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STATE OF NEVADA
NEVADA STATE MUSEUM
NAC 381 PUBLIC WORKSHOP
Thursday, May 23, 2019

FREEDMAN: Welcome. I'd like to call the workshop to order. Can you hear me in Las Vegas?

SPEAKER: Good morning. Yes, we can hear you.

FREEDMAN: Good morning. At this time is there anybody wishing to do an invocation for this proceeding before we get started?

SPEAKER: Will you, Michon?

EBON: Sure.

SPEAKER: Okay.

EBON: Well good morning, everybody. So, we're going to ask all of us when we do this invocation that we all do it together so we're going to ask that we go to the - to our great Being, to our Creator, to Jesus, to God, whoever all of us look upon and look to for guidance. So I ask that we all say this in all together.

But I take this day and we ask for this good day to come together to work together, to collaborate together, to continue to go forward as we work on very important legislative written bills here. They're very important because they have to do with

1 our ancestors, the people that went before us, things that have
2 been collected, our items that are here in the museum.

3 So we ask to have a good day, to have good thoughts and
4 that we work together as we go forward to make good regulations
5 for the future for what is to come before us and the people to
6 come after us, that this - the written words be well written and
7 be good and that we all have a good day.

8 We all ask this, and however you end your prayers for this
9 morning, we say together, Amen, [inaudible] all my relations.

10 FREEDMAN: Thank you. And a quick check-in. Did
11 everybody sign in? Has anybody not signed in? If not, please
12 find the sign-in sheet and put that down. I'm going to start off
13 by just saying how much I appreciate you all being here.

14 I extend a warm welcome to everybody, how much I appreciate
15 the thoughtful input that has been provided from the tribes, from
16 the state agency staff, related public and private organizations.
17 And I believe these draft regulations are shaping up into an
18 effective set of guidelines that will help instill the necessary
19 cooperation needed from all parties for any activities undertaken
20 in NAC 381.

21 So, I thank you all for your dedication to this process and
22 your patience with this process. So at this time I think we'd
23 like to go around and introduce everybody. Why don't we start in
24 Las Vegas down there? Can you introduce yourselves, please?

25

1 TIMM: Good morning. This is Mary Beth Timm,
2 Director of Lost City Museum.

3 LUCAS: This is Virginia Lucas, Curator of
4 Archaeology at the Lost City Museum.

5 BENEDICT: Laura Benedict [phonetic], Cultural History
6 Manager, Lost City Museum.

7 MCBRIDE: Dennis McBride, Director of the Nevada
8 State Museum, Las Vegas.

9 UNDERWOOD: Sally Underwood, Curator of Natural
10 History.

11 ALBA: Ennis Alba [phonetic] Thank you.

12 FREEDMAN: And Michon?

13 EBON: Yes, Michon Ebon of the Reno Sparks Indian
14 Colony, [inaudible] Tribal Preservation Office.

15 RAHDER: Bobbi Rahder, the Museum Director for the
16 Stewart Indian School and Cultural Center and Museum.

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

19 SMITH: Good morning, Sarah Smith, Cultural
20 Resources [inaudible] and Associates and a representative of
21 [inaudible].

22 HATTORI: Gene Hattori, Curator of Anthropology,
23 Nevada State Museum.

24 FREEDMAN: Myron Freedman, Director, Nevada State
25 Museum.

1 BRADLEY: Sarah Bradley, Senior Deputy Attorney
2 General representing the Division.

3 ROSETTA: Nikki Rosetta [phonetic], Intern for the
4 Deputy Attorney General.

5 DELOVIO: Rachel Delovio, Anthropology Collections
6 Manager, Nevada State Museum.

7 CAMP: Anna Camp, Nevada State Museum Curator.

8 FREEDMAN: Thank you. And I would like to open up the
9 meeting to any public comment, keeping in mind the comments on
10 the NAC regulations will be discussed today, so any comments on
11 items other than that are welcome at this time. Any public
12 comments in Las Vegas?

13 SPEAKER: We have no public comments at this time.

14 FREEDMAN: Public comments here? Okay. Thank you for
15 that. At this time then, let's dive into a review of NAC 381. I
16 hope everybody had a chance to review the latest draft
17 regulations I believe - Anna sent them out a few days ago, and
18 they've been posted now although it took awhile to get posted on
19 the website, but they are posted now.

20 But everybody should have the latest draft through Anna's
21 communication. So the floor is open on comments for 381, the
22 latest draft.

23 SPEAKER: Myron, are we going to start with the -
24 like from Provision 1 and move through or -

25

1 FREEDMAN: We can, absolutely, starting with Provision
2 1.

3 SPEAKER: If I could ask [inaudible] later on a
4 discussion that we talk about process.

5 SPEAKER: Okay.

6 SPEAKER: You know, how these go from -

7 SPEAKER: Oh, the next steps?

8 SPEAKER: Yeah, the next steps and -

9 SPEAKER: Do you want to do it right now?

10 SPEAKER: Well no, I don't want to interrupt.

11 SPEAKER: All right.

12 SPEAKER: I just - if we could include that in the
13 discussion.

14 FREEDMAN: Sure, yeah. It could be at the end. We
15 could go over it.

16 SPEAKER: Yeah.

17 FREEDMAN: No comments on Provision 1 then?

18 SPEAKER: Well -

19 SPEAKER: Actually I do [laughs] You know, there are
20 several items in this - it talks about [inaudible] in competition
21 with Indian tribes.

22 SPEAKER: Uh-huh.

23 SPEAKER: When we provided testimony, I know that we
24 had offered and talked about how do we frontload the process for
25 the museums in notifying tribes. And at one point we talked

1 about maybe each of the tribes identifying an area of interest so
2 that not all the tribes need to be notified for any single
3 notification or incident, that - and that was just one offer.

4 But otherwise, what is the due process or procedures of the
5 museums in notifying the tribes? Are all the tribes going to be
6 notified of these things or specific groups or, you know, what is
7 it?

8 FREEDMAN: I hear the question. I think this has come
9 up a few times in the past. Anna, you want to take this?

10 CAMP: Yeah, the general consensus was that there
11 were only some folks out near Goshute, and the Te-Moak tribes
12 were interested in everybody getting notification and that might
13 be because there are, you know, the Te-Moak tribe has quite a few
14 bands underneath that umbrella. So they were interested in that
15 area and all being notified.

16 As we move a little bit further west, folks tend to want to
17 only be notified if it is an area of interest except for in some
18 of the areas that are shared. So for instance, Truckee Meadows
19 would be one of those shared areas where multiple tribes would be
20 informed.

21 So I'm basing it off kind of sort of the ICC maps, but also
22 the territories that are sort of where bands and tribes are at,
23 so locality. Of course, if - well, you know, it's supposed to be
24 before somebody would get a permit, so it's sort of geography,

25

1 and I have been provided with some areas of interest from Pyramid
2 Lake, for instance.

3 I apologize, Anna Camp, for the record. So yes, I have
4 received maps from quite a few tribes who have special or places
5 that they are interested in. Otherwise, I'm using geography, and
6 I think it will just depend on where things are at as to how many
7 tribes I notify.

8 So it's sort of in-between perhaps Pyramid Lake, you know,
9 Fallon, that area I would probably notify all folks in that area
10 including you guys as well. So you know, that obviously is up
11 for more discussion. I could - oh, go ahead.

12 FREEDMAN: I just want to remind everybody to identify
13 themselves when they give some comments.

14 SPEAKER: You go ahead. I'm sorry.

15 CAMP: So yes, that's, you know, starting off
16 would be geography and the ICC maps as well as the maps provided
17 by the Indian Commission. So I think if I have a question, I
18 would probably just talk to multiple tribes to see if that is an
19 area of interest. So I think a lot of it is about just open
20 communication with people depending on where this might come up.

21 You know, I don't know how that would play into the
22 regulations, per se. We could think about notifying all tribes,
23 but I heard pretty loud and clear that folks get bogged down when
24 they get too much consultation. So I think it's just - might be
25 per tribe.

1 BRADLEY: This is Sarah Bradley, for the record. For
2 the statute that's referred to in there NRS 381.0066 kind of
3 limits it a little bit. What I mean by that is it says that the
4 Museum Director shall immediately notify a tribe and initiate
5 consultation with any tribe who is likely - who is or who is
6 likely.

7 So it's limited a little bit in the NRS that it's going to
8 be tribes who are or who are likely to be culturally affiliated
9 with their artifacts by seeing if it's their aboriginal land,
10 that's another option. That artifact was discovered there in the
11 sites located or see who was reasonably known to have a direct
12 cultural relationship to the artifact they're saying.

13 So I think that kind of helps it not be maybe every single
14 tribe unless you just really don't know, but assuming you had
15 information it would be limited by those factors.

16 FREEDMAN: Myron Freedman, for the record. Anna,
17 correct me if I'm wrong, but I believe some tribes are offering
18 information on their view of territorial boundaries.

19 CAMP: Yes.

20 FREEDMAN: And so that information becomes part of the
21 guidance on our part in terms of determining tribes to contact.

22 CAMP: Anna Camp, for the record. And I know,
23 Scott, you had talked about getting a document to me for actually
24 Reno Sparks areas of interest.

25 NEBESKY: Uh-huh.

1 CAMP: So, I have requested from all tribes to get
2 that information but not everybody has it. You know, [inaudible]
3 Weight does, the DIS for Pyramid Lake. So, he had a map already
4 made up.

5 NEBESKY: Thank you.

6 FREEDMAN: More comments on Provision 1?

7 BRADLEY: I guess my question would be - Sarah
8 Bradley, for the record, could we get that clarified? Do you
9 think there's need to do something more there or -

10 NEBESKY: You know, for the record, Scott Nebesky. I
11 think throughout the regulations there's going to be trials and
12 errors, you know, just based on two parties and, you know, trying
13 to get these through.

14 So you know, I think that's probably sufficient for now,
15 but if we run into something in the future we probably want to -

16 BRADLEY: Sure.

17 NEBESKY: I'm just thinking for your assistance and
18 not having to figure out each time are they affiliated, the
19 geography, this or that, is it tribes from, up front identify
20 those areas of interest that meet those provisions that they're
21 culturally affiliated, their average owned lands, their cultural
22 relationship.

23 The tribes took on that responsibility to alleviate you to
24 - from not guessing, but making that determination. It puts the
25

1 burden on the tribes to say this is our area of interest and then
2 kind of define it. That's all.

3 But whether that gets incorporated now or at a later date
4 or has to, we will see, but there is - but I appreciate you
5 outlining that there is a test or [inaudible] running. It's just
6 if we know we can possibly look at the map. That's all.

7 CAMP: Thank you.

8 FREEDMAN: Okay, moving on to new Provision 2.
9 Comments? Hearing no comments, moving on to 3. No comments?
10 Moving on to Provision 4.

11 NEBESKY: For the record, Scott Nebesky. I'm not
12 sure how this plays out, the definition, in all places that is
13 cited, but the definition for the prehistoric native Indian
14 burial site is previously recorded prehistoric Native American
15 burial site.

16 Then it says, "and contains human remains." I just want to
17 make sure and clarify that when it says, 'and' it has to meet
18 both of those tests. I think the 'also' maybe 'and' should be an
19 'or' that, "A prehistoric Native American Indian burial site is
20 one that contains human remains, and it may or may not have been
21 previously recorded."

22 [whispering crosstalk]

23 SPEAKER: Go ahead.

24 SMITH: Sarah Smith, for the record. In relation
25 to what you're saying when you read it if it is only previously

1 recorded sites, it almost sounds like the museum is authorized in
2 the scientific studies of tribal burial sites, and because they
3 are previously recorded and then, you know, people are asking
4 permission to do a study on it.

5 And here also asking the tribes to, you know, grant
6 permission to do it so long as you're following, you know, their
7 traditional beliefs and values. That's what it sounds like just
8 in that provision.

9 SPEAKER: Okay.

10 CAMP: Anna Camp, for the record. Correct me if
11 I'm wrong, Gene, but if there were no human remains previously
12 found and it wasn't previously recorded that would fall under
13 SHPO, I believe, because will be discovery, correct?

14 HATTORI: Yes.

15 CAMP: Yes.

16 HATTORI: What you're saying.

17 CAMP: Yes.

18 HATTORI: Gene Hattori, for the record, yes, that's
19 correct.

20 CAMP: So, we technically, Anna Camp, for the
21 record, we're not - we wouldn't be responsible for a permit if it
22 was a discovery, so that would be something that you look to SHPO
23 for at that point.

24 SMITH: Yeah, I was reading about that too. If was
25 just information before how it was written that just kind of made

1 it sound like the museum already knows that it's, you know, it's
2 a burial site and that they're granting someone permission to dig
3 it up, and then you're saying can we dig it up with - as long as
4 we follow your protocol, and there really shouldn't be a protocol
5 for digging up burial sites.

6 FREEDMAN: Well the provision, Myron Freedman, for the
7 record, I think it was just defining the - what is a burial site
8 for the purpose of regulations.

9 SMITH: Uh-huh.

10 FREEDMAN: Getting into the procedures that are
11 attached to excavation or not excavation then is treated later in
12 the regulation.

13 SMITH: Uh-huh. I guess I was just kind of thrown
14 off by it saying that it was a previously recorded site and
15 that's how you know that it's a tribal burial site and then not
16 saying why we're not allowing people to excavate a burial site.

17 FREEDMAN: Because it's on private land.

18 SMITH: Uh-huh.

19 FREEDMAN: And so that they would have to then request
20 a permit to do that, so that's why - and then these regulations
21 then kick in.

22 BRADLEY: This is Sarah Bradley, for the record. I
23 think that again, I agree that the intent was just to define
24 prehistoric Indian burial site but looking at NRS 33 because
25 that's the law for the State Historic Preservation Office, and

1 it's my understanding, and I'm not an expert and so I'm looking
2 at the people who are, but my understanding was if something is
3 found, for example, then it could be recorded.

4 So I mean cause obviously not all sites are already
5 identified, but they do have a list and my understanding is over
6 time, locations get added to that list as a known burial site
7 because human remains were found, so, if something is found there
8 that needs it to be added to that list.

9 It's a confidential list as I understand it, so people
10 don't get to access it other than, you know, it's not like the
11 public gets to know who and where those are. But it is something
12 the state keeps as they become aware of these locations. I don't
13 know if that helps at all but -

14 SMITH: A little bit.

15 EBON: So, Michon Ebon. We have a prehistoric
16 Native Indian burial site of the [inaudible] 33150, so was there
17 - I think we had this discussion several times. You were
18 throwing in prehistoric. Is there a reason why? I think 383 - I
19 don't see it in 383. It just has Indian burial site or Indian
20 grave or grave or Indian burial site or yeah.

21 BRADLEY: This is Sarah Bradley, for the record. The
22 reason that's there, NRS 381.196, let me just go there. Let me
23 look. I'm sorry I brought the wrong book. So, NRS 381.196,
24 number 1, says, "A person shall not excavate a site on private
25

1 lands within the state that they know is a prehistoric Indian
2 burial site unless they get a permit."

3 And so, we were defining 'prehistoric Indian burial site'
4 cause that's what our permits apply to. It is those. So you
5 have to obviously know, but it has to be prehistoric Indian
6 burial site, so our intent was to define what those are here.

7 EBON: But do you - in that 381, Michon Ebon. But
8 in that 381.196 is there a definition for prehistoric Indian
9 burial site? No?

10 BRADLEY: I don't believe so in here. It says at the
11 bottom if you go to number 5 in that same section, it says Indian
12 burial site as the meaning described in 383.150.

13 EBON: Uh-huh.

14 BRADLEY: And so, we're -

15 EBON: Indian burial site.

16 BRADLEY: Yeah, we're incorporating it there. But
17 we're using the same definition. It is possible LCB and so again,
18 this is Sarah Bradley, for the record. This kind of gets into
19 the next step. But I mean this is our draft. And it's possible
20 LCB will say we don't need this definition cause it's kind of in
21 the NRS, and if we add a little bit to try to use the same term
22 but, you know, maybe not.

23 EBON: Michon Ebon, I think that for the Reno
24 Sparks Indian Colony we've been calling that prehistoric. I know
25 it's an archeological word and it's used for determining

1 prehistoric or historic. It's really not - my value, beliefs and
2 my tradition is I don't really - we don't care for that word.
3 And I think we had talked about it last time. We talked about
4 this word, 'prehistoric'.

5 So I think you guys are adding, and I understanding how
6 you're adding 'prehistoric' because you don't - we don't have a
7 definition for prehistoric Indian burial site, but you already
8 have a definition for Indian burial site.

9 CAMP: Anna Camp, for the record. So, just taking
10 out the 'prehistoric' portion, Michon, I guess is what you're
11 looking for?

12 EBON: Yeah.

13 CAMP: Okay.

14 EBON: I think I am because I think it's the same
15 - it would be the same - well maybe you guys can tell me why.
16 You tell me, the museum archeologists. You guys tell me why it's
17 in there, please. And I'm not being smart. I'm saying let me
18 know, help me figure that out.

19 BRADLEY: This is Sarah Bradley, for the record. I
20 think it's there because for me, and I guess because when I look
21 at number one, it says that if you know something, if you're a
22 private landowner, and you know that you have a prehistoric
23 Indian burial site, this applies to you.

24

25

1 And so, the intent is to I guess basically say prehistoric
2 Indian burial site is an Indian burial site. I mean I guess, you
3 know, in a fancy way, but that's really what we're saying.

4 NEBESKY: For the record, Scott Nebesky. I think
5 some of this may have remnants of language that's reflected the
6 culture's perspective of Native Americans being something of the
7 past and not of the present.

8 SPEAKER: Uh-huh.

9 NEBESKY: And if you look at the definition in
10 383.150 that Sarah, you just cited.

11 BRADLEY: Yeah.

12 NEBESKY: It identifies an Indian burial site as an
13 Indian burial site. It doesn't say whether it's historic or it's
14 prehistoric.

15 BRADLEY: Yeah.

16 NEBESKY: But an Indian burial site could have been
17 from 10 years ago because there's some folks that are buried in a
18 formal graveyard. And so, it could be as old as yesterday. So I
19 think - and so, you know, getting into what Michon was saying is
20 I'm not sure if - if anything, I think adding 'prehistoric'
21 confuses the issue and doesn't necessarily represent the thought
22 of today.

23 BRADLEY: Okay.

24 NEBESKY: That's all.

25

1 BRADLEY: And this is Sarah Bradley, for the record.
2 My only concern, and this is my lawyer way looking at things, and
3 I apologize if it causes trouble. It's just to make it really
4 clear, and number one it says you can't excavate if you have a
5 known prehistoric native Indian burial site. And so, we want to
6 just make it clear, what is that, right? That was our only
7 intent.

8 I don't think it was to do anything, you know, and so
9 basically, we're just trying to say that is 383.150 and maybe we
10 don't need this, and I'm not stuck on this. It's just there to
11 kind of say if you have this, it applies to you.

12 NEBESKY: Scott Nebesky, for the record. Again, if
13 you look at the provision's words, it says, "as defined in
14 383.150." 383.150 doesn't make any mention of prehistoric.

15 BRADLEY: No, it doesn't.

16 NEBESKY: And so that's where I think the -

17 BRADLEY: But Sarah Bradley again, for the record.
18 381.196 does, and that's why we were trying to, you know, and
19 some of it honestly and, you know, I think the law is not written
20 I think we would all agree as clearly as we'd like.

21 NEBESKY: Yeah.

22 BRADLEY: And so, the concern we had looking at it
23 was 381.196 says, you know, "You shall not excavate a site on
24 private land that they know is a prehistoric Indian burial site.
25 So that's where we got it from, and again, maybe we can take it

1 out. It may not be super necessary. I just like to define terms
2 myself whenever possible so there's no confusion and it's the
3 same, that's all.

4 SPEAKER: The same.

5 NEBESKY: For the record, Scott Nebesky. Well then
6 maybe we want to add something more to Provision 4 that clarifies
7 that an Indian burial site as defined in 383.150 is inclusive of
8 prehistoric and historic burial sites. And I'm not sure if we go
9 above and beyond the law.

10 FREEDMAN: So that would be, Myron Freedman, for the
11 record. That would be my question. We are just following the
12 language [inaudible]. So, that may have to be something that is
13 changed down the road in order to make it fit what you were just
14 talking about.

15 BRADLEY: Sarah Bradley for the record. The
16 prehistoric, I want to say that's archeological terminology for
17 just saying it's before Western settlement, right, and so
18 [inaudible] that and they've always been here, so it would be
19 prehistoric for them.

20 SPEAKER: Yes.

21 FREEDMAN: Myron Freedman for the record. I think we
22 all completely understand what you're talking about. Maybe there
23 is a line you could add in the provision that says, "For the
24 purposes of carrying out these regulations, burial site is also
25 defined as a Native American burial site.

1 BRADLEY: This is Sarah Bradley, for the record. I
2 mean because again the only reason - I'm now telling you the only
3 reason I got to have prehistoric in there was because the statute
4 says it, and I felt like I had to try to follow what the statute
5 tells us is all.

6 SPEAKER: True.

7 BRADLEY: You know, if they didn't say prehistoric,
8 we never would have.

9 FREEDMAN: Do you [inaudible]?

10 SPEAKER: No.

11 BRADLEY: So, would it be better, Sarah Bradley, for
12 the record, if we said something like [inaudible] to be for the
13 purposes of these regulations then you still might say a
14 prehistoric native burial site includes the definition of
15 383.150? I mean is that -

16 FREEDMAN: Native American burial site includes the
17 definition of 383.150. Does that [inaudible]? Historic is used,
18 is it not?

19 BRADLEY: No, I don't think it's used in [inaudible].

20 SPEAKER: It's not.

21 SPEAKER: It's not.

22 BRADLEY: If it's only in 381. This is Sarah
23 Bradley, for the record.

24 SMITH: Sarah Smith, for the record. Could you say
25 an affiliated tribal burial site?

1 SPEAKER: Okay, I see what you mean.

2 SPEAKER: Affiliated tribal burial site?

3 SPEAKER: Uh-huh. Rather than using Native American
4 Indian.

5 SPEAKER: Did you say affiliated?

6 SMITH: Yes.

7 SPEAKER: Okay.

8 SMITH: I said affiliated tribal burial site.

9 SPEAKER: That's [inaudible].

10 HITTORI: This is Gene Hattori. You probably can't
11 do that because it's supposed to stand for a [inaudible].

12 SPEAKER: So, it would be [inaudible].

13 FREEDMAN: Myron Freedman, for the record. So, yeah,
14 I had that, so yes, 381 says prehistoric. So, for the purpose of
15 the regulation we included the definition of 383.150 which does
16 not use that term.

17 BRADLEY: Yes, and this is Sarah Bradley, for the
18 record, and I have a statute that says, really what we're looking
19 at is it's what 381.196 says, and it says, "prehistoric Indian
20 burial site.

21 SPEAKER: Yeah.

22 BRADLEY: So that was the issue, and then it does say
23 in number 5 there in the 381.196, "Indian burial site as the
24 meaning." They dropped off, of course, the prehistoric at that
25 point.

1 SPEAKER: Yeah.

2 BRADLEY: But the permit thing, that's an issue, the
3 permit only applies, and I know in your view it's not - like
4 that's not the word you want to use, but the permit language says
5 if it's prehistoric, then you get the permit. And I still don't
6 know how we get around the words in the statute.

7 FREEDMAN: Any thoughts from Las Vegas? I don't want
8 to leave you guys out.

9 TIMM: Good morning, Mary Beth Timm, for the
10 record. We had similar comments regarding prehistoric and
11 historic and why it wasn't included. And perhaps we could walk
12 backwards just a step. You said accidental discoveries are not
13 included in this permitting process. Could you elaborate as to
14 why those would not be included?

15 FREEDMAN: Myron Freedman, for the record. I believe
16 because that would then follow the SHPO.

17 BRADLEY: Yep. This is Sarah Bradley, for the
18 record. Yes. So SB 244, just a little background in case people
19 don't know, so SB 244 that was passed in 2017 updated NRS 381
20 which applies to museums. It also had some updates to NRS 383,
21 and NRS 383 deals with the accidental discoveries and things like
22 that that are not, you know, a known prehistoric and you verify,
23 at least according to this language. So, we're dealing with the
24 permit side [inaudible] with the discoveries.

25

1 TIMM: Mary Beth Timm, for the record. So, then
2 once SHPO has it they're not going to bump it back to us to then
3 issue a permit because once they accidentally discover something
4 then they would record it, and then it would previously be
5 recorded. Would they then contact us?

6 BRADLEY: This is Sarah Bradley. I don't think so.
7 My understanding is, and again I'm not an expert on SHPO's
8 policies at all, but what I do know, I believe, is if something
9 was accidentally discovered, there's a process for how the item
10 is to be handled. And so, and usually I think that involves
11 repatriation to the tribe.

12 If - but also at that time it would added to the recorded
13 list, so the next time there's an excavation in - on that land it
14 now would require a permit. Is that correct?

15 HATTORI: This is Gene Hattori, for the record. That
16 would be correct.

17 BRADLEY: Okay, no, it is, okay.

18 HATTORI: If it was on private land we would -

19 BRADLEY: Yeah. So, once there is - we don't - this
20 is Sarah Bradley, for the record. So if we don't know about it
21 being, you know, it's not recorded, if something's discovered, it
22 then would be recorded, and the next time there would be a permit
23 required. But it would be next time, not then. Go ahead.

24

25

1 SMITH: Sarah Smith, for the record. But isn't
2 that only for Federal land? How would the Federal government
3 record on private property?

4 CAMP: This is Anna Camp, for the record.
5 Wouldn't that fall under the state burial law? So, if something
6 was discovered the state burial law would kick in at that point
7 on private land.

8 SPEAKER: [inaudible]

9 CAMP: [inaudible] We are a private land.

10 NEBESKY: So for the record, Scott Nebesky. Let me
11 ask this then. If 'prehistoric' is left in for the definition,
12 and it defines it as anything before the 18th Century, so between
13 the beginning of the 18th Century and today, and the Indian burial
14 is either discovered or identified, how is that handled?

15 CAMP: If it's discovered? - Anna Camp, for the
16 record.

17 NEBESKY: Yeah, say it's not permitted or is this
18 going to exclude, Scott Nebesky, for the record, is this going to
19 exclude an individual to get a permit if it's determined that an
20 Indian burial site is identified, it's not recorded, it's not
21 prehistoric, but it's historic; what circumstances, what's going
22 to give guidance to the handling of this burial site?

23 BRADLEY: So this is Sarah Bradley, for the record.
24 I think under the - you posed several conditions there.

25 NEBESKY: Yeah.

1 BRADLEY: I think a key one for us would be whether
2 it's known or not, and I think you just said it's not recorded.

3 NEBESKY: It's not recorded but it's known to the
4 property owner or to somebody.

5 BRADLEY: Okay. So, it's known to them that it's not
6 recorded. Cause I think the way - let me look at 150, I'm sorry,
7 no, I'm looking at NRS 383.150.

8 SPEAKER: Scott, do you have 383? I have one extra
9 copy of it.

10 NEBESKY: No, I have 383 too.

11 SPEAKER: Okay.

12 BRADLEY: So if we're referring to that Indian burial
13 site means the area including and immediately surrounding the
14 cairn. Is that right?

15 SPEAKER: Yeah.

16 BRADLEY: Cairn. Or grave of an Indian. I think and
17 this is Sarah Bradley, for the record, I keep going back to for
18 at least from our side of the state, I believe that we know it's
19 null unless it's recorded, so I believe what you're talking about
20 is an owner has knowledge but not recorded knowledge, is that -

21 NEBESKY: Or a tribe, Scott Nebesky, for the record.
22 Or a tribe knows that that hillside or whatever is burials.

23 BRADLEY: Uh-huh. I mean -

24 NEBESKY: And it's historic.

25

1 BRADLEY: So, the way NRS 311.96 reads and let's go
2 back there, number one. "A person shall not excavate a site on
3 private lands located within the state that the person knows."
4 So, Sarah Bradley, for the record. I don't know if I said that
5 when I started reading. I think the way the statute reads, the
6 person, the landowner, has to have knowledge. And I realize
7 that's hard to prove, that's kind of subjective, you know, I
8 realize it's not perfect necessarily.

9 But the way I'm reading it the onus is on that person
10 whether they knew. You're right, the tribes may know, and my
11 understanding is tribes do have sometimes this knowledge and they
12 don't want to share it for a reason in order to protect the
13 items, and I understand that. But this says the person has to
14 know.

15 NEBESKY: Yeah.

16 BRADLEY: Um -

17 NEBESKY: For the record, Scott Nebesky, you know,
18 there could be circumstances in which the private property owner
19 notifies the developer.

20 BRADLEY: Okay, [inaudible] okay.

21 NEBESKY: Yeah, at that point the local tribe,
22 affiliated tribe, would contact the property owner and this
23 [inaudible] and say we think - we believe that this is a burial
24 site. Does that meet the definition of a person knowing that

25

1 they've been put on notice by the tribe? Or what does it mean
2 for a person to know?

3 BRADLEY: Good question.

4 CAMP: Anna Camp, for the record. You know, this
5 came up with Chairman Tomm [phonetic] when I spoke with her
6 because there's quite a few ranches I guess out there in
7 Yerington where there are human remains that they know about.

8 NEBESKY: This is Scott Nebesky. Yeah.

9 CAMP: And I'm unsure of how to tackle that type
10 of thing. You know, her and I had discussed perhaps having some
11 sort of list, you know, of places that we could share between
12 myself, SHPO and the tribe. I don't know how we would legally,
13 you know, get that to work, but it has been something that has
14 been brought up before, and I think we just are unsure within
15 legal boundaries how to tackle something like that.

16 Would you then take state historic preservation off as
17 [inaudible] out there and perhaps try to identify that it is,
18 indeed, you know, and how would you do that? So, there's this
19 legality of us having to define what something is and then where
20 would you - how would we be able to define what something is
21 without definite knowledge of that thing?

22 So, that is definitely something that has come up, and I
23 don't know - hopefully myself and the State Historic Preservation
24 Office could work on how we might be able to work on something
25 like that in the future. But it is kind of a looming question,

1 and you know, who has time to go out and show me all these
2 places. But that is something -

3 FREEDMAN: Myron Freedman, for the record. And we did
4 have a discussion early on in this process about whether or not
5 tribes would share the information about burial sites that
6 weren't necessarily recorded with SHPO.

7 BRADLEY: Yeah. And this is Sarah Bradley, for the
8 record. And this is the question I'm having. I guess if we did
9 share that would that get added to the recording? I don't know
10 the process for getting something added to those SHPO lists, and
11 I know that's not really our purview, but -

12 FREEDMAN: But I'm wondering - Myron Freedman, for the
13 record, if we don't add a provision after Provision 4, if
14 Provision 4 brings out what is a burial site, there would be a
15 new Provision 5 that would define what is, you know, what
16 constitutes knowing that burial site that would include 383.150,
17 that would include the knowledge the property owner has, would
18 include knowledge that the tribes have.

19 BRADLEY: Yes. Sarah Bradley, for the record. The
20 only question I guess would be so if the tribe has knowledge,
21 they'd have to share it with the owner for the owner to know,
22 right?

23 TIMM: This is Mary Beth Timm, for the record. I
24 actually had a call to my office a couple weeks ago from a
25 private landowner who was wondering if there was a state law in

1 effect for disclosure of burial grounds on their private property
2 for when they purchased the property. Is there something in the
3 NRS that's not in this section that law [sic 'land'] owners would
4 need to know, or landowners would need to know at the time of
5 purchase that there was an Indian burial ground on their
6 property?

7 BRADLEY: So this is Sarah Bradley, for the record.
8 My understanding is the answer is no, and that is something we
9 discussed because it is an interesting thing in my opinion
10 because I do know there are rules about certain things that have
11 to be disclosed when you purchase property, you know, regarding
12 hazards and things like that, repairs that have been done
13 pertaining to a home.

14 But my understanding is there's no requirement for that
15 with regard to Native burial sites. And so, it's something that
16 maybe should be addressed, you know. But the other question I
17 guess, and this is where I think we have tension, my
18 understanding again is like the list that SHPO has is not a
19 public list, so I don't think they would even - I don't know if
20 they would even tell the property owner if the property owner
21 called up.

22 So I'm getting a shake no. So - so, that's what kind of
23 interesting is there's this list that's maintained and it's kept
24 confidential, and I think it's kept confidential from my
25 understanding to protect, you know, to protect those sites so

1 that people don't go and try to do things, you know, to excavate
2 them. So if there was a requirement for disclosure, it would
3 have to be knowledge, not SHPO knowledge, if that makes sense.

4 HATTORI: This is Gene Hattori, for the record. When
5 I was at SHPO, and this is many decades ago, we had a case where
6 a private individual contacted SHPO's office because they knew of
7 a Euro-American grave site on a ranch that was being land rushed
8 and we looked into at that time whether there were any state laws
9 that protected this burial.

10 And at the time I looked into it, small cemeteries weren't
11 protected. There had to be a larger some sort of formalization
12 for the cemetery to be recognized cemetery.

13 SPEAKER: Okay.

14 HATTORI: So this was our answer to them. We said
15 no, you could not step in. But things may have changed. I don't
16 know if you might take a look and see if there's anything that
17 protects small cemeteries or individual gravesites.

18 EBON: So Michon Ebon. So, back to prehistoric.

19 [laughter]

20 EBON: Good morning, Mr. Barton.

21 BARTON: Good morning, Michon.

22 EBON: I think -

23 NEBESKY: Is there an association between prehistoric
24 and [inaudible]?

25 EBON: [laughs]

1 BARTON: Thanks, Scott, for raising that.

2 [laughter]

3 BARTON: That's all off the record.

4 [laughter]

5 EBON: I think that I would like to see this taken
6 out, the prehistoric, and in Provision 4 since we're going to
7 define. I appreciate and really honor what you're doing here,
8 Sarah, because you're trying to relate it back to the verbiage.
9 I appreciate that.

10 But if I just wrote down like any little amendments that we
11 want to think about doing in a couple years or the next session,
12 is that take out prehistoric, and that's probably going to be our
13 big thing. But I think we should just do that right here because
14 it's relating to a native Indian burial site as defined in
15 383.150. And 383.150 just only relates to Indian burial sites.

16 FREEDMAN: But our own statute doesn't - it includes
17 prehistoric.

18 SPEAKER: Yeah.

19 EBON: And Michon Ebon, for the record. I think I
20 just said that, Myron.

21 [laughter]

22 EBON: I, you know, just that I appreciate that,
23 that because it's in there.

24 NEBESKY: For the record, Scott Nebesky, I think from
25 my perspective if this definition could be more inclusive than

1 exclusive, and I think everyone agrees with that, figure out how
2 do we accomplish that. Because I'd hate to see someone get ahold
3 of the regs and say this is a historic Indian burial ground and
4 your laws only address prehistoric and try to exempt themselves
5 from it.

6 Just real quick, I apologize, I'm going to take a
7 conference call, but I do still have an interest in the one word
8 'and' in that provision.

9 SPEAKER: Okay.

10 NEBESKY: And it should be 'or'.

11 SPEAKER: [inaudible]

12 NEBESKY: Yeah, I'll keep it in mind.

13 FREEDMAN: Myron Freedman, for the record. And we
14 went over this just a minute ago, but I think - I think the
15 provision could be revised to include the definition in 383.150
16 so it would have both in there. And then you have ultimate
17 flexibility.

18 BRADLEY: This is Sarah Bradley, for the record. I
19 would just worry that right now the statutory wording we have
20 reads prehistoric. And so, I think we couldn't [inaudible]. I
21 don't believe we could require it if it was historic, and I know
22 that's what Scott's concerned about, and I understand that, sir.
23 I'm not disagreeing with it.

24 I'm just saying I think let's just say a landowner
25 challenged us or something like that and the law says

1 specifically prehistoric is when the permit's required. So, I
2 think the law would have to be changed in order for us to do the
3 work, cause I agree that 383.150 is a little bit broader than it
4 is.

5 SPEAKER: Yeah, it seems like [inaudible] weird
6 burial laws.

7 BRADLEY: I agree.

8 SPEAKER: [inaudible] in there.

9 SMITH: Sarah Smith, for the record. I wonder if
10 could you use that terminology in the permit?

11 BRADLEY: Terminology saying, I'm sorry?

12 SMITH: Taking our prehistoric in the permit.

13 BRADLEY: Okay.

14 SMITH: And not really putting it in the permit.

15 EBON: Michon Ebon. I think my concern when we
16 started this discussion on Provision 4 you had a kind of a nice
17 little verbiage. What were you saying?

18 FREEDMAN: I was saying that for the purpose of the
19 regulations we would also include the definition in 383.150 which
20 does not use the word 'prehistoric'.

21 SPEAKER: Yeah.

22 SPEAKER: I think we could work with that.

23 SPEAKER: Okay.

24 FREEDMAN: And Myron Freedman, for the record. So, I
25 hear Sarah's concerns about following our statute.

1 SPEAKER: Yeah.

2 FREEDMAN: But then if there is a challenge later to
3 further define the statute.

4 BRADLEY: And this is Sarah Bradley, for the record.
5 You know, I obviously will leave it up to you guys really to
6 decide. I just - my only concern would be, you know, if a
7 landowner, and I don't know how many times is it going to come up
8 [inaudible] those things, but if a landowner said, wait a minute,
9 mine's not, you know, mine's not prehistoric so this doesn't
10 apply.

11 I don't know that we would prevail at least with the way
12 the statute reads currently. And my understanding is historic
13 and prehistoric are kind of archeological terms that are defined
14 to be certain timeframes.

15 EBON: You know, Michon Ebon, I think that in that
16 383.150, number 4, cause it's described in above it as well, but
17 it does say Indian burial site means the area including and
18 immediately surrounding the cairn or grave of a native Indian.
19 So, unless that private rancher [laughs], I mean how could he not
20 know - I mean how can he say oh, it doesn't say prehistoric, and
21 it's obviously Native because there's going to be funerary items
22 that are totally attached to Native.

23 SPEAKER: Yeah.

24 EBON: You just can't fight it. They can't - he
25 or she - they cannot fight that. I mean they really in my eyes,

1 you know, but I don't have the law eyes, so he, you know, if it's
2 a Native you totally know Native sites, you know. Usually when
3 it's a historic or it's a European or Anglo or Old Pioneer, you
4 can tell because they'll usually have clothes still attached to
5 them, an ax, I don't know, just making stuff up now, but I'm
6 pretty sure -

7 [laughter]

8 EBON: Yeah, what the Hell, you know, a bonnet,
9 garments.

10 [laughter]

11 EBON: You know, yeah, so I think that you could
12 totally tell, and especially when remains are found, they know
13 automatically that they've got to contact somebody. They'll
14 usually contact the Sheriff, or they'll call somebody unless they
15 know the SHPO cause some people don't, or they know an
16 archeology, you know, they're just going to kind of tell. And I
17 think that's why that Indian burial site 383.150, it states it
18 pretty clearly.

19 BRADLEY: Yeah, you're right. This is Sarah Bradley,
20 for the record. But again, going back to number 1, so I think
21 you're talking about two different things. You're talking about
22 if they discover it and then I agree with you, you have to if
23 they discover it.

24 EBON: No, no.

25

1 BRADLEY: You already - but no, going back to number
2 1, they can't - the permit is required if you're going to
3 excavate private lands and you don't know it's a prehistoric,
4 right, and so that's where it comes back. And so that's my only
5 - my only concern is just, and I agree, but if somebody knew
6 there was a burial that they knew, for example, it was more
7 recent, in theory this wouldn't apply to them because it wouldn't
8 be prehistoric.

9 Now again, how savvy are they going to be? Are they going
10 to know that? I'm just worried that we can't actually hold them
11 to the permit unless it's prehistoric. I understand that, you
12 know, maybe the goal would be eventually to not have the word in
13 the statute, and I don't disagree with that. But right now, it's
14 there is all.

15 FREEDMAN: Myron Freedman for the record. I still
16 think we would be I think wise at this point to refer to 383.150.

17 SPEAKER: Okay.

18 FREEDMAN: Since that is a statute on the books too.
19 And I think we need to be, not safe but, you know, cover all the
20 bases and then if it's challenged later, they can further define
21 it then.

22 EBON: Send it to me.

23 FREEDMAN: I think the trickier thing we uncovered
24 here is the definition of 'known'.

25 SPEAKER: Uh-huh.

1 SPEAKER: Yeah.

2 FREEDMAN: And because that is not referring strictly
3 to SHPO, so I think we can spend a few minutes maybe coming up
4 with some language that helps to define 'known'.

5 SPEAKER: Uh-huh.

6 BRADLEY: And this is Sarah Bradley, for the record.
7 There are actually legal standards about what 'known' means. Let
8 me see if I can do a quick -

9 EBON: So, look at all this food, everybody.

10 SPEAKER: Wow.

11 SPEAKER: [laughs]

12 BRADLEY: So, interestingly -

13 EBON: Okay.

14 BRADLEY: NRS 451.533, so that is a dead body. I
15 don't know how [inaudible] what I'm doing.

16 [laughter]

17 BRADLEY: And 'known' is defined there with regard to
18 dead bodies in that kind of general provision that talks about
19 how to handle, and that says, "known means to have actual
20 knowledge". And so, if it's agreeable I think that's what we
21 want to bring in for consistency that 'known' has the meaning as
22 defined in NRS 451.533.

23 And so 'actual knowledge', and again I think it gave you
24 more about okay, what is 'actual knowledge'. To me 'actual
25 knowledge' would be perhaps like the example that Scott gave with

1 a local government and they say hey, I want to do this
2 development and the tribe says wait, I think that would give them
3 knowledge.

4 SPEAKER: Uh-huh.

5 BRADLEY: I think what's trickier perhaps is again if
6 you go back to the SHPO reporting there is a record that the
7 landowner may not have actual knowledge on that record cause they
8 won't have access to it. So, I think does that work to define it
9 that way, actual knowledge, known means actual knowledge?

10 EBON: I think so, and that's really going to -
11 Michon Ebon, that's really going to be the LCB, LBC, LCB.
12 They're going to -

13 SPEAKER: Yes.

14 EBON: Yeah.

15 BRADLEY: And this is Sarah Bradley, for the record.
16 I didn't like that, some of it.

17 [laughter]

18 BRADLEY: But I'm not an LCB Director and I'm always
19 amazed at the things that they, number one, change for
20 consistency or things that they incorporate from other parts of
21 the NRS that I haven't read. I mean they're very good I think at
22 their jobs. But one thing I would say is this is provided for
23 all of us. Even though they're amazing in what they do, we
24 definitely want to read their draft -

25 SPEAKER: Oh yeah.

1 BRADLEY: Very carefully after it's done because
2 sometimes they'll make inadvertent changes that could change
3 meaning.

4 SPEAKER: Right.

5 BRADLEY: And so, we just want to make sure that
6 doesn't happen. But yes, they will I'm sure make this look quite
7 different than it currently looks.

8 EBON: Oh, we'll be on that, yes. [laughs]

9 BRADLEY: Yes. Because I know that happened where,
10 Sarah Bradley, for the record, where we didn't really realize
11 until literally a public hearing that we were wait a minute, this
12 change actually changed the meaning of what we thought was there
13 because we were sort of reading from the filter of we know what
14 we meant and what we thought we wrote. So -

15 SPEAKER: Okay.

16 FREEDMAN: And then Scott was asking about the word
17 'and' in Provision 4.

18 SPEAKER: Yes.

19 FREEDMAN: I mean what did he want to do?

20 BRADLEY: He wanted it to say 'or'.

21 FREEDMAN: Oh, that's right, yeah.

22 BRADLEY: So this is Sarah Bradley, for the record.
23 I think the reason the 'and' is there is we're incorporating that
24 383.150. So we're saying - cause and I could be wrong and I'm
25 kind of looking over at Gene again. We're saying that this, you

1 know, prehistoric Native burial site as defined in 383.150 is
2 previously recorded and contains these items. And my
3 understanding is those items were required for it to be on that
4 list.

5 But I don't know that that means we can't change our
6 definition. I don't know that that's prohibitive. I think we
7 were just trying to be consistent with what issue on the list to
8 be a recorded site.

9 FREEDMAN: It seems almost redundant because
10 [inaudible].

11 SPEAKER: I don't know how you attorneys do this.
12 [laughs]

13 SPEAKER: 383.

14 SPEAKER: Back and forth between the laws.

15 SPEAKER: Yeah.

16 [crosstalk]

17 SPEAKER: Yeah it's difficult.

18 FREEDMAN: And a burial site by definition would
19 contain those things at the end of the provision.

20 BRADLEY: Yes. So this is Sarah Bradley, for the
21 record, and I'm looking at 383.021, and I believe the list that
22 the recording that SHPO makes is in number 2 there. It says,
23 "The office 'shall' compile, maintain and inventory cultural
24 resources in Nevada deemed significant by the administrator." Is
25 that where - cause I don't see a specific -

1 SPEAKER: I don't either.

2 BRADLEY: And so, I'm thinking that's where that list
3 comes from is it means culturally significant or I'm sorry,
4 deemed significant by the administrators so that's going to be
5 maintained, the inventory.

6 FREEDMAN: Which one are you reading now?

7 BRADLEY: I'm looking at 383.021, Subsection 2,
8 Subsection c. Does that sound right?

9 HITTORI: This is Gene Hittori, for the record. SHPO
10 was required to maintain that list of properties [inaudible] or
11 deemed eligible for listing on the National Register, but they
12 also keep a record of sites that aren't deemed eligible for the
13 National Register.

14 BRADLEY: Okay.

15 HITTORI: So, there's more than just the verbiage
16 that's in the 383 regs.

17 BRADLEY: Okay.

18 HITTORI: Additional.

19 BRADLEY: I hope they have a regulation that
20 specifies what that is. Sarah Bradley, for the record.

21 FREEDMAN: Myron Freedman for the record. Okay, well
22 going back to the beginning of this provision, I'm starting to
23 think that I agree with Michon on removing the 'prehistoric' in
24 the second line.

25 BRADLEY: Okay.

1 FREEDMAN: Where it would say, "Prehistoric Indian
2 burial site as defined in NRS 383.150 is a previously recorded
3 Native American burial site."

4 BRADLEY: Okay.

5 FREEDMAN: Because prehistoric isn't in there to
6 attach it to our regulation, but we're already citing 383.150.

7 BRADLEY: Yes, yes.

8 FREEDMAN: So if we take it out in that second line,
9 then I don't think we need to have any other language there
10 because 383.150 already states - does not use the word
11 'prehistoric'.

12 BRADLEY: This is Sarah Bradley, for the record. I
13 actually think that works.

14 FREEDMAN: Okay.

15 BRADLEY: I like that so we could say we would remove
16 'prehistoric' in the second line but keep it in the first line
17 because that's the turn in the statute. We'd remove it on the
18 second line and then we could put a period right after 021 and
19 get rid of the last part. Is that what you're thinking?

20 FREEDMAN: That is what I'm thinking.

21 EBON: Well I think what Scott - Michon Ebon - was
22 referring to. I could be wrong, is that right after 383.021
23 "and/or contains human remains", that "and contains human
24 remains", I believe that's coming from NAGPRA. That's coming
25 straight out of NAGPRA, that sentence. Does that sound right?

1 CAMP: Anna Camp, for the record. Yes, that is
2 correct.

3 EBON: Yeah, and I think that he's adding - I
4 think he meant he's adding 'or' because sometimes Native American
5 burial sites don't have everything in. So, he's saying maybe -
6 this is what I'm thinking, "and/or contains human remains,
7 funerary objects, associated or unassociated sacred tribe objects
8 or objects of cultural patrimony.

9 So, I think in his mind, which it's hard to get in Scott's
10 mind, is that they could be one of the burial, non-burial or item
11 in there, one item, one associated item, one object, cause if
12 this "and contain", it may look like it has to contain all of
13 those.

14 BRADLEY: This is Sarah Bradley, for the record. No,
15 I mean that's not how we construed. That's not the intent.

16 CAMP: Okay.

17 [crosstalk]

18 BRADLEY: The intent there is "and contains", and
19 it's a list, human remains, [inaudible], funerary, whether
20 associated or unassociated, sacred or objects of cultural
21 patrimony. So, it's any one of those items would satisfy that
22 list. But, this is Sarah Bradley for the record, again though it
23 would be - the first part would be - so both of - as currently
24 written, it would have to be on the list with SHPO and contain

25

1 one of those items, and I believe it had to contain one of those
2 items on the list in order to get on the list with SHPO.

3 So I think what Myron was trying to say earlier was it's
4 maybe a little bit repetitive, the language, cause -

5 EBON: Oh, you mean the beginning?

6 BRADLEY: You can't be a burial site recorded - it
7 can't be a burial site that's recorded if it doesn't have one of
8 these categories of items.

9 FREEDMAN: Well it has to have a body.

10 BRADLEY: Yeah, it has to have - I mean, or I guess
11 funerary objects, right, Sarah Bradley, so not just -

12 FREEDMAN: Doesn't it have to have a body?

13 EBON: Well there is [inaudible].

14 BRADLEY: We can get into -

15 EBON: Well yeah, I mean [inaudible] [laughs]

16 NEBESKY: Uh-oh.

17 EBON: [laughs] Of course we love your "and/or" so
18 maybe you can explain it. I was trying to explain for you. But
19 I might have been way off.

20 NEBESKY: That's Provision 4?

21 EBON: Uh-huh.

22 NEBESKY: Oh, okay.

23 [crosstalk]

24 NEBESKY: I appreciate you accommodating me. My
25 concern was as it's written in Provision 4, does the definition

1 of the prehistoric Native American - Native Indian burial site
2 need to have both -

3 BRADLEY: Yes.

4 NEBESKY: And why is that?

5 BRADLEY: And I do. Yes, Sarah Bradley, for the
6 record. That's what we were just discussing. So just to catch
7 you up -

8 NEBESKY: Okay.

9 BRADLEY: What we decided to do, I think, if you look
10 at number - if you look at that provision, we're going to strike
11 'prehistoric' on the second line, so we're going to keep it, I
12 think, and I think Michon is happy about that.

13 EBON: I don't know.

14 BRADLEY: Okay, she's not sure.

15 NEBESKY: You never know.

16 [crosstalk]

17 BRADLEY: So we've defined the statutory term, which
18 is prehistoric Native Indian burial site, and then what we're
19 going to do we think is strike the 'prehistoric' on that second
20 line because the definition in 383.150 is actually broader and
21 includes 'historic' and 'prehistoric'.

22 And then what we're talking about now is your 'and'. Also,
23 while you were gone, we decided to add a definition of 'know',
24 and that definition of 'know' comes from 196 where it says, "a
25 person who knows" and we're talking what is that.

1 NRS 451.533 defines 'know' as actual knowledge, and so I
2 would interpret that based on the definition we gave earlier if
3 somebody said I have this private land I want to put a
4 development on and they're at city council or whatever, and a
5 Native tribe says hey, wait, this is one of our - I would show
6 that as being actual knowledge; they've been informed. I mean at
7 least it can be imputed as actual knowledge.

8 NEBESKY: Okay.

9 BRADLEY: The question starts coming though when is
10 actual knowledge? When is hey, somebody called me up and said
11 something? Like so we could get a little more complicated I
12 think on knowledge could potentially and so but I do think at an
13 formal proceeding, for example, in front of the city council, a
14 tribal member, you know, sort of swears under oath or however
15 those proceedings are conducted says hey, this is one of our - I
16 think that could be imputed as actual knowledge to the landowner.

17 HITTORI: This is Gene Hittori, for the record. This
18 came up with the, you know, as far as the Sparks Colony south of
19 the Reno Sparks Indian colony, and it was claimed to be a Native
20 American - there are Native American burials where they want to
21 put the mine. And how do you - and this is with the BLM. It's a
22 Federal undertaking.

23 BRADLEY: Yeah.

24 HITTORI: And how do you -

25 BRADLEY: Yeah.

1 HITTORI: How do you judge that? And that was what
2 the BLM was faced with. And I don't know what happened. Perhaps
3 Michon knows what happened to that.

4 EBON: Michon Ebon. We beat [inaudible] and they
5 left. [laughs] So, [inaudible] level, but in regards to that, I
6 think because that was [inaudible] I kind of - I don't recall.
7 It was hard because the oil drive really wasn't working with us.

8 BLM permitted them and then it went to the next level in
9 Washoe County, so it was a whole - it was a - yeah, then, you
10 know, Washoe County said no, no permits. Then they tried, and
11 then Oil tried - took it to Federal Court because they tried to
12 use the 1872 mining law and so it was over with. So, we really
13 never had to really open that discussion up but of known burial
14 sites. And this is [inaudible].

15 BRADLEY: Yeah. This is Sarah Bradley, for the
16 record. And I guess I wanted to find out, and I also worry that
17 that opens up the actual knowledge is still hard to prove I
18 think, and so I know that we made it much clearer, you know,
19 because again, there's always, I don't know, [inaudible] or
20 whisper or something and I know your agenda there is times we
21 said like, for example, reporting certain things.

22 There's certain times we are required to report and it's
23 when you not only - you had to have a reasonable belief that it's
24 true. But I guess I would say like an informal proceeding and in
25 this proceeding it's allowed.

1 If someone came before the city council, you know, on
2 behalf of the tribe said something, I guess I would think that's
3 probably to me more persuasive than, you know, somebody calls you
4 up at home and leaves you a message that says hey, you know, this
5 is - I mean cause people could do that just to bother each other.
6 I don't know. [laughs]

7 [crosstalk]

8 BRADLEY: This is Sarah.

9 EBON: That's so funny.

10 BRADLEY: Unfortunately, I have seen people do really
11 weird things sometimes and they use the law sometimes like my
12 client agencies, they'll, you know, Sarah Bradley, for the
13 record, people will file complaints that are totally bogus cause
14 they don't want a competitor, you know, that kind of stuff. You
15 just don't know about it.

16 EBON: And they do.

17 BRADLEY: And so is that actual knowledge if I called
18 up and left a weird message on your machine, like probably not,
19 but if I - if, for example, Michon comes to a city council
20 proceeding and says hey, I represent the Lost City Colony and
21 this is my information to share, to me that probably is actual
22 knowledge.

23 EBON: And I've done that.

24 FREEDMAN: Myron Freedman, for the record. So, I
25 think if we include knowledge - knowledge includes information

1 coming directly from tribes, you know, not necessarily just from
2 the general public. Sorry. Go ahead.

3 EBON: No, that's okay. Michon Ebon. I think we're
4 getting there. I think that you could also take the prehistoric
5 out of the first sentence. "A Native American burial site, as
6 defined in is a previously recorded prehistoric Native American"
7 - and then put the other statute in. Is that what you were
8 talking about what you were just saying, but just, and I'm just
9 saying take prehistoric out of the beginning.

10 And then I think we're okay if we just figure it out cause
11 the LCB is going to turn it around, I mean what they're going to,
12 and then figure out when back down to the bottom to where Scott
13 came in about 'and/or'. That's where, Scott, we were talking
14 about and/or kind of helps out as in case you just want - in case
15 there's more - one of these things found, not all of them, and I
16 think that 'and' contains human remains. That sentence comes
17 straight out of NAGPRA.

18 But if you have 'or' in there then it's not just one or two
19 things. I mean it's just not one thing; it's - I mean it's just
20 not all those things having to be - it has to be one - is that
21 what you meant, or did that make sense? Sorry.

22 FREEDMAN: Myron Freedman, for the record. I think
23 'and' is the more inclusive word. I think if you put 'and/or' in
24 now you're introducing questions. So, I would just keep 'and'.
25 I think it includes everything.

1 And then going back to the 'prehistoric' word, I think what
2 we - what I think we determined or are in the process of
3 determining is that to keep 'prehistoric' in the first sentence
4 it lines up with the actual statute which we can't change. Take
5 it out of the second sentence, it opens up the definition of what
6 that means so now we're including the definition and 383.150.

7 BRADLEY: Sarah Bradley. Not that I agree with maybe
8 what Myron was saying. He was correct we believe. And again,
9 just to clarify that the way that the last phrase is read would
10 be construed, it's 'and' contains any one of the things on the
11 list because there's an 'or' at the end of that list. So, that
12 is how that would be construed.

13 EBON: But that - I don't know. Is that what you
14 mean, Scott? That's how I -

15 BRADLEY: So, it could be human remains or funerary
16 objects or associated or unassociated funerary objects or sacred
17 objects or objects of cultural patrimony. And then I do - my
18 understanding though is one of those items would have to be
19 included to get them on that list in the first part.

20 NEBESKY: Yeah. I guess, for the record, Scott
21 Nebesky. One is - the fact that it says 'and', then we have to
22 have both parts on both sides of the 'and', that's one. So, one
23 of the concerns with that 'and' is it has to be previously
24 recorded.

25 SPEAKER: Uh-huh.

1 NEBESKY: So, here's a scenario. It's not pre-
2 recorded, previously recorded, and we don't know if there's human
3 remains, but it's just thought of as being a burial site, so how
4 do you determine if it contains human remains, funerary objects,
5 if it's minimally amount? Does that mean you have to excavate it
6 in order to be a burial site? I hate to do this to you.

7 BRADLEY: No, no, I think - Sarah Bradley, for the
8 record. I think that - I think you're right. I think it gets -
9 again, when you talk about knowledge, part of this is going back
10 to the statute, you know, a known burial site. I think the way
11 it's written, the way I would interpret it, is it's either on the
12 list as a recorded site with SHPO, and then if we changed that to
13 'or', let's just say hypothetically we did, 'or' contains human
14 remains, funerary or any of those items, I think we have to know
15 that it has those items, so I think you're right.

16 And just hypothetically I think probably we have to somehow
17 know, you know, like actually see them or have really strong
18 evidence that those are inside the - and maybe that's something -
19 maybe really strong evidence will be enough, for example, sworn
20 testimony of people who know without uncovering maybe.

21 FREEDMAN: Myron Freedman, for the record. But again,
22 we're just - this is a definition.

23 BRADLEY: I know.
24
25

1 FREEDMAN: So, this isn't the process of examining
2 that noun. It's just the process of defining what the burial
3 site is.

4 NEBESKY: For the record, Scott Nebesky. No, I would
5 agree with you that this isn't about process, but certainly
6 understanding the definition triggers a process.

7 BRADLEY: Yes.

8 NEBESKY: And it's the start of do you go left or do
9 you go right or, you know, and so I can see - and I've been in
10 front of enough developers in my life that time is money and
11 delay and confusion and unanticipated things is of concern to
12 them. And they will in some circumstances will fight this to the
13 letter of the law.

14 And if this is inconclusive - I guess and also it puts the
15 burden not on the landowner; it puts the burden on the tribe to
16 prove otherwise. You see what I mean? We have to prove that
17 that mound contains human remains, you know, basically cultural
18 items in order for it to be protected. And in order for it to be
19 protected it has to be destroyed. It's kind of a -

20 BRADLEY: Yeah, I understand what you're saying.
21 Sarah Bradley, for the record. Yeah. I think a court could make
22 the finding, not that we want to necessarily have to always go to
23 court. But I mean the finding could be made I think by the
24 preponderance of the evidence without destroying it, but I don't
25 know.

1 FREEDMAN: Myron Freedman, for the record. It does
2 refer to 383.150 and sends it back to 281.001 for funerary
3 objects which probably [inaudible].

4 BRADLEY: Yes.

5 FREEDMAN: 1201, I'm sorry.

6 SPEAKER: [inaudible]

7 FREEDMAN: 02, 0201.

8 [crosstalk]

9 FREEDMAN: "Is an object that is found [inaudible]
10 ceremony of the Indian tribe [inaudible] dated to a prehistoric
11 [inaudible] human remains either at the time of death or later."
12 It does use the word 'prehistoric' there too.

13 NEBESKY: For the record, Scott Nebesky. Maybe we -
14 we kind of understand where our perspective is when we kind of
15 work on this. We're trying to [inaudible]. I mean these are
16 complicated issues and I don't think we're disagreeing. I think
17 it's just a matter of -

18 BRADLEY: Yeah.

19 NEBESKY: It's like putting all the parts together to
20 bring out how do we get to the place where we want to get to.
21 Maybe we should just agree to move on, but it's up to you, and
22 again, I'm suggesting that because I myself am going to have to
23 put all these papers out on the table and kind of string them all
24 together myself.

25

1 FREEDMAN: Myron Freedman, for the record. So, we
2 will look carefully at the definition of Provision 4,
3 specifically at the end what's contained in the - what defines a
4 burial site.

5 NEBESKY: Yeah.

6 FREEDMAN: Any other comment in Las Vegas?

7 TIMM: Mary Beth Timm. There's no comment at this
8 time. Thank you.

9 FREEDMAN: Moving on to Provision 5. Okay, it's been
10 an hour and a half. Should we take a 10-minute break for anybody
11 who needs a 10-minute break? We're taking a 10-minute break.

12 EBON: And the restrooms are way down there.

13 [crosstalk]

14 [off the record]

15 [on the record]

16 FREEDMAN: We - I think we had no comment on new
17 Provision 5. So, we're looking at new Provision 6. Okay.

18 EBON: Wait, hold off, hold off. [laughs]

19 FREEDMAN: Are we good?

20 SPEAKER: No.

21 FREEDMAN: Moving on with Provision 7. As you can see
22 there were no changes. Actually, moving ahead with Provision 7
23 through 11 there were no changes at all from the last one.

24 [crosstalk]

25

1 FREEDMAN: I'll give you a minute just to quickly
2 review but then we'll -

3 SPEAKER: 7 through 11?

4 FREEDMAN: Yeah, 7 through 11 there were no changes.

5 EBON: Just so you know I, sorry, going back to
6 rule 6. Scott also had that 'or' in with the 'and/or', it's the
7 same meaning.

8 [crosstalk]

9 BRADLEY: This is Sarah Bradley, for the record.
10 Which 'and'?

11 EBON: Sorry. It's in the same kind of paragraph,
12 Scott, as it was, we were just discussing in 5 - 4.

13 NEBESKY: Scott Nebesky, for the record. This is
14 under new Provision 6, the last sentence, it talks about cultural
15 items and cultural item says that it has to have - it has 'and'
16 putting other places where it's defined, it's 'or' cause it
17 doesn't have to have all those items; it has to have just one of
18 them. Is that correct?

19 BRADLEY: I think so. Sarah Bradley, for the record.
20 Gene are you okay to change that to 'or' at the end there so it's
21 'or' cultural patrimony.

22 HATTORI: Gene Hattori, for the record. Rachel.

23 SPEAKER: Say okay.

24 SPEAKER: This is NAGPRA.

25 [crosstalk]

1 SPEAKER: It's also at 4. Isn't that the same
2 paragraph as pertains to human remains? No, it's not. Sorry,
3 never mind.

4 SPEAKER: I think Scott is right.

5 BRADLEY: It might be a typo. I apologize. Sarah
6 Bradley, for the record.

7 SPEAKER: Yeah, I would have to see - I mean it could
8 be human remains, associated funerary.

9 SPEAKER: It's -

10 [crosstalk]

11 SPEAKER: Or objects of cultural patrimony. But I
12 don't know. I don't have NAGPRA in front of me.

13 SPEAKER: Oh sorry, everybody.

14 [crosstalk]

15 BRADLEY: Okay, so this is Sarah Bradley, for the
16 record. I'm looking at the NAGPRA. It says, 'cultural items' so
17 we might want to add an 's', so we need to have the 's', so
18 cultural items means human remains 'and' associated funerary
19 objects, unassociated funerary objects, sacred objects, and
20 objects of cultural patrimony, it says. But I'm thinking they
21 are using it slightly differently. I think they're saying you
22 have to have human remains and - I don't think you have to have
23 all of them, do you?

24 DELOVIO: No. Yeah, this is Rachel Delovio, for the
25 record. All those items fall under NAGPRA.

1 BRADLEY: Fall under it, yeah. Okay. So maybe just
2 to clarify it which is "human remains and associated funerary
3 objects unassociated, sacred" and then 'or' objects, right? It's
4 any one of those things.

5 DELOVIO: Or NAGPRO -

6 BRADLEY: And so, here's my question though and maybe
7 cause the way I'm reading it here it says "human remains and" but
8 it's human remains 'or' any one of those items, right?

9 DELOVIO: Yeah, if you're just looking at - I'm
10 sorry, this is Rachel Delovio, for the record. Yeah, I mean I
11 think you put "which is human remains, associated funerary
12 objects, unassociated, and sacred objects or objects of cultural
13 patrimony." So, any of those items would fall under NAGPRA.

14 BRADLEY: If it's - and this is Sarah Bradley. I
15 think part of the reason is they're using it in a slightly
16 different context meaning say any one of these items is this, and
17 we're saying it a little different, so I think we need an 'or'.
18 Does that work?

19 NEBESKY: I think so. Cause if that - for the
20 record, Scott Nebesky. That means that that definition is
21 inclusive and not exclusive.

22 BRADLEY: Yes.

23 SPEAKER: Yes.

24 NEBESKY: That will work then.

25

1 BRADLEY: Yeah, cause it could include and has to
2 have human remains, for example, it couldn't be a funerary
3 object.

4 NEBESKY: One or all.

5 BRADLEY: Yeah, one or all, exactly.

6 FREEDMAN: Any more comments on Provision 6? So as I
7 was saying, for Provisions 7 through 11 there are no changes from
8 the last draft. So if there's no objection I'd like to move on
9 to 12. Comments on new Provision 12?

10 NEBESKY: For the record, Scott Nebesky. I think the
11 only thing that we want to [inaudible] that was challenging for
12 us on objects of cultural patrimony was that the burden of
13 demonstrating cultural patrimony was on the tribe, not the other
14 way around.

15 And so, we had to go through a number of hoops to
16 demonstrate cultural patrimony which in some cases may or may not
17 necessarily be available because of the past history of tribes
18 getting, you know, assimilated, alienated, persecuted, things
19 like that, that they don't necessarily have that continuum of
20 what they say here as [inaudible].

21 It's not always as easy to demonstrate that it's ongoing
22 historical traditional or cultural importance because a lot of
23 the tribes have been separated from their lands, separated from
24 their culture through assimilation and through all those things

25

1 that's a challenge. And I know this is a U.S. quote. But it has
2 been difficult in some circumstances for us to show.

3 Now that also depends upon the person that's receiving that
4 information and making that judgment. I don't think it's - and
5 Gene, you may know more about this. But it's probably less clear
6 and it may be more to the person who is making the determination
7 than you have demonstrated to their liking.

8 It would be difficult for us and so I'm not sure where I'm
9 going with this other than I don't agree that the burden should
10 be on the tribe to be repatriated. I think it should be the
11 burden upon whoever has the object to demonstrate why they should
12 keep it.

13 BRADLEY: Okay.

14 NEBESKY: But that's - we're citing code here.

15 SMITH: Sarah Smith, for the record. I kind of
16 thought something similar and was almost thinking that maybe
17 rewording the paragraph so it didn't sound like there was an
18 issue of ownership rather than being protected and cared for by
19 the museum. Just words.

20 BRADLEY: I'm sorry, you said they didn't own it
21 because -

22 SMITH: Yeah.

23 BRADLEY: The ownership issue by the private
24 landowner, but you're saying cared for by the museum.

25

1 SMITH: Well I used the museum because typically
2 that's where things would be stored, but it does say right here
3 the Native American [inaudible] rather than property owned by an
4 individual Native American who therefore cannot be alienated or
5 appropriated or conveyed by an individual regardless of whether
6 or not the blah, blah, blah tribe. And [inaudible] essentially
7 the property of the museum, the state museum. But yeah, they'd
8 give it back.

9 FREEDMAN: Myron Freedman, for the record. Isn't this
10 provision basically protecting the object really on behalf of the
11 tribe?

12 SPEAKER: Right.

13 FREEDMAN: Because this prevents an individual from
14 representing, you know, the tribe.

15 SMITH: That's kind of what I was thinking, and I
16 was wondering if maybe there could be some verbiage in there that
17 specifies that it's being protected and cared for.

18 DELOVIO: This is Rachel Delovio, for the record.
19 So, culture - this is defining what cultural patrimony is, and
20 according to the Federal government, cultural patrimony was
21 something that's owned by a group. So a good example is like the
22 Hopi, a clan owning like a mask and it's that group's mask. So,
23 somebody turned and sold that group's - individual group's mask.

24

25

1 So that's what this is conveying, as owned by a group and
2 that one individual within that group does not have the right to
3 turn that over or to sell it. Does that make sense?

4 BRADLEY: Well and this is Sarah Bradley, for the
5 record. My understanding and I might be not understanding is
6 we're defining this so that when these items are - if these items
7 are uncovered, the idea is the tribe can get back the item of
8 cultural patrimony, so I guess my thinking, you know, in the
9 context of an item of cultural patrimony I don't think the museum
10 is going to keep it.

11 And I get the idea too we also don't want the private
12 landowner to keep it if it's an object of cultural patrimony,
13 right? It's repatriated back to the tribe, right?

14 SPEAKER: Right.

15 EBON: Well, this is Michon Ebon. Well we hope it
16 does.

17 BRADLEY: Okay.

18 EBON: But because of this NAGPRA statute, which
19 is verbatim here in this Provision 12, but also it refers to NRS
20 381.009, number 5, and it kind of just stated the same thing from
21 NAGPRA, that number 5 is kind of the NAGPRA.

22 So, I think where Scott was going was, we're hoping it's
23 going to get repatriated, but if it's a cultural, it's an object
24 of patrimony and it's a nice object I think there's going to be
25 some - cause we talked about this the last time. And it's a nice

1 object we're hoping the museum is going to repatriate that, but
2 we don't know. They like to keep the pretty things. Sorry.

3 It's hard to prove Native - like Scott was saying, it's
4 really hard to prove that because if you read the section
5 "appropriated, conveyed by individual regardless of whether or
6 not the individual is a member of an Indian tribe", that
7 'individual', that word right there, and I could be reading it
8 wrong, is it means that the whole - just what Rachel said, the
9 whole tribe has to - it has to be a cultural - an object of
10 patrimony from the whole tribe.

11 And so that's really hard to prove sometimes, and when
12 there's that word 'individual' in there it's just - I can't
13 explain it because we've tried to get things back and we have to
14 prove, and it's hard because the museum will fight you and say oh
15 no, an individual took it and sold it and an individual will buy
16 it. You have to prove that the whole tribe used it, not - and
17 then sometimes the whole tribe didn't use it; it was an
18 individual.

19 But that individual was conducting something on behalf of
20 the whole tribe. Does that make - it's just a lot, it's just
21 verbiage, it's a lot of Native American stuff, and that's where
22 Scott was saying the tribe's got to prove. Science and museums
23 don't have to prove why they get to keep these things. It's the
24 tribes. It's on the tribes. And sometimes it's very hard.

25

1 CAMP: This is Anna Camp, for the record. And I
2 completely hear what you're saying, Michon, and I think that as
3 far as, you know, giving the tribe the responsibility to have to
4 prove something versus not, I think that's where good
5 consultation and meaningful consultation can come in.

6 And I think that because the tribes are part of this
7 process from the beginning and there will be, you know, tribal
8 monitors if it is, you know, something that the particular tribe
9 is wanting to be involved in, there will be tribal monitors
10 there. It's hard to say that we can just trust in the fact that
11 we're going to do good consultation.

12 But I think if people are there from the beginning, having
13 knowledge of what they believe an object is to be there needs to
14 be conversation about those things. It needs to - maybe it might
15 not fit perfectly under the law here, and so I would say at that
16 point that it would be up to the liaison, myself or Myron or with
17 the advisory - with the folks I work with that can advise me to
18 then take it to NAGPRA for - they have a committee, and maybe it
19 could be part of the person that is in charge, the liaison to
20 then direct that question to NAGPRA and get more feedback about
21 it.

22 But I feel like we, in this particular situation because we
23 have to follow NAGPRA as a museum that is Federally funded, we
24 have to have a little trust in the consultation portion, that's
25 hard, and that's going to take time. But I think that it could

1 be up to the liaison to then if there is question then take that
2 to the next level to get it by.

3 EBON: So, Michon Ebon, and that sounds great and
4 good, but we don't write that. I'm here because this has to be
5 written for 30 years down the road, and I think I've said that
6 several times since we've been here cause people are like well
7 why don't - because I may not be here, and so this has to end
8 this job, and so this has to be written for the people that are
9 coming behind us. And so, by you just stating that and then
10 saying yeah, good job, that's not going to fly. So -

11 BRADLEY: This is Sarah Bradley, for the record. So,
12 I guess are you saying maybe if we add something that says part
13 of good consultation is to seek outside -

14 CAMP: To seek outside.

15 BRADLEY: Okay.

16 CAMP: Anna Camp, for the record.

17 [crosstalk]

18 FREEDMAN: Myron Freedman, for the record. So,
19 wouldn't this be satisfied if we just cited the statute again
20 about consultation in this provision?

21 BRADLEY: It may be. I guess I'm kind of looking how
22 do we write this, Sarah Bradley, for the record, so that it works
23 for 30 years, you know, how do -

24 DELOVIO: This is Rachel Delovio, for the record.
25 I'm a little confused. Is new Provision 12 just doing a

1 definition of objects of cultural patrimony so that would include
2 just all, you know, that's not regarding the consultation
3 process; this is just the definition, correct?

4 SPEAKER: Yeah.

5 BRADLEY: So Sarah Bradley, for the record. It is
6 just a definition, and this definition would apply two things
7 that we're doing in the regs. One would be abandoned property,
8 right, if there's abandoned property and repatriating that. It
9 would also apply to anything being found in an excavation.

10 And so that's why we're defining it so that we're clear and
11 we're trying to use the statutory definition, but we're also
12 trying to make sure we're relying on NAGPRA cause we have to.
13 So, we're going to try to balance all sides.

14 FREEDMAN: And if you look ahead, Myron Freedman, for
15 the record, if you look ahead to 13 it says, "After satisfying
16 requirements for 381.009" which I'm sure was the definition of -

17 BRADLEY: That's about [inaudible].

18 FREEDMAN: Okay. What's the commission - what's the
19 statute for the consultation?

20 BRADLEY: Consultation, this is Sarah Bradley, for
21 the record, is 381.0066.

22 NEBESKY: For the record, Scott Nebesky. On this I'm
23 not necessarily - I don't disagree with the definition of an
24 object having ongoing historical, traditional cultural importance
25 central to a Native American group, and as opposed to it being

1 important to an individual. I'm not disagreeing with the
2 definition. I'm disagreeing with the burden on who - what has to
3 be proved.

4 And so, the tribe would have to prove that it's historical
5 as far as ongoing, not the rule's not saying that it is
6 historical or, you know, of cultural significance. It's just -
7 it's a difficult burden for the tribes given the historical, the
8 history of Native Americans and being able to prove that it's
9 ongoing because it is a Federal process, Federal initiative, that
10 tried to destroy tribes.

11 HATTORI: This is Gene Hattori, for the record.
12 You've got to realize the context of this is that this provision,
13 cultural patrimony, gives the Native American tribes voice.
14 Before this time it would be up to the museum to say oh, let's
15 give this back to the Native Americans because it's sacred or
16 religious.

17 This provides the tribes to make a case for objects that
18 they want repatriated. So you may see it as a great burden, but
19 the alternative is to have us make that decision, and that's how
20 it was done in the past.

21 SPEAKER: Right.

22 HATTORI: So that's, you know, this is NAGPRA. This
23 is what we'll be following.

24 SPEAKER: Right.

25 HATTORI: Versus hey, that's pretty, let's keep it.

1 SPEAKER: Right.

2 [laughter]

3 SPEAKER: So, you guys have a big [inaudible] or
4 else.

5 HATTORI: Gene Hattori, for the record.

6 SPEAKER: Sorry.

7 HATTORI: Yeah.

8 CAMP: This is Anna Camp, for the record. That's
9 what I was - I agree, Sarah, could perhaps something be added
10 about consultation because if there was question about something
11 falling into that category, then the next step would be to take
12 it, for the liaison to take it, to Federal NAGPRA to their
13 committee.

14 And that happens, you know, that step, it doesn't, you
15 know, ensure that everything is going to go perfectly, but it
16 adds another step to that, taking, you know, so the tribe can
17 inform the liaison, we believe this is an object of cultural
18 patrimony. That liaison then has the responsibility to take - to
19 research it a step further and then to take it up with Federal
20 NAGPRA. I don't know if that would work.

21 BRADLEY: Sarah Bradley, for the record. So, I guess
22 I was sort of hearing out of all this was something that would
23 say something like part of the consultation pursuant to NRS
24 381.0066 would be to have discussions regarding objects of
25 cultural patrimony with the tribe.

1 I mean is that - so that I'm just thinking cause you could
2 have a discussion prior like hey, for example, if there's an
3 excavation, we think there could be these objects, so let's talk
4 about that ahead of time. And then would give abandoned
5 property, hey, we think something was abandoned that is one of
6 the, you know, so what do you guys think? I mean is that -

7 CAMP: Anna Camp, for the record. So, I do
8 understand what Scott's saying that there has been conflict prior
9 for tribes having to go through what they believe is an object of
10 cultural patrimony. We can't change Federal NAGPRA, obviously.
11 But they do have committees within Federal NAGPRA to determine
12 these things.

13 So that's why I'm saying if we could add something with
14 proper consultation or management of this disagreement will be
15 taken on by the liaison who will then take it on to Federal
16 NAGPRA as opposed to tribes having to -

17 SPEAKER: Yeah.

18 CAMP: I mean eventually tribes might have to, you
19 know, hopefully it won't get there.

20 SPEAKER: Yeah.

21 NEBESKY: This is Scott Nebesky, for the record.
22 That, you know, that may be the path to take, but perhaps we
23 could incorporate those steps that happen at the Federal level
24 and not - and incorporate those into a state and local level to
25 follow similar steps of NAGPRA so that we follow the steps but

1 don't necessarily have to engage the Feds because in all
2 circumstances would NAGPRA - would the Feds get involved with
3 objects of cultural patrimony?

4 HATTORI: This is Gene Hattori, no. And you have to
5 remember too, the frustration of the tribes. NAGPRA committee
6 advised us they don't make the determination that is followed,
7 necessarily followed by the Federal agencies. We will follow
8 NAGPRA when we carry out any repatriations.

9 NEBESKY: Scott Nebesky, for the record. But if
10 we're talking about in terms of making an appeal or having to go
11 through the steps where you're going to - there's disagreement
12 and it goes up to this committee or go through a process, but is
13 that something - that's to a Federal committee. Is there an
14 opportunity to refer it to something more local? Not Federal?

15 HATTORI: Gene Hattori, for the record. The - I
16 think the - I believe the Museum Director makes the call, and
17 then it can be appealed to the Division Administrator and then to
18 the Governor. That's the normal chain of command for decisions
19 made by state agencies. There is a chain of command that is at
20 the local level.

21 NEBESKY: Okay.

22 BRADLEY: And this is Sarah Bradley. Wait, I just
23 want to make sure I'm clear. So, you're saying if there was a
24 disagreement regarding a decision made regarding whether
25 something is cultural patrimony it could be appealed to the

1 Administrator and then the Governor? We can add that in. I
2 don't know if that's specific in here. Normally, they put that
3 in.

4 What we've written here is that the permit denial or
5 granting could be appealed. We haven't really addressed like a
6 decision about cultural patrimony.

7 HATTORI: And this is Gene Hattori, for the record.
8 And that's pretty much how it is for the Feds.

9 BRADLEY: Okay. I mean is that what they - I mean I
10 think it would be good. If you guys want to I think we could
11 write that in and if that's -

12 NEBESKY: Who knows?

13 BRADLEY: I mean you would like that?

14 NEBESKY: I'll think about it.

15 BRADLEY: Okay.

16 NEBESKY: [inaudible] so I don't know, but I think
17 that's a fair - it seems like it's a fair way. The only - for
18 the record, Scott Nebesky. The only thing that I'm uncertain
19 about is as it goes through the appeal is - I don't have a clear
20 understanding exactly. What findings at each level of appeal
21 have to make? Do they have any values and so I mean not all
22 value, but do they understand culture and -

23 HATTORI: Gene Hattori, for the record. And we don't
24 necessarily agree with this, but the way that it works is it
25 becomes at a certain level political.

1 NEBESKY: Uh-huh.

2 HATTORI: And hopefully when they make their
3 decisions, and this isn't necessarily always the case but when
4 it's Federal they sometimes ask for advice from the cultural
5 resource specialists and sometimes they don't. It's similar to
6 with the SHPO.

7 NEBESKY: Okay.

8 HATTORI: It's the way the world works.

9 NEBESKY: Yeah.

10 DELOVIO: And this is Rachel Delovio, for the record.
11 This does not pertain to any Federal collections.

12 SPEAKER: That's right.

13 DELOVIO: This is just state owned. If you wanted to
14 take up any NAGPRA issues of any Federal collections, you would
15 have to contact that Federal agency.

16 NEBESKY: Right. Scott Nebesky, for the record. I'm
17 thinking that what we were talking about is the definition and
18 the determination of whether it was local patrimony or not; not
19 necessarily the process of acquiring it is it an object of
20 cultural patrimony.

21 So that's the appeal or the process that I was thinking of,
22 and then once it's determined to be an object of cultural
23 patrimony, then there's other steps of where it goes, whether
24 it's repatriation or whether it links to, you know, the permit
25 and whatnot.

1 But I'd be interested in seeing, yeah, going through that
2 language and these - I think it would just with what we've gone
3 through in the past, I think it would be good to kind of spell
4 that out and be willing to explore that.

5 CAMP: So, Anna Camp, for the record. So, Scott,
6 what you are saying is if there is a disagreement about what is
7 the determination of an object of cultural patrimony, the museum
8 will go through these steps to resolve that, that issue or that
9 disagreement.

10 NEBESKY: Right.

11 CAMP: So it would go, to you know, to myself, to
12 Myron, then on up the chain of command.

13 NEBESKY: Yeah, whatever that is.

14 CAMP: Okay.

15 HATTORI: Gene Hattori, for the record. Sarah, is
16 this something that is covered by dispute resolution regardless
17 of, you know, cultural patrimony or cultural, you know, any of
18 the different cultural items [inaudible]?

19 BRADLEY: I don't think - I mean -

20 HATTORI: Do we have to specify the cultural
21 patrimony when there's an, you know, argument or disagreement or
22 like if there's an objection and so on and so forth?

23 BRADLEY: Sarah Bradley, for the record. Well I
24 think what I'm hearing you say, Gene, is are we going to limit it

25

1 just to determinations of cultural patrimony when there are other
2 disagreements?

3 HATTORI: That is correct.

4 BRADLEY: And I think it might be something we
5 consider is there could be other determinations that are made
6 that should be appealed perhaps, and I guess I'm saying we have
7 to specify in the regulations the process for that, and I don't
8 think it exists currently at least at the state level.

9 So if we want to say, you know, it's appealed to the Museum
10 Director, for example, you know, I'm picturing and I'm sort of
11 saying this I'm picturing the process being that your staff makes
12 the determination, then they appeal to the Museum Director, then
13 they appeal to the Administrators and appeal to the Governor,
14 then what?

15 HATTORI: Gene Hattori, for the record. Similarly
16 known or you know, other definitions that there may be
17 affiliated.

18 BRADLEY: Yeah.

19 HATTORI: Would be another area where we would
20 potentially have a need for some sort of dispute resolution
21 depending on what the Museum Director has determined.

22 BRADLEY: This is Sarah Bradley, for the record.
23 Yeah, we currently don't have that, and maybe we need to. We've
24 added in an appeal process for permits granted or denied, and
25 we've also added in a newer provision where we talk about, I

1 guess someone's doing something really bad; how do we get the
2 permit back? We were trying to figure that out.

3 But we don't have - if a determination is made during the
4 process that I guess I would say tribal leadership, but we don't
5 want the same person necessarily. I don't know how we would
6 figure that out, but essentially if the decision is made by the
7 Museum Director, what's the process to challenge that? And maybe
8 we should add that. I mean is that what I'm hearing?

9 HATTORI: Gene Hattori, for the record. Perhaps a
10 tribal member?

11 BRADLEY: That's what I was thinking. Would you guys
12 feel comfortable with that if we say if the tribal government
13 disagrees with a determination made by the Museum Director you
14 can actually have it be throughout the whole process meaning
15 whether it was, you know, cultural patrimony determination, and
16 it could really be a lot of things.

17 Cause there's a lot of, you know, calls that are made. Now
18 if the whole issue was known and not known I'm not sure how many
19 calls we're going to make on that if we did try to add something
20 in here that talks about - if we think someone is essentially
21 lying, I mean they shouldn't have a permit or something like that
22 we've got to let law enforcement know because we're not really
23 going to go on private land and stuff like that.

24 We're not peace officers at the museum but we did put that
25 in there that we can, you know, call a person and hopefully they

1 do something about it cause we don't really have another was for
2 that. I guess to repeat what you're saying it would be a general
3 provision applied to the whole process.

4 So in theory that would also be an affiliated tribe
5 determination. If there's an affiliated tribe determination, for
6 example, a disagreement, then that would be appealed as well as
7 cultural patrimony determinations, [inaudible] determinations,
8 things of that nature.

9 SPEAKER: Those are major things.

10 BRADLEY: Okay. Now - this is Sarah Bradley, for the
11 record. We added [inaudible] we added going to the [inaudible]
12 get the permit back. I think what I'm hearing is this would be
13 an appeal through the government, not going through [inaudible].

14 FREEDMAN: Myron Freedman, for the record. Maybe
15 that's a provision we add at the end.

16 BRADLEY: Yeah.

17 FREEDMAN: That if there's a dispute along the way, it
18 would go through this appeal process.

19 SPEAKER: [inaudible]

20 SPEAKER: I'm sorry, say that again.

21 FREEDMAN: Myron Freedman, for the record. Well just
22 following up on the concern here that if there's a dispute about
23 a decision that's made through the process at any step that we
24 write in a provision that says there could be an appeal process

25

1 that involves going through, you know, Museum Director,
2 Administrator, the Governor.

3 BRADLEY: Okay. Let's talk about it being more
4 [inaudible] there should be a time frame for filing the appeal,
5 right, just cause we can't have a permit issued [inaudible], you
6 know, I mean anyway, I think a specified time frame and then also
7 then what happens once an appeal is filed. I'm thinking we stop
8 and wait for that decision and then we go continue.

9 NEBESKY: This is Scott Nebesky, for the record.
10 Myron, you were saying that's inclusive of any of these
11 regulations that require approval or steps or not.

12 FREEDMAN: Myron Freedman, for the record. Well I
13 don't know about that. I'd like a chance to look at all this
14 first. But I'm just addressing this concern right now that could
15 identify those areas. I mean the statute clearly spells out what
16 the authority is for determining these things. It's a question
17 of whether or not the tribes are going to agree with those
18 decisions.

19 SPEAKER: Hi.

20 FREEDMAN: Welcome.

21 SPEAKER: Hi.

22 FREEDMAN: Okay, so that was - I think we were on 6.

23 [crosstalk]

24 FREEDMAN: Yeah 12. Thank you.

25

1 TIMM: Mary Beth Timm, for the record. We have a
2 comment on new Provision 12, and perhaps it's more of a
3 clarification that we would like, and it says, the first
4 sentence, "Because the state museum is required to follow
5 NAGPRA", and we were wondering why all state museums are not
6 included in that sentence at this juncture. Is it because it's
7 part of the permitting process or is there somewhere else where
8 all state museums are included?

9 And we also noticed that the language is in Provision 6.
10 So, if we made a change here at 12 perhaps we can make that
11 change in 6 as well.

12 BARTON: For the record, Peter Barton. That's - the
13 way NRS 381 is written now, and it would require an amendment to
14 381, it specifically indicates the Nevada State Museum, so I
15 don't know that we can expand it in the regulation without making
16 a corresponding change to the statute, and that's something that
17 if in two years there's an amendment to the bill we'll do some
18 cleanup language in 381.

19 TIMM: Mary Beth Timm, thank you.

20 FREEDMAN: Okay, that was in Provision 12. I advocate
21 we move on to Provision 13.

22 [crosstalk]

23 SPEAKER: Number 1?
24
25

1 FREEDMAN: In general, right, take a look if there's
2 anything in particular. We're not averse to bouncing back and
3 forth.

4 SPEAKER: What's Betty looking up?

5 SPEAKER: What's that?

6 SPEAKER: Oh, what does Betty need or -

7 SPEAKER: No, I said number 1.

8 FREEDMAN: Oh, for Provision 13?

9 SPEAKER: Yeah.

10 FREEDMAN: Sorry, I thought we went back to number 1.

11 [laughter]

12 [crosstalk]

13 TIMM: Mary Beth Timm, for the record. There's
14 five of us down here and four voted that I would be the
15 spokesperson so I'm it.

16 [laughter]

17 TIMM: Number 4 on Provision 13, we would like a
18 clarification between the difference in possession and custody.
19 So, it's "For the purposes of this section title means the union
20 of three elements, ownership, possession and custody and
21 constitutes the legal right to control and dispose of the
22 property." So, what is the difference between possession and
23 custody in this section, please?

24 BRADLEY: This is Sarah Bradley, for the record. So,
25 that's a legal definition that I found, and possession means you

1 actually have it in your hands and custody means you have the
2 obligation to essentially maintain and care for it.

3 So sometimes, and it may not be as true in your context,
4 but there are times that you can have something and so it's in
5 your hands, but it's not really your job to care for it. That's
6 probably more true of like a record context.

7 SPEAKER: I have a question on number 1 where it
8 says, "The Administrator shall determine whether the abandoned
9 property is Native Indian human remains or another cultural
10 item." My question is as the administrator, does he or she have
11 the education or authority to make that discrimination under the
12 definition of the administrator?

13 Oh, it's NRS 381.005. It says the administrator can have a
14 degree in history, science and public administration. I would
15 feel comfortable if this person had a master's degree in
16 Archeology with emphasis on human archeology.

17 FREEDMAN: Okay. Put a hold on that just for a
18 second. I want to go back to Mary Beth's comment to see if she
19 had any other follow-up, cause we voted too, Mary Beth, and you
20 are still elected.

21 [laughter]

22 FREEDMAN: Did that satisfy your question?

23 TIMM: Unfortunately, no. There is still some
24 question because as the objects in the museum repository we have
25 obligation to care and is also in our hands. So in terms of the

1 museum curation, it seems that possession and custody are the
2 same thing for us, so we're concerned that perhaps it means
3 control and possession as opposed to possession and custody if
4 that makes sense.

5 BRADLEY: This is Sarah Bradley, for the record. So,
6 if you have possession and custody, so possession means it's in
7 your hands. Custody means that you have the obligation to care
8 for it. You may not have ownership over it, and so you wouldn't
9 have title.

10 HATTORI: This is Gene Hattori, for the record. I'm
11 asking Rachel as our Collections Manager. We have objects that
12 are Federal property, BLM artifacts, that we have lent to other
13 museums, but we are the repository for those artifacts. Would
14 that be custody, that we have custody, and the other museum at
15 the time has possession?

16 BRADLEY: Yep, yep. So yeah, sometimes it's actually
17 just having it in your hands. Custody means you're responsible
18 for making sure it's not damaged, so if you loan it to them you
19 probably say to them part of the reason we're loaning it is you
20 better keep this, but ultimately it's your responsibility as the
21 owner to maintain custody, which is care, and then ownership is -
22 obviously it's your item.

23 And so that's why I'm saying the union of the three
24 elements, you have to have all three, it's maybe common to have
25 one or two, but you don't actually have title to the item,

1 meaning you have full legal right to the item until you have the
2 union of all three. So, ownership, possession and custody.

3 TIMM: Mary Beth Timm. Thank you very much.

4 FREEDMAN: Thank you. Okay, I'm -

5 SPEAKER: I have a question on that. Is there
6 anything in state law that says that the property owner on their
7 own property does not own a human remains?

8 BRADLEY: I believe so. Let me pull up the chapter.

9 SPEAKER: I was wondering if that should be clarified
10 like in the language of this particular document.

11 FREEDMAN: That's my favorite chapter in [inaudible].

12 [laughter]

13 FREEDMAN: The NRS 451.

14 [laughter]

15 BRADLEY: Let's see, hold on a second.

16 [crosstalk whispering]

17 SPEAKER: So, it could be item found or materials,
18 cultural items, found in and around the property owner's home or
19 their land.

20 SPEAKER: [inaudible]

21 BRADLEY: Yeah, well that's good. Let me -

22 [crosstalk whispering]

23 BRADLEY: So NRS 151.030, this is Sarah Bradley, for
24 the record, says, "A person who removes the dead body of a human
25 being or any part thereof from the grave [inaudible] or other

1 place where it is buried or deposited awaiting burial without
2 authority of law" which authority of law would they have the
3 ability, like for example, a family member has the ability to
4 decide where somebody is buried.

5 So "without authority of law", and then it says, "with the
6 intent to sell it or for purposes of securing a reward for
7 dissection or malice or wantonness is guilty of a Category D
8 felony. A person who purchases or receives any such dead body or
9 part thereof, knowing it's been contrarily removed is also guilty
10 of a Category D."

11 And then, "a person who opens a grave or other place of
12 internment, temporary or otherwise, where such a dead body is
13 deposited while awaiting burial information." So, that's before
14 it's buried. That's also bad.

15 And then there is something, 383 - let me pull that, cause
16 I think 383 also talks about like if you find something, they
17 have an obligation to call. So let's look at that cause I think
18 that answers the question to -

19 SPEAKER: SHPO, the office?

20 BRADLEY: Yeah, so it says here looking at 383.170,
21 this says, "A person who disturbs the cairn, is it cairn?"

22 SPEAKER: Yes, it is.

23 [crosstalk]

24 BRADLEY: Or grave of the Native Indian or
25 inadvertent. So, this is like accidentally.

1 SPEAKER: Okay.

2 BRADLEY: They're not intending, cause the other
3 statute that's reading it's sort of more like you're intending to
4 -

5 SPEAKER: A person who removes or a cairn -

6 BRADLEY: Yeah, "to disturb the cairn or grave of a
7 Native Indian through inadvertence [inaudible] activity on the
8 property" - I just summarized that - "or who discovers the cairn
9 or grave of a native Indian that has not been repeatedly - I'm
10 sorry, previously reported to the office, the SHPO office, they
11 have to immediately report the discovery, the location of the
12 burial site to the SHPO office, and then the SHPO office
13 immediately notifies the tribe.

14 SPEAKER: Okay.

15 BRADLEY: And they do a consultation to let them know
16 that this has been found. So, that's when it's inadvertent. And
17 then, here it says, you know, the Native tribe can inspect the
18 site. The Indian tribe can recommend appropriate means for
19 treatment and disposition of all artifacts and human remains.

20 So, the law here is saying report it, and the tribe decides
21 or helps decide what happens. And it says it can be preserved in
22 place, re-interred at another location, returned -

23 SPEAKER: But it doesn't say ownership in this
24 sentence. Property ownership.

25

1 BRADLEY: No, I don't think - I have to double-check,
2 but my belief is that the law says you don't get to own human
3 remains.

4 SPEAKER: Okay.

5 BRADLEY: You know, as a private landowner.

6 [inaudible whispering]

7 SPEAKER: And that would be Nevada law?

8 BRADLEY: Nevada law, yeah. And I'm sorry, looking
9 at 383 - this is Sarah Bradley, for the record. I'm not an
10 expert in NRS 383, is the other agency's chapter that -

11 SPEAKER: Okay.

12 BRADLEY: I kind of remember reading that [inaudible]
13 you can't own it. I'd have to find that. I don't see it in that
14 in here.

15 [inaudible whispering]

16 SPEAKER: Okay.

17 HATTORI: This is Gene Hattori, for the record.
18 Betty, this is news to me this paty NRS 451 [inaudible] the
19 equivalent of what Jack Harrelson [phonetic] was prosecuted for.

20 SPEAKER: Yes, exactly. Oh yeah.

21 HATTORI: I didn't know we had the same thing, so it
22 will fall into remains from Federal -

23 SPEAKER: Yeah, exactly, oh yeah.

24 BRADLEY: So, and here's I think a better answer to
25 your question too.

1 SPEAKER: Okay.

2 BRADLEY: So, 383.180, this is Sarah Bradley, again
3 for the record. This says a lot of things in here, but basically
4 "somebody who willfully removes, mutilates, defaces or injures or
5 destroys the cairn or a grave of a Native Indian is guilty of a
6 gross misdemeanor." And it says the exception is provided in 170
7 but I think that means if they accidentally find it while they're
8 doing something lawful. So, if they purposefully try to destroy
9 it, a Native grave, this is a crime.

10 SPEAKER: Okay.

11 BRADLEY: As well as a person who fails to notify an
12 office, a SHPO office, of a discovery location, so again, they
13 find it by mistake and they don't notify, that's also a crime;
14 it's a gross misdemeanor.

15 And then here, "Any person who," and this is where it's
16 illegal to possess it if you're not - "Any person," this is
17 number 383.180. "Any person who possesses any artifact or human
18 remains taken from the cairn or a grave of a Native Indian on or
19 after October 1, 1989, in a manner other than authorized by
20 383.17".

21 So that's again, they're doing something they didn't know,
22 they find it, they report it, right? They had it in their
23 possession once they find it.

24 SPEAKER: Right.

25

1 BRADLEY: But after that - so that's a crime as well
2 as publicly displaying or exhibiting human remains of a Native
3 Indian except during the funeral ceremony or C, selling an
4 artifact of human remains taken from the cairn, grave of a Native
5 Indian, that's all - those are all categories D felonies so
6 that's actually higher than the other one. The other one like if
7 you mutilate stuff, that's a gross misdemeanor.

8 So, yeah, so again, you can have possession when you
9 discover it while you're waiting for the report and disposition.
10 They don't get to keep it is the way I read it. And I'm seeing
11 all my archeologists nodding their heads, so I'm glad.

12 [laughter]

13 BRADLEY: And like I don't know how I'd feel. This
14 is a [inaudible].

15 SPEAKER: Yeah.

16 BRADLEY: So -

17 EBON: And this is Michon Ebon. And Betty, that's
18 been a good - we - when we amended this, that was important for
19 the findings cause they were real, an expense. What was it like
20 \$500? It was a really high -

21 BRADLEY: Yes, so I'm looking at - this is Sarah
22 Bradley. Right now I'm looking at it, so for the first offense
23 for willfully remove, mutilating, destroying a grave, that's a
24 fine of not more than \$3,000, so I guess in theory it could be
25 between \$1,000 and \$3,000.

1 SPEAKER: Yeah.

2 BRADLEY: And then a second or subsequent is they
3 could go to jail. 364 days. And then if they fail to notify the
4 SHPO office of the discovery, that is a gross misdemeanor, and
5 that is a fine of \$500 for the first and then the fine of \$1,500
6 for a second or subsequent, and again not more than 364 days in
7 jail. So, yeah, it's going to be you get a little warning on the
8 first time, but after that, it's more serious for the punishment.

9 SPEAKER: Okay.

10 BRADLEY: And then your question about the
11 Administrator is still on the table.

12 SPEAKER: Right.

13 BRADLEY: Okay. So this is Sarah Bradley, for the
14 record. I guess the response I'd give, the reason we each said
15 Administrator or his or her designee was in the provision we're
16 looking at, number 13, we are specifically talking about
17 abandoned property. And then it says - yes, this NRS provision
18 gives the Administrator certain duties in taking care of that
19 abandoned property.

20 So it says the Administrator has to comply with provisions,
21 has to cause it to be published, and then the report says if the
22 property is deemed to be abandoned as native human remains or
23 other cultural items the Administrator shall - so that's why we
24 put the Administrator in there because the Administrator is the

25

1 one that's doing that. We could let someone else make the
2 decision as far as whether [inaudible].

3 BARTON: Yeah, for the record, Peter Barton. I mean
4 that's a very good question that you raised. I mean we do a
5 delegation of authority routinely where I delegate my authority
6 through to Gene Hattori because I don't have that qualification
7 to make that determination. We do that routinely. I don't know
8 if we can incorporate that, you know, where there's designation
9 through a delegation of authority. Somehow to add that one.

10 SPEAKER: I don't feel comfortable putting that
11 language in there. It sounds like [inaudible] only because we
12 may get someone in who is not qualified, you know.

13 SPEAKER: Yes.

14 SPEAKER: You're right about that.

15 BRADLEY: I don't - yeah, I mean I don't have a
16 problem with that if we would - so we would say here the
17 Administrator has to publish and all those other things, but the
18 determination - I'm looking at 13, number 1 -

19 SPEAKER: But it says his or her designee. Is that
20 not enough?

21 BRADLEY: Well but -

22 SPEAKER: You could strengthen it.

23 BRADLEY: - it needs an optional.

24 SPEAKER: Yeah.

25

1 BRADLEY: So, in other words the Administrator gets
2 to decide who designates. We know currently what we're doing,
3 but she's right, in the future we may not have great people in
4 place. So we could say - we could add a qualification like the
5 Administrator or his or her designee who must be - what would you
6 say?

7 SPEAKER: Archeologist.

8 SPEAKER: An archeologist [inaudible].

9 CAMP: This is Anna Camp, for the record. I know
10 that one of the things that we do like if somebody, you know, at
11 the Sheriff's Department comes here or something like that, we
12 usually reach out to other folks to make sure we kind of have a
13 team decision. So I wonder could it be something, Sarah, where,
14 you know, you - the Administrator has to consult with somebody
15 with the proper qualifications?

16 BRADLEY: I think so.

17 CAMP: Because even we do that as a team if we
18 have questions. We call in other experts.

19 BRADLEY: Yes.

20 CAMP: To help us make decisions.

21 BRADLEY: Yes, this is Sarah Bradley, yes. I think
22 we can do that. I'm wondering - so archeologist - now the only
23 question I'm having is is that really a title or do we want to
24 say has an advanced degree in archeology? How do we test for
25 archeology?

1 SPEAKER: I only said that because NRS 381.005
2 indicated the qualifications of the Administrator.

3 BRADLEY: Yeah.

4 SPEAKER: So, you could list the qualifications of a
5 delegate.

6 [crosstalk]

7 ALECK: And this is Betty Aleck, for the record.
8 And I'm not sure.

9 [background inaudible crosstalk]

10 CAMP: This is Anna Camp, for the record. And
11 that's why I was saying that perhaps it could be the
12 Administrator needs to somehow reach out to folks with the proper
13 qualifications cause you might not have necessarily a curator
14 with an advanced degree in archeology down the road. I mean I
15 don't know that we can make that happen, and just because you
16 have an advanced degree in archeology doesn't mean that you
17 specialize in osteology or, you know, have an understanding of
18 human remains.

19 [crosstalk]

20 BRADLEY: I mean I guess obviously whatever, Sarah
21 Bradley, for the record, whatever you guys want to see I think we
22 can add. And I was only trying to make it something that we
23 could -

24 CAMP: Yes.

25

1 BRADLEY: - black and white know, yes or not, they
2 met the qualifications. So, an archeologist with an emphasis in
3 osteology.

4 SPEAKER: Right, or that the - whoever is making the
5 determination has to seek guidance from somebody with particular,
6 those particular qualifications.

7 SMITH: Sarah Smith, for the record. Wouldn't the
8 qualifications and for it, wouldn't that be with some
9 [inaudible]?

10 SPEAKER: For the permit?

11 SPEAKER: [inaudible]

12 SPEAKER: [inaudible]

13 BRADLEY: This is Sarah Bradley, for the record.
14 This is abandoned property -

15 SPEAKER: Right, in determining human remains.

16 BRADLEY: So, they would have to know osteology.

17 SPEAKER: Yes.

18 HATTORI: Gene Hattori, for the record. How about
19 the Administrator in consultation with the appropriate
20 specialists, you know, whether it's archeology or osteology
21 depending on if you're looking at funerary objects or human
22 remains.

23 [inaudible background crosstalk]

24 SPEAKER: [inaudible]

25 SPEAKER: Oh yeah, I would say [inaudible].

1 TIMM: Mary Beth Timm, for the record. There is a
2 comment from down south that the Secretary of the Interior has
3 standards and guidelines that refer to specific professional
4 qualifications standards as far as 36 CFR Part 61 for archeology
5 investigations. I don't see on this page specifically for
6 bioarcheology, but it does have a definition in there for
7 archeology.

8 And perhaps we could refer back to the Secretary of the
9 Interior's guidelines for a definition of who has qualifications
10 because it is true that you will need a bachelor's degree to
11 become a curator within the system which as you were discussing
12 may not be enough education-wise for a qualification to lead an
13 archeological recovery of human remains.

14 CAMP: This is Anna Camp, for the record. I
15 believe in this particular portion we're discussing abandoned
16 property, correct, not the actual permit.

17 BRADLEY: No. Yes, Sarah Bradley, for the record,
18 yes, it is correct, and at this point we're talking about if
19 abandoned property is human remains or another cultural item of
20 an Indian tribe and someone has to make that decision
21 [inaudible].

22 CAMP: Correct.

23 BRADLEY: When we're looking at the abandoned
24 property and we're talking about who can make that decision.

1 TIMM: Correct and Mary Beth Timm. And if you are
2 allowing the Administrator to make a designee and who has the
3 qualifications to become that designee, we were suggesting using
4 the Secretary of Interior's guidelines for that designation.

5 BRADLEY: Yeah, I mean I'm not opposed to that
6 myself. This is Sarah Bradley. What do you all think? Gene?

7 HATTORI: I think we can find the verbiage.

8 BRADLEY: Okay.

9 HATTORI: And come up with appropriate qualifications
10 because abandoned property is oftentimes not an archeological in
11 terms of graphic materials.

12 BRADLEY: Okay. And Betty, Sarah Bradley, for the
13 record. Would that work for you if we had something that
14 basically talks about the kind of qualifications needed?

15 ALECK: Right. Yes.

16 BRADLEY: Yeah. Okay. Then is anyone else that has
17 concerns on that provision or -

18 EBON: Well I think - Michon Ebon. Let's see. I
19 think I'm becoming an attorney. Going over all these laws.
20 Along with that one, as we're seen here discussing it, you know,
21 the issue of the Administrator or designee, he's going to do, he
22 or she, they're going to determine whether that property is
23 Native American human remains or cultural items.

24 And the determination I think is a little scary because
25 that's what we're looking for. We're looking - how do they

1 determine and is it - maybe it's already written in the law. I
2 mean I feel like I can trust that Gene and his team are going to
3 determine things are Native because he's going to see specific
4 things.

5 But my fright is down the road they're going to start
6 testing. Oh, we need some DNA tests. I'd like a non-scientific
7 study, non-destructive scientific study and I thought we put that
8 in here somewhere.

9 BRADLEY: Well, this is Sarah Bradley, for the
10 record. We do have that with regard to the permits and
11 excavation uncovered there.

12 EBON: Yeah.

13 BRADLEY: We did that. I don't think we did make
14 that decision here.

15 EBON: I'm looking at [inaudible]. So, but I
16 really want to hear I think from archeology cause, you know, I
17 don't have a degree in archeology, Michon Ebon. How do you guys
18 determine without - do you - how do you determine, I guess? Do
19 you like somebody brings in this abandoned property and you just
20 kind of know because of what's with them? How would you know if
21 they were human remains, I guess? How do you -

22 HATTORI: This is Gene Hattori, for the record. In
23 terms of human remains, we would compare the bone or bones with -
24 we have a scientific plastic cast of a human skeleton and compare
25 various - compare the materials. You know, there are some non-

1 destructive radio-carbon tests that are being experimented with
2 so -

3 EBON: Michon Ebon. So that could be something
4 down the road of nondestructive?

5 HATTORI: Yes, yes.

6 BRADLEY: This is Sarah Bradley.

7 HATTORI: But, you know, we're getting into this is
8 real deep - you're - we're getting longer and longer for
9 something that LCB is going to make shorter and shorter and we
10 should try to stick with the high points, all right? We'll still
11 be cutting out the majority of what -

12 EBON: Oh yeah.

13 HATTORI: - you submit to them, so if you could make
14 broad statements.

15 EBON: So Michon Ebon, so it's very - we kind of
16 mentioned that before. I mean I think - and then I think we have
17 it in 383. I was trying to find it. I remember doing that is
18 determining without destructive analysis and if we could just put
19 that in there somehow, I don't know how, and if LCB takes it out,
20 then we'll put it back in. No, I'm just kidding.

21 CAMP: And this is Anna Camp, for the record.
22 Sorry, Scott. If we could put something in and I know not
23 everybody likes this, but if we could put it in "if the tribe
24 chooses nondestructive" because I know, I've been to a couple
25 tribal visits where they - some will have asked for so, and I

1 brought this example before when the remains that were dropped
2 off on the doorstep, and I want to say it was the BLM or
3 something like that, at Great Basin National Park.

4 They - the tribes determined too that they did want to do
5 DNA, so giving them the option to, but making it, you know,
6 nondestructive analysis unless the tribe requests.

7 EBON: But we don't. Michon Ebon. But that's not
8 at the point yet where the tribe's involved. They're just now
9 getting the property, right?

10 CAMP: Right.

11 EBON: So, but I hear what you're saying.

12 CAMP: Yeah, I mean like down the road and there's
13 a question too.

14 EBON: But I think right now they're determining
15 the boxes, you know, it's been dropped off, and now it's up to
16 the tribe again, but just saying, Michon Ebon, I just don't want
17 somebody 40 years down the road maybe an archeologist changing,
18 and so maybe it wouldn't have to do that but I just have to
19 protect what I know now.

20 NEBESKY: For the record, Scott Nebesky. I think
21 what Gene was saying is staying a little bit at a higher level in
22 with detail and not knowing what LCB is going to do. Under the
23 permits, under Section 40, that's where there's incorporation
24 that I think is the values, beliefs and traditions, you know,
25 broad statements.

1 Maybe those same broad statements - maybe they find
2 [inaudible], but certainly what Michon was talking about is
3 number 9 about substantively tested which I think it is
4 destructive analysis [inaudible] that these values, beliefs and
5 traditions as they're written to be incorporated as when you're
6 dealing with dead and property.

7 And that would address Michon's issue of who gets to
8 determine if these are Native Americans and that they would
9 follow these conditions, that they wouldn't do destructive
10 analysis; they'd find some other way of determining whether they
11 were Native American or not.

12 FREEDMAN: Myron Freedman, for the record. So perhaps
13 what we could add here is a clause that states 'any analysis
14 required will follow the terms and conditions of Provision 20'.

15 SPEAKER: Yeah, something like that.

16 SPEAKER: All right, Myron. Okay, moving on.

17 [crosstalk]

18 [laughter]

19 SPEAKER: Not so soon.

20 SPEAKER: I don't know -

21 SPEAKER: I'm not sure where we -

22 SPEAKER: We're at 13.

23 SPEAKER: Come on, Scott. [laughs]

24 NEBESKY: Oh, we're at 13, Okay. Number 2. For the
25 record, Scott Nebesky. I wanted to get a little bit of a better

1 understanding of an item in the reg that talks about "ensuring
2 that the values, beliefs and traditions of the tribes are fully
3 considered and incorporated when possible". So, that qualifier,
4 I just wanted to get a little background on that.

5 SPEAKER: You mean what 'when possible' means?

6 NEBESKY: Well yeah, when I look at the law it says -
7 again Scott Nebesky, for the record. It says values, beliefs and
8 traditions will be incorporated or shall be incorporated. And
9 then we get to the regs and it says that they'll be "fully
10 considered and incorporated when possible". So, this is
11 Provision 13.2. I just wanted an understanding of why that
12 qualifier.

13 BRADLEY: This is Sarah Bradley, for the record. So
14 again, we are looking at abandoned property.

15 NEBESKY: Right.

16 BRADLEY: Which is 384.009, and that provision does
17 not actually mention that I see values, beliefs and traditions.
18 So we're trying to incorporate them wherever we can with regard
19 to abandoned property. I think they absolutely require the
20 permit process, so here we kind of added it.

21 And then I went back to 381.0066 which talks about those in
22 consultation. That doesn't again mention the values, beliefs and
23 traditions. I think the values, beliefs and traditions piece
24 comes in affirmatively in the permit. So let me just go check.

25

1 Yeah, so this is Sarah Bradley. 381.196 requires regulations for
2 the permit process.

3 NEBESKY: Okay.

4 BRADLEY: We're doing regulations from the standpoint
5 of property as well because we wanted to clarify the things we
6 need to clarify, but any regulations adopted regarding the
7 permits must be developed in consultation with the tribes and
8 incorporate values, beliefs and traditions as the term had been
9 conveyed by members. So I guess I would say what my thought is
10 we're trying to incorporate here as much as possible and not
11 really necessarily requiring a permit right here.

12 NEBESKY: For the record, Scott Nebesky. I guess
13 going back to [inaudible] I'm just looking at the legislation.
14 Section 5 of the legislation says that, "A Museum Director of the
15 Nevada State Museum shall adopt regulations as necessary to carry
16 out the provisions of Section 2 to 5.5 inclusive of the NRS
17 381.195 to 381.227," which is the permit.

18 Then it says inclusive, "and Section 6 of this act
19 including without limitation regulations which set forth the
20 process for repatriation of human remains and funerary objects".
21 My opinion, I guess, is abandoned property being returned back to
22 the tribe is a repatriation, so therefore, the incorporation of
23 values, beliefs and traditions will be part of that.

24 BRADLEY: And this is Sarah Bradley. You're looking
25 directly at the bill.

1 NEBESKY: Yes.

2 BRADLEY: Okay. And that's not how it was codified.

3 NEBESKY: Oh okay. Where am I at then on that?

4 BRADLEY: Well the codification to create 1009, cause
5 that was updated with that bill 2017 4.2 yeah. And then it talks
6 about the repatriation process adopted by 381.0069. This is at
7 381.0096 or 0069.

8 SPEAKER: [inaudible]

9 BRADLEY: Yeah. Well actually it was codified that
10 way. "Any regulations adopted must be developed at consultation
11 and incorporate the values, beliefs and traditions as determined
12 to date." So, perhaps we should update that section. I mean I
13 don't think the intent was not to not incorporate them.

14 NEBESKY: Right.

15 BRADLEY: Just to recognize that we get items left on
16 our doorstep so -

17 CAMP: This is Anna Camp, for the record. The
18 reason from what I remember the 'when possible' was if it - so
19 say it's a femur, you know, and we have no idea where it came
20 from, and this doesn't happen generally, I mean as far as I know.
21 But if we did get something like that, we might not be able to
22 incorporate values, beliefs and traditions if we needed to figure
23 out where it came from, you know, if there was a need for it in a
24 kind of scientific study at that point.

25

1 So, if something has no provenience, no objects with it, so
2 say it was just a human skeleton or part of a human skeleton, we
3 might not be able to incorporate all values, beliefs and
4 traditions if something like that came up. But that would be no
5 provenience, and if there's no provenience you really wouldn't
6 even know, you know, where this particular item came from. You
7 might have to figure out if it was Native American from the very
8 beginning.

9 FREEDMAN: Maybe instead of 'possible' the word should
10 be 'applicable'.

11 CAMP: When applicable?

12 NEBESKY: Yeah, for the record, I kind of agree with
13 that. I would tend towards qualifying that a little bit more,
14 for the record, Scott Nebesky, in saying that whatever the words
15 are, that it's the last destructive analysis or consumption,
16 consumptive analysis, is one of the last resorts when all other
17 determinations have been exhausted, or something, you know. So,
18 it's not the first step; it's the last step.

19 SPEAKER: Yeah, absolutely.

20 NEBESKY: Yeah, it's the only step that's available
21 to make that determination in the end.

22 EBON: Michon Ebon. Or "All remains are to be
23 treated as Native American until determined not". Would that
24 work?

25 [crosstalk]

1 CAMP: Anna Camp, for the record. But then you
2 would have to determine, if it was just a femur, you'd have to
3 determine if it was Native American. I don't know.

4 NEBESKY: Yeah.

5 EBON: But anyway.

6 CAMP: Yeah, I don't know.

7 BRADLEY: I mean - Sarah Bradley, for the record, I'm
8 not sure. I don't know how we do that so in practice if - I mean
9 obviously - so when we draft these - we're drafting them and
10 trying to cover the most random and strange thing that could
11 happen, and so, you know, if we had a skeleton and we really
12 don't know, I mean I guess if you have a skeleton by itself how
13 do you determine?

14 CAMP: Anna Camp, for the record. You could do
15 non-destructive analysis to try and determine based on the
16 morphology of the human remains, so you could - that would be
17 your first - you would definitely take those steps before you'd
18 ever, you know, send something off for DNA testing.

19 First off, DNA testing is an expensive venture for a state
20 agency. We don't have money laying around to DNA test things in
21 that manner. But yeah, that - I would think that if you were
22 wanting to return something like this that would be the last
23 resort.

24 SPEAKER: Sure.

25

1 ALECK: Betty Aleck, for the record. Just out of
2 curiosity, is there a legal definition for intentional
3 abandonment?

4 BRADLEY: Yes and no. And so, this is Sarah Bradley.
5 [crosstalk]

6 SPEAKER: Might there be situations or -
7 [crosstalk]

8 SPEAKER: [Inaudible] down the road.

9 SPEAKER: - [Inaudible] private property or when
10 someone -
11 [crosstalk]

12 SPEAKER: Welcome to the [inaudible].

13 BRADLEY: So, this is Sarah Bradley, for the record.
14 [crosstalk]

15 BRADLEY: Oh, we lost them.

16 SPEAKER: Uh-oh.

17 SPEAKER: Uh-oh.

18 SPEAKER: It was scheduled to end at noon, I think.

19 SPEAKER: It's noon.

20 SPEAKER: It's noon. They took off. [laughs]

21 [inaudible background whispering]

22 SPEAKER: I think Zach's over there. It says that.
23 [crosstalk]

24 [phone call buzzing in]

25 SPEAKER: There we are.

1 [laughter]

2 [crosstalk]

3 [phone call buzzing in]

4 SPEAKER: We'll be back after station identification.

5 [crosstalk]

6 [phone call buzzing in]

7 SPEAKER: Well hang up and call on.

8 [crosstalk]

9 SPEAKER: Oh, it's Zack. Do we have Zach's number?

10 SPEAKER: I have Ron's, but he said just to call if
11 something happens.

12 SPEAKER: 687-063.

13 SPEAKER: Thank you.

14 SPEAKER: Unofficial break.

15 SPEAKER: [Inaudible] yeah, in another hour and a
16 half. So, 15 minutes?

17 [off the record]

18 [on the record]

19 [crosstalk]

20 FREEDMAN: Okay. Byron. When last we met -

21 [laughter]

22 FREEDMAN: - we were on Provision 13. We took some
23 notes on that. And we're going to move on to Provision 14.

24 SPEAKER: Will you check and make sure Las Vegas can
25 hear?

1 SPEAKER: And I just want to note - can you hear us,
2 Las Vegas?

3 [crosstalk]

4 TIMM: Mary Beth, for the record. We can hear
5 you. Thank you.

6 SPEAKER: Thank you.

7 SPEAKER: Intentional abandonment was the legal term.

8 BRADLEY: This is Sarah Bradley, for the record.

9 Yes, so intentional abandonment is something that has to be
10 proved, and I know it sounds a little funny cause obviously if
11 some of these are left at the doorstep you would think that is
12 purposeful, but the law requires us to prove that it's
13 intentionally left there and that no one has made a claim.

14 So, that's why we have that requirement that it be there
15 for three, you know, we had it for three years while we waited,
16 nobody has said, hey, this is mine in that period, and then we
17 published it in the paper. That's why that requirement is there
18 because that allows us to legally prove that it was intentionally
19 left, for example, at the museum, and intentionally abandoned.

20 And then once it's intentionally abandoned, then the museum
21 can do what's necessary to repatriate it if it's a Native
22 American, you know, item that needs to be repatriated. So, I
23 don't know if that answers.

24

25

1 SPEAKER: Yeah, my concern was whether a homeowner
2 could say that I tried intentionally to abandon remains of
3 cultural items.

4 BRADLEY: Sarah Bradley, for the record. No, I don't
5 so because the context, at least in this, for abandoned property
6 is abandoned property that was like left at the museum in some
7 way, like at the door, you know, in the parking lot.

8 SPEAKER: No, I'm talking about [inaudible].

9 BRADLEY: No.

10 SPEAKER: Okay.

11 BRADLEY: I didn't know because again, like if they
12 were to, they would have to follow the state regulations by
13 publishing and all of that, and because we know there are various
14 sites there, those are not considered intentionally abandoned.

15 SPEAKER: Okay.

16 BRADLEY: And that was one of the reasons we added
17 the phrases that we did. Now we understand the idea was to leave
18 these there, you know, for a permanent resting place, you know,
19 and that's the idea or the intent.

20 SPEAKER: Okay.

21 BRADLEY: So, like if they - they should not. If
22 they try to do that it would be wrong.

23 SPEAKER: Okay.

24 FREEDMAN: Thank you. Las Vegas, also we're going to
25 go to 1:30 at the latest. Just keep everybody on notice.

1 TIMM: Mary Beth Timm. Thank you.

2 FREEDMAN: You're welcome. Okay, I am noting that
3 Provision 14 through 18 has no changes from the previous draft so
4 I'd like to suggest we skip to 19 unless anybody discovered
5 anything on those other provisions.

6 NEBESKY: Sorry, Myron.

7 FREEDMAN: Yeah.

8 NEBESKY: Scott Nebesky, for the record. But I think
9 we, just to confirm this, I think we were going to address it
10 based upon our prior discussion on 13 in which the language of
11 "to consider and incorporate when possible" because in Provision
12 15 it talks about the lessons, values, beliefs and traditions of
13 these tribes are incorporated.

14 But you get to 17 and it makes reference to considering
15 values, beliefs and traditions. Same with the last sentence of
16 17. It says, "the Museum Director shall provide disclosure
17 [inaudible] Indian tribe maintaining that each tribe has the
18 right to have their values, beliefs and traditions 'considered'
19 in the permitting process".

20 So, I think that considering is one thing; incorporating is
21 something much different. And it's kind of sprinkled throughout
22 here, the word 'considered', and I wanted to make sure that we're
23 on the same page that values, beliefs and traditions are
24 incorporated, and it's not considered and then dismissed.

25 FREEDMAN: Scott, we will look at that.

1 NEBESKY: Okay.

2 FREEDMAN; I think it's the best answer we can give
3 right now. But I think there's a lot of implications for that.

4 NEBESKY: Yeah, yeah.

5 EBON: Michon Ebon. Don't consider that and then
6 put it to the side, Myron, because that's really important, and I
7 want to give an example is we get - it's written in I think, NHBA
8 - yeah, it is, Section 106 is 'will consider'. So, there's a lot
9 of times when Federal agencies will say, "we considered it,
10 Michon" and then it goes to the side. And they've moved on. And
11 so that's why it's important that maybe 'considered' can be can
12 be changed to incorporated it because you're going to do it
13 already incorporating the values, beliefs and traditions.

14 ALECK: So, this is Betty Aleck. You're right.
15 Under Provision 14 [inaudible] is the state, just wondering, what
16 our territories are because you included California, Idaho,
17 Arizona and Utah, is that right? Are those the only states that
18 we're considering as indigenous land?

19 CAMP: Anna Camp, for the record. I believe the
20 reason we put those particular states is because they have
21 adjacent land to Nevada so since we're dealing with prior
22 property in Nevada and state land, but some tribal territories
23 cross over the state boundary. Is that what you were asking?
24 Did we miss a state that borders?

25 SPEAKER: Well you never know. [laughs]

1 CAMP: If you need it - if a tribal member was
2 somewhere else?

3 SPEAKER: Yeah, right, yeah, it might be in
4 Washington.

5 FREEDMAN: Well the - Myron Freedman, for the record.
6 So, the legislation is about property found on private property
7 in the state of Nevada.

8 SPEAKER: Only the state of Nevada?

9 FREEDMAN: But because the tribes' territories cross
10 over into neighboring states, we may have to consult with people
11 who live in those areas.

12 BRADLEY: And this is Sarah Bradley, for the record.
13 And I think there's a typo on 14.

14 SPEAKER: It should probably be 'include' with the
15 'd' struck cause I don't think it makes sense.

16 SPEAKER: Yeah, border included, yeah.

17 BRADLEY: Yeah, so we will make that change, but that
18 was the intent, you know, by listing other states is recognizing
19 that.

20 SPEAKER: But my question is only those states we're
21 considering? Or do you also consider areas within the state of
22 Nevada, that the boundary, the territory does not only include
23 the reservation land, but it also includes the entire state of
24 Nevada?

25 SPEAKER: Again, that's like what are we questioning?

1 BRADLEY: And I'm not sure I'm understanding. This
2 is Sarah Bradley, what I'm looking at.

3 SPEAKER: Yeah.

4 NEBESKY: For the record, Scott Nebesky, just reading
5 through this, Provision 14 that references Provision 15 deals
6 with the permit process of what Myron was talking about is
7 permits that the state of Nevada issues, and I think 14 relates
8 to there are some reservations that go across state lines and
9 those - but this is only to address permits within the state of
10 Nevada.

11 SPEAKER: Right.

12 SPEAKER: With tribes that may go into adjacent
13 states.

14 SPEAKER: Right. My question is why doesn't it say
15 the entire state of Nevada is our tribal territories?

16 BRADLEY: Well I think if you look at number 15, this
17 is Sarah Bradley, for the record, it says 'will require the
18 Administrator or his or her designee shall consult with the
19 affiliated Native American tribes throughout the state of Nevada
20 and the neighboring states.

21 SPEAKER: Okay. And then -

22 BRADLEY: Throughout overlaps.

23 SPEAKER: Oh, that's just - no, that's just the
24 definition of -

25

1 BRADLEY: Yeah, all we're saying in 14 is when we -
2 and 15 when we talk about neighboring states, we mean the ones
3 listed in 14.

4 EBON: Right. Michon Ebon. You know, Betty, this
5 is - because this law is for the whole state of Nevada, already.
6 They're just adding these other because we know that our
7 boundaries go beyond.

8 SPEAKER: Yeah, I have a concern about the use of
9 'territories' too. Just out of curiosity why aren't you using
10 like 'ancestral lands' or 'ancestral homelands' or 'indigenous
11 lands'? Because to me 'territory' is like Guam is a 'territory'
12 of the United States both geographical and political connotation.

13 SPEAKER: Okay.

14 SPEAKER: That's just my [laughs] personal issue with
15 the word 'territory'.

16 BRADLEY: This is Sarah Bradley. What if we said in
17 14, tribal land that overlaps and we would get rid of
18 'territories or', and then in 15 we can do the same thing, strike
19 'territories or" and state 'tribal lands'. Wouldn't that work?

20 SPEAKER: Yeah, I'm liking ancestral.

21 BRADLEY: Oh no.

22 SPEAKER: It has some sort of historic meaning.

23 SPEAKER: That's not going to work.

24 BRADLEY: Okay.

25

1 HATTORI: This is Gene Hattori, for the record.
2 Somebody's going to say well tribal lands means the Prairie Lake
3 Havi [phonetic] Reservation.

4 SPEAKER: Okay.

5 HATTORI: Somebody's going to say -

6 SPEAKER: Right, okay.

7 BRADLEY: So, what - is there anything better than
8 territories?

9 [crosstalk]

10 SPEAKER: Everybody else may agree with territories.

11 SPEAKER: I don't know.

12 EBON: This is Michon Ebon. We did have this
13 discussion a couple times, and I think that's where it came and
14 that's why it's just blue, just left it as is -

15 FREEDMAN: It does have [inaudible] territory or land,
16 so there's some leeway there to help define the property that's
17 being considered.

18 SPEAKER: Okay.

19 FREEDMAN: Okay, so that was 14 and 15, and I
20 understand we looked at the language of 'incorporated' and the
21 language of 'considered'. And we've got 18 and 19.

22 EBON: Michon Ebon. I don't think we were in
23 agreement that everybody - I think only one tribe, for the first
24 part, number 19, it was scratched out. Can I get an explanation

25

1 of that? We talked about that, but there was one tribe that
2 wanted that out.

3 BRADLEY: This is Sarah Bradley, for the record. We
4 looked at 381 again and we struck it because I think we thought
5 removing 'present day' was a better fit with the statutory label.
6 Let me go there and check. So, this is Sarah Bradley, for the
7 record. Yeah, so look at 381.0066.

8 EBON: 0066?

9 BRADLEY: Yeah, 0066, and this is where it defines
10 'notice to and consultation with certain tribes'. And so, it
11 doesn't say 'present day' there, and so that was why it says,
12 "requires consultation with tribes, ensuring the values,
13 beliefs." Okay. I believe that was where that came from. And
14 maybe I'm missing something.

15 EBON: Cause we had it in there for a long, you
16 know, for [inaudible] and then all of a sudden it's taken out.

17 BRADLEY: We did, and I think it's also because we
18 looked at again 381.196 and here it talks about applicable
19 tribes. It doesn't say 'present day' but if I remember right, I
20 think I searched through and I don't think I encountered the word
21 'present day' in the NRS at all. And so that was kind of - we
22 felt like we did kind of goof by adding that because it was not
23 listed. Let me double-check.

24 SPEAKER: 330011 is the definition of Indian tribe.
25

1 BRADLEY: Yeah, 383.011 says, "Indian tribe means"
2 and it doesn't use present day either. "Any tribe, band, nation
3 or other organized group or community of Indians which is
4 recognized as eligible for the special programs and services
5 provided by the United States Native Indians because of their
6 status" is what we have in here. Okay, so because we couldn't
7 find it anywhere, we felt that maybe we shouldn't have included
8 it.

9 EBON: Okay. Michon Ebon, I'm good. I'm good with
10 that.

11 ALECK: Betty, it's listed again though. I think [
12 prehistoric blah, blah, blah, present day tribe [inaudible].

13 BRADLEY: And I think that's because -

14 SPEAKER: Are you going to take that out or no?

15 BRADLEY: Well we can talk about it. I think
16 'present day' is mentioned in NAGPRA, and I think the reason, I
17 could be wrong. I'm looking at my people that know. Because
18 there's this idea that we haven't talked to people that are with
19 us now, right, and that's why they use 'present day' in NAGPRA
20 because it may not be, right?

21 SPEAKER: Right.

22 BRADLEY: But you don't like that?

23 SPEAKER: Well I was wondering if Paiute used lineal
24 descendency.

25 BRADLEY: Lineal vicinity?

1 SPEAKER: Are there political -

2 BRADLEY: I don't think so. I think we got this
3 linkage - I think this is language from NAGPRA because we're
4 citing that Federal law there [inaudible]. So, I've been
5 thinking that's where that came from.

6 SPEAKER: Okay.

7 NEBESKY: For the record, Scott Nebesky, on that same
8 sentence we talked about linkage between a prehistoric
9 archeological culture. Does archeological need to be in there?
10 What does that mean?

11 CAMP: Anna Camp, for the record. I think that's
12 just straight from - that's NAGPRA wording.

13 NEBESKY: And for the record, Scott Nebesky. It also
14 has the word prehistoric and so not to -

15 [laughter]

16 NEBESKY: Not to get into it again, but what happens
17 - is that the present-day tribes is historic? I don't know.

18 BRADLEY: That's a good question. I think the take
19 was -

20 NEBESKY: That...

21 BRADLEY: Yeah, and trying to figure out - this is
22 Sarah Bradley, for the record, you know, if it's more recent
23 maybe it's not as hard to establish the link, but for - so and I
24 think we're definitely maybe open to different options that way.

25

1 CAMP: Anna Camp, for the record. I'll re-look
2 through this cause I seem to remember there being some cases
3 where there's a present-day tribe that occupies a specific part
4 of land [inaudible] notices because then sometimes other tribes
5 can say oh, well you occupy that land now, we occupied that land
6 prehistorically.

7 So, it just kind of opens up a door to folks being able to
8 - and that has happened, folks being able to say, well we
9 occupied that land prehistorically or historically, and therefore
10 we also would like to make claim to that. So, it allows multiple
11 tribes to lay claim to a particular thing.

12 SPEAKER: Right.

13 CAMP: But and that goes to - so the linkage might
14 not necessarily be a lineal descendent if it's an object.

15 NEBESKY: For the record, Scott Nebesky. I agree
16 with you. I think that's one of the concerns of the colony has,
17 and I would imagine other tribes in Nevada have that because
18 there's three affiliations in this state basically. We have the
19 Northern Paiute, Paiute and Shoshone and Washoe. Within those
20 larger [inaudible] we have certain sovereign tribes. So, the
21 question is those colonies that are primarily urban are fairly
22 small.

23 [crosstalk]

24 NEBESKY: Are they going to be disenfranchised - are
25 they not to be recognized as affiliated tribe or another example

1 would be First Colony that by constitution represents the
2 interests of and their membership consists of Washoe, Paiute and
3 Shoshone. And we're up in the Truckee Meadows. But if you used
4 this definition, we don't exclusively affiliate with the Washoe
5 tribe. We affiliate with three tribes because it's political.

6 So how does that play out? I want to make sure that the
7 Colony isn't eliminated or marginalized in its consultation boxes
8 because of the circumstance of what's out there. [inaudible] Is
9 that exclusive in the Winnemucca Colony? Fallon? The Valley is
10 balanced, you know, Shoshone, Paiute.

11 SPEAKER: Right.

12 NEBESKY: So, is there a rule or interpretation that
13 the various colonies around the state or the smaller tribes may
14 get marginalized by this definition?

15 CAMP: Anna Camp, for the record. I mean I
16 wouldn't say that anyone would be marginalized, especially if it
17 was within a territory that would be, you know, that we know
18 people have shared interest in.

19 So you know, when you say that you - the Colony represents
20 all three tribes, if something was found in Lovelock say, would
21 you want to be consulted for things down in Lovelock? Is that
22 the kind of thing you're saying?

23 Like would these smaller tribes need to be consulted with
24 for all projects when you have the three - or would that -
25 because I think some tribes might say, you know, if something was

1 found near Pyramid Lake, would I consult also with Reno Sparks?
2 That would be a question probably to take up with Pyramid Lake
3 and with Reno Sparks?

4 SPEAKER: Uh-huh.

5 EBON: Michon Ebon. I don't think he was saying
6 in tribes. He was saying membership within our tribe.

7 SPEAKER: Okay.

8 EBON: He didn't say - so no, we wouldn't want to
9 be consulted.

10 SPEAKER: Okay.

11 EBON: If there's something in Lovelock, that's
12 kind of not what he said.

13 SPEAKER: Okay.

14 NEBESKY: For the record, Scott Nebesky. I think
15 it's more an example of an occurrence within the Truckee Meadows.

16 SPEAKER: Okay.

17 NEBESKY: Where the Colony is located.

18 SPEAKER: Right.

19 NEBESKY: And you have both Pyramid Lake as well as
20 Washoe Tribe identifying that as aboriginal lands, which is fine.

21 SPEAKER: Right.

22 NEBESKY: What I don't want to have happen is that
23 because those are aboriginal lands that of the Washoe tribe that
24 that gives them exclusive rights to consult or be permitted onto

25

1 a committee of repatriation that they are the only ones that will
2 be consulted with on Washoe issues.

3 CAMP: I would consider, Anna Camp, for the record. I
4 would consider the Truckee Meadows I think shared space.

5 NEBESKY: Okay.

6 SPEAKER: And then that would be a place where you
7 would consult with multiple tribes.

8 EBON: So, is that, Michon Ebon, is that what this
9 says? That's what it's coming down to cause what we're seeing
10 here is linkage between a prehistoric archeological culture which
11 has to be changed, and present-day tribes which established the
12 preponderance of the evidence that reasonably used to reach a
13 conclusion [inaudible] that includes.

14 CAMP: Right. And that, once again, Anna Camp,
15 for the record. It's again from NAGPRA, so yeah.

16 FREEDMAN: Myron Freedman, for the record. I think
17 the fix for this is throughout all this regulation which is
18 applicable to tribes. So I mean if there's a question about
19 which tribes to consult with, it's any possible tribe that would
20 have a connection with the -

21 SPEAKER: I have a question. Wouldn't this be
22 published though, and any tribe could file a claim?

23 CAMP: Anna Camp, for the record. If it was a
24 NAGPRA - it would be a NAGPRA notice because we're expected to
25 follow NAGPRA and therefore once that notice is published -

1 SPEAKER: Right.

2 CAMP: - it is open for anybody to lay claim to
3 it.

4 SPEAKER: Right.

5 CAMP: And that happened with NAGPRA before. I've
6 read cases where someone from a different state laid claim to
7 something in Nevada.

8 SPEAKER: Yeah.

9 CAMP: Wasn't there someone from Germany?
10 [laughs] There was, and we talked about this last meeting.
11 There was like someone from a different country wanting to claim.

12 SPEAKER: Oh wow. Uh-huh.

13 CAMP: So, that's the linkage. Yeah, it's good.
14 But yes, the public notification of it, the publishing of it, is
15 the mechanism to provide anyone the opportunity to lay claim to
16 that -

17 SPEAKER: Right.

18 CAMP: - object or -

19 BRADLEY: And this is Sarah Bradley, for the record.
20 So, this is coming from the definition of cultural affiliation in
21 NAGPRA.

22 CAMP: Yes.

23 EBON: It does say prehistoric, Michon Ebon,
24 prehistoric.

25

1 BRADLEY: It does. I can read you the definition for
2 it. It says, "Cultural affiliation means that there is a
3 relationship of shared group identity that can be reasonably
4 traced historically or prehistorically between members of a
5 present-day group or Native Hawaiian organization and
6 identifiable earlier group."

7 "Cultural affiliation is established when the preponderance
8 of the evidence based on geographical kinship, biological,
9 archeological, anthropological, linguistic, folklore, oral
10 tradition, historical evidence or other information [inaudible]
11 expert opinion recently leads to such a conclusion."

12 EBON: Okay, so no, there's some group but I
13 didn't hear prehistoric archeological culture.

14 BRADLEY: No.

15 EBON: And you guys took out that green. I mean
16 you took out the green.

17 BRADLEY: We took out the green, and it says,
18 "historically or prehistorically".

19 EBON: Yeah.

20 BRADLEY: And that's what it says.

21 EBON: Not prehistoric archeological culture.

22 BRADLEY: No, it doesn't say that.

23 SPEAKER: Thank you.

24 BRADLEY: So, do you want me to update that?

25 EBON: Yeah.

1 BRADLEY: It need to match the NAGPRA?

2 EBON: Yes.

3 SPEAKER: Yeah, whoever handles that.

4 CAMP: Anna Camp, for the record. I don't

5 remember but there was a - I believe last meeting everybody

6 didn't want all the language from that then because it cites

7 NAGPRA.

8 SPEAKER: Who was that?

9 CAMP: So that's why they stopped [inaudible]

10 kinship.

11 SPEAKER: So, okay, I'm sorry.

12 SPEAKER: [inaudible]

13 SPEAKER: Okay, it's a quarter to 1:00.

14 [laughter]

15 [crosstalk]

16 SPEAKER: [inaudible]

17 SPEAKER: Matching [inaudible].

18 SPEAKER: Yeah.

19 SPEAKER: Okay.

20 SPEAKER: But you're leaving out, geographic and

21 kinship and all that.

22 FREEDMAN: Myron Freedman, for the record. We're not

23 leaving them out. They're cited under 43 CFR.

24 SPEAKER: Okay, I know you're in a hurry, but I'm

25 not.

1 [laughter]

2 SPEAKER: I'm not in a hurry. I'll sit here all day
3 and talk about it.

4 SPEAKER: Okay.

5 [laughter]

6 [crosstalk]

7 SPEAKER: I think we all agree that we've got to wrap
8 it up.

9 SPEAKER: Yeah, 1:30, yeah.

10 SPEAKER: Yeah, 1:30.

11 SPEAKER: Uh-huh.

12 SPEAKER: Okay.

13 SPEAKER: But I can sit here by myself and talk about
14 it.

15 [laughter]

16 [crosstalk]

17 FREEDMAN: Okay, Provision 20.

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

19 And I don't know if this helps to answer it but that was the idea
20 is to balance the interests of the present-day Native American
21 people and tribes with the private landowner cause we were
22 directed to have this process.

23 SPEAKER: Uh-huh.

24 BRADLEY: So, this is the language kind of
25 articulating that.

1 EBON: Michon Ebon. I think I agree with that
2 cause it makes a really good statement of why and I remember
3 talking about that, and the LCB problem closed it up and made it
4 sound a little better.

5 SPEAKER: Yeah, I had problems with the latest
6 wording.

7 EBON: Yeah, I did too.

8 SPEAKER: Well it just seems a little awkward.
9 Native American people at that time [inaudible] burial ancestry.
10 Would that missed burial be the ancestors' final resting place
11 with the intent that it is not missed by future generations? It
12 could be shortened to say that Museum Director recognizes that
13 Native American burial sites are the final resting place for
14 tribal ancestors and that the grave remains should not be
15 disturbed.

16 SPEAKER: Can you say it again so I can write it
17 down?

18 SPEAKER: I have it written down.

19 SPEAKER: Yeah, I have it written down.

20 ALECK: This is Betty Aleck, for the record.

21 BRADLEY: Okay. I mean I - truthfully, this is Sarah
22 Bradley. I just wrote that. I wasn't, you know, I was just
23 trying to capture what I heard people saying. But I think what
24 you said sounds better, so let's add that.

25

1 SPEAKER: Okay. So the intent of this regulation
2 [inaudible] as directed by the legislature in NRS 381.196 in the
3 interest of Native American tribes and those of prior landowners.
4 So, that would be the second sentence with the -

5 SPEAKER: I don't know if you guys like that or not.

6 [crosstalk]

7 [laughter]

8 FREEDMAN: People have lots of time left to edit.

9 BRADLEY: I don't, but I'm a former newspaper
10 reporter so - [laughs].

11 SPEAKER: Oh.

12 FREEDMAN: Sarah's paid by the word so we have to be
13 concise.

14 [laughter]

15 EBON: You know and then, Michon Ebon, the second
16 paragraph, the Nevada, and I keep asking for this, and the burial
17 site permit is Nevada Archeological Prehistoric Burial Site for -
18 it keeps getting bigger. What is that? Is that that [inaudible]
19 permit I keep asking for?

20 [crosstalk]

21 SPEAKER: No. A new permit.

22 SPEAKER: A different permit. And you're welcome to
23 have the permits -

24 [crosstalk]

25

1 SPEAKER: No, I don't want a list of permits. I want
2 to write it down.

3 EBON: The only thing I'm pulling up is you guys' old
4 one, so that's what I'm talking about, is there a - I don't
5 understand. Are we creating, are you guys creating a new permit?

6 SPEAKER: Yes.

7 EBON: Okay.

8 SPEAKER: For this particular thing. What we do, our
9 permits in that we give out for the state of Nevada is only
10 vetting the person, not projects.

11 EBON: Yeah.

12 SPEAKER: So, you're welcome to that at any time. I
13 was waiting to have some provisions before I sent them out and
14 posted on our web page.

15 SPEAKER: Yeah, I noticed that you -

16 SPEAKER: But you're welcome to those.

17 EBON : I don't want the permits. I want the -

18 SPEAKER: No, no, the -

19 EBON: I want the actual - cause I keep - this is
20 probably the third or fourth time. This is - I have an outdated
21 handbook you're permitting. So, you guys permit. I don't want
22 the list of the permittees. I just want what's the permit,
23 what's that? And that's -

24 SPEAKER: We haven't created it yet.

25 EBON: Okay.

1 SPEAKER: Yeah, we're still waiting for the provision
2 - we're waiting till these are finished. And then we can create
3 a permit.

4 EBON: Okay.

5 SPEAKER: On the second paragraph I'm just wondering
6 why it has "previous or if needed Indian burial site."

7 SPEAKER: Do you mean the title?

8 SPEAKER: No, where it says excavate prehistoric
9 native Indian burial.

10 SPEAKER: Because that is -

11 SPEAKER: Native and Indian is the same.

12 BRADLEY: That's - okay, let me double check, but I
13 think that's the language - oh, you're right. It says, "A person
14 cannot excavate unless they - the person knows it's a prehistoric
15 Indian burial". So, you're right, it will be dated and that's a
16 typo. So, the statute language is prehistoric Indian burial site
17 on private land.

18 SPEAKER: How would they know?

19 SPEAKER: What?

20 SMITH: How would they know? Sarah Smith, for the
21 record.

22 BRADLEY: Well -

23 NEBESKY: Scott Nebesky, for the record. This goes
24 back to Provision 4.

25 SPEAKER: Yeah, that known Indian burial -

1 NEBESKY: So that means sorting through that because
2 that also calls out prehistoric native Indian burial site.

3 SPEAKER: Yeah.

4 NEBESKY: And I think that we've had that discussion.
5 We need to work on that.

6 SPEAKER: Yes.

7 BRADLEY: This is Sarah Bradley. And we talked about
8 trying to define knowledge, although I worry that may not make
9 things simpler cause if we say 'know' means actual knowledge then
10 the question is what is 'actual knowledge'? But we'll work on
11 trying to come up with a good definition.

12 SMITH: Sarah Smith, for the record. I'm sorry,
13 what was your name?

14 ALECK: Betty Aleck.

15 SMITH: Betty said about having burials be a final
16 resting place and it shouldn't be disturbed, and the museum
17 knowing that, wouldn't that be contradicting to the permit,
18 allowing someone to remove them from the ground?

19 BRADLEY: It is - Sarah Bradley, for the record. It
20 is and that's why we're trying to balance the tension. So, the
21 reason for the statement is we're trying to say we understand
22 this isn't ideal, this isn't what the intent ever was, however,
23 we have to put in place procedures for permits because the
24 legislature directed us to. So we're trying to balance the two
25 things.

1 SMITH: Sarah Smith, for the record. Could it be
2 implied that they'd only be moved unless it was highly necessary?
3 For instance, a construction or a building.

4 BRADLEY: Well this is Sarah Bradley, for the record.
5 Construction and building are already exempted from the permit
6 requirement.

7 SMITH: So this is purely scientific?

8 BRADLEY: Well I don't know if I'd say scientific. I
9 mean it's private and/or so wanting to excavate maybe cause they
10 think there's something there, they wonder, you know, I don't
11 know, this is Sarah Bradley, I don't know why [inaudible] could
12 do it, but I think the legislature, and I could be wrong, but I'm
13 sort of thinking, and I think the legislature is trying to
14 balance, okay, this is private land and people may do stuff on
15 there, how do we balance that with protecting Native American
16 burial sites.

17 And so, I think the idea is let's come up with a way that
18 will satisfy these people over here, the private landowners want
19 to do this, they have to do certain things a certain way, and
20 that way over here the Native tribes can get their items back.

21 FREEDMAN: Myron Freedman, for the record. The other
22 priority here is the consultation with tribes so that they're
23 brought into the process at the beginning to consult with in each
24 of these instances. But in this process now we're going back a
25 year almost, you know, cause we were asked to have a statement

1 like this to set it out that we understand that the intent of the
2 burial was that it not ever be removed.

3 So if we start with that idea it informs, I was thinking
4 every step of the way in our interaction with the tribes involved
5 in the process, and the landowner.

6 SPEAKER: Uh-huh.

7 SPEAKER: And because it's prehistoric, sort of
8 defines the scientific aspect of removing it for the permit
9 process.

10 SPEAKER: Okay.

11 SPEAKER: Because if it weren't prehistoric then it
12 would essentially be illegal to be digging up somebody's grave,
13 correct?

14 SPEAKER: Right.

15 BRADLEY: This is Sarah Bradley, yeah, and I think
16 that's true. So the law requires the permit that you're going
17 to, you know, knowingly excavate a prehistoric burial site. And
18 so, arguably it's historic. This then goes back to something
19 Scott said earlier, are we going to do just historic. You may
20 not need a permit.

21 However, as I read earlier in Chapter 451, in 383 there are
22 - you still don't get to just dig up graves and like have human
23 remains. Like that's not allowed in any amount of law and in,
24 you know, various places. So, at least right now this permit is
25 required for prehistoric, however I don't know if it's trying to

1 imply that it's science, just that there's a time limit there and
2 what it would apply.

3 SPEAKER: Uh-huh.

4 SPEAKER: No, but how you would now the time limit, I
5 don't know.

6 SPEAKER: Well it seems to imply science if it's
7 under the Archeological Research Protection Act, and then it says
8 for discovery, study or removal only.

9 FREEDMAN: True. However, consultation with the
10 Native American tribes might bring a different perspective to the
11 process.

12 SPEAKER: Okay.

13 FREEDMAN: We're still looking at 20? So, Myron
14 Freedman, for the record. You know, this is the biggest addition
15 to this revision and obviously we're trying to respond in writing
16 to the whole direction that including values, beliefs and
17 traditions and how that affects the activities, and these are now
18 the codified regulations so that anybody who is interested in
19 doing this would be able to see what the requirements are.

20 NEBESKY: For the record, Scott Nebesky. One of the
21 things that in reading this, I want to make sure that these items
22 1 through 12, may not necessarily be all of the values, beliefs
23 and traditions that they may be expressed. These just happen to
24 be the ones that we identified and are incorporating so to the
25 extent possible - and that first introduction where it says

1 permits issues pursuant to this section will continue in the
2 following terms and conditions. Somehow followed by that but not
3 limited to.

4 SPEAKER: Uh-huh.

5 NEBESKY: And that in the prior paragraph it talked
6 about specific determinations or affiliation and custody. Will
7 meet on a case by case basis that in addition to these on a case
8 by case basic there will be other values, beliefs and traditions
9 that may be incorporated. I just don't want these to be the only
10 ones because not all sides are represented here and there may be
11 other circumstances of which I don't know what they would be.

12 Yeah, and then 13 would be equivalent. Yeah, and if we had
13 to identify them maybe we would also agree with Item 13 that
14 other values, beliefs and traditions as requested by tribes in
15 consultation or something to that effect.

16 Just because I don't know if all the Nevada tribes have
17 been able to comment on this, we were talking maybe this goes out
18 for another review because I like the idea of having these
19 incorporated just because it frontloads the process and makes it
20 more predictable and understandable, but there may be some
21 values, beliefs and traditions that we haven't captured just
22 because we've had limited participation from the tribes.

23 CAMP: This is Anna Camp, for the record. And I
24 know I just spoke with you about this, and while we don't have
25 everybody represented here, I have made an extreme effort to call

1 every tribe as well as added to my Listserv to check in and make
2 sure and make sure that they're reading these and inquire. So, I
3 do that multiple times a month.

4 So, but I am continuing that process throughout this summer
5 visiting - continuing to visit tribes that I've already visited
6 but also make it down to some of the southern tribes and make
7 sure that they're really being incorporated into these.

8 So I'll make sure when I visit Fort Mojave this summer and
9 I go to Ely, some of these places that they don't have quite as
10 much interest in it simply because they deal more often with
11 mining companies than they do with state and private land.

12 But however else we can try to incorporate, and maybe when
13 I do go out and visit this particular portion, I'll make sure to
14 focus on.

15 EBON: I don't know - Michon Ebon, for the record.
16 That's fine, but I think don't go overboard.

17 CAMP: Okay.

18 EBON: I mean don't overwhelm.

19 CAMP: Yes.

20 EBON: Don't overwhelm and don't just focus on one
21 section.

22 CAMP: Okay.

23 EBON: I think all sections are very important,
24 and I do want to say thank you, Sarah, you've heard us, you've
25 heard us loud and clear because I know for a year we were just

1 writing values, beliefs, and traditions and we're like oh, no,
2 you don't get it! Values, beliefs, and traditions, so I think
3 it's really good. I think where Scott's coming from is we just
4 want to make sure everybody else is - that they get - the other
5 tribes are adding what they feel their beliefs and traditions
6 are.

7 FREEDMAN: So maybe - Myron Freedman, for the record.
8 Rather than the language requested being by tribes, maybe there's
9 something along the lines of additional conditions may be added
10 in consultation with the applicable tribes.

11 SPEAKER: Yeah.

12 SPEAKER: Yeah.

13 SPEAKER: Yeah.

14 SPEAKER: There you go.

15 NEBESKY: For the record, Scott Nebesky. Number 1,
16 and I know that we - these were the ones that get used in this
17 language but in reading number 1, I'm just wondering if everyone
18 sees that there may be some friction or contradiction when it
19 says "excavation of Native American people or remains will be
20 conducted one, in a professional and ethical manner".

21 As I've had things, discussions, with archeologists that
22 say it is unethical or immoral not to DNA test and excavate and
23 cut up and do all sorts of stuff to human remains. And so that -
24 I think she was saying that within the context of her profession,
25 you know, professionally we excavate, we study, we box up, you

1 know, we do all this stuff. That's fine. That's your profession.
2 But that's inconsistent with what we believe are ethics, but in
3 this case, it says ethical manner, and she actually believed that
4 that was ethical to do that.

5 SPEAKER: Yeah.

6 NEBESKY: So, I just wanted - and I don't even
7 propose this language. It was just now you read it and it's like
8 what?

9 FREEDMAN: Well number 9, Myron Freedman, for the
10 record, number 9 does cover the consent to the testing.

11 NEBESKY: Right. I guess -

12 CAMP: Anna Camp, for the record. So, you mean
13 can - people just determine what they believe is ethical, but as
14 far as I know, if something is NAGPRA related until - you can't
15 just go start DNA testing something, you know.

16 EBON: Well, Michon Ebon, I think it's having to
17 do with excavation. Where I could be wrong is you guys are
18 already going to be doing the permitting, the permit, they're
19 getting this, they're doing this after this treatment plan has
20 been made, they've gone to the permitting. Am I right? I mean
21 when are they getting this permit to actually go and is that
22 where professional ethical might be defined?

23 CAMP: Anna Camp, for the record. They're not
24 getting a permit until they meet with the tribe. And the tribe

25

1 works in cooperation with archeologists to come up with a
2 treatment plan.

3 EBON: Okay, so Michon Ebon, so right, but this
4 section is talking about permits issued so meaning the permits
5 are already issued. In that permit is professional and ethical
6 want to be determined in that permit.

7 BRADLEY: You mean further defined.

8 EBON: Yeah, further defined.

9 BRADLEY: Maybe we need to do that. I mean I think
10 we were - and maybe we could strike that - this is Sarah Bradley,
11 for the record, and say conducted in a manner that assures human
12 remains and other items are treated with dignity and respect at
13 all times.

14 We could now with that better I think we were sort of
15 thinking, you know, ethical and professional treatment ensures
16 that the human, right, being preserved [inaudible]. I understand
17 what you're saying. Some people think it's ethical to do things
18 that maybe others wouldn't.

19 CAMP: This is Anna Camp, for the record. This is
20 quite literally from Marla's comments, and I put this - her exact
21 words in here.

22 EBON: Well that's why, Michon Ebon, that's what
23 he said he notices our language.

24 CAMP: Okay.

25 EBON: He said that.

1 CAMP: Right.

2 NEBESKY: Yeah, yeah, Scott Nebesky, for the record.
3 Yeah, and sometimes, you know, you read it the second time and
4 it's in a different font and you get a whole, you know, you get a
5 different take on it, but the point is still the same here. We
6 have had excavations, have participated in excavations like the
7 Reno train track in which there was no way to avoid a human
8 burial, and it was still excavated in a professional manner to
9 the professional archeologist.

10 But it was treated respectfully, and it was repatriated,
11 you know, all that stuff, so we consider that a successful
12 process. I just don't want this to be taken literally that a
13 permit is going to be issued and then someone will sit back and
14 says hey, my profession and my ethics say this. As long as the
15 values, beliefs and traditions trump the archeological profession
16 in that manner, and they're treated in a respectful way, then I'm
17 fine.

18 Because we want to ensure that all the human remains are
19 excavated and that the bodies and the remains stay together. And
20 one of the only ways you may be able to do that is to go through
21 a professional process of having an archeologist and really make
22 sure that everything has been recovered.

23 So I'm not opposed to it. I just don't want it taken so
24 the - to an extreme that my profession says I need DNA testing,
25 do all this other stuff. So it somehow gets balanced.

1 CAMP: I don't believe, Anna Camp, for the record,
2 that they would be able to do that without consultation.

3 NEBESKY: Okay.

4 CAMP: That's part of the consultation.

5 NEBESKY: And that goes back to number 9.

6 CAMP: Right.

7 NEBESKY: Okay.

8 SMITH: Sarah Smith, for the record. A lot of time
9 for Piute and I don't speak for everyone, but I've seen it happen
10 while I was working in the archeological industry is that all
11 archeologists aren't trained in consultation. They're trained in
12 archeology and a lot of times that's it.

13 And so, anthropology is a little bit different where if you
14 wanted to respect the ethics of other cultures and [inaudible]
15 and archeologists, especially upper research management in
16 California, they're not really familiar with that, and so I'm not
17 sure what the remedy would be but maybe we make sure that there's
18 an understanding about how to do those consultations.

19 FREEDMAN: So, Myron Freedman, for the record. Let's
20 not forget that all of this regulation is all about the statute
21 which is all about consultation with Native Americans and the
22 museum is brokering that process. So, the requirement will be
23 for a - it's a research plan, a burial plan [inaudible]?

24 NEBESKY: Yes.

25

1 FREEDMAN: So, what we could state there is that it be
2 conducted according - in accordance with the approved research
3 plan.

4 NEBESKY: Treatment plan.

5 FREEDMAN: Treatment plan.

6 SPEAKER: That's pretty far.

7 CAMP: Treatment plan.

8 FREEDMAN: Treatment plan. And that is not created
9 until it's in consultation with the tribe.

10 BRADLEY: Or, this is Sarah Bradley, for the record,
11 you could also strike professional and ethical; because I realize
12 that can be kind of subjective and to say it will be conducted in
13 a manner that ensures that human remains and other cultural items
14 are treated with dignity and respect at all times.

15 We can add another requirement cause I guess in my mind
16 does it apply that yeah, of course you can follow a treatment
17 plan. If you can add that as well as a requirement that, you
18 know, yeah, and it also have to be done in accordance with the
19 treatment plan, right? I mean -

20 SMITH: Sarah Smith, for the record. Are they
21 designing a treatment plan in correlation with the tribes?

22 BRADLEY: Yes.

23 FREEDMAN: Yes. Still looking at 20?
24
25

1 NEBRESKY: Scott Nebesky, for the record. Number 3,
2 it says the [inaudible] station observer. Again, this is pulling
3 our leg. To whom - did we define monitors before? Or reference
4 monitors?

5 CAMP: Anna Camp, for the record. We had cultural
6 resource specialists at one point, and I think it will just
7 depend on the tribe who they designate. Some, you know, need to
8 feel [inaudible] so you have that system in place. Other tribes
9 don't have that system.

10 I have been talking with the tribes a little bit. Some of
11 the ones that don't have as many resources about doing some
12 monitored training together, some sharing of ideas between
13 archeologists, but also the tribe sharing ideas with
14 archeologists.

15 So we're implementing that right now at a couple of tribes
16 such as Battle Mountain, and Betty and I have also discussed
17 that, so we are working on how to get some folks trained in
18 monitoring further.

19 SMITH: [inaudible] the program waiting [inaudible]
20 this training be conformed to implement [inaudible]. Sarah Smith
21 for the record.

22 BRADLEY: And this is Sarah Bradley. I know we used
23 some of this language from - we may have changed it to observer.
24 I can't remember. I know we talked about monitors.

25 SPEAKER: Uh-huh.

1 BRADLEY: And then also the private landowner being
2 responsible, we talked about that. I don't know if that was in
3 your language exactly, but we added that cause we felt like the
4 tribe, let the private ownership know that there could be costs -
5 like this is one of the things that could cost them if they
6 [inaudible]. This is Sarah Bradley. But maybe cause we also
7 thought we didn't want to mandate it. I think it might
8 [inaudible] that they will be [inaudible]. Well maybe we should
9 say maybe.

10 SPEAKER: That's just giving them a way to -

11 SPEAKER: Right.

12 BRADFORD: Well we also thought maybe some tribe - I
13 guess it depends on the tribe and how they want to handle that.

14 FREEDMAN: So, okay looking at 20, I sound like an
15 auctioneer.

16 [laughter]

17 [crosstalk]

18 SPEAKER: I was wondering if it was a limit on social
19 media being included.

20 SPEAKER: Good one.

21 SPEAKER: Or I don't know if that's what you call it.

22 BRADLEY: No, Sarah Bradley. I think you have social
23 media. You could say Internet and Social Media like a
24 [inaudible]. Like I said I'm just worried that someone will find
25 some secret little thing that we left out.

1 SPEAKER: I know I was really proud of that
2 [inaudible]. [laughs]

3 SPEAKER: I don't know why we didn't think of it.
4 [crosstalk]

5 SPEAKER: There's no black and white language in
6 social media cause people -

7 SPEAKER: Yes.

8 SPEAKER: And blogs you know. [laughs]

9 BRADLEY: Well yeah, absolutely, and was. I mean
10 this is Sarah Bradley, for the record. A blog wouldn't
11 necessarily be a news site. Maybe it would be social media. So,
12 I think if we say Internet, you know, we kind of cover - we can't
13 make a blog about what we think.

14 SPEAKER: Right.

15 [crosstalk]

16 FREEDMAN: Okay, so at the end of the list, Myron
17 Freedman for the record. Going back to 13 something to the
18 effect that additional conditions may be added and consultations
19 with the tribes. All right.

20 [crosstalk]

21 FREEDMAN: Okay, then it's 21. Las Vegas, do you see
22 the addition there?

23 TIMM: Mary Beth Timm, for the record. We were
24 discussing how happy we were with the addition [inaudible].
25 Thank you very much.

1 SPEAKER: You're welcome.

2 FREEDMAN: 22?

3 EBON: Michon Ebon, you know, this is with - so
4 this is the permit that you guys are going to be creating. Do we
5 have to name it the Nevada Archeological Prehistoric Indian
6 Burial Permit etcetera one, two, three four?

7 BRADLEY: This is Sarah Bradley. So, we struck
8 archeological so now we call it the Nevada Prehistoric Burial
9 Site Permit. I noticed other changes. I think we were trying to
10 use again how that document says prehistoric burial site. We
11 thought, okay, let's call it that. I don't know. I'm open to
12 ideas.

13 [crosstalk]

14 EBON: Michon Ebon. It's going to be your guy's.
15 Just Nevada Indian Burial Site Permit? But here we go right back
16 to the Indian Burial Site.

17 SPEAKER: Yeah.

18 EBON: Prehistoric.

19 SPEAKER: It is prehistoric.

20 EBON: Once you put it in your regulations -

21 FREEDMAN: Myron Freedman, for the record. I have a
22 question probably for Gene. So we're only talking about
23 excavations, right, in terms of the permit?

24 HATTORI: This is Gene Hattori, for the record. For
25 this particular permit, yes.

1 FREEDMAN: Yeah, so we need to have the word
2 'excavation' so we're not getting contacted for, you know, to
3 bury someone's faithful pet.

4 SPEAKER: And burial of it, yeah. [laughs]

5 SPEAKER: Well the prehistoric.

6 FREEDMAN: Yeah. I just didn't know - or yeah, bombs
7 still laying around.

8 [crosstalk]

9 SPEAKER: What are you thinking?

10 BRADLEY: Well whatever, I mean this is Sarah
11 Bradley. I think we had excavation or we talked about it at one
12 time, and we kind of went away from that.

13 CAMP: Anna Camp, for the record. I think that
14 the tribes had probably cause then again it puts it back to a
15 scientific thing rather than [inaudible]. I don't know how much
16 meaning the title has, but it does obviously have - people have
17 feelings about it so [inaudible].

18 EBON: Let's just keep going, sorry.

19 CAMP: Okay.

20 EBON: Cause we have another - I mean [inaudible]

21 CAMP: Okay.

22 EBON: I can yell about it next time.

23 SPEAKER: All right. Okay.

24 FREEDMAN: Provision 23.

25

1 SPEAKER: I recommend that instead of Tribal Chair
2 that be amended to Tribal Chairman.

3 SPEAKER: Okay.

4 SPEAKER: Or Chairperson.

5 SPEAKER: Just Chairperson, yeah.

6 SPEAKER: Chairperson.

7 SPEAKER: Chairperson.

8 BRADLEY: Okay, this is Sarah Bradley, for the
9 record. Yeah, would that work for I guess Chair whether it was
10 Chairman or Chairperson, but whatever you all think.

11 SPEAKER: Person.

12 BRADLEY: Okay.

13 SPEAKER: Michon.

14 EBON: Okay.

15 BRADLEY: Great.

16 SPEAKER: And number 2, I recommended instead of
17 saying at this time maybe saying the time may be extended.

18 BRADLEY: Okay.

19 SPEAKER: Yeah.

20 BRADLEY: They'll make the same changes. Sarah
21 Bradley, for the record.

22 SPEAKER: But it's good..

23 BRADLEY: And then, this is Sarah Bradley, for the
24 record, I added the 10 days on number 7 because I wanted to give
25 time from the start to appeal. I didn't want the excavation to

1 start until the 10-day, you know, we tried to come up with some
2 idea that we get it and they have to wait 10 days and that leaves
3 time for an appeal before.

4 SPEAKER: Oh, on number 5 it kind of begins oddly
5 after director. I would reverse that.

6 SPEAKER: [inaudible 3:27:51]

7 FREEDMAN: Because this followed on to the -

8 SPEAKER: January 4th?

9 FREEDMAN: Well no, the first sentence under the
10 provision after the colon, "providing those two complications".

11 SPEAKER: The [inaudible]

12 FREEDMAN Colon and then one, two, three, four -
13 seven things, the fifth one, "they will ask the tribe." I guess
14 you could have put 'they will' or 'we will'.

15 SPEAKER: Probably.

16 BRADLEY: And probably what would happen is
17 [inaudible].

18 [crosstalk]

19 EBON: Michon Ebon. And I'm also looking what
20 happened too is the LCB. What are they, legislative?

21 SPEAKER: Counsel Bureau.

22 EBON: They're going to read and they're going to
23 be catching that probably cause they're all fantasy.

24 SPEAKER: Exactly.

25

1 BRADLEY: Well and this is Sarah Bradley, just
2 looking at it, probably they would be arguably well 1 through 5
3 are all directions.

4 EBON: Oh okay.

5 BRADLEY: And in 6 and 7 will probably become
6 [inaudible]. So, it will probably be a big 1 at the top and
7 these will be A and B and then 1, 2,3.

8 EBON: See, they're going to get fancy over there.
9 [crosstalk]

10 SPEAKER: All right, that's one you missed.

11 FREEDMAN: Okay, come on everyone, 24, going once.

12 [laughter]

13 [crosstalk]

14 FREEDMAN: This is about penalties and fees.

15 SPEAKER: Yeah.

16 SMITH: Sarah Smith, for the record. Is Nevada a
17 [inaudible] the same as the Nevada district, the [inaudible]
18 permit?

19 BRADLEY: There is I believe two different permits,
20 right? At least I think it looks like it is.

21 [crosstalk]

22 SPEAKER: Yes, Anna Camp for the record.

23 NEBESKY: Scott Nebesky, what's the biggest issue
24 between the two permits?

25 CAMP: Anna Camp, for the record.

1 SPEAKER: I know this.

2 CAMP: I am sorry to repeat, Michon.

3 EBON: [laughs]

4 CAMP: The Antiquities Permit is something we vet
5 archeologists here at the museum, so we make sure that people are
6 credentialed before they can work. And where we don't permit
7 their projects, but they have to have - meet specific
8 requirements. They have to have worked in the Great Basin before
9 to be a Field Director. They need to have been a Field Director.
10 They need to have worked in this geographic area.

11 SPEAKER: Oh wow. Yeah.

12 CAMP: And then a little different for the PI's.
13 They have to have PI experience, but also experience in the Great
14 Basin.

15 NEBESKY: Okay, no I - we talked.

16 CAMP: And credentials.

17 NEBESKY: We talked about this. Thank you.

18 CAMP: Okay.

19 ALECK: Betty Aleck, number 24, clearance is
20 initiated by a Nevada agency. Is that a law enforcement agency
21 or -

22 BRADLEY: Yes, this is Sarah Bradley, for the record.
23 Yeah, so museum staff doesn't have the ability to do a criminal
24 investigation or something like that, and so we were trying to
25 figure out what we do. And honestly, I would tell them to do

1 this anyway if Myron called me and said hey, somebody told us
2 somebody's doing this and should have a permit, I'd say well
3 let's make a report for law enforcement.

4 But we want to put in here so that it's clear that's what
5 we would do if they get evidence of this. And so yes, we will
6 make a report to the appropriate law enforcement agency and
7 381.221 was like state parks and, you know, local sheriffs and
8 all of them. And then so that an investigation and enforcement
9 action may be initiated by that agency, whatever one we report
10 to, and there could be serious like criminal prosecution.

11 SPEAKER: And all municipalities fall under NRS?

12 BRADLEY: Yes.

13 SPEAKER: And they will investigate?

14 BRADLEY: Yes, let me just read that section to you
15 because it's all peace officers in the state have jurisdiction
16 over enforcement of this law. So it's NRS, Sarah Bradley, for
17 the record, NRS 381.221. It says, "The Division of State Parks
18 or the State Department of Conservation has resources and
19 personnel thereof, the sheriffs in the respective counties, the
20 Nevada Highway Patrol and all other peace officers shall be
21 charged with the enforcement." And that they may examine the
22 permit, examine the work, et cetera. They get to go onto the
23 land to do that.

24 SPEAKER: Have you decided [inaudible] after it's
25 adopted?

1 SPEAKER: Or do they automatically?

2 SPEAKER: I think they automatically do it. There
3 are peace officers, sworn peace officers of the state. They have
4 the authority of enforcement.

5 SPEAKER: Okay.

6 SPEAKER: So, I don't think we need to [inaudible]
7 officer for a city or, you know, state or [inaudible].

8 SPEAKER: Okay, that's good.

9 FREEDMAN: Okay, anything else under 25, 26 or 27?

10 NEBESKY: Yes, for the record, Scott Nebesky. I
11 don't know whether it's captured somewhere else or it needs to be
12 captured, but if there is no appeal or any type of -

13 SPEAKER: Legal proceedings?

14 NEBESKY: - your local [inaudible], I don't see where
15 it captures - will the tribes be notified to participate in that
16 appeal?

17 BRADLEY: Oh. Yeah, this is Sarah Bradley, for the
18 record. I don't think it's specified but yes, under 233(e) they
19 would. We can maybe refer to that.

20 NEBESKY: Go ahead.

21 BRADLEY: As you go through the provisions, you can
22 see that. So, in new Provision 25 they're saying either the
23 private landowner or the affiliated tribe can do an appeal within
24 10 days, and then there's no excavation during that, you know,

25

1 once that happens, and that's why we need to wait 10 days as well
2 before they can start.

3 NEBESKY: Right.

4 BRADLEY: We can add in maybe some notice provisions.

5 SPEAKER: In 26 and 27?

6 BRADLEY: Yeah, somehow for reference. This is Sarah
7 Bradley, for the record. There are other statutes that talk
8 about how did you notice. Maybe we just incorporate those in. I
9 kind of did that. If you look at 26 and 27, and you're right, I
10 didn't actually specifically say that, but I said that we will
11 send notice of the hearing pursuant to the requirements of, and
12 that's for the revocation hearing.

13 SPEAKER: Okay.

14 BRADLEY: We can add in though that the tribe - cause
15 I - yeah, we'll add it in. And I'll make sure - basically I was
16 trying to kind of - I'm familiar with the administrative
17 procedures afterall. That's what I do most of the time myself.
18 We were trying to say okay, we'll have a hearing, you know, and
19 then in 27, and this is sort for an emergency, right? So, that
20 would be where there's something really, really bad happening and
21 we have to revoke the permit before we have a hearing. Then that
22 gives us that authority. But we will add in notice provisions.

23 NEBESKY: For the record, Scott Nebesky, so under
24 Provision 25, just so I understand, a permit gets issued or is
25 considered to be issued and the private landowner where the

1 permit is being located and the affiliated tribe may appeal, so
2 that could be any affiliated tribe that's an associate cause they
3 won't even find affiliated tribe?

4 BRADLEY: I'm thinking, and maybe we should clarify
5 this. This is Sarah Bradley, for the record. So, the way I
6 pictured this is let's pretend, there are two options, right.
7 Let's say we're going to issue a permit, and so [inaudible]
8 Directors and have notice to the landowner and the affiliated
9 tribe. I'm picturing by this time identify one [inaudible].

10 Those two would get noticed that I'm planning to issue this
11 permit. Like essentially the permit's been granted is what the
12 letter would say. And then the affiliated tribe is identified
13 about the notice, could appeal, right, because maybe they don't
14 want it to be issued and they can appeal. As long as they do it
15 within the 10 days the excavation wouldn't start, and then that
16 appeal would happen.

17 Conversely, if we decide we are not granting this permit
18 and send notice out. Then the landowner could appeal and say I
19 want you to issue [inaudible] and so the idea was to let either
20 side appeal if they were unhappy. And I was picturing it - I
21 don't know if we defined it for this purpose.

22 I was picturing it being the one tribe after doing research
23 regarding area, the project, whatever, we've identified one tribe
24 that they're consulting with regarding the permit. So, I'm
25

1 picturing this being a single tribe and maybe we need to clarify
2 that cause that was my intent.

3 NEBESKY: For the record, Scott Nebesky. There are
4 instances where in those overlapping areas where there may be two
5 tribes that have interest in the site, by not being able to
6 identify that it's exclusively Paiute or exclusively Shoshone or
7 Washoe, they may - we may all agree it's Native American,
8 therefore two tribes have affiliation.

9 SPEAKER: Right.

10 NEBESKY: By default.

11 FREEDMAN: Myron Freedman, for the record. But aren't
12 we talking about two different steps in this process because and
13 one of the first things that's done is identifying the affiliated
14 tribes and then we have the process of consulting on the claims.

15 SPEAKER: Right.

16 FREEDMAN: And then that has to be determined for the
17 purpose of the permit of who this permittee is going to be working
18 with.

19 SPEAKER: Right.

20 FREEDMAN: So at this point this is actually after the
21 permit is issued.

22 SPEAKER: Yeah.

23 FREEDMAN: Yeah, so if the question is, can a permit
24 be issued with two or more tribes that are affiliated tribes, and
25 I don't know if I have an answer to that.

1 NEBESKY: Scott Nebesky, for the record. I just know
2 that there are circumstances in the Truckee Meadows where both
3 Paiute as well as Washoe as well as the Colony being a Washoe
4 tribe says that - says we're affiliated because there's an
5 overlapping area.

6 SPEAKER: Yeah.

7 NEBESKY: And the distinction of what exactly - where
8 is the affiliation? Is this a Washoe? Without going into the
9 excavating and doing all that stuff, it just happens to be a
10 site. So, then there's three of us consulting. And I'll use an
11 example of this that is relevant to us. When that was excavated
12 and the - it was - human remains was repatriated, buried, we had
13 then two ceremonies or three ceremonies. I think two ceremonies
14 on the burial, right?

15 FREEDMAN: So, I guess we change that to affiliated
16 tribe or tribes?

17 SPEAKER: Yeah.

18 SPEAKER: Yeah.

19 FREEDMAN: Okay. All right. I think we're wrapping
20 up now. Do we just want to -

21 EBON: All right, Michon Ebon, good job, and I
22 think Sarah, you're going to know this law in and out, so it's
23 really good. I think if we go over now the next steps on what's
24 happening, what we can do.

25

1 BRADLEY: Okay. Sorry, I just made a little note.
2 So this is Sarah Bradley, for the record. So, this is a
3 workshop, as you know; the next step would be submitting it to
4 LCB unless we want to have another workshop. So the normal
5 process would be we submit our draft to LCB, and they draft it.
6 We cannot submit that draft though until August 1. So we have to
7 have a few months before we'd even be allowed to submit it.

8 So August 1 is when we can start submitting permitted
9 regulation drafts. So August 1 we would submit it and then what
10 would happen is Myron would get an 'R' number, and so it would
11 be, for example, R19 which would stand for 2019, and then dash
12 whatever number, you know, whatever order. So they would give an
13 R number you can track it with.

14 Once we get the draft back, now here's what makes it a
15 little complicated. We send it August 1 hopefully. Staffing
16 says they have 30 days to do the draft. This could take longer
17 depending on who's working on it, how many questions they have
18 and maybe how long it is, and so it may take longer than 30 days.
19 So I guess I would say we could probably expect to have a
20 permanent of our draft back beginning of October, but that's what
21 I guess, just worst case.

22 So, we submit it August 1. First week in October we get
23 our draft back. Then we have to notice a public hearing and we
24 have to have that draft back to notice it, and we have to give 30
25 days. So, that means we're looking at the earliest public

1 hearing probably the beginning of November. After the public
2 hearing, Myron and I, with the Museum Director, can adopt the
3 regulation.

4 Then we file it with - give it back to LCB with all the
5 appropriate paperwork. It then gets added to the Legislative
6 Commission. They meet generally once a month. We might be able
7 to get on the December agenda. We might not get on until
8 January. It's hard to say. Once they vote to affirmatively
9 approve it, that's when it really becomes effective. They file
10 it in the Secretary of State and the Library of Records, but they
11 have to vote on it.

12 So, I'm thinking the earliest it would be effective would
13 be December or January depending on how quickly the drafting goes
14 and how quickly we get it on the Legislative Commission agenda.
15 We have time for another workshop if we need to do one because we
16 can't submit it until August 1 anyway.

17 EBON: Michon Ebon. These are for permanent or
18 temporary you're talking?

19 BRADLEY: These would be permanent regulations.
20 That's what our plan is. Now just to clarify, it doesn't mean we
21 never get to look at them again. It just means that these are
22 documented regulations of the museum until they're amended or
23 appealed or whatever. Temporary regulations expire just as a
24 matter of time. The month of July you're not allowed to submit
25 any regs whether temporary or permanent.

1 So, August 1 is the start of the permanent; you can't even
2 submit a temporary. So, these would be permanent, and they would
3 hopefully be effective like I said, no later than January, and
4 then I guess my plan would be as we work through this and things
5 come up, we would get a list of changes we need to make and then
6 given the legislature, amends the statute and changes we need to
7 make, right. We also want to renew our regulations, keep them up
8 to date.

9 FREEDMAN: This is Myron and I'm recommending to plan
10 one more workshop. Maybe in July?

11 SPEAKER: That's what I'm thinking.

12 CAMP: This is Anna Camp, for the record. I don't
13 know how you all feel about it because we're getting lower and
14 lower attendance.

15 EBON: I think the bad weather might affect
16 people.

17 CAMP: Well I know there's other things going on,
18 but I'm wondering, is it - would it be an option outside of
19 another workshop to meet if we needed to once, send the draft,
20 send the draft back out, to meet with the tribes individually for
21 comment, or do you think the workshop - I'm just trying to -

22 BRADLEY: It's up to you. I mean the law requires -
23 so this is where we're going to be balancing two things. The law
24 requires at least one workshop. We've done more than one so

1 we're good there. The law requires at least one public hearing.
2 We had more of those as well.

3 You know, we also have an affirmative duty in the statute
4 to get comment on our regulations. And so, if that means we do
5 some additional efforts beyond that, absolutely we can do that
6 and we can send a written draft to everybody on our list so, you
7 know, publish in the paper in case they don't print it, I don't
8 know.

9 SPEAKER: Okay.

10 BRADLEY: You know, it's up to pretty much what
11 everyone thinks is the best way, you know, the evidence to make
12 some trades I guess, you know.

13 CAMP: That was my thought. Anna Camp, for the
14 record, is to perhaps - what do you think, Myron?

15 FREEDMAN: Well I just think we have provided so many
16 opportunities for input. So -

17 [crosstalk]

18 CAMP: That's what I was thinking. It's, you know
19 -

20 FREEDMAN: I think we're in review mode now where
21 we've gotten lots of input and we're making the adjustments, and
22 I think one more review -

23 CAMP: Okay.

24 SPEAKER: Uh-huh.

25 FREEDMAN: - is probably sufficient.

1 SPEAKER: Okay. I think though in your letter you
2 need to emphasize that this is the last time.

3 SPEAKER: When I send out the letter?
4 [crosstalk]

5 SPEAKER: That is will be the last workshop, right.

6 BRADLEY: And we will still have comment in public
7 hearing. But by the public hearings, Sarah Bradley, for the
8 record, we'll have an LCB approved draft, so our draft will be
9 quite different in the public hearing probably. So we'll
10 definitely set comment at that time, but it will be our last sort
11 of, or I guess I was thinking informal cause I think the
12 workshops are a little bit less informal cause we're still
13 working on a draft.

14 By public hearing time, I would say we have a draft that we
15 pretty much like and we're kind of hoping everyone else does too
16 at that point. It doesn't mean we won't accept comment. It
17 doesn't mean there won't be changes. I should add that though,
18 let's pretend we have our public hearing and we get a lot of
19 comment and we make a lot of changes.

20 We would then potentially have to resubmit that draft of
21 LCB to have it updated, and so our effective date and our time
22 really in place would potentially be extended; we're making the
23 law, so we want it to be right. But at the same time just know
24 changes happening after the public hearing potentially can delay
25 our effective date a little bit.

1 NEBESKY: For the record, Scott Nebesky. Just to
2 clarify, after you get it back from LCB you're required to have a
3 public hearing with 30 days' notice?

4 BRADLEY: We have to give 30 days' notice, but we
5 have to post that text.

6 NEBESKY: Right.

7 BRADLEY: With our notice and we send it to all the
8 public libraries in the state where we don't have offices.

9 NEBESKY: Okay. This is again Scott Nebesky, for the
10 record. Does that mean that it has to be a public hearing, or
11 can we have more workshops?

12 BRADLEY: This is Sarah Bradley, for the record.
13 Either way works. I don't know that we're prohibited from having
14 a workshop after we have LCB draft. I guess I would say in my
15 experience what tends to work better is to have workshops prior
16 to get as good as we can draft because changes after the public
17 hearing and changes after the LCB draft can delay things.

18 NEBESKY: Uh-huh.

19 BRADLEY: I get updates on whatever we do, but I try
20 to think possible what the best thing we can have so we don't
21 have to do that. So, my goal would be the best we have when we
22 submit it to LCB.

23 NEBESKY: Yeah, and for the record, Scott Nebesky. I
24 agree with Myron and we should have another workshop and really

25

1 get the notice out and then you're saying it's not necessarily
2 the last bite of the apple, but it's a significant step.

3 BRADLEY: Yes.

4 NEBESKY: That people should attend.

5 BRADLEY: Yes.

6 NEBESKY: Because then it starts going into a more
7 formal process.

8 BRADLEY: Yes.

9 NEBESKY: So the workshop is important. Okay.

10 EBON: And then - Michon Ebon, we should set a
11 date to where you guys are going to have enough time to finish
12 it, to finish it up, and then make sure we know what you guys are
13 submitting to the LCB. That's going to be a long - that's a lot.

14 BRADLEY: Yes, let's think about that.

15 EBON: Yeah, cause what you guys are submitting, I
16 mean what the LCB gets, make sure that the tribes and the museums
17 know what's being submitted and we're going in, we're submitting
18 that together.

19 BRADLEY: And so, this is Sarah Bradley, for the
20 record. I think we can send it out cause normally we send it by
21 email to LCB on this and they give us the R Number so I think we
22 could let, you know, on Listserv say hey, we submitted it to LCB,
23 here's our R Number, here's the draft, and then everybody else
24 can also check cause LCB will post it on their register. They
25 have a register of administrative regulations.

1 EBON: But we can't comment to those.

2 BRADLEY: No, but we can track the progress.

3 EBON: Okay, but no, I just want to make sure that
4 what you guys submit is what the tribe has agreed to, the tribes
5 have agreed to, that you guys don't - sorry, that you guys aren't
6 submitting something that -

7 NEBESKY: For the record, Scott Nebesky, what I'm
8 hoping is that the last workshop that we have is truly just the
9 fine tuning.

10 SPEAKER: And no more adding and deleting.

11 NEBESKY: Yeah.

12 FREEDMAN: Myron Freedman, for the record. And that's
13 our goal.

14 SPEAKER: Okay.

15 FREEDMAN: I mean what you see is what we've been
16 working on.

17 NEBESEKY: Right.

18 FREEDMAN: You can see the changes and we're going to
19 make a few more changes and you can kind of see what it is.

20 NEBESKY: Yeah, yeah.

21 FREEDMAN: So, we'll have one more workshop and
22 hopefully, yeah, and the changes will be made then and especially
23 if Scott stays home.

24 NEBESKY: Yeah, right.

25 [laughter]

1 [crosstalk]

2 EBON: You know Scott so I'm pretty sure that he's
3 going to be there.

4 [crosstalk]

5 FREEDMAN: It wouldn't be the same without Scott.

6 BRADLEY: So, this is Sarah Bradley, for the record.
7 I guess my thinking is we need to take some time and, you know,
8 I have notes about what I need to do, do some research and revamp
9 our draft and then I think post it for maybe more comment prior
10 to a workshop. What date are we thinking, like the end of June
11 for a workshop or beginning of July?

12 FREEDMAN: Somewhere right around then. That gives us
13 a month to do the revisions before and raise the chance to look
14 at that before it's submitted.

15 BRADLEY: Yeah, because I'm hoping we can post it for
16 a little time before the workshop so that we can review it. I'm
17 also being cognizant honestly that I'm taking a week off in June
18 myself and -

19 NEBESKY: Scott Nebesky, for the record. So, you
20 must have looked at my annual calendar.

21 [laughter]

22 NEBESKY: So, I'll be here the last week of June and
23 the first two weeks of July I'll be out.

24 BRADLEY: Okay.

25 NEBESKY: But again, you're just fine tuning.

1 [crosstalk]

2 NEBESKY: The second comment is what Anna was saying
3 is that we have lower attendance and I would make a comment that
4 it's not quantity, it's the quality of the participation -
5 [laughter]

6 NEBESKY: - that defines success, so -

7 BRADLEY: Well and this is Sarah Bradley, for the
8 record. I don't know, I guess when you talk to your colleagues
9 that have been here. I mean can we say that some people not
10 coming means they're happy with what they're seeing?

11 NEBESKY: Exactly.

12 BRADLEY: Okay.

13 CAMP: Anna Camp, for the record. I called them,
14 a bunch of folks yesterday, and got yes, affirmative, they are
15 happy, which was why - I wasn't trying to avoid a workshop. I
16 was thinking about people's summer schedules and I thought if
17 there are two major tribes that have interest right now, would it
18 be better to do a meeting with Reno Sparks and a meeting with
19 Pyramid, and that was just my thought outside of a public
20 meeting, having to post and have the two weeks and all that
21 stuff. Just an idea. But public workshop it is.

22 FREEDMAN: Okay, so on that note, on that portion, is
23 there any other public comment at this time? No public comment.
24 We are adjourned.

25 SPEAKER: Thank you, Las Vegas.

1 SPEAKER: Thank you.

2 [crosstalk]

3 BRADLEY: So, goodbye.

4 SPEAKER: Goodbye all you.

5 BRADLEY: So, I'm going to be on vacation the 17th

6 to the -

7 [audio ends abruptly]

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