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FEDERAL SUBSISTENCE BOARD

PUBLIC REGULATORY MEETING

VOLUME II

EGAN CONVENTION CENTER
ANCHORAGE, ALASKA

JANUARY 10, 2007
8:30 o'clock a.m.

MEMBERS PRESENT:

- MIKE FLEAGLE, CHAIR
- NILES CESAR, Bureau of Indian Affairs
- GARY EDWARDS/JERRY BERG, U.S. Fish and Wildlife Service
- JUDY GOTTLIEB, National Park Service
- DENNY BSCHOR, U.S. Forest Service
- GEORGE OVIATT, Bureau of Land Management
- SARAH GILBERTSON, State of Alaska Representative
- KEITH GOLTZ, Solicitor's Office
- KEN LORD, Solicitor's Office

Recorded and transcribed by:
Computer Matrix Court Reporters, LLC
3522 West 27th Avenue
Anchorage, AK 99517
907-243-0668
jpk@gci.net/sahile@gci.net

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P R O C E E D I N G S

(Anchorage, Alaska - 1/10/2007)

(On record)

CHAIRMAN FLEAGLE: Good morning, January 10th, 2007, Federal Subsistence Board meeting resumes. And before we begin with the agenda we have some announcements. First, we do have Steve Klein sitting in for Pete for awhile, Pete, I expect to be in around noon. And Dr. Chen sitting in for Niles, temporarily, I think, right?

DR. CHEN: Yes.

CHAIRMAN FLEAGLE: And also Gary Edwards did make it back up from Seattle, but, Jerry is going to go ahead and sit at the table until we complete action on Proposal 18 that's in front of us. And so you'll see a few little changes in personnel up here on the Board as the day progresses.

And before we start moving further on to the agenda, Steve, has some announcements -- or an announcement to make, Steve.

MR. KLEIN: Thank you, Mr. Chair. I want to summarize where we're at in the meeting. Yesterday we announced the consensus agenda for the Fisheries Regulatory Proposals, those are described on Page 3 of the Board book and there's five proposals on the consensus agenda.

Within Southeast Alaska we have Fisheries Proposal 07-19 and 07-20. And then there's three additional proposals on the consensus agenda from Prince William Sound and those are 07-14, 07-15, and 07-16. And then after the announcement of the consensus agenda, which will come back to after we complete action on the non-consent agenda, we did move into the non-consent agenda items and finished the three proposals within Bristol Bay, 07-05, 07-06, and 07-07. And then moved to Southeast Alaska and concluded action on 07-17, and we're in the middle of action on 07-18 where we finished the public comment period and next we would move to the -- did we take open floor testimony?

CHAIRMAN FLEAGLE: Yes.

1 MR. KLEIN: Yes, we did. We concluded
2 that, so next up would be Regional Advisory Council
3 action on 07-18. And so we'll begin that momentarily.

4
5 We did have -- before we get back to our
6 agenda, though, we do have our public comment period on
7 both non-agenda items and we have at least one testifier
8 for non-agenda items, and then provide a comment period
9 for any of the consensus agenda items, anybody wishes to
10 speak to and then we'll return to action on 07-18.

11
12 So, Mr. Chair, that would put us at the
13 public comment period on non-agenda items.

14
15 CHAIRMAN FLEAGLE: You bet, thank you.
16 Before we go there, Board members or Staff, any
17 announcements this morning to start us out with.

18
19 (No comments)

20
21 CHAIRMAN FLEAGLE: All right, thanks. So
22 moving back to the agenda, we are, as stated before,
23 reopening public comment period for non-agenda items, and
24 I do have one testifier that has turned in a card for
25 this comment. Danielle DiNovelli-Lang.

26
27 MS. DINOVELLI-LANG*: Good morning and
28 thank you. I hope I didn't cause too much confusion
29 yesterday with my own confusion about when it was
30 appropriate to read this letter.

31
32 I wanted to say first of all that I,
33 myself, am merely a graduate student who has been doing
34 research on the politics and practice of fish and
35 wildlife use in Southeast Alaska, especially in Hoonah,
36 where I've been living since May, and I came to these
37 meetings in that capacity. A friend of mine there who
38 knew I was coming requested that I read this letter to
39 the Board, so the words that follow are not my own and,
40 are, instead, the testimony of Wanda Culp.

41
42 I also have a signed copy of her letter
43 to enter into the record beside from what I'm going to
44 read, which is most, but not quite all of it. So now I'm
45 going to begin Wanda's testimony. I hope the Board also
46 will agree that it fits more with the general procedural
47 issue than with FP07-17, in particular, although it is
48 somewhat her response to that issue.

49
50 Dear Federal Subsistence Board Chair and

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members.

I suspect that many Alaskans are aware of the dual Federal and State management system for fish and game. I doubt that many understand the hardships it brings down on those of us who rely on the natural resources all around us whether they are found on State or Federal land.

Certainly this Board seems as ignorant as a lot of Alaskans on the real everyday hardships resulting from dual management simply because the Board is so far removed from the real world of customary and traditional use.

I will use a most recent example, which occurred on November 20th, 2006 in Hoonah municipal waters and on privately owned Alaska Native Claims Settlement Act land, which is of course under State jurisdiction. Two brothers, customary and traditional users were subsistence hunting for deer for Thanksgiving. Their family lives almost entirely off of fish and game, they were hunting deer in their skiff in Port Frederick when they spotted a deer on the beach above the high tide line. They each shot at the deer that turned out to be a decoy. Three law enforcement officers appeared and the two hunters quickly headed to Hoonah where the Hoonah Police Department, the city police department met them at the dock. One hunter was cited for hunting from a moving skiff and their brand new 7mm rifle was confiscated. The law enforcement involved was two Alaska State Troopers and one Hoonah city policeman. The brothers are SeaAlaska shareholders, they are sons of a relatively famous subsistence hunter who's also a Vietnam veteran.

The State Trooper, the lead State Trooper was on his private vessel and all three officers were out of uniform at the time of the entrapment. Neither the Federal nor the municipal governments have

1 wildlife protection enforcement
2 agreements with the State of Alaska,
3 hunting by skiff is a known community for
4 subsistence in Hoonah and has been
5 recognized by the Federal Subsistence
6 Board in the past already in Game Unit 4.
7 We have an undisputed history of hunting
8 from canoes, fishing vessels, and skiffs.
9

10 Since approximately November 6th we've
11 experienced record amounts of snow in
12 Southeast, there is not a shortage of
13 deer by any means around Hoonah. With
14 over four feet of snow dumped on us, we
15 traditionally know that it is beneficial
16 to harvest the deer on the beach during
17 these harsh conditions because the deer
18 mortality will naturally be high.
19

20 Despite this, one brother has been cited
21 and is facing a court hearing. The good
22 news is that the InterTribal Fish and
23 Wildlife Commission for Southeast Alaska
24 is providing this young hunter with an
25 attorney to test the legality of this
26 situation created by dual management and
27 bad policies.
28

29 What is my purpose in wasting your
30 bureaucratic time on this little story
31 and how it ties in with FP07-17, which
32 was brought about by one man who is new
33 to the population of Gustavus. The point
34 is that Gustavus is conveniently
35 surrounded by Federal public lands and
36 waters, lands and waters to which its
37 residents now enjoy access on equal
38 footing with residents of the Native
39 Village of Hoonah and Hoonah, on the
40 other hand, literally every law
41 enforcement agency, Federal and State and
42 municipal are lined up and united to cite
43 us at every turn. The court's understand
44 the issue of customary and traditional
45 use even less than this Board or the
46 Federal, State and municipal law
47 enforcement, piecemealing our existence,
48 Federal, State, fish, game, urban, rural,
49 water, land, commercial, recreational,
50 subsistence, public, tribal individual

1 and national all means nothing to the
2 reality of customary and traditional use.
3 These words, terms demean our very
4 historic existence and have little to do
5 with the protection of our cultural
6 activities mandated under ANILCA Title
7 VIII. Words, rather than the wisdom of
8 customary and traditional use are
9 muddling up our reality.

10
11 There are thousands of dollars spent
12 annually by the Federal government that
13 is failing us.

14
15 The State of Alaska, who is out of
16 Federal compliance with ANILCA Title VIII
17 has more to say at your table than those
18 of us who rely on these natural
19 resources. We use less than one percent
20 of those resources in the state of Alaska
21 and we have to be exposed to storms of
22 ignorance that the Federal and State
23 governments cannot effectively manipulate
24 to match reality.

25
26 The customary and traditional users of
27 Hoonah submitted a six page letter to
28 this Board concerning FP07-17 signed by
29 none less than 14 customary and
30 traditional users who, I want to very
31 seriously point out here, represent more
32 than themselves. Each signature
33 represents a family and their
34 descendants. I'm talking numbers here,
35 not one man.

36
37 World War II Veteran, Jake White, Sr.,
38 personal comment was when the airport was
39 built during World War II there was no
40 Gustavus, now they're the first ones in
41 line with their hands out for everything.

42
43 I will not apologize for Hoonah's request
44 to have each of you hear the words of our
45 six page customary and traditional user's
46 letter to you because we believe you need
47 to be reminded of ANILCA Title VIII, you
48 need to hear it in your ears. Even
49 though you may think you know that law
50 you have missed its intent.

1 The customary and traditional users of
2 Hoonah are not included in your budget so
3 we have to rely on our own resources to
4 get our concerns about the real world
5 situation out to you the best we can.
6 Please do not minimize our words or our
7 signatures and the loved ones we
8 represent with each signing. Our time,
9 effort and input need to be given the
10 same weight, if not more, as the State or
11 Federal employees sitting there before
12 you, expenses and time paid for.

13
14 The Board needs to fix what is broken
15 rather than bringing more madness into
16 the current process into a system that is
17 not working effectively for customary and
18 traditional users.

19
20 Always, sincerely, Wanda Culp.

21
22 And that concludes her letter, and like I
23 said, I have a signed copy of it here and I can answer
24 any questions you may have personally but obviously I'm
25 not the author of the letter so I can't answer for her.

26
27 Thank you, very much for listening.

28
29 CHAIRMAN FLEAGLE: Thank you. Questions
30 Board members.

31
32 (No comments)

33
34 CHAIRMAN FLEAGLE: Welcome Niles. All
35 right, well, we appreciate your willingness to deliver
36 that for her and thank you.

37
38 Steve, who gets the letter?

39
40 MR. KLEIN: Nate.

41
42 CHAIRMAN FLEAGLE: The court reporter way
43 in the back, thank you.

44
45 (Pause)

46
47 CHAIRMAN FLEAGLE: Okay. As stated
48 earlier we are working on Proposal 18 and we just
49 completed public testimony yesterday evening before we
50 broke. We now turn to the Regional Advisory Council

1 recommendation. I have Bert Adams, good morning.

2

3 MR. ADAMS: (In Tlingit) as I mentioned
4 in my introduction last meeting, that means good morning
5 to you all.

6

7 (In Tlingit) means it's good to see you
8 all.

9

10 I thank you, Mr. Chairman and members of
11 the Board for the opportunity to be here before you to
12 talk on behalf of the Southeast Regional Advisory
13 Council's position on this particular issue.

14

15 Before I do that I'd like to, you know,
16 make some opening statements that I think -- can you hear
17 me all right?

18

19 REPORTER: (Nods affirmatively)

20

21 MR. ADAMS: Okay. That I think will, you
22 know, tell you a lot about where I'm coming from and
23 where the position of the Southeast RAC is. I was
24 thinking here a little while ago that as I sat down and
25 started collecting my thoughts that it must be about 3:00
26 a.m., in the morning because that's when I normally have
27 my nightmares, and if that's the case then, you know, I
28 would Ralph to pinch me and then I'll find myself back
29 home comfortably with my family. But that's the way I
30 feel right now, quite nervous.

31

32 You know, when I was in high school, I
33 was always the person who sat way in the back, you know,
34 and I didn't want to be called on to answer any
35 questions, that's why I have that policy that I don't
36 like to answer any hard questions; it stems way back to,
37 you know, when my time when I had very low self-esteem.
38 And I think I'm going to share this with you because now
39 I stand before, you know, a very prestigious and powerful
40 group of men and women and if you had probably known him
41 15 or 20 years ago I would have never had the courage to
42 be able to sit before you and talk as will today.

43

44 And where I got my confidence from is
45 because of what I call becoming a born again Indian. I
46 began to look at my history and my culture. I was named
47 after my great-grandfather, whose name was Kadashan from
48 Wrangell and I learned a little bit of history about that
49 family and once I began to understand, you know, who I
50 really was then I began to walk with my head high and my

1 chest puffed up a little bit with a lot of pride in
2 myself. And it was from that time one that I began to
3 get involved in leadership positions, you know, in my
4 community, and now I'm here before you people, you know,
5 testifying on behalf of the people from the community of
6 Sitka. I was born in Sitka. And I graduated from Mt.
7 Edgcumbe, and I attended Sheldon Jackson for two years.
8 I got my associate degree there and then I worked there
9 for four years, so, Sitka, you know, in a sense my second
10 home. If I were to move away from my hometown of Yakutat
11 that's where I would go back to.

12

13 I want to thank Mr. Miller and Ms.
14 Perkins for being here. I mentioned yesterday that I was
15 hoping that a whole entourage of Sitka people would come
16 here and testify for their cause and, you know, weather
17 and other circumstances prevented that, but I'm happy
18 that they're here and I thank them.

19

20 One of the things that I am real high on
21 is TEK projects, traditional ecological knowledge. We
22 did a TEK project in Yakutat on the East Alsek River and
23 we submitted some proposals, you know, to the Office of
24 Subsistence Management to do four different things. And
25 the first one was to do a TEK project. The reason why we
26 wanted to do a TEK project is because in 1980s, early
27 '90s, you know, the East Alsek River experienced a real
28 big crash. Prior to that it was the largest producers of
29 sockeye salmon, you know, in the early '80s and, you
30 know, prior to that. But something happened down there
31 that caused the sockeye to diminish to a point where they
32 had to close commercial fishing. And the community got
33 together and they decided that they were going to -- and
34 we decided that we were going to try to figure out what
35 the causes were, and the first thing that we wanted to do
36 was find out how our resources were managed before the
37 Western influence came there. And you take into
38 consideration the Dry Bay area, which is known as (In
39 Tlingit) in our Tlingit language, that there are six or
40 seven tribal houses there and each tribal house, you
41 know, houses 50 to 60 people, so you're talking, you know
42 -- and then there's other outlying dwellings that
43 accompany around those tribal houses as well, so you're
44 talking three, four, 500 people that (In Tlingit) used to
45 take care of on a year-round basis. And when these
46 things began to happen in the Dry Bay area, you know, in
47 the '80s we began to wonder why and so we hired -- we got
48 a grant and we hired an anthropologist that was from
49 Yakutat, a Native person, and the commission -- I was
50 serving as the tribal president then and I kept pounding

1 into her, you know, everyday activities, Judy, find out
2 how we used to manage our resources. And our people had
3 ways and means of managing their resources and they
4 always looked forward, you know, to the years when those
5 resources would come back again. They managed it for
6 that purpose. Other people used to come into our area to
7 use those resources as well but we always met them with
8 open arms, we also provided them with a guide so that
9 they would be successful in their efforts, you know, to
10 fish and hunt in those areas and then we would send them
11 on their way.

12
13 And so in the late 1800s, early 1900s the
14 commercial industry came in. They built a cannery in the
15 Dry Bay area, they ran a railroad from Dry Bay over to
16 the Auke Way River, which is about 10 or 12 miles from
17 the cannery and they used the expertise of the Native
18 people to do the fishing for them. They didn't know how
19 to fish in those rivers at that time, and so what had
20 happened is a king salmon run would come and all of a
21 sudden, you know, they would stop and you couldn't get
22 them to go out and fish anymore, and the people in the
23 canneries, you know, who owned the canneries and the
24 workers would say, you know, the run is at its peak, you
25 know, get out there and catch that product while it's
26 available and they said, no, and they didn't really find
27 out the reasons why until the sockeye season came and
28 they fished, you know, for awhile then they stopped. And
29 the explanation was, is that we needed those fish to go
30 up to the areas where they spawn and to do their business
31 so that we could be assured, you know, that the salmon
32 will be there for us forever and forever and forever.

33
34 And so we've seen the impacts of the
35 commercial industry, you know, in our areas and I'm sure
36 that, you know, it's in this situation as well. And I'm
37 not saying that commercial is a bad thing, you know, I'm
38 a subsistence user, I am a commercial fisherman, I'm a
39 charter boat captain, you know, I've involved myself in
40 almost every phase of, you know, the fisheries that are
41 available, you know, to us in our area and I think that
42 we need to find a balance in how we can manage these
43 resources in a wise manner.

44
45 So with that I would like to also point
46 out an important concept that I think we need to
47 seriously consider.

48
49 We all want to do the right thing here,
50 don't we, and I think that doing the right thing means

1 more than just doing the right thing. I think that doing
2 the right thing means doing the right thing for the right
3 reasons. And even further than that I think that while
4 we are doing the right thing for the right reasons we
5 need to base those things upon correct principles, or
6 good sound management principles. And, you know, the
7 SERAC has gone through this proposal very closely and as
8 I explain, you know, in detail, how we came upon those
9 conclusions, I think we used very correct principles in
10 coming upon our recommendations.

11
12 Again, you know, ANILCA was designed for
13 the purpose of working from the bottom up and I
14 understand and I've heard the Board say that they follow
15 that principle as well. And, you know, listening to the
16 people that these proposals are directly affected by is
17 really important as well as getting good community input,
18 which happened in this case. Sitka Tribe was able to
19 formulate a committee that looked at this Makhmati Island
20 issue real closely and the SERAC listened, you know, for
21 almost two days and maybe it might even have been longer
22 than that. We gave them every opportunity to be heard in
23 Sitka about this particular issue and then we looked at
24 it and then we were able to come up with the proposal
25 that we are presenting before you today.

26
27 The Southeast Alaska Regional Advisory
28 Council supports Proposal No. 18. There's a modification
29 added to it, but it also was earlier indicated that there
30 will be no action taken on 19.

31
32 ANILCA .811, you know, provides for
33 access. And I think, you know, that when we think about
34 that particular issue that it's important to be sure that
35 subsistence users, you know, have access to those
36 resources that are available to them. Unless there is
37 some conservation issue, unless there is no substantial
38 evidence, you know, that backs up any proposal or does it
39 meet its subsistence needs, are issues, you know, that we
40 look at in order to determine whether a proposal is a
41 good one or not. And I think, you know, through the
42 presentation I'll be sharing with you today we'll find
43 that all of those three issues, you know, are in place.

44
45 The modification adds the correct
46 location citation and provides authority to the in-season
47 fisheries management to determine whether this area
48 should be closed or open. I think they can use what is
49 called an emergency order to determine that. The Council
50 is very familiar with the subsistence herring roe fishery

1 that takes place in Sitka Sound, and since the depletion
2 of the herring run at Auke Bay and at other areas in
3 Southeast Alaska, Council members and other subsistence
4 users rely on herring eggs from Sitka. We do in Yakutat.
5 You know, a lot of Sitka herring roe comes to Yakutat.
6 I'll share with you a little bit later, you know, what
7 happened to Yakutat in the '50s with our herring fishery,
8 but I'll save that for later.

9
10 The Council heard substantial detailed
11 testimony on this proposal and it reviewed information
12 provided by the Staff analysis from a report describing
13 the subsistence fishery and reviewed the managing
14 situation with State, Federal and tribal government
15 staff. Closing waters to non-subsistence commercial
16 harvest to protect subsistence use deserves close
17 attention. It really deserves close attention by this
18 Board and I hope that we will have the honor of receiving
19 that attention today.

20
21 The Council thinking on this proposal
22 will be presented, you know, in some detail as I describe
23 about seven different points here.

24
25 Number 1 is the historical and
26 traditional fisheries of the Sitka Sound area. Public
27 testimony, government information provided by the Sitka
28 Tribes of Alaska and the Staff analysis which establishes
29 that herring runs were much more greater, perhaps in
30 order of magnitude greater than they have been in recent
31 years. Traditional and ecological knowledge resource
32 points to the times when herring spawn was up to one foot
33 thick in Sitka Sound shores. I have an elder that I rely
34 on quite a bit in Sitka, he's way up in his 90s and he
35 has shared stories about how it used to be thicker than
36 that in the area where he lives, you know, it says here
37 it says up to one foot thick and he is saying it was more
38 like two feet in the earlier days. The earliest records
39 for Sitka Sound document people from many Southeast
40 Alaska communities harvesting eggs during the season.
41 Helen Dangle, the tribal anthropologist and Council
42 member, Harvey Kitka, referred to a report by Father
43 Duncan documenting that 20,000 people used to fish for
44 herring eggs in that area. Mr. Kitka said that there was
45 once a year-round herring stock in Sitka Sound that has
46 been fished out. Council member, Don Hernandez, provided
47 examples of other areas of Southeast Alaska where herring
48 runs have been severely diminished. In the 1950s, prior
49 to that in our area, Yakutat, used to have enough of a
50 herring spawn to take care of the needs of the community.

1 And they opened it up for a commercial harvest there one
2 year and all it took was about two or three sweeps of a
3 seine that wiped out that whole stock, and it took about
4 50 years for that to rebound and come back, and it hasn't
5 been full strength at all. We've seen in the last, maybe
6 four or five, or six years, you know, a jump back into
7 harvestable periods -- or resources, you know, for the
8 people of the community for their needs, but we still
9 rely on our herring roe coming from Sitka.

10

11 Staff analysis reported that herring
12 harvest for all of Southeast Alaska for reduction into
13 fish meal and oil as being as high as 120,000 tons per
14 year in the 1920s and '30s. In recent years most
15 commercial harvesting has occurred in the sac roe harvest
16 with Sitka Sound harvest in the five to 10,000 ton range.
17 Other herring are taken in other commercial fisheries in
18 Southeast Alaska, however, total tonnage is not really
19 that great.

20

21 The traditional subsistence herring
22 fisheries with eggs gathered in hemlock branches and
23 macrocystic kelp, hair, seaweed and other substrates was
24 extremely important to subsistence harvesters in the
25 historic times of the harvest there. Eggs were dried and
26 traded throughout Southeast Alaska and along trade routes
27 into the Interior. More contemporary distribution and
28 exchanges fresh or frozen eggs to these areas. Sitka
29 Sound supplies most of the herring eggs used by
30 subsistence users throughout, not only Southeast Alaska
31 but through the state of Alaska as well.

32

33 Now, based on this information the
34 Council concludes that herring runs are currently
35 diminished from what they once were before the offset of
36 large scale commercial fisheries. There is some evidence
37 that historic subsistence harvest meaning prior to run
38 decline about 75 years ago were once much more larger
39 than they had been in the post-statehood period, and
40 subsistence harvest had to make do with a diminished
41 resource.

42

43 No. 2 issue that I'd like to elaborate on
44 here, is are the needs being met? Public testimony and
45 government to government information provided by the
46 Sitka Tribes of Alaska has pointed to increasing
47 difficulty in subsistence users meeting their needs for
48 herring roe. There is both a long-term and a short-term
49 problem. The long-term problem is mainly the result of
50 diminished herring stocks returning the spawn in Sitka

1 Sound. In addition to poorly managed fishing in the pre-
2 statehood period, the pulp mill operating in Silver Bay
3 is thought to have diminished or eliminated spawning at
4 sites affected by the Silver Bay pulp mill. The more
5 short-term problem has to do with the commercial sac roe
6 fishery displacing subsistence harvesters from
7 traditional harvest locations and disrupting herring
8 spawn. This had made it difficult for subsistence
9 harvesters to effectively take what they need. Because
10 subsistence fishers need to repeatedly check harvest
11 locations and sets of hemlock branches, when they are
12 displaced from traditional harvesting locations close to
13 Sitka, they are effectively unable to -- not able to meet
14 their needs for herring roe.

15
16 The Council also heard public testimony
17 suggested that the commercial harvest disrupted natural
18 spawning patterns. This may also limit the spawn
19 disposition that subsistence harvesters need. Estimates
20 of the amount of herring roe taken in the subsistence
21 fishery in recent years vary. The Sitka Tribe of Alaska
22 estimates that harvest for the 1997 to 2006 time period
23 ranged from a low of about 75,000 pounds in 2005 to a
24 high of 293,000 pounds in 2004. During the two low
25 periods in this time period, 1997 and 2005 subsistence
26 needs were clearly not met. In 2002 when an estimated
27 151,000 pounds were harvested, subsistence needs may have
28 been marginally met.

29
30 The Council concludes that under current
31 management of the commercial fishery that it is difficult
32 for subsistence users to meet their needs.

33
34 The third issue I'd like to talk about is
35 subsistence fishing locations. Eggs have been
36 traditionally harvested at locations easily accessible to
37 Sitka residents. Traditional harvesters generally use
38 skiffs and small fishing boats. Public testimony and
39 personal knowledge of Council members indicates that the
40 commercial fishery in some years displaces subsistence
41 harvesters from traditional harvest locations. As a
42 result subsistence harvest becomes more difficult and may
43 be reduced. In many years a large proportion of the
44 commercial harvest has been taken in areas close to
45 subsistence harvesting locations limiting it or
46 eliminating the herring spawn that is available to
47 subsistence users.

48
49 According to Mike Miller, who is the head
50 of the tribal herring committee for Sitka Tribes, he says

1 that this is particularly serious in years of a high
2 commercial quota. Taking a commercial quota from the
3 subsistence use areas definitely adversely affects the
4 subsistence users.

5
6 The fourth item that I'd like to mention
7 here is the use of the Makhnati/Whiting Harbor area.
8 Sitka Tribes of Alaska and public testimony showed that
9 these areas were used for traditional harvest.
10 Testifiers spoke of using both sides of the causeway for
11 different subsistence products, branches and macrocystic
12 and hair seaweed.

13
14 When I was a student at Mt. Edgecumbe,
15 those islands that connect one another was a place that
16 we used to go and, you know, play on the rocks and try to
17 beat, you know, the waves that were beating up on the
18 rocks. Some of us would go back to the dormitory soaking
19 wet, you know, and cold but we noticed that during the
20 herring roe harvest that, you know, the water was milky
21 and there was a lot of herring activity in that area.
22 So, you know, just from my own personal knowledge I
23 thought maybe it might be important to share that.

24
25 No. 5. The importance of herring eggs in
26 Sitka subsistence. In a good year subsistence herring
27 roe harvest may account for 30 to 40 pounds per capita in
28 Sitka. Since herring roe is a traditional Tlingit
29 delicacy the harvest is mainly by members of the Native
30 community. The Native per capita harvest level is much
31 higher than the community average. At this level of
32 harvest, herring eggs account for about 15 to 20 percent
33 of Sitka's total food harvest. Using the food
34 replacement value of \$5 to \$10 per pound, the dollar
35 value of the subsistence herring roe fishery would be
36 \$1.5 to \$3 million in years when 300,000 pounds were
37 caught. The ex vessel value of the commercial fishery at
38 \$500 per ton is \$2.5 to \$5 million worth with harvest
39 quotas of more than five to 10 tons.

40
41 No. 6. Herring harvest management. The
42 State of Alaska, Sitka Tribes of Alaska, the Staff
43 analysis and the local Federal fisheries biologist
44 provided information on how the commercial fishery is
45 managed. The Council is encouraged that the Sitka Tribes
46 of Alaska and the Forest Service are allowed to
47 participate in daily management meetings where commercial
48 openings are discussed. However, the Department of Fish
49 and Game, Commercial Fisheries Division management
50 continues to focus primarily on providing maximum return

1 of the commercial fisheries. The management and goal
2 concerns provided for a commercial harvest of the quota
3 at a high roe content and management actions are geared
4 to ensure that this takes place safely and with no over
5 quota fishing. Department management of the subsistence
6 fishery has been lazy affair, meaning that management
7 actions to ensure that subsistence needs may be met
8 through the commercial and traditional fishery do not
9 appear to have been a management priority.

10

11 The Council believes that management
12 needs to be realigned to better consider and accommodate
13 the priority subsistence use of this policy, and this is
14 in compliance with ANILCA's .804 section where priority
15 is the number 1 priority.

16

17 No. 7. The effect of closing the
18 Makhnati Island Federal waters. The Makhnati Island
19 reserve compromises the only Federal waters in Sitka
20 Sound where herring spawn and where subsistence harvest
21 takes place. This area has been occasionally open to
22 commercial sac roe harvest. Closing this area will
23 provide at least one smaller area where subsistence
24 herring egg harvesting can take place undisturbed by
25 commercial harvesting. Because the area is small and
26 comprises only a portion of the traditional harvesting
27 area, this closure in itself will not ensure that
28 subsistence needs for herring roe will be met or that
29 customary and traditional subsistence harvesting patterns
30 will endure.

31

32 The effect on the commercial harvesters
33 will be minimal since the area to be closed is very small
34 and since much of Makhnati Island reserve is not suitable
35 for commercial fishing or seining.

36

37 But, yet, we listened to Chip talk
38 yesterday with his testimony, I don't remember his last
39 name, if he's here, but he definitely made a point that
40 if that area were open to commercial fishing that the
41 commercial fishers would certainly go in there and
42 harvest in that area.

43

44 In summary, Mr. Chairman and members of
45 the Board, the Council supports Proposal 07-18 to close
46 the Makhnati Island reserve to commercial fishing during
47 March and April.

48

49 This is a good step to protecting the
50 subsistence herring roe fishery and ensuring that the

1 priority use in Federal -- and insuring the priority use
2 in Federal waters.

3

4 The Council supports a more general
5 focusing of management of Sitka Sound herring stocks that
6 would recognize the subsistence priority in both State
7 and Federal waters and manage effective for the
8 continuance of the very valuable subsistence fishery.
9 This may mean that conducting the commercial fishery in
10 locations where it's impacts on the subsistence fishery
11 is very limited.

12

13 The Council modification of the original
14 proposal would authorize the Federal in-season manager to
15 open the closed area if the situation warrants an
16 opening. This authority will insure that the manager has
17 a place at the table when management decisions are made.
18 It will also allow the in-season manager to open the area
19 to commercial fishing if this would not be detrimental to
20 the priority subsistence use. As with other in-season
21 management actions, the decision to open an area to
22 commercial fishing would take place only after
23 consultation with the Southeast Alaska Regional Advisory
24 Council Chair.

25

26 Mr. Chairman. This is definitely in
27 Federal waters. and you do have the authority to open or
28 close or accept a regulation that would provide for the
29 continued use of subsistence resources for that
30 particular area. As mentioned, it's a very small area
31 but is also been admitted that if it were opened for
32 commercial enterprises, that that area would certainly be
33 used for that purpose.

34

35 So with the idea in mind that, you know,
36 subsistence is the number 1 priority over all of the
37 other fisheries, I think that the Board does have the
38 authority to insure that the Sitka people will be able to
39 not have to go so far away to get their subsistence
40 resources needs met, but that they can use this
41 particular area to also accommodate that.

42

43 I thank you, Mr. Chairman and members of
44 the Board for listening to our side of the story and if
45 there are any questions, most all of this stuff that I
46 have shared with you is technical stuff and I would happy
47 to refer, you know, your questions, you know, to Dr.
48 Schroeder who has assisted me a lot in putting together
49 this document.

50

1 Gunalcheesh, that means thank you.

2

3 CHAIRMAN FLEAGLE: Thank you, Bert,
4 appreciate that -- laying out the position from the RAC.
5 Well, done, very eloquent speaker, I don't know if I've
6 told you that before but I appreciate listening to you
7 talk.

8

9 MR. ADAMS: Thank you.

10

11 CHAIRMAN FLEAGLE: Board members,
12 questions, for Bert. Denny.

13

14 MR. ADAMS: I still have that policy, you
15 know, don't make it hard.

16

17 (Laughter)

18

19 CHAIRMAN FLEAGLE: Denny.

20

21 MR. BSCHOR: Mr. Chair, thank you. I
22 have a few questions and I'll try not to make them too
23 difficult and I probably will refer to Mr. Schroeder
24 also.

25

26 Thank you for your testimony, it's been
27 enlightening. A couple of things, as we look at Makhnati
28 Island and the Federal waters there, first of all I
29 assume and I think I'm correct, that that's under BLM
30 jurisdiction. Whatever happens there as far as the in-
31 season management, I would assume also would be done by
32 probably our local ranger. So just to set that straight,
33 whatever happens, whether there's a closure or not, we
34 need to keep that in mind.

35

36 In light of that, whether there's a
37 formal closure or not, we have other areas where we have
38 in-season managers without formal closures who have the
39 authority to manage the area according to the conditions
40 at hand. Whether there's a formal closure or not, I want
41 to know a little bit about what criteria, in this case,
42 because this is new to the Forest Service, as far as we
43 do with inland waters and Federal waters that are in our
44 jurisdiction and also on the other side, the wildlife
45 side, Federal lands, and we've got experience with in-
46 season management there, but as far as this marine water
47 situation, what would be the criteria that our local
48 ranger would look at to determine if a closure is needed?
49 And I'll give that to anybody who can answer the
50 question, I'm not going to put you on the spot, Bert, but

1 if you can answer it, fine.

2

3 MR. ADAMS: That is a hard question, so I
4 would defer that to Dr. Schroeder, you know, he has all
5 of that technical knowledge inside his head or he has
6 access to it. I am just a messenger here from the RAC
7 so, you know, I'd appreciate if Dr. Schroeder would
8 answer that for you.

9

10 Thanks.

11

12 CHAIRMAN FLEAGLE: Bob Schroeder.

13

14 DR. SCHROEDER: Through the Chair, Denny,
15 I think the Council was looking at situations where there
16 really may not be any problem, where it may look like
17 there was no problem on the horizon. The Council didn't
18 spend a lot of time developing what sort of criteria
19 would be there.

20

21 We have heard from public testimony and
22 from Mike Miller of the herring group that it would
23 appear, at least, in the opinion of the herring group
24 that in years where there's a really high quota, the
25 potential for impact on subsistence harvest at Makhnati
26 Island is correspondingly high, the idea being that if a
27 large por -- if there's a large quota and that quota is
28 taken directly in front of Sitka town, that that is, at
29 least, in the eyes of the people who testified to the
30 Council, has the potential for -- a great potential for
31 affecting the ability of subsistence users to harvest.

32

33 I suggest that this is really ripe for,
34 if the Board went in that direction, to have our in-
35 season manager form a small work group of Fish and Game
36 and Council and users to outline what those criteria
37 would be so that our manager wasn't left with an
38 impossible job.

39

40 MR. BSCHOR: Thank you. Then one other
41 -- I appreciate that, because that's my big concern. I'm
42 trying to put myself in place of that ranger and
43 wondering how in the heck I would do anything and whether
44 the -- because I understand there are timing issues with
45 the harvest of the herring and then the harvest of the
46 roe, et cetera, so I know that would be difficult to do.

47

48 The other thing, just for clarification,
49 and, Mr. Adams, maybe you can help me with this, first of
50 all I appreciate your reference to long-term and short-

1 term problems. And when you take a look at the
2 traditional knowledge, it's like any resource that's in
3 modern days is being used more than it was back in the
4 old days, being used commercially. Right now we have a
5 situation -- it appears to me that we have not only are
6 the herring being harvested commercially but the roe is
7 -- you mentioned something about commercial harvest of
8 sac roe occurring there, when you got both of that
9 happening it seems like that's a double impact on future
10 herring. So what I'm wondering is, as we look at the
11 proposal, we talk about -- the proposal is to close the
12 commercial herring fishing, does that include sac roe
13 harvest, too, is that inferred together?

14
15 MR. ADAMS: That's a good question. I
16 think we could assume that it would be together. And if
17 I might, you know, I just -- Mr. Chairman, if I could
18 elaborate on something that I kind of missed a little bit
19 and, you know, I think is significant here. I really
20 appreciated when we were in Sitka and we heard, you
21 know, the testimonies of the people from Sitka that there
22 was a mechanism in place where the State and the Sitka
23 Tribes, you know, worked together on this issue. And
24 what we saw there was the lack of, you know, Federal
25 participation in that and so that's the reason why we,
26 you know, suggested that, you know, the Federal manager,
27 you know, would have the authority to open or close those
28 this. But that was missing as far as we were concerned,
29 you know, in the consultation process in Sitka. And so
30 with the three or, you know, whoever's necessary, you
31 know, to adequately function, you know, properly, you
32 know, I think that's really an important part of the
33 process.

34
35 I know that there was some conflicts that
36 were addressed yesterday about the MOA with Sitka Tribes
37 and the State but that's what MOA's are about, you know,
38 you can agree to disagree and, you know, still work
39 together and work for the betterment, you know, of the
40 resources. And so I just wanted to, you know, share that
41 thought with you while it was still there because it
42 probably would have drifted away a little bit later one.

43
44 Thank you.

45
46 CHAIRMAN FLEAGLE: Denny, do you want to
47 continue questions, then I have Ralph Lohse.

48
49 MR. BSCHOR: Well, I just have a
50 clarification question for OSM or the Board on the

1 ability to manage the resource, especially the sac roe
2 harvest with our in-season manager and whether we have
3 the authority to do that right now with or without a
4 closure.

5

6 CHAIRMAN FLEAGLE: Steve.

7

8 MR. KLEIN: Right now the in-season
9 manager does have the authority to close the fishery to
10 non-subsistence uses.

11

12 CHAIRMAN FLEAGLE: And that's both the
13 herring and sac roe fishery?

14

15 MR. KLEIN: Yes, that would be correct.

16

17 CHAIRMAN FLEAGLE: Okay, thank you.

18

19 MR. BSCHOR: Thank you.

20

21 CHAIRMAN FLEAGLE: Ralph Lohse.

22

23 MR. LOHSE: Mr. Chair. This is just a
24 point of information because I seem to see a little bit
25 of misunderstanding on the Board's part. The herring
26 fishery is a sac roe fishery. The words, sac roe, means
27 that they're taking the herring to take the roe out of
28 the herring in their sacs as opposed to the kind of other
29 herring harvest or roe harvest that we used to have,
30 which was a dive fishery or a grappling (ph) fishery
31 where you took the roe after it had already been
32 deposited on kelp. So the sac roe fishery is the only
33 herring fishery that they have, other than some other
34 small bait herring fisheries in different places in the
35 state. But they're actually taking the herring to take
36 the roe.

37

38 MR. BSCHOR: Thank you, very much, I did
39 not understand that. Appreciate it.

40

41 CHAIRMAN FLEAGLE: Appreciate that,
42 thanks, Ralph. Board members other questions for Bert's
43 testimony.

44

45 Jerry Berg.

46

47 MR. BERG: Thank you, Mr. Chair. Thanks,
48 Bert, for your good testimony and appreciate all the work
49 that the Council did at their meeting. I was there for
50 part of that discussion.

1 I didn't hear the Council discuss this
2 past season and I didn't realize until yesterday that
3 there was a commercial opening in the Makhnati area last
4 year, and so did the Council discuss that? And it seems
5 like the subsistence harvest was actually fairly high
6 this past year and yet there was a commercial opening in
7 Makhnati this past year; did the Council discuss that
8 much?

9

10 MR. ADAMS: That's a negative. I don't
11 remember us talking about that unless Dr. Schroeder has
12 something to offer there.

13

14 MS. GOTTLIEB: Mr. Chair.

15

16 CHAIRMAN FLEAGLE: Judy.

17

18 MS. GOTTLIEB: I guess a couple things.
19 I guess my thanks to the Council for spending nearly two
20 days on this and boiling down for us so we may spend
21 about a day on it. A couple more maybe clarifications on
22 herring fishery. So subsistence users are gathering the
23 eggs that herring deposit on kelp or seaweed or maybe
24 even -- or the bows that they put out, so if the herring
25 are taken then the herring haven't had a chance to
26 deposit their eggs on the substrates or be harvested.

27

28 Also same thing as Bert, just went out of
29 my head the other thing I was going to say, so I'll come
30 back to it later, thanks.

31

32 MR. ADAMS: I get moments like that, too,
33 Judy.

34

35 MS. GOTTLIEB: Excuse me, Mr. Chair, it
36 came back.

37

38 (Laughter)

39

40 CHAIRMAN FLEAGLE: Go ahead, Judy.

41

42 MS. GOTTLIEB: Thanks. It didn't take
43 too long this time. Talking about 2006, I guess one
44 thing maybe as we move into deliberations I'd like to
45 remind us all on, about what we do, as this Board, it's
46 not all about harvest. So I hope we don't get completely
47 focused on how much people take because while people may
48 have received or may have harvested herring eggs, it may
49 not have been from Makhnati, it might have been from
50 other areas, so I hope we don't get too mixed up in

1 numbers but think more about what we provide, and that's
2 that opportunity for subsistence, for the continuation of
3 the lifestyle and not just look at -- and for that
4 experience, and not focus 100 percent on these numbers.

5
6 Thank you.

7
8 CHAIRMAN FLEAGLE: All right, thank you.
9 We'll now move over to InterAgency Staff Committee
10 recommendation and, Steve, do you want to switch hats and
11 take over.....

12
13 MR. KLEIN: Absolutely. But the State?

14
15 CHAIRMAN FLEAGLE: What?

16
17 MR. KLEIN: The ADF&G.

18
19 CHAIRMAN FLEAGLE: Oh, I skipped the
20 ADF&G, didn't I?

21
22 MR. KLEIN: Don't forget my friend, John.

23
24 CHAIRMAN FLEAGLE: I apologize. That was
25 completely unintentional. John Hilsinger.

26
27 MR. HILSINGER: Thank you, Mr. Chairman.
28 Apology accepted. ADF&G recommendation is to oppose
29 Proposal 18, and as noted to take no action on Proposal
30 19, which is very similar.

31
32 And, again, the ADF&G recommends that the
33 Board defer action on proposals dealing with closures
34 until they implement the written policies and procedures
35 and criteria for considering those actions.

36
37 Under State regulations for subsistence
38 herring may be taken for subsistence at any time. There
39 are some limitations on use of commercial herring
40 vessels. They may not take or possess herring for
41 subsistence 72 hours prior or following a commercial
42 period. And as you heard the Board has established the
43 amount reasonably necessary for subsistence as 105,000 to
44 158,000 pounds of herring spawn. The State does not
45 restrict subsistence fishing period, seasons or amounts
46 and does not require permits with the exception of the
47 roe on kelp harvest, which is allowed by permit and non-
48 commercial exchange for cash of herring roe on kelp is
49 allowed under State regulations with a limit of 32 pounds
50 per individual and 158 pounds per household.

1 We've heard a little bit about management
2 of the commercial herring fishery in Sitka Sound and I'd
3 like to address that somewhat. Herring management in
4 Sitka Sound and throughout Alaska is managed under a very
5 conservative strategy that recognizes the importance of
6 herring, not only in the commercial fishery but in the
7 subsistence fishery and also herring is often thought of
8 as the fodder of the sea, they're heavily preyed upon by
9 other species, and so they're an important link in the
10 food chain. And the State's management strategy
11 recognizes that. And so not only does the State set
12 minimum biomass thresholds and in the case of Sitka
13 Sound, that's 20,000 tons. If that herring stock falls
14 below 20,000 tons, that fishery doesn't occur at all. It
15 also sets a maximum harvest rate of 20 percent.

16
17 Now, if you look back through the harvest
18 history in this fishery you'll see that in a lot of years
19 that 20 percent harvest rate is not achieved. Many of
20 the annual harvests are more in the range of 10 to 15
21 percent. And even that's a little bit, I think, an
22 exaggeration of the action harvest rate because as
23 anybody that's surveyed herring knows, they're extremely
24 difficult to survey. The schools pop up to the surface
25 and then they go back down and so what you're seeing on
26 the surface of the water from an airplane is a portion of
27 the herring stock at any given time and so it's often the
28 case that the actual biomass is probably substantially
29 greater than the biomass that we see and base our harvest
30 rates on.

31
32 And as noted, the herring population in
33 Sitka Sound appears to be increasing. Some of our recent
34 population estimates are the highest we've seen since the
35 time that we started doing that back in about 1979. And
36 only once since 1979 has that stock been below the 20,000
37 ton biomass threshold.

38
39 The Federal Subsistence Board would have
40 the authority to close the area but it doesn't have the
41 authority to open or close the commercial fishery, you
42 could close the area to all uses other than your
43 Federally-qualified subsistence users. That would close
44 it to commercial fishing but it would also close it to
45 subsistence fishing by non-Federally qualified
46 subsistence users.

47
48 The issue of trying to open and close
49 Makhnati Island by special action in concert with the
50 commercial fishery, I think, is one that's difficult to

1 comprehend that really working. The in-season manager
2 would have to open or close the area, and frankly I'm not
3 familiar with how long that takes. But the nature of
4 these herring fisheries is that you may have herring
5 preparing to spawn in different areas and as noted
6 earlier in some of testimony they often do spawn in
7 different areas. It's not the same area every year, it's
8 not the same area even throughout the fishery. There may
9 be herring schools ready to spawn in multiple areas and
10 there's often a process of test fishing prior to an
11 opening to ensure that the roe quality is high before we
12 have an opening. And that's really a means of trying to
13 maximize the value of the fish and prevent any wastage of
14 the fish. So the manager may be looking at more than one
15 area as a potential opening area and based on test
16 fishing samples and weather conditions and the conditions
17 in the area of spawning, they may make a fairly short
18 notice determination of where that fishery is going to
19 occur. And often times we hear complaints from herring
20 fishermen that, you know, they were in the wrong spot,
21 they thought we were going to open Area A and we opened
22 Area B and they got caught out of position and didn't get
23 the harvest. So it's a fishery that's managed on a
24 pretty short timeframe. And sometimes it's a pretty
25 short timeframe before even the manager knows how they're
26 going to act.

27

28 And it's really important that these fish
29 be taken when the quality is right. A matter of a few
30 hours can make a difference between having a valuable
31 harvest and having a total waste because once those
32 herring spawn they're of no value in the commercial
33 fishery, certainly a value as spawning. The spawning
34 escapement is taken care of in the conservative harvest
35 rate even if we harvest 10 or 15 percent of the herring,
36 the other 85 to 90 percent are spawning and that's proven
37 to be more than acceptable for providing for a sustained
38 yield from those stocks.

39

40 The Department has been committed to
41 working with the Sitka Tribe and trying to make
42 adjustments in that fishery to provide a reasonable
43 opportunity for subsistence harvest. And you heard the
44 main elements of the memorandum of agreement; the daily
45 contact; the consultation; and the ability of the Sitka
46 Tribe to object to openings and they work with the
47 Department to try to have those openings to the extent
48 possible where they won't impact the subsistence fishery.
49 And you've also heard that the Department is working
50 closely with the Sitka Tribe of Alaska on harvest surveys

1 to try and get better information on the usage.

2

3 From what we've heard Makhnati Island is
4 not the key harvesting areas, and one of our concerns is
5 that by closing that area you may end up forcing the
6 fishery into an area that is a more key harvesting area,
7 and may actually in some years be detrimental to
8 subsistence uses.

9

10 I think we should talk a little bit about
11 2005 and 2006. As noted the biomass is increasing, 2005
12 and 2006 biomasses were quite high. In 2005, the amount
13 reasonably necessary for subsistence was not met. And
14 one of the things that happened that year, I think it was
15 a very difficult fishery to manage. The large proportion
16 of the biomass spawned in an area away from Sitka. It
17 was an area that is extremely difficult, even to
18 commercial fish in, it's a rocky area where the
19 commercial fishery can't really participate because of
20 that and because of the chance of going up on the rocks
21 or ruining their seine net on the rocks and so that did
22 make it an extremely difficult fishery to manage. And
23 there was one opening that was near to this proposed
24 closed area, and about 300 tons were taken in that
25 opening and it was north of the breakwater outside of
26 this Federal zone, and that was in a co-op opening.
27 Which, for those of you not familiar with the intricacies
28 of the Sitka fishery, what they often do is have a
29 cooperative fishery where the fishermen and the
30 Department recognize that sometimes you don't want to
31 turn the entire fleet loose at one time, wouldn't be --
32 it wouldn't make good business sense for anybody and so
33 they select a small number of boats and those boats go
34 out and do the harvest, and so you don't necessarily in
35 every situation have the entire fleet of 51 permit
36 holders out there fishing, you may only have four or five
37 boats fishing if it's a year they decide to do a
38 cooperative fishery.

39

40 So in 2005, that fishery did get forced
41 over on the Sitka side because a large proportion of the
42 biomass spanned in an area where the commercial fishery
43 couldn't occur and about 300 tons were taken. In 2006,
44 again, the biomass was quite high, the harvest was around
45 11,000 tons, which appears to represent about a 10 to 12
46 percent harvest rate. As I said, just a little over half
47 the maximum harvest rate allowable, so a very
48 conservative rate of harvest, and they did fish in that
49 zone and took 2,000 tons out of there. In 2006 the
50 subsistence harvest was -- I think it was 213,000 pounds.

1 So you have two years that create an interesting
2 contrast. You have two years with relatively large
3 biomasses, one year when there was very little commercial
4 fishing in the area and the amount necessary for
5 subsistence was not met, and then another year, also with
6 a high biomass, a large fishery in the area and the
7 amount necessary for subsistence was met, and by the ANS
8 adopted by the Board, the actual harvest exceeded that
9 amount, which, I think, is a good thing.

10

11 So it's difficult to make -- I think it's
12 difficult to make a concrete connection between the
13 commercial fishery and the difficulties of achieving ANS.
14 And the fact that it's not met in one year, certainly a
15 problem for the people and nobody discounts that or
16 diminishes that. But I think the question is, first,
17 does it represent a trend that requires significant
18 adjustments in the management and secondly are there
19 other factors that cause it. We see, if you look around
20 the state, we often see places where ANS is not met for
21 reasons other than availability of the resource or the
22 health of the resource, and so I think unfortunately we
23 have to recognize that there may be years when the
24 herring spawn somewhere else and ANS is not met.

25

26 But in general, the Department remains
27 committed to working with the Sitka Tribe of Alaska and
28 trying to make this a successful subsistence fishery and
29 we are concerned about the impacts on subsistence that
30 would occur if the management of the commercial fisheries
31 is constrained. We still abide by the element of the
32 agreement to distribute the commercial harvest by time
33 and area if ADF&G determines that it's necessary to
34 ensure subsistence users have a reasonable opportunity.

35

36 So thank you, Mr. Chairman, that
37 concludes my remarks.

38

39 CHAIRMAN FLEAGLE: Thank you, John. Just
40 one clarification to statements that you said related to
41 the 2005 harvest year, I think you said that the area
42 around Makhnati Island was open because the fishery was
43 not possible in other areas because of the rocks and
44 there was a harvest of 300 tons, was that part correct,
45 300 tons in the Makhnati Island area in 2005?

46

47 MR. HILSINGER: Mr. Chairman, that's my
48 understanding of the fishery and the 300 tons came from
49 north of the breakwater outside of the area that's
50 proposed to be closed, but it was near Makhnati Island

1 but it was outside of the proposed closure area.

2

3 CHAIRMAN FLEAGLE: Okay, that was going
4 to be my next question, so, appreciate that, all right.
5 So if that closure were in effect it wouldn't have
6 affected that harvest?

7

8 MR. HILSINGER: That's correct.

9

10 CHAIRMAN FLEAGLE: All right. Other
11 Board members, questions for the State.

12

13 MS. GOTTLIEB: Mr. Chair.

14

15 CHAIRMAN FLEAGLE: Judy.

16

17 MS. GOTTLIEB: Thanks, John, for your
18 information, and maybe to you or to Sarah because you
19 mentioned it yesterday. This memorandum of agreement,
20 you stated your commitment and I know, Sarah, you asked
21 Mike yesterday, well, what happened with the follow up
22 discussions from March, but it sounds, in a way, like not
23 too much has happened. So based on Mike's answer
24 yesterday, I don't know if you' have a chance to check
25 but what kind of commitment can the Department make
26 towards improving the discussions and the relationship?

27

28 MR. HILSINGER: Mr. Chairman. Ms.
29 Gottlieb. We have that commitment every year. And I
30 think that from my discussions with the area staff there,
31 as Sarah noted they were taken somewhat by surprise and
32 they've had discussions since then with people, not -- I
33 don't think they were formal meetings or anything, but
34 they've had discussions to try to get a better fix on the
35 exact nature of the problem, and I would expect that to
36 continue and the daily meetings to continue and I think
37 we just have to kind of keep at that and the Department
38 needs to try to get a better handle on what the exact
39 concerns are and what we can do to address those within
40 the constraints of trying to manage for both a successful
41 subsistence fishery and a successful commercial fishery.
42 They're certainly committed to continuing to do that.

43

44 MS. GOTTLIEB: And, Mr. Chair, thanks,
45 and I appreciate that commitment. And I think this
46 proposal, you know, plus all this discussion would
47 certainly contribute towards an understanding of what
48 some of the situation is.

49

50 I guess also on ANS, if Sitka Tribe has

1 gone to the Board of Fisheries to ask for a higher ANS,
2 to me that implies that the current one doesn't seem
3 adequate, so even if that ANS is achieved, evidently what
4 they seem to be saying is they'd still like to have a
5 higher one.

6

7

Thanks.

8

9

MR. HILSINGER: Mr. Chairman. Ms.
10 Gottlieb. Unfortunately I'm not real familiar with the
11 history of that proposal to the Board and it sounded like
12 from the public testimony yesterday that maybe there was
13 some miscommunication or misunderstanding of that request
14 and so I think my recommendation would be to have a
15 formal proposal with the data and take that to the Board
16 and see what happens.

17

18

I think the one thing that people have to
19 be careful of is the ANS is not a ceiling on the harvest
20 but if you set an ANS that's unrealistically high you may
21 end up putting yourself into a Tier II harvest situation
22 unnecessarily and I think people just need to be
23 cognizant of that fact that you have to be fairly
24 realistic about what that ANS is and be cognizant of the
25 potential for a Tier II situation and if it's an ANS
26 that's high enough that it's not met in many years.

27

28

So, you know, I think probably the best
29 strategy is to get good solid data together and ask the
30 Board to look at that and try to update that ANS and
31 provide a reasonable number that provides for people's
32 needs but doesn't unnecessarily trigger something like a
33 Tier II fishery or the potential of a Tier II fishery.

34

35

Thank you.

36

37

CHAIRMAN FLEAGLE: Okay. Next, I have
38 George and then Denny and then Sarah -- hang on just a
39 sec, Sarah, did you have additional comments to John's?

40

41

MS. GILBERTSON: Yes, sorry, about that.

42

43

CHAIRMAN FLEAGLE: Go ahead, please.

44

45

MS. GILBERTSON: Just to compliment to
46 that or to add to that, you know, I wasn't at that Board
47 meeting either, but my understanding was that there was,
48 and I could be wrong, but that there was a second element
49 to that proposal that would have created a work group to
50 explore this and it was my understanding that the Board

1 felt that the MOA was enough. It was in place. That we
2 were going to give it a chance to work, and that 2005 did
3 not trend. And so I think they wanted to give the MOA a
4 chance to work. And also I understand, I think, from
5 Mike Turek, because we talked about this a lot at the
6 Southeast RAC meeting in September, that the studies and
7 the surveys that we're currently working on with the
8 tribe should add an element to this discussion and we'll
9 have the data to move forward to evaluate those ANS
10 standards again in a different light.

11
12 So that's my understanding of what
13 happened at that Board meeting.

14
15 CHAIRMAN FLEAGLE: Okay, thank you,
16 Sarah, for the additional comments. Now, I'll go to
17 George, followed by Denny.

18
19 MR. OVIATT: Thank you, Mr. Chairman.
20 Although 2005 may not show a trend, I believe it does
21 show an indication of an impact on subsistence fishing
22 because of the small take. And I'm trying to understand
23 this whole fisheries thing it's pretty new to --
24 certainly new to me, and new to BLM.

25
26 So in 2005 you said you had a commercial
27 opening near Makhnati Island, more into the open waters;
28 is that correct?

29
30 MR. HILSINGER: Mr. Chairman. Mr.
31 Oviatt. The information I have is that it was a co-op
32 fishery north of the breakwater outside the Federal zone
33 and near that area but outside but, you know, I don't
34 know exactly how far.

35
36 MR. OVIATT: Okay. So I guess my
37 question is the take that was -- the harvest that was
38 taken in 2005, commercially, was that -- is that about
39 average for that area or was that high?

40
41 MR. HILSINGER: Mr. Chairman. Mr.
42 Oviatt. For the entire fishery, the harvest is -- for
43 2005 was 11,000 tons, which is one of the higher
44 harvests, but there have been multiple times in the past
45 when there were harvests in the 10 to 11,000 ton range.
46 The long-term average is about 6,500 tons, and the five
47 year average is 10,000 tons, so it was -- I would say
48 comparable to the recent five year average harvest.

49
50 MR. OVIATT: So I'm just trying to

1 understand if -- we know that the biomass or the spawn
2 was quite high in 2005, it was like double I believe,
3 according to the chart, I'm just trying to understand if
4 most of that spawn are -- a share of it was across and as
5 we have heard from the subsistence people, it was really
6 out of reach for them to go over to where that happened,
7 and if I'm not explaining this correctly we can get to
8 it, but my question is, with a commercial opening, I mean
9 just how big of an impact did that have on the areas that
10 are accessible for subsistence; and that's what I'm
11 trying to get at. We know there was a displacement of
12 the herring in '05, and I'm just trying to get at how
13 much impact did commercial fishing have with the waters
14 that are traditionally used for subsistence?
15

16 MR. HILSINGER: When I talked to the area
17 manager, he felt that the fishery that year did have some
18 impact on the subsistence fishery because of the nature
19 of it and I think there was a weather element that year
20 as well as the large biomass of herring spawning in
21 another area. So I don't think anyone would characterize
22 that situation as ideal, but they do the best they can to
23 try to put the fleet where they won't impact the
24 subsistence fishery. And I think, you know, that's an
25 ongoing thing, and, again, it doesn't appear to happen
26 very often and it doesn't happen all the time that they
27 fish in that area. And so we could talk a little bit
28 about the history of fishing in that area if you'd like,
29 you know, I don't want to drive the train but I do have
30 some of that information if you'd like to hear it.
31

32 CHAIRMAN FLEAGLE: What do you think,
33 George, will that be beneficial to your line of
34 questioning?
35

36 MR. OVIATT: Well, it might to me but if
37 I'm the only one we could talk during a break. If the
38 rest of the Board would like to hear this that'd be fine,
39 but if it's just me I can talk to you after or during a
40 break.
41

42 CHAIRMAN FLEAGLE: Any objections.
43

44 (No comments)
45

46 CHAIRMAN FLEAGLE: Yeah, please, John,
47 share your additional information.
48

49 MR. HILSINGER: Thank you, Mr. Chairman.
50 There are occasionally openings in that area, the area

1 that's proposed to be closed. And in the recent times,
2 let's say since 1994, that area has been open four times,
3 there have been commercial openings in that area. In
4 1999 there was one opening. And the manager felt that
5 there was little harvest out of the Makhnati area. In
6 2001 there was one opening and, again, he felt that there
7 was little harvest out of that actua -- that actually was
8 taken out of that area even though it was open, there was
9 very little fishing that occurred in there. And then in
10 2003 there were two openings that had the causeway as a
11 northern boundary and, again, he felt that there was
12 little harvest that occurred in that area. We talked
13 about 2005 when they took 300 tons from just the north
14 side of that. And then 2006 opening, there was a
15 competitive opening in that area with 2,000 tons taken
16 from within this zone and he said mostly that came from
17 south of the causeway.

18

19 So there are -- occasionally that area is
20 open to fishing, but not in all of those openings is
21 there any substantial harvest taken. And that's probably
22 the nature of herring fishing. The boats are arrayed and
23 often times the openings are fairly short and you're on
24 your sonar looking for schools of herring and not every
25 boat makes a set in every opening, and so -- and the
26 boats are going to concentrate in the areas where the
27 herring are concentrated, the herring that are good
28 quality and where they think they can get a set and so
29 you may have an area open and there may be portions of
30 that that nobody really fishes. And that can change from
31 opening to opening.

32

33 Thank you.

34

35 CHAIRMAN FLEAGLE: All right, before I
36 turn over to Denny, I think we're going to go ahead and
37 take a break, 10 minute break, and then we'll come back
38 to questions.

39

40 Thanks.

41

42 (Off record)

43

44 (On record)

45

46 CHAIRMAN FLEAGLE: Good morning. The
47 Federal Subsistence Board is back on record. And we left
48 hanging with the questions for the State's testimony, and
49 up next I'm going to call on Denny for questions. Go
50 ahead, Denny.

1 MR. BSCHOR: Yes, Mr. Chair, the break
2 worked out very well for me because I got most of my
3 questions answered by the technical people. So I really
4 don't have any other questions.

5
6 I'll just leave it at that, thank you.

7
8 CHAIRMAN FLEAGLE: Okay, other Board
9 members, questions for John.

10
11 Jerry.

12
13 MR. BERG: Yeah, thank you, Mr. Chair.
14 John, I don't know if you'll know the answer to this, but
15 if the State does get an objection from the tribe in line
16 with the MOA that's in place, are there criteria that the
17 State uses to evaluate their objection, or how does the
18 State respond? Do they call up the tribe and say, you
19 know, what are your objections and try to talk it out or
20 does the State sit down and go through some criteria as
21 to what they -- does that drive how the State responds?

22
23 MR. HILSINGER: Mr. Chairman. Mr. Berg.
24 You're right, I don't have real detailed information on
25 that. My understanding is that there's daily meetings
26 and they discuss the data and what's going to happen, but
27 whether there's actual criteria or not, I don't know.
28 I've never heard that there are but I really, honestly
29 don't know. I could try and find out for you.

30
31 MR. BERG: Well, maybe I could get Mike
32 Miller and ask him. There was only one objection, I
33 understand that, in '05, and what was the response from
34 the State at that time, was there any discussions or did
35 the State just say, no, we're going to go ahead and go
36 with the opening and just left it at that?

37
38 CHAIRMAN FLEAGLE: Mike Miller.

39
40 MR. BERG: I realize it's only one case,
41 but.....

42
43 CHAIRMAN FLEAGLE: Go ahead.

44
45 MR. MILLER: Thank you, Mr. Chair. I
46 guess backing up to the initial question, there is
47 actually written in the MOU, I dug up in my papers, the
48 process for working through the in-season management and
49 as written in the MOU is that:

50

1 There will be a herring fishery work
2 group which shall consist of a single
3 representative from the commercial seine
4 fleet, from the Sitka Tribe, from the
5 processing industry and from the Sitka
6 Advisory Committee.
7

8 The designated representatives to the
9 work group shall be available on short
10 notice to meet with the Department's
11 representatives throughout the commercial
12 and subsistence harvest to consult with
13 the Department in planning, prosecuting
14 commercial and subsistence fishery.
15

16 The Department shall be the final arbiter
17 in how the fisheries are prosecuted.
18

19 That was implemented in 2002. It was
20 followed through in 2003. It was not implemented in
21 2004, '05 or '06.
22

23 And the specific question in, I think it
24 was 2004, that was where the snafu, if you will, on
25 communication came up, by the time the tribe got their
26 message about the opening, the manager was on the
27 grounds, they left a message for him about contesting the
28 opening but it was at the office because they couldn't
29 get through on the cell phone due to actually poor cell
30 service in the area and apparently he didn't get the
31 message until he returned to the office. So just, that's
32 what happened in that case.
33

34 MR. BERG: Thank you.
35

36 MS. GOTTLIEB: Mr. Chair.
37

38 CHAIRMAN FLEAGLE: Okay, appreciate you
39 coming back up to answer that question, Mike.
40

41 Judy.
42

43 MS. GOTTLIEB: Oh, I was going to ask if
44 we could ask Mike a couple other questions as follow up?
45

46 CHAIRMAN FLEAGLE: Yeah, if you don't
47 mind, go ahead, come on up until we dismiss you, I guess.
48

49 (Laughter)
50

1 CHAIRMAN FLEAGLE: Judy.

2

3 MS. GOTTLIEB: Thanks. I guess as follow
4 up to some of the statements that the Department has
5 made, I mean there's certainly different views about how
6 this MOA is set up, how it's working, how it's being
7 implemented. And so maybe if you can resort or summarize
8 for us, perhaps, again, you know, what you see as the key
9 issues that you feel this Board can resolve in what might
10 be characterized as a user conflict at this point in
11 time?

12

13 MR. MILLER: Yeah, thank you. Yeah, I
14 was impressed with the presentation from the State, it
15 sounded good. And a lot of the things are good but, you
16 know, I keep going back to the point that we're trying to
17 make and, again, the question comes up, well, what do
18 they want? You know, what does the tribe want? The
19 tribe wants to get its herring eggs, you know, that's a
20 pretty simple want and need and I believe it's protected
21 by Federal law.

22

23 The tribe is concerned about these waters
24 and wants those waters to be protected to help protect
25 what it needs to get.

26

27 I think, you know, in spite of the good
28 things that have come from the MOA, again, there's
29 problems, and we need to fix them. I think we need, at
30 the very least, some -- maybe direction from this Board
31 to either be a part of that MOA because you do have a
32 vested interest now in the herring harvest, subsistence
33 herring harvest in Sitka Sound, or at the very least
34 provide some clear direction to the State if they were
35 going to be managing these waters that the present
36 management allowing compromise of the subsistence harvest
37 isn't acceptable. And I think that's well within your
38 charge to be able to ask that in your interest of
39 protecting subsistence.

40

41 There was a couple other things, I guess,
42 just clarification things. I didn't bring my papers up
43 here that -- to be specific on it, but I know the
44 analysis of the herring fisheries from up until 2002, all
45 existing herring fisheries, the harvest level was 16
46 percent of the total return. The guideline harvest level
47 for that timeframe averaged 108 percent, so 108 percent
48 was caught of what the harvest level was supposed to be
49 as an average, and those are numbers from the Department.

50

1 But getting a little bit to the
2 fisheries, especially in 2005 and 2006, you know, talking
3 about how there seems to be a difference in those
4 fisheries because there was a small fishery in the area
5 that was immediately next to the Makhnati waters in 2005
6 and there was a full directed fishery in 2006 in those
7 waters, and yet 2005 we have a bad harvest year for
8 subsistence , 2006 it was a good harvest year, or a
9 better harvest year anyway. But you have to look at it
10 as a bigger picture.

11
12 Yes, there was 300 tons that was taken
13 right next to that spot in 2005, but there was 10,000
14 tons that was taken in the spot right next to that spot,
15 so in a little bit bigger picture, the entire quota was
16 taken next to the Makhnati area.

17
18 2006 there was 209,000 tons I believe
19 that was taken in the Makhnati waters. And it was
20 interesting, though, you know, to talk about that because
21 there was a lot of fish that weren't taken there, the
22 quality, I think it averaged 9.6 percent, overall
23 quality, there was a lot of sets that were dumped there
24 because the fish weren't that good. It was interesting
25 that the fish started to spawn there, they ended up
26 moving out of there after that fishery. And that brings
27 to mind the interesting thing that you see in fishing,
28 too, which we're seeing more and more, as you get into
29 areas like that, if you have an opening, it does disrupt
30 the fish a lot of times. And what will happen is, as
31 Chip was saying, and other people said, they're really
32 trying to get these fish that they're basically over 10
33 percent of the fish is going to be, the sac roe. If
34 those fish are less than 10 percent, it's typical for the
35 industry to go ahead and dump those fish, or let them go.
36 and in the test fisheries, you know, that's really
37 controlled, they take their time and kind of baby the
38 fish up and then get a sample out of it and check the
39 eggs and in a commercial fishery you don't have that
40 time. You know, they pull up the fish a lot of times
41 pretty fast and that stresses the fish quite a lot. If
42 those fish are less than 10 percent they let them go.
43 What happens, it's an interesting thing, often times
44 though that stresses the fish into spawning prematurely
45 and it's actually a male spawn and they race into the
46 beach and we call it a false spawn so we'll go and set
47 the branches there but there won't be any eggs in it.

48
49 And so, you know, there's a lot of other
50 impacts that we're just kind of scratching the surface of

1 here but, again, I would have to disagree that the
2 overall analysis is that there doesn't seem to be any
3 kind of trend or problem because we're constantly hearing
4 from our subsistence harvesters that when you look at
5 overall, you know, we're seeing more and more problems,
6 and definitely it was a wake up call to have such a low
7 subsistence harvest in that one year but we still, even
8 in last year's subsistence harvest, we're getting a lot
9 of comments that things are changing in the way the fish
10 are acting.

11
12 And one last comment on last year's
13 harvest, although 2,000 tons was taken in the Makhnati
14 area, and we ended up with a fairly good harvest, the
15 bulk of the harvest last year was well away from that
16 area. And we feel that was key to having a good harvest
17 in the area next to Makhnati, going back to the whole
18 concept of if you take 10,000 tons, which I believe
19 that's 60 million herring, out of one little spot, then
20 it makes sense that you're going to affect that spot.
21 The other thing, you know, if -- as the State admitted,
22 there was a lot of fish in another area, it might have
23 been hard to fish there for the commercial fishery, and
24 they admit it might have been hard to fish there, the one
25 thing we know for subsistence is that it was impossible
26 for them to fish there for them. And I guess it goes
27 back to what are your standards, is it okay to say, well,
28 we don't want to hurt these guys but it's okay to hurt
29 the subsistence people. It doesn't seem acceptable to me
30 but I guess it's not me making the decision.

31
32 MS. GOTTLIEB: Mr. Chair, one short
33 follow up to Mike, please. And that would be -- you said
34 yesterday, and I think you maybe just said it again here.
35 I mean Makhnati is really the only area we're concerned
36 about because that's all that's in our jurisdiction, you
37 called it yesterday a core area. So could you just
38 clarify for us, you know, what you mean by that in terms
39 of subsistence users.

40
41 MR. MILLER: A core area is a place that
42 provides an area with the opportunity to harvest that is
43 safe and provides the quantity and quality of eggs that
44 we need to have to be considered a good harvest. And
45 that's a very small defined area in Sitka Sound, based on
46 those factors. I won't go into the details unless you
47 need them for weather and safety issues, things like
48 that. But lineal miles, it's about seven miles basically
49 along the road system in Sitka, and that is a part of
50 those miles.

1 MS. GOTTLIEB: Thank you.

2

3 CHAIRMAN FLEAGLE: Okay. I got a
4 question to you, Mike, too, I appreciate you coming back
5 up and I think the Board has heard a lot of information
6 since you testified yesterday and so just a good
7 opportunity to explore some other questions.

8

9 Now, with what John Hilsinger was talking
10 about, the harvest that did occur in the Makhmati area,
11 and you just mentioned another additional 10,000 tons
12 outside of the 300 tons, it still sounds like it's all --
13 the harvest was outside of the closed area; is that true
14 from your experience?

15

16 MR. MILLER: From my experience it was
17 the directed fishery, although adjacent to it, was
18 outside of it and I really don't know. I know the area
19 north of the breakwater was open and I don't know if
20 there might have been some sets in that area or there
21 might not have, I wasn't there for that co-op fishery.

22

23 CHAIRMAN FLEAGLE: Right, okay. So
24 really then -- I'm not -- I'm going to be careful, I'm
25 not trying to get into deliberations but I just got to
26 ask the question. Closing this area would be -- appear
27 with that statement, would be pretty academic, I mean it
28 wouldn't stop the harvest from occurring just outside of
29 the closed area as it has in the past, which, may, of
30 course, affect the subsistence herring fishery. I mean
31 it sounds like you give some pretty good evidence that it
32 does, but I just don't see where instituting this closure
33 does anything short of just maybe elevating the issue to
34 the State a little higher now, an effort by the Federal
35 Board to enter into, you know, the arena here, you know,
36 without actually providing any real benefit or relief.
37 That's just where I'm coming from, I guess.

38

39 Would you mind commenting on that?

40

41 MR. MILLER: I understand where you're
42 coming from on that and that's, I think, something we've
43 wrestled with in Sitka for a long time, about the concept
44 of closing areas. We actually worked with the Fish Board
45 back in 2000 and-- or 2000 and 2003 on those concepts of
46 closed areas and at that time we actually were against
47 that idea. We felt that the State would use it to maybe
48 -- or people that were against us, not necessarily the
49 State but people would say, well, that's your sanctuary,
50 go there and get fish and we don't have to worry about

1 you in other places. So it's with a lot of debate
2 ourselves that we even are supporting this proposal or
3 put it forward.

4
5 But the things that we know for sure is
6 that things aren't working the way they are. There's the
7 potential on any given year for it to -- our subsistence
8 harvest to be compromised. Makhnati is not -- you know,
9 like I say it's -- there's enough variables in that, that
10 last year for me, you know, I didn't go there. I don't
11 know if it was because the fishery maybe chased the fish
12 that were out of there or -- or what the reasons were, it
13 wasn't that good a spawn there. The year before I didn't
14 harvest there. The year before that I harvested about
15 half my harvest from Whiting Harbor, and it was a good
16 year then.

17
18 And, you know, I think there's two
19 different ways of looking at it and definitely the State
20 and, you know, a lot of people would say that we're
21 putting ourselves in a bit of a box there, but, frankly
22 we don't really have a lot of other options, you know,
23 we've tried to work through the existing options and we
24 still have a problem. That's the one thing that is a bit
25 frustrating is from the standpoint of the State there's a
26 lot of debate as to whether the problem is real or
27 perceived. And I can assure you for the subsistence
28 harvesters the problem is very real.

29
30 CHAIRMAN FLEAGLE: Okay, I appreciate
31 that Mike. Other questions, George, go ahead.

32
33 MR. OVIATT: I -- this is a big education
34 for me, so you said in '06 that most of your subsistence
35 harvest came from some other areas than Makhnati; is that
36 right?

37
38 MR. MILLER: In '06, yes, they came by
39 and large from the next island north of there, it's
40 probably half a mile from Makhnati waters, Casiano
41 Island.

42
43 MR. OVIATT: And that was simply because
44 the eggs weren't there in Makhnati?

45
46 MR. MILLER: Correct. And I guess I'd at
47 least defer back to the field trip that some of the Staff
48 made to Sitka and looked at the Makhnati waters in April
49 of this year and you could probably see why there wasn't
50 much harvest. It's not to say there wasn't effort there

1 because clearly we did see at least one tree that was
2 washed up on the beach with no eggs on it there.

3

4 And, you know, keep in mind like when we
5 say we don't harvest from there, it doesn't mean that we
6 don't go there looking because I definitely put my time
7 in going to Whiting Harbor this year to check and see if
8 was going to be all right, but it didn't turn out that
9 way. So, you know, it's kind of par for the course.
10 There's often times a lot more effort -- you spend a lot
11 more time looking at it than you do actually harvesting
12 from it.

13

14 MR. OVIATT: Thank you, Mr. Miller.

15

16 CHAIRMAN FLEAGLE: All right, thanks,
17 Mike. Other questions directed to the State's
18 presentation.

19

20 (No comments)

21

22 CHAIRMAN FLEAGLE: Are we ready then to
23 hear the InterAgency Staff Committee's comments.

24

25 (Board nods affirmatively)

26

27 CHAIRMAN FLEAGLE: Steve.

28

29 MR. KLEIN: Thank you, Mr. Chair. Staff
30 Committee found this a tough issue to deal with. And
31 it's a very valuable resource to both subsistence and
32 commercial users. There's differing views on how the MOA
33 is or is not working. In the analysis we covered
34 spawning areas, and they're highly variable and they
35 could vary basically by order of magnitude. And then the
36 proposal, really, it's not a perfect fix, as has been
37 pointed out.

38

39 So the Staff Committee, when we discussed
40 this and we spent quite a bit of time on it, we could not
41 come to a consensus recommendation and what we have for
42 you this morning is a majority recommendation and a
43 minority recommendation and I'll try to present both of
44 those. Once I conclude I would ask my fellow Staff
45 Committee members if they wish to add to it because we
46 did spend quite a bit of time deliberating on our
47 recommendation.

48

49 The majority recommendation was to oppose
50 Proposal 07-18, which is contrary to the recommendation

1 of the Southeast Alaska Council. The majority believes
2 that there is not substantial evidence justifying closing
3 the Federal public waters in the Makhnati Island area to
4 commercial herring harvest.

5
6 The majority felt that the Council's
7 recommendation is not supported by substantial evidence
8 and closing the area could actually be detrimental to
9 meeting subsistence needs. And although herring were
10 historically more abundant, the data presented in the
11 analysis indicated that in between 1978 and 2005, the
12 average combined total of catch and escapement in the
13 Sitka area has actually increased, and this coupled with
14 ADF&G's conservative management strategy, which Mr.
15 Hilsinger covered in detail, it limits the harvest of 20
16 percent of total biomass and with that strategy the
17 majority of the Staff Committee did not believe it
18 supports a conservation concern. And even if there were
19 a conservation concern the area proposed for closure is
20 so small that it's unlikely to provide conservation
21 benefits especially given the variable nature of herring
22 spawning locations.

23
24 The majority also believes that there's
25 not substantial evidence provided indicating the need to
26 close the area to continue subsistence uses of the
27 population. Closing this small area of Federal public
28 waters would have little impact as the main areas of
29 herring spawn, including those which the community is
30 most dependent on, tend to be to the north of the
31 Makhnati area, leaving the area open to commercial
32 harvest would not preclude subsistence uses in the area.

33
34 And the MOA to work together, the MOA
35 between the ADF&G and the Sitka Tribe is an effort to
36 work together to determine where the least impact on
37 subsistence harvest will occur.

38
39 Recently the Forest Service has been
40 working with ADF&G and the Sitka Tribe of Alaska to
41 ensure that there's opportunities for subsistence use.
42 If there is substantial evidence at the area around
43 Makhnati Island needs to be closed to continue
44 subsistence uses the in-season manager has the authority
45 to close the area to non-subsistence uses. And I did
46 check on how soon that authority could be exercised and
47 it can be just as responsive as the State's delegated EO
48 authority. So it can be immediate and the documentation
49 in the Federal Register could follow later. So that
50 authority can be implemented in a timely manner.

1 It's premature to close the area to non-
2 subsistence uses and more time needs to be given to
3 ADF&G, the Sitka Tribe of Alaska and the Forest Service
4 to work cooperatively on a management system that can
5 satisfy all users.

6
7 So in summary the majority believes
8 closing the area around Makhnati Island would accomplish
9 very little. There's not substantial evidence to warrant
10 this action. The key in executing the herring fishery is
11 for ADF&G to work closely with the Sitka Tribe and the
12 Federal in-season manager to ensure reasonable
13 opportunity to harvest herring spawn.

14
15 Again, that was not a consensus
16 recommendation. There's a minority recommendation that
17 supports the proposal, consistent with the Southeast
18 Alaska Council.

19
20 Under ANILCA, Section .815 closure of
21 Federal waters can be implemented for conservation
22 purposes or to continue subsistence uses. In terms of
23 conservation purposes the minority believes there's
24 substantial evidence to demonstrate that the marine
25 waters around Makhnati Island are used by Sitka Sound
26 herring for spawning and conservation of the spawning
27 habitat and minimizing disturbance in pre-spawning
28 holding areas would be beneficial measures to subsistence
29 users. Closure would eliminate the disturbance from
30 commercial harvest activities on fish that would be
31 laying their eggs in that area. And that would be
32 analogous to closures of upper river tributaries to
33 protect spawning fish.

34
35 The minority also believes the closure to
36 non-subsistence uses is warranted under ANILCA Section
37 .815 to ensure that subsistence opportunities can
38 continue. Makhnati Island waters are used as a roe
39 harvesting location for a number of users and although
40 large scale subsistence harvesters often go to locations
41 further north, the Makhnati Island site is, in fact,
42 preferred by a large number of rural users due to its
43 proximity, accessibility and relative protection from
44 inclement conditions. A closure of this area to non-
45 subsistence uses would eliminate localized disturbance on
46 pre-spawning fish by commercial fishers and allow herring
47 to deposit their eggs for subsequent gathering by rural
48 users.

49
50 The minority also believes there's

1 insufficient evidence to deny the Council's
2 recommendation based on ANILCA Section .805c. The
3 Council recommendation would not be detrimental to
4 meeting subsistence needs but would, instead, serve to
5 ensure that egg deposition and subsequent roe harvesting
6 would occur undisturbed in the Makhnati Island area.
7 Users have not been able to meet their needs in two out
8 of the six years where harvest information is available,
9 and, although this may be partly attributable to the
10 movement of fish to areas beyond the reach of harvesters,
11 evidence suggests that such variations in annual
12 distribution patterns and the subsequent lack of fish
13 within more localized waters may, in fact, be due to
14 substantial historical declines in Sitka Sound herring
15 stocks.

16
17 And this was also supported by testimony
18 provided at the fall Council meeting as well as testimony
19 provided here yesterday and today documenting that prior
20 to the onset of commercial fishing herring spawn was
21 abundant and widely distributed and even shore base
22 gatherers had no difficulty in obtaining their roe
23 through numerous areas in the Sound.

24
25 The Council recommendation would also not
26 violate recognized principles of fish and wildlife
27 conservations, as it would instead provide for a
28 protected area in which herring could spawn undisturbed.

29
30 It's also supported by substantial
31 evidence provided by public testimony at the Council
32 meeting and at the Board meeting that documented
33 historical declines in herring populations as well as the
34 harvest of roe and the selection of spawning habitat
35 within these specific Federal waters.

36
37 The minority, as well as the Council, and
38 some of the public testimony take issue with the MOA and
39 the actual application of the MOA on the grounds and that
40 it's not sufficiently effective in providing for
41 subsistence needs.

42
43 So that concludes the minority
44 recommendation.

45
46 And that was the majority/minority
47 recommendation on 07-18. And similar to the Council the
48 Staff Committee did reach consensus on 07-19 to take no
49 action consistent with the Southeast Alaska Council.
50

1 Mr. Chair.
2
3 CHAIRMAN FLEAGLE: Thank you, Steve.
4 Questions. Judy.
5
6 MS. GOTTLIEB: Mr. Chair. I guess just a
7 comment to the Staff Committee, on Page 197 on the
8 summary for the majority, I mean to me I believe we end
9 up saying the answer is let the MOA work and in the MOA
10 it says, ensure reasonable opportunity to harvest herring
11 spawn, but that's not how we manage and these are Federal
12 waters. So I'm troubled by endorsing a different
13 standard from the one that our Federal mandates require
14 of us.
15
16 CHAIRMAN FLEAGLE: Steve.
17
18 MR. KLEIN: I missed where your comment
19 was, in terms of the MOA?
20
21 MS. GOTTLIEB: Page 197, very last
22 sentence of the majority recommendation.
23
24 MR. KLEIN: Um.
25
26 CHAIRMAN FLEAGLE: Questions.
27
28 MS. GOTTLIEB: Mr. Chair.
29
30 CHAIRMAN FLEAGLE: Judy, go ahead.
31
32 MS. GOTTLIEB: Thank you. Just different
33 general question, maybe for Bob or possibly Bill Knauer.
34 The C&T that we decided yesterday, does that have -- I'm
35 assuming herring eggs are part of what we called all
36 fish, and did anything we did yesterday change any
37 eligibility for subsistence users in the Makhnati area?
38
39 DR. SCHROEDER: Through the Chair. Judy,
40 no, this C&T determination specifically did not affect
41 the existing C&T's for this area, so there's no change
42 there.
43
44 CHAIRMAN FLEAGLE: Okay, thanks. Now,
45 open for Board discussion on the proposal. Board
46 members.
47
48 (No comments)
49
50 CHAIRMAN FLEAGLE: Well, in a rare case

1 of the Chair leading out the discussion I think I'm going
2 to go ahead and start. I'm very sympathetic, of course,
3 to the issues raised by the Sitka Tribe and the Southeast
4 Alaska Regional Advisory Council in not being able to
5 harvest the quantities of herring roe that they need. I
6 do hear that loud and clear. And I think that anything
7 that we could do to help ensure that harvest is available
8 for them we should do, but I don't think that closing the
9 small area that's being referred to as the Makhnati
10 Federal waters is the avenue for doing that.

11
12 I've heard, I think, ample testimony and
13 brought out through questioning that the bulk of the
14 harvest that occurs in that area occurs outside of what
15 would be closed. And to me the closure would simply be
16 academic, it would be a statement that, you know, we
17 recognize this is a very important place for the harvest
18 and so we're going to take an action just to show that we
19 recognize the importance of this location for the herring
20 roe harvest but we're going to institute a closure that's
21 going to accomplish essentially nothing. And I'm not
22 sure that's the right thing to do, well, in fact I don't
23 think that's the right thing to do.

24
25 If the purpose is to get the Federal
26 Subsistence Board to recognize the importance of the
27 herring roe fisheries in this area and to get us involved
28 in the discussions between the State and the Federal
29 manager and the Sitka Tribe then I'm more than willing to
30 buy into that, you know, to be a part of that process on
31 behalf of the Board or, you know, somebody from -- on
32 behalf of the Federal Board, but to institute a closure
33 that would not, in my mind, accomplish anything to
34 protect that resource, I just -- I don't see the point
35 there.

36
37 I'll just throw that out as a starting
38 place for discussion.

39
40 Other Board members. George.

41
42 MR. OVIATT: Yeah, I think -- I actually
43 think this is maybe a work in progress, trying to figure
44 out how they even manage or put some criteria forth for
45 which an in-season manager could sift through this
46 regardless of what our action would be.

47
48 You know, I'm concerned about how we'd go
49 about deciding to close the area in-season if we adopt
50 the RAC recommendation. I'm concerned about the in-

1 season manager, how the in-season manager would decide to
2 open the area if the Council recommendation were adopted.
3 And I just, you know, I think there's room for some work
4 here to figure out how we manage this before we move
5 forward with looking at closures. The only way I can see
6 through this is to ask a small group, and I think that's
7 been recommended by Dr. Schroeder to come together to
8 work on this criteria.

9

10 And because of that I think that perhaps
11 we should defer this action on this proposal until this
12 working group meets and develops some criteria and maybe
13 even the opportunity to work on communications -- better
14 communications or even the MOU between the Sitka Tribe
15 and the State, there may be an opportunity for them to
16 better that communication. I would envision that if we
17 develop this or if we put this motion in front of us and
18 it's adopted, I'd envision this to take no longer than
19 one year.

20

21 And I want to let the other members here
22 to have a chance to talk, but I am willing to put forth a
23 motion to defer this action and put this working group
24 together.

25

26 CHAIRMAN FLEAGLE: Okay, George, I
27 understand that that's just a declaration of intent,
28 you're not placing the motion on the table now.

29

30 MR. OVIATT: That is correct. I want to
31 give the other members a chance to speak.

32

33 CHAIRMAN FLEAGLE: You bet. And
34 naturally Council Chairs and State are welcome to
35 participate in the discussion. Other comments.

36

37 Denny.

38

39 MR. BSCHOR: Yeah, Mr. Chair, I share
40 your comments and concern about the situation. What I've
41 learned this last couple of days discussing this issue
42 has been significant, and I guess to sum it up we have a
43 very complex fisheries here, we have a complex situation
44 relative to the subsistence side, we have a fisheries
45 that moves around, we have a fisheries that you can't
46 predict very well. Whatever is done needs to be flexible
47 it seems to me.

48

49 Also whatever is done is going to require
50 continued cooperation and coordination. And so I'm just

1 concerned that whatever the Board does, that we do in a
2 way that advances that rather than gets in the way of
3 that cooperation and coordination.

4
5 We have heard that at present there's a
6 long-term and short-term problem. And I'm more concerned
7 about the long-term problem and fixing that and helping
8 to fix that, being a positive influence as a Board on
9 that. It seems like what I've heard from the State and
10 from others experts in this fishery that, you know, there
11 was a crash at one time and we're recovering and we're
12 still recovering. The 2005 season is a concern, but is
13 it a trend, I don't think it is at this point in time and
14 I think a little time working together making sure that
15 that isn't just a once in 10 year situation or maybe, you
16 know, in another year we may have the same thing, I want
17 the opportunity to be able to revisit this, and to be
18 able to work together in a cooperative way.

19
20 I'm very concerned that closure would
21 result in just setting up some sides again. And you said
22 it very well, Mr. Chair, it's more of just a stake in the
23 ground basically to try to get this thing moving forward,
24 and I would hope that we don't need to do a closure for
25 that reason.

26
27 So give the MOA a chance to work. Ensure
28 that the Board is part of this process, that we have our
29 employees engaged. These are BLM waters, I want to
30 remind Mr. Oviatt of that, but the Forest Service is here
31 to help.

32
33 CHAIRMAN FLEAGLE: Niles.

34
35 MR. CESAR: I'm relatively silent because
36 my cold is so bad that Judy is complaining down next to
37 me.

38
39 I'm probably the one on the Board who has
40 been involved in that fishery, you know, at least subsist
41 on the subsistence side, probably 15 times over the last
42 30 years and, you know, have benefited greatly from
43 friends and family who have sent us herring eggs when
44 we're not able to go in and do our own, and I know that
45 some of the herring eggs that we've been able to get have
46 gone from Fort Yukon to Bethel to almost anywhere in this
47 state. That many subsistence people who went to school
48 in Mt. Edgecumbe or Sheldon Jackson or Wrangell or just
49 married into those families, you know, has a great
50 affinity for herring roe and we look forward every year

1 in March to the beginning of spring, you know, when the
2 herring do spawn and it's always a lot of fun. And some
3 of us spend money to have them shipped to us.

4
5 So I'm very interested in keeping that
6 ability alive and making sure that we do all that we can
7 to ensure that in years hence folks will have that
8 reasonable opportunity presented to them.

9
10 I can remember growing up in Juneau and
11 in the early years, in the '40s and '50s we had a herring
12 spawn in Juneau, it was never as significant, obviously,
13 as it is in Sitka, but we no longer have a spawn of any
14 real note anymore in Juneau and we also had a bait
15 fishery, pond, that was tended out in Auke Bay. All of
16 those things are gone and if you look down the coast, you
17 know, herring have been known, for whatever reason, to
18 crash down south in Prince of Wales and have virtually
19 not really recovered ever since. Now, my family has been
20 involved in the fishery troll salmon and halibut and
21 black cod fishery for 50 years and although I don't do
22 it, you know, my dad and my brothers told me that I was
23 never smart enough to work in that field and so I went to
24 college and became even dumber, so I know that herring
25 are central to commercial fishing, I mean we need good
26 herring stock so that, you know, the salmon fishermen,
27 halibut fishermen, that's all integrated and one is very
28 dependent on each other.

29
30 I hear, you know, the need for sac roe
31 fishery on the commercial side and I think that's good,
32 that's fine, you know, within limits, but I've never seen
33 a situation yet in Alaska that commercial fishermen
34 haven't taken everything that they could and eventually
35 it has harmed the subsistence activities. That's my
36 belief. I think you look back and talk to people who
37 have been here many, many years and they'll tell you that
38 there's a clash, it's kind of a one doesn't necessarily
39 compliment each other.

40
41 Having said that I do know, you know,
42 some of the skippers in sac roe fishery, I've known them
43 for a number of years, and they're good men and they're
44 trying to make a living and I think we want to assist
45 that but I'm not fooled by, you know, statements about
46 how everybody's a -- these sac roe fishermen are all
47 Alaskans and they all live in Southeast and, you know,
48 I've just been around too long to buy off on that.

49
50 But I'm concerned that we shut something

1 down what does that trigger. To me, you know, shutting
2 down a section, Makhnati is not the answer, I mean it
3 doesn't seem that we would accomplish that much by
4 shutting down that portion because I think that has
5 ripple effects or ramifications for the rest of the
6 subsistence fishery that we don't really understand at
7 this point at this table. So I am more inclined to buy
8 off on the notion that it has been raised, this is the
9 first time in the 15 year period that I've sat on this
10 Board that, you know, it's gotten the level of attention
11 it has today, I think we put ourselves on notice as well
12 as the State as well as the tribe, that we really need to
13 get together in a smaller focus group to come up with
14 reasonable approaches to -- in response to whatever level
15 of activity goes on down there in Sitka Sound.

16

17 So I agree with Mike and with Denny and
18 with George that we really -- we don't want to -- I don't
19 want to vote for something that's going to impact other
20 uses unless I fully understand it. So I will probably
21 oppose this.

22

23 Thank you.

24

25 CHAIRMAN FLEAGLE: Thank you.

26

27 MS. GOTTLIEB: Mr. Chair.

28

29 MS. GOTTLIEB: Thanks. Well, certainly
30 we have many different issues swirling around here and
31 everybody's made some really good comments. I'm very
32 uncomfortable with the concept of this Board, if we're
33 only saying let the MOA work. We're not a party to this
34 MOA. We have a Federal in-season manager. If the
35 Federal in-season manager needs a work group or some
36 assistance on criteria of when and how to do a closure,
37 we definitely need to support him in doing that.
38 Obviously there's many criteria that already exist
39 through Fish and Game but to different standards. We
40 need to really be mindful, I believe, and careful that
41 our decisions are consistent with our Federal mandates.

42

43 Some have said a closure may not
44 accomplish anything, some are worried about ripple
45 effects of a closure. I think we have heard of the
46 importance of this area as being for many people in Sitka
47 the only area that they go and make an effort. And a
48 reminder, we're not looking so much at need or at
49 harvest, we're more about the continuation of the
50 opportunity for subsistence uses by rural Alaskans -- by

1 rural residents of Alaska, and as ANILCA says, how
2 essential that opportunity is, to do our job, we have to
3 protect and provide that opportunity for continued
4 subsistence uses on Federal public lands. Makhnati is
5 the only Federal public lands we're talking about here.
6 There's a larger area from which people can and do
7 harvest herring, herring roe based on where they are.

8
9 I think we've also heard that Sitka Tribe
10 has tried to work with the Board of Fisheries and really
11 hasn't had much success if they have to seemingly wait to
12 '08 or '09 for their request to be heard and so maybe we
13 could ask our liaison to work with the Board of Fisheries
14 to help address that a little bit more quickly, too.

15
16 So I think we can help the in-season
17 manager, we need either to be part of the MOA or to start
18 doing our job separately, yet in coordination with the
19 State on this really important issue.

20
21 Thank you.

22
23 CHAIRMAN FLEAGLE: Thank you, Judy.
24 Other Board members. Jerry.

25
26 MR. BERG: Thank you, Mr. Chair. Well, I
27 think we all realize that this is one of the most
28 important subsistence fisheries that's shared with people
29 all over the state.

30
31 I really, as I said yesterday, appreciate
32 the Sitka Tribe stepping up and taking an active role in
33 this fishery, and I think that really serves the public
34 in the best interest to get more people involved. And
35 the State has said that they heard that loud and clear,
36 they were surprised and it sounds like they've already
37 had some discussions, but I think we can always improve
38 in management and hopefully by getting a group together,
39 the people that are intimately involved, maybe we can
40 work out some of these differences and come up with some
41 improved approaches.

42
43 I don't think there's a conservation
44 concern, specifically with just the Federal waters,
45 especially when we have a commercial fishery with, you
46 know, thousands of tons of fish being harvested. I
47 realize that, you know, there's been a couple of years
48 where subsistence needs weren't totally met but that's
49 for that whole area, it's not just for the Makhnati area,
50 so it is hard to see how there's going to be a direct

1 benefit and if that's really -- and even the testifiers
2 have said that's not going to solve the problem. So I do
3 think getting people to sit down and work together and
4 start talking about some of these details is the best way
5 to go at this point.

6

7 Mr. Chair.

8

9 CHAIRMAN FLEAGLE: Thank you, Jerry.

10 Other comments.

11

12 MS. GOTTLIEB: Mr. Chair.

13

14 CHAIRMAN FLEAGLE: Judy.

15

16 MS. GOTTLIEB: I guess one additional
17 criteria that we do also have in ANILCA, does regard
18 closures as they affect safety. And so if the herring
19 spawn in this Federal area, and if that's the only safe
20 place for people to go, I think that's some really strong
21 criteria for the in-season manager to be looking at in
22 terms of closures.

23

24 CHAIRMAN FLEAGLE: Thank you. Mr.

25 Oviatt.

26

27 MR. OVIATT: Well, hearing discussion I'm
28 still going to go through with my motion.

29

30 I put a motion on the table to move to
31 defer this proposal to a point in time after the working
32 of the local interests, concerns to develop criteria that
33 would be used for both under the current situation or
34 opening -- closing under the current situation or opening
35 if we adopt the RAC's recommendation. So I am saying
36 that we defer this until such time as the working group
37 -- hearing a second, I could recommend who that working
38 group -- members of that working group -- or recommend
39 who I think members of that working group would be.

40

41 I want to make this clear that management
42 of the commercial fisheries is the State's obligation and
43 we need to be very careful how we would engage in those
44 conversations, but I do believe this working group would
45 be an opportunity for those people who are concerned with
46 this, including the in-season manager to look at that
47 working relationship.

48

49 Thank you, Mr. Chairman.

50

1 CHAIRMAN FLEAGLE: Okay, before I hear a
2 second, George, you had indicated you were going to put a
3 time limit on this as well that you didn't state in the
4 motion, do you want to add that?

5
6 MR. OVIATT: I do, and thank you, Mr.
7 Chairman. I would anticipate this being done within the
8 year and be back in front of us, if, in fact, the working
9 group has not solved this situation, be back in front of
10 us at this time next year.

11
12 CHAIRMAN FLEAGLE: Is there a second.

13
14 MR. BSCHOR: I'll second that.

15
16 CHAIRMAN FLEAGLE: Okay, we got a second.
17 I think you've laid out pretty well what your intent
18 there, I don't need to ask you to further bolster your
19 position. Board members, discussion on the motion to
20 defer up to one year to give a working group a chance to
21 take a crack at this issue.

22
23 Discussion. Denny, and then Bert.

24
25 MR. BSCHOR: Yes, Mr. Chair, one year
26 seems awfully quick, but on the other hand that's
27 probably good, and I don't want -- I wouldn't want this
28 to drag on for many years before it comes back before us
29 because I'm very concerned about this situation.

30
31 Thank you, Mr. Chair.

32
33 CHAIRMAN FLEAGLE: Thank you. Bert.

34
35 MR. ADAMS: Thank you, Mr. Chairman. I'm
36 going to have to, you know, stick with the SERAC's
37 position here, and, however, you know, if the second
38 option is to come off as George had moved for I think
39 that would be still an opportunity to keep that open on
40 the table until that working group begins to look at the
41 situation there.

42
43 You know, I've always bragged to people
44 when I talk with them about their subsistence concerns,
45 and that if they want to change any regulations in
46 regards to subsistence that they can go through a
47 process, an individual can start a proposal and then, you
48 know, submit it to the OSM and, you know, then it goes
49 through the process, comes down to the RACs and the RACs,
50 you know, I have to say, really -- I know our RAC, you

1 know, seriously considers all of these proposals, and
2 when we recommend, you know, a position on it, you know,
3 you can tell through the discussions that have gone
4 through yesterday and today that we have seriously
5 considered every aspect of the issues that were before
6 us, and we considered, you know, the evidence.

7
8 There is some opinion from the majority
9 that there is not substantial evidence but I think, you
10 know, when you consider the fact that the Sitka Tribes
11 had a committee that put together, you know, some very
12 good information that's documented for us to come forth
13 with this particular proposal, you know, that's a
14 tremendous amount of work. And we put our reputation
15 behind that. And we don't see any violation of any
16 conservation concerns, you know, and it would, indeed,
17 improve the situation for subsistence users, and those
18 are some of the criteria, you know, that is always
19 mentioned when we consider proposals. And I really feel,
20 you know, that the RAC did its job here.

21
22 And so, you know, with that I am saying
23 that we are going to stay firm with our recommendation
24 here. But the second best thing to do would be, of
25 course, you know, defer it and I think we can live with
26 that and that would give, you know, the working group,
27 you know, plenty of time to seriously look at the issues
28 down there and, you know, I don't -- like was it Denny or
29 Jerry who said, a year probably isn't enough but at
30 least, you know, we got a starting point here where we
31 can put things put on the table and seriously start
32 working on these things that concern us about this
33 particular issue.

34
35 I also, you know, feel strongly that we
36 need to get as many people involved in that working group
37 as possible, you know, people like Mike, you know, who is
38 very well versed with the situation in Sitka; I think you
39 need somebody from the SERAC Council; right off the top
40 of my head, you know, Harvey Kitka comes to mind, and
41 whomever else, you know, that needs to be a part of that
42 working group, I think, you know, will be sufficient, you
43 know, to help us look at this issue seriously and hope
44 resolve it.

45
46 I'm rambling on here, Mr. Chairman, so I
47 think I better shut up now, thank you.

48
49 CHAIRMAN FLEAGLE: Thank you, Bert.
50 Judy, and then Niles.

1 MS. GOTTLIEB: Thank you, Mr. Chair. I
2 think, as we've done in the past, I think it's really
3 important that the Board set timeframe, direction,
4 guidelines for this work group, give ourselves a deadline
5 by which we would do that and then maybe at our regular
6 working -- our work sessions, get updates as to how this
7 group is doing so that we will be fully aware of its
8 progress and be ready for discussion again next year. So
9 I'd like to see us set a pretty tight timeframe for
10 getting the group set up if we pass this.

11
12 CHAIRMAN FLEAGLE: Okay, thanks, we'll
13 take that up immediately after the vote, a brief
14 discussion on that. Niles.

15
16 MR. CESAR: Thank you, Mr. Chairman. I
17 appreciate Judy mentioning that because as we know there
18 has been a tendency at times on this Board to delay and
19 if you look on the Kenai, maybe, you could see the
20 benefit of that, or delay over seven years, whatever, and
21 we don't want this to lapse into one of those things.

22
23 I initially was prepared to vote for the
24 minority opinion, you know, because we've got to make a
25 step here, we've got to make some progress here, and by
26 deferring this is not my favorite option because a
27 deferral is just that, it's an option to defer -- we as
28 bureaucrats, to step back and we'll see if it cures
29 itself or we'll see, you know, other things may happen, I
30 don't know, get a new president, I mean there's all these
31 things that circle out there in bureaucrat land. So I
32 just want to make sure that it moves ahead.

33
34 You know, I think the elements of the
35 minority opinion are right on, it's just that, you know,
36 I -- there's a million ways to skin a cat and I think
37 first let's feed that cat some food and get him a little
38 plump before we go to the next step and actually skin
39 him.

40
41 Thank you.

42
43 CHAIRMAN FLEAGLE: Bert Adams.

44
45 MR. ADAMS: Thank you, Mr. Chairman. You
46 know, I listened to both the majority and the minority,
47 you know, positions and I thought that the minority was a
48 lot stronger than the majority, of course, you know, that
49 was in favor of us. But in reality I thought that was a
50 lot stronger.

1 I failed to mention in my last comment
2 about my pride in helping people understand, you know,
3 the process for submitting proposals and how it goes
4 through the process, and I've always bragged on the fact
5 that, you know, when a Regional Council, you know, puts
6 their name and reputation behind a proposal there's a
7 pretty good chance that the Board is going to accept that
8 proposal. And, you know, like I said earlier, a
9 tremendous amount of work was put into this study and
10 that's the reason why we have supported it, and i just
11 wanted to emphasize that and, you know, thank the Board
12 for your consideration.

13

14 CHAIRMAN FLEAGLE: Thank you, Bert,
15 appreciate that. Are we ready for the question on the
16 motion for deferral.

17

18 MR. CESAR: Question.

19

20 CHAIRMAN FLEAGLE: Hang on, I got one
21 more comment. Denny.

22

23 MR. BSCHOR: No, I was just curious if we
24 adopt this, where the State would be on this, whether
25 they're interested in working with us on this?

26

27 CHAIRMAN FLEAGLE: Sarah.

28

29 MS. GILBERTSON: Thanks, Mr. Chairman.
30 Well, I guess at first blush since we opposed this
31 closure, we're happy. But having said that, I mean by
32 deferring it, the question of whether or not there will
33 be closures still exists. And so, you know, that
34 concerns me.

35

36 Having said that, you know, I think, you
37 know, George, you know, what you were alluding to earlier
38 the State does have some limitations that we're going to
39 have to work within. You know the Department of Fish and
40 Game does not set the amounts reasonably necessary for
41 subsistence, for example. And given that subsistence is
42 a priority under State law as well, you know, we do our
43 best to manage within what the Board of Fish sets for us.
44 And I know that we do manage the fishery very
45 conservatively and the direction that we get, the
46 allocation direction comes from the Board of Fish. So
47 recognizing all of those limitations, you know, I'll take
48 this back to the Department and to our managers and to
49 the Commissioner and see what we can do.

50

1 But I do know that, and the Board may not
2 be aware of this, but the Southeast RAC has had some
3 concerns regarding Chatham Strait fisheries and the
4 commercial interception of some fish there and we've been
5 doing, what I think is some good work with our partners
6 at the Forest Service with, you know, keeping the OSM and
7 ISC Staff apprised of what we're doing and we're having a
8 meeting on that issue coming up pretty soon where we've
9 done some good work with the Forest Service. We'll have
10 members of the public there to evaluate some of the work
11 that we've been doing as well as representatives from the
12 Southeast RAC and of the commercial fleet there. So to
13 participate in something similar to this is, you know,
14 we're doing it in other venues on other issues.

15
16 So having said that, you know, I -- and I
17 get a thumb's up from George on that, so we are
18 cooperating and I'll take that back to our folks and try
19 to get an answer on that. But we do have limitations
20 that we're going to have to work within.

21
22 CHAIRMAN FLEAGLE: Bert.

23
24 MR. ADAMS: Just to follow up on Sarah's
25 comments, you know, I really think that the State needs
26 to be involved, in fact, I thought was -- you know, what
27 George -- I was hoping that George was going to address
28 that, you know, when he made his recommendations.

29
30 Just an example of how MOUs work. The
31 Yakutat Tlingit Tribe, when I was serving as president,
32 you know, and they still do have an MOU with the Forest
33 Service, they have an MOU with the State, they have an
34 MOU with the city and borough of Yakutat and it connects
35 everyone together. So that when any issues of concern,
36 you know, everyone, we come together and we start talking
37 and thinking and pondering and working on issues so that
38 we can all solve them together.

39
40 A real good example of that is we have
41 been really concerned about the goat in Nunatak Bench
42 right along the Hubbard Glacier there. The stocks have
43 been declining and, you know, it was due to some
44 overharvesting and, you know, they have never been able
45 to -- the stocks have never been able to rebuild itself,
46 you know, where it was comfortable to have hunting
47 seasons open for there. And so whenever the managers,
48 you know, felt that there needed to be an emergency
49 closure of some sort or some way to address it, they
50 always got all these three entities together, the tribe,

1 the Forest Service and the Fish and Game people and we
2 sat and talked and all agreed together, you know, what
3 needed to be done and then carried it forward from there.
4 And, you know, despite the fact that we do have issues of
5 disagreements here and there, the idea that people are
6 working together I think is the key factor here and, you
7 know, getting everyone involved in this working group I
8 think is going to be key and very, very important.

9

10 Thank you.

11

12 CHAIRMAN FLEAGLE: Thank you, Bert. I'd
13 like to just add a couple comments to that statement.

14

15 I agree. I think that we've spent a lot
16 of time in the last several years of trying to figure out
17 how we're different and trying to bolster our positions
18 in those differences and we end up at loggerheads and
19 we've seen some pretty nasty communication between the
20 State and the Federal system as this thing escalates.

21

22 And one of the things, I wouldn't say
23 it's a charge, but one of the statements that was made
24 when I was being considered to come onto this Board, is
25 to try to help change that to where we can be more
26 cooperative and with my history of the State system,
27 recognizing that they have a complete buy-in in
28 management of all of the fish and game in Alaska is just
29 -- really, in all the world, there's nothing better than
30 the State's management system, and for being a public
31 generated system, and I recognize that it doesn't satisfy
32 Federal law, hence our formation and being here and we
33 have a good system as well for meeting the needs of
34 ANILCA. That doesn't mean that the two systems are
35 exclusive. And I think that we're on the right track to
36 getting those, you know, the inclusive portions of our
37 systems back together. And I'm not standing here to take
38 any credit for that. I just think that I see that
39 starting to change and I think that this is a prime
40 opportunity for everybody to just come forward with as
41 much commitment as possible and say, all right, let's
42 throw aside all the differences and let's find what's
43 common and what's right and what's good and let's just do
44 it.

45

46 And I think if we do this on each
47 individual level of controversy -- obviously there's
48 places where we're not going to agree. Our systems have
49 complete divergence in some real key areas. We have to
50 recognize that but we're going to be able to agree in a

1 heck of a lot more than we disagree, I think, if we do
2 just like you say and that's to work together.

3

4 So I think I heard Sarah saying that she
5 was willing to be a part of this effort. Obviously, as
6 she stated, there are some limitations but, you know, we
7 have our limitations, too, and so I think that this is a
8 good start.

9

10 Just speaking back to the motion, I don't
11 even really see the need to have the proposal deferred to
12 initiate this discussion. My first inclination was to
13 vote against it, the deferral motion, but really I don't
14 see that it's real significant one way or the other,
15 whether we leave that motion, or I mean the proposal
16 hanging, as it were for another year as just a tool that
17 we can jump back into this if we need to. I realize that
18 by deferring it that's what we're doing and I guess I
19 don't see a real problem with that either, so I'll
20 support your motion, George.

21

22 Are we ready for the question.

23

24 Steve, would you please poll the Board on
25 the motion.

26

27 MR. KLEIN: We have a motion by BLM,
28 seconded by the Forest Service to defer this proposal
29 until such time as a working group can address the issues
30 raised by this proposal, not to exceed next year at this
31 time.

32

33 Mr. Chair.

34

35 CHAIRMAN FLEAGLE: Aye.

36

37 MR. KLEIN: Ms. Gottlieb.

38

39 MS. GOTTLIEB: Aye.

40

41 MR. KLEIN: Mr. Cesar.

42

43 MR. CESAR: Aye.

44

45 MR. KLEIN: Mr. Oviatt.

46

47 MR. OVIATT: Aye.

48

49 MR. KLEIN: Mr. Bschor.

50

1 MR. BSCHOR: Aye.
2
3 MR. KLEIN: Mr. Berg.
4
5 MR. BERG: Aye.
6
7 MR. KLEIN: Mr. Chair, the motion passes
8 six to zero.
9
10 CHAIRMAN FLEAGLE: Thank you. Brief
11 discussion on the composition of the group and timelines,
12 George, you want to lead off on that.
13
14 MR. OVIATT: Yeah, I can give you my
15 recommendations for who I feel should be a part of this
16 group.
17
18 I do believe that we have some other
19 items we need to work out, but it probably could be
20 worked out in maybe a working session, you know, is this
21 a Board sponsored group or is this a subcommittee under
22 the RAC, how would we consider those things. Those are
23 items, I think we can work out at a later date and maybe
24 even designate even a lead for this, whether it's the RAC
25 Chairman or who.
26
27 But I would recommend as a group here
28 would be the Sitka Tribal Association, the State ADF&G
29 and Sarah, I think it's key to our success at having you
30 guys at this table, BLM, Forest Service, Southeast RAC,
31 the city and borough of Sitka, if they desire, the
32 commercial fishing herring seines, if they desire, and
33 local advisory committee. That would be my group that I
34 would suggest.
35
36 That's all, Mr. Chairman.
37
38 CHAIRMAN FLEAGLE: Thank you. We have
39 obviously OSM Staff listening to that recommendation and
40 it's being written down, and I don't know that I want to
41 name a group either, but that's a good recommendation for
42 them to start on.
43
44 And then Judy you were concerned about
45 attaching some timelines to this, are you prepared to
46 make any comments on that now, or let's just see what OSM
47 can bring us back?
48
49 MS. GOTTLIEB: Well, I think if OSM in
50 cooperation with BLM, Forest Service develop a timeframe,

1 I think that's obviously a key for starters and that the
2 Board would require a report on the progress of this
3 group at each of our work sessions.

4

5 CHAIRMAN FLEAGLE: Okay, thank you. And
6 on behalf of Pete Probasco, Steve, are you comfortable
7 with that?

8

9 MR. KLEIN: Oh, very much so, yes.

10

11 CHAIRMAN FLEAGLE: Oh, good, he'll be
12 glad to hear you said that, I'm sure.

13

14 (Laughter)

15

16 CHAIRMAN FLEAGLE: Board, before we pick
17 up the next proposal, why don't we go ahead and break for
18 lunch and return at 1:00 o'clock. Thank you.

19

20 MR. KLEIN: I have one thing.

21

22 CHAIRMAN FLEAGLE: Steve, go ahead.

23

24 MR. KLEIN: I did have one announcement
25 before we adjourn. I guess the Frontier Building, the
26 power's gone out, so anybody that was considering going
27 back there probably won't want to do so until after 1:00
28 p.m., or later, when power might be restored.

29

30 Thank you, Mr. Chair.

31

32 CHAIRMAN FLEAGLE: Thank you.

33

34 (Off record)

35

36 (On record)

37

38 CHAIRMAN FLEAGLE: Good afternoon. I'd
39 like to welcome everybody back to the afternoon session
40 of Day 2, January 10th, 2007, Federal Subsistence Board
41 Fisheries Meeting. I'd like to welcome to the table,
42 Gary Edwards, who arrived back to town last night, and is
43 ready to begin tackling these issues before us.

44

45 Thank you, for.....

46

47 MR. EDWARDS: Mr. Chairman.

48

49 CHAIRMAN FLEAGLE:showing up --

50 Gary.

1 MR. EDWARDS: Mr. Chairman. Given the
2 great job that Jerry Berg did, I'm not sure I shouldn't
3 just let him continue on the rest of the day but he seems
4 willing to give it up, but.....

5
6 (Laughter)

7
8 CHAIRMAN FLEAGLE: He did do a great job,
9 appreciate the questions and the statements that he made,
10 he did a great job.

11
12 Now, somebody commented that it took us
13 all morning to work on one proposal that we started
14 yesterday afternoon, so I made a promise that we'd try to
15 get at least one more done before we close today.

16
17 (Laughter)

18
19 CHAIRMAN FLEAGLE: So with that I think
20 we'll go ahead and get started. Proposal 21 is next and
21 we turn to Robert for the analysis, Robert Larson.

22
23 MR. LARSON: Thank you, and good
24 afternoon Mr. Chairman. My name's Robert Larson and I
25 work for the U.S.D.A. Forest Service in Petersburg,
26 Alaska. If you'd turn to Page 231 in your Board book
27 you'll see executive summary of Proposal 21. The Staff
28 analysis begins on Page 235.

29
30 Proposal FP07-21 was submitted by the
31 Southeast Alaska Subsistence Advisory Council and it's
32 purpose is to remove the specific daily or seasonal
33 harvest limits for sockeye salmon that are presently
34 listed in our regulations. There is five sockeye systems
35 where we have subsistence harvest limits in regulation
36 right now. Those systems are noted on Map No. 1, which
37 is on Page 237 of your Board book. This does not include
38 harvest limits for the Stikine River. The Stikine River
39 is managed through the Pacific Fisheries Management
40 Council and that is not -- that's not the intent of this
41 proposal, to include the Stikine River.

42
43 The Southeast Council views this proposal
44 as a housekeeping measure. If adopted, we do not expect
45 any changes to harvest patterns or to harvest levels for
46 sockeyes in Southeast Alaska.

47
48 For your information this is the third
49 year where we've taken up sockeye harvest limits that
50 have been listed in regulation. In the 2005 Board

1 meeting, the Board adopted Proposal FP05-24 to better
2 align State and Federal harvest limits. That regulation,
3 it would be worthwhile to revisit.

4

5 It states that:

6

7 If a harvest limit is not otherwise
8 listed for sockeye in this section, the
9 harvest limit for sockeye salmon is the
10 same as provided for State subsistence or
11 personal use fisheries.

12

13 If a harvest limit is not established for
14 the State's subsistence or personal use
15 fisheries that possession limit is 10
16 sockeyes and the annual harvest limit is
17 20 sockeyes per household for that
18 stream.

19

20 During the 2006 meeting the Board adopted
21 FP06-25 and that removed the Federal daily harvest and
22 season limit for sockeyes in the Kutlaku, also known as
23 the Pillar Bay Stream system. The State does not specify
24 sockeye limits in their fishing regulations. The Fish
25 and Game managers set sockeye limits according to the
26 health of the resource and anticipated harvest levels and
27 they are revisited annually and they're listed only on
28 their subsistence or personal use fishing permits.

29

30 The existing Federal regulation is on the
31 bottom of Page 235. The proposed Federal regulation on
32 Page 236 strikes all reference to harvest limits that are
33 in our current regulations. As you can see, that leaves
34 only -- in that section that only leaves the section
35 where it says:

36

37 Only Federally-qualified subsistence
38 users may harvest sockeye salmon in
39 streams draining into Falls Lake, Gut
40 Lake or Bay of Pillars.

41

42 On your screen you'll see key points.
43 Key points of this proposal are also could be viewed as
44 benefits of -- under this proposal, the annual sockeye
45 harvest limits for each of these systems would be set
46 appropriate to the potential production of that
47 particular system. The current regulation having harvest
48 limits as a regulation is not flexible, does not provide
49 for any other mechanism for adjusting those seasons other
50 than an in-season harvest or a special action. This

1 proposal would allow harvest limits to change according
2 to abundance. It would align State and Federal harvest
3 limits. Decrease regulatory complexity.

4
5 This would also benefit subsistence users
6 by providing a single harvest limit that -- for each
7 system, that was without regard to areas of jurisdiction.
8 We've heard some discussion at this Board meeting and
9 previous Board meetings about where exactly does the
10 State jurisdiction end and the Federal jurisdiction end.
11 If the Board would pass this regulation, that concern
12 would not be germane to the issue anymore.

13
14 Thank you, that completes my
15 presentation.

16
17 CHAIRMAN FLEAGLE: Thank you, Robert.
18 Questions.

19
20 (No comments)

21
22 CHAIRMAN FLEAGLE: All right. And
23 summary of written public comments, I see we don't have
24 any, Robert.

25
26 DR. SCHROEDER: Mr. Chairman. No written
27 public comments.

28
29 CHAIRMAN FLEAGLE: Thank you, Bob. I
30 don't have any indication that there's anybody wanting to
31 testify on this issue from the public, no testimony cards
32 turned in.

33
34 Regional Advisory Council recommendation,
35 Bert.

36
37 MR. ADAMS: Thank you, Mr. Chairman. The
38 Southeast Regional Advisory Council supports this
39 proposal.

40
41 This is basically a housekeeping proposal
42 that would clarify regulations. No changes in harvest
43 levels are expected to take place if this proposal is
44 passed and no affect on other users is anticipated. So
45 the Staff analysis presents data justifying this change
46 in regulation. So clearer regulations would, of course,
47 benefit subsistence users.

48
49 Thank you, Mr. Chairman.
50

1 CHAIRMAN FLEAGLE: Thank you, Bert.
2 Questions.

3
4 (No comments)

5
6 CHAIRMAN FLEAGLE: Department of Fish and
7 Game comments.

8
9 MR. HILSINGER: Thank you, Mr. Hilsing --
10 thank you, Mr. Chairman.

11
12 (Laughter)

13
14 MR. HILSINGER: John Hilsinger for the
15 record, losing it here in the afternoon.

16
17 The ADF&G recommendation on this proposal
18 is to support it with the modification to delete Falls
19 Lake Bay and Gut Bay as long as they remain closed to
20 non-Federally qualified subsistence users. The State
21 believes that while it makes a lot of sense to bring the
22 State and Federal regulations into alignment by repealing
23 the Federal regulations, there is a problem in these two
24 lake systems where the State regulations are arguably
25 more liberal than the Federal regulations, and we find it
26 somewhat illogical to either increase the potential
27 harvest or allow the potential for that harvest to be
28 increased while these areas remain closed to non-
29 Federally qualified users, without first going through an
30 analysis that looks at the stock status and all the
31 information and demonstrates that keeping them closed is
32 necessary to provide for subsistence uses, that there's
33 substantial evidence supporting the closure and that the
34 closure is consistent with principles of sound management
35 and conservation.

36
37 At Falls Lake Bay the current Federal
38 harvest limit is 10 sockeye salmon in possession per
39 household. Under the State limit that's currently in
40 place on the permit, it would be 50 sockeye salmon in
41 possession and 50 sockeye salmon annually. So for a
42 person to travel to Falls Lake Bay to harvest they're
43 probably more likely to go there with a 50 sockeye salmon
44 possession limit than they are with a 10 sockeye salmon
45 possession limit where they would have to go five times
46 in order to collect 50 fish. So we would argue that that
47 is a more liberal harvest.

48
49 Gut Bay is more similar, the 10 sockeye
50 salmon in possession under the Federal regs and 10

1 sockeye salmon in possession or 20 annually under the
2 State regs probably would have about the same effect,
3 unless the State manager were to increase that limit in
4 the future.

5
6 Both of these areas also have closures by
7 date in order to reduce harvest rates.

8
9 It seems that these two areas were closed
10 for conservation reasons and we would like to see that
11 reevaluated and we think that that should happen fairly
12 often with fish populations because fish populations do
13 tend to change probably much more rapidly, say, than
14 wildlife populations. You can have bad runs for two or
15 three years and then you can have record runs right on
16 the back, and so we would like to see those closures
17 reviewed.

18
19 There's another small issue with this
20 proposal that, I have to apologize for not bringing up to
21 the InterAgency Staff Committee earlier, but I didn't
22 notice it until just a few days ago. And that's the
23 regulation cited in the analysis refer to a possession
24 limit but the regulations in the regulation book refer to
25 a daily harvest limit. And there is a difference, and
26 the reason of that difference is why I bring it up, I
27 guess. Under a possession limit, a person could,
28 theoretically, if they could process those fish, they
29 could take more than one possession limit in a day. When
30 you look at the definition of a possession limit they
31 just have to be processed in a manner that they would be
32 preserved for a certain amount of time, so I think in
33 this case it would be -- it should be a daily possession
34 limit, not just a possession limit that would allow
35 someone to go in with a processing capability and harvest
36 more.

37
38 So I guess in summary, while we agree
39 that aligning the State and Federal regulations is
40 desirable, especially through the process of deleting
41 Federal regulations, we do have that concern about Gut
42 Bay and Falls Bay and not deleting those regulations as
43 long as that closure stays in effect, because of the
44 possibility of a more liberalized harvest.

45
46 Thank you.

47
48 CHAIRMAN FLEAGLE: Thank you, John.
49 Questions.
50

1 Gary.

2

3 MR. EDWARDS: Yeah, I want to follow up
4 on your discussion on possession versus harvest. Because
5 it was my understanding that if you're fishing in an area
6 let's say and the daily harvest is two, then when you
7 reduce it, either you freeze it, salt it or whatever,
8 does that -- is that still possession or is that no
9 longer either one?

10

11 MR. HILSINGER: Mr. Chairman. If you
12 have a daily harvest limit of two, usually there's a
13 possession limit along with that. Once those fish are
14 preserved in a manner that you can keep, and I think if I
15 remember correctly, at least in the State regs, it's they
16 would have to be edible after 17 days or something,
17 there's a time period, then those fish are no longer in
18 your possession. But if you have a daily limit, you
19 still could not go back and harvest more than your daily
20 limit that day, so you would still have to wait until the
21 next day and if you had your fish in the freezer or you
22 canned them, they would no longer be in your possession,
23 so then your possession limit, you could start on a new
24 possession limit.

25

26 In this case the regs that are cited in
27 the analysis are different than the ones that are cited
28 in the handy dandy and I wasn't sure which actually were
29 the accurate correct regulations. And there is that
30 issue with possession, that once it's not in possession
31 you can go get more fish.

32

33 So, again, I apologize for bringing that
34 up so late, I wish I would have noticed it in time to
35 have this discussion at the InterAgency Staff Committee
36 but I just didn't.

37

38 MR. EDWARDS: Well, Mr. Chairman as a
39 follow up, it does seem to talk about both the harvest
40 limit and almost uses harvest limit and possession limit
41 interchangeable and what you're saying they're really not
42 interchangeable.

43

44 MR. HILSINGER: That's my opinion, yeah.

45

46 CHAIRMAN FLEAGLE: Other questions.

47

48 (No comments)

49

50 CHAIRMAN FLEAGLE: All right, thanks,

1 John.

2

3 InterAgency Staff Committee
4 recommendations, Steve Klein.

5

6 MR. KLEIN: Thank you, Mr. Chair. The
7 InterAgency Staff Committee recommendation supports the
8 Southeast Alaska Council recommendation with a slight
9 modification and this is described on Page 233 of your
10 books. The slight modification is to add, in adjacent,
11 in the first paragraph, so that it reads:

12

13 If a harvest limit is not otherwise
14 listed for sockeye in this section, the
15 harvest limit for sockeye salmon is the
16 same as provided for in adjacent State
17 subsistence or personal use fisheries.

18

19 And then continues:

20

21 If a harvest limit is not established for
22 the State subsistence or personal use
23 fisheries, the possession is 10 sockeye,
24 and annual harvest limit is 20 sockeye
25 per household for that stream.

26

27 And then the rest of the regulation is as
28 crafted by the Council.

29

30 Adopting this regulation would allow
31 Federal and State managers the ability to provide numbers
32 of sockeye salmon based on the anticipated harvestable
33 surplus and the health of the resource so we have added
34 flexibility. Subsistence users would benefit by having
35 an appropriate and matching harvest limit under either
36 Federal or State authority.

37

38 In terms of the additional language
39 added, the in adjacent, during our Staff Committee
40 discussions, the State did point out that adoption of the
41 Council's proposed language would result in unintended
42 consequences and systems closed to non-Federally
43 qualified users, because the State doesn't consider those
44 areas to have an established harvest limit under State
45 regs, the harvest limit would be the minimum stated in
46 Federal regulation, and this was not the intent of the
47 Council and as Mr. Hilsinger pointed out, the State regs,
48 at this time are actually more liberal than the Federal
49 regs for Falls Lake Bay and Gut Bay, the two systems with
50 closures.

1 So to fix this problem we added -- the
2 Staff Committee added the words, in adjacent, and I think
3 that that clears it up and cleans up the regulation but
4 doesn't make the Federal regulation more restrictive.

5
6 Mr. Chair.

7
8 CHAIRMAN FLEAGLE: Thank you, Steve. I
9 guess I don't quite follow that logic.

10
11 We have proposed changes submitted in the
12 State's comments that completely eliminates that section
13 concerning Falls Lake Bay, Gut Lake or Bay of Pillars,
14 and that's your intent, right, John, is that that
15 shouldn't be addressed in the regulation?

16
17 John Hilsinger.

18
19 MR. HILSINGER: Mr. Chairman. That's our
20 intent for that portion of it. This is a little bit
21 different issue, although it affects those two areas.
22 The Federal regulations say that if there is no Federal
23 regulation then whatever the State regulation for that
24 area is the governing regulation, so that part's fairly
25 clear.

26
27 Then the Federal regulation says that if
28 there is no State regulation for an area the default
29 harvest limits are 10 and 20.

30
31 So we had a discussion with our
32 Department of Law who said that if an area has been
33 closed to non-Federally qualified users, then the State
34 permit doesn't apply in that area and so in essence then
35 there is no State limit for that area and this would
36 solve that problem. And we discussed this at length
37 actually at the InterAgency Staff Committee and the State
38 agrees that the language that the InterAgency Staff
39 Committee came up with would solve the prob -- at least
40 would make it clear what limit applied.

41
42 CHAIRMAN FLEAGLE: Okay, great, thank
43 you. Questions.

44
45 (No comments)

46
47 CHAIRMAN FLEAGLE: Board discussion.

48
49 MR. BSCHOR: Mr. Chair.

50

1 CHAIRMAN FLEAGLE: Denny.
2
3 MR. BSCHOR: I'm still confused on the
4 possession limit versus daily harvest limit, is that what
5 you said?
6
7 MR. HILSINGER: (Nods affirmatively)
8
9 MR. BSCHOR: And since this is the first
10 we heard of it, we may need to caucus for a second to see
11 what that -- to try to determine what that really means,
12 if we could do that because that's the biggest concern I
13 have as far as what I've heard this morning -- or this
14 afternoon.
15
16 MR. EDWARDS: Maybe before we caucus.....
17
18 CHAIRMAN FLEAGLE: Comments, Gary.
19
20 MR. EDWARDS:can we maybe just ask
21 a couple questions, I mean because the way I read this
22 then if we say a possession limit is 10 then that means
23 the daily bag limit can't exceed 10; is that right? No?
24 Right. Because -- so you could go out and catch 10 fish,
25 that's the most you could catch in any one day but you
26 can't catch more than 20 in a year, right, so it seems to
27 me it really ought to read that the daily limit is 10 and
28 the annual harvest -- or the daily harvest is 10 and the
29 annual harvest is 20, why wouldn't that accomplish the
30 same thing as saying possession limit is 10 because that
31 would dictate at any one time how many fish that you can
32 catch, right?
33
34 CHAIRMAN FLEAGLE: Steve.
35
36 MR. KLEIN: Mr. Chair. If it was a daily
37 limit you could catch 10 fish one day and 10 the next day
38 and fill your 20. With a possession, you're right, you
39 wouldn't be able to exceed 10 unless they were preserved.
40 So if you traveled during the trip, the daily -- a daily
41 bag limit would better meet the needs of subsistence
42 users.
43
44 CHAIRMAN FLEAGLE: So just for me to
45 clarify this, if a person went out and fished and they
46 brought their propane stove and a canner and jarred the
47 fish as they caught them, they could catch more and keep
48 more than 10 fish in a day.
49
50 UNIDENTIFIED VOICE: Up to 10.

1 MR. EDWARDS: But you couldn't keep more
2 than 20.
3
4 CHAIRMAN FLEAGLE: You couldn't take more
5 than 20, right. And -- but the intent is to cap it at 10
6 per day period, right?
7
8 MR. EDWARDS: I mean I don't know.
9
10 CHAIRMAN FLEAGLE: Well, that's what
11 we're asking, I guess.
12
13 MR. EDWARDS: It would appear to be.....
14
15 CHAIRMAN FLEAGLE: Your microphone.
16
17 MR. EDWARDS: It would appear to be
18 because we seem to be using those two terms
19 interchangeable but.....
20
21 MR. PROBASCO: You've got Mr. Larson.
22
23 CHAIRMAN FLEAGLE: Robert Larson.
24
25 MR. LARSON: Mr. Chairman, I could
26 address this issue. This language was fairly carefully
27 crafted by the Board at this time to do exactly what it
28 says, is that, the possession limit would be 10 if there
29 was circumstances, and we heard some testimony regarding
30 distances for travel and other kinds of circumstances,
31 where the product was somehow processed at this remote
32 location, whether it is one day, two days, five days, the
33 total numbers of fish that could be taken from these
34 individual locations is 20.
35
36 So this wording of this regulation is
37 purposeful.
38
39 CHAIRMAN FLEAGLE: Okay, I think that's
40 all we wanted to hear.
41
42 Niles.
43
44 MR. CESAR: Yeah, I'm confused also. I
45 suppose, what -- you know, I'm familiar, of course, with
46 halibut fishing where you're daily bag limit is two, but
47 your possession limit may be four and that's to
48 accommodate those people who get these midnight charters
49 and they go out in the evening, catch two halibut and
50 rather than coming back to land, they will, after

1 midnight catch two more, and then come in in the morning.
2 So I think there is, you know, there is a difference,
3 obviously between daily harvest and possession. And I --
4 you know, so I don't think that the most that you could
5 have in possession is 10, I think the most you can have
6 in possession is 20 because the daily limit is 10 and the
7 possession limit is 20, which accommodates that time
8 there.

9
10 MR. EDWARDS: The harvest limit, because
11 as was said, if you were out on the river bank or
12 wherever you're catching these sockeyes and if you would
13 salt them, they're no longer in your possession, they're
14 now prepared and therefore you could catch another 10
15 once you got that salting process done. The same with
16 the halibut, if you froze those halibut, then the two you
17 caught that next morning and had them wrapped and
18 everything, let's say while you were on the boat and they
19 were frozen, those are no longer part of your possession
20 limit, then you could fish for two more days and catch
21 two each day. I believe that's correct.

22
23 CHAIRMAN FLEAGLE: It seems to be an
24 anomaly but according to Mr. Larson is the way.....

25
26 MR. CESAR: Well, it seems to me.....

27
28 CHAIRMAN FLEAGLE:it was intended
29 to be.

30
31 MR. CESAR:that the operative is
32 the time, not -- sockeye if you go out there in the
33 evening on the riverbank and catch three of them, they're
34 not going to deteriorate that bad over night if you were
35 to wake up at 2:00 in the morning and catch three more,
36 so the harvest, daily bag limit would be three, the
37 possession limit would be six. So, you know, I think the
38 reason that difference is there and, you know, I'm not
39 sure that we're accomplishing what we want to do by
40 saying what we're saying.

41
42 MR. PROBASCO: Mr. Chair. Mr. Cesar. I
43 think I agree with what you're saying. The one part
44 that's missing is that we have an annual limit of 20 and
45 this language was crafted for those individuals that are
46 able to process on shore and not have to travel back home
47 and still take their annual limit, if they process their
48 first limit at 10, they also then could pick up their
49 other 10.

50

1 MR. CESAR: I hear what you're saying.
2 But you don't have to process your initial 10 to get --
3 when the day passes and the next midnight clicks, you
4 could get another 10 and make your possession and get
5 your annual limit, so I don't think it -- again, it's not
6 -- in my mind it's not a matter of processing, it's a
7 matter of time. It's a time difference.

8
9 CHAIRMAN FLEAGLE: Right. You can do
10 that under these regulations, but you can also catch both
11 daily limits in one day if you process them and I think
12 that's.....

13
14 MR. CESAR: Yeah.

15
16 CHAIRMAN FLEAGLE:what the point
17 was -- the difference being made was.

18
19 I'm going to call on Judy and then John.
20 Judy.

21
22 MS. GOTTLIEB: I guess just a reminder,
23 and maybe this is clear to everybody. This is our
24 current regulation, the way it's phrased right now, so
25 we're not talking about anything different. Maybe our
26 current reg seems to be confusing but that's what's in
27 our book right now.

28
29 Thank you.

30
31 CHAIRMAN FLEAGLE: John.

32
33 MR. HILSINGER: Thank you, Mr. Chairman.
34 Yeah, and that was really the point, is that when you
35 look in the book at Falls Lake Bay and Gut Bay, it has a
36 10 fish daily limit. When you look on Page 232 in the
37 Staff analysis where it quotes the regulations it has a
38 possession limit of 10 sockeye with no annual limit, and
39 that's the problem. It's only at those two places where
40 that inconsistency exists. And so if you were to adopt
41 the proposal as written, you would strike that language
42 and the problem would go away. If you were to follow the
43 State's recommendation and not strike the language for
44 those two systems, I think you would want to clarify that
45 the limit is 10 per day, 20 per season or something like
46 that.

47
48 Thank you.

49
50 CHAIRMAN FLEAGLE: Okay, now, my version

1 of Page 232 does say possession limit is 10 sockeye and
2 annual harvest limit is 20 sockeye per household.

3

4 John.

5

6 MR. HILSINGER: Mr. Chairman. If you
7 look at the very last sentence in the regs on that page
8 that are struck out, it says in the Falls Lake Bay and
9 Gut Bay drainages the possession limit is 10 sockeye
10 salmon per household and doesn't have any -- the intent
11 was, at least according to what's in the handy dandy, is
12 that, that that was 10 per day, not 10 in possession, and
13 no annual limit. And I think if you chose to leave that
14 language in the regs you could clarify that.

15

16 CHAIRMAN FLEAGLE: All right. But as the
17 proposal is modified by the ISC that language is struck
18 so that issue wouldn't exist if this language was
19 adopted?

20

21 MR. HILSINGER: That's correct, Mr.
22 Chairman. But that would not be consistent with the
23 State's recommendation but it would be consistent with
24 the ISC and the RAC.

25

26 CHAIRMAN FLEAGLE: Five minute caucus.

27

28 (Laughter)

29

30 CHAIRMAN FLEAGLE: We're still not
31 totally clear.

32

33 Robert.

34

35 MR. LARSON: I'll speak to the subject
36 again. I was unclear what John was talking about but now
37 I understand. The regulation in the handy dandy that he
38 was looking at, which I wasn't looking at at the time is
39 in error. So the regulatory language in front of you on
40 either 232 or 235 is, in fact, correct. So I would
41 recommend that we not dwell on essentially a
42 typographical error that is in the regulation book, in
43 the handy dandy, and instead concentrate on the correct
44 regulation as written in the Staff analysis.

45

46 CHAIRMAN FLEAGLE: Okay. Board
47 discussion.

48

49 (No comments)

50

1 CHAIRMAN FLEAGLE: Ready for a motion.
2 Denny.

3
4 MR. BSCHOR: Well, since we got that
5 straightened out and fully understood. I really think
6 that the ability for Federal and State managers to
7 provide the number of sockeye salmon based on anticipated
8 harvestable surplus and the health of the resource would
9 be benefited by this. I think by the addition of the, in
10 adjacent, State subsistence areas, adds to the
11 clarification on that point. And that's probably enough
12 to -- I'm ready to propose a motion.

13
14 CHAIRMAN FLEAGLE: Go ahead, Denny.

15
16 MR. BSCHOR: Okay. Okay, I move to adopt
17 the Southeast Alaska Regional Advisory Committee's
18 proposal with the modified language to add, in adjacent,
19 in the appropriate places you see on Page 233, and I'll
20 give my -- if I get a second on that I will add my
21 rationale for that.

22
23 CHAIRMAN FLEAGLE: Do we have a second.

24
25 MR. CESAR: I'll second it.

26
27 CHAIRMAN FLEAGLE: Second by Niles.
28 Denny.

29
30 MR. BSCHOR: The rationale has been
31 talked about here but it allows Federal and State
32 managers to provide those number of sockeye, as I said.
33 Subsistence users would benefit by having appropriate and
34 matching harvest limit under the Federal and State
35 authority. And I think even with the discussion we had,
36 we'd have clearer regulations.

37
38 I don't necessarily agree with the State
39 that the language would result in unintended
40 consequences. I especially believe that with the words,
41 in adjacent, in my opinion, would basically pick up that
42 harvest limit from the nearby waters, I think that will
43 correct that.

44
45 The State's other concern about
46 liberalization of harvest and therefore the closures
47 should be removed from Falls Lake and Gut Bay, first, to
48 remove the closure it takes a proposal which is given
49 full consideration through the regulatory promulgation
50 process and these closures happened, I think years, maybe

1 even -- what year, 2000, or something like that, is that
2 correct?

3

4 MR. LARSON: Mr. Chairman. Through the
5 Chair, the originally regulations were passed during the
6 2001 meeting. The item was later reconsidered and the
7 request for reconsideration was deliberated at the 2002
8 Board meeting.

9

10 MR. BSCHOR: And then I don't expect that
11 there'll be any additional harvest since by far the
12 majority of the harvest is in State waters already.

13

14 And lastly, adopting this regulation
15 would allow Federal and State managers the ability to
16 provide those numbers based on anticipated harvestable
17 surplus and health of the resource.

18

19 So I intend to vote yes for my motion.

20

21 CHAIRMAN FLEAGLE: Other comments. Judy.

22

23 MS. GOTTLIEB: Mr. Chairman, thank you.
24 It does sound like this would be perhaps a more inclusive
25 and cooperative process between State and Federal and we
26 may look to its successes for maybe some ways to help
27 with herring in the Sitka area.

28

29 So I would support this proposal.

30

31 CHAIRMAN FLEAGLE: Sarah.

32

33 MS. GILBERTSON: Thanks, Mr. Chairman. I
34 guess, you know, it's a little bit frustrating to sit
35 here at times and, you know, we talked about Sitka for
36 almost a day and I guess gave a great level of attention
37 to their concerns, which I agree with, and I think
38 ultimately that the Board -- there was a great outcome to
39 that situation. But in this case the State is basically
40 saying that the Board is maintaining a closure in two of
41 these places and that you're then liberalizing the bag --
42 or the harvest limits for the people -- the select people
43 who can participate in those fisheries and that's a
44 frustrating situation.

45

46 And I just, you know, to reiterate what
47 John was saying, I just really hope that we could give
48 this matter some level of attention and review these
49 closures because it is unfair to other users to
50 liberalize these bag limits and still maintain a closure.

1 Thank you.
2
3 CHAIRMAN FLEAGLE: Okay, thank you for
4 those comments.
5
6 Other comments.
7
8 (No comments)
9
10 CHAIRMAN FLEAGLE: Are we ready for the
11 vote.
12
13 I guess so, question is recognized on
14 Proposal 21, Pete, please poll the Board.
15
16 MR. PROBASCO: Thank you, Mr. Chair.
17 Proposal FP07-21, the motion was to adopt the Southeast
18 Alaska Subsistence Regional Advisory Council's
19 recommendation with slight modifications as found on Page
20 233 of your booklet.
21
22 Ms. Gottlieb.
23
24 MS. GOTTLIEB: Aye.
25
26 MR. PROBASCO: Mr. Cesar.
27
28 MR. CESAR: Aye.
29
30 MR. PROBASCO: Mr. Oviatt.
31
32 MR. OVIATT: Aye.
33
34 MR. PROBASCO: Mr. Bschor.
35
36 MR. BSCHOR: Aye.
37
38 MR. PROBASCO: Mr. Edwards.
39
40 MR. EDWARDS: Aye.
41
42 MR. PROBASCO: And Mr. Fleagle.
43
44 CHAIRMAN FLEAGLE: Aye.
45
46 MR. PROBASCO: Thank you, Mr. Chair.
47 Motion carries six/zero.
48
49 CHAIRMAN FLEAGLE: Okay, thank you. With
50 that we move forward to Proposal 22. And leading off

1 with this proposal for analysis is Terry Suminski,
2 welcome.

3

4 MR. SUMINSKI: Thank you, Mr. Chairman
5 and members of the Board. I'd like to start this with a
6 brief introduction that cover the next five proposals,
7 which all have some common themes. They all are
8 regarding steelhead in the Sitka area.

9

10 The proponents are requesting more
11 regulatory controls on the subsistence harvest of
12 steelhead. The Sitka area Federal steelhead fishery is
13 presently managed under a general regulation passed by
14 this Board in 2004. A permit is required to fish
15 steelhead and this Board has delegated the in-season
16 management authority to the local manager. Local
17 managers can also set permit conditions and also pre --
18 I'm sorry -- is delegated in-season management, plus we
19 can also set the permit conditions before the season
20 starts.

21

22 The reported harvest of steelhead under
23 this fishery is extremely low. In 2005 we issued 17
24 permits in the area and two steelhead were reported
25 harvested, one from Lake Eva and one from Sitkho Creek.
26 In 2006 12 permits were issued and three steelhead were
27 reported harvested, one from Sitkho Creek, and two from
28 Salmon Lake. In general we feel that further
29 restrictions are not needed at this time, due to the low
30 participation and harvest.

31

32 If this fishery does increase to the
33 point that it must be further restricted, the local
34 manager has the authority to add permit conditions as
35 needed to control harvest on a stream by stream basis,
36 without the Board having to pass further regulations.

37

38 So with that I can start on 22, unless
39 there's questions on that.

40

41 (No comments)

42

43 CHAIRMAN FLEAGLE: Questions for that
44 portion of the introduction.

45

46 (No comments)

47

48 CHAIRMAN FLEAGLE: Okay.

49

50 MR. SUMINSKI: Okay. Proposal FP07-22,

1 the executive summary starts on Page 243, the analysis
2 starts on Page 245.

3

4 This proposal was submitted by Mike
5 Vaughn of Sitka, would require the subsistence users to
6 report to the USDA Forest Service all subsistence harvest
7 of steelhead in District 13 within 48 hours of the
8 harvest or within 48 hours of the harvester returning to
9 town.

10

11 The proponent believes that the current
12 reporting requirements do not provide Federal managers
13 with the necessary tools to actively manage individual
14 steelhead streams. A 24 hour reporting requirement has
15 been stipulated on Federal permits for other steelhead
16 fisheries in Southeastern Alaska and was thought to
17 actually reduce reporting because if users forget to
18 report within the 24 hours they may not report at all for
19 fear of penalties for non-compliance. In-season
20 information can also be collected as needed by polling
21 fishermen who have acquired a subsistence steelhead
22 fishing permit.

23

24 And again with the low participation in
25 harvest this mandatory reporting would add an unnecessary
26 burden to subsistence users at this time and may not be
27 effective in obtaining in-season harvest information. If
28 a 48 reporting permit is needed, local Federal managers
29 currently have the authority to specify such a
30 restriction on the permit. And permit stipulations can
31 be applied to specific different streams as needed, and
32 the broad mandate in regulation is not needed at this
33 time.

34

35 Thank you.

36

37 CHAIRMAN FLEAGLE: Thank you. Questions.

38

39 (No comments)

40

41 CHAIRMAN FLEAGLE: All right, thank you.

42 No written public comments.

43

44 (No comments)

45

46 CHAIRMAN FLEAGLE: Don't have any
47 testimony cards for public testimony so we'll go right to
48 Bert for the Regional Advisory Council recommendation.

49

50 MR. ADAMS: Thank you, Mr. Chairman.

1 Given the low steelhead Federal subsistence harvest
2 levels and the low number of Federal subsistence permits
3 used, there is no management reason to require more
4 stringent requirements in regards to reporting.

5
6 This proposal is not supported by
7 substantial data, does not respond to a conservation
8 concern and would adversely impact subsistence users.

9
10 The Council noted that incidental
11 commercial bycatch of steelhead is unreported and is
12 likely to have a greater impact on steelhead populations
13 than subsistence and sportfishing harvests.

14
15 Thank you, Mr. Chairman.

16
17 CHAIRMAN FLEAGLE: Thank you, Bert.

18 Questions.

19
20 (No comments)

21
22 CHAIRMAN FLEAGLE: Alaska Department of
23 Fish and Game comments. John.

24
25 MR. ADAMS: Mr. Chairman.

26
27 CHAIRMAN FLEAGLE: I'm sorry, Bert.

28
29 MR. ADAMS: I'm sorry, I forgot to tell
30 you that, you know, the Council recommendation is to
31 oppose this proposal.

32
33 CHAIRMAN FLEAGLE: Okay, thanks. John
34 Hilsinger.

35
36 MR. HILSINGER: Thank you, Mr. Chairman.
37 The ADF&G recommendation on this proposal is to support
38 the improved harvest reporting with the modification to
39 consider reporting schedules other than 48 hours.

40
41 The Department had concerns about the
42 Federal steelhead subsistence regulations since they were
43 adopted and these have been discussed at length with the
44 Federal Staff and last year at the January Board meeting
45 I think you'll remember we discussed them with the
46 Federal Subsistence Board. And it boils down to the
47 concern that the regulations that were adopted and the
48 permit stipulations should be more conservative. And
49 that's a pretty strongly held belief by the management
50 staff in Southeast Alaska, from both Sportfish and

1 Commfish Divisions.

2

3

4 And so I'm not sure I'll go through the
5 entire history of communication back and forth, you can
6 find that in our comments on Page 251, but I did want to
7 talk a little bit about the State's steelhead management
8 program, and why we feel so strongly about the need for
9 conservative management of steelhead. Steelhead trout
10 populations in Southeast Alaska were at extremely low
11 levels by the late 1980s and early 1990s and in 1994 the
12 State implemented a new set of, far more conservative
13 regulations, there actually was a working group
14 consisting of steelhead users from throughout the region
15 and they did extensive polling of the public and
16 developed a set of regulations that's fairly conservative
17 but has actually appeared to stabilized the decline in
18 steelhead if not rebuilt some of the stocks. And so now
19 we have a management program that's governed by a
20 comprehensive set of regulations and policies and there
21 is a fairly extensive program of research associated with
22 it. And so I would refer you to -- in the State
23 regulations -- the statewide management standards for
24 wild trout, which is 5 AAC 75.220 and also 5 AAC 75.222,
25 which is the policy for management of sustainable wild
26 trout fisheries. Those are the two documents that govern
27 management of wild trout under State regulations.

28

29 And the State has a research program that
30 includes annual stock assessment of 10 index streams by
31 snorkel surveys and these streams are distributed
32 throughout Southeast Alaska and that's gone on since
33 1997. There's also additional surveys that are performed
34 opportunistically and some of those -- some systems
35 there's a fair number of those, others there's not. We
36 also have five weir projects. The Situk is a very
37 longstanding project. We've got also periodic counts in
38 the Sitkho and Carta and recent counts in the Harris
39 River and Rats Creek, and then we do an extensive Forest
40 Service recreational cabin survey to see how the harvest
41 is proceeding.

42

43 And as I said we feel that these
44 regulations have been very successful at rebuilding
45 steelhead populations.

46

47 Our Southeast Staff, I think their
48 biggest concern is that the harvest that's reported on
49 the Federal subsistence permits is not representative of
50 the actual harvest for subsistence, and that's a
difficult thing to get at. The person reports. How do

1 you know about the people who didn't report. And our
2 concern is that that may be a problem. And I know that
3 we've had consultations with the Forest Service Staff
4 there and I think they've actually begun to talk about
5 that somewhat and some methods that could be used to try
6 to assess the actual harvest versus the reported harvest
7 on permits and get a handle on whether or not there is
8 unreported harvest.

9

10 But in that regard that's our biggest
11 concern, is that, local Staff feel that a harvest of two
12 steelhead in a community of almost 9,000 people and given
13 the expressions of use and need just doesn't seem to add
14 up to the actual usage.

15

16 We were -- we felt that when the 24 hour
17 harvest reporting requirement was in effect, that gave us
18 some comfort that if something was going on, or there was
19 a harvest, a large harvest in one area, that it could be
20 detected and action could be taken, and without that
21 we're not as comfortable. And so we still would like to
22 see some kind of more frequent reporting than just simply
23 at the end of the season.

24

25 I know that Mr. Adams talked about the
26 commercial harvest of steelhead and that issue came up in
27 the InterAgency Staff Committee and so I did have the
28 Staff in Southeast Alaska provide me with the information
29 that's available, which -- and just so you know how the
30 commercial aspect of the regulations fits in with the
31 recreational aspect, in terms of the conservative
32 management, steelhead are not allowed to be retained if
33 they're caught in the net fisheries, gillnet or seine.
34 They are allowed to be kept if they're caught in the
35 troll fishery. And in the troll fishery in District 13,
36 this year we had a reported harvest of 10 steelhead and
37 in the gillnet and seine fishery, where people often do
38 write down the fish that they take home for their own
39 personal and family consumption, we had no reported take
40 of steelhead in District 13.

41

42 For all of Southeast Alaska, it looks
43 like 137 steelhead are taken commercially and about 93 of
44 those occur in Yakutat, near the Situk River, which is a
45 run of anywhere up to 12,000 steelhead, and so there's an
46 extremely low commercial take, apparently of steelhead
47 throughout the rest of Southeast Alaska.

48

49 Now, we do have a regulation that allows us to
50 require reporting of personal use caught steelhead -- or

1 steelhead caught in the commercial fishery that are
2 retained for personal use and the area managers have used
3 that to monitor the effectiveness of regulations and in
4 parts of Southeast Alaska they've got minimum mesh size
5 requirements that help reduce the catch of steelhead and
6 they've implemented that regulation there to see whether
7 those regulations actually work or not and they found
8 that they do, and by doing skiff interviews with
9 fishermen, they've found that the reporting is pretty
10 accurate.

11
12 So in conclusion, we do support the
13 improved reporting frequency, are still concerned about
14 the overall management of steelhead in Southeast Alaska.
15 Given the nature of these runs where you've got a lot of
16 very small runs, in the Sitka area, by the snorkel
17 counts, some of these runs are -- in some years are less
18 than 10 fish and that's why we're concerned, is because
19 you're talking about some potentially extremely small
20 runs.

21
22 I'll just talk a little bit and then I'll
23 be quiet, about the sport regulations. The sport fishery
24 is a catch and release fishery, there's no bait, there's
25 a minimum size limit of 36 inches. And with that minimum
26 size limit, even if every single fish that was harvested
27 over that size limit was retained, which they aren't, you
28 would have a harvest rate of probably less than four
29 percent, which is a very sustainable harvest rate on
30 steelhead. So my purpose in this is to explain a little
31 bit about how the State regulations in both the
32 recreational and commercial fisheries work together with
33 the management policies that have been adopted by the
34 Board of Fisheries to provide for a sustainable fishery.

35
36 Thank you.

37
38 CHAIRMAN FLEAGLE: Thank you, John.
39 Gary.

40
41 MR. EDWARDS: John, I guess I share your
42 concern on conservation and I wonder why on some of these
43 streams we allow any sportfishing or any subsistence
44 fishing at all. But to use Sarah's term for,
45 frustration, I guess I'm very frustrated in trying to
46 deal with these steelhead fisheries when we do look at
47 what's going in the commercial fisheries. I guess I
48 don't agree with your analysis out there.

49
50 If you look at, when you had a mandatory

1 requirement, I think the lowest on record was 500 up to
2 11,000 fish were taken and I just can't believe that the
3 numbers are as small as you're suggesting that they are.
4 And I do think you are incorrect, because it's my
5 understanding, that you can catch, for personal use, on
6 any of the gear types, you can keep steelhead for
7 personal use and on the troll fishery you can sell them,
8 so it would even raise the question why would you provide
9 any incentive, whatsoever, for people to be able to
10 commercially sell steelhead when we have the kind of
11 conservation concerns that you expressed.

12
13 And I think as long as the State's
14 unwilling to have a mandatory reporting, it makes it very
15 difficult for us, and I would assume the Sportfishing
16 Division to nickel and dime both subsistence fishermen
17 and sportfishermen we have no idea, truly, what the
18 harvest is taking place in the commercial harvest. If we
19 had those figures, I think you'd find people a lot more
20 sympathetic, willing to maybe try to address the
21 conservation issues.

22
23 CHAIRMAN FLEAGLE: John.

24
25 MR. HILSINGER: Thank you, Mr. Chairman.
26 Mr. Edwards. I hope I didn't misspeak, the numbers that
27 I gave for the troll fishery are the reported fish that
28 are sold. I, agree, you can sell troll caught steelhead
29 and there were 10 sold. And as I said the numbers that
30 come in the gillnet and seine harvest are personal use
31 fish that were retained for personal use that were taken
32 home.

33
34 The Board of Fisheries has a proposal
35 before it, actually a statewide Proposal No. 243 that
36 they will take up at their meeting in March that would
37 require all steelhead landed statewide in any commercial
38 fishery to be reported on the fish tickets. So that's
39 going to be discussed, and of course I can't speak for
40 the Board of Fisheries as to what the outcome will be,
41 but they have reviewed this many times and I know they've
42 had quite a discussion over the years about steelhead in
43 Southeast Alaska and the rebuilding plan and the Board
44 adopted the Wild Trout Management Plan and Management
45 Standards. And so the State believes that the harvest in
46 those fisheries is sustainable and that if additional
47 actions are needed -- and, for example, they just, last
48 year implemented the minimum mesh size requirement in
49 some chinook fisheries in District 8 and District 11 in
50 order to further reduce the harvest of steelhead and so I

1 think the State's taken quite a few actions over the
2 years to conserve steelhead.

3
4 Within the Staff we've had the discussion
5 of a management plan identifying those stocks that are
6 productive enough to withstand harvest and potentially
7 closing some of those smaller stocks to sportfishing that
8 we're concerned about. And so that process actually is
9 in the works among the Southeast Staff, and I've been in
10 contact with Charlie Swanton down there and I think --
11 and we talked about this a couple of different times with
12 the InterAgency Staff Committee and the need to probably
13 approach that in a joint manner with the Federal Forest
14 Service Staff down there. Of course we could implement
15 it unilaterally but I think there would be some value in
16 trying to develop that and develop a coordinated approach
17 with -- on some of those stocks, potentially with
18 closures in both the subsistence and the sportfishery on
19 those extremely small stocks.

20
21 Thank you.

22
23 MR. EDWARDS: Well, hopefully the Board
24 of Fish will go forward with that because I think until
25 they do that it certainly gives the appearance that we're
26 trying to place the whole conservation burden on both the
27 sportfishermen and the subsistence fishermen. Until we
28 get a better understanding of what's going on out there
29 in the commercial fisheries, my sense is this Board's
30 probably not going to be overly-sympathetic when it comes
31 to putting restrictions on subsistence users on
32 steelhead.

33
34 CHAIRMAN FLEAGLE: John.

35
36 MR. HILSINGER: I promise, I don't mean
37 to debate that point. But I did want to just add that
38 even once we know what the harvest is, because you're
39 talking about fish that return to, I think, in Southeast
40 Alaska alone there's 275 or so, primary streams, that
41 these steelhead return to, and there's another 60 or so
42 tributaries of those streams. So if you look at kind of
43 individual spawning aggregations you've got something
44 like 330 of them in Southeast Alaska alone, and so
45 knowing the commercial harvest is one piece of the
46 puzzle, but having any idea whatsoever the allocation of
47 that harvest to the various systems and what impact you
48 may be having on an individual system is going to be an
49 extremely difficult task.

50

1 Thank you.

2

3 CHAIRMAN FLEAGLE: Sarah.

4

5 MS. GILBERTSON: Well, and I -- knowing
6 that these proposals were coming up and having been at
7 the Southeast Alaska RAC meeting, I did go back to Fish
8 and Game and ask them questions and I guess some of the
9 things that I'd like to just put out there that John
10 didn't mention were that, I know that this is
11 contentious, and I know that there's a history on this
12 subject between this Board, between the State, one of the
13 things I thought would be beneficial is to have our
14 steelhead expert, Roger Harding actually do a short
15 presentation to the Board. And it wasn't -- we weren't
16 able to even talk to Pete about this in time for this
17 meeting but Roger did commit at the Southeast RAC meeting
18 to go to the September Southeast RAC meeting in 2007 and
19 just explain our management techniques, where the State
20 is coming from. By that time we may have an answer on
21 the Board of Fish proposals.

22

23 So I did want to extend that invitation
24 to in the future to just have him -- and I know that the
25 Board has had short presentations on the game side from
26 Fish and Game before, it doesn't have to be long, but
27 maybe to just better understand where we're coming from.

28

29 In addition to that, you know, I think
30 it's -- and I don't expect any agreement on this today on
31 these issues, but I think it's also important to keep in
32 mind that when you have a commercial fishery it's
33 conducted on mixed stock fisheries, including fish that
34 are headed to other countries, other parts of the United
35 States, so just to keep that in mind versus a targeted
36 fishery on a small stream that has a small population.

37

38 So just some perspective and then, again,
39 the invitation to have Roger at some point in the future,
40 just give a presentation on where we're coming from.

41

42 Thanks.

43

44 CHAIRMAN FLEAGLE: Thank you, Sarah.

45 Denny.

46

47 MR. BSCHOR: Mr. Chair. To get us back
48 onto this topic of 07-22, one question I would have for
49 Mr. Hilsinger is, how, at this point in time, what kind
50 of reporting requirements do you have for either the

1 sports or commercial fisheries as far as timeframes, time
2 limits within which to report?

3

4 MR. HILSINGER: Mr. Chairman. Mr.
5 Bschor. The -- of course, fish that are reported on fish
6 tickets are reported as soon as the delivery so they're
7 reported quite rapidly. In the sportfishery there's not
8 a, per se, a reporting requirement, we get the -- we get
9 information from the statewide harvest survey. And,
10 again, with the maximum of a four percent harvest rate
11 and probably substantially less than that, we think that
12 that adequately takes care of the conservation aspects.

13

14 Thank you.

15

16 CHAIRMAN FLEAGLE: Yeah, you have the
17 floor Denny.

18

19 MR. BSCHOR: Okay. Without belaboring
20 the debate that we could get into here that we've had
21 before also, I don't want to get into that to any great
22 extent but I do want to get some clarification from my
23 Staff as far as what we are doing relative to
24 coordination with the Fish and Game on those streams that
25 are of concern, how are we handling that, what process do
26 we do, what concerns do we have and how are we managing
27 that relative to the permits that we hand out, and
28 anything else that you can add to that to help clarify
29 whether we have a conservation concern with the very few
30 fish that we think are legally taken through the
31 subsistence program at this point in time?

32

33 CHAIRMAN FLEAGLE: Cal.

34

35 MR. CASIPIT: Through the Chair. Mr.
36 Bschor. You know I'll try to answer these questions as
37 best as I can, I just hope I don't get down on the weeds
38 on this, too.

39

40 But as far as the consultation that we do
41 with the State managers, we annually meet. In fact, last
42 month we met with all the Southeast Staff at the regular
43 Southeast sportfish manager's -- they have a yearly
44 meeting, we attended that meeting, we talked about
45 conservation concerns, identified issues that the State
46 managers had with our fisheries and we're going about
47 doing our best to address their concerns on our permits
48 that we soon will be issuing.

49

50 I'm still waiting -- I made a commitment

1 to Charlie that we would wait on finalizing our permits
2 until I got a written response from him. Up until now I
3 haven't got that. But as soon as we get a written letter
4 from him, basically documenting everything -- you know,
5 his concerns. We will do our best to address them and
6 put any kind of needed restrictions or stipulations on
7 our permits.

8
9 As far as our stock assessments that are
10 going on, you know, I think the Board and Fish and Game
11 is well aware of the continuing FIS study that we have on
12 Prince of Wales looking at steelhead populations on
13 Prince of Wales. Some mention was made of snorkel
14 surveys and that sort of -- you know, and basically some
15 of the snorkel surveys that have been done and are being
16 done, based on results, preliminary results from some of
17 that FIS work, we should be very cautious about relying
18 on snorkel surveys, based on the weir studies. We had
19 paired snorkel surveys -- you know, in a particular
20 stream we had the weir going, which was a complete,
21 complete account, as best as we could do, compare them
22 with snorkel surveys on those same systems and we should
23 be very cautious about using snorkel surveys for
24 establishing any abundance in any stream.

25
26 On the subject of exploitation rates, you
27 know, the Board is well aware, we've discussed this with
28 the Board since the 2001 cycle, currently as you know
29 under State regulation it's a 36 inch minimum size limit
30 and when you exclude the Situk River and some other
31 rivers that are highly productive and are known to
32 contain very -- you know, contain populations of large
33 fish, throw out that data of what we know, less than one
34 percent of the steelhead out there on the Tongass is
35 greater than 36 inches. So essentially what's on the
36 State books, as far as the sportfishery is essentially a
37 catch and release fishery. And I agree with Mr.
38 Hilsinger that if you have that low of an exploitation
39 rate in your sportfishery, you probably don't need to do
40 a whole lot of reporting, your exploitation rate on these
41 populations are going to be less than one percent.

42
43 That's not what the subsistence users
44 have been asking for. They want to just go out and catch
45 a couple fish and be able to eat them and they don't want
46 to sort through hundreds of fish to find a legal keeper.
47 And, again, brought out by the Council, that the catch
48 and release mortality associated with sorting through
49 hundreds of fish to get one keeper, you'd kill way more
50 fish trying to sort through all these hundreds of fish to

1 find a keeper than you would if you would have just kept
2 your two fish or whatever.

3

4 Have I answered all the questions, I'm
5 not sure, I might have got us off track, but the specific
6 issue of reporting.

7

8 CHAIRMAN FLEAGLE: Hang on a second
9 there, Denny. I forgot to ask you to state your name for
10 the record for our reporter, I mean I called you by your
11 first name but can you just go ahead and state your name,
12 please.

13

14 MR. CASIPIT: I'm sorry, Mr. Chair, I
15 forgot my protocol. My name is Cal Casipit, I'm the
16 subsistence Staff biologist for the USDA Forest Service
17 stated in Juneau.

18

19 CHAIRMAN FLEAGLE: Thank you, go ahead,
20 Denny.

21

22 MR. BSCHOR: Thank you, Cal. And I'm
23 sure that as -- I'm sure that the Board, at least I'll
24 speak for myself, would really look forward to having the
25 State specialist in steelhead management talk to us at
26 sometime in the future because I'm sure we could have
27 quite a discussion about this and I think we need to. We
28 need to make sure we all understand it. Because as I've
29 said before, many times, whenever we've talked about this
30 issue, my personal desire is to make sure that we
31 maintain healthy steelhead stocks and I'm committed to
32 working towards that end.

33

34 The only other thing I would ask is maybe
35 of our local in-season manager, about, what -- have we
36 ever -- are there streams that we don't give permits for
37 and streams that we do give permits for, where we're
38 relatively sure that we've got sufficient fish in there
39 that we're not going to cause a problem.

40

41 CHAIRMAN FLEAGLE: Terry.

42

43 MR. SUMINSKI: Mr. Chairman. Mr. Bschor.
44 The only restrictions we have permit conditions that we
45 have beyond the general steelhead regulation apply to the
46 Sitka road system, the streams on the Sitka road system.
47 And we'll get to that -- I can go into those restrictions
48 if you'd like but we'll get to that in a couple more
49 proposals. And all the other streams are just under the
50 general regulation.

1 Thank you.

2

3 CHAIRMAN FLEAGLE: Judy.

4

5 MS. GOTTLIEB: Thank you, Mr. Chair. I
6 think I was almost waiting for Ralph to jump in here and
7 give the same talk he gave yesterday, which, I think is
8 we are way off in worst case scenario land here. And if
9 we play a numbers game, again, and think about how many
10 steelhead are tossed over because they weren't kept for
11 personal use from commercial or think about catch and
12 release and possible mortality, even assuming there's
13 some under reporting here, it just doesn't sound like we
14 have a problem -- we don't seem to have a problem from
15 the point of view of our in-season manager. We're
16 planning, I think, to have some FIS studies that would
17 look at the reporting percentages and the question about
18 how will we know if we have a problem on any local
19 streams, that's why we have our Regional Council, that's
20 why we have our local users so I suggest we would proceed
21 with our discussions here.

22

23 Thank you.

24

25 CHAIRMAN FLEAGLE: Okay, we'll do that,
26 and let me go back to my list here. I think we're still
27 on the -- oh, Cal, do you have an additional comment.

28

29 MR. CASIPIT: Thank you, Mr. Chair. I
30 just wanted to clarify a little bit of what Terry had
31 mentioned. And I think Terry answered that question
32 about restrictions on our permits, and I think he was
33 only talking about restrictions that -- what we had on
34 the Sitka road system. We have additional restrictions
35 for steelhead fishing on all the road systems around
36 large communities in Southeast Alaska, that includes
37 Ketchikan, Juneau, Petersburg and Sitka.

38

39 We have restrictions on the permit for
40 road accessible streams which is basically a 32 minimum
41 inch -- 32 minimum size limit, 32 inch minimum size
42 limit.

43

44 CHAIRMAN FLEAGLE: All right, thank you.
45 Let's go ahead and turn over to the InterAgency Staff
46 Committee for their recommendation, Steve Klein.

47

48 MR. KLEIN: Thank you, Mr. Chair.
49 InterAgency Staff Committee is opposed to Fisheries
50 Proposal 07-22 to require a 48 hour reporting.

1 This is consistent with the Southeast Council.
2 With the low participation and harvest this mandatory
3 reporting would add an unnecessary burden to subsistence
4 users. If a 48 hour reporting requirement is needed,
5 local Federal managers currently have the authority to
6 specify such a restriction on the permit. The current
7 permit condition for all permits issued in 2006 was to
8 require reporting within 15 days after the season closes,
9 or within 15 days after harvest of the second steelhead.

10

11 So that concludes the InterAgency Staff
12 Committee recommendation.

13

14 CHAIRMAN FLEAGLE: Thank you, Steve.

15 Questions.

16

17 (No comments)

18

19 CHAIRMAN FLEAGLE: Let's step down for 10
20 minutes and then we'll come back and begin deliberations.

21 Ten minutes.

22

23 (Off record)

24

25 (On record)

26

27 CHAIRMAN FLEAGLE: Good afternoon, we're
28 back in session.

29

30 We're ready to begin discussions on
31 Proposal 22, Board members. Denny.

32

33 MR. BSCHOR: Yes, Mr. Chair, I'm prepared
34 to make a motion.

35

36 I move to adopt the Southeast Alaska
37 Regional Advisory Council recommendation for Proposal
38 FP07-22, which is to reject the proposal. Following a
39 second I'll provide my rationale.

40

41 MR. CESAR: I'll second it.

42

43 CHAIRMAN FLEAGLE: Got a second by Gary.
44 Do you want to add some supporting statements to it.

45

46 MR. CESAR: I seconded it.

47

48 CHAIRMAN FLEAGLE: Niles seconded it, I'm
49 sorry.

50

1 MR. CESAR: I know I look like Gary.
2
3 (Laughter)
4
5 CHAIRMAN FLEAGLE: I thought I recognized
6 the voice but I didn't, I apologize.
7
8 (Laughter)
9
10 MR. EDWARDS: Does that make me an Indian
11 now?
12
13 (Laughter)
14
15 CHAIRMAN FLEAGLE: Close.
16
17 MR. CESAR: Yeah.
18
19 (Laughter)
20
21 MR. BSCHOR: Without belaboring what's
22 already been said, there's such a small amount of use
23 here, of legal use that we know of, I'll make that
24 statement, and that the in-season Federal manager has the
25 authority to place stipulations on a required fishing
26 permit provided for the conservation of steelhead, that
27 the -- putting a time limit on it could actually go
28 against our intent of getting accurate reporting,
29 however, with 17 permits, we probably get that reporting
30 fairly quickly anyway. So I see no need for this
31 reporting period.
32
33 Mr. Chair.
34
35 CHAIRMAN FLEAGLE: Thank you, Denny.
36 Other comments.
37
38 (No comments)
39
40 CHAIRMAN FLEAGLE: I'll just add a
41 comment. I agree with the recommendation to reject the
42 proposal. I do want to recognize the State's concerns
43 about reporting. I know that reporting is very very
44 important for all management of, you know, fisheries and
45 game and I recognize your request there but I think in
46 this case it's clear to me that the harvest limit is low.
47 I've reached assurance with Mr. Bschor that the
48 permitting process -- the permits are handed out to
49 relatively few users and they're pretty well personally
50 known. I have a sense of comfort that we can continue

1 with the practices in place, and I'll also support a vote
2 to reject the proposal.

3
4 Other comments.

5
6 (No comments)

7
8 CHAIRMAN FLEAGLE: Ready for the
9 question. Question's recognized, Pete.

10
11 MR. PROBASCO: Thank you, Mr. Chair.
12 Final action on Proposal FP07-22 to oppose this proposal
13 consistent with recommendation of the Southeast Alaska
14 Subsistence Regional Advisory Council.

15
16 Mr. Cesar.

17
18 MR. CESAR: Yes.

19
20 MR. PROBASCO: Mr. Oviatt.

21
22 MR. OVIATT: Aye.

23
24 MR. PROBASCO: Mr. Bschor.

25
26 MR. BSCHOR: Aye.

27
28 MR. PROBASCO: Mr. Edwards.

29
30 MR. EDWARDS: Aye.

31
32 MR. PROBASCO: Mr. Fleagle.

33
34 CHAIRMAN FLEAGLE: Aye.

35
36 MR. PROBASCO: Ms. Gottlieb.

37
38 MS. GOTTLIEB: Aye.

39
40 MR. PROBASCO: Mr. Chair, motion carries

41 six/zero.

42
43 CHAIRMAN FLEAGLE: Thank you. Before we
44 go on to Proposal 23, I just want to raise one thing that
45 I think the record missed on Proposal 21, at least, in my
46 mind. I just want to state that I did not have a
47 complete understanding of what the intent of the
48 proposal, as amended, would do.

49
50 It was pointed out by Sarah right before

1 the vote that we were increasing opportunity for
2 Federally-qualified users and I got a clarification on
3 that and the -- what happened was that the vote to add
4 the words, in adjacent units, or areas, essentially
5 applies a harvest limit to Federally-qualified users in
6 those closed areas to non-qualified users to 50 because
7 that's the limit in the adjacent unit. So we did a five-
8 fold increase in allowable harvest, without, in my mind,
9 very much discussion on the Board, as to the
10 justification to do that.

11
12 Do we know anything about the condition
13 of the salmon runs in those two areas to allow a five-
14 fold increase, is that five-fold increase going to be
15 substantial; those questions, I don't know that were
16 completely discussed. And so I'd just like to -- I'm
17 just confessing that I probably did not have a full
18 understanding of what I was voting on and were it before
19 us again I would probably at least have some more
20 discussion before I voted, albeit, I'm not going to
21 request that somebody bring it up for reconsideration
22 unless somebody wants to. I just wanted to voice my
23 concerns that I did -- did not intentionally vote to
24 increase the harvest five-fold without having any idea of
25 the condition of the stocks there.

26
27 Gary.

28
29 MR. EDWARDS: Mr. Chairman. I guess I
30 would be guilty of the same thing. I didn't realize that
31 we were doing that. Again, I don't know that that's
32 necessarily bad but I certainly didn't realize that
33 that's what we were doing.

34
35 MS. GOTTLIEB: Mr. Chair.

36
37 CHAIRMAN FLEAGLE: Judy.

38
39 MS. GOTTLIEB: Well, isn't part of this
40 proposal that Federal and State managers were going to
41 get together pre-season and set the limits annually, if
42 necessary, so I would assume that proper limits would be
43 set ahead of time if there were an area that we were
44 worried about.

45
46 CHAIRMAN FLEAGLE: All right. I got to
47 caution that we're reentering deliberation on a proposal
48 that's not before us and I recognize that. I'm just
49 trying to voice an issue that, at least, two Board
50 members now have and maybe we'll just keep this in our

1 mind, maybe three, and maybe during breaks talk about if
2 there's a desire to readdress this proposal through a
3 reconsideration action or something like that.

4

5 But for right now I'm going to go ahead
6 and just move forward to our next proposal and we'll
7 maybe figure out if we need to bring that back for
8 consideration.

9

10 All right, Proposal 23, and is this Terry
11 Suminski is going to give the analysis for this one.

12

13 MR. SUMINSKI: Yes.

14

15 CHAIRMAN FLEAGLE: Please, go ahead.

16

17 MR. SUMINSKI: Thank you, Mr. Chairman.
18 FP07-23, the executive summary begins on Page 254, the
19 analysis begins on Page 256.

20

21 Proposal FP07-23 was submitted by Mike
22 Vaughn of Sitka and would reduce the number of steelhead
23 that a designated fisherman may possess from two harvest
24 limits to one harvest limit in District 13. And that map
25 of District 13 is shown on Page 257 of your book.

26

27 The proponent believes that there is not
28 enough regulation of the Federal steelhead fishery to
29 prevent overharvest of small populations of steelhead or
30 overharvest of certain segments of a particular
31 population such as early or late run fish within a
32 certain stream system.

33

34 Only one steelhead subsistence permit is
35 issued per household. A Federally-qualified subsistence
36 user may designate another Federally-qualified user to
37 harvest fish on their behalf. Current regulation allows
38 a designated fisherman to possess two harvest limits.
39 The current possession limit for steelhead is one per
40 day, so a person acting as a designated fisherman could
41 legally possess two steelhead. This proposal would
42 restrict the designated fisherman in District 13 to one
43 possession limit of steelhead instead of the two
44 possession limit.

45

46 There's been no reported harvest of
47 steelhead by a designated fisherman in District 13. So
48 given the low participation and harvest in the fishery
49 this requirement would add an unnecessary restriction to
50 subsistence users at this time. If a reduction is

1 needed, local Federal managers have the authority to
2 specify such a restriction on a permit.

3

4 Thank you.

5

6 CHAIRMAN FLEAGLE: Thank you, Terry.

7 Questions. Niles.

8

9 MR. CESAR: I just have a question and I
10 don't know if you know the answer to this. Do you know
11 what Mr. Vaughn's affiliation is, is he a, you know, is
12 he a guide?

13

14 MR. SUMINSKI: Mr. Chairman. Mr. Cesar.
15 He is -- he's an avid steelhead fisherman, he is not a
16 guide. He's submitted -- I know who he works for but he
17 submitted these from, you know, on his own behalf.

18

19 MR. CESAR: Yeah, well, it doesn't matter
20 who he works for really.

21

22 CHAIRMAN FLEAGLE: Other questions.

23

24 (No comments)

25

26 CHAIRMAN FLEAGLE: All right. We don't
27 appear to have any written public comments. And I don't
28 have any testimony cards for public testimony. So we'll
29 move to the Regional Advisory Council recommendation,
30 Bert.

31

32 MR. ADAMS: Thank you, Mr. Chairman. The
33 Council recommendation is to oppose this proposal.

34

35 Given the low steelhead Federal
36 subsistence harvest levels and the low number of Federal
37 subsistence permits used, there is no management -- I'm
38 sorry, I'm reading something different here.

39

40 The number of steelheads taken under
41 Federal regulations and the number of Federal subsistence
42 permit issued have been low in District 13. There is a
43 conservation problem for steelhead that would support
44 this change in regulation [sic]. The change is not
45 supported by substantial data that would be detrimental
46 to the subsistence users.

47

48 Okay, the Staff analysis does not show a
49 conservation problem for steelhead is what I was trying
50 to say there.

1 So, Mr. Chairman, that's about the extent
2 of our comment on this, we do oppose it.

3
4 Thank you.

5
6 CHAIRMAN FLEAGLE: Thank you, Bert.
7 Questions.

8
9 (No comments)

10
11 CHAIRMAN FLEAGLE: The Alaska Department
12 of Fish and Game comments, John Hilsinger.

13
14 MR. HILSINGER: Thank you, Mr. Chairman.
15 The Department recommendation was to support this
16 proposal.

17
18 We felt that given the low usage of it
19 that it wouldn't be a large burden to people and that if
20 it did become a provision that was used, it might help
21 spread out the harvest a little bit and reduce the
22 probability of additional fish being taken out of the
23 same system at the same time.

24
25 Thank you.

26
27 CHAIRMAN FLEAGLE: Thank you. Questions.

28
29 (No comments)

30
31 CHAIRMAN FLEAGLE: InterAgency Staff
32 Committee recommendation, Steve Klein.

33
34 MR. KLEIN: Thank you, Mr. Chair. The
35 InterAgency Staff Committee opposes Fisheries Proposal
36 07-23 consistent with the Southeast Alaska Council.

37
38 Given the low participation and harvest
39 in the fishery this requirement would add an unnecessary
40 restriction to subsistence users at this time. Many of
41 the steelhead streams in the Sitka area are remotely
42 located and require considerable effort to access.
43 Reducing limits could significantly affect the efficiency
44 of harvest efforts and, thus, be detrimental to
45 subsistence users. If a reduction in the possession
46 limit of designated fishermen is needed to reduce the
47 harvest of steelhead, then local Federal managers have
48 the authority to specify such a restriction on the permit
49 or place other restrictions on the fishery in-season by
50 special action.

1 Mr. Chair.
2
3 CHAIRMAN FLEAGLE: Thank you. Questions.
4
5 (No comments)
6
7 CHAIRMAN FLEAGLE: Discussion.
8
9 (No comments)
10
11 CHAIRMAN FLEAGLE: I guess first of all,
12 Terry, did you not say that there were no reported
13 harvest in District 13 in your statements?
14
15 MR. SUMINSKI: Mr. Chairman. There's no
16 harvest by someone acting as a designated fisherman.
17
18 CHAIRMAN FLEAGLE: Okay. Okay, that
19 makes it clear. I thought that earlier we were talking
20 about harvest, though. I didn't quite understand that.
21
22 So at this time by limiting somebody from
23 acting as a -- from going out and fishing two limits, it
24 would be moot and I think the State recognizes that as
25 well. But I don't see that it -- I don't necessarily
26 agree that it would place an addition burden because
27 nobody's doing it, but I also don't buy the State's
28 arguments that it would be beneficial in any way.
29
30 So I don't know, I just throw those out
31 as comments. I guess I accept the Council's
32 recommendation. I don't see the need for this one.
33
34 Other Board members.
35
36 MR. BSCHOR: Mr. Chair, I'm prepared to
37 make a motion.
38
39 CHAIRMAN FLEAGLE: Denny.
40
41 MR. BSCHOR: Mr. Chair. I move to adopt
42 the Southeast Alaska Regional Advisory Council
43 recommendation for Proposal FP07-23, which is to reject
44 the proposal. Following a second, I'll repeat some of
45 what's already been said if you want me to.
46
47 CHAIRMAN FLEAGLE: Do we have a second.
48
49 MS. GOTTLIEB: I'll second it.
50

1 CHAIRMAN FLEAGLE: Second by Judy.
2 Denny.
3
4 MR. BSCHOR: Basically with the low
5 amount of use at this point in time, if there is a future
6 biological concern we have full ability through the in-
7 season manager to put whatever restrictions we need on
8 that. And I do think the proposal, even though it hasn't
9 been used is potential detrimental to subsistence users.
10
11 Mr. Chair.
12
13 CHAIRMAN FLEAGLE: That's a good word,
14 potentially, it certainly isn't now, but it has the
15 potential, you're right.
16
17 Are we ready for the question. Question
18 is recognized on the proposal, Pete.
19
20 MR. PROBASCO: Thank you, Mr. Chair.
21 Final action on Proposal FP-7-23 to adopt the Southeast
22 Alaska Subsistence Regional Advisory Council's
23 recommendation to oppose this proposal.
24
25 Mr. Oviatt.
26
27 MR. OVIATT: Aye.
28
29 MR. PROBASCO: Mr. Bschor.
30
31 MR. BSCHOR: Aye.
32
33 MR. PROBASCO: Mr. Edwards.
34
35 MR. EDWARDS: Aye.
36
37 MR. PROBASCO: Mr. Fleagle.
38
39 CHAIRMAN FLEAGLE: Aye.
40
41 MR. PROBASCO: Ms. Gottlieb.
42
43 MS. GOTTLIEB: Aye.
44
45 MR. PROBASCO: Mr. Cesar.
46
47 MR. CESAR: Aye.
48
49 MR. PROBASCO: Mr. Chair. Motion
50 carries, six/zero.

1 CHAIRMAN FLEAGLE: Thank you, Pete. We
2 now move on to Proposal No. 24. Leading the analysis,
3 Terry.

4
5 MR. SUMINSKI: Thank you, Mr. Chairman.
6 Proposal FP07-24, the executive summary starts on Page
7 266, the analysis starts on Page 268.

8
9 This proposal is also submitted by Mike
10 Vaughn of Sitka, and would establish in regulation a 36
11 inch minimum size limit and restrict allowable gear to
12 rod and reel without bait for steelhead in streams
13 crossed by the Sitka road system.

14
15 The proponent believes that the streams
16 that are crossed by the Sitka road system are subject to
17 high fishing effort for steelhead in both the subsistence
18 and sportfisheries and are easily accessible to a large
19 number of Federally-qualified users. The proponent would
20 like to see the current permit condition for streams
21 crossed by the road system adopted into Federal
22 regulation.

23
24 This proposal would establish in
25 regulation what we have is the current permit conditions,
26 which are 36 inch minimum size limit, and gear is
27 restricted to rod and reel without bait. Snagging is not
28 allowed with rod and reel. The permit condition is in
29 place to protect the viability of steelhead populations
30 in streams crossed by the Sitka road system because of
31 the small number of steelhead that are easily accessible
32 to the large number of Federally-qualified subsistence
33 users in Sitka. All available information indicates that
34 steelhead's populations in these streams are naturally
35 very small and stable. Road side steelhead populations
36 can be adequately protected with a permit condition
37 without creating a new regulation. And this proposal
38 would not have an affect on any user since it will not
39 change how the steelhead fishery on the Sitka road system
40 is currently managed.

41
42 Thank you.

43
44 CHAIRMAN FLEAGLE: Thank you, Terry.
45 Questions.

46
47 (No comments)

48
49 CHAIRMAN FLEAGLE: Hearing one, we'll
50 move on to comments and the record notes that there are

1 no public written comments and we also do not have any
2 requests for comments before the Board at this meeting.

3

4 So we turn now to Bert Adams, once again
5 for the Regional Advisory Council recommendation on
6 Proposal 24.

7

8 Bert.

9

10 MR. ADAMS: Thank you, Mr. Chairman.
11 Again, the Council recommendation is to oppose this
12 proposal.

13

14 This proposal would put the current
15 Federal steelhead permit conditions for this area into
16 Federal regulation. Federal permits for subsistence
17 steelhead fishing in Southeast Alaska include localized
18 permit conditions developed by the Federal managers in
19 consultation with the ADF&G and the Regional Advisory
20 members. This approach has been working very well.
21 There is no need to put those Federal permit conditions
22 into regulation at this time.

23

24 The Council does not want changes in
25 permit conditions to require Federal Subsistence Board
26 regulatory actions.

27

28 The Council notes that ADF&G manage the
29 State subsistence salmon fisheries with similar permit
30 conditions.

31

32 I was going to make a statement here but,
33 you know, I'll wait to a later time, Mr. Chairman, but
34 that's the position of the Council at this time.

35

36 Thank you.

37

38 CHAIRMAN FLEAGLE: Thank you, Bert.

39 Questions.

40

41 (No comments)

42

43 CHAIRMAN FLEAGLE: We now turn to John
44 Hilsinger for the ADF&G comments.

45

46 MR. HILSINGER: Mr. Chairman. The ADF&G
47 recommendation is to support this proposal.

48

49 We felt that while it wouldn't make a big
50 difference in the actual operation of the fishery since

1 the regulations and the permit stipulations would be the
2 same, that there was value in putting those stipulations
3 in regulation where they'd be easily accessible to the
4 public and those people, maybe, that don't have a permit
5 would have a reg book and at least know what the
6 regulations are.

7

8 We did also have a specific jurisdiction
9 issue with regard to the Sitka road system and the State
10 questions the Federal claim of jurisdiction on the road
11 system since those townsite areas were pre-statehood
12 withdrawals that never were part of the Tongass National
13 Forest. We question that.

14

15 Thank you.

16

17 CHAIRMAN FLEAGLE: Thank you, John.

18 Questions.

19

20 (No comments)

21

22 CHAIRMAN FLEAGLE: Hearing none.

23 InterAgency Staff Committee recommendation, Proposal 24,

24 Steve Klein.

25

26 MR. KLEIN: Thank you, Mr. Chair. The

27 InterAgency Staff Committee opposes Fisheries Proposal

28 07-24 consistent with the Southeast Alaska Council.

29

30 Required Federal permits for subsistence

31 steelhead fishing in Southeast Alaska include localized

32 permit conditions developed by Federal managers in

33 consultation with ADF&G and Regional Council members.

34 Steelhead populations in streams on the road system can

35 best be protected with these permit conditions without

36 creating a new regulation. This approach has been

37 working well and gives the in-season manager more

38 flexibility to adjust permit conditions as needed.

39

40 Mr. Chair.

41

42 CHAIRMAN FLEAGLE: Thank you, Steve.

43 Questions.

44

45 (No comments)

46

47 CHAIRMAN FLEAGLE: Board discussion.

48 Denny.

49

50 MR. BSCHOR: Mr. Chair. I probably

1 failed to question at the correct time, a question for
2 Mr. Hilsinger. When you mentioned the jurisdiction
3 issue, I don't understand, would you please explain more
4 clearly what you mean by jurisdiction on the road system.

5
6 I know that on private land for land
7 based activities we don't have jurisdiction, but as far
8 as the stream areas within the Tongass, I thought within
9 the Federal waters we do. Is that -- maybe I should ask
10 our attorney over here that question, instead of you.

11
12 MR. GOLTZ: No, that's correct.

13
14 CHAIRMAN FLEAGLE: Keith Goltz.

15
16 MR. GOLTZ: All waters within the
17 external boundaries are subject to fisheries
18 jurisdiction.

19
20 MR. BSCHOR: Just want to make that
21 clarification. Thank you.

22
23 CHAIRMAN FLEAGLE: John.

24
25 MR. HILSINGER: And I would just note,
26 Mr. Bschor, the State doesn't agree with that. And so
27 that's the essence of the disagreement.

28
29 CHAIRMAN FLEAGLE: Well, at least we're
30 disagreeing agreeably.

31
32 (Laughter)

33
34 MS. GOTTLIEB: Mr. Chair.

35
36 CHAIRMAN FLEAGLE: Judy.

37
38 MS. GOTTLIEB: If I recall our
39 discussion, I guess, was back in November when we were
40 talking about the Kenai Refuge manager and permit
41 conditions and stipulations, we decided not to put that
42 in regulation, leaving some of those specifics to the on-
43 site in-season manager, so I would encourage the Board to
44 be consistent in that regard.

45
46 CHAIRMAN FLEAGLE: We can do that?

47
48 (Laughter)

49
50 CHAIRMAN FLEAGLE: Okay. Denny.

1 MR. BSCHOR: Just another comment. I
2 think this is an example where the in-season management
3 and the coordination with the State is working very well.

4
5 Thank you, Mr. Chair.

6
7 CHAIRMAN FLEAGLE: Are we ready for a
8 motion.

9
10 MR. BSCHOR: I'm ready if you are.

11
12 CHAIRMAN FLEAGLE: Denny.

13
14 MR. BSCHOR: Okay, I'm prepared -- I want
15 to move that we adopt the Southeast Alaska Regional
16 Advisory Council recommendation for Proposal FP07-24,
17 which is to reject the proposal. Following a second I
18 will provide my rationale.

19
20 MR. OVIATT: I'll second.

21
22 CHAIRMAN FLEAGLE: Got a second by
23 George.

24
25 MR. BSCHOR: Mr. Chair. The same as
26 before, very low use on this -- in this area. Where we
27 need to make changes, we can, we've shown that, we've
28 proven that with the management that we've been
29 discussing here. And as far as I know there's no basis
30 in ANILCA .805c on which we would reject the Council's
31 recommendation.

32
33 CHAIRMAN FLEAGLE: Other comments.

34
35 (No comments)

36
37 CHAIRMAN FLEAGLE: Are we ready for the
38 question. Question's recognized on Proposal 24 -- you've
39 still got your mic on Denny.

40
41 MR. BSCHOR: Oh, sorry.

42
43 CHAIRMAN FLEAGLE: Pete, poll the Board,
44 please.

45
46 MR. PROBASCO: Thank you, Mr. Chair.
47 Final action on Proposal FP07-24 to oppose the proposal
48 consistent with recommendation of the Southeast Alaska
49 Subsistence Regional Advisory Council.

50

1 Mr. Bschor.
2
3 MR. BSCHOR: Aye.
4
5 MR. PROBASCO: Mr. Edwards.
6
7 MR. EDWARDS: Aye.
8
9 MR. PROBASCO: Mr. Fleagle.
10
11 CHAIRMAN FLEAGLE: Aye.
12
13 MR. PROBASCO: Ms. Gottlieb.
14
15 MS. GOTTLIEB: Aye.
16
17 MR. PROBASCO: Mr. Cesar.
18
19 MR. CESAR: Aye.
20
21 MR. PROBASCO: Mr. Oviatt.
22
23 MR. OVIATT: Aye.
24
25 MR. PROBASCO: Motion carries, Mr. Chair,
26 six/zero.
27
28 CHAIRMAN FLEAGLE: Okay, thank you, Pete.
29 We now turn to Proposal -- hang on just a sec.
30
31 (Pause)
32
33 CHAIRMAN FLEAGLE: Okay, Proposal 25 and
34 now we have -- okay, we have a new person at the table
35 for the analysis, Cal Casipit?
36
37 MR. CASIPIT: Correct.
38
39 CHAIRMAN FLEAGLE: Okay, Cal Casipit.
40
41 MR. CASIPIT: Thank you, Mr. Chair. Your
42 executive summary for this proposal begins on Page 277 of
43 your book and the Staff analysis begins on Page 279.
44
45 FP07-25 was submitted by Grant Hagerman
46 of Sitka, Alaska. He is concerned about conservation of
47 steelhead in the Sitka area, local area management plan
48 boundaries. The proponent would like Federal subsistence
49 management regulations similar to State sportfishing
50 regulations applied to the entire Sitka area LAMP -- L-A-

1 M-P. On Page 280 of your book you can see the boundaries
2 of that Sitka Sound local area management plan, it is
3 actually geared more towards marine fisheries, but the
4 proponent was using that as a convenient boundary for his
5 proposal.

6

7 I think I'm just going to skip over all
8 the regulatory history that is in the analysis, the Board
9 is very familiar with that and Terry has covered with
10 some of those issues in the previous analysis.

11

12 There are six streams in the Sitka area
13 LAMP that contain steelhead, of which at least three
14 streams are crossed by the Sitka road system. No formal
15 escapement estimates have been determined for these
16 streams, however, our Staff believe the escapement to
17 these systems range from 10 to 200 fish per stream.

18

19 This proposal would restrict the Federal
20 subsistence harvest of steelhead and apply State
21 sportfish regulations to Federal subsistence fishing
22 activities in the Sitka LAMP area. It would not provide
23 Federally-qualified subsistence users with a subsistence
24 priority and would reverse the Federal Subsistence
25 Board's decision establishing the current regulations.
26 Requiring Federally-qualified subsistence users to follow
27 State sportfishing regulations in the Sitka area does not
28 recognize the consumptive versus recreational differences
29 in management focus between subsistence and State
30 sportfisheries.

31

32 Prior to the Federal regulatory change
33 steelhead harvest was identified by community harvest
34 surveys in order to allow legal subsistence harvest
35 opportunity and provide harvest assessment information and
36 to document this harvest.

37

38 The local Federal fisheries manager has
39 the authority and responsibility to set permit conditions
40 and to close Sitka LAMP area steelhead fisheries based on
41 documented conservation concerns.

42

43 And that ends my presentation, I'd be
44 happy to answer questions.

45

46 CHAIRMAN FLEAGLE: Thank you, Cal. I
47 want to ask a procedural question for legal Counsel or
48 for our Director here.

49

50 When we have a proposal such as this,

1 that is substantially similar to one that was just dealt
2 with, does the process allow for a vote of take no action
3 based on the action on the previous proposal? It sounds
4 like -- I recognize that there's three more streams
5 involved with this proposal that the Board would
6 consider, but based on the discussion, rationale, and
7 vote on the last action I anticipate that it's going to
8 be the same result, and, you know, I -- the other system
9 did allow for take no action based on previous action,
10 and I was just wondering if that's an option here before
11 we go through the whole process of listening to
12 recommendations and having discussion, et cetera.

13

14 Pete or -- yes, Pete.

15

16 MR. PROBASCO: Mr. Chair, and, Keith,
17 please jump in. I am very familiar with the process that
18 you're discussing from our counterparts, the Board of
19 Fish and Board of Game. Probably what we should have
20 done, probably from the onset, was maybe have combined
21 these proposals in the analysis and presented them that
22 way but since we have separated these analysis
23 individually and actually did provide comments and took
24 them to the Council where the Council dealt with them as
25 well on a separate basis, my read would be to take action
26 on this independent.

27

28 Mr. Chair.

29

30 CHAIRMAN FLEAGLE: Keith Goltz.

31

32 MR. GOLTZ: Yeah, I agree. If nothing
33 else, it's a matter of courtesy to the Councils. They've
34 taken them up separately and we, as a matter of practice,
35 dispose of each of them.

36

37 CHAIRMAN FLEAGLE: Okay, that's good,
38 just a procedure question. So, all right, let's go ahead
39 and move on, questions for the analysis.

40

41 (No comments)

42

43 CHAIRMAN FLEAGLE: Hearing none, then
44 we'll move on to written public comments, and it appears
45 we do have one, Bob Schroeder.

46

47 DR. SCHROEDER: Mr. Chairman. We do have
48 one public comment from Mr. Vaughn, the person who
49 submitted Proposals 22, 23, 24 and 26. This proposal
50 was, of course, submitted by Grant Hagerman, a different

1 person.

2

3

4 Mr. Vaughn supports Proposal FP07-26
5 [sic] requesting conservation measures for Salmon Lake
6 area, which is easily accessible and easily accessed high
7 use system in the Sitka vicinity. That's what Proposal
8 26 does. Proposal 25 takes additional steps to protect
9 all the stream systems in the local Sitka area. These
10 other systems like Salmon Lake are also very accessible
11 as they're within an hour's skiff ride from town. They
12 support limited numbers of returning adult steelhead.

12

13

14 In Mr. Vaughn's opinion, this subsistence
15 steelhead fishery was approved with very little
16 justification. Basically there's not any baseline
17 information on stock condition for the majority of stream
18 systems in Southeast Alaska. I feel that the prosecution
19 of this fishery under such a broad management strategy is
20 highly irresponsible. If the harvest of steelhead is
21 allowed it should be limited to systems that are annually
22 monitored by fisheries managers who determine that a
23 harvestable surplus exists.

23

24

25 We've been fortunate so far that
26 participation in the fishery has been low and there
27 likely has not been any severe impacts from this fishery.

27

28

29 This doesn't mean we don't need to take
30 steps to avoid future problems. Without active
31 management we need regulations like this proposal
32 enacting size and gear restrictions to help regulate
33 harvest in these easily accessible systems.

33

34

35 Mr. Chairman, that completes the written
36 public comments.

36

37

38 CHAIRMAN FLEAGLE: Thank you, Bob. And
39 we don't have any testimony cards submitted for this
40 proposal either.

40

41

42 Keith.

42

43

44 MR. GOLTZ: Yeah, I'd like to expand on
45 my last answer and it's nothing to do with what Bob just
46 did.

46

47

48 But one of the ways to speed it up, if
49 that was really the motivation behind your last question,
50 is to recognize that the legal record is in front of us.
51 We don't need to have that repeated by the Staff in oral

1 form. So if proposals are coming similar before us, we
2 can either dispense, legally, with the Staff
3 presentations or we can ask them to just give it to us in
4 very summary form. And that's the way we've dealt with
5 this situation in the past.

6

7 CHAIRMAN FLEAGLE: Okay, I appreciate
8 that. Thank you.

9

10 Well, we're on a roll, might as well go
11 down the list. We don't have any public testimony.
12 Regional Advisory Council recommendation, Bert.

13

14 MR. ADAMS: Thank you, Mike. The Council
15 opposes FP07-25.

16

17 I'd just like to maybe make a comment on
18 your, you know, previous thought about taking no action
19 on this proposal because it was similar to a previous
20 one. If that were to happen then I would have to, you
21 know, take the Council position in opposition, you know,
22 and stick with that because, you know, I can't go back to
23 the Council and say, hey, is it okay if we do it this
24 way. So I just wanted to make that point out and I
25 appreciate, you know, the respect for the Council's
26 position on this.

27

28 This proposal would roll back Federal
29 subsistence steelhead regulations and it would align it
30 with Federal regulations -- align the Federal regulations
31 -- it's getting pretty late in the day, I'm sorry, with
32 the State of Alaska regulations.

33

34 Data presented did not support this
35 change. There is no conservation issue with steelhead in
36 this area. And the proposed change would be detrimental
37 to subsistence users.

38

39 Thank you, Mr. Chairman.

40

41 CHAIRMAN FLEAGLE: Thank you. Questions.

42

43 (No comments)

44

45 CHAIRMAN FLEAGLE: ADF&G comments, John.

46

47 MR. HILSINGER: Thank you, Mr. Chairman.

48 The ADF&G recommendation was to support this proposal.

49

50 And while it would align the regulations

1 in that area with State sportfish regulations I think
2 it's important to understand that it would also align
3 them with the Federal subsistence regulations for the
4 Sitka road system that you just dealt with, and I think
5 there's pretty broad agreement that those regulations are
6 needed on the Sitka road system because of the large
7 contingent population and the potential for harvest.
8 That's why the in-season Federal delegated official
9 implemented those by permit in the first place. And the
10 Department believes that the steelhead stocks in this
11 broader area around Sitka have similar characteristics.
12 Many of them are very small, many of them are fairly
13 accessible with a short skiff ride and we thought that
14 they deserved the same level of protection as those
15 stocks on the Sitka road system.

16

17 Thank you.

18

19 CHAIRMAN FLEAGLE: Thank you, John.

20 Questions.

21

22 (No comments)

23

24 CHAIRMAN FLEAGLE: InterAgency Staff
25 Committee recommendations, Steve Klein.

26

27 MR. KLEIN: Mr. Chair. The Staff
28 Committee is opposed to Fishery Proposal 07-25 consistent
29 with the Southeast Alaska Council.

30

31 Adoption of this proposal would not
32 provide subsistence users with a subsistence priority as
33 required under ANILCA and special restrictions can be
34 applied to the permit where issues or concerns arise.

35

36 Mr. Chair.

37

38 CHAIRMAN FLEAGLE: All right, thank you.

39 Questions.

40

41 MR. EDWARDS: Mr. Chairman.

42

43 CHAIRMAN FLEAGLE: Discussion. Gary.

44

45 MR. EDWARDS: I guess this question is
46 really more for Keith, and it's the statement that is
47 used here in the Staff Committee, and I don't know if
48 it's sort of used as a blanket statement but it seems to
49 say that if you apply State sportfishing regulations to
50 Federal subsistence fishing then it does not provide

1 subsistence users with a subsistence priority. That
2 shouldn't be used as a blanket statement, is that right,
3 because wouldn't there be numerous situations where State
4 regulations could apply and it would still provide the
5 priority?

6
7 I just didn't know how the Staff
8 Committee, when you wrote that, if that was sort of a
9 blanket statement or just specific to this incident, I
10 guess is my question. I just want to make sure that it
11 is true that you can have situations where they can be
12 the same and still ensure that you're providing a
13 priority.

14
15 Does that make sense?

16
17 CHAIRMAN FLEAGLE: No, but, Keith.

18
19 MR. GOLTZ: No. I'm not sure how you
20 could have a priority if the regulations are applied
21 equally. I'm not saying we couldn't in some cases adopt,
22 but the Federal standard is a meaningful subsistence
23 priority.

24
25 MR. EDWARDS: But as long as that is
26 provided then you could adopt State regulations, because
27 we do it in numerous places, do we not?

28
29 MR. GOLTZ: I'm not aware.....

30
31 MR. EDWARDS: I mean, well, originally on
32 the Kenai, for example, we adopted State regulations for
33 subsistence and there are other places, as long as the
34 State regulations provides a meaningful preference, then
35 it's not an issue.

36
37 CHAIRMAN FLEAGLE: But when you adopt the
38 State regulations don't they then become Federal
39 regulations and so they're concurrent, they're the same
40 until there is a need to exercise the preference.

41
42 MR. EDWARDS: I'm just looking at the
43 wording here, it just says:

44
45 Applying State sport regulations, Federal
46 subsistence fishing would not provide
47 subsistence users with a subsistence
48 priority.

49
50 We never apply State regs, right, we

1 always adopt State regs then it becomes Federal regs;
2 isn't that true?

3

4 MR. GOLTZ: No, this sounds like a work
5 session scenario, but we started with State regs. And as
6 we evolved, we've responded to Councils. And, therefore,
7 every year our programs tend to diverge. But the
8 touchstone of that divergence is always a meaningful use
9 priority.

10

11 In some instances we sort of backed into
12 a situation where we were using State regulations but
13 that was always viewed as a temporary stop gap measure.

14

15 Remember we had dual purposes when we
16 adopted the program.

17

18 One was to minimize the disruption to the
19 State system. That portion of our intent became less and
20 less operative as we paid attention to the second and
21 that was to implement Title VIII in accordance with the
22 Federal mandates. And that divergence has grown. I
23 can't think of any instance in where, when we've paid
24 attention to a specific problem, we've been able to meet
25 the Federal standard by adopting State sportfish
26 regulations.

27

28 CHAIRMAN FLEAGLE: Steve Klein.

29

30 MR. KLEIN: Thank you, Mr. Chair. I
31 think the Staff Committee, I would say, if we did adopt
32 this regulation, basically it would create a catch and
33 release fishery with no opportunity for take and it would
34 remove dipnets, gaff, handline and spear in addition to
35 rod and reel and I don't think that provides a
36 subsistence priority.

37

38 Mr. Chair.

39

40 CHAIRMAN FLEAGLE: Thank you. Ready for
41 more discussion Board, motions or anything.

42

43 Denny.

44

45 MR. BSCHOR: I'm prepared to make a
46 motion, Mr. Chair.

47

48 CHAIRMAN FLEAGLE: Okay.

49

50 MR. BSCHOR: I move to adopt the

1 Southeast Alaska Regional Advisory Council recommendation
2 for Proposal FP07-25 which is to reject the proposal.
3 And following a second I'll provide my rationale.
4
5 MR. CESAR: I'll second it.
6
7 CHAIRMAN FLEAGLE: Second by Niles. Any
8 other discussion.
9
10 (No comments)
11
12 CHAIRMAN FLEAGLE: Question's called,
13 Proposal 25, Pete.
14
15 MR. PROBASCO: Thank you, Mr. Chair.
16 Final action on Proposal FP07-25 -- and I lost my
17 cheatsheet.
18
19 Mr. Bschor.
20
21 MR. BSCHOR: Aye.
22
23 MR. PROBASCO: Mr. Edwards.
24
25 MR. EDWARDS: Aye.
26
27 MR. PROBASCO: Mr. Fleagle.
28
29 CHAIRMAN FLEAGLE: Aye.
30
31 MR. PROBASCO: Ms. Gottlieb.
32
33 MS. GOTTLIEB: Aye.
34
35 MR. PROBASCO: Mr. Cesar.
36
37 MR. CESAR: Aye.
38
39 MR. PROBASCO: Mr. Oviatt.
40
41 MR. OVIATT: Aye.
42
43 MR. PROBASCO: Motion carries, Mr. Chair,
44 six/zero.
45
46 CHAIRMAN FLEAGLE: Thank you. We'll now
47 move to Proposal No. 26, again, being presented by Cal
48 Casipit. Cal.
49
50 MR. CASIPIT: Thank you, Mr. Chair. Your

1 executive summary for this proposal begins on Page 289 of
2 your book.

3

4 The actual analysis begins on Page 291.
5 FP07-26 was submitted by Mike Vaughn of Sitka, Alaska.
6 He is concerned about conservation of steelhead in Salmon
7 Lake near Sitka and the proponent would like to align
8 Federal subsistence management regulations with State
9 sportfishing regulations for the Salmon Lake drainage.

10

11 On Page 292 is a copy of a map showing
12 the position of Salmon Lake in relation to Sitka and the
13 road system. We go through the regulatory history and
14 biological background and harvest history, and in light
15 of previous issues about summarizing this, I will just
16 cut to the effects of the proposal.

17

18 This proposal would restrict the Federal
19 subsistence harvest of steelhead and apply State
20 sportfishing regulations to Federal subsistence fishing
21 activities in the Salmon Lake watershed. It would not
22 provide Federally-qualified users with a subsistence
23 priority and would reverse the Board's decision
24 establishing the current regulation. Requiring
25 Federally-qualified subsistence users to follow State
26 sportfish regulations in Salmon Lake does not recognize
27 the consumptive versus recreational differences in
28 management focus between subsistence and sportfisheries.

29

30 I wanted to point out that the Federal
31 manager still has authority for permit restrictions to
32 close the Salmon Lake steelhead fishery based on
33 documented conservation concerns.

34

35 With that I'll be happy to answer any
36 questions.

37

38 CHAIRMAN FLEAGLE: Thank you, Cal.

39 Questions.

40

41 (No comments)

42

43 CHAIRMAN FLEAGLE: All right, hearing
44 none, we'll look at the testimony. We don't have any
45 written public comments recorded for this one, and we
46 don't have any testimony cards for public testimony.

47

48 Regional Advisory Council recommendation,
49 Bert.

50

1 MR. ADAMS: Thank you, Mr. Chairman. For
2 the same reasons that we opposed the previous proposal,
3 the Council recommendation is to follow suit with this
4 one.

5
6 Thank you.

7
8 CHAIRMAN FLEAGLE: Alaska Department of
9 Fish and Game comments.

10
11 MR. HILSINGER: Thank you, Mr. Chairman.
12 The ADF&G recommendation was to support this proposal.

13
14 This is another area that's easily
15 accessible by the large population of Sitka and this
16 would implement regulations which are comparable to those
17 on the Sitka road system, which the Federal delegated
18 official believe were necessary for the conservation of
19 those steelhead on the Sitka road system, and we felt
20 that the Salmon Lake population deserves the same level
21 of protection.

22
23 Thank you.

24
25 CHAIRMAN FLEAGLE: Thank you. And the
26 InterAgency Staff Committee recommendation, Steve Klein.

27
28 MR. KLEIN: Thank you, Mr. Chair.
29 InterAgency Staff Committee opposes this proposal
30 consistent with the recommendation of the Southeast
31 Council and the same rationale as the last proposal.

32
33 Thank you.

34
35 CHAIRMAN FLEAGLE: Thank you.
36 Discussion. Denny.

37
38 MR. BSCHOR: Just one question. Is there
39 any significant difference between the amounts of fish,
40 number of fish in the lake system versus the stream
41 systems that we've been discussing previous to this?

42
43 MR. CASIPIT: In general lake systems
44 have larger populations of steelhead than do stream
45 systems, in general.

46
47 CHAIRMAN FLEAGLE: Other comments.

48
49 (No comments)

50

1 CHAIRMAN FLEAGLE: Questions.
2
3 (No comments)
4
5 CHAIRMAN FLEAGLE: Discussion.
6
7 (No comments)
8
9 CHAIRMAN FLEAGLE: Motions. Denny.
10
11 MR. BSCHOR: I'd like to move to adopt
12 the Southeast Alaska Regional Advisory Council
13 recommendation for Proposal FP07-26 which is to reject
14 this proposal.
15
16 Mr. Chair.
17
18 MR. CESAR: I'll second it.
19
20 CHAIRMAN FLEAGLE: Any discussion.
21
22 MR. CESAR: Question.
23
24 CHAIRMAN FLEAGLE: Question's called on
25 Proposal 26, Pete.
26
27 MR. PROBASCO: Final action on Proposal
28 FP07-26 to oppose consistent with recommendation of the
29 Southeast Alaska Subsistence Regional Advisory Council.
30
31 Mr. Edwards.
32
33 MR. EDWARDS: Aye.
34
35 MR. PROBASCO: Mr. Fleagle.
36
37 CHAIRMAN FLEAGLE: Aye.
38
39 MR. PROBASCO: Ms. Gottlieb.
40
41 MS. GOTTLIEB: Aye.
42
43 MR. PROBASCO: Mr. Cesar.
44
45 MR. CESAR: Aye.
46
47 MR. PROBASCO: Mr. Oviatt.
48
49 MR. OVIATT: Aye.
50

1 MR. PROBASCO: Mr. Bschor.
2
3 MR. BSCHOR: Aye.
4
5 MR. PROBASCO: Mr. Chair, motion carries,
6 six/zero.
7
8 CHAIRMAN FLEAGLE: Thank you, Pete. That
9 wraps up the Southeast Alaska proposals. We need to take
10 a break to talk about where to go from here, so let's
11 take a 10 minute break.
12
13 (Off record)
14
15 (On record)
16
17 CHAIRMAN FLEAGLE: Good afternoon, we're
18 back in session. And before we completely dispense with
19 the Southeast area proposals, we did have a question that
20 I referred to earlier about the vote on Proposal 21 that
21 I feel pretty strongly after thinking about it and
22 talking with other people during the break, that we
23 should -- that proposal should have the benefit of
24 further discussion.
25
26 And with that I think the appropriate
27 avenue would be to call for a reconsideration to bring
28 the proposal back before the Board and complete the
29 discussion and then revote on it. And with that, George,
30 are you willing to make a motion.
31
32 MR. OVIATT: I am, Mr. Chairman. I make a
33 motion that we reconsider FP07-21 for clarification of
34 the record and further discussion of what the intent was.
35
36 MR. EDWARDS: Mr. Chairman, I'll second
37 that and in saying that I think Mr. Knauer can actually
38 shed some light on it. He was able to do that with me.
39
40 CHAIRMAN FLEAGLE: All right, we do have
41 a motion and a second.
42
43 Is there any objection to motion for
44 reconsideration.
45
46 (No comments)
47
48 CHAIRMAN FLEAGLE: Hearing none, motion
49 carries. Proposal 21 as adopted previously now stands
50 before the Board for further consideration.

1 And we have back at the table Robert
2 Larson and Robert you understood the concern that I
3 raised with not having a clear understanding of the --
4 what appeared to be the net effect of the proposal was to
5 increase the harvest of sockeye in the closed are to non-
6 Federally qualified users by five times. And the
7 question, I think, that the State raised was whether that
8 was justifiable to give such a substantial increase and
9 maintain the closure. And I think there needs to be
10 clarified in several people's minds as to what the exact
11 net effect of the proposal would be. Would you like to
12 go ahead and just answer the -- or speak to the issue.

13

14 MR. LARSON: Yes, Mr. Chairman. I think
15 it would be beneficial for the Board and the audience if
16 we provide a little bit of background, some historical,
17 chronological events.

18

19 In 2001 the Board closed the three
20 systems before you, Falls, Gut and Kutlaku to non-
21 Federally qualified users. Subsequent to that there was
22 an RFR, subsequent to that there was another proposal.
23 At the same time on the Federal level we were doing
24 studies to document assessment of those sockeye stocks.
25 We also met in a public meeting with the subsistence
26 users, the Department of Fish and Game, the Federal
27 subsistence Staff, subsistence users from Sitka and Kake
28 to discuss harvest patterns and the sockeye limits in
29 those three locations. As a result of the meeting we had
30 with the subsistence users and as precipitated by a
31 report from the State's Subsistence Division regarding
32 the accuracy of harvest reporting under the current
33 system, the State changed their regulations regarding
34 harvest limits at Kutlaku and Falls to reflect fishing
35 patterns, the current fishing patterns and to allow for
36 better and more accurate reporting of those harvests.
37 And the changes that were made, you can see is reflected
38 before you, in the Federal regulations, which were the
39 old State regulations and the new State regulations.

40

41 The new State regulations provide for a
42 possession limit and an annual limit of 50 sockeyes. The
43 current Federal regulations require a possession limit of
44 10 sockeyes. We're speaking more to Falls Lake right
45 now, but without an annual limit. The net effect of
46 changing the regulations to 50 in possession and annual
47 is that the total number of fish is capped at 50 fish.
48 Right now under Federal regulations the total number of
49 fish is not capped at all. Conceivably there's an
50 unlimited number of fish that can be harvested.

1 What we feel and what we've discussed
2 with the local managers of the Alaska Department of Fish
3 and Game is that this change has not materially changed,
4 significantly changed the amount of fish that were
5 harvested in those locations.

6
7 What we have is more accurate reporting.
8 But the change should not and did not increase the total
9 number of harvest.

10
11 We don't think that following suit with
12 the State's program will change the -- or harvest
13 patterns in any of these locations under consideration
14 right now.

15
16 One of the primary reasons of changing to
17 a harvest limit that's on a permit is to provide for
18 flexibility of management to account for changes in
19 abundance of sockeyes. The outlook is not for any one
20 particularly year but we have a long-term commitment for
21 maintaining a subsistence use and to provide for an
22 assessment tool and a methodology and in history to
23 really evaluate what kind of escapements and productivity
24 we have in these streams.

25
26 Currently the Federal government has
27 funded an assessment survey for Kutlaku, which has
28 demonstrated an abundance of sockeyes that we think could
29 result in and justify a rescinding the Board's action for
30 Kutlaku specifically. And our plans are we've met with
31 the State on several occasions and we are in
32 communications with the tribal government of Kake to
33 develop a combined proposal to bring before this body in
34 the next cycle to rescind that closure.

35
36 CHAIRMAN FLEAGLE: All right, thank you.
37 I think that the statement you made is key to my thinking
38 here and this goes back to the original discussion on
39 what possession means, and that possession is that you
40 possess it until it's been processed and, i.e., then you
41 could, therefore, process the fish in place and be there
42 for -- no longer possess them, you could conceivably
43 under the current regulations already harvest 50 salmon
44 or more if you wanted to. By adopting the current
45 regulation and adding the word, in adjacent areas, that
46 does add -- that does create the limit now of 50 total,
47 period, which could actually be a -- well, I think based
48 on the use patterns that you've alluded to there doesn't
49 appear that there's going to be additional harvest based
50 on this change. And I think that clarifies it for me.

1 I don't know if there's other -- there's
2 a couple other Board members, I know that were in the
3 same boat I was, is there any other discussion necessary,
4 questions. George.

5
6 MR. OVIATT: No, that does clarify it for
7 me. And that makes better sense now that actually we're
8 placing a limit that we did not have before on this
9 fishery. But I guess this begins to bring up the
10 question of, are these healthy fisheries in these areas?
11 I know you've done the study and probably have the data
12 to come forth on the one area that we closed, but is this
13 an indication that we are having healthy fisheries in
14 this area?

15
16 MR. LARSON: Mr. Chairman. The
17 information that we have before us and it's actually a
18 continuation of the information that you've seen in
19 previous years is that the numbers of fish that are
20 returning to Kutlaku are, in fact, appear to be healthy.

21
22 We have very limited information, our
23 ability to measure the numbers of fish going back to Gut
24 Bay is limited, that stream is very difficult to assess
25 without spending a significant amount of money.

26
27 We have a continuation of assessment data
28 for Falls, but is not different than the information,
29 it's of the same magnitude and the same concerns exist
30 regarding the health of the stocks in Falls.

31
32 So it is no different than what you've
33 seen before. There's just, you know, a little more -- a
34 few more years of that kind of magnitude of return.

35
36 MS. GOTTLIEB: Mr. Chairman.

37
38 CHAIRMAN FLEAGLE: Judy.

39
40 MS. GOTTLIEB: Thank you. So actually
41 this isn't an increase in the annual harvest, it's
42 actually a capping or even a potential reduction, I don't
43 know -- I assume you have some figures on harvest so I
44 hope that was part of the RAC discussions as well in
45 trying to make this regulation more consistent.

46
47 CHAIRMAN FLEAGLE: Robert.

48
49 MR. LARSON: Mr. Chairman. Yes, that's
50 exactly true, is that, we now have a cap on the total

1 number of sockeyes that could be harvested in these
2 locations where we didn't have that before.

3

4 CHAIRMAN FLEAGLE: Thank.....

5

6 MR. EDWARDS: Mr. Chairman.

7

8 CHAIRMAN FLEAGLE: Just a sec, Gary, I've
9 got John Hilsinger and then I'll recognize you. John, go
10 ahead.

11

12 MR. HILSINGER: Thank you, Mr. Chairman.
13 This issue came up last year when the Board considered a
14 similar proposal for Kutlaku Lake and that proposal, I
15 believe, was put in by some of the residents of the area.
16 And my memory of that was that their justification was
17 that there was very little harvest there and the reason
18 was that because it had this low limit and if they could
19 have a limit like 50 at one time they would be far more
20 likely to travel the distance to that area to get 50 fish
21 at once than they would travel there to get 10 fish and
22 have to either stay over or bring their processing
23 equipment or whatever. So the people who submitted that
24 proposal at that time thought that that would result in
25 an increased opportunity and an increased harvest.

26

27 Thank you.

28

29 CHAIRMAN FLEAGLE: Appreciate that, John.
30 Gary.

31

32 MR. EDWARDS: I'm trying to refer back to
33 Robert's statement. So in the case of Gut Bay, then the
34 limit will actually be set by the permit or will it --
35 we're not going to have a limit so it would be the same
36 as in the adjacent area, I guess that's where I'm
37 unclear?

38

39 MR. LARSON: Yes, Mr. Chairman, one of
40 the benefits that I really didn't dwell on in our
41 previous discussions was the increased opportunity for
42 discussion and collaboration between the State and
43 Federal fisheries managers, in that, there would be one
44 harvest limit for all users for each stream. And the
45 discussions regarding jurisdictional issues, where the
46 line is drawn, those sort of issues would just sort of go
47 away. So we would have one limit for all users that
48 would be appropriate to the productivity of that stream
49 and the ability to produce fish for the subsistence
50 fishery.

1 MR. EDWARDS: And one follow up question.
2 So then even though we've added this language about
3 adjacent State subsistence fisheries, the reality is that
4 we're really going to be setting it but through the
5 permits?

6
7 MR. LARSON: That's correct. The fishing
8 permits would have harvest limits printed on them and
9 they would be the same as the harvest limits that would
10 be printed on the State's permits.

11
12 CHAIRMAN FLEAGLE: Further discussion.

13
14 (No comments)

15
16 CHAIRMAN FLEAGLE: Are we ready for the
17 question.

18
19 (No comments)

20
21 CHAIRMAN FLEAGLE: The motion stands
22 before us as -- yeah, there's no amendment -- I don't
23 hear any interest in amending it so the motion can be
24 revoted on without any change just to reaffirm the first
25 vote was further discussed.

26
27 The question is recognized on Proposal
28 21, Pete.

29
30 MR. PROBASCO: Thank you, Mr. Chair.
31 Final action on Proposal FP07-21.

32
33 Mr. Oviatt.

34
35 MR. OVIATT: Aye.

36
37 MR. PROBASCO: Mr. Cesar.

38
39 MR. CESAR: Aye.

40
41 MR. PROBASCO: Ms. Gottlieb.

42
43 MS. GOTTLIEB: Aye.

44
45 MR. PROBASCO: Mr. Fleagle.

46
47 CHAIRMAN FLEAGLE: Aye.

48
49 MR. PROBASCO: Mr. Edwards.

50

1 MR. EDWARDS: Aye.
2
3 MR. PROBASCO: Mr. Bschor.
4
5 MR. BSCHOR: Aye.
6
7 MR. PROBASCO: Motion carries, six/zero.
8
9 CHAIRMAN FLEAGLE: Okay, thank you. That
10 now concludes regulatory proposals. We do have the
11 consensus agenda that we skipped over to take up
12 proposals.
13
14 That included five proposals, numbers 19,
15 20 from Southeast; 14, 15, and 16 from Prince William
16 Sound; and how about -- okay, yeah, that was
17 Southcentral.
18
19 Pete, would you explain the procedure,
20 I'm sure everybody else knows but I have never dealt with
21 a consensus agenda, what do we do next?
22
23 MR. PROBASCO: Thank you, Mr. Chair.
24 Actually you're taking us down the right path. You've
25 read onto the record the proposal numbers of the
26 consensus agenda. All that is needed now is a motion by
27 the Board to adopt the consensus agenda, second, and then
28 final action.
29
30 MR. CESAR: I so move.
31
32 CHAIRMAN FLEAGLE: Do we have a second.
33
34 MR. BSCHOR: I'll second.
35
36 CHAIRMAN FLEAGLE: That's good because if
37 the consensus agenda fails then we have to address each
38 of those proposals, right.
39
40 (Laughter)
41
42 CHAIRMAN FLEAGLE: All right, we do have
43 a motion. Discussion.
44
45 MR. PROBASCO: I guess Staff wants to
46 clarify something, go ahead.
47
48 CHAIRMAN FLEAGLE: All right, Steve
49 Klein.
50

1 MR. KLEIN: Actually we should read into
2 the record the action.

3
4 These are consensus because action by the
5 Councils, the State and the Staff Committee were all the
6 same but the recommendation, the actual recommendation
7 should be read into the record and I could do that or
8 Pete could do that.

9
10 CHAIRMAN FLEAGLE: Yeah, go ahead, Steve,
11 if you're prepared to do it.

12
13 MR. KLEIN: So in the Southeast Alaska
14 region there's two proposals, Fishery Proposal 07-19 and
15 07-20, and the recommendation -- the consensus
16 recommendation is to take no action on both of those
17 proposals.

18
19 And then within Prince William Sound
20 there's three proposals; 07-14, 07-15, and 07-16, the
21 consensus recommendation is to oppose each of those three
22 proposals.

23
24 Mr. Chair.

25
26 CHAIRMAN FLEAGLE: Appreciate that,
27 Steve, thank you.

28
29 Discussion.

30
31 (No comments)

32
33 CHAIRMAN FLEAGLE: I guess I'll throw
34 something out. I concur with the recommendation of all
35 parties involved that these don't need any further action
36 other than the adoption by consensus. And with that I'm
37 ready to entertain the question.

38
39 All right, question is now recognized on
40 the consensus agenda, Pete.

41
42 MR. PROBASCO: Thank you, Mr. Chair.
43 Final action on the consensus agenda.

44
45 Mr. Cesar.

46
47 MR. CESAR: Aye.

48
49 MR. PROBASCO: Ms. Gottlieb.

50

1 MS. GOTTLIEB: Aye.
2
3 MR. PROBASCO: Mr. Fleagle.
4
5 CHAIRMAN FLEAGLE: Aye.
6
7 MR. PROBASCO: Mr. Edwards.
8
9 MR. EDWARDS: Aye.
10
11 MR. PROBASCO: Mr. Bschor.
12
13 MR. BSCHOR: Aye.
14
15 MR. PROBASCO: And Mr. Oviatt.
16
17 MR. OVIATT: Aye.
18
19 MR. PROBASCO: Motion carries.
20
21 CHAIRMAN FLEAGLE: All right, thank you,
22 Pete. That then now dispenses with all.....
23
24 MS. GOTTLIEB: Mr. Chair.
25
26 CHAIRMAN FLEAGLE:proposals. We do
27 have -- we will be taking up the Fisheries Resource
28 Monitoring Plan discussion in the morning, first start of
29 business. We do have one other item of business for
30 today that we set aside -- well, actually we didn't set
31 aside, but it's at the bottom of the agenda after
32 proposals and the person that's here to do the
33 presentation is prepared to do the presentation and this
34 is Item 7 on the agenda, the briefing on the Status of
35 Yukon River Chinook Salmon Size Meetings. And I'd like
36 to go ahead and call forward Becca Robbins Gisclair, and
37 you can correct my pronunciation of your name.
38
39 MS. ROBBINS GISCLAIR: Thank you, Mr.
40 Chair. Members of this Federal Subsistence Board. My
41 name is Becca Robbins Gisclair and I'm with the Yukon
42 River Drainage Fisheries Association and I would like to
43 thank you for the opportunity to present an update today
44 on our ongoing efforts of the Yukon River Chinook Salmon
45 Size Meetings.
46
47 Tom's handing out a hand out right now
48 that gives you agendas and summaries and lists of meeting
49 participants for all of those meetings. And just to give
50 some brief background, as you know numerous proposals are

1 put forth to address the issue of the changing size of
2 the Yukon River chinook salmon, both here at the Federal
3 Subsistence Board and at the State Board of Fisheries.
4 In recognizing that this would be a highly divisive issue
5 for the Yukon River, YRDFA has sought to bring fisheries
6 together along with managers on the river to discuss
7 possible solutions and to try to come up with a riverwide
8 approach to addressing the changing size of the Yukon
9 River chinook salmon.

10
11 With this in mind we've convened so far a
12 series of three meetings attended by fishermen, Regional
13 Advisory Council members, Fish and Game advisory council
14 members and Yukon River panel members from the upper and
15 lower rivers and Canada as well as Federal and State
16 agency Staff. And the goal of the group, overall, was
17 to:

18
19 Identify and define the problem.

20
21 Do we agree that chinook salmon are
22 indeed getting smaller.

23
24 To identify possible solutions.

25
26 And to develop solutions which all can
27 agree with.

28
29 What I'd like to do today, just real
30 briefly, is outline our process in these three meetings
31 and the participants and present the end point of our
32 efforts thus far.

33
34 So starting with our first meeting, which
35 we held back in October, the goals for that meeting as
36 the first one, gathering of this group, was to share
37 local and scientific knowledge about Yukon River chinook
38 salmon size and other information about the fishery. To
39 identify if there's agreement on aspects of the issue.
40 And to develop the next steps for drainage wide work on
41 the issue.

42
43 This first meeting was a pretty large
44 one, there were about 60 attendees that consisted of
45 fishermen and women from the lower and upper Yukon in
46 Alaska, as well as Canada. And you have a complete list
47 of the organizations and agencies and villages
48 represented in your handout and I'll save the time of
49 reading all of those, but it was a real broad range of
50 representation from the length of the river. And the

1 content of this first meeting, the focus was on local
2 observations, upper and lower river people as well -- in
3 the U.S. as well as in Canada had an opportunity for the
4 whole morning to just tell us what they were seeing on
5 the river. Then we had a series of presentations in the
6 afternoon and these were one by Dani Evenson of the
7 Alaska Department of Fish and Game presented a joint
8 technical committee fish size, subcommittee white paper
9 on the fish size issue and that served as a background of
10 some of the scientific information on this. And then we
11 had two presenters come up, one Jeff Hard from the
12 Conservation Biology Division at the Northwest Fisheries
13 Science Center and he spoke on size selective fishing and
14 its implications for salmon. And we also had Jack Helle
15 from the Auke Bay Lab of the Alaska Fisheries Science
16 Center down in Juneau come up and speak on marine
17 conditions and ocean-wide effects on the size of salmon.
18 And we close that day with a discussion giving people the
19 opportunity to talk about what we'd heard and what the
20 next steps for this group are.

21

22 The results from that first meeting were
23 people shared their observations on changes they're
24 seeing in the size of fish, and you see some of those
25 reflected in the meeting summary that's in your handouts.
26 And real in broad terms, some attributed these changes to
27 harvest means and methods, others to changing
28 environmental conditions.

29

30 The afternoon presentations that we heard
31 at this meeting provided support for both viewpoints
32 indicating that both harvest methods and marine
33 conditions are likely contributing to the changes.

34

35 At the end of this first meeting the
36 group decided a smaller representative group should meet
37 the specific regulatory proposals on the table and to
38 work towards agreement on a proposal. And to this end we
39 organized a second meeting which was held December 15th
40 here in Anchorage.

41

42 And the goals of the second meeting were
43 to continue to identify points of agreement on whether
44 fish sizes are changing or not and more specifically to
45 develop proposals which the group could endorse to
46 address the issue.

47

48 The participants, again, were a broad
49 range of folks from the upper and lower Yukon River, this
50 time only from Alaska, not from Canada, so we could

1 really focus on the proposals before us. And this
2 meeting had a smaller range of agency representation as
3 well as the Department of Fish and Game on the State side
4 and the U.S. Fish and Wildlife Service participating, and
5 this was to give fishermen an opportunity to speak more
6 amongst themselves and working towards a proposal.

7
8 This meeting, as far as content, was much
9 more informal. It largely consisted of discussion
10 amongst fishermen and with managers. Discussion, again,
11 started with identifying the problem of fish size and
12 most of the day was focused on potential solutions to the
13 issue.

14
15 At the second meeting the group spent a
16 great deal of time focusing on one promising solution,
17 which would essentially have adapted the windows
18 schedule, and that proposal, in brief, was to:

- 19
20 1. Remove subsistence closures
21 bracketing commercial openings.
- 22
23 2. At the beginning of the season
24 start with four days and three
25 days off for subsistence fishing.
- 26
27 3. When the commercial season began
28 have four days open for
29 commercial periods to take place,
30 and three days of no fishing.
- 31
32 4. Roll openings and closures up
33 river to protect pulses of fish
34 as they move up river.
- 35
36 5. All regions of the river would
37 follow a schedule based on how
38 the 2001 windows were designed
39 along the river, the places where
40 it is harder to fish would get
41 more fishing time.

42
43 And those points are contained in the
44 meeting summary if you didn't catch them as I just went
45 through it.

46
47 The group adjourned with the
48 understanding that a subcommittee formed by the group
49 with managers and YR DFA staff would work to flush out the
50 proposal I just went through, and the group would then

1 reconvene via teleconference to finalize the proposal.
2 After some discussion we decided, rather than having a
3 teleconference it would be better to have one more in
4 person meeting, so we held another meeting just last week
5 on January 4th, again, here in Anchorage.

6
7 The goal for that meeting was to continue
8 discussion of that windows option, discuss other
9 potential solutions as we focused just on that one at the
10 first meeting and come to agreement, if possible, on one
11 solution or a suite of solutions and participation in
12 this meeting was largely the same as the meeting before,
13 again, a pretty small group.

14
15 And at this meeting the group discussed a
16 number of options, including:

17
18 Reduced exploitation rates locked in at
19 50 percent or lower.

20
21 River wide mesh depth reductions.

22
23 Setting a maximum mesh size of eight and
24 a half inches.

25
26 Phasing in a few small mesh commercial
27 periods.

28
29 Utilizing true windows.

30
31 Replacing driftnets with setnets.

32
33 Keeping the current window schedule.

34
35 Lower river fishers offered to discuss
36 setting a maximum mesh size of eight and a half inches in
37 the lower river with the maximum mesh size decreasing as
38 you move up river, and a maximum net depth of 45 mesh
39 river wide.

40
41 After much discussion, lower river
42 fishers were not able to agree to more than those points
43 and upper river fishers felt that these points would not
44 address the fish size issue.

45
46 So the group adjourned with no agreement
47 on an alternate proposal, although representatives
48 promised to continue to discuss these points with these
49 constituents but couldn't promise that agreement would be
50 reached.

1 So in summary to where we are now at this
2 point, despite a great deal of time and effort to reach
3 agreement, we don't have a specific proposal to present
4 to the Federal Subsistence Board. Our efforts are
5 continuing though. The Board of Fish meeting isn't until
6 the end of this month and we're continuing to work
7 individually and hoping to convene another meeting right
8 before the Board of Fish meeting when everyone's in town
9 to try one more attempt to reach agreement.

10

11 And that's the summary of where we are at
12 this point. Thank you.

13

14 CHAIRMAN FLEAGLE: All right, thank you,
15 Becca. Questions, Judy.

16

17 MS. GOTTLIEB: Thank you, Mr. Chairman.
18 Thanks for your presentation, for coming here today. I
19 mean we recall last year we did put a lot of faith in
20 this group so we appreciate your efforts.

21

22 So it sounds like there won't be a
23 proposal to the Board of Fisheries, I know you had a
24 placeholder in there but if you're not able to reach
25 consensus, and it's kind of too late to change any
26 proposals at this point in time; so where exactly are you
27 with the Board of Fisheries, I guess?

28

29 MS. ROBBINS GISCLAIR: Mr. Chair. Ms.
30 Gottlieb. We are still going to try one more time right
31 before that meeting to come to agreement but at this
32 point we don't have a proposal to put in.

33

34 MS. GOTTLIEB: And, Mr. Chair, if I
35 might.

36

37 CHAIRMAN FLEAGLE: Yes.

38

39 MS. GOTTLIEB: Because the Park Service,
40 as you know, has an interest in the Yukon River we would
41 really like to participate in these meetings or be aware
42 of them. I know we were aware of the initial ones but
43 not any of the follow up ones, so if you could include
44 us, perhaps in this one before the Board of Fisheries
45 meeting, we'd really like to be there.

46

47 Thank you.

48

49 MS. ROBBINS GISCLAIR: Okay. I will
50 definitely include that. We did limit the second

1 meeting. We had some strong requests from fishermen to
2 really make the emphasis on getting fishermen to be able
3 to talk face to face in the hopes that that would move us
4 towards agreement but, of course, we understand the need
5 to include everyone in the conversation.

6

7 CHAIRMAN FLEAGLE: Other questions.

8

9 (No comments)

10

11 CHAIRMAN FLEAGLE: All right, appreciate
12 your report. It looks like it's a very informative good
13 reading. I plan to look through it and catch up on this
14 issue. Thank you for coming.

15

16 MS. ROBBINS GISCLAIR: Thank you.

17

18 CHAIRMAN FLEAGLE: All right. We do have
19 an announcement, Pete.

20

21 MR. PROBASCO: Thank you, Mr. Chair. Mr.
22 Knauer asked me to just remind the public and agencies
23 that we are currently accepting proposals through March
24 23rd, fishery proposals for 2008/2009, so we accept those
25 proposals through March 23rd.

26

27 Thank you.

28

29 CHAIRMAN FLEAGLE: All right, thank you,
30 Pete. That concludes what I have on my list of stuff
31 that needs to be done today. Do we have any closing
32 comments or announcements by Board members, discussion
33 before we adjourn for the night.

34

35 Judy.

36

37 MS. GOTTLIEB: I guess I did just want to
38 add in terms of the consensus agenda, there's a lot of
39 work that Staff, RAC's, many, many people put into
40 putting those proposals on the consensus agenda and we do
41 appreciate those efforts and the public's participation
42 in those proposals as well.

43

44 Thank you.

45

46 CHAIRMAN FLEAGLE: All right, I agree,
47 thank you. Denny.

48

49 (No comments)

50

1 CHAIRMAN FLEAGLE: No, nothing, okay.
2 All right, the Board will recess, we'll reconvene at 8:30
3 tomorrow morning -- oh, hang on, sorry, Bert, you have a
4 comment.

5
6 MR. ADAMS: Oh, that's okay, Mr.
7 Chairman. I'm just wondering, you know, how long will
8 the meeting go on tomorrow. I'm scheduled to leave in
9 the afternoon and I've got some doctor's appointments,
10 you know, to take care of before I leave.

11
12 CHAIRMAN FLEAGLE: Gary, the Fisheries
13 Monitoring Program, that's the only thing left on the
14 agenda, do you know how long you anticipate that to take?

15
16 MR. EDWARDS: (No microphone on)

17
18 (Laughter)

19
20 MR. EDWARDS: I don't.

21
22 CHAIRMAN FLEAGLE: Okay, Pete.

23
24 MR. PROBASCO: Yeah, we'll have the
25 presentation, of course, the time would depend on what
26 items Board members want to take off the consensus
27 agenda. Right now we have head's up that the Unalakleet
28 project will be requested to be removed off the consensus
29 agenda, ,and it would help us, Board members, if you
30 could let us know right now, are there other items
31 outside of the Unalakleet issue hat you would like to
32 discuss.

33
34 Mr. Chair.

35
36 CHAIRMAN FLEAGLE: Okay, thanks. Yeah,
37 I'm sorry, Gary, I misunderstand. When we set this aside
38 because you were needing to be here, I thought you had
39 something to do with it.

40
41 MR. EDWARDS: Oh, no, I just wanted to
42 address that one project and then we also wanted to talk
43 about some out of cycle projects reference the Kenai that
44 I'd like to inform the Board about. I don't anticipate
45 any of them taking a very long amount of time.

46
47 CHAIRMAN FLEAGLE: Okay, that's all we
48 have on the agenda for tomorrow, Bert.

49
50 MR. ADAMS: Okay, thank you, Mr.

1 Chairman. You know, I'll show up here at 8:30 but if I
2 have to leave, you know, a little bit early for any
3 reason I'll ask to be excused.

4

5 Thank you.

6

7 CHAIRMAN FLEAGLE: Okay, thank you. With
8 that then the Board will now recess for the evening and
9 reconvene at 8:30 a.m. tomorrow.

10

11 Thank you everyone.

12

13 (Off record)

14

15 (PROCEEDINGS TO BE CONTINUED)

