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FEDERAL SUBSISTENCE BOARD

PUBLIC MEETING

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

July 18, 2012
9:00 o'clock a.m.

MEMBERS PRESENT:

- Tim Towarak, Chairman
- Charles Brower
- Anthony Christianson
- Bud Cribley, Bureau of Land Management
- Joel Hard, National Park Service
- Geoff Haskett, U.S. Fish and Wildlife Service
- Wayne Owen, U.S. Forest Service
- Gene Virden, Bureau of Indian Affairs
- Ken Lord, Solicitor's Office

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

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3 (Anchorage, Alaska - 7/18/2012)

4
5 CHAIRMAN TOWARAK: Good morning. My
6 name is Tim Towarak. I'm the chairman of Federal
7 Subsistence Board. I want to call this Board meeting
8 to order. We'll wait a minute while our telephone gets
9 hooked up.

10
11 I'd like to welcome everyone to this
12 Board meeting. I'd like to begin the process with
13 introductions and let's start with my right and go
14 around the table here with the front table.

15
16 MR. CHRISTIANSON: Anthony
17 Christianson.

18
19 MR. OWEN: Wayne Owen representing the
20 USDA Forest Service, Alaska Region. I'm the alternate
21 for Beth Pendleton, Regional Forester.

22
23 MR. HARD: Joel Hard representing the
24 National Park Service for Sue Masica.

25
26 MR. CRIBLEY: Bud Cribley with the
27 Bureau of Land Management.

28
29 MR. VIRDEN: Gene Virden, Bureau of
30 Indian Affairs.

31
32 MR. HASKETT: Geoff Haskett, U.S. Fish
33 and Wildlife Service.

34
35 MR. BROWER: Charles Brower, Barrow.

36
37 MR. LORD: Ken Lord with the
38 Solicitor's Office.

39
40 MR. PROBASCO: Good morning. Pete
41 Probasco with the Office of Subsistence Management.

42
43 CHAIRMAN TOWARAK: Thank you. Oh, I'm
44 sorry. Jennifer.

45
46 MS. YUHAS: Jennifer Yuhas representing
47 the State of Alaska.

48
49 CHAIRMAN TOWARAK: Welcome. I see Pat
50 Pourchot also from the Secretary's Office here in

1 Anchorage. Welcome, Pat. We will continue on with the
2 Board meeting. The next item on the agenda is the
3 review of the agenda. Pete.

4
5 MR. PROBASCO: Thank you, Mr. Chair. I
6 just have a couple clarifications for the agenda. When
7 the Board goes into executive session, we will have a
8 discussion on a paper that's been developed for the
9 Board's review on the 2014 budget. The Board has been
10 asked by the Secretary's Office to look at the 2014 and
11 make recommendations back to the Department of
12 Interior.

13
14 As far as agenda Item No. 6 and the
15 public session, the update on the Memorandum of
16 Understanding, actually that's an action item. What
17 we're seeking -- what Staff is seeking is a green light
18 from the Board to take this draft document out to the
19 Regional Advisory Councils, the public and the tribes.
20 The Federal Staff and the State Staff have been working
21 on this throughout the spring and summer and we're
22 ready to go forward if you concur, so that's going to
23 be an action item.

24
25 Thank you, Mr. Chair.

26
27 CHAIRMAN TOWARAK: Thank you. Are
28 there any other items anyone else would like to bring
29 up on the agenda.

30
31 (No comments)

32
33 CHAIRMAN TOWARAK: Not hearing any.
34 Then we will continue on to information exchange. The
35 floor is open.

36
37 MR. PROBASCO: Just real quick, Mr.
38 Chair. I just wanted to inform the Board that the
39 Native liaison we made the appointment with a few
40 months back, Jack Lorrigan, he'll be here at the end of
41 the month. He comes to us from the Forest Service from
42 Sitka. When Jack gets here, we have a big pile of
43 stuff for him to deal with, so we're anxiously waiting
44 for his arrival, so it's going to be good to have that
45 Native liaison position in action.

46
47 Mr. Chair.

48
49 CHAIRMAN TOWARAK: Thank you. Anything
50 else. Jennifer, go ahead.

1 MS. YUHAS: Thank you, Mr. Chairman.
2 First of all, since the last time we've all gathered
3 together in March we've hired a new fisheries liaison
4 in the State liaison office. His name is Drew
5 Crawford. He probably is familiar to several of our
6 other fisheries managers. He's been helping with the
7 proposals and can't wait for you to get to meet him.
8

9 With regards to agenda Item No. 9, I
10 spoke to Pete a little bit earlier this week and the
11 State will have official comments to submit to you. We
12 did not participate in the ISC meeting. We were not
13 made aware of that meeting, so we didn't have the
14 opportunity and there's no State comments provided in
15 what you've received today.
16

17 CHAIRMAN TOWARAK: Thank you, Ms.
18 Yuhas. Good morning, Charlie. We will continue on if
19 that's all we have on information exchange to public
20 comment period on non-agenda items.
21

22 (No comments)
23

24 MR. PROBASCO: Mr. Chair. I have had
25 no public come forward that would like to testify at
26 this time.
27

28 CHAIRMAN TOWARAK: We will leave that
29 open and if anyone wishes to testify please see the
30 Staff.
31

32 (No comments)
33

34 CHAIRMAN TOWARAK: For those online do
35 you have any non-agenda items that you would like to
36 make any comments on.
37

38 (No comments)
39

40 CHAIRMAN TOWARAK: Not hearing any,
41 then we will continue on.
42

43 OPERATOR: It does look like we do have
44 someone coming up.
45

46 CHAIRMAN TOWARAK: Okay, we will wait.
47

48 MR. CARPENTER: Thank you. I have no
49 comments at this time and on line for the Southcentral
50 RAC.

1 CHAIRMAN TOWARAK: We also have
2 Rosemary on from the North Slope RAC, Harry Brower from
3 the North Slope, Ernie Weiss and Robert Larson. We
4 will continue on with the meeting then with Item No. 5,
5 status report on the extraterritorial jurisdiction
6 issue. Do we have Staff making that presentation? Mr.
7 Owen.

8
9 MR. OWEN: Mr. Chairman. I could
10 update the Board on the status of that letter. The
11 last report -- and I was just checking right now. At
12 our last report the letters as drafted by the committee
13 had been approved by the Secretary of Agriculture and
14 we're now currently working through the signature
15 process at Interior. Everything's a go and I don't
16 know if Pat has an update.

17
18 CHAIRMAN TOWARAK: Go ahead, Pat.

19
20 MR. POURCHOT: Pat Pourchot, Office of
21 the Secretary of Interior. This morning the letter was
22 approved for signature. It was the copy with the
23 Secretary of Agriculture's signature that came over, so
24 hopefully today that will be signed and out.

25
26 Thank you.

27
28 CHAIRMAN TOWARAK: Are there any
29 questions of the ETG process?

30
31 MR. OWEN: ETJ process.

32
33 CHAIRMAN TOWARAK: ETJ process. Is
34 there someone in the back that would like to ask a
35 question.

36
37 MR. PROBASCO: Gloria Stickwan.

38
39 CHAIRMAN TOWARAK: Gloria.

40
41 MS. STICKWAN: Good morning. My name
42 is Gloria Stickwan. It wasn't really a question. I
43 wanted to testify on a non-agenda item, but I was too
44 late, I guess.

45
46 CHAIRMAN TOWARAK: You've got such a
47 soft voice. If I could get you to get a little closer
48 to the mic we could hear you better.

49
50 MS. STICKWAN: I wanted to testify on a

1 non-agenda item.

2

3 CHAIRMAN TOWARAK: You have the floor.

4

5 MS. STICKWAN: I just wanted to say
6 that AHTNA wrote a letter to the Federal Subsistence
7 Board about including the size of moose antlers in Unit
8 13 and the width and we got a response from OSM. I
9 understand it's up to the Office of Budget and
10 Management to approve of this, but I just want to go on
11 record saying that it's a concern in our area because
12 we at AHTNA administer the community subsistence hunt
13 and one of the things we have to do in our report is to
14 report the Federal take for the size of moose and how
15 any brow tines the antlers are and how many brow tines
16 there are and who shot the moose. It has to be given
17 in a report to Alaska Department of Fish and Game and
18 we just wanted that to be included in the Federal
19 harvest tickets. I'm just here to put that on record.
20 I understand it's in the Office of Budget and
21 Management right now.

22

23 That's my understanding.

24

25 CHAIRMAN TOWARAK: Thank you. Mr.
26 Ardizzone.

27

28 MR. ARDIZZONE: Mr. Chair. We did
29 receive the letter and we responded. We do want to
30 collect the data on the request, but we have to get
31 approval for our permits through OMB and currently we
32 don't have approval to collect that data, but we are
33 going through the review process to get that added. It
34 probably won't be effective until January 2013.

35

36 CHAIRMAN TOWARAK: Okay. Gloria, your
37 letter has entered the process and I think it will go
38 through the system and we will address it at the
39 appropriate time.

40

41 Ms. Yuhas.

42

43 MS. YUHAS: Thank you, Mr. Chairman.
44 If there's anything the State can do for the letter
45 would be helpful or if it would not be helpful and
46 you'd like us not to write one, just please give us
47 some direction on how we can assist with that.

48

49 CHAIRMAN TOWARAK: Okay.

50

1 MR. PROBASCO: Mr. Chair. I don't
2 think there's going to be any problem getting the
3 approval to add that information. It's a bureaucratic
4 process that takes time. We've already initiated that.
5 It just won't be until 2013 that we get to collect
6 that.

7
8 CHAIRMAN TOWARAK: Thank you. We were
9 on Item No. 5, the extraterritorial jurisdiction issue.
10 If there are no other comments to be made on that, we
11 will continue on then to Item No. 6, which is update on
12 Memorandum of Understanding between the Federal
13 Subsistence Board and the State of Alaska. I
14 understand there's an action item here.

15
16 Mr. Probasco.

17
18 MR. PROBASCO: That's correct, Mr.
19 Chair. The lead on this will be Mr. Sandy Rabinowitch
20 and Mr. Steve Kessler. They are two of the four
21 Federal members that work on the MOU working group on
22 behalf of the Board. The other two are myself and
23 Jerry Berg and then Jennifer Yuhas from the State side.

24
25 Mr. Chair, I'd turn it over to those
26 three individuals.

27
28 CHAIRMAN TOWARAK: Thank you. You have
29 the floor.

30
31 MR. KESSLER: Thank you, Mr. Chairman
32 and members of the Board. I'll start and then Sandy
33 and Jennifer will add in information as needed. If you
34 have hard questions for us, they can answer them as Mr.
35 Bert Adams would say.

36
37 (Laughter)

38
39 MR. KESSLER: The Memorandum of
40 Understanding is behind the first tab in your book and
41 it says Memorandum of Understanding. This is a draft
42 that has been worked through carefully with changes and
43 comments on it. It's followed by a short briefing
44 paper. There's sort of a blue page, I believe, in your
45 book and then right behind the book there's a briefing
46 paper and I'm going to be going through that briefing
47 paper. Does everybody have that, I hope?

48
49 As Pete said, we have an MOU working
50 group whose members are Jennifer from the State, Pete

1 Probasco, Sandy Rabinowitch, Jerry Berg and myself. We
2 met over the winter to review the RAC comments and
3 other comments that were received and developed
4 proposed modifications to the 2008 MOU. This revised
5 version has been prepared for your review and that's
6 what's in the book with notes, including the rationale
7 for all the recommended changes.

8

9 As you look at those recommended
10 changes, you'll see that every comment that we received
11 from a Regional Advisory Council has been incorporated
12 in some way into each of those comments. In some
13 cases, there may be a comment that was not responded to
14 in any way. You'll find that in a comment in the right
15 side of this document. Or there might have been
16 multiple Regional Advisory Councils that asked for
17 similar changes and where there were multiple Regional
18 Advisory Councils that suggested similar changes that
19 would be listed here in these comments also.

20

21 Today what we're requesting is your
22 approval to distribute the draft MOU for comment to the
23 Regional Advisory Councils, to the State advisory
24 committees and the public and to tribes in ANCSA
25 corporations for consultation.

26

27 We've listed here in this briefing
28 paper some of the noteworthy modifications to this
29 document and these are also mostly listed on the last
30 page of the MOU with the draft changes on Page 9 where
31 it says global comments.

32

33 The general changes, the plain
34 language, several Councils requested that plain
35 language be used whenever possible. A few changes were
36 made in response as indicated in the document, so you
37 can go into the document, you can see it says under
38 preamble we changed a couple words and we said plain
39 English consistent with Southeast, Yukon-Kuskokwim
40 Delta and Northwest Arctic Regional Advisory Council
41 comments. So we've got quite a bit of detail in those
42 comments about how those changes might have been made.

43

44 We also would appreciate from the
45 Councils and other reviewers if there are other changes
46 that they might suggest. We thought about how to turn
47 this into plainer language and it's very difficult. So
48 we're asking for some help from the reviewers.

49

50 There's been some re-ordering that has

1 been done within the document to consistently place
2 Federal language before State language as this MOU
3 focuses on the Federal Subsistence Program and Federal
4 public lands. For instance, if you take a look at Page
5 1, you'll see that the first whereas, which is the
6 State of Alaska, whereas the State of Alaska under its
7 laws and regulations, et cetera, has been changed and
8 moved under the whereas for the Secretaries of
9 Agriculture and the Interior. There have been a number
10 of changes associated with just any consistency. The
11 previous document sometimes had the State first,
12 sometimes the Federal first. We made Federal first
13 consistently. Part of this is to respond to multiple
14 Councils' concerns about the tone of the MOU.

15

16 Jennifer has a comment on this one.

17

18 MS. YUHAS: Thank you, Mr. Chairman. I
19 was simply asked to place on the record that while
20 we've agreed to the language to go to draft and that
21 this was not any sort of a deal breaker that several in
22 leadership did see this change as unnecessary. While
23 the general tone of the MOU was expressed as a
24 necessary change by several of the RACs, the specific
25 change of the reordering was seen as somewhat of a
26 slight to several of our leadership. Not in and of
27 itself a deal-breaker, but something they wanted to
28 note on the record even though we are agreeing to move
29 forward.

30

31 CHAIRMAN TOWARAK: Thank you.

32

33 MR. KESSLER: Then there are some
34 specific changes in here. The first one I want to
35 speak to is traditional ecological knowledge or TEK.
36 Multiple Councils wanted to add TEK wherever scientific
37 information was discussed. We have responded by
38 adopting the ANILCA terminology, which is the knowledge
39 of customary and traditional uses. That's been put in
40 here in a number of places and provides clarity and
41 it's consistent with ANILCA. With traditional
42 ecological knowledge there are lots of different
43 interpretations of that and we decided that customary
44 and traditional uses was more consistent with ANILCA
45 and with the general themes that we hear when we talk
46 to people in rural Alaska.

47

48 Predator management. There were a
49 number of comments specific to active management and
50 its application to the Federal program. We interpreted

1 that as a desire by some of the Regional Advisory
2 Councils to have the Federal program more involved in
3 predator management. We added to the MOU a section
4 that quotes from the Board's predator management
5 policy. That you can find on Page 3 near the top.
6 Although that's not consistent with what Regional
7 Advisory Councils generally wanted, which would be more
8 active management, it is the Board's policy that issues
9 associated with predator control and habitat management
10 are the responsibility of the individual land
11 management agencies and not the Federal Subsistence
12 Board. So that's been put in here just to make sure
13 that it's very clear to everyone.

14
15 Item number 6, State management plans.
16 The current MOU states that State Fish and Wildlife
17 Management plans will be used as the initial basis for
18 management actions. This has been changed as shown in
19 item 4, number 11, which is on Page 4. Now the
20 language has been changed to use Federal, State and
21 cooperative management plans.

22
23 Item number 7 is about evaluation of
24 the MOU. The Southeast Regional Advisory Council
25 requested a way to evaluate whether the MOU is
26 accomplishing its goals. We thought that was a good
27 idea. Language has been added specifically recognizing
28 an annual opportunity for Regional Advisory Councils
29 and State committees to comment on how the MOU is
30 working and for those comments to be provided to the
31 signatories and considered by the signatories. So
32 that's under number 8, which is on the bottom of Page
33 5.

34
35 Now just having the briefing paper to
36 remind everyone that if that goes through that's a
37 commitment for future action. So that would be a
38 commitment for annual action, both requesting whether
39 there are any comments from the Regional Advisory
40 Councils or any feedback on how this MOU is working and
41 also then for the signatories to respond to those or to
42 at least consider them.

43
44 Then multiple Councils asked that
45 existing protocols be reviewed and updated. The intent
46 is to follow up with a review of those protocols after
47 adoption of this MOU. There's nothing that's stated in
48 the MOU that those existing protocols would be
49 reviewed, but that too is a commitment for future
50 action.

1 So I guess a question for the Board.
2 Is everything clear? Hopefully everyone received this
3 in advance and was able to take a look at some of these
4 changes and some of the comments. Is there anything
5 that anyone on the Board would like to discuss here?
6

7 CHAIRMAN TOWARAK: Pete.

8 MR. PROBASCO: Steve, you also worked
9 up a schedule?
10

11 MR. KESSLER: I thought we'd go over
12 that next, but first see if there are any questions
13 about any of the changes that are proposed in the MOU
14 and that would go out for review by Regional Advisory
15 Councils and ACs and the public.
16

17 CHAIRMAN TOWARAK: I've got a question.
18 Since there's at least three of us on the Board that
19 are relatively new and item number 5 on predator
20 management, I get a lot of questions on that from
21 people just on the street. I heard your explanation
22 that this is a Federal Subsistence Board policy created
23 from the notes that I see in 2004. Does that mean we
24 have the ability to change that if we want or are there
25 restrictions on our capabilities of making any changes?
26

27 MR. LORD: Mr. Chair. Ken Lord from
28 the Solicitor's Office. That is a policy call whereby
29 the Board decided to put in writing the fact that it
30 would leave predator management and predator control
31 issues to the individual managing agencies and the
32 State of Alaska. You could change that policy, but
33 there would be a lot of questions associated with that
34 and a lot of thought that would have to go into it
35 before we did so.
36

37 CHAIRMAN TOWARAK: Okay. So in my case
38 when answering questions by the public, my response
39 will be that it is a Board policy and historically has
40 been a Board policy that most predator control issues
41 are handled by individual agencies. Okay. Sandy.
42

43 MR. RABINOWITCH: Sandy Rabinowitch
44 with the National Park Service. I would just add that
45 -- and my memory might not be perfect, but I believe
46 the policy was developed in concert with the original
47 programmatic EIS. So back in 1990 there was a large
48 multi-volume environmental impact statement done and
49 this is the part of my memory keeping it straight and
50 the record of decision of that environmental impact

1 statement there is specific language -- and Ken,
2 miraculously, looks like he has that there, so we'll
3 see if my memory is any good or not. I believe the
4 policy is tied back to the EIS. So whether it's in
5 that document or one of the other volumes we'll see,
6 but my point is it didn't come out of thin air. It
7 came out of previous discussion of that issue.

8

9 Thank you.

10

11 CHAIRMAN TOWARAK: Go ahead, Pete.

12

13 MR. PROBASCO: I think Sandy brings a
14 good point that supports what Ken is discussing. If
15 the Board were to elect to look at that policy and
16 wanted to make changes, those type of issues would have
17 to be researched and briefed to the Board as far as the
18 Board's authority, et cetera. Mr. Chair.

19

20 CHAIRMAN TOWARAK: Just out of
21 curiosity, has there been any significant changes in
22 general practices or policies on predator control since
23 2004? That's eight years ago.

24

25 MR. PROBASCO: Mr. Chair. As far as
26 significant changes, we've had significant issues that
27 agencies have addressed independent of the Federal
28 Board. We've had numerous Councils asking the Board
29 either through submitting proposals and/or making
30 direct comments to the Board to ask them to weigh in,
31 but the Board has always referenced their policy.

32

33 Mr. Chair.

34

35 CHAIRMAN TOWARAK: That clears my mind.
36 Any other comments or questions regarding the review or
37 the draft MOU comments made by the Staff.

38

39 (No comments)

40

41 CHAIRMAN TOWARAK: We will continue on
42 then, Mr. Kessler.

43

44 MR. KESSLER: Thank you, Mr. Chairman.
45 What we request from the Board is approval to
46 distribute this draft MOU for comment to the Regional
47 Advisory Councils, to the State Advisory Committees and
48 the public and to tribes and ANCSA corporations for
49 consultations. Let me go over the proposed schedule,
50 which is also on this briefing paper. At that point I

1 think the Board could have additional discussion about
2 the action item.

3

4 So June, July. We're in July now. The
5 revised version of this MOU is provided to the Board
6 and to the State for review and approval to move
7 forward with RAC and AC review. The State agrees that
8 it's ready to move forward for those reviews.

9

10 August through October. The Regional
11 Advisory Council and the ACs would review and provide
12 comments. We invite the tribes and corporations to
13 consult on the revised version at Council meetings or
14 by special request to Office of Subsistence Management.
15 We anticipate that at least one Federal MOU working
16 group member participate in each RAC meeting to
17 dialogue about the revised draft. We will attempt to
18 have a person at each of the meetings and otherwise, if
19 that's not possible, by conference call.

20

21 In November, after those Regional
22 Advisory Council meetings, the Federal and State MOU
23 working group members will meet again to address
24 comments that are received and any remaining issues
25 will be identified.

26

27 November to December would be a meeting
28 of each side of the signatories with their agency staff
29 to discuss the revised version and any additional
30 issues. Those comments again would go to the MOU
31 working group. So that would require in November or
32 December at some point a working meeting of this Board.
33 Go ahead.

34

35 MS. YUHAS: From the State side, Mr.
36 Chairman, we're looking at later in November. Our
37 advisory committees don't meet on the same schedule
38 that the RACs do and with September being hunting
39 season October will likely be the first time that the
40 ACs are able to sit and actually discuss with each
41 other what they think about the changes, so we may not
42 know until November. So when we look at the proposed
43 schedule from the State's perspective we're looking at
44 late in November having collected our AC comments.

45

46 MR. KESSLER: Also in November and
47 December the MOU working group would meet to resolve
48 any of those signatory issues and then at the Board
49 meeting in January the Federal Subsistence Board would
50 have an opportunity to have final consultation with

1 tribes and ANCSA corporations in person and the
2 signatories would meet to work out final details and
3 agree to sign the revised MOU. This meeting would also
4 serve as the annual MOU meeting, which is required in
5 the MOU.

6
7 So this sort of lays out a strategy to
8 have the whole process completed by the Board's meeting
9 in January. With the first step, of course, being
10 approval to send this out for comment.

11
12 CHAIRMAN TOWARAK: Go ahead, Mr. Stacer
13 -- Haskett.

14
15 MR. HASKETT: You're just trying to
16 throw me, Mr. Chair. I have no real concern about
17 what's being laid out as the proposed schedule other
18 than it's a long time and it sounds like there's not
19 much choice based upon review periods and when the
20 different meetings take place. So I guess my question
21 is once this is done and we've signed it, we're not
22 going to have to go through this process every couple
23 of years, are we?

24
25 I guess what I'm asking is, assuming
26 there's not major changes and there's minimal revisions
27 at any point, that this can stand for some long period
28 of time. We don't have to go through this long process
29 again any time soon.

30
31 MR. KESSLER: Mr. Chairman. Mr.
32 Haskett. The way this is set up it has a review
33 process that has been incorporated into it so that
34 annually we would ask the advisory committees and the
35 Regional Advisory Council do they have any comments,
36 any concerns about how this is functioning and then all
37 those comments would go to the signatories and the
38 signatories then would have the choice whether they
39 wanted to make some changes or not, but I don't foresee
40 any big change like what we're going through right now.
41 I think that this -- hopefully we can just have little
42 minuscule changes from here out that respond to just
43 specific issues that might come up.

44
45 MS. YUHAS: I'm actually grateful for
46 Mr. Haskett's question. The State has had concerns as
47 we've moved along that part of the message has been
48 lost in this whole MOU process because it was
49 specifically initiated after the AFN letter and that
50 we've gone through the timeline we have. The message

1 has been lost that the ACs and the RACs and the public
2 have always had the opportunity to comment. This isn't
3 creating a new opportunity.

4
5 When Steve and I were reviewing the
6 language for the briefing today, we discussed making
7 sure that it simply showed that the new draft was
8 recognizing an annual opportunity. It didn't create
9 one. That opportunity has always existed. I think
10 this particular concentrated review process lost that
11 message and I've had the perception communicated from
12 some of our AC members that there wasn't an opportunity
13 before and we really had to put a lot of effort into
14 correcting that. At any point in time someone could
15 bring a comment to this Board and we even debated some
16 of the language, whether it was necessary to say that
17 the Board would consider it.

18
19 The expectation from the State's end
20 would be any comment would be considered and either
21 adopted or rejected with justification at any point in
22 time, but the schedule of an annual opportunity is
23 simply a reminder to the ACs and the RACs that the
24 opportunity exists in the State's mind and we wanted to
25 avoid creating a process whereby comment was mandated,
26 thumbs up or thumbs down, every year midway through the
27 year. If AC wants to bring a comment, we'd expect we'd
28 communicate that to the Board and you would act.
29 They'd like correction if that's the wrong perception
30 because that's the one we have.

31
32 CHAIRMAN TOWARAK: My understanding
33 also is that this whole agreement would be eliminated
34 if the State assumed 100% State fish and game
35 management.

36
37 MS. YUHAS: Is that an offer, Mr.
38 Chairman?

39
40 CHAIRMAN TOWARAK: I think it's been on
41 the table all these years, I think.

42
43 Any other comments.

44
45 Any questions of the Staff.

46
47 (No comments)

48
49 CHAIRMAN TOWARAK: Thank you. I know
50 it's a hard process to go through and I appreciate

1 especially the State's input into the MOU. I think
2 it's an important document for both the State and the
3 Federal government to acknowledge the need to work
4 together.

5
6 If there are no further comments, then
7 we will continue on. Oh, I'm sorry, action by the
8 Board. At this point the floor is open for a motion to
9 approve distribution of the draft MOU to the Regional
10 Advisory Councils and the State's Advisory Councils and
11 also I think to the tribes at this point and the
12 public. Everyone.

13
14 Go ahead.

15
16 MR. JUSTIN: Can I make an appointment?

17
18 CHAIRMAN TOWARAK: Sure.

19
20 MR. JUSTIN: Thank you, Mr. Chairman.
21 Wilson Justin, Cheesh'na Tribal Council. I wanted to
22 reflect a concern and add a comment to the discussion
23 prior to the formal action by the Board. The concern
24 is the issue that was reflected upon by the State. I'm
25 not really in agreement with the State on the issue of
26 the process, but I do have a concern about the issue of
27 the rollout and the timing.

28
29 I understand the compression of the
30 process is very necessary. I also understand that the
31 Federal Subsistence Board needs to have some kind of a
32 process, but to me it seems like there's a little bit
33 of a backwards activity here. I would think that
34 consultation prior to the language would be absolutely
35 necessary and at this stage probably a foregone
36 conclusion that the process is going to continue as it
37 is, but I would have liked to have seen some tribal
38 consultation with some of the draft language prior to
39 initiating this action. I think it was very important.

40
41 I'll give an example. There is
42 absolutely no mention or use of the term climate change
43 in this document. Without the issue of climate change
44 being a part of the Memorandum of Understanding to me
45 the issue of having scientific data being used as the
46 platform is completely worthless. There is no need for
47 scientific debate in the rural arena unless you're
48 talking about climate change to previous existing
49 platforms that have, as some might say, gone down the
50 river. That's a concern and a comment.

1 The final comment that I would like to
2 make, in spite of the fact that the process concerns
3 me, I do support the process. The one thing that I
4 like about the process is that it is a participatory
5 process. I know the State's concerned about anybody
6 jumping up in the middle of the process and I think
7 that's a very strong show of the Federal Subsistence
8 Board grasp of democracy. I don't think that a process
9 like this which has a large public concern should be
10 closed at any given stage even though we have the
11 obligations of consultation and the obligations of the
12 MOU to participating parties. I still think in this
13 country a citizen should be able to stand up and say,
14 hey, I want to be heard too.

15
16 Thank you.

17
18 CHAIRMAN TOWARAK: Thank you, Mr.
19 Justin. Is there a response? Pete.

20
21 MR. PROBASCO: Mr. Justin, I think you
22 bring a good point and I just wanted to clarify. I
23 think you're aware of it, but what we're asking the
24 Board is to approve the draft and this draft we will be
25 sending directly to all the tribes for their comment to
26 report back to the Board, so you'll have that
27 opportunity.

28
29 MR. JUSTIN: I absolutely understand
30 the point and what I was wanting to impress upon the
31 Board is that there are a lot of activist tribal
32 members out in the rural arenas who would have liked
33 their Councils to be able to determine some of the
34 language specific for instance to TEK and customary and
35 traditional uses to be proposed within this draft
36 before it came to this Board for action. That's a
37 small point, but I thought a fine legal point that
38 should be brought to your attention.

39
40 Thank you.

41
42 CHAIRMAN TOWARAK: Are you satisfied
43 that you can still make comments?

44
45 MR. JUSTIN: Correct. As a
46 representative of Cheesh'na, I absolutely have the
47 ability to make comments during the consultative
48 process or as I am doing now, but my point really is
49 all about elders. We're losing elders at a fairly
50 rapid rate and a lot of them should have had the

1 opportunity to speak to this process because the one
2 segment of the population in rural Alaska and Alaska
3 Natives that is most impacted and completely impacted
4 by subsistence activities is elders and their voice is
5 almost never heard in these proceedings. So what I'm
6 really talking about is the fact that we should have
7 been able to bring in elder narratives into the
8 discussion, particularly about climate change, prior to
9 the draft being put on the table. So I'm really saying
10 my comments are really all about just a select few.

11
12 CHAIRMAN TOWARAK: I appreciate your
13 comments. I know what you're saying.

14
15 MR. JUSTIN: Thank you.

16
17 CHAIRMAN TOWARAK: Ms. Yuhas.
18 MS. YUHAS: Thank you, Mr. Chairman.
19 I'd just like permission to clarify the State's
20 position on input. I thought I was clear when I stated
21 that the State has viewed this and continues to view
22 this as an open process where we are happy someone
23 could jump in at any time and that we did not want the
24 document as written to communicate that there was one
25 set point in a year only. We were trying to state on
26 the record that we've always recognized the process was
27 continual and open.

28
29 MR. JUSTIN: Mr. Chairman.

30
31 CHAIRMAN TOWARAK: Go ahead.

32
33 MR. JUSTIN: I very much appreciate
34 that clarification.

35
36 CHAIRMAN TOWARAK: Thank you. I'd like
37 to introduce the deputy commissioner of Fish and Game,
38 Mr. Fleener. Welcome to our meeting.

39
40 MR. FLEENER: Thank you.

41
42 CHAIRMAN TOWARAK: Any other comments
43 regarding the MOU.

44
45 (No comments)

46
47 CHAIRMAN TOWARAK: We will continue on.
48 Thank you for the work that you did again. The floor
49 is still open for Board action.

50

1 MR. BROWER: Mr. Chair. Move to
2 approve the draft Memorandum of Understanding between
3 the Feds and the State of Alaska.
4
5 MR. OWEN: Second.
6
7 CHAIRMAN TOWARAK: You heard the motion
8 and the second. Any discussion. Mr. Haskett.
9
10 MR. HASKETT: So I just want to make
11 sure I'm clear on what we're doing here. So it's to
12 adopt the draft and send it out for comments is the
13 motion.
14
15 CHAIRMAN TOWARAK: (Nods affirmatively)
16
17 MR. HASKETT: Okay. Good.
18
19 CHAIRMAN TOWARAK: Is that appropriate?
20
21 MR. KESSLER: (Nods affirmatively)
22
23 CHAIRMAN TOWARAK: Any further
24 questions or discussion.
25
26 (No comments)
27
28 CHAIRMAN TOWARAK: Is there a call for
29 the question.
30
31 MR. CRIBLEY: Call for the question.
32
33 CHAIRMAN TOWARAK: The question has
34 been called for. Are there any objections to the
35 motion.
36
37 (No objections)
38
39 CHAIRMAN TOWARAK: Not hearing any, the
40 motion passes. Thank you, Staff and Ms. Yuhas.
41
42 We are up to Item No. 7, update on
43 implementation guidelines on the Federal Subsistence
44 Board tribal consultation policy.
45
46 Ms. Leonetti.
47
48 MS. LEONETTI: Waqaa (ph). That's the
49 new hello. It's also the really old hello in Yup'ik.
50 Waqaa.

1 MR. HASKETT: Waqaa.

2

3 MS. LEONETTI: Thank you.

4

5 Just a brief update on where we're at
6 with the Federal Subsistence Board tribal consultation
7 policy and writing the implementation guidelines for
8 that policy. On May 9th you adopted the new tribal
9 consultation policy and that was a great day. Since
10 that time Chairman Towarak sent a letter to all the
11 tribes and ANCSA corporations. That's a big mailing,
12 by the way. It's like 450 letters. So I just want to
13 take the time to thank OSM and especially Anita Roberts
14 and Pam Raygor and Glenn Westdahl for doing that hard
15 work.

16

17 The letter did three things. It
18 informed the tribes and ANCSA corporations of the new
19 tribal consultation policy and the continuing
20 development of an ANCSA consultation policy. It asks
21 for nominations to the consultation work group from
22 tribes and corporations. To this date I don't think we
23 have received any nominations thus far.

24

25 The third thing it did was inform the
26 tribes and corporations of the draft analyses, which is
27 why Kathy O'Reilly-Doyle is sitting with me and I'd
28 like her to explain that part of the letter now and
29 then I'll go into where we're at with the
30 implementation guidelines.

31

32 MS. O'REILLY-DOYLE: Thank you,
33 Crystal. Mr. Chair. My name is Kathy O'Reilly-Doyle
34 and under tab number 2 in your folders you'll see both
35 of the letters that Crystal is referring to. As
36 Crystal has stated too, it was quite a mailing. So one
37 thing that we wanted to do was to combine two
38 information items out to the tribes and ANCSA
39 corporations at the same time and combine those for
40 their benefit.

41

42 The first part of that Crystal will
43 address. The second part of the process that's being
44 adopted as part of this tribal consultation policy is
45 contacting tribes and ANCSA corporations when there is
46 an opportunity for consultation. With the proposed
47 changes to the Federal subsistence fishing regulations,
48 this is one of those opportunities.

49

50 So what we laid out in the second part

1 of the letter is that there will be several
2 opportunities for consultation in this process. One
3 will be through the Regional Advisory Councils. The
4 other will be through the meetings that the Federal
5 Subsistence Board has. Everyone has the opportunity as
6 well to contact the Office of Subsistence Management
7 and ask for individual tribal consultations. They can
8 consult with us and set up appointments. So we just
9 wanted to lay out what that's going to look like in
10 terms of consultation on this new set of regulations.
11 Is there any questions?

12

13 (No comments)

14

15 MS. O'REILLY-DOYLE: Thank you.

16

17 CHAIRMAN TOWARAK: Thank you.

18

19 MS. LEONETTI: Kathy, if you'll stay
20 here too because, you know, if there's any questions on
21 the phone from tribal or ANCSA corporation
22 representatives when I'm finished with my briefing
23 about that part, then maybe you can answer those
24 questions.

25

26 MS. O'REILLY-DOYLE: I can do that.

27

28 MS. LEONETTI: The next step on writing
29 the implementation guidelines is to meet with field
30 level managers as you directed me to do to make sure
31 that the field level managers are able to carry out the
32 work that may be written into the implementation
33 guidelines. Then the consultation workgroup will
34 convene to continue writing those implementation
35 guidelines and hopefully finalize them by your January
36 meeting where we'd like to present those implementation
37 guidelines to you, then it will go out to the Regional
38 Advisory Councils and to tribes and ANCSA corporations
39 for their review before you finalize the implementation
40 guidelines and adopt them. So that's the plan right
41 now.

42

43 As far as the ANCSA corporation
44 consultation policy, Department of Interior is still
45 working on that final version of their ANCSA
46 corporation consultation policy and when that's
47 finished the consultation workgroup will resume writing
48 ANCSA corporation policy for you.

49

50 Are there any questions from the Board.

1 (No comments)

2

3 MS. LEONETTI: I'd also entertain any
4 questions from tribal or ANCSA corporation
5 representatives if there are any on the phone or in the
6 room.

7

8 MR. BROWER: Mr. Chairman.

9

10 CHAIRMAN TOWARAK: Go ahead.

11

12 MR. BROWER: Just a question regarding
13 your two policies you're working on, the one with ANCSA
14 corporations and the other with tribal. Is that going
15 to be two different policies, one with State regulation
16 and the other with Federally recognized tribes on the
17 ANCSA?

18

19 MS. LEONETTI: The ANCSA policy will be
20 tailored to ANCSA corporations. I don't know that it
21 has a State component. It's a Federal law that we are
22 mandated to follow. Does that answer that?

23

24 MR. BROWER: I know it's an executive
25 order, but at the same time ANCSA is a corporation
26 chartered by the State and we, as a tribe, are
27 Federally recognized, so what is going to be the
28 difference between these two policies?

29

30 MS. LEONETTI: Let me explain. There's
31 two things. There's the executive order, which
32 requires us to consult with Federally recognized
33 tribes. The second thing is a law that was included in
34 the appropriations acts of 2004 and 2005 that said that
35 Federal agencies will consult with ANCSA corporations.
36 So the two policies -- the first one is honoring the
37 government-to-government relationship with Federally
38 recognized tribes.

39

40 The second policy, because there's a
41 different relationship with ANCSA corporations, as you
42 said, chartered under State law as a corporation, that
43 there's a different relationship. So that second
44 policy will be to follow the law that was passed
45 requiring us to do that and tailor it to ANCSA
46 corporations, which will be different from the
47 government-to-government relationship that we have with
48 tribes.

49

50 MR. BROWER: Thank you.

1 MS. LEONETTI: You're welcome.
2
3 CHAIRMAN TOWARAK: Any other questions.
4 Pete.
5
6 MR. PROBASCO: So, Mr. Chair, that's an
7 update from Crystal and Kathy. The next time the Board
8 will look at that we'll have some potential language
9 that will look at implementation.
10
11 Mr. Chair.
12
13 CHAIRMAN TOWARAK: Thank you. We will
14 continue on then. Thank you, Crystal and Kathy. Go
15 ahead, Mr. Haskett.
16
17 MR. HASKETT: I should have done this
18 before you started to move on, but I would like to
19 thank Crystal Leonetti for all the work she's done on
20 this. She's put a tremendous amount of effort in this.
21 I know there's a lot of people involved too. So her
22 and all the folks working on this just deserve a great
23 round of thanks for keeping this moving forward. It's
24 been a challenging assignment, I think, so thank you.
25
26 CHAIRMAN TOWARAK: I agree. It seemed
27 like I read -- Crystal, I should have asked this while
28 you were up front, but it seemed like there are other
29 agencies that are waiting for us to go through the
30 process so that they could possibly use this as a
31 format that they also could use.
32
33 MS. LEONETTI: I don't know about other
34 agencies waiting for this, but I do know that the
35 Federal Subsistence Board is setting a precedent for
36 something that's very unique with multiple agencies
37 involved in a government-to-government process with two
38 different departments involved. This is something, I
39 think, unique across the country and possibly could be
40 the example for other efforts in the future. But,
41 yeah, people are watching closely about how the Board
42 is undertaking the process and what the language is
43 that we're putting into the policies.
44
45 CHAIRMAN TOWARAK: One other thing I'd
46 like to add. If we could do it in any future
47 distribution to the 400 recipients of the letter, if we
48 could put a short paragraph in there about the
49 restrictions that this Board has on the relationship
50 between ANCSA corporations and tribes, that we don't

1 have any authority to make any changes on that portion.
2 It's a mandate from the President's office down to this
3 level. I think there's people that don't understand
4 that yet.

5
6 MS. LEONETTI: I agree, it's
7 complicated and you've actually done a good job at that
8 in your letter on June 28th. There's a footnote on the
9 bottom of the first page that explains where that
10 language is located. It cites the statute and it says
11 exactly what the line was and the law that was written
12 into the Appropriations Act. So hopefully, you know,
13 if we continue to do that, it will be more understood
14 as we go forward. I do think that the future ANCSA
15 corporation consultation policy will be clear about
16 that relationship with ANCSA corporations and that will
17 help us as we go forward as well.

18
19 CHAIRMAN TOWARAK: Thank you. So that
20 concludes our discussion on the.....

21
22 MR. PROBASCO: Is there anybody online
23 that wants to say anything?

24
25 CHAIRMAN TOWARAK: We should offer
26 anyone online that would like to make any comments
27 regarding the tribal consultation policy.

28
29 OPERATOR: Please press star 1.

30
31 (No comments)

32
33 CHAIRMAN TOWARAK: Thank you, Operator.
34 Not hearing any.....

35
36 OPERATOR: I do have one person coming
37 up.

38
39 CHAIRMAN TOWARAK: Okay. We will wait.

40
41 MR. ADAMS: Mr. Chairman.

42
43 CHAIRMAN TOWARAK: You have the floor.

44
45 MR. PROBASCO: Go ahead, Bert.

46
47 MR. ADAMS: Okay, can you hear me okay,
48 Mr. Chairman?

49
50 CHAIRMAN TOWARAK: We hear you well.

1 MR. ADAMS: Okay. I came on at the
2 beginning of the meeting and then our power went out,
3 so I lost contact for a bit, but aside from the MOU
4 thing, I'm glad that we're moving forward on that, but
5 when I lost contact with the conference we were on the
6 territorial jurisdiction issue and I was just wondering
7 what the issues are and what's going to go forward on
8 that. I'll probably have to excuse myself there after
9 a bit. I feel a little bit of a bad flu coming on me.
10

11 MR. PROBASCO: Mr. Chair. Mr. Adams.
12 We had Dr. Wayne Owen on behalf of the Forest Service
13 just give an update and then Mr. Pourchot gave us this
14 morning's update on the status of the letters as far as
15 those going out and back to the recipients, those
16 people involved in the extraterritorial jurisdiction.
17 Mr. Pourchot reported that those letters were in the
18 Secretary's Office and should be going out shortly.
19

20 MR. ADAMS: Thank you very much.
21 That's encouraging as well. Okay. Thanks a lot. Mr.
22 Chairman, I think I'm going to go off line here right
23 now and probably go to the clinic and get some
24 treatment done before I get any further worse yet.

25 CHAIRMAN TOWARAK: Please do.
26

27 MR. ADAMS: Okay. Thank you. Have a
28 good meeting. Bye.
29

30 OPERATOR: I have no further comments.
31

32 CHAIRMAN TOWARAK: Thank you, Operator.
33 We will continue on then with Item 8, approaches to the
34 rural/nonrural determination process.
35

36 Dr. Jenkins.
37

38 DR. JENKINS: Mr. Chair. Board
39 members. Good morning. David Jenkins, Office of
40 Subsistence Management. I'm not sure that it's
41 possible to speak briefly about rural issues, but I'm
42 going to try. In fact, quite briefly. At your January
43 2012 meeting, the Board passed a motion to direct the
44 Staff to initiate a review of the rural determination
45 process and the rural determination findings through a
46 proposed -- the publication of a proposed rule.
47

48 As I understand it, the intention of
49 the Board is to conduct a global review of rural
50 determination processes and the methods and findings

1 beginning with public input. Mr. Virden referred to
2 the review at your January meeting as a bottom up
3 process which would include public comment, tribal
4 consultation and Regional Advisory Council
5 recommendations.

6
7 OSM Staff, in conjunction with the
8 Interagency Staff Committee met to develop a tentative
9 outline of the global review and project a timeline for
10 the review. Let me start with the timeline. You have
11 an outline of the Federal Register process in your
12 books.

13
14 The first question to answer is what
15 kind of Federal Register announcement to make and the
16 Staff concluded that a public notice is the first step,
17 which would be published under a local signature and
18 not a secretarial signature, so it could proceed
19 quickly and that public notice would ask for public
20 input on the rural process on methods, criteria and
21 determinations.

22
23 You can see if you look at that
24 timeline simply the Federal Register process is quite
25 lengthy. It would start with a draft notice for a
26 public review, which is being drafted in our office at
27 the moment. It requires an ISC, interagency staff
28 review, the publication of the notice, a comment period
29 of 90 days, an analysis of those comments, which could
30 be another 90 days, further ISC review and so on to
31 Federal Subsistence Board review and action, after
32 which a draft proposed rule would be written.
33 There would be a 60-day period to draft that further
34 ISC review.

35
36 If you follow through the timeline
37 here, the total just for the Federal Register process
38 is nearly two and a half years to go through this
39 timeline. There are other variables that will have to
40 be added in. Tribal consultation, public review
41 process. So that could expand that period of time
42 considerably beyond the two and a half years just for
43 the Federal Register process itself.

44
45 Embedded in that then would be the
46 global review that the Board has asked for this rural
47 determination. In that global review for public
48 comment would be issues like rural determinations,
49 population thresholds, rural characteristics that are
50 used to define at this point rural issues, the

1 aggregation of communities into larger units and then
2 information sources.
3 The ultimate goal is to come up with rural
4 determinations that the Board would make and to do so
5 before the five-year period that has been imposed on
6 you to get that completed.

7
8 So if there are questions, I can answer
9 specific questions on any of these issues. Otherwise,
10 that's as brief as I can be.

11
12 Thank you.

13
14 CHAIRMAN TOWARAK: Go ahead, Pete.

15
16 MR. PROBASCO: Mr. Chair, if I may. On
17 behalf of both OSM and the Staff Committee is that
18 we've laid this process out. We want to make sure that
19 the Board is comfortable with that. This is our best
20 estimate on how long it will take. It could be longer,
21 it could be less. It just depends upon some of the
22 unknowns and how long those take. Particularly if you
23 get into the discussion on methods and means and
24 aggregation, et cetera. If we complete this in two
25 years and four months or somewhere around that, we're
26 still well ahead of how long it took us in 2000 to go
27 through that process and we will meet the deadline
28 based on the Board stay of the earlier 2007 decision.
29 We would meet that prior to the five years coming to an
30 end.

31
32 So, Mr. Chair, this is what we have.
33 I'm looking for a thumbs up agreement and we will
34 proceed.

35
36 CHAIRMAN TOWARAK: Are there any
37 questions of the Board.

38
39 (No comments)

40
41 CHAIRMAN TOWARAK: I've got a general
42 question. Has there been any distribution to the
43 public about the process? Is it well known what our
44 restrictions are and an explanation of the hoops that
45 we need to go through in order to meet requirements?

46
47 DR. JENKINS: Mr. Chair. Since your
48 January directive to Staff there's been no such public
49 dissemination of information and it's going to start
50 with this public notice and that will start the process

1 going.

2

3 CHAIRMAN TOWARAK: Any further
4 questions.

5

6 OPERATOR: If you would like to ask a
7 question or make a comment over the phone, please press
8 star 1.

9

10 CHAIRMAN TOWARAK: I understand Mr. Lee
11 Wallace from Saxman would like to speak on this issue.
12 Mr. Saxman, are you available?

13

14 (Laughter)

15

16 CHAIRMAN TOWARAK: Mr. Wallace.

17

18 MR. WALLACE: Thank you. Mr. Chair and
19 Board. Thank you for this opportunity and thank you
20 for taking up this matter. Now we're in the very
21 beginning stages although it's been a long road for
22 Saxman, this rural/nonrural issue. I guess what I want
23 to impart on the Board is that look at the beginnings
24 of the FSB and the Title VIII and then you look at the
25 proceedings of the number of years since then, into a
26 couple review periods. Saxman was on the first review
27 period. At that time they were thinking about making
28 us nonrural. The first one was reversed. They kept us
29 rural. Then the second review they determined that
30 they would aggregate us with Ketchikan. This Act was
31 to protect our way of life, the Native seasons. The
32 way I've seen it is that they put the different
33 criteria in the years to make it difficult for us. So
34 when you deliberate the whole process definitely look
35 at the criteria that's used. I hope this is a just
36 review period. I would definitely like to see Saxman
37 and any other villages like Saxman to remain rural.

38

39 As far as I'm concerned, there may be
40 many like this also that -- there's probably two
41 nonrural communities in Alaska. That would be
42 Anchorage and Fairbanks. Thresholds and community
43 makeups, ultra makeups. In the past Board review of
44 the wolf study, that was rejected. We fully supported
45 it as well as many other communities and organizations.
46 I definitely think it's worthwhile to examine and look
47 at the wolf study. Just make it simple.

48

49 That's my comments. I'll be looking
50 for future mailouts as far as the review process, the

1 outline that's laid out for you folks. Thank you for
2 this opportunity. Thank you.

3

4 CHAIRMAN TOWARAK: Thank you, Mr.
5 Wallace. It will be a very public process that we will
6 go through and enough notices I think will be sent out
7 so that the public will be aware of almost every move
8 that we make on this issue.

9

10 Thank you for your comments.

11

12 MR. WALLACE: Thank you.

13

14 CHAIRMAN TOWARAK: Anything else
15 further.

16

17 OPERATOR: You have a comment from
18 Winona Wallace. The line is open.

19

20 MS. WALLACE: Mr. Chairman. I'm Winona
21 Wallace and I'm the tribal administrator for the
22 Organized Village of Saxman. Good morning. Can you
23 hear me?

24

25 CHAIRMAN TOWARAK: Yes, we could. Go
26 ahead.

27

28 MS. WALLACE: I have a question.
29 Earlier it was stated by Mr. -- I think it was Jenkins
30 -- who talked about the process maybe being an extended
31 rural determination process. I was listening to him
32 and much of what I did hear is that there would be a
33 simple review on population thresholds, the definition
34 of rural, methods and means and aggregate. My question
35 is how different is that from what we've been doing or
36 what the FSB has been doing? Is it going to be a
37 repeat of what has been occurring? So I'm just
38 wondering how different all of the population
39 thresholds, the aggregates, the methods and means and
40 all that is going to be different than what has already
41 cropped up.

42

43 Thank you.

44

45 DR. JENKINS: The intention is to
46 review all of the characteristics, all of the
47 aggregation criteria, the definitions and the
48 information sources by which we make ultimately these
49 determinations. So my understanding is the Board has
50 directed us to get public input to have a complete

1 review of the process from start to finish. So what
2 the public can come up with are recommendations or
3 critiques or even approval of parts of the process. So
4 anything is open. If you want me to discuss
5 particulars at this point or thresholds, for example, I
6 could do that, but that might be too detailed at this
7 point in time.

8

9 Thank you.

10

11 MR. PROBASCO: Mr. Chair. If I may add
12 to.....

13

14 CHAIRMAN TOWARAK: Sure.

15

16 MR. PROBASCO:Dr. Jenkins'
17 comments. The Board has not determined what process
18 they will be utilizing for the 2010 data in the census.
19 A direct answer to Ms. Wallace's question is what was
20 done based off the 2000 census is not necessarily the
21 approach the Board will take. They're seeking public
22 from the tribes, the public corporations, et cetera, on
23 how to conduct this next analysis. So we're
24 essentially starting from scratch.

25

26 Thank you.

27

28 CHAIRMAN TOWARAK: I'm going to assume
29 that we've answered your questions, Ms. Wallace. Just
30 as a reiteration, we are at the very beginning and the
31 door is wide open, I think, to any suggestions on the
32 procedures that we will be taking. Any further
33 comments from the public.

34

35 MR. LORD: You'll have to excuse me.
36 I'm from Nenana and my flight came in a little bit
37 late, so I don't know if there was an introduction
38 period earlier. Victor Lord with Nenana Native
39 Council.

40

41 Part of the reason I came down here is
42 just to familiarize myself with your Board process, Mr.
43 Towarak. I'm kind of familiar in the backgrounds of
44 this because I used to help the late Mitch Demientieff
45 with a lot of his proceedings, preparations for these
46 kind of Board meetings. Anyway, I noticed the
47 rural/nonrural consultation and the rural/nonrural
48 designation, a review process here. I'm down here to
49 try to catch up with what you guys are doing and your
50 process. Nenana, as you know, is like on the Parks

1 Highway and Alaska Railroad, which landed on us. We
2 didn't land on that.

3

4 Anyway, Mr. Lord, me and him aren't
5 related. I don't believe it is unless he migrated down
6 from Barrow and wound up in Athabaskan country.

7

8 MR. K. LORD: No, but I get asked pretty
9 regularly if I am related to you, so I'll be interested
10 in talking to you afterwards.

11

12 MR. V. LORD: We'll have to get
13 together here. That's about it. I just wanted to
14 introduce myself and thank you guys for all your
15 efforts. I've been on a few boards and I know it's a
16 lot of work and volunteer and stuff, especially for you
17 Tim.

18

19 Thank you.

20

21 CHAIRMAN TOWARAK: Thank you for your
22 comments. Not hearing any, then let's take a 10-minute
23 break.

24

25 (Off record)

26

27 (On record)

28

29 CHAIRMAN TOWARAK: I'd like to call our
30 meeting back to session. We had just completed our
31 discussion on the rural/nonrural determination process.
32 The next item on the agenda is delegation of authority
33 on the Kenai NWR. National Wildlife Refuge.

34

35 We will ask Mr Berg to give us an
36 overview.

37

38 MR. BERG: Thank you, Mr. Chair. Jerry
39 Berg. I'm an Interagency Staff Committee member for
40 Fish and Wildlife Service. So I thought I'd start out
41 first and kind of go back and provide some background
42 information on how we got to where we are today on this
43 issue because maybe not all the Board members may be
44 aware of what's been going on with moose on the Kenai
45 over the past year and a half.

46

47 Conservation concerns related to the
48 moose populations on the Kenai have heightened in
49 recent years due to extremely low bull/cow ratios and
50 those have been documented during the fall composition

1 surveys conducted from '07 to 2010. Then in the spring
2 of 2011 the Board of Game eliminated the spiked fork
3 component of the harvest on the Kenai and changed the
4 large bull harvest provisions from bulls with antlers
5 of 50 inches or three or more brow tines to 50 inches
6 or four or more brow tines. Although that action was
7 not a full closure it effectively reduced the bull
8 harvest down on the Kenai by about 80 to 90 percent.

9
10 The Board of Game stated that the
11 intent of that action was to increase the bull/cow
12 ratio as quickly as possible while retaining some
13 harvest opportunity. They also committed to review the
14 results of that action at their spring 2013 meeting in
15 order to develop and implement a longer-term harvest
16 management strategy at that time.

17
18 So based on the conversation concerns
19 for the moose population and the Board of Game action,
20 two special action requests were submitted to the
21 Federal Board prior to last season and they were
22 basically to mirror these changes that were made by the
23 Board of Game for the early and late Federal
24 subsistence moose season. Then the Federal Board about
25 this time last year adopted the special action which
26 closely aligned with the State regulation for the
27 Federal subsistence early moose season.

28
29 But that left the existing regulations
30 in place for the late season. During the late season
31 the refuge manager already has the delegated authority
32 to close the season when needed. Due to continuing
33 conservation concerns for the moose population, that
34 late season was closed last season after about a week
35 of hunting, after three bulls were taken in a very
36 small area that was easily accessible fairly close to
37 Soldotna.

38
39 So also as a result of conservation
40 concerns the Refuge submitted a proposal to the Federal
41 Board to align regulations permanently in Unit 15 for
42 the moose harvest regulations with the new State
43 regulations. However, after hearing concerns from the
44 subsistence users on the Kenai about the potential for
45 that regulation to become permanent and remain in place
46 longer term, the Refuge opted to withdraw that proposal
47 during the Southcentral Council meeting last fall. The
48 Refuge told the Council that they would re-evaluate
49 other options and bring them forward to the Council in
50 the winter of 2012.

1 So prior to the 2012 Council meeting
2 the Refuge went to Ninilchik in February to engage them
3 in a discussion regarding the delegation of authority
4 to the Refuge manager for all wildlife on the Kenai.
5 This meeting with Ninilchik also included a
6 representative from the Seldovia tribe who was on the
7 phone and then we later briefed the Port Graham tribe
8 by telephone that same day.

9
10 We presented the option of the
11 delegated authority to the Refuge manager as a
12 preferred option as we believe it would provide the
13 manager with the ability to address conservation
14 concerns in a timely manner with the added flexibility
15 to manage the moose harvest within the refuge on an
16 area specific basis as dictated by the moose population
17 status, accessibility and hunting pressure.

18
19 For example, this approach would
20 provide the flexibility to leave areas open while
21 restricting harvest in other areas thereby allowing
22 maximum opportunity for subsistence users while
23 addressing conservation needs. As I mentioned, the
24 Refuge had to close that area the whole season last
25 year due to three bulls being taken in that one small
26 area.

27
28 So with the input received from the
29 subsistence users or the input we received during these
30 meetings from the subsistence users was generally
31 supportive of the in-season management authority and in
32 particular of having the flexibility to leave areas
33 open that could sustain harvest while closing or
34 restricting areas that needed protection. A second
35 option was discussed during these meetings regarding
36 the submission of multiple special action requests to
37 the Board for the various areas on the peninsula, but
38 all agreed that the delegated authority was the better
39 option.

40 Then at the Southcentral Council
41 meeting this past March refuge manager Andy Loranger
42 and I briefed the Council on the possible request for
43 delegation of authority to the refuge manager and asked
44 them specifically if they'd like to take any action in
45 support of or in opposition to this delegation of
46 authority to the in-season manager. All these
47 discussions were focused on moose at the time, is the
48 primary concern there. During the Council meeting the
49 chairman stated that he didn't see the need for the
50 Council to take action and that the Council has never

1 not supported this type of a request.

2

3 So although the discussion was focused
4 on moose based on the chairman's statement at that
5 meeting and no opposing views from other Council
6 members, it seemed reasonable to us to request
7 delegated authority for all wildlife since the manager
8 already has authority to open and close the brown bear
9 season and the late moose season.

10

11 So, if granted for all wildlife, the
12 additional species that would be affected would be
13 moose in the early season, black bear and then small
14 game, ptarmigan, grouse and furbearers. We thought it
15 would be best to make this one request rather than to
16 come back to the Board with multiple requests.

17

18 So the moose harvest restrictions put
19 in place last season on the Kenai did result in
20 improvements to the bull/cow ratio. As I mentioned
21 earlier, the harvest was down by 80-90 percent, so
22 there was some improvement to the bull/cow ratio, but
23 the ratios still remain below objective levels and
24 conservation continues to be an issue.

25

26 The restrictive harvest management
27 actions needed are intended to be in place short term
28 in hopes of improving the bull/cow ratio quickly. It's
29 important to recognize that we're in a period of
30 transition for managing moose harvest on the Kenai to
31 address conservation issues and that the outcome we're
32 all seeking is to ensure healthy populations and
33 implementation of a viable long-term strategy.

34

35 This request for delegated authority is
36 responsive to our commitment to the Regional Council to
37 search for solutions that address conservation needs
38 while being the least restrictive to subsistence users.
39 This delegated authority will allow the refuge manager
40 to evaluate and adjust management actions quickly and
41 it will avoid multiple special action requests from the
42 Refuge to the Board requiring the Board to get involved
43 with the details of managing moose on the Kenai in a
44 quick turnaround situation.

45

46 Any special action requests to the
47 Board would likely be complex and the Board's decision
48 process usually takes a longer time frame that may
49 hinder the ability to address conservation needs in a
50 timely fashion. Special actions acted on by the Board

1 usually take about one to two weeks for action in a
2 multi-step process rather than the more responsive
3 process for in-season managers that can often deal with
4 needed actions in a matter of just a few days.

5
6 So, if granted, this would bring the
7 Kenai wildlife delegations into similar status with all
8 the statewide fisheries in-season management
9 delegations the Board has approved. I would note that
10 many of the fish species included in the fisheries
11 delegations have never required any sort of special
12 actions, which is likely the case for the other
13 wildlife species on the Kenai. In addition, similar
14 delegations of authority for deer, moose and goats were
15 put in place two years ago for all of Southeast for the
16 Forest Service lands in all of Units 1 through 6. The
17 Forest Service has 10 letters of delegated authority to
18 10 different district rangers in Units 1 through 6.

19
20 Finally, under the delegated authority
21 for wildlife, the Kenai refuge manager would certainly
22 keep the Board apprised of any actions taken and
23 overall management goals. Mr. Loranger has the in-
24 depth knowledge of moose and other wildlife populations
25 on the refuge and providing this delegated authority to
26 take appropriate actions on behalf of the Board to
27 adjust seasons and harvest strategies is what we
28 believe to be the best approach. If a particular issue
29 arises to a level of it needing to go to the Federal
30 Board, Mr. Loranger always has the option to forward
31 any such request to the Board.

32
33 So, Mr. Chairman, I thought I'd just
34 kind of go over the options that went out to all the
35 Board members via email just to remind the Board
36 members that the options before the Board are to adopt
37 one of the two draft letters that were sent out, that
38 being the delegated authority to the Kenai refuge
39 manager for all wildlife as requested or to delegate
40 the authority to the Kenai refuge manager for moose as
41 some have suggested in some of the discussions we had
42 in our staff committee or elect to not take action to
43 delegate authority for either one.

44
45 With that, Mr. Chair, I'll be happy to
46 answer any questions at the pleasure of the Chair.
47 Thank you.

48
49 CHAIRMAN TOWARAK: The floor is open
50 for questions.

1 OPERATOR: If you'd like to ask a
2 question over the phone, please press star 1.

3

4 MR. CARPENTER: Mr. Chairman.

5

6 CHAIRMAN TOWARAK: Go ahead, Mr.
7 Carpenter. You have the floor.

8

9 MR. CARPENTER: Thank you very much. I
10 would like to comment in regards to what Mr. Berg has
11 just presented the Board in regards to the refuge
12 manager's delegation of authority. I was the acting
13 chair at the meeting that he referred to and also in
14 regards to the comments that were made at the meeting I
15 guess I want to make it clear to the Board that I
16 believe Mr. Berg represented things quite accurately,
17 but I think we have to take this whole thing into
18 context because we were specifically talking about the
19 moose situation on the Kenai Peninsula and on the
20 refuge in particular.

21

22 I think it's a little concerning to me
23 listening to the conversations that have taken place
24 today and also some conversations that took place with
25 another representative of the RAC at the last Federal
26 Board meeting. A change that was asked by the Federal
27 Staff and the Federal manager in regards to delegation
28 of authority from moose in Unit 15 on the refuge has
29 now changed to a delegation of authority for all
30 species.

31

32 Now I'm not saying that the RAC is
33 going to be for or against such action, but my concern
34 at the time is that this has not been presented to the
35 RAC. This request is completely different than the
36 request that was asked for at our fall meeting. Trying
37 to follow some of the practices that we've been
38 accustomed to, I feel that changing this request needs
39 to go back to the RAC at our next meeting to see what
40 the general support or not support for such action is.

41

42 I have talked to a few other RAC
43 members about this because I had heard that it was
44 coming before the Federal Board and I think there is
45 some concern that maybe this is not the actual correct
46 approach that we ought to take at this time. So there
47 were some questions and I'm not sure if Mr. Berg can
48 answer those or if somebody on the Board or the Federal
49 Staff can answer those that were brought to my
50 attention by other members of the RAC.

1 A couple of the questions were do all
2 other Federal managers under the subsistence authority
3 have the authority for all species of wildlife. He
4 referenced some delegation letters in Southeast, but
5 I'm talking about statewide. So that's one question.
6

7 The other question was if this power
8 was granted to the refuge manager, would there no
9 longer be the need for a special actions request in
10 regards to a species and would that lead to no
11 consultation with the RAC chairs or tribal entities in
12 regards to the species of concern at the time.
13

14 So I'll standby on the line. That's
15 the position that the RAC is going to take at this
16 time. We would rather see the Board defer this back to
17 the RAC for further comments before it makes its final
18 determination on this so that we can let the general
19 feelings of the RAC members be heard. Also, if it's
20 possible, could you possibly have somebody address the
21 questions that I brought to you.
22

23 Thank you.

24
25 CHAIRMAN TOWARAK: Thank you, Mr.
26 Carpenter. We're going to refer you to Mr. Haskett.
27

28 MR. HASKETT: Thank you, Mr. Chair. I
29 guess I understand the concerns from the RAC that this
30 wasn't -- we have two proposals here and one of them
31 isn't what we presented, so I'd like to simplify this
32 because I'm going to be the one that will be making the
33 motion when we get to that point. I'd like to take off
34 the table -- we have two different letters in here.
35 One is for all species and one is specifically for
36 moose. In your book, I think the second letter is the
37 one that's -- the proposal for the delegation be for
38 moose only. So I'd like to make this a lot more simple
39 and make it for moose only to address the first concern
40 I heard from the RAC and we'll just take off the table
41 the whole question about all species.
42

43 CHAIRMAN TOWARAK: Go ahead, Mr.
44 Probasco.
45

46 MR. PROBASCO: Thank you, Mr. Chair.
47 Because this request comes from the U.S. Fish and
48 Wildlife Service Mr. Haskett's request and direction is
49 appropriate and we would only be focusing on the intent
50 of moose only.

1 Mr. Chair.

2

3 CHAIRMAN TOWARAK: Go ahead, Mr.
4 Haskett.

5

6 MR. HASKETT: So I think that addresses
7 the first concerns from the RAC and then the other
8 questions I'd like to turn those over to either Jerry
9 Berg or we also have Andy Loranger here too if we need
10 to pull him up, the refuge manager from Kenai. We can
11 pull him up as well to answer some of those questions.
12 So I'd like to have Jerry address the other questions.

13

14 CHAIRMAN TOWARAK: Go ahead, Mr. Berg.

15

16 MR. BERG: Well, I guess maybe Chuck
17 can also help clarify, but as far as consultation with
18 other entities, I don't know if Mr. Carpenter has seen
19 the actual draft letters of delegation, but certainly
20 for any action, special action coming in or action
21 initiated by the refuge, the refuge manager would
22 consult with the local RAC members on the Kenai as well
23 as the chair of the Council before actions are taken.
24 Then as far as other delegations of authority, maybe
25 I'll let Chuck kind of go over some of those for some
26 background information on the wildlife side.

27

28 MR. ARDIZZONE: Chuck Ardizzone for the
29 record. I can answer Mr. Carpenter's first question.
30 Generally in-season managers aren't delegated the
31 management for all wildlife. It's usually specific
32 species. We do have a number of in-season managers
33 that have multiple species like in Southeast, but
34 there's not a blanket delegation like for fisheries.

35

36 Then I would agree with Jerry on the
37 second question. Right in the letter it says there
38 would be consultation with the RAC and with Fish and
39 Game and other management agencies in the area, so Mr.
40 Loranger would have to do that if the Board granted the
41 authority to him.

42

43 CHAIRMAN TOWARAK: Any further
44 discussion. Go ahead, Mr. Berg.

45

46 MR. BERG: And then as far as other
47 delegations for Southeast -- you know, so there are
48 delegations for deer, moose and goats in Southeast, so
49 the district rangers down there have the authority to
50 take all -- to issue special actions or take action on

1 special actions regarding those species in areas 1
2 through 6. We also have various delegations around the
3 state for various species.

4

5 MR. ARDIZZONE: Mr. Chair. There's
6 approximately 50 delegations across the state for
7 wildlife, give or take. Most of them are for ungulate
8 species. There's a few for brown bear and one for
9 wolf, but generally there's not, like I said, the
10 blanket delegation.

11

12 CHAIRMAN TOWARAK: I don't know if Mr.
13 Carpenter can hear you, but when you speak if you could
14 speak a little bit closer to the microphone, we could
15 hear you better. Any further discussions. Mr.
16 Cribley.

17

18 MR. CRIBLEY: I guess it's as much
19 process as anything, but it seems like we should have
20 something formally from the RAC giving us a position on
21 this particular recommendation or request rather than
22 just assurances of conversations and such before the
23 Board itself would take action on that. I don't know
24 what the procedure is in regards to this type of an
25 action. Plus having the conversation or listening to
26 the discussion from the individual who was the acting
27 RAC chairman at that time sounds like there's some
28 questions. Not necessarily concerns, but an interest
29 in having additional dialogue between Fish and Wildlife
30 Service and the RAC before we move forward or make a
31 motion on this recommendation.

32

33 CHAIRMAN TOWARAK: If I could refer a
34 question to Mr. Haskett, I'd also like to know if
35 there's a time crunch on making a decision.

36

37 MR. HASKETT: This is time sensitive.
38 We're running up against where it's going to be too
39 late if we don't take an action pretty soon. Again,
40 I'm going to ask Andy Loranger to come up and speak to
41 the Board. I think we have the acting RAC on the phone
42 who was there and what I heard him say and I'd like to
43 hear him again, but what he said was that Jerry had
44 accurately portrayed the reaction from the RAC at the
45 meeting based upon it only being moose and the only
46 questions I heard were when you've got multiple
47 species, which is why I said let's pull that off and
48 not have it complicated.

49

50 So, respectfully -- and we could

1 certainly have additional discussion. I'd like to move
2 this forward where we do have a motion and discussion
3 and a vote. I'd like to hear from the acting RAC from
4 the meeting again because he was there and I think he
5 can give us the official position specific to it being
6 moose only. Again, I'd like to hear from Andy on why
7 it's time sensitive as well.

8

9 MR. CARPENTER: Mr. Chairman. Can you
10 still hear me?

11

12 CHAIRMAN TOWARAK: Yes, we could. If
13 we could hear from Mr. Loranger and then we will take
14 your question next, Mr. Carpenter.

15

16 MR. LORANGER: Thank you, Mr. Chair.
17 Good morning, Board members. The moose season begins
18 -- Federal season begins on August 10th, so we're
19 within less than a month in the opening of the season.

20

21 Thank you.

22

23 CHAIRMAN TOWARAK: Thank you. Mr.
24 Carpenter, you had a comment.

25

26 MR. CARPENTER: Thank you. I
27 appreciate the dialogue that's taking place here today
28 in regards to this. I want to reiterate that in no
29 fashion is the RAC trying to impede the Federal manager
30 or the Federal process in regards to the viability of
31 the sustainable moose populations or practices on the
32 Kenai Peninsula.

33

34 I think there was a question by one of
35 the Board members about a statement that I made while I
36 was acting chair and I'd like to reiterate that Mr.
37 Berg and Mr. Loranger both presented the testimony and
38 basically the subject was moose and there was some
39 concern that the refuge manager did not have the
40 appropriate time in certain situations to react fast
41 enough to either close or slow down the hunt if
42 necessary and that was the information that was
43 presented to us at the RAC meeting.

44

45 I will present from my own recollection
46 that there were some members from the Kenai Peninsula
47 that are on the RAC that had some concern that the
48 Federal manager with the delegation of authority would
49 react too fast in some situations and they had some
50 concern about giving him that authority. My position

1 was, and I was stating my own position, though I'm
2 quite familiar with management practices around the
3 state, that my position was that you never should take
4 away a manager's responsibility to act appropriately
5 and that I did not have a problem myself with the
6 manager on the Kenai Wildlife Refuge having the
7 delegation of authority for moose. Remember, we were
8 specifically speaking about moose. So those are my
9 comments.

10
11 I would also suggest that the last time
12 there was a special action for a moose closure Mr.
13 Loranger did call me because he could not get a hold of
14 our chairman. I was actually duck hunting at the time
15 and I had my cell phone and my cell phone rang and we
16 actually discussed the closure and appropriate actions
17 were taken. So I think that as long as the
18 consultation continues between the RAC and the Federal
19 entities in the general vicinity of where this closure
20 is going to take place that the general perception from
21 the RAC some are for, some are against. I think it's
22 up to the Board to make the determination as the way we
23 go in regards to moose.

24
25 The real concern is with giving a
26 delegation of authority for all species. I think
27 there's been comments by some Board members that that
28 might not take place and I think that if a proposal was
29 brought back to the RAC in regards to the rest of the
30 species we could look at that at some further time
31 because we don't feel that it's appropriate at this
32 time. So I hope that those reflections from the RAC
33 meeting and comments from myself help the Board making
34 its decision.

35
36 Thank you.

37
38 MR. HASKETT: So I think those comments
39 were very helpful and I think it made it clear and if I
40 don't get this right, please correct me, but it was
41 clear that the biggest concern from the RAC was on
42 multiple species, which I've gone ahead and made sure
43 that the Board recognizes we're not asking for that
44 anymore. We're asking specific for moose. I think we
45 can see this is a very time-sensitive measure.

46
47 I also very much appreciate the
48 comments and I see them in the State's comments as
49 well. I know the State hasn't been able to offer
50 theirs up yet, their concerns, but there's obviously a

1 lot of trust in our refuge manager, Andy Loranger. I'd
2 say a lot of the State comments are Andy Loranger knows
3 what he's doing and we trust him and hear the same
4 comments from the RAC as well.

5
6 My plan is, when we get to that point,
7 to be making a motion and just kind of a reminder to
8 the Board that when we vote and when I vote I always
9 make sure that whenever I can I go with what's being
10 recommended from the RAC. I think 95 percent of the
11 time that's true unless there's some conservation issue
12 or concern that we have on the refuge. This is one
13 where we clearly have that.

14
15 I guess Bud, I'm going to go directly
16 to you since you had the concern about whether or not
17 we should move forward on this based upon whether we
18 have enough information or whether we need something in
19 writing from the RAC. I guess I'm hoping you're okay
20 that what we got from the RAC was good enough what we
21 heard just now or not.

22
23 MR. CRIBLEY: I guess what we heard was
24 personal opinions. We don't have a recommendation from
25 the RAC per se. We have an account of the dialogue
26 that took place at the RAC meeting. I think it was Mr.
27 Carpenter who was on the -- who is on the phone
28 reflected his personal opinion on it and support of it,
29 but he didn't -- it didn't sound like the RAC took a
30 vote on it and gave us a formal recommendation. Maybe
31 I'm wrong on that and don't understand that.

32
33 CHAIRMAN TOWARAK: Mr. Haskett.

34
35 MR. HASKETT: We don't have to have a
36 recommendation from the RAC. It was presented to the
37 RAC. The RAC chose not to give an official
38 recommendation. The best we have is a discussion of
39 what concerns there were or not and I don't feel that
40 it's incumbent upon us if the RAC chose not to give a
41 specific position on this that we have to have that in
42 order to move forward on this issue.

43
44 CHAIRMAN TOWARAK: Go ahead.

45
46 MR. PROBASCO: Thank you, Mr. Chair. I
47 want to speak to what Mr. Haskett and Mr. Loranger said
48 on why this is so important. If this delegation of
49 authority for moose is not provided, then what Mr.
50 Loranger has to do then is go through a special action

1 process, which is not as timely as having delegated
2 authority. So he'd have to submit that request, we
3 would go to the Staff Committee, et cetera, et cetera.
4 So you're days out as far as an action item.

5

6 Mr. Chair.

7

8 CHAIRMAN TOWARAK: Mr. Virden.

9

10 MR. VIRDEN: Thank you, Mr. Chair. I
11 would like to see it go out to the RAC and if there's
12 any way we can speed up that special action to just a
13 handful of days or for getting to that point where the
14 harvest is going to hurt the moose population, I'd
15 rather work on that and let the RAC come back to us
16 with something formal. It's been a criticism and I've
17 been at the RAC meetings in the past, not so much right
18 now, but I don't want to leave the impression that
19 we're not listening to what the RACs have to say or
20 give them the opportunity to say.

21

22 Thank you.

23

24 CHAIRMAN TOWARAK: Just out of
25 curiosity, has there been any opposition to restricting
26 it to a moose only from the RAC?

27

28 MR. BERG: Mr. Chairman. At the spring
29 RAC meeting this past March in Anchorage I specifically
30 asked the RAC if they would like to take any action in
31 opposition to or in support of the request for
32 delegation and the response back from the chairman was
33 that they had never not supported that type of request
34 in the past. There was no other comments from other
35 Council members regarding taking a specific action. So
36 that's how it was left. We specifically asked him if
37 they wanted to take action and they chose not to at the
38 time.

39

40 CHAIRMAN TOWARAK: I'm going to ask --
41 I noticed that you had put a couple of memorandums on
42 our chairs during the break.

43

44 Do you have any comments?

45

46 MS. YUHAS: I do. Thank you, Mr.
47 Chairman. I fully understand that I'm simply here in
48 an advisory capacity and not voting in any way. The
49 State does have comment on this in general. You have
50 several pages of perennial comments. They're nothing

1 new to the Board. I know that the Board appreciates
2 brevity and so I'll simply hit on the highlights.

3
4 We do want to make a matter of record
5 of expressing our confidence in the current refuge
6 manager for his competency, his management abilities,
7 his outreach efforts and his general positive
8 collaborative efforts with the State, the tribes and
9 the general public. The State has traditionally
10 objected to anything other than a temporary delegation
11 considering that outside of the boundaries of ANILCA
12 Section 1314 and considered that an abrogation of the
13 Board's responsibilities more than a matter of simple
14 delegation of authority.

15
16 What we see missing from this is the
17 temporary nature. While we have the confidence in the
18 current refuge manager, we'd be much more comfortable
19 with a temporary delegation. We've not expressed that
20 confidence in all refuge managers and certainly not the
21 current refuge manager's predecessor as you're aware.

22
23 You've already made an amendment, Mr.
24 Haskett, to portions of this and the State would ask if
25 you'd be willing to make that a temporary delegation
26 rather than one that's in perpetuity for all future
27 refuge managers.

28
29 *****
30 STATE OFFICIAL WRITTEN COMMENTS
31 *****

32
33 Alaska Department of Fish and Game
34 Comments to the Federal Subsistence Board

35
36 Alaska Department of Fish and Game
37 Comments to the Federal Subsistence Board Delegation of
38 authority to the Kenai National Wildlife Refuge (NWR)

39
40 This agenda item proposes to delegate
41 the Federal Subsistence Board s authority to open,
42 close, and restrict hunting letters of authority to
43 federal land managers in the Kenai NWR.

44
45 The State was unfortunately excluded
46 from participation in the Interagency Staff Committee
47 (ISC) meetings related to this agenda item, therefore
48 State comments are not included in your
49 ISC report and recommendations today.

50

1 As the Board is aware, the State has
2 previously stated objections to blanket delegations of
3 authority which range greater than specifically named
4 inseason authorities which are temporary in nature such
5 as WP10-22 (see comments attached).
6

7 The Alaska Department of Fish and Game
8 has previously supported such as wildlife special
9 action WSA09-04 which temporarily granted federal land
10 managers inseason authority to close a portion of the
11 federal subsistence moose season in a portion of GMU 5A
12 for conservation purposes following consultation with
13 the Alaska Department of Fish and Game. Although the
14 department supported this special action, the
15 Department
16 requested that the change in delegated authority should
17 not be to expand the moose quota in regulations and
18 requested the authority be clarified by inserting the
19 present harvest quota into the proposal language to
20 establish the upper harvest limit.
21 Confirming that the delegated authority retains the
22 existing maximum harvest quotas and limits set by the
23 department and Federal Board, while delegating
24 authority to reduce the quota and implement a closure
25 is necessary to assure conservation of the moose
26 population.
27

28 Refuge managers currently enjoy
29 alternative emergency closure regulations. Federal
30 Regulations at 50 CFR 36.42 provide emergency closures
31 or restriction authority, and provide that these
32 actions may be implemented only after public notice and
33 hearing.
34

35 The Alaska Department of Fish and Game
36 reiterates and amplifies this concern with the proposed
37 delegation of authority. First, the guidelines of the
38 delegation in the provided draft letters under item 6
39 state only that the Refuge Manager will issue timely
40 decisions and notify users at least six hours before
41 superseding state action. Mention of consultation with
42 affected state managers is notably absent from these
43 guidelines. Furthermore, while WSA09-04 addressed a
44 moose season in a portion of a specific unit, the
45 proposed delegation before the board today would
46 broadly delegate in-season federal subsistence hunt
47 authority to federal land managers in the Kenai NWR.
48

49 The Department recommends the
50 delegation of in-season management authority for

1 federal land managers should be explicitly detailed in
2 the Scope of Delegation and Guidelines of
3 Delegation sections of letters of delegation from the
4 Federal Subsistence Board for the purpose of
5 authorizing in-season management actions based on
6 conservation. The letters of delegation should contain
7 sideboards on the delegated power, such as specifying
8 upper limits in quotas for conservation purposes. This
9 is required by 50 CFR 100.10(d)(6) and 36 CFR 242
10 10(d)(6), which authorize the Board to delegate
11 authority only within frameworks established by the
12 board. Consultation with the Alaska Department of
13 Fish and Game is requisite in developing these
14 sideboards. The Alaska Department of Fish and Game
15 recommends language be developed which prohibits
16 liberalizations and conditions that result in
17 reallocation between users without the direction set by
18 the Federal Subsistence Board. The Department also
19 requests that language be added stating that federal
20 managers will consult with the Department prior to
21 making decisions that involve the Department s
22 management of fish and wildlife, as specified in our
23 January 12, 2010, review of the October 14, 2009,
24 proposed rulemaking involving special actions to define
25 what that consultation entails.

26
27 Although the proponent and the federal
28 staff explain that addressing this proposal through the
29 Federal Subsistence Board process would allow for a
30 public review and discussion of the
31 proposed solution, adoption of this proposal would
32 eliminate the public from the regulatory process of
33 modifying and expanding delegated authorities.

34
35 The State views this expansion as an
36 abrogation of Board responsibility well beyond the
37 initial congressional intent set out under ANILCA SEC.
38 1314:

39
40 (a) Nothing in this Act is intended to
41 enlarge or diminish the responsibility and authority of
42 the State of Alaska for management of fish and wildlife
43 on the public lands except as may be provided in title
44 VIII of this Act, or to amend the Alaska
45 constitution.

46
47 (b) Except as specifically provided
48 otherwise by this Act, nothing in this Act is intended
49 to enlarge or diminish the responsibility and authority
50 of the Secretary over the management of the public

1 lands

2

3 (c) The taking of fish and wildlife in
4 all conservation system units; and in national
5 conservation areas, national recreation areas, and
6 national forests, shall be carried out in accordance
7 with the provisions of this Act and other applicable
8 State and Federal law. Those areas designated as
9 national parks or national park system monuments in the
10 State shall be closed to the taking of fish and
11 wildlife, except that the action constitutes
12 diminishment of the responsibility and authority of the
13 State for the management of wildlife on public lands by
14 providing refuge managers with increased authorities
15 outside the intent of ANILCA.

16

17 The State expresses our confidence in
18 and commend the current Kenai NWR Manager for his
19 competency, management abilities, outreach efforts, and
20 general positive collaborative working relationship
21 with state staff and the public. This confidence
22 however does not override the State s concerns
23 regarding the principle of the delegation, and reminds
24 the Board that this delegation is not remanded to the
25 specific individual in question but to the position, of
26 which there are currently sixteen refuge managers in
27 Alaska. Previous refuge managers for this particular
28 area have not in the State s view possessed the
29 competency or abilities currently expressed by the
30 present staff, nor does the state express this
31 confidence in all regions. The State recognizes that
32 it is common practice to hire refuge managers in Alaska
33 which are directly recruited from the Lower 48 states,
34 often with little experience managing wildlife or
35 familiarization with the intricacies of the guiding
36 principles outlined under the authority provided within
37 ANILCA. Conversely, State Area Management Biologists
38 typically have years of experience in Alaska at
39 introductory positions with increasing experience
40 before being hired as Area Biologists,

41

42 If adopted, designated in-season
43 officials should be issued a letter of delegation by
44 the Federal Subsistence Board which grants all
45 in-season authorities currently in regulation.
46 However, future changes to the letter of delegation
47 risk expanding that authority outside of the public
48 process, thus eliminating the transparency of the
49 public process in rulemaking.

50

1 The Department has cooperatively guided
2 and assisted federal staff during development and
3 execution of federal subsistence fisheries and hunts
4 for closure for 12 and 22 years, respectively. Eventual
5 full delegation of in-season management authority is
6 not necessary for rational implementation of federal
7 subsistence regulation for conservation of fish and
8 wildlife resources for federal subsistence users on
9 federal public lands in Southeast Alaska. Though the
10 proposed framework for eventually achieving full
11 delegation of authority to designated federal officials
12 has not been deliberated by the Federal Subsistence
13 Board, the Federal Board clearly has not delegated full
14 authority to any federal staff in Alaska for the
15 purpose of managing federal subsistence wildlife
16 hunting or trapping.

17
18 The Department presently works
19 cooperatively with federal staff and does not foresee
20 the benefits of adoption of this proposed delegation.
21 Delegation of all of the Board s authority to
22 open, close, and restrict hunting by federal staff is
23 not only unnecessary and contravenes public process,
24 but it may also exacerbate misunderstandings that the
25 state remains responsible for the sustainability of all
26 wildlife on all lands in Alaska.

27
28 The State objects to a delegation of
29 authority to the Kenai NWR beyond a temporary
30 delegation accompanied by the aforementioned
31 parameters.

32
33 The State respectfully urges the Board
34 to deny the request, amend the request to one that is
35 temporary and accompanied by the aforementioned
36 parameters, or defer the request until after the
37 Southcentral RAC meeting where more public testimony
38 may be gathered before making a decision.

39
40 Recommendation: Oppose.

41
42 If adopted, modification is needed that
43 clarifies that the letters of delegation will be
44 developed in consultation with the Alaska Department of
45 Fish and Game to include:

46
47 (1) maximum harvest quotas and harvest
48 limits that do not exceed sustainable harvest
49 established by the State and other sideboards on the
50 exercise of delegated authority,

1 (2) details the requirements and
2 process for consultation with the State,
3

4 (3) clearly detail the public review
5 process required for modifying letters of delegation
6 and/or protesting such
7 modifications, and
8

9 (4) direct federal staff to make the
10 letters of delegation reasonably available to the
11 public for review.
12

13 ATTACHMENT INSERTED HERE

14 *****
15 STATE OFFICIAL WRITTEN COMMENTS
16 *****
17

18
19 Alaska Department of Fish and Game
20 Comments to the Federal Subsistence Board
21

22 Wildlife Proposal WP10-22: The
23 Southeast Subsistence Regional Advisory Council
24 proposal would delegate all of the Federal Subsistence
25 Board s authority to open, close, and restrict hunting
26 and trapping through in-season letters of authority to
27 federal land managers in
28 Game Management Units 1-5.
29

30 Discussion: The Southeast Regional
31 Advisory Council proposes the Federal Subsistence Board
32 grant the Southeast federal land managers their board
33 authority for inseason management of federal
34 subsistence hunting and trapping seasons to close,
35 open, or change federal subsistence seasons and adjust
36 federal harvest and possession limits. Currently, only
37 certain federal land managers in Southeast Alaska are
38 delegated specific inseason management authorities for
39 identified federal subsistence hunts. The Council
40 Chair stated their desire for granting the federal land
41 managers some authority at the April 29, 2008, Federal
42 Subsistence Board meeting to close federal subsistence
43 hunting or trapping seasons for conservation purposes
44 if already authorized to change other regulations
45 (e.g., open a season, as granted to federal subsistence
46 fisheries managers). The Council also requested
47 delegation of inseason hunt authority in its 2008
48 Annual report to the Federal Subsistence Board,
49 approved at the Council s March 24, 2009, meeting. The
50 Federal Subsistence Board responded to this request for

1 inseason management of federal subsistence harvest of
2 wildlife on August 4, 2009, as follows:

3

4 The Southeast Region has been faced
5 with a number of situations in the past two years where
6 special actions were necessary to provide for
7 conservation of wildlife resources. The Council
8 recommends the board delegate in-season management
9 authority for all wildlife to the same Forest Service
10 managers that have in-season management authority for
11 fish.

12

13 The federal letter in response to the
14 Council annual report stated:

15

16 Under 50CFR100.10 and 36CFR242.10, the
17 Board can delegate to agency field officials the
18 authority to set harvest and possession limits, define
19 harvest areas, specify methods or means of harvest,
20 specify permit requirements, and open or close specific
21 fish or wildlife harvest seasons within frameworks
22 established by the Board. As you note, the Board has
23 previously delegated inseason management authority for
24 fisheries, and in some instances for wildlife, to
25 agency field officials. A primary reason for equipping
26 field officials with in-season fisheries management
27 authority is to provide the required tools to implement
28 timely conservation actions, recognizing the dynamic
29 nature of fish populations. A similar need to
30 universally delegate in-season management authority of
31 all wildlife populations in order to provide for
32 conservation of wildlife resources has not been
33 demonstrated. Instead, for wildlife management,
34 delegation of authority occurs on a case-by-case basis.
35 Any field official receiving delegated in-season
36 management authority is required to complete an
37 analysis, consult with appropriate agencies and
38 individuals, and document rationale for the special
39 action. The Board believes that such processes have
40 been responsive and timely in regard to processing
41 special actions. Anyone may submit a proposal during
42 the upcoming call for 2010-2012 wildlife regulatory
43 proposals requesting delegation of authority for
44 wildlife management field officials. (Emphasis added)

45

46 While the Department supports wildlife
47 special actions (e.g., WSA09-04) which temporarily
48 grant federal land managers inseason authority to close
49 a portion of a federal subsistence wildlife season for
50 conservation purposes following consultation with the

1 Department, the delegated authority should not be
2 expanded to change the quota set in regulations,
3 increase bag limits, or to establish an upper harvest
4 limit. The delegated authority needs to be clarified
5 to retain the existing maximum harvest quotas and
6 limits set by the Department and Federal Board, while
7 authorizing reduced quota or a closure if necessary to
8 assure conservation of the population.

9
10 In contrast, WP10-22 as proposed would
11 broadly delegate all in-season federal subsistence hunt
12 authority to federal land managers in Units 1-5. The
13 delegation of in-season management authority for
14 federal land managers should be explicitly detailed in
15 the Scope of Delegation and Guidelines of
16 Delegation sections of letters of delegation from the
17 Federal Subsistence Board for the purpose of
18 authorizing in-season subsistence management actions
19 based on conservation. The letters of delegation
20 should contain sideboards, such as specifying upper
21 limits in quotas for conservation purposes. This is
22 required by 50 CFR 100.10(d)(6) and 36 CFR 242
23 10(d)(6), which authorize the Board to delegate
24 authority only within frameworks established by the
25 board. The Board should consult with the Department
26 in developing these sideboards, to prohibit
27 liberalizations and conditions that would result in
28 reallocation between users without direction set by the
29 Federal Subsistence Board. The Department also
30 requests that language be added that specifies the
31 consultation that federal managers will conduct with
32 the Department prior to making decisions that involve
33 the Department's management of fish and wildlife, i.e.,
34 defining what that consultation entails and respecting
35 the Department's decisions on sustainable harvest
36 levels and conservation needs.

37
38 Although the proponent and the federal
39 staff explain that addressing this proposal through the
40 Federal Subsistence Board process would allow for a
41 public review and discussion of the proposed solution,
42 adoption of this proposal would eliminate the public
43 from the regulatory process of future modifications of
44 delegated authorities. If adopted, designated
45 in-season officials would be issued a letter of
46 delegation by the Federal Subsistence Board which
47 grants all in-season authorities currently in
48 regulation, but future changes to the letter of
49 delegation could expand that authority outside of the
50 public process, thus eliminating the transparency of

1 the public process in rulemaking. The proponent and
2 federal staff indicate this proposed change is
3 necessary for rational implementation of wildlife
4 regulations and cooperative management. This point is
5 overstated. The Department has cooperatively assisted
6 federal staff during development and execution of
7 federal subsistence fisheries and hunts for closure for
8 10 and 20 years, respectively. Eventual full
9 delegation of in-season management authority is not
10 necessary for rational implementation of federal
11 subsistence regulation for conservation of fish and
12 wildlife resources for federal subsistence users on
13 federal public lands in Southeast Alaska and removes it
14 from the close public involvement now required. Though
15 the federal staff may desire a framework for eventually
16 achieving full delegation of authority, such delegation
17 has not been deliberated and the Federal Board clearly
18 has not delegated full authority to any federal staff
19 in Alaska for the purpose of managing federal
20 subsistence wildlife hunting or trapping.

21

22 The Department presently works
23 cooperatively with federal staff and does not foresee
24 the benefits of adoption of this proposal. Delegation
25 of all of the Board s authority to open, close, and
26 restrict hunting and trapping by federal staff in
27 Southeast Alaska is not only unnecessary and
28 contravenes public process, but it may also exacerbate
29 misunderstandings by some federal staff that the State
30 remains responsible for the sustainable management of
31 all wildlife on all lands in Alaska.

32

33 Recommendation: Oppose.

34

35 If adopted, modification is needed that
36 clarifies that the letters of delegation will be
37 developed in consultation with the Alaska Department of
38 Fish and Game
39 to include:

40

41 (1) maximum harvest quotas and harvest
42 limits that do not exceed sustainable harvest
43 established by the State and other sideboards on the
44 exercise of delegated authority,

45

46 (2) details the requirements and
47 process for consultation with the State,

48

49 (3) clearly detail the public review
50 process required for modifying letters of delegation

1 and/or protesting such modifications, and

2

3 (4) direct federal staff to make the
4 letters of delegation reasonably available to the
5 public for review.

6

7 NOTE: The revised OSM analysis
8 provided for the April Interagency Staff Committee
9 meeting appears to have proposed the limits necessary
10 for such delegated authorities in the Department's
11 comments above. The summary of the OSM proposed
12 modification appears intended to delegate only the
13 existing inseason federal subsistence management
14 authority for wildlife as currently referenced in
15 regulation and, thus, does not delegate the extent of
16 authorities as proposed by the Council. Further
17 discussion with OSM is needed to determine if the
18 limitations address the Department concerns discussed
19 above.

20

21 CHAIRMAN TOWARAK: Mr. Haskett.

22

23 MR. HASKETT: So my preference would be
24 to make this permanent, but if it looked like I wasn't
25 going to be able to get it any other way, I'd be able
26 to shift to where we did it for this summer with the
27 idea of looking at how it works and bringing it up
28 again for something more permanent. I'd like to hear
29 from Andy Loranger too.

30

31 MR. LORANGER: I think one of the
32 important things to keep in mind in regards to this
33 particular proposal and this request for a delegated
34 authority, and Mr. Carpenter is 100 percent correct.
35 It was specifically about moose and has been primarily
36 about moose from our perspective. It is about a
37 conservation concern for extremely skewed sex ratios
38 and the harvest management strategy decided upon and
39 put in place through the decisions and actions of the
40 Board of Game were understood to be a short-term
41 strategy with an interest of increasing the bull/cow
42 ratio as quickly as possible. In other words,
43 responding to that conservation concern as quickly as
44 possible with the revisiting of what the results of
45 that were.

46

47 Year one were positive. The bull/cow
48 ratio did respond to the restrictions that were in
49 place. Harvest, as Jerry mentioned, was decreased by
50 slightly more than 90 percent. Most of the increase in

1 the bull/cow ratio we saw, and not surprisingly, was
2 due to an increase in the number of yearling bulls
3 counted in the fall composition surveys. Those
4 primarily are -- they constitute peninsula-wide roughly
5 70 percent of the harvest on an annual basis, so
6 protecting that component.

7
8 So the conservation concern. The
9 survey, we made progress last year. We hope to make
10 similar progress this year. I will say that we have
11 some additional concerns because we just went through
12 perhaps one of the most severe winters at least in the
13 last 20 or 30 on the Kenai. We had significant
14 mortality in the 2011 cohort, so that cohort is already
15 reduced.

16
17 So, again, the conservation concern for
18 protecting that segment of the bull population remains
19 in place and the request for delegation of authority is
20 in response to trying to address that conservation
21 concern. I think what we're all very much interested
22 in in the long term and committed to is development of
23 a long-term, viable harvest management strategy that is
24 beneficial to the population. It addresses
25 conservation issues as well as to all users on the
26 Kenai.

27
28 Thank you.

29
30 CHAIRMAN TOWARAK: Go ahead, Pete.

31
32 MR. PROBASCO: Mr. Chair, and for the
33 Board's benefit, to talk about expediency as it deals
34 with special actions. Special actions can be
35 implemented in a fast manner under only one
36 circumstance in the Federal process in that if there's
37 unanimous
38 consent from the Staff Committee. If the Staff
39 Committee does not agree unanimously on the special
40 action request, then it has to come to the Board and
41 the Board has to act on it. So dealing with the Kenai
42 moose issue and looking at how much discussion we've
43 had on just the delegation of authority letter, there's
44 a high probability that if Andy needs to do something
45 on conservation related to the skewed sex ratio, you
46 could run into a situation where he needs to make that
47 decision immediately and we have to go through our
48 process because we don't have unanimous consent on the
49 Staff Committee and I have to organize a Board meeting.
50

1 Mr. Chair.
2
3 CHAIRMAN TOWARAK: Mr. Haskett.
4
5 MR. HASKETT: A question for the State.
6 Conferring with my colleague, refuge manager out there.
7 Of course, we'd prefer to get this permanent but what I
8 was hearing the State say is that if we made it for
9 this temporary period and kind of look and see how it
10 works for the summer only the State would withdraw its
11 objections to a motion if I made it?
12
13 MS. YUHAS: Through the Chair. That
14 portion is correct and I hadn't quite finished with our
15 State comments, but we had also hoped to see language
16 that we don't see currently in the letter that the
17 maximum harvest cap as established by the Board of Game
18 and Federal Subsistence Board would be in place. It's
19 not actually included in the letter. So a temporary
20 nature with a cap of maximum harvest would satisfy the
21 State at this point.
22
23 CHAIRMAN TOWARAK: I've got a question.
24 Could we make it a temporary motion contingent on
25 Regional Council review?
26
27 MR. PROBASCO: Mr. Chair. As Mr.
28 Loranger pointed out, the season starts August 10th.
29 Our Southcentral RAC meeting I believe is in October,
30 so it would be after the fact.
31
32 Mr. Chair.
33
34 CHAIRMAN TOWARAK: But we still could
35 make a motion with a temporary approval.....
36
37 MR. PROBASCO: For this season.
38
39 CHAIRMAN TOWARAK:but contingent
40 the temporary status terminates after Regional Council
41 review.
42
43 MR. PROBASCO: If I understand your
44 comment, Mr. Chair, what you're saying is that we could
45 give delegated authority for this season only, have the
46 RAC review it in October, report back to the Board for
47 further action.
48
49 Mr. Chair.
50

1 CHAIRMAN TOWARAK: Is that an
2 appropriate procedure especially since it's addressing
3 a conservation issue? I think we could probably do it
4 on a permanent nature if we needed to, but if we hinged
5 it on Regional Council review on a temporary basis I
6 think we would cover as many bases as we could.

7

8 Mr. Haskett.

9

10 MR. HASKETT: Maybe there's more
11 discussion that we're going to do here, but I think
12 when we get to the point where we've gone through all
13 the discussion I need 10 minutes to put together what
14 my motion is going to be with my folks. So I'm just
15 kind of letting you know that we've had like three or
16 four different things. I need a chance to get some of
17 these things incorporated before I make a motion and
18 there may be additional discussion as well.

19

20 CHAIRMAN TOWARAK: Go ahead, Mr.
21 Cribley, and then we'll get the refuge manager.

22

23 MR. CRIBLEY: Mr. Chairman, the
24 recommendation that you made as far as essentially
25 providing for a short-term fix so to speak and then
26 asking for the Regional Council to get involved with it
27 and provide feedback to us, more formal feedback to us,
28 I think meets my needs -- or not needs, but at least
29 what I was concerned about as far as getting formal
30 feedback without interfering with the conservation
31 concerns and giving the refuge manager the abilities to
32 manage that moose population properly. I think that's
33 a good idea from my perspective.

34

35 CHAIRMAN TOWARAK: Did you have a
36 comment.

37

38 MR. LORANGER: Thank you, Mr. Chair. I
39 just think it's worthwhile to point out that I believe
40 we are going to be in a period of transition and
41 needing to respond to conservation concerns on Kenai
42 moose beyond this season. So I hope that can be
43 considered.

44

45 Thank you.

46

47 CHAIRMAN TOWARAK: Mr. Haskett.

48

49 MR. HASKETT: Whatever proposal we make
50 we'll make it clear that we're looking at this long

1 term and we're just going to get the best we can for
2 now, so we'll cover that.

3
4 CHAIRMAN TOWARAK: Do you still need a
5 nine minute break?

6
7 MR. HASKETT: Give me six minutes.

8
9 CHAIRMAN TOWARAK: Okay, you've got it.
10 We'll take a six-minute break.

11
12 (Off record)

13
14 (On record)

15
16 CHAIRMAN TOWARAK: We're all back in
17 attendance now. We'll reconvene the Board meeting.
18 Are there any other comments before we turn the floor
19 over to Mr. Haskett. Go ahead, Ms. Yuhas.

20
21 MS. YUHAS: I just have an easy one and
22 it's kind of embarrassing, Mr. Chairman, but I have the
23 wrong date on our comments and I have to point that out
24 for the record that it's 17 July, not August. My bad.

25
26 CHAIRMAN TOWARAK: That's like pre-
27 dating a check.

28
29 MS. YUHAS: Yeah, don't cash it yet.

30
31 CHAIRMAN TOWARAK: Mr. Haskett.

32
33 MR. HASKETT: So what I'm going to
34 attempt to do because there's three or four different
35 issues on the floor right now and I'm going to try and
36 explain how I'm going to cover this in my motion and
37 hopefully it will be enough to satisfy the questions.
38 I'm going to be making a motion. This is not my motion
39 yet. This is just kind of an explanation of where I
40 plan on going. A motion to provide the Kenai refuge
41 manager the in-season delegated authority for moose, so
42 it's going to be moose only, and what will be referred
43 to is that second letter in our package to take that
44 language and modify it however we need to to make it
45 clear on the other things as outlined in the draft
46 letter of delegation before us.

47
48 Part of this delegation includes
49 consultation by the refuge manager with ADF&G, the
50 Council and tribes prior to any action. We will then

1 ask the Southcentral RAC to review this delegation at
2 their fall meeting, which gives us the ability to
3 conduct this this summer as we need to. If they have
4 any issues with it, then we'll adjust them through
5 adjustments or revocation of this delegation in our
6 January 2013 meeting. So we turned it around a little
7 bit. As opposed to making this temporary, we've made
8 it temporary but by way of allowing the RAC to go ahead
9 and let us know if they have concerns and have us be
10 able to then go ahead and address those concerns by
11 cancelling it or adjusting it based upon their concerns
12 if we need to.

13

14 I have one more thing for the State
15 too. We did not include anything about the maximum
16 harvest cap because we actually don't see where it
17 would ever happen that the refuge manager would come up
18 with a number that would exceed what the State had as a
19 number, but since that concern is there we're not going
20 to include it in the motion, but our promise is to work
21 with the State again over the next half a year,
22 whatever, before the next meeting to see if there is a
23 way to address that more specifically, but we can't
24 foresee any possibility of that actually happening.

25

26 MS. YUHAS: I think Mr. Haskett's
27 comments on the record serve as a record of the Board's
28 intent that that not happen.

29

30 CHAIRMAN TOWARAK: Go ahead.

31

32 MR. HASKETT: So I'm seeing no
33 questions or concerns at this point, so I'm going to go
34 ahead and make my motion if that's okay.

35

36 (No comments)

37

38 MR. HASKETT: I'm taking that as a yes.

39

40 (Laughter)

41

42 MR. HASKETT: So the motion is to
43 provide the Kenai refuge manager the in-season
44 delegated authority for moose as outlined in the draft
45 letter of delegation before us. Part of this
46 delegation includes consultation by the refuge manager
47 with ADF&G, the Council and tribes prior to this
48 action. We will then ask the Southcentral RAC to
49 review this delegation at their fall meeting. If they
50 have any issues with it, then we will address them

1 through adjustments or revocations of this delegation
2 at our January 2013 meeting.

3

4 MR. CRIBLEY: I second.

5

6 CHAIRMAN TOWARAK: You heard the motion
7 and a second. Any discussion.

8

9 MR. OWEN: Mr. Chairman. Wayne Owen
10 with the Forest Service. For the Board's information,
11 the U.S. Forest Service, Chugach National Forest,
12 Seward Ranger District, has requested closure authority
13 for the adjacent Unit 7 for moose hunting, specifically
14 for the spiked fork component for the season. This
15 request would parallel the action for Unit 15 and would
16 also be for conservation purposes. This request has
17 been received by OSM today, but they have not had a
18 chance to review or see it. So we are in parallel with
19 what you're hoping to do.

20

21 CHAIRMAN TOWARAK: Go ahead.

22

23 MR. PROBASCO: To add on to what Dr.
24 Owen said is that we would look at this and we would
25 report back to the Board for future action on Unit 7.
26 Mr. Chair.

27

28 Mr. Chair. Kenai Peninsula moose
29 management includes Unit 15, which is the Refuge area,
30 and then outside of that, still dealing with the same
31 moose for Kenai Peninsula, you have the Forest Service
32 lands, which are in Unit 7. So the Forest Service,
33 which we received this morning, is in lockstep with
34 what the U.S. Fish and Wildlife Service wants to do for
35 Unit 7 and we would have to act on that at a later date
36 but prior to August 10th to be in sync with the two
37 management units.

38

39 CHAIRMAN TOWARAK: Mr. Haskett.

40

41 MR. HASKETT: So just to keep things
42 simple though -- I mean I appreciate the information,
43 but I think we need to keep that separate from this or
44 else we'll get into a whole different discussion. So
45 I'd like to see us move forward with this and then if
46 we need to take up more on that would be the
47 appropriate time.

48

49 MR. OWEN: I agree. This information
50 was just shared to contribute to inform the Board and

1 the Staff has yet to look at our request. So not the
2 same, just information.

3

4 CHAIRMAN TOWARAK: Go ahead.

5

6 MR. CHRISTIANSON: My question is on
7 the consultation process and when you contact the
8 tribes. My history with that consultation process
9 being with Southeast is they call you and tell you what
10 you're going to do and that's what happens. I mean
11 that management -- it overrides it. So what if the
12 tribes in the area are in disagreement to that
13 management scenario that the director gives?

14

15 CHAIRMAN TOWARAK: Mr. Haskett.

16

17 MR. HASKETT: So I think everyone heard
18 that the refuge manager is doing an excellent job of
19 making sure he's actually working with the local tribes
20 and the State. These are very complicated issues.
21 This is a biological question. I mean it's a
22 conservation issue. If the determination is that we
23 have to do this based upon reasons that are going to go
24 ahead and conserve the species out there, then I think
25 that the refuge manager reserves the right to move
26 forward, but I mean we'll have a true conversation, but
27 I expect that it could actually happen that way, you
28 know, in fact there could still be a decision made.
29 I'm not sure if there's a way around that if the
30 conservation issue exists.

31

32 CHAIRMAN TOWARAK: Further discussion.
33 Questions. Mr. Owen.

34

35 MR. OWEN: Thank you, Mr. Chair. Just
36 for my clarification, I wasn't quite sure, maybe
37 because I was dealing with this other thing, are we
38 requesting permanent authority or temporary authority?

39

40 CHAIRMAN TOWARAK: Mr. Haskett.

41

42 MR. HASKETT: No, we went for
43 temporary. The way we set it up is it can be revoked
44 the next time we get together if there's any concern at
45 the RAC or even if there's concerns that come up from
46 the tribes as well in part of the consultation process.
47 We could bring it up again.

48

49 MR. OWEN: Thank you.

50

1 CHAIRMAN TOWARAK: Go ahead.
2
3 MR. PROBASCO: I think it's good to put
4 on the record right now that the Board can remove any
5 delegation authority at any time. So once you issue
6 the delegation authority you could pull it whenever you
7 felt necessary. Mr. Chair.
8
9 CHAIRMAN TOWARAK: So there's nothing
10 permanent.
11
12 MR. HASKETT: Not yet.
13
14 CHAIRMAN TOWARAK: Any further
15 discussion.
16
17 MR. LORD: I'm not sure that that got
18 characterized to my satisfaction. It's temporary in
19 the sense that anything we do is temporary, but it's as
20 permanent as any delegation ever is. If the RAC
21 doesn't have any problem with it, it will stay in place
22 indefinitely until the Board acts again.
23
24 CHAIRMAN TOWARAK: Mr. Haskett.
25
26 MR. HASKETT: Although we made it clear
27 in the way we worded that is to make clear that the
28 Board can take it up and if there are any concerns, in
29 fact, we will go ahead and revoke or adjust if that's
30 the wish of the Board.
31
32 CHAIRMAN TOWARAK: Okay. That clears
33 my mind. Further discussion.
34
35 (No comments)
36
37 CHAIRMAN TOWARAK: Is there a call for
38 the question.
39
40 MR. BROWER: Question.
41
42 CHAIRMAN TOWARAK: The question has
43 been called for. Is there any opposition to the
44 motion.
45
46 (No objections)
47
48 CHAIRMAN TOWARAK: The motion passes
49 unanimously. The next item on the agenda is other
50 business. My understanding is that we will be going

1 into executive session. Some of that process will take
2 us quite a while. Could we take a lunch break now and
3 come back.

4

5 Mr. Probasco.

6

7 MR. PROBASCO: I was waiting for you to
8 get done, Mr. Chair, but you're on the right track. We
9 do have to do a formal close of the public session and
10 we do, as per our policy, announce what the executive
11 session is for, which is laid out in the agenda. It's
12 to deal with the Regional Advisory Councils member
13 applications and the nominations and the Board will
14 develop their recommendation to the Secretaries and
15 then we're also going to develop or discuss a
16 Secretarial request to the Board to review the 2014
17 budget.

18

19 So, Mr. Chair, those are the items and
20 it would be appropriate to break for lunch.

21

22 CHAIRMAN TOWARAK: We'll need a motion
23 to go into executive session right after lunch.

24

25 MR. HASKETT: I'll make that motion.

26

27 MR. CRIBLEY: Second.

28

29 CHAIRMAN TOWARAK: It's been moved and
30 seconded that we go into executive session. Is there
31 any objection to the motion?

32

33 (No objections)

34

35 CHAIRMAN TOWARAK: The motion passes.
36 We will take a break and return at 1:00 o'clock or
37 1:30.

38

39 MR. PROBASCO: Make it 1:15, Mr. Chair.

40

41 CHAIRMAN TOWARAK: 1:15. We will
42 reconvene at 1:15 then.

43

44 (Off record)

45

46 (END OF PROCEEDINGS)

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C E R T I F I C A T E

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

I, Salena A. Hile, Notary Public in and for the State of Alaska, do hereby certify:

THAT the foregoing pages numbered 2 through 63 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, taken electronically on the 18th day of July 2012, beginning at the hour of 9:00 a.m. at the U.S. Fish and Wildlife Service, Gordon Watson Conference Room, Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 24th day of July 2012.

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