

1 DIVISION OF MUSEUMS & HISTORY

2 STATE OF NEVADA

3 NRS 381 PUBLIC WORKSHOP

4 Thursday, January 24, 2019

5
6 FREEDMAN: So, we're calling to order this
7 Workshop Meeting for Regulations NRS 381, New Provisions.
8 And we have Invocation on the Agenda - so, did everybody
9 sign in, by the way? Did you guys - did everybody sign in
10 in Las Vegas?

11 SPEAKER: Yes.

12 FREEDMAN: Okay, thank you. A little housekeeping
13 again. If you need the restrooms, they're on the first
14 floor. I'm only going to say it once this time. I read
15 the transcript last time. I think I said that like four
16 times. Anyway, they're on the first floor. And the
17 Invocation is on the Agenda, but I understand we didn't get
18 any volunteers for that, right?

19 SPEAKER: No, but I'll leave it open if somebody
20 would like to do the Invocation.

21 FREEDMAN: Okay. Let's move on to Number 3,
22 Introductions.

23 RUPERT: I'll do the Invocation.

24 FREEDMAN: Oh okay.

25

1 RUPERT: Creator, we thank you for this
2 beautiful day here in Northern Nevada. We thank you for
3 bringing everybody together to talk about this very
4 important subject. And we ask that everyone here, Creator,
5 have open eyes and open ears and be willing to hear each
6 other that we may come together and work on these issues in
7 a good way. So, we thank you for all that you have created
8 and for all that you give us. We ask that you bless
9 everyone here and bless everyone on their way home. We
10 thank you, and Amen.

11 FREEDMAN: Next on the Agenda are introductions.
12 Why don't we start in Las Vegas with introductions? Do you
13 guys want to go around the table first?

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

16 TIMM: Good morning. I'm Mary Beth Timm,
17 Director of Lost City Museum in Overton.

18 UNDERWOOD: I'm Sally Underwood, Curator of Natural
19 History here in Las Vegas.

20 LOPEZ: Hello. I'm Virginia Lopez, Curator of
21 the Lost City Museum in Overton.

22 FREEDMAN: And Bobbi, if you'd like to start over
23 here.

24

25

1 RAHDER: Good morning. My name is Bobbi Rahder.
2 I'm the Museum Director for the Stewart Indian School
3 Cultural Center in [inaudible].

4 RUPERT: Good morning. My name is Sherry
5 Rupert, and I'm the Executive Director of the Nevada Indian
6 Commission.

7 NEBESKY: Good morning. I'm Scott Nebesky, and
8 I'm the Planning Director for the Reno-Sparks Indian
9 Colony.

10 SMITH: Good morning. My name is Sarah Smith.
11 I work with McGinnis and Associates and they represent
12 Walker River Tribe and I am a Cultural Resource Specialist.

13 JOHNSON: I am Christine Johnson from the Nevada
14 Historical Society. I'm the Collection Manager.

15 BRADLEY: Sarah Bradley, Senior Deputy Attorney
16 General, Attorney for the [inaudible].

17 FREEDMAN: Myron Freedman, Director of Nevada
18 State Museum in Carson City.

19 DELOVIO: Rachel Delovio, the Anthropology
20 Collections Manager at the Nevada State Museum.

21 CRUZ: I'm Darrell Cruz with the Washoe Tribe.

22 HATTORI: I'm Gene Hattori, Curator of
23 Anthropology at the Nevada State Museum.

24 GRANT: Warren Grant, Duckwater Shoshone Tribe.

25

1 EBON: Good morning. Michon Ebon, Reno-Sparks
2 Indian Colony Cultural Resource Manager.

3 WILLIAMS: Good morning. Marla McDade Williams
4 with Strategies 360 and we work with the Reno-Sparks Indian
5 Colony.

6 ACKLEY: Jordan Ackley with the Walker River
7 Indian Tribe, Environmental Specialist.

8 CAMP: Good morning. Thank you for coming.
9 I'm Anna Camp and I'm with the Nevada State Museum in
10 Carson City.

11 BARTON: Peter Barton. I'm with the Division of
12 Museums and History, and I extend a warm welcome to
13 everyone here this morning and a couple of new folks here
14 joining us I think for the first time. I know many of you
15 have been here before and we look forward to moving forward
16 today and thank you. We have some light refreshments
17 behind you there. There's coffee and there's water and
18 we'll see how the morning progresses. There may be a
19 luncheon in our future today.

20 FREEDMAN: And we'll take a break in an hour or so
21 in case anyone needs to take a break. Number 4 is a period
22 of Public Comment. There will be two periods of public
23 comment today. This is the first. We may limit due to
24 time constraints, but the floor is now open for public
25 comment.

1 FREEDMAN: And this is really just on any topic
2 cause obviously we'll take public comment on the workshop
3 part as well.

4 FREEDMAN: Okay, seeing none, moving on to Number
5 5, Review the Nevada Administrative Code 381 for possible
6 changes in order to comply with NRS Chapter 381. We're
7 developing a draft of amendments for 381 and we'll now take
8 public comment regarding these changes which were available
9 on the website and I think they were - Anna, they were
10 available through email and whatnot.

11 CAMP: For those of you who picked up a copy
12 of the regulations what I've done is put the NRS next door
13 to the regulations so we can hopefully kind of move around
14 a little bit easier at the time. We'll start with
15 Provision 1. Any comments on Provision 1?

16 NEBESKY: Okay, I appreciate the opportunity.
17 For the record, Scott Nebesky. I think this is a good
18 place to start because it represents some concerns that
19 we've had with the development of these regulations,
20 specifically in the NRS where it talks about the
21 incorporation of values, beliefs and traditions of the
22 communities in the State of Nevada, the Native communities
23 in the State of Nevada, and this is just one example of
24 where I don't think values, beliefs and traditions have
25 been incorporated into the regulations.

1 There's reference to them, and it says that the
2 provision that it will ensure that the values, beliefs and
3 traditions of the tribes are incorporated into the
4 permitting and repatriation process. But I don't see any
5 examples of that, and I think that that's probably one of
6 the most important things, and certainly that's why we
7 provide testimony and support for that legislation.

8 And it wasn't just us. It was also [inaudible], you
9 know. Senator Ratti, she understood where the tribes were
10 coming from in regards to the incorporation and
11 understanding of Native Americans' perspectives in the
12 handling of the intersect of development with cultural
13 resources, cultural items of the inheritance.

14 And I think that, you know, one of the things is that
15 I know it may be a difficult concept to capture when we
16 have so many tribes in Nevada, but I do think that there
17 are values, beliefs and traditions that transcend all the
18 tribes and there are comments of all the tribes,
19 particularly in the way that it represents how cultural
20 resources are handled and managed and dealt with to release
21 regulations.

22 And I think it's important that we underscore that and
23 go back to kind of the beginning of what are those common
24 beliefs, common values and common traditions. And then I
25 know you - and Sherry had the opportunity, and we certainly

1 appreciate that outreach that we did that was consistent
2 with law that said that you go out to the members of the
3 tribes and learn what those values, beliefs and traditions
4 are in order to incorporate them.

5 So, one of the things that I thought would be valuable
6 to us is what did you learn from that trip to all the
7 members and all the outreach? I know the colony submitted
8 some comments about that, but you went out to the
9 membership and you learned about the values, beliefs and
10 traditions, and so that's something that is important not
11 only with this provision but throughout the regulations of
12 incorporating those into these regulations. So, I'd be
13 interested in knowing what - is there any understanding
14 that you experienced that we can start with?

15 CAMP: Yeah, I definitely had some clarity
16 after meeting with various tribes last summer and in the
17 fall, and one of the things that became very clear is that
18 in order to implement some of the things within the law
19 such as [inaudible] such as excavation, having a burial
20 plan, having a clear conversation. It varies. One of the
21 ways that I'm hoping to approach incorporating values,
22 beliefs and traditions I was thinking perhaps in burial
23 plans.

24 So, one of the things that I noticed when you provided
25 your comments back which I apologize, we got our

1 regulations out before we got those comments. But I
2 noticed there were quite a few things that would work
3 really well for certain tribes because they have the
4 resources to handle say re-burial or they have a specific
5 place where they can re-bury.

6 There are some tribes that don't have a place, don't
7 have the means to re-bury, so incorporating certain things,
8 like the handling of human remains that come into the museum
9 say for a temporary period of time, things like that, and
10 thinking about, for instance, Winnemucca. There has been a
11 place right now where they don't have the ability to take
12 remains back. They don't have the means to re-bury right
13 now because some things are happening within the tribal
14 government.

15 So, I'm trying to figure out how to incorporate
16 values, beliefs and traditions and at the same time meet
17 the needs of all the tribes. And my hope is that perhaps
18 that could be incorporated into, like I said, the burial
19 plan and that would be - so it would be through
20 consultation with myself and Myron where we really get at
21 what works for each tribe so while keeping the regulations
22 a little bit more broad. What will happen during the
23 process I hope will be a little bit more personalized per
24 tribe.

25

1 But there were definitely some commonalities as far as
2 values, beliefs and traditions such as the dislike for
3 human remains to be in a museum setting. But like I
4 mentioned, I ran into the trouble of having specific tribes
5 that would have the means right now to repatriate and re-
6 bury, so I'm trying to figure out how to juggle all those
7 things.

8 SPEAKER: I'm sorry, but there's grants for
9 tribes that can help them accomplish those things?

10 CAMP: Right.

11 SPEAKER: And they're not hard to get.

12 CAMP: Yeah, and I have definitely brought up
13 when I've gone out and met with the tribes. My time when I
14 went around with Sherry was a little bit limited cause we
15 were doing multiple things on those trips, and I have tried
16 to call them out and do some outreach and suggest specific
17 grants. But I can only go so far with that. I can provide
18 suggestions, and I'd be happy to meet with anybody on the
19 side and I've offered that, and my intent is to make it a
20 situation where everybody's feeling comfortable with what's
21 going on and that we are incorporating those things in.

22 But like I said, in the regulations when they become
23 very narrow, I feel like it might be more difficult to help
24 specific tribes that don't have the means to do specific
25 things. But maybe that's something we can do with tribes

1 reaching out to other tribes and not giving them
2 information about grants for things like that. But I can
3 definitely add that to my list of outreach, you know, is to
4 provide them with information about grants.

5 SPEAKER: Yes.

6 FREEDMAN: This is Myron Freedman, for the record,
7 just reminding everybody to identify yourself when you
8 speak.

9 SPEAKER: Sorry.

10 FREEDMAN: No, that's okay, we all do it.

11 CAMP: I'm Anna Camp. I apologize
12 [inaudible].

13 BRADLEY: Oh, and this was - oh I was just going
14 to say, this is Sarah Bradley, and one thing we did do is
15 review I believe it was comments from you, Marla, and
16 Michon, both of you, and there was some suggestions I think
17 I would say are kind of like overarching guidelines of
18 things that could potentially be done. So, we did go
19 through that again. We didn't get them in time to really
20 incorporate in these today cause we already had these
21 published.

22 But our thought was to try to go through and identify
23 if there are things in your lists that we thought, you
24 know, and maybe we could do this together, all of us, you
25 know, what is something that sort of, number one, we can

1 do, and number two, everybody sort of agrees to. Some of
2 that stuff we thought though, some of those ideas would be
3 as Dr. Camp was saying, would be part of the burial plan
4 potentially, you know, where a tribe would request these
5 things. So, again, we're not saying we don't want to. We
6 just weren't sure that a set of rules would apply to
7 everybody, I think.

8 FREEDMAN: Myron Freedman, for the record. And I
9 guess I would just throw out the question as is it possible
10 to come up with examples that would be definitive in any
11 way rather than have the regs reflect the need for a burial
12 plan that would give each tribe the opportunity then to
13 institute their own values, beliefs and traditions for that
14 process?

15 EBON: I think, Michon Ebon, Reno-Spark Indian
16 Colony, the first thing I see is again I'm going to go back
17 a little bit. We have two different cultures here. We
18 have a museum culture that is with archeologists, science,
19 that we're trying to figure out and kind of work together
20 on this, and then you have cultural people and trying to
21 figure this out with you guys. And so, the regulations I
22 feel are the regulations that meet the values, beliefs and
23 traditions. I don't think it starts with the burial plan.

24 The burial plan is good, but on you guys' chart here
25 the burial plan doesn't come in till way, half-way through

1 this chart and so that's disturbing to me. So, I think
2 that, and maybe because you got our comments late or before
3 you guys sent your - the notice out, is that I think that
4 with some of the tribes here that we could definitely come
5 up with some things to put in the regulation.

6 The first thing, okay, for instance, a burial is - a
7 Native American burial is discovered. And the first thing
8 you could say, tribal representatives will be afforded the
9 opportunity to inspect the burial, not to do that halfway
10 through, because according to you guys' chart here, without
11 being in a regulation tribes don't need to visit or be a
12 part of this process until halfway down till we're almost
13 done with the burial plan.

14 So, I think that I'm not sure how we're going to do
15 this today because what I've read I just don't feel that
16 the museum staff is getting what we're trying to - what the
17 colony has been trying to comment on because we said we
18 need values, beliefs and traditions. I feel that those,
19 our values, beliefs and traditions need to be written in
20 the regulation, not your policies and guidelines that you
21 guys follow as the museum. So, I think we'll have to -
22 we're going to work - we have to work on some stuff here.

23 SMITH: Sarah Smith, for the record. One of
24 the things I noticed about the policy design was the target
25 population happens to be archeologists. And the private -

1 of the site - and so what I'm thinking is that throughout
2 your policy there's a lot of notation to American
3 archeological sites, not tribal sites, and so I'm thinking
4 that there should be some collaboration with ownership for
5 these sites and not necessarily having it be American
6 archeological site or archeological site. It's tribal too.

7 FREEDMAN: Myron Freedman, for the record. I mean
8 the flow charts establish, and staff will jump in here I
9 know and help me out with this, but the flow charts
10 establish the process beginning with what's happening on
11 the applicant's property, and first establishes the need
12 for the permit. Well does there need to be a permit and
13 steps through the process. And then at the time when it is
14 apparent, that's when the burial plan is part of the
15 process to do with the investigation of that application.

16 SPEAKER: Right, I saw that.

17 WILLIAMS: This is Marla McDade Williams. Did we
18 have a discussion about whether or not we believe there's
19 authority to deny a permit? Did we come to some conclusion
20 on that?

21 SPEAKER: I will tell you, and this is just a
22 general thought, cause I talked this over with some folks
23 in my office, and I mean generally speaking when the
24 government issues permits, licenses, whatever it might be,
25 if the applicant meets the requirement set out, the permit,

1 the license, whatever, is granted. So, generally speaking,
2 and even like with the driver's license, if you pass the
3 test, you know, I mean if you do the things, they'll give
4 you a license. Medical doctor, same thing.

5 And so generally speaking, when the government's
6 issuing whatever the thing is, you know, if the
7 requirements are met, they grant it. And so, I guess the
8 authority to deny would be if the requirements aren't met.
9 I don't know if that answers the question. And so, our
10 thought is to set out the requirements that we think are
11 needed and then if those are met the permit would be
12 granted, and obviously if they're not, it wouldn't be.

13 SPEAKER: And I guess that's where the struggle
14 is. What exactly are the requirements? From a tribe's
15 perspective there could be a desire that no excavation
16 happen.

17 SPEAKER: I understand. Yeah.

18 SPEAKER: And so, where's the tribe's authority
19 to say we don't agree, and we don't believe that the
20 excavation can happen; therefore, this permit should be
21 denied. There is nothing in this language that helps a
22 landowner understand that that's even a potential out
23 there. It's - the regulations themselves envision that the
24 permit will be approved and the tribes, when you look at
25

1 your process, you're coming - they're coming in after the
2 research design has been approved.

3 So, I just think that whole process is backwards for
4 one. But I think there needs to be some acknowledgement
5 that a tribe can choose not to have a burial, you know, and
6 you jumped right to burial plan. We're going to do it, but
7 what if the tribe says no?

8 CAMP: Anna Camp, for the record. I think
9 this is one of the things that we've been caught up with
10 because in the law we're supposed to uphold the rights of
11 the property owner. We're specifically tasked with issuing
12 permits. That's part of this. And so, it's difficult to
13 uphold the rights of the property owner, uphold the rights
14 of all of the tribes as well as maintain this permitting
15 issuing position. So, you know, I remember Alex said well
16 if you say no, then it goes to court, and I don't know, I'm
17 not a lawyer to know what happens if you say no. So, that
18 is a struggle, how do you uphold everybody's rights?

19 WILLIAMS: Marla McDade Williams. I think what I
20 just heard you say is the property owner trumps the tribe.

21 CAMP: Not necessarily. I don't know whether
22 - what happens.

23 WILLIAMS: So, I think your regulations need to
24 set out that process, and if you need to set up an appeal
25 or whatever, you need to set up some judicial review, then

1 you know, you're heavy on process so identify those in here
2 so that everybody is clear about what the rules are.

3 Granted, everybody wants to negotiate in good faith,
4 but there's a point where, you know, honestly, you know,
5 and I point to 2017 Legislative Session when there was an
6 effort by a developer to excavate a whole cemetery in Reno,
7 and it's a private property right, and the Legislature said
8 no. So, there are those options and, you know, that's all
9 tribes have been asking for in this Legislation is some
10 respect for their relatives who are laid in the ground and
11 recognition that they're as important as your cemetery, and
12 these regulations don't get us there.

13 BRADLEY: So, this is Sarah Bradley, for the
14 record, and we recently actually discussed, and I'm not
15 sure why we - I apologize for not thinking of it before
16 cause we were kind of trying to struggle with this issue of
17 what we do when there's a dispute, for example, when
18 somebody says no, you know, whichever side it is. So, we
19 recently talked about potentially adding an appeal process.
20 And so, one of the thoughts we had, and you know, was the
21 way this is written, the Director is the one that's issuing
22 permits, right? So, it's the Museum Director and his staff
23 working on it.

24 So, we had thought the administrator generally is not
25 overseeing that, right, I mean not directly. So, cause I

1 know some agencies - we were trying to think of what are
2 the options, and so some agencies will say you can appeal,
3 for example, to the administrator, just someone higher in
4 the organization. So, we had thought maybe we have that as
5 an option and then potentially even a third option, you
6 know, as well. It was just something we were talking
7 about. We weren't sure, you know, exactly how that would
8 work.

9 I mean we were kind of thinking of a time - and what
10 we kind of thought was any agreed - not agreed to - any
11 party who doesn't agree with the decision to either grant
12 or deny the permit can do this appeal. So, it would be,
13 and I think I was thinking any party, so that way it's the
14 landowner, it's a tribe, it's, you know, I'm not sure who
15 else it would be, but basically, they would have that
16 ability to have someone else look at it, you know. And so
17 essentially and also, we kind of thought about it would
18 state a process until those decisions were made.

19 So, we did think about that on this cause again we've
20 been struggling with this issue. And again, from a legal
21 perspective what I don't love is the law doesn't - I wish
22 it said you can deny the permit under, you know what I
23 mean, I wish it really clearly said something about
24 denying.

25

1 WILLIAMS: And for the record, Marla McDade
2 Williams, I think that was my point in having the
3 discussion.

4 BRADLEY: Yeah.

5 WILLIAMS: Because maybe we do need to go back and
6 have the legislation amended to specifically give authority
7 to deny or at least have that discussion, because right now
8 the presumption that it's going to be approved is
9 detrimental to the remains in the ground.

10 HATTORI: Gene Hattori, for the record. And just
11 in terms of the process, Marla, we had been using, and this
12 was brought up by the law's proponents that were using a
13 Federal model, Section 106 of the National Historic
14 Preservation Act, and we had talked about the steps for
15 appeal that tribes can express to the project proponents
16 and the agency, and we will have in the regulations, and we
17 talked about this, an appeal process whereby as with
18 Section 106 you can escalate it to the division
19 administrator and department director and the Governor.

20 And the Governor, that's when you have government to
21 government negotiations. And the Governor would have the
22 final say much as the President or the Secretary of the
23 Interior or the head of the BLM. So, we did consider that,
24 and we will have that as far as -

25 SPEAKER: Yeah.

1 HATTORI: And I know that's what we discussed.

2 SPEAKER: So that would be incorporated into
3 additional amendments [inaudible]?

4 SPEAKER: Yeah, we're going to add that.

5 HATTORI: It would be in the regular - in the
6 provisions.

7 BRADLEY: Yeah, we'll add it to our regulation
8 draft. This is Sarah Bradley, for the record.

9 So, we were talking about that and kind of truthfully
10 we just talked about it I want to say last week, and so we
11 were kind of trying to think how would we incorporate this,
12 and I guess my thought cause like, and I'll just say just
13 for the record, I work with a lot of licensing boards so
14 the model I'm used to is, you know, board staff, for
15 example, denies the medical doctor license, people can
16 appeal to the medical board. If they have a staff that
17 allows it, they can go to the District Court.

18 And so, I was sort of thinking, you know, do we have a
19 District Court component for review, do we have as Gene was
20 talking about, do we go administrator, direct to the
21 Governor, you know, and I'm not - so we were just sort of
22 thinking about how it would work. You know, I guess maybe
23 we want input on what process, you know, the tribes think
24 would be the best process.

25

1 But one thing I kind of wanted to add, a lot of times
2 in the process I'm used to when somebody appeals, they have
3 to specifically request a stay, for example, of the board's
4 order, and we were thinking of adding it automatic that
5 when, you know, within 30 days of the decision to issue or
6 deny the permit if the appeal is made, that decision is
7 stayed pending the appeal decision.

8 HATTORI: Gene Hattori, for the record. And
9 along with these discussions that we were having, is the -
10 in the law, in the NRS, it says the Constitutional rights
11 of the property owner must be respected. And so, we're
12 also looking into which amendment of the Constitution is
13 being addressed in that particular section of the law.

14 BRADLEY: Sarah Bradley, for the record. Cause
15 it isn't specified, you know, and so I guess the Division
16 has requested an opinion from the Attorney General's Office
17 regarding I think - and Michon, I think you were the one
18 that mentioned it about the exception and how the
19 exceptions - like who has to get a permit. So that
20 question has been posed. There's been no - I mean it's
21 still in process.

22 But that question has been posed as well as hey, the
23 law mentions protecting Constitutional rights of property
24 owners. Are there rights, you know, what does this mean?
25 So, we have asked for some clarification on that cause it,

1 you know, I think as written it's a little bit vague I
2 would say. Like okay, what are those rights?

3 I mean I know generally it's, you know, you can't
4 deprive someone of life, liberty or property without due
5 process of law, but you can do it if you have due process.
6 So, due process may be this appeal process we're
7 envisioning. So, anyway, we're waiting for more guidance
8 on that and, you know, again trying to wrestle with these
9 questions.

10 WILLIAMS: I appreciate that. Marla McDade
11 Williams. I think, you know, if you do get there, you're
12 going to have to put the word deny somewhere in here. So,
13 and it's not there right now, but -

14 NEBESKY: For the record, Scott Nebesky. You
15 know, you're talking about kind of the end game of an
16 appeal process, and being an administrator myself in
17 different things, I know that oftentimes appeals are filed
18 because of ambiguity of the decision, you know, and
19 obviously disagreement of a decision. But oftentimes
20 appeals are not even filed because the decision that was
21 made has findings that are clear, and the guidelines are
22 clear in the statute of the regulations.

23 And that's where I go back to our original comment is
24 one of the objections that the tribes would have is not
25 captured in the regulations, and that's the reflection of

1 the values, beliefs and traditions. And so, I think that
2 an appeal may be - I mean this is something of a bigger
3 issue to explore because if you don't have those in there
4 then how do we defend the position and someone could appeal
5 on ambiguity that the regs never said what the tribes may
6 be objecting to.

7 So, I'm talking - that's an important subject I think
8 we have to explore and why we need those guidelines and
9 those specific things. But getting back to Provision
10 Number 1 and it talks about examples that go throughout
11 these regulations, is it says that, at the very end, it
12 says ensure that the values, beliefs and traditions of the
13 tribes are incorporated into the permitting and
14 repatriation in the process.

15 Now process is one thing that is, you know, it is
16 obviously very important, but I think the intent of the
17 legislation is that the values, beliefs and traditions are
18 also supposed to be reflected in the outcome of the
19 process, not just the process of noticing and consultation;
20 it's about what's going to be the outcome and what are the
21 standards in which in this example a permit is going to be
22 issued and does it reflect the values, beliefs and
23 traditions?

24 And part of this is too is that, you know, we're kind
25 of coming to the table as two parties. But really the

1 reality is that there's one common thing here to all
2 parties, and that is state law, and the state still has an
3 obligation to represent the interests of the tribal members
4 because they're still citizens of the State of Nevada.
5 Yes, it's a sovereign nation, but we're all citizens of the
6 State of Nevada, and so these laws need to reflect that
7 too.

8 It doesn't have to reflect, you know, a certain
9 paradigm that we've been living under for all of these
10 years. The thrust of this legislation that went through
11 was to start a paradigm shift, a paradigm shift that
12 incorporates the values, beliefs and traditions of the
13 tribes in this process. And this is just the start, you
14 know. And the paradigm is that, you know, words like
15 archeology are still embedded.

16 And I understand that that's a science and that's the
17 business that you're in and has certain value and benefits
18 to this, but I hate to harp on it, but the tribes need the
19 representation in these regulations as stated in the law.
20 That needs to be incorporated in there. And part of the
21 paradigm shift is who [inaudible] we were meeting earlier
22 and, you know, and I'm not a tribal member and so I come
23 from two perspectives.

24 But I know that when in a non-native community when we
25 go to a cemetery that Marlo just brought up and I was

1 involved in that Hillside Cemetery issue, everybody
2 testified, and everybody talks about this is the final
3 resting place. That's what a cemetery is. This is the
4 final resting place, and these individuals have certain
5 inalienable rights to be able to be buried there and rest
6 there. And that's for a non-native burial, cemetery.

7 So, when we turn the corner and look at a Native
8 American buried there what do we call it? We call it an
9 archeological site. We don't call it a resting place. We
10 look at it as being an archeological resource. There's a
11 paradigm shift that we've got to get over that there's two
12 perspectives, and we've got to figure out - and that's why
13 I was saying can we get to a level, and maybe not all
14 tribes agree with the details.

15 And frankly, if you can't get the values, beliefs and
16 traditions from a tribe because they have a lot of other
17 issues that they have to deal with, they've got, just like
18 any community, very limited resources and very remote
19 areas, if you can't get that from them how are you going to
20 get a burial plan? I mean we've got to talk reality here.

21 So, that's what I'm saying is we've got to get to some
22 common principles that we all agree on and that we all
23 respect, mutually respect, these things in order to get
24 down to the more administrative process of how you're going
25 to move these things forward.

1 HATTORI: This is Gene Hattori, for the record.
2 I just want to add something though in terms of recognizing
3 a Native American burial as an archeological resource,
4 Nevada State Law the Native American Burial Act in NRS 383
5 that specifically addresses Native American burials as
6 property, as the tribal ownership of both the names and
7 associated funerary objects. That's state law. And I was
8 in on the tail end of the discussions in 1989. I came in a
9 little bit later.

10 But there was a group that wanted to include your own
11 American graves that were encountered like in a farmer's
12 field, and the law excludes that. Native Americans did not
13 want to include non-natives in that - in their law. So, in
14 terms of archeological resources or burial resources, Euro
15 American, Asian American graves, African American graves,
16 not covered, not protected by law. Native American graves
17 are by state law.

18 NEBESKY: Again, Scott Nebesky, for the record.
19 And Gene, I appreciate that, and I think what, you know,
20 what is good for Native Americans on principle should be
21 for everyone. We're talking about the principles here that
22 transcend race or, you know, ancestry or whatever and
23 that's about respect. And I don't think Native Americans
24 would say, you know, yes, dig up the non-natives and but
25

1 you can't dig up, you know, a native because they believe
2 that all human beings, you know, have that right.

3 But just as an example, in the new provision Number
4 20, there's a new definition or new guidance, and what are
5 they calling it in the new provision, Nevada Archeological
6 Burial Site Permit. Why do they continue to call these
7 burial sites archeological? That's the paradigm shift I'm
8 talking about. They're not - not all burial sites should
9 be looked at as being an archeological resource. I mean
10 assuming there's information there, you know.

11 I'm just saying that we've got to change the attitude
12 towards these things because again, it's about walking in
13 someone else's shoes. And again, you know, I in talking
14 with community and whatnot, you know, when we talk non-
15 native talking about ancestors going back into generations,
16 I think my ancestors, that's just part of my genealogy, you
17 know, but I don't look at my ten generations ago relatives
18 as being something other than they are just out there in
19 generations ago. And I don't have anything spiritual or
20 close connections with them.

21 And so, we talk to them as ancestors, but in the
22 Native American community when you talk about one
23 generation or ten generations ago or a thousand years,
24 their perspective is those are our relations. Those are
25

1 their relatives that has just as much importance and
2 connection as one generation to 20 generations ago.

3 So, I think that's where we don't - we look at these
4 because it's from 10,000 years ago, there's no spiritual or
5 connection to it, and there is. You know, I'll let them,
6 you know, the native representatives, talk in those
7 spiritual terms, but it's real, and that's where I think we
8 have to respect and understand that the native community is
9 coming from a different point of view that's not ours. And
10 that's what we're trying to incorporate into these.

11 FREEDMAN: Myron Freedman, for the record. And we
12 do hear what you're saying. The last time we met you used
13 the language of value, beliefs and traditions. We took
14 steps to incorporate that into the revisions and the word
15 ensure that we in the consultative process we are including
16 that perspective. And that's our - that would be our goal
17 going forward with any cases that happened to come up as a
18 result of this.

19 But to go beyond, to go into further definition of
20 values, beliefs and traditions I think your input into that
21 would be very helpful because again, in my view that covers
22 a lot of ground. It opens up a lot of doors and avenues
23 for input for ideas that will determine, you know, what
24 that process should be with that property owner because who
25 knows what the situation will be, right?

1 We have no idea what we're going to run into there
2 until we have some cases that come across our desk. So,
3 absolutely we're open to hearing more suggestions to how to
4 get the language in there that gives you more confidence
5 that we're going to be including those perspectives.

6 NEBESKY: I appreciate that. Scott Nebesky,
7 really quick note. I just wanted to make one clarification.
8 You know, we're constantly kind of bracketing this
9 discussion on private property, but are we not also talking
10 about any permits that were issued on state, Federal and
11 municipal and local government property? Because that's
12 what's required of the SHPO is to ensure that those
13 properties also warrant protection. And that was language
14 in 383.

15 BRADLEY: Yeah. This is Sarah Bradley, for the
16 record. Let me just pull up the statute but yes, I think
17 you're right. It's 196 and 197, I think. Let me double-
18 check. Yes, so yeah and Sarah Bradley, for the record.
19 So, it's NRS 381196, we're talking about that, and that's
20 the private lands. And then 19 - 381197 is investigate,
21 explore, excavate a historic or prehistoric site on Federal
22 or state lands, and so there are requirements for that.
23 And then they do get a permit for state and Federal land as
24 well.

1 NEBESKY: Again, Scott Nebesky, I just want to
2 bring this to your attention and to talk about how 383 and
3 381 are going to connect. But in 383121 it says that "All
4 departments, commissioned boards and other agencies of the
5 state and its political subdivisions are cooperating with
6 the office, with SHPO, in order to salvage and preserve
7 historic, prehistoric property owned or controlled by
8 United States, State of Nevada or its political
9 subdivisions."

10 And the SHPO will have the same level of conservation
11 that's required for museums in order to salvage and
12 preserve human remains. So, there's a connection between,
13 you know, the SHPO standards and you issuing a permit.
14 Just my understanding it's just not limited to the private
15 property owner. It's all permitting that you do.

16 BRADLEY: This is Sarah Bradley, for the record.
17 My understanding, and maybe I need to look at 383 more
18 detailed, but the only permits that the museum director
19 will issue are for private lands and for the Federal or
20 state land excavations as in 381. SHPO may do permitting
21 or other things that they do, but our authority is over
22 those two sections. So, it would be 381196 and 197.

23 HATTORI: This is Gene Hattori, for the record.
24 Just in terms of the Federal mention of the United States
25 and Federal land, that was added in the 1970's during the

1 Sagebrush Rebellion, and we make no claims on having
2 authority over archaeology or burials, Native American
3 burials, on federally managed public lands. That's the
4 federal land managing agency. Even though it's in the law,
5 we - federal law trumps state law, and it would be up to us
6 to call the Highway Patrol or the Sheriffs to go out and
7 essentially arrest the BLM, and we have no authority to do
8 so.

9 NEBESKY: For the record, Scott Nebesky. So,
10 199, we don't - the state doesn't follow that?

11 HATTORI: It's not that we - yeah, we do not
12 follow that.

13 NEBESKY: Okay.

14 HATTORI: And it's pretty clear, you know, the
15 BLM does not get a state permit to conduct archaeology on
16 their managed public land, and we don't send the Highway
17 Patrol out to arrest them for violating state law.

18 BRADLEY: This is Sarah Bradley, for the record.
19 But for state land, obviously, the permit would be required
20 and enforced.

21 SPEAKER: And municipal government.

22 BRADLEY: Yes, I mean - oh, it doesn't say that,
23 you're right.

24 SPEAKER: We don't -

25

1 BRADLEY: It doesn't say that. Maybe that's
2 something we need to change. I mean it specifically says
3 federal and state land, but I guess to me -

4 HATTORI: Gene Hattori, for the record. For
5 certain municipalities they go through the Historic
6 Preservation Office for non-federally permitted projects
7 for review of the cultural resources. And the
8 archeologists that do work on those housing development
9 projects in the Truckee Meadows, they do get permits for
10 the archeologists' qualifications to conduct that research.
11 It's under the county governments to - and the SHPO to
12 review the research designs and the results of those
13 projects.

14 WILLIAMS: For the record, Marla McDade Williams.
15 You know, you have a point to make, but we talked briefly
16 about that the last time that those archeological permits
17 that are currently issued, there is some obligation to
18 circle back to try to do consultation on all of 900 or
19 whatever of those, and it's not something that is part of
20 this process, but it's definitely something that's still on
21 our radar to get done.

22 CAMP: This is Anna Camp, for the record. So,
23 I'm working on that right now, Marla, and I misspoke last
24 meeting. I was going by my database and the numbers that I
25 had each time I get somebody that I vet to give a permit

1 to, and right now we have about 70 active permits in
2 Nevada, and that will change a little bit as new permits
3 come in. And I'm working on getting those put up on the
4 web page and announcing that to all the tribes right now.
5 It's just working on this meeting was priority.

6 SPEAKER: It's an announcement, but there's also
7 consultation that's still part of -

8 CAMP: Right. And also sending out
9 information to those archeologists about this new law, the
10 changes to the law, as well as the regulations. So that is
11 something I'm working on for the next week or so, and then
12 so I'll be providing lists of all those archeologists to
13 all the tribes and also as I said providing the
14 archeologists with information about this law and the law
15 changes and regulation change. Also contacting law
16 enforcement as well.

17 EBON: I have a question, Michon Ebon. So,
18 you talked - Gene, you talked about for the development of
19 Truckee Meadows you were talking about and SHPO and the
20 county approves a research design by an archaeological
21 firm, but that archaeological firm doing that research
22 design, where is their permit coming from? Do they have a
23 permit? Or are they already permitted - they're part of
24 that 70 permitted?

25

1 HATTORI: For the record, Gene Hattori. What we
2 do at the Nevada State Museum is we vet the qualifications
3 for the archeologists to do work within the State of Nevada
4 and we do not permit specific projects except for SB 244
5 projects.

6 EBON: Okay. So Michon Ebon. The
7 archeological firm doing excavation in Truckee Meadows
8 already has a permit through you - through - not for that
9 specific project, SHPO has already approved their research
10 design, but that archeological firm already has a permit
11 probably.

12 HATTORI: Gene Hattori, for the record. For the
13 - we - again this is just for the qualifications of the
14 archeologists and for that we do issue them a permit. And
15 SHPO I don't know what SHPO does anymore. I'm no longer
16 with those workers.

17 WRIGHT: Thank you. Mervin Wright, [inaudible]
18 Lake Paiute Tribe. You know, I apologize for being late,
19 you know, it's an hour and 15-minute drive to Nixon isn't
20 the same. Anyway, you know, coming in and hearing the
21 discussion at the time I did and looking at what's been
22 proposed, this is exactly what I saw as far as the
23 difference, the potential improvement that we've been
24 anticipating.

25

1 We tried to get the [inaudible] law incorporated into
2 the State Legislature in the mid-90's which failed, and I
3 think at this point permitting is the only procedural
4 component that we may have an affect with our involvement.
5 And you know, reading this, the word "may" is included in
6 there, and I look at that as a very soft term. It's
7 interpreted and there's no requirement, and so when you
8 talk about consultation and engagement, they tried into
9 that process of permitting, well you may or you may not,
10 it's not certain with how it's going to be applied.

11 And in listening to the discussion I think, you know,
12 looking at 106 and that process and the responsibility of
13 SHPO, SHPO hasn't always been effective, you know, through
14 that 106 process. Tribes have been left out and
15 notifications of certain finds and inadvertent discoveries.

16 And in thinking about, you know, the discussion here
17 with respect to the discussion of looking at other races as
18 far as those burials, you mentioned Asian, black, white,
19 non-native, I don't think it should be up to the tribe to
20 determine who's included, you know, in the law as far as
21 protecting burials, you know.

22 This should be a collaborative determination made by
23 everybody that this is the sanctity that needs to be
24 protected, not we're demanding that, you know, just Natives
25 be included or that it's our determination that others be

1 included. It shouldn't be that way. All burials should be
2 considered equal, to be protected equally.

3 And you know, to hear the discussion that we have to
4 uphold the rights of the property owners and that it's a
5 Constitutional right, you know, that places a priority of
6 that property owner's rights over anything else. And then
7 further, to look at NRS 383 and to see that native burials
8 are considered property, I don't want to get into the
9 debate of, you know, who has greater property rights, this
10 native burial or the property owner.

11 The issue of a right, to have a right, and we dealt
12 with this on a national level, you know, it's a human
13 right, and when we start talking about procedural and the
14 responsibility of the parties involved in that procedure, I
15 mean we can talk about our relation, you know, to these
16 ancient burials, some of them are still in possession of
17 the Nevada State Museum or the state university system.

18 And it's not about trying to determine who's related
19 because under the NAGPRA [phonetic] law, it talks about
20 lineal descendants, and some attorneys will get stuck on
21 those types of procedural requirements and not take into
22 account the geographic criteria and/or looking at the items
23 of cultural patrimony and the items of cultural continuity.

24 You know, I think the Spirit Cave case out in Fallon
25 was a good example, you know, and Gene, your predecessors

1 were stuck on culturally unidentifiable when that NAGPRA
2 law came into effect, and it's terminology like that that
3 attorneys will basically just go in and raise uncertainty
4 and build uncertainty by the questions that they ask which
5 deserve no answer by the way because it's common sense
6 knowing that, for example, the rabbit skin clothing, you
7 know, the nets, you know, all of that stuff which was used
8 at the time of contact, initial contact, here in Nevada,
9 those items were still being used by the peoples of this
10 region.

11 But yet it was determined oh well, I think that the
12 cranium size and, you know, that the skeletal structure, it
13 resembles Asian or it resembles European or it resembles
14 African and you put it, you know, in your model and compare
15 it to world populations. And it lands somewhere in the
16 middle; we're all human beings, you know, we all have five
17 fingers, we all have shoulders, you know, we have two legs,
18 you know, those are traits that are common, and you can
19 easily compare that to world populations and say hey, it
20 might be related, you know.

21 We joke a lot about ancestry.com, you know. I
22 remember going on to one of those sites, it was free back
23 when all of this stuff first started, and it concluded that
24 I was related to Abraham Lincoln. So, there's models in
25 these systems that will make conclusions that's true and

1 not true. And you know, for the common statement to say
2 that's our relative, you know, you can do the DNA analysis
3 which was done without consent on Wizard's Cove [phonetic]
4 and with 27 other sets of collections that were taken in
5 '94, and you can take our DNA and analyze it.

6 You're going to find common traits, so there's going
7 to be an argument on either side. You're going to find a
8 common trait in Asia. You're going to find a common trait
9 in Africa. So, you know, it's an endless argument. But as
10 long as attorneys and other consultant types can, you know,
11 add those billable hours, why not, you know?

12 And as I testified in 2011 before the Senate Committee
13 on the NAGPRA, you know, science - there's no certainly in
14 science. There's no scientific certainty. There is some.
15 You know you can talk about, you know, the chemical and
16 physical components of water, for example. Those
17 scientific facts exist, but when it comes to knowing who's
18 a relation, who's a relative, I mean you may look at, you
19 know, look at the politician who claims to have Native
20 ancestry, where that went. I mean it's a joke, you know,
21 I'm tired of it. Why do you keep talking about it?

22 And so, when you get to the conclusion that I'm going
23 to raise this question as they were raised with the Spirit
24 Cave case, as they were raised in the Kenowit [phonetic]
25 case, there's no answer to the scientific uncertainty that

1 [inaudible]. And as I testified, I stated that scientists
2 in the realm of anthropology, in the realm of certain
3 archeology, they'll never know what they don't know. It
4 will never be known, just like any mathematical model, the
5 answer is infinite. You're never going to get to that
6 certainly in the end in your model. I understand that.

7 But it's being able to have an institution like the
8 Nevada State Museum, the State Legislature, the Governor's
9 Office, you know, to understand that, you know, there's
10 common threads of agreement, you know. I mean I don't
11 think you would like it if, you know, somebody had
12 unearthed your family cemetery and continued to destroy it.
13 Oh, by the way, oh they would tell you a week later or a
14 day later after all the damage was done. That's the type
15 of experience we have.

16 And so, when it comes to permitting, you know, we're
17 going to come in with those values as it was stated
18 earlier, you know, the understandings that we have. And
19 there's no uncertainty about what we believe to be true,
20 you know. And when it comes to raising those questions,
21 one that don't deserve an answer, but secondly will never
22 be answered.

23 I said that the only example I can think of in telling
24 the committee in 2011 that it's like you're trying to find
25 your shadow in a dark room. You're just wandering

1 aimlessly trying to find this answer, but what you're doing
2 by stopping the process is denying the repatriation, you're
3 denying the return, you're denying the respect and sanctity
4 on that burial. Those are the things that I've
5 experienced.

6 So, I think when it comes to permitting and the way
7 the proposal is written here, we should be at the table,
8 and I think if we could express these types of beliefs and
9 values, you know, to the extent that you want to bring the
10 Bible into the room and open up a scripture, we can relate
11 to that because this is stuff that I know exists between
12 what we believe and what might be written in the Bible. And
13 so, I don't think it should come to, you know, comparing
14 our religious beliefs. It shouldn't.

15 I think what it should come down to is just knowing
16 that, you know, if we're going to call native burials
17 property and we're going to look at an individual's
18 property rights protected under the Constitution, you know,
19 we have a system of tradition that outdate the state's
20 constitution, that outdate the United States' Constitution.

21 And so when we look at what we believe and how we go
22 about conducting our traditional customs and then we have a
23 system of lawyers and, you know, experts and other folks
24 coming into the fold to tell us, you know, what's right,
25 yeah, I understand the law, I understand property law and

1 right of possession and, you know, that's the most
2 frustrating part about dealing with Western Civilization
3 [inaudible] can come to that conclusion, but it's a system
4 that we at least, you know, having this proposal, you know,
5 having that door opened, but we don't want to see that door
6 closed because, you know, we're coming in and saying what
7 we would expect.

8 And I would hope that there would be a sense of
9 responsibility all the way to the Governor's Office looking
10 at, you know, how we value, you know, burials or how we
11 would value like the example of the permits of the
12 construction in Truckee Meadows, for example, or we have to
13 go back and take a look at the whole list of permits that
14 are, you know, in the database. I think that, you know, we
15 just need to have, you know, this understanding that when
16 it comes to burials again, that the way we view it is
17 equal, you know, with the protection that's required.

18 That's all I - that's what I would suggest, you know,
19 as far as what we do here, you know, cause I don't want to
20 like have to demonstrate what we mean by our traditional
21 customs. That's not for these forums, you know, to take
22 place, but it is about having that mutual respect. Okay.

23 HATTORI: This is Gene Hattori. I really don't
24 want to speak today, but I have to. I want to thank you
25 for not including me with my predecessors, even though I am

1 an archeologist. Please don't. But I want to say that you
2 have to remember that the museum does not come from a
3 regulatory background. We are not a regulatory agency.
4 SHPO is a regulatory agency, so in terms of our authority
5 and our history and our mission, it's not regulation, so
6 we're new to the game and we're going to try to do the best
7 that we can, given the resources that we have.

8 In terms of, and I really respect what you've done for
9 the tribe all these years, and on the National NAGPRA
10 Committee and seen too we know that, and we realize, that
11 the law NAGPRA has been changed since 1990 and that all
12 Native American remains will be repatriated, and that is
13 our goal for the remains that we have and funerary objects,
14 et cetera, that we have responsibility for. That is, and
15 this is the royal "our", Anna, her mission is to repatriate
16 all of the NAGPRA related materials that we have and clear
17 the books in terms of Pyramid Lake Tribe.

18 You know we had a major repatriation and that was a
19 great relief to us. We worked with the BIA on doing that
20 and we put a lot of our time, state time, into seeing that
21 that could be accomplished, and so we are not in the NAGPRA
22 - we are not in the human remains business and we do that
23 as a service to the BLM, other federal agencies, but I want
24 to say that in terms of the anthropology department, our
25

1 mission is to repatriate anything that the state has
2 responsibility for back to the tribes.

3 WRIGHT: The resources that you have available,
4 along with your experience, may come into play with these
5 procedures, you know, to come in and apply that, you know,
6 that knowledge that, you know, the Nevada State Museum has
7 with respect to dealing with inadvertent discovery, for
8 example. Or, you know how you get into the whole process.
9 And I'm not saying that you guys are out in front. I'm
10 saying come and then support that, you know, from - and a
11 [inaudible] SHPO is one that needs work, well then work.

12 SMITH: Sarah Smith, for the record. One of
13 the things I was kind of hearing some of the tribes say is
14 that all this sort of appears like rather than being
15 included so far down on the flow chart, to be included in
16 before the permit is even offered because maybe there's
17 incidents where which I would like to see what the
18 archeological evidence has been proved, but maybe there's
19 going to be times when they don't want it removed at all so
20 it should be denied.

21 So, a collaboration in the very beginning before a
22 permit is even issued might be a better answer than having
23 a flow chart and including them in later for determining
24 who has ownership after tests are done.

25 BRADLEY: This is Sarah Bradley.

1 FREEDMAN: Myron Freedman, for the record. I just
2 wanted to jump in and say that while the flow charts don't
3 explicitly state that, they do explicitly state the
4 statute, and the statute does require the consultation.
5 So, it is in there. And what I'm hearing I guess is that
6 in things like the flow chart and in the provisions, you're
7 wanting to see more of that mechanism spelled out somehow
8 and stated in those terms and, you know, we can do that,
9 but it is in there.

10 BRADLEY: And this is Sarah Bradley, for the
11 record. I just wanted to kind of tag on to what Myron just
12 said. I mean once the permit application is received,
13 that's when the consultation with the applicable tribe will
14 start. Now maybe more than one tribe, right. I mean, you
15 know, we'll get this permit and we're going to, you know,
16 do what we do to determine who might be applicable and
17 notice with them.

18 So, the consultation and the discussions with the
19 tribe is going to happen once the permit is received - the
20 application I mean, not the permit. Once the application
21 is received. And I wanted also just to - something I think
22 Mervin said and I just wanted to follow-up just quickly.
23 New provision one, and I don't know if that's what you were
24 referring to when we use "may" in there, I mean a
25

1 consultation is absolutely required so we're not saying
2 that's optional.

3 But when it does say like the museum Director "may"
4 act on behalf - I mean there are times when we did use that
5 language permissibly kind of on purpose, but under no, you
6 know, way is this consultation optional. I mean there's
7 going to be notification immediately when we get a request
8 for a permit, and that's when we're hoping to get feedback
9 from the tribes on number one, who is maybe most affiliated
10 and what their thoughts are regarding this area and that
11 kind of stuff.

12 And so, I mean there's no option that it will happen.
13 It's just how we handle it. We were trying to say it may
14 vary based on the preference and all those kinds of things
15 to allow for the differences and how the tribes operate.

16 FREEDMAN: And Myron Freedman, for the record. We
17 have specifically asked the Attorney General's Office about
18 a situation where the tribes do not want the permit issued
19 and we have this seemingly conflict between the rights of
20 the property owner and the wishes of the tribe. We would
21 like to understand where the state would rule in a
22 situation like that.

23 WRIGHT: Yeah, I think the extent of the site
24 would really be a factor, you know, with whether you deny
25 or whether we would come in with a position to deny versus

1 whether it can be something that, you know, could be
2 treated in a way that might possibly allow a permit to go
3 forward. But, you know, at this point I can't speak for
4 all the tribes. I can't even speak for ours, for example.

5 I mean there is a situation where like we ran into a
6 situation on the reservation where, you know, burial
7 remains were becoming unearthed. We went in and we had BIA
8 come up. We started excavating and then we started - we
9 hit another one, and we got to another one and we stopped
10 when we got to eight, and we said we just need to get out
11 of this area and stay out of here.

12 And so, we're talking about a planned excavation.
13 Certainly, back in the 60's it was a different situation
14 where, you know, institutions wanted to learn and they came
15 out looking for - we, for example, in '66 we permitted to
16 excavate, and that's how, you know, all the remains ended
17 up here at the museum. But in '72 we stopped. And so, we
18 look back even in the mid-90's, and I talked with some of
19 those elder council members who were no longer on the
20 council and talking about what happened, you know, from '66
21 to '72.

22 And you know, each one of them said if we knew what we
23 know now because we're talking about a generation that, you
24 know, come out of boarding schools and dealt with, you
25 know, situations where traditions were not allowed, or

1 traditions were not permitted. And so, we've come full
2 circle. And I told them, I said we're not here to condemn
3 what you guys, you know, individually, you know, you people
4 that served, but we do have to look at it and say okay, we
5 have to make some changes, some corrections are needed that
6 we don't do this again.

7 So, you learn from those mistakes and you learn from,
8 you know, where you come from. And so, I think when we get
9 to looking at the extent of what that permit is looking to
10 do, I mean I think that's really - is going to be a
11 determining factor and with our involvement. But I do
12 believe that the tribe should - the tribe deserves a right
13 to look and to know because if, as you said, we're going to
14 be included later on down the road, you know, we get into
15 this appeal process.

16 The burden of proof is going to be on us, on whoever
17 appeals. And it's almost like you're already facing that
18 uphill climb. You have to get to the top, and depending on
19 who the judge is, you know, if it's going to trial, how
20 you're going to present your case. You still have that
21 burden of proof that there's doubt in what you're claiming.
22 That's what I don't like about the appeal process.

23 FREEDMAN: Let me jump in here and just offer a
24 break for five minutes, give people a chance to take care
25 of any necessary business and -

1 SPEAKER: I know she wanted to speak.

2 FREEMAN: Oh, I'm sorry, I'm sorry.

3 SPEAKER: I was going to say -

4 SPEAKER: I'm here for Donna.

5 FREEDMAN: Oh, I'm sorry.

6 COSSETTE: This is Donna Cossette from Fallon
7 Paiute- Shoshone tribe. In speaking about real life
8 instances, I know and the state property in our area is
9 that oftentimes when we have to deal with it, it was
10 property owners coming directly to the tribes. We were the
11 first form of contact and we have informal relationship
12 with the county which kind of turns upward, you know, as
13 far as notification and identification of a homicide versus
14 a traditional burial.

15 And in one instance that I'm recalling, and this
16 happens more than, you know, often, is that the property
17 owner wants to know about what's on their property. The
18 property owner would either consult with the tribe and we
19 would work hand-in-hand with our local agencies to identify
20 whether they're Native American or not or if it's modern-
21 day homicide that we have to kind of work with. And in
22 some instances, those property owners opted to leave the
23 remains where they are.

24 But I'll tell you that when we see development in our
25 communities and certain areas, we know for a fact that

1 there is going to be inadvertent discoveries and we just
2 sit, wait and listen and but we know that, you know, these
3 things are being uncovered. We have - the tribe has no
4 opportunity to say you're going to hit something, are you
5 going to be willing to tell us what you found? Because,
6 you know, sand dunes in our area is infamous for doing
7 that. Our communities are expanding in there and
8 encroaching upon those dunes.

9 And these are some of the places that we are coming up
10 with those. And you know, as the tribe, we want to know if
11 there is a way that these burials, once they're identified
12 and they're on the private property can we still have
13 ability to reclaim them, you know, cause if we see a
14 certain area getting more populous and the property owner,
15 you know, sells the land that originally showed this and
16 say oh we'll just keep it here to respect this burial, well
17 they don't necessarily tell the next owner. There's no
18 required law stating the next owner has to do anything.

19 They'll just see it, keep it and do whatever. You
20 know, I don't know if there's a way that we can be notified
21 or if there is something on that property that keeps the
22 [inaudible] that's within the state that can identify to
23 the next owner that there is this on this property and, you
24 know, there's things that come along with it like if the
25

1 tribe opts to repatriate because of the bigger development,
2 you know.

3 I don't know, cause that seems to be one of the issues
4 that we have to deal with in our area, you know, when it
5 comes to inadvertent discoveries and we think it's resolved
6 but, you know, each generation and some of them are infant
7 burials. Some of them are communities, you know, with
8 full-on community type artifacts that are sitting there
9 with them, you know.

10 FREEDMAN: Right. Myron Freedman, for the record.
11 And this law is meant to be a tool, you know, for exactly
12 those situations, and I think one of the things to think
13 about is I know there's [inaudible] but are there other
14 registries we should have that identifies the areas because
15 that then I think gives more teeth to the tribes in using
16 this law to prevent people from wholesaling, digging those
17 things up and not saying a word about it.

18 COSSETTE: And, you know, and some of these did
19 too is, you know, individuals, they just don't understand
20 what to do with Native American remains. We also went into
21 locations where we found three sets of remains that are in
22 plastic bags all over the desert buried, you know, and to
23 us when we go on those sites we're going, you know, is this
24 a disgraced burial from our people or what? Maybe find the

25

1 plastic bag [inaudible], you know, so they don't even know
2 what to do.

3 And if there's a way that people can understand that
4 they can just give a set of remains to a location, to the
5 tribe in question to ask whatever or I don't know. That's
6 kind of on dangerous ground there, but you know, as long as
7 those remains are able to get back to where they belong or
8 to the tribe in which they belong because, you know, once
9 they're removed from their original location, you know, you
10 really don't have any - you don't know.

11 You know we can tell our relations' remains because of
12 certain identifications that we, you know, see, but, you
13 know, there's - I think there should be something or some
14 way that the general public can have a means of properly
15 reuniting those remains with, you know, the appropriate
16 tribes.

17 FREEDMAN: Again, Myron -

18 COSSETTE: There really isn't, you know. They
19 just kind of go eek, these remains, I don't want them on my
20 property, but they'll just do what they will with them.
21 And that's what we don't want.

22 FREEDMAN: Right, absolutely.

23 HATTORI: Gene Hattori, for the record. We've
24 had instances like this here and at SHPO and the one case
25 we had at SHPO, the Reno-Sparks Colony accepted

1 responsibility for the remains. So, those do come up, but
2 for what you're talking about, it's really SHPO and
3 National Register of Historic Places is a means. It
4 doesn't ensure 100 percent protection into the [inaudible]
5 but it puts it on the radar, and it makes it known to the
6 public and the governing agencies.

7 The - again, we're not a regulatory office but SHPO
8 for many developments there are various Federal permits
9 that are required. Unfortunately, with the current
10 administration those 106 protections have been greatly
11 restricted, but EPA is one of the agencies that used to
12 have wastewater runoff type permits that were required for
13 developers and that aren't exempt from 106. In terms of SB
14 244 there's a specific line in the NRS that exempts many,
15 many undertakings, many undertakings on private property.

16 FREEMAN: Okay, should we take five minutes then
17 and reconvene? Las Vegas, we'll take five.

18 OFF THE RECORD

19 ON THE RECORD

20 FREEDMAN: We're back. We were going through the
21 provisions. I think we made it through one. Not positive
22 about that. But we're there. More comments after Donna's?
23 I don't know if there was anybody else waiting to speak on
24 that. We were looking at the flow chart and Provision 1.
25 Well you have copies of the provisions in front of you, so

1 let's just continue to move through that. Any comments on
2 additional provisions after 1?

3 WILLIAMS: Marla McDade Williams. I just suggest
4 on 2 that rather than saying tribe authorized
5 representatives refers to cultural specialist to just maybe
6 say individuals who are trained.

7 SPEAKER: [inaudible]

8 WILLIAMS: Yeah, well somebody didn't like
9 trained, but I'm just saying individuals cause I don't want
10 somebody to think oh, who are my cultural specialists and
11 looking around and not having anybody to plug into that, so
12 but individuals maybe who are recognized and authorized by
13 the tribe.

14 WRIGHT: That was one of my comments earlier was
15 because we want to make sure that whoever represents the
16 tribe is somebody from the tribe recognized by the tribe
17 and so because we have a lot of people within our tribe who
18 kind of like freelance out there saying they represent the
19 tribe but they're not really representing the tribe;
20 they're representing themselves as part of the tribe. As a
21 citizen they can do that, but officially it has to be
22 somebody from the tribe. So, tribal authorized
23 representative is fine with us.

24 WILLIAMS: Okay.

25

1 FREEDMAN: So, we don't need to say too much more
2 is what I'm hearing then. And that they may not be
3 cultural specialists. They just may be individuals that
4 the tribe has authorized so we don't need to specify it any
5 more than that? Okay. And the word trained is also not
6 necessarily necessary? Okay.

7 WILLIAMS: Oh, not trained? Okay.

8 FREEDMAN: Just authorized.

9 WILLIAMS: Okay.

10 SPEAKER: Recognized and authorized.

11 FREEDMAN: Recognized and authorized, okay.

12 WILLIAMS: Okay.

13 SPEAKER: That's good.

14 SPEAKER: We did.

15 [crosstalk]

16 SPEAKER: Oh, oh, okay.

17 [crosstalk]

18 FREEDMAN: All right. Thank you for that.

19 SPEAKER: Is it the same one that you sent out on
20 the Internet?

21 [crosstalk]

22 FREEDMAN: Looking at 3 and/or 4?

23 WILLIAMS: Marla McDade Williams. Mine is a just
24 technical thing so on 4 it says objects of cultural
25 patrimony with the Nevada Office of Historic Preservation.

1 Are we missing a word there? Is it something with the - on
2 file with or recorded with or?

3 FREEDMAN: Oh okay.

4 SPEAKER: Is a previously recorded [inaudible]
5 okay, yeah, you're right. I don't know how -

6 CRUZ: Darrell Cruz, Washoe Tribe. So, we get
7 back to the question also there's two parts of this. First
8 of all, previously recorded? What about inadvertent
9 discoveries? Should it be also included as a word? But
10 Mr. Nebesky also mentioned archeological sites where human
11 remains - I think there's the terminology archeological
12 sites. We kind of decided the word would be burial site?

13 SPEAKER: Yeah, it does say -

14 CRUZ: Is that pretty much the consensus to do
15 away with that term archeology? So, I think that might
16 have to be applied throughout this document where we see
17 references to archeological sites, and we have to repeat
18 that.

19 EBON: Michon Ebon. Do we really need the new
20 Provision 3 because we're just restating Indian tribe? Is
21 it already in the statute, in the new, are we adding new -

22 BRADLEY: So, this is Sarah Bradley, for the
23 record. It's not in 381 that I can find. It's in 383 so
24 the reason that's there is to clarify Indian tribe for 381
25 means the definition of 383. Initially I think we had

1 drafted something and then we realized why not just use the
2 383 definition for consistency, so I don't know if that
3 answers, but normally you don't define it again if it's in
4 your interest, but if it's not you might bring it in from
5 somewhere else.

6 FREEDMAN: Myron Freedman, for the record. Yes,
7 at the last meeting the comment on that provision, it was
8 like half a page long so now it's a sentence. Okay, we're
9 going to move ahead 5 and beyond.

10 WILLIAMS: So, this is Marla McDade Williams. So,
11 on these still help me understand why we're dealing with
12 abandoned property and these regulations that are related
13 to a permit on private land.

14 BRADLEY: Sarah Bradley, for the record. They're
15 included because some of the changes in SB 244 did
16 reference abandoned property and repatriation. I guess I
17 would also say they're included because perhaps some of
18 this should have been there already if that makes sense.
19 So, this is not here just because we're doing a permit.

20 This is here because when we looked at the changes to
21 SB 244 that were in 381009, we thought well wait a minute,
22 we might need to clarify this process a little bit because
23 it's kind of maybe I would say, you know, respectfully the
24 legislature, maybe not written as clearly as we'd like, the
25

1 009, so we're trying to say like here's what we need,
2 here's how we're doing it. And so that's the reasoning.

3 So, it's not really about the permits so much; it's
4 more about the repatriation of abandoned property and then
5 also just clarifying the abandoned property procedure cause
6 it should have been done before.

7 WILLIAMS: So, I think, if I remember it's kind of
8 the same remarks we had at the last meeting that the law
9 says it's abandoned property if it's been held by an
10 institution for three years or more. It doesn't talk about
11 there's no need to identify ownership. It's abandoned
12 property if it's been held by an institution for three
13 years or more and no person has made claim.

14 And then the law change, at least in my mind, was to
15 then when you were going to make that declaration of
16 abandoned property or you're looking for someone that
17 you're doing the consultation with the tribes, that there
18 was no intent to go further to declare title to the
19 abandoned property.

20 So, I'm just really struggling with that piece and not
21 understanding how it's actually going to affect things in
22 the end I think is my real concern, you know, because it
23 gets to this word of title and, you know, you're not going
24 to have title for a lot of tribal items and I'm just really
25

1 concerned about how that is moving this, what direction
2 that's moving this in.

3 BRADLEY: So, again this is Sarah Bradley, for
4 the record. Title is a legal concept. It doesn't
5 necessarily mean a piece of paper, so we don't mean it like
6 title in that way, and it is defined in here - sorry, wait
7 one second. There's a sentence..

8 SPEAKER: I think it's the top of four.

9 BRADLEY: Top of 4?

10 SPEAKER: Is this what you meant?

11 BRADLEY: No, I'm looking for... cause I did say
12 title is as used in this section means it's - and it's a
13 legal definition, it's the - thank you. Okay, for some
14 reason I -

15 SPEAKER: Page 5, new provision for [inaudible].

16 BRADLEY: There we do. Thank you. Yes, there we
17 go. So, new provision 13.

18 SPEAKER: It's 13. It's page 3 of 6, at least on
19 this printed one.

20 SPEAKER: You mean Provision 5, abandoned
21 properties?

22 BRADLEY: Yeah, it should be where it includes
23 these three elements.

24 SPEAKER: Oh, it's defined as the owner
25 voluntarily surrenders? Abandoned property?

1 BRADLEY: No, no. I'm sorry, give me a second
2 here. I took it from a legal definition which means it's
3 the - to have title, and again it's a legal concept of
4 ownership. It doesn't mean paper. It's you have
5 ownership, possession and I believe it's control. And
6 that's why the law recognizes that when it says we publish,
7 that's the purpose, the purpose of all of that process
8 specified in statute is to essentially identify title.

9 EBON: I think what, Michon Ebon, we're
10 adding, you're adding a new regulation which you're
11 required to do, but you're adding this title and we had a
12 big discussion over a month ago regarding this, and then we
13 also wrote in exactly - I'm going to just repeat what Marla
14 said was most holders and abandoned Native American
15 cultural items do not have titles, and I think so you're
16 not taking that title out, but what you're doing is you're
17 putting it in somewhere else which I think you're looking
18 for.

19 BRADLEY: Well I'm trying to explain to you the
20 definition. We were trying to clarify. Again, it's not -
21 it doesn't actually mean like a piece of paper. I mean I
22 know that's one use, for example, and I'm thinking of a car
23 title. This is Sarah Bradley again, for the record.
24 That's a common thing. We think of a car title or
25 something like that.

1 SPEAKER: Right.

2 BRADLEY: It's a legal kind of a concept, and so
3 that's the purpose of the publishing. When you do the
4 publishing, and nobody makes claims and you've had it for
5 three years, you do the publishing. The title, the legal
6 right, that legal title, then is determined to be
7 abandoned.

8 EBON: Well, Michon Ebon, we hope that because
9 if we ask you consider removing that section and then are
10 rewriting it so it's clear, so now I'm unclear again, and
11 the lack of title will again prevent a tribe from claiming
12 it, if that makes sense. So, we just, yeah, we've got to
13 clear that up.

14 BRADLEY: This is Sarah Bradley, for the record.
15 If it falls under this section it doesn't prevent a tribe
16 from claiming it as long as the requirements are met,
17 meaning we've had it for three years, we're done the
18 publishing and all of that.

19 SPEAKER: Yeah, which is already what's been
20 happening all along. I'm just not understanding what the
21 purpose is of the full legality of what you are to do with
22 it.

23 DELOVIO: Sarah, do you mind if I -

24 BRADLEY: Please do.

25

1 DELOVIO: This Is Rachel Delovio, for the record.
2 The museum, you cannot turn over something that you do not
3 have title for, so in the case of somebody brought in an
4 artifact and we never got [inaudible] which -

5 BRADLEY: This isn't the right one.

6 DELOVIO: - infers title officially to the
7 state, and so if we don't get that we can't repatriate it
8 cause we don't have ownership. So, the abandoned property
9 law as originally written was set up for us to get that
10 title, and once we get it - once we do have that if it
11 falls under something that can be repatriated then we'll
12 follow that process. But you're saying we can't repatriate
13 something that we don't have ownership to that was actually
14 abandoned by somebody else. Does that make sense, Marla?

15 WILLIAMS: I guess I'm still just not
16 understanding it and I don't want to hold up discussion on
17 it. Maybe we can continue to have some offline discussion.
18 The ultimate concern is that you have an artifact and
19 you've had it for three years and it hasn't been claimed by
20 anybody, and then once you're going through that process
21 which the law requires you to notify that it's been
22 abandoned -

23 SPEAKER: It is in a very small section of what
24 we have in the museum. When an artifact comes in, we go
25 through, we get title from the owner. A lot of times we

1 try to get the provenance like how this passed along We
2 have a deed of gift to transfer title from the state, so
3 this is only if - you only go through this process if there
4 is no deed of gift.

5 WILLIAMS: Correct.

6 SPEAKER: Yeah, so it's a very small amount.

7 WILLIAMS: Right, and so it's been declared
8 abandoned because you don't know -

9 SPEAKER: Yes.

10 WILLIAMS: - whose it is, and nobody's claimed it
11 for a couple of years.

12 SPEAKER: Oh, well the thing is people usually do
13 know who it is. And there might be some kind of -

14 WILLIAMS: If there is no claim to it after three
15 years, the law requires you to follow the process to
16 declare it has been abandoned.

17 SPEAKER: Yeah, well then, we decide it's
18 abandoned, and then we declare it's abandoned publicly.

19 WILLIAMS: Right.

20 SPEAKER: Through the newspaper.

21 WILLIAMS: Right, right.

22 SPEAKER: Publishing. And that owner that left
23 that property here then has the opportunity to come back
24 and say okay, I abandoned it, I want it back. And the flow

25

1 chart discusses that just claim of ownership [inaudible] at
2 administrator's satisfaction.

3 WILLIAMS: Yeah, and I had a problem with that
4 too.

5 SPEAKER: Well that's [inaudible]. So that goes
6 through - that's only if after publishing somebody comes
7 out and says I say that is mine, I did abandon that and
8 then we go yes or no and if that claim does not meet the
9 satisfaction then it becomes the property of the Division.
10 Now this can be, you know, a historic piece, this can be a
11 specimen collected, you know, like a fish hook, even. So,
12 this could be any number of items.

13 COSSETTE: This is Donna Cossette. Now the
14 problem that you have with the title is maybe - I'm not
15 sure but is it because if there's a significant piece of -
16 a significant item that individual - the private individual
17 owns, and they want to get it back. Is that what you're
18 kind of thinking of?

19 WILLIAMS: Well I'm just - I just don't understand
20 how this whole law would be applied to abandoned property
21 and the ultimate concern being if at some point prior to,
22 you know, let's say that there's an item there that belongs
23 to a tribe but nobody's claimed it for three years, but
24 instead of following the law that says after three years
25 now you're going to consult with the tribe, that maybe

1 there was a process that was followed by these regulations
2 that declared that property to belong to the state, and
3 therefore the tribe is now excluded from being able to make
4 a claim because somehow prior to recognizing this
5 abandonment law the state declared it's ours.

6 SPEAKER: So, then that would mean that the
7 tribes would have to have donated or given something to the
8 Nevada State Museum and that's where -

9 WILLIAMS: Or a tribal member, you know. Maybe a
10 tribal member somehow dropped - left something on the
11 steps, but there's - and there's been no claim to it for
12 three years, and so once you go through then the process of
13 notifying a tribe here's an item -

14 SPEAKER: I didn't see any part of this
15 regulation that refers to an individual tribal member
16 cause, you know, that's one of my things too is that I
17 [inaudible] on individual tribal member basis, but this I
18 think is in relation to tribes and of the institutions and-

19 WILLIAMS: And items that could potentially go
20 back to the tribe except for the fact that somehow in these
21 regulations they then were declared property of the state.

22 SPEAKER: And that may work to the benefit of the
23 tribes perhaps, if that individual tribal member failed to
24 maintain contact, they had an object on loan for instance
25 and they failed to maintain contact and re-upping their

1 loan agreement it become abandoned property after three
2 years, then the ownership comes to the state and then after
3 that, you can make claim to it.

4 WILLIAMS: Not as an abandoned item you can't
5 because ownership has been declared to the state.

6 BRADLEY: Well the only reason we did that, and
7 again this is Sarah Bradley, for the record. I mean so
8 again we go back to the kind of legal concept of title. I
9 can only give you what I actually have ownership,
10 possession and custody over, right? I can only give you
11 what I have in my hand, I actually own, and I have custody
12 which is the legal right to give it away, okay?

13 So, the only reason this ever goes to the state, this
14 abandoned property in the interim, if it's going to be - we
15 go through the process, the title gets vested in the state,
16 if it's a cultural item it's going back to you. We just
17 have to have the right to give it to you. We don't have
18 the right to give it to you until we complete this process
19 which the statute already requires that publishing process.

20 So, when I say title, I just mean the legal right to
21 actually give it back. I mean there's no question here,
22 and maybe if there is, we need to clarify it. I mean in my
23 mind there's no question that if there's abandoned
24 property, right -

25

1 SPEAKER: And I think that's what's missing from
2 the regulation.

3 BRADLEY: - that if it's an artifact, you know,
4 one of the types of things that this covers, so it's not,
5 you know, so certainly not everything that we have is
6 abandoned and as, you know, Rachel is saying, there's not
7 very much maybe that would even fall under this, but when
8 we do have something in my mind there's absolutely no
9 question that if it's made of human remains or another
10 cultural item of a tribe, the administrator shall follow
11 the repatriation. There's no question if it's abandoned
12 that you'll get it back. But we have to.

13 We can't do it until number one, we follow the
14 statutory, you know, three years, we publish it, we now
15 have the right to give it to you. Until we wait three years
16 and publish it, we don't - it's in this weird -

17 SPEAKER: I'm completely on board on that piece.

18 BRADLEY: Okay, yeah, it's in this weird kind of
19 limbo, and so once we do that and we wait, it's a native
20 thing, we're giving it to you, there's no question you get
21 it back. There may be a question of who gets it,
22 obviously, cause there's the closest culture [inaudible]
23 and those kind of things we'll do.

24 DELOVIO: And this is Rachel Delovio, for the
25 record. Underneath the second one, after publishing

1 [inaudible] does the artifact fall under the definition of
2 a cultural item. And [inaudible] yes, we follow - we go
3 through the repatriation process and know that becomes a
4 property division. So just because you get ownership
5 doesn't mean we're accessing it and putting it into the
6 collection. It just means like Sarah said. Now we can
7 repatriate legally without ramification from the original
8 owner coming back and suing us.

9 COSSETTE: Do you all have a lot of - this is
10 Donna Cossette. Does the state have a lot of loaned
11 objects?

12 DELOVIO: Well we do a lot of loans, yes, like on
13 patrimony items?

14 HATTORI: This Is Gene Hattori. I can give you
15 an example. Somebody left my predecessor a fragment of a
16 skull that was found in a riverbed and we filled out a loan
17 agreement with the person and that's it. It's floating out
18 there in mid-air. This is back in 1960, can't get ahold of
19 the person anymore to find out, you know, technically it's
20 their property.

21 So, what we have to do to repatriate that fragment is
22 as Sarah said, go through this process of getting ownership
23 of it from this long - and you know this cause you're the
24 registrar, getting ownership of this from the person by
25 saying in the paper we have this skullcap that was found in

1 the Humboldt Sink and we want to give it back to you,
2 publish it, have it out there for three months or whatever
3 it is, no response.

4 Then our registrar fills out some sort of deed or gift
5 or whatever saying that we own this piece of human remains,
6 and now we are able to go through NAGPRA and repatriate it
7 to the Lovelock tribe.

8 COSSETTE: Donna Cossette. Is there any laws that
9 talk about possession of other human remains, can that
10 individual legally have a continued ownership of it now
11 that it's identified cause I think it's against the law,
12 isn't it?

13 SPEAKER: I don't know.

14 BRADLEY: So, wait, wait, you mean - this is
15 Sarah Bradley. I'm sorry, I'm trying to make sure I
16 understand. So, an individual person claiming ownership of
17 human remains?

18 COSSETTE: If that person who donated the skull to
19 the museum and you said it was on loan, if the individual
20 wants it back after so many years can they legally have it
21 and have possession of those kind of remains? Can they
22 legally have possession of those human remains?

23 BRADLEY: I don't think this law addresses that.

24 COSSETTE: That's why I'm asking.

25 SPEAKER: That's [inaudible].

1 SPEAKER: Yeah, no, I was just going to - I would
2 say no.

3 SPEAKER: That would be the option of the tribes
4 to repatriate.

5 SPEAKER: But the issue here though and we're
6 talking about property, I mean this goes into the next, you
7 know, four sections about property and ownership, you know.
8 It's always been that contention that you can't own human
9 remains. You can't own funerary objects because it's not
10 your right to own it. You don't have a right to own it.
11 You don't have a - you may not even have the right to
12 possess it.

13 And see this is the frustration again with a lot of
14 these procedures is it's wrong to begin with that we're
15 even dealing with this issue. And so, we get into
16 abandoned property and when you guys are using these
17 examples, and that's good, it's good to hear these examples
18 because it just further just exhibits how foreign this
19 whole effort is because, you know, nobody should have
20 ownership of something - one, if they found it, and two,
21 it's not even theirs to begin with.

22 But according to these procedures you turn the light
23 switch on, you have ownership, and you have a right to
24 possess. And that's what's wrong with this. And that's
25 the struggle we have with a lot of this is that

1 conceptually it's foreign. It doesn't make sense and it
2 doesn't legitimize anything about who holds on to that
3 property as it's said here because it's not.

4 I mean property law - I mean did you go all the way
5 back to the beginning, the right of possession, whether
6 you're talking about an acre of land, you're talking about
7 something, physical property, you know, something they can
8 own, that's what it goes back to. And today we deal with
9 that same concept of property law, the fundamentals of
10 property law, possession, who possesses - who has the right
11 to possess. And we're still dealing with that.

12 And what we're, you know, when it comes to cultural
13 items, and that's a very broad term, but when you start
14 getting into the details of determining and defining
15 specifically how this is going to apply, then you start
16 getting into knowledge and information that's not really
17 necessary to be shared, and it shouldn't be shared. It
18 shouldn't have - we shouldn't be burdened with that
19 requirement to tell you why this property, this item,
20 should not be in ownership and possession of the state or
21 the Feds or this individual. This skullcap is a good
22 example.

23 HATTORI: This is Gene Hattori. And that's
24 something we have to look into to see if there is a law
25 that forbids ownership of human remains.

1 SPEAKER: And associated funerary objects and
2 sacred objects and objects of cultural patrimony.

3 EBON: This is Michon Ebon. And that's where
4 your abandoned property flow chart comes in, and I think I
5 talked about it last time, and I could be confused here, is
6 that you're making the tribes prove again where museums
7 don't have to prove why you get to keep our cultural items
8 that were put on your doorstep or maybe some of you guys
9 went and excavated yourself, but it's always put on the
10 tribes to prove that. When do you guys prove that you get
11 to keep our things, our native things?

12 The other thing is on your flow chart you have a
13 NAGPRA, well follow the NAGPRA process. Well that process
14 is hard, especially for objects of cultural patrimony. So,
15 we want one item back and you're saying okay, we're going
16 to follow the NAGPRA and its objects of cultural patrimony.
17 That's real hard to prove. It has to be owned by the whole
18 tribe so we're asking for one object back, and then you're
19 going to say, okay we're going to follow NAGPRA, and that's
20 the objects of cultural patrimony and then objects of
21 cultural patrimony, it's hard to get one thing back.

22 So, I'm not - that's why I'm confused, so I'm either
23 taking stuff out of context or I don't want - I'm tired of
24 proving to the museums and the science community that those
25 are our items where you guys don't have to prove that. So,

1 we - I'm glad you came up with the flow chart cause I've
2 seen what you guys are thinking, but I don't want to go
3 down that route with one item that could be abandoned, and
4 the tribes are trying to get back.

5 DELOVIO: This is Rachel Delovio, for the record.
6 Well you have to understand abandoned property is just not
7 for cultural items. This is something that all museums
8 throughout the United States have to address for different
9 things, historical objects, specimens, and so just a wide
10 variety. So, this isn't anything just focusing on cultural
11 items.

12 EBON: But here we are. We're focusing on
13 Nevada tribes, and in my mind I'm thinking cultural items.
14 That's why we went and changed this law. That's why this
15 is focused here and that's what I'm saying, one cultural
16 item, one cultural item. So, that's what I'm looking at.
17 And abandoned property could be several things, but here in
18 the State of Nevada for the state and private lands, I'm
19 talking cultural items, Native American cultural items, and
20 I don't want to be proving all the time that why we give
21 them back. That's my point.

22 DELOVIO: Okay. Well this is Rachel Delovio, for
23 the record. This isn't to impede anything. If it's
24 anything, it's to get the process going. So -

1 EBON: I get that. Michon Ebon, I get that,
2 but you see, as I started out this morning, we have two
3 different cultures here. We have a science culture where
4 you guys are hanging on to what you want to say and I'm
5 saying I don't understand that. I'm having confusion on
6 the property and the title so cause that's me individually,
7 so we're going to work that out. So, that's all I'm
8 misunderstanding.

9 BRADLEY: So, this is Sarah Bradley. I'm sorry,
10 I just want to make sure I understand what you're saying,
11 and I'm sorry if I'm - so, all right, so it says if it's
12 made of human remains or another - a cultural item of an
13 Indian tribe the administrator shall - so the administrator
14 - at least as the law is written, the NRS, not the NAC, as
15 I understand it, it's written that once it's been published
16 and all that the administrator looks at it and says if this
17 is a cultural item of native human remains this gets
18 repatriated.

19 So, your concern it sounds like, and I just want to
20 make sure, are you not comfortable that the administrator
21 is making that decision or I'm just not sure?

22 EBON: The administrator - I think so I guess
23 we're going further. I'm still talking about the title and
24 the ownership of it and yeah, I went to your flow chart
25 from this. I am not comfortable with the following NAGPRA

1 on items of objects of cultural patrimony, that's hard. If
2 we're going to go to flow chart, we can talk about NAGPRA
3 cause you have it on there on that flow chart, but I think
4 you are going back to - you guys are putting in a title in
5 the abandoned property, and we're saying and I'm saying is
6 that that title is hard. You guys are adding another level
7 that isn't already in the NRS, but you're adding a level to
8 that. That's how I feel. That's how I'm feeling it.

9 COSSETTE: Donna Cossette. I wonder if there is -
10 cause this law is passed and we do have a representation
11 which is Ann and you also have a travel rep which is Isha
12 [phonetic] who by the way didn't get notification on this
13 meeting and should there be something else that needs to be
14 written here where there's those individuals who are a part
15 of this group can see which items are subject or
16 potentially subjected to, you know, repatriation.

17 SPEAKER: You mean that are abandoned property?

18 COSSETTE: Well either - no, not just abandoned
19 property, to any of the items, you know, because to see
20 what is considered or may be considered repatriated back to
21 the tribes, maybe that's not - it's a term that's not even
22 created yet. I don't know or -

23 SPEAKER: Well this is [crosstalk]...

24 COSSETTE: You know, the part of abandoned
25 properties, this is my personal opinion, is that it is a

1 necessity. It has to be addressed, and this is how you
2 would define it. But there is something else that is
3 missing, and to address what's happening, and that's
4 notifications to the tribe. Do we even know that these
5 items are even out there? You know there's this question
6 of what, what is it, you know, what does the collections
7 look like?

8 DELOVIO: This is Rachel Delovio. We were
9 required by law under NAGPRA to list everything, so under
10 the, you know, if you go to the NAGPRA website, and we are
11 required by law to follow the Native American Graves
12 Protection and Repatriation Act because we receive Federal
13 money. So, by Federal law we have to follow all of that.
14 So, and we had to list everything that fell under NAGPRA.
15 So -

16 SPEAKER: Specific items or general items?

17 DELOVIO: Anything that - human remains
18 associated funerary objects are to be considered -

19 SPEAKER: So, there's a list written out that the
20 tribes can access that says specifically -

21 DELOVIO: You have to go on the NAGPRA website.
22 I haven't looked recently to see how they list it, but we
23 were required by law to provide that to the National Park
24 Service.

25

1 EBON: This is Michon Ebon. We're not talking
2 about what you have now. We're talking about future things
3 that are going to come in as well. It's just not the items
4 that are on that NAGPRA list. We're talking future. We're
5 trying to make this law for the future for when maybe I'm
6 not here. Somebody else is looking at this law and we want
7 it readable for them and we don't have a lawyer
8 interpreting well there's no title so the museum can keep
9 this.

10 WRIGHT: Well let me just - this is Mervin
11 Wright. You know, I understand, you know, what you're
12 trying to accomplish here with having a determination made
13 on a particular item and, you know, certainly it would be
14 the tribe's responsibility to state a claim, and but I've
15 seen, you know, my - the four years I served on the review
16 committee, these disputes that we've heard is exactly this
17 type of circumstance that we're dealing with.

18 And to this date even though it's been five years
19 since I've served on there, those museums are still holding
20 on to those items, even after the review committee has
21 ruled in favor of the tribe. The review committee is only
22 recommending an advisory committee, but even when we look
23 at this administration today, you know, we don't even have
24 a Secretary of Interior who has to receive the
25

1 recommendation of the committee and make a determination
2 with respect to the agency who would be involved.

3 And it goes back to the location of where this item
4 came from originally. So, if it comes from private lands,
5 if it comes from state lands, you know, where does the
6 Secretary of Interior go with the recommendation from the
7 review committee? So, I think when we're dealing with a
8 process of making a determination of this item that's in
9 possession that's been abandoned or not claimed, the state
10 needs to have a responsible - they have to accept the
11 responsibility that goes with making a determination for an
12 outcome.

13 That this - if we're going to follow the NAGPRA or
14 just go into this process that resembles NAGPRA that is
15 equal to NAGPRA we don't want to have tribes filing a
16 dispute with the review committee. That - this should have
17 some conclusion, and as Michon is expressing, we don't want
18 to get into this point of disagreement to where we end up
19 filing a dispute with the review committee.

20 Because like I said, those disputes, even though
21 they've been heard and a decision has been made, the
22 museums are still holding onto those items. And one of the
23 other struggling factors is the term cultural property,
24 very general, very broad, but when you get into items of
25

1 cultural patrimony or when you get into funerary objects or
2 items, those are very distinct.

3 Then you know, we don't want to get into, you know,
4 cultural items, per se, because today we're dealing with a
5 very contemporary movement right now in Indian country
6 where a lot of the knowledge is not distinct but more broad
7 in general, that identification and what resembles a native
8 to the younger generations today could be Northern Plains,
9 could be, you know, something out there that, you know, is
10 more contemporary than it is specific to the tribes of the
11 Great Basin, for example.

12 And so, when we get into these processes of making a
13 determination on an item that needs to be repatriated, it
14 should be more of an enabling process than it should be of
15 a more restrictive process as it was said that we have to -
16 items of cultural patrimony, for example, we know that
17 these items can be used in today's ceremonies.

18 And if it came from a burial, then it needs to go back
19 to that burial because even though it's an item of cultural
20 patrimony, the tribe has a right, you know, to process that
21 back to its rightful owner and the rightful person that had
22 the means to possess it.

23 COSSETTE: This is Donna Cossette. I just have a
24 question just out of curiosity cause I know our museum does
25 not do this. Is there like a - or does the Nevada State

1 Museum deny bringing into their collection from something
2 new these items? Like if somebody was to come today and
3 say I have this set of remains that was found on my
4 property and here's the things that were buried with it,
5 would you take them in or would you simply say no, we don't
6 take those into the museum?

7 SPEAKER: We have taken in human remains and not
8 registered them as well as gravestones from Virginia City,
9 not accepted them into our collections and just repatriated
10 that.

11 COSSETTE: Repatriated them to the tribe?

12 SPEAKER: Where they were found. To the group
13 that - yes.

14 COSSETTE: Okay, so it didn't go through the -

15 SPEAKER: We didn't follow NAGPRA because we
16 didn't accept them.

17 SPEAKER: So, you do not accept them?

18 MCBRIDE: This is Dennis in Las Vegas. Does this
19 speak to the issue of abandoned property relative to Native
20 American material?

21 SPEAKER: Yes.

22 SPEAKER: Yes absolutely.

23 TIMM: Good morning. This is Mary Beth Timm,
24 for the record. I'm the Director of Lost City Museum.
25 First, I am so glad that everybody is here at the table

1 today and that we are getting a lot of information and we
2 are sharing and trying to come to an understanding
3 together. And in that spirit while I was listening to the
4 abandoned property discussion, and I think I might be able
5 to offer some language that could help. But if it is not
6 helpful, I apologize.

7 For abandoned property, what happens when it comes
8 into the Lost City Museum or when we discover it, a lot of
9 times we will reach out to try to [inaudible] or try to
10 find the owner who might be the person that owns that, and
11 that would include a tribal entity if it looks like it was
12 something that was owned by a tribe. And of course, we
13 would look to that entity before we would even publish.

14 And then the second thing is that when it is
15 published, anyone can come forward and say that is mine, so
16 the tribe would not be excluded at that time from coming
17 forward and saying that that is our object. And in the
18 discussion that has come since that, we had people come
19 into the museum a lot, to Lost City Museum, saying we have
20 this thing that we found in a cave, we would like to give
21 it to you, and if looks like it's an item of tribal nature,
22 we say that we need proof of ownership.

23 We don't accept anything into the museum unless we can
24 have that clear either a line or a way that we can say that
25 we're accepting something that's in good faith that should

1 have been given to a museum and has not been stolen or
2 misappropriated or excavated in a timeframe before we had
3 the legislation that wasn't respectful. So, I hope that
4 helps.

5 SPEAKER: Thank you.

6 WILLIAMS: So, this is Marla. I think I've got
7 it.

8 SPEAKER: Okay.

9 WILLIAMS: So, when you look at NRS 381.009,
10 Subsection 3, it says after you've done your notices the
11 property [inaudible] division free from all claims of owner
12 and all persons claiming due the owner. So, our - is what
13 you're trying to do in your new provision 13 there in your
14 Subsection 2 where it says you're going to provide notice
15 and consultation and return the cultural item to the tribe
16 which has closest cultural affiliation, divesting the
17 division of title to the abandoned property. Is that all
18 you're trying to do here is now you've declared it
19 abandoned and it became your property but for you to give
20 it to a tribe now you're divesting. Okay.

21 SPEAKER: Uh-huh.

22 WILLIAMS: So, we don't need any of those other
23 definitions because they're not even used throughout the
24 regulation. Okay, this is what gives you the authority to
25 now divest yourselves of that property.

1 SPEAKER: Yes, yes, I mean we do need to divest -
2 the reason other definitions are here, do you mean -

3 WILLIAMS: The abandoned property, Federal
4 property, state property, tribal property.

5 SPEAKER: Those are there to clarify, to help
6 clarify what the categories of abandoned property are so
7 like, for example, tribal property found or removed from
8 tribal land, it's owned by the tribe but may not be deemed
9 abandoned. So that - we're not going to go through the
10 abandoned process. You'll be - I mean we'll know, and it
11 will never be deemed abandoned because that's the record
12 for that one. It's tribal property.

13 DELOVIO: May I give a quick example of that?

14 SPEAKER: Oh, please do, yes.

15 DELOVIO: So, this is Rachel Delovio, for the
16 record. I was pouring through some of the collections and
17 I came across - well they are now unassociated funerary
18 objects from the [inaudible] Lake Reservation. I contacted
19 Betty [inaudible]. She got me in touch with the lineal
20 descendants, but because it was removed from tribal
21 property I dealt directly with the tribe regarding their
22 repatriation and we didn't go through the abandoned
23 property process. Does that make sense?

24 SPEAKER: So, yeah.

25 DELOVIO: And I was thinking about that.

1 SPEAKER: But I think that's right. So now at
2 least I understand that part of why you're feeling the need
3 to address abandoned property is because you're divesting
4 yourselves of the property.

5 SPEAKER: Uh-huh.

6 SPEAKER: So, I get all of that and I will try to
7 read the rest of this in the context of that to see
8 [inaudible].

9 SPEAKER: Yeah, it doesn't mean we're going to
10 add it into our collection, Marla. It just means we now
11 have the ability to divest it [inaudible]. It doesn't mean
12 we are taking control as in long-term [inaudible] and so -

13 BRADLEY: This is Sarah Bradley, for the record.
14 I mean I almost think - I think it's something that Mr.
15 Nebesky said earlier regarding, you know, tribal members
16 are state citizens and the state needs to - I mean in my
17 mind that's kind of what we're doing in this situation.
18 We're just taking temporary custody.

19 Once we do our process and I guess technically, you
20 know, it said the right's vested to the Division in the
21 statute, but we're just taking temporary custody. If it's
22 a cultural item or human remains, it's going to be
23 repatriated. We're not, you know what I mean? So, it's
24 just in my mind it's a temporary we're holding on to it
25 just until we get it repatriated.

1 And earlier in the conversation I found the statute.
2 I don't think anybody wants to hear it, but regarding
3 removal of remains for sale or dissection, purchases and
4 punishment, so this is an NRS 451.030, and it says, a
5 person who removes the dead body of a human being or any
6 part thereof from a grave, vault or other place where it's
7 been buried or deposited, and then it says, without
8 authority of law. Now I don't know, it doesn't really give
9 us this. With the intent to sell it or for the purpose of
10 securing award for its return or for, you know, other bad
11 purposes they're guilty of a category D felony.

12 So, there is a criminal potential penalty for someone
13 doing something with human remains that they're not to do,
14 and it doesn't limit it. So, the way I read this, it's all
15 human remains. Of course, being that it's a criminal
16 penalty there would need to be like a police report and
17 other things and the criminal system would follow up on
18 that, not the museum, but I think that helps, and that's
19 probably why when Mary Beth was speaking she said, you
20 know, we don't just take this cause if we don't know that
21 this was lawfully obtained, you know, we don't accept that,
22 you know, in. We need to know that the person that's
23 giving us this has the lawful right to give us this, you
24 know.

1 SPEAKER: Well I think that's in part
2 [inaudible], you know, it's important to think that, you
3 know, the museum or institution is going to make a
4 determination to reject, you know, the item that, you know,
5 somebody wants to provide to the museum or to the
6 institution. And I think that's, you know, certainly their
7 discretion, but I think at the same time there's a larger
8 obligation, you know, with respect to what you just cited
9 and that was what was going through my mind, you know, the
10 questions brought up is, you know, is then the institution
11 responsible for reporting that individual, you know,
12 because of the extent of the seriousness of that crime or
13 to know that if it was lawful that they had it in their
14 possession to begin with. I would say that there should be
15 an obligation to report that.

16 CRUZ: This is Darrell Cruz. Kind of like a
17 situation I ran into, and this happened years ago. It came
18 to my attention somebody had some remains in Dayton. So, I
19 reported it to the SHPO. I don't know what the status is
20 right now. Maybe it should be brought to your guys'
21 attention as well, the museums, but that brings up the
22 intention of abandonment. So apparently, we don't know if
23 it was Native American remains, he has or more modern
24 remains, but either way, the police have to investigate
25 what it is, who it is, where that came from.

1 So, at that point if they determine it's Native
2 American and it's not related to any sort of homicide
3 that's, you know, [inaudible]. So, would that property be
4 - the owner or the person in possession of it right now,
5 he would have to abandon it or release it to museums and
6 then it could be immediately turned over to the closest
7 affiliated tribe.

8 So, we have multiple situations going on here. Also,
9 I heard I think somebody, maybe it was Gene, said there is
10 no laws right now for people to possess skeletons in their
11 closet, so that has to be changed as well. So, there's a
12 couple things going on here so -

13 BRADLEY: Well this is Sarah Bradley, for the
14 record. So, I think regarding what you said, if the land -
15 if it's not something that was like left on the museum's
16 back porch or somehow in the possession of the museum it
17 sounded like it was found in land in Dayton, I don't think
18 the museum would get involved unless someone tried to bring
19 it here and give it to the museum. So, I think SHPO deals
20 with those sorts of things and/or the police as to what
21 happens with those remains. The ones we're talking about
22 would be ones that we get somehow, right?

23 SPEAKER: Yeah, that we already have in custody
24 that we took repatriation of.

25

1 CRUZ: So basically, then it's SHPO's
2 responsibility to follow through with it right now?

3 SPEAKER: I think so. I mean do you know for
4 certain?

5 SPEAKER: Inadvertent discoveries.

6 SPEAKER: Yes, that would be the inadvertent
7 discovery.

8 SPEAKER: Are the responsibility of SHPO.

9 SPEAKER: It's not an [inaudible].

10 SPEAKER: We know where it is. We know who has
11 it.

12 SPEAKER: Yeah.

13 SPEAKER: But, you know, what does that
14 [inaudible] I'm not exactly sure.

15 SPEAKER: What we usually do with, you know, the
16 remains that I found on the shores of [inaudible] Lake
17 because we know that there are 39 individuals that have not
18 been recovered that have drowned in the Lake, we don't know
19 whether or not those are native or non-native, so what we
20 would do is we would have the Coroner, forensic Coroner,
21 come in to make a determination on the age. And if they
22 could determine it to be older than 150 or whatever that
23 timeframe is, it's considered prehistoric.

24 If it's not, if it's 100 years then it's historic, and
25 then we would have to make the conclusion of whether it's -

1 you take them or whether we're going to deal with it. And
2 so, I think with this situation here that that can be done
3 to where you determine the age of that collection.

4 SPEAKER: Yeah, and I've already stated that
5 already that it has to be determined by forensic people,
6 the police, and then if they determine it to be Native
7 American, do we get possession of it immediately from SHPO
8 or the police or the county?

9 HITTORI: This is Gene Hattori. When I was at
10 SHPO we used to get calls from Sheriffs and Coroners and
11 the state investigation - Division of Investigation that
12 they had human remains, and we would be responsible for
13 repatriation [inaudible] by SHPO.

14 SPEAKER: And this is no waiting period.

15 HITTORI: There is just in terms of the
16 bureaucracy, you know, getting ahold of people and going
17 through the process of turning it over.

18 SPEAKER: Right, okay.

19 COSSETTE: This is Donna Cossette. I think that
20 there is no law prohibiting an individual for possession or
21 possessing or even owning human remains, like a Federal
22 law, and whether how they obtained it or not is a different
23 question, but if you know we want to continue to go forward
24 in strengthening state laws, you know, that might be an
25 avenue for the future of, you know, creating laws to

1 prevent that not only for Native Americans maybe or in
2 general from owning or even trading or possessing human
3 remains because there's nothing that stops [inaudible] of
4 remains, period. And a lot of times the skull collectors,
5 you know, international skull collectors, [inaudible
6 52:08], you know, medical research on human remains.

7 DELOVIO: This is Rachel Delovio. I also kind of
8 wonder about when people, you know, they have something
9 from their grandparents, and they want to turn it in and
10 maybe if an institution doesn't accept it and return to
11 repatriate, they leave - throw it in the garbage. Should
12 we as a cultural institution be willing to take it if we
13 know, you know, this is something that's been handed down
14 and indicate [inaudible] there?

15 WRIGHT: Well I think the important thing here
16 is and like that situation in Dayton where did they
17 originate? Where did they come from, you know, because we
18 had to deal with a situation where the grandson had gone up
19 to, you know, grandpa's been gone for a couple decades,
20 went up to the attic, found a box, opened it up and there
21 was human bones in there. He wanted to just give it to us,
22 and we said well where did they come from?

23 And then he had to think that they came out of - I
24 mean the grandpa moved from Indiana so we're going well
25 shoot, it could be anywhere from Indiana to here and

1 somewhere in-between. We don't know where they came from.
2 I mean so we deal with situations like that too. I
3 remember that was about 15 years ago when that happened.
4 And we really didn't have any conclusion.

5 FREEDMAN: Any other thoughts on abandoned
6 property then? I understand - Myron Freedman, for the
7 record, that Marla, you were looking at 13.3 and noticing
8 the term divesting and so you're going to take another look
9 at the rest of those sections. We'll get to comments from
10 you on that. And I'm just mindful that and listening to
11 Rachel's comments that what we have here is a mechanism.

12 A mechanism begins with first 381, establishing that
13 there has been consultation with the tribe that's required
14 to have consultation with the tribe on things that are
15 discovered. When it comes to abandoned property, once it
16 is determined that it's abandoned property, the mechanism
17 is established to see if there is an owner, and once that
18 process has gone through if it is an artifact that requires
19 repatriation, we're duty bound to follow NAGPRA. Any other
20 thoughts on abandoned property?

21 SPEAKER: Well this is and I -

22 SPEAKER: [inaudible] lunch hour because it's one
23 of clarity and I think Mr. Wright also brought it up is
24 getting clarity about Federal property, state property and
25 tribal property, and thinking about state property. So, it

1 says state property is property that is bound or moved from
2 state-owned lands. Does that include cultural items that
3 are found on state land, does that become state property?

4 BRADLEY: This is Sarah Bradley, for the record.
5 That would be if we look there's that provision where if
6 there's excavations on state land and they get the permit
7 and then there's a process for -

8 SPEAKER: 81207.

9 BRADLEY: Yeah, where like there's an agreement
10 made regarding how the items discovered will be
11 distributed.

12 SPEAKER: That's one - yeah, that's one of my
13 questions is that prior to the legislation, a percentage of
14 the articles were distributed to the state and a percentage
15 was divided to the property owner. I believe that's the
16 way it went. So those items, they could be anything, but
17 I'm just talking about cultural items under the old 207
18 where state law said 50 percent goes to museums, are those
19 state property now?

20 I'm just talking about 207. Under 207 50 - by law 50
21 percent of all articles and implements, funereal found or
22 discovered shall be deposited with the Nevada State Museum,
23 including cultural items, are those now state property,
24 those cultural items?

25

1 BRADLEY: This is Sarah Bradley. I would say
2 yes, wouldn't you? I mean cause I'm looking at it here and
3 if it's deposited - I mean number 3, I'm looking at the new
4 version of 381207, if it's at a historic site, state museum
5 or institution is the holder of the permit - I mean I guess
6 I would say that those items that are given in that
7 situation would be state property.

8 HATTORI: This is Gene Hattori, for the record.
9 In terms of that section of the NRS, if it's Federal lands,
10 we do not claim ownership of 50 percent. It's considered
11 Federal property.

12 SPEAKER: Yeah, it's Federal property.

13 HATTORI: If it's on private property, we do not
14 claim ownership. It's private property. It's rare. If
15 it's state lands, it's state property. If it's cultural
16 items and there was a case at Lost City - or not Lost City,
17 at Old Mormon Fort in Las Vegas where they were putting in
18 a water pipe and came across human remains that were
19 determined to be Native American. Inadvertent discovery
20 reported to the SHPO. SHPO got in touch with actually
21 Richard Arnold who deferred to Moapa Band and Moapa Band
22 then dealt with state parks and the water line was moved
23 and the remains were left in-situ.

24 BRADLEY: I'm sorry, I misspoke. This is Sarah
25 Bradley. I'm looking at 207, the new one. It says so the

1 first part is the 50 percent of the articles, right, that
2 are given to the museum, and then number 4 says if any of
3 the articles, implements or materials found or discovered
4 are prehistoric native Indian human remains or funerary
5 objects the museum director shall, (1) provide notice to
6 and consultation with the tribes, (b) determine which tribe
7 is the closest affiliation, (c) return any native human
8 remains or funerary objects to the closest.

9 So, those will not be kept, but I think you said
10 cultural items. I suppose and I'm not and I might not be
11 clear on the definition. But so human remains or funerary
12 objects would not be kept even under that 50 percent, but
13 other items might be.

14 SPEAKER: Other cultural items.

15 BRADLEY: Yes.

16 SPEAKER: If it - no.

17 BRADLEY: No?

18 SPEAKER: Cultural items.

19 BRADLEY: There is a definition in the other
20 section, and it includes - let me find it.

21 SPEAKER: Oh [inaudible] Provision 6?

22 BRADLEY: Well it's also from the NRS. Here we
23 go, 381009. Now that's as using the abandoned property
24 section. Cultural item means human remains, funerary
25

1 objects, sacred objects or objects of cultural
2 significance.

3 SPEAKER: Right.

4 BRADLEY: So, I guess I would say if I'm looking
5 at 207 as now written strictly, and I'd have to do more
6 research to see how that definition would apply, but it
7 says the items that would not be kept under that 50 percent
8 arrangement on state land would be human remains and
9 funerary objects. Those would be repatriated. Those are
10 not going to be kept under that 50 percent rule. Those
11 would be repatriated.

12 I think there's a possibility given the fact that the
13 cultural item definition in 009 is limited to that
14 provision. It's limited to the abandoned property context
15 and not excavation of state land. I think there is the
16 possibility that I guess items that are not human remains
17 or funerary objects like other than that could be kept by
18 the state museum on the state lands.

19 NEBESKY: This is Scott Nebesky, for the record.
20 I wanted to get some [inaudible].

21 BRADLEY: Okay, Gene says no cause NAGPRA says no
22 or - okay, whatever NAGPRA says is going to be [inaudible].
23 Sorry.

24 HATTORI: This is Gene Hattori. If we had any
25 involvement in it, and I think SHPO would agree, for us

1 it's NAGPRA, and we don't hold on to cultural items of 50
2 percent of anything covered by NAGPRA including cultural
3 items.

4 BRADLEY: Okay, so the definition of that for
5 them would be more strict in this regard than 207 as
6 written in state law it sounds like, which is fine. We
7 would follow NAGPRA then.

8 SPEAKER: Yeah, we're not going to keep 50
9 percent of anything that is subject to NAGPRA, and I can't
10 really officially speak for SHPO, but they're not going to
11 keep 50 percent.

12 BRADLEY: Yeah. Well and this is Sarah Bradley,
13 for the record. Again, part of this I think is the
14 conflict between state law and Federal law, and Federal
15 law, if it gives, I would say it gives more back to the
16 tribe if it's more strict, they're going to follow that,
17 and also as an accredited institution they have to. So,
18 the state law, I apologize, might be confusing in that
19 area, but we won't do that. We'll do NAGPRA.

20 NEBESKY: Yeah, for the record, Scott Nebesky.
21 I'm still struggling with a couple of things. And I
22 appreciate your clarity, but I wanted to get an
23 understanding of what is considered to be state property
24 because this definition that's being provided with the
25 regulations talks about what is found or removed from state

1 owned land. But what I'm trying to do is understand what
2 you consider to be state property in terms of the old 207
3 where you receive 50 percent of permitted projects. Are
4 they cultural items -

5 SPEAKER: No.

6 NEBESKY: - considered to be state property that
7 were acquired through the old 207?

8 BRADLEY: Well what Gene is saying is no, those
9 would be repatriated under NAGPRA, right?

10 HATTORI: Yeah, you know, technically found on
11 state lands would technically be state property, but for
12 the museum under 207 even we wouldn't keep 50 percent of
13 anything subject to NAGPRA as part of that law.

14 BRADLEY: And this is Sarah Bradley again. So,
15 and just remember I don't know if this helps or not, but
16 the definition of state property here it applies to all
17 kinds of abandoned property, not just native items, right?
18 So, when we say state property, property that's found and
19 removed from state-owned land, it could be a 1910 glass
20 bottle or something like that. That glass bottle was
21 removed from a state land. It's historically significant.
22 It's state property. It can't be abandoned cause it's
23 state property removed from state land. So, it's not just
24 native. That definition applies to more than just -

25

1 NEBESKY: Okay. I'm still struggling with it.
2 I'm still trying to understand that as I'm saying cultural
3 items, I'm saying that those are human remains associated,
4 unassociated, sacred articles of cultural patrimony and
5 significance. But has the state ever received those items
6 and still hasn't and consider them property based on the
7 old 207 where you receive from a permitting process, do you
8 have any cultural items that were the result of the
9 execution of 207?

10 DELOVIO: I don't know if collections are under
11 207. It's not my specialty, but if we agree to put out
12 everything of under NAGPRA, everything's listed, Anna and I
13 are going to work together like Gene mentioned on the state
14 [inaudible] human remains by the state is in control of
15 looking at repatriating. They were formerly identified as
16 culturally unidentifiable, whether it is from Federal land
17 we have no say. That's why it's included.

18 This is Rachel Delovio, for the record. That's why
19 they included the definition of Federal property. We do
20 not have the ability to repatriate anything from Federal
21 property. That is from the Federal Land Manager. So,
22 that's why they did this definition. Tribal property, also
23 Federal property [inaudible] are able to then contact the
24 tribe directly instead of having to go through an abandoned
25 property process because tribal - it was removed from

1 tribal property. So, this is just to clarify the different
2 properties found throughout the state. It's not to impede
3 anything.

4 NEBESKY: I wouldn't say anything about impeding.
5 For the record, this is Scott Nebesky. I'm just trying to
6 understand and you're saying that you don't have any
7 cultural items that were the result of 207 that you
8 considered to be state property under Provision 8. That's
9 all I'm trying to clarify.

10 HATTORI: To the best of my knowledge we have
11 nothing that we claim ownership that we will not repatriate
12 that is subject to NAGPRA. So, we are complying with
13 NAGPRA for materials from state lands.

14 BRADLEY: Sarah Bradley, for the record, again
15 just to the benefit too of defining the state property is
16 then if there are items, we don't have to do the abandoned
17 property process if we know they're tribal, is that what
18 you're saying? So, like if we - if something is, you know,
19 like by defining it this way saying it's not abandoned
20 property, we don't have to wait for three years, we don't
21 have to publish it. We get to say, oh, this is a native,
22 you know, cultural item.

23 NAGPRA says to repatriate it, and it's not abandoned
24 cause it came from our land. We get to just give it back.
25 So, it kind of makes that process faster for those items I

1 would say cause we're not having to publish, we're not
2 having to wait three years.

3 NEBESKY: Again, for the record, Scott Nebesky.
4 Going back to 207, this talks about the holder of a permit
5 that is doing excavation potentially on private land that
6 has now distributed 50 percent to the state, and I'm
7 assuming that, and this isn't just about aboriginal. This
8 is about fossil bones, archeological, paleontological, that
9 50 percent would go back - would go to the state. Is that
10 assuming that a private property owner owns those objects?

11 BRADLEY: No, I think -

12 NEBESKY: That were under permit.

13 BRADLEY: You're misreading, I think. This is
14 Sarah Bradley, 207. 207 applies only to state or it does
15 say there Federal on the statute but we're saying state
16 land, so it's not private land. Private land is 196. This
17 refers to 197 which is Federal or state land by statute,
18 but again we don't have control over. BLM does.

19 So, if the holder of permit described in 381197,
20 381197 says except for action taken under an agreement with
21 SHPO, a person shall not investigate, explore, excavate a
22 historic or prehistoric site on Federal or state land or
23 remove any object from there. So, it's not private land
24 owner is 197.

1 SPEAKER: And so, in other words a state entity
2 could be a holder of a permit pursuant to 197. I'm going
3 to use an example of maybe University of Nevada. I don't
4 know. As a permit, for example.

5 SPEAKER: Okay, I'm reading the state
6 institutions or political subdivisions being like the city
7 of Reno.

8 SPEAKER: That is a political subdivision of the
9 state, yes.

10 SPEAKER: Right. So, would they own those
11 cultural items then? Would they own cultural items?

12 HATTORI: You know, I do not know.

13 SPEAKER: Okay.

14 HATTORI: This is Gene Hattori. You'd have to go
15 to the particular -

16 SPEAKER: I mean by fault. Do we know an item
17 that's found on political subdivision land that's a
18 cultural item, is that owned by the entity?

19 SPEAKER: Where do you think, like the
20 subdivision, I apologize, I'm not seeing it.

21 SPEAKER: 207. It's in - well it's in the title

22 SPEAKER: It's actually in Subsection 2, the
23 holder of a permit described in 381197 who does any work
24 within the state under the authority and direction of the
25 blah, blah, blah, or political subdivision of the state

1 shall give 50 percent of all articles retained after
2 they've gone through Subsection 4 and Subsection 4 says
3 that if any of the articles, implements or materials found
4 or discovered are prehistoric, made of human Indian remains
5 or funerary objects, then the museum director shall provide
6 notice to consult with the tribe.

7 So, it's possible that items that are not funerary
8 objects or prehistoric remains could be retained by the
9 entity that excavated them under 197. That's 50 percent
10 [inaudible].

11 BRADLEY: And this is Sarah Bradley. What I
12 think is confusing me a little bit, and I apologize
13 [inaudible]. I think there's a conflict in the statute
14 because 381197 is specific to Federal or state lands,
15 right?

16 SPEAKER: Permits that were supposed to have been
17 issued.

18 BRADLEY: And then this one is referring to 207
19 is saying a permit holder for Federal or state land, and
20 this is throwing in political subdivisions which political
21 subdivision is - it would include a city. That's a
22 political subdivision.

23 SPEAKER: Right.

24 BRADLEY: But they're not included in 197 in
25 requiring to get that permit, at least the way I'm reading

1 it cause it just says state or Federal land, you know, land
2 owned by the city of Reno, for example, is not state land.
3 It's city-owned land. So, I think there's a conflict there
4 perhaps.

5 SPEAKER: Well but city land is still state land,
6 right?

7 BRADLEY: Is it? It's public land but it's not -

8 SPEAKER: They're not. They're creatures of the
9 state. They're created by the state.

10 BRADLEY: They're created by the state, but I
11 don't think legally because I just know state land, and we
12 have it defined in here from 321 if we look at where it
13 says state - somewhere we say state land is defined as, or
14 at least I thought I did. It may not be in this version.
15 I think I might have an older version here. But basically-

16 SPEAKER: It says property -

17 BRADLEY: We define state land to include - it's
18 NRS 321 is the chapter that deals with state lands, and
19 state lands is owned by the Division of State Lands and
20 it's really just the state, it's not city or county or -

21 SPEAKER: So, it's not representing the borders
22 within the State of Nevada. Your perception is that it's
23 specifically land owned by state land.

24 BRADLEY: That the state, and again, to use our
25 favorite word, title, that the state actually has the title

1 or deed to, and it's held by a State Lands Division. And
2 they then allow other state agencies to use that land for
3 various state purposes. So, my legal understanding, and it
4 could not be perfect, is that state land is only land owned
5 by the State of Nevada and not a political subdivision.

6 And like I said, the way all the agencies work, like
7 for example, this land here is owned by the State of
8 Nevada, and it's authorized for use by the Division of
9 Museums and History. That's how the state does it. They
10 have one entity. For the locals, I think they can own land
11 in their own names, and I guess I would say there could be
12 a conflict here because the permit is clearly required for
13 state and Federal land, and we realize there's a conflict
14 in the federal issue.

15 SPEAKER: They're calling that private land.

16 BRADLEY: No, well maybe, but maybe it means we
17 need to clarify that it's also political subdivisions that
18 need to get this permit, and I don't know how often there's
19 excavations by them, but certainly it could come up, and I
20 don't know that it was intended to be left out. I don't
21 know.

22 SPEAKER: Okay.

23 FREEDMAN: Can I jump in here and suggest that we
24 take a break? Peter, I saw Debbie came in with some
25 packages, so how long do you think? 30 minutes? Is that -

1 SPEAKER: Oh, she said 15. 15 minutes?

2 SPEAKER: I'd say just grab them and continue to
3 work.

4 FREEDMAN: Yeah, all right, okay. So, let's take
5 at least 10 to grab and come back to work then.

6 OFF THE RECORD

7 ON THE RECORD

8 FREEDMAN: Okay, Las Vegas, we're convening again.

9 SPEAKER: They're like okay.

10 FREEDMAN: They'll catch up.

11 CRUZ: Myron, I'm going to be leaving pretty
12 soon. There's one provision I need to discuss before I
13 leave.

14 FREEDMAN: Please jump in there.

15 CRUZ: If it's okay with everyone else,
16 I'd like to jump ahead to 19.

17 FREEDMAN: We're on Provision 19. Identify
18 yourself, please.

19 CRUZ: Okay, Darrell Cruz with the Washoe
20 Tribe. So, the provision says affiliated tribes are
21 defined as present-day tribes. Now I discussed this with
22 some of our Federal people and it's kind of unsettling
23 about present-day tribe. We're more in favor of the term
24 aboriginal tribe. As aboriginal tribe that is the
25 affiliated tribe. So present-day tribe can mean a lot of

1 things. A bunch of people with a bunch of robes [phonetic]
2 move in and now all of a sudden they're a tribe. All right
3 they considered? No. So, it has to be some sort of
4 aboriginal ties with the native culture at the Washoe
5 [inaudible] ambiguous almost. So, that is the terminology
6 we prefer to see.

7 FREEDMAN: Okay.

8 SPEAKER: [inaudible]

9 CRUZ: Considered present-day?

10 SPEAKER: Yeah.

11 CRUZ: The only reason why you would have
12 present-day is if the aboriginal tribe has died off and
13 become extinct, and therefore the present-day tribe would
14 be able to be that connection.

15 SPEAKER: Kind of like in South Florida.

16 CRUZ: [inaudible]

17 SPEAKER: Would you like us to say then
18 aboriginal or present-day or no?

19 CRUZ: Aboriginal and only reason if present-
20 day would represent aboriginal is if the aboriginal tribe
21 had died out, had become extinct.

22 SPEAKER: Okay, then that hasn't happened here?
23 I don't know. I just want to make sure we're not excluding
24 one of those.

25

1 NEBESKY: Let me add something. Scott Nebesky,
2 for the record. I think that we would be concerned with
3 that language if it resulted in the exclusion of like the
4 Reno-Sparks Indian Colony or Fallon where they actually
5 represent in the case of the Colony, they represent Washoe,
6 Shoshone and Paiute. And then, for example, [inaudible]
7 Shoshone. I want to make sure that the Colony is not
8 excluded from any of this as a result of the change of
9 definition.

10 SPEAKER: Yes, I agree. So -

11 CRUZ: I need to clarify that also is that
12 there - it's only one Washoe tribe and only the Washoe
13 tribe in reference to the Washoe people and Washoe
14 interests. So again -

15 NEBESKY: Scott Nebesky -

16 CRUZ: Before you - let me finish. We knew
17 this was going to create conflict once the Reno-Sparks
18 Colony was created and basically, I have communications
19 from the National folk in Washington, D.C. that states -
20 Reno-Sparks can only operate within the boundaries of their
21 reservation lands. That's why their THPO was created. So
22 therefore, anything within our aboriginal lands the Washoe
23 Tribe has the authority over what happens with cultural
24 affairs.

25

1 EBON: Michon Ebon. I disagree with that
2 statement because the THPO, all THPO's only can operate
3 within their lands that are reservations, so not - that's
4 all THPO's so and there's 177 THPO's. They all have - they
5 can only as THPO's operate within their tribal - current
6 tribal boundaries.

7 Aboriginal lands throughout the territory are
8 overlapped, shared, and just because one tribe or one
9 entity or one person says that's our aboriginal land
10 doesn't mean other tribes were on that land. So, we
11 represent our membership and our descendancy at the Reno-
12 Sparks Indian Colony as the Washoe, Paiute, Shoshone. We
13 don't represent any other tribe. We're officially
14 recognized as a sovereign nation as well, and we represent
15 our membership and our descendancy of those three tribes.

16 Those three tribes - those three memberships of those
17 certain tribes are enrolled with our community and there's
18 a stipulation of how that enrollment takes place and that
19 they - we represent those enrolled members. And those
20 enrolled members have Washoe, Paiute or Shoshone blood, so
21 and - and also as you remember too is that no other people
22 have to prove their lineage like a horse, a quarter-bred,
23 half of this, half of that.

24 We're all made of people and so we're all doing the
25 best we can to make sure that our areas in - any area that

1 we belong to are taken care of and they're done in a
2 respectful manner. So, I'm going to disagree with Darrell
3 Cruz and THPO for the Washoe Tribe of Nevada and
4 California.

5 CRUZ: Well that's on you. That's -

6 EBON: And to keep - and to please keep -
7 that's why we work on this language and we've been working
8 on this language for the last several years.

9 CRUZ: Darrell Cruz again. I think this
10 decision may end up being the Tribal Councils' decision,
11 our governing body of the tribe, whether they approve of
12 this language or not, so I'm letting you all know that I
13 may end up having to take it to Tribal Council or your
14 museums will have to take it to Tribal Council. This is
15 your guys' law. This is what you guys are proposing. You
16 need to talk to Council.

17 And I think probably the sooner the better. Our
18 tribal council meets again on the second week of February
19 and now would be the best time to get on the agenda because
20 you have to give notice at least 10 days before the
21 Council.

22 SPEAKER: Okay.

23 CRUZ: This would be something you would
24 present to tribal council.

25 SPEAKER: Okay.

1 BRADLEY: And I'm sorry. This is Sarah Bradley.
2 I just want to make sure, so when you say THPO that means
3 Tribal Preservation Officers?

4 [crosstalk]

5 SPEAKER: Tribal Historic.

6 BRADLEY: Tribal Historic. Okay, I just want to
7 make sure I had it right, okay. Sorry.

8 SPEAKER: It's permitted through the National
9 Park Service.

10 BRADLEY: Okay.

11 SPEAKER: [inaudible]

12 BRADLEY: Thank you. Obviously, this is not my
13 expert area, so sometimes I want to check on acronyms.
14 Okay, cool, thank you.

15 FREEDMAN: Myron Freedman, for the record. And I
16 just want to point out that provision is referring to
17 affiliated tribes and they're not mentioning boundaries,
18 per se. Does that make any difference?

19 CRUZ: Affiliated tribe. There's a lot of
20 definitions for that. It's like right here, present day,
21 closest, who was actually closest, whose land is the
22 aboriginal people and who is recognized as the aboriginal
23 people?

24 FREEDMAN: Myron Freedman. So, you know, the
25 purpose of the law is to reconnect materials that are

1 uncovered with the tribes. So, that's the purpose of the
2 law. I'm just reflecting on, you know, this is meant to be
3 a mechanism to help do that. So, I want to make sure that
4 whatever language we use, you know, doesn't get us away
5 from that goal.

6 CRUZ: That's - Darrell Cruz being
7 Darrell Cruz.

8 SPEAKER: Well that's fine, that's fine with me,
9 however you guys want to word it, but -

10 CRUZ: I'm letting you know that, you
11 know, this is pretty much what our position is, and I'll
12 probably have to take this to a Chairperson as well, and
13 basically all of this information I will have to take it to
14 the Chairperson anyway. They have to be advised of what's
15 happening with the new laws and regulations and that this
16 is an ongoing process. But I know that this particular
17 item here they will want to weigh in on as the governing
18 body of the tribe.

19 SPEAKER: Okay.

20 CRUZ: So, thank you all. I didn't mean to
21 jump ahead of everything. I just wanted to be [inaudible].

22 SPEAKER: Thank you.

23 SPEAKER: Thank you, Darrell.

24 CRUZ: Okay.

25

1 SPEAKER: I have a comment in regards to the
2 definition [inaudible]. Is there anything or is this
3 appropriate place to [inaudible] provision for the tribes
4 not ever to have given up our prehistoric ownership? I
5 mean traditionally, ownership of human remains was
6 [inaudible], but nowhere did any of our people in any of
7 our histories ever gave up the - even today it's just - it
8 kind of feels weird saying ownership of these remains.
9 Ownership of our patrimony objects, owner of our material
10 world.

11 We've never given them up. Is this - would this be a
12 location or a place where we could put something in there,
13 something with some teeth that says, you know, prehistoric
14 ownership, that this is our culture, this is our history
15 and cause, you know, you can have all the modern-day
16 definitions here, but if that could be something that we
17 could place in there where, you know, it shows that we've
18 never, you know, given up that right of our people, for our
19 people, by our people of ownership. It's a weird term.

20 BRADLEY: This is Sarah Bradley, and I think that
21 - I mean is that maybe one of those I think earlier on we
22 talked about values, beliefs and traditions and sort of
23 everybody has, maybe like a recognition of that. I'm not
24 sure how we would word it, but essentially -

25

1 SPEAKER: Something that talks that the tribes
2 never once have ever given up. That's why we're sitting at
3 the table, that responsibility to our people and to our
4 past and that includes everything. And I don't know what
5 the term is going to say or what it looks like, but you
6 know, prehistoric ownership is, you know, or something like
7 that.

8 SPEAKER: Okay. I mean I'm trying to think how
9 that would - I mean I'll write it down and I'll think on it
10 some more and see what I come up with.

11 SPEAKER: Here it - I don't know how it would be.
12 It might even be in an introduction of the provisions or
13 even a statement before you start getting into these, but
14 somewhere where it would say, you know, that the tribes
15 never once - and that I can probably make the majority of
16 the tribes will agree that never did we give that up, never
17 did we willingly give up our land, our people and their
18 funerary items. We still have -

19 SPEAKER: [inaudible]

20 SPEAKER: Yeah, and we do still have ownership,
21 spiritually and culturally, to places, to the people, to
22 the items. We still have ownership of them, you know.

23 BRADLEY: So maybe at some - this is Sarah
24 Bradley, for the record. Maybe it's sort of - so a couple
25 things, one organization will be determined by the

1 Legislative Council Bureau when they rewrite our draft
2 later, so what we have here is sort of what we put
3 together. They'll reorganize it as they see fit, but I
4 guess what I'm wondering is maybe if there could be a way
5 to kind of like - I guess I'm almost saying like
6 philosophically just sort of say like this is the general
7 premise, you know, or something.

8 I'm not sure how it would fit. But maybe there's a
9 way to kind of state that cause I think yeah, that is what
10 [inaudible] was saying too about ownership. And I
11 understand what you're saying cause I mean I don't - yeah,
12 I may have ancestors according to my dad that came across
13 in a covered wagon and yeah, you don't think about like if
14 people - it's just not -

15 COSSETTE: This is Donna Cossette. And it's not
16 just a philosophical statement either. It's also, you
17 know, looking towards the future because our future, you
18 know, in certain political arenas is very fragile, you
19 know, the status of our federally recognized status, you
20 know, may just disappear in an instant, and so if that
21 happens, we want to be able to have that ability to still
22 participate and be a part of our history and the
23 collections thereof.

24 You know, because if you - I'm not sure, I didn't look
25 at all these regs before I got here, I'm sorry, but you

1 know, it says, you know, a Federally recognized tribe and
2 we're no longer Federally recognized. Who cares? It still
3 does not diminish the fact that I am who I am, and these
4 are places of our people and we still know - we still have
5 these customs. It still does not diminish who we are as a
6 people and still have and want to re-enter or repatriate
7 them or re-introduce them back into our tribal customs.

8 FREEDMAN: Myron Freedman, for the record. I
9 can't help but think that that's - that concept is really
10 the impetus behind the whole change of the statute to begin
11 with. So, I don't know that it's codified so much, but all
12 of these - this is, like I said, this is a tool to connect
13 tribes with their materials. So yeah, I don't know how
14 that gets stated or what its relevance is.

15 BRADLEY: Yeah, I'll think about it some more.
16 Sometimes - this is Sarah Bradley, for the record.
17 Sometimes there's a way to say like, for example, like the
18 Legislature will say in statute the Legislature recognizes
19 that blah, blah, blah is important or something like that
20 so I'm wondering if there's a way that we kind of add
21 something that says, you know -

22 SPEAKER: In the spirit of or -

23 BRADLEY: Yeah, the Museum Director recognizes
24 that, you know, cause I think - I could be wrong, but I
25 think we understand that, you know, these things weren't

1 contemplated, for example, when the burial occurred
2 hundreds of years ago like nobody was thinking oh, there's
3 going to be people here later that are going to be messing
4 with this, you know what I mean? So, how do we say this
5 wasn't, you know, there is this recognition that this was
6 not - it wasn't intended that these things happened, but in
7 the spirit of doing what we need to do today - I don't
8 know, somehow -

9 SPEAKER: [inaudible]?

10 BRADLEY: Well and maybe - I mean I'm thinking
11 today people sometimes do [inaudible] but I mean
12 [inaudible] I wonder if there is a way, we can have a
13 declaration sentence that sort of sets out some sort of
14 ideal like that, you know, how we enforce it and how we,
15 you know, but maybe we can set it out at least and try to
16 see where we go with it.

17 FREEDMAN: Myron, for the record. I think in new
18 Provision 1 in the first sentence, simply lays out that
19 381, 195, 227 is inclusive as complying with 066. The
20 second sentence could be something along the lines of what
21 Donna is talking about, and then we go into how it happens.

22 WILLIAMS: This is Marla. I just think it would
23 be better associated with the actual issuance of the permit
24 and notice to the applicant, you know, for the permit that,
25 you know, that this is a permit that would essentially

1 excavate [inaudible]. I mean just laying out the - what
2 the intent - what are the actual outcomes after the permit
3 is issued. I don't know. I'm not articulating it very
4 well, but I agree with Donna's point that at some point
5 there needs to be that declaration, at least to the
6 landowner of what they're actually doing in terms of
7 seeking this permit.

8 BRADLEY: And so, this is Sarah Bradley, for the
9 record. I'm thinking maybe that's similar cause I think
10 last time you guys mentioned like rights being given when
11 the consultation notice goes out, like all tribes getting
12 notice that says hey, you have a right to let us know.

13 So maybe what you're saying is there should also be in
14 every permit application kind of a notice that says, you
15 know, and kind of our declaration statement that look, this
16 wasn't really contemplated by the tribes, you know, when
17 these people were laid to rest. You know, I don't know how
18 to word it, but something like that. So, they're kind of
19 on notice to that concept.

20 MCBRIDE: Myron?

21 FREEDMAN: Yeah, go ahead, Dennis.

22 MCBRIDE: I don't know if this would be helpful.
23 It's a question sort of for Sarah. Is there a difference
24 between legal ownership and legal rights?

25

1 BRADLEY: This is Sarah Bradley, for the record.
2 I'm not sure. It's hard to answer that question I guess
3 and what I mean by that is ownership generally connotes
4 more than one thing and the law recognizes like partial
5 ownership. So, like in law school we say there's a bundle
6 of sticks and you don't always have to have all the bundle
7 of sticks to have rights. But -

8 MCBRIDE: Exactly, exactly. I was thinking
9 someone made a remark a few minutes ago about a religious,
10 a cultural, a social right to this material that because
11 it's found on private lands, they may be legally owned by
12 one person, but that person may not have a legal right to
13 possess it.

14 BRADLEY: Yes. And I think that's what we got
15 back to and this is kind of one of the things we're waiting
16 on. This is Sarah Bradley again. The whole - and so I did
17 want to say this earlier. I don't know if everyone is here
18 anymore, but the whole concept of private property owners,
19 that's on the bottom of the list, and it's certainly not
20 high up the way the statute lays it out. We're going to do
21 all these things, and then oh by the way, protect the
22 Constitutional right. So, it's on the bottom. I don't
23 think it's something that is the boss over everything.

24 But it is considered there, and I guess one of the
25 ways in my mind when we talk about our appeal process and

1 because one of the things the Constitution likes to say is
2 life, liberty and property without due process of law, and
3 so allowing appellate, you know, for example, the tribe's
4 unhappy about a permit or if the landowner is unhappy about
5 a denial, letting them have that reviewed sort of gives us
6 that due process element which might satisfy the tribe and
7 the property owner, you know what I mean? It helps both
8 people have their case heard, whatever that means.

9 And I agree. I mean I'm not sure - I guess we'll have
10 to look at the status of the law, but I mean kind of like I
11 think something Mervin said, it's Western law that sort of
12 recognized first in time, first in right or whatever we say
13 now [inaudible] cause we really were first in time, but
14 somehow, we say that. So, there's this idea that you get
15 there, it's yours, I'm not sure how we tie those together.

16 COSSETTE: This is Donna Cossette. I just have to
17 ask this. How does the state feel about the Fort Laramie
18 Treaty of 1851 [phonetic]? Do they recognize it? Do they-

19 BRADLEY: I don't know. Fort Laramie Treaty of
20 1851.

21 COSSETTE: It's something to be thinking about.

22 BRADLEY: Okay, I'll write it down cause I don't
23 know.

24 [crosstalk]

25

1 BRADLEY: Why wasn't I listening in History
2 class?

3 COSSETTE: 1851. And that may be up for
4 discussion.

5 BRADLEY: Okay.

6 FREEDMAN: Thank you, Dennis. Moving on, I'm not
7 sure where we left off. Provision 20 I think was what was
8 next up.

9 [crosstalk]

10 FREEDMAN: All right. Okay.

11 SPEAKER: I think we jumped ahead.

12 SPEAKER: Oh yeah.

13 BRADLEY: Yeah, we did.

14 FREEDMAN: Oh, that's right, we jumped ahead
15 [inaudible]. Yeah. Sorry about that.

16 SPEAKER: [inaudible]

17 [crosstalk]

18 FREEDMAN: I think Days of our Lives comes on
19 soon.

20 [crosstalk]

21 FREEDMAN: Okay.

22 BRADLEY: So, what number were we on?

23 SPEAKER: Number -

24 BRADLEY: 5, okay.

25 [crosstalk]

1 WILLIAMS: I have a brief comment on 6, this is
2 Marla. I guess it's clear, you know, that and that's
3 another definition is required for cultural items, that you
4 would use those provisions. You know, I think we're just a
5 little bit hesitant to continue to kind of set a conflict
6 between state law and Federal law, and at some point if we,
7 you know, I'll say this again, if we need to fix it, then
8 we should collectively go to the State Legislature and
9 figure out a solution to these issues if they're causing
10 these problems at this point with these definitions.

11 FREEDMAN: Okay.

12 EBON: So, Michon Ebon. I was just wondering,
13 I guess I along with Marla kind of understand why this -
14 what's it say, in case there's a - unless another meaning
15 is required then you kind of define cultural item further.
16 It just adds one or two - because the one in law already
17 has cultural item, human remains, a funerary object, a
18 sacred object or an object of cultural significance. Are
19 we thinking we may have an argument, you know, that we may
20 disagree, and so if we need to, we need another meaning?
21 That's how we're going to do that?

22 BRADLEY: This is Sarah Bradley, for the record.
23 I'm not sure we were thinking argument, per se. I think we
24 were trying to, because the definition here is a NAGPRA
25 definition which is kind of used in multiple contexts, and

1 so we're trying to be able to rely on that, and its history
2 I think with regard to construing it.
3 So, I think what we're done is we're - if I'm - I'm saying
4 this off the top of my head. I think by adding this we've
5 added unassociated. I think it just says funerary, so we
6 said like associated but unassociated here, not just
7 funerary without that distinguishing. And then the objects
8 of cultural patrimony, I think it says objects of cultural
9 significance in the statute.

10 FREEDMAN: Yes.

11 BRADLEY: And so, this kind of adds - so it adds
12 a little bit I think, and it also makes it more - my
13 thought is it makes it more like a definition that we're
14 used to working with, right, so the intent, of course, if
15 not to contradict the statute. We can't do that anyway.
16 It's just to sort of augment it and explain what we're
17 using.

18 SPEAKER: If I could just interrupt and ask a
19 question?

20 SPEAKER: We can hear the -

21 SPEAKER: Thank you.

22 SPEAKER: Thank you.

23 SPEAKER: We can hear the sandwiches over there.

24 [crosstalk]

25

1 WILLIAMS: This is Marla. I think 8 and 9 kind of
2 go hand-in-hand with our discussion of abandoned properties
3 that we decided and will continue to figure out how to work
4 that.

5 FREEDMAN: When you were going to also, I thought
6 after reviewing that, which one was it, had the term, what
7 was that term that we were throwing around not too long
8 ago? Oh, divesting.

9 SPEAKER: Which is in the NRS, yes.

10 FREEDMAN: Oh, so actually we had gotten a little
11 bit further. So, you were going to take a look at that I
12 thought and see if all that kind of had it up to what you
13 thought would be an appropriate meaning for number 3 there.
14 Where is that? I think my pages got out of order.
15 Provision 13, 13.3.

16 SPEAKER: Yeah, and we said it divests because
17 the statute says it best after the publication, so we
18 didn't want to have it once we -

19 SPEAKER: I get that part.

20 SPEAKER: Yeah, yeah.

21 SPEAKER: It's whether or not the other stuff
22 works.

23 SPEAKER: Yeah.

24 FREEDMAN: Okay, can we move on to I'm going to
25 say 14 cause I think we went through that territory before.

1 Let me know if you can't, but I think that's - or beyond.

2 Okay. Well 14 and beyond.

3 WILLIAMS: This is Marla. I think we kind of had
4 a lot of this - this is Marla - a lot of discussion at
5 opening about just ensuring that people really understood
6 what [inaudible]. I don't know if there's going to be any
7 additional revision to this, you know, in terms of actually
8 incorporating values, beliefs and traditions in that
9 permit, but I think that kind of stands for 16, 17.

10 BRADLEY: And this is Sarah Bradley, for the
11 record. I guess when you say what - I think you said what
12 comes with the permit or what - like what do you - what are
13 you meaning?

14 WILLIAMS: You know, I mean that a landowner
15 really understands what they're doing when they apply for a
16 permit for one, that they're actually intending to dig up
17 remains of people and disrespect those remains by digging
18 them up.

19 BRADLEY: Okay.

20 WILLIAMS: You know - again, just - and then, you
21 know, as Scott said earlier, this should really be
22 detailing out some of the values, beliefs and traditions,
23 you know, but I think one of the things we put forward was,
24 you know, if you intend to do this will you, you know,
25 ensure that the remains are covered, you know, not leave

1 them out in the open, you know. Some of those kinds of
2 things that I think are just kind of, you know, basic to
3 being respectful of remains if they do get excavated, and
4 really, the, you know, I think the goal is that nobody gets
5 excavated, you know.

6 But just should there be some more specifics, you
7 know, which we advocated before about - I mean not leave it
8 to an administrative process and a flow chart as being what
9 guides the landowner too, that the tribes understand too
10 what that landowner is going through when they apply for a
11 permit.

12 CAMP: This is Anna Camp, for the record. I
13 think that the flow chart and that's probably my bad by
14 setting it up the way that I did it. It was more for an
15 understanding of how, just how the permit process works,
16 but I think that with the permit there could be permit
17 stipulations. So, in order to get the permit maybe it
18 could be stated in the permit itself.

19 [crosstalk]

20 WILLIAMS: But you can't do that unless you
21 specify them in the regulations. Otherwise you're doing ad
22 hoc rulemaking. So, that's my point is that if you're
23 going to stipulate something that it be done in these
24 regulations and not done outside of that because then you
25 have no force of law into, you know, great, give me my

1 permit, I'm stipulating all this, and they walk off and
2 they do absolutely nothing and you can't take action
3 against them because you have nothing in the law to
4 actually fall back on.

5 CAMP: If there was - Anna Camp, for the
6 record, sorry. If there was a tribal monitor from what I
7 understand part of this would be that there would need to
8 be a tribal representative there with any of this -

9 [crosstalk]

10 EBON: I think, Michon Ebon, I think -

11 [crosstalk]

12 SPEAKER: [inaudible]

13 EBON: [inaudible] you're getting ahead, and I
14 think you're getting into the permit processing and the
15 [inaudible] plan. That's what you're getting into. We
16 want some of our values and beliefs written into the
17 regulation, not in a doc - a policy rule or a policy
18 document. We want it in the regulation.

19 SPEAKER: Absolutely.

20 EBON: So, I think we've got to get out of you
21 wanting to put everything in the permit application. Let's
22 try to focus in here first before - then we can talk about
23 - cause I think the permit application I thought last time
24 we talked about maybe was getting updated or needed

25

1 updating or I wanted it updated. I don't remember. But we
2 need to do that in the regulation.

3 CAMP: Right. Anna Camp, for the record.
4 Michon, do you mean the actual antiquities permit or the
5 actual burial site permit?

6 EBON: All of them probably, yeah.

7 CAMP: Okay.

8 BRADLEY: Yeah, this is Sarah Bradley, for the
9 record. We did talk last week, and I think we realized
10 cause I think our intent was that the monitors are allowed
11 to be there, but then I think we realized it may not have
12 said that. So, we will add that, and I think I have
13 actually I think a more recent draft. So, I'll double-
14 check, but that was our intent. I mean my understanding,
15 right, that when they get the permit, you're allowed to
16 have people there on site

17 SPEAKER: If they get the permit.

18 BRADLEY: Yeah. Well only if -

19 SPEAKER: We're jumping ahead. I think -

20 BRADLEY: It's only when they get it that it will
21 happen, but you're right, it's if as well.

22 EBON: And yeah, and that should be a
23 permit condition that's laid out in regulations, you know,
24 that any permit that is issued will allow tribal
25 representation on site.

1 COSSETTE: This is Donna Cossette. [inaudible]

2 that associated with it cause I know -

3 SPEAKER: [inaudible]

4 COSSETTE: Yeah, because when the tribes go to
5 [inaudible] my tribes because of the territory but, you
6 know, if I had taken the time, like today I took time off
7 from my work. I'm here as an individual actually. And you
8 know, to go to those sites, you know, tribes have and some
9 of them do have employable site monitors, and some of this,
10 you know, would be work that's done prior to even
11 permitting happening.

12 Because when you go look at a site I know when I've
13 gone on sites, you know, there's certain things that I look
14 for and I identify and show, you know, somebody or even our
15 own tribe about these locations, you know, like what we're
16 seeing and saying is this a potential, you know, issue, yes
17 or no? I mean you could say that.

18 And that comes in at expense to the individual.
19 Sometimes it's an expense to the tribe when they send their
20 own staff, you know. So, I think that's a good point. I
21 think that you really should consider what the expense of
22 the permit is and whether or not there are costs that need
23 to be covered by the entity asking for it.

24 BRADLEY: So, there is Sarah Bradley, for the
25 record. I just want to make sure I'm understanding. So,

1 having a tribal monitor there obviously I guess there's a
2 cost to the tribe, and so I think it sounds like you're
3 saying that should be paid for by the permit holder.

4 SPEAKER: Uh-huh.

5 BRADLEY: Okay.

6 SPEAKER: [inaudible]

7 BRADLEY: You do? Okay. Normally -

8 SPEAKER: They even also pay for it [inaudible]
9 pay for the archeologist to come in [inaudible].

10 SPEAKER: Well I think that in this case the
11 landowner is incurring those costs.

12 BRADLEY: Yes.

13 SPEAKER: Associated with the excavation. One of
14 those costs would also include the tribal monitors.

15 BRADLEY: Yeah, and I'm wondering, and I don't
16 know the answer so I might have to do a little more
17 research. Normally if states are going to require somebody
18 to pay something cause I think we were issuing these
19 permits without charge, right?

20 FREEDMAN: That's correct.

21 BRADLEY: Cause we talked about this. This is
22 Sarah Bradley for the record, but we weren't going to
23 charge a fee cause we don't have the - I mean it doesn't
24 say a division can charge \$50 or whatever for the permit,
25 cause some do. So, I'll have to double-check probably with

1 someone at LCB to see what their thought is cause it
2 clearly says to make regulations, but a lot of times if
3 we're going to charge a fee, especially in a regulation,
4 they require we have statutory authority to do it. Now I
5 don't know if we're able to say -

6 SPEAKER: [inaudible] saying you're charging the
7 fee.

8 BRADLEY: Yeah.

9 SPEAKER: You're requiring it as part of the
10 permit that -

11 BRADLEY: Pay all costs.

12 SPEAKER: Right.

13 BRADLEY: And I might be able to make a statement that
14 general. I'm just not sure, so let me look into that. I
15 don't think we were thinking of - I mean I know we said
16 they have to hire these certain people, but they have to
17 pay all costs for like the -

18 SPEAKER: Well it's not unlike that, right?
19 You're hiring whatever, an archeologist. They're not
20 getting a person for free.

21 BRADLEY: No.

22 SPEAKER: So, you're also hiring the tribal
23 monitor, and that tribal monitor is not working for free.

24 BRADLEY: Well so maybe that's how we need to
25 phrase it rather than - cause I think we were thinking, and

1 this is me maybe again, Sarah Bradley, just thinking, the
2 tribe sends people they've authorized, and maybe they do,
3 but the landowner is really hiring those people to come and
4 observe.

5 SPEAKER: Right.

6 COSSETTE: Or maybe there has to be - they have to
7 get some kind of a notice form or even a tribal permit that
8 says yes, you've signed off on it, take this and attach it
9 to your permit, you know, and then the expense - this Donna
10 Cossette. But anyway, if there is something that says that
11 when they apply for a permit that they have to get approval
12 authorization, whatever for tribes and whatever, and then
13 that cost would be incurred not only with the statute, but
14 it's something they have to deal with before they can get
15 this opened, you know, that they have to have the
16 authorization starting off from the tribes before and
17 attach it with their permit.

18 SPEAKER: And I think that makes it a purpose of
19 the consultation, right?

20 SPEAKER: Right.

21 SPEAKER: Is the action -

22 SPEAKER: And it's forcing all of this to happen.

23 SPEAKER: Right.

24 BRADLEY: Yeah, like the museum. I would say
25 this is Sarah Bradley again. I mean we're sort of the

1 middle man I would say, you know, where these two sides,
2 you know, and our job is to try to make sure they meet all
3 the requirements, et cetera, whatever, but also like we're
4 - that's why we're the middle person here.

5 SPEAKER: You know, our tribes have our own
6 tribal entities you know, and create their own provisions
7 in relation in conjunction with this in our own tribal
8 laws.

9 SPEAKER: Yeah.

10 EBON: I think - this is Michon Ebon.
11 We're on 16, right? Cause we're jumping all around.

12 SPEAKER: Yes.

13 [crosstalk]

14 SPEAKER: I think this is a really good place
15 where we - this is where Myron had mentioned earlier, we
16 heard you loud and clear. Last time you wrote in the
17 values, beliefs and traditions and literally just wrote
18 values, beliefs and traditions. And I think what we're
19 saying is this is where you're going to put our values and
20 beliefs and traditions in and you can - Anna can go around
21 and visit 28 tribes and we all could have some different
22 things, but I think we all have the same moral compass as
23 native indigenous people from Nevada that we can work in
24 here too.

25

1 Because for far too long many laws do not put in or put in
2 these values, beliefs and traditions, and that was the most
3 important part of why we wanted to change this law because
4 of the thinking which I keep repeating, but also, it's
5 because the first thing that we see is okay, we're going to
6 get a permit for excavation. We shouldn't even - that
7 should not be our first thought.

8 Our first thought should be, and you guys' thing, the
9 draft procedures for museum, [inaudible] consultation, for
10 excavation of known burial sites is the first thing. That
11 should not be the first thoughts is private landowners want
12 to excavate known burial sites. I would like to see
13 something as the landowner and the tribes are
14 communicating. See that's been the problem of why we took
15 this law forward is because to change it is too many times
16 somebody in the state agency was talking for the tribes to
17 the landowner, and the tribe never got to talk to that
18 private landowner, and so we don't know.

19 Nobody can talk on behalf of the tribes but the tribes
20 and maybe their Council, and maybe they've deferred it to
21 the cultural specialists. But this is where our values and
22 beliefs and traditions can be written. It does not - we
23 may want them not to be excavated and maybe if you put a
24 value on saying let's view that particular excavation
25 permit, this is what you're going to have to do; they might

1 say oh, wait a minute, no we don't want to do that. Let's
2 just leave them in place. Cause that would be the first
3 thing that a lot of tribes would say.

4 So, I think somewhere in here we need to say if at all
5 possible, it can remain in place, and that's up to the
6 tribe and the landowner, not the archeologist, not that
7 firm that wants to give to science. That has to be in here
8 somewhere so that 100 years down the road and somebody
9 doesn't have a cultural resource program, but a new person
10 comes in and reads that they know that they have a right
11 and the landowner has a right to leave them there in place.
12 But we're talking excavation right off the bat.

13 So, we've got to somehow come together and say that
14 they be left in situ, that's one, if that's what's
15 agreeable. And the next one is right off the bat is, the
16 tribes and the landowners, they have to talk. It can't be
17 - of course, you know, the landowner and their rights is
18 okay, they find it and they want to excavate, and in your
19 chart, your flow chart, the tribe doesn't come in until
20 halfway in that. That's wrong. That's totally wrong.
21 We should be right at the top with the landowner. And
22 yeah, you're going to give them their rights, and we keep
23 bringing up their Constitutional rights, but we have to
24 make sure that that tribe and that landowner is talking to
25 one another. So, we have to come - why we're here today is

1 to figure out how we're going to do that and how we're
2 going to put that in the regulations so that the landowner
3 knows right off the bat that okay, I have a Native American
4 burial, I'm not scared, it's not this do-do-do-do-do-do-do.
5 We're going to do something and we're going to do something
6 honorable here and that yes, there's a procedure, then it's
7 going to, you know, they call SHPO or they call the museum
8 and they're going to do all that and then we get involved,
9 but totally - I understand the procedure but this is where
10 we can put things in as soon as the notification goes out
11 to the tribe, the tribe is provided - what did I say
12 earlier, given the opportunity to inspect the discovery.
13 I mean most tribes want to do that, I think. I think they
14 want to go to - that's a value, that's a belief cause when
15 you leave us out of that and all we're reading is a
16 treatment plan and the GPS coordinates of where it's at and
17 where the landowner is at, that's not - to me that's not my
18 value and belief. I have to go and inspect so that I know
19 what's happening. I have visually see and that we're given
20 an opportunity, you know, in recognition of the ancestry
21 that we conduct a ceremony or rites.

22 And it doesn't - we don't have to lay it out when they
23 do this, and they do that and do that. It's not laid out.
24 That tribe can either do it, have it inspected, have a
25 ceremony or not have a ceremony. But we have to - that's

1 values, beliefs and traditions that I feel that need to be
2 put in the law because that's what's going to make this law
3 robust.

4 That's what's going to make this law inclusive of us
5 working together 200 years down the road that people
6 looking at this will go gee, the museum and the tribes
7 really got together, must have really worked on this, or
8 something. So, I hope I'm making sense but this, not just
9 to put the word value, belief and tradition in there, but
10 to really put in some verbiage that doesn't lay out
11 something that's going to maybe be different from what
12 another tribe thinks.

13 FREEDMAN: Myron Freedman, for the record. Yes,
14 thank you, Michon. And so, you know, another phase here
15 definitely in further defining this. I just want to point
16 out though that it was never our intention to go
17 immediately to excavation or anything like that because
18 it's citing 381196 which requires us to involve the tribes
19 and to have consultation. So that was never our intent.
20 Now yes, we can work on expounding that so that this is
21 more spelled out, and I think Anna will talk a little bit
22 more about gathering more information so that we can have
23 more to work with talking to the tribes again, definitely.

24 EBON: And then I think, Michon Ebon, in the
25 law, and I can't find it right now, but it does say about

1 human remains, to have respect or honor, there's some
2 respect, being respectful, the remains must be respectful,
3 or the remains found must be -

4 SPEAKER: Respected.

5 EBON: Yeah, respected. So, that respected is
6 where we can add into meaning burial's encounter, things
7 left in place, human remains aren't to be separated. Those
8 are real - I mean I don't know, what do you think, Donna
9 and Warren [phonetic] and Walker River, other tribes?
10 Don't you - is that how - cause that's how I feel, and I
11 think it's - don't separate the remains and that can be -
12 and that's a value, that's a tradition, that's a belief
13 that could be written in the law
14 Because you guys may not maybe think of that cause you
15 don't have to worry about that or something, but it has to
16 be - something like that has to be written in here because
17 people - they do that today. Coroners will come in and
18 take the leg bone and then drive off with it. That is not
19 our way. That is just totally disrespectful. And so
20 that's what we mean, values, beliefs and traditions.

21 COSSETTE: This is Donna Cossette, and I do
22 totally agree with you. There's been instances when some
23 of - not a tribe of ours but when they called up the tribe
24 at night and asked for somebody to come and look at this
25 and the owner said no, those are not our people. We're not

1 going to go there. And then come to find out, yes, they
2 were our people, but they would not get involved with that.
3 They said human remains that were inadvertently discovered
4 at night while excavating so that they can continue on that
5 evening for a day or the next morning. And that's where
6 the cultural sensitivity would come in as well.

7 But there should be verbiage in here, and I do totally
8 agree with why do you attend to this? You guys made the
9 effort to create this opportunity to be a part of the
10 conversation here. And the flavor of the tribe's request
11 of having it spelled out in here will show that there is
12 true consultation with the tribes and it's meaningful, you
13 know.

14 When you hear the language which the tribes will
15 iterate of how we want it to be set - how it wants to sound
16 and feel or how it wants to be played out is - would be
17 considered true consultation. And as far as [inaudible]
18 also, you know, we've seen this type of, you know, you work
19 at different agencies, but then it's missing in essence,
20 it's missing the essence of what needs to be, at least from
21 the tribe's perspective, to be included in here.

22 And you know, parts will often - people would [inaudible]
23 set those things aside and just make it all [inaudible]
24 legal, like you know, legal for business and that kind of
25 stuff. But there is [inaudible] of the, you know,

1 traditions, beliefs and customs, and this is it. All
2 right, this is how it looks, you know. Those are the words
3 in which that has to be included.

4 FREEDMAN: And Myron Freedman, for the record,
5 again. Maybe it does come off as a blanket statement, but
6 really in our view it was going to allow for that
7 conversation, that consultation, to include whatever
8 values, beliefs and traditions you wanted to bring to that
9 situation, that permit and that burial plan.

10 EBON: And Michon Ebon. I don't want it in a
11 policy from the department. I want it in the regulation.

12 FREEDMAN: No, and it is in the regulation. It's
13 just in as a blanket statement, so I understand what you're
14 saying now. You want it more specified than that, so I'm
15 hearing that.

16 BRADLEY: Yeah, this is Sarah Bradley. I think
17 we're hearing what you're saying.

18 EBON: Okay.

19 BRADLEY: We believe that by saying burial plan
20 or guidance regarding the disposition of human remains, we
21 believe we are allowing you individually as individual
22 tribes, to say this is our way, you know what I mean? So,
23 we were trying to allow the tribes to have that ability to
24 tell us what their way was in each situation if that makes
25 sense. So, we weren't trying to not include it. We felt

1 like this is required and you get to tell us what that is.
2 We just weren't specifying what that was cause we didn't
3 think we could.

4 FREEDMAN: And we assumed that, Myron Freedman,
5 again, that there would be quite a bit of variation among
6 all the tribes. Now if after getting a survey we can come
7 up with universal values, beliefs and traditions that make
8 sense in the regs, we'll look at that.

9 BRADLEY: Yeah. And this is Sarah Bradley again.
10 One thing I'm thinking based on a couple of things you
11 said. I mean it could be possible to say, for example,
12 like, you know, if the tribe opts to come to the property
13 to do a ceremony or that kind of stuff, so that way we can
14 universally say if the tribe opts to, they have a right to
15 come to the site to do a ceremony.

16 That way, number one, it's in the law, it's
17 enforceable, but also if a tribe doesn't take the option,
18 they don't take the option. And you know, certainly we
19 don't want to force anybody either, you know, so that way
20 it's sort of there. And the same would maybe be if the
21 tribe opts to inspect, like if it - once a discovery is
22 made or something like that the tribe has the option to
23 come and inspect.

24 [crosstalk]

25 EBON: Opts to?

1 BRADLEY: Yeah, I was thinking of a couple of
2 those, Sarah Bradley, again. If we make it the tribe opts
3 to do it or somehow like, so they have the right to do it,
4 but it's their choice. This way we're not making them but
5 we're also not - we're saying that they have the right to
6 do it.

7 FREEDMAN: Myron Freedman again. What is codified
8 in the regs is the consultation and that values, beliefs
9 and traditions will be part of that consultation. That's
10 what's codified in the regs. And now we're going to look
11 at more definition of that, more specifics, but our intent
12 has always been to make sure that that was part of the
13 requirements of whoever was coming across these materials
14 and wanting a permit.

15 NEBESKY: Scott Nebesky, for the record. Just an
16 observation and maybe seeking some clarity. You know, in
17 Provision 15 and 17 that deal with consultation, noticing,
18 there's a qualifier in there that says ensure that the
19 values, beliefs and traditions of these tribes are
20 incorporated. However, when you get to Provision 16,
21 inquires to issuing permits, there is no qualifier that
22 talks about values, beliefs and traditions. I'm just
23 wondering, is that by design or is it just by omission?

24 BRADLEY: I think it might be an omission. This
25 is Sarah Bradley, for the record. I apologize cause I

1 think actually the draft you have was my December 28th
2 draft, and then I did do a January 3rd draft which had a
3 few things that I think were oversight. Let me just look
4 at this again.

5 NEBESKY: Cause I noticed that, you know, for the
6 record, Scott Nebesky, and I can't point to it, but I
7 thought I saw that somewhere [inaudible]. I highlighted it
8 [inaudible]. But when you talk about other provisions of
9 196 to 227, that's not the [inaudible]. I just wanted to
10 make sure that values, beliefs and traditions and
11 incorporation thereof applies to all those provisions in
12 state law, not just this one.

13 BRADLEY: Yeah. This is Sarah Bradley, for the
14 record. It looks like my January draft that I do have here
15 does not - at least on 16, doesn't say that. I think that
16 was just an oversight on that.

17 NEBESKY: Thank you.

18 BRADLEY: Cause there still would be the
19 consultation which includes that, but we probably just
20 specify that. But I think if we add some general
21 statements, those general statements would apply as well to
22 both of them. And I kind of like the idea, and it might be
23 a little bit wordy. This is Sarah Bradley, for the record.
24 Adding some notices kind of like we said, the tribes have a
25

1 right to get this notice in their consultation letter, you
2 know. I think - I like the idea.
3 I think it was something that Marla said, you know, notices
4 to the permit applicant when they, you know, in the
5 application it says like here's some things we're going to
6 tell you as you apply. I mean I think that could be a good
7 thing and we can specify what those required notices are to
8 them. Cause I think you're right that a lot of people
9 maybe aren't thinking through what this involves.

10 EBON: Michon Ebon. Too I think that - I'm
11 not sure, Anna, how you're going to go out to the tribes,
12 and I'm not sure how you're representing what's happening
13 here to the tribes. I just kind of question that. So, why
14 I question that is it's because I don't know what you're
15 going to say to them. I heard Myron say a survey and you
16 wrote down survey really fast. I'm wondering are you going
17 to be passing out a survey to the tribes?
18 What we could do, cause some - as you had stated many times
19 that some tribes just listen to you and didn't state a
20 whole lot. So, that could happen again. So, are you going
21 to come back and tell us wow, they didn't say or whatever?
22 So, I think that we need to do those regulations, put them
23 in there and then you put that out to the tribe so that
24 they see that.

25

1 Because if they don't see - remember we're different as a
2 group, and so if we don't see - if I don't read that in the
3 regulation and then a tribe could say, no, I don't want
4 that in there and/or okay, yeah, that sounds good. You
5 know what I'm talking about is the, you know, no separation
6 of the - maybe no separation - any - avoiding separation of
7 human remains and funerary objects. Tribal representatives
8 will be afforded the opportunity to inspect and conduct a
9 ceremony if they would like.

10 Maybe human remains are, you know, maybe [inaudible 54:25]
11 contacted because that's real important because sometimes
12 if something goes out on the - to the Sheriff, to the
13 Coroner, the media picks up on that and they're grrrrr, and
14 the landowner is all proud, oh I have this Native stuff to
15 display and everything. That stuff I really think needs to
16 be in there, and I think when we have that stuff in there,
17 then you take it out to the tribes.

18 That's just my thought because you've been going out to the
19 tribes, and I don't know, you went out to the tribes last
20 summer and I don't know what was said by those tribes.

21 What did they say? What was their values, beliefs and
22 traditions? I don't know. You never gave us a list, or
23 you didn't tell us or maybe you said oh it be kept
24 confidential? I don't know. So -

25

1 CAMP: This is Anna Camp, for the record. No,
2 nothing I wouldn't think was confidential. There was some
3 basic values, and I met - when Scott asked me there like my
4 head kind of exploded cause there was so much and I was
5 trying to balance, you know, what I really saw was that a
6 lot of tribes don't have resources, they don't have people
7 to, you know, that are in charge of cultural resources, and
8 so I've been trying to do my best to reach out to invite
9 [inaudible] people if there isn't a cultural person. But
10 some of the values, beliefs and traditions were pretty
11 similar.

12 I think there was a general desire to not excavate
13 human remains. There's a general desire to not have
14 specific things in a museum like human remains, and I think
15 it was just me trying to balance of, you know, thinking
16 about our own collections and things that we have here that
17 are Federally managed. I think there's sort of a
18 misconception of what we have the ability to have control
19 over and what we don't have control over.

20 But there were some very basic things, you know. We
21 don't want the media to know if there are human remains on
22 a specific piece of property, and I know that in California
23 when they do excavate human remains there are tents that
24 are put up. And it's confidential. So, I'm looking at
25 other states to see how they implement some of these things

1 and I try to come up with something that works for
2 everybody.

3 The reason why I hesitated on some of the details was
4 because of tribes like Winnemucca and Lovelock that were
5 dealing with things like we don't have enough money for
6 school, you know, for school activities. Those were their
7 needs. They weren't really even ready to discuss these
8 sorts of things. So, right now it's mostly about trying to
9 get out there again and have one-on-one meetings with
10 people.

11 SPEAKER: And you'll run into that the more you
12 talk with tribal council people. If you're actually
13 talking out to community people, they'll give you their
14 perspective.

15 CAMP: Okay.

16 SPEAKER: You know.

17 CAMP: So, maybe trying -

18 SPEAKER: It won't be, you know, so it's really
19 kind of like we talked about before, trying to find those
20 resources in the community that are understanding, you
21 know, what you're really looking for and not just focusing
22 on a Tribal Council because they do have, you know, the
23 most pressing needs in front of them.

24 CAMP: Yes.

25

1 SPEAKER: But it's understanding those
2 communities and seeing who else out there can really help
3 me understand, you know, what - how they want things dealt
4 with. Who are the, you know, there is your council member
5 and there's your community leaders, you know, are you
6 missing some key points by not reaching out to those
7 community leaders as well and, you know, and I know it's a
8 challenge.

9 CAMP: I'm fine with it.

10 EBON: Michon Ebon. Is that it states that in
11 the law. It says to go out and consult with the members of
12 the tribe. It didn't say Tribal Council. It said the
13 members, so just don't focus on the Tribal Council.

14 CAMP: Okay.

15 EBON: And I think for since you mentioned
16 Lovelock and Winnemucca, our relatives that [inaudible]
17 sitting here, you put some of the things in here that we
18 talked about, the no, you know, going - having a ceremony.
19 I bet you they would agree to that.

20 [crosstalk]

21 CAMP: So that's why -

22 EBON: I think that before you go to the
23 tribes that we need to have some of this written in there
24 so that they see that.

25 CAMP: Okay.

1 EBON: That's my thought.

2 HATTORI: This is Gene Hattori, for the record.
3 Michon, in terms of Marla's comments that were submitted I
4 guess December 28th of so, one of the things that you just
5 mentioned now was putting a hold on the Sheriff as well as
6 media publicizing discoveries. You have to remember,
7 throughout this whole - all of these regulations and the
8 law, what we will do if we find violations is we'll report
9 it to the local law enforcement. So, telling them that
10 they can't talk publicly, and they do so, we have no
11 enforcement powers.

12 EBON: Michon Ebon. I hear you, but this law
13 says values, beliefs and traditions, and our values,
14 beliefs and traditions are please don't contact the media.
15 If they do, they do. I mean if you write it, we can't
16 enforce that. If it's written in the law, I don't know
17 what else we could do, but I think it's a good thing to
18 write it in there so people start getting the fact that you
19 cannot be displaying, you cannot be advertising and you
20 can't be taking pictures, that's not our belief and
21 traditions.

22 That's why we're in the mess as America right now, so
23 disrespectful to Native American people. Is that what it's
24 allowed. It's allowed to display, we've been studied as a
25 specimen. It's allowed - it's that why we're less than.

1 You have mascots. That's why it's allowed; we're
2 disrespected, and so I just want this in the law, and if
3 they follow it, they follow it, but if they don't and
4 somebody's reading it and going like wow, I wonder why they
5 don't want the media there, why do they want it
6 confidential? It's important just to have it in there.

7 COSSETTE: This is Donna Cossette. When - I don't
8 know how important - well I do think it's pretty important
9 but see if this is even subject to FOIA, you know, like
10 information that which is being inadvertent discoveries and
11 stuff like that will it be subject to FOIA, you know, with
12 agreements [inaudible] management which we deal with
13 mostly. Some of these locations are not subject to FOIA.

14 And just for, you know, future pot hunters, you know,
15 some of these things can sit around and sit on a shelf, you
16 know, but people who really want to get at things, they do
17 their homework cause they have all the time in the world to
18 do that. And then also going back to consultations with
19 the tribes, that it does need to be some sensitivity too
20 because when things are happening on a national level, they
21 do affect the tribes almost on an instant basis because,
22 for instance, we have one tribe that that's already closed
23 down. Their government is closed down. There's nobody you
24 can contact there or anything to do.

25

1 And it's only been how many days with the Federal shutdown.
2 It's a direct result of that. So, you know, there is going
3 to have to be a little bit of patience written into this on
4 the property owner's behalf because this is it, you know.
5 You can only do so much as a tribe and especially if you're
6 working with more vulnerable tribes, financially vulnerable
7 tribes that, you know, just this is it, you know, and if
8 they can't participate, then those permits might have to
9 wait as well.

10 SPEAKER: Makes sense.

11 COSSETTE: You know. And I don't know how that
12 could be written in here that, you know, there's some kind
13 of binding agreement between, you know, the tribes have
14 authority already or at least there's a working
15 relationship that they do have the right to sign off on
16 these permits or at least a component of it for inspection,
17 for going to the location, you know, and that gives the
18 authority - gives the working relationship to the
19 independent sovereign nations to have that ability to go to
20 their cultural sites, you know, and inspect them in a
21 reasonable amount of time, you know. And it's not, you
22 know, out of convenience. It's necessity. They literally
23 have nobody there. Will shut down, close down.

24 BRADLEY: Yeah, well it's like you said. This is
25 Sarah Bradley, for the record. I mean you took a day off

1 work to come here. I mean not everybody can do that or if
2 they do - so this is Sarah Bradley, for the record. I
3 guess one thought I'm having in response to your FOIA,
4 that's a really good question. So, in Nevada we call it
5 Public Records Act, the FOIA would be Federal. And the way
6 our law operates unless it's exempted out, it's public, and
7 so what's your thought, Gene?

8 HATTORI: This is Gene Hattori, for the record.
9 [inaudible] is considered - anything on Federal lands is
10 considered Federal property, and all those are exempt from
11 FOIA, and because we're dependent on BLM funding for our
12 program we handle any archeological locations on private,
13 state or tribal lands as exempt from our state's Freedom of
14 Information Act. We do not allow access.

15 BRADLEY: Okay. This is Sarah Bradley. Yeah,
16 there's a Federal law that allows it. NRS Chapter 239. My
17 question though would be what if someone asks? Let's let
18 Property Owner A applies for a permit. The newspaper in
19 Reno says I want a copy of all permits requested in the
20 month of June. Do we have - I mean is that protected, the
21 permit itself?

22 HATTORI: This is Gene Hattori. If it has
23 locational information on it related to archeological
24 sites, we do not - we do the, you know, this is for
25 reports, people - the public asks for reports. We do not

1 give reports out that have specific archeological site
2 locations.

3 BRADLEY: Okay. And this is Sarah Bradley again.
4 One thing though, I'm going to have to do more research on
5 this. One thing Nevada law does say is you can - they say
6 when possible redact and provide what's requested. So, if
7 someone said what report - what permits were requested in
8 May we could redact the location information and provide it
9 perhaps? I don't know what that would do. Is that a
10 concern?

11 SPEAKER: Yeah.

12 BRADLEY: Okay. So, one thought I'm having cause
13 the general rule for exceptions to the Public Records Act,
14 at least in the state, is an NRS that says these things are
15 not subject to the Public Records Act, and that's not
16 currently in the NRS. Now we can try to make a regulation
17 regarding that. I just don't know that we'll be
18 successful, but the Legislature kind of likes to control
19 for the most part exceptions to the Public Records Act
20 because they don't like there be very many I guess, and so
21 they kind of like to be the ones that say what's exempt.

22 So, it may be that we proceed cause I think under
23 Nevada law potentially it would be or redact the part that
24 the Federal law says is confidential and provide it. And
25 if that's a problem then perhaps we need to address that.

1 SPEAKER: Do you think that's an issue?

2 EBON: No, cause I - Michon Ebon. Once you
3 brought it up, I thought oh that's protected, the -

4 BRADLEY: The location.

5 EBON: Yeah, locations, all the cultural
6 resource reports, because it has all that pretty much.

7 BRADLEY: Okay.

8 EBON: The IMAP [phonetic] forms, they're all
9 under protections.

10 BRADLEY: Okay. So, it might just be - this is
11 Sarah Bradley, for the record. It says John Smith on there
12 and I mean it wouldn't be very much but when you provide
13 what the redacted version of the application I guess and
14 that would be okay? Okay. I mean again, I don't know if
15 anybody is going to ask us for these. But if they did.

16 FREEDMAN: All right. Any other comments on 16 or
17 17? Let's move on to 18 and beyond.

18 [crosstalk]

19 BRADLEY: That's right. Okay, so that's what I
20 was thinking. This is Sarah Bradley, for the record. I
21 kind of like the idea maybe adding like good cause or
22 something for like a delay so that if there's an issue
23 where a tribe or like you said is shut down. Things don't
24 proceed just cause they're not responding within the time
25 period.

1 SPEAKER: [inaudible 1:07:38] appeal?

2 BRADLEY: Yeah, something. I mean I don't know.
3 Like something - I mean I - I guess - this is Sarah Bradley
4 again. The words we like sometimes. It's just unless
5 there's good cause shown, and to me good cause is
6 something's going on that's abnormal that's causing a
7 delay. It's, you know, it not that they're just not
8 responding.

9 SPEAKER: Forced measure or -

10 BRADLEY: Yeah, forced measure, okay. So, let's
11 add that maybe cause I know we had some timelines for
12 responses when we send the letters out. Is that what
13 you're thinking?

14 SPEAKER: Yeah.

15 BRADLEY: Okay.

16 SPEAKER: And a permit shouldn't be held up if
17 it's not good cause.

18 BRADLEY: That's kind of - yeah, this is Sarah
19 Bradley. That's why we put those timeframes cause you're
20 trying to set up a target so that we have some end in place
21 but at the same time, I mean the intent is not if there's
22 people or something going on that's totally unforeseen to
23 just do it anyway. That's certainly not the intent.

24 SMITH: This is Sarah Smith, for the record.
25 Just as we're moving on, I just wanted to point out I'm not

1 sure how relevant it is, but I did hear during the last
2 workshop the tribe didn't like to be referred to as Indian
3 and I've been noticing throughout your policy that
4 sometimes they're referred to as Indian tribes. Sometimes
5 it's referred to as tribal, sometimes American tribes. So,
6 I just wondered maybe there should be a little bit more
7 consistency in terminology.

8 BRADLEY: So, this is Sarah Bradley, for the
9 record. The NRS refers to it as Indian tribes, so we I
10 think every time it says Indian tribe - it says tribe we
11 either left off Indian and just said tribe or tribal, but
12 we've said Indian tribe. It does say here Prehistoric
13 Native American Group. And I think we got that from
14 somewhere else, but I mean I think we tried to be
15 consistent with regard to how we refer based on what the
16 NRS says. And I agree that I know that not everybody wants
17 to be called Indian tribe, but that's the word in the
18 statute.

19 SPEAKER: Well you're using terminology like
20 Native Indian and then you have Indian tribe and then you
21 have tribal.

22 BRADLEY: Where's Native Indian? I'm sorry, I
23 didn't see that.

24 SPEAKER: Throughout the policy. American
25 Indians. And the term Native American Group.

1 BRADLEY: And I think that's where Native Indian
2 burial. I think that's the statutory term as well. So, I
3 think we were trying to be consistent with the terms in the
4 NRS which I think are inconsistent.

5 CAMP: And this is Anna Camp, for the record.
6 I think that Marla even brought up last time that she
7 wanted to stay consistent with the NRS and that's why we
8 kept it in some places where it's actually referring to the
9 law and I don't know. I'm not sure how to -

10 BRADLEY: Yeah.

11 [crosstalk]

12 SPEAKER: Because we thought that we should stay
13 consistent in the regulations with the terminology. Yeah,
14 so I think that throughout the NRS it's - most of these
15 terms are used so that's why we did.

16 BRADLEY: Yeah, this is Sarah Bradley, for the
17 record. We'll look at that again.

18 SPEAKER: Archeological [inaudible] when you look
19 at the policy for government there's lots of [inaudible]
20 when it comes to just addressing the tribes and what they
21 want. That's different. They don't have the same term.

22 [crosstalk]

23 FREEDMAN: Thank you. Thank you for the comment.
24 That's all the -

25

1 BRADLEY: Yeah, this is Sarah Bradley. I'll look
2 at that again and make sure that we're - like I said, I
3 think our goal was to be consistent with the terms used in
4 the NRS which tend to vary depending on what they're
5 referring to.

6 SPEAKER: Right, and I did see that when you were
7 using those terminologies from the NRS you did identify
8 that they were coming from there, but there are other areas
9 [inaudible] as being part of the NRS.

10 BRADLEY: Okay, thanks, I'll check that.

11 FREEDMAN: All right. Then we looked at 19. So,
12 19 and beyond. I don't believe we'll go over 19 again.

13 EBON: I think - Michon Ebon. On 19 the
14 affiliated tribes are defined as our present-day tribes, so
15 forth. The linkage between - I think you guys are just
16 trying to - what I see here is that you just tried to cover
17 all bases of how you're going to - who you're going to
18 consult with and repatriate, kind of everything on this,
19 and I think you have the linkage between a prehistoric
20 archeological culture and present-day tribe is established
21 through a preponderance of the evidence based on geography,
22 kinship, biology, archeology. And I'm sure you guys have
23 all seen my comments on -

24 BRADLEY: Well we did say non-invasive biology
25 now.

1 EBON: Okay.

2 BRADLEY: Which - this is Sarah Bradley, for the
3 record. My understanding that that can be okay for some -
4 no? Yes?

5 EBON: It depends.

6 BRADLEY: Okay, so we - but I think before it
7 just said biology by itself.

8 EBON: Yeah.

9 BRADLEY: And so, we added non-invasive biology.

10 EBON: Okay, I'm sorry, I meant to say
11 [inaudible].

12 BRADLEY: Yeah, so we did try to update that so
13 that it wasn't -

14 EBON: Okay, you did.

15 BRADLEY: That is Section 19.

16 NEBESKY: A clarification -- the addition of, the
17 [inaudible] of a present-day tribe. Do you actually mean -
18 for the record, this is Scott Nebesky. Do you - would you
19 rather say Federally recognized tribe?

20 SPEAKER: No.

21 NEBESKY: No? Well what is a present-day tribe?

22 WILLIAMS: This is Marla. Why couldn't the
23 terminology be Tribal Council, you know, and a tribal
24 entity considers themselves valid then they would have

25

1 their Council throughout this [inaudible], you know,
2 throughout here.

3 SPEAKER: So, there are other tribes within the
4 State of Nevada that they're not Federally recognized.

5 NEBESKY: Okay.

6 SPEAKER: There's the Bannis [phonetic] over in
7 Virginia City. There's ones at Como [phonetic]. There's
8 ones, you know, like your grandfather's in the Carson River
9 Area. There's dams that were removed and placed in other
10 reservations. So those, you know -

11 NEBESKY: Okay.

12 SPEAKER: And some of the tribes they were more
13 closely approximated to the - they're the ones who speak
14 for those [inaudible]. We know who they are.

15 NEBESKY: Yeah.

16 SPEAKER: You know.

17 BRADLEY: This is Sarah Bradley, for the record.
18 I know earlier on in the regulation we have referred to
19 383011, Number 8, and that's a definition of Indian tribe.
20 And I think maybe we should double-check again but that
21 consistency that we use this because we referred to it
22 earlier on, but I think this is a good definition, I hope.
23 Let me read it.

24 So, Indian tribe means any tribe, band, nation or other
25 organized group, okay, or community of Indians which is

1 recognized as eligible for special programs and services
2 provided by the United States to Native Indians because of
3 their status. So, I think that would allow both Federally
4 recognized, and the way I'm reading if it's Federally
5 recognized or any tribe, band, nation or other organized
6 group. So, I think it's more broad, perhaps. It doesn't
7 limit it just to Federally recognized. I mean when you
8 look -

9 FREEDMAN: What does it say in 383011?

10 BRADLEY: That's what I was just reading.

11 SPEAKER: It's right there next to -

12 BRADLEY: 33.

13 SPEAKER: Side by side.

14 BRADLEY: Oh, oh, yeah, it is there, yeah, okay,
15 and I was just looking it up on my phone. But I mean I
16 guess I like that because it's any tribe and it doesn't say
17 the present-day thing which I know we discussed earlier; it
18 does say aboriginal, but it does say any tribe, band,
19 nation or other organized group - so that's like kind of -
20 or community of Indians which is recognized and eligible.

21 COSSETTE: This is Donna Cossette. And I would go
22 to what Michon was saying about, you know, this is to be
23 set not just for right now, but for the future.

24 BRADLEY: Exactly.

25

1 COSSETTE: Cause we don't know what our future
2 looks like. We don't even know what it holds for, you
3 know, the tribes and the ones who reclaimed their, you
4 know, their aboriginal places. Cause there are many within
5 the state. There's many of them. You know, being forced
6 to put them on a reservation, that's just something that
7 they were subjected to. It doesn't mean they still don't
8 want to have rights to those - their, you know, places.

9 SPEAKER: Yeah, that makes sense.

10 COSSETTE: And that may be inclusive to the
11 future.

12 EBON: Uh-huh, I think so. This is
13 Michon Ebon. I think yeah, there was some confusion on my
14 part in the last time I had brought up the Fallon tribe
15 that I wanted to make sure because they had - they were
16 quoting 43 CFR which for a long, long time the Fallon Tribe
17 was fighting for Spirit Cave [inaudible] and they - and no
18 matter what the Fallon Tribe put out there it was always oh
19 no, no, no, no, no, no, no, no, no, you're not related,
20 you're not related. And until the Fallon tribe, millions
21 of dollars later, 10 years later, did - they finally did
22 the DNA and it's closely related.

23 I just wanted to make sure that this provision did not
24 do that again, going back to that, again, that we make sure
25 we got everything in there for the future, for now and that

1 that never took place again. So, I guess this new
2 paragraph, everybody, does that take care of that?

3 SPEAKER: I just want clarity on present-day tribe
4 because it was a new term and I'm not sure it was
5 understood. But at least I think what you said was exactly
6 right and you need a consistent definition that's inclusive
7 does the trick.

8 FREEDMAN: Myron Freedman. If we just said
9 affiliated tribes have the same meaning as found in 383011?

10 SPEAKER: Closest. I think you might find that
11 that's going to be a little bit circular.

12 BRADLEY: Yeah, the tribes - I think tribes is
13 what's defined. Indian tribe. I don't know. I'll have to
14 look at that again.

15 SPEAKER: Okay.

16 BRADLEY: But I do think we want to be
17 consistent, but I also agree we don't want to be circular.

18 FREEDMAN: All right, 20.

19 NEBESKY: For the record, Scott Nebesky. I think
20 we made comments about this earlier that it defines here
21 qualifying a burial site as being archeological. I'm not
22 sure what [inaudible] said or how that adds to it. I think,
23 you know, a burial site is a burial site. If anything, I
24 would put in a cultural burial site, but I think
25 archeological views it some [inaudible].

1 BRADLEY: So, this is Sarah Bradley, for the
2 record. What the NRS says, at least for 196, it says a
3 prehistoric Indian burial site. Would we want to call it
4 Nevada Prehistoric Indian Burial Site Permit?

5 NEBESKY: Well -

6 SMITH: Sarah Smith, for the record. I just
7 wanted to say once a Nevada archeological burial permit is
8 issued it is becoming an archeological site, right?
9 Because archeologists will be excavating.

10 SPEAKER: Sarah, that is only upon the permit.

11 SMITH: Correct.

12 BRADLEY: I think so.

13 SMITH: I think it is.

14 BRADLEY: Oh, you like the name then?

15 SMITH: Yes, because that's exactly what it is
16 if it's issued.

17 BRADLEY: If it's issued it does become a site
18 that's going to be excavated.

19 SMITH: Yes.

20 [crosstalk]

21 NEBESKY: Wait, wait, let's explore this. I
22 don't think that's the only term that it would be an
23 archeological site. For the record, Scott Nebesky. I
24 think if we're starting to incorporate values, beliefs and
25 traditions in the handling of burial sites, it may not have

1 archeological activities when you're trying to preserve the
2 site. You may get a permit, but maybe a permit to avoid or
3 a permit to allow the Native American community to
4 relocate.

5 I mean we've done that before also where we buried
6 deeper or adjacent to or, you know, because avoidance
7 wasn't available. But it wasn't an archeological site. It
8 was a Native American cultural site that they handled. So,
9 I don't know.

10 SMITH: Sarah Smith, for the record. I just
11 think that's interesting that you brought that up because
12 there was a - I was under the impression that this was so -
13 this was a permit to excavate, right?

14 BRADLEY: I mean it is. I think once the
15 permit's issued - Sarah Bradley, for the record. Yes, the
16 excavation can proceed.

17 SMITH: Right, under archeological
18 investigation which anyone - if I was an archeologist that
19 was doing this would do it because they wanted to do it for
20 science.

21 FREEDMAN: Myron Freedman, and under 196 as well.
22 That requires consultation with the tribes.

23 SMITH: But, you know, if there is discrepancy
24 that it could be removed and replaced or not having
25 anything done with it and maybe that's when archeology

1 would be wrong, but if it's specifically just for
2 archeological excavation then it would be appropriate.

3 NEBESKY: Yeah, for the record, Scott Nebesky.
4 All good points. I mean it is about getting some clarity
5 because it says also talk about for the purposes of
6 repatriation. And it may just be that avoidance isn't
7 available and therefore like Michon was saying, we want to
8 make sure that all the human remains are kept together, any
9 associated or unassociated or whatever else is there, all
10 together and may be relocated, and that may happen not
11 necessarily at an archeological group endeavor. It could
12 happen as a cultural endeavor.

13 SMITH: Well, Sarah Smith, for the record.
14 Archeology [inaudible] it's a procedure.

15 NEBESKY: Right.

16 SMITH: It's not necessarily an act of science
17 unless you're permitted to go that far. So, archaeology or
18 cultural resource management happens sometimes. It's just
19 a method to remove something.

20 NEBESKY: Okay.

21 EBON: Michon Ebon, but I think that method is
22 right there. I think part of the law - well the law stated
23 and then we might have to get more clarification. There's
24 no more - no scientific study. It's written in the law now
25 and so I think archeological excavation, no matter how

1 you're doing it, they're taking notes, right? They're
2 going to go -

3 SMITH: Yeah.

4 EBON: That study they're taking notes, but
5 hopefully a burial permit that's going to say, you know, no
6 pictures, no drawings, no measurements, I don't know,
7 that's okay, because I don't know what kind of science.
8 Cause hopefully when they're excavating, it's not for
9 science. It's to - if it comes to excavation it's not
10 science, it's about repatriating and reburying them.
11 That's what it's about, but then that permit probably
12 states that if it's an antiquities permit, it's probably
13 you have to give information, right, where it came from and
14 all that.

15 SMITH: Usually it's an archeologist that's
16 coming in to do it.

17 EBON: Yeah. I just and I also think that
18 both Sarah and Scott made a point this morning is that
19 archeology, we're trying to change the attitude around
20 here, and I know that's a term and I know archeology
21 sometimes is not the greatest for everything. So, I kind
22 of like the Nevada - what - in 383 it's Native American or
23 Indian burials, right? It's called Indian burials in 383?
24 So, the Nevada -

25 SPEAKER: Just a burial site.

1 EBON: Yeah, burial site permit.

2 SPEAKER: Nevada Burial Site Permit?

3 EBON: I don't know. I'm just kind of
4 throwing things out. Nevada -

5 BRADLEY: Does it say - I mean cause it does say
6 here in the NRS 381196, it says prehistoric Indian burial
7 site. That's what you're excavating. So, would we call it
8 Nevada Prehistoric Indian Burial Site Permit? I mean I
9 don't know.

10 SMITH: Sarah Smith, for the record. How would
11 you know what it is until after you're excavating?

12 EBON: Because it's already part of the
13 state's inventory.

14 BRADLEY: And this is Sarah Bradley, for the
15 record. And because a permit's required when your
16 excavating a site on private lands that you know is a
17 prehistoric Indian burial site supposedly, and then, this
18 is Sarah Bradley, again in 197 it says prehistoric site,
19 historic or prehistoric site. So maybe we could just say
20 Nevada Prehistoric Burial Site Permit. Would that be good?

21 EBON: What's everybody think? Anybody else?

22 UPTON: Mary Upton [phonetic], for the record,
23 if I may?

24 FREEDMAN: Please.

25

1 UPTON: I apologize if I missed this earlier,
2 but I was wondering who does that leave or what does that
3 leave the current - is it an individual or the project
4 because if it's the projects then the archeological burial
5 site permit is needed so that we have a quantifier of who's
6 allowed to get the permit to excavate. And if we take that
7 out to them, does that mean that an individual has that
8 ability? And if an individual what are the quantifiers?
9 And if the tribal representatives want to go and excavate
10 for themselves I'm not saying that's something that
11 shouldn't happen. I'm just wondering if we need something
12 in there to quantify what kind of person we're allowing to
13 do this excavation? Could you clarify for me, please?

14 BRADLEY: This is Sarah Bradley, for the record.
15 I'm looking at new Provision 20 and so we're talking about
16 the title for that. I don't know if this is going to
17 answer it, but so this permit authorizes the holders to
18 excavate within the boundaries of a known prehistoric
19 Native Indian burial site on private land. This permit -
20 oh we should actually update that potentially cause it
21 could also be the state land.

22 This permit may be issued by the museum director to
23 archeologist or archeological companies possessing a Nevada
24 Antiquities Permit and an approved archeological research
25 design for the proposed excavation. So that's who can get

1 it is those people, and so it would be archeologists or
2 archeological companies and they already have to have the
3 Nevada Antiquities Permit and the design. So those are the
4 people that could get it, if that helps.

5 UPTON: So perhaps, and it says the [inaudible]
6 referring to what kind of place to be excavated but rather
7 an individual could receive a permit?

8 BRADLEY: Sure, yeah. This is Sarah Bradley. I
9 mean I'd say so. I mean I think myself, and I'm certainly
10 not an archeologist, I'm not an expert. I think if we call
11 it Nevada Prehistoric Burial Site Permit, that's fine as
12 well, I mean for me, you know, what we call it is what we
13 call it. We're going to issue it to archeologists or
14 archeological companies based on this that meet the
15 qualifications.

16 NEBESKY: For the record, Scott Nebesky. Just to
17 ask a question, the fact that this permit is going to be
18 issued to archeologists or archeological companies that
19 have a Nevada Antiquities Permit, and they're going to do
20 archeological research design, does that mean that their
21 authority follows certain standards of excavation and
22 process maybe contrary to values, beliefs and traditions?
23 And are we setting ourselves up for a problem here that
24 says you have to have an antiquities permit, you have to
25 follow certain standards, and then by the way, you also

1 have to follow the values, beliefs and traditions which may
2 be in conflict.

3 FREEDMAN: It is pursuant to 381196 which does
4 require consultation with the tribes.

5 BRADLEY: Sarah Bradley, for the record. I mean
6 it's my understanding some of the archeologists are
7 registered. There's a code of ethics but and so if they're
8 registered archeologists, they would follow the code of
9 ethics. My understanding is though the code of ethics has
10 things that, and I could be totally wrong, but say things
11 like being respectful, right? I mean it doesn't say - I'm
12 looking at the people that I think are archeologists to
13 help me.

14 SMITH: Sarah Smith, for the record. I worked
15 in California for eight years as an archeologist and I've
16 seen this conflict happening all the time which was
17 primarily what made me study what I did for my Masters'
18 program. So, it's not just because they have a code of
19 ethics it doesn't mean that they're going to comply because
20 a lot of times it does conflict with, you know,
21 archeological protocol, and then, you know, having someone
22 else come in and say well no, you can't do it like this, it
23 causes a lot of arguments and it's actually quite sad.

24 COSSETTE: This is Donna Cossette. I just wanted
25 to know is there a definition of the term prehistoric

1 because, you know, when you're talking about the values,
2 beliefs and customs or our people we do not believe we have
3 a prehistory in our life. We only have a history in our
4 definition.

5 SMITH: Sarah Smith, for the record. You're
6 before art history so art history would be western cultures
7 history.

8 COSSETTE: That's what I said. Is there a
9 definition of that term?

10 WILLIAMS: This is Marla. So, it actually is in
11 the statute.

12 BRADLEY: Yes, I was just trying to pull it up.
13 This is Sarah. Yeah. This is Sarah Bradley, for the
14 record. Prehistoric is defined in NRS Chapter 381 and it
15 says prehistoric has the meaning ascribed to it in NRS
16 381195, and 381195 says prehistoric means before the middle
17 of the 18th Century, and then prehistoric site means any
18 archeological or paleontological - okay, so I said that
19 totally wrong - site, ruin, deposit, fossilized footprints
20 or other impressions, petroglyphs and pictographs,
21 habitation caves, rock shelters, natural caves, burial
22 ground or sites of religious or cultural importance to an
23 Indian tribe. So those are the definitions that would
24 apply to those terms.

25

1 WILLIAMS: This is Marla. It's not necessarily
2 relevant because the site is already designated in the
3 state's inventory, right?

4 BRADLEY: Yes.

5 WILLIAMS: So -

6 SMITH: Sarah Smith, for the record. Historic
7 site has also added Indian campground, shelters and
8 petroglyphs and burials [inaudible].

9 BRADLEY: Oh, it does, yeah.

10 [crosstalk]

11 SPEAKER: In the whole line.

12 BRADLEY: Oh.

13 SPEAKER: It needs a rewrite.

14 BRADLEY: So what Sarah was saying just now was
15 she was saying if you look at NRS 381195 and that's why I
16 was getting those definitions, historic is also defined and
17 a historic site includes some of the same things as
18 prehistoric site. So, it includes Indian campgrounds,
19 shelters, petroglyphs, pictographs and burials. But I
20 think the difference is the time period cause if you look
21 at historic, historic is middle of the 18th Century until
22 50 years before the current year, that's historic. And the
23 prehistoric is before the middle of the 18th Century. And
24 I get confused, 18th Century would be 1700's, right?

25 SPEAKER: 1900.

1 BRADLEY: 1900's, okay.

2 SPEAKER: You can tell I'm not an archeologist.

3 BRADLEY: Okay, so before 1950. 1850, that's
4 what I meant to say. No, Peter is shaking his head.

5 SPEAKER: 1750, you got it right.

6 BRADLEY: Okay, I thought it was -

7 SPEAKER: The 18th Century is the 1700's.

8 BRADLEY: Okay, so 1750.

9 SPEAKER: [inaudible]

10 BRADLEY: Yeah, so 1750 and prior would be
11 prehistoric. Historic is 1751 to 50 years ago. Oh, I did
12 know something. I'm so excited.

13 FREEDMAN: [inaudible] I knew that.

14 BRADLEY: I just trusted Myron cause he's the
15 expert

16 NEBESKY: Scott Nebesky, for the record. I want
17 to circle back around to the question I had before. Is
18 there an agreement that that needs to be rectified, the
19 principle, the archeological principle of the antiquities
20 and for the permit and the value of recent issues may be in
21 conflict. And then how is that going to be rectified? If
22 archeologists have an obligation to follow certain rules
23 that may be in conflict with the values, traditions and
24 beliefs, how is that going to be addressed?

25

1 BRADLEY: This is Sarah Bradley, for the record.
2 I guess what I personally would like to have if it's
3 possible, and I don't know if it is, can I have some
4 examples of things like I don't know - cause I don't know.
5 And then the second thing I would say is I think we can
6 write it in such a way that what we put into the
7 regulation, I mean that's the law, that has the force and
8 effect of law. So, I guess I want to do more research on
9 archeological ethics and rules.
10 Another thought I had as we were talking was I have done
11 some work with the Funeral Board in the past and as we're
12 talking about like respect for human remains, they actually
13 have standards of how they're to be. So, I just thought -
14 I'm not saying we want to borrow from it, but this idea
15 that we could put some of this in law. I mean I know they
16 have rules like, for example, remains have to be at least
17 six inches off the ground. They really do have specific -
18 and so I thought - I was thinking as we're talking well
19 wait a minute, maybe - I mean this has been done there.

20 EBON: Michon Ebon. So, it's in their law?
21 Is it in their law?

22 BRADLEY: For licenses in Nevada like funerals,
23 like cemeteries, people that run cemeteries and funeral
24 homes and things like that, they have specific rules
25 regarding how they handle human bodies.

1 EBON: And it's written in their law.

2 BRADLEY: It's written in their law and it's -

3 SPEAKER: In regulations?

4 BRADLEY: I think it's written in both. And if
5 they don't do it because they're licensed, they could lose
6 their license or pay fines or something.

7 SPEAKER: Interesting.

8 BRADLEY: So, I just wondered - it was suddenly a
9 light bulb for me.

10 SPEAKER: Yeah, good for you. Yeah, yeah.

11 BRADLEY: All of a sudden I thought well we could
12 - cause you were saying covered and stuff cause I know I
13 actually sat in on a hearing where like 30 bodies were not
14 handled appropriately, you know, it was a big hearing, and
15 anyway. So, I may share that with my client staff and
16 maybe we'll see like if there's ways we can incorporate
17 some of what you're saying in their same sort of pattern or
18 whatever.

19 FREEDMAN: Okay, now we need some chocolate.

20 BRADLEY: I'm so hungry!

21 [crosstalk]

22 SPEAKER: So, I did have one comment and I guess
23 it's related to 20 or maybe 21 but I'm still concerned that
24 there's a perception that somebody is exempt from needing a

25

1 permit. And if you look at NRS 381196 it says that you
2 don't need a permit.

3 [crosstalk]

4 SPEAKER: Yeah.

5 [crosstalk]

6 SPEAKER: So, if you look at Subsection 2, a
7 person is not required to obtain a permit to engage in a
8 lawful activity on private lands and it specifies what
9 those activities are, if that activity is engaged in
10 exclusively for purposes other than the excavation of a
11 prehistoric Indian burial site. Our intent was that
12 anybody intending to excavate a prehistoric Indian burial
13 site requires a permit, and this language says that. There
14 is no exemption from getting a permit.

15 BRADLEY: There is because it says if that
16 activity is engaged exclusively for purposes other than the
17 excavation.

18 SPEAKER: Correct.

19 BRADLEY: So, in other words, if you're engaging
20 in, I'm going to say logging cause it's there, so a person
21 has private land, it's lawful to do logging cause it does
22 have to be a lawful activity, not like something unlawful.
23 It says including without limitation, logging. If they're
24 excavating because they're doing logging, they don't have
25 to get a permit.

1 SPEAKER: Correct.

2 BRADLEY: If they're excavating because they're
3 doing mining, they don't have to get a permit.

4 SPEAKER: Correct.

5 BRADLEY: The only time they get a permit on a
6 private land is if their purpose is to excavate a native
7 burial site.

8 SPEAKER: Correct.

9 BRADLEY: Okay, then I think we agree.

10 SPEAKER: So, when you look at your flow chart,
11 the very - the second box says is it a project related to
12 construction, mining, mineral excavation, blah, blah, blah.
13 Yes, then no permit is required.

14 BRADLEY: Yeah, didn't you just say that if I'm
15 going logging, if I'm excavating cause I'm logging I'm
16 exempt?

17 SPEAKER: If you're logging, you're exempt. I
18 just want to make sure that everybody who comes forward to
19 excavate a prehistoric Indian burial site is required to
20 get a permit.

21 BRADLEY: As long as - it says if the activity -
22 so the activity is the lawful activity, so we go back to
23 lawful activity. So, it's lawful activity on private lands
24 including without limitation, they've given us some
25 examples, right? And then it says if that activity,

1 they're exempt if the activity is engaged exclusively for
2 purposes other than the excavation of a prehistoric Indian
3 burial site. So, the only people that have to get the
4 permit is if my purpose is not logging, not mineral
5 exaction, not farming, not construction, not ranching,
6 right?

7 SPEAKER: Okay.

8 BRADLEY: I'm doing - cause I want to excavate,
9 period.

10 SPEAKER: Then you know that they all require a
11 permit.

12 BRADLEY: So, for example, though I mean let's
13 just - let's say I'm adding an addition onto my house.
14 That's construction, right? My purpose isn't to excavate a
15 burial site, so I'm exempt.

16 SPEAKER: But do you know the burial site is
17 there?

18 BRADLEY: I don't have to get a permit though.

19 SPEAKER: Okay, so I guess what I would ask is
20 that you get a legal interpretation of that piece so that
21 we can take this window of opportunity with the Legislature
22 to fix that. It is not intended that you get to add on to
23 your home over the top of a known site.

24 BRADLEY: Well cause that's what it says. We
25 just went through it.

1 SPEAKER: [inaudible]

2 BRADLEY: Cause if I did it for logging -

3 SPEAKER: If you're logging and but you're not -
4 and okay, and so that clarification is good. If you
5 believe that someone can log over the to of a known site
6 and that there is that [inaudible] permit, then all we need
7 is written verification that that's the position so that we
8 can fix it cause that is not the intent of the law.

9 BRADLEY: Yeah, I mean right now it's as long as
10 it's lawful activity, so again I can't like, find a dead
11 body, clearly not lawful activity, you know, I'm not
12 exempt, but if you're engaging in lawful activity on
13 private lands - they've given us examples but again it's
14 clearly without limitation, and then it says if that
15 activity is engaged exclusively for the purposes other than
16 excavating, so putting a pool in my backyard, adding on to
17 my house -

18 SPEAKER: Okay, and like I said, I just - if we
19 get written confirmation of that, we will try to fix it
20 this session cause that is not the intent of the law.

21 BRADLEY: Okay. I mean I can tell you that the
22 museum has asked for an opinion. I think I mentioned
23 earlier. This was one of the questions they asked. But I
24 don't know how quickly the opinion will be drafted because
25 -

1 SPEAKER: Well I appreciate that, and I'll work
2 on that.

3 BRADLEY: I'm just saying.

4 HATTORI: This is Gene Hattori, for the record.

5 BRADLEY: Okay, that sounds scary but I'm just
6 saying - I'm just saying cause the process - I mean the
7 Attorney General office grant - we have a new Attorney
8 General, we all know that, so a new attorney general, but
9 the process historically has been it's to find someone to
10 draft and then it's reviewed by management and, you know,
11 there's a process there. I mean I'm going to say like 60
12 days, 90 days, often to get an opinion.

13 SPEAKER: No, I understand.

14 HATTORI: This is Gene Hattori, for the record.
15 And if they do uncover human remains, agricultural logging,
16 if they have been [inaudible] they have to follow 383, yes.

17 SPEAKER: Right, for inadvertent. So, that's why
18 it's so perplexing to me that anyone would think it's okay
19 to actually excavate over the top of a known site when you
20 have to stop in an inadvertent finding.

21 BRADLEY: Well I guess my thought is they still
22 have to stop because they found it. I mean and maybe they
23 expected to find it.

24 SPEAKER: But there are actions that have to be
25 taken to 383.

1 BRADLEY: I mean maybe they expected to find it,
2 but this is Sarah Bradley, for the record, if they're
3 logging and they find it they better stop and follow the
4 383 process, right? Even if they expected to find it or
5 not.

6 WILLIAMS: And - so this is Marla and my - as I'm
7 not experienced in this process, but my understanding of it
8 is that they would be required to stop and address those
9 findings in one way or the other, either repatriate or re-
10 bury or do something. They could not simply just go over
11 the top and throw the bones out. And so that's why -

12 BRADLEY: No.

13 WILLIAMS: - it's unfathomable to me that we
14 would allow a known site to have that happen. So, I'm just
15 - I'm glad we got that clarification so that we can work on
16 it.

17 BRADLEY: And again, this is Sarah Bradley. But
18 my belief is that if they found it - I mean cause I guess
19 my thought, and I could be wrong, there could be lots of
20 known sites, and activities occur, and nothing is found. I
21 mean is that true? Like if they're logging maybe they may
22 never find something even in a known site?

23 SPEAKER: Yes.

24 BRADLEY: And so there would be nothing to I
25 guess -

1 WILLIAMS: If it's a catalogued site and they're
2 already - it's a catalogued site.

3 BRADLEY: Okay.

4 WILLIAMS: And so, there's potential, right?

5 BRADLEY: Okay. I mean I know there's potential
6 and I guess my thought would be though the minute they find
7 something - I mean no, you don't throw away and yes, they
8 do the right thing when they find it.

9 COSSETTE: This is Donna Cossette and I have heard
10 so many stories of people who work on construction sites
11 that say yeah, there were things and we just - oh, it's
12 horrible.

13 SPEAKER: Yeah.

14 COSSETTE: And you know, I've known that too, you
15 know, I don't know how they're recorded or how it's
16 considered known sites. Do you guys have like a database
17 or the state has them, you know, and the owner of the
18 property will - they know that they have these cultural
19 sites on their property?

20 SPEAKER: Yes.

21 COSSETTE: Before they do anything? They do.

22 SPEAKER: SHPO does.

23 COSSETTE: Okay. So, any - and so it's concerning
24 when you hear somebody showed up with, you know, a bone or
25 a skull and said hey, we found this in a cave, and do you

1 want it? Because they had an obligation when they found it
2 in the cave to actually stop and notify law enforcement,
3 under the law. So, if they didn't do that, they're already
4 illegally in possession of that item, for one.

5 But if they - so, and this is probably why it's
6 important to have somebody on site, archaeologist or
7 whomever, when development is happening because they do
8 recognize when something happens, and they stop it and they
9 know that they're supposed to follow the law. But if
10 you're out on a ranch and you're just digging with your
11 backhoe and you see something and you talked about this
12 earlier, I call the tribe, we decide just to cover it up,
13 we're not going to move that. Really the obligation - they
14 do have a legal obligation to notify so that it could be
15 catalogued that it was a known site.

16 SPEAKER: So, what happens with that now?

17 SPEAKER: Yeah, exactly.

18 SPEAKER: So, when you bypass that law then it no
19 longer is a known site cause that's why it never gets to
20 the next landowner because nobody made that notification
21 when they should have made the notification.

22 SPEAKER: And what's considered legal
23 notification or legal -

24 SPEAKER: It's all specified in Chapter 383.

25 SPEAKER: Okay.

1 FREEDMAN: All right, moving on. I think we're at
2 22, the big one. The big ones are coming up.

3 WILLIAMS: We bypassed 21 which is the Nevada
4 Antiquities Permit which is in the [inaudible] process,
5 correct? This is Marla.

6 FREEDMAN: Oh, I didn't mean to bypass.

7 SPEAKER: There are two Provisions 21.

8 [crosstalk]

9 SPEAKER: There is two 21's.

10 BRADLEY: I'm sorry about that. Would you make a
11 copy of the -

12 SPEAKER: No, I have it.

13 BRADLEY: Okay.

14 FREEDMAN: Oh yeah. The 22 is actually the second
15 21, is that what we're saying?

16 SPEAKER: No, 21 is 22.

17 BRADLEY: Yeah, 22, we just don't have 22. You
18 don't have 22?

19 SPEAKER: I have a 22.

20 BRADLEY: Oh. Yeah.

21 [crosstalk]

22 BRADLEY: Oh, it might just have to be 21.

23 SPEAKER: So, I'm looking at the one that's the
24 Nevada Antiquities Permit.

25 FREEDMAN: Okay, page 11.

1 SPEAKER: And so, this is the one, correct, Anna,
2 where we still have to do more work to ensure that there's
3 consultation with tribes over this permit? This is the
4 same permit?

5 CAMP: This permit, yes. This is the existing
6 - Anna Camp, for the record. And this permits
7 archeologists and archeological firms or CRN firms, but
8 each person in that particular entity in that CRN firm is
9 vetted through us, and so my goal right now is to contact
10 them and make sure - I was hoping that we would have
11 regulations to give them, but likely what I'll do is
12 contact them and just send them the NRS. Maybe - I don't
13 know. It's up to everybody here. I don't know if we're
14 ready to send regulations at this point or just have
15 conversations. So, yeah and so contacted about the changes
16 to the law.

17 SPEAKER: So, this works in concert with what
18 comes next in terms of who's authorized to actually go on
19 to a site.

20 CAMP: Yes.

21 SPEAKER: Okay.

22 SPEAKER: So, the Nevada - oh Michon Ebon - the
23 Nevada Antiquities Act - I mean permit, is that the 16 USC
24 [inaudible]?

25 BRADLEY: It's just our permit, I think.

1 EBON: Okay.

2 BRADLEY: Yeah, we just say they have to follow
3 standards I thought.

4 EBON: Yeah, there's like a - well [inaudible]
5 Michon Ebon, is it still this one? It's just outdated? Or
6 I don't have the new dated one. I have the Revised June
7 1994 Handbook of Nevada's Antiquities Law.

8 CAMP: I mean as far as I -

9 EBON: It's a little handbook that goes with
10 the application.

11 CAMP: I didn't even know that there was a
12 handbook. It's online, on our web page?

13 EBON: Did I FOIA you guys?

14 SPEAKER: No, I was just kidding. I don't know
15 where I got this.

16 CAMP: Yeah, I don't know.

17 HATTORI: Yeah, the SHPO funded the Nevada State
18 Museum. This is Gene Hattori, to assemble that little
19 handbook way back then.

20 SPEAKER: Yeah, and so now it's out of date.

21 HATTORI: Absolutely.

22 EBON: Okay. So, then I just want to make
23 clear, Michon Ebon, that the Nevada Antiquities Permit, you
24 go online, anybody - any archeological firm can go online
25 and it's just those two pages.

1 CAMP: Yeah. Well and then they send in their
2 curriculum, you know. But yeah, and so I'll go through it
3 and make sure that they have a proper education, that
4 they've worked in the Great Basin. We look at all the
5 qualifications so they can't be - they can't receive an
6 antiquities permit if they don't meet those qualifications.

7 EBON: So, I bring this up, Michon Ebon, as
8 because I think that they're going to know that there's
9 these new guidelines and policies. How are we going to do
10 that with a two-page application?

11 CAMP: I'm going to contact them separately.

12 SPEAKER: But then will it become part of future
13 applications?

14 CAMP: Yeah, it will be a part of future
15 applications.

16 SPEAKER: So, you'll redo your application.

17 CAMP: Yeah, like there will be supplemental
18 information to go with that application that they'll have
19 to read and probably I'm thinking maybe a signature page,
20 like I've read these terms and agreements, you know. I
21 haven't really got too far yet into that. Like I said, I
22 was hoping to have regulations to give them, but I think at
23 this point we can give them the law, inform them.

24 EBON: And then - Michon Ebon. So, that's why
25 we're writing these regulations because you're going to be

1 consulting every time there's an application submitted to
2 you.

3 CAMP: Yeah, I did speak with everybody when
4 they - when applications come in I usually have quite a bit
5 of correspondence with them because sometimes they don't
6 meet the criteria, so you know, I'll say [inaudible].

7 EBON: Not with them. No, you're going to be
8 consulting with the tribes?

9 CAMP: About the permit, yes.

10 EBON: About the permit, yeah.

11 CAMP: Yeah, giving you lists of who is
12 permitted in the archeological community.

13 EBON: Michon Ebon. I think you need to go
14 further than us going online and looking at the 70
15 permitted. What I'm saying is what we're working on is
16 that they're going to - an archeological firm is going to
17 go online, they're going to - they're asking you for a
18 permit, they're submitting - filling out, they're
19 completing the application and while you're finishing that
20 up with them and before you say yes, here's your permit,
21 you're consulting with the tribe.

22 CAMP: Yeah, I mean, yes, I would assume.

23 EBON: Isn't that what we're doing? I mean...

24 CAMP: Well yeah, so well -

25 EBON: You [inaudible].

1 CAMP: I'm sorry, Michon, do you mean I'm
2 consulting with the tribe before I give them the permit?
3 I'm having you guys vet -

4 EBON: Yes.

5 CAMP: - the individuals as well?

6 EBON: That's what I'm -

7 BRADLEY: Sarah Bradley. I think - I think we're
8 talking about two different things maybe.

9 EBON: Okay, okay, maybe we are.

10 BRADLEY: Cause the Nevada Antiquities Permit,
11 some of those people may apply for the prehistoric if
12 that's what we're going to call it, Prehistoric Burial
13 Permit, but not all of them will.

14 EBON: Yeah.

15 BRADLEY: The qualification for the Prehistoric
16 Burial Site is going to be that they have the Antiquities.

17 EBON: Yeah.

18 BRADLEY: But I guess my thought is you
19 absolutely get consulted when they apply for the
20 Prehistoric Burial Site, I think what you're saying to -
21 this is like the disconnect. You're saying do we get
22 consulted for the Antiquities Permit. Currently the answer
23 is you don't because this hasn't been a process, and I
24 guess the second part is is it necessary? Because again,
25 not everybody that gets an Antiquities Permit is going to

1 be getting the Burial Site Permit. I mean the Burial Site
2 permit is the one that you get consulted about, and you'll
3 know who those applicants are, so -

4 SPEAKER: Well Michon, does - I guess just
5 following up on that [inaudible] one of the - one of the
6 criteria is experience must reflect confidence in the
7 subregions or counties where the individual will be working
8 under the permit and experienced with values, beliefs and
9 traditions of the applicable tribe.

10 So, I guess the question to this is is there going to be
11 sufficient amount of questions or what's going to be the
12 criteria to determine that an individual or consulting firm
13 that's asking for this antiquities permit has the
14 experience, and is it just experience or is it also an
15 understanding and also a confirmation that they're going to
16 follow those values, beliefs and traditions? Cause you
17 know, it's one of those things where having experience is
18 experience, but unless you understand it and -

19 SPEAKER: Yeah.

20 SPEAKER: And unless you say get into it - I mean
21 I'm not trying to minimize this, but who cares how much
22 training he has. If you ignore what the intent of this is,
23 then you know what I mean?

24 SPEAKER: Uh-huh.

25

1 SPEAKER: So, and that's where I think maybe
2 Michon's providing some input from the tribe's perspective
3 of are these CRM [inaudible] whatever? Do they meet the
4 criteria for the permit if the criteria is they also have
5 not only just experience but also respect and if they have
6 an adverse record in working with values, beliefs and
7 traditions?

8 CAMP: Yeah, absolutely. I'll have to figure
9 out how to approach that.

10 EBON: Yeah, Michon Ebon. The Nevada
11 Antiquities Permit, if this isn't outdated, says that, you
12 know, this statute outlines authority and procedure for a
13 Nevada Antiquities Permit. The Nevada State Museum
14 Director issues state permits to conduct archeological or
15 paleontological investigations on state and Federally
16 managed public lands. So, although it's an antiquities
17 permit, is it kind of an ARPA permit? Archeological
18 Resources Protection Act?

19 CAMP: It permits individual entities, not
20 specific projects.

21 EBON: For investigations on state and
22 Federally managed public grounds.

23 CAMP: Right.

24 EBON: Yeah, that's where I'm confused at is
25 that with so many permits and we're barely consulted on

1 permits. ARPA permits go out all the time and my concern
2 is not with you guys. My concern is with some of these
3 archeological - just last year we went out - it was on BLM
4 federally managed lands, the Dry Lakes area, and we go and
5 it's an archeological firm, not from here. They might have
6 been from Salt Lake, so you would assume they would have
7 good Great Basin.

8 But he - but the archeological firm when we went out
9 there to this big site visit, it just - he just - it just -
10 BLM is sending - he's on his third of fourth revision of
11 the cultural resource report which sometimes that happens,
12 but it's just - it's the - yeah, exactly what Scott is
13 saying. It's not just because they have experience, but
14 you really got to work with the tribes on who we know cause
15 we have a good/bad/ugly list of people.

16 And I thought to myself, how did this firm, it's not a
17 big, known firm, how did this firm get an archeological
18 permit when he's not obviously doesn't - they obviously
19 don't know this area. We've had to teach him. He drove
20 off. He couldn't find the sites. It was crazy. And I'm
21 not making that up. You can talk to - yeah, so I think
22 that - I think the thing is there's so many permits. It's
23 the Antiquities Permit, there's the Prehistoric Indian
24 Burial Permit, and then there's the ARPA permit. And I be

1 you those firms getting them already have one or all three
2 of them or just getting all three of them.

3 It's just a lot of I'm just saying as a tribe that we
4 should know that. We should know who has an ARPA permit,
5 we should know - cause an ARPA, that is - that's a Federal
6 law that states that you - they're supposed to be
7 consulting with tribes on permits. Never happens. And
8 then - hardly happens I should say. Never - I shouldn't
9 say never, but hardly. And then all these other permits.
10 I'm just saying we have to be aware, and that's a lot of
11 juggling, but that's our jobs, you know, so I think that's
12 where I'm coming from. There's just a lot.

13 HATTORI: This is Gene Hattori, for the record.
14 For SB244 you will have full consultation throughout the
15 process in the research design as well as the burial
16 permit. In terms of the antiquities permit where we vet
17 the qualifications, we don't have the time or the resources
18 to have each individual company or individual consult with
19 each tribe in the state of Nevada. The antiquities permits
20 are not project-specific, so they're not region specific,
21 even though we had so on the application.

22 It's nine times out of 10, state-wide, so we have no
23 control over each project that's conducted on Federal
24 lands, on private lands or on actually not even - well
25 state lands we usually hear but there's no formal process.

1 So, you will be notified along with law enforcement who is
2 permitted and contact information.

3 NEBESKY: For the record, Scott Nebesky. I guess
4 you might be concerned then with what you just said in the
5 sense of you don't have the time and resources to vet each
6 firm on an individual basis. It's more on state-wide.
7 Because in these new regs it talks about the evaluation
8 will be based upon the experience, must also reflect
9 confidence in the subregion or counties. So, it's saying
10 that you're going to get down to the county level in
11 evaluating their experience.

12 HATTORI: If we knew where the projects were, but
13 we do not track projects except for SB244, and that's where
14 we will have some sort of oversight with the firms and
15 ensure that consultation with the appropriate tribes takes
16 place.

17 NEBESKY: Okay. And then another question, this
18 is Scott Nebesky, so you're going to work on developing
19 that application that goes beyond the existing application
20 cause it asks questions about values, beliefs and
21 traditions of these firms and experience. What happens if
22 a firm comes back and says I don't have that experience and
23 how do I get it?

24 HATTORI: This is Gene Hattori, for the record.
25 Typically, what is done in those instances where there's a

1 project that requires, and this is just from my SHPO
2 experience with large projects, specialists are hired to
3 handle consultation. Archeologists in many instances are
4 not - we don't have the qualifications to conduct
5 consultation.

6 NEBESKY: Okay.

7 HATTORI: So, you know, we view anything that has
8 to do with something that's sensitive as burials and burial
9 traditions. That requires direct consultation with the
10 tribes to find out from them their beliefs, traditions.

11 NEBESKY: I appreciate that.

12 HATTORI: Absolutely.

13 CAMP: And Anna Camp, for the record.
14 There are instances, Scott, where we do not permit for
15 [inaudible] if they don't - if there are some people who
16 are just permitted for southern Nevada for specific
17 counties, so they don't have the experience in the other
18 counties we tend to just give them permits for those
19 particular areas.

20 NEBESKY: Okay, good, thanks.

21 FREEDMAN: 21.

22 SPEAKER: 22.

23 FREEDMAN: 22. 19th Century. This is requiring
24 notice and consultation with the tribes when a burial site
25

1 permit is received, when an application is received for a
2 burial site permit.

3 BRADLEY: And I think - this is Sarah Bradley,
4 for the record - we actually modified this section a little
5 bit because we realized that we were dealing - we like
6 repeated some stuff that was already there like with regard
7 to earlier we said we're going to consult when we do the
8 abandoned property, so the revised version just says when
9 an application for Nevada - it's going to say now a
10 prehistoric burial site permit is received, the museum
11 director and his or her designee shall provide notice to
12 and consultation with appropriate Indian tribes pursuant to
13 NRS 381006, ensuring that the values, beliefs and
14 traditions of the tribe are considered.

15 So, it's got some stuff in there that we don't really
16 need, and so we realized that. So, that's been modified.
17 So, we'll publish the new version as soon as we can get
18 some more updates from today, but I think it still might be
19 a work in progress cause I want to add some more of your
20 guys' stuff which is going to take me a little bit of time.
21 So, this is Sarah Bradley, for the record, sorry, if I
22 didn't say that. Anyway, so I guess I'm not sure
23 [inaudible] staff what we want to do, but I'm thinking we
24 want to give you the updated version, but then also we want
25 to update it some more. So -

1 EBON: Okay. We can go on to 23.

2 FREEDMAN: Yes. 23, Notice and Consultation with
3 the Tribes.

4 BRADLEY: I think - this is Sarah Bradley, for
5 the record. Based on what I think Donna said earlier we'll
6 add to the timelines here unless there's good cause for the
7 delay or we'll add some language to those timelines that
8 contemplates if something's going on unforeseen with the
9 tribe that we're not going to strictly follow those
10 guidelines.

11 WILLIAMS: And this is Marla. We talked last time
12 about whether or not the museums felt like even in absence
13 of this that they could act on behalf of the tribe and
14 either in denying permit and, I know we're still kind of
15 under discussion about the whole denying of permit process.
16 I just don't want the lack of a tribe's response to be a
17 default reason for a permit to be approved.

18 BRADLEY: Okay.

19 WILLIAMS: And I'm hoping we can come to some
20 resolution of that on these regulations, that the museum
21 basically has to act on behalf of the tribe and
22 interpreting whether or not it is in the best interest to
23 take the action that the permit applicant is asking to
24 undertake.

25

1 BRADLEY: So, this is Sarah Bradley, for the
2 record, and I guess I'm going to think about that some
3 more, of course. I mean one thought I'm having is that
4 might help maybe is I mean again we talked about where they
5 have to meet the qualifications and the requirements we set
6 out, and we're going to have notices and things like that
7 added perhaps like to the permit itself and then also some
8 overarching principles. I guess I'm just not sure, and
9 maybe we can think about it and you can give us examples
10 and guidance. I'm not sure how well we can step into the
11 shoes of a tribe beyond sort of doing it.

12 WILLIAMS: I guess what I'm saying is really I
13 don't want the default position to be if you don't hear
14 back from a tribe therefore, you're going to approve it.

15 BRADLEY: Okay.

16 WILLIAMS: That, you know, that the applicant knew
17 if need be that a decision be made, you know, just we
18 didn't hear back from her, but this is really a bad idea.
19 It doesn't really have to happen, or we didn't hear back
20 from them, but we really think this could be accomplished
21 in a different way, and so we are going to, you know,
22 impose some other condition which, you know, I get
23 concerned about, you know.

24 I worked with a lot of licensees in this state and
25 when you don't have stuff spelled out about conditions, you

1 know, your authority to actually impose a condition, you
2 know, then like you said, that's when you get into trouble
3 with things cause there's no clear guidance about how they
4 make their decisions. But I just don't want the lack of
5 response to be a default. It doesn't matter that we didn't
6 get a hold of them. Because we didn't get a hold of them,
7 you know, just do whatever you want.

8 BRADLEY: Sarah Bradley, for the record. I think
9 we - I mean I don't think that's - I'm wondering - I'm
10 wondering if we can have like, I don't know if this would
11 work, I'm just thinking aloud, but like model guidance,
12 right? Cause what we're talking about is I guess in my
13 mind part of the purpose for the consultation is to get
14 guidance from the applicable tribe regarding like here's
15 what needs to happen, here's our preference, you know, that
16 kind of stuff, and I guess if the tribe isn't able to
17 respond or isn't responding or whatever the situation is,
18 is there a - cause I - I mean I don't disagree with you. I
19 think Mr. - I think what Scott said early on was I mean
20 right on. The state's job is to protect all citizens, you
21 know, so I mean I'm just wondering if there's a way to have
22 like default.

23 FREEDMAN: Myron Freedman, for the record. So -
24
25

1 BRADLEY: Could there be a form that we just fill
2 in if we don't hear back and then those can be approved by
3 everybody ahead of time? I don't know.

4 FREEMAN: Myron Freedman. I was thinking - I
5 mean we talked about this last time as well, and maybe just
6 needs to be a provision. I think that's what you're saying
7 is that there is a provision about best practices, and I
8 think a lot of the lists of things that you were spelling
9 out would go into that and then it might be more efficient
10 to refer to that provision in something like this. In the
11 event that we don't hear back from the tribe, the museum
12 will follow Provision 3 which lists the best practices or
13 something like that.

14 NEBESKY: For the record, Scott Nebesky. I like
15 that idea, but I think it still requires an individual to
16 make a determination that may not necessarily be in the
17 best interests of the tribe because it may not have
18 necessarily the direct - the direct perspective. Is there
19 any potential of using the Nevada Indian Commission, that
20 secondary group that says they're not going to review the
21 entire project, but they will review your interpretation of
22 this is going to be best practices and best provisions and
23 just make an affirmation of the decision? Just so, you
24 know, it's like a third party that represents the tribal
25

1 interests and alleviates you from having to assume conflict
2 of interest of whom [inaudible].

3 BRADLEY: Yeah.

4 NEBESKY: Just my idea.

5 HATTORI: This is an anonymous voice.

6 [crosstalk]

7 BRADLEY: This is Sarah Bradley. I mean I -

8 SPEAKER: Hi Gene.

9 [crosstalk]

10 SPEAKER: Not for the record.

11 BRADLEY: This is Sarah Bradley, for the record.

12 I think that's something very interesting to think about
13 and I think definitely something that to talk to, for
14 example, the Director of the Indian Commission about. I
15 know a lot of times we're careful to not impose burdens and
16 [inaudible] on our agencies, but I sort of - I like the
17 idea cause that was one of my concerns. I'm not saying -
18 when I work with state agencies, and I have about 15
19 clients right now, I mean I always advise my clients, our
20 job is to do the right thing for all the people before us
21 regardless.

22 And we often I think we think we're doing that, but we
23 don't always know, and I guess my thought is I like the
24 idea of having an outside party that perhaps has the
25 familiarity we don't necessarily have say hey, you know, so

1 I think we should think about that. I'm not sure how it
2 would work or if it's possible, but I like the idea.

3 COSSETTE: This is Donna Cossette. Again, I agree
4 with that as well, but also the Intertribal Council of
5 Nevada cause that's when you're going to get the Chairmans
6 at the table, the delegations from the tribes, and that
7 will capture their attention I think even closer because
8 they're in attendance, whereas I don't think the Nevada
9 Indian Commission has that pull all the time. I don't
10 know, something to think about.

11 BRADLEY: What do you think about -

12 NEBESKY: For the record, Scott Nebesky, you
13 know, I've been to some of the recent ITCM [phonetic]
14 meetings. They're not getting quorums. They don't have a
15 director. They don't have a financial officer. I'm not
16 sure to what extent they're going to be viable, you know.
17 What I like about that [inaudible] commission is that
18 they're funded, there to happen. ITCM, I'm just not sure
19 if they can meet the timeline of some of these projects
20 that say, you know, what we need the Indian Commission or
21 the ITCM, but then ITCM doesn't meet for three months.
22 The projects are not going to wait around, you know what I
23 mean? So, I think if they were functioning and operational
24 and we could be confident that something could happen
25 within a 30-day period, but they're also not required to

1 notice Open Meeting Law or anything like that. And
2 oftentimes, you know, I like the Indian Commission because
3 notices are posted and it's following the law.

4 BRADLEY: This is Sarah Bradley, for the record.
5 Do we know how often the Indian Commission meets? Is it
6 quarterly or - I just wondered.

7 COSSETTE: As far as I know - this is Donna
8 Cossette - they're supposed to meet monthly.

9 BRADLEY: Oh okay.

10 COSSETTE: But you know, there should not be -
11 they should not be eliminated because of that fact. I do
12 believe that, you know, instances arise where there's good
13 administration within departments and there's not so good
14 administration in departments and I think that's what
15 they're experiencing now. And there was a change where
16 their first option and that situation is not ideal and
17 that's [inaudible], you know. It's just so that the
18 notification isn't always with the state but, you know,
19 there's other entities [inaudible].

20 FREEDMAN: Okay. And I think we've gotten through
21 all the provisions. Are there any other questions or
22 comments?

23 BRADLEY: This is Sarah Bradley. I guess I
24 wanted to get some input just so we're clear, when we talk
25 about like the appellate process, if the decision's made,

1 either party can - are you preferring - I mean is there a
2 preference that it goes all the way up to the Governor?
3 Like it doesn't go to the court or is there - I mean what's
4 the preference?

5 And then also I'm thinking a lot and I'm not sure how
6 I'm going to do it yet, but I liked what Mervin said about
7 the burden and the uphill battle, and so I'm going to think
8 about that and try to see - cause he is correct. Normally
9 if you're appealing and you're unhappy, it's your job to
10 sort of show why the previous decision was wrong and
11 perhaps we can say something differently in the regulations
12 if, you know, so I want to think about that cause I don't
13 want it to be always an up - I don't think that's right.
14 So, I guess what is your preference?

15 SPEAKER: I don't know.

16 SPEAKER: I don't know. I'm burned out.

17 BRADLEY: Well maybe think about it.

18 SPEAKER: My brain is used up.

19 BRADLEY: And email - maybe think about it me,
20 maybe think about it and email Anna because I mean I guess
21 my goal - I mean we want to make sure the process is one
22 that makes everybody feel like they're getting a fair
23 consideration and, you know, so -

24 SPEAKER: So, you'll formulate that question and
25 then Anna can email us.

1 BRADLEY: Yeah, maybe I'll do that cause Anna
2 does have like - she's able to email all of you. So maybe
3 I can formulate my question better after you all think
4 about it some more and you can tell me - I feel like I'm
5 southern saying y'all a lot. But you can maybe then tell
6 us what your preference would be cause again, I mean I want
7 it to be the best process it can be, and again I want to
8 think more about the burden situation.

9 EBON: And I think that - Michon Ebon. I
10 think that you were talking about an appeals process is
11 good. I hope we don't - we would never have to go that way
12 cause we're trying to fill this gap which is a good thing.
13 But also, too is, you know, sometimes tribes don't have the
14 money to take it to a court, you know, get a lawyer, and so
15 sometimes [inaudible] might be the right way, the right
16 avenue to go, because at least we're not having to pay.

17 BRADLEY: Yeah, there's usually a filing fee to
18 file a petition for review. I think you can request. I
19 don't know how it would work with a tribe, but I know like
20 for individuals they can file - this is Sarah Bradley, for
21 the record. They can file like a request that says I don't
22 have the money; please waive my fee, and a judge looks at
23 that and says yeah, you can file it for free.
24 And so, there's like for individuals. I don't know how it
25 would work for a tribe. You can file for free, but I guess

1 the question is too, you know, is somebody in the tribe
2 going to write the brief, for example, that explains why
3 the decision was wrong? I mean that might be more of a
4 challenge than we want to do.

5 EBON: Yes.

6 FREEDMAN: Okay, moving on to number 6 on the
7 Agenda, we're open to public comment.

8 NEBESKY: For the record, Scott Nebesky, you
9 know, I think I said this last time and I continue to be
10 concerned and maybe you could enlighten me. If the SHPO or
11 their office is engaged in any of the board discussions or
12 coordination cause 381 and 383 and I understand your
13 responsibility and I certainly respect that, but in
14 reality, it calls for resource [inaudible], tribal
15 representatives, museum to a certain degree cause there's
16 direct and indirect relationship with 383 and 381, and I
17 don't see them at the table, and I don't know to what
18 extent you're having [inaudible]. They certainly aren't
19 talking to the tribes about 383. So, I don't know. I'm
20 just expressing that as a concern.

21 BARTON: For the record, Peter Barton. We share
22 transcripts. We share all the materials here. They have
23 not [inaudible].

24 NEBESKY: This is Scott Nebesky, for the record.
25 And I appreciate that and I'm glad that you're giving them

1 notice because I think these discussions that we're having
2 are very valuable and very productive, and then moving
3 forward you're not going to have to relive these
4 discussions, but certainly all the tribes are, just the
5 efficiency of it, having the discussions once, you know, is
6 a concern that in order to get 383 going we're going to
7 have to have the same - similar discussions and without it
8 it's difficult for all the tribes to get to the same place,
9 you know, with all these meetings. So, I'm just expressing
10 that for the record.

11 FREEDMAN: Thank you.

12 NEBESKY: But I appreciate all the time that you
13 guys put into this.

14 FREEDMAN: Myron Freedman, for the record. And I
15 want to also say thank you to all of you for your deep
16 thoughts on this, your contributions, your comments or
17 suggestions, written and spoken here, and so we have
18 another revision to put out and I'm sure we'll be gathered
19 around this table again to review that as well.

20 EBON: And Michon Ebon. So, these - these
21 drafts are null and void right now?

22 CAMP: Yeah. They were just to give
23 clarification, that's all.

24 BRADLEY: We were just trying to give a visual
25 picture.

1 EBON: Yeah.

2 BRADLEY: We can update. I mean if it's not
3 helpful we don't have to do them again.

4 EBON: I like them.

5 BRADLEY: We were trying to make it more - but
6 [inaudible] more.

7 EBON: I just think it was [inaudible] so and
8 then also I'd like to state that, you know, we did to help
9 you I appreciate Sarah working on - you can take a look at
10 the funeral - or no, the [inaudible] - no, the -

11 BRADLEY: State law regarding -

12 EBON: Yeah, okay.

13 BRADLEY: Yeah.

14 EBON: And then we could send our comments
15 [inaudible] and at the end of my comments is a whole list
16 of those values, beliefs that we think that could be, you
17 know, incorporate that most of the tribes look to. Okay.

18 FREEDMAN: Las Vegas, anything from you at the end
19 here?

20 SPEAKER: No, I don't think so. Thank you.

21 SPEAKER: Thank you.

22 FREEDMAN: Meeting adjourned.

23 SPEAKER: Yay.

24 [crosstalk]

25 [audio ends]