BIA INDIAN AND TRADE COMMERCE CONSULTATION

RADISSON HOTEL & CONFERENCE CENTER GREEN BAY
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10:00 a.m. to 12:00 p.m.

REPORTER:
KATHY A. HALMA, RPR
APPEARANCES

PRESENTER/MODERATOR:
Mr. Gavin Clarkson, Deputy Assistant Secretary for Policy and Economic Development, Office of the Assistant Secretary, Indian Affairs

ATTENDEES:
Mr. Scott Sufficoool, BIA Manager
Ms. Kim Bouchard, BIA, Great Lakes Agency
Ms. Melinda Jenfarth, Oneida Nation
Ms. Cathy Bachhuber, Oneida Business Center Staff
Ms. Leanne Doxtater, Oneida Planning
Mr. Jeff Witte, Oneida Planning
Mr. Pat Pelky, Oneida
Mr. Ernie Stevens, III, OIBC
Mr. Ernest L. Stevens, Jr., Chairman, National Indian Gaming Association
MR. SUFFICOOl: Good morning. Welcome to the Department of the Interior's Consultation Session on updating the Bureau of Indian Affairs Licensed Indian Traders regulations. My name is Scott Sufficool. I'm the BIA Midwest Region Deputy Regional Director for Indian Services here on behalf of the Midwest Regional Director, Tammi Poitra, who couldn't be here with us today, along with our Superintendent of the Great Lakes Agency, Kimberly Bouchard.

This one of five consultation sessions which the Bureau will be conducting across the country. Before we begin today's session, I would like to invite Councilman Stevens to come up and provide us with an opening prayer, if you would. Thank you.

MR. ERNIE STEVENS, III: Great Grandfather Sukwayuntisu, I want to thank you for everything you have provided for us this day and everyday, all the blessings, everything that you provide for our families, for our Nation, for our community, for Indian Country, for our Mother Earth and ask that you watch over these folks as they travel to come visit us, provide them with
prayers and blessings and protect them in their travels and to thank everybody for being here and all the work that they do on behalf of our Nation and our community.

Please bless them and their families and our community, and I'd also ask to take a moment to provide some blessings and prayers to our community for those in need, for those who are mourning. There's been some loss. So please do what you can to provide blessings and positive energy to those families and friends who are mourning and to continue to focus on those in need and provide us the energy and patience to do our work and hopefully to help them and help our community and Nation and Indian Country across the board. Thank you for your blessings.

MR. SUFFICOOL: Thank you, Mr. Stevens.

Again, for the record, that was Ernie Stevens, III, who led us in this morning's prayer.

D.A. SECRETARY CLARKSON: If y'all would add to your prayers, obviously, the folks in Houston. I spent the weekend in Houston, I've got family down in the hurricane, but also the Karankawa are just slightly north of Houston, and right now they are just getting absolutely
inundated with rain. It's amazing what
25 inches -- well, it will be 50 inches of rain
by the time it's all said and done, which is just
unbelievable. What you see on the news, when you
are actually seeing it in person, it's even way
worse.

MR. SUFFICOOL: Thank you, Mr. Clarkson.
I would like to thank each of you for joining us
here this morning to be part of today's
consultation session. I would remind folks that
we are being recorded, so that if you have
comments, if you can please make sure you
identify yourself for the record and be clear
with that for the transcriber. We also have a
sign-in sheet this morning.

To begin this morning, I'd like to
introduce Dr. Gavin Clarkson, the Deputy
Assistant Secretary of Indian Affairs for Policy
and Economic Development, U. S. Department of
Interior.

Dr. Clarkson will lead today's session.
He's an accomplished individual who will we
providing more information on what the Department
hopes to achieve through these consultation
sessions. Dr. Clarkson is the Department's newly
appointed Deputy Assistant Secretary for Policy and Economic Development. Dr. Clarkson is a citizen of the Choctaw Nation and has brought to his new position an extensive background in law, finance and economic development. The Department's intent in updating the BIA Trader Licensing regulations is to make them relevant to tribal governments in the 21st century.

The fact is that they were last addressed in 1965 means that they were useful to tribal economies that existed 52 years ago, not in 2017. Dr. Clarkson brings a perspective and focus. He's a strong believer in promoting tribal self-determination through increasing tribal access through economic opportunity. He's bringing in fresh new ideas and methods on how Indian Affairs works with tribes on their businesses and energy development needs.

In announcing Dr. Clarkson's appointment last month, Secretary of Interior Ryan Zinke noted that the Financial Times had named Dr. Clarkson the nation's leading scholar in tribal finance. He holds both a bachelor's degree and an MBA from Rice University, and also earned his doctorate in technology and operations management.
from Harvard Business School. And if that wasn't enough, he also continued on and received his law degree from Harvard Law School.

He's consulted and served as an advisor to tribal organizations and federal agencies on tribal finance and economic development issues, and is a great supporter of native students.

He's a lifetime member of the American Indian Science and Engineering Society where he served as Chairman of the AISES Foundation from 2005 to 2009. Dr. Clarkson is also a member of the Indian Law Section of the Federal Bar Association, the Licensing Executives Society, Native American Finance Officers Association and the State Bar of Texas.

Dr. Clarkson is a resource for Indian Country and has the credentials to back it up. Therefore, please join me in welcoming Dr. Gavin Clarkson, the Indian Affairs new Deputy Assistant Secretary for Policy and Economic Development.

(Applause.)

D.A. SECRETARY CLARKSON: Do not let him tell you any different. I'm just a simple country boy with a couple fancy eastern degrees.

Thank you very much.
We have got one microphone now, so what we will do is I have a few slides I want to go through, but the main purpose of today is to be listening to y'all. So we will pass the mic around when people have something to add to the record. We do have a court reporter, so just when you do speak for the first time, if you can make sure you state your name, and if she needs you to spell it, she may raise her hand and ask you to spell it. We want to try to be helpful to her, as well.

So what I'm going to do is first of all I want to share with you some themes that Secretary Zinke has asked me to carry around to Indian Country, and many of these you have heard him talk about before. He always emphasizes sovereignty. He's a firm believer in tribal sovereignty. It's something he both understands and advocates for, and within that is self-determination and self-governance, but above all else is respect.

Historically we have -- and I keep saying "we." Secretary Zinke has said all the problems have been his fault since he took office, and for the last three months they have
been my fault, too. But we historically have not been sufficiently respectful of tribal
governments, and that's something that at least this administration plans on changing.

Part of what we want to do is focus on tribal economic freedom and empowerment. But one of the methods to do that is by reducing the regulatory burden, and that's not unique to Indian Country. We are trying to reduce the regulatory burden nationwide, but we certainly recognize there's an oppressive burden on almost all tribal economies. Most people when they hear Secretary Zinke, he always says,"Sovereignty has to mean something." What do we mean by that.

Well, where does that notion come from.

We have 567 federally recognized tribes, all of them with different stories and with different capabilities, but all of them have the common story of their sovereignty -- their zone of sovereignty having been breached. It used to be, you know, Chief Justice Marshall described it in 1834 that the Cherokee Nation had distinct boundaries in which the laws of Georgia can have no force. That boundary was something that Indian Country understood, but over time that
boundary, we have not necessarily done a great job of defending that boundary.

But let's stay within that boundary for a second. Even within that boundary we have a range of capabilities. We have got tribes with different economic potential, different geographic situations, different levels of rural versus urban. So there's a whole range of capabilities, and so there are some tribes that either because of damage or because of need or specifically because of desire we provide direct services, and there are going to be some tribes where we are going to be providing those services for generations to come, because you can't undo several centuries of damage in just one or two generations.

On the other end of the spectrum are the fully empowered tribes. Those are the tribes that, you know, in reality wish we didn't exist other than to defend that zone of sovereignty. Those the tribes where we have no value as the federal government. In many cases we just stand in the way.

Actually, Ronald Reagan famously once said the worse thing you could hear as a small
business is, "Hi, I'm from the federal government and I'm here to help." So, Mr. Stevens, hi, I'm from the federal government and I'm here to get out of your way. And, you know, you don't hear that from the Feds normally, but that's really what we are trying to do. We are trying to get out of your way and not be in places you don't want us to be.

Now we are not trying to move tribes from one side to the other. We do think there's definitely a benefit for self-governance, and I'm a big proponent of your self-governance program, but we recognize that there are going to be tribes that are going to be on the other end of the spectrum for awhile. So this is not, you know, this is not trying to abdicate our responsibility. We definitely want to help the tribes that want to move into that self-governance zone and that fully-empowered zone, but there are some things where it just -- we stand in the way of way too much.

For example, the Southern Ute tribe was briefing the president during the Energy Summit. They are a very successful oil and gas tribe. And, in fact, it may be closed at the moment
because of the hurricane, but they have an offshore oil platform in the Gulf of Mexico. Now why is it that you have a landlocked tribe in Southern Colorado drilling on an oil drilling platform in the deep water off the Gulf of Mexico? Because it turns out it's easier to dig 10,000 feet below the surface of the earth than it is for them to drill in their own backyard because of us and all the impediments we throw in the way.

The example he gave to the president was it takes them four months to get all the permits necessary to start operations off reservation, and on reservation in their own backyard it takes 31 months to go through the process. So literally eight times longer to do something on reservation than off reservation because of all the impediments that we put in place.

And it's not just big oil and gas projects, it's simple things. Mr. Stevens, you will probably be dealing with, you know, grandma needing to get electricity, wiring up elders' houses and so on. Well, guess what, you are going to dig a hole, you are going to put a tree in that hole. You're going to fill it with
concrete and hang a wire on it. It ain't that hard. But if you do it on Trust land, you have to get our permission because we have to do a NEPA analysis of a hole. That's insane, that's crazy, and yet we do that all the time.

So there are so many things where I fully believe that the Oneida Nation is more than capable of digging holes and putting in utility holes and making sure grandma gets power. But for whatever reason we, the federal government, think that we need to come in and tell you what to do. That's not right.

Sovereignty should mean tribes deciding what is right. So in terms of my priorities, Priority No. 1 is economic development. How can we best help tribes develop self-sustaining economies that promote jobs, wealth, prosperity and independence. And we are not only trying to help Indian Country, but it turns out that when Indian Country is prosperous, so, too, are the sounding communities.

I'm positive the City of Green Bay is economically better off because y'all are here. You have probably done a lot of economic analysis to figure out how are much you lift up the
surrounding community by having Oneida Nation be an economic engine. And that's not unique to here. That's all over. There's lots of data that we have from tribes. Lots of tribes have just published their economic impact studies. I know Oklahoma just issued one and we have gotten some from the consultation process, but it's very clear that when Indian Country is, instead of being a cesspool of poverty, when it becomes a mountain of prosperity, it lifts everybody in the surrounding communities.

Now you will hear me talk a lot about energy, and energy development is critical to this effort, but we are not uniquely focused on energy, it's just that energy has the most dollars to spend in terms of infrastructure development, because we all recognize that Indian Country has a huge infrastructure deficit.

There's money sitting on the sidelines ready to employ to build roads and schools and sewers and things like that that's not happening. We will get to that in a little bit.

The next question is or the next priority is tribal empowerment. How can we better empower tribal leaders. How can we best
return economic sovereignty to the tribes. How can we have Indian Country decide what is right rather than the federal government.

No. 3 is human capital development. Again, three months ago I was a school teacher planning summer school, and I was at New Mexico State, which has the highest percentage of Indian students of any Division I school. I'm a lifetime member of the American Indian Science and Engineering Society, and I have been mentoring native students my entire career. It's always a question how do we best invest in native people.

And it's not just a college education. One of the things is that, unfortunately, the elites have been so hostile towards people that work with their hands, and, you know, so it's not just college education, it's also the skilled trades. It's the plumbers and electricians and the carpenters, the roofers and the bricklayers and the farmers and the ranchers and the people who fix things. It's the people who work with their hands, because what you want to have is a self-sustaining economy. You want to have it to where -- you know, the economists will describe a
situation where in a healthy economy money will
cycle five or six times before it leaves that
economy. In most of Indian Country it cycles
once, maybe twice. So y'all are close to Green
Bay. When somebody gets paid here on the
reservation, how long before that money leaks out
and goes into the broader economy. You may keep
it a couple times.

The Navajo Nation, for example, people
get paid at Navajo, and it turns out the single
largest Wal-Mart on planet earth in terms of
dollar per square foot sales is in Gallup, New
Mexico. All the Navajo people get paid at the
end of the month, and they all drive to Gallup.
If you have ever been to Gallup at the first of
the month, you can't park anywhere. And it's
simply because the money is leaking off the
reservation.

They actually tried to put a Wal-Mart in
Chinle once, but, you know, because of dual
taxation and because of an oppressive regulation
environment, it just wasn't economical for
Wal-Mart, so they didn't do it. But we want to
be able to create an environment where money
cycles multiple times in a tribal economy, and
that requires not just people with college
degrees, but it requires people who work with
their hands, people who build things and makes
things and fix things. So, you know, we don't
want to be snobs and be hostile towards the
people who work with their hands, because those
skilled trades are important.

The way I explain it to my students, my
father was an orphan Indian kid in Chickasha,
Oklahoma. He was orphaned during the Dust Bowl
and the Depression, and he would tell you that he
was so broke, and he would use the term broke
rather than poor, because poor is a state of
mind. Broke is merely a temporary interruption
of cash flow.

So my father was so broke that he was
literally digging through other Indians' garbage
cans for food. And you know it's bad when you
dig through other Indians' garbage cans. So at
age 16 he said two things. One, poverty sucks,
and he was also mad at the Japanese for bombing
Pearl Harbor.

So he joins the Navy and never looks
back. By 1948 he's the first American Indian to
fly a vet. By 1962 he's the senior nuclear
targeting strategist for NATO. He has a computer about the size of this room with about 16 kilobytes where he's doing strategic war planning to blow up the old Soviet Union. He was literally the guy who retasked the missiles off of China and aimed them at Cuba during the Cuban Missile Crisis. So I'm proof positive that Indian poverty is not a life sentence, and I also come from a long line of nerdy natives. But we want to have Indian Country be better educated and better trained, because that's better for tribal economies and that helps tribal economies become more self-sustaining. But, once again, it's also better for the surrounding states. I mean, Wisconsin is going to be better off if the Oneidas are better educated, better skilled and better trained. Human capital development is really the best long-term strategy for promoting tribal economic growth and tribal self-governance simultaneously, because it's really the only way to get our economies to be self-sustaining internally. Because otherwise we are always importing labor from the outside. So that takes us to the process that we're in right now.
At the tail end of last year, last December, they did an announcement for proposed rule making to update the regulations associated with the Indian Trader Act. We listened to Indian Country. We had comments up through April. Unfortunately, one of my colleagues asked me, she was unable to make it, she got hung up with weather in Chicago, but she and her group did a phenomenal analysis of all the comments that came down.

And here's what we heard from Indian Country. First, the statute is old. It was passed in 1790, but it's very broad, but it is old. It was updated in 1834. It was updated two times, but in 1834 very clear legislative intent to have tribal economies be separate from the state economies and not to have the state involved in tribal economies. The regulation of tribal economies was exclusively tribal and federal, and nobody else.

In fact, Chief Justice Marshall and George Washington, some of our founding fathers, echoed those exact sentiments. Again, Chief Justic Marshall described it as the Cherokee Nation having distinct boundaries in which the
laws of Georgia can have no force. It was a real
simpler system.

If you were in Georgia, you paid Georgia
tax under Georgia regulations. If you were a
Cherokee, you had Cherokee tax, Cherokee
regulations. Indian Country identified very
strong legislative intent to exclude the states
from tribal economies. The regulations are also
pretty old. They were promulgated in 1957 and
updated in 1965, so they are definitely due for
an update.

But if we go back to this notion that
the founding fathers had -- Again, I'm a
Republican, so I can look to legislative intent
and look favorably on legislative intent, but I
can also complain about activist judges going in
and messing things up, which unfortunately is
what happened. There were federal common law
decisions that's went in and breached that
exclusivity that the founding fathers had so
carefully crafted. And then federal regulators
and state regulators and state taxation officials
went in and compounded the problem.

Indian Country gave us a litany of all
these problems and all these challenges that
Indian Country is facing from an economic standpoint. So not only did Indian Country do a phenomenal job of telling us the history and telling us the problems of the current situation, but Indian Country also made suggestions.

We actually also got draft regulations from several tribes. I believe it was the Lummi, Otoe-Missouria and Citizen Potawatomi actually gave us draft regulations about how we can fix this, because what they say is what we have in that statute, it's an old statute and we're an old department, we have very broad authority. Congress spoke very plainly that they wanted the tribal economy to exclude the state economy, and they passed a statute that gave the secretary very broad authority to pass rules to protect Indians in terms of economic matters.

So Indian Country said, "Well, use that expansive authority that Congress has given you, and in turn give tribes the exclusive ability to tax and regulate trade and commerce that occurs on trust or restricted fee lands to the exclusion of the state.

Allow tribes, where they desire to, to opt out of oppressive federal regulatory
oversight of some or all of their Indian lands,
and replace an uncertain taxation system with a
jurisdictional geographic based system just like
the states have."

If you walk into, you know, if you walk
into a convenience store, you know, if I go to
Packers stadium to watch my beloved Cowboys play,
and I go buy some concessions, I'm going to owe
Wisconsin some tax. That's fine. But if, you
know, I buy something here at Oneida, it
shouldn't matter whether I'm black, white, red or
green from Mars. I should be owing the Oneida
Nation a tax and it should be Oneida Nation's
regulation, if we are implementing what Indian
Country is suggesting. It would be a simple
thing, and everybody would understand.

So the question is what would the world
look like. If we take Indian Country suggestions
and we say, "Well, what would that world look
like," it would still be the same zone. By the
way, you'll notice I have gone for several
minutes and I have yet to mention the word
termination. That is because termination has
absolutely nothing to do with Indian policy in
this administration. We are not trying to
terminate anything. What we are doing is trying
to have a vigorous, robust defense of that zone
of sovereignty and have tribes be in control of
what happens within that zone.

When we take Indian Country suggestions
in terms of economic matters, what does that mean
for state regulation and federal regulation.

Well, if you look up here, you have got this
zone, and then if you have state regulation and
state tax authorities coming in and they try to
penetrate that zone, they get kicked out. And
the same thing with federal regulations. When
the federal regulators try to come in and you
don't want them, they get kicked out, too.

So what we have is a system where inside
that zone tribes are deciding what is right. Now
there clearly are going to be some federal laws
that still apply, and that's fine, we we all
recognize that. But within that zone, it is full
economic sovereignty for tribes. That's what
Indian Country is suggesting.

The question is how do we get there.

Well, we sent out a dear tribal leader letter,
and I realize we have a changeover
administration, and so I apologize if you didn't
get it in time or didn't get it at all, but we
want to make sure that everybody has a chance to
comment, so we are contemplating extending the
time frame for comments. But basically what we
need to do is we need to make an economic case.
I mean, I can sit up here and tell you this is
the right thing to do, that returning economic
sovereignty to the tribe is just morally right,
it's ethically right, it's legally justifiable,
but that won't matter because it all comes down
to dollars.
So we have got to be able -- and it
should be straightforward. I think everybody in
the room can probably in their own heads make the
economic case that it's good for Indian Country
if Indian Country is able to capture all these
economics. But it turns out that from a macro
economic standpoint it's also good for the
surrounding community. We were talking earlier,
you were asking why is it you keep saying it's
good for the states. It's because it has to be
good for the states for us to be able to do
something. And it turns out that it is.
So that's where a lot of the opposition
might come from. There are some states where
they have, you know, they have been taxing the tribes quite heavily, and they are saying, "Gee, what happens if you take that revenue away from us." Well, this is where the economics become critical. This is where we need your help.

Because if you think about it, I mean, we're not too far from farm country here, but if you think about it, you want to let the crop grow and expand and become viable before you harvest it. So down in the south we had a problem with an invasive species called boll weevil, and the boll weevil came in and it would attack the juvenile cotton plant and suck the life out of it before the cotton plant had a chance to grow and multiply and become useful.

In some sense what we are now fighting is tax weevil where certain folks come in and try to suck the life out of tribal economies before tribal economies have a chance to grow and prosper. But if those tribal economies, if we remove those shackles and remove those impediments and tribal economies are allowed to grow and reach their full potential, there will be so much economic activity that the natural process of leakage economically will benefit all
the surrounding communities. We have already seen this in the gaming context.

We have already demonstrated that when Indian Country prospers, surrounding communities prosper. Imagine if you unleash the entire scope of tribal economies. So much money would flow out of the tribal communities. And we also have situations -- this again is where we need information from Indian Country. We have identified some situations like I had already identified the Wal-Mart in Chinle that didn't get built because of dual taxation. Well, I'm sure there are projects that are not being built right now.

In fact, I know that in New Mexico, for example, people have been telling me there's about a billion dollars of projects in just one county that would happen, but don't happen right now because the company went to the Tribe and said, "Hey, we have got a billion dollars to invest as long as you take a tax holiday." The Tribe said, "No, these resources have been here longer than New Mexico has ever been a state. Why should we take the tax holiday. Go talk to the state." New Mexico is having some financial
difficulties, so they didn't take a tax holiday, either. Well, guess what. Nothing happened. There was no capital investment, there was no annual revenue and there were no jobs created because of the dual taxation system.

So, again, you know, some of these ideas aren't even new. Ronald Reagan in 1983 suggested one of the biggest challenges the tribes have is the fact that they don't have a tax base, and his Presidential Commission recommended that in order for tribes to be able to have the economic wherewithal to provide services for both tribal members and non-tribal members, they need to be able have to -- they need to end the problem of dual taxation and have the tribes have exclusive ability to tax economic activity on the reservation regardless of the person who's doing the economic activity.

So the only way we are going to succeed -- and I cannot be any more clear on this. If we do not get Indian Country's help, we will not succeed. We will fail. If we get Indian Country's help, I believe we can be successful in building an macro economic case that shows that not only is Indian Country more
prosperous, but Wisconsin is more prosperous, North Dakota is more prosperous, New Mexico is more prosperous. Every single state with tribes will be better off with tribes in full control of their economies, because then those economies can grow.

Some people, you know, the fancy elites will go to Whole Foods and buy bean sprouts. I love bean sprouts, but they don't last very long. You have to keep them refrigerated. They are not nearly as useful and productive, they can't feed nearly as many people as a bushel of beans. So what we want to do is not harvest the bean sprouts, let's wait and let the crop grow and emerge and have a big, massive bushel of beans and we can feed everybody.

We want to allow Indian Country economies to grow and prosper and thrive and become fully-fledged domestic economies, and then they will become massive employers of people off reservations. For example, at one point the Mississippi Choctaw was the single largest private employer in the entire state of Mississippi. The vast majority of people working in the Mississippi Choctaw were from off
There's no reason why Indian Country can't be a massive job creator, a massive economic engine. Just imagine if there's several billion dollars of economic stimulus ready to flow into Wisconsin because now all of a sudden we can make it economically viable to invest in Indian Country. That's the world we're trying to envision. That's what Indian Country suggests to us, and we think it's a good suggestion.

But in order to make that case, we have to get the economic data. We have to be able to show what's not happening now, but could happen if Indian Country had full economic sovereignty. What we asked for was data. We want information about projects that aren't happening. Now, again, we recognize that people have propriety and confidential business information, and everything we are getting is a public record, so we don't want you to disclose anything that's confidential. But if you'd just give us enough information, you know, identify the business sector or the economic sector where the activity would take place, the capital investment that would be spent, that would be for the one-time
startup expenditures, then the annual revenues
that those projects would be generating and the
jobs that would be created, we're going to amass
all this information to build a large macro
economic model to show that every state is going
to be better off.

Also, if you have done economic studies
to show where you are benefiting surrounding
communities. My sense is you probably have
already done that. Finally, if there are treaty
obligations that you have where we have failed,
and we failed, you know, in countless treaty
obligations, but if there are treaty obligations
specifically focused on protecting your
economies, please let us now about that. Those
are really important.

Again, this is a collaborative
consultative process. We cannot succeed without
your help. We will not be able to move forward
if we can't make the economic case not just about
Indian Country, but about the nation as a whole.
And this is consistent with my role in Indian
Affairs. I describe it as I am the fiduciary
trust officer of a publicly-traded bank. I work
for the CEO. I have to maximize the value of the
shareholders, in that case that's the people of
the United States, but I have a fiduciary
obligation to the tribes.

In this case, in this instance, I see no
misalignment between my mission of maximizing the
value of the shareholders and my fiduciary
obligation to Indian Country. In this case
absolutely what's going to be good for Indian
Country is going to be good for the rest of the
country. The United States as a whole will be
better off if Indian Country is more prosperous,
but the only way we will be able to move forward
with these regulations to achieve that goal is
with the assistance of Indian Country.

So for the tribal leaders here, we
definitely need to get information about the
economic projects that aren't happening, but
would happen if you were in charge of regulation,
if you were in charge of taxation. But also for
the folks from BIA, if you can make sure that the
other tribes are aware of our need for
information and get that word out that we need
data. Because not only do we have our own
economists that will go through and look at this,
there are economists at the Department of Energy
that will look at this. There are folks at the
Federal Reserve that will take a look at this.
There are folks at other universities that are
doing economic analysis. So the data coming in,
again, we are going to make that dataset publicly
available and have everybody else do an
independent analysis of it so we can pull all
this information together and then make a very
strong peer-reviewed macro economic case that
it's in the nation's best interest, as well as
Indian Country's best interest, to have full
economic sovereignty under this statute.

Now this question about how we do that,
you know, because the Supreme Court has said
certain things. Well, the Supreme Court is the
final arbiter of what is and what is not
constitutional. However, the Supreme Court goes
in and they opine in other areas that's referred
to as federal common law. Federal common law can
be overturned either by Congress, or if Congress
has already spoken and we just as a regulatory
agency have not fully encapsulated the scope of
that, we can pass new regulations that can also
overturn federal common law.

So in this case there are some cases out
there like cotton, petroleum. They go out and
basically interpose the state as a taxing
authority where if an Indian digs a hole in the
backyard and oil comes out, there's no tax. If a
white guy goes in and digs a hole, there's a tax.
The Supreme Court decided in a federal common law
decision that that was the way they wanted it.
Well, we can go in and say that it shouldn't
matter, that if anybody, again, if a martian
decides to come to Oneida and dig a hole and
discover oil, he still owes the Oneida Nation a
tax. It shouldn't matter. The status of the
person doing it should not matter. It should
matter geographically, because that's how every
single state does it, that's how every other
county does it, that's how every other city does
it, is that geographic borders matter. That's
what the founding fathers suggested, was that
geographic borders should mattered.
Indian Country has asked us to return
back to the situation envisioned by the founding
fathers and actually advocated by President
Reagan, but we need your help. So that's what we
are thinking in Interior, but we are very
interested in what y'all are thinking.
So at this point I'd like to stop, but I
we'll stay on record. I want to make sure if you
have any questions, we have a microphone here and
we will pass it around and give y'all a chance to
ask questions or -- and if you have any stories
to share. I know we have the economic
development folks here. If y'all have stories,
please share them, because that's how we are
going to make a change.

When you do speak, make sure you
identify yourself for the court reporter.

MR. ERNIE STEVENS, III: Thanks for your
remarks. Again, I want to reiterate our thanks
and appreciation for coming out here and taking
the time. As always, these consultations do take
time and they are the start of an ongoing
communication and continuation of a
communication. So I appreciate that. I thank
everyone for being here.

I will keep my remarks brief. I am
Ernie Stevens, III, a councilman for the Oneida
Nation of Wisconsin. I look at this
presentation, and to be perfectly honest, it's
very similar to what I would communicate if I
were in your shoes or if I was proposing
something.

My remarks are going to be consistent
with some of the communications we have had as
the Oneida Business Committee thus far, some of
the history of stuff we have worked on, and they
will pass it along to our practitioners, who are
the experts and who are the ones who are out
there doing it and will be doing it, and we will
empower them to do so.

So, again, speaking generally, you know,
there's a couple things that we are working on
that I want to share, and one of those things is
very, very much in its infancy. It's very much
going to need the input of these folks here and
the entire Department. So, again, it's a
conceptual plan. It's something that we are
calling the Master Sustainability Plan.

You know, I can't fully speak on the
rest of the committee's behalf, because we have
to vet this up yet and go through a lot of
details, but the general aspect of it, I guess
the tip of the iceberg, if I may, the Master
Sustainability Plan will outline more or less
three main levels of sustainability, and you
outlined pretty much all of them here.
One, starting from the main core, is having a sustainability within our community and with our families. Families being able to sustain themselves, having the skills and abilities to maintain their families and their households, and then also contribute to the community.

So that again brings us to the next level of our community being able to sustain itself, being able to provide food and sustenance and various other resources to its tribal members.

And then the third level being expansion of resources and being able to go out and bring in other forms of resources in trade and commerce and other economic development. So very, very much a general viewpoint, but that kind of outlines what we are going to put into that.

So there's a lot of work, literally decades of work that will contribute to that plan. It will be sort of a subsidiary plan to what's called the Comprehensive Plan. You may have seen and heard of that. That, you know, is updated periodically. So this at some point may contribute to another update. But, again, within
that plan it's communicating the needs, input
from our development areas and our land and
environmental to ensure that not only are we
still on task with our previous plans that we've
had again for decades, but that we are using that
momentum and that we are pushing forth to create
I guess I want to say a foundation, a stronger,
firm foundation of accountability to ourselves
and to our families.

It's just not tribal governance, it's
just not the organization, it's actual community
members and families that are part of this plan
and practitioners of this plan. So, obviously, a
lot of that comes back to, you know, our
opportunities and our relationships. So this is
a big part of that.

I think, speaking generally, that's
something we are working on in this
administration. It's a momentum. It's not
anything new. There will be, I believe, new
elements to it, some of which we may be able to
create through some of this new regulation that
we could potentially discuss and look at.

So at this point, you know, again, we,
obviously, have other business entities that are
out there doing work. Our corporate entities in OESC, you know, we mentioned AISES. We just talked this morning about providing our youth more opportunities to get involved with AISES, because the one key thing that you touched on, and I like the way you put it, you said human capital development. I just refer to it as building capacity in our tribal members. Same thing, human capital development, and that's something that started 10 years ago, 20 years ago, it starts today, it starts tomorrow. This Sustainability Plan will outline that and how us as a Nation sees that, and, again, the accountability for our membership to maintain that within our families.

So economic development and sustainability, debt, that's a key component. That's also in there. I would like to discuss the opportunities with AISES that you may be able to help with through organizations like OESC that focuses on the trades and industry.

So, again, you know, there's a lot I want to share. I don't want to take up too much time. At this point I do want to pass it along to our folks here who are in attendance to
maximize their time, but that's just the comments
I want to share speaking generally from a vision
standpoint that we're definitely there. This
stuff isn't new, but at the same time we want to
focus a lot more on energy, various forms of
resources to do these things, and this
communication is going to be key, because, you
know, myself personally I'm also a liaison to the
local Chamber of Commerce and the Department of
Commerce of the state.

You talked about the different levels of
relationships, so coalescing that communication
and that understanding is going to be key. So
I'm here to do that and here to help with that on
behalf of the Nation and whoever else is going to
help me with that.

So with that, I will pass this along
to -- I guess we will go down the line here -- to
Pat Pelky. Thank you for the moment.

MR. PELKY: Thank you, Ernie.

I'm Pat Pelky with the Environmental
Health and Safety Division as the Division
Director and also the Division Director for the
Division of Land Management. So I'm just going
to kind of highlight some of the things you
talked about and how it might relate to us.

Certainly you acknowledge that you are a Republican and some of the belief systems that a Republican has has a lot of similarity to the tribes where treaties should be held from the constitution as the highest law in the land. We believe in that.

The other thing we believe in is that, you know, pushing the authority back down to the local government as far as you get. The tribes adhere to that. The tribes are the most local, indigenous government that there is. I can't say enough for that.

Also, the BIA and the Interior's responsibility, that trust responsibility, hasn't been always clear to us over the years, and we would like the opportunity to strengthen that, and not just within the Interior's roles that they carry out, but also how can you help with EPA and USDA. These are all areas where we are at a tremendous disadvantage from a historical standpoint.

I will just use the Farm Bill as an example, which is another economic model. The tribes weren't even mentioned in the Farm Bill
for the first 67 plus years. We just recently
started to get mentioned similar to states, but
unfortunately things have evolved through all the
other local governments and the communities, and
so they have changed how they help these
communities versus how they are not helping us.

So, you know, they change the programs
about developing capacities through granting to
actually, you know, continue the infrastructure
through loans. Well, we never had a chance to
develop those capacities, so we can't get to the
loans. We are still at the early stages of
needing that help to build those capacities,
whether its infrastructure, education, economic
drivers or whatever it might be. Those are
things that we still need help with.

So we like the idea of self-governance
and the very notion of being treaty tribes and us
making our own decisions, but we still, from a
trust responsibility, there's certain things we
still need you guys to plow a path for us.

An example is, you know, the Oneida
Tribe has 26,732 acres about right now out of our
65,000. So we own about 41 percent. Through the
Allotment Act we lost a lot of those lands, and
now we are regaining or buying back those lands. But with those lands we have a burden on those with taxation through the PETA Trust process. It's a very slow process, as you probably are aware of. There are some years when we don't get any lands in the Trust. Two years ago we had 25 different properties to go in the Trust. So if there's a way of having the ability to get those lands in the Trust that is more streamline, because as we put those things up, there's really nothing that should keep us from getting those lands in the Trust. We purchase them, we should be our own self-determination. We have a $1.5, $1.6 million tax burden on these fee lands that you talked about. That's huge.

I would rather pay my taxes to the tribe rather than the local county government or the township. It just makes better sense to me to do that, because that's where I receive my services. So when we look at how we pay for the things that we do, whether it's social services, our health center, our parks and rec, our development division, that all comes from our revenue stream, not from our taxation, because we are losing our taxes to the local government, and they begin to
strengthen their systems and we fall further and further behind.

The ability for them to even say, our neighbors, as another disadvantage, you know, as we are trying to move forward, they are suing us saying that we don't even exist. These are areas where we could use the help from the federal government or the Interior's office to actually step up saying that that's our ownership and always has been and, you know, we have people suing us against that. That's where we need the help.

We have had the Earth Act, ability to do the Earth Act where you talk about where we can do our own environmental assessments. Because there's such a backlog in BIA right now, that would be great, but we have had that up for I want to say over a year now waiting for that decision to be made. So that would be a big help in, you know, developing some of our economic --

D.A. SECRETARY CLARKSON:

And that's only been my fault for three months. That delay is my fault for three months.

MR. PELKY: So as we look at just the foundation of Indian Law 101, we're constantly
getting educated on that. We just don't always
know what that means. It was just about four
years ago when on one of our fee lands, local
government was able to condemn our lands to put
in a project that we disagreed with right next
us. We have our comprehensive plan, but our
neighbor has their comprehensive plan. They say
they want to maintain a rural characteristic, we
say we want to maintain a rural characteristic,
but yet now they are just building like crazy.
It's one of the highest growth areas in the State
of Wisconsin. So they are not even listening to
their own people, and they are certainly not
listening to us.

So how do we, as you talked about it
earlier, if these are our lands, how do we have
our own influences within our exterior boundaries
of the Tribe. So I'm very encouraged by the
words that maybe there is a way that we can do
that. And I know we do have some old studies out
there. I don't think we have many recent studies
about the economics, but we do work with the
local university just to talk about the impacts
that our casino has had or retail has had.

D.A. SECRETARY CLARKSON:
Even old studies are useful.

MR. PELKY: The youth internship capacity, certainly any help that you can get us towards those kind of initiatives. Our youth are at risk right now with all the issues around alcohol, drug abuse, gangs, identity. A big part of that is just give them busy hands and then their minds aren't so busy doing other things.

And that leads to capacity for the federal government. We are not sure what the percentage of tribal members are in Indian agencies throughout the federal government, but we think if you have more tribal people in those agencies, that will actually help with some of the connection that we have with the federal government and the relationships that we do have and the independence or the self-governance that we have. Sorry. This is all off the cuff.

D.A. SECRETARY CLARKSON:

That's okay.

MR. PELKY: I think the other important thing, you know, that we look at around opportunities, we have about 12,000 acres that we are under that have ag components. So just developing some kind of ag hub I think for an...
economic driver. In the State of Wisconsin, the agriculture is in the billions of dollars. Wisconsin is certainly known for the cheese and the dairy, but there's other things that we can do, and the biggest thing that jumps out in my mind is hemp, hemp production.

It just doesn't make any sense that the DEA says there's issues around hemp when that used to be -- the State of Wisconsin used to be the second largest producer of hemp and all of a sudden it's gone. It's out of our economics.

It's hard for us -- USDEA saying that it's a great product, we should find a way to use it, but then the DEA makes it impossible to develop that product. So just to streamline those regulations I think would be a big help. And all the things that we know about hemp, you know, I come from an environmental background, so, you know, it replenishes the soil, it makes it healthy, it helps with water quality. It has root penetration. It rebuilds the soil, and the fact that you can use hemp for so many different projects from clothing to diesel, like non-diesel fuels. So it's just -- if there's a way that we can build that with us having this much
agricultural product in tillable acres would be a
tremendous help, I think, for us.

I think the last thing, if I can just
kind of wrap it up, is just that, you know, the
treaty that we have with the federal government,
the highest law of the land, is just finding ways
to recharge that to say, you know, the Supreme
Court got it wrong, let's try to fix it together,
try to just help us through this where we are
actually back in the driver's seat.

We used to have a treaty with the state
for water quality standards, but that was
rescinded from us not because of what we did, but
because of the process that the EPA had followed.
You know, finding different ways for us to say if
this is what we are interested in, we should have
a clearer path in doing it.

So from the tribal perspective, when we
do development projects, it doesn't just come
down to cost. We look at it from a
sustainability viewpoint, and I know that's
overused maybe too much, but it's really looking
at economic viability, looking at not at the
expense of the environment and certainly fits
within the social and cultural component of the
Tribe. So when we look at these things, seven
generations, that's how we measure things out.
The more help that we can get from the
federal government staying out of our way, but
then coming back into the system when we need
help, when we are having troubles with local
government, that we are just not out there doing
it by ourselves I think would be a tremendous
help.

Thank you.

D.A. SECRETARY CLARKSON: One thing you
mentioned, and this goes back to the human
capital development, runs through a whole range
of them. Agricultural development is huge. For
many tribal communities, much of Indian Country,
we are food deserts. We import all of our food.
That used to not be the case. One of the things
is that we are trying to work together with the
Department of Agriculture in helping tribes
achieve food sovereignty. It was at a meeting
of tribal ag -- It was an ag youth summit down
at the University of Arkansas, and we went over
to the Paw Paw Nation, and it was amazing how
much that the Paw Paw Tribe has really taken
this food sovereignty initiative and they now
not only have a bison range, but they are also
building a bison pen and a bison
slaughterhouse. So they will do -- literally
from hoof to table everything is being handled
by the Tribe. They also have a greenhouse, they
have pasture land. They are growing as much as
they possibly can not only for use in their own
restaurants, but also for consumption by their
own people. So food sovereignty is a big thing.

Obviously, as you mentioned, Wisconsin is
an ag state, as well. Those are initiatives that
we would definitely be interested in encouraging.
Again, from a trade and commerce standpoint, that
should be under tribal control.

MR. PELKY: One last comment with that,
too. So when you look at the Oneida Tribe, we
have about -- I think it's approaching 500 head
of beef cows that are natural. We have about 200
head of buffalo.

We are doing a pilot program around
aquaponics. We are using fish to use as an input
for growing plants. We also have -- it's called
Tsyunhekiva that is teaching tribal members back
to how to farm again. Not only are we a
gathering tribe, but we are also an agricultural
tribe, too. We have our three sisters; our white corn, beans and squash.

So that's something that's just continued within our tribe over the years, our Nation. So I would also encourage, you know, if you have a chance to come back, I think it's October 2nd through the 5th, Oneida is hosting another food sovereignty summit here at the Radisson. I think it's the third one now where all the tribes throughout the United States come to this to kind of have those kind of conversations. How can we actually produce our own food. How can we get into export/import kind of markets and stuff. So there's a lot of activities going around. But, you know, certainly it would be great to hear back from you guys and say, "Here's what we are proposing." Once again, how can you get out of the way, but then also how can you help, too.

Thank you.

D.A. SECRETARY CLARKSON: Thank you.

MS. BOXTATER: My name is Leanne Doxtater, and I've worked in the Planning Department for this great Nation for 11 years.

I just want to say right up front I
support everything that Mr. Pelky just said very, very strongly.

We worked with -- when I say "we," I mean as planners we have touched on everything that was said today. We have also dug deeper in some areas, and we see firsthand, and when I say that, it's because we work so closely with the community. Everything we do is based on what the community wants.

We are getting ready to go into a rewrite of our Comprehensive Plan. So that is probably, besides our laws, that is probably the most important document that we have on the shelves collecting dust. But it is still --

components of that are our working documents, and every tribal department, every tribal division, is responsible for keeping up with what they put inside of those elements.

So the economic plan is going to be very much a part of the Comprehensive Plan. Before it was just pretty much mentioned, some detail on it, but not enough. Now that the Tribe is -- I take that back. Now that the Nation is moving in a positive direction slowly, but it's moving, the economic component of the Comprehensive Plan will
be much more extensive, I'm sure, as there are a
lot of people working on it.

It's a lot of fun working in the
Planning Department, simply because of the fact,
as I said, we have talked, we are argued, we have
debated almost everything that was said today
amongst ourselves. We are not afraid to take
that out into the community and get their
feedback. So when we look at the possibilities
of what your words implicate, it's staggering and
it will be something that I pray I'm going to be
around to see, because this Nation means a great
deal to me.

As I'm always telling me associate here,
Jeff, you have to hurry up. I have got two years
left and then I'm going to retire, and then I'm
going to be trucking my way down my road to
central Oneida to buy my coffee and to read a
book or to visit or anything. So with the help
from the federal government to possibly make that
become a reality, that is tremendous not only for
myself, but other tribal members that feel the
same way.

Thank you for coming. I really
appreciate the words and thank you all. I'm
sorry we don't have a bigger turnout. If they
knew what this really truly was, this room
probably would have been filled. But that's
okay. We can spread the word, too.

MR. WITTE: So my name is Jeff Witte.
I've been a community planner for the last 25 years at Oneida.

Quick story. I got a HUD scholarship 25 years ago. I got to pick wherever I could go,
and I went over to the City of Green Bay and I spent about 20 minutes there and it scared the
heck out of me, so I practically ran out of the building. This old planner sat there at his
desk, and he didn't have anything on his desk,
and he said, "Yep, I am going to retire in two and one-half years," so he wasn't going to do
anything. Leanne said, "Hurry up," so that's the reason why I'm here.

So I have some very practical experiences about getting things done, and I'm the one that had to wait for a year and one-half
to get a permit to put a housing subdivision in.
I had to wait for a NEPA review and all the paperwork for all that kind of stuff. But it all boils down to we just got an EEA grant from the
Overall Economic Development Authority to do a feasibility study on a food hub.

Now we don't have any preconceived ideas of what that is. We want to make sure that this thing gets connected to the regional things that are happening, because a lot of people around us are doing things and how do we fit into that, and how do we make ours stronger. But that grant was the first grant that we have gotten in the 25 years that I have been here through EEA.

So the Village of Hobart has this tool that they use through the State of Wisconsin called tax incremental financing. So this map that I'm showing has these red areas. These are areas that the Tribe will never be able to get back because they use a mechanism to loan money from the State of Wisconsin that finances all their infrastructure so that they can entice developers and give the land away to developers to develop it so they can increase the tax base.

We always make the argument to them why do you want to bring all these people here. They will need services. It requires a lot of other investment and other things. But the Tribe doesn't have that mechanism. We can't invest in
infrastructure. We have three industrial parks that are totally empty. It's hard for us to go hustle business, because we don't have an infrastructure ready to go for them. Then with all the time it takes to get everything put together, permits and everything else, it's really hard to compete.

The federal government allows us accelerated depreciation. We need to get that word out saying, you know, "Joint venture with us; we can accelerate the depreciation in the building and all your equipment." But that's not enough. The other thing we need to strengthen is access to federal contracts. If the federal government is participating in contracts, then we should be the first ones at the table based on, you know, building our economy through the federal government.

So, yeah, the ability to put in infrastructure. I have to write an Indian Community Development Block Grant through HUD every year which allows me $600,000 to work with, and that's if we get the grant, and then the Tribe has to leverage that with another 20 percent of that. But that's the only real
mechanism for us to finance any of these projects. So how can we compete economically, if we don't have those financing mechanisms available to us.

We can't use bonding resources, because that can't be used to generate revenue. That can only be used for specific projects. And we have only had one of those, which we financed some of the civic improvements. So it's just a real practical kind of need that the Tribe needs to help pull these things off.

D.A. SECRETARY CLARKSON: Anybody else? Even the folks from Interior, also. Feel free to comment.

MS. JENFARTH: Good morning. Melinda Jenfarth, a former Vice Chair for the Oneida Nation, as well as working for the business community analysis staff. I guess some of the information that I wanted to share was work project specific, some of the opportunities that were lost by our Nation.

What I really wanted to add to the comments that Pat and the planners, you know, they do a wonderful job for us, but there are so many impediments and challenges for us over the
years that really stole some of the projects or
the projects ended up having to be moved or they
just didn't happen.

One of the largest problems is zoning,
zoning authority, and the disagreements with our
local municipalities around zoning and how we
know that with Trust land that we have the
ability to do what we need to do on that land,
but they continue to challenge that in the
federal court system, as well as I think a lot of
Indian Country is scared to file legal cases with
regards to land that is not in Trust, and that
seems to continue to be a problem.

So, for instance, one of our tribal
energy corporations, the Seven Generations
Corporation, was planning a waste and energy
project, and we were funding that through the VA
grants and loans, and we had it all teed up, we
were ready to go, and the Village of Hobart came
in and rallied up our tribal membership, as well
as the local community, at a grassroots base
saying that we were going to be bringing
smokestacks like in the industrial part of Green
Bay, and really went on it from an environmental
perspective and asked our tribal members, you
know, do you really want that kind of thing here.

So we convened meetings with our general
counsel, spoke to it, they supported it, and as
we continued to progress, the political pressure
began to rise, even though we were building that
facility on Tribal Trust land. So then the very
first time that we were going to build, it was
next to the recycling, the recycling plant here
in Brown County, which seemed to be convenient, a
good location, because that's kind of where --
you know, that part of the reservation would have
been great.

But we ended up moving it, because we
were looking at taxation, we were looking at
zoning arguments, we were looking at all these
arguments with the local municipalities about
whether or not that would -- that could and can
occur, and then we were looking at a time frame
if they were going to litigate and we were just
not -- it was just not going to be timely at all.

So then we moved it to Trust land, and
what happened was the political part of it came
in and then the City of Green Bay invited us to
do the plant over in their industrial area, and
then I don't know if you know the story, but they
basically pulled their conditional use permit and
we went into litigation with that, and the
project ended up not getting done because we were
arguing about the political part of it, the
zoning part of it, and so just all that combined
really took effect and that project never went
off.

D.A. SECRETARY CLARKSON: How big of a
project would that have been?

MS. JENFARTH: As in?

D.A. SECRETARY CLARKSON: How many
dollars would have been spent originally? Like
was it a $10 million project?

MS. JENFARTH: It was up there. I think
it was more close to like 15.

D.A. SECRETARY CLARKSON: $15
million?

MS. JENFARTH: Sixteen.

D.A. SECRETARY CLARKSON: $16 million,
and how much would it have generated for the
community every year?

MS. JENFARTH: I think the financials
were around $300 million over the next 15 years,
I believe, somewhere around there.

D.A. SECRETARY CLARKSON: How many jobs
would that have created?

MS. JENFARTH: Twenty-five.

D.A. SECRETARY CLARKSON: So that's the kind of information that we need. That's a perfect example. That project would have benefited the community and it would have been a good project. It would have spent lots of money in the community. A lot of supplies you would have gotten that you don't have here at Oneida, you would have pulled that in. You would have spent that money off reservation to bring those construction materials onto the reservation to build the facility. So not only did this community lose out, but Green Bay lost out. So it's an economic downside to not having projects happen that are good projects. So that's the kind of data we need. That's $300 million of stimulus that didn't happen for Wisconsin because the Tribe didn't have full economic sovereignty over the zone.

MS. JENFARTH: Exactly.

D.A. SECRETARY CLARKSON: And I'm assuming that's not the only time that's happened.

MS. JENFARTH: No. Not in our history
anyway.

D.A. SECRETARY CLARKSON: All those examples where things that would happen, but didn't happen because of the current system. That's the kind of information we need. That's a perfect story, and if you don't mind, there are probably some people that will follow up with you to get some more detail, if that's okay.

THE WITNESS: That is totally okay. I think you would have to follow up with the councilmen now, but at the same time we had the agreements all set with the landfills. We would have been utilizing waste from our own communities here to turn into energy, and it would have benefited our community. We could have had some economic impact again to our budgets to be able to provide jobs and all those things that you mentioned today. That was a huge issue. Zoning was basically the basis -- zoning and the politics was the basis of our pulling that project. So that's unfortunate.

The zoning part of it, when you couple taxation with zoning, that's very powerful for our Nation, and so even now another example is we do have a Wal-Mart on our Trust land, and at the
time that the Wal-Mart was built, and you guys can correct me if I'm wrong, but this is the story that I heard because it was before my time, was that our tribal council -- At the time it was just a field. There was nothing on it. No one knew that that was going to become a prime economic corridor for the City of Green Bay and for us.

So they leased out that land, and at the time the amount of money that they were getting for the lease was so significant to our budget here for the Nation that that was awesome, you know, that was a great thing for them, but the lease was so long, and we didn't have an opportunity to negotiate, and we're looking at the opportunity to negotiate again, because that lease is going to be coming up here shortly.

So we don't have that negotiating power because, again, I think I spoke to you a little bit about taxation, and we did look at taxation in our community on a few occasions, and one of the reasons why we didn't move forward with it was because of dual taxation, and having to put it on top of other taxes and looking at the impact it would have on our customers and looking
at the impact that it would have with our relationships with the surrounding communities.

Which our relationship with the surrounding communities wasn't necessarily our number one priority, our number one priority was that it was going to impact our customers. Even when we had the referendum here in the community where they wanted to consider the tax, people got word of it and were sending us letters saying, "If you do this, we're not going to patronize your casino and we're not going to patronize your businesses." It was very explicit about what our customers were feeling at the time. We all know that it's going to go up and down if they want to participate in gambling or whatever else they want to do at the reservation.

Then the other consideration was the rebate that we get from the State of Wisconsin for cigarette sales. So that was a complicating factor, because that contributes to our bottom line from a retail enterprise standpoint, and that's one of the main factors that helps us be so successful in our retail enterprises or outlets. So that was one of the other things that I wanted to mention.
Pat touched upon the community development plans are different from our perspective from the surrounding communities, and that's another aspect, and now we are seeing the surrounding communities trying to buy land and are engaging in strategies like condemnation and like annexation. So they want to annex our original lands for their purposes so that they are enlarging their tax base, and that's just in its infancy, but we are hearing the start of that type of strategy coming to the arena in Indian Country.

Labor development, you know, Ernie touched on it, as well as Pat. Skilled trades is huge in our community, and even the programming part of it, our community wants it, they want it and we have the people that want to do it, it's just the programming is just not there for us. So that's another area where I thought it should be mentioned.

The other issue that I wanted to bring up was with regards to treaty lands, and this doesn't really apply to Oneida, per se, but this is an issue that was brought up through the Regional Tribal Operations Committee that serves
with the EPA. I found it very interesting, because it's both applicable at EPA and in this scenario whereby those trades that actually have treaty rights on their original treaty lands, but don't actually own it, it's not a part of their original reservation, they have hunting, fishing and trapping rights on some of that land, but it's very unclear about what else they can do.

So, for instance, like the Bad River Mining part of it. It would affect them downstream to the actual reservation, but the actual mining was occurring on the original treaty lands. So how does that all play into when we were talking about economic development, even though we might have taxation and zoning, what happens upstream and comes downstream and impacts the reservation or any of these businesses that the tribes are trying to do. That's another factor where we're just not able to have that influence about what occurs.

The other one that I wanted to mention was like wild rice standards. The state increased it's mercury levels, I believe, and that was going to kill off some of the wild rice, and that's a huge food issue for the Chippewa
tribes. That was another discussion around what
can we do on our treaty lands, original treaty
lands, and then what do we have the right to
govern ourselves so that their sustenance wasn't
being affected. And that's part of their
economy, as well, is selling wild rice.

So those are some of the issues that I
wanted to bring up, and then I wanted to know if
you know Lindy Waters.

D.A. SECRETARY CLARKSON: Yes.

MS. JENFARTH: Okay. Because Lindy was
a part of AISES and the American Indian Upward
Bound Program, and I'm a product of that. He was
very instrumental in that.

But other than that, I think, again,
you touched upon a lot of challenges for us.
Again, right now we're facing the whole
condemnation issue that is rearing its ugly head
again about whether or not the county has the
right to condemn our land, and unfortunately we
have bad law and decisions from the courts that
have been placed upon us already. I'm excited
about what's being said here, because I think
it's a great pathway again to self-governance,
self-determination. I appreciate you being here,
and I thank you for taking the trip and
making the time to listen to our concerns.

D.A. SECRETARY CLARKSON: And just to be
clear, I want everybody to be excited about
what's possible, but I want everybody else to be
cognizant of the fact that without cooperative,
collaborative effort between Interior, Indian
Affairs and Indian Country itself, without your
help we won't succeed. So it's absolutely a team
effort.

MS. JENFARTH: I just got a text message
from our Public Relations area. We are updating
our Economic Impact Study with St. Norbert's
College. That should be done within six to eight
months, so we can help provide the information
that you are looking for in terms of our previous
Economic Impact Study, and we definitely can ask
our legislative affairs area to develop some of
the talking points and some of the projects
that -- the actual information that you are
seeking.

D.A. SECRETARY CLARKSON: That would be
great.

MR. ERNIE STEVENS, JR.: Thank you.

Good morning. We're just going around the table,
and I just got lucky that it got to me. Your
former vice chair lady has done her homework.

COURT REPORTER: I'm sorry. Could you
please identify yourself for the record?

MR. ERNIE STEVENS, JR.: Ernest Stevens,
Jr. I'm chairman of the National Indian Gaming
Association based in Washington, D.C.,
representing 184 gaming tribes.

My father, I wish I had listened then, I
wish I could even understand him now, because
this is -- dad wasn't so -- you put it so
eloquently in how we deal with the city and the
folks around you. My father was pounding on the
table saying, "We tax." He wasn't worried about
the dual taxation or all of that. He said, "This
is our land; we tax." Unfortunately, most folks
thought he was a radical and didn't agree with
him. When Wal-Mart came, dad wanted to tax
everybody going through there. He wanted the
tribe to tax them. So it brings back memories.

Melinda is now a staffer, I heard you
say that, too. She was a staffer when I was on
Tribal Council. She worked for the chair lady,
Debbie Thundercloud, but now I lost count because
it makes me older every time I count how many
years you were on council. So is it 9 or 12?

MS. JENFARTH: Twelve.

MR. ERNIE STEVENS, JR.: Twelve years on Tribal Council. So I really appreciate you staying close to the firing line, because we need you there. It's imperative that in this day and time that we're fighting with our friends. You know, when I say keep our friends close, I'm serious. We keep our enemies close, too, but you have to keep your friends close. That's just the way of the world here.

At the same time, I never give up on putting my arm around these folks that they will understand us and that they will appreciate us. I think that we really have to try to pound away and try to keep being assertive, keep walking with our chest out, but a big pleasant smile and work with these folks so we can bring ourselves to the point where we need to be people respecting one another not based on who we are or what we are or anything like that, but based on what's best for the economy around us, because all these folks are coming to work for us, their family, their children, they all work for us, but they get a few rabble rousers or they even hire
them to bring them in. I think they sent the
last one to Montana. You will hear about her up
there.

But these folks, they just want to cause
a miscommunication and issues. I guarantee you
there's only -- Ernest is the only elected
official in here, the only tribal official in
here, but I guarantee you every time there's an
opportunity, we want to do something that is
dignified and respectful, and something that can
help to move us forward.

Now I apologize, I have forgotten my
good friend, Mark -- the congressman from
Oklahoma.

D.A. SECRETARY CLARKSON: Markwayne
Mullin?

MR. ERNIE STEVENS, JR.: Yes, Markwayne
Mullin. Representative Mullin, he was on that team
that everybody thought was out of their mind,
Donald Trump's transition team, and he was the
head of it.

D.A. SECRETARY CLARKSON: Native
American Coalition.

MR. ERNIE STEVENS, JR.: Yes. Were you
on that team, Dr. Clarkson?
D.A. SECRETARY CLARKSON: Not officially.

MR. ERNIE STEVENS, JR.: Okay. I'm giving Dr. Clarkson a hard time. He's my friend. I have known him for a long time.

The point that I want to make and I will hand this over, is that when Markwayne Mullin the congressman came in, he came in and talked about economic development, and somebody kind of mixed that message a little bit to spin it to where maybe some of these folks are given to that idea, some of the naysayers and some of the folks around us are influenced by the idea of trying to or are giving us a more harder time about expanding our ability to work with economic development and enhance our community with and beyond gaming. So that message got mixed a little bit, but Representative Mullin never wavered. He held his ground. He said that we want to create -- knock down barriers that will enhance moving economic ideas forward.

Obviously, you came here with the same message. So I think it's important that we tell you some of the obstacles so you understand some of the obstacles that we have to deal with and
have been dealing with for years. Some of these
people were our friends. You know, when we make
a good deal and we hire 3,000 people and gaming
is rolling, people are very friendly. But then
as we go forward, the surrounding influence has
changed. I don't have time for that history
listen now. I will give it to you a little bit
this afternoon. But that's what we are up
against.

I guarantee you, just the same as
whether it's Melinda or Ernest III or my father
or Purcell Powers, who was my late uncle, they
came to Green Bay and surrounding communities
with a handshake ready to do business for the
future. We continue to stand in that mode. We
just have a few rabble rousers that are there.
If we can get people to stand in a high place and
get this done, we can really move this community
forward.

I know Lindy Waters, as well. He's a
big, mean basketball player from Oklahoma. He's
about six foot six, and he told me once, he says,
"I'm not aiminging for your forehead, Ernie. If
you look, that's where any elbows go just
naturally." His boy was a starter for Oklahoma
State this year. I think he got injured. But just like his dad, he's a rabble rouser. Nice man, though. But I appreciate your time.

MR. ERNIE STEVENS, III: Yeah, I just wanted to again reiterate some of the comments that have already taken place both by Chairman Stevens here and Melinda, you know, a lot of the things she mentioned, the annexation issues and stuff. There's a long standing history, and it's sad and it's frustrating that this still goes on. There's a different way, a more politically manipulative way of doing it, but it still happens, and it's been going on for a hundred years in this community. So how we fight that, we will figure that out.

There's a lot of elements that I want to discuss, and we don't have the time for that, you know, free trade zone. I want to reiterate what Melinda mentioned with the Wal-Mart land lease. We have another property across the highway, Home Depot. There's a lot of things we have to look at there. So I think we will figure that out.

But, you know, ongoing, just to make sure that you know this, and I will definitely have a thorough follow-up with your office and
with Melinda and whoever else to make sure that
that information can get to you as soon as
possible.
Thanks, Melinda, for mentioning the
Impact Study. That's the other thing I wanted to
mention. When we were going through our liaison
positions, I chose to get involved in the Chamber
of Commerce and the Department of Commerce simply
for the fact that I would think that we have as
much of a voice to let everybody know how much
impact we have and to ensure -- at least push and
find maybe a more diplomatic, more cohesive,
coalesced method to get them to communicate our
impact both here and in the state, and of course
federally. So that's one of the things I want to
do. And again going back to those comments to
ensure that I have the information and the
history and understanding to do that.
So that's definitely a goal, too,
because they have to understand that, they have
to appreciate it. And not only that, but they
have to communicate it. They have to let their
constituents and their communities know, because
they know, they have heard it, they are just not
saying it. That's one thing that we have to do,
and I think we can achieve that. So, again, this partnership and communication is crucial.

One thing I want to do briefly, and I will pass it along, there's a lot I want to say and share, and anyone who knows me knows that I share my mind, I share my heart. And this is my heart for my community. I think that's just in my DNA.

But the one thing I want to share briefly is a really brief history lesson in understanding as it relates to Indian trade and commerce specifically. So, you know, we are originally from New York, the place now known as New York State, and there's a whole different political, economic, even religious history that caused our move to Wisconsin. We won't go into that.

But understand that in a lot of ways we invented the modern day diplomacy, the modern method of diplomacy and democracy. The founding fathers that you mentioned, they were inspired to utilize that way of governing ourselves, and that also went into how we pursued trade and commerce opportunities with other tribes, other countries in that area, and it's still maintained in our
move to Wisconsin.

So the one thing I want to give you an
FYI about is something that I really am going to
push for our community and our government and our
organization to get behind is our bicentennial
coming up in 2023. There's a debate there if
it's 2022 or 2023 as far as our 200 year
existence, but with that 200 year existence,
there's a lot to be understood and communicated.

So this partnership here, I think that's
a prime context to work through because of the
history of trade and commerce, and because of the
economic impact for the last 200 years, both our
impact and being recipients of different economic
opportunities. So I know we have to discuss the
negatives and the issues and the hurdles that we
face, but also focus on the opportunities and the
strengths and learning from those strengths, as
well. So that's a key component.

I have talked to the Development and
Planning Department about how we as a community,
as a Nation, can get behind this bicentennial,
because if we do it right, if we use the
information that's there, all these things that
we're discussing today are a part of that. If we
can do that right, I think the local
municipalities and governments, and definitely
the BIA and federal government will have a better
understanding of our economic impact and our
economic opportunity and how that partnership
affects us all.

I think it was -- I'm not sure if he
penned this, but I believe it was Hulk Hogan who
said in the work he did with Dream Seekers, the
work that he did with impoverished communities,
his phrase was when one boat -- I'm sorry. I'm
forgetting. When the tide rises, we want all
boats to rise with it, not just one.

D.A. SECRETARY CLARKSON: A high tide
floats all boats.

MR. ERNIE STEVENS, III: I'm sorry. I
messed it up. So he mentioned that term, and
that's been our philosophy both on purpose and
not. So that is a big part of what I want to
push and what this partnership is. So I just
want to provide that historical context, because
with this bicentennial coming up, that is a
perfect vehicle for us to push this. It's one of
many, but just one again that we have to get
behind.
Again, so much to say. I want to pass this on or I will keep talking. Thank you.

D.A. SECRETARY CLARKSON: I look forward to being able to participate in your bicentennial as part of the second Trump administration. But to the point about your bicentennial coming up, clearly the Oneidas were a tribe that interacted with the founding fathers. So in that history, as you go back to reexamine, if you find statements from the founding fathers both while y'all were in New York, as well as when you relocated in Wisconsin, where the founding fathers envisioned that the Oneida Nation had distinct boundaries for which the laws of the surrounding state had no force -- You know, I remember George Washington talking with I believe it was the Senecas, and they had a very clear statement about this zone is, you know, this zone is yours and nobody else's. If you find those as you are researching and doing the historical background for the bicentennial, that is critical information for us as to what the intent of the founding fathers was, because they were the ones that passed those laws. They were the ones that, you know, Congress spoke during that time. They
spoke in 1790 all the way to 1834. So clearly during that time is when y'all relocated out here. So if you have that kind of information and you may uniquely possess that information, that will be great for our effort to show that we are consistent with the original legislative intent of the founding fathers.

MR. ERNIE STEVENS, III: I appreciate that. Real briefly -- I'm sorry, Pat. There's a lot of information there that I will provide for you, a lot of research that still has to be conducted, but the one thing we have determined that again goes to this partnership is, you know, obviously the Oneidas of Wisconsin specifically, and I say that respectfully to our brothers and sisters in New York, but a lot of my ancestors specifically involved a lot of different -- not only the wartime efforts, you know, those situations, but also the diplomacy, people like Daniel Bread and George Dosliter (phonetic), Chrisjan -- I forget his first name -- leaders of that time that were a part of this move, and for some it was an economic opportunity, for some it was an opportunity for homelands. There were
a lot of different perspectives. But that's the one thing we have determined, is our involvement with the War of 1812, as well, is those specific families and communities were moved here.

Again, glass half full approach is we took that situation to bring in opportunity, and that was through economy and trade. We will provide that information. I appreciate your sentiments there.

MR. PELKY: And just as people went around, I just kind of thought of some other things, too. I appreciate the second opportunity. I guess, you know, I always try to find out what are those common grounds for our partnership. Certainly the biggest one that comes out is that we are a Treaty Tribe, and the importance of that Treaty Tribe and the partnership that we do have with the federal government of the United States, but also the trust responsibility, too. Not necessarily looking for a handout, but we are looking for a hand up in a lot of these situations where we just need a little extra help in order to get us to be that self-governance, and that self-governance drive that -- being that local
government, the importance of that as it fits within those federal models and the constitution.

So even by just looking at some of the things, what I have heard you say is we can fix the taxation. I will just give you an example.

So we fixed taxation where we actually collected on our own land. You know, we have 1.5 million, another probably million from Wal-Mart, another maybe 500,000 from Home Depot. These are all taxes that are leaving us, and the gaming is another big one, another 4 million. So you are talking with $7 million. If we had that $7 million back in our pocket, that would be a big economic driver to build this economy even stronger where we could rebuild the entrepreneurs, really get the skilled people out there again.

We were 4,000 plus employees in the late '90s, but as we started getting all these taxations on us, you know, now we are down to 1,700, I think. No, 2,700. Excuse me. 2,700. We are one of the major employees of the two counties and now, you know, we are still a major employer, but we have got 2,700.

D.A. SECRETARY CLARKSON: That kind of
data is exactly what we need where it's -- I'm assuming a lot of those employers or employees were not from the reservation, they were from off reservation, so it's something where people are cutting off their nose to spite their face where they are basically coming in and by overtaxing they kill it. Excessive taxation and excessive regulation never grows an economy. I don't care where on planet earth you are talking about.

So if you can give us examples of that where because of excessive, dual taxation, all of a sudden you went from 4,000 employees down to 2,700 employees, that's a major dropoff, and the State of Wisconsin loses out because those businesses shrink.

MR. PELKY: And it's indirectly with taxes, I think, because we are losing those moneys where we could have kept up with that economic development. So it relates to not having these funds. It goes somewhere else outside of our tribal government and goes to be used somewhere else.

D.A. SECRETARY CLARKSON: The lack of a tax base is deleterious to every single tribal community. Ronald Regan identified that back in
'83, and so that dynamic hasn't changed. It wasn't addressed then, unfortunately, beyond just the Presidential Commission Report. But the lack of a tax base really, really hurts tribal economies. I mean, how else is a government -- you know, there is so much damage that we as the federal government has caused. And I don't care which party is in power in Congress. No Congress is ever going to appropriate enough money to repair all the damage.

The only way that we're going to be able to help tribal economies recover from all the oppressiveness and damage of the last couple centuries is by helping tribal economies grow and thrive to where tribal governments and tribal economies can produce their own economic wherewithal to provide a tax base for those tribal economies to then provide services not only for their own citizens, but for anybody who comes in.

I mean, if somebody comes into your gaming facility and has an accident, who's the first responder that comes to deal with that non-Indian's injury? My sense is it's probably the tribal first responder. So you are already
providing governmental services to non-Indians, and yet you don't have the ability to engage in taxation to pay for those governmental services.

MR. PELKY: And especially our police department is a great example.

D.A. SECRETARY CLARKSON: We heard it in Albuquerque. We heard from the Salt River Tribe in Scottsdale. They have 875,000 non-Indians passing through their territory because they have got highways that go through right-of-ways on their territory. If somebody gets in an accident, they are just driving through, they didn't pay a single penny of tax to the tribe, yet the tribe is sending out the ambulance to save that person's life. So there's clearly plenty of examples all around the country of Indian Country providing vital governmental services to non-Indians with no ability to tax any activity. That doesn't make sense.

MS. JENFARTH: I pay taxes on my property, and we don't even use the school system that the moneys go to. We use our own, and those moneys don't go there.

MR. PELKY: Even all the environmental work that we do, everybody benefits from that.
So as we are restoring the wetlands, you get better water quality. It helps all.

D.A. SECRETARY CLARKSON: Just to be clear, we're not trying to pick a fight with the state. As Chairman Stevens said, we want to be good neighbors to everybody. My boss is a former Navy Seal, and everybody who's in the military always has to read Sun Tzu's The Art of War.

I will just share a quote with you about our initiative that we're trying to accomplish. We're not trying to pick a fight. We're trying to show everybody that there's no need to fight, that this is in everybody's best interest.

So Sun Tzu says, "To fight and conquer in all your battles is not supreme excellence. Supreme Excellence exists in breaking the enemy's resistance without fighting." We don't need to pick a fight, because it's actually in everybody's best interest to do this.

So the other one, again as a nerdy Indian, I guess the new hash tag is indiginerd, is the general who wins the battle -- again from Sun Tzu -- the general who wins the battle makes many calculations in his temple before the battle is fought. Thus, too many calculations lead to
victory. So the way that we win this fight
without fighting is by demonstrating with
calculations that it's in everybody's economic
best interest for Indian Country to be
prosperous, and that's where we need to go.

MR. ERNIE STEVENS, JR.: My son has
given me that book. I haven't read it. He was
just making that point to me, that he's given me
that book. I'm going to read it soon, as soon as
I get done with my work. I think that it's so
important that -- you know, you talk about the
next administration. I think we really before we
even think about that we really have got to get
the Secretary to understand what we want in
Indian Country, because the shining lights in
this thing are yourself and the Secretary, but as
far as -- I mean, we're eight months in and we're
hearing that we're going to get another assistant
secretary or deputy in soon. We really need to
step up our level of communication.

This is one of the few that we have had,
and I don't know -- obviously, folks are really
not understanding what you can bring to the
administration, but by the time you leave here
today, we will fill you full as much as we can,
and we will start with Ernie, Sr., so we hope he's talkative today.

But I think it's important to understand that -- to say that maybe we're -- I wouldn't say that we are off to a bad start or even a rocky start, but I think that it's imperative that people understand and it comes from the administration that -- we know you understand sovereignty, because you teach it, and that's why you become a shining light in a rocky start. Maybe I can do a movie or something like that, but I think it's imperative that the administration, especially the Secretary, understands where we would like to go. Right now we just want to communicate. I think it's imperative that Indian Country understands where the president is at in moving Indian Country forward.

So while there's been some confusion and a couple rough spots, nobody has taken a shot at Indian Country and Indian Country is not up against it. But we just need to get to the table and we need to have some dialogue. It's imperative that the message back to your boss is that we really need to have -- Indian Country
really needs to have an audience with the
president and his administration.

    We're not going to make any comparisons,
because if we do -- Again, my father said that
when he worked for Richard Nixon, that was the
best administration. Many Indian folks will say
coming off the last administration, certainly the
communication level wasn't the best.

    Again, I'm careful not to be partisan,
because what was then is then. Right now we have
you sitting before us today, and I think that
that is historical, and anybody that hasn't
looked at your resume, that doesn't know you, if
they look at your background, they will find out
that you know tribal sovereignty. So we are
ahead of start, but we are behind the eight ball.

    We need to send a message to the president, and
you are our guy.

    D.A. SECRETARY CLARKSON: Thank you,
Mr. Chairman. I think we have about six minutes
left. If anybody has any final closing thoughts,
I want to make sure for the benefit of the court
reporter that you have an opportunity. Does
anybody else have any comments?

    (No response.)
D.A. SECRETARY CLARKSON: All right.

Well, I certainly appreciate you making the
effort to be here, and this is something that's
personally important to me, but I think it's
important to all of Indian Country. We all talk
about sovereignty. This is our chance to do
something and to really change the world. So
Chairman Stevens and I have talked about the
legacy that his father left in terms of advancing
Indian Country. You have the Indian
Self-Determination and Education Assistance Act
coming out of the Nixon administration and the
self-determination, you know, starting in the
Nixon administration and being formally put in
the ground and buried in the Reagan
administration.

My hope is that at least for Indian
Country's economic prospects that we can live up
to the legacy of your father and do right by
Indian Country. That's our objective.

D.A. SECRETARY CLARKSON: Dr. Clarkson,
I'm sorry to inform you, but the Secretary wrote
a big check for that. He said to me personally
when I told him about my dad working for Nixon,
he said, "We're going to do better." That was
Washington, D.C. just a couple weeks ago. I say that light-heartedly and respectfully.

D.A. SECRETARY CLARKSON: Well I hope history will look back at this administration's efforts for Indian Country and we can say, "Yes, we did exceed the efforts of the Nixon administration." You know, only because we're standing on their efforts. Your father's work and the Nixon administration laid the groundwork for self-determination. That's where the self-determination arrow was launched. Even my friends on the democratic side acknowledge, at least for Indian Country, President Nixon was the best we've ever had.

My hope is to have this administration even exceed that and do even more for Indian Country, simply because we do have that foundation to build upon.

Thanks everybody for being here. We will go off the record.

(At 12:00 p.m. the consultation concluded.)
STATE OF WISCONSIN )
MILWAUKEE COUNTY    ) SS:

I, KATHY A. HALMA, Registered Professional Reporter and Notary Public in and for the State of Wisconsin, do hereby certify that the BIA Indian Trade and Commerce Consultation was had before me at the Radisson Hotel & Conference Center Green Bay, 2040 Airport Drive, Green Bay, Wisconsin, on the 29th day of August, 2017, commencing at 10:00 a.m.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

In witness whereof, I have hereunto set my hand and affixed my seal of office on this 7th day of September, 2017.

__________________________
Kathy A. Halma
Notary Public in and for the State of Wisconsin

movenaturally 72:25
Navoj Non-Indian's
Navajo 16:9,10 83:24
16:13
Navy 17:23 85:7 non-tribal 27:13
naysayers Norbert's 67:13
nearly normally 11:5
28:11,12 north 4:24 28:2
necessarily nose 82:5
10:1 Notary 91:5,23
63:4 80:20
noted 6:21 notice 22:21
number 17:25 nuclear 63:5,5

O

O 3:1
objective 89:20 obligation 31:3
obligations 31:7
obstacles 30:11,13,13
obviously 4:21
occurs 37:13,25 49:10
37:22 79:15
86:22
occasions 62:21
cocur 58:18
occurring 65:12
occurs 21:21
65:20
October 50:7
NEPA 38:2,20
NEPA 13:4 53:23
office 2:3 8:25
34:2216:2
37:1 83:25
19:18
DC 32:18
officer 30:24
offices 7:14
official 70:7,7
officially 71:2
officials 20:22
offshore 12:2
OIBC 2:13
oil 11:24 12:2,4
12:19 33:4,11
okay 45:20 53:4
61:8,9 66:11
71:3
Oklahoma 14:6
17:10 70:14
72:21,25
old 18:4 19:12
19:14 20:9
21:11,12 44:20
45:1 53:13
older 68:25
once 10:24 16:4
16:20 18:14
50:18 72:22
Oneida 2:8,9,10
2:11,12 13:7
14:1 22:10,12
22:13 33:10,11
34:21 35:4
41:22 49:16
50:7 52:18
53:7 56:16
60:9 64:23
78:13
Oneidas 18:16
78:7 79:15
ones 35:7 55:16
78:23,24
one-half 53:16
53:21
one-time 29:25
ongoing 34:16
73:23
opening 3:16
operations 6:25
12:13 64:25
opine 32:18
opportunities 37:15 38:4,19
45:23 56:20
75:24 76:15,17
opportunity 6:15 40:17
62:15,16 70:9
77:5 79:24,25
80:6,13 88:23
opposition 24:24
oppressive 9:11
16:21 21:25
oppressiveness 83:13
opt 21:25
order 27:10
29:11 80:23
organization
37:11 76:5
organizations 7:5 38:20
original 64:8
65:4,6,12 66:2
79:7
originally 59:12
75:13
orphan 17:9
Orphaned 17:10
Otoe-Missouria 21:8
outlets 63:24
outline 35:23
38:12
outlined 35:25
outlines 36:18
outside 18:24
82:21
Overall 54:1
oversight 22:1
overtaxing 82:6
overturn 32:24
overturned 32:20
overused 47:22
owe 22:8
owes 33:11
owing 22:12
ownership 43:9

P

Packers 22:7
paid 16:5,10,13
20:3

Paperwork 53:24

park 16:16

parks 42:22 55:1

part 5:9,9:5
37:12,16 45:6
51:20 57:23
58:11,22 59:4
59:5 61:22
64:16 65:5,10
66:5,12 76:25
77:19 78:5
79:23

participate 63:15 78:4
participating 55:15

parties 91:13

pat 9:9:5
37:12,16 45:6
51:20 57:23
58:11,22 59:4
59:5 61:22
64:16 65:5,10
66:5,12 76:25
77:19 78:5
79:23

patronize 63:10

patience 4:13

Paw 48:23,23,24
48:24
| 41:17 45:17 | 66:24 80:24,25 |
| self-sustaining | selling 66:6 |
| 13:16 15:24 | send 88:17 |
| 18:13,22 | sending 63:9 |
| 44:4 | Senecas 78:17 |
| senior 17:25 | separate 19:16 |
| sense 25:16 30:9 | September 91:18,24 |
| 42:18 46:7 | serious 69:9 |
| 83:24 84:19 | served 7:4,9 |
| sent 23:23 70:1 | serves 64:25 |
| sentence 18:8 | services 3:7 |
| sentiments 19:23 80:9 | 10:12,13 27:12 |
| separate 19:16 | 42:19,21 54:23 |
| September 91:18,24 | 83:18 84:1,3 |
| serious 69:9 | 84:18 |
| served 7:4,9 | session 3:4,14 |
| serves 64:25 | 5:10,21 |
| services 3:7 | sessions 3:12 |
| 5:25 | set 61:12 91:17 |
| 57:15 | seven 48:1 |
| 57:15 | shareholders 31:1,6 |
| sewers 14:21 | sheet 5:15 |
| shackles 25:21 | shelves 51:14 |
| share 8:13 34:6 | shining 86:15 |
| 34:8 35:12 | 87:10 |
| 38:23 39:2 | shoes 34:25 |
| 56:19 75:5,6,6 | shortly 62:17 |
| 75:9 85:9 | shot 87:20 |
| shareholders 31:1,6 | show 29:13 30:5 |
| sheet 5:15 | 30:8 79:6 |
| shelves 51:14 | 85:12 |
| shining 86:15 | showing 54:14 |
| 87:10 | shows 27:25 |
| shoes 34:25 | shrink 82:15 |
| shortly 62:17 | side 11:10 90:12 |
| shot 87:20 | sidelines 14:19 |
| show 29:13 30:5 | significant |
| 30:8 79:6 | 85:12 |
| showing 54:14 | shows 27:25 |
| 54:14 | shrink 82:15 |
| side 11:10 90:12 | sidelines 14:19 |