CHAIRPERSON JAMES: Mr. Metoxen?

MR. METOXEN: Good afternoon, Madam Chair and members of the Commission. My name is Jeff Metoxen. I'm the Chairperson for the Oneida Tribal Gaming Commission of the Oneida Tribe of Wisconsin and Chairperson for the National Tribal Gaming Commissioners and Regulators, NTGC&R. The testimony that I will be providing today is going to center around tribal gaming regulation and the roles and responsibilities of the tribal gaming regulators.

NTGC&R was established by the Forest County Potawatomi Tribal Gaming Commission in Wisconsin, the Spokane Tribal Gaming Commission in the State of Washington, the Gila River Tribal Gaming Commission in Arizona and the Oneida Tribal Gaming Commission in Wisconsin and their perspective tribes. The NTGC&R is a nonprofit organization that we had established about three years ago. It was a place in which we were bringing the tribal regulators together to share information and experiences. This was done through providing training and educational seminars and presentations.

The topics of these seminars and presentations centered around those that were of major concern as well as played a major factor within a tribal gaming regulatory entity such as licensing and auditing and the regulatory roles and responsibilities. The speakers that were chosen represented the expertise and knowledge on their fields in the above-related topics and they also provided representation on all three levels of tribal, federal and state.
Through these seminars and training sessions we also had requested various organizations and individuals to present on their areas. We've had the National Indian Gaming Commission provide presentations, the National Indian Gaming Association as well as North American Gaming Regulators Association and various other entities and individuals. The reason we had started NTGC&R is recognizing that the tribal gaming regulators needed a place or training sessions in which to share information and to learn from one another and to network with one another. This was also done in providing those organizations or individuals that may provide a service or a product that could help the tribal regulators in their role and this would have been taken care of through various packages that they would have to offer and the licensing responsibilities that tribal regulators have, that tribes have in maintaining accurate records of background information as well as having a better understanding of the observation and surveillance responsibilities, equipment and things such as that area.

The membership of the NTGC&R currently exceeds 93 entities that represent tribes. Within this membership there are gaming and non-gaming tribes that do attend and our members of NTGC&R. This is done from the non-gaming tribal perspective for those tribes who are interested in obtaining a tribal gaming operation are those as well as trying to learn better the responsibilities of regulating a tribal gaming operation. Of that membership there is also voting and associate members. Voting members are those that represent the tribal gaming regulatory entities, tribes themselves involved in gaming or even
the non-gaming. The associate membership is opened up in the organization to allow organizations and individuals to also join in the benefits that are provided through the NTGC&R.

The constant and common question asked from us is, is Indian gaming adequately regulated. The statement we are providing on behalf of NTGC&R is Indian gaming probably has more regulatory requirements than any other industry. An example of these regulations that apply here on a federal, tribal and state level, under the federal area there is Title 31 from the U.S. Department of the Treasury, the Bureau of Indian Affairs, the Indian Gaming Regulatory Act, and the National Indian Gaming Commission and their rules and regulations as well as their soon to be developed minimum internal controls on the federal level.

The states are involved under the compact process if that's how the tribes and the states have come to an agreement within their gaming operations. The tribe itself has a number of levels that come under the requirements for the gaming operations and that's from the governmental standpoint and ordinance under the tribal establishment as well as internal rules and regulations and the tribe's own internal control standards.

The involvement of these three levels in the regulatory responsibilities caused a continuous growth in the bureaucracy and duplication. This is another example in the continuous cost involved in tribal gaming regulation causing an increased financial burden of the tribes that continues to grow and costs too much. Federal and state levels have continued to want to increase in money and funding for the role in regulating.

The National Indian Gaming Commission has recently increased
their fees by millions of dollars and states have continued to raise their regulatory costs and proposals for additional funding.

States have always alleged that violations of their compacts occur because they do not have total control of the tribal facilities and the regulation as they see it. The states continue to fail to recognize concurrent regulation and believe that the tribes are either too well educated or that there are too many close relationships within the tribes. They do not believe the tribes are capable of regulating themselves. Yet, tribes probably have more experience in gaming than the states do at times.

The relationship between the states and tribes begin on a very difficult level. Compact requirements have, in many cases, thrown two natural enemies together that are now expected to work cooperatively. The tribes have, in the past, always dealt on the federal level. The unique relationship that is in place between tribes and states has no past. Prior to the regulations being promulgated by the National Indian Gaming Commission, many tribes were already regulating by voluntarily seeking training in areas of gaming, regulatory responsibility by attending training sessions in already established gaming jurisdictions.

Tribes have continued to seek training from the Nevada, New Jersey and the Mississippi areas and the states involved within the gaming operations. Through this, the National Indian Gaming Association, as well as the NTGC&R have continued to offer training sessions and seminars under these
areas of anything that applies for the gaming operations. This is using those areas that are both tribal and non-tribal that have experience in the gaming areas.

The National Indian Gaming Association as well as the National Tribal Gaming Commissioners and Regulators have voluntarily developed national minimum internal control standards. Approximately a few years ago, the NIGA organization had recognized that minimum internal controls standards was going to become a major factor within Indian gaming. In this, the NIGA organization was able to obtain volunteers representing different aspects within tribal gaming operations to develop the minimum internal control standards. That document was approved by NIGA and is supported by the NTGC&R and was submitted to the National Indian Gaming Commission as well as the Senate Committee on Indian Affairs.

Both organizations, NIGA and NTGC&R, also recognize the concern of tribal gaming regulatory bodies. In this, they established minimum requirements in establishing tribal gaming regulatory entities with about 21 main points that have also been submitted to the National Indian Gaming Commission as well as the Senate Committee. It was addressing on how tribes can establish an autonomous tribal gaming regulatory entity and that the need for this has to come through. And that in the tribes in recognizing that the ability of tribes to self-regulate and self-certification that in establishing a tribal gaming regulatory body is a tribal decision alone but there are maybe minimum requirements that would apply to this when establishing that body, recognizing that it has to be an autonomous entity, it
cannot be part of the governmental section of the tribe as well as part of the managerial operational side of the gaming operation, and thereby creating three areas: legislative, operational and regulatory.

In regard to the self-certification regulations as well as concentrating on the National Indian Gaming Commission, they made proposed rulemaking under self-certification, I believe earlier this year in March requesting comments and to look at it and it did follow the lines of the Indian Gaming Regulatory Act. The NTGC&R and the NIGA organization had put together comments to cover that issue of self-certification and how to recognize that process, how to apply it to the tribes that can be considered self-certification and recognize that the oversight responsibilities of the NIGC as well as possibly the state can be lessened.

The NTGC&R has taken a position in supporting standardized minimum internal controls. The tribes have realized that we must set aside family relationships when regulating in certain circumstances. This is a very difficult aspect for tribes and almost anti-cultural. However, in order to protect Indian gaming, their means of maintaining their culture and government and more importantly, their sovereignty, tribes are learning to deal with the regulatory process and sometimes negative reactions.

An example of these particular areas can come into the licensing role and responsibilities of those tribal regulators. Tribal regulators are required to license certain individuals due to the Indian Gaming Regulatory Act such as
primary management officials and key personnel. With the tribal
operation the majority of the time their employees are going to
be tribal members and at times they're going to be family members
or close relationships. The regulation of the tribal gaming
operation requires that the background be done and at times
difficult decisions must be made. The tribal regulators in
saying that this is a responsibility that they take very
seriously address these issues and establish a due process within
the tribe itself.

Tribal regulatory bodies have learned to be the
designated, so-called bad guys in their role. The applicable
regulations of tribal, federal and state are enforced in the
majority of the tribal gaming operations. There are allegations
of crimes and scams applied to tribal gaming operations. Tribes
are able to detect and address problems before they become actual
crimes, an aspect that is not generally reported. Tribes have
recognized and put in place the proper checks and balances to
address the tribal gaming regulatory requirements.

Under the checks and balances that tribal gaming
operations have recognized and within the tribal structure itself
we've submitted earlier as part of the testimony a chart that
contains a legislative section, an operational section as well as
a regulatory section. This addresses the internal issue on how
tribes are able to self-regulate.

Part of this process is the general tribal council
which is the people of the tribe, falling underneath the
legislative area of the tribal government's business council
representing the tribes. Our Tribal Gaming Commission, a
regulatory entity, falls underneath the regulatory level, which is consistent in that as well as the observation and surveillance responsibilities to insure that the procedures, laws and regulations are complied with.

Under gaming management there usually includes an operational side of the security of that area as well as management establishing its own auditing requirements. Under the auditing requirements that apply to the tribal gaming operations internally alone there are management, tribal and regulatory. All three areas have different levels of responsibility in the regulatory field and within that, that is just for the tribal structure. That does not include the state if it is involved with the compact process or the requirements under the Indian Gaming Regulatory Act, the federal audits that need to be forwarded on to NIGC.

Under the regulation of the tribal gaming operation it also includes the licensing of individuals and the licensing of vendors and contractors. The tribes themselves have been able to establish court systems or appeals commissions allowing due process to all parties involved, whether they be customers or the employees and tribal regulatory entities also accept the responsibility of meeting code requirements, such as the zoning, health and safety and environmental areas.

The testimony was to center around the tribal and gaming regulation, how it applies to the roles of the tribal gaming regulators. In closing I would like to reiterate that the NTGC&R provides the tribal gaming regulatory entities, other organizations and individuals the ability to share experiences as
both negative and positive, to be able to establish a directory
of memberships and organizations to provide some of the most
important parts in tribal gaming regulations such as networking,
communication and training.

I would like to thank you again for providing the
NTGC&R the chance to provide testimony on tribal gaming
regulation. I would also like to take this time to invite any
member of the Commission to an NTGC&R seminar to attend or
participate. Thank you.

CHAIRPERSON JAMES: Thank you very much.