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FEDERAL SUBSISTENCE BOARD
PUBLIC REGULATORY MEETING

VOLUME II

GORDON WATSON CONFERENCE ROOM
U.S. FISH AND WILDLIFE SERVICE
ANCHORAGE, ALASKA

April 16, 2014

MEMBERS PRESENT:

- Tim Towarak, Chairman
- Charles Brower
- Anthony Christianson
- Bud Cribley, Bureau of Land Management
- Geoff Haskett, U.S. Fish and Wildlife Service
- Deb Cooper, National Park Service
- Bruce Loudermilk, Bureau of Indian Affairs
- Wayne Owen, U.S. Forest Service

Ken Lord, Solicitor's Office

Recorded and transcribed by:
Computer Matrix Court Reporters, LLC
135 Christensen Drive, Second Floor
Anchorage, AK 99501
907-243-0668; sahile@gci.net

1 P R O C E E D I N G S

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3 (Anchorage, Alaska - 4/16/2014)

4
5 (On record)

6
7 CHAIRMAN TOWARAK: Good morning. We
8 took a recess last night about 5:30, almost 6:00
9 o'clock, and I'm going to call the meeting back to
10 order for our second day. As is typical, every day we
11 start with public comment period on non-agenda items.
12 If there's anyone that would like to address the Board
13 on issues that are not going to be on the agenda for
14 the rest of the meeting, this is the time to come on
15 up, please.

16
17 MR. HOLMES: Pat Holmes, and I
18 apologize to the Federal bureaucracy for not having
19 completed my form, but I would like to invite you folks
20 on behalf of people in Kodiak, if you have a free
21 moment, June is one of the times when the sockeye are
22 running really well at the Buskin River Federal river
23 and I'm sure that you all would have some kind of
24 agency need to observe that.

25
26 So if any of you would like to come
27 down, call Pam Bumsted at the Sun'aq Tribe and we can
28 set up somebody to take you out gillnetting so you can
29 learn about Kodiak salmon and get a little food for
30 your family, take you tidepooling if it's a low tide.
31 If we had a couple people coming, we could probably
32 even put on a nice little potluck so you could share
33 some of our traditional foods and cultures and might
34 even get kids with the Alutiiq Dancers to do a number
35 for you.

36
37 So please come to Kodiak, please go out
38 to the villages in Alaska and get to know folks. Don't
39 go out and tell them what you are there to do to them
40 or for them, but ask them what do I need to know. If
41 you come to Kodiak, we'll be glad to share that with
42 you along with our food. Thank you very much for all
43 the hard work you folks have to do.

44
45 Have a good day.

46
47 CHAIRMAN TOWARAK: Thank you for that
48 invitation, Mr. Holmes. Enoch, you had a question
49 yesterday and would like to maybe address it at this
50 time.

1 MR. SHIEDT: Yes. Thank you, Tim. On
2 the population threshold for Northwest Alaska, I got
3 two calls from the villages saying they were worried
4 about the road system on the population threshold if
5 they'd ever build a road from the Interior to Upper
6 Kobuk. The other plan is to go ahead and connect Red
7 Dog. When we met with Noatak and Kivalina, if they
8 would build that road, what they're planning to do is
9 build a road from the port to Noatak and Kivalina to
10 put the cost down to live in the village. If the road
11 is ever connected, what is going to happen to these
12 villages that are going to be connected to a road that
13 is not connected today and their population is well
14 under 1,000 and they would like to know.

15
16 Before a plan -- my question is, is
17 there wording in there in the future that the Federal
18 could change it to hurt the people that are eventually
19 connected to the road system for Northwest Alaska.

20
21 Thank you.

22
23 CHAIRMAN TOWARAK: Thank you. And we
24 will be discussing more of the various aspects of rural
25 determination as we get into the morning. I've been
26 asked that we all reintroduce ourselves. We've got
27 some people sitting in for Board members, so I'd like
28 to go around the table and have everyone once again
29 introduce yourselves, starting with Charlie.

30
31 MR. C. BROWER: Charlie Brower from
32 Barrow.

33
34 MR. SHIEDT: Enoch Shiedt, Northwest.

35
36 MR. OWEN: Wayne Owen, United State
37 Forest Service.

38
39 MR. LOUDERMILK: Bruce Loudermilk,
40 Bureau of Indian Affairs.

41
42 MR. HASKETT: Geoff Haskett, U.S. Fish
43 and Wildlife Service.

44
45 MR. CRIBLEY: Bud Cribley, Bureau of
46 Land Management.

47
48 MR. SMITH: Tim Smith, resident of
49 Nome.

50

1 MR. LOHSE: Ralph Lohse, Copper River.
2
3 MR. ROCZICKA: Greg Roczicka, YK Delta
4 RAC for Lester Wilde, our chair, who was weathered in.
5
6 MR. ADAMS: Bert Adams, Sr., Southeast
7 Regional Advisory Council.
8
9 MR. H. BROWER: Good morning. My name
10 is Harry Brower. I'm the chair of the North Slope
11 Regional Advisory Council.
12
13 MS. MORRIS LYON: Nanci Morris Lyon,
14 Bristol Bay.
15
16 MS. ENTSMINGER: Sue Entsminger,
17 Eastern Interior RAC chair.
18
19 MR. SIMEONOFF: Speridon Simeonoff,
20 Kodiak/Aleutians chair from Akhiok on Kodiak Island.
21
22 MR. REAKOFF: Jack Reakoff, Western
23 Interior Regional Advisory Council chair. I live in
24 Wiseman.
25
26 MR. PELTOLA: Gene Peltola, Jr.,
27 Assistant Regional Director for the Office of
28 Subsistence Management.
29
30 CHAIRMAN TOWARAK: I'm Tim Towarak.
31 I'm the Chairman of the Board.
32
33 MR. LORD: Good morning. I'm Ken Lord
34 with the Office of the Solicitor, Department of the
35 Interior.
36
37 MS. COOPER: Deb Cooper, National Park
38 Service.
39
40 MR. CHRISTIANSON: Anthony
41 Christianson. I'm a Federal Board member for rural
42 represent.
43
44 CHAIRMAN TOWARAK: Thank you. Where we
45 left off yesterday was under the rural process review.
46 We're going to get right into the summary of comments
47 received following the Federal notice.
48
49 DR. JENKINS: Good morning, Mr. Chair,
50 Board members and Council chairs. Jack Lorrigan is

1 going to present the tribal and ANCSA summaries of
2 comments.

3

4 MR. LORRIGAN: Good morning, Mr.
5 Chairman, Board members. My name is Jack Lorrigan.
6 I'm the Native Liaison for the Office of Subsistence
7 Management. Last year we had three consultations via
8 teleconference and we had 20 tribes and about 12 ANCSA
9 corporations call in. Not everybody who called in
10 participated, but on Page 6 and 7 of your rural
11 determination briefs we captured some of the comments
12 from the tribes and the corporations. I'll go over
13 some of the highlights that we heard.

14

15 One of the popular statements was that
16 the population thresholds are arbitrary and should not
17 be used as a trigger to review communities. Rural
18 characteristics are more important. Rural review should
19 be based on a change of a community. One comment was
20 communities not connected by a road system should
21 remain rural.

22

23 There was a few comments of support on
24 the Native exemption or a Native plus idea. The idea
25 was that if people had to leave their community and
26 move to a non-rural area for economic reasons, that
27 they could still come back and subsist, but that would
28 take an act of Congress and we impressed that on them
29 if they pursued that, that is the way they have to go
30 for that one.

31

32 There was a comment that other Federal
33 agencies have different definitions of rural and there
34 was confusion as to why one agency has one definition
35 and others have another one. The idea of a Federal
36 enclave was mentioned. One comment that the U.S.
37 Census-mapped Alaska Native village areas should remain
38 rural. When they did the town mapping for villages,
39 there was an area defined of city area for those
40 villages and that should be an idea.

41

42 One of the comments was that the
43 subsistence resources around villages are already
44 pressured and having outside pressure puts more of a
45 strain on the resources around villages, so that was a
46 comment that they tied into rural aspect. That was the
47 tribal highlights.

48

49 For the ANCSA corporations, they felt
50 that aggregation was not a popular idea and that the

1 threshold should be changed from 7,000 to 12,000. Some
2 thought a 10-year review was useful, others did not.
3 One comment was encourage the use of a State of Alaska
4 subsistence food survey of 150 pounds per person as a
5 minimum amount to be necessary to be considered rural
6 use.

7
8 There was popular support to reinstate
9 Saxman's rural status. There was a comment to look at
10 traditional communities' methods of sharing and that
11 the spiritual and religious dimensions of subsistence
12 are recognized by the courts and that should also be
13 considered.

14
15 The Board and the Federal government
16 are in a position to protect subsistence resources and
17 cultural ways and that the presence of a Federally
18 recognized tribe in a community should carry some
19 weight too.

20
21 Mr. Chairman.

22
23 CHAIRMAN TOWARAK: Thank you, Jack.
24 Are there any questions of the tribal or ANCSA
25 concerns.

26
27 Go ahead.

28
29 MR. ROCZICKA: Mr. Chairman. Not a
30 question to Jack, but more of a comment along the lines
31 of maybe something the Board could consider or explore
32 regarding the tribal aspect. Although you can't make
33 it a Native blanket, you may be able to say tribal
34 members and rural Alaska residents since there is that
35 separate clause in Section .801 of ANILCA that
36 recognizes specifically the Native community, which is
37 the reason there is a Title VIII of ANILCA with its
38 connection to ANCSA.

39
40 CHAIRMAN TOWARAK: Thank you. We will
41 take note of that.

42
43 DR. JENKINS: Mr. Chair. Next we'll
44 have Dr. Brooks provide a summary of the public
45 comments, the 500 public comments. That should just
46 take a few minutes, I think.

47
48 DR. BROOKS: Good morning, Mr.
49 Chairman. Thank you. Board members, Council chairs,
50 everybody in the room. Good morning. My name is

1 Jeffrey Brooks. I work in the Office of Subsistence
2 Management. My title is social scientist. I want to
3 talk to you a little bit about what we heard during
4 public comment on the rural determination review.

5
6 First of all, for everybody in the room
7 there are three pieces of information that you can read
8 to get an idea of what we heard from the public. I'm
9 going to tell them to you in the order of detail. For
10 those of you who want less detail, turn to Page 4 in
11 the rural briefing. You'll see a section down at the
12 bottom called summary of public comments. That's one
13 page. For those of you who would like a little bit
14 more detail, turn to the back of that document and look
15 at Appendix A. That's what I'm going to review with
16 you this morning. Those of you who would like a lot of
17 detail and to actually hear what people said, read what
18 people said, you could look at this binder, the one
19 with the light blue cover, that's got all the details
20 in it.

21
22 So basically the Staff at OSM was
23 charged with reading the appropriate transcripts and
24 letters that came in from the public and putting those
25 comments that were relevant to the rural determination
26 process, basically the ones that addressed the nine
27 questions in the Federal Register notice that was put
28 out, into a database. We arranged those comments by
29 the categories in the database; the population
30 threshold, aggregation of communities, et cetera.

31
32 Once that was completed, there are
33 roughly 500 comments in there. A good 475 or so of
34 those were very pertinent to the issue at hand and many
35 of them even listed specific recommendations. So I
36 went through all those and I summarized them into
37 recommendations and with some help from other staff we
38 put together that Appendix A.

39
40 If you turn to Appendix A, which is
41 Page 9 in the rural briefing, you basically have a
42 brief introduction of what we did.
43 I'm not going to focus on the method. If you guys have
44 a question about that, if anybody has questions, you
45 may ask me.

46
47 If you turn to Page 10, you'll see
48 population thresholds. The Board received roughly 100
49 meaningful comments about population thresholds. Those
50 broke out into these broad categories: One, do not use

1 population thresholds. Increase the current
2 thresholds. Support current thresholds and other
3 recommendations for the Board about population
4 thresholds.

5
6 The details follow. Basically about
7 half of those comments recommended that the Board move
8 to completely eliminate the use of population
9 thresholds because they were perceived to be inadequate
10 in the context of most Alaskan communities, arbitrarily
11 and inconsistently applied across Federal agencies.
12 Another popular theme is that rural characteristics
13 should be given more weight than the population numbers
14 themselves.

15
16 Twenty-two of the comments indicated
17 that the Board should increase the threshold from 7,000
18 to a number in a range between 10,000 and 30,000 and we
19 heard specific suggestions like 11,000, 15,000, 25,000.
20 Seventeen of the comments indicated that the Board
21 should do something else about population thresholds
22 and those are listed at the top of Page 11. For
23 example, adopt and apply the rural development
24 thresholds used by the U.S. Department of Agriculture,
25 which ranged from anywhere from 2,500 to 50,000, use
26 population densities, et cetera. Also use the
27 Permanent Fund Dividend population numbers to get a
28 more accurate view of actual full-time residents in the
29 state.

30
31 For rural characteristics -- I'll back
32 up here just a second here. About 10 of these comments
33 actually supported the use of the current thresholds.
34 For rural characteristics, the Board received well over
35 100 comments that were meaningful. Most of those
36 indicated that the public recommends that the current
37 rural characteristics be changed. There were also
38 people who indicated that, and I said this before, that
39 rural characteristics should be the most important
40 factor considered and weighted above population
41 thresholds.

42
43 A few people actually supported the
44 current characteristics as they are and there was
45 another percentage of those who said something else.

46
47 One interesting thing to note is I
48 don't think we heard in one case anybody wanting to
49 throw out the use of fish and wildlife as a rural
50 characteristic. That one was not suggested for change.

1 However, some people indicated that maybe it should be
2 reworded to use of fish and wildlife or subsistence.

3

4 On Page 12 you'll see other additions
5 to the list of rural characteristics that people
6 suggested. For example, cost of living and inflation
7 rates, spirituality, cultural ceremonial practices of
8 people who have a subsistence way of life, community
9 identity, presence of an organized tribal government,
10 proximity to urban areas and available services such as
11 medical care, length of time in a place or duration of
12 existence, production of wild foods and gardening are
13 some of the examples.

14

15 Again, 14 of these comments indicated
16 that the Board give greater weight to characteristics
17 of a community than population numbers. Twenty-one
18 comments recommended that the Board do something else.
19 Those are listed for you at the bottom of Page 12.
20 These suggestions ranged from weight the use of fish
21 and wildlife as the most important rural
22 characteristic, designate all island communities rural,
23 adopt and apply the rural characteristics outlined in
24 the ISER report by Wolfe and Fischer done in 2003.

25

26 This is something we heard quite often,
27 do not apply a one-size-fits-all approach across all
28 Alaskan communities. Four comments indicated general
29 support for applying the current list of rural
30 characteristics.

31

32 Moving to aggregation of communities,
33 there's a little bit more of a spread here. The people
34 that responded said do not aggregate, change how
35 aggregation is done, aggregation removes
36 subsistence priority from some communities, the concept
37 of aggregation was found to be confusing in many cases,
38 both in its definition and its application, and some
39 supported the current aggregation criteria, and there
40 was a range of people who said other things.

41

42 Those who suggested that aggregation be
43 eliminated indicated that current method is biased and
44 inappropriate. In general, these respondents
45 recommended that the Board evaluate
46 communities based on their unique histories and
47 individual sets of characteristics.

48

49 In 28 comments, the public recommended
50 the Board change how it applies the concept of

1 aggregation. These basically were a range of add or
2 take away different criteria for aggregation or change
3 the method in general. Those are listed at the bottom
4 of Page 13.

5
6 For example, determine how population
7 influxes due to mining, oil, and/or military
8 developments affect the current aggregation criteria.
9 Do not aggregate communities just because they are
10 connected by road. Increase the percentage of working
11 people commuting from 30 to 50 percent. That one
12 obviously addresses a current aggregation criteria.
13 Some people wanted to eliminate the commuting
14 criterion. Others want to eliminate the sharing of a
15 common high school criterion.

16
17 Thirteen comments indicated that
18 aggregation removes the subsistence priority of some
19 communities, which is supposed to be protected under
20 ANILCA Title VIII.

21
22 Other comments indicated that the
23 concept of aggregation is confusing and others
24 recommended that the Board do something else, for
25 example carefully consider the impacts of aggregation
26 on subsistence practices such as customary trade,
27 sharing, bartering.

28
29 The timelines category from the Federal
30 Register notice received approximately 66 meaningful
31 comments. These fell out as eliminate the 10-year
32 review, the 10-year review is a burden and a constraint
33 on Federal and community resources. Some supported
34 a 10-year review and some said increase the timeline.
35 Very few, however, actually said increase the timeline
36 unless you consider the most popular response, which
37 was only do a review of rural status for a community
38 when a substantial change occurs.
39 The rationales for those and more details are found on
40 Page 14 and top of 15.

41
42 The last category, information sources,
43 recommendations mainly were other things that could be
44 done to improve the process. Also tribal consultation
45 is an important information source in the eyes of the
46 public, RAC members' knowledge and insights about their
47 communities and regions is another important
48 information source, community feedback through public
49 participation and also the 2010 Census data.
50

1 Five of those comments about the RAC
2 knowledge actually recommended that the Board rely on
3 the knowledge of the Regional Advisory Councils by
4 giving them deference concerning the rural status of
5 the communities they represent. Eighteen of the
6 comments recommended that the Board use other sources
7 of information such as the intent of ANILCA Title VIII,
8 the ISER report, Permanent Fund Dividend database, the
9 State of Alaska regulations and subsistence harvest
10 surveys conducted in a systematic and scientific
11 manner. Three comments indicated support for using the
12 2010 Census data.

13
14 In order to capture public comments
15 that did not fall into the Federal Register Notice
16 categories, we added an other category and this was
17 also intended to capture people who responded to your
18 question number 9 in the notice. For the most part,
19 these comments indicated how the Board could improve
20 the process, 50 percent of the 60 comments received.
21 Twenty-seven percent of people said other things about
22 how to improve the process or in general about the
23 rural determination process. A few indicated that it
24 would be a good thing to get rid of the rural/nonrural
25 split because it puts a label on communities that some
26 felt was unnecessary. Also extend the comment period
27 was one of the suggestions.

28
29 Just a couple of things on how to
30 improve the process. This one we've heard before,
31 eliminate a statewide approach. Replace it with a
32 region-by-region approach because the Regional Advisory
33 Councils are only qualified to talk about their
34 regions. Adapt and apply the process used by the
35 National Oceanic and Atmospheric Administration and the
36 National Marine Fisheries Service for subsistence
37 halibut harvest. Consider health and nutrition in the
38 process. Make the results of tribal consultation
39 available to the regional advisory councils before
40 they are asked to deliberate on the process.

41
42 You can read those for yourself.
43 They're on Page 16. That's all I have for you today
44 unless you have questions.

45
46 Thank you.

47
48 CHAIRMAN TOWARAK: Thank you. I have a
49 question. If you could maybe elaborate a little under
50 adopt and apply the rural characteristics outlined in

1 Wolfe and Fischer.

2

3 Could you summarize basically what they
4 said.

5

6 DR. BROOKS: Yes. Thank you, Mr.
7 Chair. There was sort of a mix. Some folks in general
8 recommended that wild food production or production and
9 use of wild resources be given a lot of weight in this
10 determination process. Others said maybe we should
11 think about population densities instead of just
12 population thresholds.

13

14 More specifically -- and I don't know
15 how familiar you are with that report and I've only
16 read the summary of it, I haven't studied it in detail,
17 but they presented one or two methods and one of them
18 was called a criterion referenced method. That's the
19 brief name of it. But some folks actually specifically
20 recommended adopting and adapting and applying that
21 method to this process. Dr. Jenkins can elaborate on
22 that report a little bit more probably than I can if
23 need be.

24

25 Did that answer your question?

26

27 CHAIRMAN TOWARAK: Yes, it does. I
28 hadn't heard it, but it clears it. Mr. Haskett.

29

30 MR. HASKETT: So whenever I think about
31 this it does seem to me that it's hard for me to get
32 excited about whether a road is connecting a community.
33 It's actually hard for me to worry about even the
34 population numbers. It really does seem like the
35 question really ought to be what's the lifestyle and
36 what's the culture and what's the historical use of the
37 community. I know it's harder to get at those kind of
38 things when you're trying to come up with some kind of
39 empirical way of rating it.

40

41 Were there suggestions on how to do
42 that or just that that was more what we should be
43 looking at?

44

45 DR. BROOKS: Through the Chair. Thank
46 you, Mr. Haskett, for your question. For the most
47 part, people made a lot of suggestions without giving
48 us specific methods on how to achieve them. However,
49 there's a man in the back of the room here,
50 Dr. Monteith, from the Southeast who said explicitly in

1 many comments that we should (ph) be improving the
2 social science that goes into this and one way to
3 capture these more qualitative, holistic
4 characteristics of communities in Alaska would be to
5 implement some studies on what exactly these
6 communities are like from a subsistence base.

7
8 It's quite actually the Regional
9 Advisory Councils, the community members themselves
10 could provide the information. But what people were
11 asking for are intangibles that are difficult to
12 measure and put numbers on. There are ways to capture
13 those, but they are not exactly easy or quick.

14
15 MR. HASKETT: So I was actually the
16 Board member, after my trip to Saxman, where I was able
17 to see what the community was like and get a feel for
18 it that suggested that we really did need to look at
19 this again. At the time, there was a lot of
20 consternation about reopening the process and I think
21 we're way beyond that. So I would just hope that the
22 conversations we have, and I know they will, will try
23 and get at those kinds of things and I recognize it is
24 very, very difficult to try and assign kind of
25 scientific analysis of those kind of questions, but
26 social science can do that, so I just would hope that
27 our conversation is definitely taking a hard look at
28 going in that direction.

29
30 CHAIRMAN TOWARAK: Mr. Owen.

31
32 MR. OWEN: Mr. Chair, thank you. I've
33 listened to this discussion now for maybe years, you
34 know, and it's really come to a point with us here that
35 there seems there are no universally applicable
36 criteria in terms of economics or social science that
37 can be applied in a way that treats everyone equally.
38 Everybody wants to be treated equally, but everyone
39 wants to be seen as unique.

40
41 I'd just like to suggest that maybe by
42 trying to set a set of specific criteria for
43 determining what's rural and not, we're maybe going
44 down the wrong path and what we should be doing is what
45 we've heard from many of the RAC chairmen is devising a
46 system by which each community can be evaluated in a
47 general sense about its rural characteristic and not
48 worry about sort of creating tables of data and
49 creating studies and going that line. I think we could
50 pretty easily defend saying that this community is or

1 isn't with a paragraph rather than a spreadsheet.

2

3 Thank you, Mr. Chairman.

4

5 MR. LOHSE: Mr. Chair.

6

7 CHAIRMAN TOWARAK: Go ahead.

8

9 MR. LOHSE: Thank you. Yeah, it's
10 interesting what he said because I've been sitting here
11 listening to this and knowing that we, in our culture,
12 have a tendency to want to come up with exactly that,
13 graphs and charts and lists and all of these kind of
14 things, because that way we can justify what we do. We
15 could have a social scientist study it and he can study
16 it and it would cost lots of money and we could make
17 nice graphs and charts and lists and it still wouldn't
18 make the people happy because of the fact that whether
19 they're rural or whether they're not is more of a
20 feeling than something that you can sit down and put on
21 a chart and say they meet this, they meet this, they
22 meet this, oh they don't meet this, they meet this.
23 The majority of them it comes out that they're on this
24 side of the scale.

25

26 Like I said yesterday, I really think
27 that what you've got, you've got a system set up that
28 actually should be capable of telling you whether a
29 community in a region has rural characteristics or not
30 and that's your advisory system that is set up as part
31 of this process. It's not something that you're going
32 to measure. It's going to be something that you're
33 going to feel. The people that live in the area are
34 the ones that are going to feel whether a community is
35 rural or nonrural.

36

37 I honestly think if you sit there and
38 spend your time trying to come up with a set of some
39 kind of criteria to do this, you'll be battling this 10
40 years from now and you'll be battling this 20 years
41 from now. But if you end up letting the people who
42 live in the area decide, you know, if there's a
43 problem, this place shouldn't be rural anymore or this
44 place is rural, I think that you can take a real big
45 load off your shoulders and that's to use the Advisory
46 Committees that you've already set up, that you pay to
47 have -- you know, give you information and gather in
48 these meetings and things like that.

49

50 If that deference was given, your

1 problems would be solved and that's my own personal
2 opinion and I don't know how better to express it than
3 what he was trying to say because otherwise I think
4 you're going to battle this from now to the end of
5 whenever.

6

7

MR. OWEN: Time immemorial.

8

9

CHAIRMAN TOWARAK: That's true. You'll
10 be next. I agree with you. Everything that I've heard
11 so far, I think the thing that makes most common sense
12 is to have the decision made as close to home as
13 possible. But with that comment I've got a question on
14 whether or not we can defer this to the RACs under
15 current legislation.

16

17

MR. LORD: Mr. Chair. What .805(c) of
18 ANILCA tells us is that the Board is legally obligated
19 to defer to the Councils on issues of takings of fish
20 and wildlife. That does not include rural. But that
21 doesn't mean the Board could not choose to defer on
22 other things. So that is within the Board's purview to
23 do that if it chooses to. It's just not legally
24 obligated to. That's the discussion we normally have.

25

26

CHAIRMAN TOWARAK: Mr. Loudermilk, you
27 had a comment.

28

29

MR. LOUDERMILK: Yeah. I'm just going
30 to kind of jump in here and get my feet wet, probably
31 being the newest member of the Board. You know, going
32 out and visiting Saxman, some of the things I've
33 noticed there -- I mean one thing that I think we need
34 to take a look at is the health, safety and welfare of
35 a community, you know. That's more than just whether
36 or not there's a Walmart or there's some type of
37 service industry, a McDonald's that we heard a lady
38 speak about earlier.

39

40

Trying to go through and define by
41 population numbers or by service numbers within a
42 region does not take into affect the historical and
43 cultural views or the cultural uses of that subsistence
44 living. Like I said, coming from the Lower 48 where
45 we've seen the diminishment of the buffalo and the
46 tribes and the communities being given commodities and
47 things like, we've seen an increase of health-related
48 issues; diabetes and other things that go along with
49 that.

50

1 So I mean I think that's something we
2 really need to look at. Again, that health, safety and
3 welfare of the community and the regions where we're
4 at.

5
6 Thank you, Mr. Chair.

7
8 CHAIRMAN TOWARAK: Go ahead, Mr.
9 Cribley.

10
11 MR. CRIBLEY: Listening to this and I'm
12 continuing to listen and looking forward to the
13 discussion of looking at the alternatives that are
14 going to be brought forward to us, but the idea of
15 deferring to the RACs and allowing them to judge
16 whether a community is rural or not seems to make sense
17 on surface, but it also seems to be that -- and one of
18 the concerns and one I'm going to be listening to and
19 we'll probably have more discussion on -- as soon as
20 the RAC comes in and says a community is not rural
21 anymore, we're going to be back in the same situation
22 we're at right now with Saxman.

23
24 I mean they're going to come to the
25 board and disagree and probably have as long a list of
26 reasons why they think they're still rural as long as
27 the RAC can put together arguing the other way and
28 we'll be right back into that situation. I don't know
29 that that would occur. I can't imagine that occurring
30 actually, but in the case of that occurring I think
31 we're still going to be in a dilemma and then we're
32 going to be back to quantifying and how do you quantify
33 it and what are your factors and how did you -- you
34 know, then we get into the discussion of how did you
35 determine that and getting beyond just the feel of it,
36 it's very difficult to sustain a decision like that,
37 being in that position many times in the past. So just
38 something to think about.

39
40 I like the idea on the surface of that,
41 but see the dilemma of it if actually somebody tried to
42 take that action. Like I say, I don't know that I can
43 see that happening. I doubt it would happen in the
44 future. Just understanding the characteristics of all
45 the small communities and villages in Alaska, I don't
46 know that they're really going to change and that would
47 occur, but that would be one of the pitfalls of that.

48
49 Certainly recommendations should be
50 considered and such, but just something to think about

1 as we get into this quantifying some of the intangibles
2 and stuff and the difficulty and the situation it puts
3 us in like we're in right now.

4

5 CHAIRMAN TOWARAK: Mr. Owen.

6

7 MR. OWEN: Mr. Chairman, thank you. I
8 hate to be a Forest Service person here, but my opinion
9 here is based on my experience and my agency's work.
10 So when we do a timber sale or a fire or something like
11 that, we never have a checklist that tells us we're
12 going to do this particular action because the
13 checklist tells us to do it. We decide what the needs
14 are according to our plan or overall guidance and then
15 we write a justification for it and that justification
16 then stands until there are changed conditions.

17

18 So I understand exactly what Mr.
19 Cribley was saying. That's a completely logical way to
20 think about this, but if we construct it in such a way
21 that rural determinations were set in stone -- well,
22 not necessarily stone, but were set unless there were
23 changed conditions in which there was no reason to
24 reevaluate them. Personally, I don't know how I would
25 feel about leaving that completely up to the RACs. I
26 think the Board has a degree of responsibility. That
27 could certainly come from the RACs and be decided by
28 the Board.

29

30 I think there's another model of
31 decision-making within the Federal estate that would
32 allow us to sort of set that and give us latitude to
33 change only when conditions change sufficiently to
34 justify reevaluating it.

35

36 Thank you.

37

38 CHAIRMAN TOWARAK: Nanci.

39

40 MS. MORRIS LYON: Thank you, Mr. Chair.
41 My thoughts were going in the same way as Mr. Owen.
42 You know, we've kind of more or less established the
43 existence of the communities that subsist already.
44 It's not like we're starting the book all over again.
45 I feel like that establishment has given us criteria
46 and our RAC Councils the knowledge of our areas.
47 Again, I don't think anybody can describe what
48 subsistence feels like unless you live in an area.

49

50 So my thought was -- Mr. Cribley's

1 concern I certainly understand it's valid, however, I
2 think that it's going to be less of an issue than it
3 would have been if we were just opening the book.
4 However, this book has been in existence for a long
5 time now and I think that that gives a lot of strength
6 and support to the areas themselves.

7

8 Thank you.

9

10 CHAIRMAN TOWARAK: Go ahead.

11

12 MR. HASKETT: So I'd like to build on
13 the last three set of comments, I think, because it
14 does appear to me that we do have a lot of historical
15 background and previous determinations and we know
16 what's already been declared areas that are rural. I
17 like the idea of it going to the RACs for either the
18 determination or making a recommendation to this Board
19 that we affirm if something has changed. I think the
20 change should not be based again upon population
21 numbers, it shouldn't be based upon whether a road is
22 built there or where there's a Walmart.

23

24 I think it ought to be based upon a set
25 of factors that clearly shows that something has
26 dramatically changed that would change the
27 determination. Maybe that kind of gets it a simpler
28 process that we're trying to get to. I'm certainly not
29 looking for any kind of expensive studies or
30 evaluations, but it does seem to me we ought to be able
31 to have folks that we have come up with criteria, go
32 out to the RACs and see if they think that works and
33 identify what those things are that would substantially
34 force us to change the recommendation.

35

36 I can't see a RAC ever coming in
37 actually and saying that they think the status has
38 changed unless something is just so dramatic that it
39 clearly forces the issue. So I'm not sure it has to be
40 all that complicated on where we end up on this.

41

42 MR. LOHSE: Mr. Chair.

43

44 CHAIRMAN TOWARAK: Go ahead, Mr. Lohse.

45

46 MR. LOHSE: One thing I'd like to
47 clarify, I wasn't asking that the RAC made the
48 decision. The Board still ends up making the decision.
49 The RACs only make recommendations, but you can give
50 deference to that recommendation unless you see

1 something that doesn't fit. At that point in time,
2 then the table is going to be open for discussion and a
3 lot of these questions are going to be answered.

4

5 The other is that if anything is going
6 to come out of this it should be the fact that we have
7 10 regions and each one of these regions has a little
8 bit different feeling of what a rural community is or
9 different aspects of rural communities. We're talking
10 about some areas that unless something drastically
11 changes they're always going to be rural and it's not
12 going to be a problem of judging whether a community is
13 rural or not and then we have other areas like
14 Southeastern or Southcentral or maybe Eastern or
15 someplace like that that there are more possibilities
16 of having to look at a community and say is it rural or
17 is it nonrural.

18

19 Those areas there, the criteria is
20 going to be different in there. Like one of the things
21 says, we can't have a one-size-fits-all. To me, if the
22 RAC is given deference, unless somebody on the Board
23 feels this doesn't fit, I can't see the RAC ever making
24 a decision. The RACs do not make decisions. The RACs
25 make recommendations. You have to choose whether or
26 not you're going to take those recommendations, but you
27 can give deference unless there's something drastically
28 out of the way on them.

29

30 MS. COOPER: Mr. Chair.

31

32 CHAIRMAN TOWARAK: Go ahead.

33

34 MS. COOPER: I appreciate Mr. Lohse's
35 clarification and I'm curious if other RAC Chairs were
36 of that same opinion deference rather than making a
37 decision because that's a clarification for me. I had
38 not gotten that before and I was quite concerned about
39 the political pressure intensifying on the RACs and
40 there being potentially many future communities that
41 would be coming to the RACs and saying you need to make
42 a decision on this community that maybe has previously
43 been determined as nonrural and you need to revisit
44 that. I was becoming concerned, quite frankly, about
45 the cumulative impact on the subsistence resource if
46 that came to be. So I just want to hear from other RAC
47 chairs if that's where everyone is at, a deference
48 rather than decision.

49

50 Thank you, Mr. Chair.

1 CHAIRMAN TOWARAK: Jack, then Bert.

2

3 MR. REAKOFF: I'll speak to that
4 question. I feel that Regional Councils should have
5 deference on this issue to make recommendations to the
6 Federal Subsistence Board. I also feel that there
7 could be other -- there's customary and traditional
8 uses of specific resources, so there's regions that
9 share resources, so one region should be able to call
10 in question the rural status of another region's
11 communities.

12

13 Say Bethel. They're like 50,000
14 people. We have a shared resource for salmon on the
15 Kuskokwim River, so we have low density populations
16 upriver and we have a high density population
17 downriver. If we feel that a community does not meet
18 rural standards, then another region should be able to
19 speak to that. But I do feel that deference should be
20 given to the Regional Councils.

21

22 I think that -- I'll speak to it
23 further -- that a good .804 process is necessary and
24 I'll speak to that issue in the future in this
25 discussion.

26

27 Thank you.

28

29 MR. ADAMS: Thank you, Mr. Chairman.
30 The Southeast Regional Advisory Council is very strong
31 in that the Board should give deference to the Regional
32 Advisory Councils. We feel that way with C&T as well.
33 So with this rural determination thing, you know, where
34 better can you get information than from the RACs and
35 where better can you get information from the RACs if
36 the RACs rely on the communities. I mentioned
37 yesterday that all good government is local.
38 Everything begins with the individual, the community,
39 and it works its way up the ladder until it comes
40 before you.

41

42 I think it's really important that all
43 of the work that is done in our regions are done by
44 people who know the area well. Communities know
45 themselves whether they are rural or not. In many
46 cases, all we need to do is just confirm that through
47 the proper process of going through becoming rural.

48

49 Going back to the local issue. I said
50 that communities in the regions should know whether

1 they have rural status or not because of all of the
2 things we've been talking about here today. The
3 characteristics I think is really, really important.

4
5 I'll use an example. Several years ago
6 there was a subsistence survey that was done in Saxman
7 and in Ketchikan. I was really amazed. As I looked at
8 these surveys, you know, in the community of Ketchikan,
9 how much subsistence foods that those people use. For
10 a large, you know, 12-13,000, 14,000 group of people,
11 they do carry the characteristics of being a
12 subsistence community. We've talked about, you know,
13 population thresholds and everything. I think that
14 should really be eliminated.

15
16 The reason why I want to go back to
17 local again is because everything, as I said, begins
18 from the bottom and works its way up. The Founding
19 Fathers of this great country put a very important
20 concept into the Declaration of Independence. It says
21 that no law, and I'm going to include regulation,
22 should be made without the consent of the governed.

23
24 When we start using that idea, that
25 concept, that philosophy in its truest sense, then I
26 think that we will really be serving the people in our
27 regions and in our communities in the best avenue for
28 them.

29
30 Thank you for allowing me to make this
31 comment, Mr. Chairman. I have some strong feelings
32 about this, but our Council is adamant in saying that
33 the Board should give deference to the Regional
34 Advisory Councils on this particular issue because they
35 know what's going on. We know what's going on in our
36 villages and our communities better than anyone else.

37
38 Thank you.

39
40 CHAIRMAN TOWARAK: Mr. Roczicka, then
41 Mr. Loudermilk.

42
43 MR. ROCZICKA: Thank you, Mr. Chairman.
44 You know, Bethel is kind of a front and center
45 community regarding this because of the growth that
46 it's seen over time and being the regional economic
47 hub, if you will. Actually it was really gratifying to
48 me in having to deal with this very issue at the joint
49 Boards under the State when we had a proposal in to
50 make us a non-subsistence use area because we were

1 getting a big, new grocery store. The fellow read it
2 in the paper, so he put in a proposal. By gosh, if
3 you're getting a brand-new store with a movie theater,
4 you must have major economic changes, so you shouldn't
5 qualify anymore.

6
7 Although all the surrounding villages
8 throughout the Kuskokwim, because of the concerns that
9 we have for salmon right now, are very concerned and
10 said so quite loudly in public forums of Bethel's
11 harvest, which is one-third approximately of the
12 subsistence harvest for salmon. Even with that concern
13 and people putting that forward, the support that we
14 had in coming to the Board from the villages that
15 there's no way that Bethel should be considered a non-
16 subsistence use area under the State. We just got
17 massive support on that.

18
19 Granted there is a component of
20 Bethel's population that do not have subsistence as a
21 mainstay of their livelihood. They don't have a long-
22 term consistent pattern of use that's there in the
23 customary and traditional use criteria, which I believe
24 we'll be getting into a little later with the special
25 action that you have to address.

26
27 As far as how a region would go, I
28 think Bethel really exemplifies that. People recognize
29 that there is still that rural component or the
30 reliance on subsistence use as a mainstay of their
31 livelihood, so I'd be comfortable with that as far as
32 that deference to the RAC that people do recognize that
33 locally.

34
35 CHAIRMAN TOWARAK: Okay. I wanted to
36 point out that it almost seems like we're jumping ahead
37 of our schedule. We've got Board deliberation as a
38 final process on the ISC alternatives, which is going
39 to be presented next. So if we could limit our
40 comments to the issues at hand, this will, I think, get
41 us to the end product sooner.

42
43 Mr. Loudermilk.

44
45 MR. LOUDERMILK: Okay. Then I'm just
46 going to jump in on one last thing. Thank you very
47 much, Mr. Chair. You know, one of the things that I'm
48 listening to and I'm hearing is the decision-making
49 process to be -- or not the decision-making process,
50 correct me if I misspeak here, but we kind of need to

1 take a look at the feeling of the folks that are the
2 subsistence users.

3

4 I'd heard one of the colleagues talk
5 about not needing to have an expensive study. Maybe we
6 need to take a look at some type of triggers that would
7 -- if there was a community or a village or an area
8 where they thought they might need to take a look at
9 the rural designation, if that was maybe vetted through
10 the RACs first, which gives the decision-making process
11 down to the local level where the people live it every
12 day. Then maybe at that point in time create some type
13 of system to where the recommendations could then be
14 brought up to the Board. But have a lower level
15 vetting process that maybe has some triggers that take
16 into the component the feel and the communities at
17 issues, you know, their types of issues that are going
18 on.

19

20 Thank you very much.

21

22 CHAIRMAN TOWARAK: Mr. Christianson.

23

24 MR. CHRISTIANSON: While everybody else
25 is speaking. Just listening to everybody here, I
26 think, you know, the priority -- the rural
27 determination or urban, is really set for priority
28 access to the resource. I mean we're talking about
29 availability of resource here for specific populations.
30 That's the trigger Mr. Loudermilk is talking about. If
31 there isn't enough to go around, then you have to go to
32 the criteria and there is a special action on our
33 agenda later that spells out that criteria and lays it
34 out perfectly for us.

35

36 So if we're looking for criteria to
37 use, it's in the law, you know, and I think we're
38 really putting a lot of emphasis on a lot of areas that
39 really are probably not even going to matter at the end
40 of the day when we start to make our decision about it
41 because we're really talking about if there's enough
42 fish or deer or game to go around for users. If there
43 isn't, then somebody is going to speak up about it and
44 they're going to start to develop proposals and they're
45 going to talk to their RACs and then we're going to
46 hear about it through a special action or proposals.

47

48 So I think we have the mechanism in
49 place. I think we're really, myself, in my own opinion
50 listening to it, overplaying this a little bit here and

1 simplify it and maybe go down to who's urban, you know,
2 and we could pretty much throw three or four names on
3 the wall and say they're clearly urban, Anchorage,
4 Fairbanks, and probably the rest of the state is
5 questionable.

6
7 Those five communities we named,
8 Bethel, Ketchikan, Juneau, a couple of the other
9 places, maybe when the resource becomes in question in
10 that area, do an .804 analysis on it and then
11 distribute the resource accordingly to the users in the
12 area.

13
14 That's my opinion. Thank you.

15
16 CHAIRMAN TOWARAK: Okay. I'm going to
17 ask the Staff if we could get into the ISC
18 recommendations.

19
20 MR. KESSLER: Good morning, Mr.
21 Chairman, members of the Board, Regional Advisory
22 Council chairs and others. I'm Steve Kessler. I'm
23 with the U.S. Forest Service. I serve on the
24 Interagency Staff Committee. I would also like to
25 introduce Dan Sharp.

26
27 MR. SHARP: Dan Sharp. I work for BLM
28 and also on the Interagency Staff Committee.

29
30 MR. KESSLER: The Interagency Staff
31 Committee working with office of Subsistence Management
32 developed a number of alternatives to take a look at
33 different ways that it would be possible to move
34 forward with a recommendation from the Board to the
35 Secretaries of the Interior and Agriculture. It's not
36 a very long summary, but on Page 8 is a listing of
37 those alternatives.

38
39 There are six alternatives that range
40 from no change to the current process to a much
41 simplified process where the Secretaries of the
42 Interior and Agriculture would determine which
43 communities are nonrural and then that would not change
44 unless there was some sort of petition to make a
45 change.

46
47 Now what I would like to refer you to
48 now is a table, which is on Pages 18 and 19 of your
49 rural handout, what we distributed earlier. So there
50 you can see the six alternatives. There's a short

1 summary of that alternative, there's a brief discussion
2 of how it relates to the comments that we've received
3 or the tribal consultation or ANCSA corporation
4 comments, some of the pros and some of the cons of each
5 of those alternatives.

6

7 They are in sort of three categories.
8 Alternatives 1, 2 and 3 use the current system. In the
9 case of Alternative 1, it's actually the current
10 system. Numbers 2 and 3 make some changes to that
11 current system. Alternatives 4 and 5 are somewhat
12 different in that they would change the system using
13 just a specific threshold of number of people. Number
14 6 is vastly different in that it would move the
15 determinations out of the Board's authority and Part C
16 of our regulations to the Secretaries' authority, which
17 would be in Subpart B of the regulations, which would
18 make them essentially more permanent.

19

20 So what I'm going to do is I'll go
21 through these first three alternatives as a group, Dan
22 will cover the next two alternatives as a group and
23 then I will come back and discussion Alternative 6, the
24 last one.

25

26 Alternative 1, no charge. We heard that
27 many people did want to see some changes, but there
28 were a few comments suggesting that the current process
29 was okay. The pros maintains continuity with current
30 process. We do know that actually if you look at
31 statewide, only a few of the rural status
32 determinations have been controversial. A con of that
33 is that it has been widely perceived as flawed and
34 there have been some controversial determinations, such
35 as Saxman and on the Kenai Peninsula. This requires a
36 periodic review even when there have been no changes.
37 So that's the status quo. That's where we are today.

38

39 Now all the rest of the alternatives,
40 if you take a look at the footnote at the bottom, all
41 alternatives except 1 would have no periodic review;
42 review would be by some sort of petition. So we heard
43 that loud and clear that everybody thought that it did
44 not make sense to have this 10-year review. There were
45 a few comments that said, yes, it did make sense, but
46 this was one of the overwhelming comments that we
47 received that there should be no periodic review.

48

49 So that's what Alternative No. 2 is.
50 There would be no change in the process except the 10-

1 year review would be eliminated. The pro of that, of
2 course, is eliminating review alleviates anxiety of a
3 10-year review among communities and it reduces
4 periodically time-consuming and redundant staff
5 work. The negative of that is it would still likely
6 continue to be widely perceived as flawed.

7
8 Alternative No. 3 adopts essentially
9 No. 2, so there would be no change except the 10-year
10 review would be eliminated. The upper population
11 threshold would be increased to 11,000, and there would
12 be a geographic remoteness and isolation characteristic
13 added to that bigger list of rural characteristics. We
14 heard many comments from not using population numbers
15 to increasing the upper limit to 10,000 or as high as
16 30,000. 11,000 was most commonly mentioned.

17
18 The new recommended rural
19 characteristics are geographic
20 remoteness and isolation and we heard about that in
21 many of the comments that we received. So the reason
22 for using 11,000, it was the actual population of the
23 smallest community or area mentioned as rural in the
24 Senate report for ANILCA Title VIII. 11,000 had
25 previously been recommended to the Secretaries by the
26 Federal Subsistence Board, but no action has been taken
27 on that to date. The public has supported this
28 threshold change as
29 better reflective of rural.

30
31 I might like to remind you that the
32 11,000 population and why the Federal Subsistence Board
33 recommended that to the Secretaries was because the
34 Southeast Regional Advisory Council actually petitioned
35 the Secretaries to change that number, the 7,000 to
36 11,000. The Secretaries asked the Federal Subsistence
37 Board for their advice on that and their advice was to
38 make that change.

39
40 The reason for adding geographic
41 remoteness and isolation is because that captures some
42 rural characteristics that really are not otherwise
43 captured in the other characteristics that we use.

44
45 So some of the cons of this alternative
46 are a threshold of 11,000 does not alleviate the
47 anxiety of communities or areas as
48 they gain population over time. The use of geographic
49 remoteness and isolation adds to the complexity of the
50 evaluation of rural characteristics. We would need to

1 figure out a process to determine what is geographic
2 remoteness and isolation. I think most people would
3 have a pretty easy time figuring that out, whether
4 people live on island communities or road systems, et
5 cetera.

6

7 So those are the first grouping of
8 three alternatives. They're all based on the current
9 system. Dan will go into the next couple of
10 alternatives.

11

12 MR. SHARP: Thank you, Mr. Chair.
13 Alternative 4 is basically using a threshold, defining
14 rural communities as areas with populations less than
15 15,000. Clearly from the comments we heard choosing a
16 number anywhere between 10,000 and 30,000. The 15,000
17 is somewhat arbitrary, but where it falls, is it falls
18 above the Ketchikan and Kodiak populations. It would,
19 in fact, with those current aggregations, those would
20 be rural communities.

21

22 The pros certainly would, as we heard
23 from a number of the smaller communities, hub
24 communities, it would alleviate some of their concerns
25 as their populations grow. Communities like Bethel,
26 Barrow, Nome, Kotzebue, all of those I think were
27 mentioned, Dillingham also, as folks having concerns.
28 A 15,000 threshold would provide some buffer.

29

30 Again, the 15,000 is a line where
31 determinations are made now. It's not an electric
32 fence so to speak. It's something of a bright line.
33 But I would envision, much as was discussed, a petition
34 process or so that, in fact, if that threshold is
35 crossed by a growing population, it doesn't trigger
36 anything other than it would be eligible for review.

37

38 Given the hand-ringing and the six
39 years I've spent dealing with some of this, it would be
40 nice if the petitioners -- if the onus was on the
41 petitioners to show why the status had changed and not
42 to the rural members to defend their status. It's
43 somewhat distressing to hear that we've scared people
44 all over the state with this process. I've heard that
45 repeatedly, folks are scared, and this is not what this
46 program is designed to do, to go around the state and
47 scare people. I'd like to put a lot of this behind us.
48 I'm sorry, I'm digressing here.

49

50 MR. HASKETT: We would too.

1 MR. SHARP: The cons, and it may not be
2 a con per se, but the addition of communities and areas
3 to the pool of qualified subsistence users result in
4 increased competition for resources. It could
5 potentially trigger an .804 analysis to be done, but
6 that's what's in regulation. That's the process we
7 have. It won't happen everywhere necessarily, but it
8 will likely change the way things are done and I would
9 envision OSM would probably have to beef up their
10 anthropology staff as opposed to their biology staff.

11
12 I guess the variation of that
13 alternative is again to use the 15,000. This is
14 Alternative 5. Somewhat addressing what you commonly
15 hear from folks throughout the state, the road system
16 is, in many people's minds, part of the urban -- that
17 somewhat defines urban status for folks.

18
19 What Alternative 5 does is try to
20 address that and using the current rural determinations
21 for Southcentral, which would remain in force. That
22 would mean Alternative 4 would mean Homer, Seward and
23 Valdez would become rural communities. Alternative 5
24 would mean those determination where they've been
25 determined to be nonrural would stay in place.

26
27 One of the pros for that certainly are
28 we're not adding to the pool of Federally qualified
29 folks to compete along the road system areas. The
30 difficulty in one of the cons is when you start making
31 exceptions, you have to justify those exceptions, you
32 have to explain them, you have to have criteria for
33 them and you sort of create difficulty for yourself, I
34 guess. That's not saying it can't be done.

35
36 As Steve said, there's been general
37 acceptance of most of the determinations thus far, so I
38 don't think we've heard from Homer and Seward and such
39 clamoring for a change in their status. Moose Pass may
40 take exception to that, I guess. In general, this
41 alternative again would use the 15,000 threshold, but
42 keep the road system determinations as they've been
43 made to date.

44
45 MR. KESSLER: Alternative 6 is actually
46 a vastly different alternative. So just as a little
47 bit of background, we have what we call four parts of
48 our regulations. Parts A and B are the Secretaries'
49 authority. Part C and D are this Board's authority. So
50 right now in Part B is where the process is found to

1 determine which communities are rural or which
2 communities are nonrural. The determinations
3 themselves are found in Part C of the regulations.
4 That's within the Board's authority to say using the
5 process in Part B, here are the rural communities and
6 that gets published in Part C.

7
8 So this would just flip this around a
9 little bit and the Board would no longer have any role
10 in making those determinations. Those determinations
11 would be in Subpart B of the regulations and because
12 they would be in Subpart B, they could be viewed as
13 more permanent. So it would take some sort of change
14 at the Secretarial level to move a community one way or
15 the other.

16
17 There were a lot of suggestions that we
18 heard in public comment to make these determinations
19 permanent. This alternative does that. It makes them
20 more permanent. Nothing is permanent because you can
21 always petition, the Secretaries can always go through
22 a rulemaking and change it. However, this is probably
23 the more permanent because there would be no process
24 that would be identified to update those rural
25 determinations. They would be made, they'd be made
26 through the rulemaking process and then they would be
27 in place.

28
29 We did not receive any specific
30 comments to do it that way, to move the determinations
31 into Part B, but when we looked through all of the
32 comments that we received, we said this could be a
33 solution to a lot of what we have heard. Put those
34 into Part B and then we don't have to go through this
35 whole process on a 10-year basis and we don't have to
36 have all the process components laid out.

37
38 So the pros, I've gone through those.
39 Fits well with the notion of no periodic review and it
40 would only occur when deemed
41 necessary by the Secretaries. The con of that is that
42 it does reduce flexibility to modify boundaries as
43 communities change because everything would have to go
44 through the Secretary rulemaking. Decisions are made
45 by the Secretaries in Washington, DC, rather than
46 locally, and that could be viewed as a less open
47 and transparent process, having the decisions made at
48 the lowest level down here in Alaska at the ground.

49
50 So those are the six alternatives.

1 There could be many variations to those alternatives.
2 There can be other alternatives. Our hope was to at
3 least get the discussion going by presenting those six.
4 If you have any questions for us, we're more than
5 willing to try to answer them.

6

7 Thank you.

8

9 MR. HASKETT: So, 6, it's a legal and
10 regulatory requirement to be able to do that? You have
11 to go through the Secretaries? There's no way to do
12 that, have it come to the Board and go through the same
13 process?

14

15 MR. KESSLER: Mr. Haskett, I'm not sure
16 I know exactly what you asked, but let me try.

17

18 (Laughter)

19

20 MR. KESSLER: In No. 6, there is no
21 process laid out any longer. The Secretaries say here
22 are the communities that are nonrural. Everything else
23 would be rural. There is no process. The Secretaries
24 would just establish what those are. Just like right
25 in the regulations in our Part A regulations it says
26 here are the areas that are subject to the jurisdiction
27 of this Federal Subsistence Program. Here they are.
28 So it would be the same thing then for rural. Here are
29 the rural communities.

30

31 MR. HASKETT: To clarify what I was
32 asking, could the Board do that instead of the
33 Secretaries?

34

35 MR. KESSLER: Mr. Haskett, through the
36 Chair. I'm sure that a way could be crafted to make
37 that happen, but there would still need to be, in my
38 opinion, a process in Part B that would be then
39 modified to allow the Board to do that. So the Board
40 gets their authority from whatever the Secretaries say
41 that their authority is. So in Part B it said Board
42 has full authority to do whatever they want and however
43 they want to determine rural, then it could be done
44 that way.

45

46 MR. HASKETT: So I guess what I'm
47 looking for is an option 7 that does the same thing but
48 somehow we craft it in a way or the Board does it and
49 we don't have the Secretaries do it.

50

1 MR. CHRISTIANSON: Second.
2
3 MR. OWEN: All in favor.
4
5 (Laughter)
6
7 MR. HASKETT: Well, I mean my question
8 was, is there a legal problem or a regulatory problem
9 in doing it that way.
10
11 MR. LORD: Mr. Haskett, how is that
12 different from option 2?
13
14 MR. HASKETT: So maybe it's not, but in
15 2 it eliminates the 10-year review, which is the same
16 as this, but I didn't realize that 2 also allowed for
17 us to go the direction that's covered in 6. If it is,
18 then 2 is fine with me.
19
20 MR. ROCZICKA: Mr. Chairman.
21
22 CHAIRMAN TOWARAK: Go ahead.
23
24 MR. ROCZICKA: I believe option 2 also
25 retains the trigger points of 7-10,000 -- or once you
26 hit that 7,000 threshold you're no longer presumed to
27 be rural. That's what I'm reading into it anyway.
28
29 MR. HASKETT: So that answers my
30 question. I was trying to stay away from the threshold
31 question and get to the point where it's as wide open
32 for the Board to do it as it appears to be for the
33 Secretaries in 6. So I was looking for something, like
34 a 7, that wouldn't do that.
35
36 MR. LORD: I don't see any problem
37 with making a regulatory change when it does come time.
38 If the board ever goes down the path of making a change
39 in status of a place, of course we will need a record
40 on which to defend that decision. It sure is helpful
41 to have some guidance, regulatory guidance about how
42 that decision is to be made in that case, but that's
43 another discussion we could have down the road.
44
45 MR. HASKETT: So one more point if I
46 may. So what I'm looking to do is -- I agree. I think
47 that whatever the process does it needs to be one where
48 we can defend it, that the record exists somehow, but
49 just in our discussions I'm looking to have this other
50 alternative because I never think it's a good idea to

1 bump it back to the Secretaries. They're very busy.
2 They've got a lot of things that they're dealing with.
3 I'd like to be able to have the delegated authority
4 from them and they trust us to go ahead and take care
5 of this.

6

7 CHAIRMAN TOWARAK: Go ahead.

8

9 DR. JENKINS: Yeah, Mr. Chair, I can
10 respond to Mr. Haskett's -- I think I can, to his
11 comment. In Subpart B right now the rural
12 determination process it reads like this, the Board
13 shall determine if an area or community in Alaska is
14 rural. In determining whether a specific area of
15 Alaska is rural, the Board shall use the following
16 guidelines. Then you can substitute determine which
17 areas are nonrural, therefore all the other areas are
18 rural. I mean that keeps it in your court. The
19 Secretaries tell you how to go about doing that.

20

21 I should point out that that was one of
22 the four options that the Board considered in 1992, but
23 it rejected that option in 1992 and went for the more
24 complicated option that we now have with us. So the
25 Board has considered that in the past, Mr. Haskett.

26

27 MR. HASKETT: So, in 1992 -- I'm trying
28 not to be glib here.

29

30 (Laughter)

31

32 MR. CRIBLEY: You're on the record.

33

34 MR. HASKETT: Yeah, I am on the record.

35 Okay, thank you.

36

37 (Laughter)

38

39 MR. CRIBLEY: Mr. Chairman.

40

41 CHAIRMAN TOWARAK: Go ahead.

42

43 MR. CRIBLEY: I guess I would throw out
44 that what Mr. Haskett is refer -- or I think what he's
45 thinking is I think what option 4 or 5 gives to us
46 essentially the Board drawing a line and saying this is
47 what it is and then eliminating the 10-year review
48 period, which is, I think, paramount that we accomplish
49 that if nothing else. And then if somebody wants to
50 petition later, they can do that, but we don't have a

1 process. It's over with.

2

3 I think that's essentially what 6 does,
4 but it gives it to the Secretary, but what 4 and 5 does
5 is define how we draw that line. I think it's a very
6 simplistic and easy one that's easy to defend. It's
7 just a discussion between 4 and 5 of which way we want
8 to go. I think it accomplishes what Geoff is
9 explaining or what he would like to do.

10

11 CHAIRMAN TOWARAK: If it doesn't, he'll
12 let you know.

13

14 (Laughter)

15

16 CHAIRMAN TOWARAK: Any further
17 discussions or questions.

18

19 (No comments)

20

21 CHAIRMAN TOWARAK: Are we comfortable
22 in moving on? Let's take a 10-minute break and I'm
23 going to still offer the floor to Saxman when we get
24 back if you don't mind. We've got other public members
25 that would like to make comments before we deliberate.

26

27 (Off record)

28

29 (On record)

30

31 CHAIRMAN TOWARAK: Could we start
32 finding our seats, please. I'd like to reconvene.

33

34 (Pause)

35

36 CHAIRMAN TOWARAK: We've got a majority
37 of our Board back in their seats. We still have one
38 more Board member coming in. You wanted to.....

39

40 MR. REAKOFF: Mr. Chair.

41

42 CHAIRMAN TOWARAK: Yes.

43

44 MR. REAKOFF: There was six options
45 given to the Board and Option 5 is the closest to what
46 the Board objective should be moving towards. There
47 are no options that addressed the aggregation issue.
48 There needs to be an option 5A or the Board can modify
49 the options that would use some kind of a threshold
50 possibly. 11,000 was discussed considerably, but

1 15,000 or some threshold using the current Southcentral
2 Alaska rural determinations and RACs should be able to
3 initiate evaluation from this point on and submit
4 communities for consideration in case there's like an
5 industrial complex or some issue occurs in the region.
6

7

8 The aggregation issue is not addressed
9 by any option. The aggregation issue is one of the
10 bigger problems that I see. It's taking dissimilar
11 subsistence communities and aggregating them into
12 thresholds that exceed a certain amount.

13

14 So I feel that the characteristics of a
15 community, the subsistence characteristics are
16 delineated in .804. Direct dependance on the resource
17 and households livelihood and so forth. Those criteria
18 can delineate whether a community has a subsistence
19 characteristic. So I feel that the Board needs to
20 modify one of the options to reflect this aggregation
21 problem that's occurred in other areas.

22

23 Thank you, Mr. Chair.

24

25 CHAIRMAN TOWARAK: Thank you. Any
26 other thoughts.

27

28 Mr. H. BROWER: Mr. Chair.

29

30 CHAIRMAN TOWARAK: Go ahead, Mr.
31 Brower.

32

33 MR. H. BROWER: Just listening to the
34 discussions this morning, I was just in my own mind
35 thinking back in terms of the comments from the North
36 Slope Regional Advisory Council in regards to the
37 comments received and provided.

38

39 For the record, I was trying to figure
40 out in my own mind whether if that's a presentation
41 from the Alaska Federation of Natives in regards to
42 Senator Murkowski's comments were given any recognition
43 through this process in terms of -- or if they've been
44 shared with the Federal Subsistence Board to hear or
45 consider at some point or has that taken place, Mr.
46 Chair. I wasn't clear or didn't hear anything about
47 that. I wanted to raise that question to you.

48

49 Thank you, Mr. Chair.

50

1 CHAIRMAN TOWARAK: Just for your
2 information, Mr. Brower, I think we've got someone from
3 AFN coming in and perhaps that might be a good question
4 to ask at that point. At this point -- Mr. Jenkins, do
5 you know if any of the AFN positions or Senator
6 Murkowski's positions have been evaluated?

7
8 DR. JENKINS: AFN submitted written
9 recommendations and they were taken into account and
10 were part of this review that Dr. Brooks gave us. Many
11 of the AFN comments actually then were replicated in
12 many of the other written comments that we received.
13 So, yes, we saw those comments many times and we
14 incorporated them into our summaries.

15
16 As far as the Senator's comments, I
17 don't believe that we addressed those. If I recall, I
18 think they came after the public comment period ended.
19 I'm not sure.

20
21 MR. H. BROWER: Follow up, Mr. Chair.

22
23 CHAIRMAN TOWARAK: Go ahead.

24
25 MR. H. BROWER: Thank you for that, Mr.
26 Jenkins. Again, in my own mind, I was thinking back in
27 terms of which way would sway your discussions or if
28 any recommendations were forwarded to the Board that
29 would be identified and would be considered to help
30 with the definitions of rural characteristics. I was
31 just thinking that since I was questioning that to see
32 if that was something that was brought to the attention
33 of the Board.

34
35 Thank you.

36
37 CHAIRMAN TOWARAK: I do know that from
38 what I read it almost sounds like both the AFN and
39 Senator Murkowski's remarks would require legislative
40 actions that are beyond our purview here. I think we
41 could ask the Staff to take a look at what might be in
42 their comments that might help us steer through the
43 hard task of defining a rural determination process.

44
45 I had missed asking if there was
46 anybody online that would like to identify themselves
47 and if they are interested in making any comments with
48 regards to our rural determination process.

49
50 OPERATOR: Yes, this is the operator.

1 Just to clarify, would you like me to invite the
2 participants to participate in the question and answer
3 session?

4

5 CHAIRMAN TOWARAK: Not right now. What
6 I'd like to do is have them identify themselves for the
7 public process, which we're going to go into in a few
8 minutes.

9

10 OPERATOR: So, if I understand you
11 correctly, you'd like me to open up all the lines for
12 those dialed in so they can identify themselves?

13

14 CHAIRMAN TOWARAK: Yes.

15

16 OPERATOR: Okay. One moment, please.
17 Let me do a roll call. Kate Schaberg of the Georgetown
18 Tribal Council.

19

20 (No comment)

21

22 OPERATOR: Wenona Wallace.

23

24 MS. WALLACE: Here.

25

26 OPERATOR: Courtenay Gomez with the
27 Bristol Bay Native Association.

28

29 MS. GOMEZ: I'm here.

30

31 OPERATOR: Thomas Evans, U.S. Fish and
32 Wildlife Service.

33

34 MR. EVANS: Here.

35

36 OPERATOR: Gayla Hoseth of the Bristol
37 Bay Native Association.

38

39 MS. GOMEZ: She's standing by.

40

41 OPERATOR: Robert Stovall of the U.S.
42 Forest Service.

43

44 MR. STOVALL: Yes, I'm here.

45

46 OPERATOR: Fred Bue of the U.S. Fish
47 and Wildlife Service.

48

49 MR. BUE: Fred Bue, yes.

50

1 OPERATOR: Robert Polaski of the Kodiak
2 Tribe.
3
4 (No comment)
5
6 OPERATOR: Marcy Okada of the National
7 Park Service.
8
9 (No comment)
10
11 OPERATOR: Keith Ramos of the Fish and
12 Wildlife Service.
13
14 (No comment)
15
16 OPERATOR: Milo Harris [sic] of the
17 U.S. Fish and Wildlife Service. No. Jeremy Havener of
18 the U.S. Fish and Wildlife Service.
19
20 MR. HAVENER: I'm here.
21
22 OPERATOR: Karen Hyer of the Office of
23 Subsistence Management.
24
25 MS. HYER: I'm here.
26
27 OPERATOR: Merben Cebrian of the Bureau
28 of Land Management.
29
30 MR. CEBRIAN: Yes, I'm here.
31
32 OPERATOR: Hazel Nelson, Alaska
33 Department of Fish and Game.
34
35 MS. NELSON: Here.
36
37 OPERATOR: And, lastly, Lisa Olson of
38 the Alaska Department of Fish and Game.
39
40 MS. OLSON: I'm here.
41
42 OPERATOR: Speaker, those are all the
43 participants that are currently dialed in.
44
45 CHAIRMAN TOWARAK: Thank you very much.
46 For the information of those that would like to
47 testify, I think you've already got instructions on how
48 to get online once we get into the public comment
49 period.
50

1 Mr. Jenkins, would you want to wrap
2 things up then before we go into the public process.

3

4 DR. JENKINS: Thank you, Mr. Chair.
5 Let me just remind the Board what the next steps for
6 the Board will be. The Board may decide to forward to
7 the Secretaries recommendations for improving the rural
8 determination process. You can follow these on Page 8
9 if you'd like.

10

11 The Secretaries may then decide to
12 propose a rule to change the current rural
13 determination process, based on the Board's
14 recommendations. At that point, the public, Councils,
15 tribes, and ANCSA corporations would have the
16 opportunity to comment or consult during that
17 rulemaking process.

18

19 The Secretaries would then publish a
20 final rule specifying the rural determination process.
21 If the Secretaries do publish that final rule
22 specifying a different process to be used, the Board
23 would use that process to make rural determinations.
24 Then the Board would publish a proposed rule. Once
25 more, the public, RACs, tribes, and ANCSA corporations
26 would have the opportunity to comment on that proposed
27 rule of actual rural determinations.

28

29 After that, the Board could then
30 publish a final rule making rural determinations. The
31 deadline, as I mentioned yesterday, would March 1,
32 2017. That's how long the rule has been stayed from --
33 that would have taken effect in 2012.

34

35 Thank you, Mr. Chair.

36

37 CHAIRMAN TOWARAK: Any questions from
38 the Board regarding the process. Go ahead.

39

40 MR. HASKETT: So if we go through a
41 process -- and I understand regulatory changes can't be
42 done very quickly, but if we go through that process,
43 are we able to make any determinations on any specific
44 cases before that's done or would we be stayed until
45 the actual rule is final?

46

47 DR. JENKINS: Maybe Ken can help us on
48 this, but my understanding is that the Board has stayed
49 its rule pending the outcome of this review. The
50 outcome of the review from the Secretaries'

1 perspective, the Secretaries asked the Board to review
2 it and then make recommendations back to the
3 Secretaries. So I think that you are limited in making
4 rural determinations until this process has worked its
5 way through. Mr. Haskett.

6

7 And Ken Lord nodding his head for the
8 record.

9

10 (Laughter)

11

12 MR. HASKETT: So it appears to me we're
13 so close here. I saw Ken Lord nodding his head that we
14 probably can't make determinations without going
15 through the process first, but could we -- if we end up
16 choosing that as a process to go, could we maybe spend
17 a little more time -- not maybe right now, but figuring
18 out if there is any possible way of making some
19 specific determinations prior to the 2017 date.
20 Recognizing people think it would be hard to do and
21 maybe we can't, but can we explore it a little bit.

22

23 MR. LORD: If you're looking at me, the
24 Board can always have discussions about what decisions
25 it might want to make in the future and sort of be
26 poised and have its ducks in a row for whenever the
27 Secretaries' decision comes down. If the Secretaries'
28 decision is contrary to what you think it's going to
29 be, you might have to rethink your decision, but it
30 doesn't hurt to be ready if you want to go down that
31 path.

32

33 CHAIRMAN TOWARAK: Go ahead, Mr.
34 Haskett.

35

36 MR. HASKETT: So what's still, I guess,
37 troubling to me and I get we need to stay legal and do
38 this correctly and recognize the Secretary could do
39 something different than what we propose, I would hope
40 that's not the case -- or the Secretaries. The Saxman
41 issue has just been with us for so long and I'm just
42 struggling with some way where we could actually
43 somehow address that one in a way that we resolve that
44 issue still subject to whatever the final determination
45 on process is for us.

46

47 I'm not looking for an answer now. I'm
48 just letting you know what I'm struggling with in terms
49 of how we move forward. I think we have kind of
50 identified a good way forward, but I would really like

1 to go ahead and somehow come to something sooner on
2 Saxman the way that seems to appear to let us do.

3

4 I don't need an answer now and I don't
5 mean to put legal counsel on the spot where I make you
6 hypothesize about things. I just want to talk about it
7 and think about it a little bit, if this is the process
8 in fact we end up with, that we should still be looking
9 at that other question.

10

11 CHAIRMAN TOWARAK: We have food for
12 thought then. Go ahead.

13

14 MR. OWEN: I'm sorry. I can't help it.
15 I am in agreement with Mr. Haskett. I think there may
16 be a way, you know, even though we have to go through
17 the process, if the recommendation that we provide
18 gives some clarity as to our intent to not only Saxman
19 but the other communities that are currently in
20 abeyance. That, I would like to think, would give some
21 degree of certainty or comfort, if I can use that word,
22 to those communities. At least that is the intent of
23 the Board. Recognizing what Dr. Jenkins said, we do
24 have to go through the process to make it all right and
25 straight, but I think in our proposal we can be clear
26 about what our intent is and that would address my
27 concern, Beth Pendleton's concern, Geoff's and I think
28 probably most of the Board.

29

30 CHAIRMAN TOWARAK: Let's continue our
31 process then. We've heard a review of the next steps.
32 I'd like to go into the public hearing process with
33 regard to rural determination and I'd like to give
34 Saxman the floor.

35

36 MR. WALLACE: Mr. Chair and Board,
37 thank you. And Councils, thank you for being here and
38 thank you for this opportunity once more to be part of
39 this public process. Lee Wallace with the Organized
40 Village of Saxman, the Federally recognized tribe in
41 our village.

42

43 First and foremost, I just want to
44 remind you folks that you guys are in charge, charged
45 with a trust responsibility of being Federal agencies.
46 You guys are Federal agency heads, so therefore you've
47 got the trust responsibility to not only Saxman, but
48 you've got trust responsibility for all the tribes here
49 in Alaska. That's why we're here and that's why we've
50 been here from the very beginning, during the bad,

1 broken decision years ago.

2

3 With that broken decision, the
4 Secretary authored a letter saying, hey, the system is
5 broken. He attended the AFN some years ago and
6 delivered that letter. There's many parts that were
7 broken that are still broken. When I kind of reviewed
8 this document that was published back in April 7th, the
9 kind of review of the rural determination process, I
10 actually was on annual leave and I downloaded it last
11 Friday after returning from Arizona, but it was
12 publicly sent out in the public on April 7th.

13

14 In prior years, and I've been here for
15 a number of years for this whole process, when I looked
16 at the news release on it, the publishing of it,
17 normally in the past I would receive an email saying
18 here's a public notice from the FSB announcing this
19 meeting and all the documents within the meeting,
20 including this document here about the review process.
21 Ending up with the last two pages being the
22 alternatives.

23

24 So I mentioned the other day that the
25 six alternatives really didn't jump out at me. I
26 wasn't really excited about any of them. In my
27 document, I penned in alternative 7 and 8, maybe more.
28 Based on reading them, No. 1 is standard for any
29 action, no action. Of course, we all know with the
30 letter saying the system is broken, that's really not
31 an alternative at all. Continue business as usual.
32 The system is fine and good. Not the case.

33

34 The second alternative, it really
35 doesn't fit either. You see the columns on the last
36 column. This would continue to be widely perceived as
37 flawed. Flawed and broken.

38

39 Alternative No. 3. Really kind of the
40 same situation there. Not a real good fit for one of
41 Saxman's alternatives. No. 4 and 5, you see in this
42 short summary, and it is a very short summary you're
43 looking at, and I do thank Mr. Brooks for pointing out,
44 you know, he had the big blue book for all the data
45 that came in on rural determination, written comments,
46 and he summarized it even more and then really got
47 summarized to six alternatives.

48

49 In our so-called consultation on
50 Tuesday -- I forgot to remit that -- I want to submit

1 this for the record the consultation that we had on
2 March 6th with Ms. Pendleton and Loudermilk. I'll give
3 that to you, Mr. Chair. It's a 67-page document of
4 hours of consultation and dialogue between U.S. Forest
5 Service and BIA and the Organized Village of Saxman.
6 That was more of a consultation than what we had the
7 other day.

8
9 The other thing that Mr. Brooks did was
10 he made summarizes and then, for the record also, the
11 document that we submitted for written comment was 50-
12 some pages long. When we had our consultation March
13 6th with the two agencies, we summarized it down to
14 nine pages. I'll submit that for the record also.

15
16 It was very important to say that
17 because there's been a lot of work put into this whole
18 process. The Organized Village of Saxman hired Dan
19 Monteith to assist us in our written document and I
20 might say he did a very good job. We're pleased with
21 his work.

22
23 But going back to the alternatives,
24 during the short summary of No. 4, it says use current
25 aggregation. In the previous pages of the document,
26 there was a lot of public comment about aggregation,
27 about saying it was wrong, let's eliminate it, let's do
28 something to it. In this alternative, it says let's
29 keep on using the broken way of business that we've
30 been doing it. I just can't really grasp that.

31
32 The same thing on No. 5. It says the
33 same exact words. Let's use the current aggregations.
34 It's fine and dandy just the way it was then and it's
35 not. It's been a flawed process back in that
36 determination.

37
38 You know, if you guys actually get down
39 to a decision today, I wouldn't want you to go back
40 what happened in 2006-2007. Back then I was back in
41 the crowd sitting with David Case. We were listening
42 to the dialogue and we were counting votes and just
43 prior to the recess David and I said, well, we've got
44 four votes for Saxman. We thought we were fine and
45 good, but when we got back from the recess we lost that
46 fourth vote, so I'm asking you don't recess before you
47 vote.

48
49 (Laughter)

50

1 MR. WALLACE: Geoff, I appreciate your
2 comments. Some of the action items I had on here was
3 based on what I heard and what I seen about things that
4 were mentioned in a written document and verbal was the
5 10-year review. That should be an action item. Action
6 item number one, let's eliminate it.

7
8 Action number two. When Dan and I saw
9 the six alternatives, he said, well, does any of them
10 really save Saxman or are we going to be in the same
11 boat fighting for Saxman. I appreciate, Geoff, your
12 comments about it. I would say action item two, going
13 back to the broken system and the broken decision, the
14 flawed decision of poor science, was the aggregation of
15 Saxman with Ketchikan and we ended up losing our rural
16 status. Each and every time we come to your table we
17 say reverse the bad decision and make us rural.

18
19 Our tribal administrator is on the
20 phone listening. Last night she texted me and said,
21 Lee, come back and say we are rural. We enjoy the stay
22 of, yes, we are rural and I have to tell that to
23 citizens each year when they go out to gather and hunt
24 and fish. They call me up at the office and say, Lee,
25 are we rural or what, you know. I say, well, the stay
26 is there and we're rural.

27
28 I think a good action item is to say,
29 hey, the people back in 2006-2007 made a bad decision
30 with bad science and part of your direct reply to the
31 letter from the Secretary is it's broken, fix it. You
32 could say, yeah, we did a bad decision, let's fix this
33 and overturn this decision of the bad ruling.

34
35 As that question came up, I said, well,
36 okay, Geoff's asking me the lawful -- you know, what's
37 the implications of law. My question is, okay, so who
38 would actually maybe bring the Board to court. Who
39 would do that. All the public and written comment I've
40 seen, I don't see anybody objecting to Saxman's rural
41 determination and rural status. I don't see it. So
42 who is going to actually bring you guys to court and
43 say you guys are doing something wrong, when in your
44 heart you know you're doing it right by making that
45 decision.

46
47 I think I'll summarize then. Again, we
48 ask for justice like any other Federally recognized
49 tribe. With that, I'm going to turn the mic over to
50 Mr. Dan Monteith here.

1 Thank you.

2

3 Any questions?

4

5 MR. HASKETT: Thank you and I very much
6 appreciate your comments. This is again a question I
7 don't need an answer to now. The conversation we just
8 had we came up with kind of a legal way forward and
9 recognizing that what we come up with -- I guess we
10 haven't actually adopted this yet, but assuming we get
11 to that point where that's the way we go forward, that
12 there is a concern that the Secretary could do
13 something different. I doubt that either Secretary
14 would.

15

16 So if we were able to take an action
17 here, which I heard our Council say we could do, that
18 said if we decide to move forward on this process and
19 additionally have a discussion and a decision, if the
20 decision is that Saxman is rural, recognizing you're
21 still on the stay, would that be enough to allay your
22 concerns?

23

24 Not to make it perfect, but that a
25 process being in place that moves forward for approval
26 by the Secretary along with an action by the Board that
27 says, assuming the Secretary makes its decision, here
28 is what our decision is and you have that along with
29 the stay.

30

31 I'm not presupposing what the Board
32 would do.

33

34 (Laughter)

35

36 MR. HASKETT: I'm just suggesting an
37 alternative. If it worked out that way, would that be
38 something that would work for you.

39

40 MR. WALLACE: Well, I guess really
41 nothing is going to really work for Saxman until we
42 really have a good decision saying we made that bad
43 choice and we're going to reverse it. We continue --
44 most recently we did write a letter to Sally Jewell and
45 we finally got a reply. Not from her, but from Pat
46 Pourchot and during a February meeting with AFN leader
47 retreat we discussed Sally Jewell and her recent
48 actions in Indian country and they weren't favorable.
49 So the discussion there was, okay, right now I know we
50 wrote to the wrong Secretary and we'll re-craft that

1 letter to the Secretary of Agriculture and see if we
2 have a different outcome.

3

4 All along, you know, our President --
5 right now the tribes enjoy the luxury of having Obama
6 in the office and all his Secretaries that are under
7 him. That really leads to you folks being Department
8 heads under different agencies. We will continue to
9 write letters saying reverse this poor decision.

10

11 You know, Obama was adopted by the Crow
12 Nation and I guess if OVS adopted Obama, I'd be going
13 to Obama saying, hey, reverse this, you have that
14 authority, Mr. President. But he's not adopted by OVS,
15 so I'm not going to write that letter to him, but his
16 Secretaries have that authority and they have that
17 trust responsibility that they really need to look at
18 and abide by, to do what's in the best interest of the
19 tribe and/or people to continue our way of life.

20

21 I'll end with that. Thank you.

22

23 DR. MONTEITH: (In Tlingit) I will not
24 translate that because I want to create jobs for my
25 students who can be Tlingit translators for you, but
26 just to say thank you to the Board for this
27 opportunity. Thank you to the Chair for your
28 leadership and time this morning.

29

30 The reason why we're here and I've been
31 working with Saxman since 1989-90 when all these
32 questions first came up and one of the things I've
33 looked at and participated with is how to get food.
34 The reason why we're here today is back in 2006-2007,
35 of course, the Board made a decision about Saxman based
36 on political and emotional reasons that were not based
37 on sound science or reason.

38

39 The good news is we have a new Board.
40 The bad news is the Board's decision has triggered what
41 will be a decade course of events that has had a
42 devastating impact on the cultural transmission and
43 knowledge about how to get and prepare foods, where to
44 go, how to go, who to give, who to share with, how to
45 share. All these things are aspects of culture and in
46 a culture dominated by oral transmission and knowledge.
47 A decade could be a lifetime of elders passing away.

48

49 At this point, my daytime job, I'm a
50 professor, so next week or two weeks from now is finals

1 week, so at this point I'd like to ask the Board to
2 pull out their reports from the Organized Village of
3 Saxman and just as I'm talking maybe you could kind of
4 just look through that if you could in your notebooks.
5 It might be handier just so that you know it's there if
6 you have questions about some of the things I might
7 say.

8

9 MR. CHRISTIANSON: (Away from
10 microphone)

11

12 DR. MONTEITH: I don't know. Can
13 Office -- the Staff -- this is the report that Saxman
14 submitted in December under public comments. Is this
15 in the notebooks? It's about a 40-page document.

16

17 DR. JENKINS: Mr. Chair. We don't have
18 a compilation of all the written public comments. We
19 just have two notebooks that contain those. What we've
20 done is summarized all the public written comments in
21 that blue folder, so we don't have the document that's
22 being referred to here for everybody to look at.

23

24 DR. MONTEITH: Well, let's proceed, but
25 this begs the question and this brings up a question
26 about process and procedure and the fact that you don't
27 have this information here before you. Let's think
28 about this process. The Organized Village of Saxman
29 sent this, submitted this to the Office of Subsistence
30 Management, to you, to the Board.

31

32 This information, which I think is
33 sound science, years of research, reviewed by many
34 different people in the social science community,
35 academic community, and said this is good work, and you
36 don't have that information in front of you. This begs
37 a question about process and procedure.

38

39 And then you're given six alternatives
40 and say each one of these alternatives are what I would
41 call a sound bite and that's problematic in terms of
42 decision-making. So Lee and I asked about this
43 question and that was part of what brought on this
44 tribal consultation. I think Lee and I would prefer to
45 be in a tribal consultation saying this is what we
46 think Saxman is and then you guys could ask questions
47 of us and we could kind of probably come to some sort
48 of agreement about ruralness in so many questions.

49

50 475 comments, a 40-page document, is

1 synthesized into what we call in the trade, social
2 sciences, grouping or cluster or metadata analysis or
3 these six alternatives. I had a mentor that one time
4 said that this grouping or cluster analysis, which this
5 is, is damned if you do, damned if you don't. As you
6 heard from Lee, I think there are some problems with
7 that.

8

9 Is it a good starting point? Maybe for
10 discussion for today. I think and I hope that the
11 Board might gravitate to a different or more refined
12 alternative. Before I go any farther into some other
13 comments, I would just like to say one of the key
14 things that I've heard throughout these meetings and
15 other testimonies is deference to the RAC. With all
16 due respect to Bud Cribley, I would disagree that it
17 would get you into legal or political issues.

18

19 I think when you vet things through the
20 Regional Advisory Councils, that's the equivalent of,
21 in our society, what we call peer review. Jury of
22 peers. You've heard all the RACs say this is a pretty
23 good way of doing it. I would also say it's a pretty
24 good social science way of really kind of talking about
25 things and dealing with the complexity of our state.
26 The bio-cultural diversity of our state. I think some
27 of it could be easily handled. It would still give --
28 and I said deference to the RACs. It would still give
29 the Board the ultimate decision.

30

31 With respect to ruralness, in this
32 report that none of you have a copy of, we have over
33 40-plus pages of qualitative and quantitative
34 information that would tell you -- we even have nice
35 crafts -- that would show you clustering of how Saxman
36 looks like and is a rural community and has the
37 characteristics of rural communities across Alaska,
38 especially in Southeast Alaska. I wish you had that
39 information in front of you. It might ease your
40 concerns about whether Saxman is rural or not.

41

42 This document also clearly lays out how
43 Saxman is not aggregated with Ketchikan. The variables
44 -- and I've talked about this, Saxman has talked about
45 this, the communities, the Regional Advisory Councils,
46 have talked about how the variables used for
47 aggregation don't make sense to the public and, to me,
48 as an anthropologist scientist, they don't make sense.
49 I mean looking at schools and commuting and that, those
50 are just three very fine variables to look at

1 aggregation and it's not enough and it's not rigorous
2 from a scientific standpoint and it's clear why there's
3 outrage in the public about those variables that are
4 used for aggregation.

5
6 There's this tendency by bureaucracies
7 and agencies to want to use numbers and statistics
8 because it's comforting for bureaucracy or agency to
9 say here are the numbers, they don't lie. To quote a
10 famous American writer, Mark Twain, and maybe this is
11 an urban legend -- oh, excuse me, nonrural legend -- he
12 said that there's three types of lies. Lies, damn lies
13 and statistics.

14
15 (Laughter)

16
17 I think as some of your Staff has said,
18 you know, you do need more holistic, you do need more
19 historical information, ethnographic information if
20 you're going to look at these and you need to
21 complement, supplement your quantitative information
22 with qualitative. You have elders all across the state
23 that can tell you about what this subsistence means.

24
25 Let's get into the alternatives and
26 talk about that a little bit and I'll sum up here.
27 When I look at the alternatives, plain and simple
28 social action is too complex to whittle down to most of
29 the time models, typologies or the simplistic
30 reductionistic alternatives. To boil down 475 public
31 comments, all the tribal consultations and everything
32 to these six, it's not satisfying. We're not there
33 yet. I've already made my comments about grouping and
34 metadata analysis.

35
36 Quite clearly I could see Saxman
37 falling through the cracks in many of those
38 alternatives and that concerns me. One of the things I
39 do like in the alternatives is the idea that it's
40 something new. A fresh idea is about remoteness and
41 isolation. Plain and simple, we're talking about social
42 justice issues. We're talking about food security. In
43 the words of some of the different Board members even
44 today, it's an issue of health and well-being and
45 safety for communities. If these island communities
46 were cut off in one way or another, where will they get
47 their food?

48
49 The overwhelming comments on timelines
50 are quite clear. Most folks are not satisfied with the

1 10-year review and I think this is one place where this
2 document excels in terms of different alternatives. It
3 says many suggest that a review should happen only in
4 the event of substantial change to a community. No
5 percentages are given. Eloquent testimony about 25
6 percent when you have 14 people, you know, there can be
7 some issues.

8
9 A 10-year review is a stressful burden
10 on communities and a waste of government resources.
11 Your staff, you don't have a large enough staff. A
12 community like Saxman has only a few leaders, only a
13 few people, and it puts a huge burden and stress on
14 them. In the document, it says eliminating review
15 alleviates anxiety of a 10-year review coming up and
16 reduces the periodically time-consuming and redundant
17 staff work.

18
19 On aggregate variables, the Board
20 staff, in the past, how they look at aggregation, that
21 data has been weak. The variables they have chosen are
22 arbitrary and most of the public comments about
23 aggregate says let's do away with it or we totally need
24 to rethink the way we evaluate aggregation.

25
26 In the case of Saxman, you know, all
27 you have to do is come back to this report and there's
28 a very rigorous background on how we look at
29 aggregation that's much more sophisticated than the
30 variables that have been used over the past 20 years to
31 measure aggregation.

32
33 I want to provide a possible remedy
34 even on aggregation. One would be to just drop it
35 altogether, but another thing to consider for the Board
36 -- and if we could pass out the current regulations and
37 rural determination. If we could get that going to
38 particularly the Board members. I think there may be a
39 possible remedy. One would be to either drop
40 aggregation all together or another one would be in the
41 current regulations, rural determination process,
42 100.15 rural determination process.

43
44 If you'll jump down to number 6 and
45 I'll wait until in particular the Board members have a
46 copy of this. If you look at it with me, it says
47 communities or areas which are economically, socially
48 and communally integrated shall be considered in the
49 aggregate. Shall be. Now here I think we get into a
50 discussion of semantics, but shall be kind of gives --

1 and maybe I'm interpreting this wrong, but kind of
2 gives your office the directive shall be considered.
3 Go out there and find -- you know, seek the truth on
4 aggregation.

5
6 I think a possible remedy would be
7 either eliminate it or at least for the Board to ask to
8 consider changing the wording from shall to may. That
9 way if Anchorage is split into west and east Anchorage,
10 you could at least still come back to the question of
11 aggregation, but it wouldn't be quite so much mandated.
12 Maybe I'm wrong and I will defer to all your advisors,
13 trusted advisors.

14
15 Plain and simple, looking at Saxman, it
16 is not aggregated with Ketchikan. It has a long,
17 historical, cultural tradition of being a separate
18 community and I hope that the Board will work towards
19 -- and this is hopefully the last time I have to speak
20 to the Board, not that I don't like you guys, but on
21 this matter and that we can put it to rest.

22
23 Ax toowu sigoo. Gunalcheesh.

24
25 CHAIRMAN TOWARAK: Thank you. Ken, did
26 you have comments you wanted to make earlier.

27
28 MR. LORD: Thank you, Mr. Chair. If
29 you go back to scratch and start with a program that
30 has rural places and nonrural places, the fundamental
31 question is how do you draw the line between those two
32 places. You've got a place that you now know is
33 nonrural. We'll use Anchorage as an example. Do you
34 draw that line from midtown and downtown, but not
35 Spenard. Do you draw it at the city limits of
36 Anchorage. Do you draw it to include Eagle River. Do
37 you go all the way out to Wasilla.

38
39 That's the fundamental question that
40 aggregation was meant to get to. We've heard from a
41 lot of people that aggregation isn't a good way of
42 doing that and that we should eliminate it perhaps, but
43 we're still left with the basic question, how do you
44 draw the line between the rural and the nonrural place.

45
46 So if there are suggestions out there
47 on how to do that, that would be very helpful to us.

48
49 Thank you.

50

1 CHAIRMAN TOWARAK: Thank you. Are
2 there any other questions or comments for the two
3 gentlemen from Saxman.

4
5 DR. MONTEITH: Mr. Chair. If I may
6 address that last comment. That might be worth a study
7 in and of itself to kind of look at how do we as
8 Alaskans look at this question aggregation.

9
10 CHAIRMAN TOWARAK: Thank you. If there
11 are no further questions.

12
13 (No comments)

14
15 CHAIRMAN TOWARAK: Thank you for your
16 comments and the handouts that you have. We will
17 continue with the public hearing process. We have
18 people that have been waiting. We'd like to call on
19 P.J. Simon from Allakaket.

20
21 (No comments)

22
23 CHAIRMAN TOWARAK: Is Mr. Simon here?
24 He's not here? Then we will give the floor to Maude
25 Blair from AFN

26
27 MS. BLAIR: Good morning, everybody.
28 Thank you, Mr. Chair. Thank you, members of the Board.
29 I was very happy to hear the flow of the conversation
30 this morning and the way things are going. Excuse me,
31 I have a little bit of a cold I'm getting over. So if
32 you can't understand me, just let me know. If you have
33 any questions, jump in at any time.

34
35 We don't think that the alternatives
36 put forward by the ISC went far enough based on the
37 comments that we received. You received a lot of good
38 and very thoughtful comments about this process. We'd
39 urge you to keep following your line of thinking and
40 create your own alternative that you were talking about
41 where you have the guidelines and triggers that would
42 start a determination process and deference to the RACs
43 is an excellent idea. The people out in those areas
44 know what's going on in those areas.

45
46 If you need any help with coming up
47 with those guidelines or triggers, I'd be happy to
48 volunteer to be another person helping on that
49 workgroup and I know we have members who would also be
50 happy to help.

1 So just to summarize AFN's position on
2 what we think some of the guidelines should be, we
3 recommend getting rid of the decennial review. It's
4 costly, time-consuming and it's not really necessary
5 since most of our communities don't change all that
6 much in 10 years.

7
8 We recommend eliminating the population
9 threshold. There's not really any agreement on what
10 that number should be and it's hard to define. There
11 are so many other characteristics that you should look
12 towards. I'm trained as a lawyer as well. Sorry, I
13 just am. One of the hardest concepts to try to explain
14 to people is the totality of circumstances kind of test
15 where it's not mathematical, it's not numbers, it's not
16 solid things that you can point to, but you look at
17 everything that is presented and then make the decision
18 based on that. If there is some kind of a population
19 process in there, we would suggest looking at
20 population density possibly.

21
22 We also recommend eliminating
23 aggregation and considering each community on their own
24 characteristics. Some of the other things that were in
25 written comments to the Board, include in the criteria
26 the per capita harvest of wild food. That is a very
27 important determining characteristic for whether a
28 place is rural or nonrural. Also include in that the
29 population densities that I mentioned and there's a
30 longer explanation in our letter. It's far more
31 eloquent than I am this morning.

32
33 Define population as a set of people
34 identified by geographic or community boundaries.
35 Define geographic area as a bounded space described as
36 lines connecting a series of geographic coordinates and
37 visually represented as a closed polygon on a map.

38
39 Recognize that there can be co-resident
40 communities or populations that exist in rural/nonrural
41 fringe areas of Alaska that's been the subject of the
42 conversation recently here. These co-resident areas
43 use the surrounding commons in substantially different
44 ways, such as Saxman and Ketchikan.

45
46 The ISER report was actually contracted
47 by the U.S. Fish and Wildlife and we recommend adopting
48 the recommendations in that report and we can make that
49 available to you and be available for more questions
50 and discussion on that if you want.

1 If there are any questions. I tried to
2 keep it short. I know you want to move along.

3
4 CHAIRMAN TOWARAK: Any questions. Go
5 ahead.

6
7 MS. COOPER: Thank you, Mr. Chair. I'd
8 just ask that your comments be distributed to the
9 Board. If I could get a copy, I'd like to review.

10
11 Thank you, Mr. Chair.

12
13 MS. BLAIR: Okay. We'll be happy to do
14 that. Anything else?

15
16 (No comments)

17
18 CHAIRMAN TOWARAK: Thank you for your
19 comments. We have next Millie Schoonover from Craig.

20
21 (No comment)

22
23 CHAIRMAN TOWARAK: Let's move to the
24 next one and we'll put her up next. Pamela Bumsted
25 from Kodiak.

26
27 MS. BUMSTED: Good morning. Camai.
28 I'm Pamela Bumsted. I work for the Sun'aq Tribe of
29 Kodiak. The alternatives that have been presented for
30 your -- and summary to consider are still disturbing to
31 the people of Sun'aq and the other communities on
32 Kodiak Island for a couple of reasons. One, it doesn't
33 seem to look at the suggestions that we had of using
34 land use, how people interact with the land and which
35 is the basis also for the geographic definitions and
36 criteria, what is rural and what is nonrural.

37
38 It also looks at aggregation, which
39 doesn't fit with any kind of how people interact with
40 the land. These are administrative and arbitrary
41 distinctions, political distinctions on the aggregation
42 issues. They're not scientific and objective the way
43 that people and land interact.

44
45 There are a couple things I wish to
46 supplement what our Council members said yesterday and
47 to add to your considerations here. Originally the
48 aspect of rural characteristics, and I use that in
49 quotes, is the one that has been most disturbing, I
50 think, to the Archipelago and to Sun'aq. This is

1 because these vary from one person to another.

2

3 You can see that in the historical
4 record in which people from the midwest will say you're
5 not rural unless you have acreage. A beautiful
6 landscape is one in which there is no corn sticking
7 above the soy beans. Now that is rural. It's also
8 very specific and a lot of the people making decisions
9 are looking at these very specific characteristics.
10 That's what has gotten us into the pickle we're in now.

11

12

13 The characteristics were taken from the
14 State and almost word for word and moved into the
15 Federal system in the '90s. All reports since then and
16 also the request for comments for this review process
17 has focused only on those things. It hasn't opened up
18 the process to new ideas and work on things other than
19 those few options that were put into the Federal
20 Register.

21

22 So characteristics, I have seen it on a
23 number of continents and various languages. I'm more
24 rural than you are. You're not rural enough because
25 you don't do this. It can be very divisive as well as
26 being highly biased and ethnocentric. I think that
27 needs to be considered. My rural characteristics are
28 not somebody else's maybe and that's what pulls
29 communities apart. It doesn't bring them together.
30 It's divisive. I've even heard it in the extreme that
31 says, well, you know, you're not using a stone spear,
32 therefore you're not rural, you're not traditional,
33 you're not subsistence. I think that would be nice to
34 get out of this process. Let's look at something else.

35

36 I'm a little disappointed still that
37 although the Secretary of Agriculture has equal
38 responsibility for subsistence and ANILCA, that there's
39 only the one agency. Forest Service is kind of
40 outnumbered by Interior, but there has been -- there is
41 a research department within the Secretary of
42 Agriculture who is the Secretary charged with rural
43 well-being and rural communities and rural people.

44

45 There is a research division that for
46 the last 15 years has looked at this question. How do
47 you determine what is rural without it being arbitrary,
48 biased and unscientific, without it being individual
49 prejudice, without it being political. They have
50 looked into this and yet none of the staff have asked

1 that division to explain and separate out all these
2 funny things about whether you have road access or
3 school access, whether you aggregate or disaggregate
4 and they're the ones who could, I think, make it very
5 clear.

6
7 The example they've used for looking at
8 rural is use an airplane, fly over. You see little
9 clusters of people, you see big clusters of people.
10 They're very clear definitions of little clusters and
11 big clusters. When you look at the threshold, the only
12 threshold really is 50,000. That's what the census
13 uses. You have to have certain density in the core and
14 you have to have at least 50,000 people. There are
15 only the two places and maybe Mat-Su; Anchorage,
16 Fairbanks and Mat-Su. Now that's a consideration for
17 this Board is whether the entire state is rural and
18 remote except for those places.

19
20 The idea of whether you're a city or a
21 non-city, whether you're organized or unorganized, does
22 not apply in a geographic concept. It's how people
23 live together and interact with each other. The number
24 of roads doesn't matter. Whether you're forced to send
25 your kids to one school because there are too few kids
26 and you have to boat them across the river to get
27 there, that's not part of what makes a community urban
28 or non-urban

29
30 So I think those are issues that can be
31 very clear. You can go to the websites now. If you
32 want to know if a certain community in Alaska is rural,
33 actually is remote, a frontier, type in your zip code
34 and you will find it. So there's enough clarity and
35 non-bias that exists that I think ought to be
36 considered.

37
38 Overall, the idea of trying to
39 aggregate people, of trying to do characteristics,
40 which are not appropriate and can differ from one
41 person to another and we've heard very elegant
42 descriptions of how regions vary and how they use the
43 land. What's in common is that they have access to the
44 land and the water and that's what's under ANILCA is
45 the access to that.

46
47 The other thing is that it allows for
48 the fact that you have communities that suddenly find
49 themselves surrounded by more populated administrative
50 units, i.e. Saxman or Kodiak. Those communities are

1 census-designated places. They are real places, they
2 are real communities in a cultural sense and we do need
3 to have a better idea of how communities in Alaska
4 function.

5
6 Just as an aside, in Bethel, that
7 community is bigger than the state of Oregon. That's
8 because you have two children are living in this
9 village, you have people who live here for three months
10 and then they come in here for three months. Where
11 does that person live? Well, they live in that region.
12 That is the community, it's not an arbitrary city
13 limit.

14
15 We could use a little more research on
16 how communities exist in space and time. We forget
17 that communities have a time dimension. We've been in
18 Kodiak for 7 or 8,000 years and it doesn't come into
19 our usual non-Alaska sense of time and place and I
20 think we need something that's more appropriate for us.

21
22 Just to sum up, and I think that the
23 idea of using characteristics is distressing as it can
24 be divisive. If we look at how communities function
25 geographically, you will get some very specific
26 criteria, which can be easily done. If the Board then
27 decides that given the history of ANILCA communities
28 smaller -- or, actually, it was communities larger than
29 Ketchikan. Ketchikan and larger communities were
30 deemed in the law and in the discussions as being
31 nonrural. Not in the law, but in the discussions.

32
33 That may be something to keep in mind.
34 Otherwise, we're all remote, we're frontier. Nothing
35 is going to change. Whether you put a mine in there,
36 whether you have a road that connects to Nome, the
37 Coast Guard is going to move to Northwest Alaska, but
38 that doesn't change the fact that it's still isolated,
39 it's geographically remote. There are features there
40 that do not change simply because you may get another
41 20,000 people move into a distinct little area.

42
43 So, instead of having this conversation
44 over and over again, I think there are better ways of
45 doing it than what's in those six recommendations. I
46 think we need a creative process that's going to be
47 fair to everyone. I think you have -- most of that is
48 there currently and can be used.

49
50 Thank you.

1 CHAIRMAN TOWARAK: Thank you. Any
2 questions from the Board or the RAC chairs.

3
4 (No comments)

5
6 CHAIRMAN TOWARAK: Thank you for your
7 comments. We've got three more people that we'd like
8 to hear from and I'd like to, if possible, maybe
9 restrict their time to 15 minutes so that we could get
10 a discussion going before we go out to lunch on what
11 steps we're going to be taking for the rest of the day.
12 I'm going to call Millie Schoonover from Craig.

13
14 MS. SCHOONOVER: Good morning, Mr.
15 Chairman. Members of the Board, staff from the
16 different governmental agencies, tribal leaders and
17 guests in the audience. I apologize for not being here
18 when you called me the first time, but I had another
19 calling that I had to attend to.

20
21 I'm here from Prince of Wales Island,
22 Unit 2. I'm from Craig. The four tribal entities,
23 Federally recognized tribes on our island, have been
24 talking about the problems we have in Unit 2. So we're
25 going to be submitting a proposal and I just want to
26 give you a little bit of statistics that happened this
27 past year.

28
29 These figures came from the ferry and
30 from Fish and Game. We had 672 non-resident people
31 come to POW. They all can take five deer. So if you
32 take 672 times 5, that's a lot of deer coming off of
33 our island. So that is the proposal that we're going
34 to be bringing forth. We have a new idea to help
35 remedy that.

36
37 While I'm here I would like to speak on
38 the Saxman issue. I guess I'm very appalled that this
39 issue is still at this table. I testified, oh, my
40 gosh, I don't know how many years ago in regards to the
41 issue of Saxman. I don't know how many of you had the
42 opportunity to visit Saxman. You know, I consider
43 myself a traditional Alaskan Tlingit woman. I live my
44 traditional ways. Granted, I like to go to Walmart too
45 because the prices are much cheaper than they are out
46 on the island, but that doesn't change how our people
47 rely -- and I don't like the word subsistence. That's
48 not one of our traditional words, subsistence. Our
49 traditional way of life.

50

1 Granted, Saxman is connected to
2 Ketchikan in the outlying areas by road, but it doesn't
3 change their needs. So I'm hoping, Mr. Chair and Board
4 members that the Saxman issue will finally -- that
5 you'll finally make what we consider a good
6 determination because they're very, very, very much
7 rural people.

8
9 Thank you for the opportunity for
10 letting me come before this Board to voice my concerns.

11
12 CHAIRMAN TOWARAK: Thank you for your
13 comments. Any questions from the Board.

14
15 (No comments)

16
17 CHAIRMAN TOWARAK: Thank you for your
18 time.

19
20 MS. SCHOONOVER: Gunalcheesh haw'aa.

21
22 CHAIRMAN TOWARAK: Next on the list is
23 Pat Holmes.

24
25 MR. HOLMES: Mr. Chairman, members of
26 the Board. I'll be as brief as possible and try not to
27 go over things that have been discussed ad infinitum.
28 I kind of got up this morning and went outside and I
29 took a deep breath. I'm going back to the smell
30 analogy and I gagged because Anchorage is so different
31 than it was at Statehood and that's a significant
32 change.

33
34 When you talk about Saxman or Bethel or
35 other places, yeah, but the increments are so much
36 finer. I would like to reflect on that and answer Ms.
37 Cooper's question on the other side of you, Tim. I
38 can't really tell who is who and what agencies they're
39 from. I almost wish you had little cartoon balloons
40 go, ploop, hi, here I am, that's where I'm from.
41 Anyway, but it's already been answered, your question,
42 how do you draw the line. Any bureaucrat or agency
43 person wants to know how do we define it so we're safe
44 in making our judgments. The information is already
45 there. You've got State and Federal subsistence
46 utilization studies on what people use.

47
48 Like Saxman, as Bertram talked about
49 10, 12 years ago, is so quite different than Ketchikan,
50 but yet even if you combined the two there's enough

1 resources there, what does it matter. Is anybody going
2 to be hurt? Probably not. So use the tools that you
3 already have and also the concept that's been
4 developing on the advice of the RACs. You know, golly,
5 that will work. That gives you good information and
6 usually your RACs are people that are on both the State
7 and Federal Advisory Committees and Councils.

8
9 Some of these problems are not that
10 difficult to solve and I think all of the ideas are out
11 on the table. As Bert was saying years ago, it's an
12 alienable right and where's the problem. So the ball
13 is in your court and I really do appreciate you folks
14 spending the time away from your busy schedules to try
15 to figure these things out. I really have a good
16 feeling that you'll be coming up with a positive
17 solution that will work for rural Alaska.

18
19 Thank you ever so much.

20
21 CHAIRMAN TOWARAK: Thank you. Are
22 there any questions from the Board.

23
24 (No comments)

25
26 CHAIRMAN TOWARAK: Thank you, Mr.
27 Holmes. This is the second call for P.J. Simon.

28
29 (No comment)

30
31 CHAIRMAN TOWARAK: He's not here. Is
32 there anyone on the phone that would like to testify
33 with regard to the rural determination process.

34
35 (No comments)

36
37 CHAIRMAN TOWARAK: No response.

38
39 OPERATOR: All lines are open.

40
41 CHAIRMAN TOWARAK: I'm going to assume
42 that we don't have anyone that would like to testify in
43 that regard to the rural determination process. The
44 next step in this process is to go into Board
45 deliberation. We could have a general discussion for a
46 few minutes here and then proceed to follow up after
47 lunch.

48
49 Mr. Haskett.

50

1 MR. HASKETT: So I have a proposal to
2 throw before the Board and how we might best do our
3 deliberative process on this. We've had a lot of
4 discussion this morning. I think we got to a very good
5 place and I don't think it's different than the public
6 comments we heard where people said one through six
7 didn't quite do it, but had come up with an additional
8 option 7 that combined some of those things and it
9 still needs to be spelled out. I think it would be a
10 good use of our time if over lunch if OSM Staff could
11 put that more specifically down, the components of that
12 that covers our way forward where the Board has the
13 ability to make the determinations and address the
14 different processes we would do to do that, which would
15 give us something to talk about after lunch.

16
17 We spent a lot of time listening to
18 folks on the Saxman question. It's very clear to me
19 that there's no one sitting on this Board that would
20 not like to move forward and make a determination. So
21 I did get a chance to put something before our Council
22 earlier based upon discussions and I'm not going to put
23 words in his mouth, but he didn't have any major
24 problems with this. So I have maybe a way forward on
25 the Saxman questions as well.

26
27 So the first part of this is over lunch
28 OSM Staff will go ahead and come up with our option 7
29 and give us something specifically talk about to make
30 sure we covered what the concerns were.

31
32 As far as looking at the Saxman
33 question, it's clear that it was a previous decision by
34 the Board that said Saxman is nonrural that we've been
35 talking about now for four years at least. I guess
36 what I'm proposing is that as opposed to using this new
37 process that we recognize needs to get approved by the
38 Secretary and needs to go regulatory process to be
39 approved, we could actually go back to the old process
40 that we utilized to make the determination in the first
41 place.

42
43 I have a discussion and I think my
44 sense of the Board is, if we took a vote, we'd probably
45 reverse that decision. Again, I'm not deciding what
46 that would be. But I think we could use the old
47 process to ask that question and then the Board could
48 decide to reverse the determination on Saxman with a
49 recognition that we're doing that based upon a new
50 process we're putting forward for the Secretaries. So

1 it could be reversed, but there's nothing we could do
2 about that. I don't expect it would be.

3

4 But the Board could, in fact, today
5 look at a proposal for reversing the determination
6 again based upon the previous process. My suggestion
7 is that we do that after lunch when we have both those
8 things kind of laid out for us to talk about and have
9 discussion with the Board on that.

10

11 CHAIRMAN TOWARAK: Are there any
12 questions on that possibility.

13

14 MR. CHRISTIANSON: Mr. Chair.

15

16 CHAIRMAN TOWARAK: Go ahead.

17

18 MR. CHRISTIANSON: So to just get it
19 straight, Mr. Haskett is suggesting we go back to the
20 information that was presented in 2007 and use it to
21 determine Saxman's nonrural status?

22

23 MR. HASKETT: So I'm not suggesting
24 that we lay that all on the table again or that we go
25 back and -- I think we've had years of discussion on
26 this, so the Board actually should have a very good
27 understanding of the process that was considered for
28 the previous determination. We've had lots of
29 discussion since then on where we think we are now. We
30 would just look at the question again. Not waiting for
31 the new process, but just throw it before the Board now
32 based upon how we've always done business.

33

34 MR. LORD: Just to clarify, you're
35 saying that the question would be whether to
36 disaggregate Saxman from Ketchikan, correct?

37

38 MR. HASKETT: Yes, that's correct.
39 Recognizing again the new process may do something
40 different in terms of aggregation and in terms of all
41 the different things we've talked about, but the
42 specific determination on Saxman we would make today
43 will be based upon all the information we've been
44 talking about for years based upon how the decision was
45 made before and recognizing that we'll have a new
46 process in place that I don't think will change
47 anything, but we need to recognize there's something
48 new going forward that I think will address the
49 additional discussions we've had and questions for the
50 public and what the Board has discussed about today.

1 CHAIRMAN TOWARAK: But it would clearly
2 be a decision based on the old criteria.

3
4 MR. HASKETT: If I may, because we
5 haven't changed the old criteria. We've stayed our
6 previous decision based on the old criteria. The old
7 criteria still exists. We're just looking at the
8 question again based upon historical discussions at
9 this point based upon previous discussions and
10 decisions.

11
12 CHAIRMAN TOWARAK: And I think we could
13 feel comfortable with that, having reviewed that --
14 this Board, with different members, has gone both ways.
15 Go ahead.

16
17 MR. HASKETT: On other part to this too
18 is -- I mean the question I ask myself, and I think I
19 heard it come from the public as well, what's the legal
20 risk on this. In fact, I think actually Mr. Wallace
21 asked that question and it's a good one. I don't know
22 that I see anybody coming from anywhere that's going to
23 take us on over this based upon what we do today. The
24 legal risk is very small and maybe we should just take
25 it.

26
27 MR. CHRISTIANSON: I support that idea.

28
29 MR. OWEN: I was going to say agreed.

30
31 CHAIRMAN TOWARAK: We will hold your
32 proposal and give it to the Staff for them to put it on
33 paper and then we'll take a look at it and we'll be
34 able to vote on it then before discussions. Is there
35 any objections to that.

36
37 (No comments)

38
39 CHAIRMAN TOWARAK: We will then break
40 for lunch right now and get back at 1:00 o'clock.

41
42 MS. WALLACE: Chairman.

43
44 CHAIRMAN TOWARAK: Yes.

45
46 MS. WALLACE: Speaking online.....

47
48 CHAIRMAN TOWARAK: Would you get a
49 little bit closer to your phone. You're coming in
50 fairly muffled.

1 MS. WALLACE: Before you went to lunch
2 break I wanted to make a comment. My name is Wenona
3 Wallace and I'm calling from the Village of Saxman. I
4 wanted to make just a brief comment. I wanted to say
5 that this whole issue has been so frustrating when we
6 look at the stats showing that 2 percent of fish and
7 game in Alaska is taken for subsistence use while
8 commercial use is exceedingly high, so what we're
9 talking about are minuscule amounts.

10

11 I wanted to say a word about aggregate.
12 It may be worthwhile to consider whether a community
13 has been designed and created as a new hub or is a part
14 of urban and compare it to a community that has already
15 pre-existed historically and has an attachment to the
16 land. Long before the United States was formed the
17 Native people of Alaska were interacting with the land
18 for 10,000 years or more and additionally Native
19 people were providing for sustenance for their children
20 and our families. Basic sustenance was not the only
21 objective of subsistence hunting and fishing by our
22 Native people. It also served as a fundamental aspect
23 of Native culture, traditions that we have, religious
24 and spiritual beliefs that we possessed and many have
25 said it's a way of life and that it's been practiced
26 for centuries amongst our people.

27

28 So nothing is more precious for most of
29 us than having freedom and independence. There is no
30 other people who have honored respect for these both.
31 Our independence is now jeopardized in Saxman. It's
32 very emotional and frightening to speak to the FSB
33 because as gatekeepers you hold our life in limbo.
34 Please provide a fair and judicious decision as
35 gatekeepers.

36

37 That's all I wanted to say, Chairman.

38

39 Thank you.

40

41 CHAIRMAN TOWARAK: Thank you. We will
42 take your thoughts into consideration. We will recess
43 until -- let's hope to get back by 1:15 and hope to
44 start by 1:30.

45

46 (Off record)

47

48 (On record)

49

50 CHAIRMAN TOWARAK: I'd like to call our

1 meeting back into session. When we left we were
2 deliberating on the rural determination process and I
3 believe we have a Board member with a plan.

4
5 (Laughter)

6
7 CHAIRMAN TOWARAK: A plan in the pan.

8
9 (Laughter)

10
11 CHAIRMAN TOWARAK: So, Mr. Haskett,
12 could you take the floor please.

13
14 MR. HASKETT: Okay.

15
16 So part of what we're going to -- two
17 different parts to this. The first part is the process
18 that we were calling Option 7 before for identifying
19 how the Board can make a determination on rural or non-
20 rural, and I think they were able to do that pretty
21 easily and they'll go over that.

22
23 Second thing I suggested is that we go
24 through our past discussions and procedures to look at
25 Saxman specifically today and I see that Ken Lord did
26 not come back after lunch.

27
28 (Laughter)

29
30 MR. HASKETT: Oh, there he is.

31
32 (Laughter)

33
34 MR. HASKETT: So Ken I was starting to
35 talk about the second option and I said I noticed you
36 didn't come back after lunch so.....

37
38 MR. LORD: It was tempting, I'll tell
39 you.

40
41 (Laughter)

42
43 MR. HASKETT: And my proposal ran into
44 some problems, which I think I'm going to ask -- well,
45 we'll do this separately but I'm going to ask the OSM
46 Staff and maybe -- well, it wasn't actually from Ken,
47 so Staff to go ahead and cover -- what we would have
48 needed to have done to cover this today because there's
49 a whole process that we have for specific things that
50 the Board's going to take up that requires it to go to

1 the RACs and the RACs to make recommendations and to
2 get public comments and our stay on this wasn't just
3 for Saxman, it was for all our decisions across the
4 state so it means all RACs but we'll do that -- we'll
5 do that separately and I'll let them cover that and
6 just make sure that there's not some loophole that I
7 couldn't figure out, but I'm not seeing how to do that.

8

9 But what I'm going to end up
10 suggesting, I think, is if we adopt this, then I'm also
11 going to put a proposal forward afterwards that we poll
12 the Board or take a vote on once this is approved, what
13 we would do about Saxman and go on record what we
14 expect should happen there. So that'll be another
15 thing I think I'll ask for.

16

17 So maybe -- I'm not sure who should do
18 this from OSM, but what they come up with was something
19 that kept purposely non-specific and the idea behind it
20 is that we took what was there for the Secretary to do
21 under Option 6 and made it for the Board and
22 essentially left it up for us to determine what the
23 criteria is later so we wouldn't have to do
24 aggregation, we wouldn't have to do road system, we
25 could determine ourselves on how we were going to do
26 that.

27

28 So maybe if someone could go ahead and
29 cover this. I'm not sure the right person is on --
30 what they've done here and how this will work and then
31 we can take it up.

32

33 DR. JENKINS: David Jenkins with OSM.

34

35 It's actually quite simple and we've
36 just taken the alternative No. 6 and taken it out of
37 the Secretarial's world and put it back into the
38 Board's world. So this would be the process that the
39 Secretaries would use to direct the Board and it's
40 quite simple.

41

42 The Board shall determine which areas
43 or communities in Alaska are non-rural.
44 All other communities and other areas
45 are therefore rural.

46

47 Now, this is just the Secretaries
48 telling the Board to make the determination of what's
49 urban, or what's non-rural. It's not telling the Board
50 how to do that, it's just telling it to do that.

1 So then the Board can come up with its
2 criteria, it's characteristics, it's -- if it doesn't
3 want to aggregate, it can draw boundaries around
4 communities based on land use, or administrative
5 boundaries or whatever the Board decides to do.

6
7 But what this ends up doing then is
8 simplifying the process and putting it in the Board's
9 purview.

10
11 Thank you.

12
13 Mr. Chair.

14
15 CHAIRMAN TOWARAK: Are there any
16 questions.

17
18 Go ahead, Mr. Cribley.

19
20 MR. CRIBLEY: Well, I guess we don't
21 understand. All we've done is turned it upside down.
22 That's all we've done is flip it. The whole issue here
23 is criteria, all we've done is flipped it over and
24 rather than looking at what defining rural, now we have
25 to define non-rural and we have to create a whole new
26 set of criteria that we haven't discussed or looked at,
27 and I'm not sure what the advantage of this is.

28
29 I guess I would need some more
30 explanation of what the advantage of doing it this way
31 is. Unless I'm missing something, which is very easy
32 for me to do, is to miss an obvious point or something.
33 So I guess I'd like some more discussion on what this
34 is, what we're looking at.

35
36 CHAIRMAN TOWARAK: Okay. We don't have
37 anything on the table right now, just a proposal in
38 order to get this -- for us to act on it, if that's
39 what we want to do, there should be a motion to accept
40 this process and that would get us into discussion or
41 -- or we could do it now and just have an informal
42 discussion on what this would bring to the Board and to
43 the process in general.

44
45 Mr. Haskett.

46
47 MR. HASKETT: I suggest if we can do
48 it, it's better for us to have the discussion first, if
49 that's not going to cause people major problems at the
50 table and then figure out what we want to propose or

1 not propose.

2

3 CHAIRMAN TOWARAK: Okay. We'll do
4 that. Then the floor is open just for general
5 discussion on what this process would be and maybe
6 answer some of the questions, each Board member or RAC
7 Chairs might have.

8

9 You had your hand up first, go ahead.

10

11 MS. MORRIS LYON: Thank you, Mr. Chair.

12

13 A comment on Mr. Cribley's comment. I
14 guess I would envision this working or where my mind
15 went eventually and I perhaps am not understanding it
16 either, is it that we could still continue to use our
17 criteria for describing rural in order to eliminate and
18 use -- find your non-rural areas. I think you also
19 could still use the criteria put in place in order to
20 eliminate people from the rural concept. I don't see
21 that that has to be rebuilt. I think that that pathway
22 has already been established. Just was my thought,
23 again, I could be wrong as well.

24

25 And my other question is, perhaps
26 better asked down here, was, I don't -- you would see a
27 tool that would be added to this. You were saying that
28 tools would be added to this later, one of those could
29 be the deference to RACs in other areas, is that where
30 you would see that being placed at, or is that
31 something that should be thought about now.

32

33 DR. JENKINS: It seems to me that this
34 could be added at this place in the process, and so the
35 Secretaries could remind the Board that some kind of
36 deference would be accorded to the RACs.

37

38 I'd defer to Ken on answering that
39 question though.

40

41 MR. LORD: I was envisioning the Board
42 having a discussion about doing that as a matter of
43 policy, not as regulation, that's something we would
44 have to discuss and consider.

45

46 MR. CRIBLEY: Well, I guess
47 understanding what you're saying but the reason we're
48 here and having this whole discussion is we were using
49 that criteria and that's how Saxman got made -- or
50 switched over to non-rural status and the concern is is

1 what the existing criteria that we're using for that
2 determination and we're trying to fix that. So to say
3 that we're just going to flip it here and then continue
4 to use that, the problem, we still have to fix that
5 problem. And I guess at least one of the goals I was
6 hoping was to simplify this process and move on rather
7 than to continue with a very complicated process, which
8 I don't think is necessary to achieve what, I think, we
9 all are comfortable with and what we know we want to
10 achieve here.

11
12 MR. LOHSE: This looks like a good
13 start but I think when you start talking about using
14 the old criteria, I think your testimony that you
15 received in such large quantities basically said the
16 old criteria was flawed, I mean it was a broken system.
17 So to say that you'll do this but use the same old
18 criteria, basically I have to go along with Mr.
19 Cribley, is, you just basically turned it upside down
20 and used the same flawed material.

21
22 So I don't, you know, I don't know
23 where to tell you to go from this but I don't see where
24 this accomplishes anything.

25
26 CHAIRMAN TOWARAK: Go ahead, Mr.
27 Haskett.

28
29 MR. HASKETT: I so I guess what I was
30 thinking because, again, in my discussions before, I
31 made it clear I don't think it makes any difference
32 whether an area sits on a road or not, that doesn't
33 seem to me to be the question, it's really cultural,
34 historical, how people are utilizing the resources out
35 there. It could be as simple as just saying that the
36 non-rural areas are anything over 20,000 people and
37 everything else is non-rural [sic], period.

38
39 Now, that -- I guess the problem with
40 that is that maybe like 10, 15 years from now
41 populations get bigger and then you have the discussion
42 again but it'd be a long time before -- if you did the
43 number right where it would be a problem.

44
45 So I'd be good with just something as
46 simple as that, you know, it's non-rural if there's
47 over 20,000 people living in that specific area, don't
48 have aggregation, don't have roads, don't have any of
49 those things.

50

1 CHAIRMAN TOWARAK: Go ahead.

2

3 MR. OWEN: Thank you, Mr. Chairman.

4

5 I think to be consistent with the
6 public comment that we've gotten, you know, I
7 understand still there's the desire to have some
8 criteria, but I still would like to have on the table
9 the idea that we actually don't need a defined set of
10 criteria, we can write justifications and whether it's
11 this way or the old way, you can say the Anchorage
12 urban area, or the non-rural Anchorage area includes
13 Anchorage and all these communities and let it go at
14 that. I don't want to see us get too tangled up in
15 this discussion that we've been having add an item, you
16 know, about numbers that will be crossed at some other
17 later date, or some standards that are easy to measure
18 but have variable impacts, you know, and open a lot of
19 other questions for other parts of the -- for other
20 communities. I think I would just like to say we can
21 be as -- this can be as easy as we let it be.

22

23 I mean that's what Mr. Haskett said.

24

25 CHAIRMAN TOWARAK: Go ahead.

26

27 MR. LOUDERMILK: Thank you, Mr.
28 Chairman. I guess to me looking at this option up here
29 is there's a greater burden on the FSB and the RACs to
30 determine what rural is when you look at the
31 communities throughout Alaska versus if you were to
32 look at the smaller number of places that may be non-
33 rural, so to me, I think going with the non-rural
34 designation would probably be less of a burden on the
35 Board and other folks.

36

37 MS. COOPER: Mr. Chair. My comment is
38 less about policy and procedure and more about the end
39 result.

40

41 I just want to make a comment for the
42 record.

43

44 We are, I believe, directed to protect
45 a traditional way of life, or a subsistence way of
46 life, whatever words you want to use and we do not want
47 to prohibit anyone that has practiced a traditional or
48 subsistence way of life, we don't want to preclude them
49 from continuing to do so. The flip side we need to
50 consider, and I think we will, I just want to make it

1 clear for the record, is that, if the end result goes
2 from across the state of Alaska, 100,000 people being
3 able to use the Federal Subsistence Board process to
4 harvest resources to 150,000 or 200,000 people, then
5 those that truly rely on a subsistence way of life and
6 traditional way of life will be harvesting from a much
7 more pressured -- a resource with many more pressures.
8 I just want us to be cognizant of that in the outcome
9 of what we decide here.

10

11 Thank you, Mr. Chair.

12

13 CHAIRMAN TOWARAK: Go ahead.

14

15 MR. SMITH: The Seward Peninsula RAC,
16 we looked at the 2010 census numbers and we thought
17 20,000 would solve the problem for quite some time, if
18 anything over 20,000 was presumed non-rural, that that
19 would solve the problem for awhile anyway, and then you
20 could deal with specific communities on a case by case
21 basis.

22

23 CHAIRMAN TOWARAK: Go ahead.

24

25 MR. LOHSE: Thank you, Mr. Chair. And
26 I don't like to be always throwing things out that
27 complicate things.

28

29 But I was thinking of the Saxman issue
30 and then I was thinking of the Ninilchik issue, and
31 those of you who have sat on the Board while we've
32 dealt with the Kenai Peninsula know what kind of
33 operation that was. At one time our Council basically
34 said the whole Kenai Peninsula was rural. The Board
35 came up with different criteria. And I'll just give
36 you an example of one, we're talking about not
37 aggregating Saxman with Ketchikan, and I'm not saying
38 that's legitimate or not legitimate, but what do you do
39 with Homer, Fox Valley, Nikolai, Nikolaiski, Anchor
40 Point, Clam Point, Happy Valley, that bunch right down
41 there. They're all individual communities and those
42 communities have existed for a long time, a lot of
43 them. And they really did not want to be aggregated
44 either. And if you go a little bit farther, you've got
45 people in Kenai, the Kenaitze people in Kenai, who
46 would like to have their subsistence rights, and they
47 didn't choose to have Kenai grow up around them, or
48 Seldovia grow up around them -- or Soldotna, I keep
49 getting the two mixed up.

50

1 (Laughter)

2

3 MR. LOHSE: Soldotna growing up around
4 them. Neither did Sterling.

5

6 And by this criteria I would think you
7 would also have to go back to what our Council said 20-
8 some years ago, that the Kenai, by all standards, of
9 any place in the world is a rural area. And that
10 doesn't sit well with Anchorage and the Cabela crowd
11 who look at the Kenai as their playground. And so
12 you're going to have, I really feel, an awful lot on
13 your table in the next very short time period.

14

15 CHAIRMAN TOWARAK: Go ahead, Tony.

16

17 MR. CHRISTIANSON: I guess I would have
18 to kind of support what Mr. Haskett's saying there and
19 let's just find a number, you know, again, if it is I
20 think it would be a safe bet to use the 20,000 to
21 25,000, because most of the communities we have aren't
22 even close to that number yet. And that would almost
23 follow all the public comment we have here, minus not
24 setting a population threshold, but more of the
25 lifestyle and the living of those people and, you know,
26 I guess the process here is to protect the food
27 security of the rural residents and not so much the
28 sportsmen and the people who use it for recreation. So
29 I guess our mandate here is to protect that lifestyle
30 and that way of living.

31

32 And, again, to bring it back to some of
33 the comments we heard earlier, a lot of people live in
34 the city still maintain that lifestyle, period. I mean
35 our community, we have 80 people that live in Anchorage
36 and probably 40 of them travel home to our community
37 every summer to put up their fish and game, it's a
38 substantial investment on their part and they still
39 engage in it, whether it's breaking the law or not, it
40 doesn't matter to them. You know that's what happens
41 in rural Alaska, the reality is is people are going to
42 meet their needs whether they live in an urban setting
43 or they live in a non-urban setting, they're still
44 going to meet their needs through family, friends or
45 traveling back to do it themselves. I wish there was a
46 way that we could recognize those users that have to
47 live in cities because of education or economic
48 reasons, I don't see how we would cover that problem.

49

50 But, again, I think this proposal here

1 that we have before us is simple and I think it could
2 fix the problem and if we just set a threshold that
3 some of the communities are a long way off from
4 reaching, it might help that problem there. But then
5 again you have some communities that have -- there
6 would be some problems that would arise from it, we'd
7 have to go back, especially in Southeast where you have
8 urban and rural and there's a clear divide in our
9 region between, say Juneau and outlying areas and
10 Ketchikan and outlying areas and redraft some proposals
11 or regulations or whatever to fix the issues that we
12 have there and have been dealing with.

13

14 CHAIRMAN TOWARAK: Mr. Hackett --
15 Haskett and then Mr. Cribley.

16

17 MR. HASKETT: So before we broke for
18 lunch and before we simplified this there was actually
19 some additional language we talked about having in
20 there, having to do with the .804 and .805, can someone
21 cover that again because that could actually -- we
22 could talk about that again to see if adding that -- if
23 you had like the 20,000 population and also some of
24 that additional that kind of gets to some of these
25 other questions but I can't cover that well enough to
26 explain it.

27

28 DR. JENKINS: Yes, the .805 reference,
29 I think is the one that Ken just responded to, which
30 has to do with deference to the Regional Advisory
31 Councils, whether you put it in regulation or is
32 policy; is that right Ken.

33

34 Did I wake him up.

35

36 MR. LORD: Yes.

37

38 (Laughter)

39

40 CHAIRMAN TOWARAK: Go ahead.

41

42 MR. HASKETT: But there was more to it
43 than that. There was two different provisions tied
44 into kind of what we would look at like criteria and
45 then the process for doing it, those were both tied to
46 it.

47

48 DR. JENKINS: Yes. The second part was
49 the .804 question and that has to do with limiting the
50 pool of subsistence users when there is an insufficient

1 number of resources, and that process is already in
2 ANILCA and it is already in our implementing
3 regulations. So I don't know that we need to add it as
4 part of this because it's already in place. So as Deb
5 mentioned, if there's too few resources, there's a
6 mechanism for limiting the pool of subsistence users
7 access to what resources there may be.

8

9 CHAIRMAN TOWARAK: Go ahead.

10

11 MR. CHRISTIANSON: And that's kind of
12 my point here. There's a mechanism in the regulation
13 to deal with it because this is all about access to
14 resource, whether there's enough or not, the
15 determination is just setting the priority or labeling
16 those residents of a certain area so you can put that
17 criteria into play if there is a shortage of resource.
18 Well, if there's a shortage of resources we're going to
19 end up with what's on the Kuskokwim anyway and we're
20 going to have to do an analysis for that area and we're
21 going to have to break it down and start to allocate
22 the resource for that specific community if there's an
23 issue. So I don't know why we're overplaying it again
24 here, it's -- you could set 100,000 limit, it's still
25 going to come down to if there isn't enough fish
26 swimming up there, you're going to have to go do an
27 analysis for that area and you're going to have to
28 allocate the resource to the user and you're going to
29 have to do it equitably according to the criteria in
30 the book. So I mean set it up to all the way up to two
31 people under Anchorage, it's still not going to change
32 the criteria that's in the book that we're probably not
33 going to change.

34

35 MR. REAKOFF: Mr. Chair.

36

37 CHAIRMAN TOWARAK: Go ahead.

38

39 MR. REAKOFF: I would have no problem
40 setting a 20,000 person limit but I do feel that the
41 Regional Councils should have the ability to highlight
42 a mining camp or some issue that's far below that
43 number, but they do not demonstrate the subsistence
44 characteristics that are outlined in .804, direct
45 dependence on the resource, longstanding use, all those
46 kinds of criteria that you would find, basically that
47 are more expanded in the eight criteria for customary
48 and traditional use. I feel that the Councils should be
49 able to recognize some boom situation that's far below
50 20,000 but having a huge impact on the subsistence

1 users of that area and have the Board visit that. So I
2 think that that should be a possibility with the
3 Regional Councils.

4

5 Thank you, Mr. Chair.

6

7 DR. JENKINS: I just wanted to make a
8 couple of points. I just wanted to remind the Board
9 that to start the .804 process, first the resources
10 need to be closed to non-subsistence users. I just
11 wanted to recall that point.

12

13 And if the Board wishes to direct OSM,
14 we could develop, or begin drafting some sort of policy
15 language about using this process under these
16 circumstances.

17

18 CHAIRMAN TOWARAK: Go ahead, Wayne.

19

20 MR. OWEN: I really appreciate, Mr.
21 Chairman, that the .804 process is there, you know, and
22 is a good thing, it's a good judgment. But as we just
23 heard, you know, there's so many steps after the
24 resource becomes scarce before things can change. It
25 just seems like there's a long lag there and the last
26 10 minutes of discussion don't get to the issue that's
27 really bothering us and that's aggregation. And I'd
28 like to encourage us to get back to that instead of,
29 you know, these other details that we're very
30 comfortable with and focused on the difficult things,
31 what do we do with these communities. If you're going
32 to identify who's rural, you still have to draw a line
33 and you still have to be able to make a decision about
34 who is in and who is out.

35

36 So, thank you, Mr. Chair.

37

38 MS. COOPER: Thank you, Mr. Chair. I
39 agree with Mr. Owen's assessment and I just had a
40 couple comments going on a previous line of thought and
41 that is:

42

43 If we are to consider simplifying to
44 just saying a town of 20,000 is non-rural and -- or is
45 rural, I'm sorry, and keep it at that, I would
46 appreciate seeing some estimate of total number of
47 people in the state of Alaska that qualify now and
48 would qualify. I don't know if OSM can pull those
49 numbers together but, you know, if that were to double
50 or triple the numbers, I don't think it would, but just

1 as an example it would be good to know that before we
2 voted on it.

3

4 And, secondly, I'd like to make one
5 more comment, and that is in reference to .804.

6

7 .804 is a good criteria or a good
8 addition, of course, to ANILCA, and the criteria are
9 useful. It is not preventative and I don't want us to
10 think of it as a cure-all because people go hungry
11 sometimes either when we are about to go the .804 route
12 or where we already have the wheels in motion, it can't
13 -- it's not nimble enough to protect those people on
14 the Kuskokwim that need to put fish in their freezer
15 and the fish are already not there and then we go
16 through the .804 process.

17

18 So I just -- I don't know that that is
19 solvable, but maybe if enough minds think about it
20 there is a way to get ahead of the game a little bit
21 more than .804 allows.

22

23 Thank you, Mr. Chair.

24

25 CHAIRMAN TOWARAK: Go ahead, Mr.
26 Cribley.

27

28 MR. CRIBLEY: Well, it seems like we --
29 potentially we could come around in a circle here. And
30 building on what we have in front of us here as far as
31 alternative 7, and then looking at the criteria being
32 defined as we're looking at four and five, essentially
33 changing it from -- rather than saying rural, changing
34 it to defining non-rural as communities or areas with
35 populations more than 20,000, I think is the number
36 we're throwing around right now, and then the big
37 decision is, do we go with four which opens it up or do
38 we go with five, which deals with issues of the
39 aggregation that's occurred in the Southcentral RAC,
40 particularly with the Kenai and such. And I think, you
41 know, from my perspective where the discussion is
42 going, that's the big -- the next big hill we have to
43 get over, is, which one do we go with, do we go with
44 four or five or the, you know, looking at it as
45 modified, focusing on that being the right criteria for
46 defining non-rural at 20,000.

47

48 And Ralph was saying that -- found it
49 was a little bit amusing that the Board would really
50 have a lot of consternation and discussion on that, but

1 he will be a partner in all of that discussion with us,
2 so it'll not be a lonely discussion.

3

4 (Laughter)

5

6 MR. CRIBLEY: So I don't know if you
7 have some more thoughts or if the rest of the -- I
8 guess I would be curious to hear what the rest of the
9 thoughts are on that.

10

11 And I do recognize the issue on .804
12 not being the answer to all but it is one of the tools
13 in the tool box to deal with some of the dilemmas that
14 may come out of this, but also understanding that there
15 are proposals to make that maybe a little bit better
16 process in the future, too.

17

18 MR. REAKOFF: I wanted to clarify for
19 the Board, I'm not advocating .804, in fact I hate
20 using it until it's absolutely necessary. But .804
21 delineates what subsistence use is and so I read .804
22 as:

23

24 Customary and direct dependence upon
25 the population of the resource as a
26 mainstay of livelihood, local residency
27 and the availability of alternate
28 resources.

29

30 I feel that a Regional Council should
31 be able to recognize that a community does not have any
32 of those characteristics even if it's like 1,000 people
33 or 500 people in a camp or some recent installation,
34 military base or something that's put into our region,
35 and that we should be able to designate that because
36 using those .804 criteria to delineate them as a non-
37 subsistence community, just like Prudhoe Bay or
38 something like that.

39

40 .804 is a cumbersome way to regulate
41 but it is in the statute.

42

43 Thank you, Mr. Chair.

44

45 CHAIRMAN TOWARAK: Go ahead.

46

47 MR. SMITH: I have a question. Would a
48 person living in a mining camp or at Prudhoe Bay be
49 able to claim residency under Federal rules.

50

1 MR. REAKOFF: Mr. Chair.

2

3 CHAIRMAN TOWARAK: Go ahead.

4

5 MR. REAKOFF: Say if a mining camp is
6 put into the Western Interior region, which we're
7 looking at, we're looking at the Donlin Creek Mine,
8 this camp could have 1,500 people working there, they
9 would then be considered a community and if they lived
10 there on a yearround basis they would be eligible for a
11 subsistence priority. In 19A we have a drawing permit
12 for moose, they would compete directly with the
13 longstanding subsistence users of that area and so
14 that's why I'm concerned about this issue, to protect
15 the true subsistence users. Yes, they would be rural
16 unless this Board designated them as non-rural and
17 these Councils should be able to approach the Board and
18 say this is a problem, and so we want to incorporate
19 that into the mechanism, don't throw the baby out with
20 the bath water.

21

22 MR. LORD: Residency is a difficult
23 issue of law because it has to do with a person's
24 intent, where they intend to be their permanent place
25 where they live. So folks on the North Slope, for
26 example, they go up there for two weeks on, two weeks
27 off, but that doesn't make the North Slope their
28 residence. So it's a more complex question than simply
29 there's a mining camp, you know, of 1,500 people, most
30 of those people probably -- if people are moving in and
31 out probably would not be residents would be my guess.
32 Also it's important to remember that in this last cycle
33 of rural review, the Board decided to exclude Prudhoe
34 Bay from -- to make it a non-rural place, even though
35 its population is low because it's an industrial
36 enclave so that mechanism is something that was new
37 this last round but it is available to the Board. So
38 if an area is something like Prudhoe Bay where people
39 move in and out and it's there only for industrial
40 purposes, that's not something, I think, that we would
41 consider to be rural.

42

43 CHAIRMAN TOWARAK: Go ahead.

44

45 MR. JOHNSON: Thank you, Mr. Chair.
46 For the record, Carl Johnson, OSM.

47

48 And I think that's an excellent point
49 to make because from all the various things that we've
50 heard from the input from the public and the Councils

1 and the tribes is the current criteria doesn't work and
2 you need flexibility to recognize different situations
3 in different regions. And Ken's point about Prudhoe
4 Bay highlights the problem with having population
5 threshold at all because if you say automatically
6 anything below that is considered rural, then, that
7 would then include places like Prudhoe Bay unless you
8 have a more flexible system in place that recognizes
9 differences among regions.

10

11 And I know we're kind of in this mode
12 where we feel like we have to have a regulation that
13 tells us how to do everything, but this Board also
14 makes its decisions based on policies that it has
15 adopted as well in addition to Secretarial regulations
16 that direct the Board to take action or the Board's own
17 regulations that it has adopted. So there are a
18 variety of ways to get to this process of what we
19 decide is a non-rural community but it does not have to
20 be, and I think the public definitely suggests this,
21 does not have to be a rigid set of criteria that's
22 applied equally throughout the whole state.

23

24 And, you know, that's kind of the
25 primary, you know, just something I wanted to bring to
26 the Board's attention and also just for consideration.

27

28 Thank you, Mr. Chair.

29

30 MR. MATUSKOWITZ: Thank you, Mr. Chair.
31 Theo Matuskowitz, OSM. Another option that could be
32 used while the .804 is -- process takes a long time, if
33 you would recommend these changes to the regulations,
34 we could use that same criteria under .804 and plug it
35 into this process, so that criteria could still be used
36 and because it would be a Board action, you could have
37 a faster response as opposed to going through the whole
38 actual .804 process itself. So that would be another
39 option that you could consider.

40

41 CHAIRMAN TOWARAK: Go ahead, Tony.

42

43 MR. CHRISTIANSON: And I think that's
44 what the regulatory process for proposals is, is once
45 there's something going on, that's why the Regional
46 Advisory Council's keep saying they're the first eyes
47 and ears on the land. Usually when there's an issue
48 with resources you get proposals about it and then
49 pretty soon the proposals become delegation letters and
50 a whole bunch of other things that start to stir the

1 pot and then we're all aware of what's going on so I
2 think there's a pretty good set of criteria and
3 policies and regulations to deal with all of this, you
4 know, and like Ken said, there's something about camps
5 and development and, you know, there's already a policy
6 or something in place for that.

7

8 So we're trying to create something
9 that's already created here. Let's just pull a number
10 out and stick it on the wall or let's not stick a
11 number on the wall and let's -- I'm ready to go.

12

13 CHAIRMAN TOWARAK: Go ahead, Mr.
14 Haskett.

15

16 MR. HASKETT: Well, it seems to me -- I
17 haven't heard anybody really have a concern with the
18 number part of this, the -- well, other than one --
19 other than my esteemed colleague from the Forest
20 Service who prefers for us not to have any kind of
21 qualifications on this, most people, I think are okay
22 with the 20,000 number, the problem is whether there's
23 additional things that we need to come up with here to
24 make sure we don't have unintended consequences.

25

26 So we've got a few things out there.

27

28 I've heard one discussion about, we
29 weren't talking about using the .804 process, but using
30 kind of the criteria that's involved in that to help us
31 make our determinations, so what did people think about
32 that.

33

34 (Laughter)

35

36 CHAIRMAN TOWARAK: Go ahead.

37

38 MS. ENTSMINGER: Couldn't the .804 be a
39 little too bit vague to do a good job. I mean how it's
40 been used in the past in our area there's -- it's shut
41 down to everybody but an .804, and in that Chisana
42 caribou there's only seven caribou allowed to be taken
43 and they're issued to two to each community or whoever
44 picks up that permit. So it's kind of -- right now
45 there's not very many people harvesting it but
46 eventually there might be more people getting out there
47 and harvesting.

48

49 So I'm concerned because I've watched
50 some of the agencies use these kinds of definitions

1 more to get rid of the use in an area than it is to
2 protect it. So, I don't know, I'm afraid of the .804
3 personally.

4
5 CHAIRMAN TOWARAK: Go ahead, Mr. Wilde.

6
7 MR. L. WILDE: Thank you, Mr. Chairman.
8

9 One of the criteria that we use at
10 times is the population of people dependent on the
11 subsistence resource of the area. Most of our people
12 in our area are close to 100 percent dependency on the
13 resource, I think a percentage of the resource or the
14 users of the resource in an area should be part of the
15 criteria in determining who rural and who isn't.

16
17 Thank you, Mr. Chairman.

18
19 CHAIRMAN TOWARAK: Thank you, Mr.
20 Wilde. And I apologize for not introducing you, Lester
21 is the Chairman for the Yukon Kuskokwim Regional
22 Advisory Council.

23
24 MR. L. WILDE: I happened to be caught
25 in the weather yesterday and was not able to attend on
26 time and I apologize for that, weathered in by the
27 weather.

28
29 CHAIRMAN TOWARAK: Welcome back. Go
30 ahead.

31
32 DR. JENKINS: Thank you, Mr. Chair. I
33 wanted to respond in part to what Mr. Wilde said and
34 what some other folks have said about using -- the
35 possible problem of using the .804 and the direct
36 dependency, in particular, because that gets right to
37 the idea of subsistence and then you end up using
38 subsistence as a definition of rural. And my
39 understanding, I'm going to defer again to Ken here, is
40 the Ninth Circuit Court of Appeals has already said
41 that you cannot use subsistence as the main criteria
42 for determining what is or isn't rural. In fact, I can
43 read you what the Court said.

44
45 The Court said Congress did not limit
46 the benefits of ANILCA to residents of
47 areas dominated by a subsistence
48 economy, instead it wrote broadly
49 giving the statutory priority to all
50 subsistence users residing in rural

1 areas.

2

3 So if you end up defining rural by
4 subsistence you're arguing in a circle and I think that
5 the Ninth Circuit said you cannot define rural as an
6 area dominated by subsistence economy. So there might
7 be a problem with that .804 and, again, I'll defer to
8 our wonderful attorney, Mr. Lord.

9

10 (Laughter)

11

12 MR. LORD: Thanks, David, you actually
13 got in just ahead of me, I was going to raise the same
14 point, but probably not as eloquently as you did.

15

16 No, that's right. And what the Court
17 said was that Congress could have developed a paradigm
18 where the people who use subsistence resources most are
19 the ones that get the priority but that's not the
20 paradigm they came up with, they came up with a
21 paradigm of rural and rural is defined mainly by
22 population with elements of agriculture and uses as
23 sort of a subset of that population size or population
24 density. And so we can't get too far away from what
25 the Court said otherwise we'll have the same problem
26 that the State did when it tried to use subsistence use
27 as a way to define rural.

28

29 CHAIRMAN TOWARAK: Go ahead.

30

31 MR. JOHNSON: Thank you, Mr. Chair. I
32 keep going back to my own roots as an attorney.

33

34 And there's a classic saying of a
35 Supreme Court case where one Supreme Court justice said
36 I'll know it when I see it, in reference to something
37 else entirely.

38

39 (Laughter)

40

41 MR. JOHNSON: But we've heard at this
42 table that it's easier to identify in Alaska what are
43 the non-rural communities and we kind of know it when
44 we see it that Anchorage is not a rural community. And
45 I think, again, back to my background as an attorney
46 and I'll echo what was said earlier in public
47 testimony, the concept of totality of the
48 circumstances, which we already adopt anyway and how we
49 -- as Ken was mentioning earlier, talking about our
50 regulations, how our regulations define residency,

1 there are several factors that you look at to
2 determine, there's no one thing but there's a totality
3 of the circumstances. And this Board could, you know,
4 direct OSM to come up with a policy that considers a
5 variety of things the Board could then apply in looking
6 at the totality of the circumstances, that on a region
7 by region basis, some factors are weighed more heavily
8 than others but would still give the flexibility that I
9 think that public is looking for in how we make
10 determinations as to the rural or non-rural status.

11
12 Again, the easier task really is going
13 to be to identify the non-rural areas and that we would
14 only have to do it essentially once if we disband the
15 decennial review, and then thereafter just changed as
16 proposals come along to adjust that list.

17
18 Thank you, Mr. Chair and members of the
19 Board.

20
21 CHAIRMAN TOWARAK: Go ahead.

22
23 MR. HASKETT: So my good friend, Bud
24 Cribley, just handed me a piece of paper.

25
26 (Laughter)

27
28 MR. HASKETT: If we use the 20,000
29 number, because I heard concerns here about, you know,
30 what that does in terms of the use of the resource and
31 how many people it adds, it looks like there are four
32 areas that would become non-rural, Ketchikan is one,
33 Homer, Seward and Valdez, and the numbers aren't really
34 high. So I guess I'm getting back to where I think the
35 20,000 number is probably okay.

36
37 Okay.

38
39 There's some question about -- I did
40 not intend to open up the Kenai and have that
41 discussion, I don't -- according to this, it doesn't
42 so.....

43
44 MR. LOHSE: Mr. Chair.

45
46 CHAIRMAN TOWARAK: Go ahead, Mr. Lohse.

47
48 MR. LOHSE: You know, what the
49 discussion right now has gone to, is to what's the
50 impact on the resource and we've been told time and

1 time again when we deal with customary and traditional
2 use, that we couldn't use the impact on the resource,
3 that we had to look and see whether they had customary
4 and traditional use, not -- and then if there wasn't
5 enough resource to go around then it would go to an
6 .804, and so I don't know whether you want to go down
7 that lane in doing this, because that kind of
8 contradicts with what we've been told -- how we've been
9 told to operate in the past.

10

Thank you.

12

13 CHAIRMAN TOWARAK: Go ahead, Mr.
14 Haskett.

15

16 MR. HASKETT: And my intent in bringing
17 that up was not to suggest that's our process or intent
18 of how we deal with this, just the question had come up
19 so -- so I threw it out on the table.

20

(Pause)

22

23 CHAIRMAN TOWARAK: Should we take a
24 five minute -- 10 minute break and have some people
25 talk this together -- go ahead.

26

27 MR. HASKETT: I'm good with a five
28 minute break but -- so really, this ends up being a
29 cross between four and five to make this work because
30 what that talks about is using current aggregations
31 then you don't get into the problem with the Kenai and
32 it still fixes other areas like Ketchikan and Saxman,
33 so using the 20,000 number and using current
34 aggregations is what's currently on the table.

35

36 CHAIRMAN TOWARAK: Go ahead.

37

38 MS. MORRIS LYON: Thank you, Mr. Chair.
39 And the other thing I'd like to point out, too, some of
40 the areas like Prudhoe Bay and the mines where you have
41 temp -- people coming in on a temporary basis can also
42 be answered as -- basically they can be defined as
43 people that -- that's not a place of occupation, it's a
44 place where you pay property taxes and actually reside
45 and most of those people a lot of times do not own
46 property there or do not pay taxes there and do not
47 reside there, and.....

48

49 MS. ENTSMINGER: Permanent place of
50 abode.

1 MS. MORRIS LYON: Thank you, yes,
2 permanent places of abode.

3

4 DR. JENKINS: Thank you, Mr. Chair.
5 Just before you take your break, let me remind the
6 Board that the overwhelming comments that we got from
7 the public and from the RACs and from other
8 organizations was to eliminate the aggregation criteria
9 so if you elect here to maintain them you need to keep
10 in mind that that was an overwhelming recommendation
11 from the public and other sources to get rid of them.

12

13 Mr. Chair.

14

15 CHAIRMAN TOWARAK: Should we start
16 over.

17

18 (Laughter)

19

20 MS. ENTSMINGER: I have a suggestion.
21 The way that we handled this at our RAC is we took
22 right down the line, agree on something, say, okay, I
23 agree, get rid of aggregation, and then get to the next
24 topic, agree or disagree on it, and just go down the
25 line and be done with it. It's pretty simple when
26 everybody agrees on something.

27

28 Because, you know, this is too --
29 that's simple, I love simplicity, but it is nice to
30 have something to hang your hat on.

31

32 CHAIRMAN TOWARAK: Let's take a 10
33 minute break and reconvene at 25 after 3:00.

34

35 (Off record)

36

37 (On record)

38

39 CHAIRMAN TOWARAK: I'd like to
40 reconvene the meeting.

41

42 (Pause)

43

44 CHAIRMAN TOWARAK: If we could get the
45 Board members to your seats, please.

46

47 (Pause)

48

49 CHAIRMAN TOWARAK: I'll call this
50 meeting back to order.

1 Carl, did you have something to clarify
2 for us.

3
4 MS. DEB: Yeah, Mr. Chair, I'd just
5 like Carl to clarify a little bit between -- make sure
6 there's no confusion between the Secretarial regs and
7 the Federal Subsistence Board reg or policy which could
8 allow the Board to be a little bit more nimble. If you
9 would clarify that I would appreciate it.

10
11 MR. JOHNSON: Sure. Yes, through the
12 Chair. Again, I had mentioned that there seems to be a
13 lot of -- some hanging up on what the mission is and
14 now what we're looking at is a change to the
15 Secretarial regulations, and we can either choose to
16 have the Secretaries, because it's equal parts in both
17 Agriculture and Interior, to tell the Board as to how
18 they will decide which communities are rural or we can
19 just have the Secretaries say, you decide what's rural
20 and non-rural, you come up with a way of doing that.
21 So your only mission right now is to make the decision
22 as to whether or not you want to have the Secretaries
23 tell you how to do it or if you want to decide to do it
24 yourself.

25
26 Mr. Haskett's suggestion here would
27 then relieve you of having the Secretaries tell you how
28 to do it and then you can decide among yourselves how
29 you would decide which communities are non-rural. And
30 that can be decided at a later time, whether by
31 regulatory change to your, you know, Part C or D, or by
32 policy, and that would provide you the flexibility of
33 coming up with a variety of different factors that
34 could be looked at to determine what defines a
35 community as non-rural under this proposal.

36
37 Thank you, Mr. Chair.

38
39 CHAIRMAN TOWARAK: Mr. Haskett.

40
41 MR. HASKETT: Okay. So that was my
42 original proposal but that didn't work, we ran into
43 concerns because there were concerns from a number of
44 people around the table that said, well, the problem
45 with that is we're just putting off the discussion and
46 just in a different place, so we kind of got stuck on
47 that. So what then happened was, we had lots of
48 different variations that we talked about and
49 unfortunately every time we came up with one of those
50 it caused another set of problems. There's only a

1 couple of things I heard that everybody seemed to agree
2 on, I think, and that was most people seemed to think
3 the 20,000 number was okay, I didn't hear anybody
4 disagreeing with that, and I think most people agree
5 there should be deference to the RACs to make sure that
6 there's specific problems we don't create with there's
7 little communities that aren't the problem.

8

9 So where we are now is figuring out
10 what those additional things are that need to be, and
11 there's a couple things we talked about, and I think we
12 just need to get to the point where we take what those
13 three or four things are and figure out if there's
14 ramifications we didn't mean and just say yes or no to
15 those and get them added in there.

16

17 And I think Wayne was ready to maybe
18 come up with another proposal if that's okay that kind
19 of added on to what we had before.

20

21 MR. OWEN: Yes.

22

23 CHAIRMAN TOWARAK: The floor is yours.

24

25 MR. OWEN: Thank you, Mr. Chair. And
26 to be clear and explicit, I expect this to be a
27 decision of the Board not the Secretaries. If we were
28 to send this to the Secretaries they would just send it
29 back to us and say, tell us what to say and it's kind
30 of a ridiculous loop. So this is intended to be Board
31 action.

32

33 Four points real quick.

34

35 1. Eliminate the decennial review.

36

37 2. Eliminate population standards.

38

39 3. Accept the current non-rural
40 aggregations as they are currently with
41 the exception of the communities that
42 are currently in abeyance. For the
43 communities that are currently in
44 abeyance, have the RACs, the Regional
45 Advisory Committees [sic] provide a
46 recommendation as to whether those
47 communities in abeyance should be rural
48 or non-rural and bring those
49 recommendations back to the Board for a
50 vote.

1 Okay, that's point three.
2
3 4. All future changes should be
4 initiated by either the RACs or the
5 Board based on local changes in the
6 communities, not some -- you know, not
7 population, not, you know, decennial
8 reviews, but by changed conditions on
9 the ground.
10
11 That's my recommendation.
12
13 Mr. Chair.
14
15 CHAIRMAN TOWARAK: Mr. Lord.
16
17 MR. LORD: Wayne, a followup question,
18 when you say this would be a Board decision, are you
19 talking about future non-rural decisions would be Board
20 decisions or are you talking about what you just read.
21
22 MR. OWEN: This, and all future.
23
24 MR. LORD: Okay, well, just to clarify
25 what needs to happen now is because these are
26 Secretarial regs, the rural process is in the
27 Secretarial regs, this has to be a Secretarial
28 regulation, to change it, to then allow the Board to
29 move forward.
30
31 MR. OWEN: I'm all for that, man.
32
33 MR. LORD: Just so we're all clear.
34
35 MR. OWEN: Yeah, we're all good.
36
37 MR. LORD: Okay.
38
39 MR. HASKETT: Yes.
40
41 MS. COOPER: Mr. Chair. So if I
42 understand correctly, then the first thing we need to
43 do, it brings us right back to this, so that we can
44 bring everything back to the Board, we need the
45 Secretarial piece to be broad so that then we can move
46 forward. These are Part B, I believe, Secretarial
47 regs, and the Secretarial regs in the CFR need to be
48 broad enough and general enough so that then the
49 Federal Subsistence Board reg or policy, whichever we
50 choose, becomes more prescriptive and includes some of

1 what you read.

2

3

Thank you, Mr. Chair.

4

5

MR. CHRISTIANSON: So, Wayne, your
6 proposal would just take out the population threshold.

7

8

MR. OWEN: No population -- yes,
9 through the Chair, no population threshold.

10

11

MR. CHRISTIANSON: And that's what the
12 public says so I mean I would.....

13

14

MR. OWEN: That's -- and that's.....

15

16

MR. CHRISTIANSON:agree with that
17 because that's.....

18

19

MR. OWEN:you know.....

20

21

MR. CHRISTIANSON:51 percent of
22 the public says no population threshold.

23

24

MR. OWEN: Because it varied -- the
25 population threshold meant different things in
26 different parts of the state so it seemed arbitrary,
27 whether it was 7,000 or 20,000 or 50,000, you know, my
28 -- the idea -- and this is not my idea, Beth and I
29 worked on this last night, the idea was picking up on
30 some of the comments made by the RACs, you know, and
31 not to follow along the joke, but we know what rural
32 means, what rural means to us in our part of the state
33 and it's completely reasonable that that might vary.
34 So a population standard of 7,000 or for Ketchikan, you
35 can sort of understand why Ketchikan's rural, I think
36 Ketchikan's a very different community than Barrow or
37 Prudhoe Bay or Bethel for that matter.

38

39

CHAIRMAN TOWARAK: Mr. -- did you have
40 your hand up. Go ahead.

41

42

MR. HASKETT: So I think that must have
43 been pretty good because like eight different problems
44 didn't show up after you read that.

45

46

(Laughter)

47

48

MR. HASKETT: So it's a step in the
49 right direction.

50

1 So I guess a question though on the
2 Secretarial regs, because we still do need to make the
3 change in the regs to make this occur, but what you
4 were suggesting was that we go back to just keeping it
5 this -- don't talk yet.

6
7 MR. OWEN: I didn't say anything.

8
9 (Laughter)

10
11 MR. HASKETT: What the intent of us
12 deciding today though, the kinds of things that we will
13 do, we just don't need to put it in what the Secretary
14 directs us to do, we'll determine today what those
15 other things are -- I'm just trying to anticipate one
16 of my colleagues question's in a second, so, yes.

17
18 (Laughter)

19
20 MS. COOPER: Mr. Chair.

21
22 CHAIRMAN TOWARAK: Go ahead.

23
24 MS. COOPER: I'd just like to Carl or
25 Theo of OSM to speak to that just briefly if that's the
26 direction you are suggesting.

27
28 Thank you, Mr. Chair.

29
30 MR. MATUSKOWITZ: Thank you, Mr. Chair.
31 Yes, that's exactly what we would do. If we keep the
32 Secretarial regulations, basically close to what you're
33 looking at right here and then the Board would publish
34 its own regulations under Subpart C and go into those
35 details as you see fit, which would be your guidance on
36 how you do it, you know, from region to region, you
37 know, however you want to interpret that.

38
39 CHAIRMAN TOWARAK: Go ahead, Mr.
40 Haskett.

41
42 MR. HASKETT: So, again, just -- I'm
43 sorry, to just keep clarifying this because I think
44 we're all on like such different places understanding
45 this, including myself, so we still keep this very,
46 very general in terms of what the Secretary directs us
47 to do, but what Wayne just read, I think, today, is
48 what we should take up too and say, here's how we think
49 our regulations will read, we end up doing both today
50 which gets to your concern that we've left it for a

1 future time.

2

3 So, again, I think it might be helpful
4 if Wayne could put it on the table again what he
5 suggested so everybody could hear it again because I
6 didn't hear a whole lot of concerns with that.

7

8 CHAIRMAN TOWARAK: Go ahead.

9

10 DR. JENKINS: The difficulty with that
11 scenario is that the Board won't be able to take action
12 on this until the Secretaries have published a proposed
13 rule, the public comments on it and then the
14 Secretaries propose a final rule, it's the final rule
15 that you will base your actions on. You can still come
16 up with some recommendations, but you certainly can't
17 take actions unless the Secretaries have already gone
18 through those two processes prior to you taking action.

19

20 MR. HASKETT: No, I was not suggesting
21 that we could determine today what we're going to do, I
22 get that, but what we need to do is -- because there's
23 enough concerns around the table that we can't leave it
24 for just future kind of discussions, that we need to
25 tie it down more, so for today what we would be doing
26 is saying here's our intent, here's the things we think
27 we need to do. Here's -- assuming this happens, here's
28 our process that, at least, right now we're looking at.
29 And that's the part -- if someone could type that up
30 and put it up on the board, it's great, but otherwise I
31 think just Wayne needs to read it again.

32

33 MR. OWEN: Mr. Chair. I.....

34

35 CHAIRMAN TOWARAK: If this could.....

36

37 MR. OWEN: I'm sorry.

38

39 CHAIRMAN TOWARAK: Go ahead.

40

41 MR. OWEN: I'm sorry.

42

43 CHAIRMAN TOWARAK: Are you having it
44 typed so it could be put up here.

45

46 MR. OWEN: They are doing that but I'll
47 read it again.....

48

49 CHAIRMAN TOWARAK: Okay.

50

1 MR. OWEN:and then we'll have it
2 up there by the time I'm done for discussion.

3
4 There were four points.

5
6
7 1. Eliminate the decennial review.
8 And we heard that consistently about
9 the trouble that's caused.

10
11 2. Eliminate population standard. And
12 that's, I think, we thought was
13 reasonable because of the situational
14 relevance of that.

15
16 3. Accept the current non-rural
17 aggregations as they exist today with
18 the exception of the communities
19 identified in being in abeyance. And
20 Mr. Kessler showed me that, there's
21 maybe 10 of them, something like that.
22 Okay. Ask the RACs then to create a
23 recommendation on the status of those
24 communities currently in abeyance, if
25 they should be rural or non-rural.
26 Bring those recommendations back to the
27 Board to have the Board vote, you know,
28 on those, and that gives us a chance to
29 do our due oversight and diligence and
30 give deference to the RAC's ideas, you
31 know, at an appropriate level.

32
33
34 4. Then the final point is all future
35 changes in status, either to rural or
36 non-rural, whatever that might be,
37 those recommendations would come either
38 directly from the RACs or could be
39 initiated by the Board but it would
40 have to be sort of back and forth
41 between the RACs and the Board so that
42 everybody is sort of in agreement or at
43 least understood what we were trying to
44 do.

45
46 So those are the four points and I
47 heard keyboards working madly back there, so, thank
48 you, Mr. Chair.

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

1 To address one of the issues that Mr. Haskett brought
2 up, how we could address this if the Board would make a
3 recommendation to the Secretaries on Section IX, which
4 is Secretarial regulations, the other issue, which
5 would be the Board regulations found in Subpart C, you
6 could do an advanced notice of proposed rulemaking,
7 just to let the public know and you could state this,
8 if the Secretaries change this regulation it is our
9 intent to pursue a change in these regulations doing
10 this, this and this. It's non-binding, we've done it
11 before and we've actually pulled proposed rules that
12 you have done in the past. So it kind of speeds up the
13 process and you're not held to something, but you are
14 allowing the public -- or letting the public know this
15 is our intent, what we plan to do while we're waiting
16 for the Secretaries to make their decision on this
17 regulation.

18

19 Thank you.

20

21 CHAIRMAN TOWARAK: Go ahead, Tony.

22

23 MR. CHRISTIANSON: So basically number
24 4 of his recommendation would basically leave that
25 criteria to be kind of vetted through the Regional
26 Advisory Council on who kind of has the rural
27 determination and non-rural in each region.

28

29 MR. OWEN: Through the Chair. Yes,
30 Tony, that's the idea.

31

32 MR. CHRISTIANSON: Okay.

33

34 CHAIRMAN TOWARAK: Mr. Cribley.

35

36 MR. CRIBLEY: A little bit more
37 clarification on the proposal from Mr. Owen.

38

39 So the RACs would only be looking at
40 those areas that are in abeyance, nothing else, right.

41

42 MR. OWEN: Through the Chair.
43 Initially, yes, and that's to resolve all the issues.
44 And I know, you know, most of the conversation this
45 week so far has been about Saxman, but there are a
46 number of other communities that are in that situation
47 as well.

48

49 MR. CRIBLEY: Well, I guess I'd kind of
50 like to see what that list, I didn't realize it was as

1 long as he indicated like 10 communities. I guess I
2 would like to see what that looks like. And the other
3 thing is, is, based on that then say an area such as
4 Ketchikan would then not be under consideration here,
5 would it.

6

7 MR. OWEN: Through the Chair. Again,
8 there are other areas in the Ketchikan vicinity that
9 are currently in abeyance. Ketchikan itself is not.
10 And under this idea Ketchikan would remain non-rural
11 but there would be questions about Saxman and the other
12 areas around Ketchikan that are currently in abeyance.
13 And so this -- you know, going back under sort of the
14 new philosophies of how the Board is working and how
15 the RACs are working, give us a most recent chance to
16 evaluate those, based on how we're seeing it now.

17

18 CHAIRMAN TOWARAK: Go ahead, Deb.

19

20 MS. COOPER: Mr. Chair. I'd like to
21 ask if we could get a reading of those 10 communities
22 that are in abeyance, do we have that list somewhere
23 just so that we, at least, know what we're talking
24 about.

25

26 Thank you, Mr. Chair.

27

28 (Pause)

29

30 CHAIRMAN TOWARAK: Go ahead.

31

32 MR. MATUSKOWITZ: Thank you, Mr. Chair.
33 The communities that we are looking at now would be the
34 Point MacKenzie area in the Wasilla/Palmer non-rural
35 area.

36

37 In the Homer area, we would have the
38 North Fork Road area.

39

40 Fritz Creek East area.

41

42 In Ketchikan area, we would have
43 Saxman, Grant (ph) Island -- I can't read that one,
44 what's that say.

45

46 MR. ARDIZZONE: I think that's.....

47

48 MR. MATUSKOWITZ: Oh, Gravina Island,
49 sorry, I don't have my glasses. Portions of Ravella.

50

1 And in the Kenai, a part north of
2 Sterling is not defined by a community.

3
4 That's according to our current
5 regulations.

6
7 (Pause)

8
9 MR. MATUSKOWITZ: Excuse me, Mr. Chair,
10 also Prudhoe Bay.

11
12 MR. CHRISTIANSON: Mr. Chair.

13
14 CHAIRMAN TOWARAK: Go ahead.

15
16 MR. CHRISTIANSON: So I guess what I
17 would be wondering is, those ones that are in abeyance,
18 we would be asking for the Regional Advisory Council to
19 make a recommendation on those to the Board so we can
20 consider rural or non-rural; is that it.

21
22 MR. OWEN: Through the Chair. Mr.
23 Christianson. Yes, that -- that was our idea, that the
24 RACs knew best what was rural and not rural and so the
25 Board should consider their deliberations and make a
26 decision, a final decision based on the recommendations
27 from the RACs for each community.

28
29 CHAIRMAN TOWARAK: The -- it -- that
30 would include the definition of rural characteristics
31 that was mentioned so many times.

32
33 MR. OWEN: Mr. Chairman. As I
34 mentioned earlier today, I am not personally convinced
35 that we need clear criteria but I think that it would
36 be easy enough, in each of those cases, I know some of
37 those cases, not all of them, but it would be easy
38 enough for the RACs to write a justification, you know,
39 and say these are the reasons why in -- in total, and I
40 forget the legal term that we were using earlier, but
41 down at the end of the table we were using, it's much
42 like whether you're a resident or not is not -- in
43 totality of circumstances, you know, and that should be
44 the measure, in the totality of the circumstances, not
45 measured A, B, C, not a checklist, you know, because it
46 wouldn't need our wisdom, lower case W, you know, if we
47 were just going by a checklist.

48
49 CHAIRMAN TOWARAK: What would be
50 capital W.

1 MR. OWEN: The proposal would be a
2 capital W, by leaving it to the communities to decide
3 who, within their -- within their realm of jurisdiction
4 are rural and not rural, based on the community
5 standards, and I think, sir, that that would be capital
6 W wisdom.

7

8 CHAIRMAN TOWARAK: Go ahead.

9

10 MR. LORD: Numbers 1 and 2 up here are
11 part and parcel of the Secretarial regulation on rural
12 review process so if that regulation gets simplified in
13 the way that was previously up on the Board those two
14 will be gone, the population standard will be gone and
15 the decennial review will be gone. So then steps three
16 and four are really sort of proposed next steps for
17 what happens after that, is the way I would frame them.

18

19 CHAIRMAN TOWARAK: Go ahead.

20

21 MR. H. BROWER: Thank you, Mr. Chair.
22 With the Prudhoe Bay identified there, I could restate
23 our North Slope Regional Advisory Council in regards to
24 Prudhoe Bay if you want to add that onto the
25 Secretaries as an example of an area that's been
26 already determined by our RAC to be -- is that
27 something you would like me to read, Mr. Chair.

28

29 CHAIRMAN TOWARAK: I'd like to hear it
30 just for information.

31

32 MR. H. BROWER: Yeah. Rural
33 characteristics. The North Slope Regional Advisory
34 Council on February 19 and 20 met in Barrow 2014. The
35 Council questioned the rural criteria used for the
36 region that were established as industry complexes,
37 such as Prudhoe Bay and communities that are
38 established to serve an industrial complex are not true
39 communities but are built to support infrastructure of
40 the oil and gas industry.

41

42 These are the comments that -- the
43 language I was provided for this discussion.

44

45 Mr. Chair, thank you.

46

47 CHAIRMAN TOWARAK: Thank you. Go
48 ahead.

49

50 MR. JOHNSON: Thank you, Mr. Chair. I

1 wanted to echo Mr. Lord's comments that Mr. Haskett's
2 proposal would accomplish the first two items.
3 However, if we were to incorporate the other components
4 with Mr. Haskett's proposal they would be internally
5 inconsistent. Because on one hand the first side, on
6 the new A says that the Board would determine what
7 areas are non-rural, but then now if we included what
8 is now Item 3 with that, it would be contradicting it
9 by saying, well, while the Board determines what area
10 is non-rural, we are telling you that the Board may not
11 go beyond the current non-rural aggregations.

12

13 So -- and these issues could be adopted
14 more as a policy than a change to the Secretarial
15 regulation.

16

17 Thank you, Mr. Chair.

18

19 CHAIRMAN TOWARAK: Go ahead, Mr.

20 Haskett.

21

22 MR. HASKETT: I believe there's a
23 misunderstanding here.

24

25 Remember that the Secretarial reg
26 direction's just the general one, this is not going
27 into that. This is what we come up with later, so it
28 shouldn't be a contradiction at all, right.

29

30 MR. JOHNSON: I understood that, Mr.
31 Haskett, I just wanted to make sure that it was clear
32 on the record as well.

33

34 Thank you, Mr. Chair.

35

36 MR. HASKETT: This comes from us.

37

38 (Pause)

39

40 CHAIRMAN TOWARAK: This -- we're
41 reminding ourselves that we're just having general
42 discussions at this point, we haven't put anything on
43 the table for action by the Board.

44

45 Go ahead.

46

47 MS. MORRIS LYON: Thank you, Mr. Chair.

48 Just as a comment more than anything.

49

50 Out in Bristol Bay we like to keep

1 things simple. We really don't care how you need to do
2 your policies and procedures, even though they affect
3 us in the long run, but I do know that if you do these
4 two things together in some form for us to present them
5 to our communities, they're going to be misunderstood
6 and not well received. So I think it's important that
7 however it is that you get it done so it gets it done
8 right, hallelujah, but they should be put in some form
9 that can be presented to communities that it will make
10 sense, which both of them together, do, each of them
11 separately not so much.

12

13 CHAIRMAN TOWARAK: That's where
14 attorneys make their money.

15

16 (Laughter)

17

18 CHAIRMAN TOWARAK: Go ahead, Mr.
19 Haskett.

20

21 MR. HASKETT: So I think the original
22 intent that we were heading towards was to do just
23 that, it seems like we mostly have agreement on what
24 the Secretarial direction to us in the reg is going to
25 be, we also said we'd come up with this now so we would
26 say, and this is what the Board intends to do once we
27 get that authority from the Secretary, so that could be
28 presented to the people as a package that they could
29 see this.

30

31 (Laughter)

32

33 CHAIRMAN TOWARAK: Okay. By motion we
34 could -- Mr. Cribley, you had a question.

35

36 MR. CRIBLEY: Well, I understand what's
37 being said and everything, I just -- I still think
38 going back to what I had earlier talked about, I think
39 it would be if we just went with the threshold it would
40 be much more simpler, straightforward and everybody who
41 walked out of the room would know where they stood. We
42 can go this way, it creates -- there's additional work
43 involved with it, both from the RAC and Staff in having
44 to readdress some of these issues but I think it would
45 be much more simpler if we were just to go with, say a
46 population threshold as outlined in number 4.

47

48 So -- but, yeah, that's my thoughts on
49 it.

50

1 CHAIRMAN TOWARAK: Mr. Has -- Mr.
2 Haskett.

3
4 MR. HASKETT: So I was where Bud is now
5 at the beginning of this conversation a long time ago,
6 the problem is that every time we did that it opened up
7 all these different questions and concerns that we
8 hadn't covered, whereas this actually gets it covered
9 enough where we can move forward. So I'm more in favor
10 of this now than I am on doing a population threshold,
11 because I just don't see us hashing that out and
12 getting to the point where we actually get out of here
13 with a decision.

14
15 MS. COOPER: Mr. Chair. I just would
16 like to say I just concur with what Mr. Haskett just
17 stated, thanks -- I have the same -- I'm on the same
18 page.

19
20 CHAIRMAN TOWARAK: Do we have enough
21 consensus to put an action on the floor.

22
23 MR. CHRISTIANSON: I keep wavering too.
24 The threshold sounded good but when you start to think
25 about it, some of the constituents back here say, well,
26 okay what's going to happen when Ketchikan's rural and
27 so that opened up a whole can of worms, you know, more
28 problems, questions. So maybe this does simplify it a
29 little bit and put the work back where the people are
30 asking for the work to be and that's in the Regional
31 Advisory Councils, they're asking for it, let's give it
32 to them.

33
34 MR. JOHNSON: And at the risk of
35 stepping on anything, I think a very simple course of
36 action would be to do what has been suggested. The
37 Board could, today, adopt Mr. Haskett's original
38 suggestion and then with that a companion assertion
39 that the proposed way forward will be to do this if the
40 Board gets the authority. And then, you know, this
41 summer OSM Staff could work on whatever statement the
42 Board would like to make as to that way forward, it
43 could review that and then it could be presented to the
44 public and the Regional Advisory Councils this fall as
45 a companion packet.

46
47 Thank you, Mr. Chair.

48
49 CHAIRMAN TOWARAK: The floor is open
50 for action. Mr. Lohse, did you have a question.

1 MR. LOHSE: Mr. Chair. I'm going to
2 request that I be excused and, if possible, could you
3 put off our proposals until tomorrow and I'll see how
4 I'm feeling in the morning, but right at the moment I
5 feel like I better get out of here before -- anyhow.

6
7 CHAIRMAN TOWARAK: Okay. We'll make
8 sure that you're present when we review your proposals.

9
10 I think we're -- the floor is open for
11 action by the Board.

12
13 (Pause)

14
15 CHAIRMAN TOWARAK: Mr. Haskett.

16
17 MR. HASKETT: I could make a motion,
18 Mr. Chair.

19
20 CHAIRMAN TOWARAK: Sure.

21
22 MR. HASKETT: Does somebody have a copy
23 of the original Secretarial -- leave that up there,
24 too, though.

25
26 So my motion is to do a running auto
27 setup.

28
29 (Laughter)

30
31 (Pause - fixing PowerPoint)

32
33 MR. HASKETT: Okay, so my motion is
34 that we send forward for the Secretary the proposal
35 that was on the board -- this one here, the rural
36 determination process;

37
38 The Board shall determine which areas,
39 or communities in Alaska are non-rural,
40 all other communities and areas are
41 therefore rural;

42
43 The first part of my motion

44
45 The second part of my motion; to put on

46
47 (Pause - fixing PowerPoint)

48
49 Is that in addition we adopt the
50 wording here for what our intent is to

1 adopt once we get the authority from
2 the Secretary to do so.
3
4 MR. OWEN: Second.
5
6 CHAIRMAN TOWARAK: You heard the motion
7 and the second.
8
9 Discussion.
10
11 MR. HASKETT: Oh, my God, I hope not.
12
13 (No comments)
14
15 CHAIRMAN TOWARAK: Any questions.
16
17 (No comments)
18
19 CHAIRMAN TOWARAK: You heard the motion
20 and the second, is there any discussion on the motion.
21
22 Mr. Cribley.
23
24 MR. CRIBLEY: Call for question.
25
26 CHAIRMAN TOWARAK: Question's been
27 called for. Could we have a roll call just to make it
28 clear on the record.
29
30 (Laughter)
31
32 (Pause)
33
34 MR. PELTOLA: Roll call vote.
35
36 Mr. Brower.
37
38 MR. C. BROWER: Yes.
39
40 MR. PELTOLA: Wayne Owen.
41
42 MR. OWEN: The Forest Service votes
43 yes.
44
45 MR. PELTOLA: BIA, Mr. Loudermilk.
46
47 MR. LOUDERMILK: BIA votes yes.
48
49 MR. PELTOLA: Mr. Haskett, US Fish and
50 Wildlife Service.

1 MR. HASKETT: Yes.
2
3 MR. PELTOLA: Mr. Cribley, BLM.
4
5 MR. CRIBLEY: No.
6
7 MR. PELTOLA: Mr. Christianson.
8
9 MR. CHRISTIANSON: Yes.
10
11 MR. PELTOLA: Park Service, Deborah
12 Cooper.
13
14 MS. COOPER: Yes.
15
16 MR. PELTOLA: Mr. Towarak, the Chair.
17
18 CHAIRMAN TOWARAK: Yes.
19
20 MR. PELTOLA: Okay, Mr. Chair, we have
21 seven yea's, one no, BLM casting the dissenting vote.
22
23 CHAIRMAN TOWARAK: Thank you.
24
25 That takes care of this process.
26
27 (Laughter)
28
29 CHAIRMAN TOWARAK: Mr. Haskett, go
30 ahead.
31
32 MR. HASKETT: Maybe people need a break
33 now before we do this but the other part that I had
34 asked for that I hope we can still do today is that
35 since we can't make a decision on Saxman, specifically
36 today, which I regret that we can't do that, but
37 there's all kinds of legal reasons why we can't, I
38 would like to get a sense from the Board members of how
39 we would vote.
40
41 The motion would be that Saxman be non-
42 rural [sic] and get the intent of the members of what
43 our answer would be.
44
45 CHAIRMAN TOWARAK: Could we first get a
46 recommendation from the Regional Advisory Council.
47
48 (Laughter)
49
50 CHAIRMAN TOWARAK: Go ahead. Could you

1 give us an opinion on what the Southeast Regional
2 Advisory Council's position is on Saxman.

3

4 MR. HASKETT: I mean rural, please, not
5 non-rural.

6

7 (Laughter)

8

9 MR. ADAMS: Mr. Chairman, thank you,
10 for allowing me to speak on behalf of Saxman.

11

12 Our Regional Advisory Council has
13 always supported Saxman with retaining their rural
14 status and we still stand by that even today as we
15 speak.

16

17 Mr. Robert Larson just brought me a
18 bunch of correspondence here and maybe I could just
19 look at a couple of issues pertaining to this in our
20 annual report and I've got maybe five or six annual
21 reports that have been coming to the Board and it shows
22 our position for Saxman.

23

24 Urban rural determination is the title
25 here.

26

27 Other determinations for Southeast
28 Alaska should stay as they have been since they were
29 originally made by the Alaska Joint Boards of Fish and
30 Game in the 1980s and adopted by the Federal
31 Subsistence Program at inception of management. Urban
32 rural determinations are primarily a public policy
33 decision, they determine whether communities are
34 eligible for a Federal ANILCA subsistence priority.

35

36 Now, that doesn't say much but just to
37 let you know that we have been dealing with this for
38 years and, of course, you know, including it in our
39 annual report. That was May 19, 2005, Mr. Chairman.

40

41 In another annual report, May 12, 2004,
42 even before that, rural determination process. The
43 Council is following the development of an approach for
44 making rural determination. The Council thanks Staff
45 for making the ISER report and other documents
46 available. The Council is concerned that Council and
47 public involvement in developing rural determination
48 process has been very limited. We believe that
49 determinations are at least as much public policy
50 questions as technical issues and that they deserve a

1 very open process.

2

3 But let me go on here, if I might.

4

5 Rural determination, March 29th, 2006.

6 The Council is closely following the rural
7 determination process. The Council would appreciate a
8 response to issues raised in its October 28th, 2005
9 letter to the Board, specifically to the section
10 discussing the Council's interpretation of ANILCA and
11 Section .805. But I'm just going to read a highlighted
12 comment here, which kind of describes up above that
13 Section .805. If the Council's opinion -- in the
14 Council's opinion the classification of communities as
15 rural or urban determines community residence
16 eligibility to undertake any subsistence hunting and
17 fishing under Federal subsistence regulation. In
18 essence, rural determination is an issue of taking.

19

20 And I remember that came from our
21 Council Chairman at that time, that particular
22 statement, from Mr. Littlefield.

23

24 For these reasons the Council believes
25 that Section .805(c) deference is due to Council
26 recommendations concerning decennial rural
27 determination, and requests that Section .805(c)
28 procedures be followed as they are with Council
29 proposals on regulatory proposals that concern taking.

30

31 And, you know, over and over again, Mr.
32 Chairman, we do keep, you know, the rural determination
33 issue on the table and include it in our annual report.

34

35 Here is one that specifically addresses
36 Saxman on March 27, 2007.

37

38 (Teleconference - interruption)

39

40 MR. ADAMS: Saxman aggregation with
41 Ketchikan and classification as a non-rural aggregate.
42 The Council believes that there were serious process
43 problems with the Board's action to aggregate Saxman
44 with Ketchikan and to classify the aggregated unit as
45 non-rural.

46

47 And I remember that very well, Mr.
48 Chairman. I was here at that Board meeting when the
49 Board, you know, without consulting with the
50 communities of Ketchikan or Saxman, that they were

1 going to put them together, they just did it at that
2 time. And I remember, you know, Mr. Lee, being there
3 and he was really taken by surprise with this action.
4 And without having, you know, even the opportunity to
5 comment on it, you know, the Board just arbitrarily
6 went and aggregated Ketchikan and Saxman together and
7 as a result they both became non-rural.

8

9 Another highlight here.

10

11 The Council believes that because the
12 InterAgency Staff Committee and the Board made a very
13 abrupt change of direction for Saxman in the day or
14 days immediately before December 12th and 13th, 2006
15 Board meetings, there are serious process questions
16 that cloud this decision. This abrupt change from the
17 proposal, does not fit with the open participatory way
18 the Federal Subsistence Program has been run. It may
19 also violate the sections of the Administrative
20 Procedures Act that support open participation in
21 government's rulemaking.

22

23 And then another highlight here.

24

25 Because of these procedural flaws, the
26 Council requests that the Board hereby holds or vacates
27 its decision to; aggregate Saxman and Ketchikan and to
28 classify Saxman as part of the aggregate as non-rural.

29

30 And I'm just not -- you know, these are
31 examples, I've got a whole bunch more, Mr. Chairman,
32 and I won't bother with those right now.

33

34 I want to read to you -- well, let me
35 see here, it has to do with population issues as well.
36 But there is letters that were written between the
37 Board and the Secretary and it had to do with, you
38 know, rural determination and population issues. The
39 Southeast Regional Advisory Council, you know, was
40 dissatisfied with the fact that we had -- that
41 Ketchikan, Saxman had a 7,000 population threshold and
42 we communicated back and forth and tried to raise it to
43 what it was when ANILCA came into being and Ketchikan,
44 at that time, had a population of 11,315 or so people,
45 and we wanted it to kind of mirror that, and so, you
46 know, those letters between us, the Board, and the
47 Secretary, you know, is on file as well.

48

49 In our meeting -- I'm going to read
50 just a couple of things here from our transcript of the

1 Regional Advisory Council, this was in Ketchikan on
2 November 2013.

3

4 And there was a statement made by Mr.
5 Kookesh. Mr. Kookesh, as many of you know, has passed
6 away, here, you know, a few months ago, he had a long
7 battle with cancer. But he says that Saxman -- he
8 says, a good example would be like number 1, Saxman to
9 be rural, or Saxman be rural, just cut through -- just
10 be -- just cut to the chase, they're going to place the
11 value of your letter based on how you write it. And
12 then Chairman Adams, that's me, made this comment.
13 Thank you, Floyd. As I inserted that word, Saxman, is
14 considered to be rural. It is a much more powerful
15 statement -- there is a much more powerful statement
16 there. And then there are some comments that were made
17 after that discussion about aggregation and I'll just,
18 you know, conclude by reading those for the record.

19

20 Chairman Adams. So comments have been
21 made, and that was referring to, you know, the comments
22 that were made above, then you know there's the issue
23 of threshold and aggregation and I think you know -- if
24 the Council wishes, it appears, you know, we're open
25 for amendments to this document. And Mr. Bangs asked
26 to be recognized, and he says thank you Mr. Chairman, I
27 think if we were to think about taking aggregation out
28 of the equation that the threshold of 11,000 would
29 probably suit fine for Southeast but I just don't want
30 to put parameters that we might be sorry later on.
31 That was my point, that if they do continue to consider
32 aggregation and then combine the populations, we're
33 going to be back in the same situation.

34

35 And I think I've heard that message
36 over and over here today.

37

38 And then the final statement was made
39 by Chairman Adams. Thank you. I know there's some
40 other regions that have been talking about these
41 special issues and some of them are suggesting even up
42 to 14 or 15,000. I don't know if it will go that far or
43 not, but, anyhow, it's just a thought and so will be
44 taken. And now you're talking about 20,000, and I
45 don't think my Council will have any problem with that.

46

47 But, anyhow, Mr. Chairman, I thank you
48 for the opportunity to share these with you and I hope
49 it will be helpful, you know, as you go into
50 deliberations, with the Saxman issue in particular.

1 Gunalcheesh.

2

3 CHAIRMAN TOWARAK: Thank you. And,
4 now, you said you wanted an indication from all the
5 Board members on maintaining Saxman as a rural
6 community, and let's just go around the table starting
7 with Charlie.

8

9 MR. C. BROWER: Rural.

10

11 CHAIRMAN TOWARAK: I'm sorry, Wayne, I
12 -- I'm -- Wayne.

13

14 MR. OWEN: Thank you, Mr. Chair. I
15 guess I'm a little hesitant to express an opinion, I --
16 and -- in this particular setting. I -- you know, I
17 feel a little, you know, pre-decisional here, you know,
18 and at risk. I think the Forest Service's position has
19 been clear all along and I -- you know, I don't -- I
20 don't want to sidestep or dance but I'm uncomfortable
21 saying definitively that the Forest Service will take a
22 position, you know, at -- at this point in time,
23 although our, you know -- we have spoken in a certain
24 manner all along about this so I'd ask people to read
25 between our lines.

26

27 Thank you.

28

29 CHAIRMAN TOWARAK: Charlie.

30

31 MR. C. BROWER: I got no problems.

32

33 MR. OWEN: I was taking a lesson from
34 Bert, I could have done that in one word and said
35 abstain.

36

37 CHAIRMAN TOWARAK: Charlie, your
38 position.

39

40 MR. C. BROWER: You want me to vote
41 again for my thought.

42

43 (Laughter)

44

45 CHAIRMAN TOWARAK: Yes.

46

47 MR. C. BROWER: Rural.

48

49 (Laughter)

50

1 CHAIRMAN TOWARAK: Tony.

2

3 MR. CHRISTIANSON: I think the
4 community of Saxman, having engaged in the listening
5 session we had there exhibited clear signs of being a
6 rural community, through the testimony, I was part of
7 that hearing we had down there, I think about four
8 months ago, and there was a pretty good showing from
9 the community and the members there and clearly coming
10 from a community about the same size, I think they
11 exhibit the same lifestyle as rural residents of
12 Alaska.

13

14 CHAIRMAN TOWARAK: Deb.

15

16 MS. COOPER: If I were to vote today on
17 behalf of the Park Service, given all that I've read
18 and all that I've heard, I would vote to keep Saxman
19 rural.

20

21 MR. CRIBLEY: Yes.

22

23 MR. HASKETT: Rural.

24

25 MR. LOUDERMILK: Rural.

26

27 CHAIRMAN TOWARAK: And I skipped you
28 right at the beginning.

29

30 (Laughter)

31

32 CHAIRMAN TOWARAK: And I, too, would
33 vote rural for Saxman. So it's at least an indicator
34 of which way we're leaning. It's not committing
35 ourselves to it, I think we will do that when we see
36 everything on paper and going through the full process
37 of -- Mr. Haskett.

38

39 MR. HASKETT: So I just want to say I
40 -- this was a far more difficult discussion than I
41 expected. It is a very complicated, just the process
42 to get it right and not cause all kinds of other
43 problems by whatever we end up deciding, I think we did
44 very good on the proposal we came up -- in terms of how
45 the right proposal -- the Secretary, and what we will
46 do, and just the reason I wanted to get the intent for
47 the folks of Saxman, is I know they had a concern that
48 it not go beyond this meeting for -- I understand the
49 reasons, but for legal reasons we're unable to do that,
50 so I thought it was important for us to, at least, let

1 them know what our intent, as a Board, is at this time.

2

3 So thank you all for doing that.

4

5 CHAIRMAN TOWARAK: Thank you, too. And
6 I think, you know, there was a lot of comment from the
7 public about wanting us to make the right decision and
8 I think we have done that. I think the parameters that
9 we are looking at right now will create more
10 flexibility in determining future urban versus rural
11 issues, and I think we've met the Secretary's request
12 that this Board clarify the rural determination process
13 and I think we have done that.

14

15 Any further comment on that before we
16 move on to proposals.

17

18 (No comments)

19

20 CHAIRMAN TOWARAK: Take a break --
21 let's take a 10 minute break.

22

23 MR. ADAMS: Mr. Chairman, before we
24 take a break, if I may.

25

26 CHAIRMAN TOWARAK: Go ahead.

27

28 MR. ADAMS: I just want to, you know,
29 reiterate, you know, our position and I think the way
30 that -- this is the way that I would suggest that we
31 handle it, is that, we just rescind the motion that the
32 Board made several years ago in aggregating Ketchikan
33 and Saxman together and then that would bring Saxman,
34 you know, separate from Ketchikan, of course, then they
35 would automatically retain their rural status. But,
36 you know, it's just a thought that you might want to
37 think about when you deliberate.

38

39 CHAIRMAN TOWARAK: I think all options
40 will be available but our problem is giving notice and
41 doing it properly so that no one challenges our
42 decision as the Board.

43

44 I will call for a 10 minute recess
45 then.

46

47 (Off record)

48

49 (On record)

50

1 CHAIRMAN TOWARAK: I'll call the
2 meeting back to order. We're going to try and do as
3 many proposals as we could today. We're going to need
4 most of the day tomorrow, I think, to go through all
5 the non-consensus proposals. So we're going to go
6 down, starting at Item No. 7, the 2014-2016 Subparts C
7 and D proposals.

8
9 We're going to start off with getting a
10 brief summary of the tribal and ANCSA Corporations from
11 Jack.

12
13 MR. LORRIGAN: Thank you, Mr. Chairman.
14 Board members. Good afternoon. Jack Lorrigan, Native
15 Liaison for the Office of Subsistence Management. I
16 have a brief on the consultations we held last year on
17 the wildlife proposals. It's in your supplemental
18 packet under wildlife proposal summary.

19
20 We had government to government
21 consultations for tribes and ANCSA Corporations on the
22 2014/2016 wildlife proposals on August 14th, September
23 11th, September 16th of last year. A separate
24 consultation on the Kings Bay moose proposal and Unit
25 22 muskox proposal was held on February 11th of 2014
26 this year. Sue Masica, Regional Director for the
27 National Park Service and Jerry Berg, acting for Mr.
28 Haskett of the US Fish and Wildlife Service attended
29 the August 14th consultation in person. Federal
30 Subsistence Board Chairman and Federal Board member Mr.
31 Brower also participated via teleconference. Ms.
32 Cooper attended the September 11th consultation acting
33 for Ms. Masica for the Park Service. The September
34 16th consultation was not attended by a Board member or
35 a designee. Mr. Frank Hayes of the National Park
36 Service acted for -- he was from the -- yeah, he acted
37 for the Park Service on the February 11th consultation.

38
39 We had a total of 29 Federal Staff and
40 various Federal agencies that were either present or
41 called in for all these consultations.

42
43 A total of 22 tribes, three tribal or
44 village associations and 15 ANCSA Corporations joined
45 the consultations on these proposals. Not all tribes,
46 corporations or associations that joined the
47 consultations provided comments as they listened in
48 only.

49
50 Board members or designees attending

1 consultations were asked to provide a wrap up to make
2 sure that everything that the tribes or the
3 corporations said were heard correctly. And there's a
4 table of the different proposals that had comment, and
5 as they come up during deliberation I will come to the
6 table and read those on behalf of the tribal comments
7 when we get to those proposals.

8

9 Mr. Chairman.

10

11 CHAIRMAN TOWARAK: Okay, thank you.
12 And for your information we're going to put you under
13 six, after the InterAgency Staff Committee comments
14 from the ISC Chair, right after that we'll have a slot
15 open for the tribal consultations on each specific
16 proposal.

17

18 MR. LORRIGAN: Thank you, Mr. Chairman.
19 Not all of the proposals received comment from the
20 tribes.

21

22 CHAIRMAN TOWARAK: Right. But I'll
23 still ask you whether or not there is any because I'm
24 not going to keep track of that.

25

26 MR. LORRIGAN: I'll try, too.

27

28 CHAIRMAN TOWARAK: Thank you. We will
29 move on then to Item B, which is announcement of
30 consensus agenda.

31

32 Go ahead.

33

34 MR. PELTOLA: Thank you, Mr. Chair.
35 The Federal Subsistence Board consensus agenda
36 proposals can be found on Page 5 of the larger book.
37 And in that list the following proposals have been
38 included on the consensus agenda. These are proposals
39 for which there is agreement among Federal subsistence
40 Regional Advisory Councils, the Federal InterAgency
41 Staff Committee and the Alaska Department of Fish and
42 Game concerning Board action. Anyone may request that
43 the Board remove a proposal from the consensus agenda
44 and place it on the regular agenda. The Board retains
45 final authority for removal of proposals from the
46 consensus agenda. The Board will take their final
47 action on the consensus agenda after deliberation
48 decisions on all other proposals.

49

50 I made a note that earlier on during

1 approval of the agenda Proposal 14-08, -027, -036, -41
2 were moved from the -- onto the consensus agenda. And
3 also with Proposal 14-44, there was a typo which is
4 corrected, if you look on the bottom of Page 5 it says,
5 WP14-44, Unit 20F moose, it says under recommendation,
6 opposed, that is a typo, so that earlier action changed
7 that to support.

8

9 Thank you, Mr. Chair.

10

11 CHAIRMAN TOWARAK: Okay. I've got to
12 rearrange my papers here. At this time then we will
13 open the floor for any public that would like to make
14 comments on the consensus agenda. Typically there are
15 not any. These are non-controversial approvals that
16 have been approved by everyone so with one sweeping
17 motion, soon, we should have the Board approve all of
18 these agenda -- or wildlife proposals in one motion.
19 But at this point if there is anyone from the public
20 that would like to make any comments on any of the
21 proposals on Page 5 and 6.

22

23 (No comments)

24

25 CHAIRMAN TOWARAK: I don't see anyone
26 moving so. Chuck, you had a comment.

27

28 MR. ARDIZZONE: Mr. Chair. It's been
29 brought to my attention that Proposals 24 and 25, which
30 are on the consensus agenda, should probably be put on
31 the non-consensus agenda because we will be addressing
32 another proposal that could affect that proposal, which
33 is No. 23.

34

35 So if you take a certain action on 23
36 it'll affect those other ones, 24 and 25, so it'd be
37 good to have it off so you can address that one as
38 well.

39

40 CHAIRMAN TOWARAK: Were those the
41 motions that Tony made to put -- no, was it a different
42 one -- okay.

43

44 (Pause)

45

46 CHAIRMAN TOWARAK: Procedurally we're
47 going to take care of -- what is it, 22 and 23.

48

49 MR. ARDIZZONE: Mr. Chair. 23 is on
50 the consensus agenda but it may affect 24 and 25, which

1 is on the -- excuse me, I said that in reverse -- yeah,
2 23 is on the non-consensus agenda but it may affect
3 24/25, which is on the consensus agenda so it would be
4 good to have it off so you don't vote on it as a
5 package. They both address Unit 18 moose.

6

7 CHAIRMAN TOWARAK: Okay. So the proper
8 procedure is to move 24 and 25 from non-consensus -- or
9 from consensus to non-consensus.

10

11 MR. ARDIZZONE: Yes.

12

13 CHAIRMAN TOWARAK: Okay. Is there
14 such a motion from the Board.

15

16 MR. CHRISTIANSON: Mr. Chair.

17

18 CHAIRMAN TOWARAK: Go ahead.

19

20 MR. CHRISTIANSON: I'll make the motion
21 to move WP-24 and 25 to the non-consensus agenda.

22

23 MR. C. BROWER: Second.

24

25 CHAIRMAN TOWARAK: You heard the motion
26 and the second by Charlie Brower. Any discussion or
27 questions on the motion.

28

29 (No comments)

30

31 CHAIRMAN TOWARAK: Not hearing any, all
32 those in favor of the motion say aye.

33

34 IN UNISON: Aye.

35

36 CHAIRMAN TOWARAK: Those opposed, say
37 nay.

38

39 (No opposing votes)

40

41 CHAIRMAN TOWARAK: Motion passes. We
42 are then ready to act on the consensus agenda, if
43 there's a motion on the floor to.....

44

45 MR. CHRISTIANSON: Mr. Chair. I'll,
46 again, make a motion that the Board accept the
47 consensus agenda -- proposals on the consensus agenda
48 as presented by the Staff.

49

50 MS. COOPER: Second.

1 (Pause)
2
3 MR. CHRISTIANSON: It looks like Staff
4 has discussion.
5
6 (Laughter)
7
8 (Pause)
9
10 CHAIRMAN TOWARAK: Sorry, there seems
11 to be a little confusion on process here. My
12 understanding that we act on all of the consensus
13 agenda proposals in one motion and -- and then those
14 are forgotten and then later on we will go on to the --
15 wait a minute, it's got the adoption of the consensus
16 agenda on the last -- pardon -- go ahead.
17
18 MR. ARDIZZONE: Mr. Chair. We normally
19 take action on all the non-consensus items first, leave
20 some time in case someone wants to pull an item off
21 consensus and then that's the very last action you
22 usually take, is vote on the consensus as a package,
23 after all the other proposals are addressed.
24
25 CHAIRMAN TOWARAK: Okay. That
26 clarifies my mind. You know, I was under the
27 understanding that since there is no controversy over
28 the consensus proposals that they would be adopted
29 right away at the beginning but it looks like it's
30 going to be at the end then.
31
32 MR. PELTOLA: So we can go into Board
33 deliberation on.....
34
35 CHAIRMAN TOWARAK: We will then move to
36 Board deliberation and action on non-consensus agenda
37 items.
38
39 MR. CHRISTIANSON: Do I need to
40 withdraw my motion. Mr. Chair.
41
42 CHAIRMAN TOWARAK: Go ahead.
43
44 MR. CHRISTIANSON: Does that mean I
45 need to withdraw my motion at this moment.
46
47 CHAIRMAN TOWARAK: Yes. And if the
48 second concurs.
49
50 MR. C. BROWER: Second.....

1 MR. CHRISTIANSON: So I withdraw my
2 motion at this time.

3
4 CHAIRMAN TOWARAK: There's no problem,
5 right. Go ahead.

6
7 MS. COOPER: Mr. Chair, I had seconded
8 it so I concur.

9
10 CHAIRMAN TOWARAK: Okay. So we are
11 down to Item D and we will follow the procedures here
12 with all of the non-controlled -- controver -- non-
13 consensus agenda proposals.

14
15 I am T-I-R-E-D.

16
17 (Laughter)

18
19 CHAIRMAN TOWARAK: Pardon me.

20
21 We will turn it -- do an analysis for
22 the first proposal.

23
24 MR. MCKEE: Thank you, Mr. Chair.
25 Members of the Board and Regional Advisory Council
26 Chairs. My name is Chris McKee. I'm a wildlife
27 biologist with the Office of Subsistence Management and
28 I'll be handling the next few analysis here.

29
30 The first one is Proposal 14-30 and it
31 begins on Page 138 of your meeting materials booklet.

32
33 WP14-30 was submitted by the Western
34 Interior Regional Advisory Council and requests the
35 harvest limit for sheep in Unit 24A, except that
36 portion within the Gates of the Arctic National Park be
37 changed from one ram with 7/8ths curl horn or larger to
38 one ram under Federal regulations.

39
40 The proponent states that current
41 regulations are not providing a reasonable opportunity
42 for Federally-qualified subsistence users in the
43 affected area and that large numbers of guided and
44 resident sporthunters harvest most of the full curl
45 rams and have accidentally harvested several 7/8th curl
46 class rams as well and that legal rams have been
47 displaced by increased harvest pressure and are not
48 available for Federal users especially because many
49 Federal users do not use aircraft for hunting. The
50 proponent also states there are a number of other State

1 and Federal regulations that have more liberal harvest
2 limits, such as one ram, one sheep or one ram.

3

4 Overall the sheep population appears to
5 have been stable in the Central Brooks Range since the
6 1990s, albeit at lower densities and historical levels.
7 Surveys and harvest data indicate that full curl rams
8 continue to be recruited in the population, however,
9 some preliminary estimates from recent surveys have
10 suggested there have been some declines in a few areas.
11 Lamb counts were approximately 50 percent lower in 2013
12 than in 2012 within and adjacent to the Dalton Highway
13 Corridor Management Area of Unit 24A, however, the
14 total number of sheep counted was similar to 2012.
15 Additionally in the Kilik Preserve section and Gates of
16 the Arctic which is adjacent to, but outside of the
17 hunt area in question, there have been -- there may
18 have been as much as a 50 percent decline in total
19 sheep numbers but adult ram numbers were similar to
20 previous years.

21

22 Sheep harvest in Unit 24A has generally
23 been low, especially within the Dalton Highway Corridor
24 Management Area but harvest from non-Federally-
25 qualified users has been increasing. Table 3 on Page
26 147 in the analysis shows State and Federal harvest
27 between 2005 and 2011, Federal harvest averaged
28 approximately two sheep per year in all of Unit 24A
29 with 12 to 17 permits being issued annually. However,
30 discussion at the Western Interior RAC meeting suggests
31 that some Federal harvest has not been reported.
32 Harvest by State users has averaged 18 sheep annually.

33

34 Little information is available
35 regarding the harvest of sub-legal rams which was
36 identified as one of the reasons for a lack of 7/8ths
37 curl rams for Federally-qualified subsistence users.
38 Discussions with the State Trooper in the area showed
39 that there were two sub-legal sheep being harvested
40 within the management corridor in the fall of 2009, but
41 that no other illegal harvest has been verified.

42

43 I should mention that one other
44 alternative was considered in this analysis and the
45 rationale for submitting the proposal was stated that
46 there is a need to modify the harvest limit in the
47 affected portion of Unit 24A to one ram or one ram with
48 a half curl or larger. The Board also approved the
49 recent.....

50

1 (Teleconference interruption)
2
3 CHAIRMAN TOWARAK: Operator, could we
4 have you turn off the open mic.
5
6 OPERATOR: All parties are now in
7 listen only mode.
8
9 CHAIRMAN TOWARAK: Thank you.
10
11 MR. MCKEE: The Board also recently
12 approved the recent emergency Special Action WSA12-01
13 to temporarily modify the harvest limit of one ram with
14 half curl or larger for the 2012/2013 regulatory cycle,
15 thus modifying the harvest limit to one ram with one
16 half curl or larger was considered in addition to the
17 one ram harvest limit. However, due to low harvest
18 rates by Federally-qualified subsistence users and the
19 stable sheep population the proponents initial request
20 of one ram harvest limit seems reasonable.
21
22 The liberalization of the horn
23 requirement from one ram with 7/8th curl or larger to
24 one ram will likely result in some impacts to the sheep
25 population including possible increased harvest,
26 however, past harvest rates of sheep by Federally-
27 qualified users has been low. Allowing Federally-
28 qualified users to harvest any ram may result in
29 harvest being spread, the limit of harvest among age
30 classes. The sheep population appears to be relatively
31 stable, life survey and harvest data indicate that full
32 curl rams continue to be recruited into the population.
33 Harvest pressure from non-Federally-qualified
34 subsistence users has been increasing and may cause
35 some rams to disperse to areas that are less accessible
36 to Federal users.
37
38 The OSM conclusion is to support
39 Proposal WP14-30, and that's all I have for this
40 analysis.
41
42 CHAIRMAN TOWARAK: Thank you. Are
43 there any questions of the analysis.
44
45 (No comments)
46
47 CHAIRMAN TOWARAK: Thank you. And
48 let's go to the summary of public comments from the
49 Regional Council Coordinator.
50

1 MS. BURKE: Mr. Chair. For the record,
2 Melinda Burke, Western Interior Regional Advisory
3 Council Coordinator.

4
5 I have two comments for you today.

6
7 The first is from the Koyukuk River AC.
8 They unanimously support the proposal. There are
9 management problems in the Dalton Highway Corridor and
10 subsistence needs are not being met.

11
12 And I apologize the entirety of the
13 comments should have been in your supplemental binder,
14 in the smaller binder, under written public comments, I
15 have copies if anybody would like to see that.

16
17 The other proposal that I have that is
18 in your supplemental binder under the public comment
19 section is from the Gates of the Arctic SRC. They
20 unanimously support the proposal. It is difficult to
21 find 7/8th curl rams in this area and this proposal
22 would allow local hunters the ability to harvest all
23 sheep.

24
25 Thank you.

26
27 CHAIRMAN TOWARAK: Thank you. Are there
28 any questions of the public comments.

29
30 (No comments)

31
32 CHAIRMAN TOWARAK: Thank you. The
33 floor is then open for public testimony.

34
35 (No comments)

36
37 CHAIRMAN TOWARAK: Do we have any
38 requests for this proposal.

39
40 (No comments)

41
42 CHAIRMAN TOWARAK: It doesn't look like
43 we have any requests for public testimony.

44
45 MR. PELTOLA: Check on line.

46
47 CHAIRMAN TOWARAK: Is there anyone on
48 the phone that would like to testify on -- with regards
49 to 14-30.

50

1 (No comments)

2

3 CHAIRMAN TOWARAK: If you do hit star
4 one.

5

6 (No comments)

7

8 CHAIRMAN TOWARAK: Not hearing any
9 response we will move on then to the Regional Advisory
10 Council recommendations from the -- which one is it.

11

12 MR. PELTOLA: Western Interior.

13

14 MR. REAKOFF: Thank you, Mr. Chair.
15 Western Interior Regional Advisory Council unanimously
16 supported the proposal.

17

18 CHAIRMAN TOWARAK: Thank you.

19

20 The Alaska Department of Fish and Game
21 comments.

22

23 MR. CRAWFORD: Yes, Mr. Chair, the
24 Alaska Department of Fish and Game opposes Wildlife
25 Proposal 14-30.

26

27 The Department does not support this
28 request to liberalize the season to allow Federally-
29 qualified subsistence users to harvest any ram bag
30 limit within the DMHCMA. The current management
31 strategy restricts harvest to full curl rams is a
32 conservation management strategy that is designed to
33 provide a consistent and sustainable harvest of mature
34 rams while providing maximum opportunity.

35

36 The Alaska Department of Fish and Game
37 comment last spring on Special Action WSA 12-01 was the
38 same issue, still applies, the Department recommends
39 that Wildlife Special Action 12-01 be rejected and it
40 may cause conservation concerns due to over harvest and
41 the harvest of sublegal rams. The survey data and
42 harvest data indicate that full curl rams continue to
43 be recruited into the population, which does not
44 support the proponent's claim that there are
45 insufficient rams for subsistence users.

46

47 CHAIRMAN TOWARAK: Thank you. Are there
48 any questions of the State.

49

50 MR. REAKOFF: Mr. Chair.

1 CHAIRMAN TOWARAK: Mr. Reakoff.

2

3 MR. REAKOFF: I did not receive this
4 until this morning. I didn't get to evaluate the
5 State's comments until just after the action on the
6 rural determination.

7

8 I pointed out to Jennifer Yuhas that
9 the State's analysis is incorrect on three points.

10

11 The people of the Dalton Highway,
12 Federally-qualified users cannot use all terrain
13 vehicles, we can use snowmobiles when there's snow
14 cover. So during the falltime we cannot use all
15 terrain vehicles for access for subsistence.

16

17 Inaccuracy.

18

19 And I've said this to the area
20 biologist multiple times so that's not something new to
21 them.

22

23 And we do not have a 10 day additional
24 season. We have a disparant season to the sport. The
25 sport season opens August 10th and goes to September
26 20th. The Federal season for the Dalton Highway
27 Corridor 24A opens August 20th and goes to September
28 30th, the same amount of time. No difference in the
29 amount of time.

30

31 The State's proposing here that there's
32 plenty of full curl rams around and there's no
33 substantiation of 7/8ths incidental harvest mortality
34 or reported take of 7/8ths rams. Well, I went on --
35 there's two hunting guides that I know of that have
36 permits for the Dalton Highway Corridor and I went on
37 their websites and one of the guides killed five sheep
38 this year. I look at his site every year. Four of
39 those sheep were 7/8th and when I saw that I was very
40 annoyed to find 7/8ths rams on a guide's website. I
41 emailed these photos, I screenshot them right off the
42 website and I emailed those to Beth Lenart and Glen
43 Stout, the area biologists, and I said we have a
44 management problem because I found out from the Alaska
45 State Troopers that they were not sealing them. If
46 they're below full curl they do not seal sub-legal
47 sheep, they require those to be taken to the biologist
48 in Fairbanks. Apparently -- I said apparently the
49 biologists in Fairbanks are sealing sub-legal sheep.
50 For State regulations they have to be full curl, both

1 horns broken or eight years old. Well, you can count
2 the rings on these sheep on this website and you can
3 see clearly, and I will not bring those photos before
4 the Board because the -- for liability reasons, but the
5 reality is there's four sheep that are sublegal being
6 sealed by biologists in Fairbanks, but the biologists
7 would not respond to my concern. I'm the Chairman of
8 the Koyukuk River Advisory Committee and I got no
9 response from the area biologist and I emailed those at
10 the end of February.

11
12 So for the State to come to this
13 meeting and say that there's plenty of 7/8th rams
14 around and that's not a problem, that's another
15 inaccuracy. As far as I'm concerned that's an
16 inaccuracy in the State's comments here.

17
18 And so I will -- Jennifer Yuhas was
19 caught completely off guard by this. I did not see
20 those -- because one of the problems with the State
21 bringing these comments right at the last minute, I
22 didn't have enough time to analyze them. And so if I
23 was to receive the State's comments far in advance I
24 would be able to point out those inaccuracies. So I'm
25 not faulting the State that's here, I'm faulting the
26 analysis that was submitted to the representatives for
27 the State.

28
29 That would be my comments on the
30 State's comments.

31
32 Thank you, Mr. Chair.

33
34 CHAIRMAN TOWARAK: Jennifer.

35
36 MS. YUHAS: Thank you, Mr. Chairman.
37 For the record, Jennifer Yuhas, State of Alaska.

38
39 As far as providing a supplemental,
40 several supplementals were provided at this meeting,
41 some of them by the OSM, and the State did provide a
42 supplemental written document.

43
44 I'm not sure where that noise is coming
45 from, maybe someone on the telephone.

46
47 (Overhead VTC speaker interruption)

48
49 MS. YUHAS: So these same comments and
50 analysis were brought verbally through the discussions

1 on the record.
2
3 (Overhead VTC speaker interruption)
4
5 CHAIRMAN TOWARAK: Operator, could
6 you.....
7
8 REPORTER: No, it's not the
9 teleconference, it's coming from this building's loud
10 speaker system.
11
12 OPERATOR: Yes, sir.
13
14 CHAIRMAN TOWARAK: Oh, I'm sorry.
15
16 OPERATOR: This is the operator, did
17 you need assistance at this time.
18
19 CHAIRMAN TOWARAK: No, I guess it was
20 an internal problem here in the building so.....
21
22 OPERATOR: Okay.
23
24 CHAIRMAN TOWARAK:I thought it
25 was coming from the phone but it's not.
26
27 MS. YUHAS: Go ahead, Mr. Chairman.
28
29 CHAIRMAN TOWARAK: Yes.
30
31 MS. YUHAS: Thank you. The Western
32 Interior RAC's Chairman's objections to the State's
33 comments are noted by the Department. The region is
34 aware of the differences of opinion between the
35 Chairman and the Staff analyzing the data. As far as
36 some of the inaccuracies, a motorized vehicle is a
37 snowmachine, it's motorized. We understand that you
38 don't have use of ORVs but I guess that's where we're
39 at on that.
40
41 The region refutes the sealing of any
42 illegal sheep that were sealed by the enforcement
43 officers or at the Fairbanks office. And the photos
44 that were turned into the Department were turned over
45 to the Alaska State Troopers, Trooper Lanier and
46 Sergeant Justin Rogers, an investigation was opened and
47 no citations were issued. And the ram that is in
48 question that was sent to Fairbanks was deemed to be
49 nine years old, certainly legal. There was a question
50 of whether it could be 11 or not, and the Trooper had

1 that sent off to Fairbanks for authentication.

2

3 MR. REAKOFF: I showed those photos to
4 my co-Chair here who has seen plenty of sheep, those
5 sheep are nowhere close to nine to 11 years old. And
6 the Trooper in Coldfoot told me they were not sealing
7 those but they referred those to the biologist in
8 Fairbanks. So it's an exported sheep taken by a non-
9 resident hunter, any hunter in Alaska it has to be
10 sealed, they drill a hole in the back of its horn and
11 they put a plug in there. So sheep that are clearly
12 below legal requirements -- the issue is these are the
13 same hunting guides that hunt in the Dalton Highway
14 Corridor and so clearly whether it's legal or illegally
15 exported from the state of Alaska, we clearly have
16 demonstrated to some of the Board members and some of
17 the RAC members and yourself, that those are clearly
18 not legal rams.

19

20 And so the issue here is the
21 subsistence users are having a harder and harder time
22 finding 7/8ths rams.

23

24 And so I will, again, refute the State
25 on the 7/8ths issue. It's my firm opinion that there
26 are many 7/8ths rams not being recruited because they
27 are being taken for one reason or another.

28

29 CHAIRMAN TOWARAK: Any questions of
30 either party.

31

32 (No comments)

33

34 CHAIRMAN TOWARAK: I would assume that
35 the Regional Advisory Council position remains the
36 same.

37

38 MR. REAKOFF: Yes.

39

40 CHAIRMAN TOWARAK: If there are no
41 further questions of either of the two parties we will
42 continue on with the InterAgency Staff Committee
43 comments.

44

45 MR. SHARP: Mr. Chairman. Dan Sharp.
46 There are only two proposals in this suite that we'll
47 have actual InterAgency comments aside from the
48 standard one and I'll read the standard comments into
49 the record and they will apply to all of them except
50 the two which will be identified.

1 InterAgency Staff Committee found the
2 Staff analysis to be a thorough and accurate evaluation
3 of the proposal and it provides sufficient basis for
4 the Regional Advisory Council recommendation and
5 Federal Subsistence Board action on the proposal.

6
7 Those are the standard comments, Mr.
8 Chair.

9
10 CHAIRMAN TOWARAK: Thank you. Any
11 questions of the ISC.

12
13 (No comments)

14
15 CHAIRMAN TOWARAK: Thank you. Are
16 there any tribal consultations, Jack.

17
18 MR. LORRIGAN: (Shakes head negatively)

19
20 CHAIRMAN TOWARAK: On this -- we don't
21 have any.....

22
23 MR. LORRIGAN: Mr. Chairman. Jack
24 Lorrigan, Native liaison for the Office of Subsistence
25 Management.

26
27 There are no comments on this proposal
28 from the consultation.

29
30 CHAIRMAN TOWARAK: Thank you. Board
31 discussion with Council Chairs and State liaison, are
32 there any discussions that anyone wishes to share with
33 either the Council Chair or the State liaison.

34
35 MS. ENTSMINGER: I have one.

36
37 CHAIRMAN TOWARAK: Yes.

38
39 MS. ENTSMINGER: Being an avid sheep
40 hunter myself, I do share Jack's concerns about sub-
41 legals. And that's a tough one because my husband
42 taught me how to sheep hunt and he's a 52 year veteran
43 or longer, and taught me how to age sheep. And I guess
44 the only other thing the State can do is take a tooth
45 out or actually cut the horn down the middle like you
46 saw a sheep -- when they teach all us about sheep from
47 the experts, but I think there are sheep that are
48 probably sub-legal that are getting harvested and
49 plugged, and -- that they're legal, so I don't know how
50 you go about that. But I think it is happening and

1 it's probably something that needs to be concerned
2 about.

3

4 So I guess what we're seeing in our
5 area is lower sheep numbers, too, so that is a concern.

6

7 And I also -- it breaks my heart to see
8 a guide being the one that takes because my son grew up
9 in rural Alaska and he -- as a livelihood became a
10 guide, which I did myself after and when there's all
11 this competition for sheep hunting and the guides are
12 out there taking sub-legals, that's really a black eye
13 to people like my son and I and it's just disheartening
14 to me. And it's sad because BLM land and State land
15 allows a guide to just register and go in there and it
16 makes it tough for people, especially residents and the
17 subsistence user.

18

19 This is a tough one.

20

21 CHAIRMAN TOWARAK: Did you have any
22 comments .

23

24 MR. REAKOFF: Is it Council comments
25 now.

26

27 CHAIRMAN TOWARAK: Okay, go ahead.

28

29 MR. REAKOFF: I will point out the data
30 for harvest -- for Federal harvest found on Page 147,
31 I've said it over and over to OSM, the harvest data is
32 not reflecting in what's customary for our area.
33 Clearly in 2008 and 2009 I harvested sheep those years,
34 sent my reports in and it's showing zero, so there's a
35 problem. And I know that other people send in their
36 harvest reports because I do the mail at Wiseman, we
37 have drop point mail, the mail all comes to my house
38 and I put it in the box and I see people sending off
39 their Federal harvest reports. You have to have a
40 Federal harvest report for this area. And so this data
41 does not accurately reflect what the subsistence use
42 and the needs are. This would indicate that there's
43 like sporadic use but, no, that's not what the use is.
44 It's a fairly consistent -- the community typically
45 harvests four to six sheep a year, six would be
46 preferred. And the harvests are not reflected there.

47

48 But, now, after 2010, once the guides
49 started hunting in the Dalton Highway Corridor and
50 apparently have hardly any ethics as far as what they

1 take, it's starting to affect the ability of the
2 subsistence hunters to find. Sheep live in ram groups
3 all together, whether they're big or small. And so
4 then if you got intensive hunting they chase them far
5 away and if we can find them, if we find those ram
6 groups there's -- what I see is 3/4 curl and smaller,
7 that's not normal. If you see a healthy population of
8 sheep you'll see all age classes represented, full
9 curl, 7/8ths, a little under 7/8ths, 3/4 curl, you know
10 how it is Sue, we don't see that, we see everything 3/4
11 and younger, which makes it impossible for me to
12 harvest a sheep. I prefer an adult ram, because it's
13 20 percent heavier and it's got more meat and they're
14 just as good as a small ram and so I -- but if it comes
15 down to some sheep meat or no sheep meat, I've got to
16 have a regulatory change to be able to meet my
17 subsistence needs, and the community of Coldfoot and
18 Wiseman, and so that's why this proposal is before the
19 Federal Subsistence Board.

20

21 Thank you, Mr. Chair.

22

23 CHAIRMAN TOWARAK: Mr. Smith.

24

25 MR. SMITH: It's been a while since I
26 was current on the sheep scientific literature but I
27 really question the using a trophy hunting strategy for
28 subsistence hunting, and that's what we're doing here.
29 The idea of cropping large adult males is so you have
30 more large adult males to be able to crop, but that's
31 not the point of subsistence. And, biologically,
32 you're probably better off to harvest the younger
33 males, I think the structure of the herd is more normal
34 and probably benefits from having those old males,
35 those old males able to breed in the population. And
36 so using the same strategy you would use for trophy
37 hunting for subsistence hunting makes no sense at all
38 to me and we should -- I agree with this proposal, if
39 you need to limit the number of animals taken, don't do
40 it by having fewer legal sheep, do it by setting a
41 quota and it's just all upside down.

42

43 When subsistence hunting first started
44 in the Brooks Range I thought the same thing, it's just
45 not the way to do subsistence, it's not the point of
46 subsistence, you're not looking for a full curl ram.

47

48 MR. REAKOFF: Mr. Chair.

49

50 CHAIRMAN TOWARAK: Go ahead.

1 MR. REAKOFF: Other supplement for the
2 Board, a lot of people are aware of the natural history
3 of sheep. Sheep live in ram groups, they also have
4 very limited ranges and so the sheep that live in the
5 Dalton Highway Corridor move in and out of the
6 corridor. They move just outside the five mile
7 corridor boundary, they can be shot with rifles, if
8 they move into the corridor they can be hunted with
9 bows, but it's the same sheep. They don't know where
10 that line is. And so it's actually a fairly limited
11 pool of rams that we have access to and because of the
12 intense hunting pressure, these ram groups are being
13 worked over pretty hard. And when you put professional
14 hunters with two Supercubs to fly the mountains, if
15 they screw up, they can fly the mountains, they can fly
16 in every last sheep, they can't get away from them, and
17 so it puts the subsistence users at a huge
18 disadvantage.

19

20 And so what the State would like to do
21 is to incorporate a whole bunch of sheep data from far
22 away from the Dalton Highway Corridor, the affected
23 area, you can't do that, that's mixing apples and
24 oranges. Those sheep live miles away from the Dalton
25 Highway Corridor and they may have healthier numbers,
26 may or may not, but the sheep we're talking about are
27 within the Dalton Highway Corridor Management Area,
28 that's what we're talking about.

29

30 Thank you, Mr. Chair.

31

32 CHAIRMAN TOWARAK: Any further
33 discussion.

34

35 (No comments)

36

37 CHAIRMAN TOWARAK: Item No. 8 then is
38 Federal Subsistence Board action on Proposal 14-30.

39

40 MR. CRIBLEY: Mr. Chairman.

41

42 CHAIRMAN TOWARAK: Go ahead.

43

44 MR. CRIBLEY: I guess I'd like to move
45 to adopt Wildlife Proposal WP14-30. I intend to
46 support the proposal as submitted by the Western
47 Interior RAC. The RAC continues to support and the RAC
48 continues to support this proposal based on the
49 testimony. Increasing hunting activity is made
50 accessing legal rams difficult for local residents.

1 The OSM conclusion indicates that moving from 7/8ths
2 curl requirements to a one ram requirement will improve
3 the already low subsistence harvest without creating a
4 conservation concern.

5
6 MR. CHRISTIANSON: Second that, with
7 the same rationale.

8
9 (Laughter)

10
11 CHAIRMAN TOWARAK: You heard the motion
12 and a second, any discussion on the motion.

13
14 Go ahead, Mr. Cribley.

15
16 MR. CRIBLEY: BLM feels that we should
17 support this proposal as introduced. Allowing any ram
18 limit for Federal subsistence hunters will likely
19 increase hunter success above the average of 13 percent
20 presently being achieved with the horn restriction.
21 However, the limited Federal harvest overall even with
22 the slight increase will not create a conservation
23 concern while improving subsistence opportunity.

24
25 CHAIRMAN TOWARAK: Any further
26 discussion.

27
28
29 (No comments)

30
31 MR. CRIBLEY: I move for question.

32
33 CHAIRMAN TOWARAK: Question's been
34 called for. All those in favor of the motions say aye.

35
36 IN UNISON: Aye.

37
38 CHAIRMAN TOWARAK: Any opposed, say
39 nay.

40
41 (No opposing votes)

42
43 CHAIRMAN TOWARAK: Motion passes
44 unanimously.

45
46 Next proposal.

47
48 MR. MCKEE: Mr. Chair. We're going to
49 be going over the series of proposals for muskox on the
50 Seward Peninsula. Just as a point of reference I'm

1 going to spend a little bit more time on the first
2 analysis going over a general overview on the biology
3 of the Seward Peninsula muskox population. And then as
4 I go into some of the other proposals, I'm not going to
5 repeat myself and just kind of give you a unit, if
6 there are any unit specific biological things that I
7 feel that I should discuss rather than keep repeating
8 the same information. So I'll do that on the first and
9 kind of present the biological information and the
10 harvest data as well, and then I'm going to turn it
11 over to Rachel with the Park Service, who did the .804
12 analysis for these proposals and then I will discuss
13 the OSM conclusion as we go through each proposal so
14 that's kind of the order.

15

16 CHAIRMAN TOWARAK: Okay, go ahead.

17

18 MR. MCKEE: Excuse me, the muskox
19 proposals are in your supplemental binder, it's not in
20 the large binder, and each proposal has its own tab.
21 So the first one I'll be talking about is WP14-33.

22

23 So WP14-33 was submitted by the
24 National Park Service and requests that the season and
25 harvest limit for muskox in the portion of Unit 22D
26 within the Kuzitrin River Drainage be changed to
27 eliminate the cow hunt and in addition the proposal
28 requests that language be added to authorize the
29 superintendent of the Bering LandBridge National
30 Preserve to restrict the number of Federal registration
31 permits to be issued.

32

33 The proponent states that since 2010
34 conservation concerns prompted by significant declines
35 and several muskox population parameters have led to
36 major adjustments in hunt management and the same
37 concerns are likely to persist for the next several
38 years. Recent hunt management adjustments including
39 large reductions in the allowable harvest, the
40 elimination of the cow hunt under State regulations and
41 the return to State Tier II hunts in all the Seward
42 Peninsula muskox areas except for Unit 22E.

43

44 The proponent states that the proposed
45 changes would reduce confusion and improve management
46 flexibility.

47

48 Muskoxen were extirpated in Alaska by
49 the late 1800s and perhaps hundreds of years earlier on
50 the Seward Peninsula. Muskoxen were reintroduced to

1 Units 22C and 22D in 1970 and have since expanded their
2 range to the north and east. The reintroduced
3 population grew at a rate of approximately 14 percent
4 annually between 1970 and 2000 followed by a more
5 modest annual growth rate of approximately four percent
6 between 2000 and 2010.

7
8 There has been an overall decline in
9 the Seward Peninsula muskox population between 2010 and
10 2012. During this period the Seward Peninsula
11 population declined at an annual rate of 12.5 percent
12 and during the decline and overall abundance managers
13 have witnessed a decline in the number of mature bulls
14 and short yearlings and have seen evidence of high
15 mortality rates for adult cows.

16
17 Within the Unit 22 Kuzitrin hunt area
18 abundance declined from an estimated 237 animals in
19 2010 to 208 animals in 2012 representing a 12 percent
20 decline.

21
22 Harvest is restricted to users holding
23 a State Tier II or Federal registration permit,
24 however, non-Federal lands are the most accessible and
25 most of the harvest has been under State permits. In
26 Unit 22D, only two out of 33 muskoxen were reportedly
27 harvested with a Federal permit. The State regulations
28 have mostly required Tier II permits but were changed
29 to Tier I between 2008 and 2011. During that period
30 there was heavy exploitation of the mature bull
31 component of the population. State and Federal in-
32 season closures were necessary from 2010 through 2012
33 because quotas were reached or expected to be reached.
34 As abundance has declined in the Kuzitrin area, quotas
35 were decreased from 11 muskox and including up to four
36 cows in 2008 to four bulls in 2012.

37
38 So that's just kind of a quick overview
39 of the biology and harvest and now I'll hand it over to
40 Rachel to discuss the .804 section.

41
42 MS. MASON: Thank you. The C&T
43 determination for this area includes the communities of
44 Elim, Council, Golovin, Koyuk and White Mountain in
45 Unit 22B, Nome in Unit 22C, Teller and Brevig Mission
46 in Unit 22D, and Wales and Shishmaref in Unit 22E. So
47 a total of almost 6,000 people are eligible to hunt
48 muskoxen in Unit 22D Kuzitrin.

49
50 So the .804 analysis considers three

1 factors.

2

3 Customary and direct dependence.

4

5 Local residency.

6

7 And availability of alternative

8 resources.

9

10 In terms of customary and direct
11 dependence, based primarily on subsistence harvest data
12 for most of the communities, it appears that muskoxen
13 are regularly harvested as part of a regular pattern of
14 harvesting a variety of resources. And since the
15 reintroduction of muskoxen since 1970 people have
16 increasingly used muskoxen in the area.

17

18 For local residency all those with
19 customary and traditional use could be considered
20 residents. Some of the communities are in closer
21 geographic proximity to Unit 22D Kuzitrin than others,
22 and Nome hunters, in particular, are able to travel to
23 Unit 22D Kuzitrin by road.

24

25 The availability of alternative
26 resources was difficult to determine and it was not
27 possible to distinguish among most of the communities
28 that have C&T use in the area.

29

30 The summary of the .804 analysis was,
31 however, that on the basis of record of harvest between
32 2001 and 2010, that Shishmaref and Wales could be left
33 off of the .804 analysis because both communities
34 harvest muskoxen almost exclusively in Unit 22E.

35

36 Then I'll turn it back over to Chris
37 for the conclusion.

38

39 MR. MCKEE: Okay. So the OSM
40 conclusion is to support Proposal 14-33 with the
41 modification found at the end of the analysis, I think
42 33, let me get this page number right -- it is on Page
43 20 under 14-33.

44

45 So the conclusion is to support the
46 .804 analysis, remove reference to the State Tier II
47 permit and simply say a State or Federal permit is
48 required. Remove the regulatory language referencing
49 harvest quotas and closures found on the Unit 22D
50 Kuzitrin muskox regulations. And delegate authority to

1 close the season, determine annual quotas, the number
2 of permits to be issued and the method of permit
3 allocation via delegation of authority letter only.

4
5 I do need to point out one error that's
6 at the end of the analysis, for the Seward Peninsula
7 RAC recommendation on Page 27 of the analysis. The RAC
8 recommendation that residents of Council, Golovin,
9 White Mountain, Nome, Teller and Brevig Mission should
10 be eligible whereas the version on the analysis there
11 says that Elim and Koyuk should be included. So Elim
12 and Koyuk should not be included in the communities
13 that you see in the RAC recommendation. So that was a
14 typo.

15
16 And that's all I have for this one.

17
18 CHAIRMAN TOWARAK: Any questions of the
19 Staff on WP14-33.

20
21 (No comments)

22
23 CHAIRMAN TOWARAK: Not hearing any,
24 then we will move on to summary of public comments from
25 the Regional Council Coordinator.

26
27 MR. NICK: Mr. Chair. Alex Nick, for
28 the record, Council Coordinator for Seward Penn.

29
30 We didn't receive any written public
31 comments for this proposal.

32
33 Mr. Chair.

34
35 CHAIRMAN TOWARAK: Thank you. We will
36 then open the floor for public testimony, is there
37 anyone requesting -- do we have any sheets.

38
39 (No comments)

40
41 CHAIRMAN TOWARAK: We don't have any
42 requests.

43
44 Is there anyone on the phone that would
45 like to testify on Proposal 14-33.

46
47 OPERATOR: The lines on the phone are
48 open, you may speak if you have something to say.

49
50 (No comments)

1 CHAIRMAN TOWARAK: Not hearing any I
2 will assume we don't have anyone that wants to testify
3 on this proposal from the public.

4
5 We will move then to Regional Council
6 recommendations.

7
8 Mr. Smith.

9
10 MR. SMITH: Thank you, Mr. Chairman.

11
12 First I'd like to start out and
13 introduce myself. I came to Alaska in 1972 to do a
14 graduate study on muskoxen on Nunivak Island and that
15 was just two years after the mainland introduction
16 started and it's been a very, very successful program.
17 And then after that I went to work for the Fish and
18 Wildlife Service on Nunivak Island as a Refuge
19 biologist and later I went to work for Fish and Game on
20 the Seward Peninsula and I've been there ever since.

21
22 The Seward Peninsula muskox herd was
23 our most successful, and still is our most successful
24 mainland introduction. It still is the largest
25 mainland herd in Alaska. But what's happening now is
26 very, very disturbing, I'm very concerned about what's
27 happening. We've revered really, you know, healthy
28 growth rate to what looks to be like a rapid decline.
29 We didn't get a count this year, this spring. And so
30 -- but I think the population's continually declined
31 and we've seen in other areas -- we saw in the Arctic
32 National Wildlife Refuge muskox populations can go up
33 very fast, they can go down even faster. The Arctic
34 National Wildlife Refuge was our best -- our healthiest
35 muskox population at one time. They're really in
36 danger now, which is a real shame.

37
38 And the problem is we don't know
39 exactly what's happening. I don't believe that it's a
40 habitat issue. I don't believe it's weather related.
41 It might well be hunting related, it might be
42 predation. One of the problems we've got on the Seward
43 Peninsula is that all the resources, all the
44 subsistence resources are down. Both fish and the
45 large mammal resources are very depleted. All of our
46 large ungulate populations are depleted and the salmon
47 stocks are depleted. And so not only are subsistence
48 users having a hard time getting food, so are the
49 bears. I studied both bears and muskoxen in the '80s
50 on the Seward Peninsula. We had real intensive radio-

1 telemetry studies on both of them and I'm convinced
2 that bears didn't kill any muskoxen during that decade.
3 Well, they figured it out. Just like they did in the
4 Arctic National Wildlife Refuge. And that might well
5 be the problem, I've witnessed bear predation on
6 muskoxen. That may be the problem. It may also be a
7 hunt -- a problem hunting.

8
9 You know, I think that in the early
10 days when we started hunting muskoxen on the Seward
11 Peninsula there was a bit of irrational exuberance in
12 how much harvest the population could withstand.
13 People weren't familiar with muskox, the managers
14 weren't familiar with muskoxen, they treated them as if
15 they were moose. And they're a social animal, they
16 live their life -- their life history is entirely
17 different than moose. You can't [sic] deplete the
18 bull/cow ratio the way we did, but that's what we did,
19 we grossly overharvested bulls, which makes the herds
20 more vulnerable to predation and causes more problems
21 for survival, for winter survival too. And so now
22 we've got a real problem on our hands, you know these
23 things tend to snowball.

24
25 And so I think we really need to reduce
26 the harvest. The RAC went a step farther than what was
27 recommended, in that, we wanted to delay the fall
28 harvest until after the rut, after October 1st.
29 Because when you've got a very low bull/cow ratio to
30 start with, removing a breeding bull from a harem
31 during the rut could make that group not breed at the
32 optimum time. They may still breed but the cows are
33 going through a substantive estrous, the calves will be
34 born late and it's just poor management.

35
36 And so we -- and it's also -- August is
37 not really an optimal time to take muskoxen anyway.
38 Sometimes the meat of breeding bulls has kind of a
39 strong taste to it, it's not like a deer, not like
40 moose or caribou, but it's not really the best time to
41 take them. And so subsistence users didn't really mind
42 foregoing that early hunt. So we recommended that the
43 hunt be delayed until October 1st.

44
45 As far as the communities go in this
46 list, we eliminated Elim and Koyuk because they really
47 don't have access to the Federal lands. They don't
48 have a history of hunting Federal lands in that subunit
49 and so it wouldn't really be much of a problem for them
50 not to be included.

1 I think this is a good starting point,
2 though, really when we get more population data, I
3 think we're going to probably be looking at a total
4 closure, we probably should do that. It's really
5 disappointing we didn't get the census this spring.
6 But I think things are not looking very good.

7
8 I'd be happy to answer any questions if
9 you have any.

10
11 CHAIRMAN TOWARAK: Any questions of Mr.
12 Smith.

13
14 (No comments)

15
16 CHAIRMAN TOWARAK: Thank you for that
17 in-depth background.

18
19 We will continue then on with the
20 Department of Fish and Game's comments.

21
22 MR. CRAWFORD: Mr. Chair. Drew
23 Crawford with the Alaska Department of Fish and Game.

24
25 Regarding Wildlife Proposal 14-33, the
26 State supports this proposal as modified by the Office
27 of Subsistence Management. We also support the Federal
28 manager determining and restricting the number of the
29 Federal permits. But we feel that it's important for
30 the both the State and the Federal managers to continue
31 to follow the recommendations of the Seward Peninsula
32 Muskox Cooperators Group.

33
34 CHAIRMAN TOWARAK: Thank you. Are
35 there any questions of the State.

36
37 MR. SMITH: Could you clarify when the
38 last time the Cooperators group made recommendations.

39
40 MR. CRAWFORD: 2008.

41
42 CHAIRMAN TOWARAK: Any further
43 questions of the State.

44
45 (No comments)

46
47 CHAIRMAN TOWARAK: Not hearing any,
48 thank you. We will move on then to the InterAgency
49 Staff Committee comments.

50

1 MR. RICE: Mr. Chair. This is Bud
2 Rice, National Park Service. I have the InterAgency
3 Staff Committee comments here.

4
5 The Staff Committee found that the
6 Staff analysis to be a thorough and accurate evaluation
7 of the proposal and it provides sufficient basis for
8 the Regional Advisory Council recommendation and
9 Federal Subsistence Board action on the proposal.

10
11 The InterAgency Staff Committee would
12 like the Board to be aware that the Seward Peninsula
13 Regional Advisory Council recommends a modification to
14 the proposal which shortens the harvest season. Since
15 the change in harvest season was not a part of the
16 original proposal, the public, the tribes and ANCSA
17 Corporations could not have been made aware that a
18 reduced harvest season was being considered or
19 recommended. The season as recommended would result in
20 a shorter season than that afforded by the State of
21 Alaska in two hunt areas and a reduction of harvest
22 opportunity in the fall in all of the affected hunt
23 areas.

24
25 The Board could adopt all aspects of
26 the Council's recommendation except the change in
27 harvest dates. The date changes could be considered
28 during the next regulatory cycle or as a special action
29 if there really are conservation concerns.

30
31 Thank you, Mr. Chair.

32
33 CHAIRMAN TOWARAK: Thank you. Are
34 there any questions of the ISC.

35
36 Mr. Smith.

37
38 MR. SMITH: Could that action be taken
39 at this meeting, to shorten the season as a special
40 conservation measure.

41
42 MR. RICE: I don't think I'd be the one
43 to decide that but I think that would be up to the
44 Board.

45
46 MR. PELTOLA: Mr. Chair. With regard
47 to whether a special action can be addressed in this
48 situation I could give a viewpoint from OSM. The
49 viewpoint is that OSM we also react to a public comment
50 and don't provide a direction from the Program itself.

1 And as for whether the Board could take a particular
2 action without a public request, I'd have to defer that
3 to our OSM regulatory specialist or Ken, and our
4 specialist is nodding his head no.

5
6 CHAIRMAN TOWARAK: Procedurally, too, I
7 would like to follow our normal processes especially if
8 someone challenges our decisionmaking process, you
9 know, we could be found at fault if we're not giving
10 proper notice to the public for comments or opinions.

11
12 So any further discussion.

13
14 (No comments)

15
16 CHAIRMAN TOWARAK: I would assume that
17 if there is interest in introducing a shorter period
18 there are ways to do it that the Staff could help us --
19 the Advisory Reg -- the RAC to come up with a change.
20 Am I right.

21
22 MR. PELTOLA: Yes.

23
24 CHAIRMAN TOWARAK: Okay. Any further
25 discussion on the proposal from.....

26
27
28 (No comments)

29
30 CHAIRMAN TOWARAK: If not then we will
31 move to the Board discussion with Council Chairs or
32 State liaison.

33
34 Any further questions or discussions.

35
36 (No comments)

37
38 CHAIRMAN TOWARAK: Not hearing any then
39 we're ready for Board action on Proposal 14-33.

40
41 MR. C. BROWER: Mr. Chair. Move to
42 approve WP14-33 with modification.

43
44 MR. OWEN: Second.

45
46 CHAIRMAN TOWARAK: You heard the motion
47 and the second. Discussion.

48
49 I would assume -- is -- pardon.

50

1 MS. COOPER: His second by -- I have a
2 motion here written out as well. I intended to amend
3 the motion to accept the Seward Peninsula RAC
4 recommendations except the RAC's proposal -- proposed
5 shortening of the season and that's consistent.

6
7 MR. C. BROWER: Did I understand that
8 it could be changed at a later time.

9
10 CHAIRMAN TOWARAK: That was the general
11 thought, is that we have not given proper notice and
12 that in order for it to be a legitimate regulation we
13 -- we need to give the public notice on that change and
14 we haven't. So my understanding is that -- and the
15 motion on the floor was to.....

16
17 MR. C. BROWER: Mr. Chairman. The
18 motion was to approve the proposal with OSM's
19 conclusion and support with modification to the same
20 date as written here from August 1st to March 15th. I
21 don't think there was any -- I mean I seen the request
22 from the RAC to change the date to make it from October
23 to March 15th but that wasn't included. I'm just going
24 by what was recommended by ONC -- OSM, thank you.

25
26 CHAIRMAN TOWARAK: That's my
27 understanding also. And we've informed the Regional
28 Advisory Council Chair that it's possible to change the
29 date through a different process.

30
31 Further discussion.

32
33 Ms. Cooper.

34
35 MS. COOPER: Thank you, Mr. Chair.
36 Yeah, the Seward Penn RAC recommendation on Page 27
37 adopts elements of the OSM Staff conclusion except the
38 RAC's recommendation will reduce the early portion of
39 the muskox season by two months and uses the Section
40 .804 analysis to further limit the list of rural
41 residents for this hunt. A shorter Federal muskox
42 season would reduce opportunity for Federally-qualified
43 subsistence hunters to harvest muskox between August
44 1st and October 1st. Per Section .805(c) the shorter
45 season may be detrimental to the satisfaction of
46 subsistence needs.

47
48 CHAIRMAN TOWARAK: So what's the wishes
49 of the Board.

50

1 (Teleconference - interruption)
2
3 CHAIRMAN TOWARAK: Mr. Haskett.
4
5 MR. HASKETT: I'm sorry, I'm confused.
6
7 So I thought in the past we've been
8 able to make a change like this, a modification, but we
9 can't because we didn't.....
10
11 MR. C. BROWER: We didn't have the
12 information.
13
14 REPORTER: Charlie turn your mic on.
15
16 MR. C. BROWER: Like I stated, we
17 didn't have that information until we got this right
18 now.
19
20 MR. HASKETT: I am just.....
21
22 MS. COOPER: Well.....
23
24 MR. HASKETT:totally confused.
25 So I'm listening but I don't understand.
26
27 MS. COOPER: So, Mr. Chair.
28
29 CHAIRMAN TOWARAK: Go ahead.
30
31 MS. COOPER: So from my understanding
32 still, that if you vote in favor of this motion it
33 would read:
34
35 That for Unit 22D muskox, from August
36 1st to March 15th, Unit 22D, that
37 portion within the Kuzitrin River
38 drainages, one bull by Federal permit
39 or State permit. Federal public lands
40 are closed to the taking of muskox
41 except for the residents of Council,
42 Golovin, White Mountain, Nome, Teller
43 and Brevig Mission.
44
45 For clarification, Mr. Chair.
46
47 CHAIRMAN TOWARAK: Does that clarify
48 anything.
49
50 (Laughter)

1 CHAIRMAN TOWARAK: Procedurally I'm
2 going to say that the original motion made by Charlie
3 was to keep the original dates without considering the
4 Seward Peninsula Regional Advisory Council request for
5 changing the dates and with the rationale that we have
6 not given public notice of that change and the public
7 needs to be -- to participate in the change of the
8 date.

9
10 MS. COOPER: We should take a break.

11
12 MR. LORD: Mr. Chair. Could we take a
13 five minute break, I want to see exactly what the
14 original proposal was.

15
16 CHAIRMAN TOWARAK: Okay, let's take a
17 five minute break.

18
19 MR. ADAMS: Mr. Chairman. I would like
20 to be excused. I don't know if you're going to go
21 beyond 5:00 o'clock or not but I feel like I need to go
22 back to my room and get some rest.

23
24 CHAIRMAN TOWARAK: Yes.

25
26 MR. ADAMS: Thank you.

27
28 (Off record)

29
30 (On record)

31
32 CHAIRMAN TOWARAK: I'd like to
33 reconvene. For your information this process is
34 starting to look like we might need to extend our stay
35 at the rate we're going. We have at -- according to
36 some of the Staff members we have about three or four
37 hours of just the muskox proposals today, and then
38 another eight hours of the rest of the proposals, which
39 would take most of the day tomorrow. If we pushed it,
40 if we sped things up and eliminated -- or not
41 necessarily eliminate steps but shorten some steps, I
42 would -- I think we could -- it -- and still make it
43 through tomorrow but possibly working late tomorrow.

44
45 Excuse me.

46
47 MR. MCKEE: Mr. Chair. I would
48 certainly endeavor to be as quick as possible on these
49 proposals. I would really be surprised if we have, you
50 know, another three hours on the muskox proposals. Now

1 that I've gone over some -- a lot of this -- there's
2 going to be a lot of repetition in the other proposals
3 so I don't expect the muskox information -- the
4 proposals to take too terribly long.

5
6 CHAIRMAN TOWARAK: Okay. We would
7 really appreciate that. And if it's possible to do
8 that with some of the other proposals, to streamline
9 and not repeat the same information that would help.
10 So we will see how we will -- how we feel by 6:00
11 o'clock and take a look at what else we have to do
12 tomorrow and possibly go late. Those of us that are
13 from out of town had plans, I think, to fly out on
14 Friday, and if we can make that schedule we'll try --
15 that'll be our goal, is to still fly out on Friday.

16
17 We will continue on then with the next
18 proposal.

19
20 VARIOUS: No.

21
22 CHAIRMAN TOWARAK: Oh, I'm sorry.

23
24 MR. PELTOLA: There's a motion.

25
26 CHAIRMAN TOWARAK: Oh, that's right, we
27 were on.....

28
29 (Laughter)

30
31 CHAIRMAN TOWARAK: Okay.

32
33 MS. COOPER: Mr. Chair.

34
35 CHAIRMAN TOWARAK: Go ahead, Deborah.

36
37 MS. COOPER: The NPS submitter of the
38 proposal, Ken Adkisson is in the audience, and I'd like
39 to call him to the microphone to explain a little bit
40 about the season if I can, Mr. Chair.

41
42 MR. ADKISSON: Mr. Chair. Board
43 members. Council Chairs. And others. Yeah, my name
44 is Ken Adkisson, I work for the National Park Service
45 as the subsistence program manager for Western Arctic
46 National Parklands and I'm based in Nome, Alaska. I've
47 been there since 1985 and have been part of this
48 management process with muskoxen pretty much all along.

49
50 We understand the concerns of the RAC,

1 both the Federal and State managers in terms of
2 conservation concerns, however, when we looked at the
3 proposal to reduce the seasons, for a number of
4 reasons, we didn't feel that it was really necessary to
5 add additional restrictions on the subsistence users
6 and further reduce the seasons to what had already been
7 done, quite drastically, frankly. The cow harvest went
8 away. The overall allowable harvest went from
9 something like 150 animals, down to 39 animals across
10 the Peninsula. The harvest has been totally
11 restructured to rebuild the population and to reduce
12 the impact of harvest on the mature bull population.

13

14 And two other things.

15

16 The regulation just reads one bull, so
17 you're not required to take a mature bull during the
18 rut. You can go out and take an immature bull out of
19 the population.

20

21 A lot of people are -- or at least some
22 villagers, especially, really like to hunt in the fall
23 when they can get out by boat, or they're at camp and
24 they can opportunistically and efficiently take an
25 animal.

26

27 And so that amount of the total harvest
28 every year is probably relatively small compared to the
29 overall harvest, most of which does come in the winter,
30 in fact, often very late in the winter.

31

32 And so we just really didn't feel it
33 was necessary to reduce further down that opportunity
34 for those people by shortening the season. Though, we
35 will continue to monitor the population, both in
36 abundance and composition and if further changes are
37 necessary we can take those through special actions or
38 suggest regulations in the future.

39

40 CHAIRMAN TOWARAK: Thank you, very
41 much. That returns us then to the original motion as
42 -- in -- that's in place.

43

44 MR. C. BROWER: That's in place.

45

46 CHAIRMAN TOWARAK: Yeah.

47

48 MR. SMITH: Mr. Chair.

49

50 CHAIRMAN TOWARAK: Go ahead.

1 MR. C. BROWER: Call for question.
2
3 MR. SMITH: When do you expect to get
4 more population information.
5
6 MR. ADKISSON: Mr. Smith. Through the
7 Chair. I've got that question actually posed to ADF&G
8 and haven't gotten an answer back whether we're going
9 to readjust the every two year cycle to do a count in
10 '15 or whether we're, you know, going to put it off
11 until '16. Part of that depends on all the burden of
12 the other wildlife surveys that need to be done
13 including moose on its cycle and stuff by the
14 Department and stuff, so at the latest we'll be looking
15 at 2016 for additional data but I wish we could get it
16 -- move it up to '15.
17
18 We'll keep the RAC posted.
19
20 CHAIRMAN TOWARAK: Thank you. Was
21 there a call for the question.
22
23 MR. C. BROWER: Yes, sir.
24
25 CHAIRMAN TOWARAK: Question's been
26 called for. All those in favor of the motion say aye.
27
28 IN UNISON: Aye.
29
30 CHAIRMAN TOWARAK: Any opposed, say
31 nay.
32
33 (No opposing votes)
34
35 CHAIRMAN TOWARAK: Motion passes
36 unanimously. Now, we can go to the next proposal.
37
38 MR. C. BROWER: Mr. Chairman. Wouldn't
39 -- just looking through all the proposals, from 35 to
40 39 they're all on the same -- I was wondering if they
41 can be shortened to where it comes to a time that we
42 could make one motion to include Proposals WP14-35-39
43 all at once because they're all the same and that sure
44 would make things much shorter. For your
45 consideration, Mr. Chair.
46
47 CHAIRMAN TOWARAK: Thank you. And I'll
48 leave that to the analysis by the Staff and if there's
49 a way to do that please let us know.
50

1 MS. MASON: Mr. Chair. They are
2 slightly different so we can give very, very short
3 analysis of them, but I -- they're different enough
4 that we have to consider them separately.

5
6 CHAIRMAN TOWARAK: Okay. Procedurally
7 and correct me if I'm wrong, we'd like for you to give
8 us a brief on each one and let us know what it --
9 what's different from this to the one before until we
10 get to the end so that we can make one motion to accept
11 them all or reject them all.

12
13 MS. MASON: We can be very quick.

14
15 MR. MCKEE: Okay. What I'll do is I'll
16 just limit any biology or harvest information to the
17 specifics and not repeat -- like I said, not repeat
18 myself.

19
20 So, WP14-35 was submitted by BLM, and,
21 again, requests elimination of the cow hunt and
22 requests that the BLM Anchorage Field Manager be
23 specified as the Federal manager and that it be
24 delegated the authority to restrict the number of
25 Federal permits to be issued.

26
27 This is similar to the last one except
28 with one important difference to know, is, with the
29 hunt areas is that the Federal public lands in this
30 area are not closed, so that is one thing that is
31 different from the last discussion.

32
33 The biological information is similar
34 to what was presented in 14-33 but there has been a
35 significant decline in associated with the declining
36 number of mature bulls and short yearlings and, again,
37 having some high mortality for adult cows, but specific
38 to 22D Southwest, which this proposal covers, muskox
39 abundance was estimated at 160 animals in 2010 but
40 declined to 77 animals in 2012, representing a 52
41 percent decline. Additionally, the allowable harvest
42 has declined from seven muskox, including up to five
43 cows in 2008, but was reduced to only one bull in 2012
44 and 2013.

45
46 And so with that I'll go to Rachel for
47 the .804.

48
49 MS. MASON: Thank you, Mr. Chair.
50

1 Like the last one there are almost
2 6,000 people eligible to hunt in the area, have C&T in
3 the area, and so the .804 analysis summary did present
4 a means to distinguish among the communities, in that,
5 Shishmaref and Wales were left off the .804 because
6 they harvest muskoxen almost exclusively in Unit 22E.

7

8 MR. MCKEE: That's it?

9

10 MS. MASON: That's it.

11

12 MR. MCKEE: Okay. The OSM conclusion
13 is to support Proposal 14-35 with modification. Again,
14 as in the last one to support the .804 conclusion,
15 remove the reference to the State Tier II permits and
16 simply state that it's a State or Federal permit
17 required. And, again, removing the regulatory language
18 referencing quotas and closures found in Unit 22D
19 muskox regulations, and delegate authority to close the
20 season, determine quotas, the number of permits to be
21 issued and the method of permit allocation via
22 delegation of authority letter. And, finally, to close
23 Federal public lands to the harvest of muskox except by
24 Federally-qualified subsistence users. The total
25 allowable harvest under State and Federal regulations
26 in 22D Southwest is very low, again, with the 2013
27 quota being only one bull. So the closure of Federal
28 public lands in the area meets the criteria in Section
29 .815 of ANILCA and would be consistent with other hunt
30 areas in Units 22B and 22D. And that's it for the
31 analysis.

32

33 CHAIRMAN TOWARAK: Do we have any
34 public comment through the Regional Coordinator.

35

36 MR. NICK: Mr. Chair. We received
37 public comment from Mr. Donald Woodruff. His public
38 comment is for WP14-38, WP14-39 and WP14-41. And it
39 says there are already many ways to regulate harvest
40 without moving into Tier II regulation, shorten
41 seasons, antler restrictions and harvest quota
42 restrictions. Tier II regulation opens up a huge issue
43 of traditional use that does not serve the people
44 equally. And this is from Donald Woodruff, Eagle.

45

46 Mr. Chair.

47

48 CHAIRMAN TOWARAK: Thank you. Does the
49 Department of Fish and Game have any comments.

50

1 MR. CRAWFORD: Yes, Mr. Chair.

2

3 Regarding Wildlife Proposal 14-35, the
4 State's comments are the same, we support as modified
5 by the Office of Subsistence Management.

6

7 CHAIRMAN TOWARAK: Thank you. Any time
8 through the process if there's a question by the Board
9 just raise your hand.

10

11 Let's have the ISC comments.

12

13 MR. SHARP: Thank you, Mr. Chairman.
14 The standard ISC comments apply here also. Also the
15 InterAgency Staff Committee would like the Board, as in
16 Proposal 33, to be aware the Seward Peninsula Regional
17 Advisory Council recommendation recommended a
18 modification to the proposal to shorten the harvest
19 season. The season, as recommended, would result in a
20 shorter harvest season than afforded by -- I'm sorry,
21 since a change in the harvest season was not part of
22 the original proposal, the public and tribes and ANCSA
23 Corporations could not have been made aware that the
24 reduced harvest season would be considered -- would be
25 considered or recommended. The Board could adopt all
26 aspects of the Council's recommendation except the
27 change in harvest dates. The date changes could be
28 considered during the next regulatory cycle or as a
29 special action, if there are, indeed, any conservation
30 concerns.

31

32 Thank you, Mr. Chairman.

33

34 CHAIRMAN TOWARAK: Thank you. And I
35 assume that this situation is the same as the previous
36 one with regard to the dates, so we will incorporate
37 the ch -- we will not incorporate the change in dates
38 as requested by the Regional Advisory Council.

39

40 Mr. Smith, do you have any comments.

41

42 MR. SMITH: Well, the other thing that
43 the Seward Peninsula Regional Advisory Council
44 recommended is that we limit participation to residents
45 of Nome and Teller based on historic harvest. We had
46 two members of the community of Brevig Mission on the
47 RAC and that community is just across a channel from
48 this area but they said they had no interest in hunting
49 in that area, and it's not -- it's not particularly
50 easy to access in the falltime because of the open

1 water and they said they didn't want to access it so it
2 seemed like it was -- that allowing for participation
3 by Nome and Teller was adequate.

4
5 CHAIRMAN TOWARAK: Any questions.

6
7 (No comments)

8
9 CHAIRMAN TOWARAK: Thank you. Was
10 there any tribal consultation remarks.

11
12 MR. LORRIGAN: Mr. Chairman. There was
13 no tribal or ANCSA Corporation comments on this
14 proposal.

15
16 CHAIRMAN TOWARAK: Any discussion with
17 the Council Chairs or the State liaison by the Board.

18
19 (No comments)

20
21 CHAIRMAN TOWARAK: Not hearing any then
22 we're ready for Board action.

23
24 MR. C. BROWER: Move to approve.....

25
26 REPORTER: Charlie turn on your mic.

27
28 MR. C. BROWER: Excuse me. Mr. Chair.
29 Move to approve WP14-35 with modifications as stated.

30
31 MR. CRIBLEY: Second.

32
33 CHAIRMAN TOWARAK: Second by BLM. I
34 mean is -- is -- was -- did you have a rationale that
35 you -- I'm sorry, go ahead.

36
37 MR. ARDIZZONE: Mr. Chair. I was just
38 wondering which modifications, the RAC or the.....

39
40 MR. C. BROWER: ONC's modification --
41 OSM's modification.

42
43 CHAIRMAN TOWARAK: You heard the motion
44 and the second. Discussion.

45
46 (No comments)

47
48 MR. CHRISTIANSON: Question.

49
50 CHAIRMAN TOWARAK: Question's been

1 called for. All those in favor of the motion say aye.

2

3 IN UNISON: Aye.

4

5 CHAIRMAN TOWARAK: Any opposed, same
6 sign.

7

8 (No opposing votes)

9

10 CHAIRMAN TOWARAK: Motion passes
11 unanimously.

12

13 Thank you.

14

15 Next proposal, 14-36.

16

17 MR. MCKEE: 14-36 is on the consent
18 agenda so the next proposal is 14-38.

19

20 CHAIRMAN TOWARAK: Go ahead.

21

22 MR. MCKEE: Okay. So 14-38 was
23 submitted by BLM and it concerns Unit 22D remainder.
24 The aspects of the proposal are the -- similar to the
25 last one, eliminating the cow hunt and delegating
26 authority to BLM to restrict the number of Federal
27 permits to be issued.

28

29 More specific to Unit 22D remainder,
30 the abundance in that area has declined from 481 muskox
31 in 2010 to 344 muskox in 2012 representing a 28 percent
32 decline during that time period. The harvest quota
33 declined from 16 muskox with up to seven cows in 2008
34 to seven bulls in 2012 and 2013. Additionally seven
35 muskoxen were illegally taken out of this area in 2012.

36

37

38 So now for Rachel on the .804.

39

40 MS. MASON: This proposal concerns Unit
41 22D remainder and the C&T situation is the same as it
42 was in the last two that we considered. In the .804
43 analysis it does present the means to distinguish among
44 the communities, in that, Shishmaref and Wales can be
45 cut off because their harvest is almost exclusively in
46 Unit 22D -- I mean E. I meant in Unit 22E.

47

48 Thank you.

49

50

1 CHAIRMAN TOWARAK: Thank you. Any
2 questions.
3
4 (No comments)
5
6 CHAIRMAN TOWARAK: If not then we will
7 hear the summary of public comments. I assume it's the
8 same comments as the one previous.
9
10 MR. MCKEE: I just wanted to say that
11 the conclusion is to support with modification, similar
12 to the ones that we had in the last proposal.
13
14 CHAIRMAN TOWARAK: Okay. The Regional
15 Council recommendation, Mr. Smith.
16
17 MR. SMITH: We made -- we recommended
18 reducing the number of communities that would be
19 eligible to participate in this harvest based on
20 historic harvest and based on comments from RAC members
21 from those communities, and lack of interest in
22 accessing those lands, which are pretty remote from the
23 communities that were listed on the OSM recommendation.
24
25 CHAIRMAN TOWARAK: Thank you.
26 Questions.
27
28
29 (No comments)
30
31 CHAIRMAN TOWARAK: Thank you. The
32 Department of Fish and Game comments.
33
34 MR. CRAWFORD: Mr. Chair. The State
35 supports Wildlife Proposal 14-38 as modified by the
36 Office of Subsistence Management.
37
38 CHAIRMAN TOWARAK: Thank you.
39 InterAgency Staff Committee comments.
40
41 MR. SHARP: Yeah, Mr. Chairman. The
42 same comments from the previous proposal apply here
43 also.
44
45 CHAIRMAN TOWARAK: Thank you. I assume
46 that there are no tribal consultations.
47
48 MR. LORRIGAN: (Shakes head negatively)
49
50 CHAIRMAN TOWARAK: Thank you. Any

1 discussion between the Board and the Council Chairs or
2 the State liaison.

3

4 (No comments)

5

6 CHAIRMAN TOWARAK: Not hearing any,
7 we're ready for Board action.

8

9 MR. C. BROWER: Mr. Chair. Move to
10 approve WP14-38, support with modifications coming from
11 OSM.

12

13 MR. ARDIZZONE: Second.

14

15 CHAIRMAN TOWARAK: You heard the motion
16 and a second.

17

18 Any discussion.

19

20 Go ahead.

21

22 MR. ARDIZZONE: Mr. Chair. I just
23 wanted to voice something since I haven't heard anybody
24 talk too much on these muskox proposals. I just wanted
25 to say that in my mind shortening the seasons by two
26 months would be detrimental the satisfaction of
27 subsistence needs, which is one of the .805(c) reasons
28 to not adopt the RAC's recommendation.

29

30 MR. CHRISTIANSON: Mr. Chair.

31

32 CHAIRMAN TOWARAK: Go ahead.

33

34 MR. CHRISTIANSON: So the RAC
35 recommendation is different than OSM conclusion.

36

37 MR. ARDIZZONE: Yes.

38

39 MR. CHRISTIANSON: That's what I was
40 reading here, too, and it looked like it was a little
41 bit longer, and I wasn't sure, is that the same issue
42 we discussed earlier about the changing of the dates so
43 we would do that at a later date, if needed.

44

45 MR. C. BROWER: Yeah.

46

47 CHAIRMAN TOWARAK: So the motion reads
48 that we're accepting the original proposal as
49 recommended by the OSM.

50

1 MR. CRIBLEY: Mr. Chairman. It should
2 read that it's modified -- as.....
3
4 CHAIRMAN TOWARAK: Yeah.
5
6 MR. CRIBLEY:adopt WP14-38 for
7 Unit 22D remainder, as modified by the Seward Penn RAC
8 on Page 26, with the exception that the August 1 start
9 date retained in regulation.
10
11 CHAIRMAN TOWARAK: Okay.
12
13 MR. C. BROWER: Okay.
14
15 CHAIRMAN TOWARAK: Any objection by the
16 motion maker.
17
18 MR. PELTOLA: Charlie.
19
20 CHAIRMAN TOWARAK: No. No objection,
21 okay.
22
23 Any further discussion.
24
25 (No comments)
26
27 MR. CHRISTIANSON: Question.
28
29 CHAIRMAN TOWARAK: Question's been
30 called for. All those in favor of the motion say aye.
31
32 IN UNISON: Aye.
33
34 CHAIRMAN TOWARAK: Any opposed, same
35 sign.
36
37 (No opposing votes)
38
39 CHAIRMAN TOWARAK: Motion passes
40 unanimously.
41
42 Next proposal.
43
44 MR. MCKEE: WP14-39 concerns Unit 22B
45 and it was submitted by BLM. Again, it's requesting
46 the same thing, elimination of the cow hunt and
47 allowing the BLM field manager to restrict the number
48 Federal permits to be issued.
49
50 Specific to Unit 22B, abundance of

1 muskoxen in the unit increased from three muskoxen in
2 1992 to 420 in 2010, likely due to reproduction
3 combined with immigration from units in 22C and 22D.
4 The muskox abundance in 22B has continued to increase
5 especially west of the Darby Mountains, a 43 percent
6 increase from 2010 to 2012. However, mature bull cow
7 and yearling cow ratios have declined and harvest under
8 State and Federal regulations opened in 2001. The
9 annual harvest averages 12 muskoxen under State
10 regulations and two muskox under Federal regulations
11 between 2001 and 2012. As with other hunt areas the
12 harvest quota has declined with a quota of 16 bulls in
13 2008 and then eight bulls in 2012.

14
15 And now I'll hand it to Rachel for the
16 .804.

17
18 CHAIRMAN TOWARAK: Go ahead.

19
20 MS. MASON: The current C&T
21 determination for Unit 22B muskoxen includes the rural
22 residents of Unit 22B, which include Council, Elim,
23 Golovin, Koyuk and White Mountain in Unit 22B west of
24 the Darby Mountains and in the remainder of Unit 22B,
25 it includes rural residents of Unit 22C, Nome, which
26 residents of Nome in addition to those rural residents
27 of Unit 22B.

28
29 The .804 analysis didn't present the
30 means to distinguish among the communities that have a
31 C&T determination in the area.

32
33 MR. MCKEE: The OSM conclusion is to
34 support Proposal 14-39 with modification to, again,
35 remove reference to State Tier II permit and simply say
36 a Federal or State permit and remove the regulatory
37 language referencing harvest quotas and closures found
38 in Unit 22B muskox regulations, and delegate authority
39 to close the season, determine annual quotas, the
40 number of permits to be issued and the method of permit
41 allocation via delegation of authority letter.

42
43 And that's it for this analysis.

44
45 CHAIRMAN TOWARAK: Thank you. Do we
46 have any comments from the public through the Regional
47 Coordinator.

48
49 MR. NICK: Mr. Chair.
50

1 CHAIRMAN TOWARAK: Yes.
2
3 MR. NICK: Comment is -- public comment
4 for this proposal is same as the one I read into the
5 record.
6
7 Mr. Chair.
8
9 CHAIRMAN TOWARAK: Thank you. We don't
10 have anyone listed for public testimony on this
11 proposal so we will move on to the Regional Council
12 recommendation.
13
14 Mr. Smith.
15
16 MR. SMITH: Our recommendations are the
17 same as the last one, same as OSM's except we moved to
18 shorten the season but other than that it's the same.
19
20 CHAIRMAN TOWARAK: Thank you. The
21 Department of Fish and Game comments.
22
23 MR. CRAWFORD: The Department of Fish
24 and Game supports Wildlife Proposal 14-39 as modified
25 by the Office of Subsistence Management.
26
27 CHAIRMAN TOWARAK: Thank you.
28 InterAgency Staff Committee comments.
29
30 MR. SHARP: Mr. Chairman. The comments
31 for this proposal mirror the previous two.
32
33 Thank you.
34
35 CHAIRMAN TOWARAK: Thank you. I assume
36 that there's no tribal consultation on this proposal.
37
38 MR. LORRIGAN: (Shakes head negatively)
39
40 CHAIRMAN TOWARAK: We'll have Item 7,
41 Board discussion with Council Chairs and State liaison.
42
43 (No comments)
44
45 CHAIRMAN TOWARAK: Not hearing any
46 we're ready for Board action.
47
48 MR. CRIBLEY: Mr. Chairman. I'd like
49 to make a motion that we adopt WP14-39 for Unit 22B as
50 modified by the Seward Penn RAC on Page 20 of the

1 analysis with the exception of keeping the August 1st
2 start date currently in regulation.
3
4 MR. ARDIZZONE: Second.
5
6 CHAIRMAN TOWARAK: You heard the motion
7 and a second.
8
9 Any discussion.
10
11 Go ahead.
12
13 MR. ARDIZZONE: Mr. Chair. Similar to
14 the previous proposal, I just wanted to say, I think
15 shortening the season would be detrimental to the
16 satisfaction of subsistence needs and that's why I
17 don't support changing the date -- uses -- excuse me.
18
19 CHAIRMAN TOWARAK: Thank you.
20
21 MR. CRIBLEY: Mr. Chairman.
22
23 CHAIRMAN TOWARAK: Yes.
24
25 MR. CRIBLEY: Call for question.
26
27 CHAIRMAN TOWARAK: Question's been
28 called for. All those in favor of the motion say aye.
29
30 IN UNISON: Aye.
31
32 CHAIRMAN TOWARAK: Those opposed, say
33 sign.
34
35 (No opposing votes)
36
37 CHAIRMAN TOWARAK: Motion passes
38 unanimously.
39
40 Thank you.
41
42 MR. CHRISTIANSON: Mr. Chairman.
43
44 CHAIRMAN TOWARAK: Yes.
45
46 MR. CHRISTIANSON: It was kind of
47 brought to my attention that it seems as though we've
48 been moving through these proposals we've been kind of
49 modifying them to include what the RAC has presented to
50 us and we did a motion earlier on Proposal 35 and we

1 went with the OSM conclusion and didn't include the RAC
2 recommendation as we have been doing on the preceding
3 proposals, so I don't know if we want to go back and
4 make the same assessment of that proposal and maybe
5 reconsider including the RAC recommendation to limit
6 that to the two communities that were spelled out in
7 the .804 priority. It was just brought to my attention
8 so I'm just kicking it out there.

9

10 So it was Proposal 35.

11

12 MR. C. BROWER: Need to make an
13 amendment.

14

15 MR. LORD: Mr. Chair. Under the Board
16 meeting guidelines, this is a good catch, we are
17 currently making proposals on -- or, I'm sorry, motions
18 on a proposal, because we discovered that that was a
19 clearer process. And so, I don't know, I think the
20 record is clear up to this point what the Board
21 intended, which really is the ultimate goal.

22

23 MR. CHRISTIANSON: Okay.

24

25 MR. LORD: So whatever you want to do,
26 Mr. Chair.

27

28 CHAIRMAN TOWARAK: Tell me what to do.

29

30 (Laughter)

31

32 MR. CHRISTIANSON: Okay. I guess right
33 now I'm looking at a whole bunch of heads saying motion
34 to reconsider the motion on Proposal WP14-35 to
35 reconsider the RAC recommendation to limit that to the
36 two communities as described on Page 2 of that -- or
37 Page 26 -- I'm looking at two different things here.

38

39 MR. C. BROWER: Second.

40

41 MR. CHRISTIANSON: Yes.

42

43 CHAIRMAN TOWARAK: You heard the motion
44 and a second to reconsider our previous vote. Any
45 objections to the motion.

46

47 (No objections)

48

49 CHAIRMAN TOWARAK: Motion passes
50 unanimously. The floor is open for re-voting or re-

1 acting on the original proposal.
2
3 MR. CHRISTIANSON: So is the floor open
4 for a motion.
5
6 CHAIRMAN TOWARAK: Yes.
7
8 MR. CHRISTIANSON: So the motion, I
9 guess, would be to go ahead and accept WP14-35 as the
10 OSM conclusion to support the proposal with the
11 Regional Advisory Council's recommendation that Nome
12 and Teller be included.
13
14 MR. C. BROWER: Second.
15
16 CHAIRMAN TOWARAK: Oh, yes.....
17
18 MR. ARDIZZONE: Could I have a
19 clarification, are we going to use the shorter dates or
20 the longer dates.
21
22 MR. CHRISTIANSON: I think that's why I
23 was saying, I don't think we're touching dates at this
24 time, are we.
25
26 MR. CRIBLEY: No. You're
27 accepting.....
28
29 CHAIRMAN TOWARAK: You're moving to
30 accept the OSM recommendation along with the
31 recommendations from the Advisory Council.
32
33 MR. CHRISTIANSON: Yeah. For Nome and
34 Teller. Yeah, just to stick with the September date,
35 just like the other ones, it's just consistent, I mean
36 that's what they brought to my attention, we had it --
37 we were doing something consistent here across the
38 Board and we did an inconsistent call earlier on the
39 first proposal so we're bringing it back to stay
40 consistent through it all. I guess if there's a
41 timeframe issue then there's a timeframe issue on all
42 the proposals.
43
44 MR. CRIBLEY: Mr. Chairman.
45
46 CHAIRMAN TOWARAK: Yes.
47
48 MR. CRIBLEY: Could I suggest if I --
49 would it help if I restated it in one statement rather
50 than how we've done that -- how we've done it up to

1 this point.
2
3 MR. CHRISTIANSON: I would second that.
4
5 (Laughter)
6
7 CHAIRMAN TOWARAK: Let's go ahead and
8 do that. We'll change.....
9
10 MR. CRIBLEY: Okay.
11
12 CHAIRMAN TOWARAK:the motion
13 maker to Mr. Cribley.
14
15 MR. CRIBLEY: Okay. I guess what we
16 would recommend is that we adopt WP14-35 for Unit 22D
17 Southwest as modified by the Seward Penn RAC, as shown
18 on Page 26 of the analysis, however, with the
19 modification that we retain the September 1st start
20 date currently in the regulation.
21
22 MR. CHRISTIANSON: Second that.
23
24 MR. CRIBLEY: Thank you.
25
26 CHAIRMAN TOWARAK: Thank you. Any
27 discussion on the motion.
28
29
30 (No comments)
31
32 MR. C. BROWER: Question.
33
34 CHAIRMAN TOWARAK: Question's been
35 called for. All those in favor of the motion say aye.
36
37 IN UNISON: Aye.
38
39 CHAIRMAN TOWARAK: Any opposed, same
40 sign.
41
42 (No opposing votes)
43
44 CHAIRMAN TOWARAK: Motion passes
45 unanimously.
46
47 MR. CRIBLEY: Are we back in order.
48
49 (Laughter)
50

1 CHAIRMAN TOWARAK: Go ahead.
2
3 MR. ARDIZZONE: Yeah, Mr. Chair. I just
4 wanted to make my standard statement that, you know, I
5 think that shortening the season would be detrimental
6 to the satisfaction of subsistence uses so that's why I
7 didn't vote for the shorter season.
8
9 CHAIRMAN TOWARAK: The next proposal.
10
11 MR. MCKEE: As indicated 41 is not --
12 is now on the consensus agenda so we're done with
13 muskox.
14
15 So if I'm correct I believe the next
16 proposal is WP14-50.
17
18 MR. C. BROWER: What.
19
20 MR. SHIEDT: 50.
21
22 MR. C. BROWER: In the big book.
23
24 MR. MCKEE: Yes, in the big book.
25
26 CHAIRMAN TOWARAK: Go ahead.
27
28 MR. MCKEE: So WP14-50 begins on Page
29 152 of your meetings material booklet and before I get
30 started into the analysis I just want to correct a typo
31 that's in the analysis there. The existing Federal
32 regulations that are in the analysis as you see it,
33 state the dates as August 10 to June 30th, and the
34 correct dates are July 1 to June 30th, so I just wanted
35 to point that out right from the start.
36
37 Proposal WP14-50 was submitted by the
38 Eastern Interior Regional Advisory Council and requests
39 that brown bears be allowed to be hunted over bait in
40 Unit 25D. The proponent states that hunters should be
41 allowed to harvest brown bears that show up black bear
42 bait stations and that brown bears are at high
43 densities in the unit. Furthermore, the proponent
44 states that hunting of brown bears over bait has been
45 done in the area for generations in both the spring and
46 fall seasons. The proponent has submitted a similar
47 proposal to the Alaska Board of Game for Unit 25D with
48 the intention of aligning Federal and State regulations
49 in place in Units 12, 20C, 20E and 21D, and the State
50 Board of Game adopted this companion proposal at its

1 February 2014 meeting. And the proposal allows for
2 brown bears to be taken over black bear bait stations
3 in Unit 25D by both residents and non-residents.

4
5 The current population estimates for
6 brown bears in Units 25A, B and D are based on
7 extrapolations from studies done in the 1980s and 1990s
8 with an estimated 1,200 brown bears. The estimated
9 densities and population sizes vary slightly between
10 the units in the mountainous portions of 25 -- excuse
11 me -- in the mountainous portions of 25C they
12 determined there was a medium density between 1.3 and
13 2.6 bears per 100 square miles, again, based on
14 extrapolations from studies.....

15
16 CHAIRMAN TOWARAK: Excuse me, Chris.

17
18 MR. MCKEE: Yes.

19
20 CHAIRMAN TOWARAK: We'd like to -- I
21 guess there's a couple of Board members that would like
22 to be present for discussions on this.....

23
24 MR. MCKEE: Okay.

25
26 CHAIRMAN TOWARAK:particular
27 proposal so if we could set this aside and do it first
28 thing tomorrow morning.

29
30 MR. MCKEE: Okay.

31
32 CHAIRMAN TOWARAK: The Fish and
33 Wildlife Service director will be here, he would like
34 to participate in that conversation.

35
36 MR. MCKEE: Okay. So do you want to
37 move on to the next one on the list or.....

38
39 CHAIRMAN TOWARAK: Yes, uh-huh.

40
41 MR. C. BROWER: So 55.

42
43 CHAIRMAN TOWARAK: 53.

44
45 (Pause)

46
47
48 CHAIRMAN TOWARAK: 14-53 is on Page
49 163.

50

1 MR. EVANS: Good evening, Mr. Chairman.
2 Members of the Board. Members of the RAC. My name is
3 Tom Evans. I work as a wildlife biologist for the
4 Office of Subsistence Management and I'll be presenting
5 the next three proposals from the North Slope.

6
7 Proposal 14-53, as mentioned already,
8 is on Page 163 of your Board book, requests that the
9 boundary for Unit 26A, that portion west of 156 degrees
10 longitude and excluding the Colville River drainage be
11 changed to 155 degrees west longitude to allow for
12 moose hunting in the Alaktak and Chip River drainages.
13 The map for this is on Page 165, if you want to look at
14 that.

15
16 In 2004 the Federal Subsistence Board
17 adopted Proposal WP04-85 which established the 156
18 degree west longitude boundary to match the new State
19 regulation, and it also aligned the season and harvest
20 limits to the State Board of Game recommendations. It
21 was originally established to protect the small moose
22 population on the Chip River.

23
24 The moose population reached a high of
25 1,533 in 1991, declined to 326 in 1999, increased to
26 1,180 in 2008 and declined to 609 in 2011. The
27 declines from 2008 to 2011 are primarily the result of
28 high adult mortality and poor calf survival due to
29 probably a combination of factors, such as
30 malnourishment, bacterial diseases and predation by
31 brown bears and wolves as well as severe winters.
32 Moose in Unit 26 are at the extreme edge of their
33 distribution and are limited by marginal habitat
34 usually confined to the river drainages during the
35 winter and are more vulnerable to severe winter weather
36 than populations in areas in Federal habitat.

37
38 The average annual moose harvest in
39 Unit 26A was 57 until 1995. Between 1996 and 2004 the
40 average dropped to four per year and from 2005 to 2010
41 the harvest averaged 10 per year.

42
43 If Proposal 14-53 were adopted it would
44 allow hunters to take any moose except a cow and a
45 calf, or a cow -- except a calf or a cow accompanied by
46 a calf from July 1st to September 14th when they're at
47 their traditional hunting and fishing areas on the Chip
48 River and the Alaktak River drainages.

49
50 Changing the boundary from 156 to 155

1 would add approximately 365 square miles to Unit 26A
2 and decrease the area available to Federally-qualified
3 subsistence users in Unit 26A remainder by the same
4 amount.

5
6 OSM's conclusion is to oppose Proposal
7 WP14-53.

8
9 Due to the small population and current
10 decline, even the take of a few moose is likely to
11 cause the population to continue to decline or slow the
12 recovery of this moose population. It would also bring
13 the Federal and State regulations out of alignment.

14
15 That's it.

16
17 CHAIRMAN TOWARAK: Thank you. Do we
18 have any public comments through the Regional Council
19 Coordinator.

20
21 MS. PATTON: Mr. Chair. Members of the
22 Board. For the record Eva Patton, OSM, Council
23 Coordinator for the North Slope Regional Advisory
24 Council.

25
26 There are no written comments from the
27 public for this proposal.

28
29 Thank you.

30
31 CHAIRMAN TOWARAK: Thank you. Do we
32 have any requests for -- we don't have any requests for
33 public testimony. We will move then to the Regional
34 Council recommendations.

35
36 Mr. Brower.

37
38 MR. H. BROWER: Thank you, Mr. Chair.
39 Council recommendation was support, contrary to OSM's
40 preliminary recommendation to oppose.

41
42 The Council discussed that the hunting
43 moose is opportunistic when they happen to wander in
44 the area and reaching these areas on the Chip River are
45 limited to times when the water conditions are just
46 right to be accessible by boat. The Council felt that
47 actual harvest impacts to the moose population would be
48 minimal in that area.

49
50 In regards to the justification, the

1 Council discussed that the hunting moose is
2 opportunistic when they happen to wander in the area
3 and reaching these areas on the Chip River are limited
4 to times when the water conditions are just right to be
5 accessible by boat.

6

7 The Council thus felt that actual
8 harvest impacts to the moose population would be
9 minimal -- minimal in this area.

10

11 Mr. Chair.

12

13 CHAIRMAN TOWARAK: Thank you. Do we
14 have any comments from the Department of Fish and Game.

15

16 MR. CRAWFORD: Yes, Mr. Chair. The
17 Department's recommendation for Wildlife Proposal 14-53
18 is do not adopt. The moose population in Ikpikpuk
19 [sic] drainage is still at very low numbers.
20 Harvesting cow moose anywhere in the drainage will only
21 slow or stop any chance of recovery.

22

23 CHAIRMAN TOWARAK: Thank you.
24 InterAgency Staff Committee comments.

25

26 MR. SHARP: The standard comments.

27

28 CHAIRMAN TOWARAK: Standard, thank you.

29

30 No tribal consultation comments.

31

32 MR. LORRIGAN: (Shakes head negatively)

33

34 CHAIRMAN TOWARAK: Any discussion
35 between the Chairs and the State liaison with the
36 Board.

37

38 (No comments)

39

40 CHAIRMAN TOWARAK: Not hearing any,
41 we're ready for Board action.

42

43 MR. CRIBLEY: Mr. Chair.

44

45 CHAIRMAN TOWARAK: Yes.

46

47 MR. CRIBLEY: The BLM moves to adopt
48 Proposal WP14-53 and with a second I'd like to explain
49 why I'm opposed to the RAC's proposal.

50

1 MR. C. BROWER: Second.
2
3 MR. ARDIZZONE: Second.
4
5 CHAIRMAN TOWARAK: You heard the motion
6 and the second. Please proceed.
7
8 MR. CRIBLEY: Okay. The North Slope
9 RAC's proposal creates a likelihood of exacerbating an
10 ongoing conservation concern for the small struggling
11 moose population in the Alaktak and Chip River areas.
12 According to ADF&G the original boundary at 56 [sic]
13 west longitude was established to protect moose in this
14 area and conditions have apparently not changed
15 sufficiently to warrant the boundary change. The
16 additional allowance of a cow harvest would further
17 violate recognized principles of fish and wildlife
18 conservation.
19
20 Thank you.
21
22 CHAIRMAN TOWARAK: Any further
23 discussion on the motion.
24
25 MR. LOUDERMILK: Mr. Chair. I would
26 like to adopt that we be consistent with the North
27 Slope region, the RAC, as per the Council's discussion,
28 actual harvest impacts to moose populations in this
29 portion of Unit 26A are likely to be minimal if these
30 areas were added to the hunt.
31
32 Was that out of order.
33
34 CHAIRMAN TOWARAK: There's an existing
35 motion, and the motion was to adopt this resolution,
36 but you spoke in favor of not voting -- voting no, so
37 that motion is on the floor. You could make a motion
38 to amend the original motion if yours differs.
39
40 (Pause)
41
42 CHAIRMAN TOWARAK: We were -- the floor
43 is currently working on Mr. Cribley's motion. So the
44 motion to amend is for -- to change -- a different
45 motion is not in order.
46
47 MR. C. BROWER: I support -- I
48 mean.....
49
50 MR. LOUDERMILK: We'll just go ahead

1 with discussion, correct.

2

3 CHAIRMAN TOWARAK: Yes.

4

5 MR. LOUDERMILK: Okay. Very good.

6

7 CHAIRMAN TOWARAK: Yes, go ahead.

8

9 MR. ARDIZZONE: Mr. Chair. I believe
10 the moose population in Unit 20A is low and expanding
11 the hunt area in Unit 26 could cause some conservation
12 concerns for moose in the area and, thus, would violate
13 the recognized principles of fish and wildlife
14 conservation and that would be my reason for voting
15 against this.

16

17 CHAIRMAN TOWARAK: Any further
18 discussion.

19

20 MR. CHRISTIANSON: Mr. Chair.

21

22 CHAIRMAN TOWARAK: Yes.

23

24 MR. CHRISTIANSON: The last meeting the
25 one thing, I know that we were supposed to give
26 deference on and the only thing that was clearly
27 defined was deference to the RAC in the taking of fish
28 and game, and this clearly is one of those instances
29 where the RAC is recommending to increase the
30 subsistence harvester's opportunity to meet the need.
31 And in representing the rural seat I'm going to have to
32 take that position.

33

34 MR. RABINOWITCH: Mr. Chairman.

35

36 CHAIRMAN TOWARAK: Yes.

37

38 MR. RABINOWITCH: I read, with
39 interest, Geoff Carroll's concerns that are written in
40 this and probably most people know but Geoff's been in
41 place there a very long time in Barrow, and I think as
42 both a strong supporter of subsistence and at the same
43 time he has a job to do with Fish and Game and so I
44 find his -- the comments that are written in this
45 analysis, about his concerns, I find those persuasive,
46 so I will support the motion also. The motion being to
47 support the OSM recommendation to oppose, just for
48 clarity.

49

50 CHAIRMAN TOWARAK: The motion on the

1 floor, if I remember right, is to pass the motion -- or
2 pass the resolution, but you are recommending that we
3 vote no on it.

4

5 MR. CRIBLEY: That's correct, I oppose
6 the motion.

7

8 MR. RABINOWITCH: Mr. Chairman. I
9 think I added a little confusion there, I'm going to
10 vote as is Mr. Cribley. I think the biological
11 arguments are strong and are a solid reason to go in
12 that direction, whereas, if you will, not supported by
13 substantial evidences.

14

15 (Laughter)

16

17 MR. RABINOWITCH: Did I mention that I
18 was T-I-R-E-D also.

19

20 (Laughter)

21

22 CHAIRMAN TOWARAK: For the -- for the
23 -- for clearance to the record that we've -- have
24 directions here, if our position is contrary to a
25 Council's recommendation you must support your position
26 with rationale that addresses at least one of the three
27 criteria from Section .804(c). You may reject the
28 Council's recommendation when it is:

29

30 1. Not supported by substantial
31 evidence.

32

33 2. Violates recognized principles of
34 fish and wildlife conservation, or

35

36 3. Would be detrimental to the
37 satisfaction of subsistence needs.

38

39 And which category are you.

40

41 MR. CRIBLEY: We're recognizing that --
42 or we feel that this violates recognized principles of
43 fish and wildlife conservation.

44

45 CHAIRMAN TOWARAK: Okay.

46

47 MR. C. BROWER: Mr. Chair.

48

49 CHAIRMAN TOWARAK: Yes.

50

1 MR. C. BROWER: Also it should be noted
2 that the decline of the population is not due to
3 hunting but due to Mother Nature. And I just want to
4 make that known that, you know, the hunting hasn't been
5 the cause of decline but -- as stated in here, from
6 Geoff, that the disease mineral, predation by brown
7 bears and wolves and severe winter and weather and
8 competition with snow here. So I just wanted to point
9 that out.

10

11 CHAIRMAN TOWARAK: Go ahead.

12

13 MR. CRIBLEY: Mr. Chair. Add to the
14 discussion here is we recognize that -- or we don't --
15 we don't recog -- or we're not making the statement
16 that the reason for the decline is due to hunting and
17 we're not calling for the closing of the hunting season
18 or stopping of the hunting because of the decline,
19 we're just opposed, or we feel that this violates
20 principles by increasing the size of the hunting area.

21

22 So they'd still be able to do
23 subsistence hunting, it's just the area that
24 traditionally been available, it would stay within the
25 area that has been traditionally available and not
26 expand it, during the time when the herd is in decline.

27

28 I guess I'd call for question.

29

30 CHAIRMAN TOWARAK: Okay. Question's
31 been called for. All those in favor of the motion say
32 aye.

33

34 MR. LOUDERMILK: Aye.

35

36 MR. CHRISTIANSON: Aye.

37

38 MR. C. BROWER: Aye.

39

40 MR. OWEN: The motion is to oppose.

41

42 CHAIRMAN TOWARAK: And those that
43 oppose, say nay.

44

45 IN UNISON: Nay.

46

47 CHAIRMAN TOWARAK: The nay's have it.

48

49 REPORTER: Hold on one second, can I
50 check the votes, it wasn't clear. Tony.

1 MR. CHRISTIANSON: Yeah, I voted to
2 support the RAC.
3
4 REPORTER: Okay. Anybody else.
5
6 MR. C. BROWER: Yeah, I did.
7
8 MR. LOUDERMILK: It was to support the
9 RAC, correct.
10
11 REPORTER: I have three nay's, but only
12 a few microphones were on so I just want to make sure
13 it's clear in the record who they were.
14
15 UNIDENTIFIED VOICE: You better revote
16 on a roll call.
17
18 MR. LOUDERMILK: I believe there's some
19 confusion, it's we are all T-I-R-E-D here, but.....
20
21 MR. CHRISTIANSON: Mr. Chair. The
22 motion was a positive motion to support the proposal,
23 then you vote it down, that was what Mr. Cribley's
24 intention was there. I believe what happened here
25 there's a couple of gentlemen here who misunderstood it
26 and I think the vote would actually be three to
27 something, am I correct.
28
29 MR. LOUDERMILK: To support, yes.
30
31 MR. CHRISTIANSON: To support the RAC,
32 so there would be three of us, that would be myself,
33 Mr. Loudermilk and Mr. Brower.
34
35 REPORTER: Yes, thank you, that's what
36 I needed, I just needed to know the three who voted in
37 support identified clearly, there were no mics on other
38 than a couple, thank you. I'm sorry.
39
40 MR. RABINOWITCH: If I could suggest
41 that I think the statement's about confusion are true.
42 I think if the motion were restated, just to repeat it,
43 and then we voted again there would be clarity and I
44 think that's important.
45
46 CHAIRMAN TOWARAK: I -- what are the
47 Robert's Rules of Order.
48
49 MR. CRIBLEY: We already voted.
50

1 CHAIRMAN TOWARAK: Yeah, the vote has
2 already taken place and it has been -- it was defeated.
3 For the record, for those that want to change their
4 vote, could we just note in our record that one nay
5 vote was meant to be a yes vote so that would make it
6 three that opposed -- I mean that voted in favor of the
7 motion and the rest opposed. Is that a clear enough
8 record.

9
10 MR. LORD: So, Mr. Chair, the proposal
11 fails.

12
13 CHAIRMAN TOWARAK: Yes.

14
15 MR. LORD: Okay.

16
17 MR. CHRISTIANSON: Yes.

18
19 (Laughter)

20
21 CHAIRMAN TOWARAK: I think we're
22 reaching a point where rationale is disappearing so I'm
23 going to call for a recess until 8:30 tomorrow morning
24 and we will attack as many of the proposed -- proposals
25 as we can tomorrow with the intent of finishing
26 tomorrow night. I think that's our goal.

27
28 (Laughter)

29
30 (Off record)

31
32 (PROCEEDINGS TO BE CONTINUED)

