CHAIRPERSON JAMES: And with that, I'd like to open it up for questions from Commissioners. Commissioner Loescher and then to Commissioner Bible.

COMMISSIONER LOESCHER: Yes, Madam Chairman, I have a couple or three questions. Madam Chairman, Mr. Husk, does the State of Arizona support the compacts that they've entered into to this date as a matter of public policy?

MR. HUSK: Madam Chairman, Commissioner Loescher, yes, that is correct. The state recognizes its obligations under the compact and to my knowledge it's fulfilled its obligations under the compact.

COMMISSIONER LOESCHER: Madam Chairman, Mr. Husk, I kind of read yesterday and last night and this morning and then I listened very carefully to your testimony and you sound like you've got a bad case of buyer's remorse. And I understand the context of where you're coming from. You're focused on regulation and I think you've articulated very well the focus that you have but I'm wondering a couple things. You know, you make a colloquy in your statement about the fact that the tribal regulators are usually employed by a gaming commission that reports to a tribal counsel and tribal regulators lack autonomy of their off-reservations counterparts, et cetera, et cetera.

And I observed that the State of Arizona is involved in lottery, state lottery and also you're a part of this 20-state Power Ball program that $290 million has been floating around America that somebody won today. But what's the difference? The regulators of the state that manage and oversee the state lottery and Power Ball certainly have to report to the governor and to
the legislature and to the people of Arizona. What's the difference between that and what is occurring with the tribal governments in your opinion?

MR. HUSK: Madam Chairman, Commissioner Loescher, first of all let me say I don't believe that there is any part of buyer's remorse in my comments. I think my comments were intended to provide this commission with some insight as to what is working and what isn't working within the regulatory and enforcement areas of Indian gaming and I attempted to do that. I recognize what the obligations are under the compact. As to your question regarding the comparison to lottery or Power Ball, I can tell you that a significant difference is that you do not have the entity that is regulating that industry that is also advocating for that industry and in some instances, at least within Arizona, that has occurred.

COMMISSIONER LOESCHER: Madam Chairman, just one more.

CHAIRPERSON JAMES: Commissioner Loescher.

COMMISSIONER LOESCHER: I'm intrigued by your language in juxtaposed against the comments of Penny Coleman. You say that, regarding IRGA, that Arizona lacks the authority to impose civil fines on gaming operators, it lacks the authority to audit gaming operations, it lacks authority to track gaming revenues. Yet, the Indian Gaming Commission does that very thing and by statute and regulation it's required to do all of which you have just outlined as criticisms. Is it possible that the State of Arizona lacks -- why cannot -- why cannot the State of Arizona accept the certifications of the Indian Gaming Commission
that those statutory requirements of IGRA, which are the very
things you're criticizing, are not certifiable and being complied
with?

Why does the State of Arizona want to know these
things beyond what the Indian Gaming Commission is willing to
certify as accurate and in compliance with federal law? What's
your interest?

MR. HUSK: Madam Chairman, Commissioner Loescher, the
interest on the part of the state is to independently insure and
regulate the Indian gaming industry and insure that it meets the
highest levels of integrity and that is an objective that the
State of Arizona does not take lightly and we believe that there
is not only an ability but an obligation on the part of the State
of Arizona to conduct independent inquiries into those areas.

COMMISSIONER LOESCHER: Madam Chairman, Mr. Husk, the
United States is willing to represent that all these things are
true, that they're occurring and whatnot. You're not willing to
accept the word of the United States that these things are true
and also does your compact require and extend to these things
that you're requesting?

MR. HUSK: Madam Chairman, Commissioner Loescher, I
think your question assumes that the United States, through the
National Indian Gaming Commission, has the resources and
personnel necessary to conduct all those type of activities. I
can tell you based upon my experience there is a shortage of
resources that would allow the National Indian Gaming Commission
to conduct all those types of activities and even if they did
have sufficient resources under the terms of the compact, Arizona
is not prepared to delegate its regulatory responsibility to the National Indian Gaming Commission.

COMMISSIONER LOESCHER: Thank you, Madam Chairman.

CHAIRPERSON JAMES: Thank you. Commissioner Bible.

COMMISSIONER BIBLE: For Mr. Husk along the same lines, do you get basic revenue data on the various casinos that are operated by the tribes within Arizona from the National Indian Gaming Commission?

MR. HUSK: Madam Chairman, Commissioner Bible, we do not receive information from the National Indian Gaming Commission of that nature. An annual audit is to be submitted by the individual tribes that conduct the gaming operations to the Arizona Department of Gaming but that information comes directly from the tribes, not from the NIGC.

COMMISSIONER BIBLE: Is that a revenue audit or a compliance audit or both?

MR. HUSK: That is a revenue audit that is required annually.

COMMISSIONER BIBLE: And for Ms. Coleman, do you have basic revenue data from all of the tribal gaming operations throughout the country?

MS. COLEMAN: Yes, we do.

COMMISSIONER BIBLE: That would be broken down by denomination, whether it's table games or machines or something of that nature?

MS. COLEMAN: It often is, yes.

COMMISSIONER BIBLE: Do you have a standard format where you solicit that information and collect it?
MS. COLEMAN: No, the audits are done under generally accepted accounting principles. They -- they look pretty uniform.

COMMISSIONER BIBLE: So you just have basic audit information. You don't have detailed revenue operation in terms of the gaming operations that would indicate, for instance, how much of the win comes from nickel machines or dollar machines or quarter machines or table games or something of that nature?

MS. COLEMAN: I'd have to ask our auditor.

COMMISSIONER BIBLE: Do you also have pretty good expense information and distribution information that indicates where the monies are being expended and how they're being distributed to either the tribe or the tribal members?

MS. COLEMAN: No, at this time we really don't have a lot of that information.

COMMISSIONER BIBLE: Is the Commission willing to share all of that revenue data with this particular Commission?

MS. COLEMAN: We will share such information we can. We are constrained by the Act as far as sharing proprietary information.

COMMISSIONER BIBLE: What would you consider proprietary information?

MS. COLEMAN: A lot of the audit information is considered proprietary.

COMMISSIONER BIBLE: So you would not be in a position to share the audit information?
MS. COLEMAN: We may be able to provide some broad figures. There are also, if you've seen the GAO report that does some summarizing of the figures.

COMMISSIONER BIBLE: I have seen the report. They relied upon the reports that you have within your agency?

MS. COLEMAN: Yes, yes.

CHAIRPERSON JAMES: Can I just interject here for a point of clarification? The particular act that you refer to which would make that information unavailable to this Commission, does that say that you cannot share it with other federal agencies or you may not share it with the public?

MS. COLEMAN: It requires -- it requires us to hold it pursuant to the Freedom of Information Act, exemptions 4 and 7. The Freedom of Information Act does not allow sharing with other federal agencies unless for law enforcement purposes.

COMMISSIONER BIBLE: So you have shared that information then with the Department of Justice?

MS. COLEMAN: For law enforcement purposes, yes.

COMMISSIONER LOESCHER: Madam Chairman?

CHAIRPERSON JAMES: Commissioner Loescher.

COMMISSIONER LOESCHER: I believe that I have a different understanding of what our statute says, vis-a-vis the IGRA statute and I think we should ask our counsel to give us advice on how much and where we can get this information from. I believe that under our statute under the confidentiality provisions and protections that our statute enables, we should be able to reach into the National Indian Gaming Commission and secure the data on a confidential basis for this Commission. So
if there's any question I would urge you, Madam Chairman, to have our counsel review that matter with the Indian Gaming Commission.

COMMISSIONER BIBLE: I would share that belief and if it's appropriate make a request for all of this particular information certainly in an informal form to begin with.

CHAIRPERSON JAMES: Certainly, and we'll do that.

COMMISSIONER BIBLE: And then to follow up on another question to Ms. Coleman, your statement indicates that there's 285 gaming operations, 188 tribes are operating in 28 states and yet your budget is only 40 employees and $5 million. Are you adequately funded at all to fulfill your mission?

MS. COLEMAN: We have received more funding. We expect to be expanding very soon. We will have many more field investigators out in the field in the very near future.

COMMISSIONER BIBLE: Are you currently funded in an adequate level to fulfill your mission?

MS. COLEMAN: For 5 million, no.

COMMISSIONER BIBLE: No.

MS. COLEMAN: We are going to expand. We are going to have more money.

COMMISSIONER BIBLE: And why did it take 10 years to just adopt minimum internal control standards. That's sort of fundamental to the business. That's what you do first before you start operating.

MS. COLEMAN: I cannot speak for why it was not done before but since I've been there and Commissioner Hogan has been there, we realized the need for such standards and when the Commission decided to go ahead with those, they moved very
quickly. We hired an outside consultant, Arthur Andersen, who
had people who specialized in this area and we've had the
assistance of the states and NIGA NCAI task force as well as
advisory committee. Considering we're the government, we've
actually moved fairly quickly on this section, I think.

COMMISSIONER BIBLE: Ten years after tribal gaming
started you're just adopting the standard and you think you've
moved quickly?

MS. COLEMAN: Well, the National Indian Gaming
Commission didn't come into -- they weren't all appointed until
1991. The basic regulations weren't effective until '93. As I
said, our focus at the beginning was management contract
approval, the background investigations. Those are the things
that were being done first and then as we got into enforcement,
we realized the need for these standards and we've started
moving. And we moved into it very quickly when we realized the
need for it.

COMMISSIONER BIBLE: And the reason I ask the
question is we had testimony and today to some extent that
indicated at least tribal gaming is one of the most heavily
regulated segments of the gaming industry. Your own testimony
would indicate that at least from your perspective you have
inadequate funding. You haven't had funding for a number of
positions that's adequate to fulfill your mission and you're just
now adopting really the basic tenants of good regulatory practice
which is adoption of minimum internal control standards.

MS. COLEMAN: Well, I think that what I've been
saying is that we're about to have more money. We are doing a
human's job, I would say considering our resources. I have seen -- for instance, let me give you an example. The State of New Jersey has three times more people, has 12 facilities right in a row and yet, they only average about 25 enforcement actions a year, not because they don't have many violations. I've been told that they average about 6,000 violations a year, but they only bring about 25 actions.

Well, we bring that many with one-third the number of resources and the mix, they are necessary in some places, they aren't necessary everywhere. There are many tribes that have, as I said, internal controls that are beyond any of the non-Indian gaming facilities.

COMMISSIONER BIBLE: Are they applicable to Class III gaming?

MS. COLEMAN: Yes.

COMMISSIONER BIBLE: You also indicated in your statement that the NIGC has the authority to determine whether Class III gaming is conducted in conformance with the tribal/state compact. Have you made such a determination in the State of California?

MS. COLEMAN: There are very few compacts in California.

COMMISSIONER BIBLE: Well, is all the gaming that's being conducted then in accordance with a compact?

MS. COLEMAN: The gaming that is being conducted down there is Class III gaming without a compact.

COMMISSIONER BIBLE: Have you taken enforcement action?
MS. COLEMAN: The U.S. -- we have taken enforcement actions, yes, but primarily the U.S. Attorneys are taking lead on those actions.

COMMISSIONER BIBLE: But you haven't independently fined the operations or anything of that nature?

MS. COLEMAN: Yes, we can.

COMMISSIONER BIBLE: Have you done that?

MS. COLEMAN: Yes.

COMMISSIONER BIBLE: You have?

MS. COLEMAN: Yes.

COMMISSIONER BIBLE: Have you lodged fines against all the tribes that are --

MS. COLEMAN: Pardon?

COMMISSIONER BIBLE: Have you taken action and assessed fines against all of the tribal operations that are involved in Class III gaming?

MS. COLEMAN: No, we haven't.

COMMISSIONER BIBLE: Is there some sort of lack of uniformity or what's the problem?

MS. COLEMAN: No, the United States Attorneys as well as the NIGC both have the authority to bring such actions. One of the things we try to do is to coordinate our resources, coordinate our actions. The way we split up our responsibilities in California is we inform the tribes that if any new tribes try to open up Class III that we would come in and enforce against them immediately and that the U.S. Attorneys would be bringing the enforcement actions against them and that's how we spilt up our responsibilities.
CHAIRPERSON JAMES: Any other Commissioners?

COMMISSIONER McCARTHY: Just briefly.

CHAIRPERSON JAMES: Commissioner McCarthy.

COMMISSIONER McCARTHY: I'd be interested in knowing what directions your Commission gave to Arthur Andersen in setting up auditing standards for the Commission to use in auditing tribes around the country, if you could share those with us. You indicated Arthur Andersen was brought in recently to help standardize your auditing procedures. Did I understand you correctly?

MS. COLEMAN: Not really to standardize our auditing procedures.

COMMISSIONER McCARTHY: What are you asking Arthur Andersen to do?

MS. COLEMAN: What we asked Arthur Andersen to do is we said, "We want to establish internal controls that are uniform throughout the United States and are applicable throughout Indian country". And those kinds of standards are what do you do with cash accounting? Do you have three slips of paper --

COMMISSIONER McCARTHY: Why don't you just give us a list of the things that you've asked Arthur Andersen to standardize and what we'd like to do is compare that to what the most active regulatory systems at the state level ask in a similar area. Are you following what I'm asking?

MS. COLEMAN: Yes.

COMMISSIONER McCARTHY: Thank you.

MS. COLEMAN: You would like me to provide it for the record or you want --
COMMISSIONER McCARTHY: Yes, I want you to please mail it to the Commission, ask your Chairman to mail it to the Commission.

MS. COLEMAN: I would be glad to.

COMMISSIONER McCARTHY: All right, thank you. Just a brief question, Mr. Metoxen; and it regards the tribal regulators' meetings. Do the -- I don't know how long you've been in existence and how often you meet but do the tribal regulators attempt to -- let me back up.

The states can enter into interstate compacts which are short of federal law and regulation, into interstate compacts which is allowed by federal law but in many different situations two or many states enter into interstate compacts so that they have the same standard in different areas, whether they share water rights or whether it's depositing nuclear waste, it's any number -- is there any discussion going on among Native American tribes that do operate gambling to possibly among themselves now, enter into any kind of similar compact if it is -- I realize they're independent sovereign nations, but they also have the right to make the judgment that they might enter into something similar to interstate compacts to standardize so that all of the questions that come up about, "Gee, well this tribe is doing a great job but we don't know -- since we don't have access to any information, we don't know what that tribe is doing".

Is there any discussion at your tribal regulators' meetings to bring back to the chairpersons of the different tribes some proposals on trying to standardize across the country among all tribal gambling operations?
MR. METOXEN: Yes, actually, the discussion has been going on for some time and that's where the tribal regulators have maintained an involvement in the development of the national mix that have been forwarded to the Senate Committee as well as the National Indian Gaming Commission. The tribal regulators themselves do recognize the importance of a standardized minimum internal controls that could be applied. At the federal level, if that goes into the approval process then what you're looking at from the tribal regulatory standpoint is then the tribes themselves must have at least standards that meet these minimum internal controls.

It doesn't necessarily say that means you will adopt these minimum control standards, what it means you must have within your own tribe. An example, and I hope I'm putting this appropriately, is that if the Oneida Tribe, which we do have our own Oneida minimum internal control standards, if you could compare those to the national mix that have been completed by the NIGA and NTGC&R, they meet and exceed what they have in place.

COMMISSIONER McCARTHY: Why not adoption? In an interstate compact situation, the state through its governor and legislature will act to endorse the interstate compact. There is a public procedure set out. Why not propose adoption by the independent sovereign nation tribes to adopt and to agree to out of their own free will something that would be similar to the interstate compact among a number of tribes, copying the best uniform code laws adopted to tribal conditions, whether it's in auditing or in other areas? Why not go a step further?
MR. METOXEN: That question would be better put towards one of the tribal leaders or representation for the tribal leaders. Speaking on behalf of the tribal regulators, our comments and statements have been to support that minimum internal controls standards be recognized and be established. That's where our involvement comes in at that time is recognizing. The tribal regulators themselves will discuss these issues when they get together in a comparison of the mix and the minimum standards they have.

COMMISSIONER McCARTHY: But I think they're looking to all the bright people that go to the tribal regulators' meeting for recommendations like that.

CHAIRPERSON JAMES: Thank you. Any other questions?

COMMISSIONER MOORE: I would just like to make one comment, Madam Chairman.

CHAIRPERSON JAMES: Absolutely.

COMMISSIONER MOORE: We've heard how well the Indian gaming is regulated. What I'd like to make a comment is that of all the Indian -- some information that I have here in 1995 109 Class III Indian gaming facilities, casino type gaming generated about half as much money as the 12 casinos that's lined up on a straight line in Atlantic City yet, somewhere else, I can't find it, I have all of this amount of money that Atlantic City spends on gaming and how many regulators they have.

I think it's about twice as much. They spend about twice as much. I believe their budget as Mr. Bible has in about --
COMMISSIONER BIBLE: I think they're about three times but they're coming down.

COMMISSIONER MOORE: Okay, and he has a lot of them scattered everywhere. I'd just like to -- I think that Mr. Bible and the New Jersey group, I think they ought to copy because the Indians are getting theirs regulated better than anyone, for almost nothing.

COMMISSIONER BIBLE: I agree wholeheartedly. Thank you.

(Laughter)

CHAIRPERSON JAMES: I hope you hadn't missed the sort of sarcasm there. I hope the subtlety wasn't lost.

COMMISSIONER MOORE: But I don't really know how they know how it's regulated because no one knows how much money went in. I do have some figures here that we got from somewhere, how much money goes in and how much money comes out. So how do we know how it's regulated.

COMMISSIONER BIBLE: Doctor Moore, the reason I asked the question about revenue data is that's kind of a fundamental point or part of regulation. We, for instance, take all of the data off of all the gaming devices in the State of Nevada and all of the table games in the State of Nevada and we compare the winning figures and compare those to statistical norms to make a determination as to whether they're within the expected pattern. We try to understand and fully explore any variance from that data, a very easy thing to be done and I suspect that neither the State of Arizona nor probably the National Indian Gaming Commission has that data for tribal gaming operations where they
could simply run it on a machine basis and take a look at the figures.

And that's just one item. I mean, there's thousands of items that are like that. Minimum control standards are the fundamental part of gaming regulation. They deal with, as Ms. Coleman indicated, who has access to the keys and how many people you have in the count room and how you bundle the money and how you calibrate the weigh scales and a hundred things like that and I'm just surprised after 10 years they're just now talking about doing those sort of things.

And I do recognize and I've talked with a number of the tribes throughout the United States and I believe the regulatory pattern is really kind of a patchwork, it's a quilt. In some cases it's very, very good. Some of the tribes have done an extraordinarily good job of regulating the gaming. In other areas they haven't been quite so successful.

CHAIRPERSON JAMES: Any additional questions? While I know this is an absolutely fascinating discussion and regulations are something that we probably could spend the rest of our afternoon chatting about, I think that we do have a subcommittee that's chaired with that responsibility and I suspect that they will be delving even more deeply into these areas and I would ask that you continue to make yourselves available in terms of providing information and counsel and advice to our subcommittee.

I want to thank each of you for participating today and for your testimony. Thank you very much. Just one or two little housekeeping items in terms of where we are in our
schedule and how we can make up some of the time and how we can also accommodate our Commissioners not passing out up here for lack of food and breaks. There is no perfect solution for that but let me offer a potential solution.