

1 FEDERAL SUBSISTENCE BOARD
2
3 PUBLIC REGULATORY MEETING
4

5
6 VOLUME III
7

8 EGAN CONVENTION CENTER
9 ANCHORAGE, ALASKA

10
11 JANUARY 15, 2009
12 8:30 o'clock a.m.
13

14 MEMBERS PRESENT:

15
16 Mike Fleagle, Chair
17 Geoff Haskett, U.S. Fish and Wildlife Service
18 George Oviatt, Bureau of Land Management
19 Sue Masica, National Park Service
20 Denny Bschor, U.S. Forest Service
21 Niles Cesar, Bureau of Indian Affairs

22
23 Bertrand Adams - Southeast RAC
24 Harry Brower - North Slope RAC
25 Sue Entsminger - Eastern Interior RAC
26 Ralph Lohse - Southcentral RAC
27 Myron Savetilik - Seward Peninsula RAC

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32 Commissioner Denby Lloyd, State of Alaska
33 Representative

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35 Ken Lord, Solicitor's Office

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P R O C E E D I N G S

(Anchorage, Alaska - 1/15/2007)

(On record)

CHAIRMAN FLEAGLE: Good morning. It's January 15th, a blustery spring day in Anchorage.

(Laughter)

CHAIRMAN FLEAGLE: As we wrap up our meeting we left hanging with the discussion on the deferral of the Yukon River fisheries regulatory proposals, but before we.....

REPORTER: Mike, hold on.

CHAIRMAN FLEAGLE: Excuse me, go ahead.

(Equipment malfunction - sound)

CHAIRMAN FLEAGLE: Well, let's take five more minutes and have some coffee while she gets the sound system figured out.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Okay, good morning, the Federal Subsistence Board is back on record, January 15, and, once, again, we left hanging the discussion on deferring the Yukon River proposals. And first, before we go there, we want to open the opportunity for testimony on non-agenda items.

Pete, do we have anybody that wishes to testify this morning?

MR. PROBASCO: Mr. Chair, I don't have anybody that's signed up but maybe they didn't realize that they had that opportunity again.

CHAIRMAN FLEAGLE: Anybody want to testify on non-agenda items.

(No comments)

CHAIRMAN FLEAGLE: All right, hearing

1 none, we'll go ahead and move on with our discussion.
2 Before we start are there any other announcements, Pete.

3

4 MR. PROBASCO: Mr. Chair. I have no
5 announcements at this time.

6

7 CHAIRMAN FLEAGLE: Okay. So we had
8 wrapped up a discussion as to the merits of deferring the
9 Yukon River fisheries proposals to a further time or not,
10 and at this time I'd like to open it back up for Board
11 discussion.

12

13 Commissioner.

14

15 COMMISSIONER LLOYD: Thanks, Mr.
16 Chairman.

17

18 You have our letter before you and I made
19 some introductory comments yesterday. I don't intend to
20 repeat them. But I wanted to address what may be some
21 either misapprehensions or misconceptions.

22

23 First of all, the State of Alaska
24 acknowledges that there's a conservation concern with the
25 chinook stocks in the Yukon River. In fact, the Board of
26 Fisheries has labeled them a stock of yield concern under
27 the Sustainable Salmon Fisheries Policy, and in their
28 regular schedule which comes up next January they'll be
29 considering whether or not to elevate that level of
30 concern for Yukon chinook to, say for example a stock of
31 management concern. So to the extent that some people
32 believe that the Alaska Board of Fisheries or the Alaska
33 Department of Fish and Game has not considered
34 conservation issues with regard to Yukon chinook, I hope
35 it's clear that that's not the case that, in deed, we've
36 been managing conservatively over the past few years
37 given the tools we have and that we take this issue very,
38 very seriously.

39

40 I had to cringe a little bit yesterday at
41 one suggestion which was that perhaps the Federal
42 Subsistence Board could take action soon, this year, and
43 that somehow within the span of a three year phase in
44 period that the Federal Board could reconsider that
45 decision if it learned something new and kind of take
46 some of it back and I guess I'd like to warn you in a
47 friendly way that that kind of back and forth in terms of
48 management decisions is very, very disruptive to users,
49 particularly users in very rural areas who expend a lot
50 of time, a lot of money to attend all the various

1 meetings that could have a bearing on their livelihood and
2 lifestyle. So I hope that that suggestion is not taken
3 seriously other than in the case of very, very meaningful
4 and influential information. But if you're going to take
5 action I would suggest that you do it based on being
6 fully informed and fairly certain that the action you're
7 taking is necessary.

8
9 My final comment is that we heard various
10 folks say, anyway, that they believe that this issue has
11 just been deferred, deferred, deferred and, as you know,
12 it hasn't been simply deferred it's been fully considered
13 a number of times and various decision-making bodies,
14 including yourselves, have decided that up to this point
15 there hasn't been sufficient information to take the
16 drastic action that's embodied in the proposals in front
17 of you.

18
19 So with those somewhat new
20 considerations, Mr. Chairman, we're strongly urging you
21 to utilize the Alaska Board of Fisheries schedule and
22 system which will more comprehensively review the Yukon
23 River as an entire drainage, as a complete set of
24 fisheries and that soon thereafter, depending on how you
25 might want to best schedule your activities, immediately
26 thereafter or soon after the Alaska Board of Fisheries
27 meets in January of next year, you can take action if you
28 believe that that were necessary.

29
30 Thank you, Mr. Chairman.

31
32 CHAIRMAN FLEAGLE: Appreciate those
33 comments, Commissioner Lloyd.

34
35 Board members.

36
37 George.

38
39 MR. OVIATT: Well, I -- Commissioner
40 Lloyd, I appreciate what you've just said. I think
41 what's bothering all of us is that we move, maybe, too
42 fast with the wrong information and apply all our
43 attentions against a solution that really is not the
44 solution and we miss the point or applying our attentions
45 to the real solution, which there's also a real need and
46 a cry out there, and if this is a solution that's going
47 to help then we move as fast as we can on it and I think
48 it's the issue or problem we're all facing trying to
49 figure this out.

50

1 And I know, Sue, yesterday mentioned,
2 well, what about deferring this for one year and I think
3 that's what you have indicated, too, and I think it's
4 worthy of us to really discuss that. It would give the
5 State a chance to do more studies this summer. It would
6 give the Board of Fish a chance to meet in January, and
7 this Board could meet shortly after that and make a
8 decision.

9
10 So I think it's worthy of us discussing
11 -- at least discussing that option. I'd like to put that
12 out for a point of discussion.

13
14 CHAIRMAN FLEAGLE: Thanks, George. I
15 think I'll weigh in. I just remember the content of the
16 proposals from last year and the amount of testimony that
17 we had that doing the changes requested in the proposals,
18 the impact that it would have on the subsistence users in
19 the lower section of the river and that wasn't even
20 considering the people that were up in the mid and upper
21 sections who were actually supporting the proposal, and
22 that's where the conundrum, I think, was, was that we had
23 effects -- negative effects to some users and unknown
24 effects to other users based on the information that we
25 had at the time.

26
27 Another real compelling issue that I had
28 and raised at the last meeting was the fact that these
29 proposals, these restrictions would only apply to the
30 section of the Yukon River that passed through or
31 adjacent to Federally-managed lands and that would mean
32 a patchwork system of six places -- six stretches of the
33 Yukon River where you would have gear restriction and the
34 remainder would still be under State regulations and I
35 still feel that if there's an opportunity to address the
36 whole river system in an entire drainage manner like the
37 Department is suggesting that that's the best way and
38 then if what they do is not adequate then the Board, I
39 think, can step in and place further protection for
40 subsistence where it can and where it's necessary but I
41 don't see that we have any new rationale or reasoning to
42 act on this quickly.

43
44 I was actually a little surprised that so
45 quickly after the vote was taken the same proposals were
46 presented. And the Board doesn't have a process to deny
47 proposals just on the fact that they've already been
48 dealt with. We were talking about this a couple of days
49 ago. And once those proposals are received they are
50 given the deference of the process, which I think is good

1 but it does lead to these decisions where you're faced
2 with an issue that somebody just wants to keep trying to
3 put in front of the Board because they feel strongly
4 about it and I'm not denying that there is not any strong
5 feelings on these issues, but that it puts us in the
6 position of trying to decide what the appropriate action
7 is.

8
9 I believe that the appropriate action is
10 to continue to wait until we have further results of the
11 studies that are being done. I think I heard from the
12 Department that although the mesh size study was
13 curtailed last year due to the slack run, that that data
14 will be used and will be beneficial to the overall -- it
15 was planned to be a three year study, last year was the
16 second year. I know that there's an ongoing fecundity
17 study. I was actually down in Emmonak last summer just
18 to observe these studies and there's a lot of work going
19 on that I think we will benefit from if we wait.

20
21 And I agree with Commissioner Lloyd that
22 if we take action with the intent that we can withdraw
23 some of that action I don't think would be the
24 appropriate way to go. I don't know where we are very
25 successful at taking something back once we've put it out
26 but I know that it's still an opportunity as it was
27 suggested.

28
29 At any rate I'm going to support delaying
30 this further. And I don't know timeline, the next
31 fisheries meeting is obviously -- would be the most
32 beneficial because we'd have the Staff that are necessary
33 for that, however, that puts it two years down the line.
34 We could probably do like we did on an earlier proposal
35 and say not more than two years, which would leave the
36 option of the fisheries -- next fisheries cycle open but
37 if there were substantial evidence to take it up earlier,
38 we could do that through a special meeting or tack it on
39 to the wildlife meeting, which would be a lesser
40 possibility, I think.

41
42 At any rate that's my comments and I'll
43 open it up for more.

44
45 Geoff.

46
47 MR. HASKETT: Well, last night thinking
48 about this I came to about two or three different
49 options. And I think the request from the State makes
50 sense, I mean we ought to look at as much information as

1 we can when you're facing something like this but I also
2 heard from those folks who obviously felt very strongly
3 that this has gone on too long, that we need to do
4 something right away. So the more I thought about it, I
5 thought of a couple different ways we might do this.

6
7 I actually like what you just said, I
8 guess I have a question, though, for the State, instead
9 of having the April meeting where we made a decision
10 that's only going to be part of the river and, again I
11 think it's better to have the entire river covered, as I
12 understood it was three years out before anything could
13 really be finished or really be taken up; so the question
14 I have is if we wait until next January and we try to
15 coincide with that, is we could have a two year period of
16 time as opposed to a three, so those folks who are
17 concerned don't have any different timeline.

18
19 CHAIRMAN FLEAGLE: That three year period
20 is mentioned in the proposals as a phase in and that's
21 where that came from.

22
23 MR. HASKETT: Right. But I guess I'm
24 asking if that could be two years instead of three
25 because then what I heard people saying yesterday was
26 they were mostly concerned it's going to be three years
27 out and we're delaying another year then you end up
28 actually in the same place timewise if you could do that.

29
30 CHAIRMAN FLEAGLE: Well, I mean that
31 would be up to the Board to make that decision once those
32 proposals were on the floor. I mean that three years is
33 in the proposals and so I mean we don't have the ability
34 to change that.....

35
36 MR. HASKETT: No, I'm.....

37
38 CHAIRMAN FLEAGLE:now.

39
40 MR. HASKETT:just trying to get an
41 indication of whether that's even possible or likely.

42
43 CHAIRMAN FLEAGLE: Commissioner.

44
45 COMMISSIONER LLOYD: Mr. Chairman.
46 That's in your discretion, these are your proposals, you
47 will be taking action on them. To the extent that you
48 believe at that point that you want to proceed with them
49 and that a two year rather than a three year phase in is
50 necessary, that's subject to your deliberation.

1 CHAIRMAN FLEAGLE: George, and then Sue.

2

3 MS. MASICA: Go ahead, George.

4

5 MR. OVIATT: Sorry, Sue. I'm really not
6 too interested in delaying this for a two year period, I
7 really think that we should put a timeframe on it and
8 move with what information we have and I think that
9 should be shortly after the State Fish and Game has had
10 an opportunity to meet. I would not be too much in favor
11 of saying two years and then sooner if possible. I think
12 we should say that as soon as we could meet after we've
13 received the results of the State Board of Fish in
14 January.

15

16 Thank you, Mr. Chairman.

17

18 MS. MASICA: The question, Mr. Chairman,
19 that I had was -- my understanding is there are different
20 studies and different pieces of data that were sort of
21 the additional information to help us be better informed.
22 Some of that would be available in April if we were to
23 proceed as scheduled, some of it not because of what
24 happened last summer. What if we have another situation
25 this summer as happened last summer, will we be in a
26 similar spot a year from now, well, we got to wait again
27 because what we thought what was going to happen in 2008
28 and then didn't -- was going to happen in 2009 and then
29 if it doesn't happen in 2009 are we positioning ourselves
30 where we're going to be in the -- the potential for
31 perpetual deferral because of lack of information, you
32 know, are we ever going to really have all the
33 information we could possibly have.

34

35 CHAIRMAN FLEAGLE: Appreciate that. I
36 heard the Department say that they were going to use the
37 data that was taken from last summer's portion of the
38 summer that was completed, it wasn't completely undone
39 and that they did say that it was important enough that
40 they felt that they were going to complete the study next
41 year, correct me if I'm wrong, Commissioner?

42

43 COMMISSIONER LLOYD: No, Mr. Chairman,
44 that's exactly correct.

45

46 CHAIRMAN FLEAGLE: Thank you. So we do
47 intend to have the data set complete next summer.

48

49 Niles.

50

1 MR. CESAR: It's a real problem both with
2 people down river as well as middle and upper river and
3 I obviously am not in favor of a two year delay. I mean
4 I'm struggling with a delay until January, quite frankly.
5

6 I think that there is information and I
7 believe that you could take that information and make
8 some assumptions off of it, is that -- that valid, I
9 don't know. I just don't believe that you're going to
10 see much more earth shattering new information come out
11 of this thing. And I believe it's been demonstrated that
12 bigger mesh sizes catch bigger female fish, and we're
13 concerned about that. Folks up river are very concerned
14 about that as they should be.
15

16 A further delay has compounding impacts
17 on the whole river. And by us further delaying this
18 thing I don't believe that we're doing the best service
19 to the subsistence fishermen, either ones, either ones
20 down river or up river, they need to have some sense of
21 something's really happening here.
22

23 Having said that I believe that we cannot
24 delay past January or February of next year. I just
25 don't believe that that's in the best interest of our
26 program. So I don't have a problem with saying that the
27 April is an unmanageable timeframe for us to really deal
28 with this but waiting to 2011 is not something that I
29 would support. And I really believe that if there is
30 information out of this summer's program that leads us in
31 a different direction then I'm assuming that we will be
32 provided with at least some information, not the report,
33 obviously that has to be dealt with by their board, their
34 process, but it's catastrophic information that would
35 make a difference on that river then I think it behooves
36 everybody to share information.
37

38 So I would go along with the delay but
39 not past January of February.
40

41 CHAIRMAN FLEAGLE: Pete.
42

43 MR. PROBASCO: Mr. Chairman. Mr. Cesar.
44 I hear what you're saying but to put one more piece of
45 information that has to occur is we have to provide the
46 opportunity for our affected Councils to look and act
47 upon the analysis to these two proposals. So if we were
48 to defer this until after the Board of Fish, January
49 2010, our RAC schedule is February/March 2010 so that
50 would put us into April for a Board meeting, which we

1 could do but I just wanted to make sure we recognize we
2 have to have that opportunity for our Councils to look at
3 it.

4

5 MR. CESAR: Yeah, and I appreciate that
6 and I don't have a problem with that. I think that that
7 is a logical kind of step to take.

8

9 CHAIRMAN FLEAGLE: So it sounds like
10 there is at least some support to deferral it's a time
11 issue so maybe we could break this down into two parts
12 and deal with them separately. I see lots of hands so
13 I'll go ahead and let the discussion complete. I'll call
14 on Steve and then -- okay, Steve and then Sue. Steve, go
15 ahead.

16

17 MR. KESSLER: Thank you, Mr. Chairman.
18 I guess I see both sides of the issue too as others have
19 and Niles has brought out.

20

21 One of the things that I was sort of
22 debating in my mind is whether there would be some way to
23 have both our Board and the Board of Fisheries listen to
24 the same information at the same time so that -- you
25 know, we keep having the public come in -- in our process
26 the public comes in, in the State's Board system we keep
27 hearing from the biologists, often we hear from the same
28 biologists at both meetings and I'm just thinking that --
29 as I understand it the Board of Fisheries meeting is next
30 January, perhaps there is a way that we could have both
31 Boards come together at the same time and hear the same
32 information and then, of course, deliberate and take
33 separate action.

34

35 Now, again, the issue of how that would
36 interface with the Regional Advisory Councils -- right
37 now if we were to take this forward and meet in April we
38 would use the information we have at hand. Now, will
39 there be more information by next January, there may be
40 some, there may be some information that's available for
41 the fall meetings of the Regional Advisory Councils, but,
42 you know, I think that if there's a way that we could
43 move this forward in a very timely manner, we don't know
44 what the Board of Fisheries will do and I believe that we
45 have sort of delayed, deferred this issue. The Board has
46 addressed it and has really, in my mind, decided to just
47 delay and defer until we have more information and more
48 information, well, we do have more information now, we do
49 have the Bromaghin study which we -- I think it's pretty
50 clear that there is a problem, we don't maybe yet what

1 the correct mesh size would be to have a different -- for
2 a new regulation to be put in place but that
3 information's coming fairly quickly.

4
5 So, anyway, if we could figure out a way
6 that we could jointly meet, hear the same information
7 from Staff and let the public, make sure that everybody
8 hears all the comments all at the same time, maybe we
9 could work something out and then act in a pretty timely
10 fashion.

11
12 CHAIRMAN FLEAGLE: Okay, before I go to
13 you Pete, we'll go to Sue and then George.

14
15 MS. ENTSMINGER: Thank you, Mr. Chairman,
16 for allowing me a question.

17
18 I just wanted to ask Pete a question, he
19 -- you gave the timeframe if it was taken up and had to
20 go before the Councils, is it the same timeframe for the
21 herring in Southeast that was deferred earlier, I just
22 want us to be treated equally.

23
24 MR. PROBASCO: Mr. Chair, if I may. Ms.
25 Entsminger. The Makhnati Island issue hasn't been
26 deferred to a time certain. What the Board passed was
27 not to exceed two years. So once that information on the
28 Makhnati Island becomes available then my Staff, during
29 a Board work session would present that to the Board and
30 then they would make a determination on what date they
31 would like to meet. They don't have to fall in line with
32 just these two meetings, they can actually have a meeting
33 time outside of that.

34
35 CHAIRMAN FLEAGLE: George.

36
37 MR. OVIATT: Thank you, Mr. Chairman. If
38 what I'm hearing here is that we would allow the State
39 Board and if we could meet at the same time or not
40 doesn't -- it -- it would be nice if we could hear the
41 same information. But looking at the timeframe they meet
42 in January 2010, our RACs meet February and March, then
43 I assume that this Board would come together probably in
44 April, would be the soonest that we could come together.
45 Is that time enough to cause some impact for that
46 summer's fishery on the Yukon?

47
48 CHAIRMAN FLEAGLE: Pete.

49
50 MR. PROBASCO: Mr. Chair. Mr. Oviatt, If

1 the Board were to take action in April of 2010 on
2 specific proposals those could be implemented for the
3 season through our other special action process, et
4 cetera, and Ken may want to expand upon that, but we do
5 have the ability if the Board takes action.

6

7

CHAIRMAN FLEAGLE: Lester.

8

9

MR. WILDE: Thank you, Mr. Chairman. I
10 think we all realize that there are a lot of different
11 things that are affecting the size change of the salmon
12 in the river. We need to take the information that is
13 collected, I don't know whether we have any information
14 that is collected out in the Bering Sea on the bycatch on
15 the size of salmon that they're catching out there, also
16 the global situation out in the ocean, and we -- we
17 really -- I -- in my mind I don't think that the mesh
18 size is the only culprit that's causing the reduction or
19 the poor returns that we've been getting into the river,
20 there's a lot of different avenues that we need to
21 investigate in order for us to come with a decision that
22 we -- because it's our livelihood that we're discussing,
23 we're talking about.

24

25

Our people have always shown that they've
26 had the ability to be able to control what their take is
27 in the river. And if you have enough people that are
28 concerned like we are on the river, we want to find the
29 answer also, and we want to be able to make a decision
30 that are based on facts and not on speculation.

31

32

Delaying these proposals would give us an
33 opportunity to get more information because just by mesh
34 size alone we can't determine exactly how to handle the
35 situation, we need to get the information from all the
36 entities that are involved in the problem with the
37 fisheries.

38

39

Thank you, Mr. Chairman.

40

41

CHAIRMAN FLEAGLE: Thank you, Lester.
42 And this Board, I know it's changed in composition
43 somewhat since we were presented, but let's see it was in
44 March '07 I believe when we were presented by the
45 Department a study that talked about the fish coming into
46 the river and there were four-- I remember four
47 possibilities as to talking about the size of the fish
48 and you mentioned a couple, the high seas drift
49 fisheries, the weather affecting the temperatures of the
50 water and not stirring up the nutrients that the -- the

1 feed that the salmon need, et cetera, et cetera, and
2 whatever we do with this I'd like to see that we get a
3 copy of that report to all the Board members prior to the
4 meeting as well, I think that had some really good
5 information that wasn't present at our last Board
6 meeting. I referenced it but it goes along with what
7 Lester is saying is that there is a much bigger question,
8 much bigger picture than what the proposals present and
9 anyway that's a good point. I appreciate that.

10

11 So, next, is Commissioner Lloyd.

12

13

14 COMMISSIONER LLOYD: Thanks, Mr.
15 Chairman. You had been discussing somewhat about
16 scheduling and meetings and things and I want to follow
17 up as I have in regard to other proposals, that we would
18 invite and welcome RAC Chairs, RAC members, Board members
19 for that matter, to attend the Board of Fisheries meeting
20 so that you would be listening to the same information.
21 Further, we certainly hope that our respective staff
22 will be working together leading up to both the Alaska
23 Board of Fisheries meeting and to your Federal
24 Subsistence Board meeting so that we follow our covert
25 mandate here of not having dueling biologists but
26 actually we're going to be working with the same level of
27 information, same data sets, et cetera.

28

29 But to the extent that you, your members,
30 or RAC Chairs could benefit from getting the
31 comprehensive suite of information that will be available
32 to the Alaska Board of Fisheries, please do come, please
33 do attend and then subsequently it sounds like the RACs
34 will have their independent meetings so they'll be fully
35 informed if they do come and they can develop their own
36 recommendations for your subsequent meeting if, indeed,
37 that's how you choose to schedule.

38

39 Thank you, Mr. Chairman.

40

41 CHAIRMAN FLEAGLE: Sounds like we just
42 solved our field trip issue, Sitka, January, February.

43

44 (Laughter)

45

46 COMMISSIONER LLOYD: Mr. Chairman. That
47 meeting is January 2010, I anticipate it will be in
48 Anchorage.

49

50 (Laughter)

51

1 COMMISSIONER LLOYD: But you can come to
2 Sitka too if you'd like.

3
4 CHAIRMAN FLEAGLE: All right, further
5 discussion.

6
7 Geoff.

8
9 MR. HASKETT: Well, I guess I'd like to
10 -- it seems to me, though, as opposed to just being
11 invited, I like the idea of actually having an official
12 meeting where it shows we're very serious about this and
13 we actually deliberate after we hear some information,
14 not just have a waiting, so I think that would be my
15 preference.

16
17 CHAIRMAN FLEAGLE: I think that would be
18 something that we haven't done before and have to have a
19 lot of discussion as to how and I'm not sure that we
20 could do that discussion right now on the table to get
21 together to complete the different regulatory agencies --
22 I mean I'm not saying it's impossible but we'd need to
23 really look at the legalities and all the possibilities
24 and I think that that's probably something Staff should
25 work on as a suggestion.

26
27 Geoff.

28
29 MR. HASKETT: Okay, well, I guess just
30 something to look at, not to make a determination today
31 but see if it's possible if we could work it out that
32 way.

33
34 CHAIRMAN FLEAGLE: Pete.

35
36 MR. PROBASCO: Mr. Chair. We'll work
37 with Commissioner Lloyd's staff to see -- I got all kinds
38 of yellow lights going off as far as trying to get two
39 regulatory bodies together to go beyond just listening to
40 information and then deliberate. So it'll be difficult
41 to sort through all of them right now but we will look
42 into it.

43
44 CHAIRMAN FLEAGLE: You see yellow lights,
45 I see red flags.

46
47 (Laughter)

48
49 CHAIRMAN FLEAGLE: And Ken's probably
50 seeing stop signs.

1 (Laughter)
2
3 MR. LORD: No, actually I'm not.
4
5 CHAIRMAN FLEAGLE: Oh, okay.
6
7 MR. LORD: I think that it could be done
8 but from our program perspective the three things we
9 would need would be an opportunity for the Councils to
10 develop recommendations beforehand that we could act on,
11 a public notice of the meeting and a record, an
12 administrative record there.
13
14 CHAIRMAN FLEAGLE: Well, that's something
15 that Staff can certainly look at the possibility if the
16 Board chooses to go that way.
17
18 Commissioner.
19
20 COMMISSIONER LLOYD: Thank you, Mr.
21 Chairman. We have a similar process with the North
22 Pacific Fishery Management Council.
23
24 We have a protocol committee between the
25 two bodies that is a subset of members and then once a
26 year, at least, the attempt is made once a year to meet
27 with both full bodies together. That is an information
28 exchange however because various mandates are different
29 and schedules are different, but the idea of having those
30 once a year meetings between the two bodies is to put
31 issues of common interest on the table and to better
32 understand between the two bodies how respective action
33 will be subsequently taken.
34
35 It sounds like we could accomplish
36 something along those lines even if we stop short of
37 having full deliberation and decision-making by both
38 bodies at the same meeting.
39
40 CHAIRMAN FLEAGLE: Thank you. George.
41
42 MR. OVIATT: Yeah, I like that idea
43 because that then lets us allow time for the RACs to hear
44 this and then we can move shortly after that as to what
45 this Board would want to do.
46
47 CHAIRMAN FLEAGLE: Pete. Pete.
48
49 MR. PROBASCO: A lot of stuff is going
50 through my head right now but keep in mind also Board

1 members that January, is also our wildlife meeting, and
2 if it continues as in past years, we usually deal with
3 somewhere in the neighborhood of 55 to 65 proposals so we
4 also have that work load as well.

5

6 CHAIRMAN FLEAGLE: Niles, and then Sue.

7

8 MR. CESAR: It wouldn't be -- I mean it
9 would be possible for us to hold that wildlife meeting at
10 the end or before the Board of Fisheries so that we
11 wouldn't incur a tremendous amount more of expense to do
12 that. For example, if we met in Sitka and we attended
13 and listened, you know, I'm not clear about
14 deliberations, I'm actually not much in favor of that
15 together, but listening and getting the information and
16 sharing it, we could do that the first part of the
17 meeting or even the last part of the part of the meeting
18 and still have our wildlife meeting accomplished. So I,
19 you know, I think I speak in favor of doing this and
20 trying to adjust our wildlife meeting somehow and maybe
21 it isn't jointly in the same town but clearly right close
22 or in conjunction with this Board of Fisheries meeting.

23

24 CHAIRMAN FLEAGLE: Sue.

25

26 MS. ENTSMINGER: Yeah, thank you, Mr.
27 Chair. I would have another suggestion and that is that
28 all the Councils on the Yukon River also meet somehow
29 jointly prior to the meeting so -- I believe strongly
30 that you're going to have a continual, you know,
31 polarized situation if we don't begin to try to work
32 together also and when you're face to face on contentious
33 issues you can work out things a little differently than
34 if you're apart, separately.

35

36 CHAIRMAN FLEAGLE: Pete.

37

38 MR. PROBASCO: Mr. Chairman. Ms.
39 Entsminger. I think the concept of getting the three
40 Councils together is a good one, we have tried in the
41 past and we've had very limited success. The most recent
42 one was back in the early 2000s where we did one in
43 Wasilla but it's something we can explore, very time
44 consuming. If you recall that meeting was almost a week
45 long to complete. While we had the meetings prior to get
46 the Chairs and all that and so you had all the prep
47 meetings up to the actual meeting so, anyway, we can look
48 into that.

49

50 CHAIRMAN FLEAGLE: Geoff.

1 MR. HASKETT: I understand totally Niles
2 concern but I didn't think -- I thought we said no
3 deliberations, I think the intent was to put the groups
4 together to hear all the same information, have meetings
5 close together but the deliberative part would be
6 separate.

7
8 MR. CESAR: Yeah, and that term.....

9
10 REPORTER: Niles. Niles.

11
12 MR. CESAR: That term was used by someone
13 and it may not have been us, I just don't remember quite
14 frankly. But the term deliberations was used and so I'm
15 obviously not in favor of that and our Board is not
16 suited to do that, I believe.

17
18 CHAIRMAN FLEAGLE: All right, I got Bert
19 next.

20
21 MR. ADAMS: Thank you, Mr. Chairman. I
22 would also support -- I appreciate Commissioner Lloyd's
23 invitation, you know, for RACs to attend the Board
24 meetings but I think they also need to be coordinated so
25 that we don't have them at the same time. An example
26 here is, as I understand it, the Board of Fish is going
27 to be meeting in Sitka from February 17th to the 26th,
28 well, our RAC meeting is going to be held in Petersburg
29 from the 24th to the 26th, so there's a little bit of,
30 you know, conflict there and I hope that, you know, these
31 kinds of situations can be leveled out so that RAC people
32 would be able to attend these Board meetings without
33 having to rush to another meeting.

34
35 CHAIRMAN FLEAGLE: All right, we've had
36 a lot of discussion let's see if we can start wrapping it
37 toward closure. It doesn't sound like there's too much
38 opposition to at least waiting a little longer and not
39 holding the April meeting. Maybe if we could just break
40 it down in pieces and talk about the deferral to times.

41
42 Is there a motion to further defer these
43 proposals, not dealing with the time right now, could we
44 just get that out of the way.

45
46 Geoff.

47
48 MR. HASKETT: Mr. Chair, I'd like to make
49 that motion to defer.

50

1 CHAIRMAN FLEAGLE: Is there a second.
2
3 MR. OVIATT: I'll second.
4
5 CHAIRMAN FLEAGLE: All right, we got a
6 second.
7
8 The purpose of the motion is just to gage
9 whether there is interest at least to defer, we can
10 discuss the deferral to time once we determine that we
11 are all in support of deferring.
12
13 Discussion.
14
15 George.
16
17 MR. OVIATT: Mr. Chairman. Why couldn't
18 we put some timeframes on that motion to state that we
19 would not delay this any longer than April of 2010.
20
21 CHAIRMAN FLEAGLE: Okay, if we think we
22 can get there then let's do that, do you want to withdraw
23 the motion and work on it a little bit.
24
25 MR. HASKETT: Yeah, I would like to
26 withdraw, I think that's actually what we should do.
27
28 CHAIRMAN FLEAGLE: All right.
29
30 MR. OVIATT: I'll withdraw my second.
31
32 CHAIRMAN FLEAGLE: All right, then let's
33 get a motion on the floor that we can deal with and work
34 with.
35
36 (Laughter)
37
38 CHAIRMAN FLEAGLE: George.
39
40 MR. OVIATT: I guess I can try. Mr.
41 Chairman. I put a motion on the floor that we defer, is
42 there a title to this, or -- Yukon fishery regulatory
43 proposal for a time period no later than April of 2010.
44 Would that be sufficient, Pete.
45
46 CHAIRMAN FLEAGLE: Is there a second.
47
48 MR. HASKETT: Second.
49
50 CHAIRMAN FLEAGLE: Okay, we do have a

1 second.

2

3

Discussion.

4

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George.

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CHAIRMAN FLEAGLE: Fish.

MR. OVIATT: Uh, fish -- I'm sorry, State Board of Fish, the opportunity to have the State Board of Fish to meet on the proposals that are in front of them dealing with this and the opportunity to maybe look at the holistic issues on the whole Yukon, and maybe be in -- along the lines as what the State would be.

CHAIRMAN FLEAGLE: Niles.

MR. CESAR: I intend to support that. I am somewhat concerned about the flow of information back and forth between us and the Department as to lead up to -- at the end of this upcoming fishing cycle. And I know that we've committed to -- that our people would cooperate with the Department and share information so that as information becomes available it gives us a chance to, at least run through any outside information and provide updates to our RACs because I want us to -- you know I don't want us to hit January and it sounds like at least one RAC is going to be meeting in January already and so there'd be virtually no time that they will have so I believe whatever information we can provide to them before that period would be beneficial to them. Am I wrong, Bert, are you meeting in January?

CHAIRMAN FLEAGLE: Bert.

MR. ADAMS: No, in February.

MR. CESAR: Oh, February 24th.

MR. ADAMS: Right.

1 MR. CESAR: Okay. Okay, my mistake. But
2 I still believe that positive sharing of information
3 early on as we get it would be in our best interest to
4 share it.

5
6 CHAIRMAN FLEAGLE: Okay, appreciate that.
7 Further discussion on the motion.

8
9 Bert.

10
11 MR. ADAMS: Yes. Just a clarification
12 here, Mr. Chairman, Mr. Niles, through the Chair. You
13 know, the Board, am I correct is going to be meeting in
14 Sitka February 17th through the 26th, and then we have
15 our meeting the 24th through the 26th and, you know, if
16 I were to go I'd be away from home too long and, you
17 know, I can't jump from one meeting, you know, just off
18 the cuff to another and my choice would be, of course, to
19 go to the RAC meeting and maybe send a designee there but
20 I just wanted to clarify the fact that these meetings,
21 you know, should be coordinated so that we would have
22 time to prepare after our RAC meetings or before, you
23 know, for the Board of Fish or Board of Game meetings,
24 for that matter.

25
26 CHAIRMAN FLEAGLE: Response, Pete.

27
28 MR. PROBASCO: Yes, thank you, Mr. Chair.
29 And what we would be looking at, Mr. Adams, is the
30 schedule for 2010, you're looking at 2009 and that may be
31 challenging when we look at Makhnati but 2010 is what we
32 would focus on for this.

33
34 Mr. Chair.

35
36 MR. ADAMS: Thank you, Pete, but I was
37 just using as an example of what, you know, I would like
38 to see avoided.

39
40 Thank you.

41
42 CHAIRMAN FLEAGLE: Are we ready for the
43 question on the motion to defer to no later than April
44 2010.

45
46 Steve.

47
48 MR. KESSLER: Just a little bit more
49 follow up. I think that -- and I expect to vote in favor
50 of this, but I think we should take a look at what our

1 different options are for, you know, a joint meeting and
2 not deliberation, see if there is a way that we can bring
3 the Councils in so that we can have a rapid deliberation
4 on this. You know if the Board of Fisheries meets in
5 January, we're sort of pushing a lot of info -- a lot of
6 timelines, if there's brand new information that comes
7 forward at that meeting, have that information go out to
8 the Regional Advisory Councils in a winter meeting and
9 have the Board meet in April, I mean I think that's going
10 to be very difficult to do that. So what we need to look
11 at efficient ways to bring information in early, have all
12 that information available as best as we can to the RACs
13 so that they can meet. I think it's going to have to be
14 a meeting before January, I just don't see how everything
15 can be put together. But, anyway, that's really for
16 Staff to work out how all that's going to work out. But
17 I see timeline difficulties and I think that we're going
18 to have to look at innovative ways to meet that April
19 date given that Board of Fisheries meeting is happening
20 in January.

21

22 CHAIRMAN FLEAGLE: Pete says we'll be
23 fine.

24

25 All right, Lester.

26

27 MR. WILDE: Thank you, Mr. Chairman. I
28 just wanted to say one thing, you know, in making this
29 decision where you're affecting a lot of lives on that
30 river, there's a lot of people that are going to be
31 having a lot of problems with not just -- with the --
32 with the runs coming in, with the livelihood and their
33 dependency on their ability to be able to collect the
34 resource and be able to utilize it to their advantage but
35 I just want to let you know, you know, this decision has
36 to be made with all the information that's there. We
37 don't know if all the information that is pertinent to
38 this is going to be in at that time, but I know with my
39 Council we're going to have to look at this real hard
40 because it affects us all, every one of us in that
41 region. So giving yourself a timeline I think is a good
42 idea but also remember that we need all that pertinent
43 information before a decision is made.

44

45 Thank you, Mr. Chairman.

46

47 CHAIRMAN FLEAGLE: Thank you. And it
48 sounds like that's our goal and so I'm going to go ahead
49 and recognize the question on the motion.

50

1 Pete.
2
3 MR. PROBASCO: Thank you, Mr. Chair. The
4 motion before you is to defer the two proposals, which
5 are FP0912 and 13 to no later than April of 2010. And,
6 Mr. Kessler.
7
8 MR. KESSLER: Yes.
9
10 MR. PROBASCO: Mr. Cesar.
11
12 MR. CESAR: Yes.
13
14 MR. PROBASCO: Mr. Haskett.
15
16 MR. HASKETT: Yes.
17
18 MR. PROBASCO: Mr. Fleagle.
19
20 CHAIRMAN FLEAGLE: Yes.
21
22 MR. PROBASCO: Ms. Masica.
23
24 MS. MASICA: Yes.
25
26 MR. PROBASCO: And Mr. Oviatt.
27
28 MR. OVIATT: Yes.
29
30 MR. PROBASCO: Motion carries, six/zero.
31
32 CHAIRMAN FLEAGLE: All right, thank you.
33 Appreciate all the input everybody had into that
34 discussion.
35
36 We're now moving to Board discussion of
37 Council topics with Regional Advisory Chairs or designees
38 and then we'll do the DVD after that, so we'll start the
39 Council Chair discussion and I think I had something.....
40
41 MR. KESSLER: Mike.
42
43 CHAIRMAN FLEAGLE: Go ahead.
44
45 MR. KESSLER: Would it be possible just
46 to take a couple minutes so we can switch over and have
47 Denny come back in.
48
49 CHAIRMAN FLEAGLE: Oh, yeah, good idea,
50 I need a new cup of coffee anyway, 10 minute break.

1 MR. KESSLER: Thank you.

2

3 CHAIRMAN FLEAGLE: Break.

4

5 (Off record)

6

7 (On record)

8

9 CHAIRMAN FLEAGLE: Good morning, Federal
10 Subsistence Board is back on record. And I did find my
11 talking points for the Council Chairs meeting, and most
12 of it already has been said.

13

14 So this discussion is for an opportunity
15 for the Council Chairs to have an open discussion with
16 Board members on topics that we haven't already dealt
17 with in the meeting. I encourage open discussion and
18 these discussions are part of an open public meeting.
19 Council representatives are free to introduce
20 administrative and resource oriented matters for
21 discussion, however, please keep in mind those who wish
22 to participate in the discussion must still be recognized
23 before speaking and the meeting requested by the Eastern
24 Interior Council Chair should focus on ways to improve
25 the dual management system, whether the State is in
26 compliance with ANILCA is outside the purview of the
27 Federal Subsistence Management Program. Council Chairs
28 should be aware that they are subject to the Hatch Act
29 and, therefore, approaches identified for improving the
30 dual management system cannot involve influencing
31 legislators. Any list of ideas developed during the
32 proposed meeting will be forwarded to the Federal
33 Subsistence Board and possibly to the Secretaries of the
34 Interior and Agriculture for consideration but will not
35 be afforded .805(c) reference.

36

37 And leading out with that we're now open
38 for discussion.

39

40 Bert.

41

42 MR. ADAMS: Thank you, Mr. Chairman. I
43 appreciate this opportunity that we have, you know, to
44 have an open dialogue between Council Chairs and the
45 Federal Subsistence Board.

46

47 I'd like to elaborate on a couple things
48 here and I apologize, you know, if what I say might, you
49 know, touch some touchy spots in people's hearts but I
50 feel it needs to be said.

1 You know, ANILCA says that the State and
2 the Federal government must work together on subsistence
3 resources in the state of Alaska, and that the State of
4 Alaska will manage resources as long as it is under
5 Federal law, which is under the guidelines of ANILCA.
6 The State has come out of compliance because of a
7 conflict with the State Constitution that says all
8 resources belong to everyone and to discriminate, you
9 know, against any one group of people was their reason
10 for being out of compliance. And I know that there were
11 several attempts, you know, for the State to come in
12 compliance but you've got these lawsuits that are pending
13 that have to be taken care of before, you know, that
14 effort is made. And so I just wanted to, you know, make
15 mention of that.

16
17 And I'd like to also, if I might, Mr.
18 Chairman, share with you some insights that I believe
19 that the American people are really ignoring, passing up
20 or not aware of, and it has to do with our Constitution.
21 You know I didn't intend to talk about this until, you
22 know, Diane McKinley mentioned, are you going to give an
23 educational presentation on the Constitution, I'd just
24 like to take a minute or two and elaborate on a few
25 things that I have discovered.

26
27 One of the things that I found out, I'm
28 not an attorney for one thing, you know, so I wouldn't be
29 able to buck heads with Ken or Keith or, you know, Steve
30 on any issues that are a little more detail, but I've had
31 conversations with attorneys and I've gone head to head
32 with them on certain issues that I'm going to share with
33 you today.

34
35 One of the things that the Declaration of
36 Independence says, is that, we're all created equal in
37 the eyes of the Creator, and that among these are the
38 protections of our lives, our liberties and our pursuits
39 of happiness. And a sentence or two later it goes on to
40 say, and I mentioned this several years ago, I think it
41 was at a meeting in Ketchikan, that when the government
42 no longer does these things then it's up to the people to
43 either alter or abolish that government and start a new
44 one that is based on those very same principles and that
45 is the protection of our lives, or liberties and our
46 properties and our pursuit of happiness. I don't think
47 that we're at a point where we need to abolish our
48 government just yet but I do believe that there's a lot
49 of room for altering. And I think, you know, we need to
50 keep that in back of our mind as we go through all of the

1 proposals that are before us, you know, are we
2 restricting too much or, you know, are we taking more and
3 more rights away from individuals to go out and enjoy the
4 resources that are there for us.

5
6 And then there are some issues in the
7 Constitution itself that really bothers me. And when I
8 was going to college I took this course on the US
9 Constitution, a whole semester of it, and what we did is
10 we put it apart, analyzed here and there and then we put
11 it back together again, and, you know, when an individual
12 by the name of Alexis Tocqueville, who is from France
13 sent by his government over to America in the mid-1800s,
14 and his purpose was to come here and find out why America
15 became such a powerful nation in such a short order of
16 time. It took other nations hundreds and even up to a
17 thousand years to reach their pinnacle of success and,
18 yet, in about 50 years or so America began to flex its
19 muscles and make a presence in the world. And so he was
20 sent here to find out what was going on that made us such
21 a great nation. And he spent about 18 months here and
22 then he went back to France and he wrote this book called
23 Democracy in America. And there are three things that he
24 noticed when he went through the cities in America, is
25 that, there were strong families and the school system
26 was teaching the Constitution in their classrooms, they
27 were doing what I did when I took this course at Brigham
28 Young University, they took it apart and put it back
29 together and the purpose of that was to be able to know
30 and understand, you know, what contained -- what is
31 contained in that instrument that made us what we are so
32 that we wouldn't have to go to war and defend it, that we
33 can do it with words. And so that's what I'm going to
34 try to do today, Mr. Chairman, is use my knowledge and
35 understanding to help us realize some of the things that
36 we might have strayed away from or what we can do to
37 bring back again.

38
39 There are a couple of amendments in the
40 Constitution that I think was very damaging. One of them
41 was the 16th Amendment, which authorized the Federal
42 government to impose taxes on our direct incomes. This
43 was passed in 1913 and it really wasn't intended by
44 Congress -- you know, either parties, it was a contest
45 between the Democrats and the Republicans to introduce
46 this bill but neither one of them wanted it because one
47 didn't want the other one to prevail in it but it got
48 introduced into Congress and, of course, you know, it was
49 passed by both the House and the Senate. Well, it
50 required two-thirds of the vote of the American people

1 for it to become an amendment to the Constitution and low
2 and behold it happened and so now we have, what I think
3 is one of the most damaging amendments to the way that
4 our government functions. And it wasn't until the 1930s
5 during the Depression when this began to blow out of
6 proportion and I'll leave it right there, but the power
7 to tax as some of you may have read some of my articles,
8 is the power to destroy. And when you take, you know,
9 hard earned people's money and put it into one pot and
10 try to redistribute it, you know, nations have tried it
11 in the past and it's never worked.

12
13 And then the other one has to do with the
14 State's rights issue and that's the 17th amendment.
15 Prior to that Senators were appointed by the State
16 Legislatures and their purpose was to go to Congress and
17 represent the best interests of the states.

18
19 The Representative was elected by the
20 people of the states and their purpose was to go to
21 Congress and represent the best interest of the people.

22
23 Now, I don't know why the 17 amendment
24 was passed but it also had to go through the votes of
25 both Houses and two-thirds of the American people, and,
26 now, today the Senators are elected by the people and so
27 they are more responsive to the people than they are to
28 the states and so, you know, the State's right issue and
29 so forth and I think it was this amendment that has
30 weakened the states in that regard.

31
32 So I really -- you know, I'm not going to
33 try to elaborate on what we can do to remedy those
34 things, all I can say is that, you know, if see something
35 happening that is not right then it is our right as
36 American people to either, you know, make changes as
37 necessary so that we can go back to the principles of
38 protecting our lives, our liberties and our pursuits of
39 happiness.

40
41 And I need to make mention, also, that I
42 think it's Article 1, Section 8, paragraph 17 or 18 about
43 Federal government's ability to have control or own land,
44 and it says in -- and one of the things about the
45 Constitution is that the Constitution was designed for
46 the purpose of controlling government, and the
47 governments -- of the states and the Federal government
48 and so forth was designed to control people, and so, you
49 know, that concept needs to be brought back again. And
50 so that section only authorizes the Federal government to

1 have control of lands that are 10 miles square for its
2 central body of government, we're talking about
3 Washington D.C., and then any other lands in the states
4 that has anything to do with Navy bases, Army bases, post
5 offices and things like that, and the Federal government
6 cannot come in and take land away from the people in the
7 states without the consent of the people. And so, you
8 know, I need to say that ANILCA is a lot different than
9 all of the other states because it was a cooperative --
10 well, I say -- ANILCA did come in and you know with the
11 consent of the state of Alaska, so we're okay there, it's
12 just that I think, you know, that these things need to be
13 also, you know, deeply looked into and find out what we
14 can do to really make it work for us.

15

16 That's enough on that, Mr. Chairman, I'll
17 just make a couple more comments here.

18

19 The State of Alaska last year, if I
20 remember correctly, came up with an idea that they should
21 have some working groups, you know, to take care of
22 issues that can be brought to, you know, the front during
23 meetings, regular Board meetings and so forth and I -- I
24 rejoiced at that idea and I think it's a real good one.
25 But I didn't, you know, remember them saying, you know,
26 who was going to be included in this and I really think
27 that RAC Chairs should be involved in that working group
28 as well as the community. We should be as transparent as
29 we possibly can when we have these working group
30 meetings, okay, much like the way that other public
31 meetings and again it must comply with FACA as well. So
32 we need to be transparent in that particular issue as
33 well.

34

35 And yesterday I saw something that kind
36 of turned on the light bulb and it had to do with the C&T
37 determination with Ninilchik. I think the Board needs to
38 be really consistent with their C&T determination. And
39 I'll bring up the issue of Gustavus, which the Board, you
40 know, accepted that area of C&T a couple years or so ago.
41 And I have to -- you know, this was brought up in our RAC
42 meeting and I brought up the issue, you know, that one
43 individual submitted that proposal and it managed to make
44 it all the way up to the Board and it got accepted and I
45 agree, you know, that anyone can submit a proposal. But
46 the thing that disturbed me about this particular issue
47 is that there wasn't any public hearing, they didn't try
48 to involve some of the other communities that was going
49 to be affected like Hoonah and, you know, the communities
50 that were around them, and so I think, you know, that we

1 need to be really consistent with the C&T proposals.

2

3 I know that every community has their own
4 special characteristics and so forth, you know, and we
5 must consider those as well and I think a little bit more
6 consistency is in order here.

7

8 Excuse me, my mouth is getting dry.

9

10 But, Mr. Chairman, I appreciate the
11 opportunity you've given me to express these opinions to
12 you.

13

14 We do still have the greatest nation in
15 the world and it was the US Constitution that made us
16 that and when we start drifting further and further away
17 from those principles that the Founding Fathers
18 established for us and I believe that they were very wise
19 people, then we need to do something about bringing back
20 those principles that made us a great nation.

21

22 Alexis Tocqueville, and I'll just use
23 this as my closing remarks, said in his book, Democracy
24 in America, he said America is great because America's
25 good and America will cease to be great only when it
26 ceases to be good. And we have seen 19 or so great
27 nations that have come and gone throughout the history of
28 man, and they started off, you know, with very strong
29 principles and rose themselves to the powers that they
30 were but they all fell, and another thing that
31 Tocqueville mentioned was the fact that nations don't
32 necessarily fall by consequence without -- they fall
33 because of erosion from within, and, so, you know, just
34 leave you these thoughts and appreciate the opportunity
35 to express these to the body.

36

37 Mr. Chairman.

38

39 Gunalcheesh.

40

41 CHAIRMAN FLEAGLE: Thank you, Bert. Sue.

42

43 MS. ENTSMINGER: Thank you, Mr. Chairman.

44 And thank you for the history lesson, Bert, it's very
45 important, I agree.

46

47 If I could ask a question about this
48 Hatch Act, I'm a little bit -- I didn't read it so I'm
49 not sure -- you're just saying we cannot come up with
50 anything at this meeting that would institute lobbying

1 legislators, is that, in short, what you're saying?
2
3 CHAIRMAN FLEAGLE: Ken.
4
5 MR. LORD: That, in short, is what we're
6 saying, yes, that's right.
7
8 MS. ENTSMINGER: Well, I finally learned
9 something. Okay.
10
11 MR. LORD: I'm happy to -- I can get you
12 more materials on the Hatch Act if you'd like.
13
14 MS. ENTSMINGER: Okay, then that.....
15
16 MR. LORD: It's something you should know
17 about.
18
19 MS. ENTSMINGER:brings me to a
20 question. As an individual, if I wanted to lobby, I can
21 just never -- what am I limited to?
22
23 MR. LORD: You have to do it in your own
24 individual.....
25
26 REPORTER: Ken. Ken.
27
28 MR. LORD: Sorry. You'd have to do it in
29 your individual capacity, not in your capacity as a
30 Council member.
31
32 MS. ENTSMINGER: Am I limited to saying
33 that I might have this experience of serving?
34
35 MR. LORD: We need to -- we probably
36 should talk off the record about this.
37
38 MS. ENTSMINGER: Okay.
39
40 MR. LORD: Yeah.
41
42 MS. ENTSMINGER: Well, I'll try not to
43 jump on the Hatch Act here. But I'm going to talk about
44 ways to improve dual management, I believe that's what
45 we're after here.
46
47 And some of the discussion at the first
48 day of the meeting that I heard brought up some questions
49 to me but the -- if I look, you know, overall looking at
50 the meeting we just had there was almost everything

1 probably could have been done prior to the meeting
2 without having a meeting of three days based on if we
3 work on dual management and you have a system, so I'm
4 going to push hard for a system between the State and the
5 Federal that a lot of these, you know, the idea to throw
6 a proposal out there and go through this horrible process
7 that could have been done prior to and the proposal never
8 got to the Board level, that maybe there was a solution
9 to it before it ever got to the Board level. I mean you
10 did talk to it, Pete, how that could be done. So I mean
11 that is one of the things I think is very, very
12 important. And if there's a way to have RAC involvement
13 in that process that would also be important.

14

15 And I guess I want to, you know, both the
16 State and the Federal, I see -- we are volunteers, maybe
17 some people have the luxury of, you know, to go to all
18 these meetings but it's very challenging to get to all
19 these meetings and I don't know how we can make it a
20 little easier on volunteers. Like for me, I can't just
21 run to an airport and get on a plane, I got to either
22 drive to Fairbanks or Anchorage so it becomes real
23 difficult to participate. You have to ask yourself how
24 much time you want to dedicate to it. And at this point
25 in my life it is very important to me to see Alaska
26 working together and not having so much layers of
27 government that make it hard for individuals to be
28 involved, and that's what we've gotten to here, I think,
29 now. So any way that we can minimize that is vitally
30 important, I don't know, even teleconferencing ahead of
31 time. Because one of the main concerns I have as the
32 Chair of the RAC is a lot of things come up at a meeting
33 that I had never been aware of prior to the meeting so
34 then you don't have good knowledge to make decisions at
35 those meetings and I think the Staff people, somehow or
36 another needs to try to get us more involved prior to the
37 meetings. And I know we can sit in on InterAgency Staff
38 meetings but again it becomes real challenging the amount
39 of time you can do that also and keep working. So I
40 guess, you know, there was a time you had the RAC Chairs
41 ask for some type of income to help them out but I guess
42 it cannot happen because of FACA is my understanding.

43

44 I'm going to leave it at that and hope
45 some other Council Chairs have something to input to it.

46

47 CHAIRMAN FLEAGLE: Lester.

48

49 MR. WILDE: Thank you, Mr. Chair. I am
50 at this time going to school and being at my age I am

1 going to the school of becoming a practicing elder and
2 being in that school has taught me a lot, you know, with
3 our elders they've taught us tolerance of each other and
4 the ability to be able to understand the situation and
5 the problems that are being forced on us, in some cases
6 by different cultures other than ours.

7
8 And one thing that we must all understand
9 is that there are lives that are out in the villages that
10 you don't even know of or have heard of in the area that
11 you are dealing with. But tolerance is something that
12 you've got to be able to go out and see. You've got to
13 go out to the villages, you've got to go out and be
14 hungry with the people that are living there. There's a
15 piece in the newspaper today from Emmonak describing some
16 of the situations that some of the people out in the
17 villages have to go by, shortage of fuel, the price of
18 fuel going up as far as -- as high as it has this last
19 season and this price will be with us until the next
20 delivery of fuel which is going to be next -- first part
21 of next spring, so we're going to be living with the \$7
22 out in the Yukon -- out in Hooper Bay where I come from.

23
24 But one of the problems that I've seen is
25 the abuse of customary trade for cash with the resource
26 that we are trying to protect in-river, our king salmon,
27 which is the number 1 salmon resource that we have and
28 collected by every one of the indigenous people that are
29 living along that river. And I think one thing that
30 needs to be done is to -- you know we have regulations
31 for all of our -- there's -- to our subsistence resources
32 that we deal with and I think one of the things that need
33 to be looked at is the customary trade for cash, that is
34 being abused in some cases along the river. And I think
35 if I'm able to at the next meeting, I'm going to have
36 either myself or our Staff put in a proposal to be able
37 to regulate so that we can regulate that customary trade
38 for cash with the resources that are being deleted, I
39 guess you could say, but I think -- I just lost my -- I
40 just lost my train of thought, but anyway that's one
41 thing I wanted to get before you, is that, you know, we
42 have to be tolerant, you have to be tolerant. We all
43 have to be tolerant with each other. And we need to be
44 able to understand what it is to be hungry. Hungry is
45 not missing a meal. Hungry is being so hungry in your
46 body for the nutrition that your body is used to.

47
48 Thank you.

49
50 CHAIRMAN FLEAGLE: Thank you, Lester.

1 Other discussion. Harry.

2

3 MR. BROWER: Thank you, Mr. Chairman for
4 giving me the opportunity to communicate to you this
5 morning. You know it's -- I've been sitting here
6 listening to the discussion about fisheries, I don't --
7 I have to say that I'm fortunate I don't have to see that
8 type of problem up in my area. If you're talking bowhead
9 whales it'd be a different issue for you, coming from me,
10 and for the Board to learn more about bowhead whales.
11 That's one of our biggest resources up on the North
12 Slope. But in comparison to what type of discussions
13 that occur here with the resources and the user groups is
14 somewhat difficult to comprehend because it seems to be
15 lacking, some of the communications that really need to
16 occur to address the problem.

17

18 You know I make that comparison in terms
19 of how we, as Alaska Eskimo Whaling Commission and the
20 whaling communities communicate to manage one resource,
21 the bowhead whale, we all have to come together because
22 we're under a quota system that's been imposed on us by
23 international regulations for whaling. So I just sit
24 here and I made my observations, you know, there was a
25 process that was in place early on but I couldn't really
26 understand why the process was taken out of the system as
27 it was being addressed, it was the very issue that we are
28 talking about, you've been talking about for the past few
29 days, in regards to this Yukon fisheries. I remember --
30 and there's been change in Staff, in some Board members
31 since I've been part of the Council, you know, it's been
32 part of my work -- I'm currently the deputy director for
33 the Department of Wildlife Management in the North Slope
34 Borough, and it's been part of my work to monitor the
35 Federal Subsistence Program. I started off as the
36 subsistence coordinator, research coordinator for the
37 North Slope Borough, Department of Wildlife Management,
38 and it was part of my job to monitor the Federal
39 Subsistence Management Program. I'm not going to claim
40 that I know everything about the Federal Subsistence
41 because it's a big, big organization to be monitoring and
42 there's a lot of information in the mandates for each of
43 the Federal agencies and trying to learn all that I don't
44 think I can claim to say that I know it all, I don't and
45 I acknowledge that. But just from my observations, you
46 know, there was a process I was alluding to just a bit
47 ago in terms of a means of trying to answer the concern
48 of the resource problem that the user groups are being
49 subjected to in terms of the availability of the fish
50 along the Yukon River, and that was utilizing the RAC --

1 the tri-RAC, each of the three groups that were along the
2 Yukon River meeting to see what was the best process to
3 use and make recommendations to the Board to make their
4 decisions. And I forget what the protocol was on, I
5 can't -- like I said, I can't remember it all, but it's
6 been several years and I was just mentioning to one of
7 our Staffs here in terms of what happened to that process
8 that was already in place, I'm just thinking that I'm
9 going back into a Deja vu about trying to address the
10 concern that was being addressed five years ago, I guess
11 that train of thought's been removed and new people have
12 come into play within that transition in time -- over
13 time, the State's gotten involved, it was the part of all
14 the groups, the user groups, the resource managers from
15 the Federal and the State working together to try to
16 address the concern that you're dealing with today.

17
18 I thought that needed to be brought back
19 on the table for this to really -- to address the
20 concerns of the user groups, you know, it's been five
21 years already and yet you're still making the delays and
22 defer to take action on a process that probably could
23 have been addressed some time ago if the continuation of
24 one of those protocols had been just kept moving along
25 and communications between the Chairs or the Regional
26 Advisory Councils themselves, the three of them coming
27 together to see how they can best manage the resource,
28 with the involvement of the Federal agency and the State.
29 I thought that had been a pretty good process in trying
30 to address the concern and, yet, you're still struggling
31 to try and answer the issue.

32
33 And there are just my observations that
34 I'm sharing with you, and I think bringing that tri-group
35 back together and involving the subsistence users to help
36 generate the discussions as to the best approaches to
37 manage the resource. I mean this is one resource. I'm
38 just having thoughts and recalling what the process was,
39 it was the three Regional Advisory Councils along that
40 Yukon River to come together and work on a solution that
41 would help benefit the resource and the users at the end.
42 And I was working with Ida, I was trying to remember her
43 name yesterday, Ida Hildebrand, that had set up some of
44 these Council meetings and went to the communities to
45 help document some of the concerns of the people in
46 regards to how to best manage the fisheries for just this
47 one -- I wrote it down, that king salmon -- I'm not a
48 fisherman, I am not sure of all the different names of
49 all the salmon that the fisheries utilize. If you were
50 talking bowhead I could be very specific on that and all

1 the subspecies of a salmon, I can't say I know them all,
2 it's just that I was writing notes down on what fish you
3 were talking about when you were giving the different
4 names, the chinook or something like that.

5
6 I'm, again, learning through the
7 processes, and I just wanted to share some of my thoughts
8 and observations for how to better approach this, you
9 know, I think -- I thought there was -- at one point in
10 time when the meetings were between the three groups and
11 proposals were being generated by the three groups and
12 submitted to the Board on the way forward somehow got
13 lost along the way and yet you're still trying to answer
14 that very concern today. If those records could be
15 brought back at some point in time for your information
16 to review what was accomplished and why it was stopped
17 I'm not sure if it would help the Board to make its
18 decision, or the Alaska Board of Fisheries to make its
19 decisions, there was some -- I just recall that there was
20 proposals ready to be submitted to both Boards to
21 consider on the way forward of the management of this one
22 species.

23
24 In regards to other issues I think
25 getting the Regional Advisory Council Chairs back to
26 discussing some of their agenda topics might be helpful
27 to see where we could support each other, you know, in
28 comparison to the process that's being used now. I think
29 that's been something that's been lacking, and I think we
30 need to acknowledge that at some point in time. Like I
31 said I'm thankful that you provided us this opportunity
32 this morning. It's something that it was much -- a
33 little bit more condensed with the RAC Chairs meeting
34 before the session of the Federal Subsistence Board, and
35 we aired out some of our differences and seek, you know,
36 support on each proposals that were within specific
37 boundary lines. We have boundaries that have been
38 introduced by the Federal Management Program that
39 resources don't recognize and users utilize both sides of
40 the boundary and, yet, we're only to speak about the
41 region that we're representing. I use the North Slope
42 Regional Advisory Council boundary as the North Slope but
43 outside the boundary in the Gates of the Arctic around
44 Anaktuvuk, their boundary line is right in the middle of
45 the community so they're able to traverse both sides of
46 that boundary and seek resources that they'd like to
47 subsist on at a given time, so I share that with you.
48 And that -- without that communications with -- without
49 the exchange of information, I think that's being lost in
50 a way that should not be, there needs to be that

1 communication as to how these proposals are impacting the
2 users on each sides of those boundaries.

3
4 Like I said I have my observations as
5 being part of the Alaska Eskimo Whaling Commission we
6 know that resources do not have boundaries because we
7 have international boundaries that the resources cross,
8 just the bowhead itself crosses three boundaries on its
9 migration north and south. It starts out in the Bering
10 Sea, goes into Russian waters, goes up into the Alaskan
11 waters again and then into the Canadian Beaufort, so
12 those are the boundaries of one resource, and the
13 resource doesn't have those boundary lines, it's the
14 users that -- we, as users, have been given to learn and
15 utilize as to when we can take the resource and when it's
16 available but the communications between all three of
17 those countries, it's just been very recent that we've
18 been able to communicate to meet the needs of the people
19 in using that resource, specific resource. I think
20 that's what needs to be sought here is in terms of
21 subsistence documentation, what is the need of the
22 community and how do you address to meet that need, with
23 regulation -- instead of imposing so much restrictive
24 regulations on the user groups. I think that's something
25 I'd like to -- I wanted to share with you, Mr. Chair, and
26 the Board and others in terms of a way forward on
27 managing a very specific resource. I think it was --
28 like I said, I was just trying to recall it was an
29 example to utilize as to how the comparative between the
30 State and the Federal Management Program on a process to
31 if we're going to be on board with both resource managers
32 that we use this as an example and that Yukon River
33 Management Area was one of them. If it was not going to
34 work there, it was not going to work with the rest of the
35 resources on a way forward to manage wildlife or fish
36 under the two resource management agencies.

37
38 I leave you with these thoughts, Mr.
39 Chairman. I probably could talk a bit more in terms of
40 comparison of the different resources, marine mammals and
41 where the -- where I'm more familiar with, I'm not too
42 familiar with the fisheries process, and we don't see
43 that too much up on the North Slope. Like I said we're
44 fortunate, we're not into that situation but we do have
45 other resources that we're dealing with that we do have
46 problems with that -- and that's related to marine
47 mammals. And there are other resources that we have
48 difficulty in managing but we -- it's not under this
49 purview, under the Federal Subsistence Management, in
50 terms of migratory birds and marine mammals.

1 Thank you, Mr. Chairman.

2

3 CHAIRMAN FLEAGLE: Thank you, Harry. And
4 even though you don't have as much experience in the
5 issues that we've dealt with here at the Board we still
6 welcome and appreciate and value your input and your
7 involvement, and I jotted down three subjects that you
8 touched on that I'd like to further talk about. A
9 couple of them I'm going to turn to Staff for.

10

11 But the first one is you talked about
12 coordination between the State and the Federal folks,
13 biologists and managers and trying to work on these
14 proposals before they come to the Board, and that's a
15 theme that we've been trying to figure out between
16 ourselves. And since I've been the Chair of the Board
17 we've been working with the State, there's a small group
18 of us, there's George Oviatt, Pete Probasco and me, I
19 almost said a different last name for you there.

20

21 (Laughter)

22

23 CHAIRMAN FLEAGLE: And three members from
24 the State and we've been talking about -- we don't talk
25 about policy, we don't talk about proposals, we just talk
26 about how to better our communications, our relations,
27 our involvement with Staff and we are seeing positive
28 results. We are seeing better coordination, we are
29 seeing -- we still have some holes, we still get
30 proposals that come forward that might have been better
31 addressed at a Staff level in the region where the
32 proposal originated, and we saw that at this meeting a
33 couple of times. And so the good news is we've already
34 identified this as a problem and we're working on the
35 solution, but as you know we got two completely different
36 bureaucratic systems with their boundaries and trying to
37 mesh those is really difficult, so we're working on it
38 and I think that we've seen improvements and we can only
39 continue to see more improvement.

40

41 The bottom line, and the State agrees
42 with this in all the conversations I've had with them,
43 the bottom line is we want to be responsive to the users
44 of the resources, and that's our jobs, we just have a
45 little different mandates on how to do that, and how it's
46 applied, but we do have that common interest so we're
47 going to work on that.

48

49 Appreciate you bringing that up and maybe
50 that'll speak a little bit to your concern to, Sue, about

1 how we can better this process.

2

3 I think that some of the topics that
4 we're talking about here we can certainly bring to our
5 next group, like you talked about a protocol, and this
6 one I'm not familiar with, you referred to a protocol
7 that existed where the State and the Councils and stuff,
8 and maybe Pete you could address that and edify me and
9 whoever else isn't aware of it and maybe this is
10 something that we should look at reinstituting.

11

12 MR. PROBASCO: Yes, Mr. Chair, and Mr.
13 Brower's been involved in the Federal Subsistence Program
14 for quite awhile, and he actually served as a member on
15 the MOU working group when it was in the initial stage
16 and there was specific protocols that we were charged to
17 try to develop. One was the information sharing protocol
18 and the other one was the Yukon River management
19 protocol. And we had Council members serving on that to
20 do just like they're doing here, to counsel and bring the
21 public into the process. Unfortunately and unknown to us
22 at that time having -- the way this program was
23 structured and the way we were working we were in
24 violation of FACA. And this group was not FACA
25 sanctioned and so consequently as a result of that along
26 with the change in the State Administration the working
27 relationship we had slowly dissolved.

28

29 With that said, where we're at now, we're
30 back on a course that I view that we've regained that
31 ground. We have an MOU that we all agree to. We are
32 meeting just like you've stated. And we need to find a
33 means to bring the affected areas or public into this
34 process as well as we work towards some of these
35 protocols in the future. But Mr. Brower articulated very
36 well they were good discussions and it was very valuable
37 in developing those two protocols.

38

39 Mr. Chair.

40

41 CHAIRMAN FLEAGLE: All right, thanks,
42 Pete. Well, I encourage us to see if there's an
43 opportunity to revive that and we'll discuss over on our
44 side as to how we can start to work on that and I'm sure
45 that we can sit down with the State and have some
46 assistance where they are involved in the issue as well.

47

48 The other topic that I noted that you
49 referenced the Council Chairs meeting where Council
50 Chairs gathered to discuss proposals and talked about

1 supporting and not supporting, my understanding is that
2 they used to do this but because of budgetary reasons we
3 weren't able to afford extra meetings and that's why it
4 was pulled into the Board meeting, right, Pete, maybe you
5 can give me a brief recap of how the process used to work
6 and what's different now.

7

8 MR. PROBASCO: I wouldn't -- on that
9 topic, Mr. Chair, I wouldn't say it was budgetary
10 reasons, and I'm going to go to Ken, but we had the
11 meeting of the Chairs in conjunction with the Federal
12 Board meeting, there were issues raised in the manner
13 that we were dealing with that that raised some legal
14 concerns.

15

16 Ken.

17

18 MR. LORD: Well, actually in a way it's
19 related to the issue of executive meetings of the Board.
20 These discussions were occurring between the Board and
21 the Council Chairs outside the eye of the public and
22 there was concern that substantive issues were being
23 talked about, proposals, and that decision-making may be
24 occurring behind closed doors and that raised some
25 concerns in the public so it was felt that we had to
26 bring the meeting between the Council Chairs and the
27 Board into the public eye and have it in this kind of a
28 forum.

29

30 So that's where it is now.

31

32 CHAIRMAN FLEAGLE: All right. So that's
33 why we're doing it at the meetings now in this open
34 session, okay, I recollect now.

35

36 All right, further discussion, okay, I
37 got two hands, I got Sue and then I'll go back to -- oh,
38 Harry you want a direct response.

39

40 MR. BROWER: Yes, just a comment, a
41 follow up comment, Mr. Chair. I'm trying to recall what
42 the protocols were in terms of -- I think it was
43 something to do with the definitions that were being
44 utilized, amounts necessary for subsistence and
45 subsistence use amounts, like I said I just needed to
46 think back a bit about where we were and how we were
47 approaching it and I think that's one of the definitions
48 and terms that we were trying to work on at the time.

49

50 Thank you, Mr. Chairman.

1 CHAIRMAN FLEAGLE: All right, thank you,
2 Harry, we really appreciate your input.

3
4 Sue, and then Bert.

5
6 MS. ENTSMINGER: Thank you, Mr. Chairman.
7 I just wrote down some ideas that I wanted to pass on on
8 working together.

9
10 You know on a ground level, the State has
11 the Advisory Committee process and then the Federal level
12 we have the RAC process, I hear at the ground level, at
13 Fish and Game Advisory Committees and without mentioning
14 names, Staff people, and the State are concerned that a
15 lot of times the Federal Staff is working on their data
16 and then not collaborating and they get frustrated, so I
17 just feel like if there's a way that the State people can
18 be, at the ground level working on, like these analysis
19 that are being done, that -- and I don't know, Denby,
20 it's possible that there's too much work on the Staff as
21 far as the State people is concerned, but it just seems
22 like it's important that there's always some ground level
23 participation on the topics like this.

24
25 And then I guess that would come under
26 your procedure as OSM and Staff and, you know, I look at
27 this procedure on the Federal side, and I see several
28 layers actually, and maybe it has to be, you have to help
29 me out here, we have OSM Staff from all the different
30 regions, they prepare an analysis, and then the next
31 thing is the InterAgency Staff, they get together and
32 they come up with another opinion, they agree mostly but
33 it just seems, you know, as somebody like myself who's
34 trying to make a living on my own and self-employed you
35 can't have too many layers or you're suddenly -- you've
36 not accomplished any work, and I guess for me it appears
37 that maybe some of the layers could be simplified.

38
39 And then the other thing I noticed in the
40 years that I've been on this Council, if I picked up the
41 Federal regs and then I picked up the State regs, I can
42 find C&Ts in the Federal regs that is really only on
43 State land, so when you're doing C&Ts I think it's very
44 important to not be concerned about -- and I might be out
45 of line here, there might be some other reason, but it's
46 just another layer of work where there's C&Ts on State
47 land that it's just, why, you know, if it doesn't apply
48 there.

49
50 And the other thing might border on

1 lobbying, but I just want to throw out an idea, and this
2 has been talked about since this subsistence began in the
3 state of Alaska, with the difference in the Federal and
4 the State is the State, as soon as you become a State
5 resident you automatically qualify for subsistence; on
6 the Federal as soon as you -- and that's a year for the
7 State my understanding; and then on the Federal side, I
8 don't know if anything has changed, but the minute you
9 become a resident, which is 30 days, you qualify, it used
10 to be that way, it could have changed, but regardless, it
11 could be 30 days, a year, the difference is you
12 immediately move into an area, I mean the similarity is,
13 you immediately move into an area, you qualify for
14 subsistence. And some of the talk and be ready to Hatch
15 me, if I'm wrong here for bringing this idea up, some of
16 the talk in the communities is why not have some
17 residency requirement, how long they're in a community,
18 five, 10 years for instance before they immediately
19 qualify. That was an idea and, you know, that would be
20 something I know that has to change on both of the laws.

21

22 Thank you, Mr. Chair.

23

24 CHAIRMAN FLEAGLE: Thank you, Sue. I
25 don't know where that requirement for residency is or
26 where it would be inserted, I mean that probably is
27 beyond the Board's purview, though, I guess.

28

29 MR. LORD: (Nods affirmatively)

30

31 CHAIRMAN FLEAGLE: Ken's shaking his
32 head, yes. So I'll focus on what is within our purview.
33 We've heard similar concerns about our ground level Staff
34 not cooperating as fully as they could and we've
35 addressed this with the group sessions that I've talked
36 about before and we're seeing improvements, and we're
37 continuing to try to get those improvements and I think
38 with this new memorandum of understanding that we just
39 signed is going to help in that area because we both, as
40 regulatory agencies, realize the importance of the ground
41 level Staff and their involvement, and so we are working
42 for this.

43

44 And I'd like to say when I was over in
45 Emmonak last summer I saw a real good case of this at
46 play, the biologist from the State that was working on
47 the studies over there and the biologist from OSM, Russ,
48 he's in the room, too, they met daily, they talked, they
49 talked about the data that was going through and so it
50 works, it's just -- we need to expand that. And I

1 appreciate you bringing that up.

2

3 The other topic that you mentioned on
4 Federal versus State regulations, I know we've also been
5 criticized for broadly basing our overlaying the State
6 regs with our regs so we have basically two regulations,
7 where they're the same, and I know that there's been some
8 discussion that we might try to move toward a one book,
9 one regulations book for everything. I don't know if we
10 can ever get there, but it's kind of a semi-goal.

11

12 One of the responses to having these dual
13 regulations is that often times Federal regulations allow
14 for different methods of harvest than the State does. So
15 even though it's the same season a Federally-qualified
16 user can do those Federal activities using different
17 methods, so we feel that it's important that we still
18 recognize a Federal season even though it's the same as
19 a State season, and this is one of the areas that the
20 State doesn't agree with us on. But maybe at some point
21 it's something that we can figure out a way to make work,
22 but it is what it is for now.

23

24 So anyway that's our response -- or I
25 mean my response to your points.

26

27 And I got several more hands, I'm going
28 to go to Bert and then to Lester.

29

30 MR. ADAMS: Thank you, Mr. Chairman. I
31 was very enlightened to have a brief conversation with
32 Tina yesterday and she confirmed the fact that the State
33 and the Board are working a lot closer together so my
34 compliments to you all, and then I got the same responses
35 from members of the Board so I think we're making some
36 good progress in that direction, Mr. Chairman.

37

38 I'd like to just bring up some issues
39 that I made in my introductory comments and see if we can
40 get responses from you on a couple of the issues that I
41 brought up.

42

43 But before I do that I'd like to bring
44 your attention to an issue that I brought out about the
45 sockeye -- the sockeye issues in Southeast, you know, in
46 Chatham Straits, you know, there's some pretty serious
47 conservation issues there. And then in Yakutat last
48 summer we didn't have any sockeye show up at all, I mean
49 they were showing up but by mid-season we only had about
50 9,000 pass the weir and the goal was to get 19,000 so we

1 were way short, not even half of what the goal was, and
2 so I called up Gordy Woods, the biologist there with the
3 State and I asked him, do you have any idea what's going
4 on here and he says, yeah, I mean he didn't say I don't
5 think so or I think so, but he says, yeah, and I told him
6 that we were having an ANB/ANS meeting the following week
7 and would you please come down and give a report on what
8 you found out so far. And he came and he brought with
9 him a report that addresses the thermal limits and ocean
10 migrations of sockeye salmon long-term consequences of
11 global warming, and I'm going to leave this with Pete
12 and, you know, Denby, you can contact Gordy and I'm sure
13 he'll be happy to email this to you. But in a nutshell,
14 Mr. Chairman, what this report says is that there was a
15 couple years there when these little frys took off from
16 the river and they went out into the ocean and it was a
17 time when the oceans were very, very unusually warm and
18 because of the warmness of the waters the plankton that
19 normally, you know, habitated those environments were
20 gone, whether they didn't produce themselves or, you
21 know, anyhow it wasn't there and that's what these little
22 frys feed on. And so he says in a sense they starved to
23 death. Another reason is that he said the water was so
24 warm that these little frys weren't able to survive, in
25 other words they fried or cooked, and then, you know, it
26 affected the runs this year. They were predicting real
27 healthy sockeye runs for the Situk River this year and it
28 just never showed up. And so in a nutshell, you know,
29 that's what this is all about. And I'm not a scientist
30 and as I mentioned earlier I'm not a lawyer but I do
31 have, you know, this information here and I want to leave
32 it to you and then anyone else who wants to get it, I'm
33 sure Gordy would be willing to share it with you.

34
35 The other thing that I'd like to address,
36 you know, that I mentioned in my opening remarks is --
37 and I'd like maybe the Board or, you know, someone from
38 the agency to respond to it. I know, you know, Larry
39 Buklis has many times, and I'm feeling like a broken
40 record on this issue but I'm not going to stop because,
41 you know, I feel it's important, it's in regards to
42 Councils generating RFRs, requests for consideration. I
43 know that Councils are an advisory committee to the
44 Board, the State is also an advisory committee to the
45 Board but they are allowed to do RFRs. And, you know, as
46 I mentioned earlier, it's a situation I think that is
47 greatly needed because we do represent the people in
48 Southeast Alaska that in many cases will not be able to
49 have the resources to submit RFRs and we are it, and so
50 I would just kind of like to get a response from someone,

1 you know, on that. And I know a couple three years ago
2 the book that I had, you know, I think it's the Federal
3 handbook of regulations or something like that had a
4 section in there where RACs could make RFRs and then for
5 some reason it came out and a statement from OSM, you
6 know, saying that this was going to be discontinued. I'm
7 still -- I still have a question as to the reasons why
8 and so if somebody could respond to that I'd appreciate
9 it.

10

11 I already talked about Board executive
12 sessions so I don't think I want to belabor that.

13

14 Maybe the Sea Otter Management Program
15 for Southeast area, we see the sea otters just, you know,
16 devastating the subsistence resources there and they are
17 in direct competition with our subsistence way of life
18 and we need a management plan that will, you know, kind
19 of balance things out so that we can reap the benefits of
20 our clams and cockles and crabs and so forth.

21

22 And then another issue that I'd like to
23 maybe have someone respond to is this issue of alternate
24 Council members. I know it's, you know, going to create
25 a budget issue here but there were times when we didn't
26 have a quorum, you know, at a RAC meeting or at our
27 Subsistence Resource Commissions meeting a couple times
28 and it would have been helpful if we'd had alternate
29 Council members so that we were able to do business and
30 we weren't able to in those situations.

31

32 So, Mr. Chairman, those are three issues
33 that I brought up and I'd like to see if we could get
34 somebody to respond to them.

35

36 Thank you, sir.

37

38 CHAIRMAN FLEAGLE: Thank you, Bert. I'll
39 do that. I think we got some good response coming but
40 I'd like to give us a break, 10 minute break and then
41 we'll come back.

42

43 (Off record)

44

45 (On record)

46

47 CHAIRMAN FLEAGLE: All right, we're back
48 on record. And we left hanging with some responses to
49 some comments that Bert made and then we also have a
50 couple of responses to comments made previously that

1 weren't responded to.
2
3 MR. ADAMS: Mr. Chair.
4
5 CHAIRMAN FLEAGLE: Bert, go ahead.
6
7 MR. ADAMS: May I interject just for a
8 minute here.
9
10 CHAIRMAN FLEAGLE: Yeah, go ahead.
11
12 MR. ADAMS: I'm wondering, you know, are
13 we going to go -- are we going to be done this morning or
14 are we going to go into the afternoon or what? I need to
15 check out of my hotel at noon if I'm going to stay so I
16 need to know what to do here.
17
18 CHAIRMAN FLEAGLE: That's up to you all.
19
20 (Laughter)
21
22 MR. ADAMS: I'm actually scheduled to go
23 home tomorrow but it'd be nice if I could go home today.
24
25 CHAIRMAN FLEAGLE: Okay, it's 11:05 and
26 my hope was to have been out of here within a couple of
27 hours of starting this morning and I only put three hours
28 on my meter so at 11:30 I need to run out and plug my
29 credit card in the slot so I hope we'll be done by noon.
30
31 MR. LOHSE: I'll try to make my comments
32 short.
33
34 (Laughter)
35
36 CHAIRMAN FLEAGLE: Okay. We have the
37 issue of the Council's generating RFRs, I know that's
38 been spoken of a couple times, Pete, do you want to
39 just.....
40
41 MR. PROBASCO: Ken's going to.
42
43 CHAIRMAN FLEAGLE: Ken, do you want to
44 reiterate our position on that please.
45
46 MR. LORD: Well, I can read [sic] it, I
47 probably need to explain it a little better too.
48
49 You know, this may come as a shock to you
50 and I'm glad you all are sitting but, you know, the

1 Federal government is not perfect and so for that reason
2 it's important that we have judicial review of this
3 Board's decisions.

4
5 The court system, though, will not take
6 a review of an administration action unless the entity
7 requesting that review, the plaintiff, has exhausted
8 their administrative remedy, basically the court system
9 says, we don't have jurisdiction to consider this
10 question until you have given the administrative agency
11 every possibly chance to make the right decision, and go
12 and jump through all those hoops.

13
14 So with regard to Councils filing RFRs,
15 if there's an aggrieved community and the community does
16 not file the RFR but the Council files it instead, and
17 then the Board doesn't act in a way that satisfies that
18 community the community has lost its right to bring a
19 lawsuit, to have its claims settled because it did not
20 jump through that hoop of filing a request for
21 reconsideration.

22
23 So I understand what you're saying, Bert,
24 when you say that, you know, the Council wants to act on
25 behalf of its constituents but in a way you're not doing
26 them any favors or at least potentially you're not doing
27 them any favors if you're the one filing the RFR instead
28 of that community. So that's the concern and the reason
29 we don't allow Councils to file RFRs.

30
31 MR. ADAMS: Mr. Chairman, may I ask Ken
32 a question.

33
34 CHAIRMAN FLEAGLE: Yes.

35
36 MR. ADAMS: What about assistance to a
37 community, would the expertise on the RACs Staff be able
38 to help them prepare RFRs and, you know, at least provide
39 expertise for them to move forward in that effort.

40
41 MR. LORD: Well, there is some
42 awkwardness there in that you're helping a potentially --
43 a party that you're potentially, you know, going against
44 with developing its position but, that said, you know,
45 the Staff at OSM is always helping those who want to file
46 information with this program to do it correctly and do
47 it properly and to make sure that they have the -- you
48 know, what steps to go through and what information is
49 needed. So I don't know that they really need to do
50 anything else other than to -- you know, in filing an RFR

1 it's not that difficult, you let the Board know what it
2 is your -- you want reconsidered, you have to do it
3 within 60 days, and you have to lay out your reasons why
4 you think it was wrong and I don't think it's really that
5 high of a burden on aggrieved parties.

6

7 MR. ADAMS: Mr. Chairman, a follow up.
8 I kind of disagree there. Because in many cases I
9 mentioned before, over and over again, that there is no
10 -- the expertise isn't in the community, you know, their
11 are tribal governments and their community governments
12 are pretty limited in the resources that they have to
13 actually put together a document such as these and so,
14 you know, any way that we can be of any help and
15 assisting them with that, you know, I'm just kind of
16 concerned with the fact that we can't. And, again, you
17 know, I really feel, you know, that they need to be
18 repres -- you know properly served and if that's not
19 available to them, you know, then they're not going to
20 file any RFRs and they're going to be left out there, you
21 know, in the cold.

22

23 You know that's my concerns and, you
24 know, appreciate your comeback on that but at least now
25 I can say that I had my head to head butt with an
26 attorney, thank you, sir.

27

28 CHAIRMAN FLEAGLE: Thank you, Bert.
29 Pete.

30

31 MR. PROBASCO: The two other questions,
32 Mr. Chair, is alternate Council members. That is always
33 an option and if I recall it was budgetary that resulted
34 in that being removed. But the real problem is and this
35 is an opportunity for me to make a plug is right now for
36 the call for Council membership applications, we do not
37 have enough applicants to fill the vacant seats that we
38 have and so to add another tier to that to look for
39 alternate Council members would even make that more
40 difficult. We have extended the application period into
41 February and we're making a more assertive effort, even
42 more than what we've had to try to get more applicants
43 for each of the Councils so that we can at least get the
44 vacancy seats filled. And I'm open, Mr. Adams, to
45 looking at the alternate Council member concept but first
46 we need to get the Council vacancies filled.

47

48 And the other issue, Ms. Entsminger, on
49 the residency let me just read it because you don't quite
50 have it correct:

1 To qualify to hunt, trap or fish under
2 Federal subsistence regulations you must
3 have your primary permanent place of
4 residence in a rural area and you must
5 have lived in Alaska for the previous 12
6 months.

7
8 Having a seasonal residence does not
9 qualify you as a rural resident.

10
11 So it has to be your primary residence,
12 where do your kids go to school, where do you purchase
13 your groceries, et cetera.

14
15 And we do know that we've had some
16 problems in some areas of the state and I also know that
17 those agencies that are responsible for those areas have
18 elevated the review of people applying for Federal
19 subsistence permits.

20
21 Mr. Chair.

22
23 CHAIRMAN FLEAGLE: Thank you. All right,
24 and the one other comment that Bert had made was
25 concerning sea otters and those are not managed by us and
26 I'm not sure what the appropriate avenue for dealing with
27 that -- National Marine Mammals -- no, Fish and Wildlife
28 Service, okay, so talk to Geoff.

29
30 MR. HASKETT: I'm not actually prepared
31 to do that now but we could certainly have a separate
32 discussion about that, I'll give you my card and we can
33 talk.

34
35 CHAIRMAN FLEAGLE: All right, good deal.

36
37 MR. ADAMS: Mr. Chairman, just a follow
38 up on that. I'm just wondering, you know, what kind of
39 influence, you know, and I think maybe Geoff would be
40 able to answer that as we communicate one with another,
41 but what kind of influence would we have with National
42 Marine Fisheries in addressing that issue on behalf of
43 the subsistence users and I think -- and I think the
44 answer's going to come here in a bit but I just wanted to
45 bring that out as a matter of concern here.

46
47 CHAIRMAN FLEAGLE: Thank you.

48
49 MS. ENTSMINGER: Just on that topic,
50 that's the same thing that we feel, as the Eastern

1 Interior, your involvement, the Federal Board to the
2 National Marine Fisheries, like the bycatch on the Yukon,
3 we feel that that involvement is important for not only
4 us but other, you know, the Federal Subsistence Board,
5 and same as what he's pointing out on sea otters.

6

7 CHAIRMAN FLEAGLE: Right.

8

9 MR. ADAMS: Mr. Chairman. Yeah, isn't
10 there something, you know, that addressees you know one
11 Federal agency working with another agency and, you know,
12 what the limitations on that and if so.....

13

14 CHAIRMAN FLEAGLE: Pete.

15

16 MR. PROBASCO: Mr. Chair. And I will use
17 the example of the Bering Sea salmon bycatch which will
18 be also addressed here after we're done on this part on
19 other business.

20

21 This Board has elected to, when it has
22 sufficient information and concerns as it relates to
23 those species under their responsibility that's affected
24 by another regulatory body to make comments to that body
25 via a letter signed by the Chair. And we have done that.
26 We were involved in the halibut subsistence issue where
27 they actually had Council members and Staff assisting the
28 North Pacific Fishery Management Council on that issue
29 and we've also drafted letters and sent them to the North
30 Pacific Fisheries Management Council.

31

32 Mr. Chair.

33

34 CHAIRMAN FLEAGLE: All right, thanks,
35 Pete. I do have a hand up from Myron and I do still have
36 Lester and I have Ralph, so guys hang fire [sic], let's
37 complete the discussions we're on, I do have you on.

38

39 Niles.

40

41 MR. CESAR: Well, you know, each of our
42 agencies operates under different mandates. Our
43 particular agency is under the mandate to assist Native
44 people. So it's within our purview to assist communities
45 at giving them advice in terms of putting together
46 paperwork and we do that often. We also have taken the
47 opportunity on many occasions over the last 18 years to
48 notify other Federal agencies and even State agencies of
49 our concern about the plight of Native people. And so
50 using those kind of venues we're always able to put our

1 oar in the water in defense of Native people and we would
2 continue to do that.

3
4 That's a different hat than we would wear
5 here, obviously, but it is part of our mandate, we are
6 funded for tribal operations and we have a whole network
7 of funded tribes out there who get money from us who do
8 these types of things. So I would encourage, at least
9 the Native folks, that if you have a concern about
10 getting information to other agencies, that you contact
11 us at any of our offices and speak to our superintendents
12 and we can put together information for you which may
13 assist you, it may not assist you but it may, it's hard
14 to say. And also we have an interest in the Sea Otter
15 Commission, we have funded the Sea Otter Commission upon
16 occasion, not lately because we just don't have the money
17 to do that but you can always ask us and they know that
18 and the Whaling Commission knows that because I get to go
19 to Portugal this summer so I make sure that they know
20 that so Harry knows that we have funded them to a large
21 extent over the years, too, that's just part of our
22 different mandate for the protection of the rights of
23 Native people.

24
25 CHAIRMAN FLEAGLE: Thanks for that
26 insight Niles, appreciate that.

27
28 Now, I turn to Lester.

29
30 MR. WILDE: Thank you, Mr. Chairman.
31 Prior to this I failed to mention the fact that one of my
32 best friends had sent his best regards and thank you to
33 the Board -- to the Subsistence Board, Harry Wilde is
34 also my brother, who is also one of the best friends I've
35 ever had and he wanted me to mention the fact that he was
36 wishing you all a good new year and thank you for the
37 decisions that you've made even though you're not always
38 make the decisions in the favor that we think that you go
39 -- that we a-- we appreciate the fact that you do make
40 those decisions anyway. But he's in good shape. He's
41 had a heart attack and when he got his heart operation,
42 a couple months later, he had a gall bladder operation,
43 and right now he's in good health. He's probably better
44 than he was before. I wanted to make sure that I
45 remembered to mention that to you.

46
47 Thank you, Mr. Chairman.

48
49 CHAIRMAN FLEAGLE: Great, thank you,
50 Lester. Myron.

1 MR. SAVETILIK: I was looking at --
2 listening this morning about, Norton Sound would really
3 get involved too with everything that was on the table
4 this morning.

5
6 CHAIRMAN FLEAGLE: I'm sorry, I didn't
7 understand the question.

8
9 MR. SAVETILIK: The issues that were
10 brought up this morning I think Norton Sound would be
11 willing to go with the support of the lower Yukon and all
12 the other.

13
14 CHAIRMAN FLEAGLE: Okay, got it, thank
15 you. Okay, so that is what we're looking for, is
16 coordination and cooperation and I think that's what
17 we're trying to figure out, the best way to go about
18 doing it.

19
20 Ralph.

21
22 MR. LOHSE: Thank you, Mr. Chair. I got
23 about four items and I'll try to make them brief.

24
25 One of the things that's come up a number
26 of times today is the idea of Council Chairs meeting, and
27 I can understand the problem with Council Chairs meeting
28 if there's members of the Board present, but Council
29 Chairs don't make regulations so Council Chairs should be
30 able to meet with each other without being in conflict
31 with the FACA act, I would think, because we're not --
32 we're not even working on the same issues, it's just to
33 understand each other. And I'm just wondering if
34 something like that -- we did that for awhile and I
35 thought that was very good. I thought that it helped us
36 to have an understanding of each other, it helped us to
37 see that the problems go statewide, it helped us to
38 understand different outlooks on the different issues and
39 I'd like to see something like that happen again in the
40 future if it's possible, as just part of one of these
41 meetings, if even all we do as Council Chairs have a time
42 that we're excused or something to go for an hour or so,
43 have a cup of coffee together or lunch together or
44 something and do it as a body.

45
46 The next thing I had, Bert, brought it
47 up, and a member of my Council brought it up, about the
48 working groups, one of the concerns a member of my
49 Council has is on the brown bear working group and they'd
50 like to know what the status of that brown bear working

1 group is, that was between the Feds and the State and
2 they were just wondering whether that was going forward
3 or whether it was -- had kind of come to a standstill
4 right now.

5
6 And then we have the Yukon River and I've
7 sat here and listened to what's going on and talked to
8 Lester and talked to other people, and I went up to the
9 Yukon, this last year, I went up to the Yukon the year
10 before and went up just to look and see and visit with
11 some people up there and see what's going on and what I
12 see in our state and this is -- and I know I make this an
13 issue every place I go and I've made this an issue in our
14 Council, as we get more and more users of limited
15 resources, we're trying to manage them, one of the things
16 that you have to have for good management is you have to
17 know what's happening, you have to have good
18 recordkeeping, you have to have good recordkeeping, it
19 has to be timely and it has to be accurate. And
20 currently in our state the only thing that has any, I'll
21 say accurate recordkeeping at this point in time, is the
22 commercial fishery, and as you go up the river you -- I
23 found the same thing on the Yukon River that I found when
24 I went up the Copper River, stop and see somebody that's
25 got a fishwheel, say you're hungry for a fish, here take
26 one, there's no recordkeeping, there's a casualness about
27 the fish as you get farther up, and so what I would
28 suggest is -- and we've done this as much as we can in
29 Southeastern [sic], if we set up a Federal program, if we
30 set up a Federal subsistence thing, first of all we need
31 education, we need education as to how important it is to
32 manage the fish and how important it is to keep records
33 so that we can have good management of the fish and how
34 each of us as individuals can make impact on the fish
35 that are going to come back in the future and then we
36 should also stick in there, we should stick in
37 requirements. We talk about it as rights, actually each
38 one of us has the privilege of living here. We have the
39 privilege of living on this world and the privilege of
40 using these resources, and with that privilege goes
41 responsibilities and so we need to stress that, okay, if
42 we're going to give out permits let's at least do our
43 part, educate the people, and the importance of reporting
44 and give them good reporting mechanisms so that we can
45 actually know what's happening so that we're not sitting
46 here guessing as to how many fish were taken, where they
47 were taken and things like this, and it's something I
48 think our state needs to really work on too.

49
50 We have a lot of conflicting interests on

1 our resources today, we have sportfishing, we have
2 subsistence, we have personal use, we have commercial,
3 and we have Federal subsistence and State subsistence and
4 all of these take a chunk of the resource and a lot of
5 times we don't know what chunk was taken. So I would
6 really like to stress that if this Federal Board takes
7 action on the Yukon River, one of the things that should
8 be part of their action, just as an example to everybody
9 else, is good education and good recordkeeping so that we
10 can say that we're doing our part to collect the data
11 that's needed for good management, and I'm hoping that
12 our State wakes up to that in the near future and that
13 that goes on every sportfishing license, every personal
14 use license, every charter license, every everything so
15 that we know what's happening.

16
17 Then I'll just leave that at that, that
18 doesn't need a response.

19
20 Then I'll go to what I talked about
21 yesterday and I'm sorry if I stepped out of line when I
22 did, and I hope you didn't feel that I was angry with
23 your decision, I wasn't angry with your decision, I
24 wasn't even disappointed with your decision, and I know
25 you'll face the decision again and probably again.

26
27 As you could tell by the fact that the
28 Council passed that three times, the Council has very
29 strong feelings on it. The village of Ninilchik has very
30 strong feelings on it. It's something that we feel as a
31 Council -- or as Council members that one of the reasons
32 we exist as a Council is because we have local knowledge,
33 because we're more closely attuned to the oral history of
34 an area and one of the things that we do in our meetings
35 is we listen to a lot more oral history and testimony
36 than you have at your meetings here and the question I
37 was asking and it's something that has happened a number
38 of times, do we need to insist then -- I mean we've
39 listened to all of it, our opinion as local people is
40 this deserves to be passed but we can't come up with a
41 paperwork trail to cover it. Now, the oral history we're
42 listening to is dying out. And maybe I have a
43 recognition of that because I'm getting in that age
44 myself and if you waited another 20 years you're not
45 going to have to worry about oral history because the
46 people that have it are going to be gone. And if all of
47 this started 20 years later we wouldn't have to worry
48 about oral history either, we could use our records.

49
50 The records that we looked at yesterday

1 are less than 25 years old, and in that 25 year history
2 they disagreed with each other, and so I'm asking you as
3 a Council member, do I need to insist more that if we're
4 going to forward something we need a good current -- I'll
5 just use, short-term Western history style, recordkeeping
6 that proves our point or are we allowed, as a Council to
7 bring before you, the fact that we have heard old people
8 talk to us, we've heard people in the community talk
9 about their grandparents or their great-grandparents, we
10 know what we would do in the same situation, we've talked
11 to members of our Council that live there, we know what
12 they do, and that's what we're trying to bring before you
13 as a Council; we're trying to bring before you that, I'll
14 say, local knowledge, that if we were doing it someplace
15 else we'd say TEK, but that's -- but we can't use that as
16 a Council, and so that's the answer that I need, I need
17 that from you Board members because I heard all the
18 discussion was over the chart, I didn't hear any
19 discussion about what somebody had said, what we had
20 heard or anything like that.

21

22 MR. PROBASCO: Thank you, Ralph. Our
23 Chair had to go put some more money in his parking meter
24 so he asked me to fill in for him while he's gone.

25

26 I'd like to take your question and give
27 it to Dr. Wheeler who deals with TEK, but to answer your
28 question, Ralph, yes, oral history and local knowledge is
29 very important in decision-making and, Polly, would you
30 want to add anything on how we utilize that stuff.

31

32 DR. WHEELER: How much time do we have.

33

34 (Laughter)

35

36 DR. WHEELER: Well, I'm a social
37 scientist so clearly my interest is in oral history,
38 traditional knowledge, documenting that. I think the rub
39 is, and this is something, maybe if I were on the Board
40 things might be different, but I think the tendency is,
41 of course, with Western Science is to look at the numbers
42 and treat everything else as anecdotal. The problem is,
43 of course, if you, you know, how do you get beyond
44 anecdotal. I think it's easier to look at the numbers,
45 and it's harder to look at the oral accounts because some
46 people say they are subjective but as we all know numbers
47 are subjective and certainly can be subjective as well.
48 So I think it's a matter of education and emphasis and
49 with social science I think there's a tendency to see
50 some of this information -- there's a tendency on the

1 part of some Western scientists anyway to see that
2 information as subjective, but it is due to the
3 interpretation.

4
5 So I guess it's a question for all Board
6 members is to look at the information and under ANILCA,
7 the purpose of ANILCA is to protect and continue and it's
8 not to protect and continue only if its numbers.

9
10 So that's my response to that but clearly
11 in our program we have an anthropology division and our
12 job is to provide information for the analysis, but we
13 can't instruct people on how to use that information, I
14 guess, would be my response.

15
16 MR. PROBASCO: Thank you, Polly. Board
17 members. Mr. Cesar.

18
19 MR. CESAR: Well, I mean obviously that
20 has been a problem for this Board to deal with over the
21 last 18 years I've been sitting here and at different
22 times we have dealt with it different ways.

23
24 There have been times that this Board has
25 paid a lot of attention to that traditional knowledge and
26 there have been times where that has, I would say,
27 discounted, doesn't get as serious a look as some people
28 might want it to get. I would say that I personally rely
29 a lot on the oral history because that's the nature of
30 the beast in Alaska, that many of our societies, that's
31 all we have is an oral history, we didn't have written
32 languages, we didn't have history books to rely on so
33 it's an important part.

34
35 I think the Western science is also very
36 important, I think that you've got to have -- you've got
37 to have a combination of both and try to use your common
38 sense to try to whittle out the right response. Now
39 ,admittedly this Board, a majority of people on this
40 Board come from a Western scientific background, there's
41 no question, that's it. And so I think that they're
42 entitled to their understanding and support of that
43 knowledge. I hope and I believe that the majority of the
44 Board does factor in the traditional knowledge, I believe
45 that. And I also believe, just like anything else, with
46 time, sitting behind this elongated table here, people
47 learn a little more about the relevant society that
48 they're dealing with, we're not in Oklahoma, we're not in
49 Florida, we're not in other parts of the United States
50 where, you know, they have different types of history and

1 some of the Choctaws, Cherokees, and folks like that do
2 have a pretty established written history, over the last
3 several hundred years anyway, we don't have that ability
4 up here, so it becomes -- all of us, it's important for
5 us to try to work that and blend it. And I think we do,
6 I really believe that we do. I don't think anybody has
7 a closed mind on that.

8

9 It's just how much is enough, I mean I
10 don't know. I'm comfortable with my interpretation of it
11 and that's pretty much where I'll stay.

12

13 MR. PROBASCO: Thank you, Niles. I'll
14 turn it back to Mike and Geoff was next.

15

16 CHAIRMAN FLEAGLE: Geoff.

17

18 MR. HASKETT: I'd actually be really
19 interested in looking at the oral history, I guess the
20 only question I have because I don't really know how to
21 treat them so I'd have to go through OSM folks and
22 understand that and kind of translate it for me but I --
23 and I don't even know what that means when I'm saying
24 that so I'd need some education obviously but I think it
25 ought to be part of what we're doing.

26

27 CHAIRMAN FLEAGLE: Bert.

28

29 MR. ADAMS: Mr. Chairman, thank you. Let
30 me give you an example of what we did in Yakutat. We had
31 some record runs of sockeye in the East Alsek River, you
32 know, through the '80s and into the middle '90s and all
33 of a sudden it just crashed, and it had to be shut down
34 and this came a real big concern for the people in the
35 community and so we were able to get together, the tribal
36 government, Forest Service, National Park Service, city
37 and borough and the Native corporation and sit down in
38 one room and try to figure out how we were going to
39 address this issue and came up with about four proposals
40 that we were going to submit to OSM, you know, to do some
41 studies regarding the very first proposal that we
42 emphasized was a TEK project. Now, the idea behind that
43 was to -- and the proposals were going to be submitted by
44 the tribe and I was president of the tribal council then,
45 and the idea that we really emphasized was that we needed
46 to document ways that our people, a long time ago managed
47 their resources, and also take into consideration any
48 other, you know, local knowledge that might come as a
49 result of, you know, the situations down in that area and
50 low and behold, you know, that project was approved. And

1 so we hired an anthropologist, who was from Yakutat
2 Native, and she took on that project and she did a study
3 of the Dry Bay area and documented all that. Now, the
4 idea for that was to take ways and means -- or methods
5 and means that our people manage the resources and then
6 bridge it with Western science when it came time to do
7 management schemes, you know, for that area and it worked
8 out very well.

9

10 And so, you know, I just wanted to share
11 that with you as an example of what we did in our little
12 community, taking TEK and bridging it with Western
13 science, it normally comes out to be the same thing
14 anyhow, you know, thank you.

15

16 CHAIRMAN FLEAGLE: Ralph.

17

18 MR. LOHSE: Just one comment, I really
19 wasn't so much concerned about what you as a Board should
20 do with that as I am what I, as a Council Chair should do
21 with that, or what we should do as a Council, I mean we
22 know that you've turned us down before and, yet, when we
23 look at it from a Council standpoint it feels very valid.
24 Now, we can understand you turning it down, that's not
25 the problem. The problem is do I go back to the Council
26 and say, okay, from now on we don't -- where do we place
27 our importance, do we place our importance as a Council
28 on our local knowledge, on the oral history and testimony
29 we get from our neighbors and sitting over a cup of
30 coffee at the meetings and everything else, or do we as
31 a Council when we have to consider these things, do we
32 try to see if we can round up enough -- I mean our
33 Council has treated things like these reports as
34 axillaries to what we've heard and what we know. In
35 other words, these things in the light of our Council are
36 second place to what we know as people who live there and
37 people who know the people who live there and people
38 who've talked to the people who lived there and people
39 who have listened to the people who lived there and so
40 we, as a Council, have had a tendency to put these as
41 second place and the knowledge as first place, and what
42 I'm wondering is, do I need to, as Council Chair, go back
43 and say we need to reverse our priorities?

44

45 CHAIRMAN FLEAGLE: Pete.

46

47 MR. PROBASCO: Ken.

48

49 CHAIRMAN FLEAGLE: Ken.

50

1 MR. LORD: Ralph, you know, when you read
2 ANILCA, and I don't need to tell you this, it's clear
3 that ANILCA was built in a way or Congress intended
4 ANILCA to be built in a way that allows for the program
5 to be bottom up, for the local users, not only to have a
6 say how the resources are managed but also to have input
7 in the decision-making process, and so I view your job as
8 being, in part, to bringing that local knowledge to the
9 table and to make sure it gets into the administrative
10 record. Now, how you, as a Council, choose to treat it
11 and choose to weigh it is up to you as a Council just as
12 it's up to the Board. But I heard part of your question
13 being, gee, should we be making the effort to bring this
14 knowledge here to the Board and absolutely that answer is
15 yes, and that's one reason we have people from OSM
16 attending those Council meetings so they can hear what
17 the local people have to say about, you know, any
18 particular proposal and that either they can bring it
19 into their analysis or make sure that it gets into the
20 record or you can. But certainly it's a fundamental part
21 of why the Councils exist.

22
23 MR. LOHSE: Thank you, Ken. And just as
24 a side I'd like to say that I feel that the OSM that's
25 attended the meeting has done a good job of bringing the
26 record that we hear in the Councils to your attention,
27 and I would have liked to, yesterday, have sat down and
28 quoted right out of them because so much of what they
29 said is right -- is what we had heard but you have the
30 opportunity to read that. So with that, I have a
31 sneaking suspicion that at this point in time anyhow our
32 Council will probably continue to act in the same way
33 that it's been acting, but I just had wondered whether
34 with all of the lawsuits and everything, whether anything
35 had legally changed so that we had to verify everything
36 that we did with numbers, reports and things like that or
37 could we just still -- our recommendation is to do this
38 based on what we know, what we've heard, who we've talked
39 to and everything like that.

40
41 CHAIRMAN FLEAGLE: Thank you, Ralph. I
42 think we do hear the point, and I don't think it's
43 intended to go all the way down to your level to dictate
44 how your information gathering or presentation should
45 change. I know that whenever we're represented by legal
46 counsel to the courts they examine our record and, you
47 know, we make reference to information you provide, it's
48 all part of the written record and I think it's on us to
49 establish a good record that's on record for our legal
50 counsel to work with.

1 I thank you for the input.

2

3 Other discussion.

4

5 Denny.

6

7 MR. BSCHOR: Well, that's all right.

8

9 CHAIRMAN FLEAGLE: Polly, and then Sue.

10

11 DR. WHEELER: Thank you, Mr. Chair. I
12 just wanted to respond to one of the questions that Ralph
13 had asked and it was about the brown bear working group,
14 that was one of his four points.

15

16 And just to give you some background, if
17 you remember, those of you that were at the May Board
18 meeting, you deferred action on Proposal 08-05, which was
19 a proposal submitted by the State, it was sort of a
20 statewide bear claw proposal issue and the Board deferred
21 action on that proposal pending a working group and the
22 direction to the working group, as discussed on the
23 record, was to examine the issues of tracking of bear
24 claws. There was some concern expressed in the proposal
25 that this is out of control or it could potentially be
26 out of control so we need to address this tracking of
27 bear claw in handicrafts issue.

28

29 There's been some discussion recently of
30 getting a work group together but there seems to be a
31 little bit of differences of opinion about what the
32 purpose of the work group is so we're trying to clarify
33 that purpose before we move any further, but there will
34 be RAC representation as directed by the Board with that
35 working group. So if that gives you some background on
36 that, Mr. Chair, and member Lohse.

37

38 CHAIRMAN FLEAGLE: Thanks, Polly. Sue.

39

40 MS. ENTSMINGER: Yeah, thank you, Mr.
41 Chair. That is what I was going to ask, is to address
42 two of his -- these other concerns that he brought up of
43 the four, and, one, again the Council Chairs meeting at
44 lunch and, of course, the brown bear, and this education
45 thing that hasn't been addressed, I'd like to hear a
46 little more on -- he had suggested these things so if we
47 could get an answer to it.

48

49 CHAIRMAN FLEAGLE: Ken, do you got a
50 response to an informal meeting?

1 MR. LORD: Absolutely I do. I agree with
2 Ralph that there is no FACA problem if the Chairs want to
3 get together over lunch or take some time to talk about
4 whatever issues. The only time that would become a
5 problem is if you, as a group, came back to the Board and
6 said, well, you know, we, as the Council Chairs think
7 that you, Board, should make a decision on a particular
8 proposal. In that case you, as a body, would be
9 providing advice or recommendations to the Board and then
10 we might have a FACA problem, but short of that I don't
11 think there's any problem at all with it.

12
13 MS. ENTSMINGER: But continuing that, so
14 if the Council Chairs then brought up some things that
15 they might have agreed on, come back onto the record and
16 then talk about those individually, which would result in
17 maybe a decision, is that okay, to us to say something?

18
19 MR. LORD: Well, if the something you're
20 talking about is a proposal, is a deci -- is a
21 rulemaking, really, your job is to speak on behalf of
22 your individual Council. If the something we're talking
23 about is a process question, gee, you know, we think
24 maybe you should defer this question for awhile for
25 whatever reason I don't think there'd be a problem,
26 there's not a problem with that. It's really a
27 regulation, if we're changing a regulation then we have
28 to be careful.

29
30 MS. ENTSMINGER: And the education, how
31 would you respond to his suggestion of education?

32
33 CHAIRMAN FLEAGLE: Pete.

34
35 MR. PROBASCO: Sue, that's a -- I mean we
36 always try to do our best when we go to these Council
37 meetings or other meetings to explain and educate what we
38 know, which we recognize may not encompass everything on
39 an issue before a Board or before a Council. Out side of
40 being involved with Council meetings and various, like
41 YRDFA, et cetera, if there are other avenues that are out
42 there we're open to being involved with them as well. I
43 don't know what concept you're looking at as far as
44 education but that's how I look at it.

45
46 MS. ENTSMINGER: I guess the concept I
47 was looking at is a lot of times it comes right down to
48 the user, how the user would be educated about something
49 that affects them and a lot of times it's hard, you know,
50 we go to these meetings and we're -- we don't have the

1 ability to go to every community that's in our region and
2 educate them about something that affected them and a lot
3 of times they don't have that ability, you know, it's
4 more -- a little bit more detailed is what I'm getting
5 at.

6

7 MR. PROBASCO: We do have a lot of field
8 Staff that do take that on as part of their
9 responsibilities, can we improve on that, yes.

10

11 MR. LOHSE: Mr. Chair.

12

13 CHAIRMAN FLEAGLE: Ralph.

14

15 MR. LOHSE: I guess what I was thinking
16 about on that is if we're going to issue permits, that
17 gives us an opportunity at that point in time to include
18 with the permit or on the permit, some education on the
19 whole issue of the fish and the reason for the permit,
20 the reason for the management, the reason for the
21 recordkeeping and that's what I was thinking. I was
22 thinking more -- more of a direct education with any kind
23 of permit that we give out, on the importance and why we
24 want the permit, why it's important that we get the data,
25 what kind of management decisions are dependent on this
26 data and things like that.

27

28 MR. PROBASCO: If I may, Mr. Chair. Mr.
29 Lohse. Yes, we have done that and if you remember we did
30 it on Kenai Peninsula, where Maureen, as the lead,
31 developed an informational document, we did it with Unit
32 18 moose where the Refuge took the lead, but we haven't
33 done it on all issues. And I think working with the
34 agencies as well as the Councils and the public
35 identifying those that need that type of extra effort, it
36 would be most beneficial.

37

38 CHAIRMAN FLEAGLE: Further Council
39 discussion.

40

41 (No comments)

42

43 CHAIRMAN FLEAGLE: All right, well.....

44

45 MR. ADAMS: Mr. Chairman.

46

47 CHAIRMAN FLEAGLE: Bert.

48

49 MR. ADAMS; I do have a question, you
50 know, this bear working group, you know, that Ralph was

1 alluding to and it was made mention that RAC Chairs would
2 be -- or have been a part of that working group, and I
3 was wondering if this was going to be a general practice
4 for working groups in the future, that, you know, RAC
5 Chairs or RAC designees, you know, would be part of the
6 working group as well as, you know, keeping as
7 transparent as possible, so I'm just throwing this out as
8 a matter of satisfaction for myself.

9

10 CHAIRMAN FLEAGLE: Pete.

11

12 MR. PROBASCO: Thank you, Mr. Chair. Mr.
13 Adams. This is nothing new. Our working groups that our
14 program, Federal Program have been involved in, may it be
15 deer in Southeast, moose working -- planning groups,
16 caribou, et cetera, the affected Councils have been
17 involved.

18

19 Mr. Chair.

20

21 MR. ADAMS: Thank you very much.

22

23 CHAIRMAN FLEAGLE: Alrighty, that appears
24 to conclude the discussion with Council Chairs. I
25 appreciate the topics brought up and the good suggestions
26 and ideas and I also appreciate the opportunity to be
27 able to share a little bit more from our perspective of
28 what we're doing and how we're trying to meet these
29 concerns, even before they're raised up because we know
30 that they exist so we want to keep this dialogue open and
31 the bottom line is to make a better process all around
32 for everybody, especially the users of the resource like
33 I mentioned before.

34

35 So with that we have a couple of other
36 items under other business, and first I think I'm going
37 to bring up the chinook bycatch issue, it seems to be the
38 most important and as we talked about at the beginning of
39 the meeting, we did send public comments to -- what was
40 the name of the group we commented to, not the National
41 Marine Fisheries.....

42

43 MR. PROBASCO: North Pacific Fishery
44 Management.

45

46 CHAIRMAN FLEAGLE: North Pacific
47 Fisheries Management Council. And Pete and others
48 attended the meeting in Kodiak and so we are putting
49 forth our concerns I think, Pete, I also heard at that
50 meeting that it takes probably four or five year process

1 but that they might look at this as being a more urgent
2 issue than that and take some quicker temporary action,
3 right, Pete.

4

5 MR. PROBASCO: Yes, thank you, Mr. Chair.
6 What I'm seeking on this action item, I have Mr. Don
7 Rivard, who's been our lead for OSM in tracking the
8 Council actions in this issue, is to, one, bring you up
9 to speed on where we're at since the last time we met
10 and, two, to seek your guidance. We, OSM, would
11 recommend that the Board, again, comment on the action
12 items that will be taken up by the Council in April. We
13 would do it like last time where OSM would draft a
14 letter, which would be shared with the Staff Committee
15 and Board members and then once completed, Mike would
16 sign it, and we would send it to them.

17

18 I plan on, like we did for the Kodiak
19 meeting, to have the affected Councils send either their
20 Chair or a representative to the April meeting, their
21 involvement and testimony was well received and effective
22 and I think we need to be there at the April meeting.

23

24 So if you would, Mr. Chair, Mr. Rivard
25 has a briefing for you to get you up to speed and then
26 we're looking for guidance from the Board.

27

28 CHAIRMAN FLEAGLE: You bet, Don.

29

30 MR. RIVARD: Thank you, Mr. Chair. Good
31 morning to you, Board members and the Regional Council
32 representatives.

33

34 My name is Don Rivard and I'm a fish
35 biologist with the Office of Subsistence Management, and
36 as Pete mentioned I'm also the Staff lead for the salmon
37 bycatch issue.

38

39 We've been tracking this for about four
40 years now pretty closely on behalf of the Board.

41

42 A draft environmental impact statement
43 was released by the National Marine Fisheries Service in
44 early December 2008. This draft environmental impact
45 statement is evaluating the management measures to limit
46 chinook salmon bycatch and just chinook at this time, in
47 the Bering Sea pollock trawl fishery. Some of these
48 management measures include having caps on the amount of
49 chinook salmon bycatch in the pollock fisheries and the
50 caps under consideration range from the annual amounts of

1 29,300 to 87,500 chinook divided seasonally into a winter
2 and a summer/fall pollock fishery. Also that the
3 seasonal closure of the pollock fishery when these
4 bycatch limits are reached and/or a seasonal closure of
5 areas where high salmon bycatch has traditionally
6 occurred.

7
8 The North Pacific Fisheries Management
9 Council has identified its preliminary preferred
10 alternative now and it calls for an annual hard cap of
11 68,392 chinook with a pollock industry self-regulated
12 incentive based program, also known as an inter-
13 cooperative agreement in place to avoid salmon bycatch or
14 an annual hard cap of 47,592 chinook if no such program
15 or ICA is in place. so they're looking at either the
16 68,000 or 48,000 chinook as a hard cap.

17
18 Now, the timeline for the action that
19 they're looking at is right now there's a 60 day public
20 comment period on the draft environmental impact
21 statement and that began, again, in early December and
22 runs through February 3rd, I believe I just heard that
23 they've extended that another amount of time, I didn't
24 find out how long that was going to be.

25
26 The week of February 2nd the North
27 Pacific Fisheries Management Council is holding a meeting
28 in Seattle and the Council will review the effectiveness
29 of conservation measures proposed by the pollock industry
30 and I'll be attending that meeting. The week of the 30th
31 of March, the North Pacific Fisheries Management Council
32 will also hold a meeting here in Anchorage, which Pete
33 just mentioned, to review comments on the draft
34 environmental impact statement and to decide on a final
35 preferred alternative which will be recommended to the
36 Secretary of Commerce. And, again, as Pete said the
37 Chairs or their designated representatives from the
38 affected Regional Advisory Councils will be attending
39 along with myself.

40
41 By December 2010 and this is kind of the
42 timeframe you were mentioning, the National Marine
43 Fisheries Service will review the Council's preferred
44 alternative, write regulations, the regulations will go
45 out for public review and the Secretary of Commerce will
46 make a final decision. And if it all falls into place
47 their actual new regulations will go into effect January
48 2011.

49
50 Now, the Federal Subsistence Board

1 doesn't have jurisdiction or authority over the Bering
2 Sea/Aleutian Islands fishery but we have been closely
3 monitoring this issue for the past five years and your
4 Board recommended to the National Marine Fisheries
5 Service to include an alternative hard cap of less than
6 37,000 chinook in their draft environmental impact
7 statement, which they ended up doing.

8

9 Now, the action item for Board
10 consideration is to send another comment letter to the
11 North Pacific Fisheries Management Council with the
12 Board's recommendation on a hard cap amount if you so
13 choose.

14

15 Now, just a note here that the lowest
16 amount of 29,300 chinook would be consistent with the
17 stated goal of the US/Canada Yukon River Agreement signed
18 in 2002 and would likely be most beneficial to
19 subsistence users in Western Alaska.

20

21 Now, the North Pacific Fisheries
22 Management Council is also evaluating options to limit
23 chum salmon bycatch in the pollock fishery and the
24 National Marine Fisheries staff has developed an analysis
25 and will be reviewed by the Council in the spring and
26 summer of this year and we'll continue to track
27 developments with the chum salmon bycatch as they occur.

28

29 Thank you, Mr. Chair.

30

31 CHAIRMAN FLEAGLE: Thank you, Don. Now,
32 I was kind of confused, you mentioned the 68,000 and 47
33 or 48,000 numbers as provided by the pollock industry and
34 then you mentioned the 29,000 as presented from us, and
35 you made a comment that might have indicated that that's
36 the number that they're going to be acting on or did I
37 misread that?

38

39 MR. RIVARD: Well, again, the North
40 Pacific Fisheries Management Council has come up with a
41 preferred alternative that they've let people know about
42 in this draft environmental impact statement, it's kind
43 of showing which way they're leaning, and the higher
44 number they're looking at, they will go along with that
45 if the pollock industry comes up with a rational program
46 within their industry of how they're going to reach that
47 within their industry. If they can't agree on how they
48 will do that internally then the North Pacific Fisheries
49 Management Council's going to recommend a lower salmon
50 bycatch of the 48,000.

1 CHAIRMAN FLEAGLE: Well, where does that
2 29,000 figure fit in?

3
4 MR. RIVARD: Well, that's the lowest
5 option that they're looking at and that's more
6 consistent, as I pointed out, with the US/Canada
7 Agreement which was signed in 2002 when salmon bycatch
8 was averaging about 38,000.

9
10 CHAIRMAN FLEAGLE: Okay, thanks. Now,
11 we'll see where the Board wants to go with this but, I
12 mean just from my perspective I mean even the lower of
13 the industry's numbers of 48,000 is way too much. I mean
14 we're talking about needing roughly 45 to 50,000 just to
15 meet escapement goals for spawning to cross the border,
16 another 100,000 for subsistence uses and when we add
17 those numbers up, I mean they're not meant to be added,
18 is it 100,000 total or 150,000 -- Dani. Dani Evenson.

19
20 MS. EVENSON: Thank you, Mr. Chair. I'm
21 Dani Evenson, again, AYK regional research biologist for
22 the Department of Fish and Game. And on the Yukon we
23 have on average about 50,000 chinook taken on the US side
24 of the border, on the Canadian side the aboriginal
25 harvest could be anywhere up around 10,000. And you are
26 correct we need about 45 or 50,000 fish for escapement
27 just on the Canadian side of the border, that does not
28 include the US side of the border.

29
30 CHAIRMAN FLEAGLE: Thank you. So to
31 clarify my own comment, so we need just over 100,000 fish
32 at least to enter the river to meet our goals and if
33 we're allowing 68,000 or even 50,000 to be caught, I just
34 see that as counter productive to our goals and I would
35 suggest that if we do move forward with a comment, which
36 I hope we do, do, is to go with the lower, the 30,000
37 range, the 29,000 range that was mentioned.

38
39 Don.

40
41 MR. RIVARD: Well, just to clarify not
42 all the salmon bycatch is coming from the Yukon River,
43 which is, I think, kind of what you're implying there.
44 There's been studies and it shows that about 56 percent
45 of the bycatch is comprised of chinook salmon returning
46 to Western and Interior Alaska rivers, with 24 percent of
47 that bound for the Yukon River alone. So we're talking
48 more than just the Yukon River here.

49
50 CHAIRMAN FLEAGLE: Right, I understand

1 that. I appreciate that clarification, too. I didn't
2 know if they were able to distinguish which stocks, so
3 that helps, but I still think we ought to shoot for the
4 lowest number as possible. These fish should be making
5 it into the rivers. What do they do, they're not allowed
6 to process or market the fish, the salmon as bycatch, my
7 understanding, my understanding is it gets tossed
8 overboard and becomes crab food, I think those fish
9 should be allowed to enter the rivers. That's just how
10 I feel. Right, they don't get to sell it, right, it's
11 not used for human consumption.

12
13 MR. RIVARD: That's correct, they're not
14 allowed to sell it, but they do give some of it away in
15 Seattle, and there's been some mention in the North
16 Pacific Fisheries Management Council meeting of trying to
17 bring some of that fish back to Alaska. I believe a
18 couple of the Councils have also recommended that, the
19 Eastern and Western Interior in their letters to the
20 Council.

21
22 CHAIRMAN FLEAGLE: Okay, thanks. I don't
23 want to muddy it u any further but I do have some strong
24 opinion on the issue. I'll let Board members jump in.

25
26 Pete.

27
28 MR. PROBASCO: Mr. Chair. Just as a
29 reference and you mentioned it briefly there, that when
30 the Board commented initially we looked at that lower cap
31 number. We looked at the historical bycatch level, we
32 looked at the agreement with the US/Canada and then we
33 looked at the history and how it escalated and the Board
34 landed on the lower number.

35
36 Mr. Chair.

37
38 CHAIRMAN FLEAGLE: Okay, thanks. Board
39 members, any objection to taking the same course of
40 action we did last year and that's to have Staff generate
41 a letter that's reviewed by Board members and Staff
42 Committee and send it out and also continue to
43 participate in their process.

44
45 (No comments)

46
47 CHAIRMAN FLEAGLE: Hearing none we'll
48 move forward with that. Pete.

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

1 That's the direction we're looking for and my Staff's
2 saying I need to speak up so I will do that, and as I
3 outlined we will go through a process where we'll draft
4 a letter working with Staff and then get it to the Staff
5 Committee and then ultimately to the Board for final and
6 that's it.

7

8 CHAIRMAN FLEAGLE: Thank you. All right.
9 Next item is there's some discussion about a field trip.
10 Last year the Board traveled -- or quite a few Board
11 members anyway traveled at the invitation of the Eyak
12 Tribe of Cordova to check out some of their Fisheries
13 Monitoring Program sites that they had there. It was a
14 very informative interesting trip. And we're trying to
15 find out if there's interest in a formal trip or
16 something from the Board that we might want to talk about
17 here.

18

19 George.

20

21 MR. OVIATT: Mr. Chairman. BLM would
22 certainly be interested in a trip, where we feel we'd
23 like to go is down the Kuskokwim River Delta area, we
24 haven't been down there in quite some time, and with the
25 issues that we are facing on the Yukon, I think it'd be
26 beneficial for us to make a trip down there.

27

28 MS. MASICA: You mean the Yukon River or
29 Kuskokwim.

30

31 MR. OVIATT: Yukon, I'm sorry, yeah,
32 Yukon River, or both, both would be fine, we have issues
33 -- we have other issues on the Kuskokwim too and if we
34 could arrange it for both that'd be great.

35

36 CHAIRMAN FLEAGLE: Pete.

37

38 MR. PROBASCO: Mr. Chair. I, too, was
39 thinking that would be a logical place for us to go. We
40 haven't been there in awhile. Not only do we have the
41 chinook issue we also have moose issues on the Yukon
42 Delta and if the Board agreed we'd work with the agencies
43 that -- land agencies that are responsible for that area
44 in putting this together.

45

46 Mr. Chair.

47

48 CHAIRMAN FLEAGLE: Just a reminder, if
49 you end up wanting to land and stay in Emmonak, don't
50 plan on finding a good place to stay and bring your

1 rubber boots.

2

3 (Laughter)

4

5 CHAIRMAN FLEAGLE: That was a joke. I
6 actually found a really good place to stay but the hotel
7 that I made reservations at wasn't open when I got there.

8

9 So other discussion.

10

11 (No comments)

12

13 CHAIRMAN FLEAGLE: Is that suitable.

14

15 (Board nods affirmatively)

16

17 CHAIRMAN FLEAGLE: All right, well, we'll
18 go with that. Thanks, Pete.

19

20 MR. PROBASCO: And, Commissioner Lloyd,
21 as in the past, like the Copper River trip, I know you
22 couldn't make that one but you had two of your directors
23 and normally we extend that invitation as well.

24

25 CHAIRMAN FLEAGLE: All right, thank you.
26 Now, that concludes everything, but viewing the DVD, is
27 that something the Board wants to do on record at this
28 meeting or I see we have them, take it home and watch it
29 and comment.

30

31 (Board nods affirmatively)

32

33 CHAIRMAN FLEAGLE: Okay. Appreciate that
34 being available, I think that -- Pete, go ahead.

35

36 MR. PROBASCO: Mr. Chair. I know we've
37 been at this meeting for quite a while and we all have
38 our jobs to get back to in addition to this, this DVD,
39 and I respect that you want to take it back home and take
40 a look at it, but please do, it's a very important part
41 of our program. Beth Spangler has done a very good job
42 of documenting this, we hope to use this throughout our
43 various agencies in educating the public on the Partners
44 Program. And I think what we'll do, since you don't want
45 to take the time to review it here, we will have this
46 viewed at a work session because it's done very well.

47

48 Thank you, Mr. Chair.

49

50 CHAIRMAN FLEAGLE: Great, yeah, thank

1 you, appreciate that, it looks interesting.

2

3 Now, that concludes topics that are on
4 the agenda, are there any closing comments.

5

6 Commissioner Lloyd.

7

8 COMMISSIONER LLOYD: Thank you, Mr.
9 Chairman. I appreciate it and I know we've been at this
10 for quite a while but there are a few observations and
11 requests that I'd like to share with you.

12

13 First of all between your last meeting
14 and this one, we have signed a mutual memorandum of
15 understanding between the Federal Subsistence Board, the
16 Alaska Department of Fish and Game, the Alaska Board of
17 Fisheries and the Alaska Board of Game, and I want to
18 thank the indulgence and the cooperation of the Federal
19 Board members, and I think we just should briefly
20 celebrate the fact that we've come out of a number of
21 years of dealing with an initial or an interim memorandum
22 that was very difficult to deal with and some
23 relationships that had been strained and I'm hoping that
24 by virtue of the new memorandum of understanding between
25 our various groups that we're heralding in and continuing
26 an upswing and a sense of cooperation and recognition of
27 our mutual responsibilities and authorities.

28

29 So please do recognize and celebrate the
30 fact that we have a signed memorandum of understanding
31 and hopefully we will find good ways to operate within
32 that.

33

34 I'd also to thank the reception that the
35 Regional Advisory Councils have given to, particularly
36 the Fish and Game liaison staff, and our divisional
37 staff. I think there, we're also seeing the benefits of
38 changed relationships, improving relationships and while
39 the Council Chairs are here I want to expressly thank
40 them for what we believe is increased hospitality,
41 increased indulgence and recognition that those
42 biologists and liaisons have an important role to play,
43 not just here but within the Regional Advisory Council
44 meetings as well.

45

46 I'm hoping that also this sense of
47 improved coordination and cooperation will become evident
48 in the various meetings that our respective staffs have
49 before these full Board meetings. I've mentioned this
50 before in regard to a number of specific proposals that

1 you've dealt with at this meeting, I think on a number of
2 those we've shown some good progress. As you can imagine
3 for those that we don't believe -- or didn't agree with
4 the final Board action we believe that there's probably
5 room for improvement, but I am hoping in general that the
6 Federal Staff and our State Staff can work out more of
7 these issues of potential disagreement before we get to
8 the Federal Subsistence Board meeting. And I will be
9 directing my Staff to seek out those opportunities for
10 improved coordination and better agreement and
11 concurrence and I'm hoping that the Federal agencies will
12 direct their Staff to seek those opportunities as well.

13

14 Finally, more out of interest than grand
15 statement of cooperation, I was intrigued by a number of
16 Mr. Adams' comments, but one in particular strikes me as
17 having been laid on the table here but not dealt with,
18 and that is the competition between two sets of marine
19 mammals, those being humans and those being sea otters,
20 and I'm wondering if indeed the Federal Subsistence
21 Board, similar to the action you just decided to take to
22 write to the North Pacific Council about somebody taking
23 resources that might otherwise be available for
24 subsistence use, whether or not this Board would like to
25 write to the US Fish and Wildlife Service, simply
26 requesting whether or not there are any opportunities for
27 subsistence competition with sea otters, could be dealt
28 with. Because it's a very real issue I believe to many
29 communities and it seems to be an issue that's almost
30 untouchable because of the Marine Mammal Protection Act
31 and certainly out west because of the recent threatened
32 listing for sea otters there, that's not a problem in the
33 areas that these folks are talking about but still the
34 Marine Mammal Protection Act is not a Marine Mammal
35 Management Act, and I think we running afoul of that so
36 I'm, again, asking whether the Federal Subsistence Board,
37 in recognition of severe competition for subsistence
38 resources would like to engage in a question and answer,
39 an inquiry to the responsible Federal agency, which in
40 this regard is not NMFS but it's the US Fish and Wildlife
41 Service.

42

43 Thank you, Mr. Chairman.

44

45 CHAIRMAN FLEAGLE: Thank you. And I
46 guess I did allow that to be just glossed over because
47 the head of the Fish and Wildlife Agency for Alaska sits
48 at the table here and I think he heard the discussion and
49 I'd like to give Geoff an opportunity to address this.

50

1 MR. HASKETT: The only question I'd like
2 to ask is do I have to sign a letter to my own self?
3
4 (Laughter)
5
6 CHAIRMAN FLEAGLE: We can have Jerry or
7 Gary do that.
8
9 (Laughter)
10
11 MR. HASKETT: I think we ought to explore
12 the issue so I'd be more than willing to work with the
13 Board and seeing what some of the answers are there. I
14 think as everybody knows it's going to be not the
15 simplest of all questions to take on but, sure, I think
16 it's a good idea to go ahead and have the Board work with
17 the Fish and Wildlife Service on this.
18
19 CHAIRMAN FLEAGLE: So there's a
20 suggestion of a letter to the Fish and Wildlife Service
21 from the Board and the Fish and Wildlife Service is
22 indicating that that's not objectionable.
23
24 Is there any objection from the rest of
25 the Board.
26
27 (No comments)
28
29 CHAIRMAN FLEAGLE: No, all right, we'll
30 work on that, Pete.
31
32 MR. PROBASCO: Yes, sir.
33
34 CHAIRMAN FLEAGLE: Other closing
35 comments.
36
37 (No comments)
38
39 CHAIRMAN FLEAGLE: All right, how about
40 a motion for adjournment.
41
42 MR. OVIATT: So moved.
43
44 MR. BSCHOR: Second.
45
46 CHAIRMAN FLEAGLE: All right, thank you.
47 Meeting's adjourned, thank you everyone.
48
49 (END OF PROCEEDINGS)

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C E R T I F I C A T E

UNITED STATES OF AMERICA)
)ss.
STATE OF ALASKA)

I, Salena A. Hile, Notary Public in and for the State of Alaska and reporter for Computer Matrix Court Reporters, do hereby certify:

THAT the foregoing pages numbered 01 through 385 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING taken electronically by Computer Matrix Court Reporters on the 13th day of January through the 15th day of January 2009 beginning at the hour of 8:30 o'clock a.m. at the Egan Convention Center in Anchorage, Alaska;

THAT the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by under my direction and reduced to print to the best of our knowledge and ability;

THAT I am not an employee, attorney, or party interested in any way in this action.

DATED at Anchorage, Alaska, this 7th day of February 2009.

Salena A. Hile
Notary Public, state of Alaska
My Commission Expires: 09/16/2010