

1 FEDERAL SUBSISTENCE BOARD  
2  
3 PUBLIC REGULATORY MEETING  
4  
5 VOLUME III  
6  
7 EGAN CONVENTION CENTER  
8 ANCHORAGE, ALASKA  
9  
10 January 20, 2011  
11 8:30 o'clock a.m.  
12  
13  
14 BOARD MEMBERS PRESENT:  
15  
16 Tim Towarak, Chairman  
17 Kristin K'eit, Bureau of Indian Affairs  
18 Geoff Haskett, U.S. Fish and Wildlife Service  
19 Beth Pendleton, U.S. Forest Service  
20 Sue Masica, National Park Service  
21 Bud Cribley, Bureau of Land Management  
22  
23 Bertrand Adams - Southeast RAC  
24 Rosemary Ahtuanguaruak - NS RAC  
25 Peter Buck - Seward Peninsula RAC  
26 Molly Chythlook - Bristol Bay RAC  
27 Andrew Firmin - Eastern Interior RAC  
28 Ralph Lohse - Southcentral RAC  
29 Jack Reakoff - Western Interior RAC  
30 Walter Sampson - NWA RAC  
31 Mitch Simeonoff - Kodiak RAC  
32 Lester Wilde - YK RAC  
33  
34  
35 Charlie Swanton, State of Alaska Representative  
36  
37 Keith Goltz, Solicitor's Office  
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P R O C E E D I N G S

(Anchorage, Alaska - 1/20/2011)

(On record)

CHAIRMAN TOWARAK: We'll call this meeting to order. We are into proposals. We concluded most of the Yukon River issues yesterday and are beginning this morning with Fish Proposal 11-11. The proposal requests that the annual harvest limit for king crab in the Kodiak Management area be changed from six per household to three per household. Submitted by the Kodiak Aleutian Subsistence Regional Advisory Council. We begin the.....

(Whispered conversation)

CHAIRMAN TOWARAK: Okay. We will begin the process. Did you want to recognize someone?

MR. PROBASCO: Yes, thank you, Mr. Chair. Going into the Kodiak Management Area I have up front Ann Wilkinson, she's our division chief for the coordinators. Dr. Steve Fried, he's the lead analysis and Larry Buklis again, our division chief for Fisheries.

Thank you. Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Welcome to the sessions. We will begin then with the lead Staff analysis. Mr. Fried.

MR. FRIED: Good morning. Mr. Chair and members of the Board, Regional Council Chairs. My name is Steve Fried, I'm a fisheries biologist with the Office of Subsistence Management and I'm going to try to briefly summarize the Staff analysis for FP 11-11.

This was a proposal submitted by the Kodiak Aleutians Regional Advisory Council for king crab for the Kodiak area. And it -- the affected Federal public waters would be the sub-units of the Alaska Maritime National Wildlife Refuge in this area which are Women's Bay, Karluk and Afognak and you can refer to maps one and two on Pages 198 and 199 of your books to get a better idea of where these are and where they are in relation to the Kodiak road system also.

As the Chair had noted, the proponent is

1 requesting a change in the household annual harvest limit  
2 from six to three king crab. This would align the  
3 Federal with the State subsistence harvest limits.

4  
5 Kodiak area king crab abundance has been  
6 very low since the early 1980s. The commercial fishery  
7 has been closed since 1983 and there's no open season for  
8 the State's sport or personal use fisheries. So  
9 currently there are only State and Federal subsistence  
10 fisheries that are allowed to take king crab in the  
11 Kodiak area. Federal waters have been closed to the  
12 taking of king crab by non-Federally-qualified users  
13 since 1994. The Alaska Department of Fish and Game  
14 conducts an annual trawl survey to monitor the status of  
15 crab stocks in the area and so far there has been no  
16 indication that the king crab stock is rebuilding at all.  
17 Annual subsistence king crab harvest from the Chiniak  
18 area which includes the Women's Bay sub-unit were about  
19 1,000 king crab during 1990 to 1995. This ranged from  
20 about a little over 900 to maybe 1,500 and then this  
21 decreased to 100 or less during 1996 to 2009 and it's  
22 ranged from 42 to about 204. And there's a table on Page  
23 203 with more details on the harvests. As far as the  
24 harvest per permit from the area, it was about -- it was  
25 generally above one king crab during 1990 to 1995 and now  
26 it's below one king crab per permit since 1996. In  
27 addition to a lowering of the annual household harvest  
28 limit there was discussions about a total closure of king  
29 crab fishing to all users in the Women's Bay sub-unit to  
30 protect juvenile king crab.

31  
32 The pros for doing this is that the  
33 stocks aren't rebuilding and it is a nursery area and  
34 harvests are very small and it's very easy to access from  
35 Kodiak City. The cons for not doing this is that it's  
36 not really clear that a complete closure is needed or  
37 would be an affective conservation measure to do so. And  
38 during the September, 2010 Council meeting there was  
39 quite a long discussion about this. We had testimony  
40 over the phone by Peter Kaminski who is a crab biologist  
41 with the NOAA lab in Kodiak and he was there to answer  
42 questions that people had. Actually his main concern was  
43 ghost pot fishing and I think they flat out asked him,  
44 you know, well, what do you think about a closure and he  
45 said NOAA really doesn't have a position on that. And  
46 there are other nursery areas, it's not like Women's Bay  
47 is the only nursery area for king crab.

48  
49 So after some discussion it really wasn't  
50 -- there really wasn't a convincing argument made, the

1 Council wasn't convinced and OSM Staff wasn't convinced,  
2 that a total closure to all users of Women's Bay was  
3 needed. Adopting the submitted proposal would reduce  
4 king crab harvest opportunity for Federally-qualified  
5 subsistence users in principle, although if you look at  
6 the data the average harvests have been much less than  
7 one so, you know, an actual affect, I'm not sure.

8  
9 The OSM conclusion is to support the  
10 proposal even though it's difficult to predict the affect  
11 on king crab resource. Adopting it would at least  
12 highlight conservation efforts, it would provide a more  
13 realistic indication of what people might expect to  
14 harvest. And just as an aside if the proposal wasn't  
15 adopted a joint permit with the State or a separate  
16 Federal permit might be needed since the harvest limits  
17 would be different.

18  
19 That concludes my summary at this point.  
20 Thank you.

21  
22 CHAIRMAN TOWARAK: Thank you, Mr. Fried.  
23 Are there any questions from the Board or the Advisory  
24 Council. Mr. Sampson.

25  
26 MR. SAMPSON: Thank you very much for the  
27 report. Is there any justification in regards to what  
28 the cause may be in regards to the decline of king crab?

29  
30 MR. FRIED: Well, it's been -- it's  
31 actually been a decline -- there was a decline statewide,  
32 it wasn't just Kodiak, but I don't think anybody's really  
33 put their finger on what one cause was. A lot of people  
34 talk about a regime shift where it moved from more of a  
35 shellfish based system to more of a fish based system,  
36 but there's -- you know, everybody has a lot of theories,  
37 but nobody's ever shown why.

38  
39 MR. SAMPSON: So you're telling me that  
40 even though the agency knows there's a decline nothing is  
41 being done?

42  
43 MR. FRIED: Well, most of the fisheries  
44 are closed, I don't know what else people -- I mean,  
45 there have actually been some efforts to, I think,  
46 harvest some king crab and try to raise the eggs and the  
47 larvae in hatcheries and introduce them back into the  
48 wild, but, I mean, other than that I'm not -- I'm not  
49 sure what else people could do.

50

1 MR. SAMPSON: Would there be any  
2 difference, I guess maybe would be the word, if there's  
3 king crab that were taken out -- further out in the -- in  
4 the deeper waters versus what would be taken within the  
5 community area, would you be able to tell the difference,  
6 what stocks are for where or where the king crab goes or  
7 migrates to?

8  
9 MR. FRIED: I'm not sure, I haven't  
10 really seen any studies as far as what the population  
11 structure is in Kodiak, I don't know if there's -- if  
12 they consider it one large population, several  
13 populations, I would -- I would think it's probably some  
14 different populations. I think on the southern end of  
15 the island I've been told the populations are doing a  
16 little bit better than the other ones survey wise and  
17 everything. Those aren't in Federal waters. But the  
18 only thing I can say is in some of the bays there are  
19 younger king crab because the bays are nursery areas so  
20 you get a mix of these young crabs and maturing crabs.

21  
22 CHAIRMAN TOWARAK: Any further questions  
23 of the Staff? Ms. K'eit.

24  
25 MS. K'EIT: Mr. Chair. Thank you. Mr.  
26 Fried, so just to verify the State regs have been at a  
27 limit of three since 1997?

28  
29 MR. FRIED: Yeah, they've had that limit  
30 for several years.....

31  
32 MS. K'EIT: Okay.

33  
34 MR. FRIED: .....so, yeah.....

35  
36 MS. K'EIT: Thank you.

37  
38 MR. FRIED: .....that's correct.

39  
40 MS. K'EIT: Thanks. Mr. Chair.

41  
42 CHAIRMAN TOWARAK: Further questions.

43  
44 (No comments)

45  
46 CHAIRMAN TOWARAK: I'm not hearing any.  
47 Thank you very much for your report.

48  
49 We'll next move to the summary of public  
50 comments by the Regional Council Coordinator.

1 MS. WILKINSON: Mr. Chair. There were no  
2 written public comments for this proposal.

3  
4 CHAIRMAN TOWARAK: Thank you.

5  
6 MR. PROBASCO: And, Mr. Chair, we have no  
7 one signed up from the public to testify on this  
8 proposal.

9  
10 CHAIRMAN TOWARAK: Thank you. We have --  
11 the next step on the process is the Regional Council  
12 recommendations. Mr. Simeonoff.

13  
14 MR. SIMEONOFF: Thank you. Mr. Chairman.  
15 The Regional Council's recommendation is on Page 206 of  
16 the big book. I'll just read the recommendation.

17  
18 The Kodiak Aleutians Regional Advisory  
19 Council supports Proposal FP 11-11. This proposal  
20 addresses conservation concerns and would continue to  
21 provide fishery opportunity for elder subsistence users  
22 from Kodiak City. Only a few crab are taken out of all  
23 of Chiniak Bay and there is no information about how many  
24 are taken from Women's Bay in particular. However the  
25 observations of local fisheries managers are that the  
26 population of crab in Women's Bay are -- has remained  
27 stable over the years and Women's Bay is one of the few  
28 crab fishing places on the island that are road  
29 accessible and is the most accessible location where  
30 elders from Kodiak City can continue to fish.

31  
32 Thank you. Mr. Chairman.

33  
34 CHAIRMAN TOWARAK: Thank you, Mr.  
35 Simeonoff. Any questions of the Regional Council Chairs.

36  
37 (No comments)

38  
39 CHAIRMAN TOWARAK: I'm not hearing any.  
40 We will continue on then to the Department of Fish and  
41 Game comments.

42  
43 MR. PAPPAS: Thank you. Mr. Chair. Good  
44 morning. George Pappas, Fish and Game.

45  
46 This proposal was submitted to reduce  
47 household possession and annual harvest limits for red  
48 king crab in Federal subsistence fisheries near Kodiak  
49 Island from six to three male red king crabs. If adopted  
50 a Federal subsistence user's possession and annual

1 harvest limits of red king crab would be reduced from six  
2 to three. The proposed reduction does not anticipate to  
3 have a significant impact on the harvest due to the low  
4 levels of harvest reported in Chiniak Bay which includes  
5 Women's Bay and Gibson Cove.

6  
7 If you take the time to look at Page 199  
8 we'll discuss this map in further detail. The State  
9 subsistence fishery harvest limit for red king crab  
10 around Kodiak is three per year per household. The  
11 Alaska Department of Fish and Game surveys in the waters  
12 near Kodiak Island on an annual basis and the 2009 survey  
13 indicates the population is at historically low levels.  
14 Adoption of the proposal may benefit the depressed king  
15 crab populations near Kodiak and ongoing research reveals  
16 that Women's Bay and Gibson Cove are important nursery  
17 areas within the greater Chiniak Bay for juvenile red  
18 king crab and reducing the annual household limit may  
19 reduce injuries and mortality to juvenile red king crab  
20 that is incurred while being handled, measured, sorted  
21 and returned to the water in the Federal -- by Federal  
22 subsistence users. And keep in mind this is closed --  
23 the area is closed to non-Federally-qualified users.  
24 Detailed maps are needed in order to assure non-  
25 Federally-qualified and Federal subsistence users can  
26 identify the boundaries and avoid risk of enforcement.

27  
28 The Department supports this proposal  
29 with modification. One, the Department recommends  
30 closure of Women's Bay and Gibson Cove to the harvest of  
31 red king crab based on conservation concerns over  
32 handling mortality for juvenile red king crabs that are  
33 returned to Women's Bay and Gibson Cove under the legal  
34 minimum size limit. Now if you look at this map the  
35 research that has been conducted there for years  
36 indicates there are a lot of -- it's a nursery area, it's  
37 a shallow area, a lot smaller crabs and the -- during  
38 testimony at the Kodiak Aleutians RAC meeting the  
39 scientists indicate that they track these crabs as they  
40 grow up and they leave the area, they go to deeper water.  
41 So as Mr. Sampson was indicating there, that was part of  
42 his question, I believe, can you tell the difference  
43 between what's in Women's Bay and what's maybe  
44 a little further offshore. Well, you might be able to  
45 tell the difference not genetically in stock, but actual  
46 age classes, you'll have larger, more mature harvestable  
47 animals outside of that nursery area. And that's the  
48 primary concern here the Department has, though there's,  
49 you know, 100 crabs caught in this entire area per year  
50 on average by subsistence users, how many small crabs do

1 you have to go through for the -- you know, the double  
2 digit harvest per year in that area. How much effort --  
3 you have to ask how much more effort does it take to take  
4 a skiff another half mile outside of that area to deeper  
5 water to fish for crabs.

6  
7 Number 2, as part of our recommendation  
8 the Department supports reducing the household in  
9 possession annual limit from -- of red king crab in the  
10 remaining Federal subsistence fishery areas around Kodiak  
11 Island from six to three male red king crab.

12  
13 Thank you. Mr. Chair. Those are our  
14 comments.

15  
16 \*\*\*\*\*  
17 STATE OFFICIAL WRITTEN COMMENTS  
18 \*\*\*\*\*

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

22  
23 Fisheries Proposal FP11-11: Reduce  
24 federal subsistence annual and possession limits for red  
25 king crab near Kodiak Island.

26  
27 Introduction: The Kodiak-Aleutians  
28 Regional Advisory Council proposal was submitted to  
29 reduce household possession and annual harvest limit of  
30 red king crab in the federal subsistence fisheries near  
31 Kodiak Island from six to three male red king crabs.  
32 Adoption of this proposal would align the federal and  
33 state harvest limits, although most waters where federal  
34 subsistence jurisdiction is claimed have been closed to  
35 non-federally qualified subsistence users since 1996.

36  
37 Impact on Subsistence Users: If adopted,  
38 federal subsistence user possession and annual harvest  
39 limits of red king crab per household would be reduced  
40 from six to three. The proposed reduction is not  
41 anticipated to have a significant impact on harvest due  
42 to the low levels of harvest reported in Chiniak Bay,  
43 which includes Womens Bay and Gibson Cove.

44  
45 Opportunity Provided by State: The state  
46 subsistence fishery harvest limit for red king crab near  
47 Kodiak is three male crabs per year per household: 5 AAC  
48 02.420 Subsistence King Crab Fishery (1) the annual limit  
49 is three king crab for a household;

50



1 Conservation Issues: The red king crab  
2 stocks near Kodiak Island have been depressed for three  
3 decades. In 1996, the Alaska Board of Fisheries lowered  
4 the daily/possession/annual harvest limits from six per  
5 person to three crabs per household per year. The Alaska  
6 Department of Fish and Game surveys the waters near  
7 Kodiak Island on an annual basis, and the 2009 survey  
8 indicates the population is at historically low levels.

9  
10 Commercial fisheries began in the 1930s  
11 and peaked in the 1960s when over 94 million pounds of  
12 crab were harvested. Harvests declined in the late 1970s.  
13 Commercial fishing closed in 1983/84 and has not  
14 reopened. Since 1988, the Alaska Department of Fish and  
15 Game conducted trawl surveys to assess king and Tanner  
16 crab populations around Kodiak Island, along the Alaska  
17 Peninsula, and in the eastern Aleutian Islands. The  
18 Kodiak Area remains closed because the abundance  
19 estimates of female king crabs are well below threshold  
20 levels. The Kodiak red king crab population remains at  
21 historically low levels. The 2009 Kodiak red king crab  
22 population was estimated at 28,257 crabs, down from an  
23 estimated 71,877 crabs in 2008.

24  
25 Adoption of this proposal may benefit the  
26 depressed red king crab population near Kodiak. On-going  
27 research reveals that Womens Bay and Gibson Cove are  
28 important nursery areas within the greater Chiniak Bay  
29 for juvenile red king crab. Reducing the annual  
30 household bag limit may reduce injuries and mortalities  
31 to juvenile red king crabs incurred while being handled,  
32 measured, sorted, and returned to the water by federal  
33 subsistence users.

34 Jurisdiction Issues: The Federal Subsistence Board  
35 authorized a subsistence red king crab fishery near  
36 Kodiak Island in the marine waters of the Pacific Ocean  
37 enclosed by the boundaries of Womens Bay, Gibson Cove,  
38 and an area defined by a line mile on either side of  
39 the mouth of the Karluk River, extending seaward 3,000  
40 feet. Additionally, federal subsistence users can fish  
41 for red king crab in the marine waters within three miles  
42 of Afognak Island, and the waters within 1,500 feet  
43 seaward of the Afognak Island shoreline are closed to red  
44 king crab harvest by the non-federally qualified users.  
45 Detailed maps are needed in order to assure non-federally  
46 qualified and federal subsistence users can identify the  
47 boundaries and avoid risk of enforcement actions.

48  
49 Recommendation: Support with  
50 modification.

1                   1.           Close Womens Bay and Gibson Cove  
2 to harvest of red king crab based on conservation  
3 concerns over handling mortality of juvenile red king  
4 crabs that are returned to Womens Bay and Gibson Cove  
5 that are under the minimum legal size limit.

6  
7                   2.           Support reducing household  
8 possession and annual harvest limit of red king crab in  
9 the remaining federal subsistence fisheries near Kodiak  
10 Island from six to three male red king crabs.

11  
12                   CHAIRMAN TOWARAK: Thank you. Are there  
13 any questions of the Board or the RACs with the State's  
14 testimony. Ms. K'eit.

15  
16                   MS. K'EIT: Mr. Chair. Thank you. Thank  
17 you for your testimony. I had a little confusion with  
18 when you referred us to map two and then you had a  
19 statement regarding it showing the numbers in the area.  
20 I may have misheard or can you clarify, please?

21  
22                   MR. PAPPAS: Through the Chair. Ms.  
23 K'eit. The harvest information available for Chiniak  
24 Bay, the whole bay on map two, is located in the Federal  
25 analysis. In recent years it's averaged under 100  
26 animals or so or right about that level. That's for the  
27 entire bay. Our permitting system that is reported upon  
28 does not separate out Women's Bay and Gibson Cove which  
29 is just a smaller area of Chiniak Bay. So even though  
30 maybe 100 crabs are harvested in this entire area, we  
31 don't know if half, a quarter or all are caught inside  
32 there. It's unlikely that 100 percent of those crabs are  
33 caught inside there. So my point was it's likely the  
34 harvested area's in double digits and in that area it's  
35 known that there's a lot of small crab so how many small  
36 crabs do you have to handle and throw back over the side  
37 to catch the 50, 60, 80, 90 crabs per year.

38  
39                   Thank you. Mr. Chair.

40  
41                   CHAIRMAN TOWARAK: Thank you. Go ahead.

42  
43                   MS. K'EIT: Thank you. Mr. Chair. So a  
44 follow on question. So these numbers in Table 2 of our  
45 book, it refers to Chiniak area including Women's Bay and  
46 so I'm just wanting to make sure that these numbers --  
47 you don't have a way to distinguish between Women's Bay  
48 and the Chiniak area and then also if you can just give  
49 us a little more detail on the handling mortality  
50 information?

1 Thank you.

2

3 MR. PAPPAS: Through the Chair. And  
4 maybe Dr. Fried can assist with this. At the RAC  
5 meeting, the Kodiak Aleutians RAC meeting in Cold Bay, we  
6 had the scientists -- the National Marine Fisheries or  
7 NOAA scientists on line and they -- the question came up  
8 what about handling mortality studies for subsistence  
9 users in skiffs or smaller boats. We don't know if there  
10 are -- such studies exist. There have been studies at  
11 sea, large boats, wintertime, commercial gear, heavy  
12 pots, what have you. And I don't have that number --  
13 that information in front of me and I'm not sure how  
14 applicable that is toward someone in a 16 foot Lund  
15 pulling one single pot. The concern is when you do pull  
16 a pot up that has, you know, 50 or 100 juveniles and  
17 maybe one or two retainable crabs, bring it up over the  
18 side, clipping legs off, tossing it back, there is  
19 handling mortality associated. We haven't had a study on  
20 that and that was -- that would -- that was a very tough  
21 question that no one could answer.

22

23 Thank you. Mr. Chair.

24

25 CHAIRMAN TOWARAK: Mr. Haskett.

26

27 MR. HASKETT: So I'm just -- I think it's  
28 a really good thing that the Regional Council recognizes  
29 that something needs to be done, has taken this step to  
30 go ahead and make the reduction. And I understand your  
31 concerns, but I've just been talking to our folks and I  
32 know we -- we're working with NOAA on this too and NOAA,  
33 I don't know if they have a position, but I don't know  
34 that they're -- they've gone as far as the State has in  
35 terms of being concerned about whether going to three as  
36 opposed to closing would be a problem. And my  
37 understanding is the amount of crabs that were actually  
38 being taken there, I mean, it's not a large number so I  
39 guess the question I'm trying to get to to the State is  
40 if we were to go from six to three, you're to continue to  
41 monitor, it's obviously a step in the right direction,  
42 you'd continue to make studies where if there was a major  
43 problem with the juveniles would we know in a -- like  
44 within the next year or two or, I mean, I'm not sure of  
45 the status of your studies I guess is what I'm trying to  
46 figure out?

47

48 MR. PAPPAS: Through the Chair. Mr.  
49 Haskett. The Department doesn't do surveys in that area,  
50 the NOAA lab has divers that have been actively studying

1 the population there for years. The divers would not  
2 commit to one way or the other. All they'd say there is  
3 a presence and that the -- they have tagged adults that  
4 have migrated out of the area, some 90 percent of the  
5 adults migrate out of the area. So that potentially is  
6 a seed population. So I really don't have an answer for  
7 you. The concern that we have is not for the adults, if  
8 you see the catch per unit effort is what, less than one,  
9 it's how many small crabs do you have to handle to get  
10 that one crab per year. We don't know, we don't have any  
11 information on that. I believe some future studies are  
12 planned through NOAA, but I'm not sure -- they're not  
13 designed to address that particular issue so I don't have  
14 a good answer for you.

15

16 Thank you. Mr. Chair.

17

18 CHAIRMAN TOWARAK: Go ahead.

19

20 MS. MASICA: Mr. Chair. For Mr. Pappas.  
21 Could you clarify are there State subsistence regulations  
22 for Women's Bay and Gibson Cove?

23

24 MR. PAPPAS: Through the Chair. The  
25 overlying State regulations would be what, three crabs  
26 per year per household, but it has been closed to non-  
27 Federally-qualified users in that area since before the  
28 Federal subsistence process got into fisheries.

29

30 Thank you. Mr. Chair.

31

32 MR. PROBASCO: And, George, it may be --  
33 it might be helpful to the Board to clarify the other  
34 subsistence crab fisheries in Women's Bay, i.e., is the  
35 State's tanner crab subsistence fishery closed in Women's  
36 Bay?

37

38 MR. PAPPAS: Through the Chair. Mr.  
39 Probasco. I don't have that information in front of me  
40 right now regarding the tanner crab fishery or the  
41 Dungeness fishery either.

42

43 MR. PROBASCO: Mr. Chair. I believe the  
44 State's tanner crab season is still open in Women's Bay  
45 and I think what we have now is closed for king crab,  
46 unless that's changed in the recent years. So it might  
47 be something we need to clarify because they use both the  
48 same gear for tanner crab and king crab.

49

50 Mr. Chair.

1 CHAIRMAN TOWARAK: Thank you. If you  
2 want to research that while we continue our deliberations  
3 when you're ready to come back I'll be willing to give  
4 you the floor to explain an answer to the question.

5  
6 Are there other questions? Mr. Lohse.

7  
8 MR. LOHSE: Mr. Pappas. Through the  
9 Chair. Did -- Mr. Pappas, did you by any chance at the  
10 -- that science symposium that they had upstairs, did you  
11 by any chance get a chance to look at the research that  
12 was done on handling mortality of juvenile snow crab that  
13 was in that symposium upstairs?

14  
15 MR. PAPPAS: Through the Chair. Mr.  
16 Lohse. I did not. Now I'm aware of Dan Urban's work, I  
17 believe Dr. Chin is also familiar with the work in that  
18 particular situation. They have live tanks on board,  
19 wintertime, high seas, totally different conditions  
20 temperature wise.....

21  
22 MR. LOHSE: Yeah.

23  
24 MR. PAPPAS: .....leg drop, et cetera.  
25 And I don't recall what their estimation was, but I  
26 believe it was fairly high for snow crab.

27  
28 Thank you. Mr. Chair.

29  
30 MR. HASKETT: Mr. Chair. I'd like to  
31 address a question to Steve Fried, if I could.

32  
33 CHAIRMAN TOWARAK: Sure. Go ahead.

34  
35 MR. HASKETT: So through the Chair. So  
36 could you address -- I'm trying to figure out, I mean, I  
37 really like the fact that the RAC has come forward and  
38 asked for, you know, reducing from six to three and I  
39 totally understand the concerns too the State has on the  
40 juvenile population out there. But could you give us  
41 what we think is going on, I mean, as well as you can on  
42 the -- with the population of juveniles out there?

43  
44 MR. FRIED: Well, all I can do is relate  
45 when I spoke to Peter Kaminski, I mean, he was involved  
46 in the review process from the beginning. And they do do  
47 dive surveys in Women's Bay and part of the reason they  
48 use Women's Bay is it's accessible from the road system  
49 so it's very easy and, you know, very -- you know, less  
50 expensive to do a lot of studies there every year than go

1 someplace else. So yes, it's a juvenile area, but it's  
2 not the only one. And, you know, we asked him, you know,  
3 if NOAA had a position, you know, did they -- did they  
4 think a closure would be helpful and he said they didn't  
5 have a position on that. He did say that, you know, when  
6 they look at the pots of crab that are -- you know,  
7 there's a mix of juveniles, maturing adults that are  
8 leaving, he did notice that there's been a decline, but,  
9 you know, that was in response to the whole decline of  
10 crabs over the years in Kodiak, you know, I mean, it  
11 wouldn't be -- it wouldn't -- you wouldn't pin it to, you  
12 know, the take in Women's Bay from subsistence fisheries,  
13 he just said that that population's declined as the  
14 entire population has declined. He -- there's still  
15 juveniles in the bay, I mean, it's not -- you know, good  
16 numbers he thought, you know, maybe not as good as in  
17 past years, but nothing that's super concerned him.

18  
19                   What his main concern is is ghost pot  
20 fishing, there's a lot of old pots down there that don't  
21 have escape mechanisms so people lose the pot, they keep  
22 fishing and one of the things they do in their dives is  
23 try to cut the meshes out of king crab pots or bend the  
24 metal pots they use for, you know, other species to try  
25 to let crabs escape. And even though by regulation you  
26 can't use a pot that doesn't have an escape mechanism,  
27 he's more concerned that maybe some people are still  
28 using these old pots and if they lose them they're going  
29 to keep fishing. That's a pretty good, large -- you  
30 know, that's what his concern about mortality was, ghost  
31 pots.

32  
33                   And as George mentioned there aren't any  
34 studies about mortality of -- you know, handling  
35 mortality for juveniles in the bay and, you know, it's a  
36 lot shallower, people are only using one pot, you're not  
37 catching tons of -- I mean, if people have -- anybody  
38 that's aware of, you know, the Bering Sea crab fishery  
39 and Bristol Bay crab fishery is a very different animal  
40 than that subsistence fishery in Women's Bay, they use  
41 big, heavy metal pots, you got heavy seas, it's very  
42 cold. So yeah, there's some damage to any crabs that  
43 come up and they get thrown over the side and get crushed  
44 by the pots and it's cold, they get frozen. So it's real  
45 different. To say that there's no mortality, I mean,  
46 that's -- there's got to be some, but it didn't seem to  
47 be anything that NOAA was concerned about at this point  
48 especially since there seems to be very low harvest, very  
49 low use, just a few people. And that was the Council's  
50 point, I think, was the fact that it doesn't have a lot

1 of high use, but it is so easy to get to that it is one  
2 of the few places that some of the -- some of the more  
3 elderly subsistence users can go and catch, you know, a  
4 king crab. So and they didn't think that would really  
5 harm the population, I mean, the commercial fishery's  
6 closed, all the other fisheries are closed, you know,  
7 that's one small bay.

8

9 MR. HASKETT: Thank you.

10

11 CHAIRMAN TOWARAK: Thank you. Any  
12 further questions? Mr. Pappas.

13

14 MR. PAPPAS: Through the -- Mr. Chair.  
15 State regulation 5 AAC 024.25, there is a subsistence  
16 tanner crab fishery and it does not look like it is  
17 closed in that area. I did not find in regulation that  
18 it's closed, but there is a tanner crab subsistence  
19 fishery there.

20

21 Thank you. Mr. Chair.

22

23 CHAIRMAN TOWARAK: Thank you. Any  
24 further questions.

25

26 (No comments)

27

28 CHAIRMAN TOWARAK: I'm not hearing any.  
29 Thank you for your presentation.

30

31 The next step is for InterAgency Staff  
32 Committee comments. Dr. Wheeler.

33

34 DR. WHEELER: Thank you. Mr. Chair. The  
35 InterAgency Staff Committee found the Staff analysis to  
36 be a complete and accurate evaluation of the proposal and  
37 the recommendation of the Regional Advisory Council to be  
38 supported by substantial evidence consistent with  
39 recognized principles of conservation and appropriately  
40 allows for the continuation of subsistence uses.

41

42 Mr. Chair.

43

44 CHAIRMAN TOWARAK: Okay. Thank you. Any  
45 questions of Dr. Wheeler.

46

47 (No comments)

48

49 CHAIRMAN TOWARAK: I'm not hearing any.  
50 Thank you for your comments.

1                   The next step is a Board discussion with  
2 Council Chairs and State liaison. I have a question for  
3 Mr. Simeonoff. I notice that in your comments you  
4 pointed out that the Women's Bay is one of the few road  
5 accesses to a crabbing area and you point out that to  
6 keep it open it would leave -- it would provide an  
7 opportunity for elders to subsist for crab. Do the --  
8 and someone else might be able to answer this, is -- are  
9 those permits restricted to elders or is it an open  
10 permit process?

11  
12                   MR. SIMEONOFF: Would you say that again,  
13 please, I.....

14  
15                   CHAIRMAN TOWARAK: I was wondering if the  
16 permits in -- for the Women's Bay crab -- subsistence  
17 crab fishing is restricted to elders or is it open to  
18 everyone?

19  
20                   MR. SIMEONOFF: Oh, it's not restricted  
21 to elders. It's just that Women's Bay is in close  
22 proximity to Kodiak and elders who can launch their boats  
23 in the boat harbor, they don't have to go out into the  
24 deep waters of Chiniak Bay, they can just go into Gibson  
25 Cove and Women's Bay in a relatively safe area for them  
26 to subsistence fish.

27  
28                   CHAIRMAN TOWARAK: Thank you. Any other  
29 questions.

30  
31                   (No comments)

32  
33                   CHAIRMAN TOWARAK: I'm not hearing any.  
34 We will continue on to the Board action. Mr. Haskett.

35  
36                   MR. HASKETT: Mr. Chair, I'd like to make  
37 a motion to adopt Proposal 11 as recommended by the  
38 Kodiak Aleutians Regional Council and I'll provide my  
39 justification if I get a second to the motion.

40  
41                   MS. MASICA: Second.

42  
43                   CHAIRMAN TOWARAK: The motion has been  
44 seconded by Ms. Masica. Continue, Mr.....

45  
46                   MR. HASKETT: Thank you. Mr. Chair.

47  
48                   CHAIRMAN TOWARAK: .....Haskett.

49  
50                   MR. HASKETT: So this has been a really



1 interesting discussion this morning for me. It's clear  
2 that by doing this we'll reduce the harvest opportunity  
3 for subsistence users, but it appears necessary to help  
4 protect the crab stocks in the area. And like I said I  
5 very much appreciate the RAC taking this action and doing  
6 the best they can for trying to take the steps necessary  
7 to conserve the crab population there. I do understand  
8 the concerns of the State, but I guess for now what I'm  
9 hearing is that we're not getting a major concern from  
10 NOAA and I think that's in the analysis and I think we  
11 need to continue to monitor the situation, it's clearly  
12 something we need to continue to watch, but I think the  
13 analysis essentially provides a good summary of the  
14 information provided by NOAA which did confirm that  
15 Women's Bay is a king crab nursery area, but did not say  
16 that we should go so far as to close it. So I am going  
17 to go ahead and agree with the council to continue to  
18 allow for these lower levels of subsistence harvest, but  
19 again to continue to monitor. And I think we can take  
20 this up again at a later time if the concerns stated by  
21 the State actually are something that we can get better  
22 information on.

23

24 CHAIRMAN TOWARAK: Thank you. Are there  
25 any other comments by the Board members.

26

27 (No comments)

28

29 CHAIRMAN TOWARAK: Is there a call for  
30 the question?

31

32 MR. HASKETT: I call for the question.

33

34 CHAIRMAN TOWARAK: The question's been  
35 called for. Final action, please.

36

37 MR. PROBASCO: Thank you. Mr. Chair.  
38 Final action FP 11-11, to support the Regional Advisory  
39 Council's recommendation on this proposal. And we're  
40 starting out with Ms. Masica.

41

42 MS. MASICA: Yes.

43

44 MR. PROBASCO: Ms. Pendleton.

45

46 MS. PENDLETON: Yes.

47

48 MR. PROBASCO: Mr. Towarak.

49

50 CHAIRMAN TOWARAK: Yes.

1 MR. PROBASCO: Mr. Haskett.  
2  
3 MR. HASKETT: Yes.  
4  
5 MR. PROBASCO: Ms. K'eit.  
6  
7 MS. K'EIT: Yes.  
8  
9 MR. PROBASCO: And Mr. Cribley.  
10  
11 MR. CRIBLEY: Yes.  
12  
13 MR. PROBASCO: Mr. Chair. Motion carries  
14 6/0.  
15  
16 CHAIRMAN TOWARAK: Thank you, everyone,  
17 for participating. The next proposal on our agenda is  
18 Fish Proposal 11-13.  
19  
20 MR. PROBASCO: Mr. Chair.  
21  
22 CHAIRMAN TOWARAK: Go ahead, Mr.  
23 Probasco.  
24  
25 MR. PROBASCO: Thank you. Mr. Chair.  
26 With the -- with your permission we did make -- we always  
27 have an opportunity at the beginning of the meeting for  
28 the public to testify on non-agenda items. I did not  
29 have any cards when the meeting started however after we  
30 started on Proposal 11 we did get one person wishing to  
31 testify before the Board on a non-agenda item and you may  
32 want to take that up right now before we get into 13.  
33  
34 CHAIRMAN TOWARAK: Let's go ahead and do  
35 that.  
36  
37 MR. PROBASCO: Okay. Thank you. Mr.  
38 Chair. Would Mary Ann Mills please come forward. Mary  
39 Ann Mills.  
40  
41 MS. MILLS: Thank you. My name is Mary  
42 Ann Mills, I am vice chair of the sovereign nation of the  
43 Kenaitze and Chair of the Cook Inlet Treaty Tribes which  
44 is a consortium of eight tribes.  
45  
46 We are not blessed in this great land we  
47 call Alaska. We have been here since time immemorial.  
48 This is our home land that we inherited from our  
49 ancestors. The Treaty of Session signed on March 30,  
50 1867 by Czarist Russia and the United States of America

1 formally transferred the trading post and the land the  
2 trading post stood from the Russian American Fur Company  
3 into the possession of the United States. It did not  
4 transfer the title of the land because Russia did not  
5 have dominion over Alaska. Prior to its purchase of the  
6 Russian trading post the United States had strongly  
7 opposed Russia's dominion over Alaska. The memorandum  
8 described what the Russians -- what Russia was  
9 transferring and suggestions for managing the property as  
10 requested by Secretary of State William Seward. Included  
11 in the memorandum when the measurements of the property  
12 transferred to the United States which totaled 117,600  
13 square feet. That is 117,600 square feet.

14  
15 Under international law there are three  
16 ways a country may be absorbed by another established by  
17 the law of nations. A country can be absorbed into  
18 another as follows. One, by conquest via a just war.  
19 Indians were subject to just war if, A, they deny free  
20 passage in their territory; B, they prevent merchants  
21 from making profits; C, they hindered the propagation of  
22 Christianity. Two, Treaty of Session. The right to  
23 possess a certain territory given by one sovereign to  
24 another. Three, relinquishment or voluntary abandonment.  
25 Alaska was never conquered. The indigenous peoples of  
26 Alaska has never ceded its land nor have we relinquished  
27 or voluntarily abandoned our land.

28  
29 The United States of America and nation  
30 states that joined the United Nations acknowledged,  
31 accepted and obligated themselves to the international  
32 status of Alaska by placing us on the list of non-self  
33 governing territories via General Assembly Resolution  
34 66(i), proclaiming (indiscernible) as a sacred trust as  
35 an occupying force the complete obligation to promote to  
36 the utmost and to ensure with due respect and regard of  
37 the culture of the peoples concerned, their political,  
38 economic, social and educational advancement, their just  
39 treatment, their protect -- and their protection against  
40 abuses and to assist them in the progressive development  
41 of their free political institutions.

42  
43 The United States voluntarily listed  
44 Alaska as a non-self governing territory with the right  
45 of nationhood under Article 73 of the United Nations  
46 Charter. The United States agreed to conditions for how  
47 the territory of Alaska would be administered, how its  
48 citizens would be treated and how the process of  
49 decolonization would take place. One of the requirements  
50 was for the original inhabitants of the territory be

1 brought from their preliterate state to be educated and  
2 fully informed of their status prior to the plebescite or  
3 the vote of the original inhabitants to determine their  
4 political status and future. The United States failed to  
5 inform the Alaska indigenous peoples of their rights to  
6 nationhood and failed to fund a territory wide education  
7 system that would allow the indigenous peoples to  
8 determine our own destiny. The institutional framework  
9 and money for the political discussions to take place  
10 once we had become literate and were deemed via vote from  
11 the United Nations Assembly to be literate, fully  
12 informed of our status and acting accordingly free of  
13 political interference by the governing nations has never  
14 occurred.

15                   The United States ratified the  
16 International Covenants on Civil and Political Rights.  
17 Article 1, Section 1 states all people may for their own  
18 ends freely dispose of their natural wealth and resources  
19 without prejudice to any obligations arising out of  
20 international economic cooperation based upon principle  
21 of mutual benefits and international law. And Article 1,  
22 Section 2 states in no case may a people be deprived of  
23 its own means of subsistence. Article 27 of the  
24 International Covenant on Civil and Political Rights  
25 state in those states in which ethnic, religious or  
26 linguistic minority exist persons belonging to such  
27 minority shall not be denied the right in community with  
28 other members of their groups to enjoy their culture, to  
29 profess and participate their own religion and to use  
30 their own language.

31  
32                   The territory of Alaska's removal by  
33 General Assembly Resolution 1469, December 12th of 1959,  
34 violated our right to self determination. The United  
35 States of America and the United Nations allowed our  
36 political rights to be almost entirely stamped out. We  
37 have become overall the poorest inhabitants in one of  
38 America's richest states.

39  
40                   The United States manifests racial  
41 discrimination against the indigenous peoples of Alaska  
42 by governmental policies that has been and continues to  
43 be based on racial superiority, including political  
44 policies of apartheid. Article 2 of the Convention of  
45 Prevention and the Punishment of the Crime of Genocide  
46 states in the present convention genocide means any of  
47 the following acts committed with the intent to destroy  
48 in whole or in part a nation -- a national, ethnic,  
49 racial or religious group such as causing serious bodily  
50 or mental harm to members of the group; C, deliberately

1 inflicting on a group conditions of life calculated to  
2 bring about its destruction in whole or in part.

3  
4                   In reality what has transpired in the  
5 shameful tragedy of social engineering and human rights  
6 violations which is reflected in our suicide rates which  
7 is 10 times the national average in some communities and  
8 four times the national average in the least affected  
9 communities. New studies show Alaska Natives have the  
10 highest unemployment rates in the United States and  
11 suffer among the highest disease rates in the nation. We  
12 pay the highest price for fuel than any other state in  
13 the United States while oil and gas and the gas industry  
14 made record profits in Alaska. We are being robbed via  
15 State and Federal statute of our land, our food and our  
16 children. Because of high grocery and energy costs it is  
17 common to see single family homes housing up to three  
18 families or in some cases three generations. State Fish  
19 and Game are raiding the freezers of the poorest of the  
20 poor, taking subsistence fish and moose and caribou that  
21 are meant to support and feed our families and enable us  
22 to conduct our pot latches with are sacred and tied to  
23 our religious beliefs. Subsistence has enormous health  
24 and social impacts on our people and to be denied has  
25 been devastating.

26  
27                   It is impossible to manage subsistence if  
28 the resources are not managed wisely. Tourists who come  
29 to the Kenai are rarely checked for licenses or fined for  
30 having over limits of fish and clams. During the summer  
31 the Kenai Airport is swamped with thousands upon  
32 thousands of freezer boxes filled with fish all being  
33 shipped out to the south 48. There was a sting operation  
34 that caught people from the Lower 48 selling Alaska  
35 caught fish in flea markets in Arizona and other states.  
36 State Fish and Game did nothing to them, no fine or jail  
37 time. They said they had to let them go. Yet when I  
38 fish subsistence to feed my family I was arrested and put  
39 in jail six times and in most of my arrests I didn't even  
40 have a fish in my net. I was put in jail for attempted  
41 fishing. Huge problem -- a huge problem is the factory  
42 trawlers who are destroying our ocean floors as well as  
43 throwing away millions of pounds of bycatch. Why don't  
44 the authorities call bycatch wanton waste, that's what it  
45 is. How bycatch be considered good management of our  
46 resources.

47  
48                   The Kenaitze have been deprived of our  
49 right to subsistence since 1987. The Village of Eklutna  
50 and the Chickaloon Tribe have also been denied their

1 subsistence. ANILCA has never been implemented for us.  
2 Article 15(1) of the International Covenant on Economic,  
3 Social or Cultural Rights state the state parties to the  
4 present covenant recognize the rights of everyone A, to  
5 take part in cultural life. Article 25 states nothing in  
6 the present convention -- covenant shall be interpreted  
7 as impairing the inherent rights of all peoples to enjoy  
8 and utilize fully and freely their natural wealth and  
9 resources.

10

11 The State of Alaska is very hostile  
12 towards Alaska Natives and for this the United States  
13 allowed them to micro manage us in almost every facet of  
14 our life. Under these circumstances it would behoove us,  
15 the indigenous people, to request Alaska be relisted to  
16 the status of non-self governing territories and to move  
17 towards decolonization.

18

19 Thank you.

20

21 CHAIRMAN TOWARAK: Thank you for your  
22 comments. Are there any questions from the Board or the  
23 RAC Chairs.

24

25 (No comments)

26

27 CHAIRMAN TOWARAK: I'm not hearing any.  
28 Thank you very much.

29

30 We will continue our.....

31

32 MS. MILLS: You're welcome.

33

34 CHAIRMAN TOWARAK: .....process. We were  
35 on Federal Proposal 11-13. Our first step is to get the  
36 Staff analysis. Mr. Fried.

37

38 MR. FRIED: Thank you. Mr. Chair. Just  
39 for the record my name is Steven Fried, a fishery  
40 biologist for the Office of Subsistence Management. I'm  
41 going to provide the Staff analysis for Proposal 11-13  
42 submitted by the Kodiak Aleutians Regional Advisory  
43 Council for the Kodiak area.

44

45 Affected public waters, you could take a  
46 look at map one on Page 216 in your books, would be the  
47 fresh waters of the Kodiak National Wildlife Refuge and  
48 the salt waters of the Alaska Maritime National Wildlife  
49 Refuge which would the Women's Bay, Karluk and Afognak  
50 sub-units.

1                   The proponent is requesting the following  
2 changes in household annual harvest limits and reporting  
3 for salmon. One is do not associate a household annual  
4 harvest limit with permits issued to Federally-qualified  
5 users fishing in Federal public waters not accessible  
6 from the Kodiak road system. And on the slide we're  
7 going to refer to these users as remote users, it's just  
8 for brevity sake. Second is to change the requirement  
9 from recording harvests on permits immediately upon  
10 landing fish to before leaving the fishing site. So  
11 those are the two main issues that the proponent is  
12 requesting. These changes would align Federal with State  
13 regulations.

14  
15                   And the salmon stocks in Kodiak are  
16 generally considered healthy. If you look at Table 1 on  
17 Page 218 for the harvest information, even so though  
18 there have been subsistence salmon fishing restrictions  
19 to attain escapements in fairly recent years. This has  
20 occurred for sockeye in the Afognak system from 2002 to  
21 2004 and again in 2006 and 2007. And for sockeye in the  
22 Buskin system in both 2009 and 2010. For chinook in the  
23 Karluk system there have been restrictions 2009 and 2010  
24 and Ayakulik in 2009.

25  
26                   Now if you look at Tables 2 and 3 on Page  
27 219 the total reported salmon harvests are much greater  
28 from communities that are on the Kodiak road system, but  
29 the average household harvests are greater in remote  
30 communities. So even though the total harvest is greater  
31 on the road system, if you look at it by household basis  
32 it's actually higher in communities that are not on the  
33 road system.

34  
35                   If this proposal is adopted Federally-  
36 qualified users fishing in off road Federal public waters  
37 which really is everywhere except for the marine waters  
38 in front of the Buskin River could use one permit all  
39 season. So right now the regulations read that once you  
40 reach, I think it's 25 per household head plus 25 for  
41 each additional person, you have to take your permit,  
42 return it and then get a new permit to catch more fish.  
43 And basically it's pretty difficult for people living --  
44 that don't live in Kodiak because the only place to get  
45 a permit is at the Department of Fish and Game office in  
46 Kodiak. So this would make it a lot easier to do and, in  
47 fact, as I mentioned before the State has already allowed  
48 this to occur for remote users. Remote users fishing  
49 under just State regulations can just have one permit for  
50 the entire year without having to go back and get another

1 one.

2

3                   It should not affect -- if we adopt -- if  
4 the Federal program adopts this it's not expected to  
5 affect the actual harvest and it actually could make  
6 harvest reporting more accurate. And as proof of this,  
7 if you look at Table 4 you can see that if you look at  
8 harvest estimated from permit report they're lower than  
9 the harvest that are actually obtained when people do  
10 household surveys. So it appears that people really  
11 aren't accurately reporting what they're catching under  
12 permits and there could be, you know, several reasons for  
13 this.

14

15                   So basically if this proposal was adopted  
16 Federally-qualified users in the Kodiak area could also  
17 record their harvest on a permit upon leaving the fishing  
18 site instead of just immediately catching a fish. And  
19 the State Board has just adopted a similar change in  
20 their regulations so that now -- it used to you have to  
21 record on the permit immediately upon landing, now the  
22 State regulations are after -- you can record it before  
23 leaving the fishing site. So basically if we -- if the  
24 Board adopted these two things it would similar to what  
25 the State regulations are now in effect.

26

27                   What else can I say. We -- the OSM  
28 conclusion is to support the proposal and we did suggest  
29 several modifications to wording. We felt that adopting  
30 these modifications would achieve the proponent's intent  
31 to -- for the two main things that they had actually  
32 asked for, the remote users being able to use a single  
33 permit all season and not having to record your harvest  
34 for all the users until you've left the fishing site.  
35 There are a few other administrative things that our  
36 wording had also suggested and I'm not sure I need to go  
37 into that at this point.

38

39                   Adopting the regulation would make it  
40 less burdensome to users, might improve reporting  
41 accuracy and I think those are really the main points I  
42 wanted to cover. I could answer questions if anybody had  
43 any other questions about it, but I think I'll leave it  
44 at that.

45

46                   Thank you.

47

48                   CHAIRMAN TOWARAK: Thank you, Mr. Fried.  
49 Are there any questions of the Staff from the Board or  
50 the Regional Chairs.



1 (No comments)

2

3 CHAIRMAN TOWARAK: I'm not hearing any.  
4 Thank you for your presentation.

5

6 We will then move on to a summary of  
7 public comments by the Regional Council Coordinator. Ms.  
8 Wilkinson.

9

10 MS. WILKINSON: Mr. Chair. There were no  
11 written public comments for this proposal.

12

13 CHAIRMAN TOWARAK: Thank you. We will  
14 open the floor to public testimony.

15

16 MR. PROBASCO: Mr. Chair. I have no one  
17 signed up to testify on Proposal 13.

18

19 CHAIRMAN TOWARAK: Thank you. We will  
20 then move on to Regional Council recommendations. Mr.  
21 Simeonoff.

22

23 MR. SIMEONOFF: Thank you. Mr. Chairman.  
24 The Kodiak Aleutians Regional Council's recommendation  
25 can be found on Page 226. The Regional Council supports  
26 Proposal FP 11-13 with modification. The Council  
27 modified the proposal -- the proposed regulatory language  
28 to remove references to herring which allows Section  
29 27(i)(9)(4) to revert to existing regulatory language.  
30 And use -- and to use the word Federal in paragraph A  
31 instead of fresh as a descriptor for relevant waters.

32

33 The modifications will clarify the  
34 regulatory language for the benefit of subsistence users  
35 and it is understood that the intent of the proposal was  
36 to address salmon annual harvest limits and reporting,  
37 but not deal with herring.

38

39 Thank you. Mr. Chairman.

40

41 CHAIRMAN TOWARAK: Thank you, Mr.  
42 Simeonoff. Are there any questions of the Board or the  
43 other Regional Chairs. Mr. Haskett.

44

45 MR. HASKETT: So through the Chair. And  
46 I understand there's a fairly minor difference between  
47 what OSM Staff came up with on the wording and what --  
48 the wording you came up with on the modifications. And  
49 I think the intent's the same and I'm assuming we can  
50 just all work that out later and not worry about it now,

1 but I wanted to make sure that you've seen it and you're  
2 in agreement with that.

3

4 MR. SIMEONOFF: That we -- we intend to,  
5 you know, be as concise with the agencies as possible.

6

7 MR. HASKETT: Okay. That's helpful. I  
8 mean, I'm assured that the differences are negligible and  
9 the intent's the same. So that's good, that helps me.

10

11 Thank you.

12

13 MR. SIMEONOFF: Yeah. There were no  
14 differences intended.

15

16 CHAIRMAN TOWARAK: Thank you. Are there  
17 further questions.

18

19 (No comments)

20

21 CHAIRMAN TOWARAK: Well, if not then we  
22 will continue on with the Department of Fish and Game  
23 comments.

24

25 MR. PAPPAS: Thank you. Mr. Chair. This  
26 proposal was submitted to remove the annual limit for  
27 harvest -- annual limit for salmon harvested in Federal  
28 subsistence fisheries in Kodiak Island that are not  
29 adjacent to the Kodiak road system. This proposal also  
30 requires herring harvest to be recorded on subsistence  
31 fishing permits consistent with State regulation. And  
32 the proposal requests the Federal reporting requirement  
33 allow fishermen to record harvest prior to leaving the  
34 fishing site.

35

36 If adopted Federal subsistence users who  
37 choose to fish the waters of Kodiak not adjacent to the  
38 road system will no longer have an annual harvest limit  
39 -- annual limit for salmon which is consistent with State  
40 regulations. Federally-qualified subsistence fishers  
41 will be required to record subsistence harvested herring  
42 if adopted. The requirement to record harvest prior to  
43 leaving the fishing site is partially consistent with the  
44 regulations approved by the Alaska Board of Fisheries  
45 last week during their meeting in Kodiak. If the Federal  
46 Board adopts modified harvest recording requirements  
47 identical to the ones adopted by the Board of Fisheries,  
48 Federal subsistence users will not be at risk of  
49 citation. The harvest recording requirement contained in  
50 the modified proposal supported by the Kodiak Aleutians

1 RAC requests recording prior to leaving the fishing site  
2 as does the Board of Fisheries approved regulation, but  
3 the Board of Fisheries added the requirement to record  
4 harvest prior to concealing subsistence harvest from  
5 plain view and I believe they also required that the  
6 recording be done in ink. This provision is mirrored in  
7 many state subsistence and personal use fisheries  
8 statewide.

9  
10                   Subsistence fishermen who harvest fish  
11 from the road system streams are limited to 25 salmon for  
12 those named on the permit and additional permits are  
13 available depending upon needs of a permit holder.  
14 There's no annual harvest limit for subsistence fishermen  
15 who harvest waters that are not adjacent to the system,  
16 but fishermen are required to record harvest and submit  
17 the permit to the agency Staff by February 1 of the  
18 following year. Subsistence fishermen may also harvest  
19 up to 500 pounds of herring per calendar year under the  
20 same State subsistence permit.

21  
22                   Currently Kodiak does not designate  
23 salmon stocks of concern, however the Karluk River  
24 chinook salmon has not met its minimum escapement goal  
25 and has had commercial, sport and subsistence fishery  
26 restrictions for the past three seasons. The Karluk  
27 River early run sockeye salmon stock has not met its  
28 minimum escapement goal and has had commercial, sport and  
29 subsistence restrictions for the past two seasons. The  
30 Ayakulik chinook salmon stock has not met its minimum  
31 escapement goal and had commercial, sport and subsistence  
32 restrictions for the last three of four past seasons.  
33 And subsistence from both Karluk and Ayakulik River is  
34 minimal or has been restricted.

35  
36                   Under other issues the Kodiak Aleutians  
37 RAC supported a modified proposal including the removal  
38 of references to herring under Section 27(i)(9)(4)  
39 through (6). The Department has concerns about removal  
40 of this reference to herring in this section of  
41 regulation as the resulting regulations might, and it  
42 might that is, inadvertently eliminate the permitting and  
43 reporting requirements for Federal subsistence herring  
44 fisheries near Kodiak. The Department requests  
45 clarification from the Federal subsistence process as the  
46 Council meeting transcripts clearly request the removal  
47 of herring references out of the regulations, but we do  
48 not understand the illustrate -- or do not the intent  
49 that was illustrated for doing so.

50

1                   The Department recommendations. One,  
2 support the proposed limits of fish that can be harvested  
3 on and off the Kodiak road system. Two, support the  
4 proposed requirements of recording herring harvested in  
5 Federal subsistence fisheries on a permit. Three,  
6 support a modified reporting regulation which requires  
7 subsistence fishermen to record harvest before they leave  
8 a fishing site and before the harvest is concealed from  
9 view and use ink. That would make it parallel with the  
10 State regulations. And four, oppose elimination of the  
11 permitting and reporting of Federal subsistence herring  
12 fishery, if applicable, we are seeking clarification.

13

14                   Thank you. Mr Chair.

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STATE OFFICIAL WRITTEN COMMENTS  
\*\*\*\*\*

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

Fisheries Proposal FP11-13: Remove  
harvest limit for non-road system federal subsistence  
salmon fisheries on Kodiak Island, require a permit and  
recording of Pacific herring harvested under federal  
subsistence regulations, and require harvest recording  
prior to leaving the site.

Introduction: The Kodiak-Aleutians  
Regional Advisory Council submitted this proposal to  
remove the annual limit for salmon harvested in federal  
subsistence fisheries on Kodiak Island from waters that  
are not adjacent to the Kodiak Island road system. A  
total annual household limit for salmon harvested in any  
Kodiak federal subsistence salmon fisheries exists in  
federal regulations and not in state subsistence  
regulations. This proposal also requires herring harvest  
be recorded on the subsistence fishing permit consistent  
with state regulations. It proposes to change reporting  
requirements to allow fishermen to record harvest prior  
to leaving the site, whereas the state requirement is to  
record harvest immediately. Except for the reporting  
requirement, the federal regulations would be consistent  
with existing state regulations.

Impact on Subsistence Users: If adopted,  
federal subsistence users who choose to fish in waters of  
Kodiak not adjacent to the road system will no longer  
have an annual harvest limit for salmon, consistent with

1 state regulation. Federally qualified subsistence  
2 fishers fishing in waters where federal subsistence  
3 jurisdiction is claimed will be required to record  
4 subsistence-harvested herring. The requirement to record  
5 harvest prior to leaving the site is inconsistent with  
6 state regulations and may put fishers at risk of  
7 citation, depending on location of harvest. If the  
8 harvest recording requirements contained in the modified  
9 proposal supported by the Kodiak-Aleutians Regional  
10 Advisory Council is adopted, the US Fish and Wildlife  
11 Service will need to provide federal subsistence  
12 fishermen with subsistence permits. The state issued  
13 subsistence permits require recording subsistence  
14 harvested fish immediately upon landing.

15  
16                   Opportunity Provided by State: State  
17 subsistence regulations for Kodiak salmon fisheries have  
18 different annual household limits depending upon location  
19 of harvest. Subsistence fishermen who harvest fish from  
20 road system streams are limited to 25 salmon for those  
21 named on the permit, and an additional permit is  
22 available based on needs of the permit holder. There is  
23 no annual harvest limit for subsistence fishermen that  
24 harvest in waters that are not adjacent to the road  
25 system, but fishermen are required to record harvest and  
26 submit the permit to agency Staff by February 1 of the  
27 following year. Subsistence fishermen may harvest up to  
28 500 pounds of herring in a calendar year under the same  
29 state subsistence permit.

30  
31                   Conservation Issues: Kodiak currently  
32 has no designated salmon stocks of concern. However, the  
33 Karluk River Chinook salmon stock has not met its minimum  
34 escapement goal (3,600) and has had commercial, sport,  
35 and subsistence fishery restrictions for the past three  
36 seasons. The Karluk River early-run sockeye salmon stock  
37 has not met its minimum escapement goal (110,000) and had  
38 commercial, sport, and subsistence restrictions for the  
39 past two seasons. The Ayakulik River Chinook salmon  
40 stock has not met its minimum escapement goal (4,800) and  
41 had commercial, sport, and subsistence restrictions for  
42 three of the past four seasons. Subsistence harvest from  
43 both the Karluk and Ayakulik rivers is minimal or has  
44 been restricted.

45  
46                   Jurisdiction Issues: The federal  
47 subsistence salmon fisheries on or near Kodiak Island can  
48 take place in the fresh and marine waters of the Pacific  
49 Ocean enclosed by boundaries of Womens Bay, Gibson Cove,  
50 and an area defined by a line     mile on either side of

1 the mouth of the Karluk River extending seaward 3,000  
2 feet. Additionally, federal subsistence users can fish  
3 for salmon in marine waters of Afognak Island within  
4 1,500 feet seaward of shoreline.

5  
6 Other Issues: The Kodiak Aleutians  
7 Regional Advisory Council supported a modified proposal  
8 included the removal references to herring under  
9 ^U\_\_\_27(i)(9)(iv)-(vi). The department has concerns  
10 about removal of references to herring in this section of  
11 regulations as the resulting regulations might  
12 inadvertently eliminate permitting and reporting  
13 requirements for the federal subsistence herring fishery  
14 near Kodiak. The department requests clarification from  
15 the federal subsistence process, as the council meeting  
16 transcripts clearly request the removal of herring  
17 references but do not illustrate the intent of the  
18 council for doing so.

19  
20 Recommendations:

- 21  
22 1. Support the proposed limits of  
23 fish that can be harvested on and off the Kodiak road  
24 system.  
25  
26 2. Support the proposed requirement  
27 to record herring harvested in federal subsistence  
28 fisheries on a permit.  
29  
30 3. Oppose reporting requirements  
31 that allow subsistence fishermen to be in possession of  
32 harvest but not record it until leave the fishing site.  
33  
34 4. Oppose the elimination of  
35 permitting and reporting for the federal subsistence  
36 herring fishery (if applicable).

37  
38 MR. SWANTON: Mr. Chairman. One  
39 correction, during last week's deliberations with the  
40 Board of Fisheries the Karluk chinook salmon stock is a  
41 stock of concern and they deliberated on that particular  
42 issue last week.

43  
44 Mr. Chairman.

45  
46 CHAIRMAN TOWARAK: Thank you for that  
47 explanation. Are there any questions of the Board or the  
48 Regional Council Chairs?

49  
50 MR. PROBASCO: Mr. Swanton, maybe just

1 brief us so the Board can understand what is meant by  
2 stock of concern?

3

4 MR. SWANTON: Mr. Chairman. Mr.  
5 Probasco. Briefly the Alaska Department of Fish and Game  
6 has regulations under the sustainable fisheries  
7 management policy to give broad instruction with regards  
8 to management of the salmon stocks for sustainability.  
9 Elements of that are in essence when escapements have not  
10 been met over the course of a life cycle, there are  
11 various levels of, I guess, concern, one of which is a  
12 yield concern, then it goes to a management concern,  
13 followed by a conservation concern in that order and it  
14 has to do with whether escapements are being met, whether  
15 yields over the course of time are being maintained or  
16 diminished. And in this case there has been concern and  
17 subsequently escapements not met for the Karluk chinook  
18 salmon stock, even with some as Dr. Fried pointed out,  
19 some in-season restrictions made to multiple fisheries,  
20 multiple user groups, to try and maintain that  
21 escapement. And so the Board of Fisheries deliberated on  
22 that and took some fairly stringent restrictive actions  
23 to try and arrest that trend.

24

25 Mr. Chairman.

26

27 CHAIRMAN TOWARAK: Thank you for that  
28 explanation. Are there further questions.

29

30 (No comments)

31

32 CHAIRMAN TOWARAK: I'm not hearing any.  
33 Thank you for your presentation.

34

35 We will continue then on with the  
36 InterAgency Staff Committee comments. Dr. Wheeler.

37

38 DR. WHEELER: Thank you. Mr. Chair. The  
39 InterAgency Staff Committee found the Staff analysis to  
40 be a complete and accurate evaluation of the proposal and  
41 the recommendation of the Kodiak Aleutians Regional  
42 Advisory Council to be supported by substantial evidence  
43 and consistent with recognized principles of  
44 conservation. The proposal is intended only to address  
45 salmon harvest limits and permit requirements. The  
46 Council did not specifically address proposed  
47 stipulations concerning to whom and by what date permits  
48 are to be returned. The analysis presented by Dr. Fried  
49 does address this and the modified language provides an  
50 administratively preferred approach.

1 Mr. Chair. Thank you.  
2  
3 CHAIRMAN TOWARAK: Thank you. Are there  
4 any questions.  
5  
6 (No comments)  
7  
8 CHAIRMAN TOWARAK: I'm not hearing any  
9 questions from the Board or the Chairs. Thank you for  
10 your presentation.  
11  
12 We will next move to the Board discussion  
13 with Council Chairs and State liaison. Ms. Masica.  
14  
15 MS. MASICA: Mr. Chair. Thank you. Mr.  
16 Simeonoff, would you be able to clarify for me the reason  
17 why herring was specifically removed from the proposal?  
18  
19  
20 Thank you.  
21  
22 MR. SIMEONOFF: Yeah, a little on that.  
23 The Kodiak Aleutians Board was under the impression that  
24 we were dealing with the subsistence limits of salmon and  
25 not dealing with herring. And that herring was -- had  
26 its own regulatory language and we were changing the  
27 numbers of subsistence caught salmon only.  
28  
29 CHAIRMAN TOWARAK: Go ahead. Mr.  
30 Haskett.  
31  
32 MR. HASKETT: Thank you. Mr. Chair. So  
33 I'm kind of lost in the differences -- for the concerns  
34 the State has on this one. I'm sorry, I'm just trying to  
35 figure this out. And one of them is that you'd like to  
36 -- I guess what the Board of Fish last week called for is  
37 a subsistence permit holder shall record all harvested  
38 fish on the permit in ink before concealing the fish from  
39 plain view or transporting the fish from the fishing  
40 site. For the purpose of this paragraph fishing site  
41 means location where fish were removed. So I guess my  
42 question then is to the RAC. Is that something that  
43 would cause you concern if we made that clear it has to  
44 be done in ink?  
45  
46 MR. SIMEONOFF: Say that again, please.  
47 Repeat your question.  
48  
49 MR. HASKETT: Well, I'm trying to -- we  
50 seem to be a lot more together on this one than we are



1 apart for the most part and there seems to be a couple  
2 places where there's some differences and one of them  
3 that I can see, that I think I understand, is that the  
4 Board of Fish last week has this requirement for making  
5 the recording in ink which seems like a fairly -- I mean,  
6 that seems like an okay thing to me to ask for. Is that  
7 a concern to you if when I make a proposal later that I  
8 add that to the modification, would that be a big deal?  
9

10 MR. SIMEONOFF: Well, as a subsistence  
11 user I go out and catch my fish and before I leave the  
12 fishing ground I got to mark on a piece of paper how much  
13 fish I got and if I need more fish and there's more fish  
14 on that paper than I -- you know, I got to go all the way  
15 back and get another permit. But to do that, that's the  
16 end of the day, you know. It's -- I can't fill out my  
17 paper, go back and get another one and come back. It's  
18 -- it takes too long. But to have 25 for myself and 25  
19 for my other household members, that -- I can take care  
20 of that, but then the next day I got to do it again. You  
21 know, a family will harvest more than 100 fish for their  
22 subsistence use. And, you know, even this regulation  
23 might be a step in the right direction in recording the  
24 number of subsistence fish caught, but it's still a  
25 hinderance to subsistence users because subsistence users  
26 like to gather what they need, take it home, prepare it  
27 and be done.

28

29 Does that answer your question?

30

31 MR. HASKETT: Maybe. I guess I  
32 understand the concern there, but I'm not sure it's the  
33 -- like I say I've got to think about this a little bit.

34

35 Thank you. Appreciate that.

36

37 CHAIRMAN TOWARAK: Are there further  
38 questions? Mr. Adams.

39

40 MR. ADAMS: I'd just like to make a  
41 comment. Thank you. Mr. Chairman. I know in Yakutat,  
42 you know, we're understate State regs to take care of our  
43 fish, our fish take. And what we do is we go to the  
44 State office and we ask for a permit, we fill it out and  
45 we indicate on there how many king salmon do we want. I  
46 always put 20, 25 or 30, you know. The same way with the  
47 other species. And then you're kind of held accountable  
48 to that to report, you know, at the end of the season and  
49 everything. Now it doesn't mean that if you go over  
50 those, you know, they're going to throw you in jail for

1 it, it's a matter of record keeping and it really worked  
2 well for us, you know, that way we can tell, you know,  
3 what our household needs are for each of those species  
4 and it -- the jail time, you know, comes if you don't  
5 turn in that permit at the end of the season. And so I  
6 think it's a real good system and I think it really  
7 should be uniform throughout Fed and State's.

8

9 Thank you.

10

11 CHAIRMAN TOWARAK: If I could ask the  
12 Staff, is there anyway to reconcile this difference? Mr.  
13 Buklis.

14

15 MR. BUKLIS: Yes. Mr. Chairman. Thank  
16 you. Larry Buklis, OSM.

17

18 Just to reemphasize the proposal and the  
19 Council recommendation to support modification, the Staff  
20 work, the State's comments, all are in alignment on a  
21 couple of key points. One is to liberalize the situation  
22 on limits for those off the road system so that relaxes  
23 the limit issue when you're off the road system.  
24 Secondly, all three parties are in agreement as to  
25 liberalizing the situation for on and off the road system  
26 users, to liberalize the situation as to recording  
27 information on the permit. It had been immediately upon  
28 landing the fish. The Council's recommendation of  
29 record, the Staff work and the State are all in the area  
30 of relaxing that to recording it before leaving the  
31 fishing site which is a relaxed standard and accommodates  
32 the users. The only difference is in very minor points  
33 which often are not even in regulation, points about  
34 where on the form to record information, ink or not ink,  
35 those minor points we feel we can resolve  
36 administratively consistent with the intent of the  
37 Council and that will work with the State permit. So we  
38 think we can address that administratively.

39

40 And finally the point about herring is  
41 the way the -- it's the way the proposal came in, raised  
42 that issue inadvertently because the proponent, which was  
43 a Council member, was working off the State regs which  
44 have herring mentioned there. So in platforming off the  
45 State regs instead of ours herring came up inadvertently.  
46 So the Council at their meeting was saying remove  
47 herring. They don't mean remove herring from the permit  
48 system, they mean remove that from this issue, we didn't  
49 mean to raise it.

50

1 Thank you. Mr. Chair.

2

3 CHAIRMAN TOWARAK: Mr. Haskett.

4

5 MR. HASKETT: Thank you. Actually that's  
6 very helpful and I -- I think I probably complicated it  
7 by asking the question because it does appear that we're  
8 a lot closer together on almost all the issues. And  
9 actually the question I asked about the ink is actually  
10 a State requirement on their permit anyway which we don't  
11 have any control over. So I kind of withdraw that whole  
12 question and just -- that was very helpful, Larry. Thank  
13 you. I'm sorry for confusing it.

14

15 CHAIRMAN TOWARAK: That's what the  
16 process is intended for. And it's working. Mr. Adams.

17

18 MR. ADAMS: Just another comment here.  
19 You know, it's -- it varies also in Southeast Alaska  
20 where in the southern part of Southeast Alaska, you know,  
21 you're only allowed 15 fish I believe. And I don't know  
22 why they're so liberal in Yakutat, maybe it's because we  
23 know how to manage our resources a little bit better or  
24 maybe there's more salmon coming in. But again, you  
25 know, I just would like to reemphasize the fact that, you  
26 know, I think these -- this permitting system needs to be  
27 more consistent across the board. It eliminates a lot of  
28 confusion and it holds the subsistence user accountable  
29 for the amounts of products that he is taking into his  
30 household.

31

32 CHAIRMAN TOWARAK: Thank you. Any  
33 further questions.

34

35 (No comments)

36

37 CHAIRMAN TOWARAK: I'm not hearing or  
38 seeing any. Thank you for all of the comments.

39

40 We will then go on to InterAgency Staff  
41 Committee report. Dr. Wheeler.

42

43 DR. WHEELER: Mr. Chair. I know I talk  
44 fast, but I think I -- I believe that I already gave that  
45 report and I think you're further down on the agenda. I  
46 can do it again if you want, but I.....

47

48 CHAIRMAN TOWARAK: It was my mistake. I  
49 was thinking that we were under the -- continuing the  
50 State discussion, but I am out of order.

1                   Our next schedule is to do the Federal  
2 Subsistence Board action, if there are no further  
3 discussion with the Chairs or the State liaison. Mr.  
4 Haskett.

5  
6                   MR. HASKETT: So I'd like to make the  
7 motion to adopt Proposal 13 with modification as  
8 recommended by the Kodiak Aleutians Regional Council.  
9 And I'll provide my justification if I get a second.

10  
11                   MS. PENDLETON: Second that.

12  
13                   CHAIRMAN TOWARAK: The motion has been  
14 seconded. Please continue.

15  
16                   MR. HASKETT: Thank you. Mr. Chair. So  
17 I think this is a change that should help with reporting  
18 accuracy for salmon harvests and will align with most of  
19 the changes recently made by the State in the Kodiak  
20 area. Some of the wording on the reporting requirements  
21 in the regulation are Section 9(v)(i) is not the same as  
22 the OSM recommendation, but I think we can work that out  
23 together and I'll quit asking such specific questions.  
24 I think it does make a lot more sense for our Staffs to  
25 work these out together in some of the smaller  
26 administrative details. I think what we're doing here  
27 and the Council's recommendation is very close to what  
28 the Board of Fish did last week and we can work out the  
29 final administrative wording on reporting requirements  
30 without changing the intent.

31  
32                   CHAIRMAN TOWARAK: Thank you for that  
33 justification. Are there any other comments by the Board  
34 members, any opposing views of that?

35  
36                   MS. K'EIT: Mr. Chair. I concur with Mr.  
37 Haskett's comments and just want to expand that. I  
38 appreciate the RAC's work in this effort, it just really  
39 demonstrates that our on the ground users really have a  
40 lot of the key knowledge and understanding about what's  
41 happening with the resources and how they can assist in  
42 managing them for their best use.

43  
44                   Thank you.

45  
46                   CHAIRMAN TOWARAK: Thank you, Ms. K'eit.  
47 Any further discussion.

48  
49                   (No comments)  
50

1 CHAIRMAN TOWARAK: Is there a call for  
2 the question?  
3  
4 MS. MASICA: Call for the question.  
5  
6 CHAIRMAN TOWARAK: The question's been  
7 called for. Final action, please.  
8  
9 MR. PROBASCO: Thank you. Mr. Chair.  
10 Final action of FP 11-13 as modified by the Kodiak  
11 Aleutians Regional Advisory Council. And we're starting  
12 with Ms. Pendleton.  
13  
14 MS. PENDLETON: Yes.  
15  
16 MR. PROBASCO: Mr. Towarak.  
17  
18 CHAIRMAN TOWARAK: Yes.  
19  
20 MR. PROBASCO: Mr. Haskett.  
21  
22 MR. HASKETT: Yes.  
23  
24 MR. PROBASCO: Ms. K'eit.  
25  
26 MS. K'EIT: Yes.  
27  
28 MR. PROBASCO: Mr. Cribley.  
29  
30 MR. CRIBLEY: Yes.  
31  
32 MR. PROBASCO: And, Ms. Masica.  
33  
34 MS. MASICA: Yes.  
35  
36 MR. PROBASCO: Mr. Chairman. Motion  
37 carries 6/0.  
38  
39 CHAIRMAN TOWARAK: Thank you. 11-13 has  
40 been completed. And I think it's a good time for a 15  
41 minute break here. So we will reconvene at 10:15.  
42  
43 (Off record)  
44  
45 (On record)  
46  
47 CHAIRMAN TOWARAK: I'd like to begin to  
48 reconvene. We're waiting for Mr. Haskett to get back to  
49 the table.  
50

1 I will call this meeting back to order.  
2 We just completed Federal Proposal 11-13 and we're moving  
3 into Federal Proposals 11-16 and 17.

4  
5 Mr. Probasco, would you explain that.

6  
7 MR. PROBASCO: Thank you. Mr. Chair.  
8 We're now moving down to Southeast and we have our Forest  
9 Service biologist here, Mr. Robert Larson, who also  
10 serves as the coordinator and Jeff Reeves is our fish  
11 biologist. And I believe Mr. Reeves is the lead analyst  
12 on 16, 17.

13  
14 Thank you. Mr. Chair.

15  
16 CHAIRMAN TOWARAK: Just for my  
17 explanation, would you explain the reason for combining  
18 two proposals?

19  
20 MR. PROBASCO: Go ahead, Mr. Reeves. But  
21 it's -- they're talking about the same.....

22  
23 MR. REEVES: Good morning. Board  
24 members. Council Chairs. For the record my name's Jeff  
25 Reeves, I'm a biologist with the Forest Service.

26  
27 You'll notice yes, this -- there's two  
28 proposals that are combined in this analysis. And once  
29 I get into it you'll see that their request for --  
30 they're requesting season changes and -- for the same  
31 drainage and they're basically the proposals are -- or  
32 the requests are so close that it was easy to just go  
33 ahead and take care of it in one analysis.

34  
35 CHAIRMAN TOWARAK: Okay. Thank you for  
36 that explanation.

37  
38 With that we will then begin the  
39 procedure for considering this non-consensus agenda  
40 proposal. We will begin with the Staff analysis. Mr.  
41 Reeves.

42  
43 MR. REEVES: Thank you. The analysis if  
44 you haven't found it is located on Page 230 in your Board  
45 materials.

46  
47 Proposal FP 11-16 was submitted by Mike  
48 Douville and it requests that the season closing date for  
49 the Federal subsistence sockeye fishery on the Klawock  
50 River be extended from July 31st to August 15th and asks

1 that the Monday through Friday fishing schedule be  
2 removed from the regulation.

3  
4 Proposal 11-17 was submitted by the  
5 Southeast Regional Advisory Council and it requested that  
6 the season closing date for the Federal fishery on  
7 sockeye be changed from July 31st to August 7th, but it  
8 would still retain the Monday through Friday fishing  
9 schedule.

10  
11 The proponent of FP 11-16 requested that  
12 the Federal season be extended and allow fishing  
13 opportunity on the weekends. The proponent also  
14 indicated that the fishing schedule had been implemented  
15 by the State Board of Fisheries in the 1980s to address  
16 local concerns that sockeye were being over harvested by  
17 non-local residents that were fishing during the  
18 weekends. The proponent believed that by removing the  
19 fishing schedule from Federal regulation that it's going  
20 to allow Federally-qualified users more opportunity to  
21 fish within Federal jurisdiction. And they also believe  
22 that harvest by these individuals would be minimal when  
23 compared to the harvest occurring in State waters.

24  
25 The proponent of FP 11-17 requests that  
26 the Federal season be extended by a week and this action  
27 will align the State and Federal harvest seasons.  
28 Aligning the regulation would prevent any more need for  
29 special action by this Board as -- similar to what  
30 occurred in 2009 and 2010.

31  
32 The Klawock drainage drains into District  
33 3B where Prince of Wales Island residents have a positive  
34 customary and traditional use determination for Fishing  
35 District 3. The Alaska Department of Fish and Game  
36 issues subsistence salmon permits for Klawock Lake  
37 salmon. The current permit conditions allow for  
38 individual and household limits of 20 sockeye daily with  
39 no annual limit. And legal subsisting -- subsistence  
40 fishing gear in this area under this permit would include  
41 purse seines, beach seines and dipnets.

42  
43 In 1986 the July 7th to July 31st season  
44 and the Monday to Friday fishing schedule was set in  
45 State regulation due to the concerns that too many  
46 sockeye were being taken on the weekend by people from  
47 urban areas. In 2009 the Board of Fisheries extended the  
48 closing date of the State managed sockeye fishery to  
49 August 7th.

50

1                   In 1999 when the Federal subsistence  
2 fishing management began the existing State regulations  
3 were adopted for Southeast Alaska. Because of this the  
4 Klawock is the only drainage in Southeast Alaska with a  
5 specific season and fishing schedule for sockeye under  
6 Federal regulations. Although the regulation defines a  
7 season and schedule of directed subsistence fishing for  
8 sockeye, there are no Federal seasons for the remaining  
9 species of salmon within the Klawock River drainage.  
10 Federal regulations also allow for the retention of  
11 incidentally harvested salmon, trout and char with the  
12 requirement that any salmon, trout or char taken in this  
13 manner be recorded on the subsistence fishing permit.

14  
15                   In 2000 and 2007 two separate proposals  
16 had been submitted to the Board requesting changes to the  
17 season and the fishing schedule. One of these proposals  
18 was rejected and the other was tabled as these proposals  
19 at the time were asking for changes that were meant to  
20 happen outside of Federal jurisdiction thus requiring  
21 Board of Fisheries action. In 2009 and 2010 the Board  
22 had to approve special action requests to extend our  
23 Federal season to match the State season following the  
24 State Board of Fish action which both actions extended  
25 the season from July 31st to August 7th.

26  
27                   Prince of Wales Hatchery Association  
28 maintains a weir on the Klawock River and recent  
29 escapements have ranged from 15,000 to 21,000 sockeye.  
30 On Page 235 in your Board materials is a table that lists  
31 historic sockeye escapements.

32  
33                   State subsistence harvests have been  
34 reported on permits issued by Fish and Game since 1969.  
35 Although the entire Klawock lake drainage is open for  
36 subsistence fishing, the majority of the sockeye  
37 harvested under this permit are taken in marine waters.  
38 The directed harvest of sockeye within the river and lake  
39 is very low due to the sediment bottom, the heavy amounts  
40 of large, woody debris making it nearly impossible to  
41 seine within the few deep -- large, deep holes on the  
42 river.

43  
44                   Since 2005 the run timing of Klawock  
45 sockeye has seemed to be later than normal with larger  
46 numbers of sockeye returning near the last week of the  
47 regulatory season dates. In years of late returns ADF&G  
48 has been asked to extend the subsistence fishery. The  
49 fishery has been extended in the past when it was  
50 determined that although late indications were that the



1 return would at least be of average size. Directed  
2 fishing effort for sockeye in August is not typically as  
3 high as that in July as pink salmon are more abundant  
4 during this time frame.

5  
6 The reported harvest of sockeye and the  
7 total number of permits issued can be found in Table 2 of  
8 your materials found on Page 237. And on site harvest  
9 surveys during the period of 2001 to 2009 have suggested  
10 that only 60 percent of the actual harvest is being  
11 reported on the State subsistence permits.

12  
13 Other than the Klawock Federal  
14 subsistence regulations for Southeast do not have defined  
15 seasons for harvesting sockeye. The Klawock drainage  
16 currently in Federal regulation has a season of July 7th  
17 to July 31 for directed harvest of sockeye and as I  
18 mentioned earlier the Board in 2009 and '10 approved  
19 special action requests to extend the season to August  
20 7th.

21  
22 Since 2002 the sockeye harvest reported  
23 under Federal subsistence fishing permits has ranged from  
24 a low of seven to a high of 321 sockeye and this harvest  
25 has been reported taken with dipnets, seine and handline  
26 gear.

27  
28 Adoption of either of the proposals will  
29 provide additional fishing time on the Klawock River for  
30 Federal subsistence -- during the Federal subsistence  
31 sockeye fishery during peak run timing.

32  
33 FP 11-16 will create differing State and  
34 Federal regulations while FP 11-17 will realign the State  
35 and Federal regulations.

36  
37 Extending the season as requested by both  
38 proposals will result in some additional sockeye being  
39 harvested. The additional harvest should not cause any  
40 conservation concerns since the Federal harvest will most  
41 likely be minimal when compared to the harvest occurring  
42 in marine waters under State regulation. Removal of the  
43 Monday to Friday fishing schedule may increase some  
44 fishing pressure on the weekends, but this fishing  
45 pressure would be limited to Federally-qualified  
46 subsistence users.

47  
48 The OSM preliminary conclusion is to  
49 support Proposal FP 11-16 with a modification to remove  
50 the defined season and fishing schedule for subsistence

1 fishing of sockeye in the Klawock Lake river drainage  
2 from the regulation and to take no action on Proposal FP  
3 11-17. Removal of the Klawock fishing season and  
4 schedule will bring consistency to the Federal management  
5 of subsistence sockeye fisheries in the Southeast area.  
6 Removal of the season from Federal regulation will also  
7 take away the need for the in-season manager to continue  
8 to submit formal special action requests to this Board.  
9 Removal of the fishing schedule will allow only  
10 Federally-qualified users some extra time to harvest  
11 sockeye and with the majority of the current subsistence  
12 sockeye harvest occurring in the State managed marine  
13 waters, the harvest in Federal waters again should be  
14 minimal. Sockeye escapement since 2001 have been  
15 considered above average and the Klawock sockeye return  
16 can easily be monitored with the weir at the fish  
17 hatchery. And if sockeye escapements do appear to be  
18 below average during the season the Federal manager is  
19 delegated to address the problem if necessary.

20

21 Thank you.

22

23 CHAIRMAN TOWARAK: Thank you for that  
24 report. Are there any questions from the Board or the  
25 RAC Chairs.

26

27 (No comments)

28

29 CHAIRMAN TOWARAK: If not then we will  
30 thank you for that report.

31

32 We will continue on with the summary of  
33 public comments.

34

35 MR. LARSON: Mr. Chairman. Robert Larson  
36 with the Forest Service. I'm the Southeast Council's  
37 coordinator and there are no written public comments.

38

39 CHAIRMAN TOWARAK: Thank you. We will  
40 then continue on to -- we will open the floor for public  
41 testimony.

42

43 MR. PROBASCO: Thank you. Mr. Chair. I  
44 have one person that would like to testify and that's Mr.  
45 Willard Jackson.

46

47 MR. JACKSON: Good morning. My name is  
48 Willard Jackson. I'm the Tribal Council secretary for  
49 the Ketchikan Indian Community. I'm also the -- a drain  
50 campaign B (ph) executive officer. I have family that

1 fishes Klawock sockeye. And I support Mr. Douville's  
2 comments.

3

4 I just want to share a short story that's  
5 been passed down to us as Tlingit people. And it talks  
6 about the beginning of time. There was a gathering just  
7 like we are in today, making the decisions about those  
8 that follow behind us, my children, my grandchildren and  
9 the ones that are yet unborn. My brother said it  
10 perfectly yesterday when he made the statement that those  
11 follow appreciate that.

12

13 There was a gathering of elders and they  
14 were talking about planting the trees up on the mountain.  
15 And this grandmother was in the circle and then she spoke  
16 on behalf of her grandchildren and try and figure out how  
17 they're going to plant the tree on the mountain. Her  
18 young granddaughter was pulling away on her (in Tlingit)  
19 belongings, her blanket. And the young granddaughter  
20 would say I have an answer, grandma, I have an answer.  
21 And the grandmother would say (in Tlingit) go away, go  
22 away. They sent the first tree up on the mountain, it  
23 planted itself up on the rock and the wind blew it down.  
24 And it came back down to the circle and they continued to  
25 discuss as we're discussing today. The granddaughter  
26 continued to pull on her grandma's (in Tlingit), I have  
27 an answer, grandma, I have an answer. Grandma would say  
28 (in Tlingit) go away. They sent two trees up on the  
29 mountain this time and they planted themselves. And the  
30 wind and the snow and the rain blew them down. They came  
31 back to the circle and they discussed it further. In the  
32 meantime the little granddaughter is just tugging and  
33 tugging on her grandma's dress. Grandma, grandma, I have  
34 an answer. And finally grandma allowed her into the  
35 circle and grandma opened her ears to what her  
36 granddaughter was saying. And this is what her  
37 granddaughter said to her elders. Grandma, if we all go  
38 up on the mountain together and hold hands and support  
39 these trees that are going to be supporting us in the  
40 future, we'll have a life.

41

42 If we can all hold hands together today  
43 and look at the future and those that are coming behind  
44 us, they'll have a life in the future.

45

46 I want to thank you for allowing me to  
47 speak. The report I got back from the doctor is that I'm  
48 fine. I appreciate those of you that were praying for me  
49 and I appreciate my elders that are praying for the use  
50 of tomorrow.

1 Thank you very much.

2

3 CHAIRMAN TOWARAK: Thank you, Mr.  
4 Jackson. Are there any questions from the Board or the  
5 RAC Chairs of Mr. Willard. Mr. Haskett.

6

7 MR. HASKETT: I don't have a question, I  
8 just -- you know, thank you for sharing that with us and  
9 actually that's great news that you got so thank you for  
10 sharing that with us too.

11

12 CHAIRMAN TOWARAK: We echo that  
13 sentiment. Any other public comments?

14

15 MR. PROBASCO: Mr. Chair. That was the  
16 only one that signed up for this proposal.

17

18 CHAIRMAN TOWARAK: Thank you. Then we  
19 will move on to our Regional Council recommendations.

20

21 MR. ADAMS: Thank you. Mr. Chairman. My  
22 name is Bert Adams, I'm the Chair for the Southeast  
23 Regional Advisory Council. And I appreciate Mr.  
24 Willard's story about the young girl, you know, and  
25 standing and holding hands together to -- for a common  
26 cause. I really appreciate that.

27

28 I'd also like to recognize people who  
29 work behind the scenes, you know, like Mr. Reeves and Mr.  
30 Larson over there who provide a lot of, you know,  
31 valuable information to the RACs so that we can come  
32 before you and they're the ones who do all of the work  
33 and I make a comment here now and then and I get all of  
34 the credit for all of the good work that's being done,  
35 you know. So I just wanted to recognize them as well.

36

37 The Southeast Regional Advisory Council  
38 as explained earlier is accepting with modification  
39 number 16, FP 11-16 and taking no action on FP 11-17. As  
40 already explained, you know, I don't think I need to go  
41 into that further.

42

43 I'll just need to emphasize the fact that  
44 the reason why Mr. Douville submitted this proposal is he  
45 saw where there was an opportunity for non-local users  
46 coming in and, you know, over using the stock. And he  
47 felt that if the season was opened up for the weekends  
48 more subsistence users would be able to go in and take  
49 advantage of those opportunities. So in a sense it  
50 allowed more additional opportunities for subsistence

1 users to take advantage of those resources. It also  
2 aligns with State regs. And anytime we see that  
3 happening it eliminates a lot of confusion to the  
4 subsistence user, you know, as to which law or which  
5 regulation am I going to violate or which one am I in  
6 align with. So anytime that the State and Feds came come  
7 together on any of these issues, you know, I think is  
8 really good. It also eliminates, you know, the need for  
9 special actions. We see over and over, you know, where  
10 special actions are used, you know, year after year after  
11 year after year after year. There has to  
12 become a point where, you know, you can eliminate those  
13 and then make them permanent. And I think that's what  
14 we're doing here.

15

16 Mr. Chairman. That's the extent of my  
17 report and I thank you very much for this opportunity.

18

19 CHAIRMAN TOWARAK: Thank you, Mr. Adams.  
20 Are there any questions from the other RAC Chairs or the  
21 Board.

22

23 (No comments)

24

25 CHAIRMAN TOWARAK: I'm not hearing any.  
26 Thank you for your report.

27

28 We will then move on to the State  
29 Department of Fish and Game comments.

30

31 MR. PAPPAS: Thank you. Mr. Chair. Our  
32 comments are found on Page 240 and later on I'll  
33 reference to the map on Page 242. Excuse me. Yes, Page  
34 240 and Page 242.

35

36 FP 11-16 would remove the daily hour  
37 restrictions and seasonal -- and season closure dates for  
38 the Federal subsistence sockeye salmon fishery in the  
39 Klawock River and Lake and rescind our restrictions  
40 implemented in 1986 at the request of the local Klawock  
41 area residents to provide subsistence fishing opportunity  
42 for local residents during the week. Adoption could  
43 potentially increase competition for local residents who  
44 harvest sockeye salmon for subsistence in the Klawock  
45 River.

46

47 FP 11-17 proposes to change the Federal  
48 subsistence fishery season closing date for sockeye  
49 salmon in the Klawock River from July 31st to August 7th  
50 in order to match the State subsistence fishing season

1 regulation adopted by the Alaska Board of Fisheries at  
2 the February, 2010 meeting. If FP 11-17 is adopted  
3 Federal subsistence users will have the same fishing  
4 season as State subsistence users participating in the  
5 State subsistence fishery which extends the opportunity  
6 to fish for one additional week past the current Federal  
7 subsistence season which closes a week earlier.

8  
9 Conservation issues. No salmon stocks in  
10 the area have been determined by the Alaska Board of  
11 Fisheries to be a stock of conservation or management  
12 concern and adoption of these proposals will not likely  
13 cause conservation or management concerns.

14  
15 While standing on State or private lands,  
16 including Stated owned submerged lands and shore lands,  
17 persons must comply with State laws and regulations  
18 regarding subsistence harvest. The uplands and all the  
19 shorelines for the Klawock River and Lake are private  
20 lands. No Federal public lands exist within the fishable  
21 Klawock River watershed which you can see on the map on  
22 Page 242 which is a land status map.

23  
24 Most sockeye salmon are numerated through  
25 the weir into the Klawock system, but the escapement data  
26 are not utilized as a primary tool for in-season  
27 management of the State personal use and subsistence  
28 fisheries. The Department utilized the sockeye salmon  
29 patches (ph) data postseason.

30  
31 The Department's recommendation. The  
32 Department opposes FP 11-16 which would eliminate the  
33 hour restrictions for the subsistence salmon fishery in  
34 Klawock River and opposes the extension of the season  
35 fishery closure date to August 15th. The Department  
36 recommends submitting this proposal to the Alaska Board  
37 of Fisheries public process to ensure the issue is  
38 evaluated by a majority of users from the affected Prince  
39 of Wales Island communities. The Department opposes the  
40 Office of Subsistence Management proposed modified  
41 language to eliminate the season dates of the Klawock  
42 salmon fishery. The Department does support FP 11-17  
43 which extends the subsistence salmon -- sockeye salmon  
44 season to August 7th.

45  
46 Thank you. Mr. Chair.  
47 \*\*\*\*\*  
48 STATE OFFICIAL WRITTEN COMMENTS  
49 \*\*\*\*\*

50

1 Alaska Department of Fish and Game  
2 Comments to the Federal Subsistence Board

3  
4 Fisheries Proposal FP11-16 and FP11-17:  
5 Eliminate daily hour restrictions for the Klawock river  
6 and lake federal subsistence sockeye salmon fishery and  
7 extend the closure date of the Klawock River sockeye  
8 salmon fishery to August 15.

9  
10 Introduction: FP11-16, submitted by  
11 Michael Douville, would remove the daily hour  
12 restrictions and season closure date for the federal  
13 subsistence sockeye salmon fishery in Klawock river and  
14 lake, rescinding hour restrictions implemented in 1986 at  
15 the request of local Klawock area residents. If adopted,  
16 the proposal would allow all federally-qualified  
17 subsistence users to fish 24 hours per day, seven days  
18 per week through August 15, in Klawock river and lake.  
19 Current federal subsistence fishery hours are from 8:00  
20 am Monday until 5:00 pm Friday during the July 7 through  
21 July 31 season.

22  
23 FP11-17, submitted by the Southeast  
24 Regional Advisory Council, proposes to change the federal  
25 subsistence fishery season closing date for sockeye  
26 salmon in the Klawock river and lake fishery from July 31  
27 to August 7 in order to match the state subsistence  
28 fishing season regulations adopted by the Alaska Board of  
29 Fisheries during the February 17 through 26, 2010,  
30 meeting. The department supported both FSA09-03 and  
31 FSA10-01, which were identical requests also approved by  
32 the Federal Subsistence Board.

33  
34 Impact on Subsistence Users: If FP11-16  
35 is adopted, federal subsistence users will be allowed to  
36 participate in the federal subsistence fishery for  
37 sockeye salmon during evenings and weekends and during an  
38 extended federal subsistence fishing season. The  
39 restriction to the hours of the fishery was originally  
40 put in place to provide subsistence fishing opportunities  
41 for local residents during the week. If adopted as  
42 proposed, all residents of Prince of Wales Island will be  
43 able to fish for sockeye salmon in those waters of the  
44 Klawock River where federal jurisdiction is claimed.  
45 This may increase competition for local residents who  
46 harvest sockeye salmon for subsistence in the Klawock  
47 River. If FP11-16 is adopted, the federal and state  
48 subsistence users would have a different fishing season  
49 closure dates. Adjusting the closure date of the federal  
50 subsistence sockeye salmon fishery to a date different

1 than the state subsistence fishery will create  
2 inconsistency between state and federal regulations and  
3 increase risk of enforcement actions on subsistence users  
4 fishing under different regulations.

5  
6 If FP11-17 is adopted, federal  
7 subsistence users will have the same fishing season as  
8 state subsistence users participating in the state  
9 subsistence fishery, which extends the opportunity to  
10 fish for one additional week past the federal season, to  
11 August 7. Adjusting the closure date of the sockeye  
12 salmon fishery will provide consistency between state and  
13 federal regulations and reduce risk of enforcement  
14 actions on subsistence users fishing under different  
15 regulations.

16  
17 Opportunity Provided by State: Salmon  
18 may be harvested under state subsistence regulations in  
19 the Klawock River from 8:00 am Monday until 5:00 pm  
20 Friday, from July 7 through August 7. The time  
21 limitations were adopted in 1986 by the Alaska Board of  
22 Fisheries in response to a proposal submitted by local  
23 residents of Klawock, who expressed concern that sockeye  
24 salmon were being taken on weekends by people from urban  
25 areas. The sockeye salmon harvest limit in the  
26 state managed subsistence fishery is 20 sockeye salmon  
27 per day, per household, there is no annual limit.  
28 Personal Use and Subsistence permit conditions prohibit  
29 the retention of incidentally caught sockeye salmon when  
30 the fishery is closed. Legal subsistence fishing gear in  
31 this area includes hand purse seines, beach seines, and  
32 dip nets. State regulations for this fishery include  
33 other time, area, and gear provisions as follows:

34  
35 5AAC 01.710(e) From July 7 through August  
36 7, sockeye salmon may be taken in the waters of Klawock  
37 Inlet enclosed by a line from Klawock Light to the  
38 Klawock Oil Dock, the Klawock River, and Klawock Lake  
39 only from 8:00 a.m. Monday until 5:00 p.m. Friday.

40  
41 5AAC 01.750 In the waters of Klawock  
42 Inlet enclosed by a line from Klawock Light to the  
43 Klawock Oil Dock, no person may subsistence salmon fish  
44 from a vessel that is powered by a motor of greater than  
45 35 horsepower.

46  
47 Conservation Issues: No salmon stocks in  
48 this area have been determined by the Alaska Board of  
49 Fisheries to be a stock of conservation or management  
50 concern, and adoption of these proposals will not likely



1 cause a conservation or management concern. Adoption of  
2 these proposals, however, is expected to increase federal  
3 subsistence harvest of sockeye salmon to an unknown  
4 degree. Currently, approximately 95% of the subsistence  
5 harvest effort takes place in the state subsistence  
6 fishery in state marine waters.

7  
8                   Jurisdiction Issues: While standing on  
9 state and private lands (including state-owned submerged  
10 lands and shorelands), persons must comply with state  
11 laws and regulations regarding subsistence harvest. The  
12 uplands and all shorelines for the Klawock river and lake  
13 are private lands. No federal public lands exist within  
14 the fishable Klawock River watershed (see attached map).  
15 The department requests that federal subsistence  
16 administrators provide detailed maps that depict land  
17 ownership and specific boundaries of areas where federal  
18 regulations are claimed to apply. The maps provided with  
19 FP07-20, FSA 09-03, and FSA 10-01 federal analyses are  
20 not detailed enough for use by fishermen in the field.

21  
22                   Other Issues: Most sockeye salmon are  
23 enumerated through a weir into the Klawock system, but  
24 the escapement data are not utilized as a primary tool  
25 for the in-season management of the state personal use  
26 and subsistence fisheries. The time between sockeye  
27 salmon passing through the personal use and subsistence  
28 fisheries and passing the weir can be lengthy and  
29 variable depending up on environment conditions.  
30 Additionally, the weir does not consistently operate  
31 during the entire sockeye salmon run on some years. The  
32 department utilizes sockeye salmon passage data post  
33 season.

34  
35                   Recommendations: Oppose FP11-16,  
36 elimination of the hour restriction for the subsistence  
37 sockeye salmon fishery in Klawock river and lake and  
38 oppose extension of the season fishery closure date to  
39 August 15. The department recommends submitting this  
40 proposal to the Alaska Board of Fisheries public process  
41 to ensure this issue is evaluated by the majority of  
42 users from the affected Prince of Wales Island  
43 communities.

44  
45                   Oppose the Office of Subsistence  
46 Management proposed modified language to eliminate season  
47 dates of the Klawock sockeye salmon fishery.

48  
49                   Support FP11-17, extending the  
50 subsistence sockeye salmon season to August 7.

1 CHAIRMAN TOWARAK: Thank you for that  
2 report. Are there any questions from the Board or the  
3 RAC Chairs.

4  
5 (No comments)

6  
7 CHAIRMAN TOWARAK: I'm not hearing any.  
8 Thank you for your report.

9  
10 We will then continue on with the  
11 InterAgency Staff Committee comments. Dr. Wheeler.

12  
13 DR. WHEELER: Thank you. Mr. Chair. The  
14 InterAgency Staff Committee found the Staff analysis to  
15 be a complete and accurate evaluation of the proposal and  
16 the Southeast Regional Advisory Council's discussion and  
17 recommendation on the analysis to be complete and clear.  
18 The InterAgency Staff Committee would also like to point  
19 out that as noted in this analysis the Klawock sockeye  
20 return can be easily monitored with the fish hatchery's  
21 weir and if sockeye escapements appear to be below  
22 average during the season or if harvest patterns change  
23 such that conservation concerns arise, the Federal in-  
24 season manager could issue a special action within  
25 Federal jurisdiction to address conservation concerns.

26  
27 Mr. Chair.

28  
29 CHAIRMAN TOWARAK: Thank you. Are there  
30 any questions of the InterAgency Staff Committee  
31 comments.

32  
33 (No comments)

34  
35 CHAIRMAN TOWARAK: I'm not hearing any.  
36 Thank you for your report.

37  
38 We will continue then with Board  
39 discussion with Council Chairs and State liaisons. The  
40 floor is open. Ms. K'eit.

41  
42 MS. K'EIT: Thank you. Mr. Chair. Just  
43 a comment really that we often talk about at this Board  
44 that our Board and working with the State, we want to try  
45 to align our regulations as much as possible to benefit  
46 the users. So I just see a tremendous value in doing  
47 that in this case and I appreciate the work of the RAC  
48 and of the Staff in helping to create the proposal with  
49 modification to benefit our users.

50

1 Thank you.  
2  
3 CHAIRMAN TOWARAK: Thank you. Any other  
4 comments.  
5  
6 (No comments)  
7  
8 CHAIRMAN TOWARAK: Not hearing any then  
9 we will continue the process with the Board actions.  
10  
11 MS. MASICA: Mr. Chair. I'd like to make  
12 a motion.  
13  
14 CHAIRMAN TOWARAK: The floor is yours.  
15  
16 MS. MASICA: I move to adopt the  
17 Southeast Alaska Subsistence Regional Advisory Council's  
18 recommendation to remove the defined season and fish  
19 schedule from regulation and after a second I'll provide  
20 some rationale.  
21  
22 MS. K'EIT: Second.  
23  
24 CHAIRMAN TOWARAK: Seconded by Ms. K'eit.  
25 Please continue.  
26  
27 MS. MASICA: And just to clarify, this is  
28 for 16.  
29  
30 CHAIRMAN TOWARAK: Thank you.  
31  
32 MS. MASICA: I don't feel that I need to  
33 go into a lot of detail with my rationale because I feel  
34 that excellent rationale has been given by both the Staff  
35 justification on Page 238 as well as the Council's  
36 rationale also in our book on 239 as well as the comments  
37 from the InterAgency Staff Committee. But there are a  
38 few key points that I'd like to include. The first of  
39 those is that this regulation remains from a time where  
40 it in effect provided an important local preference and  
41 conditions have changed and it's no longer needed.  
42 Secondly, there -- as we've heard there's no conservation  
43 need for this regulation and should there -- should that  
44 arise our local in-season managers can quickly address  
45 that conservation concern if and when it should arise.  
46 Monitoring for conservation in Federal waters is not  
47 difficult given the nearby location of the hatchery weir  
48 as we've heard about. And then finally the State  
49 recommends that we do not eliminate this regulation, but  
50 instead align with the State and the State in their

1 comments on Page 241 recommended submitting this proposal  
2 to the Board of Fisheries.

3

4 Thank you.

5

6 CHAIRMAN TOWARAK: Thank you for that  
7 rationale. Are there any further discussions on the  
8 motion? Mr. Adams.

9

10 MR. ADAMS: Thank you. Mr. Chairman. I  
11 just thank Beth for her bringing up the issue that  
12 there's a criteria, you know, in -- that she brought out  
13 that there is no conservation issue. When we consider,  
14 you know, proposals we use four. Number 1 is is there  
15 substantial data to support the proposal. Number 2, is  
16 there a conservation issue, how does it affect adversely,  
17 you know, subsistence users. And we take into  
18 consideration as well the non-subsistence users. In all  
19 of those four criteria you found that there was no  
20 problem with those. So we felt then that we had a very  
21 strong proposal to submit to the Board on those issues.  
22 So I just thought I'd bring that out as a matter of  
23 information for you as well.

24

25 Thank you.

26

27 CHAIRMAN TOWARAK: Thank you, Mr. Adams.  
28 Any other comments.

29

30 (No comments)

31

32 CHAIRMAN TOWARAK: I'm not hearing any  
33 other comments. Are we ready for Board action?

34

35 MS. PENDLETON: I'd like to call for the  
36 question.

37

38 CHAIRMAN TOWARAK: Call for the question.  
39 And I'm -- I apologize, the motion was already made and  
40 it was seconded, we were in discussion. The question has  
41 been called for. Final action, please.

42

43 MR. PROBASCO: Thank you. Mr. Chair.  
44 Final action on FP 11-16 to support the Southeast RAC's  
45 recommendation with modification. Mr. Towarak.

46

47 CHAIRMAN TOWARAK: Yes.

48

49 MR. PROBASCO: Mr. Haskett.

50

1 MR. HASKETT: Yes.  
2  
3 MR. PROBASCO: Ms. K'eit.  
4  
5 MS. K'EIT: Yes.  
6  
7 MR. PROBASCO: Mr. Cribley.  
8  
9 MR. CRIBLEY: Yes.  
10  
11 MR. PROBASCO: Ms. Masica.  
12  
13 MS. MASICA: Yes.  
14  
15 MR. PROBASCO: And Ms. Pendleton.  
16  
17 MS. PENDLETON: Yes.  
18  
19 MR. PROBASCO: Motion carries 6/0.  
20  
21 CHAIRMAN TOWARAK: Thank you. Go ahead,  
22 Mr. Probasco.  
23  
24 MR. PROBASCO: Thank you. Mr. Chair.  
25 That was action on Proposal FP 11-16. And if you note in  
26 your book that the Council also took no action on 17, it  
27 would be appropriate for the Board to address Proposal 17  
28 at this time and clarify how they'd like to deal with  
29 that.  
30  
31 CHAIRMAN TOWARAK: Okay. The floor is  
32 open for discussion on FP 11-17.  
33  
34 MS. MASICA: I'd like to note that I  
35 support the Southeast Regional Council's recommendation  
36 to take no action on number 17.  
37  
38 CHAIRMAN TOWARAK: Is there any objection  
39 to that recommendation by the Regional Council for the  
40 Board -- by the Board?  
41  
42 (No objection)  
43  
44 CHAIRMAN TOWARAK: Not hearing any then  
45 that will be noted in our records that the Board is not  
46 going to take any action on FP 11-17.  
47  
48 Thank you. This concludes FP 11-16 and  
49 17. And before I move on to the next proposal which is  
50 11-18, there's been a request that -- for those of us

1 that are sitting up here with the microphones that we  
2 speak a little bit louder so that our actions can be  
3 heard a little bit better by the -- by the people -- the  
4 public. So if we could get a little closer to the mics  
5 and speak a little bit louder I think that will be  
6 appreciated by those listening.

7

8 We will then continue on with FP 11-18.  
9 And with the analysis by the Staff. Mr. Larson.

10

11 MR. LARSON: Thank you. Mr. Chairman.  
12 For the record my name is Robert Larson, I work with the  
13 Forest Service. In this case I'll be presenting the  
14 Staff analysis for FP 11-18. And that is a proposal  
15 submitted by the Southeast Alaska Council that requests  
16 all waters draining in Sections 1C and 1D be closed to  
17 the harvest of eulachon. The Sections 1C and 1D can --  
18 is also referred to as the Unuk River area. And you can  
19 see that description of the area on a map on Page 248 of  
20 the Board book.

21

22 Populations of eulachon in these -- in  
23 this area are at critically low levels and there will  
24 likely not be a harvestable surplus in the foreseeable  
25 future. The area has been closed to all fishing for  
26 eulachons during the last five years, essentially one  
27 eulachon life cycle without any signs of stock recovery.  
28 With the stock size at this level there's few options  
29 available for conservation other than closing the  
30 fishery. The suggested regulatory language will provide  
31 clear direction to the public that the area will be  
32 closed to fishing for eulachon by all users.

33

34 The existing Federal regulations require  
35 that a permit be obtained prior to fishing for eulachons.  
36 The State has similar regulations in that they require a  
37 fishing permit. The State has a C&T determination, a  
38 positive, for this area. It is a subsistence fishery.  
39 All waters of this area are Federal waters, they're  
40 within the exterior boundary of the Tongass National  
41 Forest. Our customary and traditional use designation is  
42 all rural residents of both Southeast Alaska and Yakutat.  
43 The State has closed the fishery since -- beginning in  
44 2001. That is the State's commercial fishery that was in  
45 place. The State's subsistence fishery has been closed  
46 since 2005. Under Federal rules we had our first fishery  
47 under a Federal jurisdiction in 2002. The area's been  
48 closed under Federal rules since 2006.

49

50 The Forest Service has had a fisheries

1 monitoring program on the Unuk River since 2001. The  
2 results of this monitoring and assessment work indicate  
3 that there's been almost no eulachon return to spawn in  
4 the Unuk River since 2004.

5  
6           There's been a long history of use of the  
7 eulachons in the Unuk River. It's poorly documented  
8 prior to 1969, but it's well known in the -- there's been  
9 extensive harvests prior to that time. From 1969 to 2000  
10 the Unuk River eulachons were sold under a commercial  
11 fishing program managed by the Department of Fish and  
12 Game. The commercial fishery -- the stock collapsed in  
13 2000 and the commercial fishery was subsequently closed  
14 in 2001. The eulachon in the Federal fishery that  
15 started in 2001 are generally harvested by the same  
16 individuals that participated in the State's commercial  
17 fishery. The harvest history can be found on Page 250 of  
18 the Board book in a tabular format.

19  
20           The proposal will close the Unuk River  
21 area to the harvest -- as modified it will close the Unuk  
22 River area to the harvest of eulachons by all users. In  
23 accordance with Board policy on closures, the closure  
24 will be reviewed by the Board no more than three years  
25 from establishment of the closure and at least every  
26 three years thereafter.

27  
28           Because of the nature of spawn in the  
29 lower sections of the river any management actions by the  
30 Board, by the Federal program, will need to have  
31 continuous and coordination, you know, with the  
32 Department of Fish and Game and that's expected no matter  
33 what the Board action is.

34  
35           Our conclusion is to support a proposed  
36 regulation that is slightly different than the original  
37 proposal. The modification is essentially the same  
38 intent, but it makes it clear that the river is, in fact,  
39 closed to all users.

40  
41           Thank you. Mr. Chairman.

42  
43           CHAIRMAN TOWARAK: Thank you, Mr. Larson.  
44 Are there any questions of the Board or the RAC Chairs.

45  
46           (No comments)

47  
48           CHAIRMAN TOWARAK: Not hearing any, thank  
49 you for that report.

50

1                   We will continue on then with the summary  
2 of public comments by the Regional Council coordinator.

3  
4                   MR. LARSON: Yes. Mr. Chairman. Robert  
5 Larson, the Southeast Council's coordinator. And there  
6 were no written public comments regarding this proposal.

7  
8                   CHAIRMAN TOWARAK: Thank you. We will  
9 then proceed on to the open -- we will open the floor for  
10 public testimony. Mr. Probasco.

11  
12                   MR. PROBASCO: Thank you. Mr. Chair. We  
13 have three individuals who'd like to testify on this  
14 proposal. The first one is Mr. Louie Wagner, Jr. Mr.  
15 Louie Wagner, Jr.

16  
17                   MR. WAGNER, JR.: Good morning. Mr.  
18 Chair. Board members. My name is Louie Wagner, Jr.,  
19 from Metlakatla, Alaska, the only reservation in Alaska  
20 as you've been told and surrounded by a body of water and  
21 the only one surrounded by a body of water in the United  
22 States as a reservation. I'm here with my son, Louie  
23 Wagner, III and we're the users, we're -- as we're  
24 called, we are the eulachon people, that's been our life  
25 for thousands of years. And also here from Metlakatla is  
26 counterpart Tom Lang and Saul Atkinson who's at another  
27 meeting right now. But like my son and I we had to pay  
28 our own way up here and that's -- I'm sad to see not  
29 enough of our people can afford to come up here, very  
30 expensive for the trip and then the hotel and the eating  
31 every day. And our last paycheck was end of August and  
32 we will not have another paycheck until July when we go  
33 back to our fishing business again on the salmon. So  
34 it's difficult for our Native people to make it to these  
35 meetings and all I see is government people around here  
36 who have everything paid for and their paychecks. So I  
37 don't feel our villages get represented fairly at all, we  
38 don't have a voice and meeting up here has changed so  
39 much from 2000, 2001. I recognize one person, Mr. Adams,  
40 over there.

41  
42                   But we -- our family has never given up  
43 the right to fish the Unuk River on the eulachons. We  
44 have a petroglyph up there, it's a painted red sun down  
45 in the salt water on the rock bluff. That was painted  
46 thousands of years ago. There's another one like 30  
47 miles up river into the Lake Creek area, marking that  
48 part of the river. And as long -- I'm -- I'm of the Bear  
49 Clan, as long as one has never sold, that river belonged  
50 to my family forever. It's like the deed to your



1 people's home and the title to your cars and boats. That  
2 was the Indian way.

3

4                   So it's been a long tough battle, it's  
5 been going on for like 20 years now. And all we want to  
6 do is continue our way of life and when the eulachons, if  
7 and when they do come back, to bring them back for the  
8 people like we always have. It's just there's so much  
9 has happened since the decline of the eulachon that I'll  
10 try to get to here a little bit later. And let's see if  
11 I can read some of this stuff.

12

13                   The U.S. Forest Service management of  
14 subsistence rights and use. In 2000 U.S. Forest Service  
15 took over from the State of Alaska the lands and fresh  
16 water lakes and rivers and we thought relief was on the  
17 way. And I was trying to work with the State Department  
18 of Fish and Game, it was impossible and that is -- was  
19 the purpose of the Federal Subsistence Board development.

20

21                   In 2001 we attended Federal Subsistence  
22 Board meeting in Anchorage. We were given the right to  
23 fish eulachon in our river, Unuk River, as we forever  
24 had. We were given caretaker status, we were told that  
25 it would take an act of congress to change it after that  
26 vote was passed in 2001. We were given government to  
27 government status with the Federal government, the Forest  
28 Service. And then I believe in September at the AFN 2010  
29 I spoke with a Forest Service subsistence supervisor  
30 planner who informed me that the Unuk River fishery was  
31 to be permanently closed, that's the Forest Service  
32 proposal to the Federal Subsistence Board and the Board  
33 was in high favor of it. And he also said if I agreed to  
34 the permanent closure of my eulachon fishery the Board  
35 would be very grateful. Our government to government  
36 relationship ended in 2001.

37

38                   We read in the paper that the Forest  
39 Service has again closed the Unuk to eulachon fishing, we  
40 can't even pick up a dead one, we would be prosecuted.  
41 We have complained and demanded to meet, but to no good.  
42 There's been such a change over in the Forest Service  
43 Staff down in the Ketchikan area, we started out with Mr.  
44 Engersal who was the head forester and after this went  
45 through he was transferred to Washington, D.C. with his  
46 family who enjoyed living in Ketchikan. And then Glen  
47 Colin came as head forester, he was there two or three  
48 years and then he transferred to the Black Hills in I  
49 think South Dakota. And then Jerry Engersal he was  
50 transferred out -- no, no, I'm -- Todd Tisler. And so

1 pretty much all the connections have disappeared, there's  
2 no more contacts, no more information.

3

4                   And then here's something else that is  
5 going on in the meantime here, the U.S. Forest Service is  
6 holding meetings in the Ketchikan Ranger District to make  
7 regulations for giving 50 percent of fish and wildlife  
8 use, special use of beaches, streams and lakes in the  
9 Tongass National Forest, Beam Canal to the charter boat  
10 industry without regard to subsistence users or personal  
11 recreational users. These charter permits, two year  
12 permits, will allow holder exclusive use to the area,  
13 non-paying users will not have access and be told to  
14 leave. We cannot allow this as it is, there is not  
15 enough resource and subsistence always comes first. The  
16 information the Forest Service gathered on the Beam Canal  
17 subsistence use given freely by our traditional users who  
18 told where their people hunted and gathered, buried their  
19 dead, to try to protect these traditional use areas.

20

21                   I oppose this proposal, the FP 11-18 by  
22 Robert Larson, former State of Alaska Fish and Game  
23 employee now a Forest Service employee. And we just --  
24 we cannot give the control back to the State. And the  
25 Federal Subsistence Board was formed to work for the  
26 people, to protect our way of life, not give it back to  
27 the State who is still denying subsistence and over  
28 regulating it. Now claiming the State waters are mixed  
29 with Federal waters when in the 2000 meeting up here in  
30 Anchorage there was a issue on, I think, Red Fish Bay out  
31 of Sitka where the subsistence users were having trouble  
32 getting the sockeye in because of the fishing out in the  
33 salt water. And at the time it was claimed that the  
34 Federal government had the right to extend out 600 feet  
35 out into the salt water to protect the subsistence and  
36 not be claiming that they can follow the tide all the way  
37 up into the river.

38

39                   And this eulachon decline has been -- it  
40 all started approximately 20 years ago and a lot has  
41 happened in that meantime. The huge hatchery in Neeks  
42 Bay was developed and releasing all of that salmon and  
43 that's in West Beam Canal. They released millions of  
44 salmon that -- that will eat eulachons or whatever's  
45 available. It was proven in Canada that lights were  
46 overhead on the net pens, it attracted the eulachon fry  
47 and that the salmon were eating them up right in the  
48 pens. And also in Canada they put observers on the  
49 draggers that were dragging and they were -- they were  
50 killing a lot of eulachons. And they tried to regulate

1 when they were -- so they wouldn't fish when the  
2 eulachons were migrating. And I haven't heard any more  
3 on that.

4  
5                   And then we also approximately 20 years  
6 ago the navy submarine test station had moved into West  
7 Beam Canal and has been proven that their testing kill  
8 small fish and is harmful to mammals. And I know for a  
9 fact that the eulachon decline is not from over fishing.  
10 Before all this activity took place and people started  
11 building cabins on the river and flying their airplanes  
12 in there where you have water like about this deep, it  
13 drives them right up on the bank where they dry up and  
14 can't get back in the water. They have nowhere to go and  
15 there's been way too much air traffic in that river and  
16 now they're even flying a huge twin Otter that is not --  
17 I don't think can land safely in there, but they manage  
18 to get it in that short stretch of water in and out for  
19 the tour industry, I guess.

20  
21                   And all these things are adding up to the  
22 decline of the eulachon and we just been very patient and  
23 hoping we would continue as we have and just monitor it  
24 the best we can and if they come back then we could look  
25 at fishing them again. But to permanently close it and  
26 the State claiming they're going to have control and open  
27 it again and -- and that the waters are mixed there, I  
28 don't believe that.

29  
30                   And like I say that petroglyph marks that  
31 river as ours and we never sold it. We've had people --  
32 the property owners call the State Troopers on us. One  
33 time we were sitting there, we're roasting hotdogs  
34 waiting for eulachons to come in the way we would pass  
35 the time and wait for and watch for the eulachons. And  
36 we were sitting there and here comes the State Trooper.  
37 He comes across a bunch of private property and he comes  
38 right to us and he says you guys shot a seal, I see it  
39 floating down there. And someone said well, you just  
40 crossed several properties there where you trespassed and  
41 he got a little bit nervous. And then someone said well,  
42 we're allowed to shoot seals and if we did shoot a seal  
43 we certainly wouldn't leave it down there floating down  
44 at the mouth of the river, we would have taken it,  
45 skinned it, eat the liver, check the stomach for  
46 eulachons, but we certainly wouldn't have left it  
47 floating. So after he listened to that and then he  
48 realized there was a mistake made, somebody made a bad  
49 call there.

50

1 Another time one of the property owners  
2 they -- they called the cops on us again. My son and I  
3 were up hunting and we're floating down the river and I  
4 see a strange boat over there, brand new jet boat sitting  
5 over there and it looked like enforcement to me. So we  
6 sat there a while, waited to see what they would do.  
7 They didn't do nothing so I started up and I idled over  
8 by them and asked them what was up. He said well, we got  
9 a complaint, guy said you were harassing them. Well, we  
10 weren't harassing them, we were busy hunting.

11  
12 And here we are being treated this way  
13 when our family have made grease on that river and fished  
14 that river forever and other people could not come and  
15 fish the eulachon on that river, our people would have to  
16 fish it and give them the eulachon. That was the Indian  
17 way.

18  
19 I really need people to listen to those  
20 of us that can come up here and are willing to give  
21 testimony. It's not a easy thing to do, most of us are  
22 just -- we're fishermen and we grew up with our elders  
23 who taught us never to waste so we learned that the hard  
24 way immediately because everything that we harvest is --  
25 we use it. That was what the children nowadays miss is  
26 growing up with the elders, times have changed to much.  
27 The fish camps are gone in our area, we had fish camps  
28 where we could spend time with the elders and help get  
29 the firewood, get the fish, minus tides we'd spear the  
30 Dungeness crab and they would cook them in a 50 gallon  
31 drum on the beach, we'd all share it, they were wonderful  
32 times and we didn't have the alcohol abuse or the drug  
33 abuse that we have today.

34  
35 And I have all the maps here from what I  
36 mentioned earlier on what the Ranger District wants to do  
37 to give up all our traditional subsistence areas to  
38 leases to charter industry. And we dig clams and cockles  
39 in all these places, we get our seaweed, we hunt.

40  
41 I'd like to read you a little piece here  
42 that's got the Federal taxes thing on it here, but it's  
43 Indian fishing rights. The United States treaties,  
44 Federal statutes and executive orders reserve to Indian  
45 tribe the right to fish for subsistence and commercial  
46 purposes, both on and off the reservation lands. And  
47 that's under 78,734. And if the Chair would like to have  
48 this there's more on it, I would like to give it to him.

49  
50 I think that's all I have. Thank you.

1 CHAIRMAN TOWARAK: Thank you, Mr. Wagner.  
2 Are there any questions of -- from the Board? Mr.  
3 Firmin.

4  
5 MR. FIRMIN: Mr. Wagner, what --  
6 historically what type of subsistence users utilize this  
7 resource, do they come from all over or mainly from your  
8 village and your tribe or do they come from Ketchikan  
9 and, you know, do they flock to the area from different  
10 places or.....

11  
12 MR. WAGNER: On the eulachons?

13  
14 MR. FIRMIN: Yes.

15  
16 MR. WAGNER: It was the ones under the  
17 Bear Clan, under my family, the Teikweidi, we're allowed  
18 to fish this river. And I am basically the only one left  
19 being that I'm from rural village and -- well, and my son  
20 and we didn't participate in the land claims. And I'm  
21 sorry if I offended anybody, I apologize, but we feel  
22 that we are -- people get upset with us because we didn't  
23 participate in the land claims. It was a tough choice,  
24 our elders made this choice for us. And if we wanted to  
25 take the land claims we were immediately to leave the  
26 island, give up our membership. And we had to make that  
27 choice for our children and I had to make it for my son.  
28 And it was tough watching the people participate in all  
29 of this and have a nice time and we were poor, you know,  
30 and they got money and land and we sat and watched all  
31 this happening. But we liked what we had and I'm very  
32 grateful that our elder -- our elders could see the  
33 future and we kept our reservation, we didn't expand it.

34  
35 But over the years we've -- to ans --  
36 back to your question, we -- my family we've kept the  
37 tradition up of fishing the eulachons and it's mainly  
38 been us. And when it was still under State jurisdiction  
39 there the State was looking at trying to make it limited  
40 entry for a while which it wasn't, it's not near big  
41 enough, it's just a one time thing that's the people's  
42 fish. And we always believed we were the caretakers of  
43 this fish. And the reason there isn't the documentation  
44 there covering all this is nobody paid any attention to  
45 us, we continued as we always have to fish that river and  
46 bring the eulachons home. And it seemed like after the  
47 Kashake's herring fishery died off then we started  
48 getting attention on what we were doing up the river.  
49 We'd come in with a boat load of eulachons and sell them  
50 in Ketchikan and Metlakatla, but we would call in at that

1 time and we would use Rat's Mouth and use the marine  
2 radio so the people from Craig and Klawock and Hydaburg  
3 and Kasaan, they could -- if they couldn't make it into  
4 Ketchikan to meet the boat they would have relatives in  
5 Ketchikan come down and get the fish. In that one  
6 delivery we made in 2001, I believe, that there were so  
7 many people, maybe 1,000 plus people waiting for the  
8 eulachons and the women, all the women were singing and  
9 I believe it was a Tlingit song and they were so happy to  
10 have the fish come in. And so many of the people have  
11 passed on now, they're not alive any more. And we've  
12 gone so far in the past as getting signatures, we have  
13 all this information yet we had to get signatures, I  
14 don't know, 1,000 of them or more and so many of them  
15 aren't here, but we had to bring that to the Fish and  
16 Game to try to pressure them to allow us to continue our  
17 way of life and be the caretakers. That's -- that's all  
18 we want. We don't want to live in the big cities and --  
19 we just want to stay in our village.

20

21 MR. FIRMIN: Thank you. Mr. Chair. One  
22 more if I may. Would -- so is right now -- like is your  
23 tribe basically has like a voluntary moratorium over the  
24 fishery currently or is it.....

25

26 MR. WAGNER: No. No, in that 2001  
27 meeting we were given the caretaker status and to  
28 government to government with the Forest Service to  
29 decide, you know, because the run was starting to weaken  
30 and take it year by year and monitor it that way. And  
31 that hasn't happened, that's all disappeared early on.

32

33 CHAIRMAN TOWARAK: Mr. Sampson.

34

35 MR. SAMPSON: Thank you very much for  
36 your testimony, Willy, I guess I don't have any question,  
37 but comments. Based on what the Chairman and the Board  
38 had asked hopefully tomorrow we can have a good sit down  
39 talk and have a good dialogue with the Federal Board in  
40 regards to raising some of the issues that's before the  
41 Native communities throughout the state. And I think and  
42 the time would be an ideal time is tomorrow to raise  
43 those things as I understand it. But there's reason for  
44 you to apologize in a public setting like this. All  
45 you're doing is expressing your views in regards to  
46 protecting your way of life. And there's others that are  
47 also viewing their -- giving their views in regard to  
48 taking of resources. So I want to say that you don't --  
49 there's no reason for you to apologize.

50

1 Thank you.

2

3 MR. WAGNER: Thank you.

4

5 CHAIRMAN TOWARAK: Ms. K'eit.

6

7 MS. K'EIT: Mr. Chair. Thank you. Mr.  
8 Wagner, thank you for your comments. I really appreciate  
9 the history that you gave us and the traditional  
10 knowledge that you shared about the Bear Clan's  
11 caretaking responsibilities for that area. And I don't  
12 have a question, but I do want to share my appreciation  
13 for that and my own appreciation for eulachon grease and  
14 seeing my uncle and the Tlingit Clan way, my brothers in  
15 the white way, my cousins making the oil and, in fact, we  
16 were talking about it this week and talking about our  
17 people as much as possible are adaptive and using  
18 whatever tools we could to make our processes efficient  
19 and effective and purposeful. And I just wanted to share  
20 when early in the week Mr. Atkinson testified in the --  
21 on the non-agenda items, the first time I heard, but  
22 really appreciated his comment about Tsimshian being  
23 three-quarters eulachon grease and one-quarter salmon.  
24 So I hadn't heard that before and I look forward to  
25 sharing that with family and friends.

26

27 So gunalcheesh. Thank you.

28

29 MR. WAGNER: Thank you.

30

31 CHAIRMAN TOWARAK: Any further comments?

32 Mr. Adams.

33

34 MR. ADAMS: Thank you. Mr. Chairman.  
35 Mr. Wagner, appreciate your testimony today. I had a  
36 little opportunity to talk with you yesterday and I  
37 really appreciated that encounter as well. And, you  
38 know, I'd heard, you know, that you and Mr. Lang over  
39 there had some reasons why the decline was happening on  
40 the Unuk River. And so I was really curious, you know,  
41 to hear your reasons, you know, particularly the decline  
42 that was taking place over the past 20 years, the  
43 hatcheries and the navy submarines, you know, having some  
44 affect on the stocks in that area.

45

46 But I just, you know, wanted to ask you,  
47 you know, were you aware of the Regional Advisory Council  
48 meetings that were -- that we had in your area over the  
49 past few years, you know, we had one in Ketchikan a few  
50 year ago, another one in Saxman and most always, you

1 know, the -- this issue had been brought up to us. And  
2 I'm curious, you know, as to why, you know, you did not  
3 get the word, I'm sure that you would have attended if,  
4 you know, the word had gotten out to Metlakatla. I have  
5 relatives in Metlakatla and I told them, you know, I'm  
6 coming down to Ketchikan, I'll be in Saxman, it would be  
7 nice to have an opportunity to visit with you and I told  
8 them the reasons why I was there. So, you know, just  
9 from family to family, you know, the word got -- you  
10 know, out in that way. But I really feel it important,  
11 you know, that you people, the Metlakatla people, you  
12 know, get involved in the Regional Advisory Council  
13 meetings. And even as Mr. Lang said, I guess, you know,  
14 submitted several applications, you know, to be on this  
15 Board. And I think it would be well, you know, if you  
16 also did that.

17  
18 But anyhow appreciate your comment about  
19 the reasons why you think the decline was happening and  
20 a little bit later on I'll give you the reasons we're --  
21 why I have to support, you know, our Regional Advisory  
22 Council's recommendation on this issue. But gunalcheesh  
23 once again for your being here and sharing your  
24 experience with us.

25  
26 MR. WAGNER: Thank you. But no, I have  
27 not received any information. I was fortunate to go to  
28 Fairbanks to the AFN meeting and that's where I was told  
29 that this was happening and by then it apparently was  
30 already too late. And all we want to do is continue as  
31 we were from 2001 there, that's all we're asking and not  
32 to make this permanent change. When things are permanent  
33 they're permanent. And that's just too strong, that  
34 proposal is just too strong and I don't feel with us  
35 being informed of any of this here that -- that it really  
36 needs to be reconsidered.

37  
38 Thank you.

39  
40 CHAIRMAN TOWARAK: Mr. Adams.

41  
42 MR. ADAMS: Follow-up, Mr. Chairman.  
43 Thank you for that. But let me just reemphasize, you  
44 know, the fact that I think it's important that you do  
45 get involved, you know, with the Regional Advisory  
46 Council because it's through this avenue where people in  
47 the villages and communities, you know, can get their  
48 voices heard. You can come to our meetings, you can  
49 argue out your situation with us and we will certainly  
50 take them into consideration, you know.



1                   This particular Federal Subsistence Board  
2 meeting is designed specifically to reach out to tribal  
3 organizations. And I hope that we see you tomorrow, you  
4 know, when that avenue happens because as Mr. Sampson  
5 said a lot of good information should be shared back and  
6 forth between us. But I really encourage you, you know,  
7 to get more people -- get somebody on this Council, the  
8 Southeast Regional Advisory Council and in that avenue  
9 we'll be able to hear your voice a lot stronger.

10

11                   Gunalcheesh.

12

13                   MR. WAGNER: Yes, and one more thing on  
14 that. We've had, I think, five or six people for certain  
15 apply to serve on the Council and to no avail, we've yet  
16 to have one picked and it's a little past due, I think.  
17 We need representation.

18

19                   Thank you.

20

21                   CHAIRMAN TOWARAK: Any further questions.  
22 Ms. K'eit.

23

24                   MS. K'EIT: Mr. Chair. I need to  
25 apologize to Mr. Lang, Sr., in the audience. He was  
26 actually the one that referenced (indiscernible) being  
27 three-quarter eulachon. So I apologize, Mr. Lang. And  
28 for non-eulachon oil users, you can think of it like  
29 eulachon oil to a lot of our Southeast people is like  
30 olive oil to the Italians. So it's very, very,  
31 important.

32

33                   Thank you. Mr. Chair.

34

35                   CHAIRMAN TOWARAK: Mr. Haskett.

36

37                   MR. HASKETT: Thank you. Mr. Chair.  
38 Just a point of clarification because I want to make sure  
39 because I heard you say a couple of times that you think  
40 this is something that's going to close it permanently  
41 and forever and, of course, this Board can re-look at any  
42 proposal, any decisions we make. When -- so nothing is  
43 forever, I mean, it can be open to revision again  
44 depending upon what we do. And I'm not predisposing what  
45 the decision will be, but would like to have that  
46 clarified.

47

48                   CHAIRMAN TOWARAK: As far as I know the  
49 only thing that's forever is death and taxes.

50

1 (Laughter)  
2  
3 CHAIRMAN TOWARAK: Not far off. Mr.  
4 Probasco.  
5  
6 MR. PROBASCO: Thank you. Mr. Chair.  
7 And thank you, Mr. Haskett for the segue. In fact, the  
8 Board has a policy where all closure reviews, both  
9 wildlife and fisheries, are even if a proposal isn't  
10 submitted, are reviewed every three years.  
11  
12 Thank you. Mr. Chair.  
13  
14 CHAIRMAN TOWARAK: Mr. Sampson.  
15  
16 MR. SAMPSON: I guess this question would  
17 be more for your solicitor there. Because of the  
18 reservation status and that recognition, does this mean  
19 there's some exclusionaries in Federal law that would  
20 prohibit them from being part of a Council? I'm just  
21 trying to find out something that.....  
22  
23 MR. GOLTZ: Mr. Chairman. No, nothing  
24 that I know of would prohibit them from being on the  
25 Council. They're Alaska rural residents. I think the  
26 uniqueness of the reservation is that our regulations do  
27 not apply on reservations lands. But they could come on  
28 a Council and administer the rest of the Federal public  
29 lands.  
30  
31 MR. SAMPSON: Now when you refer to land,  
32 does that also encompass portions of those waters as a  
33 reservation?  
34  
35 MR. GOLTZ: Anything within the  
36 Metlakatla reservation is excluded from our jurisdiction.  
37 They have a unique land status that nobody else in the  
38 state has.  
39  
40 CHAIRMAN TOWARAK: But it's my  
41 understanding that this proposal is beyond the boundaries  
42 of the Metlakatla.....  
43  
44 MR. GOLTZ: Correct.  
45  
46 CHAIRMAN TOWARAK: .....Indian  
47 reservation.  
48  
49 MR. GOLTZ: They could be on the Council  
50 and administer the rest of the Federal jurisdiction. But

1 the -- the reservation is a unique place.

2

3 CHAIRMAN TOWARAK: Any further questions.

4

5 (No comments)

6

7 CHAIRMAN TOWARAK: Thank you, Mr. Wagner.

8

9 MR. WAGNER: Thank you.

10

11 CHAIRMAN TOWARAK: We will proceed to the  
12 next public testimony.

13

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

15 There's two more people that wish to testify on this  
16 proposal. And the next individual is Mr. Thomas Lang,  
17 Sr.

18

19 MR. LANG, SR.: You got to remember I'm  
20 the stander. I stand to make my speech and I really  
21 don't need this because once I get going they can hear me  
22 upstairs.

23

24 Your point that nothing's permanent, I  
25 spent 50 years of my life as a purse seiner in Southeast  
26 Alaska, Gulf of Alaska, I've fished all the way up to  
27 north of Bristol Bay in the Togiak area out to the  
28 Aleutians and in Area M around Sand Point, Gulf of  
29 Alaska, all the way down to Washington State. I had  
30 licenses and permits to do that. And when I first  
31 started fishing we were a territory. I'm leading up to  
32 your point that nothing's permanent anymore. I bought a  
33 \$25 license to go fishing, I could fish the whole water  
34 from the Canadian border all the way up to the ice in  
35 Alaska for a \$25 license. Fish and Game come along, we  
36 became a State, they divided it into areas, made it  
37 limited entry.

38

39 Limited entry was a real weird thing and  
40 in those days almost 90 percent of the fisheries were  
41 owned by Natives, every Native community that Louie  
42 mentioned a little while ago also had salmon canneries,  
43 salmon fishing fleets, it was a Native issue. Limited  
44 entry has taken it out of there, now it's a bankable  
45 industry and the Natives no longer control it, we're the  
46 only Native owned fish processing plant in Alaska. In  
47 Metlakatla we have a little cold storage left, we had a  
48 cannery. We still have a fishing fleet. But in like 50  
49 years it went from fishing in the bays out into the  
50 straits, they pushed us out into the ocean saying that

1 we'll close this bay, this area like they want to close  
2 now, and when the fish come back in three years I imagine  
3 there will be billions in there and you can fish them  
4 again. But whenever they close an area the State -- they  
5 never open it again. In the Straits, the whole area there,  
6 the Hoonah fishermen were there, the best fishermen in  
7 the world, best seiners in the world. They've told them  
8 to close it down for three years, we'll open it up again,  
9 they'll be so much salmon you don't have to worry about  
10 it. That was 25 years ago. The closure in our area was  
11 45 years ago. They've moved us out into the ocean and  
12 now they don't let us fish in the ocean because the  
13 Canadians claim some of the fish so we don't even have a  
14 place to fish anymore hardly. Closed forever, they never  
15 open again once they close something. That's why we're  
16 opposing this.

17  
18                   Saul is not here because he has a real  
19 important meeting at the council -- I think it's with the  
20 Denali Committee involving money so it's real important  
21 and he'll be here. But the executive and him as a  
22 council gave me the right to go ahead and propose it even  
23 though they haven't had council action on it because  
24 we've never been at any meeting until this one, we've  
25 never seen this issue until here. I've never read the  
26 proposal until I got to here the other day just like I  
27 told you. So they gave me the right to ask you to in  
28 their -- we are having meetings on this to oppose it,  
29 please, please. The Southeast representative who should  
30 be fighting for my rights had -- they had several  
31 meetings like he said without us Eulachon people and he  
32 has to oppose it now because their Council already  
33 decided to oppose -- to support the closure. I kind of  
34 -- I know you guys want to kind of ask me questions, what  
35 I want to know from you people that aren't from there  
36 that I heard you fighting for the Yukon issue real bad  
37 because a lot of your guys fish there, you get to fight  
38 for yourself, but I don't have nobody on this Board. I  
39 tried to -- I applied for this Board, got refused. Some  
40 guy from Petersburg interviewed me and Petersburg and  
41 Metlakatla are clashing, there's no way I would have got  
42 on here anyway, but we're going to try again. You keep  
43 saying try, but try and try again, but we've tried and we  
44 couldn't get on this Board.

45  
46                   The reservation status that you asked --  
47 the gentleman asked about water, we have 3,000 feet of  
48 water around -- in the surrounding islands around our  
49 little island, the island's about say about 15 by 12  
50 miles wide. It's not very big, we have a small

1 reservation, but we're real good at fishing, we make  
2 money on it. We still run the herring issue, salmon, we  
3 still make money off of our small reservation. It's real  
4 tiny, one one-hundredth of a thousandth of a percent of  
5 Alaska. But people think it's big because we're  
6 successful, we're good business men.

7  
8 Now the grease that Madam Kristin there  
9 was referring to for thousands of years we've been  
10 rendering -- our tribe goes past the border almost 200  
11 miles down all the mainland rivers down halfway to  
12 Seattle to Queen Charlotte Sound up to here. That's  
13 Tsimshian territory on the mainland. So eulachon was the  
14 basis of our trade. We had the large canoes, we traded  
15 up and down the coast. Rendering eulachon grease was the  
16 gold standard even if they didn't have no contact with  
17 white people or no -- you're still going good because you  
18 know what, here's the opposite point of what she made,  
19 she said it's like olive oil, but do you know that one  
20 gallon of grease is worth in our deal, starts at \$500 up  
21 to \$800 for a gallon of rendered grease. A pretty good  
22 gold standard, but it kept our people going for 15,000  
23 years, that was a gold standard and it is today. We've  
24 been doing it for 15,000 years until the State and  
25 different people, the territory, the Federal government  
26 took over the river.

27  
28 Louie has the maps, I hope he makes a lot  
29 of copies if you're going to discuss it again tomorrow,  
30 the maps are what the Forest Service is planning for the  
31 unit. All -- they've had several -- seven meetings in a  
32 row discussing the Unuk without asking us to be at the  
33 meeting. We found out by accident, we go to the meeting  
34 and say what are you guys doing. And it's like the  
35 gentleman said the other day, no Indians allowed. Maybe  
36 dogs are allowed, but no Indians. That us, we're the  
37 people. So we're opposing it because that three year  
38 thing it's a joke, they're not going to do anything in  
39 three years, every three years. Eulachons come every  
40 year, we've been doing it on the rivers for years,  
41 thousands of years, annually taking only what we needed.

42  
43 One of the things that caused the  
44 decline, you asked about the causes of the decline and  
45 Louie iterated on a little bit was that at one time the  
46 State was going to make it a limited entry process. Now  
47 limited entry is a bankable product. You get a limited  
48 entry permit, you get it by getting into the fishery and  
49 if you get fish so long they give you a limited entry  
50 permit then you could sell it, you can sell your right,

1 you could sell it. And some of them you -- in herring,  
2 like in Sitka herring, the guys bought them for \$50 when  
3 they first started, they can sell them from 500,000 to \$1  
4 million now, that little permit. So when the State said  
5 well, we're going to make eulachons in the Unuk a limited  
6 entry process, hundreds and hundreds of people came,  
7 large companies -- fishing companies came and went to  
8 fish it because they wanted to get the permit which they  
9 could own and probably sell, not even use. And they  
10 decimated the run that year. The fish processors  
11 especially in the Ketchikan area. The damn fools didn't  
12 have a market, they didn't know what to do with -- they  
13 had van loads of eulachons they took out of the river,  
14 they decimated that run and they didn't know what to do  
15 with them because they didn't want the eulachons, they  
16 wanted the permit. From that time on the place has never  
17 recovered. They over fished it. We don't know whether  
18 it ever will again. But to close it permanently, it'll  
19 be permanent, guarantee you that, it'll be permanent if  
20 you do that action.

21  
22                   Louie in his round about way, Louie's  
23 family they have fishing boats and large packers, they  
24 have the ability to go get the fish for the people.  
25 That's about 40 miles away from our reservation in State  
26 -- you know, State waters, it's about 40 miles up Beam  
27 Canal from our reservation. And they do it for the whole  
28 area. Like he said every -- they catch it for everyone,  
29 there's seven villages down there in our area. So their  
30 -- it's been in their family forever, but they do it for  
31 us, the Tsimshian, the Tlingit and the Haida that live in  
32 there, all profit from it. And the Tlingit in Saxman  
33 they were in before statehood or before any discovery,  
34 they were in kind of Tsimshian territory, but the  
35 Williams family out of Saxman had the same right that  
36 Louie -- the Williams family also got eulachons, Joe  
37 Williams. They had permission from the tribe, from the  
38 clan, I mean, the clan that ran it. They had to get  
39 permission and they got it. So Joe Williams is a very  
40 famous family, the Williams family in Saxman is very  
41 noted. And that's how they got it. So it was our  
42 people's but they only got what they needed and if the  
43 run was poor, they knew it was poor so they'd bring in  
44 very little. They'd say sorry, we couldn't fish too much  
45 because they've done it for thousands of years. We know  
46 how to take care of it.

47  
48                   Now the map that he's going to show you,  
49 it -- planes landing in there, tourists landing in there,  
50 sport fishermen going there, all guides, all for tourism

1 and now you're saying no Indians allowed. That -- I  
2 didn't know I -- I'm going to have a hard time here  
3 because I'm an old fisherman and I have a hard time  
4 expressing myself without being mad when things like this  
5 happen to me. So I might say something wrong because I'm  
6 representing the Council now and I'm representing my  
7 people, I'm not just representing Tom Lang. So I have to  
8 be real careful, but they have given me permission to  
9 request that you refuse this permanent closure. We could  
10 look at it every year, they all know they should, in  
11 fact, like Louie said, let Louie take care of it, let his  
12 family take care of it. If the fish come back let them  
13 do it, not the State, not the Federal government, they're  
14 really in there decimating it with tourists and trying to  
15 keep the people out that know how to manage it.

16  
17 So we -- I'm really pleading with you to  
18 just regardless of what our Southeast Council did without  
19 us, he has to do what they decided. I'm begging the rest  
20 of you, you don't have to, you don't have to vote for it,  
21 vote against this thing. I'd like to hear from some of  
22 these people instead of you asking me questions, I'd like  
23 to hear what they have to say about what's happening.

24  
25 And that's it, I better stop before I get  
26 too carried away.

27  
28 CHAIRMAN TOWARAK: Thank you, Mr. Lang.  
29 Are there any questions from the Board or the RACs to Mr.  
30 Lang? Mr. Adams.

31  
32 MR. ADAMS: Mr. Lang, again I appreciate  
33 your testimony today. And I found out the reason why the  
34 decline was taking place was because of the -- it was  
35 over fished. And that was kind of what I was looking for  
36 and, you know, there might be some people who might have  
37 some different ideas about that, but it's really helpful,  
38 you know, to meet at this point in time. And like I said  
39 I'm going to have to, you know, represent the Council,  
40 but again I would encourage you as I did with Mr. Wagner  
41 over there, get involved in this Regional Advisory  
42 Council and your voice will be much stronger and well  
43 heard at that time and hopefully you'll be able to find  
44 somebody that can represent you from Metlakatla on the  
45 Council.

46  
47 So gunalcheesh. Thank you.

48  
49 CHAIRMAN TOWARAK: Mr. Firmin.  
50

1 MR. FIRMIN: Thank you. It says here on  
2 the map that this would only affect Unit 1C and 1D, but  
3 historically or do you have any eulachon streams in 1E  
4 that would supplement your tribal uses in the meantime?  
5

6 MR. LANG, SR.: You'd have to ask Louie  
7 that, he's the fisherman. I -- I'm representing the  
8 council and he's the fisherman.  
9

10 MR. WAGNER: Wrangell, the Stikine.  
11

12 MR. LANG, SR.: The Stikine River.  
13

14 MR. WAGNER: But it's a different river,  
15 we tried working it, it's not the same.  
16

17 MR. LANG: There are several rivers,  
18 smaller one, I think, Louie, but not enough to satisfy  
19 the needs of the whole area.  
20

21 MR. FIRMIN: Okay. Thank you.  
22

23 CHAIRMAN TOWARAK: Any further questions?  
24 And when you answer the questions if you could speak into  
25 the mic that way the rest of the people could -- will  
26 hear your comments.  
27

28 MR. REAKOFF: Thank you. Mr. Chairman.  
29 You mentioned the valley of the eulachon oil. I was  
30 wondering if customary trade is part of using the  
31 eulachon. And we talked about customary trade on the  
32 Yukon River, I was wondering if customary trade is  
33 practiced with eulachon oil.  
34

35 MR. LANG: Yes. Yes, it is. Like I say  
36 it's the basis of our clan, the eulachon is the basis.  
37 Salmon is the next byproduct and then the cedar. The  
38 reason we hadn't gotten any further north on the cedar  
39 issue because cedar trees don't grow very big north of  
40 the Unuk which means the canoes and the cedar homes and  
41 the totem poles and things like that, there was no value,  
42 they had to be together in order to keep our tribe going.  
43 So further south we had the canoe things. I got pictures  
44 of canoes that are 65 feet long and they're freighter  
45 canoes they call them. They loaded them up with grease  
46 in watertight boxes, one piece boxes. And it is a real  
47 trade. You call it subsistence and user subsistence, but  
48 it's also a -- was a commercial entity even before money.  
49 We did it to survive, we had to go to where other people  
50 couldn't get it and, you know, people in the river can't



1 get crabs and halibut and things like that and we travel  
2 all the way up and down the coast trading. So it was a  
3 monetary issue, that's why I said the gold standard and  
4 it still is today. It still is today.

5

6 CHAIRMAN TOWARAK: Any further questions?

7 Go ahead.

8

9 AHTUANGARUAK: This proposal gives a lot  
10 of concern to me. There's a lot of discussion from the  
11 tribal people in that area of their lack of involvement  
12 to this process. There isn't enough information to help  
13 us see that there has been efforts to really look at this  
14 fishery and look at other things that may be incorporated  
15 into the process to help manage this fishery. And the  
16 impacts are to the local area, the people -- the tribal  
17 people of this area. It's -- this is a very difficult  
18 one for us to deal with. I would have liked to have seen  
19 more information in our process showing the interaction  
20 and discussion that we're getting here today and yet  
21 we're into this process where we're moving forward to  
22 make some decisions. We have had a lot of discussion  
23 over other areas that have been closed over the years and  
24 the generations of closure has showed us that we're  
25 having problems within our process. We're in a limited  
26 venue of what we're trying to discuss, but we have so  
27 many additional variables that are affecting us that are  
28 not included into this process so we're so limited in our  
29 scope that impacts our tribal people. This is very hard,  
30 I don't know what the answer is, I don't have enough  
31 information with what's been presented today to show that  
32 we should impact them so much.

33

34 Thank you.

35

36 CHAIRMAN TOWARAK: Thank you for your  
37 comments and we will continue with the process, but I --  
38 personally I think we have options still available to us  
39 that we can probably review at a later time after we hear  
40 the rest of the -- after we go through the rest of the  
41 process that we have assigned to us at this point.

42

43 Mr. Haskett and Ms. K'eit, did you have  
44 your hand up too?

45

46 MR. HASKETT: So just I guess two  
47 questions for you. And I understand your concerns about  
48 once something is closed maybe it never gets opened, but  
49 I got to go back and look at why we're talking about  
50 doing this. It's because the population there is

1 actually at a critically low level so I -- I guess my  
2 first question for you is there any disagreement that  
3 there's a problem with the population levels there right  
4 now?

5  
6 MR. LANG, SR.: No, we could handle that,  
7 we've done it before. Like I say with the clan that runs  
8 the area, they can handle it. When there's no fish --  
9 the fishermen don't fish when there's no fish. And  
10 especially Natives do not over fish when there's few  
11 fish. We know when to leave it alone and we know when to  
12 use it. But to permanently close it, you take that away  
13 from us, you take the management away from us. There is  
14 a problem, but we're not working on the problem. Closing  
15 an area is not answering a problem, it's creating one.

16  
17 MR. HASKETT: Okay. Then a second --  
18 thank you. I mean, the second point, I guess, I need  
19 clarified is that -- so my understanding is that it's  
20 been closed by special action by the Forest Service for  
21 the last five years, was that something that you were  
22 able to work with or did you have a concern with that as  
23 well?

24  
25 MR. LANG, SR.: We kind of leave it up to  
26 the fishermen to come to the Council and see what they --  
27 what they're going to do and so far as I know as long as  
28 there was no permanent closure I think they were working  
29 on something, they were working on something. And to  
30 close it means you're not going to work on it anymore  
31 until some damn fool comes up three years later and say  
32 hey, there might be a eulachon in there. That's the  
33 wrong approach.

34  
35 MR. HASKETT: Okay. So -- and I'm almost  
36 done here, I'm just trying to figure out the whole kind  
37 of gambit of solutions we're looking at. So an alternate  
38 solution, and again I'm not predisposing anything this  
39 Board might end up doing, would be if we left it as is  
40 now where the closures continued, but people were working  
41 on this the way you're looking at it, that would be an  
42 acceptable or at least more acceptable than what's being  
43 proposed here?

44  
45 MR. LANG, SR.: Yes. That's -- we  
46 thought that's the way it was going to go. Otherwise we  
47 would have been deeply involved really from the start if  
48 we didn't know that this was going to happen.

49  
50 MR. HASKETT: Okay. Thank you. I'm not

1 trying.....  
2  
3 MR. LANG, SR.: No.  
4  
5 MR. HASKETT: .....to predispose  
6 anything, I just want to get some clarification.  
7  
8 MR. LANG, SR.: I appreciate that.  
9 You're bringing out some points that I.....  
10  
11 MR. HASKETT: Okay.  
12  
13 MR. LANG, SR.: .....probably forgot  
14 anyway.  
15  
16 MR. HASKETT: Okay. Thank you.  
17  
18 MR. LANG, SR.: Thank you.  
19  
20 CHAIRMAN TOWARAK: Ms. K'eit.  
21  
22 MS. K'EIT: Thank you. Mr. Chair. Mr.  
23 Lang, you said that you had -- you wanted us to share  
24 with you our thinking or.....  
25  
26 MR. LANG, SR.: Yes.  
27  
28 MS. K'EIT: .....answer some of your  
29 questions. And something I am thinking about that hasn't  
30 come up yet is that -- and actually Mr. Towarak kind of  
31 referred to it, that we do have other options besides if  
32 the Board were to vote and approve the proposal based on  
33 our RAC's recommendations. So to clarify maybe for you  
34 and your tribe that you're representing and for Mr.  
35 Wagner that also spoke, one of the other options is that  
36 -- I mean, there's several different options the Board  
37 can take, they can take no action, they could vote to  
38 approve or reject, they could defer the action and say,  
39 you know, we don't feel there's enough information, let's  
40 come back to it. But they could also -- well, for any of  
41 those the Board could say well, you know, there's been  
42 other fisheries, they have special actions on them for  
43 many, many years before we finally took an action to  
44 either close or to change the regulation and in this case  
45 we're saying special actions had to be taken for three,  
46 four, five years.  
47  
48 And, you know, in my view I don't -- I  
49 don't see a lot of harm in saying, you know, let's do  
50 what Mr. Haskett even recommended of, you know, let's see

1 what -- or he recommended as a possibility, let's not act  
2 and see what happens or let's defer and see what happens  
3 rather than do a permanent closure which is a big concern  
4 that you've shared. And, I mean, that's just -- and  
5 information I provide to you as what the Board can do,  
6 but then also just for my colleagues on the Board to  
7 think about. One area that we have some responsibility  
8 in is the law says that we're to provide deference to our  
9 Regional Advisory Councils, in this case the Southeast  
10 RAC. And so, you know, we -- or myself, I'll speak for  
11 myself, you know, that makes it a difficult issue just as  
12 the Yukon issues were and the Kodiak issues even. So we  
13 have to keep that in consideration and balance that in  
14 our decision making.

15

16 Thank you. Mr. Chair.

17

18 CHAIRMAN TOWARAK: Mr. Haskett.

19

20 MR. HASKETT: Thank you. Mr. Chair. The  
21 only clarification I'd like to make on that, I wasn't  
22 making a recommendation, I'm just trying to get that on  
23 the table so that I'd like -- before we're done I'd also  
24 like to hear from the Forest Service on this too to get  
25 some kind of sense of kind of where they're in this as  
26 well.

27

28 MR. LANG, SR.: I'd like to -- Mr. Chair.  
29 I'd like to ask a legal question to your attorney.

30

31 MR. GOLTZ: Go ahead.

32

33 MR. LANG, SR.: Yeah, if things go bad  
34 for us and don't go our way do we have any recourse to  
35 come back to the.....

36

37 MR. GOLTZ: The answer is yes, you could  
38 file an RFR and.....

39

40 MR. LANG, SR.: Yeah, what is RFR, I've  
41 heard the word, but I don't know what it means.

42

43 MR. GOLTZ: That lady on your left is  
44 writing a note right now that will be transmitted to the  
45 Staff and we'll get you the information.

46

47 CHAIRMAN TOWARAK: That's the lady on  
48 your right.

49

50 (Laughter)

1 MR. LANG, SR: Anything else?  
2  
3 CHAIRMAN TOWARAK: Any further questions  
4 of Mr. Lang.  
5  
6 (No comments)  
7  
8 MR. LANG, SR.: Thank you.  
9  
10 CHAIRMAN TOWARAK: We want to thank you  
11 for.....  
12  
13 MR. LANG, SR.: Thank you, sir.  
14  
15 CHAIRMAN TOWARAK: .....your comments and  
16 we hope you'll stay with us through the end of this  
17 process.  
18  
19 Further public comments.  
20  
21 MR. PROBASCO: Mr. Chair. We have one  
22 last individual that would like to speak on public  
23 testimony. And for your consideration after this is done  
24 we had a Board member request that we break for lunch  
25 after public testimony. Mr. Richard Jackson.  
26  
27 CHAIRMAN TOWARAK: While he's on his way  
28 up are there any objections to taking a lunch break after  
29 we listen to Mr. Jackson.  
30  
31 (No comments)  
32  
33 CHAIRMAN TOWARAK: If that's the case we  
34 will break for an hour and 15 minutes.  
35  
36 MR. JACKSON: Thank you. By custom I  
37 will thank the people from this area who are traditional  
38 settlers here for allowing me to be on their land. I  
39 thank the hospitality of the RAC Committee and especially  
40 Mr. Sampson in greeting me and to the Federal Subsistence  
41 Board for allowing me to speak today, also the RAC  
42 Advisory Committee Regional.  
43  
44 Looking at this issue here -- I am from  
45 the Teikweidi, I am from the Tundaquan from Kadowhoca  
46 (ph), Tongass Island. Mr. Wagner I believe is from the  
47 Sanuquan. That's from Gosh and Kirk Point. And also  
48 before I speak again I'd like to recognize my father's  
49 people, Kristie from Kaagwaantaan, from Klawock.  
50

1                   We look at this issue of the Unuk River  
2 which means a place of dreams (in Native). That's when  
3 the Teikweidi had fish camps up that way and the Unuk was  
4 a melting pot for our grease, eulachon grease. Now there  
5 isn't any left, I heard there was only 24 caught last  
6 year and we look at the page here and there's thousands  
7 of pounds that were caught some years. And before this  
8 dry spell there was -- at one time there was four years  
9 of no fish, but now we're at six.

10  
11                   The Tongass Tribe or Tundaquan more  
12 properly called. The -- now we have to go to other  
13 resources, we go to Canada, they have the Nass River,  
14 Nass Cau meaning the Nass Man. He comes up and sells the  
15 grease. Sometimes they put it in sealed cans because  
16 they don't want the jar to break because it's fermented,  
17 quite strong.

18  
19                   My Auntie Emma Williams she went through  
20 the flu epidemic in 1918, locked herself in an apartment  
21 up by Deermont Street and watched them cart coffins of  
22 children down the hill. She said she drank that eulachon  
23 grease with her husband and she survived. I would say  
24 this eulachon grease is -- that -- like -- to a Tlingit  
25 it's the highest commodity for value you could possibly  
26 eat. And now we have to call my nephew here in  
27 Anchorage, he's a jet pilot for Alaska Airlines, Joe  
28 Jackson, and they go down the river and get eulachons  
29 here and they ship them to us when we came from one of  
30 the richest areas where eulachons were. Do I blame the  
31 commercial fisheries, I don't think so. I see these  
32 years of decline that happened prior to the six years.  
33 Mismanagement from the State or the Federal, I don't  
34 know, I don't think so, because it showed that precedence  
35 before then, that we had these years where there were  
36 zero, no one can explain it. I talked to Dr. Dolly  
37 Garza, she taught at the University of Alaska in  
38 Ketchikan as a biologist and she said possibly a  
39 catastrophic, you know, act of god or nature, which  
40 somehow these eulachons did not come back.

41  
42                   Up in that area where Mr. Wagner's  
43 referred to that's where we had a fish camp. Well, my  
44 grandfather had a camp there and the Forest Service  
45 burned it down. They apologized years later, a couple  
46 years ago I think for, you know, influencing the social  
47 economy of the traditional people irregardless of whether  
48 they're from the Tsimshian or the Tlingit or the Haida or  
49 the Inishka, we shared these things with permission,  
50 Teikweidi did share with the Teikweidi -- the Tonga

1 shared with the Teikweidi of the Cape Fox, usually  
2 through marriages where you married into the families,  
3 someone on the other side and then we'd share that area.  
4 And for -- they used to return time immemorial now all of  
5 a sudden we're without this resource and it's very  
6 discerning.

7  
8                   And I looked at your proposal here and I  
9 generated some questions which I hope that you can answer  
10 for me today. Why would you want to regulate this, to  
11 close these waters when you already have closed permit  
12 process. There's no permits here, no permits you can't  
13 fish. Am I wrong, you know, so what are aiming for, you  
14 can't fish. It's almost like you're in a wait and see  
15 mode so let's see what happens. Without those permits  
16 you're breaking Federal law or State law, whatever.

17  
18                   But on the other side of it I -- as a  
19 traditional user, my family was -- would go up there and  
20 Joe, Sr. was a (in Native) from the Hoburt house in  
21 Saxman and would come to the village from the Unuk River  
22 and they would produce this grease on the beach I  
23 remember when I was a little boy. And he was a (in  
24 Native) share with the village. And Saxman was a  
25 combination of Tundaquan from Tongass Island and Cape Fox  
26 who came from Kirk Point, they moved to the Ketchikan  
27 area in 1893. And if you look at the possessory rights  
28 of that area done by Goldschmidt and Haas in 1946, I'm  
29 sure you're seen it, it shows these areas to in effect be  
30 under the Teikweidi of the Tlingit, of the Cape Fox which  
31 Louie Wagner is.

32  
33                   And Mr. Lang was correct that we do share  
34 our resources in a very conservative way which holds  
35 regard to what's there and available.

36  
37                   The -- my biggest concern that I heard  
38 from my tribal members on both the (indiscernible) side,  
39 not only from Tlingit or the Haida and the Tsimshians we  
40 were concerned with the commercial harvests. Now that  
41 might have an affect of zero on us, but I saw precedence  
42 where there was four straight years of no fishing then he  
43 showed up so I'm not sure it was quite the cause, but it  
44 could have been. Could have been from the.....

45  
46                   So I'm at a quandary here as far as how  
47 to respond to this because I'm only responding for the  
48 Tongass Tribe. I'm Teikweidi, we have a traditional  
49 council in Ketchikan. And my brother, he's on the  
50 council. I would say that given that I can't remember

1 the questions I asked him now, I said what and why would  
2 you want to have a recommendation of closing it, you  
3 could just probably maintain the status quo, what harm  
4 would that do. They're in a wait and see mode. Get your  
5 researches out there, count the eulachons and when they  
6 come back you call us up and I'll go harvest them.

7

8 That's pretty much what I have to say.

9

10 CHAIRMAN TOWARAK: Thank you, Mr.  
11 Jackson. Are there any questions of Mr. Jackson.

12

13 (No comments)

14

15 CHAIRMAN TOWARAK: I'm not hearing any.  
16 Thank you.....

17

18 MR. JACKSON: Thank you.

19

20 CHAIRMAN TOWARAK: .....for your  
21 testimony. Any -- is that the final testimony?

22

23 MR. PROBASCO: Mr. Chair. For this  
24 proposal that is the final public comment. Just for  
25 those on-line as well as others, I still have green  
26 sheets for other proposals that will be taken up after  
27 lunch.

28

29 Thank you. Mr. Chair.

30

31 CHAIRMAN TOWARAK: Okay. If that's the  
32 case then we will take a break for lunch. It's five  
33 after 12:00. We will reconvene at 1:15.

34

35 (Off record)

36

37 (On record)

38

39 CHAIRMAN TOWARAK: I'm going to call this  
40 session back to order. At the time we broke for lunch we  
41 were in the process of listening to public testimony.  
42 And I believe that we've completed that.

43

44 MR. PROBASCO: Mr. Chair. We did  
45 complete public testimony and we would then go into  
46 Regional Councils. If you wouldn't mind I do have one  
47 clarification from yesterday's actions that.....

48

49 CHAIRMAN TOWARAK: Sure. Go ahead.

50



1 MR. PROBASCO: Thank you. Mr. Chair.  
2 And for Board members I just wanted to get a head nod  
3 because I was looking at my notes last night and when we  
4 requested the YK, Eastern and Western Councils to form a  
5 subcommittee, you'll note that the Western Interior  
6 Council had nominated or forwarded two names and two  
7 alternates, but we didn't envision the size of that  
8 committee and so my intent was to follow the Western  
9 Interior's lead to work with the three Councils and have  
10 two representatives from each Council to serve on that  
11 subcommittee and also recommend that they appoint  
12 alternates. Is that okay?

13  
14 MR. REAKOFF: Mr. Chair. If I could  
15 speak to that issue. The -- and we also appointed people  
16 that were fishers on the Yukon River. Councils can be  
17 made up of membership that's not on the Yukon River and  
18 so we -- our member -- our appointed members are from --  
19 fishers from the Yukon River itself, mainstem.

20  
21 CHAIRMAN TOWARAK: I'm envisioning six  
22 people there and what would you do in a three to three  
23 tie?

24  
25 MR. PROBASCO: Mr. Chair. Subcommittees  
26 as the intent is to work towards a consensus and a  
27 recommendation and I think that's something that we would  
28 tackle, but the whole purpose of this is to work towards  
29 consensus and develop a recommendation. And I don't  
30 think -- if the three councils couldn't reach a consensus  
31 we wouldn't have a proposal to go forward. So the goal  
32 is to reach a recommendation that all three Councils can  
33 agree upon.

34  
35 CHAIRMAN TOWARAK: Okay. That sounds  
36 reasonable. I've just been involved in so many meetings  
37 where there's been a tie and you're deadlocked and no one  
38 will move, but in this case it sounds like it will move.

39  
40 MR. L. WILDE: Mr. Chairman.

41  
42 CHAIRMAN TOWARAK: Mr. Wilde.

43  
44 MR. L. WILDE: If I may, Mr. Chairman.  
45 We have three different areas in our region and we were  
46 envisioning and we would like to request three Council  
47 members so that all areas of our area is covered.

48  
49 CHAIRMAN TOWARAK: Mr. Reakoff.

50

1 MR. REAKOFF: Mr. Chair. In response to  
2 that, our Council was fairly firm on we wanted to have  
3 equal representation on working or on the subcommittee.  
4 And so we would -- there has to be an equal amount from  
5 each Council for this to -- for the process to work  
6 correctly.

7  
8 CHAIRMAN TOWARAK: If each Council had  
9 three each that would be nine, that would resolve my odd  
10 issue.

11  
12 (Laughter)

13  
14 CHAIRMAN TOWARAK: Mr. Firmin.

15  
16 MR. FIRMIN: Thank you. Mr. Chair. The  
17 Eastern Interior Council has three chosen people already,  
18 all three are fishermen and two live on the river.  
19 However we do not have alternates, but as the Western and  
20 Eastern Interior both sent letters of request to the  
21 Yukon Kusko RAC to already have members sent, I was  
22 hoping this would be expedited by our next RAC meeting so  
23 that we could possibly get something in place by summer  
24 instead of waiting any longer for these conservation  
25 measures.

26  
27 Thank you.

28  
29 MR. PROBASCO: Mr. Chair. I didn't want  
30 to take up a lot of time on this, the wishes of the Board  
31 could either be two or three. I was not aware of Mr.  
32 Firmin's Council's actions because it wasn't in the  
33 booklet, but I appreciate that. This still has to go  
34 back to the Councils this winter meeting to make those  
35 appointments because we don't have anything from the YK  
36 at this point.

37  
38 CHAIRMAN TOWARAK: Mr. Haskett.

39  
40 MR. HASKETT: Mr. Chair. I guess my  
41 suggestion is it sounds like two already have three and  
42 so I think allow each one of the groups to decide up to  
43 three and still allow the two alternates. That would  
44 work equally well.

45  
46 CHAIRMAN TOWARAK: Any objections to  
47 that?

48  
49 (No objection)

50

1 CHAIRMAN TOWARAK: That will be the  
2 process then.

3  
4 MR. HASKETT: Okay. Thank you.

5  
6 CHAIRMAN TOWARAK: Okay. We are now to  
7 the fourth step in our process of Regional Council  
8 recommendations. Mr. Adams.

9  
10 MR. ADAMS: Thank you. Mr. Chairman.  
11 The Southeast Regional Advisory Council supports this  
12 proposal with a modification. The modified proposed  
13 regulation should read you must possess a subsistence  
14 fishing permit to take salmon, trout, grayling or char  
15 and all fresh water streams flowing into Section 1C and  
16 D are closed to the harvest of eulachon by all users.

17  
18 This is where the Council stands and as  
19 we listened to many of the people -- well, listened to  
20 testimonies from people from Metlakatla and, of course,  
21 from the Ketchikan area this morning, I really  
22 sympathize, you know, with their problems. However, you  
23 know, the Council has been watching this particular river  
24 for many, many years. I remember in -- six or seven  
25 years ago we had been getting little reports about how  
26 the eulachons were not showing up very well there. And  
27 this really -- personally this was a real big concern to  
28 me because I saw some evidence up in our area in Yakutat  
29 where the Situk River eulachons were beginning to not  
30 come as plentiful as they used to. And so I kind of took  
31 an interest in what was happening down there and we see,  
32 you know, over the years how it diminished almost down to  
33 nothing. And with that I think the Council, you know,  
34 really felt that we needed to close it to all user  
35 groups.

36  
37 And so, you know, I stand by that even  
38 though I do, you know, recognize the testimonies that  
39 have taken place this morning, I have to do what the  
40 Council has asked me to do.

41  
42 Let me also if I might, Mr. Chairman,  
43 just explain some of the reasons why I became concerned,  
44 you know, with the eulachons and not only in that area,  
45 I thought it was a place where we could start to do -- to  
46 monitor that particular river to see if there's a pattern  
47 that might be happening, you know, all up and down the  
48 coast. And, of course, you know, as I said earlier it  
49 got to a point where there's hardly anything coming into  
50 that river at all. And then I also mentioned, you know,

1 the problems with our Yakutat stock on the Situk River.  
2 I have complained so much about it, you know, over the  
3 years since this monitoring or since our concern of the  
4 Unuk River took place and I just didn't want to see this  
5 happen in other areas. And because of my, you know,  
6 concern for the Situk River particularly we were able to  
7 have a four year survey approved, you know, and that  
8 survey started last year and it encompasses 18 rivers,  
9 all the way from Taca Creek right near the airport in  
10 Yakutat, all the way down to Dry Bay which expands about  
11 60 miles or so. So there's 18 rivers that this survey is  
12 going to encompass.

13

14 And I've had the privilege of flying a  
15 couple, it's air surveys, flying about three of those  
16 flights. And I remember the very first flight that we  
17 took, we flew right over the Situk River and it was, you  
18 know, probably about oh, in the afternoon sometime. And  
19 I saw -- we saw some evidence of some eulachons right  
20 along the beach there, right along the river bank rather.  
21 And then we made our flight down to the Dry Bay and came  
22 back. And when I got home I called one of my sons and I  
23 told him you better get out there and see what -- see if  
24 you can catch some of those eulachons. And he's oh,  
25 okay, I'll go out on Thursday. This was Monday. And I  
26 said no, go out there right now. And, of course, you  
27 know, he half obeyed me, he went the next day instead.

28

29 (Laughter)

30

31 MR. ADAMS: But by the time that he --  
32 when he got out there, you know, they were gone. And  
33 then some other trips that we made down there, you know,  
34 showed some real strong evidence -- not real strong  
35 evidence of eulachons, but the strongest display of  
36 eulachons was on the Auke Bay River. We have the Situk,  
37 Arhnklin, Dangerous, Auke Bay, you know, Italio, Auke Bay  
38 and then the Dry Bay area. And I never saw so many  
39 eulachons in all my life, I never saw so many sea lions  
40 in all my life, I never saw so many swans in all my life,  
41 all the way up and down the Auke Bay River. But that was  
42 the only river that had any real strong concentration of  
43 eulachons. And it lasted maybe a few days and then they  
44 were all gone again. And there was some weak displays,  
45 you know, on the Dangerous. The Italio River I think we  
46 probably got down there a little too late, that run was  
47 all over and then just spatters of eulachons, you know,  
48 in some of the other areas. And so hopefully this  
49 survey, you know, over the next four years will be able  
50 to tell us a little bit about what is happening.

1 I did notice one thing about the  
2 eulachons in the Situk River, they were all males, didn't  
3 have any evidence of any females in that group. And so  
4 I think, you know, that's a serious concern to us.

5  
6 But here's something that was  
7 enlightening to me. Many, many years ago there was a big  
8 barge that had broken loose from a tug and it washed up  
9 on the beach there between the coast guard station and  
10 the Situk River. And the -- the -- it had real big, you  
11 know, holes in the side and everything and the tide would  
12 come in and it would fill that barge up with water and  
13 eulachons would go in there. And when the tide went out,  
14 you know, the people of the town used to go out there and  
15 they'd get their fill. And so I'm really -- and this  
16 might relate, you know, to the Unuk River as well. I'm  
17 really concerned that maybe the habitat there is not  
18 suitable for eulachons to go through and go to, but they  
19 were, you know, out on the ocean, okay, they just weren't  
20 going into the places where they normally spawn and do  
21 their business.

22  
23 But I just, you know, wanted to share  
24 that with you because eulachons is an important part of  
25 our diet and we look forward to them coming every year.  
26 I remember when I was just a young boy the young men  
27 would go out to the Situk River and they didn't have the  
28 transportation that we have right now so they would take  
29 their sleds, you know, and tow it all out -- tow that  
30 sled out. And it's 10 miles long, you know, from the  
31 community to Yakutat and they would get their eulachons,  
32 just oodles and oodles of it. And then they would bring  
33 it in and share it with the community. We saw that  
34 happening up to maybe six or seven years ago and then I  
35 really noticed that there was a real serious decline on  
36 the -- on the Situk River. I'm using that as a monitor,  
37 but some of the other rivers, you know, in that area, you  
38 know, are like the Ayakulik River is having real good  
39 returns of eulachons. I realize, you know, that  
40 eulachons don't -- they're not like salmon, they don't go  
41 back to the river that they were spawned in. And so I'm  
42 thinking, you know, maybe there's something wrong with  
43 the habitat and as maybe testimony a little earlier said,  
44 you know, the hatchery, you know, competition with the  
45 hatchery fish, you know, eating the eulachons and, of  
46 course, a navy submarine testing that took place there.  
47 And, you know, probably the over fishing, you know, but  
48 I'm just kind of curious, you know, to see what happens  
49 -- what's going to happen with these surveys that take  
50 place in the next few years. It's a four year survey,

1 we're going to start our second one this year and I think  
2 it's going to start next month at which time I may be  
3 able to go out and fly a little bit.

4  
5 But I just thought I'd share those  
6 thoughts with you and, you know, I like, you know, the  
7 people from Metlakatla and Ketchikan and people who use  
8 that Unuk River for eulachons, I'm just as concerned as  
9 you are. And I do hope and it's in my sincere prayer  
10 that somehow or other those little fishes will come back  
11 so they can bless us with our very first fresh fish in  
12 the season.

13  
14 So that's about all I have to say, Mr.  
15 Chairman, and I thank you for listening to me.

16  
17 CHAIRMAN TOWARAK: Thank you, Mr. Adams.  
18 Any question from the Board or the other RAC Chairs. Mr.  
19 Wilde.

20  
21 MR. L. WILDE: If I may. Thank you. Mr.  
22 Chairman. If I may just a bit of information concerning  
23 the eulachon also on the -- in Hooper Bay. In the last  
24 three years we've had kids go down there with gunnysacks  
25 and along the -- as the wave breaks they dip the  
26 gunnysacks and dip them up like -- I've never seen  
27 anything like that before. So they're -- I know there's  
28 a lot of them running out there in the sea. And it might  
29 be a good project for some biologist to come out and give  
30 it a study to see what's going on out there.

31  
32 I thought I'd share that also with you.  
33 Mr. Chairman.

34  
35 CHAIRMAN TOWARAK: Thank you, Mr. Wilde.  
36 Mr. Lohse.

37  
38 MR. LOHSE: Mr. Chair. Through the  
39 Chair. It's kind of interesting what you're talking  
40 about eulachon there because I'm wondering is it just  
41 that river or is the whole area having problems with  
42 eulachon because we've noticed in Cordova that one year  
43 you'll have them in one stream so thick that you -- you  
44 know, that you can just down and catch them by hand and  
45 the next year or maybe for six or seven years they won't  
46 be in that stream, but they'll be in one of the other  
47 sloughs or they'll be in the river. They don't seem to  
48 be very consistent and they don't -- and even the runs  
49 aren't consistent as to the time, you know, one year  
50 we'll have a February run in Elganic Slough, the next

1 year we'll have a June run in Elganic Slough. And I was  
2 just -- you know, and we know that we have eulachon in  
3 the ocean and I was just wondering if they were having  
4 the same kind of issues down in Southeastern or is it  
5 just a general decline in eulachon district wide.

6  
7 CHAIRMAN TOWARAK: Do any biologists,  
8 either State or the Federal biologists have a response to  
9 that question? Mr. Larson.

10  
11 MR. LARSON: Mr. Chairman. Mr. Lohse.  
12 The stocks of eulachon, there's a general stock  
13 composition, it's -- if you group them as a whole south  
14 of the Unuk River, this southern stock is a threatened  
15 species, it's very, very low numbers in a whole bunch of  
16 different populations south of the Alaska border. That  
17 being said there was reported in 2010 a fairly good  
18 return to the Skeena River down by Prince Rupert just  
19 across the border south of Ketchikan. In Southeast  
20 Alaska there are eulachons that occur near Haines, Taca  
21 River behind Juneau, Stikine River between Wrangell and  
22 Petersburg and in the Unuk River. Other than that there  
23 are no real persistent populations of eulachons. And we  
24 do not have a -- other than the Unuk River we do not have  
25 a -- any real indexing or stock monitoring program with  
26 the exception of -- and I didn't mention this, the  
27 Berners River near Juneau just on the north side. We've  
28 been doing some work up there, the Forest Service has  
29 been cooperating with the Fish and Game to investigate  
30 methods of doing stock assessments. And there is -- you  
31 know, there seems to be some methodologies out there that  
32 we could use especially on smaller systems. On larger  
33 system, for instance, the Taca or the Stikine River or  
34 the Copper River, the scope of that -- you know, the size  
35 of the water body is really difficult to deal with and  
36 we're dealing with ice and that kind of that. But we  
37 don't really have a -- what I could say is a definitive  
38 way of describing the size of our populations.

39  
40 CHAIRMAN TOWARAK: Thank you. Mr.  
41 Sampson.

42  
43 MR. SAMPSON: I guess a question to the  
44 State of Alaska. When the State commercialized the take  
45 of that source and put a closure because of the potential  
46 dive of that resource, did the State attempt to do any  
47 studies of that stock where you've commercialized then  
48 when the stock's numbers start coming down you knew that  
49 it was happening, was there any attempts to do any  
50 studies at all?

1 CHAIRMAN TOWARAK: If I could inject here  
2 for a second. We're going to be hearing from the State  
3 next, perhaps you'll have some comments in your -- and in  
4 the interests of time we will get back to the Regional  
5 Chair, Mr. Adams.

6  
7 MR. ADAMS: My comment is going to be  
8 really short. Mr. Chairman. I understand the eulachons,  
9 you know, spawn their eggs at night. So maybe their  
10 GPS's aren't working or, you know, maybe they lost their  
11 way or something. I just thought maybe to inject a  
12 little bit of humor into this situation that I'd share  
13 that with you.

14  
15 CHAIRMAN TOWARAK: Thank you, Mr. Adams.  
16 If there aren't any further comments -- I assume that  
17 none of the other regions have any need to -- we will  
18 move on to the Department of Fish and Game from the  
19 State.

20  
21 MR. PAPPAS: Thank you. Mr. Chair. Our  
22 comments are located on Page 253 in your book, I'll be  
23 summarizing from them.

24  
25 If this proposal's adopted Federal and  
26 State subsistence users cannot harvest eulachon in the  
27 drainages of Sections 1C and 1D until stocks rebuild and  
28 the fishery reopens. The State eulachon fishery in  
29 Section 1C and D have been closed by emergency order  
30 since 2006 due to conservation concerns. Since 2004  
31 there have been minimal returns. The eulachon stocks  
32 within Sections 1C and 1D are at critically low levels  
33 right now. The personal use, commercial and subsistence  
34 fisheries have been closed for several years in  
35 anticipation of rebuilding. Eulachon frequently mill in  
36 estriol areas of a system moving in and out of water  
37 bodies with the tide. A fishery closure to all users and  
38 waters claimed under Federal subsistence jurisdiction  
39 exposes participants in the open State fishery to  
40 enforcement by Federal officers. Determining exact  
41 locations of mean high tide boundary of the Tongass  
42 National Forest would be challenging while fishing from  
43 a boat. The Department requests Federal subsistence  
44 administrators provide detailed maps that depict land  
45 ownership and specific boundaries of areas where Federal  
46 regulations are claimed to apply.

47  
48 The Department supports this proposal  
49 with modification to be no Federal season for the harvest  
50 of eulachon in Sections 1C and 1D. This modification



1 would remove the procedural burden of opening a closed  
2 fishery when eulachon numbers rebound in these sections.  
3 Because the water in which the eulachon move include an  
4 intermixture of State waters and waters where Federal  
5 regulations are claimed to apply, it would be less  
6 onerous on the Federal subsistence users if the  
7 modification read Section 27(i)(13) subpart 22, all  
8 drainages of fishing Sections 1C and D, no Federal season  
9 for eulachon. Thus if eulachon numbers rebound  
10 sufficiently that the State is able to open up a  
11 subsistence fishery, opportunity to all subsistence users  
12 could occur without delay due to the process necessary to  
13 reopen an area that's closed by Federally-qualified and  
14 non-qualified users. If the waters are closed where  
15 Federal jurisdiction is claimed and the State opens a  
16 fishery all fishermen would need to know -- would need to  
17 assure they are fishing in State waters.

18

19 Thank you, Mr. Chair.

20

21 And your answer for the question have we  
22 done research since the commercial fishery's closed.

23

24 \*\*\*\*\*

25 STATE OFFICIAL WRITTEN COMMENTS

26 \*\*\*\*\*

27

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

30

31 Fisheries Proposal FP11-18: Close  
32 fisheries Sections 1-C and 1-D in Southeast Alaska to the  
33 federal subsistence harvest of eulachon in Southeast  
34 Alaska.

35

36 Introduction: The Southeast Regional  
37 Advisory Council proposes to close federal subsistence  
38 fisheries for eulachon in all drainages of Sections 1-C  
39 and 1-D in Southeast Alaska to provide clear direction  
40 that the eulachon fisheries are closed due to recent  
41 stock trends in the area.

42

43 Impact on Subsistence Users: If adopted,  
44 federal and state subsistence users could not harvest  
45 eulachon in the drainages of Sections 1-C and 1-D until  
46 stocks rebuild and the fishery is reopened. In recent  
47 years, the federal and state fisheries for eulachon have  
48 been restricted or closed to all users by special actions  
49 due to low returns.

50

1                   Opportunity Provided by State: The state  
2 eulachon fisheries in Sections 1-C and 1-D have been  
3 closed by emergency order since 2006 due to conservation  
4 concerns.

5  
6                   Conservation Issues: Many eulachon  
7 spawning runs throughout the Pacific Coast, including  
8 Southeast Alaska, have had marked declines in recent  
9 years. Since 2004, there have been minimal returns in  
10 the Burroughs Bay and Behm Canal area. The eulachon  
11 stocks within Sections 1-C and 1-D are at critically low  
12 levels. The personal use, commercial, and subsistence  
13 fisheries have been closed for several years in  
14 anticipation of rebuilding. Stock status information for  
15 each of the above areas is limited, and a conservative  
16 approach is necessary for sustaining the health of these  
17 stocks.

18  
19                   Jurisdiction Issues: While standing on  
20 state and private lands (including state-owned submerged  
21 lands and shorelands), persons must comply with state  
22 laws and regulations regarding subsistence harvest. The  
23 department requests federal subsistence administrators  
24 provide detailed maps that depict land ownership and  
25 specific boundaries of areas where federal regulations  
26 are claimed to apply.

27  
28                   Other Issues: Eulachon frequently mill  
29 in estuarial areas of a system, moving in and out of the  
30 water body with the tide. A fishery closure to all users  
31 in waters claimed under federal subsistence jurisdiction  
32 exposes participants in an open state fishery to  
33 enforcement actions by federal officers. Determining  
34 exact locations of the mean high tide boundary of the  
35 Tongass National Forest would be challenging while  
36 fishing from a boat.

37  
38                   Recommendation: Support with  
39 modification to be no federal season for the harvest of  
40 eulachon in Sections 1-C and 1-D. This modification  
41 would remove the procedural burden of opening a closed  
42 fishery when eulachon numbers rebound in these sections.  
43 Because the waters in which eulachon move include  
44 intermixture of state waters with waters where federal  
45 regulations are claimed to apply, it would be less  
46 onerous for federal subsistence users if the modification  
47 read: ^U\_\_\_\_.27(i)(13)(xxii) All drainages of fishing  
48 Sections 1-C and 1-D No federal season for eulachon.  
49 Thus, if eulachon numbers rebound sufficiently that the  
50 state is able to open a subsistence fishery, opportunity

1 to all subsistence users could occur without a delay due  
2 to the process necessary to reopen areas closed to  
3 federally-qualified and non-federally qualified users.  
4 If the waters are closed where federal jurisdiction is  
5 claimed and the state opens a fishery, all fishermen  
6 would need to assure they are fishing in state waters  
7 (i.e. below mean high tide).

8  
9 MR. SWANTON: Mr. Chairman. I believe  
10 that Mr. Sampson was referring to during the period of  
11 limited entry which would have been taking place, my  
12 recollection would have been somewhere in 1973, 1974. I  
13 don't think that we've prepared that, I guess, in depth  
14 look at the -- you know, eulachon back to those days and  
15 whatever else. I do know that for those sorts of species  
16 based upon my recollections and not necessarily in  
17 Southeast Alaska, but it would probably be fairly limited  
18 in terms of scope of what we've studied.

19  
20 Mr. Chairman.

21  
22 CHAIRMAN TOWARAK: Thank you. Okay.  
23 We're getting word again that we're reverting back to  
24 away from our microphones and we need to get a little  
25 closer to our microphones when we're on.

26  
27 Are there any questions of the State on  
28 their report for this proposal.

29  
30 (No comments)

31  
32 CHAIRMAN TOWARAK: I'm not hearing any.  
33 Did he answer your question? Okay. Thank you very much  
34 for your report. Mr. Adams.

35  
36 MR. ADAMS: I would like for Mr. Pappas  
37 to repeat the statement he just made because, you know,  
38 Mr. Wagner over there is concerned that if it's closed,  
39 you know, it may never be opened again. But you made a  
40 statement that I thought was pretty interesting that  
41 might help in that effort. Mr. Pappas, if you would,  
42 please.

43  
44 MR. PAPPAS: Thank you, Mr. Chair.  
45 Through the Chair. Mr. Adams. I believe you're talking  
46 about the second half of -- the concluding paragraph of  
47 our comments and that is if the eulachon numbers rebound  
48 sufficiently and the State is able to open up a  
49 subsistence fishery opportunity would be available for  
50 all users -- all subsistence users, without delay due to

1 the process necessary to reopen areas closed to Federally  
2 qualified and non-Federally-qualified users.

3

4 Thank you. Mr. Chair.

5

6 CHAIRMAN TOWARAK: Thank you. Does that  
7 answer your question?

8

9 MR. ADAMS: Thank you. Mr. Chairman. It  
10 does.

11

12 CHAIRMAN TOWARAK: Thank you again for  
13 your report, Mr. Pappas.

14

15 We will move on then to InterAgency Staff  
16 Committee comments. Dr. Wheeler.

17

18 DR. WHEELER: Thank you. Mr. Chair. The  
19 InterAgency Staff Committee found the Staff analysis to  
20 be a complete and accurate evaluation of the proposal and  
21 the recommendation of the Southeast Regional Advisory  
22 Council to be supported by substantial evidence and  
23 consistent with recognized principles of conservation.  
24 The InterAgency Staff Committee appreciates the Council's  
25 concern over this stock and shares its dismay at the  
26 proposed closure.

27

28 Mr. Chair.

29

30 CHAIRMAN TOWARAK: Thank you. Are there  
31 any questions from the Board or the RAC Chairs. Mr.  
32 Firmin.

33

34 MR. FIRMIN: Thank you. Mr. Chair. I  
35 just wanted to point out that on some of the questions  
36 that were asked earlier about the eulachon on Page 247  
37 the biological background gives a little sentence or two  
38 about where they -- they never generally spawn in one  
39 area year after year. That clarifies things, some of the  
40 questions from earlier.

41

42 CHAIRMAN TOWARAK: Thank you for pointing  
43 that out. Mr. Reakoff.

44

45 MR. REAKOFF: Mr. Chair. The affected  
46 users groups are concerned about a permanent closure.  
47 Well, we wrestled with the same thing. We had the moose  
48 annual review for cow moose hunting and when the 24B was  
49 annually reviewed we had the -- if you look at the data  
50 and approve whether the moose season could be -- support

1 harvest. It's apparent that that's not going to happen  
2 for quite some time. I felt -- I took much testimony  
3 from my predecessors in game management in the Middle  
4 Yukon Advisory Committee. They were concerned about  
5 doing away with cow moose hunting and trying to get it  
6 back, they were concerned for the same reasons. But  
7 after consideration of their -- again we're -- we look at  
8 the State system as much disparate to the Federal system.  
9 The reality is that we have a very defined user -- rural  
10 subsistence users that have customary and traditional use  
11 and it's actually much easier to reopen a population. So  
12 I was more amicable to doing away with the annual review  
13 until we get a moose population back to where it can  
14 support winter cow hunting and then making a proposal to  
15 the Federal Board. And I felt that that would be -- that  
16 wasn't nearly as hard as the State system. And so I  
17 wanted to interject that into this deliberation that we  
18 also have wrestled with the same issue and I feel that  
19 the Federal process will allow reopening of unsuppressed  
20 populations for one reason or another, predation or  
21 natural conditions, because of the make up of the  
22 demographics of the user base.

23

24 Thank you.

25

26 CHAIRMAN TOWARAK: Thank you, Mr.

27 Reakoff. Mr. Sampson.

28

29 MR. SAMPSON: Thank you. Question to the  
30 biologist. We've heard information being provided by the  
31 State of Alaska. So the information that is provided by  
32 the State is that what the Federal biologist are going by  
33 or are you folks doing your own studies too to look at  
34 these resources?

35

36 MR. LARSON: Mr. Chairman. Mr. Sampson.  
37 The -- after the stock collapsed in 2000 the Forest  
38 Service has funded fairly in depth studies of the Unuk  
39 River and we've had personnel on the grounds most of  
40 those years and almost throughout the conceivable range  
41 of spawning since about 2004. So I would characterize  
42 the amount of information we have and the amount of  
43 accuracy or the amount of validity in that information as  
44 fairly high. The stocks indeed have collapsed and we  
45 have spent a considerable amount of effort in documenting  
46 that.

47

48 MR. SAMPSON: Thank you. Mr. Chairman.

49

50 CHAIRMAN TOWARAK: Thank you. Not

1 hearing any other questions we will move on then to Board  
2 discussion with Council Chairs and the State liaison if  
3 there still is a need to. Mr. Firmin.

4  
5 MR. FIRMIN: Being as the Eastern  
6 Interior Council has no position on this, but I.....

7  
8 CHAIRMAN TOWARAK: Would you get a  
9 little.....

10  
11 MR. FIRMIN: Oh, I'm sorry.

12  
13 CHAIRMAN TOWARAK: .....pull your mic a  
14 little bit closer to you.

15  
16 MR. FIRMIN: As the Eastern Interior  
17 Council has no position on this issue, but I do keep  
18 hearing from the testimony that this is a serious issue  
19 and anytime a fishery is failing that something has to be  
20 done. But as it stands there hasn't been any fishing  
21 going on for the past few years and all they're asking to  
22 not close the fishery. And I keep hearing that word that  
23 time immemorial and that basically means forever.  
24 They've been there since before time doing this and I  
25 think that if they've been caretakers of that stock of  
26 fish for forever, then I'm sure they can get by another  
27 year with not fishing it and not taking action on this  
28 proposal.

29  
30 Thank you.

31  
32 CHAIRMAN TOWARAK: Thank you, Mr. Firmin.  
33 Any other comments.

34  
35 (No comments)

36  
37 CHAIRMAN TOWARAK: If not then we will  
38 proceed onto Federal Subsistence Board action.

39  
40 MS. PENDLETON: I'd like to call for the  
41 question or the motion.

42  
43 (Laughter)

44  
45 MS. PENDLETON: I'd like to go ahead and  
46 make a motion, Mr. Chairman. I move to defer the  
47 Southeast Alaska Subsistence Regional Advisory Council's  
48 recommendation to close Sections 1C and 1D to the harvest  
49 of eulachon by all users. And after a second I will  
50 provide my rationale.

1 MR. HASKETT: Second.

2

3 CHAIRMAN TOWARAK: The motion has been  
4 seconded. Please proceed, Ms. Pendleton.

5

6 MS. PENDLETON: Thank you. Mr. Chairman.  
7 First of all and for the record and I think it's been  
8 very well articulated this morning and again this  
9 afternoon that there's been a very severe decline in the  
10 eulachon fishery with no harvestable surplus in the  
11 foreseeable future for any users. But having said that  
12 and given, I think, the very heartfelt testimonies that  
13 were brought this morning and the discussion the ensued  
14 among the Board and the Regional Advisory Councils and  
15 also in recognition of where the Southeast RAC in your  
16 deliberations over this, that what I would like to  
17 recommend is that we continue, we have a tool in place  
18 and that is the -- that's available to us to continue the  
19 annual special action for closure annually of this  
20 fishery and that we continue to study and monitor for  
21 recovery. And you heard from Mr. Larson the work that  
22 has been done and will continue to be done. And I think  
23 as a result of our discussions this morning I think one  
24 of the things that became readily apparent is that there  
25 is a need for greater discussion with the people of  
26 Metlakatla and the Ketchikan area and for an opportunity  
27 for greater discussion with the Regional Advisory Council  
28 and the Board to bring a proposal forward -- back to the  
29 Board in the near future.

30

31 Thank you.

32

33 CHAIRMAN TOWARAK: Thank you, Ms.  
34 Pendleton. Are there any additional comments to be made  
35 on the rationalization of the -- Mr. Haskett.

36

37 MR. HASKETT: Thank you. Mr. Chair. I'd  
38 just -- for the record I'd like to make it clear I'm also  
39 going to vote to defer. I thought today's testimony was  
40 very, very compelling. I think there's clearly tools in  
41 place and it makes a lot of sense for us to have lots of  
42 additional discussions with the local Native people that  
43 have been so close to this resource for so long. So I --  
44 I'm prepared to vote just as Beth has gone ahead and said  
45 she's going to.

46

47 CHAIRMAN TOWARAK: Any other comments  
48 from the rest of the Board? Ms. K'eit.

49

50 MS. K'EIT: Thank you. Mr. Chair.

1 Agreeing with Ms. Pendleton and Mr. Haskett, I'm going to  
2 vote to defer on this proposal.

3

4 Thank you.

5

6 CHAIRMAN TOWARAK: Thank you. Mr.  
7 Cribley.

8

9 MR. CRIBLEY: Well, I guess I would also  
10 like to support the position that Ms. Pendleton has  
11 taken. I think the discussions that we've had this  
12 morning and then this afternoon have been very compelling  
13 as far as the seriousness of the problem in that area and  
14 the need of taking action. But I think it also through  
15 the discussion and the comments, public comments or  
16 public testimony that the folk -- the people who are  
17 directly affected by this for some reason were not aware  
18 of what was going on and through these hearings have  
19 become aware and I think they need to get engaged with  
20 the Council and if the Council comes back that they come  
21 back together with their recommendation of what should  
22 take place in the future and then the Board can consider  
23 that and consider everybody's voice at one time when we  
24 make a -- or vote on a recommendation from the Council.  
25 I think -- like I say I think there is -- there's a  
26 serious issue here, but everybody needs to be involved  
27 with that decision making process and that's the whole  
28 point of this process here and very -- being the new --  
29 again the new guy on the block here, new kid on the  
30 block, it's very apparent the reasons that we go through  
31 all of the steps that we go through in our consideration  
32 here. And I would say this is very evident of how this  
33 process works. And makes me feel good about  
34 participating in it.

35

36 Thank you.

37

38 CHAIRMAN TOWARAK: Thank you, Mr.  
39 Cribley. Personally I also agree with everything that's  
40 been said, but it also reminds me of the directive that  
41 we on the Board received from the Secretary of the  
42 Interior of making the tribes inclusive into the decision  
43 making process and see where there was a gap. And it was  
44 at no fault to anyone in particular that there was a  
45 group of people that felt that they were out of the loop  
46 until they got here. I think it's incumbent on us to get  
47 as wide a coverage and inclusive a coverage as possible.  
48 And I think deferring this proposal to get the  
49 involvement of the Metlakatla Tribe and the reservation  
50 would be worth the wait for the deferral.



1 Any other comments. Mr. Cribley.

2

3 MR. CRIBLEY: Well, I guess it's also --  
4 we should make note that though we are deferring this  
5 decision there's not a -- it doesn't cause a threat to  
6 the resource. We still have tools or Fish and Game and  
7 the Federal agencies have the tools in place to continue  
8 to protect the resource if it's necessary on a yearly  
9 basis until it's decided to come back with a different --  
10 or a recommendation to us. So I don't think that by  
11 deferring that we're cause -- creating a problem. I  
12 think -- so I think it's a good direction to go in.

13

14 CHAIRMAN TOWARAK: Any further? Mr.  
15 Haskett.

16

17 MR. HASKETT: Just one more thing for the  
18 record. Mr. Chair. Because I think we have clear  
19 direction and we all intend to do whatever possible to  
20 defer to the recommendations of the RAC and I think this  
21 time we're not doing that, but clearly we're doing that  
22 because we think it is detrimental to the needs of the  
23 subsistence users out there and I'm hoping the RAC  
24 understands. I think they do. So we've gone a different  
25 direction on this one. It's also -- we actually have  
26 direction and I think we all are going to try as hard as  
27 we can to do better on tribal consultation so we have  
28 kind of a dual thing going on here as well that, I think,  
29 this -- when we get to voting and we're done I think  
30 we'll meet both of those things as well as we can.

31

32 CHAIRMAN TOWARAK: Thank you. Mr. Adams.

33

34 MR. ADAMS: Just a response to Mr.  
35 Haskett's, you know, comment about the RAC. I came here  
36 as a representative of the RAC and you all know that and  
37 we have a position on this and I have to stick with it.  
38 However, I feel that the Board is doing well and taking  
39 the middle ground here and giving an opportunity, you  
40 know, for a time in the next couple years or so, you  
41 know, to look at this situation again. I would again  
42 encourage, you know, the people from Metlakatla and, you  
43 know, the Southeastern area of the state to really be  
44 involved in these issues because I feel pretty bad about  
45 this situation that they weren't able to come and make,  
46 you know, their case known. Because I have been one not  
47 only on the RAC, but also in the Wrangell-St. Elias  
48 Subsistence Resource Commission meeting to reach out to  
49 the communities and I've asked our coordinators to do  
50 that and they've done the best they could. But I think,

1 you know, we need to do a better job. And we do want to  
2 get you involved, Mr. Wagner, and make sure, you know,  
3 that your participation in this process is included. So  
4 we -- and we will -- we will do that, I promise you.

5  
6 Thank you.

7  
8 CHAIRMAN TOWARAK: Keith, go ahead.

9  
10 MR. GOLTZ: I want to quarrel a little  
11 bit with the suggestion that we're not responding to the  
12 Councils. I think we are. I think that the satisfaction  
13 of subsistence needs is more than simply material and  
14 protein and physical natural resources, there's also a  
15 spiritual and there's also a communication element. And  
16 I think that the testimony that we heard this morning was  
17 that the communication was not sufficient, we were not  
18 using the same words in the same tenses and that there  
19 was more to be done in that regard. So I think in  
20 regards to 805(c) I think the record of the decision is  
21 that this particular action taken at this particular time  
22 would be detrimental to subsistence needs.

23  
24 As to the balancing I think we have to be  
25 careful to remember that what we're administering here is  
26 a statute that's written for the benefit of rural Alaska  
27 residents. There's a specific structure that's required.  
28 The RACs are the engine of that structure. And our  
29 attempts to reach out more to tribes does not minimize in  
30 any way our commitment to that structure, we're trying to  
31 do both, but if there's ever a conflict it's our  
32 responsibility to comply with the statute. And I think  
33 we're doing that.

34  
35 CHAIRMAN TOWARAK: You're saying we could  
36 kill two birds with one stone, but the first stone is  
37 more important?

38  
39 MR. GOLTZ: Correct.

40  
41 (Laughter)

42  
43 CHAIRMAN TOWARAK: Now I understand.

44 Thank you. With -- if -- Mr. Adams.

45  
46 MR. ADAMS: I like to pick a fight with  
47 Keith over there. Explain to me why you think that this  
48 will be detrimental to subsistence needs?

49  
50 MR. GOLTZ: I think there's a temptation

1 to think of subsistence as merely protein, but I think if  
2 you read the introductory language to ANILCA and if you  
3 read the legislative history, there's a lot more to it.  
4 And I think in this particular case as I heard the  
5 testimony this morning, there wasn't really any conflict  
6 over the physical facts and nobody's going to be getting  
7 any more or less eulachon no matter what this Board did.  
8 But the thrust of the testimony is that the subsistence  
9 users in Metlakatla didn't have their spiritual and  
10 communication needs met. And I think all we're doing is  
11 saying that we're going to on the basis of our failure to  
12 meet that need in this case we're going to defer and try  
13 to do better the next time around.

14

15 MR. ADAMS: Thank you, sir.

16

17 MR. GOLTZ: I'm getting questions from  
18 both my left hand and my right, I have to keep.....

19

20 CHAIRMAN TOWARAK: Thank you.

21

22 MR. ADAMS: .....we have to keep you  
23 busy, Keith.

24

25 (Laughter)

26

27 CHAIRMAN TOWARAK: Thank you for those  
28 explanations. I'm not hearing any further questions I  
29 think we're ready for -- and we have -- do have the  
30 motion on the floor.

31

32 MR. HASKETT: So I'd like to call for the  
33 question.

34

35 CHAIRMAN TOWARAK: The question has been  
36 called for. Final action, please.

37

38 MR. PROBASCO: Thank you. Mr. Chair.  
39 Final action on FP 11-18 to defer this proposal. Mr.  
40 Haskett.

41

42 MR. HASKETT: Yes.

43

44 MR. PROBASCO: Ms. K'eit.

45

46 MS. K'EIT: Yes.

47

48 MR. PROBASCO: Mr. Cribley.

49

50 MR. CRIBLEY: Yes.

1 MR. PROBASCO: Ms. Masica.  
2  
3 MS. MASICA: Yes.  
4  
5 MR. PROBASCO: Ms. Pendleton.  
6  
7 MS. PENDLETON: Yes.  
8  
9 MR. PROBASCO: And Mr. Towarak.  
10  
11 CHAIRMAN TOWARAK: Yes.  
12  
13 MR. PROBASCO: Motion carries 6/0.  
14  
15 CHAIRMAN TOWARAK: Thank you. We  
16 originally had set aside an earlier proposal, Proposal  
17 number 11-10, that we will address at this point since  
18 Ms. Chythlook is back.  
19  
20 MR. PROBASCO: Mr. Chair. It may be  
21 wise, we said that we would take it up no sooner than  
22 2:00 o'clock. It may be wise to finish Southeast because  
23 we're going to have to change Staff and bring them back.  
24  
25 CHAIRMAN TOWARAK: Okay. I agree. Mr.  
26 Larson, were you going to.....  
27  
28 MR. LARSON: Mr. Chairman. Thank you.  
29 Just a process question is -- and I didn't -- I didn't  
30 understand the will of the Board or do we have a time  
31 certain for the deferral, is it.....  
32  
33 MR. PROBASCO: Mr. Chair. Mr. Larson.  
34 On a deferral of this proposal we would entertain again  
35 two years from now on the normal fish cycle. There is no  
36 time certain so without a time certain we would  
37 automatically go to the next cycle.  
38  
39 Thank you. Mr. Chair.  
40  
41 CHAIRMAN TOWARAK: Okay. I'll be  
42 corrected then if it's okay with Ms. Gisler to continue  
43 the Southeast proposals so that we could have -- take  
44 some time to change Staff. So we will then proceed on  
45 with Fish Proposal 09-05 and ask for the Staff analysis.  
46  
47 MR. PROBASCO: Mr. Chair. If I may  
48 interject before we get into Staff analysis on FP 09-05.  
49 It's similar to the four proposals that we deferred based  
50 on a request by the proponent. This proposal also has a

1 request to further defer this proposal due to the fact  
2 that the information that they were hoping to have in  
3 time for this meeting has not yet been completed. So in  
4 the essence of trying to save time the Board may want to  
5 consider that request to defer this proposal further and  
6 I would look towards Ms. Pendleton for her direction.

7

8 CHAIRMAN TOWARAK: Mr. Cribley, did you  
9 have a question?

10

11 MR. CRIBLEY: No.

12

13 MS. PENDLETON: Thank you. Mr. Chair.  
14 I'd like to move to defer Proposal FP 09-05. This is  
15 consistent with the recommendation of the Southeast  
16 Alaska Regional Advisory Council as well as the Sitka  
17 Tribe of Alaska. The deferral would be to on or before  
18 the next fisheries cycle, that we meet back on this. And  
19 following a second I'd like to provide some brief  
20 rationale for the motion.

21

22 CHAIRMAN TOWARAK: There's a motion on  
23 the floor.

24

25 MS. MASICA: Second.

26

27 CHAIRMAN TOWARAK: And seconded by Ms.  
28 Masica.

29

30 MS. PENDLETON: Thank you. My rationale  
31 is mostly based on the Council's recommendation that's on  
32 Page 271 of our Board book. Simply this deferral would  
33 allow more time for peer review of the Sitka Tribe of  
34 Alaska research on the herring management population  
35 assessment for Sitka Sound herring fisheries.  
36 Additionally the Sitka Tribe of Alaska has started a  
37 herring research priority planning group which may  
38 provide additional recommendations regarding the  
39 proposal.

40

41 Thank you.

42

43 CHAIRMAN TOWARAK: Any further discussion  
44 on the motion.

45

46 (No comments)

47

48 CHAIRMAN TOWARAK: Not hearing any, is  
49 there a call for the question?

50

1 MS. MASICA: Call for the question.  
2  
3 MR. CRIBLEY: Call for the question.  
4  
5 CHAIRMAN TOWARAK: The question's been  
6 called for. Final action, please.  
7  
8 MR. PROBASCO: Thank you. Mr. Chair.  
9 Final action on FP 09-5 to defer the proposal no later  
10 than the next fisheries cycle. Ms. K'eit.  
11  
12 MS. K'EIT: Yes.  
13  
14 MR. PROBASCO: Mr. Cribley.  
15  
16 MR. CRIBLEY: Yes.  
17  
18 MR. PROBASCO: Ms. Masica.  
19  
20 MS. MASICA Yes.  
21  
22 MR. PROBASCO: Ms. Pendleton.  
23  
24 MS. PENDLETON: Yes.  
25  
26 MR. PROBASCO: Mr. Towarak.  
27  
28 CHAIRMAN TOWARAK: Yes.  
29  
30 MR. PROBASCO: And Mr. Haskett.  
31  
32 MR. HASKETT: Yes.  
33  
34 MR. PROBASCO: Motion carries 6/0.  
35  
36 CHAIRMAN TOWARAK: Thank you very much  
37 for that action. The next item on our agenda is Fish  
38 Proposal 09-15. And the -- for the -- I'm going to read  
39 the general description. Proposal 15 requests that in --  
40 no Federal subsistence priority, customary and  
41 traditional use determination be made for all fish in the  
42 Juneau road system area. All waters crossed by or  
43 adjacent to roads connected to the city and borough of  
44 Juneau road system. In January, 2009 the Federal  
45 Subsistence Board deferred Proposal FP 09-15 to allow  
46 time to develop an analysis of the customary and  
47 traditional use of fish in District 11 and 15. Submitted  
48 by the Alaska Department of Fish and Game.  
49  
50 MR. PROBASCO: Thank you. Mr. Chair. I

1 would like to introduce to you Pippa Kenner who will be  
2 our lead analyst on this proposal.

3

4 CHAIRMAN TOWARAK: Thank you. Please  
5 proceed, Ms. Kenner.

6

7 MS. KENNER: Good afternoon. Mr.  
8 Chairman. Members of the Board and Council Chairs. My  
9 name is Pippa Kenner as you've been told and I'm an  
10 anthropologist with the Office of Subsistence Management  
11 or OSM. The analysis for the deferred Proposal 09-15  
12 begins on Page 277 of your Board books.

13

14 This proposal was submitted by the Alaska  
15 Department of Fish and Game in 2008 and requests that no  
16 Federal Subsistence priority, customary and traditional  
17 use determination be made for all species for fish in the  
18 Juneau road system area. At its last fish meeting in  
19 January two years ago the Board deferred this proposal  
20 and directed Staff to analyze the customary and  
21 traditional uses of fish in all of Districts 11 and 15,  
22 not just in the Juneau road system area.

23

24 The existing use determination for fish  
25 in Districts 11 and 15 is nested or included in the  
26 determination of the remainder area of the Southeastern  
27 Alaska management area and includes Dolly Varden, trout,  
28 smelt and eulachon. Eligibility is for all rural  
29 residents of Southeast Alaska including Yakutat. This  
30 determination was recommended by the Council and adopted  
31 by the Board in the year 2000. For all other fish the  
32 determination is for all rural residents of the state.

33

34 Dolly Varden, steelhead, other trout and  
35 eulachon are the primary fish likely to be harvested  
36 under Federal subsistence management regulations in  
37 Districts 11 and 15. Some harvest of herring and salmon  
38 also occur, however fishing for these fish generally  
39 takes place in marine waters under the State of Alaska  
40 jurisdiction.

41

42 This proposal is the second submitted by  
43 the Alaska Department of Fish and Game concerning the use  
44 determination for fish in the Juneau road system area.  
45 Their initial request for a use determination of no  
46 Federal subsistence priority in the Juneau road system  
47 area, Proposal 08-04, was rejected by the Board at its  
48 meeting in December, 2007. The State Fish and Game  
49 subsequently submitted this proposal, 09-15, because in  
50 its view the Board did not evaluate the eight factors

1 describing customary and traditional uses for each fish  
2 stock used by specific rural communities when considering  
3 Proposal 08-04. When the Board makes a customary and  
4 traditional use determination, the uses of the resource  
5 in the area are described and analyzed. In this case the  
6 area includes the Federal public waters flowing into  
7 Districts 11 and 15, of which the Juneau road system area  
8 is estimated to be less than 10 percent. Fishing  
9 districts are the typical geographic descriptors for  
10 which the Board makes determinations in the Southeastern  
11 Alaska area.

12  
13                   It's important to note that residents of  
14 the Juneau area, including residents of Douglas and Auke  
15 Bay, are not eligible to harvest fish under Federal  
16 regulations. They reside in a non-rural area and are not  
17 considered Federally-qualified subsistence users. You  
18 can see the Juneau non-rural area on Map 1, Page 279 of  
19 your Board book. Therefore their customary and  
20 traditional uses of fish were not considered in this  
21 analysis, however a description of the Juneau area is  
22 included in the community descriptions on Page 288 of  
23 your Board book. Let me be clear. Our Staff are aware  
24 that Tlingit and others living in the Juneau area have  
25 used the area to harvest wild resources. However Federal  
26 subsistence regulations do not apply to residents of the  
27 Juneau non-rural area.

28  
29                   Historically in Southeast Alaska people  
30 took fish for subsistence from bays and streams that they  
31 either traditionally owned or had permission to use, a  
32 practice that continues in some form today. These clan  
33 owned areas are documented in Goldschmidt and Haas' often  
34 cited report, (in Native) our land. The maps from this  
35 important report are included in the analysis as Maps 4  
36 through 7.

37  
38                   Another source of information for the  
39 analysis was the Tongass Resource Use Cooperative Survey  
40 or TRUCS from the 1980s, was a survey of the subsistence  
41 uses of wild resources by residents of many Southeast  
42 Alaska communities. These findings can be seen on Maps  
43 2 and 3, Pages 283 and 284 of your Board book. Of the  
44 reported harvest of fish from Federal public waters  
45 draining into Districts 11 and 15, none was reported by  
46 people living outside the districts.

47  
48                   Based on the available information OSM's  
49 conclusion is to include the residents of each district  
50 and waters running into each district, in the customary



1 and traditional use determination for fish for each  
2 district. For District 11, residents of drainages  
3 running into District 11 and for District 15, residents  
4 of drainages flowing into District 15. And this includes  
5 Skagway, Haines and Klukwan. This OSM conclusion is on  
6 Page 303 of your Board book.

7  
8 For District 11 most residents of the  
9 district reside in Juneau, Douglas or Auke Bay within the  
10 boundary of the non-rural area and therefore this  
11 customary and traditional use determination for fish will  
12 not affect them. However there are people residing  
13 outside of the non-rural area and there's no information  
14 available about their specific subsistence uses of fish.

15  
16 As an effect of adopting this proposal  
17 other rural residents of Southeast Alaska including  
18 Yakutat, would be excluded from the existing customary  
19 and traditional use determination for Dolly Varden,  
20 trout, smelt and eulachon currently in place for  
21 Districts 11 and 15. All other residents of Alaska would  
22 be excluded from the harvest of other fish under Federal  
23 regulations also.

24  
25 Reports exist of low level occasional  
26 harvest of salmon in District 11 Federal public waters  
27 using State subsistence personal use permits by residents  
28 from outside each district. For the purposes of this  
29 analysis these uses were not considered customary and  
30 traditional. It has been shown that subsistence fishing  
31 generally occurs closer to home. This is in contrast to  
32 the great distances traveled to harvest moose and deer  
33 which are not evenly distributed in the region. Fish are  
34 more widely and evenly distributed. The pattern of use  
35 for fish is different than the pattern of use for  
36 wildlife.

37  
38 The OSM conclusion on Page 303 also  
39 indicates that a customary and traditional use  
40 determination of no Federal subsistence priority be  
41 adopted for fish in the Juneau non-rural area. This is  
42 because none of the subsistence uses of fish reported by  
43 Federally-qualified subsistence users in the analysis  
44 occurred in the Juneau road system area. Specifically  
45 there were no reports of harvest using a Federal  
46 subsistence fishing permit. Reports exist of the harvest  
47 of fish from the Juneau road system area by rural  
48 residents of Southeast under State sportfish regulations,  
49 but in this analysis these uses were not considered  
50 customary and traditional. These sportfishing uses

1 likely occurred during trips made to Juneau, the urban  
2 hub in the area, for purposes other than subsistence  
3 fishing. This conclusion was derived when considering  
4 the restrictive nature of the State's sport fishing  
5 regulations also.

6

7 Thank you. Mr. Chairman. Members of the  
8 Board and Council Chairs. This is the end of my  
9 presentation.

10

11 CHAIRMAN TOWARAK: Thank you, Ms. Kenner.  
12 Are there any questions of the Staff or of the Board or  
13 the RAC Chairs to the Staff.

14

15 (No comments)

16

17 CHAIRMAN TOWARAK: I'm not hearing any.  
18 Thank you for your presentation.

19

20 We will then continue on to the summary  
21 of public comments by the Regional Council coordinator.

22

23 MR. LARSON: Thank you. Mr. Chairman.  
24 My name's Robert Larson, I'm the Southeast Council's  
25 coordinator. I would like to note that there were no  
26 written public comments received in 2009. There was one  
27 public comment for this year and that's located on Page  
28 315 of your Board book, that's in the addendum section.

29

30 This comment was submitted by the Douglas  
31 Indian Association in opposition to the proposal. This  
32 letter noted there were historically eight Tlingit  
33 villages within the area of the Juneau road system that  
34 relied on subsistence resources for their survival. The  
35 Tribe objects to the characterization that there was no  
36 customary and traditional use of the fish stocks in this  
37 area.

38

39 Earlier in this meeting you received an  
40 additional written public comment. I note that it's  
41 logged in as comment 11-012 and that it's from the  
42 Central Council Tlingit and Haida Indian Tribes of  
43 Alaska. The Central Council strongly opposes this  
44 proposal which will curtail subsistence use by Federally-  
45 qualified rural users who choose to travel to Juneau and  
46 subsistence fish on the Juneau road system. There's no  
47 conservation concern or threat to this species, therefore  
48 no substantial evidence exists for a need to change the  
49 current regulations. There has been previous testimony  
50 by tribal citizens in which they have documented previous

1 use of the resource. In addition to the above concerns  
2 it is also noted that this proposal has previously been  
3 brought before the Board and it has been effectively  
4 opposed by the Southeast Regional Advisory Council.

5  
6 That concludes written public comments.

7  
8 CHAIRMAN TOWARAK: Thank you, Mr. Larson.  
9 Are there any questions from the Board or the RAC Chairs.

10  
11 (No comments)

12  
13 CHAIRMAN TOWARAK: If not, thank you very  
14 much for your report.

15  
16 We will continue then on to open the  
17 floor for public testimony. Mr. Probasco.

18  
19 MR. PROBASCO: Thank you. Mr. Chair.  
20 And we do have three people that would like to testify.  
21 One is on-line and I will go to that individual first.  
22 Mr. Ronald Leighton, are you on line?

23  
24 MR. LEIGHTON: Hello.

25  
26 CHAIRMAN TOWARAK: Yes.

27  
28 MR. LEIGHTON: Can you hear me?

29  
30 CHAIRMAN TOWARAK: Yes, we can hear you.

31  
32 MR. LEIGHTON: I think what we have to do  
33 -- Mr. Chairman and Board members, my name is Ronald  
34 Leighton, spelling of the last name L-E-I-G-H-T-O-N. I'm  
35 vice president of the Organized Village of Kasaan. And  
36 I want to thank you for giving me this opportunity to  
37 testify today. I'm here to talk on Proposals FP09-15 and  
38 our culture.

39  
40 We would request that you found -- you  
41 fathom what resource means to indigenous people. You  
42 will not be able to understand fully the effect your  
43 Board actions will have on tribes. In the remote areas  
44 where tribes are located, it is so expensive to get items  
45 at affordable cost. I heard that 10 gallons of gas  
46 costing of \$150 and a gallon of milk as high as \$10. It  
47 only makes sense to gather most of our needs in the  
48 immediate area, to make it possible to survive in that  
49 area.

50

1                    Since the take-over of Alaska by the  
2 United States, tribes had been systematically taken apart  
3 by the taking of our land, language, and our resources.  
4 This affected our culture and to this day hinders us from  
5 freely partaking in our customary and traditional  
6 commerce. When you limit an area from subsistence to  
7 personal use, you are limiting tribes that are located in  
8 that area to freely partake in their culture without  
9 having to ask permission to gather food for the potlatch.

10  
11                    Potlatches to us are like Congress is to  
12 this country, and even more important. We regulate who  
13 could talk through the use of talking sticks. Only the  
14 person in possession of the stick could talk  
15 uninterrupted, and until they said what they need to say.  
16 On very short notice, potlatches will be called and this  
17 does not allow us time to get permission as the State  
18 only works for the most part 9:00 to 5:00 Monday through  
19 Friday.

20  
21                    Our congress is a major portion of our  
22 culture. It is what makes us strong. It enables us to  
23 obtain our needed resources that are not found in our  
24 traditional areas. It also gives us a barter's edge to  
25 trade for these needed items through items that may be  
26 readily available in our area which may be needed by  
27 tribes in other areas. That is why tribes should be  
28 accorded the opportunity to partake free and with great  
29 (ph) in our culture.

30  
31                    A good example is the Sitka herring.  
32 This is one of only areas left where we can obtain  
33 herring eggs, our sacred food. Sitka is not only  
34 providing for their needs, but this stock is providing  
35 all other areas with herring eggs spawn, which has over  
36 -- which was all over Southeast Alaska on beaches as far  
37 as you could see at one time. Now, because of over-  
38 fishing, they are reaching the end and will be extinct if  
39 something is not done. Particularly everything that  
40 swims, walks, flies and has been -- and has been  
41 dependent on herring.

42  
43                    Our security of our healthy  
44 (indiscernible, break up) goes through lends to whether  
45 or not we remain healthy. I was told by one of our  
46 elders that he is not a bona fide civilized Indian,  
47 because he has overweight and has diabetes. It described  
48 the truth. The further we get from our traditional  
49 foods, the more unhealthy we become. Is this going to be  
50 in your history books, that taking our resource is just

1 another method added to our genocide? I hope not. We  
2 have been partaking in our cultural congress since before  
3 Egypt. It should be allowed now more than ever to have  
4 free access so that our elders can teach our youth our  
5 way of life before they are no longer with us. Excuse  
6 me.

7  
8 Our cultural food are given throughout  
9 our tribes to whomever may need it, and for whatever  
10 reason. If a tribe in Juneau area was to provide fish to  
11 elders, they would be technically breaking the laws.  
12 This goes against their tribal constitutions, which state  
13 that they will provide for their tribal citizens if they  
14 -- to keep them healthy, and for their needs.

15  
16 The United States Constitution says that  
17 Congress and only Congress may regulate commerce of  
18 tribes. There's no state, board or task force that has  
19 the power to go outside this Constitution. The Congress  
20 itself cannot delegate this authority, and they must  
21 perform these acts themselves. The state of Alaska's own  
22 constitution states that they will forever disclaim any  
23 right over any Indian, Aleut or Eskimo's lands or fishing  
24 rights. And that they give management authority to the  
25 United States Government. This gives the ultimate  
26 authority to the United States through consultation with  
27 tribes to assure that our rights as indigenous peoples to  
28 act through our own tribal governments, through our  
29 constitutions to ensure that all our citizens have access  
30 to their customary and traditional resources.

31  
32 The United States keeps their security  
33 locked up at Fort Knox. Our security is our resource,  
34 and just because it's left in the wild does not mean that  
35 it's not important to our culture, our culture's  
36 government, as your gold is to your government. You  
37 should digest this and recommend to the highest levels  
38 that Congress put into place tribal preference over our  
39 resource. Our customary and traditional congress is as  
40 important to our culture as Fort Knox is to the United  
41 States or as important as the Holy Bible is to the  
42 Catholic church.

43  
44 I would like also for this board  
45 recommend to the highest levels that the trawlers  
46 interception by-catch that is needed by any tribe, that  
47 they are to process rather than discard this by-catch and  
48 deliver it to the tribes who are in need. This will  
49 serve as a deterrent for them not to intercept by-catch  
50 of our resource. It is simply too easy for them to say,

1 whoops, and then discard the dead by-catch. It should be  
2 properly cleaned, gilled and froze and glazed, the fish  
3 in the round, and deliver them to the affected tribes to  
4 insure they have their customary and traditional needs  
5 made available.

6  
7 I would also recommend that employees,  
8 Federal employees, be placed on these trawlers instead of  
9 lupine (ph) employees. It will take at least four  
10 employees to watch this fisheries activity 24/7 while  
11 they are fishing, and supervise the processing and  
12 delivery of the fish. All transport needs and expenses  
13 should be absorbed by the fishing industry, including the  
14 expense for the Federal employees on board. The industry  
15 brought this on by themselves and should pay for  
16 observation and the delivery expenses.

17  
18 I would also recommend that the State  
19 take the ultimate decision away from the Board of  
20 Fisheries. I have witnessed too many of our fisheries  
21 collapse through poor and greedy-driven decisions by --  
22 of the Board. Even when the State scientist said, no,  
23 don't do this. This Board makes decisions that affect  
24 our resource, and they should have this power -- they  
25 should not have this power. Tribes are not even  
26 represented on the Board, and we should be running them.  
27 We have been managing our resource since time immemorial,  
28 and are expert in what must be done in order to keep them  
29 healthy.

30  
31 This concludes my testimony, and thank  
32 you again for your time, and I will answer any of your  
33 questions that you may have.

34  
35 CHAIRMAN TOWARAK: Thank you for your  
36 testimony, Mr. Leighton. Are there any questions of Mr.  
37 Leighton from the Board or the RAC Chairs.

38  
39 (No comments)

40  
41 CHAIRMAN TOWARAK: I do not see anyone  
42 raising their hand, so, Mr. Leighton, thank you very much  
43 for your testimony.

44  
45 MR. LEIGHTON: Thank you.

46  
47 MR. PROBASCO: Mr. Chair. Our next  
48 person that wishes to testify is Mr. Richard Jackson.  
49 Mr. Richard Jackson. Mr. Richard Jackson.

50

1 (No comments)

2

3 MR. PROBASCO: I do not see him, Mr.  
4 Chair.

5

6 MR. ADAMS: Mr. Chairman, Pete. I think  
7 Mr. Jackson had an appointment about this time. He said  
8 he was going to be here about 1:00 o'clock, but it's way  
9 past that already, so I don't expect him to be back this  
10 afternoon.

11

12 Thank you.

13

14 MR. PROBASCO: Thank you, Mr. Adams. Our  
15 final person that has signed up is Mr. Willard Jackson.  
16 Mr. Willard Jackson.

17

18 (No comments)

19

20 MR. ADAMS: They're brothers. They're  
21 out doing things together.

22

23 MR. PROBASCO: Okay. Thank you, Mr.  
24 Adams. Mr. Chair, that completes our public testimony.

25

26 CHAIRMAN TOWARAK: Thank you, Mr.  
27 Probasco. We will then proceed on to the Regional  
28 Council recommendations from the Chair or designee. Mr.  
29 Adams.

30

31 MR. ADAMS: Thank you, Mr. Chairman. The  
32 Southeast Regional Advisory Council opposes this  
33 proposal. And I'm just going to go through a quick  
34 outline of some -- the minutes that I've taken from the  
35 meeting about this particular issue, so bear with me if  
36 I have to pause for a little bit and bring out a point.

37

38 When you determine customary and  
39 traditional use, you know, I mentioned earlier that we  
40 use, you know, about eight factors in the Council, and  
41 they really deliberated. This is one of the most, you  
42 know, controversial and I think discussed issue that took  
43 place on our Council at our previous meeting. And so,  
44 you know, and those were -- that's how you determine  
45 whether customary and traditional use is determined. And  
46 we noticed that there are an awful lot of rural residents  
47 who have moved to Juneau from the villages. And this was  
48 a real big discussion in our Council, because when you  
49 take, for instance, people from Haines or Kake, they're  
50 suffering real hard, and they have to go to a rural [sic]

1 area in order to find a job to support their families,  
2 and many of them have done that. And they would  
3 certainly like to be able to go back to their  
4 communities, you know, and participate in subsistence  
5 uses, or be able to participate in subsistence  
6 activities, you know, in the area in which they are  
7 living. And this was, you know, a real big concern to  
8 many of our Council members, that they were -- that this  
9 is happening.

10  
11 We also noticed that there is a lot of  
12 sport activity taking place in the Juneau road systems,  
13 and many of them are not subsistence users and one of the  
14 discussions was how do you -- you know, how do you  
15 account for those as far, you know, taking everything is  
16 concerned. So the sport fishing, you know, we believe  
17 needs -- surveys need to be included in this subsistence  
18 report.

19  
20 And then one of the Council members  
21 brought out the fact that there was really no tribal  
22 consultation with, you know, the areas like -- you know,  
23 the areas that were affected by this. We did receive,  
24 you know, some comments from Douglas Indian Association.  
25 However, they weren't there to make any, you know,  
26 comments at the meeting.

27  
28 So there are a lot of questions that was  
29 brought up by the Council, and I really, you know, don't  
30 want to, you know, bear down on so many of the things  
31 that we did talk about, but those are some of the  
32 highlights.

33  
34 One of the Council members, you know,  
35 kind of reviewed the reason why the RAC took this  
36 position. She gave four reasons here, and I'll just go  
37 through them quickly, and then I'll concluded my  
38 comments. Actually I think this individual should be  
39 sitting right here. She's really sharp.

40  
41 She says, number 1, certainly additional  
42 information exists regarding use of areas by residents of  
43 other communities. No harvest data does not mean -- does  
44 not equal no use. And, you know, I think I touched on  
45 that a little bit, that sport, you know, needs to be  
46 included in the subsistence surveys and so forth.

47  
48 Number 2, determine use of sport fishing  
49 information as subsistence use. That's what I said  
50 earlier. We would prefer to use sport fishing



1 information as an indicator of subsistence use. So that  
2 needs to be reconsidered.

3  
4 Number 3, allow the development of new  
5 and currently known -- unknown rules or regulations  
6 regarding customary and traditional use by the  
7 subsistence review process.

8  
9 And, number 4, she says, reasons to  
10 continue to oppose, we do not know the outcome of the  
11 jurisdictional issues referred to in the State comments.  
12 And, of course, we did hear State comments, and she was  
13 referring, you know, to their comment.

14  
15 Previous minutes contain evidence of  
16 subsistence use that were not recognized in the current  
17 Staff analysis. The intent of ANILCA does not require us  
18 to determine non-subsistence use areas or determine  
19 negative customary and traditional use. And she  
20 maintains that this is what this proposal is doing.

21  
22 So, ladies and gentlemen of the Board, I  
23 just wanted to share that with you, and if you have any  
24 questions, I'll try to answer them, although I'll stick  
25 -- maintain to my policy that I'll answer hard questions.

26  
27 Thank you.

28  
29 CHAIRMAN TOWARAK: Thank you, Mr. Adams.  
30 Are there questions from the Board or other RACs? Mr.  
31 Haskett.

32  
33 MR. HASKETT: So through the chair, I  
34 guess I'm struggling a little bit with looking at the  
35 recommendation from OSM and a lot of that's based upon  
36 that there's no data supporting subsistence use, because  
37 of what's been reported or not been reported. Can you  
38 help me again? You covered that a little bit, but can  
39 you talk a little bit more about that, Bert? That was  
40 one of the points, you lined out why the sport fishing  
41 ought to be utilized.

42  
43 MR. ADAMS: Yeah. Because, you know --  
44 excuse me, Mr. Chairman. Thank you.

45  
46 Mr. Chair, Mr. Haskett. Sport fishing in  
47 our -- is an important part of that area; however, some  
48 people use their sport fishing, you know, permits to  
49 sport fish -- to get their products, and then we have a  
50 group of sport fishermen that come in and, you know, they

1 utilize their same gear types and so forth to do their  
2 activities and so forth. And so we think you know, that  
3 just because of that, that they need to include that into  
4 the sport -- subsistence records as well, because we need  
5 to know, you know, not only methods and means, but how  
6 many are taken out and so forth, and that's a good record  
7 keeping tool for us. Help you?

8

9 MR. HASKETT: Thank you. Yeah.

10

11 CHAIRMAN TOWARAK: Any other questions.

12 Mr. Firmin.

13

14 MR. FIRMIN: I just have more of a  
15 comment. Under the regulatory history of the Staff  
16 analysis here it says there are 12 Southeast communities  
17 where recognized as having customary and traditional  
18 pattern of use, and then it says 17 other communities  
19 were recognized. And when you look at all these  
20 communities on a map, it's just like a shotgun spread  
21 right around Metlakatla, and I see that there is another  
22 -- this is another one that that tribe has been left  
23 completely out of this. And just -- there's other places  
24 in here that I see that the areas of use explained in  
25 here that would have been better off in the last  
26 proposal, 11-18, of the traditionally owned streams and  
27 how the clan leaders controlled access and areas of use.  
28 And then also on Page 299 it says in District 11 and 15  
29 that there are residents that have not been living  
30 outside the area that there is no information on. So I  
31 believe just based on those that there -- just because  
32 there's no information on these people that may be using  
33 it, there might be one old hermit out there that would be  
34 made a criminal by some of these actions. It's just --  
35 I'm just pointing out that there's a lot of holes in the  
36 data here.

37

38 Thank you.

39

40 CHAIRMAN TOWARAK: thank you. Further

41 questions.

42

43 (No comments)

44

45 CHAIRMAN TOWARAK: If not, then thank

46 you, Mr. Adams.

47

48 We'll proceed then to the Alaska

49 Department of Fish and Game comments.

50

1 MS. YUHAS: Thank you, Mr. Chairman.  
2 Proposal FP09-15 requests that the Federal Subsistence  
3 Board demonstrate customary and traditional findings for  
4 individual communities for fish stocks within Fisheries  
5 Districts 11 and 15 on waters crossed by roads within the  
6 current boundaries of the City and Borough of Juneau as  
7 was suggested by one of your board members in 2006. The  
8 proponents requests that the eight regulatory factors  
9 concerning customary and traditional use for each  
10 specific fish stock by each community for each stream be  
11 evaluated and reviewed by the Board.

12  
13 The Juneau non-rural area has no specific  
14 customary and traditional use determination and falls  
15 under the Federal regulation -- sorry. Falls under the  
16 Federal regulation category remainder of the Southeastern  
17 Alaska area. We think this is overly broad and that this  
18 designation allows people as far away as Barrow traveling  
19 1,000 air miles or south from Hydaburg, 225 air miles up,  
20 to have a priority in this area.

21  
22 Because there's no substantial evidence  
23 for these arguments, it's clear that any use of Juneau  
24 road system fish stocks falls outside the regulatory  
25 definition of customary and traditional use.

26  
27 In Alaska versus the Federal Subsistence  
28 Board at 1094 through 99, the Board's determination must  
29 have a substantial basis in fact, and under 50 CFR  
30 100.16, C&T determination should identify specific  
31 communities or areas' use of specific fish stocks and  
32 wildlife populations. Each C&T determination must be  
33 tied to a specific community or area, and a specific  
34 population.

35  
36 Available information cannot support a  
37 determination that any rural community has a pattern of  
38 use of any fish stock on the Juneau road system. There's  
39 been no consistent harvest of fish stocks reported on the  
40 Juneau road system by any rural community, and the Juneau  
41 road system fish stocks are not near or reasonably  
42 accessible to any rural community.

43  
44 Separating out this non-rural area also  
45 allows the Federal Board to carry out its  
46 responsibilities for balancing the competing purposes of  
47 ANILCA and avoid unnecessary restrictions on non-  
48 subsistence users. No Federal subsistence harvest by  
49 rural residents have been reported for the fresh waters  
50 of this road system. And there's no evidence of

1 customary and traditional taking of a specific fish stock  
2 for subsistence in fresh waters that cross this road  
3 system.

4  
5                   The potential exists for over-harvesting  
6 of local fish resources if additional harvest opportunity  
7 is provided. It was mentioned that there were no  
8 conservation issues, but the Department has continually  
9 expressed conservation issues to the Federal Subsistence  
10 Board about sustainability of highly accessible fisheries  
11 on the Juneau road system if these fisheries are  
12 subjected to any participation under liberal Federal  
13 subsistence harvest regulations.

14  
15                   According to the Departments fish  
16 distribution database, the majority of fish habitat and  
17 documented fish observations in these streams are not  
18 located within Federal lands. We request that the  
19 Federal subsistence maps be corrected to accurately  
20 portray the Tongass Forest boundary which specifically  
21 excludes a significant portion of the Juneau area. The  
22 Juneau area was an exclusion from the Tongass Forest long  
23 before statehood.

24  
25                   In summing up, we support that no C&T  
26 finding for the Juneau road system as of 2010, and I have  
27 Mike Sewright here from our Department of Law who can  
28 answer some of the legal questions and provide  
29 supplemental information.

30  
31                   \*\*\*\*\*  
32                   STATE OFFICIAL WRITTEN COMMENTS  
33                   \*\*\*\*\*

34  
35                   Alaska Department of Fish and Game  
36                   Comments to the Federal Subsistence Board

37  
38                   Deferred FP09-15: Juneau Road System  
39 Customary and Traditional Use Determination

40  
41                   Introduction: Proposal FP09-15 requests  
42 that the Federal Subsistence Board demonstrate customary  
43 and traditional (C&T) findings for individual communities  
44 for fish stocks within Fisheries Districts 11 and 15 on  
45 waters crossed by roads within the current boundaries of  
46 the City and Borough of Juneau, as suggested by a member  
47 of the Federal Board on January 13, 2006. The proponent  
48 requests the eight regulatory factors concerning  
49 customary and traditional use of each specific fish stock  
50 by each community for each stream be evaluated and

1 reviewed by the Federal Board. The Juneau non-rural area  
2 has no specific customary and traditional use  
3 determination and falls under the federal regulation  
4 category Remainder of the Southeastern Alaska Area.  
5 Under this designation, the Juneau road system area is  
6 open to the federal subsistence harvest of Dolly Varden,  
7 trout, smelt, and eulachon by all rural residents of the  
8 Southeast Alaska and Yakutat areas, and the area is open  
9 to subsistence harvest of salmon by all rural residents  
10 of Alaska. These overly broad designations provide a  
11 federal subsistence preference for the far north rural  
12 residents of Barrow to fish for salmon on streams in a  
13 southeastern urban community over 1,000 air miles from  
14 home and provide a preference to rural residents of the  
15 southern southeast community of Hydaburg in an urban  
16 northern southeast community over 225 air miles from  
17 home.

18  
19 Background: The waters subject to this  
20 determination constitute a very small portion (less than  
21 10%) of the freshwater fisheries in Districts 11 and 15  
22 of Southeast Alaska. They are very important to  
23 residents of the Juneau area but are not important to  
24 rural residents and are rarely used for any purpose by  
25 rural residents of any community. In acting on previous  
26 proposals, the Federal Board suggested it would be  
27 appropriate to adopt a determination of no Federal  
28 subsistence priority. In December 2007, the Federal  
29 Board rejected the State's proposal (FP08-04) requesting  
30 such a determination, without evaluating the eight  
31 regulatory factors concerning customary and traditional  
32 use of each fish stock by each community. As early as  
33 2000, the InterAgency Staff Committee informed the  
34 Federal Board that there was a lack of substantial  
35 evidence to show that communities in the region have  
36 customarily and traditionally harvested and used stocks  
37 of rainbow trout, cutthroat trout, and Dolly Varden along  
38 the Juneau road system. Because there is no substantial  
39 evidence for these arguments, it is clear that any use of  
40 Juneau road system fish stocks falls outside the  
41 regulatory definition of customary and traditional use,  
42 see 50 CFR ^U100.4.

43  
44 Application of the September 23, 2008,  
45 Ninth Circuit Court opinion in State of Alaska v. Federal  
46 Subsistence Board, 544 F.3d 1089, makes it clear that an  
47 adequate record to support a C&T determination for  
48 fisheries on the Juneau road system has not been  
49 developed and cannot be established. As the Court held  
50 in its decision, Federal Board C&T determinations must be

1 supported by substantial evidence of a specific rural  
2 community or area s demonstrated customary and  
3 traditional taking of a specific wildlife population or  
4 specific fish stock, not general species, within specific  
5 geographic locations. Alaska v. Federal Subsistence  
6 Board, at 1094-99. The Board s determination must have  
7 a substantial basis in fact. Id. at 1094. The Court  
8 held: Under 50 C.F.R. ^U100.16, C & T determinations  
9 should identify the specific community s or area s use  
10 of specific fish stocks and wildlife populations, and  
11 not Chistochina s use of moose in general. Id. at 1096.  
12 The Court added that the Federal Board s regulations  
13 clearly tie C & T determinations to the specific  
14 locations in which wildlife populations have been taken  
15 and each C & T determination must be tied to a specific  
16 community or area and a specific wildlife population.  
17 Id. at 1097 (emphasis in original). The Court further  
18 emphasized: Specific communities and areas and specific  
19 fish stocks and wildlife populations are, by definition,  
20 limited to specific geographic areas and a C & T  
21 determination is a determination that a community or area  
22 has taken a species for subsistence use within a specific  
23 area. Id. at 1097-98 (emphasis in original).

24  
25 The Ninth Circuit pointed out that six of  
26 the Federal Board s eight C&T factors refer to a  
27 pattern of use of specific fish stocks or wildlife  
28 populations, and a seventh factor also imposes explicit  
29 geographic limitations by directing the Board to consider  
30 whether there is consistent harvest and use of fish or  
31 wildlife . . . near, or reasonably accessible from the  
32 community or area. Id. at 1098; see also 50 C.F.R.  
33 100.16(b). Available information cannot support a  
34 determination that any rural community has a pattern of  
35 use of any fish stock on the Juneau road system. There  
36 has been no consistent harvest of fish stocks on the  
37 Juneau road system by any rural community, and the Juneau  
38 road system fish stocks are not near or reasonably  
39 accessible to any rural community.

40  
41 In Alaska v. Federal Subsistence Board,  
42 the Court upheld a C&T determination for Chistochina  
43 residents to take moose upon all federal lands within  
44 Game Management Unit 12 based on: (1) the assumption,  
45 which the Court thought had support in the record, that  
46 the populations of moose which had been historically  
47 taken by Chistochina residents within a 2500 square mile  
48 area were the same populations of moose on other federal  
49 lands within the Unit; and that (2) the alternate  
50 rationale, somewhat dependent on the first, that the

1 Federal Board was justified by a benefit to management  
2 in designating a C&T area for Chistochina to take those  
3 moose within all 5,900 square miles of federal lands  
4 within the Board s pre-determined areas A, B, and C,  
5 rather than being required to carve out a new area for  
6 Chistochina limited to just the 2,500 square miles of  
7 that community s actual historic use. Id. at 1096-97,  
8 1099-1100.

9  
10 On the Juneau road system, the situation  
11 is far different from what the Ninth Circuit Court  
12 believed the situation to be for moose in GMU 12. First,  
13 salmon and trout stocks found in individual streams on  
14 the Juneau road system represent distinct stocks.  
15 Evidence of take of the same general species of fish in  
16 other districts, or even in other portions of the same  
17 districts, cannot be used to establish historic taking of  
18 the specific stocks on the Juneau road system. The  
19 Federal Board has not developed a customary and  
20 traditional use determination specific to fresh waters of  
21 Districts 11 or 15. It is extremely unlikely that any  
22 rural community would be able to provide substantial  
23 evidence of the customary and traditional use factors for  
24 any fish stock on the Juneau road system.

25  
26 Second, there has been no historic  
27 customary and traditional taking of the specific fish  
28 stocks on the Juneau road system by any Southeast rural  
29 community. The Juneau stocks are different stocks of  
30 fish than those which any Southeast rural community has  
31 historically taken. Moreover, federal and state  
32 fisheries management both benefit by utilizing a separate  
33 regulatory framework for these easily accessed high use  
34 waters where fish stocks must be managed through much  
35 more conservative regulations than are required in other  
36 areas of the districts. Separating out this nonrural  
37 area also allows the Federal Board to carry out its  
38 responsibilities of balancing the competing purposes of  
39 ANILCA and avoiding unnecessary restrictions on  
40 nonsubsistence users.

41  
42 Impact on Subsistence Users: Although  
43 both Southeast Alaska general federal subsistence fishery  
44 permits and the Southeast Alaska spring steelhead permits  
45 allow fishing on the Juneau road system and require  
46 reporting of harvest by stream, no federal subsistence  
47 harvests by rural residents have been reported for the  
48 freshwaters of the road system within the City and  
49 Borough of Juneau boundaries. In fact, only two sport-  
50 caught fish were reported as having been caught by rural

1 residents of Southeast Alaska on the Juneau road system  
2 by responders to the Statewide Sport Fish Harvest Survey  
3 from 2004 through 2006. There is no evidence of  
4 customary and traditional taking of specific fish stocks  
5 for subsistence use by any rural resident in freshwaters  
6 that cross the road system within the City and Borough of  
7 Juneau boundaries. Meaningful subsistence fishing  
8 priorities for rural residents exist in streams that are  
9 closer to their respective communities. Eligible rural  
10 residents would have to travel substantial distances by  
11 boat or airplane in order to fish on Juneau roads, and  
12 such harvest would not be cost effective. Based on the  
13 lack of documentation of any subsistence use, the Federal  
14 Board should exempt the fresh waters of the Juneau City  
15 and Borough road system area from region-wide regulations  
16 by making a negative customary and traditional finding  
17 for all communities for all fish stocks in freshwaters  
18 that cross the road system within the City and Borough of  
19 Juneau boundaries. This action would have no impact on  
20 federally qualified rural subsistence users.

21

22                   Opportunity Provided by State: State  
23 regulations provide for a variety of sport fishing  
24 opportunities in freshwaters and adjacent shoreline  
25 areas, but these opportunities are more restricted than  
26 elsewhere in Southeast Alaska. Most people fish for  
27 subsistence and recreational use in marine waters. The  
28 Department s sport fisheries website for the Juneau road  
29 system lists only 15 freshwater streams and, although  
30 saltwater shoreline areas are also available for anglers  
31 to fish, fishing in saltwater for trout and Dolly Varden  
32 is more restricted and subject to lower bag limits than  
33 in other areas of Southeast Alaska. Nearly all  
34 freshwater sport fishing activity (roughly 80%) along the  
35 Juneau road system takes place in four primary streams  
36 (Cowee Creek, Montana Creek, Peterson Creek, and Fish  
37 Creek). Fish populations in these streams are relatively  
38 small. Given Juneau s relatively large human population  
39 and road access, the potential exists for over harvesting  
40 local fish resources if additional harvest opportunity is  
41 provided. Several small roadside streams are closed to  
42 sport fishing altogether, and others are closed to salmon  
43 or Dolly Varden fishing. Restrictive bag and possession  
44 limits are in effect for many species as well. Juneau  
45 roadside bag limits, possession limits, and size  
46 requirements differ in several respects from regional  
47 regulations. Bag and possession limits have been reduced  
48 for coho salmon, sockeye salmon, and Dolly Varden. In  
49 addition, cutthroat trout size limits are more  
50 conservative in the Juneau area than in other areas of



1 Southeast Alaska. These restrictions on Dolly Varden and  
2 cutthroat trout are also effective in all salt water  
3 adjacent to the Juneau City and Borough road system to a  
4 line mile offshore.

5  
6 Because Juneau is a non-rural area,  
7 residents of Juneau who historically used fish stocks in  
8 the area are ineligible to participate in the federal  
9 subsistence fishery and cannot qualify for a federal  
10 customary and traditional use determination. The  
11 existing federal subsistence regulations could lead to  
12 even more restrictions on non-federally qualified users  
13 (e.g., Juneau residents) in the non-rural area along the  
14 Juneau road system on both state and federal lands.  
15 These further restrictions could potentially force Juneau  
16 residents to travel long distances to rural areas to  
17 participate in freshwater sport fisheries. They might  
18 also result in increased state subsistence and personal  
19 use participation in these areas. They could thus create  
20 increased competition and be detrimental to the  
21 satisfaction of subsistence needs in those rural areas.  
22 Further state restrictions along the Juneau road system  
23 would also impact opportunities for those who relocate  
24 from rural areas to Juneau and rely upon opportunity in  
25 the Juneau area to continue their fishing activities.

26  
27 Conservation Issues: While conservation  
28 concerns are not a factor in the Federal Board s C&T  
29 analysis, they do provide a common sense rationale for  
30 separating the Juneau Road system and specific stocks in  
31 the area from other remainder areas of Southeast  
32 Alaska and for making sure that only communities with  
33 established customary and traditional use of the specific  
34 stocks in the area receive a federal subsistence priority  
35 on those stocks. The Department has continually  
36 expressed conservation issue concerns to the Federal  
37 Board about sustainability of highly accessible fisheries  
38 on the Juneau road system if these fisheries are  
39 subjected to any participation under liberal federal  
40 subsistence harvest regulations. This proposal  
41 specifically requests a Customary and Traditional  
42 determination for specific fish stocks in a specific  
43 area. Comments illustrating the Department s ongoing  
44 concerns and conservation issues were previously  
45 presented to the Federal Board for proposals FP06-31,  
46 FP08-04, the Department s Fisheries Request for  
47 Reconsideration 06-05, and FP09-04.

48  
49 Jurisdiction Issues: According to the  
50 Department s Fish Distribution Database, the majority of

1 fish habitat and documented fish observations in these  
2 streams are not located within federal lands. Some  
3 streams have relatively inaccessible headwaters on  
4 federal land, but they flow through State, private, and  
5 other land ownership and are not within the Tongass  
6 Forest boundary prior to crossing Juneau roads to enter  
7 marine waters. Other streams along the Juneau road  
8 system flow entirely on non-federally owned land. We  
9 request that the federal maps be corrected to accurately  
10 portray the Tongass Forest boundary, which specifically  
11 excludes a significant portion of the Juneau area. The  
12 Juneau area was an exclusion from the Tongass Forest long  
13 before statehood.

14

15                   In order for rural residents to know  
16 where they can legally participate in federal subsistence  
17 fisheries, and to aid enforcement personnel in  
18 determining whether activities are legal, we request  
19 detailed land status maps depict specific boundaries of  
20 waters claimed to be within federal subsistence  
21 jurisdiction. Maps provided by the federal program are  
22 not accurate enough to ensure federal subsistence users  
23 do not inadvertently fish from lands not claimed under  
24 federal jurisdiction. Significant portions of lands  
25 surrounding the Juneau road system are bordered by state  
26 or private lands, where there either is no federal  
27 jurisdiction or where persons cannot participate in  
28 federal subsistence fisheries while standing on non-  
29 federal lands.

30

31                   Recommendation: Support.

32

33                   MR. SEWRIGHT: Mike Sewright from the  
34 State Department of Law. With your permission, Mr.  
35 Chairman, I'd like to make a few comments.

36

37                   CHAIRMAN TOWARAK: Sure. Permission  
38 granted.

39

40                   MR. SEWRIGHT: Thank you. The comments  
41 Ms. Yuhas just stated are taken from the State's comments  
42 on this proposal in your meeting materials. Those  
43 comments were submitted November 30, 2010 in order to  
44 meet OSM's publication deadline. My understanding is  
45 that since then OSM Staff posted its proposed  
46 modifications to FP09-15, also appearing in your meeting  
47 materials. That's the analysis and modified proposals in  
48 your meeting materials from OSM Staff, including the  
49 analysis addendum at Page 303.

50

1 I was requested as legal counsel to  
2 review these proposed modifications for legal effect, and  
3 the standards applicable to the Board's determinations.

4  
5 OSM's proposed modifications are two-  
6 fold, and they haven't been addressed very much. The  
7 first modification would limit the road system, no  
8 Federal subsistence priority area being proposed, to a  
9 smaller Juneau non-rural area provided by Federal  
10 regulation in 50 CFR Section 100.23(a)(4). The problem  
11 with that proposed change, and it may be a minor one, is  
12 that the Juneau non-rural area designation provided by  
13 that regulation apparently does not include the last 10  
14 miles of the connected Juneau road system ending at  
15 Berners Bay or all of the connected Juneau road system on  
16 Douglas Island.

17  
18 According to Board regulation, the Juneau  
19 non-rural area is described as the Juneau area including  
20 Juneau, West Juneau, and Douglas, as further depicted,  
21 and I'm quoting from the regulation, by maps delineating  
22 the boundaries which may be obtained from the U.S. Fish  
23 and Wildlife Service, Office of Subsistence Management.  
24 The OSM map for the Juneau non-rural area appears in  
25 OSM's annual handy-dandy publication, Federal Subsistence  
26 harvest of fish and shellfish regulations. I can provide  
27 you with copies of the map that appears in that handy-  
28 dandy. I did bring extra copies, and with your  
29 permission, Mr. Chairman, I will bring them to you and  
30 you can pass them out?

31  
32 CHAIRMAN TOWARAK: Yes.

33  
34 MR. SEWRIGHT: And this map is familiar  
35 to a lot of the professional working with OSM. Please  
36 when handing out, please see that all Board members get  
37 a copy. I didn't make enough copies for everybody here,  
38 sorry.

39  
40 Continuing on, if you compare that map  
41 with the map of the Juneau road system provided at Page  
42 284 of your meeting materials, you will see that OSM's  
43 proposed modification does not include the last 10 miles  
44 or apparent last 10 miles of the existing Juneau road  
45 system ending at Berners Bay, or all of the connected  
46 road system on Douglas Island. If you simply compare  
47 those two maps, you will see that. Both maps have been  
48 prepared by the Office of Subsistence Management. Again,  
49 the Juneau non-rural area is a designation made for -- as  
50 between rural areas and non-rural areas for Federal

1 Subsistence Program purposes.

2

3 Now there are consequences to that  
4 proposed modification, the one that effectively  
5 eliminates 10 miles of roadway and part of the roadway on  
6 Douglas Island. It means, for example, that under OSM's  
7 second proposed modification, which I'll get to soon,  
8 residents of all of District 15, including Skagway,  
9 Klukwan, and Haines, 40 to 70 miles away from where the  
10 Juneau road system now ends at Berners Bay will still be  
11 entitled to fish under the Federal Subsistence Program  
12 within the 10 miles of the Juneau road system ending at  
13 Berners Bay despite there being no evidence of those  
14 communities customary and traditional use of fish from  
15 that area, according to OSM's analysis in your meeting  
16 materials.

17

18 Federal Staff's justification for  
19 proposing the smaller area, that is the Juneau non-rural  
20 area, in its analysis is its speculation that the Juneau  
21 road system may some day reach Haines and Skagway, 40 and  
22 60 miles away from the existing Juneau road system.  
23 Under the Board's legal standards for C&Ts, that  
24 possibility some day does not justify establishing a C&T  
25 priority to far away rural residents of Districts 11 and  
26 15 for portions if the existing Juneau road system as it  
27 exists now.

28

29 So after checking with Mr. Swanton and  
30 Ms. Yuhas, the State respectfully submits that ADF&G's  
31 proposal should be accepted by the Board as ADF&G's  
32 proposed it, and OSM's actual information of no C&T use  
33 for that road system supports establishing a no Federal  
34 subsistence priority as to all fish reached by the  
35 existing connected Juneau road system. This can be  
36 accomplished by deleting the references to within and in  
37 the Juneau non-rural area, and also adding the  
38 description, existing in 2010 after Juneau road system  
39 where those phrases appear in the proposed modified  
40 regulations appearing in OSM's analysis addendum at Page  
41 303 of your meeting materials. In other words, make it  
42 clear in the modified proposal that the road system being  
43 regulated are being designated by the regulation is the  
44 existing Juneau road system as of 2010, or it can be  
45 2011. It's not going to make a difference. And thereby  
46 include the entire road system.

47

48 OSM's second proposed modification stems  
49 from the Board's direction, and that direction is  
50 referred to at your meeting materials by OSM Staff at

1 Page 278, that an analysis be developed that examine  
2 customary and traditional uses of fish in all of  
3 Districts 11 and 15 rather than just the Juneau road  
4 system are. And that was directed by the Board when it  
5 deferred the proposal at its January 2009 meeting. OSM's  
6 response, and that's at Page 303 of the meeting  
7 materials, is to propose modifying ADF&G's proposal by  
8 establishing positive C&T determinations (a) to all fish  
9 within District 11 and the waters draining into that  
10 district for all residents of drainages flowing into  
11 District 11, except for the Juneau area; and (b) to all  
12 fish within District 15 and the waters draining into that  
13 district for all residents of drainages flowing into  
14 District 15, except again for the Juneau area.

15  
16 District 11 is an area extending over 80  
17 miles, including inland -- especially if you include  
18 inland drainages into Lynn Canal, Stephan's Passage and  
19 Seymour Canal near Juneau. District 15, immediately  
20 north of District 11 and Juneau also extends over 80  
21 miles including drainages, and includes Haines, Skagway  
22 and Klukwan. These broad C&T areas are proposed despite  
23 OSM's acknowledgement in its analysis and analysis  
24 addendum, that there is, and I'm quoting, no information  
25 available on individuals in District 11 living outside of  
26 the non-rural Juneau area harvesting any salmon or non-  
27 salmon species inside of District 11. OSM's additional  
28 conclusion that marine waters within Districts 11 and 15  
29 are outside of Federal jurisdiction, which they are  
30 according to Federal subsistence regulation, the U.S.  
31 Supreme Court decision in Alaska v. United States in  
32 2006, and Federal District Court Judge Holland's 2009  
33 decision in Peratrovich v. U.S.

34  
35 And, finally, these C&T areas are  
36 proposed by Board Staff despite the conclusion in the  
37 Staff's analysis that only Skagway, Klukwan, and Haines  
38 indicated harvesting fish from Federal public non-marine  
39 waters in District 15, and then in close -- and I'm  
40 quoting from the findings, in close proximity to those  
41 communities as opposed to 40, 50, 60 or 70 miles away, at  
42 least as to non-marine waters, and again the Federal  
43 subsistence jurisdiction is -- does not extend to the  
44 marine waters. Thus OSM's new recommended district-wide  
45 C&Ts for districts 11 and 15 are unsupported by this  
46 information.

47  
48 Now, it is submitted that the logical  
49 alternative based on the proposal as originally submitted  
50 and the absence of evidence of subsistence use, according

1 to OSM's own analysis directed by the Board in January  
2 2009, is to make a finding of no Federal subsistence  
3 priority for all of District 11 and all of District 15,  
4 except for those specific freshwater bodies at the head  
5 of Lynn Canal in close proximity to Skagway, Klukwan and  
6 Haines which actually may qualify as Federal public  
7 waters under OSM's analysis, which specifies those  
8 freshwater bodies in the vicinity of those communities.

9  
10                   However, it is also recognized that as O  
11 -- as the OSM analysis concludes, without the District  
12 11-wide and District 15-wide C&Ts it proposed, the  
13 existing C&Ts for those two districts, which would  
14 remain, are much broader for all Alaska rural residents  
15 as to some fish, and all Southeast and Yakutat rural  
16 areas as to other fish. The focus is at least on those  
17 districts, and that's a positive.

18  
19                   Thank you.

20  
21                   MR. FIRMIN: Mr. Chair.

22  
23                   CHAIRMAN TOWARAK: Any questions. Are  
24 there any questions from the Board or from the Regional.  
25 Mr. Firmin.

26  
27                   MR. FIRMIN: Thank you, Mr. Chair.  
28 According to some of this, that you don't want people  
29 flying from abroad to fish in this area, to exercise  
30 their subsistence rights and I've got 350 miles one way  
31 to exercise my subsistence rights to hunt caribou on my  
32 traditional hunting grounds, and it sounds to me like  
33 just because I haven't done that, because I can't afford  
34 the fuel to travel that far in the last 10 years, that  
35 maybe I shouldn't -- that shouldn't be my traditional  
36 hunting grounds any more? And I mean, again it just  
37 disgusts me that on this same page here it says, they'll  
38 fly as far south as Hydaburg, but Metlakatla's farther  
39 south than that, and it seems like the communities that  
40 are being surveyed in here, to ask if they're using an of  
41 this, they haven't been asked for 30 years if they  
42 haven't been doing that. At least according to the  
43 information in front of us, and I think that just  
44 solidifies the Southeast Alaska Council's opposition of  
45 this proposal.

46  
47                   Thank you.

48  
49                   MR. SEWRIGHT: I can respond. As an  
50 earlier speaker with the Board Staff pointed out, the

1 practices for subsistence hunting of wildlife and fishing  
2 are often very different. And fishing occurs generally  
3 very close to the communities that use that resource, and  
4 both the Alaska -- the Federal Subsistence Board decision  
5 in 2008 and OSM's analysis in this case recognize that.  
6 Those are the Board's legal standards.

7

8 Thank you.

9

10 CHAIRMAN TOWARAK: Mr. Firmin.

11

12 MR. FIRMIN: Thank you, Mr. Chair. Just  
13 in a retort there. My traditional fall fishing ground  
14 for chum salmon is approximately 180 miles from my home.  
15 And that's not so much any more, but that's where it  
16 traditionally is. Thank you.

17

18 CHAIRMAN TOWARAK: Ms. Ahtuanguaruak.

19

20 MS. AHTUANGARUAK: I appreciate all the  
21 discussion that has gone into this area. It is something  
22 that is very concerning to look at, the longevity of the  
23 tribes that have been in these areas that have changed  
24 with land use changes and increased activities into the  
25 area, but to wipe out their history of traditional usage  
26 in this area is very concerning.

27

28 There was a study done in our area of  
29 which I was specifically impacted in which they said we  
30 had never camped at my fishing camp when they were trying  
31 to expand Alpine. Yet I had been out there with two  
32 adults, three snow machines, two sleds, six kids and a  
33 dog. And yet the study on our tundra said nobody had  
34 been subsisting in this cabin that we had been using,  
35 that my ex-husband's father had taught him how to harvest  
36 his first caribou, as well as there's history in our  
37 families with uncles traveling over 1,000 miles and  
38 efforts over two years to bring harvest back into various  
39 villages when the caribou were decimated in years past.  
40 There's action of interacting in our communities that we  
41 might not do every year, but our traditions may need to  
42 have some interactions in the future that show the  
43 importance of continuing our traditional and cultural  
44 uses. The stories of the harvesting in those areas are  
45 hard to find now, because of the death of these people  
46 that did those huntings, but they are still there. It is  
47 very important that we utilize the resources, but we also  
48 know about our resources and interact with them as they  
49 change, when we need to.

50

1 Thank you.

2

3 CHAIRMAN TOWARAK: Ms. K'eit.

4

5 MS. K'EIT: Thank you, Mr. Chair. I have  
6 a question for the State at this time. Regarding the  
7 various smaller streams within both of these districts,  
8 does the sport fishing survey that's required document  
9 the harvest in these -- in those smaller streams as well?

10

11 Thank you, Mr. Chair.

12

13 CHAIRMAN TOWARAK: Yes.

14

15 MR. SWANTON: Mr. Chairman. Ms. K'eit.  
16 Documentation based upon the statewide harvest survey  
17 largely is based on a statistical approach. Whether we  
18 are able to document in a very refined manner, smaller  
19 streams, or whether that -- where that estimation has to  
20 encompass a larger grouping of smaller streams. So  
21 specific reference, yes, we do, but I can't give you  
22 anything definitive with regards to the smaller streams,  
23 because in essence we need to have a certain number of  
24 respondents to that survey from that particular stream in  
25 order to generate a harvest estimate. And if we are not  
26 able to get those number of respondents, we broaden it to  
27 include a larger grouping of smaller streams. I don't  
28 know if that helps you or not.

29

30 Mr. Chairman.

31

32 CHAIRMAN TOWARAK: Thank you. Any  
33 further -- Mr. Sampson.

34

35 MR. SAMPSON: Thank you, Mr. Chairman.  
36 I think some of the issues that's been on my mind has  
37 also been being said. But traditionally even within the  
38 northwest area where the traditional hunting areas,  
39 traditional fishing areas, traditionally was never  
40 documented. Never in any written form. And how those  
41 areas are utilized or are traditionally, they'd go out  
42 into certain areas, not only one certain time, but many  
43 times. When they go out to the site locations, in some  
44 cases some of the communities or some of the individual  
45 families follow the resources around. So traditionally  
46 there was never any written form in regards to where some  
47 of these site locations. It's just that recently that  
48 the State of Alaska have started mapping in regards to  
49 where do you hunt, where do you trap? Then without any  
50 clear thought process, people started outlining. The



1 younger kids started outlining these are the areas that  
2 we utilize when it's not. From those studies then or  
3 surveys, then State of Alaska and the Federal Government  
4 will say, well, sorry, these are the only areas that  
5 you've identified as a use area. So I want to put on the  
6 record that traditionally folks have never any written  
7 format, write any areas for traditional uses.

8

9 CHAIRMAN TOWARAK: Thank you, Mr.  
10 Sampson. Is there any need to respond. Ms. Chythlook.

11

12 MS. CHYTHLOOK: I just want to -- thank  
13 you, Mr. Chair. Molly Chythlook. I just want to  
14 reiterate that traditional and customary uses, use  
15 determination, this brings back to when the land claims  
16 came to our region and wanting us to identify our  
17 traditional use locations. And what they determined was  
18 that if you identify a location, you have to prove that  
19 you have left a footprint there. And traditionally when  
20 we do any harvesting of any source, and when we use the  
21 lands that we respect, we don't leave footprints in those  
22 locations. We don't try to prove that we've used -- we  
23 use those locations. And so it's -- I guess with the  
24 surveys that have been done to try to determine customary  
25 and traditional uses of these areas, you know, it's like  
26 Mr. Sampson said, that we don't leave footprints and try  
27 to prove that those traditional areas have been used, and  
28 I just wanted to bring that out.

29

30 Thank you, Mr. Chair.

31

32 CHAIRMAN TOWARAK: Thank you, Mrs.  
33 Chythlook. Ms. K'eit.

34

35 MS. K'EIT: Thank you, Mr. Chair. I have  
36 a general question for the Department. As you've been  
37 here the past couple of days and you followed our  
38 discussions and deliberations on things like the Yukon  
39 River Chinook and today the eulachon fishing on the Unuk  
40 River, and considering those issues, considering the  
41 conservation issues related to that, those two topics,  
42 and then coming to this proposal on this topic, where  
43 would you says there's kind of -- I mean, what -- if you  
44 were to compare those, sorry for the disjointed thoughts  
45 here. If you were to compare those, kind of what -- you  
46 know, on a scale of 1 to 10, how important would this  
47 proposal be to conservation in the Juneau road area  
48 compared to things like the Yukon fishery and the  
49 eulachon fishery. And I hope that's understandable.

50

1 Thank you, Mr. Chair.

2

3 CHAIRMAN TOWARAK: Go ahead, Mr. Swanton.

4

5 MR. SWANTON: Mr. Chairman. Ms. K'eit.  
6 I'm not sure that there's a scoring system available for  
7 any human being to be able to lay out on a scale of 1 to  
8 10 where each one of these things compare to the other  
9 one. And I think that it would be unfair to the people  
10 that are invested in those particular resources in those  
11 particular areas. It would be -- to me it would be  
12 unjust to try and judge one regions concerns for one fish  
13 stock versus another region, so I would be apprehensive  
14 about putting a scale on that. Hopefully you understand  
15 my reservation.

16

17 Mr. Chairman.

18

19 CHAIRMAN TOWARAK: Thank you. Any  
20 further discussion.

21

22 (No comments)

23

24 CHAIRMAN TOWARAK: I'm not hearing any.  
25 Thank you for your testimony from the State.

26

27 We will proceed then onto our next step  
28 of the InterAgency Staff Committee comments. Doctor.

29

30 DR. WHEELER: Thank you, Mr. Chair. The  
31 InterAgency Staff Committee had multiple views on this  
32 analysis. Some felt that the analysis does not contain  
33 enough information to support a positive customary and  
34 traditional use determination for the Juneau road system,  
35 and that the analysis raised some concerns as to whether  
36 or not a positive customary and traditional use  
37 determination should be recognized by the Federal  
38 Subsistence Board in that area.

39

40 Others felt that additional evidence,  
41 including oral testimony presented at numerous Council  
42 meetings, including the most recent Council meeting in  
43 Hoonah, and written letters, point to a customary and  
44 traditional pattern of subsistence fishing in this area  
45 by subsistence users representing a broad range of  
46 Southeast rural communities.

47

48 Some InterAgency Staff Committee members  
49 also were concerned that a closure to harvesting of an  
50 entire group of animals, i.e. all fish, by Federally-

1 qualified subsistence users has never been adopted by the  
2 Federal Subsistence Board. It should be noted, however,  
3 that the Federal Board has used no Federal subsistence  
4 priority type closures for individual wildlife species in  
5 particular situations in specific areas of Alaska.

6

7 Mr. Chair.

8

9 CHAIRMAN TOWARAK: Thank you for adding  
10 to the confusion.

11

12 (Laughter)

13

14 DR. WHEELER: My pleasure. Glad to help.

15

16 CHAIRMAN TOWARAK: Are there any  
17 questions of the Staff.

18

19 (No comments)

20

21 CHAIRMAN TOWARAK: If not, then thank  
22 you.

23

24 We will proceed then to the next step,  
25 the Board discussion with Council Chairs and State  
26 liaison. Mr. Adams.

27

28 MR. ADAMS: Thank you, Mr. Chairman. I'd  
29 just like to maybe Add another tidbit of information.  
30 You know, when Mr. Haskett asked me about the sport issue  
31 in the Juneau road system, this -- I'm just taking this  
32 from the comments that Pippa made when she was making her  
33 presentation before the Board last fall in Hoonah.

34

35 There is some instances where sport fish  
36 harvest information has been used to document customary  
37 and traditional uses, but this only occurred when there  
38 was no other information available. So there's a little  
39 bit of history there about using, you know, this as a  
40 matter of fathering information.

41

42 However, currently in the most of -- in  
43 most of Southeast Alaska, other information is available,  
44 and the sport fish uses are not considered subsistence  
45 uses. However, further information is sought from the  
46 Council whether or not the sport fish use should be  
47 considered customary and traditional use. And this is  
48 where Ms. Phillips when she was making her reasons why we  
49 want to -- want this proposal, should be considered, is  
50 that, you know, the sport fish ought to be part of the

1 subsistence tally catch. So I just wanted to -- I hope  
2 that clarifies it a little bit for you, Geoff, but I just  
3 felt inclined to add that onto it so that can satisfy  
4 myself as well.

5

6 Thank you.

7

8 CHAIRMAN TOWARAK: Thank you, Mr. Adams.  
9 Further discussions. Ms, K'eit.

10

11 MS. K'EIT: Mr. Chair. Thank you.

12

13 Mr. Adams, I wondered in your  
14 deliberations this fall and then previously on the  
15 similar proposal in '08 I believe, what was -- was there  
16 any discussion among the RAC about subsistence users  
17 around Southeast traveling to gather up fisheries  
18 resource throughout Southeast. What -- if there was any  
19 discussion on that topic, what was it like?

20

21 MR. ADAMS: You mean the people who  
22 travel in Southeast Alaska, whether they subsist in other  
23 areas or what? Something like that?

24

25 MS. K'EIT: Yes. Correct.

26

27 MR. ADAMS: Yeah. Yeah, there was quite  
28 a bit of discussion about that, and one of the concerns  
29 that we did have was, and I gave Hoonah as an example,  
30 you know, and Kake probably, many of those people, you  
31 know, are moving from their rural areas and moving into  
32 urban areas like Juneau or Ketchikan, you know, so that  
33 they can obtain gainful work, because they can't support  
34 their families, you know, in their communities. But, you  
35 know, we were concerned that perhaps they needed to go  
36 back to their communities just for the purpose of  
37 engaging in their subsistence activities. You know, this  
38 was a real big discussion, and, yes, yep, just examples  
39 like that, you know, was thrown back and forth in our  
40 discussions.

41

42 Thank you.

43

44 CHAIRMAN TOWARAK: Just in that line,  
45 too, in our case, and I think it's true with most rural  
46 communities, we have tribal enrollment, and you don't  
47 need to be living in the community to be enrolled to a  
48 tribe. We have a lot of tribal members that live in  
49 Anchorage, but they come back to my home town and  
50 practice their tribal rights of subsistence.

1 MR. HASKETT: Thank you, Mr. Chair.

2

3 CHAIRMAN TOWARAK: Mr. Haskett.

4

5 MR. HASKETT: So I have a question, if I  
6 could get clarification from Pippa on a point. Would  
7 that be okay?

8

9 CHAIRMAN TOWARAK: Sure.

10

11 MR. HASKETT: So my question is, I get  
12 the argument about -- people are making about that  
13 recreational use could very well be utilized to make a  
14 subsistence determination. In fact I think this Board  
15 has done that in the past. The analysis done by OSM I  
16 think supported the State, recognizing there's a  
17 difference of opinion there, too on the modifications  
18 that were suggested. But in looking at recreational use,  
19 and there are only some -- and maybe I'm asking the wrong  
20 place. I mean, instead of asking you specifically, let  
21 me just lay out a question here for people to think  
22 about. It's only some of the communities have documented  
23 recreational use, and not the entire area is being  
24 proposed, so I guess I'm still struggling with kind of  
25 that larger area as opposed to -- if you're using it as  
26 a determination, looking at Skagway, Sitka, Wrangell,  
27 Pelican, Haines and Gustavus -- I'm not doing a very good  
28 job of asking this question, but it appears to me there's  
29 an argument being made at least in part, that recreation  
30 needs to be utilized, can be utilized to make the  
31 determination, but there's a whole bunch of this area  
32 that is not actually documented that way. So maybe you  
33 are the right person to ask, because some clarification  
34 on that for me.

35

36 Through the Chair.

37

38 CHAIRMAN TOWARAK: Pippa.

39

40 MS. KENNER: Mr. Haskett, through the  
41 Chair. You've asked a couple of questions that are tied  
42 together and I'm going to -- I'll try to address them  
43 all.

44

45 One thing to remember is that the first  
46 time this analysis was presented to the Council and to  
47 the Board, it was this analysis. There have been changes  
48 made. The question then was different. It was  
49 concerning only the Juneau road system. And the uses on  
50 the Juneau road system were the only uses that were

1 researched.

2

3                   When the question was expanded to all of  
4 11 and -- Districts 11 and 15, then we searched uses in  
5 those areas. And when we researched the uses in those  
6 areas, we didn't ask the question about the State -- we  
7 didn't ask the question when we -- from the State sport  
8 fish statewide survey.

9

10                   I think that may have satisfied you?

11

12                   MR. HASKETT: Yeah, that's very helpful.

13 Thank you.

14

15                   CHAIRMAN TOWARAK: Keith, can you clarify  
16 -- we'll recognize Ms. Pendleton first, and then perhaps  
17 we could hear from Keith next.

18

19                   MS. PENDLETON: Thank you, Mr. Chair.  
20 This question is for the Office of Subsistence  
21 Management, and I'm still not quite seeing this in the  
22 analysis, so I need some help here. But can you tell me  
23 why you changed your recommendation on this proposal from  
24 two years ago to now support a finding of no customary  
25 and traditional use determination? And specifically, is  
26 there some new information that led you to change your  
27 recommendation for the Juneau road system?

28

29                   MS. KENNER: Thank you, Ms. Pendleton,  
30 through the Chair. I think the change in recommendation  
31 is one indication of how difficult the analysis was. And  
32 once again when we were first looking at this proposal,  
33 the question was a little bit different. Because in the  
34 Southeast area it has been the custom for the Council and  
35 the Board to recommend and adopt customary and  
36 traditional use determinations for fish based on fishing  
37 districts. We were looking for customary and traditional  
38 uses in Districts 11 and 15. And were -- we were not  
39 specific -- we were not collecting data that specifically  
40 looked at the Juneau road system in a positive manner.  
41 We were looking at positive uses of Districts 11 and 15.

42

43                   This question was a little different. We  
44 were making a determination of the subsistence --  
45 customary and traditional use determination for fish in  
46 all of Districts 11 and 15. That required us to go into  
47 a lot more detail, and to look at the information we had  
48 differently. And in doing that, the characterization of  
49 the customary and traditional use determination looked  
50 different than the initial research, when we weren't

1 doing a determination for all of 11 and 15. This allowed  
2 us to present this option to the Board.

3  
4 MS. PENDLETON: Thank you. It's still a  
5 little squishy for me.....

6  
7 MS. KENNER: Should I.....

8  
9 CHAIRMAN TOWARAK: Mr. Probasco.

10  
11 MR. PROBASCO: Mr. Chair. Ms. Pendleton.  
12 This is indeed a very difficult proposal, but I think the  
13 way you need to look at it is that we have the two  
14 districts, 11 and 15 as entirety, and contained with them  
15 was the question of the Juneau road system. When you  
16 tease out the Juneau road system is when you get into  
17 difficulty trying to find sufficient data and information  
18 that traditionally would have supported the Staff to come  
19 back with a recommendation to find a positive C&T  
20 determination. And that's why we're wrestling with sport  
21 fish data and information like that.

22  
23 The other thing to keep in mind is that  
24 we've actually had some years now where we have issued or  
25 had the potential to issue Federal subsistence permits on  
26 the road system. To date my understanding is we have not  
27 issued any. So the opportunity is there to fish under  
28 Federal regulations, but that hasn't taken place.

29  
30 So we look at the information, we start  
31 teasing out and then pulling out the Juneau road system.  
32 And that's where it gets squishy as you put it, because  
33 of the lack of data.

34  
35 Thank you, Mr. Chair.

36  
37 CHAIRMAN TOWARAK: Any other comments.

38 We'll take Mr. Reakoff first and then Mr. Firmin.

39  
40 MR. REAKOFF: Well, Mr. Chair, I'm just  
41 observing this proposal from the exterior, but I feel  
42 that I just point out some of my heartfelt convictions  
43 regarding some of the issues in this proposal. Hook and  
44 line fishing is never thought to be truly subsistence,  
45 but in reality many subsistence users use hook and line,  
46 because you can look at all the pictures the kids drew  
47 back there, and a lot of them had hook and line fishing  
48 involved in subsistence use.

49  
50 Another, the over-arching issue is the

1 State's concern that subsistence priority use in the  
2 Juneau road area would affect the stocks by having a  
3 higher harvest level, but in reality the State's non-  
4 subsistence use areas actually violate the Alaskans'  
5 rights. Non-subsistence use area have non-resident and  
6 resident allocations without any priority. So the  
7 reality is the Juneau non-subsistence, State non-  
8 subsistence area has a tremendous amount of non-resident  
9 use competing with residents of Alaska in violation of  
10 the Alaskans' priority under State interpretation of  
11 subsistence. The minuscule number of rural subsistence  
12 users that would utilize subsistence regulations on the  
13 Federal lands in the Juneau routed area is minuscule  
14 compared to the non-resident of Alaska use. And so in  
15 reality the State of Alaska's non-subsistence areas are  
16 a violation, and really should actually be taken to court  
17 at some point. The Alaskans around Juneau, around  
18 Anchorage, around Fairbanks in the non-subsistence areas  
19 actually should have a priority use. Non-residents  
20 should actually be excluded. The issue of this proposal  
21 is that the few rural residents that may use the Federal  
22 lands under subsistence regulations is actually a  
23 minuscule number of the harvest. I just wanted to point  
24 that out.

25

26 Thank you.

27

28 CHAIRMAN TOWARAK: Mr. Lohse.

29

30 MR. LOHSE: Mr. Chair. Just a question.  
31 Is the request for this subsistence priority accompanied  
32 by any increase in bag limit or any special seasons?

33

34 CHAIRMAN TOWARAK: Did the Staff, any of  
35 the recognize or want to.....

36

37 DR. WHEELER: Mr. Chair. Polly Wheeler  
38 with OSM.

39

40 It's strictly a customary and traditional  
41 use determination, and the methods and means and seasons  
42 are separate. Mr. Chair.

43

44 CHAIRMAN TOWARAK: Mr. Firmin.

45

46 MR. FIRMIN: I just had a quick question.  
47 I was wondering which division of Alaska Department of  
48 Fish and Game submitted this proposal?

49

50 CHAIRMAN TOWARAK: Which division in the



1 Fish and Game Department.

2

3 MR. SWANTON: Mr. Chairman. In this  
4 context, we don't have divisions. It was the Department.

5

6 CHAIRMAN TOWARAK: It might be worth it  
7 -- in my mind, it would be worth it for me to hear from  
8 our attorney to remind us about our charge as Board  
9 members in setting priorities where we've come into a  
10 milky area. And if you have any insight or any foresight  
11 as to -- to give us a little direction, that might help  
12 us in reaching a final decision.

13

14 MR. GOLTZ: Well, I was going to raise my  
15 hand when the issue came to the Board. I'm not sure that  
16 I can help you in all of the milky areas. There are  
17 going to be difficult areas, and C&T is one of them. I  
18 see it's causing the State sill a lot of stress. We're  
19 going to be reviewing that whole issue, and hopefully we  
20 can clear it up in a short period of time.

21

22 But one thing that I think we have to  
23 concentrate on, and this is important today, it's going  
24 to be increasingly important tomorrow, no matter what we  
25 do with tribal involvement, we still have to administer  
26 the statute. And the statute is based on residency.  
27 Nothing else. So if a tribal member moves to Juneau and  
28 sets up a personal permanent place of residence, he loses  
29 his rural priority. The way he can regain it is to move  
30 back to a village. But he can't claim that I used to be  
31 a rural resident, therefore I retain the right. It's  
32 simply geographic. That's what the statute gave us.  
33 That's what we have to administer. So we have to be very  
34 disciplined in our use of language and in our thinking,  
35 even though there is a strong tribal interest in the  
36 subject, the beneficiaries of the statute are still based  
37 on rural Alaska residency.

38

39 And that's all I have on that subject.  
40 I might have to repeat it again tomorrow, but an  
41 executive order -- we're dealing with inconsistent  
42 concepts in some way. The primary driver of this program  
43 is the RACs, and we -- I think we have to maintain that  
44 at the same time we're trying to accommodate the new  
45 executive order.

46

47 CHAIRMAN TOWARAK: Thank you, Keith. Any  
48 other questions. Mr. Adams.

49

50 MR. ADAMS: I have a question for Keith

1 again. If I heard you correctly that if a person like --  
2 I was giving an example a little while ago, moves from  
3 Hoonah, who has T&C over there, into Juneau to obtain a  
4 job, that he stays there for a period of time where he  
5 establishes himself there, then he cannot go back to his  
6 village and hunt and fish for his sub -- to supply his  
7 subsistence uses?

8  
9 MR. GOLTZ: Not without changing his  
10 residency. ANILCA's a compromise statute. Nobody got  
11 what they wanted. Everybody's got a grievance. And  
12 that's part of the grievance that was written right into  
13 the statute.

14  
15 MR. ADAMS: A follow-up, Mr. Chairman.  
16 Let me give you another example. Supposing a group of  
17 people from Juneau comes up to Yakutat and subsistence  
18 fishes. Now, I'd kind of like your answer on that one,  
19 too.

20  
21 MR. GOLTZ: It's based on residency.  
22 It's based on a dot on the map. Where your dot is is  
23 where your rights attach.

24  
25 MR. ADAMS: So my son who moved from  
26 Yakutat, moved to Juneau, can't come back to Yakutat and  
27 subsistence fish?

28  
29 MR. GOLTZ: Under Federal regs.

30  
31 CHAIRMAN TOWARAK: If his residence  
32 is.....

33  
34 MR. GOLTZ: Right. I'm talking about the  
35 Federal law, and that he could -- there are State  
36 opportunities for that, But we're talking about the  
37 Federal law.

38  
39 MR. ADAMS: I understand that. Okay.  
40 Well, thank you.

41  
42 CHAIRMAN TOWARAK: Ms. K'eit.

43  
44 MS. K'EIT: Thank you, Mr. Chair. But  
45 that doesn't apply if say the person goes to Juneau on  
46 business, spends an extra day there, does some  
47 subsistence fishing, or a person from Haines gets a  
48 temporary road construction job on the beautiful new  
49 interchange on Egan Highway, but their residency is still  
50 Haines. Those cases, it's not applicable.

1 MR. GOLTZ: Correct.  
2  
3 CHAIRMAN TOWARAK: First Mrs. Pendleton.  
4  
5 MS. PENDLETON: Mr. Chair. Yeah. Also  
6 a question for Keith. If a person from a rural area goes  
7 to the University of Alaska Southeast for school or for  
8 State legislators who come into the Juneau area, are they  
9 still a rural resident if they say they're residence is  
10 in that rural area? Or their -- where is their  
11 residency?  
12  
13 MR. GOLTZ: We have a regulation on  
14 what's a resident and what isn't. I don't believe that  
15 going to school changes your permanent place of  
16 residence, but if anybody has the regulation book quickly  
17 at hand, we could check that.  
18  
19 CHAIRMAN TOWARAK: Mrs. Chythlook.  
20  
21 MS. CHYTHLOOK: Thank you, Mr. Chair. So  
22 I know that the State of Alaska, if you're a resident of  
23 Alaska, then any resident from Alaska can come to Bristol  
24 Bay and harvest salmon as a subsistence resource. So I  
25 guess my understanding with the Federal regulation is  
26 that's not true. So I guess if somebody comes to Bristol  
27 Bay, they could travel under State and not Federal. So  
28 is that how this is going to work?  
29  
30 MR. GOLTZ: Is that directed to me? I  
31 apologize, I was reading the residency regulations.  
32 Could you state your question again?  
33  
34 MS. CHYTHLOOK: Under the State anybody  
35 that lives in Alaska can come to Bristol Bay and do  
36 their fishing, their subsistence fishing. So my  
37 understanding from you is under Federal, if a person  
38 doesn't live in a rural community, and they move from  
39 Bristol Bay to Anchorage or in an urban location, when  
40 they come back to Bristol Bay, into rural, they can't  
41 hunt or fish. And I just made a statement then that I  
42 guess if they do come back to harvest and hunt, then they  
43 can come as a State resident instead of Federal?  
44  
45 MR. GOLTZ: Yeah, I'll leave the State  
46 rights to Mike Sewright or somebody from the State, but  
47 under the Federal system, the rights attach based on  
48 where your permanent place of residence is. You can  
49 certainly change your residence, permanent place of  
50 residence, and we have the rules for that set out in

1 regulation. But you can't become a permanent resident of  
2 Anchorage and still retain your Title VIII subsistence  
3 rights.

4

CHAIRMAN TOWARAK: Go ahead.

5

6  
7 MR. PROBASCO: Thank you, Mr. Chairman.  
8 And that's the key. When we look at Title VIII it's  
9 specific to wildlife and fisheries with the exception of  
10 marine mammals and migratory birds. And there's a whole  
11 different slate of regulations under that, and I think  
12 Mr. -- our Chairman was speaking to that incident as it  
13 pertains to migratory birds. But keep in mind we're  
14 dealing with ANILCA and those regulations outside of  
15 marine mammals and migratory birds.

16

CHAIRMAN TOWARAK: Correct.

17

18  
19 MR. GOLTZ: My comments are directed  
20 solely to Title VIII, subsistence.

21

CHAIRMAN TOWARAK: Mr. Sampson.

22

23  
24 MR. SAMPSON: Than you, Mr. Chairman. I  
25 think we also need to consider what was reported to this  
26 very body your InterAgency Staff there who indicated that  
27 there is a lack of information. And that's what I heard  
28 anyway. So based on that, then this proposal would more  
29 than likely die.

30

31 CHAIRMAN TOWARAK: Any further questions.  
32 Mr. Sewright.

33

34 MR. SEWRIGHT: Thank you, Mr. Chair. The  
35 problem I'm having is that we have a proposal where  
36 specific parts of it we can look at and make a  
37 determination fairly easily on whether there's rural use  
38 or not. There's this whole additional part of it where  
39 the information wasn't there, or we -- I mean, it's not  
40 as easy to discern it, so it's difficult to look at this  
41 entire proposal without dissecting it somehow. I haven't  
42 quite figured out how to do that based upon the  
43 conversation we're having here. That probably doesn't  
44 help any, it's just that I think that's the problem we're  
45 facing.

46

47 CHAIRMAN TOWARAK: Let me ask the State  
48 if they might have any suggestions in giving us  
49 direction.

50

1 MR. SEWRIGHT: This is Mike Sewright  
2 again, Mr. Chair. And everybody on the State side is  
3 looking at me, so I will try to respond. We did have  
4 suggestions, we do have suggestions that were perhaps  
5 lost somewhat in the longer explanation that I gave.  
6 First as to the Juneau area, we recommend adoption of the  
7 proposal as modified, but change it back to the entire  
8 existing Juneau road system. And I say existing as of  
9 this year, which meets OSM Staff's concern in their  
10 written comments. We're probably talking about an  
11 additional 10 miles leading to Berners Bay north of  
12 Juneau and an additional 5 miles of road on Douglas  
13 Island, so it's not a big change, but it would be a  
14 correct resolution of that issue. So accept the  
15 proposal, adopt the proposal with that revision.

16  
17 As I pointed out at the end of my longer  
18 discussion, the State also recognizes that trying to  
19 limit the subsistence C&T for residents of District 11 to  
20 District 11 and the residents of -- rural residents I  
21 should say, of District 15 to 15, for those two  
22 districts, it's better than the present situation by  
23 default where, as was pointed out in Ms. Yuhas' comments  
24 and others have pointed out, anyone from Barrow could  
25 subsistence fish in District 11 or District 15 for salmon  
26 anyway, and rural residents many, many miles away in  
27 other portions of Southeast Alaska, even hundreds of  
28 miles away, could fish for resident species in those two  
29 districts, so the proposal, the modified proposal from  
30 OSM Staff, limiting District 11 C&T to District 11 rural  
31 residents and limiting District 15 C&T to residents in  
32 that district, is an improvement, and that was the  
33 request.

34  
35 What we pointed out was there isn't  
36 substantial evidence to support C&Ts for those broad  
37 areas, each district being about 80 miles long, but we  
38 recognize the improvement. And I hope that didn't get  
39 lost in the message. So it's mostly -- that would be the  
40 suggestion. We think it would be better to not find C&T  
41 in District 11, because there's no evidence of it, but we  
42 understand the comments other people have made. At least  
43 I do, speaking as legal counsel, not as the policy makers  
44 for the State, but I think they -- I'm not saying they  
45 would disagree. And we recognize given the absence of  
46 evidence that District 11 and District 15 designations  
47 are better than the existing situation, but we don't --  
48 we were just stating for the record we don't find  
49 evidence of C&T use by District 11 residents outside of  
50 Juneau in District 11, or by District 15 residents

1 outside of the immediate areas of Klukwan, Skagway and  
2 Haines. So we pointed that out for the record. Am I  
3 being clear enough? I'm trying to be.

4

5 CHAIRMAN TOWARAK: It's giving me a  
6 better clarification. I'd like to ask the OSM Staff if  
7 they have a different thought. Pete.

8

9 MR. PROBASCO: Mr. Chair. Our  
10 recommendation, OSM comes to the table with an analysis  
11 of a proposal that is looking at the information that's  
12 available, and making a recommendation based on that.  
13 It's then given to the Staff Committee and the Board, and  
14 now the Board to make a determination based on additional  
15 information received both from the public, the Regional  
16 Advisory Councils.

17

18 So, Mr. Chair, I would stand by my  
19 Staff's recommendation. I think my answer to Ms.  
20 Pendleton's question also shows what the Staff struggled  
21 with as we try to tease out the Juneau road system, and  
22 that's where the Board has to wrestle with a very cloudy  
23 area.

24

25 Thank you, Mr. Chair.

26

27 CHAIRMAN TOWARAK: And then finally I'd  
28 like to ask the Chair of the Southeast Council if he has  
29 final thoughts.

30

31 MR. ADAMS: Thank you, Mr. Chairman. I  
32 was wishing you wouldn't ask me to make any final  
33 thoughts.

34

35 (Laughter)

36

37 MR. ADAMS: You know, when we deliberated  
38 upon his, he Council felt that the Staff analysis was  
39 kind of incomplete, to be honest with you. And we didn't  
40 think the proposal is necessary and that it would be  
41 detrimental, you know, o the continuation of subsistence  
42 uses in that area.

43

44 Let me read a couple things here. There  
45 is a high degree of certainty that additional information  
46 exists regarding the use of this area by residents of  
47 various rural communities. We already covered that. You  
48 know, the sport fishing industry -- people and so forth.  
49 Because harvest data is difficult to obtain, that is not  
50 the same as a determination that there was no use. You

1 know, there's a lot of activity going on there, but you  
2 just can't determine, you know, how much use is being  
3 there being used down there, but it -- we know that it's  
4 happening. Transcripts of the previous meeting contained  
5 evidence of subsistence use that was not recognized in  
6 the current analysis. The difficulty in documenting  
7 historical use is likely due to interruption of  
8 traditional activities due to recent regulations.

9

10 Sport fishing is a subsistence harvest  
11 method and the amount of that use should be better  
12 described. And we talked about that a little bit.

13

14 The Council does not know the outcome of  
15 relevant jurisdictional issues currently under  
16 consideration, but a court in the Katie John case I  
17 didn't mention that, but that was a consideration there.

18

19 In addition it is likely there will be  
20 new and currently unknown rules regarding the evaluation  
21 of customary use as a result of the Secretarial review of  
22 the subsistence program. The intent of ANILCA does not  
23 require the Council to determine non-subsistence use  
24 areas, or make a negative or customary use determination.  
25 The Council agrees that there are management challenges  
26 in this area, but there are management tools available to  
27 Federal managers to provide for conservation and  
28 sustainability of these stocks.

29

30 The Council heard public testimony citing  
31 economic factors that are bringing rural residents to  
32 Juneau as transient workers. We talked about that.  
33 There should be an opportunity for subsistence harvest of  
34 fish for rural residents that are forced by necessity to  
35 spend time in Juneau. We talked about that a little bit.

36

37 The proposal is detrimental to the  
38 satisfaction of subsistence needs and would be precedent  
39 setting. The Council has already rejected two similar  
40 proposals in previous years, and there should be no  
41 deference shown to the Council on this issue. There is  
42 no evidence to indicate that subsistence fishing in  
43 streams on the Juneau road system is inappropriate, and  
44 no evidence that Federal subsistence fishing regulations  
45 are not conservative and sustainable.

46

47 Thank you for allowing me to give this  
48 final report to you. Mr Chairman.

49

50 CHAIRMAN TOWARAK: Thank you for those

1 final comments. We'll proceed if there are no other  
2 comments.

3

4 (No comments)

5

6 CHAIRMAN TOWARAK: We will proceed then  
7 on to number 8, Federal Subsistence Board action.

8

9 MS. PENDLETON: Mr. Chair. I'm prepared  
10 to make a motion.

11

12 CHAIRMAN TOWARAK: There's a motion on  
13 the floor; is there a second. Pardon?

14

15 MS. PENDLETON: No, I'll make the motion.

16

17 CHAIRMAN TOWARAK: Oh, okay.

18

19 MS. PENDLETON: I'd like to frame this in  
20 the positive. I'd move to adopt Proposal FP09-15, and  
21 following a second, then I'd like to give some rationale  
22 for why I plan to vote against my motion, and thereby  
23 support the Southeast Alaska Regional Advisory Council's  
24 recommendation.

25

26 MS. K'EIT: Second.

27

28 CHAIRMAN TOWARAK: You heard the motion  
29 and the second. Proceed, please.

30

31 MS. PENDLETON: Okay. And bear with me  
32 for a few minutes. My rationale is mostly based on the  
33 Council's recommendation on Page 308 of our workbook, but  
34 I'd like to discuss some points concerning this proposal,  
35 because to some it might appear that adopting the  
36 proposal as proposed or the OSM conclusion on Page 303  
37 would be logical given our regulations and the relatively  
38 small amount of data supporting a customary and  
39 traditional use determination for the Juneau road system.

40

41 First of all, I'd like to point out that  
42 in 2009 the OSM conclusion was to oppose the same  
43 proposal, and it's still not clear to me that sufficient  
44 new information now supports a determination of a no  
45 Federal subsistence priority on all of or a portion of the  
46 Juneau road system.

47

48 I agree with the OSM recommendation that  
49 there's relatively little information to show a current  
50 customary and traditional use determination of fish on



1 the Juneau road system, but I do believe that there are  
2 a number of considerations that the Board needs to take  
3 into account.

4  
5 First of all, the entire area is a  
6 traditional use area, and that's I think demonstrated in  
7 the Board book on Page 289, particularly for the Auk and  
8 the Taku people and in the illustration from Goldschmidt  
9 and Haas.

10  
11 Another point, there should not be any  
12 Federal public lands under the jurisdiction of the  
13 Federal Subsistence Board for which a complete  
14 prohibition is placed on the taking of an entire group of  
15 animals, such as fish, unless the evidence is  
16 incontrovertible. There's nothing in the ANILCA statute  
17 which would counter the provision in Section .804 that,  
18 quote, the taking on public lands of fish and wildlife  
19 for non-wasteful subsistence uses shall be accorded  
20 priority over the taking on such lands of fish and  
21 wildlife for other purposes.

22  
23 The third point I wanted to make, that  
24 there is evidence of current use on the Juneau road  
25 system by rural residents. That information comes from  
26 sport fish mail-out surveys rather than from subsistence  
27 surveys. The data from those mail-out surveys represent  
28 the minimum amount of use by rural residents on the  
29 Juneau fresh waters. Because that survey is only a  
30 limited sample, I would expect more communities and more  
31 use of the Juneau road system if the survey sample size  
32 were larger.

33  
34 Another point I wanted to make was that  
35 rural residents as we've discussed this afternoon may  
36 come temporarily to Juneau for economic reasons, maybe to  
37 attend school, to work for the legislature, to visit  
38 relatives. For a number of different reasons. And it's  
39 very likely that some of those rural residents would fish  
40 while in Juneau, perhaps likely under sport fishing  
41 regulations as shown in the mail-out surveys.

42  
43 As far as the question, can sport fishing  
44 be considered a subsistence use, I believe that users are  
45 -- they're opportunistic. If there's no other way to  
46 fish, or if it's the most convenient way to fish, it can  
47 be a subsistence harvest. And users are fishing to put  
48 food on the table. It's not necessary for a harvester to  
49 say, now I'm subsistence fishing versus now I'm sport  
50 fishing.

1                   And then the last point that I wanted to  
2 make, I've mostly discussed the no Federal subsistence  
3 priority request for the Juneau road system, but I'd also  
4 like to discuss the findings for District 11 and 15 for  
5 which the previous Board requested more information. The  
6 Southeast Council in their recommendation states, there  
7 was a high degree of certainty that additional  
8 information exists, regarding the use of this area by  
9 residents of various rural communities. Well, I agree  
10 with that, and having lived in Juneau for more than a  
11 decade, and in my work traveled and interacted with a lot  
12 of neighboring communities, I believe that there are  
13 customary and traditional uses that are no represented in  
14 the recommendation for Districts 11 and 15. For  
15 instance, there are very close ties between Juneau and  
16 Angoon and Hoonah, with Tenakee Springs and Gustavus, and  
17 I just -- it's just difficult to believe that there is  
18 not significant fishing by individuals from those rural  
19 communities in both the Juneau road system and other  
20 areas in Districts 11 and 15.

21  
22                   So in my opinion, this information is  
23 sufficient for me to vote to oppose this proposal  
24 consistent with the recommendation of the Council.

25  
26                   Thank you.

27  
28                   CHAIRMAN TOWARAK: Thank you, Ms.  
29 Pendleton. Any further additions to any of her comments.  
30 Mr. Haskett.

31  
32                   MR. HASKETT: Mr. Chairman. No real  
33 additions, but this has been a really interesting  
34 conversation where it's been very difficult to kind of  
35 get to it, and Beth I think just did an excellent job of  
36 very concisely kind of pulling together all the arguments  
37 I needed to figure out where I'm going to go. And I'm  
38 going to support where Beth is coming from on this. I  
39 appreciate the explanation you just gave.

40  
41                   CHAIRMAN TOWARAK: Any additional  
42 comments.

43  
44                   (No comments)

45  
46                   CHAIRMAN TOWARAK: Is there a call  
47 for.....

48  
49                   MS. K'EIT: Question.  
50

1 CHAIRMAN TOWARAK: The question's been  
2 called for, the final action, please.  
3  
4 MR. PROBASCO: Thank you, Mr. Chairman.  
5 The final action on FP09-15. The motion is to adopt.  
6 And, Mr. Cribley.  
7  
8 MR. CRIBLEY: No.  
9  
10 MR. PROBASCO: Ms. Masica.  
11  
12 MS. MASICA: No.  
13  
14 MR. PROBASCO: Ms. Pendleton.  
15  
16 MS. PENDLETON: No.  
17  
18 MR. PROBASCO: Mr. Towarak.  
19  
20 CHAIRMAN TOWARAK: No.  
21  
22 MR. PROBASCO: Mr. Haskett.  
23  
24 MR. HASKETT: No.  
25  
26 MR. PROBASCO: And Ms. K'eit.  
27  
28 MS. K'EIT: No.  
29  
30 MR. PROBASCO: Mr. Chairman, the motion  
31 fails 0/6.  
32  
33 CHAIRMAN TOWARAK: Thank you. Let's take  
34 a 15-minute break for relief.  
35  
36 (Off record)  
37  
38 (On record)  
39  
40 CHAIRMAN TOWARAK: Can we get seated to  
41 get ourselves back in session. I will call this session  
42 back to order. Our next and I believe our final fish  
43 proposal is 11-10, which we had held off, and now we  
44 don't have Ms. Chythlook here. We will proceed with the  
45 Proposal FP11-10, and we will begin with Staff analysis.  
46 Is it Dr. Davis?  
47  
48 DR. DAVIS: Thank you, Mr. Chair. Board  
49 members. RAC Chairs. My name is Elisha Davis. I'm an  
50 anthropologist at the Office of Subsistence Management.

1                                 And before I begin, I just want to point  
2 out that there's some handouts that were put in front of  
3 you, and it's a white piece of paper on the top of  
4 several colored papers. And what these are are the  
5 existing Federal regulations are on the pink piece of  
6 paper; the proposed Federal regulations are on the blue  
7 paper; and the OSM recommended modifications on the green  
8 paper. And we did them in this way so you could put them  
9 all right in front of you.

10

11                                 And also there were some changes to the  
12 OSM recommended modification. The changes on the handout  
13 do not change the intent or the meaning of the OSM  
14 recommendations in the Board book at all, but what they  
15 do is to clarify some of the regulatory language.

16

17                                 The analysis for Proposal FP11-10 is  
18 found on Page 169 of your Board book and on the handouts  
19 in front of you.

20

21                                 The Chignik Lake Traditional Council  
22 submitted Proposal FP11-10, which requests lifting a  
23 number of closures, while specifying certain gear  
24 restrictions in the Chignik management area. In the  
25 proposal, the proponents ask for a number of things,  
26 which I'm going to list for you. To remove the July 1st  
27 through August 31st closure on the Chignik River, to  
28 restrict hook and line gear in the Chignik River, to  
29 limit power purse seine gear to the Chignik River from  
30 Menses point downstream, to limit seining to the Chignik  
31 River and Chignik Lake, to restrict gillnet use in only  
32 the Chignik River, Chignik Lake, Clark River and Home  
33 Creek. And, finally, the proponent includes language  
34 about gillnet use specifications.

35

36                                 Conversations with the proponent revealed  
37 that they are concerned with two main issues. The first  
38 and from their perspective most critical are the current  
39 closures on Black Lake and its tributaries, which are  
40 areas used by very few people, but where there are long-  
41 standing practices. The second is the rise of sport  
42 fishing in the area. Thus the intent of the proposal was  
43 to open up areas currently closed to subsistence fishing,  
44 but which are open to sport fishing, specifically Black  
45 Lake and its tributaries. This area again is used by  
46 very few people, taking occasional fish by jigging.

47

48                                 The proponents wanted to add more  
49 opportunity to the subsistence fishing calendar. They  
50 wanted to limit fishing by power seine above Menses

1 Point, and the proponents hope to prevent sport fishing  
2 in the area from increasing, and so put in language about  
3 restricting hook and line gear.

4  
5 And, finally, the proponents wanted to  
6 limit where gillnets could be used.

7  
8 The existing Federal regulations are on  
9 the pink handout and are also in your Board Book on Page  
10 172.

11  
12 Existing Federal regulations restrict the  
13 distance you can fish from a weir, restrict taking salmon  
14 in the Chignik River from 300 feet upstream of the weir  
15 between July 1st and August 31st, except fishing is  
16 allowed up one mile of Clark River and Home Creek with a  
17 state permit by gillnet or without a permit when snagging  
18 or using a spear, bow and arrow, or capturing by hand.  
19 For non-permit fishing there are possession limits of  
20 five per day and five in possession.

21  
22 Existing Federal regulations disallow  
23 purse seines in Chignik Lake. They restrict where you  
24 can set gillnets. They restrict fishing in Black Lake  
25 and the tributaries of Black and Chignik Lakes. And they  
26 set harvest limits of 250 fish.

27  
28 Existing Federal regulations were adopted  
29 that parallel State regulations. And the State  
30 Regulations are found on Page 173 and 174. The main  
31 exception is where fishing is allowed without a permit by  
32 snagging with a hand line or rod and reel under the  
33 Federal regulations. Fishing under State regulations is  
34 to be done only with a permit.

35  
36 Sport fishing regulations are found in  
37 your Board book on Page 174. The entire area is open to  
38 sport fishing of salmon unlike Federal subsistence  
39 regulations. Notably, the Chignik River is open to  
40 Chinook salmon sport fishing from January 1st to August  
41 9th, where under Federal subsistence regulations it is  
42 open, but closed above the weir from July 1st to August  
43 31st. And Black Lake and its tributaries are closed to  
44 subsistence fishing entirely. Although the area is open  
45 to sport fishing, there are limits on size and number of  
46 fish, depending on species.

47  
48 The Board of Fish met just this week  
49 about concurrent proposals put forth by Chignik Lake  
50 Traditional Council and Chignik Lagoon, Proposals No. 95

1 and No. 96. And the Board of Fish voted to take no  
2 action on these proposals.

3

4                   Subsistence fishing has not been allowed  
5 in Black Lake or its tributaries and the State  
6 regulations have been in place since 1985. There was an  
7 adoption of State regulations to the Federal system in  
8 1999. State and Federal regulations have been amended  
9 several times. In the past decade State and Federal  
10 regulations have been liberalized in the area as can be  
11 found in the analysis.

12

13                   In terms of escapement, both 2009 and  
14 2010 escapement goals in the Chignik River system have  
15 been met for both Chinook and sockeye. Chinook salmon  
16 only spawn in the Chignik River, and escapement again was  
17 met in 2009 and 2010. And this year it was above the 5-  
18 year, but below the 10-year average. Sockeye salmon are  
19 found in the Chignik River system, including in Black  
20 Lake and its tributaries. In the Chignik River  
21 escapement goals were also met, and in the Black Lake  
22 they were met, but below the 10 and 20-year averages.  
23 And Black Lake also has separate resident species.

24

25                   In terms of subsistence harvest, the past  
26 few years have been below the 10-year average.

27

28                   To sum up the effects of this proposal,  
29 the proposal inadvertently removed certain regulations  
30 that allow subsistence opportunities by deleting some of  
31 the subsections of the existing Federal regulations. And  
32 you can see those on the blue handout. It also repeated  
33 certain regulations that were in the general provisions  
34 for the Chignik area. It accidentally negated some of the  
35 existing regulations that residents wanted to keep as  
36 discussed with the proponents after their proposal was  
37 submitted. It created some unnecessary restrictions for  
38 subsistence users while failing to address some of the  
39 concerns of the concerns of the proponents as I'll  
40 explain.

41

42                   Opening more areas for subsistence would  
43 provide additional opportunities for subsistence harvest  
44 and would allow for customary fishing practices to occur.  
45 This would be done through lifting the closures on the  
46 Chignik River and allowing fishing in Black Lake and its  
47 tributaries. The harvest numbers in Black Lake and its  
48 tributaries in particular are not expected to change  
49 significantly, because very few people access many of  
50 these areas.

1                   If adopted as proposed, unrestricted  
2 subsistence fishing for salmon would be allowed in the  
3 Chignik River above the weir, potentially ignoring  
4 conservation concerns for Chinook that the Chignik Lake  
5 Traditional Council wanted to keep in place.

6  
7                   The proposal does not meet some of the  
8 intent. For example, hook and line is not language used  
9 in Federal regulations, but instead Federal regulations  
10 do allow hand line and rod and reel. So restricting this  
11 type of gear in the Chignik River would create more  
12 restrictions for subsistence users, not for non-  
13 Federally-qualified users.

14  
15                   Opening Black Lake and its tributaries to  
16 some, but not all gear types, is not expected to have  
17 significant effects on resident species; however, using  
18 gillnets has a potential to create a conservation concern  
19 for resident species. But the proponents did ask to  
20 restrict this type of year.

21  
22                   The proposal as submitted would actually  
23 require subsistence permits where none are currently  
24 required as it supplanted some of the subsections,  
25 allowing fishing without a permit in Clark River and Home  
26 Creek. The permits if adopted as proposed would need to  
27 be reconciles. The proposed regulations would lead to  
28 significant differences in Federal and State subsistence  
29 regulations. Separate Federal and State subsistence  
30 permits may be necessary. Requiring separate permits may  
31 complicate enforcement, increase confusion, and encumber  
32 Federally-qualified subsistence users. The Federal  
33 Subsistence Management Program would need to administer  
34 a permit if an additional one is needed. However, a dual  
35 Federal/State permit could be issued to reduce the burden  
36 to subsistence users.

37  
38                   OSM recommends supporting the Proposal  
39 FP11-10 with modification. And those modifications are  
40 found on your green handout. The modifications -- sorry,  
41 excuse me, are on your green handout.

42  
43                   Opening closures of Black Lake and its  
44 tributaries and Chignik Lake and its tributaries for  
45 subsistence fishing while keeping certain closures and  
46 gear restrictions in place. Subsistence users will be  
47 allowed to access areas in all drainages in the Chignik  
48 area to harvest salmon from January 1st through December  
49 31st, but with certain gear and calendar restrictions as  
50 I'll lay out. Opening these areas would allow Federally-

1 qualified subsistence users access to areas currently  
2 open under State sport fishing regulations while  
3 upholding a subsistence priority.

4  
5           The modifications include the removal of  
6 hook and line language from the proposal as it does not  
7 address spot fishing regulations, but does limit  
8 subsistence fishing. Because of potential conservation  
9 concerns of resident species in Black Lake and its  
10 tributaries, gillnets will be restricted there and remain  
11 gear that can only be used in Chignik River, Chignik  
12 Lake, Clark River and Home Creek as requested. The  
13 modifications leave in the current restrictions for  
14 taking salmon in the Chignik River from upstream of ADF&G  
15 weir. The modifications leave in restrictions for taking  
16 salmon on the Clark River and Home Creek, because it  
17 allows for both permit and non-permit fishing to occur  
18 and is therefore less restrictive. Restrictions on hand  
19 seines and purse seines in Chignik Lake and Chignik River  
20 are consistent with the proposed regulation.

21  
22           Though there may be a divergence in State  
23 and Federal regulations, the modifications correct  
24 inconsistencies in the language regarding fishing permits  
25 so that we can implement State subsistence fishing permit  
26 and/or Federal permit. Creating a Federal permit has  
27 been discussed in the past by the Council and the Board.  
28 The language in the modification provides the flexibility  
29 and the type of permit to be used.

30  
31           Mr. Chair, that concludes my  
32 presentation. Thank you.

33  
34           CHAIRMAN TOWARAK: Thank you, Dr. Davis.  
35 Are there any questions of the Staff. Mr. Haskett.

36  
37           MR. HASKETT: Just -- excellent  
38 presentation. Just a question though. I know that we  
39 don't think the changes are substantive in terms of what  
40 was presented by the RAC. I wanted to make sure we've  
41 had discussions with Molly and that we're in agreement on  
42 those changes.

43  
44           MS. CHYTHLOOK: Sorry. Yes. This is  
45 Molly. Yes, those changes are in agreement with the RAC,  
46 BBRAC.

47  
48           MR. HASKETT: Okay. Thank you.

49  
50           CHAIRMAN TOWARAK: Any further questions.



1 (No comments)  
2  
3 CHAIRMAN TOWARAK: If not, then thank you  
4 for your report. We will move on to the summary of  
5 public comments read by the Regional Coordinator.  
6  
7 MR. MIKE: Thank you, Mr. Chair. Donald  
8 Mike, Regional Council Coordinator.  
9  
10 Mr. Chair. Three written comments were  
11 received. The comments are recorded as administrative  
12 record FSB 0111-015, and are from the Native Village of  
13 Perryville, Mr. Al Anderson, and the Chignik Advisory  
14 Committee. And all Board members should -- each should  
15 have a hard copy in front of them.  
16  
17 Mr. Chair, these comments were submitted  
18 to the State Board of Fisheries addressing state  
19 fisheries proposals similar to FP11-10 and wrote in  
20 support of that proposal. The comments support the  
21 proposal to adopt the subsistence proposed regulations to  
22 include hook and line gear in the Chignik River.  
23  
24 Thank you, Mr. Chair.  
25  
26 CHAIRMAN TOWARAK: Thank you, Mr. Mike.  
27 Any questions.  
28  
29 (No comments)  
30  
31 CHAIRMAN TOWARAK: I'm not hearing any.  
32 Then we will proceed to the open floor -- we'll open the  
33 floor to public testimony.  
34  
35 MR. PROBASCO: Thank you, Mr. Chair. We  
36 have two individuals that would like to speak to this  
37 proposal, and the first person up is Mr. Johnny Lind.  
38  
39 MR. LIND: A long two days. Good  
40 afternoon, Mr. Chairman. Members of the Board. RAC  
41 board members. My name is Johnny Lind. I'm a resident  
42 of Chignik Lake and president of council and I'm also the  
43 chairman for the Chignik AC. I'm here to try to answer  
44 any questions you have concerning Black Lake and Chignik  
45 Lake. I also have a comment from the AC on Board of Fish  
46 Proposal 96 if you want to hear it. And you should have  
47 the three -- I mean, there's from Perryville and then  
48 Chignik Lagoon and the AC.  
49  
50 CHAIRMAN TOWARAK: Could I ask you to

1 pull that microphone a little closer to your.....

2

3 MR. LIND: How's that? Better?

4

5 CHAIRMAN TOWARAK: That's better.

6

7 MR. LIND: I also have comments from  
8 Black Lake and do you want me to read our Proposal 96  
9 comments from the AC? The proposal is to have  
10 traditional fishing patterns formally recognized by the  
11 State and in regulation. This proposal would not expand  
12 king salmon -- or Chignik subsistence fishing practice to  
13 be on the current -- that they occur when cooking (ph)  
14 occurs. It will encourage accurate subsistence harvest  
15 reporting. And we want to head off potential problems  
16 like somebody getting pinched or something, or, you know,  
17 somebody getting fined or getting -- interpret the law,  
18 so that's all the comments that were from the AC.

19

20 Concerning Black Lake, let's see, I have  
21 it somewhere. But anyway, Black Lake, you know, there's  
22 only like two or three people at the most go up there  
23 and, you know, first run, to pick red fish after they can  
24 stay there for a while. And the only thing they use is  
25 hook and line. They don't use no purse seine -- I mean,  
26 gillnet. I never did see anybody use it there, stuff up  
27 there, gear. And, let's see, and you can't get up there  
28 unless it's -- you have a jet unit to get up there  
29 nowadays, because it's so shallow. So it's hard, being  
30 used just by two or three locals, so -- what else I had  
31 down here.

32

33 Anyway, that's all I had I think, so if  
34 you've got any questions I'll try to answer them. Thank  
35 you.

36

37 CHAIRMAN TOWARAK: Thank you for your  
38 presentation. Is there any questions from the Board or  
39 the RACs to Mr. Lind. Mr. Firmin.

40

41 MR. FIRMIN: I have one question. The  
42 two or three people that do go up into these areas, do  
43 they provide fish for other members of the community?

44

45 MR. LIND: Yeah.

46

47 MR. FIRMIN: And how do you think this  
48 would benefit them because there's no bag limit increase  
49 or anything, but it is more of a year-round fishery now.

50

1 MR. LIND: Well, they've been using this  
2 -- those two, three people probably go out for years now,  
3 and they take like 20, 25 unless (ph) down to elders and  
4 people that want them, so the first red fish, you know,  
5 that's what they want, so.....

6

7 MR. FIRMIN: Thank you.

8

9 CHAIRMAN TOWARAK: Any further questions.

10

11 (No comments)

12

13 CHAIRMAN TOWARAK: Thank you, Mr. Lind.

14

15 MR. LIND: Thank you.

16

17 MR. PROBASCO: Mr. Chair, our final  
18 person wishing to testify on Proposal 10 is Mr. Frank  
19 Woods. Mr. Frank Woods.

20

21 MR. WOODS: Good afternoon, Mr. Chairman.  
22 Members of the Board. My name is Frank Woods. I  
23 represent Bristol Bay Native Association and 31 villages  
24 in the Bristol Bay region.

25

26 Some history on Chignik. It's in Unit 9,  
27 and it's on Page 47 in the Federal regulation book, or in  
28 the map. Bristol Bay is about the size of Ohio. It has  
29 8,000 residents. 47 of them live in the western side,  
30 Unit 17, and about 3,000 on the eastern side. And  
31 Chignik's on the Pacific side.

32

33 In the analysis and reading the State's  
34 position, as they mention it's a commercial fishing area,  
35 an out-migration of permits, and the collapse of the  
36 fishery, the co-op created an early return -- or an early  
37 catch of the return, and it inhibited some of the  
38 subsistence use activity during that time.

39

40 This proposal is to correct the mistakes  
41 I think, or oversight that was -- it looks like they  
42 adopted -- the Federal Subsistence Board adopted at that  
43 time a lot of regulations that closed the fishery for  
44 subsistence use instead of opening it and then closing it  
45 during times of concern. Because if Black Lake is closed  
46 and certain parts of Chignik Lake that aren't accessible  
47 to subsistence users. And I was raised by my  
48 grandmother, and she recommends that -- and she  
49 recognizes that sports fishing is playing with -- she  
50 calls it playing, and if to be playing with your food, is

1 a no-no.

2

3 It appalls me today that there's a sports  
4 regulation, we have a State of Alaska that -- and I'm  
5 going to -- I'm a little bit nervous, so bear with me,  
6 that we have a regulation in place that puts sports ahead  
7 of subsistence. That this region has a decline in the  
8 caribou population, a decline in the moose population,  
9 there's an overabundance of bears, and last winter we had  
10 a tragedy of a fatality because of the overabundance of  
11 wolves. The out-migration of residents in this area is  
12 devastating. The cost of living in this area is huge.  
13 And to give a sports priority before subsistence I think  
14 is almost criminal.

15

16 This opportunity, if you pass this today,  
17 would give ample opportunity for the residents to feed  
18 themselves.

19

20 In the Federal regulation book, State and  
21 Federal regulations on Page 3, it says only rural  
22 residents may fish under Federal subsistence regulations  
23 in this book. Non-rural residents and non-residents may  
24 fish on most Federal public lands and waters under the  
25 State of Alaska fishing regulations. We were dealing  
26 with that all afternoon.

27

28 I have records -- letters from the  
29 villages stating that they're requesting that you pass a  
30 regulation that mandates Federally-recognized subsistence  
31 users to access these areas. That right not it's a  
32 traditional practice and it's utilized by a few residents  
33 to help feed themselves, and that's mainly red fish. And  
34 that's -- you know, it's kind of a delicacy in our area,  
35 too, is that the fish that are going up to spawn certain  
36 times of year turn really white and they end up having to  
37 provide for, you know, the elders.

38

39 So with that, we have, I think it's  
40 Record Decision 39 -- are these all in one packet or are  
41 they separate? So it's RC 39 for the villages of  
42 Perryville, Chignik Lake and the Chignik Advisory  
43 Council, Johnny.

44

45 That's about all I had to say, other than  
46 the fact that this area needs a lot of help, and any  
47 access or additional help from your Board would help the  
48 villages help feed themselves would be greatly  
49 appreciated.

50

1 Thank you.

2

3 CHAIRMAN TOWARAK: Thank you, Mr. Woods.  
4 Are there any questions of Mr. Woods from the Board or  
5 the RAC Chairs.

6

7 MR. REAKOFF: Yeah, Mr. Chairman.

8

9 CHAIRMAN TOWARAK: Mr. Reakoff.

10

11 MR. REAKOFF: I'd like to ask Mr. Woods,  
12 is the predominance of the fish that are taken, are they  
13 mainly spawn outs, those red fish?

14

15 MR. WOODS: Yes. In order to get that  
16 old, and the majority of the fish are males that I was  
17 taught. And I can tell most people want the big males,  
18 so they keep the females spawning, because they want the  
19 big males that are easier and they have a lot more meat  
20 on them, then it allows the females to continue the next  
21 generation.

22

23 But I see in here that there's a limit  
24 for five, and that's under State regs, 5 AAC 65.020, bag  
25 limits. The State already has bag limits for  
26 conservation concerns for king salmon. And my  
27 understanding is that subsistence is a rare -- is a small  
28 population that's going to be harvesting. And speaking  
29 with Johnny and the locals, that the bag limits are  
30 reimposed today -- well, the -- you know, the State  
31 already has them regulations in place, so I don't see no  
32 need to put limits on them, because they're such a small  
33 amount of Federally-qualified subsistence users from them  
34 four villages, or basically 23 villages that are  
35 accessing that resource. It would give them ample  
36 opportunity to fill their freezers with the fish they  
37 need.

38

39 The non-residents and the non-local  
40 residents, leave it up to the State of Alaska to help  
41 manage that fishery for conservation concerns, because I  
42 believe that if we put limits on it -- like I'll go  
43 fishing for my grandmother. Say that one year she --  
44 nobody fishes for her all year. I'll get 15, 20, 25  
45 reds, but I want some for myself. So I'm really -- 10 or  
46 15 at the most for myself, and then my mom calls me and  
47 says, well, can you get me some, too? And I have 13  
48 aunts -- or 8 aunts and 4, 5 uncles, so I have a big  
49 extended family, and they'll call me. So then I get 50,  
50 up to 60 fish a day. So if we put a five limit number on

1 that, I think we're doing this area, in this subsistence  
2 arena, a disservice by putting limits on subsistence use  
3 when the State of Alaska already has a conservation  
4 responsibility for those drainages. But at least for the  
5 villages of Chignik Lake, Lagoon and Bay, you'll give  
6 them ample opportunity to put fish in their freezer.

7

8 So, yeah, most of the fish will be reds  
9 up in the Black Lake they're opening up, and that's why  
10 they eliminated, hook, line and they requested through  
11 these letters and the proposal that they didn't want to  
12 allow jigging and hook and line snagging on the river for  
13 that purpose only, conservation.

14

15 Doi.

16

17 CHAIRMAN TOWARAK: Further questions.

18 Thank you, Mr. Woods.

19

20 MR. PROBASCO: Oops, we've got.....

21

22 CHAIRMAN TOWARAK: Oh, I'm sorry. Geoff  
23 Haskett.

24

25 MR. HASKETT: Thank you, Mr. Chair. So  
26 I thought we were pretty much there until -- and this may  
27 not be a problem, but that you have a concern about the  
28 five per day and five in possession, because that's  
29 actually kind of worked its way through all the way  
30 through. So I'm going to need to go ahead and I guess  
31 some kind of response from both OSM and maybe from the  
32 State, too, on what kind of problems that would cause if  
33 we changed that.

34

35 CHAIRMAN TOWARAK: Pete.

36

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

38 And, Mr. Woods is referring to Clark River/Home Creek,  
39 and that five per day, five in possession limits deals  
40 strictly with specific gear types. The larger 250 salmon  
41 limit for that area would still apply with the use of a  
42 gillnet. Mr. Chair.

43

44 MR. WOODS: I think you're right, and we  
45 were talking with Johnny, and those -- that five per day  
46 limit needs to be specified for them two drainages. It  
47 isn't on the -- and maybe on right before it, these  
48 regulations, but if you could add that to the language so  
49 it doesn't affect the other areas, like Black Lake,  
50 Chignik Lake, and then the river where they're catching

1 fish to fill their freezers, not just for the daily  
2 intake of supper food I guess from right around the  
3 village.

4  
5 MR. HASKETT: So I guess I'd still -- I  
6 think we can go ahead and do that. I guess I'd still  
7 like to, you know, hear just -- at least from the State  
8 then if that's going to be something that works for them.  
9 It's a clarification point is all we really need to do  
10 here.

11  
12 MR. PAPPAS: Thank you, Mr. Chair.  
13 Possibly Mr. Probasco can explain why the Federal  
14 Subsistence Board adopted the five per day, five per  
15 limit, and they have eliminated reporting and permitting  
16 requirements for that fishery.

17  
18 MR. PROBASCO: Mr. Chairman. Mr. Pappas  
19 answered my question. If you're using that type of gear  
20 type in Home Creek and in Clark River, a permit is not  
21 required so an individual could -- Home Creek and Clark  
22 are just up from the village. They could go there with  
23 a rod and reel. They don't have to go down to the weir  
24 to get a permit. They can get their fish. If they want  
25 to get larger quantities and use a gillnet, then they  
26 get, the limits are.....

27  
28 MR. WOODS: That make perfect sense. If  
29 you're just going for supper food right in front of your  
30 door, then that makes perfect sense to -- it's  
31 acceptable. And just clarification is what we're looking  
32 for. Thank you.

33  
34 CHAIRMAN TOWARAK: Mr. Lohse.

35  
36 MR. LOHSE: Mr. Wood, through the Chair.  
37 I was just curious how many people are currently  
38 wintering in Chignik Lake, Chignik Lagoon and Chignik?

39  
40 MR. LIND: I haven't read the '10 census  
41 yet, but it's under -- it was about 80 residents at the  
42 max maybe, Johnny? Maybe all three villages, total  
43 population. Winter. Under 80?

44  
45 MR. WOODS: 80.

46  
47 MR. LOHSE: Under 80.

48  
49 MR. WOODS. Yeah.

50

1 MR. LOHSE: It was kind of interesting to  
2 me, because I almost taught school there in 1964, and I  
3 went out and taught school at Ivanoff in '66, and I just  
4 was wondering what the population was now.

5  
6 MR. WOODS: The out-migration of rural  
7 residents has really impacted, you know, that, and as you  
8 read the reports, the subsistence decline in that area  
9 reflects that same out-migration.

10  
11 MR. LOHSE: Yeah. 80 residents, it  
12 doesn't look like it would have much of an impact.

13  
14 CHAIRMAN TOWARAK: Any further questions.

15  
16 (No comments)

17  
18 CHAIRMAN TOWARAK: Thank you, Mr. Woods.

19  
20 MR. PROBASCO: That's it for public  
21 testimony, Mr. Chair.

22  
23 CHAIRMAN TOWARAK: Thank you. Then we  
24 will move on to the Regional Council recommendations.  
25 Mrs. Chythlook.

26  
27 MS. CHYTHLOOK: Okay. The Bristol Bay  
28 Subsistence Regional Advisory -- sorry. Thank you, Mr.  
29 Chair. Bristol Bay Regional Advisory Council  
30 recommendation was to support this proposal with  
31 modification as presented in the OSM conclusion. The  
32 Council supports the long-standing substance fishery and  
33 FP11-10 will provide additional harvest opportunities for  
34 rural residents for the Chignik area.

35  
36 Subsistence uses have a long established  
37 customary and traditional use of salmon in the Black Lake  
38 and tributaries of Black and Chignik Lakes. The proposal  
39 will allow access with some restrictions to areas in all  
40 drainages in the Chignik area to harvest salmon from  
41 January 1 to December 31 and allow additional gear types.

42  
43 CHAIRMAN TOWARAK: Thank you, Mrs.  
44 Chythlook. Are there any questions from the Board or  
45 from the RAC Chairs.

46  
47 (No comments)

48  
49 CHAIRMAN TOWARAK: Not hearing any, thank  
50 you for your report, Mrs. Chythlook.



1                   We will move on to the Department of Fish  
2 and Game comments.

3  
4                   MS. YUHAS: Thank you, Mr. Chairman. The  
5 Department's previous position or recommendation on this  
6 proposal for this Board was to defer to the Board of  
7 Fish, and the Alaska Board of Fish met earlier this week  
8 and decided to take no action on this proposal. Our  
9 position before the Board of Fish was neutral. And Mr.  
10 Pappas will speak to some of our specifics regarding  
11 that.

12  
13                   I received a report from the executive  
14 director of the Alaska Board of Fish, and he reported  
15 that 11 public panels members had participated in their  
16 discussion with several public comments, and that there  
17 was general support for allowing subsistence use of hook  
18 and line to harvest red fish, and that a majority of the  
19 Board members concluded that current State regulations  
20 already provided a reasonable subsistence opportunity for  
21 harvest.

22  
23                   We only recently received the green sheet  
24 here with the new modifications, but as I stated, our  
25 position before this Board was to defer to the Board of  
26 Fish, and before the Board of Fish was a neutral  
27 position.

28  
29                   CHAIRMAN TOWARAK: Any questions from the  
30 Board or the RACs.

31  
32                   (No comments)

33  
34                   CHAIRMAN TOWARAK: You had more  
35 statements, Mr. Pappas?

36  
37                   MR. PAPPAS: Thank you, Mr. Chair. Yes,  
38 I'd like to summarize our comments that begin on Page  
39 193, but before I do so, I'd like to recognize three of  
40 my fisheries mentors in the room from Chignik. And  
41 they're not wearing ties, no offense, gentlemen that I  
42 worked for here at one point in time or another.

43  
44                   If adopted as proposed, Federally-  
45 qualified subsistence users would be allowed to  
46 subsistence fish in the Chignik River waters with gear  
47 types that include spear, hook and line attached to a  
48 pole, and other gear specified on subsistence fishing  
49 permits. The Federal Subsistence Board authorized  
50 expanding methods and means to eliminate some permit and

1 reporting requirements in the Chignik River watershed.  
2 If this proposal is adopted, Federal regulations would  
3 allow Federally-qualified subsistence users to utilize  
4 methods and means significantly different from those  
5 allowed under State regulations in the tributaries of  
6 Chignik and Black Lakes with the exception of Clark River  
7 and Home Creek, neither of which require a Federal  
8 subsistence permit or reporting method.

9  
10 Adoption of this proposal would expose  
11 Federally-qualified users to State citation, because  
12 there's no Federal public lands in the Chignik River  
13 watershed. Fishermen using methods and means not  
14 authorized under State law who fish in areas closed to  
15 subsistence fishing in State regulations would risk being  
16 cited while standing on State or private lands, including  
17 State-owned submerged lands and shore lands.

18  
19 The State of Alaska provides a  
20 subsistence preference on all lands and provides liberal  
21 salmon -- subsistence salmon fisheries in the Alaska  
22 Peninsula. Subsistence fisheries in the Chignik area  
23 provide an annual household limit of 250 fish, and  
24 subsistence fishermen can be authorized to take more if  
25 needed. Gillnets may be used in Clark River and Home  
26 Creek one linear mile upstream from the confluence with  
27 Chignik Lake, and additional gear types can be added to  
28 the State's subsistence permit requested.

29  
30 No stocks -- salmon stocks on the Alaska  
31 Peninsula are currently listed as a stock of concern, but  
32 the Alaska Board of Fisheries -- by the Alaska Board of  
33 Fisheries, but recent late run sockeye returns to  
34 Chignik, primarily returning to Chignik Lake and its  
35 tributaries have recently slightly decreased.

36  
37 If the Federal Subsistence Board approves  
38 this proposal, but does not require a Federal permit, an  
39 increase in undocumented in-tributary exploitation would  
40 not be detectable due to the lack of Federal reporting  
41 requirements. Significant increases in unreported  
42 harvest in the Chignik watershed may lead to conservation  
43 issues which will not be detected in a timely manner and  
44 may require severe fishery restrictions when detected.

45  
46 The July 1 through August 31st  
47 subsistence fishery closure was established by the Alaska  
48 Board of Fisheries in the Chignik River many years ago to  
49 prevent inadvertent harassment and harvest of spawning  
50 Chinook salmon. Reopening the Chignik River to

1 subsistence fishing with gillnets and hand seines would  
2 immediately impact the Chinook salmon population which  
3 spawns in approximately 80 percent of the 1.8 river miles  
4 that extends from the outlet of Chignik Lake downstream  
5 to the Department's weir, near the weir.

6  
7 Since the Federal Subsistence Board does  
8 not monitor the Federal subsistence fishery in this area,  
9 authorizing additional freshwater subsistence fisheries  
10 that target unmonitored wild stocks is not consistent  
11 with principles of sound management and conservation of  
12 fish and wildlife resources.

13  
14 Jurisdiction. While standing on State  
15 and private lands, including State-owned submerged lands  
16 and shore lands, persons must comply with State laws and  
17 regulations. If this proposal is adopted, detailed maps  
18 are needed that depict the land ownership and specific  
19 boundaries of areas where Federal regulations are claimed  
20 to apply in order to reduce risk of violation for Federal  
21 subsistence fishermen.

22  
23 And we discussed earlier what the Board  
24 of Fish did.

25  
26 Thank you, Mr. Chair.

27  
28 \*\*\*\*\*  
29 STATE OFFICIAL WRITTEN COMMENTS  
30 \*\*\*\*\*

31  
32 Alaska Department of Fish and Game  
33 Comments to the Federal Subsistence Board

34  
35 Fisheries Proposal FP 11-10: Remove  
36 closure for federal subsistence fishing in Chignik River  
37 watershed and liberalize legal gear types used for  
38 subsistence harvest of salmon.

39  
40 Introduction: Chignik Traditional  
41 Council submitted this proposal to:

42  
43 1. Open the entire Chignik River  
44 watershed to federal subsistence fishing, exception  
45 waters more than one mile upriver from Chignik Lake in  
46 both Clark River and Home Creek.

47  
48 2. Expand legal gear types for  
49 federal subsistence fishing in tributaries of Black and  
50 Chignik lakes (except not in Clark River and Home Creek)

1 to include spear, hook and line that may be attached to  
2 a pole, or other gear as specified on a subsistence  
3 fishing permit.

4  
5 3. Restrict use of hand seines to  
6 Chignik River and Chignik Lake and use of gillnets to  
7 Chignik River, Chignik Lake, and the lower one mile of  
8 Clark River and Home Creek.

9  
10 4. Prohibit fishing with hook and  
11 line for federal subsistence in Chignik River and  
12 prohibit use of a power purse seine upstream of Mensis  
13 Point in Chignik River.

14  
15 5. Eliminate the July 1 through  
16 August 31 subsistence fishery closure in Chignik River,  
17 which was originally established to protect spawning  
18 Chinook salmon.

19  
20 6. Eliminate the 300-foot closure  
21 upstream of Chignik River weir, which was established  
22 for safety reasons and to prevent interference with weir  
23 operations.

24  
25 Impact to Subsistence Users: If adopted  
26 as proposed, federally qualified subsistence users would  
27 be allowed to subsistence fish in the Chignik River  
28 watershed with gear types that include spear, hook and  
29 line attached to a pole, or other gear specified on a  
30 subsistence fishing permit. If adopted, federal  
31 subsistence users who choose to use a power purse seine  
32 would be restricted to fishing downstream from Mensis  
33 Point, and those who fish with a gillnet would be  
34 restricted to Chignik River, Chignik Lake, and the lower  
35 one mile of Clark River and Home Creek. The Federal  
36 Subsistence Board authorized expanded methods and means  
37 and eliminated some permit and reporting requirements in  
38 the Chignik River watershed. If this proposal is  
39 adopted, federal regulations would allow federally  
40 qualified subsistence users to utilize methods and means  
41 significantly different from those allowed under state  
42 regulations in the tributaries of Chignik and Black lakes  
43 (with the exception of Clark River and Home Creek,  
44 neither of which require a federal subsistence permit or  
45 other reporting method). Though this proposal does not  
46 request that all gear types be allowed for federal  
47 subsistence fishing in the tributaries of Chignik and  
48 Black lakes, as allowed in the Clark River and Home  
49 Creek, state regulations prohibit using spears and hook  
50 and line for subsistence fishing. Adoption of this

1 proposal would expose federally qualified users to state  
2 citation because there are no federal public lands in the  
3 Chignik River watershed. Fishermen using methods and  
4 means not authorized under state law or who fish in areas  
5 closed to subsistence fishing in state regulations would  
6 risk being cited while standing on state and private  
7 land, including state-owned submerged lands and  
8 shorelands.

9  
10                   Opportunity Provided by State: Gillnets  
11 and purse seines are allowable gear under state  
12 subsistence regulations. The State of Alaska provides a  
13 subsistence preference on all lands and provides liberal  
14 salmon subsistence fisheries on the Alaska Peninsula.  
15 Subsistence fisheries in the Chignik area provide an  
16 annual household limit of 250 fish, and subsistence  
17 fishermen can be authorized to take more if needed. For  
18 the Chignik area subsistence salmon fishery, gear types  
19 allowed include gillnets and seines, except purse seines  
20 may not be used in Chignik Lake. Gillnets may be used in  
21 Clark River and Home Creek one linear mile upstream from  
22 their confluences with Chignik Lake. Additional gear  
23 types can be added to the state subsistence permit (5 AAC  
24 01.470).

25  
26                   State subsistence permits for each  
27 management area carry stipulations specific to that area,  
28 such as timing restrictions to separate subsistence and  
29 commercial fishing, gillnet length limits in areas open  
30 to commercial fishing, and waters closed to subsistence  
31 fishing. Commercial salmon license holders and  
32 Commercial Fisheries Entry Commission (CFEC) salmon  
33 permit holders may subsistence fish for salmon during a  
34 commercial salmon fishing period (5AAC01.485) but may not  
35 subsistence fish 12 hours before or 12 hours after each  
36 commercial fishing period. Commercial salmon license  
37 holders and CFEC permit holders in the Chignik Management  
38 Area that subsistence fish in Chignik Lagoon, Lake, or  
39 River are required to contact department Staff at the  
40 Chignik weir in order to separate the reporting of  
41 subsistence and commercial harvests.

42  
43                   The Alaska Board of Fisheries established  
44 a combined amount reasonably necessary for subsistence  
45 for communities in the Alaska Peninsula area as  
46 34,000 56,000 salmon annually. The combined amount  
47 necessary for subsistence for the Chignik Area (Chignik  
48 Bay and the Central and Eastern districts of the Chignik  
49 Management Area) is 7,700 14,250 salmon annually.  
50 Liberal state subsistence fisheries are allowed on all

1 lands (state, federal, and private), so adoption of this  
2 proposal is not necessary to provide a meaningful  
3 subsistence opportunity.

4  
5 Conservation Issues: No salmon stocks on  
6 the Alaska Peninsula are currently listed as stock of  
7 concern by the Alaska Board of Fisheries. Recent late-  
8 run sockeye salmon returns, which return primarily to  
9 Chignik Lake and its tributaries, have recently slightly  
10 decreased. If the Federal Subsistence Board approves  
11 this proposal but does not require a federal permit,  
12 increases in undocumented in-tributary exploitation would  
13 not be detectable due to the lack of a federal reporting  
14 requirement. Significant increases of unreported harvest  
15 in Chignik River watershed may lead to conservation  
16 issues that would not be detected in a timely manner and  
17 may require severe fishery restrictions when detected.

18  
19 The July 1 through August 31 subsistence fishery closure  
20 was established by the Alaska Board of Fisheries in  
21 Chignik River many years ago to prevent inadvertent  
22 harvest and harassment of spawning Chinook salmon.  
23 Reopening the Chignik River to subsistence fishing with  
24 gillnets and hand seines would have immediate impacts on  
25 the Chinook salmon population that spawns in  
26 approximately 80% of the 1.8 river miles that extends  
27 from the outlet of Chignik Lake downstream to the  
28 department s Chignik weir and near the outlet of Chignik  
29 Lake. Chinook salmon have not been found to habitually  
30 transit beyond Chignik Lake.

31  
32 The Federal Subsistence Board recently  
33 liberalized allowable methods and means for federal  
34 subsistence fisheries and eliminated permitting and  
35 reporting requirements for federally qualified users who  
36 utilize rod and reel, bow and arrow, spear, bare-hand  
37 capture, and snagging. Elimination of permitting and  
38 reporting requirements by federally qualified users  
39 causes the department serious concern about localized  
40 depletion of sockeye salmon stocks in Chignik River  
41 watershed tributaries, especially if a significant  
42 increase of harvest results. Since the Federal  
43 Subsistence Board does not monitor the federal  
44 subsistence fishery in this area, authorizing additional  
45 freshwater subsistence fisheries that target unmonitored  
46 wild stocks is not consistent with principles of sound  
47 management and conservation of fish and wildlife  
48 resources.

49  
50 Three Federal Subsistence Board members

1 discussed their support of proposal FP08-11 at the  
2 December 2007 meeting because the expected increase in  
3 harvest was estimated to be reasonably small and the  
4 proponent s intent was to harvest one or two fish at a  
5 time (Federal Subsistence Board Transcripts, December 20,  
6 2007, pages 228 and 229). Further discussion by the  
7 Federal Subsistence Board and Regional Advisory Council  
8 chairs also focused on liberalizing federal subsistence  
9 users methods and means to allow for harvests of  
10 individual salmon for immediate sustenance while  
11 traveling light in the course of camping, berry picking,  
12 or hunting. Discussions did not consider impacts that  
13 adoption of FP08-11 would have on sockeye salmon stocks  
14 within Clark River and Home Creek, because both were  
15 closed to federal subsistence fishing at the time. The  
16 impacts of cumulative unreported harvests from creeks  
17 that are near communities and easily accessible were also  
18 not considered by the Federal Subsistence Board.

19  
20                   The Federal Subsistence Board approved  
21 FP08-11, which liberalized methods and means to allow  
22 snagging, bare-hand capture, and similar means for light  
23 travelers on the Alaska Peninsula and eliminated  
24 reporting requirements, based on information that  
25 suggested the level of harvest would be a small number of  
26 fish by subsistence users traveling light in the field.  
27 During 2008, the department received reports of federal  
28 subsistence users harvesting their winter supply of  
29 salmon from these tributaries of concern by federal  
30 methods and means and without the benefit of permits and  
31 harvest reporting. As stated in objections to FP08-11,  
32 the department has serious conservation concerns with  
33 unreported harvests and the liberalized methods and  
34 means. Those concerns increase with consideration of  
35 FP09-11 and FP11-10 and the potential of significant  
36 federal subsistence harvests in Home Creek and Clark  
37 River.

38  
39                   Jurisdiction Issues: While standing on  
40 state and private lands (including state-owned submerged  
41 lands and shorelands), persons must comply with state  
42 laws and regulations. If this proposal is adopted,  
43 detailed maps are needed that depict land ownership and  
44 specific boundaries of areas where federal regulations  
45 are claimed to apply in order to reduce risk of violation  
46 for federal subsistence fishermen. During the December  
47 2007 Federal Subsistence Board meeting, Alaska wildlife  
48 trooper testimony (Federal Subsistence Board Transcripts  
49 December 11, 2007, pages 89-91) explained the importance  
50 of users understanding and knowing jurisdiction and land

1 status. When an enforcement officer encounters an  
2 individual conducting an activity that is prohibited by  
3 state regulations while standing on state or private  
4 lands, including state-owned submerged lands, the person  
5 may be cited.

6

7 Other Issues: An identical proposal was  
8 submitted to the Alaska Board of Fisheries for  
9 consideration during the January 16 18, 2011, meeting in  
10 Anchorage.

11

12 Recommendation: Defer until the similar  
13 proposal is addressed by the Alaska Board of Fisheries.

14

15 CHAIRMAN TOWARAK: Thank you for that  
16 report. Any questions of the Board or the RAC Chairs.

17

18 (No comments)

19

20 CHAIRMAN TOWARAK: Not hearing any. Oh,  
21 I'm sorry. Mr. Haskett.

22

23 MR. HASKETT: So I want to make sure I  
24 understand what you were saying. So you don't -- so we  
25 were waiting for action from the Board of Fish, and  
26 obviously, I mean, that didn't come, but you're saying  
27 that you don't believe we do need to do a Federal permit?  
28 I might have misheard you. I'm not -- I'm just trying to  
29 make sure I heard if we move forward with this, the State  
30 thinks we do or don't need to do a Federal permit?

31

32 CHAIRMAN TOWARAK: Go ahead.

33

34 MR. PROBASCO: Thank you, Mr. Chair. And  
35 Mr. Pappas. But my understanding of the regulations  
36 here, and I spent part of my career managing this area,  
37 is that currently we work jointly with the State in  
38 issuing a permit. Based on some of the State's earlier  
39 comments, we purposely took our language and struck the  
40 State so it says permit. And if you look at the proposed  
41 Regional Advisory Council's recommendation, the language,  
42 we -- if we launch on Federal waters and there is not a  
43 State permit available for that area, or the State -- we  
44 have differences of opinion, we would be issuing a  
45 Federal permit.

46

47 MR. HASKETT: Okay. Thank you. I guess  
48 -- well, what I think we need to do, I just wasn't sure  
49 what the State thought we needed to do, so I think I'm  
50 good.



1 CHAIRMAN TOWARAK: Further questions.

2

3 (No comments)

4

5 CHAIRMAN TOWARAK: Not hearing any, thank  
6 you for your reports. We will move on to the InterAgency  
7 Staff Committee comments. Oh, a new guy.

8

9 MR. BUKLIS: Thank you, Mr. Chairman.  
10 Larry Buklis. I've been asked to present the Staff  
11 Committee comments on behalf of the Staff Committee  
12 Chair.

13

14 The comments are found on Page 192, but  
15 I've amended those in light of the fact that the Alaska  
16 Board of Fisheries has concluded their meeting as you  
17 know, and these comments when they were written  
18 anticipated the meeting.

19

20 The InterAgency Staff Committee found the  
21 Staff analysis to be a complete and accurate evaluation  
22 of the proposal. The Alaska Board of Fisheries had a  
23 similar proposal before it at its January 2011 meeting  
24 which concluded earlier this week. The State Board of  
25 Fisheries did not take action on that proposal.

26

27 The InterAgency Staff Committee comments  
28 as presented on Page 192 go on to comment about State and  
29 Federal permit considerations. To clarify the situation,  
30 currently a State permit is required for State or Federal  
31 subsistence fishing with gillnets. The other subsistence  
32 methods allowed only under Federal regulations do not  
33 require a permit. The regulatory issue before you now  
34 does not change the existing current permit situation.

35

36 And if I could go on to comment, a little  
37 bit of background, when some of these other methods were  
38 introduced for capture, hand capture and some other  
39 methods that weren't in the State set of methods that  
40 were allowed, there was talk about whether a Federal  
41 permit would have to be implemented, and the decision was  
42 made by the Board to not require a Federal permit for  
43 those sort of ancillary methods. And so the State permit  
44 is used for gillnet fishing under either regime, and the  
45 special allowances for methods in the Federal system have  
46 not to this point required a Federal permit. If those  
47 methods are extended in range, it's your decision whether  
48 to now require a Federal permit, but it hasn't in the  
49 past.

50

1 Thank you.  
2  
3 CHAIRMAN TOWARAK: Any further comments  
4 or questions.  
5  
6 (No comments)  
7  
8 CHAIRMAN TOWARAK: Thank you for your  
9 report. We will move on to Board discussion with Council  
10 Chairs and State liaison. Any comments, questions.  
11  
12 (No comments)  
13  
14 CHAIRMAN TOWARAK: I think it's been  
15 pretty -- well, go ahead, Ms. Chythlook.  
16  
17 MS. CHYTHLOOK: Yeah. Thank you, Mr.  
18 Chair. My understanding, and this is the comment, and  
19 some of this was discussed during our RAC meetings, that  
20 the -- just like, and Johnny Lind just brought this out,  
21 too, is that the Black Lake area is only accessed by a  
22 couple of, two or three people. And it's because the  
23 location is hard to access. And I think because it's  
24 been traditionally used by a limited amount of people, I  
25 think that the purpose for this was to legalize the use  
26 so that when they're up there possibly berry picking, and  
27 harvesting one or two fish, that they won't get cited for  
28 this limited use. And that's the -- I guess the main  
29 purpose was to possibly legalize use of this area.  
30  
31 Thank you, Mr. Chair.  
32  
33 CHAIRMAN TOWARAK: Thank you. Any  
34 further comments.  
35  
36 (No comments)  
37  
38 CHAIRMAN TOWARAK: If not, then we will  
39 move to Item No. 8 Federal Subsistence Board action. Mr.  
40 Haskett.  
41  
42 MR. HASKETT: Mr. Chair. I'd like to  
43 make a motion to adopt Proposal 10 as modified by the  
44 Bristol Bay Regional Advisory Council, and I'll provide  
45 my justification if I get a second to that motion.  
46  
47 MR. CRIBLEY: Second.  
48  
49 CHAIRMAN TOWARAK: The motion has been  
50 seconded by Mr. Cribley. Go ahead with your rationale.

1 MR. HASKETT: Thank you, Mr. Chair. As  
2 I had clarified earlier, the modified regulatory wording  
3 in the OSM conclusion is slightly different than what the  
4 Bristol Bay Regional Advisory Council voted on; however,  
5 the intent has not changed. And the modified regulation  
6 is consistent with the Council's recommendation. We've  
7 also had some discussion about the Alaska Board of  
8 Fisheries taking no action on this proposal, opting to  
9 allow our Board to address it through Federal regulation.  
10

11 This change will increase opportunity for  
12 subsistence users in the Chignik area while also  
13 clarifying the regulations. This will legitimize a  
14 traditional fishery that's been occurring for a long  
15 time, and recognizes subsistence use patterns for the few  
16 families who use this area. And I'd like to -- I think  
17 we've made it very clear there's only a very few people  
18 that we're talking about actually utilizing this. I  
19 think -- I want to make it real clear it would be a whole  
20 lot better if we could work it out where we had some kind  
21 of joint State/Federal permit on this, allowing for this  
22 fishery without having to start issuing separate Federal  
23 permit in the area. We'll continue to work with the  
24 State to figure out the best way to move forward on this;  
25 however, if, and it's a big if it sounds like, but if we  
26 determine that a Federal permit is needed and we're  
27 prepared to make that happen if necessary to make this  
28 happen.  
29

30 CHAIRMAN TOWARAK: Thank you. Any  
31 further -- Ms. Masica.  
32

33 MS. MASICA: Just a clarification. Your  
34 motion was to -- is adopt as modified by the RAC, which  
35 if I understand all these different colors of paper, that  
36 would have been what's in the book, and what we're really  
37 talking about is adopting the green sheet. So just so  
38 we're clear, it's the green sheet, right?  
39

40 MR. HASKETT: Mr. Chair, if I may. Yes,  
41 I'm sorry, it is. Green is the one we're working from,  
42 that's the ultimate product.  
43

44 (Laughter)  
45

46 CHAIRMAN TOWARAK: We're going green.  
47 Any further discussion.  
48

49 (No comments)  
50

1 CHAIRMAN TOWARAK: Is there -- could we  
2 ask for the question.  
3  
4 MS. PENDLETON: I'll ask for the  
5 question.  
6  
7 CHAIRMAN TOWARAK: The question's been  
8 called for for final action, please.  
9  
10 MR. PROBASCO: Thank you, Mr. Chair.  
11 Final action on FP11-10 as modified by the Regional  
12 Advisory Council and presented in the green document.  
13 And, Ms. Masica.  
14  
15 MS. MASICA: Yes.  
16  
17 MR. PROBASCO: Ms. Pendleton.  
18  
19 MS. PENDLETON: Yes.  
20  
21 MR. PROBASCO: Mr. Towarak.  
22  
23 CHAIRMAN TOWARAK: Yes.  
24  
25 MR. PROBASCO: Mr. Haskett.  
26  
27 MR. HASKETT: Yes.  
28  
29 MR. PROBASCO: Ms. K'eit.  
30  
31 MS. K'EIT: Yes.  
32  
33 MR. PROBASCO: And Mr. Cribley.  
34  
35 MR. CRIBLEY: Yes.  
36  
37 MR. PROBASCO: Motion carries 6/0, Mr.  
38 Chair.  
39  
40 CHAIRMAN TOWARAK: Thank you. I believe  
41 that's our last proposal. Did we receive any written  
42 public comments after -- no, this is, I don't know. Is  
43 that something that needs to be done? No?  
44  
45 MR. PROBASCO: Mr. Chair. At this time  
46 we would have dealt with the consensus agenda, but we've  
47 already taken care of that by withdrawing those  
48 proposals. We are -- as you stated, we are completed  
49 with the regulatory action, and we're now into other  
50 business. And I have a couple of.....

1 CHAIRMAN TOWARAK: Okay. We're down to  
2 item 7 on our agenda, other business. And, Mr. Probasco,  
3 if you could walk us through that.

4  
5 MR. PROBASCOS: Thank you, Mr. Chair. To  
6 save us time, I know it's getting late, I'll ask Staff to  
7 just, for the Board, so that we have an outlook and  
8 everybody's aware of it, our four months of meeting  
9 schedules, we do have a couple that are coming up. We  
10 have the work session on April 6th; we have that early  
11 May, 3rd and 4th I believe, date for the Board meeting.  
12 We'll put that summary together just so that everybody  
13 has it in case we have questions.

14  
15 The thing tomorrow is, as everybody  
16 knows, is our tribal consultation meeting as we work  
17 towards developing a protocol, and Staff would like to  
18 know how would we like to set up this meeting. We are  
19 going to have the meeting transcribed. We will have a  
20 movable mic if you will. But we may want to consider  
21 having more of an open appearance in talking with the  
22 tribes. And my suggestion would be to open this up, do  
23 away with the TVs and the three tables there, and keep in  
24 mind it's to be a dialogue back and forth. We'll ask the  
25 tribes to just sign up, but it's pretty much going to be  
26 up to the Chair to recognize those people. We're not  
27 going to have cards.

28  
29 That would be my suggestion really, Mr.  
30 Chair.

31  
32 CHAIRMAN TOWARAK: Any comments. Any  
33 objections to the Staff setting it up so that it's more  
34 of a dialogue type. Ms. Chythlook.

35  
36 MS. CHYTHLOOK: Thank you, Mr. Chair. My  
37 question would be with the tables removed, are the RAC  
38 Chairs and the Board going to be sitting as we are now or  
39 are we going to mingle with the public?

40  
41 CHAIRMAN TOWARAK: Go ahead.

42  
43 MR. PROBASCOS: Mr. Chair and Ms.  
44 Chythlook, that's a very good question. And my intent  
45 unless I hear otherwise, and it's wide open, would be to  
46 open this up, but still have the Councils and the Board  
47 sitting like this, but open up. But it's entirely up to  
48 the Board on how they want to proceed.

49  
50 CHAIRMAN TOWARAK: Go ahead.

1 MS. AHTUANGARUAK: I think it's very  
2 important to allow the open dialogue and communication  
3 back and forth. During this process of the last couple  
4 days, I've had people come to me and say that because we  
5 had to give a card to come and participate, adding  
6 additional comments is very difficult to put that in  
7 there when we're limited to giving a card to be able to  
8 speak. So I appreciate that.

9  
10 CHAIRMAN TOWARAK: No green cards  
11 tomorrow.

12  
13 (Laughter)

14  
15 CHAIRMAN TOWARAK: Any other comments.

16  
17 MR. PROBASCO: I have one. And I  
18 appreciate that comment. Keep in mind we're breaking new  
19 ground here, so we don't -- I don't think any of us have  
20 the right answer at this point in time. We're going to  
21 work towards that. And so I think patience and an open  
22 dialogue is the key as we move forward.

23  
24 CHAIRMAN TOWARAK: We're going to have  
25 everyone sitting down. Ms. Masica. K'eit, sorry.

26  
27 MS. K'EIT: Mr. Chair. Thank you. We  
28 did have some discussion on this at our last work  
29 session, our executive session. Does anyone want to  
30 speak to those, what we talked about, you know?  
31 Everyone's kind of looking at me with a blank stare.

32  
33 I'm trying to remember myself, so we had  
34 some discussion about not having tables, having it be a  
35 lot more open and a lot less formal, although, you know,  
36 recognizing that it is tribal consultation, it's in that  
37 realm of government-to-government. We don't want it  
38 necessarily to look as if, you know, we're just one big  
39 group shielded behind the table. And, you know, not  
40 having tables does give it more of an open feeling in the  
41 room. That's the only one I can recall at this point.

42  
43 CHAIRMAN TOWARAK: Go ahead.

44  
45 MR. PROBASCO: Thank you, Mr. Chair. And  
46 I'm okay with that comment. The key is though that we  
47 are going to have this meeting transcribed. We do have  
48 a mobile mic. The dialogue is from the tribes to the  
49 Council and the Chairs, and so I'm just trying to  
50 facilitate the mic and the set-up. You can see the

1 hodgepodge of cords we have. So that's why I was  
2 thinking of open this up to get at a more open that  
3 you're speaking to, at the same time still retaining the  
4 microphones for the Board members and the Councils, and  
5 then have mobile mics for the tribes.

6

7 CHAIRMAN TOWARAK: Go ahead, Ms.  
8 Pendleton.

9

10 MS. PENDLETON: Mr. Chair. I like the  
11 idea of having an open format and a mobile mic, and not  
12 to have the formality of the tables, but to have it more  
13 in -- you know, chairs in a large circle. The reason why  
14 I say that is because if we are behind tables and our  
15 tribal government representatives are not, to me it just  
16 creates too much of an appearance of difference. I think  
17 it puts everybody more on an equal footing if either we  
18 all sit as we are now, more formally around the table,  
19 with, you know, everybody together, or given that we may  
20 have a number of people here, it may just be better just  
21 to do a large circle and then pass mics around.

22

23 CHAIRMAN TOWARAK: A talking stick.

24

25 MS. PENDLETON: Yeah, a talking stick,  
26 yeah. That's good.

27

28 MR. PROBASCO: I work for you. I look  
29 for direction.

30

31 CHAIRMAN TOWARAK: Go ahead.

32

33 MS. K'EIT: Thank you, Mr. Chair. I'd  
34 support Ms. Pendleton's suggestion, and I'd like to just  
35 reference our Alaska Command, Department of Defense,  
36 Army Corps folks. They do a listening -- a tribal elder  
37 listening session at the Alaska Forum on the Environment,  
38 and that's a method they use where the Federal folks and  
39 the tribal leaders and elders were all intermingled.  
40 They're all intermingled in a circle, and the mic is a  
41 sort of talking stick to let them, you know, each person  
42 speak, and there's nobody interrupting others, and  
43 everyone has ample opportunity. So I support that.  
44 Thank you.

45

46 CHAIRMAN TOWARAK: Go ahead.

47

48 MR. HASKETT: So I'm fine with that. I  
49 mean, I've seen everybody kind of nod their heads. It  
50 seems like let's just make a decision and do that. Let's

1 intermingle and make it less formal, and there's no  
2 complaining.

3  
4 CHAIRMAN TOWARAK: If there's no  
5 objections to that, then we will ask the Staff to make it  
6 as open as possible, but still with the microphone so  
7 that our words can be heard.

8  
9 MR. PROBASCO: Thank you, Mr. Chair, and  
10 we will do that. And I think to help facilitate the  
11 mics, that we have as many mics as possible, we'll place  
12 these type of mics as well as the mobile mic throughout  
13 the room. But my understanding is get rid of the tables,  
14 make it more of an open, following the Chair's advice,  
15 sitting down, but more intermingled and open. Okay.

16  
17 CHAIRMAN TOWARAK: I'm sorry. Pardon?

18  
19 MR. PROBASCO: Mr. Reakoff.

20  
21 CHAIRMAN TOWARAK: Mr. Reakoff.

22  
23 MR. REAKOFF: Mr. Chair. Peter Demoski  
24 and myself are not going to be here, and I wrote comments  
25 and I submitted those comments to Western Interior  
26 coordinator to disseminate to the Board. There may be  
27 other public members that may not be able to stay as long  
28 for various reasons, and so the question is, can the  
29 public submit comments also? Written comments.

30  
31 MR. PROBASCO: Thank you, Mr. Chair. As  
32 far as submitting written comments, that's fine, but this  
33 is the opportunity for the Board and the Council  
34 representatives to talk with the tribes, so we're not  
35 going to have people outside of tribal entities  
36 testifying on it. It's going to be that type of  
37 structure. Mr. Chair.

38  
39 CHAIRMAN TOWARAK: Any other discussions.  
40 Is there any other new business or.....

41  
42 MR. PROBASCO: Molly.

43  
44 CHAIRMAN TOWARAK: Oh, I'm sorry.

45  
46 MS. CHYTHLOOK: The time is going to be  
47 the same, 8:30?

48  
49 CHAIRMAN TOWARAK: It's going to be at  
50 9:00 o'clock in the morning here. Mr. Firmin.



1 MR. FIRMIN: Thank you, Mr. Chair. I was  
2 wondering if there was going to be the ability for the  
3 tribes that aren't able to make it to be able to call in  
4 and make comments over the intercom.

5  
6 CHAIRMAN TOWARAK: Yes, there will be.

7  
8 MR. FIRMIN: Okay. Thank you.

9  
10 CHAIRMAN TOWARAK: Go ahead.

11  
12 MS. AHTUANGARUAK: In the category of  
13 other business, I have a large concern with the  
14 devastation in the Gulf and the migration of birds into  
15 our area from that area. Last year I was working, doing  
16 the whale census, and I was offered the opportunity to  
17 tour the Gulf early in the spill process. I saw birds  
18 that migrate to our area going into the oil slick, birds  
19 that were affected by the spill. I'm concerned about  
20 that. We haven't had any discussions on that. We  
21 haven't had any reports. We have no information about  
22 these species and if there's been any effects.

23  
24 There needs to be a special effort to  
25 communicate this year, because of what we perceive is  
26 going to be happen in our area. We have species of birds  
27 that have not come back after the Exxon Valdez spill.  
28 There's traditional and cultural uses that are affected  
29 along this area. What precedence is that setting for us  
30 up here. There's a lot of concern with the use of  
31 dispersants down there, and those continued effects to  
32 their food and water.

33  
34 We also have a big issue related to the  
35 polar bears and that designation. We need to have  
36 information related to that. We looked at what we can do  
37 for this process, but we've had a reality that this  
38 designation has failed subsistence users. We're very  
39 concerned about that.

40  
41 I was informed today that there was some  
42 success in the Aleutian Canadian goose. I need  
43 information related to this, and how that helped. It is  
44 something that's really important.

45  
46 We're concerned with the designation of  
47 the beluga in the Cook Inlet, how it led to restrictions  
48 to subsistence, but none of the other activities that  
49 could be affecting these species.

50

1                   We think that it should not be -- we  
2 think what is happening should not be happening, but is  
3 this a tool that can be used with us or against us. We  
4 need more information.

5  
6                   Also there was some discussions about --  
7 from one of the individuals about species, increasing of  
8 just one type, any current disruptors affecting our  
9 animals and our future generations are very important as  
10 we consume our animals, and these things affecting us.  
11 Those are very important issues that need to be looked  
12 at. These are big issues. We don't know what's going to  
13 happen.

14  
15                   We had the big GS-2 spill in the North  
16 Slope. I participated in many, many meetings. Where's  
17 our reports for that. Haven't had them. Don't know  
18 what's going on with that. Never got to tour the area  
19 after the clean-up effects. But our concerns are great  
20 in this area.

21  
22                   So, thank you.

23  
24                   CHAIRMAN TOWARAK: Any response.

25  
26                   (No comments)

27  
28                   CHAIRMAN TOWARAK: Thank you. We will  
29 note your concerns with the proceedings.

30  
31                   MR. PROBASCO: I would offer a response  
32 in that we could with your report, working with our  
33 coordinator and the rest of my Staff, we can help point  
34 in the right direction the entity that we should get  
35 answers from, so with you're help we'll try to direct it  
36 more.

37  
38                   MS. AHTUANGARUAK: Definitely willing to  
39 help. Thank you.

40  
41                   CHAIRMAN TOWARAK: Mr. Adams.

42  
43                   MR. ADAMS: Mr. Chairman. I know you've  
44 all been, you know, pretty new at this process, and I  
45 just want to compliment you all for a job well done, and  
46 say Gunalcheesh.

47  
48                   But let me also mention that, you know,  
49 in my opening remarks I always bring up certain issues  
50 that, you know, our RAC is involved with, and one of them

1 is the issue of the ability to be able to do RFRs. And  
2 I just had a talk with Mr. Lord here earlier today, and  
3 he offered some suggestions to me that might work. I'll  
4 have to take it back to my Council and see what they  
5 think, but what he essentially said is that RACs can have  
6 the -- you know, will be able to help communities or  
7 individuals in communities, you know, to set up their  
8 RFRs, and we'll use our expertise and so forth, you know,  
9 to help further that on, and develop that RFR on their  
10 behalf. And I think, you know, that's a step forward,  
11 and maybe I won't be talking about that so much any more.  
12 But I just thought I'd share that with you, and thank  
13 you, Mr. Lord, for coming to me and sharing that with me  
14 this afternoon.

15  
16 CHAIRMAN TOWARAK: Other comments. Mrs.  
17 Chythlook.

18  
19 MS. CHYTHLOOK: Thank you, Mr. Chair.  
20 With her concerns regarding birds, we have -- there's  
21 Alaska Migratory Bird Council that deals with birds, and  
22 that Council has representatives from different regions.  
23 And if -- I understand you're from North Slope area? We  
24 have some representatives that come down from your region  
25 that come with information on issues of birds.

26  
27 And then regarding the belugas and marine  
28 mammals, there's also a council that deals with those  
29 under ice seals and Alaska beluga whale. And all these  
30 different councils and committees have representatives  
31 from each region. So I thought I'd put that out.

32  
33 And I want to thank -- this is my first  
34 Board of Fish -- that's not.....

35  
36 (Laughter)

37  
38 MS. CHYTHLOOK: Federal Subsistence Board  
39 meeting. And I appreciate everybody's effort,  
40 cooperation, and team, even though this is your first, I  
41 think we all support you. I think we saw our  
42 shortcomings. You know, when we as Regional Chairs, when  
43 we first start our -- the process to try a chair, our  
44 committees, we understand, you know, where you're coming  
45 from, but I want to support your effort and I think you  
46 did a great job.

47  
48 Thank you.

49  
50 CHAIRMAN TOWARAK: Thank you. I've got

1 a good buddy, Henry Ivanoff, that tells me whenever I get  
2 into something new, he says, Tim, I'm behind you all the  
3 way, but if you get in trouble, I'm way behind you.

4

5 (Laughter)

6

7 CHAIRMAN TOWARAK: Thank you for those  
8 comments, and I appreciate everyone's work. Mr. Reakoff.

9

10 MR. REAKOFF: Mr. Chair. The Councils  
11 are going to address the six items that the Federal Board  
12 has directed the Councils to answer. I would like to see  
13 the results from the other Councils, the products from  
14 those other Councils, so that we can kind of be all on  
15 the same sheet of music so to speak.

16

17 I have to return home tomorrow. I  
18 enjoyed the relatively new members on the Board. I would  
19 say that I really appreciate the conservation ethics that  
20 the Federal Subsistence Board has displayed during this  
21 meeting, and the dialogue with the Councils and tribes  
22 was very instrumental to the results of this meeting, and  
23 I was very satisfied with the process, and so hopefully  
24 we'll see you next time.

25

26 Thank you.

27

28 CHAIRMAN TOWARAK: Thank you, Mr.  
29 Reakoff. Any other comments.

30

31 MS. CHYTHLOOK: Thank you, Mr. Chair.  
32 One thing that I forgot. You know, as RAC Chairs we  
33 couldn't do what we do without our coordinators and with  
34 our OSM support. So I want to thank -- my regional  
35 coordinator is Donald Mike, and without his help I'd  
36 probably really flub up more. So I want to thank him and  
37 then the OSM Staff for their help to make this possible  
38 for us.

39

40 Thank you.

41

42 CHAIRMAN TOWARAK: Thank you. If there  
43 are no other items on the agenda, is there a motion to  
44 adjourn this meeting.

45

46 MR. HASKETT: I so make that motion.

47

48 (Laughter)

49

50 CHAIRMAN TOWARAK: Is there a second to

1 the motion.

2

3 MS. PENDLETON: I'll second that.

4

5 CHAIRMAN TOWARAK: Is there any  
6 objections to the motion.

7

8 (No comments)

9

10 CHAIRMAN TOWARAK: Not hearing any, this  
11 meeting is adjourned.

12

13 (Off record)

14

15 (END OF PROCEEDINGS)

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C E R T I F I C A T E

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

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

THAT the foregoing pages numbered 248 through 429 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME III taken electronically on the 20th day of January 2011, beginning at the hour of 8:30 a.m. at the Egan Convention Center, 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 4th day of February 2011.

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