

1 FEDERAL SUBSISTENCE BOARD
2
3 PUBLIC REGULATORY MEETING
4

5
6 VOLUME I
7

8 GORDON WATSON CONFERENCE ROOM
9 ANCHORAGE, ALASKA

10
11 May 9, 2012
12 9:00 o'clock a.m.
13

14 MEMBERS PRESENT:

15
16 Tim Towarak, Chairman
17 Dan Sharp, Bureau of Land Management
18 LaVerne Smith, U.S. Fish and Wildlife Service
19 Deb Cooper, National Park Service
20 Beth Pendleton, U.S. Forest Service
21 Gene Virden, Bureau of Indian Affairs

22
23 Telephonically
24 Bertrand Adams - Southeast RAC
25 Rosemary Ahtuanguaruak - North Slope RAC
26 Louis Green - Seward Peninsula RAC
27 Jack Reakoff - Western Interior RAC
28 Richard Wilson - Bristol Bay RAC

29
30
31 Judy Caminer - Southcentral RAC

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33
34 Ken Lord, Solicitor's Office

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P R O C E E D I N G S

(Anchorage, Alaska - 5/9/2012)

(On record)

CHAIRMAN TOWARAK: Good morning. Good morning, I'm going to call this meeting to order. I'd like to begin with introductions. I'm Tim Towarak, I'm the Chairman of the Board and we'll go out this way in a circle here, to my right.

MS. SMITH: I'm LaVerne Smith, the Deputy Regional Director for the Fish and Wildlife Service.

MR. BROWER: Good morning. Charlie Brower from Barrow.

MS. PENDLETON: Good morning. Beth Pendleton, Regional Forester for the U.S. Forest Service located in Juneau.

MS. COOPER: Hi, I'm Deb Cooper, Associate Regional Director for resources, Park Service.

MS. YUHAS: Good morning. I'm Jennifer Yuhas. I am the State's Federal subsistence liaison team leader.

MR. CHRISTIANSON: I'm Anthony Christianson and I'm from Hydaburg.

MR. SHARP: Dan Sharp with Bureau of Land Management. I'm sitting in for Bud Cribley who's out of state.

MR. VIRDEN: Good morning. Gene Virden, Bureau of Indian Affairs, stationed in Anchorage.

MR. LORD: Good morning. Ken Lord with the Solicitor's Office, Department of Interior.

MR. PROBASCO: Good morning. Good morning, Tim. I'm Pete Probasco, the Assistant Regional Director for the Office of Subsistence Management.

1 CHAIRMAN TOWARAK: Thank you. Welcome
2 to our meeting. Item No. 2 on the agenda is
3 corrections or additions to the agenda, Pete, do you
4 have anything.

5
6 MR. PROBASCO: Thank you, Mr. Chair.
7 And I just wanted to let the Board members know that we
8 also have quite a few people on line that have called
9 in to listen to this meeting. And so if you will all
10 help me to remember to keep them involved in the
11 meeting as well.

12
13 Corrections or additions I have to the
14 agenda, at the end of the meeting, or towards the end
15 of the meeting we'll have to go into executive session
16 to deal with a personnel matter as it affects one of
17 the Regional Advisory Councils, so, Mr. Chairman, I
18 would ask that we do that at the end of the meeting.
19 And, in addition, I'm going to ask Carl Johnson to come
20 up after we do the MOU update and under other business,
21 and talk about the Council nomination process as it
22 affects both the Staff Committee and the Board, we'll
23 be looking for a date for the Board to meet to address
24 the recommendations from the panelists.

25
26 So, Mr. Chair, those are the two items
27 that I have at this time.

28
29 CHAIRMAN TOWARAK: Any other items from
30 other Board members.

31
32 (No comments)

33
34 CHAIRMAN TOWARAK: Not hearing any,
35 then we will continue on to Item No. 3, information
36 sharing.

37
38 MR. PROBASCO: Mr. Chair, maybe we --
39 we've got numerous Council members, both in the
40 audience and Chairs on line, maybe we want to give
41 them an opportunity to introduce themselves, if we may.

42
43 CHAIRMAN TOWARAK: Sure. The table's
44 open for any of the Regional Advisory Council members
45 attending.

46
47 MR. WILSON: Mr. Chair. Richard
48 Wilson, Bristol Bay RAC.

49
50 MR. PROBASCO: Thank you, Richard.

1 MR. WILSON: Yes, good morning. I have
2 a short window here for joining you folks here this
3 morning so when you give me an opportunity I'll put in
4 a few comments and I'll be done.
5
6 MR. PROBASCO: Okay. Jack, you're on
7 line.
8
9 (No comments)
10
11 MR. PROBASCO: Rosemary.
12
13 (No comments)
14
15 MS. H. ARMSTRONG: They're all muted is
16 the problem, so I'm not sure.....
17
18 MR. PROBASCO: Okay. I guess the
19 operator has everybody muted, so, Operator, would you
20 correct that so people on line can identify themselves.
21
22 OPERATOR: Please standby I'll open up
23 all the lines.
24
25 (Pause)
26
27 OPERATOR: At this time all lines are
28 open.
29
30 MR. PROBASCO: Thank you. Let's start
31 from the top again, Jack, are you there?
32
33 MR. REAKOFF: Yes, I am and I'm just
34 introducing myself and I'll be here all day.
35
36 MR. PROBASCO: And, Jack, is the
37 Chairman for the Western Interior. We also have
38 Rosemary.
39
40 MS. TEPP: Rose Tepp with the Kenaitze
41 Indian Tribe.
42
43 MR. PROBASCO: Try again, please.
44
45 MS. TEPP: Rose Tepp with the Kenaitze
46 Indian Tribe.
47
48 MR. PROBASCO: Okay, thank you. Bert,
49 are you on line.
50

1 MR. ADAMS: I sure am, Mr. Chairman,
2 thank you. Bert Adams, Chairman of the Southeast
3 Regional Advisory Council. I need to let you all know
4 that I can only be here for maybe two and a half or so
5 hours and then I have to go to another meeting.

6
7 MR. PROBASCO: Thank you, Bert. Let's
8 try again for Rosemary, North Slope RAC.

9
10 MS. AHTUANGARUAK: Rosemary
11 Ahtuanguaruak.

12
13 MR. PROBASCO: Thank you. Are there
14 any other Regional Advisory Council members that I've
15 missed.

16
17 MR. KAYOTUK: Good morning. Lee
18 Kayotuk. Good morning, Board and the Chair. Lee
19 Kayotuk from Kaktovik, Alaska.

20
21 MR. PROBASCO: Thank you.

22
23 MR. GREEN: Good morning, this is Louis
24 Green for the Seward Peninsula RAC in Nome.

25
26 MR. PROBASCO: Good morning, Louis.

27
28 MR. SMITH: Mr. Chairman. This is Tim
29 Smith. I am the Vice President of the Seward Peninsula
30 RAC and I'm here in Nome.

31
32 MR. PROBASCO: Okay, thank you.

33
34 MS. CAMINER: Good morning. This is
35 Judy Caminer.

36
37 MR. TUTIAKOFF: Good morning. This is
38 Vince Tutiakoff, with the Kodiak/Aleutians, vice Chair.

39
40 MR. PROBASCO: Thank you, Vince. Okay,
41 I'm going to stop on line and we're going to go to our
42 audience.

43
44 MS. CAMINER: Hi, this is Judy Caminer.
45 I'm representing the Southcentral RAC for Ralph Lohse.

46
47 MR. PROBASCO: Mr. Chair, I believe
48 that's all the Council members I have on my list as
49 well as in the audience.

50

1 CHAIRMAN TOWARAK: Thank you.
2
3 MR. PROBASCO: No, wait, we've got
4 Gloria.
5
6 CHAIRMAN TOWARAK: Welcome Gloria.
7 Welcome to Pat Pourchot, too, also, from the
8 Secretary's office.
9
10 We're going to open the floor for any
11 public comment on non-agenda topics, non-agenda items.
12
13 MS. CAMINER: Hi, this is Judy Caminer.
14 I'm not sure if this is the right time to say this, I
15 just got tapped to be here yesterday so I'm not as
16 prepared as I would like to be for our meeting.
17
18 Understand there is some discussion --
19 we had some discussion at our RAC meeting in March
20 about changing the delegation of authority for some in-
21 season management on the Kenai National Wildlife Refuge
22 and we discussed changing that, perhaps, for one of the
23 moose seasons. But we hear that there may be some
24 other discussions going on having to do with changing
25 it for all species, and I didn't know whether that was
26 going to be on today's agenda; I don't see it, but the
27 RAC would certainly like to be involved in those
28 discussions because we did not have that more complete
29 conversation during our RAC meeting. So I was just
30 wondering what the status might be of that.
31
32 CHAIRMAN TOWARAK: Go ahead, Pete.
33
34 MR. PROBASCO: Thank you, Mr. Chair.
35 And thank you Judy. You categorized it very well.
36 Where it's at, there was the initial request as the
37 Southcentral RAC reviewed it and a subsequent letter
38 was drafted requesting that of the Board. Where it's
39 at now is that letter will go to the Staff Committee to
40 comment and discuss and then based on the Staff
41 Committee's meeting a recommendation would be developed
42 for the Board to act on.
43
44 MS. CAMINER: And, if I may, that would
45 also include another discussion with the RAC hopefully?
46
47 MR. PROBASCO: Well, probably what it
48 would be would be notification. If the Board wants to
49 hold off giving that authority, then it would be in the
50 fall meeting, but if the Board wants to give some

1 authority to the Refuge manager then -- for this coming
2 hunting season then the Board would have to act on it.
3 So it's going to fall in the Board's court on how they
4 want to deal with that issue.

5
6 MS. CAMINER: Okay, thank you very
7 much.

8
9 CHAIRMAN TOWARAK: Any other topics for
10 non-agenda items.

11
12 (No comments)

13
14 CHAIRMAN TOWARAK: If not then we will
15 go back to Richard Wilson in Bristol Bay since you
16 hardly have any time, you have the floor.

17
18 MR. WILSON: Mr. Chair, thank you.
19 Richard Wilson, Bristol Bay RAC. We had quite a
20 discussion on this in March on the policy, and one of
21 the things we would've liked to seen at this moment
22 would have been to be there with you folks. This type
23 of communication, we're not really in favor of. Our
24 Council Chair, which is Molly Chythlook, you know,
25 suggested that if we could somehow have funding
26 available so that we can do face to face with -- to
27 help out with this policy would be great. And that was
28 -- that's just a very brief summary of our intent here.

29
30 Like I said there were a lot of issues
31 that we'd like to discuss at a later time here so that
32 was just one of the biggest things that we wanted to
33 put out there, to have funding available so that we can
34 also participate at the table there.

35
36 Thank you.

37
38 CHAIRMAN TOWARAK: Thank you, Richard.
39 Notes have been taken with regards to your comments.

40
41 Anything else from anyone on line or
42 off line.

43
44 (No comments)

45
46 CHAIRMAN TOWARAK: Not hearing any then
47 we will proceed.

48
49 MR. SMITH: Mr. Chairman.

50

1 CHAIRMAN TOWARAK: Go ahead.
2
3 MR. SMITH: Mr. Chairman. Yeah, this
4 is Tim Smith in Nome. I just wanted to bring up the
5 issue of chum salmon bycatch in the pollock trawl
6 fishery. That's still an ongoing discussion by the
7 North Pacific Fishery Management Council. They
8 extended their analysis period and they're going to
9 take it up again in June and I would like to see the
10 Federal Subsistence Board stay engaged in that
11 discussion because that's such a big issue for people
12 in our area. We've had shortage of chum salmon for 30
13 years now and trawl bycatch is at least a component of
14 the problem. So I just wanted to bring that up so that
15 we, you know, follow that through until the final
16 decision is made by the Council, probably sometime this
17 winter.
18
19 CHAIRMAN TOWARAK: Do you want to
20 answer that.
21
22 MR. PROBASCO: Thank you, Mr. Chair.
23 We are staying on top of this. I do have a Staff
24 member, Mr. Don Rivard has been assigned. He's been
25 attending all meetings and keeping the Board informed
26 as well as the Staff Committee with briefings. This
27 summer this issue, the next meeting is scheduled in
28 Kodiak, and it's not an agenda item but we anticipate
29 it being an agenda item this coming fall.
30
31 Mr. Chair.
32
33 CHAIRMAN TOWARAK: Thank you. Any
34 other public comments on non-agenda items.
35
36 MR. ADAMS: Mr. Chairman.
37
38 CHAIRMAN TOWARAK: Go ahead.
39
40 MR. ADAMS: Bert Adams here.
41
42 CHAIRMAN TOWARAK: Go ahead, Bert.
43
44 MR. ADAMS: Can you hear me okay?
45
46 CHAIRMAN TOWARAK: We hear you very
47 well.
48
49 MR. ADAMS: Okay, because I got you on
50 the speaker phone and I'm trying to work from the

1 computer and talk at the same time.

2

3 Anyhow I'd like to just maybe address
4 some issues of concern here.

5

6 As many of you might know, particularly
7 people in Southeast Alaska, the herring in Sitka, I
8 guess is a very short run, they were there and then
9 gone. And, of course, you know, that will cause some,
10 you know, grave concern that you might be hearing about
11 in the future. I don't know, but there must be a
12 pattern that is also up and down the coast because here
13 in Yakutat we've had a very short run or, you know, of
14 herring, and it was very limited, it was just here and
15 gone again just like in Sitka. We all know herring,
16 you know, is the basis for all of the other species,
17 you know, that -- I am subsistence fishing, you know,
18 for king salmon and by this time, it's been about a
19 month now, we should have had, you know, a pretty good
20 number of king salmon, however, since April 19th I've
21 only caught three so far, two in the first two days
22 that I had my net set out and then there was a long
23 period of quietness and then this morning I was able to
24 catch one. We have been targeting the Dry Bay kings
25 and the first two kings, you know, were, of course, the
26 Dry Bay king salmon. But I've noticed that way as far
27 back as April 19th, that those king salmon were ready
28 to go up to the Alsek River already because the eggs in
29 them were just about ready to spawn and I thought that
30 was kind of unusual that early and -- and, you know,
31 the herring, not the herring but the eulachons also
32 haven't been showing up like they have in the past.
33 The Situk River has been dry for years. There's only
34 one river that really produced very much eulachons and
35 even that was, you know, a very short run as well.
36 And, you know, the Yakutat Salmon Board had a four year
37 grant to survey, you know, about 18 or 19 rivers all
38 the way from Yakutat to the Dry Bay area. Occasionally
39 I will go down and it's a slight think, and I would go
40 down and accompany, you know, the surveyors and it
41 looks pretty grim, you know, for eulachons and then I'm
42 really disappointed with the return of the herring this
43 year. So I am sure, you know, the consequences will
44 shortly follow and they're already showing.

45

46 Another point of interest in regards to
47 the king salmon, the past four or five years or so the
48 returns into the Situk River for kings has been watched
49 very closely and they've been having a hard time
50 meeting their escapement. So last year there was a

1 closure on a small portion of the Situk River that
2 would allow some of the kings, you know, to make it up
3 river to their spawning areas and they did barely make
4 the escapement. And so it's going to be a few years
5 before that starts showing up again, however, the years
6 previously that there has been a shortage when they
7 haven't been meeting their, you know, escapement goals,
8 is, I think, starting to pay off right now -- I mean
9 starting to show right now, not pay off, but to show,
10 and I'm really concerned about that.

11
12 I can't think of anything more, you
13 know, at this point, Mr. Chairman. Maybe something
14 will pop up later as the meeting goes on, but I thank
15 you for this opportunity to share this.

16
17 Gunalcheesh.

18
19 CHAIRMAN TOWARAK: Thank you, Mr.
20 Adams.

21
22 MS. TEPP: Mr. Chairman.

23
24 CHAIRMAN TOWARAK: Go ahead.

25
26 MS. TEPP: Yeah, this is Rose Tepp with
27 the Kenaitze Indian Tribe. I am chairperson. As you
28 know we've been rural, non-rural, rural and non-rural.
29 One of the things that I want to make a complaint about
30 right now is in the Kenai River. It seems to me that
31 the dipnetters have more rights than the Kenaitze
32 Indian Tribe.

33
34 We've always voluntarily pulled our
35 net, little tiny 60 foot net if there was any kind of
36 escapement discrepancy in the Kenai. So, you know, the
37 Kenai, with our history, the Kenaitze people have never
38 hurt the fish run in the Kenai River and we're non-
39 rural. So I'm still at that point of asking the Board
40 to look at the ISER report of community within a
41 community. The Kenaitze Indian Tribe have never hurt
42 the run. History-wise you can look back and look at
43 the data and look at that.

44
45 So with that I'll listen for the rest
46 of the day. And if I need to make a comment I will
47 step in.

48
49 CHAIRMAN TOWARAK: Thank you. Mr.
50 Malutin.

1 MR. MALUTIN: Good morning, Tim. And,
2 good morning, Pete, nice to see you again, haven't seen
3 you for a long time. Tell Eileen hi from Bertha.

4
5 Anyway, I'm here as the Chairman of the
6 Sun'aq tribe from Kodiak, and the first thing I want to
7 do is make a clarification that the Sun'aq Tribe, I am
8 the Chairman and there's 1,700 members and when people
9 do come here to speak, when they talk about Kodiak,
10 please let themselves to what village they're speaking
11 for because too many times we're included in some of
12 the things that go on in the villages, which is really
13 good and it's right for that village but it really
14 doesn't fit in our village. So I just would like to
15 make that point clear.

16
17 And another thing that I'd really like
18 to do is, since I don't know all of you, but I know
19 some of you, and I'm only here for food for the table,
20 that's all I'm here for, and not for money for the
21 pocketbook. And when I hear about different people
22 talking about bycatch, all that food for the table that
23 is being dumped overboard, doesn't make any sense at
24 all. Common sense has to prevail in every single thing
25 we do. And it would be really nice if this Board could
26 start looking into it really heavily especially on the
27 halibut or some of the other resources that are being
28 dumped that could be utilized in some manner, some
29 place, so think about that.

30
31 And I'm also here -- we got a notice
32 from -- I got it yesterday in an email and also it's
33 very unclear because there wasn't even an address to
34 where this meeting was going to be and when I got here
35 this morning I was supposed to have had the information
36 from Bob, he didn't give it to me, so I called him in
37 Kodiak and I got it this morning, I mean when I got
38 here. So the next time you send out your information
39 please include your address on the email, I would
40 appreciate that. Everybody makes a mistake. I think I
41 made one too once, so whoever made the mistake, that's
42 okay, we could accept that.

43
44 (Laughter)

45
46 MR. MALUTIN: Another thing I'm not
47 really clear because we got the notice so late is one
48 of the things we don't want to see is more regulations
49 upon anything that we are trying to get for the table
50 and now I'm seeing and hearing that there may be

1 something in line of seaweed and everything on the
2 beach that's edible for us. Just to give you an
3 example, you could come to Afognak any time to our
4 island and you could live there forever without going
5 to town. But if we get people putting these
6 regulations on us and saying that -- I'm not even sure
7 this is true or not but I read it on the email somehow
8 and I might have misread it, but I don't think I did,
9 that they're talking about putting regulations on
10 seaweed now, and if that's in fact -- is that on the
11 agenda today?

12
13 CHAIRMAN TOWARAK: No, not that I know
14 of.

15
16 MR. MALUTIN: Okay. Funny it was on
17 the email that I got. But sometimes I make mistakes
18 and maybe it was.

19
20 So, anyway, I just want to reiterate
21 that please, please, please protect us from anything
22 that we have that we are trying to get on the table.

23
24 And one of the things I want to say is
25 I've been going to the regional meetings for the RAC
26 and this format of this meeting is so much more open
27 and better than the RAC meetings that I've attended, I
28 wish you could give some better guidance to your RAC
29 committee meetings wherever they're at so that I don't
30 have to fill out a piece of paper every time I want to
31 talk. And the Aleut way is the Aleuts never did shake
32 hands and the Aleuts never sent Christmas cards and the
33 Aleuts never send flowers and the Aleuts never wrote
34 anything on paper.

35
36 Thank you.

37
38 (Laughter)

39
40 MR. PROBASCO: It's good seeing you
41 Iver.

42
43 MR. GREEN: Mr. Chairman, this is
44 Louis.

45
46 CHAIRMAN TOWARAK: Go ahead, Louis.

47
48 MR. GREEN: I'd just like to reiterate
49 a couple of comments that were made on bioescapement
50 goals, biological escapement goals with salmon.

1 The Nome subdistrict has suffered for
2 30 years. They lowered the escapement goals somewhere
3 in the past, I'd like to make sure that this is on the
4 record that they need to reevaluate those on a more,
5 what would you say, consecutive -- loss of words there.
6

7 The other one is the bycatch, hearing
8 that by that man there just before me, I didn't catch
9 his name, sorry. You know, in the bycatch and the
10 trawler industry they're allowed to catch more than --
11 they're allowed to catch and waste more than we're
12 allowed to catch in subsistence so I just wanted that
13 on record.

14
15 Thank you.

16
17 CHAIRMAN TOWARAK: Thank you, Mr.
18 Green. Further comments.

19
20 (No comments)

21
22 CHAIRMAN TOWARAK: We have a note here
23 that Sally Bibb from the National Marine Fisheries is
24 on line. Ms. Bibb, have you any comments -- do you
25 have any comments.

26
27 MS. BIBB: Thank you, Mr. Chairman.
28 No, I don't have any comments. I'm listening to your
29 meeting because I'm interested in your discussion of
30 the tribal consultation by the Board and as it relates
31 to our efforts to develop a tribal consultation policy
32 within the National Marine Fisheries Service and how
33 the North Pacific Fishery Management fits into NMFS'
34 tribal consultation responsibilities. So I'm listening
35 to learn more about your process and I appreciate the
36 opportunity to have the meeting accessible by phone.

37
38 CHAIRMAN TOWARAK: You're welcome and
39 thank you for listening in. The next item on the
40 agenda will be the tribal and ANCSA Corporation
41 consultation policy.

42
43 MR. GREEN: Mr. Chairman.

44
45 CHAIRMAN TOWARAK: Go ahead.

46
47 MR. GREEN: This is Louis, again, from
48 Nome. I'd like to thank Sally Bibb for her efforts in
49 the North Pacific Fisheries Management Council meeting
50 on that 30,000 bycatch hard cap that we'd done

1 resolutions for up here. Not all the tribes up here
2 agreed with what was done -- where they'd undone the
3 request because there was supposedly 20 tribes that had
4 said it was okay, the Nome tribes did not, and so I
5 wanted to make that clear, that whoever brought that
6 into the picture was not speaking for us.

7

8 Thank you.

9

10 CHAIRMAN TOWARAK: You're welcome. Are
11 you babysitting at the same time?

12

13 MR. GREEN: Sometimes I'm Mr. Mom, Mr.
14 Chair.

15

16 (Laughter)

17

18 CHAIRMAN TOWARAK: Thank you. Ms.
19 Pendleton.

20

21 MS. PENDLETON: Thank you, Mr. Chair.
22 I wanted to just refer back to a comment that Chairman
23 Adams from the Southeast RAC made with regard to the
24 herring issues in Southeast Alaska and some of the
25 other fisheries. And just to note that on May 15th in
26 Sitka the Sitka Tribe of Alaska will be hosting a
27 regional summit to discuss these concerns about the sac
28 roe herring fishery and the state supply for
29 subsistence users. There will be representatives from
30 the U.S. Forest Service and the subsistence program,
31 Terry Suminski and Jack Lorrigan who will be attending
32 that. And I just wanted to get that on the record and
33 also we expect that our local district ranger, Carol
34 Goularte or her staff will also be there. So I just
35 wanted that on the record and Bert to know that there
36 will be some folks there involved in those issues.

37

38 Thank you.

39

40 CHAIRMAN TOWARAK: Thank you. Just a
41 side comment from myself. I'm from the Norton Sound
42 and so are Louis and Tim Smith on line, but we
43 typically, in years past, harvested 5,000 tons of
44 herring in the commercial fishery and in the last 20
45 years we haven't had a fishery so we've got an
46 unutilized species in the Norton Sound of 5,000 ton of
47 herring, just the opposite situation of Sitka, which is
48 rather interesting. So I've always invited people from
49 Southeast to send us their tree limbs and we'll plant
50 them for them.

1 (Laughter)
2
3 CHAIRMAN TOWARAK: Any other comments
4 from anyone.
5
6 MR. ADAMS: Mr. Chairman.
7
8 CHAIRMAN TOWARAK: Go ahead.
9
10 MR. ADAMS: This is Bert here again.
11 That comment that you just made was -- a suggestion was
12 made by one of our, I think, tribal members at one of
13 our recent meetings, so that might come to reality
14 sometime.
15
16 CHAIRMAN TOWARAK: You know my number.
17
18 MR. ADAMS: Okay.
19
20 (Laughter)
21
22 CHAIRMAN TOWARAK: Pete, do you have
23 something else.
24
25 MR. PROBASCO: Thank you, Mr. Chair.
26 As we move to the next agenda item just a couple
27 things, on this agenda item dealing with the
28 corporation and the Tribal Consultation Policy, the
29 Chairman will give an opportunity for both the tribes
30 and the public, as well as, after that, the Regional
31 Advisory Councils, to testify, so if you plan on
32 testifying please fill out a card. They're out on the
33 front table so we can better manage the meeting as we
34 proceed.
35
36 So, thank you, Mr. Chair.
37
38 CHAIRMAN TOWARAK: Thank you. If we
39 don't have any other comments in regards to our non-
40 agenda items, we will proceed then on to the next item
41 on the agenda, tribal and ANCSA Corporation
42 Consultation Policies.
43
44 (No comments)
45
46 CHAIRMAN TOWARAK: And I should
47 probably include a general comment about -- I know
48 there's been a lot of angst about having ANCSA
49 Corporations listed as tribes and for the information
50 of the public and those listening, I pointed out before

1 that this Board has not had a choice about whether or
2 not we wanted to include tribal corporations -- I mean
3 ANCSA Corporations as tribes, it was a directive, it
4 has come down through Congress and we have no other
5 choice but to accept the decision that was made to list
6 corporations as tribal members. So they're included in
7 all of our comments, and I just wanted to point that
8 out if the discussion comes up.

9

10 Go ahead, Pete.

11

12 MR. PROBASCO: Thank you, I've got to
13 just do a little meeting management here. For those on
14 line, we're going to mute and if you want to speak when
15 we get to the testimony part you will have to hit star
16 one, so the operator's going to mute you now and then
17 when we get to that point in time where the Chair will
18 ask for people on line to speak, you need to hit star
19 one.

20

21 Thank you.

22

23 CHAIRMAN TOWARAK: Go ahead, Crystal,
24 you have the floor.

25

26 MS. LEONETTI: (In Yup'ik)

27

28 (No comments)

29

30 MS. LEONETTI: Let me try again, (In
31 Yup'ik)

32

33 CHAIRMAN TOWARAK: Good morning.

34

35 MS. LEONETTI: All right, in Yup'ik,
36 that means what's up.

37

38 I am Crystal Leonetti, I'm the Alaska
39 Native Affairs specialist for U.S. Fish and Wildlife
40 Service and also the co-Chair of the Federal
41 Subsistence Board consultation workgroup and currently
42 I am also acting in the AMBCC, Alaska Migratory Bird
43 Co-Management Council executive director position.

44

45 I'd like to start by introducing a new
46 employee at Fish and Wildlife Service. Dustin, can you
47 stand up. Dustin Carl is a biology student at UAA and
48 he's part of the ANSEP program and he started work with
49 me on Monday and he's getting a crash course in what a
50 Native liaison does for Federal government. He's

1 originally from Kipnuk, so during the breaks I hope
2 you'll take the time to introduce yourselves to Dustin.

3
4 This is a historic week for Alaska
5 Native peoples, and really exciting, because today
6 we're talking about a tribal consultation policy for
7 the Federal Subsistence Board and also the last two
8 days the Alaska Migratory Bird Co-Management Council
9 has been talking about how to make co-management
10 something more meaningful for Alaska Native people and
11 it was a really positive meeting, really collaborative
12 and cooperative, so we're looking forward to some great
13 changes happening for this week, and looking forward to
14 a great future.

15
16 To start with I just want to
17 acknowledge and recognize the workgroup members and
18 InterAgency Staff Committee members that have been
19 working on this for the past year.

20
21 Della Trumble is the co-Chair with me,
22 and she represents the Agdaagux Tribe of King Cove and
23 the King Cove Village Corporation. John Andrew is from
24 the Organized Village of Kwethluk. Lillian Petershoare
25 is the Native liaison at U.S. Forest Service. Rosemary
26 Ahtuanguaruak is from Barrow and Nuiqsut and she's on
27 the phone with us today. Jean Gamache is here with us
28 today, the Native liaison from National Park Service.
29 And if you're here in the room when I read your name,
30 if you can stand and raise your hand so people know who
31 you are that'd be great. Nancy Swanton is from the
32 National Park Service. Shawna Larson is from the
33 Native Village of Chickaloon. Richard Peterson is from
34 the Organized Village of Kasaan. And Pete Probasco and
35 Andrea Medeiros from Office of Subsistence Management.
36 Brenda Takeshorse is the Native liaison at Bureau of
37 Land Management. George Carlson Yaska, Jr., is from
38 Huslia and Fairbanks. Bobby Andrew is from the Native
39 Village of Ekwok. Glenn Chen and Pat Petrivelli from
40 Bureau of Indian Affairs. And InterAgency Staff
41 Committee members Jerry Berg from U.S. Fish and
42 Wildlife Service; Sandy Rabinowitch from National Park
43 Service; Dan Sharp from Bureau of Land Management and
44 Steve Kessler from U.S. Forest Service. So when you
45 have the chance thank them for their hard work over the
46 past year, they've really been respectful of each
47 other, working hard and making this something that
48 works for everybody and that's been a big task for all
49 of us.
50

1 I'm going to give you an overview of
2 the process that the workgroup used. I'm going to give
3 you an overview of the policy, plus the three
4 appendices and I'm going to talk a little bit about the
5 ANCSA Consultation Policy and then some recommendations
6 from the workgroup to the Board; and then a proposed
7 schedule going forward for further developing
8 implementation guidelines for this consultation policy.
9

10 So to give you a very brief overview of
11 the process the workgroup used and there's a handout
12 being handed out now, there have been 16 consultations
13 including those that we consulted in the last wildlife
14 cycle where we also were asking tribes and corporations
15 about the consultation policy; so a total of 16
16 consultations. Five letters from the Federal
17 Subsistence Board Chair, Tim Towarak, to all the tribes
18 and corporations, first letter being sent in December
19 of 2010. There's been three workgroup meetings and
20 then two additional meetings where we also had
21 InterAgency Staff Committee with us. And we had 19
22 written correspondences that were received on the final
23 draft policy that's before us today from the regional
24 ANCSA Corporations, village ANCSA Corporations,
25 Federally-recognized tribes and Regional Advisory
26 Councils. And all those letters and comments we went
27 through line by line, sentence by sentence and
28 incorporated into the policy what we could and what we
29 haven't incorporated into the policy will be
30 incorporated into the implementation guidelines. So if
31 you don't see it in the policy yet, that's where you'll
32 see that.
33

34 So if you'll look at the policy itself,
35 it says, currently, April 27, 2012, draft at the top of
36 the page. And I'd just like to point out a few
37 overarching principles that we used to develop this
38 policy. First, the policy is simple, general and broad
39 and this reflects the DOI, the Department of Interior
40 policy. We also used the principle that there is no
41 need to regurgitate the Department level policy since
42 we need to follow those anyway. What we attempted with
43 this new policy format is to utilize the Department of
44 Interior and USDA policies as the base and then focus
45 this policy on Federal subsistence management and its
46 unique nature. The only place we reiterated to be
47 clear is under topics for consultation. And we also
48 decided that keeping this policy simple, general and
49 broad allows the Board and tribes to remain flexible
50 and adapt to what makes sense for meaningful

1 consultation based on the scope and issues being
2 consulted about.

3

4 So I'm going to point out a few things
5 in the policy that I think are really strong parts of
6 the policy that help us go forward. First of all the
7 quote at the top of the page from Lillian Petershoare:

8

9 Tribes and Alaska Native peoples have
10 been this land's first conservationists
11 and first multiple use land managers.

12

13 Also you go to the first paragraph of
14 the preamble and this is where, when I have presented
15 this at various meetings and events, like Tanana Chiefs
16 Conference, et cetera, that's the first thing people
17 read and they gain immediate acceptance to this policy
18 so I'm going to read that paragraph because it's
19 important.

20

21 The Federal Subsistence Board
22 recognizes that indigenous tribes of
23 Alaska are spiritually, physically,
24 culturally and historically connected
25 to the land, the wildlife and the
26 waters. These strong and ancestral
27 ties to the land, wildlife and waters
28 are intertwined with indigenous
29 ceremonies, such as songs, dances and
30 potlatches. The customary and
31 traditional way of life has sustained
32 the health, life, safety and cultures
33 of Alaska Native peoples since time
34 immemorial.

35

36 To effectively manage the Federal
37 Subsistence Program, the Board will
38 collaborate and partner with Federally-
39 recognized tribes in Alaska to protect
40 and provide opportunities for continued
41 subsistence uses on public lands.

42

43 It's a really good statement.

44

45 The last sentence of the preamble on

46 Page 2 reads:

47

48 The intent of this policy is to
49 describe a framework under which the
50 Board and Federally-recognized tribes

1 in Alaska may consult on ANILCA Title
2 VIII subsistence matters under the
3 Board's authority.

4
5 Under the background I want to read
6 that last sentence of the first paragraph to you.

7
8 The Board distinguishes the deference
9 to Federal Subsistence Regional
10 Advisory Councils from the tribal
11 government to government relationship
12 enjoyed by Federally-recognized tribes
13 and this policy will not diminish in
14 any way either the consultation
15 obligations towards Federally-
16 recognized tribes or its deference
17 obligations to the Federal Subsistence
18 Regional Advisory Councils.

19
20 So a high level of respect to both of
21 those.

22
23 I'm not going to read the goals to you,
24 but the goals were the foundation on which we wrote
25 this policy. This is about relationships and that's
26 the basis of the goals.

27
28 Some major points under the
29 consultation section on Page 3.

30
31 No. 1 is communication. And the first
32 sentence says:

33
34 It is the Board's intention that
35 information sharing between tribes and
36 the Board and Federal Staff will occur
37 early and often.

38
39 And then on Line 11, I want to make
40 sure that everybody knows:

41
42 For in-season management decisions and
43 special actions, consultation is not
44 always possible but to the extent
45 practicable two-way communication will
46 take place before decisions are
47 implemented.

48
49 The second section there is roles and
50 responsibilities.

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I'm going to read that:

Board members are responsible for implementing this policy and insuring its effectiveness. The Native liaison in the Office of Subsistence Management is the key contact for the Board's consultation with tribes. The Native liaison will also assist Federal land managers and tribes with their consultations as requested and as needed. Federal land managers and Staff have a local relationship with tribes and will maintain effective communications and coordination.

So the roles and responsibilities are centrally located in Office of Subsistence Management but everybody has a responsibility.

Under topics for consultations. That includes everything listed in both USDA and Department of Interior policies, so we outlined those which are:

Regulations, policies and guidance documents, budget and priority development and agreements

On Page 4 on timing.

Timing of consultation will respect both the Federal Subsistence Management cycle and the tribal timeframes for doing business.

Under methods.

No single formula exists for what constitutes appropriate consultation.

Again, this is laying out the framework that this policy is flexible and adaptable to certain situations that may arise.

And then the sentence on Line 13 there.

Consultation may be prompted by a Federally-recognized tribe in Alaska or by the Board.

1 There's a section here on
2 accountability and reporting, and it says:

3
4 That on an annual basis the Board will
5 evaluate whether the policy has been
6 implemented and is effective and what
7 progress has been made towards
8 achieving the seven goals outlined in
9 this policy, thereby making this
10 document a living document and can be
11 changed by the Board as needed to make
12 consultation most meaningful for
13 tribes.

14
15 And then under training.

16
17 Training on this policy for Federal
18 Staff will conform to the requirements
19 of the Department of Interior and
20 Department of Agriculture consultation
21 policies.

22
23 And the last sentence there:

24
25 A list of possible venues for training
26 is included in Appendix C, venues for
27 training.

28
29 And the last section in this policy is
30 Alaska Native Corporation consultation. It says:
31 refer to the supplemental policy, which I'll cover
32 next.

33
34 Before I move on to that, does the
35 Board have any questions so far.

36
37 (No comments)

38
39 MS. LEONETTI: Okay, if not I can move
40 on to the ANCSA Corporation Consultation Policy.

41
42 So many of you may be aware that the
43 Department of Interior is currently in the midst of
44 their process to develop an ANCSA Corporation
45 Consultation Policy at the Departmental level. They
46 are finalizing a public comment period and consultation
47 period on the development of that policy and their hope
48 is to finalize that and have the Secretaries sign that
49 ANCSA Corporation Consultation Policy within the next
50 several months. Because we don't know what that final

1 policy is going.....

2

3 CHAIRMAN TOWARAK: Crystal, there's a
4 little confusion here. We're trying to keep up with
5 you but we seem to be missing some documents in what's
6 been handing out to us. So if we could take about a
7 five minute break, I'd like to see us get a copy of
8 that. So we'll take a 10 minute break.

9

10 (Off record)

11

12 (On record)

13

14 CHAIRMAN TOWARAK: If we could
15 reconvene please.

16

17 (Pause)

18

19 CHAIRMAN TOWARAK: The Board members
20 have been distributed a full set of copy of the
21 documents so we're ready to reconvene.

22

23 Crystal go ahead.

24

25 MS. LEONETTI: All right, I was just
26 getting into the ANCSA consultation but actually before
27 I do that, I need to talk about the three appendices,
28 so you should have copies of Appendix A, Interim
29 Implementation Guidelines; Appendix B, Federal
30 Subsistence Management Program Annual Regulatory
31 Process At a Glance; and Appendix C, Venues for
32 Training.

33

34 On Appendix A, the note at the top of
35 the page in the header is explaining what this document
36 is and how it will be further developed. So it says:

37

38 The Board is directing the consultation
39 workgroup to continue the development
40 of the guidelines with agency field
41 manager input. The workgroup will
42 present a more developed guideline at a
43 future Board meeting.

44

45 So I'm going to go through this interim
46 implementation guidelines and then I'll talk about the
47 schedule for -- the proposed schedule for further
48 developing the guidelines.

49

50 This is for fiscal year 2012 and 2013,

1 the consultation schedule for the regulatory cycle.
2 This is outlining where consultation will be regularly
3 scheduled. So number 1:

4

5 The OSM Native liaison will notify
6 tribes and ANCSA Corporations and on
7 request made to OSM Native liaison
8 facilitate consultation on regulatory
9 proposals among the appropriate
10 parties. They will prepare written
11 summaries of consultations; insure
12 appropriate coordination with the
13 Federal Subsistence Program; and
14 maintain records of consultation for
15 the program.

16

17 No. 2.

18

19 The OSM Native liaison will coordinate
20 consultation with tribes and ANCSA
21 Corporations when team review analysis
22 are available. They'll insure a
23 written summary -- that a written
24 summary is prepared of the results of
25 consultation and appropriate
26 coordination within the Federal
27 Subsistence Program.

28

29 No. 3.

30

31 In coordination with OSM's Subsistence
32 Regional Advisory Council coordinators
33 and Council Chairs, insure opportunity
34 for tribal and ANCSA Corporation input
35 at Council meetings and summarize
36 pertinent input in writing and insure
37 appropriate coordination within the
38 Federal Subsistence Program.

39

40 No. 4.

41

42 Opportunity is provided for
43 consultation with tribes and ANCSA
44 Corporations at Federal Subsistence
45 Board meetings.

46

47 No. 5.

48

49 Consultations may also be requested by
50 tribes and ANCSA Corporations at any

1 time.

2

3 So the intent of doing it this way is
4 that the consultations on proposals occurs before the
5 Regional Advisory Council meetings and that way the
6 discussion that occurs during those consultations can
7 be taken into account as the Regional Advisory Councils
8 develop their recommendations to the Board.

9

10 So that's the interim implementation
11 guidelines.

12

13 The next appendix is Appendix B, which
14 is something that our workgroup put together for an at
15 a glance description of the annual regulatory process.
16 And this is just more of an educational component for
17 tribes and ANCSA Corporations or even the general
18 public who hasn't previously been involved with Federal
19 Subsistence processes previously so it's a nice
20 reference.

21

22 Appendix C is venues of training and
23 that's a list that can be added to or changed as
24 needed, but those are possible venues for training when
25 training is eventually developed and rolled out.

26

27 Okay.

28

29 So for ANCSA Corporation Consultation
30 Policy, beginning that discussion, I'll start over.
31 Department of Interior is in the midst of developing
32 their consultation policy. They are finishing or maybe
33 finished just recently, the comment period -- the open
34 comment period in the Federal Register on that
35 consultation policy, they had in-person consultations
36 in Anchorage and in Fairbanks a few weeks ago and we
37 anticipate that the Secretary will sign a final
38 consultation policy in the upcoming months ahead. When
39 that's finished then the Federal Subsistence Board will
40 have a model to work from. Because it's not finished
41 yet, we felt like it was better to wait for the
42 Department of Interior ANCSA Consultation Policy to be
43 finalized before we moved forward with an ANCSA
44 Consultation Policy.

45

46 In a nutshell, the draft Department of
47 Interior Consultation Policy, it says that it will
48 conform to its Tribal Consultation Policy and will
49 consult with ANCSA Corporations as appropriate or as
50 allowable. So it still maintains the Federal trust

1 responsibility with Federally-recognized tribes but
2 complies with the law that requires Federal agencies to
3 consult with ANCSA Corporations and keeps it at a level
4 that's appropriate for ANCSA Corporations. So that's
5 what the draft policy says and when that's finished the
6 workgroup will then work on the Federal Subsistence
7 Board ANCSA Corporations Consultation Policy. In the
8 meantime we are required to consult with ANCSA
9 Corporations and as such we'll use the interim
10 implementation guidelines to consult with ANCSA
11 Corporations in the same way that we consult with
12 tribes.

13

14 Okay.

15

16 So recommendations and proposed
17 schedule. Recommendations and there's a few bullets
18 there. These are recommendations for you, the Board,
19 to consider.

20

21 In a letter from AHTNA Incorporated,
22 there was a request to be added -- for them to be added
23 to the consultation workgroup. The workgroup
24 recommends to the Board that future membership be
25 reevaluated so that a more inclusive and fair
26 membership is considered, such as a formal nomination
27 process for tribal and ANCSA Corporation workgroup
28 members. And because we already have seven tribal
29 representatives on the workgroup, tribes and
30 corporations could renominate their current
31 representatives as well.

32

33 That's one recommendation.

34

35 The second one is that there be a
36 process for delegation of authority for consultation
37 purposes. This discussion is in regards to, for
38 example, if a regional Native non-profit wants to
39 represent tribes or certain tribes that they provide
40 services to in consultations with the Federal
41 Subsistence Board then what does the Federal
42 Subsistence Board need from those tribes that are being
43 represented in order to consult with them at that
44 level. For example, would the village, the tribal
45 council need to provide you with a resolution saying
46 that their Native regional non-profit represents them
47 at these -- at any Federal Subsistence Board
48 consultation. So that's something for you to consider.

49

50 The third bullet is in reference to

1 .809 agreements and that those be included or some
2 guidelines be included on .809 agreements in the
3 implementation guidelines.

4

5 The fourth bullet is to provide
6 guidance on consultation initiated by the tribe or
7 ANCSA Corporation. So in other words, if a tribal or
8 an ANCSA Corporation asks the Federal Subsistence Board
9 for consultation on a certain subject matter how are
10 you going to respond and address that and that's what
11 we need to decide on how that will be included in the
12 implementation guidelines.

13

14 The fifth bullet is a request, actually
15 in a couple different letters from ANCSA Corporations
16 and tribes to create a website that's accessible to
17 tribes and corporations with information on
18 consultation topics. So this could be maybe a subset
19 of the OSM website with specific consultation
20 information or it could be a separate website. That
21 was a request that there be a one stop shopping for
22 Federal Subsistence Board consultation topics.

23

24 CHAIRMAN TOWARAK: Crystal for the sake
25 of the new Board members and even myself, would you
26 review what .809 means?

27

28 MS. LEONETTI: My very limited
29 understanding of that is in ANILCA, .809 agreements can
30 be used by tribes to carry out functions of subsistence
31 management and so basically there would be dollars
32 allocated to tribes to carry out those functions. Does
33 anybody -- Ken.

34

35 MR. LORD: Maybe I can help you with
36 that one. Section .809 of ANILCA authorizes the
37 Program to enter into cooperative agreements with
38 tribes or other entities for the purposes of enabling
39 the Program, whether it's management or entering or
40 engaging in wildlife or fisheries studies, those sorts
41 of things. Anything related to the function of the
42 Program.

43

44 CHAIRMAN TOWARAK: Is there anyone here
45 that knows of a particular .809 program that's existing
46 in Alaska?

47

48 MS. THOMAS: Again, just for
49 introduction my name is Belinda Thomas and I'm from the
50 tribe of Northway, acting president. We currently just

1 ended an .809 agreement with the U.S. Fish and Wildlife
2 Service and so that was a new experience for us and i
3 was going to talk a little bit more later on the
4 details of that through testimony.

5

6 CHAIRMAN TOWARAK: Thank you.

7

8 MR. LORD: So, Mr. Chair, many of the
9 agreements that we enter into through our Fisheries
10 Monitoring Program are cooperative agreements under the
11 authority of .809.

12

13 CHAIRMAN TOWARAK: Thank you. Go
14 ahead, continue, Crystal.

15

16 MS. LEONETTI: Okay, thanks. I
17 appreciate questions like that as we go through because
18 I know this is a lot of material to cover in one
19 sitting.

20

21 So the next thing on this -- on my
22 report is the proposed schedule for writing the
23 implementation guidelines. And as directed by Board
24 members, I've set out a proposed schedule for bringing
25 in field level managers from the various Federal
26 agencies involved in the Management Program to help
27 develop those implementation guidelines in a way that
28 makes sense to, of course both tribes and ANCSA
29 Corporations and the Federal agencies, in a way that
30 makes sense on the ground level as well as the Federal
31 Subsistence Board level. So this is just a proposed
32 schedule that I developed and, I guess, to go through
33 that there would be a couple of rounds of comment
34 periods and then a teleconference to wrap up and
35 finalize the implementation guidelines and hopefully be
36 finished by August 31st with that so that we can
37 present it to the Board at their next -- whenever their
38 next meeting would be.

39

40 And that's -- I have a couple more
41 notes that I heard from this morning.

42

43 Richard Wilson from the Bristol Bay
44 Regional Advisory Council reiterated what the Bristol
45 Bay RAC submitted in writing, is to have funding
46 available to make the government to government meetings
47 in person if possible and so I guess my question to the
48 Federal members of the Board is how the RACs would go
49 about seeking funding for that. I guess just saying it
50 here is a start, but then is there some way we can

1 redirect them to go forward with seeking funding in the
2 future to help them out a little bit with that. And
3 you can either answer that now or later.

4

5 But then my next note is to -- well,
6 Tim's already got this covered, make sure tribal and
7 ANCSA representatives that are here and on the phone
8 have a chance to speak about the policy.

9

10 Thank you.

11

12 CHAIRMAN TOWARAK: And for the
13 information of those listening on line we do have a
14 public hearing process and, Crystal, if you could sit
15 where you're at, I think that's the next phase.

16

17 MR. PROBASCO: Yep, it is. Unless
18 there's questions to Crystal.

19

20 (No comments)

21

22 CHAIRMAN TOWARAK: Okay, we will then
23 go on to the public and tribal comments and, Pete, go
24 ahead.

25

26 MR. PROBASCO: Thank you, Mr. Chair.
27 The first person to testify on what Crystal has
28 presented is Mr. Iver Malutin.

29

30 MR. MALUTIN: Thank you, Mr. Chair and
31 everybody here. And, you know, looking at the
32 compilation of the Board and I'm trying to think back
33 when ANCSA was formed December 18th, 1971, I don't
34 remember seeing any of you, so maybe you're going to
35 have a learning project. And just for your
36 information, this is something that I'm not sure how it
37 happened, I would like to know how it happened, because
38 it was kind of a silent thing that happened
39 unexpectedly, we didn't expect it and it just happened,
40 do you know how it happened, number 1?

41

42 CHAIRMAN TOWARAK: Crystal, go ahead,
43 you could probably give the best description.

44

45 MS. LEONETTI: Iver, are you asking
46 about, in particular, the ANCSA.....

47

48 MR. MALUTIN: No.

49

50 MS. LEONETTI:Corporation

1 consultation?

2

3 MR. MALUTIN: Just the law of how the
4 Federal government made the -- I mean how they made
5 this law in Washington, D.C., who made it and when and
6 how did it happen?

7

8 MS. LEONETTI: I think I understand.
9 So the requirement for Federal agencies to consult with
10 ANCSA Corporations was put into law in 2004, originally
11 only for the OMB, Office of Management and Budget and
12 it was a line inserted in the appropriations bill of
13 2004 that said the Office of Management and Budget will
14 -- is required to consult with Alaska Native
15 Corporations on the same basis as Indian tribes. And
16 then in 2005 the appropriations act, that one line was
17 amended to add, then it would read: The Office of
18 Management and Budget and all Federal agencies are
19 required to consult with Alaska Native Corporations on
20 the same basis as Indian tribes under Executive Order
21 13175.

22

23 MR. MALUTIN: Thank you. That explains
24 it. Anyway, just for your benefit there is 125 ANCSA
25 Corporations, all profit making corporations, totally,
26 totally contrary to the work that the tribes do and now
27 we have ANCSA Corporations that have fishing boards,
28 that have all kinds of businesses related to fishing
29 out there getting all kinds of fish and they're selling
30 them to make money because that's how they have to
31 survive, under the state law of Alaska they're
32 incorporated as a business. And saying that, here we
33 are trying to get the same fish that they're throwing
34 overboard to put on our table, it doesn't make sense.

35

36 Okay.

37

38 There's 229 -- these numbers might not
39 be -- they're pretty close, 229 tribes in Alaska, and
40 if you -- and there's 12 regional corporations, they're
41 the parent corporations, Arctic Slope being the biggest
42 and BBNC and then it goes right down to NANA; even my
43 little village of Afognak is No. 6 in Alaska right now.
44 But the thing that I'm trying to get across, there's
45 going to be a lot, a lot of problems because of what I
46 just said. And in many cas -- but don't get me wrong,
47 because it's not going to happen all over. A lot of
48 people are going to be amenable, they're going to
49 merge, they're going to do everything together because
50 they're good people. And in most cases on Kodiak

1 Island, the ANCSA Corporation leaders and the tribal
2 leaders don't even talk to each other. One or two
3 villages do pretty good, but the rest of them are
4 separated and this is what you're going to be facing in
5 the future.

6
7 So let's see, what else did I -- you
8 know something I'm not going to say any more, I'm just
9 going to listen and I think it'd be better if I
10 listened than talk because I don't really know a heck
11 of a lot about what I'm talking about, except I could
12 tell you what the ANCSA and tribes are if you need
13 help. I'm trying to teach the borough and the city and
14 the Coast Guard in Kodiak the same thing and they're
15 still having trouble.

16
17 Thank you.

18
19 CHAIRMAN TOWARAK: Thank you. Go
20 ahead, Pete.

21
22 MR. PROBASCO: Thank you, Mr. Chair.
23 Next is Belinda Thomas from Northway.

24
25 MS. THOMAS: Thank you, very much. As
26 I said before my name is Belinda Thomas and the
27 president in terms of a land exchange that I'm going to
28 talk about here briefly. And just a little background,
29 Northway is very close to the Canadian border, we have
30 family on both sides. We hunt and share the same
31 resources. And incidentally we are very lucky to have
32 the U.S. Fish and Wildlife Service Refuge put right
33 next to us and so we're life long neighbors with that
34 agency.

35
36 I wanted to talk just a little bit --
37 I'll try to be as brief as I can, it's a complicated
38 issue, but I think I can move fast through it.

39
40 The tribal consultation process has
41 been of interest to me since I was just a grade school
42 student. I had a wonderful mentor, a tribal lady by
43 the name of Rosemary Maher, Morris Thompson and others,
44 and I always wanted to be right here with you and
45 working through a process that can involve into a
46 wonderful process. And so I wanted to first start by
47 saying I thank you to the U.S. Fish and Wildlife
48 Service for engaging in government to government
49 consultation with us. Having said that any time you do
50 a process the first part is getting engaged. The

1 second part is we learn good things and we learn some
2 areas that we have to improve in. And I'm fortunate
3 enough that I can sing my Native songs, I can go out
4 and hunt. I'm very fortunate to have been brought up
5 by Mr. Danny Thomas and the tribe of Northway and the
6 Upper Tanana villages. I also received a bachelors
7 degree in business administration and I've had a
8 wonderful time working with some prestigious companies
9 as a client or someone who provided service for BP,
10 ConocoPhillips, Doyon, and so I've had a wonderful
11 array of experiences which have led me to my role with
12 tribal consultation.

13

14 The tribe of Northway ranges between
15 200 and 300 people. We are in the area near Canada,
16 we're known as Scottie Creek Deng'h. And this area is
17 very important to us because of culture ties,
18 resources, it is a wonderful habitat for some very rare
19 birds. The Chisana Caribou Herd, who, the Canadians
20 just replenished and did a project and coordinated with
21 us, they migrate there as well and our folks are still
22 there. In fact, we have still artifacts, graves, very
23 important ceremonial, ritual things that have happened
24 there, for instance, my grandfather, the late Chief
25 Walter Northway who died at 120 years old, give or take
26 a few years, one of the things he said was, he grew up
27 in Scottie Creek, he ate off the land, he always
28 exercised and he always was a person who tried to be
29 inclusive and work issues out and for that, you know,
30 I respect him greatly.

31

32 The challenge that we have right now is
33 the policy that Ms. Leonetti outlined is a good policy,
34 it is good steps. I've had direct experience, very
35 recent experience, and I want to correct a few things
36 in a positive way because I think at the end of this
37 you have to hear me that this consultation process is
38 important, it will work but we're going to hit bumps.
39 The policy that Ms. Leonetti talked about was to give
40 the tribe or the most affected tribe as much notice as
41 possible. In a land exchange it didn't happen. And
42 what this land exchange is, is there's 400 square acres
43 right bumped up to the border between Canada and Alaska
44 and it plays a strategic role because as the gas
45 pipeline develops and eventually we are able to tap
46 into that resource it's going to be important to be
47 able to connect Canada and Alaska and it's going to be
48 good for Alaskans, it's going to be good for all of us
49 if we do it properly. This strategic piece of land is
50 only two miles long, believe it or not, but the

1 important aspects of it from a tribal point of view, I
2 think -- I hope that you -- I hope I'm able to convey
3 it properly, our culture is there, the hunting is
4 there, we share our resources, Native and non-Native
5 alike, very loving tribe. And within that our history
6 shows that that area produces great artifacts,
7 arrowheads, they have quoted it as providing 10,000
8 years of history and that area right there produces, it
9 is well known for being one of the best producing
10 areas, so there's lots there.

11
12 And we didn't get the proper notice but
13 we're first out of the gate. So January, give or take,
14 the 10th, we received a letter from the U.S. Fish and
15 Wildlife Service through the Tok National Wildlife
16 Refuge letting us know that there was a land exchange
17 in process and that they wanted to engage in government
18 to government consultation with us and please let them
19 know if we were interested and we did, we notified
20 them. And as we learned, we had one public scoping
21 meeting in Northway, and culturally my folks can be shy
22 but as you get to know them, they're outgoing. I was
23 extremely proud of them because that community hall was
24 filled as if we were having celebration and potlatch.
25 And within that the tribe met three times without any
26 agency to talk about the different impacts of the
27 cultural resources and then how could we be a positive
28 factor to a big national project and then how could we
29 develop and how could others, you know, be
30 participating in this once in a lifetime project. And
31 so when the consultation occurred our tribe worked very
32 hard to give some ideas of our cultural differences.
33 We tell a lot of stories and within those stories are
34 important learnings and I've had the privilege of being
35 able to translate what my elders are telling me into
36 Western language, if you will, and showing them the
37 connection and the similarities and the abilities to be
38 positive and make things move forward. And then at
39 that meeting we did ask for the .809 agreement. We
40 felt in that area, since we were from Scottie Creek and
41 that land exchange was there, that we would be the
42 cultural experts and so an elder, Dolly Northway and
43 myself, entered a cooperative agreement with U.S. Fish
44 and Wildlife and we are pleased that they accepted us
45 as an agency to provide the expertise. We then talked
46 about our concerns and I won't -- there's so many. One
47 is, who are you going to do the land exchange with and
48 they were going to do the land exchange with a company
49 called The Texas Conservation Fund. And the Texas
50 Conservation Fund is a privately owned fund but they do

1 resource management and they have similar goals as a
2 tribe, as you -- and as U.S. Fish and Wildlife would
3 have, our concern was that we have always followed
4 ANILCA and Title VIII, Title XI in terms of a process,
5 and my colleague will talk more in detail about that
6 legal piece of it, but we have grown through history
7 and through practice to follow that process, NEPA, all
8 of it, to make sure that you're well informed, you have
9 opportunity to discuss and mitigate issues and then
10 have opportunity then to work those issues out, for
11 everybody, if possible. And within the cooperating
12 agreement, we had the public scoping meeting, 40
13 written comments, our tribe is only 150 to 200 and then
14 we attended the Tok scoping meetings and provided more
15 in-depth information and then entered the agreement and
16 provided cultural knowledge of graves, an old village
17 that is on that lower hillside. In Native traditional
18 way there are some things you don't get into detail
19 with but for purposes of learning we share those
20 things. And my grandfather, Chief Walter Northway, he
21 was chosen to be the leader for many reasons. A rich
22 man in our culture is someone who can provide
23 learnings, encouragement, and sometimes they are gifted
24 with the ability to explain to us an occurrence or
25 maybe something's happened and they're able to foresee
26 or interpret for us. And my grandpa Walter was that
27 person and he went up into those mountains there by Air
28 (ph) Hills and he performed his traditional chief
29 ceremonial ritual there. And that's how important this
30 area is. That's how important government to government
31 consultation is, is because as people develop plans and
32 ideas, if they don't get all the stakeholders there and
33 they don't get all the information there, by accident
34 or by oversight you may miss things. And when you talk
35 about the tribe, the core of us is, you know, we
36 believe in our ties with the land and the resources.
37 And one of the things my grandfather taught me was --
38 and it took me a long time to learn this, through oral
39 conversation, he said you're valued just as much as
40 that rock, and just as much as that fish, in all of the
41 things that you do you make sure that you respect and
42 you take care of things and you do the things necessary
43 and there's much more teaching to all that. And so
44 what we learned was to take care of the land, it'll
45 take care of us. Be generous and it will come back to
46 you, be good and you'll receive good things. And so we
47 believe in those kind of spirituality things.

48

49 In the land exchange there is much to
50 gain and much to possibly lose. The EA, which is an

1 environmental assessment, which is supposed to be
2 brief, that's what we were cooperating with the U.S.
3 Fish and Wildlife Service on, it has a whole bunch of
4 topics, one is cultural resources impact and other
5 things. An EA is supposed to be used to determine if
6 maybe there is enough here that would cause us to slow
7 things down and do an EIS, Environmental Impact
8 statement. And that way the tribe's issues are taken
9 care of, investor issues and U.S. Fish and Wildlife and
10 agency issues are taken care of. In this case the
11 draft EA, after everything that we had provided
12 resulted in four lines. I sat with the elders and then
13 the people that were at the table were good people,
14 some from Anchorage, some from Tok, different
15 backgrounds, different educational levels, everybody
16 was trying to understand each other. And the EA is
17 important because at the end of the day the tribe
18 provides input but it really is the agency who makes
19 the decision. And what you hope is you've developed
20 that relationship with the agency that they properly
21 represent, you know, the needs of that area. And we
22 ended up, after a couple of meetings, we ended up
23 disengaging in that .809 agreement. A very difficult
24 decision to make. And I had to go back to the elders
25 and consult and then I have a bag, plus this of just
26 nothing but details of the different laws U.S. Fish and
27 Wildlife, the conservation plan, the map of the
28 exchange, the government to government summaries, the
29 policies on that and then also something which is
30 important to me, is the Native American Policy of U.S.
31 Fish and Wildlife Service's and in there they also say
32 Alaska Native. And so I tried to map all this stuff
33 together with help and at the end of the day, I could
34 not continue representing the tribe in that cooperative
35 agreement because it was moving way too fast and there
36 was a cultural gap in terms of we told the stories and
37 the importance and a consultant was in there helping us
38 and the consultant could not bridge what we were saying
39 to the Western term, and so there's very specific
40 things you have to say to trigger an EIS. And so in
41 this tribal consultation process, I think there's a lot
42 of consideration that has to happen.

43

44 One, we have to really define
45 government to government in tribal consultation. And
46 in my experience only, we need to make sure that U.S.
47 Fish and Wildlife Service, or whatever agency, Federal
48 agency looks at the current policies that they already
49 have written, look at their responsibility, and trust
50 responsibilities and define it and be able to

1 articulate that and then also to look at any
2 significant laws that exist or might be impacted, like
3 ANCSA, ANILCA, and under ANILCA Title VIII, and Title
4 XI, very vital, and then within the process there are
5 cultural norms and values on both sides or whatever
6 diverse culture is there, and as you're talking and
7 trying to go through this very fast process, that's a
8 bit of a challenge but it's something that can be
9 worked through.

10

11 The process defined there is a
12 beautiful process if you follow it. But I'm not sure
13 who the agency is who's responsible for making sure
14 that the process is followed. What if it's not. And
15 what if all cultural resources and all facts and all
16 information have not been compiled and at the end the
17 decision is made that no EIS is needed.

18

19 The land exchange has cultural value to
20 the tribe. It has meaningful value to U.S. Fish and
21 Wildlife because it's a natural habitat, beautiful, you
22 see rare animals that you wouldn't see around Alaska.
23 And it has great interest to ExxonMobil, a private
24 investor, who has a lot of financial resources. And
25 information that I've gained in the public, not from
26 consultation, prior to our engagement, was that the
27 donation to U.S. Fish and Wildlife Service was a half a
28 million dollars, and so that creates a lot of
29 motivation to make things happen. And in this
30 instance, history showed us that ANCSA -- or ANILCA,
31 Title XI has always been precedence but this half a
32 million dollar donation, government to government
33 consultation and the pressure of the natural resources
34 have created a new process called land exchange. And
35 in this land exchange the rules aren't as black and
36 white as ANILCA and I think it needs some serious,
37 serious consideration. We are, again, the most
38 affected tribe for that land exchange. We have engaged
39 in an .809 agreement. We have worked with ExxonMobil
40 as a broker of that project. And then we have
41 adequately provided cultural resources that we believe
42 are significant that would trigger an EIS. The land
43 exchange, someone has circumvented the tribe's ability
44 to have input into consultation because no matter what
45 we do, the facts that we provide, the information that
46 we provide in this project, as an example, APP has
47 pulled back a little bit, a couple of years, but the
48 land exchange has not. The land exchange as I
49 understand it as of today is still scheduled and on an
50 accelerated fast-track because of an EA and because

1 they're not using Title XI.

2

3 And so I just share with you that
4 tribal consultation is very positive, it will get
5 better and better. I feel positive about Crystal's
6 input. And then I think you'll hear a little bit more
7 of the legality that this land exchange is creating.
8 And I guess from a Federal perspective, during this
9 land exchange, which is interesting to me, is when it
10 gets transferred from U.S. Fish and Wildlife, it is
11 transferred to private ownership, and originally we
12 heard that it would only be two weeks because as a
13 tribe we like Federal regulations, we heard it was just
14 going to be two weeks and now we're hearing two months
15 that it will actually be in the Texas Conservation Fund
16 ownership, and so we asked what does that mean for our
17 hunting rights. And we understand they're going to do
18 something unique and transfer back to U.S. Fish and
19 Wildlife and preserve our hunting. I asked the
20 question, what if the Conservation Fund decides not to
21 give that land back. And then afterwards the
22 Conservation Fund, located in Texas, will own the
23 access right-of-way for that area and we asked to see
24 the draft lease so that we would make sure that, like,
25 you know, the grave isn't run over or that ceremonial
26 hill or that ability to continue culture while still
27 being pro-development can happen. And an area of
28 improvement in this whole process is at the very
29 beginning we asked for the information, is the tribe
30 impacted, we had to file a Federal -- we had to file a
31 FOIA through our attorney which required them to give
32 us our information. We did receive the FOIA, and U.S.
33 Fish and Wildlife did waive our copy fees of \$4,000 so
34 we want to thank them for doing that and so we were
35 able to get the copies of all this information. There
36 is a solicitor's opinion that is not being given to us
37 which would have fallen under the FOIA, as I
38 understand.

39

40 And so I give you a story with
41 complicated items and areas that need to be worked on.
42 Process is going to be good, but at the end of the day,
43 the Northway Tribe isn't going to have a lot of input
44 on this land exchange. And in terms of timeline, the
45 folks at U.S. Fish and Wildlife are nice people, and my
46 tribe, we're nice people, but at the end of the day,
47 you know, the money pushes -- it makes serious
48 motivation to bypass a very, very important process,
49 not only government to government, not only tribal
50 consultation, but also ANILCA was provided to the

1 unique tribes of Alaska and I think we need to pay
2 attention to that.

3

4 So I wanted to thank you very much and,
5 again, I'm looking forward to this process as it
6 develops and improves. And the Northway Tribe is going
7 to do its best to continue to participate. Mr. Chair,
8 there are some holes in this process and there are
9 greater impacts. If that happens here it will happen
10 in other places.

11

12 So thank you for your time.

13

14 CHAIRMAN TOWARAK: Thank you. If that
15 was brief, I don't know what long is.

16

17 MS. THOMAS: Complicated issue.

18

19 CHAIRMAN TOWARAK: It is.

20

21 MS. THOMAS: And it took me about
22 seven.....

23

24 CHAIRMAN TOWARAK: And thank you
25 for.....

26

27 MS. THOMAS:seven weeks.....

28

29 CHAIRMAN TOWARAK:explaining it
30 very well. And we hope you continue to monitor our
31 attempts in developing a consultation policy that will
32 work. That's been our utmost concern is that it will
33 work. And we have had discussions about who is going
34 to eventually be responsible for making sure it
35 happens. And in subsistence issues, we, the Board
36 members, feel that we're going to have to carry that
37 responsibility. And it's still in the process but
38 overall responsibility on subsistence issues will be
39 with this Board.

40

41 I point that out because it was good to
42 hear about your -- the land exchange and we've referred
43 to .809 and we're interested in hearing more about --
44 or seeing that program continue because we know it goes
45 directly to tribes. But in this particular case we
46 have no jurisdiction over land exchange and I think
47 it's a direct agency responsibility.

48

49 LaVerne, have you got.....

50

1 MS. SMITH: Thank you. I'd just like
2 to say on behalf of the Fish and Wildlife Service,
3 thank you so much for sharing those thoughts.

4
5 It is an issue that we still very much
6 feel is very open and we would like to have additional
7 consultation with, with the tribe and we would like to
8 continue discussing. We actually had a meeting
9 yesterday morning with our Regional Director and our
10 Chief of Refuges and basically discussed how we can set
11 up some additional consultation. So I think we would
12 like very much to address some of the concerns and
13 perhaps just provide some more information, but also
14 try to figure out what are the issues we really need to
15 make sure are addressed so we're very open to that.

16
17 MS. THOMAS: Certainly, thank you. And
18 just one more followup. I think the land exchange, and
19 this is just my opinion, the land exchange has a direct
20 tie to subsistence, this is the Tetlin National
21 Wildlife Refuge Comprehensive Plan September 2008, it
22 went through a formal process and I would encourage
23 everybody that has an interest in that to read this.
24 It talks about some very specific birds in the area.
25 Some extinct animals, some very delicate flora in terms
26 of construction. It talks quite a bit about things and
27 it hits it right on.

28
29 And then Ms. Smith, also just wanted to
30 let you know that the tribe did talk with your office
31 and three of your folks will be coming to our
32 traditional hunting area called TenMile, which is near
33 Scottie Creek and we're going to spend a night together
34 just doing dancing, talking, visiting and exploring how
35 we can both be partners and work together.

36
37 Thank you.

38
39 CHAIRMAN TOWARAK: Thank you for that.
40 Do we have another -- go ahead.

41
42 MR. PROBASCO: Yes, Mr. Chair. We have
43 a few more that would like to testify and I'm sure
44 there's people on line as well. The next person is
45 Lisa Wade. Lisa.

46
47 MS. WADE: (In Native)

48
49 Good morning, Mr. Chairman, and Board
50 members and all my relations in the room and on the

1 phone.

2

3

4 My name is Lisa Wade and I'm from
5 Chickaloon, Alaska, from the Water Clan, and I am
6 currently residing at Moose Creek. And I'm also the
7 health and social services director for my tribe. And
8 today I'm here representing Chickaloon Village
9 Traditional Council, the governing body for the
10 Federally-recognized Chickaloon Native Village.

11

12 I would like to ask today on behalf of
13 our traditional council that our written comments be
14 entered into the record in their entirety. I provided
15 them earlier.

16

17 Our traditional territorial lands and
18 waters are the Matanuska Watershed with our tribal
19 headquarters located in Sutton and Chickaloon, Alaska.
20 Because we are located on the road system we have been
21 systematically discriminated against by the Federal
22 government and this Board, which denies our fundamental
23 right to practice our subsistence, culture and
24 traditions. This denial of our fundamental human
25 rights is the unwillingness of this Board and the
26 Department of the Interior to recognize our rights as
27 indigenous people, promoting a rural preference instead
28 of a tribal preference. We have asked the United
29 Nations to investigate this blatant violation of our
30 human rights and urge this Board to honor its human
31 rights obligations to our tribe and other tribes
32 similarly situated.

33

34 This policy that you are considering
35 today will make these violations worse and further
36 disenfranchise our tribe and our tribal citizens.

37

38 CVTC opposes the proposed policy and
39 requests that it be rejected wholesale as written and
40 as presented today. This policy violates the basic
41 tenance of Federal Indian Law and would infringe on our
42 human rights particularly our right to self
43 determination. We hold that dear. Our right to
44 consultation and our right to free, prior and informed
45 consent, guaranteed by the United Nations Declaration
46 on the rights of indigenous peoples which was signed by
47 President Obama December 2010.

48

49 This Board cannot consult with ANCSA
50 Corporations on the same basis as tribes. This Board
in doing so would violate both the Federal trust

1 responsibility to Alaska Native Tribes and Executive
2 Order 13175. ANCSA Corporations are simply not tribes.
3 They have no traditional attributes of sovereignty and
4 they're often an impediment to tribal self
5 determination. Allowing the State chartered
6 corporations to consult on the same basis as tribes
7 will diminish and undermine our consultation rights.

8

9 Mr. Ivers -- Mr. Ivers, sorry, I forgot
10 your last name, this is my take on how this policy came
11 through from my perspective.

12

13 This policy was an effort to extend to
14 ANCSA Corporations a right that belongs solely to
15 tribes. It was an ill-legitimate ill-conceived effort
16 by the former Senator Ted Stevens to circumvent long-
17 established Federal Indian Law and Policy. He snuck it
18 through in a budget rider in order to undermine our
19 tribal sovereignty.

20

21 CHAIRMAN TOWARAK: Could I interrupt
22 you for a second. This -- I tried to explain this
23 before we started the consul -- or the review of the
24 consultation process.

25

26 MS. WADE: I understand.

27

28 CHAIRMAN TOWARAK: But we don't have
29 any authority in determining the difference between
30 tribes and corporations.

31

32 MS. WADE: I understand but.....

33

34 CHAIRMAN TOWARAK: It's an issue that
35 we are, by law, are -- we have no choice but to
36 consider both tribes and corporations so that issue is
37 off the table. And if you have issues like that that
38 you would like to -- you're going to have to take it up
39 with the United States Congress.

40

41 MS. WADE: I'm very close to being
42 finished. We have a different take on this matter, and
43 I would like to be heard on this, I am very close to
44 being finished.

45

46 CHAIRMAN TOWARAK: You can be heard at
47 the U.S. Congress, this body does not have any
48 authority to change that.

49

50 MS. WADE: Then this body should allow

1 me, as a tribal person, to be heard on this matter that
2 affects my tribal people, it doesn't.....

3

4 CHAIRMAN TOWARAK: But we won't.....

5

6 MS. WADE:hurt to listen.

7

8 CHAIRMAN TOWARAK:we won't be
9 able to do anything with it.

10

11 MS. WADE: Okay.

12

13 CHAIRMAN TOWARAK: We could listen to
14 you, I'm willing to grant that, but as far as following
15 up on your recommendations we don't have that
16 authority.

17

18 MS. WADE: Okay. Well, I just would
19 appreciate if you would hear my comments.

20

21 CHAIRMAN TOWARAK: If it's relating to
22 this tribal consultation process the floor is open for
23 that and that only. If you're going to take us into a
24 Congressional argument, this is not the place to do it.

25

26 MS. WADE: I'm not taking anyone into
27 an argument. I would like our perspective as a tribal
28 people to be heard here today. I appreciate that this
29 was recognized as a historic event, that 16 tribes were
30 consulted with out of 229 and I appreciate that 20
31 tribes, we would be the 20th, gave our perspective on
32 this matter out of 229 tribes. Today I have taken the
33 time to come down here, I would like to put these
34 comments on record and I would like to be heard.

35

36 CHAIRMAN TOWARAK: We're here to listen
37 to the tribal consultation process as it relates to
38 subsistence, and we don't have jurisdiction over
39 anything else beyond that. So if you're going to be
40 talking about Congressional issues, this is the wrong
41 place to do it, you need to be talking to Senator
42 Begich and Senator Murkowski and Representative Don
43 Young, that's how far up it is. We're down here at the
44 local level and we have no authority over the big
45 stuff.

46

47 MS. WADE: And I agree with that from
48 one perspective but I also would say that you're here
49 to discuss something and I want you to understand from
50 our tribal perspective what this means to us as a

1 tribal people. And whether you.....

2

3 CHAIRMAN TOWARAK: You're going to have
4 to do it under.....

5

6 MS. WADE:you can.....

7

8 CHAIRMAN TOWARAK:our terms then.

9

10 MS. WADE: Sir.

11

12 CHAIRMAN TOWARAK: Our terms are to
13 discuss the tribal consultation policy as it relates to
14 subsistence, Federal subsistence. And I'm going to ask
15 our legal counsel to consult on whether or not what I'm
16 saying is right.

17

18 MR. LORD: Mr. Chair, that is correct.
19 There was a great deal of discussion within the
20 solicitor's office about this issue. And that rider
21 that you mentioned is clear, and Crystal summarized it
22 very nicely, better than I could have actually, she
23 could put me out of a job, that ANCSA Corporations will
24 be consulted with on the same basis as tribes. Now,
25 what does that means exactly. That means that we will
26 sit down with ANCSA Corporations and talk to them in
27 the same way that we talk to tribes, it doesn't speak
28 to how much weight we give that consultation and our
29 advice to this Board and other agencies is that when
30 weighing how much -- how much to consider, an entities
31 input into a process, you can also weigh its interest.

32

33 So if a particular corporation, an
34 ANCSA Corporation, for example, has less interest in a
35 subsistence issue than a tribe does, which would seem
36 to be the case most of the time you can weigh that
37 accordingly. So that has been our advice on how this
38 process would move forward.

39

40 I hope that helps.

41

42 CHAIRMAN TOWARAK: And we will concede
43 the floor to you as long as you restrict it to
44 discussions on subsistence related to issues. That's
45 the only jurisdiction we have.

46

47 MS. WADE: I will wrap up with one
48 final statement since I'm only allowed to speak to what
49 you would like to hear.

50

1 Corporations will never be spiritually,
2 culturally or historically connected to the land, the
3 wildlife, the waters like tribal people are.

4
5 And I just urge you not to go down this
6 path, and I'm sure at some point we will be discussing
7 this in multiple venues. Today I wanted you to hear
8 from us what this means to us as tribal people.

9
10 And I apologize if it's something that
11 you think you didn't need to hear and I apologize to my
12 relations if I spoke out of turn, but I can tell you
13 this greatly impacts us as tribal people and so I
14 appreciate that you gave me the floor to at least speak
15 to what I did.

16
17 I would honor you by giving you the
18 floor to speak to whatever you wanted to if you came to
19 my tribe and that right there is the difference. We
20 call it (In Native) respect.

21
22 CHAIRMAN TOWARAK: You, as a tribe, and
23 I'm a tribal member also, I know that tribes have a lot
24 more power than this Federal Subsistence Board, you've
25 got government to government abilities that we don't or
26 -- we do in terms of subsistence but in all other
27 issues, we don't have any say on the real government to
28 government relations between the tribes and the Federal
29 government. So we appreciate -- I understand what
30 you're saying and I've heard, you know, through other
31 venues a lot of discussion about the angst between
32 tribes and the corporations but I think the real
33 problem, in my judgment, from watching how it takes
34 place, it's a local issue. If you can't get together
35 with your corporation that's something that you need to
36 work on. We -- on the -- getting back to subsistence,
37 are restricted to discussing the topics on our agenda
38 today.

39
40 So I apologize for having to cut you
41 off but we're also restricted on time. We don't have
42 the authority to be listening to the big issue of
43 corporations versus tribes. We're merely subsistence
44 hunters and fishermen and users and that's what we're
45 concerned about right now. And if you have any
46 comments relating to the tribal consultation process
47 that we reviewed this morning, we would be glad to hear
48 that.

49
50 MS. WADE: Well, I would say that this

1 directly ties to subsistence because when a corporation
2 can determine in consultation with you how subsistence
3 rights are going to be implemented then that is a
4 direct impact on my people.

5
6 CHAIRMAN TOWARAK: We have the ability
7 to weigh people's opinions, you know, we could -- we'll
8 -- if a question came between you -- your tribe and the
9 corporation in your region, if there's a conflict we
10 will weigh what is being said by both and that's all we
11 could do.

12
13 MS. WADE: See my problem comes in that
14 once this door is opened, years down the road this
15 comes back to haunt us, it's happening now. I work in
16 health care, it happens to me all the time, where the
17 corporations have authority, they have the funding,
18 they have all of the tools at their disposal and the
19 tribes are scrambling, I'm scrambling to keep people
20 alive. You all have heard what the suicide rates are,
21 subsistence is directly tied to that. All of these
22 things are connected together, just as we are all
23 connected as people to this place, these are connected
24 issues. To separate them out and to say we're only
25 hearing this is part of the problem. So, you know,
26 whether it's appropriate for this venue or not, whether
27 my views were appropriate for this venue or not, these
28 issues are related for us as tribal people.

29
30 CHAIRMAN TOWARAK: I understand that.
31 In my community our tribe and our village corporation
32 get along very good together, they work hand and hand
33 and they are more effective in doing that.
34 Corporations do not have a government to government
35 relationship with the Federal government, they're a
36 State institute and they operate under State laws. The
37 tribes have a direct relationship with the Federal
38 government that the corporations don't have. so I
39 think the tribes have got more authority in Federally-
40 related issues than corporations do. You know, that's
41 -- that's my take. I think we're getting a little bit
42 off of my focus -- and our focus as a Board for
43 subsistence and how it relates to tribal consultation.
44 So I apologize for interfering your statement but I
45 need to -- it's my responsibility to focus our
46 responsibility as a Federal Subsistence Board on issues
47 that we have control over and if it gets into areas
48 that we're not -- we don't have any authority then I
49 will bring us back to focus a little bit more on what
50 we're doing and I hope you understand that.

1 MS. WADE: (In Native) Thank you.
2
3 CHAIRMAN TOWARAK: Do you got a
4 comment, go ahead.
5
6 MR. STAUFFER: Mr. Chairman. I also
7 signed up. I am Geoffrey Stauffer, I'm the attorney
8 for Chickaloon Native Village and I signed up to follow
9 Lisa. Is it all right if -- I ask you your permission
10 to give my comments now.
11
12 CHAIRMAN TOWARAK: If it's related to
13 the subsistence issue, our tribal consultation process.
14
15 MS. STAUFFER: Absolutely. They are
16 abs.....
17
18 CHAIRMAN TOWARAK: I will allow you
19 five minutes.....
20
21 MR. STAUFFER: Absolutely.
22
23 CHAIRMAN TOWARAK:if we could
24 because we've got a lot of other people that would like
25 to be up here.
26
27 MR. STAUFFER: Absolutely and I thank
28 the Chair for the time.
29
30 In Chickaloon's view, you know, our
31 comments that were submitted to you and to the
32 Department of Interior on this issue, on the issue of
33 tribal consultation and consultation with the ANCSA
34 Corporations, we pointed out extensively in those
35 comments and I hope you'll take a look at those, of the
36 failures of the Federal consultation process as it
37 exists now. It absolutely does not fulfill the duty
38 that this Board and the Federal government, the
39 Department of Interior, of you have, towards tribes.
40 That duty, that duty of care that you have, your
41 responsibility, your trust responsibility as a Federal
42 Board, that trust responsibility, it extends to you
43 when you consult with tribes, the right of consultation
44 is an inherent fundamental right of tribes, it is not
45 an inherent fundamental right of corporations which are
46 statute created. As you said they are State -- they're
47 State corporations, chartered under the State. So we
48 ask and our comments point this out, that we be really
49 careful about the language that you use, that you don't
50 conflate tribes and corporations. This budget rider

1 that went through that put this language in, on which
2 no tribe was consulted, and no public process was
3 followed in that to allow tribes to have any say in
4 that, the language of that budget rider conflates
5 tribes and corporations, and as a Board when you're
6 considering these issues, when you're considering
7 subsistence you don't have to work to continue this
8 confusion. You can help tribes, you can help
9 corporations by remembering and using language that
10 distinguishes those. And I understand in the policy
11 that part of the way that you try and distinguish that
12 is by calling government to government consultation
13 when it's with tribes and I forget the term, but I
14 think it's just consultation or a Federal consultation
15 when it's with corporations. We don't think that goes
16 far enough. We think you need to really draw the line
17 clearly between tribes and corporations. Corporations
18 are -- corporations do not have the traditional
19 attributes of sovereignty and they can't. When
20 corporations are allowed to consult on the same basis
21 as tribes, tribes just don't have the resources, they
22 don't have the money, they don't have control of the
23 land anymore, that's all been transferred to the
24 corporations. The tribe will be necessarily -- their
25 self-determination will be impeded by that if you're
26 not very careful about distinguishing between those
27 two.

28
29 I want to point out, the tribe has
30 raised this as a human rights issue, under the UN
31 declaration on the rights of indigenous people, which
32 President Obama signed and extends to this Board and to
33 the Department of Interior, indigenous peoples Article
34 III have the right to self-determination, by virtue of
35 that right, to freely determine their political status
36 and freely pursue their economic, social and cultural
37 development. And the right of consultation is in here.
38 That right of consultation belongs to tribes. It is in
39 Article XVIII and it does not extend to corporations,
40 it belongs solely to tribes.

41
42 We feel that even in how this issue was
43 developed with this Board, there's a problem with the
44 process. In coming to a consultation process, 16
45 consultations for 229 tribes is not enough.
46 Consultation needs to be meaningful, it needs to be
47 defined as you -- there's been several cases, multiple
48 cases of Federal agencies saying, well, we wrote you a
49 letter, that's enough, we've consulted. It's really
50 important that, I think, as you go forward that you

1 define each of these terms to make it meaningful,
2 otherwise tribes will just be pushed to the side and
3 their rights will be impeded by this. And as a Board,
4 we'd urge you to fulfill your responsibility to tribes,
5 that trust relationship you have is with tribes.

6

7 CHAIRMAN TOWARAK: Thank you. And
8 that's good advice, I appreciate what you're saying and
9 that's why we have the solicitor's office sitting with
10 us in all of our meetings to guide us down the right
11 path.

12

13 So, Crystal, you had a comment.

14

15 MS. LEONETTI: I want to thank you for
16 your comments. I just want to make sure that the Board
17 is clear, that what's in front of you today is not the
18 ANCSA Corporation Consultation Policy, it's simply the
19 Tribal Consultation Policy. The ANCSA Corporation
20 Consultation Policy will come later after the
21 Department of Interior has finished their consultation
22 policy, this is the Tribal Consultation Policy.

23

24 Also want to make sure that you're
25 clear that many, many more tribes were consulted with
26 than just 16. I think 19 written comments were
27 received, but we consulted, at the generosity of BIA,
28 at their Tribal Service Provider's Conference, there
29 were more than, I think, 500 people in the room, and I
30 don't know the exact number of tribes that we consulted
31 with that day but it was many, as well as the 12
32 teleconferences that we held prior to the fall Regional
33 Advisory Committee meetings. So there were a lot of
34 tribes that were consulted with in order to develop
35 this policy.

36

37 I just wanted to make sure that that's
38 clear to the Board.

39

40 CHAIRMAN TOWARAK: Yeah, I wanted to
41 point out, too, that since it's baseball season, you
42 know, I think we're in the first half of the first
43 inning in this process and hopefully by the time we get
44 to the end of the inning -- the game, we will be
45 consulting with all 225 [sic] tribes in the state.

46

47 Thank you for your comments.

48

49 MR. STAUFFER: Thank you.

50

1 CHAIRMAN TOWARAK: And thank you for
2 being here. We will continue then, Pete.
3
4 MR. PROBASCO: Thank you, Mr. Chair,
5 and thank you, Crystal, for that.
6
7 Help me with the last name here, Robert
8 Brean.
9
10 MR. BREAN: Brean.
11
12 MR. PROBASCO: Robert, thank you.
13
14 MR. BREAN: Thank you, Mr. Chairman.
15 Members of the Board. Appreciate the opportunity to
16 share some comments with you.
17
18 I'm glad that my colleague, Belinda
19 Northway, was able to give you some of her thoughts and
20 opinions about how consultation process can be improved
21 upon and maybe some examples of consultation gone awry.
22
23 I have handed out a written comment
24 packet to each of you, it is actually a letter from Din
25 e'h, LLC to David Hays, Deputy Secretary of Interior,
26 and it's our comments on the Tribal Consultation
27 process that the Department of Interior is currently
28 going through, and it will be the basis of my comments.
29
30 Let me step back a moment. My name is
31 Robert Brean. I am the president of Tanacross
32 Incorporated. Those of you that have ever driven the
33 Alaska Highway, you know where that's at, it's near Tok
34 Junction. I am also a tribal member of the Tanacross
35 Tribe and I'm here also speaking on behalf of the
36 tribal council of Tanacross. In addition to that I'm
37 the general manager for Din e'h LLC, which is a
38 conglomerate that was put together by the four village
39 corporations in the upper Tanana regions, to include
40 Northway, Tetlin, Tanacross and Dot Lake. Collectively
41 we own over 100 miles of right-of-way on the proposed
42 gas pipeline project going to Alberta, and I'll get to
43 that in a moment.
44
45 But I wanted to first talk about the
46 draft document that you all are reviewing today and I
47 wanted to give my compliments to the participants so
48 far and the drafters of that document. I think it is a
49 great, great start on a meaningful process. My hat is
50 off to those people who have worked on that.

1 I particularly appreciate the sections
2 where there is discussion about the policy also upholds
3 the Congressional mandate to implement the provisions
4 of the Alaska National Interests Land Conservation Act
5 of 1980, PL66-487, which with its implementing
6 regulations defines the roles and responsibilities of
7 the Department of Interior and Agriculture in
8 administering the subsistence management of fish and
9 wildlife on Federal public lands. I think that's a
10 powerful statement and not one to be overlooked.

11
12 I think Crystal has aptly covered the
13 important points of the policy. One thing that I
14 wanted to add was in the back under definitions, the
15 definition of consultation. Before I go to that, you
16 know, my preference would have been that that word
17 would be consent rather than consultation but we are
18 where we are today. But I think that statement about
19 what consultation means is important. The process of
20 effective meaningful government to government
21 communications and coordination between the appropriate
22 Federal agency and tribes conducted, and here's the
23 operative word, before, the Federal government takes
24 action or implements decisions that may affect tribes.
25 That one singular word is a very powerful word, and
26 I'll explain why I feel that way.

27
28 In the background of the policy I
29 thought it did a great job of talking about the
30 connection between ANCSA and ANILCA and back in the
31 day, and some of us were there when it went down, the
32 selected lands by regional and Native Corporations was
33 a mere, a small percentage of traditional lands lived
34 upon by the traditional people in the state of Alaska.
35 We took what we could get and that was the land base of
36 ANCSA but it was clear in Congress that the
37 relationship between ANCSA and then what the Federal
38 government selected in terms of National Interest Lands
39 was absolutely critical. The relationship based upon
40 government to government relations; the relationship
41 based upon subsistence use of resources on those lands;
42 the Title VIII provision in ANILCA; the establishment
43 of this Board; and the other provisions in ANILCA made
44 it very clear by law that there was a direct connection
45 between the relationship between the Alaska Native
46 Claims Settlement Act and ANILCA and the rules of
47 engagement that would govern any activity on public
48 lands in the state of Alaska, vis-a-vis land claims and
49 other applicable laws.

50

1 And I emphasize that because, Mr.
2 Chairman, while I appreciate that this Board's primary
3 duty is to look at specifically Title VIII of ANILCA
4 and its application to situations in the state, my
5 personal opinion is I don't think that you can look at
6 Title VIII in a vacuum. Particularly because there are
7 other things that are currently happening as we speak
8 relative to ANILCA that will ultimately end up right
9 here on your table because of botched processes by
10 Federal agencies, one having to do with Title XI, which
11 has to do with gas pipeline rights-of-way. My
12 prediction is in the future, in the next 20 years we'll
13 be looking at all kinds of corridors that will criss-
14 cross this state, corridors that will involve railroad
15 extensions, fiberoptic cables, water lines, power
16 lines, railroad beds, gas lines, oil pipelines, all of
17 which are governed by Title XI of ANILCA and all of
18 which will impact subsistence resource use areas, and
19 ultimately will land at this table as a result.

20
21 So it seems to me, Mr. Chairman, that
22 it's incumbent upon this Board to recognize other
23 actions under the jurisdiction of ANILCA that will
24 affect the use of subsistence resources by Native
25 people that will ultimately come to your jurisdiction.
26 And I know I'm kind of being vague and nebulous but I'm
27 going to get down to the specifics of it, Mr. Chairman,
28 if you'll allow me your indulgence.

29
30 Basically the way we see it in our
31 region, and I mentioned who I represent because we are
32 one of those regions where our village corporations and
33 our tribal councils are working hand and glove, we
34 don't have differences of opinion on this issue, nor do
35 we have differences of opinion on subsistence use in
36 our region, however, we are being set upon by Federal
37 agencies and ExxonMobil to circumvent Federal law,
38 ANILCA, that was put in place and clearly governs how
39 National Interest lands and Federal lands are to be
40 handled and adhered to in the state of Alaska.

41
42 Well, the first thing that -- just as a
43 little side note, the first thing that ExxonMobil did
44 when they didn't get the answer from our conglomerate
45 group was they immediately went to a single tribe,
46 Northway, Belinda, the most affected tribe, in an
47 attempt to cut them out of the herd, they wanted to get
48 a different opinion from them. In fact, they offered
49 them money to change their mind and to go along with
50 the Fish and Wildlife Service land exchange process.

1 They turned the money down. They told them that we are
2 standing with our sister tribes and corporations in the
3 region. So there's an example, Mr. Chairman, of a
4 large corporation with plenty of money not getting the
5 answer it wants from a particular group and then going
6 to another group to get a different answer in order to
7 justify their actions that they've already taken. I
8 predict that we'll see more of that often in many cases
9 in the state of Alaska, where the private sector will
10 work all of the angles and if there are plenty of
11 angles they'll work them all in order to get the answer
12 or a non-objection from a party that will justify their
13 actions. So that's one thing that happened in the
14 Upper Tanana region, and if you would recall some of
15 the comments that Belinda made from Northway's
16 perspective and that kind of emphasizes what I have to
17 say here today as well.

18

19 But essentially the way we view it as
20 that the ANCSA Corporations in our region have the
21 responsibility to manage the lands and resources for
22 the benefit of Native shareholders. So the economic
23 development, the rural economic development, planning
24 and implementation is every bit as much a part of the
25 fiber of the tribe as is the use of subsistence and, in
26 fact, our village corporations in our region view
27 ourselves as a subsidiary of the tribe and we have a
28 great working relationship. Other regions around the
29 state don't have that and that's unfortunate but we are
30 able to cut through a lot of red tape by having a good
31 relationship, as you spoke to earlier, Mr. Chairman.

32

33 Without reading what I've already
34 submitted in writing because I believe that it's a part
35 of the record, I'd just like to focus on one section,
36 which is Title XI of ANILCA.

37

38 The purpose of this land exchange that
39 Belinda referred to, and this is on the bottom of Page
40 2, relative to the Fish and Wildlife Service and APP,
41 and I'll call them who they are, ExxonMobil, the
42 obligations of Title XI of the Alaska National Interest
43 Lands Conservation Act, and give APP free control of
44 the right-of-way development for the last two miles of
45 the corridor in Alaska. The justification for
46 processing the land exchange outside of the ANILCA was
47 two-fold for the Fish and Wildlife and for Exxon.
48 There was not enough time to comply with Title XI and
49 meet AGIA deadlines and the parties lacked sufficient
50 experience with Title XI process. ANCSA and ANILCA are

1 related. Section 17(d)(2) of ANCSA directed the
2 Secretary of Interior to make the withdrawals of public
3 lands that eventually became reserved under ANILCA. So
4 there is a direct relationship between those two laws.
5 Section .101 of ANILCA recognizes the importance of
6 subsistence to rural residents of Alaska and the need
7 to satisfy the economic and social needs of Alaska and
8 its people. There's that connection again. The
9 Congressional findings in ANILCA, Title XI, Section
10 .11.01 recognize the need for a single comprehensive
11 statutory authority for the approval or disapproval of
12 applications for transportation routes through
13 conservation units, such as the Tetlin National
14 Wildlife Refuge. Section .1104 establishes the
15 procedures for exercising that authority. Finally, the
16 applicable laws on exchanges in ANILCA, Section .1302
17 are written with the presupposition that the purpose of
18 an exchange is to acquire land for conservation units,
19 not to convey it in furtherance of a private firm's
20 interest in a development project.

21
22 I'll jump ahead, Mr. Chairman, because
23 I want to get to the point of my presentation and that
24 is that this consultation process is significantly
25 important. And, like I said earlier, there are
26 implications of other parts of ANILCA that will bring
27 those chickens back to roost right here. They will
28 create subsistence problems and issues if they're not
29 properly vetted and if tribes, and I would just
30 specifically talk about tribes because that's what
31 we're talking about in terms of policy here. If tribes
32 are not properly consulted prior to a Federal decision,
33 as Belinda mentioned, the consultation efforts by the
34 U.S. Fish and Wildlife Service were after the fact.
35 The deal was done. ExxonMobil was giving 500 grand to
36 the Fish and Wildlife Service for a land exchange.
37 They were brokering a deal to circumvent Title XI of
38 ANILCA, and they still are. There are people in this
39 building working on that project right now. So how
40 long will it be before they attempt to circumvent Title
41 VIII of ANILCA.

42
43 We have a Federal agency that is the
44 responsible legal steward of ANILCA and ANILCA
45 establishes the rules of engagement for National
46 Interest Lands in Alaska, it is specific to Alaska.
47 Now, they do these land swaps all the time down in the
48 Lower 48 but they brought it north and tried to do it
49 in a way that circumvents Title XI of ANILCA. We've
50 submitted a FOIA to the U.S. Fish and Wildlife Service

1 for all of the data, as Belinda said they were going to
2 charge us four grand for that data, for a public action
3 that required consultation with us. Fortunately, Fish
4 and Wildlife Service waived that fee and gave us all
5 the information that they could put their hands on.
6 But I must say, Mr. Chairman, that the response to the
7 FOIA is still incomplete. Now, one would think that if
8 consultation occurred in a constructive manner, that
9 two parties sit down, they talk about something they
10 would unilaterally like to do together that benefits
11 both parties. In this case, the deal was done, quite
12 honestly, at the architectural direction of ExxonMobil
13 to the Fish and Wildlife Service for a land exchange
14 from the Tetlin Wildlife Refuge to the Naches River
15 Refuge in Texas, which means nothing to us, has no
16 value to us. And, in fact, the Fish and Wildlife
17 Service didn't even approach the tribal council of
18 Northway to see if they might want to be the steward of
19 a land exchange, nor did they approach the village
20 corporation of Northway to see if they were interested
21 in exchanging waterfowl habitat, which is highly valued
22 by the U.S. Fish and Wildlife Service, nothing, none of
23 that, went right to Texas, spend the 500 grand that
24 ExxonMobil gave us and let's do this landswap.

25
26 My reason for mentioning this, Mr.
27 Chairman, is because that issue then ultimately comes
28 back to bodies like this. And it also points to
29 consultation process; one, that was bogus; went awry;
30 was done absolutely wrong. Because as a result of the
31 FOIA, Mr. Chairman, even though it is incomplete, and,
32 in fact, it doesn't include the solicitor general's
33 office opinion about why they should be able to
34 circumvent Title XI of ANILCA, we know it exists but
35 it's not included in the FOIA. We can prove by virtue
36 of the FOIA material that we received from the U.S.
37 Fish and Wildlife Service that this was a done deal
38 before they even walked out the door to do
39 consultation. Now, as a body that's got to cause you
40 some alarm. Because the people participating in that
41 process at the behest of ExxonMobil work in this
42 building, in fact, there's a parallel meeting going on
43 upstairs with the realty office about why this went
44 awry, why it's continuing on, why the process hasn't
45 been stopped, and why consultation isn't done properly.
46 Particularly in the light of the fact that some three
47 weeks ago the CEOs of the three oil companies and the
48 Governor of the state of Alaska said that they were
49 putting the Alberta project on hold and they were going
50 to tidewater for an LNG project, which means that the

1 terms of AGIA are now off the table. There's no
2 requirement for ExxonMobil to have a piece of Tetlin
3 Wildlife Refuge to get their permit from FERC. There's
4 no project. There's no compelling reason for that to
5 occur. And I realize I'm getting a little afar but my
6 point here is that it would cause me -- if I were on
7 this Board it would cause me alarm to have the U.S.
8 Fish and Wildlife Service continuing to perpetrate a
9 land exchange that's no longer necessary in violation
10 of Title XI of ANILCA because when that happens it will
11 end up at this Board's table to deliberate the negative
12 impacts of a lack of consultation; a consultation gone
13 awry; a travesty; and a breach of Title XI of ANILCA.

14
15 I thank you, Mr. Chairman, for the
16 opportunity to make these comments.

17
18 And I realize that this is a little bit
19 of a different angle on your conversation here about
20 the consultation process, but I hope that it points out
21 the necessity for the kind of details that I see in
22 your draft that need to be in place in order to prevent
23 the kind of things that are currently going on right
24 now, from happening again. It gives clear rules of
25 engagement for all of the parties to come to the table
26 and participate. And I particularly like that word,
27 Mr. Chairman, before, Federal action takes place. In
28 this case we've got the Federal government responding
29 to a private for-profit corporation and their partner,
30 a Canadian corporation without meaningful consultation
31 with the tribes most affected by a land exchange in a
32 National Wildlife Refuge. It's unbelievable.

33
34 Thank you, Mr. Chairman, for the
35 opportunity to testify.

36
37 CHAIRMAN TOWARAK: Thank you, Mr.
38 Brean. And I think your presentation has kind of given
39 me, personally, a broader picture of the relationship
40 with our consultation process with other issues that
41 the Federal government is involved in and how it
42 eventually could affect our operation here as a Federal
43 Subsistence Board, and I appreciate your comments. And
44 for the record it's all being recorded and it will be
45 on record.

46
47 MR. BREAN: Thank you, Mr. Chairman.
48 Nice to see you again.

49
50 CHAIRMAN TOWARAK: Good to see you,

1 too, Bob.

2

3 MR. PROBASCO: Thank you, Mr. Chair.
4 We have three more people here in the audience that
5 would like to testify and then we will go to the phone
6 line.

7

8 So next is Gloria Stickwan. Gloria.

9

10 Gloria.

11

12 MS. STICKWAN: My name is Gloria
13 Stickwan. I'm here to give comments on the Tribal
14 Consultation Policy. When I called the office I was --
15 I drafted these comments for AHTNA, I asked about the
16 ANCSA consultation, it wasn't finished, how can we
17 write comments when it isn't finished. I was told to
18 write comments on the tribal consultation and so that's
19 what I did but I based it on an ANCSA concern, what our
20 -- as a corporation, would be concerned about.

21

22 And so one of the things I wrote down
23 there was that AHTNA is very concerned about -- the
24 AHTNA Corporation Board has made subsistence a
25 priority, they take it very seriously. And one of the
26 things that we have done, that the Board has decided to
27 do is to form an AHTNA -- Copper River/AHTNA
28 InterTribal Conservation District and the reason it was
29 done was because conservation district -- tribal
30 districts now can focus on subsistence so we formed a
31 tribal conservation districts with our member villages
32 to be the leading entity into '13 to address
33 subsistence matters. AHTNA C&T Committee will be
34 dissolved and the new entity will be the Copper
35 River/AHTNA InterTribal Conservation District. So
36 that's one of the questions that Ms. Leonetti said was
37 that resolutions may have to be brought before this
38 Board, well, all of the villages in our area signed a
39 resolution to form this tribal conservation district,
40 and it's purpose and only purpose right now is to
41 address subsistence matters. So they do have a signed
42 resolution given to this tribal conservation district
43 to represent them in subsistence matters in the future.
44 But for this year, 2012, it will be the C&T Committee
45 that works on subsistence matters. And I just wanted
46 you to know that.

47

48 So I don't know if we'll have to write
49 resolutions or not, I'm not sure how that -- what that
50 process will be. We'll be making comments later on.

1 As we see the guidelines written, we'll be adding more
2 comments.

3

4 I wanted to say that when I was
5 rereading through the Tribal Consultation Policy, I saw
6 cooperative agreements in there but I didn't see the
7 word, Section .809 of ANILCA added in there and I
8 wanted to make sure that word, Section .809 of ANILCA,
9 is added into the Tribal Consultation, not just
10 cooperative agreements. If there's any regulations
11 that will affect AHTNA lands, regional lands, we want
12 to make sure that this Federal Board does more than one
13 attempt to contact AHTNA because it will concern our
14 lands, our corporation lands, and we have a good
15 relationship with our village, we have representatives
16 on our board from each village, the C&T Committee and
17 they represent their villages and with this tribal
18 conservation district being formed it'll be made up of
19 the tribes next year.

20

21 I just thought that somebody from AHTNA
22 should sit on this working group in the future if at
23 all possible. I wasn't sure what the process was in
24 the beginning of how to get on this working group. I
25 don't know if it was selected or it wasn't advertised
26 -- I mean it wasn't in the register, I think it was
27 just people volunteered, I'm not sure how it was
28 formed, but there needs to be a process in place in the
29 future for working groups being formed of how -- how do
30 you get on one.

31

32 The other thing I thought, in the ANCSA
33 -- the ANCSA Consultation Policy should include the
34 Section .809 and comanagement should be a part of that.
35 I would like to see comanagement of the resources,
36 which includes reporting, research, research funding
37 agreements, management plans, regulation and
38 enforcement should be included in the Tribal
39 Consultation Policy as well as the ANCSA Consultation
40 Policy and all that -- that -- what that entails to be
41 a part of that.

42

43 Those are my comments.

44

45 Thank you.

46

47 CHAIRMAN TOWARAK: Thank you, Gloria.

48

49 MS. STICKWAN: Can I say one more
50 thing?

1 CHAIRMAN TOWARAK: Sure.

2

3 MS. STICKWAN: I just wanted to say the
4 last time that we had a teleconference, I thought it
5 worked really well that -- when we were able to talk
6 about our wildlife proposals, it worked really well to
7 be on the phone with the Federal agencies to talk about
8 the wildlife proposals. The only thing is I noticed
9 because of the -- it was because of the timing and
10 because of the first year start up that more -- the
11 information wasn't provided, that could have been
12 provided, and I know it was -- probably because of the
13 timing of the first year, but I would like to see more
14 information, analysis of the proposals be given to the,
15 you know, the proposals that are of most concern -- the
16 proposals of most concern are the ones that we want
17 analysis of, if we ask for that analysis of one
18 particular proposal, I would like to see that done. I
19 know we don't need analysis of every proposal because
20 there are some proposals that have to do with things
21 that we're not really concerned about, but the ones
22 that we are concerned about, I would like to see an
23 analysis given over the phone of those proposals during
24 our consultation on proposals. But I thought it worked
25 really well.

26

27 CHAIRMAN TOWARAK: Thank you, Gloria.
28 If you could stay there for a second. Could you
29 explain to me how you determined the Conservation Unit
30 [sic]?

31

32 MS. STICKWAN: We are just in the very
33 beginning stages of -- all we did so far was form a
34 corporation -- a non-profit and that's as far as we've
35 gotten and we drafted bylaws which still need to be
36 formally adopted so we've just -- we have not even
37 begun to start what the mission is, you know, what our
38 mission is, what it will entail, we just know in the
39 beginning it's going to deal with subsistence and only
40 subsistence but it will most likely branch out to other
41 things that are allowed under the tribal conservation.

42

43 CHAIRMAN TOWARAK: In my mind I thought
44 that was very innovative and I want to congratulate
45 your region for going the distance, the planning that
46 you folks have gone through.

47

48 MS. STICKWAN: Thank you.

49

50 CHAIRMAN TOWARAK: Appreciate that.

1 Any questions from anyone else.

2

3 (No comments)

4

5 CHAIRMAN TOWARAK: Thank you, Gloria,
6 for your testimony.

7

8 Pete.

9

10 MR. PROBASCO: Thank you, Mr. Chair.
11 Next is Mr. Timothy Andrew.

12

13 MR. ANDREW: Good morning, Mr.
14 Chairman. My name is Timothy Andrew. I'm the director
15 of natural resources for the Association of Village
16 Council Presidents. We have 56 subsistence dependent
17 tribes that reside within our region. Our region is
18 also surrounded by the Yukon-Delta National Wildlife
19 Refuge. So we are affected tremendously by decisions
20 by this Board and also the recommendations of the
21 Yukon-Kuskokwim Delta Regional Advisory Council and the
22 U.S. Fish and Wildlife Service as well. And we really
23 appreciate the Federal Subsistence Board, your Staff,
24 the Fish and Wildlife Service embarking on the -- or
25 the beginnings of developing this Federal -- or this
26 Tribal Consultation Policy as it will affect our
27 subsistence way of life, our food security issues that
28 we have within the region.

29

30 I really appreciate the comments that
31 were made by the people of Chickaloon and Northway and
32 others that expressed concerns about the various parts
33 of the Tribal Consultation Policy.

34

35 But within our region we have a very
36 active Regional Advisory Council and many of the people
37 that are selected to participate on the Regional
38 Advisory Council are selected by primarily the Refuge
39 Staff, recommendations to the Office of Subsistence
40 Management, then forwarded on to the appropriate level
41 of people that are in charge of selecting the Regional
42 Advisory Council and then confirmed by the Secretaries.
43 We feel that the Tribal Consultation Policy should also
44 include a tribal consultation element in the selection
45 of RACs because subsistence has always been a tribal
46 issue, it's always been an Alaska Native issue. In
47 fact, if you do a little research into the
48 Congressional Record, statements by Morris Udall and
49 various members of the communities that have
50 jurisdiction over the ANILCA, or Title VIII of ANILCA,

1 many of them referred to the failures of the Alaska
2 Native Claims Settlement Act and protecting subsistence
3 for Alaska Natives and then the dire need for Congress
4 to protect subsistence in perpetuity for Alaska
5 Natives. So many of our people, which make up the
6 majority of the Regional Advisory Council, you know,
7 take their job seriously and we would like to at least
8 have the opportunity for the tribes to select those
9 people that make recommendation for, you know, this
10 tribal, an Alaska Native issue, of subsistence.

11
12 And, Mr. Chairman, that concludes my
13 comments and would be happy to answer any questions.

14
15 CHAIRMAN TOWARAK: Thank you, Mr.
16 Andrew. Any questions of Mr. Andrew.

17
18 (No comments)

19
20 CHAIRMAN TOWARAK: You said -- I have a
21 question, you said your regional non-profit, AVCP, is
22 very active in nominating people to the Regional
23 Advisory Council?

24
25 MR. ANDREW: No. AVCP is not involved
26 in the nominating people. We've often communicated
27 with people and try to encourage people to apply for
28 the Regional Advisory Council. I just commented that
29 the Refuge Staff and also people in the OSM are very
30 active in selecting who these Regional Advisory Council
31 are, and we'd just like to recommend that tribes be
32 given the opportunity to forward names to support
33 people by resolution because subsistence is so much of
34 an important issue for us.

35
36 CHAIRMAN TOWARAK: Would you see a
37 process and I'm kind of doing a little fishing here
38 myself, say the nominating process go from the regional
39 Staff through the regional non-profit to the Federal
40 Subsistence -- upper levels that make the appointments?

41
42 MR. ANDREW: Yeah. We would just like
43 to see a tribal involvement, or tribal consultation
44 element with the RAC selection process. It would be
45 probably most effective if perhaps your Staff, the
46 Office of Subsistence Management Staff, were to perhaps
47 go to the like the AVCP Convention or TCC Convention,
48 where we'd have a gathering of the tribal council
49 presidents, tribal officials in discussing this matter
50 and perhaps refining it a little bit more to include

1 the tribal consultation process to have them involved
2 in the selection of RAC members.

3

4 CHAIRMAN TOWARAK: Crystal, do we have
5 anything in our current policy that reflects that?

6

7 MS. LEONETTI: We don't currently have
8 anything in the policy, although that could be
9 something added to the implementation guidelines. I'm
10 not sure exactly the mechanics of it but something we
11 could address in the implementation guidelines.

12

13 CHAIRMAN TOWARAK: Mr. Andrew, if I
14 could ask you, would you monitor that, as we get
15 information out, as we -- we're still on draft at this
16 point and we're going to continue, I think, on draft
17 for at least a year or close to a year, so if you could
18 monitor that for us. I think the regional non-profits
19 have a lot of creative people in their staff and I
20 think it would be wise to use the regional non-profits
21 on a statewide basis, so that's why I'm interested in
22 asking you to kind of monitor that process as we go
23 through it.

24

25 MR. ANDREW: Certainly, Mr. Chair. And
26 during the month of March we also had the gathering for
27 our salmon resources within the AVCP region called the
28 State of the Salmon, some of your Staff members were
29 there and we really appreciate their participation in
30 that process. That's another avenue that you can
31 possibly utilize as an outreach tool to gather public
32 comments on the Tribal Consultation Policy.

33

34 CHAIRMAN TOWARAK: Go ahead.

35

36 MR. LORD: Mr. Chairman. I may have
37 misunderstood. I think I heard two slightly different
38 processes being described here. I think, Mr. Andrew,
39 if I heard right, was describing a process where the
40 regional non-profits could write letters of support for
41 certain candidates and I don't think there's any
42 problem with that but I heard -- also heard, I think, a
43 process whereby the nominations panels, their
44 recommendations, would then go outside the Federal
45 government to be vetted and have more information, I
46 think that might raise some personnel issues that we'd
47 have to consider the implications of that before going
48 down that path.

49

50 CHAIRMAN TOWARAK: Go ahead, Mr.

1 Andrew.

2

3 MR. ANDREW: Thank you, Mr. Chairman.
4 AVCP has always recognized that we have the opportunity
5 to provide comments on Regional Advisory Council
6 members, but what we would like to see is a government
7 to government tribal consultation in the selection of
8 RAC members. Like, for example, if I were to apply to
9 become a RAC member, I would -- in what I envision
10 would be that I would have to gather at least one
11 tribal resolution in my support for the Regional
12 Advisory Council and I'd imagine I'd probably have to
13 travel back to my home community or communicate with my
14 home community or home tribe to gain that resolution,
15 or perhaps a gathering of the tribes like, for example,
16 AVCP Convention, supporting a slate of RAC members from
17 various communities, various villages within our
18 region.

19

20 But I would gladly monitor the progress
21 to see if, you know, that's included in the process.

22

23 CHAIRMAN TOWARAK: And, I agree, I
24 think it should be in terms of the scope of authority
25 that we have, so we will continue monitoring it and
26 work with Crystal on a process.

27

28 Any further questions.

29

30 (No comments)

31

32 CHAIRMAN TOWARAK: Thank you, Mr.

33 Andrew.

34

35 MR. ANDREW: Thank you, Mr. Chair.

36

37 CHAIRMAN TOWARAK: Let's talk a minute
38 here about process before -- so that the people on line
39 -- I know we're getting close to lunch here and I
40 assume that we're going to take a break for lunch or is
41 it the desire of people to work through lunch.

42

43 (Board shakes head negatively)

44

45 CHAIRMAN TOWARAK: No. Take a lunch
46 break.

47

48 (Board nods affirmatively)

49

50 CHAIRMAN TOWARAK: I think we will -- I

1 think this might be a -- do you just have one more?

2

3 MR. PROBASCO: Mr. Chairman, we have
4 one more person in the audience who'd like to testify
5 but I do know that there's a number of people on line
6 that would like to testify.

7

8 CHAIRMAN TOWARAK: Okay.

9

10 MR. PROBASCO: So if we're going to
11 take a lunch break we can take Linda next and then
12 finish that up and then go to the phone after lunch.

13

14 CHAIRMAN TOWARAK: Okay, let's do that.
15 Let's take our -- if the people on line could bear with
16 me, we're going to reconvene at 1:30 and we will go
17 directly to our telephone testimonies. So if we could
18 take Linda Tyone, we will break for lunch right after
19 this and then we will come back at 1:30 and listen to
20 our teleconference testimonies.

21

22 Ms. Tyone.

23

24 MS. TYONE: Okay. My name is Linda
25 Tyone. I'm from Gakona Village and I am also a
26 shareholder of AHTNA Incorporated. We are different, I
27 would say from all the other regions, except for maybe
28 NANA Corporation. Seven of our village corporations
29 merged with AHTNA, one corporation didn't merge with
30 AHTNA and that's Chitina, so AHTNA owns the majority of
31 the lands in the AHTNA region.

32

33 We own lands within the Wrangell-
34 St. Elias Park and Denali Park. So those Parks have
35 different rules in it, one is more friendlier and one
36 is not. We selected lands based on subsistence and
37 economics. We have a good working relationship with
38 our tribes. Like Gloria said earlier, the conservation
39 district that was formed includes all the eight
40 villages plus the village corporation, Chitina Village
41 and AHTNA, Inc., so it's a nine member board, or 10
42 member board. And so we will work all together on our
43 customary and traditional uses and so it's not on the
44 -- doing its own thing.

45

46 I'd also like to say, you know, we have
47 relatives from Tanacross, Tetlin, Dot Lake, Northway,
48 including Chitina, Chickaloon, and Eklutna, so, you
49 know, all people in Alaska have the same cultural
50 values so it's different in each region how you work at

1 it but we, you know, we're there for our people and the
2 food that we eat off the land.

3

4 We would like to be properly noticed on
5 stuff that happens within our region. There was a
6 meeting held in Cantwell last week and it was based on
7 Section .810 of ANILCA for the stand-alone gas
8 pipeline. I'm not sure where their notices went but as
9 land owners we were not notified of this meeting so,
10 you know, the tribes that are affected should be
11 notified plus the land owners that are the -- we don't
12 like to be notified at the last part of it to say, you
13 know, we'll either -- either you'll work with us or
14 we'll do imminent domain, which has happened before, so
15 we need to be notified, you know, before when everybody
16 else is notified. You know, they act like regional
17 corporations are something different but they're not.
18 Some regions may not work with the tribes but our
19 tribes and ours work together so we should not be
20 singled out as Native Corporations. If other regions
21 have problems in their own areas they need to work that
22 out so -- because AHTNA, Inc., has put millions of
23 dollars into protecting our subsistence and that's the
24 top priority for our area. We don't call it
25 subsistence because that's not a -- we call it the
26 customary and traditional uses so everybody refers to
27 subsistence but we don't.

28

29 I'd like to thank you for giving us
30 this opportunity and that's all I have to say for now.

31

32 CHAIRMAN TOWARAK: Thank you, Ms.
33 Tyone. Are there any questions of Linda.

34

35 (No comments)

36

37 CHAIRMAN TOWARAK: And I appreciate you
38 taking time to come and talk to us and I'm impressed
39 with AHTNA's reaching out to the villages and also to
40 the tribes and working as a unit.

41

42 MS. TYONE: Well, I -- I forgot what
43 else -- I was going to say something, but with the
44 economy as it is now you don't hardly see any tribes
45 here. I mean they're having a hard time just to run
46 their own business in their own community. I think
47 tribal consultation should go to different areas within
48 the state to have the people -- to be involved. I
49 don't think this is a very good consultation today
50 because there's only a few tribes here and, you know,

1 I'm a tribal member and my village isn't here and no
2 other villages from the AHTNA region are here. So I
3 think, you know, there should be additional meetings
4 besides one in Anchorage or -- maybe go into the rural
5 areas and have meetings out there, they don't have
6 money to come here. Most of them have to fly, some of
7 them are on the road system, so that would be one
8 suggestion for you guys to consider.

9

10 CHAIRMAN TOWARAK: We appreciate that.
11 And, we, ourselves, have had the general discussion of
12 reaching out and sending people out to our regions and
13 to the communities if possible and we hope to come up
14 with a plan. Later on in the agenda we have a
15 discussion about the timing of our meetings and so
16 forth. But we hear you and we're going to -- we're
17 working on a process where it will reach out to all the
18 tribes throughout the state. I might point out, and I
19 agree with you that we don't have a very good
20 representation of tribes here today but on record we've
21 got 19 tribes that have responded to us so far but
22 that's probably 19 more than a year ago so we hope
23 we're making progress and we look to the future where
24 we will be hearing more from the tribes.

25

26 MS. TYONE: Yeah, okay, thank you.

27

28 CHAIRMAN TOWARAK: We'll take a lunch
29 break and return at 1:30 and we will hear the testimony
30 over the teleconference.

31

32 (Off record)

33

34 (On record)

35

36 CHAIRMAN TOWARAK: We'll hear the folks
37 over the teleconference testimony but I'm going to make
38 an exception here for about five minutes to do his
39 comments on the MOU.

40

41 MR. ANDREW: Thank you, Mr. Chair. And
42 really appreciate the opportunity to testify on the MOU
43 and really appreciate moving me up so that I may
44 testify on this issue.

45

46 The MOU -- or excuse me, my name is
47 Timothy Andrew, I'm the director of natural resources
48 for AVCP and I'm testifying on behalf AVCP.

49

50 The MOU is an important -- a very

1 important document, we feel, because it has some
2 various points that the Federal Subsistence Board along
3 with the State of Alaska has chosen to take venture in
4 but we feel that there should be a tribal element to
5 the MOU or it should be perhaps the Federal Subsistence
6 Board, State of Alaska and a tribal MOU. The reason
7 why I say why we need a tribal MOU because 99 percent
8 of our populations in our villages within the Yukon
9 Kuskokwim-Delta are tribal members and are governed by
10 their tribal organization, tribal councils and whether
11 traditional or IRA. And if there's any way that we
12 could possibly make that work it would add an immense
13 amount of, probably, harmony the way we do things and
14 would encourage this Board to incorporate tribes into
15 the MOU with direct participation.

16
17 Thank you, Mr. Chair. Those are my
18 comments.

19
20 CHAIRMAN TOWARAK: Are there any
21 questions of Mr. Andrew on the MOU.

22
23 Go ahead.

24
25 MR. LORD: Thanks, Tim. That's an
26 interesting idea, how do you envision such a document
27 being constructed considering the number of tribes
28 there are in the state.

29
30 MR. ANDREW: I realize there's over 220
31 tribes in Alaska, not all of them are affected by the
32 Federal Management System. But in our area we have
33 probably about 40 villages that are encompassed in the
34 Yukon Delta National Wildlife Refuge. There's -- AVCP
35 is one of the organizations that tribes compact through
36 and then there's also the Kuskokwim Native Association,
37 which encompasses the middle part of the Kuskokwim
38 River. With so many tribes, I wouldn't be opposed to
39 the idea, you know, depending on various comments from
40 the various areas but for our region I would be opposed
41 to perhaps working with the Association Village Council
42 Presidents and ratification through the AVCP
43 Conventions that we hold annually.

44
45 CHAIRMAN TOWARAK: Any further
46 questions.

47
48 Go ahead.

49
50 MS. YUHAS: Thank you, Mr. Chairman. I

1 know that we're out of cycle here and that I should
2 probably save my comments for the MOU brief but because
3 Mr. Andrew will be leaving I figured this was the
4 appropriate time.

5
6 I just wanted to mention that as many
7 times as I've seen this on the agenda I think it's a
8 bit misleading that we simply refer to it as the MOU,
9 that it's on the agenda as MOU update. The MOU that we
10 keep discussing is an agreement between the State and
11 the Board on how we will do our data protocol, how we
12 will relate, what documents we will transfer, and that
13 it tends to lead a lot of the general public in the
14 comments that I have heard that there's an MOU to
15 address relating to everyone and it's really not the
16 case. This MOU doesn't discuss the relationship that's
17 special between the Board and tribes which is being
18 addressed through the tribal consultation protocol
19 without the State's input. While we respectfully
20 listen we haven't contributed to that process because
21 we recognize that that's an agreement on how the Board
22 will relate to the tribes. And so I just wanted to
23 clarify that the MOU that keeps appearing on the agenda
24 is that document, in particular, and if there's a
25 necessity for additional MOUs or additional agreements
26 between the Board and other entities, that it would
27 probably then be different.

28
29 CHAIRMAN TOWARAK: Okay, that's more
30 food for thought.

31
32 Any further questions of Mr. Andrew.

33
34 (No comments)

35
36 CHAIRMAN TOWARAK: Thank you, Tim.

37
38 MR. ANDREW: Thank you, Mr. Chair.

39
40 CHAIRMAN TOWARAK: And we will keep you
41 abreast of the issue.

42
43 Okay, thank you for taking time to
44 listen to Mr. Andrew, we will go back to our
45 discussions on the tribal consultation process with
46 Crystal Leonetti.

47
48 MR. PROBASCO: Thank you, Mr. Chair.
49 This is the opportunity for those on line and I just
50 wanted to just restate that first we'll let the non-RAC

1 members testify and I have a list of those and then
2 after they're completed I will ask the Chair to ask for
3 Regional Advisory Council comments. So this first go
4 around will be for the public that are on line and the
5 first person I have from Ruby to testify on the Tribal
6 Consultation Policy is Edward Sarten. Edward, are you
7 on line.

8

9

(No comments)

10

11

MR. PROBASCO: Edward are you there?

12

13

14 hear me.

15

16

MR. PROBASCO: We got you now.

17

18

MR. SARTEN: Okay.

19

20

MR. PROBASCO: Would you like to

21 testify on the Tribal Consultation Policy?

22

23

MR. SARTEN: At this time I'll have to
24 decline, right now, other than I'm all for listening to
25 the tribes and things that they have to address and
26 I've been listening also on the information on tribal
27 council districts. And I would also like to do a
28 review of people looking at our food system out here in
29 rural Alaska, and that's basically that's all I'm
30 prepared to state at this time.

31

32

Thank you.

33

34

MR. PROBASCO: Thank you, Edward, and
35 thank you for calling in. Next, I have is Rose Tepp
36 from Kenaitze. Rose, are you on line.

37

38

MS. TEPP: Can you hear me?

39

40

MR. PROBASCO: I got you now, Rose, go

41 ahead.

42

43

MS. TEPP: Okay. I spoke this morning
44 on behalf of the Kenaitze Indian Tribe and mentioned
45 that we've been rural/nonrural -- rural and nonrural
46 again. And one of the research -- ISER report came out
47 and the Kenaitze Tribe wanted to be looked at as a
48 community within a community on the subsistence issue.

49

50

One of the things that I find kind of

1 ironic here in Kenai, Alaska, is that the dipnetters
2 are always preferenced before any other group and we,
3 the Kenaitze Tribe through their -- hello?

4

5 MR. PROBASCO: Go ahead, Rose.

6

7 MS. TEPP: Through our educational
8 fishwheel we take less than one percent from the
9 fishery here in the Kenai and I urge the Board to read
10 the ISER report. And on the -- I have concern on the
11 lady that testified over in Tok with the outfit from
12 Texas that is making deals with the State or Exxon or
13 whoever it is, that concerns me a lot because this
14 tribe didn't hear anything about it. Anything like
15 that that happens we're supposed to be consulted and I
16 find it disturbing that we, as tribal councils, don't
17 know anything about it.

18

19 MR. PROBASCO: Okay, thank you, Rose.

20

21 MS. TEPP: You're welcome.

22

23 MR. PROBASCO: The next person I have
24 is Tim Smith. Tim, do you want to speak on the Tribal
25 Consultation Policy before the Board.

26

27 (No comments)

28

29 MR. PROBASCO: Tim, are you there?

30

31 (No comments)

32

33 MR. PROBASCO: Okay, is Tim still on
34 line, Jeff?

35

36 JEFF: (Nods affirmatively)

37

38 MR. PROBASCO: Tim, can you hear us?

39

40 (No comments)

41

42 MR. PROBASCO: Okay. I'll go next, I
43 have Lee Kayotuk. Lee.

44

45 MR. KAYOTUK: Yes, I'm here. Good
46 afternoon to the Board and the Council. And for our
47 area on the North Slope for the tribe in consultation,
48 with the Federal government, before any changes that
49 are made or anything that would -- let the city of
50 village of Kaktovik know so that they would go through

1 the village of Kaktovik on a regular basis for anything
2 that is changing on our area because we're right smack
3 in the middle of ANWR and anything that deals with
4 tribal or government issues would be important to our
5 village before any changes in matter of definitions.

6

7 That's all I have for now.

8

9 MR. PROBASCO: Thank you, Lee. The
10 last person I have to testify as a public member or a
11 tribal member is Catherine Moses. Catherine, would you
12 like to speak on the Tribal Consultation Policy.

13

14 (No comments)

15

16 MR. PROBASCO: Catherine, are you
17 there?

18

19 (No comments)

20

21 MR. PROBASCO: Catherine, can you hear
22 me?

23

24 (No comments)

25

26 MR. PROBASCO: Operator, are all lines
27 open?

28

29 OPERATOR: Yes, all lines are open.

30

31 MR. PROBASCO: Okay. All right, Mr.
32 Chair, if I may can we go to Council?

33

34 CHAIRMAN TOWARAK: Sure.

35

36 MR. PROBASCO: Okay. This will be the
37 opportunity for Council members that are on line to
38 speak on the Tribal Consultation Policy draft before
39 the Board, and the first person I have is Vince
40 Tutiakoff from Kodiak/Aleutians. Vince.

41

42 MR. TUTIAKOFF: Yes, good afternoon,
43 this is Vince Tutiakoff, I'm the vice-Chair of the
44 Kodiak/Aleutians.

45

46 I'm happy that we had this opportunity
47 to sit with the Federal Board and discuss the process
48 for having to do consultation issues and getting a
49 policy. One of our Board members, or RAC members was
50 pretty much involved, or was involved a lot in this

1 process of the policy that we have in front of us
2 today. Della Trumble from King Cove. And she is not
3 available today but I want to thank everyone for all
4 the comments and concerns regarding -- I guess, we, as
5 a RAC, we discussed this, really didn't get into the
6 issue of the ANCSA Corporations but it sounds like it's
7 an issue, may be in conflict, so it's going to have to
8 be something we're going to have to look at down the
9 road.

10

11 I guess I didn't have any more comments
12 other than that but we want to see it happen, though.

13

14 Thanks.

15

16 MR. PROBASCO: Thank you, Vince. Next
17 is Mr. Jack Reakoff. Jack.

18

19 MR. REAKOFF: The Western Interior
20 doesn't have any additional for the Tribal Consultation
21 Policy. Are supportive of the draft to date, but I
22 don't have any further comments on it.

23

24 Thank you.

25

26 MR. PROBASCO: Thank you, Jack. Next I
27 have Mr. Bert Adams, Southeast. Welcome back, Bert.

28

29 MR. ADAMS: Thank you. Can you all
30 hear me okay?

31

32 MR. PROBASCO: Yes, we can.

33

34 MR. ADAMS: Like Mr. Reakoff, I don't
35 have very much to say about tribal consultation. All I
36 can say is, you know, it's about time. I know that our
37 RAC has some issues with the ANCSA Corporations but,
38 you know, that's nothing that we can deal with at this
39 time. I think it's something that we need to take to a
40 higher level. But other than that, you know, that's
41 about all I have for the tribal consultation issue.

42

43 However, Mr. Chairman, I would like to
44 make a comment about the MOU because in a short while
45 I'm going to have to go here to another meeting.

46

47 CHAIRMAN TOWARAK: Why don't you go
48 ahead and take a few minutes to give us your thoughts
49 on the MOU.

50

1 MR. ADAMS: Okay, thank you, Mr.
2 Chairman. It'll probably be less than a minute.

3
4 But our Council had some issues with
5 the MOU too. I think that, you know, we should move on
6 with this. I'm glad that there is something that is
7 happening with the Federal -- the Feds and the State,
8 you know, at least come to a meeting of the minds on
9 subsistence issues. You know we have this issue of
10 dual management that I hope this MOU will begin to
11 solve. I know that it's going to take some work on
12 both sides but I do believe that it can be done. The
13 MOU, I think, is very critical, you know, to not only
14 tribal governments and the Federal government and, you
15 know, the regional corporations -- or the Regional
16 Advisory Council but I'm really glad, you know, we are
17 moving forward on this because, you know, there was an
18 MOU that was previously, you know, signed off by both
19 the State and the Federal when the State came out of
20 compliance then, you know, things didn't go so well. I
21 have to admire Ms. Yugas because I've seen some
22 information on meetings that were held and she was the
23 only one from the State that was there and surrounded
24 by all Federal people, so I was happy to see that that,
25 you know, was there and I'm sure that she represented
26 the State very well.

27
28 But like I said I have to run I teach a
29 Tlingit class here in a few minutes, so unless anyone
30 has any questions, you know, I have to go, Mr.
31 Chairman.

32
33 CHAIRMAN TOWARAK: Thank you, Bert.
34 You used two minutes so you're still on Indian time.

35
36 (Laughter)

37
38 CHAIRMAN TOWARAK: Thank you for your
39 comments.

40
41 MR. ADAMS: Okay.

42
43 MR. PROBASCO: Take care, Bert.

44
45 MR. ADAMS: Thanks, bye.

46
47 MR. PROBASCO: Next I have is Mr.
48 Raymond Stoney from Northwest Arctic. Raymond, are you
49 on line.

50

1 MR. STONEY: Yes, I am, Mr. Chairman.
2 I'm real pleased about these statements and the
3 comments the public put out this morning. It takes
4 about four hours, all of my time, and I'm very pleased,
5 and I continue to support this consultation, you know,
6 for a lot of people in Alaska, keep up the good work
7 and I thank you guys very much.

8
9 Thank you.

10
11 MR. PROBASCO: Thank you, Raymond. And
12 the last Council member that I have on the phone is
13 Rosemary from the North Slope Council. Rosemary, are
14 you still there.

15
16 MS. AHTUANGARUAK: Yes, Pete. I want to
17 thank everyone who was involved in this process. It
18 has been a very enlightening process.

19
20 I do want to note the difficulties I
21 felt as a tribal person on this process. There were
22 resources that were available to Federal employees
23 working on this process that were not given to the
24 tribal representatives. I mean if we had a resource of
25 being able to talk with the tribal lawyer that would
26 have been very helpful in some of this process. We
27 also did not get to participate in all of these
28 meetings in a face to face basis, which affected our
29 ability to effectively communicate and that's very
30 important when we're participating in this process.
31 There's a lot we can do with teleconference but the
32 void of not having that face to face interaction, being
33 able to effectively say something when you need to say
34 something without the technical difficulties of talking
35 through a line of people is very difficult way to
36 participate if there's an issue that they wanted to
37 bring in this process. This is a very complex issue
38 with multiple ramifications because of the reality
39 we're trying to deal with our lands and waters and the
40 people and the health in relations to the food. And if
41 you separate the life, health and safety of the people
42 and their food from the layers of issues that can
43 implement these things you bring a lot more reasons for
44 tribes to come to the table for failures of
45 understanding the complex issue. I think that a lot of
46 the discussion you heard today supplemented some of
47 these concerns and has to be understood well.

48
49 I think that we really gave it a good
50 effort and all of the entities that are involved in

1 dealing with the lands and waters and people need to be
2 involved in this process. I thank everyone for the
3 help that we received in this process and the testimony
4 from the lives of the people that are going to be
5 living with the decisions that come from this process.

6

7 Thank you.

8

9 MR. PROBASCO: Thank you, Rosemary.
10 And, Mr. Chair, before I turn it back over to you let
11 me check one more time.

12

13 Is there anybody on line that would
14 like to testify on the Tribal Consultation Policy that
15 has not testified.

16

17 MR. NICK: Pete.

18

19 MR. PROBASCO: Yes.

20

21 MR. NICK: Yeah, this is Alex Nick,
22 Council coordinator for YK. For your information
23 Lester Wilde wanted to dial in this afternoon but
24 unfortunately at this point Hooper Bay power is off
25 and he said he would be dialing in as soon as it gets
26 on.

27

28 MR. PROBASCO: Thank you, Alex.
29 Anybody else who would like to testify that's on the
30 phone that has not testified.

31

32 (No comments)

33

34 MR. PROBASCO: Mr. Chair. I think we
35 have Judy in the room.

36

37 CHAIRMAN TOWARAK: Judy, would you like
38 the floor.

39

40 MS. CAMINER: Thanks. Judy Caminer
41 sitting in for the Southcentral Regional Council. I
42 think this was a good discussion today.

43

44 Our Council had, also, likewise, a very
45 good discussion on the draft consultation procedures.
46 We had been the beneficiary at our last March -- excuse
47 me, our last fall meeting of hearing the results of the
48 consultation that had occurred on the proposals we were
49 reviewing and understanding it's just the beginning,
50 but it was very valuable so we know it's a great start.

1 We provided specific, mostly editorial comments, to the
2 policy, and while I don't see that those were actually
3 incorporated, I believe the intent of what we were
4 looking for is contained in the draft document.

5
6 Also if I might just make a quick
7 comment on the MOU because I also can't stay the whole
8 time. On the whole MOU process.....

9
10 CHAIRMAN TOWARAK: Go ahead.

11
12 MS. CAMINER: I believe what our RAC
13 would want and no doubt all the RACs would want is to
14 continually be provided presentations, update and
15 provided the opportunity to give comments. So as long
16 as, and I see it in the briefing paper, we are included
17 in this discussion and genuinely sought after to
18 providing our input, that's what we'd like and we do
19 appreciate it that the Board does this. That's how the
20 system works and that's what makes the system really
21 strong so thank you very much.

22
23 CHAIRMAN TOWARAK: Thank you. Your
24 comments on the MOU will be on record.

25
26 That takes care of, I think, all of the
27 RACs, we will now go into Board deliberations regarding
28 the Tribal Consultation Policy.

29
30 The floor is open for any questions or
31 discussions that Board members would like to present at
32 this time.

33
34 MR. PROBASCO: Mr. Chair, if I may.
35 I'd just like to reemphasize a point that Crystal made,
36 is that, this is an opportunity to look at the draft
37 and, of course, it's up to the Board to hopefully
38 adopt, but also keep in mind that this is a living
39 document and that this is like, Mr. Chairman, said
40 we're in the first inning and I think we'll see as we
41 learn more that we will be developing it and editing it
42 so, with that in mind, Mr. Chair.

43
44 CHAIRMAN TOWARAK: Go ahead, Ms.
45 Pendleton.

46
47 MS. PENDLETON: Thank you, Mr. Chair.

48
49 I just wanted to acknowledge the
50 working group. I think they've done a really good job

1 in pulling this together with broad representation. I
2 believe that they have met the intent with this draft
3 -- this working policy, this living document to help
4 improve the effectiveness in our consultation, that
5 it's meaningful and that we're getting -- we're having
6 those consultations before, you know, we make a
7 decision and we're weighing and we're considering that
8 input. so I think I feel really good about the
9 document that we have. I do think that as we move
10 forward in developing, you know, more fully the
11 guidelines that careful consideration be giving to
12 insuring that those are implementable, they're
13 practical; both practical and useable for the Board,
14 and just as important for the tribes. Because people
15 are busy and we just have to be very mindful that we're
16 effective in that and when we reach out and that we are
17 truly meaningful, just being aware of how impactful,
18 given the workload of the Board and the number of
19 issues that we take up, so we just need to really give
20 thought to the practicality and insuring that we have
21 something that's implementable.

22

23 And, then, finally, as we have talked
24 about, that this is a -- it's a working policy and I
25 think that the Board just needs to be very mindful that
26 we do take that time to evaluate and that we seek input
27 from the tribes on how it's working. And how we do
28 that, if we're going to do that, quarterly, have some
29 discussions at our meetings, we just need to be mindful
30 of how we're going to consider how we can improve this
31 consultation as we move forward. But overall I feel
32 really good and I'm very supportive of where we're at
33 right now with this draft.

34

35 Thank you.

36

37 CHAIRMAN TOWARAK: Thank you. Go
38 ahead, Mr. Brower.

39

40 MR. BROWER: Thank you, Mr. Chair. I'm
41 grateful for the working group on what they have done
42 so far but listening to some of the people that were on
43 the working group, I think it's to be noted that in
44 order to have a better communication on the government
45 to government consultation everyone has to be up front.
46 They cannot keep anything behind from the tribal
47 entities or the other agencies, they need to bring
48 everything up front from the very start from now on, I
49 think. What I just heard was there was a lack of
50 communication, a lack of discussion, paperwork that

1 wasn't provided to some of the working group, and it
2 kind of makes it hard for them to continue working on
3 this issue like that. I think in the future for better
4 consultation between any of the issues that they need
5 to have everything up front.

6

7 Thank you.

8

9 But I'm grateful for what they've done
10 so far and I think it's a draft and I think once
11 there's some implementation and amendments to the
12 progress that, you know, it'll be working out fine.

13

14 Thank you.

15

16 CHAIRMAN TOWARAK: Thank you, Charlie.
17 And, Crystal, do you have any comments about the lack
18 of information on some of the RAC Chairs.

19

20 MS. LEONETTI: My impression of what
21 Rosemary was mentioning about lack of access was that
22 the tribal members weren't able to have a tribal
23 attorney at the table when our DOI solicitor was at the
24 table and that felt, from the tribal perspective felt
25 like it wasn't fair. And I think -- but as far as the
26 paperwork, that was all -- everybody was all completely
27 in the loop on paperwork, everybody had the same
28 paperwork.

29

30 And then Rosemary made another point
31 about, oh, about having teleconferences as opposed to
32 meeting in face to face, so we did have two
33 teleconferences of the workgroup, the people who are in
34 Anchorage were able to meet in person in a room but the
35 rest of the people from villages had to call in and
36 that did make communication more difficult. That was
37 just a lack of travel funds that caused that barrier.
38 So I agree with her.

39

40 MR. BROWER: Mr. Chairman, thank you.
41 And to what you were just saying, you know, there's
42 hardly any transmittal of communication of what's
43 happening with the Federal Subsistence Board that we
44 don't get very much announcements up in the North Slope
45 and it's pretty hard for us to comply or be sitting in
46 in these issues. And I think, you, as the Native
47 liaison, need to go out and publicize it more often,
48 too, so there'll be more interjection from the tribes.

49

50 Thank you.

1 CHAIRMAN TOWARAK: Any other comments
2 Board members.
3
4 Gene. Mr. Virden.
5
6 MR. VIRDEN: Yeah, I would just also
7 like to thank the workgroup for all the effort they put
8 in and some of the ones, traveling from the village,
9 all they go through just to get here to work on this
10 and that didn't, they're doing an excellent job and I'd
11 just like to thank them again.
12
13 CHAIRMAN TOWARAK: I personally feel
14 the way I think -- I remember when we first had the
15 major discussion about what do we want in our Tribal
16 Consultation process it was a wide open door and I
17 think we've come a long way in focusing on the process
18 and I think we've got something that we could begin
19 using hopefully soon and as long as it retains its
20 ability to be changed.
21
22 And, Crystal, I think you've done a
23 good job with the people on your committee to put this
24 packet together and I appreciate that.
25
26 If we don't have any other Board
27 comments and there isn't any -- or.....
28
29 MR. PROBASCO: A motion.
30
31 CHAIRMAN TOWARAK: Yeah, I guess we
32 need in a motion form, approval of the draft.
33
34 MR. BROWER: I so move, Mr. Chair.
35
36 MS. PENDLETON: Second that.
37
38 CHAIRMAN TOWARAK: You heard the motion
39 and the second, any discussion.
40
41 (No comments)
42
43 CHAIRMAN TOWARAK: Not hearing any, is
44 there a call for the question.
45
46 MS. PENDLETON: Call for the question.
47
48 CHAIRMAN TOWARAK: Question's been
49 called for. Do you want to do a roll call.
50

1 MR. PROBASCO: Sure.
2
3 CHAIRMAN TOWARAK: Please.
4
5 MR. PROBASCO: Thank you, Mr. Chair.
6 Final action on the draft of the Federal Subsistence
7 Board government to government Tribal Consultation
8 Policy dated April 27th, 2012.
9
10 Mr. Christensen.
11
12 MR. CHRISTENSEN: Yes.
13
14 MR. PROBASCO: Mr. Oviatt.
15
16 MR. OVIATT: I guess, yes.
17
18 MR. PROBASCO: Mr. Virden.
19
20 MR. VIRDEN: Yes.
21
22 MR. PROBASCO: Mr. Towarak.
23
24 CHAIRMAN TOWARAK: Yes.
25
26 MR. PROBASCO: Ms. Cooper.
27
28 MS. COOPER: Yes.
29
30 MR. PROBASCO: Ms. Pendleton.
31
32 MS. PENDLETON: Yes.
33
34 MR. PROBASCO: Mr. Brower.
35
36 MR. BROWER: Yes.
37
38 MR. PROBASCO: Ms. Smith.
39
40 MS. SMITH: Yes.
41
42 MR. PROBASCO: Motion carries
43 unanimously, Mr. Chair.
44
45 CHAIRMAN TOWARAK: Thank you. Crystal,
46 you have our confidence in the work you've done.
47
48 And, I guess we're still working on the
49 timeline that you've outlined for us and it sounds like
50 we're going to have you on just about every Board

1 meeting we have so go ahead.

2

3 MS. LEONETTI: Thank you. It's a good
4 moment so I'd like to say thank you to all the
5 workgroup members and the Board for your support and
6 looking forward to the next steps, this is really
7 great.

8

9 Now, there were some recommendations,
10 there were five bullets on the handout that I handed
11 out earlier.

12

13 So the bottom four recommendations, we
14 can -- the workgroup can go forward with as far as
15 making sure there's something in the implementation
16 guidelines that cover those. The first one, though,
17 was a request to revise membership of the consultation
18 workgroup, and so I'm looking for some direction from
19 the Board on that.

20

21 CHAIRMAN TOWARAK: Personally I don't
22 see any problem in you adding additional requests as in
23 AHTNA's case. I don't see any problem with that. And
24 I -- if it's not objectionable by any of the Board
25 members I'd like to leave that discretion up to you, if
26 you could.

27

28 Pete.

29

30 MR. PROBASCO: Thank you, Mr. Chair. I
31 think that would be a good action, I think some
32 guidance though the workgroup would like, I don't think
33 it'll happen but we may get a lot of requests to serve
34 on the workgroup and so I think the intent, when we
35 formed the first workgroup was to keep it in a form
36 that had enough members to be effective and so I think
37 if you leave that up to the workgroup, with that
38 understanding that we want to have an effective
39 workgroup then I think we can proceed.

40

41 CHAIRMAN TOWARAK: Is there any
42 objections to.....

43

44 MR. BROWER: I just have one question.

45

46 CHAIRMAN TOWARAK: Go ahead.

47

48 MR. BROWER: Mr. Chairman. In regards
49 to the nomination for tribal and ANCSA Corporations, so
50 whoever wants to be on that working group can have a

1 letter of resolution from the tribal or their ANCSA
2 Corporation to be included in that working group; is
3 that what you're looking for or that is like what
4 you're going for?

5
6 MS. LEONETTI: Yeah, well, I think to
7 be fair to all tribes and all corporations, it would be
8 -- the best process would be to solicit for nominations
9 from the tribes and from the corporations to request to
10 have a person on the workgroup and that would be by a
11 letter or a resolution from the tribe or the ANCSA
12 Corporation. And I guess that's the process that would
13 be most fair, as far as -- and publicly transparent.

14
15 MR. BROWER: Mr. Chair. I mean so
16 you're going to write a letter to all 229 tribes and 19
17 corporations for a letter of nominee to see if anyone
18 can volunteer to be on this working group or is it just
19 interest of tribes and ANCSA Corporations, that they
20 send the letter of intent to be working on the working
21 group?

22
23 MS. LEONETTI: I think that's doable
24 especially now that the Board has adopted a policy, we
25 can inform all tribes and corporations that the policy
26 is adopted by the Board and at the same time ask for
27 nominations for the workgroup, if the Board thinks
28 that's a meaningful way to go forward.

29
30 CHAIRMAN TOWARAK: My only concern
31 would be some method of equalizing the representation
32 from all the region. You know, perhaps you might want
33 to restrict it to one per region for a tribe and one
34 per region for an ANCSA Corporation, and that would
35 give you two for each region at the max.

36
37 Does that sound fair to everyone?

38
39 MR. BROWER: Thank you.

40
41 CHAIRMAN TOWARAK: Is that enough
42 direction?

43
44 MS. LEONETTI: That's good, thank you.

45
46 MS. COOPER: Mr. Chair. It was just
47 brought to my attention the possibility that with
48 potential membership of a ANCSA Corporation, whether or
49 not there would be FACA considerations.

50

1 MR. LORD: I was hoping to avoid that
2 issue, thank you very much.

3
4 (Laughter)

5
6 MR. LORD: That's something I think we
7 should move -- I will look at it, but considering the
8 importance of this issue to everybody involved, it's
9 something I think we should -- I think we should move
10 forward as planned and we'll do our best to make sure
11 that there aren't any problems.

12
13 CHAIRMAN TOWARAK: Further discussion.

14
15 (No comments)

16
17 CHAIRMAN TOWARAK: Thank you, Crystal,
18 for all the good work you did.

19
20 Go ahead.

21
22 MR. PROBASCO: We still want Crystal to
23 be the Chair, right, one of the co-Chairs?

24
25 CHAIRMAN TOWARAK: I think the co-Chair
26 system that you had developed worked well and I think
27 it should be maintained.

28
29 MR. PROBASCO: And I'm sort of doing
30 this tongue and cheek, I know that Crystal has a huge
31 work load and I think we need to look at that but we'll
32 report back to the Board either way.

33
34 CHAIRMAN TOWARAK: Thank you. Then we
35 will proceed to the next item on our agenda, discussion
36 on scheduling RAC and FSB meetings. I think you have
37 starting -- is it regulatory cycle review packet.

38
39 MR. PROBASCO: Chuck.

40
41 CHAIRMAN TOWARAK: I think in general
42 we're all familiar with it but let's take a minute to
43 read through at least the issues portion.

44
45 (Pause)

46
47 CHAIRMAN TOWARAK: I'm sure that we're
48 all -- I think, Mr. Ardizzone, you're going to walk us
49 through the discussion that you put into this briefing
50 paper.

1 MR. ARDIZZONE: Yes, Mr. Chair, it
2 should only take an hour or two.

3
4 (Laughter)

5
6 MR. ARDIZZONE: No, I'll be brief.
7 Everybody has the briefing in front of them.

8
9 During this past regulatory cycle we
10 had a number of Councils request some changes to the
11 fall meeting window and also to the time that the Board
12 meets in January. They suggested that the meeting
13 cycle could be moved into November after subsistence
14 activities are finished in the fall and they also
15 requested that the January Board meeting be moved to
16 later into the year, possibly as late as April and May,
17 and that's for a number of reasons. So what I did,
18 based on a request from the Board, at the recent
19 retreat, was go back through some of the history of
20 where we are and I'll just go over that quickly so
21 everybody knows how we got where we're at and I did
22 make a few recommendations later on in the briefing.

23
24 So in 2003 a committee reviewed the
25 regulatory cycle. The committee examined the
26 historical timing of the Regional Council and Federal
27 Subsistence Board activities and identified what was
28 working well and where improvements could be made. The
29 committee developed alternatives to address the issues
30 and concerns that were brought up during the review.
31 During the review one of the issues addressed was the
32 timing of Regional Council and Federal Subsistence
33 Board meetings. And because of the review several
34 changes were implemented. The first change was the
35 fall meeting was expanded. Historically the meeting
36 window was approximately five to six weeks long and ran
37 from early September to mid-October. The meeting
38 window was expanded based on the review to mid-August
39 to mid-October, adding approximately three weeks to the
40 fall meeting window. However, since 2003 we have made
41 an effort to allow meetings to occur later in October
42 if possible. The second change was the effective date
43 of the fish and shellfish regulations was moved from 1
44 March to 1 April. And the third change made from the
45 review was the Federal Subsistence Board meeting for
46 fisheries was changed from December and moved into
47 January.

48
49 Historically the Federal Subsistence
50 meeting for wildlife occurred in May, however, often

1 there were problems getting regulations published and
2 distributed in a timely manner. To insure that
3 regulations are published in the Federal Register and
4 in the handy-dandy and distributed prior to 1 July, the
5 effective date -- excuse me, it's recommended that the
6 Board could move the Board meeting for wildlife as late
7 as April, this would still allow Staff some time to
8 prepare materials for the Federal Register and the
9 handy-dandy and get the regulations out before July
10 1st. Additionally, if the Board so wishes, I believe
11 at least for the wildlife side of the house, we could
12 move the meeting cycle a little later into November,
13 especially if we move the January Board meeting to
14 later in the year. I would kind of link those two, you
15 wouldn't want to move the fall meeting window later and
16 not move the Board meeting because that would really
17 put a crunch on Staff.

18

19 For the fisheries side of the house,
20 the fish and shellfish meeting was usually held in
21 December and fish regulations were effective 1 March,
22 but based on the review in 2003 both those dates were
23 changed. The Federal Subsistence Board was shifted
24 into January and the effective date for fish and
25 shellfish regulation was changed to 1 April. Based on
26 the current effective date for fisheries of 1 April, it
27 is impractical to change the Federal Subsistence Board
28 meeting date any later than early January. Doing so
29 would not allow Staff the time to finalize regulations
30 and get them published in the Federal Register and in
31 the handy-dandy. Just as a side note in recent years,
32 moving the regulations through the surnaming process in
33 D.C., has taken considerably more time and that needs
34 to be accounted for if we're going to adjust the
35 meeting dates or effective dates. Currently the
36 effective date for the regulatory years are in
37 regulation in 50 CFR 100.25(a) and if the effective
38 dates are changed we would need to go through the
39 regulatory process to change the dates, so, therefore,
40 unless the Board desires to change the effective date
41 for fisheries, the current regulatory cycle should be
42 maintained.

43

44 And, I guess, I'm here to answer any
45 questions if I can and help facilitate any discussion.

46

47 Thank you.

48

49 CHAIRMAN TOWARAK: Go ahead, Pete.

50

1 MR. PROBASCO: Thank you, Chuck, that
2 was a good summary. I would just add that we had
3 numerous Council Chairs and Council members ask us to
4 take a hard look at that and I think we can accommodate
5 part of it, particularly on the wildlife cycle, but as
6 Chuck said, the fisheries cycle would take a little
7 more effort, on our part, if we wanted to make those
8 changes, particularly in the effective date of the fish
9 regulations. Keep in mind a lot of our subsistence
10 fisheries are well on their way by early May, so we
11 need to -- if the Board's desire is their action to be
12 effective next immediate season then we need to take
13 that into account.

14

15 Thank you, Mr. Chair.

16

17 CHAIRMAN TOWARAK: The floor is open
18 for discussion or questions to Mr. Ardizzone.

19

20 Go ahead, Ms. Cooper.

21

22 MS. COOPER: Mr. Chair, just a
23 question. Have the RACs actually been queried so that
24 we can get a full understanding of where each of the
25 RACs, what they would prefer, rather than just a few
26 members or a couple RACs voicing interest?

27

28 MR. PROBASCO: Thank you, Mr. Chair.
29 Ms. Cooper. No, they have not. We do have some
30 Council Chairs on line and I think we should involve
31 them in the discussion. But to get at the information
32 you're talking about, the next opportunity would be
33 this fall.

34

35 Thank you, Mr. Chair.

36

37 CHAIRMAN TOWARAK: I think we'll open
38 the floor, if there's any comments from the Regional
39 Councils.

40

41 MR. PROBASCO: Operator, would you
42 please open the lines.

43

44 OPERATOR: All lines are open.

45

46 MR. REAKOFF: Mr. Chairman. This is
47 Jack Reakoff, Western Interior Council.

48

49 CHAIRMAN TOWARAK: Go ahead, Jack.

50

1 MR. REAKOFF: This was an annual report
2 topic in our letter to the Federal Subsistence Board
3 outlining the need for the change, especially with the
4 implementation of the tribal council process and just
5 to generally streamline this whole Federal subsistence
6 process.

7
8 I reviewed the recommendations by OSM
9 and I feel that it's premature, as one of the Board
10 members stated, none of the RACs have actually been
11 asked of what their opinions are on this issue. I feel
12 that all of the Regional Councils should be given an
13 opportunity with different options, and, including all
14 of the options, which would be moving the fisheries
15 regulations publication and implementation to July 1,
16 which frees the whole system up to move the dates
17 around to where these meetings, the Federal Subsistence
18 Board synchronize in early April, would be a preferred
19 time for the meetings of the Federal Subsistence Board.

20
21 So I feel that there are some issues
22 that need to be addressed. The looking at speeding up
23 the D.C., publication process would be one of those.
24 You know, the burden should be upon the process, not
25 upon the users to accommodate the portion of the D.C.,
26 publication. The discussion should revolve around all
27 subsistence Regional Advisory Council members, and that
28 should be addressed in this fall meeting cycle so all
29 the Councils can see what the issues are that Western
30 Interior is bringing out and then adopt a stance to
31 bring before the Federal Subsistence Board to better
32 accommodate the subsistence Regional Advisory Councils,
33 the Federal Subsistence users themselves and the
34 Federal Subsistence Board and OSM Staff.

35
36 Those would be my comments at this
37 time.

38
39 Thank you.

40
41 CHAIRMAN TOWARAK: Thank you, Mr.
42 Reakoff. I've got a question. If dates were changed
43 as he outlined as an example, would it affect our
44 effective dates to be pushed back a year? I'm not -- I
45 see a question mark on your brain.

46
47 MR. PROBASCO: Yeah, a big
48 question.....

49
50 CHAIRMAN TOWARAK: I don't know if

1 that's clear enough but would -- let me just ask Chuck
2 or anyone on this table, if we rearrange all of our
3 meetings and made the effective dates a year later
4 would we be able to better accommodate people's
5 requests for timely meetings?

6

7 Go ahead, Pete.

8

9 MR. PROBASCO: Mr. Chair. I think the
10 key here is when you want to make regulations
11 effective. I think everything that Mr. Reakoff stated
12 is doable within our current system, it's just when do
13 you want the -- the big issues is fishery regulations,
14 when do you want them to become effective. If we moved
15 it to July 1 you would have existing regulations stay
16 in place for that first part of the season and then the
17 new regulations would kick in July 1. If there was
18 something of conservation concern or something of a
19 significant impact to subsistence users, we do have
20 other tools that would allow us to implement the
21 Board's direction prior to July 1, like you could do a
22 temporary special action or a special action, so we
23 have the tools to do it.

24

25 I think the key, I agree with Jack, I
26 wished we could go down to D.C., and do some arm
27 twisting and kicking to make things move faster but
28 once it leaves our office or leaves the Federal Program
29 it's out of our hands as far as timeliness so that's --
30 you know, it's just the way they work down there, so we
31 still have to consider that. But I do agree with you,
32 Jack. But everything Mr. Reakoff pointed to we can do,
33 it's just making the July 1 regulation -- or make that
34 effective date we'd have to go through the regulatory
35 process. Doable, fairly -- I don't want to say simple,
36 but it's very doable and it could be done expediently.

37

38 CHAIRMAN TOWARAK: Do we need action?

39 Go ahead.

40

41 MS. CAMINER: Thank you, Mr. Chair. I
42 don't mean to displace anybody on the phone, though, if
43 anyone else wanted to speak first.

44

45 CHAIRMAN TOWARAK: Go ahead.

46

47 MS. CAMINER: Okay. Well, thanks.
48 This did come up at our RAC meeting also and it's also
49 been my observation that over the years that many RAC
50 Chairs or meeting participants are unable simply to

1 attend the meeting because of the severity of the
2 weather, we usually have that very cold snap that sits
3 over the whole state, makes transportation either
4 unsafe or if it is available, still a real hardship, I
5 think, for people to leave home considering the damages
6 that could occur while they're away. So that's
7 certainly one of the reasons that our Council felt this
8 work discussing. And I really believe our Council
9 would prefer to see a variety of options sent around to
10 all the Councils to be looked at, perhaps this fall,
11 because there are more options than have been developed
12 here, I'm sure. If you get a group of people together
13 and come up with a mix of ideas, I think you could come
14 up with several good ideas for all the RACs to consider
15 and get full feedback to the Board. So I urge you,
16 today, to maybe not make any final decisions on this
17 but to look at receiving a wider variety of input.

18

19 I also think that -- and I'm glad Chuck
20 brought this up, when you look at the schedule it looks
21 like it takes about two and a half months between the
22 fisheries meeting and the publication of the regs and
23 wildlife four and a half months, so I think there is
24 some flexibility in the wildlife schedule as is but I
25 do think it's worth looking at a different effective
26 date of the Federal fishing regulations. They're in
27 place for two years anyhow so, you know, if you're
28 worried about the start of the season it'll work out
29 and there are ways, as Pete mentioned, in the interim.

30

31 I also felt like most of the reasoning
32 for not changing it is the delay in Washington. Now,
33 in the old days we did send a Staff person back to
34 really walk these regulations literally through the
35 labyrinth of how it is back there and that might be
36 something that the Board could consider doing again.
37 You have five regional directors represented here so
38 they could speak with headquarters and try to get some
39 help either from folks who work in D.C., to help on
40 this package and I know Ken works hard to get it done,
41 too and it's difficult, but the message to subsistence
42 users could be perceived as it's much more important to
43 not inconvenience people in Washington, than to have us
44 try to come to a meeting at a time where we have to
45 skip some of our hunting or fishing, and, that, I know,
46 is not the message this Board wants to send to
47 subsistence users.

48

49 So I think those are the main points
50 that our Council was interested in covering. We are

1 very much interested in a change in the meeting
2 schedule because it's -- it is difficult for people to
3 miss some of their hunting season to come to the RAC
4 meetings.

5
6 So thanks for the consideration and I
7 hope you'll send this out to all the RACs and get some,
8 perhaps, better ideas.

9
10 CHAIRMAN TOWARAK: Thank you. And I
11 just looked at the agenda and it is just a discussion
12 on scheduling of RAC and FSB meetings, so I think we're
13 here to, I think, express our opinions of where we
14 should go.

15
16 Go ahead, Mr. Ardizzone.

17
18 MR. ARDIZZONE: Yes, Mr. Chair. I was
19 going to bring that up, this -- I thought my assignment
20 from the Board was just to review things, come up with
21 some possible ideas and we would move on further with
22 it. I don't think there was any -- I didn't believe
23 there was any decision to be made on this, it was just
24 to provide us with some more guidance on what to do.

25
26 CHAIRMAN TOWARAK: Okay. We will -- go
27 ahead.

28
29 MR. LORD: Mr. Chair. I thought a
30 little bit of explanation might be helpful with regard
31 to Federal Register publications. In the old days we
32 could walk things through in three weeks or something
33 like that but it's not just that we have changed how we
34 do things here, it's also that there are extra layers
35 of review that have been imposed in D.C., the last few
36 years that have really slowed things down, it's been a
37 frustration not just for this program, but for all the
38 agencies. So it's just -- I don't know if it's
39 impossible but it's nearly impossible to get things
40 published any quicker than six or eight weeks now,
41 maybe even longer.

42
43 CHAIRMAN TOWARAK: Go ahead, Ms.
44 Pendleton.

45
46 MS. PENDLETON: Mr. Chair. I
47 appreciated Judy's comments and perhaps one next step
48 could be to have the InterAgency Staff Committee work
49 with OSM on some options and a briefing paper that
50 could then go out to the RACs this fall and be fully

1 vetted with the RACs and then come back to the Board
2 for a decision.

3

4 Thank you.

5

6 MR. PROBASCO: I think, Ms. Pendleton,
7 what you suggested and sort of stems off what Ms.
8 Cooper said, is the way I would think would be wise to
9 proceed.

10

11 MS. PENDLETON: Uh-huh.

12

13 CHAIRMAN TOWARAK: Ms. Yuhas, go ahead.

14

15 MS. YUHAS: Thank you, Mr. Chairman. I
16 just wanted to state that the State is pleased to see
17 some of the suggestions come up in this draft. We've
18 expressed previously a longstanding concern over the
19 users needing to miss hunting and fishing seasons to
20 attend the RAC meetings, but also as a coordinator who
21 liaisons to the program, at times there have been
22 hardships in the review process on behalf of the State.
23 We've felt, as some of the RAC members have felt, that
24 the material is produced in its final in a very short
25 window, especially before a RAC meeting. And on my
26 end, I don't just have one Board member to consult with
27 but I have a team to assemble of all of our affected
28 directors, the Commissioner's office and sometimes the
29 D.C., office, and that window can be very narrow to
30 coordinate the State's position prior to a RAC meeting
31 to be able to fully explain that to the members or some
32 of the instances where we have had a fully formed
33 opinion, but it's been difficult to convey that to a
34 RAC member who received their materials late. So we're
35 pleased to see some of the suggested changes and
36 appreciate the work that's been done on this.

37

38 CHAIRMAN TOWARAK: Just think what a
39 Constitutional Amendment would do.

40

41 (Laughter)

42

43 MS. YUHAS: I think you remind me of
44 that every meeting.

45

46 CHAIRMAN TOWARAK: Any further
47 discussion.

48

49 (No comments)

50

1 CHAIRMAN TOWARAK: If not then you have
2 enough, I think, information to proceed and I think the
3 suggestion of Ms. Pendleton of getting the ISC and
4 review the options again and come up a plan for -- is
5 it the fall meeting?

6
7 MR. ARDIZZONE: Yes, Mr. Chair, I have
8 that written down.

9
10 Thank you.

11
12 CHAIRMAN TOWARAK: Thank you. We will
13 now go on to Item 7, the MOU update. Earlier we had
14 listened to both Tim Andrew and to Bert Adams and Judy,
15 thank you for being here.

16
17 We will start then from the beginning
18 and review the presentation.

19
20 MR. KESSLER: Good afternoon, Board
21 members, Council Chairs and others. I'm Steve Kessler.
22 I'm on the InterAgency Staff Committee representing the
23 Forest Service. And along with me is Sandy Rabinowitch
24 from the Park Service and Jennifer from the State of
25 Alaska.

26
27 So we're here to provide you the status
28 update on making revisions to the MOU between the
29 Federal Subsistence Program and the State of Alaska.
30 Hopefully everybody has a copy of this short briefing
31 paper. I won't go into a lot of detail of how we got
32 here today just on where we're heading, however, I do
33 want to point out to everyone that this review was
34 triggered by the Secretary's review of the Federal
35 Subsistence Program. In their December 2010 letter to
36 the Board, the Secretaries directed a review with RAC
37 input, and this is a quote, review with RAC input, the
38 December 2008 Memorandum of Understanding with the
39 State to determine, either the need for the MOU or the
40 need for potential changes to clarify Federal
41 authorities in regard to the Subsistence Program.

42
43 So the comments have been requested
44 from the Regional Advisory Councils and from, I know
45 some of the State Advisory groups, with those comments
46 the State, Jennifer, and Federal and that's Pete
47 Probasco, Sandy Rabinowitch, Jerry Berg and I were the
48 Memorandum of Understanding working group members,
49 we've met twice over the winter to review those
50 comments and others and developed proposed

1 modifications to the 2008 MOU.

2

3 A revised version of the MOU is being
4 prepared for the Board's review, which will include
5 notes, providing rationale for each recommended
6 changes. It is anticipated that this will reach the
7 Board in early summer.

8

9 So just any general questions about
10 where we are before we move into this proposed schedule
11 that's on your one page flier here?

12

13 (No comments)

14

15 MR. KESSLER: So as you take a look at
16 this proposed schedule, this is consistent with the
17 timeline we've spoken to the Board about previously.
18 So from May 2012, that's this month, we, as a working
19 group, planning on agreeing on a revised version of the
20 MOU with notes providing rationale for each of the
21 changes. June/July, this will be provided to the
22 Federal Subsistence Board and to the State for your
23 review and approval to move forward with Regional
24 Advisory Council and Advisory Committees, as the State
25 wants to have them review. We plan to have your
26 approval, review and approval at a work session in June
27 or July. In August through October, the draft MOU,
28 revised MOU would go to the Regional Advisory Council
29 and State Advisory Committees and they would review it
30 and provide comments.

31

32 Do you want to say something, go ahead.

33

34 MS. YUHAS: Yes, that's just where I
35 have my note as far as the timeline that we had agreed
36 when we initiated this process that it would be sent to
37 the RACs and the ACs and with our scheduling, a few
38 will have the opportunity to see this in October,
39 before November, but the majority of our Advisory
40 Committees will commence in October and be meeting
41 through November, December to look at the next version.

42

43 MR. KESSLER: Thank you. There's a
44 question that we do need to address on consultation
45 with tribes and corporations. If this is the same
46 appropriate time to do that, sort of more of an early
47 process rather than later on where you see in January,
48 we would have consultation just before the final action
49 is taken but whether there should be consultation with
50 tribes and corporations during the similar time period

1 as with Regional Advisory Council and also something
2 else that we might want to have a little bit of
3 discussion around the table is whether there would be a
4 public opportunity for comment on this draft that we're
5 putting together also.

6

7 MS. YUHAS: Sorry to interrupt there,
8 Steve, we didn't actually have a meeting to prepare
9 prior to this and so a couple of my questions have
10 arisen just from Mr. Kessler's testimony but two of the
11 items here, this is a public document that's undergoing
12 a public review at the behest of the Secretaries and so
13 my expectation, from the State's perspective, would
14 that be that all parties would, of course, have an
15 opportunity to comment on these as they're part of the
16 agenda.

17

18 I am a little confused, I know that
19 we're trying to make sure that it's known that there
20 will be tribal consultation on all of these issues but
21 I'm not sure that if it needs to be expressed in this
22 section. My understanding of the tribal consultation
23 process would be that it would be universally applied
24 to the things that are on the agenda so items before
25 you and items before the RAC would undergo the tribal
26 consultation process and if the Board and the RACs feel
27 the need to inform the State that this is yet another
28 document that is subject to the tribal consultation
29 process, I would think it would remain in the arena of
30 tribal consultation protocol. It seems a little
31 muddled, kind of peppering it in several areas.

32

33 MR. PROBASCO: Thank you. And I think
34 what Mr. Kessler alluding to, once we provide materials
35 to the Regional Advisory Council that is our public
36 process, which involves all of the entities so this
37 would be provided not only to the Councils, but also
38 the public as well. I think what Mr. Kessler is asking
39 for is clarification on how do we insert tribal
40 consultation because we developed this timeline prior
41 to what's been passed today. So I think that's what
42 Mr. Kessler's asking at this point, is where do we
43 insert tribal consultation, early in the process or
44 later.

45

46 MR. KESSLER: And as we, you know,
47 think about this, one way that tribal consultation
48 could occur is actually at the Regional Advisory
49 Council meetings but then who would the tribes or
50 corporations be consulting with, would we wish to have

1 a Board member at each of those meetings or anyway that
2 discussion is something that perhaps you'd like to talk
3 about a little bit, still today.

4

5 Just quickly going through the rest of
6 this schedule, after we receive all of those comments
7 from the Regional Advisory Councils, perhaps some
8 tribes, corporations, public, I'm not sure how we would
9 have to modify the schedule here based on the timing of
10 the State Advisory Committee meetings, but the intent
11 here is that the working group would take all of the
12 comments they've received, review them all, see if we
13 can come to resolution on an agreement on sort of a
14 final draft, then bring that to the signatories, this
15 is what I've shown November, December. The Board would
16 meet separately from the State, have an opportunity to
17 discuss the MOU and raise any additional issues that
18 you might have with the working group. The working
19 group would then work to resolve those issues and then
20 hopefully it would all be ready for the January 2013
21 meeting of the Board where we would hope to be able to
22 have both the Board meet and the State signatories
23 together for some period of time there and sign it, or
24 direct some changes and then agree to sign it based on
25 those changes having been made.

26

27 So that's just sort of what the
28 schedule would need to look like in order to have a
29 finalized revised Memorandum of Understanding by
30 January of 2013. Depending on how we incorporate
31 Advisory Committees and others that might be difficult.

32

33 CHAIRMAN TOWARAK: Any questions from
34 the Board.

35

36 (No comments)

37

38 CHAIRMAN TOWARAK: Pete.

39

40 MR. PROBASCO: Thank you, Mr. Chair.
41 Board members, just to follow up on Mr. Kessler's
42 question, I think we would want to use the opportunity
43 of our Council meetings to also provide the opportunity
44 for tribal consultation and I think Steve's suggestion
45 of having Board representation at these Council
46 meetings is important to meet that, so I think that's
47 the type of direction we're looking for.

48

49 Mr. Chair.

50

1 CHAIRMAN TOWARAK: Any comments. Good
2 idea. Bad idea.

3
4 (No comments)

5
6 CHAIRMAN TOWARAK: Personally I'd make
7 time available myself to attend any of the meetings.

8
9 MS. PENDLETON: Mr. Chair. I was just
10 going to support Pete's suggestion, I think that's a
11 good idea. And we'll have a couple of items with this
12 next round of RAC meetings, too, with the tribal
13 consultation and I think it will be really important
14 for the Board members to attend one or more of those,
15 to be present for those consultations.

16
17 CHAIRMAN TOWARAK: And now that we've
18 got kind of a broader distribution of our Board
19 members, it doesn't hurt to look at regionally
20 splitting up the attendance at these Council meetings.
21 I know that there's concern about us developing
22 regional biases, you know, looking at statewide issues
23 but in this case I don't think there would be any cause
24 for, on my part anyway, of concern about developing
25 regional biases. If we -- it fits into also with the
26 mandate at the last meeting, that we are helping the
27 Secretary to look at his budget and it would be a form
28 of cost savings rather than one Board member flying
29 from one end of the state down to the other when we
30 have regional members in that area already. I'm
31 talking about Southeast and Barrow.

32
33 (Laughter)

34
35 CHAIRMAN TOWARAK: Would there be any
36 objections to looking at doing something like that from
37 the Board, to regionally spread ourselves throughout
38 the state.

39
40 (No comments)

41
42 CHAIRMAN TOWARAK: If not then we will
43 proceed with that plan.

44
45 MR. PROBASCO: Mr. Chair. Our next
46 item that when we get to it, and I don't want us to go
47 off the MOU yet but we are going to be asking the Board
48 members to look at a summer date for a work session,
49 one will require us into executive session to look at
50 the Council nominations, which would be sometime in

1 July and then Steve spoke about having a work session
2 to review the MOU. So we might want to look at trying
3 to combine them, but I think we need to hear first what
4 Mr. Johnson -- Carl Johnson would have on the Council
5 nomination timeline and then take a look at our
6 calendars.

7

8 Mr. Chair.

9

10 CHAIRMAN TOWARAK: Thank you. We'll
11 proceed then. Go ahead, Mr. Kessler.

12

13 MR. KESSLER: Yeah, just one other
14 issue is, and that is the question of whether we would
15 open up a public comment period at the same time as
16 essentially the Regional Advisory Council window for
17 all those others who would want to provide comments to
18 the Board besides RACs and tribes and corporations.

19

20 CHAIRMAN TOWARAK: I think it would be
21 good to let them all know.

22

23 Did you have some comments?

24

25 MS. YUHAS: I had planned to save them
26 for this portion and then brought them up under Mr.
27 Andrew's testimony but I did think that we might want
28 to, for the public's sake, provide a little more
29 clarification in our agendas. Even back at the
30 Department some folks have questioned the agenda to say
31 what is this MOU, is this our MOU, which MOU is this,
32 and we tend to refer to it as the MOU, but each of the
33 agencies that are present have several MOUs with
34 several different entities, sometimes between each
35 other, sometimes with the State, sometimes with another
36 entity and I just think it would be helpful if on our
37 future agendas and our future reference we could refer
38 to it as the MOU between the State and the Board.

39

40 CHAIRMAN TOWARAK: I think that's a
41 good suggestion to give it a specific title.

42

43 MS. YUHAS: Or use its existing title.
44 It has previously been the State/Federal Subsistence
45 Board MOU.

46

47 CHAIRMAN TOWARAK: Yeah, I think it
48 would clear everyone's mind, otherwise someone might
49 turn it into a rap song.

50

1 Okay, any other discussion.

2

3 (No comments)

4

5 CHAIRMAN TOWARAK: We've got direction
6 then.

7

8 Thank you very much. We will proceed
9 on then. Looking at the agenda, do we want to take
10 care of Mr. Johnson and the Council nomination process
11 before we go into ending with the executive session.

12

13 MR. PROBASCO: I think that would be
14 wise, Mr. Chair, and then we could take a break in
15 between -- after this one.

16

17 CHAIRMAN TOWARAK: Right. Mr. Johnson,
18 you have the floor for discussion on the Council
19 nomination process.

20

21 MR. JOHNSON: Thank you. Mr. Chair.
22 Members of the Board. My name is Carl Johnson, the
23 Council Coordination Division Chief at OSM, and Melinda
24 Hernandez, one of our Council coordinators is handing
25 around to you, right now, what is identified as a draft
26 Council nominations timeline for 2012.

27

28 Now, obviously a lot of this is already
29 under way, over half of the nominations panels have
30 already met and made their recommendations and are
31 preparing their reports for the next phase, which would
32 be consideration by the InterAgency Staff Committee.
33 Now, these are just proposed timelines based on
34 previous years cycles about how these things are spread
35 out throughout the year. The key thing from what I
36 have seen of the past is kind of the space in these in
37 between the InterAgency Staff Committee meeting, when
38 they meet and receive the panel's and discuss the
39 reports and question the Council coordinators and
40 myself, and then the time between that and when the
41 Federal Subsistence Board would then meet, have a work
42 session to go over the ISC recommendations. So
43 typically that's around four weeks. So whatever the
44 Board decides regarding when is appropriate date for it
45 to have its work session, there would -- I would
46 suggest need to be some coordination with the ISC so
47 that they are able to also then schedule their meeting
48 and coordinate the two meetings scheduled so there's an
49 appropriate amount of time in between in order for the
50 work to be accomplished to prepare for the Board.

1 MR. PROBASCO: So, Mr. Chair, as Mr.
2 Johnson has laid out is our timeline. We're looking
3 for a work session where we would encompass the
4 nominations part which would be done in executive
5 session and then open to the public, possible
6 discussion of the MOU, and where the Board wants to go
7 with that. So tackle both issues at the same work
8 session in July.

9
10 Mr. Chair.

11
12 CHAIRMAN TOWARAK: Are there any
13 questions or discussion on the dates.

14
15 MR. CHRISTENSEN: Mr. Chair.

16
17 CHAIRMAN TOWARAK: Go ahead, Mr.
18 Christensen.

19
20 MR. CHRISTENSEN: So that work session
21 would be July 27th on this timeline?

22
23 MR. PROBASCO: What Mr. Johnson
24 provided was just based on the past. It could be July
25 27th or it could be a different date.

26
27 MR. CHRISTENSEN: Oh, okay, I was just
28 looking at my calendar.

29
30 MR. PROBASCO: Yeah, we're trying to
31 get you guys to give us that date.

32
33 MR. CHRISTENSEN: Oh, yeah, that's a
34 conflict for me so I was just checking it out.

35
36 MS. COOPER: Mr. Chair. I understand
37 that July 27th or something that late in July in would
38 be a little too late for that MOU group, so we need to
39 look earlier in July.

40
41 CHAIRMAN TOWARAK: Do you have any open
42 dates in July, Mr. Christensen or does anybody have any
43 conflict with earlier in July?

44
45 MR. CHRISTENSEN: The 16th through the
46 20th would be fine.

47
48 CHAIRMAN TOWARAK: It's open.

49
50 MR. CHRISTENSEN: Yeah. That's when I

1 go sockeye fishing but I'll make the sacrifice.

2

3 (Laughter)

4

5 MR. BROWER: I got to plan on doing my

6 (microphone off)

7

8 CHAIRMAN TOWARAK: Isn't that toward

9 the end of July, no, the 20th of July.

10

11 MR. BROWER: I think so.

12

13 CHAIRMAN TOWARAK: Go ahead, Mr.

14 Johnson.

15

16 MR. JOHNSON: Thank you, Mr. Chair.

17 Again, I'll just kind of mention this timeline is based

18 on previous year cycles and typically the amount of

19 time in between the compilation of the nominations

20 panel reports and the ISC meeting is around six weeks,

21 so, again, how we're kind of backing things up and

22 where we would ever put the meeting for the Federal

23 Board to discuss these issues, from what I -- my

24 experience in viewing this and talking with other

25 people, this is my first nominations cycle, is that the

26 work, that six weeks in between the panel reports being

27 completed and the ISC meeting is a pretty busy time and

28 I believe that that time is necessary to use in order

29 to prepare for an ISC meeting. So just wherever you

30 put the Board meeting, I think it's just important to

31 remember the amount of time that each step needs to be

32 so it could be pushed back but if it got too early in

33 July then I would be concerned -- if the Board held its

34 meeting fairly early in July I'd be concerned whether

35 or not the work that's required up to that point would

36 have enough time to be completed.

37

38 Thank you, Mr. Chair.

39

40 MR. PROBASCO: Mr. Chair. How about

41 July 18th.

42

43 CHAIRMAN TOWARAK: It's good for me.

44

45 MR. BROWER: Yeah.

46

47 MR. CHRISTENSEN: I'm here.

48

49 MR. BROWER: Yep.

50

1 MR. CHRISTENSEN: Mr. Chair.
2
3 CHAIRMAN TOWARAK: Go ahead.
4
5 MR. CHRISTENSEN: Is there a reason it
6 couldn't be moved to the following week, first of
7 August, too late? So it has to be within those two
8 weeks?
9
10 MR. PROBASCO: Mr. Chair, if I may.
11
12 CHAIRMAN TOWARAK: Go ahead.
13
14 MR. PROBASCO: Keep in mind what we're
15 trying to do, Mr. Christensen, is that we're trying to
16 package both the discussion of the MOU and the
17 nominations and the key is that we have to prepare
18 whatever MOU document for the RAC meetings which start
19 in August.
20
21 MR. CHRISTENSEN: The 18th is
22 definitely better than the 27th.
23
24 CHAIRMAN TOWARAK: Go ahead, Mr.
25 Virden.
26
27 MR. VIRDEN: Could we -- could you poll
28 us when we get back to work, I mean do we need to do it
29 today?
30
31 CHAIRMAN TOWARAK: Go ahead.
32
33 MR. PROBASCO: Mr. Chair. We can poll,
34 Mr. Virden, but you know how that goes, too, is like
35 everybody throws dates at us and then they rarely
36 coincide and it's been real effective if we had
37 everybody together to juggle their calendars, so it's a
38 lot more work on my part, but I can do it.
39
40 CHAIRMAN TOWARAK: Why don't we say
41 July 18th unless we hear otherwise in the next week.
42
43 Go ahead.
44
45 MS. SMITH: Mr. Chairman. I think
46 that's a good idea to sort of pick a date and then let
47 people check and get back to Pete. But we may also
48 want to do a polling of the InterAgency Staff Committee
49 to be sure that that date works for them because I
50 think there may be some conflicts there as well.

1 CHAIRMAN TOWARAK: Okay. The Chair has
2 decided that we're going to meet on the 18th of
3 July.....

4
5 MR. PROBASCO: There we go.

6
7 CHAIRMAN TOWARAK:unless a major
8 conflict comes up within the next three days.

9
10 MR. CHRISTENSEN: Thank you, Mr. Chair.

11
12 CHAIRMAN TOWARAK: Is that it?

13
14 MR. JOHNSON: Thank you, Mr. Chair.

15
16 CHAIRMAN TOWARAK: Thank you, Mr.
17 Johnson.

18
19 MR. PROBASCO: Take a break before we
20 go into executive session.

21
22 CHAIRMAN TOWARAK: Yeah, let's take a
23 five minute break and then we will go into our
24 executive session. And for the record let's get a
25 motion on to go into executive session.

26
27 MR. BROWER: I so move.

28
29 MS. COOPER: Second.

30
31 CHAIRMAN TOWARAK: You heard the motion
32 and a second and it will be after our 15 minute break.

33
34 MS. YUHAS: Thank you, Mr. Chairman.
35 Since I won't be part of your executive session and
36 I'll be leaving since I am not a real seat at the table
37 here, just the non-voting consultation, I just wanted
38 to leave you folks with a note that I have enjoyed
39 working on the MOU working group that, although, as Mr.
40 Adams pointed out, it's previously been a team of six
41 Federal folks and four State people and I find myself
42 the only one in the room and we've had some pretty
43 diverse opinions, we've had some pretty pointed
44 discussions but things have remained very respectful in
45 keeping with the way that you run your meetings, we've
46 been candid but there's been a lot of respect in those
47 meetings and I have appreciated the working process.

48
49 CHAIRMAN TOWARAK: Thank you. And we
50 appreciate your input into the process.

1 Is there any objection to the motion.
2
3 (No objection)
4
5 CHAIRMAN TOWARAK: The motion passes
6 that we will have an executive session in 15 minutes.
7
8 (Off record)
9
10 (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, do hereby certify:

THAT the foregoing pages numbered 2 through 103 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME I taken electronically on the 9th day of May 2012, beginning at the hour of 9:00 a.m. at the Gordon Watson Conference Room, Anchorage, Alaska;

THAT the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed under my direction;

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

DATED at Anchorage, Alaska, this 18th day of May 2012.

Salena A. Hile
Notary Public, State of Alaska
My Commission Expires: 9/16/14