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

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5 VOLUME I

6
7 DECEMBER 5, 2000
8 8:30 o'clock a.m.
9 PUBLIC MEETING

10
11 BOARD MEMBERS PRESENT:

12
13 Mitch Demientieff, Chairman
14 Gary Edwards, U.S. Fish and Wildlife Service
15 Tony Urvina, Bureau of Indian Affairs
16 Curt Wilson, Bureau of Land Management
17 Judy Gottlieb, National Park Service
18 Dr. Winnie Kessler, U.S. Forest Service
19
20 Keith Goltz, Solicitor

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P R O C E E D I N G S

(On record)

CHAIRMAN DEMIENTIEFF: I'm going to call the meeting to order. This is the meeting of the Federal Subsistence Board. And briefly, we'll go around the table for introductions. My name is Mitch Demientieff, I'm the Chairman of the Federal Subsistence Board. And we'll just go right around the table and have the rest of the panel introduce themselves and their affiliation.

MR. JACK: My name is Carl Jack, Native Liaison, Fish and Wildlife Service.

DR. KESSLER: I'm Winnie Kessler, I'm representing the Forest Service.

MR. THOMPSON: Ken Thompson, Staff Committee, Forest Service.

MS. GOTTLIEB: Judy Gottlieb, National Park Service.

MR. GERHART: Bob Gerhart, National Park Service Staff Committee.

MR. URVINA: Tony Urvina, Bureau of Indian Affairs representing Niles Cesar.

MS. HILDEBRAND: Ida Hildebrand, BIA Staff Committee member.

MR. SAM: Ron Sam, Chairman, Western Interior.

MR. WILDE: Harry Wilde, Yukon Kuskokwim, Chairman.

MR. CASIPIT: Cal Casipit, Subsistence Staff Biologist, Forest Service Juneau.

MR. CLARK: Fred Clark, Forest Service.

MS. WHEELER: Polly Wheeler, Alaska Department of Fish and Game.

MS. TRUMBLE: Della Trumble, Chair, Kodiak/Aleutians.

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1 MR. REXFORD: Fenton Rexford, North Slope
2 Chair.

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4 MR. GOODWIN: Willie Goodwin, Chair of
5 Northwest Arctic.

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7 MR. GOLTZ: Keith Goltz, Solicitor's
8 Office.

9
10 MR. WILSON: Curt Wilson, Staff Committee
11 BLM representing Fran Cherry.

12
13 MR. SIMMONS: Rod Simmons, Fish and
14 Wildlife Service Staff Committee.

15
16 MR. EDWARDS: Gary Edwards representing
17 U.S. Fish and Wildlife Service.

18
19 MS. FOX: Peggy Fox, Office of Subsistence
20 Management, Fish and Wildlife Service.

21
22 MR. BOYD: Tom Boyd, Office of Subsistence
23 Management, Fish and Wildlife Service.

24
25 CHAIRMAN DEMIENTIEFF: Thank you very much.
26 By way of corrections and additions to the agenda,
27 unfortunately our representative from the Eastern Interior
28 RAC was called home due to a funeral so we are going to try
29 to provide an opportunity to him and we checked with all
30 the other Council members and none were available to come
31 and testify for their proposals, so in an effort to try to
32 accommodate Eastern Interior, we're going to try to move
33 them up to give Mr. Nicholia the opportunity to testify
34 with regard to their region's proposals tomorrow morning.
35 So we'll be setting that up and we'll be making that change
36 to try to accommodate a difficult situation.

37
38 With that, are there any other corrections
39 or additions to the agenda?

40
41 MR. THOMAS: Mr. Chairman.

42
43 CHAIRMAN DEMIENTIEFF: Yes.

44
45 MR. THOMAS: If I realized I couldn't be
46 more inconspicuous, I would have got here earlier, sorry
47 about that.

48
49 CHAIRMAN DEMIENTIEFF: I couldn't hear you
50 Bill?

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1 MR. THOMAS: If I could have got in without
2 being so noticed, you know, I came down the middle of the
3 carpet to get here.

4
5 CHAIRMAN DEMIENTIEFF: I thought you were
6 making a grand entrance. We're just standing down a
7 second, I have a question on one of the testifiers that
8 we're trying to accommodate. It will just be a minute. We
9 have no request for public comment with regard to non-
10 agenda items at this time. Of course, public comments will
11 be accepted as we deliberate the various proposals. So
12 with that, before we move on into consideration of the
13 subpart C and D proposals, I'll make reference to the
14 consent agenda.

15
16 We have on the consent agenda, Proposals 21
17 which is to reject. 24, defer. 26, adopt with
18 modification. 28, adopt with modification. 29, adopt with
19 modification. 34, adopt with modification. 40, reject.
20 And then Southcentral, we have Proposals 14, to reject.
21 15, to adopt. Proposal 16, to adopt with modification.
22 Kodiak, we have Proposal 41, which is withdrawn. 42, which
23 is to reject. 44, which is also withdrawn. Bristol Bay,
24 Proposal 12 is to adopt with modification. Yukon-
25 Kuskokwim, Proposal 6 is to adopt. Northwestern Arctic,
26 Proposal 38, adopt. Eastern Interior, Proposals 8 and 9,
27 both of those are to adopt.

28
29 So those are the consent agenda items. For
30 those of you that are unfamiliar with that, basically the
31 world is lined up in support of the recommendation,
32 however, we'll still take testimony on those and the
33 principal parties, if there are concerns can, Regional
34 Council, Board members, you know, can go ahead and request
35 those items to be pulled off the consent agenda at which
36 time then they will be deliberated fully as the other
37 proposals will be. So we will adopt the consent agenda
38 items at the conclusion of the deliberation of our
39 regulatory proposals, so there will still be opportunity
40 for the public to testify with regard to those proposals
41 and opportunity for anyone who may want to have those
42 consent agenda items pulled for deliberation. So that will
43 be done at the conclusion of the meeting.

44
45 With that, I guess we're ready to move into
46 Region 1.

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48 MR. BOYD: Region 1, right.

49
50 CHAIRMAN DEMIENTIEFF: Proposal 22A and B,

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1 Southeast Alaska. Who's going to do this one?

2

3 MR. CLARK: Mr. Chairman.

4

5 CHAIRMAN DEMIENTIEFF: Fred.

6

7 MR. CLARK: Members of the Board, Council
8 Chairs, members of the public, my name is Fred Clark. I'm
9 the Regional Advisory Council coordinator as well as the
10 staff anthropologist for the Southeast region. Before we
11 get into specific proposals to change the regulations, what
12 I'd like to do is go through briefly the general written
13 public comments that apply to all of the proposals that
14 have come in from Southeast.

15

16 There were six sets of written public
17 comments that came in that had comments that were
18 applicable across the proposals. They were from the
19 Southeast Alaska Fisherman's Alliance, the United Fishermen
20 of Alaska, Southeast Alaska Seiners, Petersburg Vessel
21 Owner's Association, United Southeast Alaska Gillnetter's
22 Association and Chris Negenbickler of Wrangell. So five
23 out of the six are from commercial fisheries organizations,
24 who have a great deal of interest in Southeast.

25

26 It struck me as I read these written
27 comments that there's a large recognition of the importance
28 of subsistence uses of fish. And a great support, even
29 from the commercial organizations for subsistence users.
30 Some of the items, the topics that came up were the item of
31 customary trade. These organizations appear to be very
32 concerned about the sale of subsistence resources under
33 customary trade. There are some C&T issues that people
34 felt should be approached regionally. There are a number
35 of comments that had to do with jurisdictional issues
36 between State waters and Federal waters and how much the
37 Federal government may extend jurisdiction into areas that
38 are customarily managed by the state of Alaska.

39

40 There were a number of comments that were
41 more general, in some ways and specific in others, for
42 instance, the United Fishermen of Alaska commented that the
43 Subsistence Board should seek review by the Small Business
44 Administration for their finding of no significant impact
45 on a significant number of small businesses. So there are
46 some administrative concerns that people expressed as well.

47

48 There was a call for additional studies to
49 determine the potential impacts on species and on people
50 throughout Southeast. I would just point out that these

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1 comments are on Pages 3 and 4 in your booklet, and so those
2 are there for the record.

3
4 Thank you, Mr. Chairman.

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6 CHAIRMAN DEMIENTIEFF: Carry forward.

7
8 MR. CLARK: Now, we would like to get into
9 the proposals specifically one by one. I will be
10 presenting the first part of Proposal 22 and 22A, which is
11 the customary and traditional use determination and then
12 Cal Casipit will be doing the presentations on the rest of
13 the proposals.

14
15 Proposal 22A is a customary and traditional
16 use determination submitted by Bruce Eagle of Wrangell. It
17 requests a customary and traditional use determination for
18 cutthroat trout, rainbow trout and dolly varden char to
19 extend to include all rural residents of Southeast Alaska.
20 So that's the first part of what you see on the screen here
21 now, is to establish C&T for southeastern area residents
22 cutthroat trout, rainbow trout and dolly varden and char.

23
24 The existing situation that we have now in
25 the Federal regulations is that the customary and
26 traditional use determinations were rolled over from the
27 State's customary and traditional use determinations prior
28 to the McDowell Decision. In your booklet on Page 13, 14
29 and 15, you'll see the existing customary and traditional
30 use determinations. They're very specific in terms of what
31 areas are included within the customary and traditional use
32 determinations. Almost all of the species are salmon,
33 dolly varden, trout, smelt and hooligan. There's only one
34 that refers to halibut and bottom fish. So essentially all
35 of the fish that are important for subsistence uses, those
36 fish that are anadromous fish or freshwater fish were
37 included in that list. What the proposal wanted to do was
38 to provide a general customary and traditional use
39 determination for Southeast.

40
41 As we went through the proposal and looked
42 at the available information, it was clear that the
43 determinations were very specific to communities that at
44 the time the original customary and traditional use
45 determinations were made were Native communities. We see
46 Saxman, Kassan, Hydaburg, Klawock, Kake, Angoon, Sitka and
47 Hoonah listed. And we see very specific references to
48 Native corporate lands around some of those communities.
49 What is not included are a lot of other communities in
50 Southeast who have customarily and traditionally used these

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1 species. Every community in Southeast has used all of
2 these fish species customarily and traditionally. To get
3 to that point of specificity in analysis is going to take a
4 concerted effort, and we hope to do that within the next
5 year to look at that more carefully. However, the analysis
6 revealed that there was some gaps that would be beneficial
7 to fill in the customary and traditional use
8 determinations. Communities such as Wrangell and
9 Petersburg and Haines, these are important subsistence
10 communities and all the smaller communities, Thorne Bay,
11 there are just a number of them that were not listed in the
12 customary and traditional use determinations as they are
13 now.

14
15 Before we go into too much additional
16 detail, I'd like to see if there are any particular
17 questions that the Board or the Chairs might have in
18 regards to this particular proposal.

19
20 CHAIRMAN DEMIENTIEFF: Any questions for
21 Fred. Move on.

22
23 MR. CLARK: What I'd like to do then, Mr.
24 Chairman, is to present the written public comments that
25 are specific to this proposal and there were only two, one
26 in support and one in opposition.

27
28 The Edna Bay Fish and Game Advisory
29 Committee voted six to zero in favor of the proposal saying
30 that they were in general agreement with the rationale.
31 The Eastern Prince of Wales Fish and Game Advisory
32 Committee voted to oppose the proposal.

33
34 If there are no additional questions, Mr.
35 Chairman.

36
37 CHAIRMAN DEMIENTIEFF: Pardon?

38
39 MR. CLARK: If there are no additional
40 questions, Mr. Chairman, we can move on.

41
42 CHAIRMAN DEMIENTIEFF: Okay, thank you.
43 Before we move on to the Department comments, I was amiss
44 in reporting that if you wish to testify, members of the
45 public wish to testify on any one of these proposals, you
46 need to fill out the blue cards. They're available on the
47 table right outside the door. If you wish to testify on
48 these proposals, go ahead and fill these out and the Staff
49 will get them up here so we can call on you during the
50 deliberation of that proposal.

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1 With that, we'll call on the Department for
2 comments.

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4 MS. WHEELER: Thank you, Mr. Chair. I
5 would refer you to Appendix A where the State comments are
6 provided. And basically I do have Staff here if there are
7 specific questions about these and other proposals, Staff
8 here that can answer them. Basically the State supports
9 the Federal Inter-Agency Staff recommendation.

10
11 CHAIRMAN DEMIENTIEFF: Where is it?

12
13 MS. WHEELER: It's way in back.

14
15 CHAIRMAN DEMIENTIEFF: Thank you very much.
16 Are there any other questions or comments for the State?
17 Hearing none, we'll go ahead and move on. We have no
18 request at this time for public testimony with regard to
19 Proposal 22. Regional Council recommendation, Bill.

20
21 MR. THOMAS: Thank you, Mr. Chairman. The
22 recommendation from the Council is to adopt with
23 modification. The modification is that with regard to the
24 Yakutat area, to include, I'll just say trout and hooligan,
25 rather than going through all those other names. And the
26 same thing applies to the rest of Southeast. The modified
27 proposal provides Federal subsistence fishing opportunities
28 for rainbow trout, cutthroat trout, dolly varden, so to
29 adopt -- recommendation to adopt.

30
31 CHAIRMAN DEMIENTIEFF: Thank you. Staff
32 Committee recommendation.

33
34 MR. THOMPSON: Mr. Chairman, the Staff
35 Committee's recommendation is to modify this proposal to
36 add smelt and ulecon, however, reject that portion of the
37 proposal to expand C&T for all of Southeast Alaska area.
38 Instead maintain the existing customary and traditional
39 determinations and modify the proposal to add remainder
40 areas for Yakutat and the Southeast areas. We recommend
41 this because we feel there is a lack of substantial
42 evidence to show that the communities in the region have
43 customarily and traditionally harvested and use all stocks
44 of cutthroat, rainbow and dollies in Southeast Alaska area.

45
46 Thank you.

47
48 CHAIRMAN DEMIENTIEFF: Thank you. Bill,
49 have the Regional Council had a chance to look at the Staff
50 Committee recommendation?

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1 MR. THOMAS: Not as a Council, no.

2

3 CHAIRMAN DEMIENTIEFF: Go ahead, Tom.

4

5 MR. BOYD: We have essentially two kinds of
6 proposals wrapped up into one in 22. We have 22A and B.
7 22A deals with C&T and B deals with seasons, limits and --
8 I'm sorry, methods and means and harvest limits. So I'm
9 not sure where we are in terms of the process. Ken, you
10 only responded to the C&T portion. So Mr. Chair, I would
11 suggest to you that maybe you deal with these separately
12 and maybe avoid a little confusion in the process.

13

14 MR. THOMPSON: I believe that is consistent
15 with what Fred has presented as well.

16

17 CHAIRMAN DEMIENTIEFF: So it'd be 22A and
18 22B, is that what you're suggesting?

19

20 MR. THOMPSON: Right.

21

22 MR. BOYD: And I think we're on 22A right
23 now.

24

25 CHAIRMAN DEMIENTIEFF: Right, okay, 22A.
26 Is there any discussion with regard to Proposal 22A?

27

28 MR. EDWARDS: Mr. Chairman, under the Staff
29 Committee's recommendation, their modification of Proposal,
30 who gets left out in that process? What areas then are --
31 the way I read it, you included some but not all of the
32 requests; is that correct?

33

34 MR. THOMPSON: Yes. In the Staff Committee
35 recommendation, we've adopted the Council recommendation
36 for part, but we modified the Council's recommendation in
37 another part. We're getting into the area of this proposal
38 that gets pretty complicated. I'd defer to Staff on the
39 specifics.

40

41 MR. EDWARDS: Do you want me to restate my
42 question?

43

44 MR. CLARK: No, I think I understand your
45 question. Mr. Chairman, Mr. Edwards, the Staff Committee's
46 recommendation essentially doesn't leave anybody out, what
47 it does is plugs the hole that exists now. Because right
48 now there are no customary and traditional use
49 determinations for a number of the communities. As you can
50 see on the screen right now, Skagway, Haines, Gustavus,

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1 Elfin Cove, Sunnyside, you know, you can go down the whole
2 list, there is no customary and traditional use
3 determination for those communities at present. So that
4 means that anyone, any rural resident of the state of
5 Alaska can go to Southeast Alaska to harvest fish under the
6 Federal Subsistence regulations. What this does is kind of
7 restricts that down to residents of Southeast Alaska. So
8 all residents of Southeast Alaska would then have a
9 positive customary and traditional use determination for
10 those communities that are not otherwise specified in the
11 existing regulations.

12
13 So if you have a community like Hydaburg,
14 for instance, they have a very specific C&T determination.
15 So nobody else has a positive customary and traditional use
16 determination in that area. That won't change under the
17 Staff Committee recommendation. However, a community like
18 Gustavus, under the Staff Committee recommendation will
19 have a positive customary and traditional use determination
20 for those areas that do not have the specific C&Ts in the
21 regulations.

22
23 MR. EDWARDS: And then what's being asked
24 for in the proposal is that there wouldn't be that
25 specificity, that it would be kind of a blanket for all
26 communities?

27
28 MR. CLARK: Right. For trout and hooligan
29 and char and smelt.

30
31 MS. GOTTLIEB: Mr. Chair.

32
33 CHAIRMAN DEMIENTIEFF: Yes.

34
35 MS. GOTTLIEB: Sorry, Fred, this may be the
36 same question. So when you're saying remainder, you're
37 talking about all those areas that were not specifically
38 listed in our regs?

39
40 MR. CLARK: That's correct.

41
42 MS. GOTTLIEB: And was the approach
43 discussed about naming those communities and giving C&T for
44 those communities with the same specificity that are in our
45 regs for the other communities?

46
47 MR. CLARK: Yes. Mr. Chairman, Judy, the
48 work that it's going to take to get to that specificity is
49 large. I mean it's a large volume of work. And we've
50 discussed an approach to get to that, but it couldn't be

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1 done this year at that level of specificity. That's why as
2 an interim sort of deal, it was felt that it was best to,
3 at least, provide an additional level of customary and
4 traditional use determination for those areas that are not
5 listed.

6
7 So, yes -- the answer to your question is,
8 yes, we did talk about dealing with those communities on a
9 community by community basis and we'll have to do that on a
10 species by species basis for each community. So if you put
11 that in a matrix you can see that's a lot of determinations
12 to do, and we're headed in that direction.

13
14 MR. GOODWIN: Mr. Chairman.

15
16 CHAIRMAN DEMIENTIEFF: Yes.

17
18 MR. GOODWIN: I'd like to bring out a point
19 here. The question you asked Bill, that if the RAC had a
20 chance to review the Staff recommendation. You know, in
21 one of our proposals also, when we deliberated in our RAC
22 meeting the proposal, every agency had an opportunity to
23 speak its peace and present any problems they might have or
24 recommendations they might have at that time. And yet,
25 when they come back to the Staff Committee level we see
26 drastic changes in the intent of the proposal we proposed.
27 I have a problem with that because we -- the RACs don't get
28 a chance to deliberate on these serious problems that we
29 may have with the proposal. And yet we're asked to come to
30 a meeting, bring people down if we have to or can and then
31 sometimes we can't to object to provisions of a Staff
32 recommendation. I think there should be something done
33 about that system so we don't get blind-sided at the RAC
34 level.

35
36 Thank you, Mr. Chairman.

37
38 CHAIRMAN DEMIENTIEFF: Was it simply a
39 timing thing, Ken, that the Staff Committee just simply
40 didn't complete its work to get a recommendation until
41 after the RAC meeting in this case or what?

42
43 MR. BOYD: Well, the duration of the
44 program since 1990, our process has been roughly we receive
45 a proposal, analyze the proposal, present it to the
46 Regional Advisory Councils, obtain a Council
47 recommendation, and then we have all that information prior
48 to the Board meeting -- you know, the Staff Committee meets
49 and develops a recommendation to the Board. That's done in
50 a fairly tight time frame. Generally, I think we met, what

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1 the.....

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3 MS. FOX: Two weeks ago.

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5 MR. BOYD:two weeks ago to develop
6 the -- the Staff Committee met two weeks ago to provide the
7 recommendation to the Board, so that's what you see before
8 you now. But what you have before you, essentially is all
9 of the information, including the Staff recommendation.
10 The Chairs are here to deliberate those.

11

12 You know, this is an example of one where
13 there was a lot of thought and discussion put into on how
14 to proceed on this. We've taken into consideration all of
15 the information that's before us, including the Regional
16 Advisory Council recommendation. This is a particular
17 difficult one. Usually they're a little more simple than
18 this and there wouldn't be this large of a perceived
19 deviation from the recommendation from the RACs as normal.
20 But because this one is such a broad expansive proposal and
21 recommendation, I think there was some concern expressed,
22 and that's what you're hearing from the Staff.

23

24 So I don't know if you want to add anything
25 to that Peggy, but that's the process and we've routinely
26 done that.

27

28 MS. FOX: Ken wants to say something.

29

30 CHAIRMAN DEMIENTIEFF: Go ahead, Ken.

31

32 MR. THOMPSON: Yeah, Mr. Chair, I might
33 add. That we find the information that does surface during
34 the Regional Council meetings to be particular valuable to
35 the Staff Committee in its deliberations. So I think what
36 we're talking about, Willie, and your concern, would be to
37 have to come back then again to the Council after we've had
38 a chance to consider this additional information you've
39 provided us.

40

41 MR. GOODWIN: Mr. Chairman.

42

43 CHAIRMAN DEMIENTIEFF: Go ahead.

44

45 MR. GOODWIN: When we get to Proposal 39, I
46 will give you a real specific example of what I'm talking
47 about. It's very disturbing in a sense that it disrupts
48 activities of the subsistence user at home. That's what
49 I'm talking about. The seriousness of some of these
50 things. Maybe a lot of them like this one are no problem

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1 with some areas, you know, but I use that as an example of
2 what is happening and taking place with the system right
3 now.

4

5 CHAIRMAN DEMIENTIEFF: Bill.

6

7 MR. THOMAS: Mr. Chairman, this is a very
8 awkward point that we're at and it doesn't need to be. In
9 our deliberations at the Council level, we take into
10 consideration some of the concerns that's demonstrated in
11 the justification of the Staff Committee. If we recognized
12 or anticipated a negative impact by expanding this, we
13 would never bring forth such a recommendation. And
14 recognizing the justification from the Staff Committee is
15 one of extreme caution. I don't think that's necessary.

16

17 All this would do would be to recognize
18 activity that is occurring now. And so it doesn't need to
19 be this cumbersome. I think we're learning something new
20 since we have moved into this area. But the Southeast, the
21 Council recommendation is a good one and it really takes
22 into the consideration, all those concerns from the Staff
23 Committee. However, it would be nice if we could review
24 each others rationale and determinations before we get
25 here.

26

27 But we do support to adopt. Thank you, Mr.
28 Chairman.

29

30 CHAIRMAN DEMIENTIEFF: Thank you. I guess
31 just speaking with what my own feelings are with regard to
32 this, and that is, you know, primarily I heard that we do
33 have a lack of data and I also heard a commitment from
34 Staff to go and get that information; is that correct?
35 Those things are in the works, where we don't have the
36 specific information that we need to base a good decision
37 on as far as from our perspective. So while it does differ
38 slightly from the Regional Council recommendation, I'm at
39 least comfortable that we have the commitment to go out and
40 get the information we need and to get that information
41 also to the Regional Council.

42

43 Fred.

44

45 MR. CLARK: Mr. Chairman, thank you. I'd
46 also like to point out that a Staff Committee
47 recommendation essentially does the same thing as the
48 Regional Advisory recommendation. The effect is almost
49 identical. The Staff Committee recommendation allows us to
50 put a regulation in that leaves everything intact in the

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1 way that people are familiar with currently. It's been in
2 the books, well, essentially since 1989. So people are
3 familiar with those C&T determinations.

4
5 What the Staff Committee recommendation
6 does is recognizes the concerns and the approach taken by
7 the Regional Advisory Council and just does it in a fairly
8 simple way.

9
10 MS. GOTTLIEB: Mr. Chair.

11
12 CHAIRMAN DEMIENTIEFF: Yes.

13
14 MS. GOTTLIEB: I'm glad you brought up the
15 point about acquiring the information. I think we do
16 realize and it is because we are in a new system here,
17 struggling to find C&T for various areas, it's a huge
18 commitment of time, and I think to help insure consistency
19 by the Board, we may want to think about putting some
20 guidelines together. But this is a broad first step here,
21 and I look forward to seeing the information, by whatever
22 time we decide on, for more specificity just so it's clear
23 to everybody.

24
25 CHAIRMAN DEMIENTIEFF: Thank you. Any
26 other Board discussion on Proposal 22A. Any final
27 comments, Bill, Regional Council comments?

28
29 MR. THOMAS: Mr. Chairman, with regards to
30 Judy's statement, I don't know if there's enough time for
31 me to get anything as clear as we want to.

32
33 Thank you, Mr. Chairman.

34
35 CHAIRMAN DEMIENTIEFF: Any other Regional
36 Council comment. Hearing none, the Chair's ready to
37 entertain a motion on 22A. Yes.

38
39 DR. KESSLER: I move the Board adopt
40 Proposal 22A as modified and recommended by the Staff
41 Committee.

42
43 CHAIRMAN DEMIENTIEFF: There's a motion, is
44 there a second?

45
46 MR. EDWARDS: Second.

47
48 CHAIRMAN DEMIENTIEFF: Discussion on the
49 motion. Hearing none, all those in favor signify by saying
50 aye.

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1 IN UNISON: Aye.

2
3 CHAIRMAN DEMIENTIEFF: Those opposed, same
4 sign.

5
6 (No opposing votes)

7
8 CHAIRMAN DEMIENTIEFF: Motion carries.
9 22B.

10
11 MR. CASIPIT: Thank you. Mr. Chairman,
12 Federal Subsistence Board members, Regional Council Chairs.
13 My name is Calvin Casipit. I man the subsistence staff
14 biologist for the Forest Service in Juneau. I'm the
15 Southeast Region's fisheries biologist.

16
17 As Fred mentioned, Proposal 22 was
18 submitted by Bruce Eagle of Wrangell. He asks for a
19 harvest limit of six cutthroat, six rainbow and six dolly
20 varden trout per day with no size limit. He species the
21 method of take would be rod and reel with any bait or lure.

22
23 Current harvest of these three species in
24 Southeast Alaska are done under State sportfish
25 regulations. Currently the general regulation for dolly
26 varden is 10 dolly varden char with no size restrictions.
27 In areas of high use on larger community road systems
28 however the harvest limit for dolly varden is reduced to
29 two per day and for cutthroats and rainbow trout is two
30 fish in combination between 11 and 22 inches. And again,
31 in high use areas that minimum size limit is increased to
32 14 inches. What information is available on cutthroat
33 populations in lakes are displayed on Table 1 of the Staff
34 analysis on Page 25. And existing harvest information for
35 the past three years is displayed in Table 2. You can see
36 harvest and catch rates for cutthroat and rainbow and dolly
37 varden char.

38
39 At this point I'd like to ask if there's
40 any questions that the Board or Council Chairs may have on
41 the Staff analysis, I'd be happy to answer any questions.

42
43 CHAIRMAN DEMIENTIEFF: Are there any
44 questions? Gary.

45
46 MR. EDWARDS: As far as I understand it,
47 the current slot limit on trout and cutthroat is 11 to 22
48 inches?

49
50 MR. CASIPIT: Correct.

00016

1 MR. EDWARDS: That's what's in existence?

2

3 MR. CASIPIT: Right, two fish per day. I

4 forgot to mention as well, there is a bait restriction.

5 There is no use of bait in the sport regs as well, it's

6 only artificial lures.

7

8 CHAIRMAN DEMIENTIEFF: Thank you. Written

9 public comments.

10

11 MR. CLARK: Yes, Mr. Chairman. Again,

12 there were the two public comments, written public

13 comments, and I think they applied to both Part A and Part

14 B of the proposal. I'll just go through them again.

15

16 The Edna Bay Fish and Game Advisory

17 Committee was in favor of the proposal, they were in

18 general agreement with the rationale. The Eastern Prince

19 of Wales Fish and Game Advisory Committee was in opposition

20 to the proposal because it goes against what ADF&G

21 recommends for maintaining population levels taking size

22 limit and taking of cutthroat and rainbow trout.

23

24 That concludes the written public comments,

25 Mr. Chairman.

26

27 CHAIRMAN DEMIENTIEFF: Thank you.

28 Department comments.

29

30 MS. WHEELER: Thank you, Mr. Chair. The

31 Department supports the Federal Inter-Agency Staff

32 recommendation to modify the Regional Council's

33 recommendations as to method, harvest limit and size limit

34 as is outlined in the proposal there.

35

36 CHAIRMAN DEMIENTIEFF: Thank you. We have

37 no request for additional public testimony at this time.

38 Regional Council recommendation.

39

40 MR. THOMAS: Mr. Chairman, to not be

41 repetitive with the comments I already made, the Regional

42 Advisory Council's recommendation was to support the

43 proposal with modification. To provide a Federal

44 subsistence fishing permit for taking of rainbow trout,

45 cutthroat trout, dolly varden char in the Southeast Alaska

46 fisheries management area.

47

48 So I'll leave it at that. The rest of the

49 discussion pretty well covered it. But we do move to

50 support. Thank you.

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1 CHAIRMAN DEMIENTIEFF: Thank you. Staff
2 Committee.

3
4 MR. THOMPSON: Mr. Chairman, the Staff
5 Committee recommends modifying the proposal to provide
6 Federal subsistence fishing permits for rainbow trout,
7 cutthroat, dollys in the Southeast Alaska area. And we
8 recommend rejecting that portion concerning conditions of
9 the permits relative to the annual harvest limits, size
10 restrictions and use of bait or lures. Modify the proposal
11 as to dolly varden in the Yakutat management area. Modify
12 the proposal to require permits for subsistence fishing for
13 cutthroat trout in Baranof Lake, Florence Lake, Hasselborg
14 Lake and River, Mirror Lake, Virginia Lake and Wilson Lake.
15 In all other waters, our regulations would mirror the State
16 sportfishing regulations but require a Federal permit.

17
18 We believe this recommendation is important
19 because of the proposed regulation for region-wide limit
20 with no size limits and a year-round season would
21 potentially cause excessive harvest and stop declines.

22
23 Thank you, Mr. Chairman.

24
25 CHAIRMAN DEMIENTIEFF: Deliberation by
26 Federal Board members. Gary.

27
28 MR. EDWARDS: The way I read it, doesn't
29 the Staff Committee recommendation increase the limit from
30 two to six?

31
32 MR. CASIPIT: Mr. Edwards, Mr. Chairman,
33 Federal Subsistence Board, Council Chairs, yes, that does.
34 The harvest limit would be increased only in those list of
35 waters that Mr. Thompson specified. But everywhere else it
36 would be two fish, which is -- two cutthroat or rainbow
37 trout which is the State sportfishing regulation. So we
38 would only increase in those water bodies that were
39 mentioned by Mr. Thompson. If you look at that table on
40 Page 25, those waters had large populations of cutthroat
41 trout that we felt could handle a six fish harvest.

42
43 CHAIRMAN DEMIENTIEFF: Additional
44 discussion.

45
46 MR. THOMAS: Has there been a motion, Mr.
47 Chair?

48
49 CHAIRMAN DEMIENTIEFF: No. Yes.

50

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1 DR. KESSLER: Thank you, Mr. Chair. I move
2 the Board adopt Proposal 22B as modified and recommended by
3 Staff Committee.

4
5 CHAIRMAN DEMIENTIEFF: There's a motion, is
6 there a second?

7
8 MS. GOTTLIEB: Second.

9
10 CHAIRMAN DEMIENTIEFF: Discussion. Bill,
11 do you have any additional comments?

12
13 MR. THOMAS: Mr. Chairman, with all respect
14 to the Staff Committee recommendation, we're falling back
15 into the mold that we've lived with for more than 30 years,
16 and that is to find ways of restrictions because of a
17 possibility. You know, hypotheticals is a poor mechanism for
18 managing. When you increase limits allowed, doesn't
19 necessary equate to increased harvests. That determination
20 needs to be observed and it needs to see what happens.
21 We've been confronted with this on other issues with
22 wildlife.

23
24 So I just have problems in dealing with
25 what might happen. In fact, I don't care to use the terms
26 might, I'd like to see shall or will. When you use may,
27 that's not a very good recommendation.

28
29 Thank you, Mr. Chairman.

30
31 CHAIRMAN DEMIENTIEFF: I'd like to have
32 Staff respond to the point, I think it's a very valid
33 point.

34
35 MR. CASIPIT: Mr. Chairman, Federal
36 Subsistence Board, Council Chairs, Mr. Thomas. Your point
37 is a good one and Staff is well aware of the concerns of
38 the Council on it, and particularly from you, Mr. Chairman.
39 We're hoping that here in the near future we will be able
40 to have more information to be able to react in a little
41 more positive way to the subsistence users in this case.
42 There are currently several projects in the FIS process
43 that hopefully will help answer some questions and be able
44 to increase harvest for these species, based on that
45 information that should be coming in the next year or two
46 with these FIS projects.

47
48 MR. THOMAS: Mr. Chairman.

49
50 CHAIRMAN DEMIENTIEFF: Go ahead, Bill.

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1 MR. THOMAS: That was a valiant attempt but
2 it was in futility, however. And I would like to stay with
3 my first comments. This is going to happen from time to
4 time, but we need to -- we don't need to caution on what we
5 do in terms of data that we have, we need to be cautious
6 that are following the intent of Title VIII. In other
7 words, there's a lot of this stuff in here that isn't
8 consistent with Title VIII, we need to watch that. We need
9 to be careful of that. So from time to time, if it takes
10 every three minutes for me to bring this back there, I'll
11 do that. So I don't think we need anymore comment.

12
13 Thank you, Mr. Chairman.

14
15 CHAIRMAN DEMIENTIEFF: Yeah, I tend to
16 agree with you, given the Southeast Regional Council's
17 long-term commitment to conservation. I think if you
18 thought that this would cause a conservation problem, the
19 Council would never have made the recommendation it did.
20 Unlike the previous proposal, we don't have any information
21 to base this decision on and I intend to vote against the
22 motion based on that until we see something. We do have
23 the ability to, if we see something going on, to move in
24 rather quickly to close that off and would be prepared to
25 do that. And I think if we saw something, locals would be
26 letting us know, you know through the RAC.

27
28 So based on the fact that we don't have any
29 information to adopt the Staff Committee recommendation, I
30 intend to vote against the motion.

31
32 Any other discussion. Hearing none, are we
33 ready for a -- oh, Ken, you had something?

34
35 MR. THOMPSON: Well, I hesitate to
36 elaborate on this anymore. But the Staff Committee is
37 cognizant of the fact that these populations are very
38 fragile populations. Granted we don't have a good handle
39 on what the fishing pressure would be on these stocks, we
40 just know that there is likely to be, if we allow for the
41 year-round season and the methods and means that are
42 proposed, it would represent a substantial risk and,
43 therefore, could be interpreted to be in violation of Title
44 VIII and its requirements for sound management principles.

45
46 Granted, this is somewhat -- a little bit
47 of speculation, but given the best information we had,
48 that's the basis for having made that recommendation.

49
50 CHAIRMAN DEMIENTIEFF: Yes, Bill.

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1 MR. THOMAS: You know, we're talking about
2 an activity that wouldn't even qualify to reflect on a
3 scale of harvest. The comments that you just heard, had
4 they been applied to systems like the Yukon River and the
5 major river drainages, they wouldn't be in the problem they
6 are in now. And again, I say if we can't work with the
7 terms in a positive committed nature of will, shall or
8 shall not or will not, I think we need to give this a
9 chance, we've had emergency closures in the past, emergency
10 closures are a part of management. And as long as we have
11 that option, I think we should give the opportunity to this
12 proposal and act responsibility thereafter. Acting prior
13 is not responsible.

14
15 Thank you, Mr. Chairman.

16
17 CHAIRMAN DEMIENTIEFF: Further discussion.

18
19 MS. GOTTLIEB: Mr. Chairman.

20
21 CHAIRMAN DEMIENTIEFF: Yes.

22
23 MS. GOTTLIEB: In trying to find some
24 middle ground or waters here, perhaps there might be some
25 appropriate modification of the motion that would help us
26 out here. We do have a list here on Page 25 of waters
27 that, as I understood it, that we do have information on
28 those waters and it seems to be adequate information to be
29 able to say there's not as much conservation concerns
30 there.

31
32 CHAIRMAN DEMIENTIEFF: Thank you. Further
33 discussion.

34
35 MR. WILSON: Mr. Chair, when I look at the
36 table on Page 25, some of those lakes really don't seem to
37 have very high populations in them. And I do have to
38 express some concern about increasing the limit on lakes
39 where the populations seem to be pretty low to me.

40
41 MR. THOMAS: Mr. Chairman.

42
43 CHAIRMAN DEMIENTIEFF: Yes.

44
45 MR. THOMAS: Those lakes that appear to
46 have low populations probably don't have any pressure.
47 They're just identified in the region.

48
49 So, you know, my biggest cheer right now is
50 to bring voting members of the Board into the real

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1 environment of the proposal. You know, if anybody can
2 recognize a population of anything, the user is generally
3 the first to identify that and act responsibly. It's not
4 like anything that happens here is going to be designed to
5 give guidance to the user on how many they should have, how
6 many they shouldn't have, what they should or should not
7 use.

8
9 So I understand, if you've never had rain
10 gear on and haven't been out in those waters, haven't
11 passed the test of endurance getting to and from those
12 areas, it's difficult and you're limited to what you can
13 put in this folder.

14
15 Thank you, Mr. Chairman.

16
17 CHAIRMAN DEMIENTIEFF: Go ahead.

18
19 DR. KESSLER: Thank you, Mr. Chairman. Ms.
20 Gottlieb has brought up a suggestion of how we might
21 approach this. And I think to weigh wisdom of that, I'd
22 like to hear from Mr. Casipit his perspectives on the
23 suggestion of considering some lakes different than others,
24 the biological aspects of that.

25
26 MR. CASIPIT: Thank you, Dr. Kessler,
27 Federal Subsistence Board, Council Chairs. Yes, that table
28 would appear, Table 1, that appears on Page 25 and 26
29 simply shows all the population information that is
30 available to us for cutthroat lakes, rainbow trout lakes
31 and dolly varden lakes in Southeast. What you see on that
32 table is basically the information that was available to
33 us, abundance estimates and the methods of determining
34 those abundances.

35
36 The list that appears in the Staff
37 Committee recommendation of waters there, I could read them
38 again but they're there for you to read yourself. Those
39 lakes, we felt could support a six fish per day harvest
40 with monitoring that's specified in the Federal permit --
41 in the recommendation for the Federal permit. So we have
42 agreed that six fish per day from those list of waters is
43 okay, six cutthroat, rainbow trout from those waters is
44 okay. I wouldn't want to try to have six fish per day from
45 some of these other waters that are listed on this table
46 for the same reasons that were mentioned a few minutes ago.

47
48 Does that answer the question?

49
50 DR. KESSLER: Thank you.

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1 MR. EDWARDS: Mr. Chair.

2
3 CHAIRMAN DEMIENTIEFF: Gary.

4
5 MR. EDWARDS: Mr. Thompson, as I read the
6 justification for the person who proposed this, as I read
7 it it came across like there would be significant increase
8 in use. Part of the rationale that was given was that
9 these waters were traditionally heavily fished and until
10 the State changed and went to a slot limit and all and
11 restrictions on bait, it really wasn't a problem, this was
12 the traditional way. These trout were a traditional
13 species that were used to teach our children how to fish
14 and also it comes across, at least, when I read it, as an
15 invitation that if all restrictions would be taken off,
16 there would not be that -- there would be maybe a heavy
17 use. I think from your permission, in many cases that
18 would not be the case. I guess I'm somewhat curious as to
19 what the State's view might be as it applies to what's the
20 consequence? Because I don't think you can kind of do a
21 half a loaf in this, I don't think you can ignore the slot
22 limit and then still have a bait restriction. Because they
23 all kind of work together.

24
25 So I guess I'd be curious as to what, you
26 know, what the State's view would be, if, in fact, you
27 basically take off all the restrictions.

28
29 CHAIRMAN DEMIENTIEFF: Do you have a
30 response for that?

31
32 MS. WHEELER: Mr. Chair, if I could have
33 Mr. Rocky Holmes to come up, please, and address that?

34
35 CHAIRMAN DEMIENTIEFF: Sure.

36
37 MS. WHEELER: Thank you.

38
39 MR. HOLMES: Mr. Chair, my name is Rocky
40 Holmes. I'm the regional supervisor for the Division of
41 Sportfish located in Juneau.

42
43 We have, in our review of cutthroat trout,
44 I think it's important to remember that they're not the
45 same as salmon. They are a resident species that has
46 perhaps seven or eight different year classes making up
47 this entire population. They don't go back and spawn and
48 all die. They suffer annual natural mortality of 30 to 40
49 percent every year. So in our review of the literature and
50 from our studies we determine that they can only support

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1 very low percentages of their total population being
2 harvested every year.

3
4 Another problem is that they exist in
5 thousands of lakes and streams in Southeast Alaska and we
6 don't have any information on all those lakes and streams.
7 So we determined for the sport fishery that the only way we
8 could effectively manage them was with fairly restrictive
9 regulations that applied on a general basis with a few
10 exceptions on waters where we knew that the population was
11 large enough to support a higher harvest. Our
12 recommendation for the subsistence fishery, which we
13 obviously know is different than a sport fishery was to do
14 something different -- well, one of two options, either, if
15 you're going to have a regional regulation it has to be
16 restrictive enough to protect the majority of the lakes and
17 streams out there. If you don't, there will be overharvest
18 in some of those.

19
20 So we proposed that the regulations for the
21 subsistence fishery and harvest oriented fishery be applied
22 only on lakes with a sufficient population to support them.

23
24 CHAIRMAN DEMIENTIEFF: And what lakes are
25 those in your guesstimation?

26
27 MR. HOLMES: We agreed with the list that
28 the Federal Staff proposed.

29
30 MR. THOMAS: Mr. Chairman.

31
32 CHAIRMAN DEMIENTIEFF: Yes.

33
34 MR. THOMAS: We're here dealing with a
35 specific user group on an identified stock. The rationale
36 that has been delivered by the subsistence people, the
37 subsistence community is speaking only to those uses.
38 While we object that we have allowances or regulations
39 developed for the subsistence community based on the
40 attitude of other user groups, we argue that we don't
41 belong in the responsibility of negative impact on any of
42 those populations.

43
44 I didn't realize this was going to be so
45 difficult to stay within the terms of a positive nature,
46 such as, will, shall. We get back into might, could;
47 that's not management. Again, let's stay focused on the
48 conditions of Title VIII.

49
50 Thank you, Mr. Chairman.

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1 MS. CROSS: Mr. Chair.

2
3 CHAIRMAN DEMIENTIEFF: Yes.

4
5 MS. CROSS: I have a question. On Page 25
6 on the years, that's when the fish counts were done because
7 I note that the most recent is a year ago and the oldest
8 count is 21 years ago.

9
10 MR. CASIPIT: Correct. The year that
11 appears in that table is the year that that estimate was
12 made, correct.

13
14 MS. CROSS: I just wonder how much credence
15 we need to put on the year counts when some of them are 21
16 years old.

17
18 CHAIRMAN DEMIENTIEFF: Any further
19 discussion. Hearing none, all those in favor of the motion
20 signify by saying aye.

21
22 IN UNISON: Aye.

23
24 CHAIRMAN DEMIENTIEFF: Those opposed, same
25 sign. Aye.

26
27 (Chairman Demientieff Opposes Vote)

28
29 CHAIRMAN DEMIENTIEFF: Proposal 23.

30
31 MR. CASIPIT: Thank you. Mr. Chairman,
32 Federal Subsistence Board, Regional Council Chairs.
33 Proposal 23 was submitted by Mr. Thomas A. George of
34 Klawock. He wishes to establish a subsistence season and
35 harvest limit for steelhead trout Southeast-wide. In his
36 proposal he asks if not Southeast-wide, at least Prince of
37 Wales Island. He requests the harvest limit of one fish
38 per week with a slot size limit of 26 to 36 inches no
39 greater than 40 inches.

40
41 Current harvest of steelhead in Southeast
42 Alaska is done under State sportfish regulations. The
43 current regulation is one fish per day, two per season,
44 that is an annual limit. The fish needs to be greater than
45 36 inches and there's a no bait restriction. Also there is
46 a harvest record required under State fishing permit where
47 you have to keep track of your steelhead harvest in
48 Southeast.

49
50 We do have some limited harvest history for

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1 Prince of Wales Island and Southeast Alaska in general,
2 that appears on Page 37 in the analysis. As far as
3 biological, 331 identified steelhead populations in
4 Southeast Alaska, most are believed to contain less than
5 200 spawning adults. Fisheries on the larger rivers such
6 as Carla, Thorne Rivers, we believe that they support runs
7 of up to a thousand spawning steelhead and the Situk River,
8 which is the largest steelhead producer in the region
9 supports returns of 3,000 to 9,000 steelhead.

10
11 At this point, I'd like to ask answer any
12 questions the Board or Council Chairs may have before going
13 on.

14
15 CHAIRMAN DEMIENTIEFF: Are there any
16 questions? Written public comments.

17
18 MR. CLARK: Yes, Mr. Chairman. There were
19 three public comments submitted. One in support, one in
20 opposition and one to defer.

21
22 The Edna Bay Fish and Game Advisory
23 Committee was in favor of the proposal. The Eastern Prince
24 of Wales Fish and Game Advisory Committee was in opposition
25 of the proposal because it goes against what ADF&G
26 recommends for maintaining steelhead rainbow population
27 levels, especially regarding size limit and take limit of
28 steelhead rainbow trout. The United Fishermen of Alaska
29 said that consumption data was needed to support the
30 proposal which would interpret it to mean to defer.

31
32 That concludes the summary of public
33 comments, Mr. Chairman.

34
35 CHAIRMAN DEMIENTIEFF: Thank you.
36 Department comments.

37
38 MS. WHEELER: Thank you, Mr. Chair. The
39 State supports the Federal Inter-Agency Staff
40 recommendation as modified.

41
42 CHAIRMAN DEMIENTIEFF: We have no
43 additional request for public testimony at this time.
44 Regional Council recommendation.

45
46 MR. THOMAS: Mr. Chairman, the Southeast
47 RAC recommends modifying the proposal to provide a Federal
48 subsistence permit for the taking of steelhead trout from
49 streams on Prince of Wales Island. The permit would
50 delineate that any legal gear is allowed, there would be no

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1 closed seasons, there would be a weekly harvest of one
2 steelhead trout, and the size limit would be 26 to 36
3 inches no greater than 40 inches.

4
5 That's the Regional Advisory Council
6 recommendation, Mr. Chair. Thank you.

7
8 CHAIRMAN DEMIENTIEFF: Staff Committee.

9
10 MR. THOMPSON: Yes, Mr. Chairman. The
11 Staff Committee recommends modifying the proposal as to
12 methods, means, harvest limit and size limit so that the
13 regulation would read Prince of Wales Island area for
14 steelhead, Federal subsistence fishing permit would be
15 required for a year-round season with the following
16 conditions, annual limit of two fish of 36 inches or
17 greater, use of bait is not allowed and use of rod and reel
18 or dipnet is allowed.

19
20 We believe the subsistence priority is
21 afforded rural residents of the Prince of Wales area
22 through establishing the Federal subsistence permit system
23 along with the Federal subsistence season, harvest limit
24 and methods and size restrictions. However, because of
25 concerns about overharvest could cause population declines,
26 the Staff Committee recommends limiting the geographic area
27 to the Prince of Wales area rather than the requested
28 region-wide area.

29
30 CHAIRMAN DEMIENTIEFF: Any comments from
31 the Board.

32
33 MR. EDWARDS: Mr. Chair.

34
35 CHAIRMAN DEMIENTIEFF: Gary.

36
37 MR. EDWARDS: What is the realistic
38 implications of staying with the, the way I understand the
39 Staff Committee, two fish per season, the RAC's
40 recommendation is one fish per week? Assuming that the
41 slot limits and methods of take remain the same, what's the
42 implications of the true difference between two fish in the
43 season and one fish per week? I mean realistically what
44 would the catch probably be.

45
46 MR. THOMPSON: That's a fair question,
47 Gary, may I defer to Cal to comment on that, I don't know
48 the details of implications that you're suggesting.

49
50 MR. CASIPIT: Well, again, based on the

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1 limited information that we have as far as the population
2 sizes of some of these streams on Prince of Wales Island,
3 taking one fish per week out of some of these systems
4 probably would present a conservation concern over the
5 long-term.

6
7 MR. EDWARDS: But isn't the opportunity to
8 take steelhead a fairly limited window anyway, down there?

9
10 MR. CASIPIT: Well, yes, under sportfish
11 regulations, the State sportfish regulations, it's, you
12 know, similar to what Staff Committee is recommending.
13 Yeah, the season does last from about mid-March, probably
14 or even earlier than that in some situations to about June.

15
16 MR. THOMAS: Mr. Chairman.

17
18 CHAIRMAN DEMIENTIEFF: Bill.

19
20 MR. THOMAS: I don't know how two fish a
21 year could qualify as subsistence. I mean you got to be
22 pretty -- you got a pretty small appetite for that to
23 satisfy you, you know. The question was asked,
24 realistically, I think that's an excellent word to
25 consider. We should use that more in our thought and in
26 our deliberations. Two fish a year for a person that uses
27 steelhead is not realistic.

28
29 Again, these hypothetical conservation
30 concerns need to be identified as a population in distress.
31 If it's going to assist on the brink of distress without
32 any effort, there's nothing anybody can do about that,
33 that's a natural course. So one fish a week is more
34 realistic.

35
36 Let me give you an example with regard to
37 salmon. Okay, there was a time when everybody was allowed
38 six king salmon per day, 12 in possession. I never in my
39 life, other than commercial fishing had more than three
40 king salmon for the whole summer. Some people took more
41 than that. There's a lot of people out there that took my
42 share but they were non-residents of the state and they
43 weren't subsistence fishermen. So I don't think the Staff
44 Committee recommendation comes close to being realistic.

45
46 Mr. Chairman, thank you.

47
48 CHAIRMAN DEMIENTIEFF: Ken.

49
50 MR. THOMPSON: Yes, I might add something

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1 which I didn't mention in the Staff Committee
2 recommendation, is that, we did consider the availability
3 of alternative resources in this case in these areas. And
4 again, I'd emphasize the fragile or vulnerable nature of
5 steelhead populations in streams in Federal waters. So
6 that's sort of what lead us to that conclusion.

7

8 MR. THOMAS: Mr. Chairman.

9

10 CHAIRMAN DEMIENTIEFF: Go ahead, Bill.

11

12 MR. THOMAS: Okay, all of those concerns
13 that are recognized in those populations are not because of
14 the effort from subsistence users. Let's understand that
15 right off the bat. So if that's not the problem, let's not
16 use that to correct the problem. And as far as alternative
17 resources, that's one thing that the subsistence community
18 really objects to is by having people, even nice people,
19 offer them alternatives. You know, they got a mind-set
20 that if they don't want a steelhead, they'll get a walrus.
21 I mean, you know, let them make that determination for
22 themselves.

23

24 Thank you, Mr. Chairman.

25

26 CHAIRMAN DEMIENTIEFF: Additional
27 discussion. We're ready for a motion.

28

29 MR. EDWARDS: Yeah, could I.....

30

31 CHAIRMAN DEMIENTIEFF: Gary, I'm sorry.

32

33 MR. EDWARDS: In trying to look for a, you
34 know, some level of compromise here, because again I think
35 some of it's difficult -- I mean my personal view is you
36 can't have slot limits and then not have some bait restrict
37 -- I mean method of take restrictions. But does modifying
38 this to adopt a portion of the Council's recommendation as
39 far as limits, is that -- is there any benefit to that and
40 then maintaining the other portions of the recommendation?

41

42 MR. THOMAS: I don't know. The gear listed
43 up there is really a new -- that's really a recent way of
44 harvesting steelhead for the subsistence users. The
45 subsistence user generally uses a homemade gaff or a spear.

46

47 And with regards to compromise, with all
48 due respect, one of the things that the subsistence
49 community is very leery of now, is compromising anything.
50 Because we've compromised too much already. So we're very

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1 careful when we look at the term compromise.

2

3 Thank you, Mr. Chairman.

4

5 MR. EDWARDS: Mr. Chairman.

6

7 CHAIRMAN DEMIENTIEFF: Go ahead, Gary.

8

9 MR. EDWARDS: Just for my own
10 clarification, I did notice in the Council's recommendation
11 they also set a size restriction. And based upon our
12 previous discussion, I guess that kind of brings the
13 question, why is that felt to be necessary? Because on the
14 previous one, basically, that we deliberated one, there
15 wasn't any size restrictions. The way I read it there is a
16 recommendation to continue to have a size restriction.

17

18 MR. THOMAS: Okay, my best recollection
19 suggests to me that the size restriction prior to our
20 meeting was between 36 and 40 inches; is that correct?

21

22 MR. EDWARDS: Well, the way I -- if it's
23 correct here in the book, your recommendation was 26 to 36
24 inches no greater than 40 inches.

25

26 MR. THOMAS: Right.

27

28 MR. EDWARDS: And I was just curious as to
29 why there was a limit.

30

31 MR. THOMAS: That's because the rationale
32 behind that was if it had to be 36 inches long no greater
33 than 40, who was going to throw back a 32 inch steelhead?
34 See, so this size restriction is very reasonable, 26 is a
35 good size fish.

36

37 I'm doing the best with my answers based on
38 my understanding of the question.

39

40 MR. EDWARDS: From that, maybe you didn't
41 understand my question. I guess I was just curious that
42 the Council thought apparently it was necessary to have a
43 size restriction as opposed to having no size restriction
44 and also it felt that it was necessary to have a limit, in
45 this case, one fish per week. I mean to me that would
46 indicate some area of concern from a conservation
47 standpoint. And I was just -- because the previous
48 proposal, basically had no size restriction when we were
49 talking about, I think, about rainbow trout. And it
50 appears that there must have been something to the thought

00030

1 process here.

2

3 MR. THOMAS: Mr. Chairman. You're
4 absolutely correct and I appreciate you clarifying that.
5 In fact, your comments just now were just almost verbatim
6 to our discussion for the same reason. There was a
7 conservation concern in that deliberation that led to this
8 recommendation. So you recognize it as perfect as anybody
9 can.

10

11 CHAIRMAN DEMIENTIEFF: Further discussion.
12 If not we're ready for a motion. Yes.

13

14 DR. KESSLER: Thank you, Mr. Chairman. I
15 move the Board adopt Proposal 23 as modified and
16 recommended by the Southeast Regional Advisory Council with
17 the further modifications pertaining to method, harvest and
18 size limits as recommended by the Federal Inter-Agency
19 Staff Committee.

20

21 MR. WILSON: Second.

22

23 CHAIRMAN DEMIENTIEFF: Motion made and
24 seconded. Discussion. Hearing none, all those in favor of
25 the motion signify by saying aye.

26

27 IN UNISON: Aye.

28

29 CHAIRMAN DEMIENTIEFF: Those opposed, same
30 sign.

31

32 (No opposing votes)

33

34 CHAIRMAN DEMIENTIEFF: Motion carries.
35 We're going to take a short break here.

36

37 (Off record)

38

39 (On record)

40

41 CHAIRMAN DEMIENTIEFF: Okay, if we could
42 make our way back to our chairs we'll get ready to go
43 again.

44

45 (Pause)

46

47 CHAIRMAN DEMIENTIEFF: I'll call the
48 meeting back to order and we'll begin with the analysis on
49 Proposal 25. Cal.

50

00031

1 MR. CASIPIT: Thank you. Mr. Chairman,
2 Federal Subsistence Board, Regional Council Chairs.
3 Proposal 25 was submitted by Mr. Lewis Hyatt. He would
4 like to reduce the coho harvest limit to two fish per day
5 for non-Federally qualified subsistence users on streams
6 accessible by the road system on Prince of Wales Island.

7
8 Currently coho is a recognized subsistence
9 species under the Federal regulations for these areas
10 however there are no specific regulations for coho fishing.
11 All existing coho fishing up to this point has occurred
12 under sport harvest regulations. On Table 1 on Page 46 the
13 Staff analysis shows the current customary and traditional
14 use determinations for the area in question. Before we go
15 on here, I do want to show a map and I want to apologize
16 for the quality of it, we were trying to get copies in the
17 Board book but it just didn't work out. But if you look at
18 the map there, basically all the yellow highlighted areas
19 on that map of Prince of Wales are coho systems within a
20 quarter mile of the road system on Prince of Wales. The
21 black lines indicate roads. So as you see there, there's
22 quite an area of Prince of Wales that is accessible by road
23 system by coho streams on Prince of Wales that is
24 accessible by the road system. Again, the yellow
25 highlighted areas are those streams within a quarter of a
26 mile of the road.

27
28 A couple key points. The coho populations
29 on Prince of Wales are healthy. The proponent did state
30 that he saw user conflicts along the road accessible
31 streams. His specific examples were Winnebagos with out of
32 state licenses set up on various streams along the road
33 system on Prince of Wales, you know, with canning
34 operations, home canning operations, that sort of thing.

35
36 The total freshwater coho salmon harvest
37 from Prince of Wales has averaged a little under 3,000 fish
38 for the past 10 years. Again, we don't see any
39 conservation concerns with coho on Prince of Wales at this
40 time.

41
42 At this point I'd like to answer any
43 questions the Board or Council Chairs may have.

44
45 CHAIRMAN DEMIENTIEFF: Do we have any other
46 questions. Thank you very much. Written public comments.

47
48 MR. CLARK: Thank you, Mr. Chairman. The
49 Southeast Alaska Fishermen's Alliance is opposed to the
50 proposal. They say that no customary and traditional use

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1 determination has been made. They also are in opposition
2 because it does not identify the need for a subsistence
3 fishery because it does not address the issue of the
4 subsistence needs not being met.

5
6 The Eastern Prince of Wales Fish and Game
7 Advisory Committee voted to oppose this proposal because
8 there does not appear to be conservation concern with coho
9 at this time. At least one member of the Advisory
10 Committee is a member of the Outfitter Guide Lodge -- he's
11 a outfitter, guide lodge owner and felt that this would
12 limit his customers too much, especially if there's no
13 conservation concern.

14
15 The Southeast Alaska Seiners took no
16 position on the proposal but suggested that the Federal
17 Subsistence Board should establish a criteria for
18 restricting State managed fisheries.

19
20 Mr. Chairman, as an aside, I would not that
21 the Southeast Alaska Fishermen's Alliance opposition on the
22 account of a lack of a customary and traditional finding
23 does not apply to the Federal program because there is a
24 C&T finding for coho.

25
26 That concludes the summary of public
27 comments, Mr. Chairman.

28
29 CHAIRMAN DEMIENTIEFF: Thank you.
30 Department comments.

31
32 MS. WHEELER: Thank you, Mr. Chair. The
33 State supports the Federal Inter-Agency Staff
34 recommendation. We do not believe that there is sufficient
35 justification that restrictions to sport fishing are needed
36 at this time for conservation or subsistence reasons.

37
38 Thank you, Mr. Chair.

39
40 CHAIRMAN DEMIENTIEFF: Thank you. We have
41 no additional request for public testimony at this time.
42 Regional Council recommendation.

43
44 MR. THOMAS: Mr. Chairman, before I get
45 into this, I would like to share an observation. Earlier
46 in Board action, a part of a proposal was rejected without
47 identifying any of the three criteria required to do so.
48 Before the record is closed on this, I would hope that one
49 of those three criteria be associated with the rejection of
50 that portion of the proposal. Thank you, Mr. Chairman.

00033

1 With regard to recommendations on Proposal
2 25, you'll see a marked difference in language. The
3 Southeast Regional Advisory Council supported the proposal
4 to restrict to two fish per day harvest of coho salmon by a
5 non-Federally qualified subsistence users on streams
6 accessible by the road system on Prince of Wales Island.
7 Justification, the Council's rationale was increasing
8 subsistence harvest limits as recommended in Proposal 34
9 would result in increased harvest on those systems. So
10 this restriction on non-subsistence users would be a
11 conservative action. They also felt that non-Federally
12 qualified users could still obtain six fish per day in
13 saltwater so their opportunity would not be significantly
14 reduced.

15
16 Now, that's the language coming from us.

17
18 Now, the Federal Inter-Agency Staff
19 Committee justification, listen to this. The season is
20 open year-round with a limit of six fish per day, 12 in
21 possession. Studies may be warranted, may, again, due to
22 reports of user conflicts along the streams and abuse of
23 sport fisheries.

24
25 You know, again, there could be better
26 articulation in justifying supporting or not supporting of
27 a proposal.

28
29 So the Southeast Regional Advisory Council
30 supports this proposal. Thank you, Mr. Chairman.

31
32 CHAIRMAN DEMIENTIEFF: Thank you, Bill.
33 Staff Committee recommendation.

34
35 MR. THOMPSON: Yes, Mr. Chairman. The
36 Staff Committee recommends rejecting the proposal for the
37 reasons that Bill just stated. And that is, again, there's
38 been no demonstrated conservation reasons to restrict the
39 sport fishery. Coho populations are generally healthy on
40 Prince of Wales Island, season is open year-round with a
41 limit of six fish daily, 12 in possession.

42
43 CHAIRMAN DEMIENTIEFF: Board deliberations.
44 Bill.

45
46 MR. THOMAS: Mr. Chairman, again, with the
47 recommendation to reject, I don't see it accompanied by one
48 of the three criteria in order to do so. Shouldn't that be
49 the case whenever you take action to reject, shouldn't that
50 be accompanied by the listed three in Title VIII? Thank

00034

1 you, Mr. Chairman.

2

3 CHAIRMAN DEMIENTIEFF: Could we address
4 that, please. Bill just raised a question. Could you
5 repeat the question, Bill, I don't think Keith got the
6 question, maybe you could just ask him again?

7

8 MR. THOMAS: Oh, okay. With Staff
9 Committee rejection, a recommendation to reject the
10 proposal contrary to the recommendation of the Regional
11 Advisory Council, and I don't see it accompanied by one of
12 the identified three criteria in Title VIII in order to do
13 so. And so without that, I see that as a violation of
14 following the guidelines of Title VIII.

15

16 MR. GOLTZ: I was looking for a copy of
17 ANILCA. Does anyone have one in the room?

18

19 (Laughter)

20

21 MR. GOLTZ: Very good. I'd use your copy
22 but it's smudged. There are a couple of basic ways to
23 reject a Council proposal, one is 805(c), no, 805(3). And
24 there are three standards for rejecting a Council proposal.

25

26 One is contrary to recognized principles of
27 fish and wildlife management -- I'm not reading this right,
28 I can't see this. But it's recognized principles of
29 conservation management, lack of substantial evidence
30 or.....

31

32 MS. FOX: Here's a bigger print.

33

34 MR. GOLTZ: Okay, big print. The Secretary
35 -- not to follow any recommendation which he determines is
36 not supported by substantial evidence, violates recognized
37 principles of fish and wildlife conservation or would be
38 detrimental to the satisfaction of subsistence needs.
39 That's the basic template.

40

41 And every time a Council proposal is
42 rejected, even in whole or in part, that template should
43 show up in the materials in front of the Board. It should
44 also be acknowledged in Board discussion. And ANILCA also
45 requires that a letter be sent to the Regional Council
46 after the action has been taken. And the thrust of that
47 proposal is to make the Regional Councils the engine that
48 drives this system.

49

50 There is, however, one other part of ANILCA

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1 that's relevant here and I think it's probably the one we
2 want to be referring to in this case. And that's Section
3 815(3). Now I'm where I want to be. It says nothing in
4 this title shall be construed as authorizing the
5 restriction on the taking of fish and wildlife for non-
6 subsistence uses on public lands unless necessary for the
7 conservation of healthy populations and so on and so on for
8 the reasons set out in Section 816.

9
10 So I think what ANILCA is saying is that we
11 have a template for subsistence management, we use that
12 when we're judging the engines that drive this system, but
13 it's a subsistence program and there are other legitimate
14 uses of wildlife resources which should not be impeded
15 unless they're necessary for the implementation of Title
16 VIII.

17
18 CHAIRMAN DEMIENTIEFF: Fred.

19
20 MR. CLARK: Thank you, Mr. Chairman. M r.
21 Goltz is exactly right in bringing that up but I would
22 point out that we are now under the Staff Committee
23 recommendation rather than Board recommendation. And it
24 would be -- you know, you have to make certain that you
25 consider those under the Board recommendation, I'm not so
26 sure -- I would ask Keith, if you have to consider them as
27 part of the Staff motion?

28
29 MR. GOLTZ: No, but it would make it easier
30 for all of us if the Staff did put that in their
31 recommendation. Thank you.

32
33 MS. GOTTLIEB: Mr. Chair.

34
35 CHAIRMAN DEMIENTIEFF: Yes.

36
37 MS. GOTTLIEB: Having listened to Chairman
38 Thomas' on a few previous proposals here, some of the
39 wording here and the recommendation about studies may be
40 warranted. So my question is, are some studies that would
41 help answer user conflict questions, are they in progress
42 or within the line up in our resource monitoring program so
43 that we can get some of these answers?

44
45 CHAIRMAN DEMIENTIEFF: Cal.

46
47 MR. CASIPIT: Mr. Chairman, Federal
48 Subsistence Board, Council Chairs, Ms. Gottlieb. There are
49 some harvest patterns in these type projects as well as
50 some stock status projects that could help to answer this

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1 question that's in the 2001 program referred for
2 investigation plans.

3

4 CHAIRMAN DEMIENTIEFF: Go ahead, Gary.

5

6 MR. EDWARDS: As part of the discussion, as
7 I read the Council's recommendation, part of the rationale
8 is based upon potential outcome of Proposal 34, which I've
9 read several times and am totally confused by, but would it
10 be helpful to -- isn't that correct, Mr. Thomas?

11

12 MR. THOMAS: Would you repeat that please?

13

14 MR. EDWARDS: The way I read the Council's
15 recommendation on this particular proposal, it's also based
16 upon Proposal 34?

17

18 MR. THOMAS: That's correct.

19

20 MR. EDWARDS: And would it not be helpful
21 to maybe discuss it.....

22

23 MR. THOMAS: In conjunction?

24

25 MR. EDWARDS:in conjunction? Thank
26 you. Well, it still seems to me that if that's part of the
27 rationale for why the Council made the recommendation, we
28 need to, I guess, fully understand it.

29

30 MR. THOMAS: Mr. Chairman, we used to be a
31 pretty Plain Jane Operation. But since we got to know you
32 folks much better we started acting like you and that's the
33 language we have in our summaries.

34

35 Thank you, Mr. Chairman.

36

37 MS. GOTTLIEB: Mr. Chairman.

38

39 CHAIRMAN DEMIENTIEFF: Yes.

40

41 MS. GOTTLIEB: I appreciate the information
42 about future studies that, I guess, are going to be done
43 but if this is a user conflict situation, and I guess I
44 would like some verification that my perception of that is
45 correct, if it is, I think we have some very excellent
46 models in the wildlife arena where we've established or the
47 Councils or others or agencies have established working
48 groups or cooperative agreements so that plans can be
49 developed. Certainly excellent examples, relating to
50 muskox and moose and caribou where that's being done, could

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1 something like that be established or help in this
2 situation?

3

4 CHAIRMAN DEMIENTIEFF: Discussion.

5

6 MR. THOMPSON: Mr. Chairman.

7

8 CHAIRMAN DEMIENTIEFF: Yes.

9

10 MR. THOMPSON: Yes, could we have Staff
11 comment on Ms. Gottlieb's question?

12

13 CHAIRMAN DEMIENTIEFF: Staff.

14

15 MR. CASIPIT: Thank you. Mr. Chairman, Ms.
16 Gottlieb, Federal Subsistence Board, Regional Council
17 Chairs. As far as your perception, Ms. Gottlieb, that this
18 proposal came out of a user conflict -- concern over user
19 conflicts, I think that's a safe assumption. If you read
20 the proposal from Mr. Hyatt, he does go into great detail
21 about, you know, non-Federally qualified out of state users
22 coming to Prince of Wales with their Winnebagos and campers
23 or whatever and setting up shop along these rivers and, you
24 know, canning their fish to take back. I guess from Staff,
25 both from the Staff from Fish and Game and Staff from the
26 Forest Service on the island have noted activities such as
27 that occurring. As far as quantifying the level of that
28 occurring, and how many people are doing it and where
29 they're doing it, I guess we don't have that detailed of
30 information. But I think your assumption that it is
31 occurring is probably, you know, a good one. The level of
32 that conflict, I guess would be up to discussion.

33

34 As far as putting together a task force to
35 try to discuss these things and try to hammer out something
36 on the island, I think that is a good suggestion and
37 probably something that our agency should try to undertake.
38 This could prove to be beneficial for more than just the
39 coho issue. There are plenty of sockeye issues on the
40 island to deal with as well as well as the steelhead and
41 cutthroat issues that we just went through. So I think
42 your suggestion is a good one and, you know, I don't want
43 to presume to tell the Board what to do but I think that is
44 a good idea.

45

46 MR. THOMAS: Mr. Chairman.

47

48 MR. CASIPIT: Would you like to add to
49 that, Fred?

50

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1 CHAIRMAN DEMIENTIEFF: Bill.

2
3 MR. THOMAS: Oh, boy, I think we dropped
4 some oil in the water here. In addressing the proposal,
5 when the Regional Advisory Councils come together, their
6 focus is on access and harvest of resource with the ability
7 to sustain their way of life, to sustain their needs. And
8 for us to enter into an expanded study of conflicts between
9 user groups, I don't think is warranted, I don't think it
10 warrants an added expenditure in an already budget-burdened
11 process.

12
13 Thank you, Mr. Chairman.

14
15 CHAIRMAN DEMIENTIEFF: Bill, is the
16 Council, in their discussions and deliberations of this
17 proposal aware of any biological concerns that maybe Staff
18 isn't aware of?

19
20 MR. THOMAS: Well, Cal, very timidly
21 touched part of that by mentioning the activities of the
22 imported species coming in with their modern technology of
23 harvesting, preserving and taking, and that is going
24 without monitoring. And with enough of that activity
25 there, there is a significant possibility for a
26 conservation concern. The people that live there that
27 utilize that resource in a subsistence designed fashion,
28 with the restrictions, they're restricted by only what they
29 can use. That doesn't expose any conservation concerns on
30 its own merit. Subsistence use does not generate any
31 conservation concerns.

32
33 There are other user groups that need to be
34 taken a look at but I don't know that it should be the
35 Federal Subsistence program that does that. Thank you, Mr.
36 Chairman.

37
38 CHAIRMAN DEMIENTIEFF: Was there any
39 discussion at the Council level with regard to pointing out
40 people, subsistence users who were unable to meet their
41 needs given reasonable effort?

42
43 MR. THOMAS: Thank you, Mr. Chairman. I
44 don't -- that may have happened, but I don't recall whether
45 I heard that or not. Sorry, about that.

46
47 MR. CLARK: Mr. Chairman.

48
49 CHAIRMAN DEMIENTIEFF: Fred.

50

00039

1 MR. CASIPIT: Mr. Chairman, Federal
2 Subsistence Board, Regional Council Chairs, Mr. Thomas. I
3 guess I would have to say that the question that was just
4 presented is a difficult question because there really is
5 no established subsistence season at this time in Southeast
6 Alaska for cohos. All existing harvest is done under the
7 sport fish regulations which is six fish per day, 12 in
8 possession, rod and reel methodology of sport harvest.
9 Now, 34 that we'll be talking about here in a few minutes
10 asks to establish a subsistence season on Prince of Wales
11 Island, so the question of whether or not subsistence users
12 are getting their coho that they need, that's a difficult
13 question because there really is no subsistence season.
14 All the existing harvest is under sport regs and it's
15 anybody's guess as to whether or not people are --
16 subsistence users are getting the coho they need because
17 they are limited by the existing sport regulations.

18
19 Does that -- I might have really confused
20 the issue more by that answer but I'd be -- if I wasn't
21 clear on that, let me know.

22
23 MR. THOMAS: Mr. Chairman.

24
25 CHAIRMAN DEMIENTIEFF: Go ahead, Bill.

26
27 MR. THOMAS: Mr. Casipit is doing an
28 outstanding job. He's got very limited resources to work
29 with. I'm not sure how he was able to muster up as much
30 information as he did. But the stuff he's giving you, he
31 presented at the Regional Advisory Council meeting as well
32 and I would hope that as everybody else is listening to
33 him, could find some way to assist him in arriving at a
34 proper response because he doesn't have one right now.

35
36 Thank you, Mr. Chairman.

37
38 CHAIRMAN DEMIENTIEFF: Thank you. Fred.

39
40 MR. CLARK: Thank you, Mr. Chairman. I
41 would just add that the Council at the Regional Advisory
42 Council meeting did struggle with these types of questions
43 including how to or if to take a coordinated approach with
44 the State on this type of thing. And they came back to
45 exactly what Bill said, is that, the Federal Subsistence
46 Program deals with subsistence. I think that kind of gets
47 to one of the questions.

48
49 The other thing that I'd like to bring up
50 is that the Council also struggled with the same type of

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1 thing that Mr. Edwards brought up about the interaction
2 between Proposal 34 and this proposal. And they
3 essentially dealt with 34 at the same time as this one.
4 And a lot of the particulars that people seem to be leading
5 up to in this discussion are better handled under that
6 proposal. So my suggestion would be perhaps we address it
7 as Mr. Edwards proposed or was suggesting, is to get some
8 more particulars through Proposal 34.

9
10 CHAIRMAN DEMIENTIEFF: Proposal 34 is on
11 the consent agenda item. We're not going to bring it off
12 the consent agenda unless requested by either Mr. Thomas or
13 a Board member.

14
15 MR. THOMAS: Mr. Chairman.

16
17 CHAIRMAN DEMIENTIEFF: Yes.

18
19 MR. THOMAS: I request Proposal 34 be
20 removed from the consent agenda in order that it enable us
21 to work in conjunction by combining the methodologies and
22 the similar thoughts used in both of them.

23
24 CHAIRMAN DEMIENTIEFF: So procedurally,
25 since we don't have a motion on the table with regard to
26 Proposal 25 and we do have a request from the Regional
27 Council Chairman to consider Proposal 34 and take it off
28 the consent agenda, I will just -- we will just set aside
29 the debate on Proposal 25 and start over and we'll start
30 with 34 and come back to 25 after we've gone through 34.
31 So we'll do that.

32
33 There are some things that we need to
34 discuss here and it's becoming clear, once this issue
35 becomes the property of the Board, once we advance an issue
36 to Board deliberations, we need to keep in mind that that's
37 the property of the Regional Council Chairs as well as the
38 Board. Staff should be reminded not to try to initiate any
39 kind of initiation whatsoever, just the same way we do
40 things on the game side. And I think part of that has to
41 do with the newness and maybe a little bit of the
42 nervousness of this being our first regulatory meeting, but
43 it is important for us to be consistent. What did I just
44 finish saying Tom?

45
46 MR. THOMAS: If you'd rather, Mr. Chairman,
47 I have a chair here that Mr. Boyd can sit on.

48
49 CHAIRMAN DEMIENTIEFF: So we will set aside
50 discussion on 25 and like I said, there is some -- one of

00041

1 the things that we're not doing, we have a request and I'm
2 going to go back even though we're not going to reconsider
3 23, the Forest Service had a request in and I forgot before
4 we took up 25 and just because of the newness we're not
5 really explaining some of the things that we should, and I
6 think Forest Service wanted to explain maybe the reasons
7 for making the motion with regard to 23.

8
9 DR. KESSLER: Thank you, Mr. Chair. I'm
10 quite new at this and this is my first meeting so I'm
11 learning a lot of how people do things. And I think I
12 passed up the opportunity to share with you the reasoning
13 that I used in making the motions that I did and in voting
14 the way I did. And I think this generality of principle
15 that I'm going to share with you extends across those three
16 motions.

17
18 So I recognize that wherever possible we
19 certainly want to uphold the recommendations of the Board,
20 but we do have three kinds of situations in which we have
21 the basis for either rejecting those recommendations or
22 offering modifications. The particular item that pertained
23 in my decision was the one having to do with contrary to
24 principles of fish and wildlife conservation.

25
26 And what drove my thinking there was the
27 precautionary principle, which is one of the fundamental
28 principles of fish and wildlife conservation. The
29 precautionary principle compels us that when we don't have
30 the information we would like to have, the quality of
31 information that we'd like to have, that we err on the side
32 of precaution, if you will. And so having listened
33 thoughtfully to all of the testimony given and including
34 that pertaining to the biological information and recognize
35 that it's certainly not perfect, there's much room for
36 improvement, but given that, the state of that information
37 as well as the precautionary principle, I acted on that
38 basis and again, my basic reasoning was having to do with
39 principles of wildlife and fish conservation.

40
41 Thank you.

42
43 CHAIRMAN DEMIENTIEFF: Thank you. The
44 Chair of the Regional Council from Region 1, Mr. Thomas,
45 has requested that Proposal No. 34 be taken off of the
46 consent agenda, is there a motion to do so?

47
48 MR. WILSON: So moved.

49
50 CHAIRMAN DEMIENTIEFF: Is there a second?

00042

1 MR. EDWARDS: Second.

2
3 CHAIRMAN DEMIENTIEFF: Moved and seconded.
4 Discussion. Again, the reasons are is because the points
5 are tied to Proposal 26 and we need to have that
6 information for us to properly consider -- I mean 25.

7
8 MR. THOMAS: We know what you mean.

9
10 CHAIRMAN DEMIENTIEFF: Okay, good, as long
11 as somebody does. All those in favor of the motion signify
12 by saying aye.

13
14 IN UNISON: Aye.

15
16 CHAIRMAN DEMIENTIEFF: Those opposed, same
17 sign.

18
19 (No opposing votes)

20
21 CHAIRMAN DEMIENTIEFF: Motion carries. At
22 this time, using the discretion of the Chair, I'm going to
23 go ahead and move Proposal 34 ahead since it is tied to
24 Proposal 25 and ask the Staff to give the analysis.

25
26 MR. CASIPIT: Thank you. Mr. Chairman,
27 Federal Subsistence Board, Regional Council Chairs. The
28 Staff analysis for Proposal 34 appears in your notebook on
29 Page 53 and I will briefly go through that with you.
30 Proposal 34 was submitted by Mr. Michael Douville of Craig
31 Alaska. He's a Regional Advisory Council member. He
32 requests Federal subsistence permits to take coho salmon be
33 issued for subdistrict 3(B) and 3(C). Those are basically
34 waters of northwest and west central Prince of Wales of
35 Island. At the time of the proposal he did not specify a
36 season harvest limit or methods and means.

37
38 Later in the proposal analysis process, Mr.
39 Douville was contacted. He clarified the intent of his
40 proposal suggesting an annual harvest limit of 20 fish and
41 allowable gear to include rod and reel and spears. He said
42 that bait should be allowed but only during the peak of the
43 run in September.

44
45 Currently our Federal regulations prohibit
46 the issuance of permits to take coho salmon and chinook
47 salmon for subsistence uses even though there is positive
48 customary and traditional use determinations for that
49 species. Removal of the prohibition for coho salmon that
50 appears in our regulations at paragraph 26(i)(13)(b), we

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1 would have to remove the prohibition against taking coho
2 salmon for this fishery to occur.

3
4 Like I mentioned for Proposal 25, current
5 harvest on Prince of Wales Island for coho salmon are done
6 under the State sportfish regulations. The current
7 regulation for Prince of Wales is six coho per day, 12 in
8 possession.

9
10 A few concerns here that we wanted to bring
11 out with this one, we did feel that the Federal permit
12 should have harvest reporting associated with it and we did
13 look at the use of bait. Currently under the sportfish
14 regulations bait is allowed between September 15th and
15 November 15th, and the use of bait makes rod and reel
16 fishing more efficient.

17
18 I guess at this point I'd be happy to
19 answer any questions from the Board.

20
21 CHAIRMAN DEMIENTIEFF: Any questions. Cal,
22 I know you're kind of new to the process, so also I'll
23 point out that we still, the Board members, you know, we'll
24 still ask questions if there are follow up as we develop
25 the issue.

26
27 MR. CASIPIT: Okay.

28
29 CHAIRMAN DEMIENTIEFF: Okay, summary of
30 written public comments.

31
32 MR. CLARK: Thank you, Mr. Chairman. The
33 Southeast Alaska Fishermen's Alliance, they say that prior
34 to acting on the proposal the Federal Subsistence Board
35 must make a C&T determination for coho then identify the
36 need for subsistence fishery and determine whether
37 subsistence needs are being met. They suggest approaching
38 this on a regional basis instead of a piecemeal basis.

39
40 The United Fishermen of Alaska supported
41 the proposal with modification. They support it to the
42 extent that it helps align Federal and State management.

43
44 The Eastern Prince of Wales Fish and Game
45 Advisory Committee is in opposition to the proposal.
46 Because it supports the believe that coho should not be
47 targeted for subsistence harvest in freshwater but only be
48 incidental take during low water coho would be easily
49 susceptible to overharvest.

50

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1 That concludes the written public comments,
2 Mr. Chairman.

3
4 CHAIRMAN DEMIENTIEFF: Thank you.
5 Department comments.

6
7 MS. WHEELER: Thank you, Mr. Chair. The
8 State supports the Federal Inter-Agency Staff
9 recommendation. Thank you, Mr. Chair.

10
11 CHAIRMAN DEMIENTIEFF: Thank you. We have
12 no written request for public testimony at this time.

13
14 MR. CLARK: Mr. Chairman.

15
16 CHAIRMAN DEMIENTIEFF: Yes.

17
18 MR. CLARK: It just came to my attention
19 that the Alaska Trollers [sic] submitted written public
20 comments yesterday but they have not arrived here. I just
21 wanted to make sure that was on the record.

22
23 MR. THOMAS: Mr. Chairman.

24
25 CHAIRMAN DEMIENTIEFF: Who did that come
26 from?

27
28 MR. CLARK: That was the Alaska Troller
29 [sic].

30
31 CHAIRMAN DEMIENTIEFF: Okay. Mr. Thomas.

32
33 MR. THOMAS: Yeah, Mr. Chairman, I'm a
34 troller and I think it's safe to assume that the trollers
35 fully endorse RAC recommendation.

36
37 (Laughter)

38
39 CHAIRMAN DEMIENTIEFF: Regional Council
40 recommendation.

41
42 MS. CROSS: Mr. Chair, I have a question,
43 another question regarding this. On Page 55 under
44 concerns, what study did.....

45
46 CHAIRMAN DEMIENTIEFF: Grace, if I could,
47 you will get the opportunity to ask questions, but we need
48 to go through with the Regional Council recommendation,
49 Staff Committee recommendation and then you'll get an
50 opportunity to require.

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1 MS. CROSS: Okay, thank you.

2
3 CHAIRMAN DEMIENTIEFF: You'll have plenty
4 of opportunity. Regional Council recommendation.

5
6 MR. THOMAS: Thank you, Mr. Chairman. The
7 Advisory Council recommends to support the proposal with
8 modification. We recommend removing the regulation
9 26(i)(13)(b) which prohibits the issuance of permits for
10 cohos and chinook salmon. We further recommend providing a
11 Federal subsistence fishing permit for coho salmon for
12 subdistrict 3A, 3B and 3C. Provisions on the permit would
13 include the daily harvest limit of up to 20 coho per
14 household with no closed season. Method and means would be
15 rod and reel, spear, dipnets, mortar, dynamite. Bait would
16 be allowed from September 15th to November 15th. The
17 Council recommended the permit should require a reporting
18 at least the date of harvest, stream, gear used and the
19 number of fish caught daily. The Council further
20 recommended increased monitoring of coho escapement harvest
21 on Prince of Wales Island which would be accomplished
22 cooperatively by the Forest Service and the Department and
23 the local affected users.

24
25 So the recommendation wasn't without some
26 provisions of monitoring. This is a very responsible
27 recommendation. Thank you, Mr. Chairman.

28
29 CHAIRMAN DEMIENTIEFF: Thank you. Staff
30 Committee recommendation.

31
32 MR. THOMPSON: Yes, Mr. Chairman, the Staff
33 Committee recommends modifying the proposal as recommended,
34 I believe, in part, by the Southeast Council. I'm not sure
35 we would add dynamite and mortars to that but as originally
36 recommended by the Council. Coho salmon has been
37 customarily and traditionally used throughout Southeast
38 Alaska and by implementing a Federal permit the Federal
39 Subsistence Board could better track the subsistence use of
40 coho.

41
42 Thank you.

43
44 CHAIRMAN DEMIENTIEFF: Thank you. We'll
45 now advance this to Board deliberation. Towards that end,
46 since I so rudely interrupted you Grace, we're going to
47 allow you to go first.

48
49 MS. CROSS: Well, I was just going to ask a
50 question on Page 55, there is a statement that says,

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1 however, without restriction and gear type, overharvest
2 would occur which would reduce coho returns and cause
3 future restrictions. I just wanted to know if that was
4 based on a study or is that just speculation?

5
6 MR. THOMAS: Mr. Chairman.

7
8 CHAIRMAN DEMIENTIEFF: Yes.

9
10 MR. THOMAS: That's listed under concern,
11 so it doesn't have either with regard to information.

12
13 CHAIRMAN DEMIENTIEFF: Yes, I read that.
14 Who authored this? Cal, is this some concern that you
15 pointed out?

16
17 MR. CASIPIT: Yes, Mr. Chairman, Federal
18 Subsistence Board, Regional Council Chairs. This was a
19 concern that was brought out to us that having a daily
20 limit without having a season harvest limit as a backstop
21 for -- that harvest would increase more -- beyond --
22 without having that, it could cause a problem for small
23 coho systems on Prince of Wales if there wasn't some sort
24 of seasonal limit, over the long-term it could cause
25 conservation concerns. But you have to balance that off
26 with the existing sportfish season, the sportfish harvest
27 which are basically six fish a day, 12 in possession. The
28 possession being if fish have not been canned, salted,
29 frozen, smoked, dried or otherwise preserved. So there is
30 that element in that that the Board is going to have to
31 look at, is, you know, the sportfishing occurs, six fish a
32 day, 12 in possession, the possession limit being, you
33 know, as long as you've canned it or salted it, you can go
34 back and get another 12 possession limit basically.

35
36 There is no seasonal backstop on
37 sportfishing. The flip side of it being a subsistence
38 limit as Bill -- as Mr. Thomas talked about it being a
39 daily limit also with no season limit, without having a
40 backstop either. So I mean that's something -- you know, I
41 don't want to presume to tell the Board what to do but, you
42 know, that is how the recommendation did come from the
43 Council and, you know, they suggested a daily harvest limit
44 for coho.

45
46 MR. THOMAS: Mr. Chairman.

47
48 CHAIRMAN DEMIENTIEFF: Bill.

49
50 MR. THOMAS: Mr. Chairman, it's obvious

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1 that Mr. Casipit hasn't been subject to my orientation in
2 our region but we'll take care of that pretty soon. But we
3 do have a backstop in a subsistence community. Our
4 backstop is if we can't eat what we get we don't harvest
5 anymore. That's a backstop and that's a good one.

6
7 Thank you.

8
9 CHAIRMAN DEMIENTIEFF: Thank you. Is there
10 any other discussion by Board members -- Gary.

11
12 MR. EDWARDS: I'm a little confused now
13 what -- the Council was recommending a daily bag limit and
14 what the Staff Committee is recommending is an annual
15 household limit; is that correct?

16
17 MS. FOX: We supported the Council
18 recommendation.

19
20 MR. EDWARDS: Peggy we supported it but the
21 way I read it, the Council recommended up to 20 -- daily
22 harvest limit up to 20 coho per household and the Staff
23 Committees recommending an annual harvest limit of 20 fish
24 per household. That's a fairly significant difference.

25
26 CHAIRMAN DEMIENTIEFF: That's the way it
27 reads, you're correct in that.

28
29 MR. WILSON: Mr. Chair, I'm wondering if
30 there was some sort of data entry problem here because this
31 thing was on the consent agenda and given the wording of
32 the two proposals now, it shouldn't have been.

33
34 MR. EDWARDS: That was going to be my next
35 question, why did we put it on the consent agreement if
36 there's that significant difference.

37
38 MR. THOMAS: Yeah.

39
40 CHAIRMAN DEMIENTIEFF: Who would have done
41 that? Ken, is that you that would have.....

42
43 MR. THOMPSON: Would I have entered the
44 data, well, I'm partially responsible, but no, I didn't.
45 It does appear there is a data entry problem here and I'd
46 urge the Board to consider the Staff Committee
47 recommendation as stated in the book, not fully consistent
48 with the Council recommendation.

49
50 CHAIRMAN DEMIENTIEFF: In your

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1 deliberations with the Staff Committee, do you recall
2 debating that particular issue? I mean if it's just a.....

3
4 MR. THOMPSON: Well, other Staff Committee
5 members may help me, but as I recall we did deliberate that
6 point and we did make a conscious decision to make it an
7 annual harvest limit in our recommendation.

8
9 CHAIRMAN DEMIENTIEFF: Of 20 fish?

10
11 MR. THOMPSON: Yes.

12
13 CHAIRMAN DEMIENTIEFF: So let me see since
14 this is related to Proposal 25, somehow the Staff Committee
15 is limiting subsistence users to 20 fish a day while
16 allowing sport fishers up to 700 and some odd fish a day,
17 800 fish, whatever, a day, two fish a day?

18
19 MR. THOMPSON: Again, I believe the Staff
20 Committee recommendation should have been an annual harvest
21 limit of 20 fish per household, which is not consistent
22 with what the -- apparently with what the Council
23 recommended.

24
25 CHAIRMAN DEMIENTIEFF: Is the full Staff
26 Committee here?

27
28 MR. BOYD: Yes.

29
30 CHAIRMAN DEMIENTIEFF: I'm going to call a
31 recess until 1:00 o'clock, and immediately upon this recess
32 I want the Staff Committee to sit down and sort this out so
33 the Staff Committee convenes right now and we'll go ahead
34 and stand down until 1:00 o'clock.

35
36 (Off record)

37
38 (On record)

39
40 CHAIRMAN DEMIENTIEFF: We'll go ahead and
41 call back the Federal Subsistence Board back to order.
42 Right before lunch, of course, we had a little glitch with
43 our Proposal No. 34. I asked the Staff Committee to review
44 it, we could have kept working but what the heck we had a
45 long lunch break out of it, it didn't take them but 30
46 second to resolve it. So with that, I'll go ahead and call
47 on the Chair of the Staff Committee, Peggy Fox, to explain
48 the glitch.

49
50 MS. FOX: Thank you, Mr. Chair. The error

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1 was in transporting the wrong recommendation into the Staff
2 Committee recommendation and in fact it is intended that
3 the Staff Committee recommends full support of the
4 Council's recommendation and that it is and continues to be
5 a consent agenda proposal.

6
7 CHAIRMAN DEMIENTIEFF: Okay. With that,
8 we'll go ahead and move on to Board deliberation. And
9 towards that end, I'm glad that we did go back to review
10 that, it helps to clear up a lot of the issues as far as
11 Proposal 25 goes. You know, I'm intending to support the
12 proposal and am prepared to move on as soon as we're done
13 with any comments that anybody might have.

14
15 MR. EDWARDS: Mr. Chair.

16
17 CHAIRMAN DEMIENTIEFF: Yes.

18
19 MR. EDWARDS: Let me try and recap for my
20 own information. Prior to what's recommended in 34, the
21 subsistence harvest of coho was under the guise or umbrella
22 of sportfish plus incidental take. With the passage of 34,
23 it will create a new venue for subsistence fishing of which
24 it's 20 fish per day per household; is that correct so far?

25
26 MR. THOMAS: Uh-huh.

27
28 MR. EDWARDS: And then given that, based
29 upon the Council's recommendations, because their view was
30 that 34 would create an increased harvest of coho by
31 subsistence users, therefore, they were basing their
32 position on 25 from a conservation standpoint that they
33 felt that that would result in an increase in the coho
34 harvest and therefore restrictions needed to be in place.
35 Is that a correct analysis?

36
37 MR. CLARK: Mr. Chairman.

38
39 CHAIRMAN DEMIENTIEFF: Go ahead, Fred.

40
41 MR. CLARK: Yes, Mr. Edwards, I believe
42 that's a good synopsis.

43
44 MR. EDWARDS: So then my last question, the
45 Staff Committee's position is given all of that, they don't
46 feel that even if this does result in an increased harvest
47 by subsistence users that it will have any kind of a
48 conservation impact on cohos?

49
50 MR. THOMAS: Mr. Chairman.

00050

1 CHAIRMAN DEMIENTIEFF: Bill.

2

3 MR. THOMAS: No it won't have. It won't
4 have. For further clarification, if I may, Mr. Chairman.

5

6 CHAIRMAN DEMIENTIEFF: Go ahead.

7

8 MR. THOMAS: A lot of times when we're
9 trying to establish something at our Region 1 meetings we
10 spend a lot of time focused on .801 and that says to
11 provide continued access for subsistence use. Well, up to
12 now there is no subsistence access in Southeast for coho.
13 Coho has been used as long as any animal or fish has been
14 used. Again, we're dealing with language that nobody
15 really understands, and that's English. And we keep
16 getting tangled up in that. It's like trying to walk
17 through a gillnet without tripping. And in many cases, 20
18 coho a year would satisfy most households. But the limit
19 they ask for now is to make sure that their opportunity to
20 satisfy their need would be a legal recognized adopted
21 provision. It's not to say just because we have those
22 guides as benchmarks, it's not to suggest by any stretch of
23 the imagine everybody's going to go out and get 20 cohos.

24

25 So just some clarification on the intent of
26 the proposal. Thank you, Mr. Chairman.

27

28 CHAIRMAN DEMIENTIEFF: Thank you. Any
29 further discussion. The Chair would entertain a motion for
30 action on Proposal 34.

31

32 DR. KESSLER: Mr. Chairman.

33

34 CHAIRMAN DEMIENTIEFF: Yes.

35

36 DR. KESSLER: Thank you, Mr. Chairman. I
37 move the Board adopt Proposal 34 as modified and
38 recommended by the Southeast Regional Advisory Council.

39

40 CHAIRMAN DEMIENTIEFF: There's a motion, is
41 there a second?

42

43 MR. WILSON: Second.

44

45 CHAIRMAN DEMIENTIEFF: Discussion. Hearing
46 none, all those in favor of the motion, please signify by
47 saying aye.

48

49 IN UNISON: Aye.

50

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1 CHAIRMAN DEMIENTIEFF: Those opposed, same
2 sign.

3
4 (No opposing votes)

5
6 CHAIRMAN DEMIENTIEFF: Motion carries.
7 Now, we go back to Proposal 25 where we are at Board
8 deliberations with regard to 25. Any further discussion
9 with regard to Proposal 25.

10
11 Based on my further understanding and
12 having been through 34, based on the fact that there is no
13 clear conservation concern although it will be a situation
14 that will continue to be monitored, I intend to support the
15 Staff Committee recommendation. Is there any further
16 discussion on 25. Yes.

17
18 DR. KESSLER: Yes, I'd just like to make a
19 few comments before I offer a motion on 25. I was
20 privileged to be present at the Southeast Council's meeting
21 and to hear about the firsthand accounts of the level of
22 activity of harvest that's going on and certainly that's a
23 cause to be concerned and I would feel that it would be
24 very important to go forward with the monitoring and to be
25 sure and put in place means to measure and follow up on our
26 understanding of those developments on the island so that
27 we have a clear picture of the extent to which pressures
28 may be building.

29
30 With that said, I think our situation is,
31 at this time, that we do not have evidence to suggest that
32 there is a conservation concern that would warrant
33 restricting non-subsistence use. So I'll offer a motion
34 with that in mind.

35
36 CHAIRMAN DEMIENTIEFF: Go ahead.

37
38 DR. KESSLER: Okay, thank you, Mr. Chair.
39 I move that the Board reject Proposal 25 as recommended by
40 the Staff Committee.

41
42 CHAIRMAN DEMIENTIEFF: There's a motion, is
43 there a second?

44
45 MS. GOTTLIEB: I'll second it.

46
47 CHAIRMAN DEMIENTIEFF: It's been moved and
48 seconded. Discussion. Hearing none, all those in favor of
49 the motion, please signify by saying aye.

50

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1 IN UNISON: Aye.

2
3 CHAIRMAN DEMIENTIEFF: Those opposed, same
4 sign.

5
6 (No opposing votes)

7
8 CHAIRMAN DEMIENTIEFF: Motion carries.
9 Proposal 27.

10
11 MR. CLARK: Mr. Chairman.

12
13 CHAIRMAN DEMIENTIEFF: Fred.

14
15 MR. CLARK: The further public comments
16 from the Alaska Trawlers Association regarding Proposal 27
17 and Proposal 34 have arrived, that's the public comment I
18 referred to earlier. I'd asked the Chair's direction at
19 what point you would like those public comments on the
20 record for 34 since you're already done with 34. We can
21 handle Proposal 27 as we deal with that one but I would
22 like some guidance on the other one.

23
24 CHAIRMAN DEMIENTIEFF: We'll stand done
25 briefly.

26
27 (Off record)

28
29 (On record)

30
31 CHAIRMAN DEMIENTIEFF: Apparently we got a
32 little correction here, we're going by area and I was going
33 numerically with the proposals. But continuing on with the
34 Prince of Wales, we'll go to Proposal 35 next.

35
36 MR. THOMAS: Mr. Chairman.

37
38 CHAIRMAN DEMIENTIEFF: Yes.

39
40 MR. THOMAS: Begging your indulgence, I
41 would ask that we have a suspension of the rules to revisit
42 the last action on the last proposal, just for
43 clarification.

44
45 CHAIRMAN DEMIENTIEFF: Proposal 25?

46
47 MR. THOMAS: Yes.

48
49 CHAIRMAN DEMIENTIEFF: Was rejected per the
50 Staff Committee recommendation.

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1 MR. THOMAS: What was the justification?
2 Taken from Title .805, which one of those three components
3 did you use?

4
5 DR. KESSLER: The basis was there wasn't
6 sufficient evidence to demonstrate that there was a need to
7 restrict non-subsistence uses.

8
9 CHAIRMAN DEMIENTIEFF: Okay, let's go on
10 and move on to Proposal 35 now.

11
12 MR. CASIPIT: Thank you. Mr. Chairman,
13 Federal Subsistence Board, Regional Advisory Council
14 Chairs. The Staff analysis for this proposal appears on
15 Page 69 so I'll quickly, briefly go through that. Proposal
16 35 was submitted by Michael Douville of Craig. He is a
17 current Regional Advisory Council member. He suggests to
18 close the Sarkar Lake system above the bridge to the use of
19 nets for subsistence fishing.

20
21 The map there, as you can see, basically
22 the Sarkar system is in the very northwest corner of the
23 Prince of Wales Island. I don't know if you can see it
24 from there. The proposal was submitted out of concern that
25 the use of nets does not allow enough salmon escapement
26 into the Sarkar system. The proponent indicated that nets
27 have never been used traditionally above saltwater and he
28 contents that the road access provided -- while the road
29 access has been available since the late 60s and that with
30 this user access, that there is conservation concern with
31 the use of nets in that system.

32
33 As you will notice, Sarkar Lake system is
34 in Subdistrict 3C within the Tongass National Forest. I
35 can briefly go over the regulatory history from that
36 system. That system is managed by the State as a
37 subsistence fishery. Currently for sockeye salmon, the
38 season lasts from June 1st to July 31st, with a possession
39 limit of 10 fish per individual and 20 fish per household.
40 For pink salmon, the season is July 1st through September
41 30th, possession limit for pink salmon is a hundred fish
42 per individual and a hundred fish per household. Chum
43 salmon season is from July 1st to October 31st, with a
44 possession limit for chum salmon for 20 fish per individual
45 and 25 fish per household. There are no annual limits
46 under the State permitting system.

47
48 Communities which have harvested fish from
49 the Sarkar system include Deweyville, Machanex, Whale Pass,
50 Thorne Bay, Craig, Klawock, these are all small island

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1 communities that are largely dependent on subsistence and
2 natural resource utilization.

3
4 A couple key points that I wanted to
5 mention here at this time was, first of all, under the
6 State permitting system, beach seines and dipnets are
7 allowed and they have been traditionally used in the
8 system. And we do not have any harvest concerns at this
9 time.

10
11 CHAIRMAN DEMIENTIEFF: Written public
12 comments.

13
14 MR. CLARK: Thank you, Mr. Chairman. The
15 Southeast Alaska Fishermen's Alliance says that Alaska
16 Department of Fish and Game does not have any evidence that
17 there are conservation concerns in this system and at most,
18 the harvest has occurred in marine waters outside of
19 Federal jurisdiction. For that reason, they're opposed to
20 the proposal.

21
22 The Edna Bay Fish and Game Advisory
23 Committee voted in favor of the proposal.

24
25 The Eastern Prince of Wales Fish and Game
26 Advisory Committee voted to support the proposal. The
27 Eastern Prince of Wales Fish and Game Advisory Committee is
28 concerned with the current level of sockeye take from
29 Sarkar and views the system as being overharvested. In
30 spring of 2000, the committee proposed to the State Board
31 of Fisheries to limit the subsistence take at Sarkar and
32 was opposed.

33
34 That concludes the public comments.

35
36 CHAIRMAN DEMIENTIEFF: Thank you.
37 Department comments.

38
39 MS. WHEELER: Thank you, Mr. Chair. The
40 State supports the Federal Inter-Agency Staff
41 recommendation amended to prohibit gillnets for subsistence
42 fish on the Sarkar River above the bridge. Thank you.

43
44 CHAIRMAN DEMIENTIEFF: There is no
45 additional request for public testimony at this time.
46 Regional Council recommendation.

47
48 MR. THOMAS: Mr. Chairman, the Regional
49 Advisory Council recommendation is to support the proposal.
50 This is a system that I am very familiar with. If you want

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1 to talk about a fragile system, Sarkar is fragile. And the
2 Federal Inter-Agency Staff recommendation is not
3 responsible in any stretch of the imagination.

4
5 To help alleviate is not going to offer any
6 conservation protections that this system needs. There's a
7 road that goes by there and it's like dipnetting fish in a
8 five and dime store when you go to buy a guppy. They dip
9 in, they get the fish they want and that's how easy it is.
10 And to allow fishing only in saltwater, that would be a
11 responsible conservation means of harvest and sustaining
12 some resemblance of strength to that system.

13
14 So the proposal is very appropriate. It's
15 long overdue. It's obvious that management did not exist
16 on that system prior to this proposal being here. It may
17 have been watched but it hasn't been managed. So we
18 support the proposal as it's worded. Thank you, Mr.
19 Chairman.

20
21 CHAIRMAN DEMIENTIEFF: Thank you. Staff
22 Committee.

23
24 MR. THOMPSON: Mr. Chairman, Staff
25 Committee recommends the proposal be rejected, however, the
26 regulation should be modified to prohibit the use of
27 gillnets for subsistence fishing on the Sarkar River above
28 the bridge. There's lack of substantial evidence, in our
29 minds, that a conservation problem exists in the Sarkar
30 River system. Because gillnets cause a high mortality of
31 fish that are netted, prohibition of the use of gillnets
32 for subsistence fishing on the Sarkar River system above
33 the bridge would help to alleviate concerns about
34 overharvest of salmon. Eliminating the use of gillnets and
35 beach seines, however, would pose an unnecessary
36 restriction on the subsistence users. Since those methods
37 do not have the same mortality associated with them that
38 gillnets do.

39
40 CHAIRMAN DEMIENTIEFF: Board deliberations.

41
42 MS. GOTTLIEB: Mr. Chairman.

43
44 CHAIRMAN DEMIENTIEFF: Yes.

45
46 MS. GOTTLIEB: I just have a question on
47 location either for Staff or for Mr. Thomas, please, can
48 you just give me a sense of how long the river is? I mean
49 where the bridge is in relation to the mouth of that river.

50

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1 MR. THOMAS: The river is probably a half a
2 mile long and comes from a small lake.

3
4 (Turns microphone on)

5
6 MR. THOMAS: I know what I'm doing.

7
8 (Laughter)

9
10 MR. THOMAS: It comes from a very small
11 lake. The river itself is accessible by a road now that
12 it's got a bridge over it, that's relatively new. And the
13 water in the river, because of the nature of the landscape
14 is not one that has deep water, it's all very shallow
15 water, so the fish are -- their backs are always on the
16 surface getting from saltwater to freshwater. And, in
17 fact, I don't know why gillnets are even allowed on Prince
18 of Wales, especially on the west side of Prince of Wales.
19 In any case, I was surprised to find out that they're even
20 allowing them to use those there.

21
22 But it's a small system, it's a fragile
23 system, believe me. Thank you.

24
25 CHAIRMAN DEMIENTIEFF: Gary.

26
27 MR. EDWARDS: Bill, let me ask you if the
28 recommendation of the Council would be upheld, then how
29 would subsistence users be able to take sockeye, only with
30 rod and reel?

31
32 MR. THOMAS: Embracing the English
33 language, typically it's done with a beach seine in
34 saltwater.

35
36 MR. EDWARDS: So there would be no
37 subsistence harvest above the bridge?

38
39 MR. THOMAS: Correct.

40
41 MR. EDWARDS: Under your recommendation?

42
43 MR. THOMAS: Yes. This really should be a
44 no-brainer. It's sensitive, believe me. I mean there's
45 some eggs that have a harder shell than others, this has a
46 pretty thin shell. Thank you.

47
48 MS. GOTTLIEB: Mr. Chairman.

49
50 CHAIRMAN DEMIENTIEFF: Yes.

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1 MS. GOTTLIEB: My understanding is that the
2 State regulations do allow the use of nets above the
3 bridge, so I wonder if we could have a clarification on
4 that because I'd hate to restrict all users if the State is
5 allowing this practice.

6
7 MR. THOMAS: Mr. Chairman, that's why we're
8 here.

9
10 MR. EDWARDS: Mr. Chairman, I guess then to
11 add, maybe to Judy's, I guess I'm a little concerned with
12 our recommendation given that the subsistence users want to
13 restrict themselves, why would we not?

14
15 MR. THOMAS: Mr. Chairman. This is a
16 demonstration of subsistence users using conservation
17 measures to maintain the health of a stock.

18
19 CHAIRMAN DEMIENTIEFF: Did we ever get an
20 answer to your question about whether the State regulations
21 allow -- does anybody know in your delegation, Polly?

22
23 MS. WHEELER: We're checking on it, Mr.
24 Chair.

25
26 CHAIRMAN DEMIENTIEFF: Okay.

27
28 MR. CASIPIT: Mr. Chair.

29
30 CHAIRMAN DEMIENTIEFF: Cal.

31
32 MR. CASIPIT: Thank you. Mr. Chairman,
33 Federal Subsistence Board, Regional Advisory Council
34 Chairs. To answer Ms. Gottlieb's question, under the State
35 permitting system they allow beach seines and dipnets in
36 the Sarkar system.

37
38 MS. GOTTLIEB: And Mr. Chair, if I may, is
39 that both -- is that above the bridge or both sides of the
40 bridge or.....

41
42 MR. CASIPIT: Right, that's above the
43 bridge, in the entire system.

44
45 MS. GOTTLIEB: Thanks.

46
47 CHAIRMAN DEMIENTIEFF: Further discussion.
48 Under what authority is that, is that a sport fishing
49 regulation or something that they can harvest with beach
50 seines and dipnets?

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1 MR. CASIPIT: Thank you. Mr. Chair,
2 Federal Subsistence Board, Regional Advisory Council
3 Chairs. Yes, Mr. Chairman, that is under State subsistence
4 regulations, that particular system.

5
6 MS. WHEELER: Mr. Chairman.

7
8 CHAIRMAN DEMIENTIEFF: Polly.

9
10 MS. WHEELER: Thank you, Mr. Chair. If I
11 could have Mr. Douglas Lane speak to specifics.

12
13 MR. VINCENT-LANG: In Southeast Alaska, we
14 set the stipulations and regulations regarding our
15 fisheries by permit. They're not in our regulation
16 package. So that requirement in Southeast Alaska is set by
17 our permit regulations, which is done annually. So we have
18 a restriction and we allow allowable gear in that fishery
19 for beach seines and dipnet gear only, we don't allow
20 gillnets in that area.

21
22 MS. GOTTLIEB: Mr. Chairman.

23
24 CHAIRMAN DEMIENTIEFF: Yes.

25
26 MS. GOTTLIEB: If I could ask Mr. Thomas
27 again then, to understand what you're saying that you're
28 request to this Board is for the conservation purposes
29 above the bridge and that subsistence users see that as
30 necessary, do you think you or anyone on the Council or any
31 of the subsistence users might then go to the State and ask
32 them to change their regulations to be consistent with, for
33 example, your Regional Advisory Council recommendations?

34
35 MR. THOMAS: No. No. This is so
36 irresponsible, I can't -- I can't say that enough. It's a
37 small -- it's an old established system. Many generations,
38 villages, abandoned villages that have been on that site in
39 saltwater for a hundred years. And that system has
40 provided adequate high risk for the people that chose to
41 use that system, always in saltwater. The idea of fishing
42 in freshwater, I don't know how long that's been, but if
43 anybody can tell me how using nets of any kind above the
44 bridge in that lake is a good management practice, I'd
45 really like to have them elaborate on that. It's not.

46
47 I've never seen so much problems with a no-
48 brainer.

49
50 MR. EDWARDS: Mr. Chair.

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1 CHAIRMAN DEMIENTIEFF: Gary.

2

3 MR. EDWARDS: Given that the Council Chair
4 has convinced me that this is a no-brainer, I make a motion
5 that we support the proposal by the Council and reject the
6 proposal from the Staff Committee.

7

8 CHAIRMAN DEMIENTIEFF: There's a motion, is
9 there a second?

10

11 MR. URVINA: Second.

12

13 CHAIRMAN DEMIENTIEFF: Let me just say that
14 I tend to support the motion and it's not quite the no-
15 brainer that Mr. Thomas would like to represent it is. We
16 do have conflicting regulations and I encourage the
17 Regional Council to express those concerns to the State in
18 the next regulatory cycle, you know, if there is truly a
19 conservation problem because it doesn't prohibit people
20 from, even rural subsistence users can simply go get a
21 State permit and continue to use nets under the State
22 regulatory system. So it really doesn't address all of the
23 conservation concerns, so I encourage the Council in many
24 of these cases where we have conflicting regulations to go
25 ahead and work with the State as far as that goes.

26

27 MR. BOYD: May I address that?

28

29 CHAIRMAN DEMIENTIEFF: Yes.

30

31 MR. BOYD: I'm not sure, I think I would
32 ask Fred or Cal a question, we're talking about the entire
33 system being within the National Forest unit?

34

35 MR. CASIPIT: (Nods affirmatively)

36

37 MR. BOYD: So all of the system is Federal
38 jurisdiction?

39

40 MR. CASIPIT: Correct.

41

42 MR. BOYD: So it would seem that any more
43 restrictive regulations that we impose would trump the
44 State regulations. So while we would have a conflict on
45 paper, I'm not sure that we have a conflict in practice
46 because it would also restrict -- it would restrict from a
47 subsistence user standpoint use as to Federal regulations,
48 what those regulations prescribe. And you may be right
49 concerning other State regulations, unless we specifically
50 state -- I'm not sure how all this works but I'm looking

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1 for Keith for some help here, I think we trump.

2

3 MR. GOLTZ: I think we do trump, but you'll
4 want to close it probably to other uses; is there a
5 personal use fishery or anything other than a subsistence
6 fishery on that net fishery?

7

8 MS. WHEELER: No.

9

10 MR. GOLTZ: No?

11

12 MS. WHEELER: No.

13

14 MR. GOLTZ: No, okay. So I think -- the
15 State tells me no, there are no other fisheries on there,
16 net fisheries. So I think we would trump, yes.

17

18 MR. VINCENT-LANG: Mr. Chair, there's a
19 subsistence and a sport fishery.

20

21 MR. GOLTZ: Is the sport fishery.....

22

23 MR. VINCENT-LANG: Yes.

24

25 MR. GOLTZ:rod and reel or is it.....

26

27 MR. VINCENT-LANG: Yes.

28

29 MS. WHEELER: Yes.

30

31 MR. VINCENT-LANG: Non-net, though.

32

33 CHAIRMAN DEMIENTIEFF: Bill, you had
34 additional comment.

35

36 MR. THOMAS: In response to further
37 restricting, you will not get any objection from the
38 subsistence community on that kind of action. We're here
39 to represent those people. Those people are the ones that
40 brought this information to us. I don't have the
41 flexibility or the latitude or the desire to, on my own,
42 make it look like anything else. It's a workable system,
43 it's a good system.

44

45 With regards to us approaching the State, I
46 don't know how appropriate that is. If we were to approach
47 their advisory committee, that might be one thing. But if
48 we're to approach administration, it would seem to me like
49 that should be an administration to an administration
50 dialogue.

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1 Thank you, Mr. Chairman.

2
3 CHAIRMAN DEMIENTIEFF: Further discussion
4 on the motion.

5
6 MS. GOTTLIEB: Mr. Chairman.

7
8 CHAIRMAN DEMIENTIEFF: Yes.

9
10 MS. GOTTLIEB: I'm sorry, I guess I got
11 lost in our now net discussion here. So Gary, perhaps
12 could you be clear then on your motion.

13
14 MR. EDWARDS: My motion was to support the
15 recommendation by the Council, which I understand would
16 prohibit the use of nets in the system but would continue
17 to allow hook and line, rod and reel fishing. And,
18 therefore, that would be opposed to what the Staff
19 Committee was recommending which was to not to have such a
20 restriction.

21
22 CHAIRMAN DEMIENTIEFF: Ken.

23
24 MR. THOMPSON: Mr. Chair, I may have missed
25 some of the side discussion here but I believe unless the
26 language in the regulation we adopt specifically closes
27 Federal public waters to non-subsistence fishing, that it
28 would remain open under State regulations and people could
29 still use nets in the system under the motion that's being
30 proposed.

31
32 CHAIRMAN DEMIENTIEFF: Keith.

33
34 MR. GOLTZ: I'd like to hear from the
35 State. It's my understanding there are no existing net
36 fisheries above the bridge; is that correct? Either dipnet
37 or gillnet or beach seine?

38
39 MR. VINCENT-LANG: Yes, beach seines and
40 dipnets are allowed for subsistence. Now, I think there's
41 a real question as to how much fishing occurs above the
42 bridge. In our opinion, not very much. But most of it
43 occurs down in the marine areas where, I think most of the
44 fishing occurs. But right now, under State regulations you
45 could use those gear types above the bridge for
46 subsistence. And the way I understand the proposal that
47 you're discussing would be to eliminate those gear types
48 above the bridge, not in the drainage.

49
50 MR. THOMAS: Mr. Chair.

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1 MR. GOLTZ: That's correct. It seems to me
2 we may have gotten into part of the problem here because
3 we're second-guessing the Council. And the Council has
4 only asked for a limited restriction on subsistence uses.
5 And I wouldn't, myself, want to go beyond what the
6 Council's asking for. So yes it would be open to rod and
7 reel above the bridge.

8
9 MR. BOYD: A question to Counsel, Keith, a
10 question to you, if the State continues to allow the use of
11 beach seines and dipnets above the bridge in their
12 regulations, unless we specifically restrict other uses,
13 and I'm trying to read into what the State regulations say,
14 the State regulations don't discriminate between rural and
15 non-rural uses, but even those residents in the area could
16 still harvest, legally harvest using beach seines and
17 dipnets unless we specifically restricted or eliminated
18 other uses, non-Federal uses, I guess, basically saying
19 that the State regulations don't -- unless we specifically
20 state, we override the State regulations in some fashion,
21 that's what I'm trying to say. I mean isn't that the case,
22 don't we need to also make the provision in the motion to
23 restrict other -- restrict the State regulations in some
24 fashion and I don't know what the words are, but I'm
25 looking for them.

26
27 MR. GOLTZ: Well, Mr. Thomas has convinced
28 me that English is a very clumsy tool for doing this and
29 the fact that we've had this amount of discussion over this
30 small point indicates that it probably would be a good
31 idea. The two corrections I would have is to number one,
32 if you've got a proposal from the Council that works, don't
33 try to second-guess them and do it better. Listen to their
34 language. And the second point is, that generally
35 speaking, and it may not work very well in this particular
36 case but generally speaking, a more restrictive Federal
37 regulation would trump a more expansive State regulation.

38
39 Now, having said all that, I think it
40 probably is a good idea to lay it out in this particular
41 case.

42
43 CHAIRMAN DEMIENTIEFF: Bill.

44
45 MR. THOMAS: I'm really struggling with us
46 finding a need to feel like we're walking over coals in our
47 bare feet. We're here because of Title VIII. Our job is
48 to address the subsistence activity of these resources.
49 Okay, we've spent 10 years defining what public Federal
50 lands are and who has jurisdiction over those lands. The

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1 people at this table, from here on up have that. You are
2 mandated by Congress to exercise your authority in that.
3 Anybody that would have jurisdiction over that would do
4 just that, they would exercise their authority in their
5 area of ownership.

6
7 Thank you, Mr. Chairman.

8
9 CHAIRMAN DEMIENTIEFF: Further discussion
10 on the motion.

11
12 MS. GOTTLIEB: Mr. Chairman.

13
14 CHAIRMAN DEMIENTIEFF: Yes.

15
16 MS. GOTTLIEB: Could I please hear the
17 motion again?

18
19 CHAIRMAN DEMIENTIEFF: Gary.

20
21 MR. EDWARDS: Well, based upon what Keith
22 said, it seems to me like we probably need to modify it a
23 little bit but I'm not sure of the exact words so maybe you
24 can help me out.

25
26 MR. GOLTZ: Yeah, I've been consulting with
27 my Staff and here is what Bill recommends, Federal public
28 lands in the Sarkar system above the bridge are closed to
29 the use of nets by Federal or non-Federal subsistence
30 users.

31
32 MR. EDWARDS: That is my motion.

33
34 MR. GOLTZ: I'm getting some negative
35 headshakes from the State, so let's find out.

36
37 MR. THOMAS: Well, that has to be expected.

38
39 CHAIRMAN DEMIENTIEFF: We need to have a
40 consent from the second on the modification to the motion.
41 Who seconded it?

42
43 MR. URVINA: I did, and yeah, that's just
44 exactly what I was thinking.

45
46 CHAIRMAN DEMIENTIEFF: Okay. Okay, we have
47 clarification on the motion and consent of the second.

48
49 MR. THOMAS: Don't compromise the proposal.

50

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1 in this case, it's not that big of an issue if there's
2 nobody using it. But in an area, other areas where, you
3 know, we could have a bigger user conflict, it's a major
4 policy issue and it's something we need to take a look at,
5 and that's the point. So I still intend to support the
6 motion but I'm just citing this as something that we're
7 really going to have to take a close look at.

8

9 Bill.

10

11 MR. THOMAS: Thank you, Mr. Chairman. I
12 read on Page 56, the Southeast Regional Council
13 recommendation. It's less than a dozen words long.
14 Support the proposal. Close the Sarkar system above the
15 bridge to the use of nets for subsistence fishing, period.
16 It doesn't say anything about other users. How we got to
17 where we're at is beyond me. There's just a few words and
18 I agree with what you said, at some point there's going to
19 be systems that's going to warrant more deliberate
20 attention. But enjoy this one because you're not going to
21 see another one like it. Thank you, Mr. Chairman.

22

23 (Laughter)

24

25 CHAIRMAN DEMIENTIEFF: I just point that
26 out, though, like I said, I do intend to support the
27 proposal. On the ground it's not a problem but it does
28 raise major issues I think that could become really
29 complicated in other systems. So for a no-brainer it sure
30 made us think lots. I'm going to really be suspicious
31 though, Bill, the next time you bring another no-brainer
32 here.

33

34 Any further discussion on the motion.
35 Hearing none, all -- oh, go ahead.

36

37 DR. KESSLER: Thank you, Mr. Chair. I'm a
38 bit confused. We had a motion moved by Mr. Edwards and it
39 was duly seconded and then we had sort of an informal
40 suggestion for a revised motion that Mr. Knauer suggested
41 and there seemed to be some support for that and I'm kind
42 of confused right now exactly what the motion words are.

43

44 MR. EDWARDS: I changed my original motion
45 to go along with what Keith read and I believe that that's
46 what was seconded.

47

48 DR. KESSLER: So we do have an amended
49 motion now, and that was the one that Mr. Knauer suggested?

50

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1 MR. EDWARDS: That's correct.

2
3 DR. KESSLER: Okay, thank you.

4
5 CHAIRMAN DEMIENTIEFF: Corrected motion,
6 not amended. We didn't go through an amendment process.

7
8 Further discussion on the motion as
9 corrected. Hearing none, all those in favor of the motion,
10 please signify by saying aye.

11
12 IN UNISON: Aye.

13
14 CHAIRMAN DEMIENTIEFF: Those opposed, same
15 sign.

16
17 (No opposing votes)

18
19 CHAIRMAN DEMIENTIEFF: Motion carries.
20 Proposal 35 has been adopted per the recommendation of the
21 Southeast Regional Council. 26 is a consent agenda item.
22 28, 29 are consent agenda. Which now brings us to Proposal
23 27. Cal.

24
25 MR. CASIPIT: Thank you. Mr. Chairman,
26 Federal Subsistence Board, Regional Advisory Council
27 Chairs. Proposal 27 was submitted by Richard Stokes of
28 Wrangell, he's a current Regional Advisory Council member.
29 He asks to establish a Federal subsistence season and
30 annual harvest limits for sockeye, coho and king salmon on
31 the Stikene River as follows: For chinook salmon, the
32 season harvest limit would be five with a season of June
33 1st to August 1st. For sockeye salmon, a season harvest
34 limit of 40 fish with a season of June 15 to September 1.
35 For coho salmon, a season harvest limit of 20 with a
36 season from July 15 to October 1.

37
38 This proposal was submitted to recognize
39 customary and traditional harvest methods and means by
40 rural subsistence users in the Wrangell area. The
41 proponent states that Canadians at Telegraph Creek upstream
42 of the border harvest large amounts of these species and
43 that Klukwan and Haines have similar regulations allowing
44 them use of the Chilkat River salmon stocks.

45
46 In the process of preparing the Staff
47 analysis, the proponent was contacted. He clarified that
48 his intention of the proposal was to allow subsistence
49 fishing in both the main Stikene River and in tributary
50 streams under Federal jurisdiction. And he mentioned that

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1 traditional fish camps and smokehouses were located at the
2 mouths of tributary streams such as Andrew Creek, Goat
3 Creek, North Arm Creek and Shake Slough, with the largest
4 camp on Andrew Creek. Mr. Stokes also suggested that
5 people completing these Staff analysis observe the
6 traditional and commercial fisheries occurring on the
7 Canadian portion of the Stikene River.

8
9 Federal waters involved are those of the
10 Tongass National Forest excluding marine waters, however
11 the mouth of the Stikene River is located about a mile from
12 Wrangell.

13
14 At this time -- well, before your action on
15 22 this morning, there was no specific C&T determination
16 for this particular district, this district includes the
17 Stikene River.

18
19 Let's see, regulatory history, currently
20 there is a personal use salmon fishery for sockeye on the
21 Stikene River. The season for that extends from July 1 to
22 July 15th with a daily and annual possession limit of 25
23 sockeye for an individual or for a household. And there is
24 a -- currently there is a State-managed sport fishery for
25 coho but there is no, either, subsistence, personal use or
26 sport fishery for chinook salmon on the Stikene River at
27 this time.

28
29 I wanted to bring out a couple key points
30 here before going on, first of all, the Pacific Salmon
31 Treaty with Canada, based on that treaty, there may be
32 agreements that need to be made with the Canadians before
33 this fishery can proceed. We didn't feel that gear type or
34 bait restrictions were necessary. But we do believe that
35 harvest reporting would aid in fishery management.

36
37 CHAIRMAN DEMIENTIEFF: Written public
38 comments.

39
40 MR. CLARK: Yes, Mr. Chairman. In your
41 booklet it shows five public comments, and since this
42 morning we've received an additional one.

43
44 The Southeast Alaska Fishermen's Alliance
45 says that there's a sockeye subsistence fishery in the
46 Stikene that no one has participated in. The Federal
47 subsistence must consider the implications of an increased
48 harvest of salmon on the Stikene, what that would have and
49 how this would affect the Pacific Salmon Treaty. They need
50 to consider that the proposal does not specify the waters

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1 it is referring to and so the Federal Subsistence Board may
2 not have jurisdiction to grant the proposal. And that the
3 proposal does not show that subsistence needs are not being
4 met.

5
6 The Southeast Alaska Seiners are also
7 neutral on the proposal. But oppose the suggestion that
8 the Federal agencies exercise extra-territorial
9 jurisdiction in closed State management commercial
10 fisheries should there be insufficient surpluses to satisfy
11 the allocation requested in the proposal.

12
13 The United Southeast Alaska Gillnetters
14 Association offered no position, so they're neutral. They
15 said that most salmon stocks on the Stikene River spawn in
16 Canada and that there are limited terminal harvest
17 opportunities on the Alaska side which could result in a
18 higher cost of harvesting these fish.

19
20 There was one comment in support of the
21 proposal, that was from the United Fishermen of Alaska.
22 They concur with the season harvest limit if the area
23 qualified as a subsistence fishery. They state that those
24 communities eligible to participate need to be identified.

25
26 Two comments were in opposition. First was
27 Petersburg Vessel Owner's Association who say that they are
28 opposed to the proposal as written and request a
29 clarification. They oppose extension of Federal authority
30 into marine waters of Southeast Alaska.

31
32 And finally, the last written public
33 comment comes from the Alaska Trawler's Association which
34 we received today. They're opposed to the proposal. This
35 proposal would allow for new subsistence fisheries in the
36 Stikene River and may not even be possible under the
37 U.S./Canada Pacific Salmon Treaty signed in 1985 and which
38 does not allow new or redirected fisheries. We note that
39 the Federal Inter-Agency Staff recommendation also
40 references this proposal as problematic under the Pacific
41 Salmon Treaty. The proposal does not place any limit on
42 the form of gear which makes it difficult to make
43 definitive comments. However, placing nets in the river
44 would overturn the deliberate management decisions made by
45 the Board of Fish to conserve salmon stocks. Overturning
46 this regulation could increase terminal harvest and
47 threaten sustained yield management of chinook, coho and
48 sockeye salmon. The Pacific Salmon Treaty places an annual
49 quota on chinook salmon in Southeast. It is important that
50 actions are not taken which could cause Alaska to exceed

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1 the quota. This may be difficult to gauge as it is unclear
2 how many users are expected to participate. If nets were
3 allowed in-river, it is crucial they be tended at all times
4 to avoid exceeding the yearly, that means October 1st,
5 through September 31st, limit and insure that conservation
6 needs are addressed.

7

8 That concludes the written public comments,
9 Mr. Chairman.

10

11 CHAIRMAN DEMIENTIEFF: Thank you.
12 Department comments.

13

14 MS. WHEELER: Thank you, Mr. Chair. The
15 State supports the Federal Inter-Agency Staff
16 recommendation to defer this proposal and to request that
17 the U.S. Delegation to the Pacific Salmon Treaty be asked
18 for permission to create a new subsistence fishery for
19 coho, sockeye and chinook salmon on the Stikene River. The
20 existing Treaty prohibits the creation of new fisheries
21 without bilateral agreement. And I do have, if there are
22 further questions, I have Mr. Bruce, Deputy Director of
23 Commercial Fisheries, who is prepared to speak to the
24 Pacific Salmon Treaty if there is other questions, Mr.
25 Chair.

26

27 CHAIRMAN DEMIENTIEFF: Thank you very much.
28 Public testimony, David Bedford.

29

30 MR. BEDFORD: Mr. Chairman, members of the
31 Board, Chairman of the Advisory Councils, Staff. My name
32 is David Bedford. I am the Executive Director of Southeast
33 Alaska Seiners and I also serve with United Fishermen of
34 Alaska as the lead person on subsistence; in my capacity,
35 both with Southeast Alaska Seiners and with United
36 Fishermen of Alaska. We have helped to put together
37 policies that indicate our support for providing for
38 subsistence and a recognition that there are other
39 important uses of the resource and it is possible to
40 satisfy subsistence while also putting in place regulatory
41 structures that minimize any collateral consequences to
42 other uses of the resource.

43

44 I've been very actively engaged in really
45 trying to put you folks out of a job. I mean we have
46 worked very hard on trying to get the State of Alaska to
47 come into compliance with ANILCA and do the good work that
48 you people are currently doing. We have been unsuccessful
49 up to now but we continue in those efforts.

50

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1 Speaking to Proposal No. 27, I wanted to
2 add also that I served on the northern panel of the Pacific
3 Salmon Commission. I was one of the industry
4 representatives on there and did serve for one year as the
5 Chair of that particular body. That is the Alaskan section
6 of the panel process, not the decision-making process, we
7 were, I suppose, somewhat similar to the Regional Advisory
8 Councils as opposed to the Federal Subsistence Board.

9
10 I wanted to emphasize the comments made by
11 the Trawler's Association and by the State. The Pacific
12 Salmon Treaty has provisions which govern salmon fisheries
13 from Cape Falcon in Oregon all the way to Cape Suckling in
14 Alaska. And this treaty was reached after a long and
15 contentious negotiations. There are a number of very
16 serious irritants that remain between Canada and the United
17 States. And so we find ourselves kind of the, illogical
18 position of saying that there's a provision in the Salmon
19 Treaty that says we cannot have new and redirected
20 fisheries while at the same time we're talking about the
21 fish camps that have existed at the mouth of Andrew Creek
22 and so on. Nonetheless, when dealing with Canada on this,
23 what Canada views as being a new fishery is one that they
24 have not yet acknowledged as being something that is under
25 the purview of the treaty. And so therefore, I would urge
26 you to do as the Staff recommends on this, and that is to
27 put off consideration of this until we've had an
28 opportunity to bring this to the Alaska Delegation and give
29 them an opportunity to carry forward the sort of request
30 that you have into those negotiations. I believe that
31 action in front of doing that, were you to act and then to
32 create this fishery and then make that sort of a fate-
33 accompli which went to the Alaska Delegation, I believe
34 that that would put us in a bad negotiating position with
35 Canada.

36
37 So again, I urge you to accept the Staff
38 Committee recommendation on this proposal, not, you
39 understand that I'm suggesting that anything in Mr. Stokes'
40 proposal is unreasonable, I'm just suggesting that perhaps
41 the best way to get to that is to put it off for a year and
42 put it through the Salmon Commission negotiations first.

43
44 I have nothing further.

45
46 CHAIRMAN DEMIENTIEFF: I want to thank you
47 and UFA for maybe not trying to put us out of work but at
48 least allow us to move on and get on with the rest of our
49 lives and do other things. But I think right after we took
50 over, I think the very first group we met with was UFA as I

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1 recall up in Wasilla. And so we just appreciate the fine
2 work you've done in trying to get the State back into
3 compliance, and also thank you for your excellent public
4 testimony. I think it sheds some light, you know, you can
5 see from watching us today that we're just learning how
6 we're going to deal with it and we're trying to make our
7 approach as consistent as we have been on the game side.
8 And you know, we've got a little bit of a learning curve
9 here and so I just appreciate the public testimony, thank
10 you.

11
12 Any other questions for Mr. Bedford. Thank
13 you.

14
15 MR. BEDFORD: Thank you, Mr. Chairman. I
16 would say that I would take my name off the list for
17 speaking on Proposal 31 as well.

18
19 CHAIRMAN DEMIENTIEFF: Okay.

20
21 MR. BEDFORD: Thank you.

22
23 CHAIRMAN DEMIENTIEFF: Regional Council
24 recommendation.

25
26 MR. THOMAS: Thank you, Mr. Chairman. Once
27 again, I'm going to indulge on your patience and ask you to
28 think again. With regards to the Stikene River, does
29 anybody know how old that river is? It's an old river.
30 That's where the tribes in Southeastern Alaska originated.
31 There's documentation that there's been tribal inhabitants
32 in that area in excess of 10,000 years ago. That's quite a
33 while. And while they spent time on the Stikene River,
34 they harvested salmon before the U.S. and Canada, because
35 of Canada's inability to have any foresight to manage their
36 fisheries in a prudent manner are wanting Alaska to bale
37 them out. That's the Treaty effort.

38
39 So to call that a new fishery on the
40 Stikene River is as far from being appropriate as you can
41 get. That is not a new fishery. So I guess what I'm doing
42 -- I'm asking the Staff Committee, when they consider
43 language to be considered at this level of discussion and
44 decision-making, that they give credence to areas such as
45 I'm pointing out now.

46
47 Okay, having said that, again, I'll
48 reiterate, the justification says on Federal Inter-Agency
49 Staff Committee, the Pacific Salmon Treaty specifies that
50 no new fisheries for the Stikene River salmon. There is no

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1 new fisheries. That fishery has been there for a long
2 time. And the Regional Advisory Council supports the
3 proposal as it's written.

4
5 Thank you, Mr. Chairman.

6
7 MR. GOODWIN: Mr. Chairman.

8
9 CHAIRMAN DEMIENTIEFF: Yes, Willie.

10
11 MR. GOODWIN: I just got a question of
12 Bill. Bill, I notice up there those dates that they show
13 on the board and what they read off, these are more
14 restrictive, is that another one of your conservation
15 efforts?

16
17 MR. THOMAS: Yes, it is and it's also to
18 make us look responsible. However, the truth of the matter
19 is is that's the only time the fish are there.

20
21 (Laughter)

22
23 CHAIRMAN DEMIENTIEFF: Go ahead, Ken.

24
25 MR. THOMPSON: Yes, Mr. Chairman, members
26 of the Board and Council. The Staff Committee recognizes
27 the Treaty implications of this proposal and recommends
28 that the proposal be deferred until Staff has the
29 opportunity to obtain additional information and work on a
30 process on how to incorporate this regulation under the
31 provisions of the Treaty.

32
33 CHAIRMAN DEMIENTIEFF: Are there people
34 fishing in the river now, Bill?

35
36 MR. THOMAS: Say again?

37
38 CHAIRMAN DEMIENTIEFF: Are there people
39 fishing in the river now, the Stikene?

40
41 MR. THOMAS: They do during the course of
42 the season, but at this point in time, no.

43
44 CHAIRMAN DEMIENTIEFF: Well, yeah, during
45 the season that's what I'm talking about.

46
47 (Laughter)

48
49 CHAIRMAN DEMIENTIEFF: So any fishing, as I
50 understand it from the State's point of view, it's the

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1 State permit that's our vehicle right now for allowing
2 people to fish during -- when the fish are there; is that
3 correct?

4

5 MS. WHEELER: That's correct.

6

7 MS. GOTTLIEB: Mr. Chairman.

8

9 CHAIRMAN DEMIENTIEFF: So I'm -- if I could
10 just follow up?

11

12 MS. GOTTLIEB: Yes.

13

14 CHAIRMAN DEMIENTIEFF: I'm struggling here,
15 if there's fishing going on now under State and Federal
16 regulation, what's the difference? I mean.....

17

18 MS. WHEELER: Mr. Chair, if I could have
19 Mr. Lane come up.

20

21 MR. VINCENT-LANG: Mr. Chairman, it's
22 occurring under a personal use fishery, and personal use
23 fishing is recognized in the Treaty right now. Right now,
24 subsistence fisheries aren't recognized. And it's our
25 understanding based on a reading of the Pacific Salmon
26 Treaty that we would have to go back and get bilateral
27 recognition for those new fisheries prior to creating them.
28 But they could continue to create under the recognized
29 personal use fisheries as is occurring right now.

30

31 CHAIRMAN DEMIENTIEFF: I guess -- Bill, go
32 ahead.

33

34 MR. THOMAS: Thank you, Mr. Chairman. I
35 think that's one of the ambitions of the Regional Advisory
36 Council for Region 1, because it's the only region in the
37 state that does not have provisions that are labeled as
38 subsistence, it's personal use. And, again, going back to
39 the English language and to become a part of the rest of
40 the world of Alaska, we'd like to participate in a
41 recognized subsistence activity. And that's not the case
42 right now. So that's the argument in support.

43

44 CHAIRMAN DEMIENTIEFF: Judy.

45

46 MS. GOTTLIEB: Thank you, Mr. Chairman.
47 These meetings are always educational and today is one of
48 the more educational days so if I could ask the State a few
49 more questions about the Treaty itself. And I appreciate
50 that you did bring your expert along, I know the Staff

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1 Committee did have several questions. So I guess I just
2 had two based on from what I've heard so far and that is,
3 who is the Alaska Delegation to this Treaty as well as
4 something that was said about, well, that we need to get
5 this to the Delegation, well is there a certain time or
6 what's the process for getting a recommendation to the
7 Delegation? Thank you.

8
9 MR. BRUCE: My name is Jerry Bruce. I'm
10 the Director for the Division of Commercial Fisheries. And
11 there is -- the Pacific Salmon Commission is made up of
12 several commissioners, Alaska has one as does the Federal
13 government, the State of Washington and the tribes also
14 have one. And there is a regular meeting cycle that the
15 Commission engages in in which they entertain discussions
16 for changes that govern the various fisheries in those
17 regions covered by the Treaty, which would be British
18 Columbia, Alaska and Northwest, Washington. So that's --
19 and the Deputy Commissioner for the Department of Fish and
20 Game, Kevin Duffy is the Alaskan Commissioner. And so the
21 State would be willing to work closely with the Federal
22 Subsistence Board and the Regional Advisory Councils in
23 bringing this issue in front of the Commission for
24 consideration.

25
26 I think that what is a contextual issue to
27 consider is while the fish may not be concerned about their
28 nation of origin, the users and the national folks involved
29 are very concerned and the Canadians especially are very
30 sensitive to fisheries in Alaska which harvest salmon bound
31 for Canada. And in the case of the Stikene you have a mix,
32 as you heard earlier, of fish that may be harvested within
33 the river but the majority of them, of all species, would
34 be bound for Canada. So there are some sensitive issues
35 there which I believe could be worked out but they would be
36 much, more easily worked out if it was a joint process
37 undertaken within the Commission rather than the United
38 States taking a unilateral action in going to Canada where
39 we have done this, how do you like it.

40
41 MS. GOTTLIEB: And Mr. Chairman, could I
42 ask who the Federal member is and then what is the timing?
43 I mean if we make any sort of recommendation today, even
44 specially contingent upon acceptance by the Commission,
45 what would be the timing for submitting any sort of
46 communication from us to the Commission?

47
48 MR. BRUCE: I don't have the name of the
49 Federal Commissioner on the top of my head. I mean I could
50 get that for you today if you wanted, but I don't have it

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1 off the top of my head.

2

3 CHAIRMAN DEMIENTIEFF: And the question of
4 timing?

5

6 MR. BRUCE: The exact timing, their meeting
7 cycle begins in winter and runs basically into the spring.
8 I'm not sure when the next meeting would be scheduled. But
9 again, I could get that information to you.

10

11 CHAIRMAN DEMIENTIEFF: Okay. Forest
12 Service, just for the record, this is all Forest Service
13 land; is that correct, on the Stikene? Is that correct,
14 Ken?

15

16 MR. THOMPSON: Yes.

17

18 MR. THOMAS: Forest Service is Tlinget
19 land.

20

21 CHAIRMAN DEMIENTIEFF: Yeah. In terms of
22 the actual people who are in the personal use harvest, if
23 this were to be adopted, would the fishermen change? I
24 mean what we call it would change, they'd go from State
25 personal use fishers to Federal subsistence fishers, but
26 would the actual on the ground fishermen, fisherwomen
27 change, likely?

28

29 MR. BRUCE: Mr. Chairman, first there is
30 only a personal use fishery authorized under State
31 regulations for sockeye salmon, so there is no personal use
32 fishery for chinook salmon or for coho salmon in the
33 Stikene River.

34

35 Secondly, from our records, we don't have
36 any catch recorded for the sockeye fishery. So while the
37 opportunity is there, at least according to the records
38 that we have, there's nobody taking part -- participating
39 in it currently. So I think in answering your question,
40 while the State has a personal use opportunity for sockeye
41 salmon in the Stikene River, our information indicates that
42 it's not active at this time, people are not participating
43 in it.

44

45 So I don't know -- I guess I would have to
46 say that there are no -- from our information there are no
47 personal use fishers in the Stikene River right now. And
48 so it wouldn't be the same people because we don't believe
49 there are any people there participating now.

50

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1 CHAIRMAN DEMIENTIEFF: During the season
2 there are actually, though, Tlinget fishers on the ground;
3 is that what you're saying, Bill?

4
5 MR. THOMAS: Like he was saying, the reason
6 they're not harvesting sockeye in the Stikene now is
7 because there aren't any. They're having to go to Prince
8 of Wales, Red Bay, Salmon Bay, places like that to harvest.
9 But what they're wanting to do is that should that system
10 on the Stikene recover to a point that they could utilize
11 it, they want to have that in place. But due to the superb
12 management there aren't any there right now. So that's our
13 purpose for supporting that written proposal.

14
15 Thank you.

16
17 CHAIRMAN DEMIENTIEFF: Then, of course, as
18 such because of biological concerns it's been established a
19 lot of history in terms of that, if there is a biological
20 reason where harvest is interrupted for biological purposes
21 it still doesn't disrupt the -- it disrupts the use but it
22 still doesn't disrupt any determinations of whether or not
23 that is a legitimate use.

24
25 MR. THOMAS: That's correct, Mr. Chairman.

26
27 CHAIRMAN DEMIENTIEFF: Okay. I guess the
28 point I'm getting at here and where I'm wanting to go with
29 this. It's clear to me based on testimony of Mr. Thomas
30 and maybe I'll just ask our own Staff, do we have knowledge
31 in the back, the Staff Committee, did we look at the uses
32 of the Stikene by Tlingets in Southeast or other
33 subsistence users in Southeast?

34
35 Fred.

36
37 MR. CLARK: Yes, Mr. Chairman. There is
38 some very good documentation on the traditional uses of the
39 huge variety of fish species on the Stikene River by
40 people, especially for Wrangell and Petersburg. People are
41 now in Wrangell and Petersburg, the Wrangell Tlingets, the
42 Goldschmidt and Haas report, especially is good about
43 delineating where the fish camps were, what fish they were
44 getting and what season, who was taking them. You know, a
45 lot of very, very detailed information there about those
46 fisheries.

47
48 CHAIRMAN DEMIENTIEFF: And I guess where
49 I'm going with all this, is, and not trying to jeopardize
50 the process and having worked through many of these things

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1 on the Yukon River, I know how sticky they can be in terms
2 of dealing with Canada, but where I'm going with all this
3 and I'm going to suggest that we do establish a season and
4 defer the harvest until next year. So that basically, it
5 acknowledges that under existing law, prior to our coming
6 in, the Feds coming in and this Federal property and
7 managing, that the way to do it would be with State
8 regulation, okay. But realistically that should be handled
9 by the Federal program.

10
11 And that's why I'm suggesting that we
12 follow the Regional Council recommendation to the point of
13 establishing the seasons and then deferring any bag limits
14 until next year. It would seem to me a more logical
15 approach.

16
17 Now, tell me, in dealing with the
18 Commission, do you think that's going to send up any kind
19 of detrimental signals to the Canadians? I mean we're
20 faced with our mandate here, okay, we have a
21 Congressionally mandated mandate to provide for this very
22 legitimate use by subsistence users in that area, so we
23 still have a job to do. And a part of that job is to
24 acknowledge that, yes, this is a legitimate subsistence
25 fishery. There's no resource there right now and there's
26 these other problems with Canada, but, you know, we do need
27 to establish that this, the management scheme is changing,
28 per the factors beyond the control of us in the room here
29 and that's why I'm suggesting this approach.

30
31 MR. THOMAS: Mr. Chairman.

32
33 CHAIRMAN DEMIENTIEFF: Bill.

34
35 MR. THOMAS: I, for one, support and
36 respect your approach to this and agree with the rationale
37 that you put forth. If the players in the Treaty were as
38 diligent as we are we'd have had a treaty a long time ago.
39 And I don't think we need to follow their lead, we need to
40 follow a lead that gets things done.

41
42 Thank you, Mr. Chairman.

43
44 CHAIRMAN DEMIENTIEFF: Gary, you had
45 something?

46
47 MR. EDWARDS: Well, I guess it seems to me
48 to some extent we may be running into waters that we don't
49 really know. I mean I guess my first reaction would be
50 that the setting of seasons would be viewed as opening a

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1 fisheries, whether a bag limit would be set or not. And I
2 guess then the other broader issue, does the Treaty, which
3 we are a signature to at sort of the highest level of the
4 land, does that really trump any authority that we might
5 have.

6
7 MR. GOLTZ: I think it probably does but
8 I'd like to hear from the State, too.

9
10 CHAIRMAN DEMIENTIEFF: The bottom line is
11 we still have a job to do. And based on the information
12 that's put forth to us, it's clear that this is a
13 subsistence fishery and it's clear that for a little over a
14 year now it's been our responsibility to take care of this.
15 I mean it's something that we need to move forward to, and
16 that's a way, in my estimation, to let Canada know
17 basically that rules of the land have changed and that
18 we're trying to work through the issues and a way to do it
19 is to recognize that, yes, we do have subsistence fisheries
20 here but no, we're going to defer any consideration of
21 harvest until we're allowed to go through the process.

22
23 Now, I'm going to go over here and then
24 I'll come back to you. Is this a follow up on the same
25 point of the discussion we're having right now?

26
27 MR. BRUCE: Yes, it is.

28
29 CHAIRMAN DEMIENTIEFF: Okay, go ahead, I'm
30 going to allow that.

31
32 MR. BRUCE: Mr. Chairman, and respectfully
33 I just would like to offer a possible suggestion for you to
34 consider that I think gets you where you want to go but
35 doesn't go as far as setting a season. Which would be for
36 the Board or whoever's appropriate to write this letter on
37 your behalf, write a letter to the Pacific Salmon
38 Commission expressing exactly what you've expressed, that
39 this has been a historic fishery participated in by Native
40 people in Alaska, it's well documented and it's the
41 intention of the Federal Subsistence Board to move forward,
42 you want to move forward to establish a subsistence fishery
43 in the river, you understand the Treaty is in place and ask
44 the Commission to work with you to achieve your goal.

45
46 I would suggest that that's a more coopera
47 -- I would just suggest that that's a better approach to
48 take, at least, from the Department of Fish and Game's
49 point of view to get to where I think you want to go.

50

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1 CHAIRMAN DEMIENTIEFF: What I'm saying here
2 is we've got a certain deference we have to give to
3 Regional Council recommendations. We have a Regional
4 Council recommendation, okay. Now, the harvest limits,
5 those things, there are genuine conservation concerns that
6 we're all aware of. But the basic fact, if the
7 Southcentral Regional Council [sic] would want to push the
8 issue, there's no way we could hold it, you see. We can
9 defer the harvest limit based on conservation concerns,
10 that's unquestionable. But it's also unquestionable that
11 this is a subsistence fishery on Federal lands and this is
12 a mandate that our Board has. I mean we've got to live
13 within the laws that we have to live with.

14
15 I'm sorry, I don't mean to dominate,
16 Winnie, go ahead.

17
18 DR. KESSLER: Thank you, Mr. Chair. I'd
19 like to share a number of thoughts with you about this. I
20 think it's very clear that this all needs to go through the
21 Treaty process, however, there's certain concerns about
22 that. One would be the uncertainty about how long that
23 might take, and of course it pretty much forgoes the
24 opportunity -- potential opportunity to do something in
25 2001, the current year, so I'm thinking maybe there might
26 be a different approach worth considering. Perhaps we
27 might think about adopting the proposal but making it
28 conditional, adding a statement of condition with respect
29 to affirmation or recognition by the Treaty process. I
30 think there's some advantages there.

31
32 One, if it's conditional it should give a
33 clear message that we're not trying to preempt the Treaty
34 process, we're definitely recognizing the need for that
35 step. As well it would indicate to the Treaty process the
36 individuals involved that, to the Commission, it might
37 encourage them to focus attention on this, perhaps act on
38 it, deal with it more swiftly. That would reduce some of
39 the uncertainty and the delay.

40
41 So with that in mind, perhaps we might want
42 to consider that type of an approach.

43
44 I'll also just mention that for the past
45 seven years I've lived and worked in Canada, in British
46 Columbia, and just to share my impressions with you there
47 with respect to this issue, I found that the British
48 Colombians, the Canadians generally are very sympathetic
49 with respect to subsistence uses of the resource. I think
50 if a proposal were to come along of this nature that was

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1 commercial or even sport, they would be very negative.
2 This is just my own personal impressions that with
3 subsistence they would be more understanding and wanting to
4 work with us on it.

5
6 Thank you.

7
8 CHAIRMAN DEMIENTIEFF: Bill.

9
10 MR. THOMAS: With regard to the U.S./Canada
11 Salmon Treaty, I was the Chairman of a fisheries group in
12 1976. We got a copy of a treaty signed by the Secretary of
13 State and his counterpart in Canada. And the content of
14 that treaty mandated that every system in Alaska give up a
15 majority of its portion of escapement or harvestable fish
16 to continue the opportunity to pass through Canadian
17 waters. In that same document, the Canadians had no
18 provisions that interfered with their efforts of harvest.
19 We were the first people to have access to that document,
20 we read the first four pages of it, rejected it, took it
21 back to the Department, they agreed with us and that's when
22 they put this whole big Commission together. It was argued
23 between two people that had nothing to do with fish the
24 first time, but they signed off on a pretty voluminous
25 document.

26
27 So I say that because I would hate for us
28 to be subject to a time line dependent on activities of
29 that Commission. And I think, like you said, we got a job
30 to do, let's do it.

31
32 Thank you.

33
34 MS. GOTTLIEB: Mr. Chairman.

35
36 CHAIRMAN DEMIENTIEFF: Yes.

37
38 MS. GOTTLIEB: I certainly support the
39 ideas put forward by the Forest Service about putting on
40 some wording there that would say pending approval by the
41 Commission and certainly hope that this Board would also,
42 through you, make the offer as we've talked about here to
43 make contact with or work closely with the Commission or do
44 whatever we need to do to express the importance of
45 subsistence to Alaska [sic] and see whatever we can do to
46 get this fishery acknowledged through the Treaty.

47
48 CHAIRMAN DEMIENTIEFF: Yes.

49
50 MR. THOMAS: I don't blame you for a

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1 reluctant yes, I understand. But I don't think we should
2 get into the mode of planting our own olive grove so that
3 we'll have a branch to present to everybody that might
4 disagree with us. You know, I think we have to operate on
5 our own merits. If they got a problem with them let them
6 come to us.

7

8 Thank you, Mr. Chairman.

9

10 MR. WILSON: Mr. Chairman.

11

12 CHAIRMAN DEMIENTIEFF: Yes.

13

14 MR. WILSON: I think we all up here
15 understand what our primary responsibilities are, to
16 subsistence users. And this particular case, though, we're
17 kind of wrestling with a very complex issue. Keeping in
18 mind that the primary goal is to provide for subsistence
19 users, I think almost it seems to me like we're being
20 confronted here with a choice between more confrontational
21 or less confrontational. And it's my experience for
22 however long I've been alive, the confrontation usually is
23 not the best solution to a problem. And I think that the
24 Forest Service seems to -- I would like to hear their
25 specific motion, but they seem to be headed in a direction
26 that is trying to accomplish a shared goal with a minimum
27 of confrontation. And I think that's my thought.

28

29 CHAIRMAN DEMIENTIEFF: Further discussion.

30 Go ahead.

31

32 DR. KESSLER: Thank you, Mr. Chair, I'm
33 prepared to make a motion. I move that we adopt Proposal
34 27 as recommended by the Southeast Alaska Regional Advisory
35 Council pending approval by the Pacific Salmon Treaty
36 process.

37

38 CHAIRMAN DEMIENTIEFF: There's a motion, is
39 there a second?

40

41 MS. GOTTLIEB: Second.

42

43 CHAIRMAN DEMIENTIEFF: Discussion on the
44 motion.

45

46 MR. EDWARDS: I mean I think I can go along
47 with that, I guess I'm not convinced that that really
48 accomplishes anything, but I think I can go along with it.

49

50 CHAIRMAN DEMIENTIEFF: Yeah, I'm not going

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1 to be able to. It's clear to me there's a fishery, whether
2 or not there's a harvest there because of biological
3 concerns, the same things that I outlined earlier, I just
4 simply can't go along with the motion. I'll vote against
5 it. However, if it does prevail, I will use the discussion
6 that we have had with regard to this approach. Is it fair
7 to say that -- you know, clearly it's a subsistence
8 fishery. I mean, it's fair to me to say that on the
9 Stikene River by Federal subsistence -- rural subsistence
10 users under the current regime that we have right now.
11 Under the current laws that we're operating right now. And
12 that needs to be a key part of that, you know, if I get
13 voted down, I'm assuming I'll be writing the letter and I'm
14 going to tell you that's the approach I'm going to take
15 because it's clear to me that that's what it is. It's a
16 subsistence fishery. It's clear to me that we can't have
17 harvest there right now because of conservation concerns.
18 And I also understand the difficulties that we put our
19 Commissioners in or what not. I understand all of that.

20
21 But it just occurs to me that we're not
22 doing our job that we are mandated here to do, not -- we're
23 just simply not going to do it.

24
25 Further discussion.

26
27 MR. GOODWIN: Mr. Chairman.

28
29 CHAIRMAN DEMIENTIEFF: Yes.

30
31 MR. GOODWIN: I just have a point to make.
32 I just can't understand why the Federal Board should wait
33 for somebody else to say it's okay to do this. You have a
34 mandate to do it, there's a request by the Regional
35 Advisory Council, now, you either vote it up or down
36 instead of saying we'll wait for somebody to tell us it's
37 okay to do it. I have a problem with that.

38
39 MR. EDWARDS: Mr. Chairman, I think there's
40 a lot of precedent and maybe Keith can -- but in our recent
41 negotiations under the Migratory Bird Treaty on
42 subsistence, I mean that required an amendment of the
43 Treaty before we could go forward regardless of what we
44 thought was occurring. So I mean I think there is tons of
45 precedent as it applies to treaties that countries enter
46 into that have precedent over what other folks may think
47 should or should not take place.

48
49 CHAIRMAN DEMIENTIEFF: Keith.

50

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1 MR. GOLTZ: I think there is a
2 responsibility under Title VIII, but that's a
3 responsibility that's hedged by geography and by other
4 laws. And no matter what you do in this particular case,
5 it's probably going to be ineffective. Now, I say that
6 somewhat blindly because I haven't read this particular
7 treaty. But as a general matter, a treaty that's been
8 implemented by the United States of America would take
9 precedence over anything that we do here.

10
11 So the real question is what's the most
12 effective way to work the Title VIII interests through this
13 Commission. And instead of trying to second-guess the
14 Commission as we tried to second-guess the Council a few
15 minutes ago, I would recommend that we ask the people
16 familiar with the Commission as to what would be the most
17 effective approach, and I think we've been given that. If
18 I was going to go into a court in Florida I wouldn't show
19 up with bermuda shorts and green hair, I'd probably ask
20 somebody what the standard of dress is down there. And I
21 think the same principle applies to the Commission. We
22 have adopted a certain protocol, whether we wanted to or
23 not, and it has certain expectations for people who come
24 before this Board. And the people who are affected before
25 us are the ones who have learned then and respect it, and I
26 think the same sorts of considerations probably are
27 occurring on that Commission. And I'd want to know from
28 people who had appeared before that Commission and who were
29 part of that, as to what the most effective way to approach
30 our Title VIII interest is.

31
32 MR. WILSON: Mr. Chairman, as I understood
33 the Forest Service's proposal, they were recognizing the
34 subsistence; is that correct?

35
36 DR. KESSLER: Yes. The proposal is to go
37 forward with the subsistence recommendation, make it
38 conditional on the recognition by the Pacific Salmon Treaty
39 process. But the advantage would be -- we wish to go
40 forward with this and the advantage would be, it gives us a
41 jump start on the whole thing, this opportunity, if
42 everything goes through, this opportunity would become
43 available to subsistence users earlier than otherwise.
44 There wouldn't be the unnecessary delay.

45
46 CHAIRMAN DEMIENTIEFF: Well, if that's the
47 case, if, in fact, an international treaty does supersede
48 our activities here, you know, takes precedent over our
49 mandate.....

50

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1 MR. GOLTZ: The only reason that I can
2 think of that it wouldn't is if there's some special
3 exemption in the Treaty itself and I'm told that there's
4 not.

5
6 MR. BRUCE: Mr. Chair, it's been a while
7 since I've read the Treaty document, I don't recollect any.
8 And there may be other folks here who have been -- who
9 might be able to help us as well, but my recollection is
10 there's no such provision.

11
12 CHAIRMAN DEMIENTIEFF: Bill.

13
14 MR. THOMAS: Thank you, Mr. Chairman. With
15 regards to language in the Treaty, it's like the ticker-
16 tape on the stockmarket, it changes constantly. So nobody
17 knows from one day to the next what language is in there.
18 So I wouldn't use it for any kind of a crutch or a beacon.
19 I'm surprised at the examples that we're attracting
20 ourselves to to resolve some of our problems here.

21
22 We need to function as a unit autonomous
23 from those other people that we're talking about. Let's
24 try it, you know. We're a group here, we came here with a
25 purpose. Let's try to serve that purpose. I'll bet you
26 anything that the Salmon Treaty doesn't mention this Board
27 or its activities once in their deliberations so let's move
28 on.

29
30 With that, I got to go out and relieve some
31 emotional distress, thank you, Mr. Chairman.

32
33 CHAIRMAN DEMIENTIEFF: Bill, just real
34 quickly, the only thing that the Regional Council is
35 changing is the season, right?

36
37 MR. THOMAS: Right.

38
39 CHAIRMAN DEMIENTIEFF: Okay. Go ahead.

40
41 MR. BRUCE: Thank you, Mr. Chairman. Just
42 a couple comments. One, remember that there is only a
43 personal use fishery for sockeye, you'd have to establish
44 one, the chinook fishery. But I particularly wanted to
45 address the comments about saving time. You know, because
46 I think, within the Staff discussions there, it focused on
47 whether or not -- what is the best approach to getting
48 concurrence or moving this through the Pacific Salmon
49 Commission process, there wasn't a lot of discussion given
50 to how you might actually shape the fishery. And as you

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1 can see in some of the written comments, there are concerns
2 about the timing of the fishery, overlap with other
3 species, wastage, et cetera, I would offer to you that if
4 you were to pass the motion that the Forest Service
5 offered, it might be partially useful. I don't think it
6 would be -- I would add something more to it in the way of
7 a letter or communication from this Board, but it might
8 serve as a spur to get the Commission moving to address the
9 issue, but I'm not sure it's going to save you time because
10 I think you may need to come back and revisit the issue as
11 far as specific shaping of the fishery, especially if the
12 Canadians express some concerns that they want addressed.
13 And the point that was raised earlier in the oral
14 presentation by your Staff regarding harvest reporting,
15 harvest reporting is going to be truly important in this
16 fishery because these international agreements hinge on
17 sharing arrangements, and accounting for harvest by each
18 side is extremely important and extremely heavily
19 scrutinized by each party.

20
21 So I don't know if it would save you time,
22 but I do appreciate the spirit of your motion.

23
24 CHAIRMAN DEMIENTIEFF: I guess that's my
25 next point. Is it the intent of your motion that this be
26 adopted if we get a letter of concurrence that it's okay
27 with the Commission?

28
29 DR. KESSLER: That's correct.

30
31 CHAIRMAN DEMIENTIEFF: Well, then see,
32 there's biological concerns in here is what my concern is.
33 We're adopting harvest limits and I'm not, you know, the
34 reporting, that's fine for, you know, that, but there's
35 biological concerns in here that we haven't even
36 considered. I'm told there's no sockeye, yet we're
37 authorizing a season and sockeye limit of 40 sockeye and
38 there's none there. What few fish there may be, we stand
39 to be authorizing -- we're not doing our jobs in the
40 conservation mode, and that's the problem I have with this.
41 And you know, all of a sudden you get clearance and, now,
42 boom, people are authorized to go out there and go fish and
43 there's no fish.

44
45 MR. GOLTZ: I have one additional technical
46 legal point and if the Council's are the engine of this
47 program then Bill Knauer is the engine of our regulations
48 and this comes from him, and in my experience it's probably
49 correct. And that's that if we adopt the regulation it
50 conflicts with Federal law, especially one that's backed by

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1 an international treaty, it probably will not survive
2 review in Washington. So probably will never make it to
3 our regulation book. So what we should be thinking of if
4 we do anything here is a statement that would be going to
5 the Commission and not into our regulations.

6
7 CHAIRMAN DEMIENTIEFF: So in my estimation
8 we do need a new motion. And how we get this thing
9 advanced, that's clearly the intent that we want to find a
10 way to advance this to its proper review, whether it be
11 beyond us or not. But if this leaves us with a season and
12 harvest limit, based on a receipt of a letter that this is
13 okay, then I've got serious problems with it. I can't
14 support the motion in that current form.

15
16 Yes.

17
18 DR. KESSLER: I'd just like to clarify.
19 That my assumption with this is that the biological
20 scrutiny would take place as part of the Treaty process.

21
22 CHAIRMAN DEMIENTIEFF: But if we receive
23 holy water, then you just said the intent of your motion
24 was that we would be in business. The fishery would be
25 there, we'd have this harvest limit, we'd have these
26 seasons and that's what's causing me the problem because we
27 haven't gone through the conservation concerns.

28
29 MS. GOTTLIEB: Mr. Chairman.

30
31 CHAIRMAN DEMIENTIEFF: Yes.

32
33 MS. GOTTLIEB: I know we did hear clearly
34 about the status of sockeye but could we either hear again
35 or could you fill me in, please, on coho and chinook, what
36 the biological status is in that stream.

37
38 CHAIRMAN DEMIENTIEFF: Judy, if we could,
39 if we could just clean the motion up to where -- I don't
40 want to go through all that stuff right now. We don't even
41 know if we're going to be in this business, I mean, you
42 know, there's other fish guards out there -- I mean fish
43 regulators, I mean there's other entities out there, that's
44 what I'm trying to say. There's other things that are
45 beyond our scope apparently we're told by Counsel, that
46 could possibly be beyond our scope. So you know that's the
47 problem. If we could clarify that we'd like to push ahead
48 with this and drop the portion of the -- amend to drop the
49 portion of the recommendation to defer seasons and harvest
50 limits then I could go forward.

00087

1 MS. GOTTLIEB: Okay.

2

3 CHAIRMAN DEMIENTIEFF: Because I mean I
4 think it's much more efficient to do it that way. so if we
5 just have a motion to defer the part that has to do with
6 harvest limits and seasons, you know, then we would have
7 the fisheries on our books and then we could debate seasons
8 and harvest limits after that.

9

10 MS. GOTTLIEB: Mr. Chair, I'd be glad to
11 make that amendment and perhaps we need a few minutes to
12 discuss this, after a break or something.

13

14 CHAIRMAN DEMIENTIEFF: Okay, there's a
15 motion, is there a second to defer the portion that deals
16 with harvest limits and seasons?

17

18 MR. WILSON: Second.

19

20 CHAIRMAN DEMIENTIEFF: Okay. Do you want
21 to discuss it after the amendment, you want to break after
22 the amendment? Right now, okay, we'll take a few minute
23 break then.

24

25 MR. THOMAS: I had my break I'm ready to
26 move on.

27

28 (Laughter)

29

30 (Off record)

31

32 (On record)

33

34 CHAIRMAN DEMIENTIEFF: Can we find our way
35 back to our chairs please.

36

37 (Pause)

38

39 CHAIRMAN DEMIENTIEFF: Before we continue
40 on with this, I'm not going to, at this point, we've had a
41 real novel approach to this issue over the break and since
42 this is Forest Service land, Forest Service Counsel has
43 graciously offered to review the Treaty so that we're
44 dealing with specifics in terms of our responsibilities in
45 this process. My understanding is that that could be ready
46 as soon as tomorrow afternoon, depending on how long we
47 spend debating -- he's got to be here for the last two no-
48 brainers we've got in Southeast, 30 and 31.....

49

50 (Laughter)

00088

1 CHAIRMAN DEMIENTIEFF:and then if he
2 can get out of here, he'll start working on it today,
3 otherwise by tomorrow afternoon, late. My suggestion is a
4 motion to table until we get that legal review, legal
5 analysis of the issue. Is there such a motion?

6
7 DR. KESSLER: I would so move.

8
9 CHAIRMAN DEMIENTIEFF: Is there a second?

10
11 MR. WILSON: Second.

12
13 CHAIRMAN DEMIENTIEFF: It's been moved and
14 seconded, no discussion on a tabled motion, all those in
15 favor of the motion, please signify by saying aye.

16
17 IN UNISON: Aye.

18
19 CHAIRMAN DEMIENTIEFF: Those opposed, same
20 sign.

21
22 (No opposing votes)

23
24 CHAIRMAN DEMIENTIEFF: Motion carries.
25 Moving on, No. 30.

26
27 MR. CASIPIT: Thank you. Mr. Chairman,
28 Federal Subsistence Board, Regional Advisory Council
29 Chairs. Proposal 30 was submitted by the Organized Village
30 of Kake, the recognized tribal government for Kake and the
31 City of Kake. They ask that we restrict harvest of
32 steelhead trout in Hamilton Bay River and Kadake Bay River
33 to Federally qualified subsistence users only. This
34 proposal was submitted out of a concern that sport
35 fishermen are competing with customary and traditional
36 users of the steelhead fishery for a limited supply of
37 steelhead trout.

38
39 The Federal waters involved are those of
40 the Tongass National Forest, excluding marine waters. As
41 we talked about earlier today in previous proposals, there
42 is no designated established subsistence seasons for
43 steelhead in either of these river systems. The current
44 sport fishing season is a year-round season with the
45 harvest limit of one fish per day, an annual limit of two
46 fish and a 36 inch minimum size limit. Also that residents
47 of Kake and Kupreanof Island drainages emptying into Keku
48 Strait have a positive customary and traditional use
49 determination for trout, including steelhead trout in
50 District 5, 9(A), 9(B) and 10.

00089

1 We'll put that area up on the screen for
2 you.

3
4 We do have some limited biological
5 information on steelhead in Kadake Creek, that's displayed
6 on Table 1 on Page 117. An area of caution here, these are
7 red counts and an instantaneous foot count of adult
8 steelhead and basically the counts of adults, you know, you
9 shouldn't consider those as good as say weir numbers or
10 some other stock assessment tools that give you better
11 estimates.

12
13 As far as harvest in these systems, there
14 are no specific harvest data from the ADF&G sportfish
15 database. Perhaps, if you're really interested in this
16 Fish and Game can inform you of how their sportfish harvest
17 system work -- harvest monitoring system works, I'm not
18 familiar enough with all the details to tell you how that
19 works.

20
21 With that, I'll have Fred cover the public
22 comments.

23
24 CHAIRMAN DEMIENTIEFF: Thank you, but I
25 believe that's my job. Summary of public comments.

26
27 MR. CLARK: Thank you, Mr. Chairman, and
28 Cal. The Southeast Alaska Fishermen's Alliance says they
29 agree that escapement data is needed for these systems so
30 they would like to see some more gathered.

31
32 That concludes the written public comments,
33 Mr. Chairman.

34
35 CHAIRMAN DEMIENTIEFF: Thank you. We have
36 no request for additional public comment at this -- oh,
37 Department comments.

38
39 MS. WHEELER: Thank you, Mr. Chair. The
40 State supports the Federal Inter-Agency Staff
41 recommendation to defer this proposal pending results of a
42 new study. Thank you, Mr. Chair.

43
44 CHAIRMAN DEMIENTIEFF: Okay, we have no
45 additional request for additional public comment at this
46 time. Regional Council recommendation.

47
48 MR. THOMAS: Thank you, Mr. Chair. The
49 Regional Council recommendation, Mr. Chairman, is to
50 support the proposal. Restrict harvest of steelhead trout

00090

1 in Hamilton Bay River, Kadake Bay River to Federally
2 qualified subsistence users. Further as per Staff
3 recommendation implement a stock and harvest assessment
4 program.

5
6 The Council doesn't necessarily see a need
7 for deferring while that assessment is underway. There's
8 no time given as to when an assessment will occur. So
9 again, I proudly represent the integrity and the
10 responsible method of how the subsistence community regards
11 the resources that are available to them. They do it in a
12 responsible manner and they do it, in fact, if the agencies
13 were as responsible as the subsistence users we wouldn't be
14 in the shape we are in now with any of the runs. So the
15 RAC does support the proposal.

16
17 Thank you, Mr. Chairman.

18
19 CHAIRMAN DEMIENTIEFF: Staff Committee
20 recommendation.

21
22 MR. THOMPSON: Yes, Mr. Chairman, Staff
23 Committee recommends deferring this proposal until next
24 year. We feel deferral action on this proposal is
25 justified because there is lack of substantial evidence to
26 support a closure and it would be an unnecessary
27 restriction to non-subsistence uses at this time. This
28 will be pending getting a stock assessment program
29 developed and implemented and stock assessment studies
30 perhaps conducted to provide guidance on escapement and
31 harvest so that the subsistence needs can be met.

32
33 Thank you.

34
35 CHAIRMAN DEMIENTIEFF: If we could have
36 Staff let us know is there a time frame for this additional
37 research to be done?

38
39 MR. CASIPIT: Currently there's several --
40 there's one stock -- there's a stock assessment project for
41 steelhead in both Kadake Bay River and Hamilton Bay River
42 as well as TEK and harvest studies for harvest use patterns
43 in Kake all scheduled in the current 2001 FIS package of
44 projects. We may have some preliminary data by next year
45 to be able to react to this proposal with some of that
46 information that's being collected.

47
48 CHAIRMAN DEMIENTIEFF: Additional
49 discussion, we're at the deliberation process here.

50

00091

1 MR. WILSON: Question. Are those two or
2 three year studies, what is the intended duration of those
3 studies?
4

5 MR. CASIPIT: The stock and harvest
6 assessment -- the harvest assessment and TEK work is one
7 year scheduled work in the Kake area. The stock assessment
8 projects for Hamilton Bay and Kadake Bay are -- they -- in
9 the request there is a request for three years of funding.
10 Although with our funding this year we could only fund one
11 year at a time, I'm sure you're aware of that.
12

13 CHAIRMAN DEMIENTIEFF: Further discussion.
14 Ken, you have something? Winnie? No. Any other
15 discussion. Bill, you have any other comments other than
16 what you've given?
17

18 MR. THOMAS: (Nods negatively)
19

20 CHAIRMAN DEMIENTIEFF: If there's no other
21 discussion, we're ready for a Board action. Yes.
22

23 DR. KESSLER: Thank you, Mr. Chair. I'll
24 just preface my thoughts by saying, that at this time we
25 don't really have substantial evidence that would indicate
26 a need for the restriction. The flip-side of that is we do
27 have plans and a commitment to develop information that
28 will clarify this situation for us starting next year. But
29 I think the prudent thing to do now and I'll offer a
30 motion, I move that the Board defer Proposal 30, as
31 recommended by the Staff Committee.
32

33 CHAIRMAN DEMIENTIEFF: There's a motion, is
34 there a second?
35

36 MS. GOTTLIEB: Second.
37

38 CHAIRMAN DEMIENTIEFF: Discussion. Gary.
39

40 MR. EDWARDS: Mr. Chairman, I guess one of
41 the things that kind of bothers me is that you know, one
42 could characterize this proposal kind of falling under the
43 user conflict category. And I guess I have some problem
44 that we're going to be addressing these on a case by case
45 basis, and maybe that's the appropriate way to go but I
46 guess my concern is that once we make the decision about
47 one, then if another one follows it, it kind of -- I'm
48 concerned we're going to kind of go back and forth. And I
49 don't know what the answer is but I think it's a broader
50 issue than just this particular proposal.

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1 And one, that as we get more and more into
2 this fisheries, particularly as it deals with resident
3 species, I think is going to become increasingly before us.
4 And I'm saying all that, I don't necessarily have a
5 solution, I'm just expressing, I guess some concern now and
6 wondering if there is a way, as we go down this road, that
7 we can sort of get out in front of this issue.

8
9 CHAIRMAN DEMIENTIEFF: Any further
10 discussion.

11
12 MR. THOMAS: Mr. Chairman.

13
14 CHAIRMAN DEMIENTIEFF: Yes.

15
16 MR. THOMAS: I'm sorry to say that as we
17 progress through this day addressing the issues that are
18 brought before you, the one thing that I'm really thankful
19 for is that the members of my Regional Advisory Council
20 aren't here to witness these are being dealt with at this
21 level.

22
23 In the course of their meetings, our job is
24 to get the best knowledge, wisdom, historical, biological,
25 conservation-minded information we can. We do that.
26 That's incorporated in our recommendation. I am the first
27 region on the docket of this session and if every proposal
28 is going to be stymied or confronted like these proposals
29 have been today, we'll be here through the New Year. And
30 the deferring process offers no credence, it's an easy way
31 out, it's a -- I guess it's just a way of demonstrating a
32 lack of understanding. I'm not sure what it indicates.
33 But to go on deferring and deferring and deferring, either
34 adopt it or reject it.

35
36 Thank you, Mr. Chairman.

37
38 CHAIRMAN DEMIENTIEFF: Gary, I had time to
39 think about your question and even though this is fish and
40 we've been in the game business for 10 years, and there's
41 been plenty of times where we've run into lack of
42 biological data and in those cases, well, you know, a lot
43 of cases, you know, we've banked on the system that we do
44 have in place, which is local knowledge which comes to us
45 through the Regional Council system. And you know, that's
46 the other route that we have in the absence of biological
47 data because that tells us on the ground what's going on by
48 the users, I mean if they're having problems meeting their
49 needs. They're the first to know, you know, and then we go
50 about trying to fill those data gaps. So in the effort of

00093

1 being consistent, I think if we're going to be consistent
2 Gary, that's where we ought to be. That's the information
3 that we do have.

4
5 Any other discussion.

6
7 MR. REXFORD: Mr. Chairman.

8
9 CHAIRMAN DEMIENTIEFF: Fenton.

10
11 MR. REXFORD: Yes, I have to speak up and
12 support my friend from Southeast on this, the effort to get
13 this subsistence fishery open. I know from reading this
14 information that there is sportfishery and there must be an
15 assessment for that but deferring this for subsistence
16 users, I don't think it's right that the Board should not
17 consider opening it up for subsistence use because there's
18 already fisheries around that area and there must be
19 assessment for that. So if you're not going to open it up
20 for subsistence, you ought to close it -- make a proposal
21 to close the sportfishery that's going on until there is an
22 assessment for their fishery as well, and not defer it for
23 subsistence fisheries.

24
25 That's my comment, thank you.

26
27 CHAIRMAN DEMIENTIEFF: Further discussion.

28
29 MS. HILDEBRAND: Mr. Chairman.

30
31 CHAIRMAN DEMIENTIEFF: Yes.

32
33 MS. HILDEBRAND: Mr. Chairman, I realize
34 you are in Board deliberation but I would like to express
35 concern. I've noticed in the discussion throughout the day
36 that when there is lack of data and biologists say we're
37 going to approach it in a conservation method, if you have
38 no data be conservative and limit or restrict. In this
39 instance it's the Regional Council who is saying there is
40 no data, therefore, limit or restrict and their concerns
41 for conservation don't seem to be given much credence. And
42 I'm just expressing that concern.

43
44 CHAIRMAN DEMIENTIEFF: Gary.

45
46 MR. EDWARDS: I guess I'm not sure that
47 that's what it says because I think the way I read it what
48 it says is to restrict harvest to subsistence only. Now,
49 looking at the current State regulations it would appear
50 that harvest by sportfish is very restrictive. I think

00094

1 it's two fish per season. I guess I'm assuming that
2 actually a majority of the sportfish that occurs is a catch
3 and release fishery as opposed to a harvest fishery; is
4 that.....

5
6 MR. CASIPIT: (Nods affirmatively)

7
8 MR. EDWARDS: I mean then if that is the
9 case, then if there is not a significant harvest occurring,
10 then why would we be restricting, I guess, because it's
11 already open to subsistence fishing, I think, is it not?

12
13 CHAIRMAN DEMIENTIEFF: Cal, do you know
14 that?

15
16 MR. CASIPIT: There is no established
17 subsistence fishery for steelhead in Southeast Alaska. The
18 harvest that occurs there at Kadake and Hamilton Bay, the
19 harvest occurs under sport regulations.

20
21 MR. THOMAS: Mr. Chairman.

22
23 MR. EDWARDS: Well, then I'm really
24 confused as to what we are doing. I thought we were -- so
25 we're doing two things. We are authorizing the subsistence
26 and denying a non-subsistence?

27
28 CHAIRMAN DEMIENTIEFF: Basically we'd be
29 denying non-subsistence use and we're not authorizing, that
30 I can see, a season for subsistence users. So we're
31 basically.....

32
33 MR. THOMAS: Mr. Chairman.

34
35 CHAIRMAN DEMIENTIEFF: Yes, Bill.

36
37 MR. THOMAS: These proposals that are
38 before you reflect a lot of apprehension, bewilderment
39 because of the lack of subsistence designations in Region
40 1. Unlike the rest of the state, Region 1 does not have
41 the luxury of any subsistence activity. It's all under the
42 guise of something else, personal use. As a result of
43 that, there is a lot of abuse in harvest down there to
44 protect.

45
46 We're here to protect the subsistence
47 community and nobody else. I mean they got shields of
48 their own, those user groups. We're not declaring war on
49 them, we're trying to get some protection and some support
50 for the subsistence community. Let's talk subsistence,

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1 period.

2

3 Thank you.

4

5 CHAIRMAN DEMIENTIEFF: Gary.

6

7 MR. EDWARDS: Mr. Chairman, the way I read
8 the proposal, it says that it would restrict all the uses
9 except for Federal subsistence. And I guess my question
10 is, if there is not an existing Federal subsistence then it
11 would actually do what I said, it would restrict one use
12 and allow another. Does that.....

13

14 CHAIRMAN DEMIENTIEFF: We do have a
15 regulation on the book, on Page 116, one fish per day,
16 annual limit of two fish and a 36 inch minimum size. That
17 regulation would stay on the books but the people who would
18 be qualified for that would be per the proposal.

19

20 MS. GOTTLIEB: Mr. Chairman, this is
21 getting as confusing as the other ones now. So in other
22 words, we're being asked to set up a Federal subsistence
23 fishery specific to this area instead of the general reg we
24 have in the book as well as being asked to restrict it to
25 qualified subsistence users. It's not -- Gary, mentioned
26 earlier, it's not like it's -- it's not open under all
27 regulations now it's open under State regulations now.

28

29 CHAIRMAN DEMIENTIEFF: Yes.

30

31 MR. THOMAS: Thank you, Mr. Chairman. The
32 area that we're talking about geographically in the recent
33 20 years has been, for the most part, had all of its
34 habitat destroyed through one industry or another. Their
35 deer population, their subsistence harvest populations,
36 they have to cross Chatham Straits and that's not a
37 friendly piece of water, to go to Baranof to get their
38 sockeye. This proposal here is a last ditch effort to try
39 to slow that down in that area. I'm surprised they have
40 anything left there to protect. And again, let's talk
41 subsistence, because there's a lot of things in trouble
42 around Kake that is no fault of the subsistence user.

43

44 Thank you.

45

46 CHAIRMAN DEMIENTIEFF: The proposal, the
47 way it reads and that's what we're wrestling with right
48 now, would delete the sport season. If we deleted a sports
49 season, there would be no way for qualified subsistence
50 users to harvest, it would be closed for everybody. Was

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1 that the intent of the Council in this case, was to close
2 the season for everybody? Because there is no subsequent
3 or additional proposal to open a subsistence season, so we
4 just delete the season, it's gone.

5
6 MR. THOMAS: Mr. Chairman, I think the
7 ambition of this proposal was, again, like I said before,
8 there are no recognized practiced subsistence harvest in
9 Southeast. It's under the guise of something else.
10 They're looking to this body for support in having a
11 mechanism to protect what they do have there. I don't
12 think they're wanting to restrict themselves from that
13 activity. What they're asking for is for help. And we
14 have a language problem here, we have technical problems
15 that shouldn't be.

16
17 The bottom line is -- and not all the
18 subsistence users are familiar with Title VIII, but that's
19 where we come in. We have a responsibility to satisfy
20 .801, I don't care what color it is or where it's coming
21 from. Thank you, Mr. Chairman.

22
23 CHAIRMAN DEMIENTIEFF: I understand. I
24 understand that. But if the Council's position is that
25 there is a significant biological problem that can't
26 sustain the sport fishery, all I'm saying is that by
27 following the Regional Council recommendation there will be
28 no more steelhead fishing in that area until a proposal is
29 brought before the Board. It's half a proposal. What do
30 you want to replace sport fishing, where -- eliminate sport
31 fishing and then there's no way to harvest.

32
33 MR. THOMAS: My instinct then from that, if
34 that's what the proposal -- if that's how it's written and
35 that's the implication that it's serving, I would say let's
36 go with it and let's learn by it.

37
38 CHAIRMAN DEMIENTIEFF: Just wanting to do
39 diligence in terms of it. I'm looking at what little
40 meager population of steelheads that there are in the area,
41 you know, I can certainly support the Regional Council
42 recommendation but I'm just pointing out that the
43 subsequent action that there will be no way for qualified
44 rural residents, pending the development of another
45 proposal, steelhead fishing would be closed in the Federal
46 waters.

47
48 I don't have a problem taking, it's
49 something we've done. I mean if there's no significant
50 data but we do have locals pointing out that there is a

00097

1 biological problem, pending the outcome of it, I have no
2 problem supporting the proposal as long as they understand
3 that they also will not be able to harvest.

4

5 MR. THOMAS: That's how we get good
6 proposals.

7

8 CHAIRMAN DEMIENTIEFF: Further discussion.
9 Again, my feelings are I would support the Regional Council
10 recommendation as opposed to one to defer. I mean there's
11 always the possibility that one could come back. What
12 we're hearing is that there is significant conservation
13 concern with regard to steelhead in those areas.

14

15 MR. EDWARDS: Mr. Chairman, firstly, I say
16 this with some intrepitation, I'm not convinced that that's
17 what the folks that are asking for this want. You know, is
18 that, well, this will teach them and they'll be more clear
19 on what they want, I'm not sure, quite frankly, that that
20 is really the best approach.

21

22 MR. THOMAS: Mr. Chairman.

23

24 CHAIRMAN DEMIENTIEFF: Bill.

25

26 MR. THOMAS: I agree with Gary. My mission
27 was accomplished. I said what I said to get that reaction.
28 The recommendation to restrict harvest of steelhead,
29 harvest of steelhead in Hamilton Bay River and Kadake River
30 to Federally qualified subsistence users and I guess I'm
31 having a problem being able to advance my thought process
32 as to far as where yours is with regards to conservation.
33 I think we're singing out of the same page but I'm soprano
34 and you're alto. My shorts are too tight.

35

36 MS. GOTTLIEB: Mr. Chairman.

37

38 CHAIRMAN DEMIENTIEFF: Yes.

39

40 MS. GOTTLIEB: Given that we do have, I
41 guess, a variety of opinions on the health of the resource
42 and we do have some data that may be available to us by
43 next year's meeting. Perhaps we -- my understanding of
44 deferring would be that people could still fish through
45 State regulations and by next year we'd have a little bit
46 better information to perhaps, and the Council would have
47 more information perhaps to help establish and show their
48 desire for a Federal fishery in the area and set up a
49 system so that we might get to the point where the Council
50 is recommending right now.

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1 CHAIRMAN DEMIENTIEFF: Yes.

2

3 MR. THOMAS: That's true. I don't know
4 that the information will be coming to the Council or from
5 the Council, it will probably be coming from your technical
6 staff directly to the Board in their assessment program so
7 that would be my guess and I have no problem with that.

8

9 Thank you.

10

11 CHAIRMAN DEMIENTIEFF: Further discussion.
12 Does anybody have a motion?

13

14 DR. KESSLER: There's a motion on the
15 table, Mr. Chair.

16

17 CHAIRMAN DEMIENTIEFF: Pardon?

18

19 DR. KESSLER: I made the motion already to
20 defer.

21

22 CHAIRMAN DEMIENTIEFF: There's a motion, is
23 there a second?

24

25 MR. WILSON: Second.

26

27 CHAIRMAN DEMIENTIEFF: Discussion on the
28 motion. Hearing none, all those in favor of the motion,
29 please signify by saying aye.

30

31 IN UNISON: Aye.

32

33 CHAIRMAN DEMIENTIEFF: Those opposed, same
34 sign. Aye.

35

36 MR. THOMAS: Aye.

37

38 CHAIRMAN DEMIENTIEFF: 31.

39

40 MR. CASIPIT: Thank you. Mr. Chairman,
41 Federal Subsistence Board, Regional Advisory Council
42 members. Proposal 31 was submitted by the Organized
43 Village of Kake and the City of Kake. They ask to restrict
44 harvest of sockeye salmon at Falls Lake, Gut Bay and Pillar
45 Bay to Federally qualified subsistence users and to
46 eliminate possession limits at these systems. The proposal
47 was submitted out of concern that subsistence users are
48 being negatively impacted by other users and that
49 escapement studies are needed for conservation.

50

00099

1 Federal waters involved are those of the
2 Tongass National Forest excluding marine waters. Falls
3 Lake and Gut Bay are located along the eastern shoreline --
4 I'm sorry, the western shoreline of Baranof Island and Bay
5 of Pillars is located along the western shoreline of Kuiu
6 Island, all have some waters within Federal jurisdiction.

7
8 As far as regulatory history. The current
9 subsistence seasons in subdistrict 109-20, which is Gut Bay
10 and Falls Lake extends from June 1 to July 20th with the
11 possession limit of 10 sockeyes per individual and
12 household. The current subsistence season in subdistrict
13 in 109-52, that is Bay of Pillars, extends from June 1 to
14 July 31st with an individual harvest limit of 15 sockeye
15 and household possession limit of 25 sockeye. Residents of
16 Kake and Kupreanof Island emptying into Keku Straits south
17 of Point White and north of Portage Bay boat harbor have a
18 positive customary and traditional determination to harvest
19 salmon in the waters of 9(A) and 9(B), the areas in
20 question here.

21
22 We present harvest information for Falls
23 Lake and Gut Bay in some tables on Page 123 through 124.
24 We also present harvest by community over the past five
25 years, information from the Fish and Game Subsistence
26 Division and those communities and the numbers of fish that
27 they take are listed in those columns.

28
29 I just wanted to flash the map up there,
30 you can see the location of Falls Lake, Gut Bay and Bay of
31 Pillars in relation to Kake. As Mr. Thomas had said
32 earlier in the previous proposal, if you notice there that
33 folks in Kake do have to make quite a run through some
34 pretty rough waters at times to get to their sockeye
35 resources.

36
37 We do have some limited escapement
38 information for these sockeye systems. We present that
39 information on Pages 126 through 127.

40
41 Some key points I wanted to mention, we do
42 feel the need for some local stock assessments in the area
43 and we do have conservation concerns for sockeye in Falls
44 Lake and Gut Lake systems. Last year before the State
45 Board of Fish, there was a proposal that regarded Falls
46 Lake sockeye conservation. The Fish and Game and the
47 Federal Subsistence Program did initiate a stock assessment
48 project at Falls Lake in the year 2000 in the FIS process.
49 Gut Bay is included in stock assessment projects proposed
50 for 2001 as well as harvest and TEK work in the Kake area

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1 covering these three areas.

2

3 That concludes my presentation.

4

5 CHAIRMAN DEMIENTIEFF: Thank you. Fred,
6 summary of written public comments.

7

8 MR. CLARK: Thank you, Mr. Chairman. The
9 United Fishermen of Alaska suggest that there should be a
10 season limit on subsistence take. That rural residents
11 recommended for access should be identified and that there
12 is no justification provided in the proposal to close sport
13 or personal use fisheries.

14

15 That's all, Mr. Chairman.

16

17 CHAIRMAN DEMIENTIEFF: Thank you.
18 Department comments.

19

20 MS. WHEELER: Thank you, Mr. Chair. The
21 State supports the Federal Inter-Agency Staff
22 recommendation to reject the proposal. We note that most
23 of the subsistence harvest at Falls Lake, Gut Bay and Bay
24 of Pillars has been historically taken in marine waters and
25 that would be 99 percent, 100 percent and 96 percent for
26 each system respectively in 1999. Passage of this proposal
27 would only affect the harvest in freshwater that
28 historically represents a very minor part of the total
29 subsistence harvest, Mr. Chair.

30

31 CHAIRMAN DEMIENTIEFF: We have no
32 additional request for additional public testimony at this
33 time. Regional Council recommendation.

34

35 MR. THOMAS: Thank you, Mr. Chairman. It
36 gets interesting by the minute. Our previous proposal I
37 suggested that since we had jurisdiction in freshwater and
38 streams, it was brought to my attention that wasn't
39 necessarily so. But we get to marine waters and there's a
40 definite ownership there. And I am not sure if we have no
41 jurisdiction in marine waters, then I'm not sure how we can
42 effectively bring these proposals before you.

43

44 But, however, in representing Region 1,
45 Region 1 supports the proposal with modification. They
46 want to close all streams draining into Falls Lake, Gut
47 Bay, Pillar Bay to harvest sockeye salmon except by
48 Federally qualified users. We do not support the proposal
49 that would eliminate possession limits. Now, listen to the
50 language in the justification. The Council's rationale was

00101

1 that smaller systems like these should be protected for
2 subsistence and it's better to protect it for an allocation
3 issue. Dolly Garza summarized the Council's thinking when
4 she said, this is the kind of conservation we should be
5 practicing before we have the charter people duking it out
6 with subsistence people because once they start spending
7 money to go there, they're going to say that's what they've
8 done for time and immemorial and have rights, and they will
9 because it will take us five years to get around to it
10 again. They did not include removing the harvest limit
11 because they felt it would cause conservation concerns, if
12 the data collected by Kake, the State and the Forest
13 Service indicate a higher harvest is possible, it can be
14 changed then.

15
16 So that's the kind of justification that we
17 should use in any kind of recommendation that we make. Be
18 concise, elaborate on it and have it mean something.

19
20 Southeast Regional Advisory Council
21 supports the proposal with modification, we did not support
22 the part of the proposal that would eliminate possession
23 limits. Thank you, Mr. Chairman.

24
25 CHAIRMAN DEMIENTIEFF: Thank you. Staff
26 Committee recommendation.

27
28 MR. THOMPSON: Yes, Mr. Chairman, the Staff
29 Committee recommends rejecting this proposal. While
30 recognizing the importance of the three sockeye salmon
31 systems to local subsistence users, Staff Committee cannot
32 support recommended closure to sport fisheries as the sport
33 harvest constitutes such a small proportion of the total
34 harvest in Federal waters and the greater percentage of
35 sport fishing is done in marine waters.

36
37 Basically our concern is a lack of
38 substantial evidence to support a closure and that it would
39 be an unnecessary restriction at this time to non-
40 subsistence uses. Thank you.

41
42 CHAIRMAN DEMIENTIEFF: Discussion. No
43 discussion. Any other Regional Council comment.

44
45 MR. THOMAS: I quit.

46
47 CHAIRMAN DEMIENTIEFF: Is there a motion.
48 Yes.

49
50 DR. KESSLER: Yes, I'll make the motion. I

00102

1 feel compelled to go along with the Federal Inter-Agency
2 Staff recommendation because of the lack of evidence to
3 support a closure and the fact that it would constitute
4 what appears to be at this state of the knowledge, a non-
5 necessary restriction and the observations that have been
6 made about the impacts being elsewhere associated with the
7 marine environment.

8
9 So my motion is to move that the Board
10 reject Proposal 31 as recommended by the Southeast Regional
11 Advisory Council [sic].

12
13 CHAIRMAN DEMIENTIEFF: I don't think they
14 were recommending rejection.

15
16 DR. KESSLER: I'm sorry, the Federal Inter-
17 Agency Staff. Sorry.

18
19 CHAIRMAN DEMIENTIEFF: There's a motion, is
20 there a second?

21
22 MR. WILSON: Second.

23
24 CHAIRMAN DEMIENTIEFF: Discussion.

25
26 MS. GOTTLIEB: Mr. Chairman.

27
28 CHAIRMAN DEMIENTIEFF: Yes.

29
30 MS. GOTTLIEB: Again, I think I might have
31 heard it both ways, do we have a conservation concern here,
32 that would be for Staff, please?

33
34 CHAIRMAN DEMIENTIEFF: Cal.

35
36 MR. CASIPIT: Yes. There is a conservation
37 concern in Falls Lake. We believe there is one at Gut Bay.
38 We don't know at this point for Bay of Pillars yet. But
39 for two of them we think there is.

40
41 CHAIRMAN DEMIENTIEFF: Did the Staff
42 Committee have access to that information? I mean here
43 we've got documented or Staff is saying that we have a
44 conservation concern, it supports the position of the
45 Council, and yet the Staff Committee recommendation, where
46 this train is trying to go is to go contrary to that.
47 There's no way I can support this recommendation or this
48 motion. There were other cases, you know, I was willing to
49 go with the Regional Council and in this case we have Staff
50 saying we have biological conservation concerns and we're

00103

1 still not willing to do it.

2

3 Yes.

4

5 MR. THOMPSON: Mr. Chairman, the Staff
6 Committee did, indeed, have that information, however, we
7 are persuaded by the probability there would be little
8 effect by restricting non-subsistence uses in Federal
9 public waters because of the very small percentage of that
10 harvest is taking place in Federal public waters. The vast
11 majority is taking place in marine waters and this proposal
12 does not impact that.

13

14 CHAIRMAN DEMIENTIEFF: The last couple
15 years at home and up on the Yukon, we've been down counting
16 fish, one fish for you, one fish for me, you know. I mean
17 what's very little impact? Can you quantify that?

18

19 MR. THOMAS: Mr. Chairman.

20

21 MR. CASIPIT: I'm sorry, Mr. Chairman, can
22 you repeat that question again, I'm not sure I understood
23 it?

24

25 CHAIRMAN DEMIENTIEFF: Well, I mean Ken is
26 saying that there's very little impact, I don't know, can
27 you quantify that, what very little impact is?

28

29 MR. CASIPIT: Well, our initial estimates
30 was that sport fishing in Federal waters represented less
31 than five percent of the harvest. We didn't know what
32 exactly -- that was the information that was given to us.
33 But again, that's based on some -- the way that the sport
34 -- the way the State sport harvest system -- harvest
35 monitoring system works is that it's a male survey and it's
36 a sample of all the people that's purchased a fishing
37 license in the state. It's rather, you know, it's kind of
38 a -- they don't look at every license that was sold, they
39 only sample a subsample of all those licenses, and the only
40 time that they actually record a location of harvest is if
41 10 anglers have reported harvesting fish there. So in a
42 lot of situations for these very small systems, the chances
43 that the sample of all the licenses are going to pick up 10
44 individuals is very slim. So as a consequence for these
45 really small systems, there is sport harvest there, we know
46 that there is but as far as a quantification in a database,
47 the harvest monitoring database, it just doesn't happen
48 because of the way the sampling is done.

49

50 Now, I might have messed that up on the

00104

1 part of the State, I don't presume to understand the State
2 harvest monitoring system all that well, but perhaps the
3 State would clarify that if I got something wrong.

4

5 MS. WHEELER: Mr. Chair.

6

7 CHAIRMAN DEMIENTIEFF: Do you have any
8 further clarification on the points that Cal made?

9

10 MR. BROOKOVER: Mr. Chair, Tom Brookover
11 with Fish and Game Sportfish Division. I'm in Sitka. And
12 Cal had the general idea, I think of one of the methods we
13 use to estimate sport harvest correct -- and that method is
14 a statewide harvest survey that is based on a mailout
15 questionnaire sent to households with individuals that have
16 purchased sport fishing licenses. That's our primary means
17 for estimating sport harvest on a statewide, region-wide
18 and large geographic area basis. It works well for large
19 geographic areas, including the Sitka area, which would
20 include the western half of Chichagoff Island and the
21 Baranof Island area. For that contiguous area, sport
22 harvest estimates of sockeye have ranged around the 3,000
23 mark each year. Where it breaks down is trying to estimate
24 harvest for very small specific systems like Falls Lake
25 because we don't get enough returns from people that have
26 fished in that area to make an estimate for a system like
27 that.

28

29 And we do have a second means to estimate
30 harvest since 1998, and that is through charter vessel log
31 books. Those have been required by the Board of Fisheries
32 for any vessel that operates in saltwater, any guided
33 vessel that operates in saltwater. And the information
34 that we have reported on log books for Falls Lake, Gut Bay
35 and the Pillar Bay areas is essentially zero sockeye
36 harvest for 1998. And for those three areas in 1999 there
37 were 32 fish reported on the charter vessel log books.

38

39 MR. EDWARDS: Mr. Chairman, I guess that
40 being said, I guess then, realistically what is the
41 implication either way? It seems to me if we -- what I
42 hear you saying is that there was virtually no fish taken
43 there anyway, so by supporting the Council, the only
44 impact, I believe last year, 32 fish; is that correct?

45

46 CHAIRMAN DEMIENTIEFF: That's on charter
47 boats.

48

49 MR. EDWARDS: Right. But your data also
50 says in one of the lakes, 100 percent of the fish were

00105

1 taken outside of the area in question. So doesn't that
2 indicate that there were zero taken within the area?

3

4 MR. BROOKOVER: Mr. Chairman, no, I don't
5 believe we have the authority to say that zero fish were
6 taken. It's feasible that fish were taken in that area but
7 weren't picked up in the statewide mailout survey.

8

9 MR. EDWARDS: So we assume with those
10 percentages that had to be a pretty low number, wouldn't
11 we?

12

13 MR. BROOKOVER: Mr. Chair, that's our
14 assumption, yes.

15

16 CHAIRMAN DEMIENTIEFF: Again, as you point
17 out, were taking outside of the area -- by residents
18 outside of the area; is that the point you're making?

19

20 MR. BROOKOVER: No. I guess my point I
21 thought I was making that there is very little harvest that
22 takes place within those waters so by restricting that, is
23 it really eliminating really much use.

24

25 Mr. Chair, Mr. Edwards, I think your
26 assessment is on target. I think generally with little
27 harvest taking place in those areas the affect in the
28 overall scheme of things would be relatively low. I might
29 also point out that the State subsistence fisheries were
30 restricted this season, were shortened by, I believe, 10
31 days in 1999 and 2000, similarly to the sport fishery was
32 restricted in both marine and freshwaters at Falls Lake by
33 reducing bag limits from six to three. That included both
34 the marine and freshwater portions.

35

36 CHAIRMAN DEMIENTIEFF: Bill.

37

38 MR. THOMAS: You know, Mr. Chairman, it
39 looks to me like we're going to have to go back probably 12
40 years and have an orientation and see where in the hell we
41 exactly are in terms of working with a common goal.
42 Somehow it looks to me like we translated the language in
43 Title VIII from subsistence to other user groups. And if
44 all of our proposals are going to end up being deferred for
45 very lame justifications and not consider the impact it has
46 on the subsistence community.

47

48 The justification on this particular
49 proposal puts up a red flag saying it's time. This is the
50 kind of conservation we should be practicing before we have

00106

1 the charter people duking it out with the subsistence
2 people, which is true. This is speaking from historical
3 events. There's a lot of competition for these resources
4 down there. Lots of competition.

5
6 Title VIII was put in place to protect
7 subsistence. Why can't we do that?

8
9 It's simple. I mean they didn't send us
10 here to consider other user groups. They didn't send us
11 here to defer because of what it's going to do to somebody
12 else. Take a look at .801, spend a little time on .801.

13
14 You know, up until now there was a lot of
15 pride in being part of this process. We really thought it
16 was a stroke of wisdom to use the knowledge or people that
17 use the resource on a regular basis. People that know the
18 history of the strength of systems. People that know the
19 affects of pollution. People that know the affects of
20 natural causes about the resources that have been solicited
21 to bring these recommendations to this point. And if that
22 doesn't suffice, I'm not sure what the RACs are going to do
23 in the future from this. This makes me more than a little
24 bit nervous.

25
26 Take a look at .801. Spend a little time
27 on it. Ask yourself what you're going to do with it.

28
29 Thank you, Mr. Chairman.

30
31 CHAIRMAN DEMIENTIEFF: Thank you, Bill.
32 Any further discussion. Now we're ready to vote, all those
33 in favor of the motion signify by saying aye.

34
35 DR. KESSLER: Aye.

36
37 CHAIRMAN DEMIENTIEFF: Those opposed, same
38 sign.

39
40 IN UNISON: Aye.

41
42 CHAIRMAN DEMIENTIEFF: Motion fails.

43
44 MS. GOTTLIEB: Mr. Chair.

45
46 CHAIRMAN DEMIENTIEFF: Do we have a
47 subsequent motion? Yes.

48
49 MS. GOTTLIEB: Well, I was going to say, I
50 thought again that this area may be part of some of the

00107

1 fishery studies that we're planning on doing and so we look
2 forward to getting that information and I hope per Bill's
3 comment on the last discussion, I hope that information is
4 transmitted to the Regional Advisory Council. I mean we
5 know it will come to the Board but it needs to go to the
6 Regional Advisory Council as I think it's part of our
7 system that as information is gathered Regional Advisory
8 Councils need to be amongst the first to get that
9 information.

10
11 CHAIRMAN DEMIENTIEFF: Well, it's clear
12 from testimony that we're not displacing very many people
13 so it's not a huge impact but it is a step in an effort
14 where we do have conservation concerns. And whatever
15 little bit it helps is going to help. It's not going to
16 change the subsistence users harvest and we're not
17 displacing huge volumes of sport fishermen. But it is a
18 little step that we can do to conserve stocks that are in
19 trouble while we are getting the information necessary to
20 build.

21
22 My recommendation is to adopt the
23 recommendation of the Southeast Regional Advisory Council.

24
25 MR. WILSON: Mr. Chairman.

26
27 CHAIRMAN DEMIENTIEFF: Yes.

28
29 MR. WILSON: I make a motion a motion to
30 adopt the recommendation of the Southeast Council -- sorry
31 Southeast Advisory Council reco -- I -- let me start over
32 again. I make a motion that we accept the recommendation
33 of the Southeast Regional Advisory Council.

34
35 CHAIRMAN DEMIENTIEFF: Thank you. Is there
36 a second to that motion?

37
38 MR. URVINA: Second.

39
40 CHAIRMAN DEMIENTIEFF: Discussion.

41
42 MR. EDWARDS: I'm going to go ahead and
43 vote on it but I guess I still remain concerned that we're
44 just jumping back and forth on all these and being very --
45 at least from my view, somewhat arbitrary as we debate each
46 one.

47
48 CHAIRMAN DEMIENTIEFF: I think towards that
49 effort in developing the record we did hear from Staff
50 that, at least in two out of three of those systems within

00108

1 the system that there are conservation concerns and that
2 being the exception.

3

4 MS. GOTTLIEB: Mr. Chairman.

5

6 CHAIRMAN DEMIENTIEFF: Yes.

7

8 MS. GOTTLIEB: I guess I'd also be
9 interested in some of our Staff finding out whether the
10 Board of Fish is going to be looking at this area, too,
11 because of conservation reasons. Thank you.

12

13 CHAIRMAN DEMIENTIEFF: Thank you. Further
14 discussion on the motion. Hearing none, all those in favor
15 signify by saying aye.

16

17 IN UNISON: Aye.

18

19 CHAIRMAN DEMIENTIEFF: Those opposed, same
20 sign.

21

22 (No opposing votes)

23

24 CHAIRMAN DEMIENTIEFF: Motion carries.
25 Okay, Proposal 34 got moved off the consent agenda and has
26 already been adopted. Pending the legal review, we will
27 come back with Proposal 27. Whenever we do get the legal
28 analysis, pursuant to our motion to table pending the
29 outcome of that legal analysis.

30

31 (Pause)

32

33 CHAIRMAN DEMIENTIEFF: Okay, we're going to
34 move on into the Kodiak/Aleutians region. We'll give our
35 Staff a moment to get situated.

36

37 MR. THOMAS: Mr. Chairman.

38

39 CHAIRMAN DEMIENTIEFF: Yes.

40

41 MR. THOMAS: On behalf of Region 1, I want
42 to thank the Board for their supporting comments; for their
43 diligent considerations and for the degree of effort and
44 thought they put into dealing with proposals from Region 1.
45 From Region 1, thank you very much.

46

47 CHAIRMAN DEMIENTIEFF: Thank you, Bill.

48

49 (Pause)

50

00109

1 CHAIRMAN DEMIENTIEFF: Okay, we'll move
2 into the Kodiak/Aleutians region. We have Proposals 41, 42
3 and 44 on the consent agenda, leaving us one proposal to
4 consider and that would be Proposal No. 43. And Pat, I
5 understand you're going to introduce the proposal.

6
7 MS. PETRIVELLI: Yes.

8
9 CHAIRMAN DEMIENTIEFF: Okay.

10
11 (Pause)

12
13 MS. PETRIVELLI: Mr. Chair, Federal
14 Subsistence Board, Regional Advisory Council Chairs. My
15 name is Pat Petrivelli and I'm presenting Proposal 43.
16 Proposal 43 was submitted by Mark Olsen and Mark Olsen
17 proposed to establish a gillnet restriction in the Kodiak
18 area. The restriction he proposed was to require 150 foot
19 separation between the operations of set gillnets.

20
21 Currently there are no gillnet restrictions
22 in the Kodiak area and these are, the map here shows the
23 present Kodiak area. The Federal jurisdictions are on the
24 freshwater areas of the Kodiak National Wildlife Refuge and
25 in the marine waters of the Alaska Maritime Wildlife Refuge
26 and that's a mile around Afognak Island, the waters of
27 Chiniak Bay and then some areas off of Karluk, that
28 triangle there, a thousand feet off of Karluk.

29
30 With the marine water fishing areas on Page
31 17 of the Kodiak Section 3, shows where the subsistence
32 fishing permits for salmon are and the two heaviest use
33 areas are within Federal marine waters and that's Chiniak
34 which is located -- well, which is marine jurisdiction
35 within Afognak which is part of marine jurisdiction.

36
37 Mr. Olsen proposes this to minimize user
38 conflicts. And that's all.

39
40 CHAIRMAN DEMIENTIEFF: Thank you. Written
41 public comments.

42
43 MR. EDENSHAW: Thank you, Mr. Chair. The
44 Kodiak Fish and Game Advisory Committee submitted comments
45 regarding this proposal and the first point they said was
46 that this proposal would reduce opportunity for catching
47 fish by traditional and customary methods. And they went
48 on to say that many locals will fish by overlapping their
49 nets or only having a short distance between nets while
50 fishing on the markers, particularly on a falling tide.

00110

1 The local fish and game office has heard no complaints
2 about people fishing too close together and the proposal,
3 as written, would be unenforceable and create confusion for
4 subsistence fishermen. And lastly, the Advisory Committee
5 felt that there wasn't a problem and the proposal wouldn't
6 work if approved.

7

8 That's all.

9

10 CHAIRMAN DEMIENTIEFF: Thank you.
11 Department comments.

12

13 MS. WHEELER: Thank you, Mr. Chair. The
14 State supports the Federal Inter-Agency Staff
15 recommendation to defer action on this proposal given that
16 State and Federal regulations would be out of alignment and
17 user conflict would not necessarily be resolved. The State
18 supports the recommendation to being a local planning
19 effort to address user conflicts in this fishery and that
20 proposals be developed to take to the Federal Subsistence
21 Board and the Alaska Board of Fisheries, Mr. Chair.

22

23 CHAIRMAN DEMIENTIEFF: Thank you. We have
24 no additional requests for public testimony on this issue
25 at this time. We shall move on to Regional Council
26 recommendation, Della.

27

28 MS. TRUMBLE: Thank you, Mr. Chair. I've
29 got a couple of things. In our meeting, the
30 Kodiak/Aleutian Regional Council recommendation was to
31 modify. The Council modified the proposal to authorize,
32 two gillnets can be tied together at the ends. They felt
33 that setting of a minimum distance of 100 feet between set
34 gillnets would create a more orderly fishery and could
35 reduce potential conflicts and may increase success of the
36 user.

37

38 I did talk, at great length with the
39 proponent of this proposal, which is Mark Olsen, last
40 night, and I also talked at great length with Al Cratty,
41 who is also on the Kodiak/Aleutians Federal Subsistence
42 Advisory Council, and is a committee member of the State on
43 the fishery council.

44

45 We kind of decided at this point that we
46 will withdraw this proposal. I am going to make a few
47 statements, though, in regard to this whole process that
48 was in this proposal. There seemed to be, coming from Mark
49 some confusion as to the way the proposal was written by
50 Staff, and I have some concerns with not seeing the

00111

1 comments from Fish and Game until about five minutes ago.
2 And I feel that in order for us to look at these and
3 respond in a timely manner as Chairs that, I hope in the
4 future, that we get the information that we need in a more
5 timely manner.

6
7 Thank you.

8
9 CHAIRMAN DEMIENTIEFF: Thank you. So
10 there's a request to withdraw from the Regional Council.
11 Staff Committee recommendation was to defer.

12
13 MS. FOX: Rod is prepared to give the Staff
14 Committee recommendation, if you want to do it.

15
16 CHAIRMAN DEMIENTIEFF: Okay, I'm sorry,
17 Rod.

18
19 MR. SIMMONS: Thank you, Mr. Chair. Yes,
20 the Federal Inter-Agency Staff recommendation is to defer
21 the proposal. The reason behind that is it would give the
22 Regional Advisory Council an opportunity -- or the
23 proponent an opportunity to submit a parallel proposal
24 under the State Board of Fisheries, in that there's
25 currently a State subsistence fishery occurring in the same
26 waters and consequently, that the regulation -- the
27 proposal, if adopted, would create a more limited
28 restriction than under the State program.

29
30 CHAIRMAN DEMIENTIEFF: Moving on to Board
31 deliberation. Della, do you know if you're going to pursue
32 this through the State system as well?

33
34 MS. TRUMBLE: It's my understanding that
35 they weren't, neither one of them. I think it may be a
36 possibility that we'll take this back to the Council.

37
38 CHAIRMAN DEMIENTIEFF: So I guess in that
39 case if that is going to happen, I don't know what the time
40 schedule that would be under for next time the Kodiak stuff
41 would come up on the Fish Board where this could get
42 considered; do we have any idea? Nobody from the Board
43 Staff?

44
45 MR. BEDFORD: It would be taken up next
46 year.

47
48 CHAIRMAN DEMIENTIEFF: In that case, I know
49 you said, withdraw, but I think in that case I probably
50 support the recommendation of the Staff Committee just to

00112

1 go ahead and defer and let this thing go. Would that
2 be.....

3
4 MS. TRUMBLE: That's fine. I'll pass that
5 on to the Council.

6
7 CHAIRMAN DEMIENTIEFF: Is there a motion to
8 adopt the Staff Committee recommendation?

9
10 MR. EDWARDS: Mr. Chair, I move that we
11 accept the Staff Committee recommendation to defer.

12
13 CHAIRMAN DEMIENTIEFF: Thank you. Is there
14 a second?

15
16 MS. GOTTLIEB: Second.

17
18 CHAIRMAN DEMIENTIEFF: Seconded.
19 Discussion. Hearing none, all those in favor signify by
20 saying aye.

21
22 IN UNISON: Aye.

23
24 CHAIRMAN DEMIENTIEFF: Those opposed, same
25 sign.

26
27 (No opposing votes)

28
29 CHAIRMAN DEMIENTIEFF: Motion carries.
30 Okay, with that we'll move on to Bristol Bay.

31
32 (Pause)

33
34 CHAIRMAN DEMIENTIEFF: With regard to
35 Bristol Bay, their Proposal No. 12 is on the consent
36 agenda. We have a request for reconsideration, No. 0003.
37 With that, who's going to provide the -- okay, go ahead.

38
39 MS. McCLENAHAN: Thank you, Mr. Chairman.
40 I'm Pat McClenahan. Mr. Gary Carlos of Togiak, Alaska has
41 requested your consideration of the May 3rd, 2000 Federal
42 Subsistence Board action rejecting wildlife Proposal 00-61,
43 which would have established a winter moose season in Unit
44 17(A), December 1st through 31st, one antlered bull.

45
46 I'm sorry, we're having a little trouble
47 here.

48
49 (Pause)

50

00113

1 This is a map of Federal lands in Unit
2 17(A) that shows Togiak National Wildlife Refuge in pink.
3 This fall there was a temporary moose season for Unit 17(A)
4 by special action. Current State regulations provide for
5 an August 20th through September 15th season for Alaska
6 residents, one bull by State registration permit. Wildlife
7 Proposal 98-59, a proposal to create a permanent fall
8 season Federal subsistence hunt will be considered during
9 the upcoming round of wildlife proposals.

10
11 At a recent meeting the Federal Subsistence
12 Board considered Mr. Carlos' claims and decided to accept
13 Proposal 00-61 for reconsideration. This slide summarizes
14 the claim made by Mr. Carlos.

15
16 I'd like to provide you with some
17 biological information. First on aerial surveys, moose
18 numbers in the unit have increased from less than 10 moose
19 in the 1980s to 511 in 1999. Then there were 422 in March
20 2000. This is an apparent decline, however, survey
21 conditions weren't optimal for the 2000 survey. An
22 estimated 60 percent cows and 78 percent bulls are
23 resident. The remainder are migratory. There appears to
24 be some movement of the animals between subunits and
25 between Units 17 and 18. Preliminary habitat analysis
26 indicates that the carrying capacity of Unit 17(A) may be
27 in the range of 1,100 to 750 moose based on an average of
28 two to three moose per square mile as Unit 17(A) contains
29 an estimated 560 square miles of primary moose winter
30 habitat and 520 square miles of secondary winter habitat.

31
32 Accurate composition data are lacking.
33 Incidental composition data gathered in 1998 and 1999
34 indicated between 83 and 105 bulls to 100 cows during fall
35 surveys. This apparent high bull to cow ratio information
36 was inadvertently not presented to the Federal Subsistence
37 Board. The current estimate is 50 to 100 bulls to 100
38 cows.

39
40 A draft moose management plan has been
41 written, and I believe has been passed out to you, however,
42 there's a lack of consensus by local Togiak residents
43 regarding population thresholds in the plan to allow a fall
44 and winter hunt. Staff have conservation concerns about
45 Proposal 61 as it was originally submitted. It raises
46 concerns about the potential for overharvest.

47
48 During the winter moose have a tendency to
49 congregate in small groups in areas where they can become
50 readily accessible by snowmachine. This would be

00114

1 especially true on the Togiak River. Thus, these
2 congregations would be especially vulnerable to hunting
3 pressure and overharvest. Deep snows during December could
4 limit moose forage, create stress, make moose more
5 vulnerable to hunters and predators and cause greater
6 energy expenditure. Congregating animals in deep snows
7 could lead to an overharvest of bulls which could
8 significantly change the herd composition leading to the
9 potential for decreasing herd productivity.

10
11 The absence of an aligned Federal/State
12 regulatory season for a winter moose hunt would place a
13 burden on hunters. During past winter surveys, moose had
14 been concentrated within corridors, much of which is under
15 State jurisdiction. Currently these lands are closed to
16 hunting. However, based on the current apparent high bull
17 to cow ratio, it appears that a properly managed limited
18 winter hunt would not adversely impact the moose population
19 in Unit 17(A).

20
21 That's all I have.

22
23 CHAIRMAN DEMIENTIEFF: Thank you. Written
24 public comment.

25
26 MR. EDENSHAW: Mr. Chair, there weren't any
27 written public comments.

28
29 CHAIRMAN DEMIENTIEFF: Okay. Department
30 comments.

31
32 MS. WHEELER: Mr. Chair, I have Dr. Haynes
33 here to respond to -- or to provide the State comments, Mr.
34 Chair.

35
36 MR. HAYNES: Thank you, Mr. Chairman. The
37 Department of Fish and Game does not support this request
38 for reconsideration to establish a winter moose season in
39 Unit 17(A) at this time.

40
41 Most of the stakeholders who worked on this
42 management plan, including the Bristol Bay Regional
43 Advisory Council and Togiak Refuge Staff agreed that a
44 winter season should not be established until the moose
45 population in the area exceeds 600 animals. This threshold
46 has not yet been reached. The collaborative planning
47 effort promotes continued growth and expansion of the moose
48 population while allowing for a limited fall harvest in an
49 area that was closed to moose hunting altogether from 1981
50 to 1997. We don't believe a compelling case has been made

00115

1 for the Federal Board to reject this provision of the
2 management plan.

3

4 We concur with the discussion in the Staff
5 analysis concerning the problem of having a Federal winter
6 hunting season but not a corresponding State season in Unit
7 17(A). Federal public lands are located some distance from
8 communities in Unit 17(A) and during the winter months,
9 moose often are concentrated along the corridor in the more
10 accessible State managed lands. Under certain winter
11 weather conditions, in one winter moose could be subject to
12 excessive mortality from human harvest and other sources,
13 thereby further delaying achievement of the 600 moose
14 threshold.

15

16 Finally, Mr. Chairman, the Department does
17 not support the Staff recommendation to administer this
18 winter hunt as it's spelled out in the proposed way the
19 hunt would be administered and that is to have a
20 registration hunt for 10 antlered moose with permits being
21 available on a first come, first serve basis to Federally
22 qualified subsistence users in Unit 17(A). This approach
23 appears to assume that no more than 10 hunters would have
24 an interest in this hunt among all the qualified users to
25 where all rural residents of Unit 17 and residents of
26 Goodnews Bay and Platinum. If a winter hunt is conducted,
27 and we hope one is not, we believe such a hunt must be
28 conducted consistent with the provisions of Section .804 of
29 ANILCA.

30

31 Thank you.

32

33 CHAIRMAN DEMIENTIEFF: Thank you. We have
34 no requests for additional public testimony -- oh, yes, we
35 do, Robert Heyano. Go ahead.

36

37 MR. HEYANO: Thank you, Mr. Chairman. My
38 name is Robert Heyano, I reside in Dillingham, Alaska and
39 I'm here representing myself as a Federally qualified
40 subsistence user for moose in 17(A). I'm here to ask you
41 people to reject the request and continue to support the
42 moose management plan for 17(A), which I think is extremely
43 important. It sets out some long-term objectives that's
44 going to be beneficial to all the subsistence users for
45 that moose population and also providing some opportunities
46 for other resource users.

47

48 For whatever reason, we're present at a
49 time when the moose population in 17(A) is increasing after
50 a long history of almost no moose in that area and I think

00116

1 we need to take advantage of the situation and try to
2 increase that population so that there's at least some
3 assurance that there's a viable population that can be
4 harvested in the future.

5
6 There's been a lot of work that's gone into
7 the plan by a lot of subsistence users and State and
8 Federal agency people. And as a Federal subsistence user
9 myself, you know, the existing hunting season in
10 regulations in 17(A) really doesn't provide me, in my
11 opinion, a reasonable opportunity. I have to fly to Togiak
12 to get my permit, since aircraft access is denied, then I
13 have to make the journey by boat and to me that's
14 unreasonable to expect me to do that but I supported those
15 regulations knowing full well that the intent behind them
16 was, it was going to provide a limited opportunity for
17 those folks in Togiak, in Twin Hills to harvest moose until
18 we had a moose management plan drafted and adopted, and it
19 was in that light that I supported those regulations.

20
21 And I think now that we have a moose
22 management plan, in my opinion, it's more than a draft it's
23 been adopted by all the agencies with the exception of one
24 local advisory committee and that's not uncommon in our
25 area. We have a Nushagak Caribou Peninsula management team
26 that consists of a transplanted herd on Federal land and at
27 that time we had one community who chose not to participate
28 in that planning effort and in the last three or four years
29 that community has sent a representative and at the last
30 planning meeting they agreed to sign on to the plan. So I
31 think that in this instance it takes time for everybody to
32 sign on, but by far the majority of the people in the
33 caribou planning team and this moose planning team have
34 agreed with the plan.

35
36 So once again, I hope that you folks would
37 reject the reconsideration and continue your support for
38 the moose management plan. Thank you.

39
40 CHAIRMAN DEMIENTIEFF: Thank you. That's
41 the only request we have for public testimony. Regional
42 Council recommendation. Dan.

43
44 MR. O'HARA: Mr. Chairman, Dan O'Hara,
45 Chair of Bristol Bay. I'd like to thank Robert Heyano for
46 his testimony today. He came here representing himself in
47 the public testimony but, Mr. Chairman, he is a member of
48 the Bristol Bay Regional Council, very active, has been
49 very instrumental in this management plan. In fact, we
50 have come up with a lot of numbers from Robert on that and

00117

1 we appreciate his work and efforts, and I'm glad to be able
2 to see him here today.

3

4 Just a few thoughts, Mr. Chairman, we, of
5 course, are not supporting the recommendation to allow this
6 limited moose hunt in the Togiak area of 10 bulls. I
7 believe that this is a conservation concern. And it's
8 pretty obvious from the paperwork you have in front of you,
9 Mr. Chairman, Staff Committee did not reach a consensus on
10 this recommendation so you're on pretty shaky ground to
11 start off with really.

12

13 I don't look at this as a social service
14 oriented-type recommendation that we're dealing with, we're
15 dealing with conservation of animals in Unit 17(A). This
16 is not a giveaway program on some social service program
17 that we're dealing with here, we're dealing with real
18 numbers that we want to reach before we can allow a harvest
19 in the area and you have a very reasonable, Mr. Chairman, a
20 good management plan before you.

21

22 The Federal Board should be concerned about
23 this. It should be a real concern to you that you would
24 deal with the RAC on this issue. The 600 numbers requested
25 by the RAC recommendation on this management plan deal with
26 more than 10 animals in the Togiak area. You have a
27 thousand to 1,200 people who live in Togiak and now you're
28 dealing with 10 animals to go with that many people, for 10
29 bulls to be taken this time of the year. This does not
30 make sense at all.

31

32 I mean we have Manokotak sitting there, you
33 have Twin Hills sitting there, you have -- you know, you
34 have people in Dillingham who haven't hunted in this area
35 and all these people who have made a contribution for years
36 on years to get these animals from a number of 90 up to 511
37 and they're rapidly expanding and then all of a sudden you
38 want to go out and take 10 people out of a thousand. This
39 doesn't make sense at all.

40

41 Another point you should take into
42 consideration Board members is that this is a very rapidly
43 expanding herd and they have very little in the way of
44 predators actually in the area. The wolves have not come
45 into the area. Now, the other day Dick Sellers was doing a
46 moose survey over on State land in Bristol Bay and in the
47 Naknek area, he saw 21 wolves in one pack. My son, with
48 the Park Service, was doing a moose count up in the Katmai
49 National Park and Preserve area, 25 wolves in one pack
50 eating up one caribou didn't last very long but there were

00118

1 a few more caribou. There are very few predators where
2 these moose have moved into this area and they're
3 flourishing.

4
5 And I would imagine by this time next year
6 you may have a management plan in place, so I think you
7 need to take into consideration there's other people
8 involved as well as 10 permits coming out of Togiak. And I
9 believe that there has been a great deal of success between
10 all of the concerned people in 17(A). And I might just
11 make mention as I close my comments, Mr. Chairman, that
12 Nushagak Peninsula Herd which come off the Alaska
13 Peninsula, which was a cooperative effort by the State of
14 Alaska, the Feds and the communities, and all of them
15 participated to make this caribou herd southeast of
16 Dillingham, southeast of the Dillingham area which has
17 grown considerably and had been good harvest for people, a
18 combined effort. Now, this is something that this Board
19 should be very proud of.

20
21 You should look in the same manner at this
22 moose management plan and leave well enough alone until we
23 reach our goal and give all the people -- I appreciate the
24 State of Alaska's support on this, I think this is very
25 reasonable. This is not unreasonable at all to ask you to
26 hold the line on this management plan until we reach our
27 numbers. We are very concerned and we'll have a resource
28 in Bristol Bay and our RAC will regardless of what the
29 difficult decisions and how tough they might be, but we
30 absolutely must have numbers to go along, and we do have a
31 conservation concern here.

32
33 Thank you, Mr. Chairman.

34
35 CHAIRMAN DEMIENTIEFF: Thank you, Dan.
36 Staff Committee recommendation.

37
38 MS. FOX: Thank you, Mr. Chair. As Dan
39 indicated the Staff Committee did not reach consensus on
40 this recommendation. Therefore, I will be providing you
41 with two different viewpoints and the rationale for each
42 one.

43
44 First of all, some members supported the
45 denial of the request for a winter season based on the
46 position taken by the Bristol Bay Subsistence Regional
47 Advisory Council on Proposal 61 last spring. A differing
48 view expressed in the Staff Committee deliberation
49 supported the Staff recommendation to modify the regulation
50 proposed by the request for reconsideration to provide a

00119

1 limited bull harvest during the December 15th to December
2 29th -- during a December 15th to December 29th season.

3

4 In support of the first viewpoint,
5 establishing a winter moose harvest season at this time
6 would be contrary to the draft Togiak Moose Management Plan
7 adopted by the Bristol Bay Regional Advisory Council and
8 supported by the Nushagak Fish and Game Advisory Committee,
9 The Togiak National Wildlife Refuge and the Alaska
10 Department of Fish and Game. Some residents of Togiak
11 participated in public meetings leading to the final draft
12 of the plan and the consensus on the principles, goals and
13 objectives of the draft plan appeared to have been reached
14 by those present at the meetings. However, Togiak Fish and
15 Game Advisory Committee has expressed disagreement with the
16 harvest thresholds in the draft plan therefore it is not
17 clear what sentiment is representative of the village as a
18 whole.

19

20 Development of an Inter-Agency management
21 plan for the Togiak moose population with representation of
22 all affected communities was endorsed by the Council and
23 the Board as a way to develop appropriate management
24 strategies for the population. Additional dialogue with
25 local users satisfy with the provision of the draft plan
26 should be undertaken to address concerns and, if
27 appropriate, resolve outstanding issues through revisions
28 to the draft plan.

29

30 In support of the second viewpoint, it is
31 offered that there is no biological reason to reject the
32 request for a limited winter hunt for bulls only. Further,
33 the Regional Council recommendation should be rejected
34 because a limited 15 day winter moose hunt for antlered
35 bulls would not adversely impact the growing moose
36 population in Unit 17(A) and because it is an unnecessary
37 restriction on eligible subsistence users. With regard to
38 biological considerations, the current bull to cow ratio
39 indicates that a limited winter hunt of 15 days with a
40 predetermined harvest limit of 10 antlered bulls would not
41 adversely impact the moose population in Unit 17(A). Ten
42 moose is the normal harvest during prior fall and winter
43 hunts. A limited winter moose hunt would help provide for
44 the subsistence needs of local subsistence users as
45 mandated by Title VIII of ANILCA while addressing
46 conservation concerns and maintaining a healthy moose
47 population. Prior Regional Council recommendations were to
48 allow for subsistence hunts when the population was over
49 300. An incomplete March 2000 survey indicated that the
50 current population was 422, while the more complete 1999

00120

1 survey showed the population to be 511. The concerns with
2 Proposal 61, as originally submitted which requested a 31
3 day season with no harvest cap would be addressed with
4 these limits. The primary concern with the 31 day season
5 is the stress hunters with snowmachines may have on the
6 moose population and conditions of deep snow and the high
7 potential for overharvest. Therefore a predetermined
8 harvest limit is recommended. In addition, a permit with
9 reporting required would enable close monitoring of the
10 harvest. Restricting the harvest to antlered bulls only
11 would protect cows which is important for the maintenance
12 of an adequate bull to cow ratio and the future growth of
13 the herd. The final concern addresses hunting on adjacent
14 State lands that have no parallel hunting season. Hunters
15 will need information and education in order to locate
16 Federal lands while hunting in the field.

17
18 Thank you, Mr. Chair.

19
20 CHAIRMAN DEMIENTIEFF: Thank you. Board
21 discussion.

22
23 MR. EDWARDS: Mr. Chair, while our
24 biologists on the refuges would probably agree that from a
25 strictly biological standpoint a limited hunt could be
26 supported. I think they would also agree that the issue is
27 much broader than that and has already been eloquently
28 stated, a plan has been developed that has strong support
29 to really achieve a much broader and larger goal. And at
30 this point to go forward with a very limited hunt just
31 because there happens to be a limited surplus that could be
32 harvested would be very short-sighted. So when it comes to
33 making a motion, my plan would be to make a motion to
34 reject the request for reconsideration.

35
36 CHAIRMAN DEMIENTIEFF: Further discussion.

37
38 MS. GOTTLIEB: Mr. Chairman.

39
40 CHAIRMAN DEMIENTIEFF: Yes.

41
42 MS. GOTTLIEB: I would agree with Fish and
43 Wildlife Service. I do want to commend the RAC, as well as
44 the people who are working on this plan to make this system
45 work. The Board has supported the efforts of that plan and
46 we're not at the allowable numbers for harvest right now in
47 winter and the Board has supported subsistence hunts during
48 the fall season. So I think the RAC has carefully
49 considered the facts here and issues and certainly has
50 long-term goals of subsistence users as well as resource

00121

1 conservation in mind.

2

3 CHAIRMAN DEMIENTIEFF: Further discussion.

4 As far as my own personal views, how many times have we
5 seen these kind of management plans work on different
6 species, different areas. They do work. They do work
7 because they involve everybody. If the Togiak Advisory
8 Committee doesn't want to participate in that plan and
9 there are other villages that are dependent upon -- or
10 could benefit from a larger harvestable surplus, and given
11 the chance that we need to have all this have a chance to
12 work this and it's going in the right direction, but as Dan
13 points out from observations, I guarantee you get a pack of
14 25 wolves in there and they're not going to eat just 10
15 moose a year and they're not going to discriminate on what
16 they're going to eat. If you just get things going in the
17 right direction and don't give yourself a chance to let
18 this work then I can't see how I could support, you know,
19 this limited hunt, even at this time.

20

21 I just congratulate everybody on their
22 success and I hope we get that plan signed. I know it
23 sounds like people are already working with it and I know
24 the effort that goes into putting those things together.
25 Again and again I've said, you know, how much we appreciate
26 that because it makes our job, as a Board, that much easier
27 when we have that much cooperation with each other. So
28 congratulations. I hope you get this thing up to the Board
29 here within the next year or so and I'm glad things are
30 going in the right direction. But on the side of caution,
31 I intend to support the position of the Regional Council.

32

33 Other discussion.

34

35 MR. EDWARDS: Mr. Chairman, I move that the
36 Board reject the request for reconsideration.

37

38 CHAIRMAN DEMIENTIEFF: There's a motion, is
39 there a second?

40

41 DR. KESSLER: Second.

42

43 CHAIRMAN DEMIENTIEFF: Further discussion.
44 Hearing none, all those in favor signify by saying aye.

45

46 IN UNISON: Aye.

47

48 CHAIRMAN DEMIENTIEFF: Those opposed, same
49 sign.

50

00122

1 (No opposing votes)

2

3 CHAIRMAN DEMIENTIEFF: Motion carries.

4 Okay, we're going to.....

5

6 MR. O'HARA: Mr. Chairman.

7

8 CHAIRMAN DEMIENTIEFF: Yes.

9

10 MR. O'HARA: Thank you for that motion, I
11 almost joined the dictator today but it didn't have to work
12 out that way so Patriarch Bill is still, by himself a
13 dictator. Thank you.

14

15 CHAIRMAN DEMIENTIEFF: We will continue in
16 the morning at 8:30 with Yukon-Kuskokwim, Western Interior,
17 Eastern Interior, Northwest Arctic. We've got Southcentral
18 proposals, another RFR. In addition we'll come back to
19 Proposal No. 27 from Southeast. So with that, we'll recess
20 for today and reconvene at 8:30 in the morning.

21

22 Thank you.

23

24 (PROCEEDINGS TO BE CONTINUED)

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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 122 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME I taken electronically by Salena Hile on the 5th day of December 2000, beginning at the hour of 8:30 o'clock a.m. at the Marriott Hotel, Fairbanks Room, Anchorage, Alaska;

THAT the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by under my direction and reduced to print to the best of our knowledge and ability;

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

DATED at Anchorage, Alaska, this 14th day of December 2000.

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 4/17/04