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FEDERAL SUBSISTENCE BOARD
PUBLIC REGULATORY MEETING

VOLUME II

INTERNATIONAL COAST INN
ANCHORAGE, ALASKA

MAY 9, 2007
8:30 o'clock a.m.

MEMBERS PRESENT:

- Mike Fleagle, Chair
- Gary Edwards U.S. Fish and Wildlife Service
- George Oviatt, Bureau of Land Management
- Judy Gottlieb, National Park Service
- Denny Bschor, U.S. Forest Service
- Charles Bunch, Bureau of Indian Affairs
- Ralph Lohse - Southcentral RAC
- Daniel O'Hara - Bristol Bay RAC
- Commissioner Denby Lloyd, State of Alaska Representative
- Keith Goltz, Solicitor's Office

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P R O C E E D I N G S

(Anchorage, Alaska - 5/9/2007)

(On record)

CHAIRMAN FLEAGLE: We'll at-ease until we get a couple more Board members. I gavelled in a little too quickly.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good morning. The Federal Subsistence Board is back on record. Today is May 9th, and we're in Anchorage.

And before we resume deliberations on proposals, I'm going to open it up for announcements. Pete.

MR. PROBASCO: Thank you, Mr. Chair. I have two announcements. The first one is for the public. If you do plan on testifying, please see Theo over there in the corner. Unfortunately Di called in today ill, so our desk out in the hall won't be manned today.

And the other item is Ken Lord and I were talking yesterday, and this is for the Board members. When we get to the end of our proposals, we will need to have a discussion onto the intent of when these -- this action that you have made and will be making will be in effect. Our understanding is that the intent is to have these regulations in effect for this coming season, and we will need to be on the record to clarify that intent when we get done. So I'll remind you at the end of that.

Mr. Chair, that's it.

CHAIRMAN FLEAGLE: Thank you, Peter.

Other announcements. Board members.

(No comments)

CHAIRMAN FLEAGLE: Staff.

(No comments)

1 CHAIRMAN FLEAGLE: Okay. We now move on
2 to the Kasilof River resident species proposals. And we
3 heard the analysis, and we're down to Board discussion
4 with Council Chairs and State liaison. We went through
5 the whole process of summary, public comments, testimony,
6 recommendations and comments yesterday on the whole
7 Kasilof River drainage as a whole, so at this time it's
8 open for discussion on resident species for the Kasilof
9 River.

10
11 Do we need a little recap maybe of what
12 we're dealing with.

13
14 (No comments)

15
16 CHAIRMAN FLEAGLE: No. Ready for action,
17 discussion, Board members. Okay. Pete says Page 73 is
18 the Council's recommendation if people want to turn there
19 for a starting point.

20
21 MR. BUNCH: Mr. Chairman.

22
23 CHAIRMAN FLEAGLE: Good morning, Charles.

24
25 MR. BUNCH: Good morning. I move that we
26 accept the Southcentral Regional Council proposal for the
27 resident species.

28
29 MS. GOTTLIEB: I'll second it.

30
31 CHAIRMAN FLEAGLE: Great. We've got a
32 motion to accept the Council recommendation and a second.

33
34
35 I'd also like to welcome John Hilsinger
36 for the State Department of Fish and Game at the table.
37 Good morning, John.

38
39 Discussion on the proposal. Would you
40 like to give some supporting statements for your motion
41 there, Charles.

42
43 MR. BUNCH: Yes, I would, Mr. Chairman.
44 This recommendation seems to be a well balanced proposal
45 that has conservation measures in it, and as we were
46 speaking yesterday, it seems to have some control aspects
47 to it, provides a meaningful subsistence opportunity.

48
49 CHAIRMAN FLEAGLE: Pete.
50

1 MR. PROBASCO: Thank you, Mr. Chair. Mr.
2 Bunch, Charlie, in your motion I'm assuming, and I'd like
3 you to clarify, that you're referencing Proposal FP07-27d
4 and 30 with modification.

5
6 MR. BUNCH: That is correct.

7
8 MR. PROBASCO: Thank you.

9
10 MS. GOTTLIEB: Mr. Chair.

11
12 CHAIRMAN FLEAGLE: Judy.

13
14 MS. GOTTLIEB: I mean, I see in this
15 recommendation from the Regional Council, once again we
16 have a permit requirement and a reporting harvest
17 requirement within 72 hours as well as the marking
18 requirement. And I also assume from what we heard
19 yesterday that Fish and Wildlife Service will be out on
20 the river and be monitoring the activities. So I'd be
21 prepared to support this motion.

22
23 MR. EDWARDS: Mr. Chairman.

24
25 CHAIRMAN FLEAGLE: Go ahead, Gary.

26
27 MR. EDWARDS: Just for -- I'm trying to
28 understand what -- with regard to steelhead, how does
29 this differ from 07-10? What does it allow for steelhead
30 that 07-10 -- or what does 07-10 allow for steelhead that
31 this doesn't.

32
33 CHAIRMAN FLEAGLE: Doug McBride.

34
35 MR. MCBRIDE: Thank you, Mr. Chairman.
36 Doug McBride, OSM.

37
38 Mr. Chairman. Mr. Edwards. 07-10 is
39 about steelhead, and what the means functionally here is
40 rainbow trout/steelhead, 20 inches or larger. Or longer.
41 So 27d and 30 has two parts to it. One is the winter
42 fishery which is identical to the temporary fishery that
43 was just completed this last year. And then part b which
44 starts at the bottom of Page 24 is the rod and reel
45 fishery, and that addresses three species, lake trout,
46 Dolly Varden, and rainbow trout less than 20 inches. So
47 this is about rainbow -- the rod and reel part of this is
48 rainbow less than 20 inches. Proposal 10, or the
49 steelhead section, which is yet to come, is rainbow/
50 steelhead 20 inches or longer.

1 Mr Chairman.
2
3 CHAIRMAN FLEAGLE: Further discussion.
4
5 (No comments)
6
7 CHAIRMAN FLEAGLE: Are you ready for the
8 question. All right. Ready for the question on Proposal
9 27d and 30. Pete.
10
11 MR. PROBASCO: Final action on Proposal
12 FP07-27d and 30, to support the Southcentral Regional
13 Advisory Council's recommendation to support Proposal
14 FP07-27d and 30 with modification.
15
16 Mr. Fleagle.
17
18 CHAIRMAN FLEAGLE: Yes.
19
20 MR. PROBASCO: Mr. Edwards.
21
22 MR. EDWARDS: Aye.
23
24 MR. PROBASCO: Mr. Bschor.
25
26 MR. BSCHOR: Aye.
27
28 MR. PROBASCO: Mr. Oviatt.
29
30 MR. OVIATT: Aye.
31
32 MR. PROBASCO: Mr. Bunch.
33
34 MR. BUNCH: Aye.
35
36 MR. PROBASCO: And Ms. Gottlieb.
37
38 MS. GOTTLIEB: Aye.
39
40 MR. PROBASCO: Mr. Chairman. The motion
41 carries six/zero.
42
43 CHAIRMAN FLEAGLE: Thank you, Pete.
44
45 A motion would now be in order to take no
46 action on FP07-11, 12 and 13 because of the action just
47 taken by the Board.
48
49 MS. GOTTLIEB: So moved.
50

1 MR. BSCHOR: Second.
2
3 CHAIRMAN FLEAGLE: Any objection.
4
5 (No comments)
6
7 CHAIRMAN FLEAGLE: Hearing none, that
8 action carries.
9
10 We now move to Proposal FP07-10 for
11 steelhead for the Kasilof River drainage. Discussion
12 with Council Chairs and ADF&G for discussion. Gary.
13
14 MR. EDWARDS: Mr. Chairman. I guess I'd
15 like to ask Ralph, it's my understanding that at our
16 meeting the Ninilchik Traditional Council, who was the
17 proponents for this proposal, suggested modifications
18 which would have basically eliminated the steelhead
19 fisheries, but yet the Council in their infinite wisdom I
20 guess decided to go forward with the proposal despite the
21 proponent suggesting that maybe it shouldn't. Could you
22 kind of elaborate on that for us?
23
24 CHAIRMAN FLEAGLE: Ralph.
25
26 MR. LOHSE: Mr. Edwards. Mr. Chair.
27 Mr. Edwards through the Chair. I don't quite remember it
28 exactly that way, but I know that there was a lot of talk
29 about the fact that -- the problem is again the loss of
30 opportunity in the future. And while Ninilchik as a
31 Council was willing, and I think they could correct me if
32 I'm wrong on this, but while they were willing to drop it
33 if it was necessary to get the rest of their package.
34 They still expressed the desire that they would like to
35 have it.
36
37 And the Council looked at this and other
38 than the fact that they're allowed to use treble hooks
39 and bait, we didn't see any increase in impact with this
40 proposal. I mean, it's open to, if I remember right, two
41 steelhead a day -- a year under State regulations, which
42 means that every Ninilchik resident could take two
43 steelhead a year there now if they wanted to.
44
45 And while I recognize that the fishery is
46 -- you know, that the majority of the people that fish on
47 that fishery fish on it in a catch and release fishery.
48 And I recognize that part of it. And still you have a
49 half a million people that talk about going down on the
50 Kenai that would partake in it and keep two fish a year,

1 or could catch and release, and if that many people
2 caught and release, which they're not going to, you'd
3 have definitely more mortality than is going to happen
4 out of the Ninilchik steelhead fishery.

5
6 And the Council, and I don't like -- and
7 I know that you were just putting a little humor in when
8 you said in our infinite wisdom We don't have infinite
9 wisdom and we recognize that. But we just felt that
10 there was no need to take it out, because we didn't see
11 -- at this point in time we didn't see any impact. It
12 doesn't allow anything that's not currently allowed,
13 except the use of bait and treble hooks as some of us
14 that have -- did a little research last night, found out
15 the whole subject of treble hooks is another whole
16 subject that is just as controversial as whether there's
17 mortality on catch and release. I mean, there's people
18 on both sides on that issue and studies on both sides on
19 that issue, that some say they do less damage, and others
20 say they do more, so, you know.

21
22 From our standpoint, we didn't see where
23 we were actually doing anything except what we were
24 called on to do, not give an opportunity, but to give a
25 priority. And that's what we looked at. This
26 established a priority for the subsistence community
27 should things be necessary to change down the road. And
28 at this time, it has in our way of looking at it, it has
29 no impact. Now, whether it has impact or not, we're
30 going to find out through our reports, through our
31 reporting, through our permits and things like that. In
32 fact, we'll find out faster what kind of impact we're
33 having on this fishery than the State will find out what
34 kind of impact the publicity that this has given to
35 Crooked Creek and Nikolai Creek, is going to have on
36 their fishery.

37
38 MR. EDWARDS: Thank you, Ralph.

39
40 Mr. Chair. You know, yesterday I think
41 we did talk about, you know, the conservation concerns
42 for this very small, I don't want to call it a remnant
43 population, but obviously a very small population, and
44 maybe even expressed some concerns as to why are we even
45 having, you know, a sport fishery on this stock, even
46 though it's a catch and release. Maybe in response to
47 Ralph's question, we probably could ask our folks from
48 the Refuge, Robin West and Gary Sonnevil from our
49 Fisheries Assistance Office to come up and talk about
50 what they see as some of the conservation concerns, and

1 maybe also address, you know, Ralph's question is that if
2 in fact under sport fish a subsistence user with a sport
3 fishing license, which is what I heard you say, could go
4 there and take fish, then what would be the difference
5 whether we allow somebody to do it with a subsistence
6 permit as opposed to a sport fishing license.

7

8 CHAIRMAN FLEAGLE: Robin. Good morning.

9

10 MR. WEST: Good morning, Mr. Chair and
11 Mr. Edwards. Robin West, Kenai National Wildlife Refuge,
12 and Gary Sonnevil joining me from Kenai Field Station.

13

14 I guess in general one of the things that
15 we've discussed as this proposal came forward is that we
16 recognize that it's a small population and which we're
17 only learning a little bit about. Some of us who have
18 been in the business for a long time have kind of looked
19 globally on management of salmon and steelhead issues,
20 see some warning signs here in this population just
21 compared to the way we've had concerns in the Pacific
22 Northwest and as Mr. Edwards spoke yesterday, with the
23 listing package and so forth.

24

25 And we've been relatively immune from
26 that, but we're talking apparently a few hundred fish.
27 Maybe the most northern population in the State.
28 Certainly other influences on the health and well being
29 of the population in terms of potential intercept fishing
30 from commercial activities and other things some what
31 beyond our control.

32

33 And with those warning signs, personally
34 as the manager of the Refuge, we've been very careful in
35 terms of how we've allowed use of this under our control,
36 recognizing that through the State process and the Board
37 of Fish the actual seasons and bag limits have been set
38 up over the years. And I say that in that the last dozen
39 years occasionally we've had guides come into the office
40 looking for permits to target this fishery as a condition
41 of their special use permit for commercial operations,
42 and we've always denied it, recognizing we didn't want to
43 draw attention to it.

44

45 And I guess in general while it's obvious
46 that there are no secret spot and no secret fisheries on
47 the Kenai Peninsula, up until recently this came as close
48 as there was. And I say that because just in the last
49 few months somewhat I suppose because of the publicity
50 that this proposal has got, I've answered more questions

1 from the public about, you know, where can we catch
2 steelhead, how many fish, when are they there.

3
4 So the issue's in front of us now. And
5 whether that means that the Board of Fish will have to
6 take it up, because of conservation concerns in the near
7 future or not I guess is one question.

8
9 But what we saw as a package of proposals
10 came forward in the subsistence process, looking at all
11 fish species, and in realization that this is something
12 we're going to be doing in the long term, managing fish,
13 that we weren't too excited about throwing a subsistence
14 fishery in the mix for the optics of it, if you will, for
15 the conservation concerns that may exist, administrative
16 costs. I think, Gary, correct me if I'm wrong, but it
17 costs about \$10,000 a year just to put a weir in on
18 Nikolai Creek, to enumerate the escapement there for very
19 little return in terms of actual benefits to the user.

20
21 And so I was very pleased when Ninilchik
22 came forward in the RAC process, and on Page 90 in your
23 package you can see that their modified proposal was to
24 remove steelhead from the initial request. That's not
25 saying it couldn't come up again when we now more about
26 it, but, you know, I kind of look at this right now as
27 it's being portrayed as like who's going to give first,
28 the State or the Federal process. I mean, who gets
29 preference.

30
31 This population really doesn't need to be
32 targeted by anyone in my opinion. And so, you sort of go
33 slow approach I think is desirable. Thank you.

34
35 MR. EDWARDS: Mr. Chairman. Robin or
36 Gary, just kind of a follow up. You know, again kind of
37 address Ralph's point, that -- so, you know, we vote this
38 down, and -- but folks in Ninilchik say, well, heck, you
39 know, I'll just get my sport fish license, and I'll still
40 go and I'll get my subsistence steelhead. I mean, that's
41 the reality, right?

42
43 MR. WEST: It is. I mean, people could
44 still catch fish. I guess one thing I would point out I
45 guess, the way it looks like the subsistence proposal is
46 worded is actually even a little bit more restrictive
47 than the Sate regulation, so I'm not sure what kind of
48 preference that gives. I mean, the way I read it, it's a
49 household limit rather than an individual limit, so
50 actually the subsistence rule as proposed in my opinion

1 is more restrictive.

2

3 But that be it as it may, the bottom line
4 is, yes, folks can go out and target fish. But I think
5 as was pointed out historically by the State yesterday,
6 no one really has up until this point in time. To my
7 knowledge, people going into Nikolai Creek and targeting
8 them and taking them and eating them is basically non-
9 existent. And I can't say that that will always be that
10 way given the publicity and the interest that has been
11 generated.

12

13 MR. EDWARDS: Thank you.

14

15 MS. GOTTLIEB: Mr. Chairman.

16

17 CHAIRMAN FLEAGLE: Judy.

18

19 MS. GOTTLIEB: I guess since we've been
20 talking about in-season management strategy, I wondered
21 if I could ask the Department, what do you usually do on
22 the Kasilof to monitor the activities.

23

24 CHAIRMAN FLEAGLE: George.

25

26 MR. PAPPAS: Yes. Through the Chair.

27 The in-season activities we have on the Kasilof for
28 management would be the early run creel survey, and
29 angler exit interviews to determine the difference
30 between -- to determine how many wild fish versus
31 hatchery-raised fish are harvested. And that all takes
32 place below the bridge, because that's a large fishery.

33

34 MS. GOTTLIEB: And does that address the
35 steelhead issue.

36

37 MR. PAPPAS: No, it would not address a
38 steelhead sport fishery above the bridge.

39

40 MS. GOTTLIEB: And, Mr. Chair, if I
41 might. I mean, we were talking earlier about in-season
42 actions that could be taken by the Federal manager. Do
43 you have, you know, conditions that you would set on your
44 current fishery to shut it down if need be?

45

46 MR. PAPPAS: Clarification. For the
47 steelhead fishery above the bridge, do we have? No, at
48 this time I would say we don't have immediate in-season.
49 We do have a normal emergency order process that can go
50 into effect immediately if we do sense that there's a

1 situation going on.

2

3 CHAIRMAN FLEAGLE: John.

4

5 MR. HILSINGER: Thank you, Mr. Chairman.
6 There are some differences here, and that bait issue I
7 think is significant and something to take into
8 consideration. And normally when you introduce bait into
9 a fishery, you substantially increase the harvest rate.
10 And in a lot of our fisheries, we estimate that when you
11 take bait out of the fishery, you cut the harvest rate
12 about in half. And so I think we would expect if people
13 did use bait, they would be substantially more effective
14 than without bait.

15

16 The other thing Mr. West brought up, the
17 commercial interception. And so if there's questions
18 about that, I would be happy to answer those. Thank you.

19

20 MR. EDWARDS: Mr. Chairman. Just a quick
21 response, but the reference to bait, the State allows
22 bait up to September 15th, and it's my understanding that
23 there are steelhead by that time that are up there. So
24 under your own regs you can allow people to use bait.

25

26 And with regard to the commercial, one of
27 your folks I guess did explain to me is that as it
28 applies to steelhead on this commercial fishery, is that
29 generally that commercial fishery is probably over with
30 before those steelhead start entering the river. Is that
31 correct?

32

33 MR. HILSINGER: Mr. Chairman. Mr.
34 Edwards. Yeah, the commercial fishery in Cook Inlet is
35 probably the single fishery in the world that is most
36 constrained specifically to harvest sockeye salmon. And
37 so it's -- and the late run Kenai and Kasilof sockeye.
38 And so it's not open early in the season, it's not open
39 late in the season during most of the coho run. So the
40 chances of a steelhead being caught in that fishery are
41 extremely small.

42

43 MS. GOTTLIEB: Mr. Chairman.

44

45 CHAIRMAN FLEAGLE: Okay. I'll get right
46 to you. I just had a comment to throw in about the bait
47 issue.

48

49 While I know it's not targeting
50 steelhead, but we did through a previous action

1 yesterday, we are allowing bait on the Kasilof through 31
2 October now, and so the opportunity to catch steelhead
3 incidently with bait increases by a month and a half. So
4 I just needed to add that into the mix.

5

6 Judy.

7

8 MS. GOTTLIEB: Well, and along the lines
9 of bait, I mean, my recollection of the Kasilof is it's
10 pretty turbulent, and so having bait, yeah, would
11 increase the chances of catch, but that's what this is
12 about, too, is to provide people that opportunity through
13 our process to have a meaningful priority and catch the
14 fish. And if we're keeping careful track of that catch,
15 I'm not seeing the difficulty here.

16

17 MR. EDWARDS: Mr. Chair.

18

19 CHAIRMAN FLEAGLE: Gary.

20

21 MR. EDWARDS: I guess I personally think
22 it kind of comes down to what Robin touched on. I mean,
23 I think that we have a conservation issue here, or
24 potentially one that both Boards should be addressing,
25 both I think this Board as well as the Board of Fish.
26 And it is as Robin says, it's kind of who blinks first.
27 And I'm not sure that necessarily, you know, two wrongs
28 make a right.

29

30 I find myself somewhat similar to where I
31 was recently on the caribou issue down out of Cold Bay
32 where I felt we had a conservation issue and we needed to
33 restrict the subsistence harvest, but Keith pointed out
34 to me that given the sport harvest that was going on,
35 that would be very difficult to expect the subsistence
36 users to bear the burden of that. Fortunately, the Board
37 of Game also saw the conservation concern and recently
38 took action to I think significantly affect that sport
39 harvest down there which then I think allows us to
40 continue to go again on a herd that probably has some
41 serious conservation concerns.

42

43 But so now here we find ourselves I think
44 in the same position where i feel that we shouldn't be
45 allowing any more harvest on those as well as I don't
46 think the State should take action. But now all of a
47 sudden we're asking the subsistence user to kind of bear
48 the burden while, you know -- and one could argue that
49 the sport fisherman is getting sort of a free ride.

50

1 I do think it's a little different here,
2 because certainly the Council has proposed this, but the
3 proponent of it basically, as you can see on Page 90,
4 more or less, I won't use the word withdrew, but their
5 modification basically would eliminate that. So I think
6 we can certainly be responsive to the proponent wants,
7 and then hopefully our action might provide some
8 motivation to the Board of Fish to take some follow-up
9 action.

10
11 My sense is that if we don't -- if we do
12 pass and start harvesting, that might force them to do
13 something anyway for conservation, but, you know, I don't
14 think that's the way we would like. I think that our
15 goal is to try to get -- where we have opportunities is
16 to get both Boards to recognize when there's an issue an
17 try to bring our collective authority to address those.
18 I mean, I guess Robin certainly has the authority to shut
19 down the sport fishery if he wants to, if he feels that
20 there's a problem. I know that that's not something that
21 he wants to do, and that's certainly something that the
22 State doesn't want -- wouldn't want us to do, and that's
23 not something we want to do.

24
25 But I guess we do have a conservation
26 issue, and I don't think we ought to necessarily be
27 adding to it, or at least appear to be adding to that,
28 and I guess maybe sometimes when one sets the examples,
29 others would be willing to follow.

30
31 CHAIRMAN FLEAGLE: Thank you. Before I
32 go further on discussion, we do have a request for
33 Ninilchik's representative to speak. And public
34 testimony is closed on this issue, but if anybody on the
35 Board, you mentioned earlier talking about the
36 proponent's desires and wishes about withdrawal. He's
37 available to speak if somebody wishes. I just want to
38 put that out. I'm not going to open it back up to public
39 testimony, but the representative for the proponents is
40 available to address that.

41
42 Keith Goltz.

43
44 MR. GOLTZ: I want to follow Gary's
45 comments as quickly as I can, and assure everybody that
46 under ANILCA conservation comes first. Always.

47
48 MR. LOHSE: Mr. Chair.

49
50 CHAIRMAN FLEAGLE: Ralph.

1 MR. LOHSE: I'd like to address a couple
2 of the things that Gary brought up, and one of that he
3 kind of pointed towards me, but asked Robin about just
4 before. And that's what the difference is. And the
5 difference is in a recognized priority. To me, it's -- I
6 agree with Gary, and we have as -- in the Federal
7 program, we have the ability to shut the Federal program
8 down immediately if we recognize a problem. Currently
9 from Fish and Game records, they figure we take about 28
10 steelhead every year on the average for the last six
11 years. If we all of a sudden see a sudden increase
12 through the Federal program, we have the ability to shut
13 ours down. They don't.

14
15 But the idea is that if there is a
16 population capable of being, I'll use the word exploited,
17 the priority on Federal lands should be for the
18 subsistence user. And if that in turn then brings this
19 conservation concern to a higher level so that both
20 parties address it, the -- as you can see by Ninilchik's
21 willingness to withdraw, with the things that the Council
22 has one in the past, there will be no objection from the
23 subsistence community if for the sake of the fish, the
24 fishery's closed, but it's hard for the subsistence
25 community to sit and look at a sport fishery taking place
26 on a stock of concern, if it is a stock of concern, or it
27 becomes a stock of concern, and them not being allowed to
28 do it. Now, they can do it underneath -- you can say
29 they can do it underneath the sport fishery, and most of
30 us do do our stuff under the sport fishery.

31
32 But the difference is from the Federal
33 standpoint, you are supposed to be giving a subsistence
34 priority. Not an opportunity, but a priority. Or
35 preference I guess is a better word to put for it.

36
37 So that would be my way of looking at it.
38 And it would accomplish -- and, Gary, maybe it would
39 accomplish exactly what you said. Maybe it would cause
40 both parties to look at that small stock of steelhead
41 even closer than they're looking at it today.

42
43 CHAIRMAN FLEAGLE: Other discussion.

44
45 (No comments)

46
47 CHAIRMAN FLEAGLE: Ready for a motion.
48 Let's go fishing. Council recommendation on Page 90.

49
50 (No comments)

1 CHAIRMAN FLEAGLE: Hearing no motion,
2 we're moving on. Charlie.

3
4 MR. BUNCH: Mr. Chairman. I move that we
5 accept the Southcentral Subsistence Regional Advisory
6 recommendation to support Proposal FP07-10 with
7 modifications.

8
9 MS. GOTTLIEB: I'll second.

10
11 CHAIRMAN FLEAGLE: All right. You may
12 now speak to your motion, Mr. Bunch.

13
14 MR. BUNCH: I think it's a well-balanced
15 proposal based upon the factors that Ralph just
16 enumerated. It does give a subsistence preference, and
17 there is more than adequate checks and balances on it in
18 case the conservation of the stock becomes an issue. It
19 seems to me to be a well-balanced proposal.

20
21 CHAIRMAN FLEAGLE: Gary.

22
23 MR. EDWARDS: Mr. Chairman. I'm going to
24 vote against the motion. I think we've heard from both
25 the land management agency and our in-season fishery
26 manager, that they have concerns with this fishery from a
27 conservation standpoint. And while I said earlier that,
28 you know, it -- I guess it troubles me to sort of place
29 this, burden is probably an overstatement, but this
30 responsibility on the back of the subsistence user,
31 because I do agree with Ralph that they do need to come
32 first. But I think when we do have a conservation
33 concern, somebody needs to be willing to basically stand
34 up and say that, and say that we should not be
35 potentially adding to that. And again hopefully, you
36 know, the State will recognize that also and maybe take
37 the appropriate action. But I'm going to -- I'll vote
38 against the motion, Mr. Chairman.

39
40 CHAIRMAN FLEAGLE: George.

41
42 MR. OVIATT: Thank you, Mr. Chairman. I,
43 too, believe we have a conservation reason, and I think
44 that rather than add to the situation, it would be in our
45 best benefit to not move forward at this time, and hope
46 that the State will follow suit and consider this in
47 their process. And I will be watching that closely. So
48 I just feel that there's been enough -- that enough
49 concern from our in-season managers, and to add to this
50 would not be in the best interest of the small steelhead.

1 Thank you, Mr. Chairman.

2

3 CHAIRMAN FLEAGLE: Denny.

4

5 MR. BSCHOR: Yeah, Mr. Chairman. I have
6 several points to make here. Once again the steelhead
7 issue, once again we really don't have a real clear idea
8 of what's going on, but we know there's a problem. And
9 having worked in the Pacific Northwest with steelhead and
10 other salmon species that were -- some of which were
11 listed as specific runs, we don't want to get to that
12 point. And while I really commend the Advisory Council
13 and the Ninilchik Tribal Council for everything they've
14 done to really recognize that there's a concern there
15 also. The proposal's very good. The proposal is what I
16 think we ought to be looking at honestly from the State,
17 monitoring so we know what we have. If it's really a
18 concern, let's find out. I don't think we should put
19 that on the backs of the subsistence user either.

20

21 That said, I'm convinced, especially with
22 the comments about the tenuousness of this run, that I
23 would have to vote against this proposal.

24

25 CHAIRMAN FLEAGLE: John Hilsinger.

26

27 MR. HILSINGER: Thank you, Mr. Chairman.
28 I just wanted to address I guess the preference issue,
29 and the concern about steelhead.

30

31 And one of the things about the steelhead
32 stock, and virtually all these steelhead stocks, is that
33 there really is very little information. And I know that
34 there's knowledgeable fishermen who believe that there
35 are only steelhead in the Kasilof River, that there is no
36 true rainbow trout population there. And that -- and we
37 don't really know. And so basically you're talking
38 about, you know, rainbow/steelhead trout less than 20
39 inches and greater than 20 inches. And so there is a
40 harvest of these fish that has a preference in the salmon
41 fishery. And so this adds kind of a second preference on
42 what may turn out to be the same stock, and an additional
43 harvest.

44

45 And so I think it's important to remember
46 that we may be talking about the same animals here being
47 caught in both these fisheries.

48

49 Thank you.

50

1 MS. GOTTLIEB: Mr. Chairman.

2

3 CHAIRMAN FLEAGLE: Judy.

4

5 MS. GOTTLIEB: Just to follow up on
6 John's comment, I mean, we've heard -- we've been
7 discussing this for a while, and we've heard that there
8 isn't a lot of information, but we've also heard I
9 thought that the Department was collecting data on this
10 particularly. I think we heard it back in November or
11 so. So we're still real anxious to know when is that
12 data going to be available for all of us to look over.

13

14 CHAIRMAN FLEAGLE: Thank you, Judy.

15

16 I'm going to weigh in on my comments. I
17 see a chain of events, and I really appreciate where
18 Gary's concerns on the conservation side of the coin are
19 coming from, and I tend to agree with that.

20

21 But in this situation we have found that
22 this stock has a customary and traditional use
23 determination for Ninilchik. And the proposal here only
24 allows what is being currently allowed under the State
25 regulations. In fact, as it was pointed out, maybe even
26 slightly more restrictive because of the household issue
27 versus the individual issue.

28

29 And so by passing this proposal, we'll
30 have a Federal regulation that essentially mirrors the
31 State regulation, and I don't see where that is adding
32 any potential harvest or effort, because they could still
33 do it already. So why not have the regulation since
34 we've already found a positive C&T for the community on
35 the river. And that's the tracking that -- I mean, the
36 thought process that I'm going to use, and I'm going to
37 support the proposal.

38

39 Anybody.

40

41 MR. EDWARDS: Yes, Mr. Chairman.

42

43 CHAIRMAN FLEAGLE: Gary, go ahead.

44

45 MR. EDWARDS: I guess just two things in
46 response, and I kind of want to echo what Denny said.
47 The proposal, the original proposal and then the proposal
48 that came before the Council, and I think there's no
49 question that's a very modest proposal, and it really
50 tried to look at the conservation as most of these

1 proposals that we are -- we have already looked at, and
2 that we are going to look at.

3
4 I guess, and I agree that the reality is
5 that there's probably nothing different, but I mean if
6 you think you have a conservation issue, I think at some
7 point you have a responsibility to stand up and
8 demonstrate that you think that. Because otherwise, if
9 you don't, it seems to me that you're just sort of kind
10 of going along because it doesn't make a difference. And
11 maybe it's more a matter of principle than it is
12 substance, because in reality the vote one way or the
13 other really isn't going to change the potential harvest.
14 I think it's just -- I think it's in my mind this Board
15 standing up and saying, you know, we shouldn't be
16 harvesting this fishery, whether it's under sport regs or
17 under subsistence regs, and that's what -- where we need
18 to be. And I think we need to be accountable for that,
19 and wiling to say that.

20
21 MR. BUNCH:

22
23 CHAIRMAN FLEAGLE: Charles.

24
25 MR. BUNCH: I agree with Gary. We should
26 be responsible, and I think that this proposal is
27 responsible. I seems to place a more restrictive catch
28 limit than what's allowed by the State, and the in-season
29 manager has a method to monitor it and know the status of
30 it.

31
32 As I understand the State regulation, all
33 you do is put it on the back of your license that you've
34 caught two of the things, and then, you know, unless
35 someone looks at your license, they never know how many
36 you've caught. So I think that this proposal is far
37 superior, and it does monitor the status and still gives
38 a reasonable opportunity for residents of Ninilchik.

39
40 CHAIRMAN FLEAGLE: It sounds like we're
41 ready for the question. It sounds like we're pretty
42 determined how we're going to vote, and we're trying to
43 convince everybody else that's how we're going to vote,
44 so maybe we should just do it.

45
46 UNIDENTIFIED VOICE: Question.

47
48 CHAIRMAN FLEAGLE: The question's
49 recognized on the proposal. Pete, please poll the Board.
50

1 MR. PROBASCO: Excuse me. Mr. Chair.
2 Final action on FP07-10, to adopt with modification as
3 recommended by the Southcentral Alaska Subsistence
4 Regional Advisory Council.
5
6 Mr. Edwards.
7
8 MR. EDWARDS: Nay.
9
10 MR. PROBASCO: Mr. Bschor.
11
12 MR. BSCHOR: Nay.
13
14 MR. PROBASCO: Mr. Oviatt.
15
16 MR. OVIATT: Nay.
17
18 MR. PROBASCO: Mr. Bunch.
19
20 MR. BUNCH: Aye.
21
22 MR. PROBASCO: Ms. Gottlieb.
23
24 MS. GOTTLIEB: Aye.
25
26 MR. PROBASCO: And Mr. Fleagle.
27
28 CHAIRMAN FLEAGLE: Aye.
29
30 MR. PROBASCO: Motion fails, three/three.
31
32 CHAIRMAN FLEAGLE: Thank you. That
33 concludes our discussions on the Kasilof drainage. And
34 we're ready to move into the Kenai River drainage issues.
35
36
37 Oh, Pete, go ahead.
38
39 MR. PROBASCO: Thank you, Mr. Chair.
40 Just to remind the public, now what we're moving into the
41 Kenai, if you want to testify, please see Theo and fill
42 out a yellow slip. Thank you.
43
44 CHAIRMAN FLEAGLE: And while we switch
45 gears, why don't we take a brief at ease, get another cup
46 of coffee.
47
48 (Off record)
49
50 (On record)

1 CHAIRMAN FLEAGLE: Good morning. We're
2 back on record.
3
4 And, Judy Gottlieb, you had a question.
5
6 MS. GOTTLIEB: Thank you, Mr. Chair.
7
8 Doug, I thought maybe just as a recap if
9 you wouldn't mind, could you explain now -- I guess we're
10 -- by this last action, we have now mirrored what the
11 State regulations say. And so my understanding of that
12 is what we passed is more liberal than what was proposed
13 by the RAC, and maybe you could just go through the
14 aspects of it, please.
15
16 CHAIRMAN FLEAGLE: On Proposal 10, the
17 steelhead issue, correct?
18
19 MS. GOTTLIEB: Thank you. Yes.
20
21 CHAIRMAN FLEAGLE: Doug.
22
23 MR. MCBRIDE: Okay. Mr. Chairman. Ms.
24 Gottlieb. Thank you. Doug McBride, OSM.
25
26 Ms. Gottlieb, you are correct. If you
27 look back at Page 98, okay, that was the Council
28 recommendation. As Staff understand the action, what was
29 on the table was everything in bold. So it starts with
30 additionally for Federally-managed waters of the Kenai
31 River -- or, excuse me, the Kasilof River, and everything
32 below that. That's what just failed.
33
34 So what is left is the existing
35 regulation, which is in italics above that, and so that's
36 Sections 27(i)(10)(4), you may only take salmon, Dolly
37 Varden, trout and char under authority of a Federal
38 subsistence fishing permit. Seasons, harvests and
39 possession limits, and methods and means for take are the
40 same as or the taking of those species under Alaska sport
41 fishing regulations.
42
43 So by the last action, that is what is
44 still there. And so harvest opportunity for
45 rainbow/steelhead, 20 inches or longer, is two fish
46 annually under sport fishing regulations, and that's what
47 existed prior to this Board meeting, and what still
48 exists for subsistence fishery. And so they would need a
49 harvest permit and those fish would be recorded on the
50 harvest permit.

1 MS. GOTTLIEB: And that would be two fish
2 per person versus two fish per household.

3
4 MR. MCBRIDE: Yeah. And -- yeah, in
5 terms of looking at the proposal that was just voted
6 down, yes, it would be two per person instead of per
7 household. There would be no marking requirement, nor
8 any in-season reporting requirement.

9
10 CHAIRMAN FLEAGLE: All right. Thank you.
11 We're now ready to move into the Kenai River drainage
12 harvest regulations proposals. And we're going to start
13 out -- we'll do these the same way we did the Kasilof
14 River. We'll take all of the comments, analysis,
15 recommendations, et cetera, for the suite of proposals
16 and save Board discussion down to Item 7 for individual
17 proposals.

18
19 So we'll start out with the Staff
20 analysis. Doug.

21
22 MR. MCBRIDE: Mr. Chairman. There will
23 be three presentations First, Dr. Steve Fried will make
24 that presentation on Kenai River Salmon. That will be
25 followed by presentation on Kenai River salmon. That
26 will be followed by presentation by Mr. Richard Cannon on
27 Kenai River resident species. And then third and
28 finally, I'll give a very brief summary of all of that at
29 the end.

30
31 Mr. Chairman.

32
33 CHAIRMAN FLEAGLE: You bet. Thanks.
34 Good morning, Steve Fried.

35
36 DR. FRIED: Good morning, Mr. Chairman.
37 Board members. Kenai River salmon proposals are FP07-27b
38 and c and 29. And you can find the original proposals in
39 your book on Pages 110 to 112. There's an NTC proposed
40 suggested modifications to those on Pages 102 to 104.
41 And the Southcentral Council recommendation on 104 to
42 106.

43
44 And just bring it to your attention, the
45 map on the screen here is the portion of the Kenai River
46 that would be Federally-managed waters under these
47 proposals. As you can see it's the portion of the river
48 right below Skilak Lake, and then, you know, above Skilak
49 Lake, and the upper river. Part of it is on the Kenai
50 National Wildlife Refuge, and also the Chugach National

1 Forest.

2

3

4 Currently the State fisheries that are
5 existing on the Kenai include a personal use fishery,
6 which is targeted on sockeye salmon. There's an
7 educational fishery for chinook, sockeye and coho salmon.
8 There's commercial set net and drift gillnet fisheries
9 that are primarily targeted on sockeye, and there's also
10 sport fisheries for chinook, sockeye and coho salmon.
11 You can see some more information on that on Pages 116 to
12 117 in your book.

12

13

14 I'll provide a little bit of background
15 on the biology and harvest for the sockeye, the chinook
16 and the coho.

16

17

18 Sockeye information is on Pages 119 to
19 122. For sockeye salmon, there are escapement goals in
20 place for both early and late components of the run, and
21 these are assessed by sonar projects. The early run
22 primarily spawns in the Russian River. Sustainable
23 harvest level for this run is probably in the tens of
24 thousands. There's some harvest information on Page 120
25 in Table 1.

25

26

27 The late run of sockeye spans throughout
28 the drainage. It's a much larger run. Sustainable
29 harvest level is usually greater than two million.
30 There's harvest information on Table 2 on Page 121.

30

31

32 For chinook salmon, there's Pages 122 to
33 127 in your books. There are escapement goals in place
34 both for the early and the late runs, and they're both
35 assessed by sonar. The early run spawns mainly in
36 tributaries. Sustainable harvest level is probably
37 around 8,000. There's tables with data, Table 3 on Page
38 123 for the early run.

38

39

40 The late run chinook salmon spawn mostly
41 in the main stem. It's a larger run. The sustainable
42 harvest level is about 20 to 30,000. Table 5 has
43 information on the harvest. It's on Page 125.

43

44

45 In Federally-managed waters, which are
46 generally, you know, above Moose Meadows area, there's
47 usually only a few hundred early run chinook that would
48 be available. There have been some studies done that
49 we're basing these numbers on, Table 4, Page 124.

49

50

50 In contrast to that, late run chinook

1 there's probably several thousand of these that spawn in
2 Federally-managed waters within and above Skilak Lake.
3 And the table that this is based on, the data is on Table
4 6, Page 126. So there's quite a bit more of the late run
5 that would be available in Federally-managed waters than
6 the early run.

7

8 Moving to coho salmon, it's pages 127,
9 129. There isn't an escapement goal for coho, but there
10 is an assessment program that's currently in place. It's
11 using mark/recapture techniques, but it's a very recent
12 program. There's not a long series of data for that.

13

14 The run now appears to be in good
15 condition, but it was rebuilt through harvest
16 restrictions beginning in 1997. The sustainable harvest
17 level is likely in the tens of thousands, but this is
18 only as long as the run stays at about 130,000 or more.
19 There's harvest data on Table 7 on Page 128.

20

21 Moving to the effects of the original
22 proposals on Page 131, we had very similar concerns on
23 these proposals as we did for the Kasilof salmon
24 proposals. One, that it would not be possible to limit
25 gillnet use to community fisheries. And since it wasn't
26 possible, then widespread gillnet use doesn't lend itself
27 to selective harvest of species or stocks. And the
28 original proposals had no provisions for marking
29 harvested fish or for in-season reporting.

30

31 Moving along to the analysis of the
32 Regional Council recommendation, which is on Page 104 to
33 106, basically we support the Regional Council
34 recommendation of FP07-27b and c with modification, and
35 also support the recommendation to take no action then on
36 Proposal FP07-29.

37

38 The effects of the Council
39 recommendation, which you can find on Page 132, would be
40 to create household dipnet, rod and reel fisheries at two
41 sites in the Kenai River and one site in the Russian
42 River. And it will allow harvest of sockeye salmon at
43 all three sites, and it would allow harvest of late run
44 chinook, coho and pink salmon only at the Kenai River
45 sites, so not at the Russian River site. And I've got
46 some maps following to help you visualize some of this.

47

48 The Russian River site, fishing would be
49 from the Russian River Falls downstream to the upstream
50 boundary of the current sport fishing area. And it's

1 only non-motorized access is permitted to get to this
2 site. And there's also probably some permit restrictions
3 that would include, you know, people avoiding human/bear
4 contacts.

5
6 And one thing to note here for the
7 Russian River is that the proposal in your books talks
8 about the site being from the base of the falls down
9 river. And last Friday Forest Service personnel, OSM and
10 Fish and Wildlife personnel went to take a look at the
11 site, and they've got some suggested modifications for
12 this site, to actually move it upriver a little bit. And
13 I think there's going to be some suggestions on modified
14 language to do this.

15
16 The next site would be the two Kenai
17 River sites. One would be at the Moose Meadows area.
18 And fishing would be allowed here approximately from
19 river mile 29 downstream about 2 and a half to river mile
20 26.5. And here dipnet fishing would be only from a boat.
21 And this is to avoid damaging some of the fragile
22 riverbank habitat in this area.

23
24 The third site would be -- could you move
25 back a couple? At the Killey River -- no, one more.
26 There you go. -- which is right below Skilak Lake. And
27 that would be fishing from about river mile 48 downstream
28 about 2 and a half miles to river mile 45.5. And here it
29 would allow dipnet fishing from a boat or standing in the
30 river.

31
32 So those are the three proposed sites
33 that this dipnet, rod and reel fishery would occur at.

34
35 MS. GOTTLIEB: Mr. Chair.

36
37 CHAIRMAN FLEAGLE: Judy.

38
39 MS. GOTTLIEB: Steve, could I just ask
40 you on the Russian River Falls dipnet site, so I mean
41 most people picture the Russian River, and people sport
42 fishing shoulder to shoulder or worse. We're not talking
43 about that area. In fact, we're probably not talking
44 about an area where there would be any, or very many
45 sport fishers?

46
47 DR. FRIED: That's correct. It's
48 actually above the area where sport fishing is allowed.
49 This actually separates the subsistence fishing from the
50 sport fishing totally, unlike those other two Kenai River

1 areas where they have to co-exist.

2

3 MR. EDWARDS: Mr. Chairman. We're asking
4 questions, and I'd like to -- so that fishery, what does
5 it take to get into that fishery, and what's involved at
6 that Russian River fishery?

7

8 DR. FRIED: There's a designated parking
9 area, and then there's about -- I think it's about a 45
10 minute walk to the site. And then you'd have to, you
11 know, get down a slope, some slopes to the river. So it
12 will take a little bit of effort since there's no
13 motorized access that's permitted, but it's very doable,
14 you know, if somebody wanted to do it.

15

16 MR. EDWARDS: So given that during the
17 height of the sockeye fishery it's -- getting into the
18 Russian River campground is always difficult, and finding
19 parking is even more difficult, will there be a
20 designated reserved sites for subsistence users or.....

21

22 DR. FRIED: Not that I'm aware of.

23

24 MR. EDWARDS:will they have to park
25 out on the road or what?

26

27 DR. FRIED: Well, they have to park in
28 the parking lots within those -- you know, some place
29 within the campground there.

30

31 MR. EDWARDS: But if they can't get in,
32 then what do they do? I mean, oftentimes, you know, you
33 wait for hours to try to get a parking space, and
34 certainly to try to get a camp site if you haven't put in
35 your registration the 280 some days in advance, you can't
36 get in there.

37

38 DR. FRIED: People are pretty adaptable,
39 and they could probably figure it out, but, I mean.....

40

41 CHAIRMAN FLEAGLE: Doug.

42

43 MR. MCBRIDE: Mr. Chairman. Mr. Edwards.
44 I was on that recon in fact that went into the Russian
45 River on Friday. It was OSM and Forest Service Staff.

46

47 That subject came up. We had a lot of
48 Forest Service Staff there that are -- that directly
49 manage that whole campground area. And the access to the
50 falls, you could get to it two ways. The hard way would

1 be to go clear into the campground and go upriver. The
2 much easier way is to go to the trailhead that goes up to
3 Russian Lakes. And, I mean, there's definitely parking
4 issues and issues with getting into the side. But the
5 access into the trailhead area is less than getting into
6 the campground area. But, you know, when it's all said
7 and done, I mean, basically people have to get into the
8 site and their -- subsistence users access into that site
9 would be no different than anyone else's, and so, you
10 know, if you tend to go on a weekday rather than a
11 weekend, you get a lot quicker and those kinds of things.

12

13 Mr. Chairman.

14

15 MR. EDWARDS: I guess two questions. You
16 still have to wait there at the main gate and go through
17 that line in order -- don't you, in order then to get to
18 the parking lot?

19

20 MR. MCBRIDE: Yes, there's only one way
21 in and that's through the gate. Correct.

22

23 MR. EDWARDS: Have you ever tried to get
24 in that gate during that early run?

25

26 MR. MCBRIDE: Mr. Chairman. Mr. Edwards.
27 Yes, I have on several occasions, most recently last year
28 we took videographers actually into the Russian River
29 Falls. So we went during about the third or fourth week
30 of June, which would be exactly when you'd want to
31 dipnet. It was during the week. There was a line there,
32 but it wasn't excessive. There was several open parking
33 spots at the trailhead, and we walked in and did our work
34 and came out.

35

36 Mr. Chairman.

37

38 MR. EDWARDS: Can you ride a bike into
39 that area? I see it's non-motorized, but apparently you
40 can ride a bike, a dipnet fisherman could ride a bike to
41 it?

42

43 MR. MCBRIDE: Mr. Chairman. That's
44 correct.

45

46 DR. FRIED: Okay. Some of the other
47 effects of the Council recommendations. You know, there
48 would be set seasons for the fisheries, annual harvest
49 limits, household limits, and also it would allow the
50 Ninilchik households to reach their household limits by

1 fishing, you know, in the Kenai and the Kasilof both. It
2 doesn't double their limit, but they can get their limit
3 by fishing in both places.

4
5 It would allow the incidental take of
6 rainbow and Dolly Varden less than 18 inches at only the
7 Kenai River site, not the Russian River site.

8
9 And for the existing rod and reel
10 fishery, it would increase the salmon bag limits, but it
11 does retain the size restrictions that are currently in
12 existence for all the species.

13
14 It would allow use of two baited, single
15 or treble hooks for all rod and reel fishing. It also
16 provides for permits, for in-season reporting, and for
17 the marking of all harvested fish by removal of their
18 dorsal fin.

19
20 And finally, it excludes provision for a
21 community gillnet fishery.

22
23 The OSM preliminary conclusion, which you
24 can find on Pages 133 to 135, is to support Proposals 27b
25 an c with the modification as recommended by the
26 Southcentral Alaska Regional Advisory Council, and to
27 take no action on Proposal 29 as recommended by the
28 Southcentral Council.

29
30 And the justification, which is on Pages
31 135 and 136, is that the Southcentral's modified proposal
32 does fulfill all the criteria in ANILCA 805(c),
33 consistent with the available information. It does
34 address conservation principles for the stocks and
35 species that would be harvested and affected. It
36 increases subsistence fishing opportunities, and does
37 provide a priority for Federally-qualified users.

38
39 Thank you. I can take any more
40 questions.

41
42 CHAIRMAN FLEAGLE: Thank you. Questions.
43 Gary.

44
45 MR. EDWARDS: Mr. Chairman. Just one
46 question. On the site below Skilak, that starts above
47 the upper Killey, right? So it goes from below the lake
48 to the upper Killey, or what exactly -- or from the upper
49 Killey down, or what?

50

1 DR. FRIED: The one right below Skilak?
2
3 MR. EDWARDS: Yes.
4
5 DR. FRIED: Yeah, we're avoiding -- one,
6 there's that sensitive swan nesting area, so it starts
7 below that. I mean, we tried to do it by river mile. I
8 don't know if we need to go back to the map or not,
9 but.....
10
11 MR. EDWARDS: Maybe Robin could be more
12 specific, but you said the Killey. There's both an upper
13 and a lower Killey, but the lower Killey is actually
14 outside of the Refuge I believe.
15
16 DR. FRIED: Right. You can on the map in
17 front of you where the Killey is, so it's basically
18 above, you know, upstream of the Killey quite a ways.
19
20 MR. EDWARDS: All right. So basically it
21 goes from upstream, a little bit upstream of the upper
22 Killey to the Refuge boundary, right?
23
24 DR. FRIED: Well, it's upstream of the
25 Killey and then it goes upstream until, you know, about
26 river mile 48. So it's about two and a half miles of
27 right.
28
29 MR. EDWARDS: Okay. Right.
30
31 MS. GOTTLIEB: Mr. Chair.
32
33 CHAIRMAN FLEAGLE: Judy.
34
35 MS. GOTTLIEB: I have a question for
36 Steve or perhaps. Doug. My understanding is, I mean,
37 there are a number of State restrictions on parts of the
38 Kenai River having to do with motorized use, protection
39 for spawning areas, swans, et cetera. So all of these
40 proposed regulations are predicated and based on
41 incorporating those regulations as well, is that correct?
42 And maybe you could go through what a couple of them are
43 so everybody understands.
44
45 CHAIRMAN FLEAGLE: Doug.
46
47 MR. MCBRIDE: Mr. Chairman. Ms.
48 Gottlieb. Yes, that's correct. There's nothing in the
49 Council's recommendation that would supersede other
50 regulations that you refer to. Probably the -- there's

1 probably three major ones that we're aware of. One is in
2 sport fishing regulations. There is a spawning season
3 closure for rainbow trout that goes from May 2nd I
4 believe to June 10th. And what that does is it prohibits
5 fishing for rainbow trout, which obviously precludes any
6 retention of rainbow trout during that time frame. That
7 regulation would clearly apply to subsistence fishing.

8
9 The other major ones have to do with
10 motor restrictions. There's a motor restriction as part
11 of the Kenai River Special Management Area that goes from
12 the outlet of -- actually that map there that's on the
13 screen. It goes from the outlet of Skilak Lake
14 downstream three miles, and it goes from I believe March
15 15th to June 15th. So you can fish in that area, but you
16 have to do it without a motor. And again, nothing in
17 these proposals would supersede that.

18
19 And the other one again which is a motor
20 restriction in sport fishing regulations, below Skilak
21 Lake, you cannot fish from a motorized boat on Mondays
22 during May, June and July except for Memorial Day. And
23 that would also apply to -- there's nothing in these
24 proposals that would supersede that as well.

25
26 Ms. Gottlieb.

27
28 CHAIRMAN FLEAGLE: Other questions.

29
30 (No comments)

31
32 CHAIRMAN FLEAGLE: All right. Thanks.
33 We'll go ahead and turn it over to Rich Cannon for the
34 second report.

35
36 MR. CANNON: Thank you, Mr. Chairman.
37 For the record my name is Richard Cannon.

38
39 I will be presenting the Staff analysis
40 for Fisheries Proposals 11, 12, 13, 27d and 29 for Kenai
41 resident species. The Staff analysis is presented on
42 Pages 139 through 170 of your briefing books.

43
44 If the slides could catch up here. Mr.
45 Chairman, we have a little technical difficulty with our
46 projector. If you'd give us a few minutes, we probably
47 can fix it, or I can wing it without it. But I think if
48 you give us a few minutes, we can get it back on track.

49
50 CHAIRMAN FLEAGLE: Sure. We'll take a

1 brief at ease.

2

3 (Off record)

4

5 (On record)

6

7 MR. CANNON: Mr. Chairman. We've got our
8 PowerPoint presentation I think back on track, and we're
9 back on the record.

10

11 And I was going to point out the extent
12 of Federal public waters is shown in a series of maps for
13 the Kenai drainage. Maps 1 through 4, beginning on Page
14 147, detail the boundaries of the Kenai National Wildlife
15 Refuge, Chugach National Forest, and Kenai Fjords
16 National Park in relation to the Kenai River drainage.

17

18 Existing sport fisheries in the Kenai
19 River drainage for Dolly Varden, Arctic char, rainbow,
20 trout and lake trout are growing and are some of the
21 largest in the state, supporting tens of thousands of
22 angler days. While catches are in multiple thousands of
23 fish annually, harvest rates are in the hundreds of fish.
24 Current management of these fisheries is very complex and
25 has been modified numerous times over the last two
26 decades. Underpinning current management is the strategy
27 of shifting harvest to smaller, younger fish, while
28 retaining the larger brood stocks that carry more eggs
29 via size limits that require catch and release of larger
30 fish.

31

32 Data on abundance and distribution of
33 species and stocks is incomplete, but more is known about
34 relative abundance, distribution and stock structure than
35 for most other systems in Cook Inlet.

36

37 There is convincing evidence, especially
38 for rainbow trout and lake trout, that past management
39 practices that allowed harvest of larger brood stock
40 negatively affected the productivity and therefore the
41 sustainability of these rapidly expanding fisheries.
42 Current management for Dolly Varden, Arctic char
43 restricts the harvest of larger fish.

44

45 Historic catch data is provided in Table
46 1, Page 153, and historic harvest in Table 2 on Page 154.
47 From the catch and harvest records we obtained, it
48 appears that most fishermen practice catch and release
49 with only about 1 to 2 percent of the Dolly Varden caught
50 are actually harvested above Skilak Lake, and about 10

1 percent harvested below Skilak.

2

3 Both Dolly Varden, which migrate to the
4 ocean for a portion of their life history, and Arctic
5 char, that remain in fresh water throughout their life,
6 occur in the drainage. Arctic char have been identified
7 in some lakes in the Kenai watershed, while Dolly Varden
8 occur through flowing waters and the major lake systems,
9 and are more abundant.

10

11 Based on tagging studies, Kenai River
12 Dolly Varden are comprised of many small discrete
13 spawning populations that exhibit complex seasonal
14 migration patterns. Spawning occurs in the fall.
15 Migration from the ocean occurs in late summer and fall.
16 Although Dolly Varden will rear in most river and stream
17 habitats through the summer and fall, higher
18 concentrations have been identified between Kenai and
19 Skilak Lakes and the main stem between Skilak and the
20 Killey River. Dolly Varden will winter primarily in the
21 large lake systems, and out-migration in the spring and
22 early summer months.

23

24 Total abundance estimates are not
25 available for Dolly Varden or for Arctic Char.

26

27 The history of the rainbow trout fishery
28 in the Kenai River over the last two decades is helpful
29 in focusing on the importance of fine scale management of
30 species, stocks and size classes that form the basis of
31 conservation plans for Kenai resident species.

32

33 Historic harvest and catch data for
34 rainbow trout is provided in Tables 3 and 4, Pages 156 an
35 157. The shaded areas represent areas that include
36 Federal public waters.

37

38 For many years management focused on
39 harvest opportunity of larger fish. Rainbows became
40 reproductively active as they reach a length of about 14
41 inches at an age of three to five years. About 50
42 percent of rainbows appear to spawn when they reach 14
43 inches, 70 percent at 16 inches, and then over 90 percent
44 when they are 20 inches or larger.

45

46 In 1984 and '85 anglers could harvest
47 three fish greater than 20 inches. All of these were
48 spawners. Bag limits were incrementally decreased
49 through 1990 with anglers only being able to harvest one
50 fish greater than 20 inches. Annual harvest during this

1 time frame ranged from about 250 to 1150 fish from the
2 upper river and averaged 670 fish.

3
4 A tagging abundance estimate for the
5 upper river index area was done in 1986 and '87. The
6 1987 estimate of abundance from the Russian River
7 confluence to Jim's Landing was 3500 fish greater than 12
8 inches, and approximately one-half, or 1800 fish were
9 greater than 16 inches. These numbers suggested a
10 significant cropping of the spawning population. A
11 summary of abundance estimates for rainbow can be found
12 on Table 6 on Page 162.

13
14 Regulations became increasingly
15 restrictive. In 1991 and '92 only one fish greater than
16 24 inches could be retained. From '93 through '96, only
17 one fish greater than 30 inches was allowed. By 1997 the
18 fishery was restricted to catch and release only.

19
20 In 2001 a second abundance estimate was
21 made for this study area. Abundance of trout greater
22 than 12 inches increased to nearly 7,000 fish, or double
23 that observed in 1987. Biologists believe that the major
24 factors exploiting this increased abundance were the size
25 restrictions and reduced harvest of spawning fish.

26
27 Regarding what is known about the biology
28 of rainbow in the Kenai watershed, two genetically
29 distinct stocks of rainbow trout have been identified.
30 However, both the upper stock group that inhabits
31 primarily Kenai Lake downstream to the inlet of Skilak
32 Lake, including major tributaries such as the Russian
33 River, and the lower river stock group from Skilak Lake
34 downstream basically down to Soldotna, both over-winter
35 in Skilak Lake. Tagging studies have shown that by early
36 December most tagged rainbows usually will take up
37 residence in the lake.

38
39 Rainbows move out of the lakes in the
40 spring to seek spawning sites in the main stem or
41 tributary streams. The Russian River appears to be an
42 important spawning area for rainbow trout.

43
44 Summer and fall distribution of stocks is
45 closely related to the timing and location of spawning
46 salmon, which provide a major food source for rearing
47 rainbows.

48
49 The inlet of Kenai River in Skilak Lake
50 appears to be an important staging area for rainbows in

1 the spring and in the fall.

2

3 Four estimates of rainbow trout abundance
4 for selected index areas, as I mentioned, have been
5 conducted in the upper Kenai since 1986. Again referring
6 to Table 6 on Page 162, area biologists believe that an
7 index area from the Russian River to Jim's Landing
8 represents from one-third to one-half of the total upper
9 river population. If that's so, a total population
10 estimate for the upper river above Skilak Lake would be
11 about 17,000 to 25,000 rainbow trout.

12

13 Age and size structure observed in lake
14 trout stocks exhibit trends seen in other stocks in
15 Alaska that have been over-exploited. The fishery occurs
16 primarily during the fall and spring periods at the
17 outlets of Kenai and Skilak Lakes, and in Hidden Lake
18 during the winter ice fishing and the open water period.

19

20 Historically the bag and possession
21 limits were liberal, allowing 10 fish per day. In 1997,
22 due to concerns about the stocks, bag limits were reduced
23 to two of any size in Hidden Lake, and two fish 20 inches
24 or larger in the remainder of the drainage. For smaller
25 fish, less than 20 inches, the limits are still 10 fish
26 per day with 10 in possession.

27

28 Trends in harvest for Hidden Lake are
29 provided in Figure 3 on Page 159. Table 5 on Page 160
30 provides harvest data for the drainage.

31

32 This information suggests that harvest in
33 Hidden Lake has declined by nearly two-thirds from the
34 historic mean of 1,076 to 383 over recent years. Harvest
35 in Skilak and Kenai Lakes have remained more stable.

36

37 Very little is known about lake trout
38 biology in the Kenai watershed. No abundance estimates
39 have been made. Some size and age structure data has
40 been collected for Hidden, Skilak and Kenai Lakes. What
41 is known is that they are long-lived, slow growing
42 species with high potential for over-exploitation. Given
43 their relatively low reproductive potential, sustainable
44 harvest rates should be less than probably 10 percent.

45

46 Proposal 27d creating a winter jig
47 fishery could provide for species, stock and size
48 selective management of resident species. However,
49 Proposals 11, 12, 13, and 29, which would establish
50 gillnet fisheries, are not considered feasible as species

1 and spawners of critical size would be subject to
2 excessive exploitation. Adopting the requested gillnet
3 regulations would provide for winter subsistence
4 fisheries with gillnets in lakes under Federal
5 jurisdiction, as well as allowing gillnetting for
6 resident species in all Federal public waters during the
7 open water season. Attempting to create species-specific
8 fisheries with mesh restrictions as proposed in Proposal
9 29 we believe is not workable as species and spawners of
10 critical size are commingled.

11
12 Extremely liberal limits that ignore size
13 restrictions will have a deleterious effect on the
14 current stock status. Abundance and composition of lake
15 trout, Dolly Varden and rainbow trout have all been shown
16 to be sensitive to excessive harvest.

17
18 As proposed, no provision for marking
19 subsistence-caught fish would be provided in any of these
20 proposals.

21
22 The Southcentral Regional Council
23 recommendation, found on Pages 141 and 142 would support
24 Proposal 27d with modification, and take no action on
25 Proposals 11, 12, 13 and 29. Those are the gillnet
26 proposals.

27
28 The effects of the Council
29 recommendations begin on Page 166. The Council's
30 recommendations would modify Proposal 27d by increasing
31 the bag and possession limit for lake trout for the
32 existing rod and reel fishery, including the winter jig
33 fishery, to four per day, four in possession for lake
34 trout 20 inches or longer, 15 per day and 15 in
35 possession for lake trout smaller than 20 inches. In
36 addition, the daily bag and possession limit for Hidden
37 Lake would increase to four per day, four in possession
38 for fish of any size. Marking for subsistence caught
39 fish by removal of the dorsal fin would be required.

40
41 In addition an increased opportunity for
42 incidental harvest of these resident species would be
43 allowed in the salmon dipnet fishery that Steve Fried
44 talked to you about.

45
46 Current rod and reel bag and possession
47 limits for Dolly Varden, Arctic char and rainbow would be
48 continued.

49
50 The OSM Staff supports the Regional

1 Council's recommendation basically to support Proposal
2 27d as modified by the Southcentral Alaska Regional
3 Council, and then to take no action on Proposals 11, 12,
4 13 and 29.

5
6 Staff believes that the Council's
7 recommendation fulfills all criteria under ANILCA. We
8 believe it is consistent with available scientific
9 evidence, and address conservation principles for
10 affected stocks and species. We also believe that the
11 recommendation increases subsistence fishing opportunity
12 and provides a priority for Federally-qualified users.

13
14 That ends this part of the presentation.

15
16 CHAIRMAN FLEAGLE: Thank you, Rich.
17 Board members. Judy.

18
19 MS. GOTTLIEB: Mr. Chair. Thanks, Rich.
20 That was really helpful.

21
22 Do you have any statistics on mortality
23 as a result of catch and release on these rainbow trout?

24
25 MR. CANNON: Ms. Gottlieb, there have
26 been no studies done in the Kenai River. There have been
27 studies done in other systems, and usually in cold water
28 systems, the mortality is significantly less than in
29 warmer water systems. So we think that probably in the
30 Kenai with the colder temperatures that the mortality's
31 probably, you know, relatively low on catch and release.

32
33 CHAIRMAN FLEAGLE: Other questions.
34 Gary.

35
36 MR. EDWARDS: I guess I want to bounce
37 back. Could we go back to both the salmon also?

38
39 CHAIRMAN FLEAGLE: Sure.

40
41 MR. EDWARDS: What I was trying to
42 understand on the resident species with regards to
43 methods and means. What is allowed with regards to the
44 use of bait, and to number of hooks, types of hooks and
45 all. Where would I find that?

46
47 CHAIRMAN FLEAGLE: Doug McBride.

48
49 MR. MCBRIDE: Yeah. Mr. Chairman. Mr.
50 Edwards. Actually probably the best way to understand

1 that would be to go through the summary presentation and
2 look at Table 2 on Page 174, because that pulls all this
3 information together so you can look at the salmon
4 fisheries and the resident species fisheries and how they
5 interact and what's allowed and not allowed.

6

7 So if I may, Mr. Chairman, I'll.....

8

9 MR. EDWARDS: I have one other question
10 before you do that. On the coho fisheries, is it going
11 -- does it end before the sport fishery ends or is the
12 sport fishery for coho going to end on September 30th
13 this year, because the last couple years it's extended
14 into about August 15th or so I think.

15

16 MR. MCBRIDE: Mr. Chairman. Mr. Edwards.
17 That answer is in two parts, because there's two
18 fisheries for subsistence fisheries. There's a dipnet
19 fishery and there's a rod and reel fishery. So looking
20 at Table 2 on page 174, on the left-hand, the far left-
21 hand portion of that table, you see the species.

22

23 So I'm going to coho salmon, which is
24 roughly in the middle of the page. That upper left
25 section there relates to the dipnet fishery. Okay. And
26 coho salmon, there are three dipnet fisheries. There's
27 two below Skilak Lake and one at the Russian River. The
28 Russian River fishery is only sockeye salmon. There's no
29 other incidental harvest of any other salmon or resident
30 species in that Russian River dipnet fishery.

31

32 So for the two dipnet fisheries below
33 Skilak Lake, the one at Moose Range Meadows, and the one
34 at the Mile 48 site, you could harvest coho salmon in the
35 dipnet fishery from 16 July to September 30, total
36 harvest quota of 3,000, a household/dependent limit of 20
37 per head of household, and five for each dependent.
38 That's consistent with the request from Proposal 27c.

39

40 In addition to that, if you move across
41 the table, there is a rod and reel subsistence fishery.
42 That would be open at all times and all places that the
43 sport fishery is open, so that would not stop on
44 September 30th, but it would stay open as long as the
45 sport fishery was open. And everything would remain the
46 same except in the subsistence fishery as recommended by
47 the Council, there be a double bag and possession limit,
48 so that would be four a day an four in possession, except
49 at the Russian River where it would be two a day and two
50 in possession.

1 And, Mr. Edwards, you asked about bait.
2 The Council recommendation includes for that rod and reel
3 fishery the provision for up to two baited hooks below
4 Skilak Lake January 1 to August 31. Above Skilak Lake
5 there is no exception in the Council's recommendation, so
6 the terminal tackle would be -- above Skilak Lake would
7 be completely consistent with sport fishing regulations,
8 which would be artificials only, and fly fishing only in
9 the Russian River.

10

11 Below Skilak Lake, it would be up to two
12 baited hooks, January 1 to August 31. And that does
13 differ from sport fishing regulations. And if you want
14 me to, I'll get into it, but it gets down into the ends
15 of the branches of the trees, because it's complicated.

16

17 MR. EDWARDS: And what about Skilak Lake
18 itself, what's the terminal tackle restrictions, or are
19 there?

20

21 MR. MCBRIDE: Mr. Chairman. I believe in
22 Skilak Lake, because the terminal tackle regulations in
23 the sport fishery are different between flowing waters
24 and lakes. I believe it's just normal sport fishing gear
25 year round, which is up -- allows up to two hooks and
26 bait in Skilak Lake itself. The restrictions in the
27 sport fishery I believe are for flowing waters, which
28 would then be from the outlet down.

29

30 MR. EDWARDS: And that would apply on
31 Kenai Lake as well, right?

32

33 MR. MCBRIDE: I believe so.

34

35 CHAIRMAN FLEAGLE: Other questions.

36

37 (No comments)

38

39 CHAIRMAN FLEAGLE: All right. Thanks.
40 And we'll go back to Doug for the summary.

41

42 MR. MCBRIDE: Thank you, Mr. Chairman.
43 Again looking at Table 1, like I say, this is an attempt
44 to try to pull all these pieces back together in terms of
45 how they would work. And we just went through the
46 example for coho salmon. Let me just finish the summary
47 for salmon.

48

49 So like I say, what you see there is
50 there's a dipnet fishery and a rod and reel fishery.

1 Looking it by stock and by species, for early run
2 chinook, there is no dipnetting opportunity. There's
3 only a rod and reel opportunity. The reason for that is
4 conservation-based.

5
6 If you'll remember back, there's two
7 things going on with early run chinook as it relates to
8 Federal waters. First, these are primarily tributary
9 spawners and so they're primarily going to the Funny and
10 Killey Rivers, and so most of these fish have peeled off,
11 you will, before they get into the majority of Federal
12 waters.

13
14 And then in addition to that, if you
15 remember back to the early run chinook salmon management
16 plan, the State regulation, part of the conservation
17 definition in there, there's an escapement goal, but
18 there's also the requirement to preserve the unique size
19 of these fish. And that's where that slot limit comes
20 from.

21
22 So the subsistence fishery, as
23 recommended by the Council, would be by rod and reel
24 only. And that slot limit is one of those sport fishing
25 regulations that would remain in effect for the
26 subsistence fishery.

27
28 For late run chinook, they're primarily
29 tributary spawners. There's many more of them in Federal
30 waters, so that's why you now see there's a dipnet
31 harvest opportunity on that stock, as well as the rod and
32 reel fishery.

33
34 The total harvest quota and household
35 limits are as requested. And if you'll remember back to
36 the discussion that we had about does this or does this
37 not provide for subsistence priority, we're now looking
38 back all the way back to the original request in the
39 original proposals, and this 1,000 and the 10 and 2, that
40 comes right out of the original request.

41
42 Sockeye salmon, same thing. There's a
43 dipnet fishery with a harvest quota of 4,000, a
44 household/dependent limit of 25 and 5, a season of June
45 15th to August 15th. That would be in all three
46 dipnetting sites. In addition to that, there would be a
47 rod and reel fishery with double bag limits.

48
49 We already went through coho salmon.
50 Pink salmon follows along.

1 Now, for resident species.

2

3 MS. GOTTLIEB: Mr. Chair.

4

5 CHAIRMAN FLEAGLE: Judy.

6

7 MS. GOTTLIEB: Just one more question,
8 Doug, about the salmon. And each one of those does have
9 a marking requirement?

10

11 MR. MCBRIDE: Yes. For all of these, for
12 everything, the Council recommendation includes the
13 marking of these fish by cutting of the dorsal fin. And
14 then as far as the reporting requirement, all this would
15 be recorded on a permit and there would be an in-season
16 reporting requirement for the dipnet fishery of 72 hours.

17

18 The resident species, probably the best
19 way to explain this is where does it differ from what
20 exist -- from sport fishing regulations. And it differs
21 in two places.

22

23 If you look right in the middle of the
24 table, you'll see other species as part -- it's right
25 under the salmon. And this does not apply to the Russian
26 River Falls area, but in the two dipnet fisheries below
27 Skilak Lake, as recommended by the Council, in that
28 fishery subsistence users could incidently harvest
29 rainbow trout and Dolly Varden less than 18 inches. So
30 only the incidental harvest of those two species less
31 than 18 inches in the two dipnet fisheries below Skilak
32 Lake. That's one place where the Council recommendation
33 differs from existing sport fishing regulations.

34

35 The other place is if you go all the way
36 to the bottom of the table and go clear to the right-hand
37 side, you'll see for lake trout that there's a rod and
38 reel fishery for lake trout with double the existing bag
39 and possession limits.

40

41 There is a rod and reel fishing
42 opportunity for subsistence fishery for both Dolly Varden
43 and rainbow trout, but per the Council recommendation,
44 that rod and reel fishery would be completely consistent
45 with sport fishing regulations in terms of the annual
46 limit for rainbow trout 20 inches or longer and the bag
47 limits and the possession limits. That would all be as
48 it is right now, consistent with sport fishing
49 regulations for those two species.

50

1 Mr. Chairman. I think I probably already
2 have covered the question of does this provide for the
3 subsistence priority. Certainly the Staff assessment is
4 the Council recommendation does do that in that virtually
5 all of the annual harvest, total annual harvest quotas,
6 virtually all of the household limits and all the gear
7 types, except the widespread use of gillnets, are
8 provided for in their recommendation.

9
10 Mr. Chairman. Just one last point. At
11 the Council meeting, again there was discussion of
12 development of fishwheel fishery, and identical to what
13 we went through with the Kasilof River, there was a
14 request to staff to develop a proposal in the '08 cycle
15 to look at a temporary fishery for fishwheels in both the
16 Kenai and Kasilof Rivers. We did that. That proposal is
17 part of the package at least that will go to the Council
18 this fall.

19
20 And then there was one additional issue
21 that came up at the Council meeting and the stakeholder
22 meeting. There was a fair amount of interest in also
23 looking at development of a dipnet fishery at Hidden
24 Creek and the Council asked Staff to further flesh out
25 issues associated with that, and there's issues
26 associated with increasing the stocking into Hidden Lake
27 of sockeye salmon, and then development of infrastructure
28 at Hidden Creek parking lot, hardening of the banks,
29 those kinds of things, and Staff will be doing that this
30 summer and bringing that report to the Council in the
31 fall as well.

32
33 Mr. Chairman. That concludes all the
34 Staff presentations on this, and we'd be happy to answer
35 any questions.

36
37 MR. EDWARDS: Pete. Mr. Chairman.

38
39 CHAIRMAN FLEAGLE: Gary, go ahead.

40
41 MR. EDWARDS: Getting back to the
42 question on hooks and bait, so I guess I read the
43 regulation that between September 1st and December 31st,
44 you cannot use treble hooks and bait below Skilak?

45
46 MR. MCBRIDE: Mr. Chairman. Mr. Edwards.
47 I believe below Skilak Lake, in a portion -- well, in the
48 portion that would relate to the Federal waters above
49 mile 45.5 during the period September 1 to December 31 in
50 sport fishing regulations, only unbaited single hook,

1 artificial lures. So one hook and no bait in the sport
2 fishery in that section of the river.

3

4 MR. EDWARDS: Well, so the answer to my
5 question, that was a yes?

6

7 MR. MCBRIDE: Yes.

8

9 MR. EDWARDS: But isn't there times those
10 that the State on the coho fisheries does open it up to
11 use of eggs? I think at times depending upon the run and
12 all. Would that allow subsistence user to use eggs for
13 coho or not? I guess, I mean, what happens, you know,
14 when the State makes an in-season change on their sport
15 regs. Certainly subsistence users with sport licenses
16 could obviously utilize that, but what happens to the
17 subsistence user. They wouldn't be able to follow suit
18 on their subsistence permit.

19

20 MR. MCBRIDE: Mr. Chairman. Mr. Edwards.
21 Right now, the existing subsistence fishery is a rod and
22 reel fishery that mirrors sport regulations in every
23 regard. So as the sport fishery changes, so does the
24 subsistence fishery.

25

26 As recommended by the Council as far as
27 bait and terminal tackle for below Skilak, the
28 recommendation is to allow up to two baited hooks from
29 January 1 to August 31. So if sport fishing regulations
30 changed during that time frame, it would not change the
31 subsistence fishery.

32

33 From September 1 to December 31, since
34 there is -- since the Council recommendation only goes
35 through August 31, then it goes back to the default of
36 sport fishing regulations. So the existing sport fishing
37 regulations are as I previously read. If they change
38 them after September 1, that would change the subsistence
39 fishery as well.

40

41 CHAIRMAN FLEAGLE: Other questions.

42

43 (No comments)

44

45 CHAIRMAN FLEAGLE: All right. Thank you,
46 guys, for the reports.

47

48 Summary of written public comments.

49 Donald Mike.

50

1 MR. MIKE: Thank you, Mr. Chair. The
2 summary of written comments starts on Page 186 to 216.
3 And I summarized the written public comments that covers
4 both the Kenai and Kasilof Rivers. So if it is the wish
5 of the Board, I can resummarize on record what I stated
6 yesterday.

7
8 Mr. Chair.

9
10 CHAIRMAN FLEAGLE: Sure. Please do.

11
12 MR. MIKE: The Office of Subsistence
13 Management received 33 written public comments. Comments
14 were received from individuals, sport/commercial fish, or
15 non-profit fisheries organizations, and local advisory
16 committees.

17
18 One local advisory committee unanimously
19 accepted and adopted the Federal Staff analysis on Pages
20 4 through 6 dated February 22, 2007 as their own.

21
22 Seventeen individuals are opposed to all
23 the proposals in general.

24
25 And one individual wrote in support of
26 the subsistence fisheries proposals for the Kenai and
27 Kasilof Rivers.

28
29 Two of the commenters stated that the
30 only viable solution for a subsistence fishery would be
31 through a manned fishwheel.

32
33 And two commented in support of the
34 subsistence dipnet fishery.

35
36 One commenter stated that they would
37 support a jig fishery as long as the harvest limits are
38 responsible and within biological limits.

39
40 Two commented that rod and reel will be
41 an ineffective method and dipnet fisheries will also be
42 an impossible method in clear shallow water.

43
44 The overall theme on the comments
45 received opposed a gillnet fishery on the Kenai and
46 Kasilof River drainages, citing conservation concerns and
47 the economic impact it will have on the sport fishing
48 industry, and that a gillnet fishery is an indiscriminate
49 method of harvesting fish other than a targeted species.
50

1 Thank you. Mr. Chair.
2
3 CHAIRMAN FLEAGLE: Thank you, Donald.
4 Questions.
5
6 (No comments)
7
8 CHAIRMAN FLEAGLE: Appreciate the report.
9 Pete, I understand we don't have anybody interested in
10 testifying?
11
12 MR. PROBASCO: Oh, you wished. No, just
13 kidding, Mr. Chair. Right now we have seven individuals
14 signed up. And I have shuffled the deck here, and the
15 first person up will be Andy Szczesny, followed by Les
16 Palmer, and then Darrel Williams. Mr. Chair. Andy
17 Szczesny.
18
19 CHAIRMAN FLEAGLE: Andy Szczesny. Good
20 morning.
21
22 MR. SZCZESNY: Thank you, Mr. Chairman.
23 My name is Andy Szczesny for the record.
24
25 I have just a few comments, and some
26 concerns. One of them is in Cooper Landing. It has
27 changed in the last 15 years, and a lot of the change
28 that has occurred there has to do with the influx of
29 Princess Lodge, cruise ships, and it's very -- it's grown
30 in the last 15 years.
31
32 I have a concern with the access to the
33 Russian River Falls fishing area. If I was a subsistence
34 user, I would be very concerned about that. I fished up
35 there for almost 30 years, and probably on an average of
36 120 days a years up there and below Skilak, so I'm
37 familiar with the areas.
38
39 The area that's proposed for the dipnet
40 fishery has basically in the last 10 years has turned
41 into a bear viewing area. So if I was a subsistence user
42 going down there. Since it hasn't been utilized as a
43 sport fishery, because that's been a closed area, the
44 bear have kind of moved in there, and they have that area
45 to themselves. And so that's another concern that I
46 would have on that area. And if I was a subsistence
47 user, it would concern me.
48
49 A couple of other things is the baited
50 hooks. Double baited hooks during the rainbow closure

1 concerns me, especially when we have size restrictions on
2 you can only take a fish under 18 inches, but you're
3 using baited hooks. It kind of goes against the grain
4 for me as a fisherman.

5
6 One of the other concerns is, is that
7 tourism is one of the lifeblood of Cooper Landing.
8 Probably most of the residents of that area make their
9 livelihood on that. The influx of people fishing that
10 system in the last 50 years has grown. When I started
11 fishing that, there was nobody there after I would say
12 August. Now, the parking lots are completely full all
13 the way into the end of October.

14
15 Now, that -- I mean, it's really hard for
16 me to convey to you the high use of this area, and it's
17 going to be difficult for subsistence users to actually
18 have the access that they need. And I think it's going
19 to create problems for the managers. I mean, can you
20 imagine if a subsistence user goes up there, cannot get
21 into the park. I've seen the cars parked all the way out
22 to Gwen's Lodge, which is a half a mile down the road.

23
24 Mr. McBride said he went there during the
25 week. That's true, the week would be the best time to do
26 that, but that's not always true. And during the
27 weekend, forget it. I don't even fish there on the
28 weekends any more, it's so bad.

29
30 Below Skilak Lake, there is a high use of
31 sport fishing. And you have to utilize that system with
32 a power boat during the summer when you can after June
33 15th. To utilize that area before that with a drift boat
34 is very difficult, number 1. You have to go across the
35 lake a mile. You can't use a motor in that system, the
36 water's very low.

37
38 And what I'm trying to do is just convey
39 to you the difficulties of these fisheries for these
40 people. And I want everyone to be very aware of them,
41 because you're going to probably in the future hear of
42 some of these concerns from the subsistence users, since
43 they have a priority.

44
45 And I think that it's probably best any
46 time that you can to mirror State regulations, because
47 this system has been micromanaged for 20 years. and to
48 tell you the truth, I don't know all the regulations, and
49 there's times during the season I have to call the Fish
50 and Game office to get clarification, and most of the

1 time they don't know. And it's not their fault. I mean,
2 these regulations completely keep changing every so many
3 years, sometimes during the season.

4
5 So I would really hope that you guys,
6 when you can, mirror the State regulations for
7 enforcement purposes, and all of it.

8
9 But my biggest concerns are the double-
10 baited hook in the areas where you have a spawning
11 closure, but you have the system open for Dolly Varden.
12 The Dolly Varden since I've been instrumental in a lot of
13 the studies for Dolly Varden and rainbow trout with Fish
14 and Wildlife and Fish and Game, I know a little bit about
15 their movements. And the Dollies really don't get into
16 the system, and they congregate at the mouths of the
17 river following the salmon in early June.

18
19 So before that time, during the spawning
20 closure, you still can fish for Dolly Varden, but they're
21 really not prevalent in the area that's proposed.
22 They're down below, out of the Refuge.

23
24 And that brings up another concern, is
25 that there's fisheries occurring below the Refuge all the
26 time, and we have closures and in-season, and I don't
27 know how that's going to affect subsistence users.

28
29 The Russian River has distinct two runs
30 of sockeye. The first run is a lot larger than the
31 second run. And one of the reasons is, is that it's only
32 fished by the sport fishermen. The second run is a
33 smaller, distinct stock, and it's fished by sport
34 fishermen, personal use fishermen and commercial
35 fishermen. And in the last 20 years it has been closed
36 twice with restrictions on the area of Cooper Landing.
37 So I just have concerns how you are going to manage these
38 closures with the subsistence users, with all the other
39 groups into the mix.

40
41 And that's it. Thank you very much.

42
43 CHAIRMAN FLEAGLE: Okay. Appreciate the
44 testimony.

45
46 Questions. Gary.

47
48 MR. EDWARDS: Mr. Chairman. You know, as
49 a resident of Copper Landing, I guess, you are one of
50 them.

1 MR. SZCZESNY: No, I lived in Cooper
2 Landing for 15 years, but I now reside in Soldotna.

3
4 MR. EDWARDS: So you're not one,
5 quote/unquote, of them. All right. I was just curious.
6 But what you said about I guess the Russian River, I
7 guess, I would concur based upon my numerous times down
8 there and seeing the cars parked all the way up literally
9 as far as you can walk almost. I mean, if you were going
10 to provide a fishery there on the Russian River, what
11 would you do?

12
13 MR. SZCZESNY: I wouldn't provide it
14 there, number 1. I would provide it -- during the
15 Southcentral RAC meeting, we discussed Hidden Lake.
16 Hidden Lake, there is absolutely no sports fishermen on
17 that Hidden Lake Creek. It would in my opinion be the
18 ideal place to put a subsistence user. They would not be
19 in conflict with any other sports fishermen. They would
20 have that fishery to themselves. That's where I would
21 put it.

22
23 And we've talked about enhancing Hidden
24 Lake again for that. Well, there's plenty of fish.
25 There's nobody really fishing Hidden Lake. There's
26 plenty of opportunity for subsistence users to take their
27 fish there. And if you hear the subsistence users say,
28 well, not very many people are going to prosecute this
29 fishery, then why not put it at Hidden Lake. It just
30 makes more sense to me.

31
32 And you can tell by the NTC, when we went
33 to the -- when we were at our Southcentral RAC meeting,
34 their proposals got amended I don't know how many times.
35 And it got very confusing. It got very confusing for the
36 members of the RAC, too, because, I mean, there was
37 comments, are we still talking about rainbow trout? I
38 mean, they didn't even know what was going on. And as a
39 person in the audience, I was very confused at times of
40 what was actually being proposed during that meeting.

41
42 And as it came out, they went from one
43 direction to very conservative. But I don't even know
44 what I'm talking about. I'm rambling.

45
46 MS. GOTTLIEB: Mr. Chairman.

47
48 CHAIRMAN FLEAGLE: Are you sure you want
49 to ask a question?

50

1 MS. GOTTLIEB: A different question.
2
3 CHAIRMAN FLEAGLE: Judy.
4
5 MS. GOTTLIEB: Which I'm sure you'll know
6 what you're talking about. You mentioned fishing for
7 Dolly Varden, and you said some of it takes below the
8 Refuge. And I just want to be clear whether you meant
9 the area that's closed, or you meant the Kenai National
10 Wildlife Refuge.
11
12 MR. SZCZESNY: When I was talking about
13 Dolly Varden?
14
15 MS. GOTTLIEB: And the rainbow closure,
16 times or areas.
17
18 MR. SZCZESNY: Yes, the rainbow closure
19 is from May 1st to June 10th I guess. But there is
20 fishery right now below Skilak Lake for Dolly Varden.
21 The people who do prosecute that fishery right now use
22 unbaited hooks and flies. So what I'm saying is, is
23 you're putting in the mix double baited hooks in that
24 time frame with spawning rainbow trout, and that probably
25 goes against the grain of people, you know, dealing with
26 conservation concerns on rainbow trout. That concerns
27 me.
28
29 Most of the Dolly Varden are below the
30 Refuge at that time frame is what I meant.
31
32 MS. GOTTLIEB: But what do you mean by
33 Refuge?
34
35 MR. SZCZESNY: The boundary for the
36 subsistence fishery.
37
38 CHAIRMAN FLEAGLE: Gary.
39
40 MR. EDWARDS: But, you know, in reality
41 the fact that you can continue to fish for dollies during
42 that closed period, you know, I can show you dozens of
43 pictures of people holding large rainbows that they catch
44 during that, and in many ways it's just euphemism for
45 still catching, you know, rainbows. I mean, isn't that
46 the reality?
47
48 MR. SZCZESNY: Yes. Yes, it is, but that
49 area had been closed for 20 years, and there was a
50 regulation change that opened it for the last two years.

1 This next go around with the Board of Fish, it will be
2 closed again for no fishing in that area. I don't now
3 where the boundaries are going to occur with the
4 Department of Fish and Game, but I'll guarantee that area
5 will be closed to fishing for spawning come next march.

6

7 CHAIRMAN FLEAGLE: Other questions.

8

9 (No comments)

10

11 CHAIRMAN FLEAGLE: All right. Thank you
12 for your testimony.

13

14 MR. SZCZESNY: Thank you.

15

16 CHAIRMAN FLEAGLE: Pete.

17

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

19 Next up is Les Palmer, followed by Darrel Williams, and
20 then Ron Rainey.

21

22 MR. PALMER: Mr. Chairman. Members of
23 the Board. Thank you for this opportunity.

24

25 I'm a little more angry than Andy is.
26 I'm a little outraged about this whole process. It's
27 obviously poisoned. We have 150 bureaucrats and a
28 handful of proponents and opponents sitting back here.
29 I've been to a lot of meetings, a lot of Board of Game
30 and Board of Fish meetings. I've never seen anything
31 quite like this.

32

33 With that said, my main concerns -- I'm
34 against all of these proposals. My concerns though is I
35 haven't heard a word of concern on the part of the Board
36 about impacts on the present users and uses of the Kenai
37 River and the Kasilof River. There's just no reluctance
38 on your part it seems to do this.

39

40 This morning Keith Goltz walked up to me,
41 somebody I haven't talked to in about 10 years, and he
42 started to talk, and I said, -- he said, do you -- I'm a
43 writer. Anyway, Keith said, are you getting some good
44 material? I said, you ought to be ashamed. He said, I
45 am.

46

47 Well, I would hope that the Board
48 members, if you keep doing what you're doing here, are
49 ashamed.

50

1 I have a lot of concerns. Most of them
2 have been in written comment which I didn't see in the
3 public written comment book, and I hope you got those. I
4 went to a lot of pains to put them into writing. I hope
5 the Board members received those. I'm not going to go
6 into them at this time.

7
8 CHAIRMAN FLEAGLE: Okay. I appreciate
9 your comments.

10
11 Board members, questions.

12
13 (No comments)

14
15 CHAIRMAN FLEAGLE: Thank you for your
16 testimony.

17
18 Pete.

19
20 CHAIRMAN FLEAGLE: Thank you, Mr. Chair.
21 Next up is Darrel Williams, followed by Mr. Ron Rainey
22 and then Mr. Rod Arno.

23
24 DR. WILLIAMS: Mr. Chairman. Members of
25 the Board. My name is Darrel Williams. I work for
26 Ninilchik Traditional Council. I'm an environmental
27 scientist.

28
29 To start off, I think just maybe a little
30 personal history, and this will work into the rest of
31 what I have to say.

32
33 I'm originally from Piney River. I grew
34 up there. I lived there, hunted, fished, trapped, all
35 that good stuff. And when they lost their subsistence
36 priorities, I was proactive and chose to move somewhere
37 where I could do this. And it's been really interesting
38 sitting here, watching these things happen again.

39
40 Some of my observations as a subsistence
41 users, it has been really interesting the last few days.
42 Mr. Goltz said earlier that conservation comes first.
43 And I think what he really meant to say was that
44 conservation comes first when there's a sport season and
45 you can prove a conservation concern. When there's a
46 sports fishing season and we're told we, collaboratively
47 of a group of subsistence users, you can't fish, because
48 the State allows you to fish. They have bag limits, they
49 allow people to harvest these fish, but you can't,
50 because it might be an inconvenience, is thin ice to be

1 walking on.

2

3 This is kind of a favorite thing that's
4 come up here lately, too. Google semantics. When we're
5 going to Google something, we have to be aware that 12
6 year olds publish things in the internet.

7

8 It appeared that subsistence was confused
9 with a cost-of-living analysis that's done. It's a
10 government rate similar to COLA. And to put that into
11 perspective with subsistence, it makes it a much more
12 difficult problem.

13

14 And I would like to suggest that maybe if
15 we're going to use Google to try to figure out what we're
16 looking at and how the proposals are crafted, maybe we
17 should do searches like subsistence fishing, or all fish.

18

19

20 Semantics are a dangerous thing to have
21 in this kind of environment. So is an opinion. And I
22 hear a lot of opinions flying around out there with
23 nothing to back them up.

24

25 At the Southcentral RAC meeting, we
26 addressed a lot of things in depth. One of the examples,
27 and I'm referring to examples to assume that these
28 mistakes wouldn't be made again. One of the examples was
29 the results from a terminal fishery. Board Member
30 Blossom was kind enough to call during the RAC meeting
31 and obtain those numbers. And we were all really stunned
32 with what we found, and that is an important issue. That
33 is something that needs to be addressed here. It's a
34 matter of record, and the Board has a dynamic job.
35 There's a lot of work to do. You have to keep up. I
36 know there's been changes in people who sit at the Board
37 and what not. I'm sorry. You still have to keep up.

38

39 Yesterday I asked the Board to consider
40 the right questions. And my example was, what fishery
41 will be reduced or eliminated in order to establish a
42 subsistence fishery. And I'm still waiting for the right
43 question.

44

45 The discussions that we've also heard
46 that's come from the State of Alaska, they claim that
47 they didn't have data to support their fisheries, but
48 they have a fishing season. And the sustained harvest
49 over years and years and years is data.

50

1 I'm also concerned form the expressions
2 that came from CFR 50 of omission in delivery where I
3 heard from the first factor of customary and traditional
4 use was a long-term consistent pattern of use,
5 quote/unquote. And to be delivered in context, it needs
6 to be a long-term consistent pattern of use excluding
7 interruptions beyond the control of the community or
8 area.

9
10 You can't pick and choose out of the CFRs
11 what you want to say. It's vexatious. To put that kind
12 of bias into the process undermines the entire process.

13
14 When I was trying to make sense of all
15 this, I did a little research, and I found the memorandum
16 of agreement between the Federal Subsistence Board and
17 the State of Alaska, the interim memorandum of agreement.
18 And I also notice that there are very few Board members
19 who are still here who had signed that agreement.

20
21 But there are some responsibilities of
22 the State of Alaska as well in that agreement. And I've
23 sat here and I've heard about providing maps and putting
24 hatchmarks on maps. But in the going on three years
25 during this whole process now, I haven't seen the State
26 provide anything. That makes me very curious.

27
28 The memorandum of agreement also
29 addresses the tribal issue. That may be something that
30 needs to be looked at further also.

31
32 Another issue that we had addressed in
33 depth at the RAC was about the mortality rates,
34 evaluating the mortality rates that were from the Staff
35 analysis. Again, that was an in-depth discussion that
36 took a lot of time, and this process would be much more
37 effective if we looked at those records, did our homework
38 and presented the information here. I would rather not
39 get into it for the sake of time. It's a matter of
40 record.

41
42 The Board tends to be holding subsistence
43 users to the higher standard than sports users. The joke
44 at this point is maybe we all ought to move to Montana,
45 we'll have more leniency in harvesting resources with a
46 sports fishing license. We're having higher reporting
47 requirements than sports users and claims to the State
48 that they can't support a fishery, because they don't
49 have the information.

50

1 This is the point of rhetoric. And at
2 some point in time we need to start asking the right
3 questions.

4
5 Ninilchik in the past has asked to
6 participate telephonically with Federal Subsistence
7 Board, and we were denied that request. So there's
8 another additional burden put on the subsistence user. I
9 have to come here. I have to come to the rural
10 community. I had my vehicle vandalized and things stolen
11 the last time I was up here. That's a cost to us.
12 That's more value that's not part of any of the
13 subsistence thing to have to come here.

14
15 The permitting requirements which we
16 discussed before in depth. All these things we've
17 discussed before. We have to go somewhere else. What
18 does a hospital have to do with a rural community? A
19 hospital that's not even in the rural community. It's
20 kind of like what does it have to do with the price of
21 tea in China. But it's the same thing. We have to leave
22 our rural community and go to an urban center to get
23 these permits. This has been discussed before.

24
25 The burden of trying to make these
26 fisheries work are also on the subsistence user. We're
27 sitting around trying to craft proposals that may or may
28 not work, beyond conservatively, with what I'd like to
29 call just a severe lack of experience.

30
31 Anyone who has put a net in the river
32 knows you don't leave that net in there for days. You're
33 lucky if it will be in there for 20 minutes, and that's
34 really pushing it. And if you leave it in there longer
35 than that, you're going to pull back strings. Because
36 you can't hold it. There's logs, there's debris, and
37 there's all kind of things that happen. It is a
38 specific, targeted type practice, you know, and there's
39 things that come along with that when we're talking about
40 going an trying to effectively harvest stuff.

41
42 And we've got a really strong record. We
43 spent days and days and days and days on that, and the
44 same thing, I'd like for you guys to keep up. Please.

45
46 I know we had a meeting in Ninilchik, and
47 we discussed this in depth, and I know there's been some
48 changes and stuff in the system since then. But it might
49 do everyone some good to go and review some of that
50 information that we discussed. We spent a lot of time

1 and effort trying to make all this work.

2

3 I would like to make a note that when you
4 read the written public comments, there's a lot of
5 prejudice associated with that. That's turned into a big
6 issue, and I appreciate the summarizing the comments into
7 what they are. But when you read them for what they are
8 and what they say, when it says, Alaska natives should
9 not have subsistence, because they have health care.
10 That is inappropriate. That is rhetoric, and it
11 shouldn't be something that's in there.

12

13 An example of the Kenai River subsistence
14 fishery that I'd like to point out, is in the Kasilof
15 River most of the coho go up Crooked Creek, and by the
16 time they reach spawning areas in Crooked Creek, they
17 could be harvested and they may be targeted for harvest
18 for roe and milk sacs and things like that. Providing a
19 better opportunity may be a real effective way of being
20 able to handle this with the Kenai.

21

22 There's a lot of concerns with the Hidden
23 Creek suggestions that we've talked about. Some of these
24 concerns are bear. There's a lot of bear there.

25

26 Some of the other concerns are what is
27 the true cultural and traditional value of being escorted
28 to an area by a Refuge officer, dipnetting your fish and
29 being escorted back to your car. How do you do oral
30 traditions. How do you teach your kids that. How do
31 you? Again, please, ask the tough questions.

32

33 Micromanagement versus sound management.
34 We've discussed this before. And if you were at the
35 meeting in Ninilchik, everyone knows my opinion on that.
36 Sound management practices are exactly that. At this
37 point in time we have a lot of people who are very
38 concerned. They're looking at these proposals that we've
39 crafted, and it's gotten to the point where it's very
40 hard to keep up with. People are confused, and it's
41 going to take some work to make this all work. So making
42 it more difficult isn't always the answer. And I'd like
43 everybody to take some time and try to think about that,
44 and try to give the subsistence preference to the users
45 so these guys can go fishing.

46

47 That concludes what I have to say. Thank
48 you.

49

50 CHAIRMAN FLEAGLE: Thank you, Darrel.

1 Questions.
2
3 (No comments)
4
5 CHAIRMAN FLEAGLE: Appreciate the
6 testimony.
7
8 DR. WILLIAMS: Thank you very much.
9
10 CHAIRMAN FLEAGLE: Pete.
11
12 MR. PROBASCO: Thank you, Mr. Chair. Mr.
13 Ron Rainey, followed by Mr. Rod Arno and then Ricky
14 Gease.
15
16 CHAIRMAN FLEAGLE: Don't forget to turn
17 -- yeah, turn the mic on. There you go. Thanks.
18
19 MR. RAINEY: Okay. Thank you very much.
20
21 CHAIRMAN FLEAGLE: Good morning.
22
23 MR. RAINEY: Mr. Chairman. Members of
24 the Board. Thank you very much for listening to me
25 again. And I will be more on the philosophical side of
26 these arguments, and I'll leave Andy Szczesny and Ricky
27 Gease to the technical part of these fisheries.
28
29 Mr. Lohse, I had -- I very interested in
30 things that you said, and I agree with you that
31 subsistence is a way of keeping us in the outdoors and
32 part of the fishing and part of the hunting. But let me
33 please remind you subsistence isn't the only way.
34 There's a lot of organizations that work very hard to
35 keep our outdoors open to all of us. Kenai River Sport
36 Fishing does this every day of the year. And the Outdoor
37 Council, Safari Club. There's a lot of us working for
38 it. It's not just subsistence.
39
40 The other thing that I'd like to touch on
41 is how we approach this process. Now, Les mentioned we
42 have many, many bureaucrats here. And I don't mean that
43 disrespectfully. You folks work for the government, and
44 that's your job. But we have -- we're spending hundreds
45 of thousands of dollars on very small issue, and we
46 should, because I'm sure that people from Ninilchik are
47 sincere in what they want.
48
49 But I come from the electric utility
50 industry, and if you followed the Chugach elections

1 recently, most of you live here, a lot of you live here,
2 the two people that got elected, the non-union people
3 that got elected, they're entire campaign was the unions
4 were negotiating from both sides of the table. And in
5 this case, in the subsistence case, that that is very
6 much true. We have, and I notice Keith raised his
7 eyebrows, but we have commercial fishermen in Ninilchik
8 that catch thousands of fish negotiating for a
9 subsistence fishery in the upper Kenai River. And, you
10 know, that kind of bothers me. And then we go to the
11 Southcentral RAC and we have commercial fishermen,
12 several of them, that literally influence a lot of what's
13 happening there, are directing a fishery on sport
14 fishing. And so is there some prejudice there? I think
15 there is, but, you know, that's the way the game is
16 played.

17
18 Also, you know, the last time I said
19 this, I think Keith reminded me this is not a matter of
20 calories. You know, there's so much easier, better ways
21 to take fish than what's being proposed, and I think as
22 Daniel would agree, there's not many people would do
23 subsistence fishing for rainbows when there's chinook,
24 red salmon, silver salmon there at the doorstep. You
25 know, it almost has to be done as a sports fishery. And
26 we welcome them -- them, welcome anybody to come up and
27 fish for those fish as a sports fishery, because hat I
28 don't want to see happen, and I don't make any money out
29 of these industries, I don't want to impact a fully
30 allocated sports fishery that provides hundreds and
31 hundreds of jobs for the Kenai Peninsula and literally
32 millions of dollars. Why would you jeopardize that when
33 all the fish that anybody needs is available right there.

34
35 And I truly don't understand all the
36 phases of subsistence, although I'll tell you a quick
37 story and then I'll get out of here.

38
39 My great great grandfather was the Indian
40 agent no the Sackenfox Tribe reservation in Oklahoma, and
41 wouldn't it happen, his daughter married one of those,
42 and I'm quoting from them, one of those half-breed
43 Indians. And so I'm probably more native American than
44 most people that are before you arguing for subsistence.
45 So I agree with a lot of what they're doing, and I have
46 empathy for it. But I think it's being done the wrong
47 way on the wrong fishery.

48
49 Thank you. Any questions.
50

1 CHAIRMAN FLEAGLE: Thank you. Questions.

2

3 (No comments)

4

5 CHAIRMAN FLEAGLE: Okay. Thank you for
6 your testimony.

7

8 Pete.

9

10 MR. PROBASCO: Thank you, Mr. Chair. Rod
11 Arno, followed by Ricky Gease and then Sky Starkey.

12

13 CHAIRMAN FLEAGLE: Good morning, Rod.

14

15 MR. ARNO: Good morning, Mike. Thank
16 you, Mr. Chairman, Board members, for the opportunity to
17 testify. My name is Rod Arno. I'm executive director of
18 the Alaska Outdoor Council, which represents 12,000
19 Alaskans.

20

21 It's clear I'm wasting my time before the
22 Federal Subsistence Board, but I'm used to it. I've been
23 doing it for a decade. I'll be brief and try not to
24 waste yours.

25

26 These proposed regulations are not about
27 protecting traditional subsistence uses or providing fish
28 for those Federally-qualified rural residents who choose
29 to participate in subsistence uses as their mainstay of
30 livelihood. These proposed regulations are about giving
31 a priority to Alaskans who live in a Federally-qualified
32 rural area on the Kenai Peninsula. I could move there
33 and I'd qualify. But 40 years of hunting and fishing in
34 Alaska don't make me a subsistence user.

35

36 AOC opposes all subsistence fishery
37 proposals for the Kenai drainage. AOC would recommend
38 that the Board, if compelled by court rulings, does adopt
39 proposals, then they should try to cause the least damage
40 to Alaskans by minimizing divisiveness between Alaskans
41 with the right zip code and the 4,700 other Alaskans who
42 live in the Cook Inlet area who have the wrong zip code.

43

44 Again, as I said yesterday, that the
45 Outdoor Council does not feel that the Kenai National
46 Wildlife Refuge should be providing for subsistence uses
47 regardless again of the court's interpretation on that.
48 And if you are going to put in a subsistence fishery, do
49 it on forest land. And if you're going to do that,
50 Russian River's perfect whether you choose gillnets, fish

1 traps, wheels or gillnets on a stick, dipnets.

2

3 We do -- the Outdoor Council has major
4 concerns with the reel fishery and different -- the use
5 of different terminal gear and bate as it relates to
6 enforcement, and also bag limits, that as long as
7 Alaskans are going to be operating there under State
8 regulations, and they have -- and they're shoulder to
9 shoulder in their effort, and the one next to them is
10 using treble hooks with bait on them and has a different
11 bag limit, then there's going to be divisiveness without
12 a doubt. And as many Alaskans are concerned about
13 conservation and about following the regulations that
14 provide for that, that they're going to be inclined to
15 call the Alaska Wildlife Troopers. And the Alaska
16 Wildlife Troopers then are going to have to come down and
17 identify these people then who are the ones that have the
18 right zip code and qualify. And in that case then
19 there's going to be increased burden on the State
20 enforcement on these, so I would ask that the Board, if
21 they are going to do that, to find some way then of
22 permanently identifying those 2,000 or fewer Alaskan
23 residents on the Kenai who do qualify.

24

25 Thank you for your time.

26

27 CHAIRMAN FLEAGLE: Thank you, Rod.

28

29 Questions. Gary.

30

31 MR. EDWARDS: Yeah, I have one. I had I
32 guess somewhat the same concerns that you did about the
33 people fishing shoulder to shoulder, because I know a lot
34 of people don't like to go down there and fish below the
35 Russian. But I guess I haven't been here long enough not
36 to still enjoy that, so I'm used to that. And I was
37 wondering about that. But, for example, I get a proxy
38 permit for the lady who lives next door that's
39 handicapped and elderly. So when I'm fishing next to
40 someone, I can take six fish, and which appears to them,
41 you know, and I guess what's being offered is no more
42 than allowing the subsistence fisherman to take six. So,
43 I mean, you already have some of that dichotomy under
44 State regulations.

45

46 MR. ARNO: Through the Chair. Mr.
47 Edwards. Well, if you think that that justifies them
48 being able to use treble hooks with bait, and it's not
49 just a matter of bag limit, then it appears to be no
50 problem.

1 CHAIRMAN FLEAGLE: Other questions.

2

3 (No comments)

4

5 CHAIRMAN FLEAGLE: Thanks for the

6 testimony.

7

8 Pete.

9

10 MR. PROBASCO: Mr. Chair, the final two

11 are Mr. Ricky Gease followed by Mr Sky Starkey.

12

13 MR. GEASE: Good day. My name is Ricky

14 Gease. I'm the executive director of Kenai River Sport

15 Fishing Association, and I'm here -- my comments are on

16 behalf of the Sport Fishing Association.

17

18 Yesterday you voted on our proposals,

19 which indicated our preference to either have the Kenai

20 Peninsula be looked at as an all rural or an all non-

21 rural. We don't agree with the Swiss cheese approach

22 where we're segmenting out rural and non-rural areas of

23 the Kenai Peninsula.

24

25 Getting on to some of the stuff, we've

26 had discussions between the State and the Federal

27 Government here. I think it's a waste of money to have

28 duplicate, dual management systems. People are asking

29 here, what does the State pick up. The State's put in a

30 tremendous amount of money to do the fishery conservation

31 monitoring on these river systems, and they do a really

32 good job of it.

33

34 That's why we feel that through the Board

35 of Fisheries process where the Sate is very much engaged

36 in it is the point where many of the fishery conservation

37 concerns should be addressed. We think that the

38 regulations and terms of the fish regulations should

39 mirror whether it's single hook, treble hooks, where

40 those are in State regulations, that's what you guys

41 should follow. I see nothing here of evidence that shows

42 that any agency here, like beyond what Fish and Game has

43 done, Fish and Wildlife Service has done on the Kenai

44 National Wildlife Refuge, is doing any fishery

45 conservation monitoring of real depth.

46

47 And that's your number 1 thing here. So

48 when you deviate away from State regulations, you should

49 really think about what are the fishery conservation

50 effects and discuss those in length. For example, we had

1 discussion earlier today about baited versus unbaited
2 hooks or what's going on in the area where there's a
3 rainbow closure, and, you know, that fishery right there
4 where you can still fish for Dollies was a loophole.
5 That will be fixed next year at the Board of Fisheries.
6 But that fishery is being done with unbaited hooks.
7 That's not being done with baited hooks.

8
9 There's a very significant difference of
10 doing -- if you're releasing rainbow trouts if you catch
11 them on bait than if you catch them without bait. And
12 that should just be a fundamental thing that should be
13 acknowledged and should be common knowledge as a fishery
14 conservation concern. The mortality rate with baited
15 hooks in that area during that time period is going to be
16 much higher than it would be under State regulations with
17 unbaited hooks.

18
19 And so when you get into the dual
20 management systems and we're pouring a bunch of money
21 into both these systems, it costs a lot to monitor fish.
22 And I think after you're done with this and you pass the
23 regulations and stuff, hopefully at some point you get
24 beyond the log jam between the State and the Federal
25 Government and you take it seriously, and you start
26 looking at ways to cooperate better between the State and
27 Federal Government to manage these systems with a single
28 vision instead of a dual system, because I think too many
29 things -- there's opportunity to fall between the cracks
30 within the dual management system.

31
32 And, you know, by the way as a taxpayer
33 in the State of Alaska, we're picking up the bill for
34 your fishery conservation management. That's not being
35 spread amongst all the tax payers across the whole state
36 -- I mean across the whole nation. So a lot of the bill,
37 a lot of people are bringing to the table is paying for
38 that. And a lot of that actually comes from your sport
39 fishing licenses. About \$20 million goes into Sport Fish
40 to help run that division comes from people, the sport
41 fishermen, who are paying for those license fees. It's a
42 significant investment that we do to invest in fishery
43 conservation that shouldn't be ignored or pooh-poohed or
44 down-played.

45
46 Now, given that, I'm going to take off my
47 hat as the Kenai River Sport Fishing Association
48 director, and I'm going to put on my personal hat, and
49 say here's some things that I think you should think
50 about in terms of if you're going to create -- I have

1 some concerns about the Russian River dipnet fishery.

2

3 It is an area where you haven't had a
4 fishery, underneath the falls. It is an area where you
5 have bears. There are bear management concerns there
6 that you need to be concerned about. There are also
7 cultural resources there that you need to be concerned
8 about. There's discussions about ATVs going back there
9 at some point in the future that you need to be concerned
10 about.

11

12 Parking is an issue that needs to be
13 concerned about. One area across the road from the
14 Russian River campground is the Kebeck (ph)
15 interpretative site that has big parking lots, that if
16 you're going to allow ATVs eventually to go back there,
17 that I think with parking lots and with trailers, that
18 that's a place that you should start designating parking
19 areas if you're going to put a subsistence fishery on the
20 Russian River. I don't necessarily agree that you should
21 -- that's the location, the best location for a
22 subsistence fishery.

23

24 I think the Hidden Lake one when we were
25 on the subcommittee talking about different ideas, that
26 had a lot more support than putting one on the Russian
27 River Falls area.

28

29 Dual management. You're allowing bait to
30 be used for the king salmon into August and basically
31 through September. Where's the justification for that in
32 terms of, there are reasons why we stop fishing on king
33 salmon come July 31st, and you should understand what
34 those reasons are and if you're going to be beyond those,
35 you should put on the record why you think it's not a
36 fishery conservation reason, why you're going beyond
37 that. If you are going to go beyond that date, on the
38 State regulations then you should justify it. And I
39 think you should understand what the justification is
40 from and why it is.

41

42 So in summary, putting my on my hat Kenai
43 River Sportfishing, I think you should mirror as much as
44 possible and get away from dual systems and stick with
45 the singular vision. I think if you, you know, double
46 the bag limits, I think that is a meaningful preference,
47 specifically for king salmon we're limited to two king
48 salmon per year, you can catch four king salmon per year
49 on the Kenai River, that is a significant priority.

50

1 Thank you.

2

3 CHAIRMAN FLEAGLE: Okay, thank you.

4 Questions. Gary.

5

6 MR. EDWARDS: Well, Rick, let me ask you,
7 I mean certainly once we pass whatever regulations we
8 pass, you know, the regulations are there. But then it
9 seems to me you sort of get down to the practicality of
10 what is really going to result from these regulations,
11 and you mentioned the stretch of the Refuge below Skilak
12 that's going to be open. But, you know, the reality is
13 that during that period of time which these regulations
14 would allow bait, one, it's a drift only area, so there's
15 not going to be much enthusiasm for people even to go up
16 there. They can only catch and keep only two rainbows
17 over 20 total and once they do that they're done, so,
18 again, there's really not a lot of incentive. So what
19 I'm kind of wrestling with is regardless of what the regs
20 may or may not allow, what do you think is the
21 practicality of utilization of some of these even
22 materializing?

23

24 MR. GEASE: Well, what I've seen on the
25 Kenai River is that you can -- when something gets
26 discovered, it may take one, two, three, four years for
27 it to get discovered and then, bam, something happens.
28 And so we may not see something happen in the subsistence
29 fisheries for one, two, three years, just like you may
30 not see something in the sportfisheries and then they get
31 really, really popular and then, you know, you may have
32 pretty quick effects so how fast do you put in your
33 adaptive management systems in-season reporting, that's
34 something you need to think about. But I think over
35 time, I think these will become more and more popular
36 and, you know, to say that we're going to put regulations
37 in effect that nobody's going to use, I don't think
38 that's accurate for the Kenai River.

39

40 MR. EDWARDS: Well, let me just follow up
41 then and I'll agree, you know, the area below Skilak the
42 last few years has just become, quite frankly, almost a
43 zoo like the lower river, which is -- and that's from the
44 sportfishermen utilizing it, but I would argue that many
45 of us down there are for a totally different motivation
46 than somebody who is going to go down there for the
47 purpose of getting fish for a subsistence purpose, so I'm
48 not sure that the same phenomenon that occurs when Fish
49 Alaska puts out an article about a place that was
50 previously not fished then, you know, that you had been

1 fishing and the next time you go there, you know,
2 everybody in your neighborhood is also there, I'm not
3 sure that that same phenomenon is really going to occur
4 with a subsistence fishery when it's a difficult fishery
5 to fish just because of its very nature and the bag limit
6 is basically so small, I mean why would you drive --
7 assuming you had a drift boat or a draft in Ninilchik,
8 you know, drive all the way up there in the first of June
9 and spend all that money in gas and go there to drift to
10 only catch two rainbows. I mean I'm not sure that some
11 of this is going to materialize like, I think, initially
12 there was a lot of concern that it really was going to
13 happen.

14
15 MR. GEASE: Everybody seems to be focused
16 on Ninilchik, there's two other communities, Hope and
17 Cooper Landing, and many people from Cooper Landing have
18 drift boats and float the Upper Kenai and that lower
19 section of the river there. So I'm not necessarily
20 certain that the growth that you're thinking about is
21 necessarily going to come from people from Ninilchik,
22 most likely in my opinion it will come from people from
23 Cooper Landing.

24
25 And so on that realm, I think, again,
26 yesterday we didn't think that there -- the whole issue
27 -- I support Ninilchik when at the Southcentral RAC, I
28 think it was a wise decision on their part to withdraw --
29 I think a lot of the friction on this end is going to
30 come from the resident species, okay, and I think that
31 it's a -- the way that the rules and regulations and the
32 sportfishery has evolved over time, the rainbow trout is
33 not a harvest fishery. And what you're doing is you're
34 crafting harvest, you're saying we're going to craft
35 subsistence fisheries, which by definition, are harvest
36 fisheries on these resident species, and I think around
37 the state a lot of people have said that there are
38 concerns about -- for rainbow trout, if they can
39 withstand harvest pressures.

40
41 And that's something you need to
42 seriously think about. I think there's surpluses on the
43 salmon and where there are conservation concerns on the
44 salmon then you need to be really aware of those, like on
45 the early run king salmon and in certain areas and
46 certain timeframes on the coho. We've had coho
47 conservation measures in the past decade for Kenai River
48 coho. We have conservation measures for early run kings.
49 But where there are surpluses, specifically on salmon and
50 they're designated and directed as harvest fisheries, I

1 think you should focus that effort for those surpluses.
2 For example, in your regulations that are coming up on
3 the dipnet fishery, you have -- one of the reasons why I
4 saw mirror them up so that they make sense is that you
5 have 25 per head of household on your sockeye, yet only
6 five for each additional member of your household. That
7 should be matched up with the State, it should be 25 and
8 10. So if a person from a family of four from Cooper
9 Landing wants to go dipping at the Russian River Falls
10 and they have a family of four they would have the
11 opportunity to catch 55 reds if they go down to the mouth
12 of the Kenai, yet, you're restricting them to 40 reds, so
13 there's a leftover -- we talk about, you know, not
14 accumulating bag limits, they got to -- you're forcing
15 them to go down and catch their remaining 15 fish down at
16 the mouth of the Kenai, why would you do that, why are
17 there the discrepancies between these two systems.

18

19 So if you're going to allow that
20 opportunity on the upper river it should be, you know,
21 similar to the ones on the lower river. Similarly, if
22 we're going to -- it comes down to meaningful preference.
23 If it's going to be a harvest fishery double the bag
24 limits so that people can harvest those fish on the
25 harvest -- on those fisheries that we designate as
26 harvest fisheries. And I don't think as a society we've
27 designated rainbow, you know, rainbows in these areas as
28 what's come out of -- evolved out of them, through time,
29 is that they can't withstand being harvest fisheries.

30

31 CHAIRMAN FLEAGLE: Ralph Lohse.

32

33 MR. LOHSE: Mr. Chair. Can I ask Andy a
34 question through you.

35

36 CHAIRMAN FLEAGLE: Andy? Ricky.

37

38 MR. LOHSE: Ricky, my fault.

39

40 CHAIRMAN FLEAGLE: For Ricky, yeah, go
41 ahead.

42

43 MR. LOHSE: Sorry. Ricky we've talked
44 before and you were at our meeting and I really
45 appreciated what you brought forward there. And we've
46 gone over the idea of harvest fisheries versus
47 sportfisheries quite a few times in the past and I know
48 it's one thing that's been brought up, I've sat in
49 meetings and it's been brought up from all the way up on
50 the Kuskokwim and the Yukon down to Southeastern, and

1 it's the concern of the subsistence community, and that's
2 there -- a non-harvest fishery can actually have a bigger
3 impact on the fish than a harvest fishery. If you have
4 -- you know if the ratio of people using it is so much
5 greater, the non-harvest fishery, like the impact of a
6 thousand people releasing all of their fish can be bigger
7 than the impact of a couple of people going up and
8 keeping a couple fish. And one of the things that was
9 brought up before is, you know, we don't have any
10 specifics, I was looking through all the information here
11 and we have everything from a .3 to a 4 percent hook and
12 release mortality in the book.

13

14 CHAIRMAN FLEAGLE: Ralph, excuse me, you
15 were going to ask a question, I don't think that we
16 should have debate.

17

18 MR. LOHSE: I was going to ask him, on
19 this fishery that we have here, do you see that these
20 harvest fisheries, how do we put a harvest fishery in a
21 non-harvest fishery and still have less impact without
22 going to smaller limits?

23

24 MR. GEASE: So for the resident species,
25 I think, the State regulations, a lot of thought has been
26 put into those State regulations in terms of where those
27 -- there's the harvestable surplus on the non-breeding
28 portions of those populations, and that's where I think
29 that should be targeted is on the non-breeding portions
30 of those populations because that, over time, has been
31 shown. A lot of effort has been put into the Wild Trout
32 Policy, and I think, you know, that accumulated
33 knowledge, I think should be recognized, and I think
34 Ninilchik recognized that in trying to remove their
35 proposals for harvest both on the steelhead on the
36 Kasilof and for the other regulations for the resident
37 species, they get that, and hopefully the Board gets it.
38 And I think that pulling back on those non-harvest
39 fisheries and the sportfishery -- just a point of
40 clarification is not just a catch and release, but it's
41 also a harvest fishery -- it's a tool for harvesting
42 also. And so a lot of knowledge has been built up over
43 time on what populations can withstand the harvest
44 pressure and what populations don't. And that's what I'm
45 saying, is that, that knowledge is reflected in the State
46 regulations.

47

48 So where there's a harvestable surplus,
49 specifically on the salmon, or on the non-breeding
50 populations of the resident species, target those, double

1 the bag limits. Figure out, you know, what's the
2 necessary amounts, that's what you're supposed to do.
3 But on those fisheries where there's -- you know, we
4 found out that it's non-harvestable surpluses or not --
5 or they can't withstand harvest pressures but they can
6 still withstand some non-harvest fishing techniques to,
7 you know, for sportfishing there, specifically with the
8 trout, then recognize that. And focus the harvest on
9 those species that can withstand those harvest pressure.
10 Because otherwise you're just going to get into the
11 situation where we're going to get down into, you know,
12 trout being listed as endangered on the Kasilof, the
13 northern most, and nobody's going to benefit from that
14 publicity or for that area of engagement, you know, it's
15 just not going to be beneficial and nobody wants to see
16 that.

17

18 I don't see a bunch of -- you know,
19 Ninilchik's not arguing for that and neither are we
20 so.....

21

22 CHAIRMAN FLEAGLE: Dan.

23

24 MR. O'HARA: Thank you, Mr. Chairman. My
25 name is Dan O'Hara and Ricky I would like to ask you a
26 question but I need to give him a little bit of
27 information before, and it has to do with the survival
28 rate of a hook and release thing which is pretty
29 important, apparently in your river.

30

31 On the Kvichak, the people in the area,
32 who are basically all subsistence users closed down
33 rainbow trout fishing from June until October, they don't
34 take any of them home, not even to eat, and of course
35 they can have their subsistence if they do want to have
36 it in October, in wintertime, you know, which doesn't
37 take -- they usually leave the river so they're not there
38 anywhere. And in Naknek they have a hook and release and
39 I think -- I've never sportsfished and so I need to ask
40 you the question, the guides in the Naknek River right
41 now are concerned about the number of fish that are
42 swimming by. You can go out to the Naknek River, the
43 dock, at the end of the dock and stand there and watch a
44 rainbow trout swim by and their faces are all pulled
45 apart and the guides are really worried about the hook
46 and release, hook and release, hook and release, it
47 sounded to me like you got more of a problem with the
48 mortality rate from sportfishermen than you do from some
49 guy who eats a fish now and then; what are your thoughts?
50

1 MR. GEASE: I think on the catch and
2 release fisheries, through this -- the catch and release
3 fisheries, the current regulations that are on the Kenai
4 for catch and release fisheries, I don't think that it
5 has been shown that that has posed a fishery conservation
6 concern for that population of the sustainability of it,
7 neither has the harvest of the fish under 16 inches above
8 Skilak Lake or fish below 18 inches below Skilak Lake. I
9 think we've reached a happy medium there. And I think
10 for those resident species, if people want to harvest
11 those -- you know if you want to do something double the
12 bag limits on the fish under 18 inches that you can take,
13 you know, catch four, catch six, catch eight, you know,
14 but on those breeding populations I think that's where
15 the fishery conservation concern is. Now, yes, the
16 mouths of fish, I've seen fish that caught and released
17 and, you know, catch and release and their mouths may not
18 look pretty but they can still get it on.

19

20 (Laughter)

21

22 CHAIRMAN FLEAGLE: Gary.

23

24 MR. EDWARDS: But, Ricky, but is it not
25 correct that on rainbows, the bag limit and the
26 possession limit being recommended here is identical to
27 what it is for under sportfish regs, so I mean there
28 isn't any difference.

29

30 MR. GEASE: That's correct.

31

32 MR. EDWARDS: So I don't understand then,
33 where would the issue be. I mean the reality, again,
34 getting back to the reality, if we actually at the end of
35 the year, the end of the season, if we could actually
36 have 100 percent data, my guess is we would have found
37 that more rainbows over 28 were -- on the Kenai were kept
38 by sport anglers than were going to be kept by
39 subsistence anglers, would you disagree with that?

40

41 MR. GEASE: I don't know, we'll see. But
42 I think when you talk about the use of bait, that's the
43 portion in that -- specifically in those rainbow closure
44 areas, if you're going to allow the use of bait, that's a
45 big difference between unbaited fishing and baited
46 fishing. So that's a variation, not necessarily on the
47 size but on the technique that's used.

48

49 CHAIRMAN FLEAGLE: Other questions.

50 Charles.

1 MR. BUNCH: Well, Ricky, then I would go
2 back to the point that Ralph brought up. I mean I
3 haven't been down there fishing for some time and I
4 understand that the area below Skilak is pretty crowded
5 this time of year so if you're catching and releasing
6 trout there's going to be some mortality, you can argue
7 over the figure, but if you're catching them with bait
8 and keeping them, once you've caught them you're out of
9 there and you're only talking about a relatively small
10 amount of people who are catching and keeping as compared
11 to the amount of people who are catch and release and
12 upping the mortality rate that way.

13
14 CHAIRMAN FLEAGLE: Okay, hold off on that
15 Ricky, I don't see the value in debating the testifier.
16 We can do this among ourselves when we get to the
17 proposals.

18
19 Any other questions for his expert
20 opinion or his personal opinion, which may not be.....

21
22 MR. GEASE: Expert.

23
24 (Laughter)

25
26 (No comments)

27
28 CHAIRMAN FLEAGLE: Thank you, Ricky.

29
30 MR. GEASE: Thank you, very much.

31
32 CHAIRMAN FLEAGLE: Pete.

33
34 MR. PROBASCO: Mr. Chair. Our last
35 person that signed up for public testimony is Mr. Sky
36 Starkey.

37
38 MR. STARKEY: Mr. Chairman. I have a
39 couple of things that I'd like to put before the Board.
40 May I approach to hand them out or how would you do it.

41
42 CHAIRMAN FLEAGLE: (Nods affirmatively)

43
44 MR. STARKEY: And I will try to be brief,
45 Mr. Chairman. And this time I'll try to be briefer than
46 Ricky and my challenge is to the State to try to be as
47 brief as I'm going to be.

48
49 (Laughter)

50

1 MR. STARKEY: First of all, just sort of
2 on a side note, this room is all too familiar to many of
3 us who have been involved in fish battles in the past and
4 sitting in the audience I certainly understand the
5 passion that many people have come to you before and I
6 just want to express my appreciation that you are able to
7 listen to it and deflect some of it.

8
9 I've handed out two things, one of them
10 is relevant to the Dolly Varden issue for customary and
11 traditional use in the proposals before you. And one of
12 them is the regulation for subsistence fishing in Cook
13 Inlet.

14
15 Before I get into that, though, I do want
16 to raise one specific issue with regards to the salmon
17 fishery. This was something that was not discussed, to
18 my recollection during any RAC meeting, and Doug is
19 absolutely accurate in saying that the way things are
20 written, there would be a prohibition on using boats on
21 Mondays in the Moose Range Meadows Areas for dipnetting.
22 It was Ninilchik's hope that the dipnet in Moose Range
23 Meadows would turn into a real fishery, we'll see how
24 good it is, there's a lot of question among people as to
25 whether dipnets will be effective because the water is
26 clearer, the fish may see them and they may not -- it
27 just may not be a good fishery.

28
29 We were hoping that we would also be able
30 to fish on shore. I think it's probably all right to
31 fish on shore, it's hard for me to believe that a
32 sportsfisherman has the right to fish on shore and
33 subsistence doesn't but we didn't make a big point of it,
34 so we're limited to fishing by boat for subsistence so it
35 would seem reasonable that we would be able to fish every
36 day by boats and Monday wouldn't be a sacred day. I've
37 talked to the Refuge manager about this and Staff, my
38 understanding is there's some conservation aspect to it
39 but it's primarily a sportsfishing opportunity for drift
40 boats, so we would hope that you would take that into
41 consideration and allow that opportunity for boats at all
42 times in the Moose Range Meadows dipnet fishery.

43
44 The other thing I want to sort of talk
45 about before I get into some specifics, is the spirit and
46 the practicality for which Ninilchik approached
47 developing these proposals. It was very clear when the
48 Board agreed with the customary and traditional use
49 determinations that there was the hope and the
50 expectation that the users would work together to try to

1 figure out, at least, a beginning step for these
2 fisheries. During the RAC meeting is really when a lot
3 of the work came together. And there was an effort to
4 try to accommodate the concerns of some of the other
5 users and I will tell you that the proposal for rod and
6 reel fisheries on the Kenai for resident species rainbow
7 trout, Dolly Varden and the other species, the proposal
8 in order to allow a greater subsistence opportunity was
9 to double the sport bags so you would be able to catch
10 four rainbow, et cetera, and we felt, from Ninilchik's
11 standpoint that both from the standpoint of conservation
12 and from the standpoint of trying to be realistic to be
13 reflective of the pattern of use for Ninilchik, that
14 mirroring the State regulations was sufficient and there
15 wasn't any reason to upset that system. So it was with
16 that spirit that the resident species regulations were
17 developed and adopted at the RAC meeting. And there was
18 a lot of interaction between the user groups there.

19
20 Likewise the incidental take
21 accommodations in the dipnet fishery, and as far as I
22 know there was a consensus about that among the user
23 groups at the RAC. The reason is because these 18 inch
24 size limit, because I think people all agreed that there
25 were enough smaller Dolly Varden and rainbow trout in the
26 system so it wouldn't be a conservation issue, the main
27 issue is with the larger rainbow trout who are the, as I
28 understand it, the fertile and primary spawners and the
29 concern was with the conservation for those species. So
30 that's the spirit in which that was developed.

31
32 I know that we're potentially heading to
33 a place where there may be some conflict among the Board
34 in terms of resident species and how to work out their
35 differing opinions and the tie vote, et cetera, and I
36 suggest to you that consistent with our position, the
37 customary and traditional use finding is one that's
38 neither required nor allowed by ANILCA and we would not
39 agree with not implementing a subsistence fishery there
40 but consistent with other species and other areas in the
41 state and other practices, there are ways, even if you
42 don't agree that there's specific customary and
43 traditional use for Ninilchik for resident species, that
44 you can accommodate in some of their proposals.

45
46 For example, the first thing that I gave
47 you was the State's subsistence regulations for Cook
48 Inlet. I've highlighted what I thought were the relevant
49 areas. The customary and traditional use findings for
50 Cook Inlet are not -- do not include a customary and

1 traditional use for rainbow trout. But -- and they're
2 specific. But they do include an opportunity to harvest
3 rainbow trout and steelhead taken incidentally in other
4 subsistence fish -- net fisheries and through the ice.

5
6 I believe that the State of Alaska, and
7 this is a very common regulatory scheme for the State of
8 Alaska. Now, the State of Alaska would be correct to say
9 that this only applies in non-subsistence use areas but
10 my feeling is that's sort of irrelevant since public
11 lands are a subsistence use area and that's what we're
12 talking about. I think the reason this regulation is in
13 there is because there's a recognition that part of the
14 subsistence pattern of use that everyone probably
15 recognizes is that when subsistence users are net fishing
16 for salmon they keep what's incidentally taken. They use
17 it and share it, they don't waste, and especially if a
18 fish is injured or otherwise, it would violate the
19 cultural and customs and traditions of many people to
20 waste and throw back. And certainly in all the customary
21 and traditional use criteria and in yours and the State's
22 and others, the beliefs and the handing down of beliefs
23 and the cultural aspects, that cultural aspect of
24 subsistence is well recognized. So it seems to me that
25 it would be consistent with allowing the salmon fishery
26 to proceed, to also allow the incidental take of whatever
27 other -- the regulation that's before you, essentially,
28 which would be the incidental take of Dollys and rainbows
29 under 18 inches, and regardless of how you feel about
30 whether or not there's customary and traditional use of
31 those species for other uses.

32
33 I would also just point out that in terms
34 of -- I understand the rainbow trout dialogue, the two
35 species, the upper and the lower and their genetic
36 differences and they don't range, et cetera, and how
37 people could make certain arguments based on rainbow
38 trout but for Dolly Varden, I really don't think that
39 applies and no one's really talked about it. But for
40 Dolly Varden, the handout that I've given you by Ken
41 Tarbach who used to work extensively on the Kenai
42 Peninsula for the State of Alaska points out that Dolly
43 Varden, there's anadromous runs of Dolly Varden. People
44 fishing off the beach in Ninilchik and the personal use
45 fisheries on the Kenai for salmon and other places would
46 take Dolly Varden as an incidental take anyway, and that
47 the Dolly Varden, you know, I think, you know, a very
48 relevant part is that on the second page of Tarbach's
49 paper where he talks about the number of Dolly Varden
50 that migrate past River -- Mile 19, and that are caught

1 in the ADF&G fishwheel, well, it's my understanding that
2 would be pretty much right where the dipnet fishery in
3 Moose Range Meadows is and so that demonstrates that
4 there's anadromous fish incidentally caught while the
5 fishwheel's flipping for salmon, too. So in terms of
6 Dolly Varden, it would seem to be -- regardless of how
7 you felt about whether there were customary and
8 traditional uses of rainbow trout because there's
9 different stocks that don't range outside the Kenai, the
10 same argument could not be made for Dolly Varden.

11
12 Finally, Mr. Chairman. On the directed
13 fishery issue, Ninilchik's pattern of use for resident
14 species on the Kenai's -- we tried to reflect that in the
15 regulations and it's a use of when you are hunting, you
16 know, the Board's agreed that people hunt there, when
17 people are ice fishing, when they're traveling, it's a
18 use that allows people to catch a couple of fish through
19 the ice or with a rod and reel and cook them and eat
20 them, and so it's very modest. It reflects the pattern
21 of use. It would seem that you could agree that since
22 you've made customary and traditional use determinations
23 for moose, et cetera, that you would also agree that
24 while people are hunting, they would have some
25 possibility to take these fish within that customary and
26 traditional use finding as well. So I believe there are
27 ways that you can accommodate this kind of a use in a
28 pattern of use without getting tangled in your
29 three/three vote.

30
31 Finally, on the baited hook issue that
32 Ricky talked about. He came before you yesterday and
33 this is no personal criticism, but it's only a matter of
34 fact that he was concerned about the treble hook issue
35 yesterday and it got some debate, and I've checked with
36 fisheries biologists and I've done some research there's
37 no evidence that a treble hook is any more or less
38 effective or ineffective in terms of catch and release
39 fisheries. The scientific literature is for and against,
40 but there's no conclusion, it's an opinion, but there's
41 not scientific back up for it. The same is true as to
42 whether you either bait it or unbait it in terms of that
43 mortality for catch and release anyway. It's probably
44 true that a baited fishery would be more effective for
45 harvesting meat and that a treble wouldn't (ph) be more
46 effective for harvesting meat, but one could check with
47 the other experts here and confirm that in terms of
48 baited or unbaited in catch and release there's really
49 nothing conclusive one way or the other.

50

1 Finally, just on Page 153 of your books,
2 it does show that in the area that we would be talking
3 about for an incidental take of Dolly Varden in the
4 dipnet fishery, there's a harvest in that area, not in
5 the precise area but in that stretch of river, a mean
6 harvest from the years 1996 through 2002, Moose River to
7 Skilak Outlet, there's about 19,000 fish, Dolly Varden
8 that are harvested in that stretch each year so it
9 doesn't seem like it would be much to accommodate some
10 incidental take.

11
12 Thank you, Mr. Chairman.

13
14 CHAIRMAN FLEAGLE: Thank you, Sky. Board
15 members, questions.

16
17 (No comments)

18
19 CHAIRMAN FLEAGLE: All right. Thanks for
20 the testimony. We'll stand down for lunch and resume at
21 1:00 p.m.

22
23 (Off record)

24
25 (On record)

26
27 CHAIRMAN FLEAGLE: Good afternoon. The
28 Federal Subsistence Board is back on record, May 9th.
29 And we're now going to the Regional Advisory Council
30 recommendation. Ralph Lohse, please.

31
32 MR. LOHSE: Mr. Chair, thank you. I'm
33 going to keep this about as short as I can keep it.

34
35 The Regional Council supports their
36 modified proposals on all of these -- for all of these
37 proposals for the Kenai Peninsula, you can find those
38 modified proposals in your book. Other than that, there
39 isn't too much that -- I don't think that they have an
40 inclination to change. We feel like we put a lot of time
41 into it and we also feel like they're very conservative
42 proposals.

43
44 From my own personal standpoint, I'd like
45 to remind you that when you look at these proposals, make
46 sure that if you don't take action on the modified
47 proposal, that you don't leave on the table something
48 that is less conservative, with less checks and balances
49 than what the Council has already suggested, like we did
50 on the steelhead on the last one.

1 The other thing I'd like to point out is
2 from a subsistence user's standpoint, as we've heard in
3 meetings all over the state, there is no such thing as a
4 non-harvest fishery, all fisheries have a harvest,
5 whether it's catch and release or whether they take the
6 fish home to eat it. In fact, as I've heard in a lot of
7 meetings, a lot of the subsistence user's feel that some
8 of our non-harvest fisheries kill more fish than our
9 harvest fisheries and I think you need to take that into
10 account.

11
12 CHAIRMAN FLEAGLE: Thank you. Questions.

13
14 (No comments)

15
16 CHAIRMAN FLEAGLE: All right, appreciate
17 those comments. ADF&G comments. Hilsinger or Pappas.

18
19 MR. PAPPAS: Thank you, Chair. Speaking
20 to Proposal 07-27b and c and 29, the Kenai River salmon,
21 the Department opposes the proposal.

22
23 The modified proposal recommended by the
24 Southcentral RAC to create a boat only dipnet and rod and
25 reel fishery may have serious consequences on the
26 population of Kenai River main stem late run chinook
27 salmon that only spawn in the river beds within the
28 boundaries of the Moose Range Meadows area. With a
29 potential harvest of a thousand late run king salmon
30 sought by this proposal, it is likely that the majority
31 of the dipnet and rod and reel harvest being proposed
32 will take place in the small stretch of the Kenai River.

33
34 The Department agrees with the
35 recommendation to eliminate the harvest of resident
36 species over 18 inches in length in the waters of the
37 Kenai River below Skilak Lake this removed direct
38 exploitation of the largest contributors to the spawning
39 capacity of those stocks within the Kenai River
40 watershed. However, the separate provision to allow rod
41 and reel subsistence anglers to use up to two treble
42 hooks with bait within the areas and during the time
43 period when rainbow trout spawn negate -- excuse me, are
44 spawning negates the conservation benefits of size
45 limitations and other aspects of the proposal.

46
47 The Department requests that the Federal
48 Subsistence Board address these concerns about the
49 proposed chinook salmon fishery and hook and release
50 mortality of large spawning rainbow trout during the May

1 2nd through June 10th spawning closure for the fish in
2 the Kenai River below Skilak Lake caused by anglers using
3 multiple treble hooks and bait in the proposed rod and
4 reel subsistence fishery.

5
6 The Department also would like
7 clarification of the terms, sportfish method, means and
8 seasons. If this section is closed by the State of
9 Alaska next year, during the *butter fish process, will
10 it also be closed by the Federal Subsistence Board.

11
12 And that would conclude -- and let's see,
13 one last point, for this proposal, the Department opposes
14 this proposal because there was no evidence to support
15 the Board's customary and traditional determination for
16 the Kenai River area on Federal lands and the Board must
17 balance beneficial uses.

18
19 Going to the next proposal series, that'd
20 be FP07-11, 12, 13, 27d and 29 addressing Kenai River
21 resident species. The Department opposes the proposals.

22
23 The Department recognizes merit in the
24 intent of the combined recommendations which are
25 constructed to mirror the State of Alaska sportfishing
26 regulations with the exception of lake trout. The State
27 disagrees with the Federal recommendation to increase bag
28 and possession limits for lake trout over those in State
29 regulations and requests that this aspect of the Federal
30 Staff recommendation be revised. A case in point, the
31 Department has submitted a proposal to the Alaska Board
32 of Fisheries to reduce the daily bag limit to one fish
33 per day in Hidden Lake in the Hidden Lake lake trout
34 sportfishery for the 2008 meetings. The recommendation
35 to reduce the annual limits of rainbow and steelhead
36 trout and Dolly Varden over 20 inches in length harvested
37 in the freshwaters of the Kenai Peninsula from four per
38 species down to two per species in waters that allow for
39 the harvest of fish over 20 inches in length is a
40 conservation based decision and will give the more adult
41 fish of the stocks a higher probability of spawning
42 success.

43
44 Several of the modifications recommended
45 by the Southcentral RAC and the Federal Staff improve the
46 sustainability of the fishery with regards to rainbow and
47 steelhead trout and Dolly Varden. The State, however,
48 still has the same concerns about the proposed harvest of
49 lake trout.

50

1 One of the ongoing conservation issues
2 with regards to this proposal is accumulative harvest of
3 multiple fisheries. As previously discussed, this
4 proposal -- the proposed use of multiple treble hooks and
5 bait in the Kenai salmon fisheries will likely result in
6 the catch of incidental mortality of large highly
7 productive rainbow, steelhead and Dolly Varden.

8
9 One last point, the Department opposes
10 this proposal because there was no evidence to support
11 the Board's customary and traditional determination for
12 the Kenai River area on Federal lands and the Board must
13 balance beneficial uses.

14
15 MS. CUNNING: As an additional comment.
16 Within the Kenai River drainage area including the Skilak
17 and Kenai Lakes, the Department is especially concerned
18 with Federal assertions of jurisdiction over waters
19 bordered in many areas by private and State owned lands,
20 often times for several river or lake miles on both sides
21 of the water body, and this is pretty clearly
22 demonstrated on the maps that are on the back wall back
23 here, as described and shown by maps at Pages 107 through
24 108, 112 through 115, and 146 through 150 of the meeting
25 materials, this assertion encompasses many miles of
26 private or State owned strips of land for miles on both
27 sides of the Kenai River and Kenai Lake. This is
28 especially the case in the areas of Cooper Landing and
29 Moose Meadows, specifically included within harvest
30 proposal areas being recommended by Federal Staff and the
31 Southcentral Regional Advisory Council.

32
33 Any assertion of Federal subsistence
34 jurisdiction over such non-pertinent waters is especially
35 tenuous and weak. We repeat our request of yesterday
36 that the Federal Staff correct the maps and clearly show
37 land ownership and areas of where Federal regulations
38 apply for the benefit of the public and for our Federal
39 and State land managers and law enforcement personnel.

40
41 And Mr. Hilsinger has some additional
42 comments.

43
44 CHAIRMAN FLEAGLE: John.

45
46 MR. HILSINGER: Thank you, Mr. Chairman.
47 You're kind of getting three for the price of one here.

48
49 (Laughter)

50

1 MR. HILSINGER: Several issues have come
2 up during the discussion of these proposals and during
3 the public testimony.

4
5 The first one had to do with the harvest
6 limit of a thousand late run kings in the Kenai salmon
7 proposal, and I believe that one of the comments from the
8 Federal Staff was that this limit was consistent with the
9 original proposal. But our memory of the original
10 proposal was that it was for a thousand kings total
11 between the Kenai and Kasilof River, and would break down
12 500 in each river, and that 500 then for the Kenai was
13 subsequently increased to a thousand. And so the State
14 would recommend that that thousand number be reduced back
15 to the 500 that were originally asked for by the
16 proponent.

17
18 The second issue is on the fishing and
19 particularly with bait during the May 2nd to June 10th
20 spawning closure for Kenai River rainbows, we recognize
21 that under the resident species proposal, people could
22 not retain rainbow trout but they would during that time
23 period be able to fish for Dolly Varden trout and be able
24 to fish for salmon with bait. And the justification for
25 allowing the use of bait from January 1st in that period
26 through June was to allow the harvest of early run
27 chinook salmon that may be in that area. But it's
28 doubtful that there would be any early run chinook salmon
29 in that area January, February, March, April. They
30 probably would not reach that area until sometime in
31 June. And so we believe that a closure during the May
32 2nd to June 10th period would not affect the harvest of
33 early run Kenai kings to any degree and it would provide
34 important protections for rainbow trout. And we
35 certainly also wonder at the need to use bait during the
36 January through April months when there would not be any
37 early run king salmon available there.

38
39 We've had a little discussion of the
40 catch and release mortality, and I think everyone
41 recognizes that there is some catch and release
42 mortality, but with a single hook artificial lure, the
43 rates are quite low. In our survey of the literature we
44 saw rates ranging from two to eight percent, I believe in
45 the Federal Staff analysis they found rates ranging from
46 one to three percent.

47
48 When you introduce bait into the fishery
49 that mortality rate goes up dramatically. And you find
50 mortality rates of 20 to 40 percent and some of the most

1 recognized studies show that it averages around 30
2 percent, so you've got a mortality rate that increases by
3 five to 10 times utilizing bait.

4
5 This also is that time period during the
6 rainbow trout spawning when rainbow trout are most
7 susceptible to mortality.

8
9 To really sort of understand the fishery
10 and the effect of the catch and release mortality and why
11 that's really not a problem for the stock, you have to
12 realize that the mortality of rainbow trout, natural
13 mortality which occurs mainly during spawning is
14 something like 45 percent. So a two or three percent
15 mortality from catch and release is really dwarfed by
16 that spawning mortality and some of those fish, you know,
17 approximately half of them might die in spawning anyway.

18
19 But I think, you know, we really would
20 recommend that we reduce that mortality associated with
21 the use of bait, and particularly during that spawning
22 time. And so, again, we would recommend that you
23 consider a closure during May 2nd through June 10th.

24
25 Finally, a couple points that came up
26 with respect to Dolly Varden. We have also reviewed the
27 literature on Dolly Varden and we find that in the Kenai
28 system, the pattern for the Dolly Varden as a whole is
29 that they do not leave the system. They migrate around
30 within the system but in general they stay within the
31 system and that's believed to be because the Kenai system
32 is large and rich enough that they can live and prosper
33 within the system without having to go out to the ocean.

34
35 And, finally, on the State subsistence
36 regs, we find that there really is not applicable what
37 the State regs are in different areas in fisheries that
38 take place primarily with different gear and so we
39 wouldn't -- I guess we just believe that those regs are
40 not really applicable to the situation that you're faced
41 with in these proposals.

42
43 So, thank you, Mr. Chairman.

44
45 CHAIRMAN FLEAGLE: Thank you. Any
46 questions for any of the State.

47
48 MR. EDWARDS: Mr. Chairman.

49
50 CHAIRMAN FLEAGLE: Gary.

1 MR. EDWARDS: I just want to follow up on
2 this period of time below Skilak, when this spawning
3 occurs, you know, again it makes it a little difficult,
4 given my perspective given that while you have a closure
5 on rainbows, you do have a fishery for Dolly Varden and
6 as we heard in testimony quite frankly the majority of
7 people that are fishing down there are not fishing for
8 Dollys, they're fishing for rainbows and I can show you
9 some pictures from people who caught some very nice
10 rainbows here in the last few days, and so -- they didn't
11 keep but they released them and as people do when they're
12 catching these very large rainbows, they're holding them
13 up getting their picture taken and they're putting them
14 back in and, you know, that's not doing that fishery any
15 good either. And I know that the Board of Fish is
16 planning on taking action but, again, it puts us, it
17 seems to me, in an awkward position, even though we might
18 agree in principle, you know, to try to take action when
19 we have these things in the State.

20

21 I do think that when it comes to outside
22 of that period, because that would be kind of a catch and
23 release, but outside of it, it's going to be a catch and
24 keep so there's not going to be a lot of high hooking
25 mortality because people, as Charlie pointed out, are
26 going to keep that first fish over 20 inches so they're
27 not going to be releasing fish and catching fish, so.....

28

29 CHAIRMAN FLEAGLE: John.

30

31 MR. HILSINGER: Thank you, Mr. Chairman.
32 The Department now has an emergency order that is in
33 effect in that area that prevents people during this
34 spawning closure from removing rainbow trout from the
35 water. The other.....

36

37 MR. EDWARDS: That's not a rainbow.

38

39 (Laughter)

40

41 MR. HILSINGER: Well, that would have
42 started May 2nd, I guess, so either they can't read or
43 they got in just under the wire.

44

45 But that, actually, in a lot of catch and
46 release rainbow fisheries around the state, there are
47 requirements that you not take the fish out of the water.

48

49 And my impression on the -- I guess one
50 of my concerns is that that's an area where large fish

1 congregate and my understanding was that we had the --
2 you could keep a fish under 16 inches or under 18 inches
3 and so my concern would be that, you know, they may catch
4 a very large number of 30, 35 inch rainbows looking for
5 the fish that they could keep. And that is an area where
6 large rainbows are quite common.

7
8 I think we're sort of fortunate to have
9 that problem, I don't think you'd find very many places
10 in the world, on a road system next to a community next
11 to three or 400,000 people where we're sitting around
12 worrying about harvest of 35 inch rainbow trout, and I
13 think the reason we have that problem is because the
14 Department, over the last 50 years of management, has
15 been pretty conservative and we've tried pretty hard to
16 think about those things, even though sometimes they
17 don't seem like they might be problems or the stock might
18 be able to withstand it.

19
20 I think, you know, that's one of the
21 reasons we feel strongly about this.

22
23 Thank you.

24
25 CHAIRMAN FLEAGLE: Other questions.
26 Judy.

27
28 MS. GOTTLIEB: Mr. Chair. I wondered
29 whether Doug could come up, please, and clarify about the
30 thousand number of fish on the chinook.

31
32 CHAIRMAN FLEAGLE: Doug McBride.

33
34 MR. MCBRIDE: Doug McBride from OSM.
35 Just to clarify about the thousand total annual harvest
36 quota for chinook salmon in the Kenai?

37
38 MS. GOTTLIEB: Exactly.

39
40 MR. MCBRIDE: Okay. I believe John is --
41 he's certainly correct in terms of the original request.
42 The original request from whatever it was, 27b, was for a
43 thousand king salmon between the Kenai and Kasilof
44 Rivers, that was the proposal from the Ninilchik
45 Traditional Council.

46
47 As we went through the analysis of these
48 proposals, though, we had to do a little bit of
49 translation and by that I mean when the regulations are
50 done they have to be applicable to all eligible rural

1 residents. In the case of the Kenai, that is the three
2 communities of Hope, Cooper Landing and Ninilchik. And
3 the request was from Ninilchik and when you read the
4 request and they testified on it, multiple times, they
5 were clearly talking about Ninilchik, they weren't
6 talking about Hope and Cooper Landing. And so when we
7 did the analysis we split it -- you know, we obviously
8 split it between the Kenai and Kasilof. The
9 recommendation was to provide for 500 chinook, late run
10 chinook in Kasilof for all the reasons we talked about
11 yesterday and so then when we got to the Kenai, I mean
12 one of the options as a matter of analysis, I suppose,
13 well, we could have just said the other 500 come from
14 here, but again you have to go back to the other
15 communities, and so that was simply a choice, to be quite
16 frank, that we made as a recommendation, as a matter of
17 analysis to provide for the thousand in the Kenai
18 recognizing the other two communities.

19

20 Mr. Chairman.

21

22 MS. GOTTLIEB: Mr. Chair. And so, Doug,
23 in coming up with that number of a thousand, you and
24 others and the RAC also took into consideration
25 conservation principles.

26

27 MR. MCBRIDE: Mr. Chairman. Ms.
28 Gottlieb. Absolutely. When we looked at that, you look
29 between the two drainage,s in the Kasilof all we had was
30 the history of harvest of late run chinook in the lower
31 river sportfishery, that was all we had to base -- that's
32 why we didn't provide for the full thousand in the
33 Kasilof. In the Kenai, obviously a lot more is known,
34 there's a sonar at Mile Seven, they count chinook into
35 the river, then they do a krill survey on the
36 sportfishery, they subtract that harvest out, they know
37 what the escapement is. And so, I guess, from a numbers
38 standpoint, if you will, providing for the thousand
39 chinook in the Kenai is certainly within typical run
40 sizes for late run chinook in the Kenai.

41

42 CHAIRMAN FLEAGLE: Gary.

43

44 MR. EDWARDS: Mr. Chairman. I guess
45 while I'm trying to understand I know we sort of got into
46 this yesterday and maybe you said it and I didn't fully
47 understand it, but for the residents of Ninilchik because
48 of their C&T and harvest limit of chinook on Kasilof,
49 isn't their total 500 between the two?

50

1 MR. MCBRIDE: Mr. Chairman. Mr. Edwards.

2

3

4 MR. EDWARDS: Well, I only mention it to
5 you because it says that salmon taken in the Kenai River
6 system, dipnet, rod and reel fisheries will be included
7 as part of each household annual limit for the Kasilof,
8 household. So they are restricted that way, right?

9

10 MR. MCBRIDE: Could you repeat the
11 question, I'm.....

12

13 MR. EDWARDS: Well, again, I'm just
14 trying to reconcile this statement that on the
15 household's annual limits for the two systems, they're
16 dictated by whatever the household number is, which is 25
17 plus -- no, that's for sockeye, so for chinook salmon the
18 annual household limit is only 10 and two for each
19 additional, and whether those are taken in the Kenai or
20 the Kasilof, the total can't exceed that number, right?

21

22 MR. MCBRIDE: Now, I understand, I'm
23 sorry, Mr. Edwards. Yes, you're correct, you're talking
24 about the household dependent limit and that is not per
25 drainage, that's across the two drainages.

26

27 MR. EDWARDS: Right.

28

29 MR. MCBRIDE: So, yeah, the household
30 dependent limit would be 10 chinook plus two for each
31 dependent and they could take them all in one drainage or
32 some combination thereof, but, again, they can't stack
33 those limits, they're not additive.

34

35 MR. EDWARDS: But I mean you could argue
36 that those fish can be taken in Kasilof, that takes
37 pressure off of the fishery by those people in the Kenai,
38 right, because they wouldn't be able to -- allowed to go
39 over there and fish because they've already caught their
40 household limit, right?

41

42 MR. MCBRIDE: Yes, that's correct.

43

44 MR. EDWARDS: Okay.

45

46 CHAIRMAN FLEAGLE: Ralph Lohse.

47

48 MR. LOHSE: I have one question and one
49 comment to Gary. If all of the households took their
50 household limit, that would be somewhere around four or

1 5,000 fish. And basically what we did is we put a limit
2 on each system so that each system couldn't exceed that
3 much. That's not sufficient to give all of the
4 households their household limit. It's smaller than the
5 combined household limits.

6

7 So the question I -- I had a question for
8 John, if I may ask him, because I'm trying to get a
9 handle on something here. Did you mean that the
10 mortality on resident rainbows spawning is between 40 and
11 45 percent, did I understand that correctly.

12

13 MR. HILSINGER: Mr. Chairman. My
14 understanding is that the annual natural mortality on
15 rainbow trout is around 45 percent and that the biggest
16 proportion of that, and particularly in adult fish is,
17 occurs during the spawning period.

18

19 MR. LOHSE: Okay, so that's the natural
20 mortality for the whole year and that's of all rainbows,
21 not just mature rainbows?

22

23 MR. HILSINGER: That's correct.

24

25 MR. LOHSE: Okay. Okay, because I was
26 trying to figure out if the spawning mortality was 40 to
27 45 percent and the hook and release mortality is between
28 -- we've had everything from .3 percent to eight percent
29 depending on frequency of catch and that didn't matter
30 because it went in the 45 percent, then the amount that
31 the subsistence fishery would have taken would've been
32 insignificant in comparison with that, too. But I was
33 also trying to figure out how you got 35 inch rainbows if
34 they started spawning at 16 inches and 45 percent of them
35 died every year. I just couldn't get a handle on that,
36 so, okay.

37

38 So that would include the little ones
39 that got eaten by cormorants and herons and everything
40 going on on them, so you have like a 45 percent turnover
41 in the population every year.

42

43 MR. HILSINGER: Right. That's
44 everything. And I think what that tells you is that, you
45 know, there are a lot of little rainbows when you have
46 that kind of mortality rate, the fact that you still do
47 have good healthy populations of large fish indicates
48 that the harvest rates are extremely low, and I think
49 that's what we see when we look at the -- that even if
50 you do add the catch and release mortality along with the

1 actual harvest, those rates are extremely low and that's
2 one reason that population has rebuilt the way it has.

3

4 MR. LOHSE: Thank you, muchly, John.
5 Yeah, that really cleared it up for me because I was
6 under the impression from what I was hearing that that
7 was a spawning mortality and spawning mortality only
8 takes place in adult mature fish.

9

10 Now, that's pretty close to the spawning
11 mortality, though, in sea run steelhead, isn't it,
12 somewhere in the neighborhood of 40 to 60 percent of them
13 don't return to the ocean for a second spawn.

14

15 MR. HILSINGER: Mr. Chairman. Mr. Lohse.
16 My understanding is that it depends on the individual
17 river system and there are systems where you primarily --
18 the steelhead spawn only once and then there's other
19 river systems where you see larger percentages of fish
20 that spawn two, three times.

21

22 CHAIRMAN FLEAGLE: Other questions, Board
23 members, for the State.

24

25 MR. EDWARDS: I guess this is more for
26 Staff or.....

27

28 CHAIRMAN FLEAGLE: Gary.

29

30 MR. EDWARDS:who can answer it,
31 when we use the terminology, bait, in here, what are we
32 referring to, is there a limitation on that, on the
33 definition of bait or it's whatever you want to put on
34 your hook that's -- I'm assuming that it can be an
35 artificial bait, it can be a live bait, big bait, small
36 bait, what -- what can you use, donuts, can you put
37 donuts on there, I mean I don't.....

38

39 UNIDENTIFIED VOICE: You can Gary.

40

41 (Laughter)

42

43 CHAIRMAN FLEAGLE: Doug.

44

45 MR. MCBRIDE: I see people looking at the
46 Federal regulations and I don't have them right in front
47 of me, but bait I know is defined in State regulation and
48 I mean I'm presuming it's any kind of an attracter like
49 commonly used is salmon roe and herring and anything else
50 that would provide a scent in the water.

1 CHAIRMAN FLEAGLE: Other questions.

2

3 (No comments)

4

5 CHAIRMAN FLEAGLE: Larry Buklis for the
6 InterAgency Staff Committee comments, please.

7

8 MR. BUKLIS: Mr. Chairman. The
9 InterAgency Staff Committee comments can be found on Page
10 286 for Kenai River salmon and Kenai River resident fish.
11 The comment are brief.

12

13 The Staff Committee found the Staff
14 analysis for Kenai River salmon and for Kenai River
15 resident fish species to be complete and accurate
16 evaluations of the proposals and the recommendations of
17 the Council to be consistent with ANILCA, Section
18 .805(c).

19

20 Thank you, Mr. Chairman.

21

22 CHAIRMAN FLEAGLE: Thank you, Larry.
23 Questions.

24

25 (No comments)

26

27 CHAIRMAN FLEAGLE: All right. Now, first
28 up we'll be dealing with the salmon proposals, 27b and c
29 and 29, and we'll hold Board discussion with Council
30 Chairs and State liaison as appropriate for each
31 individual section. And starting out with the
32 Southcentral Regional Advisory Committee Council's
33 recommendation on Page 104 would be our starting document
34 for this next discussion.

35

36 Board members, discussion.

37

38 Denny.

39

40 MR. BSCHOR: Yeah, Mr. Chair, perhaps I
41 could suggest a few things here that we could consider.
42 It seems to me that with both the salmon and the resident
43 fish proposals, that it might be best to approach these
44 by separating out the communities, Hope and Cooper
45 Landing first, and then looking at Ninilchik's needs.
46 And I'm prepared to do that thinking that that will help
47 us through some of the complications we have with where
48 it's clear there's C&T for Hope and Cooper Landing where
49 we had the tie vote on the situation with the C&T for
50 Ninilchik. But by looking at the implementation of the

1 proposals here I think we could talk through some of that
2 in a way that might help clarify some things.

3
4 The thing that will help us do that is to
5 maybe deal with the ones that -- the communities, first
6 of all Hope and Cooper Landing, get through that, and
7 that we will -- I know our normal practice is to make
8 these types of division solely based on customary and
9 traditional use determinations or when necessary using
10 the criteria found in .804 ANILCA, but it just seems to
11 me it would help us work through this in a more effective
12 way.

13
14 And then I would propose for resident
15 fish do the same thing.

16
17 I would propose -- let me say what I
18 would propose as far as a motion first and see if it fits
19 with the Board and as far as where you want to head, but
20 the -- let me make a motion, I'll just do that, we'll
21 just start off and we'll see where we go with this.

22
23 I move to adopt the recommendation of
24 Southcentral Alaska Regional Advisory Council for salmon
25 for Hope and Cooper Landing, which would allow for
26 fishing for salmon in the Kenai River drainage and is a
27 modification of Proposals FP07-27b and 27c, there'd be no
28 action taken on FP07-29. Following a second I could
29 provide my rationale.

30
31 MR. OVIATT: I'll second that.

32
33 CHAIRMAN FLEAGLE: Okay, we have a
34 second. And I do find the motion to be in order, Denny,
35 I think that it's a good rationale for separating out the
36 decisions that we can find some clarity on the previous
37 issues, so, go ahead, rationale, please.

38
39 MR. BSCHOR: Okay. I'm going to pretty
40 much read some rationale here that I've got written out
41 if you'll indulge me, so I make sure I get everything
42 correctly as far as numbers and page numbers and things
43 like that, these proposals are very complicated as we all
44 have heard for the last day and a half.

45
46 My rationale for adopting the
47 recommendation of the Southcentral Council can be found
48 in justifications -- the justification page on Page 135
49 of our Board book, which is the Staff's recommendation,
50 as well as on Page 104, which is the Council's

1 recommendation.

2

3

Staff modified their recommendation after the Council meeting to be the same as the Council's. The recommendations are supported by substantial evidence, do not violate recognized principles fish conservation and are not detrimental to the satisfaction of subsistence needs. We have the benefit of a very detailed Staff analysis, detailed comments by ADF&G and the response of those comments by the Office of Subsistence Management Staff.

12

13

Now, some may disagree with the conclusion, but -- both on the part of fish conservation and satisfaction of subsistence needs, but I view the Council's recommendation as a starting point. Let's try this set of regulations to see if the fish conservation concerns result and whether subsistence needs are satisfied.

20

21

Already, I think we know that the aspects of the Kenai fisheries next year, including the potential for a fishwheel that's been proposed starting on Page 178 and a sockeye salmon fishery on Hidden Creek as described on Page 182, I fully anticipate that we'll need to make some minor changes to other parts of this fishery in the future and also considering the State's comments here that Mr. Hilsinger made, that there are some other concerns and some tweaking that will need to be done, I'm sure that will need to be done in this case and others.

31

32

But if any conservation concerns arise in-season, we have our in-season manager that has the authority to deal with those situations.

35

36

I also don't want to tinker with the Council's recommendation. I will be making one amendment to this motion for the proposed Russian River dipnet fishery but it's not substantive. It does not change the recommendation in a significant way, except to modify the regulation to clarify where individuals can fish and how the river will be marked. We've heard testimony about how complicated that situation is and I appreciate the testimony of at least a couple of the people in the audience, the testifiers who brought it to our attention that it's a complicated situation. We have one area on the National Forest that we can contribute towards this fishery and that's the place, now, will that work, will that work well, how impacted will it be, we don't know all that yet, but we're willing to give it a try.

1 And I might add to that that our law
2 enforcement officer from the Forest Service work in hand
3 with and in cooperation with the State Troopers through
4 memorandums of understanding so we have authorities to
5 deal with situations to help out with that.

6
7 Let's see, I think that pretty well
8 covers my reasons. Like I say if we get -- I would like
9 to make a motion to amend that Russian River Falls as
10 it's appropriate according to protocol here. Do you need
11 any discussion on what I just said or should I just make
12 my amendment.

13
14 CHAIRMAN FLEAGLE: I'll accept your
15 amendment, Denny, and then we can come back to the main
16 motion for further discussion and further action.

17
18 MR. BSCHOR: Okay, let me be more
19 specific about the amendment as far as the new language
20 then.

21
22 And the language would say, on the
23 Russian River Falls site, dipnetting will
24 be allowed from a Federal regulatory
25 marker near the up stream end of the fish
26 ladder at the Russian River Falls down
27 stream to a regulatory marker about 600
28 yards below Russian River Falls.

29
30 Residents using rod and reel gear at this
31 fishery site may not fish with bait at
32 any time.

33
34 And after a second, I will provide my
35 rationale for the amendment.

36
37 MS. GOTTLIEB: I'll second.

38
39 CHAIRMAN FLEAGLE: Okay, go ahead.

40
41 MR. BSCHOR: As you know the Staff, many
42 of our Staff visited the Russian River Falls site last
43 Friday and they concluded that it would make sense to
44 change this regulations in a couple of ways. As I said I
45 don't believe these are significant and they would
46 benefit the subsistence users and simplify the
47 administration as much as it can be simplified on the
48 site.

49
50 And after I get done concluding my

1 rationale I would like to also, if it's in order, to ask
2 Chairman Lohse, at that time whether the modified
3 regulation will meet the intent of the Advisory Council's
4 recommendation because I don't want to get out of line
5 with that.

6
7 First, the language says that the
8 dipnetting would be open down stream of the Russian River
9 Falls. Based on the Staff's field review and some photos
10 we sent around it was determined that some of the best
11 dipnetting sites would be within the falls themselves.
12 The falls extend about 500 to 100 lateral yards with a
13 series of pools and small falls. Salmon concentrate in
14 these pools and are accessible for dipnetting from the
15 bank. Also for your information there's a fish ladder
16 that goes through the mountain on the Refuge side of the
17 river. The ladder is only used during extreme high flows
18 when fish would otherwise be unable to swim the falls.

19
20 Second, I would like to simplify the
21 language associated with regulatory markers, which, I
22 think that language did I just read. The number in the
23 current recommendation is excessive. The river isn't
24 very wide, as you can see from the pictures, and the
25 marker is not needed on both sides of the river.

26
27 Finally, I want the intent of this
28 language to be clear that fishing in the falls and down
29 stream of the falls would be permitted under this
30 regulation. Our regulations prohibit fishing within 300
31 feet of that fish ladder unless there is an exception
32 written into our regulations. With this proposed
33 regulation it would be clear that fishing within and down
34 stream of the falls, though, within 300 feet of the fish
35 ladder is permissible.

36
37 Thank you, Mr. Chair. And, Mr. Chairman,
38 if Chairman Lohse has anything to say I'd appreciate him
39 to have an opportunity to respond, you know, how this is
40 in line with the proposed regulation that I'm supporting,
41 if he wants to, but that's up to you.

42
43 CHAIRMAN FLEAGLE: Ralph.

44
45 MR. LOHSE: Mr. Chair. Any clarification
46 of a location, the location wasn't as important as the
47 priority and the place. And I would not expect our
48 Council to have any objection to modifying the location
49 for clearer identification and for better fishing.

50

1 CHAIRMAN FLEAGLE: Discussion on the
2 amendment. Didn't Judy second it.
3
4 MR. PROBASCO: Did you second it, Judy, I
5 didn't hear you.
6
7 MS. GOTTLIEB: (Nods affirmatively)
8
9 CHAIRMAN FLEAGLE: Yes. Discussion.
10
11 (No comments)
12
13 CHAIRMAN FLEAGLE: Ready for the question
14 on the amendment, the amendment to change the location of
15 the Russian River Falls dipnetting site. Pete, please
16 poll the Board on the amendment.
17
18 MR. PROBASCO: Thank you, Mr. Chair. On
19 the amendment to the motion on the Russian River Falls
20 site:
21
22 Dipnetting will be allowed from Federal
23 regulatory marker near the up stream end
24 of the fish ladder at the Russian River
25 Falls down stream to a Federal regulatory
26 marker about 600 yards below Russian
27 River Falls.
28
29 Residents using rod and reel gear at this
30 fishery site may not fish with bait at
31 any time.
32
33 Mr. Bschor.
34
35 MR. BSCHOR: Aye.
36
37 MR. PROBASCO: Mr. Oviatt.
38
39 MR. OVIATT: Aye.
40
41 MR. PROBASCO: Mr. Bunch.
42
43 MR. BUNCH: Aye.
44
45 MR. PROBASCO: Ms. Gottlieb.
46
47 MS. GOTTLIEB: Aye.
48
49 MR. PROBASCO: Mr. Fleagle.
50

1 CHAIRMAN FLEAGLE: Aye.
2
3 MR. PROBASCO: And Mr. Edwards.
4
5 MR. EDWARDS: Aye.
6
7 MR. PROBASCO: Mr. Chair. Amendment
8 carries, six/zero.
9
10 CHAIRMAN FLEAGLE: Thank you. Now, the
11 language on the screen now is the wording for the main
12 motion, and since that one portion was dealt with in the
13 amendment, I wonder if we wouldn't have any objection to
14 removing that little piece about with the additional
15 modification to clarify the location of the Russian River
16 Falls fishing site, out of that main motion.
17
18 Any objection.
19
20 (No objections)
21
22 CHAIRMAN FLEAGLE: Hearing none. So --
23 there you go, that will simplify it. Since we've already
24 done the other part by the amendment.
25
26 Further discussion on the main motion,
27 now, to adopt the Council's recommendation to allow this
28 fishery for the communities of Hope and Cooper Landing.
29
30 Gary.
31
32 MR. EDWARDS: Mr. Chairman. Maybe Doug
33 can answer this question. For the salmon, the residents
34 of those two communities and the dipnet fishery would be
35 able to keep resident species; is that correct?
36
37 CHAIRMAN FLEAGLE: Doug.
38
39 MR. MCBRIDE: Mr. Chairman. Mr. Edwards.
40 Yes, that's correct.
41
42 MR. EDWARDS: And then what can they do
43 under the rod and reel fishery with regard to resident
44 species?
45
46 MR. MCBRIDE: Mr. Chairman. Mr. Edwards.
47 There would be two harvest opportunities for resident
48 species.
49
50 The first is in the two dipnet fisheries

1 below Skilak Lake, Moose Range Meadows and the Mile 48
2 site. They would be allowed to retain incidentally
3 harvested rainbow trout and Dolly Varden for both
4 species, up to 200 of those fish, less than 18 inches.
5 So if they were 18 inches or longer, there'd be mandatory
6 release in that fishery.

7
8 In addition to that, well, actually in
9 this -- all you're dealing with the salmon portion so
10 that's all that's there for resident species and what is
11 on the table right now.

12
13 Mr. Chairman.

14
15 MR. EDWARDS: But there is a hook and
16 line fishery for salmon, correct, in addition to the
17 dipnet fishery?

18
19 MR. MCBRIDE: Correct, oh, yeah, for
20 salmon, I thought you were asking.....

21
22 MR. EDWARDS: Right.

23
24 MR. MCBRIDE:about resident
25 species. Yes.

26
27 MR. EDWARDS: So there is -- so what
28 happens, while you elect to fish hook and line
29 subsistence fish for early run or late run chinook, what
30 happens if you catch a resident species, if you just
31 simply had the salmon regulations and not the resident
32 fish regulations, would you have to release it?

33
34 MR. MCBRIDE: Okay. Mr. Chairman. Mr.
35 Edwards. Right, if -- if this was all that was
36 ultimately approved by the Board, then for the resident
37 species, you'd revert back to sportfishing regulations
38 for the Federal Subsistence Board fishery. So in the rod
39 and reel fishery, which would all that would be
40 available, other than this incidental harvest, then the
41 -- all -- everything, the seasons, methods, means,
42 terminal tackle, and limits would all be per State of
43 Alaska sportfishing regulations.

44
45 MR. EDWARDS: I guess what I'm trying to
46 get at and I don't know exactly where I am on this, I
47 sill also have concern about this area below Skilak, the
48 May 1st through June 2nd or 13th or whatever it is, and
49 under the salmon regulations we wouldn't probably expect
50 much -- we wouldn't expect any salmon fishing,

1 subsistence rod and reel occurring at that time, right,
2 because the dipnet fishery doesn't actually start until
3 like June something. So I mean the reality is that if
4 you strictly only had the salmon, you wouldn't really
5 expect any fishing to be occurring during that spawning
6 period; is that correct?

7

8 MR. MCBRIDE: Mr. Edwards, that's
9 correct.

10

11 MR. EDWARDS: Okay, thank you.

12

13 MR. MCBRIDE: We would not anticipate any
14 meaningful numbers of salmon in that portion of the
15 drainage until about June 15th.

16

17 MR. EDWARDS: All right, thank you.

18

19 MS. GOTTLIEB: Mr. Chair.

20

21 CHAIRMAN FLEAGLE: Go ahead, Judy.

22

23 MS. GOTTLIEB: On 105, the top of 105(a),
24 about in the middle of the paragraph, does it not talk
25 about incidentally caught fish may be retained for
26 subsistence uses.

27

28 CHAIRMAN FLEAGLE: Right, that's the net
29 fishery.

30

31 MS. GOTTLIEB: Okay.

32

33 CHAIRMAN FLEAGLE: The other one was the
34 hook and line.

35

36 MS. GOTTLIEB: Okay.

37

38 CHAIRMAN FLEAGLE: Which they are not
39 allowed to. Other questions.

40

41 (No comments)

42

43 CHAIRMAN FLEAGLE: Further discussion.

44

45 (No comments)

46

47 CHAIRMAN FLEAGLE: Your concerns are okay
48 with the dates and I know there was also some concern we
49 heard in testimony that might be worthy of addressing
50 here as well as what we did on the Kasilof and that's the

1 treble hook issue and bait.

2

3 MS. GOTTLIEB: Mr. Chairman.

4

5 CHAIRMAN FLEAGLE: Judy.

6

7 MS. GOTTLIEB: Well, I believe that this
8 motion, this proposal does take in mind all the needed
9 conservation measures is consistent with the
10 recommendations of the RAC and is mindful of, you know,
11 minimal impact, if any, to other users, and it certainly
12 does meet subsistence priority preference.

13

14 CHAIRMAN FLEAGLE: Further discussion.

15 John.

16

17 MR. HILSINGER: Mr. Chairman, thank you.
18 I'm a little bit confused. I think Staff mentioned that
19 there was a 200 fish limit on the resident species and I
20 think that was for the dipnet, but I don't see the 200
21 number in the proposed regulation, so I'm wondering if we
22 could clarify that.

23

24 CHAIRMAN FLEAGLE: Doug.

25

26 MR. MCBRIDE: Yeah, Mr. Chairman, my
27 apologies. That was for the Kasilof, Mr. Hilsinger is
28 correct. For the Kenai, what is proposed is incidental
29 harvest of rainbow trout and Dolly Varden in the dipnet
30 fishery under 18 inches. If they're 18 inches or larger
31 they would have to be released. The 200 was just my
32 mistake from the Kasilof.

33

34 CHAIRMAN FLEAGLE: Thank you, Doug.

35 Further discussion.

36

37 (No comments)

38

39 CHAIRMAN FLEAGLE: Ready for the

40 question.

41

42 MR. EDWARDS: Can I ask just one more

43 question.

44

45 CHAIRMAN FLEAGLE: You bet.

46

47 MR. EDWARDS: I'm still wrestling on this
48 bait. What does -- and maybe the State can -- what does,
49 for salmon, or chinook and coho or particularly chinook,
50 what does the State allow with regards to terminal tackle

1 with regards to hooks, numbers of hooks and the use of
2 bait?

3

4 CHAIRMAN FLEAGLE: John.

5

6 MR. HILSINGER: Mr. Chairman. If I
7 might, I'd like to have George Pappas address that.

8

9 CHAIRMAN FLEAGLE: Sure.

10

11 MR. HILSINGER: Thanks.

12

13 CHAIRMAN FLEAGLE: George.

14

15 MR. PAPPAS: Yeah, Mr. Chairman. For
16 king salmon it's single hook artificial lure only until
17 August -- or excuse me, until July 1st unless the early
18 run gets liberalized, early run sportfishery for king
19 salmon gets liberalized by the Department figuring out
20 exactly -- determining that we will exceed the goals, and
21 it's a single hook with bait allowed at that time and
22 then it does go to multiple hooks later on in the
23 summertime for -- it gets a little confusing, below the
24 Killey River to a certain time, above the Killey River to
25 a certain time. I can go through those for you if you
26 want me to.

27

28 MR. EDWARDS: So I mean I guess what
29 we're proposing here with regards to the use of treble
30 hooks and bait for the, that would be below Skilak only
31 for chinook, although somewhat more liberal than the
32 State, isn't totally more liberal than the State, right,
33 given the time that -- so I guess that would also allow
34 for Moose Meadows, right, too, but that fishery doesn't
35 start until when, the 16th of July, but you could have
36 rod and reel before that, which then you could be using
37 treble and baited hooks. But the State regs kick in
38 there, as you also indicated, or could kick in even
39 earlier if that run was a stronger run. So at least
40 where I sit there's not a huge significant difference
41 between what's being proposed here and what you actually
42 can do under State regs, sport regs. I know that's a lot
43 to actually try and weed through that, so I guess I -- I
44 mean I feel somewhat, I guess, okay, comfortable with
45 this at least at this point, as far as treble hooks and
46 bait. I'm not sure I feel necessarily the same way under
47 the resident species but for the salmon, I think I'm
48 okay, I think.

49

50 CHAIRMAN FLEAGLE: John Hilsinger.

1 MR. HILSINGER: Thank you, Mr. Chairman.
2 I think the issue is that the normal State regulation
3 allowing bait would not kick into effect until July 1 and
4 by July 1 then you've got the early run chinook up in
5 that area and you've got the late run chinook starting
6 into the river, and through July then they would be
7 heading up into that area so that period before July 1,
8 and particularly May and June is really the problem. And
9 the problem with that is that there are virtually no
10 salmon available during that time period and so you're
11 not really providing much of a salmon opportunity within
12 the salmon regulations. And certainly from January 1 up
13 until May 2nd, you're also allowed to use bait and the
14 only salmon that you would probably find in that area
15 during that time period would be coho salmon that came in
16 the August before and are probably not a prime target for
17 a subsistence fishery by the time that following spring
18 rolls around.

19
20 So I think it is a substantially
21 different, you know, the net effect of that regulation is
22 substantially different because of those time periods
23 than what the State has currently, which is targeted
24 specifically to the chinook runs.

25
26 Thank you.

27
28 CHAIRMAN FLEAGLE: Gary.

29
30 MR. EDWARDS: One more question. But I
31 mean, again, the reality is on the chinook fishery, if a
32 subsistence person is using treble hooks and bait,
33 they're not going to be doing catch and release, and they
34 can only take a total of four fish anyway, total, that
35 once they catch their four fish they're done and my guess
36 is they're going to take every -- they're not going to
37 release any fish so you don't have that mortality, you
38 just have an efficient harvest of four fish as opposed to
39 a more less, inefficient harvest.

40
41 CHAIRMAN FLEAGLE: John.

42
43 MR. HILSINGER: Mr. Chairman. Mr.
44 Edwards. Once those chinook are there, that's probably
45 true, but a person could fish in that area using bait
46 prior to the time when any chinook arrive and they would
47 be harvesting rainbow trout and we would have -- and
48 large rainbow trout, 35 inch rainbow trout and an
49 attendant (ph) mortality rate that, you know, could be
50 around 30 percent on those large fish. So certainly at

1 the time when they're targeting chinook use of bait is a
2 real commonly accepted management tool, but during that
3 time when chinook are not there, I think is when we would
4 have concerns.

5
6 MR. EDWARDS: Not to continue this as a
7 debate, but it would seem to me that subsistence users
8 are not, under this reg, allowed to keep resident
9 species, I doubt if they would be there to fish for
10 something that they couldn't keep, otherwise they would
11 be called sportfishermen.

12
13 CHAIRMAN FLEAGLE: Which begs the
14 question then why do we have an allowance for that to
15 occur from January 1, if there's no fish there, no salmon
16 there, why open the season the 1st of January.

17
18 MR. EDWARDS: I could live with that
19 or.....

20
21 MS. GOTTLIEB: Mr. Chair.

22
23 CHAIRMAN FLEAGLE: Judy.

24
25 MS. GOTTLIEB: Can we go back to the RAC
26 or to Doug to fill us in on that part, please.

27
28 CHAIRMAN FLEAGLE: Sure. And it's
29 probably because it was all intended to be part and
30 parcel of resident and salmon but -- Ralph.

31
32 MR. LOHSE: Mr. Chair. I think you kind
33 of hit the nail on the head right there because we looked
34 at it as a complete package. I think the discussion is
35 correct that under what's here, as long as you're just
36 considering it for salmon, the treble hook and bait's not
37 going to have any affect on the rainbow trout right below
38 Skilak Lake because it won't be taking place at that
39 period in time. Because if you look at it, you see that
40 the fishing seasons are, oh, the 16th of July to 30th of
41 September, June 15th through August 15th, you know, so --
42 for salmon that was.

43
44 The dipnetting, we didn't put a 200 fish
45 limit on it because, well, I was just going through some
46 numbers on Page 164 and 2004, in just the lower river
47 alone the catch was like 45,000 rainbows, the harvest was
48 1,800 rainbows, if you put a one percent mortality on it,
49 that kicks it over 2,000 rainbows conservatively were
50 killed and we didn't see where -- you know, we didn't

1 think we would take 200 rainbows in that fishery and that
2 would be less than 10 percent of what's currently being
3 taken so we didn't see any real issue with it, didn't see
4 any need to put it in.

5
6 Am I missing something that -- I was
7 thinking of something else when you asked me and I know
8 that the whole thing was is that we looked at it as a
9 package.

10
11 MS. GOTTLIEB: Mr. Chair.

12
13 CHAIRMAN FLEAGLE: Judy.

14
15 MS. GOTTLIEB: I guess just from a little
16 bit of, you know, research we did in terms of checking
17 about the amount of time that it takes to catch a king
18 salmon among sports users with rod and reel, it's
19 something like 27 hours, so even if a baited hook, let's
20 say, cuts that time in half, it's still quite a bit of an
21 intense effort and so I'm assuming people are only going
22 to go and do this when they think they have the best
23 chance of accomplishing their goal of taking a king
24 salmon.

25
26 CHAIRMAN FLEAGLE: Further discussion.
27 George.

28
29 MR. OVIATT: I agree. I mean if that's
30 true, why have this on the books then for the king salmon
31 part, the extended fishery, I mean if they're there to
32 fish for salmon.

33
34 MR. EDWARDS: Mr. Chairman. Maybe, Bill
35 [sic], I don't know if you were making a suggestion or
36 what, or pointing out something but, you know, maybe
37 adding on to what George said, I mean I have concern,
38 personal concern about the area below Skilak. I think
39 some of the fears, I think there's just some self-
40 protecting things in there that some of the things we
41 think are going to happen probably aren't going to really
42 happen. But nevertheless and I don't think this -- and
43 we can discuss it, but I guess I would amend it then to
44 only allow bait and treble hooks beginning June 15th
45 through August 31st as opposed to starting at January 1.
46 I think that would insure that we wouldn't be having bait
47 and treble hooks during that period we're concerned of, I
48 think it starts enough that then people then could use --
49 to continue to fish for chinook and I don't think the end
50 results of that are going to have any kind of negative

1 impact so that's what I would recommend.

2

3 CHAIRMAN FLEAGLE: That was an amendment.

4

5 MR. EDWARDS: That was -- yes, sir.

6

7 CHAIRMAN FLEAGLE: Is there a second.

8

9 MR. OVIATT: I'll second it.

10

11 CHAIRMAN FLEAGLE: We do have a second.

12 Further discussion. I think we had -- oh, Judy, go

13 ahead.

14

15 MS. GOTTLIEB: Well, I just wanted to be
16 clear on how that still provides a meaningful preference
17 for people.

18

19 MR. EDWARDS: Well, I guess -- well, I
20 think what we heard is that the reality is that this
21 proposal deals with salmon and that folks are not going
22 to be up there at that time fishing for salmon anyway
23 because they're really not going to be in there so that
24 would allow -- that's when the dipnet fishery starts, I
25 believe that's when the first dipnet fishery starts and I
26 think that's when you're going to see the activity and I
27 mean if nobody is -- can catch -- really if there's no
28 fish there to catch, there's really not a meaningful
29 preference to provide so I don't think that we are
30 restricting or not providing a meaningful preference and
31 I think we would still continue to do so, again, unless
32 I'm missing something.

33

34 CHAIRMAN FLEAGLE: Pete.

35

36 MR. PROBASCO: Mr. Chair. Mr. Edwards.
37 And Mr. McBride. Your amendment focuses on Page 106.

38

39 MR. EDWARDS: B1.

40

41 MR. PROBASCO: B1. And that would change
42 the language from January 1 through 31st of August to
43 June 15th to 31st of August, Doug, does that change
44 affect anything else in this Council's recommendations as
45 we proceed through the Kenai River regulations?

46

47 CHAIRMAN FLEAGLE: Doug.

48

49 MR. MCBRIDE: Well, yes, it changes the
50 Council's recommendation. The Council's recommendation

1 was.....

2

3 MR. PROBASCO: What I'm looking for is
4 we're starting to make changes, amendments to this, does
5 it have a domino effect on some other issues that are
6 going to be coming up before the Board that they need to
7 be made aware of?

8

9 MR. MCBRIDE: Mr. Probasco, I don't think
10 so. And the reason I'm saying that is I am fairly
11 certain, and I'm sure something's going to get bounced
12 off the back of my head if I misspeak here, but I'm
13 fairly certain that the proponents, when they proposed
14 the use of bait, they were focused on salmon, primarily
15 kings and cohos and so I don't think that it would -- I
16 mean I don't think it poses any serious domino effects
17 elsewhere as we get into resident species, to my
18 knowledge.

19

20 MS. GOTTLIEB: Mr. Chairman.

21

22 CHAIRMAN FLEAGLE: Judy.

23

24 MS. GOTTLIEB: Maybe a clarification from
25 John or others, is the State season not open at January
26 1, that's what I have in my notes, that the State season
27 is open between January 1, July 31st for chinook.

28

29 MR. PAPPAS: That is correct, yes,
30 single.....

31

32 CHAIRMAN FLEAGLE: George.

33

34 MR. PAPPAS:hook artificial lure --
35 single hook, artificial lure only.

36

37 CHAIRMAN FLEAGLE: Judy.

38

39 MS. GOTTLIEB: So my comment would be we
40 ought to be careful about restricting when the State
41 season's open anyhow, I'm not talking about the bait, I'm
42 just talking about the season here.

43

44 MR. EDWARDS: Again, I guess, the reality
45 of it is we're probably not restricting because there's
46 really not fish there to catch and you can't catch what's
47 not there, so -- and I think it's true with the State
48 regs, the reality is that they may have a season but
49 you're not -- last I looked, you know, this February you
50 didn't have a harvest of chinook did you, so.....

1 CHAIRMAN FLEAGLE: Pete.
2
3 MR. PROBASCO: Doug, I was just handed
4 this as a question. We also speak to times that bait can
5 be used in a dipnet fishery, is that relevant to this
6 issue?
7
8 CHAIRMAN FLEAGLE: You've never baited a
9 net before?
10
11 (Laughter)
12
13 MR. PROBASCO: You have a dipnet fishery
14 and you allow baited hooks.....
15
16 UNIDENTIFIED VOICE: It's dipnet and rod
17 and reel.
18
19 MR. PROBASCO: Correct. But in the
20 dipnet, rod and reel fishery you also address two baited
21 single or treble hooks from January 1 through 31 August.
22 This amendment focuses on b, Section 1, A1 and A1(i) and
23 A1(ii).
24
25 CHAIRMAN FLEAGLE:
26
27 MR. MCBRIDE: Right. If you're going to
28 change the date -- if you're going to change the date to
29 June 15th, then I think it's an administrative matter
30 you'd just change those dates as well.
31
32 MR. PROBASCO: But I wanted to clarify
33 that we do have two different types of fisheries here and
34 in both areas they both speak to January 1 through 31
35 August and this change that Mr. Edwards put forward only
36 focused on B1, do we need to include A1(i) and -- so --
37 Gary, is that your intent?
38
39 MR. EDWARDS: Yes.
40
41 MR. PROBASCO: Okay.
42
43 MR. EDWARDS: Yeah, I would agree with
44 it, it would be just an administrative thing, you would
45 just look at to where those dates would come up within
46 the proposal and change them accordingly.
47
48 CHAIRMAN FLEAGLE: And I can still bait
49 my net.
50

1 (Laughter)

2

3 CHAIRMAN FLEAGLE: With that
4 clarification, that amendment will apply not only to the
5 dates for baited treble hooks in Section b but also apply
6 in Section a where it's listed. Any further discussion.

7

8 (No comments)

9

10 CHAIRMAN FLEAGLE: Ready for the question
11 on the amendment. Question is called on the amendment.
12 Pete.

13

14 MR. PROBASCO: Okay, Mr. Chair, amendment
15 to FP07 -- second amendment to FP07-27b and c dealing
16 with bait and treble hooks:

17

18 Will be allowed from June 16th to August
19 31st, and it'd be addressed in both
20 sections a and b.

21

22 Mr. Oviatt.

23

24 MR. OVIATT: Aye.

25

26 MR. PROBASCO: Mr. Bunch.

27

28 MR. BUNCH: Aye.

29

30 MR. PROBASCO: Ms. Gottlieb.

31

32 MS. GOTTLIEB: No.

33

34 MR. PROBASCO: Mr. Fleagle.

35

36 CHAIRMAN FLEAGLE: Aye.

37

38 MR. PROBASCO: Mr. Edwards.

39

40 MR. EDWARDS: Aye.

41

42 MR. PROBASCO: And Mr. Bschor.

43

44 MR. BSCHOR: Aye.

45

46 MR. PROBASCO: Amendment carries,
47 five/one.

48

49 CHAIRMAN FLEAGLE: We now have the main
50 motion before us, twice amended. Further discussion.

1 (No comments)
2
3 CHAIRMAN FLEAGLE: Ready for the
4 question.
5
6 (No comments)
7
8 CHAIRMAN FLEAGLE: It looks like we are.
9 Pete, on the main motion as amended twice, please poll
10 the Board.
11
12 MR. PROBASCO: Thank you, Mr. Chair.
13 Final action, FP07-27b and c as amended twice.
14
15 Mr. Bunch.
16
17 MR. BUNCH: Aye.
18
19 MR. PROBASCO: Ms. Gottlieb.
20
21 MS. GOTTLIEB: Aye.
22
23 MR. PROBASCO: Mr. Fleagle.
24
25 CHAIRMAN FLEAGLE: Aye.
26
27 MR. PROBASCO: Mr. Edwards.
28
29 MR. EDWARDS: Aye.
30
31 MR. PROBASCO: Mr. Bschor.
32
33 MR. BSCHOR: Aye.
34
35 MR. PROBASCO: And Mr. Oviatt.
36
37 MR. OVIATT: Aye.
38
39 MR. PROBASCO: Motion carries six/zero.
40
41 CHAIRMAN FLEAGLE: Let's step down for a
42 10 minute break.
43
44 (Off record)
45
46 (On record)
47
48 CHAIRMAN FLEAGLE: Good afternoon we're
49 back on record. And we're ready to move into salmon for
50 Ninilchik on the Kenai.

1 Excuse me, in the back, we're back in
2 session.

3
4 (Pause)

5
6 CHAIRMAN FLEAGLE: So we'll start out
7 with Board discussion on that component. Board
8 discussion with the Council Chairs and the State liaison.
9
10 Discussion.

11
12 Denny.

13
14 MR. BSCHOR: Mr. Chair. I'm prepared to
15 propose a motion.
16

17 I move to adopt the recommendation of the
18 Southcentral Alaska Regional Council for salmon for
19 Ninilchik, which would allow for fishing for salmon in
20 the Kenai River drainage and is a modification of
21 Proposals FP07-27b and 27c. Once again no action would
22 be taken on FP07-29.
23

24 However, unlike the recommendation of the
25 Southcentral Regional Advisory Council, my motion
26 includes a modification to not allow the incidental
27 harvest of resident fish while taking salmon. Now, this
28 question of the incidental harvest of resident fish will
29 be taken up in an amendment I plan to offer if I get a
30 second.
31

32 CHAIRMAN FLEAGLE: Do we have a second.
33

34 MR. BUNCH: I second.
35

36 CHAIRMAN FLEAGLE: There it is. Denny.
37

38 MR. BSCHOR: Okay. First of all I'll say
39 a little bit about my rationale and it's similar to the
40 last issue we deliberated on so I won't go through all
41 that again, it's on the record.
42

43 But since I know that some Board members
44 have concerns about our customary and traditional use
45 determination for resident fish in the Kenai, I believe
46 that this motion will allow for consideration of the
47 question of harvest of resident fish directly and so I
48 amend my motion -- is it okay to amend it now?
49

50 CHAIRMAN FLEAGLE: (Nods affirmatively)

1 MR. BSCHOR: I move to amend my motion to
2 allow for the incidental harvest of resident fish while
3 taking salmon.

4
5 If the main motion and this amendment
6 were to pass it would be consistent with the
7 recommendations of the Southcentral Alaska Regional
8 Advisory Council. Following a second I will provide my
9 rationale.

10
11 MR. BUNCH: I second it.

12
13 CHAIRMAN FLEAGLE: Okay, we have the
14 second.

15
16 MR. BSCHOR: Okay. Although we are not
17 addressing the customary and traditional use
18 determination for Ninilchik to harvest resident fish,
19 that is indirectly what we are doing. If we do not
20 provide a harvest opportunity that would be like not
21 providing a customary and traditional use determination.

22
23 Rather than use the arguments I made for
24 customary and traditional use determination, I would like
25 to address how subsistence users fish. And this
26 amendment solely addresses the question of whether the
27 incidental harvest of resident fish should be allowed
28 while targeting salmon. And I obviously believe that,
29 yes, clearly it should, and so when -- you know, it's
30 been mentioned several times here this week that when
31 subsistence harvesters go fishing for food they're not
32 selective. They may be targeting one species such as
33 coho, however, if they catch a different fish such as a
34 resident fish, they prefer to take that fish, especially
35 if that fish is going to be lost to death.

36
37 And, once again, if Chairman Lohse would
38 like to address sometime during deliberations this issue
39 I would welcome that also.

40
41 So I think that's -- I think that's all
42 I've got.

43
44 CHAIRMAN FLEAGLE: Pete.

45
46 MR. PROBASCO: Thank you, Mr. Chair.
47 Just to keep the record clear. Mr. Bschor, when you say
48 resident fish, you're meaning trout and char, correct?

49
50 MR. BSCHOR: Yes.

1 MR. PROBASCO: Thank you.
2
3 MR. BUNCH: Mr. Chair.
4
5 CHAIRMAN FLEAGLE: Go ahead, Charles.
6
7 MR. BUNCH: Denny, you said just rainbow
8 and trout but there's a lot of resident fish within the
9 Kenai that.....
10
11 MR. BSCHOR; Yeah, let me ask what the
12 definition of resident fish is because, you know, I
13 believe that would be my intent is -- and if it's more
14 than char and trout then I answered that last question
15 incorrectly, if somebody would want to clarify that for
16 me that would be fine.
17
18 CHAIRMAN FLEAGLE: Pete.
19
20 MR. PROBASCO: Mr. Chair. Mr. Bschor.
21 My question was related to where the fishery was taking
22 place, but if you go to our proposals, resident fish
23 include lake trout, rainbow trout and Dolly Varden/Arctic
24 char. Is that your intent then?
25
26 MS. GOTTLIEB: Mr. Chair.
27
28 CHAIRMAN FLEAGLE: Judy.
29
30 MS. GOTTLIEB: If the original motion, if
31 I heard it correctly, was to support the Regional
32 Council's recommendation, so that would be on 105,
33 applying only to Ninilchik and then you made an
34 amendment.
35
36 MR. BSCHOR: Made a modification.
37
38 MS. GOTTLIEB: Made a modification, which
39 removed incidentally caught non-salmon fish; is that what
40 you mean?
41
42 MR. BSCHOR: Resident fish while taking
43 salmon.
44
45 CHAIRMAN FLEAGLE: Would you turn your
46 mic on.
47
48 MR. BSCHOR; Resident fish while taking
49 salmon.
50

1 MS. GOTTLIEB: So could we show that
2 either on the screen or read it based on what's on
3 105/106.

4
5 CHAIRMAN FLEAGLE: I guess we -- yeah, we
6 all need a little clarification because the proposal, as
7 stated, already does allow for the take of resident fish
8 so your amendment would be.....

9
10 MR. BSCHOR: To not allow -- the
11 amendment is to allow it, the modification of the -- in
12 the motion was to not allow it, the amendment would allow
13 it, put it back in. I'm looking for a vote on the
14 resident fish issue.

15
16 CHAIRMAN FLEAGLE: I understand. Gary.

17
18 MR. EDWARDS: On the question on the
19 resident fish, I thought when we -- back in November when
20 we did this C&T it was for all fish, right, so where do
21 grayling, burbot, for example, where do they fall out at,
22 either in the motion or I guess even in the proposal
23 itself?

24
25 CHAIRMAN FLEAGLE: Excuse me, I was
26 talking when I should have been listening.

27
28 MR. EDWARDS: Well, I'm just trying to
29 understand because I thought when we did the C&T, you
30 know, the big debate was, was it all fish or was it just
31 salmon and then we sort of, kind of reconfirmed, I guess,
32 last week and also yesterday, I thought then we were
33 talking about all fish, so that would include salmon plus
34 all other resident species, and we have such things as
35 burbot and grayling that are down there that are part of
36 these waters, and I guess my question, would Denny's
37 amendment include the take of those species and maybe
38 it's immaterial when it comes to the salmon issue so
39 maybe it's a non-issue as it applies to salmon and we
40 don't necessarily have to worry about what we mean by
41 resident species.

42
43 I don't know, somebody help me.

44
45 MR. BUNCH: Well, Mr. Chair.

46
47 CHAIRMAN FLEAGLE: Charles.

48
49 MR. BUNCH: My concern on that was, was
50 that if you caught any kind of species incidentally, that

1 if there was a question of mortality, I mean it doesn't
2 make any sense to throw a dead fish back regardless of
3 make or model.

4

5 MS. GOTTLIEB: Mr. Chairman.

6

7 MR. BSCHOR: Mr. Chair.

8

9 CHAIRMAN FLEAGLE: I'll get right to you
10 Judy. Denny.

11

12 MR. BSCHOR; I was just going to say that
13 was my intent, too. That's one of the basics behind
14 doing this.

15

16 CHAIRMAN FLEAGLE: Judy.

17

18 MS. GOTTLIEB: Well, I was going to
19 suggest maybe the opposite, can we just use the wording
20 we have here in the proposed -- in the RAC's
21 recommendation and change it -- you know, it specifically
22 means Dolly Varden, rainbow trout so that if
23 inadvertently someone catches a whitefish do we mean
24 we're -- anyhow, I think it'd just be easier to work with
25 wording we have, however we want to adjust it, but not be
26 as broad as resident fish.

27

28 CHAIRMAN FLEAGLE: We need a brief at
29 ease here.

30

31 (Off record)

32

33 (On record)

34

35 CHAIRMAN FLEAGLE: After a little bit of
36 thought and consultation on that, I'm going to rule that
37 amendment and motion out of order. To have a motion on a
38 proposal that states a positive action and then to make
39 the motion that would accept that proposal except a small
40 piece of it, first of all, doesn't fly right with me and
41 then to have an amendment that puts that small piece back
42 in doesn't sound appropriate.

43

44 I think a cleaner way to do that, if the
45 intent is to further divide this proposal into pieces, as
46 we just did by communities, the best way would be to take
47 separate motions. And I think understand Denny's intent
48 is to just get a vote on the table as to whether or not
49 the Board intends to support the incidental harvest of
50 other species of fish that we hadn't found a positive C&T

1 for, that is not clear that we found a positive C&T for,
2 I should say.

3

4 As we remember from the discussion
5 yesterday there's three Board members here that are on
6 record as opposing the positive C&T for resident species
7 for Ninilchik in the Kenai and we haven't been able to
8 find a way to get the vote back to where we can
9 accurately reflect that. So it sounds like the intent is
10 to try to adopt these regulations with that in mind. And
11 with the philosophical issues that at least three Board
12 members have about the non -- I keep wanting to call it a
13 non-resident, but the resident fish, the entire proposal
14 stands a chance of failing and Ninilchik will not get
15 their right to harvest salmon based on that philosophical
16 disagreement with three Board members that they have a
17 right to those other species. And that's the danger in
18 proceeding with the proposal as it is.

19

20 So I think what I'm going to propose is
21 that we take these up in separate motions. We take up
22 the proposal for Ninilchik now as we are without the
23 discussion of incidental caught, other species, and then
24 we can take that up as a separate motion afterward, just
25 like we separated out Cooper Landing and Hope and then
26 Ninilchik.

27

28 One other thing is that there was several
29 amendments made to the proposal when we were dealing with
30 the Cooper Landing and Hope issues that would either need
31 to be referenced or redone when we do this here, if it's
32 the Board's intent to apply those equally.

33

34 So I'm going to -- again, I rule both
35 motion and amendment out of order, so they're gone and
36 we're starting with a clean slate.

37

38 Denny.

39

40 MR. BSCHOR: Thank you, Mr. Chair. You
41 have described my intent correctly. Sorry I caused so
42 much confusion in the process, but maybe we needed to get
43 through that to talk it through. So what I'm hearing the
44 Chair say is a motion relative to adopting the
45 Southcentral Council's proposal and.....

46

47 CHAIRMAN FLEAGLE: As it pertains to
48 salmon only, not addressing the incidental harvest of
49 other species.

50

1 MR. EDWARDS: Could we get it on the
2 screen.
3
4 CHAIRMAN FLEAGLE: For Ninilchik,
5 correct, I hear the whispers back here, but, yes, that's
6 the intent.
7
8 (Pause)
9
10 CHAIRMAN FLEAGLE: Okay, everybody's
11 clear that we're talking about just the salmon at this
12 time. That the discussion of incidental caught resident
13 species will come in a subsequent motion.
14
15 All right. Denny, do we need any more
16 discussion -- yeah, we do. Pete.
17
18 MR. PROBASCO: And I'm assuming based on
19 your counsel, Mr. Chair, that this includes the previous
20 two amendments that we dealt with, Hope and Cooper
21 Landing?
22
23 CHAIRMAN FLEAGLE: I guess I should get a
24 second first.
25
26 MR. BSCHOR: Do you want me to propose
27 the motion or are you making the motion.
28
29 MR. BUNCH: Do we have a motion to
30 second?
31
32 MR. BSCHOR: I don't think we do.
33
34 CHAIRMAN FLEAGLE: Okay.
35
36 MR. BSCHOR: I move to adopt the
37 Southcentral Alaska Subsistence Regional Advisory
38 Council's recommendation for salmon for Ninilchik, FP07-
39 27b and c and take no action on FP07-29.
40
41 CHAIRMAN FLEAGLE: Now we have the
42 motion.
43
44 MR. BUNCH: I second it.
45
46 CHAIRMAN FLEAGLE: Now we have the
47 second. Further discussion.
48
49 MR. EDWARDS: 29 is what?
50

1 MR. PROBASCO: Gillnet.
2
3 MR. EDWARDS: Pardon?
4
5 MR. PROBASCO: Gillnet.
6
7 MR. EDWARDS: All right. So let me ask
8 you, Mr. Chair, if this motion passes, what does it do in
9 reference to -- if this motion passes and only this
10 motion passes, what does it do in regards to resident
11 species?
12
13 CHAIRMAN FLEAGLE: I have just suggested
14 and Mr. Bschor, as the maker of the motion as agreed, to
15 make the motion to apply only to salmon, that the
16 resident species incidental caught -- resident species
17 portion will be dealt with in another motion.
18
19 Pete.
20
21 MR. PROBASCO: Mr. Chair. There was
22 three of us here that wanted that clarified, and I think
23 you just clarified it, that it's salmon only, incidental
24 fish will be dealt with in a subsequent motion.
25
26 MR. EDWARDS: So that would basically
27 require, in the proposal from the Council, any reference
28 to anything other than salmon would be struck from that;
29 is that correct?
30
31 CHAIRMAN FLEAGLE: Yes.
32
33 MR. EDWARDS: And then the other thing
34 that was pointed out, the amendments from the previous
35 one, in reference to Hope and Cooper Landing would carry
36 forward, having to do with the timeframe of the use of
37 bait as well as the boundary for the Russian River.
38
39 All right.
40
41 CHAIRMAN FLEAGLE: If there's no
42 objection, that would be the intent to carry those
43 amendments forward as well.
44
45 (No objections)
46
47 CHAIRMAN FLEAGLE: No objection. Further
48 discussion.
49
50 MR. BUNCH: Mr. President.

1 (Laughter)
2
3 MR. BUNCH: Oh, excuse me, Mr. Chairman,
4 sorry.
5
6 (Laughter)
7
8 MR. BUNCH: I didn't want to follow the
9 president's shoes here exactly. I have some questions
10 about, you know, I know that our previous discussion was
11 on Hope and Cooper Landing, but I don't know whether, you
12 know, Ninilchik is going to participate in this early
13 fishery out of Skilak or not, and would it be possible to
14 find out from Ninilchik if they're planning on
15 participating in that early fishery?
16
17 CHAIRMAN FLEAGLE: Any objection.
18
19 (No objections)
20
21 CHAIRMAN FLEAGLE: Somebody back there
22 can answer that question. Sky.
23
24 MR. STARKEY: Thank you, Mr. Chairman.
25 The question is would Ninilchik be participating in the
26 June 15th fishery?
27
28 MR. BUNCH: Right now for Ninilchik -- I
29 mean for Hope and Cooper Landing we've closed off that
30 fishery and I'm assuming that Ninilchik wouldn't have any
31 objection to that closure, but I would want to get your
32 input on that.
33
34 MR. STARKEY: Mr. Chairman. Mr. Bunch,
35 we would have no objection to the season that reflects
36 the June 15th date because the intent is to go after the
37 salmon when they're there. So according to everything we
38 know at this point in time that would address an
39 opportunity when the fish are there.
40
41 And thank you for asking.
42
43 MR. BUNCH: Thank you.
44
45 CHAIRMAN FLEAGLE: Further discussion.
46
47 (No comments)
48
49 CHAIRMAN FLEAGLE: All right. Just to
50 clarify where we're at. Basically we've got Proposal 27b

1 and c as presented on Page 104 that we amended to change
2 the Russian River Falls location, we further amended to
3 reduce the availability of using baited and treble hooks
4 down to May 15th to June 31 -- I mean August 31, and we
5 also.....

6

7 MR. PROBASCO: June 15th.

8

9 CHAIRMAN FLEAGLE: June 15th.

10

11 MR. PROBASCO: To August 31.

12

13 CHAIRMAN FLEAGLE: I'm glad somebody
14 clarified that for me.

15

16 Okay, and basically what is not being
17 considered here is on Page 105, paragraph A, about in the
18 center of that paragraph that read:

19

20 For both Kenai River fishing sites below
21 Skilak Lake, incidentally caught fish may
22 be retained for subsistence purposes or
23 uses, excuse me, except for early run
24 chinook salmon unless otherwise provided
25 for, rainbow trout 18 inches or longer,
26 and Dolly Varden 18 inches or longer,
27 which must be released.

28

29 For the Russian River fishing site,
30 incidentally caught fish may be retained
31 for subsistence uses except for early and
32 late run chinook salmon, coho salmon,
33 rainbow trout, Dolly Varden, which must
34 be released.

35

36 That piece of this proposal will be dealt
37 with subsequently and is not being considered now.

38

39 George.

40

41 MR. OVIATT: That'd be for Ninilchik
42 only.

43

44 CHAIRMAN FLEAGLE: Correct. Further
45 discussion.

46

47 (No comments)

48

49 CHAIRMAN FLEAGLE: Ready for action.

50

1 MR. BSCHOR: Question.
2
3 CHAIRMAN FLEAGLE: Question's called.
4 Pete.
5
6 MR. PROBASCO: Thank you, Mr. Chair. And
7 I'll reference what you just stated on the record
8 pertaining to FP07-27b and c with modification as it
9 pertains to the community of Ninilchik for salmon only.
10
11 Ms. Gottlieb.
12
13 MS. GOTTLIEB: Aye.
14
15 MR. PROBASCO: Mr. Fleagle.
16
17 CHAIRMAN FLEAGLE: Aye.
18
19 MR. PROBASCO: Mr. Edwards.
20
21 MR. EDWARDS: Aye.
22
23 MR. PROBASCO: Mr. Bschor.
24
25 MR. BSCHOR: Aye.
26
27 MR. PROBASCO: Mr. Oviatt.
28
29 MR. OVIATT: Aye.
30
31 MR. PROBASCO: And Mr. Bunch.
32
33 MR. BUNCH: Aye.
34
35 MR. PROBASCO: Motion carries, Mr. Chair,
36 six/zero.
37
38 CHAIRMAN FLEAGLE: Thank you, Pete. And
39 just for further clarification the harvest limits that
40 are listed in the proposal are what the Board intended to
41 adopt, even though we separated the communities out which
42 would have meant these numbers might have been smaller,
43 now everybody's back included, the numbers accurately
44 reflect the Board's intent.
45
46 I just want to make that clarification on
47 the record as well.
48
49 So now the next motion would be to allow
50 Ninilchik residents to keep incidentally caught fish as

1 stated in the two sentences that I read previously.

2

3 Is there a motion.

4

5 MR. BSCHOR: So moved.

6

7 MS. GOTTLIEB: Second.

8

9 CHAIRMAN FLEAGLE: All right. Does
10 somebody want to speak to the motion.

11

12 MR. EDWARDS: No, I didn't make it.

13

14 CHAIRMAN FLEAGLE: Denny.

15

16 MR. BSCHOR: Yes, I do, thank you. Once
17 again this provides in my -- from my viewpoint the
18 ability to harvest salmon but also if there's incidental
19 take of these other species that it's in line with the
20 guidelines in this paragraph as far as what you can or
21 can't keep and it provides the full utilization of
22 subsistence use in line with conservation needs.

23

24 MS. GOTTLIEB: Mr. Chair.

25

26 CHAIRMAN FLEAGLE: Judy.

27

28 MS. GOTTLIEB: I guess I'd like to add to
29 that, too, the specific area that people seem to be the
30 most worried about is those five or six miles down stream
31 from Skilak Lake. So just as a reminder there is a
32 rainbow closure between May 2 and June 10th, no one can
33 take rainbows during that time to protect the spawning
34 area. Meanwhile there's also a motorized boat closure
35 that precedes that rainbow closure by about six weeks,
36 and extends it by about four more days. So, again, I
37 think it's kind of unlikely that people are going to be
38 going up to Skilak Lake and then taking the motor off or
39 drifting down through this area to be doing some of the
40 salmon fishing, which isn't going to start -- the dipnet
41 area isn't going to start until June 15th.

42

43 So I think we have plenty of safeguards
44 and management schemes already in place that fully
45 protect the Dolly Varden and the rainbow trout.

46

47 I guess also in taking a look at some of
48 the amount of trout that have been caught by sport users,
49 something like 138,000 have been caught with about 1,800
50 retained, and the mortality factor associated with that.

1 And then similarly, some of the numbers for Dolly Varden
2 were 100,000 or so are caught with a 5,800 or so
3 retention, again, with a mortality rate there. So I do
4 think the effect of incidental take would be very
5 minimal, once, again, we have management actions in place
6 within the Federal program. I think we're worried about
7 a worse case scenario in what, as the State has said, is
8 currently now a healthy population.

9

10 Thank you.

11

12 CHAIRMAN FLEAGLE: Thank you. Gary.

13

14 MR. EDWARDS: Mr. Chairman. I guess out
15 of respect for the integrity of our process and because I
16 believe that this Board failed to affirmative grant C&T
17 to Ninilchik for resident species in the Kenai River area
18 by a majority of vote, I certainly cannot in good
19 conscious support a proposal that would allow methods and
20 means and limits and take of resident species. Just
21 based upon the actions that I don't think that C&T has
22 been granted by our actions and, therefore, I can't see
23 how I could support then allowing a harvest to take
24 place.

25

26 CHAIRMAN FLEAGLE: George.

27

28 MR. OVIATT: Thank you, Mr. Chairman. I
29 agree with Gary. And rather than repeat what he said, I
30 believe I've gone on record as to my reasons that I
31 supported salmon only. And I also believe that this
32 Board never did support anything except for salmon, which
33 we just voted on. So I am obligated to oppose this
34 amendment, too.

35

36 Thank you, Mr. Chairman.

37

38 CHAIRMAN FLEAGLE: Pete.

39

40 MR. PROBASCO: Thank you, Mr. Chair. A
41 lot of questions going on behind us here. On Page 105,
42 you read the sentences that we're addressing in this
43 motion, and your earlier motion dealt with all salmon.
44 So as I was sitting here listening to you read these
45 sentences, I felt that you, in those two sentences, you
46 were only addressing those incidental caught fish other
47 than salmon, even though you read salmon into that. So
48 I'm taking by your previous action we've already dealt
49 with salmon.

50

1 The concern is for the Russian River
2 fishing site, if you take literally what you read as the
3 motion then we would allow the retention of early and
4 late run chinook salmon in this area.

5
6 Mr. Chair.

7
8 MR. EDWARDS: And coho.

9
10 MR. PROBASCO: And coho, yeah.

11
12 MR. EDWARDS: Yeah.

13
14 CHAIRMAN FLEAGLE: We're going to fight
15 our way out of this box yet. Okay, let's think about
16 that for a second.

17
18 MR. BUNCH: Mr. Chair.

19
20 CHAIRMAN FLEAGLE: Go ahead, Charles.

21
22 MR. BUNCH: As I read that, those species
23 are specifically exempt from retention.

24
25 CHAIRMAN FLEAGLE: That's true.

26
27 MR. PROBASCO: Except for.....

28
29 CHAIRMAN FLEAGLE: Let's take another at
30 ease here.

31
32 (Off record)

33
34 (On record)

35
36 CHAIRMAN FLEAGLE: All right, Keith has
37 made a good suggestion. Rather than us try to wordsmith
38 the language how we want this to look, his comment is
39 that we just make clear the intent and they'll write the
40 regulation appropriately. And I think it's pretty clear
41 that that's pretty easy to do.

42
43 Now, I'm going to go with Gary and George
44 on this one and vote against the allowance of
45 incidentally caught fish that we have not found a
46 positive C&T for. In my mind, again, I agree with the
47 statements that they've said, we do not have a clear
48 record of a majority of this Board in support of a
49 positive C&T. And there may be a way to fix that, we did
50 have the vehicle to fix that earlier in the meeting with

1 Proposal 28 but we didn't. There may be a way to get an
2 accurate vote on the record at some point in time but
3 until there is we have this nebulous area where we have a
4 C&T found that was based on erroneous assumptions and we
5 don't have a clear majority of the Board in support of so
6 I also am going to vote against this amendment based on
7 those reasons and then we'll work on clarifying
8 afterwards.

9

10 Are we ready for the question.

11

12 Charles.

13

14 MR. BUNCH: Mr. Chair. I have some
15 problems with this, and going back to the infinite wisdom
16 of the RAC and Mr. Lohse over there, I don't see anything
17 that's come up in the three reasons that we have for
18 overturning the RAC's recommendation, they're not
19 apparent to me. But the thing that just bothers me about
20 it, is that if you incidentally catch a fish and there's
21 mortality involved, it just makes sense to me that you
22 should be able to keep it and eat it rather than return
23 it back to the Davy Jones Locker. I mean that goes
24 against the very concept of ANILCA of non-wasteful
25 subsistence.

26

27 CHAIRMAN FLEAGLE: Gary.

28

29 MR. EDWARDS: You know, Charlie, I guess
30 I somewhat maybe agree in principle. But actually if you
31 look at the proposal as written and as submitted, at
32 least for that dipnet fishery for the Russian River,
33 that's exactly what you would have to do because there's
34 nothing in there that if you take these other species, be
35 it late run chinook -- early or late run chinook, coho
36 salmon, rainbow trout and Dolly Varden, it says they must
37 be released, it doesn't say anything if they're dead that
38 you get to keep them. So I mean the original proposal
39 kind of flew in the face of exactly what you just said.

40

41 MS. GOTTLIEB: Mr. Chair.

42

43 CHAIRMAN FLEAGLE: Judy.

44

45 MS. GOTTLIEB: But that's what the RAC
46 ended up changing then so that's where we are now is the
47 RAC recommendation. So anyhow it's probably time for the
48 question.

49

50 CHAIRMAN FLEAGLE: All right. The

1 question is now recognized. Pete.
2
3 MR. PROBASCO: Mr. Chair. On the
4 amendment to FP07-27b and c as it pertains to the
5 community of Ninilchik. The intent is to deal with that
6 portion which refers to incidentally caught fish other
7 than salmon.
8
9 CHAIRMAN FLEAGLE: Correct. And it's not
10 an amendment, it's a motion.
11
12 MR. PROBASCO: I'm sorry, motion, thank
13 you, Mr. Chair. Mr. Fleagle.
14
15 CHAIRMAN FLEAGLE: Nay.
16
17 MR. PROBASCO: Mr. Edwards.
18
19 MR. EDWARDS: Nay.
20
21 MR. PROBASCO: Mr. Bschor.
22
23 MR. BSCHOR: Aye.
24
25 MR. PROBASCO: Mr. Oviatt.
26
27 MR. OVIATT: Nay.
28
29 MR. PROBASCO: Mr. Bunch.
30
31 MR. BUNCH: Aye.
32
33 MR. PROBASCO: And Ms. Gottlieb.
34
35 MS. GOTTLIEB: No -- excuse me, what --
36 can we read it one more time, it sounded like -- aye.
37
38 MR. PROBASCO: Aye, is that correct, Ms.
39 Gottlieb?
40
41 MS. GOTTLIEB: Yes.
42
43 MR. PROBASCO: Okay. Motion fails,
44 three/three.
45
46 CHAIRMAN FLEAGLE: Okay, thanks, Pete.
47 Now, as far as the clarification issue, what is it that's
48 unclear, what do we need to clarify.
49
50 (No comments)

1 CHAIRMAN FLEAGLE: I think we got it.
2 Everybody understands, we're just making an exception for
3 Ninilchik residents for those species that this Board has
4 not -- does not have a majority vote on for incidental
5 take, removing that from the proposal.

6
7 MR. BUNCH: Mr. President.

8
9 CHAIRMAN FLEAGLE: Charles.

10
11 MR. BUNCH: But doesn't the State allow
12 to keep incidentally caught fish under the subsistence
13 regs, so I mean I -- I apologize for being hung up on
14 this, but I just -- the thought of throwing dead fish
15 back just gives me as much problems as Gary has with the
16 keeping them.

17
18 CHAIRMAN FLEAGLE: John Hilsinger.

19
20 MR. HILSINGER: Thank you, Mr. Chairman.
21 This fishery you have gear types that are amenable to
22 releasing fish, you shouldn't have much incidental
23 mortality, if any, you've got rod and reel and you've got
24 dipnet, and both those types of gear are highly amenable
25 to releasing fish alive. In some other fisheries where
26 incidentally caught fish are allowed to be retained,
27 those are maybe gillnets, you know, where the fish would
28 mostly be dead.

29
30 The other issue that comes up and we do
31 face this is that a live fish because a dead fish in a
32 blink of an eye, if it's legal to keep it if it's dead
33 but it's not legal if it's alive, and so you see a lot of
34 fisheries where highly valued species are caught
35 incidently, like for instance halibut in the crab
36 fishery, and they cannot be retained live or dead because
37 all those live halibut that could be released, could
38 easily end up dead and then kept, and so that's the
39 experience the State's had and how we deal with it.

40
41 CHAIRMAN FLEAGLE: Ralph.

42
43 MR. LOHSE: Mr. Chair. I don't have to
44 say anything, John already just said it. I was going to
45 say that it's not without precedent in this case that you
46 have to throw dead fish back.

47
48 MR. EDWARDS: I guess the other response
49 is that there is another subsistence user down there and
50 it's got a lot of fur and all and would probably make

1 good subsistence use of that fish that didn't make it
2 probably.

3
4 CHAIRMAN FLEAGLE: All right. We'll move
5 on to the next set of proposals, 11, 12, 13, 27d and 29
6 for resident species and based on discussion prior to
7 taking these issues up, we are going to entertain a
8 motion for Cooper Landing and Hope for resident species
9 first.

10
11 Is there a motion.

12
13 Denny.

14
15 MR. BSCHOR: Yes, Mr. Chair. I move to
16 adopt the recommendation of the Southcentral Alaska
17 Regional Advisory Council which would allow for fishing
18 for Hope and Cooper Landing for resident fish in the
19 Kenai River drainage and is a modification of Proposal
20 FP07-27d.

21
22 No action is taken on Proposals FP07-11,
23 12, 13 and 29 as a result of action on 27d.

24
25 Following a second I'll provide my
26 rationale.

27
28 CHAIRMAN FLEAGLE: The motion is about to
29 die for a lack of a second.

30
31 MS. GOTTLIEB: Second.

32
33 CHAIRMAN FLEAGLE: We got a second.
34 Denny.

35
36 MR. BSCHOR: Once again I'm going to
37 refer to our Board book in my rationale, that, adopting
38 the recommendation of the Southcentral Council can be
39 found in justifications on Page 168 of the Board book
40 which is the Staff recommendation as well as on Page 141
41 which is the Council's recommendation.

42
43 In addition, as the last proposal, Staff
44 modified the recommendation after the Council meeting to
45 be the same as the Council's recommendation.

46
47 And I believe these recommendations are
48 supported by substantial evidence, do not violate
49 recognized principles of fish conservation and are not
50 detrimental to the satisfaction of subsistence needs.

1
2 We have the benefit of a very detailed
3 Staff analysis, detailed comments by ADF&G, and a
4 response to those comments by the Office of Subsistence
5 Management Staff. Some may disagree with this
6 conclusion, both on the part of fish conservation and the
7 satisfaction of subsistence needs. I view the Council's
8 recommendation, again, as a starting point. Let's try
9 this set of regulations and see if any fish conservation
10 concerns result or come about, actually, and whether
11 subsistence needs are satisfied.

12
13 Once again, I fully anticipate we'll need
14 to make some minor changes to other parts of the
15 fisheries in the future because of the complexity that
16 we're dealing with here.

17
18 And, lastly, if any conservation concerns
19 arise in-season our Kenai in-season manager has the
20 authority to deal with those situations.

21
22 Mr. Chair.

23
24 CHAIRMAN FLEAGLE: Thank you, Denny. The
25 language on the proposal should be changed to reflect
26 that this applies only to the residents of Cooper Landing
27 and Hope. Other discussion.

28
29 Gary.

30
31 MR. EDWARDS: I'm trying to get back to
32 methods and means because in this proposal, harvest and
33 possession limits and methods and means for take are the
34 same as for the taking of these resident species under
35 Alaska [sic] fishing regulations except for the following
36 bag and possession limits. So the only thing that's
37 addressed is bag and possession limits but, again, things
38 such as bait and treble hooks is not addressed.

39
40 So does that mean -- although our
41 previous action for Hope and Cooper Landing now allow
42 that, at least, associated, or caught in conjunction sort
43 of with the salmon fishery, so I'm a little unclear
44 whether that comes over to this or, in fact, as written,
45 this basically says that except for these additional bag
46 limits, you cannot -- you have to follow State regs on
47 terminal tackle.

48
49 CHAIRMAN FLEAGLE: Do we need Doug back
50 to the table. Doug McBride.

1 MR. MCBRIDE: Mr. Chairman. Mr. Edwards.
2 You have to remember we split all this apart so that you
3 could kind of get your arms around, to some degree,
4 around each individual issue, but the same regulation is
5 being changed every -- every time we go through this,
6 it's Section 27(i)(10)(4), so when this is all done all
7 of this is going to get put back together under Section
8 27(i)(10)(4), so the reason I bring that up is because
9 under the salmon discussion you approved the use of up to
10 two baited hooks, I believe it was June 15 to August 31
11 below Skilak, that is in place.

12
13 MR. EDWARDS: Okay, so when we put
14 Humpty-Dumpty back together, part of him will say, as it
15 applies to resident species can use bait and treble hooks
16 beginning June 15th through August 31st below Skilak.

17
18 MR. MCBRIDE: Well, I'm not a regulations
19 specialist but I think it will just simply say you can
20 use up to two baited treble hooks below.....

21
22 MR. EDWARDS: Right. Right.

23
24 MR. MCBRIDE:Skilak Lake.....

25
26 MR. EDWARDS: So that would.....

27
28 MR. MCBRIDE:from June 15th to
29 August 31st.

30
31 MR. EDWARDS: All right. So that would
32 provide that protection that some of us are concerned
33 about in that spawning area for rainbows.

34
35 CHAIRMAN FLEAGLE: Other discussion.

36
37 (No comments)

38
39 CHAIRMAN FLEAGLE: Denny, your mic is
40 still on.

41
42 MS. BSCHOR: Sorry.

43
44 CHAIRMAN FLEAGLE: Question. Pete.

45
46 MR. PROBASCO: Thank you, Mr. Chair.

47
48 The motion is to adopt FP07-27d with
49 modification as recommended by the
50 Southcentral Alaska Subsistence Regional

1 Advisory Council for residents of Hope
2 and Cooper Landing and take no action on
3 FP07-11, 12, 13 and 29 based on the
4 action of 27d.
5
6 Mr. Edwards.
7
8 MR. EDWARDS: Aye.
9
10 MR. PROBASCO: Mr. Bschor.
11
12 MR. BSCHOR: Aye.
13
14 MR. PROBASCO: Mr. Oviatt.
15
16 MR. OVIATT: Aye.
17
18 MR. PROBASCO: Mr. Bunch.
19
20 MR. BUNCH: Aye.
21
22 MR. PROBASCO: Ms. Gottlieb.
23
24 MS. GOTTLIEB: Aye.
25
26 MR. PROBASCO: And Mr. Fleagle.
27
28 CHAIRMAN FLEAGLE: Aye.
29
30 MR. PROBASCO: Mr. Chair. Motion
31 carries, six/zero.
32
33 CHAIRMAN FLEAGLE: All right, thank you,
34 Pete. That now moves us to the next and final piece of
35 the puzzle, and that being resident species for residents
36 of Ninilchik.
37
38 Is there a motion.
39
40 Denny.
41
42 MR. BSCHOR: Yes, Mr. Chair. I move to
43 adopt the recommendation of the Southcentral Alaska
44 Regional Advisory Council which would allow for fishing
45 for Ninilchik for resident fish in the Kenai River
46 drainage and is a modification of Proposal FP07-27d. No
47 action is taken on Proposals FP07-11, 12, 13 and 29 as a
48 result of the action on 27d.
49
50 Following a second I'll provide my

1 rationale.

2

3 CHAIRMAN FLEAGLE: Is there a second.

4

5 MS. GOTTLIEB: Second.

6

7 CHAIRMAN FLEAGLE: Okay, we got a second.

8 Denny.

9

10 MR. BSCHOR: Mr. Chair. If you'll indulge
11 me, my rationale was the same as the last proposal, and
12 it's on the record and so I don't know if I need to go
13 through all that again, do I?

14

15 CHAIRMAN FLEAGLE: No, I think we can
16 reference it, we know where you stand. Discussion.

17

18 MR. BSCHOR: Thank you, Mr. Chair.

19

20 MS. GOTTLIEB: Mr. Chairman.

21

22 CHAIRMAN FLEAGLE: Judy.

23

24 MS. GOTTLIEB: I think that the Regional
25 Council has met the three .805(c) criteria and we have no
26 reason to reject their recommendation.

27

28 Thank you.

29

30 CHAIRMAN FLEAGLE: Thank you. Other
31 discussion. Gary.

32

33 MR. EDWARDS: Mr. Chairman. As on the
34 previous vote, again, out of respect for the integrity of
35 our process, where I don't think that we do have granted
36 C&T for resident species, I would not be able to support
37 a motion that would allow the harvest of those species.

38

39 CHAIRMAN FLEAGLE: George.

40

41 MR. OVIATT: Mr. Chairman. I, for the
42 same reasons of what Gary had just stated, I would not be
43 able to support this either. I do not believe that this
44 Board has given a positive C&T.

45

46 Thank you.

47

48 CHAIRMAN FLEAGLE: I concur with the
49 previous two statements. Charlie -- Charles, excuse me.

50

1 MR. BUNCH: Charlie's fine. I thought
2 that we did have a regulation on this, Mr. Chair, doesn't
3 the regulation give them C&T?

4
5 CHAIRMAN FLEAGLE: The problem is that
6 the request for reconsideration that the State brought
7 before us at the last meeting resulted in a split vote
8 when we were reconsidering the resident species, and the
9 record was made clear by three Board members that they
10 did not support the positive finding for C&T for resident
11 species for the residents of Ninilchik.

12
13 However, the vote wasn't able to be
14 tailored in such a way as to have a four Board members
15 either voting for or against that C&T finding, so
16 technically you're right, the C&T finding stands in
17 regulation but it's not, in any of our minds that don't
18 support it, it's not defensible at all, there's not a
19 clear process that brought about that finding. In fact
20 you have three Board members who have made it very public
21 on record that they do not support that finding, so we
22 don't have a majority of the Board that supports that
23 finding, but we haven't figured out a way to repair it.

24
25 It would take somebody from the
26 prevailing side of Proposal 28 -- we could fix it at this
27 meeting if somebody on the prevailing side of the motion
28 on Proposal 28, the very first action we took here would
29 reconsider and change their votes and then we would have
30 four votes that would pass that amended -- that would
31 take that out, but barring that happening we're stuck.
32 And this -- these actions by the Board that we're taking
33 to take the non-resident -- I said it again, the resident
34 species out of consideration for Ninilchik in these
35 proposals, is based on these three Board member's
36 rationale.

37
38 Are we ready for the question.

39
40 MR. BSCHOR: Question.

41
42 CHAIRMAN FLEAGLE: Question's now
43 recognized. Pete.

44
45 MR. PROBASCO: Thank you, Mr. Chair.
46 Action on FP07-27d:

47
48 Adopt with modification as recommended by
49 the Southcentral Alaska Subsistence
50 Regional Advisory Council for residents

1 of Ninilchik.
2
3 Take no action on FP07-11, 12, 13 and 29
4 based on the action on 27d.
5
6 Mr. Bschor.
7
8 MR. BSCHOR: Aye.
9
10 MR. PROBASCO: Mr. Oviatt.
11
12 MR. OVIATT: No.
13
14 MR. PROBASCO: Mr. Bunch.
15
16 MR. BUNCH: Aye.
17
18 MR. PROBASCO: Ms. Gottlieb.
19
20 MS. GOTTLIEB: Aye.
21
22 MR. PROBASCO: Mr. Fleagle.
23
24 CHAIRMAN FLEAGLE: No.
25
26 MR. PROBASCO: Mr. Edwards.
27
28 MR. EDWARDS: No.
29
30 MR. PROBASCO: Motion fails, three/three.
31
32 CHAIRMAN FLEAGLE: Thank you, Pete. That
33 concludes our regulatory proposals for the Kasilof and
34 Kenai River drainage and before we move into the Bristol
35 Bay area, Pete.
36
37 Well, we did have a little issue hanging,
38 Pete had mentioned earlier that we need to discuss the
39 timing of implementation and what standard, Pete.
40
41 MR. PROBASCO: Well, Mr. Chair, because
42 we took these Kenai Peninsula regulations out of cycle,
43 we run up against the problem of getting these published
44 through the normal process and doing a Federal Register
45 which would probably result in these regulations
46 published sometime in mid- to late summer. So what we --
47 we can implement these regs by intent of the Board at the
48 start of the salmon season but we have to have a formal
49 action on the record to do so.
50

1 CHAIRMAN FLEAGLE: Is there a motion.

2

3 MR. EDWARDS: Well, maybe just a little
4 bit of discussion trying to maybe understand if there's
5 any kind of a magical date. It seemed to me, given some
6 of the actions that we've taken in trying to look at
7 where fish will be, maybe somewhere around June 15th, but
8 I guess I'd like to hear some discussion if folks think
9 by having it start at that time, would that -- does that
10 have impact on, let's say the dipnet -- well, the dipnet
11 -- when does the sockeye dipnet fishery start anyway --
12 July, so it seems to me that basically wouldn't have --
13 it wouldn't impact that fishery and so I guess that's --
14 I'm certainly -- unless anybody has any objection I guess
15 I would suggest June 15th.

16

17 MS. GOTTLIEB: Mr. Chairman.

18

19 CHAIRMAN FLEAGLE: Judy.

20

21 MS. GOTTLIEB: I mean I think we ought to
22 do things as expeditiously as we can. I also think it's
23 going to be really important in terms of how the permits
24 are written, that we provide really clear information
25 about, for example, on the Kenai, all the closures, et
26 cetera, that are in place, and that would be part of our
27 permits as well. And then certainly a good deal of
28 public education, outreach, maybe signage, so that if
29 people drive by Moose Meadows, or walk up to the Russian
30 River Falls and see people dipnetting, there's some sort
31 of explanation out there so people understand what's
32 going on.

33

34 CHAIRMAN FLEAGLE: Gary.

35

36 MR. EDWARDS: Mr. Chairman. I mean Judy
37 brought up some good points and I know I really haven't
38 discussed sort of with our Staff at some point maybe --
39 particularly maybe if we have some time later today, it
40 might be helpful for maybe both the Forest Service and
41 the Fish and Wildlife Service to just share with the
42 Board, kind of what they have in mind, what they think
43 the work load is going to be in order to try and get this
44 done because we are going to be putting additional work
45 load on several staffs that I'm sure they already have a
46 totally full table and other priorities that they're
47 going to have to deal with. But kind of like it or not
48 they're going to have to deal with this one.

49

50 So I'd like to give them maybe an

1 opportunity to share with us what they have in mind and
2 kind of the deadlines, but maybe before we leave today.

3

4 CHAIRMAN FLEAGLE: Thanks. So I'm
5 hearing that it sounds like our intent is to expedite
6 this and get it into regulation as quickly as possible
7 and hopefully by June 15th. So is there any objection to
8 that goal.

9

10 MR. EDWARDS: I do. Again, somebody
11 pointed out to me, to make it consistent, the State
12 season starts June 11th so why don't we just go with June
13 11th to make it consistent, it makes sense to do that.

14

15 CHAIRMAN FLEAGLE: Any objection.

16

17 (No objections)

18

19 CHAIRMAN FLEAGLE: All right. Does that
20 clarify the intent, Pete.

21

22 MR. PROBASCO: That does it, Mr. Chair.

23

24 CHAIRMAN FLEAGLE: All right, thank you.
25 That concludes the Kenai portion of the meeting. And
26 we'll stand down and allow Staff a moment to change
27 positions for the Bristol Bay area.

28

29 (Off record)

30

31 (On record)

32

33 CHAIRMAN FLEAGLE: Good afternoon. We're
34 back on record and we're dealing with the deferred action
35 -- deferred application of fisheries regulation to
36 Sixmile Lake. Staff briefing would be Rod.

37

38 MR. PROBASCO: Rod Campbell.

39

40 CHAIRMAN FLEAGLE: Rod Campbell, thanks.

41

42 MR. CAMPBELL: Thank you, Mr. Chair.
43 Members of the Board. I'll be very brief on this.
44 During your January 2007 meeting, the Board adopted FP07-
45 07 with the modification to permit the use of beach
46 seines not to exceed 25 fathoms in length in Lake Clark
47 excluding its tributaries. However, the Board deferred
48 action on the use of this gear type in Sixmile Lake to
49 allow Staff the opportunity to research the jurisdiction
50 issues and report back to you at this meeting.

1 The National Park Service Staff took the
2 lead on this boundary issue, I appreciate all their help.
3 They did provide a legal description and an associated
4 map. The map is on Page 288 in your Board book. There's
5 another map on Page 289, it shows a broader area of
6 Sixmile Lake area, Sixmile Lake is outside the exterior
7 boundaries of the Lake Clark National Park and Preserve
8 but since a portion of the Park is adjacent to the lake,
9 the lake is within the jurisdiction of the Federal
10 Subsistence Management Program.

11
12 Also as I mentioned at the previous Board
13 meeting, the Alaska Board of Fisheries adopted a similar
14 regulation to permit the use of beach seines including
15 allowing gillnets to be used as beach seines not to
16 exceed 25 fathoms in length for Lake Clark, Sixmile, and
17 Lake Iliamna. And whatever the Board decides to do with
18 the Sixmile, it would allow Federal users to have the
19 same gear type as available to State subsistence users
20 and as we know the Federal-qualified users, there is the
21 larger group of State subsistence users. Amending the
22 Federal regulations to include Sixmile Lake would not
23 result in any increased harvest or creating adverse
24 impacts to the resource. As I mentioned this gear is
25 already permitted under State regulations and we're not
26 aware of any biological concerns.

27
28 Again, if amended, this would provide
29 additional gear type, would probably reduce regulatory
30 complexity and so I would leave it at that, whatever the
31 Board decides to do.

32
33 Thank you, sir.

34
35 CHAIRMAN FLEAGLE: Thank you, Rod.
36 Questions.

37
38 (No comments)

39
40 CHAIRMAN FLEAGLE: Thanks. Public
41 testimony. Pete.

42
43 MR. PROBASCO: Written.

44
45 CHAIRMAN FLEAGLE: Written.

46
47 MR. PROBASCO: Cliff, we have no public
48 written testimony.

49
50 MR. EDENSHAW: No, Mr. Chair.

1 CHAIRMAN FLEAGLE: Thank you.

2

3 MR. PROBASCO: And I have no one signed
4 up for this agenda item.

5

6 CHAIRMAN FLEAGLE: Okay. Bristol Bay
7 Advisory Council recommendation. Danny.

8

9 MR. O'HARA: Yes, thank you, Mr.
10 Chairman. Randy asked me if I would come in and address
11 this issue and there's about four things I'd like to
12 mention to you on this 25 fathom beach seine thing.

13

14 First is that it's a good thing to have
15 and I don't think we're interested in talking about
16 spears or other things that might muddy the water and
17 just talk about 25 fathoms. Next year if the Council
18 wants to go into that a little more, they can go into
19 that and do it, that would be fine.

20

21 I think it's important that you
22 understand one of the things about beach seining is that
23 they do know pretty much the number of fish they're going
24 to want to get and that's a good thing, and so they'll
25 let go what they don't want. And it's done usually with
26 a skiff by rowing because as soon as you start up a motor
27 it scares the fish away, it's done in shallow water. And
28 Sixmile Lake has a lot of shallow water, has a lot of
29 bars, and the fish lay there in clear water and they're
30 developing their eggs to spawn. And the good thing is,
31 is they know exactly the amount of fish they want and
32 they let the rest of them go.

33

34 The other thing is they pretty much know
35 the number of fish that they need, but for the last seven
36 years the Kvichak has not had a very decent escapement
37 and we haven't fished outside the rivers in seven years.
38 This year the Fish Board has let us go outside the
39 boundaries to our normal boundaries in Egegik, Ugashik,
40 Naknek triangle, but not the Kvichak, so, still the
41 Kvichak will not get any fish this year -- I mean they're
42 expecting 28 million fish to come back to Bristol Bay and
43 if the three million escapement comes in like it is then
44 they'll open up the Kvichak under emergency order which
45 is a pretty normal thing to do.

46

47 So I think one of the things that is
48 favorable on this seine operation is that for the last
49 seven years, Lake Clark has always gotten its escapement.
50 These fish come up early, they're the first fish to come

1 into the bay, they come by Area M before they get into
2 the -- catch and intercept our fish down there, and then
3 all of the vessels in Bristol Bay have been inside the
4 river so they haven't been outside the boundary at all
5 and those early Lake Clark fish have gotten up there and
6 they've had a good healthy escapement. So you're not
7 going to hurt the resource. And not too many people have
8 25 fathoms of net anyway. And a lot of them -- actually
9 when I did it we did it in the late '40s and early '50s
10 my mom and I would put up 4,700 fish and we would beach
11 seine those reds and we used smaller mesh gear so we got
12 what we wanted and we did that for the dogs when we had
13 dog teams.

14
15 I think it's a pretty favorable thing and
16 there's plenty of green church around there to make sure,
17 you know, something doesn't go wrong, they're everywhere.

18
19 Thank you, Mr. Chairman.

20
21 CHAIRMAN FLEAGLE: Thank you. Questions.

22
23 MR. EDWARDS: Dan.

24
25 CHAIRMAN FLEAGLE: Gary.

26
27 MR. EDWARDS: Maybe I'm wrong but it's my
28 understanding that this proposal doesn't provide anything
29 over and above than what can currently be obtained under
30 the State regs, both with regards to harvest, so if
31 that's the case, I guess, what was the motivation to
32 submit a proposal.

33
34 MR. O'HARA: You know, I don't know that.
35 I wasn't at that meeting and I didn't see the proposal,
36 Gary. I mean I wasn't there to work with the Council on
37 it. But I think the reason behind it, in talking with
38 Randy, was one of the things that happens when you leave
39 a 10 fathom net out overnight, you could have as many as
40 three or 400 fish in that net that night and a beach
41 seine is limiting, you know, you know exactly what you're
42 going to get. And so I think that was one of the main
43 reasons that they wanted to beach seine.

44
45 I'm just sorry I didn't suggest the idea
46 myself because it's a good thing.

47
48 That's the best answer I can give you.

49
50 CHAIRMAN FLEAGLE: Remembering back to

1 January, this was one of those cases where the State
2 Board acted proactively to proposals that were going to
3 be addressed by the Federal Board and they beat us to the
4 punch on several of the issues that we dealt with at that
5 fisheries meeting and this was just one of the ones that
6 wasn't resolved because of a boundary issue as I recall.

7

8 Other discussion -- questions, I mean.

9

10 (No comments)

11

12 CHAIRMAN FLEAGLE: ADF&G comments.

13

14 MS. CUNNING: Mr. Chairman. Rod was
15 trying to get some further explanation on the record.

16

17 CHAIRMAN FLEAGLE: Rod, go ahead.

18

19 MR. CAMPBELL: Mr. Chairman. The
20 original proposal, you referred to that, that was just
21 for the Lake Clark area, the original proposal. And as
22 Pete mentioned, the State Board acted before this Board
23 and that's where they adopted it for Lake Clark and
24 Sixmile Lake and Iliamna, and I believe that's probably
25 what triggered the discussion on the Sixmile.

26

27 Thank you, sir.

28

29 CHAIRMAN FLEAGLE: Thanks. All right.
30 State John.

31

32 MR. HILSINGER: Mr. Chairman. Ms.
33 Cunning is going to provide some background first.

34

35 CHAIRMAN FLEAGLE: Tina.

36

37 MS. CUNNING: Thank you, Mr. Chairman.
38 As was earlier described the concerns regarding the
39 Board's jurisdiction and boundaries arose in relation to
40 the Sixmile Lake bordering the area around Nondalton.

41

42 During the Board's consideration of FP07-
43 07 at its January 2007 meeting, as Board member Judy
44 Gottlieb representing the National Park Service, pointed
45 out at that time, only part of one side of Sixmile Lake
46 is adjacent to the boundary of Lake Clark National
47 Preserve and as she said "it hadn't been clear that
48 Sixmile Lake was, if you will, within Federal
49 jurisdiction and hasn't really been managed that way up
50 until now." She also expressed concern that the

1 boundaries of any asserted jurisdiction were not clear.
2 Other Board members and the State's liaison to the Board
3 shared her concerns. Accordingly the Board deferred
4 action on FP07-07 as to Sixmile Lake only with
5 instructions to Staff to investigate these concerns and
6 report back to the Board at the May 2007 meeting.

7
8 Although the Federal Staff acknowledges
9 that Sixmile Lake is outside the exterior boundaries of
10 Lake Clark National Park and Preserve as established by
11 Congress, it concludes without further explanation that
12 "since a portion of the Park and Preserve is adjacent to
13 the lake, the lake is within the Federal Subsistence
14 Management Program." It also becomes apparent from
15 examining the two maps, by the way the larger map is the
16 one that we provided using National Park Service's realty
17 information, that the Federal Staff is recommending
18 asserting Federal subsistence jurisdiction over the
19 entire Sixmile Lake north of a line drawn by Staff all
20 the way over to the lake's western shore abutting
21 Nondalton and private lands far away from and outside of
22 the Preserve boundary, and Federal Staff have confirmed
23 this understanding with us personally.

24
25 The Department objects to this expansion,
26 in effect, of the Park and Preserve boundary from east of
27 Sixmile Lake all the way across to the lake's west side
28 at Nondalton as is being proposed. Such an expansion of
29 Federal jurisdiction based on the mere notion that the
30 Park and Preserve boundary abuts a portion of the east
31 side of Sixmile Lake is especially tenuous.

32
33 It effectively results in expanding the
34 Park and Preserve's jurisdiction by a little over 3,300
35 acres beyond a line drawn by Congress.

36
37 In addition, if that claim becomes
38 accepted by the Board the Department requests that the
39 Board direct Federal Staff to draw the boundary line of
40 the Park and Preserve to the east side of Sixmile Lake
41 more boldly and clearly and hatchmark that portion of the
42 lake over which the Board asserts jurisdiction for
43 purposes of clarification and enforcement similar to the
44 concerns that we've raised related to the Kasilof and
45 Kenai Rivers.

46
47 Now, in discussions on the issue here,
48 the setnet authorizations that occur in Sixmile under the
49 State's regulations as has been pointed out are -- note
50 -- if the Federal Board authorized the additional setnet

1 operations in Sixmile Lake, we're not talking about
2 increased harvest, and I do want Mr. Hilsinger to
3 continue to discuss that aspect of this regulation.

4

5 CHAIRMAN FLEAGLE: John.

6

7 MR. HILSINGER: Thank you, Mr. Chairman.
8 Because of the legal concerns and the fact that expanding
9 Federal regulations into this area really wouldn't
10 provide any advantages for Federally-qualified rural
11 residents, the State recommends opposing this.

12

13 Right now Lake Clark, of course, has
14 setnets, it was recently allowed beach seines, also
15 spears, snagging, bow and arrow and hand capture in order
16 to provide preference for Federally-qualified rural
17 residents. And we believe that that availability of
18 those gear types in Lake Clark fulfills that preference.
19 In Sixmile Lake the State, as was noted, did expand the
20 opportunities. People are allowed to use setnets and
21 beach seines and we believe that that adequately provides
22 that opportunity in Sixmile Lake.

23

24 And so for those reasons, the fact that
25 there is a Federal preference in that area, this would
26 not allow anything new that residents don't already have
27 and it would cause jurisdictional issues and potentially
28 legal problems, we would recommend that you oppose this.

29

30 CHAIRMAN FLEAGLE: Thank you, John and
31 Tina. Questions.

32

33 (No comments)

34

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

37

38 MR. BUKLIS: Mr. Chairman. The Staff
39 Committee did not develop a set of comments, specific
40 comments on this issue, however, a number of the Staff
41 Committee members contributed to the development of the
42 briefing paper that Mr. Campbell reviewed and were
43 involved in its review and development.

44

45 Thank you.

46

47 CHAIRMAN FLEAGLE: Board discussion.

48

49 MS. GOTTLIEB: Mr. Chairman.

50

1 CHAIRMAN FLEAGLE: Judy.

2

3 MS. GOTTLIEB: Thanks. Well, as a follow
4 up to our meeting last year we did as requested and quite
5 a bit of consultation with the Federal Subsistence
6 Management Program, within National Park Service, within
7 the Solicitor's office and we determined the southern
8 boundary of the Federal jurisdiction. We feel that the
9 extent of Federal jurisdiction for this program is based
10 on a portion of these waters being adjacent to NPS lands
11 to the southern boundary and that's shown on the map we
12 provided.

13

14 So I'd like to make a motion that we add
15 to our current regulation, that you may
16 also take salmon by beach seines in Lake
17 Clark and Sixmile Lake, excluding their
18 tributaries, and beach seines may not
19 exceed 25 fathoms in length.

20

21 CHAIRMAN FLEAGLE: Is there a second.

22

23 MR. BUNCH: I second.

24

25 CHAIRMAN FLEAGLE: Would you like to
26 speak further to the motion, Judy, please.

27

28 MS. GOTTLIEB: Thanks. Well, I guess
29 this just kind of completes unfinished business we had at
30 our last meeting and while I understand, again, that it
31 seems similar to what the Board of Fisheries, of course,
32 this, again is through our process and through the
33 Regional Council that we would be providing the Federal
34 subsistence preference.

35

36 CHAIRMAN FLEAGLE: Gary.

37

38 MR. EDWARDS: Mr. Chairman. I guess I'm
39 a little concern -- or not concerned, but I guess unsure
40 about, you know, the Park Service's, you know, view about
41 adjacent to the lake, you know, with their lands. I'm
42 not sure that we wouldn't maybe necessarily interpret it
43 that way that it applies to our lands, I don't know that
44 for a fact. I guess maybe a broader question is, do we
45 have other examples throughout the program where we may
46 have reached those conclusions, if anybody's aware of
47 other places.

48

49 CHAIRMAN FLEAGLE: Judy.

50

1 MS. GOTTLIEB: I know I can think of one
2 over at Wrangell-St. Elias. But I'm sure -- Ken was in
3 on some of these discussions so maybe he can speak to
4 this jurisdiction issue.

5
6 CHAIRMAN FLEAGLE: Ken Lord.

7
8 MR. LORD: Thank you, Mr. Chair. Of
9 course the jurisdiction stems back to the Ninth Circuit's
10 Katie John Decision in which the Ninth Circuit Court of
11 Appeals said that for subsistence purposes the Federal
12 program's jurisdiction extended into waters that are
13 pertinent into Federal public lands. It said that
14 without a lot of explanation and so we were left to try
15 to determine which waters those were.

16
17 Now, one example that Judy mentioned is
18 the Copper River adjacent to Wrangell-St. Elias where the
19 Park boundary is on the eastern edge of the river but for
20 subsistence purposes we exert jurisdiction to the western
21 bank of the river. And the concept is the same here with
22 Sixmile Lake where we've got a Park boundary on the edge
23 of the lake and we were sort of left with the question of
24 how far to extend Federal jurisdiction into the lake --
25 or actually the question was more where the lake itself
26 ends because it flows into a river, so that was what we
27 were trying to tackle over the last few months.

28
29 MR. EDWARDS: Mr. Chairman. But, Ken,
30 I'm trying to recall but I know on issues on our Refuges
31 where we had this issue of headland to headland, where
32 you can measure across, I think -- hasn't it been our
33 position been that we're not trying to exert jurisdiction
34 just because it's headland to headland and we have Refuge
35 lands that go out on both sides. I mean I thought --
36 just speaking for the Service, I think we have not kind
37 of wanted to kind of go there and kind of stretch out our
38 reach as to where we would have our authority.

39
40 MR. LORD: I'm not quite sure what
41 examples you have in mind, Gary. The headland to
42 headland language typically involves marine waters and
43 where the marine waters end and freshwater begins and
44 that's the way of delineating that. Here we've got, you
45 know, a freshwater system, of course, and it's a little
46 bit different circumstance because the Park is along the
47 boundary -- the edge of the lake itself, not just as far
48 as a, you know, an adjacent stream.

49
50 MS. GOTTLIEB: Mr. Chair.

1 CHAIRMAN FLEAGLE: Judy.
2
3 MS. GOTTLIEB: I guess just for
4 clarification not exerting this jurisdiction on behalf of
5 the Park Service by any means, this is a question of is
6 this area part of the Federal program and would this
7 regulation then logically extend to our Federal program.
8
9 CHAIRMAN FLEAGLE: George.
10
11 MR. OVIATT: For clarification, so who
12 manages the land on the west side, is that.....
13
14 CHAIRMAN FLEAGLE: Ken. Tina.
15
16 MS. CUNNING: You want me to answer the
17 question.
18
19 CHAIRMAN FLEAGLE: (Nods affirmatively)
20
21 MS. CUNNING: The land on the west side
22 of the lake is primarily private and Native corporation
23 lands for a significant portion. Are you talking about
24 the west -- east side of -- where are we, I lost the
25 question, east side or west side?
26
27 MR. OVIATT: West side.
28
29 MS. CUNNING: West side. I'm not sure
30 whose land that is. Is it Kejik's, it's corporation land
31 also, so essentially the entire lake is surrounded by
32 private lands. We had hoped not to get into the
33 jurisdictional issues here with Sixmile Lake because we
34 think that from the Board's perspective, and I don't want
35 to put words in your mouth, but the concern is to be sure
36 you're providing the Federal subsistence priority to the
37 local users and we suggest that that priority is already
38 being provided and applied with all of the various gear
39 types and seasons and methods that are being allowed in
40 Lake Clark, and it would be our preference that you not
41 extend into the areas outside of the Park boundary
42 because we don't really need to go there to provide your
43 priority.
44
45 CHAIRMAN FLEAGLE: George.
46
47 MR. OVIATT: Yeah, I would -- I don't --
48 I don't necessarily believe we would want to get into a
49 jurisdictional debate in this circumstance either. I'm
50 -- I'm not sure because of that if I'm going to be able

1 to support this. I have to think about that. I'll
2 listen to more discussion.

3

4 Thank you, Mr. Chairman.

5

6 MR. EDWARDS: Yeah, I guess.....

7

8 CHAIRMAN FLEAGLE: Gary.

9

10 MR. EDWARDS:Tina sort of said kind
11 of what my question to Dan was, I was trying to
12 understand that, you know, I thought part of our goal at
13 some point was to try to -- if the State was providing
14 this opportunity and it's identical to why we -- I'm
15 still unclear what the benefit of having this. Our good
16 Solicitor has often said that if the State would provide
17 all the subsistence needs then we wouldn't ever be
18 getting any proposal because there wouldn't be any need
19 to get any proposals because it was being done so I'm not
20 sure what benefit this accomplishes other than for the
21 purpose of doing it.

22

23 MS. GOTTLIEB: Mr. Chairman.

24

25 CHAIRMAN FLEAGLE: Judy.

26

27 MS. GOTTLIEB: One benefit has to do with
28 who's eligible. And for areas affected by National Parks
29 it's resident zone residents only. And so I assume that
30 may not be the case with the State nets -- State
31 permitted nets.

32

33 MR. EDWARDS: I don't know the answer to
34 that but.....

35

36 MS. GOTTLIEB: I guess in addition, I
37 mean if you look at the Kasilof River, don't we have a
38 similar situation there and we just made seasons and bag
39 limits there.

40

41 MR. EDWARDS: Yeah, but we did that
42 because in order to provide opportunities that were
43 there, I mean that's what we did, I mean we provided a
44 dipnet fishery in an area where the State regulations
45 didn't provide it. We provided additional bag limits. I
46 mean in this case, at least from what I understand, and,
47 again, I'm not expert on the issue, it sounds like the
48 State regs is doing everything that we would -- that
49 wanted to be done and that this might not have been an
50 issue -- I don't know, maybe Dan can answer this but if

1 the State -- if the Board of Fish had already done this,
2 would this even have been a proposal coming forward to us
3 and I guess maybe the answer is probably no.

4

5 CHAIRMAN FLEAGLE: Danny.

6

7 MR. O'HARA: Mr. Chairman. I don't know
8 the answer to that.

9

10 CHAIRMAN FLEAGLE: Keith.

11

12 MR. GOLTZ: I'd like to make a couple of
13 points. First, the reason we do it is because the
14 Council has asked us to do it. And if it meets the three
15 criteria then it goes on our books. And to say anything
16 nor suggest anything less than that leads us back to the
17 duplicative regulation issue that we've talked about
18 before.

19

20 We include appurtenant waters because
21 that's what our regulations say and if I have to know
22 what appurtenant waters are I talk to reality.

23

24 The State's concern is still alive and
25 well and before the U.S. District Court. We don't know
26 what that court is going to say. What we do know is that
27 we have regulations that say appurtenant waters.

28

29 We should not be mixing Refuge
30 jurisdiction or Park jurisdiction with the questions of
31 subsistence jurisdiction, they're different. And the
32 Refuge jurisdiction is less extensive than what we have
33 claimed for subsistence.

34

35 One other thing and it relates to
36 probably more what the State said yesterday, I didn't
37 jump in, there is a difference on how we have claimed
38 jurisdiction between fisheries and wildlife. On wildlife
39 we do not claim Federal subsistence jurisdiction on non-
40 Federal lands. That means that on corporation lands,
41 State lands or private lands, Federal wildlife
42 subsistence regulations do not apply. We have a
43 different rule for waters. And all waters within or
44 appurtenant to CSUs have a fishery jurisdiction. And if
45 you'll go back -- subsistence fishery jurisdiction -- and
46 if you go back and look at how we introduced that in our
47 regulations you'll see that we did that for some very
48 practical reasons. We didn't think that we could cut up
49 fisheries as finely as we thought we could cut up
50 wildlife. And that may be a matter of dispute. But as a

1 factual matter, that's simply the way we've done it.

2

3 CHAIRMAN FLEAGLE: George.

4

5 MR. OVIATT: So let me see if I
6 understand the circumstances right. The Council proposed
7 this and then the State took action; is that right?

8

9 MS. GOTTLIEB: Can I clarify please?

10

11 CHAIRMAN FLEAGLE: Judy.

12

13 MS. GOTTLIEB: Actually this originated
14 with the Lake Clark Subsistence Resource Commission, had
15 several different proposals and then those went to the
16 Regional Council who forwarded them to us.

17

18 MR. OVIATT: But the question I was
19 asking, though, was -- and that all happened prior to the
20 State taking action in these waters and I received a nod,
21 that that is correct.

22

23 CHAIRMAN FLEAGLE: John Hilsinger.

24

25 MR. HILSINGER: Thank you, Mr. Chairman.
26 It's a little more complicated than that. The Federal
27 Subsistence Program did receive proposals for Lake Clark
28 from the Lake Clark Subsistence Resource Commission. The
29 State liaison team in the spirit of cooperation and
30 trying to work together took it upon itself to make sure
31 that those proposals also got into the Board of Fisheries
32 process, they had not been proposed to the Board of
33 Fisheries, the proponents had just not proposed them on
34 the State side. So we were successful and with the help
35 of the Iliamna Advisory Committee we got the State Board
36 to take those up. And the State Board then, in the case
37 of this beach seine proposal actually went more expansive
38 than the original proposal, and included Sixmile Lake and
39 Lake Iliamna. And I remember it pretty much the way Rod
40 Campbell described it, that because then when we got to
41 the Federal Subsistence Board meeting, we had the more
42 expansive State regulations then that led to the idea of
43 would it be possible for the Federal program to include
44 Sixmile Lake.

45

46 Thank you.

47

48 CHAIRMAN FLEAGLE: Go ahead, George.

49

50 MR. OVIATT: Well, I guess I was just

1 wondering if we -- I'll throw out the idea of deferring
2 this and let the Council go back and reconsider if they
3 wanted to put this up for a proposal or if the State was
4 satisfying their needs. Just a point of thought.

5

6 Thank you, Mr. Chairman.

7

8 CHAIRMAN FLEAGLE: Well, I think with the
9 clarification and how the whole discussion of Sixmile
10 Lake being added to the Federal discussion, that it came
11 about by action by the State, I'm not real compelled to
12 go forward with action on this and poke a big stick in a
13 hornet's hive about trying to figure out where
14 jurisdiction's lie. The opportunity is being granted
15 currently and the question was whether or not our system
16 wanted to basically catch up, and I don't see that the
17 jurisdiction issue is clear.

18

19 I don't support it.

20

21 Other discussion.

22

23 MR. BSCHOR: Mr. Chair.

24

25 CHAIRMAN FLEAGLE: Denny.

26

27 MR. BSCHOR: Just a question as far as
28 the activity related to the impact on the Park land
29 itself, are there impacts on the shore of the Park
30 relative to this that need to be considered here, which
31 can be handled either way if there is, either by
32 cooperation or by actively participating in the
33 subsistence -- providing subsistence -- specifics on
34 that, please.

35

36 MS. GOTTLIEB: The Park completely
37 supports this proposal. We do have people who are on the
38 ground, on the water there all the time. They know who
39 are local rural residents who are eligible for these
40 kinds of fisheries and we see no challenges or problems
41 in enforcement or in record keeping.

42

43 CHAIRMAN FLEAGLE: Gary.

44

45 MR. EDWARDS: Mr. Chairman. Before I
46 kind of say my -- kind of one question, so by passing
47 this we're actually being more restrictive on Federal
48 subsistence users than the State because this then would
49 only limit it to those residents there whereas under the
50 State all Federal subsistence users would be eligible; is

1 that right?

2

3 CHAIRMAN FLEAGLE: Keith.

4

5 MR. GOLTZ: For somebody who wants to be
6 invisible I sure seem to get in the center of things.

7

8 First jurisdiction is not clear.
9 Jurisdiction is a subject of dispute, it's in the Federal
10 District Court. The Federal claim is resisted by the
11 State. Our charge in that regard though is to apply our
12 regulations.

13

14 The State regulations are not the same as
15 the Federal regulations and I could go through some
16 detail on that but in this case it's particularly true
17 for customary trade. People who operate under our
18 regulations can do different things, more things with
19 those fish than they can under the State regulations and
20 it's obvious to everybody that the pool of users is quite
21 different, substantially larger in the State.

22

23 And lastly I'd like to bring up an issue
24 I thought I'd put to rest, our job, is to respond to the
25 Regional Advisory Councils. It's not to craft the best
26 possible rule. It's to respond to the users in a very
27 structured way which is laid out for us under Section
28 .805. It's not our job to second guess them.

29

30 CHAIRMAN FLEAGLE: George.

31

32 MR. OVIATT: Well, I thought with my
33 suggestion that that was where we were going and what I
34 was suggesting is, is that we would defer this until the
35 Council had the chance to reconsider and see if they
36 really wanted to put a proposal in front of us and that
37 was what I was suggesting. I was not suggesting that we
38 craft something new or change what the Council had
39 proposed. I was just giving them an opportunity to see
40 if they wanted to accept what the State had done or come
41 forward with a proposal again.

42

43 Thank you, Mr. Chairman.

44

45 MR. EDWARDS: Mr. Chairman. I'm going
46 to.....

47

48 CHAIRMAN FLEAGLE: Gary.

49

50 MR. EDWARDS:I think, concur with

1 you, I mean I guess -- maybe I'm rationalizing, but I
2 think we are being responsive to the users. It sounds
3 like the users have worked very hard collectively with
4 folks and with the State and all in order to try to get
5 this issue in front of the Board of Fish, which was
6 accomplished and I think what folks wanted out there are
7 being met and I think it'd be a disservice to the process
8 and those who worked on it to support it.

9

10 CHAIRMAN FLEAGLE: I'd like to make an
11 additional comment. I know your comments about it coming
12 -- you know our deference of the Regional Advisory
13 Council, I think those are good comments. But the issue
14 of Sixmile Lake did not come from the Regional Advisory
15 Council, it came from the State Board of Fisheries -- no,
16 am I misunderstood. I thought that the reason we're
17 trying to add Sixmile Lake here was because the State
18 did. We don't have the original proposal here but I
19 don't think it came from the RAC.

20

21 Rod.

22

23 MR. CAMPBELL: I have the original
24 proposal here if you want me to read it.

25

26 CHAIRMAN FLEAGLE: Does it include
27 Sixmile Lake?

28

29 MR. CAMPBELL: No, sir. This was from
30 your Board book last year, it just requests Lake Clark.

31

32 CHAIRMAN FLEAGLE: And the Board of
33 Fisheries acted on a companion proposal submitted to them
34 by the State's liaison team which added Sixmile Lake and
35 now the Federal Subsistence Board is considering whether
36 to add Sixmile Lake as well. This is not a RAC issue.
37 And I think -- I still stand that we don't have the
38 jurisdiction to do this here.

39

40 MR. GOLTZ: I stand corrected.

41

42 CHAIRMAN FLEAGLE: Or we don't know that
43 we have the jurisdiction.

44

45 George.

46

47 MR. OVIATT: Yeah, there's no reason for
48 me to put my suggestion on the table now with this
49 understanding and I agree with you and Gary.

50

1 CHAIRMAN FLEAGLE: Ready for the
2 question.
3
4 (No comments)
5
6 CHAIRMAN FLEAGLE: It sounds like we are.
7 Pete, on the proposal, please poll the Board -- or on the
8 action.
9
10 MR. PROBASCO: Mr. Chair. Motion dealing
11 with the:
12
13 Sixmile Lake boundary, which would
14 include the Sixmile Lake along with
15 language for Lake Clark addressing beach
16 seines not to exceed 25 fathoms in
17 length.
18
19 Mr. Oviatt.
20
21 MR. OVIATT: No.
22
23 MR. PROBASCO: Mr. Bunch.
24
25 MR. BUNCH: Aye.
26
27 MR. PROBASCO: Ms. Gottlieb.
28
29 MS. GOTTLIEB: Aye.
30
31 MR. PROBASCO: Mr. Fleagle.
32
33 CHAIRMAN FLEAGLE: No.
34
35 MR. PROBASCO: Mr. Edwards.
36
37 MR. EDWARDS: No.
38
39 MR. PROBASCO: Mr. Bschor.
40
41 MR. BSCHOR: No.
42
43 MR. PROBASCO: Motion fails, two/four.
44
45 CHAIRMAN FLEAGLE: Thank you. Daniel.
46
47 MR. O'HARA: Yes, in lieu of the fact
48 that that probably wasn't a proposal, I think we need to
49 -- this Council needs to come back and address it because
50 our Counselor mentioned this afternoon, that the Federal

1 regulations deal with the subsistence users differently
2 than the State does, obviously, and even different parts
3 of the Federal program, such as the Refuges. However, I
4 think in terms of the fact that that mine ever go you're
5 going to have a huge problem on your hands on who's going
6 to be user groups in that area, you're going to be
7 changing a lot of things around, so the quicker the
8 better.

9

10 Thank you, Mr. Chairman.

11

12 CHAIRMAN FLEAGLE: Thank you. Any final
13 comments, Gary.

14

15 MR. EDWARDS: I don't know on this
16 proposal, but I mentioned earlier, but I know our folks
17 have stayed around from the Kenai and I'm sure they
18 probably want to go back this evening so I know we don't
19 have a lot of time but if we would kind of like to hear
20 from kind of what their plans are to address these
21 regulations that are going into place, probably now would
22 be the time to do it, and I don't know if Denny's folks
23 would also want to kind of talk about quickly about what
24 they're thinking.

25

26 But I, personally, would like to know
27 what we can expect and how they're going to do it.

28

29 CHAIRMAN FLEAGLE: Do we have Staff
30 prepared to give us a brief summary of how this -- here
31 they come -- ask and you will receive.

32

33 UNIDENTIFIED VOICE: Mr. Chair. Mr.
34 Edwards. I'd be happy to start off. In some ways, you
35 know, we've been preparing for quite some time in terms
36 of implementation and there aren't any surprises so there
37 is additional work load, clearly we've hired a new person
38 in Kenai, Geoff, are you here -- Geoff Byersdorf is the
39 new subsistence biologist at Kenai National Wildlife
40 Refuge and will assist us greatly in working through a
41 variety of things on implementation.

42

43 One of the first things we will be doing
44 is briefing folks internally so that we can answer
45 questions from the public and from the media and
46 subsistence users in an accurate and consistent way.
47 Also our officers need to know the changes in the
48 regulations and when they take effect, and so we'll be
49 discussing that for the people in the field.

50

1 Additionally we have some boundary
2 posting responsibilities to be consistent with the regs
3 and fishing areas and as soon as we can get out and do
4 that we will, when we get signs. One of the things --
5 since Tina is still here, one commitment that I've made
6 on boundary issues is to review boundaries before we post
7 certain areas and I guess I would ask Tina to provide to
8 me any documentation concerns or whatever just as soon as
9 you can so we can work on that and we'll try and resolve
10 that the best we can before we get our signs up.

11
12 The actual administration of the
13 fisheries permits will come through Gary Sonnevil so I'll
14 let him speak to that.

15
16 MR. SONNEVIL: Well, we've had
17 discussions with OSM on developing these permits, we're
18 looking at a permit that would address the dipnet fishery
19 and a separate permit for the rod and reel fishery.
20 Following the Board's decisions I'm sure that we'll be
21 generating those permits in the next couple of weeks or
22 so and being prepared to issue them.

23
24 I also participated in the site visit at
25 the Russian River Falls last Friday along with the Forest
26 Service and we spoke with the Forest Service there,
27 discussed the issue of signage, they will be taking on
28 that responsibility for posting those signs as the
29 Service will, the Refuge will be posting the signs below
30 Skilak Lake, that section, and then also Moose Range
31 Meadows.

32
33 We are having discussions on just how
34 many sources of permit issue we will have. Right now the
35 permits have just been issued solely out of my office.
36 We've had some discussion with the Forest Service about
37 the possibility of having a source up in the Cooper
38 Landing area for permits. And we also possibly have the
39 opportunity, we haven't discussed it internally yet, with
40 the Refuge yet, about using the visitor contact station
41 up there across from Jim's Landing as a Cooper Landing
42 source for permits. Forest Service also expressed an
43 interest in visiting -- holding an informal public
44 meeting in both Hope and Cooper Landing to explain the
45 program, eligibility requirements for the permits and
46 answer questions.

47
48 I've had ongoing communications with
49 Ninilchik Tribal Council. I'm sure I will be hearing
50 more and more from them.

1 So that's really where it kind of stands
2 right now. The next step, of course, will be to -- the
3 signs have been ordered on the Refuge side, Forest
4 Service is working on theirs, and we'll be getting these
5 permits developed.

6
7 MR. EDWARDS: Gary, one question on like
8 where we have a requirement on a 72 hour notification, is
9 that going to be a sort of a separate number to call in
10 or would that be a number that's just going to be manned
11 from 8:00 to 5:00 and then go to a recording or how will
12 that take place.

13
14 MR. SONNEVIL: Actually, Mr. Edwards, we
15 have an 800 number at our office assigned to our office
16 that I would suggest that possibly we could use and we
17 have a telephone recording machine plus we are there 8:00
18 to 5:00 as well. And if -- we'll see just how many of
19 these dipnet permits that we issue in the different
20 communities and if it's a small number then we'll
21 probably be contacting those permit holders directly as
22 the season goes on just to see if they are participating
23 or if they have questions.

24
25 CHAIRMAN FLEAGLE: Go ahead.

26
27 MR. ZEMKE: Steve Zemke, Chugach National
28 Forest. A lot of what I was going to discuss has already
29 been mentioned but obviously we would be talking with our
30 Seward Ranger District Staff to kind of what the status
31 of this meeting was. We actually have Kevin Lavus (ph),
32 who's Fish and Wildlife Program Manager on the Seward
33 Ranger District here and I think he took away a lot of
34 valuable information. It's kind of his first meeting and
35 so I think it was good to see the process.

36
37 Obviously we talk about the regulatory
38 markers, we're looking at having at least three, kind of
39 down -- at the Russian River Falls site, down stream, up
40 stream at the extent of the fishway and then probably at
41 another site where the trail reaches down the river and
42 the -- there'd be uncertainty about whether or not you
43 were in the boundary or not and we'd probably be putting
44 signs there. We're also talking -- looking at trying to
45 develop information and education signs, kind of
46 describing what the subsistence fishery is, kind of who
47 qualifies, how it came about and those would be probably
48 posted at the trail head, at the viewing platform and
49 possibly down stream, the extent of the fishery as people
50 come up and see that sign and maybe see potential

1 subsistence fishers at that area.

2

3 I think one of the things that was
4 mentioned that Gary had concern about, the parking
5 situation we certainly do see that as something that we
6 are going to monitor significantly, particularly at the
7 start of the season. I guess right now from indications
8 it's probably not going to receive a lot of participation
9 but we might be wrong, and I think working with Gary
10 Sonnevil and whether or not we issue permits, we'll have
11 a little bit better understanding about right at the
12 start of the season whether it would be significant
13 numbers of people coming up and then we are casting ideas
14 around about how we would be able to provide, at least,
15 some temporary parking situations and see how it plays
16 out. There's potential for a small temporary parking by
17 the falls trailhead. There's also potentially
18 negotiations with Alaska Resource Management who's the
19 concessionaire of the Russian River Falls campground to
20 maybe buy back some of the spots there so that they
21 wouldn't -- you know it would be consistent with the
22 contract that we have with them currently. So those --
23 and then -- so that is kind of where we're at thinking
24 about the parking situation.

25

26 Obviously we have a law enforcement
27 officer, Jeff Bryden, he was here at the meeting and one
28 of his primary responsibilities would be for monitoring
29 both the subsistence fishery but also the sport uses and
30 he would express it as one of his primary duties during
31 that period of time June 15th, he's certainly going to be
32 on site. We've also got Forest protection officers which
33 are -- we'd be, in that internal briefing, be able to get
34 information to them so they would also be a source of
35 information and education for other folks as the
36 subsistence fishery was prosecuted.

37

38 Obviously we'd be working with Gary
39 Sonnevil to develop the subsistence fishing permit.
40 We're looking at additional stipulations that would be
41 required. One of the major concerns was bear/human
42 interactions. There's an InterAgency Brown Bear Study
43 Team, there's also a Russian River InterAgency
44 coordinator so there's a lot of groups there that are
45 dealing with that right now. There really isn't a plan
46 to close the sportfishery down as far as regulating time
47 so it's 24/7 right now so we're looking at the
48 subsistence fishery would at least start out that way, if
49 things change, obviously we'd be working with the
50 InterAgency team to be able to coordinate our efforts

1 there.

2

3 Gary mentioned, yeah, we're trying to set
4 up a meeting, probably informally with Cooper Landing and
5 Hope to describe what the ne regulations are,
6 availability and maybe also being able to provide
7 availability of the permit at those sites rather than
8 require them to go down to Soldotna and pick up the
9 permit.

10

11 Probably one of the other issues that's
12 there, you know, it's a traditional fishing site from
13 Dena'ina on up and there are some potential archeological
14 sites -- on the initial site visit on Friday it looks
15 like the sites would possibly be -- potentially fished
16 are probably not ones that contain significant
17 archeological resources, though, we're still going to
18 have our folks go up and do a more comprehensive look at
19 that before the start of the season and then if, indeed,
20 there are areas that we want to keep people from entering
21 and that we'll look at, not signage or our fences, but
22 we'll be looking at maybe some passive methods to be able
23 to steer people away from those areas to try to keep them
24 out.

25

26 So currently that's kind of where we're
27 at looking at the situation.

28

29 CHAIRMAN FLEAGLE: George, you have
30 something to add.

31

32 MR. PAPPAS: Yes, the Department would be
33 interested in a little bit of discussion on reporting to
34 the Department of Fish and Game of catch, you know, Gary
35 and I had a very good relationship down in Soldotna with
36 the Federal subsistence user, we did it once a week,
37 discussed who, what, when and where. It really was not a
38 large catch at the time. This might change, we don't
39 know. The fisheries in the Kenai River are managed on a
40 day to day basis in July so I'm not sure what kind of
41 participation there will be, I don't think anybody here
42 can say but the recommendation as a former area manager
43 would be something, you know, once a day, maybe three
44 times a week until we get a good grip on what's going to
45 happen with this fishery because, you know, plus or minus
46 a thousand kings can close or impact a fish -- that'd be
47 the sportfishery there -- excuse me, the personal use and
48 the commercial fisheries also.

49

50 CHAIRMAN FLEAGLE: Can we meet that?

1 UNIDENTIFIED VOICE: We'll certainly do
2 our best. We're situated physically within a block of
3 the local Department of Fish and Game office and the new
4 area manager is well known to me and we certainly will be
5 coordinating.

6
7 We also, in previous years, we've
8 submitted a weekly report to OSM on the subsistence
9 activities that have occurred and obviously will be
10 continuing that, it will be a little bigger than it has
11 been in the past but we'll be -- communication will be
12 the key on this. Between ourselves, the Alaska
13 Department of Fish and Game, Forest Service, there's no
14 question about that. I expect there'll be a bump or two
15 in the road since this is brand new and kicking off but
16 it will be an evolutionary process and we'll give it our
17 best shot.

18
19 CHAIRMAN FLEAGLE: Thank you. Pete, if I
20 could request, I'd like to see copies of those reports at
21 least until we see how this starts working out, is there
22 any other interest on the Board. Pete.

23
24 MR. PROBASCO: Mr. Chair. What Mr.
25 Campbell does for the Board, once a week, is he gives a
26 summary throughout the state of all the fisheries, he
27 works very closely with the area biologist for the
28 Federal program, and also the State provides information
29 that we share with all Board members.

30
31 CHAIRMAN FLEAGLE: Perfect. Thanks. Any
32 other discussion. Judy.

33
34 MS. GOTTLIEB: Thanks, Mr. Chair. Well,
35 as we were saying before, I really think it is important
36 as you're doing, to get the word out to the public and
37 even maybe as a matter of what we've done just these last
38 couple days, if there could be a short chart or summary,
39 something that for whoever may show up tomorrow
40 afternoon, that we could hand it out to, or make sure
41 everybody's clear on all that was accomplished today. I
42 think that would be very helpful, too.

43
44 CHAIRMAN FLEAGLE: Pete.

45
46 MR. PROBASCO: Mr. Chair. Ms. Gottlieb,
47 as far as something written, I'm going to not commit to
48 that, but as far as something verbally we can get that
49 all together and we'll do that tomorrow, whenever the
50 Chair asks us.

1 CHAIRMAN FLEAGLE: Charles.
2
3 MR. BUNCH: Mr. Chair. I'd like to take
4 this opportunity to give my thanks to Ralph and the
5 Southcentral Committee because it's apparent that they
6 did a lot of work. I thought that that was some well-
7 balanced proposal that they put forth. Although I was
8 kind of disappointed to learn they don't have infinite
9 wisdom.....
10
11 (Laughter)
12
13 MR. BUNCH:I still think he
14 deserves a big hand.
15
16 (Applause)
17
18 MR. LOHSE: Yeah, well, we'll see how it
19 works out in a year or two and maybe in a year or two
20 you'll be throwing rocks instead of what you're throwing
21 now. We'll see.
22
23 (Laughter)
24
25 CHAIRMAN FLEAGLE: Well, we do appreciate
26 you taking a tough task and getting people together to
27 talk about it, I know that was a first major step.
28
29 Thanks, Ralph.
30
31 Other comments.
32
33 (No comments)
34
35 CHAIRMAN FLEAGLE: All right. That
36 concludes our business for the day. We don't have
37 anything scheduled for tomorrow until 1:30 when we've got
38 a time certain for the discussion on the RAC composition.
39
40 So we're recessed until 1:30 tomorrow
41 afternoon. Everybody enjoy your evening and your half a
42 day tomorrow.
43
44 (Off record)
45
46 (PROCEEDINGS TO BE CONTINUED)

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C E R T I F I C A T E

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

I, Joseph P. Kolasinski, Notary Public in and for the State of Alaska and reporter for Computer Matrix Court Reporters, do hereby certify:

THAT the foregoing pages numbered 141 through 290 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC REGULATORY MEETING, VOLUME II taken electronically by Nathan Hile on the 9th day of May 2007, beginning at the hour of 8:30 o'clock a.m. at the International Coastal Inn in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 14th day of May 2007.

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/2008