

1 FEDERAL SUBSISTENCE BOARD
2
3 PUBLIC REGULATORY MEETING
4
5 VOLUME I
6
7 COAST INTERNATIONAL INN
8 ANCHORAGE, ALASKA
9
10 MAY 18, 2010
11 8:30 o'clock a.m.
12
13 MEMBERS PRESENT:
14
15 Mike Fleagle, Chairman
16
17 Charlie Bunch, Bureau of Indian Affairs
18 Julia Dougan, Bureau of Land Management
19 Geoff Haskett, U.S. Fish and Wildlife Service
20 Wini Kessler, U.S. Forest Service
21 Sue Masica, National Park Service
22
23 Michael Bangs - Southeast RAC
24 Judy Caminer - Southcentral RAC
25 Molly Chythlook - Bristol Bay RAC
26 Sue Entsminger - Eastern Interior RAC
27 Weaver Ivanoff - Seward Peninsula RAC
28 Jack Reakoff - Western Interior RAC
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31 Denby Lloyd, State of Alaska Representative
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33 Keith Goltz, Solicitor's Office
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44 Recorded and transcribed by:
45
46 Computer Matrix Court Reporters, LLC
47 135 Christensen Drive, Suite 2
48 Anchorage, AK 99501
49 907-243-0668
50 sahile@gci.net

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P R O C E E D I N G S

(Anchorage, Alaska - 5/18/2010)

(On record)

CHAIRMAN FLEAGLE: Good morning. I'd like to call the meeting to order. Welcome to everybody who's here for the wildlife Federal Subsistence Board meeting. Today is May 18th, Anchorage, Alaska.

I'm Mike Fleagle, the Chairman of the Federal Subsistence Board, and before I turn it over to the Board for introductions, I'd like to recognize and welcome Special Assistant to the Secretary of the Interior for Alaska Affairs, Pat Pourchot, who's joining us this morning. Welcome Pat.

And, Board introductions, I'll start on my left, please.

MS. DOUGAN: Good morning. I'm Julia Dougan, the acting State Director for the Bureau of Land Management.

MR. BUNCH: Good morning. I'm Charlie Bunch. I'm the Deputy Regional Director for Trust for the Bureau of Indian Affairs. And I'm standing in for Gene Virden who's back in D.C., and we're advertising for a new Regional Director, so if anyone wants that job, please put in for it.

(Laughter)

MS. MASICA: Good morning. My name's Sue Masica and I'm the Regional Director for the National Park Service.

MR. GOLTZ: Keith Goltz, Solicitor's Office.

MR. HASKETT: Good morning. Geoff Haskett, Regional Director, U.S. Fish and Wildlife Service.

DR. KESSLER: Good morning. I'm Wini Kessler representing the Regional Forester.

COMMISSIONER LLOYD: Good morning. I'm

1 Denby Lloyd, Commissioner of the Alaska Department of
2 Fish and Game.

3

4 CHAIRMAN FLEAGLE: Thank you. With
5 that, I'd like to turn it over to our Council
6 representatives that are here, start at this table,
7 please.

8

9 Good morning.

10

11 MS. CYTHLOOK: Good morning. My name
12 is Molly Chythlook and I'm the Bristol Bay Regional
13 Advisory Council Chair.

14

15 Thanks.

16

17 MS. CAMINER: Hello. I'm Judy Caminer
18 and I'm representing the Southcentral Region.

19

20 MR. BANGS: Thank you. My name is
21 Michael Bangs. I'm representing Southeast Council in
22 representing -- or taking Bert Adams place, I'm the
23 Vice-Chair, and he couldn't make it.

24

25 So, thank you.

26

27 MR. REAKOFF: I'm Jack Reakoff, Western
28 Interior Chair.

29

30 MR. WEAVER: Good morning. I'm Ralph
31 Ivanoff from Unalakleet with the Seward Peninsula
32 Regional Advisory Council. I'm the Chairman there.

33

34 MR. BROWER: Good morning. My name's
35 Harry Brower, I'm the Chair of the North Slope Regional
36 Advisory Council.

37

38 Good morning.

39

40 CHAIRMAN FLEAGLE: And for the
41 edification of everybody in the audience, I'd like to
42 have the back table and the front table introduce
43 themselves, too, please.

44

45 (Staff Committee Introductions - no
46 microphones on)

47

48 (Sandy Rabinowitch - NPS)

49 (Warren Eastland - BIA)

50 (Dan Sharp - BLM)

1 (Ken Lord - Solicitor's Office)
2 (Carl Jack - Native Liaison)
3 (Jerry Berg - USFWS)
4 (Steve Kessler - USFS)

5
6 MR. ARDIZZONE: Good morning, Mr.
7 Chair. Chuck Ardizzone, Office of Subsistence
8 Management.

9
10 DR. WHEELER: Good morning. Polly
11 Wheeler with the Office of Subsistence Management.

12
13 CHAIRMAN FLEAGLE: And with the State
14 of Alaska.

15
16 MR. VALKENBURG: Pat Valkenburg, Deputy
17 Commissioner, Department of Fish and Game.

18
19 MS. CUNNING: Tina Cunning, Alaska Fish
20 and Game.

21
22 MR. MITCHELL: Good morning. Mike
23 Mitchell, Alaska Attorney General's Office.

24
25 CHAIRMAN FLEAGLE: Good morning, thank
26 you. And now I turn it over to Pete Probasco for your
27 introduction and your Staff, your key Staff, please.

28
29 MR. PROBASCO: Thank you, Mr. Chair.
30 I'm Pete Probasco. I'm the Assistant Director for the
31 Office of Subsistence Management, and my Staff
32 introduced themselves in the front. And as we go
33 through each of the respective agenda items, I'll ask
34 them to introduce themselves at that time.

35
36 Thank you, Mr. Chair.

37
38 CHAIRMAN FLEAGLE: Thank you, Pete.
39 Before we start out on the meeting I usually do this at
40 the very end, but I just want to commend the Staff on
41 the hard work that went into the working through these
42 proposals and that went into this monstrous book that
43 we have, but it's pretty impressive we were able to get
44 the number of proposals thinned down to a manageable
45 number for the non-consensus agenda. So that's what
46 we'll be doing here today and for the next three days.
47 We're scheduled to go four days, through Friday, but I
48 have a commitment on Friday, if we do go into Friday
49 I'm going to have to ask somebody else to step in as
50 Chair. Our intention is to try to finish by Thursday.

1 And with the number of proposals that we have on the
2 non-consensus agenda I think that's doable. But we're
3 not going to rush anything to try to meet that
4 schedule, we will give everything due consideration.

5
6 So, Pete, do you have any other
7 announcements before we move onto the agenda?

8
9 MR. PROBASCO: Mr. Chair. Not at this
10 time. Just to sort of give you a measure, at the rate
11 that we have as far as non-consensus agenda items, the
12 Board, we're probably looking at trying to address 13
13 to 14 proposals per day to meet the three day schedule.

14
15 Mr. Chair.

16
17 CHAIRMAN FLEAGLE: You bet, that's
18 doable. Item No. 2 on the agenda, is corrections,
19 additions to the agenda.

20
21 Pete.

22
23 MR. PROBASCO: Mr. Chair.

24
25 CHAIRMAN FLEAGLE: We got a lot of
26 feedback.

27
28 MR. PROBASCO: Good morning, Tina.

29
30 (Laughter)

31
32 MR. PROBASCO: Mr. Chair. The only --
33 no corrections, just to let you know that KNA from
34 Aniak will be traveling and they would like to testify
35 Wednesday morning on Proposal 69 that they submitted.
36 So they just wanted to let the Board be aware of that.

37
38 Mr. Chair.

39
40 In addition yesterday we received from
41 the State a letter addressing customary and traditional
42 use findings. I've discussed this over with the
43 Solicitor's office and with you as well and I think it
44 would be appropriate for us to go into a brief
45 executive session between Agenda Item No. 6 and No. 7.
46 I would anticipate this executive session would take no
47 longer than an hour, Mr. Chair, hopefully shorter.

48
49 CHAIRMAN FLEAGLE: Yeah, we'll make it
50 shorter so that we don't cut into that 13 to 14

1 proposals per day.

2

3 MR. PROBASCO: Yeah.

4

5 CHAIRMAN FLEAGLE: All right. So as
6 discussed please insert in your agenda between Item 6
7 and 7 a brief executive session of the Board.

8

9 Any other corrections or additions to
10 the agenda, Board members.

11

12 DR. KESSLER: Mr. Chair.

13

14 CHAIRMAN FLEAGLE: Wini.

15

16 DR. KESSLER: Thank you. It comes to
17 my attention that we seem to have consensus on a couple
18 of proposals that we could possibly put on the
19 consensus agenda and those are Proposal 13, proposing a
20 two week closure in the portion of Unit 4, and Proposal
21 17, proposes to remove the quota and delegation of
22 authority language from the regulation for a moose in
23 Unit 5A except Nunatak Bench, and delegates management
24 to the local manager with a Board letter of delegation.

25

26 I would move to place those two on the
27 consensus agenda.

28

29 CHAIRMAN FLEAGLE: Do we have a second.

30

31 MR. HASKETT: Second.

32

33 CHAIRMAN FLEAGLE: Is there any
34 objection, Board members.

35

36 (No comments)

37

38 CHAIRMAN FLEAGLE: Hearing none, that
39 action occurs.

40

41 Thank you.

42

43 DR. KESSLER: I have one more, Mr.
44 Chair.

45

46 CHAIRMAN FLEAGLE: Wini.

47

48 DR. KESSLER: There should be a change
49 in the order of proposal deliberation with Proposal
50 WP10-18a immediately following Proposal WP10-11. Both

1 concern customary and traditional proposals in Unit 1C,
2 and one is a subset of the entire unit considered in
3 the other, so this would be the appropriate order.

4

5 CHAIRMAN FLEAGLE: Pete.

6

7 MR. PROBASCO: Thank you, Mr. Chair.
8 Ms. Kessler, so are you recommending still keeping 11
9 first followed by 18a?

10

11 DR. KESSLER: Yes, 18a should --
12 correct 18a should follow.

13

14 MR. PROBASCO: Thank you, Mr. Chair.

15

16 CHAIRMAN FLEAGLE: Okay, well, we'll
17 note that and we will do that. Pete, you got that
18 done, right?

19

20 MR. PROBASCO: Yes, sir.

21

22 CHAIRMAN FLEAGLE: Okay, thank you.

23 Any others.

24

25 (No comments)

26

27 CHAIRMAN FLEAGLE: We do have the
28 agenda as corrected.

29

30 Information sharing.

31

32 Pete.

33

34 MR. PROBASCO: Mr. Chair. Since this
35 meeting is shortly after the one we just had
36 approximately a month ago, I have no additional items
37 to share at this time.

38

39 CHAIRMAN FLEAGLE: Other Board members.

40

41 (No comments)

42

43 CHAIRMAN FLEAGLE: Judy.

44

45 MS. CAMINER: Mr. Chair. At the
46 Southcentral meeting a few issues were brought up that
47 I'm not sure were mentioned at the April meeting, if I
48 could just mention them briefly.

49

50 First of all I'm here today because the

1 Chair and Vice-Chair are both commercial fishing in
2 Cordova and had a conflict. Our secretary, Gloria
3 Stickwan is unable to stay the whole meeting, although
4 she's here for this morning. So I appreciate their
5 confidence in me to be here today.

6
7 I felt that the Southcentral meeting
8 did a great deal of diligence and was very careful to
9 look at the three criteria for all the proposals we
10 evaluated. I think the RAC wanted some feedback, I'm
11 sure you'll be giving this, on the Subsistence Review,
12 and perhaps even the opportunity to look at a draft if
13 it's not too late to do that.

14
15 They also had a comment regarding NMFS
16 and C&T use of mammals, marine mammals, which I can get
17 with Pete on later.

18
19 They also had a question about
20 scheduling the next rural determination process and the
21 Ninilchik RFR. And then just as an information point,
22 one of our members, Bob Henrichs, was able to attend
23 the tribal meeting with the president last spring and
24 talked about that at our meeting.

25
26 Thank you.

27
28 CHAIRMAN FLEAGLE: Thank you. I had a
29 very brief discussion with Mr. Pourchot this morning
30 and there is no update on the Subsistence Review, and I
31 think with the activity in the Gulf of Mexico with the
32 oil spill, the Interior personnel are pretty busy,
33 according to Pat, and what I've been seeing on the news
34 as well. So as soon as we see that we'll definitely
35 share it.

36
37 Pete, do you have a response to the
38 other, the scheduling issues?

39
40 MR. PROBASCO: Yes, thank you, Mr.
41 Chair. As far as the Ninilchik RFR, we've had a few
42 questions on the status of that, both from the members
43 of the Council as well as the proponent. And as you
44 can tell by our booklet we've been quite busy dealing
45 with the wildlife cycle, and we purposely parked the
46 Ninilchik RFR with the expectation that we'll address
47 that after we're done, and publishing our wildlife
48 regs. We anticipate picking that up probably by late
49 June, early July, and of course working with the Board
50 members we will schedule it appropriately on the RFR.

1 As far as rural determination, we're
2 going to have to start with the planning process for
3 that. This year is the 2010 census, and if we use the
4 last census as a barometer, the data probably will not
5 be available for at least two years, but we don't wait
6 for that two years because we still have steps that we
7 need to go through, which includes looking at
8 methodology and that type of discussion and we'll be
9 scheduling that. We have not done anything at this
10 point in time on the -- for the 2010 census, but it's
11 definitely going to be on our plate soon.

12
13 Thank you.

14
15 CHAIRMAN FLEAGLE: Okay, appreciate
16 those questions and responses there.

17
18 Any other information sharing topics
19 between Board members.

20
21 (No comments)

22
23 CHAIRMAN FLEAGLE: We'll go ahead and
24 move right into Council topic discussion. Weaver you
25 had your hand up.

26
27 MR. IVANOFF: Yes.

28
29 CHAIRMAN FLEAGLE: Yeah, go ahead.

30
31 MR. IVANOFF: Thank you, Mr. Chair.

32
33 I'd just like to thank the Federal
34 Board of Subsistence for writing a letter to the North
35 Pacific Fishery Management Council in regards to the
36 hardcap of 60,000 bringing it down to 29,000 on the
37 bycatch issue in the Bering Sea. I realize this is the
38 game section of it, but what's transpired in the past,
39 the Seward Peninsula Regional Advisory Council has also
40 written to the North Pacific Fishery Management Council
41 asking for that lowering the cap down to 29,000 and
42 really appreciate you guys -- the Subsistence Board's
43 efforts to follow in the same suit because it's really
44 important issue on the Yukon, Kuskokwim as well as the
45 Norton Sound area.

46
47 In addition, we've also petitioned the
48 -- or written a letter to the North Pacific Fishery
49 Management Council asking that additional seats be
50 allocated to the North Pacific Fishery Management

1 Council in an effort to balance the industry with
2 subsistence users or people in the Western Interior,
3 and appreciate those efforts. We have not heard any
4 reply, hopefully that will be soon from the North
5 Pacific Fishery Management Council and I really am
6 anxious to see what they have to say.

7

8 Again, thank you, very much.

9

10 CHAIRMAN FLEAGLE: All right, thank
11 you, Weaver. It is something that we're pretty serious
12 about and as we spoke before at the meeting here, just
13 trying to recognize the protocols between departments
14 within the US Government and where we try to stick our
15 noses in and I think that was the appropriate level,
16 hopefully we'll see some result from that.

17

18 Thanks for the comments.

19

20 Jack.

21

22 MR. REAKOFF: I also thank the Board
23 for writing letters in regard to the bycatch issue and
24 the Interior Department's letters also addressing that
25 issue.

26

27 The Western Interior Council has worked
28 long and hard on these proposals before the Board and
29 also before the Board of Game. And so we spent a
30 tremendous amount of time on deliberating these
31 proposals and so forth. One thing that's not going to
32 be reviewed before this Board, on May 14th, last
33 Friday, our Council met by teleconference and during
34 the last Board of Game meeting there was a proposal
35 that was submitted to increase season and bag limit for
36 caribou in Unit 26B for Central Arctic Caribou. The
37 Western Interior Regional Council, as are most of the
38 people of the Central Brooks Range are very concerned
39 with the recent regulatory change going from two
40 caribou limit July 1 for bulls and two caribou limit,
41 October 1 to five caribou resident and non-resident,
42 for cows, bulls and everything on July 1, extending the
43 cow season all the way to the 15th of May. The Western
44 Interior Council has voted to join the petition that is
45 being generated to petition the Board of Game to repeal
46 certain aspects of that regulation. There was a
47 submission under a special Record Copy, RC-126 that
48 actually increased the season for cow caribou by two
49 and a half months, that the Council, the Advisory
50 Committees or the public did not see, which violates

1 the Procedural Act. And so the Western Interior
2 Council, the people of the Central Brooks Range are
3 very concerned that this is -- that we're going to move
4 towards the Mulchatna situation, high attraction rate,
5 high harvest by aircraft associated with the Dalton
6 Highway, there's jet air service into Deadhorse and
7 expanded hunting pressure exerted against this herd.

8
9 These caribou are used by the people of
10 Arctic Village, Venetie, they're shared through Fort
11 Yukon, they're used by Anaktuvuk Pass, Nuiqsut,
12 Kaktovik, Barrow. I was in Barrow for a Subsistence
13 Resource Commission meeting, people of the North Slope
14 were very concerned in Nuiqsut. We have membership
15 from various areas in the Central Brooks Range.

16
17 And so I wanted the Federal Board to be
18 aware that we are going to be petitioning the Board of
19 Game to repeal certain aspects of that. As past Chair
20 you're well aware there is a Procedural Act, there is a
21 publication notification to the public and that was
22 violated. And so we were already concerned with the
23 expansion to a five caribou limit.

24
25 We feel that this issue will cause
26 great hardship as you will see in your proposals here.
27 I think they're under consensus agenda, that we're
28 reducing the caribou season and bag limits for people
29 in Southwestern Alaska, within parts of our region for
30 the Mulchatna Caribou, people rely heavily on caribou.
31 We don't have nearly as much fish resource in the
32 Central Brooks Range and caribou are highly relied on
33 by people of the Central Brooks Range. There's very
34 little fish. Very little alternate resources for
35 people up there.

36
37 And so I wanted the Board to be aware
38 of that issue.

39
40 Thank you.

41
42 CHAIRMAN FLEAGLE: Thank you, Jack,
43 appreciate it.

44
45 Other Council comments, Harry.

46
47 MR. BROWER: Thank you, Mr. Chairman.
48 I'd just like to comment on supporting what Jack just
49 commented on. There's a concern that's been raised and
50 voiced by our membership on the North Slope as well.

1 And not just the membership, other hunters that view
2 these proposed regulations have raised concern on
3 what's being proposed by the Board of Game.

4
5 I share that comment with you and the
6 Board, Mr. Chair.

7
8 Thank you.

9
10 CHAIRMAN FLEAGLE: Thank you, Harry.
11 Jack, your mic's still on -- thank you.

12
13 Other Council comments.

14
15 Good morning, Michael Bangs.

16
17 MR. BANGS: Thank you, Mr. Chair.
18 Yeah, there's a couple of issues that the Southeast
19 Council has brought to light and I wondered what the
20 Board thinks.

21
22 We're considering the thoughts of
23 introducing more input into forest products uses. In
24 Southeast forest products, such as the free use timber,
25 you know, all the different products that people take
26 from the forest for subsistence lifestyle is important,
27 is just as important as fish and wildlife. And so
28 we've discussed what can we do to have more input into
29 the regulations that govern forest products. And so I
30 spoke with Mr. Pat Pourchot during a teleconference and
31 brought that up, and I'm not sure what direction that
32 the Board could go in that direction; I don't think
33 you've ever had proposals, at least since I've been on
34 the Council, relating to forest products, but it's
35 something that we're becoming more aware of as far as
36 something that's important to our way of life.

37
38 So that was one of the issues.

39
40 And another issue that's come up at
41 every meeting I've been to is the State comments to the
42 RACs regarding proposals. A lot of times the State
43 doesn't have comments and we've addressed the issue
44 that, well, if you don't have comments for us to bring
45 into our, you know, information gathering to make a
46 good decision on a proposal, and then you come to the
47 Board with your comments, you're missing a step there.
48 So I was wondering how the Board felt. Our Council has
49 approached this subject a lot of times. Is the State,
50 you know, able to bring comments forward to the Board

1 without bringing them to the Council. I mean it's
2 important that we get all the information we can and
3 make good decisions. And I think that that should be
4 addressed.

5
6 And one other issue, the last issue is
7 the lack of information that gets to the regional State
8 Advisory Committees. I serve as the Chair on our
9 Advisory Committee and I see that every meeting that
10 I've gone to as a RAC member there's very little input
11 from the local ACs and I know board support has been
12 working real diligent about trying to get more
13 information to the ACs, but I'd like to see the Board
14 direct Staff to make sure that they work with the State
15 board support section to make sure that those ACs get
16 that information. Because even if the RAC doesn't
17 agree with it, it's good to get more information to
18 make better decisions and at least understand the
19 impacts that you're having. I know in Southeast alone
20 there's over 22 active ACs and we only have, you know,
21 a dozen or so members at each RAC meeting. So more
22 information, I think it helps the RACs make better
23 decisions.

24
25 Thank you.

26
27 CHAIRMAN FLEAGLE: Thank you, Michael.
28 Before I have Staff comment on the first two questions,
29 I just wanted to ask a follow up on your last issue.
30 So the issue is that at the RAC meeting there isn't
31 enough AC involvement; is that what you're saying?

32
33 MR. BANGS: Mr. Chair. What I'm saying
34 is that if you look through the proposal book you'll
35 see there's always a space for AC comments and we
36 seldom get any AC comments. So my idea was to how do
37 we get those ACs more actively involved. Well, I
38 started to connect with some of the other AC Chairs and
39 they didn't have any idea that these proposals even
40 existed. So I think there's a gap of information
41 sharing. I'd really encourage other, you know,
42 Councils to try to engage their regional ACs into being
43 aware of what's going on here because all of a sudden a
44 proposal's passed and a lot of the people that live in
45 that region didn't have a clue that it was even there.
46 So there's something missing in the connection of
47 information sharing, and that's what I'd like to see
48 changed.

49
50 Thank you.

1 CHAIRMAN FLEAGLE: Okay, I got it.
2 Thank you.

3
4 I was just wondering, on the
5 distribution list, Polly, do you know, is the board
6 executive director of the State Board's, Kristy
7 Tibbles, I think is who it is now, is she on this
8 distribution list?

9
10 DR. WHEELER: Yes, Mr. Chair. The
11 executive director of the Board of Fish and the Board
12 of Game are both on the list for receiving proposals
13 and such but there is inconsistent involvement on the
14 part of the ACs.

15
16 CHAIRMAN FLEAGLE: Okay, well, that
17 sounds like a good suggestion and I think that you've
18 aired it right in front of the proper people on the
19 State side that can probably help get that started and
20 I can turn to them for comments.

21
22 Jack wants to address that. Jack.

23
24 MR. REAKOFF; Mr. Chairman. We've
25 discussed this in our '08 meeting of the Western
26 Interior Council, that under ANILCA, the Advisory
27 Committees are actually to be part of our informational
28 gathering. And so our suggestion was that the Federal
29 Staff, there's these subsistence coordinators for
30 Refuges and various agencies, that they should bring
31 these proposals, actually travel and attend these
32 Advisory Committee meetings a lot of times, that they
33 actually should be -- a part of their job is to attend
34 those meetings, bring the Federal proposals and bring
35 those before the Advisory Committee at least so that
36 the Chairman of the Advisory Committee can actually
37 address those proposals during those deliberations.

38
39 And so that was our suggestion.

40
41 Thank you.

42
43 CHAIRMAN FLEAGLE: Commissioner Lloyd.

44
45 COMMISSIONER LLOYD: Well, Mr.
46 Chairman, Mr. Bangs brought up a couple of issues with
47 regard to State participation. And do you want to
48 address these concerns now?

49
50 CHAIRMAN FLEAGLE: (Nods affirmatively)

1 COMMISSIONER LLOYD: Well, if you would
2 then I'd ask Ms. Cuning to give the State's
3 perspective on that. I appreciate the comment and we'd
4 be happy to provide some information.

5
6 CHAIRMAN FLEAGLE: Sure, I'd appreciate
7 that.

8
9 Tina.

10
11 MS. CUNNING: We made a decision a
12 couple of years ago that on C&T proposals, it was
13 inappropriate for us to come in with a position before
14 the RACs met, that that was the time at which the
15 Regional Advisory Councils were discussing C&T
16 proposals and would bring additional traditional
17 ecological knowledge or other information that could be
18 provided to the evidence. The OSM Staff do a very
19 thorough analysis of what information that they -- in
20 the past they did a very thorough analysis based on the
21 eight factors and it brought those as evidence into the
22 RAC meetings and then encouraged RAC participation to
23 supplement those with additional information by the
24 users. And so since the entire C&T decision process is
25 based on evidence of use of that particular stock or
26 population by those communities that are under
27 question, we don't have a position on opposing or
28 supporting, our position is going to be based on the
29 evidence that's provided, so we wanted to hear from the
30 RACs and those were the only proposals that we did not
31 submit comments on during this cycle, with the
32 exception of the five statewide proposals, which are
33 primarily legal and regulatory issues and are not
34 related to actual harvest intake or C&Ts.

35
36 So that was the decision that we made
37 on that.

38
39 Some of the RACs are very, very happy
40 with that decision that we made a couple of years ago
41 and as far as I know there was only one Regional
42 Advisory Council that voiced objections to it this
43 year.

44
45 CHAIRMAN FLEAGLE: Thank you. And how
46 about involvement with the ACs.

47
48 MS. CUNNING: My apologies, I forgot
49 that was the second part of the question.

50

1 We also were very concerned a number of
2 years ago that the ACs were not participating in the
3 Regional Advisory Council meetings and they are a
4 fundamental part in Title VIII of the process, so a
5 couple of years ago we were down staff and our .809
6 funds, we actually put a lot of effort into trying to
7 help provide some travel funds to the AC members that
8 have taken positions on proposals so they could attend
9 the Regional Advisory Council meetings. We saw that as
10 a weakness in the system, that they did need to be more
11 actively participating.

12
13 It does cut into our abilities to have
14 our Staff at the Regional Advisory Council meetings
15 because that is the funding for us, and it is something
16 that we raised in our review of the Federal Subsistence
17 Program, that we think there does need to be more
18 direction and funding and support to have our 82
19 Advisory Committees participating in the affected
20 Regional Advisory Council process. But it is a funding
21 issue.

22
23 CHAIRMAN FLEAGLE: All right. Well,
24 thanks. Well, at least with the issue presented here
25 I'm sure that everybody that's involved is going to
26 make sure that we do as much as we can to have
27 involvement and I appreciate you bringing up those
28 issues, Mike.

29
30 The other one is the forest products
31 issue. And I know that ANILCA speaks, not only to fish
32 and wildlife, but other things, and, Keith, maybe you
33 have a response on this.

34
35 MR. GOLTZ: Under ANILCA plant products
36 are a subsistence resource. But under .804, the
37 priority is for fish and wildlife resources. So the
38 result is that the Board deals with fish and wildlife,
39 and the individual agencies deal with plant resources.
40 For Southeast, I believe the Forest Service does have a
41 policy on harvest and Fish and Wildlife has it, BLM has
42 it -- who am I missing -- the individual agencies all
43 have regulations that deal with harvest of plant
44 products. So that's where you look for that. And it's
45 not delegated -- it's not a delegated function of this
46 Board.

47
48 CHAIRMAN FLEAGLE: Michael.

49
50 MR. BANGS: Thank you, Mr. Chair.

1 Thank you for your comments.

2

3 I wonder where we can go, or could we
4 encourage the Board to help direct those agencies in
5 subsistence as far as -- the way we look at it it's
6 just as important as any other subsistence fish and
7 wildlife and, yet, when it comes to forest products we
8 would like to see exemptions from the roadless rule,
9 for instance. We're kept from harvesting trees off the
10 beach, for instance, because that's the easiest way to
11 get firewood, for instance, trees for building your
12 house or whatever, and if we're not exempt from the
13 roadless rule then it's an issue. And I think that
14 it's been happening for a long time and we're not sure
15 where to go with that, and we would hope that the Board
16 could recommend, or at least support us in that effort.

17

18 Thank you.

19

20 CHAIRMAN FLEAGLE: Keith.

21

22 MR. GOLTZ: Well.....

23

24 CHAIRMAN FLEAGLE: Go ahead, Keith,
25 I'll turn to Jack after, you got a response to Michael.

26

27 MR. GOLTZ: Okay. Well, I look at Jack
28 because we did work through an issue with Jack.

29

30 CHAIRMAN FLEAGLE: Okay.

31

32 MR. GOLTZ: And one of the ways to do
33 it is to contact the Solicitor's Office and we were
34 involved in Jack's situation and we'd be happy to be
35 involved in yours.

36

37 It's a little different path. We're
38 working with individual agencies and not the Board, but
39 I think there is help and information available.

40

41 CHAIRMAN FLEAGLE: Jack.

42

43 MR. REAKOFF: We did work through this
44 issue with the BLM in recognizing that subsistence use
45 of all wild renewable resources and fish and wildlife
46 and other renewable resources were part of subsistence
47 and the main thing was the customary and traditional
48 uses of those resources, which you're referring to,
49 that's what I was concerned about, is that those
50 customary and traditional practices were recognized by

1 the agencies for harvesting timber or logs or plants
2 for whatever. So those issues were -- I've been
3 working with the Bureau of Land Management on
4 permitting systems, to-date that permit is down in
5 Washington, D.C., I've yet to see it, I do want to see
6 that it recognizes customary and traditional practices
7 once it's forthcoming.

8

9 So you can work with the Forest Service
10 on those issues and stress the customary and
11 traditional use practices.

12

13 Thank you.

14

15 CHAIRMAN FLEAGLE: Thanks for that
16 information.

17

18 Wini.

19

20 DR. KESSLER: Thank you, Mr. Chair. I
21 can offer a little perspective on this as well.

22

23 This is a very, very big issue for us
24 for the Forest Service in Alaska, and a couple of years
25 ago there were proposed policy to the National level
26 about non-timber forest products and their use and it
27 was extremely problematic, what was in those proposals.
28 And particularly the issues were raised for the Alaska
29 context, because it's much different than the
30 conditions in the Lower 48 for which those policies had
31 largely been drafted. And we did have the primary
32 author of those policies come up to Alaska, it was
33 quite an education process for him, it was very
34 positive, but in response Forest Service went back to
35 the drawing board and I think they're pretty well along
36 in a different version that better reflects the
37 realities.

38

39 But as well, we fully understand the
40 frustrations, the immediate frustrations about meeting
41 access to resources and the complications by the
42 roadless rural. And Jeff DeFries did give a
43 presentation at the Council meeting that pretty much
44 reflects the situation there and I think it was fairly
45 well received, but the bottom line to it is, yeah, we
46 definitely are sensitive to these issues. We have
47 those particular needs are caught up in some other
48 issues involving the roadless rule and we are working
49 on them and continue to welcome input of any kind
50 expressing how this influences the lives and

1 livelihoods of the rural people who depend on those
2 resources.

3

4 Thank you.

5

6 CHAIRMAN FLEAGLE: Thank you for the
7 response. I'm not going to cut off our Council Chair
8 discussion but I wanted to, just since our next two
9 items are public comment, I wanted to speak on
10 testimony.

11

12 Members of the public who wish to speak
13 during any of the public comment periods or who wish to
14 provide testimony concerning a regulatory proposal need
15 to complete a testimony request form. You can pick up
16 those forms from an attendant at the OSM public table
17 out in the lobby. Please complete the form and return
18 it to the person at the public contact table in advance
19 of the time you wish to speak. And we have public
20 comment period for non-agenda items, and that will be
21 followed by a public comment period for consensus
22 agenda items, which we just had two proposals moved to
23 the consensus agenda, and we will reserve comment on
24 individual proposals at the time that those proposals
25 are brought up.

26

27 If you wish to testify at two different
28 periods, like non-agenda or on a proposal, please
29 submit two different cards so we don't get you lost in
30 the shuffle, and we'll take testimony as those cards
31 come up.

32

33 Thank you.

34

35 MR. PROBASCO: And then as far as if
36 they have material that they want to give to the Board.

37

38 CHAIRMAN FLEAGLE: Oh, okay, I didn't
39 read that.

40

41 Anybody having materials or handouts
42 for Board members should provide 30 copies to a Staff
43 person at the OSM public contact table and the OSM
44 Staff who are at the table will log in your document
45 and will insure it is routed for distribution at the
46 next break in the meeting. We respectfully request
47 that people do not hand materials directly to the
48 Federal Subsistence Board members, but to follow this
49 process, which insures a complete administrative
50 record. Materials and handouts for Board members will

1 not be distributed outside of break times.

2

3 Thank you.

4

5 With that, I'm going to turn it back
6 over to Council Chair discussions.

7

8 Molly.

9

10 MS. CYTHLOOK: Good morning. My name
11 is Molly Chythlook and I was just appointed to -- I'm
12 sorry I've got a really bad allergy. I was just
13 appointed to the Bristol Bay RAC this past March
14 meeting but I've been involved with the RAC probably
15 the last three years, going on four, and ever since I
16 got on board one of the issues had been the Unit 9
17 moose that you Board members are probably familiar with
18 and that was referred to the Bristol Bay RAC to form a
19 working group. And at our last meeting we made an
20 effort to get that working group process going and so
21 in March, or just that working group met, but I guess
22 the issue has been that the subsistence moose harvest
23 in Unit 9, as you probably well know, the subsistence
24 harvesters hasn't been met and that's why it's been an
25 ongoing issue. And the Board -- although every meeting
26 that we've attended we hear from the State that the
27 numbers are okay but from the local subsistence hunters
28 it hasn't been so. So that this last meeting I
29 attended as a Bristol Bay Native Association rep and I
30 guess as an observer, and my observation to that
31 working group, and from the comments that I received
32 afterwards, after the fact, was that the local groups,
33 the local hunters, the local subsistence hunters didn't
34 think that their -- they weren't really represented.
35 Because in the discussion during our March meeting, one
36 of the requests was to -- if this working group was
37 formed, was to get a rep from each regional AC from
38 this Unit 9 region.

39

40 And I work for Bristol Bay Native
41 Association as the natural resources director and I
42 know that majority of our tribal representations,
43 tribal people, majority of them living in that region
44 and so the group that just met, from my observation,
45 there were just two people from that unit, Game
46 Management Unit, and then the rest of them were
47 agencies and other representations. So at our next
48 meeting the issue will probably come up and I'm sure
49 that somebody from OSM that was in that working group
50 will give a better detailed report on that. But that's

1 my observation and being involved with RAC the last few
2 years.

3

4 And from my past work with the tribal
5 people from down there in dealing with them one on one,
6 I know that their subsistence needs as far as moose and
7 caribou have been -- they've been struggling the last
8 few years with that and so I'm hoping that eventually
9 with different people working together, mainly the
10 subsistence harvest users with the support from State
11 and Federal agencies, we are hoping that this will be
12 resolved, eventually.

13

14 Thank you.

15

16 CHAIRMAN FLEAGLE: Thank you, Molly. I
17 have a question for Staff. I know that this Board
18 approved the effort by the RAC, once that process was
19 initiated, how did it take shape after that, I mean how
20 was the composition of the working group determined,
21 was that a product of the RAC or was that a product of
22 OSM Staff?

23

24 Polly, please.

25

26 DR. WHEELER: Mr. Chair. OSM Staff
27 worked with the Department of Fish and Game to get this
28 group off the ground and we met several times with the
29 Department and talked about who should be represented
30 at this group. We'd also talked to the Regional
31 Advisory Council at the meeting in Dillingham to talk
32 about who they wanted to have at this meeting.
33 Unfortunately the weather didn't cooperate so some of
34 the people that would have been there to represent
35 subsistence users weren't able to show up because they
36 got weathered out. But we did make every effort to
37 have subsistence users represented, but the weather
38 didn't cooperate.

39

40 We did also have, though, we had two
41 Regional Advisory Council members, we had -- and the
42 State -- you know, the State had tried to have all
43 their ACs represented, we had -- I mean we brainstormed
44 about who should be there, the agency people,
45 obviously, as well, but we recognize that it's probably
46 not as perfect as it could have been. And I will say
47 that there's a draft report being developed as we speak
48 and hopefully that will be out by the end of the week
49 and we can -- if we need to, we can meet again, and
50 this is a work in progress, I would say.

1 Mr. Chair.

2

3 CHAIRMAN FLEAGLE: Thank you. And so
4 just by your description of the process, it sounds like
5 if you do meet again that you envision a larger group
6 being able to participate than participated at the last
7 one?

8

9 DR. WHEELER: Yes, Mr. Chair, we'd want
10 to have all, you know, good subsistence representation
11 because that is the driver in the formation of this
12 work group to begin with, is the concern over local
13 people not being able to harvest -- not feeling like
14 they have opportunity to take advantage of subsistence
15 uses.

16

17 Mr. Chair.

18

19 CHAIRMAN FLEAGLE: Great, thanks. So
20 it sounds like they tried to get people there and at
21 the next meeting, if there is one, they will try again.

22

23 Thanks for bringing that up, Molly.

24

25 Other discussion.

26

27 Jack.

28

29 MR. REAKOFF; Mr. Chairman. One thing,
30 just sort of a housekeeping thing is these -- I would
31 prefer that the -- and our Council would prefer that
32 meetings be held of the Federal Subsistence Board at a
33 time that is really a non-conflict with subsistence
34 activities. And so I understand the reason why this
35 meeting is being held in May but I would prefer to see
36 the meetings for wildlife held in early April, would be
37 a better timeframe for myself and fisheries meeting to
38 be held in early December and to really avoid the
39 January meetings when it's really cold, and really hard
40 to travel from northern Alaska, and you get weather in
41 Fairbanks, you can get ice fog and 50 below, and so
42 avoid the January meetings.

43

44 The other issue that I would like to
45 bring up is that as technology advances I would like to
46 see -- the Board of Game, I listened to the Board of
47 Game meeting, I had to return home, but you can
48 actually listen to the Board of Game on the Internet.
49 I think it would be beneficial for the Federal Program
50 to move towards that system where I'm speaking into a

1 mic that could be fed right onto the Internet and so
2 that our Council members that could not attend, maybe
3 the Chair wants to listen in, it's really hard to
4 listen to a teleconference, you've been on there, but
5 when the Board of Game was meeting you could hear every
6 word that was said. It's much cleaner. Much more
7 informative. And I think that the Federal Program
8 should move -- advance with this technology just to
9 broadcast onto your Federal Board's website.

10

11 Those are two comments on the
12 housekeeping aspects of the Federal Program.

13

14 Thank you.

15

16 CHAIRMAN FLEAGLE: Great comments. I
17 especially like that one about moving forward in the
18 information age. I suppose that's something we can
19 look into at some point.

20

21 Pete, do you have a comment on the
22 schedules for meetings.

23

24 MR. PROBASCO: Yes, Mr. Chair. And,
25 Mr. Reakoff, you know, he understands why this meeting
26 is as late as it is, but just to recap, keep in mind
27 that we were hoping to have this wildlife cycle
28 completed about six months ago but we ran into the
29 situation in D.C. where our process, as far as
30 announcing meetings and the change for regulations got
31 a log jam and we didn't get it out in time and
32 consequently the meetings that we had to address the
33 wildlife proposals were nulled and we had to go back
34 and start over again, which forced us to be later; and
35 we understand that. I think Mr. Reakoff's comments as
36 far as when the Board meets, i.e., winter versus maybe
37 a more favorable travel time is a good suggestion, of
38 course we're always juggling Board member's schedules
39 and RAC Chair schedules and so I can guarantee you that
40 we can make the majority happy but not everybody so we
41 will continue to do that Jack and we appreciate your
42 comments.

43

44 I know as far as the technology, our
45 region has been making large steps in that arena as far
46 as tying in our various Refuges and offices and I
47 believe the Park Service is working on that end as
48 well, and I think your suggestion as far as an Internet
49 or some type of technology that would make it easier
50 for remote people to tap in, if they are so interested,

1 we'll look into that.

2

3 Mr. Chair.

4

5 CHAIRMAN FLEAGLE: Thank you. And on
6 topic of the meeting cycles, I know that those were
7 addressed in the summary that I saw of the Subsistence
8 Review as well so I'm pretty sure that that's being
9 looked at. And, Pat, I see is nodding his head back
10 there.

11

12 Michael.

13

14 MR. BANGS: Thank you, Mr. Chair. On
15 the meeting subject, it's been brought up several times
16 at our meetings that it would really be, I think
17 helpful to rural users if we could arrange for meetings
18 of this Board in rural communities. Not necessarily
19 ones that don't have jet service or whatever. But it
20 seems that would be a good thing to be out in the
21 communities that we're really affecting. And, anyway,
22 that was just a thought that we've discussed many
23 times, that it would be great to have meetings move
24 around to rural communities.

25

26 Thank you.

27

28 CHAIRMAN FLEAGLE: I think that was
29 brought up in the Federal Subsistence Program Review as
30 well so we'll see what they come out with. That's a
31 good suggestion. Thank you, Michael.

32

33 Others.

34

35 Commissioner Lloyd.

36

37 COMMISSIONER LLOYD: Well, thanks, Mr.
38 Chairman. Actually I wanted to express my concurrence
39 with some of your earlier remarks. You had taken the
40 time to thank and congratulate the Staff for the
41 volume, if not also the quality of the work that went
42 into providing the materials for this meeting. And I
43 wanted to thank the Staff in general, both the Federal
44 Staff and our own Staff for what I see as pretty
45 improved working relationships over the past year and a
46 half or so and I think that's an important aspect on
47 how we conduct business and it reflects back on ease of
48 decision-making, perhaps even the quality of some of
49 the policy decisions, but I wanted to assure you that
50 from the State's perspective we're looking forward to

1 increased opportunities for more fluid interchange
2 between our Staffs, better information sharing and
3 higher quality of cooperation.

4
5 I do want to bring up three particular
6 items and I don't think any of these will be a surprise
7 to you, they're kind of the recurring three Cs of our
8 generalized concerns with the process.

9
10 They deal with issues of conservation;
11 concerns about C&T determinations; and then the closure
12 policy or exercise of closures in the system.

13
14 With regard to conservation. I'm still
15 looking for better opportunities to work with the
16 Federal Staff and with this Board to engender a greater
17 respect of reliance of this system on the State's
18 expertise and judgment as the main fish and wildlife
19 managers within Alaska. And I just feel I need to
20 remind the Board, as well as the process, in general,
21 that while many opinions may be helpful in formulating
22 a decision, in the end, you really need to rely on the
23 people with the most experience, expertise and
24 information available to them, and that generally is
25 going to be the Department of Fish and Game for the
26 resources that you're referring to. And so I am
27 looking for, again, increased opportunities for this
28 Board's respect and reliance upon the professional
29 judgment and conservation considerations put forward by
30 the Department of Fish and Game.

31
32 For the second one, the C&T
33 determinations, again, we've voiced our concerns many
34 times to this forum, most recently in a letter that I
35 forwarded to you last Friday, that -- I'm also
36 encouraged that you've decided, already, to take time
37 out later on today to discuss, in detail, during
38 executive session, but to highlight the particular
39 issues there. I wanted to reinforce that we believe
40 that the C&T findings within the Federal process need
41 to be based upon substantial evidence. And that
42 substantial evidence needs to be fully discussed and
43 deliberated in this forum. And the evidence needs to
44 point to the identification and focus regulations,
45 subsequent actions on the uses, the stocks, in
46 particular, and particular geographic areas. We
47 wholeheartedly believe that the system, in order to
48 work appropriately, needs to be very clear on the C&T
49 determinations of the use, the geography, and the
50 particular stock. And, again, reliance is made upon

1 substantial evidence brought forward that can validate
2 the decisions that you make.

3

4 Finally, with regard to closures. What
5 we've found is that in the exercise of closures under
6 the Federal Subsistence Program there's no specific
7 method then to reopen areas or opportunities that are
8 closed by this process. And so while you may,
9 subsequently, have a special action request or a
10 proposal, we believe that this process would be much
11 better served if, even within your closure policy, or
12 in your closure decision-making that there was a more
13 readily available opportunity for this Board to quickly
14 reverse those closures if there's evidence to suggest
15 that the closure is no longer needed. So, for example,
16 even at this meeting, so as far as I know there's no
17 opportunity for you to look at information that you're
18 going to get with regard to a wide variety of wildlife
19 stocks in front of you and reverse some of these
20 closures unless you have a very specific proposal in
21 front of you to do so.

22

23 So, thank you, Mr. Chairman, I
24 appreciate your indulgence in listening to a general
25 description of our concerns.

26

27 You have our letter with regard to the
28 C&T. I hope you have a good discussion during
29 executive session.

30

31 And as one final note the live
32 streaming aspect that Mr. Reakoff suggested you might
33 avail yourself of is not only practiced by the Alaska
34 Board of Game, but also by the North Pacific Fishery
35 Management Council. So there are two bodies that Pete
36 and his Staff might go to for advice on how best to
37 accomplish that.

38

39 Thank you, very much.

40

41 CHAIRMAN FLEAGLE: Thank you,
42 Commissioner. Appreciate those comments.

43

44 Do you want to address that, Pete, do
45 you have a direct response.

46

47 MR. PROBASCO: Thank you, Mr. Chair.
48 And, thank you, Commissioner Lloyd.

49

50 As far as comments on closures and I

1 think Commissioner Lloyd, maybe you're speaking on
2 expediency, but right now and I think you're aware of
3 it, that the Board has adopted a closure policy that
4 requires the Staff, at a minimum, to review every
5 closure enacted three years from when it was put in
6 place. On top of that Staff review the regulations
7 also on a three year rotation to make sure that we have
8 closures that no longer are necessary.

9
10 If you'll recall prior to the Board
11 adopting this policy we did have closures that were put
12 into regulation and for a variety of reasons just sort
13 of sat there and remained, and as a result of the
14 review we found that some of these closures, the
15 population had rebounded and weren't necessary. We
16 also find the opposite, that when we review the
17 closures, we find that the situation still warrants the
18 closure to be in effect.

19
20 So we do have the policy that's in
21 place. And I know that my Staff adheres to it and, we,
22 on an annual basis, on a three year rotation review
23 closures and present those results to you.

24
25 Mr. Chair.

26
27 CHAIRMAN FLEAGLE: And just to follow
28 up on process, Pete, if there is a recommendation to
29 change anything, do they then issue a proposal do to
30 that?

31
32 MR. PROBASCO: That's correct, Mr.
33 Chair.

34
35 CHAIRMAN FLEAGLE: Commissioner.

36
37 COMMISSIONER LLOYD: Mr. Chairman.
38 That last step is very important and that may have been
39 unclear. So to reiterate, you have a policy that
40 reviews on an automatic basis, or rotating basis every
41 three years all the existing closures, that information
42 is brought back and is actionable at the meeting,
43 during which you receive the three year review, or is
44 some subsequent proposal or action need to be proposed
45 and brought back at a subsequent meeting?

46
47 CHAIRMAN FLEAGLE: Pete.

48
49 MR. PROBASCO: Mr. Chair. Commissioner
50 Lloyd. The latter. It would have to go through the

1 proposal process because it's a change in the
2 regulation.

3

4 Mr. Chair.

5

6 COMMISSIONER LLOYD: Well, Mr.
7 Chairman, I don't want to prolong this, but I think
8 that's still a concern. That you get the review but
9 then you have to wait, again, for a subsequent meeting
10 or a subsequent game cycle, for example, in order to
11 take action on the information that's brought to you by
12 that review. So, in essence, it sounds something more
13 like three and a half or four years, or depending on
14 your cycle it may be even longer than that before you
15 can reasonably address a closure that may no longer be
16 necessary.

17

18 CHAIRMAN FLEAGLE: Pete.

19

20 MR. PROBASCO: Thank you, Mr. Chair.
21 Commissioner Lloyd. I, too, don't want to extend this.
22 The extreme is indeed a possibility as you just
23 verbalized. However, actual practice is that when we
24 have found closures there's been two courses of action.

25

26 One, it's been the result of a special
27 action. Coincide with that a proposal to address it
28 during the regulatory. If we're on the beginning of a
29 cycle, we actually can and have the advantage, have the
30 opportunity to take advantage of a Council meeting, we
31 actually can speed up the process and address those
32 proposals. But all three are, a reality, with the
33 extreme being, as you just articulated.

34

35 Thank you, Mr. Chair.

36

37 CHAIRMAN FLEAGLE: All right, thank
38 you. Any Council members which to further dialogue
39 with what has been said.

40

41 (No comments)

42

43 CHAIRMAN FLEAGLE: All right, hearing
44 none, let's stand down for a 10 minute break and then
45 we'll resume with public testimony.

46

47 (Off record)

48

49 (On record)

50

1 CHAIRMAN FLEAGLE: Alrighty, we're back
2 on record, the Federal Subsistence Board meeting, and
3 we just wrapped up discussion with Council topics with
4 Regional Advisory Council reps. And we now move into
5 the public comment period on non-agenda items. This is
6 for issues that we're not dealing with by proposal or
7 the consensus agenda, those will come later. And this
8 opportunity to comment on non-agenda items will be
9 provided at the beginning of each day of the meeting
10 and if anybody wishes to testify or comment on non-
11 agenda items, they need to have submitted a green form,
12 which you can find out in the lobby and I know Pete is
13 sorting through them now.

14
15 Do we have any commenters on non-agenda
16 items, Pete.

17
18 Sorry.

19
20 MR. PROBASCO: You cut me off.

21
22 (Laughter)

23
24 CHAIRMAN FLEAGLE: I did.

25
26 (Laughter)

27
28 MR. PROBASCO: Thank you, Mr. Chair.

29 It's only Day 1.

30
31 (Laughter)

32
33 MR. PROBASCO: I want to get a
34 clarification first. David Warner, are you proposal
35 specific for Southeast deer?

36
37 (No comments)

38
39 MR. PROBASCO: I don't see David here.

40
41 Okay, our first speaker will be Mr,
42 Wade Willis.

43
44 CHAIRMAN FLEAGLE: Please come forward
45 to the center table, push the microphone button on,
46 speak your name for the record and begin testimony.

47
48 Thank you.

49
50 MR. WILLIS: Thank you. I appreciate

1 the opportunity to comment. I enjoyed listening to
2 some of the RAC concerns. I wanted to speak, I am a
3 member of an AC here in the state and I want to make it
4 clear that I'm speaking on behalf of my own personal
5 opinion, I'm not representing that AC.

6
7 But as far as AC participation in the
8 RAC process, I think one of the best methods we would
9 have to encourage that is to have a yearly meeting that
10 incorporates both the AC and the RAC, maybe that might
11 just be limited to the Chairmans, but hopefully it
12 could be more than that. I think in the age that we
13 have now of teleconferencing and videoconferencing,
14 that we could improve RAC and AC cooperation by
15 everybody getting to know each other. I know within
16 the AC process at the Board of Game meetings we had
17 roundtables with all the ACs, and it's a challenge for
18 the ACs to know each other, especially rural versus
19 urban, and those roundtables have been tremendously
20 helpful for the AC process, in my opinion, since my
21 involvement on that.

22
23 Another situation we have in the ACs
24 is, is some of the urban ACs it's a little difficult to
25 get broad representation on these ACs. We have some
26 voting issues on ACs where non-local citizens can come
27 vote members in on regional ACs and we have a problem
28 where a person can vote for every seat, which
29 translates to a group can come in and marginalize, and
30 exclude smaller aspects or folks in the community. So
31 when a group can come in and vote for all eight seats
32 open for an AC and can come in from out of the local
33 area, we have a real challenge of maintaining
34 diversity, at least in the more urban areas now, and
35 could spill over into the rural areas, if we have the
36 ACs assuming more and more input into the regulatory
37 process.

38
39 So I really hope that we can improve
40 both cooperation and representation in both.

41
42 As far as -- I also wanted to comment
43 on the GMU 9 working group. I, too, was disappointed
44 in that working group. I wanted to participate in that
45 as a citizen of the state and there were no
46 teleconference capabilities for that meeting, there
47 were no data issued ahead of that meeting, there was no
48 board books, there was no topics, there was no agenda,
49 nothing was disseminated to the public at all, and I
50 think in this day and age where you can't even

1 teleconference in to a public meeting is questionable
2 and unfortunate especially when the meeting was held at
3 the FAA building, which you would assume has fairly
4 modern phone lines and even possible videoconferencing
5 capability. So that is another issue, you know, that I
6 see as a problem with that GMU 9 working group as well.

7
8 So I thank you for the opportunity to
9 comment on those.

10
11 CHAIRMAN FLEAGLE: All right. Thank
12 you, Mr. Willis. Appreciate your comments.

13
14 Questions Board members.

15
16 (No comments)

17
18 CHAIRMAN FLEAGLE: Thank you. Pete.

19
20 MR. PROBASCO: Thank you, Mr. Chair.
21 Our next speaker will be Mr. Tim Andrew from AVCP.

22
23 CHAIRMAN FLEAGLE: Mr. Andrew, welcome.

24
25 MR. ANDREW: Thank you, Mr. Chairman.
26 Timothy Andrew with AVCP, Natural Resources. And,
27 thank you for the opportunity to testify before you
28 today on the non-agenda items.

29
30 One of the issues that I'd like to
31 bring up to the Board is about the RAC system, I'm not
32 sure if it's a statutory or a regulatory prohibition
33 that does not allow our Regional Advisory Councils to
34 meet in the villages. Currently they can only meet in
35 what I believe is only three villages within our region
36 and we have a total of 56 villages that are established
37 in the region, and a lot of those, 99.9 percent of
38 them, are likely subsistence users. And, you know,
39 this prohibition is having a pretty good sized impact
40 on several fronts.

41
42 One, the involvement in the regulatory
43 process by not being able to participate fully in
44 matters that affect them wholeheartedly, 100 percent,
45 affect upon them.

46
47 Two, in the solicitation for Regional
48 Advisory Council members, I mean you'll likely see a
49 significant drop because of this prohibition of not
50 being able to meet in the villages, because people

1 don't feel like, you know, this system, this is
2 something they can participate in, and it's only
3 confined to a very few communities within our region.
4 And I think it would greatly help the Federal
5 Subsistence Management process -- Program, in allowing
6 other villages to host the Regional Advisory Councils.
7 It would greatly improve the participation, the
8 testimony in matters that affect their lives on a daily
9 basis. And it'll also definitely get people more
10 involved in the Regional Council process as well and
11 perhaps submit their names or other people's names for
12 the Regional Councils. It would greatly benefit our
13 villages.

14

15 Thank you, Mr. Chair.

16

17 CHAIRMAN FLEAGLE: Thank you, Tim.
18 Appreciate those comments. And I believe that the
19 system used to do this but because of the huge budget
20 cuts that OSM faced beginning about three years ago,
21 the decision was made to pull these meetings into hub
22 communities and lessen travel cost and preparation cost
23 and I know that's a tough one that Pete and his Staff
24 have been working on and still continue to face that
25 struggle.

26

27 So appreciate the comments, Tim.

28

29 MR. ANDREW: Can I make one more.

30

31 CHAIRMAN FLEAGLE: Do you want to speak
32 to it at all?

33

34 MR. PROBASCO: I think Tim has
35 something else.

36

37 CHAIRMAN FLEAGLE: Oh, go ahead, Tim.

38

39 MR. ANDREW: Thank you, Mr. Chair. One
40 of the things that you'll find in meeting in the
41 villages is that you'll see a greater number of people
42 participating and less Staff, but when you go into the
43 hub communities you'll see more Staff and less of the
44 subsistence users participating.

45

46 Like in some of the meetings in Hooper
47 Bay and Emmonak and in several other communities that
48 we've had these meetings at, we've had a large number
49 of local people come and participate. And they're able
50 to participate, not only for the English speaking but

1 also the Yup'ik speaking as well. Yup'ik is still
2 utilized within our region and thanks to the RAC system
3 that we have out there, accommodating the people's
4 ability to use their own language, to understand the
5 process in their own language really helps.

6

7 Thank you, Mr. Chair.

8

9 CHAIRMAN FLEAGLE: Thank you. Pete, on
10 the process.

11

12 MR. PROBASCO: Yes, thank you, Mr.
13 Chair. And thank you, Mr. Andrew, for, again,
14 testifying. I, too, share your concerns and Mr.
15 Fleagle articulated very well why we are where we're
16 at. You also provided some very good examples where
17 our meetings in our more remote communities have been a
18 success, in other words, public participation, Emmonak
19 and Hooper Bay are very good examples. However, if you
20 look at our program in its entirety, all 10 Councils,
21 quite frankly our public participation in our meetings
22 is very low, with some exceptions, like you just
23 pointed out, and with some Councils. For example,
24 Southeast no matter where we go it seems like we have
25 great public participation. But other Councils in
26 other areas, that's not the case. But you did provide
27 two good examples and when we can we do relax the
28 policy to meet those, particularly if it's issue
29 driven, we try to go to those communities.

30

31 Mr. Chair.

32

33 CHAIRMAN FLEAGLE: All right, thank you
34 for the response.

35

36 Thank you, Tim.

37

38 Next.

39

40 MR. PROBASCO: Thank you, Mr. Chair.
41 And, Myron, are you going to wait until tomorrow, you
42 got two notes here -- Myron. Okay, Mr. Naneng from
43 AVCP.

44

45 CHAIRMAN FLEAGLE: Good morning.

46

47 MR. NANENG: Good morning. Thank you,
48 Mr. Chairman and members of the Federal Subsistence
49 Board.

50

1 First I'd like to thank those of you
2 that made the trip to Emmonak last summer to see the
3 situation that was going on with the chinook salmon, or
4 lack of chinook salmon fishing, or salmon fishing for
5 that matter, and I anticipate that you'll have to make
6 another trip this coming spring, or summer to see
7 another situation that's going to be occurring because
8 there's been decisions made that there's going to be
9 restrictions on chinook salmon.

10

11 Our people rely on this resource for
12 food and I hope that none of them will become
13 criminalized for harvesting chinook salmon this coming
14 summer.

15

16 You know, one of the things that I'm
17 very concerned about is that we talk about
18 conservation, yet, when we implement conservation there
19 seems to be the haves who harvest a lot of salmon or
20 other resources with a very short track record that are
21 given a large number of salmon to waste, while our
22 people in the villages, in the in-river systems, are
23 told you cannot fish otherwise you'll become a
24 criminal. You'll be cited for catching one salmon for
25 food on the table when thousands of fish are thrown
26 overboard.

27

28 And further restrictions being placed
29 on our fishermen, I know you discussed this during the
30 last Federal Subsistence Board meeting, but I'm sorry I
31 was not here, limitations on gear. And I know the
32 decision has been made by the Federal Subsistence Board
33 as well as state of Alaska to further restrict the mesh
34 sizes for chinook salmon on the river system; is it
35 going to help? We're not sure. Is it going to cause
36 more waste? Most likely. And this restriction is
37 placing a financial burden on many of our people on the
38 Lower Yukon, as well as the whole Yukon River system.

39

40 Like I stated before, conservation.
41 Burden of conservation is placed primarily on those
42 people that are subsistence users. Is that fair? In
43 this system today, I don't think that's even fair at
44 all.

45

46 And you're going to be talking about
47 customary and traditional use of resources. You know
48 there seems to be two sets of thinking that are coming
49 out at this meeting, one is proposed by the State on
50 customary and tradition where they have to have

1 evidence showing that people have used those resources
2 for subsistence. Yet, when it comes to a subsistence
3 user, there seems to be more of a burden that's going
4 to be placed on the subsistence user than industry that
5 has -- a big industry like the trawl fleet, who has a
6 short track record of harvesting a large number of
7 salmon, yet, they're given more numbers of salmon to
8 waste by the same entity, the state of Alaska, to
9 harvest and waste as bycatch, the same resource that's
10 fully utilized in the river systems.

11

12 So does an industry with a short track
13 record have more of a C&T than those people that are
14 living in the villages, that have used these resources
15 since time immemorial? You know, that seems to be the
16 trend that they're trying to push you to.

17

18 And another matter, amounts needed for
19 subsistence on moose. On the YK-Delta, in the Yukon
20 area for seven years our people restricted themselves
21 by having a moratorium on moose for seven years, five
22 that was in cooperation with the state of Alaska and
23 with other agencies, and two additional years on their
24 own voluntary -- volunteering on their own so that the
25 moose population can increase. Earlier this year the
26 state of Alaska, Board of Fish [sic], said that amounts
27 needed for subsistence for 25,000 plus people is 200
28 moose. Is that being generous? Well, according to the
29 guy that made the motion that number is being very
30 generous. There's over 800 people in Emmonak, 1,200 at
31 Hooper Bay, over 5,000 people at Bethel, and if you
32 count the whole population within the Yukon, Kuskokwim
33 and the coastal villages, in the YK-Delta there's over
34 25,000 people and I think that if the Board of --
35 Federal Subsistence Board is going to take a look at
36 that, they need to consider the sacrifices that have
37 been made by our people on the Yukon and our people on
38 the Kuskokwim have just ended their five year
39 moratorium where they caught 100 moose. If you
40 subtract that 100 moose for amounts needed for
41 subsistence there's only 100 moose left for the people
42 on the Yukon. Is that being generous?

43

44 It's gotten to the point where I,
45 myself, don't want to report a moose that I caught. Am
46 I going to become criminalized for that? Am I going to
47 be told that I'm no longer eligible to catch moose
48 because I did not make the report? You know, but if
49 they're not using the reports that people are
50 submitting for the harvest of moose to set an amounts

1 needed for subsistence, why make the report.

2

3 You know, these are things that our
4 people on the YK-Delta are facing. Restrictions.
5 Restrictions. Restrictions. While everybody else
6 seems to be -- you can have an unlimited number of
7 salmon that you can throw overboard in the Bering Sea
8 with the so-called industry incentives while your
9 people in one of the river villages last summer, when
10 they caught 100 chinook salmon for food on the table
11 and to share with their community members law
12 enforcement people came by. There was one citation
13 issued but it was pulled back, that's how bad it's
14 gotten. Are our people going to be willing to continue
15 to cooperate with management of these resources when
16 restrictions are going to continually be imposed on our
17 people.

18

19 And I think that the suggestion to have
20 meetings in villages where you can hear the concerns of
21 many of our people on the YK-Delta can be held and
22 heard will give a lot more insight and input on what
23 our people have concerns of, than having a biologist or
24 someone that's only been out in our villages for five
25 years and seems to think that he knows everything about
26 what goes on within the region when he or she has not
27 observed the trends in the winters over 10 years, the
28 trends of habitat for over 20 years or all that stuff.
29 You know, these are things that I think the Federal
30 Subsistence Board is going to have to consider.

31

32 But with the conservation issue, you
33 know, if we're not going to be -- if the systems that
34 are set up are not going to be using the reports that
35 we've had to account for what's being utilized by our
36 people, why make the reports. It seems like people are
37 wasting their time putting this information together to
38 report to the powers that be that reviews these, and
39 that's not even utilized. People that are sitting on
40 the Alaska Board of Fisheries or even the Federal
41 Subsistence Board may be thinking, well, that
42 information does not prove anything even though it's
43 been reported by the people; that's not scientific,
44 it's the true information that they're providing, yet,
45 being ignored when ultimately regulatory decisions are
46 made.

47

48 So with that, Mr. Chairman, I'd like to
49 thank you for the opportunity to testify.

50

1 CHAIRMAN FLEAGLE: Thank you, Myron.
2 Really appreciate your comments. You really put it out
3 in heartfelt words representing the people in your
4 area.

5
6 And I'm not going to speak to what the
7 Board of Game did, had, I been on the Board, probably
8 would have taken a different track than what they did
9 but we don't have any authority or input to their
10 process.

11
12 But the issue about the Yukon kings and
13 your comments, I know it was just a good analogy to put
14 out this C&T for the trawl fleet, that is a good
15 analogy, we're equally concerned, and we've taken, I
16 think, as much action as we feel we have the authority
17 to do to try to stop that bycatch issue. And it's
18 complicated, not only by what's being taken by the
19 trawl fleet, but there's also a large number of
20 variables out in the ocean that we don't know what may
21 be affecting those runs, and you're right, once those
22 fish hit the river that's the only authority we have as
23 far as conservation and we have to try to insure that
24 those runs continue forever, and it's a hard one.

25
26 And I appreciate you so eloquently
27 stating that. We feel it.

28
29 MR. NANENG: Thank you, Mr. Chairman.

30
31 CHAIRMAN FLEAGLE: Other questions.

32
33 (No comments)

34
35 CHAIRMAN FLEAGLE: Thank you, Myron.
36 Pete.

37
38 MR. PROBASCO: Mr. Chair. That's all
39 the slips I have for non-agenda items and consensus
40 items.

41
42 Thank you, Mr. Chair.

43
44 CHAIRMAN FLEAGLE: Okay. So that takes
45 care of public comment period Item No. 6 as well,
46 right?

47
48 MR. PROBASCO: That's correct, Mr.
49 Chair.

50

1 CHAIRMAN FLEAGLE: You know, before we
2 move on, we are going to take a brief executive
3 session, but before we go there I think that we needed
4 to address -- there's one more item that probably
5 should have been talked about during the corrections
6 and additions to the agenda and I understand that
7 there's probably a presentation that the state of
8 Alaska is going to do on community harvest system.

9
10 Commissioner Lloyd.

11
12 COMMISSIONER LLOYD: Mr. Chairman. We
13 would appreciate the opportunity to bring in Craig
14 Fleener, our Director of Subsistence, to describe to
15 you actions that the Board of Game and the Department
16 have taken to promote a community harvest system,
17 particularly in Unit 13. I'm not sure what your
18 schedule is but we'd need a bit of notice to get Craig
19 down here at an appropriate time. So if you could give
20 us some ball park figure we'll endeavor to get Craig
21 down here and describe that community harvest program
22 to you.

23
24 CHAIRMAN FLEAGLE: Sure, that's why we
25 brought it up now so that we could coordinate it.
26 Pete, how does this look for our schedule.

27
28 MR. PROBASCO: Mr. Chair. Actually the
29 State alerted us to this ahead of time and it sounds
30 like the Board would like to hear this presentation and
31 we thought it would be best when we get to the issues
32 dealing with Southcentral, i.e., Unit 13, caribou and
33 moose, that we would do that in conjunction with those
34 two proposals. And looking at our schedule, it could
35 be as early as this afternoon, but more than likely
36 tomorrow.

37
38 Mr. Chair.

39
40 CHAIRMAN FLEAGLE: Commissioner.

41
42 COMMISSIONER LLOYD: Well, Mr.
43 Chairman, is it possible for us to just decide that we
44 would bring Director Fleener down here at 4:00 o'clock
45 this afternoon, whether or not you're on those issues
46 or not, the alternative is we could wait until 8:00
47 o'clock in the morning as well.

48
49 CHAIRMAN FLEAGLE: We'll have an answer
50 -- Pete and I and Polly will talk about this, as far as

1 the schedule goes, and we can get back with you after
2 the lunch break and we can make a decision; I think
3 that will be adequate notice.

4
5 All right, with that, I'm going to
6 excuse everybody but the Board and the solicitor for an
7 executive discussion.

8
9 And, let's see, we will -- we're going
10 to try to keep this brief, folks, so I'm going to try
11 to call back into session before we break for lunch,
12 and in the event we're not able to we'll have a runner
13 go out and say that.

14
15 (Laughter)

16
17 CHAIRMAN FLEAGLE: Okay, we'll break
18 now.

19
20 (Off record)

21
22 (Federal Subsistence Board executive
23 session)

24
25 (On record)

26
27 CHAIRMAN FLEAGLE: Okay, well, the
28 Federal Subsistence Board is back on record. We held a
29 brief executive session to discuss the letter received
30 from Commissioner Lloyd referring to customary and
31 traditional determinations. No action as a result of
32 that letter. That letter is available for public
33 viewing here at the meeting if you wish.

34
35 We're going to go ahead and move on
36 with the agenda. We're at Item 7, the Subparts C and D
37 proposals for wildlife, and we start out with the
38 announcement of the consensus agenda. Polly Wheeler.

39
40 DR. WHEELER: Thank you, Mr. Chair.
41 Again, Polly Wheeler, Office of Subsistence Management.
42 I'm the Deputy to Pete Probasco and I also serve as
43 Chair of the Federal InterAgency Staff Committee.

44
45 Mr. Chair, as you know there is a very
46 full agenda before you this week. The agenda includes
47 108 proposals, which are further divided into consensus
48 agenda items and non-consensus agenda items.

49
50 As described on Page 4 of the 1,100

1 page meeting book, consensus agenda items are the
2 proposals for which agreement exists among the affected
3 Federal Subsistence Regional Advisory Councils, the
4 Federal InterAgency Staff Committee, and the Alaska
5 Department of Fish and Game concerning Board action,
6 whether it is to adopt, adopt with modification, oppose
7 or defer. As you know from the discussions this
8 morning there has been some movement from the consensus
9 agenda to the non-consensus agenda, and vice versa, and
10 there may be more movement at this meeting, in fact, we
11 had two proposals this morning. Further, anyone
12 disputing a given recommendation on a proposal may
13 request that the Board remove the proposal from the
14 consensus agenda and place it on the regular agenda,
15 however, the Board retains final authority of removal
16 of proposals from the consensus agenda, so whether or
17 not a proposal moves off the consensus agenda at this
18 point is your call.

19

20 With that said and based on the agenda
21 before you, which was further modified this morning, by
22 my count there are 71 proposals covered in 54 analysis
23 on the consensus agenda and 37 proposals on the non-
24 consensus agenda.

25

26 As you look at your agenda, Mr. Chair,
27 you will note that the Board will take final action on
28 the consensus agenda after deliberation and decisions
29 on all other proposals. Given the number of proposals
30 before you, that action will likely occur on Thursday
31 or possibly Friday of this week.

32

33 Thank you, Mr. Chair.

34

35 CHAIRMAN FLEAGLE: Thank you. Pete.

36

37 MR. PROBASCO: Thank you, Mr. Chair.
38 Ms. Wheeler, looking at the non-consensus agenda item
39 in the Board's book, recognizing the two that Ms.
40 Kessler pulled off, are there items that have been --
41 proposals that have been added, specifically numbers,
42 to this?

43

44 DR. WHEELER: There's been nothing
45 added to the non-consensus agenda. Fortunately there's
46 only been things taken off, so at this point you have,
47 like I said, 37 proposals before you but there's been
48 nothing added to the non-consensus agenda but.....

49

50 MR. PROBASCO: Thank you.

1 DR. WHEELER:there's always that
2 opportunity.

3
4 MR. PROBASCO: Thank you.

5
6 CHAIRMAN FLEAGLE: Is there any
7 interest among Board members to have any of the
8 consensus proposals pulled off for the non-consensus
9 portion of the meeting.

10
11 (No comments)

12
13 CHAIRMAN FLEAGLE: Okay, hearing none
14 we'll proceed. Thank you.

15
16 We now move into the 7b, Board
17 deliberation and action on non-consensus agenda items.
18 And we're going to be following the agenda, and the
19 process that is laid out for all of our proposals that
20 we address; we'll have an analysis, summary of written
21 public comments, open the floor to public testimony and
22 if you wish to testify to any specific proposal we need
23 a green testimony card from you, and those are
24 available at the table out in the lobby. And if you
25 wish to provide any written documents to the Board, you
26 need to provide 30 copies to the Staff at the table as
27 well, so those can be distributed. And you'll note
28 that at the beginning of the meeting I didn't set time
29 limits on testimony, I think people are pretty
30 respectful about containing their comments within a
31 reasonable amount of time so I don't intend to
32 establish time constraints in this meeting as well,
33 we'll work forward without doing that and I'll just
34 look for respect both ways. And after testimony we
35 will move to Regional Council recommendation,
36 Department of Fish and Game comments, ISC --
37 InterAgency Staff Committee comments, followed by Board
38 discussion, which will include Council Chairs or reps
39 and the State liaison. And finally after a motion has
40 been made the proposal will then become the property of
41 the Board with further participation by Council reps or
42 State liaison by invite. And final action will be the
43 Board action.

44
45 Pete, you had a comment.

46
47 MR. PROBASCO: Thank you, Mr. Chair.
48 And, I apologize for not bringing this to your
49 attention sooner. Our secretary from the Southcentral
50 Regional Advisory Council, Gloria Stickwan, has a time

1 commitment and I believe she has to leave this
2 afternoon and so she would like to testify on proposal
3 specific, Proposal 104, if that's okay with you, Mr.
4 Chair.

5
6 CHAIRMAN FLEAGLE: Sure. Now would be
7 an appropriate time, I believe.

8
9 Go ahead, Gloria.

10
11 MS. STICKWAN: I wanted to talk about
12 Proposal 104.

13
14 The AHTNA Tene Nene' Committee reviewed
15 this proposal and they were concerned about the
16 proposal as it was originally written. They thought
17 the proposal -- they opposed the proposal until the
18 Chisana Caribou Herd Management Plan is finalized and a
19 2010 consensus is complete.

20
21 They request that the Federal
22 Subsistence Board make a recommendation to oppose the
23 proposal and to instruct Fish and Wildlife Service and
24 National Park Service to require any management plan
25 for the Chisana Caribou Herd to fully provide for the
26 opportunity and priority for a subsistence mandate
27 under ANILCA, and to immediately include AHTNA
28 subsistence users as part of this group to develop a
29 management plan. We'd like to see Chistochina be
30 involved in the discussions on this proposed hunt and
31 in the management plan.

32
33 We see this as a bad precedent for
34 setting a State and Federal -- joint Federal hunt in
35 our area, and that's why we're opposed to it, one of
36 the reasons.

37
38 We think that ANILCA was set up for
39 opportunity for subsistence uses for rural residents
40 and it establishes a priority for subsistence users.

41
42 Since then I read the book and I know
43 that OSM now is opposing the proposal and I'm glad that
44 they did.

45
46 Another concern they were -- that AHTNA
47 was opposed to the proposal is Chistochina doesn't have
48 C&T for that area and they should be given -- they do
49 have an opportunity to have C&T and I believe they are
50 working with Wrangell-St. Elias to get C&T for that

1 herd. I understand Wilson or someone from his office
2 is going to be working with Wrangell-St. Elias for a
3 C&T for that herd.

4
5 We believe the 700 caribous is too low
6 to allow a hunt for this herd and it should be built up
7 more before a hunt is allowed.

8
9 That is about it for my comments.

10
11 Thank you.

12
13 CHAIRMAN FLEAGLE: Okay, great,
14 appreciate those comments, Gloria.

15
16 Questions from Board members.

17
18 (No comments)

19
20 CHAIRMAN FLEAGLE: Thank you.

21
22 All right, I'm trying to follow my
23 agenda I printed off. The agenda that's in the book
24 has a page number reflective of the proposal, and so if
25 you'll turn to Page 2 of the Board book we will begin
26 our discussions with Proposal 10-1, and start out with
27 the analysis and with that, Dr. Wheeler, will you
28 introduce the Staff that's present, please.

29
30 DR. WHEELER: Thank you, Mr. Chair. To
31 my right is Chuck Ardizzone, I believe he introduced
32 himself earlier, he's the Chief of the Wildlife
33 Division within OSM. To his right is Tom Kron, he's
34 the Chief of the Information Resources and
35 Administration Division within OSM. And to his right
36 is Ann Wilkinson who is the Chief of the Coordination
37 Division. And as new Staff comes up they will
38 introduce themselves.

39
40 Mr. Chair.

41
42 CHAIRMAN FLEAGLE: Great. Thank you.
43 And, Tom, you're going to lead off on this one,
44 welcome.

45
46 MR. KRON: Mr. Chair. Members of the
47 Board. Council Chairs.

48
49 Proposal WP10-01 was submitted by OSM
50 and requests the addition of the definition for drawing

1 permit to the Federal Subsistence Management
2 regulations. The analysis for this proposal begins on
3 Page 27 in your Board book.

4
5 Existing Federal Subsistence Management
6 regulations do not include a definition for drawing
7 permit, however, because this term is used in the
8 hunting regulation a definition should be provided.
9 The addition of this definition does not affect fish
10 and wildlife populations, subsistence users or other
11 users. The Federal Subsistence Management Program has
12 used drawings as one way to distribute permits where
13 sought by a Council. Consistent with the regulation --
14 with the recommendations by 8 Regional Advisory
15 Councils, OSM's conclusion is to support Proposal WP10-
16 01 with modification.

17
18 The proposed modification is found on
19 Page 27 of your Board book.

20
21 Thank you, Mr. Chair.

22
23 CHAIRMAN FLEAGLE: Thank you, Tom.
24 Questions Board members.

25
26 (No comments)

27
28 CHAIRMAN FLEAGLE: All right, hearing
29 none, let's go ahead and move forward with the summary
30 of public comments. Ann.

31
32 MS. WILKINSON: Thank you, Mr.
33 Chairman. We received two comments on this proposal,
34 one in support and one opposed.

35
36 The Wrangell-St. Elias National Park
37 Subsistence Resource Commission supports the proposal
38 with the modification described in OSM's conclusion
39 with an additional modification to require approval of
40 the affected region.

41
42 The AHTNA Tene Nene' Customary and
43 Traditional Council opposes the proposal. They stated
44 because drawing permits are only possible in two
45 regions, a statewide definition is not necessary. An
46 .804 analysis should be considered before adopting the
47 State system of drawing permits.

48
49 Thank you.

50

1 CHAIRMAN FLEAGLE: Okay, thank you. Do
2 we have anybody wishing to testify to this one Pete.

3

4 MR. PROBASCO: No, Mr. Chair.

5

6 CHAIRMAN FLEAGLE: Thank you. I think
7 before I turn to the Regional Advisory Council
8 recommendations, I'm just a little remiss here in not
9 reading something into the record about our process for
10 Board action and I'll just put this out in front here
11 before we start getting into the Board deliberative
12 process, and I know this was the subject of some
13 discussion among InterAgency Staff Committee members
14 and Board members. And it's a process that we've
15 tailored to fit our intent a little better than how it
16 had been done before.

17

18 So when making a motion, it should
19 address the proposal to be made in a positive, that is,
20 to adopt the proposal.

21

22 In the past the motions were made to
23 adopt the Council recommendation, which would be to
24 whether to support or oppose, so, therefore, you would
25 have an affirmative vote to take a negative action, and
26 et cetera, et cetera. The best way, so that
27 everybody's clear on how to vote would be to have the
28 proposal put out in a positive fashion, which means
29 that Proposal 10-01 would be, I move to support, I move
30 to adopt Proposal 10-01 and then we would have all the
31 discussion as to why we want to consider the merits to
32 do that or not to do that and then your vote would be
33 to, yes, pass it, no, don't pass it.

34

35 MR. PROBASCO: Or amend.

36

37 CHAIRMAN FLEAGLE: Or amend, yeah,
38 right.

39

40 The motion should be clear and
41 understandable. Then provide your position in terms of
42 how you plan to vote. This should be followed by a
43 statement as to how your position relates to the
44 Regional Advisory Council's recommendation, such as
45 contrary to or consistent with the Council
46 recommendation.

47

48 What we don't want to do here is to
49 minimize the Councils, plural, participation in the
50 process, we're just trying to clean up the regulatory

1 process, the motion-making process, so the Councils
2 still get the deference that they deserve in this
3 process, unless we have the three criteria under .805c
4 that we would vote contrary, which is the next bullet.

5
6 If your position is contrary to a
7 Council's recommendation, you must support your
8 position with rationale that addresses at least one of
9 the three criteria from Section .805c, which are:

10
11 Not supported by substantial evidence;

12
13 Violates recognized principles of fish
14 and wildlife conservation; or

15
16 Would be detrimental to the
17 satisfaction of subsistence needs.

18
19 Section .815 authorizes restrictions to
20 non-subsistence uses only when
21 necessary for the conservation of
22 healthy populations of fish and
23 wildlife, natural and healthy
24 populations in a National Park or
25 Monument; to continue subsistence uses
26 of such populations;

27
28 For reasons of public safety,
29 administration or pursuant to other
30 applicable law.

31
32 Now, what I saw in some of the emails
33 concerning this discussion, was whether or not the
34 motion should be made with the amended language or
35 whether it should be made in the original proposal
36 language and I'm open to either one. If the moving
37 agency wants to support the modified language that's
38 been crafted throughout the process, you're more than
39 welcome to place a motion that says I move to support
40 or adopt Proposal 10-01 with the language as modified
41 by OSM Staff. If you want to make the motion based on
42 the original language of the proposal feel free to do
43 so if that's in the best interest of your agency when
44 you're making the motion. We can -- if that's how you
45 want to do it we can do that and after discussion we
46 can take an amendment to add the modification. So it's
47 your call, just please make the motion in a positive
48 fashion so that we are voting, yes, we support it or
49 no, we don't support it.

50

1 Alrighty then so let's go ahead and
2 move on.
3
4 Regional Council recommendations. Now,
5 we have all the Regional Councils -- have seats at this
6 table because it covers the whole state, do we want to
7 go down each -- go through each Regional Council on
8 each proposal or would it be best to summarize and
9 maybe you guys can raise a hand if there's a big issue,
10 if you have an issue one way or the other. I think it
11 might be cleaner if we did it that way.
12
13 Ann, would you summarize the Council
14 recommendations.
15
16 (No comments)
17
18 CHAIRMAN FLEAGLE: Are you prepared to
19 do that or would that be.....
20
21 MS. WILKINSON: Well, I'm not prepared
22 -- excuse me, Mr. Chairman, not to do all of them, no,
23 but you do have it up there on the screen that there
24 were two that were in support of the proposal as
25 written as it was presented to the Councils and then
26 all the rest of them were to support with modification.
27 I believe that they were all -- just a second, let me
28 make sure, yep, OSM modification for the rest of them.
29
30 Sorry.
31
32 CHAIRMAN FLEAGLE: Okay, no, I
33 appreciate it. I wasn't suggesting that you give a
34 synopsis of all the comments but just exactly what you
35 did there. Appreciate that.
36
37 So as you can see on the screen, we
38 have two Regional Advisory Councils supporting the
39 original intent and one, two, three, four, five --
40 eight -- eight, yeah, that makes 10 supporting the
41 modified.
42
43 (Laughter)
44
45 CHAIRMAN FLEAGLE: All right. Now, we
46 move to the Alaska Department of Fish and Game
47 comments.
48
49 MR. REAKOFF: Mr. Chairman.
50

1 CHAIRMAN FLEAGLE: Oh, go ahead, Jack,
2 please.

3
4 MR. REAKOFF: One comment on this. The
5 Council supports with modification but the Council,
6 also, during the deliberation of this proposal
7 suggested that there needs to be an alternate system of
8 a Tier II type hunt that was developed by the Board of
9 Game back when they managed under Federal regulations.
10 The Council suggested that there needs to be an option
11 for a Tier II type system to accomplish .804.

12
13 And so I wanted to insert that into
14 your -- just for your personal knowledge on this issue.

15
16 Thank you.

17
18 CHAIRMAN FLEAGLE: Thank you, Jack,
19 appreciate the additional comments.

20
21 Sue.

22
23 MS. ENTSMINGER: Yeah, I would just
24 like to.....

25
26 CHAIRMAN FLEAGLE: Welcome.

27
28 MS. ENTSMINGER: Yes, thank you.
29 Sorry, I had a long drive here this morning.

30
31 I just wanted to add to this that in
32 some situations in the state there might be seasons
33 that don't fit the box for the Federal system and I
34 know that there are a couple places that that is
35 occurring now and I just want to point out that this
36 could happen in other places in the state where it
37 doesn't fit the box, and you think outside the box, and
38 a drawing is part of the process.

39
40 CHAIRMAN FLEAGLE: Thank you.

41
42 Any other comments from Advisory
43 Councils.

44
45 (No comments)

46
47 CHAIRMAN FLEAGLE: Now, we turn to the
48 State, Commissioner Lloyd.

49
50 COMMISSIONER LLOYD: Thank you, Mr.

1 Chairman. For regular comments on proposals I'm going
2 to be deferring to the front table and our Staff there,
3 whether Tina or Deputy Commissioner Valkenburg.

4

5 CHAIRMAN FLEAGLE: Tina Cunning.

6

7 MS. CUNNING: Mr. Chairman. We were
8 neutral on this proposal. We do not have comments in
9 the book. This is largely regarded as a housekeeping
10 measure by the Federal Subsistence Program.

11

12 We did, however, in our discussions
13 agree with the AHTNA comments which were submitted
14 which point out that an .804 analysis is probably the
15 right way to restrict uses among users before going
16 into a drawing permit system.

17

18 But we are in support of this change,
19 or neutral, however you want to view that.

20

21 CHAIRMAN FLEAGLE: Thank you. You're
22 giving us due deference to our own process here.

23

24 (Laughter)

25

26 CHAIRMAN FLEAGLE: Thank you, Tina.
27 InterAgency Staff comments. Polly.

28

29 DR. WHEELER: Thank you, Mr. Chair.
30 Again, Polly Wheeler, I'm Chair of the Federal
31 InterAgency Staff Committee.

32

33 The Staff Committee found the Staff
34 analysis to be a thorough and accurate evaluation of
35 the proposal and that it provides sufficient basis for
36 the Regional Council recommendations and Federal
37 Subsistence Board action on the proposal.

38

39 Mr. Chair and Board members and RAC
40 Chairs, I would also add that this general statement --
41 this same general statement is provided for a number of
42 proposals as the entirety of the InterAgency Staff
43 Committee comment or is the opening to the comment.
44 From this point on, I will emphasize any additional
45 points the ISC comments may contain and skip reading
46 this boilerplate comment.

47

48 The Board meeting book, as I said
49 before, is over 1,100 pages and it provides the
50 InterAgency Staff Committee comments in full for the

1 administrative record.

2

3 Mr. Chair.

4

5 CHAIRMAN FLEAGLE: Great, thank you.
6 That opens us for Board discussion with Council Chairs
7 and the State liaison.

8

9 Charlie.

10

11 MR. BUNCH: Well, it looks to me like
12 this is just a regular housekeeping detail that is not
13 going to affect subsistence users greatly and in any
14 adverse manner. It appears to be a fairly
15 straightforward modification.

16

17 CHAIRMAN FLEAGLE: Other discussion.

18

19 Jack.

20

21 MR. REAKOFF: I want to clarify. There
22 seems to be confusion what I was saying the need for a
23 Tier II permit. There's .804, it is clear, it has
24 steps to direct. The drawing permit, actually a new
25 person could move to a community and draw the permit
26 and take away an opportunity from somebody who has a
27 direct dependence on that resource. The Tier II, the
28 old Tier II system actually prioritized direct
29 dependence, et cetera, et cetera, as .804, that's what
30 I wanted to clarify.

31

32 Thank you.

33

34 CHAIRMAN FLEAGLE: Thank you, Jack.
35 Other discussion.

36

37 (No comments)

38

39 CHAIRMAN FLEAGLE: Ready for a motion.

40

41 DR. KESSLER: Mr. Chair.

42

43 CHAIRMAN FLEAGLE: Doctor Kessler.

44

45 DR. KESSLER: Thank you. I move to
46 adopt WP10-01 with the modifications offered by OSM.
47 Those are stated on Page 27.

48

49 And I find the justification that's
50 outlined on Page 30 to be very consistent with my

1 thinking here. The modified wording simplifies the
2 definition, makes it clear that drawing permits are
3 based on a random drawing for all similarly situated
4 Federally-qualified subsistence users. This is a
5 definitional type thing that's been needed and does not
6 affect fish and wildlife population, subsistence users
7 or other uses.

8

9 Thank you.

10

11 CHAIRMAN FLEAGLE: Great. Is there a
12 second.

13

14 MS. MASICA: Second.

15

16 CHAIRMAN FLEAGLE: Further discussion.

17

18 MR. PROBASCO: Who was that?

19

20 CHAIRMAN FLEAGLE: That was Sue who
21 seconded.

22

23 MR. PROBASCO: Okay, thank you.

24

25 CHAIRMAN FLEAGLE: All right, hearing
26 no further discussion, are we ready for the question on
27 Proposal 1.

28

29 (Board nods affirmatively)

30

31 CHAIRMAN FLEAGLE: Question is
32 recognized, Pete, on Proposal 1, please poll the Board.

33

34 MR. PROBASCO: Thank you, Mr. Chair.
35 On Proposal WP10-01 as support with modification.

36

37 Mr. Bunch.

38

39 MR. BUNCH: Yes.

40

41 MR. PROBASCO: Ms. Dougan.

42

43 MS. DOUGAN: Yes.

44

45 MR. PROBASCO: Mr. Haskett.

46

47 MR. HASKETT: Yes.

48

49 MR. PROBASCO: Mr. Fleagle.

50

1 CHAIRMAN FLEAGLE: Yes.
2
3 MR. PROBASCO: Ms. Masica.
4
5 MS. MASICA: Yes.
6
7 MR. PROBASCO: And, Ms. Kessler.
8
9 DR. KESSLER: Yes.
10
11 MR. PROBASCO: Motion carries 6/0.
12
13 CHAIRMAN FLEAGLE: All right, thank
14 you. Well, we're off on a roll now.
15
16 (Laughter)
17
18 CHAIRMAN FLEAGLE: Proposal 10-02. Dr.
19 Wheeler.
20
21 DR. WHEELER: Thank you, Mr. Chair. As
22 you've probably noticed or undoubtedly noticed from
23 looking through your book, this is not an action item
24 but rather a briefing on the bear handicraft issue.
25 It's deferred -- it's Proposal 10-02 but it was
26 deferred Proposal 08-05. A detailed briefing of this
27 issue can be found in your books on Page 34.
28
29 Proposal 08-05, again, renumbered 10-
30 02, and as an aside I will tell you that from now on
31 we're not renumbering proposals because it gets a
32 little confusing through the process so if we have a
33 deferred proposal we'll retain the old number.
34
35 Proposal 08-05, now 10-02 was submitted
36 by the Alaska Department of Fish and Game during the
37 last wildlife cycle and, again, the proposal requested
38 clarification of the Federal Subsistence Management
39 regulation governing the use of brown bear claws and
40 handicrafts for sale. The Federal Subsistence Board
41 deferred the proposal at its May 2008 meeting and voted
42 to form a work group to address the issue of developing
43 a method for tracking brown bear claws made into
44 handicrafts for sale. The Board directed that the
45 working group include representatives from all
46 interested subsistence Regional Advisory Councils as
47 well as State and Federal Staff.
48
49 An initial scoping meeting between
50 Federal and State Staff was held in January 2009 and a

1 draft charge was developed. A briefing on the status
2 of the work group was provided to all Regional Advisory
3 Councils during the winter 2009 meeting cycle and at
4 that time representatives from interested Regional
5 Advisory Councils were selected to participate in the
6 work group. At the work group's only meeting in June
7 2009, almost a year ago, participants from the Councils
8 posed a number of questions directed at whether or not
9 bear claw tracking is a problem for subsistence users
10 and if regulations needed to be changed. These
11 questions prompted Federal and State Staff to conduct
12 further research and to meet as agency Staff to compare
13 notes and to follow up on research questions; that
14 occurred twice during summer 2009. The work group
15 attempted to meet again during the summer of 2009 but
16 it was not possible due to subsistence schedules.

17
18 Another briefing on the status of the
19 work group was provided during the fall 2009 Regional
20 Advisory Council meeting cycle. The work group will
21 meet again this winter in the context of Proposal 10-02
22 deferred Proposal 08-05 -- the work group will meet
23 again during summer 2010 to address the questions
24 raised at its first meeting and to begin working
25 towards resolution of the issues.

26
27 The work group's findings will be
28 presented to each Council for its recommendations
29 during the fall 2010 meeting cycle and a full report
30 will be provided to the Federal Subsistence Board at
31 its January 2011 meeting. A report will also be
32 provided to the Alaska Board of Game at an appropriate
33 meeting.

34
35 So the proposal will be deferred until
36 that time, Mr. Chair.

37
38 CHAIRMAN FLEAGLE: All right, thank
39 you. I do note in the record that we do have a couple
40 of comments to address so I think we'll go ahead and
41 move through the process here.

42
43 Summary of public comments, Ann.

44
45 MS. WILKINSON: For Proposal 10-02 we
46 did not receive any.

47
48 CHAIRMAN FLEAGLE: Thank you. Public
49 testimony, Pete.

50

1 MR. PROBASCO: Thank you, Mr. Chair.
2 We do have one person who would like to testify. Mr.
3 Floyd Kookesh.

4
5 CHAIRMAN FLEAGLE: Good morning.
6 Welcome.

7
8 MR. KOOKESH: Thank you.

9
10 Mr. Chairman, my name is Floyd Kookesh
11 and I represent Central Council, Tlingit-Haida Indian
12 Tribes of Alaska. Central Council represents over
13 27,000 Tlingit-Haida Indians worldwide.

14
15 I'd like to address WP10-02, Central
16 Council's recommendation, sir.

17
18 We'd like to concur with the Southeast
19 RAC's recommendation which is dated March 17th, that
20 the RAC has taken a prior position on bear claws. And
21 I'd like to affirm its position as stated by our past
22 actions and the presentation by Chairman John
23 Littlefield to the Federal Subsistence Board, and that
24 position should be reaffirmed as well.

25
26 So I move to reaffirm our position as
27 stated by prior actions by the RAC and by Chairman John
28 Littlefield.

29
30 Mr. Chairman. Mr. Littlefield stated,
31 during his tenure here, was to -- his comment was,
32 thank you for the explanation on the working group
33 status, however, I think the Federal Subsistence Board,
34 OSM can better spend our money elsewhere rather than
35 trying to pull together a working group or to try to
36 address the sale and tracking of handicrafts from brown
37 bear. He said the agencies have met and what are those
38 preliminary discussions, which way are they leaning.
39 Recently our new member of the Southeast RAC, Mr. Jack
40 Lorrigan, commented, thank you, Mr. Chairman, I had a
41 nice discussion with Mr. Littlefield on this very topic
42 and he's even more adamant that this proposal stand as
43 he proposed it. He feels that if there's a problem it
44 should be coming from the grassroots level and not from
45 top down. If the legal harvest of brown bears, one
46 every four years, and the people are doing it legally
47 then he doesn't see a problem with this.

48
49 And, Mr. Chairman, I've been appointed
50 to that brown bear working group and because of

1 subsistence and whatever other problems that are
2 occurring have never been able to make one meeting, and
3 so I'm starting to wonder if that's even going to be
4 happening.

5
6 Thank you.

7
8 CHAIRMAN FLEAGLE: All right, thank you.
9 Appreciate your comments. Questions Board members.

10
11 (No comments)

12
13 CHAIRMAN FLEAGLE: Thank you. Is there
14 any other testimony, Pete.

15
16 MR. PROBASCO: No, that's it, Mr.
17 Chair.

18
19 CHAIRMAN FLEAGLE: All right, thank
20 you. We do have a Regional Council discussion, at
21 least, on this.

22
23 Ann.

24
25 MS. WILKINSON: Excuse me, Mr.
26 Chairman. Yeah, Southeast Council did make a
27 recommendation. They did discuss it and recommended
28 that the Board not bring it up again, that it's already
29 been decided.

30
31 CHAIRMAN FLEAGLE: Okay, thank you.
32 Comments noted.

33
34 Alaska Department of Fish and Game.

35
36 MS. CUNNING: The report that Polly
37 gave is consistent with our position.

38
39 CHAIRMAN FLEAGLE: Thank you.
40 InterAgency Staff Committee, Dr. Wheeler.

41
42 DR. WHEELER: Thank you, Mr. Chair.
43 The status of this proposal, whether you call it 10-02
44 or 08-05 was presented to all of the Regional Advisory
45 Councils for their information, the decision was made
46 to further defer this proposal until the assigned
47 State/Federal work group completes its work with an
48 anticipated presentation to the Board in January 2011
49 as I said in my earlier summary.

50

1 The Southeast Alaska Regional
2 Subsistence Advisory Council was the only Regional
3 Advisory Council that still chose to take action on the
4 proposal and as just noted by Mr. Kookesh, they voted
5 to oppose Proposal 10-02. The Southeast Regional
6 Advisory Council affirmed their previous action in the
7 support of the use of brown bears for handicrafts. The
8 Council felt that there's no evidence to indicate the
9 need for bear handicrafts work group or a need to limit
10 or restrict the use of brown bear parts. The Council
11 stated that there is no need to defer action.

12
13 Thank you, Mr. Chair. That concludes
14 the Staff Committee comments.

15
16 CHAIRMAN FLEAGLE: Thank you. Board
17 discussion.

18
19 Dr. Kessler.

20
21 DR. KESSLER: Mr. Chair. Since we have
22 the representative from the Southeast Council, I'd just
23 like to see if he would like to offer that perspective.

24
25 CHAIRMAN FLEAGLE: Certainly.

26
27 MR. BANGS: Thank you, Mr. Chair. I
28 think Mr. Kookesh stated it very well. He is also a
29 member of the Council. And we've went over this
30 proposal many times in the past and there seems to be
31 no problem so, you know, the sky isn't falling, so we
32 could address a problem if it occurs down the road.

33
34 Thank you.

35
36 CHAIRMAN FLEAGLE: Thank you.
37 Appreciate the comments. Further discussion.

38
39 Charles.

40
41 MR. BUNCH: Michael, then it's my
42 understanding that Southeast would have the Board, it's
43 their recommendation that we just defer action on this?

44
45 MR. BANGS: Mr. Chair. We're opposed
46 to putting it off any longer, there's no need to defer
47 it.

48
49 Thank you.

50

1 CHAIRMAN FLEAGLE: Further discussion.

2

3 (No comments)

4

5 CHAIRMAN FLEAGLE: Now, just for
6 process, Pete, the comment was made earlier that we
7 didn't need to take action on this, that -- but since
8 it was on the agenda and it's before us, we probably
9 should, at least, take a vote to further defer,
10 correct?

11

12 MR. PROBASCO: Thank you, Mr. Chair.
13 Actually you would not need to do that but if you
14 wanted to reaffirm your position you are free to do
15 that.

16

17 We're just giving you a status report
18 on past direction from the Board on how to deal with
19 this issue and this proposal. And the Board, at that
20 time, was going to allow this work group to get
21 organized and then hopefully come back with some
22 recommendation for the Board to consider, that has not
23 been completed and we're just providing you with an
24 update.

25

26 Mr. Chair.

27

28 CHAIRMAN FLEAGLE: All right,
29 appreciate that. We will consider this proposal still
30 deferred waiting to percolate at some further point
31 down the road.

32

33 Thank you.

34

35 (Pause)

36

37 CHAIRMAN FLEAGLE: Okay, we now move to
38 Proposal 10-03. Dr. Wheeler.

39

40 DR. WHEELER: Mr. Chair. To my right
41 is Helen Armstrong, the Chair of the Anthropology
42 Division within OSM and to her right is Pippa Kenner
43 who's an anthropologist with OSM. And Pippa will be
44 presenting the analysis for Proposal 10-03.

45

46 CHAIRMAN FLEAGLE: Great, welcome to
47 both of you. Go ahead, Pippa, please.

48

49 MS. KENNER: Thank you, Mr. Chair.
50 Good morning. As Polly said my name is Pippa Kenner

1 and I'm an anthropologist with the Office of
2 Subsistence Management. The analysis for Proposal
3 WP10-03 can be found on Page 36 in the Board book.

4
5 Proposal 10-03 was submitted by the
6 Office of Subsistence Management and seeks a general
7 regulation to allow the harvest of fish and wildlife
8 for cultural and educational programs.

9
10 This proposal is to clarify how these
11 permits are currently issued. Adoption of this
12 proposal will not change how the Office of Subsistence
13 Management currently issues these permits. The
14 proposal puts into regulations the guidelines the
15 Federal Program currently follows when issuing these
16 permits.

17
18 Most requests for these permits come
19 from cultural camps sponsored by local non-profit
20 organizations. The permits are typically requested
21 both to teach cultural and educational activities
22 associated with harvest and to provide food for
23 participants in the program. Once a program has been
24 approved for a permit by the Board requests for
25 followup permits may be to the in-season or local
26 manager annually for up to five years by the same
27 program to harvest the same type of animal and amount.

28
29 If this proposal is adopted, there
30 would be no affect on cultural and educational programs
31 harvesting fish and wildlife that are currently allowed
32 in unit specific regulations.

33
34 The OSM conclusion consistent with the
35 recommendation of nine out of 10 Federal Subsistence
36 Regional Advisory Councils is to support WP10-03 with
37 modification to further simplify the proposed
38 regulation.

39
40 The proposed modification does not
41 include limits on how many animals can be harvested,
42 while the Southcentral Council recommendation is to
43 include a harvest limit for fish but not wildlife. In
44 addition the proposed modification removes the
45 requirement that application must be submitted within
46 60 days prior to the earliest desired date of harvest;
47 it changes it to should be submitted.

48
49 Thank you, Mr. Chair, that's the end of
50 my presentation.

1 CHAIRMAN FLEAGLE: Okay, thank you.
2 Questions Board members.

3
4 (No comments)

5
6 CHAIRMAN FLEAGLE: Alrighty. Public
7 testimony -- no summary of public comments first, Ann.

8
9 MS. WILKINSON: Thank you, Mr. Chair.
10 There were three public comments. Two in support with
11 modification and one opposed.

12
13 The Wrangell-St. Elias SRC supports
14 with modification to eliminate the 60 day advance
15 application requirement. Issue permits to the camp
16 organizer or village council which would designate the
17 legal hunter and to make the permit a joint
18 Federal/State permit to eliminate the need for two
19 permits when hunting in areas where there's mixed land
20 ownership.

21
22 The Sitka Fish and Game Advisory
23 Committee would support this proposal if it were
24 modified to recognize that one deer in Sitka is not
25 equivalent to one moose or other large animal. One
26 deer once hung and dried is not sufficient to feed the
27 students at the Dog Point Fish Camp.

28
29 The AHTNA Customary and Traditional
30 Council opposes the proposal. It said the 60 day
31 application review process may be necessary for the
32 first application but is not necessary for established
33 cultural education camps. And that there are existing
34 regulations in Units 11, 12 and 13 that work well. The
35 Traditional Council is unsure how this proposed
36 regulatory action would affect current regulations.

37
38 Thank you.

39
40 CHAIRMAN FLEAGLE: Okay, thank you.
41 Public testimony, Pete.

42
43 MR. PROBASCO: Mr. Chair. We have no
44 one signed up.

45
46 CHAIRMAN FLEAGLE: All right. We do
47 have a summary of Regional Council recommendations. Do
48 any of the Councils wish to speak to their issue, their
49 discussion on the issue.

50

1 MS. CAMINER: Mr. Chair.

2

3 CHAIRMAN FLEAGLE: Judy.

4

5 MS. CAMINER: Thank you. First of all
6 I do want to thank OSM and the Program for
7 incorporating several of the comments that were made by
8 Southcentral RAC and the text of our proposed
9 modification is shown on Page 42 there. Our biggest
10 concern had been in terms of process that the
11 application go to the Federal Board and secondly that
12 there be a clear reporting requirement. And we think
13 that changes and clarification for this proposal --
14 proposed regulation will be very helpful, especially
15 for groups that have annual or repeat educational
16 programs and it just lessens their paperwork burden in
17 the process.

18

19 Thank you.

20

21 CHAIRMAN FLEAGLE: Thank you. Any
22 other Councils.

23

24 (No comments)

25

26 CHAIRMAN FLEAGLE: Hearing none, we'll
27 move on to the Alaska Department of Fish and Game
28 comments. Tina.

29

30 MS. CUNNING: Mr. Chairman. Our State
31 of Alaska comments were passed out earlier this morning
32 so you have a hard copy of our comments in front of
33 you, they were not in the book. And the reason was is
34 that this is a statewide proposal, which is viewed
35 largely as a housekeeping proposal returning the
36 Federal regulations essentially to the status quo in
37 2001 through 2003 and consolidating the harvest
38 permitting into a single regulation.

39

40 We do have two points we'd like to
41 bring out here to your attention. Apparently they were
42 not distributed and are presently being distributed to
43 you.

44

45 Under the state of Alaska regulations
46 the Commissioner may issue a permit for the taking of
47 game for the teaching of preservation of historic or
48 traditional Alaskan cultural practices, knowledge and
49 values. The State system of permitting applies to all
50 lands. So use of a state of Alaska ceremonial permit

1 would reduce land status issues for persons issued a
2 permit and enforcement issues for both Federal and
3 State enforcement staff. State educational and
4 cultural permits apply, even on those Federal lands
5 closed to the non-Federally-qualified subsistence users
6 because these permits are not related to harvest for
7 subsistence and other consumptive uses.

8

9 At the April 29, 2008 Federal
10 Subsistence Board meeting, Commissioner Lloyd referred
11 the Board to two proposals in their book at that time,
12 08-08 and 08-09 requesting such permits before the
13 Board and urged the Federal Board to:

14

15 "direct your Federal Staff in the
16 future to encourage rural communities
17 and organizations to consider applying
18 to the Department of Fish and Game for
19 cultural permits before making a
20 request to the Federal Board.

21

22 Our State cultural permits generally
23 authorize harvest on all lands where
24 Federal permits can only be used on
25 Federal lands.

26

27 And, in addition, State permits can be
28 authorized more timely than through the
29 Federal regulatory process."

30

31 Federal and State Staff should notify
32 the applicant of the availability of ceremonial,
33 educational or cultural permits from the state of
34 Alaska.

35

36 So our recommendation is while the
37 Department supports the intent of the Federal Program
38 to improve its current permitting program, we oppose
39 the Federal Program issuance of cultural and
40 educational permits for the second point we want to
41 raise, and that is:

42

43 That the Federal authorization of
44 education and cultural permits exceeds
45 the specific authorities and
46 responsibilities provided by Congress
47 under Title VIII of ANILCA to assure
48 subsistence by Federally-qualified
49 subsistence users on Federal lands.

50

1 In addition to reviewing the legal
2 basis for issuance of such permits, the Department
3 requests the Federal Board to not expand the Federal
4 Subsistence Program issuance of ceremonial or cultural
5 harvest where they are not traditional and where
6 already authorized under permit by the State.

7
8
9
10
11

STATE OFFICIAL WRITTEN COMMENTS

12 Alaska Department of Fish and Game
13 Comments to the Federal Subsistence Board

14
15
16

 Wildlife Proposal WP10-03:

17 This proposal, submitted by Office of
18 Subsistence Management, would revise, define, and
19 expand the process for cultural and educational permits
20 in regulations in ____27 (e)(2) and opportunities
21 provided by the federal subsistence program. The
22 proposal requests statewide delegation of authority for
23 issuance of "follow-up" permits by all land managers
24 and designated inseason federal subsistence fisheries
25 or wildlife managers. The current federal subsistence
26 regulations address cultural and educational permits
27 for fisheries but do not include wildlife or shellfish.
28 The proposal also requests fundamental changes to
29 qualifying criteria, application procedures, harvest
30 limit guidelines, appeals, and reporting. This
31 proposal is largely a housekeeping proposal, returning
32 the federal regulations essentially to the status quo
33 in 2001-2003 and consolidating the harvest permitting
34 into a single regulation.

35
36
37

 Introduction:

38 The federal authorization of education
39 and cultural permits exceeds the specific authorities
40 and responsibilities provided by Congress under Title
41 VIII of ANILCA to assure subsistence by federally
42 qualified subsistence users on federal lands.

43
44
45

 Opportunity Provided by State:

46 Under State of Alaska regulations 5AAC
47 92.034, the Commissioner "may issue a permit for the
48 taking of game for the teaching and preservation of
49 historic or traditional Alaskan cultural practices,
50 knowledge, and values." The state system of permitting

1 applies to all lands, so use of a State of Alaska
2 ceremonial permit would reduce land status issues for
3 the persons issued a permit and enforcement issues for
4 both federal and state enforcement staff. State
5 educational and cultural permits apply even on those
6 federal lands closed to the non-federally qualified
7 subsistence users because these permits are not related
8 to harvests regulated for subsistence and other
9 consumptive uses.

10

11 Other Comments:

12

13 At the April 29, 2008, Federal
14 Subsistence Board meeting, Commissioner Lloyd referred
15 to two proposals (WP08-08 and WP08-09) before the Board
16 and urged the federal board to "direct your Federal
17 Staff in the future to encourage rural communities and
18 organizations to consider applying to the Department of
19 Fish and Game for cultural permits before making a
20 request to the Federal Board. Our State cultural
21 permits generally authorize harvest on all lands while
22 Federal permits can only be used on Federal lands.
23 And, in addition, State permits can be authorized more
24 timely than through the Federal regulatory process."
25 Federal and state staff should notify the proponent of
26 the availability of ceremonial, educational, or
27 cultural permits from the State of Alaska.

28

29 Recommendation:

30

31 While the Department supports the
32 intent of the federal program to improve its current
33 permitting program, we oppose the federal program
34 issuance of cultural and education permits as a
35 significant expansion of authorities to provide
36 subsistence under Title VIII of ANILCA. In addition to
37 reviewing the legal basis for issuance of such permits,
38 the Department requests the federal board to not expand
39 the federal subsistence program issuance of ceremonial
40 or cultural harvests where not traditional and where
41 already authorized under permit by the State.

42

43 CHAIRMAN FLEAGLE: All right, thank
44 you, Tina. InterAgency Staff Committee comments.

45

46 Polly.

47

48 DR. WHEELER: Sorry, Mr. Chair.

49

50 CHAIRMAN FLEAGLE: Thanks, Helen.

1 (Laughter)

2

3 DR. WHEELER: That's why we have all
4 the Staff up here, I was distracted from reading all
5 the State's comments, I apologize.

6

7 Mr. Chair.

8

9 In addition to the boilerplate comment,
10 the Staff Committee notes that the Eastern Interior
11 Regional Advisory Council suggested that the Federal
12 Program work with the State to develop a joint
13 Federal/State permit. This idea may have merit
14 especially in areas with intermingled land ownership
15 but it would need to be considered as a new proposal
16 for consideration by all of the Regional Advisory
17 Councils and the Board.

18

19 Mr. Chair.

20

21 CHAIRMAN FLEAGLE: Okay, thank you.
22 Board discussion.

23

24 MR. HASKETT: I have a question.

25

26 CHAIRMAN FLEAGLE: Go ahead, Geoff.

27

28 MR. HASKETT: So I think this is a
29 question for the State. Where right up here it's
30 talking about the idea of moving forward and doing a
31 joint kind of permit system but as I understand it from
32 your comments, then that would not be something you'd
33 be in favor of because you don't think we should be
34 doing it at all?

35

36

37 CHAIRMAN FLEAGLE: Tina.

38

39 MS. CUNNING: We are always interested
40 in cooperating with the Federal Program where we can.
41 We do think this would be something that Eastern
42 Interior RAC suggested would be worth pursuing.

43

44 CHAIRMAN FLEAGLE: Charlie Bunch.

45

46 MR. BUNCH: Tina, you said that the
47 State permit was good for all lands, is it good for
48 Park lands?

49

50 MS. CUNNING: The permits for cultural

1 -- cultural and educational permits are not take, in
2 the same way as harvest for subsistence. They're
3 specific to educational and cultural. We do respect,
4 for example, the pure Park lands where there is no
5 harvest allowed under Park regulations, they would not
6 be issued in those locations.

7

8

CHAIRMAN FLEAGLE: Michael.

9

10 MR. BANGS: Thank you, Mr. Chairman. I
11 just wondered, I would like to ask the other Councils
12 if they were able to receive these comments by the
13 State. I know it's not in the proposal book and this
14 is an example of, we didn't obtain this information, or
15 I don't recall this information. And that was the
16 point I made earlier, is the State doesn't bring this
17 before the Councils and then they bring it here.

18

19

Thank you, Mr. Chairman.

20

21

CHAIRMAN FLEAGLE: Thank you. And I
22 think we heard the response to that earlier as well,
23 but I appreciate you reiterating the concern.

24

25

The question that I think I have for
26 Keith, obviously we have a differing opinion as to
27 whether or not ANILCA provides us the authority to do
28 this. I think there's other avenues, whether it's
29 specifically detailed in ANILCA or not, the Board
30 adopts regulations that makes its job as defined in
31 ANILCA manageable, right? I mean maybe you could just
32 give a brief response to the statement that this is
33 outside of our authority.

34

35

MR. GOLTZ: Well, Mr. Chairman, I think
36 your statement is essentially correct. ANILCA provides
37 for the harvest of fish and wildlife resources. Those
38 is a consumptive uses. The cultural and educational
39 permits are used for consumptive purposes. In
40 addition, if you look at the Legislative history and
41 the policy purposes of ANILCA you'll find that, I
42 think, cultural and educational purposes are fully
43 compatible with what we're doing.

44

45

This regulation is not anything new.

46

47

48

49

50

CHAIRMAN FLEAGLE: Appreciate that
clarification.

1 Further discussion.
2
3 (No comments)
4
5 CHAIRMAN FLEAGLE: Ready for a motion.
6 Geoff.
7
8 MR. HASKETT: I'd like to make a motion
9 to adopt the proposal with the modifications
10 recommended by the majority of the Advisory Councils
11 with the understanding that this will provide
12 consistency between fish and wildlife cultural and
13 educational permits and makes it clear to the public
14 how the process works. I'm doing this, though, with
15 the understanding that we'll move forward to continue
16 working with the State with the idea of issuing joint
17 permits, since the State has a similar program and I
18 think what I think I heard is that we'd be interested
19 in doing this together.
20
21 CHAIRMAN FLEAGLE: Okay, now, to
22 clarify you're moving the language as modified on Page
23 41.
24
25 MR. HASKETT: Yes, correct.
26
27 CHAIRMAN FLEAGLE: All right, for the
28 record, that is the language that has been further
29 modified that says that the permits applications should
30 be submitted 60 days prior and other changes as
31 mentioned.
32
33 Is there a second to that motion.
34
35 DR. KESSLER: Second.
36
37 CHAIRMAN FLEAGLE: We do have a second.
38 Further discussion.
39
40 (No comments)
41
42 CHAIRMAN FLEAGLE: I think that the
43 analysis and the discussion clearly shows that this is
44 a good thing to do and I'm going to support it. Are we
45 ready for the question.
46
47 (Board nods affirmatively)
48
49 CHAIRMAN FLEAGLE: Question is
50 recognized on Proposal 3, Pete.

1 MR. PROBASCO: Thank you, Mr. Chair.
2 Final action on WP10-03 as modified.
3
4 Ms. Dougan.
5
6 MS. DOUGAN: Yes.
7
8 MR. PROBASCO: Mr. Haskett.
9
10 MR. HASKETT: Yes.
11
12 MR. PROBASCO: Mr. Fleagle.
13
14 CHAIRMAN FLEAGLE: Yes.
15
16 MR. PROBASCO: Ms. Masica.
17
18 MS. MASICA: Yes.
19
20 MR. PROBASCO: Ms. Kessler.
21
22 DR. KESSLER: Yes.
23
24 MR. PROBASCO: And, Mr. Bunch.
25
26 MR. BUNCH: Yes.
27
28 MR. PROBASCO: Mr. Chair. Motion
29 carries 6/0.
30
31 CHAIRMAN FLEAGLE: Thank you, Pete. I
32 don't want to let this issue, this discussion that
33 Geoff just raised about the possible joint permit, I
34 think that just talking about it in the course of Board
35 action just doesn't do it. We need to have some kind
36 of process or some kind of reminder and do you have a
37 proposed process there, Geoff, in mind?
38
39 No good deed goes unpunished.
40
41 (Laughter)
42
43 MR. HASKETT: I didn't have one in mind
44 but I guess what I'm thinking is it would be good to
45 put some of our Federal folks together with some of the
46 State folks to just explore this a little bit and come
47 back to the Board maybe with a proposal on how it would
48 actually be done.
49
50 CHAIRMAN FLEAGLE: Can we maybe just

1 direct OSM Staff to communicate with Tina and ADF&G
2 Staff about the possibility of working this out.

3

4 Pete, go ahead.

5

6 MR. PROBASCO: Mr. Chair. Definitely.
7 But I would probably expand that recommendation that
8 since it involves multiple agencies that it be OSM
9 Staff working with the Staff Committee and ADF&G.

10

11 CHAIRMAN FLEAGLE: Okay. Just as long
12 as we put it on the docket somewhere. Is that okay,
13 Polly.

14

15 DR. WHEELER: Yes. And I would just
16 add that the Solicitor's office probably needs to be
17 involved in that discussion as well since it did raise
18 some legal issues.

19

20 Mr. Chair.

21

22 CHAIRMAN FLEAGLE: Thank you.

23

24 MR. GOLTZ: That's fine.

25

26 CHAIRMAN FLEAGLE: All right, we'll act
27 on that then. Thank you. And that dispenses with
28 Proposal 3.

29

30 We're going to go ahead and break for
31 lunch, let's return at 1:15.

32

33 Thank you.

34

35 (Off record)

36

37 (On record)

38

39 CHAIRMAN FLEAGLE: We can go ahead and
40 get started. Call back to order in the afternoon, the
41 Federal Subsistence Board meeting on wildlife
42 proposals, and we're picking up with the agenda at
43 Wildlife Proposal 10-04.

44

45 And we'll turn to Chuck Ardizzone,
46 welcome.

47

48 MR. ARDIZZONE: Mr. Chair. Members of
49 the Board. Regional Council members. The analysis for
50 WP10-04 can be found on Page 48 of your Board book.

1 Proposal WP10-04 was submitted by the
2 Office of Subsistence Management and would remove a
3 number of Game Management Units from the areas for
4 which the Assistant Regional Director for the Office of
5 Subsistence Management has delegated authority to open,
6 close, adjust Federal seasons for lynx and to set
7 harvest and possession limits.
8

9 Since 2001 the Federal subsistence lynx
10 trapping seasons have been adjusted annually based on
11 recommendations determined using the Alaska Department
12 of Fish and Game's tracking harvest strategy for
13 managing lynx. Over the last several years the Alaska
14 Board of Game has removed Unit 6, 12, 20A, 20B, 20C
15 east of the Teklanika River, 20D and 20E from the list
16 of units that are managed using the lynx harvest
17 strategy. Based on this action these units should also
18 be eliminated from Federal regulation.
19

20 If this proposal is adopted it would
21 align Federal and State regulations regarding lynx
22 management.
23

24 Season and harvest limits can still be
25 changed through the normal regulatory cycle or through
26 special action if necessary.
27

28 There will be no adverse impacts to
29 subsistence users, only the authority delegated to the
30 Assistant Regional Director for the Office of
31 Subsistence Management would be affected.
32

33 The OSM conclusion can be found on Page
34 49 of your Board book, which is to support with
35 modification to delete the regulatory language and
36 delegate the authority, it'd be a delegation of
37 authority letter only. A draft of this letter can be
38 found on Page 58 of your meeting books.
39

40 I would note that we are aware there
41 are some changes needed to be made to the letter and
42 those will be corrected after this meeting.
43

44 Thank you, Mr. Chair.
45

46 CHAIRMAN FLEAGLE: Okay, thank you.
47 Summary of public comments.
48

49 MS. WILKINSON: Thank you. Mr. Chair.
50 We received one comment.

1 The Wrangell-St. Elias SRC supports
2 this proposal with modification as described in the OSM
3 conclusion. The SRC believes that there are no
4 conservation concerns associated with approving this
5 proposal and that it will not adversely affect
6 subsistence users or others.

7
8 Thank you.

9
10 CHAIRMAN FLEAGLE: Thank you. Okay, I
11 see no cards for public testimony. Regional Council
12 recommendations, we have that on the board, Ann.

13
14 MS. WILKINSON: The Regional Advisory
15 Council recommendations. You had one in opposition,
16 two -- three took no action, one voted to support and
17 four -- five voted to support with modification, four
18 of those with the OSM modification and one with their
19 own modification. And I believe those Council Chairs
20 can speak to their changes. So that would be North
21 Slope had support with modification of their own. And
22 then Southeast took no action, from what I understand,
23 because there are no lynx there, but they can explain
24 that further.

25
26 CHAIRMAN FLEAGLE: Thank you. Council
27 members.

28
29 Harry.

30
31 MR. BROWER: Thank you, Mr. Chair.
32 Harry Brower from the North Slope. We still stand by
33 our recommendation that was presented by our Regional
34 Advisory Council.

35
36 Thank you.

37
38 CHAIRMAN FLEAGLE: Thank you. And we
39 don't have anybody here from the Northwest Arctic yet.
40 Any other Council comments.

41
42 Judy.

43
44 MS. CAMINER: Thank you, Mr. Chairman.
45 For those of you who know our Chairman, Ralph Lohse, is
46 quite an expert, I'll say, in this area and has
47 commented on lynx and wolverine, et cetera, trapping
48 many times in other proposals.

49
50 So I just wanted to mention that he

1 said:

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The only comment I'm going to make on this proposal as the Chair is that it's interesting that all units except Units 11 and 13 have been dropped from the lynx tracking strategy because it doesn't work and we continue to have it in Units 11 and 13.

Personally I would like to see the Federal Subsistence Board make a Federal season that's a standard season for lynx in Units 11 and 13 for our Federal trappers but I can't go there right now. There needs to be a proposal in the future.

So you may expect that in the future.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Judy.

Molly, go ahead.

MS. CYTHLOOK: Thank you, Mr. Chairman.

The Board discussed this in length and they supported it and one comment from our Board member was that he was also in favor of the proposal with the understanding that it's a good thing to still have the Feds being able to open and close with special action. And he also said that everyone out there is catching a lot of lynx and the number -- and if the numbers go down it still allows for subsistence users to know -- to be able to harvest so that in the case that the lynx numbers go down he expressed that the subsistence users are -- you know, have the ability to still harvest in -- probably in our region. I know that this is a statewide regulation.

But the Council -- because we do have lynx in Bristol Bay and they make use of the animals that he just wanted to express that.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Molly.

Jack.

1 MR. REAKOFF: I trap lynx. The main
2 reason that lynx became such a concern is when they
3 were \$500, now that lynx prices are relatively low we
4 don't have nearly the concern that we used to. And so
5 our Council was fully supportive with modification.

6
7 CHAIRMAN FLEAGLE: Okay, thank you.
8 Department of Fish and Game comments. Tina.

9
10 MS. CUNNING: Mr. Chairman. We had no
11 comments on this proposal, which could be interpreted
12 as either neutral or support as long as the appropriate
13 coordination with the Department is done in the
14 openings and closings.

15
16 Thank you.

17
18 CHAIRMAN FLEAGLE: All right, thank
19 you. InterAgency Staff Committee comments.

20
21 DR. WHEELER: Thank you, Mr. Chair. In
22 addition to the boilerplate comment that I referenced
23 earlier, the Staff Committee would note that the draft
24 letter, kind of in reference to what Chuck had already
25 mentioned, that the draft -- there needed to be some
26 changes to the draft letter without changing the intent
27 of the delegated authority.

28
29 Mr. Chair. That's all I have.

30
31 CHAIRMAN FLEAGLE: And those changes
32 are not substantive, they're just grammatical or
33 whatever in nature?

34
35 DR. WHEELER: That's correct.

36
37 CHAIRMAN FLEAGLE: Okay.

38
39 DR. WHEELER: The letter was included
40 as a draft. We recognize that some changes need to be
41 made and they have been duly noted and we will make
42 those changes, but it was included as a draft.

43
44 Mr. Chair.

45
46 CHAIRMAN FLEAGLE: Comments.
47 Discussion.

48
49 Sue.

50

1 MS. MASICA: Chuck, can I clarify that
2 one of those inclusions in the draft is the language
3 about the review and the Staff analysis, that was one
4 of the pieces that had been dropped, is that going to
5 be put back in?

6
7 MR. ARDIZZONE: I'm not exactly
8 sure.....

9
10 MS. MASICA: In the previous letter
11 there was reference to that there'd be Staff analysis
12 of the potential action and review by the Staff
13 Committee and that's not in the new letter, is that one
14 of those things that's in the -- that has to go back
15 in?

16
17 MR. ARDIZZONE: Yes, ma'am.

18
19 MS. MASICA: Thank you.

20
21 MS. ARDIZZONE: Yes, ma'am.

22
23 CHAIRMAN FLEAGLE: Julia.

24
25 MS. DOUGAN: Mr. Chair. Being one of
26 the newer members of the Board, I'd like to ask how
27 often the Board reviews these delegation of authority
28 letters? Can Staff answer that for me.

29
30 CHAIRMAN FLEAGLE: Good question.
31 Pete.

32
33 MR. PROBASCO: Thank you, Mr. Chair.
34 As far as the review of the delegation of letters, once
35 a delegation is afforded, if you will, to the
36 appropriate manager with each agency, that remains in
37 effect unless there's something that results in a
38 change.

39
40 Now, there are some delegations of
41 authority that, and correct me if I'm wrong, Chuck, but
42 it's reviewed on an annual basis; is that correct?

43
44 MR. ARDIZZONE: Mr. Chair. I'm not
45 sure if we have any that are annual, but we do have
46 some that are on a five year basis.

47
48 CHAIRMAN FLEAGLE: So no real
49 systematic review, they're just in effect until not
50 needed longer.

1 MR. PROBASCO: That's correct, Mr.
2 Chair. The authority that's given is fairly
3 straightforward that you see on the counter with the
4 State manager and it allows the Federal manager to be
5 responsive to changes in population size or that type
6 of thing.
7
8 Mr. Chair.
9
10 CHAIRMAN FLEAGLE: Thank you. Julia.
11
12 MS. DOUGAN: Thank you.
13
14 CHAIRMAN FLEAGLE: Other discussion.
15
16 DR. KESSLER: Mr. Chair.
17
18 CHAIRMAN FLEAGLE: Wini.
19
20 DR. KESSLER: Yep, I appreciate that
21 the letter is going to be, that corrections are going
22 to be made, and just for clarification, is one of the
23 corrections going to be the misstatement about what the
24 MOU says?
25
26 MR. ARDIZZONE: Yes, ma'am.
27
28 DR. KESSLER: Okay, great, thanks.
29
30 CHAIRMAN FLEAGLE: Further discussion.
31
32 (No comments)
33
34 CHAIRMAN FLEAGLE: Ready for a motion.
35
36 Sue.
37
38 MS. MASICA: Mr. Chairman. I move that
39 we support WP10-04 as modified in the OSM conclusion
40 and is supported by the Councils.
41
42 MR. BUNCH: I second it.
43
44 CHAIRMAN FLEAGLE: Okay, we do have a
45 motion with a second. Further discussion.
46
47 (No comments)
48
49 CHAIRMAN FLEAGLE: It appears the
50 language that has been provided as modified with the

1 letter delegating the authority to the managers with
2 the corrections that are spoken about meet our intent
3 and I guess we're ready for the question.

4
5 Pete.

6
7 MR. PROBASCO: Thank you, Mr. Chair.
8 Final action on WP10-04 with modifications as noted.

9
10 Mr. Haskett.

11
12 MR. HASKETT: Yes.

13
14 MR. PROBASCO: Mr. Fleagle.

15
16 CHAIRMAN FLEAGLE: Yes.

17
18 MR. PROBASCO: Ms. Masica.

19
20 MS. MASICA: Yes.

21
22 MR. PROBASCO: Ms. Kessler.

23
24 DR. KESSLER: Yes.

25
26 MR. PROBASCO: Mr. Bunch.

27
28 MR. BUNCH: Yes.

29
30 MR. PROBASCO: And Ms. Dougan.

31
32 MS. DOUGAN: Yes.

33
34 MR. PROBASCO: Motion carries 6/0.

35
36 CHAIRMAN FLEAGLE: Thank you, Pete.

37 That now puts us into Proposal WP10-05. And we have

38 Tom Kron back with us. Hi, Tom.

39
40 MR. KRON: Mr. Chair. Members of the
41 Board. Council Chairs. Proposal WP10-05 was submitted
42 by OSM and seeks to update, clarify and simplify the
43 regulations regarding accumulation of harvest limits
44 for both fish and wildlife. The analysis for this
45 proposal begins on Page 63 of your Board book.

46
47 The wording in the general Federal
48 subsistence regulations concerning accumulations of
49 harvest limits dates back to 1990 and 1994. There is a
50 need to update the wording.

1 While the Federal Subsistence Board has
2 addressed a number of area specific proposals
3 concerning the accumulation of harvest limits over the
4 years, this part of the general regulations has not
5 been updated to reflect changes in the unit and area
6 specific regulations. Proposal WP10-05 addresses those
7 inconsistencies.

8
9 Proposal WP10-05 does not affect fish
10 and wildlife populations, subsistence uses or other
11 uses, rather the proposal seeks to update, clarify and
12 simplify the sections of the general regulations which
13 reference accumulation of harvest limits. The proposed
14 wording changes retain the general prohibition of
15 accumulation of Federal and State harvest limits and
16 point to unit and area specific regulations for details
17 and exceptions. This proposal does not change any unit
18 or area specific Federal subsistence regulation
19 concerning accumulation of harvest limits or the
20 timeframe, daily, seasonal or regulatory year for those
21 harvest limits.

22
23 Consistent with the recommendations of
24 nine Regional Advisory Councils OSM's conclusion is to
25 support Proposal WP10-05.

26
27 Thank you, Mr. Chair.

28
29 CHAIRMAN FLEAGLE: Thank you, Tom.
30 Summary of public comments, Ann.

31
32 MS. WILKINSON: Mr. Chairman. We
33 received two comments in support of this proposal.

34
35 The Wrangell SRC -- Wrangell-St. Elias
36 SRC and the AHTNA Customary and Traditional Council
37 consider this to be a housekeeping proposal that will
38 clarify Federal regulations without creating
39 conservation concerns or adversely impacting
40 subsistence users or others.

41
42 CHAIRMAN FLEAGLE: Thank you. And,
43 Pete, no public testimony, correct.

44
45 MR. PROBASCO: That's correct.

46
47 CHAIRMAN FLEAGLE: And we have the
48 Regional Advisory Councils all in support except the
49 Northwest Arctic, who is not here, are there any
50 Council comments from the Chairs or reps that are here.

1 (No comments)
2
3 CHAIRMAN FLEAGLE: Hearing none we'll
4 move on to the Department of Fish and Game comments.
5 Tina.
6
7 MS. CUNNING: We, too, felt this was a
8 housekeeping proposal and had no comments.
9
10 CHAIRMAN FLEAGLE: Thank you.
11 InterAgency Staff Committee, Polly.
12
13 DR. WHEELER: Mr. Chair. In addition
14 to the boilerplate statement, the InterAgency Staff
15 Committee has no additional comments.
16
17 Thank you.
18
19 CHAIRMAN FLEAGLE: Thank you. Board
20 discussion.
21
22 (No comments)
23
24 CHAIRMAN FLEAGLE: We can skip that
25 part if somebody wants to make a motion.
26
27 Charlie Bunch.
28
29 MR. BUNCH: I'll give it a shot, and
30 see if I can meet the standards.
31
32 (Laughter)
33
34 MR. BUNCH: I move that we approve the
35 WP10-05 as written. It simplifies the potentially
36 confusing regulation and we would support it.
37
38 MS. DOUGAN: Second.
39
40 CHAIRMAN FLEAGLE: Okay we do have a
41 motion and a second. Is there any further discussion.
42
43 (No comments)
44
45 CHAIRMAN FLEAGLE: I think the motion
46 encapsulated the feeling that it's appropriate to pass
47 this action and we're ready for the question, Pete, on
48 10-05; please poll the Board.
49
50 MR. PROBASCO: Thank you, Mr. Chair.

1 Final action on WP10-05.
2
3 Mr. Fleagle.
4
5 CHAIRMAN FLEAGLE: Yes.
6
7 MR. PROBASCO: Ms. Masica.
8
9 MS. MASICA: Yes.
10
11 MR. PROBASCO: Ms. Kessler.
12
13 DR. KESSLER: Yes.
14
15 MR. PROBASCO: Mr. Bunch.
16
17 MR. BUNCH: Yes.
18
19 MR. PROBASCO: Ms. Dougan.
20
21 MS. DOUGAN: Yes.
22
23 MR. PROBASCO: And, Mr. Haskett.
24
25 MR. HASKETT: Yes.
26
27 MR. PROBASCO: Motion carries, 6/0.
28
29 CHAIRMAN FLEAGLE: Okay, thank you.
30 And that concludes the -- that's a good call, thanks,
31 Ken, almost concluded the statewide suite of proposals.
32 The action that we took, which was no action on 10-02
33 was researched and it turned out that the motion to
34 defer from the 2008 meeting was to defer for two years.
35 We're going to find ourselves beyond the two years if
36 we don't take further action to defer, which I should
37 have just done. That was my instinct.
38
39 MR. PROBASCO: I'm at fault.
40
41 CHAIRMAN FLEAGLE: No, no, I'm not
42 blaming.
43
44 (Laughter)
45
46 CHAIRMAN FLEAGLE: I just have to turn
47 and look left and right, you know, indiscriminately.
48
49 MR. PROBASCO: Geoff said I was at
50 fault.

1 (Laughter)

2

3 CHAIRMAN FLEAGLE: And, so, really, to
4 dispense with this appropriately we do need to take 10-
5 02, a motion to defer and we can attach a time certain
6 or we could just put until such time as the working
7 group completes its process or whatever, like that.

8

9 Wini.

10

11 DR. KESSLER: I make a motion to defer
12 this proposal to allow the work group to continue their
13 work and allow for Council recommendations on this
14 proposal. If I get a second I can elaborate a little
15 more.

16

17 MR. HASKETT: Second.

18

19 DR. KESSLER: It seems that reasonably
20 it may not be able to be addressed until the scheduled
21 wildlife regulatory meeting in 2012, however, if action
22 can be taken by January 2011 as suggested in the write
23 up on Page 34 with the work group having concluded its
24 recommendations and the Councils acting on those
25 recommendations then we could take it up as an action
26 in January 2011.

27

28 CHAIRMAN FLEAGLE: Okay, great. Is
29 there any objection to the motion to defer.

30

31 (No objection)

32

33 CHAIRMAN FLEAGLE: Hearing no objection
34 that'll be our action. Thank you.

35

36 Now, that concludes our statewide
37 proposals. Do we need a couple minutes to switch out
38 Staff for the Southeast region.

39

40 MR. PROBASCO: Yes.

41

42 CHAIRMAN FLEAGLE: No.

43

44 MR. PROBASCO: No.

45

46 DR. WHEELER: Yes.

47

48 CHAIRMAN FLEAGLE: We do, all right.
49 Just brief at ease, we're not going to stand down,
50 let's just give them a couple of moments.

1 (Off record)

2

3 (On record)

4

5 CHAIRMAN FLEAGLE: All right, Dr.

6 Wheeler.

7

8 DR. WHEELER: Thank you, Mr. Chair. To

9 Chuck's right we have Robert Larson. He doesn't

10 actually work for me, but, maybe he will in time, who

11 knows.

12

13 (Laughter)

14

15 DR. WHEELER: Anyway he's with the

16 Forest Service and he's going to be presenting the

17 analysis on Proposal 22.

18

19 (Laughter)

20

21 CHAIRMAN FLEAGLE: Great. Welcome to

22 the table. Proposal 22, please, go ahead, Robert.

23

24 MR. LARSON: Mr. Chairman. Good

25 afternoon. The executive summary for Proposal 22

26 begins on Page 276 of the Board book.

27

28 The intent of this proposal is for the

29 Board to provide authority to close, reopen or adjust

30 Federal subsistence seasons and to set harvest and

31 possession limits for all wildlife to a uniform set of

32 fish and wildlife in-season managers in the Southeast

33 Alaska region.

34

35 Now, this proposal would result in

36 expansion of the in-season authority currently

37 delegated to managers in this region. The number of

38 instances where authority for wildlife has been

39 delegated has been increasing and there are now five

40 units, five species and eight positions with delegated

41 authority, either by regulation, and there's 10 of

42 those, or by letter and there's seven of those. The

43 required changes to Federal regulations are found on

44 Page 280. Those listed delegation of authorities are

45 found on Table 1, which is on Page 283.

46

47 A standardized group of in-season

48 managers would facilitate specialized training

49 necessary to comply with the subsistence policies,

50 protocols and regulations. The infrastructure for this

1 type of delegation is already in place for the
2 management of fisheries. Page 2 provides examples of
3 recent in-season actions taken in the Southeast region
4 during the last two years. The reason for the table is
5 to show that there is, in fact, some experience in that
6 regard.

7

8 The public awareness of in-season
9 authorities would be improved if a table of managers
10 and their delegated authorities would be included in
11 the subsistence wildlife regulations booklet. That is
12 the same way that those in-season managers are noted in
13 the fisheries regulation booklet.

14

15 Removing delegated positions from
16 regulations can be considered housekeeping.

17

18 Now, the Staff recommends the Council
19 support the proposal with modification to delegate only
20 the same in-season management authority by letter as is
21 what is currently referenced in regulation. The
22 Council -- well, I'll let the Council Chair speak to
23 the Council's actions, but I would say that in all
24 three instances, the Staff recommendation, the Council
25 recommendation and the InterAgency Staff
26 recommendation, the result for changes to regulations
27 are the same and that is, those changes that are noted
28 on Page 280.

29

30 So whether the delegated specific
31 authorities or broad authorities then become an
32 administrative action as opposed to a regulatory
33 action. And that is the crux of the differences
34 between the recommendations and that is where the
35 Council wants and the proposal is for delegated in-
36 season management authority for all wildlife versus the
37 OSM recommendation is to approach it piecemeal and have
38 delegated authorities by wildlife for those regulations
39 that have already been approved by the Board.

40

41 Thank you.

42

43 CHAIRMAN FLEAGLE: Thank you, Robert.
44 Questions Board members.

45

46 (No comments)

47

48 CHAIRMAN FLEAGLE: Summary of public
49 comments.

50

1 MR. LARSON: Mr. Chairman. There are
2 two public comments. Those are on Page 293 of your
3 Board book.

4
5 One is in support of the proposal.
6 That's from the Sitka Fish and Game Advisory Committee.

7
8 The other is to support the proposal
9 with modification as recommended by OSM, that is from
10 the Wrangell-St. Elias National Park Subsistence
11 Resource Commission.

12
13 CHAIRMAN FLEAGLE: Thank you. Public
14 testimony.

15
16 MR. PROBASCO: Mr. Chair. We have no
17 one signed up for this.

18
19 CHAIRMAN FLEAGLE: Regional Council
20 recommendation, and Southeast having jurisdiction for
21 this, does, support, right, Robert?

22
23 MR. LARSON: That is correct. It's a
24 Southeast specific proposal.

25
26 CHAIRMAN FLEAGLE: Thank you. Fish and
27 Game, Tina.

28
29 MR. PROBASCO: Regional Council.

30
31 MS. CUNNING: Mr. Chairman. With your
32 permission rather than reading our comments into the
33 record.....

34
35 CHAIRMAN FLEAGLE: Can I have you hold
36 off for just a minute.

37
38 MS. CUNNING: Sure.

39
40 CHAIRMAN FLEAGLE: By asking for a
41 synopsis, I failed to follow my own protocol I
42 established earlier and open it to the affected
43 Council, so let me just do that real quickly.

44
45 MS. CUNNING: Okay.

46
47 CHAIRMAN FLEAGLE: Michael, would you
48 like to speak to this proposal from your Council,
49 please.

50

1 MR. BANGS: Thank you, Mr. Chair. As
2 the Southeast RAC -- the intent of the Council is to
3 have a broad -- delegate the same in-season management
4 authority for all wildlife to the same in-season
5 managers that have that authority for fish in those
6 areas.

7
8 The Council supports the current in-
9 season management protocols and believes this action
10 will result in better communication with the ADF&G and
11 subsistence users. The proposal would benefit
12 subsistence users by encouraging management expertise
13 and local managers and subsistence users would benefit
14 with the person responsible for land management
15 decisions affecting subsistence resources as also
16 responsible for managing and providing a priority to
17 subsistence uses.

18
19 Thank you.

20
21 CHAIRMAN FLEAGLE: Okay, great, thank
22 you. Now, Department of Fish and Game comments, thank
23 you, Tina.

24
25 MS. CUNNING: With your permission we'd
26 like to have our comments entered into the record so
27 that I don't need to read them, and I see a nod,
28 affirmative.

29
30 With that said, the OSM revised
31 analysis appears to address the concerns in our
32 opposition that were originally raised with the
33 original proposal. With that said, with those
34 clarifications, the note at the end of our comments
35 addresses our concerns and we would support the
36 modification.

37
38 *****
39 STATE OFFICIAL WRITTEN COMMENTS
40 *****

41
42 Alaska Department of Fish and Game
43 Comments to the Federal Subsistence Board

44
45 Wildlife Proposal WP10-22:

46
47 The Southeast Subsistence Regional
48 Advisory Council proposal would delegate all of the
49 Federal Subsistence Board s authority to open, close,
50 and restrict hunting and trapping through in-season

1 letters of authority to federal land managers in Game
2 Management Units 1-5.

3

4 Discussion:

5

6 The Southeast Regional Advisory Council
7 proposes the Federal Subsistence Board grant the
8 Southeast federal land managers their board authority
9 for inseason management of federal subsistence hunting
10 and trapping seasons to close, open, or change federal
11 subsistence seasons and adjust federal harvest and
12 possession limits. Currently, only certain federal
13 land managers in Southeast Alaska are delegated
14 specific inseason management authorities for identified
15 federal subsistence hunts. The Council Chair stated
16 their desire for granting the federal land managers
17 some authority at the April 29, 2008, Federal
18 Subsistence Board meeting to close federal subsistence
19 hunting or trapping seasons for conservation purposes
20 if already authorized to change other regulations
21 (e.g., open a season, as granted to federal subsistence
22 fisheries managers). The Council also requested
23 delegation of inseason hunt authority in its 2008
24 Annual report to the Federal Subsistence Board,
25 approved at the Council's March 24, 2009, meeting. The
26 Federal Subsistence Board responded to this request for
27 inseason management of federal subsistence harvest of
28 wildlife on August 4, 2009, as follows:

29

30 The Southeast Region has been faced
31 with a number of situations in the past
32 two years where special actions were
33 necessary to provide for conservation
34 of wildlife resources. The Council
35 recommends the board delegate in-season
36 management authority for all wildlife
37 to the same Forest Service managers
38 that have in-season management
39 authority for fish.

40

41 The federal letter in response to the
42 Council annual report stated:

43

44 Under 50CFR100.10 and 36CFR242.10, the
45 Board can delegate to agency field
46 officials the authority to set harvest
47 and possession limits, define harvest
48 areas, specify methods or means of
49 harvest, specify permit requirements,
50 and open or close specific fish or

1 wildlife harvest seasons within
2 frameworks established by the Board.
3 As you note, the Board has previously
4 delegated inseason management authority
5 for fisheries, and in some instances
6 for wildlife, to agency field
7 officials. A primary reason for
8 equipping field officials with in-
9 season fisheries management authority
10 is to provide the required tools to
11 implement timely conservation actions,
12 recognizing the dynamic nature of fish
13 populations. A similar need to
14 universally delegate in-season
15 management authority of all wildlife
16 populations in order to provide for
17 conservation of wildlife resources has
18 not been demonstrated. Instead, for
19 wildlife management, delegation of
20 authority occurs on a case-by-case
21 basis. Any field official receiving
22 delegated in-season management
23 authority is required to complete an
24 analysis, consult with appropriate
25 agencies and individuals, and document
26 rationale for the special action. The
27 Board believes that such processes have
28 been responsive and timely in regard to
29 processing special actions. Anyone may
30 submit a proposal during the upcoming
31 call for 2010-2012 wildlife regulatory
32 proposals requesting delegation of
33 authority for wildlife management field
34 officials. (Emphasis added)

35
36 While the Department supports wildlife
37 special actions (e.g., WSA09-04) which temporarily
38 grant federal land managers inseason authority to close
39 a portion of a federal subsistence wildlife season for
40 conservation purposes following consultation with the
41 Department, the delegated authority should not be
42 expanded to change the quota set in regulations,
43 increase bag limits, or to establish an upper harvest
44 limit. The delegated authority needs to be clarified
45 to retain the existing maximum harvest quotas and
46 limits set by the Department and Federal Board, while
47 authorizing reduced quota or a closure if necessary to
48 assure conservation of the population.

49
50 In contrast, WP10-22 as proposed would

1 broadly delegate all in-season federal subsistence hunt
2 authority to federal land managers in Units 1-5. The
3 delegation of in-season management authority for
4 federal land managers should be explicitly detailed in
5 the "Scope of Delegation" and "Guidelines of
6 Delegation" sections of letters of delegation from the
7 Federal Subsistence Board for the purpose of
8 authorizing in-season subsistence management actions
9 based on conservation. The letters of delegation
10 should contain sideboards, such as specifying upper
11 limits in quotas for conservation purposes. This is
12 required by 50 CFR 100.10(d)(6) and 36 CFR 242
13 10(d)(6), which authorize the Board to delegate
14 authority only "within frameworks established by the
15 board." The Board should consult with the Department
16 in developing these sideboards, to prohibit
17 liberalizations and conditions that would result in
18 reallocation between users without direction set by the
19 Federal Subsistence Board. The Department also
20 requests that language be added that specifies the
21 consultation that federal managers will conduct with
22 the Department prior to making decisions that involve
23 the Department s management of fish and wildlife, i.e.,
24 defining what that consultation entails and respecting
25 the Department s decisions on sustainable harvest
26 levels and conservation needs.

27
28 Although the proponent and the federal
29 staff explain that addressing this proposal through the
30 Federal Subsistence Board process would allow for a
31 public review and discussion of the proposed solution,
32 adoption of this proposal would eliminate the public
33 from the regulatory process of future modifications of
34 delegated authorities. If adopted, designated in-
35 season officials would be issued a letter of delegation
36 by the Federal Subsistence Board which grants all in-
37 season authorities currently in regulation, but future
38 changes to the letter of delegation could expand that
39 authority outside of the public process, thus
40 eliminating the transparency of the public process in
41 rulemaking. The proponent and federal staff indicate
42 this proposed change is necessary for rational
43 implementation of wildlife regulations and cooperative
44 management. This point is overstated. The Department
45 has cooperatively assisted federal staff during
46 development and execution of federal subsistence
47 fisheries and hunts for closure for 10 and 20 years,
48 respectively. Eventual full delegation of in-season
49 management authority is not necessary for rational
50 implementation of federal subsistence regulation for

1 conservation of fish and wildlife resources for federal
2 subsistence users on federal public lands in Southeast
3 Alaska and removes it from the close public involvement
4 now required. Though the federal staff may desire a
5 framework for eventually achieving full delegation of
6 authority, such delegation has not been deliberated and
7 the Federal Board clearly has not delegated full
8 authority to any federal staff in Alaska for the
9 purpose of managing federal subsistence wildlife
10 hunting or trapping.

11
12 The Department presently works
13 cooperatively with federal staff and does not foresee
14 the benefits of adoption of this proposal. Delegation
15 of all of the Board's authority to open, close, and
16 restrict hunting and trapping by federal staff in
17 Southeast Alaska is not only unnecessary and
18 contravenes public process, but it may also exacerbate
19 misunderstandings by some federal staff that the State
20 remains responsible for the sustainable management of
21 all wildlife on all lands in Alaska.

22
23 Recommendation:

24
25 Oppose.

26
27 If adopted, modification is needed that
28 clarifies that the letters of delegation will be
29 developed in consultation with the Alaska Department of
30 Fish and Game to include: (1) maximum harvest quotas
31 and harvest limits that do not exceed sustainable
32 harvest established by the State and other sideboards
33 on the exercise of delegated authority, (2) details the
34 requirements and process for consultation with the
35 State, (3) clearly detail the public review process
36 required for modifying letters of delegation and/or
37 protesting such modifications, and (4) direct federal
38 staff to make the letters of delegation reasonably
39 available to the public for review.

40
41 NOTE: The revised OSM analysis
42 provided for the April Interagency Staff Committee
43 meeting appears to have proposed the limits necessary
44 for such delegated authorities in the Department's
45 comments above. The summary of the OSM proposed
46 modification appears intended to delegate only the
47 existing inseason federal subsistence management
48 authority for wildlife as currently referenced in
49 regulation and, thus, does not delegate the extent of
50 authorities as proposed by the Council. Further

1 discussion with OSM is needed to determine if the
2 limitations address the Department concerns discussed
3 above.

4

5 CHAIRMAN FLEAGLE: Okay, thank you.
6 InterAgency Staff Committee comments. Polly.

7

8 DR. WHEELER: Thank you, Mr. Chair.
9 The InterAgency Staff Committee found this proposal to
10 be complicated from an administrative perspective. At
11 this point it makes sense to implement the proposal for
12 delegations that are currently in regulation as
13 suggested by the OSM conclusion.

14

15 The Board could also direct Staff to
16 consider additional action on this proposal for future
17 regulatory cycles.

18

19 The Staff Committee suggests that in
20 Southeast Alaska the Board adopt proposals consistent
21 with the intent of the Council's action in future
22 regulatory proposals that include delegations, and in
23 parens, such as being considered in WP10-17, which
24 actually was moved to the consensus agenda this
25 morning.

26

27 Mr. Chair.

28

29 CHAIRMAN FLEAGLE: Okay, thank you.
30 Board discussion.

31

32 Charlie.

33

34 MR. BUNCH: Well, Polly, that was my
35 question, what if this passes what would that do to
36 those delegated authorities like under 10-17?

37

38 DR. WHEELER: I'm going to defer that
39 question to the analyst, Mr. Bunch.

40

41 CHAIRMAN FLEAGLE: Robert.

42

43 MR. LARSON: Mr. Chairman. The intent
44 of this proposal and the result of adopting the
45 proposal would be an expansion of or a change in how we
46 identify a person that is responsible for in-season
47 management. The OSM recommendation is for no change in
48 who -- or the management action in itself, it's just
49 that we take it out of regulation and make it a letter
50 from the Board to an in-season manager that gives him

1 some authority to do whatever action it is. The intent
2 of the Council is to provide a broad authority to the
3 in-season managers, the same as what is currently
4 provided to those managers for fish.

5
6 So, in fact, there would be no
7 difference in actions by the in-season managers or any
8 actions that would be necessary for in-season
9 management of wildlife under OSM's regulations and --
10 but there would be under the original proposed
11 language. But it would require action by the Board, an
12 administrative action by the Board to write these
13 letters of delegation.

14
15 CHAIRMAN FLEAGLE: And on the other
16 hand if we support the OSM modifications, the original
17 intent was to just give delegation to everything, the
18 modification is to give delegation to those that
19 already exist, any future delegation would have to be
20 discussed and accepted by the Board; that'd be the
21 difference.

22
23 Which I support.

24
25 Judy.

26
27 MS. CAMINER: Mr. Chair. I can see two
28 benefits to this.

29
30 One is it is an InterAgency Program and
31 this furthers that aspect of it. And it also brings
32 the decision to the local area and that provides more
33 of an opportunity for local people to have input and to
34 have that expertise and the on the ground coordination
35 amongst the agencies and organizations.

36
37 CHAIRMAN FLEAGLE: Thank you. Further
38 discussion.

39
40 (No comments)

41
42 CHAIRMAN FLEAGLE: Are we ready for a
43 motion.

44
45 DR. KESSLER: Mr. Chair.

46
47 CHAIRMAN FLEAGLE: Dr. Kessler.

48
49 DR. KESSLER: This one was confusing.

50

1 (Laughter)

2

3 DR. KESSLER: So what I'm trying to do
4 here is to meet the intent of the Council but I hope in
5 a less confusing and cumbersome way, so that's my plan,
6 is to do that, so let me try it this way.

7

8 I move to adopt the Proposal 10-22 with
9 modification, modifications described on Page 288 of
10 the Board book, the OSM modification.

11

12 If I get a second I'll continue.

13

14 MS. MASICA: Second.

15

16 DR. KESSLER: So I have concerns about
17 administration of the full delegation as requested by
18 Council. It's not clear that the Federal Program is
19 ready for such a major change, however, I'd like to
20 point out that the needed changes to the Code of
21 Federal Regulations to meet the intent of the Council's
22 proposal would be made with adoption of this motion.

23

24 The other changes requested by Council,
25 that is, in-season delegated authority similar to what
26 exists for fish statewide can be made by request to the
27 Board for that delegation. No additional changes are
28 needed in the codified regulations. Therefore,
29 implementation makes the immediate regulatory change
30 and allows Staff to work through additional details and
31 determine whether a more encompassing delegation should
32 be proposed to the Board.

33

34 CHAIRMAN FLEAGLE: Well said.

35 Discussion.

36

37 Charlie.

38

39 MR. BUNCH: Okay. Well, if this passes
40 under those modifications what's that going to do to
41 17? Won't that remain in regulations and not in a
42 letter?

43

44 MR. ARDIZZONE: Mr. Chair.

45

46 MR. BUNCH: I mean right now it's under
47 a letter, right, delegation, for 17, yeah.

48

49 CHAIRMAN FLEAGLE: Chuck.

50

1 MR. ARDIZZONE: Mr. Chair. If the
2 Board directs us to remove them from the regulations by
3 adopting this proposal we would follow suit under 17, I
4 believe, because the request is for all delegated
5 authority that's in regulation to be removed to a
6 letter.

7
8 MR. BUNCH: And I guess that was my
9 question, would it withdraw it.....

10
11 MR. ARDIZZONE: My understanding is,
12 yes, it would withdraw it and put it on a letter
13 instead of regulation.

14
15 CHAIRMAN FLEAGLE: So I have Pete also
16 nodding yes, how about Keith.

17
18 MR. GOLTZ: Yes.

19
20 CHAIRMAN FLEAGLE: Okay, everybody nods
21 yes so I think that's a good indication that it'll be
22 consistent.

23
24 All right. Any further discussion.

25
26 (No comments)

27
28 CHAIRMAN FLEAGLE: Are we ready for the
29 question.

30
31 (Board nods affirmatively)

32
33 CHAIRMAN FLEAGLE: Question on 22,
34 Pete.

35
36 MR. PROBASCO: Mr. Chair. Final action
37 on WP10-22 as modified.

38
39 Ms. Masica.

40
41 MS. MASICA: Yes.

42
43 MR. PROBASCO: Ms. Kessler.

44
45 DR. KESSLER: Yes.

46
47 MR. PROBASCO: Mr. Bunch.

48
49 MR. BUNCH: Yes.

50

1 MR. PROBASCO: Ms. Dougan.
2
3 MS. DOUGAN: Yes.
4
5 MR. PROBASCO: Mr. Haskett.
6
7 MR. HASKETT: Yes.
8
9 MR. PROBASCO: And, Mr. Fleagle.
10
11 CHAIRMAN FLEAGLE: Yes.
12
13 MR. PROBASCO: Motion carries, 6/0.
14
15 CHAIRMAN FLEAGLE: Okay. Next we have
16 Proposal 21.
17
18 DR. WHEELER: Mr. Chair. Mr. Dennis
19 Chester is coming up to the table and he'll be doing
20 this analysis.
21
22 MR. CHESTER: Thank you, Mr. Chair.
23
24 CHAIRMAN FLEAGLE: Good afternoon,
25 welcome.
26
27 MS. KENNER: Dennis, move.
28
29 MR. CHESTER: Oh, I'm sorry.
30
31 MS. KENNER: Thank you.
32
33 MR. CHESTER: I will be presenting the
34 analysis for Proposal 21 today and this is Pippa Kenner
35 with OSM who conducted the .804 portion of the analysis
36 and the analysis starts on Page 260 of your books.
37
38 It was submitted by the Southeast
39 Alaska Subsistence Regional Advisory Council and
40 requests that deer harvest in the Northeast Chichagof
41 Controlled Use Area, also known as the NECCUA be
42 restricted to residents of Hoonah.
43
44 The Council submitted this proposal
45 along with Proposals 13 and 14 so that Federal Staff
46 could analyze several options for managing deer in Unit
47 4 following three consecutive deep snow winters which
48 increased deer mortality and reduced recruitment. And
49 as you probably well know the Board has a closure
50 policy and there are two conditions that apply in this

1 analysis.

2

3 One, when the population is not
4 sufficient to provide for both Federally-qualified
5 subsistence users and other users; and when necessary
6 to insure the continuation of subsistence uses by
7 Federally-qualified subsistence users.

8

9 I would like to point out that the
10 analysis for Proposal 21 summarizes a much more
11 detailed biological background information that's in
12 Proposal 14, which starts on Page 152.

13

14 There are two points about the
15 regulatory history that I would like to point out.

16

17 First, is that the Board and the
18 Department of Fish and Game, in consultation with local
19 users and the Council have closed the NECCUA to the
20 harvest of female deer by all hunters for all or
21 portions of the last three regulatory seasons.

22

23 Second, the Federal season has been the
24 same since the inception of the Federal Program except
25 for two seasons which were the '92/93 and '93/94
26 seasons when a similar series of winters resulted in
27 restrictions on seasons and who was eligible to harvest
28 within various portions of Unit 4.

29

30 The biological information clearly
31 shows that there's been a substantial decline in the
32 deer population in Unit 4 since 2006. History shows
33 this is a recurring cycle in response to winter snow
34 cycles and the deer population can recover quickly once
35 mild winters return, such as this past winter.

36

37 Doe harvest has been the concern
38 because at current population levels doe harvest will
39 reduce recruitment and extend the recovery period. On
40 Table 1 on Page 265 summarizes the last 11 years of
41 harvest and effort information for the NECCUA and of
42 course the data was provided by ADF&G through their
43 hunter survey questionnaire.

44

45 There was a steep drop off in harvest
46 and in effort as well as a decrease in efficiency in
47 2007. This was the first season after the first severe
48 winter and the most severe winter and likely reflects
49 the decreased deer population as well as restrictions
50 on doe harvest.

1 Adopting this proposal would close the
2 NECCUA to non-Federally-qualified users as well as a
3 number of Federally-qualified users, of course, those
4 that are residents of Hoonah, and it would likely
5 decrease competition for Hoonah residents but improved
6 hunting success is most likely tied to deer population
7 levels. Adopting this proposal would not limit doe
8 harvest by Hoonah residents and emergency closures on
9 doe harvest may still be needed until the Board,
10 Council, Department of Fish and Game and local
11 communities agree that the population has sufficiently
12 recovered.

13

14 The OSM conclusion is to oppose. And,
15 although the deer population has declined substantially
16 it is still sufficient to provide for continued harvest
17 of bucks. Historically the population lows are cyclic
18 and short-term meaning five years or less.

19

20 Finally, the Board has existing
21 authority through delegated in-season action or special
22 actions specifically to address such temporary
23 situations.

24

25 Thank you.

26

27 CHAIRMAN FLEAGLE: Thank you.

28 Questions.

29

30 (No comments)

31

32 CHAIRMAN FLEAGLE: Summary of public
33 comments. Robert.

34

35 MR. LARSON: Yeah, Mr. Chair, we're
36 trying to get organized here.

37

38 There are several public comments that
39 are not in your Board book. I'll go through the Board
40 book first.

41

42 There is a written public comment from
43 Mike Saunders, the secretary of the Upper Lynn Canal
44 Fish and Game Advisory Committee in opposition to WP10-
45 21. Their point is that Haines/Klukwan is recognized
46 as one of the 14 communities that hunt deer and Skagway
47 have a customary and traditional use. And they note
48 that both State and Federal wildlife managers do not
49 think that this step is necessary for conservation of
50 the resource.

1 Mr. Robert Jensen from Haines, he's
2 also in opposition to Proposal 21. And he noted that
3 he also uses this area for subsistence deer hunting.

4
5 The Juneau/Douglas Fish and Game
6 Advisory Committee is not in the book, that is listed
7 as .003 in your distribution. They're in opposition to
8 the proposal and they note that emergency actions have
9 provided for conservation of the resource and that it's
10 -- this action as proposed by the Council is harmful to
11 other Federally-qualified users.

12
13 We have a .007 distribution from Ms.
14 Jenny Purcell and she is also in opposition to the
15 proposal but takes exception to item number 4 of the
16 public comment that was provided by the Juneau/Douglas
17 AC and that is that she is not in agreement that Hoonah
18 residents use road hunting to provide for their
19 subsistence needs.

20
21 I would like to note that there's two
22 items from the Upper Lynn Canal Fish and Game Advisory
23 Committee, that is .002, a recent distribution and in
24 that they have a 14 step itemized list of points in
25 opposition to this proposal.

26
27 And that is a summary of written public
28 comments.

29
30 CHAIRMAN FLEAGLE: Okay, great, Robert,
31 thank you.

32
33 Public testimony on this issue.

34
35 MR. PROBASCO: Yes, Mr. Chair, right
36 now I have three who would like to testify. And our
37 first person is David Warner.

38
39 CHAIRMAN FLEAGLE: Yeah, we're going to
40 have to make room for testifiers, okay, Polly's got it.

41
42 Good afternoon, go ahead and push the
43 on button on the microphone, state your name and place
44 your comments, please.

45
46 MR. WARNER: Yeah, my name is David
47 Warner, I've been a Haines resident for the last eight
48 years and previous to that I lived in Hoonah for two
49 years.

50

1 As the previous gentleman just pointed
2 out, the Haines Advisory Board -- Committee has a 14
3 point comment. Do I need to read that since you have a
4 copy of that, or I was.....

5
6 CHAIRMAN FLEAGLE: No, you can
7 reference it, we have a written copy.

8
9 MR. WARNER: Okay.

10
11 CHAIRMAN FLEAGLE: You can just speak
12 to your comments.

13
14 MR. WARNER: All right. Well, this
15 just leaves -- I flew over to Haines here or Hoonah the
16 other day, last week, to get some input on this subject
17 and I primarily wanted to talk to some of the old-
18 timers to get their feeling on what's going on now as
19 compared to what went on earlier back in the '50s. So
20 I talked to a couple of gentlemen there that were there
21 in the early '50s. So this basically has to do with
22 their comments.

23
24 So this is what I have to say:

25
26 Back in the '50s winters were harsh in
27 Southeast Alaska, especially in Hoonah.
28 Five to seven feet of snow was not
29 uncommon. Hemlock trees covered with
30 beard moss were felled to help feed the
31 starving deer. Old growth evergreen
32 trees will hold the snow letting it
33 melt slowly which would allow the deer
34 to forage below, even so, deer
35 mortality could be high.

36
37 After a hard winter in Hoonah, the deer
38 limit was set at two bucks only with a
39 minimum of three inch horns.

40
41 Following a mild winter the limit was
42 four bucks only with three inch horns
43 and no doe season.

44
45 We would like to see these same limits
46 set again and drop the 30 day
47 extension.

48
49 Before the '70s Hoonah hunters beach
50 hunted Port Frederick and the outside

1 beaches. After Hoonah Totem logged the
2 west port, which is on the west side of
3 Port Frederick, they destroyed the
4 critical winter deer habitat and forced
5 them to hunt elsewhere.

6
7 There's 250 miles of US Forest Service
8 logging roads on East Chichagof allowed
9 them this opportunity to hunt
10 elsewhere.

11
12 In other words the installation of the
13 new ferry terminal in 1978 also allowed easy access for
14 hunters from Juneau so the impasse, it's a big issue
15 with the Hoonah people. Everybody just puts their
16 trucks on the ferry and zips over to Hoonah and just
17 starts driving the roads.

18
19 But things could be worse, Wrangell and
20 Petersburg lost their deer seasons for
21 10 and 12 years respectively because of
22 the two harsh winters in the early '70s
23 which was compounded by high wolf
24 numbers. In Wrangell and Petersburg --
25 if Wrangell and Petersburg could endure
26 it, Hoonah should be able to endure a
27 two buck only limit for a few years
28 until the deer recover.

29
30 And that's all I have.

31
32 CHAIRMAN FLEAGLE: Thank you for your
33 testimony.

34
35 Questions, Board members.

36
37 (No comments)

38
39 CHAIRMAN FLEAGLE: Appreciate it.
40 Pete.

41
42 MR. PROBASCO: Thank you, Mr. Chair.
43 Our next speaker is Mr. Floyd Kookesh.

44
45 MR. KOOKESH: Good afternoon. My name
46 is Floyd Kookesh and I'm the subsistence coordinator
47 for Central Council. On Proposal 21, I'll speak to it
48 as a RAC member, but also go back and speak to it as
49 the subsistence coordinator.

50

1 When we were dealing with this proposal
2 we struggled with it and Mike knows we had a hard time
3 working our way through it because we had lost two of
4 the Federal Staff that were there to -- were supposedly
5 there to help us, they apparently had to go catch a jet
6 so it made it difficult, but fortunately we were able
7 to have other agency staff there to help us with this
8 process.

9

10 And I know that Mr. Bangs is here so
11 hopefully he'll give you a better idea of our position
12 on this.

13

14 On 21, I believe the latest meeting
15 that I came out of had to do with the Juneau/Douglas
16 AC, in which Cal Casipit and Officer Pearson were
17 invited along with myself to attend this meeting for a
18 question and answer period. We were their guests
19 there. And we happened to take the time to listen and
20 some of the concerns that were coming out of them --
21 out of the meeting was why weren't we told, you know,
22 there was a break down in communication, that we
23 weren't getting enough information, why is this being
24 done, and like Jenny Purcell alluded to earlier about
25 this anecdotal information that was coming out about --
26 about the -- the easy access and being able -- and
27 claiming that we weren't getting the easy road kill we
28 -- we were all used to.

29

30 And when we decided on this issue --
31 when we were deciding on this issue, we were deciding
32 on it based on -- on -- on the local user, which was --
33 which was Hoonah and Pelican. In my opinion that's why
34 we need a broad representation on all our RACs that
35 comes from all areas of the region, that's what made us
36 most -- most effective. And if you look at the
37 terminology, I believe, it's called traditional
38 ecological knowledge; it's called TEK, and I believe we
39 fund a lot of money into TEK and -- and -- and we
40 support that. We have to believe and -- and -- and the
41 impacted -- the user group that's the most impacted.
42 We know that when we're making this decision we knew
43 that we'd be affecting lifelong residents of the
44 community that hunted there -- that still hunt there,
45 but live in other communities like -- like -- like
46 Juneau. We knew we were going to be impacting them.
47 But we also knew that -- that there was a problem here
48 and that we had to -- we have to at some point address
49 it. We can't just take the position that -- that --
50 that the State usually takes, which is everything will

1 be fine, we -- we just -- there -- there's nothing
2 wrong, there's no problem but this is not the case
3 here.

4
5 You know -- you know in following this
6 -- in following this NECCUA and attend -- and attending
7 the meeting at the Juneau -- Juneau/Douglas AC I
8 commented to them that it's always been my position
9 that if an area is not doing good, you don't hunt
10 there, you go somewhere else. There's more places in
11 -- there's more places in Southeast Alaska, Unit 4 is a
12 big -- is a big district. Sure we can -- we could keep
13 it open but who wants to hunt for nothing. I think the
14 idea -- I believe that the idea is -- is to rebuild the
15 stock, not to try to get all of it -- everything out of
16 it that we can to have two point bucks mating with --
17 with -- with large does and creating smaller inferior
18 animals later on down the road. We don't realize what
19 that impact is. When you kill all the bucks, what are
20 all the does going to have, that's something you have
21 to work on.

22
23 But we were concerned that we did leave
24 out the -- the -- the -- the Hoonah -- I mean the --
25 the Haines and Klukwan and Skagway people but we were
26 following -- we were following the information that was
27 presented to us on the .804 analysis. And if we have
28 to go back and include them into this then I don't see
29 why -- how that would even be a problem.

30
31 One of the things that I -- that --
32 that I noted is that -- is that we had a break down in
33 communication. Like I said, nobody understood, you
34 know, what -- what -- why did this happen to us and we
35 started blaming -- and putting the blame on us, you
36 know, am I attending the RAC meeting -- the -- the --
37 the AC meeting in -- in Juneau, I gathered from this --
38 from the -- from the -- from the dialogue that was
39 going on that we were basically listening to a mob -- a
40 -- a mob mentality, and I thought this is wrong. And I
41 felt that we need to do a better job and maybe it's --
42 it's probably all of our fault, it's probably all of
43 our fault that the State isn't doing a great job on
44 educating their ACs on -- on -- on the issues. Maybe
45 all our information isn't going down to them because we
46 don't need mob mentalities coming out there and
47 creating hostile environments. We weren't exactly in
48 -- in -- in the -- in the best room in the -- in the
49 building when we were there, there -- there was --
50 there was -- there was anger in the room and there's no

1 need for that. But don't hunt where -- where there's
2 no deer.

3

4 You can't keep it open, you can't act
5 like there's no problem.

6

7 It's very evident in Southeast Alaska
8 that we have a lot of problems with -- with shortages.
9 The shortages are evident around Angoon when it comes
10 to sockeyes. It's not just -- it's not just confined
11 to -- to does -- to does and -- and deer but -- for the
12 NECCUA, but the idea was -- was to protect the resource
13 for the residents and -- and -- of the community and
14 that was basically following -- following ANILCA and
15 implementing and making that hard decision to help a
16 resource -- to help a resource so that it can come
17 back.

18

19 I want the opportunity for everybody to
20 hunt but it doesn't always work like that. The
21 regulations we have, the rules we have, those aren't of
22 our making but we're trying to abide by them to rebuild
23 the stocks and we're basing -- we're basing what we --
24 what work we did based on the needs of the Hoonah
25 residents in the NECCUA and hopefully you do.

26

27 Thank you.

28

29 CHAIRMAN FLEAGLE: Thank you. I know
30 you spoke really briefly about your involvement as a
31 RAC member and we'll hear from Michael later on on that
32 but just to summarize your Central Council's position,
33 is to support the proposal as it was originally written
34 which removes everybody except Hoonah from this
35 population?

36

37 MR. KOOKESH: Well, when we did the --
38 when we did the .804 analysis -- we're -- we're only
39 there for like two days, right, we're in two days of
40 meeting, we don't really go into the deep technical
41 parts about .804 but if there -- if there's a -- if
42 there's a need and if you want to bring, you know, like
43 -- like -- like we see -- we represent, you know,
44 27,000 Tlingits and Haidas worldwide and a lot of them
45 are -- are -- are from Haines, Klukwan and -- and we
46 recognize that their needs need to be met, meeting the
47 needs of the rural users is probably what -- we'd
48 probably advocate for the most.

49

50 But I'd -- I'd recognize in a -- in a

1 community such as Hoonah, they don't have -- we don't
2 hardly see them around Angoon. So if it came down to
3 it, like -- like Bill Thomas -- Representative Bill
4 Thomas says, leave it for the Hoonah people, leave that
5 -- leave that hunt for them -- them alone. Because all
6 of us can go somewhere else. We -- there -- there's no
7 reason why we -- we should stay there and be stubborn
8 about -- about a hunt -- a hunting area that has
9 nothing in it. But it -- it -- but definitely --
10 definitely when it comes down to it you have to support
11 meeting the needs of the community. I believe this
12 customary and traditional issue came where -- where
13 they have the higher standard -- demanding a high
14 standard on customary and traditional through Denby but
15 -- but we need to certainly take care of those people
16 in that area.

17
18 CHAIRMAN FLEAGLE: Okay. I thought
19 that's what you said Floyd, I just wanted to clarify
20 it. Appreciate that.

21
22 Other questions.

23
24 (No comments)

25
26 CHAIRMAN FLEAGLE: Thank you. Pete.

27
28 MR. PROBASCO: Thank you, Mr. Chair.
29 Our last testifier is Barry Brokken.

30
31 MR. BROKKEN: Ladies and gentlemen. My
32 name is Barry Brokken. I'm here representing the
33 Juneau/Douglas AC. I'm here to comment on obviously
34 Proposal 10-21.

35
36 Our AC has met twice on this proposal.
37 First in January, prior to the RAC meeting in Saxman
38 and, again, last month when we were provided with much
39 more data than we had on the original meeting. Both
40 times, however, we have been unanimously opposed to
41 this particular proposal. And we have received
42 considerable public testimony at our last meeting.
43 Essentially all of it also in opposition.

44
45 A lot of it dealt specifically with
46 years of hunting effort in the area from people from
47 Juneau and outlying communities, Douglas, Haines, and
48 they really represented decades of hunting and fishing
49 and working in the area and various logging in the old
50 days and a lot of -- the fledgling tourist industry

1 that's getting started up there.

2

3 The NECCUA, as you've heard, has
4 definitely experienced several severe winters resulting
5 in declines in deer populations, but these setbacks
6 were dealt with in a joint effort by the Department, as
7 well as the Forest Service in reducing the harvest or
8 eliminating the harvest of does for the last several
9 years, along with last winter's being very mild, the
10 anecdotal evidence is showing a pretty significant
11 recovery already. And I'm sure the Department can give
12 you better information on that.

13

14 The one dynamic, however, that's going
15 to factor into future harvest for all users of that
16 area is, you know, a change in forestry practices. It
17 has an extensive history of logging activity, a very
18 large road system that's been used for hunting for
19 close to 25 years. These areas are now growing back in
20 with second growth, the roads are overgrown, a lot of
21 the small ones are impassible now. Bridges are being
22 removed, roads are getting closed and it's really going
23 to change the whole way that the hunting takes place in
24 the NECCUA. The easy access days are numbered. Future
25 hunting will be more difficult whether it's a deer
26 population or not, just accessing that resource is
27 going to pose challenges that for the last 25 years
28 haven't existed.

29

30 But there's still -- all the people
31 that we've heard from that have hunted there the last
32 couple of years, the effort has really declined from at
33 least the Juneau area, and, in part, out of respect for
34 that resource. They don't want to pound it away and
35 they don't want to hunt an area that is not non-
36 productive any more than anyone else would.

37

38 However, I think you do have a letter
39 of -- a copy of a letter from our Chair outlining our
40 position on this proposal as well as a draft from the
41 minutes from our last meeting. I personally found it
42 fairly friendly and informative. I must have missed
43 the mob rules mentality, but maybe just a matter of
44 perspective.

45

46 I would also just like to take just a
47 second to applaud the OSM for fantastic work, you guys,
48 I was amazed the data that you compiled and it was very
49 understandable, it made a lot of sense to all of us
50 that have reviewed it, and we support your position.

1 CHAIRMAN FLEAGLE: Thank you, Barry.
2 Questions.
3
4 (No comments)
5
6 CHAIRMAN FLEAGLE: Appreciate your
7 testimony.
8
9 MR. BROKKEN: Thank you very much.
10
11 CHAIRMAN FLEAGLE: That concludes
12 public testimony on Proposal 21. Regional Council
13 recommendation, we see it on the table, Southeast
14 supports with modification. Would you like to speak to
15 that, Michael, please.
16
17 MR. BANGS: Thank you, Mr. Chairman.
18 Well, as Mr. Kookesh stated, we did struggle with this
19 for quite some time. And I think after the -- the
20 original proposal that we submitted was to protect
21 those people and help them protect their resources.
22 And it was -- we heard a lot of compelling testimony
23 from Hoonah residents that they were afraid that their
24 deer population was suffering and, indeed, it is or
25 was, I think there has been a change as mentioned, I
26 think the mild winter has helped things. But that was
27 our intention. And after the .804 analysis, we did add
28 in other communities to that and the Board may wish to
29 add in all the communities that have C&T findings for
30 that area.
31
32 But it was very heartfelt that we
33 needed to do something and that's why we submitted this
34 proposal.
35
36 Do you want me to read the RAC's into
37 the record, their stance or.....
38
39 CHAIRMAN FLEAGLE: We have -- whatever
40 is written here is a matter of record.
41
42 MR. BANGS: Okay.
43
44 CHAIRMAN FLEAGLE: And it'll be
45 referenced. If you want to just summarize the position
46 or make some comments to it that would be appropriate.
47
48 MR. BANGS: Well, I think it says pretty
49 plain and simple the reason that we wanted to restrict
50 the access of this resource to other residents, was to

1 protect those local residents of that area and we stand
2 behind that.

3

4 Thank you, Mr. Chair.

5

6 CHAIRMAN FLEAGLE: Thank you.
7 Department of Fish and Game comments. Tina.

8

9 MS. CUNNING: Mr. Chairman. We'd like
10 to have our entire set of comments entered into the
11 record and I'll just provide the final recommendation.

12

13 We oppose the proposal and the proposal
14 as modified. The Federal and State management programs
15 have worked with the local communities and the Council
16 since 2006 to monitor the deer population and implement
17 closures to harvest of female deer to improve deer
18 population recovery during these cyclic lows.

19

20 This cooperative approach assures
21 flexibility to meet the deer population needs as well
22 as provide State and Federal subsistence and non-
23 subsistence uses.

24

25 Adoption of this proposal is not
26 necessary to provide for conservation or for
27 continuation of subsistence uses.

28

29 Thank you.

30

31 *****

32 STATE OFFICIAL WRITTEN COMMENTS

33 *****

34

35 Alaska Department of Fish and Game
36 Comments to the Federal Subsistence Board

37

38 Wildlife Proposal WP10-21:

39

40 This proposal would close federal
41 public lands of the Northeast Chichigof Controlled Use
42 Area (NECCUA) to deer hunting except by residents of
43 Hoonah, with total closure to non-federally qualified
44 users and all other federally qualified users.

45

46 Introduction:

47

48 The original proposal was submitted by
49 the Southeast Regional Advisory Council to address a
50 conservation concern for deer on NECCUA, stating that

1 there are not enough deer in this area to share outside
2 the community of Hoonah and implied that this action to
3 further restrict eligibility is necessary under ANILCA
4 Section 804. The Council subsequently supported an
5 amendment to expand the communities whose residents
6 could federal subsistence deer hunt in the NECCUA on
7 federal lands to include: Game Creek, Hoonah, Tenakee
8 Springs, Whitestone Camp, and Gustavus. The Council
9 selected these communities based upon an 804 analysis
10 completed by federal staff for proposal WP10-14 which
11 requests closure of federal lands in NECCUA to the
12 harvest of female deer by non-federally qualified users
13 during December.

14

15 The federal subsistence deer hunting
16 season in NECCUA is August 1 through January 31, and
17 the bag limit is six deer of which antlerless deer may
18 only be taken September 15 through January 31 (one
19 month longer than the State season and more liberal sex
20 and harvest limit). Over three hunting seasons, the
21 Department implemented female deer closures in this
22 area by emergency orders: EO 01-06-07, EO 1-13-07, EO
23 01-03-08, and EO 01-02-09. The Forest Service worked
24 in consultation with the Federal Subsistence Board and
25 Department to enact similar federal subsistence
26 closures through Wildlife Special Actions: WSA07-05,
27 WSA 07-07, 7-BD-05-08, 7-BD-05-09, and WSA 09-10.
28 These efforts were necessary for the reproductive
29 portion of this deer population to remain intact and
30 begin to recover. These actions show a shared
31 responsibility between State and federal managers to
32 address a conservation concern.

33

34 Impact on Subsistence Users:

35

36 If adopted as amended by the Council,
37 federally qualified subsistence hunters from Hoonah,
38 Game Creek, Tenakee Springs, Whitestone Camp, and
39 Gustavus would benefit from exclusive deer hunting
40 rights on federal public lands in this area. Federal
41 public lands would be closed to other federally
42 qualified subsistence users and non-federally qualified
43 hunters, so adoption of the original or amended
44 proposal will impact non-federally qualified users,
45 including state regulated subsistence hunters.

46

47 Opportunity Provided by State:

48

49 The State deer season in NECCUA is
50 August 1 through December 31, and the bag limit is

1 three deer in portions of NECCUA and four in the
2 remainder of GMU 4, in which either sex deer may be
3 harvested from September 15 through December 31.

4

5 Conservation Issues:

6

7 Closures to hunting female deer are
8 necessary in order to provide sufficient reproduction
9 for population recovery. Even if hunting is limited to
10 Hoonah hunters, the deer population would remain at low
11 levels if female deer continue to be harvested during
12 periods of low deer abundance. The federal subsistence
13 bag limit of six deer was established at a time of peak
14 population abundance and should be reduced during lower
15 population trends.

16

17 Recommendation:

18

19 Oppose.

20

21 Federal and State management programs
22 have worked with local communities and the Council
23 since 2006 to monitor the deer population and implement
24 closures to harvest of female deer to improve deer
25 population recovery. This cooperative approach assures
26 flexibility to meet the cyclic deer population needs as
27 well as provide state and federal subsistence and
28 nonsubsistence uses. Adoption of this proposal is not
29 necessary to provide for conservation or for
30 continuation of subsistence uses.

31

32 CHAIRMAN FLEAGLE: Okay, thank you.
33 InterAgency Staff Committee comments, Polly.

34

35 DR. WHEELER: Thank you, Mr. Chair.
36 The InterAgency Staff Committee found sufficient
37 rationale for both the Council's recommendation which
38 was support with modification and for the Office of
39 Subsistence Management's conclusion which was to
40 oppose.

41

42 The InterAgency Staff Committee
43 suggested there could be other regulatory action
44 adoption and offers the following additional
45 information for consideration.

46

47 Unless there are additional severe
48 winters, it is likely that the deer population will be
49 recovered enough to allow hunting under current
50 regulations including doe hunts within five years.

1 This will occur with or without implementation of this
2 proposed closure. Therefore, an option could be to
3 sunset this closure at the end of the current two year
4 cycle, which would be June of 2012, thus providing a
5 subsistence use priority only in the near term while
6 populations are expected to be low.

7
8 Historically Haines/Klukwan have used
9 the proposed closure area for about one-third of their
10 deer harvest. This area is one of the closest to
11 Haines/Klukwan where deer are available. The Board
12 could choose to include Haines/Klukwan in the .804 list
13 of communities. The Board has received public comment
14 recommending this action after the Regional Advisory
15 Council meeting which is in your folder and in your
16 book.

17
18 Another option would be to close the
19 hunt to non-Federally-qualified users, but leave it
20 open to all Federally-qualified users.

21
22 Mr. Chair.

23
24 CHAIRMAN FLEAGLE: Okay, thank you.
25 Board discussion.

26

27

28 (No comments)

29

30 CHAIRMAN FLEAGLE: Michael Bangs.

31

32 MR. BANGS: Thank you, Mr. Chairman. I
33 would like to say one other thing that our Council was
34 pointing out, that the Council acknowledges that there
35 may be sufficient buck deer available for a minimal
36 harvest by qualified and non-qualified users, however
37 that level of harvest does not provide for the
38 continuation of subsistence use by local users.

39

40 Thank you.

41

42 CHAIRMAN FLEAGLE: Appreciate that
43 clarification. Before we get too far involved into the
44 discussion, I know you came up prepared to talk about
45 the .804 section, Pippa, would you.....

46

47 MS. KENNER: Mr. Chair. For the record
48 this is Pippa Kenner. I came up to answer questions
49 that might come up to help Dennis out.

50

1 CHAIRMAN FLEAGLE: Okay. All right.
2 Well, we'll respect that, thank you.
3
4 Discussion.
5
6 (No comments)
7
8 CHAIRMAN FLEAGLE: Questions.
9
10 (No comments)
11
12 CHAIRMAN FLEAGLE: Ready for a motion.
13
14 Wini.
15
16 DR. KESSLER: Mr. Chair. In order to
17 advance this to the discussion phase, I will propose to
18 adopt this motion -- adopt this proposal, sorry.
19
20 CHAIRMAN FLEAGLE: All right, it's been
21 moved.
22
23 MR. HASKETT: Second.
24
25 CHAIRMAN FLEAGLE: Would you speak to
26 your motion, please.
27
28 DR. KESSLER: I will. I've studied
29 this one extremely carefully and it reminds me a lot of
30 discussions we had over Unit 2 not too many years ago,
31 and, after that careful study I found myself unable to
32 conclude that this is a necessary restriction as
33 addressed in Section .815 of ANILCA Title VIII.
34
35 My reasons are several, so if you'll
36 indulge me, I'll share those with the group.
37
38 While it's clear that subsistence users
39 have had a difficult time getting the deer they needed,
40 the data we have is for 2007 and that's clear, it's
41 also very clear that the difficulties stem from a steep
42 drop in deer availability associated with the severe
43 winter conditions. As a side line, I'm comforted to
44 hear that at least the anecdotal information we're
45 getting from the field is that things are improving and
46 that's really encouraging.
47
48 Everything we know about deer
49 population dynamics in this northern extreme of their
50 range indicates that they do get knocked back by

1 periodic severe winters but they also recover after
2 more normal or milder winter conditions return. This
3 is a typical pattern for deer in this part of their
4 range.

5
6 My concern is that this proposal does
7 not address the actual problem which is a dip in deer
8 availability due to severe winter, rather it targets a
9 symptom of that problem, that symptom being perceived
10 competition among users.

11
12 In the meantime, however, effective
13 measures are in place to remedy the actual problem,
14 these are the timely actions that are taken in-season
15 that tend to be highly responsive to the difficulty
16 that subsistence users are having and also to the
17 biological prudent measures to do something positive to
18 turn things around. The most important of these
19 measures was a closure of the doe harvest. This most
20 critical measure allows the quickest possible recovery
21 in a population because it's the number of does that
22 determine the breeding potential.

23
24 We really don't have problems with
25 bucks in that respect in that the buck/doe ratio is
26 more than adequate to support population recovery.

27
28 So because the proposal does not
29 address the problem itself and because we don't have
30 substantial evidence that excluding some hunters will
31 increase the success of others and because we expect
32 the deer population to recover and also because we have
33 a suite of measures in terms of in-season delegations
34 and special actions that could be taken to relieve the
35 problem in the short-term.

36
37 For all those reasons I can't conclude
38 that the proposed restriction is a necessary one.

39
40 I'm also concerned that the proposal
41 would be detrimental to other rural residents in
42 meeting their subsistence needs specifically we've
43 heard about Haines and Klukwan, the people there.

44
45 So, in summary, this is not a
46 conservation issue for deer, so a restriction I do not
47 believe is necessary.

48
49 There are mechanisms already in place
50 to address such periodic population drops. These

1 measures are a good fit for what we know about deer
2 biology and they're also capable of relieving the
3 immediate impacts associated with a shorter term
4 shortage following severe winter.

5
6 For all those reasons I feel I must
7 vote to oppose the proposal.

8
9 CHAIRMAN FLEAGLE: And we need a
10 statement about Section .805c.....

11
12 DR. KESSLER: Yes.

13
14 CHAIRMAN FLEAGLE:concerning the
15 Council's recommendation, if you would, please.

16
17 DR. KESSLER: Yes. My reasons that --
18 not based on substantial evidence that this measure
19 would address the problem that exists.

20
21 And that's the primary one.

22
23 And also detrimental to some
24 subsistence users for meeting their needs.

25
26 CHAIRMAN FLEAGLE: All right, thank
27 you. You have the motion and the second with some
28 justification where the action proposed in Proposal 21
29 would be overreaching beyond protection that are
30 already provided through a couple of different means
31 and that this proposal, if voted on in the way the
32 Forest Service is presenting, it would be in opposition
33 to the Council's recommendation, which she laid out a
34 couple of comments for us so we've touched all the
35 basis.

36
37 So is there further discussion,
38 questions, debate.

39
40 Charlie, go ahead.

41
42 MR. BUNCH: I have a question, Wini.
43 I'm not sure of the proposal as you put it forward. Is
44 your proposal in opposition to Southeast RAC?

45
46 DR. KESSLER: It is.

47
48 MR. BUNCH: Thank you.

49
50 CHAIRMAN FLEAGLE: It is and she was --

1 that was the second part of what I asked her to clarify
2 on the record there.

3

4 Other discussion.

5

6 (No comments)

7

8 CHAIRMAN FLEAGLE: I'd like to weigh
9 in. This is one of those where you hear the needs of
10 the people that are putting the issue forward and you
11 know that it's heartfelt, it's real, it's what they
12 feel is necessary and I feel that that's -- you know,
13 it's indicative of the difficulties that people have
14 been having recently in their deer harvest out of
15 Hoonah. I think that I agree with Wini's statements
16 that this proposal reaches too far.

17

18 I think that the in-season management
19 authority to close this area to -- first there's a step
20 down process that I think that this proposal completely
21 overlooks, and that's the closure to -- or shortening
22 season, shortening bag limits, closing to non-
23 Federally-qualified, temporary closures and that I
24 think that there's adequate protection for the
25 population under those protections already in place.

26

27 The other issue I have with it is doing
28 basically a negative C&T process. I'm not saying a
29 negative C&T but a negative C&T process on a population
30 that's already been afforded a positive C&T, I think
31 that through the vehicle of a proposal like this
32 wouldn't be appropriate.

33

34 I feel that with the protections
35 already in place that we will see continued
36 conservation and continued ability to harvest these
37 deer.

38

39 So with that I'm going to support
40 Wini's recommendation and oppose, vote against the
41 proposal.

42

43 DR. KESSLER: Mr. Chair. My actual
44 proposal was to adopt it, my motion, so when I went
45 through my long explanation was why I have to vote
46 against my own motion.

47

48 CHAIRMAN FLEAGLE: Yeah, we got that.

49

50 (Laughter)

1 DR. KESSLER: Okay.
2
3 CHAIRMAN FLEAGLE: And that's what I
4 asked in the beginning.
5
6 DR. KESSLER: I just wanted to be
7 clear.
8
9 (Laughter)
10
11 CHAIRMAN FLEAGLE: Yes, if you're
12 voting yes you're voting to pass the proposal, if
13 you're voting no you're voting against it.
14
15 Further discussion.
16
17 (No comments)
18
19 CHAIRMAN FLEAGLE: Ready for the
20 question.
21
22 (Board nods affirmatively)
23
24 CHAIRMAN FLEAGLE: Question's
25 recognized, Pete, on Proposal 21, please.
26
27 MR. PROBASCO: Final action on WP10-21
28 to adopt the proposal.
29
30 Ms. Kessler.
31
32 DR. KESSLER: No.
33
34 MR. PROBASCO: Mr. Bunch.
35
36 MR. BUNCH: Yes.
37
38 MR. PROBASCO: Ms. Dougan.
39
40 MS. DOUGAN: No.
41
42 MR. PROBASCO: Mr. Haskett.
43
44 MR. HASKETT: No.
45
46 MR. PROBASCO: Mr. Fleagle.
47
48 CHAIRMAN FLEAGLE: No.
49
50 MR. PROBASCO: And Ms. Masica.

1 MS. MASICA: No.
2
3 MR. PROBASCO: Motion fails 1/5.
4
5 CHAIRMAN FLEAGLE: Thank you. We now
6 move to Proposal 10-07.
7
8 DR. WHEELER: Mr. Chair. Terry
9 Suminski with the Forest Service is the analyst for
10 this proposal and he's walking up to the table as we
11 speak.
12
13 CHAIRMAN FLEAGLE: And we're looking
14 for the proposal as we speak. Some of us have tabs in
15 our books and some of us.....
16
17 DR. WHEELER: It's on Page 78, Mr.
18 Chair, if that helps.
19
20 (Laughter)
21
22 CHAIRMAN FLEAGLE: I got it.
23
24 (Laughter)
25
26 CHAIRMAN FLEAGLE: All right, welcome,
27 Terry, good to see you back here with us.
28
29 MR. SUMINSKI: Good afternoon. My
30 name's Terry Suminski. I'm with the Forest Service.
31 Proposal WP10-07 starts on Page 78 with the executive
32 summary and the analysis starts on Page 79.
33
34 Proposal WP10-07 submitted by the
35 Southeast Alaska Subsistence Regional Advisory Council
36 requests closure of the Federal subsistence martin
37 trapping season on Kuiu Island in Unit 3.
38
39 The content of this proposal and much
40 of the analysis has recently been addressed by the
41 Federal Subsistence Board through special action WSA09-
42 03.
43
44 Research studies indicate that marten
45 populations on Kuiu Island are currently at extremely
46 low levels. ADF&G radiotelemetry studies conducted in
47 2007 and 2008 indicate that Kuiu Island marten
48 experience a high degree of natural mortality and low
49 annual survival. Fur sealing records and reports from
50 trappers indicate marten harvest on Kuiu Island has

1 declined during the past 10 years. Because marten
2 population numbers are currently at low levels on Kuiu,
3 managers and biologists observe the trapping mortality
4 may be additive to an already existing high natural
5 mortality rate, especially when combined with three
6 consecutive years of heavy snowfall which may have
7 reduced prey populations or made prey food resources
8 unavailable to marten due to snow cover.

9
10 Based on available information the
11 proponent believes that there are conservation concerns
12 in regard to marten on Kuiu Island and that the
13 trapping season should be closed.

14
15 ADF&G issued an emergency order on
16 November 30th, 2008, which closed the marten trapping
17 season on Kuiu Island. ADF&G followed this action by
18 submitting a special action request to the Federal
19 Subsistence Board which resulted in a closure to the
20 Federal subsistence marten trapping season on Kuiu from
21 December 11th, 2008 to February 9th, 2009. The Alaska
22 Board of Game permanently closed marten trapping on
23 Kuiu Island beginning July 1st, 2009.

24
25 If this proposal is adopted it would
26 prohibit Federally-qualified subsistence users from
27 trapping marten on the Kuiu Island portion of Unit 3.

28
29 Fur sealing records indicate that fur
30 trappers have trapped marten on Kuiu Island since --
31 I'm sorry that -- let me start over there.

32
33 Fur sealing records indicate that four
34 trappers have trapped marten on Kuiu Island since 2001.
35 No Federally-qualified subsistence users have trapped
36 marten on Kuiu since 2005, therefore it would appear
37 that local trappers are voluntarily avoiding this area.

38
39 The OSM conclusion is to support WP10-
40 07 with modification to reopen the marten season in
41 this portion of Unit 3 for Federally-qualified
42 subsistence users beginning the regulatory year of July
43 1, 2012. It is recommended that the marten trapping
44 season be opened the next regulatory cycle which would
45 implement an alternative that provides for a
46 conservation of marten while providing biological
47 information.

48
49 If Federally-qualified subsistence
50 users elect to pursue marten during the regulatory year

1 of 2012 valuable population information could be
2 collected through carcass collection, fur sealing
3 process and trapper questionnaires or telephone
4 interviews.

5
6 Thank you, Mr. Chair.

7
8 CHAIRMAN FLEAGLE: Thank you, Terry.
9 Questions.

10
11 (No comments)

12
13 CHAIRMAN FLEAGLE: Summary of public
14 comments. Bob.

15
16 MR. LARSON: Mr. Chairman. There are
17 no public comments.

18
19 CHAIRMAN FLEAGLE: Okay, thank you.
20 Public testimony, Pete.

21
22 MR. PROBASCO: And no one's signed up
23 to testify on this proposal.

24
25 CHAIRMAN FLEAGLE: And the Regional
26 Advisory Council recommendation is to support with
27 modification. Michael.

28
29 MR. BANGS: Thank you, Mr. Chairman.
30 Well, this proposal doesn't really affect anyone that
31 traps per se. The only people that trap there, there
32 was like three trappers over a long period of time and
33 the one in the most recent history trapped over there
34 by request from the State. So, you know, I talked to
35 the trapper myself and it was kind of a thing where he
36 didn't want to see it closed, but he doesn't trap there
37 because there's not enough marten to bother with. So
38 the effect of this proposal isn't going to change
39 subsistence users to a drastic, you know, because
40 there's nobody that goes there, it's just not worth it
41 to spend the time.

42
43 But on the other hand we felt that the
44 stock of marten in that area is low, we don't know why,
45 so we felt that it was best to leave it closed and then
46 the reason we chose to have it reopen is that if a
47 trapper was to go over there, we would have evidence of
48 a trend from that marten population. And if we don't
49 have a trapper go over there the State will never know
50 unless they do it and the funding for that isn't

1 likely.

2

3 So that was our conclusion, is to close
4 it for a couple years, reopen it and if we can get
5 somebody to go over there and trap it, we'll at least
6 be learning something about that population, and if we
7 don't then there won't be any information gathering.

8

9 Thank you.

10

11 CHAIRMAN FLEAGLE: Thank you. Geoff
12 Haskett.

13

14 MR. HASKETT: Is it appropriate to ask
15 a clarification question right now.

16

17 CHAIRMAN FLEAGLE: Yes.

18

19 MR. HASKETT: Okay. So actually I'm
20 just trying to understand this.

21

22 So the proposal is to close and the
23 modification from OSM is to open it up in two years, if
24 I understand the State's concerns correctly, which I
25 don't know for sure, but there's a study being done,
26 it'd be good to have the results of that study prior to
27 reopening. I'm seeing Tina nod yes. So, I guess the
28 question is, why would we automatically think two years
29 from now would be okay to reopen if we have information
30 coming on that.

31

32 CHAIRMAN FLEAGLE: Can we hold that.
33 Let's go ahead and.....

34

35 MR. HASKETT: Okay, I'm sorry, that's
36 why I was asking if it was appropriate.

37

38 CHAIRMAN FLEAGLE: Yeah, no, I thought
39 it was a direct.....

40

41 MR. HASKETT: Okay, I'm sorry.

42

43 CHAIRMAN FLEAGLE:to the RAC
44 communication.

45

46 MR. HASKETT: Maybe I'll ask that
47 question again.

48

49 CHAIRMAN FLEAGLE: But that's a good
50 question.

1 MR. HASKETT: Can you just remember it
2 later so.....
3
4 (Laughter)
5
6 CHAIRMAN FLEAGLE: Yes.
7
8 (Laughter)
9
10 CHAIRMAN FLEAGLE: Yes, it's a good
11 question.
12
13 MR. HASKETT: All right.
14
15 CHAIRMAN FLEAGLE: And we'll go ahead
16 and turn to the Department of Fish and Game comments
17 and then we're.....
18
19 MR. HASKETT: Okay, I'm sorry.
20
21 CHAIRMAN FLEAGLE:the InterAgency
22 Staff Committee -- it's okay, it's a good question and
23 we will discuss it.
24
25 Tina.
26
27 MS. CUNNING: With your permission,
28 we'll enter our complete comments into the record and I
29 won't quote them all here. I'm going to provide just a
30 summary of our recommendations and when I'm done,
31 Deputy Commissioner Valkenburg may wish to supplement
32 these comments.
33
34 Despite no trapping on Kuiu Island the
35 poor quality habitat, hard winters and high mortality
36 indicate that the decline in this population over a
37 decade is unlikely to improve in two or three seasons
38 and will likely remain a conservation concern. So we
39 support the original proposal to close it.
40
41 We oppose the amendment to
42 automatically reopen the trapping season in 2012. We
43 believe that such action would not be consistent with
44 sound principles of wildlife management.
45
46 Thank you.
47
48 CHAIRMAN FLEAGLE: Deputy Commissioner.
49
50 MR. VALKENBURG: Thank you, Mr.

1 Chairman.

2

3 Yeah, this one is a little bit of an
4 odd one for the Department. Normally we would be in
5 favor of an automatic reopening like this, however, in
6 this case we have an ongoing research project there
7 that is slated to go for another year, at least, and
8 then for at least two more years after that we're going
9 to monitor the population with live trapping. It may
10 or may not be part of the formal research project, so
11 this is an odd situation where we will be collecting
12 additional information.

13

14 Also, if the marten population is still
15 very low and the trapping season is opened, it is quite
16 likely that the sample size of marten trapped will not
17 be good enough to tell anything about what's going on
18 with the population.

19

20

21

22

STATE OFFICIAL WRITTEN COMMENTS

23

24

25 Alaska Department of Fish and Game
26 Comments to the Federal Subsistence Board

27

28

Wildlife Proposal WP10-07:

29

30

31 This proposal, as submitted by the
32 Southeast Regional Advisory Council, would close the
33 marten trapping season in a portion of Unit 3 Kuiu
34 Island due to very low population levels. The Council
35 then proposed an amendment to its own proposal that
36 would automatically reopen the marten trapping season
37 in 2012.

37

38

Introduction:

39

40

41 Current federal subsistence trapping
42 regulations for marten in Unit 3 (including Kuiu
43 Island) allow for an unlimited take and a season from
44 December 1 through February 15. Research conducted
45 during the past few years involving extensive live
46 capture and hair-snaring efforts by department
47 personnel and university researchers indicates that the
48 Kuiu Island marten population exists at extremely low
49 levels. Because of this research effort, Alaska
50 Department of Fish and Game was concerned enough about
the low numbers and high mortality rate of marten on

1 Kuiu Island in 2008 to submit a proposal to the Alaska
2 Board of Game to close the marten trapping season. The
3 Alaska Board of Game adopted the proposal in November
4 2008, effective July 1, 2009, to remain in effect until
5 the population increases sufficiently to support
6 harvest or until biologists determine that some level
7 of harvest could be sustainable. The department closed
8 the trapping season by Emergency Order in 2008 due to
9 conservation concerns. The Federal Subsistence Board
10 closed the federal subsistence harvest of marten on
11 Kuiu Island through adoption of Wildlife Special Action
12 WSA 09-03 at the November 12, 2009, meeting.

13

14 Impact on Subsistence Users:

15

16 During the 10-year period 1998-2007, an
17 average of 0.6 trappers (range 0-3 trappers annually)
18 reported trapping marten on Kuiu Island. During the
19 same period, the annual marten harvest on Kuiu Island
20 ranged from 0-32 marten annually. No federally
21 qualified subsistence users have trapped marten on Kuiu
22 Island since 2005. Due to low harvest and
23 participation in trapping on Kuiu Island, a closure
24 would have negligible impact on federal subsistence
25 trapping activities.

26

27 Opportunity Provided by State:

28

29 The marten trapping season throughout
30 most of Unit 3 extended from December 1 through
31 February 15. Due to conservation concerns, the Alaska
32 Board of Game closed the marten trapping season on Kuiu
33 Island until the population increases.

34

35 Conservation Issues:

36

37 A decade of research indicated that
38 marten numbers on Kuiu Island are among the lowest in
39 Southeast Alaska. Extensive live capture and hair-
40 snaring efforts conducted by department personnel in
41 fall 2009 indicated that marten populations on Kuiu
42 remain at low levels. Habitat conversion resulting
43 from past and planned timber harvest and road building
44 further contribute to concerns regarding Kuiu Island
45 marten populations. Logging road densities on the
46 northern half of Kuiu Island have exacerbated concern
47 for overharvest of marten by increasing human access
48 and trapping vulnerability. Telemetry relocation data
49 indicate that Kuiu Island marten tend to concentrate
50 near the beaches during winter where they are similarly

1 vulnerable to shoreline trapping.

2

3 In 2002, a genetic survey in Southeast
4 Alaska by personnel from the University of Alaska
5 Fairbanks found that both marten species (*Martes*
6 *americana* and *Martes caurina*) were found in the region.
7 This survey found that *M. caurina* inhabits only two
8 islands within the Alexander Archipelago (Kuiu and
9 Admiralty islands) and should be considered endemics.
10 *Martes americana* appears to be invading Kuiu Island
11 from adjacent Kupreanof Island and interbreeding with
12 *Martes caurina*.

13

14 Despite no trapping on Kuiu Island, the
15 poor quality habitat, hard winters, and high mortality
16 indicate that the decline in this population over a
17 decade is unlikely to improve in two or three seasons
18 and will likely remain a conservation concern.

19

20 Other Comments:

21

22 The Southeast Alaska Regional Advisory
23 Council amended their proposal to reopen the trapping
24 season during the 2012 regulatory year, presuming that
25 some data might be recovered from carcass collection,
26 fur sealing process, trapper questionnaires, and
27 telephone interviews to ascertain any recovery of the
28 marten population. Although the department normally
29 supports automatic reopening and collection of data
30 from carcasses to assess population status of
31 furbearers, we oppose this management approach in this
32 case. The population is unlikely to recover enough by
33 2012 to provide a harvestable surplus, and the few
34 marten that might be trapped would not provide adequate
35 data to evaluate the status of the population. Better
36 information will be collected from the ongoing research
37 project which will continue through 2011, with proposed
38 monitoring by live-trapping to continue for several
39 more years.

40

41 The department recommends that both the
42 state and federal seasons remain closed until the
43 population increases. ANILCA Section 805(c) and
44 federal subsistence regulations (100.11(c)(3)) require
45 that the Federal Subsistence Board decisions be
46 supported by substantial evidence and consistent with
47 recognized principles of fish and wildlife
48 conservation. Automatically reopening the Kuiu Island
49 federal trapping season in 2012 does not meet either
50 standard. The federal program automatically will

1 conduct a review of the closure in three years to
2 determine whether there is sufficient information to
3 recommend reopening the federal trapping season.
4 However, there is no evidence that the population will
5 recover enough by 2012 to support automatically
6 reopening harvest on this seriously diminished
7 population. An automatic reopening does not provide
8 for conservation of marten, would not provide
9 sufficient biological information to determine the
10 status of the population, and, if the population is
11 subjected to unsustainable harvest, could potentially
12 impact the small population leading to a longer period
13 of recovery that would further delay a reopening for
14 future subsistence use.

15

16 The available information and sound
17 wildlife management principles necessitate leaving the
18 trapping season closed to eliminate all but natural
19 mortality until more information is known about this
20 marten population. Therefore, the present research
21 project should be the focal point of data gathering,
22 and the data collected should be used to guide the
23 management of marten on Kuiu Island.

24

25 Recommendation:

26

27 Support the original proposal. Oppose
28 the amendment to automatically reopen the trapping
29 season in 2012. Such action would not be consistent
30 with sound principles of wildlife management.

31

32

33

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50

CHAIRMAN FLEAGLE: Thank you. Any
questions.

(No comments)

CHAIRMAN FLEAGLE: InterAgency Staff
Committee comments.

DR. WHEELER: Thank you, Mr. Chair.
The InterAgency Staff Committee notes that the
precautionary action of the Regional Advisory Council
in halting trapping for a short period of time is in
keeping with sound principles of wildlife management
and can be revisited in two years if another proposal
is submitted.

1 Mr. Chair, that's it.

2

3 CHAIRMAN FLEAGLE: Thank you. Now
4 Geoff's question whether.....

5

6 MR. HASKETT: Let me simplify the
7 question. So I understand the proposal to close. The
8 part, I guess I'm struggling with is there's an ongoing
9 study, we're going to get better information
10 presumably, why would we want to automatically reopen
11 without waiting for another year or two to get that.

12

13 MR. SUMINSKI: Mr. Haskett, through the
14 Chair. I think the -- when we -- I think right up
15 until the Staff Committee meeting we were under the
16 impression that that study wasn't going to continue.
17 So that's one thing that you can, you know, use that
18 how you would like.

19

20 The reason for two years was just in
21 keeping in tune with the regulatory cycle. There's
22 also another option with the three year closure review
23 that would happen automatically, although, that would
24 be out of cycle with the regulatory cycle. So the main
25 idea, I think, you know, the Council supported was the
26 idea that they didn't want a permanent closure, they
27 wanted some impetus to have it reopened. I think the
28 timing is debatable.

29

30 CHAIRMAN FLEAGLE: Other discussion.

31

32 (No comments)

33

34 CHAIRMAN FLEAGLE: Ready for a motion.

35

36 Wini.

37

38 DR. KESSLER: Mr. Chair. I move to
39 adopt Proposal 10-07 as modified by the Southeast
40 Alaska Regional Advisory Council, and as described in
41 the OSM conclusion found on Page 85 of our book.

42

43 MR. BUNCH: Second.

44

45 CHAIRMAN FLEAGLE: Okay, we got the
46 motion and a second. Hang on, Geoff, I'm going to go
47 ahead and let Wini give her justification and then
48 we'll start, and then Charlie.

49

50 DR. KESSLER: I spent a lot of time

1 looking at the numbers and I had difficulty finding
2 them to be as conclusive as maybe as being suggested
3 about the conservation status of the marten on Kuiu. I
4 feel that the Southeast RAC has come up with a very
5 prudent approach to this. It allows the default
6 position to default back to a subsistence opportunity,
7 which I'm very much in favor of.

8

9 So I think it's a good approach all
10 around.

11

12 CHAIRMAN FLEAGLE: Geoff.

13

14 MR. HASKETT: So depending upon -- I'm
15 sorry, I'm struggling with this, still, it ought to be
16 an easier one I think than what it is for me
17 apparently. So if the vote goes against, which I don't
18 know that I expect it to do that, it would then go back
19 to the original proposal, could the original proposal
20 be put on the Board, it's just gone then.

21

22 DR. KESSLER: Right.

23

24 MR. HASKETT: Okay.

25

26 CHAIRMAN FLEAGLE: But this proposal
27 could be modified before the vote, by amendment, if you
28 choose to take that two year sunset out of there. That
29 is this Board's -- this Board has the opportunity to do
30 that, any Board member can do that. And while you're
31 mulling that, I guess just a little bit of discussion
32 on the whole process.

33

34 I understand where the Advisory Council
35 is coming from, with wanting to have it reopened after
36 a couple of years, I mean that's pretty good forward
37 thinking in having somebody, you know, visit the island
38 and test the trapping and see if it would produce
39 anything and if I didn't hear that the State was
40 prepared to go in there with a -- I mean to continue
41 this survey study there then I think I would tend to
42 maybe support that option of reopening it because I
43 don't think that -- I don't support closures for any
44 longer than they are necessary either. From knowing
45 that there is going to be a continued study going on in
46 there with -- this Board has the full opportunity to
47 reopen it whenever that population can sustain a
48 harvest, I think that I would go that way and not
49 support the proposal.

50

1 I said that in a roundabout way, but,
2 anyway, anybody else.

3
4 Charlie.

5
6 MR. BUNCH: Well, I think, Mr. Chair, I
7 think I would have to agree with what Jack said
8 earlier, I mean I think the free market's going to
9 dictate a lot, if there's no marten there, nobody's
10 going to be trapping them. So I think that an opening
11 after two years makes some sense.

12
13 CHAIRMAN FLEAGLE: Wini.

14
15 DR. KESSLER: And it's good to hear
16 there will be continued effort to collect data there,
17 but, just to point out that anyone can put in a new
18 proposal for the next regulatory period to not reopen,
19 so it seems to me that we have our doors are open there
20 with this proposal. That's another reason I have a
21 comfort level with it.

22
23 CHAIRMAN FLEAGLE: You mean as far as
24 the way you.....

25
26 DR. KESSLER: Yeah.

27
28 CHAIRMAN FLEAGLE:made the
29 motion?

30
31 DR. KESSLER: Uh-huh.

32
33 CHAIRMAN FLEAGLE: Okay.

34
35 DR. KESSLER: It gives more -- leaves
36 more options open.

37
38 CHAIRMAN FLEAGLE: Yeah, if we were to
39 vote against this proposal as it stands there's no
40 closure and that's not what I'm supporting.

41
42 (Laughter)

43
44 CHAIRMAN FLEAGLE: I just wanted to
45 make that clear. We're talking about, Geoff was
46 mulling an amendment, but -- so if we don't have an
47 amendment I'm going to vote for the proposal to at
48 least get the closure in place for two years as opposed
49 to no closure.

50

1 Hurry up we need a break.
2
3 (Laughter)
4
5 CHAIRMAN FLEAGLE: Wini.
6
7 DR. KESSLER: I just didn't quite
8 follow what you just said. I mean the proposal is to
9 close for the next two years.
10
11 CHAIRMAN FLEAGLE: Just for two years,
12 yes.
13
14 DR. KESSLER: Right.
15
16 CHAIRMAN FLEAGLE: Yes.
17
18 DR. KESSLER: Okay.
19
20 CHAIRMAN FLEAGLE: But there was some
21 discussion as to whether or not we needed that two
22 years automatic reopening and that's where I was -- I
23 was getting ahead of the track there a little bit in
24 answer to Geoff's question there.
25
26 DR. KESSLER: And then the proposal
27 includes the automatic reopening.
28
29 CHAIRMAN FLEAGLE: Yes.
30
31 DR. KESSLER: So that's what your
32 comment was expressing.....
33
34 CHAIRMAN FLEAGLE: Yes.
35
36 DR. KESSLER:discomfort with
37 that?
38
39 CHAIRMAN FLEAGLE: Yes.
40
41 DR. KESSLER: Okay. Okay.
42
43 CHAIRMAN FLEAGLE: Geoff.
44
45 MR. HASKETT: I'm not going to pursue
46 it. I think everybody understands what my question was
47 so.....
48
49 CHAIRMAN FLEAGLE: Ready for the
50 question.

1 (Board nods affirmatively)
2
3 CHAIRMAN FLEAGLE: All right,
4 question's recognized on Proposal 07. Pete.
5
6 MR. PROBASCO: Thank you, Mr. Chair.
7 Final action on WP10-07 to adopt the proposal with
8 modification.
9
10 Mr. Bunch.
11
12 M. BUNCH: Yes.
13
14 MR. PROBASCO: Ms. Dougan.
15
16 MS. DOUGAN: Yes.
17
18 MR. PROBASCO: Mr. Haskett.
19
20 MR. HASKETT: Yes.
21
22 MR. PROBASCO: Mr. Fleagle.
23
24 CHAIRMAN FLEAGLE: Yes.
25
26 MR. PROBASCO: Ms. Masica.
27
28 DR. KESSLER: Yes.
29
30 MR. PROBASCO: And, Ms. Kessler.
31
32 DR. KESSLER: Yes.
33
34 MR. PROBASCO: Motion carries, 6/0.
35
36 CHAIRMAN FLEAGLE: Let's stand down for
37 a 10 minute break.
38
39 (Off record)
40
41 (On record)
42
43 CHAIRMAN FLEAGLE: All right, good
44 afternoon. The Federal Subsistence Board is back on
45 record and we're now on Proposal 10-11. And I look to
46 Robert Larson, or, no Pippa Kenner for the lead
47 analysis, go ahead, please.
48
49 MS. KENNER: Thank you, Mr. Chairman.
50 Good morning. The analysis for Proposal -- or excuse

1 me, good afternoon.

2

3 (Laughter)

4

5 CHAIRMAN FLEAGLE: It's 5:00 o'clock

6 somewhere.

7

8 (Laughter)

9

10 MS. KENNER: The analysis for Proposal
11 WP10-11 can be found on Page 120 in the Board book.

12

13 Proposal 10-11 was submitted by the
14 Southeast Alaska Regional Advisory Council to address
15 ongoing requests to recognize customary and traditional
16 uses of moose in Unit 1C.

17

18 The proposal requests this recognition
19 for all rural residents of Southeast Alaska, Units 1
20 through 5. On the map on Page 7 of the Board book you
21 can see that Unit 1 consists of the Southeast Alaska
22 mainland and extends to the Canadian Border. The Unit
23 1C area is the northern portion of the Southeast Alaska
24 mainland. I'm going to give a brief history of this
25 issue.

26

27 For most of Unit 1C no Federal
28 customary and traditional use determination has been
29 made for moose, therefore, all rural residents in
30 Alaska are Federally-qualified users. The Berners Bay
31 drainage in Unit 1C is an exception. In 1990 the
32 Federal Program established no Federal subsistence
33 priority for moose in the Berners Bay drainage because
34 it was in the State established Juneau non-rural area
35 and the State did not allow subsistence uses in areas
36 it deemed to be non-rural. The no Federal subsistence
37 priority has continued forward unchanged. A no Federal
38 subsistence priority means the Board has recognized no
39 Federally-qualified subsistence users.

40

41 One important observation when
42 analyzing this proposal is that the Berners Bay
43 drainage is within the Tongass National Forest and
44 hunting occurs under State regulations primarily on
45 Federal public lands.

46

47 The use of river drainages to harvest
48 wild resources in Southeast Alaska is well documented.
49 Drainages were regularly used to hunt goat and bear,
50 trap furbearers and collect plants and berries, cabins

1 and smokehouses were located on these routes where meat
2 was preserved by smoking. After migrating into these
3 areas, moose were also harvested. Berners Bay was
4 visited by both Chilkat Tlingit from Skagway and Haines
5 area and Auke Tlingit and from Juneau and Admiralty
6 Island areas to harvest wild resources during the late
7 19th and early 20th Centuries. In the 19th Century
8 there were two year-round villages, seasonably occupied
9 camps and smokehouses located along Berners Bay
10 drainages. By 1946 the village sites were inhabited
11 seasonally. Historical accounts indicate that the
12 Berners Bay area was used to hunt, fish and gather
13 berries, seaweed and mussels were gathered from Echo
14 Cove near the entrance to the Bay, coho and chum salmon
15 were harvested and preserved, goats were harvested and
16 mink, lynx and wolverine were trapped. Cabins and
17 smokehouses were accessed by pulling boats up river.
18

19 During the 10 year period from 1997 to
20 2006, Fish and Game issued an average of 14 permits
21 annually for Berners Bay drainages and during this time
22 there was an annual average of 1,222 applications,
23 thus, the odds of any one person obtaining a permit
24 were about one in 100. The ability to harvest moose in
25 the Berners Bay drainage has been restricted by the
26 drawing permit process with these low odds and,
27 therefore, due to reasons beyond the control of the
28 rural residents of Southeast Alaska, few harvest by
29 them from this area have been documented.

30
31 It's been shown that based on a review
32 of the eight factors rural residents of Units 1 through
33 5 have demonstrated customary and traditional uses of
34 moose in areas of Unit 1C in close proximity to them or
35 accessible to them by boat. According to ethnographic
36 description and harvest documentation supporting such a
37 finding rural residents of Southeast Alaska customarily
38 and traditionally use moose from Unit 1C since moose
39 first migrated into the area.

40
41 Additionally, even though no reported
42 harvest from Unit 1B residents was documented in the
43 harvest data reviewed in this analysis, the rural
44 residents of Unit 1B have been included in the
45 customary and traditional determination for moose in
46 Unit 1C. This is because Unit 1B is sparsely populated
47 with no regular access to air or mail services. Moose
48 harvesting efforts were often grouped with nearby
49 communities such as Petersburg and Wrangell located in
50 Unit 3, therefore, rural residents of Unit 1B have been

1 included.

2

3

4 If this proposal is adopted the pool of
5 Federally-qualified users eligible to hunt moose in
6 Unit 1C under Federal wildlife regulations would be
7 reduced from all residents of the state to rural
8 residents of Units 1, 2, 3, 4 and 5 only. The Berners
9 Bay drainage has not been opened to moose hunting for
10 several years and therefore no other effects are
11 anticipated until a moose season and harvest limit are
12 adopted.

12

13 The OSM conclusion is to support
14 Proposal WP10-11.

15

16 Thank you, Mr. Chair. That's the end
17 of my presentation.

18

19 CHAIRMAN FLEAGLE: Thank you.

20 Questions.

21

22 (No comments)

23

24 CHAIRMAN FLEAGLE: Summary of public
25 comments. Robert.

26

27 MR. LARSON: Mr. Chairman. There are
28 no public comments.

29

30 CHAIRMAN FLEAGLE: Public testimony,
31 Pete.

32

33 MR. PROBASCO: No one's signed up for
34 this, Mr. Chair.

35

36 CHAIRMAN FLEAGLE: Regional Advisory
37 Council recommendation is to support, would you go
38 ahead and expound on that, Michael, please.

39

40 MR. BANGS: Well, thank you, Mr.
41 Chairman.

42

43 Yes, the Regional Council felt that the
44 residents of the region would and could hunt in Unit 1C
45 much like Unit 1B, 3 and 5 if the opportunity was
46 available. And it clearly shows in the Staff analysis
47 that all the rural residents of Units 1 through 5 have
48 and they continue to harvest moose, it's an important
49 part of their subsistence.

50

1 So we are behind this all the way.

2

3 Thank you.

4

5 CHAIRMAN FLEAGLE: Okay, thank you.
6 Department of Fish and Game. Tina.

7

8 MS. CUNNING: Mr. Chairman. Again,
9 we'd like to have our comments in total entered into
10 the record.

11

12 We'd also request that Commissioner
13 Lloyd's letter of May 14th regarding customary and
14 traditional determinations be entered into the record
15 and I'm going to summarize some key points out of that
16 for your consideration.

17

18 We urge that the Federal Subsistence
19 Board carefully consider our concerns regarding the
20 sufficiency of information and legal guidance upon
21 which you are basing your C&T decisions.

22

23 The Ninth Circuit Court of Appeals
24 required that the Federal Board's customary and
25 traditional determination have "substantial basis in
26 fact" required that the Federal Subsistence Board
27 factfinding be supported by substantial evidence and
28 required that the Federal Subsistence Board properly
29 consider the customary and traditional standards,
30 including the eight factor analysis that the Federal
31 Subsistence Board is directed to apply.

32

33 The Court observed that the regulations
34 provide that the C&T determinations shall identify the
35 specific communities or area's use of specific fish
36 stocks and wildlife populations. In applying these
37 regulations each determination must be tied to a
38 specific community or area and a specific wildlife
39 population. Thus, each customary and traditional
40 determination must be based on substantial evidence on
41 the record of a specific rural communities or area's
42 customary and traditional taking.

43

44 The Court rejected the Federal
45 Subsistence Board's view that population can mean
46 species, stating that, "the addition of the terms stock
47 and population in 50 CFR 100.168 (ph) denotes a group
48 smaller than a species. Additionally the eight factor
49 analysis requires the Federal Subsistence Board to
50 consider the geographic reach of the community and the

1 community's use activities. The Court found that
2 granting C&T determinations that are limited to the
3 areas in which communities have traditionally harvested
4 a resource serves both purposes of ANILCA. The
5 geographic limitation protects the subsistence
6 activities traditionally practiced by rural Alaskans
7 and protects the species by insuring that only those
8 communities that have traditionally taken from a
9 population are given a priority to do so in the future.

10

11 These requirements are not, as some
12 have suggested, unnecessary comments by the Court, they
13 are holdings and directives essential to the Court's
14 decision.

15

16 The Court also instructed that when
17 reviewing Federal Subsistence Board decisions, the
18 Court's inquiry into the facts is to be searching and
19 careful to make sure that the Federal Subsistence Board
20 has properly applied the standards based on substantial
21 evidence found in the record.

22

23 The information presented by the Office
24 of Subsistence Management in its analysis of customary
25 and traditional uses of the moose population in Game
26 Management Unit 1C is cursory at best. Although, the
27 Federal analysis claims to only be required to
28 demonstrate a "holistic" approach, there is
29 insufficient information available to, in fact,
30 demonstrate use of the moose population in Unit 1C by
31 any of the 19 communities in Units 1 through 5. This
32 lack of information does not justify a positive finding
33 of a customary and traditional use by all residents of
34 Southeast.

35

36 The methodology of using residency
37 location for applicants of a State drawing permit to
38 hunt a recently transplanted geographically isolated
39 moose population, and in order to make a finding of
40 customary and traditional use could also support making
41 a positive finding for residents of Barrow if you look
42 at the table on Page 127. It shows one applicant per
43 year has applied for that hunt, the same as some of the
44 communities right in the adjacent area. This approach
45 is not consistent with the Federal priority in ANILCA
46 Title VIII to provide for the continued customary and
47 traditional use for subsistence by rural residents on
48 Federal land.

49

50 Making a positive determination without

1 evidence of use by the specific communities of specific
2 moose populations not only is contrary to the Federal
3 Board's own regulations and the Ninth Circuit Court of
4 Appeals instructions, under this approach, most
5 communities statewide could be found to have a positive
6 customary and traditional finding for any and all moose
7 populations.

8

9 Based on the information presented in
10 fact the Board would find a customary and traditional
11 of moose in Unit 1C by all residents of Alaska, and
12 that's where it is now.

13

14 We oppose and we recommend that you
15 oppose this without going through a more formal C&T
16 process based on the specific moose populations use by
17 the specific communities. No evidence is presented as
18 required by the Federal regulations and the Court to
19 support a finding of customary and traditional use of
20 any specific moose population in Unit 1C by any
21 community or all residents of Units 1 through 5.

22

23 Thank you.

24

25 *****
26 STATE OFFICIAL WRITTEN COMMENTS
27 *****

28

29 Alaska Department of Fish and Game
30 Comments to the Federal Subsistence Board

31

32 Wildlife Proposal WP10-11:

33

34 The Southeast Regional Advisory Council
35 proposed a positive finding of customary and
36 traditional uses of moose in Unit 1C for all rural
37 residents of Southeast Alaska and Yakutat management
38 areas; i.e., all residents of Units 1 through 5.

39

40 Discussion:

41

42 The information presented by Office of
43 Subsistence Management in its analysis of customary and
44 traditional uses of the moose population in Game
45 Management Unit 1C is cursory at best. Although the
46 federal analysis claims to only be required to
47 demonstrate a "holistic" approach, there is
48 insufficient information available to, in fact,
49 demonstrate use of the moose population in Unit 1C by
50 any of the 19 communities in Units 1-5. This lack of

1 information does not justify a positive finding of
2 customary and traditional use by all residents of
3 Southeast Alaska.

4
5 The analysis presents information about
6 Tlingit use of moose in some river valleys in the past,
7 but very little information about current use and
8 little information about communities that demonstrate
9 historic use. The staff analysis seems to assume that
10 if there are reported moose harvests by local residents
11 (regardless of where they hunted and without
12 demonstrating a pattern of use), then any or all of the
13 eight factors in federal regulations would be met.
14 This assumption is contrary to the federal regulations
15 for customary and traditional determinations and
16 contrary to the requirements stated by the Ninth
17 Circuit Court of Appeals in *State v. Federal*
18 *Subsistence Board*, 544 F.3d 1089 (9th Cir. 2008).

19
20 Other Concerns:

21
22 The methodology of using residency
23 location for applicants of a state drawing permit to
24 hunt a recently transplanted, geographically isolated
25 moose population in order to make a finding of
26 customary and traditional use would also support making
27 a positive finding for residents of Barrow (see page
28 115). This approach is not consistent with the federal
29 priority in ANILCA Title VIII to provide for the
30 continued customary and traditional use for subsistence
31 by rural residents on federal land. Making a positive
32 determination without evidence of use by specific
33 communities of specific moose populations not only is
34 contrary to the Federal Subsistence Board's own
35 regulations and the Ninth Circuit Court of Appeals'
36 instructions, under this approach most communities
37 statewide could be found to have a positive customary
38 and traditional finding for any and all moose
39 populations. Based on the information presented, in
40 fact, the Board would find a customary and traditional
41 use of moose in Unit 1C by all residents of Alaska.

42
43 When wildlife populations cannot
44 sustain harvests by all communities with customary and
45 traditional findings, then the federal program must
46 initiate an evaluation under ANILCA Section 804 to
47 limit subsistence harvests among those federally
48 qualified residents. Federal analyses should provide
49 documentation of evidence of use by specific
50 communities of specific wildlife populations at the

1 time each customary and traditional determination is
2 made on the record to be consistent with the
3 regulations and also for the Federal Subsistence Board
4 to have sufficient data to evaluate future restrictions
5 among eligible subsistence users in 804 decisions.

6

7 Recommendation:

8

9 Oppose.

10

11 No evidence is presented as required by
12 the federal regulations and Court to support a finding
13 of customary and traditional use of any moose
14 population in Unit 1C by any community or all residents
15 of Units 1 through 5.

16

17 May 14, 2010

18

19 Mr. Michael R. Fleagle, Chair
20 Federal Subsistence Board
21 1011 E. Tudor Road
22 Anchorage, AK 99503

23

24 Dear Mr. Fleagle:

25

26 At the May 2010 meeting, the Federal
27 Subsistence Board will be making eleven
28 determinations on whether residents of
29 some communities are found to have
30 evidence of customary and traditional
31 use of certain wildlife populations.
32 Information regarding which communities
33 have customary and traditional use of
34 wildlife populations is not only
35 necessary in determining which
36 communities have a subsistence
37 priority, but also in restricting uses
38 among such communities under Section
39 804 of the Alaska National Interest
40 Lands Conservation Act when wildlife
41 populations are insufficient to provide
42 for all such communities. I urge the
43 Federal Subsistence Board s careful
44 consideration of the following concerns
45 regarding the sufficiency of
46 information and legal guidance upon
47 which you will be basing your
48 decisions.

49

50 The Ninth Circuit Court of Appeals

1 established legal requirements for
2 federal customary and traditional
3 determinations in its opinion in *State*
4 of Alaska v. Federal Subsistence Board,
5 544 F.3d1089 (9th Cir. 2008). The Court
6 held that the Federal Subsistence
7 Board's customary and traditional
8 determinations must be supported by
9 substantial evidence relevant to the
10 customary and traditional standards,
11 including substantial evidence of a
12 specific rural community s or area s
13 demonstrated customary and traditional
14 taking of a specific wildlife
15 population or specific fish stock (not
16 species) within specific geographic
17 locations. The Court made this clear in
18 the following comments, which were
19 essential to the Court s decision and
20 were not merely dicta or unrelated
21 observations.

22
23 Customary and traditional
24 determinations must be based on
25 substantial evidence that the customary
26 and traditional standards are met. The
27 Court required that the Federal Board s
28 customary and traditional determination
29 have substantial basis in fact,
30 required that the FSB s fact finding
31 [be] supported by substantial
32 evidence, and required that the FSB
33 properly consider the customary and
34 traditional standards, including the
35 eight-factor analysis that the FSB is
36 directed to apply. 544 F.3d at 1094-
37 96, 1098. Thus, in making each
38 customary and traditional
39 determination, the Federal Subsistence
40 Board must consider all of the
41 customary and traditional standards,
42 must find facts relevant to those
43 standards, and must base its factual
44 findings on substantial evidence
45 contained in the record.

46
47 Substantial evidence is required of a
48 specific rural community s or area s
49 customary and traditional taking. The
50 Court observed that the regulations

1 provide that the C&T determination
2 shall identify the specific
3 community s or area s use of specific
4 fish stocks and wildlife populations.
5 Id. at 1096 (emphasis added). In
6 applying these regulations, each C & T
7 determination must be tied to a
8 specific community or area and a
9 specific wildlife population. Id. at
10 1097 (underlined emphasis added). Thus,
11 each customary and traditional
12 determination must be based on
13 substantial evidence in the record of a
14 specific rural community s or area s
15 customary and traditional taking.
16

17 Substantial evidence is required of the
18 rural community s or area s customary
19 and traditional taking of a specific
20 wildlife population or specific fish
21 stock (not just taking of that
22 species). The Court rejected the
23 Federal Subsistence Board s view that
24 population can mean species, stating
25 that the addition of the terms stock
26 and population in 50 C.F.R. ^U
27 100.16(a) denotes a group smaller than
28 a species. . at 1096. The Court held:
29 In order for the FSB to have
30 considered the relevant factors when
31 making the C & T determination, the FSB
32 must have considered Chistochina s
33 subsistence use of specific moose
34 populations, and not Chistochina s use
35 of moose in general. Id. (emphasis
36 added).
37

38 Substantial evidence is required of the
39 rural community s or area s customary
40 and traditional taking of a wildlife
41 population or fish stock in a specific
42 geographic area. The Court found the
43 regulations clearly tie C & T
44 determinations to the specific
45 locations in which wildlife populations
46 have been taken. Id. at 1097. It
47 added: Specific communities and areas
48 and specific fish stocks and wildlife
49 populations are, by definition, limited
50 to specific geographic areas. Id.

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Therefore, the Court emphasized, a C & T determination is a determination that a community or area has taken a species for subsistence use within a specific area. *Id.* at 1097-98 (emphasis in original). Looking beyond the use of the terms stocks and populations, the court reasoned: Additionally, the eight-factor analysis...requires the FSB to consider the geographic reach of the community and the community's use activities. *Id.* at 1098. The Court found that [g]ranteeing C & T determinations that are limited to the areas in which communities have traditionally harvested a resource serves both purposes [of ANILCA]. The geographic limitation protects the subsistence activities traditionally practiced by rural Alaskans and protects species by ensuring that only those communities that have traditionally taken from a population are given a priority to do so in the future. *Id.* (emphasis added). This geographic limitation is at the core of the Court's decision. These requirements were not, as some have suggested, unnecessary comments by the Court. They are holdings and directives essential to the Court's decision. The Court also instructed that, when reviewing Federal Subsistence Board decisions, the Court's inquiry into the facts is to be searching and careful' to make sure that the Federal Subsistence Board has properly applied the standards based on substantial evidence found in the record. *Id.* at 1094. The available information for the eleven proposed determinations before the Federal Subsistence Board at this meeting varies widely in providing evidence of use, interpreting court direction, and application of federal regulations.

I request that the additional necessary information be discussed by the Board consistent with the Court's directions

1 for each determination.

2

3 Sincerely,

4

5

6 //Denby S. Lloyd

7 Commissioner

8

9 CHAIRMAN FLEAGLE: Thank you.

10 InterAgency Staff Committee comments, please.

11

12 DR. WHEELER: Thank you, Mr. Chair. In

13 addition to the boilerplate comment that I referenced

14 earlier this morning, the InterAgency Staff Committee

15 would like to point out to the Board a few items

16 concerning this proposal.

17

18 Currently all Alaskan rural residents

19 can hunt in all of Unit 1C except Berners Bay. This

20 proposal reduces that statewide eligibility to only

21 residents of Units 1 through 5.

22

23 Table 2 shows that there has been

24 successful harvest by residents by every management

25 unit proposed for customary and traditional use

26 determinations in Unit 1C, however, Table 2 also shows

27 very low effort by some of the communities within those

28 management units.

29

30 Table 1 includes additional communities

31 in Units 1 through 5, not included in Table 2.

32 Residents in those listed rural communities have made

33 an effort to hunt moose in Unit 1C including by

34 applying for but not necessarily receiving restricted

35 availability drawing permits. A more complete search

36 of permit databases could result in additional

37 applicable data, some of which may be available at the

38 Board meeting, and I think Pippa covered some of that,

39 that data would only show additional use in Unit 1C or

40 an attempt to use by rural Alaskans living in Units 1

41 to 5.

42

43 That concludes my comments, Mr. Chair.

44

45 CHAIRMAN FLEAGLE: Thank you, Polly.

46

47 Discussion.

48

49 (No comments)

50

1 CHAIRMAN FLEAGLE: Wini, are you
2 preparing to.....
3
4 DR. KESSLER: I am.
5
6 CHAIRMAN FLEAGLE: Okay, I thought so.
7
8 (Laughter)
9
10 CHAIRMAN FLEAGLE: Thank you.
11
12 DR. KESSLER: Thank you, Mr. Chair. I
13 move to adopt Proposal 10-11 as recommended by the
14 Southeast Alaska Regional Advisory Council.
15
16 MR. HASKETT: Second.
17
18 CHAIRMAN FLEAGLE: Okay. We do have a
19 motion and a second, speak to the motion, please.
20
21 DR. KESSLER: I think the rationale has
22 been very well offered out in three places and I agree
23 with that rationale.
24
25 One place is on Page 129, the OSM
26 justification that speaks to the demonstrated customary
27 and traditional use, as well the Southeast Subsistence
28 Regional Advisory Council's statement on Page 130 and
29 there's also additional comments offered by the
30 InterAgency Staff Committee on Page 131 that I think
31 further lends support to this.
32
33 CHAIRMAN FLEAGLE: Additional
34 discussion.
35
36 (No comments)
37
38 CHAIRMAN FLEAGLE: Well, I agree that
39 the broad scope of the proposal is definitely something
40 that I support. Where right now the entire state pool,
41 the Federally-qualified users eligible to hunt moose is
42 statewide, anybody -- any rural resident statewide, and
43 I think that that's -- we could not meet that
44 determination and I agree with the justification that
45 you put forward, that we should find in the positive
46 here.
47
48 Any other discussion.
49
50 COMMISSIONER LLOYD: Mr. Chairman.

1 CHAIRMAN FLEAGLE: Mr. Lloyd,
2 Commissioner Lloyd.

3
4 COMMISSIONER LLOYD: Thank you, Mr.
5 Chairman. I understand this isn't regular, but there
6 is -- there's a major concern for the state of Alaska
7 here and this proposal is attempting to do two things
8 at once.

9
10 One is, as you mentioned, is to
11 identify those particular users who there's been a
12 demonstrated consistent pattern of use for. And those
13 residents of Units 1 through 5 presumably is a better
14 focus for access to moose in 1C than all residents of
15 the state of Alaska. But the other thing that this
16 proposal is doing is allowing access to Berners Bay. A
17 stock or a population that thus far has not been
18 subject to a C&T determination and I haven't seen
19 anything really in this document, nor have I heard
20 anything around the table that's discussing specifics
21 about Berners Bay Berners Bay and the eight criteria
22 that would warrant a C&T finding for that particular
23 stock of animal, such as a long-term consistent pattern
24 of use, et cetera.

25
26 So I urge you to consider dealing with
27 this as two separate proposals and discussing the
28 merits of each part individually and distinctly.

29
30 Thank you, Mr. Chairman, for your
31 indulgence.

32
33 CHAIRMAN FLEAGLE: Okay, thank you,
34 Commissioner Lloyd. Appreciate the comments.

35
36 And, Geoff, your mic is still on -- or,
37 I'm sorry, not yours but Dr. Kessler's.

38
39 DR. KESSLER: Mr. Chair, did you ask me
40 something?

41
42 CHAIRMAN FLEAGLE: No, no, I was just
43 pointing out your microphone was still on.

44
45 DR. KESSLER: Okay, thank you.

46
47 (Laughter)

48
49 CHAIRMAN FLEAGLE: All right, the
50 comment raised by the State in that last discussion was

1 the fact that as I stated this reduces the pool of
2 eligible Federally-qualified rural residents from
3 statewide to just Southeast, which I think is
4 appropriate.

5
6 It might be appropriate to address the
7 specific concerns surrounding the C&T finding. And
8 would you be willing to just give a brief synopsis of
9 what -- I know you've glossed over the entire
10 justification, but just touching on the eight factors
11 as it applies to Berners Bay.

12
13 MS. KENNER: Yes, Mr. Chair.

14
15 CHAIRMAN FLEAGLE: Okay, thank you.

16
17 (Pause)

18
19 MS. KENNER: Thank you, Mr. Chair.

20
21 The discussion about applying each one
22 of the eight factors for each community in Berners Bay
23 is a broad question. One of the things that we take
24 into consideration when we're doing a C&T analysis such
25 as this is that, all, if not most, most if not all --
26 almost all of these communities have already received
27 recognition from the Board for their customary and
28 traditional uses of moose. And so one of the broader
29 questions that comes up in this analysis is where does
30 that apply and has there been shown to be use in
31 Berners Bay specifically.

32
33 Now, analyzing that question is a
34 little problematic for Berners Bay because we have had
35 this draw permit process, a process in which it's very,
36 very difficult to actually get the opportunity to
37 actually hunt -- try to hunt, let alone harvest an
38 animal. So one of the things that we rely on in this
39 analysis is to show that in Unit 1C as a whole there is
40 a tremendous amount of interest in hunting in Unit 1C
41 and there has been from 1983 to the present and there
42 is a history of people, immediately starting to utilize
43 moose as they have migrated into these areas or have
44 been introduced into these river valleys, river
45 drainages are the primary area that are used when
46 hunting moose in Berners Bay as a drainage. And in
47 addition to that, there was historical references and,
48 in fact, there's physical remains of villages and
49 seasonal camps that are still used seasonally up in
50 that area and not just by communities that were

1 centered in the area that we now call the Juneau area,
2 but other communities outside of that area.

3

4 I was just handed a note to remind me
5 that also in the analysis for Berners Bay we analyzed
6 the uses of that area by the rural residents of Units
7 1C and 1D, specifically and it's specific to Berners
8 Bay and doesn't include the rest of Unit 1C.

9

10 So for instance in my references to
11 Berners Bay being used by other residents, I want to
12 remind you in the Tlingit land tenure system there were
13 clan and family hunting areas and family plots were
14 subdivided clan territories inherited by clan members
15 only following matrilineal descent, and that is they
16 were generally inherited by the owner's sister's sons
17 and the person's use of an area did not imply -- did
18 not -- a person's use of an area did not necessarily
19 imply ownership. And in the Berners Bay drainage and
20 around the 1920s and before and probably after, there
21 were family plots that were controlled by the Raven and
22 Eagle clans whose other lands existed primarily in the
23 Chilkat area around Haines and Klukwan and these plots
24 were located at Echo Cove and along the Berners lakes
25 and Antlers River and these are located in the area in
26 which we're speaking, the Berners Bay area
27 specifically.

28

29 Unless you have other questions that's
30 all I have for right now.

31

32 CHAIRMAN FLEAGLE: Thank you.
33 Discussion Board members.

34

35 (No comments)

36

37 CHAIRMAN FLEAGLE: Michael.

38

39 MR. BANGS: Thank you, Mr. Chairman. I
40 just wanted to make the point again that currently
41 there's no Federal open season moose hunt in Berners
42 Bay drainage so unless there was a hunt brought forward
43 by this Board, there won't be any affected change.

44

45 Thank you.

46

47 CHAIRMAN FLEAGLE: Thank you. Further
48 discussion.

49

50 Go ahead, Geoff.

1 MR. HASKETT: So a question for the
2 State again, so I just want to make sure I understand
3 what the concern is. So I guess what I thought I heard
4 over here is that there has -- that we believe there
5 has been some kind of traditional use there, but
6 Berners Bay is a place where it's been reintroduction
7 there. I don't really understand exactly what's
8 happening here and why it's different.

9

10 COMMISSIONER LLOYD: Mr. Chairman.

11

12 CHAIRMAN FLEAGLE: Go ahead.

13

14 COMMISSIONER LLOYD: Well, Mr.

15 Chairman, there are a number of issues involved here.
16 And I might have to defer to Tina or Pat for the issue
17 of migration versus introduction, but there have been
18 moose introduction into Berners Bay.

19

20 But the issue of whether or not there's
21 been a consistent pattern of use demonstrated, I still
22 haven't heard anything that describes that pattern of
23 use in Berners Bay. And on Page 125, the text of the
24 analysis in front of you says in the two line paragraph
25 in the middle of the text, that the number of
26 applicants from a community demonstrates that people
27 are interested in using the area, but the actual level
28 of interest in hunting moose in Berners Bay has not
29 been documented.

30

31 Interest is not demonstration of a
32 long-term consistent pattern of use. So that's part of
33 our concern.

34

35 The other aspect, whether, you know,
36 this is primarily a migrating stock or an introduced
37 stock, if I could, and I don't know if Pat has the
38 answer, but you would allow Pat to try to address that,
39 I think there is a history of introduction there rather
40 than migration of the population.

41

42 CHAIRMAN FLEAGLE: Pat Valkenburg.

43

44 MR. VALKENBURG: Thank you, Mr.

45 Chairman. In Unit 1C there have been a combination of
46 natural migration of moose into the area, that occurred
47 into Gustavus down the Taku River, and then up from the
48 Stikine in 1B moose kept moving north and go all the
49 way into Hobart Bay and the southern part of 1C. The
50 exception to that is the moose population in Berners

1 Bay which was introduced in the late 1950s and early
2 1960s with money provided by -- partially provided by
3 the Sportsmen's Club in Juneau, the Territorial
4 Sportsmen, and that was the origin of the Berners Bay
5 moose population.

6
7 CHAIRMAN FLEAGLE: Does that satisfy
8 you, Geoff.

9
10 MR. HASKETT: Yeah.

11
12 CHAIRMAN FLEAGLE: Other discussion.

13
14 DR. KESSLER: Mr. Chair.

15
16 CHAIRMAN FLEAGLE: Go ahead, Wini.

17
18 DR. KESSLER: Again, we've been sort of
19 focusing on certain communities but, again, referring
20 to the table on Page 209, there's figures there that
21 indicate wide application across Southeast for this
22 area.

23
24 MR. PROBASCO: 209.

25
26 DR. KESSLER: Yes.

27
28 CHAIRMAN FLEAGLE: There's a couple of
29 things about this step that are on the surface, anyway,
30 problematic, and I think that Commissioner Lloyd is
31 pointing those out and I think they warrant some good
32 discussion by us that are affirmative if we're going to
33 support this action, and one of those is the fact that
34 the moose, a lot of the moose in the population have
35 been transplanted there and the past practice of the
36 Board on transplanted species -- Ken, do you have any
37 information on that, or, Polly or Pete. Somebody.

38
39 MR. LORD: Well, the Board does have a
40 history of recognizing customary and traditional for
41 certain introduced species, including goat on Baranof
42 Island, and deer introduced to Kodiak and Afognak
43 Islands, and other than that I'll leave it to the
44 anthropologist.

45
46 MR. PROBASCO: Mr. Chair.

47
48 CHAIRMAN FLEAGLE: Go ahead, Pete.

49
50 DR. WHEELER: What I'd also add is that

1 the Board has dealt with elk on Afognak as far as
2 introduced species. And I'm sure there's some others.

3

4 CHAIRMAN FLEAGLE: Polly.

5

6 DR. WHEELER: Mr. Chair, if I could.
7 Actually there is a hunt down in Cordova area that's a
8 Federal -- joint State and Federal hunt and it's under
9 permits, but that is an introduced species as well and
10 that's actually used as a model, or is being used as a
11 model for the proposed hunt for 104, for the Chisana
12 Caribou Herd, and there is a positive C&T finding on
13 that herd as well.

14

15 And I think Helen had something to add
16 from another analysis as far as introduced species
17 goes, Mr. Chair.

18

19 CHAIRMAN FLEAGLE: Thank you, Helen
20 Armstrong.

21

22 MS. A. ARMSTRONG: Thank you, Mr.
23 Chair.

24

25 There's a little summary of
26 reintroduced and introduced species on Page 368 from
27 another analysis. We just have a paragraph there that
28 talks about when the Board has recognized the customary
29 and traditional uses of reintroduced species. For
30 example, muskoxen in 22, 23 and 26, elk and deer on
31 Unit 3, and then the others I think were already
32 mentioned previously, but we did summarize that there.
33 There may be some we left out, I'm not sure. So it has
34 been a practice of this Board to recognize the
35 customary and traditional uses of introduced and
36 reintroduced species.

37

38 Thank you, Mr. Chair.

39

40 CHAIRMAN FLEAGLE: Great. And now we
41 have it on the record pertaining to this proposal,
42 appreciate that.

43

44 The other issue is that moose in the
45 area, from what I'm gathering, haven't been available
46 until around 1962. And the question that we have to
47 struggle with is what constitutes a long-term and
48 traditional use and do we apply that to one small area
49 as Commissioner Lloyd is suggesting we do in this case
50 or do we apply it to the population of moose in

1 Southeast Alaska and that's, I guess, the determination
2 that we're looking at having to try to make.

3

4 And to me, you know, a generation, a
5 couple of generations is a long-term historical pattern
6 of use. I think we've made determinations in the past
7 within those guidelines. We've made determinations
8 that, in fact, on the Kenai Peninsula were similar in
9 timeline with a long interruption, not due to the fault
10 of anybody else, and so I think that finding that we do
11 have the ability, at least, to make this determination
12 for moose, even though they're a relatively new
13 species, they're certainly long-term in one person's
14 lifetime, I guess, would be the way to put it.

15

16 It's hard to -- I lost my thought right
17 there.

18

19 (Laughter)

20

21 CHAIRMAN FLEAGLE: Anybody else while I
22 regather.

23

24 (Pause)

25

26 CHAIRMAN FLEAGLE: Wini.

27

28 DR. KESSLER: Mr. Chair. I struggled
29 with that same thing because it's not like there's
30 black and white on this but this is where I landed
31 given the information that it has demonstrated that
32 use.

33

34 CHAIRMAN FLEAGLE: Other comments.

35 Jack Reakoff.

36

37 MR. REAKOFF: Mr. Chairman. As is
38 documented the Interior of Alaska had very few moose
39 from about the Gold Rush period, 1885, moose became a
40 prominent species and are customary and traditionally
41 sued throughout the whole Interior of Alaska and so
42 these populations wax and wane through time and so who
43 are we to say that people of these units in
44 Southeastern Alaska didn't traditionally use and were a
45 prominent species at some time.

46

47 There's archeological records of them
48 being in the Southeast at various periods as they are
49 in the Interior of Alaska and the North Slope. There's
50 archeological records. And so I feel that it's

1 appropriate for the Board to make this customary and
2 traditional use determination.

3

4 Thank you.

5

6 CHAIRMAN FLEAGLE: Thank you, Jack. I
7 do, too. I'm just trying to fill around the holes a
8 little bit.

9

10 MR. PROBASCO: Sue.

11

12 CHAIRMAN FLEAGLE: Sue Entsminger.

13

14 MS. ENTSMINGER: Thank you, Mr.
15 Chairman. I wasn't sure we were allowed to discuss
16 right now but now that Jack has I'm going to add my
17 thoughts.

18

19 There's two C&Ts possible that the
20 Commissioner had brought up, either the whole GMU or a
21 portion of the GMU or two of them, Berners Bay and the
22 rest of the unit. And I think it's been, to my
23 knowledge, that you've always done things by GMU, and I
24 caution you that you might want to consider stuff like
25 this because in some cases it doesn't always apply and
26 I think that's going to come up in Proposal 104. Where
27 sometimes you get confused that, you know, that you're
28 doing a C&T, when you're talking to a specific herd,
29 when actually the C&Ts are for the whole unit and they
30 might have other opportunities to hunt these animals
31 other places.

32

33 I might have confused that but I'm
34 just.....

35

36 CHAIRMAN FLEAGLE: No, I know where
37 you're going, Sue, thanks.

38

39 MS. ENTSMINGER: Yeah.

40

41 CHAIRMAN FLEAGLE: And just to clarify
42 the two options that Commissioner Lloyd was speaking to
43 about possibly breaking out.

44

45 One, was reducing the C&T for Unit 1
46 that applies statewide right now down to just those
47 people that reside in Southeast.

48

49 And, two, would be adding a new C&T to
50 the Berners Bay drainage.

1 And so that's the two issues. I think
2 the one issue about the statewide doesn't appear to
3 have any implications, it's just the -- it's the adding
4 the customary and traditional use determination to that
5 smaller population. And as far as managing moose by
6 Game Management Unit, subunit, that's not a problem. I
7 think where the difference is in caribou is they're a
8 migratory species so they don't stay in one unit and so
9 they're addressed by the herd and, you know, depending
10 on where they move more likely than not. And so I
11 think that's probably where the difference is.

12

13 Go ahead.

14

15 MS. ENTSMINGER; But in the case of the
16 Chisana they're more non-migratory, so it's going to
17 get complicated.

18

19 CHAIRMAN FLEAGLE: I appreciate the
20 head's up.

21

22 (Laughter)

23

24 CHAIRMAN FLEAGLE: We'll address that
25 one when we get there, but back to Berners Bay Unit 1C,
26 customary and traditional Proposal 11 before us as
27 proposed, moved, further discussion.

28

29 (No comments)

30

31 CHAIRMAN FLEAGLE: Any more discussion.

32

33 (No comments)

34

35 CHAIRMAN FLEAGLE: Ready for action.
36 Pete, the question is recognized on Proposal 11, please
37 poll the Board.

38

39 MR. PROBASCO: Thank you, Mr. Chair.
40 Final action on WP10-11 to adopt the proposal.

41

42 Ms. Dougan.

43

44 MS. DOUGAN Yes.

45

46 MR. PROBASCO: Mr. Haskett.

47

48 MR. HASKETT: Yes.

49

50 MR. PROBASCO: Mr. Fleagle.

1 CHAIRMAN FLEAGLE: Yes.
2
3 MR. PROBASCO: Ms. Masica.
4
5 MS. MASICA: Yes.
6
7 MR. PROBASCO: Ms. Kessler.
8
9 DR. KESSLER: Yes.
10
11 MR. PROBASCO: And, Mr. Bunch.
12
13 MR. BUNCH: Yes.
14
15 MR. PROBASCO: Motion carries, 6/0.
16
17 CHAIRMAN FLEAGLE: Okay, thank you.
18 And as we discussed at the beginning of the meeting we
19 now want to take up Proposal 18A which would be a
20 follow up proposal to Proposal 11. And with that we
21 have.....
22
23 DR. WHEELER: Same cast of characters,
24 Mr. Chair.
25
26 CHAIRMAN FLEAGLE: Okay.
27
28 DR. KESSLER: Mr. Chair.
29
30 CHAIRMAN FLEAGLE: Go ahead, Wini,
31 please.
32
33 DR. KESSLER: As I understood, 18a kind
34 of becomes moot now that we took care of it with the
35 last one so we probably don't need an action on this
36 one; is that correct?
37
38 CHAIRMAN FLEAGLE: We need a motion to
39 take no action, I guess, we could do that before we get
40 involved with all the analysis.
41
42 DR. KESSLER: Mr. Chair. I move to
43 take no action on Proposal 10-18a, it's been taken care
44 of with the proceeding one.
45
46 MR. BUNCH: I second it.
47
48 (Laughter)
49
50 CHAIRMAN FLEAGLE: All right. Is there

1 any objection to the motion to take no action on
2 Proposal 18a.

3

4 (No objections)

5

6 CHAIRMAN FLEAGLE: Hearing none, that
7 will be the action of the Board.

8

9 We now move to Proposal 12.

10

11 MR. LARSON: Mr. Chairman. My name is
12 Robert Larson, I work for the Forest Service down in
13 Petersburg. I'm also the Southeast Council's
14 coordinator.

15

16 Proposal FP10-12 proposes to reduce the
17 length of the wolverine trapping season in Units 1
18 through 5 by closing the season on February 15th rather
19 than the current closing date of April 30th. The
20 executive summary begins on Page 134 of the Board book.

21

22 The Alaska Board of Game reduced the
23 length of the wolverine trapping season in Units 1
24 through 5 to protect lactating female wolverine in the
25 harvest that occurred after February 15th. February
26 15th was selected by the Alaska Board of Game as the
27 new wolverine trapping season closing date to align the
28 new wolverine season with the closing date of the mink
29 and marten trapping seasons.

30

31 The Federal subsistence trapping season
32 which was previously aligned with the State season now
33 ends two and a half months later than the State season.

34

35 Prior to 1985 the regional wolverine
36 trapping season typically extended from November 10th
37 through February 15th. In 1986 the Alaska Board of
38 Game adopted a November 10th to April 30 trapping
39 season to allow for incidental wolverine harvest during
40 the wolf trapping season.

41

42 There are no wolverine population
43 estimates for this area. However, based on harvest
44 records the wolverine population appears to be stable.
45 The average total harvest from March and April is one
46 male and one female wolverine each month and you can
47 see that on Table 1.

48

49 Wolverine kits are typically born in
50 February and March and the loss of these young may

1 result in reduced recruitment. This regulatory change
2 would decrease the opportunity to harvest wolverine for
3 subsistence users in the short-term but may increase
4 reproductive potential of the population.

5
6 The Staff recommendation is to support
7 the proposal because protecting females with young is a
8 recognized wildlife management technique that may
9 protect the health of the wolverine population and it
10 would align Federal and State trapping regulations.

11
12 That concludes the Staff analysis.

13
14 CHAIRMAN FLEAGLE: Thank you. Summary
15 of public comments.

16
17 MR. LARSON: Mr. Chair. We have one
18 written public comment and that is from the Wrangell-
19 St. Elias Subsistence Resource Commission and they
20 support the proposal.

21
22 CHAIRMAN FLEAGLE: Thank you. Public
23 testimony, Pete.

24
25 MR. PROBASCO: We have no one signed
26 up, Mr. Chair.

27
28 CHAIRMAN FLEAGLE: And the Regional
29 Advisory Council recommendation is to support with
30 modification, would you address that, please, Michael.

31
32 MR. BANGS: Yes, thank you, Mr.
33 Chairman. Yes, the Council determined that shortening
34 the seasoning to protect the female wolverine with the
35 young is definitely a good sound management practice,
36 but in shortening the season so drastically that it
37 does reduce the harvest of wolverine by subsistence
38 users so in order to provide for a subsistence priority
39 we added the additional time on to the end of the
40 season.

41
42 Thank you.

43
44 CHAIRMAN FLEAGLE: Thank you. Alaska
45 Department of Fish and Game comments. Tina.

46
47 MS. CUNNING: Again, we request that
48 our entire comments be entered into the record.

49
50 We support the closure ending February

1 15th for the reasons laid out by the Federal Staff. We
2 oppose the modification which would retain the opening
3 until March 1. Closing the wolverine trapping season
4 on February 15 will contribute to the long-term
5 sustainable wolverine hunting and trapping
6 opportunities for all users.

7

8 CHAIRMAN FLEAGLE: Thank you.
9 InterAgency Staff Committee comments.

10

11 DR. WHEELER: Mr. Chair. The
12 InterAgency Staff Committee has no additional comments
13 at this time aside from the standard comment.

14

15 CHAIRMAN FLEAGLE: Thank you, Polly.

16

17 Discussion.

18

19 (No comments)

20

21 CHAIRMAN FLEAGLE: Okay, Wini Kessler.

22

23 DR. KESSLER: Mr. Chair. I propose to
24 support Proposal 10-12 with the modification
25 recommended by the Southeast Alaska Regional Advisory
26 Council.

27

28 MR. HASKETT: Second.

29

30 CHAIRMAN FLEAGLE: Speak to your
31 motion, please.

32

33 DR. KESSLER: Thank you, Mr. Chair.
34 You know when I go over this information I could easily
35 come up with a rationale to keep the season the same as
36 the current regulation and one to modify the date, you
37 know, I could go either way with the dates part of the
38 proposal. But considering all the different angles on
39 it, where I land is our requirement to defer to Council
40 for matters of take unless one of three conditions is
41 met and I don't see those conditions are met here so I
42 defer to the Council's recommendation and go with that.

43

44 CHAIRMAN FLEAGLE: Further discussion.

45

46 (No comments)

47

48 CHAIRMAN FLEAGLE: Okay, Michael.

49

50 MR. BANGS: Thank you, Mr. Chairman. I

1 just wanted to point out that Title VIII of ANILCA
2 mandates that we give a subsistence priority and that's
3 what the Council was moving towards and that's why we
4 added the additional time.

5
6 Thank you.

7
8 CHAIRMAN FLEAGLE: And the additional
9 time still lops a month off the season, net effect.

10
11 Any other discussion.

12
13 (No comments)

14
15 CHAIRMAN FLEAGLE: Two months, okay,
16 that's even more significant.

17
18 Further discussion.

19
20 (No comments)

21
22 CHAIRMAN FLEAGLE: Are we ready for the
23 question.

24
25 (Board nods affirmatively)

26
27 CHAIRMAN FLEAGLE: Apparently. Pete,
28 on Proposal 12, poll the Board, please.

29
30 MR. PROBASCO: Thank you, Mr. Chair.
31 Final action on WP10-12 to adopt the proposal with
32 modifications from the Southeast Regional Advisory
33 Council.

34
35 Mr. Haskett.

36
37 MR. HASKETT: Yes.

38
39 MR. PROBASCO: Mr. Fleagle.

40
41 CHAIRMAN FLEAGLE: Yes.

42
43 MR. PROBASCO: Ms. Masica.

44
45 MS., MASICA Yes.

46
47 MR. PROBASCO: Ms. Kessler.

48
49 DR. KESSLER: Yes.

50

1 MR. PROBASCO: Mr. Bunch.
2
3 MR. BUNCH: Yes.
4
5 MR. PROBASCO: And, Ms. Dougan.
6
7 MS. DOUGAN: Yes.
8
9 MR. PROBASCO: Motion carries, 6/0.
10
11 CHAIRMAN FLEAGLE: All right, thank
12 you. That concludes Southeast region proposals. We're
13 going to move into Southcentral proposals, but before
14 we do that, we were talking earlier this morning before
15 the lunch break about when to schedule the State
16 Division of Subsistence's subsistence report on
17 community harvest quotas and we've determined that
18 tomorrow morning at 8:30, which is opening bell would
19 be a good time, time certain to start out with the
20 report and then move back into our schedule, wherever
21 we're at.
22
23 Michael.
24
25 MR. BANGS: Thank you, Mr. Chairman. I
26 just wanted to make a point and remind the Board in
27 regards to comments that were made by Ms. Kessler in
28 regards to when there's a conservation problem and
29 trying to address the problem itself and not the
30 symptoms, but I think that it's not always possible to
31 do that. So in regards to conservation we have to
32 consider all options to address the problem by trying
33 our best to protect the resource.
34
35 I just wanted to make that point.
36
37 Thank you.
38
39 CHAIRMAN FLEAGLE: All right. Let's
40 take a brief 10 minute at ease before we take up
41 Southcentral.
42
43 (Off record)
44
45 (On record)
46
47 CHAIRMAN FLEAGLE: The Federal
48 Subsistence Board is back on record. And we're now
49 prepared to take Southcentral Alaska proposals and we
50 are at Proposal 32a. And we have at the table Helen

1 Armstrong and Donald Mike.

2

3 Helen.

4

5 MS. H. ARMSTRONG: Thank you, Mr.
6 Chair. Members of the Board. Council Chairs. For the
7 record my name is Helen Armstrong.

8

9 The analysis for Proposal 32a begins on
10 Page 366 of your books. This proposal was submitted by
11 Paul Genne and Dennis Ressler and it requests
12 recognition of Hope and Sunrise's customary and
13 traditional uses for caribou in Unit 7.

14

15 In 1990 at the inception of the Federal
16 Subsistence Management Program the Board adopted the
17 State's customary and traditional use determinations.
18 At that time and continuing into today the State had
19 found the road connected portion of the Kenai Peninsula
20 which is most of Unit 7 and 15 to be a non-subsistence
21 area. The Federal Subsistence Board essentially
22 followed the lead of the State at the inception of the
23 program and found there to be no authorized use of
24 caribou or moose in this area, thus there was no
25 Federal subsistence priority.

26

27 There has never been a Federal caribou
28 hunt on Federal public lands in Unit 7. On the other
29 hand the State has had a caribou hunt in Unit 7 since
30 1972. Since 1977 this hunt has been a drawing hunt
31 available to all Alaska residents and non-residents.

32

33 As an aside for the purposes of this
34 analysis and our discussion today all references to
35 Hope and Sunrise -- Hope include Sunrise. Sunrise is
36 only seven miles from Hope and the two communities are
37 interconnected. Hope is a small community located in
38 Unit 7 with an estimated permanent year-round
39 population of 148 in 2008. Sunrise had a population of
40 only 22.

41

42 It's also important to note that Hope
43 is recognized by the Federal Subsistence Board as a
44 rural community.

45

46 The analysis in your Board book
47 provides information on Hope's customary and
48 traditional pattern of use of caribou. While I will
49 not review that in great detail today I will summarize
50 a few key points.

1 Historical reports indicate that
2 caribou were abundant on the Kenai Peninsula prior to
3 the late 1800s. A massive forest fire in 1883 and
4 other large fires in the late 1880s destroyed a
5 significant amount of caribou habitat and contributed
6 to a decline in the Kenai Peninsula caribou population.
7 By 1912 caribou were extrapolated on the Kenai
8 Peninsula. The current population of caribou in Unit 7
9 is derived from reintroductions of caribou on the Kenai
10 Peninsula in the 1960s and the 1980s.

11
12 We heard in the previous proposal we
13 were just discussing this issue about reintroduced
14 species, this issue was also raised repeatedly
15 throughout the review process for this proposal, 32a,
16 in that, Kenai Mountain Caribou Herd was reintroduced
17 and because of this the customary and traditional uses
18 of the residents of Hope should not be recognized. We
19 heard that repeatedly from a lot of various people
20 commenting on the proposal. However, the inability to
21 harvest caribou from the early 1900s until caribou were
22 reintroduced is an interruption that was beyond the
23 control of the people of Hope. As explicitly noted in
24 the Federal subsistence regulations Factor 1 of the
25 customary and traditional use determination factors
26 speaks to a long-term consistent pattern of use
27 excluding interruptions beyond the control of the
28 community or the area. And it's our view that the fact
29 that they couldn't harvest caribou because they were
30 extrapolated is beyond the control of the people of Hope.

31
32 Thus, the historical use of caribou by
33 early Hope residents is very relevant to this
34 discussion, especially as it provides a historical
35 context for contemporary uses.

36
37 Ethnographic and historic literature
38 notes that caribou were harvested by the early
39 inhabitants of the Kenai Peninsula. Hunting, fishing,
40 trading, bartering and trapping of resources were
41 important activities for the early residents of Hope
42 and continue to be an important part of Hope resident
43 lifestyle today.

44
45 Hope residents have harvested caribou
46 in small numbers as a result of the limited harvest
47 opportunities on the Kenai Mountains Caribou Herd since
48 1972.

49
50 As noted previously the only caribou

1 hunting opportunities in Unit 7 are under a State
2 drawing permit, as a result the residents of Hope also
3 harvest caribou outside of Unit 7, but that's not part
4 of this analysis that they harvest caribou elsewhere.

5
6 Generally there have been few permits
7 available for a larger number of people applying for --
8 for a large number of people applying for permits,
9 which then limits the possibility for Hope residents to
10 have demonstrated extensive use of caribou in Unit 7.

11
12 The success rate for getting a drawing
13 permit in 2008 was 12 percent.

14
15 Since 1981 Hope residents have applied
16 for permits, 204 times but only attained permits 54
17 times. The average number of Hope residents applying
18 for permits each year for the Kenai Mountains Caribou
19 Herd from 1981 through 2009 was 7.6 and the average
20 number of residents who won permits was 1.9.

21
22 No one from Hope has drawn a permit
23 since 1997.

24
25 The ADF&G harvest ticket database as
26 well as mapping conducted by ADF&G in 1991 of Hope
27 subsistence use areas confirms that caribou are
28 harvested by Hope residents in Unit 7.

29
30 The OSM conclusion is to support
31 Proposal WP10-32a.

32
33 Thank you, Mr. Chair. That concludes
34 my presentation.

35
36 CHAIRMAN FLEAGLE: Thank you.
37 Questions.

38
39 (No comments)

40
41 CHAIRMAN FLEAGLE: Summary of public
42 comments. Donald.

43
44 MR. MIKE: Thank you, Mr. Chair.
45 Donald Mike, Regional Advisory Council coordinator.

46
47 Mr. Chairman, there were no written
48 public comments received on Proposal 10-32a.

49
50 Thank you.

1 CHAIRMAN FLEAGLE: Public testimony,
2 Pete.

3
4 MR. PROBASCO: Mr. Chair. We have no
5 one signed up for this proposal.

6
7 CHAIRMAN FLEAGLE: Regional Advisory
8 Council recommendation is to support. Judy.

9
10 MS. CAMINER: Yes, thank you, Mr.
11 Chair.

12
13 Maybe everybody hasn't had a chance to
14 see it but in my packet is a written comment relating
15 to this proposal that must have just come in and it is
16 from a resident of Hope and talking about his history
17 and use, this is the .011 numbered comment here from
18 Bud Mars, and his name was brought up a couple times as
19 a source in the analysis and so on and so forth.

20
21 Yes, the Regional Council did support
22 this finding that the communities of Hope and Sunrise
23 do exhibit rural characteristics and demonstrate a
24 customary and traditional pattern of use of caribou in
25 the area.

26
27 We had a pretty lengthy discussion on
28 it. We felt that there was evidence from the household
29 surveys that the caribou rank second to moose among the
30 large mammals and frequency of use and harvest
31 quantities and that we understand there's people who
32 come from, not only all around the state, but perhaps
33 all around the world, to do harvesting and we felt that
34 it would be appropriate for rural subsistence users in
35 the community to have that same opportunity.

36
37 We also felt like this was kind of a
38 classic definition of what's in ANILCA that you have
39 people -- where you have subsistence uses, which means
40 customary and traditional uses by rural Alaska
41 residents of wild renewable resources and that's
42 exactly what we're talking about here. We felt there
43 was a demonstrated use. Our Chairman felt that people
44 did exhibit a rural lifestyle. He understood the
45 interruption that had occurred, but the opportunity
46 hadn't been there to take the caribou, there are other
47 opportunities right now. And usually, he said, the
48 Council takes a broad scale view of C&T and that's what
49 we did in this case, too.

50

1 CHAIRMAN FLEAGLE: Thank you, Judy.
2 Department of Fish and Game, Tina.

3
4 MS. CUNNING: We request entering our
5 entire comments into the record. They're only one page
6 long and they're relatively short and they're on Page
7 377 in your book.

8
9 We have received, as a result of the
10 ISC meeting and some discussion came up about the use
11 of caribou by the residents of Hope and Sunrise, we
12 just acquired, yesterday, some additional information
13 in addition to our comments.

14
15 The Federal Staff analysis refers to
16 documentation that Hope and Sunrise residents share
17 wild resources in which only 13 percent of the
18 households in Hope receive and 20 percent use caribou.
19 However, the survey does not indicate whether these
20 caribou were from Unit 7. We looked at the records
21 between 1977 to 2009 of all the caribou reported
22 harvested from residents of Hope and they came from
23 seven different herds or seven different populations.
24 The herd with the greatest importance included were 25
25 percent were taken from the Kenai Mountain Herd, 25
26 percent were taken from the Mulchatna Herd, and 32
27 percent were taken from the Nelchina Herd of those
28 seven different populations.

29
30 So, again, as consistent with our
31 comments that we provided earlier on the record and
32 Commissioner Lloyd's letter to you, we believe the
33 Federal Staff analysis needs to be more specific as to
34 evidence of whether the caribou population in Unit 7
35 was among the resources harvested and shared by Hope
36 residents.

37
38 Our position is that we oppose the
39 proposal because of lack of substantial evidence based
40 on the eight factors, that evidence is not on the
41 record, however, we are in neutral in conclusion
42 because there is some use by these residents
43 demonstrated by some of the information both we have
44 provided and that OSM has provided in the record.

45 *****
46 STATE OFFICIAL WRITTEN COMMENTS
47 *****
48

49
50 Alaska Department of Fish and Game

1 Comments to the Federal Subsistence Board

2

3 Wildlife Proposal WP10-32a:

4

5 Requests a positive customary and
6 traditional determination for the community of
7 Hope Sunrise for subsistence use of caribou in Game
8 Management Unit 7.

9

10 Customary and Traditional
11 Determination:

12

13 There is ethnographic documentation
14 that the Hope-Sunrise area was traditional Dena ana
15 territory and the Dena ana hunted caribou. The report
16 cites the appropriate literature on the Dena ana and on
17 the influx of miners starting in the late 1800s, as
18 well as their use of wild resources (1). Most Dena ana
19 moved out of the communities nearly a half century ago.

20

21 Current harvest data discussed in the
22 federal staff analysis indicate that a few individual
23 Hope-Sunrise area residents hunt caribou, but almost
24 exclusively in other game management units. This may
25 be substantially influenced by hunt restrictions due to
26 drawing hunts or may be due to relative inaccessibility
27 of where caribou occur. The federal analysis refers to
28 documentation that Hope Sunrise residents "share wild
29 resources," as indicated in one household survey in
30 1991, in which only 13% of households in Hope received
31 caribou and 20% used caribou, which was second to use
32 of moose. However, the survey does not indicate
33 whether this caribou was from Unit 7. Mapping in 1991
34 indicated that Hope residents harvested caribou in Unit
35 7. The federal staff analysis needs to be more
36 specific as to evidence of whether the caribou
37 population in Unit 7 was among the resources harvested
38 and shared by Hope residents.

39

40 Insufficient evidence is provided that
41 the communities fulfill the federal regulatory factors
42 for the Board to make a positive customary and
43 traditional determination of use of the caribou
44 population in Unit 7 by residents of the Hope Sunrise
45 area. In fact, there is insufficient evidence that the
46 communities of Hope-Sunrise even "generally exhibit" or
47 "holistically" demonstrate customary and traditional
48 use of caribou harvested in Unit 7 in the federal staff
49 analysis.

50

1 Data derived from the residency of
2 applicants for state drawing permit hunts does not
3 substantiate customary and traditional use or patterns
4 of use of the caribou population in Unit 7 by the
5 communities of Hope and Sunrise. The federal staff
6 analysis reports that only an average of 7.6 out of a
7 population of approximately 150 year around Hope
8 residents applied for a state caribou permit to hunt in
9 Unit 7 from 1981 through 2009. However, this
10 information alone is not a reliable indicator of effort
11 and is even less indicative of use because the odds of
12 being drawn are very low. Such information is
13 inconclusive, at best. (If applied in the manner
14 suggested by the federal analysis, these same data
15 could just as easily be misapplied to make a positive
16 customary and traditional determination for residents
17 of all communities who ever applied for Unit 7 caribou
18 drawing.)

19

20 Recommendation:

21

22 Oppose/Neutral.

23

24 The information presented is largely
25 inconclusive. The federal staff analysis should more
26 clearly organize available data around the eight
27 factors that characterize customary and traditional use
28 in federal regulations in order to facilitate
29 evaluating whether substantial evidence is available to
30 make a customary and traditional determination.

31

32 (1) Even though the relative report
33 Seitz, et al. 1992 is cited, the
34 federal staff analysis refers to the
35 Community Subsistence Information
36 System in places where it would be a
37 more appropriate reference to cite the
38 report instead.

39

40 CHAIRMAN FLEAGLE: Thank you.

41 InterAgency Staff Committee comments.

42

43 DR. WHEELER: Thank you, Mr. Chair.
44 And there's no additional comments at this time beyond
45 the standard comment that the Staff Committee makes.

46

47 CHAIRMAN FLEAGLE: Discussion with the
48 Board and Council Chairs and State Liaison.

49

50 Judy.

1 MS. CAMINER: Mr. Chair. I forgot to
2 mention one thing, just as a reminder, that these
3 communities do have a C&T for all fish in this area.

4
5 CHAIRMAN FLEAGLE: Thank you for that.

6
7 (Pause)

8
9 CHAIRMAN FLEAGLE: I did have a chance
10 to look at the letter that was in the packet and the
11 citizen from Hope states in his summary that they --
12 mostly his friends quit applying for permits for Unit 7
13 caribou because it cost \$5 per person, non-refundable
14 and they never get one. They figure the money is
15 better spent on tickets for the Nenana Ice Classic.

16
17 (Laughter)

18
19 CHAIRMAN FLEAGLE: But he believes that
20 Hope, Sunrise residents took the majority of Unit 7
21 caribou before the drawing permit system was started,
22 that they should qualify for the customary and
23 traditional determination and that this proposal should
24 be approved.

25
26 So, anyway, while people are thinking
27 about discussion I thought it'd be important to mention
28 that letter.

29
30 Other comments.

31
32 (No comments)

33
34 CHAIRMAN FLEAGLE: Ready for a motion.

35
36 DR. KESSLER: Mr. Chair.

37
38 CHAIRMAN FLEAGLE: Wini.

39
40 DR. KESSLER: I move to adopt Proposal
41 10-32a as recommended by the Southcentral Alaska
42 Regional Advisory Council.

43
44 MS. DOUGAN: Second.

45
46 CHAIRMAN FLEAGLE: Okay, you have your
47 second, go ahead.

48
49 DR. KESSLER: The residents of Hope and
50 Sunrise live in a rural area and have been long-term

1 historical users of caribou in Unit 7. I think all the
2 data that we have before us here demonstrates that.
3 This regulation will give them priority use for that
4 area consistent with ANILCA, Title VIII.

5
6 CHAIRMAN FLEAGLE: Board discussion.
7 I saw Geoff reaching.

8
9 MR. HASKETT: No, no, just for tea
10 so.....

11
12 (Laughter)

13
14 MR. HASKETT: I was reaching but for
15 tea.

16
17 CHAIRMAN FLEAGLE: Well, I'll speak. I
18 agree. I think that through no fault of their own, the
19 residents of the Hope area were not allowed to harvest
20 caribou from this herd because they were gone for a
21 long period of time and one of our criteria is, not
22 criteria but factors addresses that and just going
23 through the factors again, recognizing that we don't
24 apply each factor literally and find that there has to
25 be complete agreement on each one and a positive for
26 the entire C&T to be issues. I think that we have
27 substantial evidence that the C&T for Hope and Sunrise
28 does exist for this caribou herd.

29
30 And I also support the Council's
31 recommendation and will support the proposal.

32
33 Geoff.

34
35 MR. HASKETT: Yeah, actually I do have
36 one small thing to add.

37
38 It's my understanding that previously
39 the Refuge had concerns about this and most of these
40 lands are on Forest Service and a small bit on ours,
41 but that the Refuge -- we have a new Refuge manager out
42 there and he's taken a look and we no longer have the
43 concerns that we previously had.

44
45 CHAIRMAN FLEAGLE: Any additional
46 comments.

47
48 (No comments)

49
50 CHAIRMAN FLEAGLE: Ready for the

1 question.

2

3

(Board nods affirmatively)

4

5

6

CHAIRMAN FLEAGLE: The question's
recognized on Proposal 32a, Pete.

7

8

9

10

11

MR. PROBASCO: Thank you, Mr. Chair.
Final action WP10-32a, to adopt the proposal consistent
with the Southcentral Alaska Regional Advisory
Council's recommendation.

12

13

Mr. Fleagle.

14

15

CHAIRMAN FLEAGLE: Yes.

16

17

MR. PROBASCO: Ms. Masica.

18

19

MS. MASICA: Yes.

20

21

MR. PROBASCO: Ms. Kessler.

22

23

DR. KESSLER: Yes.

24

25

MR. PROBASCO: Mr. Bunch.

26

27

MR. BUNCH: Yes.

28

29

MR. PROBASCO: Ms. Dougan.

30

31

MS. DOUGAN: Yes.

32

33

MR. PROBASCO: Mr. Haskett.

34

35

MR. HASKETT: Yes.

36

37

MR. PROBASCO: Motion carries, 6/0.

38

39

40

41

42

CHAIRMAN FLEAGLE: All right, thank
you. We move now to the second portion of 32, which is
32b, and also addressing Unit 7 caribou.

43

44

Tom Kron.

45

46

47

MR. KRON: Mr. Chairman. Members of
the Board. Council Chairs.

48

49

50

Proposal WP10-32b was submitted by Paul
Genne and Dennis Ressler and would establish a season
and harvest limit for caribou for residents of Hope and

1 Sunrise in Unit 7. The analysis for this proposal is
2 found on Page 378 of your Board book.

3

4 The State currently allows a caribou
5 harvest by drawing permit for the Kenai Mountains
6 Caribou Herd in Unit 7 north of the Sterling Highway
7 and west of the Seward Highway. Virtually all of the
8 hunting area for the Kenai Mountains Caribou Herd is
9 Federal public lands and most is Chugach National
10 Forest. ANILCA requires that subsistence shall be
11 given preference on public lands over other consumptive
12 uses.

13

14 A Federal subsistence hunt by residents
15 of Hope and Sunrise would affect the State drawing
16 permit hunt as the Kenai Mountains Caribou Herd is
17 small and has a limited harvestable surplus each year.
18 Access to the Kenai Mountains Caribou Herd is very
19 difficult. The proposal requests a caribou hunt for
20 all of Unit 7, OSM suggests that a Federal hunt be
21 limited to that portion of Unit 7 that is north of the
22 Sterling Highway and west of the Seward Highway. This
23 is the area where the Kenai Mountains Caribou Herd is
24 located. The State hunt is limited to this very same
25 area.

26

27 The OSM conclusion is to support the
28 five caribou quota recommended by the Council and to
29 suggest that the regulatory language provide more
30 precise direction to the in-season manager for the
31 Federal hunt.

32

33 Thank you, Mr. Chair.

34

35 CHAIRMAN FLEAGLE: Thank you, Tom.

36 Questions.

37

38 (No comments)

39

40 CHAIRMAN FLEAGLE: Public comments.

41 Donald.

42

43 MR. MIKE: Thank you, Mr. Chair. There
44 were no written public comments on this proposal.

45

46 Thank you.

47

48 CHAIRMAN FLEAGLE: Thank you.

49 Testimony, Pete.

50

1 MR. PROBASCO: Thank you, Mr. Chair.
2 No one has signed up for this proposal.

3
4 CHAIRMAN FLEAGLE: Regional Council
5 recommendation. Judy.

6
7 MS. CAMINER: Thank you, Mr. Chair. On
8 Page 389 you can see the Council's recommendation and
9 we do appreciate that some of our suggestions have been
10 incorporated into the OSM suggestion in front of you
11 right now.

12
13 Basically we supported the proposal
14 with modification. The season would be closed when the
15 harvest limit of five, which we came up with, would
16 have been reached. The action would address
17 conservation concerns and to continue to protect the
18 population when the limit has been reached. The total
19 harvest limit of five appears to be reasonable based on
20 what we saw of general take. And Hope and Sunrise now
21 have that C&T.

22
23 And I guess, I'm sure you'll discuss
24 this, but based on your earlier action of having
25 letters of authorization then perhaps the wording on
26 this might end up changing on the delegation of
27 authority but the intent was to put confidence in the
28 local manager.

29
30 Thank you.

31
32 CHAIRMAN FLEAGLE: Okay, thank you.
33 Alaska Department of Fish and Game. Tina.

34
35 MS. CUNNING: We have no comments on
36 this proposal.

37
38 CHAIRMAN FLEAGLE: Thank you.
39 InterAgency Staff Committee comments.

40
41 DR. WHEELER: Mr. Chairman. The bottom
42 of Page 389 and I direct to you that because the
43 Southcentral representative just directed you to that
44 page also but it's the standard comment on the part of
45 the InterAgency Staff Committee.

46
47 Thank you, Mr. Chair.

48
49 CHAIRMAN FLEAGLE: Thank you.
50 Discussion.

1 (No comments)

2

3 CHAIRMAN FLEAGLE: I have a question.
4 Judy, how did the Council come up with the quota of
5 five caribou?

6

7 MS. CAMINER: Thank you, Mr. Chair.
8 Well, we were looking at the chart of the approximate
9 numbers that had been taken and then the approximate
10 population, or number of people who applied from Hope
11 and Sunrise for permits, basically made an estimate. I
12 can read from the transcript if you want more
13 specifics, but we did have a -- I did ask that
14 question, too, what was the basis for coming up with
15 the number and we did have a bit of an analysis there.

16

17 CHAIRMAN FLEAGLE: Okay. Other
18 discussion, questions.

19

20 (No comments)

21

22 CHAIRMAN FLEAGLE: Wini.

23

24 DR. KESSLER: Ready to make a motion.

25

26 CHAIRMAN FLEAGLE: Sure.

27

28 DR. KESSLER: I move to adopt Proposal
29 10-32b and after a second I'll be proposing to amend it
30 and the amendment will be slightly different wording
31 from the language in the RAC and OSM recommendations.

32

33 MR. HASKETT: Second.

34

35 CHAIRMAN FLEAGLE: Okay, go ahead.

36

37 DR. KESSLER: Okay. Mr. Chairman. I
38 propose to make an amendment, both the Southcentral
39 Council and the OSM conclusion, the language in those
40 sections are not clear enough to discern the specific
41 authority provided to our Seward Ranger District. My
42 amendment is consistent with what I believe was the
43 intent of Council and the OSM conclusion. The
44 location, season and harvest limits do not change.

45

46 I propose the following wording.

47

48 Is it possible to get it on the screen,
49 maybe.

50

1 MR. PROBASCO: We'll do our best.
2
3 DR. KESSLER: The Seward Ranger
4 District will close the Federal season when five
5 caribou are harvested by the Federal registration
6 permit.
7
8 Following a second I'll provide
9 rationale for the second.
10
11 MR. HASKETT: Second.
12
13 DR. KESSLER: Yeah, okay, good.
14
15 CHAIRMAN FLEAGLE: Is there a second on
16 the amendment.
17
18 MS. MASICA: Second.
19
20 DR. KESSLER: This amended wording
21 would alleviate the problem of knowing which season
22 State, Federal or both, the ranger is authorized to
23 close whether he must close it when five caribou are
24 harvested under any permit.
25
26 The proposed language also adopts the
27 will language in the OSM conclusion whereas the Council
28 wording authorized to, it wasn't as specific.
29
30 However, our understanding is that that
31 was the intent of the Council, was to have it close,
32 correct?
33
34 MS. CAMINER: Yes, that's correct.
35
36 DR. KESSLER: Yeah, okay. So that
37 makes the five caribou a cap and not a guideline.
38
39 MS. CAMINER: Exactly.
40
41 DR. KESSLER: Yeah, okay. I also want
42 to point out, though, it's not stated in the proposed
43 regulation and does not need to be, that the Board's
44 intention would be that the Seward District Ranger
45 would develop permit stipulations for this harvest such
46 as a mandatory reporting requirement.
47
48 CHAIRMAN FLEAGLE: All right, we'll
49 take this up by amendment first.
50

1 The amended language is on the screen
2 in front of you. It verifies the authority given to
3 the Seward District Ranger that the cap limit is five
4 caribou and that the District Ranger has the authority
5 to issue guidelines to the permit that would specify
6 among other things potentially mandatory reporting,
7 which I hope they would.

8
9 DR. KESSLER: Uh-huh.

10
11 CHAIRMAN FLEAGLE: Well, we should just
12 tell them to.

13
14 And any further discussion on the
15 amendment.

16
17 (No comments)

18
19 CHAIRMAN FLEAGLE: Any opposition to
20 the amendment.

21
22 (No opposition)

23
24 CHAIRMAN FLEAGLE: Hearing none,
25 amendment carries. We now have 10-32b before the Board
26 as amended.

27
28 Further discussion.

29
30 (No comments)

31
32 CHAIRMAN FLEAGLE: I just want to state
33 that I think that it's commendable that you have a
34 community that comes forward with an effort to reopen
35 or to get a positive C&T on a population that used to
36 be used in the past and that the effort, the step is a
37 stepped approach, it's not like there's -- I mean I
38 like the approach, it's not going in and trying to take
39 over the entire hunt in other words, a piece of it, a
40 preference for a piece of it.

41
42 I like it.

43
44 I'm going to support it.

45
46 Any other discussion.

47
48 (No comments)

49
50 CHAIRMAN FLEAGLE: Ready for the

1 question.

2

3

(Board nods affirmatively)

4

5

6

CHAIRMAN FLEAGLE: Question is
recognized on 32b, Pete.

7

8

9

MR. PROBASCO: Thank you, Mr. Chair.
Final action on WP10-32b as amended.

10

11

Ms. Masica.

12

13

MS. MASICA: Yes.

14

15

MR. PROBASCO: Ms. Kessler.

16

17

DR. KESSLER: Yes.

18

19

MR. PROBASCO: Mr. Bunch.

20

21

MR., BUNCH: Yes.

22

23

MR. PROBASCO: Ms. Dougan.

24

25

MS. DOUGAN: Yes.

26

27

MR. PROBASCO: Mr. Haskett.

28

29

MR. HASKETT: Yes.

30

31

MR. PROBASCO: And, Mr. Fleagle.

32

33

CHAIRMAN FLEAGLE: Yes.

34

35

MR. PROBASCO: Motion carries, 6/0.

36

37

CHAIRMAN FLEAGLE: Next up we have

38 Proposal 33.

39

40

41

42

43

44

45

46

47

48

49

50

MS. H. ARMSTRONG: Thank you, Mr.
Chair. Members of the Board. Council Chairs. My name
is Helen Armstrong for the record.

Proposal WP10-33 is found on Page --
I'm hoping that -- it's 391, that's right. It was,
again, as was the last one I did, submitted by Paul
Genne and Dennis Ressler and requests recognition of
Hope and Sunrise's customary and traditional uses for
moose in Unit 7.

1 The existing regs and proposed regs can
2 be found on Page 391 of your book, and I mention that
3 because of the way the C&T determination already is in
4 Unit 7, it's split and that was because residents of
5 Chenega Bay, Tatitlek already had C&T in that portion
6 of Unit 7 draining into Kings Bay, and then a couple of
7 years ago Cooper Landing was added and now -- and
8 Cooper Landing was added then to the remainder of Unit
9 7 and now Hope and Sunrise would like to be added as
10 well.

11
12 As I pointed out in Proposal 32a, this,
13 again, is one of these that fell into the inception of
14 the Federal Subsistence Management Program in 1990, the
15 Board adopted the State's customary and traditional
16 determinations and that the State had found that road-
17 connected portion of the Kenai Peninsula which is most
18 of Unit 7 and 15 to be a non-subsistence area, and then
19 again as with caribou there hadn't been any authorized
20 use of moose in the area until the determinations were
21 made for the existing customary and traditional use
22 determinations.

23
24 The Board has never specifically
25 considered customary and traditional uses of moose by
26 residents of Hope.

27
28 In 2007 the Board added Cooper Landing
29 to the customary and traditional use determination for
30 moose in Unit 7. The information that I provided to
31 you a few moments ago for Hope and Sunrise, they also
32 apply to this analysis and I'm not going to repeat it.

33
34 The analysis in your book provides
35 information on Hope's customary and traditional pattern
36 of use of moose and I'm not going to go into any great
37 detail but I'll summarize a few key points.

38
39 Hope residents have a customary and
40 traditional pattern of harvesting moose in Unit 7 and
41 demonstrate a historic pattern of harvesting moose
42 dating back to the turn of the 20th century. Hunting,
43 fishing, trading, bartering and trapping of resources
44 were important activities for the early residents of
45 Hope and continue to be an important part of Hope
46 resident's lifestyles today. There are numerous
47 references to Hope's use of moose in the ethnographic
48 and historic literature. The existing information
49 indicates that Hope residents traditionally harvested
50 the resources available to them, including moose. Many

1 residents report that they no longer rely on moose as
2 much as they did in the past, however, it does continue
3 to be a subsistence resource for Hope residents. The
4 low moose population may contribute to the decrease in
5 the moose harvest by Hope residents.

6
7 There has only been one household
8 survey conducted in Hope in a study done by ADF&G in
9 1991, nine percent of households harvested moose, 25
10 percent of households attempted to harvest moose and 68
11 percent used moose. An estimated 19 pounds per capita
12 of moose were harvested during the study year of 1990
13 to 1991.

14
15 From 1977 through 2009, 46 moose were
16 harvested by Hope residents in Unit 7 with an overall
17 success rate of 18 percent.

18
19 Moose hunting also occurs outside of
20 Unit 7 due to the low availability of moose in Unit 7.
21 The mapping of Hope subsistence use areas also
22 indicates that moose are harvested by Hope residents in
23 Unit 7 within a 50 mile arc south of the community.

24
25 The OSM conclusion is to support
26 Proposal WP10-33.

27
28 Thank you, Mr. Chair. That concludes
29 my presentation.

30
31 CHAIRMAN FLEAGLE: Thank you.
32 Questions.

33
34 (No comments)

35
36 CHAIRMAN FLEAGLE: Summary of public
37 comments. Donald Mike.

38
39 MR. MIKE: Mr. Chairman. There were no
40 written public comments.

41
42 Thank you.

43
44 CHAIRMAN FLEAGLE: Thank you. Public
45 testimony, Pete.

46
47 MR. PROBASCO: And no public testimony.

48
49 CHAIRMAN FLEAGLE: Thank you. Regional
50 Council recommendation. Judy.

1 MS. CAMINER: Thank you. Once again
2 this is an example of rural residents who make use of
3 wild renewable resources. Council members felt that
4 there was excellent information that showed us that a
5 significant portion of people, of the residents did
6 make use of moose and that they had been doing so for
7 quite a long time and it was passed unanimously.

8
9 Thank you.

10
11 CHAIRMAN FLEAGLE: Department of Fish
12 and Game comments. Tina.

13
14 MS. CUNNING: Again, we'd like to enter
15 our complete comments into the record.

16
17 I'd like to point out that the Division
18 of Subsistence conducted a household survey in Hope and
19 Sunrise in '91 and did indeed find use of moose by
20 residents of Hope, and for that reason we're going to
21 remain, in part, neutral and in part oppose this
22 proposal.

23
24 And our opposition is based on the fact
25 that the Federal Staff analysis appropriately cites
26 that research but the studies indicate that the
27 majority of moose harvested by Hope residents from 1977
28 to 2009, over 30 years, were harvested outside of Unit
29 7. So they're not harvesting the moose populations in
30 Unit 7 indicating that there is not a customary pattern
31 of harvesting a moose population in Unit 7 under the
32 criteria of your eight factors.

33
34 In fact the tables provided from the
35 State harvest reports indicate that an average of less
36 than five percent of the community of Hope even
37 acquired harvest tickets and reported hunting in Unit 7
38 for over 30 years, indicating there is no community
39 pattern of moose hunting in Unit 7.

40 *****
41 STATE OFFICIAL WRITTEN COMMENTS
42 *****

43
44 Alaska Department of Fish and Game
45 Comments to the Federal Subsistence Board

46
47
48 Wildlife Proposal WP10-33:
49
50 This proposal requests a positive

1 customary and traditional use determination for
2 residents of Hope and Sunrise for moose in Game
3 Management Unit 7.

4

5 Customary and Traditional
6 Determination:

7

8 There is ethnographic documentation
9 that the Hope-Sunrise area was traditional Dena ana
10 territory, and Dena'ana had a tradition of hunting
11 moose. The report cites the appropriate literature on
12 the Dena'ana and on the influx of miners starting in
13 the late 1800s, as well as their use of wild resources.
14 Most Dena'ana moved out of the communities nearly a
15 half century ago.

16

17 The Division of Subsistence conducted a
18 household survey in Hope and Sunrise in 1991 and found
19 use of moose by the residents of Hope. The federal
20 staff analysis appropriately cites that research (Seitz
21 et al. 1992). However, studies indicate that the
22 majority of moose harvested by Hope residents from 1977
23 to 2009 were harvested outside of Unit 7, indicating
24 there is not a customary pattern of harvesting a moose
25 population in Unit 7 by residents of Hope.

26

27 The federal staff analysis justifies
28 presenting insufficient evidence specific to the
29 customary and traditional use of moose by residents of
30 Hope and Sunrise by stating: "the Board makes customary
31 and traditional use determinations based on a holistic
32 application of these eight factors. . . . The Board
33 makes customary and use determinations for the sole
34 purpose of recognizing the pool of users who generally
35 exhibit the eight factors." The federal analysis
36 provides no factual basis, not even facts generally
37 supporting a "holistic application" of the eight
38 factors that substantiates a finding of customary and
39 traditional use of the population of moose in Unit 7 by
40 the residents of Hope-Sunrise. The Ninth Circuit Court
41 of Appeals confirmed that factual findings in a
42 customary and traditional determination must be
43 supported by substantial evidence in the record.
44 Therefore, specific information is needed to support a
45 claim that the community or area even "generally
46 exhibit" the eight federal regulatory factors, such as
47 specific references in the literature they cite.

48

49 In fact, the tables provided from state
50 harvest reports indicate that an average of less than

1 5% of the community of Hope even acquired harvest
2 tickets and reported hunting in Unit 7 for over 30
3 years. This indicates there is no community pattern of
4 moose hunting in Unit 7.

5
6 Recommendation:

7
8 Oppose/Neutral.

9
10 Although the federal staff analysis
11 tries to paint a picture of moose use by the community,
12 the majority of moose hunting occurs outside of Unit 7,
13 and there is insufficient evidence that people living
14 in Hope-Sunrise "generally exhibit" or "holistically"
15 meet the eight regulatory factors to make a positive
16 customary and traditional determination of use of a
17 moose population in Unit 7 by residents of Hope-
18 Sunrise.

19
20 CHAIRMAN FLEAGLE: Okay, thank you.
21 InterAgency Staff Committee comments.

22
23 DR. WHEELER: Thank you, Mr. Chair.
24 The InterAgency Staff Committee has its standard set of
25 comments and there's no additional comments at this
26 time.

27
28 Thank you.

29
30 CHAIRMAN FLEAGLE: Okay, thank you.
31 Board discussion.

32
33 (No comments)

34
35 CHAIRMAN FLEAGLE: Wini.

36
37 DR. KESSLER: Ready for a motion.

38
39 CHAIRMAN FLEAGLE: Go ahead.

40
41 DR. KESSLER: I move to adopt Proposal
42 10-33 as written on Page 391 and supported by the
43 Southcentral Alaska Regional Advisory Council.

44
45 MR. HASKETT: Second.

46
47 DR. KESSLER: The data here does show
48 that Hope, including Sunrise residents have a customary
49 and traditional pattern of harvesting moose in Unit 7.
50 That demonstrates a historic pattern dating back to the

1 turn of the 20th Century. Mapping of Hope subsistence
2 use areas also indicates that moose are harvested by
3 these residents in Unit 7.

4

5 And that is what I base my motion on.

6

7 CHAIRMAN FLEAGLE: Thank you. Further
8 discussion.

9

10 (No comments)

11

12 CHAIRMAN FLEAGLE: I like the analysis
13 where it points out on 392, that states, the Board has
14 never specifically considered the C&T uses of moose by
15 residents of Hope or Sunrise, and that in 2007 we added
16 Cooper Landing to the C&T use for moose and -- but Hope
17 was added to recognize the C&T of all fish because it
18 was determined to be for the entire Kenai Peninsula.
19 And it almost appears like if we look in hindsight it
20 was an oversight not to include Hope in a positive C&T
21 when they were found to be rural, so I guess this is,
22 to me, almost like catch up.

23

24 Anyway it's a pretty no-brainer to me,
25 is there any other discussion.

26

27 (No comments)

28

29 CHAIRMAN FLEAGLE: Ready for the
30 question.

31

32 (Board nods affirmatively)

33

34 CHAIRMAN FLEAGLE: On Proposal 33,
35 Pete.

36

37 MR. PROBASCO: Thank you, Mr. Chair.
38 Final action WP10-33, adopt the proposal consistent
39 with the Southcentral Regional Advisory Council's
40 recommendation.

41

42 Ms. Kessler.

43

44 DR. KESSLER: Yes.

45

46 MR. PROBASCO: Mr. Bunch.

47

48 MR. BUNCH: Yes.

49

50 MR. PROBASCO: Ms. Dougan.

1 MS. DOUGAN: Yes.
2
3 MR. PROBASCO: Mr. Haskett.
4
5 MR. HASKETT: Yes.
6
7 MR. PROBASCO: Mr. Fleagle.
8
9 CHAIRMAN FLEAGLE: Yes.
10
11 MR. PROBASCO: And Ms. Masica.
12
13 MS. MASICA: Yes.
14
15 MR. PROBASCO: Motion carries, 6/0.
16
17 CHAIRMAN FLEAGLE: Thank you. Proposal
18 34.
19
20 DR. WHEELER: Mr. Chair. If I could,
21 just point out, there's a slight error in your agenda,
22 it is Proposal 34, but it's actually Unit 11 wolverine,
23 not Unit 7, I apologize for that. That was an
24 oversight on my part.
25
26 CHAIRMAN FLEAGLE: Thank you for that
27 clarification.
28
29 Tom.
30
31 MR. KRON: Mr. Chair. Members of the
32 Board. Council Chairs. Proposal WP10-34 was submitted
33 by Corey Schwanke and requests that the wolverine
34 season be managed independently from the lynx season in
35 Unit 11. The analysis for this proposal begins on Page
36 401 in your Board book.
37
38 The proponent states that it is a
39 disservice to trappers to align wolverine seasons with
40 lynx seasons and requests independent seasons for both
41 species using abundance based information.
42
43 It appears that wolverine numbers are
44 stable in the mountainous areas of Unit 11. Since 2001
45 an average of 10 wolverines per year has been harvested
46 primarily from the foothills of Unit 11. It does not
47 appear that trapping is occurring in the high alpine
48 areas where pregnant females are denning. The 2008
49 Federal Subsistence Board decision resulted in a one
50 month extension to the Unit 11 wolverine trapping

1 season which resulted in three male wolverines being
2 harvested in Unit 11 under this new Federal regulation
3 in February 2009. It does not appear that WP10-34
4 represents a conservation concern.

5
6 Based on compelling information
7 presented at the Southcentral Regional Advisory Council
8 meeting this past March, OSM has changed its conclusion
9 and is now supporting Proposal WP10-34.

10
11 Thank you, Mr. Chair.

12
13 CHAIRMAN FLEAGLE: Thank you, Tom.
14 Summary of public comments.

15
16 MR. MIKE: Thank you, Mr. Chair.
17 You'll find the written public comments beginning on
18 Page 410 of your Board book.

19
20 There was five written public comments
21 received all in support of the proposal.

22
23 Mr. Keith Rowland of McCarthy Alaska
24 supported the proposal.

25
26 Mr. Dean Wilson of Kenny Lake supports
27 the proposal.

28
29 Mr. Corey Schwanke, the proponent,
30 supported the proposal.

31
32 The Wrangell-St. Elias National Park
33 Subsistence Resource Commission supported the proposal.

34
35 And finally the AHTNA Traditional
36 Council supported the proposal.

37
38 They all supported the proposal in
39 favor of not tying the wolverine and lynx season.

40
41 That summarizes the written public
42 comments, Mr. Chairman.

43
44 Thank you.

45
46 CHAIRMAN FLEAGLE: All right, thank
47 you. Public testimony, Pete.

48
49 MR. PROBASCO: No public testimony, Mr.
50 Chair.

1 CHAIRMAN FLEAGLE: Thank you. Regional
2 Council recommendation. Judy.

3

4 MS. CAMINER: Thank you, Mr. Chair.

5

6 Well, we certainly appreciate OSM
7 having listened to our meeting and there was a very
8 extensive discussion, again, particularly with Chairman
9 Lohse being very familiar with these two animals and
10 the trapping season and so he spoke very eloquently on
11 a number of matters, which I won't necessarily repeat
12 here unless I need to.

13

14 He certainly spoke about the importance
15 of refugia. He also felt that we don't have a
16 conservation concern but it didn't make sense to keep
17 these animals managed on the same -- in the same
18 regulation, if you will, they're on two different
19 cycles. And it was important to protect subsistence
20 opportunity. The dates seem to be right and separating
21 the species management seems to be right also.

22

23 Thank you.

24

25 CHAIRMAN FLEAGLE: Okay, thank you.
26 Alaska Department of Fish and Game comments. Pat
27 Valkenburg.

28

29 MR. VALKENBURG: Thank you, Mr.
30 Chairman. We have comments, written comments and I'd
31 like those to be read into the record. I also have
32 some additional comments here.

33

34 There's quite a long history of
35 wolverine management in Southcentral Alaska, and
36 Nelchina Basin in particular. It's probably something
37 like 15 to 20 years ago the Department became concerned
38 about high harvest of wolverines mostly by aerial
39 trappers. People were, at that time, if you go far
40 back enough people were flying around, landing and
41 shooting wolves, and also they were able to hunt
42 wolverines under trapping license at the same time.

43

44 People began tracking wolverines and
45 then finding holes in the snow and putting Conibear
46 traps over those holes. The area biologist became
47 concerned about a disproportionate high harvest of
48 females, and that was the original impetus for scaling
49 the season back to end on January 31st.

50

1 That was a pretty successful harvest
2 scenario that we had for many years. It also avoided
3 the season when wolverine kits are born, similar to the
4 discussion we had in Southeast Alaska, most wolverine
5 kits are born February 15th until March 15th.

6
7 What it amounts to is a judgment call.
8 We think it is a better way to manage wolverines to try
9 to direct the harvest earlier in the trapping season,
10 avoid the period when females have young in the den and
11 they tend to be much more active searching for food and
12 we think that if you harvest wolverines earlier in the
13 season you can actually have higher sustained yield
14 harvest of wolverines by doing that.

15
16 So this year I did get some additional
17 information of the wolverine harvest for 2009/2010 and
18 it's a minimum number at this point, not all the
19 sealing records have come in, there have been 14
20 wolverines taken. Unfortunately I did not find out how
21 many were taken during the February season. But we
22 would prefer that the season ends early, January 31st,
23 just like it does in Unit 13, whether or not this is
24 going to lead to unsustainably high harvest of
25 wolverines, we won't really know until we have several
26 more years of data.

27
28 *****
29 STATE OFFICIAL WRITTEN COMMENTS
30 *****

31
32 Alaska Department of Fish and Game
33 Comments to the Federal Subsistence Board

34
35 Wildlife Proposal WP10-34 Unit 11:
36

37 This proposal would remove a special
38 provision allowing the Assistant Regional Director for
39 Subsistence Management to align the wolverine trapping
40 season with the lynx season and would set a permanent
41 date for the federal subsistence wolverine trapping
42 season in Game Management Unit 11 that extends through
43 February 28.

44
45 Introduction:

46
47 Reported wolverine harvest in Unit 11
48 during the last 24 years ranged from 2 to 27 annually
49 and averaged 10 per year. Wolverine harvests since
50 initiating sealing requirements in 1971 to the

1 reduction in season length in 1985, averaged 28 per
2 year (range = 12 55).

3

4 Impact on Subsistence Users:

5

6 If adopted, federal subsistence
7 trappers will have the opportunity to continue
8 harvesting lynx and wolverine despite low lynx
9 abundance in Unit 11, when the federal subsistence
10 trapping season for wolverine will not be shortened
11 along with lynx.

12

13 Opportunity Provided by State:

14

15 State regulations authorize wolverine
16 trapping from November 10 through January 31, with no
17 bag limit. Lynx trapping seasons are adjusted yearly
18 under the Lynx Harvest Tracking Strategy that reduces
19 trapping season length during lynx cyclic lows.

20

21 Conservation Issues:

22

23 During the 1970s and early 1980s, the
24 Department became concerned about likely overharvest of
25 wolverines in many Game Management Units in
26 Southcentral Alaska, including Unit 11. It was
27 apparent that wolverines were particularly vulnerable
28 to trapping by aircraft after January when daylight
29 lengths and trappers can follow wolverines to dens
30 and set Conibear traps at den holes. Wolverines are
31 also vulnerable to being taken at any baited set,
32 particularly lynx sets. Recent research has also shown
33 that when female wolverines have their kits (mid-
34 February to mid-March), they increase their hunting and
35 traveling in order to supply their increased energetic
36 demands of lactation. Increasing harvests during
37 February could reduce productivity and kit survival and
38 reduce long term harvest opportunities for all users.

39

40 Enforcement Issues:

41

42 Differences in federal and State
43 regulations resulting from adoption of this proposal
44 would further complicate trapping regulations and
45 create enforcement issues in areas of mixed land
46 ownership. Chair of the Southcentral Regional Advisory
47 Council stated to the Federal Subsistence Board April
48 29, 2008, (transcript p. 165) "if you're trapping lynx,
49 you can't help but catch a wolverine. So if the one
50 season's open, the other one should be open. If the

1 one season's closed, the other one should be closed."

2

3 Other Comments:

4

5 On April 30, 2008, the Federal
6 Subsistence Board voted to align the federal
7 subsistence wolverine trapping season with the federal
8 subsistence lynx seasons in Unit 11 and delegated
9 authority to coordinate with State regulations based on
10 health of the lynx population in Unit 11. The current
11 season dates for wolverine were adopted during that
12 Federal Subsistence Board meeting after considerable
13 deliberation and supported by the Regional Advisory
14 Councils. No new data or extenuating circumstances
15 justify changing it.

16

17 Recommendation: Oppose.

18

19 CHAIRMAN FLEAGLE: Okay, thank you,
20 Pat. InterAgency Staff Committee comments.

21

22 DR. WHEELER: Thank you, Mr. Chair.
23 The InterAgency Staff Committee has no additional
24 comments beyond the standard comments.

25

26 Thank you.

27

28 CHAIRMAN FLEAGLE: Thank you.

29 Discussion.

30

31 (No comments)

32

33 CHAIRMAN FLEAGLE: Well, I appreciate
34 the State's comments mentioning the fact that we
35 addressed this issue in 2008 and what I recollect
36 wasn't addressed but it's in the written paperwork, was
37 that the incidental catch, when there's still a season
38 on wolverine, you're going to catch lynx, I mean
39 they're going to get caught in the trap. And I think
40 that the Board took that into consideration when it
41 passed this proposal in '08, and now it's interesting
42 to see that it come back, obviously it's coming back
43 from an individual trapper with a lot of support.

44

45 I'd be curious to just feel that out a
46 little further. I mean if we're concerned with
47 catching one species that the season isn't open on, you
48 guys even quote the Chairman of the Southcentral RAC in
49 there, if you're trapping lynx you can't help but catch
50 wolverine, so if the one season's open the other one

1 should be open, if the one season's closed the other
2 one should be closed.

3

4 I just -- I remember this discussion, I
5 just think it's worth at least touching on it here.
6 Does anybody want to jump in, and this is open to
7 Council Chairs too.

8

9 Judy.

10

11 MS. CAMINER: Mr. Chair. Well, Ralph
12 did talk a bit about -- I'm going to have to take back
13 some of what I said before, from our most recent
14 transcript he says:

15

16 I'm not taking back what I said about
17 the fact that you catch lynx when you
18 catch wolverine, and you catch
19 wolverine when you catch lynx, but I'm
20 sitting here looking at the harvest
21 data since 1971 and just like you said,
22 the average catch when we had a
23 February 28th season was 10.3, the
24 average catch when we had a January
25 31st season is 9.6, for half a
26 wolverine I don't think we can call it
27 a conservation concern.

28

29 So that's where he was coming from at
30 our most recent meeting.

31

32 CHAIRMAN FLEAGLE: Good, thanks. Other
33 discussion.

34

35 (No comments)

36

37 CHAIRMAN FLEAGLE: Are we ready for a
38 motion.

39

40 MS. MASICA: Mr. Chairman. I have a
41 motion.

42

43 CHAIRMAN FLEAGLE: Go ahead, Sue.

44

45 MS. MASICA: I move that we support
46 Proposal WP10-34 as recommended by the RAC.

47

48 MR. BUNCH: Second.

49

50 CHAIRMAN FLEAGLE: Would you address

1 your proposal, please.

2

3 MS. MASICA: The motion is consistent
4 with the recommendations of the Southcentral Regional
5 Advisory Council and the Wrangell-St. Elias National
6 Park Subsistence Resource Commission.

7

8 This proposal, as we've talked about,
9 does reverse part of the position adopted by the Board
10 two years ago. At that meeting, the Park Service
11 proposed, and the Board supported linking lynx and
12 wolverine seasons as a way to address concerns raised
13 at the time. With the proposal before us now we have
14 heard from the subsistence users that tying the seasons
15 together is not in their best interest. I see no harm
16 in supporting the proposed change.

17

18 Basically it means that the wolverine
19 season will be managed independently from the lynx
20 season in Unit 11.

21

22 As was mentioned on Page 406, OSM has
23 stated that there are no conservation -- does not
24 appear that there are any conservation concerns, and
25 that careful monitoring of the population is in order
26 and we'll work cooperatively as we move forward to
27 insure that that occurs.

28

29 CHAIRMAN FLEAGLE: Further discussion.

30

31 (No comments)

32

33 CHAIRMAN FLEAGLE: Well, I'm satisfied
34 that this isn't going to have a detrimental effect.
35 It's just interesting. And I do note that the comment
36 by Chairman Lohse is also in our books, so it's not
37 just the State that noticed it.

38

39 Are we ready for the question on 34.

40

41 (Board nods affirmatively)

42

43 CHAIRMAN FLEAGLE: All right,
44 question's recognized on Proposal 34. Pete.

45

46 MR. PROBASCO: Thank you, Mr. Chair.
47 Final action WP10-34 to adopt the proposal consistent
48 with the Southcentral Regional Advisory Council.

49

50 Mr. Bunch.

1 MR. BUNCH: Yes.
2
3 MR. PROBASCO: Ms. Dougan.
4
5 MS. DOUGAN: Yes.
6
7 MR. PROBASCO: Mr. Haskett.
8
9 MR. HASKETT: Yes.
10
11 MR. PROBASCO: Mr. Fleagle.
12
13 CHAIRMAN FLEAGLE: Yes.
14
15 MR. PROBASCO: Ms. Masica.
16
17 MS. MASICA: Yes.
18
19 MR. PROBASCO: And, Ms. Kessler.
20
21 DR. KESSLER: Yes.
22
23 MR. PROBASCO: Motion carries, 6/0.
24
25 CHAIRMAN FLEAGLE: All right, thank
26 you. And it's my understanding that the proponent of
27 Proposal 35 has expressed a desire to withdraw but we
28 don't allow withdrawals once they hit the Board
29 process. But we can certainly dispense of this
30 proposal by voting to take no action on it.
31
32 MR. HASKETT: So, Mr. Chairman, I make
33 the motion to take no action on this.
34
35 MR. BUNCH: I second it.
36
37 CHAIRMAN FLEAGLE: Anyone in opposition
38 to that motion.
39
40 (No opposition)
41
42 CHAIRMAN FLEAGLE: Hearing none, that
43 motion carries. Proposal 35 is now dispensed with.
44
45 And at that, we're going to go ahead
46 and break for the day and remember at 8:30 when we
47 convene tomorrow we will be listening to the Director
48 of Subsistence reporting on community harvest quotas
49 and then we will move into Region 5 issues. And I want
50 to thank everybody for sitting through this, it's

1 rather clunky when we get started, but tomorrow I
2 promise it'll be better.

3

4 MR. PROBASCO: We can leave stuff in
5 this room, it will be secured.

6

7 Thank you.

8

9 (Off record)

10

11 (PROCEEDINGS TO BE CONTINUED)

