

BEFORE THE NATIONAL INDIAN GAMING COMMISSION

TRIBAL CONSULTATION

January 21, 2011

9:15 a.m.

Hyatt Regency Tamaya Resort

1300 Tuyuna Trail

Santa Ana Pueblo, New Mexico

Members of the Commission:

Ms. Tracie Stevens, Chair

Ms. Steffani Cochran, Vice Chair

Mr. Daniel Little, Commissioner

Ms. Lael Echo-Hawk, Counsel to Chairwoman

Reported by: Sally Peters, RPR, New Mexico CCR 57

Job No. NJ303774

1 CHAIR STEVENS: Good morning. Good
2 morning, everyone. Good morning. I hope you are
3 all well this morning, bright-eyed and bushy-tailed.

4 Before we begin, I would like to turn over
5 the meeting to the lieutenant governor of the Santa
6 Ana Pueblo, Lieutenant Governor Lujan.

7 MR. LUJAN: Good morning. Good morning,
8 everybody. Can you hear me without the mike? Thank
9 you.

10 I would like to do a welcome prayer for
11 all of you here, as most appropriate, so if you
12 would please rise.

13 (A welcome prayer was offered in Tewa.)

14 MR. LUJAN: Thank you. You may be seated.

15 It's a pleasure to stand here before you.
16 I would like to welcome all the regions, governors,
17 chairmen, tribes, councilmen, and distinguished
18 guests. I welcome you here to the Hyatt Regency
19 Tamaya Resort and Spa. It's certainly a pleasure to
20 be standing here before you. It's been quite some
21 time that I have filled this capacity as lieutenant
22 governor. I have been lieutenant governor in the
23 past, but there has been at least seven or eight
24 years before getting this position back again. So I
25 am pretty much left out of the loop on a lot of

1 issues that concern gaming.

2 I know you have quite a bit of work ahead
3 of you into the new year, because I also realize and
4 found out you also have a new chairwoman and vice
5 chairwoman in place. They have to work for all of
6 you here, and so I would just like to welcome,
7 again, everybody here to the Pueblo of Santa Ana.

8 As far as speaking in general, as far as
9 gaming goes, the Pueblo of Santa Ana has really seen
10 quite a bit as far as overhead revenues that are
11 generated right to the pueblo. And it's always a
12 pleasure for me, because it doesn't just affect only
13 certain individuals. It affects the community as a
14 whole. We have been able to go ahead and upgrade
15 our infrastructure -- water, sewer. We have had a
16 chance to go ahead and have computer labs for our
17 kids with intergenerational buildings for our
18 seniors, the kids, so that they can all get
19 together. Libraries, all of this basically from
20 casinos, and I realize that all of these are good
21 items coming from the casino.

22 There are some bad things, and I am pretty
23 sure you are here to discuss all of this, with all
24 of the appropriations, fees, background checks. I
25 am pretty sure all of this will be discussed, and

1 maybe going years back and to present, but anything
2 that might need to be tweaked out, need to be
3 improved on, let's go ahead and take that a step
4 further. So without further adieu, I will just go
5 ahead and turn this back over to Chairwoman Stevens.
6 Thank you very much.

7 CHAIR STEVENS: Thank you, Lieutenant
8 Governor Lujan.

9 Excuse me just a minute. The last thing I
10 need is candy.

11 Anyway, my name is Tracie Stevens. I am a
12 member of the Tulalip Tribe from Washington state.
13 I am the chairwoman of the National Indian Gaming
14 Commission. I was sworn in on June 28th of 2010.

15 I want to extend my thanks and say thank
16 you to Santa Ana Pueblo for their generosity for
17 hosting this meeting today. You will see that in
18 the future, this commission is going to endeavor to
19 hold these meetings on Indian land in Indian
20 facilities.

21 This facility is beautiful, as I was
22 expressing to the lieutenant governor privately
23 before the meeting. And as you said, this is a good
24 demonstration of what gaming revenues can do for
25 tribes. I want to thank all of you for attending.

1 Thank you all for traveling, if you have traveled
2 today or over the past, overnight to join us here.

3 I also want to introduce -- and they will
4 have a moment to speak here in a moment -- Vice
5 Chairwoman Steffani Cochran to my right. She is the
6 vice chair of the commission. And also over here we
7 have Associate Commissioner Dan Little, and they
8 will say a few words in a moment.

9 I would also like to recognize our
10 regional staff. They are actually out there working
11 right now, but without them, we would not be able to
12 organize these meetings. They have been very
13 helpful in making sure that everything is in order
14 for you and for us so that these meetings go as
15 smoothly as possible. From where I come from, it's
16 important to recognize the people who support you,
17 because we could not do what we do without their
18 help.

19 To start today, I do want to remind
20 everyone of our initiatives as the new commission.
21 Many of you have heard us speak the past four or
22 five times about the agenda that we have set as a
23 new commission. This is an entirely new commission.
24 It's a full commission that has not been fully
25 staffed for several years.

1 But we have identified four major areas as
2 a result of our time working for tribes, but also in
3 our time inside the commission, each of us, and our
4 discussions with tribes.

5 These four major initiatives go as
6 follows: The first primary initiative that we have
7 is consultation and relationship building; two,
8 technical assistance and training; three, regulatory
9 review, which is the subject of today's
10 consultation; and four, agency operations review.

11 Now, today, and in the previous four
12 sessions that we have had over the past week and a
13 half, it is the beginning of a new approach for this
14 commission on how we consult with tribes. You will
15 see this is a new format for the commission. I know
16 that many are accustomed and the past commission had
17 practiced the individual meetings where you signed
18 up on a sheet of paper and got 15 to 45 minutes to
19 go over broad policy, like we are going to talk
20 about today, or your individual matters, and it was
21 a bit of a marathon, I think, for the commission.

22 So this is a new format, and it allows for
23 an open dialogue and exchange of ideas. It
24 identifies problems and gaps, but it also offers an
25 opportunity for all of us to come up with solutions

1 together. And what I am hearing or what we are
2 hearing in the past couple of weeks as we have
3 done -- this is our fifth consultation -- we are
4 hearing that tribes like this format, because they
5 weren't able to hear in the past what other tribes'
6 concerns were or to hear other tribes' options for
7 solutions, not knowing that there was an issue that
8 they had as a tribe, but they didn't realize it was
9 also an issue for another tribe somewhere else in
10 the country. Or if there were difference in being
11 able to hear that and come up with some ideas. A
12 lot of tribes so far are appreciative of this open
13 format.

14 So today, this format, what it does, it
15 allows us to hear your concerns, hear your
16 priorities, hear your thoughts, your suggestions,
17 and your solutions. Now, certainly the previous
18 individual meetings allowed you, allowed the tribes
19 to address specific individual tribal concerns
20 privately. We certainly don't expect that in this
21 open format.

22 We do take time as a commission to set
23 time aside to meet with tribes about their specific
24 needs, whether it's an operational issue, a
25 regulatory issue, a question you might have that's

1 just specific to your tribe. We certainly can do
2 that, and we don't expect anyone to air their
3 private issue here.

4 But we can have side meetings if we know
5 in advance, or even if it's just something you want
6 to grab us and talk to us about, we certainly can do
7 that.

8 So this first priority is demonstrated
9 here today. It's a new way for us to consult and
10 have a discussion, have an exchange, and not have it
11 be a one way conversation, and it's meant to honor
12 the president's commitment to tribes, to have
13 meaningful and collaborative consultation with
14 tribes. It's part of his effort, too, to have good
15 government. You as the constituents for this agency
16 should have a say in what we do, and this forum
17 allows that to happen.

18 Our second priority is technical
19 assistance and training, and that's a statutory
20 mandate. It's in the act, and we must provide it,
21 but it should be more than just a requirement. And
22 that's what we are striving to do. We are examining
23 our technical assistance and training program so
24 that we meet the needs that you have and that you
25 have prioritized and that you have identified. If

1 we have a technical assistance training program that
2 isn't working, then it doesn't do anyone any good.
3 It doesn't help us protect the industry together.

4 So we are also looking to see how we can
5 streamline our program so that we reduce
6 redundancies in that program if we are overlapping.
7 But last Thursday we issued a survey online. We
8 faxed it. We e-mailed it. We snail mailed it. We
9 did a press release. We certainly can get you more
10 information, and Ken certainly can help you with
11 that if you have questions. I saw some puzzled
12 looks out there in the audience.

13 It's online. You can fill it out online
14 and submit it online. What it is, it's a survey
15 that asks: What are your training needs? What kind
16 of training do you need? How is the training
17 working that we have now? How is it working out?
18 And give us some suggestions, and it all can be
19 submitted in any way that you need to. That's going
20 to help us tailor our training better to better meet
21 your needs. So as we go along, the survey is just
22 one of several initial steps that we are taking to
23 improve this program.

24 Agency operations review, that's another
25 one of our initiatives. And that's us looking at

1 ourselves, and saying is there a way that we can,
2 under the president's good government initiative, to
3 streamline our operations, reduce redundancies, and
4 provide better service. And there is a lot to that,
5 and I want to say technical assistance and training
6 is being headed up by Steffani Cochran. Agency
7 operations review is being headed up by Dan Little.

8 The agency operations review, if we are
9 going to ask you to opt -- we should be just as
10 concerned about our operations as we are about
11 yours, and we should be more transparent about what
12 we are doing, and we are striving to do that. So
13 that's another major initiative.

14 The final initiative is regulatory review,
15 and I committed to that in my nomination process.
16 And every new administration that comes in has a
17 prerogative to look back at the past
18 administration's finalized regulations and look at
19 them for their relevance and if they are still
20 suitable to the needs of the industry, and that's
21 what we are doing today.

22 We are doing this regulatory review in a
23 fashion that hasn't been done before for this
24 commission, through sort of a preview before we
25 start initiating a rulemaking process. Today we are

1 going to talk about which regulations and in what
2 order and how should we go about it. Today is not a
3 line by line drafting session of the regulations.
4 It's an agenda setting that you have a say in, that
5 you should tell us what should come first, and then
6 how we should do this. There are priorities that we
7 need to address, and we need to do it in a timely
8 fashion.

9 This effort is to address the need for
10 regulatory change before we actually make it, and
11 you get to weigh in on that. Some ranks are going
12 to be easier than others. You know, low hanging
13 fruits and some technical changes that would make
14 everybody's lives easier or make our processing go
15 more smoothly. There are others that are going to
16 require a lot of work and a lot of time and a lot of
17 thought, and we are going to talk about how we can
18 address those today.

19 Now certainly we are not going to agree on
20 everything as we go forward, but we are going to be
21 transparent about any disagreements that we have and
22 why we make any decisions. We won't be making
23 decisions here today. Really today is for you.
24 Today, as I was telling the lieutenant governor,
25 today is your time to tell us what your priorities

1 are, what your needs are in terms of regulatory
2 change, if any, what works for this region or what
3 works for your specific tribe, what doesn't work.
4 All of these are being recorded today so that you
5 can see what other tribes are saying in other parts
6 of the country. In our effort to be transparent, we
7 are sharing all of our information. We know we have
8 heard criticism of previous consultations that have
9 been done in the past, that it was like commenting
10 into a void and never hearing anything back and not
11 understanding why your comments or your suggestions
12 weren't taken.

13 So all of this, there is going to be a
14 record so that you can see what is being said and
15 how we have come to the decisions we did when it
16 comes to setting a regulatory agenda.

17 Before I move to Lael Echo-Hawk, who is a
18 counselor and she will be basically running through
19 the Notice of Inquiry that was posted in November
20 and is the topic of today's discussion, but before I
21 do, I will turn it over to the other commissioners,
22 Vice Chairwoman Steffani Cochran.

23 VICE CHAIR COCHRAN: Good morning. I feel
24 so short. Stand up.

25 Good morning, governors, lieutenant

1 governors. I see several other former governors and
2 some other elected leaders back there, so good
3 morning to you. Good morning also to those of you
4 who have come to participate. I see attorneys, a
5 lot of familiar faces, and it's always nice to be
6 home. I have been blessed this week by spending
7 time both where I come from in Oklahoma, and then
8 back here, which is home for me now. And so it's
9 going to be hard to get on a plane and go back to
10 DC, I'm afraid, tomorrow. But thank you so much for
11 allowing us to come talk with you today. Thank you
12 for giving us an opportunity to speak and to hear
13 your concerns.

14 It's always a privilege for me to be in
15 your presence and to hear your thoughts. So I
16 appreciate your time. I know you're very, very
17 busy. I look forward to what you have to say. I
18 think there are some exciting things happening, of
19 course, in New Mexico and in the Southwest in
20 gaming, and so I'm sure you have got some input that
21 will help us work through these regulatory issues so
22 that we can get the best product we can get in the
23 amount of time that we have to give.

24 So thank you, Lieutenant Governor Lujan,
25 again. Thank you for the wonderful hospitality and

1 the very comfortable bed last night to sleep in. So
2 I appreciate that very much. Thank you.

3 CHAIR STEVENS: Thank you, Steffani.
4 Dan.

5 COMMISSIONER LITTLE: Good morning,
6 everyone. I, too, want to thank the governor of the
7 Santa Ana Pueblo. It's a beautiful facility. It's
8 always great to be back here. I want to welcome
9 everyone here this morning.

10 And it's probably worth repeating what the
11 chairwoman said and what Lael will talk about
12 shortly here. This is a different kind of a setting
13 that maybe many are used to, and that is, you know,
14 it's going to be less us talking at you and more of
15 us talking with you, and that this basically is
16 designed so you can address your thoughts and your
17 ideas.

18 So I am really looking forward to hearing
19 how these suggestions that we have made -- and I
20 want to repeat that. These are only suggestions and
21 questions that we are asking to just stimulate some
22 discussion. The commission has not taken any
23 positions on these. So we just want to make sure
24 everybody realizes these are questions that we are
25 requesting some ideas and thoughts. And so I look

1 forward to hearing from you, and once again,
2 welcome. Thank you.

3 CHAIR STEVENS: Thanks, Dan. Thanks,
4 Steffani.

5 So I'm going to turn it over to Lael.
6 Many of you know we posted the Notice of Inquiry,
7 which addresses the need for change before we start
8 embarking on change and to allow tribes to weigh in
9 on our priorities and to set the agenda. So she
10 will go over the Notice of Inquiry and our next
11 steps.

12 Again, I want to say thank you very much
13 for attending. We realize that there are many other
14 events going on. We know the legislature is in
15 session at this time, and that your schedule is far
16 busier than ours. So we do appreciate your taking
17 time out of your very busy schedules to come meet
18 with us today.

19 I do really want to say we want to hear
20 what you have to say, not only about the Notice of
21 Inquiry and the regulations, but how to move forward
22 with solutions or anything else that maybe is not
23 covered in here, that we would be happy to hear your
24 comments on.

25 So I will turn it over to Lael Echo-Hawk,

1 who will briefly run through the Notice of Inquiry
2 before we open the forum for comments.

3 MS. ECHO-HAWK: Good morning. I want to
4 echo the thoughts of the commission and express my
5 appreciation to the Pueblo of Santa Ana welcoming us
6 here. I am so excited. I kind of got to select
7 where we were going to go. I stayed here one time
8 before, and I said, please, can we go there. It's a
9 great facility, and I am just really excited that we
10 are able to be here.

11 My name is Lael Echo-Hawk, and I am a
12 member of Pawnee Nation of Oklahoma, counselor to
13 the chairwoman at the NIGC, of course, and I have
14 been tasked with this responsibility, and I think
15 it's really an opportunity to begin looking at the
16 regulations that govern this industry.

17 And before we do that, you know, we wanted
18 to take -- we were trying to think how can we take
19 advantage of tribal input, how can we really, really
20 solicit tribal thoughts and hear their concerns
21 about which direction we need to go. And so we sort
22 of came up with this idea, this Notice of Inquiry
23 that I will talk about a little bit more.

24 But logistically, this is my name. You
25 can contact me at this e-mail with regard to this

1 particular topic and, of course, our phone number.
2 You can send your comments to this, questions. This
3 e-mail will reach me, and we will be responsive.

4 So why a regulatory review? Well, of
5 course, IGRA tasked the NIGC with putting together
6 regulations that implement the Indian Regulatory
7 Act. Additionally, there is an executive order,
8 12,866, the Regulatory Planning and Review and then
9 the Regulatory Flexibility Act which require
10 administrative agencies to semi-annually put out an
11 agenda: What regulations are we going to look at
12 and review?

13 Additionally, just this week, President
14 Obama again directed his administration to look at
15 our regulations and take a look at them if they are
16 outdated. His focus is really on jobs, but it goes
17 again to why we need to continue this regulatory
18 review.

19 Consultation, as the chairwoman indicated,
20 consultation and relationship building with tribes
21 is the No. 1 priority of this commission. So we are
22 here. We are in Indian country. We have this
23 amazing road show, but we wanted to come out into
24 Indian country, be in Indian facilities, and talk to
25 you about these regulations that affect your

1 industry, and as the lieutenant governor indicated,
2 the services that you can provide for your people,
3 and how can we adjust these regulations so that the
4 industry is regulated, but that it also does what
5 it's intended to do, and that is promote self
6 government, self-sufficiency, and economic
7 development.

8 The executive order has a number of
9 sections in it that, you know, I hadn't really heard
10 kind of hyped up very much, and we kind of found
11 some sections that really appeal to us, and really
12 like brought home the point of meaningful
13 consultation and what we really need to be doing at
14 this agency, including Section 3(c)3, which says,
15 "When undertaking to formulate and implement
16 policies that have tribal implications, agencies
17 shall, in determining whether to establish federal
18 standards, consult with tribal officials as to the
19 need for the federal standards."

20 So even before we began sending out drafts
21 of proposed rules, et cetera, we need to be talking
22 to you about whether those standards are needed and
23 what we should do, looking for alternatives for
24 those standards. So that's what we are doing here
25 with this Notice of Inquiry.

1 The Notice of Inquiry, it's a tool used by
2 many other federal agencies. I have never seen it
3 used in Indian country per se, but it's used by the
4 FCC, Copyright Office, Library of Congress. A
5 variety of different agencies use this as a tool to
6 reach out into their constituents and say, hey, this
7 is an issue that we are hearing about, what do you
8 think. So even before they begin drafting policy or
9 changing policy, they send this notice out so that
10 they can get feedback from the people who are
11 affected by these changes. So that's what we are
12 doing with this Notice of Inquiry.

13 We have been asked three primary
14 questions: The what, when, and how. The what is
15 what regulations do we need to look at revising,
16 implementing, repealing. When, in what order, so
17 what priority level do these regulations need to be
18 addressed in.

19 And then finally how. A Tribal Advisory
20 Committee, a notice of proposed rulemaking and
21 written comment period sufficient. We have heard
22 negotiated rulemaking. We have heard a variety of
23 different ways to get this accomplished, and we
24 really are looking for guidance from you, from
25 Indian country, to tell us how, what's the best way

1 to go about doing this.

2 Given our time constraints we have, the
3 chairwoman has about two and a half years left in
4 office, Vice Chair Steffani Cochran has about two
5 years left, and Dan has a little over two and a half
6 years left. So we are operating in a very short
7 timeframe, and we are trying to do the most that we
8 can, the best way that we can, so that we can help
9 improve the industry.

10 So this is our road show. The chairwoman
11 keeps offering to get us to wear T-shirts, like
12 Velcro in, but it's an H0 road tour. This is our
13 last stop before we go back to DC, and then next
14 Monday we will have a hearing at the Department of
15 Interior. Secretary Salazar has committed to coming
16 and speaking to the group.

17 And then from there we go back out into
18 the Great Plains, to Rapid City, and finally into
19 Seminole country down in Hollywood. The last date
20 of the consultations is February 3rd.

21 So we published the Notice of Inquiry in
22 the Federal Register. We made the announcement the
23 week of November 18th. The comment period closes on
24 February 12th. This is a week after the last
25 consultation period. It's an 86 day comment period.

1 All written comments and consultations, transcripts,
2 will be posted on the website at nigc.gov. Mr. Mark
3 Gaston over there, he helped sign you guys in. He
4 is the man that's putting all this stuff up. As
5 fast as I get it, they put it up.

6 So if you go to that website, nigc.gov,
7 and you click the tribal consultation button on the
8 left-hand side, another button called regulatory
9 review pops up. When you hit that, all this
10 information -- all the transcripts, all comments
11 received, all agency materials, the Federal Register
12 notices, your tribal leader letters, the transcripts
13 of these hearings, everything will be posted on
14 there.

15 One of the commitments by the commission
16 has been to follow President Obama's mandate, which
17 is to be open, accountable, transparent in the
18 decision-making that we do. So we want to make sure
19 that any information we receive, you know what it
20 is, and it's open and accessible. And so Mark puts
21 it on the website. And if you can't find something,
22 get ahold of me, and I will get ahold of Mark, and
23 we will work it out.

24 Once again to reiterate what Commissioner
25 Little said, these are suggestions only. What you

1 see in the Notice of Inquiry are topic areas that we
2 heard from our staff, we heard from consultations
3 over the summer. We heard from, you know, years
4 back. Some of these are not new. Some of them are
5 a little bit newer or just kind of percolating to
6 the top. But we wanted to address the issues that
7 we heard the most about.

8 These are suggestions only. We haven't
9 set an agenda. We are going to wait to do that
10 until we have gone through these consultations and
11 have received all the comments in, and from that
12 point we will set the agenda. So, again,
13 suggestions only, just designed to stimulate some
14 conversation and see what your position is on them.

15 So just walking very briefly through the
16 Notice of Inquiry, you should have all received the
17 handout with the Federal Register notice and then
18 the PowerPoint. It contains some comments or some
19 summaries of definitions of net revenue. Management
20 contracts have been a very controversial issue, how
21 we change revised definitions.

22 The fee section, you know, there's a
23 couple of issues, some bigger than others. So, for
24 example, changing the calculation of fees from a
25 calendar year to the fiscal year. Our finance and

1 audit departments indicate that one of the main
2 audit findings, one of the issues that comes up the
3 most is the fact that the calculation, the
4 regulation says that you do it on a calendar year,
5 but, you know, I worked for six and a half years in
6 a tribe, and I know we had a fiscal year, so it's
7 different, so perhaps changing that.

8 Using industry standards for various
9 definitions, and a late payment system for late fee
10 submittals, and a little bit of notice of violation.
11 That one has been very popular. People really like
12 that idea.

13 The self-regulation regulation, we have
14 heard a lot of comment about this, that the burden
15 of the application doesn't meet sort of the benefits
16 that you are supposed to achieve when you get the
17 self-regulation certificate. We have only got two
18 tribes that have done that, so is there a way that
19 we can make the benefit of obtaining the
20 certificate, make it more of a benefit so tribes
21 have more incentive to do that.

22 Management contracts, again this is
23 something that we hear about over and over again in
24 our offices and as we have gone out on
25 consultations.

1 Proceedings before the commission. If you
2 are an attorney, if you are a representative of a
3 tribe, you know that there is a significant void in
4 the description of what happens when you appeal
5 something to the commission with timeframes, what
6 sort of process is there, so you know so your issue
7 isn't sitting out there in this void until someone
8 decides to look at it. So we have been asking,
9 again, you know, should these regulations contain a
10 more detailed process so that tribes know, if there
11 is an issue that comes before the commission, what
12 the process is going to be and how long it's going
13 to take.

14 One of the issues, the issue that's gotten
15 the most press, one of the things we have heard
16 about for the past several years is the MICS, Class
17 II, Class III MICS and the technical standards.
18 Following the CRIT decision, the Colorado River
19 Indian Decision that said IGRA does not give the
20 NIGC the authority to enforce or promulgate
21 regulations, the Class III regulations, we are sort
22 of in a dilemma as to what to do with those
23 regulations that are currently on the books. Do we
24 repeal them? What about those tribes that have
25 included Class III MICS, the NIGC's Class III MICS

1 in their compacts or their ordinances and have given
2 the NIGC enforcement authority. There is that issue
3 that we need to deal with.

4 Additionally we have a current draft of
5 Class II MICS in draft form, because there had been
6 a Tribal Advisory Committee over the past couple of
7 years that had been working on that. And then the
8 technical standards that were adopted in 2008, we
9 are already hearing there needs to be some
10 revisions, some updates to those. So that has been
11 a big, big topic of conversation.

12 But, you know, just to reiterate, there
13 are other things that need to be addressed as well,
14 and we want to make sure we take a really
15 comprehensive look at all the regulations that may
16 need to be addressed.

17 The pilot program for background
18 investigations for licensing. It's a program that
19 has been around for ten plus years, and we are
20 considering formalizing that to regulation, so it's
21 not these MLAs that we have with tribes, but it's an
22 actual regulation.

23 Allowing for access to the NIGC for
24 fingerprinting, also something that's come up.
25 Facility licensing, we have heard quite a bit about

1 this particular regulation and whether or not it
2 needs to be opened back up and reviewed again.

3 Access and inspection to records that are
4 housed off-site. For example, a management company
5 might have some records, tribal records, financial
6 documents at their facility that perhaps they are
7 not willing to give to the tribe. This sort of
8 regulation would reinforce the NIGC's authority to
9 subpoena those records on behalf of the tribe or for
10 the NIGC.

11 Enforcement proceedings, we have heard a
12 lot about this as well, and more than just whether
13 or not the chair should have discretion to withdraw
14 an NOV. We have also heard comments at a couple of
15 the consultations we have gone to that say that the
16 enforcement proceedings need to be clarified, that
17 there should be some documentation about what the
18 NIGC has done to work with tribes to ensure
19 compliance before issuing an enforcement action.
20 That's another thing that's come to the top.

21 So those are regulations that we have
22 currently. The NOI also discusses some potential
23 new regulations as possibilities. Those include
24 putting into regulation form a policy, form a Tribal
25 Advisory Committee or a formalized method for

1 obtaining comments from tribes when drafting a
2 regulation.

3 Now, some of you may be familiar with the
4 last Tribal Advisory Committee. That was a very
5 controversial system of selection of handling the
6 meetings. We continue to hear about that particular
7 committee and how it worked or didn't work given
8 your sort of perception. So we need to -- if we do
9 this Tribal Advisory Committee, we need to figure
10 out a way to bring in adequate representation of
11 regions, size of facilities, class of gaming and
12 make sure that everyone's voice is at the table so
13 that tribes really do feel like these committees can
14 produce a good document, but that's a potential for
15 regulation.

16 Sole proprietary interest, we are hearing
17 lots of this in DC. In DC we get a lot of requests
18 from tribes for the agency to issue an opinion on
19 whether or not their agreement, agreements violate
20 the sole proprietary interests provisions of IGRA.
21 It was brought out in San Diego, that in addition to
22 that, we should consider defining what the primary
23 beneficiary is, what does primary beneficiary
24 actually mean, so this is something that could be
25 put into regulation form as well.

1 Communication policy, how do we
2 communicate with you? You know, oftentimes our
3 information -- I worked in a tribe as an in-house
4 counsel for six and a half years, and I know that
5 tribal leaders receive stacks and stacks of paper,
6 and a lot of times that paper can get lost. And so
7 we want to make sure that the information that needs
8 to get to tribal leadership gets to tribal
9 leadership, that the information that needs to get
10 to the gaming commission gets there, that everyone
11 is receiving all the information that is necessary
12 for you to understand, to know what we are doing and
13 that we are communicating well with you.

14 It's sticky. We are trying to figure out
15 a good way to do it this go around. We weren't
16 joking -- a little Pony Express, smoke signal, a
17 little snail mail, row it over by canoe. Whatever
18 we need to do to get you guys the information,
19 that's what we are really trying to do. We want to
20 utilize our website more effectively, to use it as a
21 communication device, but this is a policy that we
22 are thinking about in order to make sure that our
23 communication with you is done the best way
24 possible.

25 Buy Indian Act, I saw Mr. Van Norman walk

1 into the room, and I know that NIGA has an
2 initiative where gaming facilities buy Indian from
3 each other. So you buy native products, and in the
4 procurement realm in federal contracting, when we
5 buy, when this agency buys things, like we buy space
6 at a facility, we want to do that -- you know, we
7 believe that we should be buying Indian, that we
8 should be in Indian owned facilities, so to
9 formalize this in the form of a regulation.

10 So, once again, these are suggestions
11 only. This isn't anything that's been set in stone
12 by any means, and we do want to hear your thoughts
13 on these and others. The list that I put up here is
14 not the end of the universe. The Notice of Inquiry
15 contains the list of the rest of the regulations,
16 and if you have any thoughts about those as well,
17 please do comment on them.

18 So what we are looking for from tribes for
19 guidance on is what regulations to look at, what
20 order of priority, which ones are the most
21 important, which ones are sort of low hanging fruit,
22 and then by what method. One of my concerns is that
23 we don't get bogged down in just dealing with the
24 MICS. I think we have been bogged down dealing with
25 the MICS the past several years, and I have heard

1 numerous comments, that while we were busy focusing
2 on the MICS, other things went through that kind of
3 fell down in the process, like the implementation of
4 the facility licensing regulations. We have heard a
5 number of concerns that that wasn't done -- there
6 was not proper consultation.

7 So we don't want to do that. We don't
8 want to be so focused on the MICS that we don't deal
9 with the rest of the issues that have come forward
10 and do them in a good way as well.

11 So once again, consultation. The
12 consultation executive order, another section that
13 we have sort of hung onto here is Section 3(c)2 that
14 says that agencies shall, where possible, defer to
15 Indian tribes to establish standards. So this is
16 something that we hope that tribes will look at and
17 think about. If you have an alternative, if you
18 have some standards to offer us that you think would
19 be suitable to make changes to a regulation, we
20 would love to hear them. We would love to take a
21 look at those. And if we can, like the order says,
22 that we will defer to your standards in place of
23 ours. So if we can do that, that's going to be a
24 very positive thing, I think.

25 So logistically, the comment period,

1 again, closes February 12th. You can e-mail, you
2 can fax, you can hand me a packet here today. I
3 will scan it in and get it up next week. Mark and
4 his cohort, Mavis, they get all this stuff up. I
5 have already gotten one transcript, and that will be
6 up probably in the next day or two. As they come in
7 and we fix them up, they are going to be up on the
8 website. So you will be able to see what everyone
9 else has said at prior meetings.

10 Again, send comments to
11 reg.review@nigc.gov. And this is a commitment from
12 the commission, and it's a commitment from myself.
13 Every single comment received will be reviewed and
14 will be considered. We are going to give
15 significant thought to everything that we receive
16 from tribes.

17 The regulatory review agenda, when it
18 comes out in April, likely around NIGA, it will be
19 accompanied with an explanation for why we made
20 these decisions. It will say, tribes, this was the
21 highest priority and the most tribes thought it was
22 the biggest issue, and so we went this way. If we
23 do disagree with what tribes suggest, then we will
24 explain why we disagreed and why we went a different
25 way, so our decision-making process is open and

1 transparent to you.

2 The agenda will be finalized in April, by
3 the beginning of April, and then that's when the
4 substantive work begins. That's when we begin
5 actually looking at the regulations and going line
6 by line and looking at what needs to be revised.
7 That's going to be quite a process, but it's
8 something, again, that the commission is committed
9 to. We will be out in Indian country. We will be
10 on the road and doing as much as we need to do in
11 order to get as much accomplished as we can.

12 So the consultation format, they are being
13 recorded and transcribed. If you speak, please
14 speak into the microphone, and if you see me waving
15 at you, that means stop, grab a microphone, repeat
16 your name. Please say the organization and the
17 tribe that you represent so that we can get it on
18 the record.

19 Let's see, I think that's it. There are a
20 couple more seats at the table, so if there are
21 tribal leaders or gaming commissioners, if you are
22 interested in sitting up at the table, there's a
23 couple over here and some more back there. There is
24 a standing mike sort of directly in front of me, so
25 if you are in the back and you want to make a

1 comment, please come to that mike, and again, state
2 your name and who you represent and what
3 organization you are with.

4 And with that, we will begin. I will turn
5 the mike back over to the chairwoman to turn it over
6 to you.

7 CHAIR STEVENS: Thank you, Lael.

8 And I want to reiterate, again, that this
9 is not the universe. We are open to anything. It's
10 just a brief overview of what was published in the
11 Notice of Inquiry and an explanation of why we chose
12 that method of a Notice of Inquiry. I appreciate
13 you all sitting and listening to us so we could sort
14 of get our talking out of the way and let you know
15 what we had hoped for in this meeting or what our
16 intention is in this meeting.

17 But the rest of the time -- I know tribal
18 leaders have very busy schedules, and it's meant for
19 you as tribal leaders to tell us what your
20 priorities are in whatever way that you need to.
21 That's for you to decide.

22 I would like to defer to tribal leaders or
23 whomever the tribal leader designates to speak for
24 their tribe first and elders as well.

25 So with that, thank you for listening, and

1 it's not meant just for comments. If you have
2 questions or you need us to clarify something, we
3 are happy to answer when necessary. So with that,
4 we open the floor for comments. The floor is open.

5 Yes, sir, right here to my right.

6 MR. PETER GARCIA, JR.: Hello, good
7 morning, everyone. NIGC commissioners and everyone
8 else from the NIGC, tribal leaders, gaming
9 commission people, we are from Ohkay Owingeh. My
10 name is Peter Garcia, Jr. I am a council member and
11 also the executive director for Ohkay Owingeh Gaming
12 Commission. And to my right is our tribal sheriff,
13 and we also have -- his name is Ben Lujan. We also
14 have Howie Aguino. He is with the gaming
15 commission, and we also have Matt Pino who is also
16 with the gaming commission.

17 So we have a few issues that we want to
18 address. One is, I guess, what you talked about,
19 the advisory committee. I think in our opinion that
20 was one of the worst committees that I have ever
21 seen in place, because it was a one-sided situation.
22 No matter what comments tribes brought out, the NIGC
23 side, they made the ruling on what they wanted. It
24 didn't matter on the comments that tribes made. So
25 I think that any committee like that should not be

1 in place.

2 But I think that committees can work if
3 you set them up like regionally, because like things
4 like the association that we have in New Mexico with
5 the gaming commissions, we deal with a lot of those,
6 and we have addressed a lot of the proposed
7 regulations that came out. But, you know, sometimes
8 we didn't succeed to what we needed or what we
9 wanted, so that has to change. But I think that if
10 you set them up in a way where we can work with the
11 regional offices and throughout the nation, it has a
12 chance to work.

13 And a lot of times we send comments, but
14 we don't even know if anybody reads them or we don't
15 know who is doing the review on them. For the last
16 six, seven years, the NIGC has done consultations.
17 Every year, we have submitted issues and concerns.
18 To this day, we have not received anything on the
19 comments or issues that we have addressed.

20 So what does that tell us? We have no
21 confidence in the commission, because nobody will
22 tell us what's going on or what they are saying
23 about our comments. The only person that really
24 answers anything that we address is from the
25 regional office, Ken Billingsley. And so whenever

1 we need -- by the way, he is walking in.

2 So from Ohkay Owingeh's standpoint, we
3 trust Ken more than anybody else in the gaming
4 commission, because he tells us like it is, whether
5 we are doing something bad or whether we are doing
6 something good, and he always has recommendations.
7 And that's what I would like to see from the
8 commission also. And it's hard to deal with, you
9 know, the gaming commission because of those
10 reasons.

11 And so, you know, the advisory committee,
12 I think that we need to look at that very closely,
13 because it didn't work the way it was set up.

14 On some of proposed regulations also, you
15 know, we need to understand why there's proposed
16 changes. Sometimes we just get information saying
17 that there's a proposed MICS comment, but we don't
18 understand why that regulation is being changed.
19 There should be an understanding of why it's changed
20 or who proposed it. We don't even know who is
21 proposing the change or whether it should be changed
22 or not or whether it works for the tribes or not.
23 That's what should be looked at.

24 And so I think those are a couple of
25 things that we really need to look at. So we need

1 to understand from both sides why things are
2 happening, so that would help our part anyway. And
3 sometimes, you know, we do everything generally, but
4 the tribes also need your special attention
5 pertaining to the particular tribes that want to
6 address certain things.

7 And the other issue that I have is that
8 the NIGC -- well, IGRA was adopted and put in place
9 to make sure that Indian gaming is conducted
10 properly, but the one thing I see is that when NIGC
11 was in place, they didn't particularly look at the
12 tribal state compacts. Because I feel in our
13 compacts that we have in the State of New Mexico,
14 it's not a fair business compact. Whoever looked at
15 the ordinances that we submitted to NIGC, they
16 should have contacted us also. And, you know, I
17 think that it may be a fault of different people --
18 attorneys, tribal leaders -- because we can't have
19 reduced or give free rooms for lodging, free meals,
20 or reduced prices. The same thing with alcohol.

21 But yet you go down the road, every
22 establishment that deals with lodging, they give
23 free rooms. The same thing with alcohol. They are
24 always giving free alcohol or reduced prices. The
25 same thing with food. So that's one issue.

1 The other is, you know, we have to pay our
2 districts where we live in to prosecute anybody.
3 That should have been caught also by our attorneys
4 or by NIGC when they reviewed the ordinances, and I
5 think something should be put in place by NIGC maybe
6 to assist tribes in getting prosecutions instead of
7 us trying to pay somebody else. Because you go down
8 the road, somebody steals a car, does a car dealer
9 have to pay to get somebody prosecuted? No. But
10 yet we have to pay to get somebody prosecuted, and
11 that's not fair either. So I think that's
12 something, like that needs to be looked at so that
13 you can help the tribes, because it's not fair
14 either.

15 So those are a few things, but we did put
16 a letter together, and it has some comments in
17 there. And also, the other person I forgot to
18 mention, he is our gaming commission attorney. He
19 works for Chestnut Law Offices. That's Joe
20 Tennorio. He has been very helpful in doing things
21 for us, but we are submitting a letter coming from
22 our governor. We will also submit more comments
23 based on what you have presented here.

24 But I think that I want to comment and
25 thank you for trying to work with tribes. I have

1 been here ten years, and I have never once really
2 spoken to the commissioners like I have done with
3 you people here. And so I want to thank you for
4 trying to work with the tribes and Ohkay Owingeh
5 also. Thank you for coming out and listening to us,
6 but we do have some personal things that need
7 tending to, so I wish you would consider those
8 things also. But I know that we have worked very
9 closely with the regional office, and we will
10 continue to do that.

11 One other thing I remember now, certain
12 regulations that have to be amended, and we already
13 have our ordinances approved, and if we need to
14 change those things, do we have to send our whole
15 ordinance or do we just need to submit a section
16 that needs to be changed or amended with
17 explanations? Because it does take a long time by
18 the time we change or amend whatever is in the
19 ordinance, then we have to submit it to our tribal
20 council for approval, and then it's sent to NIGC.
21 And that's the other part, that it takes forever for
22 NIGC to send if it's approved or not.

23 I remember the last time we amended, it
24 took like four months, and then by chance Ken was
25 there at our office, and I was telling him about how

1 long does it take for the commission to approve an
2 ordinance, so he said, well, let me give them a
3 call. He called DC, and that very next day we
4 received our ordinance. So I thank Ken for helping
5 us out.

6 So those are things that need to be looked
7 at also, that when you send something, you need to
8 get it as soon as possible.

9 Thank you for listening.

10 MS. ECHO-HAWK: Can I ask you a question?

11 MR. GARCIA: Sure.

12 MS. ECHO-HAWK: Your first comment when
13 you were talking about comments that you sent to the
14 commission, and you don't even know where the black
15 hole is where they went to, what would be helpful
16 for us, how can we communicate to you that we
17 received it, that we are considering it? Would a
18 letter going back out, would that be sufficient?

19 I know everything we are receiving in this
20 process goes up on the internet. And we have heard
21 this before. We have heard that we sent in our
22 letters, and we don't know where they are, and we
23 don't know where they are, frankly.

24 MR. GARCIA: That's just like my socks. I
25 can't find them.

1 MS. ECHO-HAWK: Well, probably they are
2 with your socks and we will find them on the other
3 side, but posting it on the internet, at least, does
4 that help you?

5 MR. GARCIA: Well, in part it does, but we
6 don't know when that goes out either. But the one
7 thing that we have found, we have a very good
8 communication relationship with the regional office,
9 and that's dealing with Ken, Emily, and everybody
10 else that works there, is through the e-mail
11 process. And this way, if we knew what everyone is
12 sending out, if we knew the contact person, that
13 helps a lot. If you don't know the contact person,
14 then it gets lost.

15 MS. ECHO-HAWK: So something like an
16 e-mail or a response letter that says thank you for
17 your comments. We received them. If you have
18 questions and you haven't heard from us, here is so
19 and so you can talk to?

20 MR. GARCIA: Well, you could develop, I
21 guess, a contact list also for certain -- you could
22 list certain things. Say, for the chairperson, this
23 is what you need to contact her for, for legal
24 things we need to contact you, and for other things
25 we can contact regional offices, and that would

1 help. That way we always know who to send things
2 to.

3 And then phone numbers. Just like you
4 asked us for information of our tribe, you asked for
5 tribal leaders, gaming commissioners, directors, who
6 the casino managers and different people are, it
7 would help if we had those from NIGC also.

8 MS. ECHO-HAWK: Thank you. Those are good
9 suggestions. I appreciate it.

10 CHAIR STEVENS: And I do want to say thank
11 you very much, Ohkay Owingeh, for your comments. A
12 couple of things, I appreciate, I really do
13 appreciate the suggestions. And, you know, not only
14 are we looking for priorities, but the fact that you
15 are offering us ideas and some suggestions that
16 would work for you. On committees, that's very
17 helpful to look back -- you know, we know this is a
18 new commission, and it's helpful to look back at our
19 history of the agency, whether we were here or not,
20 and say, okay, what worked and what didn't work, and
21 we appreciate your bringing that to our attention.

22 And, more importantly, we appreciate your
23 ideas and suggestions on how we might address
24 committees, and we know that we all come from Indian
25 country, and many of us spent a lot of time sitting

1 in the audience in these meetings with the previous
2 commission, and we empathize and understand the
3 frustrations that happened with committees and also
4 with the communication flow. Where I come from,
5 it's like screaming into the tide -- hello. I think
6 the socks and some comments are having a party
7 somewhere without us.

8 MR. GARCIA: Probably.

9 CHAIR STEVENS: And to address that, you
10 know, I am a bit of a bull whip at the agency as
11 many of you know. Lael worked with me for six and a
12 half years. She's like, yep.

13 Processes that should work for everybody.
14 Having come from the Department of Interior, they
15 have what's called a surname process -- all
16 correspondence, all correspondence has response
17 times. There is a whole system in place for
18 response times to correspondence. Whether it's
19 e-mails, whether it's faxes, whether it's snail mail
20 letters, there is some process that should be
21 established that we are working on, frankly. You
22 shouldn't be wondering what happened to your letter,
23 and what happened to your ordinance.

24 By regulation, we have 90 days, not four
25 months, 90 days, and being the bull whip I am, I am

1 on top of general counsel's office. We have a new
2 general counsel, Larry Roberts, and his staff. I
3 don't want to see ordinances in front of me on the
4 89th day. That's ridiculous, and they know it.

5 We should be responsive to you. We work
6 for you, and we should be meeting our own deadlines
7 that we set. So I apologize that that didn't -- I
8 don't recall seeing your ordinance. It might have
9 been during the previous commission, but we are
10 striving to get those turned around, because you are
11 not the first person to say this to me. The
12 ordinance went off into oblivion and they didn't
13 hear anything back.

14 MR. GARCIA: That was the 2007 amendments
15 to the tribal state compacts, that we had to change
16 our ordinance because of the amended compact so that
17 took a while.

18 But one more thing I just remembered is
19 that in your Class II section in definitions, you
20 should be able to have a listing of all Class II
21 machines that are approved through NIGC.

22 CHAIR STEVENS: Okay. I want to thank you
23 for that suggestion. And the purpose of today is so
24 that we can hear from you, your concerns and your
25 priorities, so that we are not dropping the draft of

1 a rule and have initiated a rulemaking process
2 without your input before we do that, and that's
3 what today is for, so that you are not blindsided
4 with a proposed rule and that you find out about it
5 later. You actually get to weigh in on how we do
6 this and which ones we are going to address first.

7 As many of you know, with regard to
8 compacts, the authorities under the act are divided
9 between the chairman of the NIGC and the Secretary
10 of the Interior. The Secretary of the Interior is
11 to approve compacts, revenue allocation plans, and
12 put land into trust. They do share that information
13 with us when they do make those decisions, but
14 really we don't have a place on the compacts,
15 although we do work with them very closely. And
16 certainly when they have questions about anything
17 that's in front of them, they often call us and say,
18 okay, what do you think. So we will certainly
19 communicate your concerns to the department and see
20 if there is some opportunity for us to be more
21 collaborative in that process with regard to
22 compacts.

23 So did the other commissioners have
24 anything?

25 COMMISSIONER LITTLE: I think I have. I

1 guess I'm going to put a question to the audience.
2 I appreciate you bringing up the issue of the
3 advisory committees, because I think it's very
4 important, but I think maybe just to stimulate some
5 discussion, one of the concerns that was raised
6 during the last process was that different segments
7 of the industry, meaning Class II, Class III, were
8 not fully represented there. And I know a lot of
9 times we look at advisory committees and we try to
10 establish them by regions.

11 Does anybody have any comments or
12 suggestions on how we can make sure that regional
13 interests are represented but also different types
14 of industry folks are represented? So I do
15 appreciate your comment, and I'm not asking for
16 anybody to stand up right now, but maybe as we get
17 along through the process, if anyone wants to
18 discuss that, I would be interested in hearing more
19 about that. So thank you.

20 CHAIR STEVENS: So the floor is open. I
21 know sometimes tribal leaders have very pressed
22 schedules. We have seen folks coming in with
23 prepared statements, so we certainly welcome
24 comments.

25 Yes, sir.

1 MR. TOM WILSON: Hi, my name is Tom
2 Wilson. I am representing the Pascua Yaqui Tribe.
3 I am the executive director of the tribal gaming
4 office, and on behalf of our chairman, I appreciate
5 the opportunity to be here and express our concerns
6 and thoughts about what the NIGC is doing and what
7 direction that you are moving.

8 I would like to sort of make an initial
9 statement if I could, but one of the things that we
10 believe the NIGC could benefit from, especially in
11 looking at regulatory reform, particularly
12 pertaining to the MICS, is that we look at things
13 from a risk base. Meaning that we don't just create
14 regulations for the sake of creating regulations,
15 but rather we first look at what is the risk that we
16 are trying to mitigate or reduce, and then that
17 becomes the basis for formulating regulatory
18 measures that make sense and are practical, but more
19 important, are meaningful and actionable by the
20 tribes, the tribal gaming casinos, and the
21 regulatory authorities.

22 We think that in the MICS, that this
23 initially was missed, that when you look and read
24 through the MICS, nothing really tells you what is
25 the risk that's trying to be mitigated. So

1 oftentimes you are left discussing the regulatory
2 effect, but not really understanding the why, why
3 that particular regulation, rule, or requirement was
4 put in place.

5 It's our belief that if you take a risk
6 based approach, that you will challenge yourself in
7 determining does this control really even make
8 sense. Oftentimes controls are put in place, but
9 they don't make sense, and we end up over
10 controlling, or in some cases under controlling,
11 because we didn't identify the risk that we are
12 trying to mitigate.

13 Indian gaming is probably the most
14 regulated gaming on the planet. All tribes are
15 dealt with three levels. We have NIGC, of course.
16 We have state compacts. We have tribal gaming
17 offices, tribal councils, and our belief is that in
18 some ways, gaming is over regulated. And one of the
19 things that we would hope the NIGC would consider
20 when they are looking at regulation is from that
21 perspective, are we, in fact, over regulating the
22 industry.

23 Madam Chairwoman, I believe last year --
24 it may have been at your confirmation hearing or at
25 a separate hearing where Senator McCain was

1 discussing about the CRIT decision, and
2 unfortunately one of the comments that he made --
3 and coming from Arizona, I felt bad about this -- is
4 that he felt that Indian gaming wasn't regulated
5 enough. I don't know how anybody could come to that
6 conclusion. I believe also that our state director
7 of gaming, Mark Renovich was there.

8 The concern that we had with that is that
9 we would prefer to have seen a tribal gaming office
10 brought up as a model of self regulation as opposed
11 to a state gaming agency being brought forward and
12 commenting on how to effectively regulate. For us,
13 it gets down to constantly the issue of tribal
14 sovereignty, and we believe that tribes can best
15 regulate when they regulate themselves. And
16 consequently, we don't feel as though tribes are
17 held at a high enough level when Indian gaming is
18 being discussed to show that we, in fact, know how
19 to regulate ourselves, and that we are capable of
20 doing these things in place of federal regulation
21 and state regulation.

22 With regard to the MICS, our feeling is
23 that most tribes and compacts adopted the MICS, we
24 feel that they were designed to be a framework, a
25 foundational element, but not to really be adopted

1 just wholeheartedly. And because of the general
2 nature of MICS and the fact that they were designed
3 to apply across the country to a broad range of
4 casinos and operations, frankly they are not very
5 well defined. They are not very well written.
6 Definitions are not clear in the MICS. And we find
7 ourselves constantly discussing between the NIGC,
8 our state compact, our tribal gaming office, and
9 even our casino management, trying to determine the
10 interpretation of the meaning of the MICS.

11 Now, our tribe is pursuing this year an
12 avenue, of course, to create our own regulations,
13 and that will have its own set of problems with it
14 as well. In the current MICS, you know, we are
15 allowed to create regulations that don't require
16 approval of NIGC or the state gaming agency as long
17 as those regulations that we create do not have any
18 less control than the MICS.

19 The problem with that wording is how do
20 you define "less control." From my perspective I am
21 looking at mitigating risk, and that's the approach
22 that we are going to take as we create regulatory
23 reform in our own tribe. However, the issue that
24 comes to play is certain wording -- and I will give
25 you an example that I am fond of using -- but in the

1 MICS they are talking about surveillance. One of
2 the items discussed is that all surveillance
3 activity must be logged. Well, anything less than
4 all is less of a control than all. And yet we can
5 argue what does all mean, and I think we would agree
6 that the fact is, what are the risks that we are
7 trying to mitigate in surveillance activity.

8 Talk to any casino operations and folks
9 that work in the casino and the gaming industry,
10 they are able to reiterate the various risks that
11 are out there, and the things that we are trying to
12 eliminate or watch for in a surveillance activity.
13 So when you have ambiguous wording like "all," it
14 simply creates additional confusion, because I am
15 prepared that we probably are going to have to argue
16 not so much with NIGC, but perhaps with the state,
17 that in our particular state, our history with the
18 regulatory agency is that they will take the literal
19 meaning, that all means all and anything less than
20 that would be less of a control.

21 I believe that we can make the case from a
22 risk standpoint, that all shouldn't be all and that
23 there are certain things that absolutely should be
24 recorded and logged, but maybe not everything.

25 So that's just an example of some of this

1 ambiguous wording in the MICS that creates such a
2 struggle for every tribe that I have talked to and
3 that I work with. This language is just too vague.

4 And we support 100 percent the NIGC's
5 thinking that perhaps the MICS should become just a
6 recommendation and not a regulatory standpoint. We
7 believe that that supports the fact that tribes
8 should be encouraged to develop their own
9 regulations and MICS in this regard. And it's our
10 belief that as Indian gaming evolved for the sake of
11 expediency, most tribes and even states just adopted
12 the MICS outright without really giving a lot of
13 thought to making those regulations better.

14 And one of the problems that we see is
15 even the term minimum internal control. It implies
16 some type of standard that as long you are meeting
17 the minimum, then that is sufficient. Now, of
18 course, the controls always, you know, state that
19 you can go beyond those controls. We think that the
20 term minimum probably should be stricken from the
21 vocabulary and consequently these are just
22 recommended controls that you should have in place.
23 Whether they are the minimum or not really doesn't
24 matter. What matters is that certain controls are
25 in place.

1 So we would advocate that that term
2 minimum has probably created more problems for us,
3 because we do fine with our own casino management,
4 the fact that our state compact and even our tribal
5 ordinance adopted the MICS outright, that for us as
6 a regulator, it sort of has set a standard that as
7 long as they are meeting the minimum, then that's
8 all that they really have to do. So we feel that
9 that has created a bit of a problem as well.

10 The other issue, of course, that we have
11 with tribal state compact is that because in our
12 state of Arizona, the fact that they adopted the
13 MICS basically 100 percent as the appending page to
14 our compact, if the NIGC changes those to a
15 recommendation, we don't think that would probably
16 have any impact on us from the compact standpoint,
17 because we have already agreed that those are the
18 minimum control standards. So for us, the only way
19 to really address this issue is by self regulation
20 and moving forward on that front, because under our
21 compact and under the MICS, of course, as long as we
22 adopt controls that are equal to or greater than the
23 MICS, then those indeed become the overriding
24 regulatory rules that have to be abided by by both
25 the state and, of course, our management in the

1 casino.

2 I guess the last comment that I want to
3 make with regard to internal controls and casinos is
4 that, you know, the majority of all Indian gaming,
5 maybe all Indian gaming facilities are run by
6 professional management people in the industry who
7 have spent many years in the gaming industry. If I
8 work in the state of Nevada where gaming, of course,
9 began and many things were modeled after, if I want
10 to go to work in a casino, I can go to the sheriff's
11 department and get a gaming permit. It virtually is
12 a 20 minute process, and I can go to work in a
13 casino.

14 In Indian gaming, of course, we have to go
15 through a much more extensive licensing process,
16 much more burdensome than in private industry
17 whatsoever. And given the concern of organized
18 crime in private industry, it seems odd to me that
19 in Indian gaming our level of regulation would be so
20 much stricter than it is in the private industry.

21 But the most important comment that I
22 think is made to me from casino management is that
23 if that casino in the Indian gaming facility were a
24 standalone facility, they would not operate it any
25 different whether it was Indian gaming or not,

1 meaning that in the industry, it's understood the
2 level of controls, the things need to be in place to
3 protect the integrity of gaming.

4 So I think it's important that when you
5 look at regulations, you consider the fact that
6 sometimes over regulation can be a burdensome
7 problem for the tribes, and trying to mitigate -- we
8 have -- our compact is couple hundred pages and then
9 we have five appendices on top of that. Within
10 those appendices, they don't even agree with what
11 the appendices say, so we are constantly fighting
12 ourselves trying to interpret and argue points of
13 interpretation. So anything that can be done to
14 streamline that process to make words clearer -- our
15 words have meaning -- would be beneficial for us
16 from a regulatory standpoint. Thank you.

17 CHAIR STEVENS: Thank you, sir. I do have
18 a few follow-ups. I just want to mention you are
19 not the first person to -- there are others who
20 agree with you about the word "minimum," and that
21 these may not necessarily be the MICS but the
22 icks -- which sounds kind of funny. Does anyone
23 have kids that watch SpongeBob? SpongeBob gets the
24 icks. We have the icks. But you are not the only
25 one thinking that, and that's the great thing about

1 these open conversations, because you realize other
2 people are thinking the same thing you are, and we
3 appreciate that.

4 And also there are other tribes, as you
5 know, in other states that have included in their
6 compact or by ordinance, but more specifically in
7 the compact, California, Oklahoma, you know, in
8 Arizona.

9 By the way, I didn't have any control over
10 who the panel was at that hearing. They have
11 different ideas about what the impact will be if the
12 internal control standards are not in regulation
13 form. We have heard quite vocally from some tribes
14 that if you do that, it's going to be a big problem
15 for them. And what I am hearing you say is that
16 it's not necessarily a big problem for the tribe you
17 represent. So just noting that difference in how it
18 might affect tribes, we will look to tribes when
19 there are differences of perspective on the effect
20 of regulations for some possible solutions,
21 solutions that we can come to together, mechanisms
22 that would address everybody's needs without leaving
23 anyone out, without weakening any systems.

24 So we appreciate your comments, and Vice
25 Chairwoman Cochran has a follow-up.

1 VICE CHAIR COCHRAN: Thank you. Thank you
2 for coming. I spent some time with the tribe this
3 summer, and you have an amazing facility, and you
4 also have a tremendous strong regulatory body. So
5 thank you for coming out this way. It's nice to see
6 you.

7 My question is -- I have two questions
8 actually. Your comments, when you are talking about
9 some of the definitions, were you talking about the
10 current MICS or the proposed MICS?

11 MR. WILSON: This would strictly be
12 relative to the current MICS.

13 VICE CHAIR COCHRAN: And do you have any
14 thoughts that you could share with us on how we
15 might approach that, how the commission might
16 approach that? We have talked about the advisory
17 committees. A lot of work has been done. Do we
18 jump back in with advisory committees on the MICS or
19 do we pick up where we left off and find the things
20 that still remain in dispute? I am looking for your
21 thoughts. How might you approach it?

22 MR. WILSON: Well, I know that Pat Telcott
23 from our casino, Pat Telcott, I believe he was on
24 one of the advisory panels for the MICS, and one of
25 the issues that, you know, he would bring back from

1 Washington on this is that the committee couldn't
2 even agree on what to agree on, so consequently they
3 spent an awful lot of time debating these same
4 issues themselves as part of the process.

5 But I really can't overemphasize that --
6 and so that you understand, my background is as an
7 auditor in private industry and working with
8 organizations on business process improvement and
9 things, and I can't overemphasize this risk based
10 approach. This is the approach that private
11 industry through Sarbanes-Oxley and SOX and
12 regulatory reform has taken that you really have to
13 identify the risk.

14 And I think rather than taking the
15 existing MICS and just looking at the words, it is
16 much more meaningful if you can identify that risk
17 first and then build from that. And I think it
18 eliminates a lot of discussion and disagreement,
19 maybe arguments and things, because if you can agree
20 on the risks, then it's easier to move forward and
21 agree on what controls should be in place to
22 mitigate those risks. It just seems to me that
23 that's what's lacking in the current process.

24 I believe from our own tribe regulatory
25 standpoint, that's how we operate, and it makes

1 sense for us, it makes sense for management in the
2 casino, and we can collaborate much better when we
3 are doing that because it gets everybody on the same
4 page.

5 CHAIR STEVENS: Thank you. Was that the
6 last committee, the one, the Class III draft?

7 MR. WILSON: Yes.

8 CHAIR STEVENS: Because I was in the
9 peanut gallery for some of that from the beginning,
10 as was Lael and as was Dan. There could be a couple
11 of reasons why -- and I am just kind of thinking out
12 loud here -- why that committee didn't agree. It
13 could have been the makeup of the committee. You
14 take a step back from that, the makeup of the
15 committee was driven by a certain set of
16 qualifications that were established not by the
17 tribes, but by the agency. So it was very limited
18 in scope. And so that targeted certain people to be
19 on the committee that might come to the table with a
20 different perspective. So, you know, how the makeup
21 of the committee affects the outcome of the work and
22 also the committee and the way it functioned.

23 You know, I have done a few with the
24 Department of Interior. You set the ground rules
25 first, and you set your objectives first, and you

1 all need to know what all your daily work together
2 is meant for. So, you know, there was a certain
3 agenda, and I don't know that the tribes really had
4 a say on what that agenda was or the rules of the
5 road basically. You should always know the rules of
6 the road when you get committees together, so you
7 know what to expect and what the outcome should be.

8 But also, you know, we are hearing that
9 there is a separate group, an advisory, tribal
10 advisory group that's working, an ad hoc committee
11 that's working separate and apart, and we are
12 hearing they are having differences. It depends,
13 again, on the makeup of the committee. Some want a
14 framework and just some base standards based on what
15 you are suggesting, and some want to get way down in
16 the weeds and the minutia and getting very
17 prescriptive, very, very detailed. So, you know,
18 there is the baseline and then the sort of the sub
19 how do you get to that standard.

20 Someone had said in Oklahoma, yes, we are
21 all for standards, but there should be standards,
22 and then how tribes get to those standards is left
23 to the tribe. And I see those two things seem to be
24 a problem now in any of the committees, depending on
25 who is sitting at the table, how detailed these

1 should be, how prescriptive. The more prescriptive
2 they become, the more challenging they become to
3 implement.

4 MS. ECHO-HAWK: Will you be submitting
5 written comments?

6 MR. WILSON: Yes.

7 MS. ECHO-HAWK: Thank you. We appreciate
8 them written down, and I think the risk based
9 approach is -- I like that idea. And if you have
10 thoughts about how you put together a group of
11 people that is representative of everyone, those
12 thoughts, like Dan said, would be appreciated as
13 well.

14 CHAIR STEVENS: Other comments. Sir, yes.

15 MR. MICHAEL ORTIZ: Yes. I have a
16 comment, actually a couple of questions. My name is
17 Michael Ortiz, and I am the executive director for
18 San Felipe Pueblo Gaming Regulatory Commission.
19 First of all, I want to tell you all that you did
20 your homework. You touched on a lot of hot topics
21 that have been kind of at the forefront of a lot of
22 commissions.

23 I had a lot of questions and Lael kind of
24 answered a lot of them. I like what I see. I am
25 just waiting to see if it does follow through.

1 We are currently looking at reviewing our
2 gaming ordinances. They are a little outdated.
3 There's a lot of things left out. Some things need
4 to change. So I am currently working on that for
5 the tribe and for the commission. What is the
6 review process when it comes to submittal to the
7 NIGC? Is it just a review and approval within that
8 90 day window, or is it -- I mean, how thorough is
9 the review? Do you comment back to the tribe
10 usually if you do see something that is in conflict
11 or something that does not sound correct? What is
12 the process?

13 CHAIR STEVENS: The process, we actually
14 have a regulation on that, but just generally
15 speaking, you submit your comment to us. We date
16 it. It goes to our general counsel's office, and
17 they have a checklist of requirements or issues that
18 we look to have addressed in the ordinances. And
19 I -- ultimately the chair approves or disapproves
20 those. So the whole file will eventually come up to
21 me.

22 And I can tell you I see, with the general
23 counsel's office, if there is something that's not
24 clear to them or if they have a question or if they
25 have a concern or something is missing, they get on

1 the phone with whoever is in the contact information
2 in the submittal and sort it out. And so I have
3 seen that that's what we do. If there is any kind
4 of question, my expectation and our new general
5 counsel's expectation is that they are working with
6 the tribe towards approval, making it so that the
7 time it takes to turn these around is quicker.

8 But, you know, if you submit something to
9 our office, as I said, I am making sure that they
10 get out sooner than just, you know, on the 90th day.
11 Generally what we are looking for is what is
12 required in the act, and that spells out specific
13 things that need to be in your ordinances. Make
14 sure that there is nothing in your ordinance that's
15 contradictory to the act.

16 So if you have questions about submitting
17 an amended ordinance, you know, I can give you the
18 information for our general counsel's office or the
19 person, the staff attorney that would work with you,
20 with your area. Get some information in advance
21 before you submit so you know what you are aiming
22 for, and use the time that it takes to approve.

23 MR. ORTIZ: That would be great.

24 The second part of my question kind of
25 piggy-backs off what a lot of the commentary has

1 been prior to me speaking. It is based on the
2 advisory committees. In the past, not with the
3 current commission but with the past commission, a
4 lot of times there were working groups and set with
5 a lot of different members for the MICS advisory
6 committee. A lot of suggestions were submitted, and
7 what happened is a lot of the gaming community here,
8 as far as commissions, felt like some of their
9 comments fell on deaf ears, and it was basically a
10 push on a personal agenda of one individual that had
11 little oversight or no oversight from the
12 commissioners in DC. I am talking about Joe Smith.

13 I mean, a lot of things have happened, you
14 know, and a lot of standards have been pushed that a
15 lot of tribes have had a lot of concerns about and a
16 lot of questions. I mean, we have even had numerous
17 training where Joe Smith has been involved in the
18 training and hard questions have been asked of him,
19 and he basically couldn't answer some of the
20 questions that were asked of him based on certain
21 stipulations in the MICS. So, I mean, that didn't
22 carry a lot of weight with a lot of the
23 commissioners, auditors, and individuals that were
24 within the training.

25 So just I like the proactive approach that

1 you guys are taking instead of being reactive.
2 That's why I said, I mean, you all did your homework
3 when coming to this meeting, because there is a lot
4 of hot topics that you guys hit. I am looking
5 forward to, you know, working with the current
6 commission, and I look forward to seeing, you know,
7 everything develop the way that you guys addressed
8 in the first introduction, Ms. Stevens and Lael. I
9 appreciate the time that you have given us to have
10 this consultation, and thank you.

11 CHAIR STEVENS: Thank you, and I hope we
12 get some written comments from you. If you ever
13 have any questions, let us know.

14 Again, we are trying to be proactive, to
15 be respectful, because we serve you to meet the
16 administration's commitment to tribes. And also,
17 you know, I don't have -- we don't have that much
18 time. You know, I know the last chair, his three
19 year term lasted seven years. That may not be the
20 case here. And so I am assuming in two years, two
21 and a half years, we are out of here. And our basic
22 underlying philosophy, when we all met initially, is
23 that we are going to leave it better than we found
24 it. We need your help to tell us how does that
25 look, how does better look. So I appreciate your

1 comments today.

2 What I would like to do if it's okay,
3 let's take a quick 15 minute break and come back
4 at -- I think it's 11:00. My time is a little
5 messed up now. 11:00. Freshen your coffee, stretch
6 your legs. We will be back at 11:00.

7 (A recess was taken.)

8 CHAIR STEVENS: We will get started again.
9 I know there were some tribes that may have some
10 comment now. If we can all take our seats, usher
11 some people in from outside.

12 Again, I will defer to tribal leadership
13 or their designees as they appoint.

14 MS. ECHO-HAWK: Once again, if you are a
15 tribal leader or gaming commissioner executive
16 director, we do have a couple of empty spaces at the
17 table if you would like to come forward.

18 CHAIR STEVENS: Do we have any others that
19 would like to make comment for the record? The
20 microphones are open. If you could step up to a
21 microphone or to the table.

22 You can't hear me? Is this better? I can
23 hear it from here. He says I'm too soft spoken. I
24 think Dan might disagree. We will have somebody fix
25 this microphone or the sound system in here so you

1 all in the back can hear.

2 Okay. If there are any newcomers, I just
3 want to remind you, just let you know we are in an
4 open forum format. And if the words come to you,
5 please feel free to speak if you have questions, you
6 need any clarification.

7 MR. BILLINGSLEY: Come on. You guys are
8 always complaining to me. Get up here. Let's go.

9 CHAIR STEVENS: Yes, sir.

10 MR. DAVID GARCIA: First Lieutenant
11 Governor David Garcia from the Pueblo of Acoma.
12 First of all, let me say thank you very much for the
13 invitation. I do appreciate this.

14 It's been about maybe six years since I
15 have been out of the gaming industry but I'm very
16 familiar with all of the internal workings of the
17 National Indian Gaming Commission.

18 Just a couple of points I would like to
19 reiterate and then some questions. I know the
20 Pueblo of Acoma. Over the years we have had the
21 same concerns relative to the consultation process.
22 I know as a sitting chairman in the prior years, we
23 have always gone to NIGC with a written statement
24 about the needs and concerns relative to gaming.
25 However, I would like to reecho the statement made

1 by Councilman Garcia from Ohkay Owingeh, and that we
2 have never gotten a written reply regarding all of
3 the written comments, that we have made comments,
4 too, regarding suggested recommended changes on
5 rulemaking. And so it is really the intent of NIGC
6 to solicit comments. Then I think it is in your
7 best interests to provide a written response back to
8 individual tribes regarding the various comments
9 made.

10 Having said that, again, I do appreciate
11 this opportunity. Let me just make some additional
12 comments here relative to looking at the net
13 revenues management fee. With the understanding
14 regarding net revenues, I guess maybe I would like
15 to get some clarity or what is NIGC's anticipated --
16 what is NIGC looking at regarding the management fee
17 concept, and why are there issues relative to
18 allowable costs regarding one of the required
19 comments?

20 Again, this goes to the validity of the
21 nature of the compacts that we have, particularly
22 within the State of New Mexico. And knowing that we
23 deal with the state gaming regulatory board, these
24 are some of the other concerns on that side with
25 regard to net revenue. So if I can get a clearer

1 explanation of what is NIGC's intent with regard to
2 net revenues in management fees.

3 MS. ECHO-HAWK: Once again, just to
4 reiterate, these are just comments that we have
5 heard internally from our staff but also from
6 people, accounting offices and various tribes. So
7 this is nothing that we are wedded to, but it is an
8 issue that we have heard.

9 And in regard to the net revenues for
10 management fees, the thought was that instead of
11 using the current definition that they just comply
12 with the industry standards with the GAAP
13 definition, when it comes to allowable uses, the
14 thought was that if you define allowable uses in a
15 different way that incorporates, you know,
16 depreciation and those kind of things, then that
17 calculation ends up providing the tribe more money.
18 And so we just want to hear, you know, does that
19 make sense? Maybe it does, maybe it doesn't.

20 There are concerns, you know, we have
21 heard concerns about what is the NIGC -- given the
22 NIGC's sort of history with the use of net gaming
23 revenue and the net gaming revenue, use of net
24 gaming revenue bulletin that's out there, concerns
25 that this might somehow permit NIGC to keep moving

1 in that direction, and that is not the intent. The
2 intent of the net revenue questions section, the
3 questions here is not to define, you know, define
4 prescriptively what tribes have to do with that
5 money, but as a way perhaps to expand the pool of
6 money that you have to do -- you know, to create
7 government programs or whatever that it is. That
8 was the idea behind it. It may not work out that
9 way, and that's what we are looking for. We are
10 looking for some input on that.

11 MR. GARCIA: Based on the clarity for
12 looking at net revenues, I know in years past, the
13 discussion has also been coming up with a revenue
14 sharing plan or an allocation plan, and how does
15 that coincide with these issues.

16 The other that kind of strikes me as a
17 little odd, towards the, prior to the No. 2 issue on
18 management contracts, you have a statement there
19 that says whether the advisory committee should be
20 formed to make changes, and it alludes to, again,
21 the issue on cash flow. Is there a thought process
22 there with regard to a redefinition or defining the
23 term on procurement? I notice that you are
24 requesting comments regarding the Buy Indian Act.
25 There is really an uncertainty of clarity relative

1 to that issue, so I am not sure if that's something,
2 that if there can be an expansion made on that
3 issue.

4 The reason why I am looking at some of
5 these issues is that the Pueblo of Acoma submitted
6 to NIGC an amendment on its gaming regulation
7 ordinance, and it's due to be approved within the
8 next couple of weeks. And I have concerns relative
9 to some of the proposed changes here or suggested
10 comments and how that impacts our proposed changes,
11 not knowing the understanding between management and
12 the commission, the regulatory side. So I am kind
13 of wanting to take a better look at those issues.

14 The other I do have relative to -- I know
15 there was a concern relative to the fingerprinting
16 process. However, again, I guess basically in
17 trying to determine a standard status quo with
18 regard to fingerprinting, I know that in IGRA it
19 does indicate that, it clearly defines in a broader
20 perspective primary management. But, I mean, this
21 statement here basically is the pueblo is flying
22 with this. Basically it reiterates what was
23 initiated, I guess, basically what was put in our
24 revised regulation for change. So, I mean, that to
25 me is basically something I think we are in

1 agreement with.

2 But clearly again, you know, we have had
3 internal issues relative to this with regard to
4 clearly defining primary management or key
5 employees. Even with the state, when the state
6 comes in and does its annual audit, they have
7 questions about who do we, I guess, provide a
8 license to and fingerprint with regard to
9 management, primary management officials. So again,
10 this is again something the Pueblo of Acoma supports
11 with regard to this, because it's already in our
12 regulation anyway, our proposed change. I know that
13 was one thing that was brought to our attention.

14 In looking at the Tribal Advisory
15 Committee, I guess that it's already been said, the
16 working relationships between committees, whether
17 it's advisory, whether it's ad hoc, clearly there
18 should be a better definition, or in terms of that
19 process, a better framework of individuals in terms
20 of what the process should be. Because clearly I
21 think that we have overlapping boundaries in terms
22 of how to facilitate ad hoc versus an advisory
23 committee, in this case a tribal advisory committee.

24 I'm not aware if there is a current
25 standing committee at this point in time. It would

1 help to identify probably who those are at that
2 point in time, so that there is potential for
3 changes. Then I think we should be aware of those
4 changes with regard to committee members.

5 Thank you.

6 CHAIR STEVENS: Thank you, sir.

7 I do want to say that there is no current
8 NIGC standing Tribal Advisory Committee. The last
9 one that was in place was under the previous
10 commission. That was the Class III MICS Advisory
11 Committee that we have heard comments about. There
12 is a separate working group that is working on its
13 own. It has nothing to do with the NIGC that's
14 looking at the MICS that I understand is going on,
15 but that's separate and apart and of their own
16 volition and made up of volunteers.

17 In terms of like the background
18 investigation and the fingerprints, you know, that
19 comes up in the context of tribes that want to
20 expand who they can submit for background, not that
21 we are asking to expand, but tribes are asking us if
22 they can have access or use the same process for
23 safe vendors.

24 Where that becomes a problem for us is
25 that we have a Memorandum of Understanding with the

1 Department of Justice and FBI on who can be run
2 through those processes and then also the
3 consequences of running those individuals under our
4 scheme, and what records that that produces, and
5 just, you know, consequences of outcomes of those
6 investigations. There are certain things that
7 happen with key officials and primary management
8 officials, key employees of primary management
9 officials. You start adding into that list, you
10 know, how do we do it, and then what's the outcome,
11 what are the effects of that, and are there other
12 mechanisms that tribes can use if we are not able to
13 change that system.

14 We are bound by our agreement with the
15 FBI, and we will be talking to them. I think our
16 general counsel has a meeting with them on Friday,
17 just trying to have a better coordinated effort with
18 justice, just like we do with interior and treasury.
19 But we will have to address that question. We have
20 been asked. That's why it's come up in this
21 context.

22 Yes.

23 MR. EUGENE LUJAN: Yes. Good morning.
24 Thank you. My name is Gene Lujan. I represent the
25 Pueblo of Santa Ana. I am chairman of the gaming

1 commission here at Santa Ana. I just wanted to
2 follow-up on the question that the gentleman here
3 asked, too, as far as I don't know if that concerns
4 NIGC. As far as the calculation of net revenue, we
5 have had an issue here, Santa Ana does, or at least
6 some of the gaming tribes have an issue with how we
7 compute our calculations for net revenue. And maybe
8 I thought if we had some kind of training so that
9 it's standardized and go through a training where
10 it's step by step by step, everybody. Because it
11 seems to me that everybody does it different. And
12 so consequently, these are some of the questions
13 that the state control board always -- we have an
14 issue with, especially wide area progressives.

15 I know we tried to tackle this issue this
16 year or last year, and we made some progress, but to
17 me, I think there is no standard way of doing it.
18 Everybody seems to do it different, or maybe they
19 interpret how we are supposed to do it. And
20 training wise, maybe that's something that we ought
21 to come up with or NIGC should come up with and give
22 training or classes for us on a step by step so
23 everybody does it exactly the same.

24 I don't know if that's one way of doing
25 it, or I don't know -- I don't understand, but

1 everybody seems to have different views, different
2 interpretations, different way of doing things.
3 Consequently we all know in here, especially the
4 gaming commissioners, we all have different
5 interpretations of how we do our computations.

6 Sometimes we don't want to share. We
7 don't want to give out certain things. That's just
8 the human nature of native tribes. They don't want
9 to give out certain things, so, you know, we hold
10 back, but if we have a set of bogus numbers that we
11 can go by and just go through the process, I don't
12 know if that's one of the requirements that NIGC
13 should bring up, but that's just my suggestion.
14 Maybe that would clear up a lot of issues, but
15 anyway that's one issue.

16 Another issue, Class II gaming. I know, I
17 think if I am correct -- correct me if I am wrong --
18 Navajo has Class II gaming, and do we have a set of
19 MICS in place right now where NIGC can regulate or
20 we can regulate Class II gaming. At one point,
21 Santa Ana thought of bringing in Class II gaming,
22 but I said, no, I don't want to get in trouble with
23 the state. As far as our compacts are concerned, I
24 think we are not at least allowed to have Class II
25 gaming machine wise. Yes, we have bingo and stuff

1 like this, but as far as MICS wise, I don't know if
2 there is anything in place right now conclusive that
3 we can use to regulate Class II gaming. That's my
4 question, how far along are we as far as
5 standardizing a lot of MICS standards?

6 You can give me an answer or at some point
7 come back with an answer, because I think Santa Ana
8 is thinking about it. But at the time or at the
9 moment, I said, no, I don't want to get in trouble
10 with that, so didn't try to push it. But as a
11 gaming commission, I said I don't think we want to
12 tackle that problem. It's just going to create a
13 lot of problems for us. But I would appreciate
14 that. Thank you very much.

15 CHAIR STEVENS: First of all, thank you
16 for your comments and your questions. I think part
17 of the question around that revenue is the
18 definition. I think technical assistance and
19 training is a great idea, and it should be part of
20 our catalog, but first I think we need -- the
21 question has come up about the definition, and we
22 should figure out what the definition is first in
23 your comments here, because it is done differently
24 in different places. You know, we should get that
25 solidified first through our consultation, what's

1 going to work best for tribes and what stays within
2 the statutory boundaries that we are confined to,
3 and then we certainly should have training on that.

4 But also in terms of Class II, there is
5 a -- one of the previous advisory committees, before
6 the Class III advisory committee there was a Class
7 II advisory committee, and those were finalized in
8 October of 2008. But the deadline to comply is not
9 until October of 2011, because we were hearing back
10 from tribes that they were having some -- they were
11 facing some issues as they tried to comply with
12 those. And so that brought to our attention the
13 need to talk about those during these consultations
14 on rate review. Do we need to revisit those Class
15 II MICS?

16 So those aren't standard right now
17 officially. Prior to that, there were other
18 standing internal control standards that are in
19 place that I think tribes are using, or they are
20 trying to comply with the ones that are not -- the
21 deadline to comply is not until this October. So I
22 think that's what everyone is using.

23 There are also technical standards that
24 were finalized during that same time period that
25 apply to Class II machines, and I think that's what

1 tribes are using who operate Class II machines.
2 Although I will say we have also been asked to
3 revisit those, because there are some elements of
4 those regulations that are not working. It's good
5 to revisit these to find out what's actually working
6 and what's not working. So, you know, there are
7 standards out there right now that you can take a
8 look at and use, and we know that other tribes are
9 using them. But we are happy to revisit them if you
10 want us to revisit them. Thank you.

11 Yes.

12 MS. MAXINE VELASQUEZ: Maxine Velasquez,
13 in-house counsel for the Pueblo of Tesuque. I would
14 just like to make a comment on a couple of the
15 issues that the chairman from Santa Ana brought up
16 on net revenue and the calculation of net revenue on
17 Class II gaming in New Mexico. I think it's
18 important for the New Mexico tribes and the compact
19 tribes, the 2007 and '01 tribes to know that, of
20 course, NIGC has responsibility for the definition
21 of net revenue according to IGRA. And Class II MICS
22 are coming up through the NIGC. But when it comes
23 to net revenue calculations for the State of New
24 Mexico, we have to look at the gaming compact,
25 because that's where our definition is.

1 So the issue, Chairman, with the
2 calculation is, you are right, all of the different
3 tribes have different calculations. So the New
4 Mexico Gaming Control Board sees that, and they are
5 coming in and they are trying to finalize a uniform
6 calculation for all of us, but we all calculate the
7 net revenue a little differently. We have our
8 different interpretations. So the only way I think
9 that's going to be handled in the future is if they
10 take us to arbitration, and they haven't done that
11 yet. So that's an issue here in the State of New
12 Mexico on net revenue in Section -- I think it's
13 section what, 11. Section 11 of the compact. So
14 that's the issue we are going to have to deal with
15 internally. That's a New Mexico issue.

16 The other issue on Class II gaming, the
17 2007 and '01 compact don't preclude the tribes from
18 having Class II gaming in New Mexico. If that's
19 something we want to do, we can do that. I sat in
20 the compacts in 1999 when we were trying in 2001 and
21 2007, and those issues, the state at some point
22 tried to put those preclusions in there, but we
23 fought to keep them out. So the tribes do want to
24 have Class II in the State of New Mexico. We can.

25 It was more of a gentlemen's agreement

1 with Governor Richardson at that time and some of
2 the governors, that Class II would not be put in
3 place because it was so political. But the tenure,
4 the change has happened over the years, and we see
5 more Class II coming in. So that's going to be an
6 interesting fight in New Mexico. It's a political
7 issue. It's a policy issue. Now with the new
8 governor coming up, Susanna Martinez, we are all
9 going to face that battle together. So I just
10 wanted to make those distinctions in New Mexico as
11 compared to what NIGC is doing with the definition
12 on net revenue pursuant to Class II and IGRA.

13 MS. ECHO-HAWK: Can I ask you a follow-up
14 question?

15 MS. VELASQUEZ: Yes.

16 MS. ECHO-HAWK: When it comes to the
17 differences in the definition of net revenue, in the
18 compact or by ordinance or whatever, how does that
19 affect say your audits that you have to submit to
20 the NIGC? If you have a definition of net revenue
21 and the state has a definition of net revenue and we
22 have a definition of net revenue, do you see audit
23 findings? Do you know, can you think of a way that
24 we can maybe clarify that somehow?

25 MS. VELASQUEZ: Our definition of net

1 revenue is for purposes of paying revenue share to
2 the state, so there is no audit findings from that
3 perspective.

4 MS. ECHO-HAWK: So I guess I am wondering
5 from like your audit or your auditor, your
6 operations, regulatory standpoint, then when you do
7 your audits, you have to make one calculation that
8 you send to the state, you have to make another
9 calculation in order to base your fees on?

10 MS. VELASQUEZ: Right.

11 MS. ECHO-HAWK: And is there a way that we
12 can do this in a way that your auditors are not like
13 pulling their hair out because they have three
14 different definitions that they have to use?

15 MS. VELASQUEZ: I think they have worked
16 that out. The net revenue for purposes of fees and
17 all that gets paid to the NIGC, but the net revenue
18 share to the state is totally different. So that's
19 who -- New Mexico Gaming Control Board evaluates
20 that. That's the issue right now that plagues some
21 of the tribes. The auditors don't have an issue
22 with that, just different calculations, but we are
23 complying with both federal law and state compact.
24 I just wanted to make that distinction. Thank you.

25 MS. ECHO-HAWK: Okay.

1 CHAIR STEVENS: Yes, sir.

2 MR. PETER GARCIA, JR.: Can I comment on
3 that also? One of the things that we need to
4 realize NIGC needs to understand is that in compact
5 for wide area progressives in states that we use a
6 certain calculation that the state wants us to use,
7 but it's not according to the general accounting
8 standards. That's where the problem is. Everything
9 is calculated according to the general accounting
10 standards, except for that section that deals with
11 wide area progressives. That's why some tribes have
12 the progressive and some tribes don't, and that's
13 where the mixup is, and that's the problem that we
14 are facing.

15 And I think that the state needs to
16 realize also that if we are to do things according
17 to law, according to standards, they should change
18 that section in the compact also.

19 CHAIR STEVENS: Thank you.

20 Yes, sir.

21 MR. PAUL CHINANA: Good afternoon,
22 Chairwoman Tracie Stevens, Vice Chair Ms. Cochran,
23 and also Commissioner Mr. Little. My name is Paul
24 Chinana. I am from the Pueblo of Jemez. I am the
25 councilman. I was sitting here waiting for my

1 Governor, Michael Toledo, Jr., to show up, but
2 apparently he is on another mission now, so I don't
3 think he will show up.

4 But today I just wanted to make a couple
5 of comments or points and, you know, the Pueblo of
6 Jemez appreciates the opportunity to consult with
7 NIGC, with the commissioners. I have a written
8 statement that I would like to present to you this
9 morning.

10 Back in July of 2010, we were encouraged
11 by Secretary Salazar on the directive on calling for
12 a review of the current guidance and the regulatory
13 standards used to make decisions on or off the
14 reservation, a two part determination, gaming under
15 Section 20 of the Indian Gaming Regulatory Act and
16 its implementing regulations.

17 And this NIGC consultation and the Office
18 of Indian Gaming Consultation have some overlap.
19 Our comments will focus on that overlap, which is
20 the sole proprietary interest rule contained in the
21 Indian Gaming Regulatory Act.

22 The Pueblo of Jemez is a community that
23 has maintained its traditional practices and
24 cultural values passed down by our ancestors for
25 hundreds of years. We are a federally recognized

1 Indian tribe with over 3,400 members, pueblo
2 members, with a language fluency of over 85 percent.
3 And our reservation is located in a remote area of
4 north central New Mexico, which is about 45 or
5 30 miles away from here.

6 Given our remote location and lack of
7 natural resources, significant economic development
8 on a reservation including gaming is simply not
9 viable. Recognizing this, the pueblo has proposed
10 an off reservation casino development project in the
11 southern part of the state in Anthony, New Mexico,
12 which has the support of the mayor and the majority
13 of the City of Anthony trustees. And not only that,
14 we have full support from the tribal council, the
15 religious leaders from the Pueblo of Jemez also, and
16 the unanimous support of the Doña Ana County
17 commissioners. The mayor and the majority of the
18 city councilors for the City of Las Cruces, we have
19 major support from the southern part of the state.

20 The casino would bring critically needed
21 economic development and employment opportunities to
22 the Pueblo of Jemez, to Anthony and to the
23 surrounding community in Anthony.

24 The Pueblo of Jemez filed its two part
25 determination application in 2004. In '05, '06,

1 '07, the Pueblo of Jemez and its gaming enterprise
2 board have met numerous times and worked with the
3 NIGC to obtain a letter ruling that our application
4 complied with the sole proprietary interest rule.
5 Obtaining this letter ruling took almost two and a
6 half years and numerous trips to Washington, DC and
7 tens of thousands of dollars in legal, lobbying,
8 accountancy fees, and the NIGC issued a favorable
9 letter ruling on our opinion application on June 8
10 of 2007.

11 We will provide the commission with a copy
12 of that letter ruling along with our written
13 comments at a later date. We recently spent close
14 to \$100,000 updating our Draft Environmental Impact
15 Statement, because the DOI solicitors office said
16 that the data had become stale. No environmental
17 issues changed, none of the conclusions changed.
18 Only our bank account balance changed to pay for
19 this redo and update and a lot of time.

20 The Department of Interior is considering
21 a Section 20 rulemaking, and if so, we are afraid
22 that our DEIS data will once again get stale because
23 of the delay. We mentioned this experience because
24 we want to urge the NIGC not to require a redo of
25 our sole proprietary interest letter ruling. It is

1 our position that more effort should be placed on
2 processing the application and less effort on
3 developing new rules. Most importantly, the rules
4 need to stay the same long enough for applications
5 to be acted upon.

6 Applications should be considered under
7 the laws and rules that were in effect at the time
8 the application was filed. We applaud this
9 administration's commitment to follow the law and to
10 bring much needed transparency to the process. And
11 some rules could be improved, but it should be done
12 in a manner that moves the applications through the
13 pipeline.

14 The NIGC has many technical topics as I
15 heard this morning. As part of this consultation,
16 we will not comment on those issues. Our two
17 comments are focused on the sole proprietary
18 interest rule and fundamental fairness.

19 No. 1, letter rulings regarding the sole
20 proprietary interest rule that have been issued
21 should stand, and there should be no requirements to
22 obtain another letter ruling even if there are new
23 rules. Number 2, as a matter of fundamental
24 fairness, the application and project should be
25 considered under the rules in place at the time the

1 applications were filed.

2 Changing the rules and applying those
3 changes retroactively is not fair. In many lines of
4 businesses and in many agencies, the government
5 always provides for prospective effective dates for
6 new requirements and provides for grandfathering
7 pending applications and projects.

8 Gaming is a business, and business
9 decisions and the underlying applications made under
10 one set of rules should receive agency evaluations
11 under those rules. This principle of prospective
12 effective dates and grandfathering pending
13 applications should be guiding principles at the
14 Department of the Interior and the National Indian
15 Gaming Commission.

16 Gaming applications take a long time to
17 get through the process. Since we filed our
18 applications, there have been numerous changes to
19 the BIA checklist, new Section 20 regulations, and
20 the guidance memo. The tribes that are most
21 affected by ever changing rules are the tribes least
22 capable of funding the legal and other experts
23 needed to redo, supplement, and update.

24 It is becoming clearer that tribes
25 opposing certain applications are using the call for

1 new rulemaking as a delay tactic. It costs them
2 nothing to call for new rulemakings, but the delay
3 involved is costing the tribes making the
4 application millions and millions of dollars, and
5 poor tribes like us, we can't afford that.

6 It wouldn't be tolerated in our society if
7 a previously perfectly legal activity was ruled
8 illegal one day and people were thrown into prison
9 the next day for having engaged in that activity
10 before it became illegal. Yet this is very similar
11 to how tribes are treated by the Department of
12 Interior under the January 3, '08 guidance memo when
13 pending applications were thrown into the denied
14 pile with no notice or review. No comments were
15 made.

16 For those unfamiliar with the events
17 surrounding the guidance memo, I would like to maybe
18 briefly summarize on that. If I may, on January 3rd
19 of 2008, the Department of the Interior adopted
20 substantive new standards governing its
21 consideration of off reservation gaming fee trust
22 applications under the guise of a guidance document,
23 and although characterized as nonbinding policy or
24 guidance, the documenting fact imposed substantive
25 new standards the department invoked that very next

1 day to deny 22 pending fee trust applications,
2 including the pending application for the Pueblo of
3 Jemez. As a substantive legislative rule, this new
4 policy was adopted unlawfully without the notice and
5 comment required by the administration procedure and
6 it should be rescinded. We made that same comment
7 to the Department of Interior consultation back in
8 November.

9 Furthermore its procedural and legal
10 deficiencies aside, the guidance should be withdrawn
11 because it has no basis in logic or in law. The
12 commutability standard imposed by the guidance
13 presumes that tribal members residing on reservation
14 will not obtain any benefits from the casino,
15 because they will not be able to commute to the
16 casino to work there, if they do, the fabric of the
17 reservation community will be damaged due to their
18 absence.

19 This erroneous presumption, unsupported by
20 any evidence, wholly ignores the fact that the
21 central benefit tribal casinos provide is income to
22 tribal governments and their members. Off
23 reservation casinos can provide this much needed
24 income just as well as on reservation casinos.

25 And in closing, Congress declared the

1 purpose of this Indian gaming policy is to provide a
2 statutory basis for the operation of gaming by
3 Indian tribes as a means of promoting tribal
4 economic development, self-sufficiency, and strong
5 governments. Without a viable source of income, the
6 tribal governments cannot provide their members,
7 tribal members, with important governmental programs
8 such as health care, eldercare, law enforcement,
9 schools, fire departments, and the like.

10 With our small convenience store in the
11 Pueblo of Jemez and a small visitor center, one
12 would be hard pressed to generate that kind of
13 revenue and jobs to provide for a community of a
14 tribe of 35 -- 3,400 plus people. IGRA recognizes
15 that in certain circumstances under stringent
16 restrictions, tribes should be given the right to
17 conduct off reservation gaming because the off
18 reservation locations are the only viable locations
19 for gaming operations.

20 And I thank the NIGC, the governors,
21 lieutenant governors, tribal councilmen, tribal
22 representative, ladies and gentlemen for listening
23 to our comments, and I thank you for that. Thank
24 you.

25 CHAIR STEVENS: Thank you, sir.

1 MR. CHINANA: I just want to recognize our
2 governor from the Pueblo of Jemez, Mr. Michael
3 Trujillo, Jr. He just showed up.

4 MR. MICHAEL TRUJILLO, JR.: Good morning,
5 everyone. My name is Governor Michael Trujillo, Jr.
6 We were up there at Santa Fe, at the Governor of New
7 Mexico's peer breakfast, so that's why we came in
8 late.

9 I also want to express what the councilman
10 here had read off. We are a small community, a
11 small tribe up here in Jemez. We have no viable
12 resources. Again, you know, we are doing this for
13 two communities, the community of Anthony down in
14 Doña Ana County and also the Pueblo of Jemez. We
15 are helping out the Doña Ana County community as far
16 as, you know, their infrastructure, their home life,
17 and also what we can bring up to Jemez, whatever
18 generates down there, we can bring up to Jemez, up
19 here and help our community, the surrounding
20 community. Not only the tribe of Jemez, but
21 everyone else in a 25-mile radius, you can say,
22 because there are other pueblos that have gaming
23 already which generates revenues for their tribes.
24 And us, we don't have any resources to support our
25 pueblo.

1 Other than that, I am pretty sure you have
2 understood what Councilman Paul Chinana had said
3 already or read out for our tribe, and that's where
4 we stand as of today. And I want to thank you,
5 everyone, for your audience and listening to what we
6 have to say for our tribe. So thank you again. I
7 wish everyone a good day. Thank you.

8 CHAIR STEVENS: Thank you, Governor. I am
9 glad that you could join us.

10 I am aware of your application only
11 because I used to work at the Department of Interior
12 and Indian Affairs, and we discussed that. I
13 probably was sitting in a meeting with you in my
14 former position to Mr. Echo-Hawk, but I'm not really
15 familiar with the status of your application at this
16 time. I am well aware of the consultation and the
17 direction from the secretary to look at two part,
18 the two part process.

19 And because the authorities are divided
20 between the Secretary of Interior and the Chair, the
21 NIGC doesn't have any place in the two part
22 application, although I am happy to see what I can
23 do to get inquiries over at the department about the
24 status of your application.

25 What does interest me is the sole

1 proprietary interest letter that was generated from
2 the NIGC in June of 2007, and I don't want to appear
3 to be rude. I was just barking at my attorney who
4 is in DC to produce that for me so I can see what it
5 is and see if there is anything that we can do to
6 address your concern on that particular letter or
7 take that into consideration if we do address sole
8 proprietary interest in regulation. Although that's
9 one of those big issues like MICS that we'll have a
10 lot of comment on.

11 MR. TRUJILLO: Thank you very much, Madam
12 Chair, and we will go ahead and send our remarks and
13 also send the letter along with our comments.

14 CHAIR STEVENS: Great. Thank you.

15 Yes, sir.

16 MR. ROBERT GARCIA: Good morning,
17 Commissioners, Governors, Tribal Leaders, and fellow
18 regulators. My name is Robert Garcia from San
19 Felipe Pueblo.

20 First off, I would like to say that in New
21 Mexico, on an annual basis the pueblo governors are
22 elected on the first of the year. And my question
23 is on your February 12th comment period, if that can
24 be moved back, because this will give us time to
25 present the comments to the tribal leadership and

1 tribal council before we forward them down to the
2 NIGC for approval from our respective councils and
3 leadership. So if that date is not locked in, I
4 would like to request for us here in New Mexico, we
5 can have that opportunity to have that date moved
6 back maybe to March to give us time to take the
7 comments to the tribal councils.

8 And another comment I would like to make,
9 since you brought up -- well, the discussion on net
10 revenue has been brought up here. And I know when
11 you were here last year for Sandia Pueblo, we
12 mentioned or we requested if you the current
13 commissioners would be able to look at how the
14 casinos are classified in terms of net revenue under
15 tier C, because some of us, you know, we are at the
16 bottom end of the tier C, and we are in the same
17 league as those bigger casinos or high end casinos,
18 like Foxwoods, and sometimes our revenue is not
19 sufficient enough to meet the regulatory
20 requirements, for example, surveillance equipment.

21 I know we have to have the equipment, you
22 know, as required in Class III gaming, but with us,
23 we are trying to keep our, you know, revenues
24 intact, and also we need to put some of that money
25 back, also back not only into surveillance and that

1 equipment, but also into our server with our
2 particular casino. Now, it's hard for us to say,
3 well, let's put the money in the server or our
4 surveillance equipment. So in there, not to
5 elaborate on the point, it gives us an opportunity,
6 if NIGC would reclassify the tier C gaming, so it
7 will help us better manage our revenues and our
8 monies as we project our spending throughout the
9 year. So that's something I would like to also
10 bring back. I know this was brought up last year.

11 So thank you for your attention, and I
12 would like to wish you well. And I think this is a
13 testament of what you said last year about making
14 that commitment to listen to the tribes. And this
15 is good to know that this dialogue is going to
16 continue to happen. So with that, thank you.

17 CHAIR STEVENS: Thank you for attending
18 this morning and thank you for your comment. I
19 think we will have to talk about whether we can push
20 the deadline back or not, because we do have by
21 executive order an agenda that we have to produce
22 and these have to be submitted by April. But we can
23 talk about it and maybe talk to you about what kind
24 of timeline would be more suitable.

25 Because we did open it up in November, but

1 we also understand -- and we apologize, that there's
2 many things going on here in this area for the
3 pueblos at this time of year. And as I mentioned to
4 someone, you know, we run into that with every time
5 that we schedule wherever we go in the country,
6 there's different cultural and traditional things
7 going on, certain things going on every place at
8 some point in the year. I apologize. I know that
9 you all had busy schedules. You had something else
10 with the governor today. You had ceremonies. You
11 had elections. We try to do the best we can, so I
12 apologize for that.

13 We can talk about it. You know, you said
14 what, March?

15 MR. GARCIA: Yes. Sometime in March,
16 maybe toward the end of the first quarter sometime,
17 the end of March, if that's a possibility.

18 CHAIR STEVENS: Lael has to do the work.

19 MS. ECHO-HAWK: Let me -- frankly, the end
20 of March, it wouldn't give me any time to take your
21 comments and review them, seriously. And one of the
22 things, we have to have the agenda finalized at the
23 beginning of April. And one of the things that we
24 are looking at, one of the things we have committed
25 to is taking all the comments that are received by

1 tribes, reviewing them thoroughly, and then coming
2 up with an agenda, not only an agenda, but an
3 explanation of how we reached the decisions that we
4 made.

5 So I simply can't -- if all the comments
6 were to come in in March even, you know, we have got
7 a number of other events and things that we need to
8 do. There simply would not be enough time for us to
9 review those comments thoroughly and make a good
10 decision, which is why we set -- February 12th is
11 basically six weeks for us to put all that
12 information together, start planning. So it's very
13 difficult.

14 We will talk about maybe, you know, maybe
15 we can try to move it a little bit around given the
16 constraints here. But in order for us to make a
17 good decision, we need all the information sooner
18 than later. We just won't have the time otherwise.

19 MR. GARCIA: That was just a
20 recommendation, but if you can just at least be
21 flexible, and maybe if you can move it back, maybe
22 not that further back, but to give us time.
23 Because, as I mentioned, the governors are newly
24 elected, and some are newly involved in gaming, so
25 we have to give them time to digest the information,

1 too, and also to get feedback from the respective
2 administrations and councils for us to go ahead to
3 forward the comments to NIGC. So if you can at
4 least, you know, look at that and give us that
5 window of opportunity.

6 CHAIR STEVENS: We will talk about what we
7 might be able to do. And just to put it in context,
8 too, there is, you know, just something that might
9 be helpful, what we are doing here is -- and for
10 some we have been asked, you know, if this was like,
11 give us all your comments on all the regulations,
12 where really what we want are your priorities and
13 how you would like to have things done.

14 There is a good example online that we
15 have posted from San Manuel. Certainly you don't
16 have to do it like they have done it, but it's a
17 good reference of going through the regs and saying
18 this is a priority of ours. This is not. This is a
19 high, low, medium priority. This is not. We don't
20 have anything to say about this regulation, or this
21 is the top priority. But they do it by number on
22 the regulations, and they tell us this is the issue
23 we have with it. Therefore, it's medium, high, low
24 priority, and this is how we suggest you handle it,
25 you know, proposed rulemaking or an advisory

1 committee or something else.

2 I was talking to somebody outside, and
3 tribes are getting together or a tribe is saying do
4 I have a dog in this fight on this regulation, and
5 if I don't, do I need to comment. So what we are
6 asking for in this particular Notice of Inquiry
7 hopefully is not too burdensome in terms of
8 questions. They are focused on what are the
9 regulations you need to have changed and which ones
10 do you need us to attend to first, really is what we
11 are asking. So hopefully that explains what we are
12 asking and may ease the burden of commenting.

13 But going back to the deadline, we will
14 talk about it, and then we will be in touch with
15 you.

16 Yes, ma'am.

17 MS. HELEN PADILLA: Good morning. My name
18 is Helen Padilla, and I am the vice chair of the
19 Pueblo of Laguna Gaming Control Board, and I just
20 wanted to -- we appreciate this opportunity to
21 consult with you this morning or today and talk just
22 very briefly about the regulatory operations there
23 with the Pueblo of Laguna.

24 We have worked very hard within the last
25 few years to streamline the operations and

1 regulations, and we have a very good working
2 relationship with the NIGC. I think that everything
3 is moving along very well.

4 I just wanted to reiterate some of the
5 items that the general counsel for the Pueblo of
6 Tesuque talked about in terms of some of the issues
7 that have been raised this morning. In terms of
8 Class II and the operations of Class II gaming here
9 in New Mexico, the definition of net win that's
10 contained in the gaming compacts and also the issue
11 of the wide area progressives, although these are
12 areas that obviously IGRA and NIGC have something to
13 do with, those are clearly state issues that are
14 between the State of New Mexico and are contained in
15 the gaming compacts and calculations in terms of net
16 win, which is the definition that's in the gaming
17 compact.

18 And I think the conversation and the
19 dialogue that happened in terms of the difference in
20 definitions, those are important, however all of
21 those are state issues. And I just want to thank
22 you very much for the opportunity to consult with
23 you today.

24 CHAIR STEVENS: Thank you.

25 Yes.

1 MS. STEPHANIE CROSBY: Good morning. Good
2 morning. My name is Stephanie Crosby. I am the
3 secretary from the Pueblo of Pojoaque, and Governor
4 Rivera sends regrets that he could not attend today.
5 However, he did appoint our judge and attorney,
6 Frank Demoli, and just to go ahead and give comment
7 on behalf of the pueblo, so thank you.

8 MR. FRANK DEMOLI: Thank you,
9 Commissioners and Honorable Governors and all the
10 honorable working people who are here today. I just
11 wanted to make a few comments and also say the
12 lieutenant governor sends his regrets. He was at
13 the breakfast meeting this morning, and the food
14 must have been good because he's still there. And
15 so I will be speaking on behalf of the Pueblo of
16 Pojoaque today. Governor Rivera made similar
17 comments yesterday to the NIGC staff in Washington,
18 DC.

19 The first thing I would like to say you
20 have asked for specifics, and I would like to say
21 that the specific thing that we need at the Pueblo
22 of Pojoaque right now is a definition by NIGC of net
23 revenue and gross gaming revenue. The reason that
24 we need it is because we have taken on a fight with
25 the Gaming Control Board of New Mexico over revenue

1 sharing, and your definition is what I would do with
2 them. Because you have so much power and authority,
3 I don't think you even realize how much you affect
4 decisions out in the field. I will take those
5 comments. I will cut and paste those comments, and
6 the theme that we are hitting constantly at the
7 Pueblo of Pojoaque, and that we would like you to
8 put in every document that you have, is that the
9 tribe should be the primary beneficiaries of gaming.

10 This has been lost over the years, and we
11 were very glad to see the Rincon case when it came
12 down, where an objective judge saw what was
13 happening in California and reversed what the state
14 was trying to do. Because that's what is trying to
15 be done by us or to us by the state agencies and by
16 the state. We need to have more ammunition. You
17 can give it to us.

18 Please put -- I have Google alert. As
19 soon as you put anything on the internet, I know.
20 Put those words in your proclamations that the
21 tribes are the primary beneficiaries. This is the
22 theme I am going to hit when we do go into
23 litigation. We did get our notice of noncompliance
24 back in May. We are in the fight, and we will not
25 let them take us to arbitration. We are shooting

1 for an objective court. So that's where we are
2 going with this issue.

3 Please give us something to work on.
4 Those two definitions would help us immensely. That
5 is what the Pueblo of Pojoaque requests that you put
6 on top of your list. Even though we may not be able
7 to use them in ways that lay people would think that
8 you could use them, I will use them in court. If
9 you want me to quote each one of you as saying it, I
10 will put your names under it.

11 MS. ECHO-HAWK: Will you be putting in
12 that written comment?

13 MR. DEMOLI: You bet.

14 MS. ECHO-HAWK: Okay. Thank you.

15 MR. DEMOLI: The second issue that I would
16 like to take up is that the Pueblo of Pojoaque
17 really appreciates your thorough reviews of our
18 restructuring agreements to determine whether or not
19 they are management contracts, and I want to talk
20 from a field perspective. When we are dealing with
21 investors and people from the outside -- I have been
22 the judge and general counsel for about 17 years --
23 when we are dealing with them, they do not realize
24 the unintended consequences of their actions, and
25 sometimes they are very conscious about wanting to

1 manage pueblo affairs.

2 I don't want to go into specifics, but
3 what we depend on you for is to protect the pueblo
4 by really looking at these agreements. As
5 sophisticated as attorneys get, we are dealing with
6 Wall Street. We are dealing with very sophisticated
7 economic players. We don't want to have a Pollyanna
8 provision in those restructuring documents that is
9 going to come back and bite the tribes.

10 And I will tell you and publish it
11 publicly, whatever. When we say NIGC will never let
12 this through, generally we are believed. You have
13 very great powers, and you can help the tribes so
14 much by looking out for their best interests. And
15 so I really -- and I'm sorry I am so passionate --
16 but I really, really hope that you can put that in
17 your writings and have that inform your decisions,
18 that the tribes should be the primary beneficiaries
19 of gaming. Because we are out here in the field,
20 and we are fighting as hard as we can, and anything
21 you can do can help us. Thank you for allowing us
22 to work with you.

23 CHAIR STEVENS: Well, thank you very much,
24 and I am glad to hear that our staff is working with
25 you.

1 We had met or I had met with the governor
2 on several occasions, and also with you, about your
3 restructure, and we are glad that we were able to
4 help out and it had a positive net result from you.
5 That came as a result of you including us. We are
6 going to talk about financing and declination
7 letters and management provisions. That came as a
8 result of you coming to us early on and saying, hey,
9 we need you to help us with this as we move forward,
10 and we, this commission, sees tribes, one, as the
11 primary regulators, but, two, also, we are very
12 serious about tribes being the primary
13 beneficiaries.

14 We see a lot of these financing deals
15 coming through in lots of different creative forms,
16 and all we ask, and we are thankful that the
17 Pojoaques did, come to us early so that we can help
18 you. And I am glad that we were able to. So thank
19 you.

20 We take all your comments seriously, and
21 we hope that you provide those to us in writing and
22 suggestions on how we might do that. Thank you.

23 If there aren't any others, we are past
24 our lunch time. I hate to pull people and be the
25 reason I am standing in the way of peoples' food.

1 I'm a big fan of food, and I certainly don't want to
2 stand in your way.

3 It is 12:15, so why don't we come back at
4 1:45. We will push it out 15 minutes. That gives
5 us an hour and a half to take care of business.
6 Hope you have a good meal, and we will reconvene at
7 1:45. Thank you all.

8 (A lunch recess was taken between 12:14
9 p.m. and 1:52 p.m.)

10 CHAIR STEVENS: Good afternoon. I hope
11 everybody was able to have a pleasant lunch and get
12 a break, and if you're like me, you were eating
13 lunch and responding to e-mail and phone calls and
14 multitasking.

15 Okay. Let's open it back up for comments.
16 I see we have had some people move from the back of
17 the room to the table, which indicates to me that we
18 are ready for comment, and I appreciate everyone
19 waiting for tribal leaders to comment first. So I
20 will turn the floor over to anyone who would like to
21 speak. You have the floor.

22 MS. CARLEEN CHINO: Good afternoon,
23 Chairperson Ms. Stevens and Vice Chair Ms. Cochran,
24 Mr. Little. My name is Carleen Chino, and I am from
25 the Navajo Nation. I represent the Navajo Nation

1 and the Navajo Gaming Regulatory Office. We have a
2 couple of talking points here for Mr. Little. We
3 also will put some in writing as well before the
4 deadline.

5 I have with me some attorneys that
6 represent also the Navajo Nation and the Navajo
7 Gaming Regulatory Office, Peter Larson to my right,
8 and Karis Begaye representing the Department of
9 Justice of the Navajo Nation to my left. So we have
10 some comments here. Thank you for this opportunity
11 as well.

12 MS. KARIS BEGAYE: Thank you. Good
13 afternoon. My name is Karis Begaye. I am in-house
14 counsel with the Navajo Nation.

15 We have a couple of issues that we would
16 like to raise here. We are a new gaming tribe. We
17 have only been doing this for about two years, so we
18 are still trying to work through the process here.
19 I don't know if we fully have experienced all of the
20 issues that are being raised by the other tribes
21 because we are so new. But we do have some
22 procedural issues that we would like to raise.

23 One of the things that I think we
24 appreciate hearing from the commission is wanting to
25 be more transparent, because I think that is

1 probably the main issue that we run into. Because
2 we are so new, we analyze everything we do, and we
3 try to make sure we comply with everything. And any
4 time we send something off, we all panic and hope
5 and cross our fingers that everything is proper.

6 But that sort of leads to our issues,
7 which is when we do -- submissions, we just opened
8 two new casinos, one Fire Rock and the Flowing Water
9 Casino. And so one of the first steps that we have
10 been utilizing in following the Indian Gaming
11 Regulatory Act and all the regulations is doing the
12 submission of the facility license and also sending
13 out our 120 day notice that we are opening up the
14 casino.

15 One of the issues that we see in that
16 process is we don't know what happens once we make
17 the submission. We make the submission and we get
18 an e-mail back, because we do ours electronically
19 and by mail. We will get an e-mail back that says
20 it's been received. But then -- for the 120 day
21 notice we do that, and I think we just recently did
22 one. We are going to be looking at opening a few
23 more.

24 Once we send it off, you know, the
25 question becomes what happens to it, and exactly

1 what does that mean. For example, with the 120 day
2 notice, what purpose does that serve? What is it
3 that you guys do with the 120 day notice? For
4 instance, our interpretation of reading it, it's
5 just simply a notice that is telling you guys we are
6 intending on issuing a facility license in 120 days.

7 But the problem that we are running into
8 is, to give you an example, we did one for one of
9 our proposed sites, and we ended up getting a letter
10 back from NIGC saying, questioning our 120 day
11 notice and whether or not these were truly tribal
12 trust land, did they qualify under the Indian Gaming
13 Regulatory Act. We also did another recent 120 day
14 notice, and we got another response wanting further
15 documentation on whether or not these were Indian
16 lands and they qualify.

17 It raised a little bit of concern with us,
18 because we had thought this was simply a notice that
19 it was sent out. We didn't realize you always -- do
20 they approve this, is this really an approval, or is
21 it a notification. So we ran into that issue,
22 wanting to know what it is, when we give you the 120
23 day notice, what do you guys do at that moment.
24 Does someone review it? Is it taken under
25 consideration? Is there, you know, a chance that

1 once we send this off, that you guys can disapprove
2 it?

3 The reason I raise the issue is because we
4 have financing, lenders, that, you know, do we need
5 to wait the entire 120 days before we can really,
6 you know, decide that this is where we are going to
7 gain. So these, for us, at least, the transparency
8 part of that is important, so at least we have
9 somewhat of an idea of, once we make a submission,
10 what exactly does NIGC do and what role. And, you
11 know, we are sort of in a period of wondering what
12 will happen once we do the submission. So that's
13 one of the issues that we have.

14 Another issue that we ran into is, you
15 know, with the facility license. We have an idea of
16 what's all required in the facility license, and we
17 create notebooks of all the requirements, and we do
18 our submission of the facility license to NIGC. We
19 do get an e-mail response back. But the question
20 is, what do you guys do with that information?
21 Because when we issue it, when we send it off, we
22 want to make sure that we are not going to get --
23 you know, do you guys review it? Are you going to
24 disapprove it or are you going to approve it? We
25 are curious as to what role you play once we make

1 those submissions, because, well, our biggest
2 concern is not following the procedures.

3 We are so new. We have only done two, and
4 so we don't feel comfortable are we following the
5 right process, because as we proceed with opening
6 our other casinos, we want to make sure that the
7 steps that we have in place within the Navajo Nation
8 are what NIGC is looking for.

9 I guess that we are sort of in an area
10 where we are just wondering and hoping and crossing
11 our fingers that we are doing everything properly,
12 but it would be helpful if we also kind of
13 understood what NIGC does and what their role is.
14 So those are probably the two issues that we have.

15 As far as one of the topics that I have
16 heard probably discussed the most, the one that we
17 are the most concerned with is the tribal advisory
18 committee. Our position or our concern with
19 establishing that committee is we don't want to lose
20 the one on one, government to government
21 consultation with this commission. Our concern
22 would be, you know, we want to make sure our voice
23 is heard, and if we have, you know, concerns or
24 comments, that that is heard by this commission.

25 You know, we have thought about, well,

1 maybe we can suggest, you know, one member of every
2 tribe sitting on this advisory committee. That way
3 it ensures all the gaming tribes have a voice at the
4 table. Is that practical, we don't know. But at
5 least it guarantees and gives everyone the
6 opportunity to sit at the table and have a say.
7 Because I'm sure you know, just attending these
8 meetings, all the tribes are unique and they all
9 express various concerns. And so, you know, our
10 concern is making sure that whoever will represent
11 our area or will be speaking on behalf of the tribe
12 is someone who is going to advocate for our
13 interests.

14 So as far as the advisory committee,
15 that's probably the biggest concern we have, is we
16 want to ensure that if it's created, that the Navajo
17 Nation will have an opportunity to have a voice on
18 that committee.

19 So as far as, that's basically our
20 position on that issue, but as Carleen mentioned, we
21 will be preparing written comments and submitting
22 those to you. Thank you.

23 CHAIR STEVENS: Thank you.

24 MR. PETER LARSON: Thank you, Carleen. My
25 name is Peter Larson. I am an attorney from Lewis

1 and Roca here on behalf of the gaming regulatory
2 office.

3 I will hit the two remaining issues really
4 quickly. The first is the potential expansion of
5 the definition of management contract. That's a
6 concern. I'm sure you have heard this at other
7 consultations, that that's generally a very
8 burdensome process. If every time the slot lease
9 agreement were entered into it had to be approved by
10 the NIGC, everyone had to be backgrounded, yada,
11 yada, yada, and eight months passed before the
12 agreement is actually effective.

13 The other point to that is, to the extent
14 that that definition is expanded, every time the
15 NIGC approved or the chairwoman approved one of
16 those contracts, there would have to be a NEPA
17 analysis done. So there is a lot of cost and time
18 done to ensure that NEPA was complied with just for
19 the purpose of entering into a slot lease agreement.
20 So I would encourage you maybe not to expand the
21 definition of management agreement right now, or to
22 the extent that there is some sort of expansion,
23 make sure that you focus upon the definition of
24 management as it is, and that always relates to
25 control of the gaming operation.

1 The other idea that kind of popped up in
2 the NOI is the idea of interim remedies. Instead of
3 going from zero to the death penalty, you have an
4 idea of a ticketing system or at least, you know,
5 notice of working through it. That's not a real big
6 issue I don't think here in this region, because Ken
7 is, you know, incredibly amenable to our working
8 through everything. That's an informal process,
9 though. It might do some good for the NIGC and
10 tribes here to have a more formal process.

11 Do you have ideas on what that process
12 would look like or some of the, or I don't know,
13 some of the bigger issues for tribes unnamed that
14 you kind of run into problems on?

15 CHAIR STEVENS: And will Navajo be
16 submitting written comments?

17 MR. LARSON: We will be submitting written
18 comments here before the close.

19 CHAIR STEVENS: Okay. And you said you
20 had some suggestions on that last issue, so you will
21 be including that in your comment?

22 MR. LARSON: Well, it will include the
23 idea of interim remedies.

24 CHAIR STEVENS: Great.

25 MR. LARSON: But we are wanting to hear

1 collective wisdom on what you have heard with regard
2 to how interim remedies may work and may not work.

3 CHAIR STEVENS: I think Lael in particular
4 has been -- this is about enforcement and also
5 whether it's about fees, because there was an era of
6 fees going from zero to NOV on the late fee. But I
7 think we have heard from tribes, their attorneys in
8 particular, about the absence of process or some
9 alternatives before you get from zero to ten, but I
10 will let Lael talk about how this came up.

11 MS. ECHO-HAWK: Well, it did come up in
12 the context of the NOVs that were issued last year.
13 I can't even tell you how many were issued last year
14 for the tribes, including the one that I was working
15 for at the time. We got an NOV issued with no
16 notice for, I think, cumulatively it was about 20
17 days the fees were late. And a notice of violation
18 is a substantial -- for tribes you guys know, it's a
19 big deal. It's not -- you know, I think the
20 attitude at the agency at the time and the feedback
21 that I got when we brought this up was, oh, you
22 know, it's just a little NOV. It's no big deal. It
23 is a big deal, so how can we sort of mitigate that.

24 Well, still we exist off the fees that are
25 paid by tribes, so we need to make sure they are

1 actually paid so we can continue to function. But
2 there has to be a different way of doing it. There
3 has got to be a progressive way of how can we
4 preempt an NOV. In some cases, that may be okay,
5 you know, if it's really egregious, but so far all
6 the comments we have heard from tribes is they like
7 this idea. They think it's something that NIGC
8 should be thinking about and working on.

9 I haven't heard anyone give sort of a
10 solid explanation of what they think it would look
11 like, except sort of some kind of sliding scale,
12 percentage maybe of, like the fine, I guess, would
13 be a percentage of the fee certain, a certain dollar
14 amount, you know, over time, whatever. But we
15 haven't heard any solid thoughts on that. So if you
16 do have those, if you have ideas about that, then
17 please let us know.

18 The other thing to remember is one thing
19 that we have kicked around quite a bit, that those
20 fines, like a settlement agreement, any fines or
21 anything that we issue, that money goes into the
22 treasury. So we have been thinking a lot about that
23 as well how to address that issue. But so far,
24 everyone, we have not heard a negative comment about
25 that so --

1 COMMISSIONER LITTLE: If I could just add
2 quickly. One thing about NOVs, they are labor
3 intensive for the commission, and like Lael said, we
4 are funded a hundred percent by the fees that drive
5 pay. So these are your fees that we are going to be
6 spending to issue NOVs. So if there is a mechanism
7 where we can create a process where we are not going
8 through all this extra leg work that the attorneys
9 and the staff have to do, then it's a saving for the
10 commission.

11 MR. LARSON: And finally -- I should have
12 said this before -- at the beginning of the meeting,
13 you suggested that one of the primary initiatives of
14 the NIGC right now -- I should say you said, not
15 suggested -- was that training and technical
16 assistance is a priority. I think that's a
17 fantastic idea. In fact, we were talking about that
18 last night, because, you know, Navajo is not very
19 near Albuquerque, it's not very near Phoenix, and
20 it's very expensive to travel all that distance for,
21 you know, a one day seminar. Carleen can't send 44
22 employees down to Phoenix for a one or a two or a
23 three dayer.

24 So, you know, to the extent that there is
25 a possibility for more on-site training and in more

1 maybe more different places throughout the region,
2 that would probably be welcome.

3 CHAIR STEVENS: And Vice Chairwoman
4 Cochran had just written this down, that it sounds
5 like there is an opportunity for some training and
6 technical assistance that we might be able to
7 provide. I am looking at Ken, because they go to
8 the regional director, and we do go out to tribes.
9 If there is enough topics and enough people that
10 it's more cost effective for the tribe to have a few
11 of our staff come out to you, as opposed to having a
12 whole bunch of you at your expense come out to like
13 a one topic, two topic thing, it works out better.
14 So if you have -- I mean, I encourage you to talk to
15 Ken about, you know, what your needs are and see if
16 there is some way that we can work out helping you
17 through technical assistance and training.

18 MS. CHINO: Mr. Billingsley and the region
19 office has actually been more accommodating to us
20 more recently, but I believe it's more just at the
21 local level is where we need the training in our
22 specific area, only because we are rural and right
23 in an area where there is massive land around us. I
24 believe Ken comes out -- actually he was there
25 yesterday at our newest casino doing an inspection,

1 so that came out actually really good.

2 But Navajo Nation is actually unique. We
3 have two compacts with Arizona and New Mexico, and
4 then we have a Class II gaming activities going
5 also. It's a variety of those issues, but it's just
6 the staff that need that training for both Class II
7 and Class III, and internal controls are various.
8 And so it's just a matter of getting it local and
9 trying to get the attention, including the tribes,
10 the neighboring tribes, that again we all share
11 budgetary concerns and issues regarding that.

12 I have one more issue. It was on
13 fingerprint background investigations. And actually
14 if we could just keep the option at the tribe's
15 discretion for sending out any vendor fingerprints,
16 and just coming from Navajo Nation on that
17 particular issue, keeping it at the tribal level to
18 use our discretion to send those vendor fingerprints
19 in at our option.

20 VICE CHAIR COCHRAN: Thank you. I wanted
21 to also offer up, because you are new at the NIGC
22 processes, we can also assist with getting some
23 technical assistance to the attorneys to help you
24 through the process, explain what happens, because
25 obviously the commissioners, as we sit up here, we

1 are not involved in every step of how OGC handles
2 the notices that come in. So if that's helpful,
3 please let us know, and we will put you in touch
4 with the general counsel and see what we can do to
5 get the attorneys to understand the process, so we
6 can better guide your client and explain it to them.

7 MS. CHINO: Thank you very much.

8 CHAIR STEVENS: And I do want to
9 reiterate, with our new general counsel, you are
10 free to call any time. This is really a new -- it's
11 a new commission, and we have a new general counsel
12 who is open to phone calls from tribes, to making
13 the staff available to your questions. So if there
14 is uncertainty about a process that you are going
15 through, I have talked to a couple of the tribes,
16 and I am trying not to be rude, but like I said, I
17 am barking, where is this and where is that, because
18 I am getting questions about the process, and
19 availing our staff to you to answer your questions.

20 So always feel free to call our office and
21 ask for Larry Roberts, who is our general counsel.
22 He does make -- you know, they should be helping
23 tribes to get through these processes, and make it
24 clear, if you have a question, you know, where are
25 we at with this facility license, I haven't heard

1 anything back. You know, you should feel free to
2 contact them and find out what the process is.

3 In terms of facility licensing, we have
4 heard so much about that, that when that -- you
5 know, I wasn't working for the government at the
6 time, but I was working for my tribe. And when the
7 facility license rates came out, a lot of people
8 were surprised about the information that was being
9 requested, and was it really an approval or not, but
10 we clearly do need to address those again.

11 Any comments you might have about the
12 process you have been through, we welcome hearing
13 them. But it's very likely we will have to -- one
14 of the bigger issues that we are going to have to
15 take a look at, we heard in Oklahoma, there really
16 wasn't any consultation. Once they got it rolling,
17 they went through it pretty quickly. So it's very
18 likely we will have to readdress those.

19 Then management -- I am trying to think of
20 why it came up about expanding into lease
21 agreements. I know we have actually had tribes come
22 to us and ask us to do that, and that might be a
23 surprise to other tribes who wouldn't ask to do
24 that, to expand the definition or at least our
25 review into a lease agreement for management terms.

1 So I think that's really the only reason, and the
2 sole proprietary interest also. That's the other
3 part of looking into some of those contracts.

4 But we welcome your comments on that.
5 These are things that have been brought to our
6 attention, not necessarily positions that we have.

7 Yes, sir.

8 MR. ALBERT APODACA: My name is Albert
9 Apodaca. I am the executive director of the
10 Mescalero Apache Tribal Gaming Commission. We are
11 like the Navajo Nation in taking the position that
12 we thought we would notify, didn't need approval on
13 the 120 day, and I am glad you did that. But we
14 have experienced the same inflexibility that we had
15 in the past with the gaming commission that we are
16 doing now. And one of the things is, I think, that
17 the gaming commission should be a little more
18 flexible and allowing for exceptions. Because we
19 were not putting up a casino. We were trying -- we
20 are putting 12 machines up, and all of a sudden it's
21 this big old thing, like we are rolled into like
22 with the Bay Mills situation in Michigan.

23 And I think that the NIGC should be a
24 little more flexible and a little more understanding
25 of, like in our situation, we are going to do a

1 trial run and we were trying to get this thing done
2 before the skiing season is over. The way it looks
3 like, we will have gaming after skiing is over, so
4 that doesn't help us. I think that would have been
5 how more -- we had a situation where we informed the
6 NIGC, and I agree we were late and we should have
7 done it, but if you are only putting up 12 machines,
8 it's not a casino. It's just like another location.
9 I think there should be some accommodations for
10 that, and we didn't get to experience kind of some
11 flexibility there.

12 The second issue I want to bring up is
13 like vendor licensing. It would be helpful -- and
14 now we have discussed this with the state and that
15 didn't go anywhere -- but it would be nice to have a
16 database of vendor licensing where, let's say if the
17 NIGC approved of a vendor, then the local gaming
18 commissions, the tribal gaming commissions, or the
19 TGRA, wouldn't have to do the same kind of
20 comprehensive background on the same vendor.

21 Let's say like in New Mexico, we have 14
22 gaming tribes. We all do a background on
23 Aristocrat. Well, Aristocrat is an international
24 company, and one of the challenges that a local
25 gaming commission has is, you know, we are going to

1 duplicate. We are going to spend thousands of
2 dollars, just like every other tribe is doing that
3 background, and wouldn't it be more beneficial to
4 the tribes if the NIGC had one where, let's say,
5 they did a background on Aristocrat, and they passed
6 and then, okay, you are licensed through the NIGC or
7 something similar. And then we would have to do on
8 our part maybe a cursory type of background. There
9 is no need to spend thousands and thousands of
10 dollars. If you take that times the number of
11 gaming tribes, it's huge the amount of money on
12 vendor licensing.

13 And then it's hard to keep up. Aristocrat
14 is a good example again, because they have so many
15 changes in their executive group. You know, and so
16 what do you do? You go to Australia and try to
17 figure out who is who and what's what. It would be
18 nice, the trip, but our tribe won't let us. It
19 would be nice to have something like a database or
20 some type of thing.

21 I know we kicked around the idea through
22 our association some years back, that if they were
23 licensed, like let's say in Nevada, New Jersey, and
24 maybe one other jurisdiction, that that would
25 suffice for the most part in us doing a background.

1 We never did fully accept that, but that would be --
2 you know, because Nevada and New Jersey and those
3 jurisdictions are going to do a much better job than
4 a local tribal gaming commission can do. We don't
5 have the resources, both financial and personnel
6 wise.

7 And then in the comments about allowing
8 the tribes to establish regs and so forth, who is
9 going to make the determination of does the tribal
10 regulation exceed or meet what the NIGC considers
11 minimum internal control standards or regulation
12 that they would do. Would it be like Ken coming
13 down and say, yes, we do agree, no, we don't agree.
14 Who would do that? I mean, it sounds good on paper,
15 but the reality is how do you put it into practice.
16 Like if the Mescalero Apache Tribal Gaming
17 Commission passes regulations -- and I go back to a
18 pet peeve of my mine, plus or minus three percent,
19 and you grant an exemption -- that was a Joe Smith
20 thing.

21 You know, if we grant an exemption or we
22 pass a regulation that says, no, you don't have to
23 do that for the first, you know, 100,000 pulls or
24 plays, something like that, because of the
25 volatility, would that be sufficient or would the

1 NIGC say, no, you have to comply with a plus or
2 minus three percent variance. You have to
3 investigate that, that sort of thing.

4 And then I'm going to echo what some of
5 the other people have said, because it's becoming a
6 huge issue and it will grow more and more, is the
7 definition -- I don't like to use net revenue,
8 because I think net revenue sometimes means
9 different things to different people. I think the
10 definition of net revenue really needs to be
11 addressed, because what's happening is that as
12 states obviously look to tribes for additional
13 funding and that sort of thing, they want to keep
14 the definition or kind of there is no formal
15 definition of net win anywhere. GAAP does not have
16 it.

17 You know, it's kind of like something that
18 was adopted from Nevada, and it was good 30 or 40
19 years ago, but now you have vendors that have gotten
20 very creative in their placement of gaming machines
21 on the floor. So then you go into the issue, like
22 it's not really wide area progressives, but a big
23 one is participation games. Participation games are
24 where you split the gross revenue off that machine
25 right off the top. And, you know, the AICPA has

1 come out with the opinion that those are leases, not
2 things that you would find deductible.

3 But if you look at it, and if you look at
4 the wording of the contract, really what you are
5 doing is it's a lot like wide area progressives.
6 Wide area progressives under the AICPA guidelines
7 have been established as deductible. And so I think
8 participation games should fall along those same
9 lines, because you are splitting the gross revenue
10 right off the top, and it's a lot different than a
11 lease or something that you normally have.

12 So I think that needs to be revisited,
13 because obviously if you are the state and you are
14 trying to maximize the amount of taxes that you are
15 going to collect from the tribes, then you want to
16 keep the old one and you want to disallow as many
17 deductions as possible. If you are the tribes, you
18 are trying to maximize your return, and you want to
19 be able to take those in. But you are seeing more
20 and more of that in terms of vendors putting
21 participation games on the floor.

22 And then last, self regulation should be
23 more attainable. I think the standard has been
24 raised so high that it makes it almost impossible.
25 You know, in the past, you know, we have approached

1 the NIGC just kind of for discussion purposes only,
2 just what would it take, and you get like -- I know
3 it's not your administration, but in the past, it
4 was like, oh, no, you know, you would have to do
5 this and that and that and that, and it was like
6 almost impossible.

7 So I think that the tribal gaming
8 commissions, the tribal regulatory authorities, the
9 tribes themselves, the gaming tribes, have matured
10 enough now and have been in the business long enough
11 so that they know how to regulate their, you know,
12 their gaming operations properly. So I thank you
13 for the time, and there is no letter. These are
14 just notes.

15 MS. ECHO-HAWK: Will you be writing a
16 letter?

17 MR. APODACA: Probably because I think the
18 attorney is here somewhere so --

19 CHAIR STEVENS: Thank you. And we do
20 welcome your comments in writing, and we also heard
21 about incentivizing, promoting self regulation and
22 creating regulation that, you know, encourages
23 tribes to self regulate, rather than -- that's where
24 the part of the PowerPoint says burden versus
25 benefit, is the burden worth the benefit. And, you

1 know, it should be beneficial for tribes, and I'm
2 not sure that current regulations do that.

3 We only have two, right, two tribes, and
4 one is by statute, so we really only have one. You
5 know, we have heard a lot of talk about that, so
6 thank you.

7 MR. FELIX CHAVEZ: Good afternoon,
8 Chairwoman Stevens, Vice Chair Cochran, and Mr.
9 Little. My name is Felix Chavez. I am the
10 chairperson at the Sandia Tribal Gaming Commission,
11 and I also serve as the current chairperson for the
12 New Mexico Indian Association of Gaming Commissions.

13 We will be submitting our written
14 statements to the NIGC. I would like to first
15 address your initiatives. The consultation and the
16 transparency and the communication, I think that's
17 really good. That's something that we haven't seen
18 before. In the past, you have heard comments from
19 the different gaming commissions and tribal leaders
20 that it wasn't there. It wasn't present. And this
21 is a fresh approach to this issue with the gaming
22 tribes and the NIGC.

23 The second thing is technical and
24 training. You are well aware that the economic
25 conditions that we face today, many of the tribes'

1 gaming commissions are under budgetary constraints.
2 It would be helpful to receive a lot of the
3 technical and training from NIGC itself. Mr. Ken
4 Billingsley has provided training for the different
5 gaming commissions, but I think it's needed more,
6 especially in the areas of newer technologies, those
7 that advance at a greater rate than what we have
8 seen before.

9 We have the issue of internet gaming.
10 That hasn't even been discussed at our gaming
11 commission, but we are well aware of what's going on
12 on the nationwide scenario. And I think we should
13 voice our opinions with regard to that specific
14 subject on internet gaming. I just don't like the
15 idea that the states can come in and eliminate us
16 from that process. That's an important process.
17 Those are revenues that could be generated by the
18 tribe and used for their support of tribal
19 government and all their needs of their people.
20 And, you know, those are just my comments on
21 technical and training services.

22 Ken has done a great job, and I appreciate
23 that, and I look forward to his continuing efforts
24 to train us, and again, it's sorely needed.

25 The third thing is the regulatory review.

1 I have been sitting in back and thinking about what
2 I have heard from the different tribes, and I go
3 back to when I was trained in the gaming industry.
4 I grew up in one of the gaming operations, gaming at
5 Sandia. I worked there as an assistant general
6 manager for approximately six and a half years, and
7 then I worked for various gaming commissions in the
8 state here, but I also look back to what the tribe
9 did for me. They sent me to Las Vegas to train to
10 become knowledgeable about the casino industry.

11 Well, one of the professors there spoke
12 about industry standards, and that's what we are
13 talking about today. That's part of your
14 initiatives that you have sent to us and that I
15 would like to reciprocate. A lot of those industry
16 standards are there already. You know, we rely on
17 GLI for the slot machine standards that go into the
18 Class III gaming devices. We look to AICPA for
19 casino and audit information that comes our way, as
20 well as their federal standards advisory board. So
21 a lot of these technical standards come from
22 different locations.

23 At Sandia, we have adopted a lot of those
24 standards. Those industry standards are what keep
25 the gaming operation safe. The gentleman from

1 Arizona spoke about the risk based approach to the
2 MICS. We implement that religiously at Sandia.
3 That's how we keep control, and we enforce those
4 minimum internal controls. It's a requirement
5 apparently of NIGC that we have the external
6 auditors come and audit the gaming operations
7 financial statements, as well as conduct an audit
8 review on the MICS.

9 So my issue with the MICS is that a lot of
10 these things are grounded in industry standards.
11 Industry standards are important to the gaming
12 operators. There was a comment about the gaming
13 operators. They know what those standards are.
14 They have been entrusted with a fiduciary duty to
15 make sure that profits are sent to the tribe and
16 that it's conducted in a fair and equitable way, not
17 only to the tribe, but to the gaming public.

18 I do agree with the notion that the MICS
19 should be considered guidelines, because again, this
20 lends the support to the tribes with regard to
21 sovereignty. I'm not going to speak on behalf of
22 our tribal council, but the tribal council has
23 determined that they are in the driver's seat, they
24 are the ones who instruct the gaming commissions to
25 review those minimum internal controls to make sure

1 that they meet or exceed it.

2 And in some regards, their complaints as
3 well as the complaints that we receive from the
4 gaming operations, that to some degree we are over
5 regulated. Again, if you take a risk based approach
6 to the MICS, it's pretty evident. I mean, we are
7 overburdened with that. In some cases we have had
8 to make adjustments to our own minimum internal
9 controls, our regulations, so that the gaming
10 operation could continue to make profits on behalf
11 of the tribe.

12 So I think that, again, the tribes are in
13 the driver's seat. The gaming commissions receive
14 their direction from its counsel, and that's how we
15 proceed with our business at Sandia.

16 With regard to the fees, part 14, 514, on
17 the definition of GAAP, again, I referred earlier to
18 the industry standards, those industry standards
19 come through AICPA, FASB, those folks. Those folks
20 are the ones that create those definitions. And I
21 think it would be advantageous to the tribes if they
22 had a say in what those definitions were. Again,
23 these are Generally Accepted Accounting Principles.
24 We don't make those up. We are not the creators.
25 We don't draft legislation or definitions that

1 determine that, but again, I think the tribes should
2 have a voice in that.

3 We are acceptable to the late payment or
4 some kind of a sliding scale that was mentioned
5 earlier. The MICS, again, when I was reading the
6 federal register, there was one thing that jumped
7 straight out at me, and that was what would happen
8 if the MICS were revised. We have already
9 incorporated a lot of those regulations or those
10 MICS into the tribal state gaming compact. They are
11 incorporated by reference, and that's what we have
12 to go by these days.

13 So the way I see it, if they were, if the
14 MICS were created as guidelines, let the tribes and
15 their gaming commissions establish those minimum
16 internal controls, either to meet or exceed them so
17 that they can continue on with their gaming
18 operations.

19 Issues that we have with the state, again,
20 are based on some of the concepts and those industry
21 standards that are in the MICS. There are good
22 things to the MICS that help the tribes support
23 their revenue base, and there are other things that
24 we have to continue and fight with the state on
25 minimum internal controls.

1 One thing that I noticed in the past was
2 in the State of California, their state gaming
3 control board stepped in and replaced the NIGC MICS,
4 and that created a controversy. And that's what I
5 don't like to see in the State of New Mexico,
6 because the State of New Mexico has not been very
7 friendly to the gaming tribes. The gaming tribes
8 all know that. The tribal leaders know that. But
9 that's one of the ill effects, I would say, where if
10 we can't rely on industry standards that come or
11 have such a rich history from NIGC, I would hate to
12 see the state step in and attempt to do the same
13 thing like they did in California.

14 It's important to me that I can turn back
15 and say, wait a minute to the state. We have the
16 foundation already. We had to go look for that
17 foundation. That foundation was already established
18 a long time ago. All we have got to do is build
19 upon it and move forward. And again, the MICS is
20 important, because it addresses the advances in
21 technology. It's hard working out on the ground,
22 because technology is moving so fast. It's just
23 like your computer, it becomes obsolete the day that
24 you buy it, and there's always new software that
25 comes out, and trying to deal with that is pretty

1 hard. But again, that comes through analyzing,
2 training, and taking a look at what those industry
3 standards are and what they mean and what they are
4 all about.

5 I think that about covers it for my
6 segment. Again, I would just like to thank you for
7 having the opportunity to make my comments. Again,
8 it's good to see the transparency and the
9 communication. We have a good, a pretty good
10 working relationship with Mr. Billingsley out of the
11 Southwest region. We appreciate his efforts.

12 And again, communication is very
13 important. It's important in the business
14 operations. It's important to the commissions.
15 It's important to the tribal leaders. The
16 information that they receive, how they analyze it,
17 how they can make things work better for themselves,
18 I think is what IGRA is about, it's about economic
19 development for the tribes.

20 And I think it's up to you to be there and
21 support us, to take our comments and help the tribes
22 make a better stance against a lot of the
23 congressional issues that are taking place right
24 now, and some of the legal issues that the tribes
25 face in the supreme court.

1 We recently just had a court case that
2 went up to the docket, but it was declined. And
3 again, it was on Class III gaming devices.

4 It's so important that we follow those
5 internal controls. That's what keeps us safe. And
6 again, you know, that's the way I view it. That's
7 the way I have learned it. That's the way I
8 understand it, and I think it's not going to go
9 away. We need to work and look at the future to see
10 what is out there, to see how we can be better
11 players. You know, hopefully those advancements
12 will benefit the tribes in the end. Thank you.

13 CHAIR STEVENS: Thank you. Will Sandia be
14 submitting written comments do you think?

15 MR. APODACA: Yes.

16 CHAIR STEVENS: Wonderful. We want to
17 hear all of them.

18 Any other comments? Yes, sir.

19 MR. TOM WILSON: Just take a few more
20 minutes. Tom Wilson for the Pascua Yaqui Tribe. I
21 would like to comment on four things, follow-up on a
22 couple of issues of rebuttal.

23 With regard to the NIGC fee structure in
24 the calendar year versus fiscal year, we certainly
25 would prefer to go to fiscal year. That's where our

1 accounting records are based on a fiscal year, end
2 of year. All of our effort, it would make it much
3 easier from a calculation standpoint to just include
4 that as part of our year end close process. Right
5 now we have a separate process, because of the
6 calendar year requirement, and it does create
7 problems for us. Namely sometimes it gets lost in
8 the weeds, that we have to pay this fee based on a
9 calendar year.

10 We actually discovered that we overpaid
11 for several years, because we were calculating
12 incorrectly, misunderstanding about the time period,
13 whether it was calendar year or fiscal year. So
14 from our standpoint, the fiscal year would make the
15 most sense and it just would align itself with our
16 accounting period.

17 Our suggestion on implementing that would
18 be that NIGC just go with an implementation date,
19 and then the tribes be allowed to prorate up to
20 their fiscal year period. So in some cases, the
21 tribe may just have a couple months worth of
22 payments to make to bring them to their current
23 fiscal year, and then they would be due again the
24 following fiscal year, but basically transition it
25 that way as opposed to just an 18 month window of

1 trying to determine when you are going to implement
2 it. And it seems like that would be more definitive
3 for everybody from that standpoint.

4 Regarding the notice of violation, we
5 agree with what NIGC is suggesting here. Ourselves,
6 as a regulator, we issue a notice of concern prior
7 to a notice of violation. So what the notice of
8 concern allows us to do is bring an issue to the
9 attention of whomever management, in this case, or
10 the tribe, and allow them an opportunity to correct
11 it, knowing that if it doesn't get corrected, that
12 it will lead to a notice of violation. This way
13 there is that intermediary step.

14 A notice of concern is not a licensing
15 action for us, so it doesn't have the punitive
16 effect that a notice of violation would have, and we
17 find that it works very well. We very seldom -- I
18 don't know that we get to a point where we ever have
19 to issue a notice of violation, because the notice
20 of concern is dealt with appropriately. So I would
21 agree with the other comments, that the notice of
22 violation is kind of a death penalty thing, and
23 maybe that's not the most appropriate way to handle
24 every instance in that regard.

25 With regard to training, a comment on that

1 is perhaps using technology more, web-based training
2 as a means to get training out there, I think that
3 would be very appropriate. And the technology
4 certainly is there and is very inexpensive now in
5 order to make that available to tribes. So that the
6 idea of traveling places, if we can do it via the
7 internet, it would certainly be beneficial for us as
8 well.

9 With regard to the fingerprinting issue,
10 we, of course, rely on NIGC. We just started using
11 NIGC this year for processing fingerprinting. Prior
12 to that, we were going through the State Department
13 of Public Safety. We use digital electronic
14 fingerprints, so that works very well with NIGC, and
15 we get our results back very timely. When we were
16 relying on the state, it would take anywhere from
17 three to six weeks to get any information back, of
18 course, and that wasn't terribly effective for us in
19 conducting background investigations.

20 The challenge we have, however, is that
21 with your current Memorandum of Understanding, just
22 dealing with key employees, we recognize that in our
23 ordinance, we could designate key employees, and
24 whoever we designate as key employees in the
25 ordinance, then technically we are allowed to run

1 those through NIGC. For purposes of efficiency, we
2 would like to make everybody a key employee to be
3 able to utilize that system.

4 The problem we have with that, though,
5 that in our state compact, if we designate somebody
6 as a key employee, then the state compact says they
7 also have to be licensed by the state, which of
8 course we don't want to do. So our best solution is
9 that if we can utilize the NIGC system for all of
10 our background requirements, that would be most
11 efficient and effective for us.

12 Right now we have to utilize alternate
13 sources to do backgrounds for non-key employees, so
14 what happens is we delay a final licensing decision
15 pending a criminal background check coming back. In
16 some cases we go ahead and issue a conditional
17 license pending that. But nonetheless, it would be
18 simple for us to be able to run everything through
19 that system, and it seems like if we are talking
20 about the integrity of gaming, that everyone would
21 be in agreement that having the uniform system for
22 conducting background checks would make sense.

23 And there aren't a lot of other
24 alternatives out there. We have tried discussing
25 with other agencies, both state agencies, local law

1 enforcement agencies, a means of trying to run the
2 criminal history FBI fingerprints through them, but
3 it's a very, very difficult process. There is a lot
4 of infrastructure that has to be put in place
5 between the tribe and the particular agency that you
6 are running these fingerprints through, security
7 issues, that the NIGC already having the process in
8 place, it makes the most sense to us that if that
9 could be expanded, it would be the least costly and
10 the most beneficial from our standpoint.

11 We don't necessarily have any position on
12 the tribal advisory committees other than what other
13 tribes have expressed, which is that those
14 committees be made up with fair representation so
15 that everybody has a voice on those committees,
16 either directly or indirectly through some kind of a
17 representation process.

18 That's all I have got. Thank you.

19 CHAIR STEVENS: Thank you very much.

20 Yes, sir.

21 MR. RANDALL VICENTE: Thanks, Chairwoman
22 Stevens. My name is Randall Vicente. I am the
23 Pueblo of Acoma governor this year. As you all
24 heard First Lieutenant Governor David Garcia's
25 comments, greetings to the governors and the other

1 community commissioners. I want to thank you also
2 for this time and opportunity that you have given us
3 to speak with you in reference to issues and
4 concerns that the pueblo gaming tribes may have,
5 which certainly we do have.

6 Currently the Pueblo of Acoma has some
7 paperwork in the outline with you, and as we are
8 speaking, and I have heard other pueblos speak, I
9 would like for you to hold off on making signing it
10 for approval. At this point in time, I need to meet
11 with my attorney back here, our attorney who
12 represents us also, Joe Tennorio, and my tribal
13 council as well as my commission, my gaming
14 commission at the Sky City Casino. This is going to
15 give me a much broader, better decision making to
16 support what has already been submitted.

17 As I mentioned, what has been submitted,
18 the comments that the pueblo Indian tribes have made
19 here raise some issues and concerns for my
20 lieutenant and I. So hold off on the letter that's
21 on your desk or in your office, and as early as next
22 week, Monday or Tuesday, we will look at whether we
23 support the whole entire ordinance that's been
24 proposed changes, as opposed to if we need to make
25 some other inclusions or take out some of the

1 wording that may not apply. So that's some
2 information I need to pass on to you. Thank you.
3 Thank you very much.

4 CHAIR STEVENS: Governor, I did check with
5 our general counsel's office while we were at lunch,
6 and that was actually one of the ordinances that he
7 has in the pipeline for me to sign.

8 MR. VICENTI: Right.

9 CHAIR STEVENS: And are you the new
10 governor?

11 MR. VICENTI: Yes, I am the new Pueblo of
12 Acoma governor, Randall Vicenti.

13 CHAIR STEVENS: So the ordinance that is
14 in front of me was passed by a previous.

15 MR. VICENTI: Yes.

16 CHAIR STEVENS: So let's talk off line and
17 let me understand what you are asking so I am clear,
18 because I don't want to stop something. I don't
19 want to misunderstand what you are saying about what
20 you would like to have done with that ordinance,
21 because it is ready to go. So if you want to
22 withdraw it, that's fine. Just we can talk off
23 line.

24 MR. VICENTI: We will talk.

25 CHAIR STEVENS: Yes, I have it so --

1 In the absence, do you have one more? You
2 thought you were done but you have one more.

3 MR. WILSON: I'm sorry. I like to hear
4 myself talk.

5 One item that we need a point of
6 clarification on is dealing with the net revenues,
7 and the section that's talking about, should the
8 commission consider language that tribes should
9 first consider cash flow as, you know, in their
10 decision-making process in terms of disseminating
11 tribal funds, and I guess the question was there
12 that clearly the IGRA already specifies what those
13 funds can be used for. So in what context would a
14 regulatory sense be that the tribes would be -- if
15 they were considering cash flow, is this something
16 that would just be in the regulation, as you should
17 consider cash flow as part of your process of
18 thinking before you distribute funds or -- we are
19 just not fully understanding that question and the
20 intent of what you are trying to get at.

21 I mean, just part of it just seems very
22 logical that of course you would consider cash flow,
23 so maybe you can give a little background on what
24 this is referring to.

25 MS. ECHO-HAWK: When it was brought to our

1 attention -- I am not an accountant by any means --
2 but the thought was that because net revenue, the
3 definition that net revenue can be used to base a
4 number things, like revenue sharing. Revenue
5 sharing is based on a calculation of net revenue as
6 it's defined, is there a way then for the tribe to
7 sort of include in as net revenue, so excludable
8 from say the percentage of net revenue that they
9 would have to share, et cetera, could they include
10 in their depreciation cap X monies, debt servicing.
11 Is there a way that sort of we can be creative with
12 the definition that allows that calculation to be
13 the most beneficial for tribes, because we have seen
14 in a number of instances where tribes, they have got
15 a revenue sharing agreement of some kind, even when
16 it comes to the management contracts, that
17 ultimately it ends up with the management company
18 gets their cut straight off the top, the state gets
19 their cut straight off the top. It doesn't take
20 into account the debt servicing, the cost of the
21 operation.

22 So is there a way that we can refine that
23 so the tribes get the most -- they can meet all
24 their obligations before they have to deal with the
25 revenue sharing, that kind of thing. That was the

1 thought behind it. Did we phrase it correctly, it
2 might be a little fuzzy, but that was the intent.
3 If that's something that tribes want, then we would
4 love to hear some options or some ways to do that.

5 CHAIR STEVENS: I know many of the leaders
6 had to go today, and we appreciate the leaders that
7 have been able to stay. But also understand, too,
8 in talking to folks out in the hallway, that many
9 are staff in the back of the room who are
10 commissioners or regulators who may not necessarily
11 be in a place or in a position to speak for their
12 tribe, but are just here to listen today and bring
13 back information to their tribe and to their
14 commission so they can make recommendations.

15 I know many of you are here. It's a new
16 format and are sitting and listening, which goes to
17 the point of our being transparent so that you can
18 go online, you can see what's been said and recorded
19 over the past four consultations, and all eight
20 consultations will be posted on the website for your
21 viewing and maybe it will help inform your comments
22 as you put together your comments for your tribe.

23 So I am inclined to make a last call. Any
24 other burning desires to speak or last issues that
25 maybe you haven't thought of?

1 Well, let me turn it over to Lael, and
2 then also to the commissioners if there is
3 additional information that we want to provide.

4 MS. ECHO-HAWK: Just reiterate,
5 logistically, comments can be submitted however you
6 need to submit them. Reg.review@nigc.gov, that's
7 the e-mail address. You can hand them to me. You
8 can mail them to us. Between Mark and I, we get
9 them up as soon as we get them. The transcripts
10 will be up as soon as we get them as well, in the
11 next couple weeks, I imagine.

12 Then finally, I know that a number of
13 tribes, someone mentioned here today, that you don't
14 want to lose the one on one contact with the
15 commission. There are a number of events where we
16 are going to be setting aside time for the
17 commission to meet with tribes individually out, you
18 know, in various conferences, et cetera, so you
19 still have that one on one interaction, that this
20 does not preclude that. If you do have individual
21 issues, you know, we try to accommodate them.

22 There is, on the contact us section of the
23 website, there is a form that you can fill out.
24 Fill it out, send it to Rita, who is our
25 administrative assistant, and as we begin planning,

1 whether you are in DC or we begin planning our kind
2 of conference schedule, we will have time set aside
3 for you to meet one on one with the commission to
4 deal with your individual issues. That way you
5 don't have to air all your business in this kind of
6 format. So please utilize that, because you
7 definitely do not lose that contact with the
8 commission, and we look forward to speaking with you
9 then.

10 CHAIR STEVENS: Steffani, do you have
11 anything you want to wrap up with?

12 VICE CHAIR COCHRAN: I appreciate the
13 opportunity that you have given us to listen today,
14 and you had some very good insights, and you have
15 some issues that we need to be mindful of as we go
16 through this process that are unique to the pueblos
17 and are unique to this area of the country. I
18 appreciate, again, your time.

19 The other thing is, sometimes it is easier
20 to get your comments to Ken or the survey that we
21 sent out. If you will take two minutes to respond
22 to the survey, it really will help us in looking at
23 what you need for training and technical assistance,
24 and it's very important to me. And again, if you
25 want to hand it to Ken. You know, whatever. We are

1 not concerned about the method inasmuch as we are
2 concerned about getting your voice to us. So again,
3 thank you.

4 I have to get on a plane at 7:00 a.m. I
5 don't think I'm going to be very happy about this,
6 but thank you, and I really appreciate seeing so
7 many familiar faces.

8 CHAIR STEVENS: It looks like we have one
9 more comment.

10 MR. PETER GARCIA: Real quickly, this may
11 be for Ken. I'm not sure. I'm not sure if you have
12 training sessions that you have available. I can
13 see the format, if you will. And I know Joe Smith
14 only had a limited number of trainings, which is a
15 good thing, but we need more material like for slot
16 analysis. So if you can have that available so we
17 can get them from the region office or help us in
18 our travel expenses, so if you can provide that more
19 to us.

20 VICE CHAIR COCHRAN: We do keep the
21 current catalog online on our website. If it's
22 helpful to you at all, it's got little descriptions
23 in it. If you want to spend some time with Ken and
24 go through and look at what we have currently, or
25 talk to him about what else we might need to do, and

1 then Ken can certainly coordinate getting the right
2 people to you. I am wondering whether or not we
3 need to bring new commissions training out. So we
4 can also work with other entities to try to get you
5 what you need. So he is a wealth of information,
6 and we need to make sure that you know what we
7 offer.

8 MR. GARCIA: Okay.

9 CHAIR STEVENS: And your feedback on the
10 survey is going to help us reshape our catalog and
11 our curriculum, and that includes Joe's curriculum.
12 And we understand that we need better coordination
13 internally on providing training, which the survey
14 will help us do. And that's part of our review of
15 our program right now is better coordination, but
16 also levels of training. Not one size fits all, and
17 we know that you have turnover on your commissions,
18 at your agency, and your council, and there is
19 always somebody who is a beginner. There are
20 long-term people who are very advanced.

21 So when you provide your survey, please be
22 honest with us and let us know what you need, but
23 it's all meant to inform our revamping our technical
24 assistance and training to meet your needs. So it's
25 on the website, so please do fill out the survey.

1 Dan.

2 COMMISSIONER LITTLE: Yes. I just want to
3 thank everyone for coming today and thanks for the
4 hospitality. As I look out the window here, I hope
5 you guys realize just what beauty you live around
6 every day. It's just remarkable. When Lael opened
7 the window, I was like, this is great.

8 So I just want to thank everybody again.
9 Is Mark Van Norman here? Wow, we got through a
10 whole meeting without Mark making a comment. But
11 anyway, thank you again and thank you for the
12 hospitality.

13 CHAIR STEVENS: Well, thank you all. I
14 want to thank the Santa Ana Pueblo. They have been
15 quite generous with their facility. It's beautiful.
16 I want to remind everybody, this is just the
17 beginning. We will not be perfect, but we will
18 endeavor to keep the communication going, do
19 follow-up, have responses to your comments. They
20 may all be posted in the federal register, how we
21 respond to everybody's comments, but we will
22 continue this dialogue. This is just the beginning.

23 I recall, you know, working for a tribe
24 and feeling like this was it. But this is just one
25 of many more steps to come as we collaboratively

1 work to protect this industry, and your input is
2 vital for us to do this. So do please provide your
3 comments.

4 Thank you, again. Thanks to your tribes
5 for allowing you to come here and take time to
6 listen, to weigh in, and we wish you all safe
7 travels back home. Thank you very much.

8 (The meeting concluded at 3:01 p.m.)
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1 STATE OF NEW MEXICO)
2 COUNTY OF BERNALILLO)

3
4 REPORTER'S CERTIFICATE

5 I, Sally Peters, RPR, CCR #57, Certified
6 Court Reporter in the State of New Mexico, do hereby
7 certify that the foregoing pages constitute a true
8 transcript of proceedings had before representatives
9 of the Environmental Protection Agency, held in the
10 District of New Mexico, in the matter therein
11 stated.

12 In testimony whereof, I have hereunto set
13 my hand on January 24, 2011.
14
15

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