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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 los 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 each 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

CHAIRMAN FLEAGLE: Other questions.

7

8

(No comments)

9

10

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

MR. SZCZESNY: Thank you.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Thank you, Mr. Chair.

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

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

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

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

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

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

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 State 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  
4 the Council meeting to be the same as the Council's. The  
5 recommendations are supported by substantial evidence, do  
6 not violate recognized principles fish conservation and  
7 are not detrimental to the satisfaction of subsistence  
8 needs. We have the benefit of a very detailed Staff  
9 analysis, detailed comments by ADF&G and the response of  
10 those comments by the Office of Subsistence Management  
11 Staff.

12

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

20

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

31

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

35

36                   I also don't want to tinker with the  
37 Council's recommendation. I will be making one amendment  
38 to this motion for the proposed Russian River dipnet  
39 fishery but it's not substantive. It does not change the  
40 recommendation in a significant way, except to modify the  
41 regulation to clarify where individuals can fish and how  
42 the river will be marked. We've heard testimony about  
43 how complicated that situation is and I appreciate the  
44 testimony of at least a couple of the people in the  
45 audience, the testifiers who brought it to our attention  
46 that it's a complicated situation. We have one area on  
47 the National Forest that we can contribute towards this  
48 fishery and that's the place, now, will that work, will  
49 that work well, how impacted will it be, we don't know  
50 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 )  
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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