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1 FISH AND WILDLIFE SERVICE FEDERAL SUBSISTENCE BOARD
2 REGAL ALASKA HOTEL, ANCHORAGE, ALASKA

3
4 VOLUME III

5
6 MAY 4, 2000
7 11:00 o'clock a.m.
8 PUBLIC MEETING

9
10 BOARD MEMBERS PRESENT:

11
12 Mitch Demientieff, Chairman
13 Dave Allen/Gary Edwards, U.S. Fish and Wildlife Service
14 Niles Cesar, Bureau of Indian Affairs
15 Fran Cherry/Curt Wilson, Bureau of Land Management
16 Judy Gottlieb, National Park Service
17 Jim Caplan, U.S. Forest Service
18
19 Keith Goltz, Solicitor

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P R O C E E D I N G S

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(On record)

CHAIRMAN DEMIENTIEFF: This morning we're going to consider the last of our 2000 research projects. Do we have anybody on-line, hello?

MR. BOYD: I haven't heard anybody beep in.

CHAIRMAN DEMIENTIEFF: Yeah, I didn't hear anybody either but I just wanted to ask anyway. At this time we're going to go ahead and call on Mr. Kreuger and Mr. Brelsford, I think is going to assist, to go over and outline the final round of projects. Go ahead, Chuck.

MR. KREUGER: Thank you, Mr. Chairman. Today we are coming to the Board looking for decisions on three items. The first is going to be on the FY2000 projects. We're going to recommend approval of four additional projects for the Unified Fisheries Resource Monitoring Program. Second, Taylor's going to provide an update on a revision of the schedule for the FY2001 program, next year's program. And then, third, I will be coming back to speak specifically about initiating the FY2001 process and requesting to be given permission to move some of the information that we were able to gather from the Regional Advisory Councils out as a part of that process.

So unless there's any questions I'll move ahead right to the first decision item.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. KRUEGER: Okay. Today we hope to conclude the third and final round of proposals for the Year 2000 Unified Fisheries Resource Monitoring Program. I thought it might be useful just to review a bit where we are in the program.

The program has reviewed over 160 proposals since December of 1999, and if this current package is approved, the program will include 46 projects with budgets totalling 5.6 million dollars. The Department of Interior will have contributed or committed 3.5 million dollars or 63 percent and the U.S.D.A. Forest Service 2.1 million or 37 percent.

In this total program, the stock status and trends projects, these would be sort of the biology projects, make

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1 up about three-quarters or 77 percent and the traditional
2 ecological knowledge and subsistence harvest monitoring
3 make up the balance at 23 percent. Important projects will
4 be conducted in all regions. The Arctic projects on
5 sheefish and char to the Yukon region, not only on salmon
6 but northern pike and white fish to Southeast Alaska on
7 sockeye salmon.

8
9 So anyway, this part of the program, I believe, has
10 delivered on the commitment on the part of the Secretary of
11 Interior, Bruce Babbitt and Secretary of Agriculture, Dan
12 Glickman, to build on the existing expertise in Alaska
13 Department of Fish and Game, Alaska Native organizations
14 and other groups through Section .809 cooperative
15 agreements.

16
17 The total of the program going to non-Federal
18 partners is 78 percent. Rural organizations and local
19 hires having 38 percent. Alaska Department of Fish and
20 Game 40 percent. And the balance 22 percent to Federal
21 field stations.

22
23 The third and final round of proposals is what we
24 seek your approval of for this year. We have, today, four
25 projects that the committee has discussed in relationship
26 to criteria that are associated with some of the things we
27 talked about on Monday. Federal jurisdiction,
28 conservation, allocation issues, data gaps, and the
29 significance of the resource to subsistence harvest. We
30 have recommended for funding, one project in Bristol Bay
31 focused on Lake Clark and three projects in Southeast
32 Alaska.

33
34 The first project in Lake Clark, and these are
35 summarized in this handout that says third round on it.
36 It's entitled Population Assessment of Lake Clark sockeye
37 salmon. This is a cooperative project between the National
38 Park Service and the U.S.G.S. Biological Resources
39 Division. The intent is to identify major spawning
40 aggregations in the Lake Clark watershed based on
41 radiotagging and genetic characteristics. The lake has had
42 a widely fluctuating population of sockeye and the salmon
43 are important food for the villages of Newhalen, Iliamna,
44 Nondalton and Point Alsworth. The project is recommended
45 for approval at 78,000, an additional 150,000 is needed and
46 if such funds became available the committee recommended
47 funding the balance.

48
49 Letters of support for the project were received
50 from Dan O'Hara from Bristol Bay Regional Advisory Council,

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1 Eleanor Johnson from Kijik Corporation and Jan Konigsberg.

2

3 The first of the Southeast projects is the Claywalk
4 Lake sockeye salmon stock assessment. It's a cooperative
5 project between the Forest Service and Alaska Department of
6 Fish and Game. It's to estimate sockeye escapement,
7 juvenile abundance and it also will include collection of
8 data on lake productivity, size and age data and estimates
9 of marine survivability. And this one is characteristic of
10 all the Forest Service because they're fairly large and
11 they really embrace having, in this one, five projects
12 really molded into this one focused on Claywalk Lake.

13

14 Salmon abundance has dropped in this system from
15 63,000 to 10,000 fish or less over the past 20 years and it
16 is recommended for funding at \$560,000 over three years.

17

18 The third project is Falls Lake sockeye salmon
19 stock assessment. Here the adequacy of abundance of
20 sockeye salmon from meeting spawning escapement and
21 subsistence needs has been raised by State and Federal
22 resource managers, by the Regional Advisory Council, and
23 the organized village of Kake. The project with Alaska
24 Department of Fish and Game will estimate spawning
25 escapements, fry densities and in-lake productivity for
26 Falls Lake.

27

28 And it's recommended for funding at 413,000 over
29 three years.

30

31 The last project is a traditional ecological
32 knowledge project. It's entitled Traditional Subsistence
33 Territory Mapping of Southeast Alaska Native Tribes. This
34 project will develop complete descriptions of traditional
35 tribal territories for each tribe in Southeast Alaska. At
36 this point in time it's recommended for funding over three
37 years. It will critically review and summarize existing
38 documentation, including taped and written archives
39 maintained by the tribes. This multiyear project would
40 have contracts with three tribes per year as well as some
41 funding for the Alaska Department of Fish and Game
42 Subsistence Division and some staff time for the Juneau
43 Forestry Sciences Lab. The project received support from
44 the Southeast Regional Advisory Council at its Douglas
45 meeting.

46

47 And it's recommended for funding at 480,000 over
48 three years.

49

50 In the past couple weeks, the Southeast Regional

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1 Advisory Council members were also surveyed and were
2 generally pleased with the projects that were proposed in
3 this third round and have accepted them all. There were
4 helpful comments provided that will guide the development
5 of the more detailed investigation plans for these
6 projects.

7
8 Mr. Chairman, we seek then your approval and the
9 Board's approval for these four projects.

10
11 CHAIRMAN DEMIENTIEFF: Any questions or
12 comments. Yes.

13
14 MR. THOMAS: Thank you, Mr. Chairman. With
15 regard to the Klawock system and most systems in general,
16 did the comment with reference to compatibility of species
17 on given systems with regard to predation, habitat and
18 food, did those comments reach you?

19
20 MR. KREUGER: There were comments provided
21 at the Douglas meeting or the ones that just in the past
22 two weeks.

23
24 MR. THOMAS: Okay. Also I was one of the
25 ones surveyed and those were my questions. And something
26 else I noticed in the language of the management plan or
27 the considered plan, is that, I think the language that's
28 used should warrant some elaborations rather than
29 generalize on what your approaches are going to be and any
30 aspect, what it's counting or -- in every aspect of
31 monitoring, I think should have elaborated language so that
32 anybody that reads it will have a vivid description of what
33 they're reading.

34
35 Those are my suggestions, thank you, Mr. Chairman.

36
37 MR. KREUGER: The intent on all of these
38 projects, including that one, is to have a detailed
39 investigation plan that would lay out, very specifically,
40 exactly the type of data and how it would be collected.

41
42 MR. THOMAS: Thank you.

43
44 MR. BRELSFORD: Mr. Chairman.

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46 CHAIRMAN DEMIENTIEFF: Taylor.

47
48 MR. BRELSFORD: In relation to the first
49 question posed by Mr. Thomas, asking whether the review
50 comments concerning predation had, in fact, become part of

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1 the record I wanted to say, specifically that, yes, they
2 have. Those were recorded in the summary of remarks from
3 the Southeast Regional Council members and that then
4 becomes part of the development of the investigation plan,
5 the more specific planning for the projects.

6
7 MS. GOTTLIEB: Mr. Chair.

8
9 CHAIRMAN DEMIENTIEFF: Judy.

10
11 MS. GOTTLIEB: Thank you. Unfortunately,
12 Dan O'Hara is not here but we have heard him speak at
13 several of our previous meetings very much in support of
14 the Lake Clark sockeye salmon studies so we're pleased that
15 it is up for approval today.

16
17 Thank you.

18
19 CHAIRMAN DEMIENTIEFF: Is there anybody on-
20 line? We have no request for public testimony at this
21 time. If there are no questions I guess we're ready for a
22 Board action. Terry, did you guys have any comments -- you
23 guys haven't looked at this package or have you?

24
25 MR. HAYNES: Mr. Chairman, we have no
26 comments. We support what's being proposed here.

27
28 CHAIRMAN DEMIENTIEFF: Thank you.

29
30 MR. CAPLAN: Mr. Chairman.

31
32 CHAIRMAN DEMIENTIEFF: Yes.

33
34 MR. CAPLAN: I would move that we adopt
35 these proposals and move ahead with them.

36
37 MR. EDWARDS: Second.

38
39 CHAIRMAN DEMIENTIEFF: Moved and seconded
40 -- who seconded that, Gary -- okay. Discussion. Hearing
41 none, all those in favor of the motion, please, signify by
42 saying aye.

43
44 IN UNISON: Aye.

45
46 CHAIRMAN DEMIENTIEFF: Those opposed, same
47 sign.

48
49 (No opposing votes)

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1 CHAIRMAN DEMIENTIEFF: Motion carries.

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3 MR. WILSON: Mr. Chairman.

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5 CHAIRMAN DEMIENTIEFF: Yes.

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7 MR. WILSON: I think these guys did a heck
8 of a job getting all these projects up and operating in the
9 amount of time they had to do it in and I think the Board
10 owes them -- the two of them, specifically, and the people
11 who worked with them a debt of gratitude.

12
13 CHAIRMAN DEMIENTIEFF: Yes, that's very
14 much for sure. I mean it's just amazing they could get --
15 I guess you guys can finally get some sleep now or the
16 projects will be beginning -- well, maybe you'll get to
17 hibernate next winter.

18
19 MR. THOMAS: Mr. Chairman.

20
21 CHAIRMAN DEMIENTIEFF: Yes.

22
23 MR. THOMAS: I agree with all that but I
24 think this should be a precedence and we should expect it
25 in every case.

26
27 CHAIRMAN DEMIENTIEFF: Okay. You had
28 additional briefings?

29
30 MR. KREUGER: Yes. What we'd like to do
31 now is turn to the second decision item and that being the
32 revision of the FY2001 project schedule and Taylor will
33 take care of that.

34
35 MR. BRELSFORD: Thank you, Mr. Chairman.
36 This will be the goldenrod sheet that you have before you.
37 And on the front side it says Proposal to revise the
38 schedule and on the back side, just for reference, is the
39 schedule that you had previously approved. So as we turn
40 to the need to make some changes for next year, I do hope
41 you'll hold the thought that we've worked very hard to-date
42 to get it right.

43
44 What we've identified as a critical issue and
45 therefore come before you to ask for a revision has to do
46 with the fact that our original expectation of developing
47 projects with the tribes, with the Federal field stations,
48 with the fisheries organizations during the period April 1
49 through June 30th has turned out to be quite unrealistic.
50 We were not able to get the issues identification and

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1 information priority setting exercise concluded during the
2 winter meetings as quickly and as effectively as we had
3 hoped. As a consequence we are late in announcing the
4 submission process for projects for next spring. And
5 rather than compound the concern in the villages about
6 short deadlines, no opportunity to effectively participate
7 and so on, we come to you to ask for a rather substantial
8 extension of the opportunity for all of our partners to
9 become aware of the project proposal process, to extend
10 technical assistance visits and meetings as we can and then
11 to have a submission deadline that really does allow a much
12 more effective opportunity for the participation.

13
14 So specifically, our recommendation to you is to
15 extend the project proposal period through the fall,
16 through November 15th of 2000 rather than June 30th. And
17 secondly, the other change that then follows is that in
18 order for the Regional Councils to have a full opportunity
19 to review those packages, and again not be squeezed into
20 this, we propose a second Regional Council convention,
21 similar to what we did last year in -- this year in
22 January, we would convene again with all Councils together
23 in early February as an occasion to review and consider the
24 public input, the consultation that their Council members
25 have been able to conduct in their regions and then they
26 would be able to operate in public session offering their
27 formal recommendations that would then come to the Board
28 for decisions.

29
30 So let me turn to the table, the sort of series of
31 deadlines to sort of highlight a few things. What you
32 would notice is that we would announce/initiate the
33 proposal process in the next week in a fuller, more public
34 fashion. Initial submissions would be due by September
35 15th, these one page proposal forms. Those would be
36 screened and the promising proposals, the one which recog
37 -- which respond to management issues before the Federal
38 Board, they are within our jurisdiction, they are
39 technically sound, they have appropriate partnerships and
40 capacity building commitment, those pre-proposals would be
41 asked -- we would ask those parties to develop the full
42 proposals and that deadline then would be November 15. So
43 this gives an opportunity in the fall, rather than in the
44 spring to ask for project development.

45
46 The draft plan would be developed by Staff and made
47 available on December 15th. The Councils, the public, the
48 fisheries organizations, the tribes would have six weeks,
49 from December 15th to February 1st, to review the draft
50 annual plan. And then in the first part of February we

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1 would convene the Councils in this convention format and
2 solicit their formal recommendations, compile that
3 information and bring it to the Board for a decision in
4 late February. This would be roughly the schedule that we
5 used on the second round of proposals this year. So it's
6 not ideal, it's a little late in relation to the season,
7 the field research season but we feel like it's simply out
8 of the question to rush the project development process
9 this year and to lose out on effective participation on the
10 part of the communities.

11
12 So I believe that kind of highlights the cause --
13 the reasons for which we're asking a change. The change
14 that we would ask of you, the special -- the particular
15 implication in terms of a new Regional Council conference
16 in early February. And with that, I would be happy to
17 answer any questions that you might have.

18
19 CHAIRMAN DEMIENTIEFF: Any questions for
20 Taylor regarding the revised schedule.

21
22 MR. EDWARDS: Mr. Chairman.

23
24 CHAIRMAN DEMIENTIEFF: Yes.

25
26 MR. EDWARDS: Taylor, I guess I'd ask you
27 that, given that, so many of these projects are regionally
28 specific, would, in fact, convening all the Councils at one
29 time; is that the most sort of efficient way to get input
30 from individual Councils as they view the implications of
31 what decisions are being made, and particularly given the
32 cost associated with that, could maybe that money be better
33 spent actually doing more projects.

34
35 MR. BRELSFORD: Well, thank you for the
36 opportunity to clarify. We did evaluate the format of this
37 convention and we recognized immediately that there would
38 have to be regional caucuses as was done before. For
39 example, the three northern Regional Council, North Slope,
40 Northwest Arctic and Seward Peninsula look at an area that
41 shares some common resources; they would sit in caucus to
42 review the projects for that portion of the state. Similar
43 for the Yukon and Kuskokwim Rivers, we have several
44 Councils that share responsibilities and interests in that
45 area and they, too, then would sit in a caucus. For the
46 Southeast, it's relatively self-contained and that Council
47 would probably sit separately. In the Gulf of Alaska,
48 Copper River, we would want the parties together. In
49 Kodiak/Aleutians and Bristol Bay, we would want the parties
50 together. So in referring to it as a Regional Council

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1 conference I was over simplifying a bit, but we believe the
2 best answer for effective interaction would, in fact, be
3 these regional caucuses based on river systems for the
4 fisheries management areas that we work with.

5

6 CHAIRMAN DEMIENTIEFF: Yes, Judy.

7

8 MS. GOTTLIEB: Thanks, Taylor and Chuck. I
9 have a few concerns. First of all would be the assistance
10 that your group or others in the field will provide to the
11 RACs. I mean it's come to my attention from some of the
12 discussions this week that some RACs were more prepared to
13 submit proposals or more familiar than others. And so I'm
14 very concerned that we all provide whatever assistance is
15 needed and giving this extra time will certainly help. But
16 perhaps you could discuss what status of your staff is or
17 hand out a new organization chart or how we plan on helping
18 out some of the regions.

19

20 MR. KREUGER: The staff that we have is
21 what you see at this point. So very definitely that this
22 extension in the process will allow us the time, hopefully,
23 to gain some staff so we can do that. One of the key --
24 certainly key functions of the staff is going to be able to
25 try to help interface, help those partners that need
26 assistance and development of pre-proposals or
27 understanding the process or even shaping the question for
28 an investigation. That's the type of function, in part,
29 anyway, fisheries information services hopes to provide.

30

31 MR. BRELSFORD: I can add to that for the
32 benefit of the Board members, that we hope to have
33 cooperation from the fish biologists that have currently
34 hired into the Office of Subsistence Management in some
35 measure in the upcoming months. We hope to fill the field
36 positions in the fisheries information service program,
37 certainly by late summer and have that group of -- that
38 cadre of staff available in the local areas. And I think
39 we want to build on the relationships with some of the
40 partners and some of the tribal associations and other
41 fisheries groups that we currently have. I used the
42 language to say that we need to intensify our outreach and
43 technical assistance. And I think we do have some specific
44 resources to draw upon to do that. We will have more and
45 more people to call in to this effort by late summer and
46 early fall but we can't wait until then, we need to
47 initiate those efforts starting as soon as possible.

48

49 MS. GOTTLIEB: Mr. Chairman.

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1 CHAIRMAN DEMIENTIEFF: Yes.

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3 MS. GOTTLIEB: So for now, if the RAC
4 Chairs had questions they should contact the two of you?
5 Okay, thanks. My other concern is, as we all know, we did
6 this in a very short period of time and we did as well as
7 we could and we did fine, but I am interested and I know
8 you've started an evaluation of what has been done and how
9 we did it, and my concerns, specifically involve the
10 accountability then or evaluating how the projects, that
11 we've now funded, how are they doing, are they getting the
12 results that we needed, so on and so forth, so I look
13 forward to your further actions on evaluating on what is to
14 be accomplished, how we've done and what changes to the
15 system we may need to make.

16
17 MR. BRELSFORD: If I may, Mr. Chairman.
18 Let me simply mention that we have, from within the
19 interagency group that had reviewed projects, identified a
20 lead to work with each partner in developing the
21 investigation plans. These are fairly substantial detailed
22 documents for project operation and we have had peer review
23 of those. I think from the standpoint of scientific
24 substance, we have been able to move forward to ensure that
25 each project is really well organized and well conceived.

26
27 We have actually initiated several of the projects,
28 they're underway, including the weir project on the
29 Kewthluk River, it's been fabricated, they've identified
30 the location. The project, I think, great importance,
31 gathering together a working group of Alaska Native
32 representatives, of Department of Fish and Game reps, and a
33 Federal representative to talk about a statewide strategy
34 on harvest monitoring; that project is underway and is
35 working extremely well. So I believe we have some tools
36 for accountability in the design of projects and monitoring
37 the early implementation of those projects. And I guess we
38 would be happy to report on an ongoing -- from time to time
39 for the benefit of the Board.

40
41 And I would say, finally, that in the event that we
42 find problems, I think we would consider it a
43 responsibility of Staff to bring that to the attention of
44 management and of the Board. We don't have problems of
45 that sort to bring to you to- date. So far we're able to
46 proceed, I think, actually quite effectively considering
47 the range of parties, the range of projects that we're
48 initiating.

49
50 Thank you.

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1 MR. THOMAS: Mr. Chairman.

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3 CHAIRMAN DEMIENTIEFF: Yes, Bill.

4
5 MR. THOMAS: I find the discussion here
6 very interesting because, you know, the RACs are limited to
7 at least two meetings a year, we've never exceeded that.
8 And we bring a phenomenal amount of information to this
9 forum. Now, with your considerations about the cost and
10 the justifiability, consider every component of Federal
11 subsistence management limited to two meetings per year,
12 that includes the Boards, the Staff Committee, everybody
13 else, consider the effectiveness impacted by a schedule
14 like that. So to culminate the information and the talents
15 of 100 people is far greater than that of 12.

16
17 Thank you, Mr. Chairman.

18
19 CHAIRMAN DEMIENTIEFF: If you'll recall
20 this past Monday when we were meeting with the RAC Chairs,
21 we did offer that as a discussion point, do we need more
22 than two meetings a year for the RACs? Now, having this
23 schedule, you folks, I suggest you folks just digest it and
24 if you feel like you need more meetings, you know, to
25 participate fully in this process, well, that's something
26 that we're entirely open to, and I believe we said that on
27 Monday. So now that you see if we do approve the revised
28 schedule, you see you need something else from us to get
29 your RACs together, we're more than open to that, we
30 welcome that.

31
32 MR. THOMAS: Thank you, Mr. Chairman.

33
34 CHAIRMAN DEMIENTIEFF: You know, we've said
35 over and over that you're the strength of our program and
36 we'll give you every opportunity to meet. Taylor.

37
38 MR. BRELSFORD: Mr. Chairman, on that point
39 I'd like to highlight our hope that in the third year of
40 the resource monitoring program we could start a little
41 earlier, get the effective project development work in
42 during the winter and early spring with the Councils and
43 the tribes during the winter meetings, if you will, so that
44 a special convention would not be needed as part of that
45 third year. That's our hope at this point. What we're
46 suggesting to you here is really the fix on a problem that
47 would cause real harm if we didn't make the change. But I
48 think we would -- we see it as a fix for the second year
49 and we would hope to come up with a schedule for the third
50 year that would not rely on a special statewide convention

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1 as a permanent feature of the program.

2

3 We're learning a lot as we go, I promise. So we'll
4 be back with more specific plans for year three as soon as
5 we can kind of get the picture of that.

6

7 CHAIRMAN DEMIENTIEFF: Yeah, that's fine.
8 And of course, we're still open to where we have
9 multiregional concerns. We're still open to accommodating
10 that concern as well, I mean just because we don't have a
11 statewide meeting. Personally, I like the revised
12 schedule, it just gives people, like you say, more time to
13 participate. We're rush, rush, rush this last year to get
14 things going. This is a much better schedule.

15

16 Any further discussion. We're ready for a motion
17 to approve the revised schedule if somebody's so inclined.

18

19 MS. GOTTLIEB: Mr. Chairman.

20

21 CHAIRMAN DEMIENTIEFF: Judy.

22

23 MS. GOTTLIEB: I move that we approve this
24 revised schedule presented to us today.

25

26 MR. CAPLAN: Second.

27

28 CHAIRMAN DEMIENTIEFF: Moved and seconded,
29 discussion. Hearing none, all those in favor signify by
30 saying aye.

31

32 IN UNISON: Aye.

33

34 CHAIRMAN DEMIENTIEFF: Those opposed, same
35 sign.

36

37 (No opposing votes)

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39 CHAIRMAN DEMIENTIEFF: Motion carries.
40 That completes our decision points this morning?

41

42 MR. KRUEGER: No, we got one more.

43

44 CHAIRMAN DEMIENTIEFF: Okay.

45

46 MR. KREUGER: This one relates really to
47 the first box that's on that canary color sheet, I guess we
48 call it, goldenrod colored sheet and that's the May 15th,
49 2000 initiation of the pre-proposal process.

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1 What we'd like to do to initiate that as part of --
2 besides sending out instructions and things like that would
3 be also to send out the results of the winter Regional
4 Advisory Council meetings where we asked them to identify
5 issues and information needs important to Federal
6 subsistence fisheries management.

7
8 We prepared a draft document that records these
9 issues and those suggested information needs and we've sent
10 that around for review and we'd like to use that document
11 and that information to help guide then the development of
12 the resource monitoring program for 2001. It does list
13 those concerns and suggestions that were provided at the
14 winter meetings of the Regional Advisory Councils of
15 February and March.

16
17 The pre-proposals then, for the projects, we'd like
18 to have them take a look at that and then address those
19 issues and information needs. We anticipate that this
20 document will be something that will continue to change
21 over time but that the program, in general, will be guided
22 and built on, the foundation that's established by these
23 issues and information needs and guided, thus, by the
24 Regional Advisory Councils.

25
26 This document that we have, in hand, at this point,
27 is not intended to be an all inclusive statement of
28 information needs for subsistence fisheries management on
29 Federal lands in Alaska. Rather, this list represents just
30 simply a first attempt at systematically documenting issues
31 related to Federal subsistence fisheries. We know that new
32 issues will arise and that some information needs may not
33 have been identified or may simply have been missed.

34
35 Thus, the contents of the document really need to
36 be open to review and revision at any time. And we do have
37 planned a revision planned for every year that would be
38 conducted at the winter Regional Advisory Council meetings.

39
40 Because these information needs change over time
41 and because we desire that the program would be responsive
42 to new emerging information needs, we believe the document
43 should be used as important guidance but that the project
44 topics not be restricted to solely those topics that have
45 been identified in the document. Obviously, if there was a
46 new topic brought up then we would require adequate
47 justification to ensure that that topic is appropriately
48 related to the Federal program.

49
50 Thus, what we're asking here is for your approval

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1 to provide -- what I intend to do is revise that document
2 over the next 10 days and have that as a part of the
3 package that would be sent out in this pre-proposal
4 process.

5
6 Thank you.

7
8 CHAIRMAN DEMIENTIEFF: Questions.
9 Comments.

10
11 MR. THOMAS; Mr. Chair.

12
13 CHAIRMAN DEMIENTIEFF: Yes.

14
15 MR. THOMAS: That report is really
16 consistent with the ambitions of the Southeast Council
17 because we knew with the magnitude of existing regs to
18 consider and the process needed for any consideration to
19 change, would need more time than that so we find that very
20 consistent.

21
22 Thank you, Mr. Chairman.

23
24 CHAIRMAN DEMIENTIEFF: Thank you.

25
26 MS. GOTTLIEB: Mr. Chairman.

27
28 CHAIRMAN DEMIENTIEFF: Yes.

29
30 MS. GOTTLIEB: I then move that we ask
31 Staff to send this out with -- as background information
32 with the request for next years proposals.

33
34 CHAIRMAN DEMIENTIEFF: Second to that.

35
36 MR. CAPLAN: Second.

37
38 CHAIRMAN DEMIENTIEFF: Discussion. Hearing
39 none, all those in favor signify by saying aye.

40
41 IN UNISON: Aye.

42
43 CHAIRMAN DEMIENTIEFF: Those opposed, same
44 sign.

45
46 (No opposing votes)

47
48 CHAIRMAN DEMIENTIEFF: Motion carries.
49 That completes our business this morning. Good. I just
50 want to let you know how we're going to proceed this

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1 afternoon. I encourage everybody to get here early so we
2 can begin promptly at 1:00 to try to -- having said that,
3 I'll probably be late. But we'd like to begin promptly at
4 1:00 so we can move right in to public testimony. It's
5 limited this afternoon. We're going to abbreviate -- we're
6 going to cut off public testimony at 3:30 and enter with
7 Department comments, with Regional Council recommendation
8 and with the Staff Committee recommendation. As far as we
9 understand that there may be a lot -- what we're going to
10 do this afternoon is we're going to ask the RAC Chairs to
11 go ahead and move back into the audience, we're going to
12 shorten up the room. We'll give you opportunity, RAC
13 Chairs if you want -- let me know, and I'll make sure that
14 you get an opportunity to testify, however, the only RAC
15 Chair since it's a Southcentral issue that will participate
16 in the Board deliberations will be you, Ralph.

17
18 MR. LOHSE: I have to stay up here?

19
20 CHAIRMAN DEMIENTIEFF: Yeah. You could
21 send for your vice chair if you want, and I wouldn't blame
22 you if you did. But I mean just to give you every
23 opportunity -- Southcentral every opportunity to
24 participate since it's your issue. So that's how we're
25 going to run it and if anybody else wants to participate
26 just let me know and I'll give you the opportunity to go up
27 and testify.

28
29 Bill.

30
31 MR. THOMAS: Thank you, Mr. Chairman. I'm
32 not as up to speed on this particular issue as I need to be
33 but considering the character of the agenda for this
34 afternoon, I want to alert the Chairman from Southcentral,
35 that the rest of the Chairs will be in support of whatever
36 his efforts are as he goes along in this process. And so
37 if he needs to contact us for a brief caucus of any kind he
38 can feel welcome to do so.

39
40 Thank you, Mr. Chairman.

41
42 CHAIRMAN DEMIENTIEFF: So with that, that
43 completes our morning's work. We'll go ahead and recess
44 now until 1:00 p.m., this afternoon and they're going to
45 realign the room so you need to get your stuff off here
46 because we're going to shorten it up.

47
48 (Off record)

49 (On record)

50

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1 CHAIRMAN DEMIENTIEFF: We'll go ahead and
2 reconvene the meeting of the Federal Subsistence Board.

3
4 Good afternoon. We are here today to hear
5 testimony and respond to the Kenaitze Indian Tribe Petition
6 to the Federal Subsistence Board to declare the entire
7 Kenai Peninsula Rural under Title VIII of ANILCA.

8
9 There is a long history to this request. I would
10 like to bring to your attention a handout that provides a
11 chronology of when the Federal subsistence program first
12 considered rural determinations and brings us forward to
13 our purpose here today.

14
15 The chronology, I won't go through it but we all
16 know the history of the issue but for those of you that are
17 interested in it, it is available, it's available at the
18 back table and I think it's a good reminder of how many
19 opportunities that we've had to speak to this issue. We
20 have also prepared other materials for you. I would like
21 to particularly refer you to the blue covered packet
22 available on the front desk. It includes the Kenaitze
23 Tribal Petition, the Proposed Rule published in February
24 2000 soliciting public comments, the Staff analysis of
25 February 2000, a summary of public comments on the Proposed
26 Rule and the interagency Staff Committee recommendation to
27 the Board. And I think these are important documents, we
28 don't know how many people are here to testify so if you
29 want to get those because when you hear the reports they're
30 going to refer to this packet for the depth of the issue so
31 they'll be constantly referring -- our reports will be
32 brief in nature so you need to take a look at that stuff.

33
34 Before we begin I want to let you know how I intend
35 to proceed this afternoon:

36
37 Following my opening remarks, a brief Staff report
38 and a summary of public comments received to-date will be
39 provided. I want to follow that with opening the floor to
40 hear public testimony. Now, when I allow public testimony,
41 I have instructed Staff at the front table to have each
42 person wishing to testify to declare whether they are in
43 support or opposed to the request to make the entire Kenai
44 Peninsula rural. Then, I will call individuals forward, I
45 will be alternating testimony so that we hear both
46 positions equally over the time allotted. Since there have
47 already been years of discussion and testimony on the
48 issue, I am going to limit the total time available and we
49 will take no more public testimony after 3:30 p.m. If we
50 get done sooner, well, then we'll go ahead and proceed with

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1 the rest of the decision-making process. At 3:30, I will
2 allow the Department of Fish and Game to offer comments,
3 followed by the Southcentral Regional Council and Staff
4 Committee recommendations. Then I will limit further
5 discussion to Board members and the Southcentral Regional
6 Council Chairman so that we can reach a decision without
7 interruption.

8
9 So I will thank you for working with us on making
10 this as smooth as we possibly can this afternoon. And with
11 that, we'll go ahead and hear the Staff report. Peggy.

12
13 MS. FOX: Thank you, Mr. Chair. The
14 Federal Subsistence Board decided in May of 1999 that
15 special circumstances, including new information received
16 in public testimony and accompanying the Kenaitze Indian
17 Tribe's request warranted an out of cycle review of the
18 Board's 1990 rural determinations for the Kenai Peninsula.

19
20 Between May and November of 1999, Office of
21 Subsistence Management Staff prepared an analysis of the
22 Kenai Peninsula rural determinations. At the direction of
23 the Board, the analysis did not endeavor to change the
24 rural determination process the Federal Subsistence Board
25 followed in 1990. The 1990 measures were used, both, to
26 aggregate communities and to categorize communities as
27 rural or non-rural. However, updated population,
28 subsistence harvest and socio-economic data were
29 substituted for the information available in 1990. After
30 completing this exercise the analysis concluded that almost
31 all the Kenai Peninsula communities that were determined
32 non-rural in 1990 appeared to have non-rural
33 characteristics in 1999.

34
35 The analysis received two separate reviews. First
36 the draft analysis was submitted for review by three
37 anonymous peer reviewers and the Alaska Department of Fish
38 and Game, Division of Subsistence. Staff Committee members
39 and other agency staff also provided internal review
40 comments. There was considerable consistency in the
41 substantive comments made by the three peer reviewers and
42 the Division of Subsistence by the Alaska Department of
43 Fish and Game. Their comments focused on concerns with
44 methodology and particularly on aggregation. Some revision
45 was made to the analysis and then that analysis was made to
46 the public in February of 19 -- of 2000. A summary of the
47 public comments received on that analysis will follow my
48 report.

49
50 Other concerns about the 1990 rural determination

1 process raised by the institute of socio- social and
2 economic research also needs to be mentioned. The ISER
3 report prepared in support of the Kenaitze's request for a
4 rural determination for all Kenai Peninsula communities
5 questioned the Board's rural determinations on the Kenai
6 Peninsula. The report focuses on the Board's 1990
7 determinations that Sitka, Kodiak and Saxman were rural
8 following requests for reconsideration for these
9 communities. In 1990 the Federal Subsistence Board did not
10 declare Kodiak, Sitka and Saxman to be rural following the
11 same process that was used statewide. These three
12 communities were reconsidered after initial non-rural
13 determinations because the information submitted with the
14 request for reconsideration and testimony from local
15 residents persuaded the Board.

16
17 Although the Kenaitze Indian Tribe also submitted a
18 requests for reconsideration of Kenai Peninsula rural
19 determinations and the Board heard public testimony
20 supporting the request, the Board declined in 1991 to
21 reconsider these decisions.

22
23 In their consideration, in 1990, when the Board
24 heard testimony in support of changing preliminary rural
25 determinations to include Sitka, Saxman and Kodiak, the
26 Board found that these communities have distinct and
27 cohesive Native populations. Both Sitka and Kodiak were
28 isolated island communities unconnected to the road system.
29 Lastly all three communities were highly dependent on
30 subsistence resources and served as a hub of subsistence
31 trade.

32
33 In 1998 and '99 the ISER report and other
34 information offered to support the Kenaitze Indian Tribe's
35 request suggested that many of the same measures of rural
36 character in Kenai Peninsula communities as in Sitka,
37 Saxman and Kodiak, both in 1990 and in subsequent years.
38 In addition to their testimony at the 1998 public hearings,
39 Kenaitze Tribal members stated that they had fished and
40 hunted on the Kenai Peninsula all their lives. It was also
41 noted that there had been disruptions among the Kenaitze
42 and the younger generation learning about harvesting fish
43 and wildlife resources because a lot of the Natives in the
44 older generation went away to school. Others emphasized
45 that since the beginnings of the cannery industry, the oil
46 industry and the tourism industry, Kenaitze culture and
47 traditions have survived.

48
49 This persuaded the Board to reconsider the non-
50 rural status and conduct an out of cycle review of Kenai

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1 Peninsula rural determinations.

2

3 Within the Federal subsistence management program,
4 the customary and traditional use determination process has
5 not formally addressed how to deal with enclave populations
6 of subsistence users within a larger population of non-
7 subsistence users. The problem of enclave communities is
8 relevant to the current request for the Kenai Peninsula.
9 ANILCA does not provide a priority for tribal groups.

10 Members of the Kenaitze Indian Tribe would like to have the
11 subsistence opportunities given to rural residents under
12 Federal law and to be able to continue their long history
13 of subsistence uses on the Kenai Peninsula. However, while
14 a number of members of the Kenai Indian Tribe -- Kenaitze
15 Indian Tribe live in Kenai, they do not constitute a
16 territorial or geographic enclave. Other members of the
17 tribe live throughout the Peninsula and elsewhere in Alaska
18 and other states.

19

20 Regardless of the outcome of the Kenaitze's
21 request, the rural status of Kenai Peninsula communities
22 will be reviewed along with the other communities statewide
23 after the 2000 census data become available.

24

25 It is clear from reviewer comments that problems in
26 the review process will make it necessary to develop a new
27 methodology for the next review. It is hoped that data
28 gathered for the Kenai Peninsula revaluation will prove
29 useful in conducting the statewide review.

30

31 And that concludes my Staff report, Mr. Chair.

32

33 CHAIRMAN DEMIENTIEFF: Thank you, Peggy.
34 Okay, we're about to begin the testimony. Again, please
35 limit your comments to three minutes.

36

37 MR. BOYD: Helga's prepared to do a summary
38 of written comments.

39

40 CHAIRMAN DEMIENTIEFF: Okay. We also have
41 a summary of the written comments. Helga.

42

43 MS. EAKON: Thank you, Mr. Chair. For the
44 record my name is Helga Eakon, interagency Staff
45 Coordinator.

46

47 Of the people who gave oral testimony at the March
48 1, 2000 public hearing of the Federal Subsistence Board at
49 Kenai Alaska. Those who supported the Kenaitze Indian
50 Tribe's request spoke in favor of the importance of

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1 subsistence to the survival of the Dena'ina people. The
2 Kenaitze Indian Tribe submitted a written solution and
3 their attorney stated that simple justice and equal
4 protection under law dictate that this Board's decision on
5 the rural status of the Kenai Peninsula should be based on
6 the same criteria, including the special factors that it
7 relied upon in declaring Sitka and Kodiak rural.

8
9 People who opposed the designation of the Kenai
10 Peninsula as rural who generally included sport and
11 commercial fishing organizations testified that the
12 detrimental impacts that would be created by such a
13 determination would far outweigh any benefits perceived by
14 those who advocate for the reclassification and that road-
15 connected communities should not be designated rural. The
16 theme of ANILCA as unconstitutional, that the Kenaitze
17 Tribe request is decisive and the potential economic harm
18 to commercial and sport fisheries as well as to the tourist
19 industry echoed the testimony heard in the 1998 hearings.

20
21 Of the written comments received on the Proposed
22 Rule, those who supported a rural designation for the
23 entire Kenai Peninsula also commented -- one also said that
24 there should be a non-rural classification for the Kenai
25 Peninsula north of Katchemak Bay and a rural classification
26 for communities on the south side of the bay.

27
28 Several public commentators including the Cooper
29 Landing Fish and Game Advisory Committee and the State of
30 Alaska, Department of Fish and Game stated that the Board
31 should wait until after publication of the 2000 US census
32 results are in and that, after which a statewide review
33 should be done.

34
35 I should also mention that the attorney for the
36 Kenaitze Indian Tribe did submit a letter in opposition to
37 the Proposed Rule and urged the Board to find that the
38 Kenai Peninsula should be rural. It's rural
39 characteristics are comparable to those of Sitka, Kodiak
40 and Saxman, which the Board previously found to be rural.

41
42 That concludes a summary of comments, Mr. Chair.

43
44 CHAIRMAN DEMIENTIEFF: Okay, thank you. As
45 I call you forward you'll get a -- Tom's light will --
46 begin to blink his light to let you know at about two and a
47 half minutes into your testimony so that you'll know it's
48 time to begin to summarize to keep within our three minute
49 limit.

50

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1 And so with that, we'll call up our first person to
2 testify which will be Eva Lango, I can't read the writing.
3 I think it will pick up your voice, go ahead and sit down.

4
5 MS. LANGO: Okay. Could I start now?

6
7 CHAIRMAN DEMIENTIEFF: Yes.

8
9 MS. LANGO: I'm just here again to verify
10 for all of fishing subsistence with the Kenaitze Indian
11 Tribe. And I've been here before and I would like to just
12 say that it was always our life that we depended on,
13 commercial fishing and Kenaitze Indian net to be used and
14 it is being used for the needy and for people that really
15 needs some fish resources. So I'm glad to be here today to
16 speak for my many people, and I want to thank the Board and
17 everyone for being here today.

18
19 Thank you.

20
21 CHAIRMAN DEMIENTIEFF: Thank you. Bill
22 Stockwell.

23
24 MR. STOCKWELL: Mr. Chairman, members of
25 the Board, Staff and members of the public, my name is Bill
26 Stockwell and I'm the chairman of the Cooper Landing Fish
27 and Game Advisory Committee. Our committee has 10 members
28 and one alternate and represents the various user groups in
29 our area. We have taken up the rural/non-rural
30 determination of the Kenai Peninsula on two occasions and
31 sent the Southcentral Council and the Board letters dated
32 December 5th, '98 and February 23rd, 2000 on our concerns.

33
34 We oppose the request to reconsider the Kenai
35 Peninsula rural/non-rural determination at this time. Our
36 issue is not with who is rural or non-rural, our issue is
37 with the process. We feel that the process must be fair,
38 equal and understandable to all. This out of cycle request
39 does not fit that requirement because it is limited in area
40 and scope and does not meet the requirements of Part A
41 paragraph 15 rural determination process. 6(B) requires
42 special circumstances for out of cycle determinations. We
43 found no major changes in the Kenai Peninsula, various
44 community and infrastructures or fish and wildlife
45 conservation and use that would warrant the unnecessary out
46 of cycle determination just as the 2000 census has started.

47
48 We request that this determination wait until after
49 the 2000 census is complete and the rural/non-rural
50 determination for the entire state can be done as a whole.

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1 This out of state cycle process for only the Kenai
2 Peninsula now could alter and skew the later results for
3 the rest of the state which would be an unwanted and
4 unwarranted outcome.

5

6 That's the end of my testimony, thank you.

7

8 CHAIRMAN DEMIENTIEFF: Thank you. Jenna
9 Herrmann.

10

11 MS. HERRMANN TESTIMONY: Hello, I'm going
12 to say the speech for Jenna Herrmann.

13

14 Good afternoon my name is Jenna Herrmann. I'm a
15 Kenaitze tribal member from Kenai, Alaska. I grew up in
16 Levelock, Alaska, a very small Native village in Bristol
17 Bay, Alaska. When I was growing up I learned how to live a
18 subsistence life from my parents and my grandparents.
19 That's the way we lived there.

20

21 There was really no other way to live. My dad
22 hunts and is also a commercial fisherman, which means that
23 he fished a lot. I cleaned and smoked fish and helped
24 clean moose and ducks. I remember that some of my best
25 times as a child were during fishing and hunting trips. We
26 moved to Kenai when I was 10 years old, I'm now 14.
27 Subsistence is important to me because I want it passed
28 down through the family and I want -- would like to get a
29 chance to teach my grandchildren about it some day. My
30 dad, brother and my brother's children still live in
31 Levelock. All of them with -- oops, I'm sorry. All of
32 them still live a subsistence live still and I want my
33 nieces and nephews to grow up with the opportunity to
34 experience that. That's why it is important to me.

35

36 Thank you for your time.

37

38 CHAIRMAN DEMIENTIEFF: Thank you. Jesse
39 VanderZanden.

40

41 MR. VANDERZANDEN: Chair, members of the
42 Board my name is Jesse VanderZanden. I'm the executive
43 director of the Alaska Outdoor Council and I am here
44 testifying on behalf of Carl Rosier president of the Alaska
45 Outdoor Council.

46

47 The Alaska Outdoor council is a non-profit
48 organization comprised of nearly 2,000 individual members
49 and 45 member clubs and a collective membership over
50 10,000. Our mission is to ensure the sound scientific

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1 management of Alaska's fish and wildlife resources and the
2 common use of and equal access to them.

3
4 I appreciate the opportunity to comment on the
5 proposal today to designate the Kenai Peninsula as rural
6 for the purposes of implementing the Federal subsistence
7 priority as prescribed in ANILCA. The Alaska Outdoor
8 Council is opposed to the designation and concurs with the
9 U.S. Fish and Wildlife Service's Staff analysis that
10 "...there are problems in both methodology and data
11 availability for making rural determinations." Further,
12 the analysis went on to say, "At the present time there is
13 not sufficient evidence that Seward, the aggregated
14 Kenai/Soldotna area, or the aggregated Homer area exhibit
15 rural characteristics to recommend that their non-rural
16 determinations be changed to rural."

17
18 In addition, the State of Alaska, in a letter to
19 Mitch Demientieff, Chair, Federal Subsistence Board, stated
20 "the State supports this outcome, and does not believe that
21 additional rural designations are justified for the Kenai
22 Peninsula."

23
24 It has been estimated that if the Kenai Peninsula
25 is designated rural, approximately 40 to 50,000 residents
26 would fit the category of subsistence users and therefore
27 entitle them to priority use of the resources.
28 Scientifically, our concern is that this may well
29 jeopardize the sustainable abundance and biologically sound
30 harvest level for Kenai Peninsula salmonid species. In
31 addition, the balance of use; sport, personal use, and
32 commercial that folks have worked so hard to accomplish,
33 would be lost with little to no road map to guide it back
34 into balance. Is there room for improvement under the
35 current system? Yes. Do we have to start at ground zero
36 to make it better? No.

37
38 With regard to Title VIII of ANILCA, it was
39 intended to address the needs of people commonly believed
40 to rely mainly on fish and game for their family's food and
41 materials. Part (2) of the findings of ANILCA state, "The
42 situation in Alaska is unique, in that, in most cases, no
43 practical alternative means are available to replace the
44 food supplies and other items gathered from fish and
45 wildlife which supply rural residents dependent on
46 subsistence uses." The perception was subsistence users
47 were only rural residents and as a result, the rural
48 priority was promoted and became Federal law. It turned
49 out to be a standard that only depended on where you lived,
50 not how you lived. As the Alaska Supreme Court noted in

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1 the 1989 McDowell case, the rural priority was extremely
2 crude.....

3
4 CHAIRMAN DEMIENTIEFF: Hello, I'm sorry,
5 your time is up. We've been trying to signal you. You've
6 got the rest as a written comment that you'd like on the
7 record.

8
9 MR. VANDERZANDEN: Yes. I have some
10 comments for the record and I appreciate the opportunity.

11
12 CHAIRMAN DEMIENTIEFF: Yeah, right here,
13 the gentleman over here. Thank you.

14
15 MR. VANDERZANDEN: Thank you.

16
17 MR. VANDERZANDEN (REST OF COMMENTS):
18as a means of accommodating people who relied on their
19 own resource harvests for food and that that rural priority
20 discriminated against Alaskans who were resource dependent
21 but lived on the wrong side of the arbitrary rural-urban
22 line. for these and other factual reasons, the Alaska
23 Outdoor Council has consistently opposed the rural
24 subsistence priority.

25
26 As previously touched on above, designating the
27 entire Kenai Peninsula could hold significant economic
28 disruptions. Why? Because, as the Federal Staff
29 reevaluation of rural determinations show, the Kenai
30 Peninsula runs on the cash economy. It is no different
31 than many other places now considered non-rural or urban
32 around the state. Should the subsistence priority be
33 exercised as it operates under Federal law and preempt
34 other fish and game resources uses, it could easily impair
35 other enterprises that people really do depend on for their
36 livelihoods.

37
38 To summarize, the Alaska Outdoor Council opposes
39 the petition to designate the Kenai Peninsula as rural for
40 the purposes of implementing the Federal subsistence
41 priority under ANILCA because it poses a risk to the
42 resource and a risk to resident's livelihoods.

43
44 Thank you for the opportunity to comment and I
45 would welcome any questions you may have.

46
47 CHAIRMAN DEMIENTIEFF: Jacqueline Comeaux.

48
49 MS. COMEAUX: Hello. Okay, I'm Jacqueline
50 Comeaux. I'm 11 years old. I'm not the kind of human that

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1 will go fishing for a sport, I'm the kind of human that
2 goes fishing for the family. That is one of the reasons
3 that subsistence is the most important thing in the world
4 to me.

5
6 Some people go hunting for a sport. I will not and
7 could not like a sport like that. What about the moose and
8 caribou. In a few years there will be no more on the
9 earth. They might be in zoos but the animals in the zoos
10 will get mean and angry. They do not belong in the zoos or
11 behind bars, they belong in the woods and the parks. And
12 what about the bears and all the other animals plus more
13 need to be free.

14
15 Subsistence teaches respect for animals and plants
16 on the earth. Please drive safe and thank you for
17 listening.

18
19 CHAIRMAN DEMIENTIEFF: Thank you. Helene
20 Hartfield. I'm sorry, I just can't read some of the
21 writing.

22
23 MS. HATFIELD: Helene Hatfield.

24
25 CHAIRMAN DEMIENTIEFF: Hatfield, thank you.

26
27 MS. HATFIELD FOR RUTH BOOSTER: I'm reading
28 this on one of my elders that could not be here. It is her
29 testimony. Her name is Ruth Booster.

30
31 Subsistence. We lived on subsistence when we came
32 to Alaska over 40 years ago. We would not have survived
33 without it. We have harvested and canned caribou and
34 moose. We caught salmon and smoked some and canned some.
35 We pickled -- I mean, we picked salmon berries, low bush
36 and hi bush cranberries, made jams and jellies and sauces,
37 froze some for muffins. Times were hard but life was
38 wonderful.

39
40 It's different now but it's still God's country and
41 let's keep it that way. Ruth Booster.

42
43 Thank you, very much.

44
45 CHAIRMAN DEMIENTIEFF: Thank you. Margaret
46 Moonin.

47
48 MS. MOONIN: Good afternoon. My name is
49 Margaret Moonin and this is my son. I have never known my
50 family's history. We're Natives from the Lower 48 and I

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1 never knew what my great-grandmother was. I was never
2 told. We never learned subsistence. My son is a Alaska
3 Native and I intend for him to learn his history. I have
4 no history but he does. And I don't feel -- I feel very
5 strongly about him keeping the knowledge that his family
6 and his ancestors learned. And for us to take that away
7 from him is wrong.

8
9 For many years they took that away from my ancestry
10 and I have none.

11
12 The Natives of this community, the Dena'ina, they
13 used subsistence for thousands of years without the loss of
14 fish, without the caribou disappearing and now we worry
15 about them going away. It wasn't the Dena'ina that used
16 subsistence to make the caribou runaway. It wasn't the
17 Dena'ina that used the subsistence to make the salmon start
18 to disappear. They respected all animals. It was their way
19 of life. They respect the earth.

20
21 I've learned so much working with the Kenaitze from
22 the elders, from the people I work with. They have such a
23 glorious respect for the earth that I never knew because I
24 was never taught my history. My son deserves that and I
25 want him to learn that and I ask that you reconsider so
26 that he can know what subsistence is about.

27
28 Thank you.

29
30 CHAIRMAN DEMIENTIEFF: Thank you.
31 Bernadine Atchison.

32
33 MS. ATCHISON: My name is Bernadine
34 Atchison. I'm a Dena'ina from the (In Native), a tribal
35 member of the Kenaitze Indian Tribe, a descendant from my
36 ancestors who have lived in this country of Alaska for over
37 20,000 or as our elders say, since time and memorial.

38
39 Subsistence is existence as it was for our
40 ancestors, so is it for us today. Subsistence, as an
41 intricate part of our culture, it is mental, physical,
42 environmental and spiritual. It is a part of every season
43 of the year, every cycle of the month, our daily food and
44 the essence of life that we experience with every breath we
45 take.

46
47 On August 11th, 1978, President Carter signed into
48 law the American Indian Religious Freedom Act, Public Law
49 95-341. The intent of this legislation is to ensure to the
50 American Indian his right to believe, express and practice

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1 his religion and his traditional way. Respecting the earth
2 and our bodies by providing traditional food has a
3 religious significance because of the power to heal through
4 sustenance. Public Law 95-341 goes on to say that whereas
5 the religious practice of the American Indian, as well as
6 Native Alaskans and Hawaiians are an intrigal part of their
7 culture, tradition and heritage. Such practices forming
8 the basis of Indian identity and the value system. That
9 henceforth it shall be the policy of the United States to
10 protect and preserve for American Indians their inherent
11 right of freedom to believe, express and exercise the
12 traditions -- traditional religion of the American Indian,
13 Eskimo, Aleut and Native Hawaiians. Our subsistence has
14 the power to heal.

15
16 After European contact and the goldseekers of the
17 late 1800s and early 1900s the impact of their negligence
18 to the land and natural resources resulted in the 1918 and
19 1919 influenza epidemic. This epidemic remains to be the
20 greatest human disaster in Alaska and recorded history. Up
21 to 75 percent of the Dena'ina people died on the Kenai
22 Peninsula. This was the result of miners leaving campfires
23 unattended which destroyed thousands of acres of
24 wilderness, subsistence foods and Europeans who overharvest
25 marine life for a profit.

26
27 The abuse of our land created stress on the
28 immunities of the indigenous people affecting them
29 physically, emotionally, environmentally and spiritually.

30
31 Today, the battle to retain our inherent right of
32 freedom to believe, express and exercise the gathering of
33 our subsistence food has created the same stress on the
34 indigenous people of Alaska. Alaska Natives per capita has
35 the highest percentage of mental health, poverty, homeless,
36 welfare, imprisonment, suicides, cancer and disease and the
37 list goes on than any other ethnic group in the United
38 States.

39
40 Our culture is subsistence.

41
42 CHAIRMAN DEMIENTIEFF: I'm sorry, but your
43 time is expired. If you would like to leave your written
44 testimony with the recorder it will be recorded into the
45 record. Thank you.

46
47 MS. JULIESON FOR MR. MINKLER: Good
48 afternoon. This afternoon I would like to read a letter
49 from Archie Minkler who cannot speak today.

50

1 We have been back and forth on this same issue for
2 quite a while and I think that's too long. The Ninth
3 District Court made the Kenai Peninsula a rural area. By
4 not complying with the court's decision the State
5 Committees and subcommittees are not following the law of
6 the United States. What's the use of having the law if
7 nobody follows the law? The laws are made for the people
8 by the people. The State determines what rural is just for
9 funding that best meets the State's economic welfare. How
10 can the State justify all the different rural fundings they
11 receive on the Kenai Peninsula for the State use and not
12 classify the Kenai Peninsula as rural, that makes no sense.
13 The government of the United States made a settlement with
14 the Alaskan Natives, this was called ANILCA, Title VIII.

15
16 I work for the Kenaitze Indian Tribe IRA and we
17 have an educational moose hunt where we are allowed one
18 moose to harvest in one year. How are we able to teach our
19 youth all they need to know just once a year? If any of
20 you have ever been hunting how long and how many times did
21 it take you before you learned how to properly take care of
22 a moose, and in a traditional way? We teach our youth
23 because there is no subsistence harvest here with the
24 exception of special permit. I feel if there was
25 subsistence the parents, uncles, grandfathers would teach
26 their own youth their traditional ways. With only
27 harvesting one moose how are we to provide the families
28 that need the meat, are we to give them just one taste of
29 jerky or a small bite of hamburger meat? Even with the
30 road kills a good portion of the moose is wasted from where
31 the moose was hit and there is only so much meat on a moose
32 so only a few families a year are lucky to get any.

33
34 Moose hunting I understand needs to be regulated
35 but the people that live here year-round are restricted to
36 certain geographic locations where everyone is confined to
37 a small hunk of land where they're more likely are about
38 500 hunters in a small five mile radius and this is only
39 for one month. This is not to mention the bull moose horn
40 restrictions. It's almost like we have to tranquilize
41 them, run up with a measuring tape to see if they are the
42 right size before we shoot them, also how many moose are in
43 that hunting zone that actually fit the requirements?

44
45 My grandmother lives down Beaver Loop which is
46 about four miles from the airport in downtown Kenai. She
47 has her own water well and sewage because there is no city
48 water or sewage that reaches her. Throughout the years I
49 have seen all kinds of wildlife on Beaver Loop. We cannot
50 drive down Beaver Loop without seeing at least one moose or

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1 some sort of wildlife.

2

3 There is enough fish and game here to meet the
4 needs of everyone.

5

6 CHAIRMAN DEMIENTIEFF: Excuse me, ma'am,
7 your three minutes have expired. If you'd like to leave
8 your letter with the Recorder, it will be entered into the
9 record. Thank you.

10

11 MS.JULIESON FOR MR. MINKLER (REST OF
12 COMMENTS): Look how many road kills there were this year
13 on the Peninsula not to mention all the moose that starved.

14

15 Properly managed we could harvest enough moose to
16 meet the needs of the families that live here year-round
17 and maintain a healthy moose population. The same for the
18 fish. There is enough for everyone with a proper plan. On
19 a State level in 1989 the commercial use was 95 percent,
20 the sport was one percent, the subsistence was four
21 percent. That's not a high ratio. We're not trying to
22 take all the fish and game, we just want to provide for our
23 families a nutritious and healthy diet especially for the
24 families who are not as fortunate as most to purchase
25 healthy foods. A fact that I do want to point out is in
26 1957 there were only six cases of diabetes in the Native
27 populous as compared to 1988, there were 610 cases and
28 still its climbing. A large reason is the Native populous
29 is not able to harvest their traditional foods.

30

31 I heard at one of these meetings I went to on the
32 subsistence issue about the Kenai River. One of the speaks
33 said the Kenaitze Tribes are new players on the river. How
34 can anyone say that the Kenaitze Dena'ina have been fishing
35 on the Kenai for thousands of years they definitely are not
36 new players on the river. I do agree that the Kenaitze
37 should sit on all the boards that pertain to the welfare of
38 the river but is the Kenai River going to determine if the
39 Kenai Peninsula is rural or non-rural, there is more to the
40 Kenai Peninsula than just the river, what about all the
41 land that surrounds the river? If the land is so developed
42 how come people get lost on the land just about every year
43 if the land is so developed wouldn't you think they would
44 eventually run into a house or some sort of developed
45 structure.

46

47 As an Alaskan Native I have never gave up my right
48 to hunt, fish and gather for my culture and heritage nor
49 will I ever. I just want to be sure in the future my
50 descendants will learn the same hunting, fishing and

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1 gathering skills my elders passed on to me. Hunting,
2 fishing and gathering is a big part of my culture and
3 heritage and without it we as Alaskan Natives will lose a
4 valuable resource that makes up a large portion of our
5 culture and heritage.

6
7 Thank you for your time.

8
9 CHAIRMAN DEMIENTIEFF: Carmen Ivanoff.

10
11 MS. IVANOFF: Thank you. Mr. Chairman,
12 members of the Board and ladies and gentlemen.

13
14 I was born in Seldovia, Alaska. And until I would
15 say 1942, we didn't just go to the store and get food. We
16 harvested it ourselves. And never for just us, there was
17 always three or four different elders or somebody who
18 wasn't able to go get this food. And one of the
19 commandments should have been; thou shalt not waste food.

20
21 We have never taken any more than we could preserve
22 or use in a certain length of time. When we needed coal,
23 we went to the coal beach, when we needed clams we went to
24 the clam beach and when we needed a moose we went and got
25 it. And we were all thankful for what was there.

26
27 But there's a clock that says it's hooligan time or
28 it's time for moose or it's time for king salmon and that's
29 when it -- this little clock just makes you start craving
30 this certain type of meat or fish or clams at the time.
31 And I would certainly like to be able to continue this way.

32
33 Thank you.

34
35 CHAIRMAN DEMIENTIEFF: Thank you, very
36 much. Amanda Sonju.

37
38 MS. SONJU: Yaghali Du. My name is Amanda
39 Sonju or Ch'eviya meaning Whirlwind. I am a Dena'ina
40 Athabascan from Nondalton better known as Nuvendalton and
41 Pedro Bay, which are small villages off of Lake Clark and
42 Lake Iliamna. My family also extends to Ahtna Athabascans
43 from Copper River.

44
45 My husband and I moved to the Kenai Peninsula in
46 November of 1996. By choice, we built and live in a 12 by
47 14 white wall tent, 16.5 miles off of Funny River Road.
48 Funny River Road is 17 miles long and begins in Soldotna.
49 About Mile 10, we loose our fire protection service. We
50 are currently waiting for our fire station to be built.

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1 Some people would say Funny River Road is now paved. How
2 can the area be considered rural? Even though the road is
3 paved it does not change my way of living. For a month and
4 a half in the spring I have to walk a half a mile to my
5 place due to an extremely muddy road, which I am currently
6 doing. When walking to and from my place, I have to carry
7 a gun and watch for bears because they are just waking up
8 from hibernation.

9
10 I have no running water, no electricity, and no
11 phone. During these four years, I have continued
12 experiencing a rural subsistence lifestyle. Where I am
13 located I have lived side by side with our Alaskan
14 wildlife. On April 29th we had a gaga, (brown bear) visit
15 us and bit into my generator. In my front yard I have seen
16 gughdi (moose), yaghdishla (black bear), nini (porcupine).
17 I have many, many birds of all kinds such as shadow and
18 echo, the two owls that visit us each year from fall to
19 spring. I have continued to eat and learn about my
20 traditional foods. Last year I learned how to clean and
21 cook a porcupine. I have smoked fish in a real smoke
22 house, thanks to the Kenaitze Indian Tribe. In Anchorage,
23 I would not have had a chance to continue experiencing the
24 rural subsistence life.

25
26 Our elder's teach us starting from childhood to
27 respect all living creatures, land and waters. Through our
28 programs, we continue to pass on knowledge, their knowledge
29 and Alaskan culture.

30
31 Thank you.

32
33 CHAIRMAN DEMIENTIEFF: Thank you, very
34 much. Jack Ivanoff.

35
36 MR. IVANOFF: Hello, my name is Jake
37 Ivanoff. And I'm here to support the Kenaitze Indian Tribe
38 with the request that you have your status changed from
39 rural -- excuse me, from non-rural to rural.

40
41 I grew up in Kenai and we had two houses, one on
42 the beach and one in Kenai. All our fishing was governed
43 by how much you could use. If you had too much, you always
44 shared it, that's the way it was. And with your ruling
45 today, it has to be, the way I see it, only one way, you
46 can't change the way of life with our people. And there's
47 many people that really depend on this. I, for one, would
48 like to do all different types of fish, smoke fish, dry
49 fish, clams, my wife stated, and with this ruling while
50 we're here today, it's really important to our people not

00199

1 to change. You could change the rule but don't change our
2 people with your ruling and with that, I'll close.

3

4 Thank you.

5

6 CHAIRMAN DEMIENTIEFF: Thank you, very
7 much. James Showalter.

8

9 MR. SHOWALTER: Good afternoon. My name's
10 James Showalter, I'm a Kenaitze Indian tribal member and on
11 the tribal board of the Kenaitze Tribe.

12

13 To begin with, I notice you got this map of the
14 Kenai Peninsula up here, which everybody notices is vast
15 and you've got blocked in other areas which gives your
16 little communities. They're within -- outside of those
17 given areas, it's sparsely populated, wild, but yet I see
18 it's blocked in as a non-rural area, which to me is untrue.
19 It's a rural area, it's like the rest of the Kenai
20 Peninsula.

21

22 As for subsistence use, I'm maybe one of the
23 fortunate few that's still remaining in the Kenaitze Tribe
24 that has seen subsistence in my childhood which was taken
25 away from me and now we're trying to get it back for our
26 people, our way of life, for our fish and game and
27 gathering.

28

29 With that, there's a lot more I could say but it's
30 -- I guess I'll just have to wait until next time. And I
31 would hope, very deeply, that the Board does reconsider to
32 make the Kenai Peninsula rural, not for just the Kenaitzes
33 but for the whole Kenai Peninsula.

34

35 Thank you.

36

37 CHAIRMAN DEMIENTIEFF: Thank you. Marcia
38 Colton.

39

40 MS. COLTON: (In Native) Hello my friends.
41 Good afternoon Federal Board members. My name is Marcia
42 Colton. I'm originally from Bethel and resident of
43 Nikiski. In effort of Kenaitze Indian Tribe, I am on the
44 policy council of Kenaitze Indian Headstart. My children
45 attends the Headstart and have had and do practice of
46 subsistence life and we plan to encourage the life of all
47 nations of Alaska Native people and heritage to pass on to
48 their younger generations.

49

50 As my understandings of the regulations and the

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1 Kenaitze Indian Tribe Headstart, it indicates Alaska Native
2 heritage is enforced to continue its practices of
3 subsistence lifestyle. It also educates parents to
4 participate. As a parent, myself, and being raised on
5 subsistence growing up, to carry on all and any that I've
6 learned -- what I've learned to pass on to my children is
7 important to me.

8

9 Thank you.

10

11 CHAIRMAN DEMIENTIEFF: Thank you. Arthur
12 Moonin.

13

14 MR. MOONIN: Hello. My name is Arthur
15 Moonin. I have come in front of the Board once before and
16 I did explain that I have not had chance to hunt and fish
17 because I have no one there teach me. I now have a son and
18 if you guys do make a non-rural, I'm sorry say but if it is
19 that way I just might end up taking him out hunting and
20 fishing anyways at the risk of being arrested or anything.

21

22 To me, I'd rather get wildlife meat and I don't
23 really look forward to taking him to McDonalds and Burger
24 King every night. I'd like to have him practice the dreams
25 and the ways of my people. I am not Kenaitze, not
26 Athabascan, I'm Aleut.

27

28 And right now there isn't very many -- much
29 practice going on. I'd like to see it happen more often.

30

31 Thank you.

32

33 CHAIRMAN DEMIENTIEFF: Thank you. Nicole
34 Harmon.

35

36 MS. HARMON: Good afternoon. My name is
37 Nicole Harmon. I'm a Kenaitze tribal member from Kenai. I
38 testified before you last year and I would like you, the
39 Board, to please consider what rural subsistence means to
40 me and everyone here on the Kenai Peninsula.

41

42 I have learned from my grandmother what types of
43 greens and berries to pick and how to prepare them. I know
44 how to prepare fish and I know how to cut fish with an ulu.
45 I also cut and dry and smoke fish of all types for my
46 consumption.

47

48 Although I am a teenager, I feel I must keep the
49 tradition of the subsistence way ongoing and I want to pass
50 the knowledge on to my children. I think that no one

00201

1 should take away the rural subsistence rights. If you
2 would please listen to what the Native people have to say
3 about this, you will get a real answer.

4
5 Thank you for your time.

6
7 CHAIRMAN DEMIENTIEFF: Thank you. Emil
8 Dolchok.

9
10 MR. DOLCHOK: Good afternoon, Mr. Chairman,
11 Board members. I was born and raised in the village of
12 Kenai. Fishing has always been a subsistence way of life
13 to the Natives of this area and believe me it still is.
14 Contrary to the complaints of the sport fishermen that we
15 live in an urban area and are not dependent on the early
16 run king salmon for our subsistence way of life. I have
17 always believed and always will that we are living in rural
18 surroundings with cranes, ducks, seagulls nesting just
19 across Beaver Creek from my home. Also moose, caribou,
20 black, brown bear, coyote, lynx and rabbits have come
21 through my yard. Beaver and otter occasionally swim by.
22 There are no hi-rise buildings anywhere around this area,
23 no commuter trains or buses only taxi cab.

24
25 The one big reason the sportfishermen are against
26 the Kenai area being reclassified as rural is they fear we
27 would regain our subsistence privilege, and that right
28 should never have been taken away from us in the first
29 place, especially in taking the early run king salmon that
30 we lifelong Kenai residents have waited through the long
31 winter months for. These king salmon, that I feel belong
32 to the year-round residents more so than the immigrant non-
33 resident.

34
35 There are 939 Natives enrolled in the Kenaitze
36 Indian Tribe. And as in all minority groups where many of
37 them are dependent on welfare and food stamps. Regaining
38 our rural status and being able to subsistence fish for our
39 food would be a great step towards reclaiming our culture
40 and heritage which has been unconstitutionally and
41 deliberately taken away from us year-round lifelong
42 Kenaitze Natives by the Alaska Board of Fisheries who were
43 successfully lobbied upon by the Kenai River Sportfisherman
44 Association. With no remorse, whatsoever, for the welfare
45 and livelihood of the Native people living in the Kenai
46 area. With only 13 percent of tourists that come to the
47 area to fish exclusively we resident Natives are not
48 hurting the economy at all. As the sportfishermen so
49 claim, they have been misleading the public with these
50 claims.

1 Why are we, the resident Natives of Kenai Peninsula
2 as second class citizens when we have lived in this area
3 forever. We are the original citizens of the Kenai
4 Peninsula so why should we always be put on the backburner
5 when it comes to allocating the take of salmon, especially
6 the early run king salmon. That is why I, for one, am
7 fighting to regain our subsistence priority. Personal
8 regulations will not because in the event the salmon runs
9 are low, we Natives will be, again, cut off, but as usual
10 the sport fishermen would still be allowed to fish one way
11 or the other.

12
13 CHAIRMAN DEMIENTIEFF: Excuse me, sir, your
14 time's run out. If you want to leave the rest of your
15 written comments with the gentleman over here.

16
17 MR. DOLCHOK: I was done, thank you.

18
19 CHAIRMAN DEMIENTIEFF: Okay, thank you.
20 Okay, Allan Baldwin.

21
22 MR. BALDWIN: Tom, I'd just ask if you'd
23 just sit on your hands. I see your finger button is right
24 on time.

25
26 Subsistence is something that you must live. It's
27 as fundamental as the air we breathe and the water that we
28 drink. The resources that we protect and harvest provide
29 magnamously more than sustenance. Jeff Richardson of the
30 Alaska Center for the Environment said during his comments
31 to the ITC conference this week, subsistence to Alaska
32 Native people is more than any White man can comprehend.

33
34 A rural determination is crucial to the Kenaitze.
35 And with this said I would ask this Board to instruct Staff
36 to extent C&T to the Kenaitze Tribe, allowing us to legally
37 fish during the 2001 fishery. And appoint a mutually
38 agreed upon mediator to achieve consensus on the
39 subsistence issues.

40
41 During the past three weeks the Kenaitze Tribe has
42 participated in round-table discussions made up of KIT,
43 commercial fishermen, sport fishers and this past meeting,
44 just last Friday, a guide service owner. These round-table
45 discussions will bring consensus and healing to the Kenai.

46
47 We have begun to deal with issues beyond your
48 expectations and hopes in regard to subsistence issues on
49 the Kenai.

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1 Give the Kenaitze C&T. Please instruct your Staff
2 to provide mediation on the issues. And come to the round-
3 table discussions with the user groups mentioned above. Go
4 beyond meaningful consultation by working with us to solve
5 the problems the user groups have on the Kenai.

6
7 Thank you.

8
9 CHAIRMAN DEMIENTIEFF: Thank you. Archie
10 J. Minkler.

11
12 MS. JULIESON: I'm sorry I'm not Archie,
13 I'm Bonnie Julieson. I read his statement when I was up
14 under my name. I'm Kenaitze. My family has been here for
15 generations and generations and I am in support of the
16 rural designation for the Kenai Peninsula.

17
18 There's many reasons and I'm sure you've all heard
19 them before. And I would just like to ask this Board to
20 give the Kenaitze the right to subsistence fish.

21
22 Thank you.

23
24 CHAIRMAN DEMIENTIEFF: Thank you. Mary Lou
25 Battorff.

26
27 MS. BATTORFF: Good afternoon, Chairman,
28 members of the Board. My name is Mary Lou Battorff. I am
29 a Kenaitze tribal member from Kenai, Alaska.

30
31 As a subsistence gatherer person I am facing
32 pressures concerning my cultural and traditions of food
33 gathering. I have respected and depended on the resources
34 of this land on the Kenai Peninsula for the past 28 years.
35 The tradition in the food gathering depended on the
36 seasons, spring begins with the snow disappearing and a
37 gathering of green leaves from the willow bushes and other
38 edible greens begin. Ice is gone from the beach on the
39 Cook Inlet, clams, cockles are ready to be dug and
40 harvested. Now, I have read in the local paper the razor
41 clam limit will be reduced from 60 per day to 45 a day and
42 90 only in possession. That will be okay for someone that
43 does not can or rely on them for winter or just to have
44 something to feed their families when the money is not
45 there to purchase goods from the store.

46
47 Spring and summer has begun, the time for the fish
48 to swim to the river and must be caught and prepared for
49 the winter, drying, smoking, salting and freezing. Fall
50 also has the preparation of the late run salmon and greens,

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1 tea and berries to pick and prepare for winter. Birds and
2 moose also have to be caught and put away for the winter
3 use.

4
5 My family, sons and grandchildren also incorporate
6 wild game and fish in their diets and food purchased at the
7 local stores. I have been teaching my grandchildren what
8 to gather since they were very young. When my
9 granddaughter was about three years old she was bored and
10 it was in the middle of winter, she said, nanna let's go
11 pick berries, I said, no, we can't it's wintertime. She
12 said, well, let's go pick tea. She knew Hudson bay tea
13 could be picked any time.

14
15 I feel that if we lose the rural subsistence
16 designation we lose our traditions of the future
17 generations.

18
19 Thank you for hearing my testimony.

20
21 CHAIRMAN DEMIENTIEFF: Thank you. Rita
22 Smogge.

23
24 MS. SMOGGE: Good afternoon. My name is
25 Rita Smogge. I'm the executive director for the Kenaitze
26 Tribe and I'm also a tribal member.

27
28 Subsistence fishing has been practiced by the
29 Kenaitze people for centuries. Every history will bear
30 this out. In the late 1800s the Russian exploited for
31 market rapidly declined and commercial fishing became the
32 major economic pursuit. By then the Kenaitze had become
33 coastal dwellers, drawn from the mountains by the salmon
34 fishery. And though the Cook Inlet fishery brought numbers
35 of new people, no new employment field for the Kenaitze
36 came about. Their economic fortune spiraled downward with
37 each passing year.

38
39 1882 - Alaska Packing Company established in
40 Kasilof.

41
42 1892 1897 - Goldmining districts were laid for all
43 of Cook Inlet. Father Bortnovsky, the Russian Orthodox
44 Priest writings of the plight of the Kenaitze noted that
45 prospectors were setting the woods on fire and driving the
46 animals away.

47
48 Fish became important as food, especially after the
49 decline of the caribou herds on the Kenai Peninsula.

50

00205

1 1893 - collapse of the fur trading economy dealt a
2 severe blow to the integrity of the Kenaitze culture...the
3 old way of life was gradually diminished; chiefs could no
4 longer support poorer relatives. Besides, status now came
5 from acquiring wealth, not giving it away. By 1895, the
6 Kenaitze were an impoverished people.

7
8 1896 - records of the Arctic Fish Company list
9 employees, eight White cannery administration personnel, 35
10 White fishermen, 200 Chinese laborers, 20 Indians job title
11 not listed.

12
13 By 1932 the Kenaitze population on Cook Inlet was
14 approximately 650 down from the established estimated 3000
15 in 1805.

16
17 World War II brought abrupt changes to the Kenai
18 area further. In 1971, 1,730,000 acres were removed for
19 the Kenai National Moose Range. Hunting ceased to be a way
20 of lie and subsistence fishing became equally difficult.
21 The highway paved the way to the Peninsula in 1947. In
22 1956 subsistence nets were barred in the Kenai River. On
23 July 23, 1957 oil was struck in Swanson River. A published
24 report of the Federal Field Committee for Developed
25 Planning Alaska in 1968 noted that the Kenaitze were
26 considered "a dispersed tribe without a village."

27
28 In 1970, the Kenai Peninsula Borough population
29 16,586 with only 3.2 percent classed as Indians. The 1980
30 census reports 1,738 Eskimos, Aleuts and American Indians.
31 The Kenaitze tribal roll listed 400 in 1981 with
32 approximately eight to nine percent of this voting
33 membership holding commercial fishing permits.

34
35 Prior to the 1978 subsistence law, all non-
36 commercial set net fishermen were called subsistence
37 fishermen and this legislation also added the concept,
38 customary and traditional.....

39
40 CHAIRMAN DEMIENTIEFF: Excuse me, but your
41 time's expired. Do you have a written -- okay, just turn
42 it into the recorder, please.

43
44 MS. SMOGGE (REST OF COMMENTS):to
45 subsistence fishing. Before 1973, relatively few people
46 living in Southcentral Alaska were aware that a formal,
47 permitted subsistence fishery existed in Cook Inlet. Some
48 publicity did encourage fishermen to get permits, but
49 others simply ignored the regulations and continued to
50 catch personal use salmon as they had for years. Thus,

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1 before 1978, subsistence fishing received little or no
2 attention and its complex patterns remaining unseen.

3
4 Today, most Kenaitze tribal members live in Kenai
5 or this immediate environs. Members of the Kenaitze Tribe
6 are, for the most part, descendants of the Dena'ina people
7 who formally inhabited areas in Cook Inlet. There is an
8 established long-term, consistent pattern of continuous use
9 and dependency among the Dena'ina people on the traditional
10 harvesting of fish and game. Salmon was the primary
11 subsistence resource then, as it is now. Salmon harvests
12 continue to be an important part of the Kenaitze life.

13
14 In 1986, the Kenaitze Indian Tribe filed suit
15 against the State of Alaska to protect and preserve the
16 rights of its members to engage in the traditional and
17 customary harvest of fish and game. Pursuant to the
18 mandate issued by the Ninth Circuit Court of Appeals in
19 October 1988, we entered a consent preliminary injunction
20 with the State so that we could have a fishery in the
21 summer.

22
23 The Tribe submitted a proposed preliminary
24 injunction to the Federal court on March 24, 1989. Before
25 submitting this proposal, the Tribe appointed a subsistence
26 task force to poll members regarding their traditional and
27 customary subsistence practices. The task force then
28 compiled the results of the poll and developed a plan for a
29 fishery which it presented to the tribal council. The
30 tribal council approved the plan. Although the poll
31 collected information on all resources traditionally
32 harvested by tribal members, we limited our plan to include
33 only four species of fish.

34
35 The Kenaitze have customarily and traditionally
36 used the beaches, rivers, and streams throughout the entire
37 central district of Cook Inlet. For purposes of the
38 preliminary injunction, the Tribe proposed a very limited
39 subsistence fishery in which subsistence fishing would
40 occur only at customary and traditional fishing areas
41 either closest to their homes or which are of particular
42 historic significance to them. In our proposal, we
43 emphasized that it was not to be construed as a limitation
44 on the subsistence rights of other Kenai Peninsula
45 residents.

46
47 Our proposal also included a request for a
48 cooperative net that could be used at historical fishing
49 sites and operated by tribal members. One of the primary
50 reasons we became involved in this lawsuit was our desire

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1 to pass on our customary and traditional subsistence
2 practices and values to our children. A cooperative net
3 would allow tribal elders to have a place where they could
4 pass on their knowledge in the traditional methods of
5 harvesting, preserving and sharing of fish to younger
6 members of the tribe. The tribe has responsibilities
7 towards all its members. Most members are domiciled on the
8 Kenai Peninsula. Some of our younger members, however live
9 elsewhere and only return to the Kenai in the summer. When
10 these younger tribal members visit, it is important for
11 them to be able to observe the traditional fishing
12 practices of the elder members.

13
14 From our prospective, this fishery is not intended
15 to impose a limitation on the future subsistence rights of
16 the tribe or its members or other Kenai Peninsula
17 residents.

18
19 In closing, the Kenaitze believe that its
20 experience for the past three summers proves that
21 traditional fishing can be successfully accomplished in
22 the villages and that its social and cultural benefits will
23 accrue to the whole community.

24
25 Subsistence fishing is as necessary to our
26 continuing tribal existence, as breathing is to us as
27 individuals.

28
29 CHAIRMAN DEMIENTIEFF: Geneva Marinkovski.
30 I'm sorry for abusing your names so much but I walk around
31 with the name of Demientieff and mine gets abused every
32 day.

33
34 MS. MARINKOVSKI: It's Marinkovski. Mr.
35 Chairman, members of the Board, my name is Geneva
36 Marinkovski. I am, too, against the non-rural
37 determination. I was born and raised in the rural
38 community of Selawik, Alaska. My parents taught me to live
39 a subsistence way of life in the Inupiat culture. As my
40 father would say, we live in a subsistence cycle.

41
42 Early spring we go out to Selawik Lake to hook for
43 sheefish. The men are out hunting for caribou and geese.
44 After the ice breakup we prepare for spring camping. We
45 fish for white fish, pike. My mom taught me how to scale,
46 cut, hang and store the catch for the winter months.
47 Summer time we were out getting greens and rhubarbs, we
48 cook all the rhubarbs and store them for the winter months.
49 Fall time we prepare food and gear so that the men can go
50 out moose hunting and bear hunting while me and my mother

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1 and siblings are out berry picking.

2

3 My mom and dad made sure that we get enough food
4 stored for our family and others for the winter months.

5

6 I can go on but this is just some of the examples
7 of subsistence I learned from my parents.

8

9 In April 1982 I moved to the Kenai Peninsula area.
10 I had to adapt to live and learn subsistence lifestyle. It
11 is very hard because of the hunting and fishing
12 restrictions and regulations we have to abide by. I would
13 like to continue to live subsistence lifestyle in the Kenai
14 Peninsula. I would like to pass on my subsistence skills
15 to my children so they can continue to live subsistence
16 cycles.

17

18 I, too, am urging the Board to reconsider its non-
19 rural determinations because I know for a fact that the
20 Kenai Peninsula is rural.

21

22 Thank you.

23

24 CHAIRMAN DEMIENTIEFF: Thank you. Elsie
25 Hendryx.

26

27 MS. HENDRYX: Good afternoon. My name is
28 Elsie Hendryx. I'm a member of the Kenaitze Indian Tribe.

29

30 I would like to urge the Board to designate the
31 Kenai Peninsula as rural. I believe that it would be
32 beneficial to the residents of the Kenai Peninsula for
33 getting grants, contracts from the Federal government and
34 even from State of Alaska, not only for the Kenaitze Indian
35 Tribe but for the Kenai Peninsula Borough and the cities
36 within the Kenai Peninsula.

37

38 With a rural preference we would be able to
39 continue the traditional and customary lifestyle we have
40 been accustomed to. Please designate the Kenai Peninsula
41 as rural.

42

43 Thank you. And I also have a resolution that was
44 from the Kenai Native Association. I'm Chairman of the
45 Board for Kenai Native Association. I'll only read the
46 part of the wherases.

47

48 Whereas the Kenai Native Association is a local
49 Alaska Profit Corporation located in Kenai established in
50 accordance with the Alaska Land Claims Settlement Act of

00209

1 1971.

2

3 Whereas, all the Alaska Native tribes and villages
4 facing increasing pressures concerning the preservation and
5 perpetuation of our culture and tradition.

6

7 Whereas, the subsistence cannot be separated from
8 our culture and tradition.

9

10 Whereas, as natural stewards of our ancestral lands
11 and its resources we have respected and depended upon these
12 resources in our inherited traditional way of life.

13

14 Whereas the Kenai Peninsula is a rural area by any
15 reasonable definition of the term as determined in the
16 following factors.

17

18 And there is seven factors here, however, I will
19 not read it, I will present it to the Board.

20

21 CHAIRMAN DEMIENTIEFF: Okay, leave it with
22 the recorder please.

23

24 MS. HENDRYX: Okay, thank you.

25

26 CHAIRMAN DEMIENTIEFF: Thank you.

27

28 MS. HENDRYX (REST OF COMMENTS):

29

30 1. Employment is seasonal (commercial fishing,
31 construction) for many Kenai Peninsula
32 residents and this creates high rates of
33 unemployment.

34

35 2. The communities of the Kenai Peninsula are
36 isolated from each other and sparsely
37 populated.

38

39 3. Many residents of the Kenai Peninsula
40 depend upon subsistence lifestyle and their
41 families have done so for generations.

42

43 4. The communities of the Kenai Peninsula
44 (with the exception of the cities of Kenai-
45 Soldotna-Homer) rely on private well and
46 septic systems.

47

48 5. Kenai Peninsula residents do not have local
49 access to specialized medical care and must
50 rely on medical facilities in Anchorage and

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1 the Lower 48 states.

2

3 6. The communities of the Kenai Peninsula are
4 not linked by public transportation. The
5 elderly and low income families find it
6 difficult to commute to shopping areas.

7

8 7. Many Federal and State funding agencies
9 including the Alaska Village Initiatives
10 and the U.S. Department of Agriculture
11 consider the Kenai Peninsula a rural area,
12 and provide funding for projects to improve
13 the well-being of rural Alaska communities.

14

15 Whereas, it is the conviction of the KNA Board of
16 Directors that the preservation and fostering of
17 traditional subsistence lifestyles for its members and all
18 Alaska Natives residing on the Kenai Peninsula is the
19 primary means for preserving and perpetuating our vital
20 culture and traditions; and

21

22 Now, therefore, be it resolved, that the KNA Board
23 of Directors fully supports and endorses the designation of
24 the entire Kenai Peninsula as rural for purposes of
25 subsistence; and

26

27 Be it further resolved, the KNA Board of Directors
28 fully supports and endorses Title VIII of ANILCA (Alaska
29 National Interest Lands Conservation Act) which grants
30 rural preference to the residents of the Kenai Peninsula,
31 thereby making them eligible to practice indigenous
32 customary and traditional subsistence.

33

34 Passed this 17th day of February, 2000. Signed
35 Richard Segura, President, Carol A. Segura, Secretary.

36

37 CHAIRMAN DEMIENTIEFF: Rosalie Tepp.

38

39 MS. TEPP: Mr. Chairman. Members of the
40 Board, my name is Rosalie Tepp. I am a Kenaitze Indian
41 Tribal member. I am the chairperson and I am going to read
42 a resolution, is there any way that I could be allowed more
43 time than three minutes?

44

45 CHAIRMAN DEMIENTIEFF: No, those are the
46 guidelines we've established.

47

48 MS. TEPP: Okay, thank you, then with that
49 I'll start.

50

1 A tribal resolution in strong support of the Kenai
2 Peninsula borough being designated a rural area for
3 purposes of subsistence.

4
5 Whereas, the Kenaitze Indian Tribe, IRA is a
6 Federally recognized tribal government reorganized under
7 the statutes of the Indian Reorganization Act of 1934, as
8 amended for Alaska in 1936, and in accordance with the
9 preamble of the tribal constitution, is responsible for the
10 social welfare of its 1049 tribal members and 1,767 Alaska
11 Native residents of the Central and Upper Southern Kenai
12 Peninsula of Southcentral Alaska; and

13
14 Whereas, the Kenaitze Indian Tribe, IRA has
15 established long-term goals which relate to the collective
16 and individual, social, economic, and government concerns
17 of its people; and

18
19 Whereas, the Kenaitze Indian Tribe, IRA the natural
20 stewards of this land and its resources since time
21 immemorial, have respected and depended upon the natural
22 resources along the Cook Inlet Basin and its tributaries as
23 our inherited, cultural way of life; and

24
25 Whereas the Kenai Peninsula is a rural area by any
26 reasonable definition of the term as determined in the
27 following factors, among others:

- 28
29 1. Employment is seasonal (commercial fishing,
30 construction) and a lack of job
31 opportunities thus creating a high rate of
32 unemployment.
- 33
34 2. Many sparsely settled communities on the
35 Kenai Peninsula are isolated from each
36 other and many people in these communities
37 have no close neighbors.
- 38
39 3. Many citizens living on the Kenai Peninsula
40 have depended upon a subsistence way of
41 life for generations, surviving on the
42 abundant wild renewable resources for food
43 for their families.
- 44
45 4. The communities of the Kenai Peninsula
46 aside from the city of Kenai and Soldotna
47 are not connected to a city sewer and water
48 system and must rely on a well and septic
49 system.
- 50

- 1 5. Kenai Peninsula residents must rely on the
2 medical facilities located in Anchorage and
3 the Lower 48 states for the most
4 specialized medical care.
5
- 6 6. The closest urban center is Anchorage, over
7 150 miles away, during avalanche season the
8 rural characteristics of the Peninsula
9 become even more evident when the highway
10 is closed. Grocery and department stores
11 shelves empty rapidly.
12
- 13 7. There is no public transportation system
14 within the Kenai Peninsula Borough, thus
15 making it difficult for elderly and many
16 low income families to commute to shopping
17 areas, medical facilities, et cetera.
18
- 19 8. There are vast areas of wilderness and
20 wildlife habitat with an abundance of fish
21 and wildlife resources.
22

23 CHAIRMAN DEMIENTIEFF: Excuse me, ma'am,
24 your time is up. Would you like to record a copy please
25 with the Recorder?

26
27 MS. TEPP: Yes.

28
29 CHAIRMAN DEMIENTIEFF: Thank you, very
30 much.

31
32 MS. TEPP (REST OF COMMENTS):

- 33
- 34 9. Many Federal and State funding agencies
35 consider the Kenai Peninsula rural, with
36 specifically designated programs or funding
37 set aside for rural communities, for
38 instance the USDA Forest Service Rural Fire
39 Protection, Rural Development Program,
40 Economic Recovery Program. The Natural
41 Resource Conservation Service's Resource &
42 Conservation Development Program, the Rural
43 Development's Community Facility Loan
44 Program, the Rural Utilities Service's
45 Electric Telecommunications Program, its
46 Water and Waste Programs; Rural Housing
47 Services Rural Development Housing Programs
48 and the Rural Transportation Planning
49 Committee (to name a portion).
50

1 Whereas, it is the conviction of the Executive
2 Committee/Tribal Council of the Kenaitze Indian Tribe, IRA
3 that the preservation and fostering of a traditional
4 subsistence lifestyle for its members and all Alaska
5 Natives residing within the Kenai Peninsula Borough is the
6 primary means of promoting and protecting the vital
7 heritage of the Dena'ina Athabascans whose ancestors
8 settled along the shores of the Cook Inlet Basin and its
9 tributaries; and

10
11 Whereas, it has been determined that tribes with a
12 cultural match are most successful economically, culturally
13 and socially; and

14
15 Whereas, the loss of the tribe's traditional
16 lifestyle will result in the loss of its cultural match, in
17 effect, creating a people who may be referred to as fish
18 out of water; and

19
20 Whereas the evidence presented over the past 10
21 plus years is overwhelming that the initial rural/non-rural
22 determinations are not and have not been consistent with
23 law; and

24
25 Whereas, the larger communities of the Kenai
26 Peninsula are comparable to those of Sitka and Kodiak, both
27 of which are determined rural, and the smaller communities
28 of the Kenai Peninsula are comparable to Saxman, also
29 determined rural in that a cohesive Native community exists
30 in each community although not a distinct geographical
31 community; and

32
33 Whereas, the ancestors of today's Kenaitze did not
34 live in distinct geographic communities but rather lived
35 semi-nomadic lives establishing harvest sites depending on
36 the resource; and

37
38 Whereas, special circumstances exist which justify
39 the reconsideration of the Board's rural/non-rural
40 determinations as follows:

41
42 1. The Board's initial rural/non-rural
43 determinations with respect to the Kenai
44 Peninsula were made without any input from
45 the Regional Advisory Council which had not
46 yet been established; the Board's initial
47 determination was based primarily on the
48 State's non-rural determination of the
49 Kenai Peninsula which the Ninth Circuit
50 Court of Appeals flatly rejected in

1 Kenaitze Tribe v. Alaska, on the ground
2 that it violated the definition of rural in
3 ANILCA. A Board determination in violation
4 of applicable mandatory law is a special
5 circumstance justifying reconsideration at
6 any time.
7

- 8 2. During the 1995 public hearings on
9 customary and traditional use
10 determinations for the Kenai Peninsula
11 conducted by the Board as well as the
12 Regional Advisory Council, a majority of
13 the local residents who testified, agreed
14 that the Boards' 1991 rural/non-rural
15 determinations were divisive, erroneous and
16 should be reconsidered. See transcripts of
17 1995 Kenai hearings. The testimony taken
18 during these public hearings, in addition
19 to providing new and relevant information,
20 also indicates that errors were made in the
21 analysis that affected the way communities
22 were aggregated.
23
- 24 3. The demographic and other information
25 relating the Kenai Peninsula contained in
26 the report of the Institute of Social and
27 Economic Research (ISER) was not available
28 at the time the Board made its 1991
29 rural/non-rural determinations. The ISER
30 report provides compelling, if not
31 conclusive evidence, that the Boards 1991
32 non-rural determinations with respect to
33 the Kenai Peninsula violated the Board's
34 own criteria for rural/non-rural
35 determinations as well as the Ninth Circuit
36 Court of Appeal's Kenaitze decision which
37 rejected the State's approach to defining
38 rural resulting in the entire Kenai
39 Peninsula being declared rural.
40
- 41 4. The Council's recommendation to the Board,
42 in and of itself, constitutes a special
43 circumstance justifying reconsideration of
44 the Board's non-rural determination. The
45 Board is obligated to defer to a Council's
46 recommendation, except in the limited
47 circumstances described in subsection
48 805(c). See Memorandum to Acting Regional
49 Solicitor, Anchorage, From Office of the
50 Solicitor, Department of the Interior

1 (April 11, 1995). Here, no justification
2 exists for rejecting the Regional Advisory
3 Council's recommendations.
4

- 5 5. The original determination was made without
6 regard to the fact that Title VIII of
7 ANILCA is Indian Legislation and, as such,
8 it favors protection of the subsistence
9 rights of the Kenaitze people. The term
10 rural in ANILCA should then be given as
11 broad a determination as applied to other
12 Federal programs (stated previously) that
13 extend rural benefits to the Kenai
14 Peninsula.
15

16 Now, therefore, be it resolved by the Executive
17 Committee/Tribal Council of the Kenaitze Indian Tribe IRA
18 fully supports and endorses Title VIII of ANILCA (Alaska
19 National Interest Lands Conservation Act) which grants
20 rural preference to the citizens of the Kenai Peninsula
21 Borough, thereby making them eligible to practice their
22 indigenous customary and traditional subsistence way of
23 life.
24

25 Certification. Rosalie A. Tepp, Tribal
26 Chairperson, Kenaitze Indian Tribe, IRA, Esther Segura,
27 Tribal Secretary Kenaitze Indian Tribe, IRA, March 1, 2000.
28

29 Voting for six, voting against zero, abstaining
30 zero and one absent.
31

32 CHAIRMAN DEMIENTIEFF: Bill Thomas.
33

34 MR. THOMAS: Thank you, Mr. Chairman,
35 members of the Board. I'm here representing myself and I
36 speak in support of the petition to reconsider the
37 designation for the Kenai Peninsula.
38

39 I'm not going to get into a lot of language here.
40 I'd like to draw your attention to the interagency Staff
41 Committee recommendation. With all due respect to the
42 Staff Committee, in the past, have given us some very
43 detailed effective and productive recommendations. I'm
44 here to tell you that this one doesn't. You take a look at
45 it and there isn't -- it looks like it's been written by
46 the Outdoor Council is what it looks like.
47

48 And your charge is a Federal charge, a
49 congressional charge. And the Division, on this issue is
50 very much resembles that of the politics of the State. The

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1 attitudes of the various user groups. That shouldn't be
2 the case.

3
4 ANILCA is not tribal law. It's a law that is
5 geographically oriented. It talks to areas that are rural,
6 rural generally means remote in one sense or another. So
7 by not meeting the challenge or meeting the test of the
8 Federal formula for determining rural and non-rural, is not
9 left up to the State. It's been specified, it's easy to
10 follow and I don't think that you folks need to subject
11 yourself in trying to tell with something that the State
12 Legislators should be dealing with. They file lawsuits
13 whenever they feel like it. I don't think you guys should
14 be pointing to that.

15
16 I think you should represent ANILCA in its existing
17 language with its existing intent.

18
19 There's been a lot of talk about process. Board
20 determination. Challenges. None of those challenges have
21 offered alternatives that would benefit. Any information
22 that came from a non-congressional direction has led to a
23 diluted or a non-effective way of applying Title VIII of
24 ANILCA.

25
26 ANILCA's very clear, it's very plain. It takes
27 away a lot of creativity.

28
29 CHAIRMAN DEMIENTIEFF: Bill your time's
30 expired.

31
32 MR. THOMAS: Turn me off.

33
34 CHAIRMAN DEMIENTIEFF: Thank you. Wayne
35 Wilson.

36
37 MR. WILSON: Hello. I was here in March to
38 give my testimony so I don't want to repeat everything I
39 said last time. Let me say is I'm Native, I've been around
40 here my whole life and my family lives of the land and the
41 sea or the water, and it's very important to them.

42
43 And listening to everybody here it's important to
44 them that they have their subsistence rights, too. So I
45 could sit here and bore you about stories and stuff but
46 you've heard them already so that's all I have to say.

47
48 I hope you make it rural, thank you.

49
50 CHAIRMAN DEMIENTIEFF: Thank you, very

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1 much. There's been a little less testimony, I think, than
2 we anticipated so what I'm going to do is we're just going
3 to take a short break here. After the break we'll call
4 for, see if there's anybody else that's signed up and then
5 when we come back we'll have a summary by the Kenaitze
6 Indian Tribal attorney. We'll have the Alaska Department
7 of Fish and Game will summarize their comments. The
8 Regional Council representative will give their
9 recommendation. The Staff Committee will give their
10 recommendation. And then the Board will resolve the
11 issues.

12
13 Thank you, everybody. We'll take a five minute
14 break or so.

15
16 (Off record)
17 (On record)

18
19 CHAIRMAN DEMIENTIEFF: We'll go ahead and
20 call the meeting back to order. There have been no
21 additional requests for public testimony at this time. So
22 that will be the end of the public testimony period. At
23 this time we'll call on the attorney for the Kenaitze Tribe
24 to summarize their concerns. It will be followed by the
25 Alaska Department of Fish and Game comments.

26
27 MS. DANIEL: Thank you, Mr. Chairman,
28 members of the Board, Staff and the general public. My
29 name is Carol Daniel and I'm the attorney or one of the
30 attorneys for the Kenaitze Indian Tribe.

31
32 We have filed extensive written comments and
33 they're part of your packets. I realize that time is
34 limited so I won't go into great detail on the written
35 comments and will trust that you have those materials in
36 front of you.

37
38 I would, today, like to strongly urge the Board to
39 adopt the minority Staff recommendation and grant the
40 Kenaitze Indian Tribe's request to reclassify all
41 communities on the Kenai Peninsula as rural for purposes of
42 Title VIII of ANILCA.

43
44 The first point I'd like to make is that this Board
45 needs to make a decision. The Staff Committee
46 recommendation, as I read it, the majority Staff
47 recommendation is that this Board again defer consideration
48 -- reconsideration of the Kenai Peninsula rural
49 determinations until the year 2000 census data is available
50 and a study of revised criteria and methodology to be used

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1 for determining rural after the census data has been
2 completed.

3
4 The way I read the Staff recommendation is directly
5 contrary to this Board's decision in May of last year. At
6 that meeting the Board determined that special
7 circumstances existed to reconsider the Kenai Peninsula
8 rural determinations. The Board directed the Staff to
9 reevaluate the 1990 rural determinations for the Kenai
10 Peninsula communities for a decision at this meeting. The
11 Federal Register notice that was published in February
12 expressly stated that the purpose of the Proposed Rule was
13 to start the process leading to a decision at this meeting.
14 Instead the recommendation from the Staff appears to be,
15 rather than making a recommendation for a decision, the
16 Staff has once again recommended that the Board defer the
17 decision. I would submit that this process has gone on
18 long enough. It's been on the table since the fall of
19 1995. People have testified at hearing after hearing, at
20 meeting after meeting, the Regional Council has three times
21 recommended to the Board that the Kenai Peninsula be
22 determined rural. So we need a decision, not another
23 deferral.

24
25 The Board can undertake a study of revised
26 methodology and revised criteria after the 2000 census data
27 becomes available and we strongly encourage that. It can
28 be included and used to revise -- to review all the
29 communities in Alaska, including the Kenai Peninsula
30 communities. But that's no excuse for not making a
31 decision today about the rural status of the communities on
32 the Kenai Peninsula.

33
34 To do so, I would submit, goes against the Board's
35 earlier decision not to defer action until the census data
36 is available and it seriously undermines the public
37 process.

38
39 Secondly, I'd like to touch just a moment on the
40 Staff analysis on reevaluation of the rural determinations.
41 This Board, at its May 1999 meeting directed the Staff to
42 reevaluate the Kenai Peninsula using the same rural
43 determination standards and process that was used in 1990.
44 It's clear to me that the Staff did not do so as pointed
45 out in the January 2000 addendum prepared by Dr. Kruz to
46 his 1998 ISER report. The Staff analysis does not consider
47 the Kenai Peninsula communities in the same way that it
48 considered communities such as Sitka, Kodiak and Saxman.
49 Based on special factors, those communities were
50 reclassified from non-rural to rural and as highlighted in

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1 our written comments and the addendum to the ISER report,
2 those same special circumstances apply equally on the Kenai
3 Peninsula.

4
5 The 2000 census data will not provide any new
6 information on those special circumstances relative to
7 those special factors.

8
9 In fact, this Board has more information before it
10 on the special factors for the Kenai Peninsula than it had
11 on any of those communities in 1990 for Kodiak, Saxman and
12 Sitka.

13
14 And, again, if the facts change, it can be
15 corrected after the 2000 census data. The Board can
16 revisit it at that time.

17
18 The third point is that the Board's decision, if
19 favorable, will not wreck havoc on the Kenai Peninsula.
20 Much of the public comment has focused on what a bad result
21 it would be to find the Kenai Peninsula rural and I'd just
22 like to make the point that public opinion is not among the
23 special -- the social and economic factors that the Board
24 is entitled to consider. The Board must consider the
25 statute itself and the regulations.

26
27 But I realize it's a tough decision in light of
28 some of the strong public comments in opposition from
29 special interest groups on the Kenai Peninsula. So for
30 that reason I'd like to respond to the notion that
31 enforcement of a rural priority would cause economic harm
32 to the commercial and sport fishing industries or to the
33 tourist industry. I would submit that that's not the case.

34
35 First, we're talking about hunting and fishing that
36 takes place on Federal public lands. The marine waters of
37 Cook Inlet where all the commercial fishing and a
38 considerable amount of the sport and personal use fishing
39 takes place in marine waters that are not Federally
40 reserved waters. So a Federal rural priority would not
41 apply to those waters. And most of the rivers on the Kenai
42 Peninsula, including large stretches of the Kenai River are
43 not within public lands. This, combined with the fact that
44 subsistence take is very small means that granting the
45 priority to subsistence users on the Kenai Peninsula will
46 not substantially effect other fisheries on the Kenai
47 Peninsula or the tourism industry.

48
49 Second, before there can be any hunting or fishing
50 for any of these communities reclassified as rural there

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1 has to be customary and traditional use determinations.
2 And I would submit that many of these communities may not
3 be able to meet the C&T determinations.

4
5 And finally, again, I'd like to emphasize that
6 subsistence uses, when they've been allowed on the Kenai
7 Peninsula have always accounted for a very small percentage
8 of the harvest. A 1980 study indicated that it was less
9 than one percent of a total harvest of over four million
10 salmon.

11
12 The current personal use fisheries that are in
13 place on the Kenai Peninsula are substantially the same
14 subsistence fisheries that were put in place after the
15 McDowell Decision by the State of Alaska. And under the
16 McDowell Decision, those fisheries are open to all Alaskans
17 not just the people who live on the Kenai Peninsula. And I
18 would submit to you that the sport fishery industry and the
19 commercial fishing industry are alive and well on the Kenai
20 today.

21
22 The same is obviously going to be true if this
23 Board grants a rural priority for the Kenai communities.

24
25 The fourth point I'd like to make is that Congress
26 intended to protect the subsistence practices of people
27 like the Kenaitze. Title VIII expresses an overriding
28 congressional policy of protecting subsistence rights of
29 Alaska Natives. In making the rural determination for
30 Sitka, Kodiak and Saxman, this Board placed heavy emphasis
31 on the intent of Congress. Congress intended to protect
32 Native culture of which it is a primary and essential
33 element for generation upon generation for as long as the
34 people themselves chose to participate.

35
36 The Kenaitze, like the people of Kodiak, Saxman and
37 Sitka have always followed a subsistence lifestyle. And I
38 guess the point I'd like to make is the only way they'll be
39 able to continue do so is if this Board declares the
40 communities on the Kenai Peninsula to be rural. The law,
41 Title VIII of ANILCA needs to be interpreted broadly to
42 accomplish Congress' purpose. As we pointed out in our
43 previous testimony and in written comments to this Board,
44 the term rural in ANILCA should be given at least as broad
45 an interpretation as it is given in all other Federal
46 programs applicable to the Kenai Peninsula.

47
48 The Staff analysis does not explain how the Kenai
49 Peninsula communities can be rural for every conceivable
50 purpose but subsistence.

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1 In closing, I'd like to urge the Board to find the
2 Kenai Peninsula to be rural. It's rural characteristics
3 are comparable to those of other places in the state of
4 Alaska that have found to be rural. That's documented in
5 the ISER report and the same special circumstances which
6 led this Board, on reconsideration, to find Sitka, Kodiak
7 and Saxman should be reclassified as rural, apply with
8 equal force to the communities on the Kenai Peninsula.

9
10 And I guess I'll conclude my testimony with that
11 and I'm willing to answer any questions if anyone has
12 questions about our written testimony.

13
14 CHAIRMAN DEMIENTIEFF: I have just a
15 comment, I think. I share with you your concerns, I think
16 I speak for the Board, one way or the other we are going to
17 decide this issue here, this afternoon. I already talked
18 to the State representative who is going to speak next, but
19 if I could ask you to just stay with us in case the Board
20 needs to call on you for a resource.

21
22 Thank you.

23
24 MS. DANIEL: Thank you.

25
26 CHAIRMAN DEMIENTIEFF: Jim Fall, Department
27 of Fish and Game.

28
29 MR. FALL: Thank you, Mr. Chairman. I
30 really appreciate this opportunity to address the Board
31 this afternoon. My name is Jim Fall, I'm the regional
32 program manager for the Division of Subsistence for the
33 Department of Fish and Game and I will be presenting the
34 Department and the State of Alaska's comments for you this
35 afternoon. I'll try to be brief because we've submitted
36 substantial comments on this issue for this meeting and for
37 past discussions on this topic.

38
39 I'd like to refer to the March 31st, 2000 letter to
40 the Federal Board Chairman from Commissioner Frank Rue,
41 which I believe is in your packet and which lists some
42 points that we offered for your consideration this
43 afternoon. I'll highlight these and then give a bit more
44 detail on a couple of them.

45
46 First of all, the Proposed Rule and Staff analysis
47 of the request to declare the entire Kenai Peninsula rural
48 do not recommend changes to existing regulations at this
49 time and the State supports this outcome and does not
50 believe that additional rural designations are justified

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1 for the Kenai Peninsula.

2

3 Second, we recommend that the Federal Subsistence
4 Board review the rural and non-rural designations for the
5 Kenai Peninsula following the publication of the year 2000
6 US census data which would be consistent with your
7 established procedures. At that point, updated information
8 will be available and this is especially important given
9 the rapid population growth and economic diversification
10 that has taken place in the Kenai Peninsula over the last
11 10 years. And Attachment A of our submission gives some
12 more background on that one.

13

14 Third, we support the Federal Subsistence Board's
15 direction to Staff to develop an improved methodology for
16 making rural determinations to be applied for the decennial
17 review and we also offer detailed comments on the Staff
18 report, especially relating to methodology and related
19 issues. And that's attached as Attachment B. And we hope
20 that in the development of the new and improved procedures,
21 that our comments on the Staff analysis will be taken into
22 consideration.

23

24 I'll skip the fourth point for a second in the
25 letter and go on to number 5.

26

27 We believe that in applying the Federal standards
28 for rural designations which this Board adopted, that the
29 existing social economic and community characteristics of
30 the Kenai Peninsula continue to justify aggregation of the
31 road connected areas of the Peninsula and that new rural
32 designations are not supported by the facts. And as we
33 stated in previous comments, we believe that the analysis
34 of extensive information by the joint board of Fisheries
35 and Game provides good guidance for this body in making
36 rural and non-rural determinations. Not only on the Kenai
37 Peninsula but throughout the state.

38

39 And number 6, we attached some letters from earlier
40 comments, Attachments F, G and H which give additional
41 recommendations about the kinds of information and
42 questions that we think are appropriate for this decision
43 at this time. I won't go into details on those unless you
44 wish.

45

46 The last comment that I'd like to address this
47 afternoon and go into a little bit more detail on has to do
48 with organization, the people who have come before you
49 today asking for this change in the classification of the
50 Kenai Peninsula. And our comments, I think, appropriately,

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1 have focused on the Kenai Peninsula, overall, the
2 predominant characteristics of the Peninsula, the dominate
3 historical patterns of change that have occurred there.
4 The Department and the State of Alaska recognize that the
5 Kenaitze Tribe has a long historic use of wild resources on
6 the Kenai Peninsula. That's where they've always been,
7 they didn't come from anywhere else.

8
9 Like other Alaska Native population which have been
10 overwhelmed by rapid urbanization, the Kenaitze Tribe has
11 become a subgroup within a much larger population in the
12 Kenai/Soldotna area. Current Federal and State laws do not
13 allow for the rural subsistence priority within urbanized
14 areas, non-rural areas. And it's not possible to designate
15 the Kenaitze Tribe as a separate rural population because
16 the tribal members are geographically dispersed within the
17 greater Kenai/Soldotna population. Given this situation,
18 the State of Alaska has developed some special educational,
19 fishery and cultural use permits as a means for recognizing
20 and providing opportunity for cultural uses of wild
21 resources by subgroups like the Kenaitze. And we are
22 committed to providing opportunity for long historic
23 resource use patterns through mechanisms such as these
24 educational fisheries and cultural use permits.

25
26 And I'd like to give you a few more details on
27 these because we haven't heard much about these this
28 afternoon. And I'd like to mention, also, that two other
29 members of the Department are here this afternoon to give
30 some more background on these opportunities if you so
31 desire, Doug McBride from the Division of Sportfish and
32 Linda Branian from the Division of Commercial Fisheries.

33
34 First, the Educational Fishery Program which is
35 adopted -- which is authorized under a Board of Fisheries
36 regulation 5 AAC 93.200. And the purpose here is it's
37 basically designed to meet educational and cultural goals
38 that are not met through existing opportunities. The
39 conditions of the permit are reviewed annually by the
40 Department in consultation with the applicant and can be
41 adjusted annually. We just issued seven permits for
42 educational fishery programs for Southcentral Alaska for
43 this coming year. Specifically, for the Kenaitze Tribe,
44 the educational fishery has operated annually since 1989
45 and presently the permit allows the operation of a set
46 gillnet by the Tribe in the Lower Kenai River from May 1st
47 through October 15th. There's a 5,000 salmon total harvest
48 associated with the educational fishery. In 1999,
49 according to the report prepared by the Kenaitze Tribe,
50 about 2,600 salmon were taken in the educational net and

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1 over the long-term of the fishery, the range has been
2 between 2,100 salmon and 5,000 salmon with a mean of about
3 3,400 salmon. Within the guidelines of the permit, the
4 Tribe decides who fishes the net, when it is fished and how
5 the fish are distributed among users. The harvests are
6 reported weekly to the Department and as part of the
7 permit, the Tribe is required to submit an annual report to
8 address how its educational goals for the fishery were met
9 in that year.

10
11 In the Department's view, this is an exemplary
12 program, it's one of the best we have, annually. The
13 reports that are provided by the Kenaitze are just a prime
14 example of a well run program. It is very clear that the
15 program involves youth, it involves elders, it involves
16 teenagers, it involves most of the Tribe. The educational
17 opportunities that are provided are both formal and
18 informal. And it involves more than the Kenaitze Tribe.
19 In reviewing the report for last year, I noted that youth
20 associated with the Cook Inlet, with CIRI and with the Cook
21 Inlet Tribal Council were invited to participate and indeed
22 the Tribe, itself, has a lot of responsibility in running
23 this program and it does it very well.

24
25 When this was developed it was a new program, it
26 has evolved over time. It can continue to evolve. There's
27 -- because of the way it's set up, the permit must be
28 applied for annually and that gives us the opportunity to
29 talk with the Kenaitze about their goals for the future and
30 if, indeed, the current program is not meeting everything
31 that they would like it to do. We should talk about that
32 and we should think about ways to change it within the
33 guidelines established by the Board of Fisheries.

34
35 I'd like to mention, too, regarding hunting, that
36 there is a permit that we can award called permit to take
37 game for cultural purposes. And this is very short, I'd
38 just like to read to you what this regulation says.

39
40 It says: The Commissioner may issue a permit for
41 the taking of game, including deer, moose, caribou, black
42 bear, mountain goat, small game and furbearers for the
43 teaching a preservation of historic or traditional Alaskan
44 cultural practices, knowledge and values only under the
45 terms of a permit issued by the Department upon
46 application. A permit may not be issued if the taking of
47 game can be reasonably accommodated under existing
48 regulations.

49
50 In other words, here's another opportunity as with

00225

1 the educational fishery to take a look at what is being
2 provided for by general hunting provisions, personal use
3 provisions and so forth and asking organizations and
4 tribes, what can't you do in terms of your goals for
5 cultural preservation and teaching of youth? What can't you
6 do with existing regulations and what can we do to set up
7 something to help you achieve those goals.

8
9 The Kenaitze have been issued permits for the
10 taking of game for cultural purposes in 1995, '96, '98 and
11 '99. They took a moose. I reviewed the 1998 report, in
12 which, the Kenaitze did harvest a moose. It involved five
13 youth in that taking of that moose. They were taught
14 butchering techniques, the meat was used in tribal
15 functions. Other parts of the animal, including the leg
16 bones, the hooves, the hide were used in the Dena'ina
17 winter programs that the Tribe runs. An excellent report
18 was submitted with photographs to show that. We'd be the
19 last ones to say that this is adequate for providing for
20 the teaching of youth. The goal here is to supplement the
21 hunting seasons and opportunities that are already there.

22
23 In addition, the Board of Game has adopted a
24 regulation for the taking of big game for certain religious
25 ceremonies which I can go into if you like except for to
26 note that this program does not require an advanced permit
27 out of respect for the religious traditions of Alaska
28 Native people. It does request that after the animal is
29 taken that a report be provided to the Department.

30
31 And over the years the Board of Game has adopted
32 some other special permitting procedures for Alaska Native
33 ceremonies such as the stick dance and the Nechelowia (ph)
34 potlatch which takes place at Tanana which have special
35 authorizations within regulation recognizing those cultural
36 practices in addition to what people can already do.

37
38 I think with that, Mr. Chair, I would just close
39 the State's comments at this time and see if there are any
40 questions.

41
42 Thank you, very much.

43
44 CHAIRMAN DEMIENTIEFF: Thank you, Jim. The
45 one comment, of course, restriction that we have is that it
46 can only be done in rural areas, our -- you know, we've
47 done similar types of things all over the state but we're
48 restricted to the ANILCA standard. Are there any other
49 questions of Jim or comments for Jim.

50

00226

1 MS. GOTTLIEB: Mr. Chair.

2

3 CHAIRMAN DEMIENTIEFF: Yes.

4

5 MS. GOTTLIEB: Jim, I was wondering, we
6 heard mentioned before about round-table discussions that
7 were going on, are you or the State part of those
8 discussions?

9

10 MR. FALL: Mr. Chair, I was not aware of
11 those discussions, perhaps someone else in the Department
12 has been involved but that was news to me.

13

14 CHAIRMAN DEMIENTIEFF: If there is no other
15 questions, thank you, Jim, and if you and your Staff will
16 hang on with us in case we need you for a resource. Thank
17 you.

18

19 Okay, Southcentral Regional Council recommendation.

20

21 MR. LOHSE: Mr. Chair. As you know this
22 has been before the Southcentral Regional Council since
23 1995, we've dealt with the issue, we've had public hearings
24 on the issue. In 1995, September 28th, 1995, to be exact
25 the Southcentral Regional Council at a public meeting in
26 Anchor Point, Alaska, recommended to the Board that they
27 find the Kenai Peninsula rural.

28

29 At our March 23rd, 1999 public meeting, the
30 Regional Council reaffirmed its recommendation that the
31 Board reconsider its 1991 non-rural determination with
32 respect to the Kenai Peninsula and declare all of the
33 communities on the Kenai Peninsula rural.

34

35 And on March 3rd, 2000 the Southcentral Regional
36 Council unanimously passed a motion to recommend to the
37 Federal Subsistence Board to leave the Regional Council's
38 original recommendation stand.

39

40 So you can see that we've dealt with this a number
41 of times and the opinion of the Council and the Council
42 membership has changed over that time period, we've had
43 some new members, we have a couple members now who are
44 right from the Kenai. I'd like to actually read a little
45 comment at this time to show how strongly some of those
46 members feel about it.

47

48 This is by Fred Elvis. He's from Seldovia. And
49 basically what he states is that the Kenai Peninsula is the
50 homeland of the Kenaitze people. It's been invaded by

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1 thousands of people through time and the Kenaitze's have
2 seen their homeland taken away by State and Federal acts,
3 laws to the point where they're being told, you have no
4 more land or resources to give up so now you must give up
5 your lifestyle. He has a copy of that in the public
6 comment for the Court Reporter.

7

8 That shows how strongly some of us feel.

9

10 As a Council, we've given this our considered
11 opinion. We're not saying that we're 100 percent right on
12 it but we believe that ANILCA doesn't deal with popularity
13 or economic impact, it doesn't even deal with opportunity,
14 it doesn't deal with Native or non-Native. What the
15 question before you deals with is a rural preference in the
16 use of fish and game resources.

17

18 The question here, has been a lot spoken to this
19 but it's not even if there are customary and traditional
20 use patterns on the Kenai, the question that you have to
21 face is whether the Kenai, as a whole, for all residents is
22 a rural place to live as requested by the Kenaitze Tribe.
23 In the considered opinion of our Council, it is a rural
24 area. If we, as Council members, lived there as some of
25 our Council does, we would all consider ourselves rural
26 residents living in a rural area no matter where we lived
27 on the Kenai in comparison to areas that we really consider
28 urban areas.

29

30 We, as a Council, feel that ANILCA was put in place
31 to provide for rural or local priority, if you want to call
32 it that, in the use of subsistence resources. We feel that
33 the Kenai Peninsula should have that priority.

34

35 CHAIRMAN DEMIENTIEFF: Thank you, Ralph.
36 Staff Committee recommendation.

37

38 MS. FOX: Thank you, Mr. Chair. The
39 interagency Staff Committee recommends that the Board defer
40 the Kenaitze Tribal request to reconsider Kenai Peninsula
41 rural determinations until the year 2000 census data and
42 the results of a study of revised rural determination
43 criteria and methodology are available.

44

45 There are concerns with the methodology and the
46 available data that were used in making rural
47 determinations for the Kenai Peninsula communities and
48 areas and possibly other Alaskan communities. In
49 particular, criteria used to aggregate communities were
50 problematic. A defensible methodology for reviewing

00228

1 statewide rural determinations is being developed and
2 should be available when the year 2000 census data are
3 available. Such a review of the criteria and methodology
4 will be done by an institution devoted to research such as
5 a university. Moreover, the review of statewide
6 determinations will involve the Subsistence Regional
7 Advisory Councils.

8
9 The motion to defer the Kenaitze Tribal request
10 until Kenai Peninsula rural determinations can be reviewed,
11 along with the rest of the state, was passed by a vote of
12 3-2. While recognizing the Kenaitze Indian Tribe's long-
13 term uses of resources and cultural heritage on the Kenai
14 Peninsula, the majority felt that the Tribe does not
15 represent the characteristics of the communities as a whole
16 for the purpose of determining whether the communities are
17 rural or non-rural.

18
19 The minority favored granting the Kenaitze's
20 request to find the entire Peninsula rural. The minority
21 opinion is that the residents of Kodiak, Saxman and Sitka
22 argued successfully that they are rural communities, even
23 though the application of rural criteria in those
24 communities was originally a denial of rural status. The
25 minority feels that had the residents of the Kenai
26 Peninsula been better organized to influence the Board
27 through oral testimony, they, too, would have been granted
28 rural status. The minority is also concerned that the
29 Board may have erred in aggregating smaller communities or
30 areas with the larger communities of Kenai, Soldotna, Homer
31 and Seward.

32
33 CHAIRMAN DEMIENTIEFF: Thank you. With
34 that, this becomes now the property of the Board.

35
36 MR. CESAR: Mr. Chairman.

37
38 CHAIRMAN DEMIENTIEFF: Niles, yes.

39
40 MR. CESAR: I would like to move that we
41 reject the interagency Staff recommendation and adopt the
42 minority Staff position which would accept the petition of
43 Kenaitze Indian Tribe and find that all of the communities
44 on the Kenai Peninsula are rural.

45
46 CHAIRMAN DEMIENTIEFF: There's a motion, is
47 there a second.

48
49 MR. CAPLAN: Second.

50

00229

1 CHAIRMAN DEMIENTIEFF: Thank you. Before
2 begin to debate, I want to -- I have a special little
3 message for the Kenaitze Tribe. It's mostly personal in
4 nature. It won't guide, however, my decision, but there is
5 a personal message, I think, that's important to you.

6
7 1917 my little tribe in Nenana was you, 20,000
8 people moved in on top of us as the gold fields in
9 Fairbanks were being developed. 20,000 people. It was a
10 different time, though. It was different laws, you know,
11 there wasn't all the great concerns, there weren't that
12 many people. We sold them moose meat to build the
13 railroad, that's how those times were. Fortunately for us,
14 they built a bridge across the Tanana River and all those
15 people moved into Fairbanks. I see a big highway coming
16 from the Peninsula but I see more people coming in than
17 leaving. Those people moved into Fairbanks, there are two
18 villages there, Chena and Salchaket, of our four villages
19 of my particular people and those were two of the villages
20 that we were very close to.

21
22 When Fairbanks moved in on top of those two
23 villages, those two villages were gone. There is no Chena
24 village today. There's a Salchaket site but there's nobody
25 there. There's a few remnants of the families of those
26 people that are around. I'm related to some of them.

27
28 And for that, irregardless, of the Board decision
29 today, I want to congratulate the Kenaitze Tribe for
30 persevering because we lost half of our people in the early
31 part of the century by people moving in on us. So I just
32 congratulate you for persevering.

33
34 However, again, it's not going to be the deciding
35 factor, it's not me -- were I to vote on my motions, you
36 know, that would be the way I'd go but in this
37 responsibility in this day, you know, I've got to decide
38 this thing on the facts but I thought that that was a
39 message that you needed to hear, win or lose in this
40 decision.

41
42 With that, we'll begin the discussion.

43
44 Mr. Allen.

45
46 MR. ALLEN: Thank you, Mr. Chairman. As I
47 see it, the question before the Board today is whether or
48 not the entire Kenai Peninsula is rural based on population
49 and community characteristics as described in the Board's
50 regulations for rural determinations of eligibility for the

00230

1 subsistence preference under Title VIII of ANILCA.

2

3 Like you, Mr. Chairman, I don't question the
4 longstanding culture and traditions of subsistence use by
5 the Kenaitze or other tribal members on the Kenai
6 Peninsula. However, use of fish and wildlife by
7 communities is only one factor among several that the Board
8 must consider in making its rural determinations.

9

10 A community must be rural in character, considered
11 as a whole with respect to several factors if it is to be
12 determined rural using the Board's regulatory guidelines.

13

14 An unfortunate consequence of urbanization as
15 you've indicated yourself with regard to Fairbanks is also
16 being seen on the Kenai Peninsula and that some members of
17 Alaska Native tribes are currently not eligible for the
18 rural subsistence priority provided for by ANILCA.
19 Concerns have been raised about the community aggregation
20 criteria in our regulations and their affect on the Board's
21 rural determinations made for the Kenai Peninsula. The
22 aggregation, methodology, in my view, is a reasoned process
23 for communities in close proximity to each other or which
24 even merge together are integrated socially, economically
25 and communally.

26

27 As our public record shows, the methodology uses
28 both population size and community characteristics to
29 formulate its rural findings. For example, the
30 aggregations of communities on the Kenai Peninsula known as
31 the Kenai area has a population today of over 22,000
32 people. And it's economic diversity is even more -- is
33 even greater today than it was 10 years ago. This same
34 area exceeded 14,000 people when the Federal Subsistence
35 Board made its original non-rural determination of this
36 area in 1990.

37

38 In my review of the public record, I do not see
39 anything new that would persuade me to change that
40 determination for the Kenai area or the aggregated
41 community of Seward or Homer. Nor do the comparisons made
42 between the Kenai Peninsula and the communities of Saxman,
43 Sitka and Homer [sic] provide compelling evidence to
44 conclude a rural determination is appropriate for the Kenai
45 Peninsula. In fact, that comparison and the additional
46 information provided, even by the ISER report, has only
47 raised new questions in my mind about whether the Board's
48 decision in 1990 for Sitka, Kodiak and Saxman were, in
49 fact, the correct one.

50

00231

1 Once again, I do not question the longstanding
2 culture and traditions of subsistence use of fish and
3 wildlife by Alaska Natives on the Kenai Peninsula or
4 elsewhere in Alaska. I also have a deep respect for the
5 passion with which all Alaska Natives pursue their distinct
6 subsistence cultures. Unfortunately, the remedy that many
7 Alaska Natives still seek, under ANILCA, that is, to
8 continue their subsistence lifestyle is not available to
9 everyone.

10
11 I believe the Board does need to make a decision,
12 as you've indicated, but I cannot support the current
13 motion and will vote against it.

14
15 Thank you.

16
17 CHAIRMAN DEMIENTIEFF: Thank you, Mr.
18 Allen.

19
20 MR. CAPLAN: Mr. Chairman.

21
22 CHAIRMAN DEMIENTIEFF: Yes.

23
24 MR. CAPLAN: My name is Jim Caplan. I'm
25 Deputy Regional Forester for the Forest Service here in
26 Alaska. And I want to point out that the significant
27 portion of the Kenai Peninsula are taken up by the Chugach
28 National Forest and mention, as I have previously, of the
29 close partnership that the Forest Service has with the
30 Kenaitze people in helping to interpret, you know, past
31 historic and pre-historic events and habitation and uses of
32 that national forest.

33
34 And, therefore, I do hold them in the highest
35 esteem. In many meetings with them, we have done a lot
36 together and done well.

37
38 I also want to take a moment and commend the Staff
39 for dealing with a difficult, very difficult issue, over
40 which must testimony has been taken. And also commend the
41 people on the Kenai who are beginning the process of
42 community interaction, the round-tables, the mediated
43 opportunities for community dialogue. Because if I were to
44 address a remark to the people of the Kenai currently I
45 would say, one of the reasons why you're before the Federal
46 Board today is because you failed to honor your
47 neighborliness, you failed to honor your neighbors, your
48 relationships, your communities. And petitioning to a
49 Federal Board for remedy is not self determination, it's
50 giving up your power to someone else.

1 So as we go through this process, whether we vote
2 up or down on rural, I would encourage that those round-
3 tables go on and that the people have the opportunity over
4 time to resolve their disputes at the local level instead
5 of escalating them to a level which doesn't necessarily
6 take into account all the things that ought to be done.

7
8 Let me say that things have changed since 1990 and
9 1991. One of the reasons why I seconded the motion is
10 because of the things that have changed. First, we have
11 Regional Subsistence Advisory Councils and you heard Ralph
12 give his presentation. Three different times they have
13 voted in favor of rural designation for the Kenai. They
14 weren't in place back then and we listen to them carefully
15 now because they often convey to us the information from
16 local people which is absent in many of these meetings.
17 And although we don't defer to them on questions of rural
18 designation, as a Board, nonetheless, they provide powerful
19 persuasion to us over what we ought to do.

20
21 The second thing that's happened since the early
22 days is that Sitka, Kodiak and Saxman were designated. And
23 I want to point out that many of the reasons why they were
24 is because there is a distinct enclave of Native folks
25 within those communities. I visited those places and even
26 have relatives living in one of them. My point, however,
27 is, that in the case of the Kenaitze we do not have that
28 distinct enclave and, therefore, I am not very well
29 persuaded by their argument that they have been poorly
30 treated in light of what happened with Sitka, Kodiak and
31 Saxman.

32
33 The Kenaitze have petitioned us, starting in 1995,
34 and they've made good arguments, this is also a change
35 since 1990, about their concerns for the Kenai and their
36 willingness to continue in a subsistence lifestyle. In
37 addition, the Board has a lot of expertise now that it
38 didn't have in 1990. Not speaking for myself, I'm a
39 relatively new member only four years on the Board, but the
40 folks around the table here have many, many years of
41 experience now in processing petitions from people for
42 customary and traditional uses. We've heard arguments that
43 were never heard in 1990 and many people were able to bring
44 that expertise to the table. And so it's a different
45 Board, not only different individuals but a higher level of
46 expertise.

47
48 In addition, I also respect other Federal agencies
49 such as the Census Bureau. My sister agencies within the
50 U.S. Department of Agriculture and others who refer to the

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1 Kenai Peninsula as rural and provide services because of
2 the rural nature of the communities on the Kenai. In many
3 cases the infrastructure of those communities has been
4 developed as a result of being treated as rural
5 communities.

6
7 A few other points. I feel that the aggregations
8 were accurate in 1990 and they're probably accurate today.
9 And the reason simply is, when people live close to one
10 another on a road system or within a cove in Southeast
11 Alaska, where I'm from, they get back and forth. They find
12 ways to communicate, to barter, to share wealth in one form
13 or another. Either through employment or through
14 subsistence resources. And I find that those aggregations
15 are pretty persuasive. That people are going back and
16 forth and that those communities are -- even though they
17 have different names for different places, are successful
18 aggregations.

19
20 The only one that I have a problem with is that,
21 which joins Moose Pass with Seward. My sense is that the
22 communities north of Seward are generally not a part of the
23 Seward community. But I would await more information on
24 that to arrive at a conclusion.

25
26 So as I said before, I think the aggregations made
27 earlier by the Board were accurate.

28
29 I would have to say also that the population
30 density has been pointed out by others on the Kenai
31 Peninsula is extremely low. Part of the reason is is
32 because of the availability of the National Wildlife
33 Refuge, National Forest and the National Park, which are
34 wild lands immediately proximate to the communities and are
35 used by the people in the communities. In addition, the
36 sea is there, the ocean is there and people make connection
37 with that. So in many ways, the area is dominated by
38 extensive, undeveloped natural resources and in the more
39 intensively developed areas where people live, there is
40 urban phenomenon, but this is in the context of a very,
41 very wild piece of real estate.

42
43 And, therefore, what happens, I find, when I'm
44 traveling and I've extensively traveled up and down the
45 Kenai Peninsula is that the transitions from lands adjacent
46 to the communities, the community themselves, can be quite
47 abrupt. You don't see the transitions there that you do
48 around Anchorage and other cities in the Lower 48 and other
49 places, and that is, that you transition from forest to
50 cultivated fields to towns to suburbs to cities, instead

00234

1 the transitions along the Kenai for the most part are very
2 abrupt. And what that indicates is there is not extensive
3 urbanization around those communities.

4
5 Also since the time that the Board first made the
6 decision on the Kenai, the ISER report, which I believe was
7 put out in 1998, although, it did not follow the pattern
8 that the Staff Committee did, nor was it the pattern that
9 was established in regulation, necessarily, by the Board,
10 was persuasive on some matters.

11
12 First of all what -- for the criteria that they
13 reviewed with respect to the uses of fish and game, levels
14 of employment and the seasonality of employment,
15 transportation systems and their ability to move people
16 around, what I found was that even though many of the
17 comparisons were with some of the communities, Kodiak,
18 Sitka, and Saxman, that the notion that somehow the
19 communities on the Kenai were comparable in almost every
20 respect to the subsistence lifestyles of people in those
21 other communities. I found that a compelling argument.
22 Not that each specific element of their argument was
23 compelling because perhaps it missed the point to some
24 degree but that overall, the idea that the people in the
25 communities of the Kenai were living a subsistence
26 lifestyle was pretty persuasive.

27
28 Where I'm conflicted at the moment is about the
29 future. And I realize that the Board is being asked to
30 make a decision today and it is based on evidence presented
31 today and all the work that's gone on up until now. What
32 I'm concerned with is if we make a decision to render the
33 Kenai rural today, then after the 2000 census and a
34 revision to our criteria, they are then rendered non-rural,
35 I think it would be doing a disservice to the people there.
36 And I'm mindful of that and yet, very willing, at this
37 point to support a rural designation for the Kenai
38 Peninsula and I would support the motion as proposed.

39
40 CHAIRMAN DEMIENTIEFF: Additional
41 discussion. Niles.

42
43 MR. CESAR: Thank you, Mr. Chairman. I
44 believe most of my comments are in line with the minority
45 Staff Committee report. I think that in 1990, I'm
46 persuaded, had just a few elements been different, that
47 Kenai would have been designated rural, I believe that's
48 true. And I'm ashamed to say it but I was here in '90, not
49 on that particular vote, but I've had a long history of
50 discussions with the folks on the Kenai Peninsula and, I,

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1 like Jim, had been down there many times and I am persuaded
2 at this point that the Kenai Peninsula should be designated
3 rural. I believe that we have, within our ability, and
4 certainly we're going to be looking at this again and
5 seeing whether we are going to change designations for
6 certain communities and that may, in fact, come back and we
7 will have to make a different determination.

8
9 But we've been at this a long time, many years.
10 And, you know, I just, for one, feel like the Kenaitze
11 petition should be adopted and that, to make them wait,
12 another year or two years, does not fall, in my mind, in
13 the view or the scope of reasonableness. And I believe,
14 obviously from my testimony, that I will vote in support of
15 the petition.

16
17 CHAIRMAN DEMIENTIEFF: Fran.

18
19 MR. CHERRY: Mr. Chairman, first I would
20 like to apologize to this Board for only being able to be
21 here today for this important decision. I think as you all
22 are aware I was forced to be in Fairbanks dealing with a
23 death of one of our employees up there and I do apologize
24 to the Board.

25
26 Considering the motion has been in front of us for
27 quite some time now I'd like to make the following
28 comments. One thing that I would like to point out is I
29 think the attorney for the Kenaitze Natives pointed out was
30 that the direction we did give to the Board last May was
31 that we do come up with a decision not another delay and
32 study, and I think the proposal as stated by the Staff
33 would initiate another delay.

34
35 Having said that, though, I'd like to go further
36 and say, the Staff Committee has correctly pointed out that
37 the process and criteria are flawed and they do need to be
38 changed, especially with our increased knowledge and
39 information that we now have. It's unfair, however, for
40 the people of the Kenai to wait additional time while we
41 develop that new criteria.

42
43 Also if the motion is approved, the Kenai should be
44 restudied along with all of the other communities with the
45 new criteria and new information when the 2000 census data
46 is available.

47
48 Thank you.

49
50 CHAIRMAN DEMIENTIEFF: Judy.

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1 MS. GOTTLIEB: Mr. Chairman, thank you. I
2 have reviewed the population number from 1990 for those
3 specific Kenai Peninsula communities classified as non-
4 rural. I also looked at the new analysis, the testimony,
5 the comments, heard the testimony both in Kenai and here
6 today. I do not find that the communities in question
7 possess significant characteristics of a rural nature.

8
9 I do see problems with the methodology and the data
10 availability for making a rural determination and we hope
11 to correct those with the future work we plan to do.

12
13 I don't believe that the Kenai Peninsula
14 communities are comparable to those island communities
15 previously found to be rural. I was very pleased to hear
16 about the round-table discussions which are getting started
17 and encourage your efforts and hope that can be as
18 inclusive as possible.

19
20 Historical occupation and customary and traditional
21 affiliation all support the Kenaitze Tribe's claim to the
22 harvest of natural resources on the Kenai Peninsula,
23 unfortunately the Tribe's current residence patterns does
24 not allow for an easy way to enfranchise the petitioners as
25 rural residents. Since tribal members are geographically
26 dispersed rather than concentrated in a specific community
27 or location, we have no choice but to apply the population
28 criteria to the combined Kenai/Soldotna area.

29
30 Regrettably, to protect the rights of all
31 legitimate rural residents in the state, I cannot support
32 the motion.

33
34 Thank you.

35
36 CHAIRMAN DEMIENTIEFF: Basically, actually,
37 Jim stole most of my reasoning so I'm not going to be
38 redundant in that stuff. I mean believe me we didn't
39 huddle up on making our speeches it was pretty much what I
40 was going to follow-up with.

41
42 But in addition, I think, you know, in making what
43 I think was a mistake in 1990, I think we've compounded
44 that mistake through the years. And part of that has been
45 under my leadership, you know, in holding you up the last
46 couple of years from getting a Board decision. And the
47 reason I did is because I wanted to make sure that the
48 Regional Advisory Council did diligence. We approached an
49 issue and when was that, '95, the C&T determinations on the
50 Peninsula, where the Regional Council kind of threw us to

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1 the wolves without going down there and conducting a
2 hearing. I was still smarting from that. And so I made
3 sure that the Regional Council went down there and did
4 diligence, which they did and I'm very proud of them. And
5 once they did that, then I was supportive last year of
6 moving this thing on to a Board decision, and I apologize
7 for the Board for having to keep this in the air until
8 basically into the next century and I know we're going to
9 redo this stuff again in the not too distant future.

10
11 But I'm going to vote to support the motion as made
12 by Mr. Cesar.

13
14 Is there any other comments -- yes, sir.

15
16 MR. LOHSE: Mr. Chair, I'm sorry if our
17 Council threw you to the wolves. That wasn't any
18 intention. But I can, at least, say that I wasn't the
19 Chair at that time. So I'd just like to ask one question
20 and I'm going to ask it on behalf of the two members of our
21 Southcentral Regional Advisory Council who reside on the
22 Kenai and I'll just ask it of all of you people who are
23 going to be making the vote.

24
25 Most of you live in Anchorage. If you, as an
26 Anchorage resident, moved to those urban areas of the
27 Kenai, would you be moving to town or to the country? And
28 I'll just let it go like that.

29
30 CHAIRMAN DEMIENTIEFF: Further discussion.
31 Niles.

32
33 MR. CESAR: Mr. Chairman, I call for the
34 question.

35
36 CHAIRMAN DEMIENTIEFF: The question has
37 been called for. We're going to have a roll call vote.
38 You'll record the vote and we'll start with Mr. Cesar.

39
40 MR. O'HARA: Would you restate the motion?

41
42 CHAIRMAN DEMIENTIEFF: I'll call on the
43 maker of the motion to restate it. No, basically the
44 motion was to reject the Staff Committee report and to.....

45
46 MR. CESAR: Adopt the minority Staff
47 Committee recommendation which would find in favor of the
48 Kenaitze petition which would therefore make all
49 communities on the Kenai Peninsula rural.

50

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1 I vote yes.

2

3 MR. BOYD: Mr. Allen, Fish and Wildlife
4 Service.

5

6 MR. ALLEN: I vote no.

7

8 MR. BOYD: Mr. Cherry, Bureau of Land
9 Management.

10

11 MR. CHERRY: I vote yes.

12

13 MR. BOYD: Ms. Gottlieb, National Park
14 Service.

15

16 MS. GOTTLIEB: No.

17

18 MR. BOYD: Mr. Caplan, Park Service.

19

20 MR. CAPLAN: Yes.

21

22 MR. BOYD: Mr. Demientieff, Chair.

23

24 CHAIRMAN DEMIENTIEFF: Yes. That's four
25 votes to two in favor, the motion is carried.

26

27 That completes our business of this Federal
28 Subsistence Board. However, I'd like to call on Mr. Dan
29 O'Hara before we adjourn who's got a little special request
30 that he wanted to make for us.

31

32 MR. O'HARA: Thank you, Mr. Chairman. When
33 we -- Dan O'Hara, Chair of the Bristol Bay Council, when we
34 began the Councils in 1990, I believe it was, we had a
35 coordinator by the name of Helga Eakon who helped us and
36 our Councils in rural Alaska have a deep appreciation for
37 these coordinators who help us. We call them all times of
38 day and night to help us on issues and when you look at the
39 book that we have been given, you know, it's about four
40 inches thick and a lot of work goes on there. I know our
41 present coordinator right now, Mr. Chairman, Cliff
42 Edenshaw, is doing a lot of work with handling two
43 Councils.

44

45 But Helga Eakon was our first coordinator and then
46 she went on to other responsibilities and the Bristol Bay
47 Regional Council would like, at this time, Mr. Chairman, to
48 give Helga this certificate of appreciation. Thank you.

49

50 MS. EAKON: Mr. Chair, you caught me by

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1 surprise but I say thank you very much, it was a pleasure.

2

3 CHAIRMAN DEMIENTIEFF: Okay, that's it.

4

5 MR. THOMAS: Mr. Chairman.

6

7 CHAIRMAN DEMIENTIEFF: Yes.

8

9 MR. THOMAS: I'd like the Chairs to remain
10 here.

11

12 CHAIRMAN DEMIENTIEFF: Okay, good. And
13 with that.....

14

15 MS. TEPP: Mr. Chairman, could I say the
16 Kenaitze Indian Tribe would like to thank you for listening
17 to us and your very hard work. Thank you.

18

19 CHAIRMAN DEMIENTIEFF: Thank you. And with
20 that, the Board has completed its business this week and we
21 shall adjourn the meeting.

22

23 ADDITIONAL WRITTEN COMMENTS FOR THE RECORD, REQUESTED TO BE
24 ADDED TO THE RECORD BY MS. DANIEL, ATTORNEY.

25

26 November 11, 1998

27 Kenaitze Indian Tribe IRA

28 My name is Liisia Johansen Shaw. I was born in Bethel,
29 Alaska in 1949 and have spent most of my life on the Kenai
30 Peninsula. My father was Alexander Johansen, a Dena'ina
31 Athabascan man who was born in Kenai, Alaska in 1919, and
32 lived a traditional subsistence life. My father taught me
33 and my brothers and sisters how to survive from the land
34 and its resources. We did not waste anything and were
35 taughts respect for the land. The land was like a religion
36 for my father. He said that if you take care of the land
37 and resources there would always be plenty for everyone.

38

39 Different seasons meant different kinds of
40 subsistence. We were always putting up for the winter it
41 seemed like.

42

43 Spring meant hooligan fishing in the Kenai River,
44 digging clams at Clam Gulch and king salmon were running.
45 We shared with our family members and smoked king in the
46 early spring. Hooligan and clams were put up in the
47 freezer. The garden was planted with potatoes, lettuce,
48 cabbage, radishes, spinach, turnips and rutabagas. We took
49 care of our garden all spring and summer, and harvested the
50 vegetables in the fall for winter months.

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1 In the summer the reds were running and we canned,
2 smoked, salted and froze fish for days. This was for the
3 winter months.

4
5 In the fall we fished silvers and our whole family
6 picked berries. My mother and I made jelly, syrup and
7 cranberry catsup by the case.

8
9 While the whole family was picking berries my
10 father and brothers were grouse and moose hunting. In the
11 early days we always got our moose and we shared fresh meat
12 with my grandmother. My whole family was busy butchering
13 moose and wrapping and freezing it for the winter.

14
15 In the winter months we ice fished for trout and
16 hunted rabbits. We trapped beaver, wolverine and rabbits
17 for the furs and meat.

18
19 I still practice a subsistence lifestyle and I have
20 taught my children everything my father and aunts and
21 uncles taught me. It is harder now because fish and game
22 regulations limit us to certain areas and there are many
23 restrictions on the Kenai River. My family fishes the
24 Kenaitze Indian Tribe's Educational Net and we still pick
25 berries in the fall. But because of the urban designation
26 imposed on the Kenai Peninsula living our cultural
27 lifestyle has become almost impossible. My family fully
28 supports the Kenai Peninsula being designated a rural area.

29
30 From: Joan Corliss
31 732 O Street, Apt. 1
32 Anchorage, Alaska 99501
33 Phone 279-1567
34 4/25/00

35
36
37 Kenaitze Indian Tribe
38 P.O. Box 988
39 Kenai, Alaska 99611

40
41 Dear Rita or Sasha,

42
43 Enclosed is my written testimony for the Federal
44 Subsistence Board hearing here in Anchorage, May 3 and 4,
45 2000
46 Hope to see you at the annual "We the People" March 5/3/00.
47 Sincerely, Joan Elva Corliss.

48
49 Testimony for Federal Subsistence Board Hearing May 3 and
50 4, 2000, Anchorage, Alaska

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1 In the matter of designating the Kenai Peninsula as rural
2 in regard to subsistence I wish to testify that
3 historically my ancestors have subsisted and utilized the
4 land, fish, game and berries on the Kenai Peninsula for
5 centuries.

6
7 My Indian Athabascan ancestors were industrious and
8 known for their ways of traveling long distances, living
9 off the land and establishing summer fish camps and winter
10 hunting camps. They knew where the berries and life saving
11 herbs grew and how to preserve fish, meat and other food
12 stuff to sustain them through the winter months. The
13 clothing they made from tanned hides and furs are coveted
14 to this day.

15
16 I remember my mother Alice Hedberg Brown who was
17 born in 1912 in Kenai telling stories of her mother
18 Anastasiia Nutnal'tna Hedberg's amazing abilities to live
19 off the land, preserve supplies for winter and make
20 wonderful warm clothes from moosehides and fur as well as
21 knit and do beautiful needle work. She was also very wise
22 in the use of indigenous healing herbs. My grandmother
23 Anastasiia knew where they grew and how to harvest them and
24 use them to heal and save lives. Which she did more than
25 once. My grandfather John "Moosemeat" Hedberg got his
26 nickname because he always got his moose and was willing to
27 share. My grandparents had a 160 acre homestead at Nikiski
28 and my mother had a Native Allotment at Puppy Dog Lake
29 between Nikiski and Kenai.

30
31 My mother and dad fished commercially on the Kenai
32 Peninsula and my parents and brothers and I have gone to
33 Kenai for our yearly supply of salmon and clams ever since
34 I can remember. This tradition has been passed on to my
35 daughter, Rebecca Lyon, son Ron Naanes and my granddaughter
36 Sunny Remmy, who with me are all proud members of the
37 Kenaitze Tribe.

38
39 The Kenai Peninsula, Kenai and Nikiski in
40 particular, are my ancestral homeland and historically a
41 rural area with subsistence rights.
42 Signed this Tuesday, the 25th day of April, 2000. Joan
43 Elva Corliss.

44
45 May 2, 2000
46 To who it may concern,

47
48 I am a tribal elder of the Kenaitze Indian Tribe IRA on the
49 Kenai Peninsula. To us the net is a very important aspect
50 to the tribe. Myself, along with others think that the net

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1 needs to stay because for example it has always been and
2 hopefully always be, it has been a tradition for a long
3 time and is used for great educational purposes for our
4 growing youth who will soon enough be the one to take care
5 of it in the future. Some tribal members need the fish for
6 food to last them because of their financial status.
7 Others need the net just to go out and have a good time,
8 which for some is needed for possibly just a family
9 gathering. The subsistence net is one of few foundations
10 for the tribe and without it what will the elders get to
11 eat in the winter were [sic] most elders are unable to
12 support themselves so they need the fish from the net to
13 live off of. With volunteers to work the net are able to
14 fish for the not so fortunate ones. So in conclusion I
15 would like to say that with out the net our tribe would be
16 in lots of hurt without it.

17
18 Thank you sincerely, Katherine Juliussen.

19
20 Jennifer Showalter
21 911 Mission Avenue
22 Kenai, Alaska 99611

23
24 May 3, 2000

25
26 RE: Rural Priority for Kenai Peninsula

27
28 To whom it may concern:

29
30 My name is Jennifer Showalter and I am a tribal
31 member of the Kenaitze Indian Tribe IRA. I am writing this
32 letter in support of the rural preference for the Kenai
33 Peninsula. I have lived on the Kenai Peninsula most of my
34 life and feel that part of my life has revolved around a
35 subsistence lifestyle.

36
37 Growing up in this area we lived off of moose meat,
38 salmon, any fish we were able to get, clams and berries.
39 This lifestyle is one that I am proud of as well as
40 learning from. I am proud of my Native heritage, and what
41 to continue to learn about it and share it with my
42 children.

43
44 Currently, we are only able to go sport fishing
45 (which many Native people do not do) and this also includes
46 clamming. We are able to go sport hunting during specific
47 times during the year in which there are people from the
48 entire State of Alaska fighting over hunting areas as well
49 as out of state hunters, and we are able to go berry
50 picking. Many of our traditions are based on our ability

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1 to go subsistence hunting and fishing. It is important for
2 our people and our culture to continue this tradition.

3
4 Sincerely, Jennifer Showalter.

5
6 (END OF PROCEEDINGS)

7 * * * * *

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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 Owner of Computer Matrix, do hereby certify:

THAT the foregoing pages numbered 02 through 243 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUMES I, II and III, taken electronically by me on the May 2 through 4, 2000, at the Regal Alaskan Hotel, Denali Room, Anchorage, Alaska;

THAT the transcripts are 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, 2000.

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 4/17/2004