

1 NATIONAL INDIAN GAMING COMMISSION  
2 NOTICE OF INQUIRY REGIONAL CONSULTATION  
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10 REPORTER'S TRANSCRIPT OF PROCEEDINGS

11 JANUARY 12, 2011

12 9:00 A.M.  
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APPEARANCES:

- TRACIE STEVENS, NIGC Chairwoman presiding
- DAN LITTLE, Associate Chairman
- ERIC SCHALANSKY, Regional Director
- LAEL ECHO-HAWK, NIGC counsel

STATEMENTS PRESENTED:

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1 WEDNESDAY, JANUARY 12, 2011 9:15 A.M.

2

3 CHAIRWOMAN STEVENS: Good morning. I hope you're  
4 all well and in good health. Thank you for attending this  
5 morning. And before we begin, I'd like to turn over the  
6 microphone to Leland Kinter, the treasurer of the Wintun  
7 Nation, who is going to give an invocation and also opening  
8 remarks.

9

STATEMENT BY LELAND KINTER

10 MR. LELAND KINTER: Good morning, everybody. I just  
11 want to say a few words in my language and welcome everybody.

12 (Native American Indian invocation given.)

13 Welcome to Yocha DeHe. I'm the tribal secretary  
14 here of Yocha DeHe Wintun Nation, as well as the tribal  
15 gaming assistant chairman, and I want to welcome you to Yocha  
16 DeHe. And I hope everybody had a safe trip and has a safe  
17 trip home. [Indian words.] My house is your house. So I  
18 just want to welcome everybody, and I hope we have a good  
19 meeting today. Thank you very much.

20

21 STATEMENT BY CHAIRWOMAN STEVENS

22 CHAIRWOMAN STEVENS: Thank you, Leland.

23 Again, I express my thanks on behalf of the  
24 Commission for your attendance here today. I know that  
25 tribal council members and your staff have very busy

1 schedules, and we appreciate your time and the fact that  
2 you're taking some of your time to meet with us today.

3 My name is Tracie Stevens. I'm a member of the  
4 Tulalip Tribes out of Washington State. I am the new  
5 chairwoman of the National Indian Gaming Commission, recently  
6 appointed and sworn in at the end of June this year.

7 I do want to extend again my thanks and appreciation  
8 and gratitude to the Yocha DeHe Wintun Nation for offering to  
9 host here, and we accept your welcome into your home and to  
10 your territory. This is a beautiful facility, and we really  
11 appreciate your graciousness. Thank you.

12 Also, as many of you know, our staff -- we have  
13 several staff here from our region in the Sacramento office.  
14 We have our Regional Director Eric Schalansky, Field  
15 Investigator Alan Phillips, Field Investigator Mark  
16 Olenslager, and the administrative assistant Kimberly  
17 Angeles. They will be here if there's any issues that you  
18 need to talk to them about. They are great support, and I  
19 want to put my hands up to them and thank them. Without  
20 them, we could not have coordinated this meeting.

21 Also, as you'll see, down at the end of the table  
22 there, with the laptop down there, is Sharon. She's our  
23 transcriptionist, and she is taking a record here. And there  
24 will be housekeeping that we'll talk about, as we proceed  
25 this morning, on how to give comments.

1           Oh. And, by the way, Dan Little. Let's not forget  
2 Dan Little. He's our Associate Commissioner. So two of the  
3 three commissioners are here today. Steffani Cochran, our  
4 vice-chairwoman, was not able to attend today. We're taking,  
5 sort of, turns getting to all the consultations. This is the  
6 second of eight consultations that we'll be doing over the  
7 next four weeks. We have quite a road trip ahead of us here,  
8 and we're putting the burden of travel on us in trying to  
9 reach out to the areas where we can meet with as many tribes  
10 we serve as we can.

11           Yesterday, we had a consultation in San Diego that  
12 went quite well. I think we had over 110 attendees. And,  
13 again, I do express my appreciation for your attendance here.  
14 I know there are conflicting meetings going on. We really do  
15 try to avoid that when we can. But I do appreciate you  
16 taking the time today. As I said, we know that, as tribal  
17 leaders, you have an entire government and the community, so  
18 we appreciate the time that you've taken today. So this is  
19 the second of our consultations. This consultation and this  
20 process that we're going through is an indicator and sort of  
21 our launch into how this new Commission is going to interact  
22 and collaborate with tribes.

23           This new Commission has identified four major  
24 initiatives that we've been talking about since we've been in  
25 office together for the past six months.

1           Our first initiative is: Consultation and  
2 Relationship Building. We understand that, in the past the  
3 relationship between tribes and how the consultations went  
4 were somewhat strained, and we had to make this our first  
5 priority to build bridges and uphold President Obama's  
6 commitment to Indian Country to meaningfully collaborate and  
7 consult with tribes. So this is our first priority, and  
8 today is a demonstration of that.

9           We are conducting our consultations in a different  
10 format so that we can hear how, you know, the policies that  
11 have tribal implications; and any changes or revisions to  
12 those policies affect everyone. Because I know, coming from  
13 the other side of the table, working for my tribe, I don't  
14 always know -- I know how it would affect my tribe and the  
15 tribes in my region. But on a national policy level, changes  
16 that affect tribes somewhere else may have a different  
17 effect. And sitting here together allows us to have a frank,  
18 open dialogue and, more importantly, come up with solutions  
19 together that meet the needs of as many of the tribes as we  
20 can. It's an innovative way for us to move forward and  
21 produce policies and, in this case, regulations that work for  
22 everybody.

23           Our second initiative is: Technical Assistance and  
24 Training. We are mandated by the Act to provide technical  
25 assistance and training to tribes. And we are in the process

1 of reviewing our program, if it's working, and whether or not  
2 we need to make some improvements. And we'll also be doing  
3 some outreach here, at the end of this week, with tribes,  
4 gaming regulators, operators, tribal leaders, via a survey  
5 that we can solicit input on what's working, what's needed,  
6 what needs to change so that we can better serve tribes and  
7 communities and we can, together, better protect this  
8 industry.

9 So that will be coming out. And that is going to be  
10 an ongoing process that we will continue to be engaged with  
11 tribes over the next two and a half years so that we can have  
12 a program that protects the industry and meets the needs of  
13 tribes, reduces compliance issues, avoids the need for  
14 further regulations or enforcement action. So that's our  
15 second initiative.

16 The third initiative is what we're here about today,  
17 with is: Regulatory Review. During my confirmation process,  
18 I committed to reviewing the existing regulations and to ask  
19 tribes if they are relevant and if they're working and what  
20 needs to be improved, if there are any gaps, if there's  
21 anything new that we need to look at, and to do this  
22 together.

23 And when I came on, Associate Commissioner Little  
24 and Vice-Chairwoman Cochran were already in office, and we  
25 sat down together. And, you know, Dan and Steffani have also

1 worked for tribes. And this came up immediately because,  
2 having been on the other side of the table during the  
3 regulatory processes in the past, we knew we had to address  
4 this.

5 We're all here for the same purpose, which is to  
6 protect this industry. And if we have instruments out there  
7 through regulations or we don't, that aren't helping to do  
8 that, then we need to together figure out how we can put  
9 together regulations that are effective. So that's what  
10 today's subject is. So we're hitting two of the four major  
11 initiatives with consultation and doing it in a new format,  
12 in an open way, and also addressing regulatory review.

13 The final initiative that we have, that we're  
14 working on is: Agency Operations Review. That means we, as  
15 an agency, are looking at our operations. If we're going to  
16 ask you to have great, clean operations, we should too. And  
17 so we're looking at how our agency runs and how we can  
18 optimize it, how we can streamline, how we can better serve  
19 tribes and that we're meeting our statutory responsibilities.  
20 It's really nothing different than you all do with your  
21 governments and with your gaming operations so that you can  
22 have the best-running operations as possible. And that's  
23 what we're doing, as well.

24 So those are our four major initiatives. And, as I  
25 said, this meeting hits two of those. And we're doing this



1 in a way, and you'll see up on the screen, and it was  
2 published in the Federal Register, this is something new for  
3 the agency. But I'll let Lael talk about that in a moment.

4 It's a Notice of Inquiry, and this is new to this  
5 agency. A Notice of Inquiry meets, for us, the requirements  
6 of the Executive Order issued by President Clinton on tribal  
7 coordination and corroboration of the tribal governments,  
8 that President Obama has reaffirmed, and what it does is  
9 allows a discussion. It asks stakeholders and, in this case,  
10 tribal governments what they think about how we should  
11 proceed in addressing policies that have implications for our  
12 governments before we start the rulemaking process.

13 That's different from the past, we understand,  
14 where, you know, you would get a notice of proposed  
15 rulemaking, and you had a draft sitting in front of you that  
16 you didn't have any input in.

17 So we've decided to ask the questions first before  
18 we even trigger a rulemaking process, because there may be  
19 some things that we don't need to address, that you would  
20 tell us, or there may be another way for us to address  
21 something besides a rule, or some way to improve the rule.  
22 If we do this together, there's joint ownership and we're  
23 more productive. And so that's what this Notice of Inquiry  
24 and today's meeting is about, is consulting on the need to  
25 change any things. And Lael will talk more in depth about

1 what the notice is about.

2 So, as I said, this marks the beginning of the new  
3 Commission and how we approach consultations and rulemaking  
4 processes or just change in policy. It doesn't necessarily  
5 mean that it's going to be a rulemaking process.

6 So today we're going to be opening up to tribal  
7 comments. We understand, with the beginning of this we found  
8 yesterday folks had some comments. We certainly appreciate  
9 that some may not be prepared to have comments here today and  
10 will submit them at another time. But we're not going to  
11 drone on and on today; we're going to go through the notice.  
12 And, really, today is about hearing from tribes on how to  
13 proceed. And the questions in the notice today, I mean,  
14 really, it's not going to be a line-by-line drafting session  
15 today.

16 It's a three-question day, really, which is: What  
17 regulations, when in priority, what priority? Because we  
18 only have so much time. I'm in office for two and a half  
19 more years. And regulatory processes can take a really long  
20 time. So we want to know from tribes which regulations need  
21 to be addressed first, in your view, that are most pressing.  
22 And then (3) How? How do we go through this process? We  
23 don't want to be dictatorial and go through a process that  
24 you don't agree to, and so we're looking at different ideas  
25 on how to proceed.

1           So what, when and how is what we're talking about  
2 today. And after we go through this process, we'll have an  
3 agenda. These consultations, this comment period, is meant  
4 to give us some ideas on how to strategize, how do we  
5 formulate an agenda and, basically, a tick list of how to  
6 move forward and how this plan over the next year, year and a  
7 half, will address regulations that better serve tribal  
8 operations. So that's what we're going to do today.

9           I want to turn the microphone over to Associate  
10 Commissioner Dan Little for some comments, and then we'll get  
11 started.

12  
13           STATEMENT BY ASSOCIATE COMMISSIONER DAN LITTLE

14           MR. LITTLE: Good morning, everyone. I'll be very  
15 brief. If there's any tribal leaders in the audience, please  
16 come to the table. We'd like to invite you to come up and  
17 have a seat.

18           But I guess I want to just quickly thank everybody  
19 for coming and welcome you here today. And, you know, I  
20 think -- and Lael is going to reiterate this, and I know that  
21 the Chairwoman talked about this: Today we're here to hear  
22 from the tribes.

23           And, you know, this is kind of a new process, and  
24 you're going to see a number of questions on the Powerpoint  
25 presentation. It was in the Notice of Inquiry. But these

1 are just questions, these are not positions that the  
2 Commission has taken. We're just trying to stimulate some  
3 conversation, and we hope that you're going to speak freely  
4 and tell us how these regulations affect your operations. So  
5 I want to thank you all, and I look forward to hearing from  
6 you all today. Thank you.

7 CHAIRWOMAN STEVENS: Thanks, Dan.

8 Next, I'd like to introduce Ms. Lael Echo-Hawk. She  
9 is counselor to the Chair and has been the point person and  
10 will continue to be the point person for this regulatory  
11 review process. This is a massive undertaking, but I'm  
12 confident that not only can she do it but we all can do this  
13 together. I've been looked at with some shock at the  
14 prospect of "You're doing what?" doing this major review of  
15 your regulations.

16 Fortunately, we're an agency that doesn't have a  
17 tremendous amount of regulations. But they're meaningful,  
18 and they mean something to all of you. But I'm confident  
19 that we can do this, and we're going to do this together.  
20 And Lael has been the point person on this, and she will  
21 continue to be.

22  
23 STATEMENT BY LAEL ECHO-HAWK

24 MS. LAEL ECHO-HAWK: Good morning.

25 Thank you all for coming to this consultation this

1 morning. My name is Lael Echo-Hawk, and I'm a member of the  
2 Kitkehaki Band of the Pawnee Nation of Oklahoma. I'm trying  
3 to get over a little bit of a cold, so excuse my voice.

4 But I do want to express my gratitude for the tribe  
5 hosting us here today. It's a beautiful place; kind of  
6 springs up at you out of a field, which we realized last  
7 night when we were driving in. But it's a gorgeous facility,  
8 and we do appreciate all of you coming out to take part in  
9 this.

10 I know regulatory review does not stimulate anywhere  
11 like a lot of excitement for a lot of people. I worked for  
12 six and a half years at the Tulalip Tribes of Washington,  
13 outside of Seattle, and part of my job there was to do a  
14 number of ordinance revisions. So this is a process that I'm  
15 familiar with from the tribal side.

16 But we also, both Tracie and I, participated in a  
17 lot of comments and participated in what the NIGC was doing  
18 at the time with their regulatory review. And so we're  
19 hoping that what we've come up with this go-around is  
20 different, that it works for tribes. And if it doesn't, I'd  
21 love to hear your comments. We want to do this the best way  
22 and the right way, and we do it as well as we can.

23 (Overhead slides shown.)

24 So with that, obviously, my name, and this is the  
25 e-mail address you can reach me at with any concerns or

1 comments that you have regarding this process. And the  
2 telephone number, obviously.

3 So why regulatory review? And I'm just going to go  
4 through this quickly so that I can turn the mics over to you.

5 IGRA obviously provides that the NIGC create  
6 regulations that enact the Indian Gaming Regulatory Act.  
7 And then Executive Order 12866, Regulatory Planning and  
8 Review and the Regulatory Flexibility Act, require agencies  
9 to semiannually submit to the administration a regulatory  
10 review agenda.

11 So, with that in mind, we've sort of come up with  
12 this process, so that in April we will have not only to the  
13 government, but also to you an agenda with regard to what  
14 regulations we're going to look at revising, what priority  
15 we're going to address them in, and how we're going to go  
16 about doing that.

17 But before we came up with that agenda, as the  
18 Chairwoman said, we wanted to make sure that we checked in  
19 with tribes and that we understood from you what your  
20 concerns were regarding the regulations and that the  
21 priorities that we -- the regulations that we address in the  
22 order of importance really came from the industry, came from  
23 the concerns of the operators and the regulators so that we  
24 really hit the most important areas.

25 As the Chairwoman said, this Commission is committed

1 to the President's mandate regarding tribal consultation,  
2 consulting meaningfully and often, and really trying to have  
3 a dialogue. That's what we hope today will be, is a  
4 dialogue. Yesterday, it took everyone a while to kind of get  
5 a little bit loose and begin our conversation. But this is a  
6 conversation, and we hope that we can engage that way with  
7 you.

8           There's been some very significant sections of the  
9 Executive Order on consultation with Indian tribes. At least  
10 to us, when we came into the agency and Chairwoman Stevens  
11 and the Commissioners took a close look at the consultation  
12 Executive Order -- and I don't know if you've all read it  
13 recently -- but the underlying part up here, Section 3(c)(3),  
14 "In determining whether to establish federal standards,  
15 agencies shall consult with tribal officials as to the need  
16 for federal standards and any alternatives."

17           So that's been very significant to us. It's one of  
18 the things that we want to hear from tribes. This is what  
19 we're doing, we're consulting with you before federal  
20 standards are set or are changed.

21           So what is a "Notice of Inquiry"? It's not  
22 something that we've seen used in any other agency that's  
23 dealt with Indian Country. It's commonly used by the FCC, by  
24 the copyright office, Library of Congress. It's a way for  
25 agencies to reach out to their industry, to their

1 constituents and say, hey, we've heard these issues come up,  
2 or we have some thoughts about changes in policy. What do  
3 you think? And can you please tell us what your thoughts and  
4 your concerns are regarding these particular subject areas?

5 And so while it's not something that I've seen used  
6 in Indian Country, it is something that's used widely in the  
7 administration, and it seems to be a rather useful tool, and  
8 we hope that it's going to work that way this go-around with  
9 us.

10 So it asks three primary questions: What  
11 regulation? The "when" question relates to priority. So  
12 what priorities do you see; what regulations do you see that  
13 need to be addressed first? What's the priority level? And  
14 then, how? The "how" relates to, do we establish a tribal  
15 advisory committee, do we make these revisions in negotiated  
16 rulemaking, are there some that we can just simply put out a  
17 Notice of Proposed Rulemaking and ask for comment?

18 So there's a number of ways this can be done. But  
19 we really are looking for some guidance from tribes to help  
20 us figure out the best way to do this.

21 We've got eight consultations. This is the second.  
22 So we're refining as we go along. Again, if you have any  
23 thoughts about this process, please don't hesitate to contact  
24 me. We really want to do this the right way. So the next  
25 four weeks are going to be very busy for us. But we really



1 appreciate your participation at this consultation. And if  
2 you participate in any others, we look forward to seeing you  
3 there.

4 We published the NOI in the Federal Register on  
5 November 18th. It was announced at NCAI that week and also  
6 at G2E. The comment period closes on February 12th. You can  
7 submit comments to the "reg.review@nigc.gov" e-mail address  
8 at any time up until that point. You can fax, you can  
9 e-mail, Pony Express, smoke signal; do what you need to do.  
10 We really want to hear from you.

11 All written comments, consultations, transcripts of  
12 these hearings are going to be posted on the Website. One of  
13 the commitments that the President has made, and his  
14 administration is committed to as well, is: accountability  
15 transparency.

16 We want you to know everything that we see, we want  
17 you to see. Our decision-making process is going to be  
18 transparent. And so we're making sure that all this  
19 information is accessible to you.

20 If you go to the "nigc.gov" Website, on the  
21 left-hand side is a button for tribal consultation, and when  
22 you click on that, another button comes up -- we like  
23 buttons -- and it says "reg review." You click that button,  
24 and on that page is all the information that we receive; it's  
25 all the agency information, the Notice of Inquiry, press

1 releases, dates of the consultation, comments submitted. All  
2 of that will be up on that Website.

3 So if you want to see what other tribes have  
4 written -- we have received one comment that was received  
5 last week. That's up there, if you'd like to see an example  
6 of some comments that a tribe submitted. But as we go  
7 forward, anything that you submit at any of these hearings,  
8 all this information will be on the Website.

9 So what regulation? The first questions.

10 As Commissioner Little said, these are suggestions  
11 only. These are issues that we've heard during the  
12 consultations of the agency conducted over the summer. These  
13 are issues that have arisen in meetings that we've had with  
14 tribes in our offices; they're out on the road. But these  
15 are suggestions only. The Commission has not set an agenda  
16 yet. This is what we're here to do. So we look forward to  
17 hearing from you on that.

18 And, very briefly, for those of us that might have  
19 forgotten what the Federal Register notice says, we touched  
20 on Section 502, the definition section, we talked about --  
21 there were some issues that came up on the definition on  
22 revenues, management contracts, part 514, the fee section,  
23 some suggestions about changing the calculation of the fee  
24 rate from the calendar year to the fiscal year.

25 The audit department has -- the audit division has

1 reported that one of the primary audit findings, or one of  
2 the things that comes up the most is when tribes' fiscal year  
3 is not set on the calendar year, and it makes it very  
4 difficult to calculate fees correctly. So a suggestion  
5 there.

6 Some other definition changes, using industry  
7 standard for a definition of gross gaming revenue, ideas  
8 about the processing fees, including them in here, and then  
9 perhaps a ticketing sort of system for when late fines are  
10 received sort of in lieu for an enforcement action when those  
11 things happen.

12 Part 518, self-regulation. We've heard a lot about  
13 this regulation and that the burden may outweigh the benefit.  
14 We want to hear from tribes on these issues.

15 Part 523. This section looks to be no longer  
16 necessary.

17 Management contracts. A lot of concern about  
18 management contracts and definitions and those issues.

19 Proceedings before the Commission. So when a  
20 tribe -- or when a gaming operation is issued an NOV, it's  
21 not clear -- you know, for a lawyer, there's not a lot of  
22 clarity with regard to how that process works and how long  
23 it's going to take. And so perhaps providing some clarity  
24 there.

25 Then the big one that we hear about a lot, on a

1 daily basis, the Minimum Internal Control Standards. At  
2 yesterday's meeting, Sharon House -- she's an attorney from  
3 Oneida -- she kept calling them the "ICS" instead of the  
4 "MICS." And we have to deal with the "ICS" at some point.

5 So what to do with the Class III MICS? What to do  
6 with the current draft of the Class II MICS that was ongoing  
7 when this Commission came into office. Technical standards  
8 regulations; what, if anything, do they need? So that is one  
9 issue that we hear consistently over and over.

10 There's also a pilot program for background  
11 investigations that's been in place for a number of years,  
12 and so formalizing that into a regulation. Fingerprinting  
13 for nonprimary management officials or key employees, so  
14 allowing the tribes to have more access to that  
15 fingerprinting process at the NIGC.

16 Facility licensing and environmental public health  
17 and safety regulations. These are all sort of issues that  
18 have come up, including the inspection and access to records.  
19 This comes up because we have a number of third-party  
20 vendors, such as management contractors. Who store records  
21 offsite, and perhaps clarifying the authority of the NIGC or  
22 the agency to subpoena those records for the agency and  
23 tribes.

24 Enforcement issues. And we did hear quite a bit  
25 about this yesterday, looking at the enforcement regulations,

1 including whether the Chair should have the authority to  
2 withdraw a Notice of Violation once it's been issued. But  
3 those were sort of the things that we heard from the existing  
4 regulations.

5 But we've also heard a number of concerns and  
6 suggestions about potential new regulations, including the  
7 tribal advisory committee: How do we set up a message to  
8 include tribal comments when drafting regulations? How do  
9 you select a tribal advisory committee? We've heard a lot of  
10 concerns about this process, and so perhaps formalizing it  
11 into a regulation or a policy, again, looking for guidance  
12 from tribes.

13 Sole proprietary interest. And someone brought up  
14 yesterday that we should also be thinking about the  
15 definition of primary beneficiary because those two issues go  
16 hand in hand. So that's also included in the Notice of  
17 Inquiry.

18 Communication policy. How do we communicate with  
19 tribes? Do we communicate with a commission, do we  
20 communicate with tribal government? When is it appropriate  
21 to communicate with one and maybe not the other, or our  
22 inspectors or field investigators speaking with the TGRA? It  
23 does get rather confusing. And we want to make sure that all  
24 the information that we have gets to the right place.

25 I've heard numerous times from commissioners and

1 then, alternatively, tribal leaders that, you know, the  
2 letter got to the Commission but it didn't get to the tribal  
3 council or vice versa. And so the information that they  
4 needed wasn't received in a timely manner, it was difficult  
5 for them to respond. So it's something that's been brought  
6 up and that we're also thinking about addressing. But,  
7 again, we need your assistance in figuring that out.

8 Buy Indian Act. I know that there is an initiative  
9 in the tribal gaming industry that tribes buy Indian from  
10 each other, and it seems like something the NIGC should also  
11 consider.

12 But, again, these are suggestions only. And we want  
13 to emphasize that these are issues that we've heard, and  
14 we're interested in hearing your comments on, but that is not  
15 the end of the universe. We've got a number of other  
16 regulations that are included in the Notice of Inquiry, that  
17 we didn't receive commentary on. But if you have concerns  
18 about those, please do not hesitate to let us know.

19 So we are again looking for the order of priority  
20 and method. And when it says here "separate tracks," one of  
21 the concerns that I personally have is that we don't get  
22 bogged down in sort of the issue that gets the most press,  
23 and that's the issue on the MICS. The MICS are a hot topic,  
24 they've been an issue of concern for a number of years. But  
25 there are a number of other issues that may not receive as

1 much PR, that we also need to consider. And we don't want to  
2 get bogged down. Now, if this means that we go two separate  
3 tracks, we've got a meeting here on the MICS and we've got a  
4 meeting on some other things, then we'll do it. We want to  
5 make sure that in the short period of time that's left, two  
6 and a half years, as Chairwoman said, that we get as much  
7 done and we get as much important work and the work that  
8 really is going to impact tribes done as quickly as possible,  
9 as thoroughly as possible. But we're committed to this, and  
10 we're committed to doing as much as we can with your help.

11 So consultation. One of the other things that stuck  
12 out to us in the Executive Order is in Section 3(c), again,  
13 number 2, where it says, "Agencies shall, where possible,  
14 defer to Indian tribes to establish standards."

15 So this is another issue, another way for tribes to  
16 participate. If you've got some language regarding the  
17 regulation or an alternative that you'd like to suggest to  
18 the agency, then please do. Because under the Executive  
19 Order, this is something that the agency shall consider and  
20 shall, when possible, defer to tribes to set those standards  
21 for themselves.

22 So, once again, the comment period closes on  
23 February 12th. Everything is going to be posted online. You  
24 can send in comments and any questions you might have to  
25 "reg.review@nigc.gov."

1           This is a commitment by the Commission, this is a  
2 commitment from myself, that every comment that we receive  
3 will be reviewed and considered. We'll look at everything  
4 that you send us, and we'll think about it thoughtfully and  
5 we'll consider it.

6           The regulatory review agenda, when this comes out in  
7 April, it will come with an explanation for why we made the  
8 decisions that we made, why we decided to address one  
9 regulation in a higher priority than another. Our  
10 decision-making process is going to be transparent, we're  
11 going to be accountable to you. If there's disagreement,  
12 we'll at least have explained to you why that decision was  
13 made. So we hope that, you know, tribes will be supportive  
14 of this process. And if you have concerns, again, please  
15 don't hesitate to get ahold of us.

16           The agenda will be finalized in April. And then we  
17 begin the line-by-line work. That's when things really --  
18 the "heavy lifting" really begins to April. But, again,  
19 we're committed to this and we're hopeful that this process  
20 is going to enhance the industry and that it will make some  
21 necessary changes as we move forward.

22           So before I turn the mic back over to tribal  
23 leaders, some logistics. If you're sitting at the table and  
24 if you can read your name, please turn your name around so  
25 that it faces the inside of the table. This is going to help



1 our transcriptionist here. So she's going to walk around,  
2 and she's going to want to see your name. So if you could  
3 just turn it to the inside of the table, that would be  
4 helpful.

5 When you speak into the mic -- and I can move the  
6 mics around or do what I need to do so everyone can speak  
7 into the mic. Please speak into the microphone, introduce  
8 yourself and who you're with or what tribe you represent.  
9 State your name again. Even if you've said it one time  
10 already, if you come up again, please restate your name.

11 Again, seats at the table -- we still have some  
12 seats at the table for tribal leaders, if you'd like to come  
13 up. And with that, I think that I'm done.

14 Does anyone have any questions about the process?  
15 Or, otherwise, we will turn the microphone over to you for  
16 your comments.

17 CHAIRWOMAN STEVENS: And we don't want anyone to be  
18 bashful. We didn't come all the way out here to be shy.

19 MS. LAEL ECHO-HAWK: And there is a microphone in  
20 the center of the room, sort of a lineup process that you see  
21 sometimes.

22 STATEMENT BY NICHOLAS FONSECA

23 MR. FONSECA: Good morning. How's everybody doing  
24 this morning? Okay, I have some comments for you.

25 You probably heard me read some of these before, but

1 I'm going to go through them.

2 Part 502, Definitions. Net Revenues, Section  
3 502.16. Should the NIGC consider a new definition of "net  
4 revenues" that potentially affects distributions to tribes  
5 for allowable uses?

6 Tribes currently compute distribution revenues by  
7 deducting gaming operation costs from gross gaming revenues.  
8 The NIGC is considering requiring tribes to also calculate  
9 and deduct the cost of financing, reserve funding and  
10 depreciation. The change would essentially take the  
11 operation's cash flow and financial integrity into  
12 consideration.

13 The proposed change would impose additional  
14 accounting burdens on Shingle Springs and could potentially  
15 reduce redistributable [sic] revenues.

16 Moreover, the proposed definition could reduce the  
17 flexibility Shingle Springs now has to use game revenues as  
18 collateral.

19 Section B, Management Contracts.

20 The NIGC is considering extending the definition of  
21 "Management Contract" to include any contract (like a slot  
22 lease) that pays a fee based on percentage of gaming  
23 revenues.

24 This change would impose additional administrative  
25 burdens on Shingle Springs if it elects to seek new

1 management.

2 An expanded definition would require significant new  
3 oversight by the NIGC to make it more difficult for tribes to  
4 replace their machines on a business-like timetable.

5 Part 514, Fees.

6 Should the Commission impose fines for late payments  
7 rather than issue a Notice of Violation?

8 This is a good idea because Notice of Violations are  
9 harsh measures that often are not commensurate with the  
10 alleged wrongdoing.

11 3. Proceedings before the Commission.

12 Should the Commission adopt formalized procedural  
13 rules?

14 Currently, proceedings before the Commission are  
15 time-consuming and expensive.

16 Adopting procedures specifically suited to the  
17 various kinds of appeals before the NIGC would improve due  
18 process and make the National Indian Gaming Commission final  
19 agency actions less vulnerable to challenge in the course of  
20 federal court appeals.

21 As we all know, we have one going on now. I don't  
22 want to go into that.

23 Part 542, Class III MICS.

24 Should the MICS be demoted to guidelines?

25 Most tribes would support the changes to guidelines

1 because it reduces NIGC's authority to regulate.

2 The tribal state regulations, like CCGCC-8, however,  
3 use the MICS as an initial standard of compliance, so making  
4 them guidelines would add uncertainty to the compact  
5 compliance picture.

6 Backgrounds and Licensing. Part 556, Background  
7 Investigations.

8 In 1997, the National Indian Gaming Commission began  
9 a pilot program for background investigations. Most tribes  
10 now participate.

11 The pilot program should be formalized into a  
12 regulation, as the system works well.

13 B. Fingerprinting for non-primary management  
14 officials and non-key employees.

15 The National Indian Gaming Commission regulations  
16 require that it perform background checks on primary  
17 management officials and key employees. Expanding the  
18 National Indian Gaming Commission's authority to fingerprint  
19 all gaming employees would be very helpful to tribal gaming  
20 commissions.

21 Part 571.1 through 571.7, Inspection and Access.

22 Should the National Indian Gaming Commission review  
23 regulations to clarify access to documents held offsite?

24 1. Providing the National Indian Gaming Commission  
25 authority to review casino records maintained in offside

1 locations would expand the National Indian Gaming  
2 Commission's right to access and impose new compliance  
3 obligations on the tribes, but would also prevent tribes from  
4 storing documents offsite to evade the National Indian Gaming  
5 Commission access.

6 2. In addition, under IGRA, the National Indian  
7 Gaming Commission authority cannot extend to locations that  
8 are not directly adjacent to, and part of, the gaming  
9 operation.

10 Part 573, Enforcement. I'm almost done.

11 1. The proposal to withdraw Notice of Violations  
12 after issuance makes it possible for tribes to avoid having a  
13 record of violations if they come into compliance following a  
14 Notice of Violation issuance.

15 2. This is an effective means of both protecting a  
16 tribe's compliance record and achieving voluntary regulatory  
17 compliance.

18 Tribal Advisory Committee.

19 Should the National Indian Gaming Commission develop  
20 a regulation or policies to identify when a tribal advisory  
21 committee is necessary and how members will be selected?

22 1. The National Indian Gaming Commission regulation  
23 regarding the tribal advisory committee would eliminate  
24 concerns about favoritism, broaden the number of tribes  
25 seeking to participate on the board and provide a

1 predictability and consistency to the process.

2 Sole Proprietary Interest Regulation.

3 Should the Commission adopt a regulation identifying  
4 when the interest is violated?

5 1. Adopting such a regulation would improve  
6 regulatory guidance but would also create additional  
7 submission requirements on tribes and could affect their  
8 ability to find financing for gaming operations.

9 I have more, but I'm not going to take up  
10 everybody's time. So I'll let the other leaders finish, and  
11 if I have more time later I'll go on. Thank you.

12 MS. LAEL ECHO-HAWK: Excuse me, but could we have a  
13 copy -- if anyone reads their comments into the record, then  
14 we would appreciate a copy. It helps the transcriptionist as  
15 well.

16 CHAIRMAN FONSECA: No problem.

17 MS. LAEL ECHO-HAWK: Thank you.

18

19 STATEMENT BY LESTER J. MARSTON

20 MR. MARSTON: My name is Les Marston. I'm a tribal  
21 attorney. I'm here today on behalf of three tribes: The  
22 Chicken Ranch Rancheria, whose chairman is Lloyd Mathieson  
23 and is sitting at the table; the Chemehuevi Indian Tribe --  
24 I'm here today also speaking on his behalf, Charles Wood,  
25 who's the chairman of the tribe; and the Robinson Rancheria,

1 whose chairperson is Tracey Avila.

2 And I'd like to acknowledge Edward Augustine and  
3 Jaime Campanero, who are sitting back here. Jaime is the  
4 chairman of the Robinson Rancheria Gaming Commission.

5 So even though I'm a tribal lawyer, don't hold that  
6 against me. I'm here on behalf of three tribal leaders,  
7 speaking on behalf of those three tribes.

8 The first issue that I'd like to bring up, which is  
9 a critical issue for the tribes right now, is Internet poker  
10 and Internet bingo and, specifically, the Unlawful Internet  
11 Gambling Enforcement Act. The UIGEA, has a safe harbor  
12 provision that allows tribes to use the Internet to accept a  
13 wager if the wager is, quote, "received" -- that's the  
14 language in the statute -- exclusively on Indian lands as  
15 authorized by a tribal ordinance that's approved by the  
16 chairman of the National Indian Gaming Commission, has a  
17 program that restricts minors' access, so there has to be  
18 verification that no minors are utilizing the system, and it  
19 doesn't violate the IGRA or the Internet Horse Racing Act or  
20 the Gaming Devices Transportation Act.

21 The Commission just needs to know that that's a hot  
22 topic here in California. I don't know if you've heard from  
23 any of your tribes or not, but I know some of my tribes right  
24 now are in the process of having me draft amendments to their  
25 ordinances that will specifically allow them to engage in

1 Internet bingo and Internet poker.

2 And so I urge the Commission to, when they come and  
3 look at this issue, to interpret the statute that would allow  
4 tribes to fall within the safe harbor provision. If tribes  
5 fall within that safe harbor position, there's a good  
6 argument to be made that they are not going to need to obtain  
7 a license from the state in order to engage in Internet poker  
8 or Internet bingo. And because those are Class II games,  
9 they're not subject to regulation by the state and they're  
10 not subject to any of the fee provisions that presently exist  
11 in the compacts. So I'm here, on behalf of the tribes that I  
12 represent, to strongly urge the Commission to give a broad  
13 interpretation to the statute and to allow tribes to be able  
14 to engage in that type of gaming.

15 The second thing is -- I don't know if you are aware  
16 of this, but in 1953 the United States Government targeted 48  
17 Indian tribes here in the state for termination, and they  
18 enacted what was called the "California Rancheria Act." And  
19 in implementing that statute, they violated the Act, they  
20 illegally terminated these tribes. Okay?

21 And so the issue that I'm getting to is the NIGC's  
22 surrender of its jurisdiction of the Department of Interior  
23 to promulgate regulations to enforce the provisions of the  
24 IGRA. In my opinion, the Department of Interior has no  
25 authority to promulgate the restored tribe, restored lands



1 regulations, and we would urge the NIGC to take back the  
2 jurisdiction that Congress specifically delegated to you.  
3 And what the Department of Interior has done to California  
4 tribes is a travesty. And let me explain to you what the  
5 problem is, to see if you can address it and correct it.

6 Here's the United States Government. They violate  
7 the federal law, they terminate these tribes, they take away  
8 their land base. The tribes have to sue to get their land  
9 base back. They win their litigation, they get restored.  
10 Okay?

11 So, of course, 1988 comes -- and most of this  
12 happens between 1976 and 1984. So 1988 comes along, and the  
13 IGRA is passed. And, of course, once the termination process  
14 is void, one of the first things these tribes start doing is  
15 trying to put land back into trust within their reservation.  
16 Okay? And, of course, when IGRA passes, they start doing  
17 gaming on those lands. All right.

18 Now let's fast forward to 2008, whenever the  
19 Department of Interior stole your jurisdiction away from you  
20 and starts promulgating these regulations, they say, gee --  
21 they promulgate a regulation that says: If the tribe has  
22 already taken property into trust and is doing gaming on that  
23 property, they are no longer eligible for the restored lands  
24 exception.

25 And Redding is a good example. Redding had the

1 boundaries of its rancheria reestablished. They didn't need  
2 to take property into trust in order to do gaming on the  
3 reservation; they could have done it on the fee land that  
4 they own because it's Indian lands under the IGRA. And if  
5 they had known that they were going to be precluded, you  
6 know, ten years later from putting any other properties into  
7 trust after the fact, they wouldn't have put that property  
8 into trust.

9 They have 151 acres right on Interstate 5 that they  
10 want to put into trust. They clearly are a restored tribe,  
11 these are clearly restored lands; the Department of Interior  
12 doesn't dispute that. But because they have already taken a  
13 piece of property in a trust for gaming purposes, the  
14 Department of Interior refuses to take that property into  
15 trust for them now for gaming purposes now. And there's lots  
16 of tribes that are in that situation.

17 Chicken Ranch can't put any more land in a trust for  
18 gaming purposes because under the Department's illegal  
19 regulations -- because show me in the statute -- show me in  
20 the statute where tribes have to -- where Congress had said  
21 that the tribes had 25 years to put property into trust or  
22 that it had to be within a commut- -- help me out here --

23 CHAIRWOMAN STEVENS: Commutable distance.

24 MR. MARSTON: Thank you. Distance. Or that there  
25 had to be -- once you've already put property in a trust,

1 you can't ever do it again.

2 So I don't know what the NIGC can do about that.  
3 But I don't see anywhere in the statute that gives the  
4 Department of the Interior any authority to promulgate any  
5 regulations to implement the IGRA.

6 And it's ironic that the very solicitors who took  
7 positions in the termination litigation and said that  
8 California tribes really weren't even tribes, they weren't  
9 historic tribes, that they didn't have any sovereignty, that  
10 fought termination, are now the very same solicitors in the  
11 Department of Interior that are working on these regulations  
12 that are now preventing Indian tribes from falling within the  
13 restored lands exception.

14 So we would like our trustee to be not the  
15 Department of Interior on gaming. We want the NIGC to weigh  
16 in on this and take back their jurisdiction and promulgate  
17 some regulations that make sense and are consistent with the  
18 statute.

19 Third issue: A lot of tribes here in California  
20 negotiated compacts after 1999. And the significance of that  
21 is -- and this goes somewhat to the Rincon case -- is that in  
22 1999 tribes here in California had exclusivity; they paid a  
23 fee for it, they negotiated at the table, they got  
24 exclusivity. The People of the State of California amended  
25 the Constitution to give them an exclusive right to engage in

1 slot machine and gaming. Okay?

2 So, now, 2005 or later, tribes are going to the  
3 table and they are negotiating compacts. And what is the  
4 State of California doing? The State of California is  
5 saying, "You've got to pay us a fee, and we'll give you  
6 exclusivity."

7 You're going to give us something we already got?  
8 And there's a number of compacts that are out there that have  
9 those provisions.

10 We would like to see the NIGC weigh in on this  
11 issue. I mean, there's a provision right in the compact that  
12 says that the state cannot charge a fee to engage in gaming,  
13 yet that's exactly what the State of California has done in  
14 all of the post-1999 compacts. Except for where tribes have  
15 come to the table and gotten some valuable consideration  
16 other than exclusivity in exchange for the fee they're  
17 paying. But many of the tribes, particularly the smaller  
18 tribes, didn't.

19 And we would like to see the NIGC promulgate some  
20 regulations that come right out and say: If exclusivity has  
21 already been granted, if it is the law, then the state cannot  
22 charge a fee for exclusivity. They have to come up and give  
23 these tribes some other quantifiable economic benefit if they  
24 want to charge them a fee. Otherwise, it's an illegal tax  
25 and it's prohibited under the IGRA.

1 MS. LAEL ECHO-HAWK: Excuse me. Can I ask just a  
2 question on that?

3 As you know, the compacts are approved by the  
4 Department of Interior and the secretary. And so I'm  
5 wondering where --

6 MR. MARSTON: I can show you a letter. I have a  
7 letter right now from the Department of Interior, that I sent  
8 to them, saying: We want you to weigh in on this issue.

9 Their official position -- I'll be happy to provide  
10 you the letter -- is: The IGRA does not allow us to do  
11 anything after we approve a compact --

12 MS. LAEL ECHO-HAWK: I see.

13 MR. MARSTON: -- so you are on your own.

14 We went to the Department of Interior and said,  
15 look, you're our trustee; weigh in on this issue.

16 First of all, they should have never approved these  
17 compacts. As far as I'm concerned, it's a breach of their  
18 trust obligation. And that's a whole other issue.

19 But their official position is: We've now approved  
20 it, the IGRA doesn't say we can do anything after we approve  
21 it, so we're not going to do anything.

22 If the NIGC would just weigh in on this issue, if  
23 they would just come in and say, look -- it could even be a  
24 formal opinion of general counsel that -- and it doesn't have  
25 to be anything that's inconsistent with the position that the

1 Department of Interior is taking, which is: If you want to  
2 charge a fee, then there has to be some quantifiable benefit  
3 that the state gives to the tribes in exchange for that fee.  
4 And if here in California exclusivity has already been  
5 granted and it's constitutional law, there's no  
6 consideration, the states can't give exclusivity again, then  
7 if there's provisions in those compacts, they're illegal; the  
8 fee provisions are illegal.

9 And the tribes that I represent that are in that  
10 situation -- they're not here today -- they're not looking to  
11 not pay the state a fee. Okay? In other words, they're more  
12 than willing -- they've gone back to the table; they're  
13 trying to negotiate now. They're willing to pay a fee, but  
14 they want some other things from the state. And so if the  
15 NIGC would just simply help those tribes, and it would help  
16 those tribes avoid costly litigation, particularly the small  
17 tribes.

18 MS. LAEL ECHO-HAWK: It would be helpful, you know,  
19 if you send us that information, and as we look at  
20 promulgating these regulations -- and I guess this is sort of  
21 a general comment, the more support that you can send us,  
22 particularly when it comes to these kind of issues, so we can  
23 take a good look at it and make some decisions after this  
24 period, then that would be helpful.

25 MR. MARSTON: Many of the tribes have negotiated

1 loans, and they negotiated loans prior to what I will call  
2 the "Richie letter" going out that established the standards  
3 for when a loan constitutes a management contract or  
4 constitutes a sole proprietary ownership -- violates the sole  
5 proprietary ownership provisions -- a number of tribes have  
6 submitted loan documents to the NIGC.

7 I have two clients right now -- I have two opinions  
8 pending for the NIGC on whether their loans constitute  
9 management contract or violate the sole proprietary ownership  
10 position, and the NIGC has taken the position that they are  
11 not going to issue -- they've rendered the opinions --  
12 general counsel has rendered those opinions, but you're  
13 holding those opinions, waiting until the decision on  
14 Lac du Flambeau comes out. Why?

15 Issue those opinions now. Even if it turns out that  
16 the -- if you take the position that it's a management  
17 contract or it violates the sole proprietary ownership  
18 positions, that's going to give -- I'm going to take that  
19 opinion and I'm going to go to Bank of America and I'm going  
20 to sit down and I'm going to say -- because that's what we're  
21 trying to do, okay? We're not trying to get out from paying  
22 those loans, okay?

23 A number of the tribal clients that I have have  
24 these short-term loans, they're like seven-year loans with  
25 huge balloon payments. They've now defaulted on them because

1 the economy has gone bad.

2 And so we're not looking to stiff the banks. What  
3 we want to do is get some leverage to have those banks  
4 renegotiate those loans over a 15-year period or 20-year  
5 period or 25-year period, lower the payments down so we can  
6 actually start taking some cash out of the casino and fund  
7 some tribal governmental services. That would be unique.  
8 Instead, all of our money is going to pay these loans. And  
9 the interest that is accruing on these loans is tremendous  
10 because of the penalties that are built into the contracts.

11 So if you guys would just take a position on that  
12 right now, okay, we'll go in and renegotiate those loans.  
13 And if you get reversed on appeal, you get reversed on  
14 appeal. But in the interim, you've assisted tribes in  
15 allowing them to get a lot of relief, financial relief in  
16 these tough economic times, and have given them some leverage  
17 at the table to be able to force the banks to come to the  
18 table and renegotiate. So I would urge you to do that.

19 Let me look at my list.

20 It's nice to see the Indians here at the table. I  
21 saw you had up there the "Buy Indian Act." I would encourage  
22 you to -- I don't know what your Indian preference  
23 requirements are. But, you know, being an Indian and having  
24 worked with the Commission ever since it was formed, I've  
25 always kind of looked around to see where the Indians were at



1 in the National Indian Gaming Commission. So I would  
2 encourage you to adopt some Indian preference standards and  
3 start implementing them. Just a quick comment.

4 One second.

5 Chicken Ranch has had pending before the National  
6 Indian Gaming Commission -- this is just a quick thing -- not  
7 one, not two, but three amendments to their gaming ordinance.  
8 So we can't get any approvals on the game ordinance. And we  
9 got three amendments because we amended the gaming ordinance,  
10 submitted it, and so much time has gone by that we did  
11 another amendment, submitted it, without getting the first  
12 amendment approved yet from the NIGC, and then did a third  
13 amendment and submitted it, and we still haven't gotten that  
14 approved.

15 So it would be nice to see some regulations that  
16 actually establish some time frames for review and comment  
17 and a regulation that said that if the NIGC has not acted on  
18 the ordinance within, say, 90 days then it's deemed approved.  
19 That way, there's a little pressure on the Commission to get  
20 these reviews done quickly and turnaround time and either  
21 approve them or not approve them.

22 The criminal history reports, many of the tribes  
23 right now have entered into deputization agreements with the  
24 United States Department of Interior Office of Justice  
25 Services, and as part of that, the attorney general has

1 established a demonstration program that's actually given  
2 those their tribal police departments NCIC terminals so they  
3 do their own criminal history background checks.

4 I don't know why the NIGC couldn't do the same thing  
5 for gaming commissions. That way we wouldn't have to go  
6 through the NIGC on our criminal history backgrounds. I  
7 mean, you could promulgate regulations, establish standards  
8 for monitoring and reporting, and then work through the  
9 Department of Justice so that gaming commissions could have  
10 their own NCIC terminals run all their own criminal history  
11 background checks. That would be nice.

12 If the Department of Interior can do it for our  
13 specially-commissioned law enforcement officers under  
14 deputization agreements, then it seems to me that the NIGC  
15 could establish a program where we could enter into an  
16 agreement with the NIGC to be able to access an NCIC  
17 computer, have our people that are going to have access, you  
18 know, be authorized or commissioned or certified to do so,  
19 and then, you know, the regulations would have certain  
20 monitoring requirements to ensure the integrity of the use of  
21 the machines. And that way, we wouldn't have to wait for  
22 criminal history backgrounds. People come in for a license,  
23 they want a license, we run the criminal history background,  
24 boom, we get it in 10, 15 minutes, and we can issue temporary  
25 licenses or permanent licenses, and the turnaround time would

1 be really fast.

2 Bear with me, because my chairs gave me a lot of  
3 stuff to say, and it's for three tribes and I'm trying to go  
4 through it fast.

5 I'm just raising this issue but -- and I don't  
6 really know if there's anything that the NIGC can do about  
7 it. But everybody is familiar with Carcierri and the fact  
8 that Carcierri prohibited the use of the Indian Reorganization  
9 Act for taking property into trust for Indian tribes if you  
10 weren't an Indian tribe that was recognized on June 18th of  
11 1934.

12 The IGRA, again, authorizes the Commission to  
13 promulgate regulations to implement the IGRA, and there are  
14 provisions in the IGRA about taking property in their trust  
15 for gaming purposes. Again, if the commission could do  
16 anything to assist in kind of clearing that up, that would be  
17 nice. And I don't have any real suggestions on how you do  
18 that, but it might just be an area that you could take a look  
19 at.

20 I'd like to know if the NIGC could reverse the  
21 decision by Chairman Hogen on the Metlakatla ordinance that  
22 authorized the Class II one-touch bingo machines. It would  
23 be really nice if that machine could be in use. It might be  
24 a popular machine. It might bring back the bingo here,  
25 because bingo is really kind of dead. But that was a real

1 popular machine. Chairman Hogen's decision, I don't think  
2 was on real good solid ground. If you could revisit that  
3 and, in your infinite wisdom, have your general counsel  
4 render an opinion that allows you to overturn it, that would  
5 be nice. It just gives the tribe one more viable machine to  
6 put in play and make some money.

7 I think that is it. Thank you very much. I  
8 appreciate your time.

9 MS. LAEL ECHO-HAWK: Do you want me to address  
10 Indian preference?

11 CHAIRWOMAN STEVENS: Yes, go ahead.

12 MS. LAEL ECHO-HAWK: Okay. So the Indian preference  
13 comment that you made is on point and something that the  
14 Commission has definitely been taking a look at and is going  
15 to enact in the very, very final process. Commissioner  
16 Little has been sort of the head part of the operations  
17 review that the Commission has been doing, and we are just  
18 about maybe an inch from crossing the finish line on that and  
19 putting into place an Indian preference policy at the agency.

20 CHAIRWOMAN STEVENS: Well, I want to say thank you,  
21 Mr. Marston, for your comments and especially to the tribes  
22 for submitting those comments.

23 If you have some written notes or comments that you  
24 could provide, it's helpful to the person who is transcribing  
25 over there. It would be really great if she could type as

1 fast as we talk. But we found yesterday that if there is a  
2 written record that you're reading from, it would be helpful  
3 to her to get a copy of that.

4 And I do just want to say, I appreciate all the  
5 topics that you brought up. Certainly some of them are  
6 individual to -- tribal specific. I would be happy to talk  
7 to you offline here with regard to specific tribal concerns  
8 that are in front of the Commission and welcome comments on  
9 any changes to some of the regs or proposal of new regs. But  
10 you have given us a lot of things to go back and consider as  
11 we move forward.

12  
13 STATEMENT BY DALE MILLER

14 MR. MILLER: Good morning, everybody. My name is  
15 Dale Miller. I'm tribal chairman at Elk Valley Rancheria  
16 right up on the Oregon border. I'm also chairman of the  
17 California FOIA Trust Consortium, which represents 67 tribes  
18 in California; in fact, the largest Indian organization in  
19 California at this time.

20 I wasn't going to comment, because we are going to  
21 submit written comments from our general counsel and chairman  
22 of the gaming commission. But hearing Mr. Marston, I just  
23 would like to emphasize that we support that, and I'd like to  
24 give you an example of why it rings a bell with us.

25 We went through a ten-year process to put some land

1 into trust, and we actually were successful. One of the few  
2 tribes, if not at the time the only tribe that was able to do  
3 that. It was an off-reservation piece, and we had that land.  
4 Our vision was for a destination resort, and it would be a  
5 very successful thing for the tribe and also for the  
6 community where we live at. And we have full support of that  
7 community.

8 But guess what? That place is not built yet. Why?  
9 Because of these financing situations that Mr. Marston was  
10 talking about. We can't afford to finance a resort under six  
11 or seven years' financing. We just can't do that, because I  
12 have a government that I'm responsible for and that I have to  
13 run first. So that's an example of -- there are tribes out  
14 here, I'm sure, that support what Mr. Marston said here  
15 today. And Elk Valley does, too.

16 I would like to end with just the fact that -- and I  
17 know we're all aware of it. But there's people out there  
18 that don't support tribes. IGRA was put into place for us to  
19 be able to establish economies so that we could be true  
20 governments and take care of our own people. And there's  
21 people out there that are using politics -- and I know that  
22 NIGC and the State of California react to that. Keep in mind  
23 that IGRA and the gaming was brought to Indian Country to  
24 help us, and that's real basic and we appreciate that.

25 But there are those people out there that will never

1 support that. And keep in mind that you can help us, and we  
2 would really appreciate that. So thank you.

3 CHAIRWOMAN STEVENS: Mr. Kinter.

4 MR. KINTER: Hello again. Leland Kinter, chair of  
5 Yocha DeHe Tribal Gaming Agency.

6 I just had a comment about it would help if there  
7 was clarification for NIGC's privacy and Freedom of  
8 Information Act regulations that could help prevent the  
9 release of unredacted RAPs.

10 Yocha DeHe had issue on the floor in a class action  
11 lawsuit where a RAP was released to the public. But maybe  
12 there could be some clarification in your policies that could  
13 help us with that.

14 CHAIRWOMAN STEVENS: We know that's an issue that's  
15 come up and that was, you know, something that happened  
16 within the Department of Interior. They do share their RAPs,  
17 once they're approved, with us, as they do with compacts. We  
18 are very strict at the NIGC. But certainly further  
19 clarification would certainly do no harm so that kind of  
20 human error doesn't happen within our agency.

21 And as a matter of fact, during the summer -- during  
22 the consultations during the summer, we talked about records  
23 retention, our internal policy, and whether or not, you know,  
24 we have a process that we go through and we have several -- I  
25 think at least two people who are committed to the FOIA

1 process itself. And we endeavor to be strict with our FOIA  
2 requests to ensure that no proprietary information gets out,  
3 financial statements don't get out, and so far, I think we're  
4 doing really well. And we are looking at our records  
5 retention policy about long term what happens to those  
6 records, and we've heard a lot from tribes about that once  
7 the records hit a certain point, they go over to the archives  
8 and our policy about that. And we're looking at that based  
9 on what tribes have talked to us about. But certainly we can  
10 look at that and see if there's a way that we can shore up  
11 our process even more to ensure that mistakes like that don't  
12 happen within our agency.

13 I'm going to check the time. I know we're scheduled  
14 for a break here soon. Unless someone wants to have a  
15 comment, now might be good to get up and stretch and use the  
16 facilities, if you need to, and reconvene in about 15  
17 minutes, if that's all right with everybody. We can just get  
18 up and stretch, and we'll be back in 15. Okay?

19 (Recess taken.)

20 CHAIRWOMAN STEVENS: Okay. Thank you everyone for  
21 returning.

22 Before I it open up, I do want to emphasize, now,  
23 since this is a new format that we're using, it's this group  
24 consultation on broad policies that affect all tribes, and  
25 we're talking about regulations here, or proposed changes to



1 regulations. We're doing this as sort of an open dialogue.  
2 And something I've said in many places that I've spoken is:  
3 We certainly don't expect tribes to bring their individual  
4 issues in front of a whole group of folks, and that we will  
5 meet with tribes, as they request, if there are specific  
6 issues to your tribe, whatever that might be. With issues in  
7 front of us or issues that may come before us, you know, if  
8 you want to let us know something that's going on, we  
9 certainly don't expect that individual tribal issues be aired  
10 here or solved here. We do have time around the lunchtime,  
11 certainly.

12           You know, we do get requests from tribes when we do  
13 come out to meet and we arrange those in advance. But if  
14 there's something pressing today or something comes up that  
15 you think of that's pertinent to the issue of your tribe, we  
16 certainly will take a few minutes to sit down and chat with  
17 you. We have another room over there; if we need to, we can  
18 do that during or around the lunch break or after we're done.

19           I just wanted to say that up front. Because this is  
20 a new format, it's different from what the previous  
21 Commission did with their sort of sign-up list of 15 to 30  
22 minutes to go over a broad sort of litany of things,  
23 including your own issues, plus broad policy. We're trying  
24 to separate those two things because the broad policy, we  
25 should hear what others have to say and we can solve the

1 problems together. Individual issues are individual issues,  
2 and we can address those separately and apart from these  
3 group meetings. I just wanted to make that clear, there's  
4 not an expectation that individual tribal issues be aired  
5 here and solved here; we can take time aside.

6 MS. LAEL ECHO-HAWK: Okay. Thank you all for coming  
7 back.

8 A couple logistics. These microphones on the table  
9 do not have to stay in these stands. So if it's easier just  
10 to take it out and hand it around, then we can definitely do  
11 that. Once again, everyone is doing a great job. But please  
12 tell us your name and who you're with. It's helpful for the  
13 record here.

14 The other thing that the Commission and I were  
15 chatting about before we left to go on break is we want to  
16 emphasize that while we do have certain limitations on our  
17 jurisdiction, we have limited jurisdiction. But one of the  
18 things that the Commission has emphasized and that we're  
19 continually working at is improving our relationships with  
20 the Department of Interior, with the Department of Justice,  
21 with the IRS, and other agencies that kind of -- we all kind  
22 of work together on the same thing.

23 So I just want to emphasize that, you know, the  
24 Chairwoman came over from the Department of Interior, and we  
25 recognize we're part of the federal family, and so issues

1 that you bring up, even if we can't necessarily address them,  
2 our scope of jurisdiction is limited, we will be in  
3 discussions with the various other departments that might  
4 have jurisdiction, and we'll relay your concerns to them as  
5 well. So please don't think that, you know, if we say we  
6 don't have jurisdiction that's the end of the road. We will  
7 relay that on down.

8 Also, we're here as long as we need to be, and we  
9 look forward to your comments. Please don't feel like you  
10 can't say all that you need to say. If you are reading a  
11 written statement, again, if we could get a copy, that would  
12 be helpful for the record. But we look forward to your  
13 comments. And, again, the microphone is open.

14 MR. KINTER: Hello. Leland Kinter from Yocha DeHe  
15 again. I just wanted to kind of reiterate some of the stuff  
16 the other folks said and add my comment to theirs, you know.

17 One of them would be the NOV for the fees, the fee  
18 violation. I think it is a good idea for you guys to  
19 implement a ticketing process rather than such a harsh  
20 penalty for such a light infraction. Sometimes those  
21 payments can be late. We don't have any Notice of  
22 Violations, thank goodness, because our facility is still  
23 open. But hopefully if you guys could work on that, I think  
24 that'd be a good idea.

25 Some of the other stuff was the proceedings before

1 the Commission. I think that you should adopt some  
2 formalized rules for that. I think it would streamline the  
3 process a little bit. I think that would be a good  
4 implementation.

5 And, also, we also support you guys supporting the  
6 Buy Indian Act. I think that's a great idea. So thank you.

7 CHAIRWOMAN STEVENS: Do we have any others?

8 I'm so sorry that you're having to look at my back,  
9 but I can't see folks back here. Feel free -- there's a mic  
10 here. Or you can come sit by me, if anyone wants to come sit  
11 by me.

12 And if not, we can stimulate some conversation too.  
13 And I'll let Lael do that. She's been buried pretty far into  
14 the regs and topics that we've heard about or that we've just  
15 thought of, having come from the other side of the table  
16 sitting, where -- for me, you know, I wasn't a tribal leader,  
17 but I was a staff person for my tribal leader. And both of  
18 us -- as was Dan -- you know, have some thoughts about  
19 particular regulations that we've heard about. So in the  
20 absence of any volunteers coming up to talk, we might try to  
21 stimulate some conversation here, or some thoughts about  
22 specific things. So I'll punt to Lael.

23 Go ahead.

24 STATEMENT BY JOHN MAYEWSKI

25 MR. MAYEWSKI: Good morning. I just have a

1 question.

2 This morning, it was revealing to me that we're  
3 going to begin a process of prioritizing decision making  
4 after the April agenda is agreed upon. Could you please  
5 expand a little bit more about what the process will be after  
6 that and how long it might take to get definitive decisions  
7 made?

8 MS. LAEL ECHO-HAWK: Well, so here's the idea. This  
9 is my grand plan. I'll see if it works out. It will.

10 After February 12th, we are going to sit down and  
11 we're going to pore through every document that we've  
12 received, we're going to review the transcripts, and we're  
13 going to go through and take a look at the concerns that were  
14 raised by Indian Country. We're going to look at where those  
15 concerns are addressed in the regulations and what are the  
16 priority issues for Indian Country.

17 Based on that, this is going to be as democratic a  
18 process as possible, and unless there's some very important  
19 regulatory or we have some important concerns at the  
20 Commission, we're going to set the priority level that way.

21 So when you get the agenda in April, that will be  
22 the final agenda. It will come with an explanation for why  
23 we made the decisions that we made for addressing those  
24 regulations in that priority.

25 One thing I would like to hear is how can -- hear

1 from tribes is: How do we address these MICS issues, Class  
2 II, Class III technical standards? How do we address them  
3 and make sure that we don't get so bogged down in that  
4 process -- which is where I think we've been for a couple of  
5 years -- that we neglect the other areas of concern that are  
6 as important and can really create a better industry and some  
7 clarity for tribes. So if you have comments on that, please  
8 let us know.

9 But in April, the agenda will be set and we'll start  
10 moving forward. And, you know, I have my own thoughts about  
11 how that's going to work. But we're going to begin  
12 revisions. We're going to begin looking for submissions for  
13 alternative standards, perhaps, from tribes. If tribes are  
14 amenable, we'll be doing some notices of proposed rulemaking  
15 maybe for some of these housekeeping items. We'll be setting  
16 up some more tribal consultations on revisions that need to  
17 be made to the regulations. But we're going to be moving  
18 forward and as fast as possible.

19 The other issue that I'm wondering if people have  
20 comments on is the process. You know, there's a number of  
21 ways this can be done. We've got tribal advisory committees,  
22 if you have thoughts on that, negotiated rulemaking, notice  
23 of proposed rulemaking, and simply written comment period.  
24 You know, if you have any ideas about that.

25 You know, one of the things that we've talked about,

1 if you use a tribal advisory committee, how -- I don't know  
2 if you guys are familiar with the last NIGC tribal advisory  
3 committee, but it was very controversial the way that those  
4 representatives were selected and then their responsibilities  
5 that fell to them, the way that those meetings were  
6 conducted. So if you have thoughts about that and ways that  
7 we can improve that process, we'd love to hear them.

8  
9 STATEMENT BY SHERRY TREPPA

10 MS. TREPPA: Hi. I'm Sherry Treppa. I'm the  
11 chairperson of Habematolel of Upper Lake. I want to thank  
12 you, by the way, because we did have an independent visit by  
13 Steffani Cochran that came out and met with us and my tribe.

14 I just have a couple of comments regarding  
15 submission of specific items and the process itself.  
16 Clearly, there's going to be some issues and regulations that  
17 are going to take additional time. And I would suggest that  
18 they individually go down separate tracks for priorities set  
19 by tribes when they submit their concerns and input.

20 And secondly, our tribe has had some changes in its  
21 new TCG, if you will, and we would like to include the  
22 chairperson in any kind of notices that may come out so that  
23 things don't fall through the cracks when we've got some  
24 changes on our commission. Other than that, we'll just  
25 submit specific comments.

1 MS. LAEL ECHO-HAWK: Can I follow up on that? And  
2 this is, I think, to the general audience as well.

3 You guys, I'm sure, have all seen the "Dear Tribal  
4 Leader" letters. Are those reaching you? Are they getting  
5 to the commission? Are they getting to the tribal counsel?

6 I don't know if you've seen the Chairwoman's  
7 articles in the In Indian Country Today last week and then in  
8 Indian Gaming Magazine in January. This Thursday, we also  
9 have another -- I guess that's tomorrow -- we also have  
10 another article coming out.

11 But if you have ideas about ways we can improve our  
12 communication process with tribes to make sure -- I worked  
13 for a tribal government. And it was only because I was  
14 really good friends of the tribal secretary that I got all  
15 the information that I needed to know. So I know there can  
16 be -- you know, things can fall through the gap. So  
17 suggestions on that would be helpful.

18 MS. TREPPA: I can comment on our tribe.

19 I know there's a lot of communication sent in hard  
20 copy. We request, typically, everybody's e-mails. And I  
21 would prefer that. Things do fall through the cracks when  
22 they don't get sent to the right person. So if you have the  
23 chairperson's e-mail address, or a designee, then that would  
24 be the person that you would need to contact.

25 CHAIRWOMAN STEVENS: And I would like to say that



1 we're trying every method. We weren't kidding when we were  
2 talking about Pony Express and smoke signals. We're faxing,  
3 we're e-mailing to commissioners, operators, tribal counsel,  
4 to their designees, whether its their assistant or their  
5 secretary. We're doing snail mail, we're doing press  
6 releases. We're casting this broad communication net to make  
7 sure that we get the information where they need to go. We  
8 get it to our regional offices. We're calling people.  
9 Because we know tribal leaders have a tremendous  
10 responsibility, and with that comes a mountain of mail and  
11 communications. It is tremendous the amount of  
12 communications that come in for which you are responsible.  
13 And so, you know, we're going to utilize all of those  
14 methods. And you might be getting doubled up, but I'd rather  
15 see double-up than missing somebody.

16 MS. TREPPA: And the field investigator here  
17 locally, in Sacramento, has been very good at keeping the  
18 chairperson, vice chairperson involved in communications. So  
19 thank you very much. But I'm sure every other tribe has a  
20 lot of different needs with regard to communication vehicles.

21 CHAIRWOMAN STEVENS: And we'll use the method that  
22 works best for whichever tribe is necessary. And, like I  
23 said, it may just mean doubling up.

24 I came from my council, and my former chair served  
25 for 44 years, you know, an older gentleman who -- he wanted

1 hard copies. And then we had younger folks who were walking  
2 around with iPads saying, "I want everything right here." So  
3 we'll do whatever works best for each tribe and just whatever  
4 will work.

5 Mr. Kinter, did you have another comment?

6 MR. KINTER: Yes, I did. I just wanted to back up  
7 to the tribal advisory committee comment.

8 I think that perhaps there could be a regulation  
9 imposed by the NIGC for the tribal advisory committee to know  
10 that there was some concerns about the makeup and how those  
11 work, and maybe a regulation might eliminate those concerns  
12 and add some clarity to how those are formed. That's my only  
13 comment.

14 CHAIRWOMAN STEVENS: Well, in having come from the  
15 Department of Interior -- you know, and many of you are  
16 self-governance tribes -- they go through the tribal budget  
17 advisory committee. And those are selected -- the  
18 representatives for that committee are selected by the  
19 regions, by the 12 BIA regions, and each region is left to  
20 decide how the tribes in that region put forward those names.  
21 And we'd like ideas on how we select members.

22 Some of the discussion we heard yesterday was, you  
23 know, our obligation is to tribal governments. But there are  
24 experts out there. When you start getting into the math  
25 behind machines, that's a lot of fun, if you've sat in on any

1 of those discussions where you talk about random number  
2 generators. And it may not be on the forefront of all of our  
3 minds, but there's somebody out there whose mind it is at the  
4 front of. And bringing those people in --

5 Or, you know, I kind of see what we do as building a  
6 house. And if anybody has ever built anything, it may look  
7 good on paper, but then you've got to build it. And then  
8 when you build it, you've got to live in it. And everybody  
9 has a different perspective. And while it might be  
10 cumbersome to have these diverse groups working together, I'd  
11 rather hear the different perspectives rather than very  
12 targeted, narrow perspectives on what we're doing. Because  
13 I'm not the keeper of all information and all knowledge.  
14 And, you know, just having worked in an operation myself, you  
15 know, what might sound good on paper, when you actually have  
16 to implement it might be really, really cumbersome and  
17 actually make things worse.

18 You know, we would like to hear about the makeup of  
19 those, how you choose them. We have to be careful about  
20 abiding by federal laws that we're bound by when it comes to  
21 advisory committees. But I'm certain there is a way that we  
22 can do it, and your input is certainly going to be needed.

23 MS. LAEL ECHO-HAWK: Some of the other concerns that  
24 we heard yesterday had to do with facility licensing,  
25 environmental health and safety regulations at the NIGC and

1 the scope of the NIGC's authority to have those regulations.  
2 I don't know if anyone has any comments on those.

3 Self-regulation was also a topic; the self-  
4 regulation regulation. And I don't know if anyone has any  
5 thoughts, but this is an open forum, and if things come to  
6 you, please, we'd like to engage in a conversation.

7 The other thing that was discussed quite a bit  
8 yesterday was the definition of net revenues and some  
9 concerns people have expressed to the Commission about the  
10 use of a net revenues bulletin, the 2005 bulletin and the  
11 language that that contains and whether or not we need to  
12 consider addressing that as well. So if any of those, you  
13 know, trigger any thoughts, then we'd like to hear them today  
14 or in written comments.

15  
16 STATEMENT BY LESTER J. MARSTON

17 MR. MARSTON: You'll have to correct me if I'm  
18 wrong, But in 1976 the United States Environmental Protection  
19 Agency, after Congress amended the Clean Water Act and the  
20 Clean Air Act to allow tribes to go obtain delegated  
21 authority as treatment as a state, took the position they had  
22 no trust obligation; the general trust to do that was imposed  
23 upon the agency. The agency got sued over it. And in the  
24 Nance case the federal court of appeals held that the trust  
25 responsibility wasn't owed just by the Department of Interior

1 and that the Environmental Protection Agency had a trust  
2 responsibility under those statutes. And as a result of  
3 that, the Environmental Protection Agency had its general  
4 counsel and adopted a formal policy statement of -- that it  
5 had a trust duty and how that trust duty, consistent with the  
6 statutory authority that was delegated to it, affected them,  
7 guided the agency in the way it made decisions, how it  
8 promulgated regulations, and how its staff was to interpret  
9 and apply the statute. I don't know that the NIGC has ever  
10 done that. I've never seen that type of official policy  
11 statement.

12 Does the NIGC believe it has a trust obligation  
13 that's created under the IGRA? And if so, what's the extent  
14 of that obligation and how does it guide you in your decision  
15 making, how does it guide you in the promulgation of your  
16 regulations, how does it guide your general counsel in the  
17 interpretation of your laws?

18 I'm one that firmly believes in the trust  
19 responsibility. I've spent 33 years suing the United States  
20 Government for breaches of trust, and I haven't lost a breach  
21 of trust case yet. I'm kind of proud of that fact, so I'm  
22 bragging a little bit.

23 I know that's kind of a big global thing, but I've  
24 never seen that. If that document exists somewhere -- I  
25 mean, I can go to the United States Environmental Protection

1 Agency Region 9, out of San Francisco, right now and say, "Do  
2 you have a trust responsibility to show to Indian tribes?"

3 And they'll say, "Oh, yeah, here's our official  
4 policy statement on our trust responsibility and how that  
5 trust responsibility restricts what we do and guides us in  
6 how we implement our statutory authorities that are delegated  
7 to us."

8 If the NIGC believes it has a trust responsibility,  
9 I would like to see them develop an official policy  
10 statement. And I'd also be interested to see whether or not  
11 that trust responsibility imposes whether they believe, under  
12 the statute, they have any substantive rights that could  
13 fairly be interpreted as mandating compensations for breaches  
14 of that trust.

15 CHAIRWOMAN STEVENS: Thank you for your comment.  
16 We'll take a look at that as part of our review of comments  
17 submitted.

18 MS. LAEL ECHO-HAWK: So we haven't heard many people  
19 talk about the MICS. There was a lot of conversation around  
20 the MICS yesterday, particularly in regard to California  
21 State's compacts and the issues that are specific here to  
22 California. So I'm wondering if anyone here has any thoughts  
23 about what we do with the Class III MICS in light of the CRIT  
24 decision, where you see us going with the Class II draft of  
25 MICS that we have currently, and then the technical standards

1 that are currently out there that were adopted a year or two  
2 ago. So if anyone here has any thoughts on those, we'd be  
3 interested in hearing them.

4 (No response.)

5 MS. LAEL ECHO-HAWK: Wow, everyone must have come to  
6 San Diego to talk about the Class III and Class II MICS.

7 CHAIRWOMAN STEVENS: Do you want to summarize some  
8 of what we heard yesterday with regard to the Class III MICS  
9 in particular?

10 You know, we've heard that the Class II MICS, even  
11 though they're not meant to be final -- well, implemented --  
12 the deadline to implement is next October. But we've already  
13 heard some comments that the Class II MICS for machine gaming  
14 do need to be revisited already. They were published in  
15 2008, and we've already heard that even the technical  
16 standards need to be revisited already.

17 But the Class III MICS, and particularly in  
18 California, you know, becomes an issue. And I will let Lael  
19 talk about what we've heard. Clearly, there were clear  
20 differences that we heard from tribes. Very respectful.  
21 Everyone was very respectful of each other's position. But  
22 it's good to know so that we can identify the challenge that  
23 we have in creating or addressing regulations or policies  
24 that have just vastly different effects on each tribe.

25 MS. LAEL ECHO-HAWK: That's what sort of the

1 recurring theme was: Yes, we want Class III MICS, and no, we  
2 don't want Class III MICS debate. Particularly in light of  
3 our limitations given IGRA and the CRIT decision that  
4 interpreted IGRA and the language that says that the NIGC  
5 doesn't have the authority to enforce or promulgate Class III  
6 regulations.

7 Now, we have a Class III MICS regulation right now  
8 today. So what do we do with that? There was a suggestion  
9 yesterday that we repeal it altogether. We had some  
10 suggestions that we put it in a bulletin form or issue some  
11 sort of guidance or perhaps serve as a clearinghouse for  
12 Class III MICS, say, put together, you know, a bulletin or  
13 some sort of library that has several illustrations of  
14 tribes' Class III MICS.

15 Then, on the other hand, we had some other tribes,  
16 particularly some tribes that have written this into their  
17 compact and their ordinances, that they utilize NIGC's  
18 Class III MICS and that the NIGC then has the authority to  
19 enforce that. It's a little fuzzy on the law, given CRIT and  
20 IGRA, where that authority for the NIGC to enforce Class III  
21 MICS lies. But a clear divide in that some tribes definitely  
22 want the NIGC to continue on with the Class III MICS in  
23 regulation form, updating as the industry changes.

24 But that was the divide that we heard consistently  
25 yesterday. And so I don't know where this group falls or



1 where your tribe falls, but it is an issue we are going to  
2 have to address, particularly with Class III MICS.

3 With the Class II MICS, as Mr. Marsten pointed out  
4 earlier today, there was the catalyst game decision that came  
5 out in 2006, 2007, something like that, for the Metlakatla  
6 Tribe regarding the one-touch machine, the Class II one-touch  
7 machine, and it was their opinion that it was not a Class II  
8 machine. You know, what do we do with that?

9 I know that there is a team, a tribal working group  
10 that's looking at perhaps addressing that issue in technical  
11 standard changes. They are taking a look at those  
12 regulations. But the Class II MICS, we've heard needs  
13 updating, already the technical standards need updating from  
14 when they were adopted a couple years ago, 2008.

15 But those are the issues, those are really the  
16 big -- those are major areas that we need to look at and make  
17 some decisions about over the course of the next couple of  
18 months, what we're going to do with that and how do we  
19 address it.

20 MR. KINTER: I guess we've got to be on one side or  
21 the other. At Yocha DeHe, we have amended and the NIGC  
22 approved our MICS oversight here at Cache Creek. So I guess  
23 we're on that side of the debate.

24 And if it were demoted, would we -- would this tribe  
25 have to modify our ordinances once again because of the

1 demotion? I think there might be some uncertainty if there  
2 isn't very much clarity in the law you mentioned.

3 I guess my question would be: Would we have to  
4 modify our ordinances if they were demoted?

5 MS. LAEL ECHO-HAWK: Well, I guess that's -- we'll  
6 need to take a look at that. A number of the ordinances  
7 specifically identified a set of things in 2003, the NIGC set  
8 of MICS, for example, in that version. Well, 2003 is likely  
9 outdated. So in that situation, if we were to develop a  
10 bulletin or some kind of -- or leave it in regulatory form --  
11 in regulation form, you know, how do we keep that updated?

12 One of the things we heard yesterday was from tribes  
13 that said, "If we're paying you fees, and you don't have the  
14 authority to enforce or promulgate Class III regulations, why  
15 are you spending our fee money, you know, on the very costly  
16 job of updating these regulations, doing Class III audits on  
17 tribes that voluntarily ask the NIGC to come in, but  
18 everyone's fees fund their operation?" So that was a concern  
19 we heard raised yesterday as well.

20 You know, that is an issue and something we were  
21 talking about yesterday: How do we address the fact that a  
22 number of tribes have voluntarily adopted the Class III MICS  
23 and NIGC Class III MICS? States have by compact. And then  
24 our enforcement authority, you know, where do we go with  
25 that?

1           We really want to hear from tribes, because it is  
2 such an important issue. The more input we get from tribes  
3 the better our decision making on this is going to be.

4           CHAIRWOMAN STEVENS: And what I would say is, this  
5 is something we're going to have to solve together. We want  
6 some ideas with the CRIT decision and what it said, which is:  
7 "NIGC cannot promulgate nor enforce Class III Minimum  
8 Internal Control Standards."

9           So what do we do? We have a wide range of tribes  
10 across the country. I come from a state where a lot of  
11 "blood was shed" to negotiate with the state on Class III  
12 Minimum Internal Control Standards, when there was no need  
13 for the NIGC to be there. As a matter of fact, the governor  
14 of the state and the attorney general and everybody came out  
15 and said, "No thanks." You know, "Thanks, but no thanks."

16           But yet we know that there are tribes who don't have  
17 that kind of relationship with their state. Or it's been  
18 written into their compact, it's written into their  
19 ordinances. And so what are some creative -- I mean, if  
20 there's anything to say about this administration and this  
21 NIGC is that we want innovative, creative ways that we can  
22 address this so that we don't leave anyone out. Our whole  
23 goal is to ensure that this industry is protected. So how do  
24 we do it under the confines of court rulings, under our  
25 jurisdiction, our authority? How can we do this together?

1           And it may not be, you know, a blanket regulation.  
2       I think we're going to have to get creative because the  
3       situations are different. There are 28 -- 29 states, 233  
4       tribes with I don't know how many compacts -- even within a  
5       state the compacts are different -- you know, and 420 or 430  
6       operations. We have to figure out how do we do this so that  
7       it works for everybody. And it just may be a discussion  
8       we're going to have to have as the "rubber meets the road" in  
9       April, when we start, you know, doing the specific revisions  
10      or sort of getting down into the "weeds" on the Class III  
11      MICS issue discussion.

12           I'm not sure a blanket regulation is going to work.  
13      I know there are some who believe that it will and it won't,  
14      it's not going to work. You know that's how the states ended  
15      up in IGRA anyway, because it was all going to be different  
16      from state to state. So one size doesn't fit all  
17      necessarily, at least in terms of the authority.

18           There are certainly industry standards for Class III  
19      that are useful, minimum standards that would be useful.  
20      It's just how do we create a mechanism that everybody can  
21      use?

22           MR. KINTER: I agree. I think it would be extremely  
23      difficult to have just a blanket regulation for everyone.  
24      You know, you've got a good point. There's too many  
25      variables and too many different situations throughout the

1 state. So I look forward to having a discussion in April  
2 about that.

3 CHAIRWOMAN STEVENS: Does anyone have any experience  
4 with the facility licensing standards? You know, that was  
5 something that also came out at the last Commission, and  
6 there was a lot of controversy around it. We heard a lot  
7 about that yesterday, too.

8 You know, are some of the processes duplicative?  
9 You know, tribes -- do they have mechanisms in place to  
10 ensure public health and safety? And is this a duplicative  
11 process? Is this helpful to some?

12 Again, it varies because there are some tribes who  
13 rely heavily on the NIGC. There might be few, but there are  
14 some who maybe don't have as strong an infrastructure with  
15 certain mechanisms to ensure that. Yet there are others who  
16 have, you know, their own tribal government health boards, or  
17 they use Indian Health Service, or they use the local county  
18 fire, and they have fire safety agreements, they have police  
19 agreements, they work with the county on building codes, or  
20 the state, or they have their own.

21 You know, we'd like to hear about facility  
22 licensing, if anyone has experience with that. You know, the  
23 hallmark of this administration to is to reduce redundancies  
24 and duplicative processes, and certainly with tribes, to  
25 defer to tribes' own standards so that we're not interfering

1 with their own ordinances and their authority.

2 I'm inclined -- certainly, we can avail ourselves  
3 the rest of the day if there are other sidebar conversations,  
4 you know. I thought there were some folks that mentioned  
5 there might be someone here a little bit later. And we can  
6 stick around after the lunch hour to make sure that we might  
7 catch anybody who perhaps isn't here this morning.

8 But we can always break early for lunch, if you'd  
9 like, if there's no immediate comments. I know yesterday, a  
10 number of folks who were sort of sitting and listening to see  
11 what others had to say, wanted to hear more information from  
12 us before commenting either verbally or in written form. And  
13 I can appreciate a delay of commenting here and waiting until  
14 they can get their official comments together and submitted  
15 to us.

16 Lael, is there anything else you wanted to bring up?  
17 Because we can break early, and then we can make sure that  
18 we're here for the afternoon in case there's anyone who shows  
19 up or something comes up.

20 MS. LAEL ECHO-HAWK: Not unless there's any  
21 additional tribal comments. Again, if you're interested or  
22 kind of curious about the way other tribes have responded to  
23 the Notice of Inquiry, there's at least one example.

24 That example, I did like the format that they put it  
25 in; it was very helpful to look at their comments and then

1 sort of where they class them at a priority level. That's  
2 going to be helpful for us as we move forward with this  
3 decision-making process. We really want to know from you  
4 what your top issues are so that as we go forward, we can hit  
5 those issues first and get them taken care of. So other than  
6 that --

7 CHAIRWOMAN STEVENS: Yes, sir. You want to pass the  
8 microphone down.

9 STATEMENT BY ARCH SUPER

10 MR. SUPER: My name is Arch Super. I'm the chairman  
11 of the Karuk Tribe in Northern California, just on the Oregon  
12 border. I do want to thank you for the consultation today.

13 It's kind of interesting, because it's very quiet in  
14 here. You had spoke of some of the other consultation groups  
15 that are out there. And I happen to be on the new  
16 secretary's tribal advisory committee for HHS, also on TBAC.

17 So normally at the consultations that I've been to,  
18 there's a lot of conversation with tribes in the different  
19 regions. And so today's meeting is really interesting,  
20 because we have a lot of people here and I know there's  
21 probably things that we need to talk about. And then a lot  
22 of us tribal leaders and Indian people, we listen to see what  
23 everybody else is going to say and then we pick up from what  
24 they -- we get our ideas and start to speak up.

25 The only comment I wanted to make is: We had come

1 to NIGC about five years ago. We are a non-gaming tribe. So  
2 we're still in the process of wanting to be a gaming tribe.  
3 We are the second largest tribe in the state of California,  
4 so we have a lot of people to support.

5 Chairman Miller had stated that the purpose of  
6 gaming is to support our people in the programs that we do  
7 have. So gaming is a very good economic development for  
8 tribes. I mean, when you look at the casinos within the  
9 state of California, a lot of them are doing very good. And  
10 we, as tribes, we have the challenges of city government,  
11 state government, county government; so there is always a  
12 battle for us. And I've noticed that even when tribes have  
13 gaming and they support local counties and cities and even  
14 the state, we still have that battle. It's like, you know,  
15 help us and we appreciate it, but we're not going to help  
16 you. It happens to us all the time.

17 The thing that I would like to comment on is: Is  
18 NIGC still out there to support tribes that are eligible for  
19 gaming to get to that point? Because I was excited about it  
20 five years ago. And we've had the battle since then to get  
21 close to even being -- you know, our proposals being accepted  
22 for gaming, and we're still fighting that battle.

23 But can you tell me if NIGC is still advocating --  
24 your purpose out there is for -- if tribes are eligible, that  
25 you're there to help us move to that better point? That's



1 one of my questions.

2 I guess the other one would be a statement: That as  
3 we move forward in the gaming world, that we remember that  
4 there are still tribes out there that are still trying for  
5 gaming. So our regulations that are set forth, we don't want  
6 to make it to where it's hard for us to get into gaming,  
7 because that statement was made five years ago that that's  
8 what NIGC is, to make sure that we get to that point.

9 And then in the last couple of years, as the  
10 attorney had mentioned, DOI had stepped into being a higher  
11 level over NIGC. So when we had been moving forward with our  
12 venture in gaming, we had to step back because there was  
13 that -- kind of like a battle between DOI and NIGC to -- you  
14 know, to me, I thought NIGC said, you know, let's help these  
15 tribes, and DOI said, well, let's slow it down because  
16 there's too many gaming operations going on already. That  
17 was my understanding.

18 So I'm just making a statement, you know, that there  
19 are tribes still out there trying very hard, and a lot of the  
20 tribes are doing this for a very good reason, because we have  
21 tribal membership to support. The economic development helps  
22 us with the federal and state budgets being cut. If we ever  
23 get to that point -- you know, I know a lot of tribes do very  
24 well in gaming. So I just want the NIGC to keep that in  
25 mind.

1           CHAIRWOMAN STEVENS: Well, thank you, sir, for your  
2 comment.

3           I do want to say that, you know, the format that  
4 we're using in this consultation and what we're -- at least  
5 it's been my experience so far that this is a different  
6 format. I know a lot of other agencies, HHS, DOI, you know,  
7 Justice use this open forum, this format. It's completely  
8 new to this agency. And I've been told that it's -- you  
9 know, the change is a little different, and it's taking folks  
10 time.

11           And I also appreciate, as an Indian person myself,  
12 that we're not so quick to speak, that we sit and listen and  
13 take information in. And that's why we try to have a number  
14 of these and try to keep the comment period open so that  
15 tribes can assess, after they've heard what other tribes say,  
16 you know, to garner more information before they do. So this  
17 is a new format for the NIGC; I don't think they've done it  
18 before.

19           And in terms of your individual issue, especially if  
20 it's been in process or goes back five years, I'd be  
21 interested in talking to you offline to get more information  
22 about what your tribe is doing, to see what our part is in  
23 that and where, if anywhere, we are at in any process your  
24 tribe is in.

25           And in terms of -- and Lael had mentioned this

1 earlier. You know, there was a time when DOI and the NIGC  
2 were at odds. And we are, you know, by statute an  
3 independent regulatory agency within the Department of  
4 Interior, and we're still part of the federal family. And  
5 I'm committed, as part of my confirmation process -- just  
6 having been on the other side of the table, working for my  
7 tribes and other tribes, too, that kind of divide in the  
8 federal family doesn't help. What it does is create  
9 uncertainty, it creates inconsistency and differing  
10 application or interpretation or different policies that only  
11 get tribes caught in the middle.

12 I'm happy to say that we are working hand in hand  
13 with Interior on various areas because, you know, the  
14 authorities -- there are authorities in the Act that are  
15 divided between the secretary and the chair of the NIGC,  
16 secretary of Interior/NIGC.

17 I will never be able to take -- and nor will anybody  
18 else be able to take land into trust except for the Secretary  
19 of the Interior. That is an authority that cannot be taken  
20 on by anybody else. There are enforcement authorities that I  
21 have that he or she cannot take. But it is divided, and so  
22 it is in our best interest to work cooperatively. That  
23 doesn't necessarily mean that they're going to, you know,  
24 tell us what to do. Because we are not in their department  
25 manual; we are not in that type of authority with them, but

1 we do work with them.

2 As a matter of fact, their consultation team that  
3 they've put together -- which I initiated when I worked for  
4 Interior -- is just moving along. And while we don't -- like  
5 I said, we're not in their department manual and we're not in  
6 their organizational chart. We are within their department,  
7 to some extent, and we try to be helpful. And we've been  
8 sitting in on some of the conversations with their tribal  
9 consultation team to be helpful and also to support the  
10 spirit and intent of the president's consultation. Because  
11 we are within the Department of Interior, so we are trying to  
12 be more cooperative among the federal family. Especially  
13 with Interior, because there's so much that goes on between  
14 the two agencies that we just have to be, so that we serve  
15 tribes better.

16 And in terms of statements in support of tribes, you  
17 know, it's laid out right in IGRA. It's the policy statement  
18 right up front in IGRA that the whole purpose of gaming is to  
19 support tribal economic development and self-sufficiency.  
20 You know, that drives the entire Act. And, you know, that's  
21 the statutory authority, that's the body of law that makes  
22 us -- you know, drives what we do.

23 Something that I will repeat again and again, and as  
24 will the other commissioners and our staff, you know: This  
25 is all meant to support tribal government. We're here to

1 serve tribal governments. We have to do it within our  
2 statutory authority.

3 We recognize the importance -- we come from -- and  
4 this is something that Associate Commissioner Little had  
5 coined: We all come from gaming facilities in one way or  
6 another, whether it was gaming facilities that created the  
7 position of your job or -- you know, I come from a tribe that  
8 employed me for almost 15 years using gaming dollars. It  
9 sent me to school, helped me with my first house, you know,  
10 helped me with my daughter, helped me -- you know, all those  
11 things. We are products -- as is Steffani Cochran, she's in  
12 the Chickasaw Nation. And that's the great thing is we  
13 understand -- we have this firsthand understanding of what  
14 Indian gaming means.

15 You know, gaming doesn't exist without the  
16 sovereignty of the tribe. There's a lot of misunderstanding  
17 out there that, you know, casinos come first and then tribes  
18 second. Indian gaming does not exist without tribal  
19 sovereignty. And we support tribal sovereignty, we support  
20 tribal economic development and diversification and strong  
21 tribal government.

22 So I don't have a problem saying that to you right  
23 now. And you'll keep hearing me say that, because it is a  
24 mechanism that you, as tribal leaders, use to support your  
25 community. You have a burden that -- and it's also a joy,

1     though, to lead your people and support your people however  
2     you will. And we're here to support you doing that.

3             MS. TREPPA: You had addressed early on some other  
4     issues that aren't necessarily on point with the goal here  
5     today regarding the regulations and amendments to  
6     regulations. But, like the chairman over there, our tribe is  
7     just getting into gaming and have very few funds to train the  
8     folks that are going to be overseeing our casino. So our  
9     tribe specifically needs training availability.

10            There are a lot of opportunities for that sort of  
11     knowledge through other venues, but they're very cost  
12     prohibitive for a tribe that doesn't have a lot of money.

13            So I know you folks locally provide training and you  
14     travel. But our specific needs is to provide that more  
15     frequently and more variety of those. Because we're, if  
16     we're lucky, going to be on a fast track to be able to open a  
17     casino, and we have no gaming commissioners because we have  
18     no funds to pay them nor train them. So we have a lot of  
19     needs in that area.

20            CHAIRWOMAN STEVENS: Well, that is one of our major  
21     initiatives; it's number two on our list, technical  
22     assistance and training. It's required by statute. That was  
23     amended in 2006 to include that as a mandate to us. And all  
24     you have to do, and all any tribe has to do, is call your  
25     regional director, right here, Eric, and tell him what you

1 need. And we do tailor to specific tribes and whatever their  
2 needs might be. It varies.

3 You know, there's a spectrum of tribes out there and  
4 where they're at in their facilities. Some have been in  
5 place since before IGRA, very well established. There are  
6 others, like you, who are just getting started. And so we  
7 have different levels of training that we're able to provide  
8 whatever that might be. And I would encourage you to talk to  
9 Eric and see what he and his regional staff can provide or  
10 extension into the rest of the agency, whether that's in our  
11 audit department, if that's licensing, whether it's our legal  
12 staff to explain certain things about the roles of  
13 commissioners and tribal leaders and what the Act says and  
14 what your requirements are, all the way to our financial  
15 audit folks, I think I just said.

16 So please just let us know what you need, and we'll  
17 see what we can do to help. And there's no charge for it.

18 MS. TREPPA: That's great.

19 CHAIRWOMAN STEVENS: And we're looking to develop  
20 some partnerships. There's lots of other folks that do this.  
21 And also maybe even work with tribes who are, you know,  
22 really progressive and have been established for a while.  
23 All sorts of opportunities that we're having so that we can  
24 expand our training so we try to meet as many needs as we  
25 can.

1 MS. LAEL ECHO-HAWK: I know we are focused on reg  
2 review, that's what we came here for. But we do have two  
3 commissioners here. And if you have concerns or thoughts  
4 about the agency that you'd like to raise to them, I think  
5 they'd be happy to hear them. Except for Commissioner  
6 Little. Kidding.

7 CHAIRWOMAN STEVENS: I'm just checking the time.  
8 We're about ten minutes from lunch. And, you know, if there  
9 are no other comments, we can certainly take a break for  
10 lunch. We'll be sure to be back here at 1:30 in case we have  
11 new people show up. Or, I know, yesterday there were a  
12 number of folks who were not tribal leaders, that were  
13 representing their tribes, and they were being so kind as to  
14 wait for tribal leaders and let them go first and then waited  
15 for the afternoon before they stood up and spoke.

16 So let's break for lunch. We'll be back at 1:30.  
17 We'll be here. If there's any other comments, we'll be here.  
18 Enjoy your lunch.

19 (Luncheon recess taken at 11:48 a.m.) --oOo--  
20

21 AFTERNOON SESSION 1:53 P.M.  
22

23 CHAIRWOMAN STEVENS: I think we have one tribal  
24 leader here left. He said we can kick him out. (Laughter.)

25 Are there any other issues? I assume you all work



1 on behalf of a tribe or commission, and you may or not be  
2 authorized, I guess, to provide comment right now. Maybe you  
3 were sent to sit and listen and get information.

4 Does anyone have any additional comments or any  
5 questions about the process that we can help you with?

6 MR. JOHN MAYEWSKI: I'm wondering if the committee  
7 that is established to review the agenda, after it's created,  
8 will incorporate both operations, regulatory and tribal  
9 counsel and board members?

10 MS. LAEL ECHO-HAWK: We'll consider all comments.  
11 And this is sort of the challenge that we have. We've  
12 actually had tribes who have dualing opinions from their  
13 Commission and then their tribal leadership. And we don't  
14 want to dictate to tribes who's authorized to speak for them,  
15 because that's the tribe's decision. Some tribes will have  
16 their tribal leaders do it and their staff or their ops, or  
17 their regulatory bodies are providing them the comment and  
18 the tribal leader speaks for the tribe. Some tribes will  
19 delegate that down to an attorney, to a lobbyist, to a  
20 consultant, to their regulator, to the chairman of the  
21 commission, to the general manager of the -- I don't care.  
22 It's not up to me. But we will consider all comments.

23 If we find something that's conflicting within a  
24 tribe, which is, like I said, not completely unheard of,  
25 we'll probably call and verify, you know. It will be

1 published. But we will consider all comments. Like I said,  
2 if it causes a problem, if there's a problem within a tribe,  
3 then you'll hear from us. Or I imagine we'll hear from you.  
4 So we hope that's not the case, but we understand sometimes  
5 that happens. But all comments will be considered.

6 CHAIRWOMAN STEVENS: Please state your name and who  
7 you're with.

8 STATEMENT BY ALAN FEDMAN

9 MR. FEDMAN: Alan Fedman. I'm with SNR Denton, but  
10 I've worked for the Commission for a long time.

11 And I want to say, first of all, that I really  
12 commend the Commission for taking this on. It's a very  
13 ambitious effort and long overdue. And the Commission really  
14 did a good job, in my opinion, of identifying eight or nine  
15 things that need to be changed.

16 One thing that was left out, though, and I wonder if  
17 they would consider adding this, is the expansion of the  
18 database on the TBIS database, we used to call it. It's the  
19 tribal investigative information that goes to the Commission,  
20 and it's maintained by the Commission, and the tribal gaming  
21 commissions don't have access to it.

22 With the TAP program there's been a step in that  
23 direction, but there's still an enormous amount of  
24 information that would be useful to tribal gaming commissions  
25 that are not currently subject to release. And it's not

1 really on your agenda. So I just want to suggest that as a  
2 potential additional consideration.

3 But, also, I wanted to say that the effort to  
4 streamline the enforcement process and the ability to pull  
5 back a Notice of Violation and reconsider that whole  
6 procedure is really well-conceived, well-timed, long overdue.  
7 There's a lot of improvements that can be made. I'm sure the  
8 enforcement staff has a lot of ideas about how to do it. So  
9 I was very happy, particularly, to see that on your list  
10 because that's something that's been a problem for tribes and  
11 the Commission for a long time.

12 That's it. Just wanted to see about the database.

13 CHAIRWOMAN STEVENS: Well, we can certainly -- it  
14 may not be something that comes up in regulations, but we are  
15 open to other issues that you might have, just generally, on  
16 how we operate and certainly want to partner with tribes with  
17 regard to background information, to the extent that we're  
18 authorized to. But we can bring it back --

19 You know, I'm sure as you know, having worked inside  
20 the agency, there's a lot of improvements that we can make  
21 internally that would benefit tribes. And that's part of our  
22 fourth initiative on agency operations review: How can we  
23 streamline our internal processes so that we serve Indian  
24 Country better? So certainly we'll bring that back and talk  
25 to the chief of staff and figure out what we can do.

1           And the enforcement. That's one of the regs that  
2 were up there. And we heard actually quite a bit about it  
3 yesterday. It wasn't until the afternoon they brought it up.  
4 Liz Homer had brought it up. So there's more clarification  
5 on the process of Notices of Violation that tribes -- and I  
6 had said publicly and openly: Tribes should not ever be  
7 surprised by a Notice of Violation, yet we heard yesterday  
8 some tribes were.

9           And, you know, under this new Commission we operate  
10 under the ACE model: Assistance/Compliance/Enforcement in  
11 that order. And should there be graduated steps before we  
12 get to an NOV? Some might think that an NOV is not that big  
13 of a deal, it's like a ticket. It's a big deal to tribes.  
14 Your investors look at it, you know, other people that have  
15 to do business with the tribe or your operations look at  
16 violations. You know, it's a big deal.

17           And, you know, we've heard that there should be some  
18 more time structure and phases in the enforcement process.  
19 If you could, or your clients, submit comments on what --  
20 some suggestions, we're open to them.

21           MR. ALAN FEDMAN: On the appellate procedures and  
22 the changes that are contemplated there -- which, again, I  
23 think are long overdue -- would it be possible for the  
24 Commission to reach out to attorneys that have represented  
25 tribes in appeals and get their input? Particularly because,

1 you know, they've suffered through the cumbersome process,  
2 and I think they would be a really good source of guidance  
3 for the Commission on how to change the appeals. I don't  
4 think there'd be any shortage of attorneys that would be  
5 interested in helping with that.

6 CHAIRWOMAN STEVENS: Lael, did you have any comments  
7 on that? Because Lael has been an attorney on the other  
8 side, watching this process.

9 MS. LAEL ECHO-HAWK: I think that's a good point.  
10 And once we get -- you know, if we get some input -- once  
11 again, the comments are not limited to just tribal  
12 organizations or representatives, submitted comments. And if  
13 this is something that needs to be done, then when we begin  
14 working on those revisions, we'll have to think about --  
15 again, going back to the process, you know, who we get  
16 involved in helping revamp those systems.

17 I helped rewrite the civil code for the tribe that I  
18 worked for, and I know that that whole -- writing that out --  
19 working under that process is easier than writing it out and  
20 making sure that it's done in a streamline way and all those  
21 things. So we'll take that comment and, then, once we start  
22 working on that regulation, make sure that we include people  
23 that are knowledgeable about those processes.

24 CHAIRWOMAN STEVENS: Any other concerns about any  
25 regulations or processes that we have?

1           Because if not, then I'm inclined to just free  
2 everybody up and wait with bated breath on comments from your  
3 tribe or who you represent.

4           We are certainly available by e-mail, telephone.  
5 Any of us can direct you to the right areas, if you need some  
6 clarification or you have questions about this process or the  
7 NOI, if you need any clarification on that.

8           We do want everybody to participate. We want  
9 everybody's comments, and we look forward to working with  
10 everybody. As I said, and I'll keep saying, we're going to  
11 run into -- like with the MICS, we're going to see huge  
12 differences between what a region of tribes will want or  
13 tribes in a certain situation or state, as opposed to other  
14 tribes. And I'm going to rely upon all of the tribes that  
15 come together to help us find an innovative, creative  
16 solution so that we don't let the integrity of the industry  
17 slip at all.

18           So I look forward to working with all of you. We're  
19 going to be hanging around here for a little bit in case  
20 anybody wants to talk to us. But other than that, I thank  
21 you all for coming here today and wish you all safe travels  
22 if you have a distance to go back home. So thank you very  
23 much for attending.

24           (PROCEEDINGS CONCLUDED AT 2:04 P.M.)

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REPORTER'S CERTIFICATE

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I, SHARON LANCASTER, CSR NO. 5468, Certified  
Shorthand Reporter, certify:

That the foregoing proceedings were taken before me  
at the time and place therein set forth, before the National  
Indian Gaming Commission on January 12, 2011.

That the proceedings were recorded stenographically  
by me and were thereafter transcribed under my direction;

I further certify that I am not a relative or  
employee of any attorney or of any of the parties, nor  
financially interested in the action.

I declare under penalty of perjury under the laws of  
California that the foregoing is true and correct.

Dated this JANUARY 20, 2011.

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SHARON LANCASTER, C.S.R. NO. 5468

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