OFFICE OF THE ASSISTANT SECRETARY - INDIAN AFFAIRS

REPORTER'S TRANSCRIPT OF

CONSULTATION ON INDIAN TRADER REGULATIONS

(Tribal Consultation on Whether/How to Revise
25 CFR 140 - Traders with Indians)

National RES 2017
Mirage Resort & Casino
3400 South Las Vegas Boulevard
Las Vegas, Nevada

On Monday, March 13, 2017
At 9:05 a.m.

Reported by: Jane V. Efaw, CCR #601, RPR
Appearances:

MILES JANSSEN, Department of the Interior

REBEKAH KRISPINSKY, Department of the Interior

WENDY PEARSON, Hobbs, Straus, Dean & Walker

* * * * * * * *
MS. PEARSON: Again, my name is Wendy Pearson. Welcome everyone to the official government-to-government consultation session on the Advanced Notice of Proposed Rule Making regarding updates to the Indian Trader Regulations.

So it's good to see you all here. It's a great turnout. This is a wonderful opportunity, as I say, for consultation with the government representatives who are here with us today to talk about the ANPRM and to listen and take your comments and questions.

So we have Rebekah Krispinsky. She's with the Solicitors Office of Interior. And Miles Janssen. He's counselor to the Assistant Secretary of Interior.

So these folks know a lot about the Indian trader rights and the Indian trader statute. And so they're going to share their knowledge with us and, as I say, are here to hear your comments.

And this is being recorded. So please when you do have questions and/or comments, we have a mic up here. We ask you to come up to the microphone and make your comments or ask your questions.

So with no further ado, I'll let our guests begin. Thank you.
MR. JANSSEN: Thank you. So, again, my name is Miles Janssen. I work as a counselor to the Assistant Secretary of Indian Affairs. I'm a member of the Tlingit Haida Indians of Alaska, a descendent of Cheyenne and Arapaho in Oklahoma.

MS. KRISPINSKY: Good morning. My name is Rebekah Krispinsky, and I'm with the Solicitors Office, a division of Indian Affairs.

MR. JANSSEN: So before we take comments, I just kind of want to discuss briefly a little bit of the background of the ANPRM regarding the Indian Trader Regulations.

So on December 8th, 2016, Indian Affairs published an Advanced Notice of Proposed Rule Making to get input on whether to update 25 CFR Part 140, licensed Indian traders.

This was a direct response to proposals and inquiries that the Department received in the past year from tribes and tribal organizations requesting of the Department to look at Part 140 and possibly make revisions.

Right now we're at the very early stages, and we have not drafted any revisions because we want to hear from you on whether to leave the rule as is, to repeal it, or to revise it. And if the answer is...
to revise it, what those revisions should look like.

A little bit of background on Part 140.

Part 140 governs trade economy on Indian
reservations. Part 140 is based on the Indian Trader
Statutes. The most recent of those statutes was
passed in 1903. I believe the first one was passed
in 1870. So obviously they're very good statues.

Originally the intent of the statutes was to
protect tribes from unlawful traders on their
reservations. Currently Part 140 envisions a
framework where BIA issues licenses to anyone who
wants to do business on a reservation.

But the Department recognizes that tribes
fully regulate businesses operating on reservations
currently. So the intent of the regulations might
not be applicable today.

The regulations in Part 140 were first
published in 1956, revised in 1957, and then modified
in a piecemeal fashion in 1984. And since that time,
there have been no changes to the regulation since
1984.

So we're looking at whether and how Part 140
could be revised to reflect the -- to modernize the
implementation of these statutes in a way that is
consistent with federal policies and tribal
self-determination and self-governance in a way that supports current tribal business practices, in a way that strengthens tribal economies across the country.

As far as the new administration's priorities, the specifics of those priorities in Indian Country are unknown, but we anticipate that they will align with the President's priorities for economic development. Keep that in mind.

As I mentioned, there have been handouts that have been passed around. Included in those handouts is a list of questions that we would like your input on. They're the same questions that we published in the Advanced Notice of Proposed Rule Making, and we'll be going through each of those questions today one by one.

Along with the answers to those questions, we are also interested in learning how tribes currently regulate trade occurring within their jurisdiction and how the revisions to this regulation will create economic viability in Indian Country and address potential taxation issues.

Along with the consultation today, we are accepting written comments. The comment period closes April 10th to submit written comments.

So we're here today to listen and to get
your thoughts on how to modernize the Indian Trader
Regulations, to promote tribal self-determination and
economic development. I look forward to this
discussion.

One additional question that people have had
have been the two-for-one requirement for
regulations. There have been news where two
regulations would have to be repealed for every new
one that's promulgated. OME is still looking at
that. It looks like that would only apply to
regulations that are determined to be significant
based on monitoring policy thresholds.

And so at this point in time, OME has not
made a determination whether this would be considered
a significant regulation. So at this point in time,
that's not something we have to worry about right
now.

So I would like to open it up for general
comments on Indian Trader regulations, and then we
can go question by question.

I would ask that the tribal leaders or their
designated representatives go first, and then
afterwards we can get to everyone else. Thank you.
And then also when you come up, just state your name
and what tribe you represent.
There's also a microphone up here at the front. Since this is being recorded on the record, it would be helpful for the court reporter.

MR. MICKLING: My English name is Will Mickling. I'm second vice president of Central Council of the Tlingit Haida Tribes of Alaska. Our communities are in southeast Alaska from Yakutat north to Edna Bay south. Jackie Johnson Dada is our fourth vice president. And I see some of our folks out here in the audience. It's good to see you.

So I'll just say very briefly that we strongly urge the administration to carefully consider reaffirming an ambiguous express intent in 25 CFR 140 as revised pursuant to the underlying statute of 25 UFC 262 to protect the interest of tribal governments and expressly for the intent of precluding taxation or what's called dual taxation, the imposition of federal — of state and local taxes within the tribal community, upon the tribal government or its subdivisions or subsidiaries or its enterprises, whether or not the tribe has trust land or not but within the jurisdiction of the tribe.

The deleterious effect, the impairment, on tribal economic development and on tribal government is significant by the imposition of state and local
government taxation. It deprives the tribal
government of an essential attribute of a sovereign
government, which is the undisputed ability to impose
taxes within its jurisdiction and territories. And
it impedes the ability of tribes to fully benefit
from economic development, business development, even
within its enterprises or by third parties locating
within the tribal community. A double taxation
doesn't work.

The old argument that tribes would use this
as a recruiting effort to sort the development of
these businesses outside of boundaries of the
reservation, given the number of governors that today
market the tax vacations within their jurisdictions,
whether it's New York or San Francisco or Portland or
what have you.

So I strongly recommend that this revision
to Part 140 not impose additional burdensome
regulation that as well impedes business development
and tribal governments within Indian communities but
instead provide its focus on precluding the unfair,
inequitable and significantly harmful imposition of
state and local governments and let tribes build the
infrastructure, build a government structure, and
build the businesses that provide and create the jobs
for its members and for the residents within the Indian communities. Thank you for the opportunity to speak.

MS. DADA: Thank you, Miles. I'm Jackie Dada. I'm the executive director of National Congress of American Indians. As Will said, I'm the fourth vice president of Tlingit Haida tribes of Alaska.

I want to thank everybody for being here today. It was really great to be able to have a nice full run. I think this is a really, really important topic. And even though the Indian Trader Rights haven't been something that we've been utilizing in many, many years, I think that the opportunity is a great time to talk about opportunities and opportunities for change.

So I just have a few comments. And NCAI will actually be submitting our formal comments before the April deadline.

But this is a good example of what some would think is a neglect of the federal government to really pursue economic development in Indian Country.

If you take a look at how long these Indian Trader Rights, which was an essential part of setting the tone, I guess, for the engagement with tribal
governments on tribal communities. And these regulations, as noted, has not been updated since 1957 when Eisenhower was president. And they're essentially the same framework as when George Washington was president.

Federal governments licenses to traders, to the Indians. And if you don't have a license, you forfeit your trade goods. And the regulations are incredibly outdated.

But this statute has really brought authority. And any person's desire to trade on Indian reservations shall do so under the rules and regulations as the Department of the Interior may prescribe.

The regulation could be updated for the modern era for today's tribal governments who are fully capable of governing our own affairs. And so we have three basic frameworks for how that could be addressed.

First, the licensing function should be delegated to the tribal governments. Tribes are far more capable of handling local business licensing on tribal land, and it's very important to have a business licensing structure that can promote local businesses and also deal with the unscrupulous or
fraudulent business operators that should be
prevented from preying on customers. And you'll see
many tribes have already started to do this. There
are tribes, such as Navajo Nation, that have a large,
comprehensive taxing structure. There are tribes
like Tulalip who have their own business licensing
structures.

And certainly there are many other tribes
who may not even have taxing licenses but are put in
place as business licensing or have put in other
kinds of preventative laws and ordinances regarding
even things such as predatory lending standards, etc.

So tribes have already dealt with the things
where they have investors or businesses doing work on
their own tribal communities.

Second, there should be a presumption that
tribal courts have jurisdiction over all the parties
conducting business on a reservation. We don't
intend this applies to the average consumer who
actually comes to buy gas at a tribal gas station, of
course but is intended for a licensed business on a
reservation.

We saw this problem last year in the Dollar
General case that we were following, Dollar General
versus Mississippi Choctaw, where the Supreme Court
could not decide if the tribal courts had the jurisdiction when a store manager sexually assaulted a young tribal member that was working as an intern.

The clear presumption of tribal court jurisdiction in the regulations would enable us to protect our citizens, and this could be easily done as there is already a provision for the consent to jurisdiction under the trader regulations for the Hopi and Zuni tribes.

And then the third part, taxation, this is significant amongst any problems dealing with dual taxation on tribal lands. When the state and local government is taxing transactions on tribal land, it prevents the tribe from taxing or collecting its own taxes.

State governments provide for few services on Indian reservations but impose taxes on severance of natural resources, retail sales, and increasingly on properties such as wind-generation facilities.

Tribal governments face a losing proposition when forced to collect sales taxes. If we impose a tribal government tax, then resulting dual taxation drives the businesses away, or tribes collecting no tax and suffer inadequate roads, schools, police, courts and health care.
To add insult to injury, reservation economies are funding millions of tax dollars to treasuries of state and local governments, who spend the funds outside of Indian Country. This dilemma is fundamentally unfair to tribal governments and undermines the Constitutional promise, a respect for tribal sovereignty, and keep Indian reservations the most underserved community in the nation.

This is a good example. If you take a look at in the recent years the expansion with tribes taking on alternative energy projects and just look at some of the deliberations that Campo had to do when they were talking about their energy project, the wind turbines, and the difficulty of the taxing structure that was proposed for the local government and state local government, which almost made the project infeasible. And people have to think about that.

In fact, you saw -- even in South Dakota is another good example where prior to tribes getting involved in alternative energy and energy development, there really wasn't a taxing structure for tribes in South Dakota that created a dual tax structure. But then after they saw investments in other areas, they created a tax sweep basically for
those kinds of developments. And tribes are not the beneficiaries of the additional revenue that may be generated through a taxing structure. So those are some of the things that we just wanted to put forward. I also have a handout that just talks about some of the points that we will be covering in our testimony when we submit our final document. And we've been attending -- NCAI has been attending each of these consultations -- not all of them but the majority of them -- and then actually gathering the tribal testimony that's given so that we can have a really solid, comprehensive document before NCAI does its consultation. So thank you very much for this opportunity. I appreciate it.

MR. JANSSEN: Does anyone else have kind of general comments on the Indian Trader Regulations potential revisions?

MR. MARCHAND: Thank you. My name is Mike Marchand. I'm with Colville Tribes. I'm chairman of the tribe. But most of my life, I was a tribal planner, a conference planner. So I've been involved with the tribe's development and growth probably since 1970. In 1970 we had about ten employees. And
most businesses pretty much left, and we were about
to be terminated. Other groups saved us. And we're
here.

And so since '70, it went from ten to today.
And today we probably have 1300 tribal government
employees. Probably a hundred thousand business
employees. And we have a BIA agency and Indian
health services there also. I'm not sure how many
people that is.

But the tribal government's operating budget
is about $60 million to pay for staff and health
services. BIA is probably, just guessing, maybe $20
million, $25 million.

We're in a rural area. We have not a lot of
high population, cities or anything. Our biggest
town is like 5,000 people. Overall on the Indian
reservation, we probably have 10,000 people, and
within 15 miles of reservation 75,000 people. So
it's that kind of area.

There are casinos. We operate casinos, and
we have sawmills. We have timber, mountains and
water. We're rich in resources. We have probably a
hundred million dollars of operations in our
businesses.

I guess one problem that we have as a tribe
is that we don't own all of our reservations. In the termination era through BIA's help, about half of our tribe was basically given away. So since 1970 to today, we've been buying land back as fast as we can. And so a lot of our land purchases have been for tribal revenues. Whenever we can make a dollar anywhere, we get a percentage of that and buy land back. It's been pretty successful. I think we went from a 50 percent land ownership to about probably 80 percent now. We've spent quite a bit of our money on land purchase.

We've had high unemployment and poverty, but generally our tribe believe to buys land back. And one of the reasons we buy the land back is because of the uncertainties in jurisdiction.

And so our tribe is reluctant to bring in any kind of development if there are questions about whether we can control that development, questions about the regulatory powers of the tribe, the jurisdiction over zoning and jurisdiction over anything. If we can't control it and it presents a possible risk of quality of life to our tribe, we don't want it.

We've turned away a lot of potential businesses. We don't get a lot of businesses coming
in. The only businesses we have have been the waging. We limited with so much money, so much capital, so much borrowing. If an outside developer comes in, we really wonder about that.

And generally if outside businesses want to come in and go outside the tribe, we kind of wonder about that too. We're not sure if we want them or not. And, quite frankly, we're not sure if we can really stop them either. After the Rendell case and there was a three-way split decision on land use, what does that mean?

So most developers, they'll stay away if you scare them out. We've got like 96 lawyers. So if you want to sue us, go ahead. But they'll go somewhere else usually with a lot of noise. And so we restrict ourselves and try to operate our own businesses.

Also the lease situation where people want to lease land, develop it, and invest. We welcome them. But they have to come in on our terms where we control the lease.

Danny Gettner with Gettner Corporation, he's a big apple operator. He comes on the reservation. He negotiates lease terms. He promises to invest millions, etcetera, et cetera. We want to make sure
it's done environmentally and we control the lease. And so he consents to the lease, comes in, and we do business that way.

I guess in the future, we'd like to be able to designate zones like some other tribes have done in industrial park areas, commercial park areas, and we'd like to get outside investors in the reservation at some point. But we don't want to do that until it's clear that we have taxation authority, that we have land use authority. And I think we can control our business operators through leasing mechanisms.

There's going to be vendors involved, suppliers involved, contractors involved, employees involved. If a business brings in employees, where are they going to live? 20 percent of our land, we think we can regulate it, but we don't know for sure. I think the existing laws are gray enough to where there's still risk involved. People don't want to take the risk right now. That may change in the future. I don't know.

My education was in planning, and I have a Ph.D. in environmental. I've been tribal chairman and tribal councilman for about 20 years now and chairman right now. We need more jobs. We need more revenues to the tribe. We have a good reservation
that's rich, rich, rich in resources. But those resources are in the ground. And to monetize those resources and convert them into businesses, convert them into jobs, we have to go through a process.

I think we can deal with a lot of that, but I guess we're just worried about taxation. We're worried about issues of land use control in the future. We have 10,000 people in our tribe. You know, where are they going to live? Where are they going to go to school? All these services they're going to need. It costs millions of dollars for services. How are we going to pay for that?

A good example is transportation. Half our roads are state and federal roads. Most of that money goes to the state. They don't spend a nickel on our roads. All the guests that go off the reservation never come back. We do have guest compacts with Washington state, and we kind of work through it that way. But it's kind of like a Band-Aid fix. It's kind of random.

I guess to me ideally we should have a line around the reservation. Everything within that reservation should be ours. We should be able to regulate our tax or whatever. I don't know if it will ever be that way again.
We live there. We can't move away. We've got to take care of what we got. And so I think there's big pluses. In my area we're the number-one employer for a couple hundred miles any direction. But at the same time we have billions of dollars in natural resources like timber, water, raw farm land. It's not developed because we're kind of sitting on it, and we're waiting until these other little things get fixed.

And so on things like a trader license or one more tool that can help us to control and regulate our resources, control and regulate our people, use some of these tax resources, I think those are the kind of stuff. Development in some areas. Increase jobs. Dual taxation is a big issue, I think.

We're the cigarette case tribe. We're the ones that brought that on. It's a big issue. I specialize in governments and finance governments and taxation systems. You can go to any city anywhere, any tribe anywhere, businesses and tribes have to work together. They need water, sewer, electricity, internet and everything else. How do you finance all that?

I don't have formal comment today, but we
will have some submitted. Thank you.

    MR. JANSSEN: Any other general comments?

If not, we can go over question by question.

    MR. CLARKSON: First of all, thank you for making the time. This is a pretty important issue. My name is Dr. Gavin Clarkson. I'm a finance professor at the New Mexico State University. I'm a faculty advisor at the Native American Business Students Association. And I've been doing tribal finance and economic development for a little while and consistently.

    The problem with double taxation is something that all of us are familiar with. But Indian Country is the only place in the United States where the race of the counter-parties determine the applicability of taxation, determines civil jurisdiction, and even after the Tribal Law and Order Act determines criminal jurisdiction. And that's wrong.

    We should not have a race-based taxation system. We should not have a raced-based jurisdiction system. There are existing analogs that we use all over to treat tribes like states. In the environmental regulation, there's a formal tribes as states protocol where tribes get treated and they get
valued and they get the same respect as the states with those regulations forward.

In the case of Indian Country, there's no reason the states should have any ability to tax any transaction on a reservation. As you go back to the original Colville case, it was tribes selling cigarettes. You had non-Indians going on the reservation to buy cigarettes. You had the same judges who were involved in that opinion, most of them are from Harvard law school.

And if you were sitting while you're not studying for your law school exams and you watch -- I think it's WCDV, the TV station of Boston, you'll always see, Hey, come shop tax-free in New Hampshire. So we all went shopping tax-free in New Hampshire.

So somehow it was perfectly fine for the State of New Hampshire to market exemption from the sales taxation, but it's somehow impermissible for a tribe to market a sales tax exemption.

I'm very cautious to use the term "racism," but I think it's applicable here. And I have an objective definition of racism that some of you -- if you've read some of my articles, I happen to give credit to Rob Williams.

There was a writer, a guy named Albert
Demme, who was a Tunisian Jew incarcerated by the Nazis in World War II. So he probably, at least from an essential standpoint, has an understanding of racism.

But the way he defines racism as is identification of a difference, making that difference bad, saying that because they are different, they are bad, than generalizing that difference to a whole group of people and then using that negative imputation of value or that difference as a justification for hostility, aggression or privilege.

And that's exactly what is happening right now. The Supreme Court is implicit with it. Congress has ignored it. And it's time to stop. So the Indian Trader Regulations, which most people it seems like it's archaic. It seems like, Gee, it's yet another application of paternalism.

It's about time we can take that regulation, take that body of law, take that set of regulations, turn it on its head and make it advantageous to Indian Country. If we can have it so that tribes, if there's a licensed Indian trader or some mechanism where any business doing business on a reservation is subject to tribal regulation, all transactions on the
reservation, whether conducted in person or via the internet, where the parties contractually agree that the transaction is an on-reservation transaction, the tribe has exclusive jurisdiction vis-a-vis the states. That would be a dramatic change and be a huge benefit.

Just some example I've got. I think the Three Affiliated Tribes lost a billion dollars in tax revenue because the Supreme Court, a bunch of stupid opinions, decided that, Oh, gee, the state can interpose itself where it has no business being and literally suck the money out of the ground, along with the oil and natural resources, over land that's been the tribes for centuries, depending on a tribe's origin since the beginning.

The state has no right or should have no right. It's like Texas telling Louisiana or Texas telling New Mexico, Hey, New Mexico, you used to be part of Texas. Every time somebody takes oil and gas out of the ground in Hobbs, New Mexico, since that used to be part of Texas, you owe us tax money. New Mexico would never go for that.

But somehow because of cotton petroleum or Colville or any of these other -- again, I'm reluctant to use the term, but I think it's
applicable -- blatantly racist decisions by the Supreme Court. The state gets to interpose itself where it has no business being.

So I think the NCAI's comments, they're very clean, very simple, defer tribal authority to regulate activity on Indian lands.

The thing I would add to that is whether that activity takes place in person or whether it takes place electronically. Because, as we all know, much of Indian Country is revoked. Much of Indian Country is not near major metropolitan centers.

I was a speaker at the Tribal Electronic College Conference today that Arizona State hosted a few months ago. The tribes need broadband capability, but who's going to invest in broadband capability to help tribes do e-commerce if the tribes aren't going to be able to take full advantage of it because they don't have control of it. Indian Country needs to control its jurisdictional boundaries from a business regulation standpoint.

Chief Justice Marshall said it best when he described the Cherokee Nation. The Cherokee Nation has district boundaries in which the laws of Georgia can have no force.

Indian Country in the 21st century -- and if
you all can get these regulations done in this way, it ought to be within every tribal territory, whether the transaction is natural resource extraction, whether it's commerce, whether it's sales. Even if it's sales to non-Indians, even if the transaction is non-Indian, even if it's gold made by a tribal lender to a non-Indian, if it's on the reservation, the laws of the state shall have no force.

You have the capability to do that. The statute gives you broad authority to regulate for the protection of said Indians. It is a direct assault on tribal livelihood, tribal economic prospects, the ability of tribes to attract capital for the states to be able to go in and tax where they have no business taxing, to go in and regulate where they have no business regulating.

And so I would urge you to put in as strong of language as you can to fundamentally and completely and forever preempt any state involvement with all reservation transactions. Thank you very much.

MR. WATCHMAN: Good morning, everybody. My name is Derrick Watchman, and I'm a member of the Navajo Nation. I'm also the chairman of the board for the National Center for American Indian
Enterprise Development. And so I want to say welcome. And I want to also say welcome to our Department of Interior folks.

From the National Center as a board, I just want to say we echo what Dr. Gavin Clarkson said, NCAI and others. We think that -- I have mixed feelings about a regulation that is archaic. But if you look at all the points that Gavin pointed out, we think that this is a valuable tool to promote economic development.

In my former years, I've done many things. I've been a banker, a gamer, but in one of my prior lives, I was a director of the Navajo Nation Tax Commission. And in those days, one of the biggest and fundamental issues that we dealt with and still -- Navajo still deals with it -- is how do we fairly and adequately and feasibly tax businesses that do business on the reservation.

The businesses on the reservation tell us that we have one problem. You're taxing us. The state's taxing us and the feds. We would love to do business on your reservation, but get the states out.

Get the states out of it.

And so speaking to what Gavin said, we think that this is going to be -- if you rewrite it
correctly, it could really be an economic development tool. And that's what we're looking at from the National Center.

And that's what we will be talking about over the next several days. Is how do we get fundamentally economic development going in Indian Country.

So we plan to submit our comments. We think just fundamentally that this is a good tool to address economic development primarily around the issue of dual taxation.

So on behalf of the National Center for American Indian Enterprise Development, I want to say welcome, first of all, here and enjoy the conference. And we look forward to the final outcome. So thank you and good morning.

MS. MASHUNKASHEY: Good morning. I'm Mary Mashunkashey. I'm the chairman of the National Intertribal Tax Alliance, but I'm also a member of the Osage Nation.

And I just wanted to kind of echo also what's been said up here currently. Number one, dual taxation. We dealt with it at Osage. I was an interim and executive director up at MHA last year. And they're dealing with it there. Now I'm at
Seminole. And they're dealing with it there.

So dual taxation is a huge, huge issue in Indian Country. I've been in Indian taxation for 20 years. 20 years later we're still talking about dual taxation.

I'm so excited about this opportunity. I was aware of this probably a couple years ago, that this was coming, and I'm excited that it moved forward. That you are here. You're hearing the comments from all the tribes, from the organizations.

Jacqueline also mentioned licensing, and I think that's such an important issue. At Osage we began doing business licenses probably in 2004 or '05. Since that time I worked at MHA. They do business licenses. Seminole, we do business licenses.

So if you're from a tribe, it's so important to issue those business licenses. Get control of that. Know who's on your reservation within your jurisdiction.

And I don't want to take up much time because I know we've got a long agenda. But I wanted to come up and just state that -- and Wendy, she's also a member of the alliance. And I'm glad that she was a part of this. And we're going to be speaking on it again tomorrow. Taxes, taxes, fun, fun; right?
And it's so good to see so many people here. And please speak up. Feel free. Everything that your tribe has experienced, they need to know that. They need to know all of the battles that we fight. They need to know all of the walls that we hit when we're trying to go.

They're talking about economic development. It's such an important issue. With taxation you can do so much for your tribe. And when you have to give half of it and even 70 percent of it to the state, that's just ridiculous.

All these compacts and contracts. When you're moving and you're trying to do tobacco, you're trying to do oil and gas, whatever you're trying to do on your reservations. Coal. You have to share that. We should not have to share it. That is ours. It's on our reservation. It belongs to us. So I think it's real important that the dual taxation stop. Thank you.

MS. THOMPSON: Good morning. Heather Dawn Thompson. My name is Heather Thompson. I'm with Greenberg Traurig. And I'm actually mostly here for our tribal clients, but I'm getting frantic texts from my investor clients because they feel there's not a lot of investor perspective here.
And so while most of our comments are going to be sovereignty and tribal based, I just wanted to do an overarching investor perspective brief comment.

About half of our clients are investors that do investments with tribes and do business deals with tribes. My client who wants to go on the record is Haynes Investment, who's texting me frantically this morning saying, Oh, my gosh. Please do this.

This is the sink recommend largest impediment to capital coming into Indian Country, is the lack of clarity and the over taxation by states and the fact that the answer to every single question is, It depends. It makes investment in Indian Country so expensive. This is why most people won't do it.

And they are particularly concerned because while they're very excited about the new administration and the vision for economic development in Indian Country and the meetings over the last couple weeks, the focus has primarily been on infrastructure and where can we infuse a big chunk of money to build this.

And their concern is you can put all sorts of infrastructure -- or all sorts of investment, like we have
been, in Indian Country.

But unless you fix the legal infrastructure,
it will never, ever, ever, get better because it just
costs too much money compared to doing business in
other places to be a solid business partner in Indian
county.

You cannot do business if your rent is $30
one day, a hundred dollars the next month, $150 the
next month, $10. And with the uncertainty of state
regulation and state tax over tribal issues, whether
it be located on the reservation, whether it be owned
by the tribe and working off the reservation, whether
it be e-commerce based, the fact that every single
step, it depends what kind of land are you on, who
are you doing business with, where is the money
coming from.

And the amount of money that the business
partners have to put aside in a litigation fund is
absolutely crippling. So most -- I just can't tell
you guys that on our investor side, like I spend most
of my time begging them not to leave Indian Country.
Because it's just too expensive. And they have top
put hundreds of thousands of dollars in litigation
funds because there's no straight answers, no federal
preemption's been issued. And the states challenge
every single time. And it cost too much money.

So the rest of our conversation will be total from a tribal perspective and from a sovereignty perspective. But from a practical perspective, we really just wanted to make sure that that was on the record.

We can do all sorts of creative things in Indian Country, but unless we fix this legal infrastructure, it's fundamentally never going to change.

And just a personal opinion. I think the single-most effective policy in Indian Country from a horrible standpoint was the boarding school era. From a positive standpoint, if you guys can fix this, this could reverse things completely. It could be that fundamentally changing in Indian Country.

And this is what it's supposed to be in the first place. We believe you guys have this broad authority. This statute is essentially just a codification of the treaties and a codification of the constitutional intertribal trade provision.

So we think that it absolutely covers both regulatory tax and all of these different issues for tribal preemption with tribal delegation. So thank you very much.
MR. JANSSEN: Any other comments?

MS. KRISPINSKY: So to just go into a little bit more detail. I don't know how many folks will actually have oral comments that they want to come up and make in response to these specific questions. If not, I think we just want to get folks to start thinking about them in more detail in preparation for submitting written comments by the April deadline.

Just to sort of tease it out a little bit more, and hopefully tribal leaders and other folks will have some specific comments in response to these questions. But I think we've heard a lot. Go ahead.

MS. PERO: Hi. My name is Felicia Pero. I'm here right now with my own thoughts.

We were talking with a number of people. And besides the issue of non-Indian people doing business on the reservation, you really need to be thinking in this world of interconnected commerce about tribe to tribe transactions and that those should be subject explicitly to exemption from state taxation.

If you're the Amazon of the Indian world, you don't have to agree to taxation by a state. If you do something from tribe to tribe, that is exempt,
per se.

MS. KRISPINSKY: So the first thing, I think we heard a pretty resounding yes to this question so far. But if folks want to talk about it in more detail, that would be great.

But the first question that we specifically put forth in materials and are hoping we'll receive written comments on is should the Federal government address trade occurring in Indian Country through an update to the regulations and why?

So we've heard a little bit about how there's a broad grant of authority in the Indian trader statutes. The Department does have the authority to make rules specifying the kind and quantity of goods that may be sold to Indians and the prices at which such goods shall be sold. That's at 25 UFC 261 and also to establish regulations governing who is a proper person to engage in trade. That's 25 UFC 262.

So we've heard about some of the examples today. We're aware of the fact that many tribes already regulate trade within their jurisdiction under tribal law and authority without any federal involvement.

And we're aware of the trust responsibility.
And so we're interested in learning how the Department can update the regulations to recognize these facts, that there are already a lot of tribal systems that are in place and that the government clearly has a trust responsibility to tribes in this realm in particular.

So if there are any thoughts and response -- more thoughts and response. I think we've heard a lot of comments on this already. But if anyone has anything to offer on that first question, we'd be happy to hear comments now or happy to receive written comments.

Go ahead. If you wouldn't mind coming up to the microphone, that would be great.

MR. KAGI: First of all, I'm Henry Kagi. I'm from the Hopi Nation. I just want to thank everybody for being here. We've been working on this issue for quite some time now.

So the first question I'd like to see -- rather than reaffirming it, I'd also have you guys recognize where you failed. So some of the things where you dropped the ball and a lot of the things that happened in Indian Country over the years and all these tax cases that we lost.

If you go back in history and look at where
you guys screwed up. Look at more the things that
dropped the ball where the economy has collapsed
where you're hearing it today. There's a lot of
things that barrelled us down.

So think about it that way. Rather than
reaffirming it, you need to go back and learn from
history, learn from what happened and how to make it
right. Okay? That's it. Thank you.

MR. CLARKSON: My apologies, but I am, in
fact, an absentminded professor.

One other thing. My thoughts are my own.

I'm enrolled in the Choctaw Nation of Oklahoma. I'm
sure the tribe would echo these thoughts. These are
not the thoughts of either of the Regents of
New Mexico State University.

But a lot of tribes are starting to look at
import/exports. And one of the things that you ought
to include also, there are certain ways where right
now I work with some tribes that are right on the
U.S. and Mexico border. There are mechanisms by
which tribes can take goods across the border without
import duties.

It's complicated. It's difficult. If you
rewrote the Indian Trader Regulations so that any
goods brought in either directly to a reservation,
directly to a tribally controlled facility, directly to a tribally controlled trade zone, or come up with all sorts of mechanisms whereby goods can be imported into Indian Country and then later either in corporation to manufacturing or distribution throughout the rest of the United States.

If you could make Indian Country the ultimate, best port of entry for goods coming in from overseas, that itself would be a huge, huge opportunity.

There's all sorts of agriculture crops that could come in from Mexico. For example, I'm the chief economist for Fort Sill Apache. Fort Sill would love to be able to easily import all of the commerce that are coming in from just south of the border and Mexico and be able to do it duty-free in a way that allows the tribe to be able to generate commerce.

And, again, I'm not specifically speaking for Chairman Houser. He's very capable of speaking for himself. But any sort of import/export opportunity, whether it's agricultural products, whether it's electronic products.

One of the things that the administration has said is that they're trying to stop jobs from
going overseas. Well, one of the things we can do is not to stop the jobs going overseas, but we can start making it so that where manufacturing can happen on the reservation for all those tribes, whether it be Kickapoo, whether it be any of those tribes that are along the border, move their facilities back into the United States. Employee Americans but give them the same import and export advantages that the plants have.

And the same thing with all our brother and sister tribes up along the Canadian border. We're going to be reworking NAFTA. Tribes were not part of NAFTA in the beginning. Tribes were not consulted as part of NAFTA, to my knowledge. Do you know of any tribal consultation that is part of NAFTA? And yet they have a whole bunch of tribes on both the northern and southern border.

Now is the time to be able to have those tribes become economic engines doing import and export again. These regulations, they're archaic regulations. They started out of a paternalistic notion of the Indians as incapable of being economic participants in, I guess, the 20th Century, not in the 21st Century.

And now we ought to be able -- to use
Heather's point, boarding schools were awful. And unfortunately in many cases for many tribal communities they were effective at eradicating language and eradicating culture and eradicating all sorts of things kinship-wise and everything.

If we could turn that notion on its head and make the Indian Trader Statutes, the Indian Trader Regulations, a force for good, a positive economic engine, it can be incredibly powerful. Thank you again.

MS. DADA: Jackie Dada, NCAI. And I just want to speak to the question about if tribes are already doing some of these things, how do we recognize that? I think we have many examples on how we already do that. Certainly some tribes have very complex systems because it works with their governmental structures, and they have the capacity to do that. Other tribes are smaller in nature, and their stores and types of businesses are different.

And that's why one of our recommendations to recognize tribes and their laws and ordinances the way that they see them to make them work for them is the best opportunity. However, recognizing that not all tribes will instantly have the capacity and believe that the Department still has the overarching
responsibility. And, sure, it has overarching responsibility. I have to tend to agree with Henry Kagi that should this have been an active role, we might have seen a different environment today.

But in any event, having some standards that could be put into place that are the base and then like many other areas where tribes ought to recognize their own laws and ordinances could supersede those standards that the Department would in place. I'm sure other wise minds will have some good ideas about how that could work. Thank you.

MR. MICKLING: Will Mickling with Central Council of the Tlingit Haida Tribes of Alaska.

So I just want to briefly speak to the key phrase in 25 UFC to 62, which are rules and regulations that are promulgated for the protection of said Indians is the phrase, and I think that's something that has been forgotten about.

The responsibility -- part of the trust responsibility for the federal government is to protect tribes from state and local government. It's a practical matter. It was true hundreds of years ago. It's true today.

So what backs that is the Federal Trust responsibility, treaties and grievance, certainly the
commerce clause and this specific regulation. And
there are many examples of this. So there's two main
points I want to make.

One is that this revision to federal
regulation would promote the interests of Indians
through economic development. And, second, that is
essential for, as Heather Dawn Thompson referred to,
the access to capital and the retention of capital
through the restoration of the tribal tax base.

And the restoration of the tribal tax base
is an essential component of tribal governments that
has been narrowed, depleted, diminished to the
significant adverse impact on tribal governments and
their ability to govern as sovereigns in whatever
capacity that the federal government thinks we
operate in.

But essentially without the ability and
attribute of being able to assess and collect taxes,
it's very difficult to operate as a government.

So the specific example I'll give is I've
been CEO for the Ewiaapaayp Band of Kumeyaay Indians
for the past 25 years. It's a federally recognized
tribe in Southern California. There's no
infrastructure on Ewiaapaayp. There's no adequate
roads. There's no sewer system. Tere's no
telephone. There's no broad band. There's no radio. There's no cellular. There's no water treatment system.

And what it does have since 2004 is a wind conversion project for Turbine's 51 windmill project on the reservation.

And what we do know from the County is that the County has asserted its express intent to assess possessory interest tax on the improvements on the reservation.

Those improvements are by lease because as a tax exempt entity, we have not been afforded -- the federal government has not provided a means for the tribe to monetize the tax credits, which are essential to the development of this type of technology, the wind technology, which has supported for non-tribal enterprises off the reservation.

And, therefore, as a lesser in that capacity, the County is intent on assessing whatever taxes it can but certainly possessory interest tax on the improvements, which are the wind turbines, which currently stands about 1.2 percent of the total value of the improvements on an annual basis.

So the tribe participates as a -- through lease rent, participatory rent. So it's base rent
plus a percentage of rent revenues. And the value of 
the possessory interest tax at the rate to satisfy 
the County is worth three-quarters of the lease rent 
that the tribe would earn under the lease agreement. 
So it's a significant economic benefit to stand as 
the ability to assess and collect taxation. 

But it's also important because this is the 
only way for the tribe to fund the improvements on 
the reservation that supports not just the 
commercial-scale wind project, which the product 
flows off the reservation to non-tribal 
beneficiaries, but also to support infrastructure 
necessary to maintain their project, maintain the 
quality of life on the reservation. 

The County over the past ten years revised 
this general plan or amended its general plan to 
reduce, to downsize, the zoning, which increases the 
parcel sizes. 

The result is a loss of between 50 and 75 
million dollars in property tax revenues each year, 
which the County has -- it is the initiative of the 
County to reduce its revenues by implementing its 
designated plan. 

And yet they are after the tribe for the few 
thousands of dollars that it takes in fee-to-trust
acquisitions asserting that the tribe cannot place land in trust without compensating the County for loss of tax revenues, for seeking to assess excise sales, severance, whatever kind of taxes there would be on that parcel, even after it goes into trust; and in the instance of the wind project, to assess possessory interest tax, which should go totally to the tribe as the tribal government.

So we are at every point opposed by our local and state government, who, by the way, in the general plan that I referred to before 2000. And the year 2000 was an important date because that's when the tribal gaming compact began in the state of California under governor Dave's at that time.

Well, in the general plan, reservations in the County were an empty space. We did not appear on the County general plan. After 2000 we suddenly appeared. And where we appeared was on the intense initiative by the County to enter into an agreement with the tribes to take monies from the tribe for economic purposes.

And it didn't matter whether a tribe had a casino or not. Windpipe certainly doesn't have it. We're one of the four reservations in the County that have no infrastructure on the reservation.
But for everyone to impose every initiative, every economic development plan, on the reservation, unless there was a revenue stream directed solely to the County and the State.

So when you see the $2 billion in bond funds go untapped by Indian Country, when you see the guaranteed loans go underutilized within Indian Country, that is not an indication of a lack of need in Indian Country. What it is an indication of is that the federal government has not used the tools that it has in the commerce clause, in the federal regulation and statute, to protect the tribes from the insatiable appetite of local and state governments for the tax revenues that belong on the reservation. And it extended from business-type taxes to property taxes to income taxes.

So the State of California is entirely motivated in assessing state income taxes on any individual tribal citizens. This is the pathway of the tribal tax base.

And unless the federal government acts to restore the tribal tax base, to keep those revenues flowing today off of the reservation on the reservation, there will always be an economic development plan for Indian Country because there
will never be a sustained economy on the reservation. In the state of California, of the hundred percent of tax revenues that flow to Sacramento, 20 percent of those tax revenues flow back to the County in direct dollars. Not one penny goes to any reservation.

So the intent of the County to litigate, which they promised, the wind project on the reservation once it is in operation, will move ahead even though they do not provide one penny for roads, one penny for utilities, one penny for communications, for anything on the reservation. That should be the standard. That is sort of the test. The different tests that the courts have come up with.

But that initiative of the courts for these past 50 years has been to narrow, diminish, decrease, and shut off the benefit of revenues on reservation and allow the spigot to go full open to state and local government. That tax base has to be restored to the tribes, and it's the job of the federal government to protect the Indians, as it's in clear and express language in U.S. code.

And that is firmly rooted in the Constitution and in the commerce clause. And I
encourage the new administration to make Indian
Country great again. And they can do it by simply
standing up to their responsibilities. Thank you.

MS. KRISPINSKY: If there aren't any more
responses to the first question, we can move to the
second question, which requires a little bit of
homework. There's a copy in your packet of the text
of the current regulations, and some of you might
have had the chance to look through them before this
meeting or as you've been sitting here. And I think
reading them, it's apparent pretty quickly how old
they are, how long it's been since they've been
updated.

Okay. We're skipping the first question,
then, whether the existing rule should be kept. And
then I think we're also interested in places where
the Department has issued licenses. Whether there
should be a grandfathering clause for currently valid
licenses that this Department has issued.

So if anybody has any comments on that, in
the context of a grandfathering clause for licenses
that are out there. And for those of you who say a
resounding no, if no sections should be kept, why
should no sections be kept. We would like
information on that.
And then if anyone -- I think we might get more comments on this in writing. But if people have thoughts on what an entirely new rule would look like, sort of what kind of a system should be put in place.

And then specifically if BIA were to no longer issue licenses under the rule, what would the federal involvement be or what should the federal government's role be.

UNIDENTIFIED SPEAKER: Suing the states.

Make them stay out.

MS. KRISPINSKY: Okay. So any thoughts? If anyone wants to come up and address any of those specific aspect, that would be great. We would obviously love to hear more detailed comments in writing as well.

UNIDENTIFIED SPEAKER: Good morning.

(Speaks in Native Indian.)

I'm honored to be standing in front of you representing my tribe. The people that are living not only on the reservation, but off the reservation. And I'm all about keeping things simple. What I heard from our sister tribe Alaska, about the wind energy, that's the way, I think, every tribe should go.
And I drank the water back there. I'm an environmentalist. It was all bubbling up, and it's scary to me. Where my mother grew up, the water there is sweet water. And I think they could even bottle that water and sell it.

But addressing these things like right now, what I think and feel about these invisible lines on our reservations and putting this question about money. Because the taxation in order to feel -- well, from being in the plains, all the other tribal people who have been speaking today have been on outlying areas of our nation, this Turtle Island. And they have greater population.

But where we are, on the plains, our population and a lot of our children and grandchildren go off the reservation in order to survive and work and get educated. And then there's people like Don that come back and are like a saving grace for us. Because they're helping us to succeed, helping us to get back and fight for this now because this taxation thing.

Like Mandan Hidatsa, that's unbelievable. The taking and taking and taking. And it comes in flows every 20 years. They're good paternalistic people. I'm a foster mother, and there is nothing I
wouldn't do for my son.

And if that intention, even this term "trader," that shows you how archaic all of this is. Come into the 21st Century, like that young man talked about. This is the 21st Century. Let us determine our own. Give us that power back that we had. We lived here for eons. We're productive.

And this is one of the -- listening to the people to come together, whether they're sister or brother tribes, that's what I want -- would like to participate in, is that we are able to obtain this for our people.

Because my people, it's now only seven generations that we look to protect and prepare them to be a real visionary, take care of our children and grandchildren.

MS. GARDNER: Good morning. (Speaks in Native Indian.)

I come from the Taakwaaneidi H'it House of the Heinyaa Kwaan people. I am Myrna Gardner. I'm an enrolled citizen of Central Council of Tlingit Haida Indian Tribes in Alaska. We're headquartered out of Juneau. I am the manager of business and economic development for our tribe.

The agency at the government is asking us
specifically whether to address comments on 25 CFR 140. What I have known from the Bureau of Indian Affairs and this policy is that you ask how can revisions ensure that persons are reputable when they want to do business on Indian Country.

Today tribes under the Indian Gaming Regulatory Act, under the Indian Child Welfare Act, under the Child Care Development Fund, under our compacts, under Health and Human Services, all of our funding, we require background checks for people who conduct and do business with us. We're required to check them, to ensure that they're not on the debarred list.

Today we already do multiple layers of processes to ensure that the people who are coming to work on our countries, to work for our people, to work in our communities, are not people of ill repute.

You ask that today tribes conduct -- how tribes regulate and how might the revisions help. I'm not from a reservation tribe. I'm from a landless tribe. But I've worked with different tribes in the lower 48, and we tried to work with them.

And what we understand and have experiences
is that the application process is not defined. You say in 25 CFR to submit an application. Well, if I want to open up a manufacturing plant in one of the reservations and let's say you mention there's a lease there, how long will it take me to get that lease? It's unknown. The license doesn't stipulate that for doing this, opening up a manufacturing plant, the land lease will take you 90 days. The setting up and getting your background checks will take -- if you want to work for the federal government, there is a very specific process in which you apply and your application's processed.

You want to look at specific modifications in your regulation that define the process, define the steps, and define the time length for it. No commercial business will come and work with us if they are told, Well, we're waiting for our lease to be approved. It's like one year or two. I don't know when they're going to do it.

Well, no commercial business is going to reserve capital and wait for the agency to decide when you can actually open up a business on that area.

The other thing is how might revisions provide economic viability and sustainability?
Anywhere in the United States, just like here in Nevada, they have a very specific streamline process for business licenses. They have a very streamlined process for getting land use from the state or from the city. It's simple processes like that and identified, and clearly identified, that make a difference on the viability of economic development.

I know from working with our tribe when we try to work with agencies, the timeline in which you wait is so detrimental that people will lose this interest. You can't have sustainability in an unknown world. You can't have regulation and processes that are unknown because you won't get sustainable. You won't get economic development.

And so if you're asking specifically, you need to define the process. You need to stipulate a timeline for it. You need to have specific venues for disputing, for processes. It's a simple request.

And I understand the agency is big in and of itself, and it does have all the different departments. But your task is to help the tribe be sustaining and economically strong. If you take it from a streamlining process to meet those two objectives, I think you would get -- we'd be a lot more successful. Thank you.
MS. DAVIES: My name is Lydelle Davies, and I'm from Dineh Nation, Navajo Nation. I'm the vice chair of the Dineh Chamber of Commerce. And I just wanted to offer some comments.

I realize I might be jumping ahead to Question 6. But I think we kind of figured out that's how we're doing that.

The Dineh Chamber of Commerce is a tribal royalty 6 corporation. And we struggle on the nation with economic development issues, just like many, many, many tribes across the country and in Alaska native tribes as well and in Hawaii.

But one of the things that we have that's important to us on the nation is that the former business site leases that were given to trading posts, actual trading posts back in the day, many of them are abandoned. And almost all of them have some form of hazardous waste, contamination on the site. Many of them have encumbrances or are in arrears with respect to lease fees, leasing fees.

So we've got a lot of land that's tied up by these issues that the nation is not able to address. And we really feel like the revision of this particular statute would benefit many tribes if they contain provisions that, one, possibly establishing
hazardous waste remediation fund for these particular sites, as well as maintaining a database of the leases that are available.

Because right now we just don't know. You can drive around our nation on your way out from Window Rock to Ganado. I don't know if any of you have ever had the privilege of going out that way. But there is an old trading post halfway between it, a place called Cross Canyon. And that land is there to be developed. It's right on the highway. People in the area could use a convenient store, a gas station. But that's not going to happen.

And these leases have been tied up for years and years and years. Any community on the Navajo Nation, you will drive by and see a derelict, old, trading post. And again, like I said before, they're usually contaminated. So we'd like to see that.

We would also like to see a movement toward revising the process of leases. Right now we still have -- the BIA has to sign off. And as the previous person mentioned, it could take years. And that's an issue. As you know, private business, you can't function that way, wondering and speculating five, six, seven, even ten years. Some of the people who try to do business on the nation cannot get it done
because of the massive red tape it takes to march through the DOI process, the BIA process.

The Navajo has a process where they're working on streamlining things. But that's not going to do any good because it hits BIA, and it can take years. And, of course, that's just detrimental to business and economic development on the nation.

So we will be submitting our comments in writing before the deadline, and I appreciate your time. Thank you.

MS. KRISPINSONSKY: I think since we started addressing some of the other questions, we don't need to go through them one by one. If there are folks that have comments on any of the remaining questions that are included in the handout, please feel free to come up now and address them in order or a couple questions at once. That's fine.

MS. LANCE: Hello. My name is Courtney Two Lance. I'm with the Oglala Sioux Tribe credit office. I want to go off with something that she had stated on the leases. We have abandoned buildings on most of our reservations.

The one thing that I have been working on with my attorneys is letting the tribes become a title company for the building or the existing
infrastructure. We can cancel those leases as per
our tribal law. If there's no activity within 120
days, then that should be deferred to the tribe's
ownership.

But I think where you guys would help us is
the initial lenders for those buildings. If they
don't have somebody to go into that infrastructure,
that building, then the tribe can become the title
company. But we need something to help us do that.
And I do not want to revert to the state saying,
"Well, you can't do that." You're not going to tell
me that. This is my tribal jurisdiction.

We have put together our own Uniform
Commercial Code. And what we really need from the
Bureau is financial support for the judicial part of
it, our court systems. Our court systems, anybody
knows that our backlogs are anywhere from 5,000 to
8,000 cases. And that doesn't even hit commercial.
And so we need some financial assistance for that.

And I think what we had put in our log was
an arbitration panel. And thankfully we haven't
gotten to that big scope yet, but it's there. But
how many other tribes have that opportunity or how
has the Bureau helped getting that set up.

With our UCC we are of the opinion that they
are not involved with the commercial transactions of
the tribe. And so we note that when our investors or
vendors come to our reservation, Well, what does the
Bureau say? And I say, They have nothing to say
about this. This is tribal law. This is our
jurisdiction.

And so kind of going off of that, the one
thing that I would ask the Bureau to do because of
what has happened up at Standing Rock and what it is
happening to our other natural resources, our threat
to our natural resources is water. And there are
laws where the tribe does own the water treatment
plant in South Dakota.

So when the river goes down, it goes to our
treatment plant, and we do supply clean water to many
cities and municipalities along the river that comes
to the reservation, but you still go through all of
these cities.

And you're not helping us when it comes to
protecting our natural resources. We need that help.
We need to have you guys help us enforce those
regulations when it comes to NEPA, you know,
everything that comes within environmental
protection. And we're not getting that assistance.

It's kind of like if you were following the
story, it was too late at the end when the Bureau finally stepped in and said, "Okay, you can't do that."

And I'm not here to bash you, but I am bashing you, okay, because a lot of people are sitting there, and they're like, "Where's our protection?"

And we are really concerned about our treatment plan because we work with cities that are sitting there saying, "Where's the Bureau to help your tribes?"

Right now we're dealing with possibly uranium mining, which we were successful in getting the injunction. But now we have the possibility of nuclear waste sites. And that's along the Missouri river too. It's very scary for us.

But as for the trader's law, if the states are not going to help the tribes in establishing or recognizing their jurisdiction regarding their uniform commercial codes in Gackle, North Dakota, will not set up a system where we can work together. They are trying to charge the tribes a hundred thousand dollars to set up their system. And if they're going to pay for that system, then we should have more say-so.
But they just want the money to set up the system. They've cut off their aid to tribal organizations because of the result of the NODAKO, for North Dakota tribes. And we're not going to let that happen in South Dakota. We will fight that. We have, I think, a very good relationship with our Secretary of State, but she also recognizes our jurisdiction.

So if you come to our tribe and you want to set up shop on Pineridge, you will go through due process. You will go through the -- we call it a tech team, where you get your permits. And it takes a long time. It does. But we're protecting our assets.

And for me, it's to weed out the people that are trying to come in and scam on the tribe. So we're very protective of that. And those who have successfully gone through the process, we have a very good working relationship with them.

But I look at the other tribes. And I said to them, like, "We need some kind of alliance where we can all work together." What if we work tribe to tribe through an alliance? That's something that you guys can support with us. We can buy from each other. We can work with each other.
Well, if we're working tribe to tribe, government to government, then why can't we keep our own taxes if it's just tribe to tribe investing in each other.

We will comment on more things, but I was just saying you should entrust responsibility to us. It's region by region. We're all different. We're not all the same.

And so come sit with us. Don't hold conferences that are so far away that we can't afford to get there. Come to our region and find out what really needs to happen.

Because we are all different. And some of us have a lot more land base and a lot more natural resources to protect. But we will give you more comments. Thank you.

MS. DADA: Jackie Dada, National Conference of American Indians. I recognize that you are doing these consultations throughout the country and getting a lot of similar comments.

But my bigger question is really going to be the process moving forward, to you. I think that generally I've heard across Indian Country very strong support for us to move forward with the regulations and to update the regulations. And, you
know, there's a lot to update for so many decades to
be covered and modernizing what they are.

And we also knew one of the reasons why it
took a while -- it did take a while to convince the
administration to move forward. And we're really
glad that the administration chose to do that.

But we also recognize that we will have
opposition outside of Indian Country, strong
opposition, and particularly the environment where
we're seeing more and more states' rights.

It's really, really important for us to make
sure that we are balancing that parody of states'
rights and tribes' rights. And that's one of the
reasons why I think these regulations are a critical
tool. Because they actually go back and set the
stage, right, in a period of time where it was an
early part of our economic engagement and the federal
trust obligations and responsibility.

And so it sets the tone for that point of
time what should have happened to protect these
rights. And I think part of -- so to me, there seems
to be a couple of things. One is making sure that we
have a historic perspective, because a historic
perspective being drafted and crafted out is going to
help us when we deal with the external opposition to
tell the story, to tell the story honestly and truthfully. And so to me, that's a really important piece.

And then it also helps us tell the legal context and how that might have changed from a variety of decisions that have been out there, which I think is just, once again, part of telling the story.

But the next part of it, which is going to be very complex, which is in your question when you said what should this cover and what shouldn't it cover. And I agree with everybody who's made comments. This should be about licensing, the tax structures.

We've had lots of conversations for years and years when we were dealing with the internet tax and how do we deal with that the tribes get included in the tax issues and other kinds of things.

So I'm feeling like we need to have working sessions, not just consultations where we can actually roll up our sleeves and really just work on these things. And whether it's a formal negotiated rule making is definitely a mechanism for having working sessions that you can make them very subject matter appropriately, and we could get folks
involved.

The challenge with negotiated rule making is sometimes putting together the right group of folks and keeping it inclusive. But I still think that structure works, as well as some kind of ongoing working sessions to be able to develop the complexities that you heard in this room.

Every tribe does something a little bit differently, and we want to be able to make sure that we aren't minimizing the tribal capacity to implement a rule that would work and still have that strength behind it.

So to me, I'm curious to see if you had any thoughts about how you might proceed in that at all.

MR. JANSSEN: I'd say that we haven't had those thoughts yet. I think we're trying to get through all the consultation sessions that we have planned for now, to go back and look but that certainly we will keep that idea in the back of our heads.

MS. DADA: Thanks.

UNIDENTIFIED SPEAKER: So add that to your comments.

UNIDENTIFIED SPEAKER: (Speaks in Native Indian), Fort Mojave Nation. I would recommend that
we think about this. I'd like to be at the table when you're drafting these. I don't know if you're going to take it not only to entrust responsibility but government to government. Meaning that if you're going to rewrite these regulations, I think the tribes should be involved in working with you hand and hand here to make those things work.

I don't know if that's a thought or not, but we've got a lot of good, smart people out there that could work on this. And I'd like to see recommending that the tribes be part of this drafting when it begins. Right now you're just listening. If we could put this together in a good way, it all comes together very nicely.

The biggest problem is going to be the states. The states, again, our relationship is with you. It's not with the states. So the states have a different way. They're going to protect what's theirs, what they think is theirs. But, again, it's federal land, a federal relationship, and we want to make that stronger.

So, again, just think about government to government. And, again, I'd like to see us be at the table. There's no reason why we can't come up with a regulation that is a win-win for both the feds and
the different tribes. Okay. I think that's my last
comment, I think.

But, again, I want to thank some of the
organizations that are here. We've been at this for
a long time. We want this to come to a conclusion
too. We run our tax with the IRS. And, again, the
IRS is something that we also need to factor in, what
that looks like. So as we move forward with these
regulations and the reporting, the IRS has to be
factored in. Thank you.

MR. JANSSEN: Any other comments to the
questions?

MR. BROWN: My name is Roy Brown. I'm the
chairman of the Northern Arapaho Tribe. We are
located on the Wind River Reservation in Wyoming.
The Northern Arapaho Tribe's membership
currently stands at 10,210 individuals. We share the
reservation with the Eastern Shoshone Tribe. And
historically on our reservation, our biggest revenue
generator are quality gas leases, from which we
collect royalties and severance. That money is split
evenly between both tribes. Both tribes then have
historically used that money to provide government
services to their people.

It is becoming increasingly difficult for
the Northern Arapaho Tribe to provide services given
our membership has increased. Just about a year ago,
our membership was under 10,000 members. Now we're
at 210 above 10,000 members.

And for a number of years, the money we
received from our oil and gas leases has not been
enough to provide the government services that our
people need and that our people deserve.

We have since gone into exploring different
economic development opportunities and have
successfully operated and managed the Wind River
Hotel and Casino, which brings in a significant
portion of revenue.

However, because of the unpredictable nature
of the oil and gas industry and because we are not
right now taxing -- receiving taxation from those
leases, the State of Wyoming receives that money.

We have been forced to use the money that we
bring in from our businesses to provide government
services. And that is not fair to our tribe. That
is not fair to our people.

We are forced to choose between whether or
not we allow the State of Wyoming to be the sole
taxer on those leases or to explore dual taxation and
potentially lose out on significant revenue.
So at this time, we allow the State to tax the oil and gas companies, and we get the royalties, operate businesses. And that barely covers the government services that we do have, especially now considering the state of our energy and the oil and gas prices that we are currently seeing.

So in terms of economic viability and sustainability, eliminating this dual taxation, deferring the jurisdiction to tribes would only enhance our ability to provide the government services, as well as provide an economy within our reservation that is viable and sustainable.

We are forced to use our business to supply taxation basically. I started this term. It's my first term as councilman. It's about three months, and I couldn't imagine how difficult it is to use our business as a replacement for the taxation to provide the government services.

It is incredibly difficult to try and, one, conceptualize that; but, two, to really understand the gaps that we're seeing in the services that are needed within our reservation and to try and explore the economic development opportunities but knowing that the reality is that the revenue that we generate from them -- from that isn't going to go toward
exploring other economic development opportunities. It will go to provide government services. And that's not fair. That's not going to move our tribe into the future.

I can't imagine the State of Wyoming being in that same position where they are forced to go into business to provide the child care services, to provide -- forced to go into business to be able to pave the roads, to be able to clear the snow from the roads in the winter.

They rely on the taxation that they receive from oil and gas and energy throughout the state, including on our reservation, to provide those services to the people of Wyoming, and we aren't afforded that same opportunity.

So eliminating the dual taxation, deferring the jurisdiction to the tribes, would only enhance our ability to provide a viable economy that we are able to sustain long-term for the people of the Wind River reservation.

MS. KRISPI SKNY: We'll give the floor one more chance. Any other questions or comments that anyone wants to make?

MR. CLARKSON: So thank you again for the opportunity to address all these. I tried to
organize my comments based on the questions you asked.

But in terms of the first one you were asking, you know, what do you do about existing licenses, I think that there's already an existing mechanism where if you have an existing federal license, you can 638 those to the tribes. And if you have a trader license with a given tribe, you basically would have a tribe take over the management of that under a federal contract. And that way the tribes do that all the time with all sorts of other federal organizations. So it's nothing new. It's an existing mechanism.

And, therefore, that trader in effect has that federal license. That federal license is just administered by the tribe. For those particular licenses, the tribe couldn't do anything more or less than what the federal government could have done in the beginning because it's being done pursuant to a federal 638 contract. So that would be a pliable grandfathering mechanism that would maintain stability and certainty for the existing licensees.

My remaining comments deal with Questions Number 5, 6 and 7. So for Question Number 5, which is what types of trade should be regulated and what
types of traders should be subject to the regulation, I would take that expansively. I would have a very expansive definition of what constitutes trade, what constitutes trader. Because the ultimate objective would be for -- if we're going to use arcane statutes and regulations, well, let's go back and teach Justice Marshall. Let's have it to where the tribe has complete and exclusive jurisdiction exclusive of any state influence where the laws of the state shall have no force. So anybody doing business on the reservation -- and not even just on the reservation. We can even have a broader -- in Oklahoma they have tribal jurisdictional areas that are not formal reservations. So I think you should have an expansive definition not only of who, not only of what, but also of where. Because there are going to be times where it's not, quote/unquote, a reservation. Yet the tribes still should be able to engage in activity and traders should be able to engage in activity subject to regulation controlled by the tribe to the exclusion of state regulation, control, and taxation.
definition would include any form of electronic commerce. I would have it cover any sort of resource extraction.

And I would include in your definition of trade taxation of transactions. Because if you look at Section 261 of the statute, it discusses that the Department of the Interior has the ability to control prices. And clearly the State gets to impose taxation, change the prices. And so I think there's authority just in that section alone to exclude state taxation.

So I think if you define trade as anything and everything, including anything that may affect or alter or adjust or increase prices, you have the authority already. You have the authority based on, you know, 1787, the Constitution, the Indian governance laws. The Indian trader tax is not going beyond what is specified in the Constitution. It's merely just delineating the existing Constitutional authority to regulate trade with the Indians.

And so you ought to be able to have an expansive definition of trade that basically covers any economic transaction irrespective of the race of the parties as long as it's within the tribe's jurisdiction.
In terms of Number 6, how might revisions to the regulations promote economic viability and sustainability in Indian Country. Clearly a lot of what we're looking at is elimination of dual taxation, establishing clearly and concisely tribal jurisdiction over all of these commercial transactions.

But I want to echo Heather's point about investments. Indian Country is the most underbanked segment of our society. We have the largest infrastructure deficit of anywhere in the United States. There's a $50 billion automatic capital investment gain. There's also -- I have another article dealing with private equity investment with a $55 billion private equity deficit. I believe that's what we calculated a few years ago.

So anything and everything that these taxes can do to make investment in Indian Country more certain, more viable, less subject to the ambiguities that we talked about.

Anybody who's doing an investment in Indian Country where it's uncertain because the state -- you know, states get greedy. They just said, "Oh, we'll go tax the Indians." They shouldn't be able to. And if you write these regulations properly, they won't
be able to. And that will attract capital.

The way to think about this is Indian Country is a domestic emerging market. And so all the strategies that you can use in emerging markets to grow the economy can be applied to Indian Country as well. So the more you can do to attract capital, to attract outside investments, will be beneficial.

Also by doing this, if you eliminate the state taxation, the tribes -- I know that Navajo Nation has no sales tax, and those tribes are imposing their own taxes. Because of the dual taxation, tribes cannot add their own taxes to the transaction without making it economically and completely unviable. Why would you pay extra just to be doing it on the Indian reservation?

So if you eliminate the state taxation, you then give the tribes the ability to impose their own taxation, which increases tribal governmental revenues.

The other thing you can do by structuring these regulations properly, if you create an incentive for job creation on the reservation, you'll create jobs for Americans.

And if you make it in such a way that you can create incentives for foreign corporations to set
up shop on the reservations, to move all the facilities along the U.S. and Mexico border, move them along the reservation. You'll create jobs for American. And not just for tribal members. You'll create jobs for non-tribal members as well.

There are some tribes. Mississippi Choctaw is a good example. They're the single largest private employer in the state of Mississippi. They employ thousands of non-Indians.

So the job creation in Indian Country does not just benefit tribal members. Job creation on the reservation can benefit everybody.

The Citizen Potawatomi in Oklahoma has a very expansive view on their economic development. And they prioritize first benefiting the Citizen Potawatomi. Next, benefiting anybody who is a member of a tribe. But they also recognize that economic activity benefits the surrounding county. So they try and foster economic development among their neighbors.

If you come up with good regulations that create economic development on the reservation, the surrounding counties and the surrounding communities will also get the benefit.

You'll help foster entrepreneurship. The
most difficult place to start a business right now is in Indian Country. It is the most difficult environment to be an entrepreneur. If you create these regulations properly, it can become the best place to be entrepreneurial.

Again, you can attract foreign corporations and foreign investment. Instead of having money flowing out and jobs flowing out, you have money flowing in and jobs flowing in. And what this will do is eliminate something called "economic leakage."

How many of y'all have been to Gallup, New Mexico? How many of y'all have been to Gallup, New Mexico on the first of the month? What can you not do in Gallup, New Mexico on the first of the month at the Walmart? You can't find a parking spot because everybody gets paid at the end of the month, and they all go down to Walmart.

So you have this huge problem of economic leakage, money flowing off the reservation. In a healthy economy, money will cycle five and six times before it leaves that economy.

But because the federal government has made it so difficult to do business on a reservation, to engage in economic opportunity, there's no place to just spend money.
The example I give is my Haida mother-in-law. For Mother's Day we were going to build her a garden in Crownpoint. And if you've been to Crownpoint, the soil isn't really good for much other than growing weeds. So we had to import it.

We had to go get some dirt and some manure.

We had to dive an hour each way back and forth to Gallup to buy the lumber, to buy dirt, and to buy poop. We certainly could not buy poop in Crownpoint even though it's a rodeo town. There's poop everywhere. Plus there's politicians. So there's poop everywhere. That was a joke. But literally we had to drive an hour each way to get a truck that's full of manure.

There ought to be ways to create entrepreneurial sectors on the reservations, and these regulations can empower entrepreneurship on a reservation. So that's Number 6.

Number 7. What services do tribes currently provide individuals or entities doing business in Indian Country and what role do tax revenues play in providing those services? I have a little more expansive view of that question. What role do tribal tax revenues play in benefiting the tribal members?

I know of several tribal governments. The
one I can tell you is the Upper Lake Band of Pomo, where the tax revenues they have on regulations where the states are trying to interpose themselves is 100 percent of their government revenue.

If the tribe was not able to tax electronic commerce engaged on the reservation or it became economically unfeasible because the state interposed themselves where they have no business being, that tribe will not have sufficient revenues to meet the needs of its members.

And for the tribal leaders here who will be submitting comments, I would encourage you to point out all of the things that you would be able to do for your membership if you were able to effectively tax the transactions without driving them out of the range of economic feasibility.

If all the powers right now where the money is just getting sucked up to the state -- I mean for Mandan Hidatsa Arickara tribe, how much of that money, the billion dollars that the state sucked it off, how much of that went back to the tribe? None. Zero. That was a billion-dollar extraction by the state for no benefit whatsoever to the tribe.

The tribe could have imposed its own taxes, and then the tribe would have had that billion
dollars to pay for scholarships, to pay for elder care, to pay for health care, to pay for prenatal care, to pay for early childhood development, to pay for all the things that governments need to pay and which Indian Country currently is in such dire financial straights, it's very difficult to do that.

But now if what we want to do, if we're talking about local empowerment, we're talking about making tribal sovereigns truly sovereign, give them the economic tools to do that.

I bet the Three Affiliated Tribes could do a tremendous amount right now that they are potentially looking for the federal government to fund, they could fund it themselves if just they had the ability to tax the resources coming out of their own ancestral territories.

So keep in mind unemployment on the reservation is really expensive. It costs the federal government, it cost the state governments, hundreds of millions of dollars, billions of dollars, because of the devastating economic conditions that their regulations and their statutes have imposed.

Some of the tribes I work with, unemployment nationally -- in New Mexico, for example, the Pueblos and other tribes in New Mexico, unemployment is 56
percent. Unemployment is 56 percent. At the height of the great depression, the worst employment we as a nation suffered was 33 percent. This last economic disaster we had, everybody was epileptic that unemployment was 15 percent in some places. Most tribal leaders I know would love to only have unemployment 15 percent.

These regulations can go a long way to foster entrepreneurship, creating jobs for Americans, both tribal members and non-tribal members, giving tribal government the opportunity to collect revenues from our services to our people. In the end that will save the American taxpayer money. So if you create these regulations in the proper form, they will be revenue enhancing in terms of the federal government.

And I know we're in a situation of tight budgets. These regulations can actually generate revenue for the federal government. And why? Because if you're unemployed and you're not making money, you're not paying income taxes. You create jobs on the reservation, you're going to create an entire class of American citizens with income, who then pay income taxes. And that can be very powerful. Thank you.
MS. THOMPSON: Heather Dawn Thompson, Greenberg Traurig. I'm a member of Cheyenne River Sioux here speaking on behalf of Rosebud Sioux tribe in South Dakota, the Fort Belknap tribe of Montana, the United Tribes of North Dakota, which is the five tribes in North Dakota, their intertribal, and the tribal e-commerce coalition.

What Gavin said pretty much actually, but I just wanted to elaborate on a few things. And I think Jackie was saying it exactly right. This isn't something new. It feels really scary and new. It's like this is exactly what it was supposed to be in the first place. It's just gotten so messed. So how do we get back to what the federal government had intended, which is we lost everything else and got put into these places, but these places were supposed to be a safe haven for us to be able to continue to thrive. And so how do we make it look like how it was supposed to look like in the first place?

And so I think -- I know there's not sort of a finding section in a regulation versus a statute but maybe creatively in the definitions or something like that, making sure that the historical components are really integrated into this. It's going to help from a litigation standpoint, from a long-term
standpoint, to make sure these regulations stand strong.

With regard to your question about what trades should be regulated and what type of trader should be subject to the regulation? Just to reiterate some of the things that were brought up here to make sure that not just trust land is included but for those that do have large land base, that everything is within the exterior boundaries because it doesn't fix the problem if you still have that checkerboard issue and you have to figure out what piece of land is what.

To make sure that tribal owned entities are included in that. So if the tribal government or a tribal corporation owns that commerce, even if they're doing business off the reservation, that still counts and is included. That obviously includes any e-commerce that's emanating from the reservation or from the Indian territory.

And then two other things that I think got overlooked but basically were brought up today. One is intertribal trade, and the other is import/export. The intertribal trade is sort of, I think, the cleanest thing to put in these regulations. There's nothing more traditional than tribes trading amongst...
themselves.

And frankly I don't know a single tribe that doesn't either do commerce with their sister tribes or is trying to revitalize some of those traditional commerce routes. I know we're working on buffalo, wild rice, and then salmon trade. A lot of people are working on that.

And that's what gets us in trouble. As soon as it leaves the reservation borders, even though you can bond and get it directly to another reservation, the states jump on that. So protecting the intertribal trade when it's going from reservation to reservation, either physically or electronically.

And then import/export. Did Mr. Kagi leave the room? So as Henry was talking about, this is a huge issue for particularly the tribes that are along the border and have other tribal communities on the other side of their borders.

And interestingly enough, the definition of "U.S. customs territory," which puts on all the tariffs, doesn't include Indian territory. But people have been afraid to utilize that because the federal government hasn't spoken in this arena, and it's just going to cost so much money to litigate it. So you actually have a lot of protection already.
there statutorily and in plain language.

So that is what should be included. Again,

I agree with Professor Clarkson. Pretty much
everything and however that is possible.

And then what should be included as a
trader. Just to highlight a few things that often
get left out of regulations or statutes.

Tribally owned entities were always
litigating this and fighting this even though it's
relatively well established. Not only like at OST if
you have a tribal office, that's a little bit more
clear. But some people, some jurisdictions, have
difficulty with tribally owned corporations as a
corporate arm.

But then additionally, a lot of tribes, like
Navajo, have local tribal governments, and they have
been delegated the power. In some tribes. Navajo,
OST, Standing Rock, Talala, at least that I know off
the top of my head. And they have been delegated
economic development authority too.

So whereas for states, this is super simple.

We know they have counties. They have cities. They
have economic arms. They have energy companies.

When it comes to tribes, people get really confused
sometimes. So you want to make sure that any
definition includes tribal subsidiaries and tribal political subsidiaries and tribal economic arms.

So those are just a few things that I wanted to highlight and to echo everybody else. And thank you guys for being here. I know that these are uncertain times, but this is important for Indian Country. So thank you.

MR. JAMES: I'll try not to do a mic drop like Gavin Clarkson did. Hi, everyone. I'm Chris James. I'm president and CEO for National Center. This will be my first welcome to everyone. So welcome to RES.

First of all, I want to thank Interior for not only doing these series of consultations but adding one for us and being here at RES. That was tremendous. I hope you're pleased with the comments and the turnout today. So thank you. We really appreciate it.

Just to touch base on a couple of things. One, of course, the comments we heard are really important and strong, and we want you definitely to hear our voices.

I would encourage the audience to also continue to physically send in the comments. They will read all the comments that you receive. Is that
correct? Every one of them. I know this just from some past experiences of leading consultation. Any comment, they have to read it. So they want to get as much comments. It helps this process.

So I would encourage to tell your friends this is very important, as we all know. So please written comments. They'll read them. It will help make the decision and help form the regulation.

Secondly, as Jackie has said, the National Center wants to be part of those roundtable discussions. We want to be part of helping you formulate the regulations. We want to be a resource to the Department of Interior.

Jackie and I partner almost on a weekly basis, but definitely we talk every other week for sure. And we want to make sure that you know that the various trade associations, we want to have a strong voice on this. And we will continue to collaborate with you.

I have a little list. And, lastly, we have a tax session coming in later on today. Wendy, is that right?

MS. PEARSON: Tomorrow.

THE WITNESS: Tomorrow we'll be having a session. So for the audience, this will be discussed
tomorrow afternoon. So please attend those sessions. And thank you, the Department of Interior. And thank you all for attending RES. Those are all my comments.

Oh, and one last thing. I do have at the back, those of you that are formulating the comments, we do have a little handout with some guidance that can help you sort of think about some of the things you want to say. In the back Kate's going to raise her hand there. Yup, right there. Okay. Thank you very much.

MR. JANSSEN: So if there are no -- does anyone else have any comments? Oh, one more.

MR. JULIAN: I'm just a question. Good morning. Ronald Julian with the Jic Apache Nation. I'm a new counsel member even though I don't look that new. I've been there for two months.

Mine is very basic. My understanding of the regulation is to implement the law. Has the law changed? I really don't understand. If you have current regulation, are you updating it or just giving a new interpretation? That's the part I don't understand.

MS. KRISPINSKY: So, yes, the statutes and the regs -- well, the statutes in particular have
been on the books for a long time. The regs are old as well. They've been revised a couple times.

But the Department started hearing from tribes and tribal organizations that this was an area that the federal government should really reexamine and look at, whether there was a way to revise and update the regulations to make them more effective and really to sort of breathe some life back into them just because there's a sense that they've been underutilized.

MR. JULIAN: But the law hasn't changed.

MS. KRISPINSKY: No. There's been continuing -- there's been case law. I think that's really sort of the one. And I think a lot of that -- some of that is viewed as -- we've heard some of the negative impacts of those court decisions, particularly out of the Supreme Court and some other circuits. So I think that's the one thing that we've seen evolve over the years, is the court decisions.

MR. JULIAN: Would there be problems if you go to court with an updated regulation and no regulation, a different interpretation?

MS. KRISPINSKY: You mean if we -- depending on how -- on whether we update the regs. You're asking if there could be differing -- if the case law
could change? Is that what you're asking?

MR. JULIAN: Yes.

MS. KRISPINSKY: Yes. I think there could be -- I think it sort of remains to be seen. I think if we were to update the regulations, I think there might be litigation over that effort. And there would also probably be regulations over sort of the impacts of it.

So, yes, I think there could be changes that come out of any updates to the rule making or any sort of new rule.

MR. JULIAN: Okay. Thank you.

MR. JANSSEN: Okay. So if no one else has any comments or questions, we are going to close this consultation. All right. Thank you so much.

(Thereupon the proceedings were concluded at 11:19 a.m.)

* * * * *
CERTIFICATE OF REPORTER

STATE OF NEVADA )

SS:                        

COUNTY OF CLARK. )

I, Jane V. Efaw, certified shorthand reporter, do hereby certify that I took down in shorthand (Stenotype) all of the proceedings had in the before-entitled matter at the time and place indicated; and that thereafter said shorthand notes were transcribed into typewriting at and under my direction and supervision and the foregoing transcript constitutes a full, true and accurate record of the proceedings had.

IN WITNESS WHEREOF, I have hereunto affixed my hand this _____ day of ______________, 2017.

__________________________________________
Jane V. Efaw, CCR #601