

## 1 DIVISION OF MUSEUMS &amp; HISTORY

## 2 ORIENTATION MEETING

## 3 PREPARING FOR DRAFTING REGULATIONS PER SB 244

4 Thursday, December 13, 2018

5  
6 FREEDMAN: First, please sign in, if you didn't. And  
7 Las Vegas can you hear us? Can you wave your hand if you can  
8 hear us? Oh, thank you. [Laughter]. Has everybody signed in  
9 down there?

10 BARTON: I heard somebody cough.

11 FREEDMAN: Is everybody signed in?

12 SPEAKER: Yes.

13 FREEDMAN: Thank you. We have somebody refreshments  
14 here for anybody who wants them. Las Vegas you'll have to get on  
15 a plane right now if you're going to have refreshments. It's up  
16 to you.

17 The restrooms are on the first floor, they're not on this  
18 floor, so just go down the steps or the elevator to the first  
19 floor, and that's where you'll find restrooms.

20 Because we don't know how long we'll be here today, we'll  
21 take a break at some point, maybe around 10:30 if things go on  
22 for a while. Let me introduce Peter Barton, he's the  
23 Administrator for the National Museums and History.

24 BARTON: Good morning, and welcome to everyone here.  
25 We appreciate the input, and we're here I guess today more to

1 listen than anything. And we'll continue this process. We'll  
2 make an announcement today on a date and time for a follow up  
3 meeting to today. So, welcome and thank you.

4 FREEDMAN: Okay, so let's get - and be sure to sign in  
5 if you haven't. Let's call the meeting to order then at 9:10 in  
6 the morning here.

7 BARTON: We're good.

8 FREEDMAN: And we're going to start off with an  
9 invocation. And thank you Melba for leading us through that.

10 RAKOW: Good morning, I'm Melba from the Washoe  
11 Tribe. What I'm going to just be talking about is our meeting  
12 and we hope to come to a - you know, back each other on things.  
13 And there are a lot of things going on, but hey, you know we're  
14 here.

15 We know what we want and what we should do. So, just have  
16 a kind of a peace, no arguments, no fighting, let's come to a  
17 happy medium.

18 So, basically, that's what I'm going to be talking about.  
19 [Invocation in Washoe language].

20 FREEDMAN: One more item here is to be sure to speak  
21 up. We're recording the meeting today, but also so our fellow  
22 media attendees in Las Vegas can hear. Can you hear us okay?

23 SPEAKERS: Yes.

24

25

1           FREEDMAN:           Okay, thank you. Why don't we go around  
2 the room and we can introduce ourselves. We'll start with Gene  
3 on my left here.

4           HATTORI:            I'm Gene Hattori, I'm the Curator of  
5 Anthropology here at the Museum.

6           WARREN:            Warren Grant the [inaudible] tribe.

7           LENT:               Joseph Lent, Bridgeport Indian Colony.

8           PETERS:            Sarah Peters [inaudible] Associates on  
9 technical support for the [inaudible] Tribal Council. And also  
10 as the newest Assemblywoman for District 24 and this is in the  
11 heart of Reno.

12          SPEAKER:           Yay!

13          SMITH:             And I'm Sarah Smith, and I work for  
14 McGuinnes [phonetic] and Associates as a cultural resource  
15 anthropologist.

16          NEBESKY:           Good morning, I'm Scott Nebesky, I'm the  
17 Planning Director at the Reno Sparks Indian Colony.

18          EBON:               Good morning Michon Ebon with the Reno  
19 Sparks Indian Colony.

20          WILLIAMS:          Good morning, Marla McDade Williams. I am  
21 a member of the Tool tribe of Western Shoshone and I work with  
22 Strategies 360 and we represent the Reno Sparks Indian Colony.

23          MARK:               Mark Triphoni [phonetic] also Chairman of  
24 the [inaudible].

25          CARERRA:           Dave Carrera Battle Mountain Chair Person.

1           BARTON:           Peter Barton, again, Administrator for  
2 Museums and History.

3           ROBERTS:          Ron Roberts, I have - a member of the  
4 Friends of the Nevada State Museum.

5           CAMP:             I'm Anna Camp, I'm a curator here at the  
6 Nevada State Museum in Carson City.

7           RAHDER:          Good morning, I'm Bobbi Rahder I'm the  
8 Museum Director for the Stewart Indian School Cultural Center  
9 Museum.

10          RAKOW:            And I'm Melba Rakow I'm part of the Ric-Rak  
11 Committee, Washoe.

12          SPEAKER:         Good morning, I'm Washoe Tribe member of  
13 the Washoe Cultural Resource Advisory Committee.

14          JOHANNA:         I'm Johanna [inaudible] of the Washoe  
15 Tribe. I'm a member of the Cultural Committee.

16          GIBBS:            I'm Riley Gibbs. I'm a member of the  
17 Washoe Tribe and also a member of the Ric-Rak Committee.

18          DRYE:             Good morning, my name is Fred Drye. I'm an  
19 interested party, and I'm retired first and I work with the  
20 Tribal Government Advisor.

21          BRADLEY:         I'm Sarah Bradley. I'm an attorney with  
22 the Attorney General's office representing the Museum.

23          SPEAKER:         Good morning, I'm Shosheena [phonetic] the  
24 [inaudible] patron.

25

1 MISTY: Misty Banham [inaudible] Tribe Cultural  
2 Resources.

3 SPEAKER: David.

4 SPEAKER: David McDowell, IT with the Museums.

5 FREEDMAN: Myron Freedman Director of the United  
6 States Museum.

7 All right, at this time the floor is open for public  
8 comment. And there's not a lot of us here today, but why don't  
9 say five minutes just to make sure everybody gets a chance to  
10 speak. This is general comments on whatever you wish.

11 BARTON: Myron, may I just remind everyone before  
12 you speak, it's absolutely imperative that you identify yourself.  
13 We are recording this meeting. These meeting notes will be  
14 transcribed, but they're transcribed by a firm outside Carson  
15 City. So, if you don't identify yourself, it comes back with a  
16 question mark, and then who spoke and what they said.

17 RASHON: Myron, can we have Las Vegas introduce  
18 themselves?

19 FREEDMAN: Oh, I'm sorry, thank you Rashon.

20 MORGANSON: Helen Morganson with the past president of  
21 Archial Nevada Society, Secretary of the Citizens for [inaudible]  
22 Sunrise Mountain Area. We have been involved in a lot of Native  
23 American issues on [inaudible] through the University of Las  
24 Vegas, Nevada, the Anthropology Department, the Lost City Museum

25

1 under Pat Olsen, and the US Forest Service. We've been involved  
2 in a volunteer way to help the officials do what they have to do.

3 I know on the US Forest Service, we're working under Dr.  
4 Clark Warren with the excavation of a roasting pit, and it did  
5 reveal a skeleton and the professionals who are responsible for  
6 writing up that report.

7 Pat Olsen also has some burials that we - we didn't  
8 participate in, but we knew about them, and like the Old Mormon  
9 Fort has a burial there, and that was an agreement made with the  
10 Tribe to leave it there, and I'm a member of the Old Mormon -  
11 Friends of the Old Mormon Fort. So, that's my association with  
12 this policy.

13 FREEDMAN: Okay.

14 MCBRIDE: Dennis McBride, Director of Nevada State  
15 Museum, Las Vegas.

16 LOPEZ: I'm Virginia Lopez, new Curator of the Lost  
17 City Museum.

18 UNDERWOOD: Sally Underwood, Curator of Natural History  
19 of the United States Museum, Las Vegas.

20 BENEDICT: Laura Benedict, Curator of the Southern  
21 Nevada Federal Repository.

22 WHITE: Good morning, Zacharia White, IT Tech, for  
23 the Department Resource and Cultural Affairs.

24 FREEDMAN: Thank you. Anybody else in Las Vegas?

25 SPEAKER: This is it.

1           FREEDMAN:           Well, if I forget you again, please speak  
2 up. Thank you Michon.

3           So, now the floor is open for general comment.

4           RAKOW:                I thought...

5           FREEDMAN:           You have to introduce yourself.

6           RAKOW:                Oh, sorry, I'm Melba Rakow, and I have a  
7 small change in some of the wording, so do I present that now, or  
8 can we do that later?

9           FREEDMAN:           So, is this about the regulations?

10          RAKOW:                Yes.

11          FREEDMAN:           We're going to have a section comment just  
12 on the regulations.

13          RAKOW:                Okay, then I'll wait till then.

14          FREEDMAN:           Okay. This is open to any topic you like.  
15 Las Vegas anybody? Seeing none...

16          SPEAKER:             None.

17          FREEDMAN:           Okay, thank you, seeing none, we'll move  
18 onto public comment on regulations. These are our changes to NRS  
19 381 which was passed by the 2017 legislature to carry out new  
20 legislation. So, Melba, did you want to talk now?

21          RAKOW:                Sure. The first one was on the new  
22 provision one, and right after where it says consultation may  
23 vary based on tribal entity, and tribal preference and while it  
24 must be a government to government interaction, representatives  
25 of cultural specialists is what we basically added, this cultural

1 specialist defined in the regulations, and concerns that any  
2 tribe member may claim to be a specialist when in fact has no  
3 tribal government affiliation.

4 And so that's kind of something we want to clarify.

5 FREEDMAN: Anna, any comment on that?

6 CAMP: This is Anna Camp from the Nevada State  
7 Museum Carson City. And the choice in wording for that was after  
8 a meeting that I had with Joe from Battle Mountain and it was the  
9 idea that maybe we could move forward with having people trained  
10 in specific tribes.

11 Some people do have THPOs or Tribal Historic Preservation  
12 Officers. Other people do not. So, this was part of that  
13 request to not just be called monitors, but to be called cultural  
14 specialists.

15 My intent with that wording was that hopefully we can make  
16 sure that some people within specific tribes are trained in that  
17 manner. But no, I don't believe we have a definition, so that  
18 would be something we should work on.

19 RAKOW: Just - you know just add it perhaps, and  
20 maybe put what you said in as being trained, because I think it's  
21 important.

22 CAMP: Thank you, Melba.

23 RAKOW: You're welcome. And then further on down  
24 in new provisions three, it says a known prehistoric Native  
25 Indian burial site is previously reported prehistoric Native



1 American. Okay, interchanging Indian and Native, is that because  
2 of the wording, or is it a conflict of word usage?

3 CAMP: Can I comment on that?

4 SPEAKER: Yes, please.

5 CAMP: From what I - from what I understand and  
6 from reading through the - through NRS 381, this is Anna Camp  
7 from the Nevada State Museum again.

8 The wording in 381, they tend to use Indian, and not Native  
9 American. So, there is some interchanging of that terminology,  
10 but maybe we could decide what is - what works better.

11 RAKOW: Yeah, that's something that could be  
12 changed perhaps even to a burial site, if say it's in Washoe  
13 Territory would be considered a Washoe burial; where it's in  
14 Paiute Territory, it could be a Paiute burial. And defining,  
15 because Indian of course was something a term that was put on us  
16 by the conqueror, excuse the expression, but when you do that, it  
17 says Indian, and we're associated with India and we're not.

18 CAMP: Right, yes, yes.

19 RAKOW: So, Native American. Native American today  
20 is referred to as supposedly back then we weren't considered  
21 Native American, because American - we weren't even Americans  
22 until what the early 1900s.

23 So, I think that needs to be defined as the tribal  
24 affiliation, really.

25

1           CAMP:                 Sarah, can I ask you - this is Anna Camp  
2 again. I'm not sure about with 381 if the wording can be changed  
3 in this particular law, but in the regulations we could change  
4 it, I would assume, do you know Sarah?

5           BRADLEY:            So, this is Sarah Bradley for the record,  
6 and so the draft that we do, we're going to hopefully get a draft  
7 passed, it won't be reviewed by the Legislative Counsel Bureau  
8 right now, just because of the timing we have. Later they might,  
9 when we go do this again next year, we'll want a permanent  
10 regulation.

11           So, I guess what I'm trying to say is, I'm not sure the  
12 Legislative Counsel Bureau will let us change the wording, but we  
13 could in the interim. I don't know - because I agree with what  
14 Ms. Camp said for whatever reason in NRS 381, they do refer to  
15 Indian Tribes I think, and I think some of this wording here was  
16 trying to - you know kind of mirror and explain.

17           So, I mean I think I would be happy to use whatever term  
18 you prefer, and then maybe it just may not last after November,  
19 so just so everybody knows and we're outside, you all know this  
20 the legislative session is coming up. And so what we do  
21 eventually here will be law until November of next year.

22           RAKOW:             Yeah.

23           BRADLEY:            But once it's adopted. And so - and that  
24 won't be today. And so after November we have to have a new  
25 draft and send it to the Legislative Counsel Bureau, and I'm just

1 not sure what they would say about - because I kind of agree. I  
2 think they're going to want us to match the language in on the  
3 NRS, which is the legislative purview. But I mean I'd be happy  
4 to - I think whatever makes the most sense.

5 RAKOW: Well, even if you just put a little  
6 explanation like - you know like a blockage and say.

7 BRADLEY: Yes, yes. But I think we got this..

8 RAKOW: Right, we're actually..

9 BRADLEY: I think we got this definition, I could be  
10 wrong from somewhere else, because we were trying to talk about  
11 where they're recorded, you know we're trying to define what is a  
12 known one, and you know so my understanding is this wording -  
13 what we were trying use from someone else.

14 RAKOW: Well, I know basically speaking back in the  
15 past, everybody thought of Native Americans or Indians just as  
16 one group. But we're not. We're many. And if we're - if we  
17 have this territory over here, it's just like at one point they  
18 tried to put Washoes over in - what is it the - the Cannon Lake.  
19 And sure some of them are relatives, but at the same time, we are  
20 a distinct different language, and a distinct different peoples.

21 And so hence if we find somebody - for instance a bone is  
22 in a territory, we don't want to, you know infringe on you guys  
23 for instance, and say okay, we're going to repatriate this over  
24 here, because it was found right here. And so, if we have a  
25

1 definite you know - a tribal affiliation, we'll know where to put  
2 that person.

3 BRADLEY: Yes.

4 RAKOW: So, that's my..

5 GIBBS: This is Lana Gibbs, I'm from Washoe County.  
6 I would even go further. You know we have distinct names for our  
7 territory, where our people came from like [inaudible] and that  
8 might even be a better way of saying that that's where this  
9 person was from, or that item was discovered, or whatever. That  
10 identifies it specifically to that area.

11 CAMP: Okay. This is Anna Camp again. So, my  
12 only concern with that - I am happy to refer to anybody however  
13 they would like to - whatever you know terminology or if you'd  
14 like me to use your language, that's fine, when I'm doing  
15 consultation.

16 I'm not sure how we can put that into regulation. That - I  
17 think with regulations they are general, so maybe we can use  
18 Native American for the regulations, I would assume we're going  
19 to have to come with some policies and procedures as well to be  
20 specific to each tribe.

21 Because each one of the tribes is going to have a specific  
22 way they want to handle human remains, a way that they want  
23 consultation to happen, so would it be all right to have that in  
24 policies and procedures? I don't know Sarah, as far as using

25

1 specific tribal names within a regulation, is that something  
2 that's possible?

3 BRADLEY: This is Sarah Bradley for the record,  
4 again. I think it is possible, but the problem is could we get a  
5 list of everybody and everything, I'm just not sure. So, my fear  
6 would be if we include some and not all, you know it also might  
7 get - be a little bit confusing.

8 I'm almost wondering if what Anna is proposing might be a  
9 better way to go, meaning we have a policy, because we recognize  
10 that everybody is different and has different you know  
11 governments, and processes, and rules, and things like that. And  
12 so I don't know if that would work, but basically have a - you  
13 know a plan or a procedure with each tribe, and so that way it's  
14 specific.

15 Because my understanding is they're very different  
16 sometimes.

17 RAKOW: They are.

18 BRADLEY: In what you want. And so we want to try to  
19 - we're struggling I think, we're trying to write something here  
20 that we have in - you know we have a guideline that we have to be  
21 right, as long as we put it in regulation, we're bound by it. We  
22 have to do it. And so we want to have something written down so  
23 everybody knows, but then you also want to respect everybody's  
24 individual tribal preferences, and so we're just not sure. I  
25 mean my concern is, I mean maybe we can - we can add another

1 name, like Native American you know or Indian - the Indian  
2 language and I know it's not preference, I don't really know why,  
3 but it's about 381 in the NRS.

4 And so normally what a regulation does is it tries..

5 RAKOW: But is it..

6 BRADLEY: Yes, well maybe it should be. I mean you  
7 know, I certainly am not opposed to changing those things, but  
8 what we're trying to do in regulations is explain the NRS, if  
9 that makes sense. And so, we're using some of the same words  
10 from the NRS, because we're trying to explain it. And so, I  
11 guess if you [inaudible] - it probably could mean a way from  
12 totally and putting those words in there, but we could add other  
13 ones, and then we could just say, you know, because we do try to  
14 talk about tribal, and tribal things in here.

15 So, maybe we add tribal and maybe that would be - you know  
16 again, we're open to doing I think what we can, but at the same  
17 time want it to be clear and enforceable and..

18 RAKOW: I think somewhere down the line it will -  
19 oh, this is Melba Rakow again. It has to be addressed.

20 BRADLEY: Yes, I agree.

21 RAKOW: And eventually it's something that's  
22 coming, and I think it's fair to all tribes, I mean we have our  
23 different ceremonies, and different things we do to repatriate,  
24 etc., and it's something we should do. It's just kind of  
25 respectful to everybody.

1           FREEDMAN:           Myron Freedman for the record. And I think  
2 this provision seems to initiate a process, and for that purpose  
3 perhaps the phrase you sort threw out, Melba, which was defined  
4 by Tribal Affiliation could be worked into that language there,  
5 and that again just establishes that that's a step that has to be  
6 taken at some point in this process to...

7           RAKOW:           Right.

8           DRYE:           Fred Dye, interested party. I would think  
9 that - that you have a law in place right now in the NRS, and to  
10 be consistent with that law, you know it says Indian Tribes, why  
11 not just define it in the regulations as Tribal Affiliation,  
12 because that way it's spread out depending on you know where the  
13 sites are, in what reservation or you know what tribe you're  
14 talking about, that Tribal Affiliation would take care of it, if  
15 it's properly defined in the regulation.

16          RAKOW:           Okay, that sounds good.

17          CAMP:           Tribal Affiliation?

18          BRADLEY:         Right, so this is Sarah Bradley for the  
19 record. So that it would be Indian Tribe means Tribal  
20 Affiliation and that would - okay.

21          WILLIAMS:         This is Marla you know and I think building  
22 on what you're saying Sarah, Marla McDade Williams, we do need to  
23 be consistent in our - in our definitions in the regulations with  
24 the statutes. I think there's an opportunity to broaden it just  
25 to recognize that there are essentially three Tribal Nations in

1 the State of Nevada, Shoshone, Paiute and Washoe. And within  
2 those ancestral you know identifications, there are subsets, and  
3 that it's really the subset that we're trying to deal with on an  
4 individual level.

5 So, from the broader level I think you're referring to the  
6 Paiute, Washoe and Shoshone Tribes, and then recognizing that  
7 each - to those entities is even a smaller subset that's going to  
8 want to have things handled differently potentially, you know  
9 even among - well, I'll just leave it at that. But I do think  
10 that most of my clauses I went through to relate to the  
11 definitions, because they stray from the statutes and because I  
12 grew up in those statutes, it's hard for me to - to figure out  
13 what's actually intended. So, that the more we stray from the  
14 statutory definitions, I think the more problematic we're going  
15 to make implementation, I think that's my input.

16 And there are a number of provisions in here where that's  
17 exactly what we do. We try to create a new definition for  
18 something that's already in the statute rather than recognizing  
19 that statutory definition, and then if needed offering some other  
20 way to address the issue at hand.

21 Which you know that's it, I mean it already talks about  
22 cultural affiliation, and you know there's additional terminology  
23 in here that even strays from that, and wants us to follow 25 US  
24 Code something, something, and I'm not certain that we should be



1 adopting definitions from the US Code into these regulations,  
2 because it's going to conflict with state law.

3       You know we had that discussion when we went through the  
4 legislative process on this about some of these definitions  
5 conflicting with NAGPRA and you know let's try to write it so  
6 it's all consistent with NAGPRA, but it just didn't get there.  
7 So, you know that may be a project for the future.

8       But for now, I think we can't convolute it with adding in  
9 additional definitions of things that don't have that statutory  
10 support.

11       FREEDMAN:           Additional comments?

12       NEBESKY:           For the record, Scott Nebesky, I'm the  
13 Planning Director with the Reno Sparks Indian Colony. Just some  
14 general comments about process, and substance.

15       One is the challenge, and link, and the view have the same  
16 challenge of having two sets of regulations being developed  
17 within the same context of human remains, and respect for Native  
18 Americans and the process of consultation and repatriation, I  
19 know that SHPO has a distinct role in - the Museums have a  
20 distinct role, but there's still a lot of overlap.

21       So, one of the things that I'm challenged with is we've  
22 seen some of the procedures that SHPO want to propose, and we've  
23 certainly seen what you're proposing, as far as regulations. So,  
24 the question is, is what is going to be the process to ensure  
25 that there's consistency, you know like the definitions?

1 Consistency with substance, and approach and process, and you  
2 know how do we get - are you going to reconcile the two and work  
3 together to - because while you may be under 381, Tribes are  
4 under 381 and 383. So, we're trying to you know figure out how,  
5 and consultants, you know all the state workers.

6 So, that's just a challenge that's been a question of the  
7 process and you know had to be reconciled too, and make sure  
8 they're consistent and they're not in conflict, and they don't  
9 create ambiguity, you know for Tribes or for the consultants or  
10 for staff that's you know processing these regulations. So,  
11 that's just a general - a general comment that I think.

12 The second comment goes to what we've just been talking  
13 about, you know the Colony was deeply involved in the development  
14 of SB 244. And I think the cornerstone, and certainly it seems  
15 to me it was the foundation of where we started was in regards to  
16 values, beliefs, and traditions of the Nevada Tribes. And when I  
17 look at these proposed regulations, I don't see that in there.

18 Now, I can understand, and you alluded that there is a  
19 challenge because there's three distinct Nations, and then within  
20 those nations there's the various - the various Tribes and they  
21 all have similar or specific values, beliefs, and traditions that  
22 is going to be challenging. So, at the very least I think that  
23 either the - we incorporate those values, beliefs, and traditions  
24 which I think is going to be very challenging, or you identify a  
25 process in which it's clear that when there's consultation,

1 effective consultation occurring, that that's what you're looking  
2 for.

3 I think also in these regs in regards to values, beliefs,  
4 and traditions, is you know not every Tribe is going to have the  
5 level of sophistication that we may all have. You may have some  
6 Tribes that you're going to be dealing with that really - that  
7 may not know State law, may not know these regulations and may  
8 not know their rights.

9 I think all of the consultations should have these regs - a  
10 disclosure to the Tribes that they have an opportunity, they have  
11 a right to have their values, beliefs, and traditions in this  
12 process. If you're not going to identify the process, then you  
13 have to give those Tribes the right to understand that they -  
14 that's an important aspect of how these cultural items and human  
15 remains are going to be - be handled.

16 And I think it's particularly important, when in these  
17 laws, the Museums have the right to delegate to other State  
18 agencies, over individuals that aren't even at this table. And  
19 so you may have a situation where you have a government agency  
20 going to a Tribe and the Tribe not knowing the law or their  
21 rights and this government agency, even though they're supposed  
22 to follow all these regulations, they may not know the history  
23 behind it. And I'm concerned that the values, beliefs, and  
24 traditions will get lost.

25

1 I think they have to be embedded more into these - these  
2 regulations. And I'm not saying how, but I'm just saying you  
3 need to kind of talk about that, what's the most effective way -  
4 and most dynamic, because you're dealing with individual Tribes  
5 throughout Nevada. And this goes for all [inaudible] and then we  
6 can get that.

7 Then another just to put out there is when I was reading  
8 through this [inaudible] 1383, there's expressions, closest  
9 culturally affiliated Tribe, and there's also closest cultural  
10 affiliation. So, I'm reading that, and because there's a two-  
11 step process in many of these things where all the Tribes get  
12 that are affiliated get noticed, and the second step is the  
13 closest affiliated Tribe is who you're going to be working with.

14 So, part of my question is, when you're talking about  
15 closest culturally affiliated tribe, when I read that, because  
16 I'm a geographer, is that the quantity of the modifier, closest,  
17 meaning distance? When I read closest culturally affiliation,  
18 that's kind of quality. That means they're the closest  
19 affiliated with this through the identification of either what's  
20 discovered, as well as what are the characteristics of the Tribe,  
21 and then the closest.

22 There may be circumstances, I don't know exactly a good  
23 example but there may be circumstances where there may be a Tribe  
24 that's closer to this discovery, but there's another Tribe that  
25 has a closer affiliation with it. I mean, I think the regs need

1 to help us understand that, because you know I'm not splitting  
2 hairs, but there's ambiguity in the process.

3       So, it's kind of quality versus quantity is the way I would  
4 phrase it. You know one point I think in the public testimony,  
5 we talked about the Tribes identifying areas of interest or  
6 spheres of interest that may facilitate the process in  
7 identifying who has affiliation geographically. I didn't see  
8 that in here, I wasn't sure whether we're still going to pursue  
9 that, and how we would use it, but I'm just putting it out there  
10 that if you talk about it, and I think in 383 we talk about it  
11 also, that that may be a first cut, or a first tool to use that  
12 all the Tribes put out their boundaries.

13       Another just broad - broad comment is a wide scenario, one  
14 scenario would be is whether it's repatriation or working with  
15 the Tribes, is the Museum is going to through a process of  
16 identifying the closely-affiliated Tribes and if it is  
17 identified, the closest that they work out.

18       The question is, is what happens when the Tribes do not  
19 respond? So, the question would be is, and Marla you may get  
20 into a little more detail, but are the Museums going to still  
21 represent the interests of the Tribes, the values, traditions,  
22 and beliefs even if they don't have a primary tribe representing  
23 the interest of them?

24       Or is there going to be a process in which they're not  
25 going to work with the closest culturally-affiliated Tribe,

1 they'll work with the next one that is available, and I don't  
2 know what - you know what I mean? It's - so how do we sort that  
3 out? Because I think if there is - a lot of Tribes have small  
4 staffs, they may not have a sophisticated staff, and maybe a lot  
5 of different circumstances in which would not afford the  
6 effective consultation that we're looking for, so what happens?

7       And so - and in - under one of these it talks about  
8 evidence of burials. So, there are circumstances that I've been  
9 involved with where and are currently involved with where there  
10 has been discoveries made in a certain geographic area in a  
11 floodplain and we know that there's - there's burials - and  
12 there's a high probability based upon a prior project, the next  
13 project adjacent to it, there isn't any necessarily surface  
14 evidence, and there isn't anything that's recorded, but the  
15 second property has all the characteristics geographically,  
16 topographically, you know flora, fauna all that, that makes it a  
17 high probability, is that something that would be considered when  
18 you're looking at division number three, when you're talking  
19 about that there's evidence of burials, there's evidence past or  
20 professional opinion, or Tribal opinion that this is a - okay, I  
21 think that needs to be - because that could be a known burial  
22 site, it's not recorded, but it's known or a high probability.  
23 So, that's it, I apologize.

24       Because we were talking about the effective collaboration,  
25 so please go on.

1 SMITH: Oh, I was wondering what the definition of  
2 effective collaboration is.

3 FREEDMAN: Please identify yourself.

4 SMITH: Pardon?

5 FREEDMAN: Identify yourself for the..

6 SMITH: Oh, I'm sorry. My name is Sarah Smith, I  
7 work with McGuinness and Associates and [inaudible] represent off  
8 the record, and [inaudible].

9 And one of the things that I personally have studied while  
10 I was in college was the definitions of effective collaboration,  
11 and I'm wondering what your definition of collaboration is.

12 And then on top of that, I had thought would it be  
13 appropriate for each Tribe to develop a plan that describes  
14 effective collaboration for the other entities that they're  
15 working with that instead of plopping that into your provisions,  
16 you would simply say whatever the Tribe is asking us to do we'll  
17 follow.

18 CAMP: This is Anna Camp, the Nevada State Museum.  
19 I'm sorry, did you want to go Joseph?

20 LENT: Yeah...

21 CAMP: Go ahead.

22 LENT: I'm Joseph Lent from Bridgeport Indian  
23 Reservation. I was wondering maybe we just go provision by  
24 provision, instead of bouncing around. I mean to me that would  
25 be a lot easier.

1           CAMP:                Yeah, do you want - I can go ahead and  
2 comment on that - this really quick, and then we could definitely  
3 go provision by provision. Because I would imagine everybody has  
4 something to say about each part. So, that's absolutely fine.

5           As far as a burial plan, and I did initially think of that  
6 in write - when we were writing the regulations, and the only  
7 trouble that I ran into with coming up with - for each Tribe to  
8 come up with its own burial plan is the change in government.

9           So, when I went out this summer, and this fall and visited  
10 all of the Tribes, I discussed that. And people did say, you  
11 know we would like to have our own burial plan.

12          But then you know in speaking with Marla, Marla I know  
13 you've said this before, that you're more concerned about how  
14 government agencies interact with Tribes, rather than how the  
15 Tribes interact necessarily with us.

16          So, I do agree it would be nice for each Tribe to have a  
17 burial plan, that would be preferable for somebody like me,  
18 because I would know how to address each group, or each Tribe  
19 specifically. But I did have trouble getting information, and  
20 sometimes I have trouble just making contact. So, I'm just - and  
21 there's changeover in government.

22          So, my concern with that is, is that will the new  
23 government in two years agree with the burial plan that's already  
24 in place? So, it puts a lot of responsibility on the Tribes  
25 which you know I think that works for some Tribes whereas for



1 other Tribes it might not work because they just are - they don't  
2 have the staff or the people to help them with that. But if  
3 that's something that we think can happen, that's preferable.

4 WILLIAMS: Or I could just clarify them for Scott, I  
5 think, but my comment was I don't think it would appropriate for  
6 these regulations to require a Tribe to develop a burial plan. I  
7 think it's more appropriate for these regulations to identify how  
8 the Division intends to work with Tribes.

9 CAMP: Okay.

10 WILLIAMS: Not to impose an additional burden on  
11 Tribes, but for the Division to recognize this is our  
12 responsibility, we're put here in the middle to work through this  
13 permit process for an excavation of a burial site on private  
14 land, and we have an obligation to work with Tribes to do that.

15 And so our obligation really is to get into that quality  
16 point of having a relationship strong enough with the Tribes and  
17 say this is what we found, you know, Michon, Melba it's here. I  
18 mean are you guys going to be agreed on you know who wants to  
19 move this forward. It's having that quality discussion rather  
20 than saying okay, well there's this - this permit wants to happen  
21 on this plot of land, and it's in Washoe Territory and now I'm  
22 going to pull the Washoe Tribe's burial plan and this is how  
23 we're going to handle it, without letting the Washoe Tribe handle  
24 it. That's where I tried to go with my comment.

25 CAMP: Perfect.

1           FREEDMAN:           That's Marla.

2           WILLIAMS:           Yes, I'm sorry, Marla McDade Williams.

3           CAMP:               Anna Camp, thank you Marla, yeah, okay, I  
4 understand that a lot better, and I agree and I think that's why  
5 for today's meeting, I call people individually rather than  
6 calling just the Chairman and trying - so, I think that's the  
7 first step in trying to reach out to people as individuals on -  
8 you know make sure that you're on top of who the tribal leaders  
9 are, when elections are coming up. And that's kind of what  
10 you're saying, right, is to be aware of what's going on in each  
11 community.

12          WILLIAMS:           Right.

13          CAMP:               Okay.

14          FREEDMAN:           Myron Freedman, and before we take up  
15 Joseph's suggestion here, I just want to check in with Las Vegas,  
16 any comments to weigh in based on what you've heard so far and  
17 adding to that? Seeing none, so Joseph suggested we go do - I'm  
18 sorry.

19          NEBESKY:            I'm just going to respond to the comment of  
20 you know the challenge that [inaudible] Scott Nebesky - I need a  
21 long stick, but I appreciate it Scott Nebesky with the Reno  
22 Sparks Indian Colony.

23           I just wanted to get a little bit of substance for my  
24 perception of the legislative process and some of the language  
25 they've got in there to address the issue of the challenge that

1 you believe you have with working with each Tribe and having the  
2 change in the government.

3 And one of the reasons that - we think we recognized that  
4 early on, and that's why when we talked about the development of  
5 the regulations for both the SHPO as well as the Museums, it  
6 talks about the regulations being adopted pursuant to this  
7 section who consult with the Indian Tribes and incorporate the  
8 values, beliefs, and traditions as determined and conveyed by the  
9 members of the Indian Tribe, not by the government.

10 And these need to be more robust than the - it's not a  
11 political process, it's a cultural process. And for the most  
12 part I'm not Tribal but I work with the Tribes, tradition is not  
13 something that's dynamic with a new elected body, you get a new  
14 Chairman, traditions change.

15 So, we're talking about what the SHPO and the Museums  
16 working with the cultural committees, working with the members to  
17 understand those values, beliefs, and traditions that are much  
18 more robust than a government tank. I think you still need to  
19 work with the government, but you see what I mean, and so I think  
20 - I think it's as much of a challenge if you work with the  
21 members of the Tribes.

22 CAMP: Okay.

23 FREEDMAN: Okay, so let's bump up to - now these are -  
24 this is a draft that we've provided and we'll bump up to new  
25 provision one, comments on provision one?

1           LENT:                Joseph Lent, Bridgeport Indian Reservation,  
2 now what's NRS stand for?

3           FREEDMAN:           Nevada Revised Statute.

4           LENT:                Revised?

5           BRADLEY:            Yes, Nevada Revised Statute, this is Sarah  
6 Bradley for the record. So, when we refer to this NRS 381, we're  
7 referring to the Nevada Revised Statute that the Museum now  
8 follows, if that makes sense.

9           So, the way it works normally is that the regulations have  
10 the same number, so eventually they will be NAC, Nevada  
11 Administrative Code 381, and then that revised statute 381, those  
12 are the laws that the legislature promulgates, and so they tell  
13 us.

14           And so SB 244 amended the NRS 381. So, when we refer to  
15 that, we're referring to the regulations that the Museum has to  
16 follow, okay?

17           LENT:                Thank you.

18           WILLIAMS:           This Marla McDade Williams. I think this  
19 provision, there's a clause in there that says consultation is a  
20 deliberate process, and then it goes to consultation may vary  
21 based on the Tribal entity and Tribal preference. And while it  
22 must be a government to government interaction, representatives  
23 or cultural specialists on behalf of the Tribe may act on behalf  
24 of their governments.

25

1           The Museum Director may act on behalf of the Governor in  
2 order to engage in consultation. And I just wanted people to be  
3 aware Tribal representatives here that you're agreeing to a  
4 different definition of consultation in these regulations and are  
5 you okay with that. And if you're not, then let them know.

6           **RAKOW:**           Melba, that's the one that I was talking  
7 about where it says cultural specialists, who are they? In here  
8 it doesn't define anything, and so hence I was - what I was  
9 saying was cultural specialist defined in the regulations  
10 concerns that only a Tribal member may claim to be a specialist  
11 when in fact has no Tribal government affiliation.

12           So, basically, you know it has to be kind of more defined.  
13 At least I think so.

14           **WILLIAMS:**       This is Marla. I agree. And so you're  
15 thinking it needs to be tied into the government, so the Tribal  
16 government or..

17           **RAKOW:**           Yes, the Tribal.

18           **WILLIAMS:**       Or would it be sufficient to have a list of  
19 people who have been recognized as being cultural specialists for  
20 a Tribe?

21           **RAKOW:**           Correct. But that person should be not  
22 just have the language you know what I mean of being affiliated,  
23 but be a member affiliated.

24

25

1 WILLIAMS: So, if a Tribe agreed to a list of these  
2 are the people that are cultural specialists for us, they would  
3 be...

4 RAKOW: Right.

5 WILLIAMS: That would be applicable here, but you  
6 wouldn't want that - you wouldn't want museums to go to that  
7 person and say okay Melba is the cultural specialist on here, and  
8 bypass everybody else.

9 SPEAKER: Right.

10 RAKOW: No, you can't do that. You might consult  
11 me, but that's about it.

12 WILLIAMS: Right, yeah, so there you go.

13 RAKOW: It would be my responsibility though to say  
14 to my Chairperson, or to the Board to say okay, this is what -  
15 this is what's happening, let's do this, you know what I mean?  
16 It's just input.

17 But if you have a list of people, you at least have someone  
18 that you have an in with, and not having to worry about trying to  
19 catch this person or that person, you know who might be really  
20 busy, whereas you have a space you can go.

21 So, I think that needs to be defined that way, as tribal-  
22 affiliated person who can do that.

23 FREEDMAN: Myron Freedman. So, would adding something  
24 to the effect of going appointed by Tribal government or working  
25

1 under the auspicious of the Tribal government or something like  
2 that?

3 RAKOW: That might work, yeah.

4 LENT: Joseph Lent, Bridgeport Indian Reservation.  
5 So, the Chairperson is the lead consulting official in the Tribe,  
6 so everything is supposed to go through them. And I've - so I've  
7 seen problems where like I'm the Tribal historic preservation  
8 officer, but I require a letter from people that are consulting  
9 me, from the Chairperson or one of the side Tribal counselors,  
10 otherwise you get people coming in and saying well, I'm the  
11 cultural specialist. Anyone can be a cultural specialist.

12 SPEAKER: Um-hmm.

13 SPEAKER: That's...

14 LENT: But unless it's put in writing and it's up-  
15 to-date, and it goes the same way that I wager the - to the  
16 Nevada State Museum or the State of Nevada, I mean we require the  
17 same thing from them, that we're talking to the right person.  
18 We're not talking to someone's secretary's, secretary, secretary.  
19 We're talking to someone where some meat's going to get chewed on  
20 so.

21 EBON: So, I have a comment, Michon Ebon with the  
22 Reno Sparks Indian Colony. Your new provision number one, there  
23 might be a little bit of problem of taking the Governor out of  
24 the consultation, because sometimes our Tribal Chairman is  
25 working with the Governor.

1           For instance currently our Tribal Chairman is on the  
2 transition team with the Governor and so there's going to be  
3 times when - if we're not happy down here at the - at the  
4 [inaudible] level, then I am going to take it to the Tribal  
5 Counsel and take it to our Tribal Chairman to make sure if it has  
6 to go up to the Governor.

7           So, I kind of have a problem of taking the Governor out of  
8 this equation, but maybe you could clarify this.

9           BRADLEY:           So, this is Sarah Bradley for the record.  
10 I don't - I mean I don't see it and I don't think the intent was  
11 to take the Governor out, but it says the Museum Director may act  
12 on behalf of the Governor.

13           So, the idea is - the way the government system is set up,  
14 and I'm saying this, because I'm not sure everybody knows, so the  
15 way it works is the Governor appoints a Director for the  
16 Department of Tourism and Cultural Affairs, and then that person  
17 appoints an Administrator which is Mr. Barton.

18           And then Mr. Barton hires Mr. - the Director of the Museum.  
19 And so the idea is - I mean, yes, he's a few levels maybe down  
20 from the Governor, but these are all people appointed under the  
21 Governor's authority, and given authority to act in these matters  
22 on behalf of the Governor.

23           So, that's what we were trying to say. Not that the  
24 Governor - I mean obviously I feel bad if the Governor's  
25 [inaudible] because he deals with all kinds of issues right, all



1 the time regarding things that are going on in the State, you  
2 know. And so, we're not saying you can't contact the Governor or  
3 anything like that, it's just that the Governor essentially has  
4 given authority to the Museum Director to act on these matters if  
5 that makes sense.

6 EBON: Yes.

7 BRADLEY: And so from our view, we were trying to  
8 just specify that if the Museum Director makes like the decisions  
9 here or something, we're seeing that as if you know he's acting  
10 on behalf of the Governor in this situation, and certainly if  
11 there is something going on, we would let the Governor know as  
12 well. We will have to keep the Governor informed. And did that  
13 help to clarify?

14 EBON: Yeah, no it does, but Michon Ebon, is there  
15 a reason why you guys put that statement in there, because it's  
16 in the NRS 381, it's already written how the procedure is going  
17 to go. Was there a reason you did provision one and stuck that  
18 in there?

19 BRADLEY: Well, the reason that's in there, my memory  
20 is, and maybe others can be speak, is our understanding is  
21 verbally it's a government to government interaction. So, for  
22 example it would be - I hope I say it right - the Chairperson of  
23 the Tribe with the Governor for example, right? The top to the  
24 top. And so what we were saying with regard to these permits,  
25 it's not necessarily going to be the Governor being involved with

1 every single one. He has delegated authority to the Director of  
2 Museum. So, from our view the Director of Museum sort of stands  
3 in for the top, okay, so, Michon Ebon I totally understand that.

4 EBON: I mean government to government for several  
5 years, I get that, but I guess my question was why was that put  
6 in there when it's already a procedure written in 381?

7 BRADLEY: I don't remember saying that it's actually  
8 - there's a procedure saying that - regarding permits that the  
9 Museum Director is going to be doing the permits.

10 EBON: There's a [loud noises] that we don't even  
11 see that. Why isn't the Governor in there.

12 BRADLEY: Okay, so this is Sarah Bradley. I think  
13 it's for the consultation needs, because again my understanding  
14 is consultation is generally government to government.

15 EBON: Okay.

16 BRADLEY: Yes, the law already says the Director may  
17 decide the permits, but we were trying to define what's the  
18 consultation process for these permits. And we were trying to  
19 clarify that, and again, it's just my understanding, I'm  
20 certainly not...

21 EBON: Okay.

22 BRADLEY: Not an expert. But how the consultation is  
23 normally top of the government to top of the government, you know  
24 what I mean, communicating. So, we were trying to say because

25

1 the Museum Director is the one, he can act on behalf of the  
2 Governor in that consultation process.

3 EBON: Okay.

4 BRADLEY: But certainly the [inaudible]. I hope that  
5 helps.

6 PETERS: This is Sarah Peters with [inaudible] and  
7 Associates. We have had problems with the Chairman of the Tribal  
8 government asking for a direct consultation with the Governor and  
9 being defaulted to the fact that he's already delegated somebody  
10 to be that consultation person in a different department. And  
11 that is dismissive of the consultation process. So, I think that  
12 that's one of the concerns, by putting this in without making it  
13 a default for that, even though we're - we may be asking for the  
14 Governor to come to the table. He's saying well, I don't need to  
15 be a party to this, or this is what the provisions are.

16 So, I think is the bigger concern of having that included  
17 in there.

18 EBON: Michele Ebon, I think Sarah you explained  
19 it well, so maybe you could just clarify it, how you just  
20 explained the last statement, that that was understandable to me.

21 BRADLEY: Okay.

22 EBON: That was - that's workable, but thank you.

23 SPEAKER: And they can be kind of different right?  
24 Like can he - but maybe are kind of two different definitions.

25

1           BRADLEY:           This is Sarah Bradley for the record. I  
2 think not only we wouldn't say can in the law, normally we would  
3 say may and it is optional. So, it's not required, shall is  
4 required.

5           SPEAKER:           Right.

6           BRADLEY:           There is a definition and must is required,  
7 I can't recall offhand. So, may is normally - I mean at least in  
8 my world, you say may when you want to give the option to.

9           PETERS:           And I guess the option - Sarah Peters, the  
10 option to [crosstalk] right. The option to get the Governor into  
11 this may [crosstalk] the option to a consulting agency  
12 [inaudible].

13          BRADLEY:           Yeah, I think the way we were reading it,  
14 you know or intending it anyway was because the Museum Director  
15 is the one responsible for issuing permits and things like that,  
16 the Museum Director also may be the one responsible to ensure  
17 that the consultation occurs and you know do that.

18          And so, perhaps - it's something I don't think you're still  
19 comfortable with it, although I think...

20          JOSEPH:           This is Joseph Holly [phonetic] and that's  
21 - that's the biggest problem.

22          SPEAKER:           Okay.

23          JOSEPH:           We start delegating authority to speak with  
24 the Tribal Counsel which were people of authority. And that's  
25 where we lose all the things that belong to our Tribe,

1 [inaudible] with [inaudible], PAs are the same way, you'll assign  
2 PAs where Battle Mountain won't assign - because we're not up  
3 there on the same level and never will be. And it seems we have  
4 to rely on these people, DLM and SHPO to come to the table.

5 We are a sovereign nations. We should have that same  
6 authority on that same level and meaningful consultation. Come  
7 to the table. Speak to us. Tell us what you have - this is how  
8 we're going to understand, this is how we're going to deal with  
9 Mr. - there's nothing too important out there or that the Tribe  
10 should be overlooked every time that we need something heard.  
11 That's the problem. And we have to sit in the background to get  
12 these provisions or verbiage second hand, third hand, fourth  
13 hand.

14 We sacrifice. Our people sacrifice over the things that  
15 you know got pushed through, because we assumed it would be okay  
16 if we delegated authority. Well, I didn't know one..

17 SPEAKER: Here, here, here.

18 JOSEPH: Top guy in that place made that decision.  
19 Keep the consultation where it needs to be.

20 WILLIAMS: So, this is Marla, I think that - so Anna  
21 and I have had it, a lot of this discussion, and even when we go  
22 through the statutes, there's consultation written you know many  
23 different times, and in some contexts it means something  
24 different than in another context.

25

1           So, my conversation with Anna was it may be useful to  
2 identify what consultation means in all of the different  
3 contexts.

4           CAMP:                Okay.

5           WILLIAMS:         But, again, never giving up on the overall  
6 idea that there's a point where it's - it is with the Governor,  
7 it is a very high level of - I think you know, so Sarah when you  
8 said you know for the purposes of a permit the Museum Director  
9 has certain authority over - you know I think it takes - you're  
10 really being clear about when that term consultation means, what  
11 it means in all the different situations, but not getting rid of  
12 the overall consult.

13          CAMP:                This is Anna Camp. Yeah, one of my  
14 concerns, while I like the whole idea of consultation, because I  
15 know that you remember our first meeting, and you know we were  
16 all trying to come to the table with information and we heard  
17 really clear, this isn't consultation, this is a working meeting.

18           And so one of my concerns is you know obviously I'm sure  
19 the Governor would want to know about this, and I would wish he  
20 would be involved of course, but it doesn't play out that way in  
21 the real world. I don't know that the Governor always has time.  
22 I don't know. I haven't met him yet; I look forward to it.

23           But how about when it's some of these other, you know like  
24 me calling to get people to come to this meeting, or us meeting  
25 and discussing what consultation is, how do you have a

1 representative act on the part of an agency and it still be  
2 considered consultation, was your comment that we define  
3 different types of consultation, you know from the top level, and  
4 then...

5 WILLIAMS: Well, I just think that are you know -  
6 there's notice and consultation when someone comes forward to ask  
7 for a permit. Now, that process is either going to be an  
8 administrative process that we all agree to or it's not. Or you  
9 know anytime somebody comes forward with a permit, then we're  
10 going to get the whole Tribe involved, and we want to talk level  
11 - you know we want to talk with the Governor.

12 CAMP: Okay.

13 WILLIAMS: We want to see whether or not that's  
14 something that we would agree to or whether or not we agree that  
15 it's an administrative process and a permit is an administrative  
16 process, and those in consultation in this situation means  
17 working with the Tribe and the representatives that have been,  
18 you know - through the Tribe's own information coming back,  
19 representatives that they put forward.

20 So, it's a nuance, and it's not easy to carry through, but  
21 you know - but you've got to recognize I mean if Chairman Holly  
22 says you know I don't want to sit here and talk through these  
23 regulations, I want to talk to the Governor first, I believe we  
24 need to honor that. So, it's just figuring out a way to do that  
25 within the language that you have in here.

1           You know the law requires you to do the regulations. I  
2 mean that - you know that's what we put forward, and we had  
3 Tribal engagement when they were going through the process, but  
4 you know, it's like everything you end up where you end up, and  
5 then you try to work with it. But I don't think there's any  
6 intent at all to bypass the government to government relationship  
7 I think is what we're trying to say.

8           CAMP:                Okay.

9           FREEDMAN:          Anything else on provision one? Las Vegas?

10          SPEAKER:          No.

11          FREEDMAN:          Okay, next provision two.

12          WILLIAMS:          This is Marla, you know I guess again to me  
13 this would be one of those areas where are we setting up a new  
14 definition for a federally recognized Tribe that's outside of the  
15 statutory definition?

16          CARRERA:          Dave Carrera, Battle Mountain, so this is  
17 my very first meeting going - I mean where we're talking about  
18 some definitions, potato, potato, it seems like a lot of that  
19 we're cutting hairs, and I understand that.

20                So, when were these passed out?

21          CAMP:                The regulations?

22          CARRERA:          Yes.

23          CAMP:                Chairman...

24

25



1           CARRERA:           I didn't get any attachments. I haven't  
2 gotten anything - any information, were we expected to go onto  
3 the legislature's web page, or what-have-you?

4           CAMP:               I sent it to you, sir, I think about a  
5 month ago, on the 26<sup>th</sup> of November. Actually, I think I at that  
6 time, I would have sent it to Lydia.

7           CARRERA:           Okay, I didn't receive it, and that's why  
8 I'm sitting here all blank-faced, and not understanding what  
9 direction, I couldn't look up anything on the website or..

10          CAMP:               And you and I spoke on the phone.

11          CARRERA:           We did.

12          CAMP:               And I sent it to you.

13          CARRERA:           So, we did talk on the phone.

14          CAMP:               Yes.

15          CARRERA:           Whoever - I didn't get a copy of it, so  
16 that's why I'm sitting here kind of blank.

17          CAMP:               Oh, okay.

18          CARRERA:           I didn't know what direction we were..

19          CAMP:               Perhaps I had your email incorrect?

20          CARRERA:           I didn't know if everybody had that.

21          CAMP:               Yes, I did record that I sent them in an  
22 email to you to you and to Joseph, as well.

23          CARRERA:           You might have sent it Lydia, but not to  
24 myself.

25

1           CAMP:            Okay, I have - I'll check with you to make  
2 sure you're right, because I wrote your email down and I spoke to  
3 you on the phone, but it's possible that there was a mistake.

4           CARRERA:         And I think just get the meeting site, but  
5 I didn't get you know all the regulations and paper on this side  
6 of it.

7           CAMP:            Okay, I'll definitely, the Indian  
8 Commission was supposed to send it up also to all Chair people,  
9 they have a list serve, I don't know what their list serve looks  
10 like, and then I sent it out to the [crosstalk].

11          CARRERA:         So, I mean they kind of pile up. I got a  
12 stack of papers, I swear to God like this in less than a month.

13          CAMP:            Right.

14          CARRERA:         What do I look at and put away?

15          CAMP:            Right, right. And that's...

16          CARRERA:         Some of it's not so important on the list,  
17 and if somebody has - that's where I think you know developing  
18 meetings, you know for 27 Tribes in Nevada rather than - and  
19 maybe we got here too late.

20          CAMP:            Right.

21          CARRERA:         There's not today a percentage of  
22 participation I think at the level we need to be having. We're  
23 just a few here.

24          EBON:            So, Shoshone but maybe what we could do,  
25 because it didn't - maybe we didn't start out right, I'm sorry, I

1 think - we have a lot of new people here. This bill, we  
2 introduced this bill in 2016, that's when we started working on  
3 it. 2017 is when it took place, and then when it was passed, the  
4 Museum and the SHPO did not - they took a year to finally get to  
5 the Tribes, you know I'm not saying that's a bad thing or  
6 whatever, but there's a lot of new faces in here, and we need to  
7 all understand, because there's a lot of paperwork. You see me  
8 sitting here, with four stacks here.

9       So, what we should do, Myron is this is your guys'  
10 regulations, this is what the Nevada State Museum is creating by  
11 law what they've been told to do. Then they passed out the bill,  
12 then the bill is in 10 font, and I had to ask Scott to - I asked  
13 Scott to put it in 15 font for me, because I can't read that  
14 little and so when the first regulation, the new provision one  
15 they said, oh as required by NRS 381.195, so we should go to  
16 381.195, that's what they're doing.

17       So, I think we have to clarify each time we have a meeting,  
18 Myron, that because new people come in that haven't been involved  
19 in this process for two or three years, or weren't even part of  
20 the process, and then we're updating everybody which is a good  
21 thing, I'm so glad everybody is here because that's an important  
22 thing.

23       That's why we changed this law because it was so outdated,  
24 it was so science-based, it was non-traditional. There no  
25 values, beliefs, and traditions, and now you have us sitting here

1 and we want to continue to make sure that these two laws are  
2 important to us, because they're very traditional laws to us,  
3 because they're involving our ancestral remains and cultural  
4 items that have been looted, excavated, science-based, everything  
5 happening to them which is against our traditions, beliefs, and  
6 values.

7         And so I think every time we have somebody new and I tried  
8 to tell Anna like hey, you should do the agenda this way, but  
9 she's telling me it's already set in stone, because that's just  
10 how it has to get approved, and that's your guys' procedure in,  
11 but I think that every time that you renew - every time we read a  
12 provision, I think that you guys should tell us where and in the  
13 law it states that, because then it helps us, because like the  
14 consultation part just confused us all, and I would be - I  
15 couldn't find the part in the law where it says no, no, no, it  
16 already states that the Museum Director is going to do all that.

17         So, I think that's what we need to do, because not  
18 everybody received this in the mail. Not everybody's received  
19 your new regulations, and I think there needed to be an  
20 explanation at the beginning, so that's all I have to say, but I  
21 think every time we go through each regulation, your number of  
22 regulations that you guys have written, we should put it - kind  
23 of see where it's at in the law and why.

24         And I would like maybe an explanation of why you guys wrote  
25 it that way. I mean I think these are good, I think you guys

1 have done a good job from our last meeting from June 5<sup>th</sup>, when we  
2 met here on June 5<sup>th</sup>, you guys have gone far. You've listened,  
3 you heard us, and you went out and visited the Tribes, which  
4 we'll try to get SHPO to do, go visit the Tribes and learn their  
5 values, beliefs, and learn their values, beliefs and traditions.  
6 Sit and have dinner with them. Sit, bring them food, they'll  
7 feed you. Those are the values, and traditions, and beliefs, why  
8 we put that into this law.

9       So, I think that's where we needed to - we need to start to  
10 spare, that all makes sense and maybe we could do that. Because  
11 we're not all - it took - it takes two or three people to help me  
12 read one - one stipulation that you guys have written, that's you  
13 know we have to have a gang, because it's a lot. You know  
14 attorneys are writing this, so..

15       CARRERA:           And that was my point also, was that you  
16 know too big and it got put on me and we want to do something or  
17 act on it which I have no indication I've had to rely on the rest  
18 of you guys that's been here, done that. I want to read it. I  
19 want to understand it. And I need to look at stuff on the  
20 internet or go to different places if I have to, because that -  
21 because that - exactly, starting off in that direction, again,  
22 you know this if the first time I've seen it, and maybe it is  
23 laying around, but I doubt it. It might be in Lydia's email, and  
24 you know of course all of us Tribes we're in voting season right

25

1 now, and so - and most of us are cleaned up, and still there's a  
2 few out there, I see new faces.

3         And again, you know like she was saying, going forward, we  
4 need to have this step out in front of us, not a week or two, a  
5 month ahead of us, so we can actually read it and absorb it then  
6 you know the corrections we need to - you know we could go  
7 forward on whatever.

8         BRADLEY:             This is Sarah Bradley for the record. And  
9 I just want to clarify. This is not going to be adopted today.  
10 This is not - this is really a day to talk about a draft we put  
11 together.

12         CARRERA:            So, what do I think about it.

13         BRADLEY:            So, just so you know. I just want to let  
14 you know that - so first of all, we're just talking about a  
15 draft, and certainly we want comments. Our plan is, once we get  
16 the comments, we're going to kind of rework our draft, and then  
17 what we will do is we will publish the new draft for 30 days and  
18 have another meeting, okay?

19         And so that new draft along with the notice of hey we're  
20 having another meeting will be published for 30 days, and then  
21 it's possible after that next meeting that it could be adopted.  
22 So, there is still time, so I guess what I would say to anybody  
23 in the room, and anyone who is not here, to know if they have  
24 comments, please send them you know to - I believe Anna's  
25 information is on here, please you know after today you think of

1 something, please send it to us, so that we can include that in  
2 our review, I don't know if that helps or not, but I mean, we're  
3 not trying to make...

4 SPEAKER: No not today.

5 ALECK: I'm Betty Aleck and I'm with the Pyramid  
6 Life Paiute Tribe. So, after we make comments are you going to  
7 publish the comments along with the draft, so other people can  
8 see who made a comment, and then your response to our comments?

9 BRADLEY: This is Sarah Bradley for the record. Yes,  
10 that happens.

11 ALECK: Okay.

12 BRADLEY: The way the law says is we have the meeting  
13 today which is - it's called a workshop, we're workshopping the  
14 draft. Then we publish what we hope is our final draft for 30  
15 days, and then we have another meeting that's called a Public  
16 Hearing. And again everybody gets to comment and make comments.

17 After that, we take all the comments received, and Mr.  
18 Freedman will draft, essentially because he's a single person, he  
19 doesn't have to adopt it in a Public Meeting. And so, what he  
20 will do is he will - what we have to do is the meeting for the  
21 Public Hearing, but he's not - I mean he's...

22 SPEAKER: Yeah, he doesn't have to adopt at the  
23 meeting.

24 BRADLEY: At the meeting, he doesn't. So, normally  
25 what happens is we take all the comments, and there will be a

1 written summary of all the comments, and then they'll be a note  
2 of a change was made, or a change wasn't made. So, like - so,  
3 that would be happening after that. And then...

4 ALECK: But then does the person have a time to  
5 argue their case?

6 BRADLEY: Well, at the Public Hearing is when you  
7 would say here's our comments, here's what we're concerned about  
8 in your final draft, here's why you should change it, and then we  
9 will also have a deadline for written comment. So, it's not just  
10 if you come to that meeting, if you can also send written comment  
11 in.

12 We have to consider - well, I say we, it's really the  
13 Director, has to consider all of that comment and in a written  
14 response say either why or why not a change was made based on  
15 that.

16 ALECK: Right.

17 BRADLEY: If substantive changes are made, and you  
18 know that's kind of a fuzzy definition, we wouldn't be able to  
19 adopt right then, we would have another meeting. So, it kind of  
20 depends on the kinds of changes we make after that other meeting,  
21 whether it's adopted right away, or whether we have to have  
22 another public hearing and post it again, and you know so it's -  
23 I hope that helps.

24 ALECK: Yes.

25



1 WILLIAMS: So, this is Marla McDade Williams. I  
2 realize that that's the statutory process, and some of you know  
3 that I was with the Division of Public and Behavioral Health, and  
4 I wrote the state's Medical Marijuana regulations, and because we  
5 had so many new people coming into this who weren't familiar with  
6 the process of statutes and regulations, we held multiple - we  
7 called them stakeholder sessions.

8 We gave out language, we had people come in and comment on  
9 all of the language. We didn't hold any of this in private,  
10 because it was too important for them to understand the process.  
11 And I think that's where we're at now. That we can you know I  
12 mean you can if you choose to do that process that you just  
13 stated, or you can choose to get to the next draft and hold  
14 another stakeholder session for us to have another - more  
15 discussion to see if we have a better comfort level at that  
16 point.

17 The benefit of doing that is once you know - and this is -  
18 this is a painstaking process, there's no doubt it's been a long  
19 time in the making, you know but in the end, we'll all be better  
20 off for it, and will have better knowledge of how to work with  
21 each other. So, that would be my recommendation that you not get  
22 so caught up in I'm going to draft this in private again, and I'm  
23 going to post it for a 30-day comment.

24 I mean, we would all be benefitted if we had another - just  
25 another stakeholder session to work through before we get to that

1 stage of you know posting for 30 days, and then consideration for  
2 adoption.

3           CAMP:               This is Anna Camp. Marla, I know that some  
4 folks have expressed a concern of something not being in place  
5 and being law, and therefore us not being able to you know punish  
6 accordingly if somebody on private property decides to excavate  
7 without a permit. Is that a concern of the Tribes? Because that  
8 was my thought, like let's establish something so that - you know  
9 because we have to go through a...

10           WILLIAMS:           Well, I think, so this Marla, I think if  
11 you move forward with this right now, it doesn't really help  
12 anybody.

13           CAMP:               Okay.

14           WILLIAMS:           I mean there are too many questions, that  
15 it really wouldn't help anybody anyway. And I think it is  
16 worthwhile to spend the time doing this, and you know I've - you  
17 know I'm sorry, but you know when I - when the legislation for  
18 marijuana was enacted in 2013, I had to have regulations in place  
19 by April of 2014.

20           So, I understand that you guys are vetted to do that, but I  
21 don't - you know I guess it's not on us, that this process is  
22 taking as long as it's taking. And we need to take this time I  
23 guess is what I would say.

24           FREEDMAN:           Time to [inaudible].

25           [Crosstalk]

1           FREEDMAN:           Comments from Las Vegas?

2           SPEAKER:           Are there comments from Las Vegas? No.

3           SPEAKER:           No. Thank you.

4           SPEAKER:           Okay.

5           SPEAKER:           Just whispering.

6           FREEDMAN:           So, we'll get on with provision two. Okay,  
7 moving on then and appreciating what you said, we'll do our best  
8 to try to connect it with the NRS. But again, we said we would  
9 go through the provisions in order, so let's continue on to  
10 number three. We did talk about number three to start with.

11           Any other further comment on number three? That was the  
12 one that Melba, you started with. Number four.

13           SPEAKER:           [inaudible]

14           NEBESKY:           Scott Nebesky for the record. I made a  
15 prior comment in regards to number three about the evidence of  
16 burials in that discussion.

17           There's two scenarios there, that are in provision three,  
18 one is there is a discovery prior to a planned excavation of an  
19 unrecorded [inaudible].

20           And then the second one is if there's discovery prior to  
21 permitted excavations, I guess given - that's not all the  
22 scenarios that hopefully are out there. But this is a good  
23 example of a prior comment that I made that the SHPO has some  
24 role in this when human remains are discovered, and how - how  
25 we're going to interface with them.

1           Because in some cases with the - under the SHPO's 383, it  
2 talks about a cooperative landowner working directly with the  
3 Tribes in regards to human remains and excavation. And this  
4 doesn't anticipate that or help clarify that. I think it's just  
5 one of those examples that I gave that it's rather confusing.

6           In item number one, we're talking about human remains prior  
7 to a planned excavation of an unrecorded site. It says the  
8 entire site shall then be treated as a known prehistoric Native  
9 Indian Burial Site. I guess my question is, we've dealt with  
10 sites, and I'm not exactly sure what a site is that's one acre,  
11 and then we've worked with big developments that's 2,000 acres.

12           So, when it says the entire site needs to be treated as a  
13 known prehistoric burial site, are we talking about, because the  
14 other parts of the statute talks about I think it was like 100  
15 feet, there's a buffer that's created to protect it - the  
16 discovery, but does this mean the entire development that's under  
17 permit is going to be treated as a prehistoric site?

18           Because I think one of the things that just why I say that  
19 is like prior to my time you know working for consultants, I  
20 worked for consultants, and this is one of those cases where I  
21 think consultants go crazy, because they can't tell their client,  
22 the landowner, how - how much is this going to cost, and how much  
23 is this going to delay, how is this going to impact your  
24 development or your project. And so having a clear definition of  
25

1 the entire site, I think would be helpful, unless that's exactly  
2 what we want to do.

3 FREEDMAN: Well, maybe there's a timing question in  
4 there too, enough time to determine what part of the site is  
5 affected.

6 NEBESKY: Yeah, and narrow it down, so maybe it  
7 starts with the entire site, and it [inaudible] upon the prior  
8 component to demonstrate what's not... Yeah, so it could be  
9 something like that.

10 HATTORI: This is Gene Hattori for the record.

11 NEBESKY: Thank you.

12 HATTORI: The way that the law as I see it is laid  
13 out, a known prehistoric burial site is a site that has been  
14 recorded on the Nevada Intermountain -- Nevada NEVCRIS, Nevada  
15 computerized information system, and within NEVCRIS and this is  
16 maintained by the SHPO, not the Nevada State Museum.

17 SPEAKER: Right.

18 HATTORI: They lay out boundaries for the site, and  
19 that is a known burial site, if within the record it has human  
20 remains were recovered from that site, from either survey or from  
21 excavations.

22 NEBESKY: Right. You know for the record Scott  
23 Nebesky. This - in this subset of provision three this has to do  
24 with a discovery prior to a planned excavation of an unrecorded

25

1 site. So, the site's unrecorded and there is a discovery,  
2 unanticipated discovery.

3 HATTORI: This is Gene Hattori. I put that in the  
4 provision in my narrative, so that if you know we had in our  
5 discussions for the legislation, that the site would be excavated  
6 by a professional archeologist. And prior to excavation, with  
7 the landowner, the archeologist would go out there, and they  
8 would put together a cost estimate.

9 And with - outside the boundary of the site recorded on  
10 NEVCRIS they saw human remains, they would then ethically and  
11 legally be required to extend the boundaries of that site.

12 EBON: Michon Ebon, so I think - yeah, because  
13 that's law, and then - but I think that's where we can come in on  
14 where we get to regulate what your regulation 1920 and 21 it's  
15 all about permitting, and excavation as we have all the science  
16 in, and that's when you have your antiquities permit comes in. I  
17 think that we should talk - are we going to talk about that,  
18 during that time?

19 Because your professional archeologists that will come in,  
20 will begin to do all their science stuff is what is going to be  
21 different from how in our new law states no more scientific  
22 analysis, no destructive analysis.

23 HATTORI: Well, then - this is Gene Hattori. You're  
24 suggesting that the archeologist not be involved?

25 EBON: Oh, no, no, no, I'm not suggesting that.

1 HATTORI: So, that's [inaudible].

2 EBON: Yeah, I'm not suggesting that no scientific  
3 study that's what I meant, sorry, scientific destructive study,  
4 but no scientific study..

5 HATTORI: No destructive..

6 EBON: Right. So, that's again..

7 HATTORI: Oh no, so they can excavate the site using  
8 archeological methods.

9 EBON: Right. And I think that's where our Tribes  
10 can come in and put some values, beliefs, and traditions of that  
11 archeological excavation, because by federal law they have to do  
12 that which will change next year.

13 But anyway, I think that's - that's where our traditions  
14 and beliefs can come in, when that science is there, because it  
15 hasn't been put out there. Okay.

16 WILLIAMS: So, this is Marla McDade Williams. So,  
17 Gene are you saying that - because in my mind, before anybody  
18 does any excavation, they have to get a permit that authorizes  
19 them to do the work. So, are you saying there would be work done  
20 prior to that permit being issued?

21 HATTORI: That - this is Gene Hattori. Our permits  
22 are not excavation specific. And I made that clear in our  
23 testimony. We have..

24 WILLIAMS: There are permits, and under what we're..

25

1           HATTORI:           They will have resources - we do not have  
2 the resources, excuse me, to permit every excavation that occurs  
3 within the state. And we have no authority to permit within this  
4 existing law, excavations on private property, that are not  
5 associated with human burial sites.

6           So, for example...

7           WILLIAMS:           I read that.

8           HATTORI:           If a landowner wants to put in a swimming  
9 pool in their backyard, we do not require an archeological  
10 survey, and a permit for that activity.

11          SPEAKER:           Correct.

12          HATTORI:           And they were specifically exempted in the  
13 legislation.

14          WILLIAMS:           Okay, I agree with that, if that landowner  
15 knew that that pool site had human remains, they would be  
16 required to come forward and get this permit. I think the law  
17 would require them to get a permit, if it's recorded in Nevada  
18 CRIS, and they want to put a pool there, but they know there are  
19 human remains, and they need to - their intent is either move  
20 them or do something with them, they are required to get a permit  
21 under this law.

22          HATTORI:           This is Gene Hattori, specifically  
23 exempted.

24          WILLIAMS:           No.

25          HATTORI:           In there - well, let's...



1 WILLIAMS: And you know let's agree to disagree on  
2 this point.

3 HATTORI: Well, I'm not going to disagree.

4 SPEAKER: Let's not get hung up, let's keep...

5 HATTORI: I'm going to say take a look at the law,  
6 the NRS.

7 SPEAKER: Do you guys have - do you ladies have it?

8 [Crosstalk]

9 SPEAKER: 196.

10 WILLIAMS: So, 381.196. So, a person is not required  
11 to obtain a permit to engage in a lawful activity on private land  
12 including development, construction, mining, mineral  
13 exploration, logging, farming, ranching or a federally-recognized  
14 activity if that activity is engaged in exclusively for purposes  
15 other than the excavation of a prehistoric American Indian Burial  
16 Site.

17 So, if we're going to hold a strict determination that a  
18 person wants to put a swimming pool on a burial site, and they're  
19 not required to get a permit, then I guess we would ask your dad  
20 to actually formally come forward and say that, so that we can  
21 address that issue. Because that was not our intent when we  
22 moved this legislation forward.

23 So, we would like very much to get clarification about that  
24 piece. When we agreed to this language, with Southern Nevada  
25 Water Authority, with the Howard Hughes Corporation, we agreed

1 that the process that you discussed, Gene, you previously - you  
2 know you don't have the resources to get a permit for every  
3 activity that handles on - that happened on Tribal land. We're  
4 not asking for that. That was not the purpose of this.

5 The purpose of this was to require a permit when there are  
6 human remains that are intended to be excavated by - on private  
7 land. So, those are my comments on that.

8 HATTORI: This is Gene Hattori. If the intent of the  
9 excavation was to uncover human remains - a burial site, human  
10 remains on a burial site, then a permit would surely be required.  
11 For - and this is my understanding from sitting in on the  
12 committee, that they require exemptions from these other  
13 activities, whether or not they were - occurred on a known -  
14 well, actually it's specifically if they occurred on a known  
15 burial site.

16 WILLIAMS: Yeah - no.

17 HATTORI: And these are the activities. This and  
18 they also had it, if you'll see it down there, the provision for  
19 the constitutional rights of the private property owner shall be  
20 honored. I believe they're all added in terms of passage of this  
21 bill through those committees.

22 WILLIAMS: So, again for the record, Marla McDade  
23 Williams. We agreed to those provisions specifically for those  
24 entities that I discussed, and their feedback to us was we don't  
25 want these regs to require a permit when we're out there doing

1 mining. We agreed that if there is a site there, we're going to  
2 be permitted to excavate any remains on that site.

3 This - this language was a clarification of you know you  
4 can do your business on your land, but if - but you're not exempt  
5 if it relates to burial sites. You know if you recall a couple  
6 of weeks ago, the city of Reno denied two housing projects  
7 clearly, private land interest, private property you know private  
8 developer, but governments do have the ability to make decisions  
9 that is in the best interest of its citizens and in this  
10 situation, we believe it would be in the best interest of the  
11 state of Nevada, not to go around telling people well you're  
12 exempt from that, go ahead and build that pool even though there  
13 are remains there.

14 And so, again, I guess I would ask you know Peter if we  
15 could maybe get a legal interpretation of how that section,  
16 because it would be important for us to clear up during the  
17 legislative session if we needed to.

18 NEBESKY: For the record, Scott Nebesky. Doesn't the  
19 last sentence of provision three address that? Because it talks  
20 about private landowners encountering human remains, or evidence  
21 of burials and that evidence could be something from prior -  
22 prior to the excavation, even if the land is unrecorded as a non-  
23 burial prehistoric Indian [inaudible] Tribal site, the  
24 archeologists on the private land must obtain a permit for  
25 excavations on that land. So, if there is evidence of burials...

1 HATTORI: If it is a known burial site, and we  
2 extended the...

3 NEBESKY: No. Evidence of burials or it is  
4 unrecorded, that's like ...

5 HATTORI: Yeah, that is what I have.

6 NEBESKY: Okay, so is that - that's why I brought up  
7 the any evidence of burials this means ...

8 HATTORI: And that's why the bit about - that is why  
9 I mention that the archeologist is ethically required to record  
10 that site, all right.

11 NEBESKY: So, maybe it's a sequence thing I'm not  
12 understanding. At what point is something recorded? When it  
13 gets into when it's a known burial site...

14 HATTORI: They're requiring NEVCRIS.

15 NEBESKY: NEVCRIS, right.

16 HATTORI: And then during the process, so you're  
17 right, I was wrong. During the process, if the landowner had the  
18 archeologist go out there, and the archeologist found evidence of  
19 human remains, Native American human remains, then they would be  
20 - and we are ethically bound to record that according to the  
21 evidence [inaudible] Native American Burial Site, as well as  
22 record the site.

23 NEBESKY: Right. And that's - I'm sorry, Scott  
24 Nebesky for the record. That's why I wanted a clarification of  
25 evidence of burials is evidence as I described it, a site that is

1 adjacent to the project site, would that be considered evidence  
2 if it has the same characteristics, the same topography,  
3 everything, and known burials were discovered there. Is that  
4 enough evidence to permit the adjacent site to getting a permit,  
5 because there's a preponderance where there's a high likelihood,  
6 a probability that other human remains are there?

7 HATTORI: This is Gene Hattori. Just from my  
8 perspective as an archeologist, it would be taken on a case-by-  
9 case basis. So, for example if you're excavating a known burial  
10 site, let's say a cave site. And you're on a rock ledge, there's  
11 a rock ledge and the cave is part of that ledge, you would  
12 consider the area beneath that rock ledge as a potential, not a  
13 known, but a potential, and treat it as such.

14 And probably you know in your permit application, treat it  
15 as a potential burial site.

16 ALECK: Betty Aleck Pyramid Life, [inaudible] all  
17 this is an assumption that everybody knows these are Native  
18 Americans buried. However, like on our reservation, we have  
19 possible soldiers there, people who died in the floods or who  
20 drowned in the lake.

21 And just from past experiences I know most property owners  
22 will call law enforcement if they find human remains. So, law  
23 enforcement will go and dig up the human remains and take it to  
24 the Coroner's, is that a part of this? Or no, is it even  
25 mentioned or considered or what?

1           It's usually with us. We even have our human remains  
2 typically go to the Coroner to get a check of whether they are  
3 Native or not.

4           HATTORI:           This is Gene Hattori. I think there's  
5 state law that if human remains are encountered, that the law  
6 enforcement would be..

7           ALECK:            So, if you had - so a property owner most  
8 likely would call law enforcement first, and they would be at the  
9 Coroner's office. Just like we've already been dug up..

10          [Crosstalk]

11          ALECK:            Before a - yeah, an archeologist is called.

12          HATTORI:           In my experience within SHPO's office,  
13 that's what happens.

14          ALECK:            Yeah, yeah.

15          HATTORI:           That's it, we get called by the SHPO, by  
16 the law enforcement.

17          ALECK:            Right, yeah.

18          SPEAKER:          To determine whether it's a crime or not.

19          HATTORI:           Yeah, first if it's something - if it's  
20 human remains, then..

21          SPEAKER:          Yeah, exactly.

22          ALECK:            So, most of the time if someone is digging  
23 a pool, they come upon human remains, they're going to call the  
24 cops.

25          WILLIAMS:          If they - if they don't know it.

1           ALECK:           And most likely they don't.

2           WILLIAMS:         And so the purpose of these regulations is  
3 to require a permit where there is known site.

4           ALECK:           Right.

5           WILLIAMS:         And so the known sites are recorded in the  
6 NVCRIS, you know and unanticipated discoveries which is why I got  
7 a little bit confused about the language in here too, there is a  
8 whole other state law that kicks in related to unanticipated  
9 discoveries.

10          SPEAKER:         Right.

11          WILLIAMS:         And actually and as Michon said the State  
12 Office of Historic Preservation has an obligation to move forward  
13 regulations, have these same forms, but they've chosen not to do  
14 that, they've chosen to do it through policy and procedure, and  
15 that's a whole other issue, but you know so I guess you know - we  
16 don't agree that the private property owner who knows there's a  
17 burial ground and wants to put a pool over it has to get a  
18 permit. I think that's a key issue for us to resolve. Because I  
19 don't think that that's right for anybody to be able to do that,  
20 to be honest.

21                 But you know and I think we are talking about these kinds  
22 of sites and you know with Gene's clarification about that  
23 process, I mean I think I understand - I understand it on some  
24 level, but I'm not fully understanding again where it is in the

25

1 process that Scott says, you know for these unanticipated  
2 discoveries.

3 NEBESKY: Scott Nebesky for the record. That's why I  
4 mean [inaudible] lessons in provision three it says an  
5 archeologist or a private landowner, if they encounter human  
6 remains or evidence of burials prior to permitted excavations,  
7 they have to get a permit for the excavations.

8 So, regardless of whether - what their activity is, mining  
9 or construction...

10 SPEAKER: This is the exception is in here.

11 BRADLEY: Yes, this is Sarah Bradley for the record.  
12 But no, because it's now required by 381.196 and 381 - so it's  
13 only if those apply. So, the exceptions would still apply  
14 through our exceptions, and it sounds like maybe there's a  
15 disagreement with regard to that, but - so the exceptions would  
16 still apply. You just have to get it - if you didn't know, and  
17 you were - you encountered it...

18 NEBESKY: You don't have to implement it, if you  
19 don't know.

20 BRADLEY: Well, it depends. You know the  
21 unanticipated discovery SHPO kind of I mean follows that, but  
22 here it would be if it's not recorded, and they have evidence,  
23 and then they want to excavate for and I believe the way - I mean  
24 they want to excavate it, because it want to excavate it, then  
25 that's when they would need to get a permit. Not because they're



1 excavating it for example like mining, when we're mining. It's  
2 not for a mining purpose, it's for a different purpose.

3 SMITH: Is it for - this is Sarah Smith for - is  
4 this for pleasure if someone just wants to do an excavation for  
5 the heck of it?

6 BRADLEY: I think that's - yes, that's how we're  
7 reading it - this is Sarah Bradley - looking at it.

8 SPEAKER: I'm wondering how you're regulating it  
9 though, because if you have a landowner, how does he know, you  
10 know let's say he's not educated in American history or  
11 archeology and has really no idea, and he - he did this anyway,  
12 because he wants to put in a pool, is he regulated because he has  
13 to get a permit to put in the pool, or for it, and that's how you  
14 would discover that there is something unknown there? How is  
15 that - how do you find out?

16 BRADLEY: How do you find out if you're a non...

17 SPEAKER: I mean how does he find out?

18 SPEAKER: Well, it's just a discovery and then you  
19 would have to call the cops if you found anything.

20 PETERS: What she's saying is that is there a more -  
21 this is Sarah Peters for the record, is there a requirement for  
22 him to look at NEVCRIS?

23 SPEAKER: No, he wouldn't even have - he couldn't  
24 even access it.

25

1           SPEAKER:            So, it could be a document inside but he  
2 wouldn't know it was documented when he dug. And then what...

3           BRADLEY:            Well, this is Sarah Bradley for the record.  
4 I mean and I'm not an expert in real estate transactions, but I  
5 do know when you purchase lands - so the landowner, in theory,  
6 should be given some sort of disclosures regarding known things  
7 on the land.

8           So, if a person owns it, I mean I - I think they're  
9 supposed to be given some information, you're right, though, and  
10 that's something the person may not know, I think that's where  
11 you get into the discovery question, and then you call the law  
12 enforcement or you call SHPO, and then...

13          CARRERA            So, Dave Carrera, I own multiple  
14 properties, and I never once have I see any disclosure of that,  
15 of you know asking if there's any archeological stuff that's on  
16 that land, or known, or anything I guess. Never once ever  
17 mentioned when I purchased properties.

18          BRADLEY:            Now our legal requirements, this is Sarah  
19 Bradley, regarding any disclosures you have to be given regarding  
20 the land.

21          CARRERA:            Haven't seen...

22          BRADLEY:            And maybe that's not [inaudible].

23          CARRERA:            I can give you all the paperwork I have in  
24 all my properties, and you could go through it, I haven't seen  
25 it.

1           HATTORI:           And this Gene Hattori. There are certain  
2 municipalities that have formed agreements with the agency - or  
3 the state agencies SHPO, in particular that - for example in  
4 Washoe County, the Reno trucking [inaudible] - the permitting  
5 process oftentimes will have cultural resources involved in the  
6 development of a housing development. So, now there is a new --  
7 the Reno Sparks Colony has been really involved with some of the  
8 developments...

9           CARRERA:           Dave Carrera, it just seems like we're just  
10 talking about stuff that I mean - we're getting off subject  
11 again. So, I mean the clarity is that everyone [inaudible] and  
12 so are you, we need to just go, and we're talking factual stuff  
13 we know for a fact, that's all blind [inaudible]...

14          HATTORI:           The municipalities require...

15          CARRERA:           Well, you just said I think that  
16 [crosstalk]...

17          HATTORI:           And I know from my SHPO days...

18          CARRERA:           Thank you for the readjustment.

19          HATTORI:           Yes, I'm sorry.

20          CARRERA:           Good, because when I hear think and maybe  
21 that drive me to you don't know. You're theorizing.

22          HATTORI:           Okay, Aeroprete [phonetic] developed in  
23 south Reno. There were archeological surveys, and archeological  
24 excavations where materials were recovered, and some objects were

25

1 repatriated to the Tribes. And that's just part of the new  
2 permitting process to develop relationships.

3 EBON: You know this is Michon Ebon. I do want to  
4 say to that we've come across in our work with private  
5 landowners, private landowners - well some of them, they really  
6 want to work with the Tribes. But because these laws were in  
7 place, like the unanticipated discovery of human remains, the  
8 SHPO had a determination to contact the Tribe. The SHPO kind of  
9 was the mediator, so I think with these new changes, it's kind of  
10 a good thing, because I think that also private landowners by  
11 law, that we know this is not a traditional law as in the people.  
12 If they purchased land and they find cultural items, by law,  
13 they're theirs because they bought that land.

14 Now, that's not a tradition to Native people like it's like  
15 no, you don't own our old ancestors, in any way. But I think  
16 that there's a lot of landowners that do - would like to give  
17 those - you know repatriate them back or do the right thing, but  
18 they need to hear that from the Tribes. They need to talk at the  
19 table with the Tribes, and in the past that hasn't been able to  
20 happen.

21 So, that's why this law was changed so those things can  
22 start to happen again, all according to the law. And it's kind  
23 of like...

24 ALECK: And sometimes they think they're going to  
25 get in trouble if they call and say oh, I found you know human

1 remains, and they think they're going to get in trouble, or  
2 arrested or something.

3 SPEAKER: Or stop permitting or what have you..

4 FREEDMAN: Let me just cut in here, and just suggest  
5 we take a 10-minute break, give people a chance to take care of  
6 things and we'll reconvene after five minutes till.

7 SPEAKER: Sit at the table.

8 FREEDMAN: Please sit down. So, we're continuing to  
9 take comments [crosstalk] on regulations, we were talking about  
10 the draft provided and that we're commenting on regulations.

11 Just for the sake of ordering your proceeding through the  
12 provisions and in reference to provision three, anything else on  
13 provision three which seems to be a very popular one for..

14 SPEAKER: For Scott.

15 EBON: This is Michon, I just wanted to say that  
16 for the Tribes or for the folks that don't make it - the Native  
17 Indian Burial site, the definition is in the law, so that's  
18 already the law 381, but again it's in 383, so you're going to  
19 hear us going back and forth between 381 and 383. So, I think  
20 the Indian Burial site is in 383. I just wanted to make that  
21 clear where that's coming from.

22 FREEDMAN: Okay.

23 EBON: But I think that was it. And then again,  
24 if this section appears to cross over into another definition  
25 adoption, you might just want to stick with the NRS definition.

1           FREEDMAN:           Okay. Las Vegas any comments?

2           SPEAKER:           No.

3           SPEAKER:           No.

4           FREEDMAN:           Provision four deals with abandoned  
5 property under the draft that we supplied with the regulations.

6           SPEAKER:           Can you explain the intent on this section?

7           BRADLEY:           This is Sarah Bradley for the record. So,  
8 the intent here is to try to - let me go back to 381.00 - so, I'm  
9 looking in the NRS now just to kind of follow along, 381.009,  
10 yeah, it's multiple pages, sorry, I just need a minute.

11          SPEAKER:           Yeah.

12          BRRADLEY:          Okay. So, with some of the changes and as  
13 we do work going forward, there's a process for re - you know  
14 it's just specified about repatriation when the Museum has  
15 abandoned property. And so here we were trying to help clarify  
16 what's meant there, so we were trying to interpret a little bit  
17 381.009, one through three.

18                 And then we kind of go on with it, we had several  
19 provisions in here to try to kind of clarify that process, and  
20 also what some of the words in that statute mean. So, I guess I  
21 would sort of read four along with the others that come next.

22                 So, we were basically trying to clarify that process so  
23 that we're really clear about what the property is, how we know  
24 it's abandoned, and then how do we do the process. Because one  
25 of the things we talked about was let's say we have abandoned

1 property, do we have to - like how do we make sure we have clear  
2 title legally to get it back, and so that's kind of why we were  
3 trying to lay out the steps to kinda help explain. I don't know  
4 if that helps explain, but the idea was to clarify the process  
5 and create 1009 with the new changes incorporated.

6 WILLIAMS: This is Marla McDade Williams for the  
7 record. I think one of the things that concerns me about that is  
8 to me the statute says it's abandoned if nobody's claimed it  
9 after three years. It doesn't say anything about who gets to own  
10 the abandoned property, and as proposed, this new provision four  
11 says, well, you can only claim it if you have title. And I just  
12 don't think that - I guess I would be concerned about having -  
13 narrowing it in that fashion. Because I believe we may have  
14 items where there is no title and therefore a Tribe would not be  
15 able to make an argument that - well, historically, you know we  
16 believe that we wanted - want to repatriate that item and you  
17 know if we agree to allow, well you don't have title, then Tribes  
18 have no voice in that process. I'm very concerned about having  
19 that restrictive of a definition there.

20 FREEDMAN: This is Myron Freedman but I believe isn't  
21 there a period of time where information is put out that there is  
22 no claim on this, so people have a chance to come in and..

23 BRADLEY: Yes, this is Sarah Bradley for the record.  
24 So, what I mean by title, and I mean legal title, not a piece of  
25

1 paper, I don't know if that's clear or not. We're not meaning a  
2 piece of paper saying you own this. What we mean is...

3 SPEAKER: Entitlement.

4 BRADLEY: Yeah, legally there's a concept and this is  
5 what we're trying to - to follow. There's a concept of having  
6 title. So, I guess our concern was if the Museum has abandoned  
7 property, right, we're supposed to repatriate it, but can we  
8 repatriate it if we don't have title to it yet?

9 And the way the Museum gets title is that publishing in the  
10 paper. Does that make sense? So, it's abandoned, we publish it  
11 in the paper as required by the statute to give people a chance  
12 to say hey this is ours, you know we're making the claim, so then  
13 that helps us figure out who it goes to.

14 So, we're not saying - we're not saying that the Tribe put  
15 in and made the claim and we're now publishing. But I guess our  
16 thought was we weren't sure that legally we can give back  
17 something that's abandoned, if there's a question as to who owns  
18 it.

19 So, the purpose of that publication is to make sure there's  
20 no question, and so like I said, we were trying to lay out the  
21 process and I don't know, maybe I'm not explaining it well.

22 ALECK: This is Betty Aleck. Can you give us an  
23 example, or me an example, because - of what the Museum might  
24 have that is abandoned?

25



1           BRADLEY:            So, this is Sarah Bradley for the record.  
2   So, an example would be the Museum - the staff comes in one day,  
3   and there's I don't know a basket or a box. There's a box at the  
4   door on Museum property. So, they bring the box in and there's  
5   items in there. The Museum has not - normally when someone  
6   donates something to the Museum, they say hey, I'm Sarah Bradley,  
7   I'm going to donate this item, and I sign the paperwork and I  
8   sign it over to the Museum. These items are in this box, they're  
9   by our door, we don't have that. We don't know if that person,  
10  you know we don't know the intent. So, the idea is that's  
11  abandoned, so the statute says it has to have been held for three  
12  years, and no one has made a claim, right.

13           So, we have it, no one has done anything with it, we're  
14  trying to figure out what to do with it, before the Museum is  
15  deemed to have the legal authority to either own it, or give it  
16  to the owner, we have to publish. So, we publish, and if  
17  somebody claims it during the publishing, then we don't ever get  
18  to own it.

19           If, and I say we as the Museum - if nobody makes a claim,  
20  then technically the title goes to the Museum. The Museum now  
21  owns it, and here what we're saying is, unless it's you know a  
22  Native artifact of some kind, something that belongs to the  
23  Tribe, we would try to identify it.

24

25

1           So, I guess our concern was we can't repatriate what we  
2 don't have legal title to, what we don't actually - we haven't  
3 noticed - I don't know if that makes sense, but...

4           EBON:                So, this is Michon Ebon. You just  
5 described the process that was already written in the law, we  
6 didn't change that part. But you guys are trying to change - you  
7 want - you're proposing the change the definition of abandoned  
8 property, because it's already written in the law that you  
9 publish, you do all that, what you just explained abandoned  
10 property, you publish it, that was already in the law.

11           But what I'm understanding is that you're trying to change  
12 abandoned property definition, because - so you already - you  
13 already have that number two of that 381.009, number two already  
14 says we'll publish it.

15           BRADLEY:            Sure.

16           EBON:                In the newspaper and then if it's Native  
17 American things, nobody claims it, then that's okay, because then  
18 you go right into the consultation of repatriation to the Tribes.  
19 What did you guys do before? Why are you looking at wanting to  
20 change that now is our question?

21           BRADLEY:            This is Sarah Bradley again for the record.  
22 Abandoned property is not currently defined. It talks about the  
23 process, and what happens with it, but nowhere in the current NRS  
24 is there a definition of abandoned property.

1           So, our intent here is to give a definition of what it  
2 means, and like I said these definitions here in the NAC draft  
3 kind of help us get through that process in 009.

4           WILLIAMS:           So, this is Marla McDade Williams. So, as  
5 NRS 281.009 was amended and we had this new subsection four added  
6 in, so a Tribe can lay claim to any property currently being held  
7 by Museums. And if they do that, great, then it's not considered  
8 abandoned.

9           So, it's at the point where the Museum says you know what,  
10 we have had this stuff for a long time. We're going to publish  
11 notice to determine - we're going to declare basically it's been  
12 abandoned, unless somebody comes forward and makes a claim. I  
13 mean, that's - that's what's set forth in the statutes.

14           So, I honestly would be opposed to narrowing that  
15 definition to title. I think the law says make claim and there's  
16 going to be some subjective determination of you know whether not  
17 the Museum agrees that person you know has standing to make that  
18 claim, but going forward in you know calling this issue of title  
19 without clearly understanding how it's going to affect the bottom  
20 line of the Tribe being able to access those items, I'd be very  
21 concerned about it at this point.

22           Because truly understanding the end game, how does it  
23 affect the Tribe being able to come forward and make a claim, you  
24 know subsection one - or subsection, yeah, subsection one, any  
25 property held to which no person had made claim shall be deemed

1 to be abandoned, and except as otherwise provided in subsection  
2 four, and subsection four is you know property deemed to be  
3 abandoned is Native - believed to be human remains or another  
4 cultural item of an Indian Tribe then it lays out the obligations  
5 of the administrator.

6 And it doesn't say anything about title and so again, I  
7 just am concerned about that section.

8 EBON: Gene, do you have something to say? I see  
9 you're - I see...

10 HATTORI: Not my area of expertise.

11 EBON: Yeah, I think - Michon Ebon, I just think  
12 that you're trying to - somebody comes in with a box of Native  
13 American items and if you don't have a title, then the Tribe  
14 can't get to repatriate it. I don't think our ancestral items  
15 have titles on them, unless they were sold or bought or  
16 something, so I think that - yeah, I agree that that's - that is  
17 just going to - to me, again, the Museum just gets to keep  
18 everything, oh sorry Tribes you have no title to it, so this  
19 whole plan of trying repatriate things back.

20 HATTORI: This is Gene Hattori. The way that I  
21 interpret it - this, and it happens to us is that they were doing  
22 some construction on Kern Street, and they found apparently -  
23 people at the construction site found historic artifacts, and one  
24 day at our back door there was a cardboard box filled with

25

1 historic artifacts, no title, we don't know who left that at our  
2 doorstep.

3           That to me, that is abandoned property. We have no idea  
4 who owns it, where it came from, you know other than we assume  
5 that it came from them digging up the street.

6           WILLIAMS:           For the record, Marla McDade Williams.  
7 Yes, you know I think we're - we fall into then, you know what's  
8 the standard definition of abandonment means that somebody left  
9 it. For purposes of NRS 381.009, any property held for three  
10 years or more shall be deemed to have been abandoned, and then  
11 there's a process.

12           So, those items that came to the back door, Museums could  
13 not consider them abandonment, until three years after nobody  
14 made claim to them. So, you can - so yeah they're abandoned at  
15 our door, but they're not formally considered to be abandoned  
16 until this three-year period runs.

17           SPEAKER:           That's true.

18           CARRERA:           So, Dave, so we're talking about you know  
19 leaving it out there in the door, have we notified any of the  
20 local Tribes in our area to see if they would be claimed?

21           HATTORI:           No, I did not.

22           CARRERA:           Why wouldn't...

23           HATTORI:           It's historic artifacts, cans, bottles,  
24 nothing Native American.

25

1           CARRERA:            So, I guess just a good relation with the  
2 Tribes in the area, why wouldn't we do that?

3           HATTORI:            Because we're assuming that it's something  
4 different than this joke. Because you're assuming that if not a  
5 artifact, I'm 100 percent certain that the object left at our  
6 back door, did not make [inaudible] any manufactured historic  
7 artifacts of the 20<sup>th</sup> century or possibly be of the 19<sup>th</sup> century.

8           CARRERA:            Okay, that's where I was - Dave Carerra,  
9 that's where I was driving from. I mean if it appeared to be  
10 Native stuff, I mean I would expect the relation - you know that  
11 we have with the Tribes and the Museums, that you would notify  
12 them and say hey you know I just got this stuff, and you know we  
13 would have one of our cultural people take a look at that stuff  
14 and make a determination - point...

15          HATTORI:            Yes, but we - this is Gene Hattori. We had  
16 a case at the SHPO's office where law enforcement in Reno found a  
17 human skull in a crack house. And Reno Sparks called and it was  
18 brought over here to the Museum just because SHPO doesn't store  
19 human remains. And I understand that went back to the Reno  
20 Sparks colony, so that was an example, you know. The law wasn't  
21 in place, but I see that that would be following the law here.

22          CAMP:                This is Anna Camp for the record. Michon I  
23 heard before from Christina that something like that has happened  
24 with a piece of rock art as well, a boulder dropped off. I think  
25 - I believe on their doorstep.

1 EBON: Yes.

2 CAMP: And I think that there is some kind of  
3 process I'm not sure if it was formal process as far as  
4 repatriation of that particular item.

5 EBON: Yes.

6 CAMP: Okay. So that would be another example.  
7 And I know it's happened at the Great Basin National Park too,  
8 our people have dropped off burial items.

9 FREEDMAN: Any thoughts in Las Vegas?

10 SPEAKER: No.

11 FREEDMAN: Moving on to five.

12 WILLIAMS: So, Marla McDade Williams. I think my one  
13 issue with this provision is that you know I think this is one of  
14 those areas where we're now adopting a different terminology  
15 other than what's in the statutes. I think there could  
16 conceivably be situations where maybe we can't agree on something  
17 and we want a fallback position to then look at 25 US Code,  
18 Section 3001. So, if we wanted - if that's really what's driving  
19 this, and I don't know if that is or not, but I think if there is  
20 a difference in interpretation of what qualifies as a cultural  
21 item, and the Tribe agrees, okay, let's follow a different  
22 definition to see if we can come to a resolution then it would be  
23 acceptable to write this so that a Tribe can really use that  
24 definition, instead of what's in the statute, honestly I don't  
25 know whether - the legality of that, but I think that that's what

1 envisioned for the process, then I just think this needs to be  
2 rewritten so the Tribe can agree to follow that position of that  
3 federal definition. But not to make it the definition, the  
4 definer for that term, because that term is already..

5       FREEDMAN:            So, you're suggesting, this is Myron  
6 Freedman, that the language would include something to the effect  
7 that the Tribe would have the ability to agree with the  
8 definition, before we proceed with saying that it is - that's how  
9 it's defined.

10       WILLIAMS:            Yeah, I mean something along the lines of  
11 if a division and a Tribe cannot agree to a cultural item, you  
12 know however that's defined in the NRS, then both parties can to  
13 use the terminology - you know use a definition provided in 25 US  
14 Code, Section 3001.

15       BRADLEY:            And this is Sarah Bradley for the record,  
16 and I think part of the reasoning for this was it includes more  
17 things in the - I mean, that's my understanding, because we -  
18 because the federal definition has associated [inaudible] and  
19 unassociated where the NRS just says funerary and so the idea was  
20 to make sure both were included.

21       And then also the federal says objects of cultural  
22 patrimony, and the term the NRS is cultural significance. So,  
23 maybe - maybe that should be included in the patrimony, and I  
24 think we thought, and I'm kind of looking at Gene, because I know  
25 he's more of an expert in this, but my understanding is it might



1 be more clear - cultural patrimony and sort of saying - unless  
2 there's - unless we have to use this one, we weren't trying to  
3 wholly rewrite it, but this includes more things it seemed like  
4 to me.

5 WILLIAMS: And I appreciate that, again for the  
6 record, Marla McDade Williams, because ultimately that is where  
7 we want to go and I remember us having this discussion before  
8 here and it was about you know cultural patrimony, I think was  
9 one of the terms that came up.

10 And so, I think we're agreeable again to the concept, it's  
11 just let's not make it supersede what's already there.

12 BRADLEY: And it can't, and it won't, yeah. Yeah, we  
13 can't by law super - we can't conflict with the NRS in any way.

14 WILLIAMS: Yes, so it's just a matter of how this is  
15 written so that it doesn't require that usage and somebody can't  
16 use - you know argue with the other. And I don't know how  
17 relevant that's going to be in the end, but it's a point of  
18 discussion.

19 FREEDMAN: Provision five, Las Vegas any comments?

20 SPEAKER: No.

21 FREEDMAN: Okay, six...

22 LENT: Joseph Lent, Bridgeport Indian Reservation,  
23 just one last one. Say the Museum Director, he has something  
24 that's he thinks is a cultural artifact from a local tribe but

25

1 then you have Tribes that say no, that isn't a cultural item,  
2 just curious, then what happens?

3 FREEDMAN: Well, we're being guided by USC 25,  
4 correct?

5 SPEAKER: Right.

6 LENT: You know logically you enter into  
7 consultation.

8 SPEAKER: [inaudible]

9 FREEDMAN: Further comment? Okay, six.

10 SPEAKER: Can you just explain the intent of six,  
11 seven and eight?

12 HATTORI: This is Gene Hattori, I made the last  
13 comment.

14 SPEAKER: But it states the person is Tribal...

15 SPEAKER: Six, seven, eight.

16 SPEAKER: Rachel.

17 SPEAKER: Yeah, that wasn't me. I usually  
18 [inaudible].

19 SPEAKER: This must be Rachel.

20 BRADLEY: So, this is Sarah Bradley for the record.

21 I didn't - I mean I worked on making the draft look like it does  
22 today. My prior understanding and I was kind of relying on  
23 expertise from meeting staff was that there's other provisions  
24 that already say that federal property isn't - can't be  
25 abandoned. I know you can abandon state property, there's state

1 law that say you can't. You can't essentially like default on  
2 the state and take, you know what I'm saying.

3 So, we're just clarifying here things that my other  
4 provisions can't ever be [inaudible]. So Federal, State...

5 SPEAKER: But if it's already Tribal.

6 SPEAKER: There's already a state or federal law in  
7 existence to do that. Is this necessary?

8 BRADLEY: It may not be, I mean, I think so. I think  
9 we were trying to clarify what abandoned property is and this  
10 process would work, and it may not be necessary, but we were just  
11 trying to clarify, and I think from the other perspective, we  
12 would never not have a record for these, right. These are never  
13 - state property isn't going to be you know - we know what state  
14 property is, it comes in and has a label on it, you know. So,  
15 they're not going to be left at the back door, I guess is what  
16 I'm saying in a box, because you know...

17 WILLIAMS: For the record, Marla McDade Williams. I  
18 guess the only comment I have is you know the first [inaudible]  
19 we give the 381.009 and that section of abandonment, again, it  
20 really doesn't envision an ownership perspective, it really is a  
21 time driven perspective and so, I just don't know what the  
22 purpose of that additional clarification would be, and how it  
23 would be handled.

24 FREEDMAN: Any other comments? Las Vegas?

25 SPEAKER: No.

1           FREEDMAN:           Thank you.   Nine?

2           WILLIAMS:           So, I look at the - Marla McDade Williams.  
3 I'd have the same comment as for five, but at the end if there's  
4 a situation where NRS 381.001 or other definitions don't provide  
5 clear guidance, and there's a desire to look at alternative  
6 definition, then you fall back to this, it's just writing it, so  
7 that it's you know - a supplementary process versus one that  
8 supersedes.

9           BRADLEY:           And this is Sarah Bradley for the record.  
10 The purpose of 9, 10, and 11 is to define the terms from the five  
11 that you commented on. So, I believe these would go together  
12 with five, yes.

13          FREEDMAN:           Okay, now we're looking at 9, 10 and 11  
14 then. So, if I understand you right - oh this is Myron Freedman.  
15 If for some reason it's unclear for five, these then become  
16 supplemental definitions that help to clarify.

17          SPEAKER:           Yes.

18          FREEDMAN:           Okay.

19          RAKOW:             Melba, on this I was kind of into  
20 clarifying, it says here, it says Federal agency on 10, Museum,  
21 and the subject - and the objects can be identified by a  
22 preponderance of the evidence as related to specific individuals  
23 or families, how does that - to me, I need further clarification.  
24 I think it must be associated with the affiliated Tribe and

25

1 maintain consistency with that definition, be of no human  
2 remains, etc.

3 HATTORI: This is Gene Hattori. This is taken  
4 directly from NAGRA [phonetic].

5 RAKOW: Yeah.

6 HATTORI: And it relates to instances where museums  
7 have taken human remains from known grave sites, family grave  
8 sites.

9 RAKOW: Right, oh okay.

10 HATTORI: And then repatriate the remains not to a  
11 Tribe, but back to the family.

12 RAKOW: Um-hmm.

13 HATTORI: And that's why the specificity is in that  
14 sequence.

15 RAKOW: So, basically speaking though, if someone  
16 came up to that person and came to you and said that's my  
17 family's - you know that is my family, then I would have the  
18 right to basically lay claim to it, or repatriate it?

19 HATTORI: Yes, yes. The same with any sacred object  
20 or remains, yeah.

21 RAKOW: Okay, but say I'm here from Germany, just  
22 using an example and I came here to you, and I said to you, this  
23 is my relative, you, knowing that that is a Native American and  
24 the person is from Germany, how would you have to be able to  
25 handle that, if that was the case?

1 HATTORI: You would need evidence to verify that.

2 SPEAKER: Here's then where it explains it.

3 RAKOW: Okay, thank you. I guess what I was saying  
4 simply was that you know not to just accept anyone's claim you  
5 know that they should be part of a Tribal affiliation.

6 HATTORI: This is Gene Hattori. Yes, it is - it does  
7 require proof, and verification. Yes.

8 RAKOW: Good. Thank you.

9 MCCLOUD: This is Dorothy with the Washoe Tribe.  
10 Where does it say that when I make claim, if I'm from Germany,  
11 and I make claim to these items that I have to provide that  
12 proof, rather than just come and say well it belongs to me and my  
13 family.

14 HATTORI: Yes, this is Gene Hattori. That indeed did  
15 happen with the Spirit Cave remains. And a group in Grass  
16 Valley, California Native Americans made claim to the Spirit Cave  
17 remains, and they found that the Smithsonian said that they could  
18 be ancient Norse as well as Asian. So, it's [inaudible] but  
19 their claim, and this is the BLM [inaudible] following  
20 [inaudible] which is cited here, denied their claim, based upon  
21 evidence that they provided, and I don't know the nature of the  
22 evidence, but they did..

23 SPEAKER: Okay.

24 HATTORI: They did research and this did happen.

25 MCCLOUD: Okay. Thank you.

1           FREEDMAN:           Okay, moving on, it's [inaudible] you just  
2 [inaudible], 11?

3           WILLIAMS:           This is Marla McDade Williams. I think  
4 that's part of the other discussion we had following the  
5 [inaudible] that section.

6           FREEDMAN:           So, that's so again if necessary to look  
7 for a backup definition - a supplemental definition. Las Vegas  
8 any comment?

9           SPEAKER:           No.

10          FREEDMAN:           So, 12.

11          SPEAKER:           [inaudible]

12          BRADLEY:           So, this is Sarah Bradley for the record.  
13 Now that we - I mean this 12 goes back to 5 and the ones we just  
14 did in laying out, so what we're trying to do is explain because  
15 the statute doesn't really clarify what the meaning is because  
16 there's a legal meaning, and I guess that's what I was trying to  
17 say earlier, what you got in title, it's a legal concept, not I  
18 don't mean a piece of paper per se, it's a legal concept of  
19 title, which means a persons owns it. It's a fancy way of saying  
20 ownership. So, here what we're saying is, so number one is  
21 they've had it for three years, and no claim has been made, and  
22 then two the publication has occurred, now the Division owns it  
23 just for the purposes of determining now they think they own it.  
24 They then determine is it cultural, okay, we're going to  
25 repatriate it, so that's number two.

1           And then if it's not a cultural item, then the Museum just  
2 owns it, you know for example like the cans that Gene mentioned  
3 earlier, there could be historic objects that are abandoned, that  
4 aren't Tribal affiliated at all or cultural items.

5           And so it's basically we're trying to say that after this  
6 part does, the legal title tranvests, so that way the division  
7 has the power to give it back, because otherwise, like I said  
8 it's a legal - a legal ownership concept and I know the statute  
9 doesn't specifically call it out, but I mean it's the state of  
10 the law, at least in Nevada, with regard to ownership.

11           And so that was our idea to kind of clarify that okay after  
12 this happens, then now the division owns it, and decides okay is  
13 this a cultural item? If so, then number two, which is  
14 repatriate, or if it's not, then number three, the Museum owns  
15 it.

16           WILLIAMS:           So, for the record, Marla McDade Williams.  
17 I think it would be useful for you to have that explanation  
18 within here rather than just this standing alone, just to kind of  
19 lay out under what conditions these would apply. I guess my real  
20 concern is with that section two which says if it is determined  
21 it's a cultural item, then you're going to follow up [inaudible]  
22 CFR Section 10.14, or I guess all these other provisions up here.

23           We don't want to do that in lieu of what's required in  
24 subsection four of NRS 381.009.

25           BRADLEY:           Okay.



1 WILLIAMS: So, you know again I think you just have to  
2 make sure that you're doing the notice and consultation, and  
3 doing those things required by that section, and then if it's  
4 agreed, then we're going to repatriate pursuant to this section.  
5 But you don't want to say that's the only way we're going  
6 repatriate is that section. Because I would think under the  
7 notice and consultation provision if there's agreement, then you  
8 just repatriate to the Tribe without having to go through  
9 whatever process is required in these federal citations.

10 EBON: I think - this is Michon Ebon. What  
11 bothers me the most is very important and I just want to lay that  
12 out to my relatives that are here, is that NAGPRA sometimes takes  
13 a while. They have a 30-day, there's this big, long process and  
14 you know that might be good, and a good way to do that, but we  
15 have - we have an opportunity now to make that a shorter time,  
16 because if it's Native American human remains.

17 I'm really sad when they're stored at the Museum, they're  
18 in a box, they're in a drawer, because they're waiting the 30  
19 days, they're doing all that. That's just me though.

20 That's the Reno Sparks Indian Colony is you know once  
21 they're recovered, and they're driving off down the road, the -  
22 you know what's happening? Are all the items together? If there  
23 was other items found with that? You know what's taking place?  
24 Was there a prayer that took place?

25

1           Was there an opportunity to - you know when we say - when  
2 we - so we've got to agree to this, if we're going to go the NIPO  
3 [phonetic] way in this procedure. Because if we do, then that  
4 takes away our - maybe not our input, but it does take - it takes  
5 a long time to get it back.

6           And that's always my scare, because I know that's happened  
7 is, once it's with the Museum staff, and I don't know how they  
8 are making this up, they're starting to measure them, you know  
9 that scientific study, they start to do things. And all we want  
10 - all's I want is our ancestors to be back in the ground, or back  
11 you know reburied, or you know whatever the - and specific you  
12 know song or a prayer or whatever.

13           But so we can - I'm just saying that, so we might want to  
14 think about that, because they're putting NAGPRA on this. And  
15 remember NAGPRA is a federal law that has a process, and that  
16 takes longer than if we just say do you know what, the Tribe is  
17 there, just hand them over, so that can get done in a  
18 confidential, spiritual way, fast.

19           None of this driving down the road, getting it over there,  
20 30 days later, that's how I feel anyway, so we've got to take a  
21 look at that. And you know we don't have to answer that right  
22 now, but we could definitely talk about it.

23           HATTORI:           This is Gene Hattori. I'm sorry Michon,  
24 but I do have to answer that.

25

1 EBON: Because I said Gene will be measuring and  
2 taking pictures and...

3 HATTORI: No, no.

4 EBON: And writing on his paper.

5 HATTORI: And this came up maybe in testimony about  
6 the Nevada State Museum. It is accredited by the American  
7 Alliance of Museums. And in addition to that, we receive Federal  
8 funding for our program. As such, we're required to follow  
9 NAGPRA in terms of our collections.

10 So, for many Museums this means repatriating items - you  
11 know human remains and objects of cultural patrimony, etc., but  
12 you know that's basically we always do that. But in terms of the  
13 law, you can't circumvent our obligation to NAGPRA even though  
14 doing so would benefit your receipt of the objects.

15 EBON: Okay, but I get that, thank you, Michon  
16 Ebon. Even abandoned and private property, just because you guys  
17 have federal money, but this is a private - I mean this is a  
18 state law now, and this is where the very - why we changed this  
19 law, and why we were here June 5<sup>th</sup> and I got up made a statement  
20 is values, beliefs, and traditions. We understand those laws are  
21 out there, those federal laws, but those laws were not made with  
22 us, or even our participation or our ancestors' participation.  
23 We wanted to change the - the local law, so that we can make sure  
24 that we have values, beliefs, and traditions in your regulations,  
25 and those values, beliefs, and traditions is not 30 days holding

1 something in a - holding our ancestor in a box. So, is that -  
2 so, my question to you then is every time that you receive an  
3 abandoned or something from a private property or a state  
4 property, you have to follow NAGPRA?

5 HATTORI: This is Gene Hattori. Yes. If we want to  
6 maintain our accreditation as a Museum for [inaudible] as well as  
7 receiving - continually receive Federal funding.

8 WILLIAMS: So, this is Marla McDade Williams, can you  
9 help me understand - so, again, this is - it relates to abandoned  
10 property, a decision - you know the Museum has done its notice,  
11 and you know there's no claim [crosstalk]...

12 SPEAKER: And in the notice is right, yes.

13 WILLIAMS: So, does NAGPRA kick in at the point that  
14 there's a declaration of abandon, or was NAGPRA already present  
15 prior to the decision of an abandoned property?

16 HATTORI: That's a - this is Gene Hattori. That's a  
17 very good question. I do not know the answer to that one.

18 WILLIAMS: So, again Marla McDade Williams. So, I  
19 guess I would suggest determining that, and then deciding whether  
20 or not that - we need to reference that in these regulations,  
21 because again I think I'm with Michon that the faster we can make  
22 this process work, the better off everybody is. So, we need to  
23 understand that first.

24

25

1 HATTORI: That's - this is Gene Hattori. That's one  
2 that we should follow through and investigate with how closely  
3 we're tied to that.

4 NEBESKY: Scott Nebesky for the record. Just  
5 continuing on that discussion, maybe there's a process here in  
6 the abandonment of property that if the Museum determines that  
7 it's a cultural item, and it's been abandoned, and it's gone  
8 through the process, but if it's a cultural item, you don't take  
9 possession or title to it, that possession and title immediately  
10 goes to the closest affiliated Tribe or something, so you guys  
11 don't even take possession of it. That's one - that's one  
12 thought.

13 The other thought is in regards to this provision is... it  
14 relates to abandoned property and cultural items. There may be  
15 circumstances, because cultural items is defined in here as - you  
16 know these are without adding another term, but there are  
17 significant items, and everyone researched significant. But  
18 there's a lot of cultural items that do not meet that definition;  
19 they're just Native American items.

20 SPEAKER: Right.

21 NABESKY: So, does that - how are those treated then?  
22 Because they're abandoned, but they're not a cultural item by the  
23 true definition as a Native American item.

24 BRADLEY: This is Sarah Bradley for the record. And  
25 I understand that it's only the ones that are determined as a

1 cultural item that we repatriate. So in the past it wasn't  
2 addressed, you know from previous status of the law, at least in  
3 Nevada State Law.

4 NABESKY: Right.

5 BRADLEY: But NAGPRA would immediately apply already  
6 on an item, you know as far as what NAGPRA requires from those  
7 situations. But here it's only if it's a cultural item and of  
8 course we would argue that would be as defined, and that would  
9 include all the things that we talked about.

10 NABESKY: Right.

11 BRADLEY: So, if it's one of those, then we  
12 repatriate it. If not, then technically it would be owned that  
13 Museum.

14 RAKOW: Excuse me, Melba. When they say give it to  
15 the closest cultural affiliation, well what if you have - if  
16 someone abandons the object at your door, say, and it's assumed  
17 to be an item or a cultural item from that particular tribe, why  
18 would you - what would you do with it then? I think the word  
19 closest - remove the word closest out of it, because it would be  
20 a direct thing, like we'd know what's ours basically, whereas if  
21 you had a Sioux item, you would have to contact the Sioux Tribe,  
22 and are they going to make that - you know that's up to them at  
23 that point. But how do we return them that, also?

24 FREEDMAN: Myron Freedman for the record. Well, you  
25 know the word closest is in there simply to I believe you know

1 ensure that we're making every effort to attach the object to the  
2 correct affiliated Tribe, and because there may be debate about  
3 its affiliation to begin with, you know what is guiding the  
4 ultimate decision about who it belongs to, so the word closest in  
5 a case where that affiliation cannot be defined or for certainty.

6 ALECK: Betty Aleck, [inaudible], is closest refer  
7 to geographic location, or..

8 SPEAKER: Yeah.

9 BRADLEY: This is Sarah Bradley. And I believe it is  
10 with Nebesky brought this up earlier, my understanding is it  
11 doesn't mean geographically, although that might be a component,  
12 it's closest as in closest culturally affiliated. So, it's not  
13 closest by itself geographically, it's closest to - I mean for  
14 example with what Mr. Freedman just said, I think it's true that  
15 there could be times where - like you said earlier I think  
16 there's Nations, and then there's subgroups.

17 And so it might be hard, if you know it belonged to this  
18 one, but we're not sure and so it's the idea that we would have  
19 to figure out which one really is the closest, the one it really  
20 belongs to. That's the intent of that wording, and I believe  
21 that wording is used in NAGPRA and that it's also used in State  
22 law, to try to make up the Nation when..

23 ALECK: So, how would you determine that I guess is  
24 what I'm saying?

25

1           FREEDMAN:           Well, Myron Freedman, well don't forget  
2 we're following part four of NRS [inaudible] 009 which is  
3 consultation with the Tribes, okay? So that's a discussion  
4 that's a process we have with the Tribes about that particular  
5 case.

6           EBON:               And this is Michon Ebon. Tribes have to  
7 determine that too with each other.

8           SPEAKER:           Yeah.

9           SPEAKER:           Yeah.

10          EBON:               That's if - we just don't put it on them,  
11 that it has to be us as well to determine, and we kind of came up  
12 with examples of okay, maybe everybody you could do a map of  
13 their cultural interests, just to help them out, just to help the  
14 Museum staff out, or when you're - when you're consulted, we just  
15 have respect and honor and say, well, you know that Tribe is  
16 closer, or you know - because we all know - I think as Tribal  
17 folks we all know we're going to do the right thing. I don't  
18 think anybody - I mean I would never say like oh, I think that  
19 Joanne's going to take it and put on eBay you know just giving an  
20 example, I mean I know that, because I know her, and I mean we  
21 kind of know each other, so I think it's really up to us as well.

22           And I don't think we could really take out closest, because  
23 it's in the NRS, I think that's...

24          SPEAKER:           Yes.

25



1 EBON: Yes, so - but it's up to us too, to help  
2 determine that.

3 SPEAKER: But everybody would be local - would be  
4 notified, right. I mean I guess.

5 SPEAKER: It should be, yes.

6 BRADLEY: I mean, yes, this is Sarah Bradley and that  
7 yes, I mean that's a part of that consultation process. It says  
8 in 4(a) provide notice to and consult with each of available  
9 Indian Tribe. So, the ones that we think I mean you know I guess  
10 we do an initial process of hey we think this is you know - I  
11 mean we're talking and you guys oh no, I think it might be them.

12 But my understanding is everybody is going to be notified  
13 and then obviously you guys talk to each other, and say oh that's  
14 not ours or you know whatever you know but that's it. And I  
15 guess one of our fears or concerns and what we were trying to -  
16 is what we do have say for example two Tribes saying this is  
17 ours, how do we...

18 SPEAKER: And we might get that - yeah.

19 BRADLEY: How does the Museum you know - I like the  
20 idea that you're talking amongst yourselves, which are to - and  
21 then that's where I think - I think earlier on it talked about  
22 like a preponderance of the evidence, and you can kind of submit  
23 your evidence and a decision gets made, regarding who it - who it  
24 goes to, and who we're really you know going after, you know  
25 really claims it's theirs. Because that could happen too.

1           SPEAKER:           Well, for sure.

2           BRADLEY:           Yes.

3           SPEAKER:           You could definitely get that. Because  
4 they're abandoned.

5           BRADLEY:           Yes.

6           SPEAKER:           This is [crosstalk] and might be  
7 appropriate, in case there is a challenge, rather than just the  
8 quick determination.

9           SPEAKER:           The [inaudible] sitting in the corner and I  
10 didn't [laughter] [crosstalk].

11          WILLAIMS:           For the record, Marla McDade Williams, I  
12 mean I think you can narrow it down because of the time period  
13 that it's in a permissive time period, not a mandatory one.

14          MCCLOUD:           Hi, this is Dorothy McCloud. And I really  
15 have difficulty with the word closest, even though it is in  
16 NAGPRA. I just - because even in the discussion, we said it was  
17 geographical, and we said no, it's cultural. So, we're confused  
18 about that now. And someone looking at this, depending of who  
19 looks at this they're going to say well, it's in our geographic  
20 area and that's what that means, which it will - it's really - it  
21 may or may not be true. And I would propose another word or I  
22 would like to see that that word be deleted. I just have an  
23 issue with that word.

24          BRADLEY:           So, and this is Sarah Bradley again for the  
25 record. So, in the NRS, cultural affiliation or culturally

1 affiliated means there's a relationship of a shared group  
2 identity, that may be reasonably traced, historically or  
3 prehistorically between the present day Indian Tribes and  
4 identifiable earlier group which is associated with a particular  
5 artifact or site. So, that's what the - that's what cultural  
6 affiliation means, and so by saying closest we mean the one  
7 that's most like that, and I believe closest is used when it's -  
8 I guess I feel like maybe we need to say somewhere it's not  
9 geographic, because it's not. I mean that may be part of the  
10 analysis from what I just read, but it's certainly not the  
11 controlling factor. I mean it's has to have a relationship, a  
12 shared group identity, and reasonably traced.

13 ALECK: Oh okay.

14 BRADLEY: And that's in the NRS, I'm looking on the  
15 second page of the NRS, and it's 381.001, and I'm looking at  
16 number three there. And so that's the legal definition of  
17 cultural affiliated. And so what we mean is we're using closest  
18 as I believe it would be talking about the degree of that - of  
19 that affiliation, you know so it's the one that is the most, not  
20 the least.

21 ALECK: Okay, thank you.

22 BRADLEY: And so maybe we needed to add that though  
23 where it also says closest but maybe we should say closest  
24 doesn't - you know it's not just geography, although I thought  
25 that could be a piece of it, it's not the only thing. I mean I

1 would say and maybe you guys would disagree, I don't even think  
2 it's primarily geography, it's more about that relationship.

3 ALECK: Um-hmm, it is.

4 FREEDMAN: Okay, any other comments on 12? Moving  
5 onto 13. All right which references 14. [crosstalk] [laughter]  
6 Let's go to Las Vegas.

7 MCBRIDE: Now, this is Dennis McBride for the record.  
8 Provision 13 needs to include the State of Arizona.

9 SPEAKER: Yeah.

10 SPEAKER: Yeah.

11 FREEDMAN: Thank you.

12 NEBESKY: For the record Scott Nebesky. Can you talk  
13 a little about provision 13, why - why that has to have a  
14 definition of Tribes outside the State of Nevada?

15 FREEDMAN: Well, why don't you go ahead and answer  
16 him.

17 HATTORI: Well, clearly and we heard this from  
18 numerous people when we went out around the State, the travel  
19 boundaries do not follow state lines. And in particular, we  
20 heard various talk in [inaudible], they may not live in Nevada or  
21 they're maybe from Utah, but they consider Nevada part of their  
22 territory. Joseph is here from Bridgeport, okay, and clearly  
23 they have a lot of connections between Nevada and the Tribes  
24 [inaudible] to help people and you know there's been - there's  
25 was grave oversight.

1 NABESKY: Okay, thank you.

2 RAKOW: Melba Rakow here, that's very true, because  
3 Washoe is also in California, and the more studies we are doing  
4 now and more research, we're finding we're clear down into - down  
5 towards the Peninsula in California at one time. So, when you  
6 look at it that way, we don't have boundaries like state lines,  
7 so we just have to muddle through that.

8 FREEDMAN: Any other comments on 13 or 14?

9 LENT: 14, Joseph Lent, Bridgeport Indian  
10 Reservation. And that's important because we've never been  
11 contacted. I've been in my office for two and a half years, and  
12 we've never been contacted by Nevada State Museum. I've got to  
13 the information in a roundabout way, even for this meeting.  
14 That's important.

15 FREEDMAN: As we - it's Myron Freedman for the record,  
16 Anna stepped out, but part of what she's doing is making sure  
17 that as we learn about these other groups, and how they relate,  
18 she's getting the contact information. So, let's be sure she has  
19 yours and anybody else that you want her to be in contact with  
20 and what we should have.

21 Okay, we're looking at 15. It's on permitting.

22 NEBESKY: So, this - Scott Nebesky for the record.  
23 This is another example that as overlap with the SHPO's office.  
24 And I didn't see in here where and I may be wrong but in the 383,  
25 if you have a willing, private property owner, there's an

1 opportunity for that private property owner to consult with and  
2 negotiate directly with the Tribe. And it's not clear to the  
3 extent that that means it bypasses a number of these other rules,  
4 or not, but it certainly needs some clarification.

5 BRADLEY: Yeah, this is Sarah Bradley for the record,  
6 and I think we can look at that and I apologize - I mean I think  
7 the way I was reading the law, the permit, if somebody's willing,  
8 I mean I think we need to address that. I think we probably  
9 still need a permit if they fall under the parameters of 196 or  
10 197. So, they'd still have to get the permit, but maybe they can  
11 - maybe the process is sped up a little bit with regard to maybe  
12 consultation. I don't think we can exempt them from that.

13 NEBESKY: Right, Scott Nebesky and I wasn't thinking  
14 that we would exempt, but there may be conditions in which the  
15 private property owner and the Tribe come to an agreement on how  
16 these cultural items are handled that may exclude full scientific  
17 exploration and a full - and it may just be between the property  
18 owner if it was human remains, it may just be just handed over,  
19 because it's exposed; it's already been excavated because it was  
20 anticipated. But you'd still have to go through a permit and let  
21 the permit kick into other requirements that were inconsistent  
22 with the value, traditions, and beliefs and [inaudible] the  
23 rights kind of more questions.

24 FREEDMAN: Myron Freedman for the record. Well, I  
25 mean isn't that what this legislation is all about, ensuring that

1 there's a process where that consultation with the Tribes will  
2 take place so the values, traditions, and beliefs will be  
3 considered. So, if there's another process outside of this just  
4 - and so I think what you're suggesting, it falls outside the  
5 law, and there's no way to - to govern that.

6 NEBESKY: Okay.

7 FREEDMAN: And then if somebody is out of compliance,  
8 how do we handle that? I mean they're not going through the  
9 permitting process, then they'd be out of compliance.

10 NEBESKY: Right, Scott Nebesky again for the record.  
11 I guess it just needs to kind of include cultural scenarios,  
12 because does that mean if there is a living [inaudible] in the  
13 Tribe, and they come to an agreement about certain things, does  
14 the Tribe then still have to develop a burial plan, and a  
15 treatment plan, and go through all these steps, or can it just be  
16 immediately transferred to the Tribe, particularly if it's human  
17 remains or something of significance of that type, can you know  
18 we're talking about the expedience of repatriating and not going  
19 through a process later - you know process in time.

20 FREEDMAN: Myron Freedman for the record. So you just  
21 - the onus is not on the person wanting to do the excavating to  
22 follow the procedures. So, and if it's private property and  
23 someone has discovered some materials, then it would need a  
24 permit for the permitting process [inaudible]?

25

1           SPEAKER:           Well, remember not on a discovery, it's  
2 only of a known site.

3           FREEDMAN:           Right, not discovery, yeah. If they choose  
4 to excavate, yeah.

5           WILLIAMS:           So, this is Marla McDade Williams. I think  
6 kind of what's missing for me in 15, 16, and 17 is if I'm that  
7 property owner and I want a permit, I don't even have - I'm not  
8 even sure how to do that under what's proposed here, so you know  
9 what office do I go to, to apply for a permit, what are the  
10 conditions for the permit? One of the - and then we must - the  
11 property owner gives enough information and then the [inaudible]  
12 goes and then he says hey we've got a property owner and he wants  
13 to excavate this plot of land.

14           I'm going to excavate this site, and we believe you know  
15 the Reno Sparks Indian Colony has a role in that. And here's  
16 what they want to do. They want to excavate because they want to  
17 develop the land, and they know the site's there and so they want  
18 the opportunity to repatriate.

19           So, when the property owner comes in for his permit, he  
20 says hey I'm going to develop this land, and I just wanted to  
21 repatriate these items, and will the Tribe allow that, versus - I  
22 know this site is on my land, and I want to see what's there.  
23 And then the Tribe still - and then you still have to consult  
24 with the Tribe, you know and now you're at a different level of  
25 discussion probably.



1           So, it - you know and then what Scott said. So, a property  
2 owner could come forward and ask for a permit, but he can say  
3 we've already had agreements with the Tribe where we intend to  
4 repatriate this, and then you go back to the Tribe and you go all  
5 through that, okay, the permit is issued, the process happened,  
6 and it was an expedited process.

7           So, it's just kind of - still requiring the permit, but  
8 laying out how it's going to move forward, what the intent of  
9 asking for that permit is.

10          FREEDMAN:            So Myron Freedman for the record. So, I  
11 think there's a big education component in all this for anybody,  
12 you know who comes across material, or thinks they have. And one  
13 thing I'd like to at least suggest is that what we make available  
14 is something called best practices. Because in some cases you  
15 won't want them to excavate if they'll agree to bury them deeper,  
16 or move them 50 feet to the right or to the left, or what-have-  
17 you.

18          So, I mean I think making people are aware that there are  
19 other approaches and options based on consultations with the  
20 Tribes that could happen. So, they're not automatically thinking  
21 you know they're somehow in trouble, or they won't be able to  
22 overcome this problem in order to do their project.

23          WILLIAMS:            For the record, Marla McDade Williams,  
24 right. So, you're not imposing a burden on them, you're just  
25 looking for a solution to resolve the issue.

1           So, I agree with all that. I just - I just think we need  
2 to spell it out as best you can in the regulations, and not leave  
3 that to some process that staff kind of creates as they go along,  
4 so that just needs to be clear. If I'm the property-owner, what  
5 do I need to do? Okay, first I have to go to the Museums, I  
6 should - you know I need to identify where the site is. If I'm  
7 excavating for purposes of seeing what's there, I'm going to need  
8 a team of archeologists, I'm going to need all of those things,  
9 if I'm you know just going to repatriate directly to the Tribe,  
10 then how can we facilitate that relationship with the Tribes.  
11 So, it's just - I'm just stating that.

12           BRADLEY:           And this is Sarah Bradley for the record.  
13 And I guess I have to think about some of these expediting  
14 examples that you've said, but I think I'll go here and we'll  
15 talk about expediting processes and I go to my thoughts, and I  
16 don't know if this is not correct.

17           Part of the reason for requiring the time period and  
18 overseeing is to let people know, and I guess my concern is you  
19 know like let's say there's a willing landowner, and they reach  
20 out to the Washoe Tribe, let's say, but part of the reason for  
21 requiring to view the records would be to give notice to anybody  
22 who's - if it gives others the chance to also say well wait a  
23 minute, we could have it.

24           So, that's my only concern about - I mean I'm not saying  
25 you don't want it to be expedited, because I know the government

1 can be slower than we'd like. But at the same time like earlier  
2 we heard that not all the Tribes are sophisticated and have as  
3 many - and so I guess one of my thoughts is requiring there be  
4 let's 30 days. Hey we're going to do this, we're going to send,  
5 you know make everybody who sees this here is a map and everyone  
6 else we have reason to believe you know somehow has affiliation  
7 here, we're going to give them notice as part of the reason for  
8 the time period for the notice is we give everybody more time to  
9 respond.

10 WILLIAMS: For the record, Marla McDade Williams. I  
11 think that's a - that's a reasonable statement. I think it's  
12 also reasonable to expect that you know the Reno Sparks Indian  
13 Colony has already consulted with the Washoe Tribe and the Summit  
14 Lake Tribe, and everybody else, and they all agree okay, that you  
15 know we don't have a stake in this game.

16 BRADLEY: Okay.

17 WILLIAMS: So, it's really a very - it's  
18 communication, right. It's making sure that we have those  
19 relationships, so we can make those contacts as fast as we need  
20 to, and in some cases make decisions.

21 SPEAKER: So, but that's the main reason though,  
22 because sometimes we're so busy, we don't even have time to look  
23 at our email for days.

24 WILLIAMS: You know and I think if you can't get to  
25 it, I mean that's why the time frame is there and then you know

1 Scott talked about well do you have to make a decision that  
2 favors the landowner if time expires and nobody comes in. I  
3 think that's all other discussion I agree we need to tackle.

4 FREEDMAN: Okay. Any other thoughts on 14, 15?  
5 Moving onto to 16, Las Vegas, are you all right?

6 SPEAKER: Thank you.

7 FREEDMAN: 16?

8 WILLIAMS: For the record, Marla McDade Williams. I  
9 think Scott might have talked about it, and I don't think it got  
10 into my notes, but the notice of the Tribes if you could consider  
11 including a disclosure that the Tribes have the right to have  
12 their values, beliefs, and traditions incorporated into the  
13 permit. You know the notice kind of lays out some expectations  
14 and what their rights are, that might be helpful.

15 FREEDMAN: Okay. Any other comments on that? 17?

16 WILLIAMS: For the record Marla McDade Williams. I  
17 think this is the only area where we start bringing in that  
18 associated - an associated funerary objects which is not a  
19 definition in State laws. So, we just need to be clear about you  
20 know that concept and again, I think it benefits Tribes, and so  
21 they're willing to agree to that more than likely, but let's  
22 establish a process for that to be agreed to.

23 NEBESKY: Yes, for the record Scott Nebesky. There's  
24 plenty of - but there is a redundancy when you're talking about -  
25 when repatriating cultural items, the third line down. And then

1 it goes on to associated funerary objects and associated sacred  
2 objects. Isn't that cultural items? Can't we just define  
3 cultural items as all those other things?

4 BRADLEY: Yes, we did, but this this Sarah Bradley  
5 for the record. I think that definition defined cultural items,  
6 but it did not include the last one which was objects of cultural  
7 significance and I'm not sure if it included sacred. I don't  
8 know if it did.

9 But I feel like the cultural significance is in Nevada  
10 state law specific.

11 NEBESKY: Because I saw somewhere else, where - Scott  
12 Nebesky for the record - that objects of cultural patrimony and  
13 cultural significance are one in the same?

14 BRADLEY: Yes, this is Sarah Bradley for the record.  
15 Yes, that at the top of page three, and this is where, where  
16 they're finding objects of cultural patrimony at the bottom of  
17 page two the definition starts.

18 NEBESKY: Right.

19 BRADLEY: And then it says, the last sentence, unless  
20 otherwise required by NRS 381.009, sub 5, and 6(a) an object of  
21 cultural significance shall have the same meaning as an object of  
22 cultural patrimony.

23 NEBESKY: Right.

24 BRADLEY: And yes it's our understanding again that  
25 does come from NAGPRA and it's my understanding it's a little bit

1 more settled definition, I believe, I may be speaking  
2 incorrectly, but I didn't think that cultural significance is  
3 used very often, and so we were trying to I guess make it more  
4 clear.

5 NEBESKY: Yes, for the record Scott Nebesky. I just  
6 think that, you can tell me if I'm wrong, that cultural items is  
7 - I don't know if it creates any confusion that then you have to  
8 list all those other ones out still.

9 BRADLEY: You're pretty - you might be right.

10 NEBESKY: Isn't that what cultural items are?

11 BRADLEY: Yes, this is Sarah Bradley for the record,  
12 and I am looking back a provision 5, although I know we are at  
13 the [inaudible] have some revision, but in the definition there,  
14 we say associated and unassociated funerary objects, sacred  
15 objects, and objects of cultural patrimony. So, the additions in  
16 - so the only thing I think is different - this is Sarah Bradley  
17 again for the record - is objects of cultural significance is  
18 included in 17, and that's the only part of this that's added.

19 NEBESKY: Okay.

20 BRADLEY: So, maybe we could look at that and bring  
21 it back with discussion.

22 NEBESKY: Yes, thank you.

23 FREEDMAN: Any other comments on 16? 17?

24 NEBESKY: For the record, Scott Nebesky. I'm just  
25 wondering that's added just because the term, affiliated Tribes

1 is used in the language, but isn't that the same as the cultural  
2 association?

3 FREEDMAN: Yeah, applicable Tribes?

4 NEBESKY: Applicable Tribes and then there's  
5 affiliated Tribes, and then there's closest affiliated, or  
6 closest affiliation.

7 SPEAKER: Oh.

8 NEBESKY: I don't know...

9 BRADLEY: Yes, this is Sarah Bradley for the record,  
10 I think you're right. I mean we in 17, we say applicable, and  
11 I'm not sure we meant to use two different terms.

12 NEBESKY: Okay.

13 BRADLEY: Meaning affiliated.

14 SPEAKER: Well, you always say consultation with the  
15 applicable Tribes occurs throughout.

16 BRADLEY: That's true.

17 SPEAKER: All throughout the language.

18 BRADLEY: And let me - this is Sarah Bradley, and let  
19 me doublecheck 066, because it may say you give a notice to  
20 applicable, but the closest affiliated is the one that you  
21 repatriate to, but applicable would be broader, right, it would  
22 include more than the closest affiliated, right? So, more people  
23 would get notice, rather than less. Let me check.

24

25

1 WILLIAMS: Right, it's notice - for the record Marla  
2 McDade Williams - that's under the abandonment, but notice each  
3 applicable Indian Tribe, you know so yes, it would be broader.

4 BRADLEY: Yes, this is Sarah Bradley for the record,  
5 and I'm looking at the NRS and I don't think it's numbered but  
6 I'm looking at NRS 381.0066, and then it says - number one says  
7 in providing those in consultation as required by this chapter,  
8 the Museum Director shall immediately notify in writing and  
9 initiate consultation with any Indian Tribe who is likely - who  
10 is or is likely to be culturally affiliated, and it talks about  
11 applicable. So, it's is, or is likely, so I guess our thought is  
12 that's - that's broader than the closest affiliated, because we  
13 may not know that. So, we want to notify everybody.

14 Yes, we should doublecheck what those - we're using,  
15 because it's not the intent.

16 NEBESKY: Yes.

17 FREEDMAN: Do you guys need to talk about 18?

18 SPEAKER: Are there any questions on it?

19 FREEDMAN: Well, like - this is Myron Freedman. This  
20 is like a strengthening of the definition of - of Tribes and  
21 [inaudible] will be identified as [inaudible] consultation?

22 SPEAKER: What is NRS is provision 18 associated..

23 CAMP: It's determining cultural affiliation, this  
24 is Anna Camp, but NAGPRA - it refers back to NAGPRA, I believe.

25 SPEAKER: Yes.



1           CAMP:                So, that's just - this is Anna Camp for the  
2 record, that particular part is just referring back to how  
3 cultural affiliation is determined through the NAGPRA, through  
4 NAGPRA. So, NAGPRA already has it laid out as to how we would  
5 figure out cultural affiliation. Obviously, some of the Tribes  
6 have given me maps or specific areas of cultural interest that  
7 would play into that as well, which I would hope would come up in  
8 the consultation process. But we would basically follow the same  
9 kind of, you know ideas in NAGPRA with how to figure out  
10 affiliation, along with knowing by looking at our maps, and  
11 knowing which Tribes have specific or places of cultural  
12 interest, that maybe there might be three or four Tribes that  
13 need to be consulted at that point.

14          FREEDMAN:          So, Myron Freedman for the record. I guess  
15 is this is the right spot for this, that would be my question.  
16 Maybe it's something that needs to be looked at earlier in this  
17 process, if it's that significant, you know to identify the  
18 right...

19          CAMP:                You mean the consultation process?

20          FREEDMAN:          Well, just in - the provisions suggest a  
21 certain order of business here, and so it seems to come a little  
22 late in that order, that's all I'm saying.

23          CAMP:                Okay.

24          FREEDMAN:          And I'm not sure if there's a good reason  
25 for that or not, it just seems a little late in the process.

1 CAMP: Okay.

2 EBON: And this is Michon Ebon, again, NAGPRA sets  
3 out a guideline, and as an example you know the [inaudible]  
4 Shoshone Tribe had submitted to repatriate the spirit of caveman.  
5 Because of NAGPRA, and certain science, and certain institutions  
6 and archeologists said oh, you can't get them back because -  
7 because of NAGPRA, you can't reasonably trace - I'm assuming  
8 that's what went on there.

9 So, the [inaudible] Shoshone Tribe had to fight several -  
10 several years and spend millions of dollars to prove to get them  
11 back, and then finally they had to be tested, DNA tested. And  
12 then - only then did it prove that they were closely related to  
13 the Tribe.

14 And then according to the federal - what is it, the federal  
15 regulations, you know that's get published..

16 SPEAKER: Code of Federal Regulations.

17 EBON: Yes, the CFR, science was still negating  
18 the Tribe. So, I bring this up is because if we're going to use  
19 NAGPRA to determine the Tribe, and we go through a fight like  
20 that again, that is not our values, beliefs, and traditions.

21 And for a long time the Tribe would not test those remains.

22 SPEAKER: No.

23 EBON: Because we are not into destructive  
24 testing. And it was done, the Tribe finally said okay, and were  
25 tested, and they were related, closely related just like

1 Kennewick Man we weren't going to test, weren't going to test,  
2 now they're closely related, and now we still have science saying  
3 wow, it can't be you guys, because you crossed the Bering  
4 Straight 10,000 years ago.

5       So, we just always run into science negating what we are  
6 saying in our values, beliefs, and our traditions. So, if we are  
7 going to put this in there, be careful. I mean I'm not the one  
8 determining that, but we have to read that, so you know it sounds  
9 good, written here as a new provision, but once you read it, you  
10 go to - we all need to go pull up 43 CFR 10.2, and understand it  
11 fully, like okay we're okay with that, because science - so I'm  
12 saying in the Code of Federal Regulations when they're saying  
13 okay, we're going to repatriate back to the Tribe, science is  
14 still in there saying, but we don't believe it's still the  
15 closest of you know that we don't believe that, even though the  
16 DNA test said - it says the closest related, we still don't  
17 believe.

18       So, we have to be careful of that, and I know I wasn't  
19 making any of that up, because I read the Code of Federal  
20 Regulations, and I read verbatim, what I'm saying but you still  
21 have science negating what Tribes believe.

22       So, I would suggest - I mean we can look at it now, or try  
23 to go back and pull that up, pull that section up, and if that's  
24 what you want, and then remember, the Fallon Piate Tribe tried  
25 to do that, and it took several years and millions of dollars and

1 it was only it was tested that they - were they ever repatriated  
2 back, and Kennewick Man as well. So, I just wanted to let you  
3 guys know that.

4 FREEDMAN: So, Myron Freedman for the record. I  
5 believe what's going on here is making sure we're consulting with  
6 the right Tribe as opposed to determining - and this won't help  
7 determine necessarily, where it's repatriated except with the  
8 consultation with the Tribe.

9 And I think that's what this definition is in here for, so  
10 we - so, it's guiding - the law is guiding us to use certain  
11 parameters for identifying the correct Tribes to consult with.

12 WILLIAMS: Right. For the record, Marla McDade  
13 Williams. When you look at NRS 381.0067, it says the Museum  
14 Director shall use the criteria for determining cultural  
15 affiliation set forth in 43 CFR, Section 10.14. So, this  
16 provision in 18 goes to 10.2(e)(1), so it's different than 10.14  
17 obviously, I just don't know how the substance - how different it  
18 is, and have we made a decision that 43 CFR, Section 10.14 is not  
19 sufficient, and we need this to supplement?

20 FREEDMAN: Okay, any other comments on 18?

21 LENT: Joseph Lent, Bridgeport Indian Reservation.  
22 So, a listing on all of these - the evidence, I'm curious as to  
23 what biology - what does that entail? What does that entail,  
24 like the scientific destructive analysis and different things,

25

1 what we would call disrespectful analysis? Is that what we  
2 listed in biology?

3 HATTORI: This is Gene Hattori. That is one of the  
4 tests, but it's a consumptive, destructive test. There are other  
5 tests that are based on measurements of the bones, and from those  
6 measurements they get ratios, calculations. So, there are  
7 nondestructive biological tests that can be done.

8 LENT: Joseph Lent, Bridgeport Indian Reservation.  
9 I'm just curious because you know all those kind of things go so  
10 far back and like in our cultural resources, our definition of  
11 anything - anything that's found is considered [inaudible], and  
12 that means just ancient. And that's still our ancestors,  
13 regardless of - I mean it would be nice to see if the Museum  
14 would view things that same way.

15 So, oh this was Chinese 40,000 years ago, or however they  
16 do this, you know just we see it as [inaudible] - it's beyond  
17 time, and that's just our ancestors. And so, I really see the  
18 geography - I really see the tradition, I see the historical  
19 evidence, and oral histories, I see those as really valid, but  
20 the biology one, just on principle I really don't like that.

21 CAMP: This is Anna Camp for the record. I think  
22 one - something I know that Kennewick Man is very - Caveman often  
23 come up in this type of discussion, and the way I see is that  
24 consultation is first and foremost for determining affiliated  
25 Tribes.

1 I think one example that I was recently told about with the  
2 Great Basin National Park example was that there were some human  
3 remains that were looted, and then dropped off on a doorstep.  
4 And there were three different Tribes involved in that, and they  
5 wanted to just figure out affiliation for that particular - those  
6 three Tribes wanted to know affiliation.

7 So, they okayed that DNA testing, then all three Tribes,  
8 the Confederated Tribes of Goshute, I believe Duck Water and the  
9 Goshute all worked together, but they did DNA testing because  
10 they - it was agreed upon, but I think consultation is first,  
11 figuring out cultural affiliation will happen in that manner  
12 first.

13 I would think that you would turn to NAGPRA later if there  
14 was some confusion and then if there was maybe you know Tribes  
15 not agreeing upon something. That would be what I would see as  
16 that step. And that would have to be - the Tribes would have to  
17 agree to that, which they're not always going to.

18 So, maybe then all three Tribes could work together to  
19 repatriate without doing DNA testing and just get your ancestors  
20 reburied.

21 LENT: Joseph Lent, Bridgeport Indian Reservation.  
22 And so I'll just - this it was a comment to what Michon said,  
23 because you know, people that all have theories and ideas, you  
24 know, Vikings or whatever in that.

25 CAMP: Yes.

1           LENT:                We just want to make sure that it won't  
2 become a problem, was that the penalty you were talking about  
3 Michon?

4           EBON:                Yeah. I was. I was and yeah, it was -  
5 Michon - it wasn't a consultation that you know we start adding  
6 or adding some new verbiage here that just starts to freak me  
7 out, being in this position, and seeing what's going on with the  
8 ancestors.

9           And so, yeah, you're exactly right, some people will DNA  
10 test, and that's fine, and I don't think that's wrong or right,  
11 when the Tribe states it. But when science states that it wants  
12 to do all that, that's when I get - because it has to be our  
13 Tribe - yes, exactly. That needed to - I needed to say that,  
14 because that's exactly what has been happening, and that - the  
15 values, and beliefs, and traditions, why that is stuck in the law  
16 is when you for science and you all to listen as staff to hear  
17 our point. Thanks, Joseph.

18          FREEDMAN:            Okay, we are - we heard then, and we're  
19 still hearing it, so it seems [crosstalk]. Okay, so Las Vegas  
20 any further comment on 18?

21          SPEAKER:            No.

22          FREEDMAN:            Okay, and 19?

23          NEBESKY:            Is that 19?

24          SPEAKER:            Um-hmm, the permit.

25

1 NEBESKY: Yeah, so Scott Nebesky for the record. I  
2 was wondering - this provision is there that it's only applied on  
3 Federal State Lands, or is this going to apply to private lands?

4 SPEAKER: It's private lands.

5 SPEAKER: Private.

6 BRADLEY: Yeah, this is the private land law and this  
7 is Sarah Bradley for the record, because NRS 381.196 is private  
8 lands, and then NRS 381.197 is the State or Federal lands.

9 NEBESKY: Okay. So, for the record Scott Nebesky.  
10 So, on the private land site, why are we going to constrain  
11 ourselves that we have to follow the Federal Code of you know  
12 handling human remains? Because what Gene brought up before is  
13 you just have to - I mean it's associated with you, so you have  
14 to follow it.

15 HATTORI: This is Gene Hattori. Yes, this is the  
16 Museum's requirement that we follow NAGPRA.

17 NEBESKY: And Scott Nebesky again. And that includes  
18 having to hire archeologists that have an antiquities permit, and  
19 all...

20 HATTORI: This is Gene Hattori. The NAGPRA portion  
21 of it is the repatriation of the materials.

22 NEBESKY: Right.

23 HATTORI: Back to the tribes. The rest of it in  
24 terms of an archeologist, that is what we came up with after  
25 hearing testimony during committee meetings, as well as best



1 practices for archeology also. We're fully in agreement with  
2 what we've heard about the Tribes asking for - or not asking, but  
3 for the bill that an archeologist be the person that excavates  
4 the human remains, or the archeological site, associated with  
5 this provision.

6 NEBESKY: Because - Scott Nebesky, again. I guess  
7 that's - you know my just basic understanding and my recollection  
8 was that I think archeologists were going to be a part of the  
9 excavation to the extent that if there was human remains, that  
10 they would provide assistance, technical assistance to ensure  
11 that all of the human remains, the entire site was - was removed,  
12 because assuming that the developmental or project couldn't avoid  
13 the site, so the excavation had to happen, and the human remains,  
14 and having archeologists there would be beneficial to ensure that  
15 the entire human remains is removed and protected or - and  
16 relocated.

17 But this, when we talk about antiquities permit, I guess it  
18 doesn't talk about the values, beliefs, and traditions of the  
19 burial site permit.

20 HATTORI: This is Gene Hattori. The - hopefully in  
21 here is consultation with the Tribe or issues of the permit.

22 NEBESKY: For the record, Scott Nebesky. I see where  
23 it talks about having burial plan treatment and repatriation of  
24 human remains. It just says human remains, it doesn't mention  
25 cultural items in general. It just says - when dealing with

1 human remains in compliance with you know the code and CFR, but  
2 it's not explicit that the Tribes' values, beliefs, and  
3 traditions can be incorporated into that treatment plan, that may  
4 not necessarily be consistent with you know past practice.

5 FREEDMAN: And I would agree with that, so it does say  
6 have to meet all the requirements contained in 381, so while it  
7 doesn't spell it out all of those things are in 381.

8 NEBESKY: Okay. Scott Nebesky again. I think that  
9 goes - and I appreciate that. But this goes back to one of my  
10 earlier concerns is that there may not be either if your  
11 responsibilities are delegated to another department and/or  
12 you're dealing with a Tribe that may not necessarily be  
13 sophisticated with this, they may not know that - that 381 is  
14 available and there's been certain rights that they have, and it  
15 goes back to Marla's earlier statement and my earlier statement  
16 also that there has to be some disclosure of rights to the  
17 Tribes, and this doesn't make any mention of the Tribes.

18 FREEDMAN: Myron Freedman for the record, we need a  
19 Miranda clause here. I mean something like that isn't a bad  
20 idea.

21 NEBESKY: Yeah.

22 FREEDMAN: If there's some disclosure about what -  
23 what they have access to - or what their rights are and what they  
24 had asked us to do in terms of information, resources.

25 NEBESKY: Right.

1 BRADLEY: And this is Sarah Bradley for the record.  
2 Also 19 follows into 21, I know there's some confusion - so it  
3 does say when issuing the permit, the Museum Director shall  
4 provide notice and consultation when these things occur. So,  
5 maybe that's where we can add the disclosure, I'm not quite sure,  
6 but I think we need to discuss that - or look at that, and I also  
7 realize your comment about human remains. That's not the intent  
8 of this language, because it's not just for remains, it could be  
9 funerary objects.

10 NEBESKY: Okay. It's inclusive, yes.

11 BRADLEY: Yes. And so that's not - that's not the  
12 intent I don't - I just don't have the update of that, I'm sorry.

13 NEBESKY: Thank you.

14 EBON: So, this is Michon Ebon. Your third out of  
15 - 19, 20 and 21 seem to be all related in your...

16 BRADLEY: They're not related, I'm seeing the shaking  
17 of your heads - they are. I thought they are too.

18 EBON: So, I think that - because it's all about  
19 permitting, it's the permitting process, and it's all about the  
20 historical property's treatment plan. It's about all these  
21 things that you're having - that the permit is requiring  
22 archeologists to do if there has to be an excavation.

23 So, my understanding is you guys have a permit process, the  
24 Nevada Museums right? You have a permitting process - you have a  
25 permit process, and a permit package for excavation that you give

1 out - I'm an archeologist, I come in. I want to excavate. Can I  
2 get a permit? You guys have an application process, right?

3 FREEDMAN: Myron Freedman for the record, I think - I  
4 have heard over and over again is that we permit qualifications  
5 of the archeologist.

6 EBON: Okay. So, it's a permit - so what is it?  
7 Is it a - what type of permit is it that I'm asking?

8 SPEAKER: [inaudible].

9 HATTORI: Yes, there are - there are two permits.

10 FREEDMAN: Identify yourself. [laughter]

11 HATTORI: This is Gene [laughter] - this is Gene  
12 Hattori. There are two permits that we issue.

13 The first is a Nevada Antiquities Permit, as per provision  
14 20. And that's [crosstalk] basically a review of the  
15 archeologist's qualifications.

16 SPEAKER: Okay.

17 HATTORI: And that is associated with in the NRS with  
18 specifically State and Federal grants.

19 SPEAKER: Okay.

20 HATTORI: For the qualifications. But for the burial  
21 permit, we also require the same permit for private property for  
22 burials, known burial sites, so those are the two permits.

23 EBON: So, those are the two permits. So, it  
24 would be good to share copies - or we can get them online right?  
25 We can get those - those permits online? I think this is a

1 really good point, my relatives, is that I never knew about these  
2 permits for a long time.

3 I went online and I found the antiquities permit, that's  
4 something we have to know. We have to know this stuff, for me  
5 anyway, we've got to know this stuff. So, now I understand  
6 there's two permits.

7 There's a permit, the antiquities permit, and then a burial  
8 permit, the activation of a burial permit.

9 HATTORI: On private property.

10 EBON: On private property. So, and then they  
11 have the specific - and so I do - I think I have that antiquities  
12 permit, just the cover page, it's revised 109 is that - okay,  
13 that's pretty outdated. And I'm wondering if this is - how do  
14 you guys change this permit? How is this permit changed? Is it  
15 internal? You don't have to go to the legislature and change it?

16 BRADLEY: Well, this is Sarah Bradley for the record.  
17 So, they're currently, at least that I'm aware of there weren't  
18 any regulations, so 20 is actually adding regulations regarding  
19 that process.

20 EBON: Right. And so I'm reading that as this is  
21 the process, that we...

22 BRADLEY: Yes. I mean the plan is that they at least  
23 you know, your provision 20 is saying this is about the Nevada  
24 Antiquities Permit. And here's what you have to do and how you

25

1 get it. And this is the process that's currently being used, as  
2 I understand it.

3 EBON: Okay. I think this is where we can do a  
4 big - have an input where our values, and beliefs, and traditions  
5 can come in, because they haven't been in so far. You've just  
6 been listening to us. And I think that this permit - this permit  
7 would - this is the time that we can have our input, especially  
8 about - I understand that there's laws that we have to go by the  
9 professional - the list of the professional archeological to -  
10 according to the Secretary standards. So, there's all that.

11 But when we - I think that we as a Tribe, we have input on  
12 those archeologists because - and then also that we could to -  
13 review all that, and then that - a treatment plan that they're  
14 coming up with, that the archeologist comes up with a treatment  
15 plan to say okay we have to - we have to bring the spirit, we  
16 have to excavate this burial when the Tribes has - the Tribes  
17 have already been consulting and so the Tribes are part of it.

18 So, the Tribes we can really have our input into that plan,  
19 because I'm telling you right now all archeological plans that I  
20 read, maybe there's a couple out there they all - it's all  
21 science-based. It's all about we're going to of course look and  
22 you know map it, we're going to write it, we're going to take  
23 photos, we're going to measure it, sometimes we're going to do  
24 this, and then not even on human remains on the cultural items,  
25 you know they're going to do hydration testing, they're going to

1 be doing flotation - they're going to do all these tests, and the  
2 hydration testing, that's - that's destructive analysis. And  
3 then they want to do it sometimes on every cultural item.

4       And so I think this is a point where our values, and  
5 traditions can come in, when you guys are - when we're writing  
6 this permit, and the historic preservation treatment plan that  
7 the archeologist wants to do, is this where we come in. First,  
8 the Tribes have access to the human remains, when they're  
9 discovered, or when they're out that we get to do - conduct a  
10 ceremony, we don't have to write that ceremony out, but we get to  
11 come in and that ceremony could just be a prayer, or it could be  
12 using medicines to smudge. And we ask that those remains - that  
13 the funerary objects and the ancestral remains, remain together,  
14 nothing removed. There has to be security overnight, if they're  
15 going to be exposed overnight. That's I'm hoping is where we can  
16 get our values, beliefs, and traditions in your permitting  
17 process. Because that hasn't been there.

18       So, I might be overstepping, or overdoing something, but  
19 this is really important to me, because sometimes that doesn't  
20 happen, and that's when our human remains go flying down the  
21 road, because that's happened, and so I just - this is where I  
22 think this is the part where we put in our plan, you know that's  
23 reasonable and using our traditions, values and beliefs.

24       BRADLEY:           And this is Sarah Bradley for the record.  
25 Just to add on [inaudible]. I know you read number 22, but

1 that's where, I mean at least in my mind, when I was looking at  
2 number 22, in fact [inaudible] put it together a little bit.

3 SPEAKER: Okay.

4 BRADLEY: The idea is when we get the request for a  
5 permit, they'll do this, and then we'll try to - trying to  
6 identify you know ask the Tribe to provide the permit holder or  
7 the Museum guidance on the disposition, and list of Tribal  
8 monitors and that was the idea. I think we also said a burial  
9 plan, but we took that out, because not everybody wants to -  
10 anyway so I think is maybe where we want to add some of that, and  
11 maybe not - I'm not saying you can't add it earlier, but I mean  
12 we were trying to outline like how it's going to work, and the  
13 idea was this - you know when they say hey we want to do this,  
14 you're saying okay, well here's what you need to do. We've also  
15 worked with belief that we couldn't specify, or we probably  
16 didn't want to specify like the process you know the cultural  
17 traditions specifically, because some of that, they vary, and  
18 some of it you may not want in writing.

19 And so keep in mind too, the property owner may not be able  
20 to afford an archeologist, a crew, all those testings, I mean  
21 they may not be able to afford it, if you're just doing a little  
22 backyard swimming pool. It's expensive to do stuff.

23 CAMP: This is Anna Camp for the record. I just  
24 wanted to clarify on the permitting process, because as we've  
25 talked about, we're talking about two different permits. We have



1 not yet permitted anyone for burial sites on - no burial sites on  
2 private land. That hasn't happened yet. None of this has come  
3 into play.

4 What we do permit, and who we do vet are archeologists in  
5 the State of Nevada, who just want to do archeology. They have  
6 to be vetted, they have to have experience in the Great Basin, in  
7 order to be listed as a project manager versus a person in  
8 charge, those are very different criteria.

9 So, we permit people to do archeology, we don't know once  
10 they got out there, which land they're doing archeology on. We  
11 have 681 permits for different companies, or different entities.  
12 Then the burial permit, that would be something very different.

13 So, we vet individuals to make sure that they're allowed to  
14 do archeology in the State. Where they do archeology, whether  
15 it's private land or public land, we can't track all of that,  
16 because for each one of these 681 permits, we might have 15, 20  
17 people on that permit that need to be vetted.

18 So, I will be providing a list, which we've done before in  
19 the past two law enforcements, so law enforcement will have  
20 access to this. In the past, law enforcement hasn't wanted those  
21 lists, because it's so much. But every - it's not like people  
22 don't have access to who is vetted as an archeologist in the  
23 State of Nevada. But where they do each project varies, because  
24 as you know there's mining projects, or NDOT, all of these

25

1 different entities have their own, just antiquities permit which  
2 means just they're allowed to do archeology in Nevada.

3 EBON: Michon Ebon, yes, you're exactly right.  
4 And some of those are [inaudible] permits.

5 CAMP: Do we do...

6 EBON: But there's 631 permits.

7 HATTORI: No.

8 CAMP: No.

9 HATTORI: This is Gene Hattori. Those are the  
10 qualifications have been reviewed for 681 applicants. Not  
11 project specific.

12 EBON: Okay, I got it.

13 CAMP: Yes.

14 EBON: And Michon Ebon, I think that Tribes, did  
15 you guys know there were 631 permits out there? You know  
16 excavate - yeah. And I think that's why I keep bringing this up,  
17 is that we need to be notified, especially when it's Native  
18 American.

19 And that's why I also asked ARPA, because ARPA requires  
20 consultation that we have a say on excavations that are happening  
21 out there. And that's why this hasn't been happening. So,  
22 again, I'm bringing up the fact that I think that there can be  
23 some - and it's just me - there can be some basic little writings  
24 in the regulations because you were supposed to add our values,  
25 beliefs, and traditions into this regulation.

1           That's why I keep bringing things up to say they need to be  
2 real simple. We don't have to say okay, and then [inaudible] has  
3 got us down there for 10 minutes, all we can say, we can say that  
4 - because it's already in the regulation of State and Private  
5 Lands, it's - there's no scientific study. So, those  
6 archeologists going out there, getting a permit to excavate on a  
7 private land, they have to understand that there is no scientific  
8 exploration, and in your permitting processes, in your permit  
9 that has to state that too. And I don't know if that states that  
10 right now, because in here you're writing, and I'm not sure  
11 where, 20, 21, but in there you have the whole - you're just - I  
12 think you're copying the guidelines of it, the Field Director is  
13 going to do this, the Field Director is going to do that, they're  
14 going to measure, they're going to do this and that. But there's  
15 no scientific study.

16           So, again you have to be real clear on private, state and  
17 federal, because you got two permits going on. So, it's like  
18 with two permits going on - a two-permit process going on. So, I  
19 think that real simple little guidelines on your historical  
20 preservation treatment plan is the Tribes have to collaborate  
21 with that archeologist to write that plan, and they could be real  
22 simple saying as - let's see, avoidance of separation of human  
23 remains from associated funerary objects, I think Tribes would  
24 agree to that.

1           There is a burial and it comes across, and it's being  
2 excavated that at all times those remains have to be together.  
3 That's real simple, I mean that's not - I just think that would  
4 be - because I'm talking for 200 years down the road, when I'm  
5 not here, and somebody's in my job, or I have my younger  
6 relatives doing this job, they're going to go wow, I have a  
7 guideline, thank you ancestors for doing that. Something like  
8 that for me.

9           And it can be real simple as transport of human remains is  
10 to be minimized. Transfer of ownership and custody will be  
11 documented for any current State law. Just real simple little  
12 things that can be added, or does it have to be in that  
13 historical preservation treatment plan. I'm real serious that  
14 this hasn't been happening. I didn't know there were 681 permit  
15 excavations out there. And they're not all for Native American  
16 cultural items. I understand that.

17           And another thing I know is that all those permits they're  
18 given yearly, so one let's say [inaudible] Environmental, they're  
19 a cultural resource firm in Reno, they have one permit, I believe  
20 for all their projects. They get one permit, right? They get  
21 one - they get one permit for that whole year.

22           SPEAKER:           For that [inaudible]...

23           EBON:                So, it's not like they get one for each and  
24 every project, but they get one permit. So, I think that we need  
25 to be really trained up on your permitting process. That

1 empowers us, it educates us, and during this new - making your  
2 permitting regulations, we're adding in our values, beliefs, and  
3 traditions.

4 BRADLEY: This is Sarah for the record. Could you  
5 repeat you said no scientific exploration...

6 EBON: [inaudible]

7 BRADLEY: Oh, okay, yeah, because I'm trying to -  
8 because I mean, yes, thank you. And then...

9 CAMP: Can I clarify really quick? Anna Camp for  
10 the record. Of the 600, not all are active. So, since I've been  
11 here, you know maybe 30 people, 40 people or entities have  
12 applied for a permit, but it's really important to understand  
13 that we're vetting people to make sure that they're able to go  
14 work on whatever land.

15 So, I can't say - I can't make rules for Federal land. I  
16 can only make rules for that individual to be qualified to  
17 excavate - or not even excavate, survey as well. Anything, it  
18 could be either putting in a telephone pole and somebody stands  
19 there, which is a lot of what these people do. It's cell phone  
20 towers and things like that. Where maybe they never even come  
21 upon something I don't know, but it is that entity and the  
22 people, and no not every 681 are active, and/or excavating. A  
23 lot of them are in survey.

24 EBON: That's important to me, Anna. That's all  
25 important to me.

1           FREEDMAN:           Myron Freedman for the record. So you know  
2 we'll look at this, but you know we can't get clearing house for  
3 information for a part of those things that are going on, but  
4 we're just focused on looking at the qualifications. We just  
5 don't have the staff to take the time to do that kind of work, it  
6 would be a lot of work.

7           HATTORI:           This is Gene Hattori. What we will do is  
8 include you on the mailing list for permits.

9           EBON:           Love that, Gene, thank you. And I think  
10 that - I understand that - I think that that's why you guys  
11 [inaudible], part of that law was to - part of this law that we  
12 passed a couple years ago, the State law was to make sure that -  
13 and you guys were approved to get a staff member, and that's how  
14 Anna came onto this job.

15           And I think that - that could be part - I thought that was  
16 part of it, not to be a curator, but to be that Native American  
17 liaison between the Tribes, so that we have that direct  
18 connection to the Museum who has been housing our cultural items,  
19 that's all. That's why it's important, and I think you guys are  
20 getting it. And I appreciate that, but that's why Anna was  
21 hired.

22           And I didn't - I was not into - be a part of creating the  
23 job description, or who was to be hired, but it wasn't all  
24 supposed to be curation, that was my understanding of passing the  
25 bill, was that Anna was hired to be that direct link, and that's

1 what I want, that direct link so I understand what's going on at  
2 the Museum with our Native American ancestors and cultural items.

3 CAMP: Yes, Anna Camp for the record. We can put  
4 you on the mailing list. I can get you a list of the permittees.

5 WILLIAMS: For the record, Marla McDade Williams. I  
6 just wanted to say I had an "ah-ha" moment, so thank you Anna for  
7 that explanation, because Gene and I we could not communicate  
8 about this whole permit process or [inaudible] we're going  
9 through the website session, and I didn't understand what he was  
10 saying. He didn't understand what I was saying but you know I  
11 now have a more clear understanding of that. You know because  
12 for me a permit has always been something that authorizes a  
13 project.

14 I wasn't clear that you were simply recognizing the  
15 qualifications of individuals.

16 CAMP: Yes.

17 WILLIAMS: But I think there is still some requirement  
18 for Tribes to be notified of existing permits and you know and  
19 maybe it's not - I mean I struggled with that section every time  
20 I read it, but if there is, if we can agree that there is a role  
21 for Tribes in those permits that we talked about with 681, it  
22 could you know - it may require notice and consultation.

23 But I think one of the important components of that is  
24 having those individuals understand the expectations of Tribes in  
25 - as Michon said - you know just a totem pole, but it's still

1 important, and so it's either somehow reaching those people that  
2 you are issuing those permits to, to say you know we've got these  
3 Tribes around the state, and they have a vested interest in this  
4 as well. So, don't ignore them as you're going through this  
5 process. If that's - you know I don't know the feasibility of  
6 that, but it's a thought process that I'm starting to go through.

7           CAMP:               Yes, Anna Camp for the record. And I have  
8 had quite a few archeologists request information from me, and  
9 I'm very clear about you know giving information as to what's  
10 going on with 244 and the changes to private - to excavation of  
11 known burial sites on private land.

12           I don't know about SHPO, and what their process is.

13           WILLIAMS:           Yeah, but I think so, under 197, number  
14 381.197 where you go to the state and federal, I think I'm  
15 looking for more of a role for Tribes with respect to those  
16 permits as well. And I think the law allows that, I'm just - it  
17 just - it happens to be a gray area for me.

18           SPEAKER:           I'd just like to make a point too, but the  
19 law may also scare people away from doing this, because it is  
20 expensive to hire an archeologist, a firm to do the excavation.  
21 I mean, we're talking big bucks.

22           WILLIAMS:           Well, I think they're already on the site -  
23 Marla McDade Williams. So, for the purpose of what Anna  
24 discussed, the 681, those are people who are authorized to do  
25 archeological work. A property owner almost always engages an



1 archeological forum or an archeologist for any work that they  
2 want to do. So, they're already on site. It's not necessary  
3 that they're getting a permit to excavate you know a burial  
4 ground, because that's not - that's not even [inaudible] so I now  
5 understand that process, but they're on site. And so their  
6 obligation for being on site is to simple know okay, Tribes have  
7 an interest in this.

8         If there's something that I see where there could be a  
9 Tribal interest, then under the permit that I receive, I have an  
10 obligation now to let Museums know, so that they can then engage  
11 the Tribe. And it may be a duplicative process, I don't know.  
12 You know I don't know if there are other laws already in place  
13 that say, hey you know but just bringing it to the attention of  
14 those people that Tribes have a vested interest in almost all the  
15 work that you're doing in the State, in that existing permitted  
16 process, or just the individuals, I think would be useful.

17         CAMP:                 Anna Camp for the record. Would there be  
18 the ability to maybe have a statement from Native people, I don't  
19 know, I would of course need to - I don't know all the laws  
20 behind this, but maybe if Native - if Tribes had a statement that  
21 could be given to archeologists when they get permitted. You  
22 know here is a statement from the Tribes, how they feel about  
23 excavation, or...

24         EBON:                 I think - Michon, even I think it needs to  
25 be stated in there, you already stated in your antiquities permit

1 that Nevada Revised Statute and you're quoting it, that's how  
2 it's going to be, and that statement can be right here, that you  
3 know Tribal representatives will be involved or something,  
4 because right now there's nothing about Tribes, unless you go to  
5 381, but now we're passing that. And so I think my idea is that  
6 we need to put some teeth in that [inaudible] more.

7 And then also your handbook does that - is this - because  
8 it's old, this is so outdated, okay. So, is this what comes,  
9 sorry, what comes with this permit?

10 SPEAKER: The [inaudible] permit.

11 EBON: Does it only have a...

12 HATTORI: This is Gene Hattori. The Handbook of  
13 Nevada Antiquities Law, that was the Museum's contracted by SHPO  
14 put that together.

15 EBON: Okay.

16 HATTORI: So, those were - at the time, those were  
17 the applicable laws.

18 EBON: Okay.

19 HATTORI: The application for a permit is then  
20 responded to - the application is accompanied by the NITA and  
21 sometimes corporate qualifications.

22 EBON: Okay.

23 HATTORI: And then we review the qualifications and  
24 then we'll issue a permit that states these people are qualified.  
25 And that they meet all the qualifications for the State.

1 NEBESKY: For the record, Scott Nebesky. You know if  
2 the antiquities permit is a vetting process to be sure that these  
3 individuals are qualified in understanding the laws, are the  
4 permit process may be that... a couple of ideas is that they make a  
5 declaration that they have read and understood the NRS and the  
6 NAC in regards to [inaudible], so that they can be completely  
7 aware.

8 The other could be, and this would be more for the Tribes  
9 to work with, but I think creating that relationship and having  
10 an annual training of some sort, or you know from the Tribal  
11 perspective, so that archeologists and the antiquities permit  
12 holders have a greater appreciation of where the - where the  
13 Tribes are coming from. Maybe something the Tribes want to do.

14 ALECK: No, they're just talking about overall,  
15 everybody, you're not talking specifically about just this  
16 provision?

17 NEBESKY: I'm talking about anyone who is applying  
18 for an antiquities permit that wants to be qualified.

19 ALECK: Oh okay, okay.

20 NEBESKY: To do excavation and all the other stuff is  
21 that they - they're aware of the new NRS rules and regulations.  
22 But further than that, maybe the Tribes need to get ahold of the  
23 list of 681, and provide some opportunity for dialogue with the  
24 Tribes, to get a greater appreciation of the values, traditions,  
25 and beliefs.

1           ALECK:            Yeah, because I think we have a better  
2 association with a lot of the firms already.

3           NEBESKY:         Yeah.

4           EBON:            So, Michon Ebon, what if Tribes - so, we're  
5 consulting about the permit, and what if we say no. I mean, like  
6 we're adamant like no, this is - just throwing that out there.

7           HATTORI:         This is Gene Hattori. I'm not the  
8 decision-maker, number one.

9           EBON:            Okay.

10          HATTORI:         But if you provide - and we have on the  
11 [inaudible] but it's usually for the professional qualifications,  
12 if you have grounds for denying a permit, then you can make a  
13 recommendation. You know Myron is the decision-maker for the  
14 permit, and Myron will take different facts into consideration  
15 when we kind of - actually when I sign off on it.

16          EBON:            And then also - Michon Ebon, you know we're  
17 talking about excavation a lot, and there has to be an  
18 understanding to that. I would not always agree to excavation.  
19 I would say that's why we're build - we're trying to build this  
20 relationship with the landowner, because the law specifically  
21 before was not - you know there was times where I was like well,  
22 I'd like to go visit the land, or where this is at, and then the  
23 mediator would say oh, no. They don't want to meet with you - I  
24 mean the landowner doesn't want to meet with you.

25

1           So, it's like well who's talking for the Tribe? And why  
2 are you talking for the landowner, it's only ethical morally that  
3 the two be talking with each other. So, hopefully we're building  
4 that relationship to say we want to leave in place, intact, and  
5 no excavation. So, we're talking about an excavation, sometimes  
6 it's like no, just let them - leave them alone.

7           So, I thought maybe that could be if Tribes agreed, or if  
8 everybody agreed that it could be written in there first and  
9 foremost if possible that they would stay in place and intact,  
10 never removed.

11           NEBESKY:           For the record, Scott Nebesky. That's  
12 another example of what's in 383 and not in 381. Language has  
13 gotten through [inaudible] is some of that language of the  
14 priority of preservation as opposed to excavation, and we need to  
15 have a better - a better nexus between the two.

16           BRADLEY:           And this is Sarah Bradley for the record.  
17 I think when we keep saying excavation what you say is  
18 information is of course looking at NRS 381.196 it says a person  
19 shall not excavate, you know what I mean?

20           SPEAKER:           Yeah.

21           BRADLEY:           So, it's incumbent to the authority but  
22 we're starting to look, because we feel that's where [inaudible].

23           SPEAKER:           We've already [inaudible].

24           WILLIAMS:           For the record, Marla McDade Williams. I  
25 mean it's probably more appropriate for closing remarks, but I

1 think you know there's a point where we would love to be your  
2 partners in going through Chapter 381 at least in making changes  
3 wholesale through - they're not just limiting it to Native  
4 remains and funerary objects. And we would like to have that  
5 broader discussion at some point in the future, but we'll get  
6 through this first.

7       But my comment on Section 19 is you know I'm somewhat a  
8 linear thinker right, so I think of a permit, I think it's paper,  
9 I think you disclose your name, as I think you disclose where the  
10 site is, you know do they recognize you know the local Tribes in  
11 the area. But is there a timeframe for how long that permit  
12 process will take, you know I mean, when I you know ran my  
13 program, we had to approve applications within 90 days.

14       We had to approve or deny applications within 90 days. And  
15 I think that we need some language in here as Michon said about  
16 you know denial and what are some potential provisions for denial  
17 of the permit?

18       But that we really should set out, you know a lot of detail  
19 in this section so that it's clear and it isn't just left for you  
20 all to - you know to have an internal discussion about and nobody  
21 knows about what that decision-making process was. And it's just  
22 setting out some criteria for that permit. But then you know  
23 recognizing that not all permits will necessarily be approved,  
24 and that as a property owner I should know that when I go through  
25 that process.

1           FREEDMAN:           Okay.

2           ALECK:                I know [inaudible] and I'm Betty Aleck for  
3 the record. I know [inaudible] includes the animals that are  
4 there, but I think of that dog that was found, he's around  
5 Winnemucca Lake that was wrapped in netting, and a lot of people  
6 don't think about animals, but a lot of times Tribal people bury  
7 their animals, so just to throw that out there. And usually they  
8 would be buried in a way that would be with respect.

9           I put that - I usually put that in my 601 letter. I  
10 include animals in there.

11          FREEDMAN:           So, 19, 20, 21 all related to the  
12 permitting. Can we move onto 22, and this is about contacting.

13          WILLIAMS:           Can I - I just have a question about 21?

14          FREEDMAN:           Sure.

15          WILLIAMS:           Marla McDade Williams, so it says when  
16 issuing a burial permit, the Museum Director shall provide notice  
17 and consultation. So, does this precede - the notice and  
18 consultation and application and [inaudible]. So, in my mind,  
19 again, once a permit - so, when someone comes forward and say we  
20 intend to - we want to excavate, that initiates the permit  
21 process.

22          The way I read this, it says the permit is being issued and  
23 now we're going to do another consultation.

24          BRADLEY:           Oh, and this is Sarah Bradley for the  
25 record. It was not the intent - maybe we should change it, but

1 again the idea is that - I mean it's clearly when an application  
2 is received, I guess in my mind, the way I kind of phrased it  
3 was, you know what we're issuing is we received an application.  
4 Now like we're in the issuing process, I guess. And so we're  
5 going to...

6 WILLIAMS: Okay, so it's [crosstalk]

7 BRADLEY: So, it's not - yeah, the intent I don't  
8 think was like oh, we're not going to - I mean, in my mind we  
9 definitely [crosstalk].

10 WILLIAMS: Okay.

11 EBON: And then just last - one last thing, Michon  
12 Ebon for the record - on provision 19. I think it just needs to  
13 be better defined, and that's why we would like to add in some  
14 you know real basic - some treatment plans using you know Native  
15 American values and real simple, not spelling out a whole list of  
16 you know confidential spiritual things, but real basics.

17 SPEAKER: That we can work with you guys on that.

18 FREEDMAN: Thank you. Any thoughts on 22? How best  
19 to contact [inaudible].

20 WILLIAMS: For the record, Marla McDade Williams. I  
21 think you know it really - well, I said it was on written notice,  
22 I think we should add in, you know by phone, you know I really  
23 think that the Department would be benefitted by having a list  
24 serve that people can sign up for it, and you can communicate to  
25 everybody through a list serve. And then you know at some point



1 I think it would probably be worthwhile to consider a certified  
2 letter or something that you know really requires an action for  
3 somebody to take rather than just regular snail mail it goes  
4 through, so that you, you know - somebody signs for it, you can  
5 at least call back and hey look now you signed for this letter.  
6 Do you understand what's going on?

7           FREEDMAN:           That's an excellent, Myron Freedman, a  
8 certified letter for the Tribe to sign?

9           WILLIAMS:           To the Tribe if in your first written  
10 notice you don't need anything back, and then your second - and  
11 at some point consider doing a certified letter so that you have  
12 a signatory, so you have somebody to then call and say hey look,  
13 you signed - we sent you this notice, you know. Do you want to  
14 be involved, or do you do not want to be involved, and then just  
15 as you experienced, you're going to need to get - if someone says  
16 they don't want to be involved, and they don't care, you need to  
17 get written confirmation of that fact.

18           Don't make any assumptions, just say well you send me an  
19 email that you don't - that you don't care, so that you have that  
20 record.

21           RAKOW:           Melba Rakow. I also believe that some of  
22 us have cultural departments, so it might be wise sometimes just  
23 to go to the cultural department and let the cultural department  
24 then take it to the - you know to take it to the Council or  
25 whatever. Because they get so buried in all the [inaudible]

1 content [inaudible]. So if the cultural department can't because  
2 we have to read everything.

3           CAMP:           This is Anna Camp for the record. So, it  
4 was hard to write everything I wanted to do in here, because it  
5 was probably a little excessive, but that has sort of been my  
6 method is that if I can't get a hold of a Chair person is that I  
7 get a hold of the secretary, and I ask for other emails, if  
8 there's no cultural department, I ask for the environmental  
9 department. So, I've been doing everything I can to reach just  
10 anybody and get information out. But I was thinking that maybe  
11 if I can't get ahold of anyone, the certified letter is a great  
12 idea.

13           But I agree it's too heavy in the written content, and I  
14 found that I sent out many letters that people are like oh I get  
15 a thousand letters. I don't have time to go through those. So,  
16 that's why it was - why I was attempting to call, but I thought -  
17 and then contact the Indian Commission, and then I think maybe if  
18 a meeting with the Inner Tribal Council would be a good idea,  
19 because you have - you know if I could get on the agenda, and I  
20 know actually Chairman Carrera [phonetic] who is no longer here  
21 wanted to get that going and maybe talk to Inner Tribal Council  
22 and get information to them.

23           So, my intent is to try and contact anyone - to anyone, any  
24 way I can, which has been what I've been doing since I got here.  
25 I don't know how to write that in the regulations.

1 WILLIAMS: I would have one more comment under item  
2 six. It says after completing these steps, the permit may be  
3 issued and/or the excavation will proceed. I think rather than  
4 leading again to - I think it - you're better if you simply say,  
5 after completing these steps, the Division will make a decision  
6 on the permit. This basically says you're going to issue a  
7 permit after you go through the process. At least that's how I  
8 read it.

9 SPEAKER: I wouldn't even include number six, because  
10 it has nothing to do with the consultation method.

11 FREEDMAN: Okay.

12 NEBESKY: For the record Scott Nebesky. In regards  
13 to number five, that kind of has the same - the same  
14 characteristics is, is that the most appropriate place for it be  
15 under provision 22, or under 21?

16 The other would be is that item five talks about the  
17 designee or Museum Director has to try to provide the Museum  
18 Director or its designee permit holder, and the Department on the  
19 details on the disposition of the human remains. Is it just  
20 human remains or is it all the cultural items?

21 SPEAKER: All.

22 NEBESKY: Be inclusive of all that [inaudible] and  
23 that kind of goes back to - when I started going backwards to the  
24 provision under 21, where under 3, 4, and 5, it talks about  
25 funerary objects, sacred object, and objects of cultural

1 patrimony, but you know associated or unassociated items should  
2 probably be on that list, or maybe forego the list, and just put  
3 down during repatriation of cultural items. Because cultural  
4 items is always defined as all those items.

5 EBON: And then - Michon Ebon on number 5 on  
6 provision number 22, is ask the Tribe to provide the Museum  
7 Director or his - or her designee permit holder, and landowner  
8 guidance on the disposition of human remains. What does that  
9 mean? Can you kind of clarify that I guess for me, whoever wrote  
10 that?

11 BRADLEY: I think that was Anna and this is Sarah  
12 Bradley for the record, go ahead.

13 CAMP: Anna Camp for the record. Yes, that was in  
14 speaking with Fallon, with Rochanne Downs I believe. I had  
15 initially wanted a burial plan for each Tribe. And in speaking  
16 with some of the different Tribes' people they were a little bit  
17 - they didn't like that idea quite as much, because it holds  
18 people to the same criteria year after year.

19 So, I came up with you know the wording, the disposition I  
20 think, so maybe it's like you said, maybe it's to leave them be.  
21 Maybe it's to move them over next to where they were buried,  
22 because there has to be a highway that goes in there. So the  
23 disposition of the human remains would be whatever that we've  
24 consulted with the Tribe and the Tribe has decided that they want  
25

1 to happen to those human remains and cultural items and  
2 associated cultural items.

3 EBON: Oh, so the Tribe provides the guidance?

4 CAMP: Yes.

5 BRADLEY: Yes, that's the idea. That's where we were  
6 trying to allow each Tribe - this is Sarah Bradley for the record  
7 to give that specific guidance because our understanding is  
8 different so, you know we couldn't incorporate and we can't even  
9 have a master idea, and so the idea is we let them know this is  
10 going on, maybe we received an application, here's where it's at.  
11 Can you please give us you know your guidance, like I said we  
12 initially said the burial plan, but then we realized maybe it's  
13 better just to say, ask the Tribe to provide this. And we - we  
14 the reason we say there, because the Museum, their permit holder,  
15 and the landowner would ultimately give that information, which  
16 is guidance on disposition, maybe handling, I don't know exactly,  
17 that's just the way we term...

18 SPEAKER: Yeah, maybe disposition isn't the right  
19 word for like the handling or care.

20 SPEAKER: Oh, right.

21 NEBESKY: For the record, Scott Nebesky. I think  
22 disposition is the right word.

23 SPEAKER: Okay, okay.

24 NEBESKY: From my perspective. I think what is going  
25 to be the disposition.

1 SPEAKER: Yes.

2 NEBESKY: And the disposition would be everything  
3 from avoidance, to leave, to some type of mitigation.

4 CAMP: Anna Camp for the record. That was, I  
5 think what Rochanne was saying, is that it could be anything, it  
6 doesn't have to be just reburial or...

7 NEBESKY: For the record Scott Nebesky again. I  
8 guess I'm kind of stuck on this word guidance. Does the Tribe  
9 have anything - more authority do you anticipate than merely  
10 guidance? I mean, can we - and maybe that's...

11 SPEAKER: Just private property probably not, I would  
12 think.

13 [Crosstalk]

14 SPEAKER: The landowner doesn't want somebody telling  
15 them what to do.

16 BRADLEY: Well, this is Sarah Bradley for the record.  
17 Again, initially we had a burial plan, which I think we  
18 contemplated that you know this is what should happen. We  
19 changed to guidance, I mean I don't know...

20 SPEAKER: Just [inaudible].

21 NEBESKY: Well, I guess thinking that - I've got to  
22 look through this, but does the affiliated Tribe have any more  
23 authority than just providing guidance? I mean, can they say no?

24 SPEAKER: To the issuance?

25

1           NEBESKY:            To the issuance of a permit, or to the  
2 disposition, because the disposition, maybe the Tribe says you  
3 know this is one, it could be a burial, or it could be a  
4 collection of burials, so that it's the significance of the - of  
5 the site is increased. And they say no, only - the only  
6 disposition is avoidance. And therefore the permit won't be  
7 issued necessarily for any type of excavation. So, is it only  
8 guidance, or do we have any more oomph that word to - regarding  
9 the permits? Because I know I just know that a landowner is  
10 going to look at that and say, I'm just - I'm just listening to  
11 you for guidance, and I'm out of here. So, thank you for your  
12 guidance and I'm done.

13           CAMP:                Anna Camp for the record. I would hope  
14 that that would come out early in the consultation process, you  
15 know before the permit is issued is that we're having  
16 consultation, meaningful consultation between the property owner  
17 and the Tribes.

18           So, it would be you know you're face to face with these  
19 people, this guidance is a face to face interaction you know  
20 between the Tribes and the landowners. I mean I'm sure we could  
21 change - I don't - I'm not sure that we can change the language.

22           SPEAKER:            I think there's something more, like more  
23 than guidance.

24           BRADLEY:            Yeah, and I don't think the intent is they  
25 just yeah, okay, we're not going to do that. That's not what we

1 mean, but then at the same time one of the things we're charged  
2 with the NRS is balancing the rights, and so I mean, you know and  
3 I wrote a note earlier just for the record, just so you know to  
4 kind of research what if a Tribe says no. Like what happens.

5 NEBESKY: Yes.

6 BRADLEY: Because you know like I said part of the  
7 charge is balancing the rights of - the constitutional rights of  
8 the property owner, you know so it's kind of like okay, you've  
9 got a property owner they want to do - you know like how - how do  
10 we - and so I have a note, what if the Tribe absolutely says no,  
11 like you know - I don't know the answer as I sit here.

12 FREEDMAN: You're going to end up in Court.

13 BRADLEY: Maybe it would. And I mean you know...

14 SPEAKER: It would have to stand out...

15 SPEAKER: I thought the word is guidance.

16 SPEAKER: I mean it really has to stand out

17 [inaudible], if it doesn't then it's in court.

18 BRADLEY: Yeah, and we have to go back to the NRS  
19 too, to - this is Sarah Bradley again, we need to take into  
20 account the customs, traditions of the lease. I mean it doesn't  
21 say guidance. We put that in there, because like I said we're  
22 hoping that something in writing from the Tribe would say to the  
23 excavating party, hey this is what you need to do, you know with  
24 what you find.

25



1           And so that was in our heads when we were writing you know  
2 and I think it's more than guidance, I don't think - but I guess  
3 I don't know, what if the Tribe says no, I mean do we need to  
4 look at that, and then also how do we phrase this here so that it  
5 fits with what everybody can provide us?

6           SPEAKER:           Well, I think it's something like more time  
7 in the future.

8           BRADLEY:           Yeah, I mean obviously we're going to meet  
9 to do that.

10          FREEDMAN:          So, let's wrap up this...

11          WILLIAMS:          Can I make one final comment on this  
12 section? I think we've got handling the remains, and then we  
13 also have just expectations of handling the site and in treating  
14 that and I think those are kind of two different things, and I  
15 think what we're going to submit with the additional criteria is  
16 really kind of behavior that we want to see before anything even  
17 happens at the site, and then there's handling the site and so...

18          FREEDMAN:          So, wrapping up the regulations, comment  
19 period here, and hopefully not a new comment period, this time is  
20 for general comments.

21          ALECK:            Are they going to like educate realtors on  
22 these laws?

23          CAMP:            That's a good question.

24          ALECK:            Because they're the first real person.

25

1           SPEAKER:           That the homeowner would be - or which is  
2 the...

3           SPEAKER:           The seller, or the manager of the community  
4 selling.

5           CAMP:               Anna Camp for the record. I hadn't thought  
6 about that Betty, but yeah, I definitely can figure out how I -  
7 my preference is to inform as many people as possible. So, if  
8 that's somebody that needs to be on - or a group of people that  
9 needs to be on the list.

10          ALECK:             And you may get opposition from the  
11 brokers.

12          WILLIAMS:         So, Marla McDade Williams. I just want to  
13 thank you all for your time today. I really think we made a lot  
14 of progress today, and I look forward to continued discussions.

15           One thought that we had was you know maybe there could be a  
16 website on that - for notices of consultation, you know Michon  
17 has experience with some things, so I'm just throwing it out  
18 there for consideration, because I'm not sure if it would be in  
19 the regulation, but if we just maintained a website, and then our  
20 recommendations will really serve.

21          EBON:             Yes, Michon Ebon. I was just mentioning to  
22 them, you know some of your guys may know the tower TCNS, the  
23 tower - what's C stand for? Communications, notification  
24 services, and it's where all the - it's for the - it's the  
25 federal communications who you know you can go online and look at

1 - you have to have a password to go on, and you look at projects  
2 such as she's talking about.

3 But I would like to state though - so, this has been a long  
4 process, and it's been a love/hate process. And I just want to  
5 thank you Mr. Barton, for you know putting up with all the things  
6 I've said and done on behalf of my full love and respect and  
7 honor for my ancestors and our cultural items.

8 And so I appreciate that. I mean you've taken a lot.  
9 You've taken a lot from Reno Sparks Indian Colony. You've taken  
10 a lot from me personally. But I've always appreciated when I  
11 speak to you at meetings that we've always acknowledged each  
12 other and that we're learning from each other, and I fully - I  
13 thank you that you take from - you take from me, and I'm hoping  
14 you're hearing and listening of how I - how I was raised, and  
15 what my beliefs are and how I've been chosen for this job. I  
16 wasn't chosen by a panel, I really believe it was a choosing of  
17 something that happened a long time ago.

18 So, I just want to convey that to you, so thank you, and to  
19 your staff who have put up with me too. Myron was probably  
20 shaking in his boots every time he saw me, he was always patient  
21 and really good, and then Gene too. I've known you the longest,  
22 I mean I really appreciate that. I too feel that we're making  
23 some moves here. We're making some headway, and I really  
24 appreciate you guys as really trying to listen and hear - hear us

25

1 out of our beliefs, and you know our traditions, and they're real  
2 valuable to us, since this is how we've been raised.

3 And so, I really appreciate that. And Sarah thank you, I  
4 mean it's been hard, because this is probably all new to you too,  
5 you're an attorney. This is not your specialty, but I thank you,  
6 and I want to thank all you guys.

7 But my last thing I do want to say is you know NRS 381 and  
8 383, they're really closely related. And I know the SHPO is  
9 doing her thing, and I guess trying to do - make some policies in  
10 regards to this law, because she's supposed to be doing the same  
11 thing with the us, the SHPO. I keep saying she's hard, but if  
12 she can do how it's supposed to be, making regulations with us on  
13 this as well, and we're not close to what we've done here. So, I  
14 appreciate that.

15 And I'm just wondering - and I know - I can't make you guys  
16 collaborate with her, but it would be good maybe just to talk  
17 with them, with the staff over there to say hey this is how -  
18 what we've done, it's taken some time, but it would be good  
19 because we're - I think we're - we're still way behind in making  
20 regulations with the SHPO, and with 381 and 383, they're closely  
21 related. They're dynamic of each other. So, I would just  
22 appreciate that.

23 And Anna thanks for listening and going out. Listening to  
24 us on June 5<sup>th</sup>, and going out to the Tribes when we said this is -  
25 we're not coming to you, we're not going to take the letter

1 anymore, because we get that all the time. But you need to go  
2 visit the Tribes, and you did. I believe you did that. You went  
3 out there, and you just traveled Nevada and you did that.

4 And so, I look forward to your continued learning, because  
5 there's a lot of learning for you to do to visiting and talking  
6 and dealing with the Tribes in this consultation, and permitting,  
7 and all of these things we're doing. So, I just wanted to say to  
8 you guys.

9 FREEDMAN: Myron Freedman for the record. We also are  
10 very grateful for your participation in this matter and your  
11 guidance which I think is an appropriate word at this time.

12 [laughter] And we will take all of these comments into  
13 consideration now, and we'll start some revising and share that  
14 with you, so we can come together again and look at where we are.

15 NEBESKY: Just one more comment, Scott Nebesky for  
16 the record. One, I want to say thanks to the staff here, every  
17 one of the Tribes represented, coming and having this very  
18 constructive, positive discussion, dialogue. And we are all like  
19 [inaudible], and I enjoyed the inclusiveness because I do think  
20 that it has been [inaudible] all the brilliant minds come  
21 together and work through it.

22 With that in mind, you know I was reading through the  
23 agenda, or the notes of the workshop, and it was saying that the  
24 proposed regulations will have no small business impact. I just  
25 wanted to get - because that's - one of the groups that's not

1 here at the table that was kind of the third leg of the stool is  
2 the cultural resource folks that - and they're - they have a lot  
3 of stuff that they're going to be required to do. And work with  
4 us, work with you, and work with us in moving this forward.

5 So, just the thought about why you really are not concerned  
6 to have an impact, archeologists, and cultural resource  
7 [inaudible].

8 BRADLEY: Well, this is Sarah Bradley for the record.  
9 The law requires us to notify if it's a significant burned-in  
10 detriment to them, and so the determinations that we made because  
11 this is governing the permitting, as a requirement for the  
12 private landowner that they're not a small - I guess the idea is  
13 it's not - if there's an impact to - and maybe if I'm missing  
14 something, let me know. If there's an impact, I would be giving  
15 you a positive one to those businesses, because now private  
16 landowners may be hiring more people to do more permits.

17 And so just looking strictly at the way 230(b) talks about  
18 it, they say there's an impact if it's a direct and significant  
19 burden on the business or the formation of new businesses. And  
20 so that was why we said there is no impact on them. But if we're  
21 missing a piece there, you know because we even felt like even if  
22 they have to do things, jump through hoops, getting a new permit,  
23 they can't do business if they're not currently getting, so it  
24 should be a benefit to them.

1           NEBESKY:           Yes, and I don't know. It's just a thought  
2 that it's also - I guess burdens could be looked at in a number  
3 of different ways is there's going to be new rules for them to  
4 implement, and to follow.

5           And yes, they may have a benefit from this, an economic  
6 benefit, but they have - they're constanly challenged by -  
7 they're usually the go-between, between Tribes and the private  
8 developers, you know and the private components. And I know that  
9 that's their biggest burden is to explain process in terms of  
10 time, and impact of money and how this relates to the developer's  
11 project.

12           And so I'm just thinking and maybe it's not discussing it,  
13 or you know working with them, because they have a - you know a  
14 small impact if it's a small business, but certainly as one of  
15 the legs on the stool, engage them and say, do you understand  
16 this?

17           Just like you challenged us to take a look at it, and  
18 understand it, and no matter how great a writer is, there is  
19 always opportunities for misunderstandings and things like that.  
20 I'm just saying regardless of whether they're a small business,  
21 adverse impact, it would be great for them to sit down at the  
22 table and kind of go through the same thing with them, maybe  
23 informally to get their...

24           SPEAKER:           Thank you.

25           SPEAKER:           Okay.

1 NEBESKY: Thank you.

2 BARTON: Yes, for the record, Peter Barton, and just  
3 to wrap up and thank you Michon for your comments, and for all of  
4 you who made the effort to be here. You took the time, the  
5 interest to provide this kind of valuable feedback. We heard a  
6 lot today. We've got a lot of material to process in the next  
7 several weeks, and I'm sure we'll come back together again in the  
8 future and we'll have these - these conversations.

9 I would just respond in terms of the SHPO, we have reached  
10 out. We have shared, every time that Anna met with one of the  
11 Tribes, she would come back and provide me just kind of meeting  
12 notes, who I met with, what the conversations were. We've shared  
13 every one of those with SHPO. We've given them meeting notice.  
14 We've asked them to share with their constituent groups to  
15 enhance and to make sure that we're reaching as many people as we  
16 can in the process.

17 Ultimately, I can't - I can't cross the Department boundary  
18 and say you've got to do this or that or anything else. That's  
19 their leadership, I agree that there needs to be - find that  
20 nexus we need to ensure that we're not leaving a gap or that  
21 we're duplicating in a way that's inconsistent, the way that we  
22 move forward. But I really want you to know how much I  
23 appreciate and value your input. I think we've made - we've made  
24 good progress.

25



1           We were a little frustrated in the timing, and why it's  
2 taking us this long. You know I don't necessarily know what the  
3 norm is for the Legislative Counsel Bureau to codify law, but  
4 they didn't get this cut - I mean if we were to have regulations  
5 in place July 1, and the law wasn't codified until July 5<sup>th</sup>. We  
6 couldn't even start.

7           So, there were a lot of things that were - there were some  
8 things that were outside our control to, in terms of timing on  
9 all of this, and moving forward now, I certainly want to wish you  
10 all a happy and wonderful holiday season, and you know I don't  
11 know how long it will take to process all of this information,  
12 but as quickly as we've got the next re-draft, we'll get it out  
13 to everyone who has been here, and continue our efforts to  
14 broaden the reach.

15           BRADLEY:           And this is Sarah Bradley for the record.  
16 Yes, I would again just reiterate if you think - because I'm  
17 already thinking and processing, I'm sure you'll be doing the  
18 same. So, if you think of new things that you didn't say, or  
19 things you want to add, please do send that, I mean I'm going to  
20 suggest Anna, just because you know her email and it's easy,  
21 yeah, to send it to her. She'll make sure it's passed on so that  
22 we can consider that. And then you know like I said, we'll have  
23 continued meetings.

24           Also, if there's people that aren't here, but that you want  
25 to tell I mean please share the word, I guess I would say too.

1 Like if other people have comments, or they want to be on our  
2 list, because you know they can ask to be on our list, and then  
3 they get all the notices too.

4       So, you know again, please do share the word, we want you  
5 know comments.

6       FREEDMAN:        I want to throw out to Vegas real quick to  
7 see if there's any wrap up comments from them.

8       SPEAKER:        No.

9       FREEDMAN:        Thank you everybody.

10      BARTON:         They're consistent.

11      [Laughter]

12      CAMP:            Thank you everyone.

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