
broader comments that came out of our discussions
that I really found intriguing and enticing about
taking this action is, this Commission is very
committed to taking these that we gain from gaming
operations and injecting them back into tribal
communities, and that the majority of time is going
to be a tribal gaming community because of where we
spend our time, obviously, but not necessarily.
    It is going to also allow us to go out
and purchase from tribes, from tribally-owned
businesses, that injects money back into Indian
country in general, and those may be non-gaming
tribes. So I hadn't thought that broadly of it, but it really appealed to me at that level as well, to make sure that we're putting as much fees back into Indian country as we can possibly do as a federal agency.

ELIZABETH HOMER: I think that you can take our silence as kind of an attaboy. You know, usually here in our part of the world we -- we sit quietly until we have something to complain about, you know.

VICE-CHAIRWOMAN CHOCHRAN: Well, I do think it's a good thing, and we're working very closely with our finance staff to make sure that we do things in a matter that don't disrupt the Agency's operations but also make sense, because it is involving the federal procurement process. And that's one of the reasons, like Lael said, we need to put it to regulatory format.

ELIZABETH HOMER: Well, that also makes it not subject to an easy revocation, you know, when and if the administration or an agency policy changes.

VICE-CHAIRWOMAN CHOCHRAN: Well, we should have a draft out -- take one other question. For those of you that have experience
with existing federal agencies that are involved in this -- IHS, BIA -- does anybody have any thoughts? We'd be looking to their systems as models. Obviously, they've got a reg in place. But to do that, I want to make sure we're not buying into something that we are not foreseeing.

Is there anybody that deals with the BIA or IHS under their regulation that would say this is good or this isn't working so well?

And we're going to get the draft out. I mean, there's been plenty of time to look at it more closely but we'll get the draft out. Okay.

I'm not used to this much quiet. You're making me nervous.

BARBARA COLLIER: At this point, taking into consideration, if it's according to how the other agencies work, like the Department of the Interior, the Bureau, the Buy Indian Act, oftentimes we find in our small facility that we buy -- our bang for the buck, you might say, is better spent when we allow the casinos, say, to buy items such as paper or something like that, which might not necessarily be addressed, but just whatever item it is, because they can get it because they buy so much versus what our little department of the world would
purchase, somewhere that would not -- they purchased it under the Buy Indian Act.

So I don't know if these kinds of issues would be addressed in how that overall -- you know, I'm just wondering how that would work under the umbrella that we have to, you know, make our dollars stretch.

CHRIS WHITE: We, from a procurement standpoint at NIGC, we have the advantage of being a federal agency and we're able to purchase supplies, for instance, through contracts that are negotiated for the entire federal government, generally through the General Services Administration and other agencies. So incorporating Buy Indian into, say, the procurement of supplies, is that what you're --

BARBARA COLLIER: For whatever.

CHRIS WHITE: Or whatever. That's probably one of the -- probably demonstrates the need -- why we need a regulation that would address that issue.

Procurement, federal procurement is very complicated, but it goes under the golden rule of the least cost to the government wins. And there are written into that exceptions to that rule; for minority-owned businesses, for example, for
veteran-owned businesses and through Buy Indian Native-owned businesses, so I would like to have a regulation in place that I can take to my procurement people, and so we're not dealing with the burden of procurement regulations when we're trying to procure from Native-owned businesses.

I can just, you know, put the regulation out there and say, you know, go do it. But that's -- that's where -- you know, where we're coming from on this, is that if we have a regulation, it makes our job easier and it makes it easier to procure from Native businesses rather than a matter of policy.

VICE-CHAIRWOMAN CHOCHRAN: And if I understand, the way the reg would also play out is, it would allow us to incorporate being fiscally responsible. We still have an obligation to spend fees in the most fiscally responsible way that we can. So if we get a situation where, you know, we do use our regulations to purchase from Native-owned business, for example, that will always be counter-balanced.

If it's outrageously -- you know, if the difference is outrageous, that would be absolutely a factor that would still be in the back of our mind.
We've seen that come up a little bit, I will point out, in our consultations as we go around looking. You know, Where can we go within Indian country to come talk to you? And we're learning, you know, that there are -- every tribe has its own set of rules and its own pricing points, and that that plays into. Can we do that? Can we even, if it's a travel facility, is it still -- is it fiscally responsible for us to hold it here or would it be more fiscally responsible to be somewhere else? And so it's -- I assume that that analysis will continue to play out for us.

BARBARA COLLIER: But just like Matthew mentioned earlier, you know, as long as it doesn't create more problems, I think we -- we necessarily -- you know, we definitely would want to support that, but if it would create, you know, more problems, probably not.

VICE-CHAIRWOMAN CHOCHRAN: All right. Are there any other comments?

Well, it's been proposed, and I think it's a great idea, to go ahead and break a little bit early for lunch. And we really only have one other topic to cover when we come back. So why don't we -- I know the agenda says come back at
1:30, but why don't we come back at one, if that's acceptable, begin our discussion and we may have an early afternoon.

   We're here for as long as you need us to be here, obviously, but if we can let you go earlier we'd like to do that so we'll see you back at one o'clock.

   (Lunch recess.)
VICE-CHAIRWOMAN COCHRAN: All right.

Good afternoon. I hope everybody had a good lunch. I did. I found my catfish and my hush puppies, I can go back to D.C. a happy woman now.

Thank you for coming back. We don't have a lot left on our agenda to discuss so I appreciate you spending some more time with us this afternoon, and we'll go at the pace that you're most comfortable doing.

And, also, we wanted to make sure that we haven't failed to listen to any other comments, even if they don't neatly fit into our agenda. You know, I want to make sure that we give you the opportunity to speak because I know some of you have traveled a long way and your time is valuable.

So with that, I'm going to give it back do Lael again as she is so good at summarizing, to take up the last topic that we wanted to bring to the table to discuss today, which is the Class III MICS regulation process issue. So we'll turn it over to her and we'll look forward to hearing from you.

LAEL ECHO-HAWK: Thanks, Stephanie. I'm sort of in a post-lunch coma so I'll try to be concise here, but I did want to kind of go over
again what we're discussing with the Class II MICS, and that is just the process. Nothing substantive at this time in terms of, you know, what they're going to look like but how do we get there? How do we address the Class III issue in the way it impacts tribes all over the country.

So these are the suggestions that we've heard throughout the course of the previous consultations and I kind of want to comment on some of the comments that we also received, and you can see again on our web site the letters and the transcript.

We sort of had an even split between tribes that said repeal the MICS, Class III MICS, in its entirety. And then we had others who said -- about the same percentage that said keep the MICs.

But there's this mixture of the two that, you know, that some people say repeal them entirely but issue them as advisory guidelines in some format.

Some of the tribes that said keep the MICS also said keep them but you don't have to be in regulation, they can be in an advisory bulletin-type format. So that is an option.

Again, we are operating under some legal
constraints and the court decision that impacts what
our ability to do that is.

We have some tribes that they don't use
any of our money to do anything with Class III
because you don't have any authority to do that.
And I see Mr. Green nodding his head. So that's an
issue.

And one of the ways that some other
comments addressed that concern was by when a tribe
does want to have the NIGC keep enforcement
authority, as so much of what the California tribes
have done, and perhaps even Oklahoma tribes have
done, is there is some provision for the NIGC to
provide those services and enforcements and there'd
be a different fee rate for those tribes so that
they're paying their share of that, you know, fee
for services, basically, and other tribes aren't
having to pick up that slack.

Again, Liz brought up perhaps addressing
this through an agency tribal compact, compacting
almost a fee-for-service-type agreement. That's
been an option that's been put out on the table.

And then, you know, other tribes say keep
it and put the tribal advisory committee back
together and work on it. And then the other tribes
say absolutely repeal it.

So we need to figure out -- this has been pending. This issue has been pending and my -- when I first went on the Commission, internally and externally, it's a position we need to resolve. We need to figure out a way to address it that addresses the concerns of all the tribes around the country, make sure that we still comply with the Act, with the court's decision and the CRID, and that we're not -- an added consequence is that we end up in Congress reopening the Act. So how do we do that?

And that's really the question that's before you now and will be over the next five meetings. So if you have any comments on that, please, we need -- we don't just want to hear them, we need to hear them because we need to come to a good decision on this.

And if you have comments, please remember to restate your name so that we can get it into the transcript.

JESS GREEN: I do not have a microphone. Can I be heard without one?

LAEL ECHO-HAWK: Is that okay?

COURT REPORTER: If you'll just speak up,
I can hear you.

JESS GREEN: Again, you have just increased our fees 20 percent. I have asked and make several comments about that point. I understand you're basically just treading water and keeping the current people paid.

I have also written a letter and pointed out to your legal staff that in your announcements you have consistently said that 25 U.S.C. 2706(B) states that you have authority to make regulations for the Act.

I hope that's just a carryover from Chairman Hogan and is something that you will correct in the near future, because 2706(B) does not reference the Act, it references the chapter and is making reference to Class II gaming. And CRID even points that out. And CRID is exceptionally pointed that you don't have any Class III jurisdiction. And if you look at what the Class III regulations that are currently postured, that are out there have done and what they're doing, you will find a number of compacts that endorse those regulations in the year the compact was entered.

And so whatever change you make to the Class III regulations will not necessarily affect
those places anywhere at all. So regardless of what Congress would do about Class III MICS, in Oklahoma the compact says, We're going to use the MICS that was in effect in 2004, in November, when the state passed the statute that we're forced to sign onto.

I mean, it is not negotiated. It's a matter of Oklahoma statutory law. And it has been approved by the Secretary of Interior, who didn't take your input, he just stamped right off on it or passed it in some other fashion.

And we're not the only state that has that endorsement. I understand there are tribes that feel it would be helpful for them to have a newer MICS for Class III, but I don't see that the tribes in Oklahoma ought to have to pay for it.

And I -- you know, we're locked with the MICSs that are from 2004 regardless of what you pass. What you now approve does not affect the fact of what our compact says. And while we might even get permission from the state SCA to use a newer MICS as modified, I see no justification in using our money to pay for it.

Now, I appreciate that Ms. Homer has made some suggestions about how it could otherwise be paid for. And I have no objection if you want to
utilize your time and find another means to pay for it. But I think the record needs to be abundantly clear that here in Oklahoma our compact says we endorse the 2004 November MICS when we entered the compact. That's what we're going to use for Class III.

And the compact doesn't say as may be later updated by time as it does for other statutes later, that are elsewhere in the compact. It simply says that -- that MICS.

And I would certainly direct that you might want to relook at your publications about 2706(B), because it does authorize you to make regs, but I believe it only authorizes it, and I think that's what CRID said, as it pertains to Class II. Thank you.

VICE-CHAIRWOMAN COCHRAN: Jess, thank you. As to your second point -- I think I got the right order, first one was the fee, second point -- you're absolutely correct on our language, our choice of language and that will be corrected, so --

JESS GREEN: Now I have got to find another point.

VICE-CHAIRWOMAN COCHRAN: No, we've already discussed that and your point is very well
taken. And, yes, I do think it's true, the language just wasn't caught the first time around as it should have been perhaps.

So, now, your Class III point, and I appreciate your candor, and I think that your views -- and I'll be interested to hear from some other people that are present -- are probably reflective of many tribes in the state, and that's why I appreciate hearing it.

It is a complex issue that we do have to find a solution to. So I'm going to open it up. I still want to hear from tribes on this, or any part of Class III, in the sense of the process, how to approach it in the process manner.

ELIZABETH HOMER: I'll talk.

VICE-CHAIRWOMAN COCHRAN: We can wait you out. I'm Chickasaw, I'm stubborn.

YVONNE WILSON: Okay. I just wanted to say, What brought all this -- Yvonne Wilson, Cheyenne-Arapaho tribe.

Why get into this Class III MICS with NIGC? What brought that on?

LAEL ECHO-HAWK: The Colorado River Indian Tribe decision. Several years ago, there was a -- the court case. In that case the court said
that the NIGC doesn't have the authority to enforce or promulgate Class III regulations. Since then, it's been sort of pending.

There was an effort by the agency, also a couple of years ago, to update the Class III MICS, and I think tribes came to the table and said absolutely not, you don't have the authority to do that, and since then we've just been sort of waiting.

But this is an issue that we have to address because we currently have Class III MICS regulations, and if CRID says we don't have the authority to enforce or promulgate, what do we do with those regulations? What do we do with the tribes that have given the NIGC the authority in their compacts or in their ordinances to come in and enforce Class III MICS? It's an issue that, as a result of the court case, has been pending and unresolved and the agency has to resolve it somehow.

So it's just been kind of an elephant in the room for a number of years. The previous administration, I think, made a couple of attempts to deal with it in a variety of ways, and we're just coming back to the table and talking to the tribes about which direction should this administration go.
YVONNE WILSON: Well, the reason why I asked, because I have been gone a few years, but, one, CRID; two, the tribes -- you know; three, you know, why are you bringing it back up? I mean, you know, it just don't make sense to me. The State of Oklahoma, we do have our own compact.

ELIZABETH HOMER: Well, as a threshold matter -- Elizabeth Homer.

As a threshold matter, you know, the reason why I was suggesting the compacting approach is very much for the reason that, you know, as Jess has stated and because of the case law in the Colorado River decision.

You know, I think the MICS are a good thing. Okay? I have always been a supporter of the MICS themselves. The tribes initiated the process of developing MICS in the first place. And, you know, there's no question that we need to have MICS. MICS are important, and the NIGC can play a role in helping us to have good standards and guidelines to follow.

You know, the question is: Who enforces the MICS? And, what is the nature of the NIGC's authority to promulgate a regulation in this regard? But -- and we've got the answers to that out of the
CRID decision. And, you know, so where does that leave us and what role can NIGC play?

You know, tribes can consent to oversight. You know, there's a difference between having a legislative regulation that directs and compels versus a voluntary regulation to which there is tribal consent, you know, and that's the big difference.

I mean, it really is based on the idea of consent too. If we want to have Class III gaming, then we consent to having the state play a regulatory role in that regard, you know.

But this concept of consent is -- you know, is, in my view, the best possible way around this question, because if I had to choose between state and federal oversight -- no -- no disrespect to any state government -- but I would prefer to have federal oversight. You know?

States play games sometimes, you know, when they have authority in tribal affairs, and I think that we tend to get a better treatment when we're dealing with a federal agency that is more objective and is farther away.

I think it's important for the NIGC to play a role, but I think that as a matter of tribal
sovereignty, shaping the contours of that relationship is something that needs to be done in a mutually agreed upon fashion.

And then we can address all of these other kinds of issues; you know, fees and, you know, what are the parameters? What is the proper protocol for -- you know, for raising issues, you know, problems that occur, that may come to the attention of the NIGC?

You know, the NIGC -- it's not the NIGC, it's all of us. The best thing we have going for us is we have tribal gaming regulatory agencies. They're the primary regulators. They're the day-to-day regulators. You know, kind of developing the contours of that relationship between the tribal regulator and the federal regulatory oversight agency is really the challenge that awaits. And I think it has to be a consensual, not a prescriptive or a legislature approach, for figuring it out.

And I thought about this issue for a long, long, long time. You know? I mean, when I was on the commission we did the first revision of the -- of the MICS. They had been promulgated by the prior administration and everyone hated them and impelled the NIGC to revisit, and we did. You know,
that's where we built in the chairing structure and those kinds of things.

But the arguments have not gone away and, of course, have vindicated the tribal point of view on that. And so now the question is: What is the appropriate role? And I think that it's that government -- the answer is somewhere in that government-to-government relationship, that consensual relationship between tribal and federal government.

VICE-CHAIRWOMAN COCHRAN: Thank you, Liz.

Let me throw out a question that I know we were hoping we'd hear some comment on, if anybody wishes to comment. What impact, if any, might be envisioned if we just repealed the Class III? Didn't replace it. Didn't -- what impact might it have on your compacts on how you do business here?

Go ahead. Ladies first, please.

ELIZABETH HOMER: Well, I think that -- I think that for those of us in Oklahoma, assuming Jess is correct, you know, that those MICS are what we have to live with forever and ever, Amen, regardless of whether you repeal it or not, we probably are still under those MICS forever and ever, Amen. You know, so I'm not -- I'm not sure
that under that theory that there would be much of a
change for those of us in Oklahoma.

    The problem with that, though, is we've
got this static instrument and we have an evolving
industry. So I think that, you know, repealing Part
542 is not necessarily going to be the end of the
world, but there could be a counter argument that it
would be, because if there's no more federal
regulation, then we're going to be having a big gap
in our agreement with the state of Oklahoma. So
that's the other alternative. That's the other --
you know, that's the other concern. And that's the
one that concerns me the most because that's going
to change the dynamic.

    VICE-CHAIRWOMAN COCHRAN: Thank you.

    Mr. Green.

    JESS GREEN: My suggestion is that you
not repeal the MICS. You leave it. If Congress
asks you about the MICS application, you say it has
application. It has application in Oklahoma by
virtue of the secretarial endorsement and the
tribes' endorsement. It has application in
California where those tribes have made it a part of
their game ordinance. It can have application if
the states and the tribes want it to.
Now, insofar as what you do in the future, if you have consent or other people pay, I would suggest you make a MICS guideline.

Again, I would not -- CRID says the precedential value of the regulation and the enforcement value of the regulation does not exist. It can't undo the fact that you've adopted it. It can't undo the fact that these states have -- and tribes and Indian nations and governments have endorsed it at a particular point in time.

And if you don't repeal it or throw it away when Congress asks you, well, what about the MICS, you are able to say the current MICS has application by consent.

And if you do MICS by -- by recommendation -- and, again, get sources to pay for it from elsewhere, I think you will, the next time, be able to point out to Congress that there is a new and improved version which we are not able to enforce by virtue of compact and CRID. But we have this many tribes signed up and state governments in agreement that this is what we're going to use from now on.

And so I think you're there able to provide yourself with a much better defense to
Congress when they say there's a void that needs to be filled. And you say, oh, no, these old ones have endorsement by the tribes and the states that see value in it, by the tribes individually that see value in it, and we've figured out a way to build some new ones that are very modern, that tribes are signing on to, and, you know, as guidelines. And so I think you're able then to deflect any argument that there is a void that needs filling, which is what the tribes have said all along. It's not that we didn't want your guidance, we just didn't want your enforcement in an area where we felt like we had reached concurrence with the states.

And had Oklahoma not had your MICS guideline to adopt, I am confident they would simply have selected some other vocation. So I think there is value in still leaving what we have there and not, quote, repealing it, because it is, in fact, endorsed by tribes and states.

And, by the way, my name is Jess Green.

VERSE-CHAIRWOMAN COCHRAN: Thank you, Jess.

ELIZABETH HOMER: And I would be very concerned about your repealing it because I do believe -- you know, sometimes -- let me set this
down so I don't waive it around.

But I am very concerned about that in the big -- in the largest sense of the word, because if the Congress of the United States begins to think that the NIGC is deregulating Indian gaming -- and it's really easy when you repeal a major regulation to jump to that conclusion when you don't -- if you don't know the facts. And, believe me, we're dealing with folks in the Congress that don't necessarily know very much about Indian gaming at all and they see a repeal of a major part of the agency's regulation, the first thing that jumps into mind is, Oh, my God, they're deregulating Indian gaming.

You know, we're not deregulating Indian gaming. All we're doing is taking steps to get consistent with the statutory law that Congress enacted. What we don't want, though, is Congress coming back now and opening the statute and God knows what will happen.

You know, what could be put into IGRA once it were reopened? And so I frankly feel that repealing it altogether is -- is not the right option.

VICE-CHAIRWOMAN COCHRAN: Thank you, Liz.
Yes.

GRANTHUM STEVENS: Granthum Stevens, Pawnee Nation.

I think it really comes down to the same as probably all feel, that if 542 does leave there's going to leave that void and Congress on hill is just going to open it back up. And we're all in the same boat that we don't want Congress to reopen anything.

We just got to the point to where we're comfortable and a lot of new tribes have gone into gaming at this point, compared to other tribes, is, we've just gotten a feel for what the MISC is. We're just taking a baby step compared to what other people have done.

I mean, there are some tribes that have been involved in this situation for -- the beginning of IGRA, that have set up this boundary. I know, coming from my nation, I ain't the most experienced person in gaming. And I'll honestly say that. However, I have grown up to this point in learning the MICS and learning how our internal controls have worked. And I think at this point if we do repeal it, it's going to come back down to the point to where we don't have any legs to stand on. We're
going to be turning around saying, all right.

But I do like the idea that we are
getting together and we do network a lot in
Oklahoma. It's one of the best. I mean, we hear
Jess Green basically 24/7, in one's sleep, Jess
Green's words.

VICE-CHAIRWOMAN COCHRAN: I'm so sorry.

GRANTHUM STEVENS: But, I mean, we tend
to look at people that have the true experience. I
know there's been certain situations to where, if I
have a question I will call NIGC. And if it's a
Class III situation or anywhere else, I end up
calling the state of Nevada or the state of New
Jersey because their regulation comes from that
state, and they go through an extensive training
process. So I call them and ask them, What do you
exactly look for? How do you look at it? And the
first question I get from them is: "Are you a
Native American tribe?"

And I'm like, "Yeah."

"Well, you got to go back to the MICS."

My answer is, their MICS is exactly
written in your law. Your regulation is exactly the
same as theirs. I'm just asking you since you have
more training in this area, what exactly do you look
for?

    Now I'm not saying that we don't have
enough training over here, it's just they deal with
the whole state issue. I'm able to get a state's
perspective on how they look at something.

    Oklahoma is really unique, coming from
Arizona, coming from California, in that, yeah, I
can see where 543 is very valuable to California.
And it came down to Mr. Schwarzenegger saying, hey,
we have this void, we need to fill the void.

    I can see where the previous commission
also said the same thing, we have a void, we need to
fill it. And I like the idea that it's golden for
guidance to say, hey, if you want to follow Class
III, here's the guidance that will be available for
you guys. And I think that it really affects the
people on the West Coast.

    So as far as repealing 542, I think it
would be a very, very big void and a hardship for
us. And like I said, if -- like Liz has said, if
Congress will look at it as deregulating and it's
going to pop up that question and throw a red flag
to say, we need to reinvestigate this, we need to
reopen it. And that's what I think a lot of us are
trying to avoid at this point, is, we don't want
them to reopen it, we don't want them to look at it.

So my biggest thing is that we still need
542 and we still would like to see the encouragement
for 573. And I think it really comes down to, like
CRID said, How does your guidance come into play?
You won't have the authority over there but we'd
just like to see it like in an advisory. That's it.

VICE-CHAIRWOMAN COCHRAN: Thank you.

Any other thoughts?

Let me open up the floor just to anything
that didn't get said earlier. If you had thoughts
over lunch, I know many of you were having
discussions. If you had additional thoughts since
then you want to offer up on things we talked about
before lunch.

My obligation, my responsibility, my
privilege is to sit here and listen to what you have
to say so I want to make sure that we have the
conversation. Please.

UNIDENTIFIED SPEAKER: Maybe more than a
question than anything, following up what these
three folks just said, it's pretty clear that 542 --
we're kind of back to that legally void.

My question to you all is in defending
yourself in front of Congress, has there been an
analysis of all the compacts nationwide so that we
know which ones to apply what -- I'm sorry.

Is it easier to do it this way?

My question is: Have we done an analysis
so that we know when Congress comes back and says --

VICE-CHAIRWOMAN COCHRAN: I think if you
just speak --

COURT REPORTER: If you'd just come up
front and speak.

UNIDENTIFIED SPEAKER: Okay. Is that
better?

COURT REPORTER: Why don't you just come
up front and speak?

UNIDENTIFIED SPEAKER: Okay. I can do
that.

My question is: Have we done an analysis
to see where the holes are in all the compacts?
Because a lot of these are going to be kind of new.
I think Wisconsin may be the only perpetual compact.
And a lot of these are going to be coming up so the
states can re-examine the way they did in Oklahoma.
So that we can defend ourselves in front of Congress
when they say, Well, how is this getting dealt with
in the future? That's all. And are we doing that
or how are we looking forward to that?
VICE-CHAIRWOMAN COCHRAN: That's an excellent question. The Chairwoman again in her -- both appearances before Congress in talking about CRID, committed to doing the analysis and it is underway.

I don't know, I'm thinking if we talked about in terms of time frames, and I'm not sure that we have. But if it -- I anticipate we'll find ourselves before Congress at some point in time, this year perhaps, even for an oversight-type hearing or something of that nature, and, like I said, we will be prepared at that point, so we'll come to a conclusion, that it is absolutely on our mind. And I know that we have done some fundamental factual analysis on what compacts require what when they come up, the kind of basics. We've been trying to get the analysis done, overall what it means, because I do think that we need to be prepared for it.

Matt?

MATTHEW MORGAN: Matthew Morgan, Chickasha Nation.

I have a procedural question, and probably falls to Ms. Echo-Hawk.

As you go through your consultation on
your groups, are you going to start writing
discussion drafts and releasing those? Or is it
something you're going to save up till the end of
some of these consultations and then start releasing
them? As you go around the country and your
conversations maybe driving this discussion in new
ways, you know, how are we supposed to keep up with
the conversations if we can't attend?

LAEL ECHO-HAWK: That is a great question
and one that we're trying very hard to address. We
will be putting forward preliminary drafts, sort of
as we can. For example, the information that we
received from our Notice of Inquiry has kind of
given us enough information to put together a
preliminary fee regulation draft, discussion draft.

I think that, also, the facility
licensing draft as it comes forward will be based on
that. As things come forward, then, yes, we're
going to be trying to be putting out draft language.

All that stuff will be on the website.
Everything that we put out will be on the website.
You can go there.

We tried -- last week when -- on Friday,
we had the -- we finalized the draft regulation and
we called our RDs, and called the regional, national
associations, but we wanted to make sure that we met -- we contacted not just the associations but the tribes, through the regional staff, to let people know that that information is out. It's new. It's on the website. And we plan on continuing that so that there's this continual outreach. You know, that things are coming down the pike. You know, these will change, obviously, as we get information.

Will the draft deregulation be the same as it is right now if and when it goes into notice and rule? You know, maybe. Maybe not. We'll need to -- we'll take another look at that. But, again, we need -- you know, we need a place to start from. And so we're going to put together some discussion draft and, again, it's discussion only.

You know, we're just as new. And this allows us to figure out a way that, hopefully, will get the things done we need to get done, keeping the ball moving. I know that in our consultation on consultation -- only in the federal government would you say that. Consultation on consultation. One of the comments was: How do we know that if we can't attend a meeting and you don't see my tribal leader's face, how do I know that my written comments are actually going to be reviewed and
considered? And, again, the commitment from the Commission is that every comment is going to be reviewed and considered. Oral testimony in a consultation like this, any written comments, I personally read all of that. Our attorneys, they read it. The Commission read all the comments from the Notice of Inquiry. So we're going to be doing our best on our part to make sure that you're informed when these things come out. And then, you know, as your comments come in, please, you know, be assured that we will be reading and considering those as well.

And, you know, as we go back out, we take the comments back out with us and say, okay, well, you know, we heard that percentage rate. For example, President Patterson indicated a percentage rate, felt some kind of fee might look better than just a set dollar amount. And so we take those with us as we move along. We've got processes in place to take this meeting to the next meeting, and so we're kind of, you know, gadget, moving parts and wheels. But you know, if you have suggestions and we're not doing what needs to be done to communicate with you, please, please, let us know and we'll make the adjustments if we can. But this is -- you know,
it's new to the agency. I think it's new to Indian
country. And, hopefully, whatever process we come
up with will make the end result better.

That was a very long answer, I apologize,
but I am a lawyer.

ELIZABETH HOMER: Well, let me just say
as a general matter that I have been following you
guys around the country, as you know. And, you
know, here we are in Oklahoma, and I just want to
say to you and everyone else that these discussions
have been the ideal dialogue process that we've
been, you know, asking for and kind of demanding for
years now.

You know, to be able to have a
discussion, to be able to see your perspective and
have -- you know, it's as important to me to hear
your perspective on things because then I can shape
my perspective on things and vice versa, so now that
it's a bilateral discussion, you know, well done.
Thank you all so much. Really appreciate it.

VICE-CHAIRWOMAN COCHRAN: Thank you, Liz.

We've made a -- the Commissioner has made
a very firm commitment to putting balance back into
how decisions are made within the Agency, and a
large part of that is process. We knew that. So
thank you for your thoughts.

   JESS GREEN: They won't know how to

behave if I complement them one meeting and you
complement them the next.

   BARBARA COLLIER: Barbara Collier, Quapaw
Tribe.

   I was just sitting here thinking almost
simultaneously what Liz was just saying. I
appreciate the fact that you all are taking a
totally different outlook on consultation. Not that
some of our own personal complications weren't very
exciting but they didn't get very much accomplished
oftentimes, so...

   ELIZABETH HOMER: We got the picture. We
always got the picture.

   BARBARA COLLIER: But, anyway, to say
that I do appreciate -- I think that this is very
effective. I just wish that others -- Jasons and
some of these others would be more comfortable
perhaps. Brett, you know, we were talking about
that. And people aren't secure enough in, you know,
maybe publicly making a comment that might not be
something that they think might not be acceptable.
But you are trying to make everyone feel comfortable
and I think that's a big plus in your favor.
I, again, appreciate the fact that you are taking a different -- a whole different avenue. I think it's going to be positive. I just wish that others would, too, step up and make their comments.

You know, I was taught my whole life there's no stupid question, and I believe that. I think if you don't know, you know, you just -- you can't know unless you ask.

But the Jesses and Elizabeths and some of them are very wise and do go back quite a ways, as I do, in gaming, and we appreciate the fact that -- and I think that's been known -- made known to you that we appreciate the fact that you're doing this.

One thing I was thinking was, when we were talking about -- Richard and I were talking about, it's not going to be long until we have to take a relook in Oklahoma at these compacts. I mean, time flies. And so this will make a difference. I know the MICS and what is done with that will probably, definitely be -- you know, need to be something that's well-ingrained in us, and the decision be made as to having effects on the compacts when we have to go and renegotiate.

And so, please, you know, consider all aspects so it will make it so it will be much -- of
much benefit to us, hopefully, when we go forward and do that. But thank you. Thank you for being here.

VICE-CHAIRWOMAN COCHRAN: Well, thank you for your comments and your kind words. There's a couple of areas in the country that are going to be similarly situated on the compacts. And it kind of reminds me of looking to the successive generations in this case, really kind of looking further out and trying to do the best we can to foresee how our actions will impact twenty or thirty years down the road and that's definitely in the forefront of our mind as we think about it.

I appreciate your comments about some of the other people who are present who may not have offered something to say. I know this is a different format than some of you may be comfortable with or familiar with, or just it's new. It is. I know all three of the commissioners are very much dedicated to hearing what the tribes have to say. And if you're not comfortable in a group setting and you want to convey it on paper or, you know, do a one-on-one meeting, let us know. I certainly respect that. I respect different comfort levels and speaking styles and ideas and concerns.
you know, we never want to make a tribe feel that they cannot speak because of the forum at that particular time if it's not the most comfortable forum for them. So it just takes one. I can tell you, we sit in meetings as we go through drafts and we talk about the issues and we talk about the comments from the inner and -- you know, what about this? And usually one tribe might have said it but I still get it out on the table for discussion. So you never know. You may think your thoughts aren't relevant or perhaps aren't an intelligent thought. That may be the furthest thing from the case. As far as I'm concerned, when a tribe speaks, I need to listen and I need to be responsive.

So, all right. I'm going to let Lael give you some final thoughts.

LAEL ECHO-HAWK: Just wanted, you know, also in response to that point, please, if you have comments and, you know, you've heard some things and you write them down, you want to get them to us, reg.review -- easy to remember -- @nigc.gov. Those will be coming in, they will be posted on the website. You know, take a look at our website. Use it as a resource. If you have questions, we are -- you know, like I said, we need your input.
I have the, you know, the kind of -- I had a very -- I was very fortunate to go from law school to spending six years as in-house counsel at a tribe, and I know there's a lot that happens at the operational level that we don't appreciate at the agency level simply because we don't have that experience and so we really need to hear from you. We don't just want to, we need to. In order to make these regulations better and to respond to the industry needs, we've got to have your input. So in whatever format you need. We can do one on one, send me an e-mail, give us a call. We really look forward to hearing from you in whatever -- by whatever means necessary, so...

VICE-CHAIRWOMAN COCHRAN: All right.

Last call.

Well, I want to thank you for your time today. Again, I know many of you have extremely busy schedules. Thank you for getting your tribal leadership here today as well. It's important that we also reach out to them wherever we can. I look forward to -- Liz, I'll see you somewhere. But thank you again for giving me the honor of being here today and back home, to start off a very long process in Oklahoma. You've given us some great
thoughts that are going to be immediately passed on as we begin through the agenda. I think the next place the commission is headed to is Palm Springs next week, so we're out there before the California tribes, and so I appreciate your time. I wish you safe travels and look forward to talking to you soon. (Applause.)

(Adjourned.)

Written statement submitted:

Facility License

All our facilities are on trust property.

Requirement of Laws and Building Codes

Our commissioner can't force the Business Committee of the Nation to enact law or adopt EPHS codes.

I agree with our attorney, Liz Homer's comments. Our Commissioner has had to issue facility licenses without any Sac & Fox EPHS laws.

I worked with NIGC in 2008 when facility license changes first came out. I had to work hard to gather everything required so that a facility license could be issued on May 1, 2008.

NIGC told me all was okay and I could issue the license.

After working hard and gathering all the
volumes of information to get facility license issued, I only sent in a certification letter. I was shocked that NIGC was not going to review all the work and information gathered -- volumes of information.

I have since issued three more licenses and continue to require the casinos to complete a detailed facility application.

We utilize IHS to assist in inspecting and have received EPHS certification in several areas for our staff so we can do our own inspecting.

My tribe still has no environmental laws and has not adopted state or federal codes. The casino builds using federal codes voluntarily.

Murial Wheeler
Sac & Fox
Executive Director
CERTIFICATE

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

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 5th day of May 2011.

___________________________

David Harjo, CSR RPR

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