

1 understanding that that use actually extends for all of
2 Unit 18 remainder.

3

4 Thank you.

5

6 MR. REARDEN: Mr. Kessler. Mr. Chair.
7 That map is drawn in error. If you look on Page 325, it
8 shows what the proper map should be. Remainder is the
9 area away from the Lower Yukon River, and the area we're
10 talking about is north and west of the dotted line that's
11 put on the Lower portion of the area. I think that they
12 just forgot to put the remainder boundary on this map on
13 Page 312.

14

15 So the area I'm familiar with where I
16 have seen people from St. Michael and Stebbins is within
17 the area on Map 325 that shows pretty much the lower
18 Yukon region.

19

20 CHAIRMAN FLEAGLE: Dan LaPlant.

21

22 MR. LAPLANT: Yes, Mr. Chairman. Let me
23 see if I can help clarify a little bit here.

24

25 There is a bit of confusion about the
26 label of Unit 18 remainder. Unit 18 is described one way
27 for C&T determination purposes and it's described another
28 way or divided up another way for the hunt areas.

29

30 So the C&T area, Unit 18 remainder is
31 correctly displayed in the proposal, but the Unit 18
32 remainder for the hunt area, as Mr. Rearden said, is on
33 -- was it Page 325? So whether the proponent intended to
34 be asking for Unit 18 remainder hunt area or Unit 18
35 remainder as it's divided up for C&T purposes, that
36 probably needs to be clarified. But the map in the
37 proposal is correct.

38

39 Thank you.

40

41 CHAIRMAN FLEAGLE: Helen Armstrong.

42

43 MS. H. ARMSTRONG: Mr. Chair. Maybe I
44 can clarify what the proponent asked for. Actually when
45 this came up, he was asking where the boundaries were
46 just to know if he was legal by hunting in Pastolik River
47 drainage, so then he presented to us, I want to hunt in
48 the Pastolik River drainage. What does that mean, and
49 then we helped craft the proposal. So that was where we
50 came from the Unit 18 remainder, because that was the

1 area he wanted to hunt in.

2

3 CHAIRMAN FLEAGLE: Lester Wilde.

4

5 MR. WILDE: Mr. Chairman. When we were
6 discussing this proposal, the remainder that we were
7 discussing is the remainder as described by Mike, all
8 that lower area that extends from Cape Romanzof over to
9 Mountain Village and down below. Is that the line that
10 we're -- yeah, that's the line.

11

12 MR. EDWARDS: Mr. Chairman.

13

14 CHAIRMAN FLEAGLE: Gary.

15

16 MR. EDWARDS: Now I'm totally confused.
17 But does that then basically address the area that is in
18 the requested modification by Seward Pen, basically to
19 those three drainages? So essentially we might not
20 really have a modification, that they're basically -- the
21 proposals coming out of both Councils are theoretically
22 identical, so to speak?

23

24 CHAIRMAN FLEAGLE: Dan LaPlant.

25

26 MR. LAPLANT: Mr. Chairman, I guess I
27 would agree with Mr. Edwards, that there are slight
28 differences there, but I don't think they're significant.
29 And if the Board chooses to recognize C&T for the Yukon
30 River drainage portion of Unit 18, we can -- we'll
31 redescribe, of course, the unit for C&T purposes
32 accordingly and accommodate that decision. The map would
33 look different then next year, but, yeah, we'll
34 accommodate that.

35

36 CHAIRMAN FLEAGLE: Is that crystal clear
37 to you now, Gary?

38

39 MR. EDWARDS: No, but I think I know what
40 my motion might be.

41

42 CHAIRMAN FLEAGLE: Steve Kessler.

43

44 MR. KESSLER: Well, for me, I'm getting
45 more and more confused, because if I look at the map on
46 Page 325, and if I understand what the Y-K RAC was
47 recommending, it was the area to the north and west of
48 the dotted line. And the Seward Peninsula Regional
49 Advisory Council is recommending an area to the east of
50 the dotted line, and that's what the Staff recommendation

1 was also for the three drainages to the east of the
2 dotted line. And it seems to me that these are mutually
3 exclusive, not inclusive of each other. Am I incorrect
4 here?

5
6 CHAIRMAN FLEAGLE: I think Helen has the
7 best description of what the request is. And would you
8 repeat what the proponent is actually requesting?

9
10 MS. H. ARMSTRONG: The proponent wanted
11 to be able to hunt in the Pastolik River drainage
12 legally. And then we came up with the language that
13 would accommodate that. Then when I did my further
14 research on it, I found that people were also hunting in
15 the Andreafsky River drainage, so we made that area.

16
17 I will say we also had confusion with the
18 maps, and the map that went before the Yukon-Kuskokwim
19 Council was not the map currently on Page 312, but was
20 the map on Page 325, because we got confused with the C&T
21 -- or the Unit 18 remainder for the hunt areas and then
22 the Unit 18 remainder for the C&T area were not the same,
23 and we also were confused. So we're trying to resolve
24 that confusion.

25
26 CHAIRMAN FLEAGLE: Would it be prudent
27 for us to just table this proposal while Staff works that
28 out and move on with other proposals instead of trying to
29 figure this out on record? Because I think there is
30 quite a bit of clarification needed.

31
32 Pete.

33
34 MR. PROBASCO: Mr. Chair, that would be
35 probably a good strategy and have Staff sit down with the
36 three Council Chairs, or the two Council Chairs that
37 weighed in on this and clarify the map.

38
39 CHAIRMAN FLEAGLE: All right. Is there
40 any objection to just tabling this proposal temporarily?

41
42 (No comments)

43
44 CHAIRMAN FLEAGLE: All right. Hearing
45 none, that will be the action of the Board.

46
47 Let's go ahead and move on to the next
48 proposal, and that will be on Number 32. Good morning.
49 We have Don Rivard.

50

1 MR. RIVARD: Good morning, Mr. Chair.
2 Members of the Board and the Regional Council
3 representatives. My name is Don Rivard. I'm one of the
4 division chiefs in the Office of Subsistence Management.

5
6 The analysis for Proposal WP07-32 begins
7 on Page 323 of your book.

8
9 Proposal WP07-32, submitted by Henry S.
10 Powers III of Bethel, requests the elimination of the
11 Federal regulatory closure restriction for the September
12 1st through 30th moose season in Unit 18 remainder. And
13 if you'll go to your map there on Page 325, we just kind
14 of had that discussion. We're talking about -- the
15 proposal area is for that remainder area. It's kind of
16 the hourglass shaped area in the middle of the map there.

17
18 This is a resubmittal of Proposal WP06-30
19 which was deferred last year by your Board.

20
21 The current size and continued growth of
22 the Yukon River moose population in Unit 18 has motivated
23 local residents to propose a variety of liberalizations
24 of the existing Federal moose regulations for the
25 effected area this year. Unit 18 remainder proposals are
26 those 27 through 31 and 64 which are on your consent
27 agenda, and then Proposals 29 and 30 which are for that
28 lower portion of the Yukon.

29
30 The proponent feels that the Federal
31 closure regulations for the Unit 18 remainder area should
32 be changed to allow other hunters from outside Unit 18
33 the opportunity to utilize Federal public lands to hunt
34 moose. The proponent stated that the closure regulations
35 for Unit 18 remainder are no longer justifiable
36 biologically.

37
38 The closure was originally established by
39 the Federal Subsistence Board in the 1991/1992 Federal
40 subsistence management regulations to ensure that
41 subsistence needs and rights received first priority.
42 This was especially important given the low moose numbers
43 at the time. The closure has been in the regulations
44 since that time. And since the 1991/92 regulatory year
45 season dates continue to vary among years along the lower
46 Yukon River in Unit 18, but bag limits were constant at
47 one bull.

48
49 Proposal WP06-30 was submitted during
50 2006 regulatory cycle to remove the closure for the Unit

1 18 remainder fall moose season, again September 1st
2 through the 30th. The biological information presented
3 in the analysis for that proposal, No. 06-30, supported
4 removal of the closure for not only the Unit 18
5 remainder, but also that portion of Unit 18 downstream
6 from Mountain Village. The Yukon-Kuskokwim Delta
7 Regional Council, however, opposed the proposal because
8 of local concerns.

9
10 At your May 2006 meeting you deferred
11 action on the proposal for one year with a commitment to
12 revisit the proposal regulations this year. The Board's
13 intent at the time was to allow for Refuge Staff, Yukon
14 Delta Refuge Staff to conduct information outreach in
15 communities before making your decision.

16
17 Again this Proposal 06-30 was resubmitted
18 as the one in front of you now.

19
20 In December 2006 Mike Rearden and Alex
21 Nick along with other Refuge Staff held public meetings
22 in Emmonak and Mountain Village to explain the Federal
23 Subsistence Board's reasoning to local moose hunters and
24 provide them with an update on the health of the moose
25 population in the Yukon Delta area. At these meetings,
26 some local residents from Kotlik, Emmonak, Alakanuk and
27 Nunam Iqua expressed concerns of not meeting their large
28 animal subsistence needs through moose harvest. Other
29 concerns voiced by local residents included warmer than
30 normal fall temperatures, poor snow conditions during the
31 winter season, and high fuel prices that have hampered
32 hunter success. Local residents also voiced opposition
33 to allowing non-Federally-qualified users access to
34 Federal public lands in Unit 18 remainder during the fall
35 season.

36
37 Special Action WSA06-04 was submitted by
38 the Yukon-Kuskokwim Delta Regional Council in the fall of
39 2006 and approved by the Federal Subsistence Board in
40 December 2006 that expanded the 2006/ 2007 harvest limit
41 from one bull or one calf to one moose, and extended the
42 winter season 10 days in the lower area of the Yukon
43 River drainage in Unit 18 downstream of Mountain Village.
44 And results of that winter hunt are on Page 328 in your
45 book.

46
47 It should be noted that the majority of
48 the harvest occurs during the fall season in Unit 18.

49
50 Both State and Federal wildlife managers

1 have expressed the need to increase the harvest of moose
2 in the lower Yukon River area to avoid habitat damage
3 which could occur if the population is not maintained
4 within the carrying capacity. The affected moose
5 population continues to exhibit a growth rate that would
6 eventually lead to carrying capacity issues if left
7 unchecked.

8
9 The effects of the proposal. If
10 implemented as proposed to include only Unit 18
11 remainder, the action will not address the portion of
12 Unit 18 downstream from Mountain Village where removal of
13 the closure is also justified because of healthy moose
14 population. Removal of the closure in Unit 18 remainder
15 as well as the lower Yukon River area would have little
16 biological effect on the moose population and minimal
17 effect on subsistence opportunities. The increased
18 harvest allowed is expected to be minor, on the order of
19 18 to 35 bull moose per year initially.

20
21 Additionally, due to the population
22 status referred previously, there is no justification for
23 maintaining a closure to non-Federally-qualified users
24 during the winter season as well.

25
26 Adoption of this proposal would lead, or
27 could lead to some user conflicts. However, State lands
28 already opened are areas in general that are closer to
29 the villages. The existing closure may be forcing non-
30 Federally-qualified users to hunt closer to the villages.
31 Adoption of this proposal may help spread out the hunters
32 and would also more closely align Federal and State
33 regulations.

34
35 With that, Mr. Chair, the OSM preliminary
36 conclusion is found on Page 329. You can see it there.

37
38 The lower Yukon moose population is
39 highly productive, continues to grow, and is capable of
40 supporting an increased harvest by both Federally-
41 qualified and non-Federally-qualified users. Therefore
42 the closure to non-Federally-qualified users is no longer
43 warranted in these portions of Unit 18.

44
45 And the preliminary conclusion is to
46 support Proposal WP07-32 with modification to also lift
47 the closure in the lower Yukon River area downstream of
48 Mountain Village as well as Unit 18 remainder for both
49 the fall and winter seasons.

50

1 Mr. Chair and members of the Board, it is
2 worth mentioning that it is unlikely that the lower Yukon
3 River moose population would even exist today if not for
4 the voluntary actions taken by the lower Yukon residents.
5 The lower Yukon residents proposed to establish the
6 original moratorium on moose hunting in the lower Yukon
7 and actively maintained the moratorium until the moose
8 population was large enough to allow limited hunting.
9 The impressive comeback of the affected moose population
10 is due in large part to the lower Yukon residents who all
11 worked to preserve cow moose and their reproductive
12 potential. Without their sacrifice, the lower Yukon
13 River drainage moose population would not have met or
14 exceeded its management objectives.

15
16 And I would like to also add that Mike
17 Rearden has some additional perspectives to share with
18 the Board on this.

19
20 MS. GOTTLIEB: Mr. Chair.

21
22 CHAIRMAN FLEAGLE: Judy.

23
24 MS. GOTTLIEB: Thank you. Don, last year
25 in your analysis on a similar proposal, you had a few
26 points in there about minimum populations to be achieved,
27 and, you know, a couple other points I guess from some of
28 the planning efforts that have been in place for the last
29 few years. So are we at a level where those goals have
30 been achieved?

31
32 CHAIRMAN FLEAGLE: Go ahead.

33
34 MR. RIVARD: Mr. Chair. Ms. Gottlieb.
35 Concerning this population on the lower Yukon, the
36 management goals, the management objectives have been
37 exceeded for this population, so we're past talking about
38 minimum objectives at this point.

39
40 Thank you.

41
42 CHAIRMAN FLEAGLE: Other questions.

43
44 MR. EDWARDS: Yes, Mr. Chairman. You
45 know, Mike Rearden is here and, you know, I can either
46 utilize him during the deliberations, but if he has some
47 additional information to add to the Staff report, maybe
48 it would just be appropriate to do it at this point.

49
50 CHAIRMAN FLEAGLE: Mike, are you willing

1 to come up and add to the statements.

2

3 MR. REARDEN: Yes, Mr. Chairman. Thanks
4 for the opportunity.

5

6 First, I think like Mr. Rivard said, we
7 need to recognize the efforts taken by lower Yukon
8 residents.

9

10 And this is actually a great opportunity
11 to look at the advantage of having a regulation that
12 people support and one they don't, because for the many
13 years that there were regulations down there that
14 prohibited the taking of cow moose and calf moose, and
15 people didn't adhere to it or believe in it. The
16 population stayed very stable, very, very low. Pretty
17 much every moose that moved was taken.

18

19 When people kind of got behind the
20 opportunity to grow the moose population and establish
21 this moratorium, the population blossomed beyond our
22 expectations. I would have never believed 10 years ago
23 that I would be here talking about encouraging further
24 harvest of animals down there. So I think there's a
25 lesson to be learned in all of that. Once you get public
26 support for a regulation, it can make an incredible
27 difference.

28

29 I also recognize the concerns for the
30 population that the Yukon residents have. During the
31 meetings that Alex Nick and I had in December in Mountain
32 Village and Emmonak and additional conversations I had
33 with people in other lower Yukon River villages, people
34 are very, very defensive and very protective of their
35 moose population as well they should be. You know, they
36 have virtually gone from not enough moose to count to
37 moose in their backyards. It's a unique situation that
38 they're very proud of and they really like.

39

40 And it's also clear to me that
41 biologically a restriction allowing only local residents
42 to hunt was originally a good idea. In 1992 there were
43 so few moose that the few moose that were allowed to be
44 taken should have been taken by local residents. But
45 from my perspective, looking at the biology, I don't
46 believe that that is any longer justifiable.

47

48 And I'd like to focus my comments, what I
49 think will happen if you choose to support this proposal,
50 and who's affected. There's a lot of concern by local

1 people that if you support this proposal that there will
2 be a huge influx of people into the region, and I think
3 one of the benefits that we have in our program here is
4 that if something happens that we are not expecting, we
5 have the opportunity to change it in future Board
6 meetings.

7
8 Ironically, one of the groups affected by
9 this current restrictions are, and these are the people
10 that call me the most, residents from the delta who live
11 elsewhere now. People who live in Anchorage, Fairbanks,
12 other areas that want to go home and hunt moose. And
13 they cannot hunt moose on Federal lands. They can hunt
14 on their village lands, but in some cases where the moose
15 are is on Federal lands and they cannot do it. In fact,
16 we've written a few citations on this, and the most
17 recent one was a resident of Anchorage, a native leader
18 that went out hunting who was unfamiliar with the
19 regulation and took a moose on Federal lands within a
20 couple miles of his village boundary. That's one group
21 that would benefit by supporting this.

22
23 Another group affected by the current
24 restriction are those residents of nearby villages, for
25 instance, Holy Cross, Aniak, St. Michael, Stebbins, those
26 areas can not longer hunt in Unit 18, and they did have
27 traditional hunting in those areas. I've heard from a
28 lot of residents in those villages that they don't
29 understand nor support the restriction that's in place
30 right now.

31
32 And I've also heard from local residents,
33 and this concerns me, the statement, well, if they won't
34 let us hunt in Unit 21E, then, by God, we're not going to
35 support them hunting in 18. I think we need to get rid
36 of those kinds of comments and beliefs. You know, I
37 realize that there are boundaries and sometimes people
38 get different opportunities, but when the opportunities
39 exist to share the resources, I think that we need to do
40 that.

41
42 Another group that's affected are all
43 other users, including Alaskans and non-residents.
44 Currently there are a few non-residents that hunt in this
45 area. Primarily though they're hunting on private lands.
46 A lot of the good lands for hunting are in the upper
47 portion of the region, and accessible, and they're
48 hunting on private lands oftentimes with residents of
49 villages in that area. This area is pretty remote and
50 currently we don't have a lot of outside hunters coming

1 into the region though yet.

2

3 Another group is, and, of course, this is
4 one that people have a lot of concern about, are guides
5 and transporters. And we don't issue any permits for any
6 guides in this area for moose hunting. In fact, there
7 are no guides between the Yukon and the Kuskokwim Rivers.
8 There's not even a guide unit that we've authorized, and
9 there are no intentions to do that, so guides are pretty
10 much out of the picture on this one at this time.

11

12 We do permit several transporters,
13 primarily out of Bethel, and there may be one out of
14 Aniak that would occasionally go out there, and I've
15 discussed this with them. If it became legal for them to
16 transport hunters, non-residents to this area, what their
17 intentions or desires would be. After talking to them,
18 their intent would be to transport less than 20 groups of
19 hunters into this region each season. And I've also
20 talked to them about restricting their access so that
21 they can hunt only in areas that are not accessible by
22 boat hunters, particularly in the lower portion of the
23 river, from Paimuit on down. They don't have any problem
24 with that. Most of them are trying to separate their
25 hunters from subsistence hunters anyway to avoid the
26 conflict.

27

28 So I believe with those restrictions that
29 there will not be a lot of direct conflict anyway between
30 hunters from outside of the region and local subsistence
31 hunters.

32

33 In summary, this is a clear allocation
34 issue I believe that tests the foundation of the Federal
35 subsistence program about when and when we should not
36 have restrictions for subsistence hunters. And it is a
37 difficult decision whenever you take something away from
38 people. And I understand that it is difficult to take
39 something away that's been in place for 15 years.

40

41 Those are my comments. If you have any
42 questions, I'd be glad to answer.

43

44 CHAIRMAN FLEAGLE: Questions. Gary.

45

46 MR. EDWARDS: Mike, just one. I noticed
47 in the justification that the Council put together as
48 well as apparently what you heard when you went out to --
49 when you and Alex went out and conducted those meetings
50 that folks felt that their subsistence needs for moose

1 were not being met. Is there a response to that?

2

3 MR. REARDEN: I heard that, and that was
4 one of the reasons, as some of you are aware, I really
5 promoted the any moose season in the winter that we had
6 down there. We had a month when people could shoot any
7 moose.

8

9 I discussed it with the Fish and Game
10 biologist there, and we said, well, you know, what should
11 we limit it to if people really start killing moose, and
12 we're keeping track of it, and people did a very good job
13 of keeping track of how many moose were killed. The
14 traditional councils in each village kept a list and sent
15 it in to us every couple days. And we felt that if
16 people -- they could easily kill up to 300 moose, the
17 majority of them being cows, and we'd be in fine shape.
18 They killed 70 moose approximately during the entire
19 hunt, and not many of those were cows. There's still a
20 reluctance to kill cows, and I think that's because
21 people saw the effect of letting this population grow by
22 not killing cows.

23

24 And I asked several people, particularly
25 in villages that I visited in March why that was. Some
26 people talked about high fuel prices. Some people talked
27 about bad weather. And there were occasions where people
28 couldn't get a license for a period of time in early
29 January. But some people also said that our village
30 killed a lot of moose in the fall and we don't need any
31 more moose meat. I heard that from people I've known for
32 a long time down there.

33

34 MR. EDWARDS: Thank you.

35

36 CHAIRMAN FLEAGLE: All right. Thanks.
37 Summary of written public comments. Alex.

38

39 MR. NICK: For the record my name is Alex
40 Nick. I'm the Regional Council coordinator for the
41 Yukon-Kuskokwim Delta.

42

43 Before I begin reading the summary of
44 public comments, I would like to inform the Board and
45 Staff that upon request of the people who submitted these
46 summary of public comments, these summary of public
47 comments were read into record at the Y-K Council
48 meeting. I'll just with your permission, I'll just go
49 ahead and highlight the public comments if I may.

50

1 We've received three public comments in
2 opposition to the proposal. One from Algaaciq Tribal
3 Council of St. Mary's. And their main points is that the
4 unmet needs is due to the lower Yukon moose moratorium as
5 referenced in the 2006/2007 Federal subsistence harvest
6 regulations, because of this moratorium in the Kuskokwim
7 area in Unit 18, subsistence needs of all Federally-
8 qualified subsistence users in Unit 18 are not being met.
9 Rural residents located in the affected area cannot
10 actively subsist moose in that area. They must travel
11 outside of the lower Kuskokwim moose moratorium
12 boundaries to meet their needs.

13

14 And the second comment's from Ohogamiut
15 Tribal Council, and their main points I believe are moose
16 is the traditional protein source of residents of Unit
17 18, and they also talk about sport, recreation. If
18 hunters would be allowed to have equal access to moose
19 hunting on Federal public lands in Unit 18 September 1 to
20 30, all season. I won't get into too much of this, but
21 they're in your books, and other main points are that
22 local people prefer wild game over commercially sold beef
23 and pork meat. And that impacts of trophy hunters in our
24 region will have negative consequences. Local people
25 must continue to safeguard fish and wildlife resources
26 for the local native people.

27

28 The Ohogamiut Tribal Council also
29 submitted a resolution to the Regional Advisory Council,
30 and their main point I believe is for the continue
31 health, safety and welfare of their people.

32

33 The third comment was received from Mr.
34 John Lamont of Mountain Village. And I believe his main
35 point is that we should implement a hunting moose season
36 that allows local Unit 18 residents to be able to meet
37 their moose harvest needs.

38

39 These are in your books, Mr. Chair.

40

41 CHAIRMAN FLEAGLE: Thank you. Public
42 testimony.

43

44 MR. PROBASCO: Mr. Chair. We have one
45 person signed up. Mr. Tim Andrew.

46

47 CHAIRMAN FLEAGLE: Timothy Andrews or
48 Andrew.

49

50 UNIDENTIFIED VOICE: He's not here.

1 CHAIRMAN FLEAGLE: He's still not here.
2 Okay.

3
4 Regional Council recommendation. Let's
5 see who we have. Lester Wilde. Sorry.

6
7 MR. WILDE: Mr. Chairman, if I may. The
8 Yukon-Kuskokwim Delta Subsistence Regional Advisory
9 Council opposed this proposal. You know, one thing that
10 -- one of the things that came up -- I'll just go ahead
11 and read this justification, then I'll add some points to
12 it.

13
14 The justification reads, there is a
15 concern about ADF&G ANS numbers for moose in Unit 18.
16 The Council felt it is important to go slow with
17 increased harvest. Weather and gas prices were factors
18 in the harvest of this winter. And this is something
19 that I'll cover a little bit further.

20
21 Subsistence needs for moose are not being
22 met. And that statement sounds like it's not that -- the
23 reason why they're not being met is because people are
24 not going out there hunting, or not wanting to go out
25 there hunting, but the problem is that there were a lot
26 of people that wanted to go out hunting, but at the time
27 that the season was open, the gas prices up on the coast
28 are close to \$6 a gallon, and the income of the people
29 out in that area is not as great as the urban areas. As
30 we know, when we're living in the urban area, whether
31 we've lived in the rural area before or not, it's always
32 a lot easier to see things to -- the way we feel is what
33 we see on the surface. But if you go down below the
34 surface, there are a lot of different reasons for some of
35 the things that are being done.

36
37 And one of the -- I think the biggest, as
38 Mike mentioned, we need to go out and encourage the
39 people in Unit 18 to go out and not encourage other
40 people from other areas to come in and take these
41 resource in that area. And I've talked with a lot of
42 people both on the Kuskokwim and on the Yukon and they
43 oppose this due to the fact that last year in Hooper Bay,
44 we live -- as you all know, we live on the southern tip
45 of the Yukon Delta with Chevak. And at that time there
46 was absolutely no harvest tickets that were available,
47 and there was a lot of the people that curtained their
48 hunting because the harvest tickets were not available.
49 And just about the time that the people were able to go
50 out, we got a cold snow for the remainder of the hunting

1 season, so it got to be pretty hard for a lot of people
2 to go out and hunt in that area.

3
4 And we felt that if we're going to
5 encourage anybody to go out and take those moose, I think
6 we should be able to -- we should encourage the people in
7 the local areas to go out and do their hunting for their
8 meat.

9
10 We were also concerned about the needs of
11 the lower Kuskokwim residents for their red meat, and
12 with the caribou -- the Mulchatna caribou being reduced,
13 we felt that there might -- there will be a lot of more
14 influx from the Kuskokwim villages going into the Yukon
15 areas to harvest their meat. And I've travelled from
16 Hooper Bay all the way over to the Three Step Mountains
17 on the Kuskokwim River to get my caribou when the need
18 for meat in my family. Whenever we're needing red meat,
19 I go out and get it wherever I can get it. I'm living in
20 the town of Hooper Bay. We totally -- I shouldn't use
21 the word totally, but we depend on our subsistence
22 resource about 80 or 90 percent of the time for our
23 ability to be able to live in that area.

24
25 And one thing that hasn't been brought
26 out is the fact that in the coastal regions whenever
27 there is adverse weather, namely south winds in the
28 summertime, we're unable to get any fish, and we have to
29 supplement our subsistence with meat from other areas.
30 And two years ago everybody in the State of Alaska was
31 getting their fish, and we were unable to get our fish in
32 Hooper Bay and Chevak area. There's approximately 2,000
33 people in Hooper Bay and Chevak combined, full-time
34 residents. And the ANS amounts for moose in Unit 18 180
35 moose. So figures don't necessarily give you the needs
36 of the people out in the areas that I live in, and the
37 people that depend on the resource in Unit 18.

38
39 And I think in this coming year, if we
40 were able to give this one more cycle to see an exact --
41 if we can get a good ANS number for moose in Unit 18 in
42 one more cycle, I think we might be able to make up our
43 minds to the positive of this proposal. On the positive
44 side. But at this time, and in this time of the global
45 warming and everything coming on, and the ability of the
46 people out in the coastal areas, not just in Hooper Bay
47 and Chevak and Scammon Bay, but there's Nunam Iqua,
48 Kotlik, Emmonak, Alukanuk, all those villages will be
49 probably -- if they were able to go out and get that
50 moose, those numbers would have -- the take of the moose

1 in that area would have been two to three times as much
2 as it is recorded.

3

4 Mr. Chairman.

5

6 CHAIRMAN FLEAGLE: Thank you. Appreciate
7 those comments.

8

9 Seward Peninsula. Mike Quinn.

10

11 MR. QUINN: Thank you, Mr. Chair. Well,
12 I guess I'm supposed to keep my official comments
13 concerned with what our RAC did, so we support the
14 proposal with the modification to also lift the closure
15 on the area downstream of Mountain Village. We
16 represent, you know, people who have traditional ties to
17 that area and we want to see this closure lifted so that
18 those people can do so. That's as far as our RAC went.

19

20 With your permission, I'd like to throw
21 out some other stuff that I think are relevant to this.

22

23 CHAIRMAN FLEAGLE: Go ahead, Mike.

24

25 MR. QUINN: All right. Well, I'd ask the
26 Board to turn back to that map on Page 325. I've hunted
27 the area around Emmonak. My girlfriend is from there.
28 So my family has ties there.

29

30 But I'm also familiar with the commercial
31 side of this. I own an airplane. I've used an airplane.
32 I own boats, I've used boats. The ability -- there's no
33 way a local person can hunt this -- a non-local person
34 can hunt this area without either help from a local
35 person or a transporter, or at least an air service to
36 get them in there. The ability of transporters to
37 economically operate in this area is really restricted
38 because of the fuel prices, such as Lester pointed out
39 for the local people. The fuel prices were preventing
40 them from hunting. Bethel and Aniak are the only two
41 places that an aircraft-based transporter can operate out
42 of, and much of this area is too far away, such as the
43 area on the delta there, Kotlik, Emmonak, for a guy to
44 really economically operate. So there's not going to be
45 a lot of influx of non-local people that way.

46

47 There will probably be -- from my
48 experience, there will be people who will find out that
49 they can get on a scheduled airline, they can get dropped
50 off in a village such as Marshall, float down to Pilot

1 Station or St. Mary's and get off, get back on an
2 airplane and leave the area. So there's going to be some
3 stuff there. But even so those people are going to bring
4 money to your region. And because of the lack of
5 aircraft ability, transporters, the area is ripe with
6 opportunity for local people to become transporters with
7 their boats and really earn some real income to help them
8 pay for this gas that's so expensive for them to do their
9 hunting.

10
11 And additionally, when a non-local person
12 becomes a transporter and comes into your area, he's
13 mostly concerned with this bottom line, and he's not
14 going to be concerned with the meat as much. Kotzebue's
15 seen this problem very readily. But when local people
16 become transporters, you can also have a big influence on
17 what's done with the meat. So you not only can get money
18 from these people, since they're mostly interested in
19 trophy hunting, maybe capes, you're going to be able to
20 get their meat, too. So there's really just a lot of
21 opportunity here for local people to profit from lifting
22 this closure as I see it.

23
24 Anyway, that's enough for me.

25
26 CHAIRMAN FLEAGLE: Thank you, Mike.

27
28 Western Interior. Jack.

29
30 MR. REAKOFF: Mr. Chairman. We took no
31 action on this proposal and deferred it to the home
32 region.

33
34 CHAIRMAN FLEAGLE: Thank you. We would
35 call for a 10 minute break. Then we'll come back and do
36 the rest of this proposal.

37
38 (Off record)

39
40 (On record)

41
42 CHAIRMAN FLEAGLE: All right. Resuming
43 discussion on Proposal 32. We now move to the Alaska
44 Department of Fish and Game for comments. Terry Haynes.

45
46 MR. HAYNES: Thank you, Mr. Chairman.
47 The Department supports this proposal as modified to
48 eliminate the closure to moose hunter by non-Federally-
49 qualified subsistence users in the remainder of Unit 18,
50 that is the lower Yukon area of Unit 18, and below

1 Mountain Village for both the fall and winter seasons as
2 recommended by the Seward Peninsula Regional Council and
3 Federal Staff.

4
5 The Staff analysis acknowledges that
6 moose are abundant in this area. Given the size and
7 productivity of the moose population, this closure of
8 Federal public lands to non-Federally-qualified users is
9 no longer necessary to insure continued subsistence use
10 or for conservation purposes. The little additional
11 hunting by non-local residents that might result from the
12 closure being removed is not expected to impact
13 subsistence uses by local residents or result in
14 conservation issues. Additionally, lifting the closure
15 will enable non-local residents who have relatives in
16 Unit 18 villages to participate in this moose hunt.

17
18 I'd like to add that we join the others
19 who have commended Unit 18 residents for supporting the
20 moratorium, and who contributed to its success over the
21 years. This was a real model of cooperation between Unit
22 18 residents, Department of Fish and Game, Yukon Delta
23 Refuge Staff. So they've demonstrated what you can do by
24 working together, and the remarkable turn around of the
25 moose population in the lower Yukon portion of Unit 18 is
26 a very significant and constructive management result.

27
28 I also would mention, too, in reference
29 to the State amount necessary for subsistence finding for
30 Unit 18, which is 80 to 100 moose, I can't recall all the
31 details about what the basis was for establishing that
32 particular range for an ANS. I'd have to go back through
33 our records, but as I indicated at the InterAgency Staff
34 Committee meeting a few weeks ago, if the public is
35 interested in having that ANS finding reviewed, all it
36 takes is submitting a proposal to the Board of Game to
37 get that on the agenda. So that's always an option
38 available to the public if they believe that ANS findings
39 are not accurate.

40
41 Thank you, Mr. Chair.

42
43 CHAIRMAN FLEAGLE: Thank you, Terry.
44 Questions for the State.

45
46 (No comments)

47
48 CHAIRMAN FLEAGLE: Okay. Thank you.
49 InterAgency Staff Committee comments. Larry.

50

1 MR. BUKLIS: Thank you, Mr. Chairman.
2 The comments from the Staff Committee are found on Page
3 331. There are several points made. I'll highlight a
4 few of the key ones.

5
6 There's insufficient evidence that
7 Kuskokwim subsistence users have shifted their hunting
8 effort to the lower Yukon for moose despite the
9 moratorium in the lower to middle Kuskokwim River
10 drainage for moose.

11
12 The Staff Committee also comments about
13 the amounts necessary for subsistence as determined by
14 the Department of Fish and Game need to be more
15 reflective of actual use amounts.

16
17 And as has been said by others, the Staff
18 Committee recognized the uneasiness of Unit 18 Federally-
19 qualified subsistence users to recommend the removal of
20 the closure and fully recognizes their successful past
21 efforts to rebuild the moose populations of Unit 18.
22 However, the bulk of the information articulated in the
23 Staff analysis supports removal of the closure consistent
24 with ANILCA Section .815(c).

25
26 Thank you, Mr. Chairman.

27
28 CHAIRMAN FLEAGLE: Thank you, Larry.
29 Questions.

30
31 MS. GOTTLIEB: Mr. Chairman.

32
33 CHAIRMAN FLEAGLE: Judy.

34
35 MS. GOTTLIEB: Larry, on point number 4
36 here, I'm a little mixed up, or maybe I missed something
37 here. The last part of the sentence says, while
38 maintaining the closure for the winter season. But where
39 we are now is lifting the entire.....

40
41 MR. BUKLIS: Mr. Chairman. Ms. Gottlieb.
42 I didn't go over every point in the Staff Committee
43 recommendations. Sorry, comments. That fourth point
44 says the Staff Committee notes the differing Council
45 recommendations and notes the proposed regulatory
46 language would only apply to the fall season while
47 maintaining the closure for the winter season. That's
48 speaking to the proposal as submitted.

49
50 CHAIRMAN FLEAGLE: Thanks, Larry. Other

1 questions. Terry Haynes.

2

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

4 Just to correct something on the record in the
5 InterAgency Staff Committee comments. On item number 3,
6 amount necessary for subsistence, those determinations
7 are made by the Board of Game and not by the Department.

8

9 MR. BUKLIS: Thank you. So noted.

10

11 CHAIRMAN FLEAGLE: Thank you. It appears
12 that the public member that signed up for testimony is
13 here. Pete, would you go ahead and call the name.

14

15 MR. PROBASCO: Thank you, Mr. Chair. Mr.
16 Tim Andrew. And, Tim, this is dealing with Proposal No.
17 32.

18

19 MR. ANDREW: Thank you, Mr. Chair.
20 Members of the Board. My apology for being late this
21 morning. I didn't anticipate that we would be moving
22 this fast this morning.

23

24 (Laughter)

25

26 MR. ANDREW: As, you know, the process we
27 had gone through yesterday.

28

29 In any case, my name is Timothy Andrew.
30 I'm the director of Wildlife Resources for Association of
31 Village Council Presidents.

32

33 We although -- about a year ago we had
34 supported the deferral of this proposal for one year for
35 the education of our villages. We are currently opposed
36 to the opening of Unit 18 to non-Federally-qualified
37 users.

38

39 And one of our villages, the Village of
40 Ohogamiut wanted to testify today over the telephone, but
41 unfortunately they are not able to participate in that
42 manner, but I would like to extend their comments to the
43 Board, and their opposition to this proposal.

44

45 They are afraid of the increased
46 competition for not only the resource, but also for the
47 hunting areas that they traditionally utilized to hunt
48 moose. And moose is their primary source of food for
49 their families and for the communities. And this has
50 been going on for a number of years, since moose had

1 arrived in the area.

2

3 The State also indicated that their
4 current ANS amounts are between 80 to 100 moose. Those
5 are from 1983 or in the 1980s, and the data is
6 approximately 20 years old. And at that time there was
7 hardly any moose in the area in Unit 18, and people at
8 that time normally had gone to Unit 19 or Unit 21 to fill
9 their moose needs. And we believe that the current ANS
10 amounts does not indicate the amounts needed for
11 subsistence in the area. And we also believe that the
12 current SUA, or subsistence use amounts, if they are
13 dependent on the State's numbers is inherently wrong.

14

15 And current data also indicates that 200
16 moose were harvested in the fall and 71 in the winter.
17 People this year and probably for future years are also
18 faced with extremely high gas prices in the area. Some
19 of the villages are paying up to 6, \$7 a gallon for
20 gasoline. And it makes it extremely hard for people to
21 get out and participate in both the fall and the winter
22 hunt. And this past winter the moose hunting season was
23 challenged extremely by extremely cold weather conditions
24 where temperatures were 35, 40 below, which created a
25 challenge for people to go out and actually harvest
26 moose. So, you know, the 71 moose that were harvested,
27 or the reported moose harvest was probably extremely
28 likely -- was probably really low. If weather conditions
29 were favorable, I think that the participation would
30 probably increase a lot more than the current reported
31 numbers.

32

33 The thing that really reflects our
34 opposition to this proposal is the Tier II situation that
35 people are facing in Unit 19. The lower Kuskokwim
36 villages that have positive C&T for that area are not
37 able to participate fully in that hunt, given the limited
38 of permits that are issued in the area, both Federal and
39 State permits.

40

41 And also the current situation of the
42 Mulchatna Caribou Herd also affects people's ability to
43 actually go out and fill their big game or large mammal
44 needs.

45

46 And as I had indicated yesterday, that
47 people in the area are extremely dependent on all the
48 resources, 664 pounds per capita of wild resources that
49 are consumed in the area. We believe that the increased
50 competition by non-resident hunting would severely affect

1 people's ability to meet their subsistence needs.

2

3 And we also believe that the adoption of
4 this proposal would adversely affect the current lower
5 Kuskokwim moose moratorium. As indicated earlier by the
6 State representatives, people in the lower Yukon area had
7 sacrificed for years to build a moose population to where
8 it is today. And in communication with some of the
9 people in the villages, in voicing their opinions on this
10 proposal indicate that, you know, why -- they posed this
11 question. Why did we sacrifice all these years from
12 harvesting this resource? I mean, is it just to allow
13 for non-resident sport hunting to occur on our
14 subsistence resources? And we are afraid that by
15 adopting this proposal that that would happen in the
16 lower Kuskokwim area where people are currently
17 supporting the self-imposed moratorium to build their
18 moose populations. And, you know, that question comes up
19 in all the different meetings I attend, both in the
20 villages and also regional meetings.

21

22 So we currently oppose this proposal, and
23 we believe that it would lead to increased competition
24 for our subsistence resources in close proximity to our
25 villages, and it would also -- it would lead to increased
26 competition to the hunting areas as well.

27

28 And that concludes my testimony. Mr.
29 Chair.

30

31 CHAIRMAN FLEAGLE: Thank you, Timothy.
32 Questions.

33

34 (No comments)

35

36 CHAIRMAN FLEAGLE: Thanks. Board
37 discussion. Gary.

38

39 MR. EDWARDS: Mr. Chairman. There did
40 seem to be I guess some differences with regards to
41 removing this closure for both the fall and the winter
42 season. I guess it's my understanding that the proposal
43 itself was just for the fall season. The Seward Pen's
44 proposal includes the -- would include both seasons. I
45 don't know. If Mike is still here, I don't know, could
46 you speak, if you would, to the implications, if there's
47 any difference for removing it for both of the seasons
48 given that the proposal I believe was just for the fall
49 season.

50

1 MR. REARDEN: Well, the original proposal
2 was just for the fall season. And I think Staff
3 Committee also included the winter season in the proposal
4 they came up with. The original proposal came from a
5 transporter whose interest was only in the fall. And my
6 expectation would be that if it was also open in the
7 winter that there'd be negligible harvest from residents
8 from out of Unit 18, other than perhaps from some of the
9 surrounding villages that cannot hunt at this time.

10

11 MR. EDWARDS: Thank you.

12

13 CHAIRMAN FLEAGLE: Don.

14

15 MR. RIVARD: Mr. Chair. Don Rivard. The
16 original proposal, if you go to Page 325, the original
17 proposal was for the fall season for the area known as
18 the remainder. And the OSM Staff conclusion and the
19 Seward Pen's recommendation is for that area and for the
20 fall and winter season, but also the lower portion of the
21 Yukon as well. The very lower portion. So it includes
22 another area as well.

23

24 MS. GOTTLIEB: Mr. Chair.

25

26 CHAIRMAN FLEAGLE: Judy.

27

28 MS. GOTTLIEB: And I apologize, Mike, if we need
29 you back up here again, but I wonder what plans or what
30 mechanisms the Refuge uses to monitor so that if you had
31 to change it to antlered only or if you had to notify us
32 that maybe the winter season needed to be closed, you'd
33 be able to have that information.

34

35 CHAIRMAN FLEAGLE: Mike Rearden.

36

37 MR. REARDEN: Thank you. We had real
38 good success this year in working with the traditional
39 councils in the villages to monitor and keep track of the
40 moose that were killed, and our intentions are to
41 continue to do that so that we'll have a real good idea.
42 Our concern was that we were going to go over 300 animals
43 this year, and obviously we didn't get close to that, but
44 they did an excellent job of giving us the composition of
45 the harvest as well. And we continue to plan on doing
46 that.

47

48 MS. GOTTLIEB: And, Mr. Chair, what would
49 be the mechanism then for monitoring non-Federally-
50 qualified users?

1 MR. REARDEN: That would probably -- you
2 mean people from out of the region? That would probably
3 be done by our law enforcement guys who are real active
4 in the field. And if people from out of the region are
5 out there, they'll know it. And I think that might give
6 us a pretty good idea of what's going on.

7

8 CHAIRMAN FLEAGLE: Mike Quinn.

9

10 MR. QUINN: Well, the non-local people
11 will be hunting under the State regs and have the harvest
12 ticket which they're required to fill out and turn in.
13 If a non-resident hunts, he's also got a harvest ticket
14 and a form that he has to turn in. So the Refuge's
15 ability to monitor the non-local harvest would come
16 through the State's information on these harvest tickets
17 I believe. And the State and Mike can comment on that.

18

19 MR. REARDEN: Mr. Chairman. However,
20 that's not real time information, and that's what we need
21 in this hunt, at least initially to get some idea of what
22 the catch per unit effort is out there. And so we'll
23 continue to try to monitor it in the field and in the
24 villages anyway.

25

26 CHAIRMAN FLEAGLE: Further discussion.

27 George.

28

29 MR. OVIATT: Maybe a question for the
30 State. Does the State have any plan in place to monitor
31 the hunt as it -- if it was opened up? If the closure
32 was lifted, would they have any plans to actually have
33 monitoring out in the field at least initially.

34

35 MR. HAYNES: Through the Chairman. Mr.
36 Oviatt, no, we don't at this point. But we haven't --
37 you know, the area has not been open. We don't
38 anticipate many people coming into the area. There has
39 been a fairly low level of hunting effort in that area on
40 lands regulated by the State in recent years. And
41 because of the cost of getting out to that area, we don't
42 anticipate a real influx of people. Certainly between
43 the monitoring by Fish and Wildlife Service and eventual
44 harvest ticket data, we would have -- be able to assess
45 hunter interest in that area. And I think working
46 closely with Fish and Wildlife Service and others, if
47 steps needed to be taken to, you know, put the clamps on,
48 that's the -- steps could be taken to do that. But at
49 this point we see no -- there's no reason to monitor this
50 hunt closely and assume that we're going to have over-

1 harvest. If that -- if the trend moves that way in a few
2 years, then certainly steps might need to be taken.

3

4 MR. OVIATT: Thank you.

5

6 CHAIRMAN FLEAGLE: Steve Kessler.

7

8 MR. KESSLER: Thank you, Mr. Chairman.

9 Another question for you, Mike. You know, there's the
10 possibility, of course, that people who are living in the
11 Kuskokwim drainage can move up into these area sort of
12 outside of the closure area, and hunt up in the Yukon
13 both in the all and in the winter periods. What sort of
14 evidence is there that people are actually doing that to
15 meet their moose needs.

16

17 MR. REARDEN: Mr. Chairman. There are
18 some people from the Kuskokwim who do go to the Yukon and
19 hunt with local residents, and a few even have their own
20 boats on the Yukon, and primarily they're hunting in the
21 portion above, along the Russian Mission/Paimuit stretch
22 up there where we have a high harvestable surplus of
23 animals anyway.

24

25 During the winter hunt, I knew of about 8
26 or 10 people that went to the lower Yukon by snow machine
27 to hunt, of which half or more were successful. They
28 probably took six or eight moose that were not reported
29 on that form you saw. So it's not a large group of
30 people.

31

32 Now, if we opened the winter hunt above
33 that, there probably would be more people from the
34 Kuskokwim area going up there to hunt.

35

36 As far as the moratorium on the
37 Kuskokwim, that one is -- we've got a year and a half to
38 go before we make a decision on what to do. The
39 population is growing rapidly. We've got 50 moose
40 collared. Some of them within a couple miles of Bethel.
41 Our expectation is that it's likely we'll open a bull --
42 or recommend opening a bull only harvest along the
43 Kuskokwim River in the moratorium area in a short time.
44 So at that point it would take pressure back away from
45 the Yukon.

46

47 CHAIRMAN FLEAGLE: Lester Wilde.

48

49 MR. WILDE: Thank you, Mr. Chairman.

50 What we would like to see is an opportunity for our

1 people in the villages to go out and get their red meat
2 that they need for their subsistence in that area, but
3 what we would like to request is that possibly to refrain
4 for another cycle to see what the true -- the effect on
5 the resource it would have if we did have a good winter
6 season to see what the amount of moose taken in that
7 area.

8

9 You know, I was on the fish and game
10 advisory council at the time that the motion was made to
11 close the lower Yukon for the moose moratorium, and we
12 followed this through pretty well, but at the time that
13 we made the decision to have the moratorium on the lower
14 Yukon, we felt that if we were able to get a good growth
15 of moose on that lower Yukon, that we would be able to
16 seed the rest of the area in that area coming from the
17 lower Yukon down to Hooper Bay, Scammon Bay, Chevak.
18 We're all considered as lower Yukon in that area, but
19 that is starting to come around.

20

21 But the thing is the people in that area
22 that are totally dependent on sea mammals are not getting
23 the amount of sea mammals that they used to be able to at
24 one time, and in the seasons that they used to be able to
25 get them. Whenever you live in subsistence economy, then
26 what you do is we always take advantage of what like was
27 mentioned a couple days, our opportunistic, opportunities
28 to be able to harvest other resources. And as you know
29 with, as I mentioned, global warming earlier, on the
30 coast, around the Hooper Bay area, the mammals, the sea
31 mammals, we're always dependent on the sea mammals that
32 are coming down at this time of the year from up north.
33 And this year the ice is coming down as we speak, so the
34 people are able to go out and get some sea mammals from
35 that sea mammal harvest out there. But if we don't get
36 the fish in that area, we're going to see a lot of hungry
37 people out there. We've seen that for the last three or
38 four years, and that's the reason why you could see on
39 the records where people along the coast are starting to
40 come into the areas to hunt. It's not just the people
41 that have hunted from year to year, but other people that
42 are now going out to hunt in that area.

43

44 But what we'd like to do is we'd like to
45 be -- to make sure that our villages are able to get
46 their red meat, and be able to subsist on the whole year
47 without having to go hungry. I, myself, know what it
48 means to be hungry. I've been hungry. I don't think
49 that the hungry that most people describe as the term --
50 or the meaning of term hungry has ever been felt by any

1 of the -- or not a large percentage of the people here
2 attendance of this meeting.

3

4 So that is one of the reasons why -- one
5 of the biggest reasons why we felt that we should hold
6 off a little bit. You know, we're willing to just take a
7 look at it for another cycle, but we want to make sure
8 that the villages out there are getting their subsistence
9 needs filled.

10

11 Mr. Chairman.

12

13 CHAIRMAN FLEAGLE: Thank you. Are we
14 ready of a motion. Gary.

15

16 MR. EDWARDS: Mr. Chairman. I move that
17 we support the recommendation of the Seward Peninsula
18 Regional Council, which is to modify Proposal 07-32, that
19 would lift the closure in the lower Yukon River area
20 downstream of Mountain Village as well as Unit 18
21 remainder, and this would be done both for the fall and
22 the winter moose season.

23

24 CHAIRMAN FLEAGLE: Is there a second.

25

26 MR. OVIATT: I'll second.

27

28 CHAIRMAN FLEAGLE: There's a second from
29 George.

30

31 Do you want to speak to your motion,
32 Gary.

33

34 MR. EDWARDS: Yes, Mr. Chairman. I can
35 elaborate some. I think we've heard today from both
36 Staff as well as the manager in the area that this moose
37 population has been growing rapidly, certainly thanks to
38 the effort of the -- and the commitment and the sacrifice
39 of the people in that area. And it has now reached the
40 point where putting on a closure on other users is no
41 longer necessary, you know, still recognizing that
42 apparently folks in that area still feel that their
43 subsistence needs are not being met. But what I heard is
44 that it's not being met so much that the moose are not
45 available, that there are other issues such as high price
46 of gas and all which are impacting those

47

48 It also doesn't appear that by opening
49 this that there's going to be a huge influx of other
50 users in there. It seems that most of those would be

1 other rural residents and that the use from outside, from
2 the sport hunting community, it looks like it's going to
3 be pretty limited just by the nature and the remoteness
4 of the area and the lack of transportation in there.

5
6 So I think it's clear for us under ANILCA
7 that we should not be restricting other users when
8 there's not reasons to do so, and in this case it does
9 appear that there is any real reason for us to justify
10 further continuing to close this area.

11
12 CHAIRMAN FLEAGLE: Board member.

13
14 MS. GOTTLIEB: Mr. Chairman.

15
16 CHAIRMAN FLEAGLE: Judy.

17
18 MS. GOTTLIEB: I'll support the motion.
19 I do appreciate the concerns that we've heard, and I
20 would like to, as again we get to the specifics of we had
21 the wording in there that the Yukon Delta Refuge manager
22 may restrict the harvest to only antlered bulls after
23 consultation with the Alaska Department of Fish and Game,
24 I would like once again for us to add the wording, and
25 the RAC chair so that the RAC is fully involved in the
26 process as I expect you would be anyhow. And with some
27 close monitoring this year, maybe we'll have a better
28 feel for whether it needs to be changed again next year
29 or during the season.

30
31 Thank you.

32
33 CHAIRMAN FLEAGLE: Other Board members.

34 George.

35
36 MR. OVIATT: Mr. Chairman. I, too,
37 believe that we no longer have a conservation reason to
38 keep this closure in place. I hear the concerns and
39 there's always need for data, but I believe that
40 management in conjunction with the State and the local
41 RACs and the local people, and especially Fish and
42 Wildlife's effort to work with the locals has the proper
43 management control that will give us an indication if
44 this closure -- if lifting the closure is perhaps not
45 warranted. So I don't see a reason to continue with the
46 closure at this time.

47
48 Thank you.

49
50 CHAIRMAN FLEAGLE: Other discussion.

1 MR. PROBASCO: One second, Mr. Chair.

2

3 CHAIRMAN FLEAGLE: Well, I'm going to
4 support the Y-K Delta RAC's position. Having been
5 involved with the actions pertaining to these moose
6 populations before I got onto this Board, I do recognize
7 the statements that Lester laid out, and that there are
8 other areas of the region that are having a very
9 difficult time finding moose and now caribou,
10 particularly the lower Kuskokwim with their ongoing
11 moratorium to try to rebuild their moose population, the
12 precipitous crash of the moose population in the middle
13 Kuskokwim which the lower Kuskokwim residents used to
14 harvest pretty heavily from. And I think I still want to
15 proceed with caution. And I'm going to vote against the
16 proposal.

17

18 Pete, do you have a procedural question
19 here?

20

21 MR. PROBASCO: Yes, Mr. Chair. Ms.
22 Gottlieb, I understand your intent. This is regulatory
23 language, so if you wanted to specifically state what you
24 just said, you need to put that forward as an amendment.

25

26 CHAIRMAN FLEAGLE: Judy.

27

28 MS. GOTTLIEB: Okay. I would like to
29 have an amendment then that at the end of the language
30 there it would say, as written on Page 330, with my
31 amendment, the Yukon Delta National Wildlife Refuge
32 manager may restrict harvest to only antlered bulls after
33 consultation with the Alaska Department of Fish and Game
34 and Chairman of the Y-K RAC.

35

36 CHAIRMAN FLEAGLE: Is there a second for
37 the amendment.

38

39 MR. EDWARDS: Mr. Chairman, I can support
40 that.

41

42 CHAIRMAN FLEAGLE: Is that a second?

43

44 MR. EDWARDS: (No audible answer)

45

46 CHAIRMAN FLEAGLE: Okay. Discussion on
47 the amendment.

48

49 (No comments)

50

1 CHAIRMAN FLEAGLE: None. Is there any
2 objection to the amendment.

3
4 (No comments)

5
6 CHAIRMAN FLEAGLE: Hearing none, the
7 amendment carries.

8
9 Back to the main motion. Niles.

10
11 MR. CESAR: Yes, Mr. Chairman. I plan to
12 vote in opposition of it also. I'm listening to Lester
13 and I agree with the Chairman that we need to proceed
14 with caution.

15
16 I think that these programs are really
17 dependent upon the support of the local people. And I
18 don't see the waiting another year will dramatically
19 affect the moose population either way quite frankly.

20
21 What I am concerned about is that the
22 people out there supported this, stuck with it, and
23 they're building up, and I think that we should wait
24 another regulatory cycle before we change. So I plan to
25 vote in opposition.

26
27 CHAIRMAN FLEAGLE: Steve Kessler.

28
29 MR. KESSLER: Thank you, Mr. Chairman.
30 There's a lot to weigh here, but I think that on balance
31 I plan to vote for the motion, recognizing that Unit 18
32 residents in the lower Yukon have done an awful lot to
33 rebuild these populations, and that moose is very
34 important to them. But when I think about ANILCA and
35 Section .815 and the closure related regulations, I don't
36 see any conservation reason to maintain this closure.
37 The part of 815 that one has to think about a little bit
38 closure is for continuing subsistence uses, and on
39 balance as I think about the continuing of subsistence
40 uses, I think that the continuing of subsistence uses
41 would be adequately met by lifting this closure. So as I
42 said, I intend to support this motion.

43
44 CHAIRMAN FLEAGLE: Ready for the
45 question. All right. The question is recognized on the
46 proposal as amended. Pete.

47
48 MR. PROBASCO: Thank you, Mr. Chair.
49 Final action on Proposal WP07-32 as amended:

50

1 Adopt with modification to also lift the
2 closure in the lower Yukon area
3 downstream of Mountain Village as well as
4 Unit 18 remainder for both the fall and
5 winter moose season. The Yukon Delta
6 Refuge manager may restrict the harvest
7 to antlered bulls only after consultation
8 with the Chair of the Y-K Council and
9 Alaska Department of Fish and Game.
10
11 Mr. Oviatt.
12
13 MR. OVIATT: Aye.
14
15 MR. PROBASCO: Mr. Kessler.
16
17 MR. KESSLER: Aye.
18
19 MR. PROBASCO: Mr. Kessler.
20
21 MR. EDWARDS: Aye.
22
23 MR. PROBASCO: Mr. Fleagle.
24
25 CHAIRMAN FLEAGLE: Nay.
26
27 MR. PROBASCO: Ms. Gottlieb.
28
29 MS. GOTTLIEB: Aye.
30
31 MR. PROBASCO: And Mr. Cesar.
32
33 MR. CESAR: No.
34
35 MR. PROBASCO: Mr. Chair. Motion carries
36 four/two.
37
38 CHAIRMAN FLEAGLE: Thank you, Pete.
39
40 Are we prepared to readdress the
41 remainder of Proposal 26 or did we want to move on to 29,
42 30 first.
43
44 MR. PROBASCO: We are ready.
45
46 CHAIRMAN FLEAGLE: We're ready for 26.
47 Okay. Let's see if we can get Helen back up to the table.
48 And there's Dan LaPlant. Do you want to take over. All
49 right. Go ahead, Dan.
50

1 MR. LAPLANT: Mr. Chairman. During the
2 break we had a little mini conference with Mr. Wilde, the
3 Chair of the Y-K Delta, and Mr. Quinn from the Seward Pen
4 Council, and Mr. Rearden from the Refuge, and Helen, and
5 we have language recommended here that we believe
6 addresses the C&T decision for Stebbins and St. Michael.

7
8 If you look on the map on Page 325, this
9 is the map that was before the Councils when they
10 deliberated on this issue, so we'll use that as the
11 reference. And the area that is being recommended is, if
12 you look at that dashed line coming from Point Romanzof
13 or Cape Romanzof, it would be the area north of that line
14 from Cape Romanzof over to Mountain Village, and then all
15 drainages north of the Yukon River upstream from
16 Marshall. And I'll repeat that. It would be -- the line
17 from Cape Romanzof to Mountain Village, the area north of
18 that line, as well as all drainages north of the Yukon
19 River downstream from Marshall. Did I say upstream
20 before? I mean downstream from Marshall.

21
22 And that's the recommendation we came up
23 with, Mr. Chairman.

24
25 CHAIRMAN FLEAGLE: Thank you. Dan.

26
27 MR. LAPLANT: If you'll give me a minute,
28 I'll display that on the screen as well.

29
30 CHAIRMAN FLEAGLE: While we're waiting
31 for that, we did have an interest in testimony on this
32 proposal as well, right, from Timothy Andrew.

33
34 MR. PROBASCO: That's correct.

35
36 CHAIRMAN FLEAGLE: Timothy, we had tabled
37 this proposal for a definition of the area that is being
38 requested.

39
40 MR. ANDREW: Once again, thank you, Mr.
41 Chair. Timothy Andrew with AVCP.

42
43 We support this proposal primarily based
44 on the relationship that people in Stebbins and St.
45 Michael have with our member village of Kotlik, Emmonak
46 and Alakanuk, and electing these within the Unit 18 area.

47
48 People often invite the people from
49 Stebbins and St. Michael to their potlatches, and to
50 their other events that they may host in their villages,

1 and we believe that people from Stebbins and St. Michael
2 are primary subsistence users, and would create no
3 immediate conflict with people from our villages with the
4 resource.

5

6 Thank you, M. Chair.

7

8 CHAIRMAN FLEAGLE: Thank you, Timothy.

9 Questions.

10

11 (No comments)

12

13 CHAIRMAN FLEAGLE: Hearing none, back to
14 Board discussion on the action before us. Steve.

15

16 MR. KESSLER: Thank you, Mr. Chairman. I
17 guess a question just for clarification of the Council
18 recommendations. Is the area that was just identified
19 with sort of the new line drawn, is that the
20 recommendation of the Yukon-Kuskokwim Delta Regional
21 Advisory Council?

22

23 MR. WILDE: (Nods affirmatively)

24

25 MR. KESSLER: That's it? Okay. That's
26 an affirmative I saw.

27

28 MR. WILDE: (Nods affirmatively)

29

30 MR. KESSLER: Yes. Thank you.

31

32 MR. WILDE: For the record, Mr. Chairman,
33 that is.

34

35 CHAIRMAN FLEAGLE: Thank you, Lester.

36 Further discussion.

37

38 (No comments)

39

40 CHAIRMAN FLEAGLE: Is somebody ready for
41 a motion. Gary.

42

43 MR. EDWARDS: I would -- somebody's put
44 up the language there, because I certainly couldn't
45 repeat what was said. I see that. Okay.

46

47 Okay. Mr. Chairman. I move that we
48 adopt Proposal 07-26 with the modification, and that
49 modification would include the area north of a line from
50 Cape Romanzof -- why don't you read it for me, help me

1 here -- and the mountains, whatever they are, and
2 Mountain Village and all drainages north of the Yukon
3 River downstream from Marshall. I got most of them
4 right.

5
6 MR. KESSLER: I'll second.

7
8 CHAIRMAN FLEAGLE: All right. We have a
9 motion to find a positive customary and traditional use
10 for the residents of St. Michael and Stebbins for the
11 area that was just described. Discussion. Judy.

12
13 MS. GOTTLIEB: Mr. Chair. Thank you. I
14 want to thank both of the Regional Councils for working
15 on this and for making it a fuller and complete listing.
16 And I think the evidence that's been provided to us is
17 substantial for this decision.

18
19 CHAIRMAN FLEAGLE: Other discussion.

20
21 (No comments)

22
23 UNIDENTIFIED VOICE: Question.

24
25 CHAIRMAN FLEAGLE: The question's called
26 on the action. Pete, please poll the Board.

27
28 MR. PROBASCO: Thank you, Mr. Chair.
29 Final action on WP07-26 with clarification from the
30 Seward Peninsula Council and the Y-K Delta Regional
31 Advisory Council:

32
33 To adopt with modification to include the
34 area north of a line from Cape Romanzof
35 to Kusilvak Mountain Village, and all
36 drainages north of the Yukon River
37 downstream from Marshall.

38
39 Mr. Kessler.

40
41 MR. KESSLER: Yes.

42
43 MR. PROBASCO: Mr. Edwards.

44
45 MR. EDWARDS: Aye.

46
47 MR. PROBASCO: Mr. Fleagle.

48
49 CHAIRMAN FLEAGLE: Aye.

50

1 MR. PROBASCO: Ms. Gottlieb.
2
3 MS. GOTTLIEB: Yes.
4
5 MR. PROBASCO: Mr. Cesar.
6
7 MR. CESAR: Yes.
8
9 MR. PROBASCO: And Mr. Oviatt.
10
11 MR. OVIATT: Aye.
12
13 MR. PROBASCO: Mr. Chair. Motion
14 carries, six/zero.
15
16 CHAIRMAN FLEAGLE: All right. Thanks.
17 That now moves us to Proposal 29, 30. And we have
18 somebody coming to the table. Okay. We have Pete
19 DeMatteo before us.
20
21 MR. DEMATTEO: Yes, sir. Pete DeMatteo.
22 I'm a wildlife biologist for the Yukon-Kuskokwim Delta
23 Region, and also the Interior Regions.
24
25 Mr. Chair, the analysis of Proposals 29
26 and 30 can be found in your books beginning on Page 352.
27 Proposal WP07-29 was submitted by the Yukon-Kuskokwim
28 Delta Regional Council who requested a change in the
29 harvest limit for the December 20 through June 10 moose
30 season -- or, I'm sorry, January 10 moose season, from
31 one antlered bull to one moose for Unit 18 remainder.
32 Proposal WP07-30 also submitted by the Council request a
33 change from the existing September 1 through 30 and
34 December 20 through June -- or January 10 moose season to
35 September 1 through March 31 for Unit 18 remainder, and a
36 change from the one antlered bull harvest limit to one
37 bull.
38
39 Further discussion with the proponent
40 revealed that the proposals for 29 and 30 actually would
41 affect Unit 18, that portion north and west of a line
42 from Cape Romanzof to Kusilvak Mountains to Mountain
43 Village and excluding all Yukon River drainage upstream
44 from Mountain Village rather than the Unit 18 remainder
45 as is stated in the original proposal.
46
47 Also from additional discussion with the
48 proponent, it was realized that Proposal 29 would extend
49 the winter season from January 11 through the 20th and
50 mirrors the Federal Board's action as it was taken on

1 Special Action WSA06-04. That was the special action
2 that the Board adopted in December 2006 that extended the
3 winter season through January 20th and changed the
4 harvest limit to any moose. Because the Board's action
5 on the special action was a temporary action, the
6 expanded harvest limit and extended season was only good
7 for the December and January season of this year.

8

9 The proponent submitted Proposal 29
10 requesting the Board place these changes in the permanent
11 regulation.

12

13 The proposed regulations can be found in
14 your book on Page 353.

15

16 Mr. Chair, no new information on the
17 moose population in the lower Yukon River in Unit 18
18 exists since the last population survey that was
19 conducted in November 2005. The moose population surveys
20 for the affected area were scheduled for March of this
21 year. The current population trend will eventually lead
22 to over-browsing followed by population decline if this
23 population is not put into check. It should be mentioned
24 that extending the seasons and expanding the harvest
25 limit would slow the growth rate of the population and
26 prevent over-browsing of moose habitat in the proposal
27 area.

28

29 Harvest results from the December 20
30 through January 20 season of this year totalled 38 bulls,
31 21 cows and 12 calves. And the point is the cow harvest
32 was lower than anticipated.

33

34 Adoption of Proposal 29 season extension
35 and harvest limit should not have negative impacts on the
36 affected moose population. Adoption of Proposal 30
37 season extension would provide an additional 160 days of
38 opportunity for Federally-qualified subsistence users to
39 harvest moose from September 1 through March 31, an
40 opportunity to harvest any bull.

41

42 The impacts on the affected moose
43 population from the expanded harvest limit of any moose
44 an the 10-day season extension requested in Proposal 29
45 should be evaluated before an additional 160-day season
46 extension is considered as proposed in Proposal 30.

47

48 The additional 10 days and the
49 opportunity to harvest any moose during the winter season
50 should help to address this populations elevated calf

1 component and provide qualified users with additional
2 opportunity.

3

4 Mr. Chair, the OSM preliminary
5 conclusions for the two proposals are as follows: For
6 Proposal WP07-29, the preliminary conclusion is to
7 support the proposal, and for WP07-30, the preliminary
8 conclusion is to oppose the proposal.

9

10 Thank you.

11

12 CHAIRMAN FLEAGLE: Questions.

13

14 (No comments)

15

16 CHAIRMAN FLEAGLE: Thank you. Summary of
17 written public comments.

18

19 MR. NICK: Mr. Chair. There were no
20 written comments for 29, 30. Mr. Chair.

21

22 CHAIRMAN FLEAGLE: Thank you. Public
23 testimony. Pete.

24

25 MR. PROBASCO: Mr. Chair. Mr. Tim
26 Andrew.

27

28 CHAIRMAN FLEAGLE: Tim.

29

30 MR. ANDREW: Thank you, Mr. Chair. Once
31 again, Timothy Andrew with AVCP.

32

33 We currently support the Staff
34 recommendation in support of these proposals, although we
35 believe that the Staff recommendation totally misses the
36 intent of some of the proponents of these proposals. The
37 primary intent of the proponents were to try and decrease
38 competition in the moose hunt and to allow people from
39 the respective communities to harvest their moose needs
40 prior to opening the season to the general hunt. But we
41 believe that given the potential impacts of these
42 proposals, allowing for an earlier season and -- or,
43 excuse me, to extend the season and to also extend the
44 winter season would enable people to harvest their moose
45 needs in close proximity to their communities.

46

47 Thank you, Mr. Chair.

48

49 CHAIRMAN FLEAGLE: Thank you, Tim.

50 Questions.

1 (No comments)

2

3 CHAIRMAN FLEAGLE: Appreciate the
4 testimony. We've got the Regional Council
5 recommendation. Lester.

6

7 MR. WILDE: Thank you, Mr. Chairman. The
8 Lower Yukon RAC supports Proposal 29 with modification to
9 also open the fall season earlier. The modified
10 regulation would read, Unit 18, that portion north and
11 west of a line from Cape Romanzof to Kusilvak Mountain to
12 Mountain Village and excluding all Yukon River drainages
13 upriver from Mountain Village, to one antlered bull.
14 Unit 18, that portion north and west of a line from Cape
15 Romanzof to Kusilvak Mountain to Mountain Village and
16 excluding all Yukon River drainages upriver from Mountain
17 Village. The Yukon Delta National Wildlife Refuge
18 manager may restrict the harvest of only antlered bulls
19 after consultation with ADF&G.

20

21 The Yukon Delta Subsistence Regional
22 Advisory Council believes that the moose population in
23 the lower Yukon below Mountain Village is healthy and
24 growing. The earlier August 10 season start would allow
25 opportunity earlier for antlered bulls. The December 20
26 to January 20 any moose season will allow mid winter
27 opportunity.

28

29 Our Council agreed to this, but, you
30 know, if you have any problems with the proposal 30, you
31 know, that the recommendations of the Staff is livable.

32

33 CHAIRMAN FLEAGLE: Okay. Thank you.
34 Western Interior.

35

36 MR. REAKOFF: We took no action on this
37 proposal either.

38

39 CHAIRMAN FLEAGLE: And I don't see it
40 being addressed at all by the Seward -- okay. Thank you.

41

42 Alaska Department of Fish and Game
43 comments. Terry Haynes.

44

45 MR. HAYNES: Mr. Chairman. The
46 Department supports Proposal 07-29 as written. Extending
47 the winter season from January 10th to January 20th is
48 not expected to create conservation concerns at this time
49 and will provide additional winter moose hunting
50 opportunity to Federally-qualified subsistence users.

1 The Department opposes Proposal 07-30.
2 It is premature and inconsistent with recognized
3 principles of wildlife management to establish the long
4 150-day moose season in the affected area of Unit 18.
5 And there's no substantial evidence that such a season is
6 necessary to provide a meaningful preference for
7 Federally-qualified subsistence users.

8

9 Thank you, Mr. Chair.

10

11 CHAIRMAN FLEAGLE: Thank you. Steve.

12

13 MR. KESSLER: Thank you, Mr. Chairman.
14 Mr. Haynes, I'm a little confused on one issue, and
15 looking at the State's comments, I don't see anything
16 that discusses the Regional Advisory Council's proposed
17 change from August 20th I believe it is to the August
18 10th date. And now the State supports the proposal as
19 written, maybe it's from the September 1st date to the
20 August 10th date. I'm just trying to make sure I'm clear
21 here. What's that?

22

23 UNIDENTIFIED VOICE: It's a 20-day.

24

25 MR. KESSLER: It's a 20-day extension in
26 the early extension. is that a concern for the State?
27 Thank you.

28

29 MR. HAYNES: Ken Taylor may have some
30 comments, Mr. Chairman. But let me say this, that we
31 think you need to exercise caution in starting to expand
32 this season too rapidly. There's a lot of interest in
33 hunting. There's a pretty high level of harvest taking
34 place already during the fall season. Opening the moose
35 seasons earlier in August when weather is typically
36 warmer, certainly not as warm on the coast as it is in
37 the Interior, but we thought an appropriate step is to
38 extend that winter season a bit more, provide some
39 additional opportunity, but to exercise a bit of caution
40 for that fall season. Providing that long of an
41 extension early in the season could be a bit much. We
42 don't know for sure, but we'd just say, move cautiously
43 with expanding these seasons.

44

45 CHAIRMAN FLEAGLE: Ken Taylor.

46

47 MR. TAYLOR: Thank you, Mr. Chairman.
48 Very briefly, because of your action on opening this area
49 to people that are not Federally-qualified subsistence
50 users, you need to keep in mind that most of our moose

1 seasons do open September 1st, and those that -- there
2 are very few that open August 10th, and you could funnel
3 pressure into that area simply with that opening.

4

5 CHAIRMAN FLEAGLE: Thanks. Steve.

6

7 MR. KESSLER: Well, I guess I'm just
8 thinking about those earlier dates there, that that would
9 then provide a preference for the users that have a
10 customary and traditional use determination for those
11 earlier dates prior to the September 1 opening as I
12 understand under State regulations, is that correct?

13

14 CHAIRMAN FLEAGLE: I read it the same
15 way. This would be a Federal regulation that allows
16 Federally-qualified subsistence users to hunt beginning
17 August 10th, and the State regulation which would applied
18 to the non-qualified subsistence users would regulate the
19 green-card hunters which the State would probably still
20 have as September 1.

21

22 Terry Haynes.

23

24 MR. HAYNES: Mr. Chairman. Expect for as
25 has been noted, those residents of Unit 21E and 19, there
26 are rural residents who might have an interest in the
27 earlier seasons, and I believe they would be -- to the
28 extent if they have -- if the customary and traditional
29 use determination includes them, then they would have the
30 opportunity to participate as well.

31

32 CHAIRMAN FLEAGLE: Further discussion,
33 questions for the State's position. Steve.

34

35 MR. KESSLER: Thank you, Mr. Chairman. I
36 think just a comment. If I understand the customary and
37 traditional use determination, it's on Page 354, it's all
38 rural residents of Unit 18, Upper Kalskag, and it's not
39 residents of other areas, is that correct?

40

41 CHAIRMAN FLEAGLE: Well, we just added
42 Stebbins and St. Michael, so that is incorrect to a small
43 degree.

44

45 MR. KESSLER: And Stebbins and St.
46 Michael. You're correct. But not the other areas I
47 don't believe that Terry was mentioning.

48

49 CHAIRMAN FLEAGLE: I've got hands
50 everywhere. Lester.

1 MR. WILDE: Thank you, Mr. Chairman. I
2 forgot what I was going to state. I got so busy trying
3 to get you to notice me that I forgot what I was going to
4 state.

5
6 CHAIRMAN FLEAGLE: Okay. We can come
7 back to you. Pete.

8
9 MR. DEMATTEO: Mr. Chair. Staff will
10 just add that if it helps the discussion any, that the Y-
11 K Council want the August 10 start date, because it would
12 match the Unit 18 remainder start date. So it would
13 simplify things there and the State went with that.

14
15 Thank you.

16
17 CHAIRMAN FLEAGLE: Appreciate it.
18 Lester? That was it, your comment? Okay. All right.

19
20 We'll move on to the InterAgency Staff
21 Committee comments. Larry.

22
23 MR. BUKLIS: Thank you, Mr. Chairman.
24 The Staff Committee comments can be found on Page 360,
25 and I'll highlight the main points.

26
27 The Staff Committee fully agrees with the
28 preliminary OSM Staff conclusion that the scale of season
29 liberalization in WP07-30 to March 31st is contrary to
30 sound principles of wildlife management.

31
32 The Staff Committee considers the
33 modification to 07-29 to have an earlier opening for the
34 autumn season to be of little biological concern because
35 of the limited effect it will have on harvest. The 10-
36 day winter season extension requested in Proposal 29 and
37 supported by the Y-K Council will potentially have a
38 greater effect on controlling the burgeoning moose
39 population, especially because it simultaneously
40 liberalizes the harvest limit from one antlered bull or a
41 calf moose to any moose. Because of the need for halting
42 moose population growth though, the Staff Committee
43 considered this incremental liberalization to be
44 consistent with recognized principles of fish and
45 wildlife management.

46
47 Thank you, Mr. Chairman.

48
49 CHAIRMAN FLEAGLE: Thank you, Larry.
50 Questions.

1 (No comments)
2
3 CHAIRMAN FLEAGLE: Ready for discussion.
4 Need a break? No. Gary.
5
6 MR. EDWARDS: Mr. Chairman. I'll go
7 ahead and move that we support the Yukon-Kuskokwim Delta
8 Regional Advisory Council's modification to Proposal 07-
9 29 which would also open the fall season earlier. And I
10 would add one other modification to be consistent with
11 what we have been previously doing, is in the requirement
12 for consultation to include the Chair of the Regional
13 Advisory Council.
14
15 MR. KESSLER: Second.
16
17 CHAIRMAN FLEAGLE: Okay. We've got a
18 second. Discussion. Board members.
19
20 Gary, do you want to justify your motion.
21
22 MR. EDWARDS: Well, Mr. Chairman, I think
23 as we've heard, you know, the moose population has grown
24 rapidly, and could support this season extension and
25 liberalization in the winter, and would provide an
26 additional harvest opportunity to local subsistence users
27 particularly.
28
29 CHAIRMAN FLEAGLE: Discussion. Judy.
30
31 MS. GOTTLIEB: Mr. Chair. Thank you.
32 Appreciate the efforts of the RAC. It does look like
33 they were going for some consistency in the general area.
34 And I think this will work good and has nice checks and
35 balances on it to keep monitoring how this year goes.
36
37 CHAIRMAN FLEAGLE: Other comments.
38
39 (No comments)
40
41 CHAIRMAN FLEAGLE: Ready for the
42 question. It looks like we're ready for the question on
43 Proposals 29/30. Pete.
44
45 MR. PROBASCO: Thank you, Mr. Chair.
46 Final action WP07-29/30, Unit 18 moose.
47
48 Adopt with modification as recommended by
49 the Yukon-Kuskokwim Delta Subsistence
50 Regional Advisory Council to also open

1 the fall season early, and further
2 modified to include the Refuge manager
3 after consultation with the Chair from
4 the Y-K Regional Advisory Council.
5
6 Mr. Edwards.
7
8 MR. EDWARDS: Aye.
9
10 MR. PROBASCO: Mr. Fleagle.
11
12 CHAIRMAN FLEAGLE: Aye.
13
14 MR. PROBASCO: Ms. Gottlieb.
15
16 MS. GOTTLIEB: Aye.
17
18 MR. PROBASCO: Mr. Cesar.
19
20 MR. CESAR: Aye.
21
22 MR. PROBASCO: Mr. Oviatt.
23
24 MR. OVIATT: Aye.
25
26 MR. PROBASCO: And Mr. Kessler.
27
28 MR. KESSLER: Aye.
29
30 MR. PROBASCO: Motion carries, six/zero.
31
32 CHAIRMAN FLEAGLE: Thank you, Pete. And
33 that concludes our discussions on the Yukon-Kuskokwim
34 Delta Region. Moving into Western Interior, we'll give a
35 few moments for Staff to exchange positions. A five
36 minute stand down.
37
38 (Off record)
39
40 (On record)
41
42 CHAIRMAN FLEAGLE: All right. The
43 Federal Subsistence Board is back in session.
44
45 Moving into Western Interior Alaska
46 Region Proposals, and we're starting out with Proposal
47 34. And we have Pete at the table.
48
49 MR. DEMATTEO: Yes, sir. Pete DeMatteo,
50 Staff wildlife biologist for the Western Interior Region.

1 Mr. Chair. The analysis of Proposal 34
2 can be found in your books beginning on Page 378.

3
4 Proposal WP07-34 was submitted by Scott
5 and Heidi Schoppenhorst of Wiseman who request that the
6 Board change the Federal sheep season from August 20
7 through September 30 to August 10 through September 20
8 for Unit 24A, except that portion within the Gates of the
9 Arctic National Park.

10
11 Unit 24A is the eastern most portion Unit
12 24 that essentially extends from Atigun Pass down to and
13 including the Kanuti River drainage. This includes the
14 Dalton Highway Corridor Management Area, except, again,
15 for Gates of the Arctic National Park.

16
17 The proposed change would revert the
18 Federal sheep season in the affected area back to the
19 season dates that existed prior to the 2004/2005
20 regulatory year. The intent of this proposal would
21 provide all users equal access to affected sheep
22 population, before users hunting under the State
23 regulations have disturbed the animals during the first
24 10 days of the State August 10 through September 20
25 season.

26
27 The proponent feels that realigning the
28 Federal and State seasons would provide users with access
29 to undisturbed sheep and a better chance for a successful
30 hunt. As fall moose and sheep habitats generally do not
31 overlap, the later Federal season was requested because
32 hunters are preoccupied with moose hunting and this was
33 originally requested by the Western Interior Regional
34 Council in October of 2003.

35
36 The proposed regulations can be found on
37 Pages 378 and 379 of your books.

38
39 Residents of Unit 24 residing north of
40 the Arctic Circle, residents o Allakaket, Alatna, Hughes,
41 Huslia and Anaktuvuk Pass have a positive C&T use
42 determination for sheep in Unit 24.

43
44 At the March 2004 meeting of the Western
45 Interior Regional Council it was stated by the Council
46 that sheep were important to the subsistence needs of
47 Anaktuvuk Pass and Wiseman residents only and are
48 secondary to caribou for Anaktuvuk Pass and moose for
49 Wiseman residents.

50

1 Analysis of results from 2002 through
2 2006 population surveys conducted in the eastern portion
3 of the affected area and adjacent areas to the east
4 reveal that the affected sheep population has recovered
5 from low levels reported in the early 1990s, and is
6 presently stable.

7
8 According to the Alaska Department of
9 Fish and Game, reports from hunters and surveys indicate
10 that large rams were fairly well represented in most of
11 the eastern Brooks Range during the period of July 2001
12 through June 2004. The sheep population in the Dalton
13 Highway Corridor Management Area is likely to have a
14 better age structure due to the more restrictive harvest
15 regime and significant lower level of hunting pressure.

16
17 Beginning in 1992 the BLM administered
18 two Federal subsistence hunts within the Dalton Highway
19 Corridor Management Area. Federal permit hunt number
20 RS424 in Unit 24 was for residents of Unit 24 north of
21 the Arctic Circle, and residents of Allakaket, Alatna,
22 Hughes and Huslia. The second Federal subsistence hunt,
23 RS699, was the Unit 26B portion of the Dalton Highway
24 Corridor Management Area. Non-Federally-qualified
25 hunters also were allowed to hunt in the management area
26 under more restrictive State regulations.

27
28 The Federally-qualified user group within
29 the management corridor is relatively small and this
30 group averages 2.5 sheep harvested per year since 1995.

31
32 Most sheep hunting in the eastern Brooks
33 Range occurs during August and early September when the
34 weather is most favorable. An estimated 80 to 90 percent
35 of the sheep harvest occurs prior to September 1st.

36
37 The number of hunters, both subsistence
38 and non-subsistence, and the sheep harvest in the survey
39 areas is difficult to determine with complete accuracy,
40 because the harvest report information often doesn't
41 identify the specific areas involved.

42
43 Mr. Chair, there is no biological reason
44 to adopt the proposed change that would revert the
45 existing season back to the prior season.

46
47 With that, Mr. Chair, the OSM preliminary
48 conclusion is to oppose this proposal.

49
50 Thank you.

1 CHAIRMAN FLEAGLE: Thank you. Questions.

2

3 (No comments)

4

5 CHAIRMAN FLEAGLE: All right. Summary of
6 written public comments. Vince.

7

8 MR. MATHEWS: Yes, Mr. Chairman. They're
9 found on Page 388 of your book there. There are two in
10 opposition. You only see one listed there.

11

12 The Gates of the Arctic Subsistence
13 Resource Commission met last week and they oppose this
14 proposal. If you'd like further information on that,
15 Jack Reakoff is a member of that commission and can share
16 that. But basically they oppose this proposal.

17

18 The second written comment was from Thor
19 Stacey of Wiseman. He opposes the proposal because it
20 effects his hunting season drastically.

21

22 All three of the proposals, 55, 58 and 34
23 are rooted in user conflict and this user conflict is
24 based on perception more than reality.

25

26 The intent of shifting the season from
27 August 10 through September 20th to August 20th through
28 October 1st was given to subsistence users access to
29 sheep after the moose season. That's already been
30 covered here, that it allows them to take advantage after
31 their moose season to go sheep hunting. And he found
32 that as advantageous for his opportunity.

33

34 The main factor keeping locals in during
35 the early August seasons are weather, seasonal sheep
36 distributions and finishing the short summer projects.
37 The season of August 20 through October 1st best fits
38 with maximizing opportunity, resource sustainability, and
39 minimizing user conflict. if a change is made, I
40 recommend an August 10 through October 1st. Please keep
41 the sheep season as it stands now.

42

43 And that was from mr. Stacey of Wiseman.

44

45 That concludes the summary of written
46 comments.

47

48 CHAIRMAN FLEAGLE: Thank you. Public
49 testimony comments. Pete.

50

1 MR. PROBASCO: Mr. Chair. We have no one
2 signed up for this agenda item.

3
4 CHAIRMAN FLEAGLE: Regional Council
5 recommendation. Jack.

6
7 MR. REAKOFF: Mr. Chairman. This
8 proposal was opposed by the Western Interior Regional
9 Advisory Council.

10
11 The Gates of the Arctic Subsistence
12 Resource Commission discussed this proposal, and also
13 opposed the proposal.

14
15 Some points to keep in mind regarding
16 this hunt here and reasonable opportunity for subsistence
17 use of sheep in the Dalton Highway Corridor is the Gates
18 of the Arctic National Park season opens on August 1st,
19 and the Gates of the Arctic comes within a mile and a
20 half of the Dalton Highway north of Wiseman, so if
21 somebody wants to hunt early, they can go into the park.

22
23 The Unit 26B hunt starts on August 10th,
24 and so there's -- and so some of the factors that are
25 limiting is we normally have a lot of rain in early
26 August and bad weather on the south slope, and if you
27 want to hunt sheep, you can go over on the north side and
28 hunt sheep, and that opens August 10th over there.

29
30 In the '04 proposal, 04-57, when this was
31 proposed by the Western Interior Council, was to shift
32 the season back a little bit to optimize opportunity.
33 Originally the proposal was to have August 10 to
34 September 30th. Under Board discussion I relented to an
35 August 20th to September 30th. It's still advantageous.
36 It gave us more opportunity to hunt, and the sheep
37 hunting is, although a highly desired animal, because we
38 like variance in repertoire of diet, we do -- it is a
39 very important animal for people who live in the
40 mountains. That's why Arctic Village is talking so much
41 about sheep.

42
43 And so we, in discussion at the Western
44 Interior Council on that 04-67 proposal, the data showed
45 that there was no sheep harvested before August 20th by
46 any of the subsistence users, and so the Board adopted
47 that. Since that proposal, since that regulation has
48 been in place, there has been several sheep, three or
49 four or something, the data reflects three or four sheep
50 have been harvested in the last two years on that

1 additional period. And I personally have taken sheep in
2 that overrun period when I'm too intense on hunting
3 moose. When I finally get a moose, get that put away,
4 then get a chance to rest a little bit after packing
5 moose meat, then start sheep hunting.

6
7 And so this regulation has been
8 beneficial to the subsistence users. I see that it's
9 primarily a perception and a misunderstanding in what the
10 regulation actually did. And so the person in our
11 village, I explained that they could use the overrun,
12 where they could hunt at the alternate times, they
13 actually regretted submitting the proposal.

14
15 And so that would be the synopsis of what
16 the Western Interior's position is.

17
18 CHAIRMAN FLEAGLE: Okay. Thank you.
19 Questions.

20
21 (No comments)

22
23 CHAIRMAN FLEAGLE: And I see we have
24 North Slope. Vince.

25
26 MR. MATHEWS: Mr. Chairman, I'll just
27 cover North Slope's real quickly since they're not
28 present here. Basically to defer the proposal. They
29 didn't want to take action until they heard from the
30 community of Anaktuvuk Pass.

31
32 Thank you, Mr. Chair.

33
34 CHAIRMAN FLEAGLE: Mr. Chair.

35
36 MS. GOTTLIEB: Mr. Chair.

37
38 CHAIRMAN FLEAGLE: Judy.

39
40 MS. GOTTLIEB: And I might add that as a
41 follow up from our database, it does not look that
42 Anaktuvuk Pass people were harvesting in this area. And
43 we kind of verified that with our unit manager who lives
44 there.

45
46 MR. REAKOFF: Mr. Chairman.

47
48 CHAIRMAN FLEAGLE: Jack.

49
50 MR. REAKOFF: I also -- the

1 representative from Anaktuvuk Pass for Region 10 resigned
2 and so they had no representation from Region 10 is why
3 they were unsure about what was going on with the sheep
4 thing. That's way up in the mountains, and so that's why
5 they deferred.

6

7 CHAIRMAN FLEAGLE: Okay. Thank you.
8 Alaska Department of Fish and Game comments. Terry
9 Haynes.

10

11 MR. HAYNES: Thank you, Mr. Chairman.
12 I'll summarize our more detailed comments.

13

14 The Department supports the intent of the
15 proposal to align the Federal and State sheep seasons in
16 Unit 24A outside of the Gates of the Arctic National
17 Park, which would reduce confusion among users and
18 complexity for law enforcement officials.

19

20 The Federal registration permit currently
21 allows Federally-qualified residents to harvest one ram
22 with seven-eighth-curl or larger horn. State regulations
23 are more restrictive and authorize non-Federally-
24 qualified hunters to harvest one ram with full-curl or
25 larger horn. The difference in horn size provides
26 additional opportunity for Federally-qualified
27 subsistence users beyond that provided by the State,
28 because there are significantly more rams with less than
29 full-curl horn.

30

31 You know, having said that, it appears
32 that the current 42-day season, regardless of whether
33 it's aligned with the State and adjoining Federal
34 regulations were shifted as provided for by the Federal
35 Board in 2004 does provide for continued subsistence
36 opportunity.

37

38 Thank you.

39

40 CHAIRMAN FLEAGLE: Thank you, Terry.
41 Questions.

42

43 (No comments)

44

45 CHAIRMAN FLEAGLE: InterAgency Staff
46 Committee comments. Larry.

47

48 MR. BUKLIS: Thank you, Mr. Chairman.
49 Those can be found on Page 388.

50

1 The key points are that the Western
2 Interior Council opposed the proposal, substantiating
3 their position with testimony that emphasized how the
4 current sheep season contributes to the continuation of
5 customary subsistence practices.
6

7 The North Slope Council's recommendation
8 to defer the proposal was because they wanted to hear
9 from the Village of Anaktuvuk Pass. The Staff Committee
10 noted that Anaktuvuk Pass is a long distance from the
11 area addressed in this proposal. There is prime sheep
12 habitat closer to the village, and the village already
13 has an exclusive opportunity to harvest up to 60 sheep
14 under a community harvest quota in the Gates of the
15 Arctic National Park.
16

17 After further review of the Federal
18 registration permit records for this hunt from 1994 to
19 present, no sheep have been harvested under Federal
20 subsistence regulations by residents of Anaktuvuk Pass in
21 Unit 24A.
22

23 The Staff Committee noted that this
24 information and the available evidence does not seem to
25 warrant a deferral of this proposal.
26

27 Thank you, Mr. Chairman.
28

29 CHAIRMAN FLEAGLE: Thank you, Larry.
30 Board member, questions.
31

32 (No comments)
33

34 CHAIRMAN FLEAGLE: Discussion. Judy.
35

36 MS. GOTTLIEB: Mr. Chair, given that your
37 preference is to move things in the positive for
38 discussion purposes, I will then move that we adopt the
39 proposed regulation that's listed on Page 376 that would
40 change the dates to August 10 to September 20. However,
41 after a second I will tell you why I oppose that.
42

43 MR. CESAR: I'll second.
44

45 CHAIRMAN FLEAGLE: Okay. You do have a
46 second, Judy.
47

48 MS. GOTTLIEB: Thank you. Well, I will
49 oppose this based on the justification provided by the
50 Western Interior RAC as well as the information presented

1 to us today and in our documentation.

2

3 CHAIRMAN FLEAGLE: George.

4

5 MR. OVIATT: I also will oppose this
6 motion. There's no biological reason. I think we've
7 learned that Anaktuvuk -- to wait until we hear from
8 Anaktuvuk, Anaktuvuk has not used these areas, and in
9 recommendation of the Western Interior Subsistence
10 Regional Advisory Council, I support their reasons.

11

12 Thank you.

13

14 CHAIRMAN FLEAGLE: Other comments.

15

16 (No comments)

17

18 UNIDENTIFIED VOICE: Question.

19

20 CHAIRMAN FLEAGLE: The question's called.
21 Pete, on the proposal, please poll the Board.

22

23 MR. PROBASCO: Thank you, Mr. Chair.

24 Final action on WP07-34:

25

26 Unit 24A sheep, to reject the proposal as
27 recommended by the Western Interior
28 Subsistence Regional Advisory Council.

29

30 CHAIRMAN FLEAGLE: Okay. Hang on.

31

32 MS. GOTTLIEB: Excuse me.

33

34 CHAIRMAN FLEAGLE: Let me clarify it.
35 I'm sorry. I didn't -- Judy asked me about this on
36 break, and I didn't mean to make it confusing. What I
37 said was that the Board's past practice is to state the
38 motion, including the recommendation from the RAC even
39 though the motion is stated in a negative is fine by me.
40 Other motions that do not include a RAC recommendation, I
41 would prefer to have in the positive.

42

43 So this one could have been to accept,
44 like Pete just read; however, Judy stated it the other
45 way.

46

47 MR. PROBASCO: How would you like it, Mr.

48 Chair.

49

50 MR. EDWARDS: The motion was to accept.

1 CHAIRMAN FLEAGLE: Yeah, the motion was
2 to accept. So a negative vote in this case. And I'm
3 sorry to have led to that confusion.
4
5 MS. GOTTLIEB: Could we remove that from
6 the screen, please, because it is not accurate. Thank
7 you.
8
9 CHAIRMAN FLEAGLE: Yeah, there you go.
10 That's done. Now the question. Pete.
11
12 MR. PROBASCO: Okay. So the motion is to
13 support the Western Interior Regional Advisory -- no?
14 Say it again. State it.
15
16 CHAIRMAN FLEAGLE: The motion is to adopt
17 the proposal as presented, which is contrary to the.....
18
19 MR. PROBASCO: Okay. I've got you.
20
21 CHAIRMAN FLEAGLE:RAC's position.
22 So if we vote in the negative, we will be supporting the
23 RAC position. And again I apologize for -- maybe I
24 should have just struck that motion down and made new
25 ones. Over there. Okay. Pete.
26
27 MR. PROBASCO: I'm there. I'm not going
28 to restate it though. Mr. Chair. As stated by yourself,
29 final action on WP07-34, Unit 24A sheep.
30
31 Mr. Fleagle.
32
33 CHAIRMAN FLEAGLE: Nay.
34
35 MR. PROBASCO: Ms. Gottlieb.
36
37 MS. GOTTLIEB: No.
38
39 MR. PROBASCO: Mr. Cesar.
40
41 MR. CESAR: No.
42
43 MR. PROBASCO: Mr. Oviatt.
44
45 MR. OVIATT: No.
46
47 MR. PROBASCO: Mr. Kessler.
48
49 MR. KESSLER: No.
50

1 MR. PROBASCO: And Mr. Edwards.

2

3 MR. EDWARDS: No.

4

5 MR. PROBASCO: Motion fails, zero/six.

6

7 CHAIRMAN FLEAGLE: So everybody's
8 supporting the Western Interior RAC's position. So you
9 win in a round about way there, Jack.

10

11 Anyway, we had a little bit of clean-up
12 language on the last proposal. Pete, would you present
13 that to us, please.

14

15 MR. PROBASCO: Yes, Mr. Chair. Just to
16 clarify the record, prior to Proposal 34, we took action
17 on Proposal 29, and I misstated it, saying 29/30.
18 Actually the motion was on Proposal 29, and the action
19 the Board took on Proposal 29 would result in no action
20 on Proposal 30. So I just wanted to clarify the record.

21

22 Mr. Chair.

23

24 CHAIRMAN FLEAGLE: All right. Any
25 objection. Any discussion.

26

27 (No comments)

28

29 CHAIRMAN FLEAGLE: Hearing none. Why
30 don't we go ahead and break for lunch. 1:00 o'clock
31 return, and then we will bring up the RFR when we return
32 at one.

33

34 (Off record)

35

36 (On record)

37

38 CHAIRMAN FLEAGLE: Good afternoon. The
39 Federal Subsistence Board is back in session. And as we
40 promised this morning we are taking a break from our
41 normal proposal schedule and bringing up the request for
42 reconsideration brought by the State against the C&T
43 determination for fish on the Kenai.

44

45 And before we get there, though, we
46 wanted to talk about a little scheduling and we also
47 mentioned this morning, earlier, that we're going to try
48 to determine at about this time whether or not we need to
49 extend into tomorrow. My thinking and I think Pete
50 concurs, is that, we will be able to complete the

1 business that we have before us today if we put our minds
2 to doing so. And that may require another evening
3 session, if necessary. But having said that I think that
4 we will just plan on finishing today and not schedule a
5 follow up session for tomorrow.

6
7 With that I understand that there's a
8 tremendous amount of interest for this request for
9 reconsideration and I suppose there's quite a bit of
10 documentation being readied by the State and by the
11 Ninilchik Tribe for this issue. I'm going to ask that
12 everybody summarize the positions or statements in a
13 brief of timeframe as possible so that we can move
14 through this issue and get it back to the Board for
15 deliberation and continue on with the rest of our agenda.

16
17 Pete, do you have an announcement.

18
19 MR. PROBASCO: Yeah, Mr. Chair. And I
20 apologize for not being quicker. For you Board Chairs,
21 because the odds are we are going to go into the evening,
22 if you do need to extend, please do so, just let your
23 Council coordinator know that and they will take care of
24 that. So it's going to be your call as far as staying
25 into the evening, but if you desire to do so please make
26 those arrangements with your coordinator.

27
28 Thank you.

29
30 CHAIRMAN FLEAGLE: Thank you. Any other
31 announcements. I'd like to welcome to the table
32 Commissioner Lloyd for the State Department of Fish and
33 Game.

34
35 MR. LLOYD: Thank you, Mr. Chairman. As
36 I'm new to your arena I'll rely on your guidance and
37 indulgence on any procedural matters and thanks, again,
38 for having me here.

39
40 CHAIRMAN FLEAGLE: You bet, thank you.
41 We have a process to follow and it's on the front page of
42 the agenda under Item 6. There are six letters A, B, C,
43 D, E, F to follow, and we're going to start off with the
44 Staff analysis. And, Helen, are you going to lead off.

45
46 Okay, let me just state real quick before
47 you start, if there is any public interest in testifying
48 you need to fill out a yellow card. You can get it from
49 the table out in the hallway there.

50

1 Go ahead, Helen.

2

3 MS. H. ARMSTRONG: Thank you, Mr. Chair.
4 Members of the Board. My name's Helen Armstrong. I'm an
5 anthropologist with the OSM. I am presenting to you today
6 the Staff analysis for Fisheries Request for
7 Reconsideration 06-09 that was submitted by the State of
8 Alaska. This FRFR requests that the Board reconsider and
9 rescind its decision of November 17th, 2006 on FRFR06-
10 02/03/08 that provided the community of Ninilchik with a
11 customary and traditional use determination for all fish
12 in the Kenai River area.

13

14 So if the Board were to reverse its
15 decision today it would go back to the earlier decision
16 from January 2006 that gave Hope and Cooper Landing a
17 positive customary and traditional use determination for
18 all fish for the Kenai River area and to Ninilchik for
19 the Kasilof River drainage. In the RFR the State
20 maintains that reconsideration is required because the
21 Board's interpretation of information, applicable law or
22 regulation was in error or contrary to existing law. The
23 Board accepted one claim from the RFR, a threshold
24 analysis was done and the Board met to review that. The
25 claim that they accepted was criterion two, the existing
26 information used by the Board is incorrect.

27

28 Claim 2.1. The Board did not require any
29 evidence as to any species to support its
30 incorrect assumption that fish stocks
31 harvested by Ninilchik households in
32 waters located outside of and far away
33 from the C&T areas where the same
34 specific fish stocks as those fish
35 located within the C&T areas.

36

37 The State claims the Board made an overly
38 broad incorrect determination creating a preference for
39 Ninilchik for all salmon, Dolly Varden, rainbow trout,
40 lake trout, steelhead, Arctic char, grayling and burbot
41 wherever found within the Kenai River area, although no
42 customary and traditional harvest by that community of
43 the fish stocks within those areas had been shown.

44

45 The State is correct that during the
46 Board meeting on November 17th, 2006 on member of the
47 Board, the Chair, made reference to, I quote, "several
48 different systems that could be defined as the same fish
49 stock" as justification for supporting a positive
50 customary and traditional use determination for Ninilchik

1 for all fish in the Kenai River area. The Chair did not
2 elaborate on what he meant by fish stocks, thus the Board
3 has decided to reconsider its decision on FRFR06-02/03/08
4 in order to clarify for the record the reference to
5 stocks, and either the Board members who used stock as
6 part of their rationale can provide a different rationale
7 for their decision or change their decision.

8
9 However, it should be noted that three of
10 the five Board members who voted for the motion provided
11 rationale for their votes without reference to fish
12 stocks, which means that for at least those three the
13 Chair's comments about fish stocks were not the deciding
14 factor for their votes.

15
16 There was undue emphasis on this one
17 aspect of Board deliberations from November 17th, 2006,
18 in which stock considerations arose. Perspectives may be
19 lost on the body of information brought to bear on the
20 larger question of a C&T determination.

21
22 In the Federal Subsistence Management
23 Program if a community demonstrates that it has harvested
24 salmon and non-salmon in an area, there does not need to
25 be information regarding the eight factors, including
26 harvest of every stream, every lake, every drainage.
27 Evidence of fishing activities by a community, even in
28 the absence of specific information regarding the species
29 taken could be sufficient to support a customary and
30 traditional use determination for the community for
31 different commonly used stocks. This is because, as was
32 discussed Monday and Tuesday of this week, subsistence
33 users are necessarily opportunistic by nature. They may
34 target one fish species but will certainly retain and use
35 another if caught.

36
37 Since the Board has decided that it will
38 revisit it's decision on Ninilchik's use of the Kenai
39 River area, I am providing a summary, and a brief summary
40 of Ninilchik uses only of the Kenai River area. This
41 information was provided to the Board in January 2006 in
42 FP06-09 and, again, November 16 and 17th, 2006 in RFR06-
43 02/03/08, and in addition the Board has heard extensive
44 testimony from the public in both meetings and from two
45 anthropologists, Drs. Jim Fall and Robert Wolfe.

46
47 So I'll refresh your memory from those
48 previous analysis, if that's acceptable, unless you want
49 me to stop there. But I've got some just points on where
50 fish have been harvested, if that's acceptable.

1 CHAIRMAN FLEAGLE: Yeah, that's okay,
2 Helen.

3
4 MS. H. ARMSTRONG: Okay. Since you've
5 heard a lot about Ninilchik on Monday and Tuesday, and
6 Ms. Williams provided a lot of information on the history
7 of the Ninilchik people and the community, I don't need
8 to go over that or talk even about the interrelationship
9 with the Kenaizte and the Insupiat (ph). What I'd like
10 to focus on is where we have information of where fish
11 have been taken, what we know.

12
13 When making a customary and traditional
14 use determination one of the factors considered by the
15 Board is the long-term consistent pattern of use
16 excluding interpretations beyond the control of the
17 community or area. This point is important because
18 subsistence fishing in the freshwaters of the Kenai
19 Peninsula was prohibited from 1952 until the Federal
20 Subsistence Board created a subsistence fishery in 2002,
21 which mirrored the State sportfishing regulations.

22
23 Second, since Statehood legal
24 availability of fishery resources in Federal public
25 waters has been defined by State sportfishing regulations
26 and these regulations do not provide for harvest of all
27 species or harvest by traditional methods and means.

28
29 Given that we do have some information on
30 what has happened. In freshwater, we know this from some
31 of the literature sources, gillnets and seines were used
32 in the Kenai, Skilak and Tustumena Lakes to harvest lake
33 trout, grayling, whitefish and char. Trappers in the
34 Upper Kenai River area maintain gillnets in the Upper
35 Kenai and caught salmon and trout. Coho salmon were
36 harvested through the ice in the winter and steelhead
37 from below Skilak Lake in the late 1940s and early 1950s.
38 From the Ninilchik subsistence surveys, and, again, Ms.
39 Williams talked about those surveys so I won't go into
40 detail about how they were done and how many people were
41 interviewed, there is some documentation on the use of
42 waters in the Kenai Refuge before 1952 from the 1994
43 subsistence survey Ninilchik did. These maps showed use
44 areas for salmon and non-salmon that covered the entire
45 Kenai Peninsula and represented use in the respondent's
46 lifetime. Respondent's marked areas used during their
47 lifetime for particular subsistence resources. These
48 maps were combined to create a map with all of the use
49 areas in one polygon. I do have those maps here, too, if
50 anybody wants to refer to them, but they do show use of

1 the entire Peninsula.

2

3 I wanted to note that the technique of
4 combining all of non-salmon species together into one map
5 is not something that Ninilchik does and did alone, that
6 this is also done by the ADF&G Subsistence Division.
7 When they've done mapping, they've often, not always, but
8 often lumped the non-salmon species in one map, so you
9 wouldn't have a map for steelhead, for rainbow trout, for
10 lake trout, you would just have a map for non-salmon
11 species.

12

13 Last November you also heard about the
14 lifetime use data from the Kenai River area that Dr. Fall
15 compiled that was not included in his 2004 report. And
16 those findings are on Table 1 on Page 14 of the analysis.
17 There wasn't any information gathered when that question
18 was asked on which species or how often each year they
19 were taken. And the question actually in the survey was
20 have you ever harvested fish and then they had a whole
21 series of questions, whether they were done with
22 sportfishing, personal use, commercial fish. From that
23 information they then coded them and lumped them into
24 groups of areas. 28 percent of all Ninilchik households,
25 which equated to 162 households had fished in their
26 lifetimes in portions of the Kenai River drainage or the
27 Swanson River area in the outer boundaries of the Kenai
28 Refuge or the Chugach National Forest. This was all done
29 from sportfishing or ice fishing. These waters included
30 the Upper Kenai River, Skilak Canyon, Russian River,
31 Kenai Lake, Kenai Lake streams and Kenai Mountain
32 streams. Of these households 17 percent, of all
33 Ninilchik households, sorry, had fished about every year
34 from Federal public waters in the Kenai and Swanson River
35 area, and 21 percent of Ninilchik households who had
36 fished in their lifetime in Federal waters of the Kenai
37 River, 13 percent had frequent use which was about every
38 year and four percent intermittent use.

39

40 The other source of information from Dr.
41 Falls 2002/2003 study indicated that the majority of
42 Ninilchik's harvest occurred outside of Federal public
43 lands of the Kenai Peninsula. Of freshwater fish
44 harvested, Ninilchik harvested Dolly Varden, rainbow
45 trout, pike and lake trout. Ninilchik households were
46 not reported to have harvested grayling, whitefish,
47 steelhead and burbot in the 2002/2003 study but this was
48 only one year of data. We also had information from a
49 meeting between BIA and the Ninilchik Traditional Council
50 that noted that the use of grayling in Cooper Lake and

1 the Chugach National Forest is occurring today. Burbot
2 has only a limited presence in Juneau Lake near Cooper
3 Landing. Dr. Falls' study from 1998 did not document
4 whether the fish harvest occurred on Federal public
5 waters, it was done by Game Management Unit. And the
6 Ninilchik Traditional Council also had a study that they
7 did documenting use between 1995 and 1999 and they have
8 maps of where individual harvest areas were for various
9 species, again, non-salmon were lumped together as one
10 and I have those maps here as well.

11
12 I don't know that we'd get into that but
13 I do have them.

14
15 In Dr. Falls' 1998 study an estimated two
16 percent of households, Ninilchik households harvested
17 salmon and wildlife in Unit 15A on the Kenai Refuge,
18 three percent in Unit 15B, and two percent in Unit 7.
19 These findings were not specific to drainages, but rather
20 specific to game management units. These 1998 findings
21 were consistent with the findings from Falls' 2002/2003
22 report. In 2002/2003 four percent of Ninilchik
23 households harvested sockeye salmon in the Russian River.
24 An estimated one percent harvested rainbow trout and lake
25 trout in Kenai Lake or the Kenai Mountain streams on the
26 Kenai Refuge.

27
28 In the 1999 Ninilchik Traditional Council
29 study of the surveyed households, the Upper Kenai River,
30 Kenai Lakes were used by 32 percent of those surveyed to
31 harvest salmon, 28 percent to harvest non-salmon and 16
32 percent to harvest chinook salmon. Skilak Lake and other
33 were used by 20 percent to harvest salmon, 16 percent to
34 harvest non-salmon and eight percent to harvest chinook
35 salmon.

36
37 There also was information from the
38 Ninilchik Traditional Council at the Southcentral Council
39 meeting in October 2005 that indicated that Ninilchik
40 tribal members harvest char and trout from Federal public
41 waters, specific drainages and levels of use were not
42 provided. Public testimony at the Southcentral Council
43 meeting also noted that fishing occurred in Skilak and
44 Tustumena Lakes and the Swanson River lake system, trout
45 was specifically mentioned also in the testimony.

46
47 When BIA met with NTC in September of
48 2005 they elicited information indicated that fish were
49 harvested in Russian, Summit and Hidden Lakes, Swanson
50 and Kenai Rivers, in the Kenai Refuge and trout fishing

1 through the ice were also noted. At the Southcentral
2 Council meeting in Homer that was last fall, I believe,
3 they noted that the Kenai River was preferred, this was
4 at Council discussion, noted that the Kenai River was
5 preferred over the Kasilof River prior to the prohibition
6 of subsistence fishing in 1952 because the Kenai River is
7 slower moving than the Kasilof and therefore easier to
8 pull up.

9
10 If we look at Falls research, NTC's
11 research, public testimony combined with the lifetime use
12 data from Falls' 2006 analysis, they all indicate some
13 level of use by Ninilchik residents for harvesting fish
14 in the Kenai River area. The data do not indicate that
15 the Kenai River area has been a primary fishing location,
16 but only that the Kenai River area has been used by
17 Ninilchik residents, both in the past and currently.

18
19 Ninilchik's fish harvest in the Kenai
20 River area are less than in other areas closer to their
21 community but as Mr. Goltz mentioned on Monday there are
22 no unimportant uses in subsistence.

23
24 I won't go through the remainder of the
25 eight factors in the interest of time, but information on
26 all of the eight factors can be found in the analysis.

27
28 The effect of this proposal is that if
29 the -- the effect of the request for reconsideration if
30 the Board were to reverse its November decision, would be
31 to remove Ninilchik from the list of communities eligible
32 to fish under Federal Subsistence Management regulations
33 in the Federal public waters of the Kenai River area.

34
35 The OSM preliminary conclusion is to
36 oppose this FRFR06-09.

37
38 Thank you, Mr. Chair. That concludes my
39 presentation.

40
41 CHAIRMAN FLEAGLE: Okay, appreciate it
42 Helen. Questions. Judy.

43
44 MS. GOTTLIEB: Mr. Chairman. Thanks,
45 Helen, for a really thorough, and I know wasn't a lot of
46 time to put together the analysis. I think, you know,
47 sort of the more we do all these proposals and do this
48 process we do tend a little bit to short-hand, so I note
49 as you have written on Page 14, while you're calling it
50 the Kenai River area, that as you've defined it, is a

1 pretty broad area that does include the Refuge and the
2 National Forest and so on and so forth and freshwater
3 lakes as well as rivers, am I reading your footnote one
4 on 14 correctly there?

5
6 MS. H. ARMSTRONG: That's correct. It's
7 actually on Page 4, it says, the -- under the extent of
8 Federal public waters in the second paragraph at the end
9 it says:

10
11 The phrase Kenai River area means both
12 waters north of and including the Kenai
13 River drainage in the Kenai Peninsula
14 district.

15
16 And that's defined in the paragraph above
17 as the Federal public waters north of and
18 including the Kenai River drainage in the
19 Kenai Peninsula district within the Kenai
20 National Wildlife Refuge and the Chugach
21 National Forest.

22
23 MS. GOTTLIEB: Thanks. And I guess if I
24 might, Mr. Chairman, just another quick comment. That,
25 again, we sort of maybe abbreviate our discussions to say
26 well where were people harvesting but my understanding of
27 looking at a customary and traditional use determination
28 is establishing, was there a connection between the
29 people and the resource, and so in this case Ninilchik
30 and fish and so I think you've done a good job in
31 establishing that connection.

32
33 CHAIRMAN FLEAGLE: Gary.

34
35 MR. EDWARDS: Mr. Chairman. A couple
36 times you referred to Kenai Mountain streams, are we
37 talking all streams that are draining into the Kenai
38 River or are those just all streams on the Peninsula?

39
40 MS. H. ARMSTRONG: That was a reference
41 in Dr. Falls' study and I'd have to -- maybe that would
42 be a better question for Dr. Fall exactly what that
43 means or I can look in the book, I'm not a 100 percent
44 sure.

45
46 MR. EDWARDS: You also alluded to, and I
47 guess there was conversations between BIA and the tribal
48 council with regards to the use of grayling in Cooper
49 Lake and also on burbot in Juneau Lake, can you
50 elaborate, I mean is that just a conversation, is that

1 documented data or not, because none of the survey
2 information, you know, would at least demonstrated, you
3 know, the use of those two species and this is kind of
4 new information from my perspective.

5
6 MS. H. ARMSTRONG: Well, the survey is a
7 year, we have two different years that ADF&G Subsistence
8 Division did the studies and it's always possible that
9 something can be missed in a year, I mean it's a
10 possibility. The information, it was Dr. Chen who went
11 down to talk to a group of people at the Ninilchik
12 Traditional Council and I suppose it -- I'm not sure if
13 he's even here but I think Pat Pet -- oh, there he is, if
14 you wanted to have more specific information as to what
15 they talked about then it might be better to actually
16 have Dr. Chen talk about it. But there was a memo
17 written up and this was in the analysis from January of
18 '06 as well.

19
20 MR. EDWARDS: Yeah, that sounds good to
21 me, I'd like to hear from him.

22
23 CHAIRMAN FLEAGLE: Glenn Chen.

24
25 DR. CHEN: Thank you, Mr. Chairman.
26 Glenn Chen from the Bureau of Indian Affairs. We had
27 arranged a meeting with folks from Ninilchik to talk
28 about some information pertaining to their use of fish
29 and fish resources on the Kenai Peninsula and this took
30 place in September of 2005. We originally envisioned
31 bringing down some of the OSM Staff people to participate
32 in this discussion, too, but they weren't able to attend.

33
34 We had a number of folks from Ninilchik
35 and the surrounding area, people from the Tribal Council
36 and long-term residents, and we spent probably three or
37 four hours at the NTC office and they provided some
38 specific information about the locations where they had
39 harvested fish before, patterns of harvest, how the
40 harvest took place, the types of gear they used and
41 locations of harvest and timeframes associated with these
42 harvest patterns as well.

43
44 MR. EDWARDS: Can you elaborate
45 specifically with regards to Cooper Lake and to Juneau
46 Lake, you know, what were the conditions, were those
47 frequently, was that associated with other trips, I mean
48 I'm just trying to understand how that came up in the
49 conversation and what the responses were.

50

1 DR. CHEN: Basically we had a round-robin
2 discussion and so everybody in the room had an
3 opportunity to speak to me and I recorded on my laptop
4 the conversations that they had with me and so as we went
5 around the room some of the people spoke about, for
6 example, Bruce Oskolkoff, for example, he spoke about how
7 his family used to harvest sockeye salmon from Kenai
8 Lake. How they would actually use nets to herd these
9 fish towards the shore and catch them, they would also go
10 down to the area of the Russian River Falls and harvest
11 fish in those locations. So some people, like Mr.
12 Oskolkoff provided some very specific information.

13
14 My recollection of the information about
15 the lakes and so forth was they were not so specific but
16 they did mention the specific lakes and the specific fish
17 that they took from those lakes.

18
19 MR. EDWARDS: Thank you.

20
21 CHAIRMAN FLEAGLE: All right, thank you.
22 Up next we have public testimony. Pete.

23
24 MR. PROBASCO: Thank you, Mr. Chair. And
25 I believe this is a panel from Ninilchik Tribal Council,
26 Ivan Encelewski, Kenny Odman, Darrel Williams, Anna
27 Grant, Sky Starkey and Greg Encelewski.

28
29 CHAIRMAN FLEAGLE: Okay, thank you. And
30 as you guys are preparing to sit down and make
31 statements, I want to just remind everybody that the
32 issue that we're trying to get to the heart of here is
33 whether or not the definition of stocks included all
34 species of fish and not just salmon. There seemed to be
35 a confusion there. And, secondly, whether or not that
36 even -- what was the other part of it, outside and far
37 away of normal uses, I guess, was the other argument.
38 But the Board only found reason for reconsideration on
39 the definition of stock discussion.

40
41 In other words, we don't need to rehash
42 the entire situation, the entire proposal.

43
44 MR. ENCELEWSKI: Thank you, Mr. Chairman.
45 Members of the Board. My name is Ivan Encelewski, I'm
46 the executive director of the Ninilchik Traditional
47 Council, subsistence user. We have Dr. Darrel Williams,
48 he works with us at the tribe, environmental scientist.
49 Anna Grant is director with NTC, board director. Kenny
50 Odman is another director for the Ninilchik Traditional

1 Council. Unfortunately Greg Encelewski is unavailable,
2 he was not going to be available until 3:00 so I have a
3 few quick comments I'll read into the record for him.
4 And Mr. Sky Starkey, legal counsel for Ninilchik
5 Traditional Council.

6

7 First I'll just read a quick statement
8 here from our chairman.

9

10 Thank you for the opportunity to appear
11 before the Board today once again to demonstrate the
12 Tribe's commitment to maintaining and protecting its
13 subsistence way of life.

14

15 NTC, at great expense, has provided more
16 than substantial evidence of its C&T use fish, including
17 rainbow trout, lake trout, Dolly Varden and other
18 resident species that are the focus of this proceeding.

19

20 Numerous Ninilchik residents have
21 appeared before this Board and the Southcentral RAC over
22 the course of many meetings these bodies have held during
23 the last several years while they deliberated over C&T
24 use of fish for Ninilchik. Many of the people sitting on
25 this panel have told this Board and the Southcentral RAC
26 about their own personal subsistence patterns and those
27 of their families. NTC's Exhibits 1 and 2 includes some
28 of this testimony. Additionally, NTC conducted two
29 surveys in 1994 and '99 to demonstrate the C&T use of the
30 resident species throughout the Kenai area. The survey,
31 as presented to the Board, is included in NTC Exhibit 3.
32 Also included in Exhibit 3 is an assessment of the
33 surveys by Dr. Wolfe, which validates the survey
34 techniques and underscores its value in understanding
35 Ninilchik's C&T uses.

36

37 NTC stands on the record before the Board
38 for C&T use of resident species throughout the Kenai
39 area.

40

41 In summary the record shows that
42 Ninilchik subsistence users as in other rural communities
43 where the tribe is a vital part of the community harvest
44 a wide variety of resources, are optimistic and keep and
45 thankful for what we catch. We live a tribal subsistence
46 way of life, a customary and traditional way. We catch
47 what we are offered where and when we need it or desire
48 it, where it is available, where it is biggest or best,
49 where it is easier to catch. This pattern includes
50 resident species in the Kenai River drainage and waters

1 to the north. Sometimes this catch is called incidental,
2 while we are mostly focused on salmon. Sometimes it is
3 directed. Some people like these fish more than others.
4 Some like it for a variety in their diet. Sometimes
5 catching resident species is part of a hunting trip. In
6 the past it was food source while trapping and traveling
7 and other reasons. We also catch Dolly Varden in our
8 commercial setnet fisheries and has been our practice to
9 keep fish caught in our commercial fisheries since our
10 subsistence fisheries have been outlawed for many years.

11
12 This C&T use process puts many
13 subsistence users in our community and others in a
14 difficult position. Our way of life has been outlawed
15 but we surveyed and our choice was often not in strict
16 compliance with the fishing laws and regulations. How
17 much, where, what, when, questions about our way of life.
18 Now we must answer and document to survive, before we had
19 to hide and keep no records but our stories to survive.
20 The process is severely flawed. However, we are here and
21 will answer your questions about how we, and our
22 community use resident species, if we can and we
23 sincerely hope that the Board sticks by its decision and
24 this will end this very long and painful C&T process.

25
26 With that I would go ahead and allow some
27 of these to make some comments.

28
29 CHAIRMAN FLEAGLE: 30 seconds Sky.

30
31 (Laughter)

32
33 MR. STARKEY: Thank you, and I know
34 you'll vote the right way.

35
36 (Laughter)

37
38 MR. STARKEY: While the Council and
39 members are here to answer any specific questions that
40 you might have to fill in the record. Ninilchik did
41 submit a few documents to you, and primarily it's hard to
42 know when you practice here what the Board members have
43 in front of them in terms of record and particularly for
44 the Chairman who wasn't here in January of 2006 when the
45 major record was developed here, so we did put into the
46 record several -- the testimony of several people from
47 Ninilchik, both in the October 2005 RAC meeting and the
48 January 2006 meeting, which are directly relevant to
49 resident species on the Kenai. Also included are the
50 comments of the RAC members, both the rationale for

1 recommending customary and traditional use, and their own
2 personal observations about fishing for fish on the
3 Kenai, including all species of fish.

4

5 Also in that packet of exhibits, Exhibit
6 No. 3, would be the study that is being talked about that
7 Ninilchik did in 1994 and 1999, part of that study was
8 directly relevant to resident species in that subsistence
9 users were asked over their lifetime to draw maps for
10 non-salmon species and those maps reflect use for the --
11 for many of the maps reflected use of the entire area
12 that we're talking about.

13

14 Also attached to that exhibit is a paper
15 by Dr. Wolfe endorsing the methodology used in the
16 Ninilchik surveys and their particular relevance for the
17 kind of examination that you're doing today as one of the
18 best kinds of study to demonstrate a long-term pattern of
19 use of an area.

20

21 Also I put in today for your review
22 another paper by Dr. Wolfe called Subsistence Fish
23 Harvest Patterns in Rural Alaska Communities. The
24 importance of this document is to avoid the numbers game
25 again, the numbers game which doesn't make any sense.
26 Dr. Wolfe's paper basically outlines the fact that in
27 rural Alaskan subsistence communities, when you look at a
28 resource like resident species, rainbow trout, Dolly
29 Varden, grayling, et cetera, nowhere in Alas -- well, I
30 shouldn't say nowhere, in the majority of rural Alaskan
31 communities you will find, because they are not a staple
32 resource, you will find a low per capita harvest, you
33 will find a relatively low effort, annual -- if you're
34 going to take annual surveys because people are
35 opportunisticly harvesting them when they need them and
36 when they use them and when they're out and about as part
37 of their subsistence way of life. So you will not find
38 the same sorts of effort and number that you'll find for
39 salmon or moose or something else. So when you're
40 looking at a pattern of use in your customary and
41 traditional use determinations that's the pattern of use
42 that fits within a subsistence lifestyle and it's not the
43 pattern of measuring numbers in a couple of years and
44 making a determination on that.

45

46 The eighth criteria, in fact, for the
47 subsistence criteria that reflects the subsistence way of
48 life is a dependency on a wide variety of resources in an
49 area. And so subsistence users open up their
50 refrigerator and take things at different times.

1 Also we turned in an evaluation by Kent
2 Tarbachs who worked on the Kenai Peninsula for many, many
3 years for ADF&G, the purpose of this evaluation is to
4 demonstrate that Dolly Varden roam as a stock for up to
5 150 kilometers from where they were tagged in the Kenai
6 Lake overwintering, that they're anadromous so you catch
7 Dolly Vardens even in drift gillnet and setnet and
8 personal use fisheries, and that the idea that they're
9 somehow managed as four distinct stocks is not consistent
10 with at least the reality that Mr. Tarbachs is familiar
11 with. And the rainbow trout, although they can be
12 classified as distinct populations due to their genetics
13 are not managed as distinct populations by ADF&G and that
14 they're not managed for separate bag limits. Their
15 harvests are not kept separately or any of that.

16
17 Finally there's nine letters, again, this
18 is primarily for the Chairman who was not privy to all
19 this information, from people in Ninilchik documenting
20 their use of Dolly Varden trout and other species in
21 Skilak Lake and other places.

22
23 Ninilchik would very much rest on all the
24 factual presentations that it's presented, it believes
25 that there's overwhelming, not only substantial but
26 overwhelming evidence that they have fished in the Kenai
27 area that is under discussion for subsistence and taken
28 fish there, including all the resident species in a
29 pattern that's consistent with taking those species
30 throughout the state of Alaska.

31
32 But if there are questions and you need
33 the record supplemented then these people are here to do
34 that.

35
36 Very briefly I would like to just provide
37 our opinion as to what the law is here and the arguments
38 that the State is making.

39
40 Essentially to boil it down to where we
41 think the issue is and consistent with what the Chair
42 just said, here's the deal, it's clear that salmon are
43 mixed. They're all mixed up in Cook Inlet, they run by,
44 you're going to catch them in a long stretch of water,
45 they're the same stock.

46
47 Resident species -- the State's argument
48 basically boils down to you can't catch a Kenai rainbow
49 trout expect if you're in Kenai so therefore you need to
50 show that you're fishing in Kenai and that you have that

1 pattern of use in order to have customary and traditional
2 use of a rainbow trout in Kenai. Well, it goes farther
3 than that, really, it goes -- the State's argument, as I
4 understand it, is that you not only need to show that you
5 use rainbow trout in the area that we're talking about,
6 which would be the Kenai and the upper area, you need to
7 show to some degree use of rainbow trout in the upper and
8 the lower, you might need to show, you know, that each
9 distinct population that's in a lake, you know, the
10 degree of minuteness that you might need to go is only
11 limited by how far you're willing to be pushed, I think.

12
13 Our feeling about this in studying the
14 law is that the definition of stock at this Board has to
15 employ is really very much broadly -- a very broad
16 definition of stock is very consistent with this Board's
17 duty and its discretion. The narrow definition of stock
18 that the State is arguing for, that it has to be genetic
19 or that it has to be managed the same way that the State
20 is, managing for when it comes to conservation or some
21 other issue is just not supported anywhere in the law and
22 is not consistent with what the State does. I also
23 handed you 1 AAC from the State and the reason I chose
24 this, and it's 5 AAC 133.345, it's actually 133.6, it's
25 the C&T use determination from the State made by the
26 State when they were administering the rural priority,
27 the same law as you are, and it's for Bristol Bay and I
28 chose Bristol Bay because I think we all know that, you
29 know, Bristol Bay is also an amazing place for
30 sportfishing for rainbow trout and there are many vibrant
31 and valuable rainbow trout species throughout Bristol
32 Bay. And the customary and traditional use finding that
33 the State of Alaska made for Bristol Bay is simply --
34 finds that the following fish stocks are customary and
35 traditionally taken for use for subsistence use in
36 Bristol Bay, all fin fish. You know that's not even
37 breaking it down to salmon and rainbow trout. So it's,
38 you know, for the State to come in and argue that you
39 need to apply a standard that they don't is simply not
40 supported and the only law, if you look at what the State
41 submitted, which is voluminous, I mean there was the RFR,
42 there was the supplemental RFR and then yesterday there
43 was 30 pages. Okay, if you look at that, you will not
44 find one case or any law or any Legislative history or
45 any purpose of ANILCA that the State even cites that
46 supports their reading that a stock has to be so narrowly
47 defined that you have to prove the specific stock on the
48 specific water according to the lowest manageable portion
49 of that stock. The only thing that the State cites are
50 your regulations and a workbook.

1 Now, the workbook, I have yet to see a
2 court make a decision based on a workbook. I'm sorry,
3 you know, I wish mightily that they would but they don't
4 do it. And your regulation, the courts will, you know,
5 decide you're the ones who get to interpret your own
6 regulations. So when the Chairman made his declaration
7 about stocks, our feeling is he was finally bringing some
8 common sense into this customary and traditional use
9 determination process and that defining a stock broadly
10 is well within your discretion and there is absolutely
11 not reason to reconsider this decision based on the law.

12
13 On the other hand, a narrow definition of
14 stock, a narrow definition of stock, one like is
15 suggested by the State is contrary and squarely contrary
16 to several cases that have been decided, not only by
17 Federal courts but by State courts. A fact that the
18 State studiously avoids. Madison, the very first case,
19 subsistence case, 1985.

20
21 Please bear with me, a little bit on this
22 case, because I think it's really important.

23
24 1978 subsistence law only read customary
25 and traditional uses, there was no rural priority. It
26 was customary and traditional uses shall have a priority.
27 It's where the customary and traditional use standard
28 came from and it was copied out of Federal law.

29
30 1978 Federal was the Native (ph)
31 priority. The State adopts the law and immediately we're
32 back on the Kenai Peninsula. There was a huge influx of
33 people that wanted to fish for salmon on the Kenai
34 Peninsula. So the State's Board solution to that, which,
35 at least their position has been consistent through all
36 these years, was to try to come down and restrict the
37 number of people that could harvest fish on the Kenai and
38 so they developed the 10 criteria at a meeting on the
39 Kenai Peninsula. The 10 criteria are very similar to the
40 eight. If you read Madison and any of the history, the
41 10 criteria were developed to define, not stocks that
42 were customary and traditionally used, not populations,
43 not sub-stocks, but what a subsistence community looked
44 like. they were to try to define what customary and
45 traditional subsistence use by community was and the
46 State's scheme back then was to say you could either
47 define a community, a group or an individual but here are
48 the characteristics to look for for subsistence uses for
49 a community.

50

1 Now, we've taken -- we're in a situation
2 where those criteria, which were developed for that
3 purpose are being suggested to be used to look at a
4 population as small as rainbow trout in a lake. How does
5 the eighth criteria, reliance on a wide diversity of
6 resources fit in with looking at individual stocks, it's
7 just nonsensical.

8
9 Madison said -- the court in Madison said
10 absolutely not, customary and traditional use was
11 defined, use is not users, in the Morey case, which
12 followed after the McDowell case, the Supreme Court was
13 specifically asked to look at customary and traditional
14 use as defining an area of use and the Supreme Court said
15 absolutely not, it defines uses not users. Flawbe (ph)
16 decision says you can't -- you know, because moose is
17 important you can't deny people use of other resources.

18
19 There are a long list of cases which your
20 Solicitor's have recited to you in the past on this issue
21 that all essentially stand for the proposal that ANILCA
22 is to protect a subsistence way of life, that the
23 regulations are supposed to be the least restrictive
24 possible on subsistence users and that the statute is to
25 be implemented for those reasons.

26
27 One final argument on customary and
28 traditional use. The Regional Council system. You all
29 and your Solicitor struggle mightily about should you
30 give deference to a customary and traditional use
31 determination. You rely in cases and your rationale for
32 customary and traditional use on the expertise of the
33 RACs in their local areas to understand what these uses
34 are and to provide you guidance. ANILCA's clear that
35 those people were supposed to be involved in these
36 regulatory decisions that were important to their lives
37 but ANILCA talks about deference in terms of takings.
38 Congress and ANILCA never intended for their to be a
39 hurdle of customary and traditional use that the RAC --
40 before the RAC even had their deference. I mean the
41 whole structure of the statute doesn't make any sense if
42 you're going to use this customary and traditional use
43 determination as a barrier to subsistence uses.

44
45 So, you know, our reading of the law is
46 that you're well within your scope to define it broadly.
47 If you define it narrowly you're acting contrary to case
48 law and the intent of ANILCA, and by the way you would be
49 acting completely contrary to the United States defense
50 of your action in Chistochina. And it bears mentioning

1 that the latest submission by the State is arguing the
2 Chistochina case to this Board and asking this Board to
3 take a position contrary to what its lawyers are arguing
4 in Chistochina. I was actually, frankly surprised that
5 they were explicit as they were about the argument.

6
7 So with that we'll conclude our
8 presentation and we believe that the record is completely
9 clear on any grounds that you want to decide it on. The
10 most clear ground would be to stand your ground and say
11 we believe that when you show use of rainbow trout in an
12 area, you show use of fish in an area, that that's the
13 stock.

14
15 Thank you.

16
17 CHAIRMAN FLEAGLE: Thank you. Questions,
18 Board members.

19
20 (No comments)

21
22 CHAIRMAN FLEAGLE: Thanks. Your
23 microphone's still on Sky -- thank you.

24
25 Council comments. Ralph Lohse.

26
27 MR. LOHSE: Thank you, Mr. Chair.
28 Members of the Council -- I mean members of the Board,
29 excuse me.

30
31 As you know the Southcentral Regional
32 Advisory Council is made up of citizens who probably
33 don't have the legal ability to judge this case on its
34 legal merits or to decide whether or not all of the I's
35 have been dotted and the T's have been crossed, but,
36 instead is made up of citizens who either have
37 participated in the past in the subsistence lifestyle,
38 currently participate in the subsistence lifestyle or
39 have knowledge of the subsistence lifestyle, and we're
40 looked on as advisors to the Board. And from that
41 standpoint we're going to look at it from the standpoint
42 of a subsistence issue.

43
44 And while I can't speak for the Council
45 directly to this RFR, we haven't discussed this in a
46 Council meeting, I can tell what the history of our
47 Council has been in the past. And I really seriously do
48 thank Sky for his illustration of the State's decision in
49 Bristol Bay because that's how our Council has always
50 looked at the Kenai and the fish stocks on the Kenai

1 Peninsula. We've looked at it as if we were subsistence
2 users and if we used rainbow trout, we used rainbow
3 trout, we didn't have to say that we used rainbow trout
4 in this stream or that stream and we didn't have to say
5 we used it yesterday and the day before and last month,
6 and, so consequently we looked at it from a broader
7 scale. The one thing I can be sure of from our Council
8 is if this issue comes before our Council again as it's
9 come before our Council many times in the past, I'm
10 pretty sure that the Council will give the same decision
11 that it's given in the past a number of times and that
12 was to grant C&T to Ninilchik.

13

14 We've always wondered why it keeps coming
15 back to us and coming back to us. From that standpoint I
16 can't speak for the Council and say that that's their
17 decision but I can ask you to look at past history and
18 see the history of the decisions we've made on Ninilchik
19 and their request for C&T and you could probably be
20 convinced that we will probably make the same decisions
21 in the future.

22

23 Thank you.

24

25 CHAIRMAN FLEAGLE: Thank you, Ralph.
26 Alaska Department of Fish and Game comments. Who's
27 taking this, Tina?

28

29 MS. CUNNING: Yes, I get the short straw.

30

31 CHAIRMAN FLEAGLE: Microphone.

32

33 MS. CUNNING: Microphone.

34

35 CHAIRMAN FLEAGLE: Thanks.

36

37 MS. CUNNING: Consistent with how we've
38 been handling things the last couple of days, we're going
39 to provide just a synopsis of our key points and remind
40 you that we have more thorough comments that we have
41 submitted in writing for your deliberations today. So
42 the first part of this will be a little more detailed and
43 then we'll be skipping large chunks as we go.

44

45 Okay, on April 13, 2007 the Federal
46 Subsistence Board informed the Department of the Board's
47 partial acceptance of the State's request for
48 reconsideration dated January 16, 2007 designated FRFR06-
49 09. The Department provides the following comments in
50 response to the Board's action, including the Board's

1 April 12, 2007 threshold analysis, Office of Subsistence
2 Management's Staff analysis posted April 26th, 2007, and
3 the InterAgency Staff Committee's comments posted late on
4 April 27. The Board is respectfully requested to
5 consider these State comments in conjunction with its
6 threshold action and its scheduled reconsideration of
7 FRFR06-09 together with the other materials already on
8 record. The State requests that these comments and
9 materials also be considered in conjunction with Board
10 consideration of Fisheries Proposal FP07-28, which
11 addresses similar issues.

12

13 The Board's threshold action contains a
14 number of significant procedural and factual errors.

15

16 First, in its January 16, 2007 RFR the
17 State requested that the Board reconsider its decision of
18 November 17, 2006 providing to the community of Ninilchik
19 and Happy Valley a customary and traditional use
20 determination for all fish in the waters north of and
21 including the Kenai River drainage, within Kenai National
22 Wildlife Refuge and Chugach National Forest in the Kenai
23 Peninsula district also referred to as the Kenai River
24 area. However, that RFR also included an explanation of
25 how the Board and Federal Staff previously only addressed
26 the Ninilchik Traditional Council's May 30, 2006 request
27 designated FRFR06-08 and how the Board and Federal Staff
28 effectively ignored the State's two May 5, 2006 RFRs
29 designated FRFR06-02 and FRFR06-03. Those two State RFRs
30 requested the Board's prior C&T determinations in January
31 2006 for Ninilchik and Happy Valley to fish -- to all
32 fish in the Kasilof River drainage and for Hope and
33 Cooper Landing to all fish in the Kenai River area be
34 reconsidered and rescinded.

35

36 The State's January 16, 2007 RFR
37 requested that the Board address FRFR's 06-02 and 06-03
38 on the merits. In its March 8th, 2007 supplemental, the
39 State emphasized that its January 16, 2007 RFR requested
40 that the Board reconsider and rescind its actions taken
41 on the proposals designated by Federal Staff as FRFR06-
42 02, FRFR06-03 and FRFR06-08. Despite the State's
43 specific request, the Board's April 13, 2007 letter and
44 threshold analysis contained no mention of these FRFRs
45 and the threshold analysis incorrectly concludes, quote:

46

47 Only the portion of the Board's decision
48 affecting the Kenai River area is
49 included in this FRFR.

50

1 The State requests that the Board rectify
2 this error and address those two FRFRs submitted May 5,
3 2006 as part of its further reconsideration of FRFR06-09.

4
5
6 Second, the threshold analysis, as the
7 first of three criteria under which the Board evaluates a
8 request for reconsideration incorrectly concludes,
9 without explanation, quote:

10
11 There were no claims by the state of
12 Alaska that there is new information that
13 was not previously considered by the
14 Board.

15
16 In its RFR, the State clearly claimed
17 that the Board at the very last minute in its
18 deliberations introduced and improperly relied on
19 speculation as to fish stocks in several different and
20 distant river drainages to support that C&T determination
21 despite no evidence having been presented that could
22 support that speculation. This was new information which
23 the State could not possibly have addressed for two
24 reasons.

- 25
26 1. Because of the issue of stocks
27 had never before been raised by
28 Federal Staff or the Board as a
29 basis for the Board's
30 determination, and;
31
32 2. Because the State, just minutes
33 before it was raised had been
34 silenced by the Board Chair.

35
36 This point of error also was addressed in
37 the January 16 RFR and the March 8 supplemental
38 submittal.

39
40 Contrary to the representation contained
41 in the Board's threshold analysis, the State clearly
42 presented specific information in its January RFR and its
43 March 8th supplement previously not considered by the
44 Board precisely on the incorrect, last minute "fish
45 stock" theories on which the Board had improperly
46 speculated and relied. That new information is all
47 contrary to the Board's unsupported conclusions on the
48 subject which resulted in the Board's C&T determination.
49 Thus, the Board is also requested to acknowledge and
50 consider that new information, some of which came from

1 its own biologist's Staff, but only after the C&T
2 determinations were made and to correct this error in its
3 further considerations.

4
5 Due to the above errors, the Board,
6 through the threshold analysis identifies and evaluates
7 only eight claims in its April 13 notification letter and
8 threshold analysis and incorrectly accepts only claim two
9 of those eight claims for further analysis and
10 consideration. The following additional Department
11 comments address that claim first and then summarize the
12 others that were rejected by the Board.

13
14 In Claim 2.1 the fish stocks and
15 location, first the State Staff misstates the State
16 claim. The ensuing Staff discussion misses key points on
17 the claim perhaps in part because of the limitations and
18 misdirection placed on the claim by this Staff's
19 recharacterization of it. Furthermore, the 24 page
20 Federal Staff analysis posted on April 26th contains no
21 information regarding fish stocks and does not otherwise
22 directly address this claim, even as only partly
23 construed and discussed in the April 12 threshold
24 analysis. For an accurate understanding of what the
25 State actually claims the Board members must read the
26 State's actual January 16, 2007 RFR and the March 8, 2007
27 supplement to the RFR.

28
29 For ease of reference the State refers to
30 its claim restated claim 2.1 as the "fish stock" claim.
31 That claim is discussed in the RFR, in our March
32 supplement and attachments and contains the only factual
33 information which was submitted to the Board on fish
34 stocks.

35
36 The last minute basis of the Board's
37 decision shifted from location to fish stocks very late
38 in its deliberations on the C&T motion before it and
39 immediately after precluding the State from being further
40 heard improperly "speculated that the salmon, trout and
41 other fish stocks in the distant widespread drainages of
42 the Kenai National Wildlife Refuge and Chugach National
43 Forest under consideration, including the Kenai River,
44 Russian River, Swanson River, Summit Lake and
45 Resurrection Creek drainages are the same stock as the
46 fish in the areas much closer to and much more commonly
47 used by Ninilchik, such as, the Ninilchik River and Deep
48 Creek." Despite "no evidence, substantial or otherwise
49 having been presented that could support that
50 speculation."

1 As stated in our RFR the Board's
2 speculation on that topic, ,which was decisive is
3 incorrect, they are not one homogenous fish stock. Those
4 statements in the RFR and March 8 supplement are clear,
5 more specific and less transformable into different
6 meanings than are the Federal Staff's restatement of them
7 in the threshold analysis and avoidance of them in the
8 Staff analysis posted April 26th.

9
10 The State believes it is important not to
11 take the one statement out of context that was made. The
12 threshold analysis refers to "it is important to
13 understand the context of the discussion preceding the
14 Chair's comments to fully understanding his statement."
15 The State believes -- I got it backwards here -- the
16 threshold analysis -- or during deliberations about the
17 fish stocks, the motion to grant the C&T determination
18 before Chairman Fleagle made those comments about fish
19 stocks three Board members expressed their views that the
20 relatively few instances and amounts of harvest of some
21 fish by some residents of Ninilchik and Happy Valley in
22 various waters of the Upper Kenai River area within the
23 exterior boundaries of the State Refuge and Forest, many
24 miles from their homes, nevertheless constituted
25 sufficient evidence of a long-term, recurring customary
26 and traditional use by those communities of those distant
27 fish to warrant a C&T determination and Federal
28 subsistence priority for the residents of those
29 communities. Also before the Chair commented two other
30 members of the voting members of the Board expressed
31 contrary views questioning the sufficiency of use by
32 those communities of the resource.

33
34 After some questions and discussions
35 about patterns of use, legal Counsel, Mr. Goltz,
36 essentially replied we're talking about population and
37 stock. Immediately after that Mr. Fleagle commented
38 "the regulation says fish stock, to me it's pretty clear
39 that if you take that entire river system and even that
40 entire area, if you include other river systems, other
41 than the Kenai you got the Kasilof, you got the
42 Ninilchik, you got Deep Creek, you got several different
43 systems that could be defined as the same fish stock. I
44 think it's overwhelmingly evident that you do have
45 customary and traditional use and that's where I have to
46 fall." That was sufficient for one of the Board members
47 to be swayed and change his vote. The threshold analysis
48 argues "the State's point is that all fish in the Kasilof
49 River drainage and the Kenai River area are not from the
50 same genetic stocks" that is indeed a point, and based on

1 the information from both State and Federal biologists
2 submitted with the State's RFR and March 8 supplement an
3 undeniable point, however, that is not the State's main
4 point.

5
6 The comments made, based on Mr. Goltz'
7 advice and Mr. Fleagle's comments dramatically shifted
8 the focus at least for two of the Board members from
9 location and extent of the harvest of types of fish from
10 Federal lands to the identification and location of fish
11 stocks in general wherever located. Without any
12 supporting evidence or information whatsoever in the
13 record that all fish of whatever type, species and stock
14 within the entire Kenai River system and the entire area
15 beyond including the Ninilchik River and Deep Creek
16 systems much closer to and much more commonly and
17 historically used by Ninilchik "could be defined as the
18 same fish stock." The Board's decision was based on lack
19 of evidence and incorrect speculation on fish stocks. A
20 basic problem with that hypothesis is that there is no
21 evidence in the record which supports it. To the
22 contrary, even within the same river system there are
23 different species, and recognized stocks of fish, both
24 among salmon and resident species and certainly the
25 different fish in the Ninilchik River or Deep Creek close
26 to Ninilchik and Happy Valley are not the "same fish
27 stock" as exists within or adjacent to Federal lands in
28 the Upper half of the Kenai River many miles away.

29
30 As long as simple distinctions are being
31 made between different species of fish, such as chinook
32 and sockeye salmon, rainbow trout and Dolly Varden, some
33 of which may have been customary and traditionally
34 harvested by a particular community in a Federal area and
35 some not then there should not be a problem. The problem
36 arises when the Federal program tries to shift the focus
37 to particular fish stocks and speculate as to their
38 sameness. In an effort to bootstrap more frequent
39 community harvest patterns close to home to infrequent or
40 non-exist community harvest patterns on far away lands as
41 is being sought in this instance.

42
43 Federal Staff for the Board asserted in
44 the threshold analysis that the Board is not obliged to
45 determine fish stocks in connection with making C&T
46 determinations. That assertion is not true.

47
48 To the contrary, one of the Federal
49 regulatory requirements for making customary and
50 traditional use determinations is to determine and

1 "identify the specific communities or area's use of
2 specific fish stocks and wildlife populations." Those
3 regulations require that a specific community's "long-
4 term, consistent pattern of use, recurring and specific
5 seasons for many of specific fish stocks" must be shown
6 for that community to qualify for a customary and
7 traditional use determination making it eligible for a
8 Federal subsistence priority.

9
10 In addition to the duty of determining a
11 community's use of specific fish stocks, Federal
12 subsistence policy guidelines and other Federal Staff
13 analysis also support the State's position that where the
14 harvest customarily and traditionally occurred does
15 matter. That use must be consistent, long-term and
16 recurring.

17
18 A history of harvesting salmon and some
19 trout in the Ninilchik River should not lead to a
20 community customary and traditional use determination for
21 harvesting rainbow trout, Dolly Varden, char, lake trout,
22 grayling and all types of salmon in other distant water
23 bodies such as the Upper Kenai or Kasilof Rivers or their
24 lakes or tributaries in surrounding waters. Neither
25 should a history of harvesting one stock of rainbow trout
26 in Ninilchik River or another stock in Deep Creek result
27 in a customary and traditional use determination to
28 harvest resident or artificially stocked rainbow trout
29 in Swanson or Kenai Rivers or in Skilak, Kenai or Summit
30 Lakes without knowing if they're the same stock, it
31 cannot simply be assumed that several different species
32 of fish in the different river streams and lake systems
33 emptying into Cook Inlet are the same fish stock for
34 Federal subsistence priority purposes as the Board
35 effectively did.

36
37 Lastly, the substantial evidence test is
38 not met. The Administrative Procedures Act requires all
39 Board factual determinations such as C&T determinations
40 "to be supported by substantial evidence." Whereas those
41 Federal analysis state that this standard "not high"
42 neither is the standard inconsequential. Neither may the
43 Board rely on just that part of the evidence it wishes
44 to. In this case the Board clearly engaged in
45 speculation regarding fish stocks to support the
46 determinations of at least two of its members resulting
47 in passage of at least the C&T determination for
48 Ninilchik and Happy Valley to all fish in the Kenai River
49 area. As set out in the State's RFR and its March 8th
50 supplement, both through State and Federal sources

1 conclusively establishes that the Board's speculation
2 regarding fish stocks on November 17, 2006 likely
3 resulting in that C&T determination was incorrect. Fish
4 stocks harvested by Ninilchik and Happy Valley in the
5 vicinity of Ninilchik River and Deep Creek and nearby
6 marine waters are not the same stocks as the fish found
7 in the Kasilof River drainage, in the Upper Kenai River
8 drainage or in the various different waters located north
9 of those drainages situated within the Federal Refuge and
10 Forest boundaries, including lakes.

11
12 Based on the available information, the
13 conclusion is inescapable that different stocks of the
14 same species of fish exist even in the same river system.

15
16 The affidavit of Dr. Hasbrook (ph)
17 attached to our supplement affirms that the various
18 different species of anadromous and non-anadromous fish
19 found in Ninilchik River are different stocks and
20 populations of fish than are found in Deep Creek and
21 "that those stocks are different stocks than the stocks
22 found in other watersheds in the Kenai Peninsula
23 including the Kasilof River and the Kenai River."

24
25 In conclusion, contrary to the misadvice
26 and speculation relied on by the Board, the Board must
27 use substantial evidence to determine if there were a
28 customary and traditional uses of a particular stock or
29 population of fish. Accordingly the C&T determination
30 must be reconsidered, set aside and replaced with a
31 negative C&T determination.

32
33 Regarding Claims 3.1 through 3.4 and
34 prior C&T determinations, the State accepts the
35 proposition that whether or not the harvest is "far
36 removed from a community" although relevant is not
37 determinative. Further it stands to reason that the
38 farther the location of harvest is from the local
39 community the less likely frequent and, quote, important
40 that community's harvest will normally be as the evidence
41 in this case solidly demonstrates. The overwhelming
42 evidence is that when it comes to location of the
43 harvest, few community residents, including those from
44 Ninilchik strayed far from home and certainly not into
45 all areas, and to all different fish covered by the
46 Board's broad C&T determination. Similarly during the
47 same or similar study years cited in the earlier evidence
48 provided by the Staff, Ninilchik households reported
49 catching the great bulk of their fish from the Ninilchik
50 River and Deep Creek and adjacent Cook Inlet marine

1 waters outside of any Federal lands and also Kachemak
2 Bay.

3
4 The harvest information on Cooper Landing
5 is similar showing relatively low numbers and amounts of
6 fish and very local patterns of harvest centered on the
7 Kenai River data. That data and the other fish harvest
8 information set out in the State's RFRs and elsewhere in
9 the record preceding those RFRs including Federal Staff
10 papers show very low harvest numbers and amounts of fish.
11 They also show that with the possible exception of Cooper
12 Landing the lowest numbers and amounts of harvest are
13 within locations distant from those local communities to
14 which the challenged C&T determinations apply. Board
15 members might ask how is C&T determination to all fish
16 species and stocks of fish, including chinook salmon and
17 rainbow trout within the Kenai River drainages, lakes is
18 justified for Hope, based on Hope's demonstrated reliance
19 on Resurrection Creek stocks of different species. Board
20 members might also ponder, how a C&T determination for
21 all fish species and stocks within that same drainage and
22 lakes, including chinook and coho salmon and all resident
23 species of fish is justified for Ninilchik based on
24 Ninilchik's demonstrated low harvest numbers for those
25 fish and reliance on different fish species and stocks
26 much closer to their home.

27
28 A question for the Board is whether that
29 type of indefinite information is sufficient and
30 substantial enough to support a C&T determination as to
31 those different fish species, stocks and locations. A
32 related question is whether the Board can legally ignore
33 those substantive distinctions and simply grant those
34 communities, including Ninilchik a C&T priority
35 determination to all of those different categories of
36 fish by lumping them together as "all fish" within those
37 widespread areas based on the information before the
38 Board. The State submits the Board cannot and should
39 not.

40
41 In sum, the record in this case as to
42 those communities may demonstrate that they target a
43 particular species of fish but it does not demonstrate
44 that they "will certainly retain and use another if it is
45 caught." The evidence demonstrates otherwise. It does
46 not at all support a "co-resident stock" theory or a
47 Federal Staff suggestion that a community record of
48 harvesting one species of stock -- one species or stock
49 of fish in one area should translate into a priority
50 subsistence right for that community to harvest all

1 species and stocks of fish or in all areas.

2

3 Regarding Claim 3.5. The Board is very
4 familiar with our assertions of their failure to
5 implement a pertinent C&t policy as directed by the
6 Secretary. If such a policy were in place we probably
7 wouldn't be having all these difficulties.

8

9 Under Claim 3.6. You are also familiar
10 with our claim of the Board precluding State
11 participation in the discussion which may have provided
12 relevant information. Based on that the Board should
13 reconsider its rejection of this claim, accept the claim
14 instead and reconsider and set aside its C&T
15 determination based on a material, procedural area.

16

17 On Claim 3.7. The Board is familiar with
18 our claim that the Board's claim over waters affected by
19 its C&T determinations is not resolved and we do need to
20 have those locations identified for the public as well as
21 the Federal and State agency managers.

22

23 In conclusion, as previously requested
24 the Board should reconsider, rescind and repeal its C&T
25 determinations for fish for Ninilchik, Happy Valley, Hope
26 and Cooper Landing and replace those determinations with
27 the negative C&T determination.

28

29 On April 23, 24 and 25 the State
30 requested the Board consideration of this RFR be moved
31 from the Board's April 30 through May 2 meeting agenda
32 for state wildlife proposals to the May 8 through 10
33 meeting agenda when the rest of the Kenai Peninsula
34 Federal subsistence issues are scheduled to be heard,
35 including FP07-28, which is the related public proposal
36 to repeal the C&T determinations. That request was
37 denied for the reasons stated in that letter, including
38 the importance of providing the opportunity for full
39 public participation, the Board should act to move and
40 conclude its considerations on this RFR at the May 8
41 through 10 public meeting devoted to Kenai Peninsula fish
42 issues.

43

44 CHAIRMAN FLEAGLE: Thank you, Tina.
45 Board members.

46

47 (No comments)

48

49 CHAIRMAN FLEAGLE: Okay. That was a
50 pretty good presentation of the document presented by the

1 State, we'll resume with ISC comments after we step down
2 for a 10 minute break.

3

4 (Off record)

5

6 (On record)

7

8 CHAIRMAN FLEAGLE: Good afternoon, we're
9 back on record. And we just heard the State's
10 presentation. We now turn to the InterAgency Staff
11 Committee for comments. Larry Buklis.

12

13 MR. BUKLIS: The InterAgency Staff
14 Committee comments on the Request for Reconsideration
15 FRFR06-09 can be found on a separate piece of paper in
16 your supplemental materials folder and it's dated April
17 27, 2007. I will read the comments, they're relatively
18 short, and I note that in the first line there's a
19 typographical error. It should read FRFR06-09 and it
20 says 07-09, so with that correction.

21

22 One view of the InterAgency Staff
23 Committee found the Staff analysis for FRFR06-09 to be a
24 complete, thorough and evaluation of the request for
25 reconsideration submitted by the State of Alaska
26 consistent with the Board's customary and traditional C&T
27 use determination process. The Southcentral Council did
28 not specifically address this fishery RFR, however, for
29 all similar customary and traditional use determinations
30 for Ninilchik in this geographic area the Council has
31 supported a positive determination consistent with ANILCA
32 Section .805(c).

33

34 Another view of the InterAgency Staff
35 Committee found the Staff analysis for FRFR06-09 to be a
36 thorough evaluation of the regulatory history and
37 customary and traditional use information that emphasizes
38 Ninilchik's use patterns of fish in the Kenai Peninsula
39 district consistent with past C&T use determinations.
40 However, the Board may want to give further consideration
41 to the general distribution of resident fish in the Kenai
42 River drainage given the reference to fish stocks during
43 Board deliberations on this issue in November 2006.

44

45 Thank you, Mr. Chairman.

46

47 CHAIRMAN FLEAGLE: Appreciate it Larry.
48 Board members.

49

50 (No comments)

1 CHAIRMAN FLEAGLE: All right. We're
2 ready to enter into discussion. And I guess I'll start
3 out just basically the comments, since they're based --
4 the one finding that the Board did find for granting the
5 request for reconsideration was based on the fish stock
6 discussion and where it occurred, I -- I think that that
7 does need clarification. Whether or not the Board feels
8 that it's warranted to find the customary and traditional
9 determination with or without that discussion on stocks
10 is up to the Board. But I'd like to point out that when
11 I made those statements about fish that occurred in other
12 places on the Kenai Peninsula and on the river system
13 that would warrant a customary and traditional use
14 determination on the Upper Kenai, I was referring to
15 salmon. I think that was pretty clear. And, again,
16 whether that warrants a reconsideration of the entire C&T
17 or just for the resident species or not I wanted to just
18 make the statement, or the record clear that my
19 discussion on stocks was referring to salmon.

20

21 George Oviatt.

22

23 MR. OVIATT: Thank you, Mr. Chairman. I,
24 too, as I listened to Mr. Goltz when he talked about that
25 we were talking of stock and populations and not location
26 and then I heard you make the comment that you had made
27 and I said that you had swayed me into agreeing. I, too,
28 was thinking of salmon only. And my thought process that
29 happened at that time was the fact that those salmon that
30 could have accessed the Kenai River could have been
31 caught by Ninilchik up and down that river, we know that
32 they fish for those salmon in front of or in the mouth of
33 the Kenai, too. And so based upon what Mr. Goltz had
34 said and what you had said I based my decision but it was
35 on salmon only, and I wanted to make that clear, that I
36 was thinking of salmon, and not of any other species.

37

38 Thank you.

39

40 CHAIRMAN FLEAGLE: Thank you, George.

41 Other discussion. Gary.

42

43 MR. EDWARDS: Mr. Chairman. I guess I'd
44 like to maybe address the issue of stocks but maybe in a
45 broader context of kind of my overall views on the issue
46 and I guess in some ways this is kind of almost feels
47 like Groundhog Day, I think, as Ralph said and as the
48 folks from Ninilchik said, you know, we keep waking up
49 and we're back here talking about this same issue and
50 maybe some day we won't be and whether it will be today

1 or not I guess we will find out.

2

3 As I've said on several occasions, at
4 least for me personally, you know, there's never been a
5 question about the use of fish or the importance of fish
6 in the subsistence lifestyle of the folks in the
7 Ninilchik community. There also has never been any
8 question that, you know, throughout the history of that
9 community that folks in that community didn't wander
10 throughout the Peninsula for various reasons, be it
11 trapping, be it somebody got in a fight with their wife
12 and took off for three weeks or whatever, there's no
13 doubt that folks went throughout that area. And I guess
14 in my mind there's no question while they were out there
15 doing whatever they were doing they essentially lived off
16 the land as anybody would have done. If they were
17 trapping in the winter along some of those small creeks,
18 obviously they threw out gillnets and they took fish and
19 so in my mind there is no, you know, question that they
20 did that. The thing that I continue to wrestle with is
21 trying to reconcile that use particular for resident
22 species, you know, with our regulations.

23

24 And, you know, we've bantered the term of
25 stocks and populations around and it's true that our
26 regulation starting off on customary and traditional use
27 says that the Board shall determine which fish stocks.
28 But then it goes on to say that this determination shall
29 identify the specific community or areas of use and
30 specific fish stock. And the word, specific is an
31 adjective in this case, and in my mind it doesn't say
32 that all stocks are created equal. I, as we all do
33 anymore, I Google'd, specific, I mean the word, specific,
34 this morning, and one of the definitions for that among
35 setting -- explicit or definitive was that specific
36 relates to characterizing or distinguishing a species.
37 So the fact that our regulations said specific stocks as
38 opposed to stocks, at least in my mind, you know, defines
39 that there are differences between stocks and not all
40 stocks are created equal despite what maybe the State
41 said about finfish in Bristol Bay. And so I do think
42 that we have to look at that.

43

44 And then I've had the difficulty then of
45 reconciling the evidence that has been provided to us,
46 from our guidance about a long-term consistent pattern of
47 use. Yesterday when we voted on the brown bear, the
48 Chairman voted against brown bear because he felt that
49 the use that was demonstrated was sporadic use, well, I
50 guess I could equally argue that based upon the

1 information that was gathered and that's been presented
2 to us, that the information on the use of resident
3 species is equally sporadic.

4

5 Also yesterday when we talked about brown
6 bear, we found that the folks in Ninilchik hunted brown
7 bear as far away as Bethel and in Kodiak and in my
8 assumption when they were up there they may also have
9 fished while they were hunting bear but I'm not sure that
10 we're looking at providing customary and traditional use
11 for fish in Bethel.

12

13 And I guess as I've been wrestling with
14 this personally I tried to put it in the most easiest
15 terms that I could and that is to look at my own
16 subsistence lifestyle. Now, my subsistence lifestyle,
17 almost the majority of it, unfortunately occurs at the
18 Fred Meyers store on Abbott Road. Now, I go to the Fred
19 Meyers on Abbott Road as opposed to the Fred Meyers out
20 in Eagle River and it's not because they have better
21 products or the prices are better or that the people
22 there are more friendly to deal with it, I go to it
23 because it's the closest to my home, it's on the way home
24 from work, it takes less gas and so if I was doing a
25 survey and somebody asked, Gary, where do you shop at
26 Fred Meyers and drew a big map, I would include a lot of
27 places, including Eagle River because I have, on
28 occasion, on the way up north I've stopped in Eagle River
29 for my subsistence, be it a sandwich or whatever, but if
30 somebody asked me where did I customary and traditionally
31 shop or subsist in this case it would be at the Fred
32 Meyers Abbott. So in my mind that's where my customary
33 and traditional use is.

34

35 And I guess I believe in this case that
36 that upper river for resident species, I don't feel that
37 we have had sufficient evidence to show that that was
38 where the customary and traditional places to fish were.

39

40 CHAIRMAN FLEAGLE: Other discussion.

41

42 Steve Kessler.

43

44 MR. KESSLER: Thank you, Mr. Chairman. I
45 guess I was doing some thinking about this last night and
46 what we would be addressing today and I wrote some of my
47 thoughts down and I think I'm just going to sort of go
48 through them because it sort of takes us maybe a little
49 further into what ANILCA actually says.

50

1 I'd like to remind us of the definition
2 of subsistence uses from ANILCA. The term subsistence
3 uses means:

4
5 The customary and traditional uses by
6 rural Alaska residents of wild renewable
7 resources for direct personal or family
8 consumption as food, shelter, fuel,
9 clothing, tools, or transportation for
10 the making and selling of handicraft
11 articles out of non-edible byproducts of
12 fish and wildlife resources taken for
13 personal or family consumption, for
14 barter or sharing, for personal or family
15 consumption and for customary trade.
16 Customary and traditional uses in the law
17 modify a series of uses such as
18 consumption as food, making and selling
19 of handicraft articles and for customary
20 trade.

21
22 I also want to be clear what ANILCA says
23 about subsistence uses. Section .804 says:

24
25 The taking on public lands of fish and
26 wildlife for non-wasteful subsistence
27 uses shall be accorded priority over the
28 taking on such lands of fish and wildlife
29 for other purposes.

30
31 So this is all pretty clear. Subsistence
32 uses are the customary and traditional uses such as
33 consumption for food, making and selling handicrafts,
34 customary trade and the subsistence uses of fish and
35 wildlife is accorded a priority over the taking on public
36 lands of fish and wildlife for other purposes.

37
38 Well, that's ANILCA. It doesn't say
39 anything about specific species, specific populations,
40 specific stocks, just fish and wildlife in general.

41
42 And the only thing it says about areas
43 are the public lands. So the complication is our
44 regulations.

45
46 And in our it must be established which
47 fish stocks and wildlife populations have been
48 customarily and traditionally used for subsistence,
49 that's in Section 16 of our regulations.

50

1 First it must be recognized that the
2 origin of these regulations is from the State. We never
3 thought we would be implementing subsistence as a Federal
4 program 17 years after the McDowell Decision. We must
5 take these legacy regulations and make them work in light
6 of ANILCA. Determinations are made for specific
7 communities or areas, use of specific fish stocks and
8 wildlife populations based on generally exhibiting the
9 eight factors.

10

11 So the question in my mind, which only
12 came up because of the comments made at our November
13 meeting is what do specific fish stocks mean and what
14 does it mean in light of this clear language of ANILCA
15 and how does all this fit in with the type of
16 determinations we've been making for years all over the
17 state, we, being the Federal Subsistence Board.

18

19 I cannot understand, given the broad
20 direction of ANILCA, how it would be intended that
21 specific stocks should be a narrow meaning. ANILCA says
22 the taking for subsistence uses shall be accorded
23 priority on the public lands over other uses. To me,
24 this means that where there are subsistence uses they
25 should be allowed to continue. Subsistence uses are
26 taking of fish and wildlife for food and other uses. If
27 a rural resident desires to take fish for food on the
28 public lands they must be allowed to unless there are
29 conservation concerns or some other narrow reasons not to
30 allow it.

31

32 Therefore, I believe, that as we
33 implement the specific stocks requirement, we are talking
34 broadly of specific stocks. We're talking about specific
35 stocks of areas, such as the Kenai Peninsula area versus
36 Norton Sound area, or Prince William Sound versus the
37 Yukon River. Each of these areas is very different from
38 each other. We're talking broadly about the fish -- the
39 stocks of fish people would use, both where they were
40 domiciled and where they have often traveled. We need to
41 err on the side of being more broad when making our
42 customary and traditional use determinations rather than
43 overly specific. That's how people used to function and
44 how people generally function today. I believe that's
45 consistent with ANILCA law.

46

47 The Southcentral Council has provided the
48 Board with their customary and traditional use
49 determination recommendations for the Kenai Peninsula a
50 number of times. Each time they have recommended a broad

1 determination such as the entire Kenai Peninsula, not
2 narrow. I think they're right. That is consistent with
3 ANILCA and as consistent as we can be with our customary
4 and traditional use regulations.

5
6 Elsewhere in the state we have very broad
7 determinations such as for all residents for all resident
8 fish in the Yukon northern area. That covers about a
9 third of the state, maybe that's too broad, but it
10 certainly isn't the kind of narrowing that would raise a
11 red flag when considering the mandate of ANILCA.

12
13 At our November meeting the Forest
14 Service Board member stated her thoughts on this
15 customary and traditional use determination. I think her
16 points are excellent and they will still stand. You can
17 find them on Page 2 of the FRFR06-09 Staff analysis. I
18 agree with the previous findings, that there was
19 substantial evidence of use of all fish in the Kenai
20 River area in the way subsistence harvesters use fish.
21 Furthermore I agree that low use does not preclude a
22 determination of customary and traditional use.

23
24 I would like to clarify that the
25 determination makes sense based on the record and based
26 on the concept of a specific stock being something on the
27 order of the Kenai Peninsula or the northern half of the
28 Kenai Peninsula as described previously. We don't need
29 to specifically ask whether Ninilchik used one specific
30 fish species or one run of one fish species in one stream
31 or the upper one-third of that one stream, we need to
32 make much broader determinations consistent with ANILCA
33 but ones which still can be recognized as implementing
34 our regulations.

35
36 Thank you, Mr. Chairman.

37
38 CHAIRMAN FLEAGLE: Thank you, Steve.
39 Other comments. Judy. Niles.

40
41 MR. CESAR: Thank you. I mean I agree
42 with Steve, I think he hits the nail on the head and I
43 think he interprets ANILCA the way I think it should be
44 interpreted.

45
46 But I was concerned about Gary and his
47 Fred Meyers business because if Fred Meyer doesn't have
48 the specific type of bread that he likes then he's out of
49 luck. Well, I believe in Carrs and I don't say the Carrs
50 on 68th, I just say Carrs, so I have the ability to shop

1 around at the different Carrs, and, Gary, I think you're
2 limiting yourself and that's certainly not our view of
3 subsistence.

4

5 (Laughter)

6

7 MS. GOTTLIEB: Mr. Chair.

8

9 CHAIRMAN FLEAGLE: Judy.

10

11 MS. GOTTLIEB: Well, I'll go back to
12 November a little bit. I guess part of what we need to
13 do today is clarify the record.

14

15 The motion in front of the Board at that
16 time was for all fish, that's what I based my vote on. I
17 felt there was and still is substantial evidence to
18 support that vote for a positive C&T determination for
19 Ninilchik. I think when people talk about sporadic use,
20 well, that's part of a pattern of general use that has
21 been demonstrated through, again, the testimony, the
22 analysis, all the information that we have in front of
23 us. The decision does not have to be on the amount of
24 substantial use, it has to be based on substantial
25 evidence. And none of my decision was based on
26 speculation at that time, either.

27

28 Thank you.

29

30 CHAIRMAN FLEAGLE: Commissioner Lloyd.

31

32 COMMISSIONER LLOYD: Thank you, Mr.
33 Chairman. In my introductory remarks I mentioned that I
34 would rely on your guidance for procedure and protocol.
35 I have a number of questions and I'll ask you in a second
36 whether or not they are appropriate.

37

38 First I'd like to observe, though, that
39 when the Ninilchik Tribal Council came forward and
40 distributed some materials that we did not -- we were not
41 provided access to those, I'm not sure why, along the
42 table here, but I wasn't granted a copy or the Staff
43 weren't, but just for the record, that omission was made.

44

45 I do maybe have a number of observations
46 and is it appropriate for me to make those if I keep them
47 short.

48

49 CHAIRMAN FLEAGLE: You bet, Commissioner,
50 go ahead.

1 COMMISSIONER LLOYD: Thanks, Mr.
2 Chairman. A lot of our concerns presented today and the
3 in the materials leading up to this meeting deal with the
4 nature of your process and deliberations within the
5 context of the regulations in front of you.

6
7 I tend to have quite a bit of agreement
8 with the description that Mr. Edwards from the Fish and
9 Wildlife Service put forward and I have some concerns
10 with the description of ANILCA and perhaps reinterpreting
11 your regulations that Mr. Kessler put forward.

12
13 I don't want to repeat Mr. Edwards'
14 arguments, but certainly in your regulations it does
15 discuss the notion of identifying specific community's
16 areas use of specific fish stocks and wildlife
17 populations. In one sentence the word, specific, is used
18 twice indicating, at least in my mind and I think from
19 the State's perspective, a duty imposed on the Board to
20 be very deliberate, specific and illustrative of the
21 information utilized in your decisions. I don't believe
22 that you're operating under a specific definition of
23 stock. There's been some mention of the State's
24 definition of stock. I'll put forward that the State
25 utilizes a definition of stock that allows for
26 aggregation of different populations. Often times that
27 aggregation is compounded based on the illustration of
28 Bristol Bay when there's really no purpose served by
29 getting down to very, very specific levels so the
30 definition of specific in that case is reflective of the
31 questions before you.

32
33 On the Kenai Peninsula that's not the
34 case. I think that the number of users, the number of
35 river systems, the fact that you have to keep revisiting
36 this issue, as you've pointed out, demands a level of
37 specificity that's much greater than in other areas of
38 the state where there are broad use patterns that are not
39 in controversy or not brought before you repeatedly.

40
41 Location in this regard is very, very
42 important. I would suggest that even in your
43 deliberations you're not saying because a person utilized
44 rainbow trout in the Ninilchik River, that that
45 necessarily provides for a customary and traditional
46 finding for rainbow trout in the Upper Susitna drainage,
47 let alone perhaps in the Kiseralik drainage in the
48 Kuskokwim even though people may have journeyed there.
49 We're also talking about perhaps a standard of
50 substantial evidence and it doesn't appear to me, at

1 least, in the proceedings today, let alone the
2 description that we've had of your proceedings in
3 November, that you had a detailed description,
4 discussion, or deliberation of what stock structure it is
5 that you're referring to.

6

7 And I'll just end my comments, Mr.
8 Chairman, going back to the regulations that
9 determinations shall identify the specific community or
10 areas use of specific stocks, and that's the question,
11 the major question under this item of reconsideration
12 that the State's bringing back before you.

13

14 Thank you.

15

16 CHAIRMAN FLEAGLE: You bet, thank you.

17

18 MS. GOTTLIEB: Mr. Chairman.

19

20 CHAIRMAN FLEAGLE: Judy.

21

22 MS. GOTTLIEB: Thank you. The way we do
23 customary and traditional use determinations is based on
24 direction from ANILCA and from our regulation that talks
25 to the process of C&T and so there we have the eight
26 factors that are generally discussed and evaluated by us.
27 When this question of what a stock means came up, we went
28 back into our records and asked people who actually
29 authored the regulations about this and Keith was there,
30 and I won't draw him in, I'll just say that as I
31 understand it from the authors it is meant in its most
32 general sense and our understanding is consistent with
33 the intention of those who wrote the regulations. There
34 was no intent to subdivide fishery populations into
35 individual stocks or to place regulatory restrictions or
36 make any Board decisions based on individual stocks.

37

38 The term, stocks and populations were
39 used interchangeably even in our own regulation so it
40 really was not meant to be or not planning on us being
41 any sort of geneticists up here, which we're kind of
42 grateful for.

43

44 Thank you.

45

46 MR. EDWARDS: Mr. Chairman. I guess my
47 only response to that then, if that was the intent then I
48 guess I would.....

49

50 CHAIRMAN FLEAGLE: Go ahead Gary.

1 MR. EDWARDS: Pardon -- oh -- if that was
2 the intent then I would argue that we selected the wrong
3 adjective because I think if you look at the definition
4 of specific, it doesn't give you the latitude to define
5 things as broadly as I think some are implying that we
6 should.

7

8 CHAIRMAN FLEAGLE: Pete.

9

10 MR. PROBASCO: Thank you, Mr. Chair. For
11 the record to Commissioner Lloyd, I would apologize for
12 the materials, that's an oversight on our part and we'll
13 make sure that you get copies of these materials, Mr.
14 Lloyd.

15

16 COMMISSIONER LLOYD: Thank you.

17

18 CHAIRMAN FLEAGLE: All right, thank you,
19 Pete. Gary, do you want to continue -- I was just going
20 to start saying that maybe we should start finding some
21 resolution to this. We do have other agenda items to get
22 back to and I need to ask a procedural question now. In
23 normal Robert's Rules what the Board would have done is
24 somebody would have made a motion for our
25 reconsideration, it would have been seconded and voted on
26 and then the action stood before you as acted on prior to
27 the vote. Now, I think we already did that by accepting
28 this RFR on that basis by the State, correct, Pete?

29

30 MR. PROBASCO: Mr. Chair. And I will
31 yield to the Solicitor, too, for further clarification,
32 but the Board has found that Claim 2.1 has met the
33 criteria for further consideration by the Board. Now,
34 what the Board wants to do with Claim 2.1, from my
35 opinion, would require a motion to deal with the issue.

36

37 Mr. Chair.

38

39 CHAIRMAN FLEAGLE: I agree. Now, would
40 that motion be to reconsider the previous action or would
41 that motion be a new action because we did do a poll vote
42 finding that we found grounds for a reconsideration. Do
43 you see my question?

44

45 MR. PROBASCO: Yes. Ken, did you want to
46 interject.

47

48 CHAIRMAN FLEAGLE: Ken Lord.

49

50 MR. LORD: Well, starting off, first of

1 all, Mr. Chair, if there is no motion then the status quo
2 stays. The decision of November stays in place. If
3 there is a motion it would have to be an affirmative
4 motion to change what the Board did in November, and I
5 believe that motion would have to pass by a majority vote
6 in order to become effective.

7

8 CHAIRMAN FLEAGLE: And should that motion
9 fail then we'd remain with status quo with the previous
10 decision as well?

11

12 MR. LORD: That's correct. Failed by the
13 way of either a tie vote or less.

14

15 CHAIRMAN FLEAGLE: Correct, okay, that's
16 clear. You know, people are pretty much saying what's
17 been saying before. I think there's pretty clear
18 understanding what the issue is. We need to get it down.
19 I think the whole point in my mind is going to fall on
20 the discussion about the stock, so if somebody is ready
21 to throw a motion out for discussion, then we can see
22 where that goes and move on.

23

24 Gary.

25

26 MR. EDWARDS: Mr. Chairman. I'll go
27 ahead and make a motion and then I could bring up my
28 other points and maybe Ken can correct it if it's wrong,
29 if the motion doesn't fit with what you just said.

30

31 But I guess I would move that we would,
32 and consistent with what I'd previously said:

33

34 The existing C&T for the Kenai Peninsula
35 district to provide Ninilchik with a C&T
36 for salmon waters north of and including
37 the Kenai River drainage within the Kenai
38 National Wildlife Refuge and the Chugach
39 National Forest.

40

41 So basically what that does would
42 continue to provide a C&T for salmon but not for resident
43 species.

44

45 MR. OVIATT: I'll second that.

46

47 CHAIRMAN FLEAGLE: For discussion, Gary,
48 would you like to speak to your motion, please.

49

50 MR. EDWARDS: Well, I've covered some of

1 it. But, again, what I continue to wrestle with is this
2 substantial evidence of this kind of consistent pattern
3 of use. You know as I look at the studies that have been
4 referenced and showing, you know, kind of a one percent
5 of the residents of that community, in my mind that
6 that's not substantial evidence. I mean a good example,
7 if you look at the use of Hope and Cooper Landing for
8 resident species it's up in 17 percent and 16 percent. I
9 don't think this Board would have, for example, thought
10 or entertained of providing a C&T for Hope over on the
11 Kasilof, even though they may have had, you know, I'm
12 sure folks in Hope as well as Cooper Landing, you know,
13 roamed around equally as much as folks in Ninilchik and
14 probably fished over in that area, but I think that just
15 demonstrates that the resident -- harvest of resident
16 species were much closer to home and I just don't think,
17 you know, kind of a one percent is a substantial evidence
18 of use and a long-term customary pattern.

19

20 And that's the reason for my motion.

21

22 CHAIRMAN FLEAGLE: Other discussion.

23 George.

24

25 MR. OVIATT: Mr. Chairman. You know I
26 look at, you know, it does say specific spec -- or stocks
27 and if we look at the wildlife we, you know, we talked
28 about -- we didn't talk about bear, we talked about brown
29 bear and then we discussed a C&T for black bear and so I
30 do believe we are talking specific stocks. And, you
31 know, to me when you look at what were they going out to
32 subsist fish for, were they going out to subsist fish for
33 trout or were they going out for salmon and to me there's
34 a distinction between their customary and traditional
35 use.

36

37 Thank you, Mr. Chairman.

38

39 CHAIRMAN FLEAGLE: Steve Kessler.

40

41 MR. KESSLER: Thank you, Mr. Chairman. I
42 guess I'm still thinking about the motion that Gary made
43 and wondering if it's the right motion, maybe, I don't
44 know maybe Ken thinks it's the right motion, I don't
45 know.

46

47 But it seems to me that the -- I'm not
48 sure how to get this exactly correctly but it seems to me
49 that the State of Alaska was requesting that we sort of
50 completely withdraw the customary and traditional use

1 determination for Ninilchik for all species in the Kenai
2 Peninsula area and if that's the case it would seem to me
3 that that's what the motion ought to be and then if we
4 want to narrowing it to resident fish or non-resident or
5 salmon or something like that then that would be done by
6 amendment.

7

8 Now, maybe I don't understand exactly
9 what the Department was asking for but if they were
10 asking for turning this over and we're evaluating it and
11 that's what we're looking at, that seems like what the
12 main motion ought to be. So I guess I ask for help from
13 the Solicitor.

14

15 CHAIRMAN FLEAGLE: Yeah, I think it's up
16 to the Board as to what type of action they want to take
17 here at this point. It's obvious the State wants to
18 overturn the entire C&T determination but I think the
19 Board is -- or at least some of us are only willing to
20 overturn a part of it, and Gary's motion is consistent
21 with that.

22

23 Ken.

24

25 MR. LORD: Yeah, I agree, Mr. Chair. The
26 starting place is the Board's action in November not
27 necessarily what the State is asking for.

28

29 CHAIRMAN FLEAGLE: Steve, you want to
30 debate.

31

32 MR. KESSLER: No, I'm okay, if
33 everybody's -- if people are comfortable with that that
34 we're going to narrow it at the start through the motion,
35 we can do that. But it does mean that the motion maker
36 is sort of has just already decided that there's enough
37 evidence associated with stocks associated with salmon.
38 That's the way I interpret it anyway.

39

40 CHAIRMAN FLEAGLE: That's correct. Okay,
41 we have Niles and then I'll add some comments. Go ahead,
42 Niles.

43

44 MR. CESAR: Well, George made the comment
45 that people went out fishing for salmon and they went out
46 specifically for salmon. I mean to me I don't think
47 that's how subsistence folks do it, you know, and of
48 course I grew up in Juneau so what would I know.

49

50 (Laughter)

1 MR. CESAR: But you go out to fish and if
2 you catch something then that's what you get, and if it's
3 a steelhead or if it's a Dolly Varden, I mean that's what
4 you get, so that's what you went -- and, you know, to me
5 that's the difference between -- one of the differences
6 between a sportfisherman and a subsistence fisherman. Is
7 that a subsistence fisherman is opportunistic and goes
8 after whatever is there and a sportfisherman generally is
9 more specific and he wants a certain type usually, and
10 that's fine, too. But I don't think that I can vote --
11 overturn what we did, I believe we did the right thing
12 and that's how I'm going to vote.

13
14 CHAIRMAN FLEAGLE: Thank you, Niles. I'd
15 like to add my comments and this is consistent with the
16 brown bear decision the other day, I mean in my mind. I
17 didn't see ample evidence that showed a long-term
18 consistent pattern of use for all species and that's why
19 the light bulb came on in my mind about, hey, wait a
20 minute, these stocks do travel by -- we have -- we saw
21 the harvest charts for salmon for Ninilchik residents in
22 the lower river, out in the other areas before they got
23 up to the Upper Kenai, and that made the decision for me
24 easy on salmon.

25
26 I, unfortunately, wasn't thinking about
27 separating the species at the time.

28
29 As for the rest of the species, I still
30 don't find the long-term consistent pattern of use, it's
31 opportunistic and sporadic, which in some people's minds
32 maybe constitutes long-term and consistent, but I think I
33 am being consistent as far as the brown bear decision.
34 It's the same thing, you've got huge gaps in, you know,
35 the availability or the harvest, and it's pretty clear.

36
37 I'm going to support the motion. That
38 was my original intent back in November and I intend to
39 vote for it.

40
41 We've got George Oviatt.

42
43 MR. OVIATT: Thank you, Mr. Chairman. I
44 refer to other areas within Alaska and I know for a fact
45 you'll have communities or folk that will go out to
46 subsist fish for salmon and then they'll go out to
47 subsist fish for whitefish, and to me they were going
48 after a specific species in order to subsist off of, and
49 I think that's where I come down on and I'm going to
50 support the motion.

1 Thank you.

2

3 CHAIRMAN FLEAGLE: Further.

4

5 MS. GOTTLIEB: Mr. Chairman.

6

7 CHAIRMAN FLEAGLE: Judy, go ahead.

8

9 MS. GOTTLIEB: I'll be opposing the
10 motion, because, not that I don't believe that Ninilchik
11 deserves a C&T for salmon but because I believe they also
12 should have it for resident species because it's not only
13 what they're going after or have gone after, it's how
14 they have used it, passed along the knowledge, shared the
15 resource, the diversity of -- all our factors and that's
16 why I can't support such a narrow finding.

17

18 CHAIRMAN FLEAGLE: Steve.

19

20 MR. KESSLER: Thank you, Mr. Chair. I'll
21 be voting against this motion. I think -- and sort of
22 what I went into as far as how looking at sort of the
23 balance between what ANILCA says and what our regulations
24 say about customary and traditional use determinations.
25 You've got to take both of those in context and think
26 about sort of the scale of what these decisions need to
27 be. And as was noted in the November meeting by the
28 testimony of the Forest Service Board member, as I said,
29 was actually quoted in the Staff analysis, we did find
30 substantial evidence for the decision that was made then
31 and find that that rationale is still appropriate. And
32 thinking about the sort of broader terms, it still seems
33 to make sense to stay where we were, so as I said I will
34 be voting against this motion.

35

36 Thank you.

37

38 CHAIRMAN FLEAGLE: It sounds like
39 everybody's had an opportunity to speak, are we ready for
40 the question. Question, Pete, please poll the Board.

41

42 MR. PROBASCO: Mr. Chair. Action on
43 FRFR06-09.

44

45 Move to amend the existing C&T for the
46 Kenai Peninsula district to provide the
47 community of Ninilchik with C&T for
48 salmon in waters north of and including
49 the Kenai River drainage within the Kenai
50 National Wildlife Refuge and the Chugach

1 National Forest.
2
3 Mr. Fleagle.
4
5 CHAIRMAN FLEAGLE: Aye.
6
7 MR. PROBASCO: Ms. Gottlieb.
8
9 MS. GOTTLIEB: No.
10
11 MR. PROBASCO: Mr. Cesar.
12
13 MR. CESAR: No.
14
15 MR. PROBASCO: Mr. Oviatt.
16
17 MR. OVIATT: Aye.
18
19 MR. PROBASCO: Mr. Kessler.
20
21 MR. KESSLER: No.
22
23 MR. PROBASCO: And Mr. Edwards.
24
25 MR. EDWARDS: Aye.
26
27 MR. PROBASCO: Motion fails, three/three.
28
29 CHAIRMAN FLEAGLE: All right, thanks,
30 Pete. Original decision of November stands. And let's
31 stand down for 10 minutes and resume our normal meeting
32 procedures.
33
34 (Off record)
35
36 (On record)
37
38 CHAIRMAN FLEAGLE: The Federal
39 Subsistence Board is back in session and we're resuming
40 deliberation on proposals having to do with the Western
41 Interior. Up next is Proposal 36/37. We have Pete,
42 again.
43
44 MR. DEMATTEO: Mr. Chair. The analysis
45 of Proposals 36 and 37 can be found in your books
46 beginning on Page 422.
47
48 Proposal WP07-36 was submitted by the
49 Western Interior Regional Council who requested that the
50 Board eliminate the Federal August 22 through 31 moose

1 season and change the September 5 to 25 season to
2 September 5 through October the 1st for Unit 21B, that
3 part of the Nowitna River downstream from and including
4 the Little Mud River drainage. The proposed change would
5 also require a State registration permit during September
6 5 to 25 and a Federal permit from September 26 to October
7 the 1st.

8
9 Proposal WP07-37 also submitted by the
10 Council requests the Board establish a March 1 through 5
11 moose season in Unit 21B in the same part of the Nowitna
12 River. The proposed regulatory change would require a
13 Federal registration permit that would be issued to heads
14 of households only.

15
16 The proponents intent for these proposals
17 is based on local reports of warmer than normal
18 temperatures that have occurred during the Unit 21B fall
19 moose seasons in the lower Nowitna River drainage. The
20 proponent also claims that the proposed March 1 through 5
21 season would provide Federally-qualified users who did
22 not harvest a fall moose during the fall season with
23 opportunity to take one in the spring. The proponent
24 feels that the warmer than normal fall temperatures have
25 significantly affected the local fall moose harvest in
26 Unit 21B for local residents.

27
28 Mr. Chair. You can see the proposed
29 Federal regulations on Pages 422 and 423.

30
31 The Council also submitted Proposal WP06-
32 34 which the Board took action on a year ago. The
33 proposal requested a fall season extension to October 1st
34 for Units 21A, 21B, portions of 21D and 21E and portions
35 of Unit 24. The Council stated the proposal was
36 submitted because of local reports of warmer than normal
37 fall temperatures that caused harvest shortfalls.

38
39 Following the Council's request in the
40 Alaska Board of Game's March 2006 action it adopted the
41 August 22 through 31st season instead of the September
42 26th October 1st season that was requested. The Board
43 adopted the earlier August season for Unit 21B at the
44 request of the Council.

45
46 The Western Interior Council has recently
47 submitted a Special Action request to provide for a March
48 bull season in Unit 21D remainder and in Unit 21B, that
49 part of the Nowitna River downstream from the Little Mud.
50

1 At a recent meeting of Ruby and Middle
2 Yukon Fish and Game Advisory Committees, elders stated
3 that identifying bull moose in March can be confusing and
4 cows could inadvertently harvested as a result. Local
5 residents also made statements in support of eliminating
6 the new August 22 through 31 season because hunters
7 prefer hunting during the September season.
8

9 Overall the lower Nowitna River moose
10 population is considered stable at a low density
11 population with good production and recruitment and
12 moderate improvement in adult bull and cow numbers as
13 observed in the 2006 population survey. This population
14 can only remain stable at the current harvest levels,
15 analysis of results comparison of Ruby resident's annual
16 total need for moose versus their reported moose harvest
17 for the last six years revealed that Ruby hunters have
18 not fulfilled their large subsistence needs in recent
19 years. Results from this comparative analysis support
20 the proponent's claims that Ruby residents are not
21 meeting their annual subsistence needs.
22

23 The traditional and contemporary harvest
24 pattern for moose by residents of Ruby include the
25 Nowitna, Yukon Rivers and Unit 21B remainder and the
26 Ruby-Poorman Road and the Yukon River drainage in Unit
27 21D.
28

29 Mr. Chair. If Proposal 36 were adopted
30 it would include the following effects. If Proposal 36
31 were adopted it would bring the Federal regulations out
32 of alignment with the State. Federal and State
33 regulations not in alignment would produced mixed blocks
34 of Federal and non-Federal lands and would consequently
35 add to the regulatory complexity making jurisdictional
36 determinations difficult. Researchers and natural
37 resource managers agree that extending the season further
38 into the rut could have some negative effects on breeding
39 behavior and breeding success for moose.
40

41 Analysis of results from studies revealed
42 that the average breeding date for Alaska moose was
43 October 5 with a range from September 28th through
44 October 12th. Further analysis from the same studies
45 also revealed that there was a very little difference
46 among years and all studies suggesting that photo period,
47 rather than ambient temperature influences rut timing.
48 Therefore, adoption of the proposed change could lead to
49 a decrease in breeding success and subsequent reduction
50 in calf production.

1 The current State regulations provide for
2 the August 22 through 31 and September 5 through 25
3 seasons for the affected area. Adoption of the season
4 extension would provide a total of 37 days of opportunity
5 between the Federal and State seasons in this part of
6 Unit 21B. Adoption of the proposed regulations may
7 create the need to establish a Federal permit system for
8 the Federal only September 26th through October 1 season.
9

10 Adoption of the proposal would facilitate
11 fewer problems with meat spoilage if temperatures were
12 cooler during the proposed season extension. The
13 proposed six day extension of this part of Unit 21B is
14 not expected to have detrimental impacts on bull moose
15 population. Total annual harvest for the affected area is
16 not anticipated to change significantly as a result of
17 adoption of this proposal.
18

19 Mr. Chair. If Proposal 37 were adopted
20 it would bring, again, Federal regulations out of
21 alignment with the State. Because the Federal
22 subsistence wildlife regulations lack a definition of
23 head of household, it would not be possible to determine
24 who qualifies as the head of household. Instead if a
25 permit were to be issued it would have to be limited to
26 one per household instead of head of household.
27

28 Adoption of the proposed March 1 through
29 5 season would provide Federally-qualified users who fail
30 to harvest in the fall moose opportunity to take a bull
31 moose during the proposed spring season and the affected
32 portion of Unit 21B. Hunters that harvest the fall
33 moose would be ineligible to harvest the bull during the
34 proposed March season. However, from previous
35 considerations of March moose seasons in Interior Alaska,
36 the Federal Board has recognized the difficulty that
37 hunters may have distinguishing between cows and bulls
38 after antlers have been shed. As a result recognizing
39 that cows will likely be harvested during the March
40 season, March seasons are commonly authorized only when
41 there is a harvest surplus of cows, and this is not the
42 case for Unit 21B on the lower portion of the Nowitna
43 River. Because the affected moose population has
44 remained overall stable at its size and density since the
45 late 1980s inadvertent harvest of cow moose during the
46 proposed March season would lead to a less productivity
47 and population decline.
48

49 With that, Mr. Chair, the OSM preliminary
50 conclusions are as follows:

1 For Proposal WP07-36 is support with
2 modification to require the upper half of the antler palm
3 be forfeited. And this is because, Mr. Chair, this
4 modification was added because during the State season
5 that is the antler restriction that is required. It
6 would make sense to follow that into the proposed
7 extension into the Federal season.

8

9 For Proposal WP07-37 the preliminary
10 conclusion is to oppose the proposal.

11

12 Thank you.

13

14 CHAIRMAN FLEAGLE: Questions.

15

16 MS. GOTTLIEB: Mr. Chair.

17

18 CHAIRMAN FLEAGLE: Go ahead, Judy.

19

20 MS. GOTTLIEB: So then previously we
21 haven't had anything in our regulation about destroying
22 the antlers.

23

24 MR. DEMATTEO: We followed the State
25 regulations that required it so at the checkstation at
26 the mouth of the Nowitna River, if you were subsistence
27 users hunting under the Federal regulation you would be
28 required as well to forfeit those antlers.

29

30 CHAIRMAN FLEAGLE: Further questions.

31

32 (No comments)

33

34 CHAIRMAN FLEAGLE: Would the Fish and
35 Game keep that checkstation open after their season
36 closed?

37

38 MR. DEMATTEO: Mr. Chair. I've been
39 working with the Staff at the Koyukuk Nowitna Refuge in
40 Galena and it's their intention to keep the checkstation
41 open past the 25th as they do run that checkstation
42 through the entire season.

43

44 CHAIRMAN FLEAGLE: Understand, thank you.
45 Okay, what do we got next.

46

47 (Pause)

48

49 CHAIRMAN FLEAGLE: Summary of written
50 comments, please. Vince Mathews.

1 MR. MATHEWS: Thank you, Mr. Chair.
2 They're found on Page 434 of your book there, they're
3 both from the Ruby Fish and Game Advisory Committee.

4
5 They support Proposal 36. The Committee,
6 during its November 2006 meeting took action to support
7 the proposal. They felt that an early season, this would
8 be in reference to the August season was not of much
9 interest to the subsistence users and it would be better
10 to have it replaced with an extension of the regular
11 season later in the year. The warmer fall season and the
12 lack of bull movements were the main reasons for
13 supporting this proposal.

14
15 The same Committee took up Proposal 37
16 and they supported with modification. The Committee,
17 again, during its November meeting took action to support
18 with modification. The March 1 through 5 dates were
19 opposed by the Committee because of the inability to
20 differentiate between bulls and cows in March. The
21 Committee supported the proposal with the modified dates
22 of December 1 through the 10th.

23
24 Thank you, Mr. Chair.

25
26 CHAIRMAN FLEAGLE: Thank you, Vince.
27 Public testimony, Pete.

28
29 MR. PROBASCO: Mr. Chair. No one has
30 signed up for this agenda item.

31
32 CHAIRMAN FLEAGLE: Regional Council
33 recommendation. Jack Reakoff.

34
35 MR. REAKOFF: Thank you, Mr. Chairman.
36 Federal Subsistence Board members.

37
38 The Western Interior Regional Advisory
39 Council met in Ruby and there was quite a bit of concern
40 by the Ruby residents because they had only caught 13
41 moose and they normally catch 30 or 40 moose there.
42 They've been having special action requests wanting
43 extension into the October 1 timeframe. The Western
44 Interior has been dealing with this issue. The
45 perception is that bull moose are breeding on time by
46 photo period and that everything's cool and the
47 subsistence users are crazy, well, that isn't the way it
48 is at all. The warmer it gets, the bulls are breeding on
49 time, they're just not moving in the corridors where
50 subsistence hunters have access to them and their harvest

1 data reflects that, that they're not having access to
2 these moose at the timeframes when it's warm, they're not
3 moving near the rivers and it's warmer, there's more
4 insects for one reason or another people aren't
5 harvesting and it's hot and there's concern about meat
6 spoilage. And there was lots of concern about the hot,
7 an August season, they were talked into going for that
8 and they were displeased with that August portion of
9 their hunt. So we talked about going from September 25
10 to October 1 like we'd done up in Unit 24B and 24A and
11 they were amicable to that, they wanted to see cooler
12 weather harvest timeframe and they felt that a September
13 5 to October 1 would facilitate their harvest.

14
15 Western Interior Regional Advisory
16 Council, at our Aniak meeting, discussed the proposal.
17 In light of the Ruby Advisory Committee's comments on the
18 timeframe for our winter hunts, we started looking at
19 these proposals from their point of view, they had had
20 time to discuss them. On Proposal 36 we discussed
21 cutting the antler but the differentiation and trophy
22 value destruction was formulated during the Koyukuk River
23 Moose Planning sessions and that's because the pool of
24 subsistence users under State regulations is everybody
25 and we had a lot of problems with people shooting big
26 moose on subsistence permits, that's where that came
27 from. The Nowitna regulations are in concurrence with
28 State -- coinciding with State hunts so the destruction
29 of the trophy value has been implemented on the Federal
30 hunt. We had quite a bit of discussion at our Council
31 meeting about the value of the antler and being able to
32 sell the antler to offset the high cost of gas and so we
33 didn't specifically say one way or another whether, you
34 know, if it came down to that cutting an antler palm off,
35 if that's the deciding factor in your minds, we're
36 amicable to that, but those antlers are worth something
37 to the people for sale. They cut them off from the skull
38 and they can sell those, and at five and six bucks a
39 gallon you can buy a little bit of gas to go moose
40 hunting, which you just authorized.

41
42 And so some of the reasons given was the
43 warmer fall temperatures also allows the leaf to stay on
44 the trees longer people have a harder time seeing moose,
45 there's just all kinds of -- Member Collins felt that
46 because of all that leaf on the trees that local
47 transmissions were restricted and moose couldn't hear
48 each other as well. There was various reasons,
49 traditional ecological acknowledge bantered around of why
50 the necessity for having these climatic changes, they're

1 concerns for people, the warmer springs and the longer
2 falls and so to alleviate these problems I would have
3 liked to have seen these proposals separated not just as
4 one block, but on Proposal 36, has been implemented in
5 the Unit 24B and this fall there was good success there,
6 there was three or four moose harvested in the fall
7 extension according to Ron Sam, Vice Chair of the -- or
8 correction, past Chair of the Western Interior Council,
9 and so that three or four moose doesn't sound like too
10 much but if you're in the village where you're not
11 catching too many moose that's a big deal, that's a lot
12 of pounds of meat. And I went in Ruby's store there and
13 meat prices were ranging between 8 and 15, \$20 a pound,
14 so that's a lot of value to the people there.

15
16 Proposal 37, we supported this proposal
17 with modification to have a five day winter hunt and we
18 modified the winter hunt date to be between December 1
19 and March 31. Member Honey on our Council, from Ruby, he
20 was -- they were waffled on when they wanted to be able
21 to hunt these moose. Moose bulls come out of rut in the
22 first of December and the Koyukuk River Advisory
23 Committee has been opposed to those early winter hunts
24 but antler differential is a consideration and so we went
25 for December 1 to March 31 modification with the
26 consultation with the Refuge manager and the RAC. And
27 there's lots of interest in having winter hunts return to
28 people in the Middle Yukon and Koyukuk drainage. And so
29 we did have winter hunts for bulls and so those two
30 hunts, one occurred this spring, the Kanuti Wildlife
31 Refuge provided a hunt on the Kanuti Wildlife Refuge.
32 They mandated a bull harvest and there was lots of
33 problems, there was no snow, the moose were away from the
34 river, it was 40 and 50 below zero, there was no harvest.
35 There was lots of people who turned out for the hunt, I
36 think they issued 27 permits and 10 people hunted, and
37 they spent about three and a half days hunting and at six
38 bucks a gallon they roamed around a little bit and it was
39 50 below zero and nobody killed anything but there was a
40 high interest in that bull harvest and the conditions
41 were not -- the people were getting used to the idea that
42 there are not enough cows around and are wanting some
43 kind of a winter bull season.

44
45 In Huslia there's been three years of
46 harvest there. In '05 they killed eight bulls and one
47 cow and so there was a training on how to differentiate
48 between bulls with shed antler and cow moose. And rural
49 people in winter hunts would prefer to kill cows and
50 especially dry cows, the next year they killed four cows.

1 In '07, this spring, they killed three bulls and two
2 cows. They're allowed a 10 cow harvest there and they're
3 personally restricting their cow harvest and taking some
4 bulls. And so bulls can be determined in mid-winter,
5 there is more or less a fallacy that you can't -- I can
6 look at field glasses and I can look at a bull moose and
7 you can see the pedestals and there'll be yearlings and
8 two year olds around and so you'll see those also.

9

10 Those are the Western Interior's
11 positions on these proposals. These are very necessary.
12 We've identified these as need lacks and these two
13 proposals are -- some form of these proposals are
14 necessary. We would be amicable to winter -- Ruby is
15 amicable to a winter bull hunt at some time and that
16 could be in December for five days. And we also need a
17 winter -- we need this winter hunt bad, we need this
18 extension on the fall season.

19

20 And so those would be my comments, thank
21 you.

22

23 CHAIRMAN FLEAGLE: Thank you, Jack.
24 Questions. Gary.

25

26 MR. EDWARDS: Jack. On destroying the
27 trophy value of the antlers, I guess, well, I heard you
28 say you don't feel that that -- while that might have
29 been necessary at one time you don't feel it's necessary
30 anymore.

31

32 MR. REAKOFF: This is in reference to
33 this -- this goes beyond the State season, it goes into a
34 Federal only hunt and so there's no reason, these are
35 rural subsistence users participating, they're not trophy
36 hunting, they're subsistence hunting and the value of the
37 antlers, it's a devaluation of the antler. They cut one
38 antler right through the middle of the palm and the
39 Department or whoever it is retains that half of antler.
40 A full antler is worth a lot more than half an antler,
41 they're sold by the pound. But if you're concerned about
42 people, rural residents trophy hunting on the subsistence
43 hunt during the Federal extension, you can mandate the
44 cutting of the antler if you would like.

45

46 MS. GOTTLIEB: Mr. Chairman.

47

48 CHAIRMAN FLEAGLE: Judy.

49

50 MS. GOTTLIEB: Thanks. Well, just for

1 clarification, the reason I asked was that I think this
2 Board needs to be careful that we not do anything to the
3 detriment to subsistence uses of this animal so that's
4 why I was questioning the need to destroy part of it.

5

6 CHAIRMAN FLEAGLE: Thank you.

7

8 MR. EDWARDS: One other question with the
9 reference on Proposal 37, with this winter hunt, what's
10 the potential that cows would be harvested during that
11 and if so what's the impact of that?

12

13 MR. REAKOFF: The modified proposal that
14 the Western Interior adopted was a December 1 to March 31
15 timeframe, five day season to be administered by the
16 Refuge manager, that season could be set in December.
17 Ruby has decided they will take a December hunt. They're
18 concerned about differentiating between cows and bulls,
19 and so that season could be in December. The issues are
20 cold weather and the darkness and the freeze up
21 timeframes, you know, there's problems with December
22 hunts, you try to get enough ice, you have deep snow and
23 lots of overflow and all the lakes and stuff and you got
24 five days set, that's why we want a floating timeframe to
25 where there's an agreement where conditions are -- we got
26 in a bind on the Kanuti this year because it was really,
27 really cold and so we want the Refuge manager to have the
28 ability to float the season around, a five day season
29 when the conditions are correct. And so if you get --
30 it's froze up, it looks like traveling's good, it's going
31 to be good opportunity, the Refuge manager can allow the
32 hunt in conjunction with the Ruby Advisory Committee and
33 the Western Interior Council concurrence.

34

35 MR. EDWARDS: Mr. Chairman. I think we
36 have some folks from the Refuge here. I don't know if
37 they are prepared to maybe address kind of how they might
38 be managing this five days but if that's okay.....

39

40 CHAIRMAN FLEAGLE: Sure.

41

42 MR. EDWARDS:because I'm trying to
43 get a better understanding of the issue.

44

45 CHAIRMAN FLEAGLE: Can I get a name
46 first, please.

47

48 MR. MOLLNOW: Thank you, Mr. Chairman.
49 My name is Ryan Mollnow, I'm the deputy Refuge manager at
50 Koyukuk/Nowitna Refuges.

1 We've worked with Ruby on this quite a
2 bit and I guess from administering this type of a hunt I
3 can offer just a few things.

4
5 I've got some notes here. Administering
6 a hunt during the September timeframe will be much easier
7 for us than administering a hunt later in the winter.
8 One is, Jack, had mentioned, we do operate a hunter
9 checkstation and so we'll already be out there in the
10 field, and at the Nowitna River mouth to be able to help
11 any subsistence users and things like that as far as
12 giving out Federal permits and things.

13
14 Another thing, you know, just identifying
15 a bull moose in September is going to be much easier than
16 identifying one later on in a winter season. As Jack
17 pointed out it is possible. We have done quite a bit of
18 education with the villages on how to identify these
19 moose, but there is still, you know, even within the
20 villages, some reluctance as far as being able to
21 differentiate them. And with this population being such
22 a low density, although it's a stable population,
23 slightly increasing, you know, we want to try to avoid
24 any cow harvest whatsoever.

25
26 Some other things that we have would be
27 access, access to the Refuge during the September
28 timeframe, most of the folks from the Ruby area are
29 already out there on the Novi, it'd be the Nowitna River
30 and are able to access many areas, you know, in the
31 corridor of the Nowitna River, so boat access during the
32 September timeframe and things would be much easier than
33 a later winter hunt where you're having to try to enter
34 the Refuge on Sno-Go, either up the river and things, so
35 as far as gaining access to where the moose are going to
36 be at, boat access would be an easier way to go. Another
37 side of that is a safety aspect, like Jack had mentioned
38 with the March hunts that transpired this last season, we
39 had extreme cold weather during this certain timeframe
40 and it was safety reasons that a lot of folks didn't get
41 out and go. If there was a later hunt in September, you
42 know, the weather would not be as big of an issue from a
43 safety aspect.

44
45 But it will be easier for the Refuge to
46 administer a September extension versus later on in a
47 winter time season.

48
49 MR. REAKOFF: Mr. Chairman.
50

1 CHAIRMAN FLEAGLE: Okay, thank you,
2 appreciate the comments.

3

4 MR. REAKOFF: Mr. Chairman.

5

6 CHAIRMAN FLEAGLE: Jack.

7

8 MR. REAKOFF: Our modified proposal is
9 from December 1 to March 31, you can require antlered
10 bull on that hunt, we're not saying that we're going --
11 we went for a modified proposal, not a March 1 to March
12 5, we went for a timeframe between December 1 and March
13 31, it's the Board's discretion as to when that timeframe
14 may occur and require antlered bulls.

15

16 CHAIRMAN FLEAGLE: Thank you, Jack.

17 Gary.

18

19 MR. EDWARDS: Ryan, I know you haven't
20 been there very long, so you might not be able to answer
21 this question but maybe, Jack, you could, too, based upon
22 your knowledge. I mean I guess it's my understanding
23 that many of the communities there in the Koyukuk area,
24 you know, have really not wanted a December hunt because
25 of the condition of the bulls and all.

26

27 MR. REAKOFF: The people on the Koyukuk
28 River and Huslia were highly opposed to that and up
29 river, in the upper drainage of Koyukuk River they were
30 highly opposed to that. The people down in Ruby, they've
31 waffled back and forth and we've gotten mixed reviews,
32 you know, they would prefer to kill a cow in March but
33 they're concerned about this killing a cow illegally or
34 differentiating between bulls and cows and so, Ruby,
35 specifically, has been their -- their Advisory Committee,
36 and I've witnessed their waffling is now their position
37 is that they would prefer to hunt bull moose with antlers
38 on, and so we modified our proposal to accommodate that.

39

40 And as far as administering the check, we
41 talked about that at Ruby with some of the Staff, I
42 talked with the Refuge manager and some of the Staff
43 there, the vendor or the Ruby staff could administer
44 permits from Ruby, the moose would be returned back to
45 Ruby, checked in for identification and biological
46 information and then the people could take them home.
47 That would be a fairly easy way to administer that, you
48 wouldn't have a checkstation over on the mouth of the
49 Novi and so forth.

50

1 CHAIRMAN FLEAGLE: All right, thank you.
2
3 MR. EDWARDS: Thank you, Ryan, appreciate
4 it.
5
6 CHAIRMAN FLEAGLE: Department of Fish and
7 Game comments. Terry Haynes.
8
9 MR. HAYNES: Thank you, Mr. Chairman.
10 I'll summarize our longer written comments.
11
12 The Department opposes these two
13 proposals. The net effect of adopting 07-36 is to add
14 six days to the end of the current moose season in a
15 portion of Unit 21B. Although the proposal would
16 eliminate 10 days at the start of the season, these 10
17 days would remain open in the State regulations and
18 provide a total of 37 days of hunting opportunity for
19 Federally-qualified hunters, hence, qualified rural
20 residents would have gained 16 days of hunting
21 opportunity in the State and Federal regulations combined
22 as a result of action of the Federal Board and the Board
23 of Game in 2006, if this proposal is adopted.
24
25 If WP07-36 is adopted, the September 26
26 to October 1 hunt administered by Federal registration
27 permit must be closely monitored to see if it has the
28 effect sought by the proponent.
29
30 The Department agrees that trophy
31 destruction requirement proposed as a condition of the
32 Federal permit is essential in order to provide
33 consistency with the State registration permit hunt in
34 this area.
35
36 The Department concurs with the
37 justification presented in the Staff analysis for
38 opposing 07-37. And I quote:
39
40 "Given the limited bull harvest that the
41 current population can support and the
42 potential for inadvertent harvest of cow
43 moose during March 1 to 5, this
44 population cannot support a spring
45 harvest as part of the annual harvest
46 regime by local residents.
47
48 Inadvertent harvest of cow moose during
49 the proposed March season would lead to
50 less productivity and population decline.

1 A considerable long-term increase in the
2 harvest of bulls and cows would affect
3 productivity and recruitment within the
4 population and eventually cause
5 restrictions in Federal and State
6 regulations."
7

8 In summary, we believe the current State
9 and Federal regulations provide a reasonable opportunity
10 for harvesting moose and meeting subsistence needs in
11 Unit 21B. The amended season dates adopted last year by
12 the Board of Game and replicated by the Federal Board
13 address the need for additional hunting opportunity in
14 Unit 21B by adding 10 days, August 22 to 31.
15 Implementation of the proposed extended late September
16 season and/or the March season can be expected to
17 increase harvest and conflict with population management
18 strategies for Unit 21B and such action would be
19 inconsistent with recognized principles of wildlife
20 management and would be likely to interfere with the
21 long-term satisfaction of subsistence needs.
22

23 Regarding the Proposal 37 as modified by
24 the Western Interior Regional Council, we appreciate
25 having a proposal with some flexibility for a winter
26 season on the table and certainly if an antlered bull
27 requirement was imposed that would remove some of our
28 concerns, but I think we've seen over the last several
29 years a lot of bouncing around, back and forth between
30 what seasons people would like to have in that region and
31 we would be concerned that adoption of a winter season,
32 be it December or March, for an antlered bull might end
33 up being liberalized the following year for any bull or
34 for perhaps any moose and so we're reluctant to support
35 any type of a winter season right now.
36

37 Thank you, Mr. Chairman.

38
39 CHAIRMAN FLEAGLE: Thank you, Terry.
40 Questions.

41
42 (No comments)

43
44 CHAIRMAN FLEAGLE: Staff Committee.
45 Larry.

46
47 MR. BUKLIS: Thank you, Mr. Chairman.
48 The Staff Committee comments are found on Page 433 and
49 434.

50

1 Regarding Proposal No. 36, I'll highlight
2 the key points again. Providing some additional harvest
3 opportunity at the end of September when bull moose can
4 be more easily located should enable subsistence hunters
5 to take a few additional moose. However, it should be
6 noted that with the low density moose population and low
7 bull/cow ratios observed in the unit there is not a large
8 harvestable surplus of bulls. If the proposal is adopted
9 by the Board, the harvest should be closely monitored to
10 determine if further adjustments to season timing might
11 be needed.

12
13 Under the current Federal and State
14 subsistence regulations destruction of the trophy value
15 of the antlers is required as a disincentive for
16 individuals seeking a trophy moose. A regulatory
17 provision requiring the destruction of the trophy value
18 of the antlers during the proposed season extension would
19 make that requirement consistent for the entire season.

20
21 Regarding Proposal No. 37. The allowable
22 harvest of bulls is not large. If a fall season
23 extension is adopted by the Board the anticipated
24 increase in harvest of bulls may reach the maximum
25 sustainable level for the population. A winter season
26 for bulls in addition to potentially increasing the
27 harvest of bulls beyond sustainable levels could also
28 result in inadvertent taking of cow moose. The Unit 21B
29 moose population cannot support any harvest of cows at
30 its current low density.

31
32 Although the Council recommendation
33 conditions the winter season on its authorization by the
34 Koyukuk/Nowitna Refuge manager it would create the
35 expectation by local subsistence users that a season will
36 be provided. It is likely that a winter season would be
37 authorized with the current moose population
38 demographics.

39
40 Thank you, Mr. Chairman.

41
42 CHAIRMAN FLEAGLE: Thank you. Questions.

43
44 (No comments)

45
46 CHAIRMAN FLEAGLE: Board discussion.
47 Gary.

48
49 MR. EDWARDS: Yes, Mr. Chairman, are we
50 taking these one at a time or together or I guess

1 I'm.....

2

3 CHAIRMAN FLEAGLE: Separate them. 36

4 first.

5

6 MR. EDWARDS: All right. I'm kind of
7 prepared to address both but one sort of supports the
8 other.

9

10 I guess as a general statement, going
11 into both of these, whatever we kind of come out with, I
12 feel confident that the Refuge folks have done a good job
13 up there in trying to manage this and keep an eye on it
14 and my sense is whatever we do they'll ensure that
15 conservation is done.

16

17 But I guess what I would do on Proposal
18 36, I would move that we adopt the Western Interior
19 Regional Council's recommendation on that proposal. With
20 regards to the suggestion or modification on the trophy
21 value of the antlers destroyed, I guess I'm somewhat
22 ambivalent on that one way or the other. It seems like
23 the Council doesn't have a problem one way or the other,
24 either, so I guess at this point I heard enough that I
25 could go without doing that. So I guess I essentially
26 would just move to adopt their recommendation which would
27 extend the fall season.

28

29 MR. PROBASCO: Without antler
30 restriction?

31

32 MR. EDWARDS: Yeah, I'm not putting that
33 in my motion.

34

35 CHAIRMAN FLEAGLE: Is there a second.

36

37 MR. OVIATT: I'll second that motion.

38

39 CHAIRMAN FLEAGLE: Okay, George. Do you
40 want to speak further to your motion, Gary.

41

42 MR. EDWARDS: yeah, Mr. Chairman. I
43 believe that, you know, by extending this season will
44 provide some improved opportunity for the subsistence
45 hunters to harvest bull moose during this period and I
46 don't feel that it's going to result in the overharvest
47 of the resource. Certainly as I indicated and I think
48 the Refuge would agree, because of the low population,
49 the low bull/cow ratio, certainly the Refuge is going to
50 want to monitor this closely which, again, I'm sure they

1 will do so.

2

3 CHAIRMAN FLEAGLE: Further discussion.

4 Judy.

5

6 MS. GOTTLIEB: Mr. Chairman. Well, I
7 think it's actually an interesting coincidence that this
8 week in Washington, D.C., Deputy Secretary Scarlett has a
9 group gathered to talk about climate change and how
10 that's going to affect, in many different aspects, what
11 the Department of Interior does. And one of the
12 questions was, with respect to legal issues, meaning laws
13 and regulations and the one, of course, that has come up
14 is are we going to have to do sort of adaptive management
15 on our subsistence regulations based on the effects that
16 are being seen on the land and in the waters.

17

18 So I'm prepared to support the Regional
19 Council's recommendation but I don't think it's necessary
20 to have the trophy value destruction.

21

22 Thank you.

23

24 CHAIRMAN FLEAGLE: That's not part of it.

25

26 MS. GOTTLIEB: Okay.

27

28 CHAIRMAN FLEAGLE: As stated, it wouldn't
29 be included.

30

31 Further discussion.

32

33 (No comments)

34

35 CHAIRMAN FLEAGLE: Ready for the
36 question.

37

38 MR. CESAR: Question.

39

40 CHAIRMAN FLEAGLE: Question's recognized
41 on Proposal 36. Pete.

42

43 MR. PROBASCO: Thank you, Mr. Chair.
44 Final action on Proposal WP07-36.

45

46 Adopt with modification consistent with
47 recommendation of the Western Interior
48 Subsistence Regional Advisory Council to
49 eliminate the August 22nd to 31st moose
50 season and extend the fall season to end

1 on October 1st.
2
3 Ms. Gottlieb.
4
5 MS. GOTTLIEB: Aye.
6
7 MR. PROBASCO: Mr. Cesar.
8
9 MR. CESAR: Aye.
10
11 MR. PROBASCO: Mr. Oviatt.
12
13 MR. OVIATT: Aye.
14
15 MR. PROBASCO: Mr. Kessler.
16
17 MR. KESSLER: Yes.
18
19 MR. PROBASCO: Mr. Edwards.
20
21 MR. EDWARDS: Aye.
22
23 MR. PROBASCO: And Mr. Fleagle.
24
25 CHAIRMAN FLEAGLE: Aye.
26
27 MR. PROBASCO: Motion carries, six/zero.
28
29 CHAIRMAN FLEAGLE: Gary.
30
31 MR. EDWARDS: Mr. Chairman. With regards
32 to 37, I'm going to give my motion and maybe I'll do a
33 little explanation that might help with a second or may
34 not help with a second.
35
36 But on Proposal 37, I'm going to move, at
37 least, at this point that we reject the recommendation.
38 You know, I'd like to think that the action that we just
39 took on 36 would provide some additional opportunity to
40 harvest. It does seem to be that there is mixed feelings
41 within that area about having a December hunt. I think
42 there is some concerns, depending on when it would occur,
43 of potentially harvesting cows. I guess I would
44 encourage us to see what results from what we did in 36
45 and then we could come back later or the Council could
46 resubmit a proposal similar to 37, you know, if we felt
47 that we needed to do more.
48
49 CHAIRMAN FLEAGLE: Is there a second.
50

1 MR. OVIATT: I'll second.
2
3 CHAIRMAN FLEAGLE: Got it from George.
4 Okay, it sounds like the rationale was pretty laid out in
5 the statement with the motion. Discussion.
6
7 (No comments)
8
9 CHAIRMAN FLEAGLE: Ready for the
10 question. Okay, the question on the motion to oppose the
11 recommendation. Pete.
12
13 MR. PROBASCO: Thank you, Mr. Chair.
14 Final action on WP07-37 as you stated.
15
16 Mr. Cesar.
17
18 MR. CESAR: No.
19
20 MR. PROBASCO: Mr. Oviatt.
21
22 MR. OVIATT: Aye.
23
24 MR. PROBASCO: Mr. Kessler.
25
26 MR. KESSLER: Aye.
27
28 MR. PROBASCO: Mr. Edwards.
29
30 MR. EDWARDS: Aye.
31
32 MR. PROBASCO: Mr. Fleagle.
33
34 CHAIRMAN FLEAGLE: No.
35
36 MR. PROBASCO: And Ms. Gottlieb.
37
38 MS. GOTTLIEB: No.
39
40 MR. PROBASCO: Motion fails, three/three.
41
42 CHAIRMAN FLEAGLE: Yeah, that
43 three/three, that motion was to reject, so essentially no
44 action, right. That's the trouble with putting a
45 negative action out and an affirmative vote.
46
47 MR. PROBASCO: One second, Mr. Chair.
48
49 MS. GOTTLIEB: Mr. Chairman. Can we do
50 another motion on this proposal?

1 CHAIRMAN FLEAGLE: Sure.
2
3 MS. GOTTLIEB: I'd like to move as shown
4 on Page 20 with slight modification to the Regional
5 Advisory Council recommendation that would be talking
6 about -- excuse me, let me start again.
7
8 I'd like to support the Regional Advisory
9 Council's recommendation and include the word, antlered
10 bull, on the winter season, five day potential hunt.
11
12 MR. CESAR: I'll second that.
13
14 CHAIRMAN FLEAGLE: Judy, would that be
15 with the essentially the floating season.
16
17 MS. GOTTLIEB: Yes.
18
19 MR. PROBASCO: That's my understanding.
20
21 MS. GOTTLIEB: Yes, it would be.
22
23 CHAIRMAN FLEAGLE: All right. Would you
24 want to speak more to your motion, please.
25
26 MS. GOTTLIEB: Well, I guess from the
27 population data that we're seeing here it looks like the
28 populations are stable or perhaps slightly growing and,
29 again, given the discretion and the confidence that we
30 have in the local managers, you know, if there's enough
31 animals they can open a hunt, if there's not enough they
32 won't open a hunt. It just gives that flexibility. And
33 it sounded like there have been some outreach efforts and
34 I'm sure those can continue to help distinguish, although
35 if we use the word, antlered, that should help out quite
36 a bit, too.
37
38 CHAIRMAN FLEAGLE: Gary.
39
40 MR. EDWARDS: Mr. Chairman. While I
41 would certainly agree, you know, going to an antlered
42 hunt would be -- would certainly be advisable if we were
43 going to allow this extension, I think I will probably
44 vote against the motion. Again, I think that the actions
45 that we took in 36 will provide some additional
46 opportunity.
47
48 This certainly isn't a rapidly growing
49 population and I do think we have some level of
50 conservation concern. And I just think it would be more

1 prudent from a conservation standpoint to see what the
2 results are of our previous action before we extend a --
3 you know, further extend the season in this particular
4 unit.

5

6 CHAIRMAN FLEAGLE: Steve.

7

8 MR. KESSLER: Thank you, Mr. Chair. I
9 guess a comment. I think Judy's modification to make
10 this an antlered bull is a very important change. Gary
11 also did talk about sort of this -- or maybe it was in
12 the Staff Committee recommendation, I can't remember,
13 sort of an expectation if it's on the record, that -- I
14 mean if it's in our regulations there's sort of an
15 expectation that it would happen when, in fact, it
16 really, from the biological conservation sense may not
17 make sense. So I support the change and I question
18 whether we should have it in our regulations and I'll let
19 you know when I vote how I vote.

20

21 CHAIRMAN FLEAGLE: George.

22

23 MR. OVIATT: Thank you, Mr. Chairman. I,
24 too, feel that there's a conservation concern here and
25 letting us get some experience from our vote from the
26 previous proposal, I think, would be prudent, so I'm
27 probably going to vote against this motion.

28

29 Thank you.

30

31 CHAIRMAN FLEAGLE: I'm going to support
32 it. I know Interior winter hunts, they're not very
33 profitable. I don't see a conservation issue. Five day
34 season, you know, you just got the heartiest of people
35 out there looking for moose in some pretty rough country
36 full of snow. And if somebody wants to be out there
37 looking for one of these, I think this will provide an
38 opportunity for somebody that really, really, really,
39 really wants to try to get a moose.

40

41 When the State had the winter hunt up
42 there on the Nowitna that was just recently closed, it
43 was not utilized very well, if I recollect correctly, and
44 success rates were pretty low when it was utilized. I
45 don't fear that.

46

47 My problem with this, the reading of the
48 language, this just seems to really muddle up how it's
49 going to be authorized. It's authorized by the Refuge
50 manager after consultation with the ADF&G area biologist,

1 the Chair of the Western Interior Regional Advisory
2 Council, the Chair of the Ruby Fish and Game Advisory
3 Committee, and local villages. Does any one of those
4 have veto power over this hunt, or I mean is this a
5 routine type of language used in regulation.

6

7

Pete.

8

9

Okay, Gary.

10

11

MR. EDWARDS: Speaking on behalf of the
12 Fish and Wildlife Service, I think we would argue that
13 our Refuge manager has the ultimate decision and that
14 nobody would have a veto over him, except maybe me.

15

16

(Laughter)

17

18

CHAIRMAN FLEAGLE: Pete.

19

20

MR. PROBASCO: Mr. Chair, it's a good
21 question. And consultation is meant to get everybody in
22 the loop to understand that we're contemplating a season
23 and to try to understand local conditions and concerns
24 and take that into consideration and making the decision
25 when that five day season will occur but the Refuge
26 manager has the final say.

27

28

Mr. Chair.

29

30

CHAIRMAN FLEAGLE: All right. So if it's
31 to add positive information then I can go along with it,
32 if it was not meant to be a hinderance, that's fine.

33

34

I intend to support the motion.

35

36

Is there further discussion. Steve.

37

38

MR. KESSLER: (Shakes head negatively)

39

40

CHAIRMAN FLEAGLE: No. Ready for the
41 question. Question's recognized on Proposal 37. Pete.

42

43

MR. PROBASCO: Okay, second motion on
44 Proposal WP07-37, and it's on Page 421, and what has been
45 changed, it's been from one bull to antlered bull and it
46 is still a five day season to be announced. So the
47 motion is on Page 421 with the modifications that Ms.
48 Gottlieb provided in her motion.

49

50

Mr. Oviatt.

1 MR. OVIATT: No.
2
3 MR. PROBASCO: Mr. Kessler.
4
5 MR. KESSLER: Yes.
6
7 MR. PROBASCO: Mr. Edwards.
8
9 MR. EDWARDS: No.
10
11 MR. PROBASCO: Mr. Fleagle.
12
13 CHAIRMAN FLEAGLE: Yes.
14
15 MR. PROBASCO: Ms. Gottlieb.
16
17 MS. GOTTLIEB: Yes.
18
19 MR. PROBASCO: And Mr. Cesar.
20
21 MR. CESAR: Yes.
22
23 MR. PROBASCO: Motion carries, four/two.
24 Mr. Chair.
25
26 CHAIRMAN FLEAGLE: Thank you, Pete.
27
28 MR. HAYNES: Mr. Chairman.
29
30 CHAIRMAN FLEAGLE: Okay, who's yelling,
31 oh, Terry Haynes.
32
33 MR. HAYNES: Just a point of
34 clarification. On Page 421 the Regional Council
35 recommendation talks about issuing permits to heads of
36 household. In the presentation from Federal Staff there
37 was a suggestion that that might not be a very workable
38 term. I just wondered if the intent of the action was to
39 have permits issued to heads of household.
40
41 CHAIRMAN FLEAGLE: Thank you, Terry, that
42 was an oversight. You're right. Currently, I guess the
43 only way it's done is one per household. And I don't
44 know if we would need to revisit this language or if we
45 could just make the intent match that of current
46 practice.
47
48 Pete.
49
50 MR. PROBASCO: Mr. Chair. Let's just

1 have a discussion on the intent and then we could change
2 the regulatory language.

3
4 Mr. Chair.

5
6 CHAIRMAN FLEAGLE: Since George has his
7 microphone on maybe he can start.

8
9 (Laughter)

10
11 CHAIRMAN FLEAGLE: All right, discussion
12 on intent. Judy.

13
14 MS. GOTTLIEB: Mr. Chair. I guess with
15 our definition of household meaning that group of people
16 residing in the same residence, that's the intent.

17
18 CHAIRMAN FLEAGLE: One per household,
19 though, as opposed to what's here as head of household.

20
21 MS. GOTTLIEB: Right. Right.

22
23 CHAIRMAN FLEAGLE: Everybody in
24 concurrence.

25
26 (No comments)

27
28 CHAIRMAN FLEAGLE: No objection.

29
30 (No objections)

31
32 CHAIRMAN FLEAGLE: All right, that's the
33 intent, Pete.

34
35 MR. PROBASCO: Got it.

36
37 CHAIRMAN FLEAGLE: Moving on to Proposal
38 55. Tom Kron.

39
40 MR. KRON: Mr. Chair. Given the press of
41 the agenda, if you wish, I can shorten this presentation
42 for this particular analysis.

43
44 CHAIRMAN FLEAGLE: All in favor signify
45 by saying aye.

46
47 (Laughter)

48
49 CHAIRMAN FLEAGLE: You bet.

50

1 MR. KRON: Mr. Chair. The analysis is
2 already included on the record in your Proposal book,
3 Pages 438 to 445.
4
5 OSM's preliminary conclusion is to oppose
6 the proposal.
7
8 Thank you, Mr. Chair, and I'd be happy to
9 take any questions.
10
11 (Laughter)
12
13 CHAIRMAN FLEAGLE: Thank you, Tom.
14
15 MR. PROBASCO: Good job, Tom.
16
17 (Laughter)
18
19 CHAIRMAN FLEAGLE: Questions.
20
21 (No comments)
22
23 CHAIRMAN FLEAGLE: Moving on to summary
24 of written public comments. Vince.
25
26 MR. MATHEWS: Thank you, Mr. Chair.
27 They're found on Page 448. Again, there are two in
28 opposition. You will not see the Gates of the Arctic
29 Subsistence Resource Commission on that page because they
30 met last week. They did oppose it and if you'd like
31 further information on that, Jack Reakoff is a member of
32 that Commission.
33
34 The other written comment came in from
35 Scott Schoppenhorst of Wiseman Village. He highly values
36 the local fish and wildlife resources and has always
37 hunted in the traditional ways when it's the best time to
38 properly care for the meat. He suggests that if there's
39 a safety issue involved with this proposal, which there
40 is, then it would be good to have the bow hunters where
41 blaze orange so they could warn other hunters. Hunting
42 in the Dalton Highway Corridor is done by driving the
43 highway and spending hours glassing for sheep. He has
44 been able to, at different times, to locate other hunters
45 and progress with a spotting scope and once hunters are
46 spotted he looks for other areas. So basically they move
47 their hunting activity to avoid conflict. In his
48 opinion most bow hunters come to the Dalton Highway
49 Corridor because of the lack of law enforcement and do
50 not hunt specifies specific proven by the amount of

1 arrows found in the woods and in animals that he has
2 harvested.

3

4 Mr. Chairman, then the full text of his
5 letter, which is quite lengthy, is available if the
6 Board would like to see that.

7

8 Thank you, Mr. Chair.

9

10 CHAIRMAN FLEAGLE: Thank you, Vince.
11 Public testimony, Pete.

12

13 MR. PROBASCO: Mr. Chair. We have no one
14 signed up for this agenda item.

15

16 CHAIRMAN FLEAGLE: Council
17 recommendation. Jack.

18

19 MR. REAKOFF: Mr. Chairman. Western
20 Interior Regional Advisory Council opposed this proposal.

21

22 This proposal was basically submitted by
23 a disgruntled hunter, and the proposal is craftily worded
24 to where he was in danger and it was not a public safety
25 issue at all. He had hunted this sheep for two different
26 days and one of our guys climbed the hill with his wife
27 and killed the sheep and he was annoyed with that. He
28 fabricated this aspect that he could have been in danger.
29 We specifically spot legal animals for harvest, we're
30 under a horn requirement on dall sheep then we
31 specifically target those sheep, we're not just randomly
32 shooting them in the legs, in any old place, they're
33 going to be spot in a specific place.

34

35 Typical ranges are not at long range,
36 they're usually between 10 yards to about 200 yards
37 maximum to 300 yards at the super maximum range.

38

39 And so it's not just blazing away up the
40 hillside and bow hunters are being right and left.
41 There's been -- I've personally never had conflict with
42 any bow hunter. If I come to a bow hunter and they're
43 hunting an animal I go somewhere else just like stated by
44 Mr. Schoppenhorst. And so we opposed this proposal.
45 There's the perception by the proponent was that we hunt
46 year-round and we can hunt at some other time of the
47 year, that's just a misperception, a common misperception
48 that subsistence hunters hunt at any old time of the
49 year.

50

1 There is a Federal subsistence priority
2 and so we hunt with firearm as provided by the Federal
3 Subsistence Board process for many, many years now.
4 People have hunted with firearms from Wiseman -- Wiseman
5 has a long and rich history of documentation and is an
6 older community than Anchorage. And so Jacob Jonas that
7 lived in Wiseman when I was a kid, he was in his early
8 '90s Nunimuit Eskimo, he told my dad and I, while I was
9 sitting there, that he got black powder rifles like up at
10 Niglik at the coast in the late '1800s from whalers and
11 they basically utilized those, they didn't use bow and
12 arrow, they drove caribou into lakes and snaring
13 enclosures and used black powder rifles from that
14 timeframe on.

15
16 And so we're using customary and
17 traditional methods and means for subsistence harvest and
18 so the Western Interior and Gates of the Arctic
19 Subsistence Resource Commissions have opposed this
20 proposal.

21
22 CHAIRMAN FLEAGLE: Thank you. Department
23 of Fish and Game.

24
25 MR. PROBASCO: Eastern Interior.

26
27 CHAIRMAN FLEAGLE: Oh, Eastern Interior,
28 sorry, Sue.

29
30 MS. ENTSMINGER: I'll keep it short and
31 say that the Eastern Interior opposed this, and they look
32 at it as not harassing hunters but it's just competition
33 between hunters in the field.

34
35 CHAIRMAN FLEAGLE: Appreciate the
36 comments. North Slope. Vince Mathews.

37
38 MR. MATHEWS: Yes, Mr. Chair. Real
39 quickly, the North Slope deferred on this proposal and
40 there's not a representative here so I'll cover that.
41 They deferred because they wanted to hear from the
42 affected community of Anaktuvuk Pass.

43
44 Thank you.

45
46 CHAIRMAN FLEAGLE: Department of Fish and
47 Game comments. Tina Cunning.

48
49 MS. CUNNING: Thank you, Mr. Chairman.
50 We have comments that have been supplied, written

1 comments on the record.

2

3

4 We would conclude that the Department
5 supports this proposal. Hunting with firearms is illegal
6 under State statute and regulations in many portions of
7 the Dalton Highway Corridor Management Area. Beginning
8 in the early 1990s the Department consistently opposed
9 the Federal Board authorizing use of firearms for
10 subsistence hunting on Federal lands in the Dalton
11 Highway Corridor Management Area because it contradicts
12 State statute.

12

13

Thank you.

14

15

CHAIRMAN FLEAGLE: Questions.

16

17

(No comments)

18

19

CHAIRMAN FLEAGLE: Staff Committee
20 comments. Larry.

21

22

MR. BUKLIS: Mr. Chairman. The Staff
23 Committee comments are on Page 448 and they simply report
24 that the Staff Committee found the analysis to be a
25 thorough evaluation of the proposal and the Council
26 recommendations to be consistent with ANILCA Section
27 .805(c).

28

29

CHAIRMAN FLEAGLE: Board discussion.

30

31

George.

32

33

MR. OVIATT: Mr. Chairman, if I could --
34 I'm sorry, if I could ask a question of the State.

35

36

Do you have any documented cases of use
37 conflicts between bow hunters and the subsistence users
38 other than the individual who submitted this proposal?

39

40

CHAIRMAN FLEAGLE: Tina.

41

42

MS. CUNNING: Mr. Chairman. Over a
43 period of a number of years we receive complaints from
44 both sides.

45

46

MR. OVIATT: Thank you.

47

48

CHAIRMAN FLEAGLE: Further discussion.

49

50

(No comments)

1 CHAIRMAN FLEAGLE: Ready for a motion.
2
3 MR. OVIATT: Mr. Chairman.
4
5 CHAIRMAN FLEAGLE: George.
6
7 MR. OVIATT: I put forth the motion of
8 the proposal as recommended -- to reject the proposal as
9 recommended by the Western Interior and the Eastern
10 Interior Alaska Subsistence Regional Advisory Council.
11
12 MR. CESAR: I'll second it.
13
14 CHAIRMAN FLEAGLE: Discussion.
15
16 MR. OVIATT: Mr. Chairman.
17
18 CHAIRMAN FLEAGLE: Judy.
19
20 MS. GOTTLIEB: No, go ahead.
21
22 CHAIRMAN FLEAGLE: George.
23
24 MR. OVIATT: My reasons are that the
25 proponent's belief as was stated earlier that subsistence
26 hunters have access year-round is incorrect. That the
27 two seasons -- or two hunts overlap. Subsistence sheep
28 hunting with firearms has been in place for 15 years.
29 The rural subsistence hunters are hunting to feed their
30 families, they have a limited opportunity to purchase
31 food and the cost of food is prohibitive. The use of bow
32 and arrows is not an efficient way for subsistence
33 hunters to put food on the table. A relatively small
34 percentage of the hunters are Federally-qualified
35 subsistence hunters. An Arctic National Wildlife Refuge
36 patrol officer reported that subsistence hunters were
37 probably less than 5 percent of the total hunting
38 population along the Dalton Highway. And the percentage
39 of archers and rifle hunters during this same time is not
40 unique, that these two types of hunters utilize the same
41 areas during the hunting season across most of Alaska.
42
43 Thank you, Mr. Chairman.
44
45 CHAIRMAN FLEAGLE: Okay, George, thank
46 you.
47
48 MS. GOTTLIEB: Thanks. Well, I certainly
49 agree with what George offered as well as if we were to
50 support the proponent, I believe that that would be

1 detrimental to subsistence uses.

2

3 CHAIRMAN FLEAGLE: Ready for the
4 question. Question's recognized on the proposal. Pete.

5

6 MR. PROBASCO: Thank you, Mr. Chair.
7 Final action WP07-55 to support the recommendation of the
8 Western and Eastern Interior Regional Advisory Council to
9 reject the proposal.

10

11 Mr. Kessler.

12

13 MR. KESSLER: Motion was to reject,
14 right?

15

16 CHAIRMAN FLEAGLE: Affirm.

17

18 MR. KESSLER: Yes.

19

20 MR. PROBASCO: Mr. Edwards.

21

22 MR. EDWARDS: Yes.

23

24 MR. PROBASCO: Mr. Fleagle.

25

26 CHAIRMAN FLEAGLE: Aye.

27

28 MR. PROBASCO: Ms. Gottlieb.

29

30 MS. GOTTLIEB: Yes.

31

32 MR. PROBASCO: Mr. Cesar.

33

34 MR. CESAR: Yes.

35

36 MR. PROBASCO: And Mr. Oviatt.

37

38 MR. OVIATT: Yes.

39

40 MR. PROBASCO: Six/zero, Mr. Chair.

41

42 CHAIRMAN FLEAGLE: Thank you. Now, this
43 one ought to go as quickly as well. Tom Kron.

44

45 MR. KRON: Mr. Chairman. WP07-58
46 requests that Federally-qualified subsistence hunters use
47 a bow and arrow to hunt moose in the Dalton Highway
48 Corridor during the period of time when State of Alaska
49 has an archery only hunting season.

50

1 The analysis for this proposal is already
2 included on the record and it can be found in your Board
3 books on Pages 452 to 461.

4
5 The OSM preliminary conclusion is to
6 oppose this proposal.

7
8 Thank you, Mr. Chairman, I'd be happy to
9 take any questions.

10
11 CHAIRMAN FLEAGLE: Thank you, Tom.
12 Written public comments.

13
14 MR. MATHEWS: Yes, Mr. Chairman. Again,
15 they're found on Page 462. I won't repeat what Scott
16 Schoppenhorst of Wiseman said, it was the same letter
17 that was sent, so it was the same comments concerning
18 this user conflict, blaze orange safety.

19
20 We also have the Gates of the Arctic
21 Subsistence Resource Commission opposed it, again,
22 additional information, if you need it is available
23 through Mr. Reakoff.

24
25 The final written comment in opposition
26 came from Thor Stacey of Wiseman. Again, the residents
27 of Wiseman have been hunting animals in the MiddleFork
28 Valley long before the Dalton Highway and bow hunting
29 seasons were established. There has never been an
30 accident related to hunting with rifles or otherwise, or
31 a complaint that our traditional use has been threatening
32 to personal safety. Safety is paramount and importance
33 around -- when around firearms. He personally takes
34 firearm safety seriously and he recommends that you do
35 not pass this proposal as they have no merit and will
36 make subsistence hunting of moose and sheep in the
37 Corridor impossible for its established users.

38
39 Thank you, Mr. Chair.

40
41 CHAIRMAN FLEAGLE: Thank you, Vince.
42 Public testimony, Pete.

43
44 MR. PROBASCO: Mr. Chair. No one has
45 signed up for this agenda item.

46
47 CHAIRMAN FLEAGLE: Regional Council
48 recommendation, we'll start with Jack.

49
50 MR. REAKOFF: Mr. Chairman. The Western

1 Interior Regional Council opposed the proposal for the
2 same reasons as stated on Proposal 55.

3

4 We harvest wolves there, ungulates and
5 other subsistence animals, predator harvest there offsets
6 our ungulate harvest and benefits other users. We've
7 never asked for an exclusive use of the area, we're
8 willing to share the resources there and so I wanted to
9 put that on the record, that we've never asked for an
10 exclusive use or an exclusion of other users there.

11

12 Thank you.

13

14 CHAIRMAN FLEAGLE: Thank you. Sue.

15

16 MS. ENTSMINGER: Mr. Chair. We oppose
17 for the same reasons.

18

19 CHAIRMAN FLEAGLE: Vince, for North
20 Slope.

21

22 MR. MATHEWS: Yes, they oppose it also.
23 And if you need further clarification on their
24 justification, Barb's here because it -- they just
25 opposed it based on their representative from Kaktovik.

26

27 CHAIRMAN FLEAGLE: Thank you. Alaska
28 Department of Fish and Game comments. Tina.

29

30 MS. CUNNING: Mr. Chairman. Please see
31 our comments for WP07-55, the same issues apply. The
32 Department supports this proposal because it contradicts
33 State statute.

34

35 CHAIRMAN FLEAGLE: Thank you for those
36 comments. Staff Committee comments. Larry.

37

38 MR. BUKLIS: Mr. Chairman. The Staff
39 Committee comments are found on Page 462 for Proposal No.
40 58 and they are the same as we stated for Proposal 55.

41

42 CHAIRMAN FLEAGLE: Thank you. Board
43 discussion.

44

45 (No comments)

46

47 CHAIRMAN FLEAGLE: Motions.

48

49 MR. OVIATT: Mr. Chairman. I'd put a
50 motion on the table to reject the proposal as recommended

1 by the Western Interior and the Eastern Interior Alaska
2 Subsistence Regional Advisory Councils for similar
3 reasons that I had stated before. That the Federal
4 subsistence hunt has been in place for 15 years. Hunting
5 with bow and arrow is not an efficient way to put food on
6 the table. And there is no biological reason to adopt
7 this proposal.

8

9 MR. CESAR: Second.

10

11 CHAIRMAN FLEAGLE: Got a second.

12 Discussion.

13

14 MS. CUNNING: Mr. Chairman.

15

16 CHAIRMAN FLEAGLE: Tina.

17

18 MS. CUNNING: Mr. Chairman, in my attempt
19 to speed things up, I contradicted myself. The
20 Department supports the proposal because the use of
21 firearms contradicts State statute. I just needed to
22 clarify that I had it the wrong way.

23

24 CHAIRMAN FLEAGLE: Thank you. I kind of
25 figured the reason it wasn't on the consensus agenda was
26 because the Department did not support it -- I mean
27 support -- now, I did it, it's time to take a break but
28 let's vote first.

29

30 The question is recognized on the
31 proposal. Pete.

32

33 MR. PROBASCO: Mr. Chair. Final action
34 WP07-58 reject the proposal as recommended by Western
35 Interior, Eastern Interior and North Slope Subsistence
36 Regional Advisory Council.

37

38 Mr. Edwards.

39

40 MR. EDWARDS: Aye.

41

42 MR. PROBASCO: Mr. Fleagle.

43

44 CHAIRMAN FLEAGLE: Aye.

45

46 MR. PROBASCO: Ms. Gottlieb.

47

48 MS. GOTTLIEB: Aye.

49

50 MR. PROBASCO: Mr. Cesar.

1 MR. CESAR: Aye.
2
3 MR. PROBASCO: Mr. Oviatt.
4
5 MR. OVIATT: Aye.
6
7 MR. PROBASCO: And Mr. Kessler.
8
9 MR. KESSLER: Aye.
10
11 MR. PROBASCO: Six/zero, Mr. Chair.
12 Thank you, Pete. That wraps up Western Interior
13 proposals. The next suite of proposals will be the
14 Seward Peninsula ones that were deferred, correct.
15
16 MR. PROBASCO: Correct.
17
18 CHAIRMAN FLEAGLE: Okay, and that's out
19 of cycle on the printed agenda so I just wanted to raise
20 that up. And we'll step down for 10 minutes.
21
22 (Off record)
23
24 (On record)
25
26 CHAIRMAN FLEAGLE: The Federal
27 Subsistence Board is back on record. Now, the intent of
28 this next group of proposals that was requested to be
29 brought off of the consensus agenda because they were
30 rejected, opposed, in opposition to the proponent's
31 desires was to bring them back before the Board so that
32 they can be deferred so that the reasons for the
33 opposition could be dealt with by the Regional Advisory
34 Council and the proponent.
35
36 And so if there's a motion we can do this
37 all in one fell swoop, do all three groupings to defer to
38 the next cycle.
39
40 Is there a motion.
41
42 MS. GOTTLIEB: Mr. Chairman. Yes, I did
43 ask that this be pulled off the consensus agenda but I
44 think there was or maybe is the need for either more
45 information, more communication or better understanding
46 on what C&T is or what it isn't. And so I guess I would
47 ask that the Board defer action on these proposals and
48 return them to the Regional Council.
49
50 CHAIRMAN FLEAGLE: Is there a second.

1 MR. CESAR: I'll second that.
2
3 CHAIRMAN FLEAGLE: We got a second,
4 Niles. Is there any objection.
5
6 (No objections)
7
8 CHAIRMAN FLEAGLE: Hearing none, Pete go
9 ahead.
10
11 MR. PROBASCO: For the.....
12
13 MS. GOTTLIEB: Mr. Chair.
14
15 MR. PROBASCO:record, Mr. Chair,
16 it's Proposals WP07-39 through 49.
17
18 Mr. Chair.
19
20 CHAIRMAN FLEAGLE: Judy, you were just
21 going to clarify.
22
23 MS. GOTTLIEB: (Nods affirmatively)
24
25 CHAIRMAN FLEAGLE: All right. Any
26 objection.
27
28 (No objections)
29
30 CHAIRMAN FLEAGLE: Hearing none, that
31 action carries.
32
33 We now move to the Northwest Arctic
34 region with Proposal 23 -- Unit 23, Proposal 50.
35
36 Greg Risdahl.
37
38 MR. RISDAHL: Mr. Chairman. Members of
39 the Board. I believe you have a copy of a letter that was
40 sent to -- actually it says it's addressed to you, the
41 Chairman, from the proponent, Mr. Caleb Pungowiyi, asking
42 for this proposal to be withdrawn. And I'm prepared to
43 go through the proposal if you'd like or if the Board
44 prefers to take some other action on it at this time.
45
46 MS. GOTTLIEB: Mr. Chairman.
47
48 CHAIRMAN FLEAGLE: Judy.
49
50 MS. GOTTLIEB: I would like to move that

1 the Board not hear this action and withdraw it from our
2 agenda.
3
4 CHAIRMAN FLEAGLE: Okay. Any objection.
5
6 (No objections)
7
8 MR. PROBASCO: You need a second.
9
10 CHAIRMAN FLEAGLE: Oh, we need a second.
11
12 MR. EDWARDS: Second.
13
14 MR. OVIATT: Second.
15
16 CHAIRMAN FLEAGLE: Yeah, we do have
17 several, I'll take George's. Any objection.
18
19 (No objections)
20
21 CHAIRMAN FLEAGLE: That will be the
22 action of the Board, this proposal is now dispensed with.
23
24 MR. RISDAHL: Thank you, Mr. Chairman.
25 Members of the Board.
26
27 CHAIRMAN FLEAGLE: Okay, we now move back
28 to the Eastern Interior once again and we're resuming
29 with Proposal 59 from that region.
30
31 MR. KESSLER: Excuse me, Mr. Chair.
32
33 CHAIRMAN FLEAGLE: Steve.
34
35 MR. KESSLER: You know, I know we just
36 took pretty quick action to allow that one to be
37 withdrawn but we didn't hear from the Council and the
38 Council supported that proposal. And I'm just curious
39 whether the Chair of the Council supports what we just
40 did.
41
42 CHAIRMAN FLEAGLE: Okay. We can have
43 that discussion. Victor.
44
45 MR. KARMAN: Yes. At the time it was
46 presented to us we did approve it but after a little
47 while, with a little bit more research we had the wrong
48 information. Had we had the right information it never
49 would have went. If you want Caleb Pungowiyi is here
50 that submitted the proposal from Maniilaq Association, I

1 would defer to him, if you don't mind.

2

3 CHAIRMAN FLEAGLE: Steve, you just wanted
4 to find out if the Council was in concurrence with the
5 withdrawal.

6

7 MR. KESSLER: Yeah. It was my
8 understanding that the Council was but I thought it was
9 important to put that on the record and I don't think we
10 need to address it any further unless someone else has a
11 different idea.

12

13 CHAIRMAN FLEAGLE: You bet, thank you.
14 All right, Proposal 59, and we have Don Rivard back with
15 us.

16

17 MR. RIVARD: Thank you, Mr. Chair. The
18 Staff analysis begins on Page 549 in your book.

19

20 This proposal, WP07-59 submitted by the
21 Eastern Interior Alaska Subsistence Regional Advisory
22 Council requests that the closing dates of the wolf
23 hunting seasons in Units 12, 20 and 25 be changed from
24 April 30th to May 31st. The proposed regulatory change
25 would provide an additional 31 days for Federally-
26 qualified subsistence users to harvest wolves.

27

28 An identical proposal, WP06-64 was
29 submitted last year by the same proponent and was
30 rejected by the Federal Subsistence Board in May 2006 due
31 to it was being contrary to sound wildlife management
32 principles. However, the proponent submitted this
33 proposal this year because of the believe that the affect
34 of an extended season would be expected to be minimal on
35 pups as the increase in wolf harvest would likely be
36 small. The harvest would most likely be of animals in
37 the pack other than the alpha female as those other
38 animals range out farther and would be moving about more
39 and more exposed to hunters than the alpha female.

40

41 Again in the fall of 2005 the proponent
42 submitted parallel proposals to the Federal Subsistence
43 Board and the Alaska Board of Game to allow wolf hunting
44 in Units 12, 20 and 25 during the proposed 31 day season
45 extension. The Alaska Board of Game adopted the 31 day
46 extension during its March 2006 meeting, explicitly for
47 the purpose of providing opportunity to reduce wolf
48 populations for the benefit of ungulates.

49

50 The Alaska Department of Fish and Game's

1 recommendation to the Alaska Board of Game on this
2 proposal, and that was No. 120, was do not adopt because
3 of the poor quality of the hides in May, the negative
4 effects of hunting wolves when pups are in the den and
5 because the extended season would not result in a
6 significant reduction in the number of wolves and would
7 have little effect on moose survival and recruitment.
8

9 However, the Alaska Board of Game
10 approved the extended season after several Board members
11 expressed their intent to facilitate the reduction of
12 wolf populations to benefit moose and caribou
13 populations.
14

15 The Federal Subsistence Board, aware of
16 the State's action rejected the Federal Proposal, WP06-64
17 during your May 2006 meeting, again, stating extending
18 the hunting season for wolves into the time when wolves
19 have pups in the den is contrary to sound wildlife
20 management principles.
21

22 Wolves occur throughout the Eastern
23 Interior region, in the three units, and populations are
24 generally considered to be healthy and can likely support
25 the additional harvest that may occur during the proposed
26 season extension. However it should be noted that the
27 wolf population is now at ann all time low in Yukon-
28 Charley Rivers National Preserve and on the decline and
29 you can see this in Table 1 on Page 554.
30

31 A harvested pelt during the proposed
32 season extension would not generally be considered for
33 use in the making of quality clothing and handicrafts as
34 sub-prime pelts are generally not sought by hunters and
35 trappers, however, the proponent state that the hides of
36 wolves taken in May are suitable for making clothing and
37 handicrafts and that the Eastern Interior Council members
38 have used wolf hides taken in this time period. The
39 proposed 31 day extension would occur at the end of
40 spring when wolves become more difficult to track and see
41 without adequate snow cover. While the harvest that
42 might result from this proposed regulatory change would
43 likely be small, it's adoption could cause the
44 inadvertent harvest of adult wolves with pups, which
45 could result in the abandonment of the young at the den
46 site and subsequent additional mortality.
47

48 With that, Mr. Chair, the OSM preliminary
49 conclusion is to oppose the proposal. As extending the
50 hunting season for wolves in the time when wolves have

1 pups in the den is contrary to sound wildlife management
2 principles.

3

4 Thank you.

5

6 CHAIRMAN FLEAGLE: Questions.

7

8 (No comments)

9

10 CHAIRMAN FLEAGLE: All right, thank you.
11 Summary of written public comments. Vince.

12

13 MR. MATHEWS: Yes, Mr. Chair. They're
14 found on Page 558. There were three written comments
15 submitted, two in support and one in opposition.

16

17 The Denali National Park Subsistence
18 Resource Commission supports the Staff analysis to oppose
19 this proposal. There is no subsistence reasons to
20 harvest wolves in those units during the month of May due
21 to the fact that the fur is not at its prime in May and
22 harvesting wolves at this time could decrease in the
23 likelihood of pup survival.

24

25 The Wrangell-St. Elias National Park
26 Subsistence Resource Commission supports this proposal.
27 They support the proposal as written aligning State and
28 Federal seasons reduces confusion and the Federal season
29 should not be more restrictive than State season. Any
30 harvest during this season extension is anticipated to be
31 quite limited and such harvest is not anticipated to
32 result in conservation concerns.

33

34 The AHTNA Tene Nene' Subsistence
35 Commission also supported this proposal. They felt that
36 their populations of wolves in the area needs to be
37 reduced so they will not take too many calfs of moose an
38 caribou.

39

40 That's a summary of the comments.

41

42 Thank you.

43

44 CHAIRMAN FLEAGLE: Thank you. Regional
45 Council recommendation, we'll go to Sue.

46

47 MS. ENTSMINGER: Thank you, Mr. Chair.
48 The Eastern Interior was in favor of their own proposal.
49 I just wrote down a few highlights. I know you have in
50 front of you a lot of this stuff that we already

1 mentioned. But mostly this would be incidental take, the
2 only season that's open during the time is spring bear
3 hunting so the actual take would be low. And the Council
4 doesn't feel it's good to see the Federal season more
5 restrictive than a State season, that makes subsistence
6 more restrictive than, you know, other hunting.

7
8 And then it should be noted that in the
9 Yukon-Charley where it's mentioned where the wolf
10 population is low, there's a wolf control program there,
11 I would imagine it would be low because of that. And
12 that is intentional by the State for management.

13
14 And also I don't see this as a
15 conservation concern because of the incidental take.

16
17 And then also as far as mention of waste
18 because the hides aren't prime. Basically what happens
19 to the wolf pelt in later is it's just losing its
20 undermat, it hasn't lost its length of hair and so you
21 can still make things out of it.

22
23 Thank you.

24
25 CHAIRMAN FLEAGLE: Questions.

26
27 (No comments)

28
29 CHAIRMAN FLEAGLE: Western Interior.

30
31 MR. REAKOFF: Mr. Chairman. This
32 proposal came before the Western Interior Council and we
33 took no action on it in the '06 cycle and so we voted on
34 the proposal, we had one vote in favor and the Council
35 voted it down for no action and so there was a little
36 slight division in the Council but we took no action on
37 that proposal the year before and wanted to be consistent
38 with our previous actions.

39
40 Thank you.

41
42 CHAIRMAN FLEAGLE: Thank you. And I note
43 that the Southcentral Council who's rep has departed also
44 took no action.

45
46 Department of Fish and Game comments.
47 Tina Cunning.

48
49 MS. CUNNING: Mr. Chairman. The written
50 record that Mr. Taylor's comments at the beginning of the

1 meeting reflect our detailed comments. The Department is
2 neutral on the proposal.

3

4 CHAIRMAN FLEAGLE: Thank you. Staff
5 Committee comments. Larry.

6

7 MR. BUKLIS: Mr. Chairman. The Staff
8 Committee comments are on Page 558. I'll highlight the
9 main point. The extension of the wolf hunting season to
10 the end of May can reasonably be expected to result in
11 the take of adult wolves with pups resulting in the death
12 and waste of the pups. For this and some other reasons
13 detailed in the written Staff Committee comments the
14 Staff Committee found that the Council's recommendation
15 to support the proposal -- found it to be contrary to
16 sound principles of wildlife management and is contrary
17 to Title VIII's purpose of non-wasteful use of the
18 wildlife resources.

19

20 Thank you.

21

22 CHAIRMAN FLEAGLE: Board discussion.

23

24 MS. GOTTLIEB: Mr. Chairman.

25

26 CHAIRMAN FLEAGLE: Judy.

27

28 MS. GOTTLIEB: I guess to add to the
29 table, on Page 554, our information from spring 2007 in
30 Yukon-Charley is that the number of wolves seems to now
31 be 1.8 so I will have to oppose the Regional Council's
32 recommendation consistent with the reasons stated by
33 Staff and Staff Committee. I don't see a biological
34 reason to do this and we are consistent with what the
35 Board did last year.

36

37 CHAIRMAN FLEAGLE: I didn't hear a motion
38 yet. Judy.

39

40 MS. GOTTLIEB: I will move then to reject
41 the Regional Council's recommendation on Proposal WP07-
42 59.

43

44 CHAIRMAN FLEAGLE: Do we get a second.

45

46 MR. KESSLER: Second.

47

48 CHAIRMAN FLEAGLE: Discussion.

49

50 MR. EDWARDS: Mr. Chairman. I personally

1 don't have a fundamental problem with what's being
2 requested however I do note that under the State
3 regulations people can extend and hunt other than on the
4 Park and I guess I'm kind of inclined to yield to the
5 Park as the manager in this case as to what is best, you
6 know, for their lands but I haven't totally decided yet.

7

8 CHAIRMAN FLEAGLE: Question, Judy. If
9 this were to be passed, despite objections to the Park
10 Service, the Park Service could simply close the Park to
11 the take of wolves during May, couldn't they, wouldn't it
12 just nullify this action onto Park lands?

13

14 MS. GOTTLIEB: We could close to
15 subsistence users, would be a lot more difficult and
16 disruptive to close to State users. I guess my point is
17 the Board -- this Board does have a policy that does not
18 support predator control, and some of the intent behind
19 this from our history seems to be just that, and so I
20 will not support this proposal for those reasons.

21

22 CHAIRMAN FLEAGLE: I understand. I'd
23 like to make a statement. I was obviously involved with
24 a lot of these issues in a past life, and where we find
25 sometimes the discussions can be brought about as
26 predator control, what I've found is that you have a
27 harvestable surplus that is not being utilize and the
28 State has found that in this area it is prudent to allow
29 for that incidental take by opportunistic hunters who
30 happen to be out in the field for bear to harvest wolves
31 and I agree with that. I think that as long as the
32 harvestable surplus exists. I see the avoidance of the
33 predator control issue, I support the Interior -- Eastern
34 Interior RAC's position. I intend to vote against the
35 motion.

36

37 But, anyways, Gary.

38

39 MR. EDWARDS: I guess one point, and to
40 maybe clarify Judy's statement. The reality is I don't
41 think this Board has a position on predator control, at
42 least from my perspective, not opposed or not in favor of
43 it, we have just sort of said that we would yield to the
44 land managing agency as to making those kinds of
45 decisions.

46

47 CHAIRMAN FLEAGLE: Other discussion.

48 George.

49

50 MR. OVIATT: Yeah, the Bureau of Land

1 Management, at least, neither supports or opposes the
2 predator control and taking of wolves.

3
4 I think I'm going to have a tendency -- I
5 -- the Bureau of Land Management will try to support the
6 managing agency but in this situation I'm not sure if I'm
7 going to be able to support that. I think I'd listen to
8 the Council and I may support them.

9
10 Thank you.

11
12 CHAIRMAN FLEAGLE: Sue.

13
14 MS. ENTSMINGER: Thank you, Mr. Chair. I
15 can assure you that our Council would probably be
16 somewhat offended if you looked at this proposal as a
17 predator control issue. They look at this proposal as an
18 opportunity when they're out bear hunting to take a wolf,
19 and that opportunity is going to be very limited because
20 you're -- when you're bear hunting -- what's your
21 likelihood to run into this female that's going to keep
22 these pups alive, it's so remote and to run into any wolf
23 is pretty remote actually, especially when there's a lack
24 of wolves in an area. So I think they would be very
25 offended that you would sit here and discuss that it was
26 predator control.

27
28 I think you should discuss is it -- can
29 we use that wolf for fur and is it part of what we're
30 doing while we're out there. And also when you're on
31 State land and you walk over onto Park land, now you have
32 to have a different season and you have to think about
33 that when you're in there and I don't think it's fair to
34 the user. So making it parallel is important to the
35 user.

36
37 CHAIRMAN FLEAGLE: Okay, I appreciate the
38 additional comments. I will caution that we do have a
39 motion on the table so.....

40
41 MR. EDWARDS: Well, I just want to.....

42
43 CHAIRMAN FLEAGLE:the debate should
44 be the Board's. Gary, go ahead.

45
46 MR. EDWARDS: I'm not sure I'm debating.

47
48 CHAIRMAN FLEAGLE: No, no, the oth --
49 you're fine, I'm just saying, Sue.

50

1 MR. EDWARDS: All right. I think -- at
2 least my understanding is that under State regulations,
3 both Fish and Wildlife Service lands as well as BLM lands
4 would be open during this extended period of time. When
5 it comes right down to it the only lands that would be
6 affected by this would be the Park Service lands, is that
7 a correct analysis.

8

9 MS. GOTTLIEB: Mr. Chairman.

10

11 CHAIRMAN FLEAGLE: Judy.

12

13 MS. GOTTLIEB: Within National Park
14 Service units we have Preserves which are affected by
15 State regulations and Parks and Monuments where the state
16 -- this State particular hunting regulation would not
17 apply. So I'm trying not to add to our Preserve here any
18 more than we have to as -- it's part of our job of
19 conserving healthy populations and looking at a density
20 of 1.8 wolves for a thousand square kilometers and the
21 Preserve is starting to get worried about that, or is
22 worried about it.

23

24 MR. EDWARDS: That's all my question is.
25 It's my understanding that the Preserve, even though the
26 State has this extended season, it's not in effect on the
27 Preserve, although it is in effect -- or, it is effect --
28 so what -- by us not supporting this motion, why would
29 that change anything, wouldn't that still allow this
30 extended hunt under State law to occur on the Preserve.

31

32 CHAIRMAN FLEAGLE: Judy.

33

34 MS. GOTTLIEB: Yes, it would and I'm
35 asking you not to add any additional hunt to it.

36

37 MR. EDWARDS: Then I'm really confused.
38 Why would this be added to -- so people who would have
39 wanted to hunt under this new subsistence reg, why
40 wouldn't they just hunt under the State reg?

41

42 CHAIRMAN FLEAGLE: Judy.

43

44 MS. GOTTLIEB: Because there's a Federal
45 reg. I don't know that everybody wants to -- you know, I
46 guess people maybe or maybe don't declare themselves but
47 you have a Federal regulation you can hunt under it and
48 it's not a regulation that Park Service will support.

49

50 CHAIRMAN FLEAGLE: George.

1 MR. OVIATT: Mr. Chairman. I wonder if
2 -- I wonder what impact would happen if we put forth an
3 amendment to exclude the Yukon-Charley area from this
4 proposal.

5
6 CHAIRMAN FLEAGLE: Sue.

7
8 MS. ENTSMINGER: You know, I appreciate
9 that but it's just so incidental, I mean what would be --
10 and I guess, you know, Judy, I think if I read it
11 correctly it would be Park, the Preserve might be open
12 but the Park would be where the Federal subsistence user
13 would have to revert back to this later season, so as a
14 subsistence user, what we refer to, we call it Hard Park,
15 you wouldn't be able to hunt, like say in the Wrangells,
16 the Northern Wrangells, Unit 12, you wouldn't be able to
17 hunt in, what we call the Hard Park, after the end of
18 April. Is that -- that would be our understanding,
19 you're saying no?

20
21 MS. GOTTLIEB: Actually I guess it's the
22 opposite, if this regulation passes, yes, our Federal
23 regulation would apply to Park land and that's including
24 Wrangells and Denali and the State regulation only
25 applies to the Preserve portions of those, Wrangells,
26 Denali and Yukon-Charley, so this opens it up in Park,
27 National Park lands -- opens it, yeah.

28
29 MS. ENTSMINGER: All lands.

30
31 CHAIRMAN FLEAGLE: Don Rivard.

32
33 MS. ENTSMINGER: Could I get a
34 clarification.

35
36 CHAIRMAN FLEAGLE: I'm sorry, Sue, go
37 ahead.

38
39 MS. ENTSMINGER: So that means, let's say
40 it didn't pass, as a subsistence user of the Yukon-
41 Charley, can you then hunt until the end of May under the
42 State regs?

43
44 MS. GOTTLIEB: Under State regs, yes, but
45 you could not in the Park portions of Denali or Wrangell-
46 St. Elias.

47
48 MS. ENTSMINGER: That's what this Council
49 was trying to protect, yes.

50

1 CHAIRMAN FLEAGLE: Don.
2
3 MR. RIVARD: Well, I just want --
4 basically it's a reiteration, but if you look on the top
5 of Page 556, that would be one of the effects of the
6 proposal if it were passed and so I'll just read it.
7
8 Currently rural residents may harvest
9 wolves during May on the affected Federal
10 public lands, including National Park
11 Preserve lands under State regulations.
12 This proposal, if adopted, would provide
13 this extended opportunity on National
14 Park managed Parks in Units 12 and 20.
15
16 MS. GOTTLIEB: Mr. Chair.
17
18 CHAIRMAN FLEAGLE: Judy, go ahead.
19
20 MS. GOTTLIEB: Thank you, Don, for
21 clarifying it. So right now, Gary, those Park areas in
22 Unit 12 and 20 are not open for State hunting. So this
23 does add whatever number of users there might be.
24
25 CHAIRMAN FLEAGLE: For the month of May.
26
27 MS. GOTTLIEB: Yes.
28
29 CHAIRMAN FLEAGLE: Sue.
30
31 MS. ENTSMINGER: But I just want to make
32 sure if it -- I hear opposition so I want to make sure
33 for the user, but, still, if I qualify for the Preserve I
34 can still hunt under that State -- I can still hunt so
35 your idea of pulling it doesn't do anything, correct,
36 yeah.
37
38 MR. EDWARDS: I understand.
39
40 CHAIRMAN FLEAGLE: Steve Kessler.
41
42 MR. KESSLER: Thank you, Mr. Chair. I
43 guess Page 552 of the analysis talks about what the Board
44 of Game did and I don't know specifically what the
45 proposal was last year from the Regional Advisory Council
46 to the Board of Game, but the Department recommended
47 against adopting this proposal because of poor hide
48 quality, negative effects of hunting wolves when pups are
49 in the den. And then the Alaska Board of Game, it says
50 on the bottom, did extend it with the expressed intent of

1 facilitating reduction of wolf populations to benefit
2 moose and caribou populations, i.e., predator control.

3
4 Now, as I say, I don't know what the
5 proposal was from Eastern Interior when they proposed it
6 to the Board of Game, if they talked about predator
7 control or not, but the effect and the Board of Game
8 considers this to be predator control.

9
10 Furthermore, I agree that it seems to be
11 contrary to sound principles of wildlife management and I
12 think that there are reasons under .805(c) to oppose the
13 recommendation of the Council and I'm concerned by the
14 numbers on Page 554 and with the continued downward trend
15 of the number of wolves per thousand square kilometers in
16 Yukon-Charley so I will be voting to reject the proposal.

17
18 CHAIRMAN FLEAGLE: Are we ready for the
19 question. The question is recognized on Proposal 59.
20 Pete.

21
22 MR. PROBASCO: Thank you, Mr. Chair.
23 Action on Proposal WP07-59, the motion is to reject the
24 proposal.

25
26 Mr. Edwards.

27
28 MR. EDWARDS: Aye.

29
30 MR. PROBASCO: Mr. Fleagle.

31
32 CHAIRMAN FLEAGLE: Nay.

33
34 MR. PROBASCO: Ms. Gottlieb.

35
36 MS. GOTTLIEB: Aye.

37
38 MR. PROBASCO: Mr. Cesar.

39
40 MR. CESAR: Nay.

41
42 MR. PROBASCO: Mr. Oviatt.

43
44 MR. OVIATT: Aye.

45
46 MR. PROBASCO: And Mr. Kessler.

47
48 MR. KESSLER: Aye.

49
50 MR. PROBASCO: Four/two, Mr. Chair, to

1 reject the proposal.

2

3 CHAIRMAN FLEAGLE: Okay, thank you. And
4 that concludes Eastern Interior proposals. We now move
5 to North Slope Proposal 63.

6

7 (Pause)

8

9 CHAIRMAN FLEAGLE: Your mic's still on
10 Steve.

11

12 (Pause)

13

14 CHAIRMAN FLEAGLE: All right, we have new
15 Staff at the table again, we've got Laura and Barbara.
16 Laura, good afternoon.

17

18 MS. GREFFENIUS: Good afternoon, we're
19 still not quite evening. For the record my name is Laura
20 Greffenius and I'm on the OSM Staff and with me at the
21 table is Barbara Armstrong who is the North Slope Council
22 coordinator.

23

24 I recognize we are in expediting mode
25 here but, yet, out of consideration for the concerns
26 expressed by the North Slope Council I want to -- I view
27 it as important to understand some of the more subtle
28 nuances on this particular issue for this proposal, so in
29 light of that I will go through -- I picked out just the
30 highlights from each section in this proposal and would
31 like to go through some of the more relevant parts of it.

32

33 So the Staff analysis begins on Page 586
34 in your Board book and WP07-63 was submitted by the
35 Office of Subsistence Management. This proposal requests
36 the removal of the closure of Federal public lands in
37 Unit 26B excluding the Canning River drainage to the
38 taking of moose except by Kaktovik residents. For a
39 visual reference I suggest you see Map 1 on Page 590 and
40 this map clearly delineates with hatch marks the to
41 remain closed area. Under this proposal, the closure of
42 Federal public lands in the Canning River drainage of
43 Unit 26B as well as 26C would still remain.

44

45 Last September in 2006 I presented to the
46 North Slope Regional Advisory Council the Federal
47 wildlife closure review for Units 26B and 26C moose
48 seasons. In that review, OSM Staff recommended that a
49 proposal should be initiated to modify or eliminate the
50 closure in that area. Due to low moose numbers in Unit

1 26C, the recommendation was to maintain the closure of
2 Federal public lands in Unit 26C as their continues to be
3 a conservation concern. OSM Staff recommended to modify
4 the existing closure of Federal public lands to apply
5 only to Unit 26C in the Canning River drainage portion of
6 Unit 26B so that Federal public lands elsewhere in Unit
7 26B would be open to non-Federally-qualified subsistence
8 users.

9
10 The current Federal subsistence
11 regulations for Units 26B and 26C have been in effect
12 since the 2004/2005 regulatory year when the Board
13 adopted measures to close Federal public lands in Units
14 26B and 26C to the taking of moose except by Kaktovik
15 residents.

16
17 Since 1996 there was no moose season in
18 Unit 26B, but now current State regulations for Unit 26B,
19 which are new for the 2006/2007 hunting season, which are
20 new for that current season, in Unit 26B, excluding the
21 Canning River drainage the Alaska Board of Game
22 authorized a limited hunting season on non-Federal lands
23 for 15 bull moose by drawing permit during the September
24 1st through the 14th season, that was last -- in 2006.
25 Seven moose were harvested during that September season
26 last year. Also the Board of Game authorized a winter
27 hunt with dates that may be announced. A 14 day winter
28 season was recently announced by ADF&G for April 2
29 through the 15th 2007 with a one bull harvest limit. And
30 it's too soon to have any information back from that
31 opening. In combination with the September season ADF&G
32 aimed for a harvest quota of 15 bull moose during the
33 2006/2007 regulatory year.

34
35 Harvest in 26B under the new State
36 regulations provide for discretionary permitting
37 authority for this hunt area to accommodate new or
38 changing circumstances. The harvest which occurs during
39 the new September season under State regulations is
40 intended to be limited and closely monitored.

41
42 Very briefly a few highlights from the
43 biological background section. In Unit 26B there has
44 been an increasing trend in moose numbers since 2003 and
45 since there has been substantial recovery from a prior
46 population decline in the 1990s and more growth is
47 likely, ADF&G population objectives for this subunit are
48 being achieved. Numbers of moose in the Canning River
49 drainage have increased yet are not sufficient to allow a
50 hunt, so this area continues to be closed under the new

1 State regulations.

2

3 A harvest history summary is on Page 589
4 in your book and Kaktovik is the only subsistence
5 community in the area and residents took two to six moose
6 annually prior to the season closure in 1996. During the
7 past two regulatory years a total of four bulls have been
8 harvested in Unit 26C, and as was previously noted under
9 State regulations seven bull moose were harvested last
10 September. At that time that was only on non-Federal
11 public lands in -- on non-Federal lands in Unit 26B.

12

13 The effects of this proposal are as
14 follows: If adopted the closure on Federal public lands
15 in Unit 26B, excluding the Canning River drainage would
16 be lifted and hunting would be open to other users.
17 Federal public lands in this area would be open to non-
18 Federally-qualified subsistence on a limited basis
19 hunting under State regulations.

20

21 Unit 26B would also be open to all
22 Federally-qualified subsistence users in this area.
23 Presently Unit 26B is open only to Kaktovik residents.

24

25 Although there is a potential for
26 increased harvest in Unit 26B remainder, depending on the
27 number of State permits issued in future years and the
28 number of Federally-qualified users who choose to hunt in
29 this area, the harvest is not expected to exceed
30 sustainable levels.

31

32 The OSM preliminary conclusion is to
33 support Proposal WP07-63 with modification to identify a
34 season and harvest limit for Unit 26B remainder that
35 matches State regulations. The modified regulations are
36 shown on Page 591 in your Board book. The modified
37 language in the paragraphed section contains
38 clarification in the wording in the text from what was
39 originally proposed. It contains clarification in the
40 wording of the text to identify specifically that the
41 Federal regulations permit with a harvest quota of three
42 moose for Kaktovik residents are applicable to Unit 26B
43 only within the Canning River drainage and not for the
44 remainder of Unit 26B. Also on the last line, the
45 modification establishes a Federal season in Unit 26B
46 remainder for one bull from September 1 to 14, which is
47 concurrent with the State regulation.

48

49 The justification for supporting the
50 proposal with modifications includes the following

1 points: In Unit 26B there has been an increasing trend
2 in moose numbers since 2003. The population and percent
3 of calfs in spring surveys meet the ADF&G management
4 objectives. Since the moose population in Unit 26B has
5 increased and there are no longer significant
6 conservation concerns the justification for the continued
7 closure in Unit 26B excluding the Canning River drainage
8 is no longer valid. The closure in the Canning River
9 drainage of Unit 26B remains in effect for the continued
10 subsistence use of Kaktovik residents.

11
12 That concludes my summary of WP07-62.

13
14 Thank you, Mr. Chair.

15
16 CHAIRMAN FLEAGLE: Thank you, Laura.

17 Questions.

18
19 (No comments)

20
21 CHAIRMAN FLEAGLE: Summary of written
22 public comments. Barbara.

23
24 MS. B. ARMSTRONG: There are no written
25 public comments for this proposal. Mr. Chairman, thank
26 you.

27
28 CHAIRMAN FLEAGLE: Thank you. Public
29 testimony, Pete.

30
31 MR. PROBASCO: None.

32
33 CHAIRMAN FLEAGLE: None. Regional
34 Council recommendations. Barbara.

35
36 MS. B. ARMSTRONG: Yes. The North Slope
37 Subsistence Regional Advisory Council recommendation is
38 to oppose the proposal WP07-63. The Council felt that
39 they need to take care of their subsistence user's needs
40 first before they open up this area.

41
42 The Council expressed concerns that the
43 moose in Unit 26B and 26C are transient populations with
44 movements between the two areas, so Unit 26B should not
45 be opened up to non-Federally-qualified subsistence
46 users. Kaktovik residents would like to be able to
47 harvest more moose before allowing guides and
48 sportshunters to harvest on Federal public lands in Unit
49 26 B.

50

1 Thank you, sir.

2

3 CHAIRMAN FLEAGLE: Thank you. No other
4 Advisory Councils weighed in on it -- okay. Alaska
5 Department of Fish and Game. Tina.

6

7 MS. CUNNING: Mr. Chairman. Our detailed
8 comments are in the written record and were reflected in
9 Mr. Taylor's remarks at the beginning of this meeting.

10

11 Given the increasing trend in moose
12 numbers there currently is no justification retaining a
13 closure in the remaining portion of Unit 26B outside the
14 Canning River drainage to moose hunting by non-Federally-
15 qualified users -- subsistence users. The Department
16 supports this proposal as modified and appreciates the
17 Office of Subsistence Management proposing removal of an
18 unnecessary closure of Federal lands in a portion of Unit
19 26B to moose hunting by non-Federally-qualified
20 subsistence users.

21

22 CHAIRMAN FLEAGLE: Questions.

23

24 (No comments)

25

26 CHAIRMAN FLEAGLE: InterAgency Staff
27 Committee comments. Larry.

28

29 MR. BUKLIS: Mr. Chairman. The Staff
30 Committee comments on Proposal 63 are found on Page 593.
31 I'll highlight the main points.

32

33 The moose population in Unit 26B west of
34 the Canning River drainage has recovered from previously
35 low levels and a closure to non-subsistence users is no
36 longer necessary for the conservation of a healthy
37 population of moose.

38

39 Federally-qualified subsistence users
40 maintain a priority for the take of moose in Unit 26C and
41 a portion of 26B with the cancellation of the closure.
42 Only residents of Kaktovik may take moose in and east of
43 the Canning River drainage from July 1 through March
44 31st. Under the Staff's preliminary conclusion,
45 residents of Kaktovik along with all Federally-qualified
46 subsistence users with a positive C&T may hunt in Unit
47 26B west of the Canning River drainage from September 1st
48 to September 14th as well.

49

50 Unlike non-Federally-qualified

1 subsistence hunters, Federally-qualified subsistence
2 hunters do not require a permit during that September
3 season.

4

5 The Staff Committee notes that hunters
6 using the area of Unit 26B west of the Canning River
7 under State regulations may also get up to a 14 day
8 hunting season between February 15 and April 15 that
9 would be announced by emergency order if the moose
10 population had a harvestable surplus. That opportunity
11 is not mirrored in the proposed regulation.

12

13 Thank you, Mr. Chairman.

14

15 CHAIRMAN FLEAGLE: Thank you. Board
16 discussion. Gary.

17

18 MR. EDWARDS: Mr. Chairman. I think that
19 these modifications to the proposal that the Office of
20 Subsistence Management are proposing, I think, in my mind
21 it's sort of a win/win situation. It does what I think
22 we should be doing when we don't have conservation
23 concerns or concerns about impact to subsistence. We
24 should not be having closures, yet at the same time some
25 of the other things that are rectified in the
26 modification does restore some of the harvest
27 opportunities and a meaningful preference to the
28 subsistence users.

29

30 So I think that their suggestion,
31 recommendation is good and I guess I would be prepared to
32 offer a motion that would support the modifications that
33 are being recommended to Proposal 07-63.

34

35 That's the ones on Page 591.

36

37 CHAIRMAN FLEAGLE: Okay, did I hear you
38 correctly that you did make the motion.

39

40 MR. EDWARDS: Yes, Mr. Chair. They
41 couched it in terms that they were modifying the
42 proposal, I guess we can couch it like that because the
43 proposal was to reject -- or excuse me, the proposal from
44 the Regional Advisory Council was to reject -- or the
45 recommendation from the Regional Advisory Council was to
46 reject the proposal. The Staff has kind of couched that
47 as a modification to that proposal -- no, because it
48 says, support with modification. The proposal is to lift
49 the closure, so you support that proposal -- or you
50 support the proposal, not the Regional Advisory Council's

1 recommendation; maybe that's a better way to say it.
2 Okay.

3
4 CHAIRMAN FLEAGLE: Is there a second.

5
6 MR. OVIATT: I'll second the motion. I'm
7 not.....

8
9 CHAIRMAN FLEAGLE: George seconds. And
10 the motion would go against the Regional Advisory
11 Council's recommendation.

12
13 You want to go ahead and speak to your
14 motion, Gary.

15
16 MR. EDWARDS: Do we need some
17 clarification before I maybe put my foot further in my
18 mouth.

19
20 CHAIRMAN FLEAGLE: Go ahead, Laura.

21
22 MS. GREFFENIUS: Well, just to the -- the
23 way that it was worded, originally, the proposed Federal
24 regulation, it was pointed out by an astute Staff
25 Committee member that just the way that it was worded it
26 would have meant on 26B that Kaktovik residents would
27 have been limited, it would have been part of their quota
28 that is their three limit quota. So we've changed that
29 wording and as I mentioned when I was giving the key
30 points here, we changed the wording so it's on Page 591
31 so that it's specific, the quota for the Kaktovik
32 residents is specific to -- in 26B is specific to the
33 Canning River drainage only and not applicable to the
34 rest of 26B. So that was the main wording change to make
35 it more accurate and not restrictive.

36
37 And then also the addition of that very
38 last line, Unit 26B remainder, one bull to have a season
39 of September 1 to September 14th. That would be
40 concurrent with the State. And if Dan LaPlant has an
41 addition to what I've tried to explain accurately but
42 maybe he could put it into different words.

43
44 Thank you.

45
46 CHAIRMAN FLEAGLE: Dan.

47
48 MR. LAPLANT: Mr. Chairman. Just maybe
49 state it in another way. When we initially submitted the
50 proposal it was to remove the Federal closure, we

1 overlooked the fact that we also have an .804 situation
2 there where the Federal subsistence hunters or the
3 Federal subsistence harvest is restricted only to
4 Kaktovik residents. So the modification that you see is
5 to provide -- also provide a season for other Federally-
6 qualified subsistence users. That's that September 1
7 through 14 season, so that's the modification.

8

9 CHAIRMAN FLEAGLE: Steve.

10

11 MR. KESSLER: And I just want to clarify
12 that this modification is what came before the Council,
13 is that correct, not the original proposal, this
14 modification?

15

16 MR. LAPLANT: That's correct.

17

18 CHAIRMAN FLEAGLE: All right. So just to
19 clarify this, that portion within the Canning River
20 drainage and 26C are only open to Kaktovik residents.
21 The remainder of 26B under this proposed modification
22 would be open to any qualified Federal subsistence user,
23 right?

24

25 MR. LAPLANT: That's correct, Mr.
26 Chairman, as well as removal of the closure would allow
27 it open to other non-Federally-qualified users as well.

28

29 CHAIRMAN FLEAGLE: Which would be done by
30 the State with a drawing hunt.

31

32 MR. LAPLANT: Correct.

33

34 CHAIRMAN FLEAGLE: I'm just curious, why
35 is Kaktovik only limited to three moose, yeah, three
36 moose in 26B -- hang on.

37

38 (Pause)

39

40 CHAIRMAN FLEAGLE: Anyway this wouldn't
41 preclude residents from Kaktovik from hunting in the
42 remainder of Unit 26B under the reopening -- okay.

43

44 MR. EDWARDS: Mr. Chairman, if I can just
45 ask one other question. It's also my understanding that
46 the folks from Kaktovik don't really get over west of the
47 Canning River really that much in September, that's a
48 pretty difficult trip, isn't it, that time of year so
49 there's probably virtually very little, I guess would be
50 a better way to say it, hunting in that area by folks

1 from Kaktovik. Is that a correct assumption?

2

3 MR. LAPLANT: Yes, Mr. Chairman. That's
4 what we would expect, that the Kaktovik residents
5 wouldn't be getting over to the Canning River drainage
6 area until after there's adequate snow cover and they can
7 get there by way of snowmachines.

8

9 MR. EDWARDS: Mr. Chairman, you asked me
10 for some rationale and I guess I still, you know,
11 obviously support my motion. As I said I think this is
12 sort of a win/win situation. I think the moose
13 population in 26B west of the Canning River, I think has
14 recovered from its previous low levels to where now it
15 can support both subsistence and non-subsistence users,
16 you know, consistent with, you know, conservation and
17 good moose management, and a closure to non-subsistence
18 users is no longer necessary.

19

20 I think this will also provide additional
21 expanded opportunities for the subsistence users and at
22 the same time not further restricting others when it's no
23 longer necessary.

24

25 CHAIRMAN FLEAGLE: Further discussion.

26

27 (No comments)

28

29 CHAIRMAN FLEAGLE: I have one more
30 question. If this moose population is expanding to
31 where we can entertain lifting this restriction, why do
32 we still have the restriction in the Canning River
33 drainage of 26B and 26C of only three moose?

34

35 Laura.

36

37 MS. GREFFENIUS: From the information
38 that we -- you know in consultation with the biologists
39 in that area, both Arctic National Wildlife Refuge
40 biologists and the State, the situation is that moose
41 populations are still considered low in Unit 26C so there
42 was not any moves by the State to try to open that up,
43 they only were opening up a season in 26B, the one that
44 started last September.

45

46 And the Canning River drainage, within
47 that corridor, there was still showing low moose numbers
48 and they wanted to keep that closed from the hunt -- the
49 drawing permit hunt, it just didn't have -- there's some
50 numbers in here, and just the way it was explained to me

1 they just didn't feel comfortable opening that area up as
2 well, so that was excluded in the new hunt that was
3 established in September 2006 and they kept it as a
4 drawing permit to limit it to just the 15.

5

6 CHAIRMAN FLEAGLE: I understand that
7 component of the argument. I'm saying why is the
8 community of Kaktovik only limited to three moose?

9

10 MS. GREFFENIUS: I didn't go into the
11 details of the regulatory history but on Page 567 it goes
12 into some of the background, I think this is one that
13 Helen Armstrong had worked on as well. When they first
14 requested to have the harvest there in Kaktovik, the
15 quota, going and reading over the past information of the
16 past proposals, they had wanted it to be higher than that
17 quota, I don't recall exactly if it was four or five, but
18 it was a compromise when they came up with a quota of
19 three. So just because of the moose population and
20 keeping it limited.

21

22 MR. EDWARDS: Mr. Chairman. I also think
23 is that in 26B is where the population is doing better.
24 I think in 26C it still's remaining low. And the view
25 was that essentially all of the hunting in Kaktovik would
26 take place in 26C because of the difficulty getting west
27 of the Canning.

28

29 CHAIRMAN FLEAGLE: Terry Haynes.

30

31 MR. HAYNES: Thank you, Mr. Chairman.
32 Mr. Edwards has kind of summarized what I was going to
33 say.

34

35 The State season in 26C has been closed
36 for a number of years because of low moose numbers in
37 Unit 26C. And when -- I suspect it's summarized here in
38 the Staff analysis how Kak -- season became reestablished
39 for Kaktovik but it had to be very limited, given the low
40 numbers of moose in Unit 26C. There was provision to
41 allow one moose to be harvested in 26B because the moose
42 in that western 26C were thought to move back and forth,
43 as I recall from action the Federal Board has taken.
44 Now, in the remainder of 26B the population has grown,
45 the State established a drawing permit season there and
46 that was only occurring on -- that can only occur off of
47 Federal public lands as long as the closure remains in
48 place and arguably that closure no longer needs to remain
49 in place on Federal lands.

50

1 CHAIRMAN FLEAGLE: Well, but while people
2 may have a hard time crossing that Canning River
3 drainage, moose wouldn't, and when you have an increasing
4 population just across the drainage, I mean moose
5 dynamics in other places of the state, obviously, when
6 the population expands they do start to expand into those
7 lower populated areas. And I guess what I'm trying to
8 get to is I can understand why the Advisory Council is
9 opposed to this. There's an opportunity for moose to
10 come back into their area and we're potentially going to
11 allow them to be taken by non-qualified hunters before
12 they get that chance, and I just want to put that on the
13 record.

14

15 Other discussion.

16

17 Judy.

18

19 MS. GOTTLIEB: Mr. Chair. I mean you're
20 certainly raising a good point and so maybe for the next
21 round of RAC meetings there could be an analysis or an
22 evaluation of whether the bag limit could be raised for
23 Kaktovik considering some of these changes.

24

25 CHAIRMAN FLEAGLE: Well, that's a good
26 suggestion. I mean a community capped at three when just
27 not very far away we're opening it up to anybody just
28 doesn't make sense to me.

29

30 Laura.

31

32 MS. GREFFENIUS: Just mention because it
33 wasn't captivated in the comments from the North Slope
34 recommendation, that that was part of the discussion and
35 just wanted to -- what you're saying is that the Kaktovik
36 folks -- yeah, it is captivated in here but there was a
37 discussion at the Council meeting, that the Council was
38 questioning the same thing, why should they be limited to
39 three when it's going to be opened up nearby so that
40 definitely came up.

41

42 CHAIRMAN FLEAGLE: Further discussion.

43

44 (No comments)

45

46 CHAIRMAN FLEAGLE: Further discussion.

47

48 (No comments)

49

50 CHAIRMAN FLEAGLE: Are we ready for the

1 question.

2

3

(No comments)

4

5

CHAIRMAN FLEAGLE: It looks like we are.

6

The question's recognized on the proposal. Pete.

7

8

MR. PROBASCO: Thank you, Mr. Chair.

9

Final action on WP07-63 to adopt the proposal as modified

10

and the modifications are found on Page 591.

11

12

Mr. Fleagle.

13

14

CHAIRMAN FLEAGLE: Nay.

15

16

MR. PROBASCO: Ms. Gottlieb.

17

18

MS. GOTTLIEB: Aye.

19

20

MR. PROBASCO: Mr. Cesar.

21

22

MR. CESAR: Aye.

23

24

MR. PROBASCO: Mr. Oviatt.

25

26

MR. OVIATT: Aye.

27

28

MR. PROBASCO: Mr. Kessler.

29

30

MR. KESSLER: Aye.

31

32

MR. PROBASCO: And Mr. Edwards.

33

34

MR. EDWARDS: Aye.

35

36

MR. PROBASCO: Motion carries, five/one.

37

38

CHAIRMAN FLEAGLE: Thank you, Pete. That

39

apparently concludes our regulatory action.

40

41

MR. EDWARDS: Mr. Chairman. I'm going to

42

have to bid adieu but I'm going to turn my seat over to

43

Mr. Bos who, I'm sure, will be up to the occasion, he

44

might not quite be as witty but he'll be up to the

45

occasion.

46

47

(Laughter)

48

49

CHAIRMAN FLEAGLE: Or even maybe wittier,

50

thank you.

1 MR. EDWARDS: Could be.
2
3 (Laughter)
4
5 CHAIRMAN FLEAGLE: Thank you, Gary.
6
7 (Laughter)
8
9 CHAIRMAN FLEAGLE: We might as well just
10 push on. Okay, that concludes Item B under 5 of the
11 Board deliberation and action on non-consensus proposals
12 and now leads us to the adoption of the consensus agenda.
13
14 Pete.
15
16 MR. PROBASCO: Yes, Mr. Chair. Normal
17 practice on adopting the consensus agenda is for me to
18 read the proposal numbers into the record, and, Larry,
19 follow along with me in case I miss something, and then a
20 motion to adopt that is appropriate.
21
22 CHAIRMAN FLEAGLE: Okay.
23
24 MR. PROBASCO: Mr. Chair. The consensus
25 agenda proposals are WP07, and I will omit that from here
26 on out, they are No. 8, No. 9, No. 10, No. 11, No. 12,
27 18, 19, 20, 25, 27/28/31/64, 33, 35, 51/54, 52/53, 57, 60
28 and 61/62, and 38.
29
30 Larry, is that.....
31
32 MR. BUKLIS: Mr. Chairman, that's
33 correct. And then the recommended actions are as shown
34 on Pages 2 and 3 associated with each of those proposals
35 on the agenda dated April 30th, 9:30 a.m.
36
37 MR. KESSLER: Mr. Chair.
38
39 CHAIRMAN FLEAGLE: Steve.
40
41 MR. KESSLER: Did you read No. 7 on
42 there?
43
44 MR. PROBASCO: No.
45
46 MR. KESSLER: Okay, I thought I had heard
47 seven, thank you.
48
49 CHAIRMAN FLEAGLE: No, he said 07 as the
50 starting, you know, everyone of them is prefaced by 07 so

1 he did the first one, 07-08 and left the 07 off every
2 time.
3
4 So we're ripe for a motion for adoption.
5
6 MR. KESSLER: Move to adopt the consensus
7 agenda.
8
9 CHAIRMAN FLEAGLE: Thank you, Steve.
10
11 MR. BOS: Second.
12
13 CHAIRMAN FLEAGLE: We got a second from
14 Greg. Discussion.
15
16 (No comments)
17
18 CHAIRMAN FLEAGLE: Ready for the vote,
19 question. Pete, please, poll the Board.
20
21 MR. PROBASCO: Thank you, Mr. Chair.
22 Motion to adopt the consensus agenda as read into the
23 record.
24
25 Ms. Gottlieb.
26
27 MS. GOTTLIEB: Aye.
28
29 MR. PROBASCO: Mr. Cesar.
30
31 MR. CESAR: Aye.
32
33 MR. PROBASCO: Mr. Oviatt.
34
35 MR. OVIATT: Aye.
36
37 MR. PROBASCO: Mr. Kessler.
38
39 MR. KESSLER: Aye.
40
41 MR. PROBASCO: Mr. Bos.
42
43 MR. BOS: Aye.
44
45 MR. PROBASCO: And Mr. Fleagle.
46
47 CHAIRMAN FLEAGLE: Aye.
48
49 MR. PROBASCO: Motion carries, six/zero.
50

1 CHAIRMAN FLEAGLE: Thank you. Other
2 business.
3
4 MR. PROBASCO: Mr. Chair. I have nothing
5 on my record and Larry do you have anything.
6
7 MR. BUKLIS: Only one thing, Mr.
8 Chairman. We do have the Board books now available for
9 next week's Board meeting. I have enough copies for
10 Board members, the State liaison and Staff and the
11 Council Chair for Southcentral, and we will have more
12 books available for other interested parties if this
13 isn't enough for them, as well.
14
15 CHAIRMAN FLEAGLE: Okay, thank you.
16
17 MR. PROBASCO: Pick one up before you go
18 home.
19
20 (Laughter)
21
22 CHAIRMAN FLEAGLE: Other business.
23
24 (No comments)
25
26 CHAIRMAN FLEAGLE: Okay, Board discussion
27 of Council topics with Chairs. Council Chairpersons, any
28 further discussions with the Board.
29
30 MR. REAKOFF: Mr. Chairman. I would like
31 the Board to be aware of the expanding interest in
32 harvest of caribou and in light of the Mulchatna Caribou
33 Herd, I would like the Board to monitor the Western
34 Arctic, Teshekpuk, and Central Arctic Porcupine Caribou
35 Herds, and be aware that this -- I feel that there should
36 be guidelines for a 40 bull per 100 cow and harvest
37 ratios and planning and so I concur -- the Western
38 Interior concurs with AVCP that there needs to be a plan
39 for the Mulchatna Herd and that should have been done,
40 we're behind the eight ball on that one. And I would
41 encourage further planning with the Western Arctic Group
42 and the whole Arctic Caribou Herd because these caribou
43 herds are in the target now.
44
45 And so those would be my comments.
46
47 I really appreciate all of your work and
48 deliberation, and congratulations on running the meeting
49 very well, Mike.
50

1 Thank you.

2

3 CHAIRMAN FLEAGLE: Thank you, Jack. And
4 I'd like to speak to that Northwest Arctic Caribou Herd
5 issue. There is a Northwest Arctic Caribou Herd Working
6 Group that is currently operated by the State Department
7 of Fish and Game that includes a smattering of people in
8 the area, mostly Northwest obviously. And with my prior
9 service with the State, I did work with those guys and
10 help them get their issues before the Board and was
11 always involved, and we had some discussions up there at
12 a recent Board of Game meeting, I think that was two
13 falls ago, that pertained to user conflicts associated
14 with that herd, I mean the same reason, people are
15 flocking there from all over the country, all over the
16 state and all over the country. The Board took a lot of
17 actions to try to take care of most of those problems but
18 there are still issues. So they're holding another
19 meeting up there on the 11th of May which is next weekend
20 and I've been invited and I have accepted on behalf of
21 the Federal Program here to participate in that. So we
22 do have at least one finger on the pulse, I know there's
23 going to be State Staff there from the local agencies but
24 I appreciate you raising that as an issue and it's one
25 that I certainly share with you.

26

27 MR. REAKOFF: Thanks.

28

29 CHAIRMAN FLEAGLE: Other comments. Ken
30 Taylor.

31

32 MR. TAYLOR: Thank you, Mr. Chairman. I
33 would just like to say that the Western Arctic Herd
34 Working Group is probably one of the finest examples of
35 cooperation between State, Federal and local communities
36 that I've seen in my tenure as a biologist up here. And
37 while I'd like to be able to take full credit for the
38 State, it's actually a very cooperative effort with the
39 Fish and Wildlife Service, BLM, Park Service and about 30
40 different villages up there along with the North Slope
41 Borough. So it isn't just a State effort.

42

43 Thank you.

44

45 CHAIRMAN FLEAGLE: But you do have a
46 State person that pretty much heads it up, right?

47

48 MR. TAYLOR: Yes, Mr. Chairman, we do.

49

50 CHAIRMAN FLEAGLE: That's what I meant.

1 Sue.

2

3 MS. ENTSMINGER: Thank you, Mr. Chairman.
4 I want to thank all of you for allowing us as, you know,
5 the public so to speak and the user to participate in
6 this process as you do. And I want to push as an
7 advocate for joining hands, I mean this discussion just
8 now taking place is what I really wanted to mention is
9 any place where we can work together with the user and
10 the State and the Federal and -- because sometimes I have
11 to think back in 1978 when the Antiquities Act passed and
12 then ANILCA passed, those two people right there, Terry
13 Haynes and Tina Cunning was joining hands with us to work
14 with the Federal agencies to try to make things better
15 for us and somehow or another it seems like it's switched
16 slightly for us, I feel like I'm at odds and I don't like
17 this feeling. And I'd like to see maybe ways of the
18 Councils and the Advisory Committees, a process that we
19 might figure out how, I know in the Federal system you
20 recognize the AC's and what they do and maybe the State
21 could recognize some RACs and make something of more of a
22 joining hands and working together. Because I feel like
23 we are in some of these incidenc -- I'm sorry, I can't
24 say, in some of these situations, but sometimes there's a
25 lot of work that needs to be done and I can see it at
26 this meeting, and I just wanted to bring that forth.

27

28 But at the same time I want to say that
29 it's just difficult working under two systems sometimes
30 and it makes it hard for us as the user.

31

32 Thank you.

33

34 CHAIRMAN FLEAGLE: And for everyone else
35 who is involved with the process. I agree with those
36 comments.

37

38 And, again, I'd like to point out that I
39 share those concerns as well. A couple of months ago, I
40 can't remember when we did our first, but we reached out
41 from the -- me, as the Chair, and OSM Director, Pete, to
42 the State and we started actually having some meetings
43 and just a small group of people trying to address some
44 of the major problems that we have within the programs
45 and just, number 1, the goal is to try to better
46 communications and the secondary goal would be to try to
47 better relations and start to coordinate better. And
48 we've had a couple of meetings that have been really
49 productive, unfortunately we just got -- both agencies
50 got really busy within the last month and a half or so

1 and we're still waiting to schedule our third meeting,
2 but the intent is to continue to try to work towards some
3 more coordinated effort between us. And by doing that
4 the intent certainly isn't to either buy into the State's
5 program or have them buy into ours or, you know, to sell
6 out basically, I know I've been accused of that since I
7 was first appointed to this position, the whole point is
8 is to just try to offer the olive branch, per se, and to
9 try to get us away from the loggerheads that we've been
10 involved with.

11
12 I think that it's going to take time, I
13 mean bureaucracies don't change instantly but I think
14 it's a good effort. Both, Pete and I and George has also
15 been involved with us from our side, and Tina and we lost
16 Sarah but the State is intending to replace her and a
17 couple of others from the State, but it's a start.

18
19 I appreciate those comments, too, Sue.

20
21 Bert Adams.

22
23 MR. ADAMS: Thank you, Mr. Chair. I,
24 too, would just like to express my gratitude and
25 thankfulness for being able to be a part of this process
26 to be able to see how you people work up there. I look
27 at each and every one of you and try to figure out, you
28 know, what's behind your mind, what are you thinking
29 about, and, you know, I'm not a psychologist or a mind
30 reader or anything like that but I do my best in trying
31 to figure out people.

32
33 I've been thumbing through, you know, the
34 last couple days, you know, the whole ANILCA law, and the
35 thing that keeps popping up as I thumb through it, is
36 that, the State and the Federal government and the public
37 need to cooperate and come together on issues that are
38 really important to us.

39
40 And a couple of comments have already
41 been made about how, you know, things have changed and I
42 felt that too. This is only my third meeting, you know,
43 with the Federal Subsistence Board as a Chair for the
44 SERAC, but I really strongly believe that the subsistence
45 issue is our number 1 priority, ANILCA says that, and,
46 you know, we need to have access to those resources.

47
48 And then it also says that, you know,
49 because of the population increases, you know, that is
50 happening now and becoming more prevalent, that we need a

1 forum such as this to be able to make sure that those
2 resources are available and that they are sustaining and
3 that we will be able to make regulations that will not
4 only benefit our generation but, you know, our
5 grandchildren and their grandchildren and their
6 grandchildren. Native Americans believe in looking
7 ahead, you know, seven generations, way into the future
8 and planning for that and I think that's a real good, you
9 know, concept that we all need to embrace.

10

11 And so, you know, I don't have any
12 answers in how we can, you know, avoid any conflicts or
13 disagreements, you know, between the way that the Feds
14 manage the resources or the way that the State does.
15 I've heard comments, you know, that both, on both sides,
16 well, we manage better and, you know, take that and put
17 what you can do the best, the best, and make it work for
18 the benefit of the people that you are serving.

19

20 Also listen to the RACs. The RACs are
21 the ones who do all of the leg work for you, we are an
22 Advisory Council. We do all of the research, we do all
23 of the necessary gathering of data and information that
24 you need in order to make wise and proper decisions.
25 Yesterday I talked about the natural laws and if we can
26 ever embrace that concept, I don't know whether I shared
27 with you or not, but when I went to college I took this
28 class in Indian education and our instructor was a Native
29 American, and when he came into our classroom he
30 introduced himself as Professor So and So and he drew
31 this circle on the chalkboard and he put inside that
32 circle the word, nature, and then he asked each and every
33 one of us, there was about maybe 35 or 40 of us in the
34 class to give him an interpretation of what we see there,
35 and of course we all had an opportunity to share our
36 thoughts. And then he went and he shared his, he said,
37 you know, a long, long time ago this is where we lived.
38 This is where we, as Native Americans lived, we lived
39 within this circle of nature. And because we lived with
40 nature we understood the laws of nature, and because we
41 understood the laws of nature we obeyed the laws of
42 nature and because we obeyed the laws of nature, nature
43 provided us with all of the things that we needed to
44 sustain our lives. The next thing that he did is he drew
45 arrows from the outside of the circle to the circle and
46 he says I'm going to give you five minutes to interpret
47 what you think that means to us and, of course, we had
48 that opportunity to do that. And the conclusion was that
49 those arrows represented the outside influences that were
50 eventually going to come and they were on the outside

1 looking in, and their purpose was to come in there and
2 conquer and when they eventually did it caused this
3 turmoil, this culture clash that we are still trying to
4 recover from today.

5
6 When this country was first formed, it
7 began to be populated, you know, the Pilgrims came over
8 here first and it was in the fall and we all know, you
9 know, what happened is that Native Americans assisted
10 them in surviving the winter, and each year, you know, we
11 celebrate that as Thanksgiving. And what those people
12 did is that they learned how to live with nature and for
13 nearly 200 years they lived in harmony with one another.

14
15 And so our instructor, you know, when he
16 got done with that class he said this is what we are
17 going to be studying this year, for this semester, how
18 can we go back to living within that circle of nature
19 again and when we do, when we do discover that, then we
20 have an obligation to share it with the world.

21
22 And I think that that's a challenge that
23 we are all striving to abide by right now. I agree that,
24 you know, there will be disagreements, that there will be
25 misinterpretations, there will be misunderstandings. One
26 of the philosophies that I have, you know, is that if we
27 want to make progress in this world, that we have to also
28 learn to understand as well as be understood, you know,
29 look at the other side, walk in another person's
30 moccasins once in awhile and try to figure out what it's
31 like to do that.

32
33 So, you know, getting off of that soap
34 box, Mr. Chairman, I'd just like to mention a few things
35 that I think is worth talking about at this point.

36
37 What ever happened to the Chair's
38 meetings prior to this meeting? I know that there was
39 some kind of decision that came down that had to do with
40 FACA and public meetings and all that. But I've learned
41 that, you know, from previous Chairs that this was a very
42 valuable meeting for the Chairs to get together and I
43 hope maybe some of the other Chairs will express their
44 views on this as well. From what I've understood it was
45 a very beneficial one and I think I'd like to maybe put
46 that on the table as a matter of resurrecting again.

47
48 I know that Keith isn't here, I don't
49 know where he went but when I walked into this room here
50 the first day, he came over to me and he apologized to me

1 because you remember last year when we were talking about
2 rural determination for Saxman and Sitka -- Ketchikan, I
3 made mention that we were probably going to do an RFR and
4 he came back and said that we probably couldn't, we
5 wouldn't be able to do that and immediately, you know, we
6 went back and did a little bit of research and some of
7 our Council members, you know, looked into it and they
8 saw evidences where RACs had done RFRs before and Keith
9 came and he apologized to me and acknowledged the fact
10 that we could. So I don't know how we are going to
11 handle the RFR we are planning, whether we want to work
12 with the communities who are affected by it or whether we
13 are going to do it ourselves. The intent was to assist
14 the communities in doing so.

15
16 I had another little thing here that I
17 was going to talk about, let me see, I'd like to remind,
18 you know, ANILCA addresses this as well, working from the
19 bottom up. You know I see little bits of evidence where
20 sometimes that it comes from the top down, maybe it's
21 justified but I would really caution, you know, the Board
22 to really consider, you know, what the RACs are saying.
23 I mentioned that earlier. I mentioned that they do the
24 footwork for you and, you know, being able to gather the
25 information and testimonies from communities and so forth
26 is really important, in our RAC, anyhow, and I think it's
27 the same with others as well and it's really important
28 that those issues that are presented by the Regional
29 Advisory Councils are taken, and I know you do that. And
30 sometimes we might be disappointed in what your decisions
31 are but I really think that it's important this concept,
32 you know, be carried forth.

33
34 I don't know what the problem is here but
35 I notice it in most all of these proposals, there is a
36 little comment there about the State not receiving the
37 information before publication of this book and I think,
38 you know, I don't know what the problem is there but I
39 think that's -- I think that's an issue that needs to be
40 worked on and taken care of so that information is shared
41 by all people so that we can all come to this meeting
42 prepared and so forth.

43
44 Again, I'd just like to reiterate the
45 fact that ANILCA keeps popping up the idea that State,
46 the Federal government and the public need to work in
47 cooperation with one another. And until I see this, you
48 know, happening consistently, you know, I'll probably
49 keep harping about it.
50

1 I think I'm about all talked out, Mr.
2 Chairman. I hope I didn't disappoint Mr. Cesar so much
3 because every time he says that a Tlingit starts talking,
4 you know, you might time yourself for a long talk, but
5 thank you for allowing me to share my views with you.

6

7 Mr. Chairman, gunalcheesh.

8

9 CHAIRMAN FLEAGLE: Thank you. Ken
10 Taylor.

11

12 MR. TAYLOR: I just wanted to respond to
13 one of Bert's points in the fact that our comments aren't
14 in the book this time and I want to just simply apologize
15 to you for that Bert, that was my fault because I've been
16 in this position 30 days now and we had 65 proposals to
17 try to absorb and comments that had come in in two
18 different formats and I didn't want to put out anything
19 that was going to be wrong, I'd rather be late than
20 wrong.

21

22 (Laughter)

23

24 MR. TAYLOR: In the future we will do our
25 very best to get our comments in on time but because I
26 was new it just wasn't possible.

27

28 MR. CESAR: Mr. Chairman.

29

30 CHAIRMAN FLEAGLE: Niles. Go ahead, but
31 your mic's off.

32

33 MR. CESAR: We've been doing this a long
34 time and sometimes it's really helpful to take a
35 historical kind of review of where we're at and where we
36 were. And in 1990 when we first started doing this
37 stuff, you know, it seemed like it was going to be a
38 short period of time and the State would come into
39 compliance and so life would go on and as we've seen over
40 the years, that didn't happy for a variety of reasons,
41 and we began to build the program. And I think it would
42 be fair to say now, that as we look back on it, we've
43 accomplished a hell of a lot, you know, we really have.
44 And I think the rights of subsistence users has been
45 protected and I think there is cooperation between the
46 State and the Feds but it's a natural tension that you
47 can't escape. The tension between the State and Feds and
48 two different programs.

49

50 And I think that some of us, and I get

1 accused of being a pain in the ass like everybody else
2 does, some of us are key on keeping that distinction and
3 wanting to be able to look at one program and draw our
4 line in the sand. And so that is not meant to denigrate
5 anybody it's just that that's the way I view my job is to
6 do that and, again, I think that looking back over the
7 years I think we've all made progress on both sides, both
8 the State and the Feds, and certainly, I think the
9 inclusion of the RACs and their participation is key to
10 this program and it is the major difference.

11

12 Thank you.

13

14 CHAIRMAN FLEAGLE: Thank you, Niles.
15 Victor Karman.

16

17 MR. KARMAN: Thank you, Mr. Chairman.
18 You said you had an invitation to go to Kotzebue and
19 listen to the working group on the Western Arctic Caribou
20 Herd, somehow I would like to coerce you to taking up on
21 that invitation and listen, we do have a conflict of
22 interest up there or whatever.

23

24 Just for example, last fall, can you
25 picture 10,000 pounds plus of meat out on the tarmac
26 spoiling, now this is what we're up against. We're
27 looking for suggestions or recommendations or whatever to
28 eliminate this conflict. Those of us that participate in
29 organizations like this say there's enough renewable
30 resources around there to go around, we think possibly it
31 may not be managed right or we just don't have enough
32 real estate to accommodate everybody. But personally
33 what I'd like to do, I'd like to transfer 150,000 of our
34 animals down to Mulchatna.

35

36 (Laughter)

37

38 MR. KARMAN: Thank you, Mr. Chairman.

39

40 CHAIRMAN FLEAGLE: And how about several
41 thousand down to the Northern Alaska Peninsula Herd and
42 some down to the Southern, anyway appreciate the
43 comments.

44

45 Is there a motion for.....

46

47 (Laughter)

48

49 MS. GOTTLIEB: Mr. Chairman.

50

1 CHAIRMAN FLEAGLE: Bert.

2

3 MR. ADAMS: Okay, Ken, thanks for helping
4 me understand, that goes along with that philosophy I
5 have, you know, seek to understand as well as be
6 understood, so I understand.

7

8 I just wanted to also mention that I was
9 looking forward to, Mr. Chairman, coming to the meeting
10 next week for one day when the Council composition issue
11 was brought up and I guess, you know, I was told that it
12 was not possible because of budget problems and so forth
13 and that I could probably participate -- or that I would
14 be able to participate under a teleconference. I, you
15 know, just wanted to bring this up as a matter of
16 consideration because I think it's important that, you
17 know, some of us who want to testify on that issue, you
18 know, it's better to be here personally, you know, rather
19 than trying to communicate over the teleconference.

20

21 I took a note here from someone the other
22 day that there was a misunderstanding because of the
23 teleconference participation and I really think, you
24 know, that for me, personally, I would be more effective
25 in presenting, you know, our strong position on this
26 issue if I were here personally. So I just wanted to
27 address that to you and see what you thought.

28

29 Thank you.

30

31 CHAIRMAN FLEAGLE: Thank you. Well, Pete
32 needs to say something, maybe he can address that concern
33 as well. Pete.

34

35 MR. PROBASCO: Thanks, Bert, that's a
36 good lead in, I was going to bring that to everybody's
37 attention, and I thank Steve for reminding me to let the
38 Chair's know that we had to make a very tough decision.
39 We did have these back to back Board meetings and because
40 of our budget situation at the Office of Subsistence
41 Management I've had to make some very serious decisions
42 and I'm at a situation where I have numerous positions
43 unfilled and I have a budget that doesn't support the
44 program that we have grown accustomed to.

45

46 And what I'm saying is that these budget
47 reductions, we're just starting to see the start of it.
48 And when you get to where our financial situation is with
49 the Office of Subsistence Management, there are tough
50 decisions to make, and that was one of them, Mr. Adams,

1 and I hear you loud and clear, I can't argue against that
2 being here in person probably has an advantage but it
3 also, when you look at 10 Chairs and transportation, it
4 is an expensive item and we will have the opportunity to
5 teleconference on that item.

6

7 CHAIRMAN FLEAGLE: Thank you, Pete. Any
8 other closing comments. Judy.

9

10 MS. GOTTLIEB: Mr. Chairman. I did want
11 to thank everybody who participated or attended or made
12 this meeting happen, we've certainly had a tremendous
13 amount of work to do and thank you all for your help in
14 accomplishing that.

15

16 CHAIRMAN FLEAGLE: Ditto. Thank you. Is
17 there a motion for adjournment.

18

19 MR. CESAR: So moved.

20

21 MR. PROBASCO: Until next week.

22

23 CHAIRMAN FLEAGLE: Until next week, yeah,
24 we know.

25

26 (Laughter)

27

28 CHAIRMAN FLEAGLE: Can I get a second.

29

30 MR. OVIATT: Second.

31

32 CHAIRMAN FLEAGLE: All right, the
33 meeting's adjourned. Thank you, everyone.

34

35 (Off record)

36

37 (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, Joseph P. Kolasinski, Notary Public in and for the State of Alaska and reporter for Computer Matrix Court Reporters, do hereby certify:

THAT the foregoing pages numbered 402 through 587 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME III taken electronically by Nathan Hile on the 2nd day of May 2007, beginning at the hour of 8:30 o'clock a.m. at the Sheraton Hotel in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 10th day of May 2007.

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/2008