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FEDERAL SUBSISTENCE BOARD  
PUBLIC REGULATORY MEETING

VOLUME III

INTERNATIONAL COAST INN  
ANCHORAGE, ALASKA

MAY 10, 2007  
1:30 o'clock p.m.

MEMBERS PRESENT:

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

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P R O C E E D I N G S

(Anchorage, Alaska - 5/10/2007)

(On record)

CHAIRMAN FLEAGLE: Good afternoon. Federal Subsistence Board is back on record. It's the afternoon of May 11th. No, 10th. May 10th. And I think we're out of Ground Hog Day.

MR. PROBASCO: We hope.

CHAIRMAN FLEAGLE: We hope. Okay. Denny Bschor is participating telephonically, and also on line, Pete, would you go ahead and announce on the record who is all on line, please.

MR. PROBASCO: Thank you, Mr. Chair. On line we have Vince Mathews, who's the Council coordinator for Eastern Interior and Western Interior. We have Dave Johnson from the Tongass Forest for the Forest Service. And we have Alex Nick, Council Coordinator for the Yukon-Kuskokwim Delta Regional Advisory Council. And then on line we have two Chairs, Bert Adams, Southeast Regional Advisory Council, and Lester Wilde from Y-K (Hooper Bay) Regional Advisory Council. And has anybody else signed up. Okay.

That's all we have on line at this time, Mr. Chair.

CHAIRMAN FLEAGLE: Okay. Thank you. And there will be opportunity for public comment. If you'd like to participate and comment before the Board, please fill out a yellow slip with Staff and turn it in, and we can get those comments read into the record -- well, we can hear your comments.

And first off, we're going to start out with a Staff briefing on the issue. And Ann Wilkinson, are you prepared to do that?

MS. WILKINSON: (No audible answer)

CHAIRMAN FLEAGLE: Thank you, Ann. Welcome.

MS. WILKINSON: Mr. Chair. Members of the Board. My name is Ann Wilkinson, and I serve as the

1 FACA coordinator. My primary responsibility is oversight  
2 of the Regional Advisory Council system.

3

4 The Regional Advisory Councils are the  
5 cornerstone of the Federal Subsistence Management  
6 Program. Today you will examine the composition of that  
7 stone to ensure that it remains strong and able to  
8 support the building.

9

10 A court order last summer enjoined us  
11 from using the 70/30 system of structuring representation  
12 on the councils. We were given a reprieve through the  
13 calendar year of 2006. Now, to proceed any further with  
14 this year's selection of Council members, you need to  
15 take action today.

16

17 I was assigned to summarize and prepare  
18 an analysis of the written public comments and the  
19 Council's recommendations regarding Council composition.  
20 A copy of that report was distributed to you prior to  
21 this meeting and you should have a copy of it before you  
22 now.

23

24 In the appendix of that report, you will  
25 find summaries of the written public comments and of the  
26 Council recommendations. Complete copies of the written  
27 public comments are available on the public information  
28 table out in the hall, and on the Board tables. Council  
29 Chairs also received copies.

30

31 The Council recommendations were compiled  
32 or in conjunction with the Regional coordinators.

33

34 In the fall of 2006 the Office of  
35 Subsistence Management solicited public comments  
36 regarding Council composition through the Federal  
37 Register and at the Regional Advisory Council meetings.  
38 The Board received written comments from the Alaska  
39 Department of Fish and Game, two tribal agencies, one  
40 native organization, one sport fishing and hunting  
41 organization, and seven private citizens.

42

43 The Regional Advisory Councils were  
44 briefed on this subject at their fall 2006 meetings and  
45 again at the spring 2007 meetings. All 10 Councils  
46 discussed the topic and offered comments. Nine of the  
47 Council offered formal recommendations to the Board.

48

49 Specific recommendations by the public  
50 and the Councils regarding Council composition are listed

1 in the report on Pages 4 through 7. Their  
2 recommendations addressed a percentage quota, membership  
3 balance, Council member criteria and the member  
4 appointment process. Excuse me. Many of the particular  
5 recommendations require changes in the laws and the  
6 charters. And if you note in the report, when that is  
7 the case, I put it in parens.

8

9                   The comments and recommendations offered  
10 by the public and the Subsistence Regional Advisory  
11 Councils present two basic options regarding Council  
12 composition.

13

14                   Option 1 would seat individuals who have  
15 a comprehensive knowledge of the subsistence, commercial  
16 and sport uses within their respective regions. In  
17 combination, that is the public and the Councils, the  
18 majority of the commenters and Councils prefer this  
19 option. Those who do prefer this option believe it is  
20 assures diverse representation, and more accurately  
21 reflects Alaska's resource users than does a single  
22 interest form of representation. Most past and current  
23 Council members participate in multiple resource uses and  
24 are therefore able to represent such multiple viewpoints  
25 within their regions. Each -- excuse me. Such members  
26 offer a comprehensive perspective which a single use  
27 participant cannot.

28

29                   Option 2 would maintain the goal of  
30 seating a specific percentage of commercial and sport use  
31 representatives on the Subsistence Regional Advisory  
32 Councils. This option would clearly show that commercial  
33 and sport uses are represented on the Councils. Councils  
34 and public commenters would have the Board consider that  
35 some regions have little or no commercial or sport use;  
36 therefore, the percentage ratio should remain a goal  
37 rather than to establish designated seats. If no  
38 qualified commercial or sport use representatives apply  
39 in any given year, seats could be filled by subsistence  
40 use representatives, and the percentage ratio goal would  
41 be sought with the next year's appointments. Excuse me.  
42 Among Councils and commenters that favor this option, the  
43 minimum percentage ratio acceptable is 70 percent  
44 subsistence users to 30 percent commercial and sport  
45 users.

46

47                   Some things that you may like to consider  
48 when you're working on this today. FACA requires the  
49 membership of advisory committees to be fairly balanced  
50 in terms of the points of view represented on the

1 committee and the functions to be performed by the  
2 committee. These are the only two factors that have to  
3 balance.

4  
5 Other factors, such as demographics, may  
6 be considered when developing a balanced membership;  
7 however, the essential consideration is the member's  
8 ability to perform the committee's functions.

9  
10 Title VIII and the implementing  
11 regulations describe the Councils' authorities or the  
12 functions as they're referred to in FACA. In summary,  
13 the Councils' function is to provide an open forum for  
14 the public regarding subsistence matters, and to provide  
15 recommendations to the Board that will accommodate  
16 subsistence uses and needs. A full list of the Councils'  
17 authorities is on Page 2 of the appendix.

18  
19 The criteria for Council membership are  
20 determined by Title VIII and its implementing  
21 regulations. All Council members, whether they represent  
22 subsistence, commercial or sport users, must meet all the  
23 criteria. The criteria are that each member must be a  
24 resident of the region he or she would serve. They must  
25 have knowledge of the region and the region's subsistence  
26 uses, which include customs and traditions. They must  
27 have knowledge of the region's commercial and sport uses,  
28 and must have demonstrated leadership and communication  
29 skills.

30  
31 Today you're called upon to develop a  
32 method for balancing the points of view represented on  
33 the Council with the Council's functions. Points of view  
34 reflecting commercial and sport uses in addition to the  
35 view of the subsistence users should be included on the  
36 Councils; however, these additional points of view by law  
37 must not be allowed to overwhelm or otherwise hinder or  
38 prevent the Councils from fulfilling their purpose.

39  
40 That concludes my overview of the report  
41 and I'm ready to answer any questions you may have.

42  
43 CHAIRMAN FLEAGLE: Thank you, Ann.

44  
45 Questions. Denny, any questions from on-  
46 line?

47  
48 MR. BSCHOR: No.

49  
50 CHAIRMAN FLEAGLE: Okay. Thank you. All

1 right. Thank you, Ann. Appreciate the overview.

2

3 At this time we're going to hear public  
4 testimony. And we have a number of cards. Pete, would  
5 you go ahead and let us know who's up.

6

7 MR. PROBASCO: Thank you, Mr. Chair.  
8 First up is Anna Seidman.

9

10 CHAIRMAN FLEAGLE: Good afternoon.  
11 Welcome, Anna.

12

13 MS. SEIDMAN: I'm not technological, so I  
14 apologize. Good afternoon. My name is Anna Seidman, and  
15 I'm chief litigation counsel for Safari Club  
16 International.

17

18 I appreciate the opportunity to offer  
19 testimony today on behalf of Safari Club International,  
20 Safari Club International Foundation, and SCI's two  
21 chapters here in Alaska.

22

23 Safari Club International has already  
24 submitted written comments to the Federal Subsistence  
25 Board that support the 70/30 membership balance.  
26 However, upon reading the Federal Subsistence Board's  
27 Staff Committee's analysis of the two alternatives  
28 proposed for Federal Advisory Committee Act compliance,  
29 we found it necessary to supplement our written comments  
30 with our testimony today.

31

32 The Staff Committee's analysis suggests  
33 to the Board that FACA compliance can be met through  
34 seating, quote, members who have a comprehensive  
35 knowledge of the subsistence, commercial and sport uses  
36 within their regions, unquote. We disagree with the  
37 Staff that this option would fulfill the Board's FACA  
38 obligations. The focal point of FACA's, quote, fairly  
39 balanced membership requirement, unquote, is  
40 representation, not knowledge.

41

42 As Judge Holland stated in his memorandum  
43 opinion dated August 7th, 2006, quote, although FACA does  
44 not require that all possible interest groups be  
45 represented on advisory committees, the court has already  
46 held that a fairly balanced Regional Advisory Council  
47 must include consumptive users of fish and wildlife on  
48 public lands other than subsistence users, because those  
49 users are directly affected by the subsistence priority.  
50 Judge Holland did not say that a fairly balanced Council

1 must include individuals who are knowledgeable about uses  
2 other than subsistence uses. He said that, quote, a  
3 fairly balanced council must include consumptive users of  
4 fish and wildlife other than subsistence users, unquote.

5  
6           One cannot represent a community of users  
7 simply because he or she is knowledgeable about those  
8 uses. Take me as an example. As chief litigation  
9 council for Safari Club International, I have acquired a  
10 great deal of knowledge about the workings and rationales  
11 of the animal rights organizations that SCI often opposes  
12 in litigation. I doubt, however, that the Humane Society  
13 of the United States would pick me to represent them in a  
14 forum about animal welfare. Knowledge simply isn't  
15 enough.

16  
17           The true Litmus Test for whether the,  
18 quote, knowledgeable about uses, unquote, alternative  
19 would constitute fair representation would be to turn the  
20 tables. If circumstances were reversed, would  
21 representatives of the subsistence practicing communities  
22 be satisfied being represented by non-subsistence users  
23 who claim to be knowledgeable about subsistence  
24 practices.

25  
26           FACA requires a membership fairly  
27 balanced in terms of points of view represented. But how  
28 can it be determined whether an individual actually  
29 represents a particular point of view? The key to  
30 representation is the community being represented. An  
31 individual doesn't represent any particular community  
32 simply because he or she designates himself to be  
33 affiliated with that community.

34  
35           The way that the Board should determine  
36 whether an individual represents a community is to ask  
37 that community. The Board should never rely on an  
38 individual's self-designation or even on the statement of  
39 the hand-picked references supplied by the applicant.  
40 Instead, the Board needs to compile a list of  
41 organizations that support each user group and the Board  
42 should consult those organizations about each applicant  
43 who states that he or she intends to represent that user  
44 group.

45  
46           For example, for those who seek to  
47 represent the recreational consumptive users, the Board  
48 should seek an endorsement for the applicant from groups  
49 such as SCI's chapters, the Alaska Outdoors Council, the  
50 Alaska Professional Hunters Association, and other groups

1 in addition to the State of Alaska. That applicant  
2 should not be nominated to represent that user group's  
3 point of view unless a majority of those organizations  
4 that share that point of view can verify that their  
5 community agrees that the applicant can truly represent  
6 them in RAC business.

7  
8 Representation is the key to the outside  
9 of the box thinking that Judge Holland emphasized.  
10 Representation doesn't require, quote/unquote, single  
11 interest membership. In fact, single interest really is  
12 a misnomer. No one represents any single interest at any  
13 given time. An individual can represent his or her  
14 family, religion, community, occupation, et cetera. It  
15 is certainly not impossible for an individual RAC member  
16 to represent more than one user group, but there is  
17 reason to question whether one individual can adequately  
18 represent two or more competing, if not sometimes  
19 antagonistic groups to the satisfaction of each group.  
20 The true test for someone who indicates that he or she  
21 can represent multiple groups should be whether each of  
22 those groups agrees that it can be adequately represented  
23 by that one individual.

24  
25 It is true that fairly balanced  
26 representation is tied to the function of the RACs, and  
27 for that reason, an individual who represents any  
28 particular user group should be prepared to act as that  
29 group's advocate to raise difficult issues, ask difficult  
30 questions, and at times to make a recommendation to the  
31 Board that conflicts with the recommendation of the  
32 majority. The ability to craft a minority report is an  
33 essential part of fairly balanced representation.

34  
35 When the FSB Staff first analyzed SCI's  
36 written comments, they labeled our recommendation of the  
37 minority report as irrelevant to the question of balanced  
38 representation, but in so doing, the Staff missed the  
39 whole point of fairly balanced representation. The  
40 minority report was a specific component of the  
41 membership balance analysis that the Department of the  
42 Interior Solicitor's Office provided to the Federal  
43 Subsistence Board back in 2002. As stated by the  
44 Department of the Interior Assistant Solicitor Paul  
45 Smythe in his June 17th, 2002 letter to former Federal  
46 Subsistence Board Chairman Mitch Demientieff, the  
47 minority interest on the Council must be given the,  
48 quote, opportunity to craft a minority report, unquote,  
49 on the recommendation submitted to the Federal  
50 Subsistence Board. It is through this type of access to



1 the Federal Subsistence Board that the RACs, both  
2 majority and minority, both subsistence and non-  
3 subsistence have the requisite FACA representation in  
4 terms of points of view.

5  
6 Most likely the Board Staff has pointed  
7 the Board toward the alternative that would seat members  
8 based on their knowledge of their region's uses, because  
9 of their interpretation of a single fleeting reference  
10 that Judge Holland made in his August 7th memorandum  
11 opinion. When discussing an option rejected by the Board  
12 that would seat knowledgeable individuals who participate  
13 in a variety of uses, Judge Holland mentioned that this  
14 was another way in which, quote, compliance with FACA  
15 could be established, unquote. In choosing this  
16 alternative over the 70/30 split, the Staff likely  
17 assumes that this alternative, if adequately explained,  
18 would be approved by Judge Holland. But this assumption  
19 fails to note that Judge Holland used the term could, not  
20 would when describing whether this alternative would meet  
21 FACA compliance standards. There is nothing in Judge  
22 Holland's opinion that guarantees that this alternative  
23 would be acceptable.

24  
25 On the other hand, Judge Holland in his  
26 memorandum opinion of August 7th, 2006, made clear that  
27 the 70/30 plan and/or the single interest representation  
28 alternative would comply with the Federal Advisory  
29 Committee Act. In fact, he stated that, quote, the 70/30  
30 rule is not contrary to law. It simply has not been  
31 adequately justified at this point, unquote. Judge  
32 Holland did not prefer that alternative, but according to  
33 his own memorandum opinions, he is obligated to accept  
34 that alternative if he finds that the Board has  
35 adequately considered other alternatives, and has  
36 provided adequate explanation of their reasons for  
37 picking the 70/30 rule over other alternatives.

38  
39 The 70/30 plan, whether or not it  
40 involves single interest representation or provides --  
41 I'm sorry, can provide a reasonable means of FACA  
42 compliance, if it is based on consultation with each  
43 interest group being represented, and if it involves  
44 access to the tool of minority recommendations to the  
45 Federal Subsistence Board. This type of enhanced 70/30  
46 plan is just the type of out-of-the-box thinking that  
47 Judge Holland has directed the Board to conduct.

48  
49 Once again I thank you for the  
50 opportunity to appear before you here today. I will be

1 submitting a written copy of this testimony to supplement  
2 our previous written comments.

3

4 CHAIRMAN FLEAGLE: Thank you, Anna,  
5 appreciate the comments.

6

7 Questions, Board members. Gary.

8

9 MR. EDWARDS: Just one quick question.  
10 Even under the 70/30, particularly some of our northern  
11 RACs, we've had difficulty just because, you know, the  
12 interest up there and the affected folks are primarily  
13 made up of subsistence users. How would you apply your  
14 sort of out-of-box thinking to trying to address those,  
15 which would certainly be different than trying to address  
16 let's say the Southcentral RAC.

17

18 MS. SEIDMAN: Understood. And we  
19 recognize that there are certain regions that have a much  
20 smaller percentage, if any percentage, of  
21 commercial/recreational uses. But at this point that's  
22 never been solidly substantiated in any of the  
23 alternatives. So presumably if that is -- if there's  
24 data to support it other than anecdotal references in the  
25 representations of different members of the RACs, then it  
26 would be appropriate to have a balance in those Councils  
27 that reflects the regional balance of membership and  
28 uses. And that could certainly be incorporated. My  
29 understanding is the 70/30 rule as it was adopted  
30 previously indicated that it was a goal, not a mandate.  
31 That's not necessarily my preference for some of the  
32 regions where there is a significant percentage of  
33 recreational and commercial users, but it would  
34 potentially work for areas where there isn't the same  
35 balance.

36

37 MR. EDWARDS: One other question. It  
38 seems that you were saying that that's sort of the Litmus  
39 for -- let me back up. I mean, based upon your  
40 discussions, it seems like representation and advocacy  
41 are really one and the same. And so then the Litmus Test  
42 for that, if that representative was truly an advocate  
43 for their interests, then you would basically -- they  
44 would have to go through some Litmus Test of  
45 organizations or whatever determining that.

46

47 MS. SEIDMAN: Well, let me clarify.  
48 First of all, that, yes, there is a level of advocacy in  
49 my definition of representation, but that does not mean  
50 that an individual who represents any particular user

1 group should be -- should assume or should be required to  
2 vote the party line shall we say, to vote the same way,  
3 to vote for his user group in every situation if he or  
4 she is -- interprets the evidence that's presented and  
5 finds that the opinion wouldn't necessarily go along with  
6 his general user groups' opinion should be followed.

7  
8                   However, representation is the -- the way  
9 that a person would represent a group is if they're  
10 presented with testimony, that they ask questions of the  
11 individual, that they not simply assume that what that  
12 person is saying is correct, and they ask the difficult  
13 questions. They ask the questions that the user group  
14 that they represent would ask if they were there. And  
15 similarly, that if they don't agree with the position  
16 that they prepare a minority report that represents the  
17 user group that they represent, their position.

18  
19                   And I think that the only way that you  
20 can get individuals to take that role would be to make  
21 sure that the groups that they represent agree that they  
22 can fulfill that role. And that goes for either side,  
23 and that's why I used the example of a Litmus Test, that  
24 if the tables were turned, and if individuals who are  
25 part of the subsistence community, would they feel  
26 comfortable being represented by commercial or  
27 recreational users who say that they have knowledge of  
28 subsistence uses. That's not the -- knowledge is not the  
29 same as the ability to represent. Knowledge is not the  
30 same as being able to share a point of view. And that's  
31 why I think there has to be something more than knowledge  
32 of all kinds of uses.

33  
34                   CHAIRMAN FLEAGLE: Other questions.  
35 Hearing none, thank you for the testimony. Oh, Dan  
36 O'Hara.

37  
38                   MR. O'HARA: Hi. My name is Dan O'Hara,  
39 sir. Is Judge Holland a State judge or a Federal Judge?

40  
41                   MS. SEIDMAN: Judge Holland is a Federal  
42 District Court judge.

43  
44                   MR. O'HARA: He's handed down some  
45 interesting things for a Federal judge.

46  
47                   MS. SEIDMAN: Absolutely. I would agree  
48 with you.

49  
50                   MR. O'HARA: Thank you.

1 CHAIRMAN FLEAGLE: Ralph.  
2  
3 MR. LOHSE: May I ask a question?  
4  
5 MS. SEIDMAN: Yes, sir.  
6  
7 MR. LOHSE: I had a couple questions that  
8 I came up with listening to you. You used two different  
9 words. You used represent and participate in. Do you  
10 consider participating in something as being sufficient  
11 to give a person not just the knowledge in that area, but  
12 an interest in continuing to participate in that area?  
13  
14 MS. SEIDMAN: No, I don't necessarily  
15 think that they are parallel. An individual can  
16 participate in an activity without being qualified to  
17 represent. For example, in many of the Regional Advisory  
18 Council transcripts that I've reviewed that were talking  
19 about this decision, a number of the Council members  
20 said, well, I have a commercial fishing license, does  
21 that make me qualified to represent the commercial  
22 community. Some thought they were, some thought they  
23 didn't. They were not. Many people I'm sure participate  
24 in what they consider to be a recreational opportunity  
25 and yet that doesn't necessarily qualify them to say, I  
26 know what the people from the recreational community  
27 would ask if they had this witness in front of you -- in  
28 front of us.  
29  
30 MR. LOHSE: Thank you. The other thing I  
31 was very pleased to hear is when you talked about the  
32 fact if you represent something, you're an advocate for  
33 it, but you don't have to, if presented with other  
34 information, vote the hard party line. And I know that  
35 in a lot of things that I've worked in, I've always said  
36 that if either side goes away happy, somebody did  
37 something wrong. You have the -- you know, usually what  
38 ends up happening, after you've listened to everything,  
39 you have to make decisions that basically aren't  
40 everything that you want as a representative, but are the  
41 best that you can come up with as a group. And is that  
42 kind of what you were talking about right there?  
43  
44 MS. SEIDMAN: Absolutely. And quite  
45 frankly again in the Regional Advisory Council  
46 transcripts, and I can't quote a particular one at the  
47 moment, but what a lot of the Councils mentioned is  
48 having the different, distinctly different points of view  
49 improve their conversations, improve their discussions,  
50 improve their opinions. And without having very distinct

1 points of view to offer Ideas that would not otherwise  
2 come up, to offer questions that would otherwise -- would  
3 not otherwise come up. The decisions that are being made  
4 are not necessarily the best decisions to be made.

5  
6 MR. LOHSE: One final question. You  
7 mentioned a minority report a number of times. One of  
8 the things that we were doing as a Council for a long  
9 time was allowing the people who vote against to state  
10 their reasons on the record why they voted against it.  
11 Is that equivalent to a minority report or do you mean  
12 that you'd need an official minority report on every  
13 motion?

14  
15 MS. SEIDMAN: Well, I would say the  
16 latter and I don't think it necessarily has to be on  
17 every motion, but I think that should be the decision of  
18 the Council members. The reason that I suggest it as an  
19 official report as opposed to just the individual  
20 statements of Council members is that the report is the  
21 official document that the Federal Subsistence Board uses  
22 to make its determination, and therefore they review what  
23 is, quote/unquote, the recommendation of the Regional  
24 Advisory Council, but that may not always be the  
25 recommendation of all of the Regional Advisory Council.  
26 And I think that there is a component being left out when  
27 there is not a minority recommendation when certain  
28 Council -- when the Council members feel it's  
29 appropriate.

30  
31 MR. LOHSE: Thank you. Thank you, Mr.  
32 Chair.

33  
34 CHAIRMAN FLEAGLE: Other comments or I  
35 mean questions. Denny, on line?

36  
37 MR. BSCHOR: No, I don't have any,  
38 thanks.

39  
40 CHAIRMAN FLEAGLE: All right. Thank you  
41 for the testimony.

42  
43 MS. SEIDMAN: Thank you.

44  
45 CHAIRMAN FLEAGLE: And once again, if  
46 anybody in the audience wishes to speak on the issue,  
47 fill out a yellow card. We're still taking cards.

48  
49 Pete.

50

1 MR. PROBASCO: Thank you, Mr. Chairman.  
2 And I apologize for not doing this the first time. Next  
3 up will be Gloria Stickwan, followed by Linda Tyone, and  
4 then Timothy Andrew. Gloria Stickwan.

5  
6 CHAIRMAN FLEAGLE: Good afternoon,  
7 Gloria. Welcome. And the other mic is turned on. Would  
8 you reach over and turn it off, please. Thanks.

9  
10 MS. STICKWAN: My name is Gloria  
11 Stickwan. I'm here to represent myself.

12  
13 We as a -- well, the Ahtna Subsistence  
14 Committee opposed the 70/30 percent rule membership. And  
15 they thought it could be improved upon without having --  
16 differentiating subsistence use or personal use or sports  
17 use or commercial use, that these people that are picked  
18 should have experience, user experience of and to be  
19 knowledgeable about all uses that are picked on to be on  
20 these RACs. They should know the issues of the different  
21 user groups, understand the regional subsistence uses and  
22 areas, and they should know the rules of order, and they  
23 should also upkeep the ANILCA mandates and protect  
24 subsistence users. They also thought that two tribal  
25 members should serve on the RACs. And they thought this  
26 way that it could conform to FACA rules I guess.

27  
28 I also wanted to say I serve on the  
29 Southcentral Regional Advisory Council. And I also  
30 support the RACs position that we voted on, and I'm sure  
31 you'll hear about that from our Chairperson.

32  
33 And about this Litmus Test, I don't know  
34 what to think about that. Are we all going to have to go  
35 through tests now to be on RACs or -- I didn't understand  
36 that part at all. Are we going to have to ask questions  
37 about our user knowledge, or just what is that? I guess  
38 I'm not supposed to ask questions to the Board, but  
39 that's -- I just think people that serve on there should  
40 have knowledge of all uses, and they should protect  
41 subsistence. We're there to uphold ANILCA and that is  
42 our primary responsibilities, and to oversee the  
43 conservation of fish and wildlife, and uses and to  
44 protect subsistence uses. That's how I see it.

45  
46 CHAIRMAN FLEAGLE: Okay. Thank you,  
47 Gloria.

48  
49 Questions, Board members. Charlie.  
50

1 MR. BUNCH: Gloria, you said two tribal  
2 members was your recommendation. Did you mean tribal  
3 members or tribal council members?

4  
5 MS. STICKWAN: Two tribal members. It  
6 could be council members who really, you know, are  
7 knowledgeable about the subsistence uses.

8  
9 MR. BUNCH: Thank you.

10  
11 CHAIRMAN FLEAGLE: Other questions.  
12 Gary.

13  
14 MR. EDWARDS: Gloria, thank you for your  
15 testimony. Have you given any thought to how you would  
16 go about accomplishing that kind of representation that  
17 you've described?

18  
19 MS. STICKWAN: Well, I think that, you  
20 know, they should be knowledgeable of other uses, there  
21 should be involvement, attending meetings, Federal and  
22 State meetings. They should -- at these Federal and  
23 State meetings you learn a lot, just another lesson, you  
24 learn a lot by talking to people, to the recreation  
25 users, you hear their public testimony. And during the  
26 meetings, you are able to talk to the commercial users.  
27 During the Board of Game -- I mean Board of Fisheries  
28 they put us into little groups, so we're able to  
29 understand and have a discussion among our different  
30 concerns. So we do have a lot of knowledge and we know  
31 what their concerns are. And, you know, I see that as we  
32 -- as long as we understand what all the issues are, you  
33 know, I think that that's the most important thing of  
34 serving on this RAC. It's not whether you're a  
35 commercial user or a subsistence user or a sport user,  
36 but that you understand and that you protect ANILCA.  
37 Protecting ANILCA is the most important thing I think.

38  
39 CHAIRMAN FLEAGLE: Other questions.

40  
41 (No comments)

42  
43 CHAIRMAN FLEAGLE: On line?

44  
45 (No comments)

46  
47 CHAIRMAN FLEAGLE: All right. Hearing  
48 none, thank you, Gloria.

49  
50 Pete.

1 MR. PROBASCO: Next is Linda Tyone,  
2 followed by Timothy Andrew, and then Heather Kendall.

3  
4 CHAIRMAN FLEAGLE: Good afternoon, Linda.  
5 Welcome. You need to turn the microphone on. There you  
6 go. Thank you.

7  
8 MS. TYONE: Thank you for the opportunity  
9 to allowing me to testify on the Regional Advisory  
10 Councils. I'm here today on behalf of the Ahtna  
11 Subsistence Committee. I'm the current chair of the  
12 committee.

13  
14 And we oppose the 70/30 split. We think  
15 this would be unfair to the subsistence users, because I  
16 don't think we would get a fair representation from the  
17 commercial and sports users. We would be outvoted and  
18 that wouldn't be protection of subsistence. There are  
19 mandates under ANILCA that need to be followed. So I  
20 don't think -- we should have the direct knowledge and  
21 interest on people that apply for these seats.

22  
23 And the Regional Councils are advisory  
24 members, so it's not like their recommendation's going to  
25 go forward.

26  
27 So I think that you need to have direct  
28 knowledge, because the people that have direct knowledge  
29 of the region knows about how the game populations are in  
30 different years, and their history has been given from  
31 generation to generation by the families in different  
32 regions, villages. I think that's very important,  
33 because families do pass on history from generation to  
34 generation on how, you know, they used to hunt years ago  
35 in the Copper River area, and that's all documented. So,  
36 you know, you have to have the knowledge of your area.

37  
38 I don't have any knowledge about areas up  
39 in the north, because that's not my home region. My home  
40 region is in the Copper River area. And, you know,  
41 that's where we grow up and know the knowledge of things  
42 that goes on there. So I think you need to consider the  
43 background, experience.

44  
45 And that's all I have to say.

46  
47 CHAIRMAN FLEAGLE: Thank you, Linda.

48  
49 Questions.

50



1 (No comments)  
2  
3 CHAIRMAN FLEAGLE: All right. Appreciate  
4 the testimony.  
5  
6 MS. TYONE: Thank you.  
7  
8 CHAIRMAN FLEAGLE: Pete.  
9  
10 MR. PROBASCO: Next is Timothy Andrew,  
11 followed by Heather Kendall, and then Art Ivanoff.  
12  
13 CHAIRMAN FLEAGLE: Good afternoon, Tim.  
14  
15 MR. ANDREW: Good afternoon, Mr.  
16 Chairman. Members of the Board. Thank you for the  
17 opportunity to testify before you today. My name is  
18 Timothy Andrew. I'm the director of Wildlife Resources  
19 for the Association of Village Council Presidents, based  
20 in Bethel, Alaska, and I am here to testify to you about  
21 the composition of our Regional Advisory Councils.  
22  
23 Over the past several years there's been  
24 a lot of discussion by not only our RACs, but also people  
25 within the area about the potential impacts of this 70/30  
26 split if it were to occur on our Regional Advisory  
27 Councils. We oppose this action.  
28  
29 During our recent Y-K Delta Regional  
30 Advisory Council meeting in Hooper Bay during the month  
31 of March, many of our members expressed their concerns  
32 about the potential dilution of the RACs by non-  
33 subsistence interests. And this process is currently  
34 already occurring on the Federal Subsistence Board with  
35 the inclusion of the non-voting participation by the  
36 State of Alaska.  
37  
38 The State has always been extremely -- or  
39 not always been, but has become more and more hostile to  
40 people in the rural areas. And this is done through  
41 primarily their administrative and legislative actions.  
42 And they choose to fight their very own people, us, with  
43 money that they have derived from the resources that are  
44 right in our back door. They are motivated by  
45 organizations that generate the most money, while  
46 ignoring our social, cultural, economic and subsistence  
47 needs of our people. I cannot ever recall the State of  
48 Alaska ever suing on behalf of subsistence, but they will  
49 always get up and sue for the other people.  
50

1                   Additionally, others on our Council  
2 expressed their support for provision supported by the  
3 Yukon River Drainage Fishermen's Association, which  
4 include the following:

5  
6                   RACs should be exempt from FACA, and we  
7 should seek Congressional changes to exempt the RACs.

8  
9                   (2) RACs are already fairly balanced, and  
10 this is expressed on Page 6 of the appendix. And the Y-K  
11 Delta Regional Advisory Council, many who sit on the RACs  
12 serve as municipal council members, tribal councils, and  
13 they sit on regional non-profit boards, village  
14 corporation board, regional corporations and local school  
15 boards. Additionally CDQ boards and other interests that  
16 they may serve within the villages. So these people are  
17 pretty well balanced as far as their knowledge of people  
18 in their communities. And they are -- and we believe  
19 that they serve as people that adds flavor to the  
20 discussion while they deliberate o some of the regulatory  
21 proposals. And if you are to review the biographies of  
22 the people serving on our RACs, you will definitely find  
23 that to be true, that they are varied in their local and  
24 regional interests.

25  
26                   The other thing that I'd like to point  
27 out is in the Y-K Council there have been a person of  
28 other interests, one of the commercial services providers  
29 within the region that was appointed to the Regional  
30 Advisory Council. That individual never did show for the  
31 meeting.

32  
33                   We only have two or three commercial  
34 service providers within our area, and they're primarily  
35 based in Bethel. The villages basically have none. We  
36 have 6500 people in the Community of Bethel. The other  
37 14 or 10,000 more people are based -- are in our  
38 villages, which have populations from 80 people to the  
39 biggest village, Beth -- I mean, Hooper Bay, of 1200  
40 people.

41  
42                   Mr. Chairman and members of the Board,  
43 ANILCA was adopted because the Federal and State agencies  
44 were not fulfilling their obligations in protecting our  
45 subsistence way of life. Intentionally diluting the RACs  
46 with outside interests is slowly eroding our subsistence  
47 way of life. Forcing our RACs to a 70/30 split would  
48 inherently weaken the subsistence mission and lead to the  
49 destruction of our way of life. And I know that's not  
50 the intention of the Federal Subsistence Board.

1                    Contained in AVCP Resolution 070502 are  
2 segments directly quoted from the record of decisions in  
3 the adoption of ANILCA that relate to our position. The  
4 first, on the sixth whereas, or sixth whereas clause from  
5 Page 10, of ANILCA 805 was created to provide subsistence  
6 users the opportunity the opportunity to participate  
7 effectively in the management and regulation of  
8 subsistence resources. There was no mention of sport or  
9 commercial interests participating in our decisions or  
10 regulatory processes that affect our subsistence way of  
11 life.

12  
13                    Another issue raised in the resolution is  
14 the consultative process our Board desires. Since the  
15 inception of the Federal Subsistence Management System,  
16 the participation of our tribal governments has always  
17 been continuously overlooked. As stated in the second be  
18 it further resolved clause, our Board wants our  
19 subsistence management system to consult with our tribes  
20 and our tribal organizations in the implementation of  
21 Title VIII of ANILCA. This is including the current  
22 issue of the RAC composition. We have a total of 56  
23 tribes out of the 226 in the State of Alaska. We have  
24 over 20,000 people that reside in our area, most are in  
25 very small villages that I had indicated earlier.

26  
27                    And we have the highest per capita  
28 consumption of wild food of 664 per capita as stated in  
29 the 2004 ISER report. A huge percentage of that is our  
30 fishery resources, but other wild food that we consume is  
31 just as important. And we believe to further dilute our  
32 RACs would place our subsistence way of life in peril,  
33 and would defeat the purposes of ANILCA, and the  
34 subsistence management in Alaska.

35  
36                    Thank you, Mr. Chair. That concludes my  
37 testimony.

38  
39                    CHAIRMAN FLEAGLE: Thank you, Timothy.

40  
41                    Questions.

42  
43                    (No comments)

44  
45                    CHAIRMAN FLEAGLE: All right. Hearing  
46 none, thank you for the testimony.

47  
48                    Pete.

49  
50                    MR. PROBASCO: Thank you, Mr. Chair. Our

1 last three is Heather Kendall is next, followed by Art  
2 Ivanoff, and then Rod Arno.

3

4 CHAIRMAN FLEAGLE: Good afternoon,  
5 Heather. Welcome.

6

7 MS. KENDALL-MILLER: Good afternoon.  
8 Thank you. I'm Heather Kendall. I work for the Native  
9 American Rights Fund, and I actually am also representing  
10 the Native Village of Venetie, and Gideon James, and  
11 Ninilchik in this case.

12

13 We came into this case quite a number of  
14 years ago. It's been around for a while, probably about  
15 five or six years ago now I think. Eight. Eight years  
16 ago. We intervened in the case to defend the challenge  
17 against the Federal Subsistence Board. If you remember  
18 Safari Club brought a very broad challenge against  
19 basically all of the regulations that had been passed to  
20 date by the Regional Advisory Councils on the basis that  
21 they were not consistent with FACA's fair balance  
22 requirement. And Judge Holland actually rejected that.  
23 He rejected the invitation to go back and revisit all of  
24 those and hold all those previous decisions to be  
25 inconsistent with FACA.

26

27 However, he felt it important that you as  
28 a body take this issue up through the proper rulemaking  
29 process and allow the public and the RACs to have  
30 opportunity to weigh in and give you their views as to  
31 whether or not they believe that a 70/30 allocation  
32 fairly does satisfy FACA and represent the views of all  
33 participants.

34

35 I am here primarily to encourage you to  
36 adopt option number 1. I think that Judge Holland would  
37 probably find that you have actually done what he's asked  
38 now, that you have gone through the rulemaking process.  
39 You have vetted the issue. You have put it out to the  
40 public. You have allowed the Councils, the Regional  
41 Advisory Councils to give their views on this. And while  
42 Judge Holland has also ruled that you don't have to defer  
43 to the RACs on this particular question, because it's not  
44 a question that involves fish and wildlife management, it  
45 nonetheless would be great if you did.

46

47 And the reason why is because the RACs  
48 are your partners. They're the ones that are out there  
49 doing what ANILCA directs them to do. They are the ones  
50 that are dealing most directly with the public on all of

1 these issues. And as you know from reading the comments  
2 that were given to you, the practical reality is that  
3 almost all RACs representatives have vast experience, not  
4 just in the area of subsistence uses, but in commercial  
5 and in sports and others.

6  
7 When we were looking through the record  
8 at the initial go round, it was very interesting to read,  
9 and I think this is very true, of course, in Southeast,  
10 where oftentimes the RAC members who have sat on the RACs  
11 are likewise commercial fishing captains. Oftentimes the  
12 RAC members up in the Interior Regions will also be  
13 guides during the hunting seasons. They have vast, vast  
14 experiences.

15  
16 And by making the RACs have to identify  
17 as a single interest representation, and as my colleague  
18 here would suggest, even go further than that, have  
19 specific organizations, have them show -- give a Litmus  
20 Test, you're inviting not necessarily representation by  
21 those with knowledge, which is the intent of ANILCA,  
22 you're inviting organizational representation to have a  
23 right to sit at the table. And that has never been what  
24 ANILCA is about. It is about being able to have people  
25 with the most knowledge, have a meaningful representation  
26 or say in how subsistence regulations get developed.

27  
28 I think option 1 best does that. I think  
29 as the Staff have pointed out, in combination the  
30 majority of commenters and Councils prefer this option.  
31 So I would urge you to defer to the public on this. The  
32 public has said that this is the better option to go for.  
33 It more adequately represents interests of -- and the  
34 reality of the fact that most RAC members have vast  
35 knowledge of all uses, not just subsistence.

36  
37 So I'll leave it at that. Thank you.

38  
39 CHAIRMAN FLEAGLE: Thank you, Heather.

40  
41 Questions, Board members. Gary.

42  
43 MR. EDWARDS: Heather, I guess one  
44 question. Kind of using the RACs, isn't it somewhat like  
45 a catch 22, because before you could use the RACs,  
46 wouldn't you have to ensure that the RACs are balanced  
47 and fully representative so they could actually address  
48 representation? I mean, what comes first? I mean, you  
49 would need it seems to me a balanced RAC, that somebody  
50 had determined that, to weigh in on the issue of how a

1 RAC ought to be balanced. You couldn't have an  
2 unbalanced RAC it wouldn't seem to me weigh in on an  
3 issue and say how we should be organized to object  
4 objectivity in their response.

5  
6 MS. KENDALL-MILLER: If I follow that  
7 questions, and I'm not sure I do actually, but I think  
8 that the way that you can assure balance is not by having  
9 any kind of Litmus Test, but by having as this -- the  
10 nominations process now does, have questionnaires that  
11 ask people about the nature of their experience, and look  
12 to see whether or not it includes a wide array of  
13 experiences, not just one. If people want to attach a  
14 letter of recommendation from a particular native  
15 organization or Safari Club or something like that,  
16 that's certainly can, you know, give assistance for  
17 whether or not that person, you know, has experience or  
18 whatever. But I don't think that there need be an rigid  
19 criteria to be able to show that a balance is being met.

20  
21  
22 And I don't think that's what Judge  
23 Holland expected either. What he expected is that this  
24 Board would look hard at the issue and come up with a  
25 reasonable solution for providing balance. And as I  
26 said, that could be based upon, you know, knowledge of  
27 all the resources.

28  
29 MR. EDWARDS: But, you know, in general  
30 it's not unusual on FACA committees to have -- ask  
31 various organizations to identify an individual who they  
32 think they could -- to represent them, and on a lot of  
33 non-FACA things here even that we deal with, Fish and  
34 Wildlife Service, we have all kinds of groups, including  
35 native organizations, coming forward and saying, you  
36 know, we would like to be the ones that identify, you  
37 know, who sits in, or who goes to this meeting, or who  
38 represents us. I mean, that's not all that unusual.

39  
40 MS. KENDALL-MILLER: Unusual. I think  
41 what you have to do is look at context though. In the  
42 case law that's looked at this, they look at what are the  
43 functions. What are the functions. And if you have a  
44 function that your committee is carrying out that has a  
45 broad mandate, then certainly, you know, it's been  
46 allowed to have specific identified representation. But  
47 the courts have also been very specific in saying that,  
48 you know, that doesn't mean single interest  
49 representation is necessary or even good. In fact,  
50 that's where that term came from is the cases that have

1 thrown out challenge -- thrown out challenges by those  
2 that would insist upon single interest representation,  
3 because that was really what FACA was passed to prevent.  
4 It was passed to allow inclusive views, not single  
5 interest representation.

6  
7 So I think -- and, Gary, I am aware of  
8 the fact that some Federal committees are set up that  
9 way. But there are plenty that aren't as well. And that  
10 based -- you know, that really turns upon the function.  
11 And as you all know, the function of the RACs primarily  
12 is to deal with subsistence-related issues. So, again,  
13 if they have experience and knowledge about commercial,  
14 sports, great, but it shouldn't be a rigid requirement.

15  
16 MS. GOTTLIEB: Mr. Chair.

17  
18 CHAIRMAN FLEAGLE: Judy.

19  
20 MS. GOTTLIEB: Thanks, Heather for your  
21 testimony and I think I remember you testifying last  
22 summer. That might be why we're here today, which is  
23 fine.

24  
25 I guess my question for you on option 1,  
26 so it -- I don't hear a concern from you that there's a  
27 risk or a chance that subsistence users may not be the  
28 majority if you will of the members?

29  
30 MS. KENDALL-MILLER: I don't read this  
31 option as suggesting that. I read this option as not  
32 setting any kind of a formula that would require a set  
33 number of one group over other groups. I see this as  
34 being a little bit similar to what was originally in  
35 place, but was not really specific in that it  
36 acknowledges that most people who are subsistence users  
37 are likewise tend to be people with great knowledge of  
38 other uses. When you look at specific regions, I mean,  
39 that's kind of self-evident in many places with people  
40 that have great knowledge of the land and the resources  
41 that they use, they're also going to be aware of other  
42 uses that take place in that area.

43  
44 And I see this as more kind of an  
45 evolution in the sense that it's become recognized that  
46 the RACs should include views, a fair representation of  
47 views by others, non-subsistence users. And where we  
48 have always felt strongly about is that the RACs should  
49 not be set up to be a group that -- where it is  
50 political, where people with different agendas can come

1 to the table and air their various agendas. That's not  
2 the work of the RACs.

3

4                   You know, the work of the RACs is to  
5 think about subsistence-related issues. And, of course,  
6 if it impacts upon commercial and sports, then, sure.  
7 But it's not a place for people with specific agendas to  
8 come and argue about those agendas. And we think that a  
9 formula that allows for single-interest representation  
10 does exactly that. It comes with the expectations that  
11 those individuals are there to represent those  
12 constituencies.

13

14                   CHAIRMAN FLEAGLE: Other questions.

15 Gary.

16

17                   MR. EDWARDS: This is a question kind of  
18 in responding to kind of the first testimony we heard  
19 about the difference between knowledge and understanding  
20 and representation. Do you see a difference between  
21 those two? I mean -- go ahead.

22

23                   MS. KENDALL-MILLER: Well, I think there  
24 is a difference between those two. And kind of mixing  
25 apples and oranges a little bit. The knowledge is really  
26 something that is mandated under ANILCA itself. It's one  
27 of the requirements of the regulations and stuff that a  
28 person has knowledge of the region, come from that region  
29 and such. And the views is the FACA requirement. And as  
30 we know now, based upon the court's hold that the RACs  
31 apparently, you know, have to comply with FACA while  
32 carrying out the mandate of ANILCA.

33

34                   But that again doesn't suggest that the  
35 two are mutually exclusive. I do believe that, you know,  
36 of course the knowledge base has to be satisfied, and  
37 that is enhanced by a person's experience. And, again,  
38 looking at the comments and stuff, what you see is that  
39 as a practical reality, most people have vast experience.  
40 And I reiterate that it's possible to be able to  
41 establish that kind of experience through the nomination  
42 process by being able to ask the kind of questions that  
43 are now being asked. Well, you know, what is the basis  
44 for your experience? You know, how many years have you  
45 practiced in this area? All that can be done in that  
46 fashion without going to a more rigid application of  
47 formula.

48

49                   CHAIRMAN FLEAGLE: Thank you. Other

50 questions.



1 (No comments)

2

3 CHAIRMAN FLEAGLE: All right. Heather,  
4 thank you for the testimony.

5

6 MS. KENDALL-MILLER: Thank you.

7

8 CHAIRMAN FLEAGLE: Pete.

9

10 MR. PROBASCO: Next is Art Ivanoff, and  
11 the last testifier will be Rod Arno.

12

13 CHAIRMAN FLEAGLE: Good afternoon, Art.  
14 Welcome.

15

16 MR. IVANOFF: Good afternoon, Mr. Chair.  
17 My name is Art Ivanoff. I'm the resource advocate for  
18 AVCP out of Bethel. AVCP is a tribal consortium of 56  
19 Federally-recognized tribes in western Alaska, as you're  
20 aware.

21

22 After reviewing the proposal, the  
23 proposed 70/30 split, AVCP calls on further efforts to  
24 develop and implement sport and commercial interests in  
25 the RAC process to cease based on the adverse effects,  
26 and on further erosion of Title VIII of ANILCA.

27

28 We've provided with your office a copy of  
29 Resolution 070502 adopted by AVCP Board of Directors.

30

31 We feel a key element and an important  
32 link missing from the inception of the Federal  
33 Subsistence Program is the consultation process with the  
34 Federally-recognized tribes. The U.S. Government holds a  
35 political relationship with the Alaska native peoples.  
36 Congress found there was a need to protect the cultural  
37 integrity of the Alaska native people's hunting, fishing  
38 and trapping way of life. And it's based on this  
39 political relationship with the Federally-recognized  
40 tribes that ANILCA was conceived. The intent of Title  
41 VIII of ANILCA is to protect the subsistence way of life  
42 of the Alaska native peoples and other rural Alaskans.

43

44 ANILCA Section 805 was created to provide  
45 subsistence users the opportunity to participate  
46 effectively in the management and regulation of  
47 subsistence resources on Federal public lands. Section  
48 805 of ANILCA does not reference other users in the  
49 process.

50

1                   We call on the immediate withdrawal of  
2 diluting the Federal Subsistence Regional Advisory  
3 Councils. In addition, we call on the Office of  
4 Subsistence Management and the Federal Subsistence Board  
5 to develop and implement a tribal consultation process in  
6 the implementation of Title VIII of ANILCA.

7

8                   That concludes my testimony. Mr. Chair.

9

10                  CHAIRMAN FLEAGLE: Thank you, Art.

11

12                  Questions, Board members.

13

14                  (No comments)

15

16                  CHAIRMAN FLEAGLE: Thanks for the

17 testimony.

18

19                  Pete.

20

21                  MR. PROBASCO: This is the last public

22 testimony, Mr. Chair, and it's Rod Arno.

23

24                  CHAIRMAN FLEAGLE: Good afternoon, Rod.

25 Welcome.

26

27                  MR. ARNO: Good afternoon. Chairman  
28 Fleagle, Board members. Thanks for the opportunity to  
29 allow the Outdoor Council to testify.

30

31                  The Outdoor Council supports option 2  
32 with the 70/30 split, that clearly that the Federal  
33 Advisory Committee Act talks about fairly balanced, and  
34 asking for a 70/30 seems to be a fair balance. When it's  
35 only the people that I'm representing on the Outdoor  
36 Council, the majority of them would just be in that 30,  
37 mostly recreational users.

38

39                  The function, you know, clearly under  
40 FACA is subsistence uses. That's the only thing that the  
41 Federal Subsistence Board can allocate, and that's  
42 subsistence use. But the Outdoor Council feels that by  
43 having that representation, that it will just open up  
44 that dialogue between those Alaskans who do qualify under  
45 the Federal program and the majority of Alaskans who  
46 don't.

47

48                  And clearly under option 2, having it  
49 that if no qualified others apply, you know, there's  
50 numerous region where, you know, subsistence isn't much

1 of a problem as we saw in the rural/non-rural  
2 determinations that were just made by this Board this  
3 last year. Bristol Bay and the Yukon-Kuskokwim Delta and  
4 Western Interior, Seward Peninsula, Northwest Arctic,  
5 you're going to be hard pressed to find someone there.  
6 Of course, everyone who lives in those regions in order  
7 to qualify would also be qualifying for subsistence.

8  
9 And it's, you know, the problems that we  
10 continue to see and we had here on the Kenai is just like  
11 in the Southcentral RAC where you have a large population  
12 of Alaskan residents who don't qualify under the Federal  
13 rural qualifications that to have 30 percent  
14 representation I think would be in Alaska's best  
15 interest.

16  
17 Thank you.

18  
19 CHAIRMAN FLEAGLE: Thank you, Rod.

20  
21 Questions. Gary.

22  
23 MR. EDWARDS: Rod, one question. I mean,  
24 if you look at option 1, and where it talks about having  
25 comprehensive knowledge of use, but if you also said of  
26 use and view, and if you actually could find 10 or 13  
27 people in a region that would fit that description,  
28 wouldn't that actually be a lot more balanced Regional  
29 Advisory Council representing all interests as opposed to  
30 ones that's 70/30 that only seems to be that -- where you  
31 might only have 30 percent of that group trying to  
32 represent the views of, in this case, commercial and  
33 sport, whereas in the other one, if you could accomplish  
34 what's asked there, you would have 13 people collectively  
35 representing all those views.

36  
37 MR. ARNO: Through the Chair. Mr.  
38 Edwards. I certainly don't see that that's occurred,  
39 that, you know, clearly that when we have had  
40 representatives who were on the RAC here in Southcentral  
41 from Anchorage, and was not qualified, you know, his  
42 voice wasn't any -- you know, there wasn't any better  
43 representation, that he, you know, clearly wasn't able to  
44 do anything more than just say that, you know, to try to  
45 get out some of the conservation issues on it.

46  
47 But I think specifically if in areas like  
48 Southcentral Alaska where there's a large population of  
49 recreational users who aren't represented, I think just  
50 by having that dialogue and having them here I think

1 would be better and far better than option 1.

2

3 MR. EDWARDS: I guess just a follow up,  
4 you know, in some cases, you know, we haven't been overly  
5 successful in getting a lot of interest for  
6 representation in these groups. One could argue that  
7 that's a different issue and we need to maybe be looking  
8 at how we're trying to get candidates, but, you know, you  
9 can -- it has not been that necessarily easy. When we  
10 ask for, you know, people to look at, we don't have this  
11 gigantic slate that's overwhelming, you know, that you  
12 have so many applicants that you just -- and good  
13 applicants, that you don't know what to do.

14

15 MR. ARNO: Yeah. Through the Chair. Mr.  
16 Edwards. Clearly, and, you know, that's always going to  
17 be a problem. Why would you want to participate on a  
18 board that was allocating for something that you would  
19 get no allocation of. It's only -- the only advantage of  
20 having that 30 percent would be to have, and if there  
21 were people that were, you know, represented a large  
22 spectrum of recreational users, they could come and say,  
23 well, I just don't want to lose that much more. So it's  
24 always going to be a problem because of the way ANILCA's  
25 written, that you're only representing one user group.  
26 So the best that we could ask is for those who aren't  
27 represented to at least have a say at the table.

28

29 CHAIRMAN FLEAGLE: Other questions.

30

31 (No comments)

32

33 CHAIRMAN FLEAGLE: All right. Thank you,  
34 Rod. Appreciate the testimony.

35

36 That concludes public testimony. The  
37 Board will stand down for 10 minutes.

38

39 (Off record)

40

41 (On record)

42

43 CHAIRMAN FLEAGLE: Good afternoon. The  
44 Federal Subsistence Board resumes discussions.

45

46 And just checking to make sure we've got  
47 everybody still with us on line. Denny are you back with  
48 us?

49

50 MR. BSCHOR: Yes, Mr. Chair, I am.

1 CHAIRMAN FLEAGLE: Okay. Thank you.

2

3

4 And during the break, Vince did let me  
5 know, Vince Mathews, the Regional Coordinator, let me  
6 know that he has been given the authority to represent  
7 the Western Interior and the Eastern Interior RACs on  
8 comments. So we'll just let that be known in the record.

8

9

10 Our next item is Council recommendations.  
11 And let me see. We've got two Councils present, and then  
12 we have one, two, three, four represented by telephone.  
13 And I guess just simply I'll take the two that are here  
14 present in person first, and then call for additional  
15 comments telephonically when we get there.

16

17

18 And from the table that's present,  
19 preference to who goes first? Dan O'Hara.

19

20

21 MR. O'HARA: Yes, Mr. Chairman. Dan  
22 O'Hara, Bristol Bay Advisory Council.

22

23

24 The 70/30 thing is working well for us.  
25 Picking up someone like Randy Alvarez who does -- truly a  
26 subsistence user all of his life, a life-long commercial  
27 fisherman, sport interest, is the Chair of our Council.  
28 Nanci Morris, a professional sport fishing guide, just an  
29 exceptional Council member. And Dan Dunaway, a retired  
30 biologist. I mean, he knows every stream in the region.  
31 It has done nothing but enhance, you know, the Council  
32 even better. And so I don't see where.....

32

33

34 And the gentleman from the Outdoor  
35 Council I believe made an interesting comment, that, you  
36 know, you get 45 million fish coming back this year,  
37 subsistence is -- and get one percent of that for  
38 subsistence, it's hardly an issue to deal with. Rainbow  
39 trout, we had a little fight, and how we've got that, we  
40 got it taken care of.

40

41

42 But I think maybe just listening to some  
43 of the testimony today, that perhaps maybe the  
44 interviewing process of Council members, a little more  
45 in-depth to the region, whether it be tribal or village  
46 councils or local governments, whatever it might be. You  
47 know, you don't want to open Pandora's box and start  
48 something that you don't have any control over, but I  
49 could write to the village, you know, health corporation  
50 and native corporation, the BBEDC, Kadamidella (ph)  
51 Corporation -- Association, and get all kinds of

1 recommendations to be on your Board. I can do that  
2 politically.

3

4                   So I think maybe when the Feds and the  
5 State, if the State is involved in the interviewing of  
6 Council members, maybe we should go a little deeper into  
7 that system and see if perhaps maybe some of our true  
8 cultural subsistence people who don't deal with the  
9 Federal Government or the State might be a little more  
10 involved in what Council member represents them on their  
11 ability to transfer knowledge and make decisions, and get  
12 into a good scrap with you guys. We do.

13

14                   So that's my comments, Mr. Chairman.  
15 Thank you.

16

17                   CHAIRMAN FLEAGLE: Appreciate those, Dan.

18

19                   Board members, questions.

20

21                   (No comments)

22

23                   CHAIRMAN FLEAGLE: All right. I'll go to  
24 Ralph Lohse next. Ralph.

25

26                   MR. LOHSE: Thank you. Thank you, Mr.  
27 Chair. I'll start off by giving our official  
28 Southcentral Alaska Subsistence Regional Advisory  
29 Council's recommendations so that it's on the record, and  
30 then I have a few things that I would like to add to it  
31 if I can.

32

33                   The Southcentral Council recommends that  
34 given the purpose of the Regional Advisory Councils,  
35 these Councils should be made up primarily of subsistence  
36 users or people who have a strong background or knowledge  
37 of subsistence uses, who are well-rounded, who are  
38 familiar with local needs, and who represent a broad  
39 cross section of consumptive uses of the area. Non-rural  
40 members need to have a basic understanding of the  
41 subsistence way of life and subsistence needs. All  
42 Council members need to support and protect ANILCA. The  
43 Council holds that the needs of non-subsistence users,  
44 while not directly represented, would be represented by  
45 people who can see both sides of all issues and vote and  
46 look at issues in a rational way.

47

48                   Setting any percentage for membership  
49 could be counterproductive.

50

1 Council discussions included the  
2 following subjects:

3  
4 In order for the designated seats to  
5 balance, all members must attend the meetings.

6  
7 While it is important for members to have  
8 a broad knowledge of all activities, this is a  
9 subsistence Council, and that subsistence representatives  
10 should be the primary members on the Councils.

11  
12 That the Councils are local residents who  
13 advise professionals who don't live the subsistence way  
14 of life.

15  
16 That Councils can't have non-consumptive  
17 users, because by the very nature subsistence is  
18 consumptive.

19  
20 That OSM has done a good job of getting  
21 people who have a broad understanding, are open-minded  
22 and willing to learn.

23  
24 And we feel that single interest  
25 representation is too narrow for the work of the  
26 Councils.

27  
28 That's the official position of the  
29 Southcentral Regional Advisory Council.

30  
31 As the Chair, I'd like to speak to just  
32 couple of things that I have seen and that have been  
33 brought so far in this meeting, if that's okay with the  
34 Chair.

35  
36 CHAIRMAN FLEAGLE: Go ahead, Ralph.

37  
38 MR. LOHSE: I was looking at your options  
39 for consideration. And on option number 1 where it says  
40 comprehensive knowledge, I have to agree with the lady  
41 lawyer that was here from the Sierra Club. I don't think  
42 just knowledge is enough. I think it has to be  
43 comprehensive knowledge and a significant participation  
44 in those areas, because I think the significant  
45 participation is what gives the person the actual  
46 interest in maintaining that type of activity.

47  
48 I mean, an example would be if I would  
49 decide to represent commercial fishing, but I was a  
50 retired commercial fisherman, that would be different

1 than if my livelihood depended on commercial fishing, and  
2 I was also a subsistence user, and I was representing as  
3 a commercial fisherman. And so consequently, I think the  
4 significant participation is very important.

5  
6 I have a little problem with the Litmus  
7 Test thing, simply because, and I'll have to use an  
8 example that kind of illustrates that, but the Litmus  
9 Test problem is how do we pick which organizations get to  
10 make the Litmus Test and what kind of Litmus Test do we  
11 give those organizations, and do those organizations have  
12 to be local so that they represent those kind of people  
13 that are involved in that local area and then what is  
14 local. And I'm going to go back and use the same kind of  
15 illustration again.

16  
17 As you know I'm also a commercial  
18 fisherman. If I would get CDFU, which is Cordova  
19 Fisherman's United to say that I was a good commercial  
20 fishermen representation, but Cook Inlet fishermen who  
21 are also part of our area said, no, we can't accept him  
22 and AFA says, no, he doesn't represent the commercial  
23 point of view, would I be a good commercial fisherman  
24 representation or not. Which one of those organizations  
25 would hold the weight.

26  
27 And so that's where I think that your  
28 process, like Dan was saying, of looking at the  
29 candidates, and one of the things they have to do is they  
30 have to put down people that you can go to to see what  
31 does this person really represent and organizations, and  
32 you're going to have to make that kind of decision. But  
33 you could still represent in a way, not a specific  
34 organization, but a philosophical viewpoint.

35  
36 I mean we've had -- if you take a look at  
37 some of the things we've had people on our Council who  
38 had a broad knowledge of subsistence but were very  
39 directed to other areas, they were listened to, they  
40 actually changed opinions on some of the things, their  
41 information was welcome, but they also need to attend.  
42 You can't accomplish something if they decide -- you  
43 know, I can't accomplish anything here because this thing  
44 comes out for ANILCA every time and I'm against ANILCA  
45 basically. And so they give up and they go home. You  
46 have to attend the meeting and bring the information to  
47 the Council.

48  
49 And from that standpoint, I --  
50 personally, myself, I think that your goal should be to



1 have a broad representation but the knowledge and the  
2 participation is a lot more important.

3

4 Thank you.

5

6 CHAIRMAN FLEAGLE: Appreciate the  
7 comments, Ralph. And just for correction, that's Safari  
8 Club, not Sierra Club, a little bit of difference there.

9

10 (Laughter)

11

12 MR. LOHSE: I didn't realize that I said  
13 Sierra Club and I'm sorry if I did because I didn't mean  
14 that, that's for sure.

15

16 (Laughter)

17

18 CHAIRMAN FLEAGLE: That's okay. I'm just  
19 correcting on the record. Gary.

20

21 MR. EDWARDS: I have just a couple of  
22 questions. It didn't appear from the Council's position  
23 whether you took -- sort of a position on the 70/30 or  
24 not. It was more or less kind of describing what you  
25 think the representation should be and the qualifications  
26 of the individuals that should represent and then what  
27 you talked on on participation; is that correct?

28

29 MR. LOHSE: That's pretty much what I  
30 would think. I don't think that -- I know there's a lot  
31 of people in our area that don't like the idea of a  
32 specific 70/30 split meaning that this represents this,  
33 you know, because we, as a Council, have had broad  
34 discussions and included all the viewpoints and so what  
35 we want is we want people that understanding the guiding  
36 industry or participate in it but also understand  
37 subsistence so that they can bring their information into  
38 the discussion. And we didn't see where a rigid 70/30  
39 would meet the qualifications of ANILCA, which is a broad  
40 representation, and, yet, support ANILCA.

41

42 MR. EDWARDS: And then let me follow up,  
43 like Bristol Bay, your Council has been operating under  
44 this kind of 70/30 and I think some of your membership  
45 has come about maybe because of it. I mean Dan spoke,  
46 you know, very highly of sort of the folks that have come  
47 on to their Council under that, I mean would you echo  
48 that for your Council or has it been problematic or good  
49 or bad or indifferent?

50

1                   MR. LOHSE: I think that, as a Council,  
2 we have been very blessed with the kind of people that we  
3 have had come to represent these different viewpoints. I  
4 mean they've been strong advocates of different -- other  
5 than straight subsistence viewpoints and yet had a strong  
6 knowledge of subsistence and subsistence uses in the area  
7 and subsistence users.

8  
9                   Actually the truth of the matter is they  
10 were part of the community and that even includes the  
11 representative that we had from Anchorage, he was still  
12 part of the community. He had lived with the kind of  
13 people that do subsistence enough that he had that kind  
14 of understanding and yet he could bring a strong  
15 viewpoint of, I'll say, sportfishing, and represent it  
16 well and even change opinions and minds with it, but at  
17 the same time you have to recognize that he's probably  
18 going to get outvoted when it comes down to a subsistence  
19 versus sport issue if it looks like the sport would  
20 impact the subsistence because everybody on the Council  
21 feels that the thing is to look for a subsistence  
22 priority.

23  
24                   CHAIRMAN FLEAGLE: Other questions, Board  
25 members. Dan.

26  
27                   MR. O'HARA: I just didn't want to leave  
28 Thomas Hedland out, who is a guide on our Council, born  
29 and raised up at Knudsen Bay area and lifelong Native  
30 Alaskan subsistence user, commercial fisherman and a  
31 guide, so there you are. And just a good contribution.  
32 He'll be coming on new with us is my understanding.

33  
34                   Thank you.

35  
36                   CHAIRMAN FLEAGLE: All right, thanks,  
37 Dan. Appreciate your comments, Ralph. And I'm going to  
38 turn to the other RAC Chairmen that we have present and  
39 first I'm going to call on Lester Wilde, Yukon -- no.

40  
41                   MR. PROBASCO: Yukon-Kuskokwim.

42  
43                   MR. WILDE: Thank you, Mr. Chairman. Our  
44 RAC feels that we don't have too much of a problem with  
45 the 70/30 split, although we would like to insist that  
46 all of our members be primarily subsistence users, which  
47 they are, except for one person that was appointed to our  
48 RAC who did not attend any of our meetings and happened  
49 to be the author of Proposal 32 that was passed at your  
50 last Board meeting. And the only -- we haven't had any

1 problem in that 70/30 split because all the members that  
2 are on there are primary users of the resource.

3

4 Mr. Chairman.

5

6 CHAIRMAN FLEAGLE: Thank you, Lester.  
7 Questions, Board members.

8

9 (No comments)

10

11 CHAIRMAN FLEAGLE: All right, appreciate  
12 the comments. Bert Adams.

13

14 MR. ADAMS: Thank you, Mr. Chairman and  
15 Members of the Board. Appreciate the opportunity to be  
16 able to make some comments in regards to the SERAC's  
17 position on this 70/30 rule.

18

19 Let me see here, on November 27th, 2006 I  
20 wrote the Chair a letter indicating to you, Mr. Chairman,  
21 that I submitted some personal comments concerning the  
22 subsistence management regulations for public lands in  
23 Alaska and it also regarded the Federal Subsistence  
24 Regional Advisory Council membership. That was submitted  
25 before we had a Council meeting and so I submitted that  
26 on a personal note using the word, I.

27

28 On November 21st, 2006 the Council had a  
29 teleconference meeting and they reviewed my proposal and  
30 then voted to submit these comments as Council comments.  
31 So the letter that you have is, of course, adopted by the  
32 Regional Advisory Council. Let me say that our Council  
33 vehemently opposes the changes in Regional Advisory  
34 Council selection procedures and the composition.

35

36 We wish to provide comments concerning --  
37 I'm going to make some comments in regards to the  
38 structure of the Council.

39

40 We acknowledge the Democratic intent of  
41 the Federal Advisory Committee Act and would point out  
42 that it is primarily an open government law intended to  
43 have important decisions that's subject to public review.  
44 You know ANILCA was developed to provide a process where  
45 the public can participate in issues that pertain to  
46 subsistence and the Regional Advisory Councils are the  
47 avenue in which they are able to accomplish that.

48

49 On that letter that I submitted to you,  
50 Mr. Chairman, it was on October 18th, 2006, on Page 2 of

1 5, it gives an appendix to the subpart A and B, of which  
2 you all have and so I'm not going to go through that at  
3 all. I'm just going to take some highlights of that  
4 letter and kind of emphasize on them a little bit.

5  
6 It says here that FACA requires that  
7 agencies have a plan by the agency sets quotas for  
8 committee membership. So the Council believes that the  
9 program is in compliance with the 70/30 rule. I  
10 personally feel that way, I think -- I feel strongly that  
11 before this 70/30 rule came upon us that our Council,  
12 particularly, was well balanced in all of these user  
13 groups. On the bottom of that page and on Page 3 of 5  
14 you will see the names of the members of the Council who  
15 you will notice, you know, are involved in commercial,  
16 sport and subsistence. I, for one, can give you a for  
17 instance. I am a subsistence user. I'm also a  
18 commercial fisherman. And I also am a charter boat  
19 captain. And when I sit in our Southeast Regional  
20 Advisory Council meetings, I can use that knowledge that  
21 I have in all of these user groups to make, I believe,  
22 you know, I would (ph) say a wise or proper decision, in  
23 regards to the subsistence issues that are before us.  
24 The main idea is that we deal with the subsistence issues  
25 and make our recommendations based on that with the  
26 knowledge that we do have with the commercial industry as  
27 well as the sport.

28  
29 The Council believes that, as I said  
30 earlier, was in compliance with the 70/30 rule and if the  
31 program was, in fact, in compliance during the 1993 and  
32 2000 time period then Regional Council recommendations  
33 and Federal Subsistence actions based on those  
34 recommendations would be really questionable and we don't  
35 believe that it would be unsupportable at that.

36  
37 The Council also believes that membership  
38 can be balanced without trying to program to an  
39 artificial quota designated seats. Now, we live in the  
40 real world, and Alaskans are not neatly divided into  
41 subsistence, sport, guide or commercial users. In my  
42 experience, almost all seated Council members are strong  
43 participants in most of these interest categories. And I  
44 gave you an example of myself for instance.

45  
46 The following table shows the interests  
47 represented by 13 Regional Advisory Councils [sic] and,  
48 you know, you can look at those, you know, at your own  
49 leisure, you have probably already done that anyhow.  
50

1                   Subsistence fishermen frequently hold  
2 commercial fishing licenses. Commercial fishing may be a  
3 part of sportfishermen or hunters. Sport hunters may  
4 have personal use fishing permits while hunting guides  
5 may also hold sportfishing licenses. In almost all  
6 cases, however, an individual usually holds certain  
7 convictions and beliefs that would cause him or her to  
8 represent one of his or her interests more strongly than  
9 other interests when making recommendations on potential  
10 regulations or policies that would impact his or her use  
11 of that resource.

12  
13                   RACs are supposed to be strong advocates  
14 for subsistence use of fish and wildlife. And if this  
15 highly subjective method of categorizing applicants,  
16 mainly self-identification, is flawed because so many  
17 Alaskans represent multiple interests then the 70/30 rule  
18 approach of designated seats is not really supportable.

19  
20                   ANILCA does not provide for quotas on RAC  
21 seats and so we recommend dropping the quota system for  
22 Council seats. We would propose that we meet the  
23 guidelines through expanded outreach, and I'm referring  
24 to guidelines of 41 CFR 102-3.61 (ph), through expanded  
25 outreach to encourage diverse applicants to apply by  
26 revising applicant evaluation criteria to encourage the  
27 desired diversity and requiring designated Federal  
28 officials or other FACA officials to report on how  
29 balance has been achieved on their Councils.

30  
31                   We would also note that balance should  
32 consider age, gender, ethnicity, income, education,  
33 geographic residence and other factors that are important  
34 in terms of the points of view represented and the  
35 functions to be performed. I believe that this approach  
36 would meet FACA's fairly balance requirements by insuring  
37 that a diversity of interests are represented on each  
38 Regional Advisory Council.

39  
40                   Finally, I request that the plan for  
41 meeting the FACA representational guidelines in the above  
42 -- above this letter here be subject to rulemaking, and I  
43 think that process is already being done at this point.  
44 The rulemaking should include public hearings in affected  
45 communities and consultation with tribal governments. I  
46 think that we really need to include tribal governments  
47 in the process here. I've tried to, in this area, you  
48 know, keep our tribal government informed on all of the  
49 things that we are doing in the Southeast and they really  
50 appreciate that and we've had a lot of tribal people, you

1 know, attend our meeting and testify and I think that  
2 process is really healthy for us because we are then  
3 representing, you know, people that are really affected  
4 by the issues that are before us in the ways that we are  
5 recommending subsistence regulations be changed or  
6 adopted. Formal rulemaking is required to insure that a  
7 full range of alternatives is considered and to develop a  
8 strong administrative record required for what may be  
9 controversial regulations.

10

11 And, Mr. Chairman, I would be open for  
12 some questions at this point. I said I have this rule,  
13 you know, don't make them too hard and then I'd like to  
14 make some comments after that, if I may.

15

16 CHAIRMAN FLEAGLE: Questions. Gary.

17

18 MR. EDWARDS: Hey, Bert, this is Gary  
19 Edwards. As part of your testimony you had indicated  
20 that you felt that the Council was well balanced before  
21 the 70/30 split. Now, that that has been in place, do  
22 you feel that the Council's no longer well balanced?

23

24 MR. ADAMS: I feel that the people that  
25 we have on the Council right now are truly representative  
26 of -- and, yes, we are balanced. I believe that we still  
27 maintain our balance.

28

29 MR. EDWARDS: Thank you.

30

31 CHAIRMAN FLEAGLE: Other questions, Board  
32 members.

33

34 (No comments)

35

36 CHAIRMAN FLEAGLE: That's it for  
37 questions. Bert, you want to go ahead and wrap up.

38

39 MR. ADAMS: Sure, I'll wrap up, Mr.  
40 Chairman, thank you. I've got to find my notes here,  
41 excuse me.

42

43 Title VIII, as I said earlier, opens a  
44 forum for public to participate in the subsistence issue.  
45 And through that forum is, of course, the Regional  
46 Advisory Councils. And to meet requirements to sit on a  
47 RAC you have to be a resident of that area. You have to  
48 have knowledge of the subsistence in your region and you  
49 also to have some knowledge of the sport and commercial  
50 fishing industry.

1 I was interested in the comments that the  
2 lady from the Safari Club made in regards to  
3 representation and knowledge. It's my understanding that  
4 all we needed to have was representation but no  
5 knowledge. I have found myself in a very bad situation  
6 on many, many occasions when I was trying to represent a  
7 group and I didn't have the knowledge. That's how come I  
8 have the rule, you know, don't ask any hard questions of  
9 me, if I don't have any knowledge of the subsistence  
10 issues, the sportfishing or the commercial fishing  
11 issues, then I am not representing my constituents very  
12 well. And so I just wanted to make that comment.

13  
14 There was also a comment made on  
15 consumptive users. You know, if you come into my home,  
16 you will find that about 90 -- yeah, about 90 percent of  
17 my home is gathered with subsistence foods. Right now I  
18 have a smokehouse outside that is filled with king  
19 salmon. You look into my freezer and there is moose meat  
20 from last fall and there's some deer meat and there's  
21 other, you know, subsistence meats and fishes, you know,  
22 that we are still using. And first of all I am a  
23 subsistence user and then I am a commercial fisherman and  
24 I'm also a sport person. But like ANILCA I have a  
25 priority over subsistence over anything else. And so I  
26 am somewhat concerned on the fact that something was made  
27 about advocating for their interests, that if we get a  
28 very powerful person that is on the commercial -- and I  
29 have seen this happen, you know, even on our RAC, or the  
30 on the sportfishing side, that things could change very  
31 easily and I'm afraid of this kind of dilution in the RAC  
32 as we see it now.

33  
34 So ANILCA species that the RACs are to  
35 address issues pertaining to subsistence and as I  
36 mentioned our Council is very well balanced on that. We  
37 have commercial fishers, we have sportfishers and guides  
38 and, you know, they use that knowledge and information  
39 that they have of these various users and I think, you  
40 know, that they make wise and good decisions as a result  
41 of that knowledge.

42  
43 I'd also like to say that deference  
44 should be made, and I think I've said this before, you  
45 might have heard me repeating myself again, should be  
46 given to the Regional Councils. They are the ones who do  
47 all of the leg work and the research and they, you know,  
48 seriously look over the proposals that are before us and  
49 then we put our stamp of approval on it and it goes to  
50 you and we hope and pray, you know, that through your

1 efforts that they will become regulations. But I think,  
2 you know, the idea that we work from the bottom up should  
3 be emphasized more and more as we deliberate.

4  
5 Another thing that I'd like to say, you  
6 know, and I don't think I've emphasized this or said it,  
7 you know, very strongly before, is that if the State of  
8 Alaska would only come in compliance with ANILCA, all the  
9 problems and issues that are before us right now would go  
10 away. And I'm very concerned, you know, that we're still  
11 going to have this tug-of-war between our way of managing  
12 resources and their way. We both believe that we do a  
13 better job but, you know, it's something that's nagging  
14 on me all the time, that all the State needs to do is  
15 come in compliance with ANILCA and then they could take  
16 over the subsistence management of the resources in the  
17 state of Alaska.

18  
19 I'd also like to make reference, Mr.  
20 Chairman, if I might. The letter that was written to --  
21 I believe it was to the Secretary of Interior on October  
22 22nd, 2001, and it was signed by Senator Rick Halford and  
23 Representative Brian Porter, the Legislative Speaker of  
24 the House, Senator Halford was the president of the  
25 Senate at that time. I'm very curious about who they  
26 were representing on this issue. I remember reading the  
27 letter but I don't remember it being stamped by the state  
28 of Alaska Legislature or the state of Alaska in general,  
29 were they representing themselves or were they actually  
30 representing the views of the state of Alaska and I have  
31 a real problem with that and maybe somebody can answer  
32 that question for me. It doesn't have to be now but  
33 sometime down the line.

34  
35 You know the State has not been effective  
36 in developing steps needed to bring the State in  
37 compliance with ANILCA and we are going to continue to  
38 have this tug-of-war between us if nothing is done in  
39 that area.

40  
41 I'm just challenging, you know, the State  
42 that this is the problem that we are having right now  
43 with dual management and it really shouldn't be that way  
44 because if they would come in compliance with ANILCA then  
45 subsistence would be a priority and as long as they don't  
46 do that then the next step is to follow the Federal law,  
47 which is ANILCA.

48  
49 Thank you, Mr. Chairman. And I wish I  
50 could have been up there with you today to be personally



1 there to testify but, you know, your budget, as you said,  
2 was not able to afford that. I realize that with the  
3 cuts that the Federal government has to make with the war  
4 in Iraq and Afghanistan and other parts of the world,  
5 that it probably is necessary but I feel kind of left out  
6 when, you know, it has to be with, for instance, you  
7 know, Regional Advisory Council Chairs not being able to  
8 come to a meeting and testify in a forum like this. I  
9 think it's really important that we be present rather  
10 than trying to communicate our issues, you know, over the  
11 telephone.

12

13 But anyhow thank you, Mr. Chairman, for  
14 allowing me to share my views with you and talk on behalf  
15 of the Southeast Regional Advisory Council.

16

17 Gunalcheesh.

18

19 CHAIRMAN FLEAGLE: Thank you, Bert. And  
20 your concerns about the budget and travel are noted.  
21 Thank you. I'm going to turn over to Vince Mathews, on  
22 line, for comments from the Western and Eastern Interior  
23 RACs. Vince.

24

25 MR. MATHEWS: Thank you, Mr. Chairman.  
26 Can you hear me?

27

28 MR. PROBASCO: We got you loud and clear,  
29 Vince.

30

31 CHAIRMAN FLEAGLE: Go ahead.

32

33 MR. MATHEWS: Okay. Thank you for  
34 allowing the newly elected Chair, Jack Reakoff, who would  
35 have loved to have been involved with this discussion but  
36 his travels with the Gates of the Arctic Subsistence  
37 Resource Commission, but last week's Board meeting  
38 affected his normal subsistence pattern of harvesting  
39 caribou so right now he's out trying to find a caribou.

40

41 For the Chair of Eastern Interior, she  
42 also wanted to be involved, but she's also called away to  
43 be working on her garden as well as possibly a bear hunt.

44

45 So with that, Mr. Chairman, the comments  
46 and recommendations for Western Interior are found on  
47 Page 8 of your packet there and I'm just going to do the  
48 highlights of it.

49

50 But basically the Western Interior

1 Council recommends that the composition should never be  
2 below 70/30. They talked extensively during their  
3 discussion on this about it worked with having  
4 commercial/sport interests on their Council and how  
5 they've benefitted from that. But in light of that and  
6 in light of their make up for their region, they felt  
7 that demographics should be considered for each Council  
8 and for the Western Interior region, which should be  
9 80/20, always favoring the subsistence priority.

10

11 And the basis of their direction on that  
12 is from ANILCA, that the advisory structure should be  
13 that it enables rural residents to have a meaningful  
14 forum to review and dialogue on subsistence issues.

15

16 They also acknowledged there may be  
17 regions or areas that have no commercial interests and,  
18 again, that reinforced their recommendation for  
19 demographics but they concluded on that that it should  
20 never go below 70 percent for subsistence issues.

21

22 Eastern Interior is found on Page 9 of  
23 your book, again, I'll just get the highlights of it.

24

25 They did not recommend any hard and fast  
26 rule on percentages. They would rather have the  
27 application process determine the make up of the  
28 interests of people applying. Similar to basically how  
29 the State runs their Advisory Committees. So the  
30 applicant interview process should determine the  
31 percentage of interests and the various fish and wildlife  
32 uses for each applicant and those would be combined to  
33 get to a balance to meet the FACA requirements.

34

35 That Council, when they brought up this  
36 issue discussed at length about the concerns about when  
37 people declare that they are subsistence but may be  
38 viewed as commercial or may actually be commercial. So  
39 they discussed at length but took no official action on  
40 possible ethics disclosures for the benefit of the Board,  
41 but again they did not take any action on that.

42

43 That concludes the discussion of  
44 recommendations for Western and Eastern Interior.

45

46 Thank you.

47

48 CHAIRMAN FLEAGLE: Thank you, Vince.

49 Questions, Board members.

50

1 (No comments)

2

3 CHAIRMAN FLEAGLE: All right, appreciate  
4 those comments. I'm going to turn it over to Barbara  
5 Armstrong. Do you have any comments for your Advisory  
6 RACs, please.

7

8 MS. B. ARMSTRONG: Yes, Mr. Chair. I  
9 have one for North Slope Subsistence Regional Advisory  
10 Council who unanimously recommended to oppose the  
11 rationale for using the 70/30 Council composition plan.  
12 The Council opposes any mandatory requirement to have  
13 commercial, sport representation on the Council and is  
14 satisfied with Council composition that consists solely  
15 of subsistence users.

16

17 The Council acknowledges that the North  
18 Slope region does not have commercial users that reside  
19 on the North Slope.

20

21 And Seward Penn did not make a formal  
22 recommendation but this is a Council where they had no  
23 problems working with the 70/30 split. They've meshed in  
24 real well. And currently Seward Penn is being Chair'd by  
25 a comm/sport, probably the only one statewide.

26

27 Thank you, sir.

28

29 CHAIRMAN FLEAGLE: Thank you, Barbara.  
30 Questions.

31

32 (No comments)

33

34 CHAIRMAN FLEAGLE: Hearing none.  
35 Michelle, for your Council please.

36

37 MS. CHIVERS: Thank you, Mr. Chair. The  
38 Kodiak/Aleutians Council recommends that the current  
39 system be left in place. The Council believes that the  
40 current nominations process allows for a diverse Council  
41 make up and they urge the Board not to get locked into a  
42 hard numbers formula.

43

44 As for the Northwest Arctic Council, they  
45 did not make a formal recommendation, however, members  
46 did offer comments during the Council's winter meeting.  
47 The Council agreed that the 70/30 balance of membership  
48 is satisfactory with one condition. If there is not  
49 enough qualified commercial or sport use representatives  
50 to fill the 30 percent of the seats, those seats will

1 continue to be filled by qualified subsistence use  
2 representatives. Members noted that few commercial  
3 operators live in the region but that the Council will  
4 welcome them provided that they live in the region year  
5 round. A member stated that it seems that we are  
6 heading towards a system that leads people to support the  
7 Federal system in the first place and caution that the  
8 Board needs to make sure the Councils remain within the  
9 intent of ANILCA.

10

11 Thank you, Mr. Chair.

12

13 CHAIRMAN FLEAGLE: Thank you, Michelle.

14 Questions.

15

16 (No comments)

17

18 CHAIRMAN FLEAGLE: I think that concludes  
19 all of the Regional Advisory Councils.

20

21 MR. PROBASCO: That's correct, Mr. Chair.

22

23 CHAIRMAN FLEAGLE: All right. We now  
24 move to the Alaska Department of Fish and Game for  
25 comments. And who's taking this, Tina -- Tina Cunning.

26

27 MS. CUNNING: Thank you, Mr. Chairman.  
28 The Department is concerned, both with the way the  
29 background for this discussion was presented to the Board  
30 and with the way the State of Alaska's comments were  
31 interpreted and summarized by the Federal Staff in the  
32 report.

33

34 First regarding the background section.  
35 It ignores Judge Holland's January 16, 2004 summary  
36 judgment order which found that the Regional Advisory  
37 Councils are subject to FACA's "fairly balanced  
38 requirement" and that "Councils which exclude the  
39 viewpoints of non-subsistence users" do not meet this  
40 requirement. Thus the Staff's compilation of Option 1 is  
41 not a valid option for consideration because the Court  
42 expressly stated "in light of the national policies of  
43 ANILCA and the functions served by Regional Advisory  
44 Councils, a Council composed of only subsistence users is  
45 not fairly balanced."

46

47 In our letter to the Board we noted that  
48 the balance required under FACA is particularly important  
49 because the Federal Board defers to the Regional Advisory  
50 Council recommendations on many issues and is often

1 reluctant to exercise its responsibilities or use its  
2 authorities under Sections .805 and .815 of ANILCA to  
3 reject recommendations even when the recommendations are  
4 not supported by substantial evidence, violate recognized  
5 principles of fish and wildlife conservation, would be  
6 detrimental to the satisfaction of subsistence needs or  
7 would unnecessarily restrict non-subsistence uses. Thus  
8 balanced RACs are needed to insure that the competing  
9 purposes of ANILCA, as recognized by the Ninth Circuit  
10 Court in the Ninilchik Traditional Council versus United  
11 States 2000 Decision are considered by the RACs as well  
12 as the Board.

13

14           Second I want to clarify our comments  
15 that were not fully represented in the Staff's report.  
16 The Department wants to make it clear that it sees the 30  
17 percent non-Federal subsistence representation as an  
18 absolute minimum necessary for meeting the FACA's "fairly  
19 balanced" requirement unless major modifications are made  
20 to the way RAC membership is determined and even then 30  
21 percent should serve as a minimum for, except in rare  
22 circumstances where primary purpose representatives of  
23 other user groups are not available in the region, in  
24 which case flexibility could be considered.

25

26           In most areas of the state regional  
27 representation targets should be higher and it should be  
28 possible to find representatives who are willing to  
29 primarily represent non-Federal subsistence users if you  
30 modify your selection process, which I'll explain later.

31

32           In order to achieve the balance it is  
33 important to maintain a requirement that the RACs must  
34 include membership that represents other uses, i.e.,  
35 sport, personal use, commercial, and State subsistence  
36 uses. And also that the RACs continue to allow  
37 membership from Alaskans in non-rural areas in the  
38 region. The current regulatory requirement for all  
39 members to be knowledgeable about the subsistence uses of  
40 the public lands in the region should be eliminated as an  
41 individual who is not primarily representing subsistence  
42 uses may have limited knowledge of subsistence uses but  
43 still be knowledgeable about other uses of fish and  
44 wildlife in the region. Since decisions by the Federal  
45 Board affect all Alaskans, including representatives from  
46 non-rural areas on the RACs, in those regions that  
47 include large population centers will achieve a more  
48 balanced approach representative of the entire region.  
49 And we note that ANILCA .805 specifically established the  
50 RACs to provide, quote, the provision of a forum for the

1 expression of opinions and recommendations by persons  
2 interested in any matter related to the subsistence uses  
3 of fish and wildlife within the region.

4

5                   The Department urges the Board to  
6 implement major modification of the way the RAC  
7 membership is determined.

8

9                   The current process of appointment based  
10 on Federal Staff recommendations has serious flaws. This  
11 is not representative as a problem in all of the RACs but  
12 one of these flaws is the lack of consultation with the  
13 State in the selection which is inappropriate and  
14 contrary to the requirements of ANILCA Section .805(a),  
15 which provides that the "Secretary in consultation with  
16 the State shall establish a Regional Advisory Council in  
17 each subsistence resource region." To date the State has  
18 not been consulted on the membership in any official or  
19 formal way.

20

21                   We urge the Board to consider modifying  
22 the RAC selection process to use the National Park  
23 Service Resource Commission approach so that the RACs are  
24 comprised of local people from the region, some members  
25 nominated by the State, some members nominated by the  
26 Federal Board and some members nominated by local Fish  
27 and Game Advisory Committees. The fairly balanced  
28 requirement could be met by requiring each nominating  
29 entity to nominate at least one individual who actively  
30 participates in these various uses and has various  
31 interests and also actively participates in Federal  
32 subsistence hunting or fishing. All nominated members  
33 would then be appointed by the Secretary. This approach  
34 could result in a balanced RAC, foster increased  
35 communication between the Fish and Game Advisory  
36 Committees and Federal RACs and insure that members  
37 appointed are local residents who are users of the  
38 resource and representative of their communities.

39

40                   Regardless of the model that's selected  
41 we think there's some clear procedural things that need  
42 to be resolved. And one thing I want to mention here is  
43 people may not be aware that in the early years of ANILCA  
44 implementation the State run Regional Advisory Councils  
45 were comprised of the Chairs of the local elected Fish  
46 and Game Advisory Committees in their region. In this  
47 manner the Councils comprised persons who were elected by  
48 the residents of the region and we suggest that the Board  
49 consider establishing a few seats on each Federal Council  
50 to be nominated from the local Fish and Game Advisory

1 Committees, not necessarily the Chairs. In this manner  
2 the Board would be assured that elected representatives  
3 who are most interested in the fish and game uses in  
4 their region are also among those selected to serve on  
5 each Council. These nominations could be selected to  
6 fill both the subsistence and non-subsistence user group  
7 seats on the Council.

8  
9 Irregardless of these models we'd like to  
10 see some very clear process changes. And one of those is  
11 we need to require, as several RACs have mentioned,  
12 active participation for representation. Each nominating  
13 authority should be required to nominate representatives  
14 from various users groups. And there needs to be  
15 representation of the State subsistence users, not just  
16 the Federal subsistence users. Secretarial rejection of  
17 State Advisory Committee nominations should only occur  
18 for cause. But there needs to be a provision for  
19 procedures for removal of RAC members for cause at the  
20 request of the local Advisory Committees or the  
21 nominating appointing authorities. There needs to be a  
22 provision for dissenting recommendations to reach the  
23 Board where a RAC is not unanimous in its recommendation.  
24 And elimination of the requirement to be knowledgeable of  
25 subsistence uses as the statute only requires that they  
26 be a resident of the region.

27  
28 As I stated, we have a serious problem  
29 with the current selection process. As Mr. Edwards  
30 suggested, people in some parts of the state are not  
31 going to apply to serve on a Federal committee and  
32 particularly where they don't feel that their viewpoint  
33 is welcome by a majority. But if elected by the local  
34 Fish and Game Advisory Committee or their hunting or  
35 fishing club or some other entity they might be willing  
36 to serve.

37  
38 Second. The selections are currently  
39 done by Federal employees who then make the  
40 recommendations based on their own philosophy or agency  
41 policy out of the public eye, not necessarily based on  
42 the interest of the local area.

43  
44 Then, third, because some are selected to  
45 represent minority views, those individuals have no  
46 mechanism to provide their interest in other uses, the  
47 impacts on other uses, and other interests for the Board  
48 to hear in their deliberations.

49  
50 The Board has a charge to consider other

1 beneficial uses and balance competing uses. But the  
2 current RACs, regardless of the model of their  
3 composition, do not provide views to the Board of those  
4 that are not in the majority. The Board, then, does not  
5 have the benefit of the local users various interests,  
6 other use data and the Board is taking action, gives  
7 deference to the RACs but only the majority view, as  
8 selected by the Federal officials who nominated them.  
9 Judge Holland made it very clear that the RACs must be  
10 fairly balanced and include the viewpoints of many users.

11

12 Thank you.

13

14 CHAIRMAN FLEAGLE: Thank you, Tina.  
15 Questions, Board members. Gary.

16

17 MR. EDWARDS: Tina. You were suggesting  
18 kind of a formal nomination process, but there seems to  
19 me that there's never been anything that would prevent,  
20 let's say, the State for example, everything there is a  
21 call that goes out for a membership to identify people  
22 who you think would be good representatives and  
23 encouraging them to apply and if they did write letters  
24 of support for them. My sense is that that would take a  
25 lot of weight and carry a lot of weight because I'm  
26 assuming you would be identifying good people. So I mean  
27 it's the same process it's just not a formal process. I  
28 haven't seen any of that, in fact I've seen very few  
29 groups, you know, kind of step up and try and encourage  
30 people to be members and then write letters in support on  
31 their behalf.

32

33 CHAIRMAN FLEAGLE: Tina. John Hilsinger.

34

35 MR. HILSINGER: Thank you, Mr. Chairman.  
36 I think that's a good idea and I think that's maybe  
37 something that would be really good for the Federal  
38 Subsistence Board to develop more of an outreach plan  
39 for. I don't think most groups realize that they would  
40 have the opportunity to nominate people and have those  
41 nominations well considered. So I think that's an  
42 excellent idea and I think the outreach on that aspect  
43 would be good.

44

45 I think many people here have mentioned  
46 the problem of getting representatives of those other  
47 user groups to apply and to continue to participate and,  
48 you know, we have had some feedback from people that it  
49 can be fairly difficult to be one of the minority people  
50 out of a group of 10 and it's often contentious. And so



1 I think that's another area where some outreach could  
2 really maybe help encourage those people not only to  
3 apply but also to continue to participate.

4  
5 Thanks.

6  
7 MR. EDWARDS: You know I've been on the  
8 minority a lot of times and I continue to participate.

9  
10 (Laughter)

11  
12 MR. LOHSE: Mr. Chair.

13  
14 CHAIRMAN FLEAGLE: Other Board members,  
15 questions.

16  
17 (No comments)

18  
19 CHAIRMAN FLEAGLE: Hearing none. Ralph  
20 Lohse.

21  
22 MR. LOHSE: Mr. Chair. I really  
23 appreciate what John just said there and it's really  
24 something that's been evident in Southeast and  
25 Southcentral. I know that a couple of people that are on  
26 our RAC were directly nominated by a local Fish and Game  
27 Advisory Board which chose to take part in this Advisory  
28 Program. I also know other Advisory Board in our  
29 Southcentral region, that the only thing they've done is  
30 come to our meeting and tell us that we shouldn't be here  
31 at the meeting and now some of them have now chosen to  
32 start participating in this process but you can't force  
33 people to participate in the process. You can't force  
34 Advisory Committees to recommend somebody to the Council,  
35 if they want to choose the actions of the Council, by  
36 nature, are not within what they consider legality, but  
37 we have also had other Councils that have chosen to  
38 participate and members on our Board have been nominated  
39 by those councils and are sitting on our council -- or  
40 Advisory Committees, my fault, I keep mixing Councils and  
41 Committees up but Fish and Game Advisory Committees that  
42 have chosen to participate and have recommended members  
43 and those members sit on our Council.

44  
45 CHAIRMAN FLEAGLE: Other questions.

46  
47 (No comments)

48  
49 CHAIRMAN FLEAGLE: All right. We don't  
50 have any Staff Committee comments. We'll go right into

1 Board deliberation. Board members discussion.

2

3 MS. GOTTLIEB: Mr. Chair.

4

5 CHAIRMAN FLEAGLE: Judy.

6

7 MS. GOTTLIEB: I just make a general  
8 comment on this question of attendance. From some of the  
9 RAC meetings I've gone to, I mean attendance is sometimes  
10 difficult for all the members, whether it's weather  
11 logistics or connections or commitments that conflict, so  
12 I know we focused a lot about attendance by sport and  
13 commercial representatives but I think that also affects  
14 subsistence users. So I think it's something that the  
15 coordinators continue to struggle with to encourage  
16 everybody's participation and work on those logistics to  
17 make sure that everybody gets there.

18

19 CHAIRMAN FLEAGLE: Other Board members.

20 I'd like to remind the public and the Board that we do  
21 have Denny Bschor participating telephonically. Just  
22 pipe up if you want to be recognized, Denny.

23

24 Gary.

25

26 MR. EDWARDS: Well, I think it's  
27 interesting if you listened to all the testimony and  
28 listened to the RACs, if you sort through it all I'm not  
29 sure it's -- in a lot of ways the messages were kind of  
30 the same in all, I mean it seems to be general agreement  
31 by all that -- for most of all, that the Councils should  
32 be balanced, should have this broad representation with  
33 people are willing to participate and who do participate,  
34 and certainly the Council meetings that I have been to,  
35 you know, obviously there is a degree of participation,  
36 you have some Council members that basically don't say a  
37 thing at the meeting and it's pretty clear that they  
38 didn't do a whole lot of coordinating within their own  
39 community let alone with a neighbor community and other  
40 Council members it's obvious that they've put a lot of  
41 time and effort into this and we salute those. So I  
42 think everybody sort of wants to get the same and I guess  
43 it comes down to the devil's in the details and how do  
44 you go about doing that.

45

46 I guess in my mind there is nothing  
47 necessarily magical about the 70/30. I mean intuitively  
48 if you carry out Option 1 and do it right and get the  
49 right balance you'd probably come out with something  
50 close to 70/30 or 60/40 or in some communities obviously

1 don't have a lot of commercial sport it would be higher  
2 so, you know, I'm not sure -- I guess I'm somewhat maybe  
3 ambivalent about both of those but I agree with the basic  
4 premise of the kind of people that we're looking for to  
5 be on these Councils and what I think is required by  
6 FACA.

7

8 I guess maybe the more important question  
9 is how do we go about getting what we really think  
10 everybody seems to want.

11

12 CHAIRMAN FLEAGLE: Charles.

13

14 MR. BUNCH: Mr. Chair. It's my  
15 understanding of the law that you have to look at the law  
16 in whole and it seems to me that if all we had to do was  
17 follow ANILCA then that would be a fairly easy hurdle to  
18 clear, however when we get FACA in here that requires us  
19 to get the fairly balanced, it seems to me like if we do  
20 the job right, what Gary was saying, that Option 1 should  
21 do that. That may require, like the State is talking  
22 about, a greater outreach or some modification of the way  
23 that we do the process, but it looks like it could be  
24 done.

25

26 MS. GOTTLIEB: Mr. Chairman.

27

28 CHAIRMAN FLEAGLE: Judy.

29

30 MS. GOTTLIEB: Well, one thing that  
31 struck me from the testimony in our application process,  
32 and I believe that people have been very thorough and  
33 diligent, we do have criteria in that process so I think  
34 we've been fair and done a good job on our selections.  
35 It sounds like, and I'm sure it is, hard for a person to  
36 self-declare, maybe one category because as many people  
37 have stated many of our RAC members most likely fulfill  
38 two, if not all three of those categories. And perhaps  
39 in broadening those categories we can also insure that  
40 broad participation that's absolutely necessary in the  
41 RAC and representation and fulfill both ANILCA and FACA  
42 requirements.

43

44 That may be able to give us even a more  
45 diverse group.

46

47 MR. BSCHOR: This is Denny.

48

49 CHAIRMAN FLEAGLE: Go ahead, Denny.

50

1 MR. BSCHOR: Excuse me, if I remember  
2 correctly when I first got on the Board we were operating  
3 under an Option 1 kind of situation and then we went to  
4 70/30 and that was a goal, I want to remind everybody of  
5 that, that wasn't set in concrete, had to be 70/30, it  
6 was try to show that we're trying to get more diversity  
7 on the RACs.

8  
9 But after listening to the testimony, it  
10 seems like maybe, you know, the 70/30 is putting this  
11 into the too hard box, as long as we meet the intent of  
12 ANILCA and of FACA, it seems like I could live with  
13 either one. I mean I'm not stuck. But it seems like th  
14 70/30 seems to line up people on positions, at least,  
15 that we really don't need to be arguing over as long as  
16 we can show as a Board that if we go with Option 1, you  
17 know, that we can show that we're meeting the intent and  
18 doing everything possible to be fair and balanced,  
19 perhaps that's good enough.

20  
21 That's all I have to say.

22  
23 Thank you, Mr. Chair.

24  
25 CHAIRMAN FLEAGLE: Thank you, Denny.  
26 George.

27  
28 MR. OVIATT: Thank you, Mr. Chair. Well,  
29 the 70/30 certainly guarantees that we would have a  
30 split, but we've had difficulty in reaching that 70/30 at  
31 times. It looks like to me or it appears to me that we  
32 can meet FACA and ANILCA simply by looking at our process  
33 and working at that process to guarantee that we have a  
34 good and fair representation across the Board.

35  
36 So I'm not sure a 70/30 split is  
37 benefiting us the way that we -- if we really worked at  
38 our process and worked at our outreach that we could  
39 accomplish those tasks without it.

40  
41 Thank you.

42  
43 MR. BSCHOR: Mr. Chair. It's hard to  
44 hear Mr. Oviatt.

45  
46 CHAIRMAN FLEAGLE: Okay, we'll have him  
47 speak up next time. Thanks, Denny.

48  
49 Other comments.

50

1 MR. EDWARDS: Again, like I said.....

2

3 CHAIRMAN FLEAGLE: Gary.

4

5 MR. EDWARDS: I guess I could kind of go  
6 either one. I think again intuitively when you finally  
7 get ready to make a recommendation to the Secretary, my  
8 guess is to try to insure balance we're going to probably  
9 do a head count of the people that we send in and so, you  
10 know, we'll probably still end up, even though we might  
11 not say it vocally, we'll probably still say, well, this  
12 looks like about 70/30 I think we've met our goal. So  
13 I'm not sure one way or the other.

14

15 I guess the one thing the 70/30 does, I  
16 guess, does send a clear signal that that's what our  
17 intent is. But, again, I'm not weighted to either one.  
18 And at least from what I heard from the RACs it doesn't  
19 seem to -- it certainly wasn't unanimous. You know I  
20 think we've heard from several RACs that 70/30's working  
21 fine with them and they've gotten good representation on  
22 it and they're very pleased and they feel that it's been  
23 value added. So I didn't hear anything that was  
24 overwhelming from the RACs that were necessarily opposed  
25 to the 70/30. I didn't necessarily hear anything that  
26 was over supportive of the 70/30 either.

27

28 MS. GOTTLIEB: Mr. Chair.

29

30 CHAIRMAN FLEAGLE: Judy.

31

32 MS. GOTTLIEB: Well, I think we did hear  
33 both maybe in different ways. For some regions where the  
34 70/30 composition couldn't be achieved because of  
35 scarcity of some of the 30 percent, let's say, that was  
36 one situation. For some of the other Councils where that  
37 representation was fully on the Councils, I think this  
38 Board has benefited tremendously from the input of the  
39 other user groups. I think going back to my earlier  
40 point that as we've heard from many people, most members  
41 do have a diverse background and I think that benefits  
42 this program tremendously and maybe as people are saying,  
43 instead of perhaps categorizing them as one -- as a  
44 certain type of representative let's let that full  
45 background come forward with recommendations to the Board  
46 consistent with ANILCA.

47

48 Thank you.

49

50 CHAIRMAN FLEAGLE: Gary.

1 MR. EDWARDS: Just one other question. I  
2 guess I'm a little unclear what, you know, our task is  
3 here. I mean ultimately we're going to select one of  
4 these options, and I guess I would ask Keith this, is  
5 that really what the Judge expects us to do, I thought  
6 there was a bigger expectation than for us to just pick  
7 one of two options. I mean isn't there -- I think he  
8 expects -- doesn't he expect more than that or are we  
9 just trying to get this on the record. So I'm unclear  
10 what we're really supposed to be doing.

11  
12 CHAIRMAN FLEAGLE: Keith Goltz.

13  
14 MR. GOLTZ: The Judge expects a complete  
15 administrative record. A rationalization of what you're  
16 doing and why you're doing it. The fact that there are  
17 two options are a function of Staff work. You can choose  
18 one or the other, create your administrative and either  
19 would be defensible as far as I can tell.

20  
21 MR. EDWARDS: I mean is one of the  
22 options not to choose anything at this point and, you  
23 know, we've had several suggestions about doing the  
24 process and all a little bit different and that, and  
25 basically try to address some of those types of issues  
26 before we kind of make any final decision.

27  
28 MR. GOLTZ: I think nothing is not an  
29 option. We have to comply with ANILCA, we have to comply  
30 with FACIA. And we don't have the luxury of an Ivory  
31 Tower, we have to make things work.

32  
33 CHAIRMAN FLEAGLE: All right. I'm going  
34 to call a break, a 10 minute break and we'll come back to  
35 this discussion.

36  
37 (Off record)

38  
39 (On record)

40  
41 CHAIRMAN FLEAGLE: Good afternoon, we're  
42 back on record. And we have our telephonic participation  
43 turned back on. Denny Bschor is with us by telephone.  
44 And just like nature, bureaucracy abhors a vacuum and we  
45 got the room extended to 7:00 so that means we've got to  
46 fill it, right.

47  
48 (Laughter)

49  
50 CHAIRMAN FLEAGLE: Oh, I'm kidding.

1 MR. PROBASCO: It says right here.....

2

3 (Laughter)

4

5 CHAIRMAN FLEAGLE: It says right

6 here.....

7

8 (Laughter)

9

10 CHAIRMAN FLEAGLE: Gary.

11

12 MR. EDWARDS: Mr. Chairman. I'll try to

13 avoid that and maybe to get us moving forward, I guess I

14 am prepared to make a motion.

15

16 You know as I look at both of these

17 options, I guess I've indicated -- I guess my view is

18 that really each one of them could work and I think each

19 one of them are trying to get us to the same place and

20 that is to follow what our responsibilities are under

21 FACA and that is to have balanced Councils. And I guess

22 I would argue even if FACA didn't require that, that I

23 think that's something actually that we should seek for.

24

25

26 And while I think Option 1 would, I

27 think, certainly would work I think in my mind it would

28 be a challenge to make it work, I guess I feel that

29 Option 2 does give us clarity to the whole process that

30 we're supposed to try to achieve. We have been utilizing

31 it. And I think as we heard today from the RACs it seems

32 to actually have been working very well.

33

34 Dan O'Hara gave some really glowing

35 testimonies to the people that the Bristol Bay have been

36 able to bring on their RAC as a result of it and even in

37 the Southeast, although they were opposed to it did

38 indicate that since it's been implemented, that they

39 still feel that they have a balanced Council as a result

40 of it. I just think that it seems to be a good process,

41 it seems to be working and, you know, like I said I think

42 it does really add some clarity to the process and what

43 we're trying to achieve.

44

45 I think we certainly need to recognize

46 that in some of the communities, particularly the

47 northern communities, it's not going to be that easy to

48 achieve that. I'm not so sure that that's necessarily

49 problematic. I do think also that we've heard some other

50 good suggestions here on some other thing that we ought

1 to consider, but I think we can still go forward with  
2 this and still consider some of these other things and,  
3 particularly, how do we get better nominations and how  
4 the State or other groups or as well as some of the  
5 Native organizations, I think we all could probably do a  
6 better job of trying to identify good people out there  
7 and encouraging them to participate and apply them and  
8 endorsing them when they do apply.

9

10 CHAIRMAN FLEAGLE: Were you going to make  
11 a motion out of that somehow.

12

13 (Laughter)

14

15 MR. EDWARDS: Oh, I guess I didn't make  
16 the motion, I'm sorry.

17

18 (Laughter)

19

20 MR. EDWARDS: I got carried away I guess.

21

22 (Laughter)

23

24 MR. EDWARDS: Mr. Chairman. I would move  
25 that we would select Option 2, which was to stipulate a  
26 percentage of seats for commercial/sport use  
27 representation and that percentage would be 70 percent  
28 subsistence users and 30 percent commercial and sport  
29 users.

30

31 CHAIRMAN FLEAGLE: We have a motion, is  
32 there a second.

33

34 MR. OVIATT: I'll second that.

35

36 CHAIRMAN FLEAGLE: We have a second. You  
37 already laid out your rationale in support of that.  
38 Board members, discussion.

39

40 George.

41

42 MR. OVIATT: Could I ask Marianne to come  
43 forward and talk a bit about.....

44

45 MR. PROBASCO: Ann.

46

47 MR. OVIATT: Ann, I'm sorry. To come  
48 forward and talk about our outreach program, I'd like to  
49 know just a little bit more about that. Would that be  
50 appropriate or.....



1 CHAIRMAN FLEAGLE: Sure. Ann Wilkinson.  
2 Would you go ahead and ask the question, George.

3  
4 MR. OVIATT: Yes. Ann, would you explain  
5 what outreach that we do at this time.

6  
7 Thank you.

8  
9 MS. WILKINSON: Yes. Beginning in the  
10 fall at the fall Council meetings it's announced that we  
11 will be accepting applications and nominations for the  
12 upcoming year. Then we send out applications, we have a  
13 general mailing and send out 1,300 in that general  
14 mailing to government agencies that would be involved,  
15 that's generally local government agencies, tribal  
16 agencies, hunting and fishing organizations, individuals,  
17 Fish and Game Advisory Committee officers as well. And  
18 then also we do at least 14 newspaper -- advertise in at  
19 least 14 newspapers statewide over a two month period.  
20 We run approximately seven advertisements in each one of  
21 those 14 newspapers within two months. We do paid radio  
22 ads and public service announcement ads during a two  
23 month period statewide. Often times we get lucky and  
24 they'll run them a lot for us and sometimes not as often,  
25 but I do hear feedback from people that those are heard  
26 statewide. And then also the Council coordinators will  
27 notify people in the region. The field Staff from the  
28 different Federal agencies notify people in the region  
29 that the opportunity is there for them to apply or to  
30 nominate people.

31  
32 So we do have a pretty good thrust, I  
33 believe, for -- we are and the funding we have.

34  
35 Thank you.

36  
37 CHAIRMAN FLEAGLE: Thank you, Ann.

38 George.

39  
40 MR. OVIATT: Thank you, Ann. And I'm  
41 sorry for calling you Marianne.

42  
43 That helped me because I was just a  
44 little unclear as to all of what we did do with our  
45 outreach. I think that, you know, we've heard from the  
46 RACs and for the most part the 70/30 is working. There's  
47 no doubt we can work on the process and we can better  
48 this process, we can work maybe even more on our  
49 outreach, although I think we're doing a pretty good job  
50 at that.

1                   So, I, too, am going to support the  
2 70/30, continuing the process that we have, I think it's  
3 facilitating the program fairly well and it does give us  
4 criteria.

5  
6                   Thank you, Mr. Chairman.

7  
8                   CHAIRMAN FLEAGLE: Thank you, George.  
9 Charles.

10  
11                   MR. BUNCH: Mr. Chairman. I think that  
12 from the testimony that I've heard from the Board  
13 members, from the RAC, that they could live with the  
14 70/30. I'm kind of hesitant to set 70/30 in concrete  
15 because as we've seen some areas just can't meet the  
16 70/30 so rather than having that a hard and fast rule it  
17 would seem like a guideline would be a better tag to put  
18 on that rather than -- because if you can't make it then  
19 you've already failed right off the bat.

20  
21                   CHAIRMAN FLEAGLE: I think that Option 2  
22 does speak to that. That if you can't achieve the 30  
23 percent non-subsistence representation the seats would be  
24 filled by other subsistence users.

25  
26                   Is that correct, Pete?

27  
28                   MR. PROBASCO: Mr. Chair. Mr. Bunch.  
29 That is a goal, the 70/30, as stated in Option 2.

30  
31                   CHAIRMAN FLEAGLE: Thank you.

32  
33                   MS. GOTTLIEB: Mr. Chair.

34  
35                   CHAIRMAN FLEAGLE: Judy.

36  
37                   MS. GOTTLIEB: I think that this option  
38 would meet the FACA requirement that membership to be  
39 fairly balanced in terms of the point of view, which we  
40 talked a lot about but also as Ann had mentioned in the  
41 briefing, the functions to be performed and that's in  
42 Title VIII.

43  
44                   I think that Mr. Arno's question, I  
45 thought about it quite a bit, you know, why would people  
46 participate in this, and I'm hoping that maybe one of the  
47 answers is because in ANILCA and other laws we want to  
48 conserve healthy populations, and so hopefully that is a  
49 goal of all residents of the state of Alaska and  
50 certainly people who would want to serve on these

1 Councils.

2

3 I also think, as Ralph mentioned, as a  
4 member of a community, hopefully a person or a region  
5 would want to serve on these Councils.

6

7 And so maybe those are the kinds of  
8 things we can all encourage as we all, perhaps, seek  
9 membership here.

10

11 And, lastly, should this motion pass, I  
12 hope maybe we can change our way of referring to this  
13 from 70/30 split to 70/30 make up or membership, whatever  
14 we want to say but let's try not for this to be divisive.  
15 I think it has been shown in a lot of cases that it can  
16 make for stronger recommendations and maybe unify people,  
17 so let's aim for that.

18

19 CHAIRMAN FLEAGLE: Denny, do you have any  
20 comments you'd like to put in.

21

22 MR. BSCHOR: Yeah, I have a couple, Mr.  
23 Chair. I think the idea of making sure that this is a  
24 goal and not an absolute is important. That our intent,  
25 whenever we talk about this, is to achieve a balance of  
26 interests, recognizing that the basic charge is to have  
27 people who are knowledgeable and really interested in the  
28 subsistence issue. That we get that base -- the base of  
29 knowledge there is extremely important, I heard that  
30 today, very clearly.

31

32 I'm a little concerned about the motion  
33 says stipulate but I think if that means stipulate a goal  
34 or whatever, that I can live with that, too.

35

36 And I do think it does help, at least  
37 show that the Board is looking at diverse interests also,  
38 and that there meets FACA.

39

40 I think with that, Mr. Chair, those are  
41 my comments.

42

43 CHAIRMAN FLEAGLE: Thank you, Denny.  
44 Before I call on you, John, I'm going to go ahead and  
45 weigh in as a Board member myself on this.

46

47 I, too, find that the process being  
48 utilized -- that had been utilized by the Federal  
49 Subsistence Board in its selection of Council membership  
50 prior to the Judge's decision is adequate. I think we've

1 heard adequate response from Advisory Council  
2 representatives as to how it works. It brings good  
3 discussion. I think that in my history, anyway, in  
4 serving on public boards and other boards, I've been in  
5 the majority, I've been in the minority and I've even  
6 been on a board that was all majority and didn't have the  
7 minority view present, and I think that that situation of  
8 the three that I described was probably the worse because  
9 you don't have a fair and accurate discussion that  
10 considers all of the factors of the discussion and you  
11 open yourself up to litigation, to criticism, what not.  
12 I think that having a board that has a minority viewpoint  
13 included leads to better discussion, better decisions  
14 that are defensible. And you have the "other side" being  
15 heard and giving their part of the process.

16  
17                   And I don't see it as potentially  
18 diluting our RAC composition. I know that in some places  
19 they're going to struggle hard to find people to fill  
20 this 30 percent but we leave it open that if they don't  
21 they can continue to operate up to 100 percent pure  
22 subsistence users.

23  
24                   What gives me a lot of comfort in saying  
25 this is ANILCA, under Title VIII, 100.11.b states that  
26 RAC members must be knowledgeable about the region in  
27 which they are appointed and of the subsistence users of  
28 the public -- subsistence uses, I'm sorry, of the public  
29 lands within that region. So even if they are sport or  
30 commercial users, they still have to be knowledgeable of  
31 the subsistence uses, and I think that criteria has to be  
32 considered in reviewing the application process. So  
33 you're still going to have a full compliment of committee  
34 members that are speaking to the subsistence uses, and I  
35 think when you have that minority viewpoint present you  
36 have a better decision, more defensible.

37  
38                   With that, turn it over to John  
39 Hilsinger.

40  
41                   MR. HILSINGER: Thank you, Mr. Chairman.  
42 I agree with the Board that Option 1 is really not an  
43 option given this prior decision by the Court. And I  
44 think what the Court asked the Board to do was look at  
45 valid options, select one, explain why that one was  
46 selected but also why other options were not selected.  
47 And so I would recommend that as a part of this decision-  
48 making you do that. And then ideally go back out to  
49 rulemaking and explaining why the preferred option was  
50 selected and why the other options were not.

1 Thank you.

2

3 CHAIRMAN FLEAGLE: Appreciate the  
4 comments.

5

6 MR. ADAMS: Mr. Chairman.

7

8 CHAIRMAN FLEAGLE: Denny -- oh, wait a  
9 minute, who's calling, please.

10

11 MR. ADAMS: This is Bert.

12

13 CHAIRMAN FLEAGLE: Yeah, Bert, go ahead.

14

15 MR. ADAMS: Okay. I'd just like to  
16 clarify a statement that I made in answer, I think, to  
17 George's question, you know, does our RAC -- is our RAC  
18 balanced as it is right now, and it is, I admit that.  
19 But there was a time I, personally, really feared that we  
20 were going to have too much controversy in our Council  
21 because we did experience, you know, a couple of people  
22 who got appointed to the board who were strong commercial  
23 and sport advocates and, of course, they eventually got  
24 weeded out but I just caution you that there is a danger  
25 that that could happen in the future, you know, if we're  
26 not careful.

27

28 I think my closing thoughts here would be  
29 that when people submit their applications to serve on  
30 the RAC, that I hope that they are submitted and received  
31 within the framework of the true intent of ANILCA. You  
32 know there is always that danger out there that, you  
33 know, bad things could happen to RAC if we are not  
34 watchful, and it looks like you're trying to cover that,  
35 you know, through the application process. But just keep  
36 in mind there is that potential out there.

37

38 Thank you.

39

40 CHAIRMAN FLEAGLE: Thank you, Bert.  
41 Gary.

42

43 MR. EDWARDS: Mr. Chairman. And maybe  
44 also in an effort to strengthen the record, you know, in  
45 my motion I included 70/30 as the split, but I do want --  
46 in our Federal Register notice we do lay out why we  
47 picked that number as opposed to 60/40 or 80/20 and I  
48 think there's good rationale in there. And I just think  
49 that -- I guess I would refer to that Federal Register  
50 notice is the rationale for that 70/30 recommendation.

1 CHAIRMAN FLEAGLE: Thanks, Gary.  
2 Additional comments.

3  
4 (No comments)

5  
6 CHAIRMAN FLEAGLE: Keith, I want to just  
7 ask you, given that this is a request from the Ninth  
8 Circuit Court, that this discussion be had, in your  
9 opinion you said earlier that both options could work if  
10 the Board gave an administrative record as to the purpose  
11 for that. We've selected -- tentatively selected Option  
12 2, do you feel that the administrative record is adequate  
13 to support that or do we need more.

14  
15 MR. GOLTZ: I think it's adequate. The  
16 District Court doesn't issue requests though, we're under  
17 a court order, and I'm comfortable with the record.

18  
19 CHAIRMAN FLEAGLE: Thank you. And,  
20 Denny, are you still with us on line?

21  
22 MR. BSCHOR: Yes, Mr. Chair, I am.

23  
24 CHAIRMAN FLEAGLE: Okay, thanks. Board  
25 members, hearing no other discussion are we ready for the  
26 question.

27  
28 MR. BUNCH: Question.

29  
30 CHAIRMAN FLEAGLE: Question's called,  
31 Pete, on the motion, please poll the Board.

32  
33 MR. PROBASCO: Final action on Council  
34 composition as stated by Mr. Gary Edwards, Option 2, the  
35 goal of 70/30 Council composition.

36  
37 Mr. Bschor.

38  
39 MR. BSCHOR: Aye.

40  
41 MR. PROBASCO: Mr. Oviatt.

42  
43 MR. OVIATT: Aye.

44  
45 MR. PROBASCO: Mr. Bunch.

46  
47 MR. BUNCH: 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: And Mr. Edwards.  
8  
9 MR. EDWARDS: Aye.  
10  
11 MR. PROBASCO: Mr. Chair. Motion  
12 carries, six/zero.  
13  
14 CHAIRMAN FLEAGLE: Thank you, Pete. That  
15 concludes action on that agenda item. I understand that,  
16 Judy, you had some issues that you wanted to raise before  
17 the Board before adjournment.  
18  
19 MS. GOTTLIEB: I'd appreciate that, yes,  
20 Mr. Chair. Thank you. Yesterday at the end of the day  
21 after end of two pretty rough days where I think most of  
22 us, including myself, were focused on the Kenai we had a  
23 discussion about Sixmile Lake, and I just wanted to bring  
24 back to the Board a little bit of our history so that  
25 when we deal with this again maybe we'll have a common  
26 recollection of events that took place. So if I could  
27 just do a quick summary of what had happened on that  
28 proposal so we're kind of all at the same starting place.  
29  
30 CHAIRMAN FLEAGLE: You mean the evolution  
31 from the inception to the final product.  
32  
33 MS. GOTTLIEB: But rapidly described.  
34  
35 (Laughter)  
36  
37 CHAIRMAN FLEAGLE: Okay.  
38  
39 MS. GOTTLIEB: Thank you. So Sixmile  
40 Lake. In the spring of 2006 the Lake Clark Subsistence  
41 Resource Commission developed a proposal that would allow  
42 beach seines in Lake Clark in the lake of a lake called  
43 Lake Clark. At the fall 2006 RAC meeting the RAC  
44 supported that proposal for Lake Clark and also stated no  
45 use of beach seines in tributaries. As was stated  
46 yesterday, some of the State Staff put that similar  
47 proposal in front of the Board of Fisheries who met  
48 before our Federal Board met and after the RAC met. So  
49 the State Board looked at that proposal and approved the  
50 use of beach seines, not only for Lake Clark, but also

1 Sixmile Lake. Consequently at our meeting and maybe not  
2 everybody was at that meeting, we, the Staff, our Staff  
3 suggested that we entertain the idea of also adding  
4 Sixmile Lake.

5  
6 The motion to allow the use of beach  
7 seines less than 25 fathoms long on Lake Clark, excluding  
8 its tributaries passed six/zero. Regarding Sixmile Lake,  
9 the direction that was said and what was given, was,  
10 basically, I think what I heard by Board members, was  
11 that they don't have any objection to adding Sixmile Lake  
12 to this action, we just need to have the jurisdiction  
13 issue explained and then how to correctly bring this back  
14 to the Board. That's from our own transcripts.

15  
16 So we agreed unanimously to defer until  
17 May 2007 to provide the chance for the SRC and the RAC to  
18 weigh in during their winter meetings. Now,  
19 unfortunately neither one of them did that at their  
20 winter meetings because, I think, they probably thought  
21 all that needed to be done was our clarification on  
22 jurisdiction. The Solicitor's office did work on this,  
23 the Federal jurisdiction exists for Sixmile Lake because  
24 the National Park boundary is adjacent to Sixmile Lake.  
25 To clarify that boundary description the Board had tasked  
26 and Park Service and OSM to clarify the actual boundary,  
27 that was done, a draft of that was sent to all the  
28 InterAgency Staff Committee members, to OSM and to the  
29 State. The comments were included on the map, I think,  
30 that was distributed yesterday, both maps that were on  
31 the maps distributed.

32  
33 So that's where we were. We were only to  
34 be clarifying the jurisdiction issue and that's what we  
35 were attempting to do yesterday and then proceed with  
36 voting on the actual proposal for beach seines in  
37 Sixmile.

38  
39 CHAIRMAN FLEAGLE: Thank you, Judy.  
40 Appreciate those comments.

41  
42 All right, is there other business that  
43 needs to come before the Board before adjournment.

44  
45 Pete.

46  
47 MR. PROBASCO: Thank you, Mr. Chair.  
48 Just real quick, just a head's up, Board members, I will  
49 be sending each of you an email looking for a date in the  
50 very near future where we can discuss the options dealing



1 with the OSM budget for FY'07. It's something I need to  
2 get resolution from the Board as soon as possible. So  
3 we'll be trying to find a date with your busy schedules.

4

5 So, thank you.

6

7 CHAIRMAN FLEAGLE: Thank you. I want to  
8 thank everybody who remained with us through the  
9 termination of this meeting, for the participation from  
10 the State, from the RACs, from the public, from other  
11 agencies. I think that involvement, even if it's not  
12 willingly or on the majority side is good involvement,  
13 and I appreciate everybody's involvement and  
14 participation.

15

16 With that, is there a motion for  
17 adjournment.

18

19 MR. EDWARDS: So moved.

20

21 CHAIRMAN FLEAGLE: Got a motion from  
22 Gary.

23

24 MR. OVIATT: Second.

25

26 CHAIRMAN FLEAGLE: Second by George.  
27 Meeting's adjourned.

28

29 (Off record)

30

31 (END OF PROCEEDINGS)

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C E R T I F I C A T E

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

I, Joseph P. Kolasinski, Notary Public in and for the State of Alaska and reporter for Computer Matrix Court Reporters, do hereby certify:

THAT the foregoing pages numbered 293 through 356 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC REGULATORY MEETING, VOLUME III taken electronically by Nathan Hile on the 10th day of May 2007, beginning at the hour of 1:30 o'clock p.m. at the International Coastal Inn in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 14th day of May 2007.

\_\_\_\_\_  
Joseph P. Kolasinski  
Notary Public in and for Alaska  
My Commission Expires: 03/12/2008