

00124

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

4
5 DECEMBER 6, 2000
6 8:30 o'clock a.m.
7 PUBLIC MEETING

8
9 BOARD MEMBERS PRESENT:

10
11 Mitch Demientieff, Chairman
12 Gary Edwards, U.S. Fish and Wildlife Service
13 Tony Urvin, Bureau of Indian Affairs
14 Curt Wilson, Bureau of Land Management
15 Judy Gottlieb, National Park Service
16 Dr. Winnie Kessler, U.S. Forest Service
17
18 Keith Goltz, Solicitor

P R O C E E D I N G S

(On record)

CHAIRMAN DEMIENTIEFF: Okay, we'll go ahead and call the Federal Subsistence Board meeting back to order. We're going to go out of sequence from our schedule to accommodate Eastern Interior, who had to leave town on short notice. So with that, we'll move right into Region 9. There are four proposals turned in, Proposals 8 and 9 are on the consent calendar, Proposal 10 was withdrawn, that leaves us with Proposal 11. So towards that end, who's going to do the introductions here; is that George.

MR. SHERROD: Good morning, Mr. Chair, Board members. Proposal 11 was submitted by the Yukon River Drainage Association and it requests that the Federal program adopt a new regulation restricting the use of king salmon on the Yukon River for dog food.

Currently there is a State regulation 01.240(d) that states it is a policy, a State regulation that king salmon should be used primarily for human consumption and not targeted specifically for dog food on the Yukon. Under Federal regulations, we have yet to adopt, this is the first time around, a regulation specifically dealing with the use of fish other than the fact that other regulations in 36 CFR Part 242, 50 CFR Part 100, paragraph 26, we restrict or place limits on the use of fish in terms of exchange, barter, trade, et cetera.

Since along the Yukon River there are a number of Federal conservation units including, you know, the Delta and number of refuges upriver and parks so that the makeshift of the land as you can see on the map in front of you is somewhat dotted with fishing or fish falling in and out of Federal regulation along the Yukon River drainage.

Since the colonization of Alaska initially by the Russians and subsequently by other Europeans primarily for fur trade, dogs, as a means of transportation have played an important role up until the 1930s and at times literally millions of fish were harvested specifically for the use of dog food to aid in subsistence transportation and so on and within the written documents there's a fairly detailed history collected by members of the State's Division of Subsistence.

There are several potential effects of

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1 adopting this proposal. This proposal, if adopted, would
2 place in effect restrictions on the use of dogs -- or fish
3 for transportation, subsistence goods for the use of
4 transportation. This is a subsistence use identified
5 within ANILCA. The proposal also suggests that by
6 restricting the targeting of king salmon or chinook salmon
7 for dog food, that many of the upriver communities would
8 basically placed in peril for use of this resource, if, in
9 fact, for management purposes fishing was curtailed, such
10 as the case that has happened the last couple of years with
11 the late summer chum run and additionally, at this point in
12 time, and there is a proposal in front of the State to
13 change their regulation from the language that was
14 presented on Page 33 to a more restrictive regulation, it
15 would make the current Federal regulation more restrictive
16 than the State's regulations.

17
18 If there are any questions I would be
19 willing to answer them now.

20
21 MR. NICHOLIA: Yeah, George, this is
22 Gerald. What do you mean by imperiled for people upriver
23 that will be in trouble if they don't feed their dogs king
24 salmon?

25
26 MR. SHERROD: You there Gerald?

27
28 MR. NICHOLIA: Yeah.

29
30 MR. SHERROD: Simply that if, in fact,
31 people could not harvest king salmon and for management
32 purposes the summer chum run was closed, they would not
33 have a source of food for their dogs. Wildlife regulations
34 prohibit the feeding of wildlife to dogs. Does that answer
35 your question, Gerald?

36
37 MR. NICHOLIA: No, not really but I have
38 another question for you. If we're going to have
39 conservation concerns for chum and there looks like there
40 ain't going to be a good king run why are we supporting
41 feeding good king salmon to dogs when there's a human need
42 more than a dog need for it?

43
44 MR. SHERROD: Gerald that's a good
45 question. I mean in the past when there have been poor runs
46 associated, usually with commercial fishing enterprises,
47 traditionally people have always come first. Dogs were
48 restricted or eliminated to the point where you had enough
49 of a team to allow the rebuilding of the team, but it is
50 true that dogs never had the same level of importance as

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1 human life. And in this case, with the poor runs that
2 we've had the last few years, certainly there are parallels
3 to historical cases in which dog teams have been greatly
4 reduced in number to provide for human consumption.

5
6 MR. NICHOLIA: I know that people upriver
7 are having a very hard time to get fish but I'm going to
8 say this, though, the Eastern Interior adopted this
9 regulation with the amendments that you see at the end of
10 the proposal. But if we're going to have this fish around
11 for awhile we have to have escapement first and then
12 subsistence and then all those other three uses and what
13 happened last year, as you all know, you went past both
14 escapement and subsistence and let commercial go and you
15 cut them off from subsistence, so there's got to be more
16 than something going on around here. We could adopt this
17 proposal with the three year sunset clause to see what
18 actually the effect is.

19
20 CHAIRMAN DEMIENTIEFF: Thank you, Gerald.
21 Summary of written public comments.

22
23 MR. NICHOLIA: Okay.

24
25 MR. MIKE: Thank you, Mr. Chairman. My
26 name is Donald Mike. I'm the Council coordinator for the
27 Eastern Interior. We had a total of seven public comments
28 and three of those comments came from the same individual
29 from Eagle.

30
31 The first public comment came from the
32 Gates of the Arctic Subsistence Resource Commission in
33 regards to Proposal No. 11. The use of king salmon for dog
34 food, the Gates of the Arctic SRC unanimously voted to
35 support the proposal with amendments as submitted by the
36 Western Interior Regional Advisory Council. The SRC feels
37 that it is fair and allows for the use of king salmon unfit
38 for human consumption to be fed to dogs.

39
40 The written public comments, six were
41 opposed by individuals, one from Cynthia of Eagle, she
42 stated, I do not believe there is any family in the Eagle
43 area that targets king for dog food. I believe there is no
44 need for any legislation on restricting targeting of king
45 salmon, thank you.

46
47 Another opposition by Don Woodruff. He's
48 been fishing for kings for 22 years on the upper Yukon. On
49 varied king runs he's used his chum net to target jacks for
50 his personal use. He's dried king salmon for his dogs. He

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1 doesn't feel that the personal take of kings for people for
2 dog food is a problem, especially when there's a continued
3 False Pass interception and commercial harvest on the Lower
4 Yukon that skews the data. His personal harvest of kings
5 in 1998 was zero. In 1999 it was about hundred kings.
6 Fifty percent of those kings were at least Jacks and
7 another 30 were diseased. The rest were very undersized.
8 He goes on stating that at the end of the harvest should
9 not be unfairly affected by 1,000 miles of net and wheels
10 down stream, especially those of commercial use.

11
12 Another comment coming from Wayne Hall and
13 Scarlet Hall of Eagle, opposed the proposal. They wrote a
14 lengthy opposition letter. I'll just read the first
15 paragraph and she brings up eight facts and two points.
16 Wayne Hall and Scarlet Hall wrote, I believe this proposal
17 to be unnecessary and unwarranted. I believe it will have
18 the unintentional affect of producing more waste instead of
19 less. For example many of the Native people I know will
20 not eat female kings. Under this proposal they would be
21 tossed back into the river and wasted if not used for dog
22 food. I was one of those interviewed by Dave Andersen and
23 I have also read his report. As far as I know he is the
24 only one interviewing all the people involved. Therefore,
25 I believe with many households fishing and putting up more
26 fish, also possibly there is a lot of double counting going
27 on and that can show false numbers.

28
29 Scarlett Hall of Eagle also wrote that she
30 also opposed the restricting of incidental catch of salmon
31 king during the fall chum in the Tanana River drainage.
32 And specifically (indiscernible) targeting chums for dog
33 food will be forced to break the State's wanton waste law
34 by failure to use and throwing back the dead kings they
35 catch, in other words, any king that does not fit the
36 description of allowable kings, who does this benefit and
37 how does this save the resource? Anything caught for the
38 next two or three weeks is not incidental, there are many
39 kings being caught.

40
41 Point number 2 is concerning customary and
42 traditional use of kings as dog food, there's printed
43 documentation of it for the last 50 years along the Yukon
44 River, especially near Eagle. At least one dog musher
45 currently used from 1912 to 1925 fished for king salmon to
46 feed his dog through the summer. Dried king salmon for his
47 dogs during the winter and sold dried king salmon to other
48 dog mushers for years. He also made reference to born on
49 snowshoes in 1949, in the 1940s.

50

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1 Point number 3 there has been concern over
2 the upstream and the fish caught in Eagle for the past few
3 years. There's more to look at than total numbers. In
4 Dave Andersen's report the use of feeding of sled-dogs in
5 the Upper Yukon River in Alaska concerning 1998 were aware
6 that some runs were poor and up there the catches for kings
7 for human consumption to compensate for the loss of chums
8 documented in this area. The trend continued in 1999. In
9 1997, 35 fishing households caught 1,534 kings, in 1998 35
10 fishing households caught 2,473 kings, in 1999 50
11 households caught 2,558 kings.

12
13 Point number 4 restricting the use of king
14 salmon for dog food would stop the winter uses but nothing
15 could stop the use of feeding kings to dogs during the
16 summer. Wide winter use is different from summer uses
17 unless it is benefiting certain individuals who are being
18 given special considerations. Clearly, the concern over
19 feeding king salmon to dogs in Proposal 00111 are
20 unnecessary. Between 1900 and 1950 no one had a problem
21 with using king salmon for dog food. As dog teams dwindle
22 fewer fish were caught for dog feed while commercial
23 fisheries grew and began to deplete the resource. It is
24 ludicrous to believe subsistence dog mushers who have a
25 customary and traditional use of resource are being blamed
26 for possible decline of the resource when commercial
27 fishing has taken as many as 150,000 kings in one season.
28 To protect the king salmon, cut back on commercial fishing
29 or stop the intercept fisheries. The deliberate,
30 unattended nets and wheels, fish left laying around too
31 long before processing, cut fish left unattended to rot and
32 the throwing out of fish not used during the winter. A
33 small number of subsistence users feeding kings to dogs is
34 not going to deplete the resource and based on custom and
35 tradition they have the right without the fear of getting
36 crucified for doing so.

37
38 That concludes the public comments, Mr.
39 Chairman.

40
41 CHAIRMAN DEMIENTIEFF: Thank you, very
42 much. As we proceed on, it hasn't been a problem so far
43 but I'll just caution everybody that in order to be able to
44 pick up Gerald on the speaker phone we've had to turn down
45 the volumes of our mikes so everybody's going to have to
46 speak up that wants to address these issues.

47
48 Go ahead, Department comments, please.

49
50 MS. WHEELER: Thank you, Mr. Chair. The

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1 State is neutral with respect to this proposal as it
2 addresses the allocation of king salmon, however, we can
3 support the Federal Inter-Agency Staff recommendation.

4
5 Thank you, Mr. Chair.

6
7 CHAIRMAN DEMIENTIEFF: Thank you, very
8 much. We have no additional requests for public comment at
9 this time. Regional Council recommendation. Gerald.

10
11 MR. NICHOLIA: Yeah, it's right at the end
12 of the thing, we support the proposal. And I want to make
13 one more comment, Mr. Chair.

14
15 CHAIRMAN DEMIENTIEFF: Go ahead.

16
17 MR. NICHOLIA: Yeah, from this opposition
18 from Eagle, from McLaughlin, I think it should be
19 disregarded because he's putting a lot of words, he's
20 putting this word that many Native people do not eat female
21 kings, he's putting words in other people's mouths without
22 their consent because we do eat king salmon in the Eastern
23 Interior. He has to think about the whole region not just
24 a specific area.

25
26 CHAIRMAN DEMIENTIEFF: Do you have your
27 recommendation?

28
29 MR. NICHOLIA: Yeah, I'll just go with what
30 we have, what the whole Council agreed on. This was
31 heavily discussed in our meeting and the amendment from the
32 start of the proposal is what we'll be recommending.

33
34 CHAIRMAN DEMIENTIEFF: Okay, thank you very
35 much, Gerald.

36
37 MR. NICHOLIA: Uh-huh.

38
39 CHAIRMAN DEMIENTIEFF: At this time we'll
40 move on to Staff Committee recommendation.

41
42 MR. SIMMONS: Thank you, Mr. Chair. The
43 Staff Committee concurs with the modification recommended
44 by the Eastern Interior Regional Advisory Council.

45
46 CHAIRMAN DEMIENTIEFF: Okay, thank you.
47 Other Regional Council comment. Ron.

48
49 MR. SAM: Thank you, Mr. Chair. I was
50 fortunate enough to attend the meeting down at Emmonak. At

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1 that time we were presented with specific language dealing
2 with this issue. And the Western Interior went verbatim
3 with the State recommendation, anything that's unfit for
4 human consumption, whether it's incidental or not, catch,
5 that it may be used for dog food. And everything we've
6 gotten up on the Koyukuk River has been pretty much unfit
7 for human consumption ever since the flood of '94. And
8 Western Interior still stands with our recommendation
9 verbatim to align with the State, that, anything unfit for
10 human consumption may be fed to dogs.

11

12 Thank you.

13

14 CHAIRMAN DEMIENTIEFF: Thank you, very
15 much. Other Regional Council comment. Harry.

16

17 MR. WILDE: Mr. Chairman, the Yukon
18 Kuskokwim-Delta Regional Advisory Committee would support
19 the proposal as written. Lester Wilde made a motion in
20 support the original proposal as written and seconded and
21 passed by votes of 6-0.

22

23 CHAIRMAN DEMIENTIEFF: I guess it's unclear
24 to me that -- I'm trying to reconcile the difference
25 between Western Interior and -- George.

26

27 MR. SHERROD: Thank you, Mr. Chair. The
28 difference between the three recommendations; Eastern
29 Interior adopted basically the language that the Staff
30 Committee adopted which states that king salmon should not
31 be targeted as dog food. Western Interior adopted the
32 State regulation, the current regulation that the State has
33 in place which is found on Page 33 in your book, which
34 states that it is a policy, rather than -- although it's a
35 regulation that, in fact, it is a policy which sort of
36 detracts from its enforceability. Yukon Kuskokwim adopted
37 the proposal as in place, and you will find that on Page
38 30, which places specific dates after which king salmon can
39 be incidentally harvested.

40

41 During the course of analyzing this request, it was
42 determined that these dates -- well, there's two things,
43 one of which if, in fact, you're not going to target
44 salmon, why do you have a date in which you can take salmon
45 anyway. The second consideration was that these dates
46 varied depending on the run of the king salmon. There are
47 times in which you have a mean run that is occurring prior
48 to these dates or you have a run that occurs after. So
49 within the recommendation of the Staff Committee and
50 Eastern Interior, the dates were stripped as were the dates

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1 stripped by the Western Interior Council but were left on
2 by the Yukon Kuskokwim Council.

3
4 I hope that clarifies it somewhat.

5
6 CHAIRMAN DEMIENTIEFF: Yes, it does. Any
7 Board discussion.

8
9 MR. EDWARDS: Mr. Chairman.

10
11 CHAIRMAN DEMIENTIEFF: Yes, Gary.

12
13 MR. EDWARDS: In the Staff analysis over on
14 Page 49 where it talks about potential effects, it seems to
15 indicate that this restriction would not have any real
16 effect, those individuals could still take chinook salmon
17 for dog food. Now, it's my understanding that would only
18 apply to certain areas but if that's the case, still would
19 that really address what the issue is?

20
21 MR. SHERROD: Unless the State adopts a
22 more restrictive regulation than they have in place right
23 now, and again there is a proposal in front of them coming
24 up early next year, our regulation would be moot because
25 under State regulations subsistence harvesters still could
26 take chinook salmon for dog food. And I believe that was
27 one of the considerations that the Western Interior Council
28 had in front of them in adopting the current State
29 regulation, in that, that we would no longer be more
30 restrictive than the State.

31
32 Perhaps Dr. Wheeler could address -- or
33 guess what the State Board of Fisheries is going to do in
34 terms of confronting the proposal this spring.

35
36 MS. WHEELER: Mr. Chair, I'm smarter than
37 that. I don't know what the Board of Fish is going to do
38 but it is important to say that it is the policy of the
39 Board of Fish right now that king salmon are to be used
40 primarily for human consumption. This same proposal that
41 YRDFA put for the Federal Board is also before the Fish
42 Board but I wouldn't want to guess what they're going to
43 do, Mr. Chair.

44
45 CHAIRMAN DEMIENTIEFF: You didn't bring
46 your crystal ball with you today, uh? Any other Board
47 discussion. Ron.

48
49 MR. SAM: Thank you, Mr. Chair. As George
50 stated, if anything works in our favor we tend to align

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1 with the State as more of a housecleaning effort than
2 anything else and I would like to thank you for your
3 consideration.

4
5 CHAIRMAN DEMIENTIEFF: Also just in my
6 years and years of fishing on the river, I know by -- I
7 mean there are very few incidences where I've heard of
8 anybody targeting salmon for anything other than for human
9 consumption. But still being able to utilize the late
10 runs, you know, that are caught incidental. But, yeah, I
11 haven't heard that too much but by and large if there is a
12 loop hole and if this helps to close it up, then, you know,
13 I don't think anybody on the river or very few people on
14 the river are going to be opposed to that because that is
15 the traditional use of the resource. So I strongly support
16 the proposal.

17
18 Any other discussion. Hearing none, does
19 anybody have a motion?

20
21 MS. GOTTLIEB: Mr. Chairman.

22
23 CHAIRMAN DEMIENTIEFF: Yes.

24
25 MS. GOTTLIEB: I move to adopt the
26 recommendation put forward by the Inter-Agency Staff
27 Committee.

28
29 CHAIRMAN DEMIENTIEFF: There is a motion,
30 is there a second?

31
32 MR. EDWARDS: Second.

33
34 CHAIRMAN DEMIENTIEFF: Additional
35 discussion. Hearing none, all those in favor signify by
36 saying aye.

37
38 IN UNISON: Aye.

39
40 CHAIRMAN DEMIENTIEFF: Those opposed, same
41 sign.

42
43 (No opposing votes)

44
45 CHAIRMAN DEMIENTIEFF: Motion carries.
46 Okay, we're going to move on, Gerald, we're going to have
47 to ring you off now and I understand you have some -- we're
48 going to try to hook you back in with a couple other
49 proposals a little later on.

50

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1 MR. NICHOLIA: Okay, give me the numbers.

2

3 CHAIRMAN DEMIENTIEFF: Okay. We'll try to
4 get a hold of you and give you a time frame as we don't --
5 we have no idea how it's going to do so we'll try to warn
6 you.

7

8 MR. NICHOLIA: Okay, I'll just try to stay
9 here.

10

11 CHAIRMAN DEMIENTIEFF: Okay, thank you.

12

13 MR. NICHOLIA: Yeah, I'll be here.

14

15 CHAIRMAN DEMIENTIEFF: Okay.

16

17 MR. NICHOLIA: Yeah, bye.

18

19 CHAIRMAN DEMIENTIEFF: Bye.

20

21 (Pause)

22

23 CHAIRMAN DEMIENTIEFF: Okay, we're going to
24 move on here to Y-K, hang on.

25

26 (Pause)

27

28 CHAIRMAN DEMIENTIEFF: Okay, at this time
29 we're going to move on to Yukon-Kuskokwim we have one
30 proposal, Proposal No. 37. Who is going to do the intro
31 here, is that you Vince or who?

32

33 MR. MATHEWS: No, Mr. Chairman, Laura will.

34

35 CHAIRMAN DEMIENTIEFF: Okay.

36

37 MS. JURGENSEN: Hello, thank you, Mr.
38 Chair. My name is Laura Jurgensen and I'm the
39 anthropologist doing the analysis on this proposal.
40 Proposal 37 submitted by John Sky Starkey of Alaska Legal
41 Services Corporation on behalf of seven villages in the
42 Kuskokwim fishery area, Akiak, Akiachak, Eek, Goodnews Bay,
43 Quinhagak, Kwethluk and Platinum. They seek to lift all
44 Federal harvest restrictions for the taking of rainbow
45 trout in the Kuskokwim fishing area.

46

47 The limitations or the restrictions are
48 currently limited by methods, rod and reel, jigging through
49 the ice, and occasional use of gillnet, mostly incidental
50 take. The land and water status for the Kuskokwim fishery

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1 area is primarily composed of two large national wildlife
2 refuges, the Yukon-Delta and the Togiak National Wildlife
3 Refuges. All rivers affected potentially would be all
4 drainages and streams in the Kuskokwim fishery area but we
5 feel the primary rivers concerned would be the Kanektok,
6 Goodnews and the Arolik River, different forks.

7
8 Oral testimony, extensive historical
9 ethnographic information has documented other methods used
10 by the Central Yupik people to harvest rainbow trout.
11 These include spears, handlines, dipnets and a fykenet
12 (ph), which is a funnel net or potential Yupik, it's (In
13 Native), excuse my pronunciation. The primary methods are
14 rod and reel and jigging through the ice. Incidental
15 harvest using gillnets have traditionally been taken all
16 year while harvesting the most important species salmon,
17 dolly varden and char and people still incidentally,
18 harvest rainbow trout. Basically they're pulling in a net
19 full of mostly salmon or dollies and incidentally taking
20 rainbow trout. Now, this currently is legal and this would
21 still be legal. However, there was some misunderstanding
22 on the existing regulation on the local ground that it was
23 illegal.

24
25 The regulations currently are restricted
26 also for possession limits to State of Alaska sportfish
27 regulations, and this is culturally insensitive to
28 primarily all the Central Yupik people of the region. From
29 extensive testimony, from the legal record concerning the
30 cases in different court trying to get customary and
31 traditional use of rainbow trout over the past 10 to 15
32 years is documented that this is a very apparent practice
33 and so this restriction, we believe, should be lifted.

34
35 And I'd like to thank the village of
36 Quinhagak for all their participation and assistance in the
37 writing up of this analysis and again, that was the most
38 important concern, that they really are against playing
39 with one's food. So with the new regulations suggested,
40 there would be no possession limits at all year-round for
41 rod and reel, jigging, spears. The only restriction would
42 be a spawning restriction from the months of March 15 to to
43 June 15th and that would be for directed or targeting net
44 fishing of rainbow trout. And while it is very unlikely
45 that the local people would harvest more than they need or
46 waste the resource, the possibility exists that perhaps one
47 new resident would get excited and take more rainbow trout
48 that they need and there is a conservation and biological
49 concern.

50

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1 Thank you, Mr. Chair.

2

3 CHAIRMAN DEMIENTIEFF: Thank you. Written
4 public comments.

5

6 MR. MATHEWS: Mr. Chairman, there was no
7 public comments submitted on this proposal. Thank you.

8

9 CHAIRMAN DEMIENTIEFF: Thank you.
10 Department comments.

11

12 MS. WHEELER: Thank you, Mr. Chair. The
13 State supports the Federal Inter-Agency Staff
14 recommendation, Mr. Chair.

15

16 CHAIRMAN DEMIENTIEFF: We have no
17 additional request for public comment at this time.
18 Regional Council recommendation.

19

20 MR. H. WILDE: Mr. Chairman, members of
21 Federal Subsistence Board, my name is Harry Wilde, Yukon
22 Kuskokwim-Delta Regional Council Chair. The general
23 description of this Proposal 37 is lift all Federal
24 regulation regarding subsistence harvest of rainbow trouts
25 for the residents of the village of Akiak, Akiachak, Eek,
26 Goodnews Bay, Kwethluk, Platinum and Quinhagak. Mr.
27 Chairman, Yukon Kuskokwim-Delta Regional Advisory Council
28 recommends and supports as written. The Regional Council
29 supports the proposal as written because the proposal would
30 allow the residents to continue to harvest rainbow trout as
31 they have customary and traditionally done.

32

33 CHAIRMAN DEMIENTIEFF: Thank you, very
34 much. Staff Committee recommendation.

35

36 MR. SIMMONS: Thank you, Mr. Chair. The
37 Staff Committee recommends modifying the proposal to
38 include traditional gear types and adding the conservation
39 measure of protecting rainbow trout during the spawning
40 period of March 15th to June 15th by not allowing the use
41 of gillnets, dipnets and fykenets during this period.
42 Thank you.

43

44 CHAIRMAN DEMIENTIEFF: Deliberations.
45 Other Council comments. Other discussion. So in reading
46 through the Staff analysis, it's basically that you're not
47 allowed to target rainbow trout in those times but if you
48 are fishing through the ice and incidentally catch, you can
49 still keep; is that correct?

50

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1 MR. SIMMONS: Yes, Mr. Chair, that's my
2 understanding of it.

3
4 CHAIRMAN DEMIENTIEFF: So the primary
5 concern is a conservation concern to protect them during
6 the spawning time?

7
8 MR. SIMMONS: That's correct. That's the
9 input we received from the State and Federal biologist that
10 work with the trout out in that region, that they're very
11 susceptible to overharvest during the spawning period.

12
13 CHAIRMAN DEMIENTIEFF: Harry, do you know
14 if people in that area would commonly go strictly after
15 rainbow trout with a net?

16
17 MR. H. WILDE: Mr. Chairman, I don't really
18 know, but however, before we were looking at these proposal
19 we were also looking at others as Yukon River. The summer
20 the Yukon River, when salmon was really slow and upriver
21 having a hard time for subsistence, Lower Yukon River, they
22 have to get off from the Yukon River and get into the
23 sloughs with their four inch mesh net so I was one of the
24 coordinators down there. We put -- we moved all the nets,
25 only four inch mesh and bring it to the sloughs so everyone
26 will have fish to eat. So looking at maybe this summer
27 it's going to be worse in the lower Yukon, also in the
28 Kuskokwim. If these people don't have any -- any kind to
29 depend they're going to have a problem. That's the things
30 that we were looking at while we were looking at this
31 proposal.

32
33 CHAIRMAN DEMIENTIEFF: You don't know about
34 what time of year was that when they had to go into
35 sloughs, was that in June?

36
37 MR. H. WILDE: I don't know.

38
39 CHAIRMAN DEMIENTIEFF: Jerry, do you know
40 when this happened this past summer in terms of people
41 having to go into the sloughs and targeting rainbows?

42
43 MR. BERG: Mr. Chairman, Jerry Berg, Staff
44 fishery biologist for the Office of Subsistence Management.
45 Mr. Chairman, I'm not aware of what time of year that they
46 did target the rainbow trout in the sloughs. Typically the
47 fish will overwinter in the lower areas, lower reaches of
48 the streams and then move upstream and follow the salmon
49 upstream feeding during the summertime. But I think Mr.
50 Wilde would probably have a better idea so I guess I don't

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1 have a good answer for you on that, sorry.

2

3 CHAIRMAN DEMIENTIEFF: Ida, did you have
4 additional information on that?

5

6 MS. HILDEBRAND: Thank you, Mr. Chairman.
7 The discussion at the Regional Council meeting wasn't so
8 much that they targeted rainbow, specifically, but in times
9 of shortages all non-salmon species were what they relied
10 upon and that was their concern. And over the summer, I
11 believe, they targeted mostly whitefish in the fall but
12 that was after the -- they didn't know about the crashes
13 until after the fact. I mean nobody expected them. But
14 this year it would be different in the fact that they
15 already expect poor returns. But their discussion was
16 mainly that non-salmon species rise in importance when
17 salmon species crash.

18

19 CHAIRMAN DEMIENTIEFF: So is they are, in
20 fact, targeting other species and catch incidental
21 rainbows, they still would be allowed to keep them as long
22 as they're not -- under this regulation, as proposed, they
23 still would be allowed to keep them, that's my
24 understanding of the regulation. As long as they're not
25 targeting the rainbow specifically. Because I'd hate to
26 see -- you know, we all know fishing's been bad and just
27 like the people in the Lower Yukon, I know in the Tanana
28 River, that's the same thing we did, we had to go and
29 target other species, I mean the other whitefish and pike
30 and those kind of things to get fish.

31

32 Yes.

33

34 MS. JURGENSEN: Thank you, MR. Chair. Yes,
35 that is correct that all incidental take, all year-round,
36 even during the spawning season would be legal with the new
37 regulation also.

38

39 MR. EDWARDS: Mr. Chair.

40

41 CHAIRMAN DEMIENTIEFF: Yes.

42

43 MR. EDWARDS: Then I guess the way I read
44 this in trying to separate out the difference in the
45 Council's proposal and the Staff Committee, the most
46 significant is the targeted catch during the spawning
47 season, during the 30 day period. Everything else is
48 really not probably an issue.

49

50 MS. JURGENSEN: Yes, that is the main issue.

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1 CHAIRMAN DEMIENTIEFF: Well, I guess I'm
2 just trying to, you know, build an understanding that that
3 is a conservation concern as far as targeting rainbows in
4 that, but nothing prevents them from keeping those fish as
5 long as they're fishing others through the ice. It's very
6 common to fish under the ice, you bring up whatever you
7 catch, no way to control it.

8
9 So with that exception and the fact that
10 the rest of the proposal lines up well with the Regional
11 Council recommendation as well as the Staff Committee
12 recommendation and in light of that, and in light of the
13 fact that they would still be able to keep incidental
14 catch, I can easily support the Staff Committee
15 recommendation in this case. And the difference, of
16 course, being a conservation concern with protecting
17 rainbows during that spawning, 90 day spawning window.

18
19 Anybody else.

20
21 MR. EDWARDS: Yeah, Mr. Chair, hearing that
22 then I move that the Board adopt the proposal that was
23 submitted by the Staff Committee.

24
25 CHAIRMAN DEMIENTIEFF: The Staff Committee
26 recommendation?

27
28 MR. EDWARDS: Yes.

29
30 CHAIRMAN DEMIENTIEFF: There's a motion to
31 adopt the Staff Committee recommendation, is there a
32 second?

33
34 DR. KESSLER: Second.

35
36 CHAIRMAN DEMIENTIEFF: Discussion. Hearing
37 none, all those in favor signify by saying aye.

38
39 IN UNISON: Aye.

40
41 CHAIRMAN DEMIENTIEFF: Those opposed, same
42 sign.

43
44 (No opposing votes)

45
46 CHAIRMAN DEMIENTIEFF: Motion carries.
47 Thank you very much, Harry.

48
49 We're going to move on to Western Interior
50 as soon as the Staff have a chance to change positions.

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1 (Pause)

2

3 CHAIRMAN DEMIENTIEFF: Okay, this will be
4 Proposal 32. And we'll call on Tom Kron to give the Staff
5 analysis.

6

7 MR. KRON: Mr. Chairman, members of the
8 Federal Subsistence Board, Regional Council Chairs, my name
9 is Tom Kron. I'm a Staff biologist with the Office of
10 Subsistence Management. I'll be giving the introduction on
11 Proposal No. 32.

12

13 Proposal 32 was submitted by Angela
14 Demientieff of Holy Cross. It would close the Innoko River
15 and its tributaries to non-subsistence fishing for northern
16 pike and sheefish from its confluence with the Yukon River
17 to 30 miles upstream to the old Holikachuk village site.

18

19 Again, you can see from this map, the upper
20 portion of the drainage is within the Innoko National
21 Wildlife Refuge, the lower portion of the drainage is a mix
22 of land status, largely State land. The mouth of the river
23 is near the village of Holy Cross. And you can see the old
24 village site up there within the Innoko National Wildlife
25 Refuge.

26

27 Key points, the local stocks of sheefish
28 and pike appear to be healthy. There's a low sportfish
29 harvest effort, and salmon don't spawn within the non-
30 subsistence fishing area. Another point we'd like to make
31 is that there is a proposal to the FIS program currently to
32 look at this issue for sheefish and pike.

33

34 Thank you, Mr. Chair.

35

36 CHAIRMAN DEMIENTIEFF: Thank you. Summary
37 of written public comments.

38

39 MR. MATHEWS: Yes, Mr. Chairman, there was
40 quite a few public comments submitted on this and they
41 start on Page 16 in your book. I'll just summarize the key
42 points.

43

44 There were three in opposition to the
45 proposal. They oppose the proposal because of the current
46 low use of pike and sheefish in the area and from their
47 experience and observations, population of pike and
48 sheefish is healthy. Those comments were from Rick
49 Townsend of Aniak, Leon Randerman of Columbus, Texas and
50 Dean Nelson of Aniak.

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1 We also got one written comment from the
2 Chair of the Ruby Advisory Committee, he submitted it as an
3 individual. He commented that, it's not clear if he was
4 for or against it, but basically he commented that he
5 supports a study on the impacts of sport fishers and if
6 restrictions are needed, then have a catch and release for
7 sport fishers to keep -- have a catch and release but allow
8 them to keep enough for food and camp.

9
10 Since the book was put together we received
11 a fax from the Holy Cross Tribal Council which was handed
12 out yesterday, dated November 21st. They support the
13 proposal because of the increase in sport fishing in the
14 last three to four years. They want to insure subsistence
15 use of pike and sheefish for future generations. They also
16 desire a 2004 sunset provision to allow studies on the
17 river to be conducted. They also expressed concern about
18 the increased boat traffic on spawning of salmon and other
19 fish species. Their final concern was with wastewater and
20 trash from the growing sport fishing use.

21
22 That's all the comments. I did talk to a
23 representative of the Grayling, Anvik, Shageluk, Holy Cross
24 Advisory Committee, State Advisory Committee. They had
25 planned to meet yesterday but were weathered out. So to my
26 knowledge they did not meet or take up this proposal. But
27 we were anticipating something from them.

28
29 Thank you, Mr. Chair.

30
31 CHAIRMAN DEMIENTIEFF: Department comments.

32
33 MS. WHEELER: Thank you, Mr. Chair. The
34 State supports the Federal Inter-Agency Staff
35 recommendation. We note that much of the area is not under
36 Federal jurisdiction. The State agrees that this is
37 primarily a social issue that may best be addressed through
38 a fish and wildlife local planning effort. We also agree
39 that the proposed FIS study in this area should investigate
40 sport fishing effort and harvest and include local
41 participation, Mr. Chair.

42
43 CHAIRMAN DEMIENTIEFF: Thank you. Yes,
44 Polly, do you know if there is a State Board proposal
45 addressing this issue or does anybody know?

46
47 MS. WHEELER: Mr. Chair, yes, there is.

48
49 CHAIRMAN DEMIENTIEFF: Thank you. We have
50 no additional for public comments at this time. Regional

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1 Council recommendation.

2

3 MR. SAM: Thank you, Mr. Chair. I had the
4 good fortune to finally connect with Angela on this
5 yesterday. I caught her at home during lunch. And at our
6 meeting at Nulato, we supported this as written with the
7 full expectation that it may be rejected. However, we
8 wanted to support our area because we haven't had that much
9 participation from that area. We do have concerns about
10 this proposal and other species other than salmon because
11 there is so little data gathered on this issue. What
12 little data is gathered was put together by locals and what
13 little data was put together by other agencies targeted the
14 local users and not the abundance of sport fishermen and
15 other people from the other regions around that area.
16 We've heard that there's been high take of both sheefish
17 and pike in this area.

18

19 And we -- as I stated before, we adopted
20 this proposal with every expectation of it to be rejected,
21 but nevertheless we adopted it and when I talked with
22 Angela yesterday, she was adamant on putting this sunset
23 clause as stated by this letter, by the Holy Cross Tribal
24 Council that all the studies be done on outside users to
25 protect the local users by 2004, fisheries.

26

27 Thank you, Mr. Chair.

28

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

31

32 MR. SIMMONS: Thank you, Mr. Chair. The
33 Staff Committee recommendation is to reject the proposal.
34 A closure at this time does not appear to be warranted from
35 a biological standpoint. Data indicate that nearly all of
36 the guided sport fishers in the Innoko River practice catch
37 and release fishing and little sport harvest occurs.
38 Additionally, most of the sport fishing activity for pike
39 and sheefish within the Innoko River is not within
40 Federally managed waters.

41

42 The Staff Committee recommends that the
43 current project proposal under consideration for the 2001
44 studies program be modified to insure that local residents
45 are consulted prior to any initiation of any studies and
46 they are directly involved in fisheries field studies
47 through local hire provisions or through other cooperative
48 arrangements. Additionally, the Staff Committee recommends
49 that the Office of Subsistence Management explore
50 sponsoring a conflict resolution forum to bring together

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1 representatives of the various users to attempt to explore
2 options and resolve conflicts outside the regulatory
3 process.

4

5 Thank you.

6

7 CHAIRMAN DEMIENTIEFF: Thank you. Board
8 discussion. Other Regional Council -- I'm sorry, Gary.

9

10 MR. EDWARDS: Mr. Chair, I just want to
11 say, I mean in this particular proposal, unlike some of the
12 others there does appear to be a fair amount of information
13 both from previous studies as well as anecdotal information
14 that there does not appear to be a conservation issue here.
15 I did notice in reading the Staff write up that there was a
16 note in there having to do with jet boat uses in the river
17 in certain waters. It was unclear to me whether, in fact,
18 that was a regulation that the State has, if not, is there
19 validity in considering that as part of this proposal to
20 have restrictions at least within the Federal areas as it
21 applies to jet boat use.

22

23 CHAIRMAN DEMIENTIEFF: Gary, I'm sorry, I
24 didn't catch the last sentence.

25

26 MR. EDWARDS: Well, I just notice in there
27 that it talked about apparently there had been some studies
28 done to look at the use of jet boats in the spawning areas
29 at certain water depths, and it indicated that the State
30 had either put out in the period -- had regulations but
31 were requesting jet boat owners not to run their impellers,
32 I guess, under certain water conditions.

33

34 CHAIRMAN DEMIENTIEFF: Do you have
35 additional information on that Polly?

36

37 MS. WHEELER: Mr. Chair, we currently have
38 a proposal to look at the impact of jet boats out in the
39 Bristol Bay area that's being funded by, I understand the
40 Fisheries Information Service. But I'm not aware of other
41 studies, Mr. Chair. I'm sorry, it's in Aniak.

42

43 MR. EDWARDS: Mr. Chair, since I said that
44 I've also been informed that apparently jet boats are not
45 used in the area where the pike fishing and sheefish
46 fishing would occur, so maybe it's a non-issue.

47

48 CHAIRMAN DEMIENTIEFF: Well, I do know that
49 it's a long ways from the Innoko to the Yukon, either down
50 the Innoko or across the slough over above Grayling.

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1 That's a heck of a long ways and I know a lot of those
2 people don't go over there. They've got their camps right
3 there in that area, in Shageluk, is that correct, do you
4 have local knowledge of that, or the Staff?

5

6 MR. H. WILDE: Mr. Chairman.

7

8 CHAIRMAN DEMIENTIEFF: Go ahead.

9

10 MR. H. WILDE: The Yukon Kuskokwim-Delta
11 Advisory Council recommends and the Council supports the
12 proposal with respect to the Holy Cross area elders whom
13 have concern about the health of pike fish and sheefish
14 population. And elders concerns are similar, a warning,
15 that given years ago about salmon runs that have proven to
16 be through in Innoko River drainage. I go moose hunting in
17 that area for 15 years or over, I really respect those
18 elders because I talk with them.

19

20 Mr. Chairman, it is one of our Yupik and
21 other Alaska Natives and our elders warning, tradition law,
22 not only Yupik law was also have been told by our
23 ancestors, never to place a fish back into water once it's
24 caught because you will doom the future fishery. Not only
25 that, but also the fish will disappear from the river or
26 the slough. That's our traditional law of our people.

27

28 Thank you, Mr. Chairman.

29

30 CHAIRMAN DEMIENTIEFF: Thank you.

31

32 MS. GOTTLIEB: Mr. Chairman.

33

34 CHAIRMAN DEMIENTIEFF: Yes.

35

36 MS. GOTTLIEB: I really appreciate the
37 input from the Regional Advisory Council Chairman and I
38 guess I wanted to ask, perhaps Staff Committee a little bit
39 more about the town meetings or community meetings that
40 might be held to determine a little bit more about these
41 concerns and user conflicts. Thank you.

42

43 MR. SIMMONS: Mr. Chair, yes, the Staff
44 Committee discussed that perhaps that there might be
45 parallel processes occurring in conjunction with the
46 biological studies that are being proposed to host a work
47 group or a work session with the primary people that are in
48 conflict and see if there is ways of resolving some of
49 these issues. It was suggested that Staff within OSM might
50 be able to facilitate that but it hasn't gone any further

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1 than that at this point.

2

3 CHAIRMAN DEMIENTIEFF: Other discussion.

4

5 MR. EDWARDS: Mr. Chairman, hearing none, I
6 move that the Board adopt the Staff Committee
7 recommendation as it applies to rejecting the proposal that
8 was submitted, the additional other two portions of the
9 recommendation having to do with involving local folks in
10 any future studies as well as trying to resolving or
11 looking for forums to address this broader issue of kind of
12 much -- I guess it could be characterized as more falling
13 in the social arena. It would not be part of my motion.
14 However, I guess I do concur that both of those are
15 excellent ideas particularly the latter about either this
16 subsistence office or this Board as serving as some form of
17 a facilitator to try to address these issues. I think it's
18 a topic that is certainly worthy of further discussion
19 because my view it is a very broad issue and not just
20 localized in this one particularly incident and would
21 certainly, I think, be a valuable role for the Board to
22 play.

23

24 CHAIRMAN DEMIENTIEFF: There's a motion, is
25 there a second?

26

27 MR. WILSON: I second the motion.

28

29 CHAIRMAN DEMIENTIEFF: Discussion.

30

31 MR. URVINA: Mr. Chair.

32

33 CHAIRMAN DEMIENTIEFF: Yes.

34

35 MR. URVINA: If I may, I'd like to add with
36 respect to the Holy Cross area elders, that although there
37 is no biological reason in current data to close a sport
38 fishery, the proponent has spoken for years that there is a
39 problem in the sport fishery and was put off because of
40 lack of Federal funds to study the problem. Now, that
41 there are funds available for such studies, it is the
42 burden of the program to gather data, do studies and to
43 resolve the concerns of the local resident users,
44 subsistence users and to provide for subsistence users.

45

46 Thank you.

47

48 CHAIRMAN DEMIENTIEFF: Thank you. Other
49 discussion. I have mixed emotions about this. I
50 understand the need to collect more data but my father's

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1 side is from Holy Cross, I obviously know those people, if
2 they're raising concerns that there are biological problems
3 then my training tells me to respect their knowledge. And
4 knowing the dependents in the Innoko on those species where
5 they're a lot more dependent on those than they are on
6 salmon leads me to be real cautious as I approach this.
7 While I respect the opinions of my fellow Board members, I
8 guess the more I talk the more I find myself going to vote
9 against this motion. But that would be why. The whole
10 theme of erring on the side of conservation, you're
11 disenfranchising nobody but you are being cautious in that
12 area where there is obviously local signals that there are
13 biological problems that are happening.

14
15 Any other discussion. Hearing none, all
16 those in favor of the motion, please signify by saying aye.

17
18 IN UNISON: Aye.

19
20 CHAIRMAN DEMIENTIEFF: Those opposed, same
21 sign. Aye. Motion carries. Ron, you had another comment
22 you wanted to make?

23
24 MR. SAM: Yes, thank you, Mr. Chairman for
25 your indulgence and your discretion. I had to ask the
26 Chairman of the Federal Subsistence Board for a few minutes
27 and I would like to have Vince sit where he's at because we
28 had a Koyukuk River Advisory Committee meeting recently,
29 after everything was over and done with and we dealt -- we
30 went until 11:30 at night discussing our fishing issues.
31 As I stated earlier, we do not have any fish. Everything
32 after the flood of '94, everything we get is pretty much
33 unfit for human consumption, and this is the first time in
34 history that the Koyukuk River subsistence fishery was
35 closed. We were restricted to two-24 hour periods and then
36 we were restricted down to one-24 hour period a week. And
37 the timing of these openings were so terrible that, while
38 we're expecting finally some silver salmon runs that is
39 edible, we were closed. We called Monty Millard, asked for
40 an emergency opening, but there was no way he could open
41 it. When they finally opened it, this was September 27th,
42 the day after that the ice started coming down the river.
43 And we had an emergency opening for moose on the 29th of
44 September but that ice was running which immobilizes
45 everyone there.

46
47 And that's why we -- the resolution that
48 I'm talking about, which is being introduced to the State
49 Board of Fisheries, what we want to do is remove all
50 restrictions on fisheries on the Koyukuk River. We were

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1 incidental to the counts for all these years and we still
2 feel that we're being treated unfairly because we're still
3 considered incidental to the contribution of the Yukon
4 River run. And with that, I would like Vince to address
5 this resolution that is being introduced to the State Board
6 of Fisheries.

7
8 MR. MATHEWS: Thank you, Ron. Mr. Chair,
9 the resolution he's talking about, I dialogued with the
10 counterpart on the State side, Jim Marcott, the Regional
11 Coordinator for there and he was drafting it the last time
12 I talked to him. So I don't have a copy of the resolution.
13 The State might. But he was going to write up the
14 resolution based on their recent local advisory committee
15 meeting, and I don't have a copy of it. So that's the
16 history of it. Jim promised that he'd fax me one so I
17 could track it but I'm not near my fax machine so I don't
18 know if it's sitting there.

19
20 Thank you.

21
22 CHAIRMAN DEMIENTIEFF: Ron.

23
24 MR. SAM: Thank you, Mr. Chair. We're
25 addressing it as a resolution but we passed a resolution to
26 address our coordinator who we are trying to fire because
27 he's so slow and he hasn't been around for the last two
28 years within our Koyukuk River Advisory Committee meeting.
29 But this resolution, if I remember right, was to draft a
30 proposal to present to the Board of Fisheries addressing
31 this issue to do away with all the mesh sizes, all the
32 restrictions on the subsistence fishing.

33
34 And the reason I asked for the Chair's
35 indulgence on this is because I expect an emergency
36 teleconference of some sort with the Board from the Koyukuk
37 River and I'm pretty sure that we will ask for one if the
38 fisheries are as disastereous as they were last summer.

39
40 Thank you.

41
42 CHAIRMAN DEMIENTIEFF: Thank you. Does
43 that close your comments?

44
45 MS. SAM: (Nods affirmatively)

46
47 CHAIRMAN DEMIENTIEFF: Thank you very much
48 Ron. I will go ahead and move into -- that completes our
49 work in Western Interior. We've done Eastern. We now have
50 Northwest Arctic and we'll allow Staff to change and then

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1 we'll continue on.

2

3 (Pause)

4

5 CHAIRMAN DEMIENTIEFF: Maybe we'll just go
6 ahead and take a couple minute break here.

7

8 (Off record)

9

10 (On record)

11

12 CHAIRMAN DEMIENTIEFF: We'll come back to
13 order. Northwest Arctic. We have one proposal, No. 38 on
14 the consent agenda. And as soon as we get Staff changed
15 out we'll begin 39.

16

17 (Pause)

18

19 CHAIRMAN DEMIENTIEFF: We will go ahead and
20 begin consideration of Proposal No. 39. And Helen, I
21 understand you're going to do the analysis.

22

23 MS. H. ARMSTRONG: Thank you so much Mr.
24 Chair. Proposal 39 was submitted by the Northwest Arctic
25 Regional Subsistence Council. The original request was
26 that when taking whitefish in the Kotzebue area that an
27 exception be made to the regulations prohibiting
28 obstruction of more than one-half the width of any stream
29 with any gear.

30

31 The original proposal was for the whole
32 Kotzebue area in the proposal book. But the intent of the
33 proposal that the Northwest Council wanted was it to be for
34 the Selawik and Kobuk River drainages so it was changed in
35 the proposal analysis.

36

37 State regulations are consistent with the
38 current Federal regulation that forbids obstruction of more
39 than one-half of any stream to take fish. Under Federal
40 subsistence regulations in the Kotzebue area, residents may
41 take all fish for customary and traditional uses. No
42 subsistence fishing permits are required at this time for
43 any fish taken for subsistence purposes.

44

45 The Kotzebue area encompasses the Northwest
46 Arctic Regional Council, a portion of the North Slope
47 Regional Council; the Point Hope vicinity, and the northern
48 Portion of the Seward Peninsula Regional Council;
49 Shishmaref area. But since the proposal was narrowed down
50 to just the Selawik and Kobuk River drainages, on the map

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1 you can see that area and the pink, actually on your screen
2 it's sort of a red, but that's the Selawik National
3 Wildlife Refuge and then the purple area up here is the
4 National Park Service. So there's a fair amount of Federal
5 public land. The boundary you see, I'm sort of pointing it
6 out here, that goes around, is this dark line, that is
7 encompassing the Federal waters that this proposal effects.

8
9 The Northwest Council added pike when they
10 had their Regional Council meeting to whitefish --
11 whitefish to the proposal.

12
13 This practice of putting nets across the
14 streams, the slow moving sloughs is a traditional practice.
15 I found evidence of it going back at least a hundred years,
16 we have picture and descriptions of it from a long time ago
17 and we do know that it is a customary and traditional
18 practice. In the Upper Kobuk, the streams are very narrow
19 and you're talking about five to 10 feet across. We're
20 really talking about sloughs that as the fish are coming
21 out of the lakes, in the Selawik, streams are a little bit
22 wider and they go up to 60 feet. So this proposal actually
23 is not talking about really long nets in most cases. What
24 people do is they set their gillnets in the sloughs and the
25 lake outlets where the fish are coming in from the main --
26 going out into the main river. In the Kobuk area, the nets
27 generally have a three to four inch mesh, in the Selawik
28 area they use up to a four and a half inch mesh. The
29 larger mesh size nets are not generally used for the spring
30 fishing because the people don't target the larger white
31 fish. The larger white fish are too fat and they don't dry
32 very easily. Generally if there are larger white fish
33 caught, they are eaten at that time rather than actually
34 stored. In the fall they do take larger whitefish under
35 the ice so those are taken at that time.

36
37 What happens is that the nets are placed at
38 the mouth of the shallow sloughs while the river level is
39 high and as the water levels drop the nets are moved near
40 the mouth of the deep sloughs and to the deeper waters of
41 the main river but not usually near the mouth of the
42 shallow sloughs. They aren't placed in areas where they
43 can block waterways where there may be lots of boats and
44 obviously if they put their nets all the way across the
45 stream and boats are there then they're going to lose their
46 nets and nets cost at least \$300 and this isn't something
47 that fishermen can afford to do.

48
49 The Inupiat do check the nets and watch
50 them closely because of the fear of losing their nets and

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1 if suddenly the fish start really running and the nets get
2 too heavy they can lose them, so they are watched rather
3 closely. Sometimes the water rises really rapidly and it
4 can cause the nets to be lost so they do keep an eye on
5 them.

6
7 Sheefish and salmon are not found in these
8 sloughs. They are -- pike are just taken incidentally to
9 whitefish, they really are targeting the whitefish.

10
11 The nets may be put out just for a week or
12 two, it's not a long-term process. They get just enough
13 fish for the people to have a few bags of fish for their
14 family and their relatives.

15
16 If the whitefish are left in the water more
17 than 24 hours, the fish get really soft and they're not
18 suitable for drying so it is something that -- that is the
19 reason why they're checking them really regularly.

20
21 In the fall, sometimes it can take longer
22 to get as many fish because there aren't as many and so
23 they, sometimes, have their nets out longer, they are
24 checking them pretty regularly.

25
26 Most of the sloughs and the lake outlets
27 are fairly close to the villages for people to be able to
28 check them pretty regularly if they're not staying right
29 there at the site. We don't actually have really good
30 information about exactly where people are but that's some
31 information we have sort of anecdotal.

32
33 There are some fish that are taken
34 incidentally to whitefish, like trout, grayling, sucker,
35 pike and some sheefish. The sheefish are generally not --
36 are usually taken with nets that have mesh sizes that are
37 four and a half to five and a half inches so they don't --
38 sheefish aren't taken very often and they're not usually
39 found in those locations.

40
41 The Council did tell us that this practice
42 is not as prevalent as it was 30 to 40 years ago. That 40
43 years ago every household would have been out harvesting
44 whitefish in these sloughs, whereas today there maybe a
45 dozen or so households and maybe even fewer. In our
46 conversations with Barb Armstrong, who comes from the
47 region, she said that, you know, in some cases it may be
48 just a few couples in communities that are taking
49 whitefish. It's not something done as much as it was once.

50

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1 The information we have about where people
2 are harvesting whitefish comes from an ADF&G study done in
3 conjunction with Maniilaq from 1988. And they didn't
4 specifically ask where people were taking whitefish but
5 they asked where people were taking non-salmon, and from
6 that we know that Buckland, Selawik, Noorvik, Kiana,
7 Shungnak and Kobuk are all fishing for species of -- for
8 non-salmon species on streams and creeks feeding into the
9 Selawik and the Kobuk River drainages and in your books
10 that's Maps 2 through 6. Only Ambler, Selawik, Noorvik and
11 Kiana had non -- had mapped areas for non-salmon that were
12 within the Refuge or Park boundaries that were affected --
13 and are affected by this proposal.

14
15 We don't know a whole lot about how many
16 whitefish they're getting. There are some tables in your
17 book with some information on some harvest data that's been
18 collected. It is something that ADF&G is collecting more
19 information on. And it also is something that the Refuge
20 is planning on putting some money into some research in the
21 near future.

22
23 This is, obviously a proposal that has a
24 lot of -- it has generated a lot of concern from the fish
25 biologists. If it were an unrestricted harvest with no
26 parameters put around it, the fish biologists are very
27 concerned and feel that this could have some implications
28 for other fish species as well as for whitefish. And I
29 worked long and hard on this proposal in making an attempt
30 to try to get as many people together to talk about it as
31 possible to find some solution in trying to make this
32 traditional practice legal because it is something that
33 people have done for a long time and I think there's been
34 an effort on many sides to try to do that.

35
36 The concern, really, I mean I think
37 everybody feels like, at this point, there's not anything
38 that's been done that is really damaging to the fish
39 resources but the concern is is that if we were to allow
40 unrestricted putting a net across the stream, that somebody
41 could come in who was from the outside who might not follow
42 the traditional practices and there could be some
43 consequences for some sheefish or salmon. As a result
44 we've worked hard on trying to find some resolution to this
45 and there's been a lot of discussion with the Regional
46 Council, with the biologists on the State side and on the
47 Federal side and we'll hear more about that in a minute.
48 At the moment, the whitefish and the pike populations are
49 healthy but there is a concern.

50

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1 That concludes my Staff analysis. If you
2 have any questions I'm happy to answer them. All right,
3 I'll turn it over to Barb for public comments.

4
5 MS. B. ARMSTRONG: Mr. Chair, there are no
6 public comments at this time on the proposal.

7
8 CHAIRMAN DEMIENTIEFF: Thank you.
9 Department comments.

10
11 MS. WHEELER: Thank you, Mr. Chair. The
12 State supports the Federal Inter-Agency Staff
13 recommendation with the modification of placing a
14 restriction on the amount of time a net can be fished,
15 i.e., a net cannot be fished for longer than 24 hours in a
16 48 hour period. We believe the modification will allow
17 some migration of fish during critical migration periods.
18 This addresses our previously voiced concern that the
19 proposed regulations would potentially allow a stream to be
20 completely blocked during the periods from May 15 to June
21 30 and August 15 to October 31, which we believe is not
22 sound biological management and could result in overharvest
23 and stock depletion, Mr. Chair.

24
25 CHAIRMAN DEMIENTIEFF: Thank you. We have
26 one request for additional public testimony at this time.
27 Mr. Elmer Armstrong.

28
29 MR. ELMER ARMSTRONG: Mr. Chairman, Board,
30 we as NANA Region elders, I'm representing the NANA Region
31 elders in subsistence. I'm the representative to them and
32 also a member of the NANA Region Elders Council and also
33 president of Kotzebue Elders Council.

34
35 We support this proposal except for a few
36 little items, like the 24 hour period, pulling the nets
37 because to the fact that our people in the NANA region have
38 the traditional way of allowing fish to go by when they
39 have enough catch. What they do is tie their nets, hang
40 their nets while they are in the water. Our traditional
41 people taught us that and we know that they have their own
42 set areas. They keep those areas year after year, and this
43 is part of the traditional way of keeping and getting fish
44 where there is fish on a seasonal basis.

45
46 So our elders have a little problem with
47 that. Because they have their own way of letting fish go
48 by when they have enough to cut. When I say, enough to
49 cut, the whitefish that they catch can't stay more than a
50 day or so. It comes apart when you fillet the whitefish so

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1 that way they get enough to cut per day, if it has to be.
2 So that the fish wouldn't get soft. I'm pretty sure in
3 other areas it's the same way.

4
5 So our elders said that they would have a
6 little problem with the 24 hour period in 48 hours.

7
8 Our elders support the proposal because
9 it's been customary and a cultural way of getting fish and
10 they want -- if there is a lot of that meat to be put in
11 there, they would like to have it in their own traditional
12 way and this is one of the reasons why they have sent me
13 down here to be with Willie, our representative here and
14 I'm pretty sure will speak what I'm speaking about. And
15 also I'm a member of Kotzebue Sound Advisory Committee and
16 when we met we discussed this, the setnetting in sloughs,
17 how we need to -- how our people do it sometimes, maybe
18 they cover most of the slough across the river not all the
19 way but we said that our people know each other and they
20 don't block the next person that has a net. We took our
21 village recommendation on this to go along with the
22 recommendation, we were not against it, we went and took
23 the recommendation.

24
25 I think the most damaging thing in our
26 area, especially in Selawik area is the beavers. I think
27 there should be a law against -- get a deal with those
28 beavers that set dams across where the whitefish spawn. I
29 know there's partial regulations to get beaver and use them
30 for dog feed but that's about all. I doesn't resolve -- I
31 don't think it resolves our problem. I think the State or
32 Federal government should have some kind of regulation to
33 try and prevent our fish dying in the lakes because of
34 beaver dams. Sometimes our lakes are shallow and they
35 freeze to the ground and that doesn't leave much area for
36 our whitefish to winter.

37
38 Thank you.

39
40 CHAIRMAN DEMIENTIEFF: Elmer, if you could
41 -- so this practice of fishing in this manner has been
42 going on for years, years and years across the sloughs?
43 The way you've been fishing has been going on for a long
44 time, right, in these sloughs?

45
46 MR. ELMER ARMSTRONG: I'm 67 years old, as
47 far as I can remember this is the way the white fishing has
48 been going on.

49
50 CHAIRMAN DEMIENTIEFF: Are you aware of any

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1 populations -- whitefish populations that are in any danger
2 or real low?

3
4 MR. ELMER ARMSTRONG: No.

5
6 CHAIRMAN DEMIENTIEFF: Okay.

7
8 MR. ELMER ARMSTRONG: I haven't seen any
9 decrease in white fishing because our people have their own
10 seasonal times when they catch whitefish.

11
12 CHAIRMAN DEMIENTIEFF: Thank you. I'm
13 sorry, there's another question here.

14
15 DR. KESSLER: My understanding is not
16 complete, maybe you can help me. If the traditional
17 practice is to remove the fish within a day anyhow, how is
18 that -- and the provision here is to restrict the nets to
19 24 hours, how are the two incompatible, I'm sorry, I'm not
20 clear on that?

21
22 MR. GOODWIN: Mr. Chairman, can I respond
23 to that?

24
25 CHAIRMAN DEMIENTIEFF: Willie, yeah.

26
27 MR. GOODWIN: If we don't check the fish,
28 check the net and take the fish off, the fish deteriorate
29 like he explained, okay. Now, if we're to be restricted
30 for a 24 hour period in a 48 hour period, the problem is
31 that the time period is so short in which we can get the
32 fish, the right fish to dry, is that if we're not allowed
33 to continue the practice, like he was saying, maybe a week
34 or two, then we have a chance of having that person or
35 family lose half the catch they should have got.

36
37 And as a result, you know, it does harm for
38 the subsistence fisher. So the concern that the elders
39 explained was that to restrict us to have us there long
40 then we need to be because there are times when the weather
41 doesn't cooperate. It makes it very difficult to dry fish
42 when it's raining, for instance. When there's a west wind
43 from Kotzebue, Kotzebue Sound in the Kobuk Delta, that
44 pushes the water back into Hoffman Inlet and as a result
45 the slow moving sloughs go backwards, the flow and there's
46 no fish. We already have that we have to deal with for the
47 opportunity to get the fish. So by restricting us for
48 another 24 hour period puts an added burden to those people
49 that are trying to get their fish.

50

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1 DR. KESSLER: Thank you.

2

3 CHAIRMAN DEMIENTIEFF: With that, go ahead,
4 Willie, we'll just go on into the Regional Council
5 recommendation.

6

7 MR. GOODWIN: Mr. Chairman, the original
8 recommendation that the Regional Council deliberated was
9 what we recommended. We spent a lot of time on this
10 proposal in our RAC meeting in Kotzebue. While we had some
11 agency staff there from this, there was only one person
12 that I know of from the Staff Committee that was there to
13 listen to the testimony given by the people, was there to
14 listen to the questions that we asked these agency people,
15 we specifically asked them if they had any concerns that we
16 be told about them, that we don't get blind-sided by the
17 Staff Committee when they make their recommendation to the
18 Board, and this is what happened in this case.

19

20 It's an added burden to us, the RAC people.
21 The RAC members to deliberate for that long and the time we
22 discussed this and to come up with a recommendation from
23 the Staff Committee that puts more limitations or whatever
24 you want to call it into the proposal. We questioned the
25 State of Alaska extensively on this issue, we asked them if
26 there was any data that they had, if there was any
27 conservation concerns that they knew about on the whitefish
28 stocks or anything in the area, there was none by any of
29 the agency staff. Our traditional knowledge, like Mr.
30 Armstrong explained, tells us that there are no
31 conservation problems with the whitefish stocks in these
32 areas that we fish. The proposal, as recommended, speaks
33 to these slow moving sloughs that are tied to lakes, those
34 are the ones that have the whitefish that we target. It
35 doesn't make any sense to us to put nets in fast moving
36 streams that are going to have sticks and everything else
37 to tear up the net. So the nets are put into these slow
38 moving streams that are tied to lakes.

39

40 Now you take the Selawik Refuge, for
41 instance, there's 97,000 lakes up there, 700 people in
42 Selawik, I fail to see the rationale where there'd be a
43 conservation problem with the people getting too much
44 whitefish when there's 97,000 lakes up there. That's just
45 the Selawik Refuge alone. I'm not talking about the Kobuk-
46 Delta which probably has 50,000 lakes.

47

48 If we don't check the net, I fail to see
49 where there will be an overharvest. We all know that when
50 a net gets too much fish the thing sinks. And there's only

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1 so much fish it can stop. It's not there -- it's not going
2 to block every fish. It's not going to catch every fish.

3
4 Mr. Chairman, I took the time to call my
5 RAC members before this meeting, before I came down because
6 of the concern on the 24 hour period, and the RAC is
7 against it. But after looking at it, you know, in a
8 different light, there's an interpretation of my own that
9 probably won't -- nobody will agree with but if you read
10 the proposal, you can't obstruct the stream continuously
11 for 48 hours, so I think that if I check the net every 24
12 hours, I'm not obstructing the stream continuously. So if
13 that interpretation can be allowed, we'll go along with it.

14
15 On the flip-side, the reason that we
16 proposed this regulation is that we know that we don't
17 always have protection officers out there that are -- well,
18 I mean we'll probably get some protection officer some day
19 that's going to read this regulation one way and then start
20 citing our people that are trying to get their fish for
21 food, and we don't want that to happen, that's why we
22 proposed the regulation to make it legal for them to do
23 this activity. That's what we are afraid of. We've seen
24 it happen and we're afraid that some family that's out
25 there for a week or two every spring and probably a week or
26 two every fall to gather the fish will get cited for
27 something that they've been doing for years on their own
28 land, on their own allotment.

29
30 We would like to see this proposal passed,
31 this regulation without any of the restrictions that are
32 being proposed to be placed on it. And I'll be glad to
33 answer any questions that anyone might have.

34
35 Thank you.

36
37 CHAIRMAN DEMIENTIEFF: Thank you, Willie.
38 Staff Committee recommendation.

39
40 MR. GERHART: Yes, Mr. Chairman. My name
41 is Bob Gerhart and I'll be doing this presentation. The
42 Staff Committee recommends that the proposal be modified as
43 recommended by the Northwest Arctic Subsistence Regional
44 Advisory Council. However, in addition, it should be
45 further modified in the following three ways.

46
47 First, that the proposal be restricted to
48 -- or that the regulation be restricted to slow moving
49 sloughs and water ways connecting lakes or slow moving
50 sloughs connecting lakes to main rivers in the Selawik and

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1 Kobuk River drainages. Two, to prohibit the proposed
2 regulation in the mainstems of the Selawik and Kobuk
3 Rivers. And three, add a requirement that such streams may
4 not be completely obstructed for more than 24 hours during
5 any 48 hour period. In addition the Staff Committee
6 recommends that educational materials be provided to
7 affected communities regarding this regulation.

8
9 The regulatory language that would result
10 from this recommendation can be found on Page 10. That
11 concludes my presentation.

12
13 CHAIRMAN DEMIENTIEFF: Okay, with that
14 we'll go ahead and advance this on to Board and Regional
15 Council discussion. Ida, can I call on you for a second
16 here, please.

17
18 MS. HILDEBRAND: Thank you, Mr. Chairman.
19 I'd like to respond to the Board Member Kessler's question,
20 what was the difference between the 24 hour and the tying
21 off, that wasn't discussed at either the Regional Council
22 level or the Staff Committee level. But the tie-off is, in
23 effect, does the same thing. A tie-off means you just pull
24 the fish net together and tie it so fish can't get caught
25 in it so it effectively does the same thing as pulling out
26 the net in a 24 hour period.

27
28 CHAIRMAN DEMIENTIEFF: Judy.

29
30 MS. GOTTLIEB: Thank you, Mr. Chairman. I
31 wanted Bob to add one more thing and then I have a comment,
32 thank you.

33
34 CHAIRMAN DEMIENTIEFF: Bob.

35
36 MR. GERHART: Yes, Mr. Chairman, I
37 neglected to present the justification for the Staff
38 Committee recommendation. There is strong evidence
39 existing that gillnetting for whitefish has long been a
40 tradition among the Inupiat originating prior to contact
41 with Western Culture. Traditionally the Inupiat did not
42 use gillnets during the summer months, July and the first
43 half of August because the weather was too warm to process
44 the fish. The practice continues today.

45
46 There are serious biological consequences
47 that could occur to whitefish and other migratory fish in
48 the region if some limitations are not placed on this
49 regulation. Adding modifications to the original proposal
50 will mitigate these biological concerns. Limiting the

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1 practice of putting the gillnets across the stream to the
2 early summer and fall months is consistent with traditional
3 Inupiat practices and would minimize impacts on whitefish,
4 pike and other fish.

5
6 Limiting the length of the gillnet would
7 prohibit someone from putting a gillnet completely across
8 larger streams and rivers also minimizing impacts.
9 Limiting the size of the gillnets also would be consistent
10 with traditional Inupiat practices as they currently do not
11 use nets longer than 60 feet. Limiting the mesh size to
12 two and a half to four and a half inches is consistent with
13 current practices and would allow for targeting of
14 whitefish and pike and not sheefish or salmon.

15
16 Excluding the mainstems of the Selawik and
17 Kobuk Rivers will insure that sheefish and salmon in these
18 rivers would not be affected by this regulation.

19
20 These modifications to the proposal would
21 decrease biological concerns. Adding the time constraints
22 that nets could not be fished for more than 24 hours within
23 any 48 hour period would alleviate any conservation
24 concerns.

25
26 CHAIRMAN DEMIENTIEFF: Judy.

27
28 MS. GOTTLIEB: Mr. Chairman, I don't think
29 Barb had a copy of this public comment so not to take her
30 job away but if I could just read a quick paragraph that I
31 received. This is from the Gates of the Arctic Subsistence
32 Resource Commission.

33
34 It does have to do with Proposal 39 and it
35 says allowing the use of nets across river and creeks, the
36 Gates of the Arctic SRC did not take action. SRC supports
37 the continuation of the traditional practices of fishing
38 for pike and whitefish but has concerns about how the
39 regulation could be misused to the detriment of fish
40 resources.

41
42 Thank you.

43
44 CHAIRMAN DEMIENTIEFF: Thank you.

45
46 MR. GOODWIN: Mr. Chair.

47
48 CHAIRMAN DEMIENTIEFF: Just a second,

49 Willie.

50

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1 MS. GOTTLIEB: Mr. Chair.

2
3 CHAIRMAN DEMIENTIEFF: Staff Committee or
4 Staff, I'm not sure but I'm looking, is there a
5 conservation concern outside of what could happen? Do you
6 know, are you aware of a population of whitefish or pike
7 population that's in jeopardy?

8
9 MR. GOODWIN: Mr. Chairman.

10
11 MS. H. ARMSTRONG: (Nods negatively)

12
13 CHAIRMAN DEMIENTIEFF: Wait. I'm asking
14 this question to Staff, Willie. Could you get that on the
15 record, please?

16
17 MS. H. ARMSTRONG: No, we have no evidence
18 of there being a conservation issue at this time.

19
20 CHAIRMAN DEMIENTIEFF: Okay. Go ahead,
21 Willie.

22
23 MR. GOODWIN: I asked the same question at
24 our RAC meeting. In fact Fish and Game people were there
25 and they told us there's none that they know of.

26
27 One other fact that I forgot to mention is
28 that nature has its way of allowing fish to go out before
29 we start fishing. If the ice -- if we don't get any snow
30 early on in the fall, these lakes and slow moving streams
31 get very thick, and as a result in the springtime it takes
32 longer for them to thaw out. So a lot of the fish have
33 gone out anyway before we're able to get into these slow
34 moving streams. You know, the timing of this for our
35 activity is critical to our people. If we can't get there
36 in time to do it, then we miss the season, the spring
37 season. I've seen it happen.

38
39 Thank you.

40
41 CHAIRMAN DEMIENTIEFF: So then the language
42 in the justification, serious biological consequences could
43 occur; I want Staff to explain to me how this could occur?

44
45 MS. H. ARMSTRONG: Mr. Chair, the concern
46 is is that if someone came into the area -- I mean if we
47 had a regulation that said you could put a net across the
48 stream with no limitations as to where -- or in the
49 original proposal it was relatively vague and so the way it
50 was written originally, you could go and put a net across

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1 the Selawik River. And one of the concerns we heard was
2 upstream on the Selawik, in places it's 60 feet across and
3 if you put a net across the Selawik, sheefish could have
4 serious consequences to them. So it was without having any
5 parameters on it, some kind of restrictions of lengths of
6 net, size of mesh, time limits, that there could be some
7 consequences or location of where you could do it.

8
9 So that's what we were looking for was a
10 narrowing down of the regulation so that it wasn't so broad
11 that you could put a net across portions of the mainstem
12 rivers that might be so narrow that you could actually get
13 a 60 -- well, and originally we didn't even have a length
14 restriction so that was the concern.

15
16 CHAIRMAN DEMIENTIEFF: So to the best of
17 your knowledge, has this or is this occurring?

18
19 MS. H. ARMSTRONG: No. Where they're
20 putting it across mainstem rivers, no, it's not occurring
21 at the time. But the concern was that if we didn't put
22 some kind of restrictions on it, it could happen in the
23 future and that was the concern of the biologists.

24
25 CHAIRMAN DEMIENTIEFF: Okay. Willie, if
26 this could occur, did occur, if there were suddenly abuses
27 by individuals say moving into the area or biological
28 concerns, I'm just wondering who would be the first to
29 squawk about that, would it be Department of Fish and Game,
30 would it be the Feds or would it be the locals?

31
32 MR. GOODWIN: Mr. Chairman, it would be our
33 people. I mean we have traditional places that we go to
34 year after year after year, the same places by the same
35 family. Now, if somebody comes in and tries to put a net
36 or something, you know, they'd be the first one to squawk
37 and if we see this abuse, certainly our people will raise
38 that concern. There's no doubt in my mind they would.

39
40 CHAIRMAN DEMIENTIEFF: So if the bogeyman
41 suddenly did show up, you guys would be the first to go and
42 combat that bogeyman?

43
44 MR. GOODWIN: We would. Especially if you
45 tried to go on our corporation lands or even Native
46 allotments where most of these camps are located. The
47 language is in there to prohibit on the mainstems, which
48 the concern was raised for other species of the Selawik and
49 the Kobuk River, the mainstems of those rivers, they're
50 fast moving. I mean sticks and logs and everything else

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1 comes down those rivers, you know that, and it don't make
2 any sense for us to put a net out where there's all this
3 stuff that's going to be tearing up the net.

4
5 MR. EDWARDS: Mr. Chair.

6
7 CHAIRMAN DEMIENTIEFF: Go ahead, Gary.

8
9 MR. EDWARDS: In talking to Staff prior to
10 the meeting about this, it seemed to me that there may be
11 kind of some misunderstanding on both sides as to exactly
12 what was being expected on the ground.

13
14 When I first read this, I was under the
15 impression that it actually meant that the nets would have
16 to be pulled or maybe tied off as Ida said, but it's my
17 understanding and Willie you sort of alluded to it, if the
18 nets were checked on a periodic basis and you use 24 hours,
19 that, in fact, that was kind of what was really intended,
20 not that the nets actually be physically pulled from the
21 water for X amount of time and then replaced, in some kind
22 of a cycle. Now, if, in fact, if that's correct and
23 somebody needs to correct me if I'm wrong, then it seems to
24 me that that might be the kind of language which would
25 appear to be acceptable to the Council, that the nets would
26 be periodically ran under kind of a time certain,
27 obviously; under certain weather conditions, I guess,
28 technically people would be in violation and my guess is
29 there's not going to be a whole lot of enforcement that
30 would take place during that time.

31
32 I mean is that kind of a solution that
33 would be acceptable sort of to everybody?

34
35 MR. GOODWIN: Mr. Chairman.

36
37 CHAIRMAN DEMIENTIEFF: go ahead.

38
39 MR. GOODWIN: That would be acceptable
40 because we check our net anyway. Putting the requirement
41 in there is not going to be any heartburn to our people
42 because we have to check the net in a 24 hour period, we
43 could go along with that.

44
45 MS. GOTTLIEB: Mr. Chairman.

46
47 CHAIRMAN DEMIENTIEFF: Yes.

48
49 MS. GOTTLIEB: Well, likewise, we wouldn't
50 support the requirement that streams may not be completely

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1 obstructed for more than 24 hours during any 48 hour period
2 because we do understand that that requirement is not
3 consistent with the customary and traditional practices
4 that we're trying to accommodate here. This proposal was
5 trying to, I think, legalize a current and ongoing practice
6 and should have fostered a lot of cooperation and
7 coordination between the managers and the subsistence
8 users, but also keeping in mind resource concerns. IT
9 certainly has fostered a lot of dialogue, I'll say that.

10
11 But we do have other concerns about the
12 regulatory language as recommended by the Staff Committee.
13 Our concerns are not that customary and traditional
14 practices are not being accommodated, but rather that a
15 lack of clarity in the regulation may lead to inadvertent
16 or maybe intentional abuse of the regulation by new
17 residents or those unaware of the customary practices.

18
19 Some of the waters that are involved here
20 produce chum and pink salmon and those stocks are below
21 historic levels. And while I know this proposal is not
22 intended to target those species, could again be
23 unintentional but it could occur.

24
25 The Delta area of the Kobuk, for example,
26 has three main channels. And I'm a little worried that if
27 we don't identify these channels in regulation it could
28 lead to confusion and possible problems.

29
30 In the time between the Council meeting and
31 this meeting we tried to work with a variety of members to
32 come up with language that would clarify this regulation
33 and where it would not apply. Not to be restricted to
34 subsistence users, however, I don't think we've been able
35 to reach that language but maybe we can have some
36 discussion here yet. I still think that clarity would
37 improve the situation and we can offer some language if
38 appropriate.

39
40 CHAIRMAN DEMIENTIEFF: Willie, in your
41 experience, what has been the incidental take of salmon in
42 these nets?

43
44 MR. GOODWIN: During the time period we are
45 recommending, probably zero. The time period that we're
46 proposing here is before the salmon go in, it's before the
47 sheefish come out in the spring and it's after the salmon
48 have passed in the fall. Plus, the fact that the language
49 in there that says the mainstems of the Kobuk, it's
50 restricted there, we know that, we allow that -- we'll go

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1 along with that because we don't fish there anywhere, not
2 all the way across.

3

4 Mr. Chairman, we recognize that the
5 probability is there that someone might abuse this, but,
6 you know, if they try to put them on the mainstems, good
7 luck to them, boy. I don't know what kind of fish they're
8 going to get.

9

10 CHAIRMAN DEMIENTIEFF: The other thing I'm
11 curious about, what are you paying for fuel up there, gas?

12

13 MR. GOODWIN: It's over three bucks a
14 gallon now.

15

16 CHAIRMAN DEMIENTIEFF: On the Kobuk?

17

18 MR. GOODWIN: Yeah.

19

20 CHAIRMAN DEMIENTIEFF: The Kobuk?

21

22 MR. GOODWIN: Yeah, Noorvik, Kiana,
23 Selawik.

24

25 CHAIRMAN DEMIENTIEFF: So what's this going
26 to do to subsistence users, the cost of going after
27 whitefish, how much is that going to drive up the average
28 users cost just for fuel, say for example? There's
29 everything else, but I mean.....

30

31 MR. GOODWIN: Okay, let me use my mother-
32 in-law for an example, her family, the extended family
33 which includes relatives from up Kobuk and Ambler that come
34 down and help her to dry these fish so they can take some
35 home because these are the fish that are targeted that are
36 not fat, because it doesn't make any sense to us to dry fat
37 fish at that time period. You know how fat fish dry, you
38 know, they're oily and everything and sometimes they're not
39 fit to eat after awhile.

40

41 So she would probably use, I would guess,
42 maybe one or two drums of gas to do this activity in the
43 springtime, going back and forth to the village of Noorvik
44 to pick up supplies or people and check the nets that she
45 has. She has three nets out that I know of that she uses,
46 in spring. One of them don't go all the way across one
47 stream, two of them do, but they're back to back on the
48 same stream. And if the first net gets a lot of fish it
49 will sink, like I said and the other fish come by and they
50 get caught in the second net but they're tended so often,

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1 and she gets too much to cut or whoever's there to help her
2 they tie the net so they don't catch anymore. But this
3 goes on day after day for a couple of weeks down there. So
4 I would guess about two drums of gas, maybe, that she would
5 probably use.

6
7 CHAIRMAN DEMIENTIEFF: I guess I'm going to
8 allow somebody else to follow, but I -- you know, we do
9 have the three reasons that we need to consider if we're
10 going to turn down a Regional Council recommendation.
11 Conservation, which we don't have. We could have, but we
12 regulate every year, it could be taken care of without very
13 much damage to the resource. Lack of substantial evidence,
14 you know, that's all there. Detrimental to subsistence
15 users, we're adding a detriment to subsistence users if we
16 take the Staff Committee approach to this. So we haven't
17 met any one of those three criteria for turning down the
18 Regional Council recommendation that I could possibly see
19 we could make a case for.

20
21 We're adding over regulation as is the
22 Federal tendency where regulation is not needed. Now, I
23 would agree, and I think that managers and my fellow Board
24 members are making a case that there are other issues out
25 there that need to be addressed. This is our first cut at
26 this regulation, we're just doing nothing but a disservice
27 if we take the Staff Committee approach to the subsistence
28 user at this point in time. We don't have a problem, we're
29 adding problems. We're adding detriment to the subsistence
30 user.

31
32 My strong recommendation is take the
33 Regional Council approach. If managers and others have
34 issues that want to go back, go back to the Regional
35 Council, raise those issues, work it through with the local
36 people, come up with something that's mutually compatible.
37 But to jump right out and overregulate a prosperous
38 resource that is heavily depended upon by subsistence
39 users, we're doing a disservice to the subsistence users in
40 this particular case, very strongly.

41
42 So I strongly urge us to go with the
43 Regional Council recommendation. Take those issues back to
44 the next Regional Council and start working on them for
45 next year if we need other fine-tuning. We've seen over
46 and over again, with the Regional Councils, a perfect
47 willingness to sit down and tackle tough issues and they'll
48 do it. They'll take the issues up with you. Sit down at
49 the RAC level, go over the issues, hash them out, come up
50 with something that's mutually agreeable. Right now you

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1 don't have a problem.

2

3 MS. CROSS: Mr. Chair.

4

5 CHAIRMAN DEMIENTIEFF: Yes.

6

7 MS. CROSS: May I comment on this, please?

8

9 CHAIRMAN DEMIENTIEFF: Yes.

10

11 MS. CROSS: This proposal was given to
12 Seward Peninsula RAC for review last fall. At the time we
13 voted in support of the proposal as recommended by
14 Northwest Arctic Council. This is a practice that's been
15 utilized for centuries. Northwest Regional Council is
16 bringing up this issue merely to make a practice legal.
17 And we also came to the conclusion this practice is not
18 restricted to that region, it's a practice that's practiced
19 throughout different regions and it never had any impact on
20 the fish population.

21

22 Thank you.

23

24 MR. EDWARDS: Mr. Chairman.

25

26 MR. GOODWIN: Mr. Chair.

27

28 CHAIRMAN DEMIENTIEFF: I am not sure who
29 was first, Gary go ahead.

30

31 MR. EDWARDS: Willie, you want to go first?

32

33 MR. GOODWIN: Yeah, I just -- Mr. Chairman,
34 I just want to point out a fact that you mention here. You
35 know we deliberated very heavily on this issue at our RAC
36 meeting, and then when it comes to the Staff Committee, we
37 weren't there to defend what we were saying. We were not
38 there to make comments on what they were recommending. so
39 that's the system I talked about yesterday where we have a
40 flaw that should be fixed.

41

42 I think if the Staff Committee is going to
43 be changing any of the substance of any regulation proposal
44 that is coming from the RACs, the RACs should be given an
45 opportunity to be able to sit down and talk with them and
46 work it out.

47

48 Thank you.

49

50 CHAIRMAN DEMIENTIEFF: Let me, if I could

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1 just respond to that first, Gary and I'll get right to you.

2

3

4 We also have a process in dealing with
5 these with the Staff Committee and often times it's past
6 the RAC meeting. And I guess I'd have to defend our
7 process, I mean our internal process within OSC. We have
8 there a lot of times issues that come up and a lot of times
9 there are critical biological issues and critical issues on
10 behalf of subsistence users that maybe don't come up at the
11 RAC level, so you know I have to defend our process because
12 they've got a job to do to get things ready for us.

12

13 All I'm saying is in this particular case
14 we've over-reacted where we don't have a problem where
15 we're causing problems. And that's all I'm pointing out,
16 in this particular case.

17

18 But as far as the process overall, I have
19 to defend it because they have a job to do to get us to
20 this point to where we're deliberating. That's all I'm
21 saying. This one time we overreacted.

22

23

Gary.

24

25 MR. EDWARDS: Mr. Chair, I guess I concur
26 with your observation but based upon my previous comments,
27 I guess I would suggest that we accept the proposal from
28 the Council with the addition at the end with the language
29 that would say something similar to that except that nets
30 will be checked at least in any 24 hour period.

31

32 CHAIRMAN DEMIENTIEFF: Let me see
33 where.....

34

35 MS. GOTTLIEB: I'll second that, Mr. Chair.

36

37 CHAIRMAN DEMIENTIEFF: That's the normal
38 practice anyway, isn't it?

39

40 MR. EDWARDS: And that's my understanding.

41

42 CHAIRMAN DEMIENTIEFF: Yeah.

43

44 MR. EDWARDS: So I mean I don't.....

45

46 CHAIRMAN DEMIENTIEFF: Put that into
47 regulation, that's the normal practice we're not
48 disrupting. I mean I certainly could support that.

49

50 MS. GOTTLIEB: Mr. Chairman.

00167

1 CHAIRMAN DEMIENTIEFF: Yes.

2

3 MS. GOTTLIEB: I appreciate what the
4 Chairman is saying and I appreciate what you've said about
5 our process but I do want to let everybody know that as
6 soon as the Staff Committee finished deliberations, phone
7 calls were made and meetings were held between Staff and
8 the Regional Advisory Council so that we could clarify what
9 was going on and try to arrive at consensus as quickly as
10 possible. So we do want to keep those lines of
11 communications open at all times.

12

13 CHAIRMAN DEMIENTIEFF: Yes, Judy, and I
14 really concur with that. I mean obviously we're not done
15 with this regulation, I mean it's a work in progress. But
16 as long as we're there, you know, with the RAC working on
17 these issues as they come up, we can continue to, you know,
18 fine tune this regulation to where it's one that's
19 workable. I was really scared that we were overgoing on
20 the first go around, that we're new, we don't have a
21 problem we get something on the books. I think Gary's
22 suggestion is an excellent one, since it puts in regulation
23 what happens now anyway, that the nets be checked every 24
24 hours, and leave the rest of this stuff out of there and
25 just work on it with the RAC. We can get to where we got
26 this thing fine-tuned.

27

28 MR. GOODWIN: Mr. Chairman.

29

30 CHAIRMAN DEMIENTIEFF: Willie.

31

32 MR. GOODWIN: We'd be willing to work with
33 any of the agencies that have a problem with this at the
34 RAC level. You know, I realize there was some concerns
35 that were raised by different agencies on this and it was
36 after our RAC meeting, you know, there was some talk
37 between myself and some of the RAC members, but not all of
38 them, but this last go around I did talk to all of them and
39 I'll extend that, we'll work with anybody on it.

40

41 Thank you.

42

43 MR. WILSON: Mr. Chair, this is just a
44 procedural question.

45

46 CHAIRMAN DEMIENTIEFF: Yes.

47

48 MR. WILSON: But we treated Mr. Edwards, I
49 thought it was a suggestion as if it was a motion, I --
50 yeah, and then Judy seconded it but I just wanted to make

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1 sure we did have a motion on the floor.

2

3 CHAIRMAN DEMIENTIEFF: No, I didn't.....

4

5 MR. EDWARDS: I didn't make it as a motion.

6

7 CHAIRMAN DEMIENTIEFF: No, I didn't think
8 so, I was just looking for a place we could add it.

9

10 MR. EDWARDS: I was just throwing it out on
11 the table.

12

13 CHAIRMAN DEMIENTIEFF: I don't think
14 anybody's going to disagree with it, it's the practice.

15

16 MR. ELMER ARMSTRONG: Mr. Chairman, Elmer
17 Armstrong here. I just want to go back to Willie's comment
18 on who would -- when you said who would make the first
19 complaint. You know, our people, our elders have control
20 in the villages in some situations in the traditional way.
21 I'd like to give you an example, I'm originally from
22 Buckland. Buckland, Alaska. When we hunt beluga in the
23 springtime, a guy with this hunting crew got caught taking
24 the beluga away from those that were following a beluga, I
25 want to give you this example because this could happen.
26 When we came back to the beach, two elders, the first thing
27 that they did, nobody told them, two elders went over to
28 that boat captain and says, you cannot take that beluga
29 away from that person that follows that beluga. We can
30 take this beluga away from you and give it back to the
31 person that hunted it. And our traditional way, our
32 Natives, our elders, they're not lax in controlling these
33 kind of traditional ways. And I know that our young people
34 all over Alaska and elsewhere, they like to have their own
35 way but I'm pretty sure that our elders would have some
36 kind of control if there is other regulations that put in
37 their cultural way. But I hope that that wouldn't happen.

38

39 Now, one other thing that I wanted to speak
40 about was that I lived in Selawik for four years in the
41 past for duty and I know exactly what I'm talking about
42 when I talk -- we're speaking about Selawik, about the
43 sloughs, slow moving streams and the lakes that are dammed
44 by beavers. Once a dam is set in the lake, the mouth of
45 the stream, there's no -- the water is -- there's no
46 movement, so that's why I would think that we need to do
47 something.

48

49 And one recommendation or whatever, you can
50 talk about it probably later, to the Board here, that I

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1 think the biology, when we speak about our Native cultural
2 ways and make these kind of recommendations, Staff
3 recommendations, that the biology should be -- I mean we
4 need to -- I think we need to hire our own people to be
5 with the biology. Sometimes I think -- I've seen myself,
6 that biology go out there and look around and just put down
7 in his note about what he sees, that's why I would like to
8 -- our elders have been talking about this that
9 recommendations should come from our people.

10

11 Thank you.

12

13 CHAIRMAN DEMIENTIEFF: Thank you. Gary,
14 you have something.

15

16 MR. EDWARDS: All right, since I didn't
17 make a motion last time, I guess I would move that the
18 Board accept the recommendation of the Regional Advisory
19 Council with the addition or modification of language and
20 maybe that could actually be worked up best where it could
21 be placed, but the language says, to the effect that the
22 nets will be checked at least once in any 24 hour period,
23 basically, and can be checked more than once, but it's in a
24 24 hour period, not every 24 hours. We don't expect
25 somebody to go out there at 2:00 in the morning and then
26 2:00 the next morning but as long as it's within that. The
27 best location for that, I just added it at the end because
28 this is the period that we were talking about, this time
29 frame, and then as part of the conditions of that time
30 frame, that the nets then will be checked at least once
31 within any 24 hour period.

32

33 CHAIRMAN DEMIENTIEFF: Thank you. Do we
34 have a second?

35

36 MS. GOTTLIEB: I'll second it.

37

38 CHAIRMAN DEMIENTIEFF: Okay. I want to
39 call on the State here. I'm not sure where we are
40 regulatory wise with the State, if that raises some
41 conflicts or anything so I'm just going to call on Polly
42 before we go ahead.

43

44 MS. WHEELER: Yeah, thank you, Mr. Chair.
45 We have worked on this proposal and we hope to continue
46 working with the RAC and with the Federal side of things.
47 But I guess we do need to put on the record that we do have
48 some biological concerns over the proposal as amended. So
49 just to have on the record.

50

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1 CHAIRMAN DEMIENTIEFF: Thank you. Any
2 further discussion. Hearing none, all those in favor of
3 the motion signify by saying aye.

4
5 IN UNISON: Aye.

6
7 CHAIRMAN DEMIENTIEFF: Those opposed, same
8 sign.

9
10 (No opposing votes)

11
12 CHAIRMAN DEMIENTIEFF: Motion carries.

13
14 MR. GOODWIN: Mr. Chairman.

15
16 CHAIRMAN DEMIENTIEFF: Yes.

17
18 MR. GOODWIN: Thank you and the Board for
19 passing this regulation, we appreciate it at home. Thank
20 you.

21
22 CHAIRMAN DEMIENTIEFF: Okay, and we
23 encourage you again to work with the State and the Feds and
24 the RAC to go ahead and fine tune this thing. You know,
25 we're not going to have a problem between now and the next
26 Board meeting but I thank you very much, all your hard
27 work, diligence. And Staff Committee, I apologize if I
28 beat you up a little, no, I don't.

29
30 Okay, let's move on to Southcentral and
31 give the Staff a chance to change.

32
33 (Pause)

34
35 CHAIRMAN DEMIENTIEFF: Okay, we'll go ahead
36 and move on to Proposal 17. Jerry, are you going to be
37 doing the analysis?

38
39 MR. BERG: Yes, thank you, Mr. Chairman.
40 For the record my name is Jerry Berg, I'm the Staff fishery
41 biologist for the Federal Subsistence Office that's going
42 to present the Staff analysis for Proposal 17.

43
44 Mr. Chairman, members of the Board,
45 Regional Advisory Council Chairs, Proposal 17 was submitted
46 by the Native American Rights Fund on behalf of Katie John
47 and the plaintiffs who are participants in the Batzulnetas
48 fishery. The proposal requests five changes to the current
49 Batzulnetas fishery as directed by the decision of the
50 court issued February 14th of this year, and those five

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1 changes are listed on Page 63 of your book. And those five
2 changes that the plaintiffs be allowed -- the five changes
3 requested by the proponent is that the participants in that
4 fishery be allowed to harvest without harvest limits, that
5 they be allowed to harvest chinook salmon, that they be
6 allowed to use rod and reel as a harvest method, that
7 permits be issued by the National Park Service and that
8 National Park Service install and maintain regulatory
9 markers for that fishery.

10
11 The fishery, the Batzulnetas fishing site
12 is in the upper Copper River drainage and it is within the
13 Wrangell-St. Elias National Park, it's actually within the
14 Park and not the Preserve and so that has some effect on
15 who qualifies for C&T under Park Service regulations. Only
16 those individuals or those resident zone communities who
17 are eligible for Wrangell-St. Elias National Park would
18 qualify or those individuals with 1344 permits would be
19 eligible under Park Service regulations. But there's a
20 proposal following this one that will more specifically
21 address the C&T determination for this fishery.

22
23 But just to show you on the map of where
24 the fishery does take place inside the Park boundary, which
25 is the purple area on your map there.

26
27 There are over 124 sockeye salmon stocks
28 identified in the Copper River drainage and two of those
29 stocks enter Tanada Creek, there's one stock that spawns
30 around the perimeter of Tanada Lake and one that spawns at
31 the outlet of the lake. There's been data collected by
32 weir counts, five different years of weir counts and then
33 aerial escapement surveys have been conducted since 1962.
34 As you can see on the bottom of Page 68, you can see some
35 of that weir data and the aerial survey data summarized for
36 you there and you can see that the -- from the weir data on
37 the top of Page 70, that the escapement has been somewhat
38 variable in Tanada Creek. The 1975 data was, I think the
39 weir was actually blown out in that year from high water
40 but as you can see in '78 there was 2,000 fish -- a little
41 over 2,000 counted through the weir in '78 and then in the
42 last two years that the weir has been in operation, '97 and
43 '98, there's been over 25,000 sockeye counted through the
44 weir. And those were also very high years of sockeye for
45 the entire Copper River drainage so you have to take that
46 into account as well.

47
48 It does appear that there is a healthy
49 sockeye population entering into Tanada Creek. However,
50 the limited data that we do have for the creek does

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1 indicate that the chinook population in Tanada Creek is
2 very low. There's just been single digit counts through
3 the weir in the years that it's been in operation and it's
4 unclear whether those chinook that are entering into Tanada
5 Creek are either strays from other populations in the
6 Copper River drainage or maybe they are, indeed, part of a
7 smaller spawning population in Tanada Creek itself. But
8 either way there's very small numbers entering into the
9 creek.

10
11 With that there's harvest data from the
12 various subsistence fisheries and personal use fisheries
13 downstream of Tanada Creek on Page 73. There's also the
14 harvest information from the Batzulnetas fishery that's
15 been under court order since 1985 and you can see some
16 years there were no permits issued at all and no harvest.
17 There was a low of 16 salmon harvested in 1995 with four
18 permits and then the high in 1994 of four permits issued
19 and 997 fish harvested, and that's -- under the court order
20 there was a thousand fish limit at that time.

21
22 So with that, that's all I have for my
23 Staff analysis. I'd be happy to answer any questions at
24 this time.

25
26 CHAIRMAN DEMIENTIEFF: Public comments.

27
28 MS. WILKINSON: Yes, Mr. Chairman, Board
29 Members, Regional Council Chairmen, my name is Ann
30 Wilkinson and I'm the Southcentral Council coordinator.
31 There are four written comments for this proposal, there
32 were two in opposition and two in support.

33
34 United Fishermen of Alaska opposes this
35 proposal because it implies an unlimited harvest.

36
37 Copper River Prince William Sound Fish and
38 Game Advisory Committee is opposed to Proposal 17. The
39 Committee opposes cutting conservation measures that would
40 protect chinook salmon. They also stated that a more
41 comprehensive study needs to be done prior to relaxing
42 conservation measures.

43
44 The Wrangell-St. Elias National Park
45 Subsistence Resource Commission supports this proposal as
46 written by the Native American Rights Fund.

47
48 The Native American Rights Fund submitted a comment
49 regarding the Staff recommendations. That subsistence
50 fishing permits be issued by the State. The State is not

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1 in compliance with ANILCA and therefore lacks power to
2 implement a rural preference. Permits cannot be issued by
3 the State and must be administered through the National
4 Park Service. Regarding live boxes being required on fish
5 wheels, they continue to oppose the use of live boxes
6 because they are not customary and traditional practices.
7 The Native American Rights Fund also recommends that the
8 proposal be modified to allow for an open season as long as
9 the catch does not exceed the harvest limit.

10

11 And that's all.

12

13 CHAIRMAN DEMIENTIEFF: Thank you.

14 Department comments.

15

16 MS. WHEELER: Thank you, Mr. Chair. The
17 State supports the Federal Inter-Agency Staff
18 recommendation to support the Southcentral Regional
19 Advisory Council recommendation amended to disallow the
20 harvesting of king salmon at Tanada Creek. We support the
21 incidental harvest of king salmon in fish wheels at the
22 confluence, Mr. Chair.

23

24 CHAIRMAN DEMIENTIEFF: Thank you. Public
25 testimony, Gloria Stickwan. Is Gloria here?

26

27 MS. STICKWAN: Mr. Chair, I won't be here
28 this afternoon and you'll probably be doing Southcentral as
29 well this afternoon so I was wondering if I could give
30 public comments on the other proposals right now as well as
31 these.

32

33 CHAIRMAN DEMIENTIEFF: Which ones?

34

35 MS. STICKWAN: 19 and 20, yeah.

36

37 CHAIRMAN DEMIENTIEFF: Okay.

38

39 MS. STICKWAN: My name is Gloria Stickwan
40 and I work for the Copper River Native Association here.
41 I'm here on behalf of CRNA, Copper River Native Association
42 and the village of Tazlina. I'm here of the Raven clan and
43 I reside in Tazlina, Alaska.

44

45 We really think that Federal subsistence
46 management should conduct a new customary and traditional
47 use of the Glennallen subdistrict of the Upper Copper River
48 district in the waters of the Copper River near the mouth
49 of -- and Tanada for Dot Lake, Healy Lake, mainly Healy
50 Lake and Tok and those that live along the highway from the

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1 Canadian border to Dot Lake and from Tok cutoff to Mentasta
2 Pass and as well as the Copper River district, the
3 remainder. Residents of Prince William Sound, we don't
4 approve of the Federal management adopting the customary
5 use determination made by the state of Alaska.

6
7 And Proposal 17, we support it with
8 modification. We think the residents of Mentasta and Dot
9 Lake should have an open season but that was later -- we
10 were later told at our Southcentral meeting that we wanted
11 -- we agreed to have a season date of May 15th to September
12 30th. We think the Glennallen Office of the National Park
13 Service should be able to distribute permits and we are in
14 favor of rod and reel. We don't support live box that's
15 currently in the regulations for this fish -- for any
16 fishing area on the Copper River.

17
18 We believe that there's enough
19 documentation to show that Mentasta and Dot Lake have used
20 these areas and they should be given C&T as well.

21
22 Proposal 19 and 20, we don't support the
23 proposal as it is written. We think the written evidence
24 for customary and traditional use of fish in the Upper
25 Copper River district and the waters of the Copper River
26 near the mouth of Tanada Creek and the remainder of Copper
27 River is not provided. The community must provide written
28 documentation of customary and traditional use of finfish
29 in the Glennallen subdistrict and near the mouth and the
30 remainder of the Copper River district. We don't believe
31 customary and traditional use should be based on inter-
32 marriages, they should show that if they use the areas that
33 they fished in, we believe that the fishing sites where
34 people had their fish wheels should be considered in the
35 customary and traditional use as well. We don't think that
36 customary and traditional use should be adopted, that was
37 done for the game animals so it shouldn't be adopted for
38 finfish, new ones should be done for finfish on the Copper
39 River.

40
41 And our position on the Slana is the same
42 as it was before, we don't -- we are opposed to that.

43
44 CHAIRMAN DEMIENTIEFF: Thank you. Morris
45 Ewan.

46
47 MR. EWAN: My name is Morris Ewan, I'm from
48 the village of Gulkana. I am of the Caribou clan. I serve
49 on the following committees and boards. I serve on the
50 Gulkana Village Council, board member; Ahtna shareholder

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1 Committee for Gulkana; CRNA Copper River Regional
2 Authority, I'm the tribal president; CRNA Subsistence Board
3 member.

4
5 I am here to give public testimony on
6 Proposal 17, harvest limits, methods and means of harvest
7 and season. I support Proposal 17 with the change of
8 fishing season from May 15th to May 30th. I think the
9 village of Mentasta and Dot Lake should be able to harvest
10 salmon in this areas as written in the proposal submitted
11 and be able to use the rod and reel to harvest fish in
12 Wrangell-St. Elias Park and Preserve.

13
14 The village of Mentasta and Dot Lake have
15 customary and traditionally used the area described in the
16 proposal. There is documentation to show that they have
17 used these areas. There won't be that many people even
18 fishing in this area and they would not take too many
19 chinook, steelhead or rainbow trout. Most of this area is
20 private land and it wouldn't affect too many people from
21 putting fish wheels in this area.

22
23 Additionally, I am opposed to subsistence
24 users having the regulation of having the live box, live
25 catch box in the fish wheel. That is not the way we have
26 fished and it's not customary and traditional. This is a
27 regulation -- regulatory imposition on the subsistence
28 users.

29
30 I think the people in the village of
31 Mentasta and Dot Lake want to have Wrangell-St.Elias Park
32 and Preserve distribute and collect fishing permits, that
33 is fine.

34
35 Thank you for listening to me. Sorry, I'm
36 kind of nervous because, I don't know, I can't speak too
37 well in front of public but I hope you understand what I'm
38 talking about because to me it is really important, the
39 subsistence is really important to me because the way
40 things are going with me, I think nowadays that life is
41 getting so rough that we're going to have to be going back
42 to our old ways of living away.

43
44 Thank you.

45
46 CHAIRMAN DEMIENTIEFF: Thank you. Regional
47 Council recommendation.

48
49 MR. LOHSE: We're on No. 17?

50

00176

1 CHAIRMAN DEMIENTIEFF: Right.

2
3 MR. LOHSE: Thank you, Mr. Chair. The
4 Regional Council found overwhelming evidence to support
5 Proposal 17. We recognize that this is a traditional
6 fishery and it will be taking place by traditional
7 participants. We did go through the C&T later and we
8 modified it to limit the people who are allowed to fish in
9 this fishery, if I remember right, the residents of
10 Mentasta and Dot Lake and we'll find that when we get to
11 Proposal 19 and 20.

12
13 We also recognize that the live boxes are a
14 non-traditional addition to a fish wheel. And we also
15 discussed the king salmon thing quite extensively, the fact
16 that there are some king salmon that get into Tanada Creek.
17 It's a clear creek, they can be seen and they can be
18 avoided, they're not there very often. We didn't see any
19 reason to put a restriction on the king salmon in Tanada
20 Creek because everybody that's going to be involved in the
21 fishery recognizes that they are in short supply. So
22 that's where we left it at that.

23
24 The Council went along very strongly with
25 the idea that the permit system could be run through the
26 National Park Service also.

27
28 CHAIRMAN DEMIENTIEFF: Thank you. Staff
29 Committee recommendation.

30
31 MS. HILDEBRAND: Mr. Chairman, Staff
32 Committee recommended adopting the proposal to establish a
33 sockeye subsistence fishery by Federal permit that's
34 recommended by the Southcentral Regional Advisory Council
35 but to modify the Council's recommendation by prohibiting
36 the take of chinook on Tanada Creek.

37
38 The justification was that while the
39 sockeye population was healthy there is concern over the --
40 conservation concern, biological concerns over the
41 population of chinook and the Batzulnetas fishery occurs on
42 private lands belonging to the residents of Mentasta Lake
43 and Dot Lake.

44
45 CHAIRMAN DEMIENTIEFF: Thank you.
46 Discussion.

47
48 MS. GOTTLIEB: Mr. Chairman.

49
50 CHAIRMAN DEMIENTIEFF: Judy.

00177

1 MS. GOTTLIEB: I think this is an excellent
2 example of how the Regional Advisory, the SRC, the public
3 and Park Service and OSM Staff worked really well together.
4 There's been a lot of discussion since the original
5 proposal and I think we're going to end up with a really
6 good solution here. I would be prepared to make a motion
7 that includes some of the testimony we heard today as well
8 as from the Staff Committee.

9
10 CHAIRMAN DEMIENTIEFF: Thank you. Further
11 discussion. Go ahead, Judy.

12
13 MS. GOTTLIEB: Thank you, Mr. Chairman. I
14 would move to adopt the proposal as modified by the Staff
15 Committee, however, have a couple other modifications to go
16 there. Modification would retain all the elements of the
17 original proposal except for a couple of items that I'll
18 mention in a minute.

19
20 Consistent with the original proposal, the
21 recommendation of the Southcentral Regional Advisory
22 Council, adoption of this motion would permit fishing at
23 Batzulnetas seven days a week between the dates of and I
24 think we should consider Mr. Ewan's statement of May 15th
25 and September 30th. Adoption of this motion would also
26 remove the court ordered harvest limits of a thousand
27 sockeye salmon per season and 250 per week. Remove the
28 court order requirement for weekly catch reporting to the
29 Cordova office of the Alaska Department of Fish and Game.
30 Establish that the National Park Service will place and
31 maintain regulatory markers identifying open waters covered
32 by this regulation. Would establish the National Park
33 Service to issue the subsistence permits for this fishery
34 and that completed permits would be returned by September
35 30th of each year to the Slana office which would be most
36 convenient. Permit the use of fish wheels and dipnets on
37 the Copper River and permit the use of dipnets, rod and
38 reel and spears in Tanada Creek and remove the court order
39 requirement that fish wheels must be equipped with a live
40 box or monitored at all times. And that chinook salmon
41 must be released into the water unharmed.

42
43 Now, consistent with the Staff Committee
44 recommendation, but contrary to the original proposal and
45 the RAC recommendation, adoption of this recommendation
46 would add rod and reel as an allowable method in the Copper
47 River. While this was not requested by the proposer it
48 seems to make sense to add this to the regulations that the
49 Board has generally added this rod and reel to allow
50 subsistence methods in the past.

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1 Add a restriction that chinook salmon may
2 not be taken within Tanada Creek but may be retained if
3 taken in the fish wheel in the Copper River. This
4 requirement is less restrictive than the court ordered
5 requirement for a live box that has governed the fishery
6 for many years but still provides some protection to
7 chinook salmon stocks in Tanada Creek. Although the
8 information is very limited, it appears that very few
9 chinook salmon return to Tanada Creek. Weir counts there
10 in 1979, 1997 and 1998 documented less than 10 per year.
11 It's unclear whether those fish are stray salmon from
12 another spawning population or remnants of a once larger
13 spawning population in Tanada Creek. At this time we
14 believe it would violate recognized principles of fishery
15 conservation to permit harvest of those fish in Tanada
16 Creek.

17
18 We do currently have a weir project
19 underway and although high water has prevented any data
20 collection from this last summer but we will continue that
21 project using new technology for the next two years and
22 hope to learn more about the chinook in that system.

23
24 And lastly, on the Staff Committee
25 recommendation, parentheses C at the top of Page 59, we
26 would want to make one slight modification at the end of
27 that sentence so that this wouldn't have to come in front
28 of the Board every year, we would like the second sentence
29 to read, the completed subsistence permits for this fishery
30 must be returned to the Slana NPS office no later than
31 September 30th of the year in which they were issued,
32 instead of saying 2001.

33
34 Thank you.

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

38
39 MR. WILSON: Second.

40
41 CHAIRMAN DEMIENTIEFF: Discussion.

42
43 MR. EDWARDS: Judy, I'm a little unclear
44 exactly how -- what you added and what was already there.
45 I don't know if you could summarize it and then I guess I'd
46 like to hear the Council's response to that.

47
48 MS. GOTTLIEB: Sure, I can go over that.
49 If you look at the Staff Committee recommendation on Page
50 58 or 59. For one thing we may want to look at the dates

00179

1 again under C for the action fishing, we have June 1st to
2 September 1 but what was recommended today in public
3 testimony we look at May 15th to September 30th. And then
4 I guess one amendment to what I just said about when we
5 would expect permits to come back, we wouldn't expect
6 permits to come back if we extend the season to September
7 30th, so October 15th might be a better date to insert
8 there.

9
10 We are permitting the use of fish wheels
11 and dipnets and we are eliminating the need for a live box.

12
13 MR. EDWARDS: Do we need to specifically
14 spell out that the live box is being eliminated?

15
16 MS. GOTTLIEB: Yes.

17
18 MR. EDWARDS: Okay.

19
20 CHAIRMAN DEMIENTIEFF: Go ahead, Judy.

21
22 MS. GOTTLIEB: I guess the only significant
23 change between what the Regional Advisory Council had said
24 and Staff Committee and we're recommending is the Tanada
25 Creek aspect of it and chinook salmon.

26
27 CHAIRMAN DEMIENTIEFF: Bill, you had a
28 comment?

29
30 MR. THOMAS: I really like everything I've
31 heard Ms. Gottlieb say in this. Just for my own
32 clarification, I was wondering how the motion would read.
33 I have no objection to anything I heard, it's just not
34 clear to me when it comes to that part of the management
35 and how does the motion read to the effect of subsequent
36 following action.

37
38 Thank you, Mr. Chair.

39
40 CHAIRMAN DEMIENTIEFF: I think as Judy
41 explained, the only significant difference between her
42 language and the language of the Regional Council is that
43 there will be no chinook fishing in Tanada Creek; is that
44 correct? And the reason is is that even though there's a
45 weir project under way, due to high waters they weren't
46 able to get any information on chinooks in that creek but
47 it's funded for the next two years.

48
49 MR. THOMAS: Thank you, Mr. Chairman. So
50 the motion will be almost verbatim of what's in our packet?

00180

1 CHAIRMAN DEMIENTIEFF: With that
2 correction; is that correct?

3
4 MR. THOMAS: The rest of it is
5 justification and explanation, but the motion itself -- the
6 language in the motion, I'm trying to separate the two.

7
8 MS. GOTTLIEB: If I may clarify. I move to
9 adopt the Staff Committee recommendation with the exception
10 under Item C of the season, to change that to May 15th to
11 September 30th, and to change the language also under C,
12 the permits must be returned to the Slana NPS office no
13 later than October 15th of the year in which they were
14 issued.

15 MR. THOMAS: Thank you, Mr. Chairman. That
16 is a very strong motion. Thank you very much, thank you
17 for the clarification.

18
19 CHAIRMAN DEMIENTIEFF: Further discussion
20 on the motion.

21
22 MR. EWAN: Mr. Chair.

23
24 CHAIRMAN DEMIENTIEFF: Yes.

25
26 MR. EWAN: Right here, it's me again Mitch.
27 I want to speak again on that live catch box. I'd like to
28 ask you how do you put a live box -- or a catch box in a
29 fish wheel and then second, it would create a hardship on
30 my people to put a live catch box in a fish wheel. Because
31 the way they, Mitch, you know how we put fish away in the
32 river, and putting a live catch box in there would create a
33 hardship on my people. They'd have to use a crane to put
34 the fish wheel in there.

35
36 CHAIRMAN DEMIENTIEFF: Morris, the time for
37 public testimony has already passed. But in answer to that
38 question, it's been deleted anyway, so.....

39
40 MR. EWAN: Okay, thank you.

41
42 CHAIRMAN DEMIENTIEFF: Further discussion.
43 Ralph, you had something.

44
45 MR. LOHSE: Mr. Chair, then if I understand
46 right, what we're taking is we're taking -- salmon may be
47 taken in the vicinity of the former Native village of
48 Batzulnetas seven days per week from June 1 -- from May
49 15th to September 30th, salmon may only be taken in the
50 waters of the Copper River between Tanada Creek and

00181

1 approximately one-half mile downstream from the mouth and
2 in Tanada Creek, National Park Service regulatory markers
3 identifying the open waters of the creek. Fish wheels and
4 dipnets, rods and reels may be used on the Copper River and
5 only dipnets, rods and reels and spears in Tanada Creek.
6 The completed subsistence permits for this fishery will be
7 returned to the Glennallen office of the National Park
8 Service no later than October 15th.

9
10 That would go along with what the Regional
11 Council asked for. I'm sure they will not complain about
12 extending, you know, the length of the season or making a
13 later date for turning in the permits, and I don't see
14 where the addition of rods and reels in the Copper River
15 will add any hardship either.

16
17 The question I have, if that's the -- if
18 that is the motion, then where did your section on not
19 allowing chinook salmon to be kept in Tanada Creek come
20 into the motion?

21
22 CHAIRMAN DEMIENTIEFF: You used the vehicle
23 of the Staff Committee report, the Staff Committee
24 recommendation.

25
26 MR. LOHSE: Oh, the Staff Committee report.

27
28 CHAIRMAN DEMIENTIEFF: Staff Committee
29 recommendation.

30
31 MR. LOHSE: Okay.

32
33 CHAIRMAN DEMIENTIEFF: Is that correct,
34 Judy?

35
36 MS. GOTTLIEB: That's correct.

37
38 MR. LOHSE: That would probably be the only
39 thing that the Regional Council would object to. I guess
40 they figured that the people involved, since it is
41 basically only two or three families and on private land
42 would probably not be taking any king salmon out of Tanada
43 Creek anyhow. And that would probably be the only part of
44 that motion to which the Council would object.

45
46 Thank you.

47
48 CHAIRMAN DEMIENTIEFF: Yeah, and I think,
49 Ralph, just make sure that when you do carry that message
50 back that they understand that we tried to get a weir on it

00182

1 this year, had too high water, we've got it funded for two
2 years and maybe we can learn a little bit more about it and
3 revisit the issue.

4

5 MR. LOHSE: Thank you, Mr. Chair.

6

7 CHAIRMAN DEMIENTIEFF: Further discussion.

8 Hearing none, all those in favor signify by saying aye.

9

10 IN UNISON: Aye.

11

12 CHAIRMAN DEMIENTIEFF: Those opposed, same
13 sign.

14

15 (No opposing votes)

16

17 CHAIRMAN DEMIENTIEFF: Thank you. Proposal

18 19 and 20. Gerald, are you on line?

19

20 MR. NICHOLIA: Yeah.

21

22 CHAIRMAN DEMIENTIEFF: Okay, good. We just

23 wanted to note for the record that you were on line. Go

24 ahead and do the analysis.

25

26 MR. SHERROD: Thank you, Mr. Chair.

27 Proposal 19 and 20 were lumped together for analytical

28 purposes. There are a couple of distinctions between the

29 two and those should be highlighted.

30

31 Proposal 19 basically dealt with the Upper
32 Tanana River communities but also added those households
33 that reside between established communities requesting to
34 have a C&T determination. As some of you know, I would say
35 from Tanacross to Tok it's hard to know when Tanacross
36 stops and Tok commences and what are the households in
37 between. Proposal 19 also dealt with the entire Copper
38 River north of the Chitina district, including Tanada Creek
39 which we commonly refer to as the Batzulnetas fishery.

40

41 Proposal 20 dealt with the Upper Tanana
42 River communities and also included the Upper Tanana
43 Athabascan community of Healy Lake which is farther down
44 river than Proposal 19 dealt with. Proposal 20 did not
45 deal with the Batzulnetas fishery.

46

47 All of the waters of the Copper River area
48 are within Federal jurisdiction, either included in the
49 Park Service administered properties or those of the U.S.
50 Forest Service. Currently, the C&T that was adopted by the

00183

1 Federal program in its regulations lumped the Glennallen
2 subdistrict as Prince William Sound broke it down into the
3 Glennallen subdistrict including the Tanada Creek and the
4 remainder and the residents of Prince William Sound area
5 were included in that determination.

6
7 Within this analysis I also looked at the
8 portion of the Nabesna Road that lies outside of the Copper
9 River drainage and falls into the Tanana River drainage
10 because it's unclear whether they are within or without of
11 the existing Copper River area. It's important to note
12 that all of the communities addressed in this proposal have
13 been recognized as having a subsistence use of some
14 resource some place which covers many of the eight factors.
15 Additionally, all communities addressed in this proposal
16 have a C&T -- have a customary and traditional use for some
17 resource within the Copper River drainage area.
18 Additionally, prior to 1984 based on a Board of Fisheries
19 determination the communities in question and the
20 individual households outside of the existing communities
21 had a positive C&T for salmon in the Glennallen
22 subdistrict. But because of legal suits filed that year
23 they were dropped and the C&T basically disappeared and
24 they were never incorporated again.

25
26 There is substantial harvest data that
27 documents the fact that these communities had historically
28 and traditionally harvested salmon in this area. When
29 Lieutenant Allen, the first western explorer reached the
30 Batzulnetas area there were Upper Tanana Athabascans,
31 people from the area in question fishing with the Ahtna at
32 this site.

33
34 Okay, so I guess we have documentation of
35 harvest over a long-standing period in this area. And I
36 will say, there are some differences in the different
37 Council recommendations, but if there are questions trying
38 to figure out the difference I'd be glad to offer them at
39 that time.

40
41 CHAIRMAN DEMIENTIEFF: Thank you, very
42 much. Written comments.

43
44 MS. WILKINSON: There was one written
45 comment from the Wrangell-St. Elias National Park
46 Subsistence Resource Commission.

47
48 They support this proposal with the
49 modification made by the Southcentral Regional Council to
50 provide a positive customary and traditional use

00184

1 determination for the Batzulnetas fishery. They do not
2 support giving customary and traditional determination to
3 those living along the Alaska Highway. For the Batzulnetas
4 fishery, they agree that only residents of Mentasta Lake
5 and Dot Lake should have customary and traditional use
6 because the people who own the land along the creek are
7 from those two villages.

8
9 They noted that Tanada Creek is not in the
10 Glennallen subdistrict so the water's description needs to
11 be changed to reflect that. They also request the Office
12 of Subsistence Management to conduct a systematic,
13 customary and traditional use study by community of the use
14 of finfish species in the Copper River by local rural
15 residents and support adding Healy Lake because of a very
16 strong connection between Healy Lake and several resident
17 zone communities in the Park.

18
19 Thank you.

20
21 CHAIRMAN DEMIENTIEFF: Thank you very much.
22 Department comments.

23
24 MS. WHEELER: Thank you, Mr. Chair. The
25 State supports the Federal Inter-Agency Staff
26 recommendation, Mr. Chair.

27
28 CHAIRMAN DEMIENTIEFF: Thank you. Request
29 for public testimony. Donald Johns.

30
31 MR. JOHNS: Thank you, Mr. Chairman.
32 Council and Staff. My name is Donald Johns. I am from the
33 village of UTI-KAAH and it's also known as Copper Center.
34 I am of the Caribou clan. I serve on different committees
35 like the Ahtna Board of Directors and I'm also right now
36 the president of Uti-Kaah Tribal Council, Native Village of
37 Uti-Kaah.

38
39 I'm here to give public testimony on
40 Proposal 19 and 20, customary and traditional use
41 determination. Proposal 19 and 20 customary and
42 traditional use of the Glennallen subdistrict of the Upper
43 Copper River district and the waters of the Copper River
44 near the mouth of -- and in the Tanada Creek or Dot Lake,
45 Healy Lake, Northway, Tanacross, Tetlin, Tok and those
46 along the Alaska Highway, from Canada border to Dot Lake
47 along the Tok cutoff of Tok to Mentasta Pass. Copper River
48 district remainder, residents of Prince William Sound area.

49
50 I do not support Proposal 19 and 20 as they

00185

1 are written. There isn't enough written evidence for
2 customary and traditional use of finfish in the Upper
3 Copper district, and the waters of the Copper River near
4 the mouth of and in Tanada Creek and in the remainder of
5 Copper River district. The communities must provide
6 written documentation of customary and traditional use of
7 finfish in Glennallen district, in the Upper Copper River
8 district and in the waters of the Copper River and in
9 Tanada Creek and in the remainder of the Copper River
10 district. Customary and traditional use should not include
11 any relations due to marriage of people. The adoption of
12 customary and traditional use of land-based animals that
13 are adopted by the Federal Subsistence Board should not be
14 adopted for C&T for finfish in the Copper River. I think
15 that customary and traditional use fishing sites used by
16 the subsistence users should be considered in the analysis
17 of C&T determination.

18
19 Again, I would like to say that finfish
20 species should be determined separately when making
21 customary and traditional use determinations. Thank you.

22
23 And now, you know, what we're trying to get
24 at, we're talking about a small area and putting this many
25 people in that one area where chinooks can't be fished.
26 And Healy is quite a ways from there. And I don't feel
27 that Healy Lake should be included. Also residents of
28 Prince William Sound. I'm not really sure if they ever use
29 this fish, I haven't known or heard of them using the fish
30 up in that area. I really stress the fact that we need
31 more studies, C&T studies for our area for fish, mainly
32 because of the usage of that area. We have a lot of
33 problems in that area from people coming in from all over,
34 all over from Anchorage, Fairbanks using, not just this
35 area I'm speaking but the whole Copper River from Chitina
36 bridge on up to Tanada Creek. And I stress the fact that
37 we do need studies and I hope you consider this.

38
39 Thank you, very much.

40
41 CHAIRMAN DEMIENTIEFF: Thank you, very
42 much. Regional Council recommendation.

43
44 MR. LOHSE: Mr. Chair. The Regional
45 Council also recognized that the Batzulnetas did not fit
46 into the Glennallen subdistrict of the Upper Copper River
47 district and so we modified the C&T for the Glennallen
48 district of the Upper Copper River -- for the Glennallen
49 subdistrict of the Upper Copper River district, we said,
50 salmon residents of Prince William Sound area, residents of

00186

1 Dot Lake, Northway, Tanacross, Tetlin, Tok and along the
2 Tok cutoff of Tok to Mentasta Pass. We did not include the
3 residents along the Alaskan Highway, and we did not include
4 Healy Lake as we didn't feel that we had sufficient
5 evidence for them. Then we added another subset to that
6 and we said, and the waters of the Copper River between the
7 ADF&G regulatory marker that's located near the mouth of
8 Tanada Creek, that would be the Batzulnetas fishery. At
9 approximately one-half mile downstream from that mouth and
10 in Tanada Creek between the ADF&G regulatory markers
11 identifying the open waters of the creek. Salmon,
12 residents of Mentasta Lake and Dot Lake only.

13
14 CHAIRMAN DEMIENTIEFF: Thank you, Ralph.
15 Staff Committee recommendation.

16
17 MS. HILDEBRAND: Thank you, Mr. Chairman.
18 Staff Committee recommended adopting the proposal as
19 recommended and modified by the Eastern Interior Regional
20 Advisory Council to include residents requested in the
21 proposal and adding residents of Healy Lake contrary to the
22 recommendations of the Southcentral Regional Advisory
23 Council to reject those residents and residents along the
24 highway.

25
26 The justification is that history, public
27 testimony, data and past regulatory efforts support the
28 inclusion of individuals from Healy Lake and those along
29 the highway system for subsistence uses of fish. Residents
30 of the Nabesna Road are geographically and economically and
31 socially linked to Slana and the Copper River area.
32 Residents of the Upper Tanana River districts have positive
33 C&T determinations for other wildlife species in the area.
34 Access and use of the Batzulnetas fishery is traditionally
35 limited to land owned by residents of Mentasta Lake and Dot
36 Lake who are the sole users of this fishery.

37
38 CHAIRMAN DEMIENTIEFF: Thank you. Gerald
39 did you have comment on this proposal?

40
41 MR. NICHOLIA: No. Vince, I'm still going
42 to stick with what we did in Tanana here.

43
44 CHAIRMAN DEMIENTIEFF: Okay, thank you.
45 Any other discussion. No further discussion. We're ready
46 for a motion then.

47
48 MS. GOTTLIEB: Mr. Chairman.

49
50 CHAIRMAN DEMIENTIEFF: Yes.

00187

1 MS. GOTTLIEB: I guess I do have a couple
2 comments and then I will make a motion. There are some
3 differences between Southcentral and what Eastern Interior
4 have said. I do appreciate CRNA's comments and asking us
5 to do more detailed analysis as we've all said many times
6 we want to be careful, fair and cautious about C&T
7 determinations. I think George said, with good humor but I
8 think it has a ring of truth to it, well, there's C&T for
9 some resources for somewhere for everybody. But I don't
10 quite think that's good enough.

11
12 However, with regard to Proposals 19 and
13 20, it's, therefore with some reluctance that I make the
14 motion we adopt this proposal as modified by the Eastern
15 Interior Regional Advisory Council and supported by Staff
16 Committee. There does seem to be reasonable grounds to add
17 other Tanana villages to the existing C&T determination for
18 the Upper Copper River district. It's difficult to know
19 just how to proceed since the Southcentral and Eastern
20 Interior Councils do not agree exactly on the specific
21 areas to be added.

22
23 In addition, while this proposal only
24 recommends additions to the existing C&T, I question
25 whether that determination which includes all the residents
26 of Prince William Sound area is backed by substantial
27 evidence.

28
29 I do also want to point out one change that
30 the Staff Committee has made and that is that the markers
31 will be NPS, National Park Service regulatory markers which
32 we accept that responsibility.

33
34 I am heartened that both the Councils and
35 the Staff Committee agree on the need for specific C&T
36 finding for the Batzulnetas fishery for residents of
37 Mentasta Lake and Dot Lake, and that recommendation is also
38 included in this motion.

39
40 Thank you.

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

44
45 DR. KESSLER: Second.

46
47 CHAIRMAN DEMIENTIEFF: Discussion. Yes,
48 Ralph.

49
50 MR. LOHSE: Mr. Chair, could I ask for

00188

1 clarification on that? When I read the Eastern Interior
2 Regional Council's recommendation it says the Glennallen
3 subdistrict of the Upper Copper River district and the
4 waters of the Copper River between the ADF&G regulatory
5 markers located near the mouth of Tanada Creek and
6 approximately one-half mile downstream from that mouth in
7 Tanada Creek between ADF&G regulatory markers identifying
8 the open waters of the creek.

9
10 In other words, it lumps the Batzulnetas
11 fishery with the Glennallen subdistrict and then it says,
12 salmon, residents of Prince William Sound, residents of Dot
13 Lake, Healy Lake, Northway, Tanacross, Tetlin, Tok and
14 those individuals that live along the Alaska Highway from
15 the Alaska Canadian border to Dot Lake. So it lumps all of
16 those together with the Batzulnetas fishery. There is no
17 separation like there was in the Staff Committee
18 recommendation or in Southcentral recommendation. And I
19 was just wondering if it was the intention of the -- the
20 inadvertent intention of the maker of that motion to lump
21 those two together and give everybody access to that. Do
22 you have a -- we have a different page here in my book then
23 you have in your book, I'm sorry.

24
25 CHAIRMAN DEMIENTIEFF: Yeah, I'm sorry, we
26 got a corrected page of that. George, do you have anything
27 else that you needed to add to that?

28
29 MR. SHERROD: No, what was originally in
30 the book was in error and we passed out a corrected page
31 and I'm sorry you didn't get one Ralph.

32
33 CHAIRMAN DEMIENTIEFF: Well, hold on a
34 minute and let's see. Does that clarify your question
35 there, Ralph?

36
37 MR. LOHSE: Okay, so this is the motion
38 that's currently being presented?

39
40 CHAIRMAN DEMIENTIEFF: Right.

41
42 MR. LOHSE: Can I take just a minute to
43 look at it?

44
45 CHAIRMAN DEMIENTIEFF: Sure.

46
47 (Pause)

48
49 MR. LOHSE: Thank you. I guess that
50 answers my question.

00189

1 CHAIRMAN DEMIENTIEFF: Okay. Is there any
2 further discussion on the motion. Any further discussion.
3 Hearing none, all those in favor of the motion signify by
4 saying aye.

5
6 IN UNISON: Aye.

7
8 CHAIRMAN DEMIENTIEFF: Those opposed, same
9 sign.

10
11 (No opposing votes)

12
13 CHAIRMAN DEMIENTIEFF: Motion carries. My
14 intent here is to go ahead and complete our work with
15 Southcentral. We have one more request for
16 reconsideration. It looks like most of the world is lined
17 up on this one so we're going to go ahead and take care of
18 it. Who's going to do the analysis? Pat.

19
20 MS. PETRIVELLI: Okay, sorry for the delay.
21 Again, Mr. Chair, the Federal Subsistence Board, the
22 Regional Advisory Council Chairmen, my name is Pat
23 Petrivelli and I'm the Staff anthropologist. The RFR 001
24 was submitted by George Midvag and it was a request for a
25 reconsideration of wildlife proposal 0012 that was
26 considered last May. The original request asked to revise
27 the customary and traditional to add Slana and the other
28 residents of Unit 13(C) for black bear, brown bear and goat
29 and the decision at the May meeting was to reject the
30 proposal.

31
32 Mr. Midvag submitted the RFR based -- this
33 is just a map of the area but he said that a letter -- he
34 had received a letter saying that residents of communities
35 that are divided by boundaries and are usually treated as
36 one community and it's the Federal Subsistence Board policy
37 to treat those communities that way so it was the Office of
38 Subsistence Management's determination that Slana did have
39 the determination. Mr. Midvag said the letter wasn't shown
40 to the Board during its deliberations last May but it was
41 footnoted in the analysis and the analysis discussed the
42 long histories of determinations of the separate portions
43 of Slana and the analysis included the various different
44 determinations between Old Slana and New Slana. Old Slana
45 was labeled as the residents in 13(C) and New Slana were
46 residents of Unit 11. They have separate determinations in
47 Unit 11, 12 and 13 for a number of different species.

48
49 In looking at the threshold for undertaking
50 this request for determination, in meeting the criteria, no

00190

1 information was presented by Mr. Midvag but because of the
2 issue of determining the policy of treating communities
3 that are divided by unit boundaries, it was decided to
4 undertake this request and so we looked at the various
5 areas where the customary and traditional determinations
6 were different for the different species and so that's what
7 the analysis looked at on how to implement the policies of
8 having the consistent C&T positive customary and
9 traditional determinations across -- well, for this area.

10
11 We looked, and there was the consensus that
12 Slana is one community even though it's labeled Old Slana
13 and New Slana it really is one community and is considered
14 one community by the residents of the community, by the
15 National Park Service. And so if we're going to follow the
16 policy, then to treat the community the same regardless of
17 what unit it is located in.

18
19 So I think that was the essence of the
20 analysis -- or that was the essence of the analysis. And
21 if there are any questions.

22
23 CHAIRMAN DEMIENTIEFF: Well, just stay
24 there, if they come up we'll get with you.

25
26 MS. PETRIVELLI: Okay.

27
28 CHAIRMAN DEMIENTIEFF: Written public
29 comments.

30
31 MS. WILKINSON: Thank you, Mr. Chairman.
32 There are two written comments submitted.

33
34 The Wrangell-St. Elias National Park
35 Subsistence Resource Commission supports the
36 recommendations of the Southcentral Regional Council not to
37 split the communities of Slana.

38
39 Mr. Midvag submitted a comment by mail in
40 which he requested the Board consider the Staff and
41 Southcentral Council recommendations and other arguments
42 made in favor of his request at the Southcentral Council
43 fall meeting. He noted that all other communities in GMU
44 13(C) were included by name. Slana was divided by GMU
45 boundary and that 90 percent of Slana is already included
46 because it's located in GMU's 11 and 12.

47
48 CHAIRMAN DEMIENTIEFF: Thank you.
49 Department comments.

50

00191

1 MS. WHEELER: Thank you, Mr. Chair. The
2 Department supports this request for reconsideration for
3 reasons presented in the Staff analysis. By considering
4 Old Slana and New Slana as a single community for C&T
5 purposes, the Federal Board will be treating Slana in a
6 manner consistent with its handling of other communities
7 that straddle unit or subunit boundaries. This action
8 would also eliminate potential eligibility problems of some
9 Slana residents concerning subsistence uses of Wrangell-St.
10 Elias' National Park, Mr. Chair.

11
12 CHAIRMAN DEMIENTIEFF: Thank you. We have
13 no additional request for public testimony at this time.
14 Regional Council recommendation.

15
16 MR. LOHSE: Mr. Chair.

17
18 CHAIRMAN DEMIENTIEFF: Yes.

19
20 MR. LOHSE: The Southcentral Regional
21 Council supports the Staff recommendation based on the
22 policy not to divide communities when making customary and
23 traditional use determinations.

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

27
28 MS. FOX: Thank you, Mr. Chair. Based --
29 first of all I did want to mention that for the benefit of
30 the Board, the Council Chairs and the public, all parties
31 reviewing this proposal are in agreement. Based upon past
32 actions by the Board in the three areas of the state where
33 communities straddle unit boundary and the recommendation
34 from the Solicitor's office, it is recommended that the Old
35 and New portions of Slana located in Units 11 and 13 be
36 treated as one community. It's recommended that the
37 principle of consistent treatment for all portions of a
38 single community divided by unit boundaries should be
39 followed.

40
41 In reconsideration of Proposal 12,
42 application of this principle to address customary and
43 traditional use determinations for the community of Slana
44 as a whole would result in changes in regulations affecting
45 the use of black bear, brown bear and goats in Units 11,
46 12, and 13.

47
48 With regard to another aspect of the
49 original proposal included -- which included a request for
50 a positive customary and traditional use determination in

00192

1 Unit 11 for goat, black bear and brown bear for other
2 residents of Unit 13(C), it is recommended that action on
3 this aspect of Proposal 12 be denied as no new information
4 was presented by the requester and no further information
5 was gathered from public testimony at the fall meetings of
6 the Southcentral Regional Advisory Council at Mentasta
7 Lake, and of the Eastern Regional Advisory Council at
8 Tanana.

9
10 Thank you, Mr. Chair.

11
12 CHAIRMAN DEMIENTIEFF: Thank you. Gerald,
13 are you still on line?

14
15 MR. NICHOLIA: Yeah.

16
17 CHAIRMAN DEMIENTIEFF: Do you have any
18 comment on this?

19
20 MR. NICHOLIA: Yeah, I still go to support
21 but I know there's some people there that's going to oppose
22 what I say, but it's in the ANILCA that rural residents
23 that request that are rural gets it, and I believe that we
24 -- even though I know there's going to be opposition, I
25 still believe that we still should not split communities.
26 If we do that we're going to start a racial thing again so
27 I still go with what we did here in Tanana.

28
29 CHAIRMAN DEMIENTIEFF: Thank you.
30 Additional discussion.

31
32 MS. GOTTLIEB: Mr. Chairman.

33
34 CHAIRMAN DEMIENTIEFF: Go ahead.

35
36 MS. GOTTLIEB: Certainly the National Park
37 Service does support treating communities as a whole and
38 with that I would like to make a motion that adopts the
39 recommendation of the Southcentral and Eastern Interior
40 Subsistence Regional Advisory Councils, and the effect of
41 those changes are shown in the charts on Pages 99 and 100.

42
43 CHAIRMAN DEMIENTIEFF: Thank you. We have
44 a motion, is there a second?

45
46 MR. EDWARDS: Second.

47
48 CHAIRMAN DEMIENTIEFF: Discussion. Hearing
49 none, all those in favor of the motion, please signify by
50 saying 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 Okay, we will now recess until 1:30. At 1:30 we will take
10 up Proposal No. 27, which we have new information on. Did
11 you make copies of that -- okay, maybe we can get those to
12 the Board members to look at and that's why I'm going to
13 have a long lunch for the Board members to look those over,
14 and then after that we'll do our consent agenda, adopt our
15 consent agenda proposals and then this part of the meeting
16 will be done. Immediately after that the Board will meet
17 in work session and then in executive session, but the
18 public part of this meeting will be done after we complete
19 our work on Proposal 27 and adopt the consent agenda items.
20 So 1:30 we'll reconvene.

21

22 (Off record)

23

24 (On record)

25

26 CHAIRMAN DEMIENTIEFF: We will reconvene
27 the meeting of the Federal Subsistence Board. Pursuant to
28 our tabling motion, at this time we have our legal reviews
29 done, I guess of the Treaty, at least, in front of us, so
30 thus pursuant with our motion we shall return to Proposal
31 No. 27. And with that we'll just go right into Jim and
32 Cal, I guess you guys are going to lead us in this
33 discussion here, go ahead Jim.

34

35 MR. USTAISEWSKI: Thank you, Mr. Chair.
36 I'm Jim Ustaisewski. I'm an attorney with the Office of
37 the General Counsel, Department of Agriculture. And I'd
38 like to start by saying that I've kind of done this on
39 short notice and was kind of lucky, I think in getting a
40 copy of the Treaty off the Internet that I believe has been
41 circulated around. There weren't a lot of copies of it.
42 But hopefully everybody that needs it has it. And I've
43 also had a brief conversation with Bill Hines with the
44 National Fisheries Management Service who's involved with
45 the Pacific Salmon Treaty. So I'm not an expert on this
46 Treaty. I've had this document a little bit longer than
47 you have and I've read it and I'm happy to share with you
48 what I've understood from it, but I have to say I don't
49 know that there's not something else out there that might
50 have some bearing on this I just haven't had time to learn

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1 about. That's it.

2

3

4 I think the basic issue in front of the
5 Board under this proposal, Proposal No. 27, is whether
6 they're going to affect Canada's allocation under this
7 Treaty by the Board's proposal. If there is an effect on
8 the fish that Canada is allocated under the Treaty then it
9 seems to me this Treaty controls and the Board has to
10 follow the Treaty process to get, perhaps, an amendment or
11 some change to the Treaty to allow the Board to have a
12 change. If, instead, however, we're talking about a
13 reallocation of the United States' share, that does not
14 affect Canada's share, it seems to me this Treaty doesn't
15 speak to that.

15

16

17 It's really kind of a question about which
18 of those categories we fall in, whether this is a new
19 fishery that's going to affect Canada's allotment or
20 allocation or instead whether it would be a reallocation of
21 the U.S.'s share.

21

22

23 The part of the Treaty, what you have is an
24 excerpt of that, it's a long document, which I had asked
25 that they copy off the first 14 pages of. It's the last
26 two or three pages of this copy, this excerpt that I think
27 are relevant here. As you see on Page 13, the Treaty turns
28 its attention to the Stikene River and the following page
29 and a half or so deals with the three runs of sockeye, coho
30 and chinook salmon in the Stikene River.

30

31

32 The Treaty's language with respect to the
33 chinook salmon, I think is kind of important maybe an
34 important place to start. There's a provision there on the
35 very last page, Page 14, that states, and this is under
36 small Roman Numeral ii, that the parties agree that new
37 fisheries on the Stikene River, chinook salmon, will not be
38 developed without consent of both parties. So again, if
39 this is a new fishery of chinook, then both parties of the
40 Treaty have to consent to that in order to have it be
41 recognized.

41

42

43 And as I understand currently there is no
44 chinook fishery on the Stikene, the portion of the Stikene
45 that is subject to Federal Subsistence jurisdiction. So
46 since the U.S. take from these waters is zero, it seems to
47 me any new subsistence fishing in the Stikene for chinook
48 would be a new fishery and therefore require the consent of
49 both Canada and the United States.

49

50

50 The other two species, sockeye and coho,

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1 the Treaty doesn't contain that provision. And as I
2 understand it, there are current sockeye and coho fisheries
3 on the Stikene. They're allocated pursuant to this Treaty.
4 So as I said, if what the Board was doing was changing that
5 allocation on the U.S. side, then it seems to me this
6 Treaty doesn't prohibit that. It seems to me this Treaty
7 allows the U.S. to divide up its share of sockeye and coho,
8 however, it deems appropriate. Just how you go about doing
9 that, you know, there are established fisheries that are at
10 play here and it seems that anything the Board were to do
11 should be coordinated with respect to these other
12 fisheries, to be sure that there wasn't some adverse
13 consequence, some result that, you know, was perhaps not
14 intended. But as far as the Treaty is concerned, that's
15 left to the United States to divide up.

16
17 Let me say, too, I'm kind of giving you
18 this fresh off the press, so to speak. If you have any
19 questions I'd be happy to try to answer them. I really
20 didn't have prepared comments on this, you know, kind of
21 giving a legal opinion the way I might on other issues.
22 This is really just my attempt to explain what I read this
23 Treaty to say. So maybe I'll stop there and see if there
24 any questions or how the Board or Chair would like to
25 proceed.

26
27 CHAIRMAN DEMIENTIEFF: I don't know, I
28 guess I'll just ask to see if there's any questions from
29 any of the Board members.

30
31 So as near as we can tell, who does the --
32 it's clearly a State regulation as far as coho and sockeye
33 at this point; is that correct, the permit fishery?

34
35 MR. USTAISEWSKI: Well, the.....

36
37 CHAIRMAN DEMIENTIEFF: Oh, that's for
38 sockeye.

39
40 MR. VINCENT-LANG: We have a sockeye
41 personal use fishery but as we said on the record yesterday
42 there's very few people participating in that fishery. So
43 if you were to create a fishery on those stocks, one would
44 have to consider that a lot of those stocks are headed to
45 Canadian waters. Now, it wouldn't be necessarily a
46 reallocation because you'd be creating basically a new
47 fishery for coho and sockeye within the Stikene River of
48 which portions of each of those stocks would be Canadian-
49 bound. To accommodate that you would have to go out into
50 marine water somehow to deal with getting more fish in to

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1 accommodate the size of that harvest and again, once you're
2 in marine waters there's a mixture of those stocks that's
3 finely-tuned between Canada and the U.S., that would have
4 to be considered when you were trying to make room for that
5 harvest in the Stikene.

6
7 CHAIRMAN DEMIENTIEFF: Do you know what the
8 harvest patterns have been for sockeye in the Stikene, any
9 kind of volumes?

10
11 MR. VINCENT-LANG: In personal use there
12 really hasn't been any. We haven't had very high levels of
13 participation in that personal use fishery within the
14 Stikene itself.

15
16 CHAIRMAN DEMIENTIEFF: So it's clear that
17 probably we could regulate as far as sockeye and coho go
18 without having to indulge in the Treaty process, except for
19 the chinook; is that what basically what you're thinking at
20 this time?

21
22 MR. USTAISEWSKI: To the extent you are
23 reallocating among the existing fisheries, that's correct.
24 And I have to say I don't know what the facts are with
25 respect to the Stikene River, how big the existing
26 fisheries are in the Stikene River, but my reading of this
27 Treaty only pertains to new fisheries that would take away
28 from Canada, it's share under the Treaty.

29
30 CHAIRMAN DEMIENTIEFF: Any other questions
31 or comments.

32
33 MS. GOTTLIEB: Mr. Chairman.

34
35 CHAIRMAN DEMIENTIEFF: Yes.

36
37 MS. GOTTLIEB: I know this is a difficult
38 situation for all of who aren't familiar with this, it's a
39 large document and I'm sure lots of different parts of it
40 can be subject to lots of different interpretations. We
41 were just looking on Page 6, and points five, six and seven
42 seem to have some application here, too. It almost sounds
43 like after the Commission takes action, then regulations
44 can be established and enforced and implemented. So I
45 think we may need to be pretty cautious about taking some
46 action. I'd certainly endorse us taking whatever action it
47 might take to approach the proper representatives of the
48 Commission and start to get familiar with them and make our
49 interests and our users interests known here.

50

00197

1 (Pause)

2

3

4 CHAIRMAN DEMIENTIEFF: Ida.

5

6 MS. HILDEBRAND: Mr. Chairman, I call the
7 Board's attention to Page 9, Article 11, domestic
8 allocation and those first four lines.

9

10 (Pause)

11

12 MR. USTAISEWSKI: Mr. Chair.

13

14 CHAIRMAN DEMIENTIEFF: Yes.

15

16 MR. USTAISEWSKI: Those four lines, that
17 article in the Treaty, basically species that the Treaty
18 does not, per se, preempt other existing law. There was a
19 question yesterday about whether the Treaty would trump or
20 preempt other State or Federal law, like ANILCA, Title VIII
21 for example, good example, this section basically says,
22 we're not interfering with rights under Federal law, which
23 Title VIII provides. Title VIII provides a right under
24 Federal law. So basically this Treaty's saying don't
25 interpret this Treaty in a way that will interfere with the
26 Title VIII subsistence priority and uses.

27

28 CHAIRMAN DEMIENTIEFF: Yes.

29

30 DR. KESSLER: There's one other section of
31 the Treaty that we didn't have access to during our
32 discussion, Mr. Knauer pointed it out to me, that may also
33 have some bearing here. And we just handed it to Mr.
34 Ustaisewski to have a look at and maybe if he can possibly
35 read that to us and offer some advice on that.

36

37 MR. USTAISEWSKI: Sure.

38

39 DR. KESSLER: Thank you.

40

41 MR. USTAISEWSKI: It's in Chapter 7, it's
42 labeled Chapter 7 and I think it's to -- I'm not actually
43 sure which part of the Treaty it's in, but it's labeled
44 Chapter 7, general obligations and it states; with respect
45 to intercepting fisheries not dealt with elsewhere in this
46 annex, unless otherwise agreed, neither party shall
47 initiate new intercepting fisheries nor conduct or redirect
48 fisheries in a manner that intentionally increases
49 intersections. I think this is in Annex 4, which is the
50 last two pages or part of it that I was referring you to.

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1 So let me check that but it may be just
2 basically saying, unless it's set out somewhere else, any
3 new fisheries would have to be approved. And this would be
4 somewhere else where it has been set out.

5
6 CHAIRMAN DEMIENTIEFF: Maybe we should go
7 back, Bill, do you have our motion in front of you to read
8 into the record and put it on the table again here? No.
9 Does anybody?

10
11 DR. KESSLER: I do.

12
13 CHAIRMAN DEMIENTIEFF: Okay, go ahead.

14
15 DR. KESSLER: Thank you, Mr. Chair. The
16 original motion that I had put forward was to approve the
17 motion put forward by the Council conditional on being
18 recognized or affirmed through the Treaty process. And the
19 concerns that, you know, I had that led to that version of
20 the motion was this uncertainty or really lack of
21 understanding of whether we could offer up such a motion if
22 it was, in fact, in violation of the Treaty. So we've been
23 able to fine-tune, understand a little bit now, because we
24 know it would be in violation with respect to chinook. So
25 clearly, I could not put forth a motion that would
26 establish a new fishery for chinook, that's forbidden by
27 the Treaty. But we're still struggling now with the other
28 two species. And again, it's always been the intent to
29 support the Council, I'm just trying to figure out a motion
30 in my own mind that would accomplish that.

31
32 CHAIRMAN DEMIENTIEFF: Well, it's clear
33 we're just scratching the surface in this area, and it's
34 probably not going to be something we're going to be able
35 to proceed with at this particular point.

36
37 But what I'm wondering is, Bill, if you
38 would have time to work with Forest Service, you know, upon
39 your return home and start to carve through this stuff, you
40 know, try to figure out what's applied and what's not so
41 that we're not basically hurting your chances -- or the
42 Council's chances of making this happen. I think probably
43 a motion, as far as I can read, still is a valid motion,
44 subject to the approval, but how to proceed is something I
45 would want a little bit more advice in. And I'm wondering
46 both of Forest Service and of Bill, if you'd be able to
47 work together over the next few weeks to try to sort our
48 way through to what's the best way to proceed forward, you
49 know, with the intent of the motion. And basically -- go
50 ahead, anyway, Bill.

00199

1 MR. THOMAS: Thank you, Mr. Chairman. I
2 want to thank whoever was responsible for getting this
3 information before us. Also I am thankful for the tone and
4 the mood in which everyone is trying to grasp an
5 understanding of this document. It's like any other
6 document, but to answer your question first, yes, I would
7 be happy to work with the Forest Service and I will.

8
9 But going back to the document under Title
10 I, as definitions, Title I, number 2 defines fisheries as a
11 means of activity of harvesting or seeking to harvest
12 salmon. That's easily interpreted. And then it talks
13 about interception, means of harvesting salmon originating
14 in the waters of one party by fisheries of the other party.
15 The one thing it doesn't have in its definition is new
16 fishery, and that's what we're dealing with. And so while
17 it mentions new fisheries in the document, it doesn't have
18 a provision of defining that particular term.

19
20 And I find in going through this document
21 that philosophically it really supports the intent of
22 ANILCA. Probably inadvertently but it does. And I don't
23 think a violation is an unpardonable sin. I would like to
24 encourage the Board to go ahead and move forward some
25 action with this. In the meantime we could still be
26 working with the Forest Service just to see how close we
27 are with what we're doing that will give us a better
28 understanding of what the Commission, dealing with the
29 Treaty's all about.

30
31 But to answer your short question, I'd be
32 delighted to work with the Forest Service but I would like
33 for you to explore and consider the idea of moving forward
34 with something -- to do something here and see what the
35 reaction is from the people involved in the Treatment.

36
37 Thank you, Mr. Chairman.

38
39 CHAIRMAN DEMIENTIEFF: Well, you heard
40 Forest Service's motion then?

41
42 MR. THOMAS: Yes.

43
44 CHAIRMAN DEMIENTIEFF: Would you consider
45 that to be moving forward?

46
47 MR. THOMAS: No.

48
49 CHAIRMAN DEMIENTIEFF: Go ahead.

50

00200

1 DR. KESSLER: Thank you, Mr. Chair. I
2 related the motion that I had made yesterday. In light of
3 information that we've had since then I feel I have to
4 withdraw that motion because it contains an element that
5 pertains to the chinooks that would be illegal. It'd be
6 violation of the Treaty for me to make a motion that would
7 establish a new fishery which the Treaty forbids.

8
9 So to start with I feel I have to withdraw
10 the motion. Maybe we should act on that before I make a
11 new motion.

12
13 CHAIRMAN DEMIENTIEFF: Who seconded that
14 motion, do we have that on record here somewhere? Was that
15 you Judy?

16
17 MS. GOTTLIEB: I may have, yes.

18
19 CHAIRMAN DEMIENTIEFF: Pardon.

20
21 MS. GOTTLIEB: I may have.

22
23 CHAIRMAN DEMIENTIEFF: Do you concur with
24 the withdraw?

25
26 MS. GOTTLIEB: I concur.

27
28 CHAIRMAN DEMIENTIEFF: Okay, we have no
29 motion in front of us at this time then.

30
31 DR. KESSLER: Mr. Chairman.

32
33 CHAIRMAN DEMIENTIEFF: Yes.

34
35 DR. KESSLER: I would offer up a new
36 motion, begrudgingly, I'm afraid but my -- let me explain
37 that motion. It will be to defer the proposal. The reason
38 I feel that I have to put forward that motion is there is
39 just so much lack of clarity here. We do have clearly that
40 the issue of the Treaty is an important one. We have some
41 information about the Treaty but we're trying to interpret
42 pieces of it. I'm certainly not qualified to do that. I
43 think we have legal staff who can help with that but we
44 certainly aren't giving them a time frame that's
45 reasonable, we're asking them to make spot interpretations.
46 There's just too much lack of understanding here, I
47 believe. I really think we have to defer this proposal.

48
49 Again, I say that regretfully. I was
50 hoping to be able to go with it, but in light of all of

00201

1 this uncertainty and need for clarification and
2 understanding, I must put forward that proposal.

3

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

6

7 MR. WILSON: Second.

8

9 MS. GOTTLIEB: I'll second it.

10

11 CHAIRMAN DEMIENTIEFF: Moved and seconded.
12 Okay, towards that end, is it the intent of your motion to
13 proceed on once we get on firm ground?

14

15 DR. KESSLER: Yes. I move that the Board
16 defer Proposal 27. But certainly, I'm no less committed to
17 resolving this. I think that several ideas have been put
18 forward about trying to be proactive, trying to work with
19 the Commission, trying to clarify all the information and
20 to get on with it. So even though I feel we have to defer
21 a decision on this proposal, I do hope that we all share a
22 commitment to move forward toward resolution.

23

24 MR. THOMAS: Mr. Chairman.

25

26 CHAIRMAN DEMIENTIEFF: Yes.

27

28 MR. THOMAS: Thank you, Mr. Chairman. I'm
29 getting more nervous as we go along here. Okay, let's
30 consider something. What is at risk here? Right now,
31 status quo is not proving injurious to anybody. And we're
32 only mandated by Title VIII. .801 says to provide
33 continued access. The Treaty says it does not want to
34 interrupt any existing or practices by tribal users of that
35 resource. And you're falling into a mode that is going to
36 give the Department of Interior cause to look at this
37 process because of the percentage of deferments, the
38 rationale for the deferments is not demonstrating -- it's
39 not demonstrating the good knowledge that is presented to
40 you to move forward. Our job is to satisfy Title VIII, not
41 the Commission's, not the Department's, not anybody else.
42 If they're unhappy with it they'll let us know why and
43 they'll be willing to work with us.

44

45 What would be so wrong in us doing that?
46 Pro-activity, I like that, that's a good word, but why
47 don't we try that? Just because we don't know something
48 doesn't mean to say that nobody knows and if nobody knows
49 we are in deep yogurt. So I'm just uncomfortable with
50 anything that suggests deferring.

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1 Thank you, Mr. Chairman.

2
3 MR. EDWARDS: Mr. Chairman.

4
5 CHAIRMAN DEMIENTIEFF: Yes.

6
7 MR. EDWARDS: I guess I could certainly
8 vote for the proposal as is, but I guess I also would
9 agree, my guess is that -- or I could vote for the motion
10 but my guess if we voted to approve the proposal none of us
11 will go to jail for treason because we violated a Treaty.
12 As somebody said yesterday, my guess is that if we take an
13 action that we don't have authority to do, somebody else
14 will quickly tell us. So maybe Bill is right and it really
15 doesn't -- maybe we're making more out of this than we
16 really need to. Since none of us, no offense, really fully
17 understand whether we can or can't under the Treaty.

18
19 CHAIRMAN DEMIENTIEFF: Well, you know, the
20 thing about it is, if we're on uncertain terms here, okay,
21 and we go into the Commission process and we thoroughly
22 upset the process and it derails the process and prevents
23 us from ever getting the fishery, you know, then we're
24 being a detriment to subsistence utilization, and that's
25 the concern that I have after sleeping on it, you know. We
26 need to know where we are in terms of solid footing. We
27 can't just run out and adopt this proposal, it's getting
28 clearer and clearer to me.

29
30 But on the other hand, it doesn't mean that
31 it's something that I want to defer forever. This is time
32 specific. And what I intend to do, if the Board does adopt
33 the motion to defer then we're going to defer and we're
34 going to set up a process, including the Regional Council,
35 probably led by Agriculture since they're the Federal
36 manager and with some DOI involvement, either through Tom
37 or Carl to get this thing moving to find out where we need
38 to -- what we need to do to get where we need to go, or
39 what is clearly obvious in terms of our ANILCA mandate.

40
41 Now, we jump out there, interrupt the whole
42 Treaty process, alienate the Canadians, we stand to
43 alienate them and not ever get this fishery established if,
44 in fact, Treaty law does provide here. So this is not
45 something that's going to be put off, I mean it's going to
46 be led purely by Bill's energy, you know, and I'm sure the
47 Southeast Regional Council has the energy to put some time
48 into this to get these questions answered so we know
49 clearly where we're standing. And I agree with you, Gary,
50 I'm willing to go with it, I said that yesterday, but then

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1 all of a sudden you realize all these conflicting
2 International Treaties and stuff that may preempt the
3 fishery forever and that's not -- where are we providing a
4 service to our subsistence users in that scenario.

5

6 Ralph.

7

8 MR. LOHSE: Mr. Chair, actually I may be
9 wrong but I see the issue as something different. The
10 issue isn't whether or not the Treaty will allow it, the
11 issue is whether or not these fisheries are justifiable
12 subsistence fisheries and that's a decision you can make
13 even if you don't make a decision to pursue it any farther
14 or set a season or anything like that, but you can decide
15 whether these fisheries are justifiable subsistence
16 fisheries. If they're justifiable subsistence fisheries
17 then you've got impetus for going ahead and approaching the
18 Treaty. If these fisheries are not justifiable subsistence
19 fisheries, then there's no reason to go ahead with the
20 Treaty. But the decision that you're capable of making is
21 whether they're justifiable subsistence fisheries.

22

23 CHAIRMAN DEMIENTIEFF: I think based on our
24 discussion yesterday we pretty much concurred, you know,
25 that is the case, there's no doubt about that. But
26 procedurally again, we go through it and we jinx the whole
27 process then we haven't provided any service to our
28 subsistence users that are affected by that. I don't think
29 there's not one argument that I heard yesterday that says
30 this isn't a justifiable subsistence fishery. It's a
31 revitalization of an old subsistence fishery that was
32 derailed primarily because of concerns beyond the users
33 control.

34

35 MS. GOTTLIEB: Mr. Chairman.

36

37 CHAIRMAN DEMIENTIEFF: Yes.

38

39 MS. GOTTLIEB: I certainly agree with your
40 thoughts on asking Staff, as well as Regional Advisory
41 Council to find out more information for us and perhaps you
42 could add to your direction to them, develop a time table
43 pretty soon for us of when we could expect future
44 information and just to find out the Commission's time
45 table, too, so that we might know when the Board could
46 interact better with the Commission or if that's possible.

47

48 CHAIRMAN DEMIENTIEFF: As far as that goes,
49 Bill, you know, I'm more than willing to schedule a special
50 meeting to do this, you know, once you get the preliminary

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1 work done that needs doing at this point. It's not
2 something that I want to delay until next year, it's not
3 something I want to delay until next spring. When we get
4 clear footing under us so we know how we can proceed
5 without jeopardizing the fishery, then I'm more than
6 willing to schedule a special meeting just to deal with
7 this issue. It's important.

8

9 MR. THOMAS: Mr. Chairman.

10

11 CHAIRMAN DEMIENTIEFF: Bill.

12

13 MR. THOMAS: I appreciate your guidance,
14 your wisdom, commitment, conscious, everything regarding
15 this particular issue and we'll be happy to do that. What
16 I would like to have in order to proceed is a hard copy of
17 your wishes so that we have a focus in what we're doing to
18 come to some understanding of what the ambitions of the
19 Treaty people are.

20

21 CHAIRMAN DEMIENTIEFF: You know, clearly we
22 just want you to review the legal standing, what's at play
23 here? Is the Treaty at play? And I think that, you know,
24 once we get that, once we get an inkling of that, once the
25 Committee work gets done, if it expedites the process at
26 all I'm willing to write a letter to whoever you folks
27 determine that I need to write a letter to to get this
28 thing moving while the Board process is moving simultaneous
29 with that. Because it's clear that this is a justifiable
30 subsistence fishery, I don't think we have -- like I said,
31 we haven't heard one argument, but how do we get there from
32 here?

33

34 MR. THOMAS: Mr. Chairman, I agree with all
35 that. It's just that what I'm asking, I guess, is a
36 directive from you. Tom can help you craft this up, Tom is
37 kind of a crafty person anyway, so he can help you put this
38 together. But what I need is an initial directive is all
39 and then we'll go from there. And then that will probably
40 lead to further need for more dialogue between us and
41 yourself in this to continue our process.

42

43 Thank you.

44

45 CHAIRMAN DEMIENTIEFF: Well, towards that
46 end then I'll ask Tom to convene both Jim and Keith to help
47 to craft that. Keith.

48

49 MR. GOLTZ: As I understand the dynamics of
50 the fishery down there, it's a mixed stock fishery that is

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1 almost exclusively marine. Since our jurisdiction ends at
2 the mouth of the Stikene River I would suggest we include
3 the State of Alaska in our thoughts on this.

4
5 CHAIRMAN DEMIENTIEFF: This refers to the
6 Stikene River, it doesn't refer to marine water.

7
8 MR. GOLTZ: I think our interest is in the
9 fish and those fish are being taken in marine waters.

10
11 CHAIRMAN DEMIENTIEFF: Stikene River.

12
13 MR. THOMAS: They're taken in freshwater.

14
15 CHAIRMAN DEMIENTIEFF: It's purely a
16 Federal interest.

17
18 MR. GOLTZ: We got to get fish into those
19 waters.

20
21 CHAIRMAN DEMIENTIEFF: There are fish taken
22 in marine water but not under our jurisdiction.

23
24 MR. GOLTZ: But my understanding from
25 yesterday is that the trigger of the Stikene River is in
26 the marine waters in a mixed stock fishery but if I'm wrong
27 on that somebody can tell me.

28
29 MS. WHEELER: Mr. Chair.

30
31 CHAIRMAN DEMIENTIEFF: Go ahead.

32
33 MS. WHEELER: The fish will be coming from
34 marine waters that are fished there, obviously, but the
35 State's prepared to work with -- the State would be
36 interested in and is prepared to work with whomever on this
37 issue.

38
39 MR. THOMAS: I don't know if I can work
40 with the State, Mr. Chair.

41
42 CHAIRMAN DEMIENTIEFF: Well, it's here nor
43 there, okay. Obviously at some point in time we're going
44 to have to when it gets down to, once we get a fishery up
45 and going, but to get there, this is purely a Federal
46 interest at this point in time and that's what we need to
47 do. We need to find out, because this is within the
48 Stikene River. Obviously once we find out what we have to
49 do to get this proposal, you know, up and moving, it's a
50 process internal within our process. Now, ultimately it's

00206

1 going to be expanded, but we have a job to do and we're
2 trying to find out what our job is to do and at this point
3 it doesn't include a State interest at this point.

4
5 That's all I'm saying because it's all
6 within river. Go ahead.

7
8 DR. KESSLER: With respect to our job we'd
9 like to propose the following kind of time line to move
10 ahead with some of this. We feel that prior to the Board's
11 meeting of February 15th, that we could obtain the
12 clarification of the Treaty provisions and requirements
13 pertinent to this issue so try to have that information for
14 you by that meeting. And as far as by the May meeting,
15 we'd like to proceed with getting customary and traditional
16 use determinations. And also develop some recommendations
17 with respect to seasons and harvest limits on the species.

18
19 So with that time line in mind we would
20 move ahead here and not delay.

21
22 CHAIRMAN DEMIENTIEFF: Yeah, that's the
23 whole thing I'm concerned about at this particular point.
24 I want to see us moving forward. So if I could ask Tom,
25 you and Jim and Keith, to work together and then Tom will
26 work with me to coordinate to get our mandate to the
27 Committee and Agriculture will head the Committee. We'll
28 have Bill Thomas from the Regional Council or the Council's
29 designee if they want somebody else and DOI and Tom will
30 work that out with the Staff at our level.

31
32 So we're going to get you a mandate and
33 then we will also get that Committee up and operating as
34 quickly as possible.

35
36 MR. THOMAS: Thank you, Mr. Chairman. I
37 appreciate the opportunity you afforded us for
38 clarification on what we need to have to work with. Thank
39 you very much.

40
41 CHAIRMAN DEMIENTIEFF: Is there any further
42 discussion on the motion? Tom.

43
44 MR. BOYD: For clarity, Mr. Chair, I
45 understand we have generally designated a committee, we've
46 got a time line and I'm a little lost on the letter to who
47 and what because there was several approaches stated.

48
49 CHAIRMAN DEMIENTIEFF: The charge is to the
50 Committee from myself and I'm asking you and Keith and Jim

00207

1 to work together on identifying the various and laws and
2 treaties and what not that we need to have included in the
3 committee's work, and that's what Bill was asking for,
4 okay. So this letter needs to be -- we need to get that to
5 the committee as quickly as possible so they can schedule
6 and begin their work.

7

8 MR. THOMAS: Mr. Chairman, we forgot to
9 identify the Chair and that would be Winnie Kessler.

10

11 CHAIRMAN DEMIENTIEFF: It's Forest Service,
12 I'm not sure, they're going to have to -- that's going to
13 be something internally.

14

15 MR. THOMAS: She's Forest Service so she's
16 the Chair.

17

18 CHAIRMAN DEMIENTIEFF: Well, they're going
19 to have to work that out internally within the Service.
20 Anything else.

21

22 So the motion was simply to defer but the
23 understanding is we'll take this matter up as quickly as
24 the committee gets its work done. Okay, does everybody
25 have that understanding. Discussion. Hearing none, all
26 those in favor signify by saying aye.

27

28 IN UNISON: Aye.

29

30 CHAIRMAN DEMIENTIEFF: Those opposed, same
31 sign.

32

33 (No opposing votes)

34

35 CHAIRMAN DEMIENTIEFF: Motion carries. At
36 this time the Chair will entertain a motion to adopt the
37 unanimous consent agenda being Proposals 21, 24, 26, 28,
38 29, 40, 14, 15, 16, 41, 42, 44, 12, 6, 38, 8, and 9.
39 Again, noting originally 34 was on but of course we all
40 know we took it off. Is there a motion to that effect?

41

42 MS. GOTTLIEB: So moved.

43

44 CHAIRMAN DEMIENTIEFF: Is there a second?

45

46 MR. WILSON: Second.

47

48 MR. EDWARDS: Second.

49

50 DR. KESSLER: Second.

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1 CHAIRMAN DEMIENTIEFF: Discussion. Hearing
2 none, all those in favor of the motion, please signify by
3 saying aye.

4
5 IN UNISON: Aye.

6
7 CHAIRMAN DEMIENTIEFF: Those opposed, same
8 sign.

9
10 (No opposing votes)

11
12 CHAIRMAN DEMIENTIEFF: Motion carries.
13 Anybody got any parting shots here?

14
15 MR. THOMAS: Mr. Chairman.

16
17 MR. EDWARDS: Mr. Chairman.

18
19 CHAIRMAN DEMIENTIEFF: Yes, Bill and then
20 Gary.

21
22 MR. THOMAS: Thank you, Mr. Chairman. I've
23 had the opportunity to speak with Grace regarding the
24 Seward Peninsula. I asked her, I said, how come you guys
25 don't have any proposals and she said we don't have any
26 fish. And then she gave me some background on the
27 abundance of fish historically, and that is non-existent at
28 this time. I would hope that we would find the mechanics
29 in this process to explore the reasons that led to the
30 demise of the fish populations in that area and see what we
31 can do to avoid that from occurring in other systems. I
32 say that because other systems have been identified to be
33 in distress at this time. And I am also wanting to make
34 sure that these sensitive areas in distress are addressed
35 in a supporting productive manner before they reach the
36 point of the fisheries in the Seward Peninsula area. If
37 there's some way we could do that, Mr. Chairman, I'd
38 certainly like to encourage that to happen.

39
40 Thank you very much.

41
42 CHAIRMAN DEMIENTIEFF: Thank you.

43
44 (Pause)

45
46 CHAIRMAN DEMIENTIEFF: Thank you, Bill.

47 Gary.

48
49 MR. EDWARDS: Mr. Chairman, while our RAC
50 Chairs are here, I would like to just spend a few minutes

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1 addressing an issue that was discussed on Monday with the
2 agenda that we covered and that had to do with the
3 discussion around customary trade and us about to embark
4 on, what I view as an overly lengthy process to try to
5 address maybe a more basic issue. I was concerned that
6 there was some misconception or confusion as to about what
7 the issue is.

8
9 From our perspective the issue has really
10 nothing to do with whether a subsistence fish can be either
11 bartered, traded or even sold, the issue has centered
12 around the language being a significant commercial
13 enterprise which is part of our regulations. And what we
14 found last fishing season was that in talking with the U.S.
15 Attorney's Office, the feeling was that because that term
16 is not specifically defined, therefore, if we even observe
17 something taking place, which was viewed as a significant
18 commercial enterprise we would not be able to take any kind
19 of action and prosecute on that. We then thought we might
20 be able to pursue it using the State's authority, State law
21 which prohibits people from buying subsistence caught fish
22 but in an opinion from our Solicitor's office, they did not
23 feel that, in fact, we would be able to use the State's
24 authority in order to do that. So our concern is that the
25 true issue we're trying to deal with is to try to get some
26 definition to what a significant commercial enterprise
27 truly is.

28
29 And I guess from our perspective, we have a
30 desire to move forward more quickly with that than later.
31 My concern is by us looking at the broader issue, maybe the
32 year 2003, before we get regulations. I happened to be
33 going through my latest issue of the Cabela magazine for
34 the Christmas edition and I notice they have Yukon chum
35 salmon, you can send in and get your Yukon chum salmon.
36 Now, whether these are truly Yukon fish or not, I guess I
37 find it a little disturbing that, you know, we had people
38 going without but yet we can turn right around now and
39 somehow, you know, order these fish from Cabela's. So I
40 guess what I would encourage is us to look at a more
41 expeditious process to just simply focus on the one more
42 specific issue and try to come to grips with that through
43 whatever process that we think is appropriate.

44
45 MS. GOTTLIEB: Mr. Chairman.

46
47 CHAIRMAN DEMIENTIEFF: Yes.

48
49 MS. GOTTLIEB: Once again, I want to thank
50 everybody who contributed to the consent agenda. I thank

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1 the Regional Advisory Councils, the State, the Staff.
2 Certainly for the first fish meeting that was a major
3 accomplishment to have so many on the consent agenda. I
4 think it's a really good sign and I want to thank you for
5 leading the meeting.

6
7 CHAIRMAN DEMIENTIEFF: Thank you. Any
8 other parting comments?

9
10 MR. THOMAS: Are we limited, Mr. Chairman?

11
12 CHAIRMAN DEMIENTIEFF: Pardon?

13
14 MR. THOMAS: Are we limited? The reason I
15 ask is I want to respond to Gary's concern. Okay, the
16 points you made are very good. But as Councils to come up
17 with something that you want to see we need to know what
18 you want to see, you know. We can't be sending
19 recommendation after recommendation to have them rejected
20 without knowing why. So we need to know what's going to
21 make you happy in order for us to bring to you language
22 that you'd be happy with with regard to customary trade.

23
24 And with regards to the legalities of
25 selling subsistence caught resources is inconsistent with
26 global practice. We're the only area in the world that
27 prohibits that.

28
29 Thank you, Mr. Chairman.

30
31 CHAIRMAN DEMIENTIEFF: I understand Gary's
32 point of view. It's just whether or not -- I'm not totally
33 convinced it is. I mean we have ways of investigating
34 where the fish came from and I would suggest that that's
35 where we start to see if that is an issue that would affect
36 our time frame or whether we can reasonably go about this
37 thing. If we need to expedite it and we find out that our
38 subsistence caught salmon is entering the commercial
39 market, you know, that makes it a major issue.

40
41 But anyway, point well taken.

42
43 Any other parting shots here.

44
45 MR. O'HARA: Yes, sir.

46
47 CHAIRMAN DEMIENTIEFF: Dan.

48
49 MR. O'HARA: Gary, I think when we come
50 down, I'm pretty sure that Robin will be our representative

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1 at the customary trade task force when you deal with this.
2 And I think we need to, if we're talking about parting
3 here, I need to ask you a question in what we're dealing
4 with and I have three areas here that I need to ask you on.

5
6 The definition of this, when you talk about
7 a substantial amount of commercial use, did you use that
8 term?

9
10 MR. EDWARDS: Well, I believe what our
11 regulation says is that you are allowed to sell subsistence
12 caught fish as long as it doesn't -- it's not a significant
13 commercial enterprise.

14
15 MR. O'HARA: Okay.

16
17 MR. EDWARDS: And the problem is is we have
18 no definition as to what a significant commercial
19 enterprise is. And because of the lack of definition, the
20 U.S. Attorney's Office is unwilling to prosecute any cases
21 that might come under, basically the sale of any
22 commercially [sic] caught fish and we looked at exploring
23 using the State's authority but we're basically told that
24 we could probably not do that.

25
26 So essentially from our perspective and our
27 law enforcement's perspective is we cannot enforce that
28 regulation.

29
30 MR. O'HARA: Okay. I'd like to list three
31 things here, Gary, that I think are something that we need
32 to be looking at when we come to this issue and finally
33 determine what's going to be customary -- amount of
34 customary trade. One is, I guess it's in a form of a
35 question, selling to each other. In other words, someone
36 up at Pedro Bay would like to send me 20 fish and I send
37 them a certain dollar amount for that, you know, say up to
38 the -- we're thinking in terms of maybe three or \$400 is
39 all we would be able to use in the amount of customary
40 trade, period, that's the upper limit. We just kind of
41 have been kicking that little figure around because of the
42 halibut issue.

43
44 The second one is, if someone has some fish
45 in their smokehouse and they decide to sell it to the
46 tourist passing by in your community.

47
48 And the third one, I think, where we're
49 really getting into trouble and where your law enforcement
50 people need to deal with is the issue of you take a load of

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1 fish that has 1,700 pounds in it and you take it out to
2 Alec Brindle and you sell it to him and he processes it and
3 puts it in the can, now, to me that's a commercial
4 enterprise where you're going to go out and take a big
5 amount of fish out, sell it to a processor for a dollar
6 amount versus this trade thing that we do with one another
7 on a very small-scaled basis.

8
9 If I were to make a decision on that issue
10 today, I would have no problem making that issue up to \$400
11 among ourselves or selling to the tourists or at the
12 airport, period, that's the end of it. But not taking a
13 load of fish out in your skiff at Bristol Bay and say, here
14 you go, Chuck Bundrin, Trident, I've got 1,700 pounds of
15 reds here, give me 60 cents a pound. You know, that's
16 customary trade versus salmon permits.

17
18 That's the issue that we're going to deal
19 with in our area and I don't think you're going to find
20 Bristol Bay backing away from that at all. That's just --
21 if you need a parting shot, Mr. Chairman, that would be our
22 thoughts. And then you can throw your tomatoes at me if
23 you want to someplace else.

24
25 Thank you, Mr. Chairman.

26
27 CHAIRMAN DEMIENTIEFF: Anybody else.

28 Ralph.

29
30 MR. LOHSE: Mr. Chairman, Ron and I were
31 talking about some things here, your Cabela advertisement,
32 the only problem with this is it didn't have to come out of
33 the subsistence fishery. I think that they had one or two
34 commercial openers at the mouth of the river this last
35 year, didn't they, before they closed everything down.
36 They didn't have anything at all on chum?

37
38 Okay, then under current law, doesn't it
39 say a significant commercial enterprise and you can sell to
40 the final user but you can't sell to a processor?

41
42 MR. EDWARDS: No, the problem is, I mean
43 under our regs, my understanding is since there's no
44 definition, we've not taken the position that you couldn't
45 necessarily sell to a processor under a small amount. The
46 issue is, what is -- there's no definition of a significant
47 commercial enterprise, whether it's \$400, \$4,000, \$40,000,
48 four million. And since there is no definition by our
49 regulations, U.S. Attorney's Office has told us not to
50 bring them any cases because they will not prosecute.

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1 MR. LOHSE: Well, I was sure I read
2 something that they couldn't be sold to a -- yeah, it says
3 right in there it can't be sold to a processor and it can't
4 be sold to a middle man, direct from the catcher to the
5 user, but you can't -- if this is chum caught salmon and a
6 DNA test would prove that this is salmon is illegal,
7 Cabela's is in violation of the Lacy Act, they're in
8 violation of using fish that's illegal and they can be
9 prosecuted.

10
11 CHAIRMAN DEMIENTIEFF: Okay. We've got a
12 task force that's going to tackle that. But I agree with
13 your point, well taken, Ralph, is that if, just based on
14 that advertisement, it should be looked into. Because if
15 there is things that are going on that should be
16 investigated but we got to be careful not to get in front
17 of the task force.

18
19 Della first, I think and then Polly.

20
21 MS. TRUMBLE: I think in discussing the C&T
22 issue, I know we had talked about all the representatives
23 or at least one representative from each RAC to be a part
24 of this and then through the course of the day, I think two
25 days ago in talking about all the RACs getting together in
26 the early part of February to go through the proposals, at
27 that time each of the RACs will be working on their own
28 regions proposals and we understand also, if I am correct,
29 that we aren't going to be working the whole two days on
30 our own region, and my suggestion would be to consider
31 looking at this as a workshop item with each of the
32 Regional RACs.

33
34 CHAIRMAN DEMIENTIEFF: Polly, you had something?

35
36 MR. WILDE: Mr. Chairman.

37
38 CHAIRMAN DEMIENTIEFF: Hang on one second first,
39 okay, go ahead, and then you're next Harry. Go ahead,
40 Polly.

41
42 MS. WHEELER: Mr. Chair, just for clarification,
43 there actually were some chums taken for commercial
44 purposes this year.

45
46 CHAIRMAN DEMIENTIEFF: There were?

47
48 MS. WHEELER: Yeah, there were. Yeah, not a lot,
49 but there were.

50

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1 CHAIRMAN DEMIENTIEFF: Okay, thank you. Harry.

2

3 MR. WILDE: Mr. Chairman, last month at the AVCP
4 Convention here in Anchorage, there was a newspaper,
5 somebody was selling strips, I don't know where he got all
6 that. There was people talking in the Lower Yukon, if this
7 man get away with selling if it's subsistence fish strips,
8 king salmon strips, we should be able to do it. If this
9 man could get away with it without no problem. And I think
10 some of these things need to be looked on, it's really kind
11 of the things we've been telling some of our younger
12 people, not to do that, selling subsistence catch fish.

13

14 CHAIRMAN DEMIENTIEFF: I think there's some
15 investigators who might be interested in that little clip.
16 Any other parting comments, here?

17

18 If not then -- Willie.

19

20 MR. GOODWIN: Yeah, Mr. Chairman, I just want to
21 thank the Board for taking our issues and having a result
22 that's favorable to us. Thank you very much.

23

24 CHAIRMAN DEMIENTIEFF: Okay. Is that it? Okay,
25 good, then I -- Bill.

26

27 MR. THOMAS: Begging your indulgence, Mr. Chairman.
28 I was thinking, you know, since the intent of ANILCA and
29 the decision on the Katie John case parallel so close, that
30 it would be a gesture that would be appreciated by the
31 family of Katie John if they were to receive some type of
32 acknowledgement from Fish and Wildlife and everybody in the
33 process with regards to the loss of their chief. Thank
34 you, Mr. Chairman.

35

36 CHAIRMAN DEMIENTIEFF: Good point. That's it?
37 Okay, thank you one and all for all your hard work and
38 preparation and the doing and getting us through our first
39 regulatory meeting on the fish side. And we look forward
40 to working with you, hopefully for not very long, and with
41 that we stand adjourned.

42

43 (END OF PROCEEDINGS)

44

* * * * *

00215

C E R T I F I C A T E

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

7 I, Joseph P. Kolasinski, Notary Public in and for the
8 State of Alaska and Owner of Computer Matrix, do hereby
9 certify:

10
11 THAT the foregoing pages numbered 125 through 214 contain
12 a full, true and correct Transcript of the FEDERAL SUBSISTENCE
13 BOARD PUBLIC MEETING, VOLUME II taken electronically by myself
14 on the 6th day of December 2000, beginning at the hour of 8:30
15 o'clock a.m. at the Marriott Hotel, Fairbanks Room, Anchorage,
16 Alaska;

17
18 THAT the transcript is a true and correct transcript
19 requested to be transcribed and thereafter transcribed by under
20 my direction and reduced to print to the best of our knowledge
21 and ability;

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

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26 DATED at Anchorage, Alaska, this 14th day of December
27 2000.

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Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 4/17/04