

In Re: National Indian Gaming Commission
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9:00 A.M.

Reported by: Ronald L. Cook
CCR, RMR, CRR

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1 SHELTON, WASHINGTON; FRIDAY, JANUARY 14, 2011

2 9:14 A.M.

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5 MR. LOPEMAN: Good morning. We want to 09:14
6 get started here.

7 My name is Dave Lopeman. I'm chairman of
8 the tribe. And Pete here is the secretary. We're
9 going to have him say a prayer.

10 Would you all stand up, please. 09:14

11 MR. KRUGER: Thank you, David.

12 Heavenly Father, I want to thank you for
13 this National Indian Gaming Commission conference at
14 the Little Creek Casino Resort. I want to bless
15 everybody at this conference, bless our families, 09:14
16 elders, the children, bless everyone that made the
17 long distance to get here, and have a safe trip home.
18 Bless our armed forces who are overseas fighting for
19 us. Keep us safe and happy. Amen.

20 Thank you. 09:15

21 MR. LOPEMAN: Thank you, Pete.

22 I'd like to congratulate Tracie on her
23 appointment. We got a small gift here from Squaxin to
24 give to her.

25 MS. STEVENS: Thank you very much. 09:15

1 MR. LOPEMAN: Thank you. Look forward to 09:15
2 working with you.

3 MS. STEVENS: Thank you very much.

4 MR. LOPEMAN: And welcome all the tribes.
5 Some of you I recognize, some of you I don't. I'll 09:15
6 walk around and try and visit with some of you.

7 Thank you.

8 MS. STEVENS: Thank you, Chairman
9 Lopeman.

10 On behalf of the National Indian Gaming 09:15
11 Commission, I want to say thank you to the Squaxin
12 Island Tribe for hosting us today and being so
13 generous with their facility and time. This is a
14 great facility.

15 One of the things we're trying to do is 09:16
16 have these consultations and meetings on tribal land
17 and at tribal facilities.

18 My name is Tracie Stevens. I'm the
19 Chairwoman of the National Indian Gaming Commission,
20 but more importantly, I am a member of the Tulalip 09:16
21 Tribes. I've worked with many of you over the years
22 and miss you all and look forward to today's meeting.

23 Before I get started, I want to recognize
24 Vice Chairwoman Steffani Cochran, from the Chickasaw
25 Nation. She's the Chairwoman -- or Vice Chair of the 09:16

1 Commission. We also have staff here with us. They're 09:16
2 the folks that were in the back, and you'll see them
3 around. Mark Phillips, who is a regional director,
4 many of you know, Vida, who is also an investigator,
5 and Steve. These are the staff people that made it 09:16
6 possible to be organized here today, and without their
7 help we would not have been able to pull this
8 together.

9 As many of you know or have heard me
10 speak before, this is a new commission with new 09:17
11 priorities, and a new way of conducting business with
12 tribes. As I said before, we have four major
13 initiatives --

14 Oh, sorry. We have Lael here too. We're
15 going to hear from her a lot today. She's a counselor 09:17
16 to me, and will be for the most part traffic control
17 today and running some of the discussion.

18 So back to my point. We do have four
19 major initiatives that we've identified as a new
20 commission, that we've embarked upon, and today is a 09:17
21 demonstration of these new initiatives. First and
22 foremost is consultation relationship building. We
23 recognize and we've heard critiques during our summer
24 consultations and as we have all gotten into office
25 that the NIGC needed to improve and just change how it 09:18

1 consulted with tribes, and we're doing that here 09:18
2 today. Today this is a new beginning on how we
3 conduct consultations in this group format.

4 Many of you recall the Commission used to
5 have individual 15- to 30-minute meetings with each 09:18
6 tribe, and while that served to address individual
7 tribal issues that might be taking place between the
8 tribe and the Commission or just getting technical
9 assistance, for broad overarching policy like we're
10 going to talk about today on regulatory review that 09:18
11 affects all tribes across the country, couldn't really
12 have an open dialog, we couldn't hear what other
13 tribes were saying. We heard a lot of concern that
14 tribes didn't hear what other tribes were saying and
15 missed an opportunity to solve a problem together. So 09:18
16 this is a new format. This is how we'll be consulting
17 in the future on broad policy.

18 Now, I do want to say that I certainly
19 don't expect that individual tribal issues are -- I
20 don't expect you to talk about them here with 09:19
21 everybody else. They're your private tribal issues,
22 and we do have meetings with tribes when we do travel,
23 if our schedule permits, so that we can talk to the
24 tribes about whatever might be going on with their
25 operations, their regulatory bodies, any questions 09:19

1 they might have. But certainly today I don't expect 09:19
2 tribes to come forward with their specific tribal
3 issues. We can talk about that on the side, or
4 through another mechanism.

5 So that's our first initiative. And it 09:19
6 had to be our first initiative, just -- it just had to
7 be. That was the first thing that we heard from
8 tribes.

9 Second thing is technical assistance and
10 training. We're mandated by statute IGRA to provide 09:19
11 technical assistance and training to tribes, but it
12 should be more than that. It should be an effort to
13 preempt notices of violation, regulatory problems,
14 enforcement actions, or the need to revise
15 regulations. And it should be a collaborative effort 09:20
16 that we work with tribes on to prevent problems and to
17 properly train staff.

18 And we're moving ahead with this
19 particular initiative. We just launched a survey
20 yesterday on our Web site. We've e-mailed it, we've 09:20
21 snail mailed it, we've faxed it, we've put it on the
22 Web site. There's a press release out. Just take
23 note of that, please, go to our Web site. It's a
24 training survey that's designed to tell us what
25 tribes -- what you as tribal governments, tribal 09:20

1 regulators, need from us in terms of our training 09:20
2 catalog. That was just posted yesterday. We've had
3 30 responses in less than 24 hours. We're going to
4 take all that information, analyze it, and see how we
5 can better provide technical systems and training to 09:20
6 tribes.

7 So this is our second initiative.

8 The third initiative is what we're here
9 to talk about today, which is regulatory review. As
10 part of my nomination process, and as often something 09:21
11 that a new administration does, you know, because we
12 have the prerogative to look back at current
13 regulations, existing regulations, and see if they're
14 relevant, see if they work, and if they need
15 improvement, if there are gaps, if some of them are 09:21
16 just obsolete. So that's what we're doing today. And
17 we're doing it in this open format because all these
18 regulations affect all tribes -- all gaming tribes
19 across the country, so we do need to hear your
20 thoughts on this process. 09:21

21 And I'll let -- in a moment I'll let Lael
22 talk more about the notice of inquiry that we sent out
23 in November, and why we did a notice of inquiry. The
24 mandate from the President is that we'll consult with
25 tribes in a collaborative and meaningful and 09:22

1 respectful way, and part of that comes from the 09:22
2 executive order that President Clinton issued in 2000,
3 and there are sections of that executive order that
4 say that agencies shall, you know, consult with tribes
5 before initiating a rule-making process. 09:22

6 That's what today is. We have not
7 issued -- initiated a rule-making process right now.
8 We're here today to talk about the need for changes.
9 And that's what the executive order says, and we're
10 abiding by it. Let's talk about moving forward, let's 09:22
11 talk about what needs to be changed in what order and
12 how we're going to do it before we embark on a
13 rule-making process.

14 In the past you would get a draft notice
15 of rule making dropped on you. We're not going to do 09:22
16 that. We're going to hear from you, and you get to
17 weigh in on what our agenda should be and what those
18 changes should be. So today is going to be about
19 which regulations need to be addressed, in what order,
20 what priority, because we only have so much time. 09:23
21 I've got two and a half years left, Steffani has
22 two -- less than two now, and the rule-making process
23 is very long and cumbersome, or it can be. But we
24 think that we can do it more quickly.

25 And how are we going to do this? Lael 09:23

1 will talk more about this, but, you know, there have 09:23
2 been various tribal advisory committees that have been
3 implemented over the past 10 or 12 years, and all
4 morphing over time. The first tribal advisory
5 committee on internal controls was in 1999, which 09:23
6 functioned much differently than the last tribal
7 advisory committee, that covered the Class III draft
8 MICS that have not been implemented or put forward as
9 a rule.

10 So we want to hear about the process. So 09:24
11 it's going to be what regulations and what -- when, in
12 what order, and how do we go about doing this, given
13 our time constraints and also that this is going to be
14 an inclusive process for tribes.

15 So that's what we're doing. This is all 09:24
16 new.

17 We've been to -- where were we? --
18 San Diego and Sacramento this week. This is our third
19 stop on an eight-stop tour. We're thinking about
20 having rock T-shirts made that say "NIGC Tour," and it 09:24
21 lists the cities, and we'll have a list of groupies
22 that follow us around.

23 But we have more to go in the next four
24 weeks, and we're trying to go to the -- we're trying
25 to bring us -- we're trying to bring NIGC to the 09:24

1 tribes. And that means we're going out into Indian 09:24
2 country. We have six more -- five more stops in the
3 next few weeks, and we hope to hear your thoughts
4 today, and if not, you have the opportunity to provide
5 written comment in whatever form that you need. 09:25

6 So that's all I want to say this morning.
7 I welcome all of you. I'm glad to see many of you
8 that I've worked with before, and look forward to your
9 comments.

10 At this time I want to turn it over to 09:25
11 Vice Chairwoman Steffani Cochran for some remarks from
12 her.

13 Yeah, please, take that one.

14 MS. COCHRAN: Good morning. Good
15 morning, Chairman, and other tribal leaders. Thank 09:25
16 you so much for having us out this morning and giving
17 us this opportunity to sit down and talk with you once
18 again about some very important matters, I know, to
19 your -- not only to tribal leadership but to your
20 gaming regulators. It's always a privilege to come 09:26
21 out in Indian country and hear what's happening, to
22 meet new faces, and to spend some time talking about
23 things that we spend day in and day out in
24 D.C. talking about.

25 And I have another privilege in that I 09:26

1 serve an administration which is very, very dedicated 09:26
2 to making sure that we make some positive changes
3 during our tenure. The Chairwoman is right, we're on
4 a short time frame, and we've got a lot to do, but I
5 have every confidence that we will achieve much of 09:26
6 what we've set out.

7 The Chairwoman --

8 MS. STEVENS: I missed one.

9 MS. COCHRAN: The fourth initiative that
10 we have taken on as a Commission has to do with 09:26
11 looking at our agency operations and how the agency
12 handles its own internal housekeeping matters, and we
13 are firmly committed to making sure that we hold
14 ourselves out to the same standard that we hold the
15 tribes to, as far as how you conduct your business and 09:27
16 your operations, and that includes looking at our
17 personnel matters, looking at our budgeting issues.
18 Anything that the agency does to function as an
19 agency, and making sure that we are doing that in a
20 way which is not only lawful but is meaningful as a 09:27
21 federal agency.

22 And we -- we've got a lot of projects
23 under way trying to do that comprehensive review. And
24 we are committed to making sure that we get that
25 feedback to you to let you know what we're finding in 09:27

1 our own backyard. And so the Chairwoman I know is 09:27
2 very committed to it, as well, and Commissioner Little
3 is spending a lot of time on that particular
4 initiative.

5 So again, I just wanted to say good 09:27
6 morning and to say thank you for allowing us to come
7 out. I'm looking forward to what you have to say, I'm
8 looking forward to what you put out to us and ask us
9 to consider, I'm looking forward to the many, many,
10 many conversations that we're going to have over the 09:28
11 next two years. I'm not sure I'm looking forward to
12 the many, many plane rides. My ears are clogged up
13 this morning so I'm hearing myself on the inside. But
14 we will continue to come out. We will absolutely
15 continue to come out and spend time in Indian country, 09:28
16 and we hope that when you're in D.C. that you come
17 spend time with us, because our door is open to sit
18 down and talk.

19 We tried every which way to reach out
20 via, like the Chairwoman said, facsimile, e-mail, 09:28
21 whatever we can do to reach you to have that dialog.
22 We want to continue to do that.

23 So thank you very much, and I look
24 forward to our dialog.

25 MS. STEVENS: Thank you, Steffani. 09:28

1 At this time I want to turn it over to 09:28
2 Lael Echo-Hawk. She is the counselor to the Chair,
3 and she will be -- she'll be running the discussion
4 today, and we're going to go through some PowerPoint
5 information and review. So I'll turn it over to Lael. 09:29

6 MS. ECHO-HAWK: Good morning. Thank you
7 guys all for coming. It's very nice to be back in the
8 Northwest.

9 My name is Lael Echo-Hawk. I'm a member
10 of the Kitkhehaki Band of the Pawnee Nation of 09:29
11 Oklahoma, currently counselor to Chairwoman Stevens at
12 the National Indian Gaming Commission, and it's
13 different being on this side of the table from you
14 guys. I see Glen Gobin keeps giving us the eye, so --
15 so if we mess up, you know, Glen will call us to task, 09:29
16 I'm sure.

17 No pressure, Glen.

18 Well, thank you all for coming. As
19 Chairwoman Stevens said, I have been tasked with
20 beginning this process of regulatory review. It's a 09:29
21 huge opportunity and a huge responsibility. I think
22 one of the things that I did when I was at Tulalip was
23 revise a number of tribal ordinances, and so, you
24 know, from the tribal side I understand how it works.
25 I'm learning from the federal side, but hopefully 09:30

1 together we're going to be able to come up with some 09:30
2 good new regulations, some revisions, and some things
3 that really make the gaming industry a better
4 industry.

5 So this is my contact information, 09:30
6 reg.review@nigc.gov. Phone number is up there. This
7 is the e-mail address that you can submit your
8 comments to, as well, and any questions that you might
9 have. It's also in the PowerPoint. If you have not
10 picked up a PowerPoint or a packet, they are in the 09:30
11 back, and you -- we have I think enough for people to
12 take extras if you need. Everything -- the notice of
13 inquiry, the Federal Register notice that's online,
14 the PowerPoint will be online probably by Monday, just
15 so people have it available that way, as well. 09:30

16 So why regulatory review? Well, as you
17 all know, the Indian Gaming Regulatory Act tasked the
18 NIGC with drafting regulations to implement the Act.
19 There's been a number of regulations issued, and
20 that's what we're doing now, we're taking a look at 09:31
21 those regulations to see if any new are needed, if any
22 old need updated or what we should do with them.

23 Additionally, there's an executive order
24 on regulatory review and planning and the Regulatory
25 Flexibility Act that require agencies to semiannually 09:31

1 submit a regulatory review to the administration. And 09:31
2 so that's what we're preparing for.

3 Comment period closes in February. In
4 April we'll have this regulatory review done and there
5 will be -- it will be posted to the Federal Register 09:31
6 and we'll have our list of things that we're going to
7 be doing over the next two years.

8 So consultation. As the Chairwoman said
9 and as all the commissioners have said repeatedly,
10 this Commission is committed to the mandate from 09:31
11 the -- from President Obama that tribes are consulted
12 with meaningfully, before -- before we actually begin
13 creating new policies, standards, regulations. We're
14 mandated to do that, and this Commission has taken
15 that very seriously. 09:32

16 One of the sections in the executive
17 order that the Commission is really focused on is in
18 Section 3(c)(3), where it says, "When undertaking to
19 formulate and implement policies that have tribal
20 implications, agencies shall, in determining whether 09:32
21 to set federal standards, consult with tribal
22 officials as to the need for federal standards and any
23 alternatives."

24 So this is something that we're supposed
25 to do before we even begin writing these standards. 09:32

1 So when we're thinking about this, we were trying to 09:32
2 figure out a way to do that here at the agency,
3 consult before.

4 So I sort of came up with this process
5 called -- well, we didn't come up with it but we 09:32
6 borrowed it from other agencies, a notice of inquiry.
7 This isn't something that we've seen used in agencies
8 when talking to Indian tribes. Typically you see a
9 notice of proposed rule making, you might see a draft
10 rule, but this is something that's used by the FCC, by 09:32
11 the Copyright Office, Library of Congress. Regularly
12 they send these notices out to their constituents and
13 say, you know, This is something that we're hearing,
14 this is a policy that we're considering changing, and
15 what do you think about it? 09:33

16 So that's what we're doing. We're
17 putting this information out to Indian country, and
18 we're saying, What do you think about these issues
19 that have come to the agency that we've heard from
20 tribes that may need to be addressed? What do you 09:33
21 think about it? And we're doing this before we
22 actually begin drafting any changes to those
23 regulations.

24 The notice asks three primary questions:
25 what, when and how. 09:33

1 The what is what regulations. What 09:33
2 regulations need revised, what new regulations need to
3 be put in place, if any. That's the what part.

4 When asks -- we're asking tribes, in what
5 order of priority. So if you've listed a number of 09:33
6 regulations that you think need to be addressed, we
7 want to hear from you in what order should we address
8 those. As the Chairwoman noted, we have two and a
9 half years, Steffani -- Chairwoman Cochran -- Vice
10 Chair Cochran has two years left, and we need to do 09:34
11 this as quickly as possible, as thoroughly as
12 possible, and get the most done that we can in this
13 short period of time. So we need -- we need tribes to
14 help us set the priorities in the order that we revise
15 these regulations. 09:34

16 And then how. We've had -- the agency
17 has had a number of years of experience with tribal
18 advisory committees, some successful, some not so
19 successful. We want to hear from you how do we
20 utilize that process, if that's a process we should 09:34
21 use, should we use negotiated rule making, is proposed
22 rule in the Federal Register, whether written comment
23 period, is that sufficient for some of these changes.
24 We need to know -- we need some guidance from tribes,
25 and that's why we're here today. 09:34

1 So as the Chairwoman said, we have -- we 09:34
2 have quite an aggressive schedule. We have eight
3 consultations scheduled all over the country. The
4 Commission wanted to put the burden of travel on us
5 and come out into Indian country, and so that's what 09:34
6 we're planning on doing over the next four weeks.

7 The notice of inquiry published in the
8 Federal Register on November 18th, comment period
9 closes on February 12th. That's a Saturday. So, you
10 know, put it in the mail on Friday. However you need 09:35
11 to do it, get it to us. You can e-mail them, fax
12 them, mail them, hand them to me. We were joking
13 around the other day. Smoke signals. We don't care.
14 Pony Express. Do what you got to do to get the
15 information to us, because we really, really do want 09:35
16 to hear from you.

17 All these written comments and
18 consultations, the consultation transcripts -- as
19 you've noticed, we have a transcriptionist up here,
20 court reporter up here, and he's going to be recording 09:35
21 all these comments, and those things are also going to
22 be posted on the Web. We're trying very hard to be as
23 accountable and conduct these proceedings in a very
24 transparent way, so anything that we get from tribes,
25 all of our materials, all of this is going to be 09:35

1 posted on the Web site. If you go to our Web site, 09:35
2 it's www.nigc.gov. On the left-hand side is a series
3 of buttons. About the third button down is the tribal
4 consultation button. If you click on that, there's
5 another button for regulatory review. If you click on 09:36
6 that, all of these materials will be listed on that
7 Web site.

8 We've received two comments that are
9 posted up there currently, so if you wanted to take a
10 look at some examples, they're up there, as well. 09:36

11 So before I kind of get into some of the
12 things that we noted in our process, just wanted to
13 reiterate. These are suggestions only. These are
14 issues that we've heard kind of percolate up during
15 our consultations over the summer or in our individual 09:36
16 meetings with tribes as we've gone around to
17 conferences or they've come to our D.C. offices.
18 Suggestions only. The Commission hasn't taken a
19 position on these, and we won't until the comment
20 period is closed and we've gone through every single 09:36
21 comment that we've received.

22 So just briefly for those of you who
23 haven't spent as much time as I have with the Federal
24 Register notice, these are some of the issues that
25 we've seen come up. Part 502, definitions. The fee 09:36

1 section has a number of issues that were brought up, 09:37
2 including a late payment system for late fee
3 submittals in lieu of enforcement action. In the
4 definition section the net revenues definition and
5 some definitions around management contracts. 09:37

6 Part 518, the self-regulation regulation,
7 a little redundant, but we've heard a lot from tribes
8 that the -- that the burden of completing the
9 self-regulation process is more burdensome than there
10 is benefit, and so do we need to take a look at that. 09:37

11 Part 523, we've heard some comments that
12 this section might -- the others part might be
13 obsolete. A number of concerns with management
14 contracts. Proceedings before the Commission. As an
15 attorney, I like to know how -- what the process is 09:37
16 when I file an appeal or, you know, need to know time
17 frames, et cetera, and the current regulations don't
18 really have any of that specificity, and so is that
19 something that we need to look at.

20 The big one -- the big -- sort of the 09:38
21 issue that's gotten the most press is Class II,
22 Class III MICS and the technical standards. What do
23 we do with those?

24 If CRIT says that the NIGC doesn't have
25 the authority to enforce or promulgate regulations, 09:38

1 well, we have Class III MICS in regulation form. What 09:38
2 do we do with that? Do we put it in a bulletin, do we
3 repeal it? What do we do and how do we address the
4 concerns from around the country that we do need them
5 or we don't need them or -- this is going to be a big 09:38
6 issue, and we need some help on that.

7 We have a current draft of updated
8 Class II MICS that was being worked on last year and
9 the years before by a tribal advisory committee. What
10 do we do with those? 09:38

11 There's the technical standards. Do
12 those need updated? They were readopt -- they were
13 put into updated regulations a couple years ago, and
14 we're hearing that they already need some revisions.

15 The pilot program for background 09:39
16 investigations for licensing, it's been around since
17 1998. I know a number of tribes in Washington state
18 participate, and instead of doing MOAs, perhaps we
19 formalize that program into a regulation.

20 Fingerprinting, allowing tribes, at their 09:39
21 option, to have more access to the NIGC fingerprinting
22 processes. Facility licensing. I was here when that
23 regulation was put into place, and I know there was
24 significant concern from the Northwest about that
25 particular regulation, and we're hearing that concern 09:39

1 still, so is that something that we need to take a 09:39
2 look at, as well.

3 Access and inspection to records that are
4 held offsite, what is the NIGC's authority to go and
5 subpoena those records. You know, if a management 09:39
6 company has some of your records offsite, you can't
7 get them, we've had tribes comes to the NIGC and say,
8 Please go subpoena our records from our former
9 management company, they've got our records, and is
10 that something that we need to do to clarify. 09:40

11 Enforcement. We're actually hearing more
12 than just this particular issue when it comes to
13 enforcement, but clarifying the enforcement
14 procedures, including whether or not the -- a
15 regulation that says that the chair has the discretion 09:40
16 to withdraw an NOB once it's been issued.

17 So those are the old regulations or those
18 are the current regulations, the ones that -- issues
19 that have come up regarding those.

20 And we also included in the notice of 09:40
21 inquiry potential new regulations, again, from the
22 information we've heard from tribes, including
23 formalizing a process for a tribal advisory committee,
24 how the individuals are selected, you know, when
25 should it be put in place. We need help from tribes 09:40

1 on that because we want to do the best that we can 09:40
2 when we bring in tribal members and representatives
3 for comment to help us work through these issues. We
4 need to do this in the best way possible, so we do
5 need your help on that. 09:41

6 Sole proprietary interest. This is a big
7 issue. We have tribes coming to us pretty regularly
8 asking us for determination on whether or not their
9 agreements violate the sole proprietary interest
10 provisions of the Act. It's something that we're 09:41
11 thinking about.

12 At one of the previous meetings, I think
13 in San Diego, someone mentioned that in addition to
14 sole proprietary interests, perhaps the NIGC needs to
15 look at a definition of primary beneficiary. So these 09:41
16 are things that we're hearing and that we need some
17 input on from tribes.

18 A communication policy. How do we
19 communicate with you? This is very confusing. Having
20 worked at a tribal government, I know that at times 09:41
21 it's difficult for everyone to get all the information
22 that they need. Oftentimes my TGA director at the
23 Commission will be like, Well, we didn't get that
24 letter, or, you know, the tribal council -- the TGA,
25 We didn't get that letter. We want to make sure that 09:42

1 all of our information gets to you, to everyone who it 09:42
2 needs to get to at your facility.

3 So that's what we've done with it -- for
4 example, with the notice of inquiry, we did a Federal
5 Register, we're doing press releases, we're updating 09:42
6 our Web site, we're snail mail, we're e-mail, we're --
7 whatever we can do to get you the information, that's
8 what we need to do.

9 But the other thing -- the other issue
10 that has come up is who do we talk to. You know, we 09:42
11 have an issue right now with do we talk to the tribal
12 council, do we talk to the commissioners, do we talk
13 to both? I mean, how does that communication work?
14 And we really need some guidance on that. And it's
15 not going to be a one size fits all, but we do need 09:42
16 some help with that.

17 Finally, Buy Indian Act. There's an
18 initiative going around in the Indian gaming industry
19 that gaming operations and tribes buy Indian from each
20 other, and so it seems like something that the NIGC 09:42
21 should consider, as well, when making procurements.

22 So once again, these are suggestions
23 only. We're looking for some guidance from tribes.
24 We haven't taken a position and we won't take a
25 position until the comment period closes and we've 09:43

1 gone through all the comments that we've received. 09:43

2 One of the things, when it says, you
3 know, by what -- which method do we begin revising
4 these, one of the issues that's come up that I've been
5 really thinking about is how do we get all the sort 09:43
6 of -- everything plus the MICS done, and not get
7 bogged down in MICS technical standards, Class II,
8 Class III. It's a big issue, but it's not the only
9 issue. And so we -- we're really looking for some
10 suggestions on how we can do both. If it means going 09:43
11 separate tracks, we're committed to that. I'll spend
12 the rest of the year on the road. We'll do what we
13 need to do to make sure that all the issues are
14 addressed, not just sort of the one that's gotten the
15 most press recently. But we need to figure out a 09:44
16 mechanism to do that that's not overly burdensome on
17 tribes as well as the agency, so we need some guidance
18 on that, as well.

19 Another particular section of the
20 executive order that's been very important to us, and 09:44
21 I think that it's very important to tribes, is that
22 also in the same section, 3, of the executive order,
23 it says, "When undertaking to formulate and implement
24 policies that have tribal implications, agencies
25 shall, where possible, defer to Indian tribes to 09:44

1 establish standards." 09:44

2 So we can look to you, we can look to the
3 standards that you might have or that you bring
4 forward to us, and if possible defer to you when it
5 comes to those standards. So it's something to 09:44
6 consider to and keep in mind and to recognize that
7 it's something that we're looking for for tribes, and
8 we hope to see some things like that come forward.

9 Comment period, again, closes
10 February 12th. 09:44

11 Everything that we receive from you will
12 be posted on the Web site. You can send comments to
13 reg.review@nigc.gov, you can send it to our physical
14 address. There's all kinds of contact information in
15 the notice of inquiry that was published in the 09:45
16 Federal Register, and we'll take them however we can
17 get them, and they'll be posted on the Web site.

18 Commitment by the Commission, by myself
19 and the agency is that we will review every comment.
20 We'll look at everything that's received, we'll review 09:45
21 these transcripts, and we'll take every comment
22 seriously and consider it.

23 When the regulatory review agenda is
24 published, which will be in April, it will be
25 accompanied by an explanation for why we reached the 09:45

1 decisions that we made. That decision-making process 09:45
2 is going to be open, it's going to be transparent.
3 You're going to understand why we made the decisions
4 to begin working on a particular regulation sooner
5 than another. So we want to remain accountable to you 09:45
6 and be as transparent as possible.

7 So again, April 2011, probably around
8 NIGA, we'll have that agenda set, and then we begin
9 the real work. We begin the line-by-line revisions of
10 these documents. So that's -- you know, this is just 09:46
11 Step 1.

12 So logistics. Before I turn the mike
13 over to you. The consultations are being recorded and
14 transcribed. If you're at the table and you don't
15 have a little table tent, please let us know and we'll 09:46
16 get you one. It helps the court reporter see who's
17 speaking.

18 Mr. Gobin, do you have a name tag?

19 MR. GOBIN: No.

20 MS. ECHO-HAWK: We'll get him one. 09:46

21 Please use the microphone. I know it's a
22 little awkward because it is handheld, but please use
23 the microphone. We'll pass it around. Vida and Mark
24 and myself and Steve will be walking around, and we
25 can hand you the mike, but please speak into the 09:46

1 microphone so -- and state your name and your 09:46
2 tribal -- the tribe you're with or the organization
3 that you represent.

4 So with that, we are going to turn the
5 microphone over to you. We do want this to be a 09:47
6 conversation, to be a dialog, so please ask questions,
7 make your comments, and we look forward to hearing
8 from you.

9 MS. STEVENS: Okay. We have an open
10 mike. We know we went through the inquiry rather 09:47
11 quickly, but that was just a review process, and today
12 is meant for you. It's meant for your comment, and
13 discussion and engagement and an exchange. If there's
14 questions that you have, please ask. If you have a
15 written statement that you'd like to read, please feel 09:47
16 free. We have tribal leaders -- we reserved the table
17 for tribal leaders or their designee.

18 And if you do have a written statement
19 that you're reading from, we'd appreciate a copy for
20 the court reporter. Again, please state your name, 09:48
21 who you're with, so we can -- his name is Ron. He's
22 not just the guy over here. His name is Ron. He's
23 doing a great job.

24 So we'll turn it over. There are several
25 microphones on the table if anybody wants to take the 09:48

1 lead. 09:48

2 MR. GIFFEN: My name is Jack Giffen, Jr.
3 I'm tribal council member for the Confederate Tribes
4 of Grand Ronde community of Oregon.

5 First of all I'd like to thank Tracie for 09:48
6 bringing this type of forum to the Northwest. It's a
7 long time overdue.

8 With me today is tribal council member
9 Toby McClary and also members of our Grand Ronde
10 Gaming Commission. 09:49

11 I have two issues I'd like to bring forth
12 to the NIGC. Self-regulated Class II gaming. Grand
13 Ronde is proud to be one of two tribes who have earned
14 a certificate of self-regulation. The process for
15 obtaining a certificate of self-regulation involves 09:49
16 hard work and a commitment to regulation. But we do
17 not believe the process itself is unduly burdensome
18 and, in fact, high standards should be required in
19 order to achieving self-regulation.

20 We take great pride in the tribe's proven 09:49
21 ability to regulate its gaming operation at a level
22 far above minimum standards. The tribe is interested
23 in ways to give full effect of either self-regulation
24 provision and the overall intent of IGRA to promote
25 tribal self-economic development, tribal 09:50

1 self-sufficiency, and a strong tribal government. 09:50

2 There should be a clear -- there should
3 be clear benefits associated with certificate of
4 self-regulation. Some benefits would include
5 exemption from self-regulated tribes from independent 09:50
6 MICS audits, proven exemptions -- providing exemptions
7 related to facility -- facility licensing regulations,
8 and consulting directly with self-regulated tribes on
9 proposed regulation and guidelines.

10 Class III minimum internal control 09:50
11 standards. The tribe does not believe NIGC should
12 impose mandatory Class III MICS on tribes, but a set
13 of recommended guidelines would be more appropriate.
14 Tribes could adopt the recommended guidelines on their
15 own tribal Class III MICS if that was what the tribes 09:51
16 deemed appropriate. If mandatory Class III MICS are
17 required, then there should be a Class III
18 self-regulated certificate similar to Class II
19 self-regulated certificate, and there should be clear
20 benefits for obtaining self-regulation reflecting the 09:51
21 tribe's exemplary regulatory standards and ability.

22 In closing, the tribe feels the standards
23 for obtaining a certificate for self-regulation should
24 not be weakened. The incentives for more tribes to
25 pursue self-regulation need to be more substantive and 09:51

1 reflective of the tribes' ability to regulate at a 09:51
2 high standard, and there are other issues that Grand
3 Ronde plans to comment on, some by my colleagues on
4 council and members of the Tribal Gaming Commission.

5 And thank you for having this opportunity 09:52
6 for us to comment.

7 MR. McCLARY: Yeah, I'll go next.

8 As Councilman Giffen stated, I am Toby
9 McClary. I too am a tribal council member with the
10 Confederated Tribes of Grand Ronde. 09:52

11 I want to start off by saying thank you
12 for having us and setting these consultations up and
13 allowing us to speak directly to NIGC. I'd also like
14 to state that communication on the regional level has
15 been very strong, and we want to compliment NIGC for 09:52
16 their efforts.

17 My comments today are to hopefully help
18 you build consistent regulations.

19 I'd like to touch on communication first
20 off. Grand Ronde understands that NIGC deals 09:52
21 regularly with tribal gaming commissions and the
22 primary regulators. NIGC also has an obligation to
23 respect the government-to-government relationship it
24 has with each tribe, which is generally governed by a
25 form of tribal council. 09:53

1 We understand a need for flexibility and 09:53
2 communication to allow effective and efficient
3 regulation. However, issues of broad policy should
4 continue to be directed to the tribal council. We
5 believe NIGC should determine a general standard for 09:53
6 communication absent direct instruction from a tribe
7 by tribal council resolution. The general standards
8 should be that regulatory matters are addressed with
9 the Tribal Gaming Commission, with copies of
10 communication to the tribal council, and that broad 09:53
11 policy-related matters are communicated directly to
12 the tribal council. Grand Ronde believes having a
13 standard form of communication from which tribes can
14 opt out will help clear up any confusion on the
15 appropriate lines of communication. 09:53

16 Another area I want to touch on is sole
17 proprietary interest. Grand Ronde supports
18 establishing clear guidelines for determining whether
19 a tribe has sole ownership interest in the gaming
20 operation. There are more and more individuals and 09:54
21 organizations controlling tribal gaming operations to
22 the extent that they truly have an ownership interest
23 in gaming profits. The tribes can receive a small
24 portion of gaming profits to use for governmental
25 purposes and never really achieve the level of 09:54

1 self-sufficiency envisioned by IGRA. As tribal gaming 09:54
2 continues to grow across the nation, this problem will
3 likely grow worse.

4 We believe providing guidelines and
5 allowing tribes to receive NIGC review of contracts 09:54
6 and receive a determination of whether the sole
7 proprietary interest provision is violated will be of
8 benefit to tribes.

9 Again, we appreciate the opportunity to
10 provide input today and also through our written 09:54
11 submissions. Thank you.

12 MS. STEVENS: Thank you, Grand Ronde.

13 MS. CHARLES: My name is Georgianne
14 Charles. I'm the Chair -- Chairwoman of the National
15 Indian Gaming Commission for the Elwha River Casino. 09:55
16 We have our full commission here, Linda Weichman,
17 Alfred Charles, George Charles and Angela Brown.

18 I respect the government-to-government
19 relationship with the council, but in our casino the
20 council has pretty much put the responsibility on the 09:55
21 Commission to oversee our enterprise. We did
22 struggle, we're only two years in the making, and we
23 would like to be contacted by NIGC because many times
24 things don't filter down from the council to the
25 Commission. A lot of the responsibilities and the 09:55

1 regulatory part are on us -- on the gaming commission, 09:55
2 so we as regulatory personnel feel that once we
3 propose changes -- we're right now in a process of
4 looking at our ordinances and stuff, and I think
5 within the last -- next few months we're going to 09:56
6 propose changes to our council, and then hopefully
7 submit it to NIGC. And the council has respectfully
8 given us that opportunity to run the business. So I'm
9 very thankful for that.

10 We struggled, but I think we ironed out 09:56
11 our differences, and the council pretty much put that
12 responsibility on Commission, since we are the
13 regulatory portion of our gaming operations and
14 businesses, and any changes -- proposed changes that
15 we feel that we need to do must be submitted to our 09:56
16 council and then through NIGC, so we're thankful that
17 our council has given us that power and opportunity to
18 run our business. So --

19 I would appreciate more contact with NIGC
20 from -- to the Commission directly rather than through 09:57
21 the council, because we're not in the same building.
22 Many times things don't get filtered down to us, so
23 that would be great to have another cc to the gaming
24 commission. That's where our lack of communication
25 comes in. But we are reviewing our ordinances and 09:57

1 going over the MICS, and looking at a Class III 09:57
2 operation and trying to figure out how to implement
3 our ordinance to fit Class II and Class III, so that
4 if we move to a Class III, then we'll already have it
5 in play. So we have a big job ahead of us, and we 09:57
6 have the blessing of our tribal council.

7 MS. STEVENS: Thank you, Lower Elwha.

8 MR. FINLEY: Michael Finley, chairman,
9 Confederated Tribes of the Colville Reservation.
10 I'll just -- I'll keep it short as 09:58
11 possible.

12 Well, first and foremost, it's always
13 good to see you guys. It's good to have this in the
14 Northwest. We don't have to travel to San Diego, we
15 don't have to travel to Washington, D.C. 09:58

16 Two questions and a comment. First
17 question: Why did NIGC give up the Indian lands
18 responsibilities? Secondly, would NIGC be interested
19 in reassessing the casino light -- site regulations
20 pertaining to facility licensing. For Colville, we 09:58
21 have our own office so we can do a lot of those
22 responsibilities on some of the lower end of
23 requirements or some of the things that we've reviewed
24 to have the facility licensing. I realize that some
25 tribes may not have capacity, but I think that those 09:58

1 that do, they should be given the opportunity to carry 09:58
2 out those responsibilities in their own behalf.

3 And lastly, the Colville Tribes would
4 like assurance from NIGC that the Class II definition
5 of the regulations will be left alone. 09:59

6 That's it. Thank you.

7 MR. ABRAHAMSON: Thank you. Greg
8 Abrahamson, chairman for the Spokane Tribe.

9 One thing I'd like to do, I'd like to
10 start out by thanking the Commissioner for coming out 09:59
11 and having these consultations. It's really nice to
12 be able to be with a good working Commissioner,
13 because as long as I've been on the tribal council and
14 seeing that there we've had some pretty hostile
15 commissioners that we've had to deal with there, and 10:00
16 we don't really need to draw the lines in the sand to
17 accomplish, but I do appreciate you guys there for --
18 with these consultations and not just trying to puff
19 your chests up and say, We have the authority and this
20 is the way it's going to be there. So Spokane Tribe 10:00
21 does appreciate you guys taking the time and going
22 through this here process.

23 We will be putting in written testimony
24 at a later date there. We just want to hit a few of
25 the priorities that we would like to hit. 10:00

1 First one is that to adhere to the limits 10:00
2 of NIGC's statutory authority as set out in IGRA and
3 articulated in several court decisions, NIGC, check
4 one is the support TGAs -- support the TGAs as primary
5 regulators, as we've heard it once before, and that 10:01
6 there, that our TGAs are our primary regulators and
7 they're the ones that's on the ground and they're the
8 ones that are doing the brunt of the work there, and
9 to recognize and make sure that that is the primary
10 regulators. 10:01

11 I know at one time there a few years ago
12 there was always talks of self-regulation, and that
13 was -- may have been quite a few years ago, but there
14 was talks of that there throughout the tribes there.
15 And I don't know if that's viable or not there, but 10:01
16 it's -- I guess as we tell some of our tribal people
17 in some of our areas is maybe looking to work
18 yourselves out of a job, such as some of our social
19 people there, you look to work with your people to try
20 to work out of jobs. It's not to work you guys out of 10:01
21 jobs but to go ahead and identify and make sure that
22 our TGAs are the primary regulators there.

23 And then to maintain the viability of
24 Class II gaming, because that's some -- some of us --
25 some of the tribes across the nation there, that is a 10:02

1 good backup for us to be if we cannot be compacted or 10:02
2 cannot come to a agreement with the state there.

3 And sole propriety interest. You've
4 heard that already before there, so we would like to
5 make sure that that is always out there, that tribe is 10:02
6 the main beneficiary out of a lot of these contracts
7 that are going on out there.

8 Then again, I'd like to thank you and
9 thank the tribal people and thank the Squaxin Island
10 people here for allowing us to be here at their fine 10:02
11 facility in their homelands. Thank you.

12 MR. GOBIN: I also want to thank you for
13 being here. My name is Glen Gobin, tribal council
14 member from Tulalip Tribes.

15 The -- our tribe has had a lot of honor, 10:02
16 respect that a tribal member that we have has been
17 placed in -- as the chairman of the gaming commission,
18 but that does not mean that we don't have concerns,
19 and so we understand that the Commission has a job to
20 do, and we have a job to do as tribal leaders, as 10:03
21 well, and if we've got issues or concerns, we need to
22 be bringing them up.

23 And so from Tulalip's perspective, we
24 were getting a little concerned on the time frames of
25 what's been taking place, because we've been talking 10:03

1 about these things that are going to start taking 10:03
2 place and talking about these things that are going to
3 start taking place and talking about these things that
4 are going to start taking place, and we went to a
5 number of meetings hearing that, and understanding 10:03
6 that a new Commission in place and trying to get
7 brought up to speed and get caught up on all these
8 things was starting to raise some concern as the clock
9 is ticking as time goes by and knowing that there's a
10 lot of issues out there, especially concerning the 10:03
11 MICS.

12 Tulalip fully recognizes the job that is
13 ahead of you, and understand that it's a daunting job,
14 and really commend you for the schedule now that -- as
15 you laid out at the last meeting, down in I think it 10:04
16 was San Diego, there was an announcement of this
17 meeting schedule. And they were pretty close
18 intervals in between. You got till February 3rd,
19 close to that, to finish this up. It's a pretty
20 aggressive schedule. So I really commend you on 10:04
21 taking that job on to meet that schedule, and hope
22 that there really is going to be something that comes
23 forward in a time frame to get things done before
24 administration changes.

25 That's a concern that we have, so as we 10:04

1 look through the -- some of the proposed questions or 10:04
2 issues that are out there, and there's a lot of
3 questions, should we have a tribal advisory committee.
4 Although it may be a way to deal with it, our concern
5 is might be that it extends the time frame to set up 10:05
6 another tribal advisory committee, to pick who's going
7 to do that, to come back and meet again to discuss
8 these issues, and I think a lot of the issues are
9 going to be brought up in this format.

10 And I think you have a very good 10:05
11 understanding of what's at stake, how IGRA was set up,
12 how it was operated in the past, and where the changes
13 started, and where the adversity started between NIGC
14 and tribes on what was written in IGRA and what was
15 the intent of IGRA. And we think you need to go back 10:05
16 to that and relook at what -- what is actually written
17 within the Act and stay within those policies, within
18 those requirements, as well as remembering what was
19 the intent.

20 I think intent of IGRA and how these 10:05
21 things were set up plays a key part in determining how
22 these regulations or proposed changes come forward,
23 and can't be ignored.

24 The Tulalip is a hundred percent behind
25 the CRIT decision. We do fully believe that IGRA has 10:06

1 no authority to enforce Class III regulations, nor to 10:06
2 even promulgate regulations to do so.

3 That being said, we recognize there are a
4 number of tribes that game, and each tribe is unique,
5 each state is unique on their requirements, and NIGC 10:06
6 should be used as a resource, a resource to help those
7 tribes that may need that help in writing Class III.
8 Not a regulation but as a resource or a guide to those
9 tribes that need it. And some mechanism be set up
10 that allows that to happen for those tribes, because 10:06
11 not all tribes need it. But yet all tribes are paying
12 for that whenever it happens. And so if there's
13 something in there that is required or some tribe
14 meets, maybe it's set up as a resource for them and a
15 funding mechanism that they pay for that so not all 10:07
16 the rest of the tribes have to pay for that. And so I
17 think that needs to be looked at.

18 We understand there are issues in
19 California as to how NIGC is tied in by their compact
20 negotiations, but here in Washington we don't have 10:07
21 those issues. But yet sometimes we may be paying for
22 part of that structure. And we -- we don't think
23 that's fair for us, but we recognize and want to
24 respect all tribes in how they're set up because we
25 don't understand every situation. And so that 10:07

1 mechanism needs to be flexible, that allows certain 10:07
2 components to remain in place, while not making it
3 requirements on all of the rest of us. And so ask you
4 to relook at that.

5 Class II regulations need to remain at a 10:07
6 minimum. Just as it says, they're minimum control
7 standards. It seems that we broaden out the term
8 "minimum" and it no longer is minimum, it's -- seems
9 to head towards maximum control standards, and becomes
10 very burdensome. And so I think that that needs to be 10:08
11 relooked at and keep it at a minimum, truly a minimum
12 as what's needed, and let tribes decide depending on
13 their unique situations or where they're at in their
14 gaming or where they're at in what states to determine
15 what else is needed, but you set what the minimum 10:08
16 amount is, and I reinforce minimum.

17 The -- again, meeting with the intent of
18 IGRA. The -- some of the other components that are
19 asked in the questions, the notice of violations, you
20 know, to receive a notice of violation for a 10:08
21 three-day-late paying of our fees is -- seems a bit
22 over the top. There needs to be another mechanism put
23 in place, understanding that maybe there's a
24 progressive step system that's put in place if your
25 fees are not paid and that the notice of violation be 10:09

1 a last resort before it's an automatic just because 10:09
2 you're late. And I think that needs to be -- needs to
3 be looked at.

4 As was brought up by one of the other
5 tribal council here, communication. The tribe is the 10:09
6 one that has the right to game. The tribe should
7 always be the one that is in contact with NIGC, at
8 least copied or be the first responded to, depending
9 on what the situation is. If it's a regulatory
10 matter, but the tribe still needs to be copied, so 10:09
11 they know what's going on at all times. And so I
12 think that -- that the tribal governments need to be
13 respected.

14 We've got a number of other comments that
15 we're going to send in before the deadlines in there, 10:09
16 and these are just what we think are just a few of the
17 bigger issues, the minimum internal control standards
18 probably being the number one issue and bringing
19 that -- those back.

20 But I do want to thank you again for 10:10
21 coming out, meeting with the tribes, taking the time
22 to do it, and in the time frame that you have set up
23 as we go forward.

24 MS. STEVENS: Mr. Keagy? Do we have
25 comments over here? 10:10

1 Anyone? Mr. Keagy here? 10:10

2 MR. KEAGY: Good morning, everyone.

3 Again, my name is Henry Keagy. I'm the former
4 chairman of the Lummi Nations. I'm pretty much here
5 representing the tribe now. So this morning I'd like 10:10
6 to thank the Squaxins for coming down here and being
7 in this beautiful casino, and it's one of the few
8 casinos I like coming to.

9 Gaming has been something that has
10 changed our lives the last 20 years. Gaming I 10:11
11 think -- you know, what I'd like to recommend to the
12 tribes as well as NIGC is you got some footnotes in
13 here on the Buy Indian Act. The Buy Indian Act I
14 think is something that we need to really pay close
15 attention to in supporting our own tribal economies. 10:11
16 If we don't begin supporting our own Indian
17 businesses, if we don't begin supporting one another
18 through Buy Indian, with our casinos and with our
19 governments, we got to figure out a different way to
20 survive, because Congress is not going to give us any 10:11
21 more additional funding or support for what we need to
22 do in building our economies.

23 I'd recommend to NIGC if there's a way to
24 develop some type of measurements for the Buy Indian
25 Act, through our own regulations. These are our 10:12

1 regulations. You know, they're not NIGC's or 10:12
2 Congress's, but these regulations that we want to
3 begin to look at how do we measure our economy and how
4 do we support Buy Indian.

5 So meaning that most of the time what 10:12
6 happens is that we end up with a non-Indian general
7 manager, doesn't understand how to support our
8 economy. It may cost us a little bit more to support
9 our businesses, but it goes back into our economy, it
10 goes back into our reservations, it goes back into our 10:12
11 people.

12 So I don't know if there's a way or
13 willing to support the Buy Indian Act, but I think we
14 need to really look at what it's going to take at what
15 that should look like in our own regulations, and 10:12
16 something that NIGC should help us develop, and what
17 that would look like in Buy Indian.

18 Because I've seen over the years that
19 there's been a lot of attempts to support our tribal
20 economies but those both really struggled, getting in 10:13
21 the door to help one another.

22 So again, if there's a -- I'd recommend
23 that we look at some type of regulation within NIGC.
24 You got it in here now. So again, if we can do that.

25 The other point I want to make to NIGC is 10:13

1 that one of the challenges we're facing with the 10:13
2 tribes is the IRS. Now, what's happening is that
3 we've been watching the IRS, and what is beginning to
4 happen is the IRS is beginning to audit our money.
5 They're tracking all the tribes that are having gaming 10:13
6 dollars and they're tracking it down to our elders,
7 they're tracking it down to our youth, they're
8 tracking it down to our essential government services.
9 I know that's nothing NIGC can control, but, again,
10 how we spend our money, if we choose to spend our 10:13
11 money on elders or we choose to spend it on our youth,
12 the IRS has nothing -- should say nothing about that,
13 but our elders are being taxed, our youth are being
14 taxed with our gaming dollars. So again, this is
15 something that I think we need to look at and 10:14
16 understand what's happening.

17 There's 255 audits out there what the IRS
18 is doing. Across the country. And they're starting
19 here in the Northwest with housing, they're starting
20 in the Northwest with government services, and they're 10:14
21 tracking our gaming dollars. Everybody wants to know
22 how these dollars are being spent, and they want to
23 tax it.

24 And I think we need to find a better way
25 to protect our revenue and how we spend it, our gaming 10:14

1 revenue, and the IRS should have nothing to say about 10:14
2 where we choose to spend our money. And it should be
3 tax exempt.

4 The last point I think I'd like to
5 recommend -- I don't know if it's been brought up -- 10:14
6 is the Carcieri. And I think that the folks that
7 are -- the tribes that are working on getting their
8 land in the trust for gaming purposes, you know, they
9 need support. There's been efforts to overturn that
10 policy. And I think the small tribes that are 10:15
11 struggling to create and keep up with the tribes that
12 have been in gaming for a while, they need help, as
13 well. So again, I really recommend that -- I just
14 want it for the record.

15 So again, that's really what I have to 10:15
16 say, and thank each and every one of you for being
17 here, and thank you.

18 MS. STEVENS: Thank you, Henry.

19 And I do just -- on a note, although I
20 appreciate the concerns that the Lummi Nation and 10:15
21 other tribes have regarding issues that may be out of
22 our jurisdiction, that doesn't mean that we can't pass
23 on the message. One of the things that we're doing
24 is -- part of our relationship building and our first
25 priority is to work with other agencies and not to 10:15

1 live in silos or to work in silos. And that's a 10:15
2 mandate down from President Obama to make government
3 work. And that means collaborative working
4 relationship with other agencies. And we've heard
5 some concerns in some of the other meetings we've been 10:16
6 at this week and we will pass them on.

7 We're striving to have better working
8 relationship -- intraagency working relationships with
9 Justice, Treasury, and other -- DOI, and making
10 government work for you. And so that means we -- do 10:16
11 we pass on this information on behalf of the tribes
12 through this process, then we will do that.

13 Do we have others -- I saw a mike going
14 that way.

15 Yes. 10:16

16 We have Muckleshoot, and who do we have
17 right here?

18 MR. BELLIS: Suquamish.

19 MS. STEVENS: Just a moment.

20 Who wants to go first? 10:17

21 MR. BARR: I'll go first.

22 I just want to give thanks to Tracie and
23 NIGC. My name is Merle Barr, from the Muckleshoot
24 Tribe. I was asked to sit in by our chairman, and she
25 had other things to do today. 10:17

1 I just want to give thanks to the forum 10:17
2 here, Squaxin Island, and maybe just elaborate and
3 touch on the same thing that Mr. Gobin said. I wasn't
4 prepared, I just sat in, and -- but I see good things
5 happening in the gaming, and I feel confident with 10:17
6 Tracie being our NIGC chairman, and I think -- feel
7 that good things are going to happen this year and to
8 her career and things like that.

9 And the regulation and gaming did do good
10 wonders for the Indian nations or our tribe and things 10:17
11 like that. It's --

12 I kind of lost my train of thought,
13 but -- a big thanks to everybody, and hope we have a
14 good -- good gaming.

15 MR. McDANIEL: I'm Jesse McDaniel. I'm 10:18
16 the executive director for the Tribal Gaming
17 Commission for Muckleshoot, and I just want to share
18 my feelings on the communication part when it comes to
19 primary regulation, when it comes to the tribes and
20 Class II. And I believe that it was spoken on 10:18
21 earlier, and I feel that Class II gaming is primary
22 regulation, we are the primary regulators, and we need
23 to, you know, focus on that when it comes to the IGRA.
24 And that's -- that's about all I got to say about that
25 issue. 10:18

1 And I too would like to say thank you for 10:18
2 being here and letting us, you know, be a part of
3 this. Thanks, Tracie, and NIGC, for being here.

4 MR. BELLIS: Good morning, Madam
5 Chairman, Madam Vice Chair, members -- 10:19

6 MS. STEVENS: We can't hear you.

7 MR. BELLIS: Can everybody hear me?

8 MS. STEVENS: No.

9 MR. BELLIS: How about now?

10 No. That's our first complaint of the 10:19
11 NIGC. Need technical standards for these microphones.

12 All right. Thank you.

13 Now I got my hand shaking.

14 Good morning, Madam Chair, Madam Vice
15 Chair, staff of the commission, tribal leaders. My 10:20
16 name is Rit Bellis. I represent the Suquamish Tribe.
17 I wanted to give our chairman's apologies. He's
18 tripled booked this morning and is due to be here this
19 afternoon.

20 The Suquamish Tribe, first of all, I 10:20
21 think is going to echo what everybody else has been
22 saying this morning. We're very, very pleased by the
23 approach that you are taking in communicating with the
24 tribes. We are grateful for the opportunity to be
25 here today, and we also would like to thank the 10:20

1 Squaxin Island Tribe for hosting today. Thank you 10:20
2 very much.

3 First of all, we've had an opportunity to
4 look at some of the comments that have already been
5 given to you down at the San Diego meeting, and we 10:20
6 would like to express our concurrence with the
7 comments made by the Rincon Band, and we will be
8 submitting formal written responses to you by the
9 deadline, but just to echo what Chairman Gobin and
10 others have said, we believe that IGRA is absolutely 10:21
11 clear and that the NIGC has no business in Class III
12 regulation, and we'd like to see that as an
13 accomplishment of this Commission to make that clear
14 at the national level.

15 We also think that there are tribes that 10:21
16 may need access to your technical expertise to help
17 draft things, and we would propose that you store what
18 were regulations as effectively a uniform code on your
19 library page, if you will, so that any tribe that
20 wants access to those -- to that form can use it but 10:21
21 they would use it as sovereign governments and not at
22 the imposition of the National Indian Gaming
23 Commission. So you'll be serving a very great service
24 to tribes by providing them with that technical
25 assistance, but you would no longer use that as an 10:22

1 in-place effective regulation, because the CRIT 10:22
2 regulation and the statute itself -- or the CRIT
3 decision and the statute itself basically I think
4 answer the question about whether or not you have that
5 authority. 10:22

6 As with all the other tribes that are
7 here from the state of Washington, we're in a
8 Class III compact with the state of Washington, and it
9 has always been troubling to us and of great concern
10 that we face the risk of essentially having 10:22
11 conflicting regulations, and it just doesn't make
12 sense to us, so we'd suggest that you do that with the
13 Class III side of things.

14 On the Class II side, I want to echo what
15 everybody else has been saying, which is just that, 10:22
16 you know, that's the lifeblood of the tribes, and --

17 MS. STEVENS: If you need to pull the
18 mike out, please do.

19 MR. BELLIS: I don't even know how to do
20 that. 10:22

21 MS. STEVENS: Just pull the mike out.

22 MR. BELLIS: There we go. All right.

23 So Class II is the lifeblood of the
24 tribes, and basically most of the tribes here have
25 experienced in the past difficulties with their states 10:23

1 in terms of negotiating Class III compacts, and I 10:23
2 think it's in the spirit of IGRA as it was originally
3 drafted that you be the defender of Class II gaming
4 and that the Commission work to establish regulations
5 and technical standards that give every tribe a 10:23
6 fallback in the event that relationships with the
7 states deteriorate, because while we can say right now
8 that we have a fairly good relationship with the State
9 of Washington, that was not always true.

10 There are a number of tribes here in this 10:23
11 room today who had immense trouble dealing with the
12 State over the last 12 years and could have used the
13 NIGC's assistance and did not get that. Effectively
14 by promoting Class III regs and then by attacking the
15 essence of Class II, the NIGC, instead of furthering 10:24
16 Indian gaming, which was its mission, actually served
17 to corral a lot of tribes into entering compacts that
18 were less favorable to them than it could have been.

19 So we see one of the things that you
20 could do that is in the spirit of IGRA as it was 10:24
21 originally adopted is to protect Class II regs and do
22 take a look at them in a way it says this is the
23 fallback position of every tribe in the country, and
24 we need to protect that position.

25 Finally, we agree with what's been said 10:24

1 about the facility licensing regulations and the 10:24
2 safety environmental things, and we would recommend
3 too that the NIGC defer to other federal agencies that
4 have primacy in certain of these areas and defer to
5 the state compacts, which all deal with health safety, 10:24
6 life safety, and environmental concerns.

7 So it seems, again, that, you know, it's
8 a double dip for us, we're concerned about trying to
9 meet the demands of too many masters, and we would
10 like you to really consider backing off on that and 10:25
11 considering what other federal agencies already have
12 responsibility for those areas, and also what you
13 would do if a tribe already is in a Class III compact
14 that addresses that and, you know, when tribes such as
15 Suquamish already have sovereign authority and take 10:25
16 care of their own regulation in the first place.

17 So with that, I just want to again thank
18 you for the approach you've taken in coming here
19 today, and to also thank you for giving us a better --
20 a better day. We were joking on the way down here 10:25
21 about how we used to always have to gear up for war
22 when we come to these meetings, and it feels really
23 different today, and I'm real grateful for that.
24 Thank you very much.

25 MS. STEVENS: Thank you. 10:26

1 MR. WHEAT: Now that the mike is standing 10:26
2 tall enough, I'll say a couple of things.

3 MS. STEVENS: Okay.

4 I do want to say we'll have one more
5 comment, and then we're scheduled for a break, and 10:26
6 then --

7 MR. WHEAT: So I get to close?

8 MS. STEVENS: Not close. So make it a
9 good note there, Scott.

10 MR. WHEAT: I'm going to try to. 10:26

11 First of all, my name is Scott Wheat,
12 from Crowell Law Offices. We represent several
13 tribes, mainly in the west. We have a couple --
14 couple tribes present here this morning. You've
15 already heard from one of our clients, Spokane Tribe, 10:26
16 their comments.

17 I just want to let you know -- and I
18 think you two know this, anyway. We've had Crowell
19 Law Office lawyers, you know, at every one of these
20 sessions, and so I don't want to duplicate too many 10:27
21 times things y'all have already heard, other than to
22 note that all of our lawyers have huddled and noticed
23 that there are some real common themes that seem to be
24 emerging here, and I think you see that with Glen's
25 statements and Rincon's statements, for instance, down 10:27

1 in San Diego, very similar, hit on very similar 10:27
2 issues. Spokane, as well.

3 And so I think, you know, just a quick
4 observation, I really want to thank you for this
5 format that y'all are doing. It reminds me of the old 10:27
6 NIGA days, where you'd kind of have roundtable leisure
7 discussions. So not only do the people -- the
8 decision makers want to talk -- yeah, we're talking to
9 you, but the tribes get to hear what the other tribes
10 are thinking about, and I really want to commend y'all 10:27
11 for doing that.

12 I just want to make a brief substantive
13 comment on behalf of our client Shoalwater Bay.
14 Tracie and Lael at least are familiar with Shoalwater
15 Bay. It's a very small operation in southwest 10:28
16 Washington coast here. They're very proud of their
17 casino, but it's very modest. It's kind of the place
18 where the Indian and non-Indian community gather.
19 They do okay. The reason they do okay, and this is
20 common in Washington state, is they have a base 10:28
21 allocation of Class III operating rights that they can
22 lease out to tribes who are in perhaps better areas,
23 like along I-5, so they can use those allocations.
24 But what has happened in Washington state is y'all
25 have tribes such as Shoalwater Bay, that will lease 10:28

1 out their Class III allocations and then run Class II 10:28
2 in their small facilities. So this -- that's another
3 wrinkle on Class II, but it still leads to the common
4 conclusion that Class II is vital for so many tribes,
5 for so many reasons. 10:29

6 And here in Washington state, as Lael and
7 Tracie are familiar with, with that lease transfer
8 system and that leasing out the Class III, operating
9 Class II, is yet another manifestation of the critical
10 importance of maintaining the viable Class II gaming 10:29
11 devices.

12 So I just wanted to add that little
13 wrinkle in there and note a lot of similarities that
14 we're hearing from Indian country with respect to the
15 guiding principles that we hope the Commission takes 10:29
16 into account when you embark on this regulatory
17 review.

18 Thank you.

19 MS. STEVENS: Thank you, Scott.

20 And before we take a break, I do want to 10:29
21 say, I appreciate that this format is a welcome format
22 and it does allow you to hear what others are saying,
23 but also, as we move forward, we're going to solve
24 some of this together. I'm not going to be a dictator
25 up here. This is, in fact, a democracy. Some of you 10:30

1 might have heard that comment from some others. 10:30

2 I'm -- we're going to share the responsibility to
3 solve some of our differences here, because there are
4 differences already and we're on Day 3. But we're
5 going to -- it helps for all of you to hear what other 10:30
6 tribes are facing, how their situations are unique,
7 and then come to some common ground that we can build
8 mechanisms that safeguard this industry. It's all of
9 our responsibility. And so it's not just today where
10 you get to tell us what you think, but we're going to 10:30
11 be coming back and we're going to have an exchange
12 about how to solve some of these differences.

13 So I share that responsibility with you
14 and remind you all that we welcome your offers of
15 solutions here. We need solutions to where things 10:30
16 break down. There are probably many common themes
17 that we're going to have that will be easily solved
18 and we move forward, but there -- on these major
19 issues, we need to do this together.

20 So let's take a break for 15 minutes, and 10:31
21 we'll circle back at 10 till.

22 (Short recess.)

23 MS. STEVENS: Okay, welcome back,
24 everyone.

25 If we can have everyone take their seats. 10:55

1 So we'll open up the floor again for 10:55
2 comment. If there -- I appreciate that there have
3 been several folks who deferred to tribal leaders
4 first, and if we have other tribal leaders that would
5 like to speak that didn't have an opportunity this 10:56
6 morning or maybe had heard some things that triggered
7 some thoughts.

8 Mr. De La Cruz, from Quinault.

9 MR. DE LA CRUZ: Yes. I just wanted
10 to -- few things. Tracie, thank you, Chairman and 10:56
11 Vice Chairman, for coming out to our region here and
12 to give us opportunity to be heard. And also thank
13 the Squaxin Island tribe for hosting this.

14 My name is James De La Cruz. I'm the
15 youthful member of the Quinault Indian Tribal Council. 10:57
16 Quinault will be providing a written comment. Thank
17 you.

18 MS. STEVENS: Any other leaders at the
19 table or who might be shy and are sitting in the
20 audience, or if you have a designee that -- 10:57

21 Oh. Right here. Come forward, have a
22 seat.

23 MR. SIMMONS: Thank you. Good morning,
24 Chairman Stevens and Commissioners, members and NIGC
25 staff and participating tribes. My name is John 10:57

1 Simmons, and I serve as the chairman of the Medicine 10:58
2 Creek Enterprise Corporation, which is the corporate
3 board that oversees the managing operation of the
4 Nisqually Red Wind Casino.

5 I want to thank the committee for their 10:58
6 opportunity to provide our views on NIGC's
7 comprehensive review of the federal regulation
8 promulgated under IGRA. And like the Tulalip Tribe,
9 we have some concerns, and I submitted our testimony
10 already to the Commission. Our main concern today is 10:58
11 with the NIGC's proposed minimum internal control
12 standards for Class III Indian gaming. We firmly
13 believe and the courts have ruled that the NIGC lacks
14 authority to issue and enforce minimum internal
15 control standards for Class III Indian gaming. 10:58

16 We ask that with respect to the tribes
17 that have negotiated internal control standards on a
18 government-to-government basis, such as our tribes
19 here in the state of Washington, that our negotiated
20 standards be honored and upheld rather than having the 10:59
21 Commission continue asserting its authority to ensure
22 and enforce MICS of Class III Indian gaming.

23 We do not disagree with NIGC over the
24 importance of gaming control standards or regulations.
25 We simply agree with the court that Congress intended 10:59

1 that the state tribal compact process would govern the 10:59
2 operation of Class III gaming and that is how the
3 gaming regulatory act was construed. Every gaming
4 compact for tribal casino in Washington requires
5 minimum internal control standards, which are 10:59
6 negotiated between each tribe and the state. These
7 negotiated internal control standards cover all the
8 areas that NIGC is concerned about, such as
9 accounting, audits, cash, handling, security,
10 surveillance and et cetera. In addition, each tribal 10:59
11 gaming operation is subject to an annual audit by an
12 independent certified public accountant, in accordance
13 with the auditing and accounting standards for the
14 audits of the casino, of the American Institute of
15 Certified Public Accountants. 11:00

16 Thank you very much for listening to us.

17 MS. STEVENS: Thank you, sir.

18 Do we have other comments?

19 MS. BURCH: I'm Chairman Shelley Burch,
20 from the Snoqualmie Tribe, and I want to thank Squaxin 11:00
21 Island today for hosting this for us, and I want to
22 thank Stacie for bringing this to us for our tribes
23 for comment today, and we will -- our gaming
24 commission will be writing comments and sending them
25 forth for the record, and I just want to say thank 11:00

1 you. 11:00

2 MS. STEVENS: Thank you.

3 Don't be shy.

4 MS. ECHO-HAWK: So just to maybe -- as
5 far as to ask you guys some questions, some of the 11:01
6 things that we heard last -- over the last meetings, a
7 number of them had to do with the net gaming revenue.
8 The definition, there is some -- in the notice of
9 inquiry we have kind of parsed it out or asked if it
10 needs to be parsed out. When we asked the question 11:01
11 we've had some comments about the use of net gaming
12 revenue bulletin, and I don't know if any of you are
13 familiar with that. I know some might be. But it has
14 been cause for concern, and we're looking -- we've
15 been looking at it to try to decide if we need to 11:01
16 address that bulletin in some way or if we can address
17 it in regulation, and if there's any comments on that,
18 we'd love to hear them.

19 Additionally, there's a number of tribes
20 here, and I don't know if there's -- the pilot program 11:02
21 is --

22 Are people familiar with what the pilot
23 program is?

24 Okay. We had some people in Arizona who
25 had no idea. So I wanted to make sure that we have 11:02

1 all the information out there. You know, facility 11:02
2 licensing was a big issue here in the Northwest, and
3 we need, you know, comment and input on that from
4 tribes, as well.

5 Access to fingerprinting cards -- access 11:02
6 to NIGC for fingerprinting for vendors and
7 consultants, it's something that has been brought
8 forward, and it may involve -- if tribes are
9 interested in that, then we may need to talk to the
10 FBI and change the agreement that we have with them. 11:02
11 But if there are any comments on these -- on what's in
12 the PowerPoint on the issues that we touched on,
13 including net gaming revenue, management contracts,
14 you know, this is a great opportunity to let us hear
15 that and maybe engage in a dialog around it. 11:03

16 MR. GOBIN: Maybe one question might be
17 is is that does the NIGC think that everything needs
18 to be addressed as a regulation, or is there another
19 process that -- to deal with some of these questions?

20 MS. STEVENS: We're open to your 11:03
21 suggestions, and it is not necessarily the position of
22 the Commission that everything has to be a regulation.
23 It could just be a guidance, could be a bulletin.

24 And it looks like Steffani might have
25 some response to that, as well. 11:04

1 MS. COCHRAN: I've heard over the last 11:04
2 year, the different consultations that we've held,
3 that actually there's a preference for certain areas
4 to not be perhaps in a regulation format, because they
5 have to be so constantly updated, and regulatory 11:04
6 process is very extensive, and it does take a great
7 deal of time, so I think if that's something that the
8 tribes think would be of benefit, I hope you put that
9 forth. Because there could very well be some areas,
10 like the MICS or perhaps some other things that 11:04
11 constantly need updating.

12 MS. ECHO-HAWK: The one concern with that
13 is that when things are in policies, as tribal
14 governments know, they are easier to change, and while
15 that might be a good thing, in another -- on the other 11:05
16 side of it, it might be -- you know, we don't know
17 what the next administration is going to do, we don't
18 know what the next commission is going to do or who
19 they're going to be composed of, and so I think we
20 need to think strategically about which areas do need 11:05
21 to be formalized into regulation versus those that
22 should be just in a policy. So that we can ensure
23 there's stability, that, you know, I believe President
24 Obama's mandate about consultation and meeting with
25 tribes and tribes are the primary regulators and 11:05

1 respecting tribal governments is something this 11:05
2 Commission is committed to in a way that I think, you
3 know, has not been so aggressive in the past. So I
4 think we need to be strategic about those things, and
5 it is something that we want to hear from from tribes. 11:05

6 MS. COCHRAN: Can I ask you a question,
7 Lael, because I know you focused a little bit on the
8 Buy Indian Act. Does that act require implementing
9 regulations, do you know?

10 MS. ECHO-HAWK: Not -- I mean, if you 11:06
11 look at the HHS, they just had the regulation -- it
12 just says you have to buy Indian, and then there's --
13 there's lots of -- in the procurement book there's a
14 lot of details you had to do. There's a book.

15 MS. COCHRAN: Okay. 11:06

16 MS. REPIN: My name is Jennifer Repin.
17 I'm the gaming commissioner for the Snoqualmie Tribe.

18 I'm relatively new so I'm getting up to
19 speed on a lot of things, but my question is -- it's
20 not really a question, more of a comment, more of a 11:06
21 way of approaching priorities, is we get audited by
22 the NIGC, and -- as a gaming commission you're noted
23 deficiencies, and those deficiencies, you know, if we
24 don't take those and -- you know, from all tribes
25 create a list of deficiencies and be able to 11:07

1 categorize those into the regulatory act of which ones 11:07
2 are needing the attention and how they go forward and
3 create the priority list, so that way when us as
4 tribes, us as gaming commission, can know what other
5 tribes are -- not their deficiencies or anything like 11:07
6 that. I'm not asking that or anything. But more of a
7 generalized, okay, internally with NIGC we made this
8 list of all deficiencies for every tribe across the
9 nation. They're both into these regulatory, okay,
10 goes with this act or this section, and it goes with 11:07
11 this section, and it goes with this section. Okay,
12 well, we're seeing a trend with this section. We
13 should address this section based off of this trend.

14 And maybe that would be a really good
15 faster approach, instead of -- you know, and 11:07
16 maintaining all of the comments that we get from
17 everybody, as well, and seeing how those line up, so
18 that way then you're not taking months, years to get a
19 final priority list, you can actually have one within
20 a relatively short amount of time. Because 11:08
21 everything's done online or in a format electronically
22 that you can copy and paste, copy and paste, and it
23 can be uploaded relatively quickly.

24 That would help us as a whole as well as
25 the agencies, as well as other vendors, consultants or 11:08

1 whoever is involved in the process making of this. 11:08

2 And just so we can all be on the same wavelength of
3 how the priority list is set. Because my priority
4 list is going to be different from somebody else's.

5 And that's going to be a huge headache for NIGC. 11:08

6 Well, you know, it's just one of those --
7 where you can just take the trend and give us a
8 priority based off of that trend. Because some tribes
9 might not have any deficiencies. You know, they might
10 actually be really well off in the regulatory acts 11:09
11 that they don't -- you know, they'll make comments but
12 otherwise they won't need any additional help from
13 NIGC, but there might be some tribes that have a lot
14 of deficiencies, a lot of areas that need to be
15 covered, that, you know, their priority list is going 11:09
16 to be miles long.

17 So, I mean, that was just my idea, my
18 thought, and as well as the other gaming commissioners
19 with our tribe.

20 Thank you. 11:09

21 MS. STEVENS: Thank you.

22 And I was just thinking -- and I can see
23 Steffani knows what we're talking about over there.

24 We also want to use audit findings and -- in
25 particular for our technical assistance and training. 11:09

1 That's an initiative that Vice Chairwoman Cochran is 11:09
2 heading up.

3 Did you want to say a few words about how
4 we can use what she's suggesting?

5 MS. COCHRAN: I was just sitting here 11:10
6 thinking, as you were speaking, that one of the areas
7 that we could improve our technical assistance and
8 training activities within the agency or at least how
9 we select them, how we offer them, how we reach out to
10 tribes, is to take compliance issues, to take audit 11:10
11 findings, to take things that we do examine within the
12 agency, look for those patterns, look for areas that
13 we consistently have deficiencies in, and deploy our
14 people out or get resources out or whatever we need to
15 do to the tribes to remedy those, so that those 11:10
16 deficiencies decrease. And so your thinking is
17 actually very interesting, and it's one of the ways
18 that we're looking at it very directly, is through
19 training and technical assistance.

20 MS. STEVENS: Come on up. 11:11

21 MR. BOYCE: Mike Boyce, executive
22 director of Grand Ronde.

23 I'd like to go back and touch on the
24 self-regulation issue again. We are very proud to
25 have self-regulation at Grand Ronde, but it should 11:11

1 really be worth more than just bragging rights, and 11:11
2 what I would like to suggest is that in every
3 regulation that's considered or implemented, that how
4 that burden of that regulation is reduced or
5 eliminated by being self-regulated, be written right 11:11
6 in the regulation. And I think that would accomplish
7 two things. That would get the Commission to really
8 consider how a self-regulated tribe would be affected
9 by that regulation, and it would also in that
10 regulation show other tribes benefit of being 11:12
11 self-regulated, which I would encourage the Commission
12 to really consider ways to implement self-regulation.

13 Thanks.

14 MS. STEVENS: You know, one of the things
15 that we heard about in Sacramento and San Diego quite 11:12
16 a bit, and many of you have been in contact with our
17 office, are management contracts and collateral
18 agreements. Are there any concerns here, or comments,
19 questions, about how our management approval process
20 works, collateral agreements? 11:12

21 It's interesting to go from one area to
22 the other and find out what the priorities are. We
23 heard a lot about this.

24 Andy, I thought you were going to step up
25 to the mike. No? 11:13

1 MR. MAIL: Rookie. 11:13

2 MS. STEVENS: And something we didn't
3 talk about was about our enforcement process. We
4 weren't anticipating that, necessarily, but we did
5 hear about the process. So -- and Lael mentioned that 11:13
6 in her opening with the PowerPoint, about having
7 more -- a clearer process that tribes can -- and
8 under -- they would know in advance what to expect,
9 and there would be certain timelines and more
10 specificity in hearings before the Commission. Does 11:14
11 anyone have any comment on that?

12 I don't think we're issuing a lot of NOV's
13 up this way so I can understand why that's not
14 pressing.

15 Steffani, did you have anything you 11:14
16 wanted to say?

17 No, you're just holding the mike.

18 MS. COCHRAN: If I set it down it seems
19 to trigger --

20 MS. STEVENS: Oh. Okay. 11:14

21 How about tribal advisory committees?
22 Has anyone here served on a tribal advisory committee?

23 One over here.

24 You know, the NIGC started using those
25 about 12 years ago, during the first MICS process, and 11:15

1 they've changed over time, mainly how the members were 11:15
2 selected, and then how the process during the meeting
3 would go. I recall that the first advisory committee
4 had a facilitator, and there was much more agreement
5 among the members of the committee. 11:15

6 One of the things that we are mindful of
7 as we put -- or we -- if we put tribal advisory
8 committees together, is the Federal Advisory Committee
9 Act, FACA, and, you know, tribes as governments have
10 exemptions as long as we are dealing with an appointed 11:16
11 person from a tribal government, but there's also some
12 folks that have expertise in areas that may be
13 included in those. Does anyone have any comments
14 about how these processes have been -- have changed
15 over time from the NIGC? 11:16

16 I know the last advisory committee had
17 very strict requirements for their members, the
18 Class III MICS committee.

19 And I appreciate that advisory committees
20 can be time consuming. And they're also resource 11:16
21 heavy, both for us and for tribes. But also the
22 individuals that serve.

23 Nothing on advisory committees?

24 Well, in lieu of that, in talking about
25 processes, how about -- one of the parts of the 11:16

1 executive order that talk about considering 11:16
2 alternatives that tribes put forward, we welcome that,
3 and it's more of a statement than it is a question.
4 You know, if tribes put forward alternatives, we will
5 receive them. So if we receive drafts that tribes 11:17
6 support, we certainly will consider them.

7 It's my understanding there's a working
8 group that's been established of tribes, regulators,
9 manufacturers, that have been working on their own and
10 looking to propose some standards to the NIGC. That's 11:17
11 one way to address -- or not necessarily one way, but
12 it does address the time issue that Mr. Gobin brought
13 up.

14 If the work's done before we have to do
15 an advisory committee, we at least have a draft to 11:18
16 work from.

17 And at this rate we might, you know, have
18 to break for lunch early. Unless somebody wants to
19 take up karaoke.

20 Glen? Is there a microphone over there? 11:18
21 Mark has one coming.

22 MR. GOBIN: Well, I guess from Tulalip's
23 perspective, I would hope that that's the approach
24 that you might take, that a lot of the work gets done
25 before we realize if we need an advisory committee or 11:18

1 not, because a lot of these comments have been on 11:18
2 record for the last number of years, of questions and
3 concerns of how the MICS came forward, and so I think
4 there's a lot of work done, there's a lot of comments
5 out there, and a lot of us are reiterating the same 11:19
6 thing that's already on record. And if you can
7 propose the first cut of draft regulations or draft
8 process or draft guidelines, however this comes out to
9 deal with some of these issues, I think that would
10 speed up the process. 11:19

11 And I -- we still have the concern of
12 time frames and eating up time, and I think for us --
13 us as tribes to work together, to try and bring things
14 forward for the NIGC and work with them to make these
15 things happen in a most efficient time frame, we need 11:19
16 to think down those processes. And I am -- I as one
17 tribe I believe that we are willing to see what you
18 propose here first or get the first draft out for us
19 to look at and utilize the comments that have already
20 been put in place. 11:19

21 To do an advisory committee, it should be
22 a really imperative or technical matter that's going
23 to come up in order to really pull an advisory
24 committee together, and so I think we need to weigh
25 that heavily. 11:20

1 MS. MINTHORN: I have a comment regarding 11:20
2 the advisory committees, but before I do that, my name
3 is Maureen Minthorn. I'm a gaming inspector from the
4 Confederated Tribes of the Umatilla Indian
5 Reservation. I'm here today with the chairman of our 11:20
6 gaming commission, Woodrow Star, and on behalf of our
7 tribes, we would like to thank the Squaxin Island
8 tribe for hosting this event and compliment them on
9 their beautiful facility. We would also like to
10 extend our appreciation to the National Indian Gaming 11:20
11 Commission for scheduling this consultation,
12 especially utilizing this type of format.

13 Umatilla has not participated in a
14 consultation with NIGC for many years because we did
15 not find them to be an efficient use of our time. We 11:21
16 are here today because of this new approach unveiled
17 under your leadership, Chairman Stevens, and we like
18 what we see, and although we do not have any major
19 issues to bring forth today, we're always going to
20 want to be part of the conversation. 11:21

21 I'm also privileged to host -- or to be
22 the current chair of the Oregon Association of Indian
23 Gaming Commissions, which is an association comprised
24 of the nine Oregon gaming tribes. We take turns every
25 month hosting a meeting to discuss issues that are 11:21

1 common to each of us, and part of that meeting process 11:21
2 is to consult with Oregon State Police as well as the
3 National Gaming Commission, and we'd also like to
4 extend our compliments to the regional office, Mark
5 Phillips and his group, because they show up every 11:22
6 month and participate.

7 Beyond that, those are the comments that
8 I wanted to make on behalf of Umatilla. We -- our
9 former chair, Jack Crawford, participated in two of
10 the tribal advisory committees, and all I can really 11:22
11 share that I heard from him was that the advisory
12 committees were a useful exercise but were lawyer and
13 accountant heavy.

14 And I would also echo comments made from
15 this side of the table earlier, where I think many of 11:22
16 us feel like internal controls should be minimum and
17 not maximum, and so we would support that approach.

18 That's all. Thank you.

19 MS. STEVENS: Thank you.

20 It looks like we have another volunteer. 11:23

21 MS. HELM: Hi. I'm Linda Helm, from the
22 Port Gamble S'Klallam Tribal Gaming Agency. I'm the
23 executive director there.

24 I have comments on a couple of things.

25 First I wanted to make a comment on Part 542 and 11:23

1 discuss the fee areas. We have some confusion because 11:23
2 Part 542 and the fact that the NIGC fees are based on
3 both Class II and Class III income. This discrepancy,
4 we'd like to have that clarified.

5 In addition, I'd like to talk about 556, 11:23
6 background investigations. We are participating in
7 the pilot program, and find that it's a good program.
8 We like using the suitability reports and the NORs.
9 And regarding the fingerprinting for nonprimary
10 management officials and key employees, we think that 11:24
11 would be a great idea. We'd like to have the
12 opportunity to do backgrounds on the vendors that come
13 to our casinos, as well.

14 Also, for notice, rather than the
15 standard notice, we'd like to have the TGA directors 11:24
16 be notified by e-mail when comments are desired. This
17 would eliminate any need for a tribal advisory
18 committee.

19 And thank you very much.

20 MS. STEVENS: That reminds me of a sort 11:24
21 of housekeeping issue. And I believe that we've --
22 our staff has done a really good job of catching
23 everybody as they come in the door, but if you haven't
24 signed in, please do. We do use this information to
25 make those contacts. We understand that commissions 11:24

1 change, councils change. We may not always have the 11:24
2 most current information and so we get that
3 information from these meetings.

4 Just even in our launch of our training
5 survey yesterday we had a lot of bounce-back of 11:25
6 e-mail, which tells us a lot of things are changed or,
7 you know, we've got a typo. So please make sure that
8 you've signed in and give us your e-mail address, fax
9 number, whatever is your preferred method of contact.

10 Vice Chairwoman Cochran, do you have 11:25
11 anything that you'd like to -- that you are --
12 particular of interest to you?

13 MS. COCHRAN: No, I think -- I appreciate
14 the comments that have been offered. I think the most
15 important thing for us is to hear from you so that we 11:26
16 get our priority list done, so that we perhaps tackle
17 the low-hanging fruit that we can, so that we best
18 utilize everybody's time, given that we have a short
19 time frame, and I hope you'll be able to provide maybe
20 some more input on the how side of this, how do you 11:26
21 want us to do this. I think -- I think we can take
22 some of it on, I think the tribes might need to take
23 some of it on as far as moving the process along.

24 And I -- I appreciate the comments that
25 have come in. It's the how part and the how -- the 11:26

1 how part also goes to resources, what the NIGC has for 11:26
2 resources available to do the how, what the tribes
3 have to offer, so that we best utilize the remaining
4 time that we have.

5 MS. STEVENS: What we're finding is a lot 11:27
6 of folks with this new format are sort of gauging the
7 temperature and listening to what other tribes have to
8 say. We do have a lot of these records or these
9 comments -- well, just -- I won't say a lot; a few
10 have already been posted on the Web site. And really 11:27
11 sort of gauge what's going on here first before
12 submitting your own comments in writing.

13 I do encourage everyone to submit their
14 comments in writing, even if you have spoken today,
15 but really for the sake of the dead silence here, 11:27
16 let's break for lunch early, and we're going to stay
17 here. My understanding is there may be some tribal
18 leaders that are coming for the afternoon, but -- come
19 back at 1:00. We're going to mingle around here if
20 there's any questions, if anyone just wants a side bar 11:27
21 with us or if there are questions they don't really
22 want to stand up and ask. We'll come back at
23 one o'clock.

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11:28

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(A luncheon recess was taken at 11:28
11:28 a.m.)

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1 SHELTON, WASHINGTON; FRIDAY, JANUARY 14, 2011 11:28

2 1:12 P.M.

3 --000--

4

5 MS. STEVENS: Okay. Good afternoon, 13:12

6 everybody.

7 I know we have lost some folks here, but

8 we do still have opportunity for continued comment or

9 conversation, questions.

10 And just from some of the conversations 13:13

11 we've been having on the side with folks, we know that

12 many of you if not most of you will be submitting

13 comments -- written comments before the deadline.

14 So what I may do is make a last call for

15 comments, if there's anyone out there that have 13:13

16 comments.

17 I know many of you may want to try to get

18 home before traffic hits or have other business that

19 you need to take care of.

20 Last call. That's right, Jim Bob. Last 13:13

21 call.

22 So why don't we just go ahead and wrap it

23 up, then everybody is free to go.

24 I really strongly encourage everybody to

25 submit written comments on which regulations and what 13:14

1 priority, and how you want to go through this process. 13:14
2 We do have some comments on the Web site already as
3 examples of addressing those questions.

4 And Steffani, did you want to add
5 anything before we close? 13:14

6 MS. COCHRAN: No.

7 MS. STEVENS: Well, on that note, I want
8 to thank everybody for attending. Thank you for
9 coming down. I know this is a new process. This is
10 what you'll see as we move forward in these group 13:14
11 formats.

12 Again, I want to say if you have
13 individual issues with your specific tribe, that we
14 are welcome -- you know, we welcome your request for
15 meetings, or, you know, one of the reasons why we have 13:15
16 our field office and our staff here is so that if
17 there's anything you need to talk to them about,
18 they're available. But please do respond to the
19 comment period, and let us know what your priorities
20 are. 13:15

21 Again, thank you very much for attending.
22 Is there anything else?

23 MS. ECHO-HAWK: Just one note. If you do
24 have individual meetings and we're not in your region,
25 and we have identified several conferences that we 13:15

1 will be at and we'll be setting aside time for the 13:15
2 Commission to meet with you individually. If you're
3 interested in that, there is -- on the Contact Us page
4 on the Web site, there's a meeting request form. Fill
5 that out, send it in. We're going to be out as the 13:15
6 conference cycle begins again in February, March. And
7 then in April, as that begins to start, we'll be at
8 those conferences. So while we might not be in the
9 Northwest, you know, the next month or so, we likely
10 will be in California and Las Vegas, and if you need 13:16
11 that one-on-one time with the Commission, they're open
12 to that, but -- so if you fill out the meeting request
13 form, that will put you in touch with the
14 administrative assistant who will help you with
15 scheduling that. 13:16

16 MS. STEVENS: Okay, this is really the
17 last call, if you want to be on the record. Anything
18 you want to say.

19 Again, thank you for attending. If you
20 have any questions at all, please feel free to contact 13:16
21 any of us. We will make ourselves available to you.
22 And we look forward to working with you in this
23 process as we address regulatory revisions.

24 Thank you very much for attending. Safe
25 travels. 13:16

(Applause.)

(The meeting was concluded at
1:16 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
 COUNTY OF KING)

I, Ronald L. Cook, Certified Court Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public in and for the State of Washington, do hereby certify that the foregoing proceedings were taken stenographically by me and transcribed under my direction.

I further certify that the proceedings as transcribed are a full, true and correct transcript.

I further certify that I am neither attorney for nor a relative or employee of any of the parties to the proceedings; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 25th day of January, 2011.

NOTARY PUBLIC in and for
 the State of Washington,
 residing at Redmond. My
 commission expires 4-6-14.

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